

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



CM # 91 7108 2133 3934 8964 2551

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 30, 2008

TRANSMITTED BY
FACSIMILE TO: 972/366-8980

CERTIFIED MAIL

Mr. John Benjamin Clopton, Jr., P.E.
P.O. Box 368
Venus, Texas 76084

September 25, 2008

Re: Your Formal Request for Texas Public Information Act Related to Mountain Peak
Special Utility District (SUD) Application

Dear Mr. Clopton:

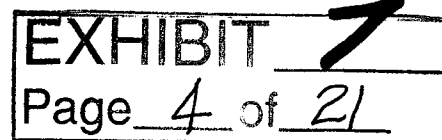
Thank you for your September 16, 2008, and September 24, 2008 faxes to Mr. Kha Mach requesting an open record to Mountain Peak SUD application. Your faxes were forwarded to me for review. However, we regret to inform you that we do not have any record of receiving an application from Mountain Peak SUD or the City of Midlothian regarding CCN trade agreement as mentioned in your request. We suggest that you check with Mountain Peak SUD and City of Midlothian for a copy of their application to TCEQ regarding your concern. You can contact the Mountain Peak SUD at (972) 775-3765 and the City of Midlothian at (972) 775-3481.

If you have any questions, please contact Mr. Kha Mach by phone at 512/239-0855, by fax at 512/239-6972, by email at kmach@tceq.state.tx.us, or if by correspondence, include MC-153 in the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Vera Poe".

Vera Poe, P.E.,
Utilities Technical Review Team Leader
Utilities & Districts Section
Water Supply Division



KM/VP/as

FAX

DATE : September 24, 2008
(Wednesday)

TO: Mr. Kha Mach, P.E.
Staff Engineer
TCEQ

FAX NO. : 512-239-6972

FROM: John Benjamin Clopton, Jr., P.E.
REQUESTOR

NO. OF PAGES INCLUDING COVER PAGE: 17

RE: Two (2) Letters dated September
16, 2008 to TCEQ THRU:
Mr. Kha Mach, P.E., TCEQ

EXHIBIT 7
Page 5 of 21

MEMO

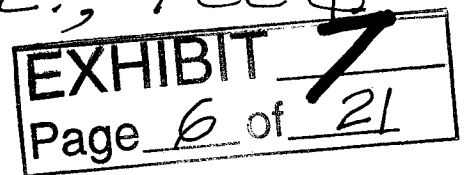
DATE: September 24, 2008 (Wednesday)

TO: Mr. Kha Mach, P.E.
Staff Engineer
TCEQ
Post Office Box 13087
Austin, Texas 78711-3087

FROM: John Benjamin Clifton, Jr., P.E.
BIO South FM 157
Post Office Box 368
Venus, Texas 76084

RE: Two(2) Letters dated September
16, 2008 to TCEQ THRU;
Mr. Kha Mach, P.E., TCEQ

Dear Mr. Mach:



As an outgrowth of our
telephone conversation, yesterday,
September 23, 2008, I am submit-
ting you the evidence/facts to
support the above-referenced letters
sent to TCEQ THRU you. The
evidence/facts are attached hereto
PAGE 1 OF 2

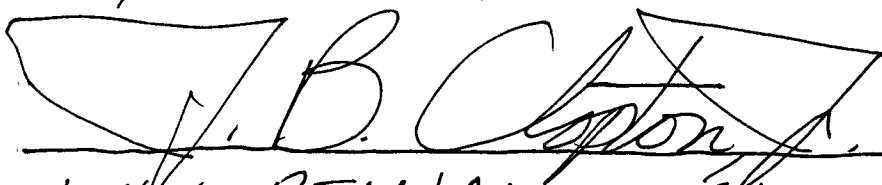
AS EXHIBITS "A", "B", "C",
"D", "E" and "F" and are
made a part hereof for all
purposes.

Mr. Mach, if you
have questions or need
additional information please
contact me.

Thanking you in advance
for your prompt attention to
the foregoing and with best
personal regards, I remain

Very truly yours,

EXHIBIT 7
Page 7 of 21



JOHN BENJAMIN CLOPTON, JR., P.E.
REQUESTOR

Enclosures: EXHIBITS "A", "B", "C",
"D", "E" and "F"

cc: The Honorable Greg Abbott (w/ENCLS)
Attorney General of Texas
Open Meetings/Records DIVISIONS

Mountain Peak Special Utility District

5671 Waterworks Road • Midlothian, TX 76065

Telephone 972 775-3765 • Fax 972 775-6508

This institution is an equal opportunity provider and employer

NOTICE OF REGULAR MONTHLY MEETING

TUESDAY, MARCH 11th, 2008

Notice is hereby given that the regular monthly meeting of the Board of Directors of the Mountain Peak Special Utility District will be held on Tuesday, March 11th, 2008 beginning at 7:00 p.m., at 5671 Waterworks Road, Midlothian, Texas.

The subjects to be discussed or considered, or on which any formal action may be taken, are as follows:

(Items may not be taken in same order as shown on notices.)

1. Call to order and establishment of quorum.
2. Visitors recognized, and allowed up to 5 minutes to address the Board.
3. Reading and approval of minutes of previous meeting(s).
4. Review and approve Financial Reports.
5. Review, discuss and take appropriate action on appointment of Election Judge.
6. Review, discuss and take appropriate action on proposal by J.B. Clopton, Jr. to change the operations and procedures on elections ordered to be held by Mountain Peak Special Utility District.
7. Review, discuss and take appropriate action on CCN trade agreement with the City of Midlothian.
8. Review, discuss and take appropriate action on request from Bob Sandlin for 17 meter reservations for Venus Ridge.
9. Review, discuss and take appropriate action on request from Arbors Development for 5 meter reservations for Rosebud Addition.
10. Review, discuss and take appropriate action on attaining a right of way agency for right of way easement acquisition for the proposed 20" water line from Plant #8.
11. Review, discuss and take appropriate action on possible budget amendments.
12. Reports
Manager Randel Kirk
13. Executive Session 551.101, Texas Government Code.
 1. Section 551.072 (deliberation regarding real property).
 - (a.) Review, discuss and take appropriate action on CCN trade agreement with the City of Midlothian.
14. Adjournment.

Portions of this meeting may be conducted in Executive Session pursuant to Section 551.071 (consultation with attorney); Section 551.072 (deliberation regarding real property); Section 551.074 (personnel matters) of the open meetings act.

Printed and posted March 7th, 2008.

EXHIBIT 7
Page 8 of 21

EXHIBIT "A"
Page 1 of 1

MOUNTAIN PEAK SPECIAL UTILITY DISTRICT
BOARD MEETING MINUTES

March 11, 2008

Call to order and establish a quorum.

Clyde Bryant called the meeting to order at 7:00 PM and a quorum was established.

Board members present were Clyde Bryant, Martin Mary, Ann Major, Stephen Bradford, Raymond Massey, Charles (Chuck) Hayes and Ed Wilson.

Employees present were Manager Randel Kirk and Office Supervisor Tammi Baxter.

Visitors recognized, and allowed up to five minutes to address the Board.

Visitors present were David Miller (Mountain Peak Special Utility District Attorney), Barbara Clopton, and John B. Clopton, Jr.

President Bryant asked if anyone would like to address the Board.

No one addressed the Board.

Reading and approval of minutes of previous meeting(s).

Ann Major read the minutes of the February 12, 2008, Mountain Peak Special Utility District regular meeting.

Martin Mary made motion to approve the minutes as presented.

Ed Wilson seconded.

All for. 6-0

Review and approve Financial Reports.

The Board and Manager discussed the December 31, 2007 Financial Report.

Charles (Chuck) Hayes made motion to table the December 31, 2007 Financial Reports until completion of the 2007 Audit.

Ed Wilson seconded.

All for. 6-0.

The Board and Manager discussed the January 31, 2008 Financial Report.

Charles (Chuck) Hayes made motion to approve the January 31, 2008 Financials as presented.

Martin Mary seconded.

All for. 6-0.

Review, discuss and take appropriate action on appointment of Election Judge.

The Board and Manager discussed the appropriate action to take on appointment of Election Judge.

Charles (Chuck) Hayes made motion to appoint Anita Blackwell as Election Judge and allow Ms. Blackwell to appoint her own clerk and alternate judge.

Ed Wilson seconded.

All for. 6-0.

EXHIBIT 7
Page 9 of 21

EXHIBIT "B"
Page 1 of 3

Review, discuss and take appropriate action on proposal by J.B. Clopton, Jr. to change the operations and procedures on elections ordered to be held by Mountain Peak Special Utility District.

The Board and Manager discussed the appropriate action to take on proposal by J. B. Clopton, Jr., to change the operations and procedures on elections ordered to be held by Mountain Peak Special Utility District.

Stephen Bradford made motion to table this item until David Miller (Mountain Peak Special Utility District Attorney) had time to gather information and get back to the Board.

Raymond Massey seconded.

All for. 6-0.

Review, discuss and take appropriate action on CCN trade agreement with the City of Midlothian.

This item was discussed in Executive Session.

Review, discuss and take appropriate action on request from Bob Sandlin for 17 meter reservations for Venus Ridge.

The Board and Manager discussed the appropriate action to take on request from Bob Sandlin for 17 meter reservations for Venus Ridge.

Charles (Chuck) Hayes made motion to approve the 17 meter reservations for Bob Sandlin for Venus Ridge.

Ann Major seconded.

All for. 6-0.

Review, discuss and take appropriate action on request from Arbors Development for 5 meter reservations for Rosebud Addition.

The Board and Manager discussed the appropriate action to take on request from Arbors Development for 5 meter reservations for Rosebud Addition.

