



## Filing Receipt

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**DOCKET NO. 51877**

<b>APPLICATION OF L AND T</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>WATERWORKS LLC AND MONARCH</b>	<b>§</b>	
<b>UTILITIES I, L.P. FOR SALE,</b>	<b>§</b>	<b>OF TEXAS</b>
<b>TRANSFER, OR MERGER OF</b>	<b>§</b>	
<b>FACILITIES AND CERTIFICATE</b>	<b>§</b>	
<b>RIGHTS IN FREESTONE AND</b>	<b>§</b>	
<b>HENDERSON COUNTIES</b>	<b>§</b>	

**COMMISSION STAFF’S RECOMMENDATION ON THE TRANSACTION**

On March 8, 2021, Monarch Utilities I, L.P. (Monarch) and L and T Waterworks LLC (L and T) (collectively, the Applicants) filed an application for the sale, transfer, or merger of certificate rights in Freestone and Henderson counties. The Applicants seek approval to sell and transfer all of L and T's facilities and certificated service area under water certificate of convenience and necessity (CCN) numbers 12919 and 12993 to Monarch's water CCN number 12983, and the cancellation of L and T's water CCN numbers 12919 and 12993. The applicants also request that a portion of the area requested be dually certificated with CCN number 10793, held by Turlington WSC and a second portion be decertified from CCN number 10791, held by South Freestone County WSC. Applicants filed supplemental information on March 15, 2021, May 27, 2021, June 16, 2021, June 18, 2021, August 16 and August 17, 2021, October 11, 2021, March 3, 2022, and March 16, 2022.

On May 20, 2022, the administrative law judge filed Order No. 17, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to request a hearing or file a recommendation on approval of the sale and on the CCN amendment by June 21, 2022. Therefore, this pleading is timely filed.

**I. RECOMMENDATION TO ALLOW THE TRANSACTION TO PROCEED**

As detailed in the attached memorandum of Patricia Garcia, Infrastructure Division, and Ethan Blanchard, Rate Regulation Division Staff recommends and respectfully requests the entry of an order permitting the proposed transaction to proceed. Staff's review of the application indicates that the proposed transaction satisfies the relevant statutory and regulatory criteria, including those factors identified in Texas Water Code § 13.246(c). Additionally, Staff recommends that Monarch has demonstrated the financial, technical, and managerial capability

to provide continuous and adequate service to the area subject to the proposed transaction and that a public hearing is not necessary. The approval of the sale expires six months from the date of the Commission's written approval of the sale. If the sale is not effectuated within that period, and unless the Applicants request and receive an extension from the Commission, the approval is void and the Applicants must re-apply for approval of the sale.

Finally, Staff also recommends that Applicants be ordered to file documentation demonstrating that the transaction has been consummated and that the disposition of any remaining deposits have been addressed as required by 16 Texas Administrative Code § 24.109(m)-(n). The CCN remains in the name of L and T until the transfer is complete and approved in accordance with the Commission's rules and regulations.

## **II. CONCLUSION**

Staff respectfully requests that an order be issued permitting the proposed transaction to proceed.

Dated: July 7, 2022

Respectfully submitted,

### **PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION**

Keith Rogas  
Division Director

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Managing Attorney

/s/ Kourtnee Jinks  
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**DOCKET NO. 51877**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 7, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kourtnee Jinks

Kourtnee Jinks

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Kourtnee Jinks  
Legal Division

**FROM:** Ethan Blanchard  
Rate Regulation Division

**DATE:** July 1, 2022

**RE:** Docket No. 51877 – *Application of L and T Waterworks LLC and Monarch Utilities I, L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Freestone and Henderson Counties*

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On March 8, 2021, Monarch Utilities I L.P. (Monarch), CCN No. 12983, and L and T Waterworks LLC, CCN No.s 12919 and 12993, filed an application for the sale and transfer of facilities and certificate rights in Freestone and Henderson County under the provisions of Texas Water Code § 13.301 and 16 Texas Administrative Code § 24.239.

