



## Filing Receipt

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## PUC DOCKET NO. 52442

PETITION OF MERITAGE HOMES OF	§	PUBLIC UTILITY COMMISSION
TEXAS, LLC TO AMEND NORTH	§	
COLLIN SPECIAL UTILITY	§	OF TEXAS
DISTRICT'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**NORTH COLLIN SPECIAL UTILITY DISTRICT'S RESPONSE AND OBJECTION TO  
ADMINISTRATIVELY COMPLETE PETITION AND MOTION TO DISMISS**

COMES NOW, North Collin Special Utility District, a political subdivision of the State of Texas ("North Collin") and files its Response and Objection to the Administratively Complete Petition and Motion to Dismiss. North Collin contends that this proceeding is contested and North Collin is entitled to due process, including a hearing on the petition. In support thereof, North Collin respectfully would show as follows:

**I. BACKGROUND**

On June 30, 2021, Meritage Homes of Texas, LLC, an Arizona limited liability company ("Petitioner" or "Meritage") filed a petition for streamlined expedited release, pursuant to Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h), from North Collin's water Certificate of Convenience and Necessity (CCN) No. 11035 and the City of Melissa's water CCN No. 11482, in the Public Utility Commission of Texas ("PUC" or "Commission") Docket No. 52293.

On August 13, 2021, Meritage filed its Motion to Sever, requesting its application for streamlined expedited release from North Collin's CCN be severed from Docket No. 52293.<sup>1</sup>

On August 24, 2021, Order No. 4 issued in Docket No. 52293 and Order No. 1 issued in Docket No. 52442 (this proceeding) allowed Meritage's petition to be severed, where the petition from North Collin's CCN would be addressed in Docket No. 52242.<sup>2</sup>

<sup>1</sup> *Petition by Meritage Homes of Texas, LLC to Amend North Collin Special Utility District's and City of Melissa's Certificates of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52293, Meritage's Response to Order No. 2 and Motion to Sever at 1 (Aug. 13, 2021).

<sup>2</sup> Order No. 1 at 2 (Aug. 19, 2021); *Petition by Meritage Homes of Texas, LLC to Amend North Collin Special Utility District's and City of Melissa's Certificates of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52293, Order No. 4 at 2 (Aug. 19, 2021).

On August 23, 2021, Meritage filed the Petition by Meritage Homes of Texas, LLC for Streamlined Expedited Release Pursuant to Texas Water Code § 13.2541 (the “Petition”). In the Petition, Meritage states that it owns approximately 273.5 acres of property in Collin County, Texas (the “Property”), which is located within the municipal boundaries of the City of Princeton and within the boundaries of North Collin’s CCN.<sup>3</sup>

On September 6, 2021, Commission Staff filed its Recommendation on Administrative Completeness and Notice (the “Recommendation”), recommending that the Petition is deficient.<sup>4</sup> The Commission had not deemed the Petition to be administratively complete in accordance with 16 TAC §24.245(h)(5). The Memorandum attached to Commission Staff’s Recommendation states that “[t]he proposed area to be released from North Collin SUD is approximately 73.6 acres.”<sup>5</sup>

On September 13, 2021, North Collin timely filed its Response and Objection and Motion to Dismiss in accordance with Order No. 1.<sup>6</sup> Simultaneously, North Collin filed its Original Complaint against Petitioner, the Commissioners and Executive Director of the Commission, in *North Collin Special Util. Dist. v. Lake, et al.*, No. 1:21-cv-807 (W.D. Tex. Sept. 13, 2021) (the “Federal Litigation”).

On September 24, 2021, the Petition was deemed administratively complete as provided in Order No. 5.<sup>7</sup> On September 28, 2021, North Collin was granted intervention in this proceeding.<sup>8</sup>

On September 29, 2021, North Collin filed its Motion for Leave to provide additional records discovered related to service to the Property and simultaneously filed its Supplemental Response and Objection to the Petition (“Supplemental Response”).<sup>9</sup> Order No. 7 granted North

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<sup>3</sup> Petition by Meritage Homes of Texas, LLC for Streamlined Expedited Release Pursuant to Texas Water Code Section 13.2541, at 2 (Aug. 23, 2021).

<sup>4</sup> Commission Staff’s Recommendation on Administrative Completeness and Notice, at 1 (Sept. 7, 2021).

<sup>5</sup> *Id.* at 4 (providing the Memorandum dated September 7, 2021 from Jolie Mathis, Utility Engineering Specialist in the Commission’s Infrastructure Division).

<sup>6</sup> Order No. 1 at 3 (Aug. 19, 2021).

<sup>7</sup> Order No. 5 at 1 (Sept. 24, 2021).

<sup>8</sup> Order No. 6 at 1 (Sept. 28, 2021).

<sup>9</sup> North Collin Special Utility District’s Motion for Leave (Sept. 29, 2021); North Collin Special Utility District’s Supplemental Response and Objection to the Petition by Meritage Homes of Texas, LLC for Streamlined Expedited Release and Motion to Dismiss (Sept. 29, 2021).

Collin's Motion for Leave,<sup>10</sup> and North Collin again filed its Supplemental Response as required by Order No. 7.<sup>11</sup>

North Collin and Petitioner have held discussions regarding possible settlement. On November 5, 2021, North Collin filed its Unopposed Motion to Abate after conferring with Commission Staff and Petitioner, requesting issuance of an order to abate all activity and upcoming deadlines for thirty (30) days and to allow the parties to dedicate resources towards reaching resolution without incurring additional litigation time or expense.<sup>12</sup> The Unopposed Motion to Abate has neither been granted nor denied.

Thus, in accordance with Order No. 8 issued on October 8, 2021,<sup>13</sup> this Response to the Administratively Complete Petition is timely filed.

## II. ARGUMENTS AND AUTHORITIES

The Petition is premised on 16 TAC § 24.245(h) and TWC § 13.2541, and must be dismissed. First, the Property is receiving water service from North Collin. Second, North Collin has "provided or made service available and enjoys protection" under 7 U.S.C. § 1926(b),<sup>14</sup> such that North Collin's service area under CCN No. 11035 may not be "curtailed or limited" and the Property cannot be removed from North Collin's territory.<sup>15</sup> In Section IV below, North Collin presents its England Reservation. North Collin is not seeking a determination of its federal rights in this proceeding, but rather merely informing the Commission of the federal issues. All federal issues, including those arising under 7 U.S.C. § 1926(b) and 42 U.S.C. § 1983 are reserved exclusively for the federal court to determine. Additionally, the Property is receiving water "service" from North Collin as defined by TWC § 13.002 and North Collin is providing service as

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<sup>10</sup> Order No. 7 at 1 (Oct. 5, 2021).

<sup>11</sup> North Collin Special Utility District's Response to Order No. 7 and Supplemental Response and Objection to the Petition (Oct. 11, 2021).

<sup>12</sup> North Collin Special Utility District's Unopposed Motion to Abate at 2 (Nov. 5, 2021).

<sup>13</sup> Order No. 8 at 1 (Oct. 8, 2021).

<sup>14</sup> *Green Valley Special Util. Dist. v. City of Schertz, Texas*, No. 18-51092, 2020 WL 4557844, at \*12 (5th Cir. Aug. 7, 2020) ("In North Alamo's place, we adopt the 'physical ability' test as articulated in *Le-Ax Water*, 346 F.3d at 705-07, albeit with one small alteration.<sup>34</sup> To make the test easy to apply to both water and sewer service, we hold that a utility must show that it has (1) adequate facilities to provide service to the area within a reasonable time after a request for service is made and (2) the legal right to provide service.")

<sup>15</sup> 7 U.S.C. § 1926(b).



the term providing service is commonly understood.<sup>16</sup> Therefore, the Property does not qualify for streamlined expedited release from North Collin's CCN and the Petition must be denied.

#### A. The Property Does Not Qualify For Release Under Texas Laws

The Commission may use all facts provided in this proceeding to determine whether the Property is receiving water "service" from North Collin. The determination of whether a tract of land is "receiving water service" is a fact-based inquiry requiring the Commission to consider whether North Collin has facilities or lines *committed to providing water* to the particular tract in furtherance of its obligation to provide water to that tract pursuant to its CCN.<sup>17</sup> North Collin has committed facilities and lines, among other things, to provide water service the Property.

Petitioner filed its Petition pursuant to 16 TAC § 24.245(h) and TWC § 13.2541. The Petition must be denied as the Property is receiving water "service" as defined by TWC § 13.002(2) and therefore does not qualify for expedited release.

#### 1. The Property is receiving water "service" from North Collin under TWC and TAC

16 TAC § 24.245(h)(1) authorizes the streamlined expedited release if all conditions provided thereunder are met, including subsection "(B) the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN . . . . (emphasis added)." 16 TAC § 24.3(33) and TWC § 13.002(21) define "service" as follows:

**Any act performed, anything furnished or supplied, and any facilities or lines committed or used by a retail public utility in the performance of its duties under [TWC Chapter 13] to its patrons, employees, other retail public utilities and the public, as well as the interchange of facilities between two or more retail public utilities (emphasis added).**

Moreover, in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App. 2014), the court provides that "a tract of land would not necessarily be 'receiving' water service simply because the retail public utility has performed an act . . . unless the act was performed in furtherance of providing water to the tract seeking decertification."<sup>18</sup>

<sup>16</sup> "[i]nherent in the concept of providing service or making service available is the capability of providing service, or, at a minimum, of providing service within a reasonable time." *Sequoyah Cty. Rural Water Dist. No. 7 v. Town of Muldrow*, 191 F.3d 1192, 1203 (10th Cir. 1999) (emphasis added).

<sup>17</sup> *Mountain Peak Special Util. Dist. v. Pub. Util. Comm'n of Texas*, No. 03-16-00796-CV, 2017 WL 5078034, at \*5 (Tex. App. Nov. 2, 2017).

<sup>18</sup> *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 140 (Tex. App. 2014).

**a. North Collin has performed acts, has furnished and supplied water, and has facilities and lines committed or used in furtherance of providing water service to the Property**

As provided by the court in *Johnson County Special Utility District v. Public Utility Commission of Texas*, No. 03-17-00160-CV, 2018 WL 2170259 (Tex. App. May 11, 2018), review denied (Aug. 30, 2019), North Collin has water facilities or lines “committed to serving” the particular property or “‘used’ to provide water to that tract” or had performed any act or supplied anything to the particular property *related to* providing water to the property.<sup>19</sup>

As required by 16 TAC § 24.245(h)(6), Attachment 1 to this Response is the Affidavit of Allen Knight, General Manager of North Collin executed on September 29, 2021. Attachment 2 to this Response provides a true and correct copy of the Service Agreement dated December 27, 1965 (“Service Agreement”) and executed by Woodrow Walker, the previous owner of the Property, to receive water service from Altoga. The Service Agreement reflects that Altoga (Altoga Water Supply Corporation, a non-profit public retail water service utility that merged with North Collin in 2019<sup>20</sup>) agreed to sell and deliver water to the Property, and the property owner at the time Woodrow Walker agreed to pay for the water and delivery thereof to the Property. The Service Agreement also states that “[a]ll water shall be metered by meters to be furnished and installed by [Altoga].”<sup>21</sup> At the time, Altoga installed its 2” waterline and a 5/8” x 3/4” meter on the Property, as provided in North Collin’s Response and including the location thereof,<sup>22</sup> and Altoga began providing water service to the Property.

The Service Agreement also states that “[Altoga] shall have the right to locate a water service meter and the pipe necessary to connect the meter on the property of the Members at a point to be chosen by [Altoga] and shall have access to its property and equipment located upon Member’s premises at all reasonable times for any purpose connected with or in the furtherance

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<sup>19</sup> *Johnson Cty. Special Util. Dist. v. Pub. Util. Comm’n of Texas*, No. 03-17-00160-CV, 2018 WL 2170259, at \*8 (Tex. App. May 11, 2018), review denied (Aug. 30, 2019).

<sup>20</sup> Attachment A ¶ 2; see *Application of Altoga Water Supply Corporation and North Collin Special Utility District for Sale, Transfer, or Merger of Facilities and Certificate Rights in Collin County*, Docket No. 46452, SOAH Docket No. 473-17-2085.WS, Order (Mar. 13, 2019) (granting the application for the sale, transfer, and merger of Altoga Water Supply Corporation of facilities and certificate rights to North Collin Special Utility District).

<sup>21</sup> Attachment 2, p. 1.

<sup>22</sup> North Collin’s Response at 4 and Attachments A-B (Sept. 13, 2021).

of its business operations ....”<sup>23</sup> In accordance with the Service Agreement, Altoga chose the location for its 2” waterline and the 5/8” x 3/4” meter and installed said waterline and meter.<sup>24</sup>

Further, Woodrow Walker agreed to grant an easement to Altoga for the purposes of installing, maintaining, and operating the 2” waterline and 5/8” x 3/4” meter, among other things, on the Property.<sup>25</sup>

Attachment 3 to this Response is a true and correct copy of a handwritten note from Mrs. Woodrow Walker dated August 14, 1999, also a previous owner of the Property, providing for the meter reading of said 5/8” x 3/4” meter, in addition to various repairs in the furtherance of receiving water service from Altoga.<sup>26</sup>

Altoga (now North Collin) then installed a 5/8” x 3/4” meter and a 2-inch (2”) waterline on the Property, extended from a 4-inch (4”) waterline and connected to its 8-inch (8”) waterline which transmits water from its facilities at two locations: (1) at the corner of FM 1827 and FM 75, facilities consisting of a pump station, 138 gallon per minute (GPM) well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank, and (2) through various 2”, 4”, 6”, 8”, and 10” waterlines from Well #2 located at 200 Crystal Creek Lane, McKinney, Texas, located northeast of the Property.<sup>27</sup> Attachment A to this Response is the Affidavit of Allen Knight, General Manager of North Collin executed on September 13, 2021, supporting these facts and Attachment B provides the location of these facilities and the Property, being a true and correct copy of North Collin’s water system facilities near the Property as prepared by its consulting engineer of record, Eddy Daniel, P.E.<sup>28</sup>

Where waterlines are actually present on or within a tract of land—especially where the lines are “committed” to the Property, the tract is undoubtedly receiving service, as determined by the Commission. Particularly, the Commission found that a CCN holder had a four-inch water

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<sup>23</sup> Attachment 2, p. 2.

<sup>24</sup> North Collin’s Response at 4 and Attachments A-B.

<sup>25</sup> Attachment 2, p. 2.

<sup>26</sup> Attachment 3.

<sup>27</sup> Attachment A ¶ 5.

<sup>28</sup> Attachment A ¶ 4-5; *see* Attachment B (providing the locations of the various water facilities and waterlines).

main line located within the 59-acre portion of the 70.146-acre tract, a meter located within the 59-acre portion of the tract, and other facilities adjacent to the property.<sup>29</sup>

Here, North Collin's 2" waterline was installed on the Property and provided water to the Property; this is a clear demonstration not only that the Property was receiving water service, but also that North Collin (Altoga) performed the act of installing the 2" waterline on the Property, furnished and supplied water to the Property through the 2", 4", and 8" waterlines along with the aforementioned pump station, 138 GPM well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank located at FM 1827 and FM 75, and installing the 2", 4", 6", 8", and 10" waterlines transmitting water from Well #2, which are all facilities and lines committed and used by North Collin in the performance of its duties, especially to provide water service to the Property.

The facts here are almost identical to the facts in the Petition of Sanctuary Texas, LLC (Docket No. 50405), where the Commission determined that the CCN holder Aqua Texas, Inc. provided water service to the property. With the evidence presented in this Response, the Property is receiving water "service" from North Collin. Therefore, the Property is not qualified for expedited release from North Collin's CCN under 16 TAC § 24.245(h) and TWC § 13.2541.

**b. North Collin *continues* to perform acts, including constructing facilities and lines committed, in furtherance of providing water service to the Property**

North Collin is currently in the process of constructing a proposed 500,000 gallon elevated tank located southwest of the Property and installing proposed 12-inch (12") waterlines that will provide additional capacity and water service to the development of the Property, as provided in Attachment A and where the location of the proposed elevated tank and 12" waterlines can be seen in Attachment B.<sup>30</sup> The construction of the 500,000 gallon elevated tank and installation of the 12" waterlines, especially the 12" waterline along CR 409 that is to directly provide additional water service to the Property, is evidence that North Collin continues to perform acts and furtherance of its commitment of providing water service to the Property.<sup>31</sup>

<sup>29</sup> *Petition of Sanctuary Texas, LLC to Amend Aqua Texas, Inc.'s Certificate of Convenience and Necessity in Denton County by Expedited Release*, Docket No. 50405, Order at 2 (Oct. 16, 2020); *see also* *Petition of Clay Road 628 Development, LP to Amend T&W Water Service Company's Certificate of Convenience and Necessity in Montgomery County by Expedited Release*, Docket No. 50261, Order Denying Streamlined Expedited Release at 2-4 (Apr. 29, 2020) (where the Commission denied a petition for streamlined expedited release finding the CCN holder had facilities and waterlines located on the subject property of the petition).

<sup>30</sup> Attachment A ¶ 6; *see* Attachment B (showing the locations of the elevated tank and 12" waterlines).

<sup>31</sup> *See* Attachment A ¶ 6.

**c. Denying the Petition is consistent with the Commission's decision and statements made on May 21, 2021, and consistent with *Crystal Clear***

During the Commission's open meeting on May 21, 2021, the Commissioners considered the Petition of Carnegie Development, LLC, where the circumstances involved the landowner requesting water service from the CCN holder in 2018, the CCN holder did not perform any acts or supplied anything to the tract of land, as it was found there were *no* physical service facilities to provide water service to the property.<sup>32</sup> The Commissioners discussed a "bright line on commitment" test, and concluded that when no tangible commitment has been made and reliable service cannot be provided in a timely manner, a petition for streamlined expedited release should be granted.<sup>33</sup> However, that is not the case here.

Conversely, North Collin has a 2" waterline located *on* the Property that provides, and certainly provided, water service *to* the Property through said 2" waterline, which is connected to its 4" and 8" waterlines that transmit water from its pump station, 138 GPM well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank, and through the 2", 4", 6", 8", and 10" waterlines transmitting water from Well #2. North Collin (previously, as Altoga) has provided water service and continues to provide water service to the Property.

The Petition should be denied as North Collin provides water service to the Property, as the acts of planning, installing and constructing, and maintaining the 2", 4", and 8" waterlines, the pump station, 138 GPM well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank and the 2", 4", 6", 8", and 10" waterlines transmitting water from Well #2 (the facilities), are all "committed" and "used" by North Collin in the performance of its duties as a retail public water utility to provide water service to the Property.

**2. North Collin Is Providing And Making Water Service Available Under *Green Valley***

North Collin is providing water service to the Property in accordance with the recently decided *Green Valley Special Util. Dist. v. City of Schertz, Texas*, 969 F.3d 460 (5th Cir. 2020). The *Green Valley* court adopts the "physical ability" test where North Collin "must show it has (1)

<sup>32</sup> *Petition of Carnegie Development, LLC to Amend James A. Dyche DBA Crest Water Company Certificate of Convenience and Necessity in Johnson County by Streamlined Expedited Release*, Docket No. 51352, Order at 3 (May 24, 2021).

