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Greg Abbott
Governor

Thomas J. Gleeson
Executive Director

Public Utility Commission of Texas

TO: Stephen Journey
Commission Counsel

All Parties of Record

FROM: Katie Moore Marx *KMM*
Administrative Law Judge

RE: **Docket No. 52792** – *Petition of Petrus Investment, LP to Amend Aqua Texas Inc.'s Certificate of Convenience and Necessity in Denton County by Streamlined Expedited Release*

DATE: April 5, 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 April 19, 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. 52792

PETITION OF PETRUS	§	PUBLIC UTILITY COMMISSION
INVESTMENT, LP TO AMEND	§	
AQUA TEXAS INC.'S CERTIFICATE	§	OF TEXAS
OF CONVENIENCE AND NECESSITY	§	
IN DENTON COUNTY BY	§	
STREAMLINED EXPEDITED	§	
RELEASE	§	

PROPOSED ORDER

This Order addresses the petition of Petrus Investment, L.P. for streamlined expedited release of a tract of land in Denton County from Aqua Texas Inc.'s service area under certificate of convenience and necessity (CCN) number 13201. For the reasons stated in this Order, the Commission releases the tract of land from Aqua Texas's certificated water service area. In addition, the Commission amends Aqua Texas's CCN number 13201 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 Aqua Texas, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Petrus Investment is a Texas limited partnership registered with the Texas secretary of state under filing number 6257010.

CCN Holder

2. Aqua Texas is a Texas corporation registered with the Texas secretary of state under filing number 800304878.
3. Aqua Texas holds CCN number 13201 that obligates it to provide retail water service in its certificated service area in Denton County.

Petition

4. On November 5, 2021, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 13201.
5. The petition includes an affidavit, dated October 28, 2021, of Michele M. Ringnald, the petitioner's authorized representative; maps of the tract of land; a correction substitute trustee's deed with metes-and-bounds description, dated February 24, 2009, but effective January 6, 2009; and digital mapping data.
6. On January 6, 2022, the petitioner filed supplemental information, which included updated maps and digital data.
7. In Order No. 3 filed on February 9, 2022, the administrative law judge (ALJ) found the petition administratively complete.

Notice

8. The petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder on November 5, 2021.
9. In Order No. 3 filed on February 9, 2022, the ALJ found the notice sufficient.

Response to the Petition

10. On March 1, 2022, the CCN holder filed a response to the petition.
11. On April 1, 2022, the CCN holder supplemented its response to the petition.

The Tract of Land

12. The petitioner owns property in Denton County that is approximately 749.3 acres.
13. The tract of land for which the petitioner seeks streamlined expedited is a portion of the petitioner's property that is approximately 748.9 acres.
14. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

15. The petitioner acquired its property through a correction substitute trustee's deed with metes-and-bounds description, dated February 24, 2009.

Qualifying County

16. Denton County has a population of more than 47,500 and is adjacent to Dallas County.
17. Dallas County has a population of at least one million.

Water Service

18. The tract of land is not receiving actual water service from the CCN holder.
19. The petitioner has not requested that the CCN holder provide water service for the tract of land.
20. The petitioner has never paid any charges or fees to the CCN holder to initiate or maintain water service for the tract of land, and there are no billing records or other documents indicating an existing account for the tract of land.
21. The CCN holder owns and operates waterlines running parallel to, but outside of, the norther and western boundaries of the tract of land, but neither of those lines provides water service to the tract of land.
22. The CCN holder owns and operates additional water system infrastructure located outside of, but in proximity to, the tract of land. None of this infrastructure provides water service to the tract of land.
23. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
24. The CCN holder has no facilities or lines that provide water service to the tract of land.
25. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

26. On March 15, 22022, 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 the petition for streamlined expedited release under Texas Water Code (TWC) §§ 13.254 and 13.2541.
2. The petitioner 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)(7) 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 service is irrelevant.
9. A landowner is not required to seek the streamlined expedited release of all of its property.
10. The petitioner owns the tract of land that is at least 25 acres for which it seeks 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 petitioner is 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 petitioner's 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 decertificate 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 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 petition from the CCN holder's certificated service area under CCN number 13201.
2. The Commission does not decertificate 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 13201 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 on the date 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

