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DOCKET NO. 53450

PETITION BY VPTM CROSS CREEK	§	PUBLIC UTILITY COMMISSION
LB, LLC FOR EXPEDITED RELEASE	§	
FROM WATER CCN NO. 10150 HELD	§	
BY MARILEE SPECIAL UTILITY	§	
DISTRICT IN COLLIN COUNTY	§	OF TEXAS
	§	

**MARILEE SPECIAL UTILITY DISTRICT’S MOTION TO INTERVENE AND
MOTION FOR EXTENSION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE SIEMANKOWSKI:

COMES NOW, MARILEE SPECIAL UTILITY DISTRICT (the “District”) and files this Motion to Intervene in response to Petitioner VPTM Cross Creek LB, LLC’s (“Petitioner”) Petition for Expedited Release Pursuant to Texas Water Code § 13.2541 that initiated this docket (“Petition”). The Petition seeks to use the streamlined expedited release process, found at Texas Water Code (“TWC”) § 13.2541 and 16 Texas Administrative Code (“TAC”) § 24.245(h), to extract approximately 37.695 acres of property (the “Tract of Land”) from the water utility service area the District serves under Certificate of Convenience and Necessity (“CCN”) No. 10150 in Collin County, Texas.¹

In support of this motion, the District respectfully shows as follows:

1. On April 4, 2022, Petitioner filed a Petition for streamlined expedited release to decertify the Tract of Land from the District’s certificated water service territory, CCN No. 10150, pursuant to TWC § 13.2541 and 16 TAC § 24.245(h).²
2. The Petition alleges that the Tract of Land is greater than 25 acres, is not receiving water or sewer service, and is entirely within Collin County.³
3. Should the Petition be granted, the District will be deprived of its exclusive right to

¹ Petition by VPTM Cross Creek LB, LLC for Expedited Release from Water CCN No. 10150 Held by Marilee Special Utility District in Collin County, at 2 (Apr. 4, 2022).

² *Id.* at 1.

³ *Id.* at 2.

provide retail water utility service to the particular area of the District's water CCN No. 10150 that includes the Tract of Land.⁴

4. Therefore, the District seeks to participate in this proceeding as an Intervenor. The Commission's rules define who can intervene:

A person has standing to intervene if that person:

(1) has a right to participate which is expressly conferred by statute, commission rule or order or other law; or

(2) has or represents persons with a justiciable interest which may be adversely affected by the outcome of the proceeding.⁵

5. The District has a right to participate in this proceeding. The District has a justiciable interest in maintaining its CCN areas and protecting its investments in its infrastructure that may be adversely affected by the outcome of this proceeding. Therefore, the District requests party status to allow it to continue to argue and respond to substantive issues raised in this proceeding, including but not limited to the determination of property rendered useless or valueless. The staff and consulting engineer of the District are currently investigating and verifying the water facilities of the District.

6. Because the District has a justiciable interest which may be adversely affected by the outcome of the proceeding, the Commission should grant the District party status as an Intervenor.

7. The District has been consolidated with Mustang Special Utility District, pursuant to TWC § 65.723. The District is working diligently to update all necessary forms and databases with the Texas Commission on Environmental Quality and the Commission to reflect the consolidation.

⁴ TWC § 24.225(a).

⁵ 16 TAC § 22.103(B).

8. Petitioner only served the Petition on Donna Loiselle, former General Manager of the District, who is now retired. Petitioner did not notify the District's counsel of any filing in this case until May 31, 2022,⁶ after the deadline for the District's verified response was past.⁷

9. Because the District did not receive notification of the filing of the Petition—or any of the other filings in this case, until May 31st, the District respectfully requests that the ALJ extend the deadline for the District's verified response until June 20, 2022.


PRAYER

WHEREFORE, PREMISES CONSIDERED, the District respectfully requests that the Commission grant its Motion to Intervene to make it a party to this proceeding, enter an order extending the District's deadline to file its verified response until June 20, 2022, and grant the District any further relief in law or equity to which the District may be entitled.

⁶ See VPTM Cross Creek LB LLC's Statement of Position, at 2 (May 31, 2022) (including counsel for the District on Certificate of Service).

⁷ See Order No. 2 – Finding Petition Administratively Complete, Notice Sufficient, and Establishing Procedural Schedule, at 2 (May 4, 2022) (setting a deadline of May 24, 2022, for the District to file a verified response to the Petition).

Respectfully submitted,

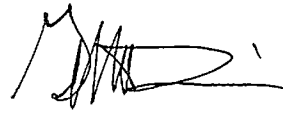
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ATTORNEYS FOR MARILEE SPECIAL
UTILITY DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this 6th day of June 2022.



Grayson E. McDaniel