

Control Number: 43114



Item Number: 11

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014.

RECEIVED  
2014 SEP 21 AM 11:36  
PUBLIC UTILITY COMMISSION  
FILING CLERK

## Texas Commission on Environmental Quality

### INTEROFFICE MEMORANDUM

**To:** Environmental Law Division **Date:** December 18, 2009  
**Thru:** Sheresia Perryman/Tammy Benter  
**From:** Dan Smith  
**Subject:** Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from Mountain Peak Special Utility District (SUD), Certificate of Convenience and Necessity (CCN) No. 10908, to Transfer a Portion of CCN No. 11706 from the City of Midlothian and to Decertify a Portion of CCN No. 10908, in Ellis County; Application No. 36233-C

CN: 602721979; RN: 104424601 (Mountain Peak SUD)  
CN: 600488373; RN: 101403350 (City of Midlothian)

In my opinion, Mountain Peak SUD has demonstrated adequate financial, managerial and technical capability to provide service to the area contracted for transfer.

Signed: Dan Smith Date: December 18, 2009

Mountain Peak SUD (the district) and the City of Midlothian (the city) have entered an agreement dated May 28, 2008, and acknowledged by Midlothian on June 2, 2008, to transfer 127.2 acres according to our cartographers mapping, with three current customers indicated, from the city to the district, and 38.2 acres will be decertified by the district to be served by the city. There is no indication of current customers in the 38 acres.

The district provides service to about 3,400 connections, and the city to about 4,500 retail connections and is ranked superior. The city also provides wholesale treated water to the district, among others.

(continued)

11

Mountain Peak SUD and the City of Midlothian  
Financial and Managerial Capability Analysis of Contract Service Agreement  
Page 2

I have reviewed an unqualified opinion audit for the district for the fiscal year ended December 31, 2008. The balance sheet shows total assets of \$14.1 mil., of which \$3.5 mil. is cash or equivalents, and of that number, \$654,533 is designated as restricted. Long-term debt is \$2.9 mil. and net assets (equity) is \$10.8 mil., for a ratio of debt to equity of 0.27:1.

The statement of revenues and expenses shows change in net assets (net income) of \$131,308 after covering depreciation expense of \$416,221 and interest expense of \$156,723. So cash available for debt service was \$704,252. Required debt service for 2009 is \$257,134 for a ratio of debt service coverage of 2.74:1.

I have reviewed an unqualified opinion audit for the city for the fiscal year ended September 30, 2007. The water and sewer fund balance sheet shows total assets of \$18.4 mil., of which \$14.3 mil. was cash or equivalents, and of that number, \$3.5 mil. is designated as restricted. Long-term debt is \$51.5 mil. and net assets (equity) is \$46.7 mil., for a ratio of debt to equity of 1.10:1. The overall city ratio is a little lower at 0.81:1.

The statement of revenues and expenses for the water and sewer fund shows change in net assets (net income) of \$5.2 mil. after covering depreciation expense of \$1.8 mil. and interest expense of \$2.8 mil. So cash available for debt service was \$9.8 mil. Required debt service for 2009 was shown at \$5.0 mil. for a ratio of debt service coverage of 1.95:1. The overall city change in net assets (all taxes and revenues net of all expenses) was \$5.9 mil. Another \$7.9 mil. of change in net assets was a net increase as a result of economic and community development tax revenues, designated separately on the audit as "Component Units."

This information supports a finding of adequate financial and managerial capability for both parties to provide service to the areas contracted for transfer and/or decertification.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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## Interoffice Memorandum

To: Dan Smith Date: December 14, 2009

From: Sheresia Perryman

Subject: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from Mountain Peak Special Utility District (SUD), Certificate of Convenience and Necessity (CCN) No. 10908, to Transfer a Portion of CCN No. 11706 from the City of Midlothian and to Decertify a Portion of CCN No. 10908, in Ellis County; Application No. 36233-C

CN: 602721979; RN: 104424601 (Mountain Peak SUD)  
CN: 600488373; RN: 101403350 (City of Midlothian)

Attached is a copy of the file for the above referenced application. Please review their FMT information at your earliest convenience.

To: Administrative Reviewer

Date: November 16, 2009

From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-156-8 / 36233-S  
13.248 Mountain Peak SUD(10908) / City of Midlothian(11706) in Ellis county.

