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PUBLIC UTILITY COMMISSION

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 FIRST REQUESTS FOR DISCLOSURE, INTERROGATORIES, PRODUCTION & ADMISSIONS TO THE EXECUTIVE DIRECTOR, MAHARD EGG FARM AND PROSPER INDEPENDENT SCHOOL DISTRICT**

TO: The Executive Director (ED) of the Texas Commission on Environmental Quality through Attorneys Lara Nehman and Sheridan Gilkerson, TCEQ, P O Box 13087, MC 173, Austin, TX 78711-3087.

Mahard Egg Farm (Mahard) through Attorney John Turney, Bell, Turney, Coogan, & Richards, LLP. 823 Congress, Ste. 706, Austin, TX 78701.

Prosper Independent Scholl District (PISD) c/o Drew Watkins, 605 East 7th Street, Prosper, TX 75078.

Pursuant to '2001 et seq. of the Administrative Procedure Act ("APA"), GOVERNMENT CODE (Vernon), Rules 190-197 of the Texas Rules of Civil Procedure and 30 Texas Administrative Code ("TAC") ' 80.151, and TAC Title 1, Part VII, Section 155.23, you are required to answer in complete detail and in writing each of the following requests for disclosure and interrogatories and to produce documents, as the case may be, responsive to the requests. You are required to sign your answers to the questions or requests, to swear to the truth of your responses before a Notary Public or other judicial officer, and to deliver a complete, signed, and notarized copy of your answers to Mark H. Zeppa, Law Offices of Mark H. Zeppa, P. C., 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436, 30 days after service of this request, in accordance with the Administrative Law Judge's directive. Should there be additional parties to these proceedings, you are to provide copies to such additional parties in the same manner and at the same time as set forth previously. If you fail to comply with the requirements above, the Commission may order you to do so and you will be subject to those sanctions authorized by statute and by the rules of the Commission and SOAH for failure to comply.

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.

#### 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.

#### CITY OF THE DISTRICT

As used herein, the terms "City of The District", "The District", "City" or "the city" means the incorporate municipality of The District, Texas located in Comal County that is one of the applicants in these consolidated certification dockets.

#### PROPOSED AREA

As used herein, the terms "proposed area," or "area" means the retail water and sewer utility service area requested by Denton County Fresh Water Supply District No. 10 (the District) in which the District requests authorization to provide potable water and sewer service to the public for compensation.

#### IV.

##### INTERROGATORIES

1. For each person the party to whom these discovery requests are propounded expects to call as a fact witness at the evidentiary hearing in this matter, please provide: (a) the person's name and business address and telephone number; and (b) a brief description of the testimony the party to whom these discovery requests are propounded expects that person to provide.
2. For each expert not listed in the response to the Request for Disclosure whom the party to whom these discovery requests are propounded has consulted and whose mental impressions and opinions have been reviewed by an expert the party to whom these discovery requests are propounded expects 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.
3. If the party to whom these discovery requests are propounded proposes to provide water service only in any of the proposed area, please describe how sewer service will be provided in that area.
4. If the party to whom these discovery requests are propounded proposes to provide sewer service only in any of the proposed area, please describe how water service will be provided in that area.
5. Describe in detail how each of the Texas Water Code §13.246(c) certification criteria is factually impacted by the granting of the District's water CCN application.
6. Indicate which of these impacts described in your answer to Interrogatory No. 5 negatively impact the party to whom these discovery requests are propounded.
7. Describe in detail how each of the Texas Water Code §13.246(c) certification criteria is factually impacted by the granting of the District's sewer CCN application.
8. Indicate which of these impacts described in your answer to Interrogatory No. 7 negatively impact the party to whom these discovery requests are propounded.

4. Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated data bases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by each testifying expert witness for the party to whom these discovery requests are propounded used or relied upon by that The party to whom these discovery requests are propounded's expert witness in formulating any opinion to be offered at trial by the party to whom these discovery requests are propounded as expert witness testimony. "Expert witness" shall be defined by Tex. R. Evid. 702 subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2nd 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which expert witness reviewed the item and what opinion of that expert witness the item is associated with.

