

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 9, 2013

Bridget C. Bohac, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105  
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2013-0639-UCR Consideration of a request for a Commission Order approving a contract designating service areas between the City of Montgomery and Dobbin-Plantersville WSC pursuant to Texas Water Code Section 13.248, Application No. 37315-C

Dear Ms. Bohac:

Attached for filing with the Texas Commission on Quality (Commission) are the following items as backup material for the April 23, 2013 agenda regarding the request described above:

1. Copy of the letter mailed to the parties regarding the agenda date;
2. Interoffice Memorandum – Executive Summary;
3. Interoffice Memorandum – analysis of the City of Montgomery's financial, managerial, and technical capability;
4. Request for a Commission Order approving the parties' Section 13.248 contract, received at the Commission on March 26, 2012;
5. City of Montgomery City Limits, Current CCN and New Service Area Map;
6. Section 13.248 Contract;
7. Map consents signed by the parties;
8. Letter from the City of Montgomery dated March 14, 2013 regarding a correction to the contract;
9. Proposed Order; and
10. Map of the area covered by the Agreement.

I have also attached a proposed caption for the item.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Dinniah C. Tadema".

Dinniah C. Tadema  
Staff Attorney  
Environmental Law Division

### **Caption – Agenda**

TCEQ Docket No. 2013-0639-UCR. Consideration of a request for a Commission Order approving a contract designating service areas between the City of Montgomery (City), Certificate of Convenience and Necessity (CCN) No. 10346 in Montgomery County, Texas, and Dobbin-Plantersville Water Supply Corporation (WSC) CCN No. 11052 in Montgomery County, Texas pursuant to Texas Water Code Section 13.248. On or about August 1, 2011, the City and WSC executed a contract regarding service areas under the WSC's CCN. Under the Contract, the City and the WSC agree to a common service area boundary between the City and the WSC. The agreement also states that all property of Montgomery Independent School District currently served by the City will be transferred to the City's CCN; a 200 foot strip of land fronting Lone Star Parkway and Old Plantersville Road shall be transferred to the City; and the area along Martin Luther King, Jr. Drive north of the City limits will be singly certificated to the City in the form of a facilities CCN for approximately one half mile outside the City limits to FM 1097. Under the contract, the City will provide water service to approximately 568.55 acres and this area will be transferred to the City's CCN. One customer will be transferred; however, no facilities will be transferred under the contract. (Dinniah C. Tadema, Sheresia Perryman)

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 9, 2013

Duncan C. Norton  
Lloyd Gosselink  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701

Mark H. Zeppa  
4833 Spicewood Springs Road, #202  
Austin, Texas 78759

Re: TCEQ Docket No. 2013-0639-UCR Consideration of a request for a Commission Order approving a contract designating service areas between the City of Montgomery and Dobbin-Plantersville WSC pursuant to Texas Water Code Section 13.248, Application NO. 37315-C

Dear Mr. Norton and Mr. Zeppa:

This letter is to inform you that the above referenced application has been set on the agenda for consideration by the Texas Commission on Environmental Quality (Commission). This agenda will occur on Tuesday, April 23, 2013, beginning at 9:30 a.m. in Building E, Room 201S, 12100 Park 35 Circle, Austin, Texas. Included with this letter are the agenda backup materials to be considered by the Commission. One of you will need to attend the agenda to explain the contract and to answer any questions the Commissioners may have.

Persons with disabilities who plan to attend this hearing and who need special accommodations at the Agenda should call the TCEQ Office of Public Assistance at 1-800-687-4040 or 1-800-RELAY-TX (TDD) at least one week prior to the hearing. If you have any questions about this matter, please feel free to contact Sheresia Perryman from the Water Supply Division at 512-239-3654 or me at 512-239-0617.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dinniah C. Tadema".