Charles (Chuck) Hayes made motion to approve the 5 meter reservations for Arbors Development for Rosebud Addition.

Ed Wilson seconded.

All for. 6-0.

Review, discuss and take appropriate action on attaining a right of way agency for right of way easement acquisition for the proposed 20" water line from Plant #8.

The Board and Manager discussed the appropriate action to take on attaining a right of way agency for right of way easement acquisition for the proposed 20" water line from Plant #8.

Stephen Bradford suggested we table this item until next regular Board meeting if possible.

Executive Session 551.101, Texas Government Code.

1. Section 551.072 (deliberation regarding real property).
 - a. Review, discuss and take appropriate action on CCN trade Agreement with the City of Midlothian.

The Board went into Executive Session at 7:58 p.m.

The Board came out of Executive Session at 9:20 p.m.

EXHIBIT 7
Page 10 of 21

EXHIBIT "B"
Page 2 of 3

Raymond Massey motioned to authorize the Manager, Attorney, and President to meet with the City and the Developer regarding a mutually advantageous arrangement regarding the supply of water to the undeveloped and adjacent areas bordering the 287 Bypass.

Ann Major seconded.

4 – for. 1 – against (Stephen Bradford) 1 – abstained (Charles [Chuck] Hayes)

Review, discuss and take appropriate action on possible budget amendments.

The Board and Manager discussed the appropriate action to take on possible budget amendments.

This item was tabled until the next regular Board meeting pending review by Manager Kirk and possibly Greer Yeldell, C.P.A.

Reports

Kirk reported 3,252 active water accounts for the month of February.

Kirk reported a 12 customer increase in customer base.

Kirk reported 21 new meters installed for the month. (2-Patriot Estates, 2-Brandi Ridge, 1-Fox Run, 1-Hillcrest, 5-Lawson Farms, 7-Rosebud, 2-Venus Ridge, and 1-Hunter's Glen).

Kirk reported 6 leaks for the month of February (0-Midlothian, 2-Venus, and 4-Maypearl).

Kirk reported water production was at 73% for the month of February.

Kirk reported the TCEQ has designated this area a PGMA. TCEQ has determined that Ellis County will go into a District with Dallas County and Denton County. We have requested a review with Senator Averyt and Rep. Pitts to realign Ellis County with Johnson, Somervell, Hill and possibly Bosque and Navarro.

Kirk reported Mountain Peak Special Utility District has purchased a new Chevy Colorado truck. The vehicle was purchased for \$14,156.00.

Kirk reported that Mark McLiney from SWS thinks that next month we may reach our goal for bond repurchase. Mr. McLiney will be in touch.

Kirk reported all pumps are operating. We have no water shortages at present.

President Bryant asked if there was any further business.

There was none.

Adjournment

Martin Mary made motion to adjourn.

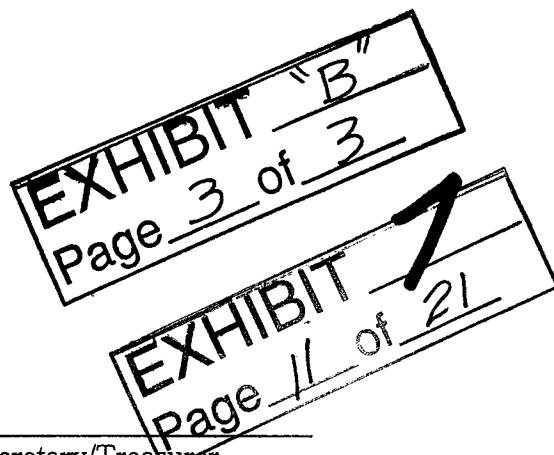
Charles (Chuck) Hayes seconded.

All for. 6-0.

Meeting adjourned at 9:56 pm.

President

Secretary/Treasurer



Mountain Peak Special Utility District

5671 Waterworks Road • Midlothian, TX 76065

Telephone 972 775-3765 • Fax 972 775-6508

This institution is an equal opportunity provider and employer

NOTICE OF REGULAR MONTHLY MEETING TUESDAY, APRIL 8th, 2008

Notice is hereby given that the regular monthly meeting of the Board of Directors of the Mountain Peak Special Utility District will be held on Tuesday, April 8th, 2008 beginning at 7:00 p.m., at 5671 Waterworks Road, Midlothian, Texas.

The subjects to be discussed or considered, or on which any formal action may be taken, are as follows:

(Items may not be taken in same order as shown on notices.)

1. Call to order and establishment of quorum.
2. Visitors recognized, and allowed up to 5 minutes to address the Board.
3. Reading and approval of minutes of previous meeting(s).
4. Review and approve Financial Reports.
5. Review, discuss and take appropriate action on approval of Portable Meter for XTO Energy, Inc.
6. Review, discuss and take appropriate action on CCN trade agreement with the City of Midlothian.
7. Review, discuss and take appropriate action on preliminary planning, construction phase designation and right of way easement acquisition for the proposed 20" water line from Plant #8.
8. Review, discuss and take appropriate action on possible budget line item reallocations.
9. Reports
 - a. Manager Randel Kirk
10. Executive Session 551.101, Texas Government Code.
 1. Section 551.072 (deliberation regarding real property).
 - (a.) Review, discuss and take appropriate action on CCN trade agreement with the City of Midlothian.
11. Adjournment.

Portions of this meeting may be conducted in Executive Session pursuant to Section 551.071 (consultation with attorney); Section 551.072 (deliberation regarding real property); Section 551.074 (personnel matters) of the open meetings act.

Printed and posted April 4rd, 2008.

EXHIBIT 7
Page 12 of 21

EXHIBIT "C"
Page 1 of 1

MOUNTAIN PEAK SPECIAL UTILITY DISTRICT
BOARD MEETING MINUTES

April 8, 2008

Call to order and establish a quorum.

Clyde Bryant called the meeting to order at 7:00 PM and a quorum was established.

Board members present were Clyde Bryant, Martin Mary, Ann Major, Stephen Bradford, Raymond Massey, Charles (Chuck) Hayes and Ed Wilson.

Employees present were Manager Randel Kirk and Office Supervisor Tammi Baxter.

Visitors recognized, and allowed up to five minutes to address the Board.

John B. Clopton, Jr. was present.

President Bryant asked if anyone would like to address the Board.

Mr. Clopton addressed the Board as to concerns he has with regards to our Annual Directors' Election.

Reading and approval of minutes of previous meeting(s).

Ann Major read the minutes of the March 11, 2008, Mountain Peak Special Utility District regular meeting.

Stephen Bradford made motion to approve the minutes as presented with exception of under the heading of "Review, discuss and take appropriate action on attaining a right of way agency for right of way easement acquisition for the proposed 20" water line from Plant #8" change the wording to "Review, discuss and take appropriate action on obtaining a right of way agent for right of way easement acquisition for the proposed 20" water line".

Ed Wilson seconded.

All for. 6-0.

Review and approve Financial Reports.

The Board and Manager discussed the February 29, 2008 Financial Report.

Charles (Chuck) Hayes made motion to approve the February 29, 2008 Financials as presented.

Martin Mary seconded.

All for. 6-0.

Review, discuss and take appropriate action on approval of Portable Meter for XTO Energy, Inc.

The Board and Manager discussed the appropriate action to take on approval of Portable Meter for XTO Energy, Inc.

Martin Mary made motion to approve the Portable Meter for XTO Energy, Inc.

Ann Major seconded.

All for. 6-0.

EXHIBIT 1
Page 13 of 21

EXHIBIT "D"
Page 1 of 3

Review, discuss and take appropriate action on CCN trade agreement with the City of Midlothian.

This item was discussed in Executive Session.

Review, discuss and take appropriate action on preliminary planning, construction phase designation and right of way easement acquisition for the proposed 20" water line from Plant #8.

The Board and Manager discussed the appropriate action to take on preliminary planning, construction phase designation and right of way easement acquisition for the proposed 20" water line from Plant #8.

Charles (Chuck) Hayes motioned to authorize the Manager, Randel Kirk, to negotiate and obtain the necessary easements up to \$8,000.00.

Martin Mary seconded.

All for. 6-0.

Review, discuss and take appropriate action on possible budget line item reallocations.

The Board and Manager discussed the appropriate action to take on possible budget line item reallocations.

Stephen Bradford motioned to adopt the reallocation of expenses as set forth in Randy's (Manager Randel Kirk) Budget Revision dated 4/8/2008.

Martin Mary seconded.

All for. 6-0.

Reports

Kirk reported 3,267 active water accounts for the month of March.

Kirk reported a 15 customer increase in customer base.

Kirk reported 8 new meters installed for the month. (1-Patriot Estates, 1-Fox Run, 1-Country South, 1-Lawson Farms, 1- E. P. Dawson, 2-Venus Ridge, and 1-Country South).

Kirk reported 9 leaks for the month of March (3-Midlothian, 4-Venus, and 2-Maypearl).

Kirk reported water production was at 70% for the month of March.

Kirk reported the TCEQ has designated this area a PGMA. TCEQ has determined that Ellis County will go into a District with Dallas County and Denton County. We have requested a review with Senator Averyt and Rep. Pitts to realign Ellis County with Johnson, Somervell, Hill and possibly Bosque and Navarro.

Kirk reported Mountain Peak Special Utility District early voting starts tomorrow (April 9, 2008).

Kirk reported all pumps are operating. We have no water shortages at present.

Executive Session 551.101, Texas Government Code.

1. Section 551.072 (deliberation regarding real property).
 - a. Review, discuss and take appropriate action on CCN trade Agreement with the City of Midlothian.

