

Control Number: 51973



Item Number: 16

Addendum StartPage: 0

# **DOCKET NO. 51973**

PETITION OF RODNEY EARL	8	2021 JUL 13 AM 10: 4.8 PUBLIC UTILITY COMMISSION
MOHNKE, STEPHEN LEE MOHNKE,	8 §	TOBLE OTHER TOWNSHOT
MELVIN MAX MOHNKE, KENNETH	§	FOF TEXAS
WAYNE MOHNKE, KATHLEEN ANN	§	
MOHNKE-BLAKELY, AND MEL	§	
MOHNKE, TRUSTEES OF THE	§	
MOHNKE LIVING TRUST, TO AMEND	§	
H-M-W SPECIAL UTILITY	§	
DISTRICT'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
HARRIS COUNTY BY EXPEDITED	§	
RELEASE	§	

# COMMISSION STAFF'S CORRECTED SUPPLEMENTAL RECOMMENDATION ON ADMINISTRATIVE COMPLETENESS

On April 1, 2021, Rodney Earl Mohnke, Stephen Lee Mohnke, Melvin Max Mohnke, Kenneth Wayne Mohnke, Kathleen Ann Mohnke-Blakely, and Mel Mohnke, Trustee of the Mohnke Living Trust dated December 7, 1996 (collectively, the Petitioners) filed a petition to amend H-M-W Special Utility District's (HMW SUD's) water certificate of convenience and necessity (CCN) in Harris County by streamlined expedited release. The Petitioners seek the expedited release of 99.2669 acres of land that lie within HMW SUD's CCN number 10342. HMW SUD filed a Motion to Intervene on June 4, 2021, which was granted. The Petitioners filed supplemental information on April 6, 2021, April 13, 2021, and May 27, 2021.

On June 29, 2021, the administrative law judge (ALJ) filed Order No. 4, directing the Staff of the Public Utility Commission of Texas (Staff) to file a supplemental recommendation on sufficiency of the petition and to propose a procedural schedule by July 12, 2021. Staff inadvertently filed a previous draft of this recommendation on July 12, 2021 and therefore submits this corrected version.

# I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the supplemental materials filed by the Petitioners on May 27, 2021 and respectfully recommends that the petition be found administratively complete under 16 Texas Administrative Code § 24.245(h)(3)(E). As stated in Order No. 2 filed by the honorable ALJ on May 4, 2021, the Petitioners provided a May 26, 1967 deed which indicates that the surface estate



for the property at issue was granted in its entirety to Max E. Mohnke. The note provided by the Petitioners on the deed clarifies that the deed was conveyed to Max E. Mohnke, Jr., as opposed to a separate individual who passed in the year 1950 (Max E. Mohnke, Sr). Staff recommends that this clarification alleviates the concerns raised by the ALJ regarding the passage of Mr. Mohnke, Sr. seventeen years prior to the date on this specific deed.

Staff also has reviewed the real property records on the Harris County Appraisal District. According to the records, which are attached to this pleading for ease of reference, the designated area at issue in this application is divided into three sub-parcels. However, all three sub-parcels appear to have the same surface area owners as of July 12, 2021. Specifically, all three parcels (Nos. 040220000012, 10402200000160, 2 and 04022000001363) are attributed to the address of 22414 Decker Prairie Rosehill Road, with one parcel being addressed as 22414 Decker Prairie Rosehill Road #C. According to the public records of Harris County Appraisal District, the surface area of parcels are each owned by some combination of the persons Rodney, Stephen, Melvin, Kenneth, Kathleen, and Pauline Mohnke. While the mineral rights of the property or properties in question are not solely owned by the Petitioners, Staff does not believe sole ownership of a real property's mineral rights affect the administrative completeness as described in 16 Texas Administrative Code (TAC) § 24.245(h)(3)(E), which does not specifically refer to mineral rights and rather appears to merely refer to surface rights given the nature of the petition at issue here, which deals instead with water service provided to the surface of the property.

In addition, Kenneth Wayne Mohnke provided a notarized affidavit, signed and sworn on March 29, 2021, stating that Stephen Lee Mohnke, Melvin Max Mohnke, Kathleen Ann Mohnke-Blakely, and Mel Mohnke, trustee of the Mohnke Living Trust dated December 7, 1996, each have authorized Kenneth Wayne Mohnke to file the petition in this matter for expedited release under Texas Water Code (TWC) § 13.2541, and that the Petitioners (or, as Staff reads the affidavit, some combination thereof) own approximately 99 acres of land in Harris County as identified in their petition. In Staff's view, this does not necessarily conflict with the information provided by the

<sup>&</sup>lt;sup>1</sup> See Attachments, Harris County Appraisal District, printouts (last accessed 7/12/2021).

