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DOCKET NO. 53330

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

ORDER NO. 4
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition by Denton Oliver Creek, LP for streamlined expedited release of a tract of land in Denton County from Aqua Texas, Inc.'s sewer service area under certificate of convenience and necessity (CCN) number 21059. For the reasons stated in this Order, the Commission releases the tract of land from Aqua Texas' certificated service area. In addition, the Commission amends Aqua Texas' CCN number 21059 to reflect the removal of the tract of land from the service area.

Following entry of this 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. Denton Oliver Creek is a Texas limited partnership registered with the Texas secretary of state under filing number 804351505.

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 21059 that obligates it to provide retail sewer service in its certificated service area in Denton County.

Petition, Supplemental Materials, and Amended Petition

4. On March 10, 2022, the petitioner filed a petition for streamlined expedited release of a portion of a 570.976-acre tract of land from the CCN holder's service area under sewer CCN number 21059.
5. The petition includes a certificate of notice to the CCN holder by return receipt requested certified mail and the following attachments: an affidavit, dated March 3, 2022, of Justin Bono, manager of Astra Investments GP, LLC, which is the managing general partner of the petitioner; a general location map; detailed map; a special warranty deed dated December 10, 2021; and digital mapping.
6. On May 2, 2022, petitioner supplemented the petition with revised maps and updated digital shapefiles.
7. On May 10, 2022, the petitioner filed an amended petition, a certificate of notice to the CCN holder by return receipt requested certified mail which included proof of notice to the CCN holder and the following attachments: an affidavit dated May 9, 2022, of Mr. Bono; a general location map; detailed maps; a special warranty deed dated December 10, 2021; and the ALTA survey of the petitioner's 570.978-acre property. Petitioner stated that digital mapping has been previously submitted in this docket.
8. In Order No. 3 filed on June 14, 2022, the administrative law judge (ALJ) found the petition, as supplemented and amended, administratively complete.

Notice

9. On March 10, 2022, the petitioner sent a copy of the petition by certified mail, return receipt requested, to the CCN holder.
10. In Order No. 3 filed on June 14, 2022, the ALJ found the notice sufficient.

Response to the Petition

11. The CCN holder did not file a response to the petition.

The Tract of Land

12. The petitioner owns property in Denton County that is approximately 571 acres.
13. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 39.8 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 the tract of land by a special warranty deed dated December 10, 2021.

Qualifying County

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

Sewer Service

18. The tract of land is not receiving actual sewer service from the CCN holder or any other sewer service provider.
19. Petitioner has not requested sewer service for the tract of land from Aqua or paid any fees or charges to initiate or maintain sewer service.
20. There are no billing records or other documents indicating an existing sewer account for the tract of land.
21. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for sewer service.
22. The CCN holder has no facilities or lines that provide sewer service to the tract of land.
23. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

24. On July 25, 2022, Commission Staff filed its recommendation on final disposition that included a certificate for the CCN holder and a map on which it identified the tract of land being decertified from the CCN holder's certificate 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 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 sewer service under TWC § 13.2541(b). Whether a tract of land might have previously received sewer 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 of a portion.
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 sewer 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 sewer service to the 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 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 sewer 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

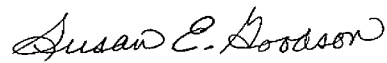
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission releases the tract of land identified in the petition from the CCN holder's certificated service area under CCN number 21059.
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 21059 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.