The Board went into Executive Session at 8:20 p.m.

The Board came out of Executive Session at 9:28 p.m.

April 8, 2008

Charles (Chuck) Hayes motioned to secede (rights of water service) to the (proposed) hotel (at the intersection of U.S. Hwy. 287 Bypass and U.S. Hwy. 287 Business) to the City of Midlothian.

Stephen Bradford seconded.

2 - for: Charles (Chuck) Hayes and Stephen Bradford.

4 - against: Raymond Massey, Ann Major, Ed Wilson, and Martin Mary.

Raymond Massey motioned for Mountain Peak Special Utility District to exchange approximately 36 acres north of the 287 Bypass and approximately 25 acres south of the 287 bypass in Mountain Peak Special Utility District's CCN for approximately 95 acres of Cottonwood Creek served by the City of Midlothian as described in their agreement, which we will call Exhibit A.

The final agreement to be reviewed by the Mountain Peak Attorney and then approved and signed by the Mountain Peak Special Utility District Board President and Manager. Ann Major seconded.

Motion passed. 4-2.

4 - for: Martin Mary, Ed Wilson, Ann Major, and Raymond Massey.

2 - against: Charles (Chuck) Hayes, and Stephen Bradford

President Bryant asked if there was any further business.

There was none.

Adjournment

Martin Mary made motion to adjourn.

Ed Wilson seconded.

All for. 6-0.

Meeting adjourned at 9:30 pm.

President

Secretary/Treasurer

EXHIBIT 7
Page 15 of 21

EXHIBIT "D"
Page 3 of 3

April 8, 2008

MOUNTAIN PEAK SPECIAL UTILITY DISTRICT
BOARD MEETING MINUTES

June 10, 2008

Call to order and establish a quorum.

Clyde Bryant called the meeting to order at 7:00 PM and a quorum was established.

Board members present were Clyde Bryant, Martin Mary, Stephen Bradford, Raymond Massey, and Ed Wilson. Absent were Ann Major and Charles (Chuck) Hayes.

Employees present were Manager Randel Kirk and Office Supervisor Tammi Baxter.

Visitors recognized, and allowed up to five minutes to address the Board.

Visitor present was John B. Clopton, Jr.

President Bryant asked if anyone would like to address the Board.

No one addressed the Board.

Reading and approval of minutes of previous meeting(s).

Tammi Baxter read the minutes of the May 7, 2008 Mountain Peak Special Utility District Special meeting.

Stephen Bradford made motion to approve the May 7, 2008 minutes as presented.

Martin Mary seconded.

All for. 4-0.

Tammi Baxter read the minutes of the May 13, 2008 Mountain Peak Special Utility District regular meeting.

Stephen Bradford made motion to approve the May 13, 2008 minutes as presented.

Ed Wilson seconded.

All for. 4-0.

Review and approve Financial Reports.

The Board and Manager reviewed and discussed the appropriate action to take on the April Financial Reports.

Raymond Massey made motion to approve the April 30, 2008 Financial Reports.

Martin Mary seconded.

All for. 4-0.

Review, discuss and take appropriate action on request from Todd Miller, Beazer Homes, for ten (10) meter reservations for Lawson Farms.

The Board and Manager discussed the appropriate action to take on request from Todd Miller, Beazer Homes, for ten (10) meter reservations for Lawson Farms.

Ed Wilson made motion to approve the request from Todd Miller, Beazer Homes, for ten meter reservations for Lawson Farms.

Raymond Massey seconded.

All for. 4-0.

EXHIBIT 7
Page 16 of 21

EXHIBIT "E"
Page 1 of 3

Review, discuss and take appropriate action concerning a resolution to confirm the approval of the TWDB to the transfer of assets and assumption of liabilities from the Mountain Peak Water Supply Corporation to the District pursuant to its conversion.

The Board and Manager discussed the appropriate action to take concerning a resolution to confirm the approval of the TWDB to the transfer of assets and assumption of liabilities from the Mountain Peak Water Supply Corporation to the District pursuant to its conversion.

Stephen Bradford made motion to adopt the 2008-02 Resolution by the Board of Directors of Mountain Peak Special Utility District concerning assessment and assumption of debt to the Texas Water Development Board.

Martin Mary seconded.

All for. 4-0.

Review, discuss and take appropriate action concerning a resolution confirming and approving the transfer of surplus property and obtaining the release of any liens on such property by the TWDB and the USDA.

The Board and Manager discussed the appropriate action to take concerning a resolution confirming and approving the transfer of surplus property and obtaining the release of any liens on such property by the TWDB and the USDA.

Raymond Massey moved to adopt and approve the resolution affirming and approving the transfer of surplus property to Randel Kirk and obtaining the release of any liens on the property with the TWDB.

Stephen Bradford seconded.

All for. 4-0.

Review, discuss and take appropriate action on the impending Priority Groundwater Management District.

The Board and Manager discussed the appropriate action to take on the impending Priority Groundwater Management District.

Stephen Bradford made motion to adopt and authorize appropriate signature of the letter to be presented to Representative Jim Pitts supporting our inclusion in the Priority Groundwater Management District.

Martin Mary seconded.

All for. 4-0.

Reports

Kirk reported 3,285 active water accounts for the month of May.

Kirk reported a 12 customer increase in customer base.

Kirk reported 18 new meters installed for the month. (4-Patriot Estates, 6-Venus Ridge, 3-Lawson Farms, 1-Polo Run, 1-Jordan Run, 1-Mountain View, 1-Bunkhouse, and 1-Tower Rd.).

Kirk reported 10 leaks for the month of May (5-Midlothian, 3-Venus, and 2-Maypearl).

Kirk reported water production was at 77% for the month of May.

Kirk reported lead and copper testing will begin on June 23rd. We are required by law to test 20 households for lead and copper; the households have been preselected.

Kirk reported that easement acquisition is in the negotiation stages. Kirk has filed 3 and has 3 in active negotiations.

Kirk reported that he has been investigating the possibility of integrating locally produced green energy. Wind turbines are the focus at this time.

Kirk reported that the trade agreement with City of Midlothian has been signed by both parties.

EXHIBIT 7
Page 17 of 21

EXHIBIT "E"
Page 2 of 3

Kirk reported the USDA Loan has once again been rejected. The USDA has sent a list of banks that we must be rejected by. Kirk is currently working on a letter for those banks. Kirk reported Consumer Confidence Report has been sent out. There were no violations for the year 2007.

Kirk reported all pumps are operating with the exception of Plant #2. Well #2 has been pulled and is being inspected at this time. We have no water shortages at present.

President Bryant asked if there was any further business.

There was none.

Adjournment

Martin Mary made motion to adjourn.

Ed Wilson seconded.

All for. 4-0.

Meeting adjourned at 7:44 pm.

President

Secretary/Treasurer

EXHIBIT "E"
Page 3 of 3

EXHIBIT 7
Page 18 of 21

MOUNTAIN PEAK SPECIAL UTILITY DISTRICT
BOARD MEETING MINUTES

August 12, 2008

Call to order and establish a quorum.

Clyde Bryant called the meeting to order at 7:00 PM and a quorum was established.

Board members present were Clyde Bryant, Ann Major, Raymond Massey, Charles (Chuck) Hayes, Stephen Bradford and Ed Wilson. Absent was Martin Mary.

Employees present were Manager Randel Kirk and Office Supervisor Tammi Baxter.

Visitors recognized, and allowed up to five minutes to address the Board.

Visitors present were John B. Clopton, Jr., Barbara Clopton, M. L. McKennon, Melanie Chambers, and Debra Morris.

President Bryant asked if anyone would like to address the Board.

John B. Clopton, Jr., addressed the Board as to concerns he has with the minutes for the Mountain Peak Special Utility District meetings. Mr. Clopton feels the minutes are being sanitized and that much valuable information is being excluded.

Reading and approval of minutes of previous meeting(s).

Ann Major read the minutes of the July 8, 2008 Mountain Peak Special Utility District regular meeting.

Charles (Chuck) Hayes made motion to approve the July 8, 2008 minutes as presented with noted corrections. Under the heading of Review, discuss and take appropriate action on request from Midlothian Cemetery Association for consideration of exemption of Capital Improvement Fees, Meter Set Fees and Monthly Water Service Charges for the new Midlothian-Newton Cemetery have the motion reflect Raymond Massey motioned to table this item pending further investigation by Mountain Peak Special Utility District Manager, Randy Kirk.

Ed Wilson seconded.

All for. 5-0.

Ms. Debra Morris, 3060 Timber Rock Ln., would like to address the Board concerning high water bill.

The Board, Manager and Ms. Debra Morris discussed the appropriate action to take on high water bill for 3060 Timber Rock Ln.

Stephen Bradford made motion to adjust the water bill in question for Ms. Morris to the average of the last 12 months including the leak adjustment.

Ed Wilson seconded.

All for. 5-0.

Review and approve Financial Reports.

The Board and Manager reviewed and discussed the appropriate action to take on the June 30, 2008 Financial Reports.

Charles (Chuck) Hayes made motion to approve the June 30, 2008 Financial Reports.

Stephen Bradford seconded.

All for. 5-0.

EXHIBIT 7
Page 19 of 21

EXHIBIT "F"
Page 1 of 3

Review, discuss and take appropriate action on approval of Portable Meter for Pinnergy, Ltd.

The Board and Manager discussed the appropriate action to take on Portable Meter for Pinnergy, Ltd.

Charles (Chuck) Hayes made motion to approve the Portable Meter for Pinnergy, Ltd.

Ann Major seconded.

All for. 5-0.

