



## Filing Receipt

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**DOCKET NO. 53594**

<b>PETITION OF MONTGOMERY</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>COUNTY LAND INVESTMENTS, INC.</b>	<b>§</b>	
<b>TO AMEND T&amp;W WATER SERVICE</b>	<b>§</b>	
<b>COMPANY'S CERTIFICATE OF</b>	<b>§</b>	
<b>CONVENIENCE AND NECESSITY IN</b>	<b>§</b>	<b>OF TEXAS</b>
<b>MONTGOMERY COUNTY BY</b>	<b>§</b>	
<b>STREAMLINED EXPEDITED</b>	<b>§</b>	
<b>RELEASE</b>	<b>§</b>	

**COMMISSION STAFF'S RECOMMENDATION ON FINAL DISPOSITION**

**I. INTRODUCTION**

On May 11, 2022, Montgomery County Land Investments Inc. (MCLI) filed a petition for streamlined expedited release from T&W Water Service Company's (T&W) water Certificate of Convenience and Necessity (CCN) number 12892 under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). MCLI asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Montgomery County, which is a qualifying county. On July 18, 2022, T&W filed a motion to intervene. MCLI filed supplemental information on July 12, 2022 and August 22, 2022.

On October 17, 2022, the administrative law judge (ALJ) filed Order No. 5, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on final disposition by November 28, 2022. Therefore, this pleading is timely filed.

**II. RECOMMENDATION ON FINAL DISPOSITION**

Staff has reviewed the petition and, as detailed in the attached memorandum from Patricia Garcia of the Infrastructure Division, recommends that the petition be approved. Staff recommends that the petition satisfies the requirements of TWC § 13.2541(b) and 16 TAC § 24.245(h). Specifically, the petition demonstrates that the property for which MCLI seeks streamlined expedited release is located in a qualifying county (Montgomery County), is at least 25 acres in size, is not receiving water service, and is located within T&W's water certificated area. In addition, MCLI provided a warranty deed confirming its ownership of the property.

On November 7, 2022, T&W filed a response to the ALJ's Order No. 5 and objects to the administratively complete petition.<sup>1</sup> In response, T&W states it is "prepared to expand its existing infrastructure to provide service to the subject property" and states it "stands ready to provide service to the property on reasonable notice."<sup>2</sup> T&W claims it will lose the value of expanding its infrastructure and objects to MCLI's "interference with T&W's provision of service to the property."<sup>3</sup> T&W also argues that MCLI "failed to provide adequate notice of the area to be decertified."<sup>4</sup> Staff disagrees.

Staff has concluded that T&W has not raised valid objections to MCLI's petition. Regarding T&W's assertion that it is *prepared* to provide water service in the future, the Texas Water Code specifies that "the owner of a tract of land...that is not receiving water...service" may file a petition for expedited release under TWC 13.2541.<sup>5</sup> T&W readily admits it is not providing water service to the subject property and merely states it is prepared to do so at some indeterminate point in the future.<sup>6</sup> Thus, under the plain language of the statute and rule, the property in question is eligible for streamlined expedited release. T&W's other objection that it will lose value for allowing this decertification is also not a valid objection to this petition. Not only is there no statute or rule that allows a CCN holder to object to streamlined expedited release due to a loss in the CCN holder's value, the statute and corresponding rule actually provide a mechanism for the CCN holder to receive financial compensation for the release.<sup>7</sup> Thus, Staff contends that a loss in value is not a valid objection to MCLI's petition. Staff therefore recommends that the property is eligible for expedited release.

Staff also disagrees with T&W's assertion that MCLI failed to provide adequate notice. First, T&W makes a general assertion that notice was insufficient without providing any specifics as to why MCLI's notice was insufficient.<sup>8</sup> Second, in Order No. 5, the ALJ already determined

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<sup>1</sup> Response to Order No. 5 at 1 (Nov. 7, 2022). (T&W Response).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> TWC § 13.2541(b). *See also* 16 TAC § 24.245(h)(1)(B).

<sup>6</sup> T&W Response at 1.

