



Filing Receipt

Received - 2021-12-15 12:40:35 PM
Control Number - 52630
ItemNumber - 11

DOCKET NO. 52630

PETITION OF GJGTEB HOLDINGS,	§	BEFORE THE
LLC TO AMEND CREEDMOOR-	§	
MAHA WATER SUPPLY	§	
CORPORATION CCN NO. 11029 IN	§	PUBLIC UTILITY COMMISSION
CALDWELL COUNTY BY	§	
STREAMLINED EXPEDITED	§	
RELEASE	§	OF TEXAS

GJGTEB HOLDINGS, LLC’S REPLY TO COMMISSION STAFF’S CLARIFICATION FILING

COMES NOW, GJGTEB Holdings, LLC (“Petitioner”) and submits this Reply to the Clarification Filing by the Staff of the Public Utility Commission of Texas (“Commission”), and in support thereof, would respectfully show the following:

I. BACKGROUND

Petitioner filed its Petition for a Streamlined Expedited Release from Creedmoor-Maha’s water Certificate of Convenience and Necessity (“CCN”) No.11029 on September 23, 2021. In accordance with Texas Water Code § 13.2541(c), the Commission must grant a petition “not later than the 60th day after the date the landowner files the petition.”¹ The Commission’s statutory deadline for issuing the Petition was November 22, 2021.

On October 27, 2021, the Commission’s Administrative Law Judge (“ALJ”) issued Order No. 2 finding the Petition “administratively complete.” Creedmoor-Maha filed its Response and Motion to Abate on November 15, 2021, which Order No. 3 denied on November 29, 2021. On December 2, 2021, Petitioner replied to Creedmoor-Maha’s response and Commission Staff’s Recommendation on Final Disposition. On December 13, 2021, Commission Staff filed its Clarification Filing. Under the Commission’s procedural rules, Petitioner has five working days to file a responsive pleading.² Thus, Petitioner has filed this reply timely.

¹ Tex. Water Code (“TWC”) § 13.2541(c).

² 16 Tex. Admin. Code (“TAC”) § 22.78(a).

II. REPLY TO COMMISSION STAFF'S CLARIFICATION

In its Clarification Filing, Commission Staff states incorrectly that there is “subsequent information that indicates that the tract of land might no longer be in a qualifying county.”³ Citing TWC § 13.2541(b), Commission Staff concludes that Caldwell County is no longer a qualifying county for purposes of a streamlined expedited release due to the December 2021 release of the 2020 U.S. Census. The U.S. Census data released December 2021 would seem to indicate that the population for Caldwell County increased in population from 38,066 in 2010 to 45,883 in 2020,⁴ which would disqualify Caldwell County if the Commission were to apply that data to § 13.2541(b). However, under Texas law, the Commission may not use the 2020 U.S. Census data. Instead, the Commission must apply the population data from the 2010 U.S. Census when determining whether a county is a qualifying county under § 13.2541(b), until at least September 1, 2023.

Chapter 2058 of the Texas Government Code provides in detail how a state agency, including the Commission, shall ascertain population of a political subdivision. Specifically, Tex. Gov't Code § 2058.0021 requires the following:

(a) Except as expressly provided by other law and notwithstanding the definition of "population" in Sections 311.005 and 312.011, **a statute that applies to a political subdivision having a certain population according to the most recent federal census:**

(1) **continues to apply to the same political subdivisions to which the statute applied under the 2010 federal census**, regardless of whether the political subdivisions continue to have the population prescribed by the statute according to the 2020 federal census; **and**

(2) **does not apply to a political subdivision** to which the statute did not apply under the 2010 federal census, regardless of whether the political subdivision has the population prescribed by the statute according to **the 2020 federal census.**

³ Commission Staff's Clarification Filing at 1 (Dec. 13, 2021).

⁴ *Id.* at 2; U.S. Census Bureau, Census Data for Caldwell County, Quickfacts Caldwell County, Texas (2020) <https://www.census.gov/quickfacts/fact/table/caldwellcountytexas/US/PST045219>.

(b) This section expires September 1, 2023.⁵

According to the 2010 U.S. Census, Caldwell County had a population of 38,066.⁶ Thus, Caldwell County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2), as Caldwell County is a county adjacent to Travis County with a population of at least one million.⁷

As stated in Petitioner's previous reply, the process to release the subject property from the Creedmoor-Maha CCN is both expedited and mandatory. Per TWC § 13.2541(c), the Commission must grant the petition no later than the 60th day after the date the landowner files the petition. The Commission's deadline to grant the petition was November 22, 2021. The Petition meets all conditions for a streamlined expedited release, which must be granted in accordance with Petitioner's due process rights.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Petitioner GJGTEB Holdings, LLC respectfully prays that the Commission grant its Petition and release Petitioner's approximately 194-acre Cornerstone tract from Creedmoor-Maha Water Supply Corporation's CCN No. 11029 in Caldwell County, a qualifying county, and to all other such relief to which it is entitled.

⁵ Tex. Gov't Code Ann. § 2058.0021 (emphasis added).

⁶ *Id.* at 2; U.S. Census Bureau, Census Data for Caldwell County, Quickfacts Caldwell County, Texas (2020) <https://www.census.gov/quickfacts/fact/table/caldwellcountytexas.US/PST045219>.

⁷ According to the U.S. Census Bureau, the 2010 population of Travis County was 1,024,266; *see* U.S. Census Bureau, Census Data for Travis County, Quickfacts Travis County, Texas (2020) <https://www.census.gov/quickfacts/traviscountytexas>.

Respectfully submitted,

Randall B. Wilburn
State Bar No. 24033342
Helen S. Gilbert
State Bar No. 00786263
BARTON BENSON JONES PLLC
7000 N. MoPac Expwy, Suite 200
Austin, Texas 78731
Telephone: (210) 640-9168
Telecopier: (210) 600-9796



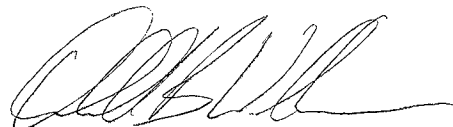
By: _____

Randall B. Wilburn

**ATTORNEYS FOR GJGTEB
HOLDINGS, LLC**

CERTIFICATE OF SERVICE

I hereby certify that I have or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail, or Certified Mail Return Receipt Requested on all parties on the 15th of December 2021.



Randall B. Wilburn