



Filing Receipt

Received - 2022-11-02 04:15:25 PM
Control Number - 53698
ItemNumber - 17

DOCKET NO. 53698

PETITION OF AM REAL ESTATE	§	PUBLIC UTILITY COMMISSION
SOLUTIONS, INC., TRUSTEE OF THE	§	
AM BUSINESS TRUST 2021-001, TO	§	
AMEND THE CITY OF GRAND	§	
PRAIRIE'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
ELLIS COUNTY BY STREAMLINED	§	
EXPEDITED RELEASE	§	

COMMISSION STAFF'S FINAL RECOMMENDATION

On June 8, 2022, AM Real Estate Solutions, Inc., Trustee of the AM Business trust 2021-001 (AM Real Estate), filed a petition for streamlined expedited release from City of Grand Prairie's (Grand Prairie) water Certificate of Convenience and Necessity (CCN) No. 10105 in Ellis County under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). AM Real Estate asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Ellis County, which is a qualifying county. AM Real Estate filed supplemental information on August 4, 2022.

On September 8, 2022, the administrative law judge (ALJ) filed Order No. 3, directing the Staff (Staff) of the Public Utility Commission of Texas (Commission) to file a recommendation on final disposition by October 19, 2022. Therefore, this pleading is timely filed.

I. FINAL RECOMMENDATION

Staff has reviewed the petition and, as detailed in the attached memorandum from Jolie Mathis 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 AM Real Estate seeks streamlined expedited release is located in a qualifying county (Ellis County), is at least 25 acres in size, is not receiving water service, and is located within Aqua Texas's water certificated area. In addition, AM Real Estate provided a warranty deed confirming its ownership of the property.

On September 28, 2022, Grand Prairie filed a response to AM Real Estate's petition.¹ In its response, Grand Prairie stated it has water service facilities near and within AM Real Estate's property and has performed various acts and expended money to extend water service to AM Real Estate's property² and argues this proves that AM Real Estate's property is receiving water service from Grand Prairie under TWC § 13.002(21).³ Staff disagrees.

Staff has concluded that neither the location of the water facilities nor the acts it performed demonstrate that Grand Prairie was providing water service to the AM Real Estate property. In *Crystal Clear*, the court determined that because existing lines and facilities located on or near a tract of land were constructed to serve the greater area, and not the particular property seeking expedited release, it did not constitute as receiving water service under TWC § 13.002(21).⁴ The court also concluded that in determining whether performed acts constitute receiving water service, the inquiry should focus on whether an entity "has performed acts or supplied anything *to the particular tract* in furtherance of its obligation to provide water to that tract pursuant to its CCN."⁵ In its response to the petition, Grand Prairie did not demonstrate that the water lines were committed in any way separate from supplying water to the greater area. It demonstrated no evidence of water lines or meter installed in order to service the AM Real Estate property. Instead, Grand Prairie merely states that it has the infrastructure and capacity to service the AM Real Estate Property.⁶ Grand Prairie failed to demonstrate with any specificity that the acts it performed and expenditures it made were intended to service the AM Real Estate property in particular, as opposed to the general service area. Essentially, Aqua Texas failed to present evidence that Aqua Texas has any tangible commitments to provide water service for this specific property. Accordingly, Staff recommends that the property is not receiving water service on that basis.

¹ City of Grand Prairie's Verified Response to AM Business Trust 2022-001's Petition for Streamlined, Expedited Release (Sep. 28, 2022). (Grand Prairie Response).

² *Id.* at 7, 10-12.

³ *Id.* at 12.

⁴ *Tex. Gen. Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 140 (Tex. App.—Austin, 2014, pet. denied).

⁵ *Id.*

⁶ Grand Prairie Response at 12.

Staff 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 Grand Prairie and that Grand Prairie be required to file a certificated copy of the CCN map and a boundary description of the CCN service area in the Ellis County Clerk's office, as required under TWC § 13.257(r)-(s).

II. 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.

Dated: November 2, 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. 53698

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 2, 2022, in accordance with the Second Order Suspending Rules, issued in Project No. 50664.

/s/ Ian Groetsch
Ian Groetsch

Public Utility Commission of Texas

Memorandum

TO: Ian Groetsch, Attorney
Legal Division

FROM: Jolie Mathis, Utility Engineering Specialist
Infrastructure Division

DATE: October 28, 2022

RE: Docket No. 53698 – *Petition of AM Real Estate Solutions, Inc., Trustee of the AM Business Trust 2021-001, to Amend the City of Grand Prairie's Certificate of Convenience and Necessity in Ellis County by Streamlined Expedited Release*

On June 8, 2022, AM Real Estate Solutions, Inc., Trustee of the AM Business trust 2021-001 (AM Real Estate), filed a petition for streamlined expedited release from City of Grand Prairie's (Grand Prairie) water Certificate of Convenience and Necessity (CCN) No. 10105 in Ellis County, under Texas Water Code (TWC) § 13.2541(b) and 16 Texas Administrative Code (TAC) § 24.245(h). AM Real Estate asserts that the land is at least 25 contiguous acres, is not receiving water service, and is located in Ellis County, which is a qualifying county.

AM Real Estate provided a warranty deed confirming ownership of the tract of land within Grand Prairie's certificated service area. In addition, AM Real Estate submitted a sworn affidavit attesting that the tract of land was not receiving water service from the CCN holder. Grand Prairie requested to intervene.

Based on the mapping review by Tracy Montes, Infrastructure Division, it was determined the landowner's total property is approximately 340.8 acres. The tract of land in the petition for streamlined expedited release is approximately 340.8 acres, of which approximately 318.6 acres overlap Grand Prairie (CCN No. 10105) and would be decertified from CCN No. 10105.

