



## Filing Receipt

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<b>PETITION OF SIG MAGNOLIA LP TO</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>AMEND DOBBIN PLANTERSVILLE</b>	<b>§</b>	
<b>WATER SUPPLY CORPORATION'S</b>	<b>§</b>	<b>OF TEXAS</b>
<b>CERTIFICATE OF CONVENIENCE</b>	<b>§</b>	
<b>AND NECESSITY IN MONTGOMERY</b>	<b>§</b>	
<b>COUNTY BY EXPEDITED RELEASE</b>	<b>§</b>	

**ORDER NO. 7**  
**DENYING MOTIONS TO DISMISS**

This Order denies the motion and supplemental motion, filed by Dobbin Plantersville Water Supply Corporation on June 17 and 25, 2021, respectively, to dismiss the petition filed by SIG Magnolia LP for expedited release of a tract of land within the boundaries of Dobbin Plantersville WSC's certificate of convenience and necessity (CCN) number 11052 in Montgomery County.

The motions identify two grounds for dismissal.

**A. Receiving Water Service Under the Standards of the Texas Water Code**

Dobbin Plantersville WSC asserts that it is providing water service under TWC § 13.254, as demonstrated by: (1) planning for service to the area, including the property requested for release; (2) planning for the Water Plant 9 project with dedicated facilities near the property; (3) obtaining a \$1,250,000 loan in hopes to later roll it into a USDA loan to finance the Water Plant 9 project to serve, among other tracts, the SIG Magnolia tract; (4) having existing 6-inch and 8-inch water lines available near the SIG Magnolia property; (5) needing to permanently cap-off three 6-inch lines, causing dead ends in its distribution system, should the petition be granted; (6) eliminating the need for the Water Plant 9 project, should the petition be granted; and (7) having no other requests for service from the undeveloped portions of the subject service area to use the remainder of the existing capacity.

**B. Federal Preemption**

Dobbin Plantersville WSC also asserts claims that 7 U.S.C. § 1926(b) pre-empts Texas Water Code (TWC) § 13.2541, leaving the Commission without jurisdiction to decide this matter. Dobbin Plantersville WSC requests that the petition be dismissed to allow adjudication of the issue

of 7 U.S.C. § 1926(b) protection from encroachment on Dobbin Plantersville WSC'S certificated service area.

On June 24 and July 1, 2021, SIG Magnolia filed responses to Dobbin Plantersville WSC's motions, asserting that water service to the property has not been provided or made available and irrespective of Dobbin Plantersville WSC's federal loan, 7 U.S.C. § 1926(b) does not impair the Commission's mandate to process the streamlined expedited release petition.

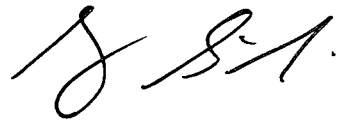
On July 1, 2021, Commission Staff filed its position regarding Dobbin Plantersville WSC's motions to dismiss. Commission Staff disagrees with Dobbin Plantersville WSC's assertions that the above reasons constitute existing facilities on or near the property and that the property is receiving service. Commission Staff also contends that Dobbin Plantersville WSC's claim of protection under 7 U.S.C. § 1926(b) is incorrect because TWC § 13.2541 provides the Commission exclusive jurisdiction over streamlined expedited releases initiated by a landowner. Finally, Commission Staff asserts that if the Commission were to dismiss this matter, the area in question would not be removed from Dobbin Plantersville WSC's CCN and there would be no alleged 7 U.S.C. § 1926(b) controversy over which a federal court could exercise its jurisdiction.

While Dobbin Plantersville WSC's arguments regarding water service address the merits of the petition, they do not identify a ground for dismissal specified in 16 Texas Administrative Code § 22.181(d). Accordingly, its motion to dismiss on this ground is denied. Further, under TWC § 13.2541, the Commission "may not deny [a streamlined expedited release] petition based on the fact that the certificate holder is a borrower under a federal loan program." Therefore, Dobbin Plantersville WSC's possession of a federal loan is immaterial to the determination to be made in this case. Accordingly, Dobbin Plantersville WSC's motion to dismiss on this ground is also denied.

The administrative law judge concludes that the motions to dismiss should be denied.

Signed at Austin, Texas the 19th day of July 2021.

**PUBLIC UTILITY COMMISSION OF TEXAS**

A handwritten signature in black ink, appearing to read "G. R. Siemankowski". The signature is fluid and cursive, with the first name "G." and last name "Siemankowski" clearly distinguishable.

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**GREGORY R. SIEMANKOWSKI**  
**ADMINISTRATIVE LAW JUDGE**