



## Filing Receipt

**Received - 2021-10-25 01:39:04 PM**

**Control Number - 52529**

**ItemNumber - 13**

PETITION BY EAST TIOGA 581 LP	§	BEFORE THE
FOR EXPEDITED RELEASE FROM	§	
WATER CCN NO. 10150	§	PUBLIC UTILITY COMMISSION
HELD BY MARILEE SPECIAL UTILITY	§	
DISTRICT IN GRAYSON COUNTY	§	OF TEXAS

**EAST TIOGA 581, LP'S RESPONSE TO MARILEE SPECIAL UTILITY DISTRICT'S  
MOTION TO DISMISS**

**TO THE PUBLIC UTILITY COMMISSION OF TEXAS:**

Petitioner East Tioga 581, LP files this Response to Marilee Special Utility District's Motion to Dismiss and shows that Grayson County is a qualifying county under Texas Water Code 13.2541(b) and Texas Administrative Code 24.245(h) as follows:

1. The owner of a tract of land may petition the Public Utility Commission of Texas (the "Commission") for streamlined expedited release ("SER") if, among other things, the land is located adjacent to a county with a population of at least one million and does not have a population of between 45,000 and 47,000. *See* TEX. WATER CODE § 12.2541(b); 16 TEX. ADMIN CODE § 24.254(h). Grayson County is adjacent to Collin County, which has a population of 1,064,465 according to the 2020 census. *See* <https://www.census.gov/quickfacts/collincountytexas>. Grayson County has a population of 135,543 per the 2020 Census.

<https://www.census.gov/quickfacts/fact/table/graysoncountytexas>. Its population, therefore, is not "more than 45,000 and less than 47,500". TEX. WATER CODE SEC. 12.2541(b); 16 TEX. ADMIN CODE SEC. 24.254(h). In other words, the population does not lie between 45,000 and 47,500. Therefore, Grayson County qualifies for SER.

2. In its Motion to Dismiss, Marilee stipulates that Grayson County is adjacent to Collin County – a county with a population of at least one million. *See* Motion to Dismiss at ¶ 9. However, Marilee insists that Grayson County is not a qualifying county because it has a

population of over 47,500. *See id.* Marilee misreads the bracketing provision of the law. The bracketing provision excepts counties adjacent to counties with populations of at least one million from participation in SER only if that county has a population between 45,000 and 47,500. Grayson County has a population of 135,543, so it does not fall into that bracket. By Marilee's reasoning, all counties that are adjacent to a county with a population of at least one million would be excluded from SER if the county has a population of over 47,500. A number of counties on the Commission's list of qualifying counties, based on the 2010 census, exceed 47,500. Similarly, under Marilee's reasoning, all counties with a population of below 45,000 would be excluded from SER. This is directly contrary to the intent of the bracket as only those counties adjacent to a county with a population of at least one million with a population of between 45,000 and 47,500 would be qualified counties.

WHEREFORE, Grayson County is adjacent to Collin County, a county with a population of 1,064,465, has a population of 135,543 and does not fall into the statutory bracketing exceptions, Grayson County is a qualifying county under Texas Water Code 13.2541(b) and Texas Administrative Code 24.245(h). Accordingly, Petitioner requests that Marilee's Motion to Dismiss be denied.

Respectfully submitted,

COATS | ROSE

By:



Natalie B. Scott

State Bar No. 24027970

nscott@coatsrose.com

Terrace 2

2700 Via Fortuna, Suite 350

Austin, Texas 78746

(512) 469-7987 Telephone

(512) 469-9408 Telecopier

**ATTORNEY FOR PETITIONER  
EAST TIOGA 581, LP**

**CERTIFICATE OF SERVICE**


I hereby certify that on this 25<sup>th</sup> day of October, 2021, a true and correct copy of the foregoing document was sent, via electronic mail to all parties of record, in accordance with the Order Suspending Rules, issued in Project No. 50664.

**Attorneys for Marilee SUD:**

John J. Carlton and Grayson E. McDaniel  
The Carlton Law Firm, P.L.L.C.  
4301 Westbank Drive, Suite B-130  
Austin, Texas 78746  
Email: [john@carltonlawaustin.com](mailto:john@carltonlawaustin.com)  
Email: [grayson@carltonlawaustin.com](mailto:grayson@carltonlawaustin.com)

**Attorney for Commission Staff:**

Arnett D. Caviel, Attorney-Legal Division  
Public Utilities Commission of Texas  
1701 N. Congress Ave.  
P.O. Box 13326  
Austin, Texas 78711-3326  
Email: [Arnett.Caviel@puc.texas.gov](mailto:Arnett.Caviel@puc.texas.gov)

  
\_\_\_\_\_  
Natalie B. Scott