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DOCKET NO. 52693

PETITION OF ROSENDO L. GARCIA,	§	PUBLIC UTILITY COMMISSION
ISABEL R. GARCIA, AND NICHOLAS	§	
R. GARCIA TO AMEND AQUA WATER	§	OF TEXAS
SUPPLY CORPORATION'S SEWER	§	
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN BASTROP AND	§	
TRAVIS COUNTIES BY	§	
STREAMLINED EXPEDITED	§	
RELEASE	§	

ORDER NO. 7
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition of Rosendo L. Garcia, Isabel R. Garcia, and Nicholas R. Garcia for streamlined expedited release of a tract of land in Bastrop and Travis counties from Aqua Water Supply Corporation's service area under sewer certificate of convenience and necessity (CCN) number 20962. For the reasons stated in this Order, the Commission releases the tract of land from Aqua WSC's certificated service area. In addition, the Commission amends Aqua WSC's CCN number 20962 to reflect the removal of the tract of land from the service area.

Following entry of this Order, the Commission will determine the amount of compensation, if any, to be awarded to Aqua WSC, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

1. Rosendo L. Garcia, Isabel R. Garcia, and Nicholas R. Garcia are individuals and co-owners of land in Bastrop and Travis counties.

CCN Holder

2. Aqua WSC is a Texas nonprofit corporation registered with the Texas secretary of state under filing number 25894701 and operating under chapter 67 of the Texas Water Code (TWC).

3. Aqua WSC holds CCN number 20962 that obligates it to provide retail sewer service in its certificated service area in Bastrop and Travis counties.

Petition

4. On October 12, 2021, the petitioners filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 20962.
5. The petition includes a consent agreement dated August 6, 2021; a warranty deed with vendor's lien, dated November 20, 1995; maps; email correspondence; an affidavit, dated September 21, 2021, of Diane Garcia Soberanes, the authorized agent of petitioners Rosendo and Isabel Garcia; an affidavit, dated September 23, 2021, of Nicholas Garcia; a durable power of attorney, dated May 21, 2021, whereby petitioner Isabel Garcia appointed Diane Garcia Soberanes and Nicholas Garcia to serve as her co-agents; a durable power of attorney, dated May 21, 2021, whereby petitioner Rosendo Garcia appointed Diane Garcia Soberanes and Nicholas Garcia to serve as his co-agents; and digital mapping data.
6. On March 31, 2022, the petitioners supplemented the petition with maps and digital mapping data.
7. In Order No. 6 filed on May 6, 2022, the administrative law judge (ALJ) found the petition administratively complete.

Notice

8. The petitioners sent a copy of the petition, by certified mail, to the CCN holder on October 11, 2021.
9. In Order No. 2 filed on November 15, 2021, the ALJ found the notice sufficient.

Response to the Petition

10. On May 25, 2022, the CCN holder filed the affidavit of Ty H. Embrey, the CCN holder's general counsel, stating that the utility does not object to the release of the petitioners' tract of land.

The Tract of Land

11. The petitioners own property that lies partially in Bastrop County and partially in Travis County and that is approximately 181 acres.

12. The tract of land for which the petitioners seek streamlined expedited release is a portion of the petitioners' property that is approximately 156.8 acres.
13. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

14. The petitioners acquired their property by a warranty deed with vendor's lien, dated November 20, 1995.

Sewer Service

15. The tract of land is not receiving actual sewer service from the CCN holder.
16. The tract of land has never received sewer service from the CCN holder.
17. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for sewer service.
18. The CCN holder has no facilities or lines that provide sewer service to the tract of land.
19. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Qualifying County

20. Travis County has a population of at least one million.
21. Bastrop County abuts Travis County and has a population of more than 47,500.

Map and Certificate

22. On June 8, 2022, Commission Staff filed its final recommendation that included a certificate and a map on which it identified the tract of land in relation to the CCN holder's certificated service area.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has authority over this petition for streamlined expedited release under TWC §§ 13.254 and 13.2541.
2. The petitioners provided notice of the petition in compliance with 16 Texas Administrative Code (TAC) § 24.245(h)(3)(F).