1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
5. If this is a Sale, Transfer, or Merger, is additional area being requested?
7. Map submitted is digital request digital data.
9. Utility notice was sufficient.
10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:

TWO MILES:

11. Notice:

X 12. Other comments: **OK**



Kent Steelman

62,000 MTN. PEAK SUD  
AREA

127,161 }  
38,225 } 165



September 3, 2010

Ms. Dinniah Tadema  
Texas Commission on Environmental Quality  
Law Division-MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: 13.248 Application  
Mountain Peak SUD and City of Midlothian

Dear Ms. Tadema:

Per your direction, please accept this letter as the City of Midlothian's (City's) formal request that the 25-acre "Option Area," described in the executed Retail Water Service Area Agreement among the City of Midlothian and Mountain Peak Special Utility District, not be included as part of the Texas Commission on Environmental Quality's (TCEQ's) 13.248 Order. This 25-acre area has yet to be determined and depending upon future development, may not ever be implemented. Additionally, the location of this area is already contained within a dually certificated area based upon a separate agreement between Mountain Peak and the City. Therefore, it is not necessary for this area to be included as a part of the Order.

Thank you for your consideration of this request. If you should have any questions or require additional information, please contact me at 972-775-7105 or [mike.adams@midlothian.tx.us](mailto:mike.adams@midlothian.tx.us).

Sincerely,

A handwritten signature in black ink that reads "Mike Adams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Mike Adams, P.E.  
Executive Director of Engineering & Utilities  
City of Midlothian

Cc: David Miller, Miller Mentzer, P.C.

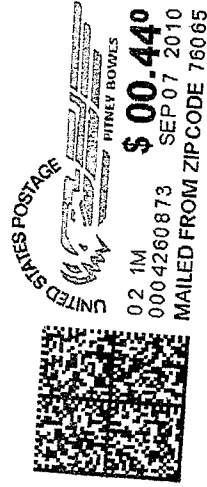


104 West Avenue E  
Midlothian TX 76065

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SEP 09 2010

TCEQ MAIL CENTER  
MM



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SEP 09 2010

OFFICE OF LEGAL SERVICES

7471143047



# MAP REQUEST FORM

To: Suzanne Jaster- Cartographer

From:

Theresa Bryman

Date

3/31/10

Fill out all the following information for the CCN or STM application:

Due By

Admin Review No.

A-156-8

Application No. (water)

36233-SC

Application No. (sewer)

CCN No. / Utility Name (As shown on final certificate)

10908/  
Mountain Peak SUD

CCN No. / Utility Name (Being transferred from)

11706/ City of Middlebush

County(ies)

Ellis

Check all that applies to the purpose of your Mapping Request:

☐

New CCN

☐

Exempt Utility

☐

Amended CCN

☐

Cancel Existing CCN (remove for CCN Map)

☐

Complete Transfer of a CCN

☒

Transfer of a Portion of a CCN

☐

Receivership

☐

Contested/Remanded Case:

☐

Settled by Staff,

☐

SOAH, OR

☐

Commissioners

(Provide explanation of mapping details below)

☐

Need a copy of an existing CCN Map (No map revisions needed)

Attach copies of the following documents for Mapping Staff:

BTR Letter (Acceptance Letter)

Applicant's Notice (Notice sent back with Affidavit)

Overlap Check (Overlap check and any additional maps prepared by staff)

Mapping details: Fill out and check all that apply to complete Final Mapping. (Use back of page if necessary.)

The requested area overlaps the following utility(ies)

B.248 from Mountain Peak SUD, CCN # 10908, to transfer a portion of CCN No. 11706 from the City of Middlebush on to Decertify a Portion of CCN No. 10908 in Ellis County.

To resolve overlap...

☐

Decertify the existing CCN being overlapped by applicant.

☐

Dual Certification.

☐

Remove applicants overlapping area and abut the neighboring CCN.

☐

Other. Please explain in detail and attach the following documents (Settlement Agreements and /or Maps Necessary for Final Mapping) (Use back of page if necessary.)