<sup>33</sup> *Petition of Carnegie Development, LLC to Amend James A. Dyche DBA Crest Water Company Certificate of Convenience and Necessity in Johnson County by Streamlined Expedited Release*, Docket No. 51352, Commission's Open Meeting Discussion of Item No. 34 at 45:15-47:17 ([http://www.adminmonitor.com/tx/puct/open\\_meeting/20210521/](http://www.adminmonitor.com/tx/puct/open_meeting/20210521/)) (May 21, 2021).

adequate facilities to provide service to the area within a reasonable time after the request for service is made and (2) the legal right to provide service” to the Property.<sup>34</sup>

**a. North Collin has the legal and exclusive right to provide service to the Property**

Under Texas law, North Collin’s CCN gives it the legal and exclusive right to provide water service to the Property because the Property is located in North Collin’s service area.<sup>35</sup>

**b. North Collin has adequate facilities to provide service within a reasonable time**

As provided in the Affidavit of North Collin’s General Manager Allen Knight, the *current* water service to the Property includes “service” through North Collin’s 2” waterline located *on* the Property, connected to the 4” and 8” waterlines that transmit water from the pump station, 138 GPM well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank at FM 1827 and FM 75 and through various 2”, 4”, 6”, 8”, and 10” waterlines transmitting water from Well #2, which are all evidence of actual and adequate facilities to providing service to the Property.<sup>36</sup> Additionally, North Collin is currently in the process of constructing a proposed 500,000 gallon elevated tank located southwest of the Property and installing proposed 12-inch (12”) waterlines that will provide additional capacity and water service to the development of the Property.<sup>37</sup> Further, North Collin may further extend the proposed 12” waterline northerly along CR 409 and have additional waterlines installed throughout the Property, depending on plans for development of the Property.<sup>38</sup>

Considering the circumstances and under the “physical ability” test affirmed in the recent *Green Valley* decision, the Property is receiving water “service” due to North Collin’s legal and exclusive right, in conjunction with its adequate facilities to provide water service to the Property within a reasonable time. Therefore, the Property cannot be released from North Collin’s CCN and the Petition cannot be granted.

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<sup>34</sup> *Green Valley Special Util. Dist. v. City of Schertz, Texas*, 969 F.3d 460, 477 (5th Cir. 2020).

<sup>35</sup> *Id.* at 466.

<sup>36</sup> Attachment A ¶ 5.

<sup>37</sup> Attachment A ¶ 6.

<sup>38</sup> *Id.* at ¶ 7 (attesting that North Collin may further extend the proposed 12” waterline northerly along CR 409 and have additional waterlines installed on the Property, depending on the specific plans for development of the Property).

**c. It is not required that water must be physically flowing to the Property to be receiving “service”**

North Collin maintains that it is providing water service to the Property, as provided herein. However, Petitioner is attempting to remove the Property from North Collin’s service area. In the Petition, the Affidavit of David Aughinbaugh provides that Petitioner has not requested water service from North Collin or paid any fees or charges to initiate or maintain water service.<sup>39</sup> Neither TWC § 13.2541, 16 TAC § 24.245(h), nor *Crystal Clear* requires that a petitioner must pay for or request water service in order for the Commission to find that a property is receiving “service.” Petitioner has not cited to any statute or caselaw that supports its self-serving statement. Regardless of whether there is an active meter or current billing statements reflecting actual water usage, water service does not need to be “immediately” available that someone “must be able to go over to the facet and turn on the water;” rather, North Collin only needs adequate facilities within or adjacent to the area to provide service within a reasonable time.<sup>40</sup> As provided, North Collin has a meter and 2” waterline located *on* the Property connected to 4” and 8” waterlines that transmit water from North Collin’s numerous facilities mentioned above.

As North Collin has extensively shown that it is providing “service” and has committed or used (and continues to commit and use) its facilities and waterlines to provide water service to the Property, and performed acts in furtherance of providing water service to the Property under its duty as the retail public utility and CCN holder. Therefore, the Petition must be dismissed as the Property is receiving such “service” and cannot be released from North Collin’s CCN under Texas laws and court rulings.

**3. Petitioner has failed to demonstrate that the Property is not receiving water service.**

Under 16 TAC § 24.245(h), Petitioner has the burden to prove the Property is not receiving water service, as the Petitioner is required to provide a “statement of facts that demonstrate that the tract of land is not currently receiving service.”<sup>41</sup> Petitioner fails to set forth facts to establish that the Property is not receiving “service”; Petitioner submitted an affidavit that provided no facts

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<sup>39</sup> Petition at Exhibit A ¶ 4.

<sup>40</sup> *Green Valley Special Util. Dist. v. City of Schertz, Texas*, 969 F.3d 460, 477 (adopting the “physical ability” test in *Le-Ax Water Dist. v. City of Athens*, 346 F.3d 701, 707 (6th Cir. 2003); and also *Glenpool Util. Servs. Auth. v. Creek Cty. Rural Water Dist.*, 861 F.2d 1221, 1213 where the water district had a waterline within 50 feet of the subject property).

<sup>41</sup> 16 TAC § 24.245(h)(3)(D).

regarding water service, but merely a simple sentence stating “[t]he Property is not receiving water or sewer service from North Collin SUD.”<sup>42</sup> Without any other facts, this sentence is an unsupported claim and Petitioner has not reached its burden to provide the Property is not receiving water service.

In its Response to North Collin, Petitioner references *Johnson Cty. Special Util. District*, but does not distinguish the facts in that case.<sup>43</sup> In that case, an affidavit was provided showing that a broker searched the inhabited property for several hours and found no water meters or facilities owned by Johnson Special Utility District—rather, there were “two shuttered ground well heads” and a “small elevated water storage tank ... implying that any dwelling on the [p]roperty required water pressure be generated locally and *not* from a retail water utility service provider.”<sup>44</sup> Meaning, the well heads and small elevated water storage tank was not owned or operated by Johnson Special Utility District; thus, the Commission did not find that Johnson Special Utility District was providing water to the property.

Again, Petitioner has not provided any facts in its affidavit to support its claim that the Property is not receiving water service. Petitioner cannot merely ignore that North Collin (including its predecessor Altoga) provided and continues to provide water service to the Property through the 2”, 4”, and 8” waterlines, the pump station, 138 GPM well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank at FM 1827 and FM 75, and through the 2”, 4”, 6”, 8”, and 10” waterlines transmitting water from Well #2, especially as North Collin currently maintains these waterlines and facilities. North Collin provided the Service Agreement and confirmation of the 5/8” x 3/4” meter located *on* the Property as well as service and water to the Property by the previous landowner, provided the location of the 2” waterline being *on* the Property and the facilities listed above—all which are evidence of “service” to the Property.

Further, North Collin has not abandoned the 2” waterline or released any easement rights to operate and maintain the 2” waterline (or any other facilities connected to the 2” waterlines, as mentioned above). Thus, under *Crystal Clear*, these facilities or lines are “used” or “committed”

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<sup>42</sup> Petition at Exhibit A ¶ 4.

<sup>43</sup> Meritage Homes of Texas, LLC’s Reply to North Collin Special Utility District’s Response and Objection to Petition for Expedited Release and Motion to Dismiss at fn 9 (Oct. 4, 2021).

<sup>44</sup> *Johnson Cty. Special Util. Dist. v. Pub. Util. Comm’n of Texas*, No. 03-17-00160-CV, 2018 WL 2170259, at \*9 (Tex. App. May 11, 2018) (emphasis added).



to providing service and causing the Property to “receive service” under the statutory and regulatory definition.<sup>45</sup>

Under Texas law and *Crystal Clear*, Petitioner has failed to demonstrate that the Property is not receiving water “service” from North Collin. Thus, the Petition should be denied and this proceeding should be dismissed accordingly.

### **B. Correction To The Commission’s CCN Map Related To The Property**

The Property is wholly located within North Collin’s CCN<sup>46</sup>; however, the Memorandum attached to Commission Staff’s Recommendation incorrectly states that “[t]he proposed area to be released from North Collin SUD is approximately 73.6 acres.”<sup>47</sup>

When North Collin merged with Altoga, the Commission’s final Order in Docket No. 46452, issued on March 13, 2019, included a map of all of Altoga’s CCN that was transferred to North Collin’s CCN, which also includes portions of North Collin’s CCN that has a *dual* water CCN with neighboring entities.<sup>48</sup> The Property is located in North Collin’s CCN No. 11035, where approximately 61.47 acres of the Property are located in the dual CCN of North Collin and the City of Melissa, approximately 112.256 acres of the Property are located in the dual CCN of North Collin and the City of Princeton, and approximately 99.48 acres of the Property are located in the sole CCN of North Collin.<sup>49</sup>

Therefore, all 273.5 acres of the Property is located in North Collin’s CCN, and North Collin disputes the Memorandum in Commission Staff’s Recommendation stating that only 73.6 acres of the Property is located in North Collin’s CCN.

### **C. The Property Cannot Be Released From North Collin’s Territory Under Federal Laws, including 7 U.S.C. § 1926(b)**

<sup>45</sup> *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 140 (Tex. App. 2014).

<sup>46</sup> Attachment A ¶ 4; *see* Attachment E (providing a true and correct copy of the Commission’s Order in Docket No. 46452, reflecting the Property is wholly located in North Collin’s CCN, including portions located in a dual water CCN with a neighboring entity).

<sup>47</sup> Commission Staff’s Recommendation on Administrative Completeness and Notice. at 4 (Sept. 7, 2021) (providing the Memorandum dated September 7, 2021 from Jolie Mathis, Utility Engineering Specialist in the Commission’s Infrastructure Division).

<sup>48</sup> *Id.* at 4 (providing the Memorandum dated September 7, 2021 from Jolie Mathis, Utility Engineering Specialist in the Commission’s Infrastructure Division).

<sup>49</sup> Attachment B.

The Commission must deny the Petition and dismiss this proceeding because removal of the Property from North Collin's service area is not permitted under federal law. North Collin has several loans in which it is indebted to the United States Department of Agriculture ("USDA"), which qualifies North Collin for the protections of 7 U.S.C. § 1926(b).<sup>50</sup>

Although TWC § 13.2541(d) provides that the Commission may not deny a petition based on the fact that North Collin is a borrower under a federal loan program, releasing the Property by granting the Petition while ignoring North Collin's indebtedness on USDA loans violates North Collin's protection pursuant to 7 U.S.C. § 1926(b).

Federal law is the supreme law of the land, and therefore must be complied with; thus, this proceeding should be dismissed or abated until the federal issues are determined to avoid a violation of federal law by the Commission. However, as noted above and below, North Collin seeks no determination of federal law in this proceeding as all federal law issues are reserved exclusively for federal court and pursuant to North Collin's England Reservation.

**1. North Collin has a "such loan" and enjoys protection under 7 U.S.C. § 1926(b)**

Section 1926(b) provides:

**(b) Curtailment or limitation of service prohibited**

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.<sup>51</sup>

The term "such loan" means any loan which is contemplated by 7 U.S.C. § 1926(a) which includes guaranteed and insured loans. Previously, North Collin was a water supply corporation, known as North Collin Water Supply Corporation ("North Collin WSC") and converted to a special utility district in 2015 by order of the Texas Commission on Environmental Quality issued on August 25, 2015.<sup>52</sup> On or about November 21, 2006, North Collin (as its predecessor North Collin WSC) received loan funding from the USDA contemplated under 7 U.S.C. § 1926(b)

<sup>50</sup> Attachment A ¶ 8; see Attachments C-1 and C-2 (evidencing North Collin's outstanding loans and current indebtedness to the USDA).

<sup>51</sup> 7 U.S.C. § 1926(b) (emphasis added).

<sup>52</sup> Attachment A ¶ 2, 9; Attachment D.

(“Section 1926(b)”), establishing North Collin’s indebtedness qualifying it for the protections under Section 1926(b).<sup>53</sup> Additionally, on or about December 1, 2004, North Collin (Altoga) received loan funding from the USDA, also contemplated under Section 1926(b), establishing indebtedness to the USDA and qualifying for protections under Section 1926(b).<sup>54</sup> North Collin is providing this information (above and below) regarding its Section 1926(b) rights, to inform the Commission of North Collin’s federal rights but North Collin is not seeking a determination of those rights by the Commission. Rather, North Collin has filed its England Reservation (see below), reserving all federal issues to be decided by the federal court.

A rural water association seeking the protections of Section 1926(b) must establish that (1) it is an “association” as defined in Section 1926(b), (2) it has an outstanding qualifying loan, and (3) that the utility provided or made water service available.<sup>55</sup> North Collin satisfies these requirements as provided by, but not limited to, the following:

**a. North Collin is a rural water association under Section 1926.**

North Collin is a political subdivision of the State of Texas and a retail public utility operating under Chapter 65 of the Texas Water Code, among others, furnishing water to rural areas in Collin County.

**b. North Collin has an outstanding qualifying “such loan” contemplated by Section 1926(b).**

In *Crystal Clear*, the court concluded that an affidavit of the general manager of the association along with ancillary documents that confirmed a qualifying loan remained outstanding were sufficient to establish the association’s indebtedness.<sup>56</sup> As provided in Attachments A, C-1, and C-2, North Collin has confirmed that it has outstanding qualifying loans to establish its indebtedness under 1926(b).

**c. North Collin has “provided or made service available” to the Property.**

<sup>53</sup> Attachment A ¶ 8; *see* Attachment C-1 (providing the Assumption of North Collin Water Supply Corporation’s USDA loan and grant by North Collin Special Utility District).

<sup>54</sup> Attachment A ¶ 8; *see* Attachment C-2 (providing the Assumption of Altoga Water Supply Corporation’s USDA loans and grant by North Collin Special Utility District).

<sup>55</sup> *Crystal Clear Special Utility District v. Marquez*, 316 F.Supp.3d 965, 969 (referring to El Oso Water Supply Corp. v. City of Karnes City, Texas, No. SA-10-CA-0819-OLG, 2011 WL 9155609, at \*5 (W.D. Tex. Aug. 30, 2011)).

<sup>56</sup> *Id.*

As provided above, North Collin has provided and made water service available to the Property under *Crystal Clear*, including but not limited to current water “service” through North Collin’s 2” waterline located on the Property, connected to the 4” and 8” waterlines that transmit water from the pump station, 138 GPM well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank at FM 1827 and FM 75, and the 2”, 4”, 6”, 8”, and 10” waterlines transmitting water from Well #2. Certainly, facilities and waterlines located on the Property that previously provided actual water and is currently providing “service” to the Property is evidence that North Collin has “provided or made service available” to the Property.

In addition to the facts, arguments, and authorities to be provided further herein, North Collin has “provided or made service available” to the Property and is a rural water association with an outstanding loan qualifying North Collin for protection under 7 U.S.C. § 1926(b).

**2. TWC § 13.2541(d) directly conflicts with 7 U.S.C. § 1926(b); the Supremacy Clause directs the Petition to be dismissed**

The court in *Crystal Clear* determined that 7 U.S.C. § 1926(b) preempted TWC § 13.254(a-5) and (a-6),<sup>57</sup> now TWC § 13.2541(b) and (c)-(f) respectively. Although the Fifth Circuit has vacated the decision in *Crystal Clear*,<sup>58</sup> the recommendation and opinion of Magistrate Judge Andrew W. Austin in *Crystal Clear* still validly points out that the Commissioners have incorrectly suggested federal law should be ignored:

**The Court cannot complete this discussion without noting that the PUC Officials’ brief contains the unsettling suggestion that it does not recognize federal law as the supreme law of the United States.** Specifically, PUC Officials state that *even if* the Court strikes § 13.254(a-6),

Section 13.254(a-5) states that the PUCT “shall grant” a petition meeting [(a-5)’s] three requirements, and, being a creature of statute, the PUCT may not consider an extrastatutory factor—such as the utility’s status as a debtor to the USDA—regardless of that portion of 13.254(a-6) reaffirming that principle.

Dkt. No. 72 at 15. The Constitution begs to differ. Though it should not be necessary, the Court reminds PUC Officials that Article VI of the Constitution provides:

<sup>57</sup> *Crystal Clear Spec. Util. Dist. v. Walker*, No. A-17-CV-00254-LY, 2018 WL 6242370, at \*3–4 (W.D. Tex. Nov. 29, 2018), report and recommendation adopted as modified sub nom. *Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019).

<sup>58</sup> *Crystal Clear Spec. Util. Dist. v. Marquez*, No. 19-50556 (5th Cir. Nov. 6, 2020) (per curiam).

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; **and the judges in every state shall be bound thereby**, anything in the Constitution or laws of any State to the contrary notwithstanding.

U.S. Const. Art. VI (emphasis added). **Thus, regardless of whether § 13.254(a-5) explicitly directs the PUC to consider the provisions of 7 U.S.C. § 1926(b), the PUC has no choice in the matter, as the Constitution compels it to consider that applicable federal law. The fact that the PUC suggests otherwise is troubling.** Generally, a court should be as circumscribed as possible when it determines the scope of a ruling invalidating a statute, and this is particularly true when there are both separation of powers and federalism issues implicated, as there are here. But the PUC Officials' suggestion that they have no choice but to follow state law even in the face of a directly contrary federal law—despite the fact that the agency has a general counsel and a staff full of attorneys—supports Crystal Clear's argument that the Court should go further than simply enjoining enforcement of § 13.254(a-6). Accordingly, the Court has added in its recommended relief, a declaration regarding § 13.254(a-5) as well.<sup>59</sup>

If the Commission should rely on the state statute TWC § 13.2541(d) and ignore the federal statute 7 U.S.C. § 1926(b), the Commission will be directly violating the Supremacy Clause—in which its administrative law judges are bound. Therefore, the Petition should be denied as North Collin enjoys Section 1926(b) protections and the Supremacy Clause does not allow the Commission to have jurisdiction to grant the Petition, as TWC § 13.2541(d) directly conflicts with 7 U.S.C. § 1926(b).

### 3. Adherence to other federal decisions on state laws preempted by Section 1926(b)

In accordance with the Supremacy Clause, state courts cannot ignore the decisions of federal courts on preemption. North Collin's enjoyment of Section 1926(b) protection is a federal issue to be decided by federal courts, where state courts cannot ignore those decisions because of preemption. Although the Fifth Circuit has vacated *Crystal Clear*, the Tenth Circuit provides:

In addition to these principles defining the protection § 1926(b) affords rural water districts from competition, **state law cannot change the service area to which the protection applies, after that federal protection has attached.** See *Pittsburg County*, 358 F.3d at 715. For instance, **“where the federal § 1926 protections have attached, § 1926 preempts local or state law that can be used to justify a**

<sup>59</sup> *Crystal Clear Spec. Util. Dist. v. Walker*, No. A-17-CV-00254-LY, 2018 WL 6242370, at \*3–4 (W.D. Tex. Nov. 29, 2018) (emphasis added), *report and recommendation adopted as modified sub nom. Crystal Clear Special Util. Dist. v. Walker*, No. 1:17-CV-254-LY, 2019 WL 2453777 (W.D. Tex. Mar. 27, 2019).

**municipality's encroachment** upon disputed area in which an indebted association is legally providing service under state law.” *Pittsburg County*, 358 F.3d at 715 (quotation, alternation omitted).<sup>60</sup>

There is no question that North Collin enjoys Section 1926(b) protections as it has outstanding loans (federal indebtedness) qualifying it for such protections. As confirmed by the Tenth Circuit, North Collin's territory, including the Property, cannot be removed as 7 U.S.C. § 1926(b) preempts Texas Water Code § 13.2541(b) and (d). Thus, the Petition cannot be granted to release the Property from North Collin's CCN.