Dinniah C. Tadema  
Staff Attorney  
Environmental Law Division

Enclosures

# **TCEQ Interoffice Memorandum**

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**To:** Texas Commission on Environmental Quality

**Thru:** Bridget C. Bohac, Chief Clerk

**From:** Dinniah C. Tadema, Staff Attorney, Environmental Law Division

**Date:** April 9, 2013

**Subject:** TCEQ Docket No. 2013-0639-UCR Consideration of a request for a Commission Order approving a contract designating service areas between City of Montgomery and Dobbin-Plantersville WSC pursuant to Texas Water Code Section 13.248, Application No. 37315-C

## **DESCRIPTION OF APPLICATION**

**Applicants:**

City of Montgomery and Dobbin-Plantersville WSC

**Regulated Activity:**

Retail Water Service

**Type of Application:**

Request for a Commission order approving a contract

**Commission Action:**

Hearing regarding approval of the contract

**Authority:**

Texas Water Code § 13.248 and 30 Texas Administrative Code § 291.117

## **FACTUAL BACKGROUND**

The City of Montgomery (City), certificate of convenience and necessity (CCN) No. 10346, and Dobbin-Plantersville WSC (WSC), CCN No. 11052, provide retail water service in Montgomery County, Texas. On December 8, 2010, the City of Montgomery submitted an application to obtain single certification to a service area within the City's corporate city limits and to decertify a portion of Dobbin-Plantersville WSC's CCN pursuant to Texas Water Code Section 13.255. Prior to the preliminary hearing, the City and the WSC entered into a "Settlement Agreement" (Contract) regarding their respective service areas pursuant to Section 13.248 of the Texas Water Code. On page one of the Contract, the City and the WSC agree to a common service area boundary between the City and the WSC. The agreement states that the service area boundary shall begin at the current City limits and parallel Lone Star Parkway 200 feet on the North and West to the point of intersection with Old Plantersville Road and continuing

## TCEQ Interoffice Memorandum

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200 feet west and south parallel to Old Plantersville Road to the current City limits. The agreement also states that all property of Montgomery Independent School District currently served by the City will be transferred to the City's CCN; the 200 foot strip of land fronting Lone Star Parkway and Old Plantersville Road shall be measured from the property line of the tract in question; and the area along Martin Luther King, Jr. Drive north of the City limits will be singly certificated to the City in the form of a facilities CCN for current customers a distance of approximately one half mile outside the City limits to FM 1097.

The City currently provides water service to Montgomery Independent School District property and twenty-three connections along Martin Luther King, Jr. Drive one half mile outside the City limits to FM 1097. Under the agreement, the City will continue to provide water service to Montgomery Independent School District property and the 23 connections along Martin Luther King Jr. Drive. Under the agreement, one customer will be transferred from the WSC to the City. However, no facilities will be transferred under the agreement.

Both the City and the WSC have reviewed the CCN map to be issued with the Commission's order and have approved it.

### LEGAL AUTHORITY

The Texas Water Code prohibits a utility, a utility operated by an affected county, or a water supply corporation from rendering retail water or sewer utility service directly or indirectly to the public without first obtaining a CCN.<sup>1</sup> Conversely, a municipality is not required to obtain a CCN to provide retail water service.<sup>2</sup> However, a municipality may not provide service to an area within its boundaries that is certificated to another retail public utility without first obtaining a CCN for that area.<sup>3</sup>

The Texas Water Code and TCEQ rules allow retail public utilities to enter into service area contracts and have the Commission affirm the contracts by amending the entities' respective CCNs<sup>4</sup>. The request to approve a Section 13.248 contract is not subject to notice provisions of Title 30, Section 291.106 of the Texas Administrative Code, which apply to applications for new and amended CCNs. The Commission may approve the service area contract pursuant to Section 13.248 of the Texas Water Code with appropriate notice provided under the Open Meetings Act. The Executive Director will mail notice of the hearing upon the setting of the Agenda date.

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<sup>1</sup> Texas Water Code Section 13.242(a).

<sup>2</sup> A municipality is a "retail public utility" under the definition in Texas Water Code Section 13.002(19). However, a municipality is excluded from the definition of a "utility" under section 13.002(23). Therefore, the requirement that a utility must obtain a CCN before providing retail water utility service does not apply to a municipality.

<sup>3</sup> Tex. Water Code § 13.247(a).

<sup>4</sup> Tex. Water Code § 13.248; 30 Texas Administrative Code Section 291.117.

# **TCEQ Interoffice Memorandum**

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## **BASIS FOR STAFF RECOMMENDATION**

The following were considered in developing the staff's recommendation:

1. Application No. 37315-C filed by the City on March 26, 2012, requesting a Commission order approving the 13.248 contract;
2. Agreement between the City and WSC executed on August 1, 2011;
3. Analysis of the City's financial, managerial, and technical capability to operate in the affected area; and
4. Map of the service area subject to the 13.248 agreement.

