

and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 10:

Produce all documents relating to or concerning your position against the Royse City sewer CCN application and the Royse City water CCN application prepared by you or for you, submitted by you or for you or to you, or reviewed by you or for you.

Response:

None at this time. This will be up dated with prefiled testimony

Request for Production No. 11:

Produce all documents relating to or concerning your position with regard to the Verandah LP sewer CCN application prepared by you or for you, submitted by you or for you or to you, or reviewed by you or for you.

Response:

The documents are all located at the offices of Huffines and Partners, Inc. under Mr. Fred Brown's custody and control. Other technical documents, including the CCN application and TPDES application, are located in the Pate Engineers offices in the custody of Robert Wright. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown/Wright. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 12:

Produce all documents relating to or concerning your position in support of the Parker Creek LP sewer CCN application and the Parker Creek LP water CCN application prepared by you or for you, submitted by you or for you or to you, or reviewed by you or for you.

Response:

The documents are all located at the offices of Huffines and Partners, Inc. under Mr. Fred Brown's custody and control. Other technical documents, including the CCN application and TPDES application, are located in the Pate Engineers offices in the custody of Robert Wright. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be

removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown/Wright. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 13:

Produce all documents that you will or may use or introduce as exhibits during the hearing on the merits in this consolidated docket proceeding.

Response:

At this time the only documents selected are the CCN applications and the TPDES permit which are located at the Pate Engineers offices in the custody of Robert Wright. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Wright. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa. This answer will be supplemented through prefiled testimony.

Request for Production No. 14:

Produce all documents relating to or concerning the agreement under which you have engaged the services of your fact witnesses, consultants, and expert witnesses in this consolidated docket proceeding.

Response:

The engagement agreements will be produced with the expert's work papers.

Request for Production No. 15:

Produce all documents relating to or concerning each and every meeting held by or for Parker Creek LP, including, but not limited to, meeting notices, agendas, minutes, and sign-in sheets.

Response:

The documents are all located at the offices of Huffines and Partners, Inc. under Mr. Fred Brown's custody and control. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown. The inspecting party

will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 16:

Produce all documents created by, received by, or distributed by you relating to or concerning the Royse City sewer CCN application, the Royse City water CCN application, the Verandah LP sewer CCN application, the Parker Creek LP sewer CCN application, and/or the Parker Creek LP water CCN application, including, but not limited to, any press release, public relation document, letter to the editor, newspaper article, flyer, information sheet, or background material.

Response:

The documents are all located at the offices of Huffines and Partners, Inc. under Mr. Fred Brown's custody and control. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 17:

Produce all documents concerning or relating to Parker Creek LP's corporate structure, organization, and operation, including, but not limited to, by-laws, rules, regulations, declarations, articles of incorporation, articles of amendment, and qualifications for membership.

Response:

N/A — not a corporation

Request for Production No. 18:

With respect to all preliminary, final, or other written reports of any kind prepared by or for you, any other person, or entity, concerning or relating to the Royse City sewer CCN application, the Royse City water CCN application, the Verandah LP sewer CCN application, the Parker Creek LP sewer CCN application, and/or the Parker Creek LP water CCN application, please identify the person who currently has custody of each report along with the date and author of each report.

Response:

Verandah Communities sewer CCN application prepared by Pate Engineers at TCEQ  
Parker Creek Estates sewer CCN application prepared by Pate Engineers at TCEQ  
Parker Creek Estates water CCN application prepared by Pate Engineers at TCEQ  
Verandah Communities TPDES application prepared by Pate Engineers at TCEQ  
Parker Creek Estates TPDES application prepared by Pate Engineers at TCEQ

Parker Creek Estates groundwater availability study by Collier Consulting at TCEQ and Kerry Russell

Request for Production No. 19:

Produce any and all documents purporting to give you authority to participate in this proceeding.

Response:

Texas Constitution Volumes 1 - 3, the Texas Property Code, the Texas Water Code, the Texas Health & Safety Code and the Procedural Rules of the TCEQ and SOAH, please copy them yourself.

Request for Production No. 20:

Produce any and all documents related to the delivery, by purchase or dedication, with any person or entity, of any easements.

Response:

The documents are all located at the offices of Huffines and Partners, Inc. under Mr. Fred Brown's custody and control. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 21:

Produce any and all documents that show the boundaries and limits of the proposed Parker Creek municipal utility district.

Response:

Those documents are public record at the TCEQ and are as equally accessible to the requestor as any third party. Not in the custody and control of Parker Creek Estates, LP, the applicant for the CCN.

