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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. 53201** – *Petition of 2021 FII Walnut Springs, LLC to Amend Springs Hill Water Supply Corporation's Certificate of Convenience and Necessity in Guadalupe County by Streamlined Expedited Release*

DATE: May 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 May 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. 53201

PETITION OF 2021 FII WALNUT	§	PUBLIC UTILITY COMMISSION
SPRINGS, LLC TO AMEND SPRINGS	§	
HILL WATER SUPPLY	§	OF TEXAS
CORPORATION’S CERTIFICATE OF	§	
CONVENIENCE AND NECESSITY IN	§	
GUADALUPE COUNTY BY	§	
STREAMLINED EXPEDITED	§	
RELEASE	§	

PROPOSED ORDER

This Order addresses the petition of 2021 FII Walnut Springs, LLC for streamlined expedited release of three tracts of land in Guadalupe County from Springs Hill Water Supply Corporation’s service area under certificate of convenience and necessity (CCN) number 10666. For the reasons stated in this Order, the Commission releases two of the tracts of land from Springs Hill’s certificated service area, and denies the petition as to the other tract of land. In addition, the Commission amends Springs Hill’s CCN number 10666 to reflect the removal of the two tracts 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 Springs Hill, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. 2021 FII Walnut Springs is a Texas limited liability company registered with the Texas secretary of state under filing number 804265415.

CCN Holder

2. Springs Hill is a is a Texas non-profit water supply corporation registered with the Texas secretary of state under file number 0023474501.
3. Springs Hill holds CCN number 10666 that obligates it to provide retail water service in its certificated service area in Guadalupe and Wilson counties.

Petition

4. On February 8, 2022, the petitioner filed a petition for streamlined expedited release of three non-contiguous tracts of land from the CCN holder's service area under CCN number 10666.
5. The petition includes a special warranty deed, dated November 15, 2021; maps; proof of service; an affidavit, dated January 28, 2022, of Scott Teeter, manager of 2021 FII Walnut Springs; and digital mapping data.
6. In Order No. 2 filed on March 11, 2022, the administrative law judge (ALJ) found the petition administratively complete.

Notice

7. The petitioner sent a copy of the petition, by certified mail, return receipt requested, to the CCN holder on February 8, 2022.
8. In Order No. 2 filed on March 11, 2022, the ALJ found the notice sufficient.

Intervention

9. In Order No. 3 filed on March 23, 2022, the ALJ granted the CCN holder's motion to intervene.
10. The CCN holder did not file a response to the administratively complete petition.

The Tracts of Land

11. The petitioner owns property composed of three non-contiguous tracts of land: a 104.60-acre tract of land, a 0.19-acre tract of land, and a 96.02-acre tract of land.
12. Because the petitioner is seeking streamlined expedited release of three non-contiguous tracts of land, each tract's eligibility for release must be evaluated separately.

The 104.60-Acre Tract of Land

13. The petitioner owns a tract of land in Guadalupe County that is approximately 104.60 acres, and for which the petitioner seeks streamlined expedited release.
14. The tract of land is located within the CCN holder's certificated service area.

Ownership of the 104.60-Acre Tract of Land

15. The petitioner acquired its 104.60-acre tract of land by special warranty deed, dated November 16, 2021.

Water Service to the 104.60-Acre Tract of Land

16. The 104.60-acre tract of land is not receiving actual water service from the CCN holder.
17. There are no water connections or meter on the 104.60-acre tract of land.
18. The petitioner has not paid to the CCN holder any service reservation or standby fees to initiate or maintain water service for the 104.60-acre tract of land.
19. There are no agreements between the petitioner and the CCN holder for the provision of water service to the 104.60-acre tract of land.
20. The CCN holder has not committed or dedicated any facilities or lines to the 104.60-acre tract of land for water service.
21. The CCN holder has no facilities or lines that provide water service to the 104.60-acre tract of land.
22. The CCN holder has not performed any acts for or supplied anything to the 104.60-acre tract of land.

The 0.19-Acre Tract of Land

23. The petitioner owns a tract of land in Guadalupe County that is approximately 0.19 acres and for which the petitioner seeks streamlined expedited release.
24. The 0.19-acre tract of land is located within the CCN holder's certificated service area.

