

## **REQUEST FOR ADMISSIONS**

### **ADMIT OR DENY THE FOLLOWING**

**REQUEST FOR ADMISSION NO. 1:** Since September 1, 1999, Prosper has incurred at least four violations for total nitrogen and ammonia.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 2:** Since September 1, 1999, Prosper has incurred at least fourteen violations for exceeding the permitted daily average.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 3:** Prosper does not have the present plant capacity to service the area for which it is now seeking to serve in its application to amend its CCN.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 4:** Since September 1, 1999 Prosper has incurred at least four violations for TSS

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 5:** Since September 1, 1999 Prosper has incurred at least two violations for CBOD.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 6:** In another application to amend its CCN, Prosper is seeking authorization to increase its wastewater treatment plant capacity to 2.0 mgd.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 7:** In its other application to amend its CCN permit to increase its plant capacity, the TCEQ has not granted the application.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 8:** The other application to amend its CNN permit to increase its plant capacity is being protested by other property owners.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 9:** Until such time as the TCEQ grants Propser's other application to amend its CCN permit so as to increase its wastewater treatment plant capacity, Prosper cannot legally expand its wastewater treatment plant facility.

**RESPONSE:**

**REQUEST FOR ADMISSION NO.10:** If the other permit to amend its CCN permit to allow an increase in wastewater treatment plant capacity is granted, Prosper's present operational staff would be inadequate to operate in increased capacity wastewater treatment plant.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 11:** The Upper Trinity Regional Water District can provide regional water and wastewater service for the area requested to be included in the amended CCN application.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 12:** The Upper Trinity Regional Water District can provide superior regional water and wastewater service for the area requested to be included in the amended CCN application than Prosper can.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 13:** The City of Celina can provide regional water and wastewater service for the area requested to be included in the amended CCN application.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 14:** The City of Celina can provide superior regional water and wastewater service for the area requested to be included in the amended CCN application than Prosper can.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 15:** The western portion of the area Prosper is seeking to serve in its application to amend its CCN naturally drains through the Doe Branch.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 16:** The partners in the Northeast Denton County Sewer Projects are in the process of constructing a regional sewage treatment plant facility on the Doe branch which will serve the entire Doe Branch drainage basin.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 17:** The Northeast Denton County Sewer Projects are in the process of constructing a regional sewage treatment plant facility on the Doe branch which will serve the entire Doe Branch drainage basin including the area Prosper is seeking to serve in its application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 18:** The approximately 107 acres owned by Fishtrap falls with the Doe Branch drainage basin.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 19:** The property owned by Fishtrap is located approximately 75 feet from a major water transmission line being constructed by Mustang Special Utility District, Upper Trinity Regional District and the City of Celina.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 20:** The property owned by Fishtrap is located approximately 3,000 feet from the Doe Branch Regional Water Treatment Facility

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 21:** Prosper is not better situated to serve the property owned by Fishtrap than the water transmission line being constructed by Mustang Special Utility District, Upper Trinity Regional District and the City of Celina.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 22:** Prosper is not better situated to serve the property owned by Fishtrap than the Doe Branch Water Treatment Facility.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 23:** The approximately 107 acre tract of land owned by Fishtrap is bound on the west by FM 1385 and on the north by Fishtrap Road.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 24:** The approximately 107 acre tract of land owned by Fishtrap is located on the extreme western side of the area Prosper is seeking to serve in its application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 25:** A substantial percentage of the area Prosper is seeking to serve in its application to amend its CCN is not within the City of Prosper's corporate limits.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 26:** Prosper is a general law municipality and has limited annexation powers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 27:** A substantial percentage of the area Prosper is seeking to serve in its application to amend its CCN is not within Prosper's CCN for water service.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 28:** If Prosper's application is granted, then optimal use of the regional facilities will not be achieved.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 29:** Mustang Special Utility District has not withdrawn its protest against Prosper's application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 30:** Mustang Special Utility District has withdrawn its protest against Prosper's application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 31:** Prosper has agreed to include that area which will be serviced by its application to amend its CCN that is located in the Doe Branch drainage basin in the Northeast Denton County Regional Plan for water and sewer service.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 32:** Prosper has not agreed to include that area which will be serviced by its application to amend its CCN that is located in the Doe Branch drainage basin in the Northeast Denton County Regional Plan for water and sewer service.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 33:** Two of Prosper's wastewater operators have a Class C license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 34:** Two of Prosper's wastewater operators have a Class D license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 35:** One of Prosper's wastewater operators have a Class C license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 36:** One of Prosper's wastewater operators have a Class D license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 37:** Prosper's application to amend its CCN includes an area of approximately 5,100 acres.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 38:** The City of Prosper has terminated its membership in the Upper Trinity Regional Water District.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 39:** The City of Prosper has not begun negotiation with the North Texas Municipal Water District to furnish services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 40:** The City of Prosper has not begun negotiation with the Mustang Water Supply Corporation to furnish services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 41:** The City of Prosper has not begun negotiation with the City of Frisco to furnish services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 42:** The City of Prosper does not have in its budget sufficient funds to construct water and sewer facilities to provide services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 43:** The City of Prosper does not have plans to issue bonds or any other form of obligations to construct water and sewer facilities to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 44:** The City of Prosper does not have the legal rights to deliver water and sewer services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**



SOAH DOCKET NO. 582-03-1994  
TCEQ DOCKET NO. 2002-1250-UCR

APPLICATION OF THE TOWN OF  
PROSPER TO AMEND SEWER  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY NO. 20888 IN  
DENTON COUNTY, APPLICATION  
NO. 34004-C

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BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS

CHIEF CLERKS OFFICE

2003 MAY 27 PM 2:41

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**FISHTRAP PROPERTIES, LLP'S and GLENBROOK WATER  
SUPPLY'S INTERROGATORIES, REQUESTS FOR PRODUCTION  
AND REQUESTS FOR ADMISSIONS TO THE EXECUTIVE DIRECTOR  
OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

TO: The Executive Director of the Texas Commission on Environmental Quality, by  
and through its attorney of record, Lara Nehman, P.O. Box 13087, MC-173,  
Austin, Texas 78611-3087.

