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DOCKET NO. 52293

PETITION OF MERITAGE HOMES OF	§	PUBLIC UTILITY COMMISSION
TEXAS, LLC, TO AMEND THE CITY	§	
OF MELISSA’S CONVENIENCE AND	§	OF TEXAS
NECESSITY IN COLLIN COUNTY BY	§	
EXPEDITED RELEASE	§	

ORDER NO. 11
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition of Meritage Homes of Texas, LLC for streamlined expedited release of a tract of land in Collin County from the City of Melissa’s the service area under water certificate of convenience and necessity (CCN) number 11482. For the reasons stated in this Order, the Commission releases the tract of land from the City of Melissa’s certificated service area. In addition, the Commission amends the City of Melissa’s CCN number 11482 to reflect the removal of this tract of land from the service area.

Following entry of this Order, the Commission will determine the amount of compensation, if any, to be awarded to City of Melissa, which will be addressed by separate order.

I. Background

This case originated with the petition filed on June 30, 2021, by Meritage Homes to amend North Collin Special Utility District’s and the City of Melissa’s water CCNs in Collin County by streamlined expedited release. Meritage Homes seeks streamlined expedited release of a tract of land it owns that lies within the dually-certificated area held under North Collin SUD’s CCN number 11035 and the City of Melissa’s CCN number 11482.

On August 13, 2021, Meritage Homes filed a response to Order No. 2 and a motion to sever the application into two separate applications by Meritage Homes for the City of Melissa and for the North Collin Special Utility District. On August 19, 2021, the administrative law judge (ALJ) granted the motion to sever the two applications into the current docket and Docket No. 52442.¹ On August 23, 2021, Meritage Homes filed a clean copy of the petition in the current docket.

¹ *Petition of Meritage Homes of Texas, LLC to Amend North Collin Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52442, (pending).

II. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Meritage Homes is an Arizona limited liability company registered with the Texas secretary of state under filing number 800832535.

CCN Holder

2. City of Melissa is a Texas water district under chapters 49 and 65 of the Texas Water Code (TWC).
3. City of Melissa holds CCN number 11482 that obligates it to provide retail water service in its certificated service area in Collin County.

Petition and Supplemental Filing

4. On August 23, 2021, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 11482.
5. The petition includes an affidavit, dated August 23, 2021, of David Aughinbaugh, vice president of land for the petitioner; general and detail location maps; a special warranty deed including metes and bounds dated December 23, 2020; and mapping data
6. On March 28, 2022, the petitioner filed supplemental mapping items.
7. In Order No. 10 filed on May 12, 2022, the administrative law judge (ALJ) found the supplemented petition administratively complete.

Notice

8. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on September 8, 2021.
9. In Order No. 7 filed on September 24, 2021, the ALJ found the notice sufficient.

The Tract of Land

10. The petitioner owns property in Collin County that is approximately 273.5 acres.
11. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 60 acres.
12. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

13. The petitioner acquired their property by a special warranty deed dated December 23, 2020.

Qualifying County

14. Collin County has a population of more than 47,500 and is adjacent to Dallas County.
15. Dallas County has a population of at least one million.

Water Service

16. The tract of land is not receiving actual water service from the CCN holder.
17. The petitioner has not requested that the CCN holder provide water service to the tract of land.
18. The petitioner has not paid any fees or charges to initiate or maintain water service to the CCN holder.
19. There are no billing records or other documents indicating an existing account with the CCN holder for the provision of water service to the tract of land.
20. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
21. The CCN holder has no facilities or lines that provide water service to the tract of land.
22. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

23. On June 15, 2022, Commission Staff filed its supplemental recommendation on final disposition that included a certificate and a map on which it identified the tract of land in relationship to the CCN holder's certificated service area.

III. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition for streamlined expedited release under TWC §§ 13.254 and 13.2541.
2. The petitioner provided notice of the petition in compliance with 16 Texas Administrative Code (TAC) § 24.245(h)(3)(F).