## **STAFF RECOMMENDATION**

Staff has confirmed that both parties are retail public utilities with active water CCNs and that the area the parties are seeking to transfer is currently certificated to the WSC. Staff's financial and managerial analysis included the full potential effect of the contract and staff is satisfied that the City possess the adequate financial, managerial, and technical capability to provide continuous and adequate service to the area being transferred. The City already serves approximately 350 connections.

In 2011, City of Montgomery did not have adequate revenues to provide debt service coverage as normally considered adequate by the ED. The notes to the financial statements do not indicate a coverage requirement by the bond covenants. Despite the lack of sufficiency of debt service coverage, the City has cash and cash equivalents as of September 30, 2011 in excess of three times the annual debt service which provides a sufficient cushion for debt service without coverage. Furthermore, the City has infrastructure in place to serve and the total City investment of \$10,000 is easily covered by its cash position. Furthermore, the City's customer base will increase because of the transaction.

Therefore, based on the facts stated in the application and the supporting documentation submitted by the applicant, staff supports the request for a Commission Order approving a contract designating service areas between the City and the WSC.

## **STAFF CONTACTS**

Dinniah C. Tadema, Environmental Law Division (512) 239-0617  
Sheresia Perryman, Water Supply Division (512) 239-3654

## TCEQ Interoffice Memorandum

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**To:** Environmental Law Division

**Thru:** Sheresia Perryman  
Lisa Fuentes

**From:**  Debi Loockerman, CPA

**Date:** July 23, 2012

**Subject:** Contract Service Agreement Pursuant to Texas Water Code Section 13.248, between the City of Montgomery, Certificate of Convenience and Necessity (CCN) No. 10346, to Transfer a Portion of CCN No. 11052 held by Dobbin Plantersville Water Service Corporation (WSC); in Montgomery County; Application No. 37315-C

CN: 600644892; RN: 101199917 (City of Montgomery)  
CN: 600632038; RN: 101184927 (Dobbin Plantersville WSC)

In my opinion, the City of Montgomery, CCN No. 10346, and Dobbin Plantersville WSC, CCN No. 11052 have demonstrated adequate financial and managerial capability to provide the service reflected in the contract for release and transfer. These conclusions are based on information provided by the applicants prior to this date and may not reflect any changes in the applicants' status subsequent to this date.

### **Background**

City of Montgomery and Dobbin Plantersville WSC entered into a settlement agreement in TCEQ Docket No. 2011-0574-UCR, SOAH Docket No. 582-11-5773, which stemmed from a petition by the City of Montgomery under Texas Water Code Section 13.255. The affected area and transfer terms were described in the agreement, which included the filing submitted to the TCEQ under TWC 13.248 of the agreement. This application is the result of the agreement in that case, which was executed on June 9, 2011. The agreement included decertification of a 200 foot strip west and south parallel to Old Plantersville Road within the current City limits, and the property served by the City containing the Montgomery Independent School District. The contract indicates that the City will pay \$10,000 for the decertification.

City of Montgomery provides service to more than 350 connections according to the TCEQ Water Utilities Database (WUD). I have reviewed the financial statements and unqualified auditor's opinion for the City of Montgomery, fiscal year ended September 30, 2011. The statement of net assets showed total assets of \$8.8 million, long-term debt of \$3.7 million and net assets (equity) of \$4.5, for a ratio of debt to equity of .82:1. A ratio of less than 1:1 is preferred as a standard for determining financial/managerial capability.

The statement of revenues, expenditures and changes in fund balances for governmental funds showed a net operating income before depreciation, capital outlays, debt service, and transfers of \$107,051. Debt service for the year is \$284,625. Net income does not cover debt service. The TCEQ prefers a ratio of greater than 1.25:1.00. However, cash and investments total \$950,080, which is over 3 times the amount of annual debt service. This

## **TCEQ Interoffice Memorandum**

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City of Montgomery  
TWC Section 13.248 Application  
Page 2 of 2

reserve is sufficient to cover debt service, especially light of the infrastructure already in place, and a sufficient debt to equity ratio.

Dobblin-Plantersville WSC's current customer base will be unaffected by the transfer. The WSC will receive \$10,000 compensation for the area being transferred to City of Montgomery. There are no other tangible financial affects, and therefore, the WSC's financial/managerial capability is not negatively affected by this transaction. No financial statements were provided, and none were requested. The WSC has a general website at dpwater.com which is helpful for general information and reflects more computerized technical capabilities than most WSC's that staff is familiar with.