#### **4. Petitioner references *Alamo Mission*, ignoring related federal complaint and appeal**

In its Reply, Petitioner references the Commission's decision in the Petition of Alamo Mission, LLC (“Alamo”) to support its claim that federal indebtedness does not prevent the denial of a streamlined expedited release petition.<sup>61</sup> Petitioner overlooks or disregards Article VI, ¶ 2 (Supremacy Clause) of the U.S. Constitution which mandates that federal law supersedes and preempts state law. There is no factual dispute here that North Collin is federally indebted within the contemplation of 7 U.S.C. § 1926(b). This issue is however reserved for determination by a federal court under North Collin's England Reservation. Again, Petitioner fails to distinguish the facts of the Alamo case, including what evidence of “service” was provided and various waterlines and facilities, among other facts. Further, Petitioner ignores that the Commission's decision to grant the Alamo petition has been appealed and there is pending federal litigation against Alamo and Commission.<sup>62</sup> Similarly, North Collin has filed the Federal Litigation against Petitioner and the Commission to adjudicate any federal issues related to the Petition and this proceeding.

#### **D. Settlement Agreement with City of Princeton is Irrelevant to “Service”**

In its Reply, Petitioner provided a copy of North Collin's Settlement Agreement with the City of Princeton (the “Settlement Agreement”).<sup>63</sup> The Settlement Agreement does not apply to all

<sup>60</sup> *Rural Water Sewer & Solid Waste Mgmt. v. City of Guthrie*, 344 F. App'x 462, 465 (10th Cir. 2009), *certified question answered sub nom. Rural Water Sewer & Solid Waste Mgmt., Dist. No. 1, Logan Cty., Oklahoma v. City of Guthrie*, 2010 OK 51, 253 P.3d 38 (emphasis added).

<sup>61</sup> Petitioner's Reply at 5-6 (Oct. 4, 2021).

<sup>62</sup> *Petition of Alamo Mission LLC to Amend Rockett Special Utility District's Water Certificates of Convenience and Necessity in Ellis County by Expedited Release*, Docket No. 49863, Rockett Special Utility District's Motion for Rehearing (Jan. 20, 2021); *Rockett Special Utility District v. Alamo Mission, LLC, et al.*, Cause No. D-1-GN-21-000567 (353rd Dist. Ct., Travis Cnty.); *Rockett Special Util. Dist. v. Botkin, et al.*, No. 1:20-cv-1207 (W.D. Tex. Dec. 10, 2020).

<sup>63</sup> Petitioner's Reply at Attachment 1 (Oct. 4, 2021).

of the Property, as a portion of the Property (approximately 61.47 acres) is located in North Collin's dual CCN with the City of Melissa, another portion of the Property (approximately 112.56 acres) is located in North Collin's dual CCN with the City of Princeton, and the remaining 99.48 acres, more or less, is located solely in North Collin's CCN.<sup>64</sup>

Regarding the 112.56 acres of the Property located in North Collin's dual CCN with City of Princeton, the Settlement Agreement and terms therein do not determine whether the Property is receiving "service" under TWC § 13.2541 or 16 TAC § 24.245(h) or that the Commission must release North Collin's CCN, especially when a petitioner is not a party to the Settlement Agreement. Further, North Collin has not received notice, confirmation, *or payment* from the City of Princeton to provide water service to the portion of the Property in the dual CCN under the terms of the Settlement Agreement. In addition, there is no evidence presented that the Settlement Agreement complies with USDA regulations. These facts alone, render the Settlement Agreement irrelevant to these proceedings.

The PUC cannot enforce the Settlement Agreement against North Collin in relation to Petition, as Petitioner is not a party to the Settlement Agreement. The issue is to be resolved between North Collin and the City of Princeton.

Moreover, if Petitioner is adamant on the Commission transferring the 112.56 acres of North Collin's CCN to the City of Princeton, then the Petition was not appropriately filed. Rather, the Commission should dismiss this proceeding in part to allow North Collin and City of Princeton, once the terms of the Settlement Agreement have been fulfilled (if they are and can be fulfilled), to file a joint petition to transfer the appropriate portion of the Property to the City of Princeton's CCN under an agreed contract and in accordance with Texas Water Code § 13.248. There is still the matter of 61.47 acres in the dual CCN with the City of Melissa and 99.48 acres in North Collin's CCN.

### III. CONCLUSION

North Collin enjoys Section 1926(b) protections, without question due to several of its outstanding USDA loans. Although the decision regarding preemption of Tex. Water Code § 13.254(a-5) and (a-6) in *Crystal Clear* was vacated for reconsideration in light of the *Green Valley* decision, other federal courts have reiterated the Supremacy Clause and that state laws cannot be

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<sup>64</sup> Attachment B.

used to ignore North Collin's rightful protection under 7 U.S.C. § 1926(b). Further, North Collin is providing water service under *Green Valley*, Texas statutes and court rulings.

#### IV. ENGLAND RESERVATION

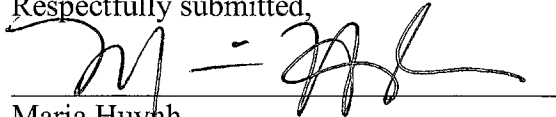
North Collin has provided in this proceeding<sup>65</sup> and again reserves all of its federal rights and remedies and its entitlement to have such rights and remedies resolved/adjudicated exclusively in a federal forum in accordance with *England v. Louisiana State Board of Medical Examiners*, 375 U.S. 411, 421 (1964).

#### PRAYER

WHEREFORE, PREMISES CONSIDERED, for the reasons set forth herein, North Collin Special Utility District respectfully requests that the Petition be denied in its entirety, that North Collin's Motion to Dismiss be granted as the Property is receiving water service from North Collin under federal and state laws, and all other such relief as North Collin may be entitled. Alternatively, North Collin respectfully requests and reserves the right to provide a response to the Petition after the Petition has been deemed administratively complete, in accordance with 16 TAC § 24.245(h)(6).

If the Commission shall require further evidence that North Collin has "provided or made service available" to the Property, or whether the Property is "receiving service," North Collin respectfully requests an evidentiary hearing for such consideration.

Respectfully submitted,



Maria Huynh

State Bar No. 24086968

James W. Wilson

State Bar No. 00791944

JAMES W. WILSON & ASSOCIATES, PLLC

103 W. Main Street

Allen, Texas 75013

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Fax: (972) 755-0904

Email: mhuynh@jww-law.com

jwilson@jww-law.com

ATTORNEYS FOR NORTH COLLIN SPECIAL  
UTILITY DISTRICT

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<sup>65</sup> North Collin's Response and Objection at 14 (Sept. 13, 2021).



**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this document was served on the following parties of record on November 12, 2021, by e-mail in accordance with the Commission's Order.<sup>66</sup>

**via e-mail: forrest.smith@puc.texas.gov**

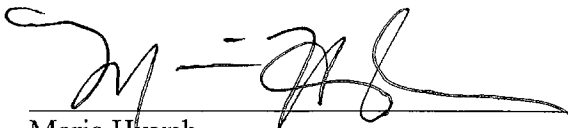
Forrest Smith  
Attorney-Legal Division  
Public Utility Commission  
1701 N. Congress  
P.O. Box 13326  
Austin, Texas 78711-3326

**via e-mail: seidman@winstead.com**

Scott W. Eidman  
Winstead PC  
2728 N. Harwood Street, Suite 500  
Dallas, Texas 75201

*Attorney for the Commission*

*Attorneys for Petitioner*

  
\_\_\_\_\_  
Maria Huynh

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<sup>66</sup> *Issues Related to the State of Disaster for Coronavirus Disease 2019*, Docket No. 50664, Second Order Suspending Rules (Jul. 16, 2020).

## **ATTACHMENT 1**

PUC DOCKET NO. 52442

PETITION OF MERITAGE HOMES OF	§	PUBLIC UTILITY COMMISSION
TEXAS, LLC TO AMEND NORTH	§	
COLLIN SPECIAL UTILITY	§	OF TEXAS
DISTRIC'T'S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
COLLIN COUNTY BY EXPEDITED	§	
RELEASE	§	

**SUPPORTING AFFIDAVIT OF ALLEN KNIGHT, GENERAL MANAGER  
OF NORTH COLLIN SPECIAL UTILITY DISTRICT**

STATE OF TEXAS                   §  
  §  
COUNTY OF COLLIN           §

BEFORE ME, the undersigned authority, on this date personally appeared Allen Knight, who being by me first duly sworn states as follows:

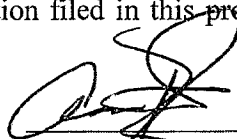
"1. My name is Allen Knight. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.

2. Since 1998, I have been the duly appointed general manager of North Collin Special Utility District ("North Collin"). I am the custodian of the records of North Collin. North Collin was formerly a water supply corporation, known as North Collin Water Supply Corporation ("WSC"), and converted to a special utility district ("SUD"), granted by an order of the Texas Commission on Environmental Quality ("TCEQ") issued on August 25, 2015. North Collin merged with Altoga Water Supply Corporation ("Altoga") in 2019, as granted and approved by the Public Utility Commission of Texas in Docket No. 46452.

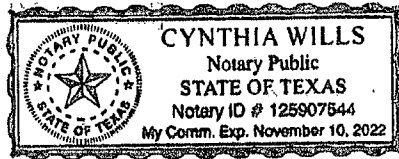
3. I have read North Collin's Supplemental Response and Objection to the Petition by Meritage Homes of Texas, LLC for Streamlined Expedited Release and Motion to Dismiss (the "Response") and each and every factual statement contained therein is true and correct.

4. Attachment 2 is a true and correct copy of the Service Agreement dated December 27, 1965 and executed by Woodrow Walker, the previous owner of the property subject to this proceeding, to receive water service from Altoga.

5. Attachment 3 is a true and correct copy of a handwritten note from Mrs. Woodrow Walker dated August 14, 1999, also a previous owner of the property subject to this proceeding, related to the meter reading for a meter located at the end of the 2" waterline on said property and indicated in North Collin's Response and Objection filed in this proceeding on September 13, 2021."

  
\_\_\_\_\_  
Allen Knight, General Manager  
North Collin Special Utility District

SUBSCRIBED AND SWORN TO before me on the 29 day of September, 2021, by  
Allen Knight, General Manager of North Collin Special Utility District.



Cynthia Wills  
Notary Public, State of Texas

## **ATTACHMENT 2**

SERVICE AGREEMENT

AGREEMENT made this 27th day of Dec. 19 65,  
between Attag Water Supply Corporation, a Corporation  
organized under the laws of the State of Texas (hereinafter called the Corpora-  
tion) and Andrew Walker (hereinafter called the Member) Witnesseth:

The Corporation agrees to sell and deliver water to the Member,  
and Member agrees to purchase and receive water from the Corporation, for  
general farm use and domestic purposes, in accordance with the Bylaws and  
rules and regulations of the Corporation as amended from time to time by  
the Corporation.

The Member shall pay the Corporation for service hereunder at the  
rates and upon the terms and conditions set forth in the rate schedule  
adopted from time to time by the Corporation's Board of Directors.

The Board of Directors shall have the authority to sell the member-  
ship of any Member in the event of nonpayment of any water charges or assess-  
ments owing by said Member within thirty (30) days after demand for payment by  
mail, properly addressed to such delinquent Member. The proceeds of any sale  
of membership over and above the amount due the Corporation shall be paid to  
the delinquent Member. In lieu of such sale of membership, the Board of  
Directors may purchase the membership on behalf of the Corporation at a price  
determined by the Board to be the fair value of the membership, provided that  
in the event of either a sale of the membership or the purchase thereof by the  
Corporation the proceeds shall be first applied to the payment of any indebted-  
ness due the Corporation by the delinquent Member.

All water shall be metered by meters to be furnished and installed  
by the Corporation.

In the event the total water supply shall be insufficient to meet  
all of the needs of the Members, or in the event there is a shortage of  
water, the Corporation may prorate the water available among the various  
Members on such basis as is deemed equitable by the Board of Directors, and  
may also prescribe a schedule of hours covering use of water for garden  
purposes by particular Members and require adherence thereto or prohibit  
the use of water for garden purposes; provided that, if at any time the  
total water supply shall be insufficient to meet all of the needs of all of  
the Members, the Corporation must first satisfy all of the needs of all  
Members for domestic purposes before supplying any water for livestock  
purposes and must satisfy all the needs of all Members for both domestic  
and livestock purposes before supplying any water for garden purposes.

The Member shall install at his own expense a service line from the meter to the point of use.

The Member shall hold the Corporation harmless from any and all claims or demands for damage to real or personal property occurring from the point Member ties on to the Corporation meter to the final destination of the line installed by Member. The Member agrees to grant to the Corporation an easement of right-of-way for the purpose of installing, maintaining and operating such pipelines, meters, valves, and any other equipment which may be deemed necessary for the Corporation, on such form as is required by the Corporation.

The Corporation shall have the right to locate a water service meter and the pipe necessary to connect the meter on the property of the Members at a point to be chosen by the Corporation, and shall have access to its property and equipment located upon Member's premises at all reasonable times for any purpose connected with or in the furtherance of its business operations, and on discontinuance of service shall have the right to remove any of its property from the Member's premises.

Woodrow Walker  
Member

ACCEPTED AND APPROVED:

Billy Moore  
President

## **ATTACHMENT 3**



Home: ... The Walker  
4536 FM 1827

Meter # 2788915 (?)

Meter Reading 735280 8/14/99

Dead Meter: NO, side FM 1827  
# 2788915 ~~at~~ <sup>1st</sup> rock driveway  
west of our  
meter reading house at 4536  
8/14/99 under big cedar  
171360 tree at end of  
driveway

Thanks for all the leak  
repairs, purification system  
working & tank repairs in making.  
Most of all thanks to all the  
directors - new and old. We are  
glad to read our meters. Like your  
pursuing costs of hook-ups to other  
water suppliers. Have suggested this  
over the years. yeah! 1999ies.  
Mrs. W. Walker

## **ATTACHMENT A**

**PUC DOCKET NO. 52442**

<b>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</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
	<b>§</b>	
	<b>§</b>	<b>OF TEXAS</b>
	<b>§</b>	
	<b>§</b>	
	<b>§</b>	
	<b>§</b>	

**SUPPORTING AFFIDAVIT OF ALLEN KNIGHT, GENERAL MANAGER  
OF NORTH COLLIN SPECIAL UTILITY DISTRICT**

STATE OF TEXAS	<b>§</b>
	<b>§</b>
COUNTY OF COLLIN	<b>§</b>

BEFORE ME, the undersigned authority, on this date personally appeared Allen Knight, who being by me first duly sworn states as follows:

"1. My name is Allen Knight. I am more than 18 years of age and I am of sound mind and qualified to make this affidavit. I have personal knowledge of all facts stated herein.

2. Since 1998, I have been the duly appointed general manager of North Collin Special Utility District ("North Collin"). I am the custodian of the records of North Collin. North Collin was formerly a water supply corporation, known as North Collin Water Supply Corporation ("WSC"), and converted to a special utility district ("SUD"), granted by an order of the Texas Commission on Environmental Quality ("TCEQ") issued on August 25, 2015. North Collin merged with Altoga Water Supply Corporation ("Altoga") in 2019, as granted and approved by the Public Utility Commission of Texas in Docket No. 46452. There are various portions of North Collin's CCN where there is a dual water CCN with another entity.

3. I have read North Collin's Response and Objection to the Petition by Meritage Homes of Texas, LLC for Streamlined Expedited Release and Motion to Dismiss (the "Response") and each and every factual statement contained therein is true and correct.

4. Attachment B is a true and correct copy of a portion of North Collin's water system map prepared by North Collin's engineer of record, Eddy Daniel, P.E. of the firm Dunaway DBI Engineers ("Engineer") including and surrounding the 273.5 acre tract of land (the "Property") that is the subject of the Petition by Meritage Homes of Texas, LLC for Streamlined Expedited Release filed on August 23, 2021 (the "Petition"). The Property is located wholly in North Collin's service area under CCN No. 11035. The Property is accurately located in Attachment B in relation to the current facilities and waterlines of North Collin, including those assigned to North Collin by Altoga.

5. North Collin has a 2-inch (2") waterline on the Property, extended from a 4-inch (4") waterline and connected to its 8-inch (8") waterline which transmits water from its facilities at two locations, (1) at the corner of FM 1827 and FM 75, consisting of a pump station, 138 gallon

per minute (GPM) well, 150,000 gallon ground storage tank, and 10,000 gallon pressure tank; and (2) through various 2", 4", 6", 8", and 10" waterlines transmitted water from Well #2 located at 200 Crystal Creek Lane, McKinney, Texas, located northeast of the Property. Rodney McDaniel, the former general manager of Altoga, communicated with me that the Property was receiving actual water over 15 years ago from a 5/8" x 3/4" meter at the end of the 2" waterline located on the Property.

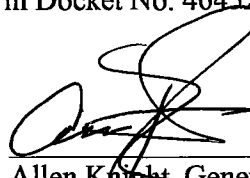
6. North Collin is currently in the process of constructing a proposed 500,000 gallon elevated tank on the west side of CR 989, located southwest of the Property, and installing proposed 12-inch (12") waterlines along CR 989, FM 1827, and CR 409, that will provide additional capacity and water service to the development of the Property.

7. Depending on specific plans for future development of the Property, North Collin may further extend the proposed 12" waterline northerly along CR 409 and have additional waterlines installed throughout the Property. North Collin is also currently providing water service to the subdivision north of the Property and maintains various 8" waterlines with the subdivision, as well as the 2" and 1½" waterlines west of the subdivision.

8. North Collin has loans issued by the USDA and North Collin also assumed the USDA loans of Altoga. These loans remain outstanding and North Collin is currently indebted to the USDA. Attachment C to the Response are true and correct copies of the Assumption Agreement of North Collin WSC's USDA loan by North Collin SUD (Attachment C-1) and the Assumption Agreement of Altoga's USDA loan by North Collin (Attachment C-2), all of which evidence North Collin's current indebtedness to the USDA.

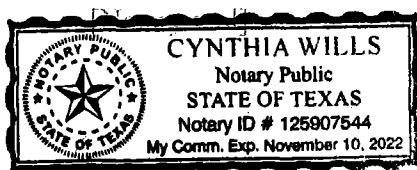
9. Attachment D to the Response is a true and correct copy of the Order issued by the TCEQ on August 25, 2015, granting the conversion of North Collin WSC to North Collin SUD.

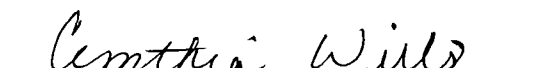
10. Attachment E to the Response is a true and correct copy of the Order granting the sale, transfer, and merger of Altoga to North Collin in Docket No. 46452, issued on .



