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Filing Date - 2023-10-02 10:34:37 AM

Control Number - 54861

Item Number - 15

DOCKET NO. 54861

PETITION OF GREGG LANE DEV LLC	§	PUBLIC UTILITY COMMISSION
TO AMEND AQUA WATER SUPPLY	§	
CORPORATION'S CERTIFICATE OF	§	OF TEXAS
CONVENIENCE AND NECESSITY IN	§	
TRAVIS COUNTY BY STREAMLINED	§	
EXPEDITED RELEASE	§	

ORDER NO. 5
GRANTING STREAMLINED EXPEDITED RELEASE

This Order addresses the petition of Gregg Lane Dev LLC for streamlined expedited release of a tract of land in Travis County from Aqua Water Supply Corporation's service area under certificate of convenience and necessity (CCN) number 10294. For the reasons stated in this Order, the Commission releases the tract of land from Aqua WSC's certificated service area. In addition, the Commission amends Aqua WSC's CCN number 10294 to reflect 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 Aqua WSC, which will be addressed by separate order.

I. Findings of Fact

The Commission makes the following findings of fact.

Petitioner

1. The petitioner, Gregg Lane, is a Texas limited liability company registered with the Texas secretary of state under filing number 803914637.

CCN Holder

2. Aqua WSC is a Texas nonprofit corporation registered with the Texas secretary of state under filing number 25894701.
3. Aqua WSC holds CCN number 10294 that obligates it to provide retail water service in its certificated service area in Travis and Bastrop counties.

Petition and Supplemental Materials

4. On April 17, 2023, the petitioner filed a petition for streamlined expedited release of a tract of land from the CCN holder's service area under CCN number 10294.
5. The petition included the following: maps; digital mapping data; special warranty deeds with metes-and-bounds descriptions, each dated March 10, 2021; a certificate of formation filed with the Texas secretary of state; and a notice from the Internal Revenue Service assigning employer identification number.
6. On June 19, 2023, the petitioner supplemented the petition with maps, proof of notice of the petition to the CCN holder by certified mail, and digital mapping data.
7. On July 31, 2023, the petitioner supplemented the petition with the affidavit, dated July 31, 2023, of Shaun Vembutty, manager of Gregg Lane, and digital mapping data.
8. In Order No. 4 filed on August 16, 2023, the administrative law judge (ALJ) found the petition, as supplemented, administratively complete.

Notice

9. On June 19, 2023, the petitioner sent a copy of the petition to the CCN holder by certified mail.
10. In Order No. 3 filed on July 18, 2023, the ALJ found the notice sufficient.

Response to the Petition

11. On September 5, 2023, the CCN holder filed a response to the petition, which consisted of an affidavit, dated September 5, 2023, of Ty Embrey, the CCN holder's general counsel, attesting that Aqua WSC does not object to the release of the tract of land.

The Tract of Land

12. The petitioner owns property in Travis County that is approximately 90.3 acres.
13. The tract of land for which the petitioner seeks streamlined expedited release is a portion of the petitioner's property that is approximately 17.7 acres.
14. The tract of land is located within the CCN holder's certificated service area.

Ownership of the Tract of Land

15. The petitioner acquired the 90.3-acre property by a special warranty deed dated March 10, 2021.

Qualifying County

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

Water Service to the Tract of Land

17. The tract of land is not receiving actual water service from the CCN holder or any other water service provider.
18. The petitioner has not requested water service from the CCN holder for the tract of land or paid any fees or charges to initiate or maintain such service.
19. There are no billing records or other documents evidencing an existing account with the CCN holder.
20. The CCN holder has not committed or dedicated any facilities or lines to the tract of land for water service.
21. The CCN holder has no facilities or lines that provide water service to the tract of land.
22. The CCN holder has not performed any acts for or supplied anything to the tract of land.

Map and Certificate

23. On September 27, 2023, Commission Staff filed its recommendation on final disposition that included a map on which it identified the tract of land in relation 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 the 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 this 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 the petitioner's petition.
4. This petition for streamlined expedited release filed under TWC §§ 13.254 and 13.2541 and 16 TAC § 24.245(h) is not a contested case.
5. The petitioner, under TWC §§ 13.254, 13.2541 and 16 TAC § 24.245(h), is 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 in this proceeding is based on the information submitted by the petitioner, the CCN holder, and Commission Staff.
7. To obtain streamlined expedited release under TWC § 13.2541(b), the petitioner must demonstrate that it 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 this petition was filed is the only relevant time period to consider when evaluating whether the tract of land is receiving water service under TWC § 13.2541(b). Whether the tract of land might have previously received water service is irrelevant.
9. The petitioner is not required to seek the streamlined expedited release of all of its property.
10. The petitioner owns property that is at least 25 acres for which it seeks streamlined expedited release of a portion.
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. Under TWC §§ 13.254(h) and 13.2541(a), after the date of this Order, the CCN holder has no obligation to provide retail water service to the tract of land.

15. The Commission may release only the petitioner's tract of land from CCN number 10294 under TWC § 13.2541(b). The Commission has no authority to decertificate any facilities or equipment owned and operated by the holder of CCN number 10294 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 tract of land unless just and adequate compensation under TWC § 13.254(g) has been paid to the holder of CCN number 10294.