 $<sup>^{2}</sup>$  Id.

 $<sup>^3</sup>$  Id

<sup>&</sup>lt;sup>4</sup> *Id*.

<sup>&</sup>lt;sup>5</sup> *Id* 

Harris County Appraisal District's information regarding the surface area ownership history of the property.

Furthermore, the Petitioners May 27, 2021 response clarifies that the Mohnke Living Trust does not own all of the interest relating to the 99-acre tract that is subject to the petition, and that there is only one trustee of the Mohnke Living Trust, which is Mel Mohnke. According to the Petitioners' joint filing, Kenneth Wayne Mohnke was appointed attorney-in-fact for Melvin Mohnke on March 31, 2021 for the purposes of selling the property that is the subject of the petition. Evidence of these claims is further clarified by Exhibit A of the supplemental filing, which provides an affidavit of Trust—as well as at Exhibit B, which provides a Limited Power of Attorney dated March 31, 2021.

Lastly, Staff notes that Pauline Mohnke appears to have granted her real property rights to Rodney Irl Mohnke, Stephen Mohnke, Melvin Max Mohnke ("Max Mohnke"), Kenneth Wayne Mohnke, and Kathleen Ann Mohnke ("Kathleen Ann Mohnke Blakely") on December 10, 2014 as outlined in the general warranty deed provided in the Petitioner's application at approximately page 33. In addition, the affidavit filed by Mr. Kennedy Mohnke states affirmatively that Rodney "Earl" Mohnke (*sic*) has authorized this application.

Based on the clarifications and additional information provided by the Petitioners, Staff recommends that the petition be found administratively complete.

# II. REQUEST TO RESTYLE THE DOCKET

In light of the clarifications provided by the Petitioners, Staff respectfully requests that this docket be restyled as *Petition of Kenneth Wayne Mohnke on Behalf of Himself, Rodney Earl Mohnke, Stephen Lee Mohnke, Melvin Max Mohnke, Kathleen Ann Mohnke-Blakely, and Mel Mohnke as Trustee of the Mohnke Living Trust, to Amend H-M-W Special Utility District's Certificate of Convenience and Necessity in Harris County by Expedited Release.* This restyling reflects that Mel Mohnke is the only trustee of the Mohnke Living Trust and that Kenenth Wayne

Mohnke is filing the petition on behalf of all of the parties who own an interest in the property for which release is requested.

#### III. PROCEDURAL SCHEDULE

Under 16 TAC § 24.245(h)(7), there is an expedited deadline of 60 days for approval of the requested release that begins tolling upon the issuance of an order by the ALJ finding a petition administratively complete. Since Staff recommends that the petition be found administratively complete, Staff proposes the following procedural schedule and requests that the ALJ populate the deadlines accordingly when the ALJ issues that order.

Event	Date
Deadline for HMW SUD and intervenors to file a response to the administratively complete petition	20 days from the date of the order finding the petition administratively complete
Deadline for Staff's recommendation on final disposition	34 days from the date of the order finding the petition administratively complete
Deadline for petitioner to file a reply to both HMW SUD's response and Staff's recommendation on final disposition	41 days from the date of the order finding the petition administratively complete
Sixty-day administrative approval of streamlined expedited release	60 days from the date of the order finding the petition administratively complete
In the event streamlined expedited release is granted of an agreed-upon appraiser	and petitioner and HMW SUD can select
Deadline for petitioner and HMW SUD to make a filing stating that they have selected an agreed-upon appraiser	Within 10 days after the Commission approves streamlined expedited release
Deadline for appraiser's report	Within 70 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to HMW SUD	Within 60 days after appraiser's report
Deadline for petitioner to pay any compensation due to HMW SUD	Within 90 days of the Commission's final order on compensation
In the event streamlined expedited release is grante unable to select an agreed-upon appraiser	ed and petitioner and HMW SUDr are

<sup>&</sup>lt;sup>6</sup> Under 16 TAC § 24.8(d), applications under Subchapter H of Chapter 24 are not considered filed until the commission makes a determination that the application is administratively complete.