Review, discuss and take appropriate action on approval of Portable Meter for Endeavor Energy.

The Board and Manager discussed the appropriate action to take on approval of Portable Meter for Endeavor Energy.

Charles (Chuck) Hayes made motion to approve the Portable Meter for Endeavor Energy.

Ann Major seconded.

All for. 5-0.

Review, discuss and take appropriate action on disposal of obsolete and surplus equipment.

The Board and Manager discussed the appropriate action to take on disposal of obsolete and surplus equipment.

Stephen Bradford moved to declare the hydro pneumatic tank and the ground storage tank at Plant #6 as surplus/obsolete equipment in our system and he moved to authorize the Manager to make the best deal he can on removal, donation, or sale, whatever he feels appropriate, of that surplus and obsolete material.

Charles (Chuck) Hayes seconded.

All for. 5-0.

Review, discuss and take appropriate action on negotiations for easements for new water line from Plant #8.

This item was discussed in Executive Session.

Reports

Kirk reported 3,319 active water accounts for the month of July.

Kirk reported a 13 customer increase in customer base.

Kirk reported 18 new meters installed for the month. (4-Patriot Estates, 5-Lawson Farms, 4-Venus Ridge, 1-Mt. View, 1-Pheasant Dr., 1-FM 157, 1-Auburn Rd., and 1-Hwy 67.).

Kirk reported 5 leaks for the month of July (2-Midlothian, 1-Venus and 2-Maypearl).

Kirk reported water production was at 74% for the month of July.

Kirk reported that he was looking into some alternate energy sources, i.e., wind power for electronic generation and propane fuel for District vehicles.

Kirk reported the application to the TCEQ on our trade area has been finalized with Midlothian and submitted to TCEQ; no snags thus far.

Kirk reported all pumps are operating with the exception of Plant #2. We have no water shortages at present.

Executive Session 551.101, Texas Government Code.

1. Section 551.072 (deliberation regarding real property).
 - a. Review, discuss and take appropriate action on negotiations for easement acquisition for new water line from Plant #8.

EXHIBIT 1
Page 20 of 21

EXHIBIT "F"
Page 2 of 3

The Board went into Executive Session at 7:52 p.m.

The Board came out of Executive Session at 8:03 p.m.

Stephen Bradford made motion with regards to easements that we authorize our Manager to proceed with negotiations based upon the terms discussed in Executive Session.

Ed Wilson seconded.

All for. 5-0.

President Bryant asked if there was any further business.

There was none.

Adjournment

Raymond Massey made motion to adjourn.

Ann Major seconded.

All for. 5-0.

Meeting adjourned at 8:07 pm.

President

Secretary/Treasurer

EXHIBIT "F"
Page 3 of 3

EXHIBIT 7
Page 21 of 21

**HENSLEE
SCHWARTZ** LLP
ATTORNEYS AT LAW

6688 N. CENTRAL EXPRESSWAY
SUITE 850
DALLAS, TEXAS 75206

AUSTIN • DALLAS • FT. WORTH • HOUSTON • SAN ANTONIO

PHONE: (214) 219-8833
TOLL FREE: (800) 690-5456
FAX: (214) 219-8866
www.hensleeschwartz.com

Andrea Bouressa
Attorney
abouressa@hensleeschwartz.com

March 16, 2009

John Benjamin Clopton, Jr., Pro Se
Barbara Ann Clopton, Pro Se
810 South FM 157
P.O. Box 368
Venus, Texas 76084

Via certified mail, return receipt requested

Re: Cause No. 76632; *John Benjamin Clopton, Jr. and Wife, Barbara Ann Clopton v. Stephen Lynn Bradford and Raymond James Massey*, In the 40th Judicial District Court, Ellis County, Texas
Our File No.: 36246-01

Dear Mr. and Mrs. Clopton:

After speaking with Mrs. Clopton earlier today, it is my understanding that, due to Mr. Clopton's medical difficulties, you do not wish to proceed with the lawsuit against Stephen Bradford and Raymond Massey. As we discussed, I have prepared a Notice of Nonsuit which dismisses all claims asserted in that case. I am also enclosing (for your review) an Order on the Notice of Nonsuit which, once signed by the Judge, will give legal effect to the Nonsuit.

If it is still your intention to drop your claims, please sign the attached Notice of Nonsuit. Once it is signed, you can file it with the Court, or if it would be more convenient, you may return it to me for filing. I will make sure that you receive file-marked copies for your records.

If you have any questions, please do not hesitate to contact me. I wish you both well during this challenging time.

Sincerely,

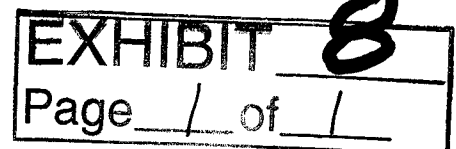
Andrea Bouressa

Andrea Bouressa

Enclosures

cc: David A. Miller

via first class mail



Miller
entzer, P.C.

ATTORNEYS AND COUNSELORS

2911 TURTLE CREEK
SUITE 300
DALLAS, TEXAS 75219

100 NORTH MAIN ST.
P.O. BOX 130
PALMER, TEXAS 75152

TELEPHONE: 214.720.2222 972.845.2222
TELECOPIER: 214.720.0599 972.845.3398

WEBSITE: WWW.MILMEN.COM

READ COOK
EMAIL: RCOOK@MILMEN.COM

December 15, 2008

Via First Class Mail

Johnson County District Clerk
Guinn Justice Center
204 S Buffalo Ave
Room: 304
Cleburne, Texas 76033

Re: Cause No. 158-97 CV; *Mountain Peak Special Utility District as successor in interest to Mountain Peak Water Supply Corporation v. John Benjamin Clopton, Jr.*; In the District Court, 18th Judicial District; Johnson County, Texas; Our File No. 7070.001

Dear Clerk:

Enclosed please find an original and two copies of Mountain Peak Special Utility District's Application for Writ of Scire Facias to Revive Judgment. Please file the original copy in accordance with your usual procedure and return one of the copies to our office in file marked form in the enclosed self-addressed, prepaid envelope.

I have enclosed \$43.00 in payment of your filing fee and for issuance of a Writ of Scire Facias. For your reference and use I have enclosed a copy of a form for Writ of Scire Facias. Please contact me should you have any questions or comments regarding the Writ.

Once the Writ has been completed, please return it to my office along with the copy of the Application in the enclosed self-addressed, prepaid envelope for service.

If you have any questions in this regard, please contact this office. Thank you for your kind attention to this matter.

Sincerely,



Read Cook

Encl



Johnson County District Clerk
December 15, 2008
Page 2 of 2

cc: **Via Certified Mail, RRR**
#7008 0150 0003 1755 3584
John Benjamin Clopton, Jr.
810 South FM 157
P.O. Box 368
Venus, Texas 76084

EXHIBIT 9
Page 2 of 35

CAUSE NO. 158-97 CV

MOUNTAIN PEAK SPECIAL
UTILITY DISTRICT as successor in
interest to MOUNTAIN PEAK WATER
SUPPLY CORPORATION,

Plaintiff,

vs.

JOHN BENJAMIN CLOPTON, JR.,

Defendant.

§ IN THE DISTRICT COURT
§
§
§
§
§ JOHNSON COUNTY, TEXAS
§
§
§
§
§
§ 18TH JUDICIAL DISTRICT

WRIT OF SCIRE FACIAS

TO DEFENDANT JOHN BENJAMIN CLOPTON, JR.:

Please take notice that on the 26th day of August, 1997, at a regular term of the 18th Judicial District Court of Johnson County, Texas, Plaintiff recovered a judgment against you for \$28,000.00, with additional attorneys' fees in the amount of \$14,000.00 resulting from your appellate efforts, with interest from the date of judgment at the rate of 10% per year, plus costs. This cause is numbered 158-97 CV, and entitled John Benjamin Clopton, Jr. v. Mountain Peak Water Supply Corporation, et al. On the ____ day of December, 2008, Plaintiff filed an Application for Writ of Scire Facias to Revive Judgment.

Therefore, you are commanded to appear before the 18th Judicial District Court of Johnson County, Texas, located at the Guinn Justice Center in Cleburne, Texas, at _____ time on the ____ day of _____, 200_, and show cause why the judgment rendered in the above-entitled cause should not be revived as requested by Plaintiff. On your failure to do so, an order and judgment will enter for the relief demanded in the application.

The nature of Plaintiff's demand is shown by a true and correct copy of its application accompanying this citation, the original of which is on file in this cause.

If citation is not served within 60 days after the date of its issuance, it shall be returned unserved. The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates of this order, and make due return as the law directs.

EXHIBIT **9**
Page 3 of 35

Issued and given under my hand and seal of the court on this ____ day of December, 2008.
SIGNED this ____ day of _____, 2008.

Signature and Seal of Clerk of Court

PROOF OF SERVICE

SERVED AT:

Date Time Place

SERVED ON: (Print Name) _____ - by personally delivering
to such person the Writ of Scire Facias, as well as a copy of the Application for Writ of Scire
Facias to Revive Judgment related thereto.

SERVED BY:

Name Title License No.

DECLARATION OF SERVER

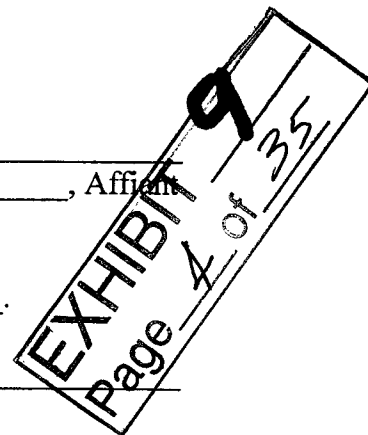
I declare under penalty that the foregoing information contained in the Proof of Service is
within my personal knowledge and is true and correct.