3. No opportunity for a hearing on a petition for streamlined expedited release is provided under TWC §§ 13.254 or 13.2541 and, under 16 TAC § 24.245(h)(7), no hearing will be held on such a petition.
4. Petitions for streamlined expedited release filed under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are not contested cases.
5. Landowners seeking streamlined expedited release under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) are required to submit a verified petition through a notarized affidavit, and the CCN holder may submit a response to the petition that must be verified by a notarized affidavit.
6. Under 16 TAC § 24.245(h)(7), the Commission's decision is based on the information submitted by the landowner, the CCN holder, and Commission Staff.
7. To obtain release under TWC § 13.2541(b), a landowner must demonstrate that the landowner owns a tract of land that is at least 25 acres, that the tract of land is located in a qualifying county, and that the tract of land is not receiving service of the type that the current CCN holder is authorized to provide under the applicable CCN.
8. The time that the petition is filed is the only relevant time period to consider when evaluating whether a tract of land is receiving service under TWC § 13.2541(b). Whether a tract might have previously received service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. Travis and Bastrop counties are qualifying counties under TWC § 13.2541(b), and 16 TAC § 24.245(h)(2).
11. The petitioners own the tract of land that is at least 25 acres for which they seek streamlined expedited release.
12. The tract of land is not receiving sewer service under TWC §§ 13.002(21) and 13.2541(b) and 16 TAC § 24.245(h), as interpreted in *Texas General Land Office v. Crystal Clear Water Supply Corporation*, 449 S.W.3d 130 (Tex. App.—Austin 2014, pet. denied).
13. The petitioners are entitled under TWC § 13.2541(b) to the release of the tract of land from the CCN holder's certificated service area.

14. Under TWC §§ 13.254(h) and 13.2541(a), after the date of this Order the CCN holder has no obligation to provide retail sewer service to the petitioner's tract of land.
15. The Commission may release only property of the landowner from a CCN under TWC § 13.2541(b). The Commission has no authority to decertify any facilities or equipment owned and operated by the CCN holder to provide retail water service through the streamlined-expedited-release process under TWC § 13.2541(b).
16. The Commission processed the petition in accordance with the TWC and Commission rules.
17. Under TWC § 13.257(r) and (s), the CCN holder is required to record certified copies of the approved certificate and map, along with a boundary description of the service area, in the real property records of Travis and Bastrop counties no later than the 31st day after the date the CCN holder receives this Order.
18. A retail public utility may not under TWC §§ 13.254(d) and 13.2541(a) provide retail sewer service to the public within the tract of land unless just and adequate compensation under TWC § 13.254(g) has been paid to the CCN holder.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the tract of land identified in the petition from the CCN holder's certificated service area under CCN number 20962.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the tract of land.
3. The Commission amends CCN number 20962 in accordance with this Order.
4. The Commission approves the map attached to this Order.
5. The Commission issues the certificate attached to this Order.
6. The CCN holder must file in this docket proof of the recordings required in TWC § 13.257(r) and (s) within 45 days of the date of this Order.

7. The proceeding to determine the amount of compensation to be awarded to the CCN holder, if any, commences on the date of this Order in accordance with the schedule adopted in Order No. 6. Any decision on compensation will be made by a separate order.
8. The Commission denies all other motions and any other requests for general or specific relief not expressly granted by this Order.

Signed at Austin, Texas the 10th day of June 2022.