An owner or operator of a retail public utility must have the financial resources to operate and manage the utility and to provide continuous and adequate service to the current and requested utility service areas, as established by 16 Texas Administrative Code (TAC) § 24.11. Monarch must demonstrate that it meets one of the five leverage tests under 16 TAC § 24.11(e)(2) as well as the operations test under 16 TAC § 24.11(e)(3).

### ***Leverage Test***

My analysis is based on financial statements ending December 31, 2019. These financial statements contain an unqualified auditor's opinion from PricewaterhouseCoopers LLP stating that the financial statements present fairly, in all material respects, the financial position of Monarch as of December 31, 2019.

I have reviewed Monarch's financial statements and I calculate debt service equal to 6.56. [REDACTED]

██<sup>1</sup> Because the ratio is greater than 1.25, I recommend a finding that Monarch meets the leverage test specified in 16 TAC § 24.11(e)(2)(B).

### ***Operations Test and Capital Improvement Plan***

An owner or operator must demonstrate sufficient available cash to cover projected cash shortages for operations and maintenance expense during the first five years of operations, as required by 16 TAC § 24.11(e)(3).

Monarch filed financial projections from L and T Utility Company which show ██████████ operating losses from 2020 to 2022.<sup>2</sup> Monarch additionally filed capital improvement plans for the acquired systems ██████████.<sup>3</sup> Together with the purchase price ██████████,<sup>4</sup> these costs sum to ██████████ less than Monarch's net income ██████████.<sup>5</sup> Therefore, I recommend a finding that Monarch meets the operations test specified in 16 TAC § 24.11(e)(3) and the requirements specified in 16 TAC § 24.11(e)(5).

### ***Recommendation***

Because Monarch meets the financial tests, I do not recommend that the Commission require additional financial assurance.

Consequently, I recommend a finding that Monarch demonstrates the financial and managerial capability needed to provide adequate service to the area subject to this application. My conclusions are based on information provided by Monarch before the date of this memorandum and may not reflect any changes in Monarch's status after this review.

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<sup>1</sup> Application, *Confidential Documents Responsive to Questions A.1, C.10, and D.14*, item no. 3, at bates 23 (Mar. 15, 2021).

<sup>2</sup> Application, *Confidential Additional Financial Information Requested*, item no. 18 (Aug. 17, 2021).

<sup>3</sup> Application, at 77 (Mar. 8, 2021).

<sup>4</sup> Application, *Confidential Additional Information*, item no. 12 (Jun. 18, 2021).

<sup>5</sup> Application, *Confidential Documents Responsive to Questions A.1, C.10, and D.14*, item no. 3, at bates 21 (Mar. 15, 2021).

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Kourtnee Jinks, Attorney  
Legal Division

**FROM:** Patricia Garcia, Senior Engineering Specialist  
Infrastructure Division

**DATE:** June 21, 2022

**RE:** Docket No. 51877 – *Application of L and T Waterworks LLC and Monarch Utilities I, L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Freestone and Henderson Counties*

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### **1. Application**

On March 8, 2021, Monarch Utilities I, L.P. (Monarch), L and T Waterworks LLC (L and T), and South Freestone County Water Supply Corporation (South Freestone County WSC) (collectively Applicants) filed an application for sale, transfer, or merger (STM) of facilities and certificate rights in Freestone and Henderson counties, Texas, under Texas Water Code (TWC) § 13.301 and 16 Texas Administrative Code (TAC) § 24.239.

Information in the Secretary of State website indicates that Monarch's name was changed to Texas Water Utilities, L.P. as of April 22, 2022. The Commission approved certificate was issued to "Monarch Utilities I L.P." most recently in Docket No. 52035 approved on February 22, 2022. Therefore, until Texas Water Utilities, L.P. submits, and the Commission approves a Sale, Transfer, or Merger application for the new utility, the legal utility name is Monarch Utilities I L.P.