Pursuant to Tex. R. Civ. P. 196 & 197, you are hereby directed to answer the  
attached interrogatories and requests for production within twenty (20) days after service  
thereof, by serving the answers on and making documents available to Fishtrap  
Properties, LLP and Glenbrook Water Supply's attorney, Sal Levatino, 1524 South IH-  
35, Suite 234, Austin, Texas 78704.

Dated and signed this 23<sup>rd</sup> day of May, 2003.

Respectfully submitted,  
Law Office of Sal Levatino  
1524 South IH-35, Suite 234  
Austin, Texas 78704  
(512)474-4462; (512)482-0051 (Fax)

By: 

Sal Levatino

State Bar #12245000

ATTORNEY FOR FISHTRAP  
PROPERTIES AND GLENBROOK  
WATER SUPPLY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was served on the following persons by fax and/or USPS certified mail, RRR, on the 23<sup>rd</sup> day of May, 2003.

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Austin, Texas 78711-3087  
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Sal Levatino

## **DEFINITIONS AND INSTRUCTIONS**

The following terms and phrases used herein shall have the meaning ascribed to them below:

1. "Fishtrap" refers to Fishtrap Properties, LLP, and each of its officers, employees, agents, attorney, accountant, representative, and all other natural persons, business or legal entities, presently or formerly acting in concert with, under their direct or indirect control of, or on behalf of Fishtrap.
2. "Glenbrook" refers to Glenbrook Water Supply and each of its officers, employees, agents, attorney, accountant, representative, and all other natural persons, business or legal entities, presently or formerly acting in concert with, under their direct or indirect control of, or on behalf of Fishtrap.
3. "You" "your" and ED means the Executive Director of the Texas Commission on Environmental Quality, and each of its officers, employees, agents, attorney, accountant, representative, and all other natural persons, business or legal entities, presently or formerly acting in concert with, under their direct or indirect control of, or on behalf of ED.
4. "Document" means all written, typed, or printed matter and all magnetic, electronic, or other records or documentation of any kind or description (including, without limitation: letters, correspondence, telegrams, memoranda, notes, records, minutes, contract, agreements, records or notations of telephone or personal conversations, conferences, interoffice communications, e-mail, microfilm, bulletins, circulars, pamphlets, photographs, facsimiles, invoices, tape recordings, computer printouts, and work sheets), including drafts and copies not identical to the originals, all photographs and graphic matter, however produced or reproduced, all compilations of data from which information can be obtained, and any and all writings or recordings of any type or nature, in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys, or other agents, whether or not prepared by you, that constitute or contain matters relevant to the subject matter of the action.
5. "Communication" means any oral or written communication of which Town of Prosper has knowledge, information, or belief.
6. "Identify" or "describe" when referring to a person means you must state the following
  - (a) The full name.
  - (b) The present or last known residential address and residential telephone number.

- (c) The present or last known office address and office telephone number.
  - (d) The present occupation, job title, employer, and employer's address at the time of the event or period referred to in each particular interrogatory.
  - (e) In the case of any entity, identify the officer, employee, or agent most closely connected with the subject matter of the interrogatory, and the officer who is responsible for supervising that officer or employee.
- 7. "Identify" or "describe" when referring to a document means you must state the following:
  - (a) The nature (i.e., letter, handwritten note, etc.) of the document.
  - (b) The title or heading that appears on the document.
  - (c) The date of the document and the date of each addendum, supplement, or other addition or change.
  - (d) The identity of the author and of the signer of the document, and of the person on whose behalf or whose request or direction the document was prepared or delivered.
  - (e) The present location of the document, and the name, address, position or title, and telephone number of the person or persons having custody of the document.
- 8. "Identify" when used in reference to a communication shall be understood to require that you provide the date of the communication, the method of each communication (e.g., telephone, written correspondence, face-to-face meeting, etc.), and the substance of what was discussed or disclosed in each conversation.
- 9. If any document otherwise responsive to any interrogatory was, but is no longer, in your possession or subject to your control or in your existence, state whether:
  - 1. It is missing or lost;
  - 2. It has been destroyed;
  - 3. It has been transferred voluntarily to others; or
  - 4. It has been otherwise disposed of.

In each instance, explain the circumstances surrounding such disposition and identify the person(s) directing or authorizing its destruction or transfer, and the date(s) of such direction or authorization. Identify each document by listing its author and addresses, all recipients, the document type (e.g., letter, memorandum, telegram, chart, photograph, etc.), the date, subject matter, whether the documents (or copies) are still in existence and, if so, identify their present location(s) and custodian(s).

