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Item Number: 16

Addendum StartPage: 0

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APPLICATION OF BRAZOS VALLEY §
SEPTIC & WATER, INC. AND CSWR- §
TEXAS UTILITY OPERATING §
COMPANY, LLC FOR SALE, §
TRANSFER OR MERGER OF §
FACILITIES AND CERTIFICATE §
RIGHTS IN ROBERTSON COUNTY §

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

WELLBORN SPECIAL UTILITY DISTRICT'S MOTION TO INTERVENE

TO THE PUBLIC UTILITY COMMISSION OF TEXAS;;

Wellborn Special Utility District ("Wellborn SUD") files this Motion to Intervene pursuant to 16 Texas Administrative Code (TAC) §§ 22.101, 22.103(b), and 22.104, and in support thereof would respectfully show as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

1. On April 9, 2021, Brazos Valley Septic & Water, Inc. (Brazos Valley) and CSWR-Texas Utility Operating Company, LLC (CSWR-Texas) (collectively, Applicants) filed an application for approval of the sale and transfer of facilities and certificate rights in Robertson County, Texas (the "Application"). Under the Application, all of Brazos Valley's facilities and certificated service area under Brazos Valley's water certificate of convenience and necessity ("CCN") No. 13094 would be transferred to CSWR Texas's water CCN number 13290, and Brazos Valley's CCN would be cancelled.

2. Wellborn SUD learned on or about June 2, 2021 that Applicants were seeking dual certification of a portion of Wellborn SUD's retail water CCN No. 11340. See Applicants' map attached at **Exhibit A**.

14

3. The applicable regulations provide that if dual certification is being requested, the application must contain “a copy of the executed agreement that allows for dual certification of the requested area. Where such an agreement is not practicable, a statement of why dual certification is in the public interest” must instead be provided. 16 TAC § 24.233(a)(12).

4. Wellborn SUD has not entered into an agreement allowing for dual certification of the relevant area, and in the initial Application, Applicants did not attempt to provide a statement as to why dual certification is in the public interest. For that reason, (and due to deficiencies with the mapping data submitted) on June 3, 2021, PUC Staff recommended that the Application be deemed administratively incomplete.

5. On June 4, 2021, the ALJ issued Order No. 3, finding the Application incomplete and deficient and establishing an opportunity to cure. That order states:

Under 16 Texas Administrative Code § 24.8(d), the Commission does not consider an application filed until it makes a determination that the application is administratively complete. Thus, at this time the application is not considered filed with the Commission.

6. Order No. 3 also provides that on or before August 2, 2021, Commission Staff must file a supplemental recommendation regarding the administrative completeness of the Application, along with a proposed procedural schedule, if appropriate.

7. On June 14, 2021, CSWR-Texas filed its Response to Order No. 3 and Third Supplement to Application. In that document, CSWR-Texas admits that it and Wellborn SUD have not reached an agreement regarding dual certification. CSWR-Texas instead seeks to establish that dual certification is in the public interest pursuant to 16 TAC § 24.233(a)(12).

8. CSWR-Texas has therefore supplemented the Application in an attempt to have the area dually certified without Wellborn SUD's input and consent. Wellborn SUD moves to intervene in this docket to protect its rights under its CCN.

II. THIS MOTION IS TIMELY AND SHOULD BE GRANTED.

9. The PUC's rules provide that "[m]otions to intervene shall be filed within 45 days from the date an application is filed with the commission, unless otherwise provided by statute, commission rule, or order of the presiding officer." 16 TAC § 22.104(b). Late-filed motions are also granted under certain circumstances, including where "good cause" exists. 16 TAC § 22.104(d).

10. As stated in the ALJ's Order No. 3, the Application has not been declared administratively complete and is therefore not considered filed with the Commission as of this date. Wellborn SUD's intervention is timely.

11. Wellborn SUD has a direct and substantial interest in this proceeding, as CCN holder of the area the Application is seeking to have dually certified in this proceeding. In recognition of that justiciable interest, Wellborn SUD seeks leave to intervene as a party in this docket so that it may ensure its interests are protected.

III. WELLBORN SUD'S AUTHORIZED REPRESENTATIVES

12. The name, address, and telephone number of Wellborn SUD's authorized representatives are:

Leonard Dougal
Alicia French
JACKSON WALKER LLP
100 Congress, Suite 1100
Austin, Texas 78701
Telephone: (512) 236-2000
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afrench@jw.com

All pleadings and other documents should be served upon Wellborn SUD's authorized representatives.

IV. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Wellborn Special Utility District respectfully requests that this Motion to Intervene be granted so that it may intervene in this docket as a party with all rights thereof, and for such other relief to which it may be justly entitled.

Respectfully submitted,

JACKSON WALKER L.L.P.