Ownership of the 0.19-Acre Tract of Land

25. The petitioner acquired its 0.19-acre tract of land by special warranty deed, dated November 16, 2021.

The 96.02-Acre Tract of Land

26. The petitioner owns a tract of land in Guadalupe County that is approximately 96.02 acres, and for which the petitioner seeks streamlined expedited release.
27. The tract of land is located within the CCN holder's certificated service area.

Ownership of the 96.02-Acre Tract of Land

28. The petitioner acquired its 96.02-acre tract of land by special warranty deed, dated November 16, 2021.

Water Service to the 96.02-Acre Tract of Land

29. The 96.02-acre tract of land is not receiving actual water service from the CCN holder.

30. There are no water connections or meter on the 96.02-acre tract of land.

31. The petitioner has not paid to the CCN holder any service reservation or standby fees to initiate or maintain water service for the 96.02-acre tract of land.

32. There are no agreements between the petitioner and the CCN holder for the provision of water service to the 96.02-acre tract of land.

33. The CCN holder has not committed or dedicated any facilities or lines to the 96.02-acre tract of land for water service.

34. The CCN holder has no facilities or lines that provide water service to the 96.02-acre tract of land.

35. The CCN holder has not performed any acts for or supplied anything to the 96.02-acre tract of land.

Qualifying County

36. Guadalupe County is adjacent to Bexar County and has a population that is more than 47,500.

37. Bexar County has a population of at least one million.

Map and Certificate

38. On April 21, 2022, Commission Staff filed its final recommendation that included a map on which it identified the tracts of land in relation to the CCN holder's certificated service area.

39. On April 27, 2022, Commission Staff filed supplemental recommendation on final disposition that included a CCN.

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 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) 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(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 tract of land.
10. Guadalupe County is a qualifying county under TWC § 13.2541(b) and 16 TAC § 24.245(h)(2).

11. The petitioner owns the 104.60-acre tract of land and the petitioner seeks streamlined expedited release of the tract of land through the petition.
12. The 104.60-acre 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 104.60-acre tract of land from the CCN holder's certificated water service area.
14. The petitioner owns the 0.19-acre tract of land and the petitioner seeks streamlined expedited release of the tract of land through the petition.
15. The petitioner is not entitled under TWC § 13.2541(b) to the release of the 0.19-acre tract of land from the CCN holder's certificated water service areas because it is less than 25 acres.
16. The petitioner owns the 96.02-acre tract of land and the petitioner seeks streamlined expedited release of the tract of land through the petition.
17. The 96.02-acre 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).
18. The petitioner is entitled under TWC § 13.2541(b) to the release of the 96.02-acre tract of land from the CCN holder's certificated water service area.
19. Under TWC §§ 13.254(h) and 13.2541(a), after the date of this Order the CCN holder has no obligation to provide retail water service to the petitioner's 104.60- and 96.02-acre tracts of land.
20. 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).
21. The Commission processed the petition in accordance with the TWC and Commission rules.

22. 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 Guadalupe County no later than the 31st day after the date the CCN holder receives this Order.
23. A retail public utility may not under TWC §§ 13.254(d) and 13.2541(a) provide retail water service to the public within the 104.60-acre and 96.02-acre tracts 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 104.60- and 96.02-acre tracts of land identified in the petition from the CCN holder's certificated service area under CCN numbers 10666.
2. The Commission denies the petitioner's request for release of its 0.19-acre tract of land.
3. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the 104.60-acre and 96.02-acre tracts of land.
4. The Commission amends CCN number 10666 in accordance with this Order.
5. The Commission approves the map attached to this Order.
6. The Commission issues the certificate attached to this Order.
7. 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.
8. 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. 2. Any decision on compensation will be made by a separate order.
9. 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