This information supports a finding of adequate financial and managerial capability to provide service to the area contracted for transfer.

March 26, 2012

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P.O. Box 13087  
Austin, TX 78711

Re: Application to Transfer Existing CCN Areas Pursuant to TWC 13.248 and Settlement Agreement between City of Montgomery, TX (Water CCN No. 10346) and Dobbin-Plantersville W.S.C. (Water CCN No. 11052)

To Whom It May Concern:

The City of Montgomery, Texas hereby submits this request to transfer portions of the service area of Dobbin-Plantersville W.S.C.'s Water CCN area to the City pursuant to TWC 13.248 and the Settlement Agreement entered into by and between the City and Dobbin-Plantersville W.S.C. in the matter of the TWC 13.255 Petition of the City of Montgomery (TCEQ Docket No. 2011-0574-UCR).

In support of this Application, please find a check for the required filing fee of \$100 and the following supporting documents attached hereto:

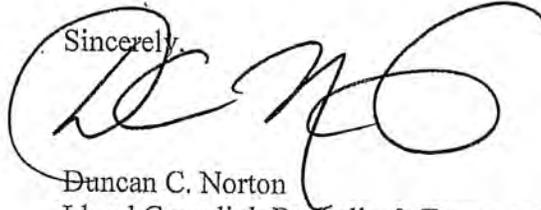
- Tab 2 Settlement Agreement between the City of Montgomery and Dobbin-Plantersville W.S.C., dated August 1 and 8, 2011.
- Tab 3 Financial Managerial and Technical Information for the City of Montgomery.
- Tab 4 Supporting Maps.
- Tab 5 List of affected Water Systems.
- Tab 6 List of affected Customers.
- Tab 7 List of AFFECTED Landowners.

March 26, 2012  
Page 2

Please direct any questions or responses regarding this matter to me at (512) 322-5884.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Norton', written over the word 'Sincerely,'.

Duncan C. Norton  
Lloyd Gosselink Rochelle & Townsend, P.C.  
Attorney for the City of Montgomery

Enclosures

cc: Mr. William J. Kotlan  
Montgomery City Administrator

Mr. Mark Zeppa  
Attorney for Dobbins-Plantersville W.S.C.