SIGNED this ____ day of _____, 200__

(Name) _____, Affiant

Subscribed and sworn to me on this ____ day of _____, 200__.

Notary Public, State of Texas



CAUSE NO. 158-97 CV

MOUNTAIN PEAK SPECIAL
UTILITY DISTRICT as successor in
interest to MOUNTAIN PEAK WATER
SUPPLY CORPORATION,

Plaintiff,

vs.

JOHN BENJAMIN CLOPTON, JR.,

Defendant.

§ IN THE DISTRICT COURT
§
§
§
§
§ JOHNSON COUNTY, TEXAS
§
§
§
§
§
§ 18TH JUDICIAL DISTRICT

**APPLICATION FOR WRIT OF SCIRE FACIAS
TO REVIVE JUDGMENT OF MOUNTAIN PEAK
SPECIAL UTILITY DISTRICT AS SUCCESSOR IN
INTEREST TO MOUNTAIN PEAK WATER SUPPLY CORPORATION**

TO THE HONORABLE COURT:

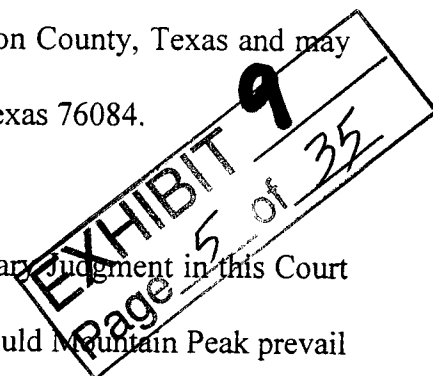
COMES NOW Mountain Peak Special Utility District as successor in interest to Mountain Peak Water Supply Corporation ("**Mountain Peak**"), and pursuant to Section 31.006 of the Texas Civil Practice and Remedies Code, files this Application for Writ of Scire Facias to Revive Judgment, and respectfully shows the following:

I.

1. Mountain Peak is a domestic Special Utility District created by authority of article XVI, section 59 of the Texas Constitution.
2. John Benjamin Clopton, Jr. is an individual residing in Johnson County, Texas and may be served with process at 810 South FM 157, P.O. Box 368, Venus, Texas 76084.

II.

3. On August 26, 1997, Mountain Peak recovered a Final Summary Judgment in this Court against Mr. Clopton for \$28,000.00, plus additional attorneys' fees should Mountain Peak prevail



on appeal (as a result of Mr. Clopton's unsuccessful appellate efforts, these additional, appellate fees now total \$14,000.00), with 10% interest per annum, and for costs of suit (the "**Judgment**"). A copy of the Judgment is attached to this Application as Exhibit A.

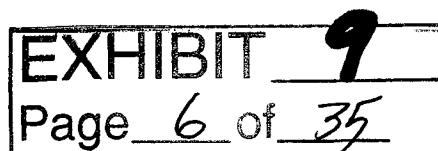
4. Mr. Clopton appealed the Judgment to the Tenth District Court of Appeals and that court affirmed the Judgment on September 30, 1998. Mr. Clopton's application for writ of error to the Texas Supreme Court was denied and on October 11, 1999, the Tenth District Court of Appeals issued the Mandate to this Court to observe the Judgment.

5. Mr. Clopton has made no payments towards the Judgment and the entire balance of the Judgment, with interest, remains unsatisfied by defendant and judgment debtor, Mr. Clopton. Mr. Clopton has contended, since 1999, that he is insolvent and cannot pay any of the Judgment.


PRAYER

WHEREFORE, PREMISES CONSIDERED, Mountain Peak respectfully requests that:

1. a writ of scire facias issue to John Benjamin Clopton, Jr. in the manner and form prescribed by law, requiring him to appear and show cause why the judgment should not be revived, if dormant, and paid from non-exempt assets;
2. The Judgment, if found to be dormant, be revived and extended for the full period provided by law;
3. The Court direct issuance of execution of the Judgment and issue any other orders that the Court deems proper, together with costs of suit.



Respectfully submitted,

By: 
David A. Miller
State Bar No. 14067025
Read Cook
State Bar No. 24053151

MILLER MENTZER, P.C.

100 North Main Street
P.O. Box 130
Palmer, Texas 75152
Telephone: (972) 845-2222
Facsimile: (972) 845-3398

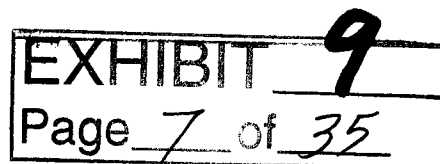
ATTORNEYS FOR
MOUNTAIN PEAK SPECIAL UTILITY
DISTRICT as successor in interest to
MOUNTAIN PEAK WATER SUPPLY
CORPORATION

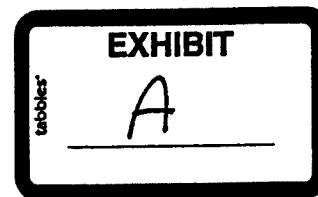
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has been served upon the following according to the requirements of Texas Rules of Civil Procedure 21a on this the 15 day of December, 2008, to the following:

John Benjamin Clopton, Jr.
810 South FM 157
P.O. Box 368
Venus, Texas 76084


Read Cook





CASE NO. 158-97

JOHN BENJAMIN CLOPTON, JR.,

Plaintiff,

v.

MOUNTAIN PEAK WATER SUPPLY CORPORATION, CLYDE T. BRYANT, ANN MAJOR, C. E. (ED) WILSON, DENNIS SMART, KENNETH DODD, GEORGE W. (DUB) WILLIS, BILLY JACK HOLT, AND THEIR SUCCESSORS IN OFFICE, IN THEIR OFFICIAL CAPACITIES,

Defendants.

IN THE DISTRICT COURT OF

JOHNSON COUNTY, TEXAS

18TH JUDICIAL DISTRICT

FINAL SUMMARY JUDGMENT

On July 3, 1997, the Court heard Mountain Peak Water Supply Corporation's Motion for Summary Judgment, filed in Cause No. 161-94. Plaintiff appeared pro se, and Defendant Mountain Peak Water Supply Corporation appeared through its counsel of record. The Court, after examining the pleadings and the summary judgment evidence and hearing the arguments of counsel, found that Defendant Mountain Peak Water Supply Corporation was entitled to a partial summary judgment against Plaintiff and signed a Partial Summary Judgment on July 24, 1997. The matters made the subject of the Partial Summary Judgment were severed from Cause No. 161-94 and were assigned this cause number pursuant to an Order of Severance dated July 24, 1997. The Court finds that by virtue of the Order of Severance, Mountain Peak Water Supply Corporation is entitled to a final summary judgment against Plaintiff as follows:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff take nothing from Defendant Mountain Peak Water Supply Corporation on the following causes of action, which were the subject of Plaintiff's Second Amended Original Petition in Cause No. 161-94 and which were severed from that cause of action pursuant to an Order of Severance dated July 24, 1997:

- a. Count Number One of Plaintiff's Second Amended Original Petition;
- b. Count Number Two of Plaintiff's Second Amended Original Petition;
- c. Count Number Three of Plaintiff's Second Amended Original Petition;
- d. Count Number Five of Plaintiff's Second Amended Original Petition;
- e. Count Number Six of Plaintiff's Second Amended Original Petition;
- f. Count Number Seven of Plaintiff's Second Amended Original Petition;
- g. Count Number Eight of Plaintiff's Second Amended Original Petition; and
- h. Plaintiff's claim for his pro se litigant's attorney's fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Mountain Peak Water Supply Corporation have summary judgment on its claim for a declaratory judgment. In that regard, the Court declares that:

- a. The 1994, 1995, and 1996 annual elections of Mountain Peak's Board of Directors were held in compliance with Mountain Peak's bylaws;
- b. The Settlement Agreement, attached to Mountain Peak Water Supply Corporation's First Amended Motion for Summary Judgment as Exhibit "A-1" (the "Settlement Agreement"), is a valid and enforceable agreement;

- c. The form of proxy used by Mountain Peak in connection with its 1995 annual meeting is the form attached to the Settlement Agreement;
- d. The Settlement Agreement releases all claims Plaintiff may have had against the Defendants prior to March 14, 1995;
- e. Plaintiff must dismiss this lawsuit with prejudice to the refile of all claims and counterclaims on file at the time the Settlement Agreement was executed;
- f. Each party must bear its own costs incurred up to March 14, 1995, the date the Settlement Agreement was executed; and
- g. Plaintiff must execute a mutual release of any and all claims arising out of or related to the matters which were made, or could have been made, the subject of this lawsuit.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Mountain Peak Water Supply Corporation is entitled to summary judgment on its counterclaim for breach of contract and is further entitled to an award of \$28,000.00, representing reasonable attorneys' fees incurred between March 14, 1995 (the date the Settlement Agreement was entered into) and July 3, 1997. Defendant Mountain Peak Water Supply Corporation is entitled to the additional sum of \$1,500.00 as reasonable attorneys' fees if Plaintiff files a Motion for New Trial which is denied; the additional sum of \$7,500.00 as reasonable attorneys' fees if an appeal to the Court of Appeals is made by Plaintiff but is unsuccessful; the additional sum of \$5,000.00 as reasonable attorneys' fees if an application for writ of error is filed by Plaintiff but not granted by the Supreme Court of Texas; the additional sum of \$4,000.00 as reasonable attorneys' fees if the

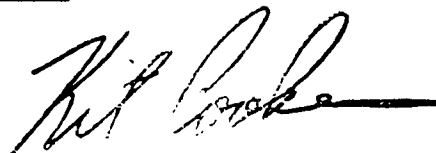
application for writ of error is granted but the appeal to the Supreme Court of Texas by Plaintiff is unsuccessful; the additional sum of \$2,500.00 as reasonable attorneys' fees if a Motion for Rehearing is filed by Plaintiff but not granted by the Supreme Court of Texas; the additional sum of \$3,500.00 as reasonable attorneys' fees if a Petition for Writ of Certiorari is filed by Plaintiff but is not granted by the United States Supreme Court; and the additional sum of \$5,000.00 as reasonable attorneys' fees if a Petition for Writ of Certiorari is granted but the appeal to the United States Supreme Court by Plaintiff is unsuccessful.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Mountain Peak Water Supply Corporation is entitled to post-judgment interest at the rate of ten percent (10%) per annum and all costs of suit.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Mountain Peak Water Supply Corporation's Objections to Plaintiff's Summary Judgment Evidence, filed and served on July 3, 1997, are sustained in their entirety.