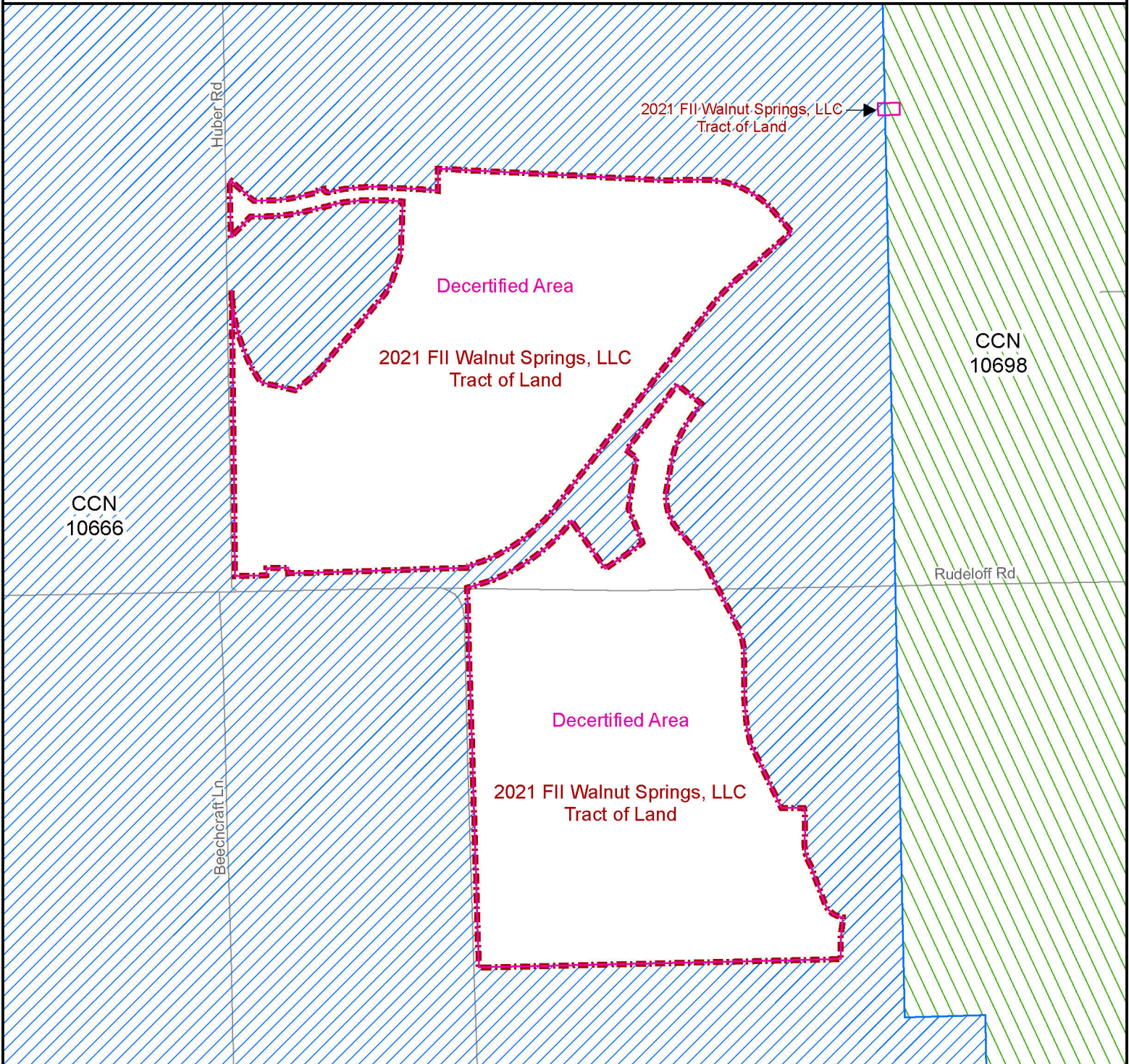
PETER M. LAKE, CHAIRMAN

WILL MCADAMS, COMMISSIONER

LORI COBOS, COMMISSIONER

JIMMY GLOTFELTY, COMMISSIONER

Springs Hill Water Supply Corporation
 Portion of Water CCN No. 10666
 PUC Docket No. 53201
 Petition by 2021 FII Walnut Springs, LLC to Amend
 Springs Hill Water Supply Corporation's CCN by Streamlined Expedited Release in Guadalupe County



Water CCN

- 10666 - Springs Hill WSC
- 10698 - City of Seguin

- Decertified Area
- Tract of Land





Public Utility Commission of Texas

By These Presents Be It Known To All That

Springs Hill 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, Springs Hill Water Supply Corporation is entitled to this

Certificate of Convenience and Necessity No. 10666

to provide continuous and adequate water utility service to that service area or those service areas in Guadalupe and Wilson Counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53201 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 Springs Hill 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.