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SOAH DOCKET NO. 582-03-2282
TCEQ DOCKET NOS. 2003-0033-~~U~~ **DEC 17 AM 7:52**

APPLICATION OF DENTON COUNTY §
FRESH WATER SUPPLY DISTRICT §
NO. 10 TO AMEND WATER AND SEWER §
CERTIFICATES OF CONVENIENCE §
AND NECESSITY NOS. 13021 AND 20923 §
IN DENTON COUNTY, TEXAS §

PUBLIC UTILITY COMMISSION
BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS

**EXECUTIVE DIRECTOR'S RESPONSE TO DENTON COUNTY
FRESH WATER SUPPLY DISTRICT NO. 10'S RESPONSE TO THE
EXECUTIVE DIRECTOR'S MOTION TO DISMISS AND
EXECUTIVE DIRECTOR'S REQUEST FOR CONTINUANCE**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") respectfully files this Response to Denton County Fresh Water Supply District No. 10's ("the District's") Response to the Executive Director's Motion to Dismiss and Executive Director's Request for Continuance. In support of this Motion, the Executive Director asserts the following:

Contrary to the District's assertion, the Executive Director was not contacted regarding a request to abate the proceedings, did not agree to an abatement, and agrees that only the Administrative Law Judge may order an abatement of the matter.

The Executive Director did enter into an agreement with the District on July 7, 2003, which allowed the Executive Director an extension of time to file responses to the District's discovery requests. This was 30 days after the Administrative Law Judge's ruling on the outstanding motions to dismiss. The Executive Director complied with the Agreement which is attached to this Response. The District did not request additional time to respond to the Executive Director's discovery requests so it was not part of the Agreement.

The Executive Director always supports resolution by settlement. In this case, the Executive Director has not been included in or made aware of any ongoing settlement discussions between the parties. On August 11, 2003, the Executive Director entered into an agreement with Prosper ISD to allow Prosper ISD additional time to respond to the Executive Director's discovery requests due to pending settlement discussions at that time between Prosper ISD and the District. Prosper ISD never filed discovery responses and in a recent telephone conversation between counsel for the

Executive Director and counsel for Prosper ISD, counsel for Prosper ISD said that there would be no settlement in this matter.


The Executive Director is now concerned about meeting her own deadline to file her direct case which is tomorrow, September 26, 2003, as ordered in Order No. 1. The Executive Director is unable to do so in a substantive manner given the other parties failure to file their direct cases. The Executive Director respectfully requests a continuance of her deadline pending resolution of the Motion to Dismiss.

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

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

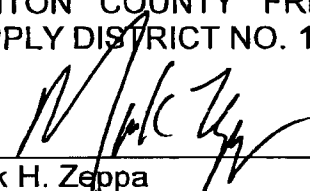
APPLICATION OF DENTON COUNTY § BEFORE THE TEXAS
FRESH WATER SUPPLY DISTRICT §
NO. 10 TO AMEND WATER AND § COMMISSION ON
SEWER CCNS IN DENTON COUNTY §
(APPLICATION NOS. 34068-C/34069-C) § ENVIRONMENTAL QUALITY

DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10's RULE 11
AGREEMENT ON DISCOVERY ANSWERS WITH THE EXECUTIVE
DIRECTOR

COMES NOW, Denton County Fresh Water Supply District No. 10 (the District),
and files its Rule Eleven Agreement with the Executive Director of the TCEQ
(ED) regarding outstanding Requests for Disclosure, Interrogatories, Production
& Admissions.

By agreement of counsel, the ED shall not be required to answer
the District's pending discovery requests until after the presiding
judge enters his ruling on outstanding motions to dismiss the
pending certification applications and intervening protestants now
set for prehearing conference on July 21, 2003. The ED shall have
30 days thereafter to answer.

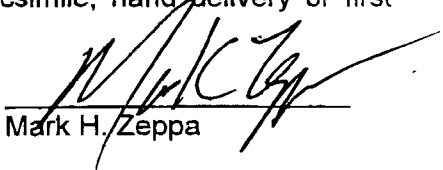
DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO. 10



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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

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, attorney for DCFWSD #10, certify that true and correct copies of the foregoing agreement were served on the following by facsimile, hand delivery or first class USPS mail on the 7th day of July 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
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3. Blas Coy, Jr., Public Interest Counsel
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4. John Turney
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Austin, TX 78701
Fax (512) 476-1513
5. Drew Watkins
Prosper Independent School District
605 East 7th Street
P O Box 100
Prosper, TX 75078
Fax (972) 346-9247
6. TCEQ Docket Clerk
Office of the Chief Clerk
P O Box 13087, MC 105
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TO: Name See List Below
 Organization _____
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FROM: **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

Name Lara Nehman, Staff Attorney (Shannon Morris)
 Division/Region Office of Legal Services/Environmental Law
 Telephone Number (512) 239-1121
 FAX Number (512) 239-0606 or (512) 239-0626

NOTES:

**Re: Denton County Fresh Water Supply District No. 10
 to Amend Water and Sewer CCNs in Denton County
 Applications Nos. 34068-C/34069-C**

Mark Zeppa	Fax: 512/346-6847
John Turney	Fax: 512/476-1513
Maria Sanchez	Fax: 512-473-2159
Honorable James W. Norman	Fax: 512/475-4994

If there are any problems with the delivery of this fax, please contact Shannon Morris at (512) 239-5735.

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PLEASE CALL AS SOON AS POSSIBLE IF ALL PAGES ARE NOT RECEIVED OR IF THERE ARE ANY OTHER PROBLEMS WITH THE TRANSMITTAL OF THIS FAX.

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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

September 25, 2003

Honorable James W. Norman
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025

RE: Application of Denton County Fresh Water Supply District No. 10 to Amend Water and Sewer Certificates of Convenience and Necessity Nos. 13021 and 20923 in Denton County; SOAH Docket No. 582-03-2282; TCEQ Docket No. 2003-0033-UCR.

Dear Judge Norman:

Enclosed please find the Executive Director's Response to Denton County Fresh Water Supply District No. 10's Response to the Executive Director's Motion to Dismiss and Executive Director's Request for Continuance. All parties have been copied.

Sincerely,

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

Lara Nehman
Staff Attorney
Environmental Law Division

cc: Mailing List

Enclosure

Mailing List
Denton County Fresh Water Supply District No. 10
to Amend Water and Sewer CCNs in Denton County
Applications Nos. 34068-C/34069-C

Certificate of Service

I hereby certify that on this 25th day of September, 2003, a copy of the attached document was sent by facsimile, First Class Mail, and or intra-agency/inter-agency mail to the persons on this mailing list.



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Texas Commission on Environmental Quality

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Texas Commission on Environmental
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Environmental Quality

Mailing List

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to Amend Water and Sewer CCNs in Denton County
Applications Nos. 34068-C/34069-C**

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