All other relief sought herein but not granted hereby is denied.

SIGNED on this 26 day of August, 1997.

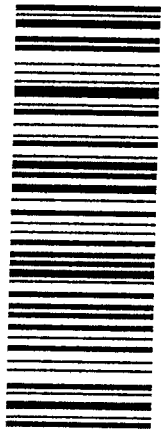


JUDGE PRESIDING

Miller
entzer, P.C.
ATTORNEYS AND COUNSELORS

100 NORTH MAIN ST.
P.O. Box 130
PALMER, TEXAS 75152
TELEPHONE: 972.845.
TELECOPIER: 972.845.
WWW.MILMEN.COM

CERTIFIED MAIL[™]



7008 0150 0003 1755 3584



Received: December 17, 2008

John Benjamin Clopton, Jr.
810 South FM 157
P.O. Box 368
Venus, Texas 76084

FIRST NOTICE 12-17
SECOND NOTICE 12-22
RETURNED 12-31

EXHIBIT 9
Page 12 of 35



M^{iller} entzer, P.C.

ATTORNEYS AND COUNSELORS

2911 TURTLE CREEK
SUITE 300
DALLAS, TEXAS 75219

100 NORTH MAIN ST.
P.O. BOX 130
PALMER, TEXAS 75152

TELEPHONE: 214.720.2222 972.845.2222
TELECOPIER: 214.720.0599 972.845.3398

WEBSITE: WWW.MILMEN.COM

READ COOK
EMAIL: RCOOK@MILMEN.COM

February 25, 2009

**Via First Class Mail
And Facsimile (817) 556-6831**

Clerk of the 18th District Court
Johnson County, Texas
Guinn Justice Center
204 S. Buffalo Ave
Room: 304
Cleburne, Texas 76033

**Via First Class Mail
And Facsimile (817) 556-6043**

Clerk of the 413th District Court
Johnson County, Texas
Guinn Justice Center
204 S. Buffalo Ave
Room: 202
Cleburne, Texas 76033

Re: Cause No. 158-97 CV; *Mountain Peak Special Utility District as successor in interest to Mountain Peak Water Supply Corporation v. John Benjamin Clopton, Jr.*; In the District Court, 18th Judicial District; Johnson County, Texas; Our File No. 7070.025

Dear Clerks:

I wanted to follow up with you regarding the above-referenced matter. On or about December 15, 2008, I filed an Application for Writ of Scire Facias to Revive Judgment on behalf of Mountain Peak Special Utility District ("**Mountain Peak**") (the "**Application**"). (A copy is enclosed for your convenience.) Mountain Peak's predecessor recovered a judgment against John Benjamin Clopton, Jr. on August 26, 1997 on the 18th District Court of Johnson County. Mr. Clopton has not satisfied the judgment and the Application requests the Court to issue a writ of scire facias to Mr. Clopton, requiring him to appear and show cause why the judgment should not be revived if it is found to be dormant. I also included a form of the writ of scire facias for the Court to review and use or modify.

It is my understanding that since the judgment was issued by the 18th Court in 1997, the 413th Court was created, and many of the 18th Court's cases were transferred to the 413th Court. It is further my understanding that there is some question as to whether either of the courts would have jurisdiction over the Application. While the scire facias procedure is not the most common of procedures, I want to assure you that the 18th District Court (or the 413th, as the case may be) does have jurisdiction over the parties and subject matter of the Application.

EXHIBIT **9**
Page 13 of 35

Johnson County District Clerks
February 25, 2009
Page 2 of 2

If a judgment becomes dormant it may be revived by scire facias not later than the second anniversary of the date that the judgment becomes dormant. Tex. Civ. Prac. & Rem. Code § 31.006. An application for scire facias is not an independent suit, but is a continuation of the original suit and the original court retains jurisdiction of the parties which was obtained in the original suit. *Berly v. Sias*, 255 S.W.2d 505, 508 (Tex. 1953). An application to revive a dormant judgment should be brought in the same court where the original judgment was rendered. *Koenig v. Marti*, 103 S.W.2d 1023, 1025 (Tex. Civ. App.—Fort Worth 1937, writ dismissed w.o.j.).

The writ itself is essentially a notice of hearing to show cause as to why the judgment has not been paid and why it should not be revived. Once the writ and Application are served on Mr. Clopton and he appears, the judgment can be revived and Mountain Peak can resume collection efforts.

Please contact me should you have any questions about the procedural aspects or the form of the writ of scire facias which was enclosed with the Application.

Sincerely,



Read Cook

Q:\7070\025\Scire Facias\Correspondence\to Clerk 090225 Jurisdiction.doc

cc: **Via Certified Mail, RRR**
#7008 0150 0003 1755 2648
John Benjamin Clopton, Jr. ✓
810 South FM 157
P.O. Box 368
Venus, Texas 76084

EXHIBIT	9
Page	14 of 35

100 NORTH MAIN ST.
P.O. Box 130
PALMER, TEXAS 75152
TELEPHONE: 972.845.2222
TELECOPIER: 972.845.3398
WWW.MILMEN.COM

CERTIFIED MAIL™



7008 0150 0003 1755 2648 8497

[illegible]

John Benjamin Clopton, Jr.

810 South FM 157

P.O. Box 368

Venus, Texas 76084

FIRST NOTICE 2-26 ✓
SECOND NOTICE 3-3 ✓
RETURNED 3-13

EXHIBIT 9
Page 15 of 35

Miller
entzer, P.C.

ATTORNEYS AND COUNSELORS

2911 TURTLE CREEK
SUITE 300
DALLAS, TEXAS 75219

100 NORTH MAIN ST.
P.O. BOX 130
PALMER, TEXAS 75152

TELEPHONE: 214.720.2222 972.845.2222
TELECOPIER: 214.720.0599 972.845.3398

WEBSITE: WWW.MILMEN.COM

READ COOK
EMAIL: RCOOK@MILMEN.COM

March 9, 2009

Via First Class Mail

David R. Lloyd
Johnson County District Clerk
P.O. Box 495
Cleburne, Texas 76033

Re: Cause No. 158-97 CV; *Mountain Peak Special Utility District as successor in interest to Mountain Peak Water Supply Corporation v. John Benjamin Clopton, Jr.*; In the District Court, 18th Judicial District; Johnson County, Texas; Our File No. 7070.025

Dear Clerk:

On Friday, March 6, 2009, I provided you with a form for a Writ of Scire Facias in the above-referenced matter which you issued on that same day. However, the Writ, which I prepared, was not styled in "The State of Texas" and did not contain the address for this law firm or the Johnson County District Clerk. To correct my mistake, I have enclosed a revised Writ for issuance along with an additional check for the \$8.00 issuance fee. Once the Writ has been completed, please return it to my office in the enclosed self-addressed, prepaid envelope for service.

Please do not hesitate to contact me should you have any questions.

Sincerely,



Read Cook

Q:\7070\025\Scire Facias\Correspondence\To District Clerk 090309.doc

EXHIBIT **9**
Page 16 of 35

Miller Mentzer, P.C.

Johnson County District Clerk
March 9, 2009
Page 2 of 2

cc: **Via Certified Mail, RRR**
7008 0150 0003 1755 2549
John Benjamin Clopton, Jr.
810 South FM 157
P.O. Box 368
Venus, Texas 76084

Via First Class Mail
Clerk of the 413th District Court
Johnson County, Texas
Guinn Justice Center
204 S. Buffalo Ave
Room: 202
Cleburne, Texas 76033

EXHIBIT **9**
Page 17 of 35

The State of Texas

CAUSE NO. 158-97 CV

MOUNTAIN PEAK SPECIAL	§	IN THE DISTRICT COURT
UTILITY DISTRICT as successor in	§	
interest to MOUNTAIN PEAK WATER	§	
SUPPLY CORPORATION,	§	
	§	
Plaintiff,	§	JOHNSON COUNTY, TEXAS
	§	
vs.	§	
	§	
JOHN BENJAMIN CLOPTON, JR.,	§	
	§	
Defendant.	§	413TH JUDICIAL DISTRICT

WRIT OF SCIRE FACIAS

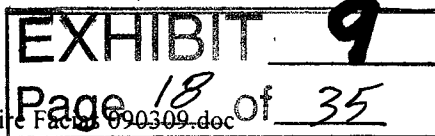
TO DEFENDANT JOHN BENJAMIN CLOPTON, JR.:

Please take notice that on the 26th day of August, 1997, at a regular term of the 18th Judicial District Court of Johnson County, Texas, Plaintiff recovered a judgment against you for \$28,000.00. with additional attorneys' fees in the amount of \$14,000.00 resulting from your appellate efforts, with interest from the date of judgment at the rate of 10% per year, plus costs. This cause is numbered 158-97 CV, and entitled John Benjamin Clopton, Jr. v. Mountain Peak Water Supply Corporation, et al. On the 16th day of December, 2008, Plaintiff, through its attorneys, Miller Mentzer, P.C., 100 N. Main St., P.O. Box 130, Palmer, Texas 75152, filed an Application for Writ of Scire Facias to Revive Judgment.