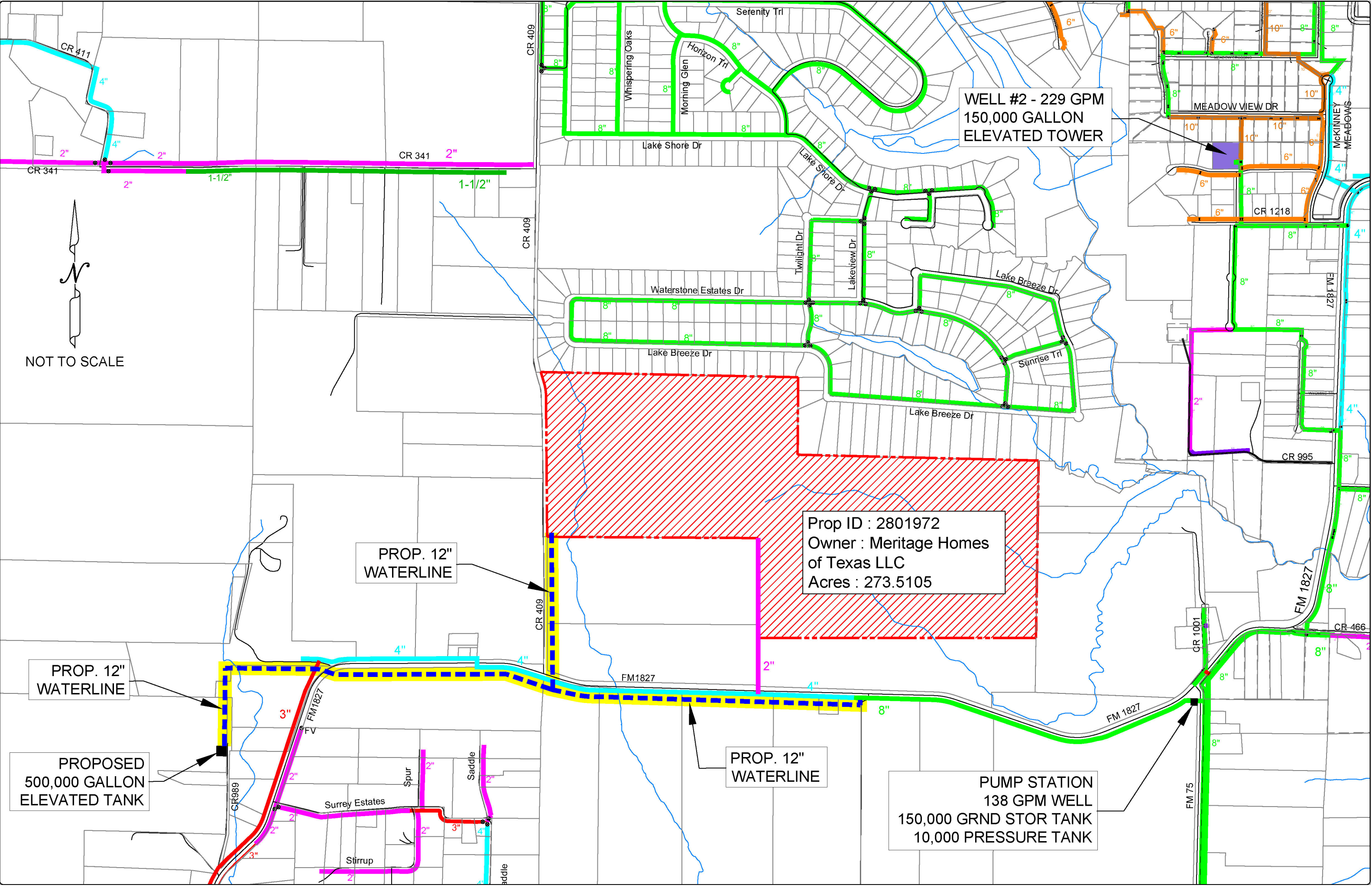
Allen Knight, General Manager  
North Collin Special Utility District

**SUBSCRIBED AND SWORN TO** before me on the 13 day of September, 2021, by Allen Knight, General Manager of North Collin Special Utility District.



  
Notary Public, State of Texas

## **ATTACHMENT B**



WELL #2 - 229 GPM  
150,000 GALLON  
ELEVATED TOWER

Prop ID : 2801972  
Owner : Meritage Homes  
of Texas LLC  
Acres : 273.5105

PROP. 12" WATERLINE

PROP. 12" WATERLINE

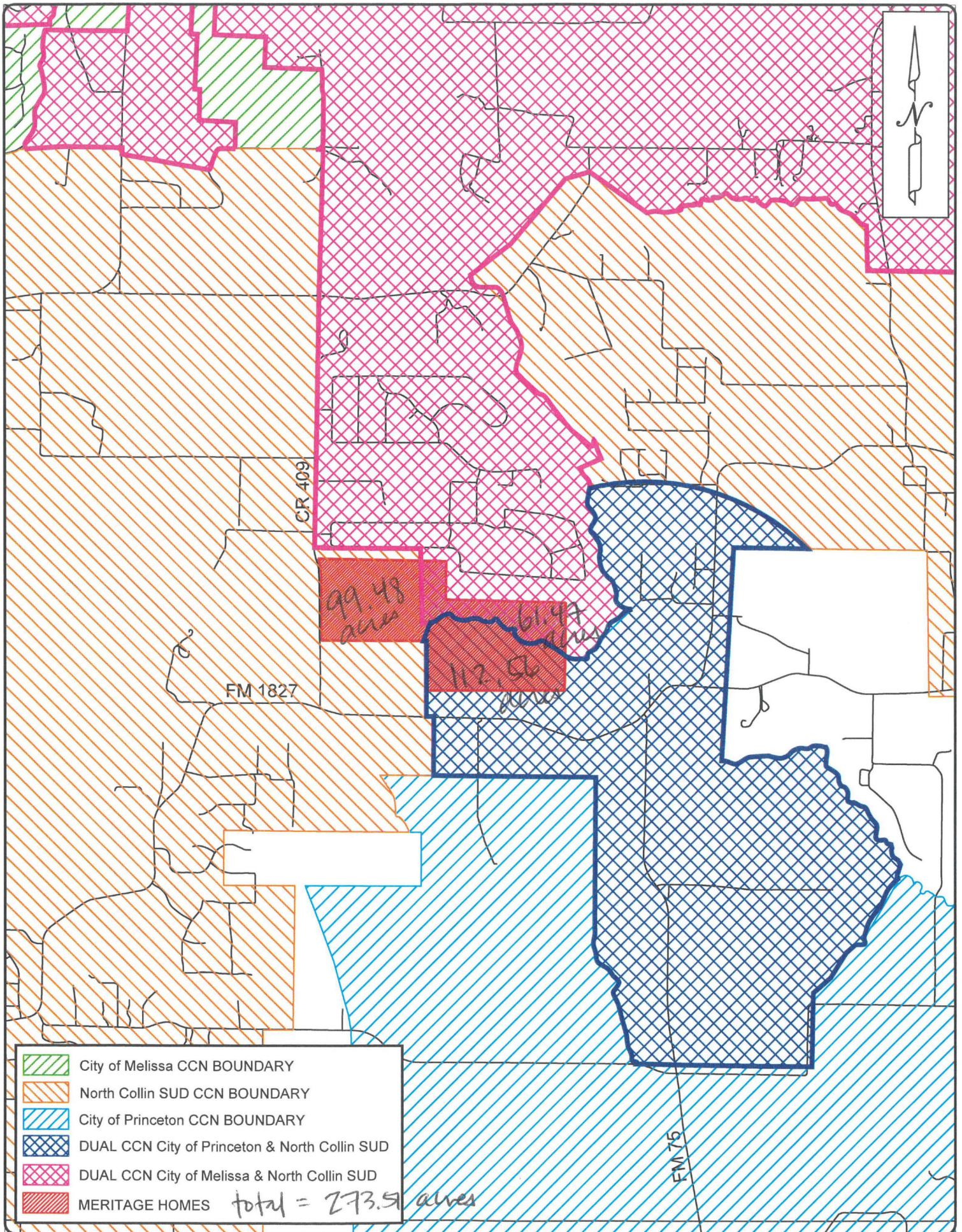
PROPOSED  
500,000 GALLON  
ELEVATED TANK

PROP. 12" WATERLINE

PUMP STATION  
138 GPM WELL  
150,000 GRND STOR TANK  
10,000 PRESSURE TANK

NOT TO SCALE







## **ATTACHMENT C-1**



## COMMUNITY PROGRAMS ASSUMPTION AGREEMENT (For Loans and Grants)

### PART A

1. TRANSFEREE CASE NUMBER 49-043-475622697		2. TRANSFEREE NAME North Collin Special Utility District			
3. ASSUMPTION TYPE 1	4. NOTE INTEREST RATE 4.5000%	5. EFFECTIVE DATE 02/28/2018		6. AMOUNT ASSUMED \$1,270,909.22 (plus interest accrued from and after 12/08/2016)	
7. APPROVAL DATE		8. APPROVAL DATE		9. TRANSFEROR CASE NUMBER 49-043-237327181	
10. TRANSFEROR NAME North Collin Water Supply Corporation			11. LOAN NUMBERS BEING TRANSFERRED 91-01		
12. PURCHASE CODE 0-PROGRAM 1-NONPROGRAM 0	13. FUND CODE 91	14. RACE/TAX CODE 07	15. EMPLOYEE RELATIONSHIP CODE 0	16. ASSUMPTION CODE 1-SAME 2-NEW 1	17. RELEASE FROM LIABILITY 1-YES 2-NO 1

### PART B

#### AGREEMENT

This agreement dated February 28, 2018, is between the United States of America, acting through the **Rural Utilities Service** (herein called the Agency), and the assuming party, **North Collin Special Utility District** (herein called Transferee), whose mailing address is **2333 Sam Rayburn Highway, Melissa, Texas 75454.**

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0066. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

WHEREAS, the Agency is the holder of debt instrument(s) (herein called Loans) executed by **North Collin Water Supply Corporation** (herein called Transferor) identified as follows:

**TABLE I**

Instrument Type	Date Executed	Principal Amount	UNPAID ON DATE HEREOF <sup>1</sup>		Int. Rate	Ins. Charge Rate
			Principal	Accrued Interest		
Promissory Note	11-21-2006	\$1,420,000.00	\$1,270,909.22	\$2,663.68	4.5000	

WHEREAS, in connection with such Loans and in order to secure the payment of such Loans, the following Security Instruments (described in Table II) were taken on property described therein which is located in Collin County, State of Texas:

**TABLE II**

KIND OF INSTRUMENT	DATE EXECUTED	OFFICE WHERE RECORDED	BOOK/VOLUME/ DOCUMENT NUMBER
Deed of Trust-USI	09-09-2008	Texas Secretary of State	Doc. No. 08-0038805082
Deed of Trust - USI	09-09-2008	Texas Secretary of State	Doc. No. 09-0011778326
Deed of Trust - USI	11-19-2009	Texas Secretary of State	Doc. No. 09-0032474998
Loan Resolution Security Agreement for \$1,420,000 loan	06-24-2004		

WHEREAS, as part of the financing provided by the Agency to the Transferor and in addition to the Loans, the Agency and Transferor entered into the following Water or Waste System Grant Agreement (herein called Grant Agreement) concerning a grant made by the Agency to the Transferor:

<sup>1</sup>The balances stated include interest accrued to December 8, 2016 and do not reflect payments made or interest accrued on or after this date. Transferee agrees to pay interest accrued on and after this date.

**TABLE III**

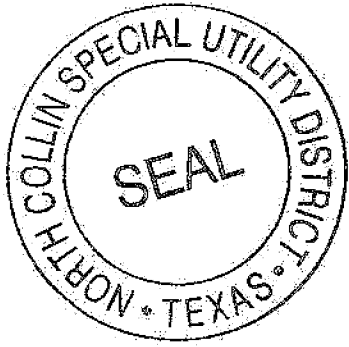
<b>Date of Grant Agreement</b>	<b>Amount of Grant</b>
November 21, 2006	\$850,000.00

Now therefore, in consideration of the assumption of such Loans ("Indebtedness") and Grant Agreement as herein provided and the Agency's consent to the assumption and related conveyance of security property, if applicable, it is agreed as follows:

1. The Transferee hereby jointly and severally assumes liability for and agrees to pay to the order of the Agency, or to the order of the insured holder through the Agency if and when an insured holder is the holder of said debt instrument(s), at the office of the Agency shown below, the entire unpaid Indebtedness in accordance with the rates and terms specified as follows: The entire unpaid Indebtedness will be paid in accordance with the rates and terms stipulated in the debt and security instruments listed in Tables I and II of Part B of this agreement.

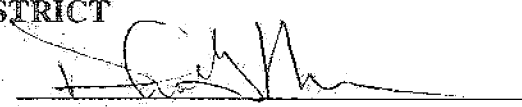
The Transferee hereby jointly and severally assumes liability for the Grant Agreement (described in Table III) and assumes all of the covenants, provisions, obligations and requirements contained in said Grant Agreement.

2. The provisions of said debt and security instruments, the Grant Agreement and of any outstanding agreements executed or assumed by the Transferor pertinent thereto shall, except as modified herein, remain in full force and effect, and the Transferee hereby assumes the obligations of and agrees to be bound by and to comply with all covenants, agreements and conditions contained in said instruments and agreements, except as modified herein, the same as if they had executed them as of the dates thereof as principal obligors or grantees, including any obligation to pay the Agency an insurance charge in addition to interest if and as provided in any such instruments.
3. **REFINANCING AGREEMENT:** If at any time it shall appear to the Agency that the Transferee may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Transferee will, at the Agency's request, apply for and accept a loan in a sufficient amount to pay the Indebtedness hereby assumed in full and, if the lender is a cooperative, to pay for any necessary stock. (Refinancing requirements do not apply to loans classified as nonprogram loans.)
4. This agreement shall be subject to present regulations of the Agency and to its future regulations which are not inconsistent with the express provisions hereof.
5. When the Indebtedness hereby assumed is held by an insured holder, prepayments made by the Transferee may, except for final payment, be remitted by the Agency to the holder on an annual installment due date basis or other basis established by Agency regulation. Final payment will be remitted promptly. The effective date of every payment made by the Transferee shall be the date the payment is received by the Agency.
6. The property described in Table II was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or so long as the Transferee owns it, whichever is longer.




TRANSFEEEE

NORTH COLLINS SPECIAL UTILITY  
DISTRICT

By:   
Duke Monson  
President

(SEAL)

Attest:

  
Ellen Hartley  
Secretary

RURAL UTILITIES SERVICE  
UNITED STATES DEPARTMENT OF AGRICULTURE

Agency Name

UNITED STATES OF AMERICA

By: 

Daniel Torres

State Director for Rural Development,  
acting on behalf of the Rural Utilities Service,  
United States Department of Agriculture  
State of Texas

OFFICE ADDRESS:

101 South Main Street, Suite 102  
Temple, Texas 76501

**ATTACHMENT C-2**

**COMMUNITY PROGRAMS ASSUMPTION AGREEMENT**  
(For Loans and Grants)

**PART A**

1. TRANSFEREE CASE NUMBER 49-043-475622697		2. TRANSFEREE NAME North Collin Special Utility District			
3. ASSUMPTION TYPE 1	4. NOTE INTEREST RATE See Table I	5. EFFECTIVE DATE 12/16/2020		6. AMOUNT ASSUMED \$ 229,795.69 (plus interest accrued from and after 07/24/2020)	
7. APPROVAL DATE		8. APPROVAL DATE		9. TRANSFEROR CASE NUMBER 49-043-751956053	
10. TRANSFEROR NAME Altoga Water Supply Corporation			11. LOAN NUMBERS BEING TRANSFERRED 91-02, 91-04		
12. PURCHASE CODE 0-PROGRAM 1-NONPROGRAM 0	13. FUND CODE 91	14. RACE/TAX CODE 01	15. EMPLOYEE RELATIONSHIP CODE 0	16. ASSUMPTION CODE 1-SAME 2-NEW 1	17. RELEASE FROM LIABILITY 1-YES 2-NO 1

**PART B**

**AGREEMENT**

This agreement dated, December 16, 2020, is between the United States of America, acting through the **Rural Utilities Service** (herein called the Agency), and the assuming party, **North Collin Special Utility District** (herein called Transferee), whose mailing address is 2331 Sam Rayburn Hwy, Melissa, TX 75454.

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0066. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

WHEREAS, the Agency is the holder of debt instrument(s) (herein called Loans) executed by **Altoga Water Supply Corporation** (herein called Transferor) identified as follows:

**TABLE I**

Instrument Type	Date Executed	Principal Amount	UNPAID ON DATE HEREOF <sup>1</sup>		Int. Rate	Ins. Charge Rate
			Principal	Accrued Interest		
Promissory Note	12/01/2004	\$227,000.00	\$182,625.25	\$517.85	4.5%	N/A
Promissory Note	12/01/2004	\$58,000.00	\$46,520.67	\$131.92	4.5%	N/A

WHEREAS, in connection with such Loans and in order to secure the payment of such Loans, the following Security Instruments (described in Table II) were taken on property described therein which is located in Collin County, State of Texas:

**TABLE II**

KIND OF INSTRUMENT	DATE EXECUTED	OFFICE WHERE RECORDED	BOOK/VOLUME/DOCUMENT NUMBER	PAGE NUMBER
Deed of Trust-USI	12/01/2004	Texas Secretary of State	File No. 04-0090534580	
Loan Resolution Security Agreement for the \$227,000.00 loan	08/08/2000			
Loan Resolution Security Agreement for the \$58,000.00 loan	05/18/2004			

WHEREAS, as a part of the financing provided by the Agency to the Transferor and in addition to the Loans, the Agency and the Transferor entered into the following Water or Waste System Grant Agreement (herein called Grant Agreement) concerning a grant made by the Agency to the Transferor:

<sup>1</sup>The balances stated include interest accrued to 07/24/2020 and do not reflect payments made or

**TABLE III**

<b>Date of Grant Agreement</b>	<b>Amount of Grant</b>
December 1, 2004	\$539,000.00

Now therefore, in consideration of the assumption of such Loans ("Indebtedness") and Grant Agreement as herein provided and the Agency's consent to the assumption and related conveyance of security property, if applicable, it is agreed as follows:

1. The Transferee hereby jointly and severally assumes liability for and agrees to pay to the order of the Agency, or to the order of the insured holder through the Agency if and when an insured holder is the holder of said debt instrument(s), at the office of the Agency shown below, the entire unpaid Indebtedness in accordance with the rates and terms specified as follows: The entire unpaid Indebtedness will be paid in accordance with the rates and terms stipulated in the debt and security instruments listed in Tables I and II of Part B of this agreement.

The Transferee hereby jointly and severally assumes liability for the Grant Agreement (described in Table III) and assumes all of the covenants, provisions, obligations and requirements contained in said Grant Agreement.