Grand Prairie provided documentation showing distribution lines are in place to serve growth in the vicinity of the property. Specifically, there is a 16-inch water line to the right of the requested property and a proposed 16-inch water line which would go through the property. The maps provided did not indicate any meters near or on the requested property. Based on the information provided it is confirmed Grand Prairie does not currently provide retail water service to the requested area.

In accordance with TWC § 13.2541 and 16 TAC § 24.245(h), AM Real Estate has met the Commission's requirements to allow for the release of the tract of land from Grand Prairie's CCN No. 10105. Therefore, I recommend approval of the petition. Enclosed is a final map and certificate for Commission approval.



Public Utility Commission of Texas

By These Presents Be It Known To All That

City of Grand Prairie

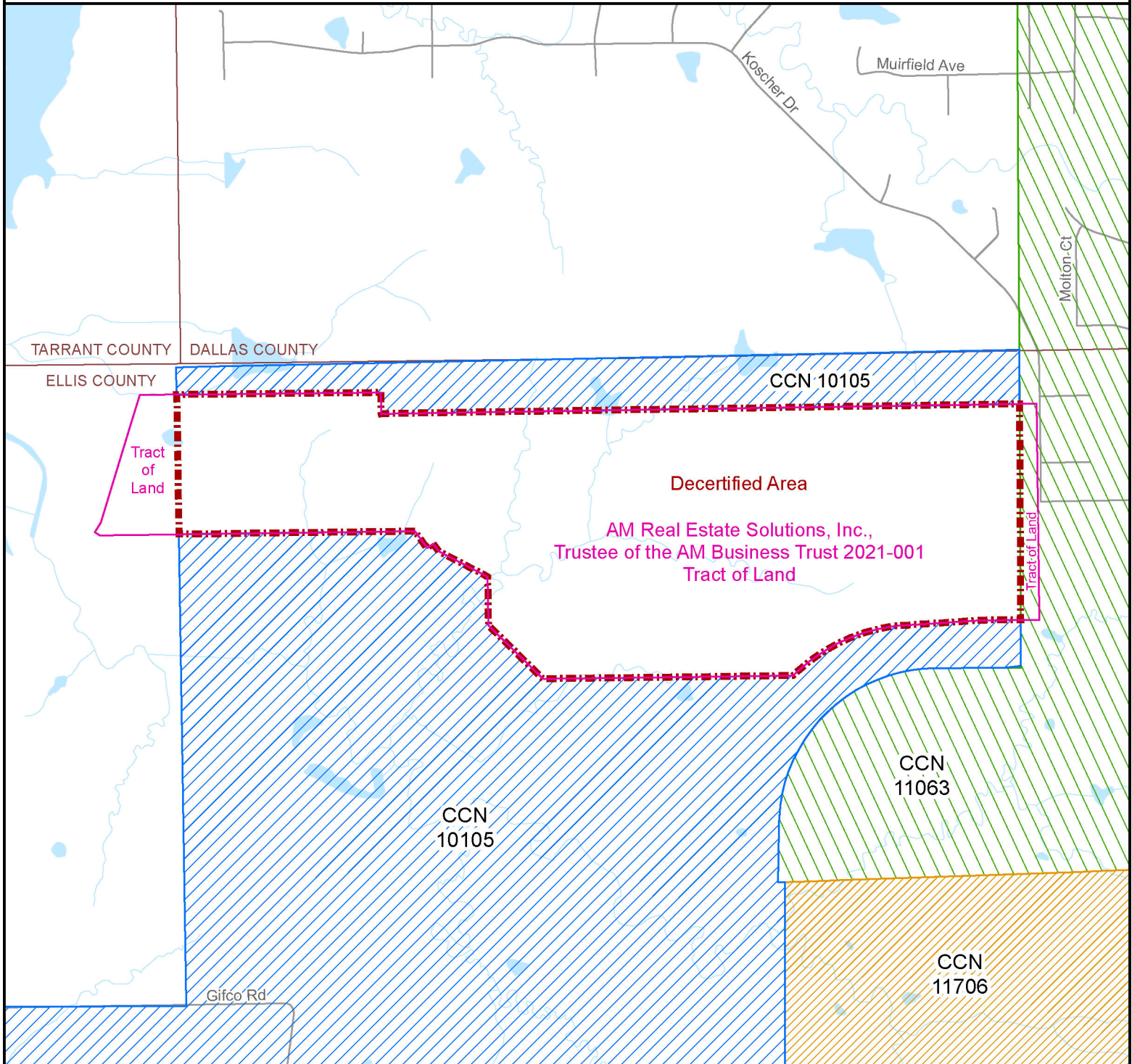
having obtained certification to provide water utility service for the convenience and necessity of the public, and it having been determined by this Commission that the public convenience and necessity would in fact be advanced by the provision of such service, City of Grand Prairie is entitled to this

Certificate of Convenience and Necessity No. 10105




to provide continuous and adequate water utility service to that service area or those service areas in Dallas, Ellis, and Tarrant counties as by final Order or Orders duly entered by this Commission, which Order or Orders resulting from Docket No. 53698 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 City of Grand Prairie 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.



City of Grand Prairie
Portion of Water CCN No. 10105
PUC Docket No. 53698

Petition by AM Real Estate Solutions, Inc., Trustee of the AM Business Trust 2021-001 to
Amend City of Grand Prairie's CCN by Streamlined Expedited Release in Ellis County



Water CCN

-  10105 - City of Grand Prairie
-  11063 - City of Cedar Hill
-  11706 - City of Midlothian

-  Decertified Area
-  Tract of Land

0 625 1,250
Feet