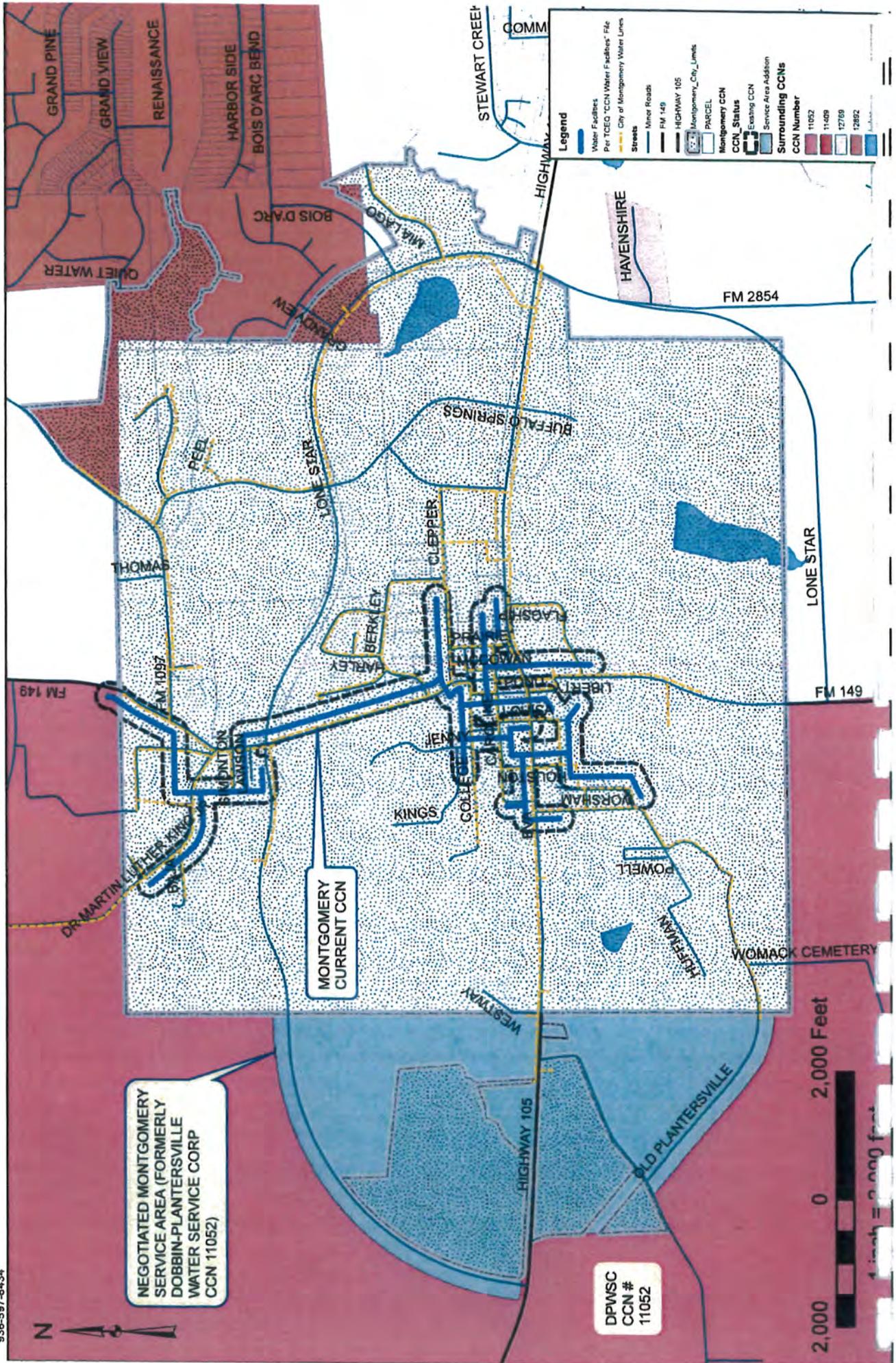


Where The Lone Star Was Born  
 P.O. Box 708  
 Montgomery, Texas 77356  
 936-597-5434

# City of Montgomery City Limits, Current CCN and New Service Area

**Blevy & Associates**  
 Engineering Firm F-678  
 100 Nugent Street  
 Conroe, Texas 77304  
 936-441-7833

October 4, 2011



NEGOTIATED MONTGOMERY  
 SERVICE AREA (FORMERLY  
 DOBBIN-PLANTERSVILLE  
 WATER SERVICE CORP  
 CCN 11052)

DPWSC  
 CCN #  
 11052



TCEQ DOCKET NO. 2011-0574-UCR  
SOAH DOCKET NO. 582-11-5773

IN RE: 13.255 PETITION BY § BEFORE THE TEXAS  
CITY OF MONTGOMERY § COMMISSION ON  
RE. DOBBIN-PLANTERSVILLE WSC § ENVIRONMENTAL QUALITY

SETTLEMENT AGREEMENT

To avoid litigating the Texas Water Code Section 13.255 petition by the City of Montgomery ("City" or "Petitioner") regarding Dobbin-Plantersville, WSC ("Respondent") in a Texas Commission on Environmental Quality ("TCEQ" or "Commission") contested public hearing, Petitioner, Respondent and the Executive Director of the Commission ("ED") mediated their dispute and agree to the following:

- A.
1. The common service area boundary between Petitioner and Respondent shall be a line beginning at the current City limits and paralleling Lone Star Parkway 200 feet on the north and west to the point of intersection with Old Plantersville Road and continuing 200 feet west and south parallel to Old Plantersville Road to the current City limits. Respondent agrees to the transfer of its CCN certification to Petitioner in accordance with the new common service area boundary.
  2. All property of the Montgomery Independent School District now served by Petitioner, including that small triangular tract west of Old Plantersville Road, will be transferred to the City.
  3. The 200 foot strip to be transferred to Petitioner shall be measured from the property line of the tract in question fronting Lone Star Parkway or Old Plantersville Road.
  4. Petitioner and Respondent wish to avoid situations where both utilities might be obligated to serve a single consuming facility. In the event the CCN boundary line bisects a building requiring retail public water utility service, Petitioner and Respondent covenant to meet and negotiate a service plan for that customer.
- B. The parties agree that Petitioner shall prepare the CCN mapping information to present to the Executive Director which identifies the area described in Provision A.
- C.
1. The parties agree that no party will seek to amend their common bordering CCN boundaries without the agreement of the other party for ten (10) years from the date of this Agreement.

2. If a landowner has his property released from Respondent's certificated service area pursuant to Water Code §13.254, Petitioner agrees it will not provide alternate retail public water service to that landowner or his successors during this 10 year period.