10. "Application" refers to Application of the Town of Prosper to Amend Sewer Certificate of Convenience and Necessity No. 20888 in Denton County, Application NO. 34004-C, TCEQ Docket No. 2002-1250-UCR, SOAH Docket No. 582-03-1994, pending before the Texas Commission on Environmental Quality ("TCEQ") and/or the State Office of Administrative Hearings ("SOAH") and any and all information gathered, generated, compiled, or submitted to any other state or federal agency by or on behalf of ED related to TCEQ Application No. 340004-C.
14. All definitions found in 30 Tex. Admin. Code Ch. 291 and Texas Water Code Ch. 11 and Ch. 13 are incorporated herein, verbatim.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify all communications, oral and/or written, between Prosper, or any person or entity acting on its behalf, and ED or any person or entity acting on its behalf which refer to or relate to Prosper's present CCN permit

### **RESPONSE:**

### **INTERROGATORY NO. 2:**

Identify all communications, oral and/or written, between Prosper, or any person or entity acting on its behalf, and ED or any person or entity acting on its behalf which refer to or relate to Prosper's application to amend its current CCN permit

### **RESPONSE:**

### **INTERROGATORY NO. 3:**

Identify all communications, oral and/or written, between Prosper, or any person or entity acting on its behalf, ED or any person or entity acting on its behalf which refer to or relate to Prosper's providing water or wastewater service to the approximately 107 acres of land owned by Fishtrap presently located in the proposed service area covered by Prosper's application to amend its present CCN.

### **RESPONSE:**

### **INTERROGATORY NO. 4:**

Identify and describe and give the cause for all effluent violations of the Texas Commission on Environmental Quality, or its predecessor since September 1, 1999 Prosper has committed under its current CCN discharge permit

### **RESPONSE:**

State whether Prosper presently has adequate wastewater treatment plant capacity to serve areas which are located within the current CCN wastewater boundaries.

**INTERROGATORY NO. 5:**

State whether Prosper presently has adequate wastewater treatment plant capacity to serve areas which are located within the expanded boundaries as proposed in the current amendment for the CCN.

**RESPONSE:**

**INTERROGATORY NO. 6:**

Give the names, education, work experience, and licenses held of the current operational staff for the Prosper wastewater treatment plant.

**RESPONSE:**

**INTERROGATORY NO. 7:**

State whether any of the reasons for the effluent violations described in your answer to Interrogatory No. 4 above was attributable to staff errors or plant malfunctions and describe which violations were attributable to staff errors or to plant malfunctions.

**RESPONSE:**

**INTERROGATORY NO. 8:**

Identify other competing CCN applications to service the same area as Prosper is seeking to serve under its application to amend its CCN and explain why Prosper is better situated to serve said area as opposed to the other utility districts as described in their competing CCN applications.

**RESPONSE:**

**INTERROGATORY NO. 9:**

Explain why the Upper Trinity Regional Water District cannot provide better service than Prosper for the area requested to be included in Prosper's amended CCN application

**RESPONSE:**

Explain why the City of Celina cannot provide better service than Prosper for the area requested to be included in Prosper's application

**INTERROGATORY NO. 10**

Identify any others who can provide equal or better service than Prosper for the area requested to be included in Prosper's application and indicate whether the service provided is equal to or superior to that which Prosper could provide if granted its application to amend its CCN.

**RESPONSE:**

**INTERROGATORY NO. 11**

Explain why you think Prosper is better situated to serve the Doe Branch drainage basin portion which Prosper is proposing to serve in its application to amend its CCN as compared to the Northeast Denton County Sewer Projects which is in the process of constructing a regional sewage treatment plant facility on Doe Branch which will serve the entire Doe Branch drainage basin.

**RESPONSE:**

**INTERROGATORY NO. 12:**

Since the 107 acres of land owned by Fishtrap is located approximately 75 feet from a major water transmission line being constructed by Mustang SUD, Upper Trinity and the City of Celina, and since the Fishtrap property is also located approximately 3,000 feet away from the Doc Branch Regional Water Treatment Facility, and since these projects are currently under construction and require no further regulatory approvals, explain why you believe would be better situated to serve the Fishtrap property than the other entities so noted.

**RESPONSE:**



**INTERROGATORY NO. 13:**

Has Mustang Special Utility District withdrawn its protest to Prosper's application?

**RESPONSE:**

**INTERROGATORY NO. 14:**

Has Prosper agreed to include that territory, which is anticipated to be served if Prosper's application to amend its CCN is granted, in the Doe Branch drainage basin part of the Northeast Denton County Regional Plan for water and sewer service.

**RESPONSE:**

**INTERROGATORY NO. 15:**

If Prosper's current application to amend its CCN is granted, identify any of Prosper's current wastewater operators who would have inadequate certification or licenses to properly operate and maintain the currently proposed increase in capacity.

**RESPONSE:**

**INTERROGATORY NO. 16:**

How many new acres of territory will Prosper be servicing if its application to amend its CCN is granted.

**RESPONSE:**

**INTERROGATORY NO. 17:**

How many customers are currently in the new area Prosper will be servicing if its application to amend its CCN is granted.

**RESPONSE:**

**INTERROGATORY NO. 18**

What percentage of Prosper's existing wastewater treatment plant is presently being utilized by existing customers?

**RESPONSE:**

**INTERROGATORY NO. 19:**

Have engineering plans been prepared to expand the wastewater treatment plant capacity

**RESPONSE:**

If the answer to Interrogatory is in the affirmative, how large a percentage increase in capacity would be achieved based upon the engineering plans.