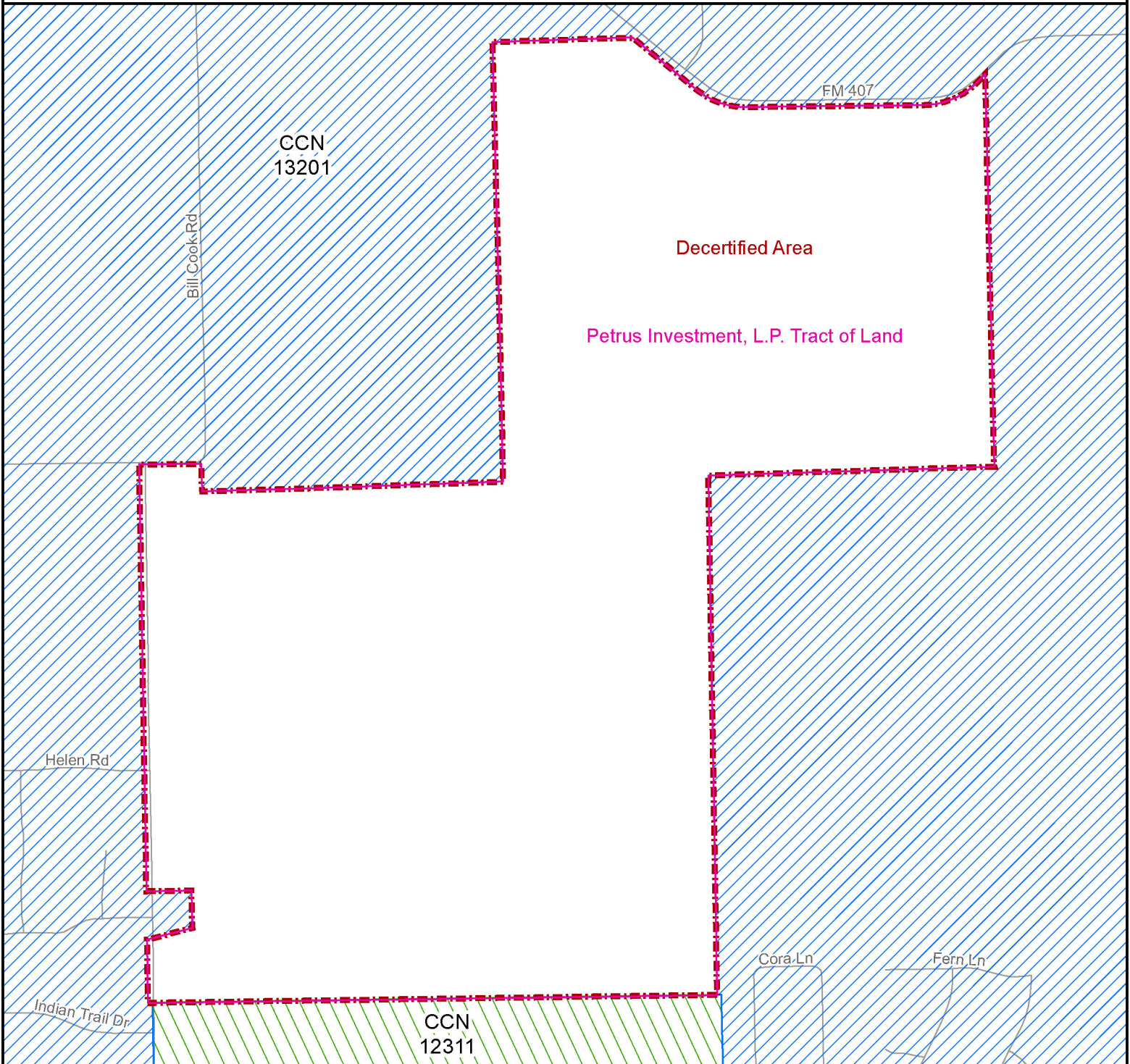
Aqua Texas, Inc.

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, Aqua Texas, Inc. is entitled to this

Certificate of Convenience and Necessity No. 13201



to provide continuous and adequate water utility service to that service area or those service areas in Anderson, Bosque, Camp, Cherokee, Collin, Cooke, Denton, Erath, Grayson, Gregg, Henderson, Hood, Hunt, Johnson, Kaufman, McLennan, Marion, Parker, Smith, Somervell, Tarrant, Wise, and Wood Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 52792 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 Texas, Inc. 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.



Aqua Texas, Inc.
Portion of Water CCN No. 13201
PUC Docket No. 52792
Petition by Petrus Investment, L.P. to Amend
Aqua Texas, Inc.'s CCN by Streamlined Expedited Release in Denton County

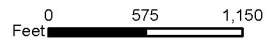


Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  13201 - Aqua Texas Inc
-  12311 - City of Fort Worth

-  Decertified Area
-  Tract of Land



Map by: Komal Patel
Date: February 22, 2022
Project: 52792AquaTexas.mxd