- D. As consideration for being granted the above-described portion of Respondent's CCN area, Petitioner agrees to pay Respondent the amount of \$10,000 (ten thousand dollars). Payment shall be made within 30 days of a final and unappealable Commission order implementing the terms of this agreement;
- E. With respect to the area along Martin Luther King Jr. Drive north of the Petitioner's City limits, Petitioner and Respondent agree that the area will be singly certificated to Petitioner in the form of a "facilities plus 200 feet" CCN for current customers of the Petitioner, a distance of approximately one-half mile outside the City limits to FM 1097.
- F. The parties agree to support the implementation of this Agreement via the Commission's approval as a TWC 13.248 agreement. The Petitioner will pursue the approval of the Agreement.
- G. Petitioner and Respondent covenant to work together in planning the development of water resources from the Catahoula Aquifer or other sources in the region. This will be a planning partnership and does not commit either party to contribute financially to any specific water resource project.
- H. Petitioner covenants that it will sell wholesale water to Respondent upon request if Petitioner has adequate uncommitted capacity in the area such service is being requested. The terms and cost of such wholesale water shall be decided at the time the service request is made.
- I.
  1. This Agreement is a legal contract between Petitioner and Respondent only if approved by the parties' respective Board/Council, is enforceable by either party against the other in a court of competent jurisdiction, and is effective as of the date the last party approves this Agreement. This agreement is conditioned entirely on the final approval of the Agreement.
  2. The parties agree that the Petitioner will abate the TWC 13.255 petition until the Commission rules on the anticipated TWC 13.248 agreement which will detail the terms of this Agreement. Upon final Commission approval of this Agreement, the Petitioner will withdraw the TWC 13.255 petition.
  3. The ED participated in the mediation but is not a party to this Agreement. He has signed this Agreement only as witness to the Agreement.
- J. The Parties agree that the terms herein are the only ones considered and agreed to by the Parties. No other agreements have been made that are not memorialized herein. This Agreement supersedes and replaces the *Conceptual Mediated Settlement Agreement* executed on June 9, 2011.

City of Montgomery

Dobbin-Plantersville WSC

Executive Director

*William Kotlan*  
William Kotlan  
City Administrator

*Jason Keasling*  
Jason Keasling  
WSC President

*Stefanie Skogen*  
Stefanie Skogen  
Staff Attorney

8-1-2011  
Date

8.1.2011  
Date

8/8/11  
Date

**CONSENT FORM**

Applicant's Name: City of Montgomery  
Application Nos.: 37315-C

- I concur with the map and CCN transmitted by letter dated October 16, 2012.
- I do not concur with and intend to respond to the map and CCN transmitted by letter dated October 16, 2012.

I understand that I have 10 days from the date of this letter to provide my response.

I am authorized by the Dobbins-Plantersville WSC to sign this form.

Signature: Mark Zeppa

Printed Name: MARK H ZEPPA

Relationship to Applicant: ATTORNEY

Date signed: 12/5/12

Mall or Fax to:  
 Sheresia Perryman  
 Utilities & Districts Section, MC 153  
 Water Supply Division  
 Texas Commission on Environmental Quality  
 P.O. Box 13087  
 Austin, TX 78711-3087  
 Fax: (512) 239-6972

**CONSENT FORM**

Applicant's Name: City of Montgomery  
Application Nos.: 37315-C

- I concur with the map and CCN transmitted by letter dated October 16, 2012.
- I do not concur with and intend to respond to the map and CCN transmitted by letter dated October 16, 2012.

I understand that I have 10 days from the date of this letter to provide my response.

I am authorized by the City of Montgomery to sign this form.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Relationship to Applicant: \_\_\_\_\_

Date signed: \_\_\_\_\_

Mail or Fax to:  
Sheresia Perryman  
Utilities & Districts Section, MC 153  
Water Supply Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087  
Fax: (512) 239-6972

Mr. Norton's Direct Line: (512) 322-5884  
Email: dnorton@lglawfirm.com

March 14, 2013

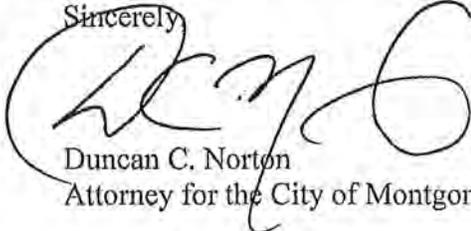
Dinniah Tadema  
Office of Legal Services  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from the City of Montgomery, Certificate of Convenience and Necessity (CCN) 10346, to Transfer a Portion of CCN No. 11052 held by Dobbin-Plantersville Water Supply Corporation (WSC), in Montgomery County; Application No. 37315-C