Deadline for petitioner and HMW SUD to make a	
filing stating that they have been unable to select an	Within 10 days after the Commission
agreed-upon appraiser and affirming that they will pay	approves streamlined expedited release <sup>8</sup>
half of the cost of Commission Staff's appraiser <sup>7</sup>	
Deadline for reports from petitioner's appraiser and	Within 70 days after the Commission
HMW SUD's appraiser	approves streamlined expedited release
Deadline for Staff's appraiser's report	Within 100 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining	Within 60 days after the Commission
the amount of monetary compensation, if any, owed	receives the final appraisal
by petitioner to HMW SUD	receives the imal applaisal
Deadline for petitioner to pay any compensation due	Within 90 days of the Commission's
to HMW SUD	final order on compensation

# IV. CONCLUSION

For the reasons detailed above, Staff recommends that the supplemented petition be found administratively complete and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

<sup>&</sup>lt;sup>7</sup> Tex. Water Code § 13.2541(i).

<sup>&</sup>lt;sup>8</sup> It is critical for Staff to know as soon as possible after the Commission grants the petition whether Staff needs to secure the services of a third appraiser. If the petitioner and CCN holder are unable to agree, and fail to make this filing, Staff may need additional time to file its appraiser's report.

Dated: July 13, 2021

Respectfully submitted,

# PUBLIC UTILITY COMMISSION OF TEXAS LEGAL DIVISION

Rachelle Nicolette Robles Division Director

Eleanor D'Ambrosio Managing Attorney

/s/ Kevin R. Bartz

Kevin R. Bartz State Bar No. 24101488 1701 N. Congress Avenue P.O. Box 13326 Austin, Texas 78711-3326 (512) 936-7203 (512) 936-7268 (facsimile) kevin.bartz@puc.texas.gov

#### **DOCKET NO. 51973**

## **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 13, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kevin R. Bartz Kevin R. Bartz

# **ATTACHMENT A**

7/12/2021 Hcad Acct: 0402200000136

Tax Year: 2021 ¥

#### HARRIS COUNTY APPRAISAL DISTRICT REAL PROPERTY ACCOUNT INFORMATION 0402200000136



وبعريت والماليات				
File A Protest	Similar Owner Name	Nearby Addresses	Same Street Name	Related Map 4571D

#### **Ownership History**

Owner and Property Information

Owner Name & MOHNKE RODNEY & STEPHEN KATHLEEN

Mailing Address. % PAULINE MOHNKE

215 OAK WOOD RD

**KERRVILLE TX 78028-9174** 

Legal Description: **PT TRS 9 & 10** 

**ABST 20 J H EDWARDS** 

Property Address: 22414 DECKER PRAIRIE ROSEHILL RD

**TOMBALL TX 77377** 

State Class Code

Land Use Code

A1 -- Real, Residential, Single-Family

2001 -- Residential Improved

Neighborhood Neighborhood Land Area Total Living Area Market Area Map Facet Key Map® Group 30,492 SF 1,974 SF 2575 26001 400 -- ISD 26 - Tomball ISD 4571D 287J

Value Status Information

Shared CAD Value Status Notice Date Noticed 03/31/2021 No

### Exemptions and Jurisdictions

Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2020 Rate	2021 Rate	Online Tax Bill
None	026	TOMBALL ISD		Not Certified	1.290000		
	040	HARRIS COUNTY		Not Certified	0.391160		
	041	HARRIS CO FLOOD CNTRL		Not Certified	0.031420		
	042	PORT OF HOUSTON AUTHY		Not Certified	0.009910		
	043	HARRIS CO HOSP DIST		Not Certified	0.166710		
	044	HARRIS CO EDUC DEPT		Not Certified	0.004993		
	045	LONE STAR COLLEGE SYS		Not Certified	0.107800		
	648	HC EMERG SRV DIST 21		Not Certified	0.100000		
	673	HC EMERG SRV DIST 3		Not Certified	0.100000		

Texas law prohibits us from displaying residential photographs, sketches, floor plans, or information indicating the age of a property owner on our website. You can inspect this information or get a copy at HCAD's information center at 13013 NW Freeway.