3. No opportunity for a hearing on a petition for streamlined expedited release is provided under TWC §§ 13.254 or 13.2541 or and under 16 TAC § 24.245(h)(7) no hearing will be held on such a petition.
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 or 13.2541 and 16 TAC § 24.245(h)(7) are not contested cases.
5. Landowners seeking streamlined expedited release under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are required to submit a verified petition through a notarized affidavit, and the CCN holder may submit a response to the petition.
6. Under 16 TAC § 24.245(h)(7), the Commission's decision is based on the information submitted by the landowner, the CCN holder, and Commission Staff.
7. To obtain release under TWC § 13.2541(b), a landowner must demonstrate that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN.
8. The time that the petition is filed is the only relevant time period to consider when evaluation whether a tract of land is receiving water service under TWC § 13.2541(b). Whether a tract of land might have previously received water or sewer service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. The petitioner owns the tract of land that is at least 25 acres for which it seeks streamlined expedited release.
11. Collin County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
12. The tract of land is not receiving water service under TWC §§ 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App.—Austin 2014, pet. denied).
13. The petitioner is entitled under TWC § 13.2541(b) to the release of the tract of land from the CCN holder's certificated service area.
14. After the date of this Order, the CCN holder has no obligation under TWC §13.254(h) to provide retail water service to the tract of land.

15. The Commission may release only the property of the landowner from a CCN under TWC § 13.2541(b). The Commission has no authority to decertificate any facilities or equipment owned and operated by the CCN holder to provide retail water service through the streamlined-expedited-release process under TWC § 13.2541(b).
16. The Commission processed the petition in accordance with the TWC and Commission rules.
17. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificate and map, along with a boundary description of the service area, in the real property records of Collin County no later than the 31st day after the date the CCN holder receives this Order.
18. A retail public utility may not under TWC § 13.254(d) provide retail water service to the public within the release property unless just and adequate compensation under TWC § 13.254(g) has been paid to the CCN holder.

IV. Ordering Paragraphs

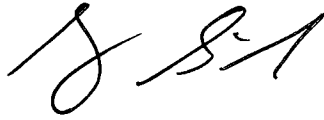
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the tract of land identified in the petition from the CCN holder's certificated service area under CCN number 11482.
2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the petitioner's tract of land.
3. The Commission amends CCN number 11482 in accordance with this Order.
4. The Commission approves the attached map.
5. The Commission issues the attached certificate.
6. The CCN holder must file in this docket proof of the recording required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.
7. The proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences with the filing of this Order in accordance with the schedule adopted in Order No. 10. Any decision on compensation will be made by a separate order.

8. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Order.

Signed at Austin, Texas the 1st day of July 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'G. Siemankowski', is written over a horizontal line.

GREGORY R. SIEMANKOWSKI
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Melissa

