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DOCKET NO. 53324

**PETITION TO REVOKE M.A.B.B.D.
INC.'S CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY
PURSUANT TO TEX. WATER CODE
§ 13.254 AND 16 TAC § 24.245**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

**COMMISSION STAFF'S PETITION TO REVOKE M.A.B.B.D. INC.'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 Petition to Revoke M.A.B.D.D. Inc. (MABDD)'s 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 and sewer utility” to include any person or certain corporations owning or operating, for compensation, equipment or facilities used for the collection, transportation, treatment, or disposal of sewage or other operation of sewage disposal service for 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 sewer 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 sewer utility must obtain a certificate of convenience and necessity (CCN) issued by the Commission before rendering sewer utility service to the public. A sewer 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 sewer 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 December 19, 1986 the Texas Water Commission granted sewer CCN number 20661 to MABDD.² Commission records indicate that MABDD's sewer CCN number 20661 is located approximately 12 miles northwest of Austin, Texas, as demonstrated by the attached map of the MABDD sewer CCN certificated area.³

As detailed in the attached memorandum from Utility Outreach Administrator, Celia Eaves, a review of records related to sewer CCN number 20661 indicates that MABDD is no longer in business and does not possess facilities to provide continuous and adequate service to the area covered by its CCN.⁴ Therefore, Commission Staff asserts that MABDD neither provides nor is currently capable of providing continuous and adequate sewer utility service to customers in the certificated area.

IV. RECOMMENDATION FOR REVOCATION

Commission Staff recommends that water CCN number 20661 should be revoked under TWC § 13.254(a)(1) and 16 TAC § 24.245(d)(1)(A) because MABDD is no longer providing continuous and adequate sewer 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 sewer service to the certificated area are inactive. Accordingly, Commission Staff recommends that it is in the public interest for the Commission to revoke MABDD's sewer CCN number 20661.

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 MABDD 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 MABDD's last known address⁵ in the Commission's records:

M.A.B.D.D., Inc.
2600 One American Center
600 Congress
Austin, TX 78701

In accordance with 16 TAC § 22.183, Commission Staff hereby notifies MABDD that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if MABDD 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 sewer CCN number 20661 belonging to MABDD in accordance with TWC § 13.254(a)(1) and 16 TAC

⁵ Public records available through the Texas Secretary of State indicate that MABDD was voluntarily terminated on April 4, 1990 and has not otherwise been in existence in the past 31 years since its dissolution.

§ 24.245(d)(1)(A). In the event that MABDD fails to timely request a hearing on the merits, Commission Staff respectfully requests that the Commission issue a default Final Order revoking sewer CCN number 20661 with no further notice to MABDD in accordance with 16 TAC § 22.183.

Date: March 11, 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 March 11, 2022, a copy of this document was sent via certified mail, return receipt requested, to the Commission's last known address of MABDD in accordance with 16 TAC § 22.183(b).