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	Value as of January 1, 2020			Value as of January 1, 2021	
	Market	Appraised		Market	Appraised
Land	38,115		Land	38,115	
Improvement	160,668		Improvement	171,182	
Total	198,783	198,783	Total	209,297	209,297

# 5-Year Value History

## Land

#### Market Value Land

Line	Land Use	Unit Type	Units			Appr O/R Factor	Appr O/R Reason				Value
1	2001 Res Improved Override SF1 Primary SF	SF	30,492	1.00	1.00	1.00		1.00	1.25	1.25	38,115.00

Building	Year Built	Type	Style	Quality	Impr Sq Ft	Building Details
1	1940	Farm Single Family Dwelling	125 Farm with Dwelling	Average	1,374 *	Displayed
2	1984	Farm Single Family Dwelling	125 Farm with Dwelling	Average	600 *	View

<sup>\*</sup> All HCAD residential building measurements are done from the exterior, with individual measurements rounded to the closest foot. This measurement includes all closet space, hallways, and interior staircases. Attached garages are not included in the square footage of living area, but valued separately. Living area above attached garages is included in the square footage living area of the dwelling. Living area above detached garages is not included in the square footage living area of the dwelling but is valued separately. This method is used on all residential properties in Harris County to ensure the uniformity of square footage of living area measurements district-wide. There can be a reasonable variance between the HCAD square footage and your square footage measurement, especially if your square footage measurement was an interior measurement or an exterior measurement to the inch.

#### Building Details (1)

Building Data		Building Areas			
Element	Details	Description Area			
Cond / Desir / Util	Average	BASE AREA PRI 1,374			
Foundation Type	Crawl Space	OPEN FRAME PORCH PRI 320			
Grade Adjustment	C-				
Heating / AC	Central Heat/AC				
Physical Condition	Average				
Exterior Wall	Asbestos				
Element	Units				
Room. Total	6				
Room: Full Bath	2				
Room: Bedroom	3				

#### Extra Features

Line	Description	Quality	Condition	Units	Year Built
1	4 Sides open Metal Pole Barn	Fair	Fair	510	1960
2	4 Sides open Wood Pole Barn	Fair	Average	1,656	1960
3	Gunite Pool	Average	Average	800	1965
4	Frame Utility Shed	Fair	Average	192	1960
5	Frame Utility Shed	Fair	Average	252	1960
6	Asphalt Tennis Court - Residential	Average	Average	1	1965



# Ownership History: 0402200000136 22414 DECKER PRAIRIE ROSEHILL RD TOMBALL TX 77377

OwnerEffective DateMOHNKE RODNEY & STEPHEN KATHLEEN12/15/1997MOHNKE MAX E1/2/1988

[end of record]

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# **Real Property Records**

HARRIS COUNTY APPRAISAL DISTRICT REAL PROPERTY ACCOUNT INFORMATION 0402200000012 Tax Year 2021 ❤ க்க்<sub>Punt</sub> 🗆 E-mail File A Protest | Similar Owner Name | Nearby Addresses | Same Street Name | Related Map 4571D Ownership History Owner and Property Information MOHNKE RODNEY & STEPHEN MELVIN KENNETH KATHLEEN % PAULINE MOHNKE 215 OAK WOOD RD KERRVILLE TX 78028-9174 Owner Name & Mailing Address TR 10 (HOMESITE) ABST 20 J H EDWARDS Legal Description 22414 DECKER PRAIRIE ROSEHILL RD # C TOMBALL TX 77377 Property Address C3 -- Real, Vacant Lots/Tracts (Not in City) 2000 -- Residential Vacant Neighborhood Group Total Living Area Tuestic ac Map Facet Kny Mapie Land Area 43,560 SF 0 SF 2575 26001 400 -- ISD 26 - Tomball ISD 15 ( 2873 Value Status Information Value Status Notice Date Shared CAD 04/02/2021 Noticed No Exemptions and Jurisdictions Exemption Value ARTSON S 2020 Rate 2021 Rate Exemption Type Districts Li dears Q10.4 3 1 290000 None 1 (2 ) (81) 18 Not Certified 0 391160 040 1481 (5 gr, (H) 041 Not Certified 0.031420 042 BORG OF HOR TOA WITHIN 0 009910 THIRRY O HISPIDIST 0 166710 043 Not Certified 044 LARRY COLLUCTURE Not Certified 0 004993 045 LONE STAR COLLEGE SYS 0 107800 HC EMERG SRV DIST 21 Not Certified 0 100000 648 6/3 HC EMERG SRV DIST 3 Not Certified 0.100000 Texas law prohibits us from displaying residential photographs, sketches, floor plans, or information indicating the age of a property owner on our website. You can inspect this information or get a copy at HCAD's information center at 13013 NW Freeway. Valuations Value as of January 1, 2020 Market Market Appraised Appraised Land 43,560 Land 43,560 Improvement Improvement 43 560 Total 43,560