Monarch, certificate of convenience and necessity (CCN) No. 12983, seeks approval to acquire facilities and to transfer all of the water service area from L and T under water CCN No. 12919 (Athens Water System Coop) and a portion of the water service area under water CCN No. 12993 (Moody Water System), to amend these certificated areas by adding 46 acres of uncertificated area, obtaining dual certification with Turlington WSC under water CCN No. 10793, and to transfer water service area from South Freestone County WSC under water CCN No. 10791.

Due to the complex nature of this docket the Applicants and Staff agreed upon specific notice maps<sup>1</sup> to be provided to neighboring entities, customers, landowners, and other affected parties. The transactions are described below as shown on the notice maps, STM 1: L and T, CCN Nos. 12919 and 12993, to Monarch and dual with Turlington WSC, and STM 2: South Freestone County WSC, CCN No. 10791, to Monarch.

*STM 1: L and T - Athens Water System Coop and Moody Water System*

In STM 1, Monarch, CCN No. 12983, seeks approval to acquire facilities and to transfer all of the water service areas from L and T under water CCN Nos. 12919 and 12993, to amend these certificated areas by adding 46 acres of uncertificated area, and obtaining dual certification with Turlington WSC under water CCN No. 10793.

The requested areas to be amended and certificated to Monarch, CCN No. 12983, include approximately:

- 498 acres of transferred area<sup>2</sup> and facilities from Athens Water System Coop, CCN No. 12993, including 54 connections;
- 1,005 acres of transferred area (polygon 3)<sup>3</sup> and facilities from Moody Water System, CCN No. 12919, including 66 connections;
- 46 acres of uncertificated area (polygon 1)<sup>4</sup> which includes facilities and 2 connections from Moody Water System, CCN No. 12919;
- 173 acres of dual certificated area (polygon 5)<sup>5</sup> with Turlington WSC, CCN No. 10793, which includes facilities and 8 connections from Moody Water System, CCN No. 12919; and
- 76 acres of decertified area (polygon 2)<sup>6</sup> from Moody Water System, CCN No. 12919, and 0 connections.

*STM 2: South Freestone County WSC - Moody Water System*

In STM 2, Monarch, CCN No. 12983, seeks approval to transfer a portion of the water service area from South Freestone County WSC, CCN No. 10791. The customers currently inside South Freestone County WSC's certificated service area are being served by facilities being transferred that are currently managed by L and T's Moody Water System, CCN No. 12919. The requested area includes approximately 11 acres of transferred area (polygon 4) from South Freestone County WSC, CCN No. 10791, which includes facilities and 3 customer connections from L and T, CCN No. 12919.

The entire requested areas (STM 1 and STM 2) include 133 total current customers and approximately 1,657 total acres.

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<sup>1</sup> Staff filing (September 21, 2021) at 11 through 14.

<sup>2</sup> Staff filing (September 21, 2021) at 11 through 12.

<sup>3</sup> Staff filing (September 21, 2021) at 13 through 14.

<sup>4</sup> Staff filing (September 21, 2021) at 13 through 14.

<sup>5</sup> Staff filing (September 21, 2021) at 13 through 14.

<sup>6</sup> Staff filing (September 21, 2021) at 13 through 14.



## **2. Notice**

Monarch provided notice consistent with 16 TAC § 24.239(c). The deadline to intervene was April 2, 2022; there were no motions to intervene, protests, or opt-out requests received.

## **3. Factors Considered**

Under TWC §§ 13.241, 13.246, and 13.301 and 16 TAC §§ 24.11(e), 24.227, and 24.239, the Commission must consider certain factors when granting or amending a water or sewer CCN. These factors are addressed below.

