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DOCKET NO. 52411

PETITION OF HMI-OAK GROVE LLC	§	PUBLIC UTILITY COMMISSION
TO AMEND BETHESDA WATER	§	
SUPPLY CORPORATION'S	§	OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN TARRANT	§	
COUNTY BY EXPEDITED RELEASE	§	

ORDER NO. 13
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition by HMI-Oak Grove LLC for streamlined expedited release of a tract of land in Tarrant County from Bethesda Water Supply Corporation's service area under certificate of convenience and necessity (CCN) number 10089. For the reasons stated in this Order, the Commission releases the tract of land from Bethesda WSC's certificated service area. In addition, the Commission amends Bethesda WSC's CCN number 10089 to reflect the removal of the 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 Bethesda WSC, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. HMI-Oak Grove is a Texas limited liability company registered with the Texas secretary of state under filing number 803967241.

CCN Holder

2. Bethesda WSC is a Texas non-profit corporation registered with the Texas secretary of state under filing number 20832901.
3. Bethesda WSC holds CCN number 10089 that obligates the utility to provide retail water service in its certificated service area in Johnson and Tarrant counties.

Petition and Supplemental Materials

4. On August 10, 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 10089.
5. The petition includes a general warranty deed (with vendor's lien in favor of third party) with metes-and-bounds description, dated July 23, 2021; a general warranty deed (with vendor's lien in favor of third party) with metes-and-bounds description, dated July 28, 2021; maps of the tract of land; digital mapping data; certified mail receipts; and an affidavit, dated August 10, 2021, of Chad Dannheim, manager of HMI-Oak Grove.
6. On October 11, 2021, the petitioner filed supplemental information to clarify the tract of land.
7. On December 10, 2021, the petitioner filed supplemental mapping information.
8. In Order No. 4 filed on January 11, 2022, the administrative law judge (ALJ) found the petition administratively complete.
9. In Order No. 6 filed on March 9, 2022, the Commission granted streamlined expedited release of the tract of land.
10. In the Notice of Approval filed on June 1, 2022, the Commission made a determination on compensation for the streamlined expedited release of the tract of land.
11. On August 26, 2022, the petitioner filed a motion to reopen the record due to a mapping error and filed revised mapping.
12. On September 1, 2022, Commission Staff filed a response in support of the petitioner's motion to reopen the record.
13. On October 14, 2022, the petitioner filed revised maps and revised digital mapping data.
14. In Order No. 10 filed on October 18, 2022, the ALJ reopened the record and rescinded the following: (a) the finding of administrative completeness in Order No. 4; (b) the grant of streamlined expedited release in Order No. 6; and (c) the Notice of Approval making a determination on compensation.
15. In Order No. 12 filed on November 4, 2022, the ALJ found the petition, as supplemented, administratively complete.

Notice

16. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on August 10, 2021.
17. In Order No. 4 filed on January 11, 2022, the ALJ found the notice sufficient.

Response to the Petition and Intervention

18. On October 31, 2022, the petitioner filed the affidavit, dated October 28, 2022, of Steven M. Sievers, general manager of the CCN holder, attesting that the CCN holder does not intend to intervene or seek compensation in this proceeding.

The Tract of Land

19. The petitioner owns property in Tarrant County that is approximately 68.8 acres.
20. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 62.7 acres.
21. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

22. The petitioner acquired its property through two transactions.
23. The petitioner acquired two parcels, one approximately 48.69 and the other approximately 2.95 acres, by a general warranty deed (with vendor's lien in favor of third party) dated July 23, 2021.
24. The petitioner acquired two parcels, one approximately 14.01 and the other approximately 3.14 acres, by a general warranty deed (with vendor's lien in favor of third party) dated July 28, 2021.

Qualifying County

25. Tarrant County has a population of at least one million.

Water Service

26. The tract of land is not receiving actual water service from the CCN holder or any other retail public utility.
27. The petitioner has never requested water service for the tract of land from the CCN holder.

28. The petitioner has no contracts with the CCN holder for the provision of water service to the tract of land.
29. The petitioner has not received any bills from the CCN holder for water service to the tract of land.
30. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
31. The CCN holder has no facilities or lines that provide water service to the tract of land.
32. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

33. On November 18, 2022, Commission Staff filed its revised 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.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over the petition for streamlined expedited release under Texas Water Code (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, 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 and 13.2541 and 16 TAC § 24.245(h) 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 evaluating whether a tract of land is receiving water service under TWC § 13.2541(b). Whether a tract of land might have previously received water 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 they seek streamlined expedited release.
11. Tarrant 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 petitioner's 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 decertify 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 Tarrant 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 tract of land unless just and adequate compensation under TWC § 13.254(g) has been paid to the CCN holder.

III. 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 10089.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the tract of land.
3. The Commission amends CCN number 10089 in accordance with this Order.
4. The Commission approves the map attached to this Order.
5. The Commission issues the certificate attached to this Order.
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 on the date of this Order in accordance with the schedule adopted in Order No. 12. 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 2nd day of December 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read "Christina Denmark", written over a horizontal line.