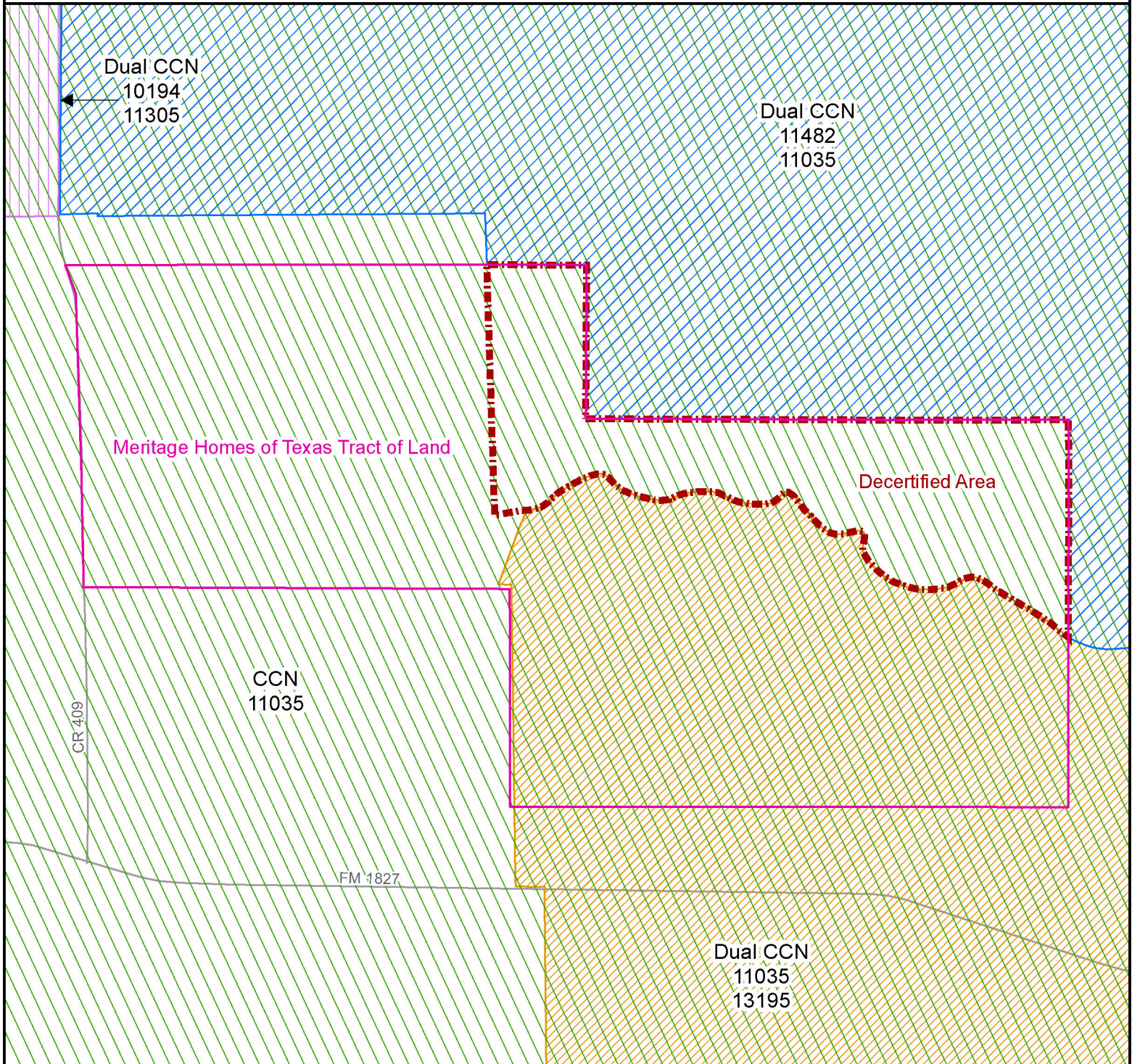
having duly applied for certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this commission that the public convenience and necessity would in fact be advanced by the provision of such service by this Applicant, is entitled to and is hereby granted this

Certificate of Convenience and Necessity No. 11482

to provide continuous and adequate water utility service to that service area or those service areas in Collin County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Application No. 52293 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 City of Melissa 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.





Note: The provision of utility service under this certificate is governed by a settlement agreement between the Cities of Anna, McKinney, Melissa and the North Collin Water Supply Corporation. Please contact these entities for information regarding the terms of this agreement.



City of Melissa
 Portion of Water CCN No. 11482
 PUC Docket No. 52293
 Petition by Meritage Homes of Texas to Amend
 City of Melissa's CCN by Streamlined Expedited Release in Collin County



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

Water CCN

-  11482 - City of Melissa
-  11035 - North Collin SUD
-  13195 - City of Princeton
-  10194 - City of McKinney

-  Decertified Area
-  Tract of Land

0 400 800
 Feet



Map by: Komal Patel
 Date: May 23, 2022
 Project: 52293CityofMelissa.mxd