### **3.1. *Consideration of the adequacy of service currently provided to the requested area and system compliance (TWC § 13.246(c)(1), 13.301(e)(3)(A); 16 TAC §§ 24.227(a) and (e)(1), 24.239(h)(3)(A), (h)(5)(A), and (h)(5)(I)).***

#### **STM 1: L and T**

L and T, CCN No. 12993, has a Texas Commission on Environmental Quality (TCEQ) approved public water system (PWS) registered as Athens Water System Coop, PWS ID No. 1070235. The last TCEQ compliance investigation of the Athens Water System Coop was on February 22, 2019. The Commission's complaint records, which date back to 2017, show four complaints against the Athens Water System Coop.

L and T, CCN No. 12919, has a TCEQ approved PWS registered as Moody Water System, PWS ID No. 0810038. The last TCEQ compliance investigation of the Moody Water System was on March 29, 2019. One violation was noted as a result of the investigation. That violation was resolved by the Moody Water System. The Commission's complaint records, which date back to 2017, show nine complaints against the Moody Water System.

Both the Athens Water System Coop and the Moody Water System have violations listed in the TCEQ database. Monarch submitted a capital improvement plan that shows a list of repairs and improvements Monarch will do for each system in order to bring them both back into compliance with TCEQ rules.

#### **STM 2: South Freestone County WSC**

South Freestone County WSC does not provide service to any customers in the requested areas. Customers in the area requested for transfer from South Freestone County WSC receive water service from L and T's, CCN No. 12919, Moody Water System, PWS ID No. 0810038.

### **3.2. *Consideration of the need for additional service in the requested area (TWC § 13.246(c)(2); 16 TAC §§ 24.227(e)(2) and 24.239(h)(5)(B)).***

The purpose of the transaction is to transfer the Athens Water System Coop and the Moody Water System to Monarch. The customers are currently receiving water service from L & T's water systems.

### **3.3. *Consideration of the effect of granting an amendment on the recipient of the certificate or amendment, on the landowners in the area, and on any other retail***

***public utility of the same kind already servicing the proximate area (TWC § 13.246(c)(3), 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(c)).***

Monarch will be the certificated entity for the requested areas and be required to provide adequate and continuous service to the requested areas.

There will be no effect on landowners as the area is currently certificated.

There will be no effect on any retail public utility servicing the proximate areas. All retail public utilities in the proximate areas were provided notice of the transaction taking place in this application and did not request to intervene.

**3.4. *Consideration of the managerial and technical ability of the applicant to provide adequate service (TWC §§ 13.241(a) and (b), 13.246(c)(4); and 13.301(b) and (e)(2); 16 TAC §§ 24.227(a) and (e)(4), and 24.239(f) and (h)(5)(D)).***

Monarch will have qualified TCEQ licensed operators to run the system operations at each water system.

Monarch has the ability to provide adequate service in the requested area. Monarch has several TCEQ approved public water systems that provide water service to over 30,000 connections. The Commission's complaint records, which date back to 2017, show 397 complaints against Monarch.

**3.5. *The applicants' demonstration that regionalization or consolidation with another retail public utility is not economically feasible when construction of a physically separate water or sewer system is required to provide service to the requested area. (TWC § 13.241(d); 16 TAC § 24.227(b)).***

The construction of physically separate systems is not necessary for Monarch to serve the requested area. Therefore, concerns of regionalization or consolidation do not apply.

**3.6 *Consideration of the feasibility of obtaining service from an adjacent retail public utility (TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5) and 24.239(h)(5)(E)).***

The Athens Water System Coop and the Moody Water System are currently serving customers and have sufficient capacity. The Moody Water System currently provides service outside its CCN area. In order to correct this, Monarch is transferring a portion of the service area from the nearby water utility, South Freestone County WSC, where the Moody Water System provides service to three connections. Therefore, it is not feasible to obtain service from an adjacent retail public utility.

