



Control Number: 51979



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**DOCKET NO. 51979**

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PUBLIC UTILITY COMMISSION  
OF TEXAS

**PETITION OF SIG MAGNOLIA LP TO §  
AMEND DOBBIN PLANTERSVILLE §  
WATER SUPPLY CORPORATION'S §  
CERTIFICATE OF CONVENIENCE §  
AND NECESSITY IN MONTGOMERY §  
COUNTY BY EXPEDITED RELEASE §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

On April 5, 2021, Sig Magnolia LP (Sig Magnolia) filed a petition for streamlined expedited release from Dobbin Plantersville Water Supply Corporation's (Dobbin) water certificate of convenience and necessity (CCN) number 11052 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). Sig Magnolia asserts that the land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Montgomery County, which is a qualifying county. Sig Magnolia filed supplemental information on April 26, 2021, May 4, 2021, and May 7, 2021.

On May 28, 2021, the administrative law judge filed Order No. 5, requiring the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on final disposition by July 1, 2021. Therefore, this pleading is timely filed.

**I. FINAL RECOMMENDATION**

Staff has reviewed the petition and supplemental information, and, as detailed in the attached memorandum from Patricia Garcia of the Infrastructure Division, recommends that the petition be approved.

Additionally, Staff recommends that Dobbin's motion to dismiss be denied. In support of its motion, Dobbin first argues that the petition should be dismissed because Dobbin has existing facilities on or near the property and this constitutes "receiving water service." Staff disagrees with this assertion. Based on the information provided by the parties, Staff recommends that SIG Magnolia is not receiving water service from Dobbin. Staff further recommends that Dobbin's claim of protection under 7 U.S.C. § 1926(b) is moot. The TWC explicitly states that "[t]he utility commission may not deny the petition based on the fact that the certificate holder is a borrower

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under a federal loan program.”<sup>1</sup> While a federal district court had previously held that 7 U.S.C. § 1926(b) preempted TWC § 13.2541 (formerly, TWC § 13.254(a-5) and (a-6)), that decision has been vacated by the Fifth Circuit.<sup>2</sup>

## II. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that Dobbin Plantersville WSC’s motion to dismiss be denied and that Sig Magnolia’s petition be approved.

Dated: July 1, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

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Division Director

Rustin Tawater  
Managing Attorney

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<sup>1</sup> TWC § 13.2541(d)

<sup>2</sup> *Crystal Clear Special Util. Dist v Marquez*, No. 19-50556 (5th Cir. Nov. 6, 2020) (per curiam).

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**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 on July 1, 2021 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Phillip Lehmann  
Phillip Lehmann

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Phillip Lehmann, Attorney  
Legal Division

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

**DATE:** July 1, 2021

**RE:** Docket No. 51979 – *Petition of Sig Magnolia LP to Amend Dobbin Plantersville Water Supply Corporation's Certificate of Convenience and Necessity in Montgomery County by Expedited Release*

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On April 5, 2021, Sig Magnolia LP (Sig Magnolia) filed a petition for streamlined expedited release from Dobbin Plantersville Water Supply Corporation's (Dobbin Plantersville WSC) water certificate of convenience and necessity (CCN) No. 11052 in Montgomery County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). Sig Magnolia asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Montgomery County, which is a qualifying county.

Tracy Montes, Infrastructure Division, determined the map and digital data are sufficient for determining the location of the tract of land considered for streamlined expedited release is located within Dobbin Plantersville's water CCN. Furthermore, Sig Magnolia provided a warranty deed confirming ownership of the tract of land within Dobbin Plantersville's certificated service area. In addition, Sig Magnolia submitted a sworn affidavit attesting that the property was not receiving water service from the CCN holder.

Based on the mapping review by Ms. Montes it was determined the total property is approximately 665.8 acres. The requested area to be released from the Dobbin Plantersville (CCN No. 11052) is approximately 665.8 acres.

Dobbin Plantersville requested to intervene. Dobbin Plantersville provided documentation regarding two federal loans that the utility has and infrastructure in the vicinity of the property to ensure its water system continues to meet the needs of its service area. There are no facilities located on the property.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), Sig Magnolia has met the Commission's requirements to allow for the release of the tract of land from Dobbin Plantersville's CCN No. 11052. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, I recommend that a final map and certificate be provided to the CCN holder.