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 10294.
2. The Commission does not decertificate any of the CCN holder's equipment or facilities that may lay on or under the tract of land.
3. The Commission amends CCN number 10294 in accordance with this Order.
4. The Commission approves the map attached to this Order.
5. 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.
6. 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. 4. Any decision on compensation will be made by a separate order.
7. 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 on the 2nd day of October 2023.

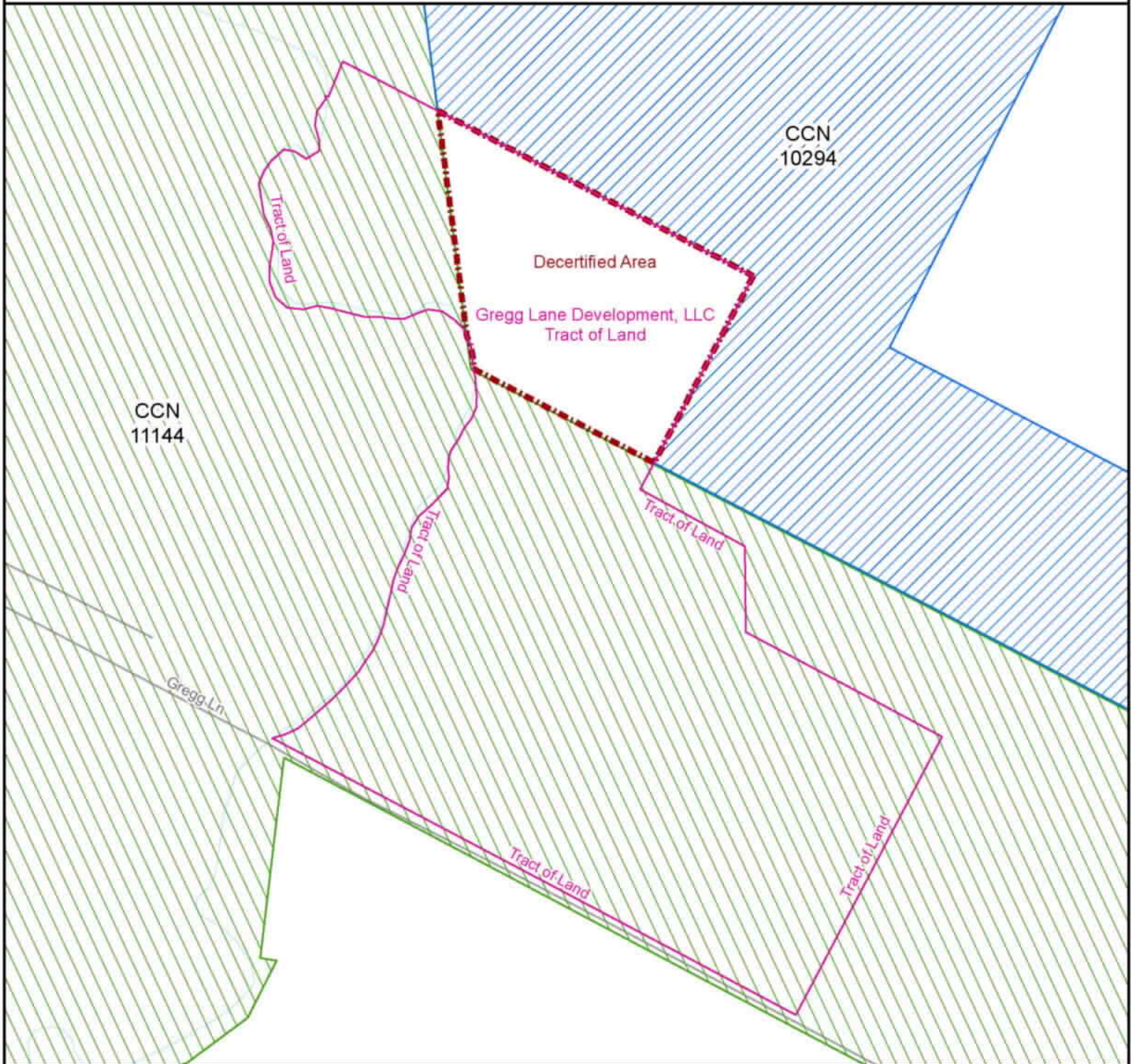
PUBLIC UTILITY COMMISSION OF TEXAS

A handwritten signature in black ink, appearing to read 'Isaac TA', written over a horizontal line.

ISAAC TA



ADMINISTRATIVE LAW JUDGE



PUCT Docket No. 54861
Aqua Water Supply Corporation
Portion of Water CCN No. 10294
Petition by Gregg Lane Development, LLC to Amend
Aqua Water Supply Corporation's CCN by Streamlined Expedited Release in Travis County



Public Utility Commission of Texas
1701 N. Congress Ave
Austin, TX 78701

Water CCN

-  10294 - Aqua WSC
-  11144 - Manville WSC

-  Decertified Area
-  Tract of Land

0 250 500
Feet



Map by: Komal Patel
Date: September 13, 2023
Project: 54861AquaWSC.mxd