Request for Production No. 22:

Produce all documents relating to or concerning each and every meeting held by or for the proposed Parker Creek municipal utility district, including, but not limited to, meeting notices, agendas, minutes, and sign-in sheets.

Response:

Not in the custody and control of Parker Creek Estates, LP, the applicant for the CCN.

Request for Production No. 23:

Produce all documents concerning or relating to the proposed Parker Creek municipal utility district's corporate structure, organization, and operation, including, but not limited to, applications, petitions, by-laws, rules, regulations, declarations, articles of incorporation, articles of amendment, and qualifications for membership.

Response:

Not in the custody and control of Parker Creek Estates, LP, the applicant for the CCN.

Request for Production No. 24:

Produce all documents concerning or relating to the current and proposed relationship between Parker Creek LP and the proposed Parker Creek municipal utility district.

Response:

The documents are all located at the offices of Huffines and Partners, Inc. under Mr. Fred Brown's custody and control. These papers will be made available for inspection and copying subject to claims of privilege for attorney-client communications, which will be removed. The documents are voluminous as determined by stipulated order. The first 100 pages of copies will be provided for free. Thereafter, the inspecting party shall be required to contract with the services of an outside third-party copying service who will pick up the originals, copy them and return them to Mr. Brown. The inspecting party will be billed directly. Original documents will not be released to the inspecting party. Appointments to inspect documents will be made through Mark Zeppa.

Request for Production No. 25:

Produce all documents concerning or relating to the application for creation of the proposed Parker Creek municipal utility district.

Response:

Not in the custody and control of Parker Creek Estates, LP, the applicant for the CCN.

Request for Production No. 26:

Produce all documents concerning or relating to plans for the proposed Parker Creek municipal utility district to provide water and/or sewer services in the areas identified in the Parker Creek LP sewer CCN application and the Parker Creek LP water CCN application.

Response:

Here's the plan. This is the document as it exists to date. After the TCEQ grants a TPDES and CCNs, they will be transferred to the MUD. The applications were filed before the MUD was created because of the regulatory time lag in the permitting processing, the ease and speed of transfer and because it is long-standing industry practice at the TCEQ.

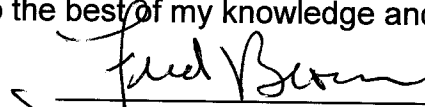
<p>Mr. Geoffrey Kirshbaum  Texas Commission on Environmental  Quality  MC-175  P.O. Box 13087  Austin, Texas 78711-3087 (mail)  12100 Park 35 Circle, Building F  Austin, Texas 78753 (delivery)  Telephone: (512) 239-0600  Fax: (512) 239-0606</p>	<p>Representing the Executive Director, Texas  Commission on Environmental Quality</p>
<p>Mr. Blas Coy  Office of the Public Interest Counsel  Texas Commission on Environmental  Quality  MC-103  P.O. Box 13087  Austin, Texas 78711-3087 (mail)  12100 Park 35 Circle, Building F  Austin, Texas 78753 (delivery)  Telephone: (512) 239-6363  Fax: (512) 239-6377</p>	<p>Representing the Office of Public Interest  Counsel, Texas Commission on  Environmental Quality</p>
<p>Kerry E. Russell  Angela K. Moorman  <b>Russell, Moorman &amp; Rodriguez, L.L.P.</b>  102 West Morrow Street, Suite 103  Georgetown, Texas 78626  (512) 930-1317  (512) 864-7744 (Fax)</p>	<p>Representing City of Royse City</p>
<p>Ms. Susan E. Potts  Mr. David Klein  Potts &amp; Reilly, L.L.P.  Attorneys and Counselors  401 West 15th Street, Suite 850  Austin, Texas 78701-1665  Telephone: (512) 469-7474  Fax: (512) 469-7480</p>	<p>Representing Mr. Dean M. Gandy</p>

STATE OF TEXAS           §

COUNTY OF TRAVIS       §

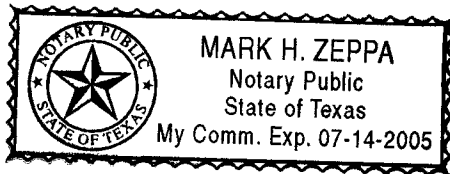
ATTESTATION

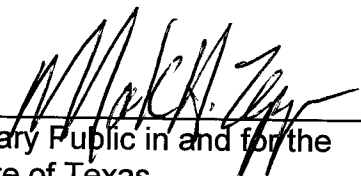
I, Fred Brown, PE, Vice-President of Parker Creek Estates, LP, swear and attest that I participated in the preparation of the foregoing answers to discovery in consultations with and in reliance on information provided by the individuals indicated therein and the information contained therein is true and correct to the best of my knowledge and belief.