<sup>7</sup> TWC § 13.2541(f)–(j) and 16 TAC § 24.245(h)(9).

<sup>8</sup> *Id.*

that notice was sufficient.<sup>9</sup> Therefore, Staff reiterates its October 14, 2022 recommendation that MCLI's notice is sufficient.<sup>10</sup>

Staff accordingly recommends that the petition for streamlined expedited release be approved. The final water CCN map and certificate are attached to this filing. Staff additionally recommends that the final map and certificate be provided to T&W and that T&W be required to file a certificated copy of the CCN map and a boundary description of the CCN service area in Montgomery County Clerk's office, as required under TWC § 13.257(r)–(s).

### III. CONCLUSION

For the reasons detailed above, Staff respectfully recommends that MCLI's petition be approved and that an order be issued consistent with the foregoing recommendation.

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<sup>9</sup> Order No. 5 – Finding Petition, as Supplemented, Administratively Complete, *Notice Sufficient*, and Establishing Procedural Schedule at 1 (Oct. 17, 2022) (emphasis added).

<sup>10</sup> Commission Staff's Supplemental Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule at 1–2 (Oct. 14, 2022).

Dated: November 22, 2022

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Keith Rogas  
Division Director

John Harrison  
Managing Attorney

/s/ Ian Groetsch  
Ian Groetsch  
State Bar No. 24078599  
1701 N. Congress Avenue  
P.O. Box 13326  
Austin, Texas 78711-3326  
(512) 936-7465  
(512) 936-7268 (facsimile)  
Ian.Groetsch@puc.texas.gov

**DOCKET NO. 53594**

**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 November 22, 2022 in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch  
Ian Groetsch

# *Public Utility Commission of Texas*

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## **Memorandum**

**TO:** Ian Groetsch, Attorney  
Legal Division

**FROM:** Patricia Garcia, Infrastructure Analysis Section Director  
Infrastructure Division

**DATE:** November 28, 2022

**RE:** Docket No. 53594 – *Petition of Montgomery County Land Investments, Inc. to Amend T&W Water Service Company's Certificate of Convenience and Necessity in Montgomery County by Streamlined Expedited Release*

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On May 11, 2022, Montgomery County Land Investments Inc. (MCLI) filed a petition for streamlined expedited release from T&W Water Service Company's (T&W) water Certificate of Convenience and Necessity (CCN) No. 12892 in Montgomery County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). MCLI asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Montgomery County, which is a qualifying county.

MCLI provided a warranty deed confirming ownership of the tract of land within T&W's certificated service area. In addition, MCLI submitted a sworn affidavit attesting that the tract of land was not receiving water service from the CCN holder. T&W requested to intervene.

Based on the mapping review by Dave Babicki, Infrastructure Division, it was determined the landowner's total property is approximately 154.8 acres. The tract of land in the petition for streamlined expedited release is approximately 154.8 acres, of which approximately 22.5 acres overlap T&W Water Service Company (CCN No. 12892) and would be decertified from CCN No. 12892.

T&W objects to the petition and stated it is prepared to expand its existing infrastructure to provide service to the subject property.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), MCLI has met the Commission's requirements to allow for the release of the tract of land from T&W's CCN No. 12892. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.

Additionally, I recommend that a final map and certificate be provided to the CCN holder.



# **Public Utility Commission of Texas**

**By These Presents Be It Known To All That**

## **T & W Water Service Company**

having obtained certification to provide water 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, T & W Water Service Company is entitled to this