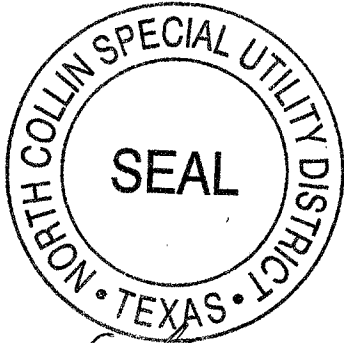
2. The provisions of said debt and security instruments, the Grant Agreement and of any outstanding agreements executed or assumed by the Transferor pertinent thereto shall, except as modified herein, remain in full force and effect, and the Transferee hereby assumes the obligations of and agrees to be bound by and to comply with all covenants, agreements and conditions contained in said instruments and agreements, except as modified herein, the same as if they had executed them as of the dates thereof as principal obligors or grantees, including any obligation to pay the Agency an insurance charge in addition to interest if and as provided in any such instruments.
3. REFINANCING AGREEMENT: If at any time it shall appear to the Agency that the Transferee may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Transferee will, at the Agency's request, apply for and accept a loan in a sufficient amount to pay the Indebtedness hereby assumed in full and, if the lender is a cooperative, to pay for any necessary stock. (Refinancing requirements do not apply to loans classified as nonprogram loans.)
4. This agreement shall be subject to present regulations of the Agency and to its future regulations which are not inconsistent with the express provisions hereof.
5. When the Indebtedness hereby assumed is held by an insured holder, prepayments made by the Transferee may, except for final payment, be remitted by the Agency to the holder on an annual installment due date basis or other basis established by Agency regulation. Final payment will be remitted promptly. The effective date of every payment made by the Transferee shall be the date the payment is received by the Agency.
6. The property described in Table II was obtained or improved through Federal financial assistance.

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interest accrued on or after this date. Transferee agrees to pay interest accrued on and after this date.



This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or so long as the Transferee owns it, whichever is longer.



**TRANSFEE**

**NORTH COLLIN SPECIAL UTILITY  
DISTRICT**

By: \_\_\_\_\_

Duke Monson  
President

(SEAL)

Attest: \_\_\_\_\_

Ellen Hartley  
Secretary/Treasurer

**RURAL UTILITIES SERVICE**  
**UNITED STATES DEPARTMENT OF AGRICULTURE**

Agency Name

**UNITED STATES OF AMERICA**

By: Ed Hargett  
Ed Hargett  
State Director for Rural Development,  
acting on behalf of the Rural Utilities Service,  
United States Department of Agriculture  
State of Texas

**OFFICE ADDRESS:**

101 South Main Street, Suite 102  
Temple, Texas 76501

## **ATTACHMENT D**



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
*Protecting Texas by Reducing and Preventing Pollution*

August 25, 2015

Eddy Daniel, P.E.  
Daniel & Brown, Inc  
P.O. Box 606  
Farmersville, Texas 75442

RE: North Collin Special Utility District  
TCEQ Internal Control No. D-03202015-033

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has issued final approval of the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the approval became effective on the date the ED signed the permit or other approval. A copy of the final approval is enclosed and cites the effective date.

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action. According to 30 TAC Section 50.139 an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

A motion to overturn must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, please provide copies to Robert Martinez, Environmental Law Division Director (MC 173), and Vic McWherter, Public Interest Counsel (MC 103), both at the same TCEQ address listed above. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's approval. According to Texas Water Code Section 5.351 a person affected by the ED's approval must file a petition appealing the ED's approval in Travis County district court within 30 days after the effective date of the approval. Even if you request judicial review, you still must exhaust your administrative remedies, which includes filing a motion to overturn in accordance with the previous paragraphs.

Individual members of the public may seek further information by calling the TCEQ Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac  
Chief Clerk

BCB/ms

cc: Vic McWherter, TCEQ Public Interest Counsel (MC 103)

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 25, 2015

Mr. Eddy Daniel, P.E.  
Daniel & Brown, Inc.  
118 McKinney Street  
Farmersville, Texas 75442-2214

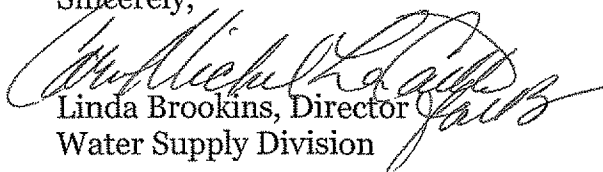
Re: Conversion of North Collin Water Supply Corporation to North Collin Special  
Utility District of Collin County  
Order approving the Creation of the District

Dear Mr. Daniel:

Enclosed is a certified copy of an Order issued by the Texas Commission on  
Environmental Quality regarding the referenced matter.

Should you have a question, please contact Ms. Sheresia Perryman at (512)239-3654.

Sincerely,

  
Linda Brookins, Director  
Water Supply Division

LB/sp

Enclosures

cc: Mailing list

## MAILING LIST

### North Collin Special Utility District of Collin County TCEQ Internal Control No. D-03202015-033

Eddy Daniel, P.E.  
Daniel & Brown Inc.  
P.O. Box 606  
Farmersville, TX 75442-0606

The Honorable Scott Turner  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

North Collin Water Supply Corporation  
P.O. Box 343  
2333 Sam Rayburn Highway  
Melissa, Texas 75454

North Texas Council of Governments  
P.O. Box 5888  
Arlington, Texas 76012-1827

Tony Walker  
TCEQ Region 4  
2309 Gravel Drive  
Fort Worth, Texas, 76118-6951

Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Collin County Clerk  
Attention: Stacey Kemp  
2300 Bloomdale Road, Suite 2106  
McKinney, Texas 75071

Todd Galiga, Senior Attorney,  
Environmental Law Division, MC-173

**Staff Attorney,**  
Environmental Law Division, MC-173

The Honorable Craig Estes  
Texas Senate  
P.O. Box 12068  
Austin, Texas 78711-2068

Anthony Horne, Technical Manager,  
Districts Creation Review Team, MC-152

Sayed Miri, PE, Leader,  
Districts Creation Review Team, MC-152

The Honorable Scott Stanford  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Kent Steelman,  
Public Drinking Water Section, MC-155

Vic McWherter,  
Office of the Public Interest Counsel, MC-103

# Texas Commission on Environmental Quality



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY  
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

AUG 25 2015

OF THE COMMISSION, GIVEN UNDER MY HAND AND THE  
SEAL OF OFFICE ON

*Bridget C. Bohac*  
BRIDGET C. BOHAC, CHIEF CLERK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## AN ORDER GRANTING A REQUEST FOR CONVERSION TO AND CREATION OF NORTH COLLIN SPECIAL UTILITY DISTRICT OF COLLIN COUNTY AND APPOINTING TEMPORARY DIRECTORS

A resolution by North Collin Water Supply Corporation (WSC) was presented to the Executive Director of the Texas Commission on Environmental Quality (TCEQ) for consideration of approval of the creation of North Collin Special Utility District of Collin County (District) and the appointment of directors for the District pursuant to TEX. WATER CODE Chapters 13, 49 and 65; TEX. ADMIN. CODE Chapter 293; and the Procedural Rules of the TCEQ.

The TCEQ has jurisdiction to consider this matter and the following Findings of Fact and Conclusions of Law are appropriate after examining the application and supporting documentation:

### FINDINGS OF FACT

1. On March 20, 2015, an application (including a resolution) requesting the conversion of North Collin WSC to the proposed District was filed with the TCEQ pursuant to TEX. WATER CODE Chapter 65.
2. The resolution adopted by the North Collin WSC dated November 14, 2013, requesting conversion to and creation of the proposed District contains the matters required by TEX. WATER CODE § 65.015.
3. Proper notice of the application was given pursuant to TEX. WATER CODE § 49.011 and 30 TEX. ADMIN. CODE § 293.12.
  - a. Proper notice of the application was published on May 17, 2015, and May 24, 2015, in the *McKinney Courier-Gazette*, a newspaper regularly published and generally circulated in Collin County, Texas, the county in which the proposed District is to be located.
  - b. Proper notice was posted at the Collin County Courthouse on May 7, 2015.
  - c. In accordance with 30 TEX. ADMIN. CODE § 293.12(e), the Executive Director of the TCEQ waived the mailed notice requirement to customers because North Collin WSC noticed and held public meetings on the subject of the conversion.
  - d. The TCEQ did not receive a request for a hearing on the resolution filed by North Collin.

4. The appropriate and necessary deposits and fees associated with the filing of the resolution have been paid to the TCEQ.
5. The affidavits of the proposed temporary directors of the proposed District have been received. The application requesting conversion also requested that the following persons be considered for the initial board of directors:

Jimmie Drury	Ellen Hartley	Richard F. Hoenigman
Debbie Herbst	Duke G. Monson	James R. Smith
6. Each of the persons named in Finding of Fact No. 5 is qualified to serve as a temporary director of the proposed District as each (1) is over the age of 18 years, (2) is a resident of the State of Texas, (3) either owns land subject to taxation within the proposed District, is a user of the facilities of the proposed District, or is a qualified voter of the proposed District, and (4) has completed and filed with the TCEQ an application for consideration of appointment as temporary director in the form and substance required by the Rules of the TCEQ.
7. The proposed District boundary contains approximately 40 square miles of predominantly rural areas located in Collin County.
8. The boundary description of the proposed District as reflected by CCN No. 11035, excluding dually certified areas, has been examined by TCEQ staff and found to form an acceptable boundary for the proposed District.
9. The boundaries of the proposed District should reflect the 20-page boundary description received with the application as shown in Exhibit "A," a copy of which is attached hereto.
10. The request for conversion to and creation of the District is feasible and practicable and is necessary and will be a benefit to the land included in the District.
11. The proposed District and its system and subsequent development within the proposed District will not have an unreasonable effect on the following: topography, flood plain, land elevation, subsidence, and groundwater level within the region, recharge capability of a groundwater source, natural runoff rates and drainage, and water quality.

#### **CONCLUSIONS OF LAW**

1. The TCEQ has jurisdiction to consider the application and is authorized to make and enter its Findings of Fact, Conclusions of Law, and Orders with respect to the request for conversion of North Collin WSC and creation of the proposed District.
2. All of the land and property proposed may properly be included within the proposed District.
3. All statutory and regulatory requirements for conversion of North Collin WSC to the proposed District have been fulfilled in accordance with TEX. WATER CODE Chapters 49 and 65 and TEX. ADMIN. CODE § 293.11



**NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:**


1. The resolution for the conversion of North Collin Water Supply Corporation to the North Collin Special Utility District of Collin County is hereby granted.
2. The District is created under the terms and conditions of Article XVI, Section 59 of the Texas Constitution and TEX. WATER CODE Chapter 65.
3. The District shall have all of the rights, powers, privileges, authority, and functions conferred and shall be subject to all duties imposed by the TCEQ on and the general laws of the State of Texas relating to special utility districts.
4. The District is directed that if fees to be assessed meet the definition of an impact fee as stated in 30 TEX. ADMIN. CODE § 293.171, then requirements spelled out in 30 TEX. ADMIN. CODE §§ 293.171 - 293.176 need to be satisfied prior to assessing the fee.
5. The boundaries of the District are in accordance with the 20-page boundary description received with the application as shown in Exhibit "A".
6. A memorandum was prepared on the application for the conversion of North Collin Water Supply Corporation to the North Collin Special Utility District of Collin County dated August 4, 2015, and a copy is attached as exhibit "B" and made a part hereof.
7. The following persons are hereby named and appointed as temporary directors of the District, to serve until their successors are elected or have been appointed in accordance with applicable law:

Jimmie Drury	Ellen Hartley	Richard F. Hoenigman
Debbie Herbst	Duke G. Monson	James R. Smith
8. The foregoing temporary directors shall, as soon as practicable after the date of entry of this Order, execute their official bonds and take their official oath of office. All such bonds shall be approved by the Board of Directors of the District and each bond and oath shall be filed with the District and retained in its records.
9. Before the District may issue bonds or other obligations, a confirmation and director election shall be held within the boundaries of the proposed District to determine if the proposed District shall be established and to elect permanent directors of the proposed District. The District's Board of Directors is directed to send to the TCEQ and the Public Utility Commission (PUC) a certified copy of the order canvassing the confirmation election returns not later than 30 days after the election.
10. Upon a successful confirmation election, assets and debts of North Collin WSC are to be transferred to the District as expeditiously as practicable and dissolution proceedings of the North Collin WSC are to be commenced immediately after such transfer.
11. Certificate of Convenience and Necessity No. 11035 will be issued by the PUC in the name of North Collin Special Utility District of Collin County, contingent upon a successful confirmation election and receipt of evidence by the TCEQ and PUC that the

WSC has been dissolved in order to ensure continued service for all customers currently served by the WSC.

12. This Order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the Resolution, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration.
13. The Chief Clerk of the TCEQ shall forward a copy of this Order to all affected persons.
14. If any provision, sentence, clause or phrase of this Order is, for any reason, held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: **August 18, 2015**

A handwritten signature in black ink, appearing to read "R. D. A. Hylle", is written over a horizontal line.

For the Commission

# EXHIBIT A

## NORTH COLLIN WATER SUPPLY CORPORATION

Beginning at the intersection of US Highway 75 and Collin County Road 283/Collin County Road 366;

Thence, easterly along the centerline of CR 366 approximately 6288 feet to a point for a corner;

Thence, north 2 degrees 7 minutes 4 seconds east along a line approximately 2240 feet to a point for a corner;

Thence, south 89 degrees 17 minutes 58 seconds east along a line approximately 4086 feet to a point for a corner;

Thence, south 0 degrees 26 minutes 6 seconds west along a line approximately 2197 feet to its intersection with CR 365 a point for a corner;

Thence, easterly along the centerline of CR 365 approximately 690 feet to its intersection with State Highway 5 a point for a corner;

Thence, north 18 degrees 40 minutes 42 seconds east along the centerline of State Highway 5 approximately 1087 feet to a point for a corner;

Thence, south 89 degrees 22 minutes 16 seconds east along a line approximately 3248 feet to a point for a corner;

Thence, north 0 degrees 9 minutes 28 seconds east along a line approximately 1041 feet to a point for a corner;

Thence, north 89 degree 53 minutes 30 seconds east along a line approximately 2908 feet to its intersection with State Highway 5 a point for a corner;

Thence, north 18 degrees 40 minutes 58 seconds east along the centerline of State Highway 5 approximately 2066 feet to a point for a corner;

Thence, south 88 degrees 21 minutes 52 seconds east along a line approximately 3584 feet to a point for a corner;

Thence, south 1 degree 4 minutes 1 seconds east along a line approximately 3432 feet to a point for a corner;

Thence, south 88 degrees 21 minutes 22 seconds east along a line approximately 3653 feet to a point for a corner;

Thence, north 1 degree 22 minutes 30 seconds west along a line approximately 1750 feet to a point for a corner;

Thence, north 88 degrees 38 minutes 46 seconds east along a line approximately 703 feet to a point for a corner;

Thence, north 0 degrees 36 minutes 37 seconds west along a line approximately 5720 feet to a point for a corner;

Thence, south 89 degrees 15 minutes 33 seconds west along a line approximately 1367 feet to a point for a corner;

Thence, north 0 degrees 35 minutes 5 seconds east along a line approximately 2027 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 39 seconds east along a line approximately 1946 feet to a point for a corner;

Thence, north 7 degrees 45 minutes 7 seconds east along a line approximately 3078 feet to a point for a corner;

Thence, south 89 degrees 26 minutes 4 seconds east along a line approximately 10,337 feet to a point for a corner;

Thence, south 47 degrees 42 minutes 26 seconds east along a line approximately 494 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 43 seconds east along a line approximately 807 feet to a point for a corner;

Thence, north 38 degrees 29 minutes 45 seconds east along a line approximately 434 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 43 seconds east along a line approximately 1175 feet to a point for a corner;

Thence, north 0 degrees 24 minutes 54 seconds east along a line approximately 1337 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 43 seconds east along a line approximately 1386 feet to a point for a corner;

Thence, south 0 degrees 43 minutes 16 seconds west along a line approximately 2234 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 44 seconds east along a line approximately 3245 feet to a point for a corner;

Thence, south 0 degrees 43 minutes 15 seconds east along a line approximately 1226 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 43 seconds east along a line approximately 1877 feet to a point for a corner;

Thence, south 50 degrees 37 minutes 49 seconds west along a line approximately 4988 feet to a point for a corner;

Thence, south 0 degrees 19 minutes 7 seconds west along a line approximately 1027 feet to a point for a corner;

Thence, south 89 degrees 5 minutes 32 seconds east along a line approximately 398 feet to a point for a corner;

Thence, south 0 degrees 14 minutes 31 seconds west along a line approximately 1645 feet to a point for a corner;

Thence, north 89 degrees 10 minutes 6 seconds west along a line approximately 596 feet to a point for a corner;

Thence, south 0 degrees 43 minutes 12 seconds west along a line approximately 388 feet to a point for a corner;

Thence, south 24 degrees 45 minutes east along a line approximately 523 feet to a point for a corner;

Thence, south 57 degrees 1 minutes 7 seconds west along a line approximately 413 feet to a point for a corner;

Thence, north 89 degrees 55 minutes 40 seconds west along a line approximately 300 feet to a point for a corner;

Thence, south 0 degrees 31 minutes 22 seconds west along a line approximately 2097 feet to a point for a corner;

Thence, south 89 degrees 41 minutes 13 seconds west along a line approximately 856 feet to a point for a corner;

Thence, south 0 degrees 43 minutes 16 seconds west along a line approximately 1967 feet to a point for a corner;

Thence, south 42 degrees 7 minutes 7 seconds east along a line approximately 724 feet to a point for a corner;

Thence, south 4 degrees 58 minutes 34 seconds west along a line approximately 2020 feet to a point for a corner;

Thence, south 19 degrees 42 minutes 14 seconds west along a line approximately 797 feet to a point for a corner;

Thence, south 0 degrees 43 minutes 17 seconds west along a line approximately 203 feet to a point for a corner;

Thence, south 89 degrees 13 minutes 50 seconds west along a line approximately 1924 feet to a point for a corner;

Thence, south 1 degree 11 minutes 45 seconds east along a line approximately 17,518 feet to a point for a corner;

Thence, north 89 degrees 2 minutes 31 seconds west along a line approximately 2722 feet to a point for a corner;

Thence, north 1 degree 9 minutes west along a line approximately 1023 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, westerly along the center of the meandering of an unnamed creek approximately 5836 feet to a point for a corner;

Thence, north 54 degrees 57 minutes 24 seconds west along a line approximately 1608 feet to a point for a corner;

Thence, south 74 degrees 35 minutes 45 seconds west along a line approximately 565 feet to a point for a corner;

Thence, south 39 degrees 59 minutes 5 seconds west along a line approximately 1940 feet to a point for a corner;

Thence, south 52 degrees 5 minutes 41 seconds west along a line approximately 1165 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, southeasterly along the center of the meandering of an unnamed creek approximately 5456 feet to a point for a corner;

Thence, south 19 degrees 30 minutes 12 seconds east along a line approximately 222 feet to a point for a corner;

Thence, south 23 degrees 23 minutes 44 seconds east along a line approximately 227 feet to a point for a corner;

Thence, south 66 degrees 10 minutes 5 seconds west along a line approximately 530 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, southwesterly along the center of the meandering of an unnamed creek approximately 9759 feet to a point for a corner;

Thence, north 1 degree 5 minutes 10 seconds west along a line approximately 1720 feet to a point for a corner;

Thence, north 89 degrees 39 minutes 52 seconds west along a line approximately 2427 feet to a point for a corner;

Thence, north 1 degree 17 minutes 21 seconds east along a line approximately 9098 feet to a point for a corner;

Thence, northerly along the center of CR 413 approximately 1840 feet to a point for a corner;

Thence, north 87 degrees 56 minutes 1 second west along a line approximately 1295 feet to a point for a corner;

Thence, north 2 degrees 14 minutes 12 seconds east along a line approximately 696 feet to a point for a corner;

Thence, north 87 degrees 45 minutes 48 seconds west along a line approximately 1183 feet to a point for a corner;