**INTERROGATORY NO. 20**

Has the Texas Commission on Environmental Quality ruled on any application to expand the capacity of the wastewater treatment plant?

**RESPONSE:**

**INTERROGATORY NO. 21:**

Has Prosper secured any contract for additional wastewater capacity from North Texas Municipal Water District or any other regional wastewater entity to provide for additional wastewater treatment service

**RESPONSE:**

**INTERROGATORY NO. 22:**

If Prosper's application to the TCEQ to increase its wastewater treatment plant capacity is denied and if Prosper has not contracted for additional wastewater treatment capacity, will Prosper be able to serve the area it is seeking to serve in its application to amend its CCN?

**RESPONSE:**

**INTERROGATORY NO. 23:**

Describe the terms of any settlement agreement that Prosper has entered into with the Denton County Fresh Water Supply District No.

**Response:**

\* \* \*

## **REQUESTS FOR PRODUCTION**

### **REQUEST FOR PRODUCTION NO. 1:**

All documents, the identification of which was sought in Fishtrap's written interrogatories.

**RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 2:**

All documents and exhibits that you intend to offer as evidence at the trial of this cause.

**RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 3:**

All documents and tangible things that relate to or refer to any communications between ED and Prosper or any of its agents, employees or representatives.

**RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 4:**

All tape recordings, photographs, videotapes and/or movies that relate to Prosper's Application to amend its CCN.

**RESPONSE:**

### **REQUEST FOR PRODUCTION NO. 5:**

Any and all documents prepared or provided by any expert hired or who will or may be utilized to testify in chief or rebuttal for ED in this lawsuit.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 6**

Any and all documents provided to any expert hired or who will or may be utilized to testify in chief or rebuttal ED in this lawsuit.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 7:**

Any and all documents prepared by any consulting expert whose documents or reports will be provided to a testifying expert or will be referred to by a testifying expert.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 8:**

Any and all documents related to the adoption by the City of Prosper of its ordinance relating to the impact fees.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 9:**

Any and all documents related to the adoption by the City of Prosper of its current ordinance establishing rates for water and sewer service to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 10:**

Any and all documents relating to communications with the North Texas Municipal Water District to provide fresh water supply and delivery services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 11:**

Any and all documents relating to communications with the North Texas Municipal Water District to provide waste water collection and treatment services within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 12:**

Any and all documents relating to communications with Upper Trinity Regional Water District to provide fresh water supply and delivery services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 13:**

Any and all documents relating to communications with Upper Trinity Regional Water District to provide waste water collection and treatment services to the area within the proposed Prosper Water Control & Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 14:**

Any and all documents relating to communications with employees and consultants of the City of Prosper relating to the refusal to approve the platting of lots within the area of the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE**

**REQUEST FOR PRODUCTION NO. 15:**

Any and all documents relating to communications with any fresh water supply district or water control and improvement district relating to the provision of fresh water supply, fresh water distribution, wastewater collection or wastewater treatment for areas within

the City of Prosper's city limits or extraterritorial jurisdiction or enclosed by the city limits or extraterritorial jurisdiction of the City of Prosper.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 16:**

Any and all documents relating to the approval of platting of lots for single family residences with the city limits of the City of Prosper since 1993.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 17:**

Any and all documents relating to zoning ordinances of the City of Prosper relating to residential projects within the city limits of Prosper since 1993.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 18:**

Any and all documents relating to policies of the City of Prosper making the development of residential property within the City of Prosper more time-consuming or more expensive since 1993.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 19:**

Communications, including email, letters, reports, with any and all financial advisors regarding the feasibility of the project proposed in your application to amend your CCN.

**REQUEST FOR PRODUCTION NO. 20:**

Communications, including email, letters, reports, with any and all engineers regarding the feasibility of the project proposed in your application to amend your CCN.

**RESPONSE:**

\* \* \*



## **REQUEST FOR ADMISSIONS**

### **ADMIT OR DENY THE FOLLOWING**

**REQUEST FOR ADMISSION NO. 1:** Since September 1, 1999, Prosper has incurred at least four violations for total nitrogen and ammonia.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 2:** Since September 1, 1999, Prosper has incurred at least fourteen violations for exceeding the permitted daily average.

#### **RESPONSE:**

**REQUEST FOR ADMISSION NO. 3:** Prosper does not have the present plant capacity to service the area for which it is now seeking to serve in its application to amend its CCN.

#### **RESPONSE:**

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**REQUEST FOR ADMISSION NO. 5:** Since September 1, 1999 Prosper has incurred at least two violations for CBOD.

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**REQUEST FOR ADMISSION NO. 8:** The other application to amend its CNN permit to increase its plant capacity is being protested by other property owners.

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**RESPONSE:**

**REQUEST FOR ADMISSION NO. 11:** The Upper Trinity Regional Water District can provide regional water and wastewater service for the area requested to be included in the amended CCN application.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 12:** The Upper Trinity Regional Water District can provide superior regional water and wastewater service for the area requested to be included in the amended CCN application than Prosper can.

**RESPONSE:**

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**RESPONSE:**

**REQUEST FOR ADMISSION NO. 15:** The western portion of the area Prosper is seeking to serve in its application to amend its CCN naturally drains through the Doe Branch.

**RESPONSE:**

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**REQUEST FOR ADMISSION NO. 17:** The Northeast Denton County Sewer Projects are in the process of constructing a regional sewage treatment plant facility on the Doe branch which will serve the entire Doe Branch drainage basin including the area Prosper is seeking to serve in its application to amend its CCN.

