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Received - 2022-09-27 08:54:19 AM
Control Number - 53569
ItemNumber - 9

DOCKET NO. 53569

PETITION OF BARKLEY MEADOWS,	§	PUBLIC UTILITY COMMISSION
LLC TO AMEND GARFIELD WATER	§	
SUPPLY CORPORATION'S	§	OF TEXAS
CERTIFICATE OF CONVENIENCE	§	
AND NECESSITY IN TRAVIS COUNTY	§	
BY STREAMLINED EXPEDITED	§	
RELEASE	§	

ORDER NO. 4
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition of Barkley Meadows LLC, for streamlined expedited release of a tract of land in Travis County from Garfield Water Supply Corporation's service area under certificate of convenience and necessity (CCN) number 11244. For the reasons stated in this Order, the Commission releases the tract of land from Garfield WSC's certificated service area. In addition, the Commission amends Garfield WSC's CCN number 11244 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 Garfield WSC, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. Barkley Meadows is Delaware limited liability company registered with the Texas secretary of state under filing number 804346038.

CCN Holder

2. Garfield WSC is a Texas nonprofit corporation registered with the Texas secretary of state under filing number 22360101.
3. Garfield WSC holds CCN number 11244 that obligates it to provide retail water service in its certificated service area in Travis County.

Petition and Supplemental Materials

4. On May 6, 2022, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 11244.
5. The petition includes an affidavit, dated April 29, 2022, of Brad Korzen, manager of the petitioner; maps; special warranty deed dated December 15, 2021, which included a metes-and-bounds description; digital mapping data; and proof of notice to the CCN holder.
6. On June 27, 2022, the petitioner filed revised mapping items.
7. In Order No. 3 filed on August 10, 2022, the administrative law judge (ALJ) found the petition, as supplemented, administratively complete.

Notice

8. On May 6, 2022, the petitioner sent a copy of the petition by certified mail to the CCN holder.
9. In Order No. 3 filed on August 10, 2022, the ALJ found the notice sufficient.

Response to the Petition

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

The Tract of Land

11. The petitioner owns property in Travis County that is approximately 43.9 acres.
12. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 37.8 acres.
13. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

14. The petitioner acquired its property by a special warranty deed dated December 15, 2021.

Qualifying County

15. Travis County has a population of at least one million.

Water Service to the Tract of Land

16. The tract of land is not receiving actual water service from the CCN holder.
17. The petitioner has not paid the CCN holder any fees or charges to initiate or maintain water service.

18. There are no billing records or other documents that indicate that the petitioner has an existing account for the tract of land with the CCN holder.
19. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
20. The CCN holder has no facilities or lines that provide water service to the tract of land.
21. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

22. On September 20, 2022, Commission Staff filed its recommendation on final disposition that included a certificate and a map on which it identified the tract of land for which the petitioner seeks streamlined expedited release in relationship to the CCN holder's certificated 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 that must be verified by a notarized affidavit.
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 water or sewer service under TWC § 13.2541(b). Whether a tract of land might have previously received water or 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.
11. Travis 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 water 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 to provide retail water service to the tract of land under TWC § 13.254(h).
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 decertify any facilities or equipment owned and operated by the CCN holder to provide retail water 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 Travis 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 water service to the public within the released portion of 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 11244.
2. The Commission does not decertify any of the CCN holder's equipment or facilities that may lay on or under the released portion of the tract of land.
3. The Commission amends CCN number 11244 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 27th day of September 2022.