**3.7. *Consideration of the financial ability of the applicant to pay for facilities necessary to provide continuous and adequate service (TWC §§ 13.246(c)(6) and 13.301(b); 16 TAC §§ 24.227(a) and (e)(6), 24.11(e), and 24.239(f) and (h)(5)(F)).***

The Rate Regulation Division will be addressing this criterion in a separate memo.

**3.8. *Requirement of the applicant to provide a bond or other financial assurance in a form and amount specified by the Commission to ensure that continuous and***

*adequate utility service is provided (TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)).*

The Rate Regulation Division will be addressing this criterion in a separate memo.

**3.9. *Consideration of the environmental integrity and the effect on the land to be included in the certificated area (TWC § 13.246(c)(7) and (9); and 16 TAC §§ 24.227(e)(7) and (9) and 24.239(h)(5)(G)).***

The environmental integrity of the land will be minimally affected as facilities are repaired and new meters are installed to provide service to the requested area.

**3.10. *Consideration of the probable improvement in service or lowering of cost to consumers (TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)).***

The customers' rates will not change from the current rates for the Athens Water System Coop and the Moody Water System. Reliability and quality of water service is expected to improve under Monarch's management. Monarch has submitted a capital improvement plan that shows a list of repairs and improvements to be completed at each system in order to bring them both back into compliance with TCEQ rules.

The Applicants meet all of the statutory requirements of TWC Chapter 13 and the Commission's Chapter 24 rules and regulations. Approving this application to transfer:

- Water facilities in the requested areas and all of the water service area of the water CCN Nos. 12919 and 12993 from L and T to Monarch and cancelling water CCN Nos. 12919 and 12993 of L and T, and
- A portion of the water service area of the water CCN No. 10791 from South Freestone County WSC to Monarch and amending water CCN No. 10791 of South Freestone County WSC, and

Amending water CCN No. 12993 of Monarch to include the transferred service area, requested uncertificated area, and for dual certification with a portion of Turlington WSC under water CCN No. 10793, is necessary for the service, accommodation, convenience and safety of the public.

**4. Recommendation**

Based on the above information, I recommend that the Commission find that the transaction will serve the public interest and that the Applicants be allowed to proceed with the proposed transaction. There are no deposits held by L and T for the customers being served by each of their public water systems. South Freestone County WSC does not provide service to any customers in the requested area to be transferred to Monarch, therefore there are no deposits held by South Freestone County WSC for customers in their service area. I further recommend that a public hearing is not necessary.

**Sale Transfer Merger (STM 1) for Monarch Utilities I LP in Docket 51877 - Requested Area**  
**Athens Water System**  
**Henderson County**



**Requested Area - Athens Water System**

 STM 1 - Transfer L and T Waterworks LLC (12993) to Monarch (12983)



0 1.25 2.5 5 7.5 10 Miles



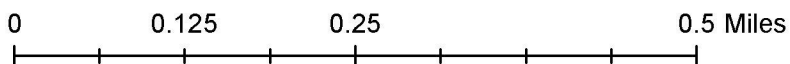
# APPLICATION OF MONARCH UTILITIES I L.P. TO ACQUIRE L AND T WATERWORKS ATHENS WATER CCN 12993