**RESPONSE:**

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**RESPONSE:**

**REQUEST FOR ADMISSION NO. 19:** The property owned by Fishtrap is located approximately 75 feet from a major water transmission line being constructed by Mustang Special Utility District, Upper Trinity Regional District and the City of Celina.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 20:** The property owned by Fishtrap is located approximately 3,000 feet from the Doe Branch Regional Water Treatment Facility

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 21:** Prosper is not better situated to serve the property owned by Fishtrap than the water transmission line being constructed by Mustang Special Utility District, Upper Trinity Regional District and the City of Celina.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 22:** Prosper is not better situated to serve the property owned by Fishtrap than the Doe Branch Water Treatment Facility.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 23:** The approximately 107 acre tract of land owned by Fishtrap is bound on the west by FM 1385 and on the north by Fishtrap Road.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 24:** The approximately 107 acre tract of land owned by Fishtrap is located on the extreme western side of the area Prosper is seeking to serve in its application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 25:** A substantial percentage of the area Prosper is seeking to serve in its application to amend its CCN is not within the City of Prosper's corporate limits.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 26:** Prosper is a general law municipality and has limited annexation powers.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 27:** A substantial percentage of the area Prosper is seeking to serve in its application to amend its CCN is not within Prosper's CCN for water service.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 28:** If Prosper's application is granted, then optimal use of the regional facilities will not be achieved.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 29:** Mustang Special Utility District has not withdrawn its protest against Prosper's application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 30:** Mustang Special Utility District has withdrawn its protest against Prosper's application to amend its CCN.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 31:** Prosper has agreed to include that area which will be serviced by its application to amend its CCN that is located in the Doe Branch drainage basin in the Northeast Denton County Regional Plan for water and sewer service.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 32:** Prosper has not agreed to include that area which will be serviced by its application to amend its CCN that is located in the Doe Branch drainage basin in the Northeast Denton County Regional Plan for water and sewer service.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 33:** Two of Prosper's wastewater operators have a Class C license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 34:** Two of Prosper's wastewater operators have a Class D license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 35:** One of Prosper's wastewater operators have a Class C license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 36:** One of Prosper's wastewater operators have a Class D license.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 37:** Prosper's application to amend its CCN includes an area of approximately 5,100 acres.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 38:** The City of Prosper has terminated its membership in the Upper Trinity Regional Water District.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 39:** The City of Prosper has not begun negotiation with the North Texas Municipal Water District to furnish services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 40:** The City of Prosper has not begun negotiation with the Mustang Water Supply Corporation to furnish services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 41:** The City of Prosper has not begun negotiation with the City of Frisco to furnish services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 42:** The City of Prosper does not have in its budget sufficient funds to construct water and sewer facilities to provide services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 43:** The City of Prosper does not have plans to issue bonds or any other form of obligations to construct water and sewer facilities to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**

**REQUEST FOR ADMISSION NO. 44:** The City of Prosper does not have the legal rights to deliver water and sewer services to the area within the proposed Prosper Water Control and Improvement District No. 1.

**RESPONSE:**



**RETURN RECEIPT  
REQUESTED**

7002 2030 0005 4071 5091



**RETURN RECEIPT  
REQUESTED**



9264



78711

**TNRCC**

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E**

**LAW OFFICE OF SAL LEVATINO**

1524 South IH-35, Suite 234

Austin, Texas 78704

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

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 23, 2003

Mr. Kerry E. Russell  
Russell, Moorman & Rodriguez, L.L.P.  
102 West Morrow, Suite 103  
Georgetown, Texas 78626

RE: Application of Town of Prosper to Purchase Facilities and Transfer Water Certificate of Convenience and Necessity No. 11863 and to Obtain a Sewer Certificate of Convenience and Necessity (CCN) in Harris County; SOAH Docket No. 582-03-1994; TCEQ Docket No. 2002-~~1250~~-UCR

1350

Dear Mr. Russell:

Enclosed please find the Executive Director's Request for Disclosure, Interrogatories and Requests for Production to Town of Prosper in the above-referenced matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lara Nehman".

Lara Nehman  
Staff Attorney  
Environmental Law Division

cc: Mailing List

Enclosure

**SOAH DOCKET NO. 582-03-1994  
TCEQ DOCKET NOS. 2002-1250-UCR**

<b>APPLICATIONS BY TOWN OF PROSPER TO PURCHASE FACILITIES AND TRANSFER WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 11863 AND TO OBTAIN A SEWER CCN IN HARRIS COUNTY, TEXAS</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
---	---------------------------------	---

**THE EXECUTIVE DIRECTOR'S REQUEST FOR DISCLOSURE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION  
TO TOWN OF PROSPER**

TO: TOWN OF PROSPER, BY AND THROUGH ITS ATTORNEY, MR. KERRY E. RUSSELL, RUSSELL, MOORMAN & RODRIGUEZ, L.L.P, 102 WEST MORROW, SUITE 103, GEORGETOWN, TEXAS 78626.

Pursuant to Texas Commission on Environmental Quality (TCEQ or Commission) Rule 30 TAC §80.151 and Texas Rules of Civil Procedure 191-197, the Executive Director of the TCEQ serves his Requests for Disclosure, Interrogatories, and Requests for Production.