If Additional Maps Required, Please Indicate Number to the left:

(Be sure to include enough copies for all parties on the mailing list)

Chief Clerk

☐

Staff

☐

File

☐

Print Form

Reset Form

(Last updated, December 12, 2005)

**Sheresia Perryman - RE: Application No. 36233-C**

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**From:** "Mike Adams" <Mike.Adams@Midlothian.tx.us>  
**To:** "Sheresia Perryman" <SPerryma@tceq.state.tx.us>  
**Date:** 3/5/2010 3:42 PM  
**Subject:** RE: Application No. 36233-C  
**CC:** "Tammy Lee Holguin-Benter" <THOLGUIN@tceq.state.tx.us>

---

Ms. Perryman:

Thanks for your response.

Mike Adams, P.E.  
Exec. Director of Engineering and Utilities  
City of Midlothian  
972-775-7105  
972-775-7171 (fax)

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**From:** Sheresia Perryman [mailto:SPerryma@tceq.state.tx.us]  
**Sent:** Friday, March 05, 2010 3:35 PM  
**To:** Mike Adams  
**Cc:** Tammy Lee Holguin-Benter  
**Subject:** Re: Application No. 36233-C

Mr. Adams:

The TCEQ previously received a protest regarding the above referenced application. This was referred to our Legal staff for review. If a decision is made that the application will not be referred to the State Office of Administrative Hearings (SOAH) for a hearing, the next step will be to set the case for Agenda to be heard by the Commissioners. You should receive notice once the item is scheduled on the Agenda or a hearing is scheduled at SOAH.

Please feel free to follow-up with me, if you do not receive any information within the next 30-days. I apologize for any inconvenience regarding this application.

Thank you,

>>> "Mike Adams" <Mike.Adams@Midlothian.tx.us> 3/4/2010 3:56 PM >>>  
Ms. Perryman:

I'm following up on the above referenced application that was submitted jointly by Mt. Peak Special Utility District and the City of Midlothian. Based on my records, the last correspondence was a letter sent from my office to you dated November 4, 2009, in which requested shape files were provided.

Thanks again for your assistance with this application.

Respectfully,

Mike Adams, P.E.  
Exec. Director of Engineering and Utilities  
City of Midlothian  
972-775-7105  
972-775-7171 (fax)

**Sheresia Perryman - RE: Application No. 36233-C**

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**From:** "Mike Adams" <Mike.Adams@Midlothian.tx.us>  
**To:** "Sheresia Perryman" <SPerryma@tceq.state.tx.us>  
**Date:** 10/1/2009 3:08 PM  
**Subject:** RE: Application No. 36233-C  
**CC:** "David A. Miller" <dmiller@milmen.com>

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Ms. Perryman,

That's perfectly alright and I do appreciate your getting back with me.

Thanks,

Mike Adams, P.E.  
Exec. Director of Engineering and Utilities  
City of Midlothian  
972-775-7105  
972-775-7171 (fax)

---

**From:** Sheresia Perryman [mailto:SPerryma@tceq.state.tx.us]  
**Sent:** Thursday, October 01, 2009 2:52 PM  
**To:** Mike Adams  
**Cc:** David A. Miller  
**Subject:** Re: Application No. 36233-C

Mr. Adams,

Kent Steelman and Suzanne Jaster are reviewing the mapping information to determine exactly what additional maps and digital data are needed. As soon as they provide me with this information I will contact you to discuss; or they may be contacting you if they have additional concerns or need additional information.

I apologize for the delay in getting back with you on this matter.

Thank you,

Sheresia Perryman  
TCEQ  
Water Supply Division  
(512) 239-3654  
(512) 239-6972 (fax)

>>> "Mike Adams" <Mike.Adams@Midlothian.tx.us> 9/30/2009 2:51 PM >>>  
Ms. Perryman:

I spoke to you several weeks back about the above referenced application and our desire to proceed with the Texas Water Code Section 13.248 Application. At that time, you indicated that you thought additional information and/or map was needed but didn't have the specific information on hand. To date, I have not received any additional feedback or communication regarding our request. Therefore, please let me know what additional information and/or map is needed to proceed with this application.

Thanks for your time and assistance.

