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
Greg Abbott
Governor

Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Stephen Journeay
Commission Counsel

All Parties of Record

FROM: Christina Denmark 
Administrative Law Judge

RE: **Docket No. 52697** – *Petition of Sanger Texas Industrial, LLC and Webb Industrial, LLC to Amend Bolivar Water Supply Corporation's Certificate of Convenience and Necessity in Denton County by Streamlined Expedited Release*

DATE: February 4, 2022

Enclosed is the Proposed Order in the above-referenced case. By copy of this memo, the parties to this proceeding are being served with the Proposed Order.

Please place this docket on an open meeting agenda for the Commissioners' consideration. Please notify me and the parties of the open meeting date. The parties must file corrections or exceptions to the Proposed Order by February 18, 2022.

If a party proposes a correction or exception, the party must fully explain the correction or exception and must provide a citation to the record to support the correction or exception.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 52697

PETITION OF SANGER TEXAS	§	PUBLIC UTILITY COMMISSION
INDUSTRIAL, LLC AND WEBB	§	
INDUSTRIAL, LLC TO AMEND	§	OF TEXAS
BOLIVAR WATER SUPPLY	§	
CORPORATION’S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
DENTON COUNTY BY	§	
STREAMLINED EXPEDITED	§	
RELEASE	§	

PROPOSED ORDER

This Order addresses the amended petition of Sanger Texas Industrial, LLC and Webb Industrial, LLC for streamlined expedited release of a tract of land in Denton County from Bolivar Water Supply Corporation’s service area under certificate of convenience and necessity (CCN) number 11257. For the reasons stated in this Order, the Commission releases the tract of land from Bolivar WSC’s certificated service area. In addition, the Commission amends Bolivar WSC’s CCN number 11257 to reflect the removal of the tract of land from the service area.

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

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioners

1. Sanger is a Texas limited liability company registered with the Texas secretary of state under filing number 804045018.
2. Webb is a Kansas limited liability company registered with the Texas secretary of state under filing number 804317307.

CCN Holder

3. Bolivar WSC is a Texas non-profit corporation registered with the Texas secretary of state under filing number 25730701.

4. Bolivar WSC holds CCN number 11257 that obligates the utility to provide retail water service in its certificated service area in Cooke, Denton, and Wise counties.

Petition and Amended Petition

5. On October 12, 2021, one of the petitioners, Sanger, filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 11257.
6. The petition includes an affidavit, dated October 11, 2021, of Matt Moore, professional engineer and Sanger's authorized representative; maps of the subject property; a special warranty deed dated May 7, 2021, with a metes-and-bounds description; an access and utility easement dated May 7, 2021; a certificate of formation for Sanger dated April 27, 2021; digital mapping data; and proof of notice to the CCN holder of the petition.
7. On November 22, 2021, both petitioners filed an amended petition.
8. The amended petition includes the same documents that were attached to the original petition; plus an application for registration of a foreign limited liability company for Webb dated November 17, 2021, and an updated proof of notice to the CCN holder.
9. In Order No. 3 filed on December 14, 2021, the administrative law judge (ALJ) found the amended petition administratively complete.

Notice

10. Sanger sent a copy of the petition by certified mail to the CCN holder on October 12, 2021.
11. The petitioners sent a copy of the amended petition by certified mail to the CCN holder on November 22, 2021.
12. In Order No. 3 filed on December 14, 2021, the ALJ found the notice sufficient.

Response to the Petition

13. The CCN holder filed a response to the petition on November 19, 2021.
14. The response includes a declaration, dated November 10, 2021, of James Parkman, general manager of the CCN holder.
15. The CCN holder filed a supplemental response to the amended petition on January 4, 2022.

The Tract of Land

16. The petitioners own a property in Denton County that is approximately 211 acres.
17. The tract of land for which the petitioners seek streamlined expedited release is a portion of petitioners' property that is approximately 188 acres.
18. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

19. The petitioners acquired the property by a special warranty deed dated May 7, 2021.

Qualifying County

20. Denton County abuts Dallas and Tarrant counties and has a population of more than 47,500.
21. Dallas County and Tarrant County each has a population of at least one million.

Water Service

22. The tract of land is not receiving actual water service from the CCN holder.
23. The tract of land has never received water service from the CCN holder.
24. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
25. The CCN holder has no facilities or lines that provide water service to the tract of land.
26. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

27. On January 18, 2022, Commission Staff filed its recommendation on final disposition that included a certificate and a map on which it identified the tract of land in relationship 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 Texas Water Code (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.
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 water service under TWC § 13.2541(b). Whether a tract of land might have previously received water or sewer service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. The petitioners own the tract of land that is at least 25 acres for which they seek streamlined expedited release.
11. Denton County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).
12. The tract of land is not receiving water 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. After the date of this Order, the CCN holder has no obligation under TWC § 13.254(h) to provide retail water service to the petitioners' tract of land.
15. The Commission may release only the 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 or retail sewer 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 Denton County 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) provide retail water 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 amended petition from the CCN holder's certificated service area under CCN number 11257.
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 11257 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 recording 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 with the filing of this Order in accordance with the schedule adopted in Order No. 3. 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 _____ day of _____ 2022.