43,560



Total

Harris County Appraisal District 13013 Northwest Freeway Houston, Texas 77040-6305

5-Year Value History

Office Hours Hours 800 AM - 500 PM Monday - Friday

43,560



## Ownership History: 0402200000012 22414 DECKER PRAIRIE ROSEHILL RD C TOMBALL TX 77377

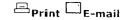
OwnerEffective DateMELVIN KENNETH KATHLEEN2/6/1997MOHNKE RODNEY & STEPHEN2/6/1997MOHNKE MAX E1/2/1988

[end of record]

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Tax Year: 2021 ¥

# HARRIS COUNTY APPRAISAL DISTRICT REAL PROPERTY ACCOUNT INFORMATION



No

0402200000160

File A Protest | Similar Owner Name Nearby Addresses | Same Street Name Related Map 4571D

#### Ownership History

Owner and Property Information

Owner Name & Mailing Address: MOHNKE RODNEY

Noticed

**KENNETH KATHLEEN PAULINE** 

215 OAK WOOD RD **KERRVILLE TX 78028-9174**  Legal Description:

PT TRS 9 & 10 (AG-USE)

**ABST 20 J H EDWARDS** 

Property Address: 22414 DECKER PRAIRIE ROSEHILL RD

**TOMBALL TX 77377** 

State Class Code Land Use Code **Building Class** Total Units D1 -- Real, Qualified Agricultural Land 9910 -- Agricultural Land 0 Land Area Building Area Net Rentable Area Neighborhood Market Area Map Facet Key Map® 4,268,880 SF 0 2575 400 -- ISD 26 - Tomball ISD 4571D 287J

Value Status Information

Shared CAD Value Status Notice Date

06/04/2021

Exemptions and Jurisdictions

Exemption Type	Districts	Jurisdictions	Exemption Value	ARB Status	2020 Rate	2021 Rate Online Tax Bill
None	026	TOMBALL ISD		Not Certified	1.290000	
	040	HARRIS COUNTY		Not Certified	0.391160	
	041	HARRIS CO FLOOD CNTRL		Not Certified	0.031420	
	042	PORT OF HOUSTON AUTHY		Not Certified	0.009910	
	043	HARRIS CO HOSP DIST		Not Certified	0.166710	
	044	HARRIS CO EDUC DEPT		Not Certified	0.004993	
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va	u	au.	v	113

	Value as of January 1, 2020			Value as of January 1, 2021	
	Market	Appraised		Market	Appraised
Land	4,699,035		Land	4,699,035	
Improvement	0		Improvement	0	
Ag/Tmbr/Spc	13,000		Ag/Tmbr/Spc	13,080	
Total	4,699,035	13,000	Total	4,699,035	13,080

#### 5-Year Value History

#### Land

#### Market Value / Agricultural Land

Line	Land Use	Unit Type	Units	Size Factor	Site Factor	Appr O/R Factor	Appr O/R Reason	Total Ad)	Unit Price	Adj Unit Price	Value
1	9910 Mkt Value of Ag Land AC6 Primary AC	AC	20.0000	1.00	1.00	1.00		1.00	54,450.00	54,450.00	1,089,000.00

2	9910 Mkt Value of Ag Land AC7 Primary AC	AC	78.0000	1.00	1.00	0.85	Shape or Size	0.85	54,450.00	46,282.50	3,610,035.00
Agrıcultural Value											
Une	Land Use	Unit Type	Units		Site Factor	Appr O/R Factor	Appr O/R Reason	Total Adj	Unit Price	Adj Unit Price	Value
1	9011 Harris Native Pasture	AC	8.0000	1.00	1.00	1.00		1.00	60.00	60.00	480.00
2	9015 Harrıs Improved Pasture	AC	90.0000	1.00	1.00	1.00		1.00	140.00	140.00	12,600.00

Building

Vacant (No Building Data)



# Ownership History: 0402200000160 22414 DECKER PRAIRIE ROSEHILL RD **TOMBALL TX 77377**

Effective Date Owner 2/6/1997 KENNETH KATHLEEN PAULINE MOHNKE RODNEY 2/6/1997 MOHNKE MAX E ESTATE 10/7/1988

> [end of record] -close window-