Pursuant to this authority, you are required to answer in complete detail and in writing each of the succeeding requests for disclosure, information, or requests to produce documents, as the case may be, responsive to the requests contained herein. Please sign your answers to the questions or requests and swear to the truth of your responses before a Notary Public or other judicial officer. Failure to comply with the above requirements may result in a Commission order requiring you to do so and thereby subjecting you to those sanctions authorized by statute and the rules of the Commission upon your failure to comply.

**DEFINITIONS**

As used herein, the terms "you," "your," or "yourself," refer to Town of Prosper, the party to whom these requests are addressed, as well as to each of its present and former officers, employees, agents, representatives and attorneys, and each person acting or purporting to act on its behalf.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 2**

**REPRESENTATIVE**

As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

**PERSON**

As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality or department.

**DOCUMENT**

As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control, or which has been, but is no longer, in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

**COMMUNICATION**

As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 3**

IDENTIFICATION

As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual - require you to state his or her full name and residential and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business - require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d) a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

II.

INSTRUCTIONS

IDENTIFICATION OF DOCUMENTS

With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 4**

CONTENTION REQUESTS

When a request requires you to "state the basis of" a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

CONTINUING REQUESTS

These requests are to be considered continuing in nature and you are under a duty to timely supplement any response given to such request(s) as required by Rule 193 of the Texas Rules of Civil Procedure.

III.

REQUEST FOR DISCLOSURE

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose by June 13, 2003, the information or material described in Rule 194.2(c),(e),(f),(h) and (i).

IV.

INTERROGATORIES

Interrogatory No. 1. For each person you expect to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name, business address and telephone number; and (b) a brief description of the testimony you expect that person to provide.

Interrogatory No. 2. For each expert not listed in the response to the Request for Disclosure whom you have consulted and whose mental impressions and opinions have been reviewed by one of your experts who you expect to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

Interrogatory No. 3. Is there a need for sewer service in the service area you have requested in your application? Please state the basis of your contention.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 5**

Interrogatory No. 4. Please identify any requests for sewer service you have received in the requested area. Please identify any letters of intent between you and land owners or developers who have requested service from you.

Interrogatory No. 5. Are there portions of the requested service area for which you have not received requests for sewer service? If so, please describe in detail the need for service in those areas. Please state the basis for your contention.

Interrogatory No. 6. Please identify any sewer facilities you currently have in place and any proposed new facilities. For each, please identify TCEQ and/or all other regulatory agency approvals for the City of Prosper's sewer facilities and include log numbers and permit numbers.

Interrogatory No. 7. Please describe the proximity of the service area you have requested to any existing sewer facilities owned and/or operated by you and to any of your proposed sewer facilities. Please identify all TCEQ, county and/or all other regulatory agency approvals of these facilities if not already identified above. For proposed facilities, please also identify any applications for approvals, if applicable, and the status of those approvals.

Interrogatory No. 8. What is the approximate time frame in which you would be able to provide sewer service to the proposed service area? Please state the basis of your contention.

Interrogatory No. 9. Does you have the financial, managerial, and technical capabilities to provide adequate sewer service to the requested area? Please state the basis of your contention. Please identify historical data within and pertaining to the requested service area that supports your contention, if available.

Interrogatory No. 10. Please describe any effects the granting of your application would have on the environmental integrity of the proposed service area.

Interrogatory No. 11. Please describe the probable improvement in service or lowering of cost to consumers in the proposed service area if TCEQ grants your application. Please state the basis of your contention and identify any historical data concerning sewer service reliability, historical sewer quality, and current and projected costs of providing service to consumers in the requested area.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 6**

V.

**REQUESTS FOR PRODUCTION**

Request for Production No. 1. For each consulting expert listed in your answer to Interrogatory No. 2 above, please provide copies of all documents, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony.

Request for Production No. 2. Please provide copies of all documents you have identified, that support, or otherwise relate to your answers to Interrogatory Nos. 3 through 11 above.

Request for Production No. 3. Please provide copies of any letters of intent between you and any landowner or developer representing a landowner owner who has requested service from the Town of Prosper.

Request for Production No. 4. Please provide copies of TCEQ and/or all other regulatory agency approval documents for your existing sewer facilities and proposed facilities, including log numbers and permit numbers.

Request for Production No. 5. Please provide copies of documents containing any historical data concerning sewer service reliability and historical sewer service quality to consumers in the proposed service area.

Request for Production No. 6. Please provide copies of documents containing and/or supporting your current and projected costs of providing service to consumers in the proposed service area.

Request for Production No. 7. Please provide a copy of the City of Prosper's annual financial report for the fiscal year ending October 31, 2002, if available.

Request for Production No. 8. Please provide a copy of the most recent sanitary survey conducted by the TCEQ on the City of Prosper's sewer system. Please provide any notices of violations you received as a result of that survey and your response to those notices.



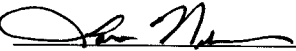
**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 7**

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

Margaret Hoffman  
Executive Director

Stephanie Bergeron, Director  
Environmental Law Division

By:   
Lara Nehman, State Bar Number 00794358  
Staff Attorney, Environmental Law Division

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
TOWN OF PROSPER  
PAGE 8**

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of May, 2003, a true and correct copy of the foregoing document in SOAH Docket No. 582-03-1994 was delivered by mail, hand delivered, faxed, or sent by interagency mail to all persons on the attached mailing list.