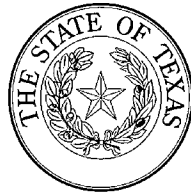
PUBLIC UTILITY COMMISSION OF TEXAS

PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER



Public Utility Commission of Texas

By These Presents Be It Known To All That

Bolivar Water Supply Corporation

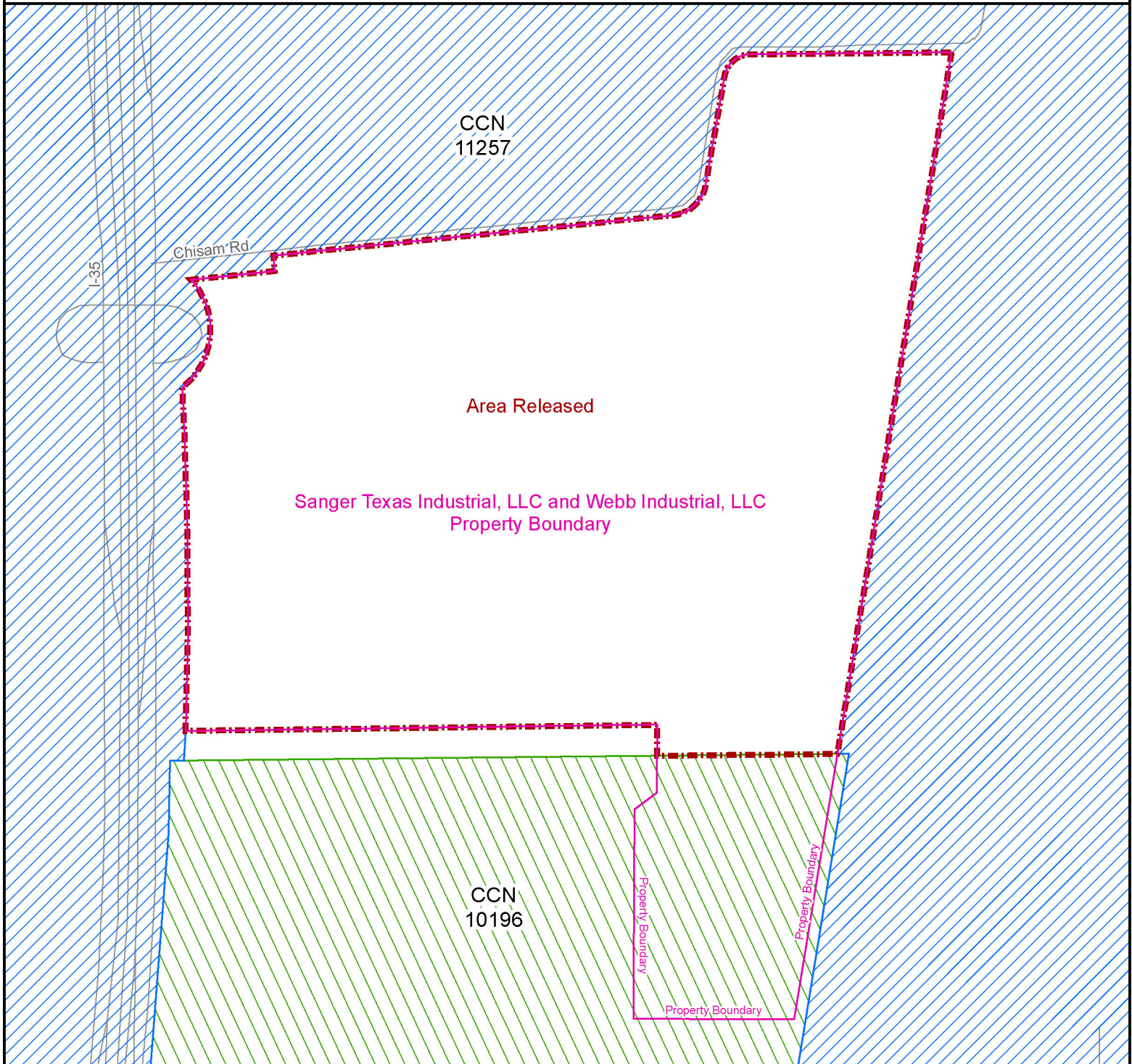
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, Bolivar Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 11257

to provide continuous and adequate water utility service to that service area or those service areas in Cooke, Denton, and Wise Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52697 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 Bolivar 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.



Bolivar Water Supply Corporation
Portion of Water CCN No. 11257
PUC Docket No. 52697

Petition by Sanger Texas Industrial, LLC and Webb Industrial, LLC to Amend
Bolivar Water Supply Corporation's CCN by Expedited Release in Denton County



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

Water CCN

-  11257 - Bolivar WSC
-  10196 - City of Sanger

-  Area Released
-  Property Boundary

0 325 650
Feet



Map by: Komal Patel
Date: January 4, 2022
Project: 52697BolivarWSC.mxd