/s/Van Moreland
Van Moreland

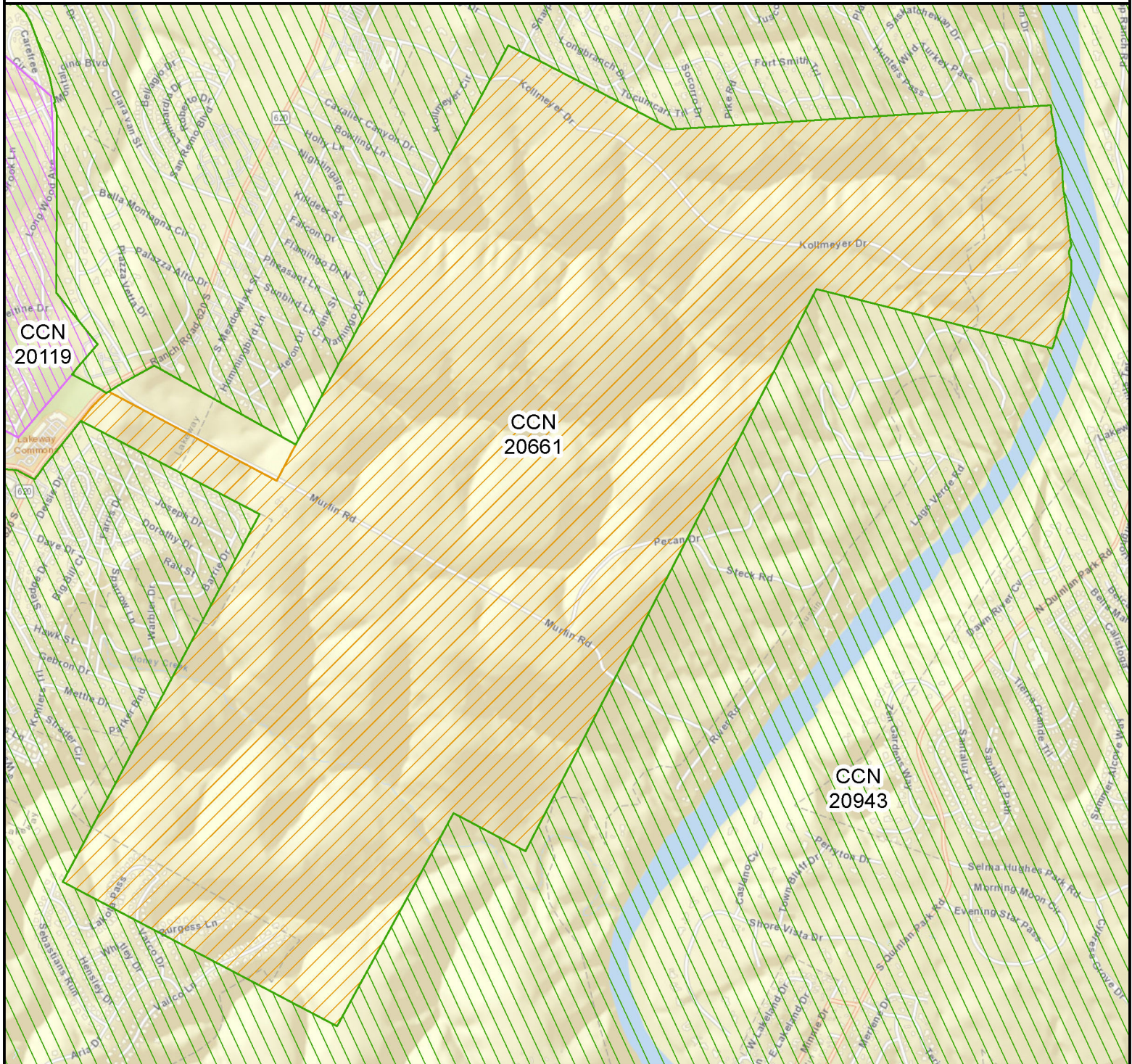
ATTACHMENT 1

MAP OF CCN NO. 20661 CERTIFIED AREA

M A B D D

Sewer CCN No. 20661

in Travis County



Sewer CCN

-  20661 - M A B D D
-  20943 - Travis County WCID 17
-  20119 - Lakeway MUD

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

Map by: Komal Patel
Date: March 6, 2022
Project: 20661MABDD.mxd

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: February 11, 2022

RE: *Review of M.A.B.D.D. Incorporated in Travis County and Certificate of Convenience and Necessity Number 20661*

M.A.B.D.D. Incorporated (MABDD) is located in Travis County, Texas. On June 10, 1985, MADBB filed an application with the Secretary of State to become a Texas corporation. On December 19, 1986, MABDD was granted certificate of convenience and necessity (CCN) No. 20661. Commission Staff's review of the records and information discussed in the paragraphs below indicate that MABDD is no longer in business and does not possess facilities to provide continuous and adequate service to its service area. Therefore, based on 16 Texas Administrative Code (TAC) § 22.245(d)(1), Staff believes that MABDD 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 MABDD. Commission Staff's review indicates that the sewer utility is inactive. In addition, there are notes provided that suggest that facilities were never constructed. This means there is no associated sewer infrastructure, and no facilities exist for MABDD 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 MABDD.

Commission Staff's review of the Secretary of State's website for information on MABDD indicates that it voluntarily terminated its operations on April 4, 1990 and is now listed as inactive.

Commission Staff's review of relevant records indicates that MABDD has no affiliated sewer service infrastructure, ceased operations over 30 years ago, and is incapable of providing

continuous and adequate service. Therefore, I recommend the cancellation of sewer certificate CCN No. 20661.