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ATTORNEYS FOR WELLBORN SPECIAL
UTILITY DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that notice of the filing of this document was provided to all parties of record via electronic mail on June 21, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

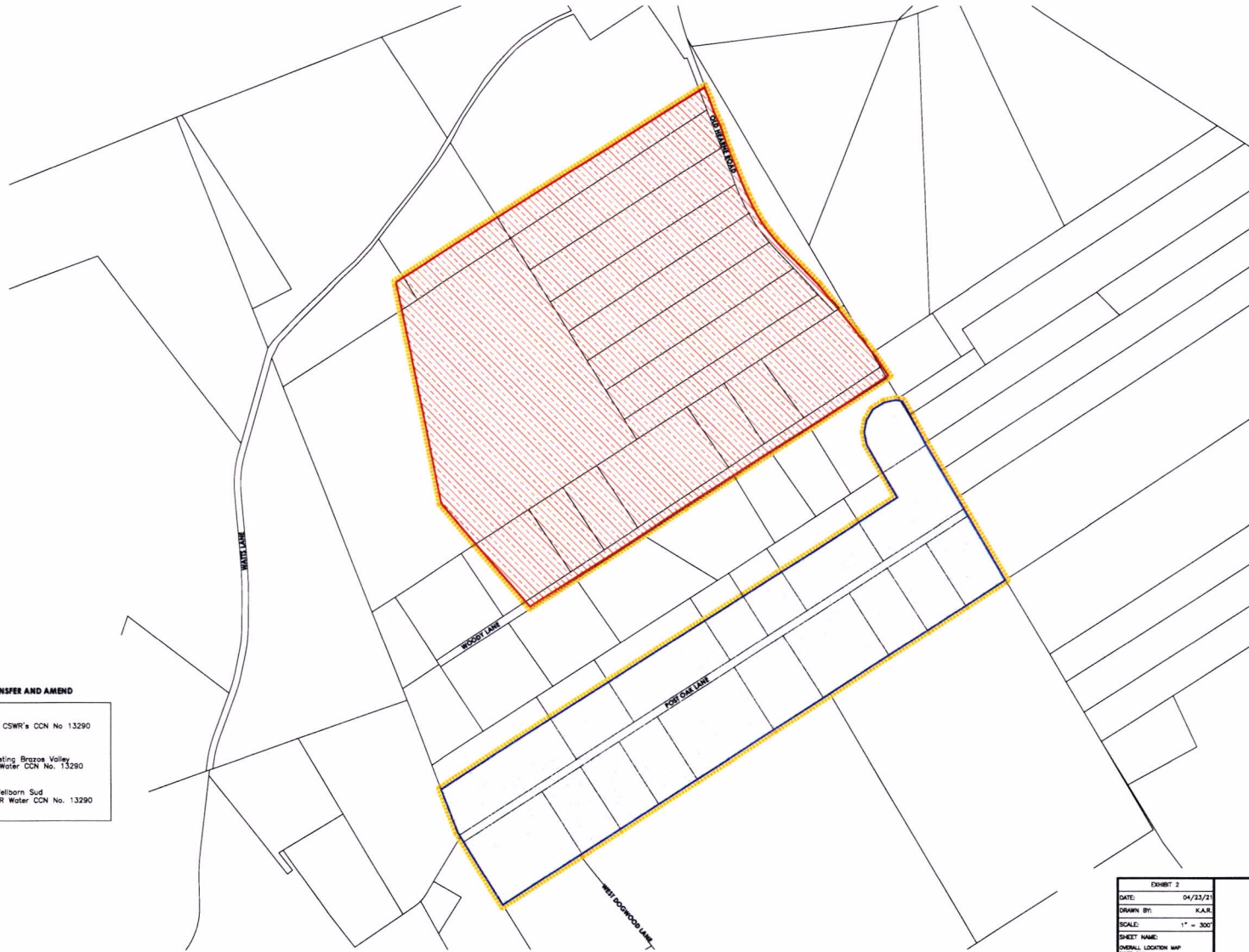
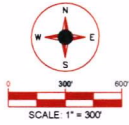


Leonard H. Dougal

Exhibit A

BRAZOS VALLEY/POST OAK CSWR CCN NO. 13290 AMENDMENT – WATER SERVICE AREA

OVERALL LOCATION – ROBERTSON COUNTY



REQUESTED WATER SERVICE AREAS TO TRANSFER AND AMEND




	Requested Area to Add to CSWR's CCN No 13290
	Amend by Transferring Existing Brazos Valley CCN No. 13094 to CSWR Water CCN No. 13290
	Dually Certify Portion of Wellborn Sud CCN. No. 11340 with CSWR Water CCN No. 13290

EXHIBIT 2	
DATE:	04/23/21
DRAWN BY:	K.A.R.
SCALE:	1" = 300'
SHEET NAME:	
OVERALL LOCATION MAP	
POST DW:	

21
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