Respectfully,

Mike Adams, P.E.  
Exec. Director of Engineering and Utilities  
City of Midlothian  
972-775-7105  
972-775-7171 (fax)

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 4, 2009

Mr. David A. Miller, Attorney  
Miller Mentzer, P.C.  
P.O. Box 130  
Palmer, Texas 75152

### NOTICE OF DEFICIENCY

Re: Contract Service Agreement Pursuant to Texas Water Code, Section 13.248, from Mountain Peak Special Utility District (SUD), Certificate of Convenience and Necessity (CCN) No. 10908, to Transfer a Portion of CCN No. 11706 from the City of Midlothian and to Decertify a Portion of CCN No. 10908, in Ellis County; Application No. 36233-C

CN: 602721979; RN: 104424601 (Mountain Peak SUD)  
CN: 600488373; RN: 101403350 (City of Midlothian)

Dear Mr. Miller:

From a review of the information presented in the agreement noticed above we need to verify whether the parties want to process this as a Sale, Transfer or Merger or a Texas Water Code, 13.248 application. If the parties decide to proceed as a Texas Water Code, 13.248 application please provide financial information for Mountain Peak SUD, as well as revised hard copy maps and new digital data showing the exact intent of this application.

These items must be completed and returned by August 31, 2009. If we do not receive the requested information by this date, your application may be returned for failure to prosecute.

If you have any questions, please contact me at 512/239-3654, or if by correspondence, include Mail Code 153 in the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Sheresia Perryman".

Sheresia Perryman  
Utilities & Districts Section  
Water Supply Division

SP/ln

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
TELEPHONE MEMO TO THE FILE

Please complete with typewriter or black pen.

Call to: Mike Adams

Call from: \_\_\_\_\_

Date of call: 8/31/09

File no.: 36233-C

Phone no.: 972, 775-7105

Subject: STM on 13.248 appl.

Information for file:

Returned his call - in response to the  
NOD dated 8/4/09. He verified they would like  
this application processed as a 13.248. Advised  
we will need revised hard copy maps and  
new digital data to show exactly what they  
are trying to do.

Signed

Sheresa Prouyman

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
TELEPHONE MEMO TO THE FILE

Please complete with typewriter or black pen.

Call to: \_\_\_\_\_

Call from: \_\_\_\_\_

Date of call: 6/10/09

File no.: \_\_\_\_\_

Phone no.: (712) 845-2222

Subject: \_\_\_\_\_

Information for file: \_\_\_\_\_

She wants a color copy of a map showing dual certification. Advised a map was submitted with the application which shows the CCN Area for the City of Midlothian as well as dually certificated areas w/ CCN Nos. ~~10908~~ 11706 and 10058. She will also try to get a copy of the map from the City of Midlothian.

6/11/09.

Sent a copy of the map to her via email.

Signed \_\_\_\_\_

Sheresa Pewyman

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
TELEPHONE MEMO TO THE FILE

Please complete with typewriter or black pen.

Call to: Laurie w/miller mentzer PC Call from: \_\_\_\_\_  
Date of call: 5/7/09 File no.: 36233-C  
Phone no.: (972) 845-2222 Subject: \_\_\_\_\_

Information for file: Returned her call. Need to verify whether they want to process this as an STM or a 13.248 application. If it's a 13.248 we need financial info for Mountain Lake SUD plus revised hard copy maps and new digital data to show exactly what they are trying to do. She will discuss with David Miller + will call me back.

Signed

Theresa Brownman

To: Administrative Reviewer

Date: November 16, 2009

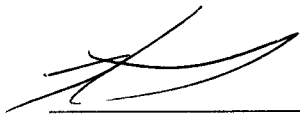
From: Cartographer-Utilities & Districts Section

Subject: Overlap & Notice Check for Administrative Review No. A-156-8 / 36233-S  
13.248 Mountain Peak SUD(10908) / City of Midlothian(11706) in Ellis county,

1. No new overlap of service areas exists.
2. An overlap:
3. Dual certification:
4. An overlap exists with the city limits of:
5. If this is a Sale, Transfer, or Merger, is additional area being requested?
7. Map submitted is digital request digital data.
9. Utility notice was sufficient.
10. Utility notice was insufficient. In addition to those systems listed in the application, they will also need to notify:  
TWO MILES:

11. Notice:

X 12. Other comments: **OK**

  
\_\_\_\_\_  
Kent Steelman