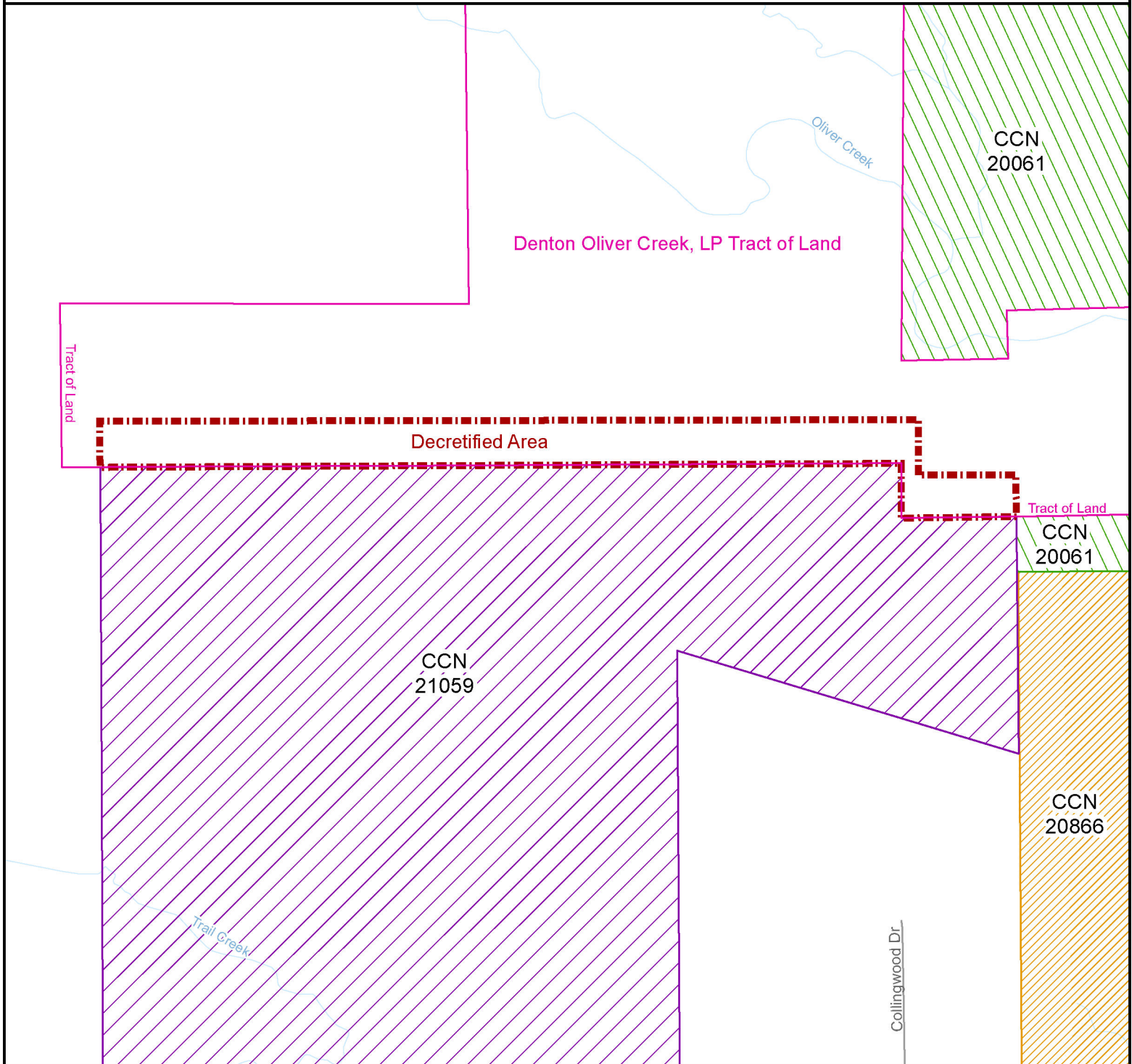
Signed at Austin, Texas the 8th day of August 2022.

PUBLIC UTILITY COMMISSION OF TEXAS






SUSAN E. GOODSON
ADMINISTRATIVE LAW JUDGE



Aqua Texas, Inc.
Portion of Sewer CCN No. 21059
PUC Docket No. 53330
Petition by Denton Oliver Creek, LP 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

Sewer CCN

-  21059 - Aqua Texas Inc
-  20061 - City of Justin
-  20866 - Town of Northlake

-  Decertified Area
-  Tract of Land

0 450 900
Feet



Map by: Komal Patel
Date: July 12, 2022
Project: 53330AquaTx.mxd



Public Utility Commission of Texas

By These Presents Be It Known To All That

Aqua Texas, Inc.

having obtained certification to provide sewer 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. 21059

to provide continuous and adequate sewer utility service to that service area or those service areas in Denton County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53330 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.