  
Fred Brown

SWORN AND SUBSCRIBED TO under oath by Fred Brown on February 24, 2004 before the undersigned Notary Public.

SEAL



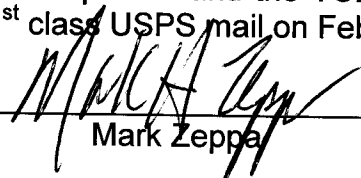
  
Notary Public in and for the  
State of Texas

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

Commission expires: \_\_\_\_\_

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, attorney for the Respondents, certify that a true and correct copy of the foregoing discovery answer was served on all parties and the TCEQ Docket Clerk by facsimile transmission, hand delivery and 1<sup>st</sup> class USPS mail on February 24, 2004

  
Mark Zeppa

<p>Mr. Geoffrey Kirshbaum  Texas Commission on Environmental  Quality  MC-175  P.O. Box 13087  Austin, Texas 78711-3087 (mail)  12100 Park 35 Circle, Building F  Austin, Texas 78753 (delivery)  Telephone: (512) 239-0600  Fax: (512) 239-0606</p>	<p>Representing the Executive Director, Texas  Commission on Environmental Quality</p>
<p>Mr. Blas Coy  Office of the Public Interest Counsel  Texas Commission on Environmental  Quality  MC-103  P.O. Box 13087  Austin, Texas 78711-3087 (mail)  12100 Park 35 Circle, Building F  Austin, Texas 78753 (delivery)  Telephone: (512) 239-6363  Fax: (512) 239-6377</p>	<p>Representing the Office of Public Interest  Counsel, Texas Commission on  Environmental Quality</p>
<p>Kerry E. Russell  Angela K. Moorman  <b>Russell, Moorman &amp; Rodriguez, L.L.P.</b>  102 West Morrow Street, Suite 103  Georgetown, Texas 78626  (512) 930-1317  (512) 864-7744 (Fax)</p>	<p>Representing City of Royse City</p>
<p>Ms. Susan E. Potts  Mr. David Klein  Potts &amp; Reilly, L.L.P.  Attorneys and Counselors  401 West 15th Street, Suite 850  Austin, Texas 78701-1665  Telephone: (512) 469-7474  Fax: (512) 469-7480</p>	<p>Representing Mr. Dean M. Gandy</p>



Mr. Skip Newsom Attorney 3724 Jefferson Street, Suite 200 Austin, Texas 78731 Telephone: (512) 477-4121 Fax: (512) 477-2860	Representing the City of Fate, Texas
Docket Clerk TCEQ Office of Chief Clerk (MC-105) P.O. Box 13087 Austin, Texas 78711-3087 (mail) 12100 Park 35 Circle, Building F Austin, Texas 78753 (delivery) Fax: (512) 239-3311	

## **MARK H. ZEPPA**

**4833 Spicewood Springs Road, Suite 202  
Austin, Texas 78759  
(512) 346-4011, Fax (512) 346-6847  
mhzeppa@attglobal.net**

### Education

Doctor of Jurisprudence, University of Texas School of Law, December, 1977

Bachelor of Arts with Honors, University of Texas at Austin, May, 1973

National Association of Regulatory Utility Commissioners Annual Regulatory Studies Program, August, 1978, Michigan State University

### Professional Experience

Law Offices of Mark H. Zeppa, P.C., President,  
January, 1984 to Present.

President of a private law firm specializing in public utility regulation, environmental, water and administrative law before local, state, and federal agencies, legislative lobbying, and general civil law. Frequent lecturer and expert witness on administrative law and regulatory policies affecting water and sewer utilities.

Public Utility Commission of Texas, Assistant Director of the Office of General Counsel, February 1, 1983 to December 16, 1983.

Public Utility Commission of Texas, Senior Staff Attorney, November 1, 1981 to January 31, 1983.

Public Utility Commission of Texas, Hearings Examiner, June 1, 1978 to October 31, 1981.

### Licensed to Practice

All courts of the State of Texas  
United States District Court, Western District of Texas  
United States District Court, Eastern District of Texas  
United States Fifth Circuit Court of Appeals  
Not certified by the Texas Board of Legal Specialization

### Lecturer and Consultant

Lecturer, consultant and expert witness on matters relating to water, environmental and public utility law, utility ratemaking, utility certification, permitting, and associated topics.