Thence, north 2 degrees 36 minutes 56 seconds east along a line approximately 2506 feet to a point for a corner;

Thence, north 89 degrees 18 minutes 11 seconds west along a line approximately 530 feet to a point for a corner;

Thence, south 2 degrees 36 minutes 5 seconds west along a line approximately 2492 feet to a point for a corner;

Thence, south 87 degrees 49 minutes 16 seconds east along a line approximately 143 feet to a point for a corner;

Thence, south 2 degrees 27 minutes 9 seconds west along a line approximately 1260 feet to a point for a corner;

Thence, south 86 degrees 57 minutes 39 seconds east along a line approximately 110 feet to a point for a corner;

Thence, south 1 degree 8 minutes 59 seconds west along a line approximately 705 feet to a point for a corner;

Thence, south 86 degrees 54 minutes 26 seconds east along a line approximately 837 feet to a point for a corner;

Thence, south 1 degree 28 minutes 43 seconds west along a line approximately 602 feet to a point for a corner;

Thence, westerly along the center of CR 413 approximately 2927 feet to a point for a corner;

Thence, north 1 degree 9 minutes 20 seconds east along a line approximately 150 feet to a point for a corner;

Thence, north 88 degrees 54 minutes 49 seconds west along a line approximately 1319 feet to a point for a corner;

Thence, south 86 degrees 57 minutes 39 seconds east along a line approximately 110 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, northerly along the center of the meandering of an unnamed creek approximately 2886 feet to a point for a corner;

Thence, south 89 degrees 12 minutes 51 seconds east along a line approximately 1861 feet to a point for a corner;

Thence, north 3 degrees 46 minutes 23 seconds east along a line approximately 2377 feet to a point for a corner;

Thence, north 26 degrees 22 minutes 30 seconds west along a line approximately 176 feet to a point for a corner;

Thence, north 0 degrees 14 minutes 55 seconds east along a line approximately 1892 feet to a point for a corner;

Thence, north 89 degrees 44 minutes 56 seconds west along a line approximately 1219 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, southwesterly along the center of the meandering of an unnamed creek approximately 168 feet to a point for a corner;

Thence, south 89 degrees 22 minutes 56 seconds west along a line approximately 597 feet to a point for a corner;

Thence, south 53 degrees 44 minutes 4 seconds west along a line approximately 636 feet to a point for a corner;

Thence, north 14 degrees 27 minutes 18 seconds west along a line approximately 104 feet to a point for a corner;

Thence, north 0 degrees 21 minutes 44 seconds east along a line approximately 839 feet to a point for a corner;

Thence, south 55 degrees 21 minutes 41 seconds west along a line approximately 1559 feet to a point for a corner;

Thence, north 0 degrees 34 minutes 16 seconds west along a line approximately 3749 feet to a point for a corner;

Thence, north 89 degrees 49 minutes 2 seconds west along a line approximately 1071 feet to a point for a corner;



Thence, north 0 degrees 1 minute 12 seconds west along a line approximately 161 feet to a point for a corner;

Thence, north 89 degrees 16 minutes 35 seconds west along a line approximately 1320 feet to a point for a corner;

Thence, south 37 degrees 34 minutes 30 seconds west along a line approximately 489 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 35 seconds east along a line approximately 671 feet to a point for a corner;

Thence, south 0 degrees 1 minute 36 seconds east along a line approximately 3818 feet to a point for a corner;

Thence, south 84 degrees 26 minutes 10 seconds west along a line approximately 1121 feet to a point for a corner;

Thence, north 14 degrees 9 minutes 54 seconds east along a line approximately 1601 feet to a point for a corner;

Thence, north 65 degrees 56 minutes 28 seconds west along a line approximately 385 feet to a point for a corner;

Thence, north 18 degrees 40 minutes 26 seconds east along a line approximately 1292 feet to a point for a corner;

Thence, north 89 degrees 31 minutes 52 seconds west along a line approximately 415 feet to a point for a corner;

Thence, north 2 degrees 42 minutes 38 seconds east along a line approximately 1005 feet to a point for a corner;

Thence, north 88 degrees 2 minutes 6 seconds west along a line approximately 272 feet to a point for a corner;

Thence, northerly along the center of CR 365 approximately 1180 feet to a point for a corner;

Thence, north 89 degrees 13 minutes 22 seconds west along a line approximately 844 feet to a point for a corner;

Thence, north 0 degrees 6 minutes 37 seconds west along a line approximately 692 feet to a point for a corner;

Thence, north 89 degrees 56 minutes 44 seconds west along a line approximately 4179 feet to a point for a corner;

Thence, north 0 degrees 0 minutes 53 seconds east along a line approximately 1240 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, southwesterly along the center of the meandering of an unnamed creek approximately 7803 feet to a point for a corner;

Thence, southerly along the center of CR 277 approximately 1732 feet to a point for a corner;

Thence, south 89 degrees 35 minutes 57 seconds east along a line approximately 1382 feet to a point for a corner;

Thence, south 1 degree 14 minutes 11 seconds west along a line approximately 1195 feet to a point for a corner;

Thence, north 89 degrees 33 minutes 37 seconds west along a line approximately 1485 feet to a point for a corner;

Thence, south 8 degrees 53 minutes 40 seconds west along a line approximately 667 feet to a point for a corner;

Thence, south 86 degrees 27 minutes 51 seconds east along a line approximately 415 feet to a point for a corner;

Thence, south 6 degrees 51 minutes 35 seconds west along a line approximately 276 feet to a point for a corner;

Thence, south 89 degrees 41 minutes 28 seconds east along a line approximately 2549 feet to a point for a corner;

Thence, north 1 degree 30 minutes 9 seconds west along a line approximately 222 feet to a point for a corner;

Thence, north 89 degrees 28 minutes 42 seconds east along a line approximately 430 feet to a point for a corner;

Thence, north 1 degree 11 minutes 34 seconds west along a line approximately 505 feet to a point for a corner;

Thence, north 88 degrees 28 minutes 5 seconds east along a line approximately 670 feet to a point for a corner;

Thence, north 2 degrees 19 minutes 16 seconds east along a line approximately 200 feet to a point for a corner;

Thence, north 89 degrees 2 minutes 29 seconds east along a line approximately 273 feet to a point for a corner;

Thence, south 1 degree 5 minutes 28 seconds west along a line approximately 220 feet to a point for a corner;

Thence, north 88 degrees 56 minutes 27 seconds west along a line approximately 210 feet to a point for a corner;

Thence, south 49 degrees 39 minutes 14 seconds west along a line approximately 78 feet to a point for a corner;

Thence, south 1 degree 1 minute 39 seconds west along a line approximately 463 feet to a point for a corner;

Thence, south 35 degrees 47 minutes 5 seconds west along a line approximately 717 feet to a point for a corner;

Thence, southeasterly along the center of Melissa Road approximately 561 feet to a point for a corner;

Thence, south 0 degrees 19 minutes 34 seconds west along a line approximately 120 feet to a point for a corner;

Thence, south 84 degrees 28 minutes 52 seconds west along a line approximately 2061 feet to a point for a corner;

Thence, southerly along the center of CR 277 approximately 1282 feet to a point for a corner;

Thence, south 88 degrees 5 minutes 57 seconds east along a line approximately 351 feet to a point for a corner;

Thence, south 1 degree 26 minutes 38 seconds west along a line approximately 922 feet to a point for a corner;

Thence, south 89 degrees 32 minutes 54 seconds east along a line approximately 1784 feet to a point for a corner;

Thence, southerly along the center of South Fannin Road approximately 4096 feet to a point for a corner;

Thence, north 89 degrees 18 minutes 59 seconds west along a line approximately 709 feet to a point for a corner;

Thence, south 7 degrees 30 minutes 32 seconds east along a line approximately 590 feet to a point for a corner;

Thence, north 77 degrees 10 minutes 7 seconds east along a line approximately 432 feet to a point for a corner;

Thence, southwesterly along the center of State Highway 121 approximately 2124 feet to a point for a corner;

Thence, south 47 degree 53 minutes 30 seconds west along a line approximately 992 feet to a point for a corner;

Thence, north 0 degrees 25 minutes 27 seconds east along a line approximately 309 feet to a point for a corner;

Thence, north 89 degrees 9 minutes 15 seconds west along a line approximately 998 feet to a point for a corner;

Thence, south 48 degree 22 minutes 27 seconds west along a line approximately 1130 feet to a point for a corner;

Thence, south 87 degrees 28 minutes 39 seconds east along a line approximately 1305 feet to a point for a corner;

Thence, south 47 degree 53 minutes 30 seconds west along a line approximately 2276 feet to a point for a corner;

Thence, north 42 degrees 46 minutes 11 seconds west along a line approximately 669 feet to a point for a corner;

Thence, south 45 degree 17 minutes 22 seconds west along a line approximately 878 feet to a point for a corner;

Thence, north 59 degrees 40 minutes 13 seconds west along a line approximately 376 feet to a point for a corner;

Thence, north 11 degrees 57 minutes 36 seconds west along a line approximately 263 feet to a point for a corner;

Thence, north 45 degrees 44 minutes 55 seconds east along a line approximately 1487 feet to a point for a corner;

Thence, north 41 degrees 17 minutes 23 seconds west along a line approximately 40 feet to a point for a corner;

Thence, south 46 degree 3 minutes 7 seconds west along a line approximately 1459 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, northerly along the center of the meandering of an unnamed creek approximately 26,301 feet to a point for a corner;

Thence, westerly along the center of CR 282 approximately 4538 feet to a point for a corner;

Thence, westerly along the center of CR 281 approximately 4127 feet to a point for a corner;

Thence, southerly along the center of CR 206 approximately 476 feet to a point for a corner;

Thence, westerly along the center of CR 205 approximately 2631 feet to a point for a corner;

Thence, southerly along the center of CR 204 approximately 4979 feet to a point for a corner;

Thence, southerly along the center of CR 203 approximately 5430 feet to a point for a corner;

Thence, south 89 degree 37 minutes 23 seconds west along a line approximately 3363 feet to a point for a corner;

Thence, northerly along a line located 500 feet west, adjacent and parallel to the centerline of Farm to Market Road 543 approximately 11,156 feet to a point for a corner;

Thence, north 89 degrees 42 minutes 36 seconds east along a line approximately 1924 feet to a point for a corner;

Thence, north 0 degrees 8 minutes 53 seconds east along a line approximately 5287 feet to a point for a corner;

Thence, north 89 degrees 16 minutes 3 seconds east along a line approximately 3429 feet to a point for a corner;

Thence, north 16 degrees 44 minutes 4 seconds west along a line approximately 781 feet to a point for a corner;

Thence, north 5 degrees 48 minutes 13 seconds west along a line approximately 3694 feet to a point for a corner;

Thence, south 89 degrees 45 minutes 30 seconds east along a line approximately 2616 feet to a point for a corner;

Thence, south 0 degrees 23 minutes 33 seconds west along a line approximately 3802 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 28 seconds east along a line approximately 1647 feet to a point for a corner;

Thence, north 83 degrees 45 minutes 32 seconds east along a line approximately 7781 feet to a point for a corner;

Thence, south 2 degrees 9 minutes 37 seconds west along a line approximately 1989 feet to a point for a corner;

Thence, south 89 degrees 19 minutes east along a line approximately 2593 feet to a point for a corner and the beginning of a counterclockwise curve;

Thence, along said curve a distance of approximately 315 feet to a point, which chord bears south 44 degrees 7 minutes 10 seconds east approximately 283 feet to a point for a corner;

Thence, south 88 degrees 51 minutes 33 seconds east along a line approximately 1519 feet to a point for a corner;

Thence, southerly along a line located 200 feet west, adjacent and parallel to the centerline of CR 277 approximately 7702 feet to a point for a corner;

Thence, south 72 degrees 46 minutes 15 seconds east along a line approximately 388 feet to a point for a corner;

Thence, northerly along a line located 200 feet east, adjacent and parallel to the centerline of CR 277 approximately 8022 feet to a point for a corner;

Thence, easterly along the centerline of CR 283 approximately 915 feet back to its intersection with US Highway 75 and back to the point of beginning.

**The following area is included in the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of US Highway 380 and Farm to Market Road 1827 northerly along the center of FM 1827 approximately 1780 feet to a point for a corner;

Thence, north 88 degrees 17 minutes 48 seconds west along a line approximately 988 feet to a point for a corner;

Thence, north 71 degrees 42 minutes 44 seconds west along a line approximately 548 feet to a point for a corner;

Thence, north 15 degrees 17 minutes 11 seconds west along a line approximately 273 feet to a point for a corner;

Thence, north 3 degrees 26 minutes 5 seconds east along a line approximately 386 feet to a point for a corner;

Thence, north 32 degrees 8 minutes 20 seconds east along a line approximately 1122 feet to a point for a corner;

Thence, south 89 degrees 7 minutes 15 seconds east along a line approximately 960 feet to a point for a corner;

Thence, south 83 degrees 59 minutes 12 seconds east along a line approximately 221 feet to a point for a corner;

Thence, north 40 degrees 59 minutes 52 seconds east along a line approximately 1247 feet to a point for a corner;

Thence, north 57 degrees 37 minutes 38 seconds east along a line approximately 177 feet to a point for a corner;

Thence, north 62 degrees 37 minutes 40 seconds east along a line approximately 128 feet to a point for a corner;

Thence, north 67 degrees 42 minutes 43 seconds east along a line approximately 169 feet to a point for a corner;

Thence, north 75 degrees 6 minutes 52 seconds east along a line approximately 112 feet to a point for a corner;

Thence, north 79 degrees 35 minutes 20 seconds east along a line approximately 217 feet to a point for a corner;

Thence, north 76 degrees 9 minutes 8 seconds east along a line approximately 225 feet to a point for a corner;

Thence, north 38 degrees 41 minutes 43 seconds east along a line approximately 326 feet to a point for a corner;

Thence, north 0 degrees 43 minutes 26 seconds east along a line approximately 126 feet to a point for a corner;

Thence, north 16 degrees 51 minutes 6 seconds west along a line approximately 252 feet to a point for a corner;

Thence, north 84 degrees 28 minutes 5 seconds east along a line approximately 177 feet to a point for a corner;

Thence, north 1 degree 50 minutes 7 seconds east along a line approximately 967 feet to a point for a corner;

Thence, north 27 degrees 43 minutes 34 seconds west along a line approximately 303 feet to a point for a corner;

Thence, south 48 degrees 3 minutes 47 seconds west along a line approximately 1582 feet to a point for a corner;

Thence, south 79 degrees 34 minutes 16 seconds west along a line approximately 617 feet to a point for a corner;

Thence, north 69 degrees 17 minutes 55 seconds west along a line approximately 724 feet to a point for a corner;

Thence, north 17 degree 36 minutes 54 seconds east along a line approximately 2036 feet to a point for a corner;

Thence, north 6 degree 42 minutes 7 seconds east along a line approximately 549 feet to a point for a corner;

Thence, south 71 degrees 53 minutes 10 seconds west along a line approximately 799 feet to a point for a corner;

Thence, south 54 degrees 40 minutes 22 seconds west along a line approximately 604 feet to a point for a corner;

Thence, south 47 degrees 50 minutes 40 seconds west along a line approximately 542 feet to a point for a corner;

Thence, north 73 degrees 15 minutes 27 seconds west along a line approximately 71 feet to a point for a corner;

Thence, south 87 degrees 38 minutes 3 seconds west along a line approximately 279 feet to a point for a corner;

Thence, north 43 degree 40 minutes 48 seconds east along a line approximately 264 feet to a point for a corner;

Thence, north 49 degree 14 minutes 32 seconds east along a line approximately 1714 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 15 seconds east along a line approximately 1759 feet to a point for a corner;

Thence, south 0 degrees 42 minutes 21 seconds west along a line approximately 430 feet to a point for a corner;

Thence, north 89 degree 47 minutes 41 seconds east along a line approximately 1420 feet to a point for a corner;

Thence, north 3 degrees 9 minutes 23 seconds west along a line approximately 109 feet to a point for a corner;

Thence, south 89 degrees 24 minutes 34 seconds east along a line approximately 3410 feet to a point for a corner;

Thence, south 1 degree 19 minutes 7 seconds west along a line approximately 919 feet to a point for a corner;

Thence, south 75 degrees 49 minutes 20 seconds east along a line approximately 485 feet to a point for a corner;



Thence, south 0 degrees 21 minutes 39 seconds east along a line approximately 1319 feet to a point for a corner;

Thence, south 88 degrees 35 minutes 14 seconds east along a line approximately 611 feet to a point for a corner;

Thence, south 7 degrees 26 minutes 42 seconds west along a line approximately 1792 feet to a point for a corner;

Thence, north 88 degrees 34 minutes 31 seconds west along a line approximately 1417 feet to a point for a corner;

Thence, south 35 degrees 2 minutes 50 seconds east along a line approximately 79 feet to a point for a corner;

Thence, south 11 degrees 46 minutes 14 seconds east along a line approximately 86 feet to a point for a corner;

Thence, south 0 degrees 21 minutes 28 seconds west along a line approximately 3140 feet to a point for a corner;

Thence, north 87 degrees 42 minutes 18 seconds west along a line approximately 2394 feet to a point for a corner;

Thence, north 0 degrees 39 minutes 17 seconds east along a line approximately 367 feet to a point for a corner;

Thence, north 26 degrees 2 minutes 22 seconds west along a line approximately 500 feet to a point for a corner;

Thence, north 33 degrees 34 minutes 49 seconds west along a line approximately 523 feet to a point for a corner;

Thence, north 88 degrees 12 minutes 36 seconds west along a line approximately 2178 feet to a point for a corner;

Thence, south 7 degrees 16 minutes 10 seconds east along a line approximately 917 feet to a point for a corner;

Thence, north 66 degrees 30 minutes 25 seconds west along a line approximately 1066 feet and back to the point of beginning.

**The following area is included in the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of Farm to Market Road 545 and Miller Road southerly along the center of Miller Road approximately 245 feet to a point for a corner;

Thence, south 1 degree 24 minutes 24 seconds east along a line approximately 947 feet to a point for a corner;

Thence, south 58 degrees 14 minutes 10 seconds west along a line approximately 5328 feet to a point for a corner;

Thence, north 0 degree 37 minutes 4 seconds east along a line approximately 4566 feet to a point for a corner;

Thence, north 59 degree 30 minutes 15 seconds east along a line approximately 433 feet to a point for a corner;

Thence, north 88 degree 22 minutes 36 seconds east along a line approximately 903 feet to a point for a corner;

Thence, south 0 degrees 19 minutes 52 seconds east along a line approximately 1864 feet to a point for a corner;

Thence, north 88 degrees 57 minutes 14 seconds east along a line approximately 2767 feet to a point for a corner;

Thence, north 0 degrees 34 minutes 31 seconds west along a line approximately 740 feet to a point for a corner;

Thence, north 88 degrees 7 minutes 7 seconds east along a line approximately 413 feet and back to the point of beginning.

