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DOCKET NO. 52532

**PETITION OF E REAL ESTATE TO § PUBLIC UTILITY COMMISSION
AMEND MARILEE SPECIAL §
UTILITY DISTRICT'S CERTIFICATE § OF TEXAS
OF CONVENIENCE AND NECESSITY §
IN COLLIN COUNTY BY EXPEDITED §
RELEASE (TRACT 3) §**

**COMMISSION STAFF’S RESPONSE TO ORDER NO. 7 AND NOTICE OF INTENT TO
CHANGE RECOMMENDATION TO STANDARD PROCEDURAL SCHEDULE FOR
STREAMLINED EXPEDITED RELEASE DOCKETS**

On September 8, 2021, E Real Estate, LLC (E Real Estate) 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). E Real Estate asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, Texas, which is a qualifying county. On February 3, 2022, Marilee SUD filed a verified response and motion to dismiss.

On January 14, 2022, the administrative law judge (ALJ) filed Order No. 5, establishing a deadline of February 17, 2022 for the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation of final disposition and a deadline of February 24, 2022 for E Real Estate to file a reply to both Marilee SUD’s response and Staff’s recommendation. On February 17, 2022, Staff filed a recommendation on final disposition that that the petition be denied based on Marilee SUD’s response indicating that the tract of land is receiving service; which is evidenced by the presence of three active meters receiving water service and one water line that provides water service to two of the meters and are located on the portion of E Real Estate’s tract of land that E Real Estate requests to be released from Marilee SUD’s CCN.¹ On February 24, 2022, E Real Estate filed a reply to Marilee SUD’s response and Staff’s recommendation, indicating that that the relevant meters receiving service are not on the relevant portion of the tract of land to be released. Based on this reply, the ALJ filed Order No. 7, concluding that the petitioner had met its burden of proof, that the petition should be granted, and that a Proposed Order would

¹ Marilee Special Utility District's Verified Response and Motion to Dismiss at 5-7 and Exhibits A, A-1, A-2, A-3, B, and B-1 (Feb. 3, 2022) (Response).

be issued to that effect. To ensure compliance with Commission precedent² and recommend potential changes to the standard procedural schedule for streamlined expedited release dockets that may help in the expedited process for dockets with circumstances like this pending docket, Staff files this pleading.

I. RESPONSE TO ORDER NO. 7

Staff has reviewed E Real Estate's reply and recommends that it is not clear whether the portion of the tract of land to be released includes structures served by the three meters discussed by E Real Estate.³ In Docket No. 52101, Commission Counsel filed a memo, reiterating the Commission's precedent that tracts of land to be released may not include active meters or structures served by meters at the time the petition is filed.⁴ Further, Commission Counsel also required the petitioner to file additional documentation to clearly identify all structures served by the relevant meter that was at issue in that docket.⁵ Although E Real Estate filed an affidavit from Frank G. Abbott, stating that the structures served by the three meters are all outside of E Real Estate's requested area, Staff notes that E Real Estate's map⁶ shows what appears to be at least 5 structures located on the requested area as highlighted on the map attached to this pleading. Further, Staff notes that it is possible that the northernmost structure may potentially be served by one of two meters, Nos. 812 or 1080, that are shown on Marilee SUD's map.⁷ Therefore, to ensure that E Real Estate has sufficiently complied with Commission precedent, Staff recommends that E Real Estate should be ordered to demonstrate that the 5 highlighted structures are not served by any of Marilee SUD's active meters, as well as any other structures located on the portion of the tract of land to be released that Staff may have missed.

² *Petition of CCD-North Sky, LLC to Amend Marilee Special Utility District's Certificate of Convenience and Necessity in Collin County by Expedited Release*, Docket No. 52101, Requiring Additional Information (Feb. 15, 2022).

³ E Real Estate, LLC's Reply to Marilee SUD's Verified Response, Motion to Dismiss and Commission Staff's Recommendation on Final Disposition (Feb. 24, 2022) (Reply).