### Professional Associations

Texas Bar Association  
Public Utility Law Section  
Administrative Law Section  
Natural Resources Section

Travis County Bar Association  
Administrative Law Section

Executive Director of the Independent Water and Sewer Companies of Texas,  
state trade association of privately owned water and sewer utilities

Representative to the Texas Water Forum for the Independent Water and Sewer  
Companies of Texas

Member of the Texas Rural Water Association

Member of the Texas Water Utilities Association

Member of the American Water Works Association

Member of the American Water Works Association Texas Section

Member Texas Commission on Environmental Quality Drinking Water Advisory  
Work Group

Member Texas Commission on Environmental Quality Water Quality Advisory  
Work Group

Member Texas Commission on Environmental Quality Water Rights Advisory  
Work Group

Member of Numerous Texas Commission on Environmental Quality Ad Hoc  
Work Groups and Stakeholder Panels

### Recent Publications

*WHY DO THE CITIES THINK THEY HAVE A RIGHT TO SERVE?* Texas Water  
Law, CLE International [October 15-16, 2001]

*EVOLVUTION OF CERTIFICATION: The Conflicts Don't Go Away.* Water for  
Texas Future: The Legal Issues, 2nd Annual TWCA/TRWA Water Law Seminar  
[January 24-25, 2002]

*CERTIFICATES OF CONVENIENCE AND NECESSITY (CCNs) and TEXAS  
POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES)* Public  
Improvement District (PID) Land Development Seminar, Associate Professional  
Engineering and Construction, LLC [February 18, 2004]

## FISHER &amp; NEWSOM, P.C.

ATTORNEYS AT LAW

3724 JEFFERSON STREET, SUITE 210  
AUSTIN, TEXAS 78731  
(512) 477-4121  
(512) 477-2860 (Telecopy)

Skip Newsom  
Board Certified Administrative Law  
Texas Board of Legal Specialization

February 23, 2004

Via Telecopy 469-7480

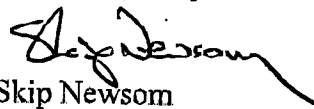
Mr. David J. Klein  
Potts & Reilly, L.L.P.  
401 West 15th Street, Suite 850  
Austin, Texas 78701

2003 0737 UOR  
Re: Docket Nos. 582-04-0253, 582-04-1268 and 582-04-2730

Dear Mr. Klein:

Regarding your letter of this date concerning your client's (Dean Gandy) request for party status at tomorrow's jurisdictional hearing, I indicated that I would not object to your client's request and that he did not need to personally appear. Your letter recites that I agreed that Judge Gandy has standing to protest Fate's CCN application. While the result may be the same, there is a technical distinction between what I stated and what your letter would have me recite.

Yours very truly,

  
Skip Newsom

SN/lmp

Enclosure

cc: LaDonna Castenuela (*Via Telecopy 239-3311*)  
Holly Wise, SOAH Docket Clerk (*Via Telecopy 475-4334*)  
Geoffrey Kirshbaum (*Via Telecopy 239-0606*)  
Blas Coy (*Via Telecopy 239-6377*)  
Amy Cortinas (*Via Telecopy 239-6972*)  
Mark H. Zeppa (*Via Telecopy 346-6847*)  
Kerry Russell (*Via Telecopy (512) 864-7744*)  
Gerry Boren (*Via Telecopy (972) 772-3343*)

**FISHER & NEWSOM, P.C.**

ATTORNEYS AT LAW

3724 JEFFERSON STREET, SUITE 210  
AUSTIN, TEXAS 78731  
(512) 477-4121  
FAX (512) 477-2860**FACSIMILE TRANSMITTAL**

TO	TELEPHONE NUMBER	FAX NUMBER
David Klein		469-7480
LaDonna Castenuela		239-3311
Holly Wise		475-4334
Geoffrey Kirshbaum		239-0606
Blas Coy		239-6377
Amy Cortinas		239-6972
Mark H. Zeppa		346-6847
Kerry Russell		512-864-7744
Gerry Boren	(972) 771-4601	(972) 772-3343

**FROM:** Skip Newsom  
[skipnewsom@fnlawtx.com](mailto:skipnewsom@fnlawtx.com)**DATE:** February 23, 2004**CLIENT/MATTER:** City of Royse City **CODE:** 172**Number of pages, including this cover sheet:** 2

IF PROBLEMS ARE ENCOUNTERED IN RECEIVING THIS TRANSMISSION, PLEASE CALL (512) 477-4121 AS SOON AS POSSIBLE.

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**Comments/Special Instructions:**  

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S:\CLIENTS\ATE\Royse City CCN Protest\Correspondence\ServiceFax.wpd