**The following area is included in the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of County Road 362 and Miller Road a point for a corner;

Thence, south 1 degree 46 minutes 44 seconds east along a line approximately 2605 feet to a point for a corner;

Thence, north 89 degrees 5 minutes 38 seconds west along a line approximately 3824 feet to a point for a corner;

Thence, north 1 degree 30 minutes 14 seconds west along a line approximately 880 feet to a point for a corner;

Thence, south 88 degrees 55 minutes 40 seconds west along a line approximately 1001 feet to a point for a corner;

Thence, north 1 degree 18 minutes 41 seconds east along a line approximately 1068 feet to a point for a corner;

Thence, north 27 degrees 12 minutes 33 seconds east along a line approximately 862 feet to a point for a corner;

Thence, north 52 degrees 10 minutes 4 seconds east along a line approximately 3922 feet to a point for a corner;

Thence, south 28 degrees 51 minutes 18 seconds east along a line approximately 189 feet to its intersection with the center of an unnamed creek a point for a corner;

Thence, southerly along the center of the meandering of an unnamed creek approximately 899 feet to a point for a corner;

Thence, north 88 degrees 51 minutes 9 seconds east along a line approximately 1347 feet to a point for a corner;

Thence, south 1 degree 23 minutes 54 seconds east along a line approximately 936 feet to a point for a corner;

Thence, north 88 degrees 49 minutes 27 seconds east along a line approximately 1191 feet to a point for a corner;

Thence, south 1 degree 18 minutes 4 seconds east along a line approximately 886 feet to a point for a corner;

Thence, north 89 degrees 24 minutes 55 seconds west along a line approximately 1190 feet and back to the point of beginning.

**The following area is included in the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of County Road 362 and Miller Road easterly along the center of County Road 362 approximately 1658 feet to a point for a corner;

Thence, north 1 degree 17 minutes 46 seconds west along a line approximately 899 feet to a point for a corner;

Thence, north 88 degrees 49 minutes 26 seconds east along a line approximately 191 feet to a point for a corner;

Thence, south 1 degree 17 minutes 47 seconds east along a line approximately 901 feet to a point for a corner;

Thence, south 89 degrees 21 minutes 49 seconds west along a line approximately 191 feet and back to the point of beginning.

**The following area is included in the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of County Road 362 and Miller Road easterly along the center of County Road 362 approximately 2458 feet to a point for a corner;

Thence, north 1 degree 17 minutes 49 seconds west along a line approximately 306 feet to a point for a corner;

Thence, north 88 degrees 49 minutes 25 seconds east along a line approximately 306 feet to a point for a corner;

Thence, south 1 degree 17 minutes 47 seconds east along a line approximately 315 feet to a point for a corner;

Thence, south 89 degrees 24 minutes 55 seconds west along a line approximately 306 feet and back to the point of beginning.

**The following area is excluded from the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of State Highway 121 and Mirany Lane northeasterly along the center of State Highway 121 approximately 832 feet to a point for a corner;

Thence, northeasterly along State Highway 121 north 53 degrees 45 minutes 25 seconds east along a line approximately 1871 feet to a point for a corner;

Thence, north 88 degrees 55 minutes 25 seconds east along a line approximately 3730 feet to a point for a corner;

Thence, south 0 degree 6 minutes 41 seconds east along a line approximately 1531 feet to a point for a corner;

Thence, north 89 degrees 16 minutes 39 seconds west along a line approximately 80 feet to a point for a corner;

Thence, south 1 degree 57 minutes 33 seconds east along a line approximately 818 feet to a point for a corner;

Thence, south 0 degrees 41 minutes 54 seconds west along a line approximately 2619 feet to a point for a corner;

Thence, north 89 degrees 41 minutes 34 seconds west along a line approximately 2631 feet to a point for a corner;

Thence, north 0 degrees 19 minutes 46 seconds west along a line approximately 2838 feet to a point for a corner;

Thence, north 89 degrees 44 minutes 38 seconds west along a line approximately 2505 feet and back to the point of beginning.

**The following area is excluded from the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of State Highway 121 and Mirany Lane northeasterly along the center of State Highway 121 approximately 4673 feet to a point for a corner;

Thence, north 89 degrees 18 minutes 12 seconds west along a line approximately 1336 feet to a point for a corner;

Thence, north 0 degrees 18 minutes 17 seconds east along a line approximately 1765 feet to a point for a corner;

Thence, north 89 degrees 14 minutes 36 seconds west along a line approximately 1737 feet to a point for a corner;

Thence, north 0 degrees 24 minutes 31 seconds east along a line approximately 1927 feet to a point for a corner;

Thence, north 89 degrees 29 minutes 23 seconds east along a line approximately 672 feet to a point for a corner;

Thence, south 0 degrees 43 minutes 23 seconds west along a line approximately 319 feet to a point for a corner;

Thence, south 89 degrees 16 minutes 55 seconds east along a line approximately 1055 feet to a point for a corner;

Thence, south 0 degrees 5 minutes 35 seconds east along a line approximately 363 feet to a point for a corner;

Thence, south 89 degrees 54 minutes 55 seconds east along a line approximately 2709 feet to a point for a corner;

Thence, south 1 degree 22 minutes 56 seconds west along a line approximately 1686 feet to a point for a corner;

Thence, north 89 degrees 16 minutes 38 seconds west along a line approximately 1192 feet to a point for a corner;

Thence, south 0 degree 43 minutes 43 seconds west along a line approximately 1271 feet to a point for a corner;

Thence, south 53 degree 44 minutes 23 seconds west along a line approximately 166 feet and back to the point of beginning.

**The following area is excluded from the aforementioned North Collin WSC SUD boundary:**

Beginning at the intersection of State Highway 121 and Mirany Lane northerly along the center of Mirany Lane approximately 637 feet to a point for a corner;

Thence, north 88 degrees 59 minutes 9 seconds west along a line approximately 1302 feet to a point for a corner;

Thence, north 0 degrees 40 minutes 49 seconds east along a line approximately 2127 feet to a point for a corner;

Thence, south 88 degrees 58 minutes 27 seconds east along a line approximately 1318 feet to a point for a corner;

Thence, south 1 degree 7 minutes 40 seconds west along a line approximately 2126 feet and back to the point of beginning.

**The following area is excluded from the aforementioned North Collin WSC SUD boundary:**

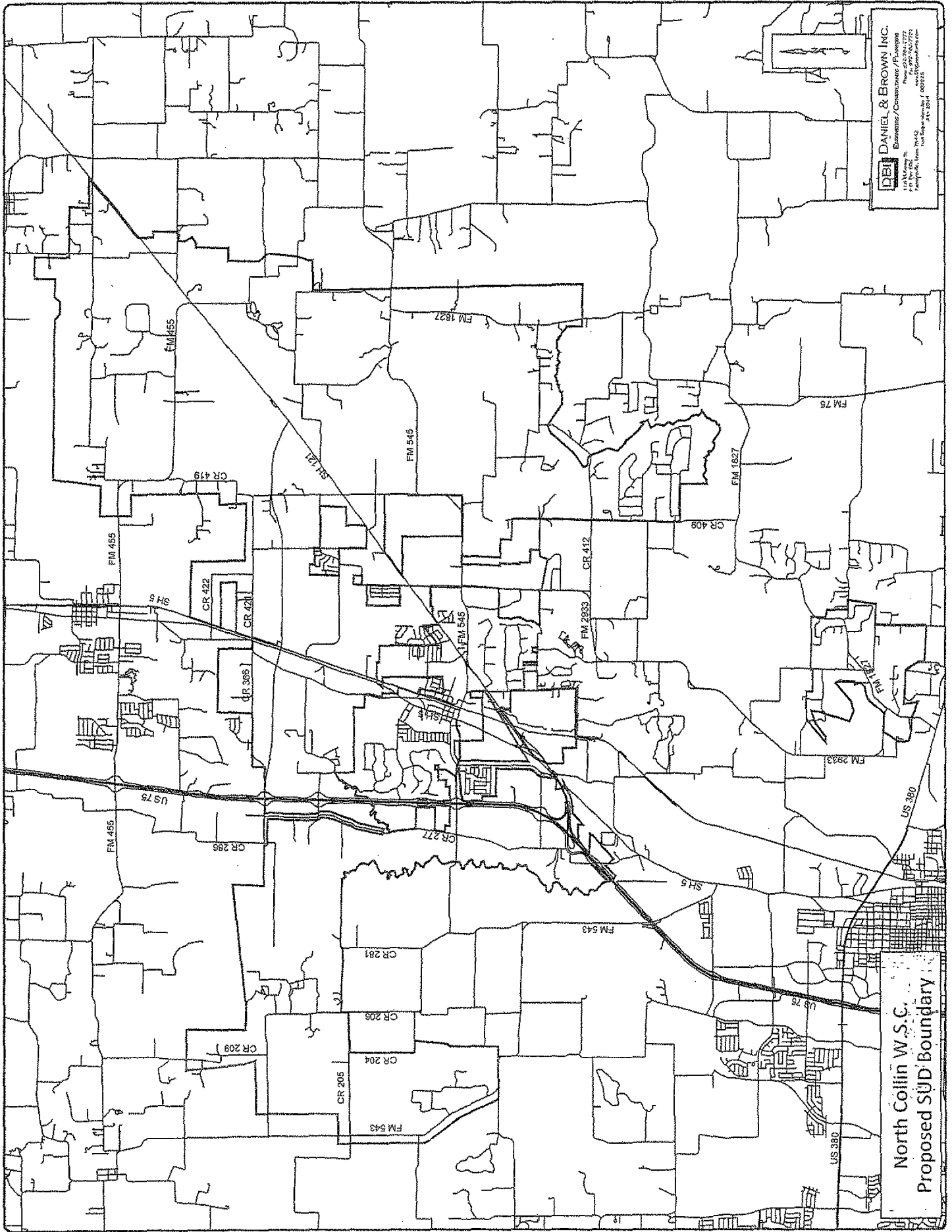
Beginning at the intersection of State Highway 121 and Mirany Lane northerly along the center of Mirany Lane approximately 3106 feet to a point for a corner;

Thence, north 1 degree 19 minutes 7 seconds east along a line approximately 542 feet to a point for a corner;

Thence, south 88 degrees 54 minutes 9 seconds east along a line approximately 584 feet to a point for a corner;

Thence, south 0 degree 11 minutes 58 seconds west along a line approximately 541 feet to a point for a corner;

Thence, north 89 degrees 3 minutes 3 seconds west along a line approximately 604 feet and back to the point of beginning.



**DBI DANIEL & BROWN INC.**  
Surveyors / Engineers / Planners  
1000 Main St.  
P.O. Box 602  
Pawnee, Texas 75755  
Phone: 281-244-3433  
Fax: 281-244-3434  
www.danielandbrown.com

North Collin W.S.C.  
Proposed SUD Boundary

EVIDENCE

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

For  
To: Justin P. Taack, Manager  
Districts Section  
Date: August 4, 2015  
8/4/15  
Thru: Seyed Miri, P. E., Leader  
Districts Creation Review Team  
8/4/15  
From: Sheresia Perryman  
Districts Creation Review Team  
8/4/15  
Subject: Resolution for Conversion of North Collin Water Supply Corporation to North Collin Special Utility District of Collin County; Pursuant to Texas Water Code, §§ 65.014 and 65.021, and 30 Texas Administrative Code § 293.11.  
TCEQ Internal Control No. D-03202015-033 (TC)  
CN: 600651681 RN: 101207975

### A. GENERAL INFORMATION

The Texas Commission on Environmental Quality (TCEQ) received a resolution from North Collin Water Supply Corporation (WSC) requesting approval for conversion to North Collin Special Utility District (SUD) of Collin County (District).

North Collin WSC is a non-profit, member owned and controlled water supply corporation as defined by Texas Water Code (TWC) § 65.001(10)(B). North Collin WSC is authorized to provide water service to approximately 2,174 active meters/households under Certificate of Convenience and Necessity (CCN) No. 11035.

A 20-page boundary description and map of the proposed District were provided with the preliminary engineering report. The proposed District would contain an area of approximately 40 square miles (25,332 acres) in Collin County. There are other municipal entities, in whole or in part, within the boundaries of the proposed District, as noted below. A map of the proposed District area was provided and reviewed, and appears to generally reflect the CCN No. 11035 boundary. The proposed District does not propose to change the CCN boundary with this application. The CCN boundary includes several dually certified areas within it, comprising in whole or in part: the Town of New Hope, the City of Weston, the City of Melissa, the City of Anna, and Milligan WSC. Each of these entities has provided resolutions or other instruments of consent for inclusion of areas of overlap within the proposed District.

Exhibit "B"



Pursuant to 30 Texas Administrative Code (30 TAC) § 293.11(h)(9), the proposed District has provided an acceptable order dated February 19, 2015, canvassing the vote of North Collin WSC's membership, which indicates an affirmative vote to authorize conversion to a Special Utility District (89 in favor, 20 against, and no abstentions).

According to the application material received, the proposed District's initial Board of Directors will consist of the following persons:

Jimmie Drury	Ellen Hartley	Richard F. Hoenigman
Debbie Herbst	Duke G. Monson	James R. Smith

According to the resolution, each of the above listed persons meets the director qualifications established under TWC § 65.102. An executed affidavit for each of the proposed directors has been provided.

The resolution further states that the assets and debts of North Collin WSC and the related CCN will be transferred to the proposed District and that North Collin WSC will be dissolved immediately upon said transfer.

## **B. SPECIAL CONSIDERATIONS**

### **1. History and Boundary**

North Collin Water Supply Corporation was created in 1979 to provide water supply to the members of the corporation. The Public Utility Commission (PUC) issued the water CCN No. 11035 on November 1, 1979. Upon creation of the proposed District, the CCN boundary originally held by North Collin WSC will remain unchanged.

### **2. Proper Notice**

In compliance with 30 TAC § 293.12(d), the North Collin WSC provided evidence of notice of its conversion resolution to its customers and other affected parties.

### **3. Request for Hearing**

TCEQ did not receive any requests for a contested case hearing related to the resolution filed by North Collin WSC.

### **4. Potential Growth**

The engineering report indicates that there are approximately 6,305 persons and approximately 2,174 water service connections within North Collin WSC's service area, and the population of the area is modestly increasing. Because no market study was provided, staff has no comment on projections. The conversion is feasible without any growth occurring.

### **C. GENERAL EFFECTS OF CONVERSION**

Some general effects of conversion from a Water Supply Corporation (WSC) to a Special Utility District (SUD) include the following:

1. A SUD is a political subdivision and can issue tax exempt revenue bonds on the open market or for purchase by the Texas Water Development Board.
2. A SUD is exempt from ad valorem taxes (usually county and school district) on its personal property, utility lines, and plant facilities.
3. A SUD is exempt from sales taxes on supplies and services.
4. A SUD is subject to the Open Meetings and Open Records Act.
5. A SUD must have an annual audit conducted and file the audit with the TCEQ.
6. A SUD must follow statutory bid advertisement and contract provisions for districts.
7. A SUD is subject to the continuing right of supervision by the TCEQ.

### **D. CONCLUSIONS**

1. Based on TCEQ policy and its compliance with TCEQ rules, the proposed District is considered feasible, and would be necessary as a means to finance utilities and to provide utility service to current and future customers. Further, the proposed District's purposes are considered practicable and would be a benefit to the land within the proposed District.
2. Based on a review of the preliminary engineering report, financial report, and other supporting documents, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC § 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the TCEQ.

### **E. RECOMMENDATIONS**

1. Grant North Collin Water Supply Corporation's application for conversion with the name of the District being North Collin Special Utility District of Collin County, with the boundary of the District in accordance with the twenty-page boundary description (and attached map) received with the application.

2. The order granting the resolution should include the following statements:

"This order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the conversion application, nor as a commitment or requirement of the TCEQ in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for TCEQ consideration".

"Upon a successful confirmation election, the assets and debts of North Collin Water Supply Corporation are to be transferred to North Collin Special Utility District of Collin County as expeditiously as practicable and dissolution proceedings of North Collin Water Supply Corporation are to be commenced immediately after such transfer".

3. Appoint the following to serve as temporary directors of the District:

Jimmie Drury	Ellen Hartley	Richard F. Hoenigman
Debbie Herbst	Duke G. Monson	James R. Smith

4. Direct the Board of Directors to canvass the confirmation election returns and submit such canvassing to the Districts Section of the TCEQ and to the PUC within thirty (30) days of the board meeting at which such returns are canvassed.
5. Direct the Board of Directors, that upon a vote of the populace confirming the creation of the district, to take action necessary to dissolve the WSC and submit documentation evidencing such to the TCEQ's Districts Section and to the PUC when available.
6. Contingent upon a successful confirmation election and dissolution of the WSC, CCN No. 11035 will be issued by the PUC in the name of North Collin Special Utility District of Collin County in order to ensure continued service for all customers currently served by North Collin Water Supply Corporation.
7. Direct the District that if fees to be assessed meet the definition of an impact fee as stated in 30 TAC § 293.171, then requirements stated in 30 TAC § 293.171 through 30 TAC § 293.176 need to be satisfied prior to assessing the fee.

#### **F. FEASIBILITY**

The engineering report dated March 2015 indicates that North Collin WSC's number of connections is expected to increase moderately. No specific development plan is assumed in examining the feasibility of the proposed District.

According to the engineering report, the service rates in effect at the time of the conversion will be charged to District customers. The rates are detailed as follows:

### Water Rates

As provided in the engineering report, the current water rates the North Collin WSC charges for standard service are as follows:

Minimum Monthly Charge     \$22.00    5/8" x 3/4" meter

Usage Rate:    \$4.41 per 1,000 gallons for 0-10,000 gallons;  
                     \$4.69 per 1,000 gallons for 10,001 – 20,000 gallons;  
                     \$4.99 per 1,000 gallons over 20,000 gallons

Based on 10,000 gallons usage, the water rate would be \$66.10 per month. North Collin WSC's other rates, fees, operation rules and regulations are outlined in its approved tariff.

### **G. PURPOSE**

According to the engineering report, the purpose of converting to a SUD is to become a public entity and a political subdivision of the State of Texas, thereby having a tax-exempt status. There will be a financial benefit to the proposed District associated with having a sales tax exemption, and by paying a lower interest rate on tax-exempt debt for any future system improvements. Additionally, the proposed District would be subject to lower insurance rates, and would be in a better position to participate in future regional projects, should they become necessary.

According to the engineering report, the District will continue to provide the same services as North Collin WSC, and North Collin WSC desires to convert for the added benefits of being a special utility district as outlined in Section C of this memorandum.

### Availability of Comparable Services

The engineering report indicates that there is no entity other than the proposed District providing, or capable of providing, the capacity to serve the same area with comparable services. Additionally, since North Collin WSC is the certificated water supplier for the area, no other entity other than the proposed District presently has the ability to serve the proposed District area. Conversion to a SUD should not affect service as currently provided by North Collin WSC.