⁴ Docket No. 52101, Requiring Additional Information.

⁵ *Id.*

⁶ Reply at Exhibit A.

⁷ Response at Exhibit B-1.

II. NOTICE OF INTENT TO CHANGE RECOMMENDATION TO STANDARD PROCEDURAL SCHEDULE FOR STREAMLINED EXPEDITED RELEASE DOCKETS

In recognition of the circumstances in which this docket has been processed, Staff recommends that an amendment to the standard procedural schedule may be necessary. Specifically, Staff can only base its recommendation on final disposition off of what has already been filed in a given docket. Had E Real Estate filed its reply to Marilee SUD’s verified response to the petition, it is possible that Staff would have filed a recommendation on final disposition that the petition be approved, notwithstanding the issue of the structures, located on the portion of the tract of land to be released, that may potentially receive water service. As such, Staff respectfully requests that the Commission take notice of Staff’s intent to change Staff’s standard recommendation to the proposed procedural schedule that Staff files in streamlined expedited release dockets. Specifically, Staff recommends that the petitioner should be required to file a reply to the CCN holder’s response to the petition before Staff files its recommendation on final disposition, as demonstrated in the following template procedural schedule prior to the compensation phase. In addition to this notice of Staff’s intent and before Staff begins to implement any changes, Staff welcomes any guidance or opinions from the ALJ and the Office of Policy and Docket Management.

Event	Date
Deadline for CCN holder to file a response to the administratively complete petition	20 days from the date of the order finding the petition administratively complete
Deadline for petitioner to file a reply to the CCN holder’s response	27 days from the date of the order finding the petition administratively complete
Deadline for 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

III. CONCLUSION

For the reasons detailed above, Staff recommends that E Real Estate be ordered to provide additional documentation to support its reply and that the Commission take notice of Staff's recommendation to amend the standard procedural schedule for streamlined expedited released dockets in general. Staff respectfully requests the entry of an order consistent with these recommendations.

Dated: March 3, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Rachelle Nicolette Robles
Division Director

