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Public Utility Commission of Texas

TO: Stephen Journey
Commission Counsel

All Parties of Record

FROM: Isaac Ta *I. T.*
Administrative Law Judge

RE: **Docket No. 52435** – *Petition of Legacy Equestrian Center LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*

DATE: January 21, 2022

On November 8, 2021, a Proposed Order was filed in the above-styled and numbered docket.

The attached Revised Proposed Order is being filed to incorporate changes adopted by the Commission in other recently-filed orders granting streamlined expedited release. The Revised Proposed Order is ready for the Commission's consideration.

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DOCKET NO. 52435

**PETITION OF LEGACY EQUESTRIAN § PUBLIC UTILITY COMMISSION
CENTER LLC TO AMEND MARILEE §
SPECIAL UTILITY DISTRICT'S § OF TEXAS
CERTIFICATE OF CONVENIENCE §
AND NECESSITY IN COLLIN §
COUNTY BY EXPEDITED RELEASE §**

REVISED PROPOSED ORDER

This Order addresses the petition by Legacy Equestrian Center LLC for streamlined expedited release of a tract of land in Collin County from Marilee Special Utility District's service area under certificate of convenience and necessity (CCN) number 10150. For the reasons stated in this Order, the Commission releases the tract of land from Marilee SUD's certificated service area. In addition, the Commission amends Marilee SUD's CCN number 10150 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 Marilee SUD, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Legacy Equestrian, formerly known as Legacy Stables LLC, is a Texas limited liability company registered with the Texas secretary of state under filing number 800022563.
2. On June 21, 2002, the Texas secretary of state issued a certificate of amendment changing petitioner's name from Legacy Stables LLC to Legacy Equestrian Center LLC.

CCN Holder

3. Marilee SUD is a Texas water district and special utility district under chapters 49 and 65 of the Texas Water Code (TWC).
4. Marilee SUD holds CCN number 10150 that obligates it to provide retail water service in its certificated service area in Collin County.

5. Marilee SUD is the successor to Gunter Special Utility District and Gunter Rural Water Supply Corporation.

Petition

6. On August 16, 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 10150.
7. The petition includes an affidavit, dated August 13, 2021, of Jody M. O'Donnell, petitioner's president; maps of the subject property and digital mapping data; and a deed of trust dated September 6, 2002, with a metes-and-bounds description.
8. In Order No. 2 filed on September 15, 2021, the administrative law judge (ALJ) found the petition administratively complete.
9. On November 5, 2021, petitioner supplemented the petition with a certificate of amendment dated June 21, 2002; a release of deed of trust dated July 11, 2016; and a release of lien dated November 4, 2016.

Notice

10. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on August 16, 2021.
11. In Order No. 2 filed on September 15, 2021, the ALJ found the notice sufficient.

Intervention

12. In Order No. 3 filed on September 17, 2021, the ALJ granted the CCN holder's motion to intervene.

Response to the Petition

13. On October 4, 2021, the CCN holder filed a verified response to the petition, which includes the affidavit, dated October 1, 2021, of Donna Loiselle, the CCN holder's general manager; the CCN holder's customer account details for the petitioner; a Gunter Rural WSC service application and agreement dated June 23, 2001; a membership transfer authorization dated June 23, 2001; a check, dated July 5, 2001, from Jody M. O'Donnell dba to Gunter Rural WSC; Gunter WSC certificates of membership for Jody O'Donnell; Gunter Rural WSC work orders for two meters from May 2001 through December 2015; a resolution dated February 11, 2021 by the CCN holder's board of directors authorizing

Donna Loiselle to prepare and submit application documents to secure funding for construction of a water tank; an April 13, 2021 commitment letter committing to provide the CCN holder a loan through the United States Department of Agriculture (USDA) Water and Environmental Guaranteed Loan Program; a USDA letter dated July 19, 2021 approving the loan; the affidavit, dated October 1, 2021, of Jacob Dupuis, the CCN holder's engineer of record; and maps identifying the tract of land and the CCN holders' waterlines, meters, and wells in relation thereto.

The Tract of Land

14. The petitioner owns property in Collin County that is approximately 76.866 acres.
15. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 67.696 acres.
16. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

17. The petitioner filed a certificate of amendment dated June 21, 2002, a deed of trust dated September 6, 2002, a release of deed of trust dated July 11, 2016, and a release of lien dated November 4, 2016, demonstrating its ownership of the property.

Qualifying County

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

Water Service

20. The tract of land is not receiving actual water service from the CCN holder.
21. The petitioner has not requested that the CCN holder provide water service to the tract of land.
22. The petitioner has not paid any charges or fees to the CCN holder to initiate or maintain water service for the tract of land.
23. 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.

