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DOCKET NO. 53559

PETITION OF VPTM CROSS CREEK LB, LLC TO AMEND MARILEE SPECIAL UTILITY DISTRICT'S CERTIFICATE OF CONVENIENCE AND NECESSITY IN COLLIN COUNTY BY STREAMLINED EXPEDITED RELEASE	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**COMMISSION STAFF'S RECOMMENDATION ON ADMINISTRATIVE
COMPLETENESS AND NOTICE**

On May 4, 2022, VPTM Cross Creek LB, LLC (VPTM Cross Creek LB) filed a petition for streamlined expedited release from the Marilee Special Utility District's (Marilee) sewer Certificate of Convenience and Necessity (CCN) No. 10150 under Texas Water Code (TWC) § 13.2541 and 16 Texas Administrative Code (TAC) § 24.245(h). VPTM Cross Creek LB asserts that the land is at least 25 contiguous acres, is not receiving sewer service, and is located in Collin County, which is a qualifying county.

On May 9, 2022, the administrative law judge filed Order No. 1 setting a deadline of June 3, 2022 for the Staff (Staff) of the Public Utility Commission (Commission) to file comments on the administrative completeness of the petition and notice. Therefore, this pleading is timely filed.

I. ADMINISTRATIVE COMPLETENESS

Staff has reviewed the petition and supplemental information and, as detailed in the attached memorandum from James Harville, Infrastructure Division, recommends that the petition is administratively complete. Staff's recommendation on administrative completeness is not a comment on the merits of the petition.

II. NOTICE SUFFICIENCY

Under 16 TAC § 24.245(h)(3)(f), a landowner seeking streamlined expedited release must provide proof that a copy of the petition has been mailed to the current CCN holder via certified mail on the day that the landowner submits the petition to the Commission. VPTM Cross Creek LB stated that it mailed a copy of its petition to the CCN holder, Marilee, by certified mail on the day the petition was filed with the Commission. VPTM Cross Creek LB also included an affidavit

attesting to this provision of notice to Marilee. Accordingly, Staff recommends that the notice is sufficient.

III. PROCEDURAL SCHEDULE

Under 16 TAC § 24.245(h)(7), there is an expedited deadline of 60 days for approval of the requested release that begins once the ALJ issues an order finding a petition administratively complete. Staff recommends that the petition be found administratively complete. Therefore, Staff proposes the following procedural schedule and requests that the ALJ populate the deadlines accordingly when the ALJ issues that order.

Event	Date
Deadline for Marilee and intervenors to file a response to the administratively complete petition	20 days from the date of the order finding the petition administratively complete
Deadline for VPTM Cross Creek LB to file a reply to Marilee’s response	27 days from the date of the order finding the petition administratively complete
Deadline for Staff’s recommendation on final disposition	41 days from the date of the order finding the petition administratively complete
Sixty-day administrative approval of streamlined expedited release	60 days from the date of the order finding the petition administratively complete
<i>In the event streamlined expedited release is granted and VPTM Cross Creek LB and Marilee can select an agreed-upon appraiser</i>	
Deadline for VPTM Cross Creek LB and Marilee to make a filing stating that they have selected an agreed-upon appraiser	Within 10 days after the Commission approves streamlined expedited release
Deadline for appraiser’s report	Within 70 days after the Commission approves streamlined expedited release
Deadline for Commission’s final order determining the amount of monetary compensation, if any, owed by VPTM Cross Creek LB to Marilee	Within 60 days after appraiser's report
Deadline for VPTM Cross Creek LB to pay any compensation due to Marilee	Within 90 days of the Commission’s final order on compensation
<i>In the event streamlined expedited release is granted and VPTM Cross Creek LB and Marilee unable to select an agreed-upon appraiser</i>	

Deadline for VPTM Cross Creek LB and Marilee to make a filing stating that they have been unable to select an agreed-upon appraiser and affirming that they will pay half of the cost of Commission Staff's appraiser ¹	Within 10 days after the Commission approves streamlined expedited release ²
Deadline for reports from VPTM Cross Creek LB's appraiser and Marilee's appraiser	Within 70 days after the Commission approves streamlined expedited release
Deadline for Staff's appraiser's report	Within 100 days after the Commission approves streamlined expedited release
Deadline for Commission's final order determining the amount of monetary compensation, if any, owed by VPTM Cross Creek LB to Marilee	Within 60 days after the Commission receives the final appraisal
Deadline for VPTM Cross Creek LB to pay any compensation due to Marilee	Within 90 days of the Commission's final order on compensation

IV. CONCLUSION

For the reasons detailed above, Staff recommends that the petition be found administratively complete, that the notice be found sufficient, and that the proposed procedural schedule be adopted. Staff respectfully requests the entry of an order consistent with these recommendations.

¹ TWC § 13.2541(i).

² It is critical for Staff to know as soon as possible after the Commission grants the petition whether Staff needs to secure the services of a third appraiser. If the petitioner and CCN holder are unable to agree and fail to make this filing, Staff may need additional time to file its appraiser's report.

Dated: June 3, 2022

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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/s/ Phillip Lehmann
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DOCKET NO. 53559

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on June 3, 2022, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Phillip Lehmann
Phillip Lehmann

Public Utility Commission of Texas

Memorandum

TO: Phillip Lehmann
Mildred Anaele, Attorney
Legal Division

FROM: James Harville, Infrastructure Analyst
Infrastructure Division

DATE: June 3, 2022

RE: Docket No. 53559 – *Petition of VPTM Cross Creek LB, LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Streamlined Expedited Release*

On May 4, 2022, VPTM Cross Creek LB, LLC (VPTM Cross Creek LB) filed a petition for streamlined expedited release from Marilee Special Utility District's (Marilee) water Certificate of Convenience and Necessity (CCN) No. 10150 in Collin County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). VPTM Cross Creek LB asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Collin County, which is a qualifying county.

VPTM Cross Creek LB submitted a sworn affidavit attesting that the tract of land was not receiving water service from Marilee and a warranty deed confirming ownership of the landowner’s total property. VPTM Cross Creek LB included a statement indicating a copy of the petition was sent via certified mail to Marilee on the date the petition was filed with the Commission.

Based on the mapping review by Dave Babicki, Infrastructure Division, the maps submitted with Item 1 on May 4, 2022 are sufficient for determining the location of the tract of land considered for streamlined expedited release is located within Marilee’s water CCN. Dave Babicki determined the following:

The landowner’s total property is approximately 111.8 acres. The tract of land in the petition for streamlined expedited release is approximately 111.8 acres, of which approximately 111.8 acres overlap Marilee SUD (CCN No. 10150) and would be decertified from CCN No. 10150.

Based on my technical and managerial review of the information provided by VPTM Cross Creek LB, I recommend the petition be deemed administratively complete and accepted for filing.