### Water Supply Facilities

The water distributed by North Collin WSC is purchased from the North Texas Municipal Water District. The existing North Collin WSC water storage and distribution facilities are as follows:

Justin P. Taack, Manager

August 4, 2015

Page 6

<u>Facility</u>	<u>Number</u>	<u>Capacity</u>
Pump Station #1		
Ground Storage Tank	1	450,000 gal
Ground Storage Tank	2	80,000 gal
Pressure Tank	1	10,000 gal
Pressure Tank	1	5,500 gal
40 HP Booster Pump	2	-----
100 HP Booster Pump	1	-----
Pump Station #3		
Ground Storage Tank	1	150,000 gal
Pressure Tank	2	5,000 gal
40 HP Booster Pump	2	-----
Pump Station #4		
Ground Storage Tank	1	450,000 gal
Ground Storage Tank	1	80,000 gal
100 HP Booster Pump	2	-----
Purchased Water		
North Texas Municipal	1	meter vault
Water District		
City of McKinney	-----	-----
(emergency only)		

Water is distributed from the referenced facilities through water lines of various lengths and diameters as noted on the following table:

<u>Line Diameter</u>	<u>Linear Feet (lf)</u>
1"	945 lf
1.5"	70,744 lf
2"	221,165 lf
2.5"	70,485 lf
3"	69,116 lf
4"	208,479 lf
5"	18,972 lf
6"	156,199 lf
8"	93,224 lf
10"	80,373 lf
12"	20,075 lf

### Wastewater Facilities

Currently there is no centralized wastewater collection and treatment system within the proposed District. On-site wastewater systems such as septic and aerobic systems are utilized, and permitting for on-site wastewater systems is inspected and approved through the county. Although wastewater service may be provided by the proposed District at a future time, no such service is currently contemplated.

### Drainage

There is no stormwater drainage system administered by the North Collin WSC. The area is predominantly rural, and natural drainage patterns are sufficient for conveyance of stormwater. The proposed District does not plan to provide drainage service at this time.

## **H. DESCRIPTION AND IMPACT ON NATURAL RESOURCES**

Creation of the proposed District is expected to have a negligible effect on land elevation, subsidence, groundwater levels, recharge capability of groundwater, run-off rates and drainage, and water quality on land within the proposed District.

### Floodplain

According to the engineering report, flooding within the boundaries of the proposed District is limited to areas adjacent to the existing rivers and creeks. The 100-year flood levels vary depending on elevation and proximity to the creeks and rivers. All of the corporation's facilities are located above the 100-year flood plain. There are no planned facilities which would alter drainage or flooding patterns. No FEMA information was provided with the engineering report.

## **I. ADDITIONAL INFORMATION**

North Collin WSC's professional representatives are:

Attorney: Mr. John Rapier – Gay, McCall, Isaacks, Gordon & Roberts

Engineer: Mr. Eddy Daniel, P.E. – Daniel and Brown, Inc.

## **ATTACHMENT E**



Control Number: 46452



Item Number: 62

Addendum StartPage: 0



**PUC DOCKET NO. 46452  
SOAH DOCKET NO. 473-17-2085.WS**

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**APPLICATION OF ALTOGA WATER §  
SUPPLY CORPORATION AND §  
NORTH COLLIN SPECIAL UTILITY §  
DISTRICT FOR SALE, TRANSFER, §  
OR MERGER OF FACILITIES AND §  
CERTIFICATE RIGHTS IN COLLIN §  
COUNTY §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER**

This Order addresses the application of Altoga Water Supply Corporation and North Collin Special Utility District (collectively, applicants) for the sale, transfer, or merger of facilities and certificate rights in Collin County. The Commission approves the transfer of facilities and certificate rights formerly held by Altoga WSC to North Collin SUD to the extent provided in this Order.

The Commission adopts the following findings of fact and conclusions of law:

**I. Findings of Fact**

**Applicants**

1. Altoga WSC is a Texas non-profit corporation registered with the Texas Secretary of State under file number 21199101.
2. Altoga WSC provides water service in Collin County under certificate of convenience and necessity (CCN) number 12580.
3. North Collin SUD is a district that provides water service in Collin County under CCN number 11035.
4. On June 10, 2016, North Collin SUD assumed the responsibility for the operation and maintenance of Altoga WSC's public water system under an operations and maintenance agreement.



**Application**

5. On October 18, 2016, applicants filed an application to transfer facilities and CCN rights in Collin County from Altoga WSC to North Collin SUD. The applicants also requested cancellation of Altoga WSC's CCN number 12580.
6. North Collin SUD seeks approval to acquire all of the water system assets of Altoga WSC and the area certificated to the Altoga WSC CCN.
7. The total area requested in this application includes approximately 4,160 acres and 338 current customers.
8. The area subject to this transaction is located approximately 4.3 miles east and northeast of downtown McKinney, is roughly bounded on the north by County Road 471, on the east by Sister Grove Creek, on the south by County Road 408 and County Road 464, and on the west by County Roads 989 and 988.
9. On November 3, 2016, North Collin SUD and Altoga WSC filed a supplement to the application, which provided the latest Texas Commission on Environmental Quality (TCEQ) inspection letter, dated February 24, 2015, together with a TCEQ compliance letter dated December 10, 2015.
10. In Commission Order No. 2 issued on November 22, 2016, the Commission administrative law judge (ALJ) deemed the application administratively complete.

**Notice**

11. Notice of the application appeared in the November 4, 2016, issue of the *Texas Register*.
12. On November 21, 2016, North Collin SUD provided notice of the application by first-class mail to neighboring utilities, cities, and affected parties.
13. On December 2, 2016, Altoga WSC provided notice of the application by mail to current customers, neighboring utilities, cities, and affected parties. Altoga WSC also posted the notice at the local post office and on its website.
14. On December 15, 2016, applicants filed the affidavits of Allen Knight, General Manager of Altoga WSC, and John Rapier, attorney for North Collin SUD, affirming proof of notice.

15. In Commission Order No. 3, issued on January 10, 2017, the Commission ALJ deemed the notice provided by applicants sufficient.

**Intervention**

16. On January 25, 2017, the City of Princeton filed a motion to intervene.
17. In State Office of Administrative Hearings (SOAH) Order No. 3 issued on February 6, 2017, the SOAH ALJ granted the City of Princeton's motion to intervene.

**Referral to SOAH for a Hearing**

18. On December 15 and 20, 2016, the City of Princeton filed requests for a hearing and opposition to the application because the requested area is within its extraterritorial jurisdiction. The City of Princeton expressed interest in serving the requested area.
19. On January 11, 2017, the Commission referred this application to SOAH for assignment of an ALJ to conduct a hearing and issue a proposal for decision, if necessary.
20. On February 9, 2017, the Commission issued a preliminary order identifying the issues to be addressed in the hearing.
21. Between February and December 2017, the parties requested and received multiple extensions of time to file a procedural schedule.
22. On December 5, 2017, North Collin SUD notified the SOAH ALJs that the parties had executed a settlement agreement (the agreement) resolving all issues in dispute regarding this docket and a related matter, Docket No. 46835.<sup>1</sup> As part of the Agreement, the City of Princeton agreed to withdraw its objections to this docket. Applicants and the City of Princeton did not request that the Agreement be admitted into evidence in this proceeding, but that its contents be addressed as part of Docket No. 46835.

**Remand to the Commission**

23. On January 18, 2018, North Collin SUD filed a motion to remand this case to the Commission for continued processing in accordance with the terms of the Agreement.

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<sup>1</sup> *Application of City of Princeton to Amend its Water and Sewer Certificates of Convenience and Necessity and to Decertify a Portion of Altoga Water Supply Corporation's Water Service Area in Collin County*, Docket No. 46835 (pending).

24. In SOAH Order No. 9 issued on January 26, 2018, the SOAH ALJ remanded the case to the Commission and dismissed the proceeding from the docket of SOAH.

**Adequacy of Existing Service**

25. North Collin SUD currently holds and will retain its existing water CCN No. 11035. The geographic area certificated under CCN number 11035 will be expanded to include the area formerly certificated to Altoga WSC's CCN number 12580.
26. North Collin SUD currently operates and maintains all of the Altoga WSC water system, by contract, until the acquisition occurs. Upon approval of the acquisition, North Collin SUD will assume direct control over Altoga WSC's water system.
27. North Collin SUD has an approved TCEQ public water system (PWS), number 0430055, with an adequate water supply that it purchases from the North Texas Municipal Water District. The PWS is capable of providing drinking water that meets the requirements of Texas Health and Safety Code, chapter 341, and TCEQ rules, and has access to an adequate supply of water.
28. North Collin SUD purchases treated water, on a regular basis, from the North Texas Municipal Water District.
29. North Collin SUD has professional management and licensed operators to provide adequate water service.
30. North Collin SUD already provides, and will continue to provide, adequate service to the area being transferred.

**Need for Service**

31. There are 338 current customers in the area to be transferred.

**Effect of Granting the Application on Retail Public Utilities and Landowners**

32. The applicants and landowners in the area are not adversely affected because North Collin SUD is already using the facilities to serve the requested area.

**Financial Ability to Pay For, Operate, and Manage Facilities**

33. North Collin SUD has the financial resources to operate and manage Altoga WSC's system and the ability to provide continuous and adequate service to the requested area.
34. North Collin SUD is capable of providing continuous and adequate service to the requested area and the transfer will serve the public interest.
35. North Collin SUD meets the debt-service-coverage ratio requirement of more than 1.25.
36. North Collin SUD has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations.
37. North Collin SUD has demonstrated adequate financial, managerial, and technical capabilities to provide service to the requested area.

**Environmental Integrity and Effect on Land**

38. Granting this transaction will not adversely impact the environmental integrity of the land because the land included in the area being transferred is already being served.

**Feasibility of Obtaining Service from an Adjacent Retail Public Utility**

39. It is more feasible for North Collin SUD to provide service in the area than it is for other nearby retail public utilities because it is already doing so.

**Improvement of Service or Lowering Costs**

40. North Collin SUD's rates are lower than Altoga WSC's rates; therefore, Altoga WSC's customers may experience a decrease in water rates.
41. Granting this transaction will provide Altoga WSC's customers with a better-managed and more financially stable water system.

**Following Remand from SOAH**

42. In Commission Order No. 5 issued on February 16, 2018, the Commission ALJ approved the transaction to proceed.
43. On March 12, 2018, applicants filed affidavits regarding the closing of the transaction.

44. In Commission Order No. 6 issued on March 26, 2018, the Commission ALJ found the closing documents sufficient and customer deposits properly addressed, and established a procedural schedule for final processing.
45. On April 10, 2018, applicants filed signed consent forms concurring with the final map and certificates as prepared by Commission Staff.

**Evidence**

46. On April 25, 2018, Commission Staff and applicants filed a joint motion to admit evidence.
47. In Commission Order No. 7 issued on August 13, 2018, the Commission ALJ granted the joint motion to admit evidence and admitted the following evidence into the record: (a) the application and attachments filed on October 18, 2016; (b) *Texas Register* acknowledgement filed on October 25, 2016; (c) supplemental information to the application filed on November 3, 2016; (d) affidavits of notice to customers and to current customers, neighboring utilities, and cities filed on December 15, 2016; (e) Commission Staff's recommendation on the sufficiency of notice filed on January 5, 2017; (f) Commission Staff's recommendation for approval of the sale to proceed filed on February 14, 2017; (g) Commission Staff's memorandum in support of recommendation approving sale to proceed filed on February 14, 2017; (h) applicants' three affidavits regarding closing documentation filed on March 12 and 15, 2015; (i) Commission Staff's recommendation to find closing documentation sufficient filed on March 22, 2018; and (j) signed consent forms from Altoga WSC and North Collin SUD filed on April 10, 2018.

**Certificates**

48. Altoga WSC has sold all of its water systems and will no longer provide service.
49. Altoga WSC has no further need for CCN number 12580; therefore, it should be cancelled.
50. On March 6, 2019, the Commission ALJ filed an order requiring Commission Staff to file an amended CCN number 11035 for North Collin SUD.
51. On March 11, 2019, Commission Staff filed an amended CCN number 11035 for North Collin SUD.

**Informal Disposition**

52. More than 15 days have passed since the completion of the notice provided in this docket.
53. Altoga WSC, North Collin SUD, the City of Princeton, and Commission Staff are the only parties to this proceeding.
54. No protests, motions to intervene, or requests for hearing were filed that have not been dealt with and Commission Staff waived its request for a hearing.
55. This decision is not adverse to any party.
56. No hearing is necessary.
57. On April 25, 2018, Commission Staff recommended approval of the application.

**II. Conclusions of Law**

1. The Commission has jurisdiction over this application under Texas Water Code (TWC) §§ 13.041, 13.241, 13.244, 13.246, 13.251, 13.254, and 13.301.
2. Altoga WSC and North Collin SUD are retail public utilities as defined in TWC § 13.002(19) and 16 Texas Administrative Code (TAC) § 24.3(59).
3. Applicants provided notice of the application as required by TWC § 13.301(a)(2) and 16 TAC § 24.239.
4. The Commission processed the application in accordance with the requirements of TWC, the Administrative Procedure Act,<sup>2</sup> and Commission rules.
5. Applicants completed the sale within 180 days from the date the Commission approved the sale to proceed as required by 16 TAC § 24.239(o).
6. North Collin SUD has demonstrated adequate financial, managerial, and technical capability for providing continuous and adequate service to the requested area and its current service area as required by TWC §§ 13.301(b) and 13.241.

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<sup>2</sup> Tex. Gov't Code ch. 2001.

7. The sale of facilities and the transfer of service area requested in the application is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.246(b).
8. Under TWC § 13.257(r) and (s), North Collin SUD is required to record a certified copy of the approved CCN and map, along with a boundary description of the service area, in the real property records of each county in which the service area or a portion of the service area is located, and submit to the Commission evidence of the recording.
9. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

### **III. Ordering Paragraphs**

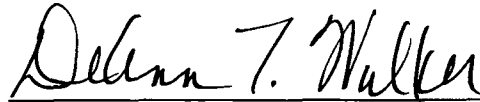
In accordance with these findings of fact and conclusions of law, the Commission issues the following order:

1. The Commission approves North Collin SUD's purchase of Altoga WSC's water systems identified in this Order and operated under water CCN number 12580.
2. The Commission amends North Collin SUD's CCN number 11035 to include the area described by this Order and shown on the map attached to this Order.
3. The Commission grants the certificate attached to this Order.
4. The Commission cancels Altoga WSC's CCN number 12580.
5. North Collin SUD must serve every customer and applicant for service within the approved area under water CCN number 11035 that requests water service and meets the terms of North Collin SUD's water service, and such service will be continuous and adequate.
6. North Collin SUD must comply with the recording requirements in TWC § 13.257(r) and (s) for the area in Collin County affected by the application.
7. North Collin SUD must submit to the Commission evidence of the recording no later than 30 days after the recording required by ordering paragraph 6.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.



Signed at Austin, Texas the 13<sup>th</sup> day of March 2019.

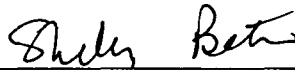
PUBLIC UTILITY COMMISSION OF TEXAS



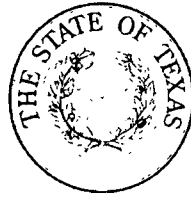
DEANN T. WALKER, CHAIRMAN



ARTHUR C. D'ANDREA, COMMISSIONER



SHELLY BOTKIN, COMMISSIONER



# Public Utility Commission of Texas

## By These Presents Be It Known To All That North Collin Special Utility District

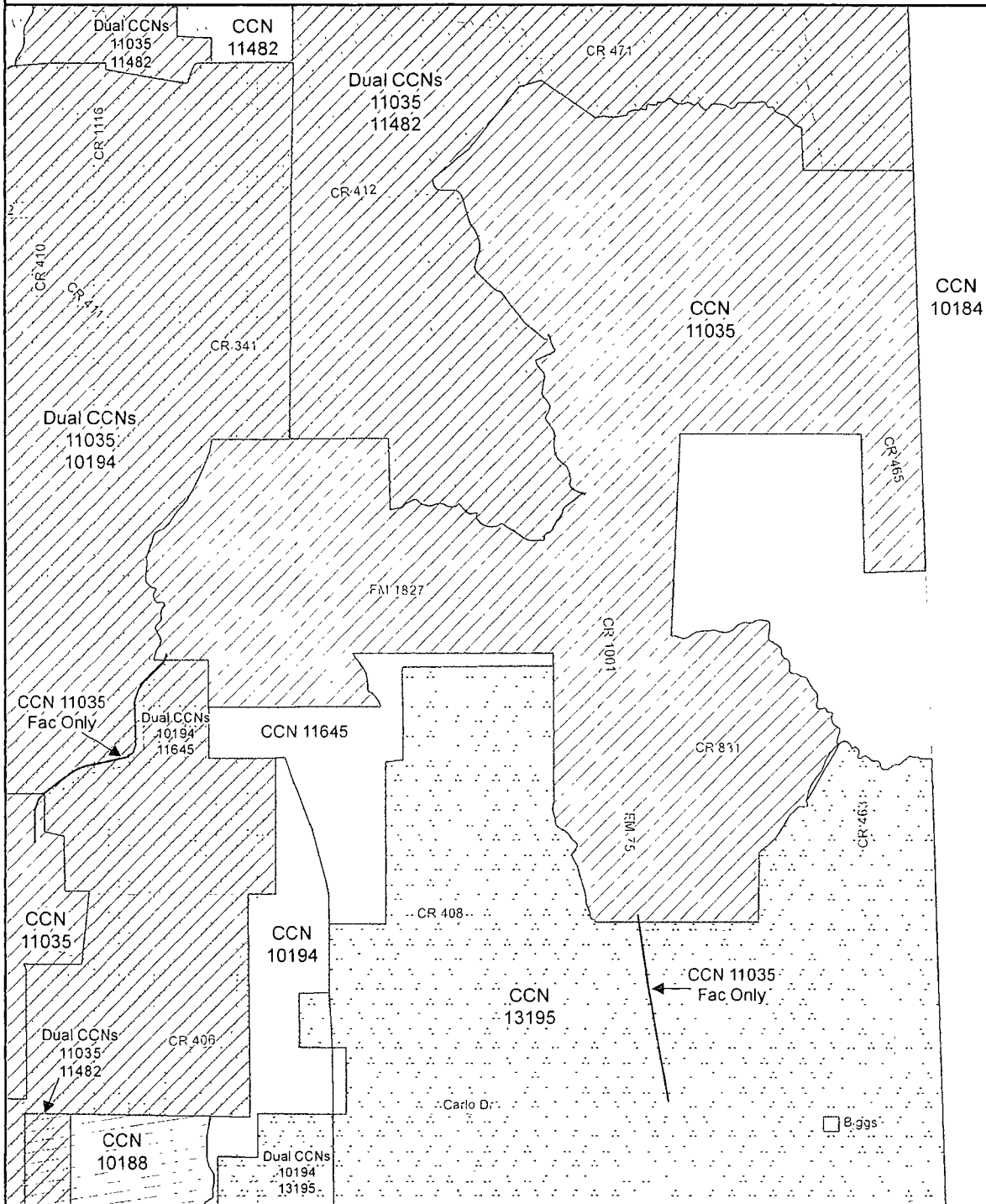
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, North Collin Special Utility District is entitled to this

### Certificate of Convenience and Necessity No. 11035

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 Docket No. 46452 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 North Collin 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.

Issued at Austin, Texas, this 13<sup>th</sup> day of March 2019.

North Collin Special Utility District  
 Portion of Water CCN No. 11035  
 PUC Docket No. 46452  
 Transferred all of Altoga WSC, CCN No. 12580 in Collin County



0 1,500 3,000  
 Feet



**Water CCN**

- 11035 - North Collin SUD
- 11482 - City of Melissa
- 10184 - Verona WSC
- 13195 - City of Princeton
- 11645 - Windmill Estates Water
- 10194 - City of McKinney
- 10188 - Milligan WSC

**Water CCN Facility Line**

- 11035 - North Collin SUD



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

Map by Komal Patel  
 Date created March 5, 2018  
 Project Path n:\vinalmapping\46452NorthCollin.mxd