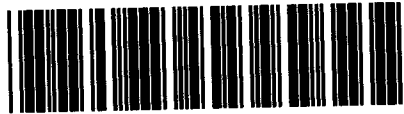


Control Number: 43965



Item Number: 107

Addendum StartPage: 0

43965

SW

SOAH DOCKET NO. 582-03-2282  
TCEQ DOCKET NO. 2003-0033-UCR

RECEIVED

2014 DEC 17 AM 7:51

APPLICATION OF DENTON COUNTY	§	BEFORE THE TEXAS
FRESH WATER SUPPLY DISTRICT	§	COMMISSION ON
NO. 10 TO AMEND WATER AND	§	ENVIRONMENTAL QUALITY
SEWER CCN'S IN DENTON COUNTY	§	
(APPLICATION NOS. 34068-C/34069-C)	§	

**DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10's  
RESPONSE TO ORDER NO. 12**

In Order No. 12, Presiding Judge James Norman presented several questions to the parties concerning Denton County Fresh Water Supply District No. 10's (District) pending motion for certified questions to the TCEQ Commissioners and motion to abate these proceedings and the likelihood that this docket may settle in the interim. Those questions, for the District to answer, are:

1. Is there any possibility of a District/Mahard [Mahard Egg Farm, Inc.] settlement?
2. If the District and PISD [Prosper Independent School District] settle, will Mahard want to proceed as the sole protestant?
3. Would it be a good idea to wait on certified questions until after October 16?

Question No. 1

The District does not believe that there is any likelihood at this time that there will be any settlement between the District and Mahard. The District has purchased without condemnation the public utility easement across Mahard's property that will be used to interconnect the service area with the District's wholesale service

provider - Upper Trinity Regional Water District. Although this non-certification issue under Water Code Chapter 13 has been removed from contention, Mahard has informed the District of its intent to continue to contest this application. TRE 408 and the confidentiality of settlement negotiations prevent the District from further revealing the substance of those discussions.

Question No. 2

Mahard to answer.

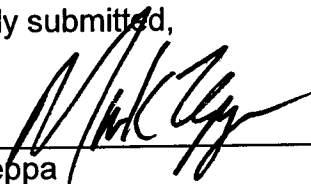
Question No. 3

The District does not believe that it is necessary to wait. PISD's settlement offer has elements that can only be met by the aligned landowners/developers in the proposed service area because it involves the sale of real property that not owned by the District. The developers have met with PISD in person and by telephone. No agreement could be reached. None is expected given how vastly polarized the parties are at this time.

There still remain elements of the PISD's settlement proposal that the District's board of directors may act upon as being within the scope of authority of a fresh water supply district. What action the District board may take is unknown. Whether the board's action standing alone will be sufficient for PISD to withdraw

as a party is mere speculation at this time. A delay until October 16 would require a further delay until some subsequent PISD board meeting to consider the District's board action. This could lead to a withdrawal, another round of settlement offers or a declaration of no settlement. The District submits that the docket should proceed to resolution of the legal issues. Otherwise, we are in a potential delay loop waiting for PISD's board.

Respectfully submitted,



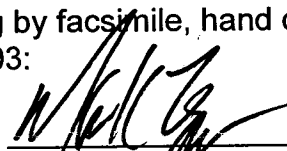
---

Mark H. Zeppa  
State Bar No. 22260100  
Law Offices of Mark H. Zeppa, PC  
4833 Spicewood Springs Road #202  
Austin, TX 78759-8436  
(512) 346-4011, Fax (512) 346-6847

ATTORNEY FOR DENTON COUNTY FRESH  
WATER SUPPLY DISTRICT NO. 10

#### CERTIFICATE OF SERVICE

I, Mark H. Zeppa, attorney for DCFWSD #10, certify that true and correct copies of the foregoing pleading were served on the following by facsimile, hand delivery or first class USPS mail on the 7th day of October 2003:



---

Mark H. Zeppa

1. Judge James Norman  
State Office of Administrative Hearings  
P O Box 13025  
Austin, Texas 78711-3025  
Fax (512) 475-4994

2. Lara Nehman, Staff Attorney  
Sheridan Gilkerson, Staff Attorney  
Environmental Law Division  
TCEQ  
P O Box 13087, MC 173  
Austin, TX 78711-3087  
Fax (512) 239-0606
  
3. Blas Coy, Jr., Public Interest Counsel  
Office of the OPIC  
TCEQ  
P O Box 13087, MC 103  
Austin, TX 78711-3087  
Fax (512) 239-6377
  
4. John Turney  
Bell, Turney, Coogan & Richards, LLP  
823 Congress Avenue, Ste. 706  
Austin, TX 78701  
Fax (512) 476-1513
  
5. Maria Sanchez  
Davidson & Trolio, PC  
919 Congress, Ste. 810  
Austin, TX 78701  
Fax (512) 473-2159
  
6. TCEQ Docket Clerk  
Office of the Chief Clerk  
P O Box 13087, MC 105  
Austin, TX 78711-3087  
Fax (512) 239- 3311