Lara Nehman  
Staff Attorney  
Environmental Law Division

**Mailing List**  
**The Town of Prosper**  
**SOAH Docket No. 582-03-1994**  
**TCEQ Docket No. 2002-1250-UCR**

Kerry E. Russell  
Russell, Moorman & Rodriguez, L.L.P.  
102 West Morrow, Suite 103  
Georgetown, Texas 78626  
Tel 512/930-1317  
Fax 512/864-7744

Representing Town of Prosper

Mark Zeppa  
4833 Spicewood Springs Road, Suite 202  
Austin, Texas 78759-8436  
Tel. 512/346-4011  
Fax 512/346-6847

Representing Denton County Fresh Water Supply;  
District No. 10 Binary Investments, Inc.;  
Huffines Communities, Inc.

Tom Leonard  
1524 South IH-35, Suite 234  
Austin, Texas 78704  
Tel. 512/477-7161  
Fax 512/476-1676

Representing Fish Trap Properties, L.L.P. and  
Glenbrook Water Supply

Sal Levatino  
816 Congress Ave, Suite 1280  
Austin, Texas 78704  
Tel. 512/474-4462  
Fax 512/482-0051

Representing Fish Trap Properties, L.L.P. and  
Glenbrook Water Supply

Lara Nehman, Staff Attorney  
Sheridan Gilkerson, Staff Attorney  
Texas Commission on  
Environmental Quality - MC 173  
P.O. Box 13087  
Austin, Texas 78711-3087  
Tel. 512/239-1121  
Fax 512/239-0606

Representing the Executive Director of the Texas  
Commission on Environmental Quality

**TOWN OF PROSPER**  
**SOAH DOCKET NUMBER: 582-03-1994**  
**TCEQ DOCKET NUMBER: 2002-1250-UCR**

**PAGE 2**

Tammy Holguin-Benter  
Utility Rates and Services Section  
Water Utilities Division - MC 153  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
Ph: 512/239-6136  
Fax: 512/239-6972

Blas J. Coy, Attorney  
Public Interest Counsel - MC -103  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
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Docket Clerk  
Office of Chief Clerk -MC - 105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087  
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Fax: 512/239-3311

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Margaret Hoffman, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 23, 2003

Mr. Tom Leonard  
1524 South IH-35, Suite 234  
Austin, Texas 78704

Mr. Sal Levatino  
816 Congress Ave, Suite 1280  
Austin, Texas 78704

RE: Application of Town of Prosper to Purchase Facilities and Transfer Water Certificate of Convenience and Necessity No. 11863 and to Obtain a Sewer Certificate of Convenience and Necessity (CCN) in Harris County; SOAH Docket No. 582-03-1994; TCEQ Docket No. 2002-~~1250~~-UCR

1350

Dear Mr. Leonard and Mr. Levatino:

Enclosed please find the Executive Director's Request for Disclosure, Interrogatories and Requests for Production to Fish Trap Properties, L.L.P. in the above-referenced matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lara Nehman".

Lara Nehman  
Staff Attorney  
Environmental Law Division

cc: Mailing List

Enclosure

**SOAH DOCKET NO. 582-03-1994  
TCEQ DOCKET NOS. 2002-1250-UCR**

<b>APPLICATIONS BY TOWN OF PROSPER TO PURCHASE FACILITIES AND TRANSFER WATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) NO. 11863 AND TO OBTAIN A SEWER CCN IN HARRIS COUNTY, TEXAS</b>	§ § § § § § §	<b>BEFORE THE STATE OFFICE  OF  ADMINISTRATIVE HEARINGS</b>
---	---------------------------------	---

**THE EXECUTIVE DIRECTOR'S REQUEST FOR DISCLOSURE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION  
TO FISH TRAP PROPERTIES, L.L.P.**

**TO: FISH TRAP PROPERTIES, L.L.P., BY AND THROUGH ITS ATTORNEYS, MR. TOM LEONARD AND MR. SAL LEVATINO, 1524 SOUTH IH-35, SUITE 234, AUSTIN, TEXAS 78704 AND 816 CONGRESS AVE, SUITE 1280, AUSTIN, TEXAS 78704.**

Pursuant to Texas Commission on Environmental Quality (TCEQ or Commission) Rule 30 TAC §80.151 and Texas Rules of Civil Procedure 191-197, the Executive Director of the TCEQ serves her Requests for Disclosure, Interrogatories, and Requests for Production.

Pursuant to this authority, you are required to answer in complete detail and in writing each of the succeeding requests for disclosure, information, or requests to produce documents, as the case may be, responsive to the requests contained herein. Please sign your answers to the questions or requests and swear to the truth of your responses before a Notary Public or other judicial officer. Failure to comply with the above requirements may result in a Commission order requiring you to do so and thereby subjecting you to those sanctions authorized by statute and the rules of the Commission upon your failure to comply.

**I.**

**DEFINITIONS**

As used herein, the terms "you," "your," or "yourself," refer to Fish Trap Properties, L.L.P., the party to whom these requests are addressed, as well as to each of its parents, predecessors, subsidiaries and affiliates, each of its present and former officers, employees, agents, representatives and attorneys, and each person acting or purporting to act on its behalf.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
FISH TRAP PROPERTIES, L.L.P.  
PAGE 2**

**REPRESENTATIVE**

As used herein, the term "representative" means any and all agents, employees, servants, officers, directors, attorneys, or other persons acting or purporting to act on your behalf.