24. The CCN holder owns and operates an eight-inch waterline running parallel to, but outside of, the southern boundary of the petitioner's property.
25. The CCN holder owns and operates a ten-inch waterline running parallel to, but outside of, the southeastern boundary of the petitioner's property.
26. The CCN holder owns and operates two water meters that serve the petitioner's property, but neither of those meters is located within the tract of land and neither provides water service to the tract of land.
27. The CCN holder provides water service to a portion of the petitioner's property which lies outside the tract of land.
28. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
29. The CCN holder has no facilities or lines that provide water service to the tract of land.
30. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

31. On October 18, 2021, Commission Staff filed its final recommendation 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 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 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 that must be verified by a notarized affidavit.
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 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 they seek 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 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 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 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 10150.
2. The Commission does not decertificate 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 10150 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. 2. 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 _____ day of _____ 2022.

PUBLIC UTILITY COMMISSION OF TEXAS

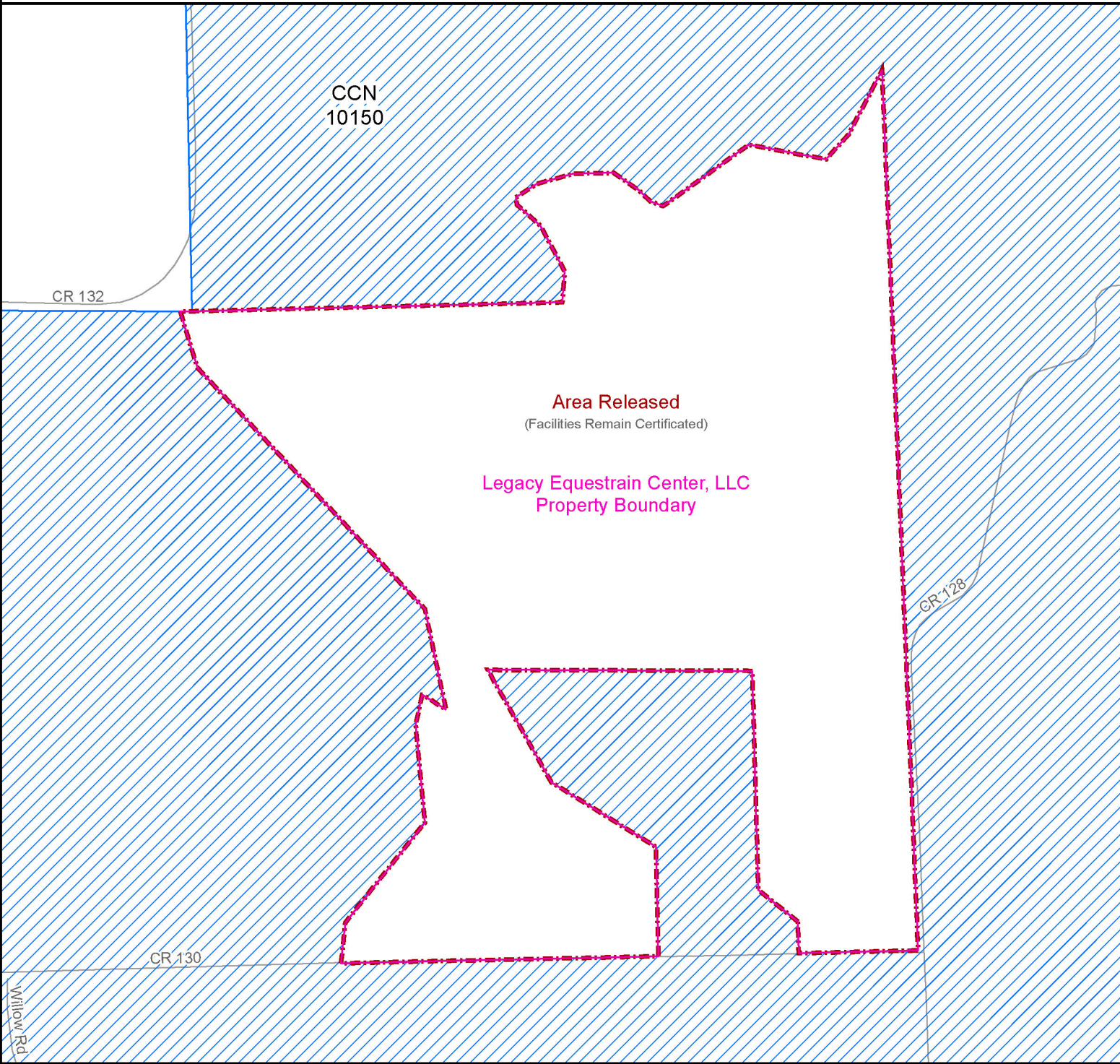
PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

Marilee Special Utility District
Portion of Water CCN No. 10150
PUC Docket No. 52435
Petition by Legacy Equestrain Center, LLC to Amend
Marilee Special Utility District's CCN by Expedited Release in Collin County



Water CCN
 10150 - Marilee SUD

 Area Released
 Property Boundary

0 200 400
Feet





Public Utility Commission of Texas

By These Presents Be It Known To All That

Marilee Special Utility District

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. 10150

to provide continuous and adequate water utility service to that service area in Collin County as by final Order duly entered by this Commission, which Order resulting from Docket No. 52435 are on file at the Commission offices in Austin, Texas; and are a matter of official record available for public inspection; and be it known further that these presents do evidence the authority and the duty of Marilee Special Utility District 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.