Therefore, you are commanded to appear before the 413th Judicial District Court of Johnson County, Texas, located at the Guinn Justice Center, 204 S. Buffalo Avenue, Cleburne, Texas, at **9:00 a.m. on the 21st day of April, 2009**, and show cause why the judgment rendered in the above-entitled cause should not be revived as requested by Plaintiff. On your failure to do so, an order and judgment will enter for the relief demanded in the application.

The nature of Plaintiff's demand is shown by a true and correct copy of its application accompanying this citation, the original of which is on file in this cause.

If citation is not served within 60 days after the date of its issuance, it shall be returned unserved. The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates of this order, and make due return as the law directs.



Issued and given under my hand and seal of the court on this ____ day of March, 2009.
SIGNED this _____ day of _____, 2009.

David R. Lloyd – District Clerk
Johnson County, Texas
Guinn Justice Center
P.O. Box 495
Cleburne, Texas 76033

Signature and Seal of Clerk of Court

PROOF OF SERVICE

SERVED AT:

Date Time Place

SERVED ON: (Print Name) _____ - by personally delivering
to such person the Writ of Scire Facias, as well as a copy of the Application for Writ of Scire
Facias to Revive Judgment related thereto.

SERVED BY:

Name Title License No.

DECLARATION OF SERVER

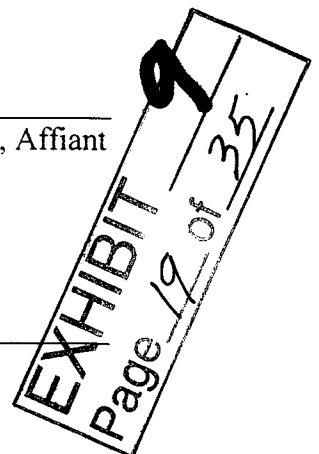
I declare under penalty that the foregoing information contained in the Proof of Service is
within my personal knowledge and is true and correct.

SIGNED this ____ day of _____, 200__

_____, Affiant
(Name)

Subscribed and sworn to me on this ____ day of _____, 200__.

Notary Public, State of Texas



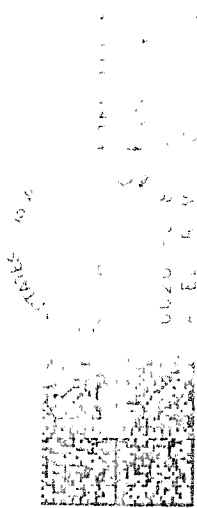
Miller
entzer, P.C.
ATTORNEYS AND COUNSELORS

100 NORTH MAIN ST.
P.O. Box 130
PALMER, TEXAS 75152
TELEPHONE: 972.845.22;
TELECOPIER: 972.845.33;
WWW.MILMEN.COM

CERTIFIED MAIL™



7008 0150 0003 1755 2549

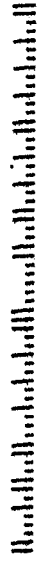


John Benjamin Clopton, Jr.
810 South FM 157
P.O. Box 368
Venus, Texas 76084

FIRST NOTICE 3-10 ✓
SECOND NOTICE 3-14
RETURNED 3-24

EXHIBIT 9
Page 20 of 35

7608410368



1

Miller
entzer, P.C.

ATTORNEYS AND COUNSELORS

2911 TURTLE CREEK
SUITE 300
DALLAS, TEXAS 75219

100 NORTH MAIN ST.
P.O. BOX 130
PALMER, TEXAS 75152

TELEPHONE: 214.720.2222 972.845.2222
TELECOPIER: 214.720.0599 972.845.3398

WEBSITE: WWW.MILMEN.COM

LORI CASTILLO
LEGAL ASSISTANT
EMAIL: LCASTILLO@MILMEN.COM

April 14, 2009

Via First Class Mail

Johnson County District Clerk
Guinn Justice Center
204 S Buffalo Ave
Room 206
Cleburne, Texas 76033-5404

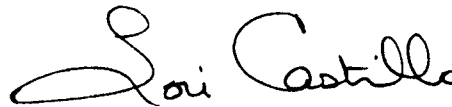
Re: Cause No. 158-97 CV; *Mountain Peak Special Utility District as successor in interest to Mountain Peak Water Supply Corporation v. John Benjamin Clopton, Jr.*;
In the District Court, 413th Judicial District; Johnson County, Texas;
Our File No. 7070.001

Dear Clerk:

Enclosed please find an original and two copies of Affidavit of Service in connection with the Writ of Scire Facias and Application for Writ of Scire Facias to Revive Judgment. Please file the original copy in accordance with your usual procedure and return the copies to our office in file marked form in the enclosed self-addressed, prepaid envelope.

If you have any questions in this regard, please contact this office. Thank you for your kind attention to this matter.

Sincerely,



Lori Castillo
Legal Assistant

Encl.

Q:\7070\025\Scire Facias\Correspondence\to Clerk 090414 affidavit of service.doc

EXHIBIT **9**
Page 21 of 35

Miller Mentzer, P.C.

Johnson County District Clerk
April 14, 2009
Page 2 of 2

cc: First Class Mail
John Benjamin Clopton, Jr. ✓
810 South FM 157
P.O. Box 368
Venus, Texas 76084

EXHIBIT 9
Page 22 of 35

AFFIDAVIT OF SERVICE

State of Texas

County of Johnson

Court

Case Number: 158-97CV Court Date: 4/21/2009 9.00 am

Plaintiff

MOUNTAIN PEAK SPECIAL UTILITY

vs.

Defendant:

JOHN BENJAMIN CLOPTON, JR.

For:

Miller Mentzer, P.C.

Received by J&P Process Servers on the 8th day of April, 2009 at 6:00 pm to be served on **Mr. John Benjamin Clopton Jr, 810 South Fm 157, P.O.Box 368, Venus, TX 76084.**

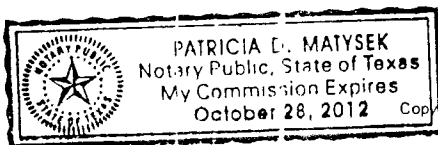
I, Jerry Decker, being duly sworn, depose and say that on the **9th day of April, 2009 at 6:35 pm, I:**

served Mr. John Benjamin Clopton Jr by delivering a true copy of the **Writ of Scire Facias, and Application for Writ of Scire Facias to Revive Judgment** with the date and hour of service endorsed thereon by me, to: **Mr. John Benjamin Clopton Jr** at the address of: **810 South Fm 157, P.O.Box 368, Venus, TX 76084** and informed said person of the contents therein, in compliance with state statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 13th day of April, 2009 by the affiant who is personally known to me

Patricia D. Matyssek
NOTARY PUBLIC



Jerry Decker
Jerry Decker
Process Server #_2824_____

J&P Process Servers
200 Cheyenne Dr
Waxahachie, TX 75165
(214) 397-2146

Our Job Serial Number: 2009000004
Ref. 7070.025

EXHIBIT 9
Page 23 of 35

ORIGINAL

The State of Texas

CAUSE NO. 158-97 CV

MOUNTAIN PEAK SPECIAL	§	IN THE DISTRICT COURT
UTILITY DISTRICT as successor in	§	
interest to MOUNTAIN PEAK WATER	§	
SUPPLY CORPORATION,	§	
	§	
Plaintiff,	§	JOHNSON COUNTY, TEXAS
	§	
vs.	§	
	§	
JOHN BENJAMIN CLOPTON, JR.,	§	
	§	
Defendant.	§	413TH JUDICIAL DISTRICT

WRIT OF SCIRE FACIAS

TO DEFENDANT JOHN BENJAMIN CLOPTON, JR.:

Please take notice that on the 26th day of August, 1997. at a regular term of the 18th Judicial District Court of Johnson County, Texas, Plaintiff recovered a judgment against you for \$28,000.00. with additional attorneys' fees in the amount of \$14,000.00 resulting from your appellate efforts. with interest from the date of judgment at the rate of 10% per year, plus costs. This cause is numbered 158-97 CV, and entitled John Benjamin Clopton, Jr. v. Mountain Peak Water Supply Corporation, et al. On the 16th day of December, 2008. Plaintiff, through its attorneys, Miller Mentzer, P.C., 100 N. Main St., P.O. Box 130, Palmer, Texas 75152, filed an Application for Writ of Scire Facias to Revive Judgment.

Therefore, you are commanded to appear before the 413th Judicial District Court of Johnson County, Texas, located at the Guinn Justice Center, 204 S. Buffalo Avenue, Cleburne, Texas, at 9:00 a.m. on the 21st day of April, 2009, and show cause why the judgment rendered in the above-entitled cause should not be revived as requested by Plaintiff. On your failure to do so, an order and judgment will enter for the relief demanded in the application.

The nature of Plaintiff's demand is shown by a true and correct copy of its application accompanying this citation, the original of which is on file in this cause.

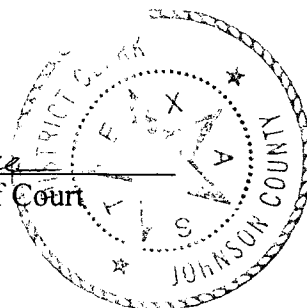
If citation is not served within 60 days after the date of its issuance, it shall be returned unserved. The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates of this order. and make due return as the law directs.