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Managing Attorney

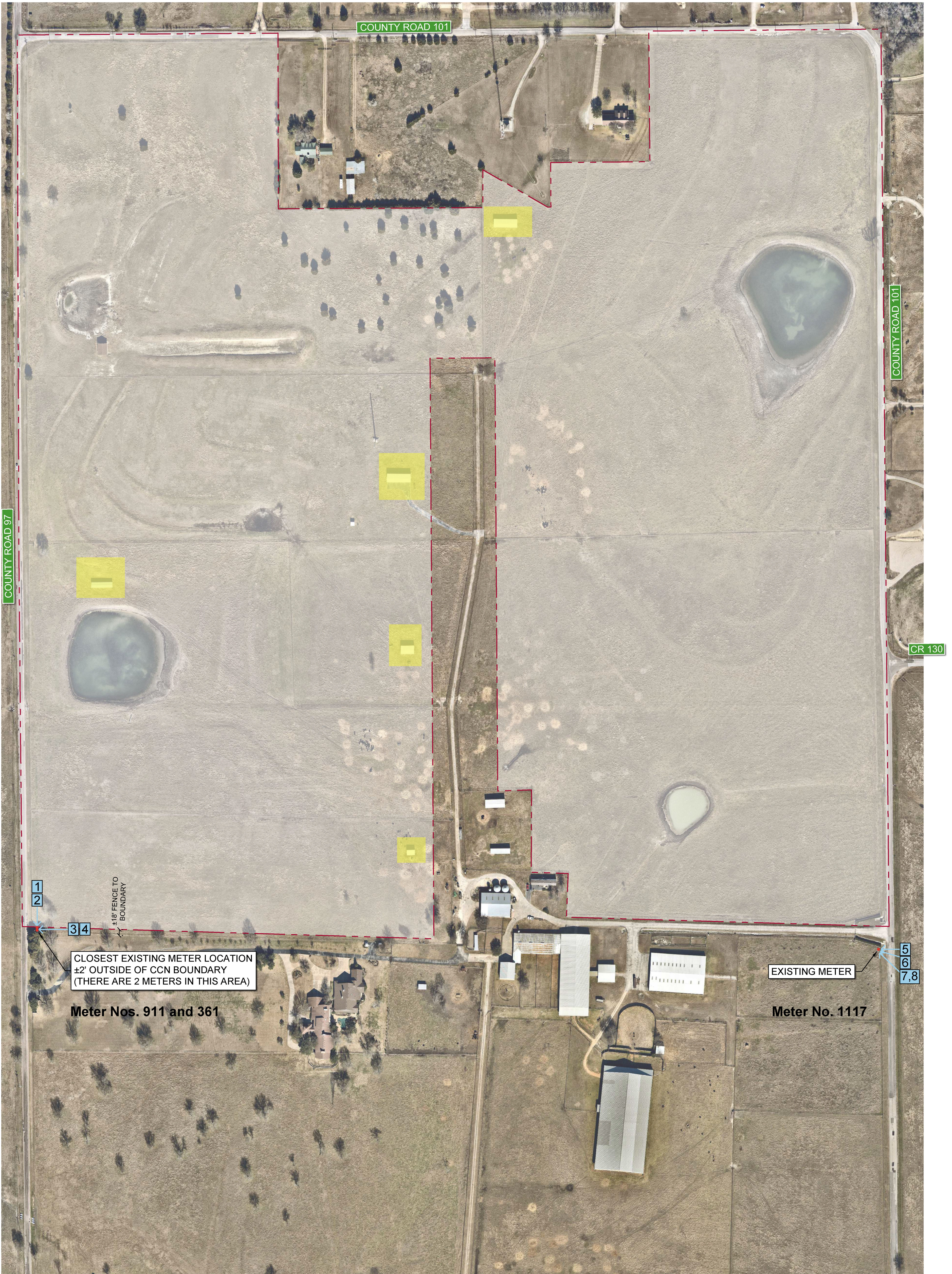
/s/ Scott Miles
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DOCKET NO. 52532

CERTIFICATE OF SERVICE

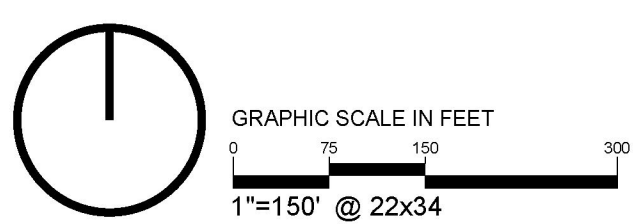
I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record on March 3, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Scott Miles
Scott Miles



LEGEND

- # PHOTOGRAPH NUMBER
- WATER METER LOCATION



- NOTES:
1. THIS PLAN IS CONCEPTUAL IN NATURE AND MAY HAVE BEEN PRODUCED WITHOUT THE BENEFIT OF A SURVEY OR CONTACT WITH THE CITY, COUNTY, ETC.
 2. FLOOD PLAN SHOWN IS SUBJECT TO CHANGE BASED ON A MORE DETAILED FULLY DEVELOPED FLOOD STUDY ANALYSIS.
 3. AERIAL IMAGE BY NEARMAP, COPYRIGHT 2022.

DWG NAME: K:\FRL_CIVIL\67191018-KRRK-RANCH - ONCALL\DWG\EXHIBIT\PLANSHEET\SCCN52532-AERIAL EXHIBIT.DWG
 LAST SAVED: 2/24/2022 11:40 AM

METER LOCATION EXHIBIT

**E REAL ESTATE
 Eland Ranch**

DOCKET #52532

Celina, Texas

February 2022

Kimley»Horn

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