**CHRISTINA DENMARK
ADMINISTRATIVE LAW JUDGE**



Public Utility Commission of Texas

By These Presents Be It Known To All That

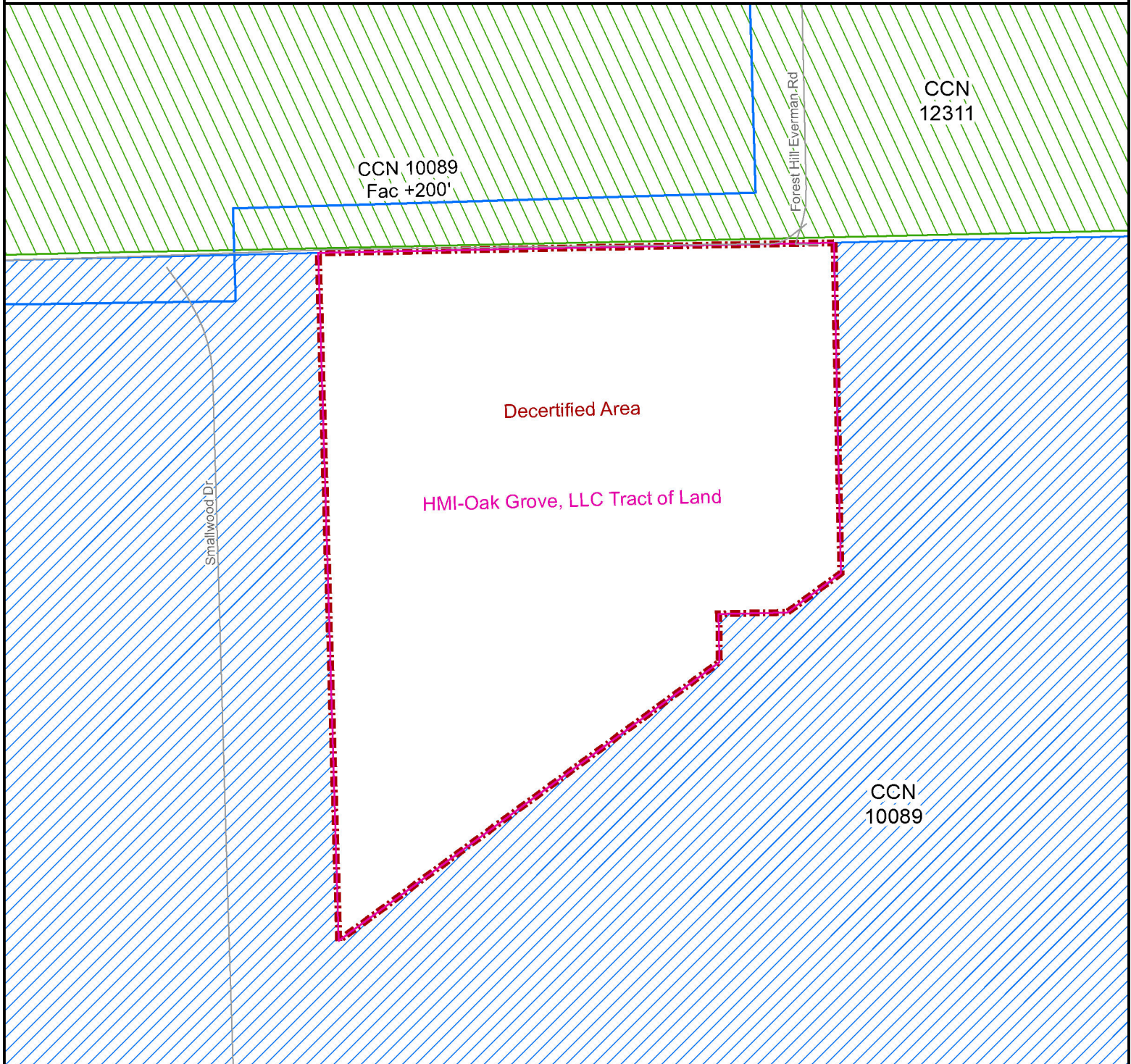
Bethesda Water Supply Corporation

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, Bethesda Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10089



to provide continuous and adequate water utility service to that service area or those service areas in Johnson and Tarrant Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52411 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 Bethesda 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.

Bethesda Water Supply Corporation
Portion of Water CCN No. 10089
PUC Docket No. 52411
Petition by HMI-Oak Grove LLC to Amend
Bethesda Water Supply Corporation's CCN by Streamlined Expedited Release in Tarrant County





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

Water CCN

-  10089 - Bethesda WSC
-  12311 - City of Fort Worth

Water CCN Facility +200'

-  10089 - Bethesda WSC

-  Decertified Area
-  Tract of Land

0 225 450
Feet



Map by: Komal Patel
Date: November 17, 2022
Project: 52411BethesdaWSCUPDATE.mxd