EXHIBIT 9
Page 24 of 35

Issued and given under my hand and seal of the court on this 12 day of March, 2009.
SIGNED this 12 day of March, 2009.

David R. Lloyd – District Clerk
Johnson County, Texas
Guinn Justice Center
P.O. Box 495
Cleburne, Texas 76033

Sally X VanStylke
Signature and Seal of Clerk of Court



PROOF OF SERVICE

SERVED AT:

Date Time Place

SERVED ON: (Print Name) _____ - by personally delivering
to such person the Writ of Scire Facias, as well as a copy of the Application for Writ of Scire
Facias to Revive Judgment related thereto.

SERVED BY:

Name Title License No.

DECLARATION OF SERVER

I declare under penalty that the foregoing information contained in the Proof of Service is
within my personal knowledge and is true and correct.

SIGNED this ____ day of _____, 200__

Affiant
(Name)

Subscribed and sworn to me on this ____ day of _____, 200__.

Notary Public, State of Texas

EXHIBIT 9
Page 25 of 35

CAUSE NO. 158-97 CV

MOUNTAIN PEAK SPECIAL
UTILITY DISTRICT as successor in
interest to MOUNTAIN PEAK WATER
SUPPLY CORPORATION,

Plaintiff,

vs.

JOHN BENJAMIN CLOPTON, JR.,

Defendant.

§ IN THE DISTRICT COURT
§
§
§
§
§ JOHNSON COUNTY, TEXAS
§
§
§
§
§
§ 18TH JUDICIAL DISTRICT

**APPLICATION FOR WRIT OF SCIRE FACIAS
TO REVIVE JUDGMENT OF MOUNTAIN PEAK
SPECIAL UTILITY DISTRICT AS SUCCESSOR IN
INTEREST TO MOUNTAIN PEAK WATER SUPPLY CORPORATION**

TO THE HONORABLE COURT:

COMES NOW Mountain Peak Special Utility District as successor in interest to Mountain Peak Water Supply Corporation ("**Mountain Peak**"), and pursuant to Section 31.006 of the Texas Civil Practice and Remedies Code, files this Application for Writ of Scire Facias to Revive Judgment, and respectfully shows the following:

I.

1. Mountain Peak is a domestic Special Utility District created by authority of article XVI, section 59 of the Texas Constitution.
2. John Benjamin Clopton, Jr. is an individual residing in Johnson County, Texas and may be served with process at 810 South FM 157, P.O. Box 368, Venus, Texas 76084.

II.

3. On August 26, 1997, Mountain Peak recovered a Final Summary Judgment in this Court against Mr. Clopton for \$28,000.00, plus additional attorneys' fees should Mountain Peak prevail

EXHIBIT 9
Page 26 of 35

on appeal (as a result of Mr. Clopton's unsuccessful appellate efforts, these additional, appellate fees now total \$14,000.00), with 10% interest per annum, and for costs of suit (the "**Judgment**"). A copy of the Judgment is attached to this Application as Exhibit A.

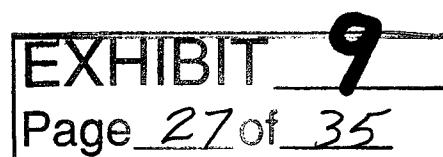
4. Mr. Clopton appealed the Judgment to the Tenth District Court of Appeals and that court affirmed the Judgment on September 30, 1998. Mr. Clopton's application for writ of error to the Texas Supreme Court was denied and on October 11, 1999, the Tenth District Court of Appeals issued the Mandate to this Court to observe the Judgment.

5. Mr. Clopton has made no payments towards the Judgment and the entire balance of the Judgment, with interest, remains unsatisfied by defendant and judgment debtor, Mr. Clopton. Mr. Clopton has contended, since 1999, that he is insolvent and cannot pay any of the Judgment.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Mountain Peak respectfully requests that:

1. a writ of scire facias issue to John Benjamin Clopton, Jr. in the manner and form prescribed by law, requiring him to appear and show cause why the judgment should not be revived, if dormant, and paid from non-exempt assets;
2. The Judgment, if found to be dormant, be revived and extended for the full period provided by law;
3. The Court direct issuance of execution of the Judgment and issue any other orders that the Court deems proper, together with costs of suit.



Respectfully submitted,

By: 

David A. Miller
State Bar No. 14067025
Read Cook
State Bar No. 24053151

MILLER MENTZER, P.C.
100 North Main Street
P.O. Box 130
Palmer, Texas 75152
Telephone: (972) 845-2222
Facsimile: (972) 845-3398

ATTORNEYS FOR
MOUNTAIN PEAK SPECIAL UTILITY
DISTRICT as successor in interest to
MOUNTAIN PEAK WATER SUPPLY
CORPORATION

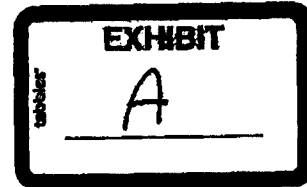
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has been served upon the following according to the requirements of Texas Rules of Civil Procedure 21a on this the 15 day of December, 2008, to the following:

John Benjamin Clopton, Jr.
810 South FM 157
P.O. Box 368
Venus, Texas 76084


Read Cook

EXHIBIT 9
Page 28 of 35



CASE NO. 158-97

JOHN BENJAMIN CLOPTON, JR.,

Plaintiff,

v.

MOUNTAIN PEAK WATER SUPPLY
CORPORATION, CLYDE T. BRYANT,
ANN MAJOR, C. E. (ED) WILSON,
DENNIS SMART, KENNETH DODD,
GEORGE W. (DUB) WILLIS,
BILLY JACK HOLT, AND THEIR
SUCCESSORS IN OFFICE, IN THEIR
OFFICIAL CAPACITIES,

Defendants.

IN THE DISTRICT COURT OF

JOHNSON COUNTY, TEXAS

18TH JUDICIAL DISTRICT

FINAL SUMMARY JUDGMENT

On July 3, 1997, the Court heard Mountain Peak Water Supply Corporation's Motion for Summary Judgment, filed in Cause No. 161-94. Plaintiff appeared pro se, and Defendant Mountain Peak Water Supply Corporation appeared through its counsel of record. The Court, after examining the pleadings and the summary judgment evidence and hearing the arguments of counsel, found that Defendant Mountain Peak Water Supply Corporation was entitled to a partial summary judgment against Plaintiff and signed a Partial Summary Judgment on July 24, 1997. The matters made the subject of the Partial Summary Judgment were severed from Cause No. 161-94 and were assigned this cause number pursuant to an Order of Severance dated July 24, 1997. The Court finds that by virtue of the Order of Severance, Mountain Peak Water Supply Corporation is entitled to a final summary judgment against Plaintiff as follows:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiff take nothing from Defendant Mountain Peak Water Supply Corporation on the following causes of action, which were the subject of Plaintiff's Second Amended Original Petition in Cause No. 161-94 and which were severed from that cause of action pursuant to an Order of Severance dated July 24, 1997:

- a. Count Number One of Plaintiff's Second Amended Original Petition;
- b. Count Number Two of Plaintiff's Second Amended Original Petition;
- c. Count Number Three of Plaintiff's Second Amended Original Petition;
- d. Count Number Five of Plaintiff's Second Amended Original Petition;
- e. Count Number Six of Plaintiff's Second Amended Original Petition;
- f. Count Number Seven of Plaintiff's Second Amended Original Petition;
- g. Count Number Eight of Plaintiff's Second Amended Original Petition; and
- h. Plaintiff's claim for his pro se litigant's attorney's fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Mountain Peak Water Supply Corporation have summary judgment on its claim for a declaratory judgment. In that regard, the Court declares that:

- a. The 1994, 1995, and 1996 annual elections of Mountain Peak's Board of Directors were held in compliance with Mountain Peak's bylaws;
- b. The Settlement Agreement, attached to Mountain Peak Water Supply Corporation's First Amended Motion for Summary Judgment as Exhibit "A-1" (the "Settlement Agreement"), is a valid and enforceable agreement;

- c. The form of proxy used by Mountain Peak in connection with its 1995 annual meeting is the form attached to the Settlement Agreement;
- d. The Settlement Agreement releases all claims Plaintiff may have had against the Defendants prior to March 14, 1995;
- e. Plaintiff must dismiss this lawsuit with prejudice to the refile of all claims and counterclaims on file at the time the Settlement Agreement was executed;
- f. Each party must bear its own costs incurred up to March 14, 1995, the date the Settlement Agreement was executed; and
- g. Plaintiff must execute a mutual release of any and all claims arising out of or related to the matters which were made, or could have been made, the subject of this lawsuit.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Mountain Peak Water Supply Corporation is entitled to summary judgment on its counterclaim for breach of contract and is further entitled to an award of \$28,000.00, representing reasonable attorneys' fees incurred between March 14, 1995 (the date the Settlement Agreement was entered into) and July 3, 1997. Defendant Mountain Peak Water Supply Corporation is entitled to the additional sum of \$1,500.00 as reasonable attorneys' fees if Plaintiff files a Motion for New Trial which is denied; the additional sum of \$7,500.00 as reasonable attorneys' fees if an appeal to the Court of Appeals is made by Plaintiff but is unsuccessful; the additional sum of \$5,000.00 as reasonable attorneys' fees if an application for writ of error is filed by Plaintiff but not granted by the Supreme Court of Texas; the additional sum of \$4,000.00 as reasonable attorneys' fees if the