**PERSON**

As used herein, the term "person" means any natural individual in any capacity whatsoever or any entity or organization, including divisions, departments and other units therein, and shall include, but not be limited to, a public or private corporation, partnership, joint venture, voluntary or unincorporated association, organization, proprietorship, trust, estate, governmental agency, commission, bureau, municipality or department.

**DOCUMENT**

As used herein, the term "document" means any medium upon which information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, accounting entry, diary, calendar, telex, telegram, cable, facsimile transmission, report, record, contract, agreement, study, handwritten note, draft, working paper, chart, paper, print, laboratory record, drawing, sketch, graph, index, list, tape, photograph, microfilm, data sheet or data processing card, computer tape or disk, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, which is in your possession, custody or control, or which has been, but is no longer, in your possession, custody, or control. The term "document" further means a copy of any document, as referred to above, if such copy contains notes, writings or is in any way different from or an alteration of the original document.

**COMMUNICATION**

As used herein, the term "communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements and other understandings between or among two or more persons.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
FISH TRAP PROPERTIES, L.L.P.  
PAGE 3**

**IDENTIFICATION**

As used herein, the terms "identification," "identify," or "identity," when used in reference to: (a) a natural individual - require you to state his or her full name and residential and business address; (b) a corporation - require you to state its full corporate name and any names under which it does business, its state of incorporation, the address of its principal place of business, and the addresses of all of its offices; (c) a business - require you to state the full name or style under which the business is conducted, its business address or addresses, the types of businesses in which it is engaged, the geographic areas in which it conducts those business, and the identity of the person or persons who own, operate, and control the business; (d) a document - require you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (e) a communication - require you, if any part of the communication was written, to identify the document or documents which refer to or evidence the communication, and, to the extent that the communication was non-written, to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

**II.**

**INSTRUCTIONS**

**IDENTIFICATION OF DOCUMENTS**

With respect to each request, in addition to supplying the information requested, you are to identify all documents that support, refer to or evidence the subject matter of each request and your answer thereto.

If any or all documents identified herein are no longer in your possession, custody or control because of destruction, loss or any other reason, then do the following with respect to each and every such document: (a) describe the nature of the document (e.g., letter or memorandum); (b) state the date of the document; (c) identify the persons who sent and received the original and a copy of the document; (d) state in as much detail as possible the contents of the document; and (e) state the manner and date of disposition of the document.

If you contend that any material or information responsive to any of the interrogatories is privileged, state in response that: (a) the information or material responsive to the interrogatories has been withheld; (b) the interrogatory to which the information or material relates; and (c) the privilege or privileges asserted.



**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
FISH TRAP PROPERTIES, L.L.P.  
PAGE 4**

CONTENTION REQUESTS

When a request requires you to "state the basis of" a particular claim, contention, or allegation, state in your answer the identity of each and every communication and each and every legal theory that you think supports, refers to, or evidences such claim, contention, or allegation.

CONTINUING REQUESTS

These requests are to be considered continuing in nature and you are under a duty to timely supplement any response given to such request(s) as required by Rule 193 of the Texas Rules of Civil Procedure.

III.

REQUEST FOR DISCLOSURE

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose by June 13, 2003, the information or material described in Rule 194.2(c),(e),(f),(h) and (i).

IV.

INTERROGATORIES

Interrogatory No. 1. For each person you expect to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name, business address and telephone number; and (b) a brief description of the testimony you expect that person to provide.

Interrogatory No. 2. For each expert not listed in the response to the Request for Disclosure whom you have consulted and whose mental impressions and opinions have been reviewed by one of your experts who you expect to testify in this matter, please provide: (a) the consulting expert's name and business address and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

Interrogatory No. 3. Do you contend that the Town of Prosper's application to purchase facilities and to transfer water certificate of convenience and necessity no. 11863 should not be granted by the TCEQ? Please state the basis for your contention.

**THE EXECUTIVE DIRECTOR'S REQUEST  
FOR DISCLOSURE, INTERROGATORIES  
AND REQUEST FOR PRODUCTION TO  
FISH TRAP PROPERTIES, L.L.P.  
PAGE 5**

Interrogatory No. 4. Do you contend that the Town of Prosper's application to obtain a sewer CCN should not be granted by the TCEQ? Please state the basis of your contention.

Interrogatory No. 5. Is there a need for additional sewer service in the area requested by the Town of Prosper in its application?

Interrogatory No. 6. Please discuss the details of any requests for service, proposals, plans, proposed agreements or contracts you have made and/or any discussions you have had relating to the provision of sewer service to your property or proposed development. Please identify any letters of intent between you and any potential service providers.

Interrogatory No. 7. Please describe the approximate time frame in which you seek to develop your property.

Interrogatory No. 8. Please describe in detail any financial effect or any other effect the granting of a sewer CCN to the Town of Prosper would have on you.

Interrogatory No. 9. Do you contend that the Town of Prosper is not able to provide adequate water and sewer service to the requested areas? Please state the basis of your contention.

Interrogatory No. 10. Do you contend that the Town of Prosper does not have the financial, managerial and technical capability to provide adequate water and sewer service to the requested service areas? Please state the basis of your contention.

Interrogatory No. 11. Please describe any effects the granting of a sewer CCN to the Town of Prosper would have upon the environmental integrity of the area and specifically upon the environmental integrity of your property.

V.

REQUESTS FOR PRODUCTION

Request for Production No. 1. For each consulting expert listed in the answer to Interrogatory No. 2 above, please provide copies of all documents, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony.