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DOCKET NO. 53225

PETITION TO REVOKE LODGE	§	PUBLIC UTILITY COMMISSION
ACRES WATER SYSTEM	§	
CERTIFICATE OF PUBLIC	§	OF TEXAS
CONVENIENCE AND NECESSITY	§	
PURSUANT TO TEX. WATER CODE	§	
§ 13.254 AND 16 TAC § 24.245	§	
	§	

**COMMISSION STAFF'S AMENDED PETITION TO REVOKE LODGE ACRES
WATER SYSTEM'S CERTIFICATE OF CONVENIENCE AND NECESSITY AND
NOTICE OF OPPORTUNITY FOR A HEARING**

The Staff (Commission Staff) of the Public Utility Commission of Texas (Commission) files this Amended Petition to Revoke Lodge Acres Water System's (Lodge Acres) Certificate of Convenience and Necessity and Notice of Opportunity for a Hearing. In support thereof, Commission Staff would show the following:

I. JURISDICTION AND LEGAL AUTHORITY

Texas Water Code (TWC) § 13.002(23) defines the term "water utility" to include any person or certain corporations owning or operating, for compensation, equipment or facilities used for the transmission, storage, distribution, sale, resale, or provision of potable water to the public. As detailed under TWC §§ 13.041(a) and 13.042(e), the Commission has jurisdiction and authority to regulate and supervise the business, rates, services, and operations of each water utility in Texas that is not located within the incorporated limits of a municipality exercising exclusive original jurisdiction under TWC § 13.042(b).

As established under TWC § 13.242 and 16 Texas Administrative Code (TAC) § 24.225, a prospective water utility must obtain a certificate of convenience and necessity (CCN) issued by the Commission before rendering water utility service to the public. A water utility that has received a CCN from the Commission is obligated under TWC § 13.250(a) and 16 TAC § 24.247 to provide continuous and adequate service to every consumer within the boundaries of its certificated area. Under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A), the Commission may revoke the CCN of a water utility if, after notice and opportunity for hearing, the Commission finds that the CCN holder is no longer providing or has failed to provide continuous and adequate service to all or part of the area located within its certificated boundaries.

Section 2001.051 of the Administrative Procedure Act (APA)¹ provides that each party in a contested case must receive an opportunity for hearing after reasonable notice of not less than 10 days, as well as an opportunity to respond to and present evidence and argument on each issue involved in the case. Under 16 TAC §§ 22.183(a)-(b), a party that fails to request a hearing within 30 days after service of notice of a CCN revocation proceeding may be subject to a default order revoking the CCN without hearing.

III. FACTUAL ALLEGATIONS

On November 1, 1979, the Commission granted water CCN number 11070 to Lodge Acres Water System.² Commission records indicate that Lodge Acres' water CCN number 11070 is located approximately 15.5 miles east of downtown Bastrop, Texas, as demonstrated by the attached map of the Lodge Acres certificated area.³

As detailed in the attached memorandum from Utility Outreach Administrator, Celia Eaves, a review of records related to water CCN number 11070 indicates that Lodge Acres is no longer providing water utility service to customers, and that any facilities previously used to provide continuous and adequate water service are no longer active.⁴ Therefore, Commission Staff asserts that Lodge Acres neither provides nor is currently capable of providing continuous and adequate water utility service to customers in the certificated area.

IV. RECOMMENDATION FOR REVOCATION

Commission Staff recommends that water CCN number 11070 should be revoked under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A) because Lodge Acres is no longer providing continuous and adequate water service to the certificated area and because the facilities necessary

¹ Administrative Procedure Act, Tex. Gov't Code Ann. §§ 2001.001-.902 (West 2008 & Supp. 2014) (APA).

² Prior to September 1, 1986, applications for water certificates of convenience and necessity were processed by the Commission. From September 1, 1986 to September 1, 1993, applications for water certificates of convenience and necessity (CCN) were processed by the Texas Water Commission (TWC). On September 1, 1993, authority over water utilities was transferred to the Texas Natural Resource Conservation Commission (TNRCC), which changed its name to the Texas Commission on Environmental Quality (TCEQ) on September 1, 2002. On September 1, 2014, jurisdiction over water utilities, including the authority to issue and revoke a water CCN, was transferred back to the Commission.

³ See Attachment 1.

⁴ See Attachment 2.

to provide continuous and adequate water service to the certificated area are inactive. Accordingly, Commission Staff recommends that it is in the public interest for the Commission to revoke Lodge Acres' water CCN number 11070.

V. NOTICE OF OPPORTUNITY FOR HEARING

Under 16 TAC § 22.54, Commission Staff is required to provide reasonable notice to persons affected by a proceeding in accordance with the APA. In license revocation proceedings, APA § 2001.054 requires that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action." Additionally, in order to revoke a CCN on a default basis, 16 TAC § 22.183(b) requires Commission Staff to provide notice by certified mail, return receipt requested, to the certificate holder's last known address in the Commission's records. If Lodge Acres fails to request a hearing, the presiding officer may issue a default order on an informal basis without a hearing on the merits in accordance with APA § 2001.056(4) and 16 TAC § 22.183.

In compliance with these notice requirements, Commission Staff will provide a copy of this petition by certified mail, return receipt requested, to Lodge Acres' last known address in the Commission's records:

Lodge Acres Water System
9016 Mountain Lake C
Austin, TX 78957

In accordance with 16 TAC § 22.183, Commission Staff hereby notifies Lodge Acres that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Lodge Acres fails to request a hearing within 30 days after service of this petition.

VI. REQUEST FOR RELIEF

Commission Staff respectfully requests that the Commission revoke water CCN number 11070 belonging to Lodge Acres in accordance with TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A). In the event that Lodge Acres fails to timely request a hearing on the merits, Commission Staff respectfully requests that the Commission issue a default Final Order revoking

water CCN number 11070 with no further notice to Lodge Acres in accordance with 16 TAC § 22.183.

Date: April 18, 2022

Respectfully submitted,

PUBLIC UTILITY COMMISSION OF TEXAS

**COMPLIANCE AND ENFORCEMENT
DIVISION**

Barksdale English
Division Director

/s/Van Moreland
Van Moreland
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CERTIFICATE OF SERVICE

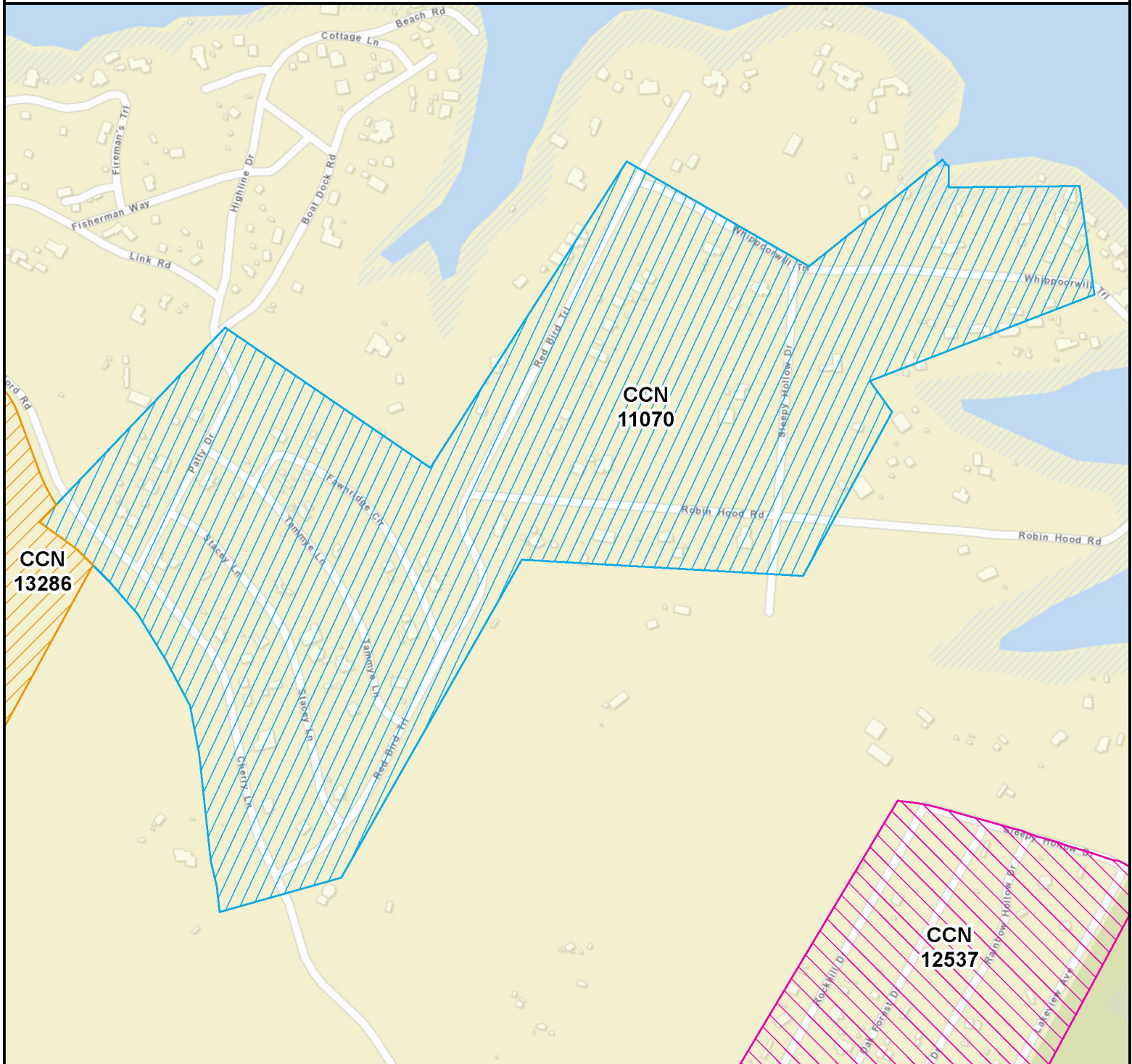
I certify that on April 18, 2022, a copy of this document was sent via certified mail, return receipt requested, to the Commission's last known address of Lodge Acres in accordance with 16 TAC § 22.183(b).