**Proposed Boundary**



Athens Water

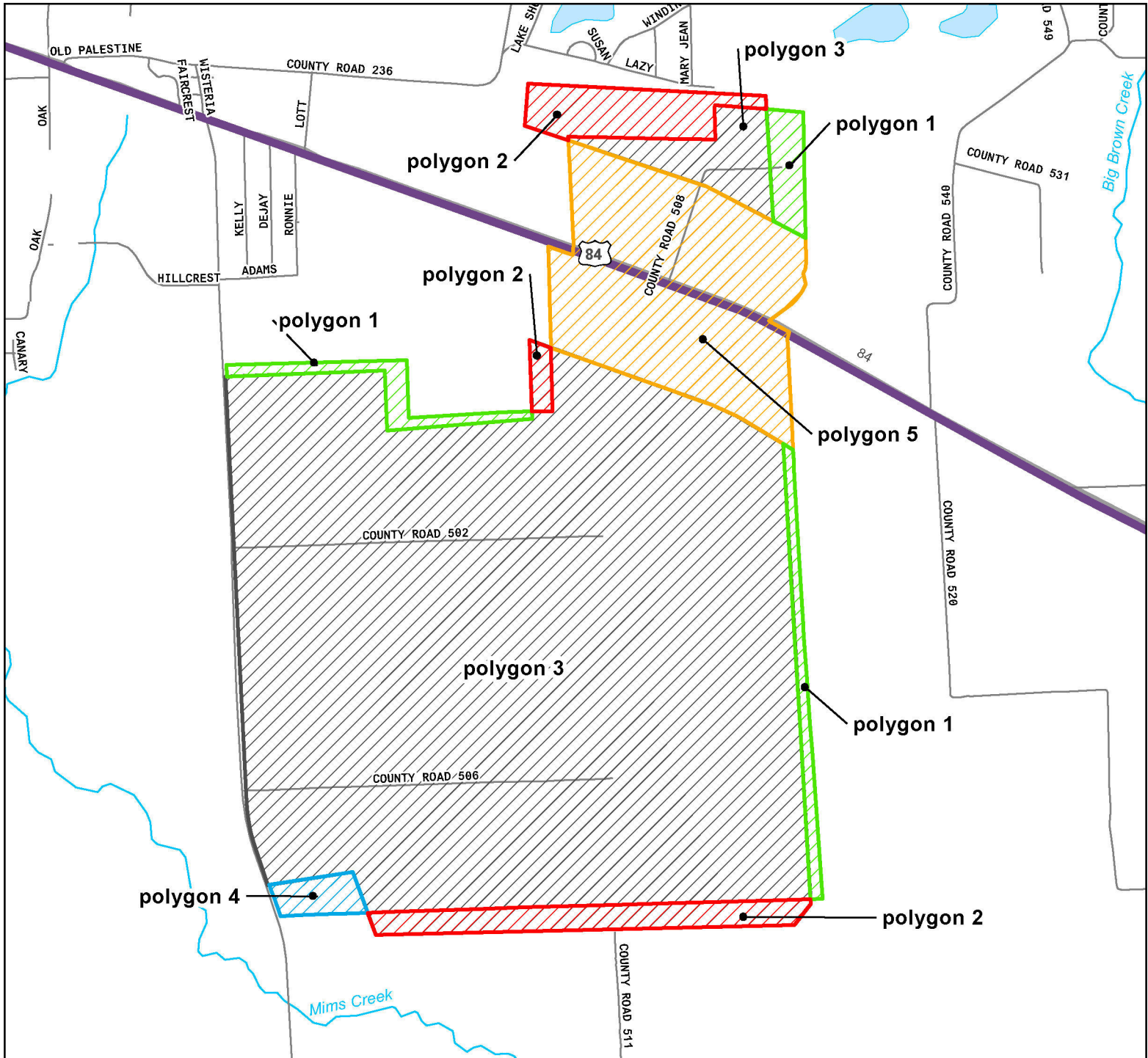




[illegible]

0 4,100 8,200 16,400 Feet

**Sale Transfer Merger for Monarch Utilities I LP in Docket 51877 - Requested Area**  
**Moody Water System**  
**Freestone County**



**Requested Area - Moody Water System**

**STM 1 - Transfer L and T Waterworks, LLC (12919) and Amend to Monarch (12983)**

- |   |   |
|---|---|
|  Transfer from CCN 12919 to CCN 12983              |  Add to CCN 12983                 |
|  Dually Certify Turlington WSC (10793) & CCN 12983 |  Area to Decertify from CCN 12919 |

**STM 2 - Transfer South Freestone County WSC (10791) to Monarch (12983)**

- |   |
|---|
|  Decertify from CCN 10791 and Amend to CCN 12983 |
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