PUBLIC UTILITY COMMISSION OF TEXAS



KATIE MOORE MARX
ADMINISTRATIVE LAW JUDGE



Public Utility Commission of Texas

By These Presents Be It Known To All That

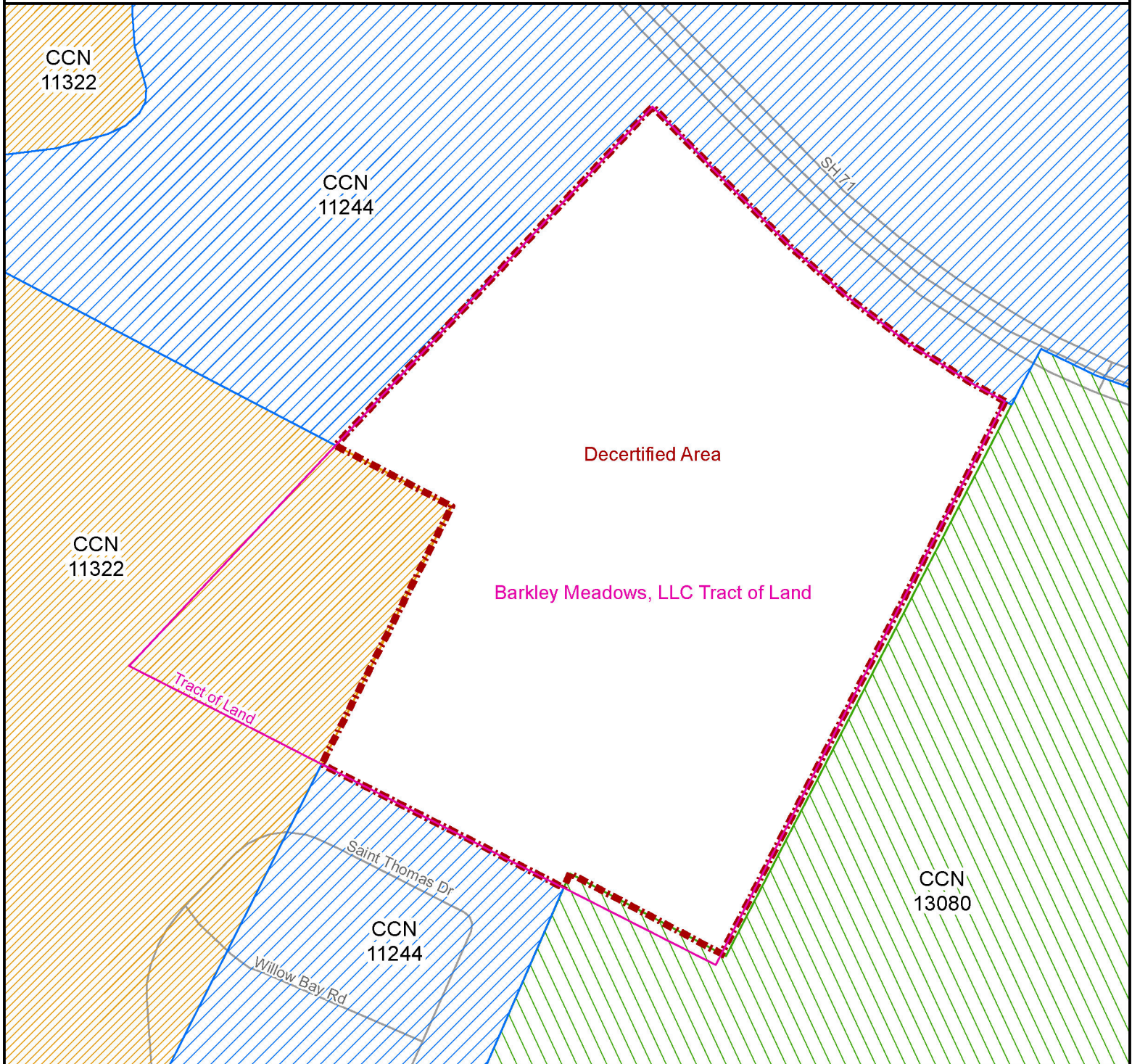
Garfield Water Supply Corporation

having obtained certification to provide water or 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, Garfield Water Supply Corporation is entitled to this




Certificate of Convenience and Necessity No. 11244



to provide continuous and adequate water utility service to that service area or those service areas in Travis County as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53569 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 Garfield Water Supply Corporation 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.

Garfield Water Supply Corporation
Portion of Water CCN No. 11244
PUC Docket No. 53569
Petition by Barkley Meadows, LLC to Amend
Garfield Water Supply Corporation's CCN by Streamlined Expedited Release in Travis County



Water CCN

-  11244 - Garfield WSC
-  13080 - Plan Z LLC
-  11322 - City of Austin

-  Decertified Area
-  Tract of Land

0 150 300
Feet