Dear Ms. Tadema:

Pursuant to our recent telephone discussions, I am writing this letter to advise you and others at Texas Commission on Environmental Quality (TCEQ) that the City of Montgomery does not object to any final decision by the TCEQ on its Texas Water Code §13.255 Application acknowledging that City of Montgomery's current CCN is a "lines only" CCN and not a "lines plus 200 feet" CCN. The Settlement Agreement between the City and Dobbin-Plantersville Water Supply Corporation (DPWSC) is incorrect in that regard. I have discussed this mutual mistake with Mark Zeppa, attorney for DPWSC, and he has authorized me to represent to you that DPWSC also does not object to this small correction. I am copying Mr. Zeppa on this letter as well.

Please proceed with processing the City of Montgomery's application with the correction this letter discusses. On behalf of the City, I appreciate you bringing this to our attention and please let me know if there are any other questions or issues that need to be resolved.

Sincerely,  
  
Duncan C. Norton  
Attorney for the City of Montgomery

cc: Mark Zeppa, Attorney for  
Dobbin-Plantersville Water Supply Corporation

Bill Kotlan, City Administrator  
City of Montgomery

3400987.1

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER**                    **APPROVING A CONTRACT DESIGNATING SERVICE AREAS BETWEEN THE CITY OF MONTGOMERY AND DOBBIN-PLANTERSVILLE WSC PURSUANT TO TEXAS WATER CODE SECTION 13.248; TCEQ DOCKET NO. 2013-0639-UCR.**

A request for a Commission Order approving a contract designating service areas in Montgomery County between the City of Montgomery (City), Certificate of Convenience and Necessity (CCN) No. 10346, and Dobbin-Plantersville WSC (WSC), CCN No. 11052, was presented to the Texas Commission on Environmental Quality (Commission) for approval pursuant to Texas Water Code Section 13.248 and Title 30 of the Texas Administrative Code, Section 291.117.

On August 1, 2011, the City and the WSC executed a "Settlement Agreement" (Contract) regarding their respective water service areas. The Contract addresses the transfer of the WSC's authority to provide water service to approximately 568.55 acres and provides that the City will be the sole provider of retail water service in that service area.

Contracts between retail public utilities that designate areas to be served and customers to be served by those retail public utilities, when approved by the Commission after public notice and hearing, are valid and enforceable and are incorporated into the appropriate areas of public convenience and necessity. Texas Water Code Section 13.248.

The Commission held a hearing on the request at the April 23, 2013 agenda and found that the request had merit.

The City is capable of rendering continuous and adequate water service to every customer in the areas covered by the Contract. The decertification of the WSCs authority to provide service in the area consisting of approximately 568.55 acres results in the City being the sole service provider in the area and is necessary for the service, accommodation, convenience, or safety of the public.

**NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:**

1. The provisions of the Contract to transfer of a portion of the WSC's CCN No. 11052, and designating that retail water service shall be provided solely by the City, CCN No. 10346, are hereby approved.
2. CCN No. 10346 in Montgomery County, held by the City, is hereby amended in accordance with the Contract.
3. CCN No. 11052 in Montgomery County, held by the WSC, is hereby amended in accordance with the Contract.
4. The Executive Director is directed to redraw the maps of the respective CCNs as provided in the Contract and as set forth on the map attached to this Order as Exhibit 1, and to amend the Commission's official water service area map for Montgomery County, Texas. The certificate amendments requested in this application are necessary for the service, accommodation, convenience, and safety of the public.
5. The Chief Clerk of the Texas Commission on Environmental Quality shall forward a copy of this Order to the parties.
6. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