/s/Van Moreland_____
Van Moreland

ATTACHMENT 1

MAP OF CCN NO. 11070 CERTIFIED AREA

Lodge Acres Water Supply Water CCN No. 11070 in Travis County



Water CCN

-  11070 - Lodge Acres Water Supply
-  13286 - City of Lago Vista
-  12537 - Lakeview Hills WSC

0 275 550
Feet



ATTACHMENT 2

SUPPORTING MEMO FROM UTILITY OUTREACH ADMINISTRATOR

Public Utility Commission of Texas

Memorandum

TO: Van Moreland, Attorney
Division of Compliance and Enforcement

FROM: Celia Eaves, Utility Outreach Administrator
Division of Utility Outreach

DATE: January 11, 2022

RE: *Review of Lodge Acres Water System service in Travis County and Certificate of Convenience and Necessity Number 11070*

Lodge Acres Water System (Lodge Acres) is located in Travis, Texas, in Austin, Texas. On November 1, 1979, Lodge Acres was granted certificate of convenience and necessity (CCN) No. 11070. Commission Staff's review of the records and information discussed in the paragraphs below indicate that Lodge Acres is no longer in business and does not possess facilities to provide continuous and adequate service. Therefore, based on 16 Tex. Admin. Code (TAC) § 24.245(d)(1), Staff believes that Lodge Acres is not currently providing and is incapable of providing continuous and adequate service in its CCN area and, therefore, Staff recommends that the CCN should be revoked.

Commission Staff reviewed the information in the Commission's Water Utility Database for Lodge Acres. Commission Staff's review indicates that the water utility is inactive. In addition, there is no associated water infrastructure, and no facilities exist for Lodge Acres to provide continuous and adequate service to its service area.

Commission Staff reviewed the Texas Commission on Environmental Quality's (TCEQ) Central Registry database. The TCEQ's Central Registry database is a centralized location for core information on regulated or other entities that own, operate, are responsible for, or are affiliated with a regulated entity. Commission Staff's review of this information indicates that no facilities exist or are affiliated with Lodge Acres.

Commission Staff's review of the TCEQ Texas Drinking Water Watch, a searchable database with information on public water systems (PWSs), indicates that a PWS does not exist in affiliation with Lodge Acres.

Commission Staff's review of the Secretary of State's website did not find a record of Lodge Acres. Commission Staff's review of relevant records indicates that Lodge Acres has no affiliated water service infrastructure, ceased operations, and is incapable of providing continuous and adequate service. Therefore, I recommend the cancellation of CCN No. 11070.