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DOCKET NO. 52518

PETITION OF VPTM CROSS CREEK LB, LLC TO AMEND MARILEE SPECIAL UTILITY DISTRICT'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN COLLIN COUNTY BY EXPEDITED RELEASE	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**COMMISSION STAFF'S SUPPLEMENTAL RECOMMENDATION ON
ADMINISTRATIVE COMPLETENESS AND NOTICE**

On September 3, 2021, Clifton Van McKnight and Bryan Jeffrey McKnight (Petitioners) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee SUD) water Certificate of Convenience and Necessity (CCN) No. 10150 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). Since filing the petition, the property at issue was sold to VPTM Cross Creek LB, LLC (VPTM). As such, on October 6, 2021, VPTM filed an amended petition. VPTM asserts that the land to be released is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county.¹ According to the U.S. Census Bureau, Collin County has a population of 1,064,465.² On November 4, 2021 and December 9, 2021, VPTM filed supplemental information.

On December 10, 2021, the administrative law judge (ALJ) filed Order No. 5, establishing a deadline of December 23, 2021 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a supplemental recommendation on the administrative completeness of the petition and notice and to propose a procedural schedule. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the amended petition as supplemented and, as detailed in the attached memorandum from Patricia Garcia, Infrastructure Division, recommends that the petition is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the petition.

¹ TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).

² U.S. Census Bureau, Census Data for Collin County, QuickFacts Collin County, Texas (2020) <https://www.census.gov/quickfacts/fact/table/collincountytexas/POP010220>.

II. NOTICE SUFFICIENCY

Under 16 TAC § 24.245(h)(3)(f), a landowner seeking streamlined expedited release must provide proof that a copy of the petition was mailed to the current CCN holder via certified mail on the day that the landowner filed the petition with the Commission. VPTM filed a second amended petition to comply with this requirement and included a certificate of service, certifying that it mailed a copy of the second amended petition to the CCN holder, Marilee SUD, by certified mail on the day it was filed with the Commission. Accordingly, Staff recommends that the notice is sufficient.

III. PROCEDURAL SCHEDULE

Under 16 TAC § 24.245(h)(7), there is an expedited deadline of 60 days for approval of the requested release that begins once the ALJ issues an order finding a petition administratively complete. Staff recommends that the petition be found administratively complete. Therefore, Staff proposes the following procedural schedule and requests that the ALJ populate the deadlines accordingly when the ALJ issues that order.

Event	Date
Deadline for Marilee SUD and intervenors to file a response to the administratively complete petition	20 days from the date of the order finding the petition administratively complete
Deadline for Staff’s recommendation on final disposition	34 days from the date of the order finding the petition administratively complete
Deadline for petitioner to file a reply to both Marilee SUD’s response and Staff’s recommendation on final disposition	41 days from the date of the order finding the petition administratively complete
Sixty-day administrative approval of streamlined expedited release	60 days from the date of the order finding the petition administratively complete
<i>In the event streamlined expedited release is granted and petitioner and Marilee SUD can select an agreed-upon appraiser</i>	
Deadline for petitioner and Marilee SUD to make a filing stating that they have selected an agreed-upon appraiser	Within 10 days after the Commission approves streamlined expedited release
Deadline for appraiser’s report	Within 70 days after the Commission approves streamlined expedited release

Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Marilee SUD	Within 60 days after appraiser's report
Deadline for petitioner to pay any compensation due to Marilee SUD	Within 90 days of the Commission's final order on compensation
<i>In the event streamlined expedited release is granted and petitioner and Marilee SUD are unable to select an agreed-upon appraiser</i>	
Deadline for petitioner and Marilee SUD to make a filing stating that they have been unable to select an agreed-upon appraiser and affirming that they will pay half of the cost of Commission Staff's appraiser ³	Within 10 days after the Commission approves streamlined expedited release ⁴
Deadline for reports from petitioner's appraiser and Marilee SUD's appraiser	Within 70 days after the Commission approves streamlined expedited release
Deadline for Staff's appraiser's report	Within 100 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by petitioner to Marilee SUD	Within 60 days after the Commission receives the final appraisal
Deadline for petitioner to pay any compensation due to Marilee SUD	Within 90 days of the Commission's final order on compensation

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the petition be found administratively complete, that the notice be found sufficient, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

³ TWC § 13.2541(i).

⁴ It is critical for Staff to know as soon as possible after the Commission grants the petition whether Staff needs to secure the services of a third appraiser. If the petitioner and CCN holder are unable to agree, and fail to make this filing, Staff may need additional time to file its appraiser's report.

Dated: December 22, 2021

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

Rustin Tawater
Managing Attorney

/s/ Scott Miles
Scott Miles
State Bar No. 24098103
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7228
(512) 936-7268 (facsimile)
Scott.Miles@puc.texas.gov

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CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on December 22, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Scott Miles
Scott Miles

Public Utility Commission of Texas

Memorandum

TO: Scott Miles, Attorney
Legal Division

FROM: Patricia Garcia, Senior Engineering Specialist
Infrastructure Division

DATE: December 22, 2021

RE: Docket No. 52518 – *Petition of VPTM Cross Creek LB, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*

On September 3, 2021, Clifton Van McKnight and Bryan Jeffrey McKnight (Petitioners) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee SUD) water certificate of convenience and necessity (CCN) No. 10150 in Collin County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h).

On October 6, 2021, legal counsel for the Petitioners submitted an amendment to the petition indicating that the land had been sold to VPTM Cross Creek LB, LLC (VPTM) since the filing of the original petition and that VPTM wishes to continue pursuing the streamlined expedited release from Marilee SUD’s water CCN No. 10150 in Collin County, under TWC § 13.2541(b) and 16 TAC § 24.245(h). The amendment to the petition was accepted by the Commission and the docket was restyled to include VPTM and remove the original petitioners. VPTM asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county. VPTM asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county.

VPTM submitted a sworn affidavit attesting that the property was not receiving water service from Marilee SUD and a warranty deed confirming VPTM’s ownership of the tract of land. Based on the mapping review by Tracy Montes, Infrastructure Division, the revised maps and the digital mapping data filed on November 4, 2021 are sufficient for determining the location of the tract of land considered for streamlined expedited release is located within Marilee SUD’s water CCN.

Based on the mapping review by Ms. Montes it was determined the tract of land considered for release from Marilee SUD, CCN No. 10150, is approximately 62.7 acres.

On December 9, 2021, VPTM filed a second amended petition to comply with the notice requirement. Specifically, the second amended petition included a statement indicating a copy of the second amended petition was sent via certified mail to Marilee SUD on the date it was filed with the Commission.

Based on the mapping review by Ms. Montes and my technical and managerial review of the additional information provided by VPTM on November 4, 2021 and December 9, 2021, I recommend the petition be deemed administratively complete and accepted for filing.