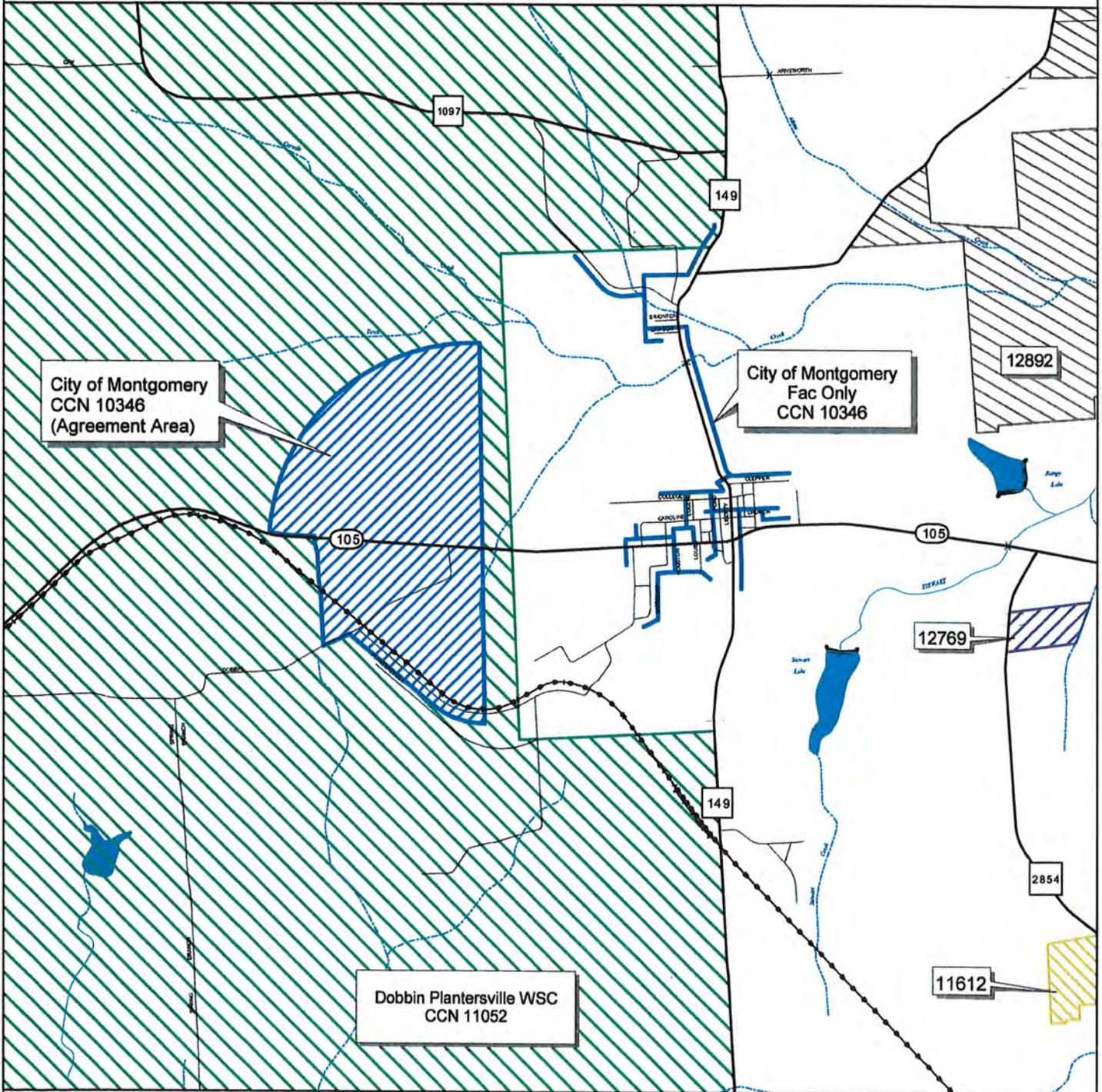
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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For the Commission

City of Montgomery  
 Water CCN Service Area  
 CCN No. 10346  
 Application No. 37315-C

13.248 Contract Service Agreement from the City of Montgomery, CCN No. 10346  
 to Transfer a Portion of CCN No. 11052 from Dobbin Plantersville WSC in Montgomery County



Map by S. Jaster 9/27/2012  
 Data path: c:\gis\projects\shpsforapplications\37315-c.shp  
 and 37315-c\_fac.shp  
 Project path: c:\gis\projects\applications\37315-c.apr



Facilities Only Water CCN Service Area

-  10346 - CITY OF MONTGOMERY
- Water CCN Service Areas**
-  10346 - CITY OF MONTGOMERY
-  11052 - DOBBIN PLANTERSVILLE WSC
-  11612 - QUADVEST LP
-  12769 - HAVENSHIRE SUBDIVISION WATER
-  12892 - T & W WATER SERVICE CO