5. Provide copies of all documents, studies, treatises, reports, compilations, computer programs (with associated data bases), charts, diagrams, maps, pictures, text books and other tangible materials reviewed by a non-testifying expert for the party to whom these discovery requests are propounded used or relied upon by that The party to whom these discovery requests are propounded's expert witness in formulating any opinion to be offered at trial by the party to whom these discovery requests are propounded as expert witness testimony. "Expert witness" shall be defined by Tex. R. Evid. 702 subject to the Texas Supreme Court's holding in *E. I. DuPont de Nemours and Co. v. Robinson*, 923 S. W. 2nd 549 (Tex. 1997) and the United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509, U. S. 579, 113 S. Ct. 2786 (1993). With respect to each produced or identified items, please identify which non-testifying expert reviewed the item and what opinion of the party to whom these discovery requests are propounded's expert witness the item is associated with.

6. Provide copies of all documentation in the possession or control of the party to whom these discovery requests are propounded that demonstrates that any cost, tax, assessment or expense in the District's proposed water utility cost of service (or revenue requirement) is not reasonable and necessary. With respect to each item produced, identify with specificity which cost or expense is being challenged and the expert witness that will sponsor that document and this opinion evidence at trial.

7. Provide copies of all documentation in the possession or control of the party to whom these discovery requests are propounded that demonstrates that any item or plant or investment in the District's proposed water or sewer utility systems are reasonably necessary for prudent utility service purposes. With respect to each item produced, identify with specificity which individual item of

VI.

REQUEST FOR ADMISSIONS

1. In light of the settlement between the District and the City of Prosper, there is no other water and sewer service provider willing to serve the District's requested service area.

Admit \_\_\_\_\_ Deny \_\_\_\_\_  
Cannot admit or deny because:  
\_\_\_\_\_

2. The District does currently holds a water and sewer utility certificate of convenience and necessity in Denton County, Texas.

Admit \_\_\_\_\_ Deny \_\_\_\_\_  
Cannot admit or deny because:  
\_\_\_\_\_

3. The party to whom these discovery requests are propounded does not currently own or operate a public drinking system providing potable domestic retail water utility service to the public for compensation in proximity to the proposed area.

Admit \_\_\_\_\_ Deny \_\_\_\_\_  
Cannot admit or deny because:  
\_\_\_\_\_

4. The party to whom these discovery requests are propounded does not currently own or operate a public sewer utility system providing state and federal licensed wastewater utility service to the public for compensation in proximity to the proposed area.

Admit \_\_\_\_\_ Deny \_\_\_\_\_  
Cannot admit or deny because:  
\_\_\_\_\_

Cannot                      admit                      or                      deny                      because:

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10.    The ED is not in the public utility business and is not capable of providing water or sewer utility service to the proposed area.

Admit \_\_\_\_\_                      Deny \_\_\_\_\_

Cannot                      admit                      or                      deny                      because:

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11.    Mahard's objections to the District's application relate to the development of the proposed area and not to the operation of a water or sewer utility that complies with TCEQ regulations, permits and standards of operations.

Admit \_\_\_\_\_                      Deny \_\_\_\_\_

Cannot                      admit                      or                      deny                      because:

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12.    PISD's objections to the District's application relate to the development of the proposed area and not to the operation of a water or sewer utility that complies with TCEQ regulations, permits and standards of operations.

Admit \_\_\_\_\_                      Deny \_\_\_\_\_

Cannot                      admit                      or                      deny                      because:

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13.    The rates and terms of service of a district are set by its board of directors subject to appeal to the TCEQ.

Admit \_\_\_\_\_                      Deny \_\_\_\_\_

Cannot                      admit                      or                      deny                      because:

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14.    The SOAH judge will not set the District's rates in this proceeding.

John Turney  
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Austin, TX 78701.  
Fax (512) 476-1513

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