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **Dobbin-Plantersville Water Supply Corporation**

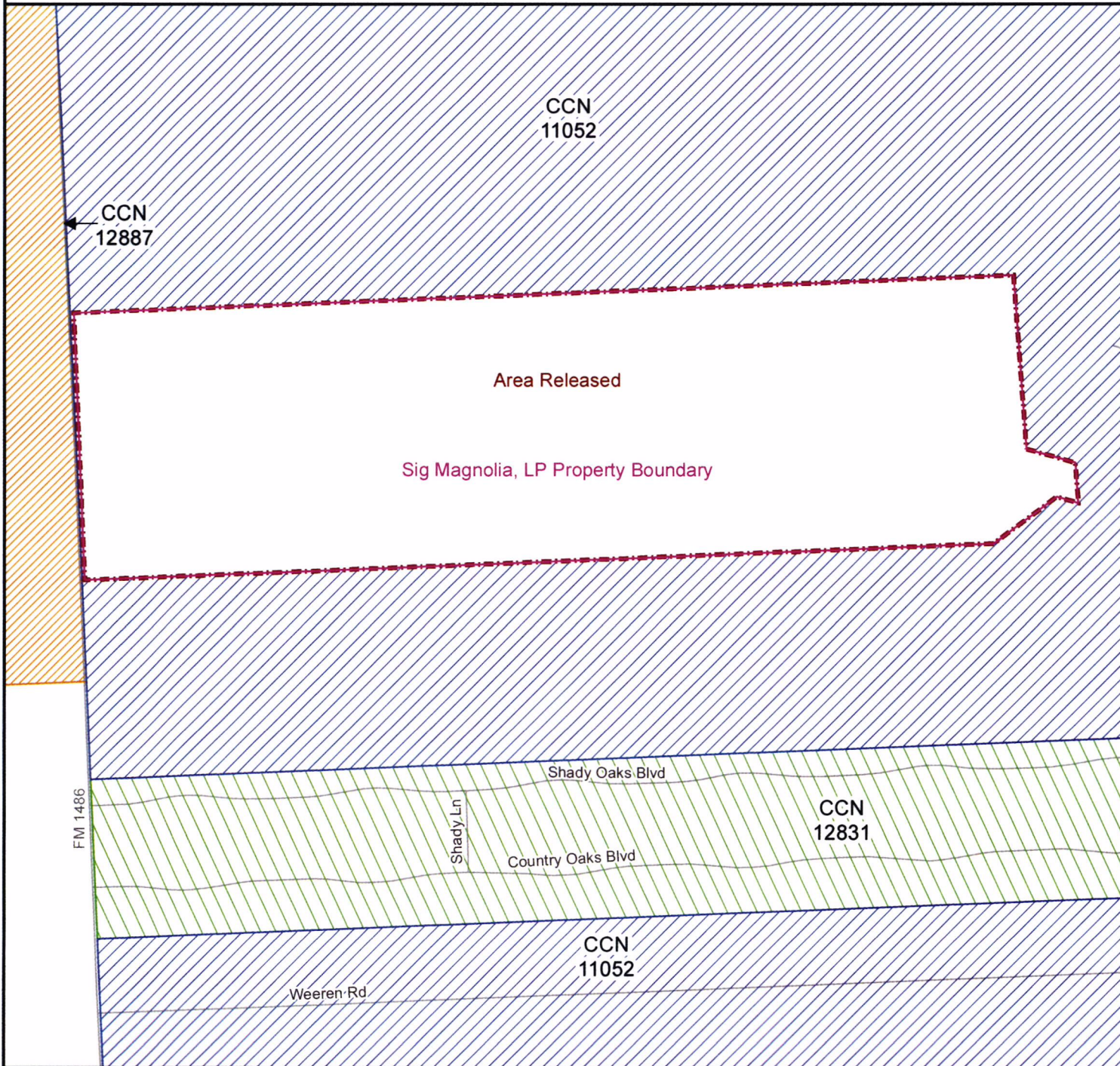
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Dobbin-Plantersville Water Supply Corporation is entitled to this

### **Certificate of Convenience and Necessity No. 11052**

to provide continuous and adequate water utility service to that service area or those service areas in Grimes and Montgomery Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 51979 are on file at the Commission offices in Austin, Texas; and are matters of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of the Dobbin-Plantersville Water Supply Corporation to provide such utility service in accordance with the laws of this State and Rules of this Commission, subject only to any power and responsibility of this Commission to revoke or amend this Certificate in whole or in part upon a subsequent showing that the public convenience and necessity would be better served thereby.

Dobbin-Plantersville Water Supply Corporation  
Portion of Water CCN No. 11052  
PUC Docket No. 51979  
Petition by Sig Magnolia, LP to Amend

Dobbin-Plantersville Water Supply Corporation's CCN by Expedited Release in Montgomery County



Public Utility Commission of Texas  
1701 N. Congress Ave  
Austin, TX 78701

**Water CCN**

-  11052 - Dobbin-Plantersville WSC
-  12831 - Everett Square Inc
-  12887 - MSEC Enterprises INC

0 750 1,500  
Feet



Map by: Komal Patel  
Date created: June 8, 2021  
Project Name: 51979DobbinPlantersville.mxd