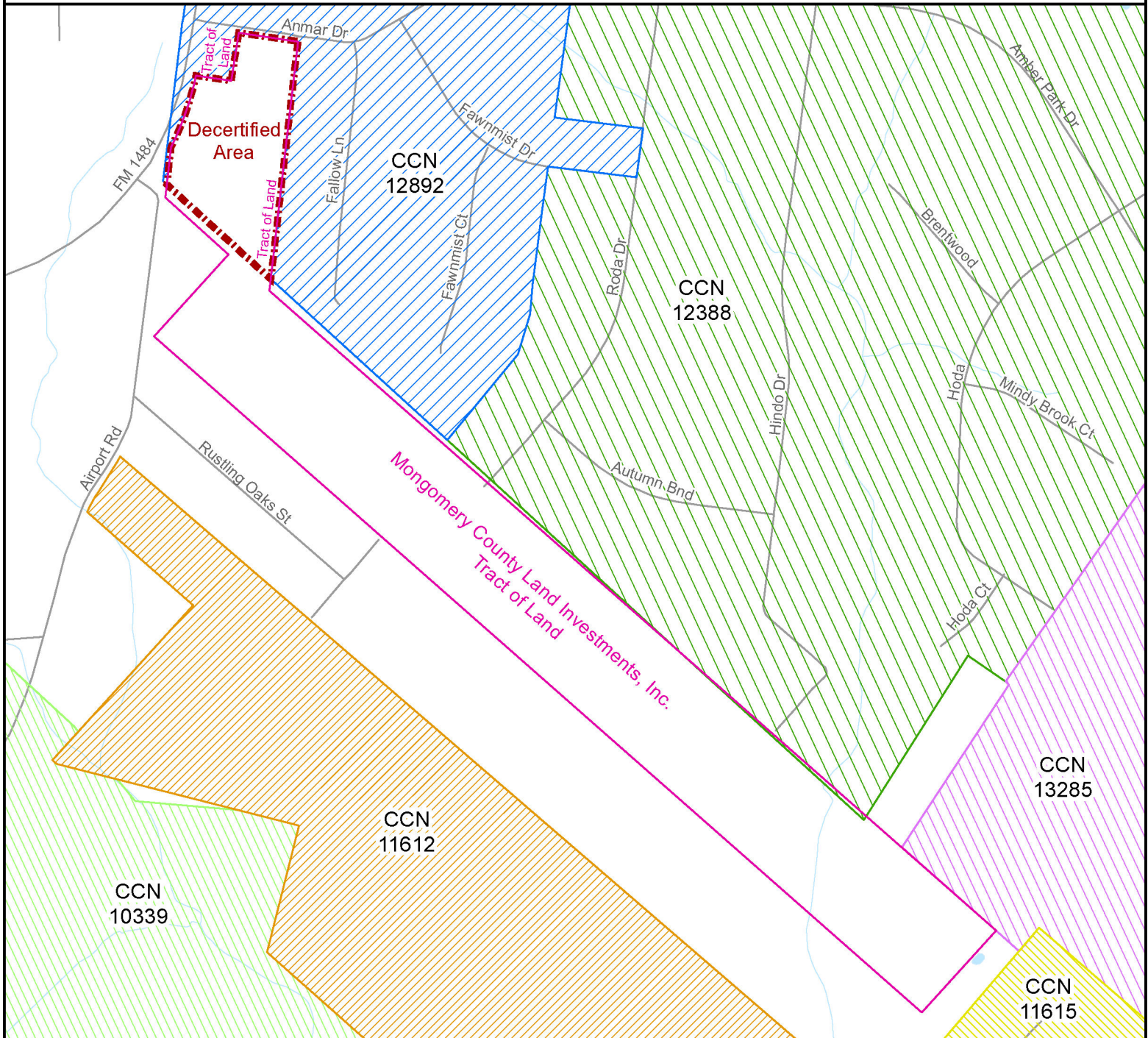
### **Certificate of Convenience and Necessity No. 12892**

to provide continuous and adequate water utility service to that service area or those service areas in Harris, Jefferson, Liberty, and Montgomery counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53594 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 T & W Water Service Company 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.





T & W Water Service Company  
Portion of Water CCN No. 12892  
PUC Docket No. 53594

Petition by Montgomery County Land Investments, Inc. to Amend  
T & W Water Service Company's CCN by Streamlined Expedited Release in Montgomery County



**Water CCN**

-  12892 - T & W Water Service Company
-  12388 - Woodland Hills Water LLC
-  11612 - Quadvest LP
-  13285 - Deer Trails Water District LLC
-  10339 - City of Conroe
-  11615 - Town of Cut and Shoot

-  Decertified Area
-  Tract of Land

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Feet