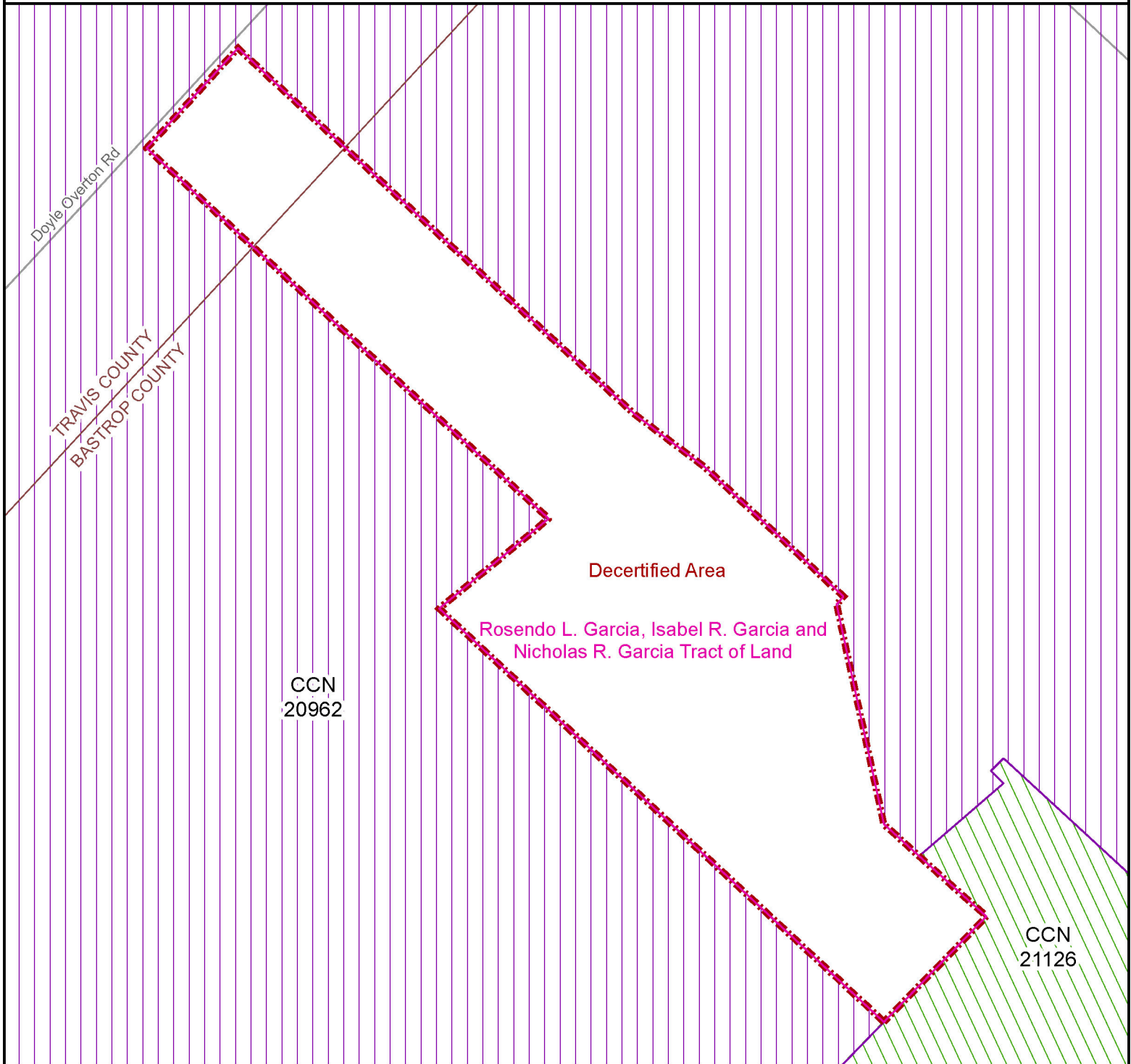
PUBLIC UTILITY COMMISSION OF TEXAS



HUNTER BURKHALTER
CHIEF ADMINISTRATIVE LAW JUDGE



Aqua Water Supply Corporation
Portion of Sewer CCN No. 20962
PUC Docket No. 52693



Petition by Rosendo L. Garcia, Isabel R. Garcia and Nicholas R. Garcia to Amend
Aqua Water Supply Corporation's CCN by Streamlined Expedited Release in Bastrop and Travis Counties



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

Sewer CCN

-  20962 - Aqua WSC
-  21126 - Integra Water Texas LLC

-  Decertified Area
-  Tract of Land

0 400 800
Feet



Map by: Komal Patel
Date: June 7, 2022
Project: 52693AquaWSC.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Water Supply Corporation

having obtained certification to provide sewer 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, Aqua Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 20962

to provide continuous and adequate sewer utility service to that service area or those service areas in Bastrop and Travis counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52693 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 Aqua Water Supply Corporation 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.