

Control Number: 46120



Item Number: 20

Addendum StartPage: 0

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CITY OF MIDLOTHIAN NOTICE OF  
INTENT TO PROVIDE WATER  
SERVICE TO LAND DECERTIFIED  
FROM MOUNTAIN PEAK SPECIAL  
UTILITY DISTRICT §  
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§  
§

BEFORE THE  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S  
MOTION TO COMPEL**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

NOW COMES, Mountain Peak Special Utility District (“Mountain Peak”) and, pursuant to PUC Procedural Rule 22.144(e) files this Motion to Compel in response to the City of Midlothian’s Objections to Mountain Peak’s First Request for Information. In support thereof, Mountain Peak would respectfully show as follows:

**INTRODUCTION**

In Docket No. 44394, an approximately 97.7-acre tract of land (the “Amended Park Property”) owned by the City of Midlothian (“Midlothian”) was decertified from Mountain Peak’s water CCN.<sup>1</sup> The instant proceeding is about the compensation that is owed to Mountain Peak under Texas Water Code § 13.254 due to the decertification.

On September 23, 2016, Mountain Peak served its First Request for Information on Midlothian including Requests 1-22.<sup>2</sup> Legal counsel for Midlothian and Mountain Peak diligently conducted negotiations, and in good faith, Mountain Peak agreed to withdraw certain requests and clarify or narrow others. However, the parties were unable to resolve all disputes. On October 3, 2016, Midlothian filed its objections to Request Nos. 1-6, 8, 9, and 11-14.<sup>3</sup>

<sup>1</sup> *Petition of City of Midlothian to Amend Mountain Peak Special Utility District’s Certificate of Convenience and Necessity by Expedited Release in Ellis County*, Docket No. 44394 (May 1, 2015). Mountain Peak has appealed this decertification, and the appeal remains pending in district court in Travis County, Texas. See *Mountain Peak Special Utility Dist. v. Public Utility Comm’n of Tex.*, No. D-1-GN-15-002843 (200<sup>th</sup> Judicial Dist. Ct., Travis County, Tex., July 14, 2015).

<sup>2</sup> Mountain Peak Special Utility District’s First RFI to the City of Midlothian, Texas (Sept. 23, 2016). A copy of these requests is attached hereto as Exhibit “A.”

<sup>3</sup> Objections of City of Midlothian to Mountain Peak Special Utility District’s First Requests for Information (Oct. 3, 2016). Midlothian’s objections are attached hereto as Exhibit “B.” Mountain Peak

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Midlothian asserts an overall objection to the relevance of Requests Nos. 1-6, 8, 9, 11, and 12. Because Mountain Peak contends these requests fall within the broad scope of discovery and are relevant to the subject matter of this case, Mountain Peak moves to compel responses to Requests Nos. 1-5, 8, 9, 11, and 12.<sup>4</sup>

### LEGAL STANDARD

Pursuant to PUC Procedural Rule 22.141, the scope of discovery in proceedings instigated at the PUC is quite broad and includes “any matter, not privileged or exempted under the Texas Rules of Civil Evidence, the Texas Rules of Civil Procedure, or other law or rule, that is relevant to the subject matter in the proceeding.”<sup>5</sup> The Texas Rules of Civil Procedure allow discovery on “any matter that is not privileged and is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party.”<sup>6</sup> The information sought need not be admissible if it “appears reasonably calculated to lead to the discovery of admissible evidence.”<sup>7</sup> The Texas Supreme Court has described the scope of discovery as “broad” and only limited by a “reasonable expectation of obtaining information that will aid the dispute’s resolution.”<sup>8</sup>

The Preliminary Order in this case identified one issue which must be addressed in this proceeding: “What property, if any, has been rendered useless or valueless to Mountain Peak by the decertification granted in Docket No. 44394?”<sup>9</sup> The Preliminary Order goes on to state: “This list of issues is not intended to be exhaustive. The parties and the ALJ are free to raise and address any issues relevant in this docket that they deem necessary . . . .”<sup>10</sup> Thus, discovery in this proceeding is not limited to the single issue identified in the Preliminary Order, and other

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agreed to withdraw Request No. 10, which Midlothian acknowledged. However, Midlothian included a specific objection to that Request in its objections. Because that Request is withdrawn, Mountain Peak does not address it here.

<sup>4</sup> While Mountain Peak believes Request Nos. 6, 13, and 14, are relevant, Mountain Peak is not, at this time, seeking to compel responses those three requests.

<sup>5</sup> 16 Tex. Admin. Code § 22.141(a) (TAC). The State Office of Administrative Hearings has adopted PUC’s rules for matters referred to SOAH from the PUC. 1 TAC § 155.1(d).

<sup>6</sup> Tex. R. Civ. P. 192.3(a).

<sup>7</sup> *Id.*

<sup>8</sup> *In re CSX Corp.*, 124 S.W.3d 149, 152 (Tex. 2003).

<sup>9</sup> Preliminary Order at 2 (Sept. 23, 2016).

<sup>10</sup> *Id.* at 3 (emphasis added).

issues may be addressed. Moreover, as provided by the PUC's procedural rules and the Texas Rules of Civil Procedure, the scope of discovery is not limited to the issues, claims, or defenses of Mountain Peak, but extends to all matters "relevant to the subject matter in the proceeding" including potential claims or defenses to be raised by Midlothian.

### **MOTION TO COMPEL**

#### 1. Requests 1-5

Mountain Peak's Requests 1-5 seek information relating to reports, communications, and documents which involve Midlothian's assessment of Mountain Peak's physical property, such as existing water facilities, that would be used in the provision of water service to the Amended Park Property.

Request No. 1: Please produce the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment, including all exhibits and attachments.

Request No. 2: Please produce all documents related to the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment (the "Memorandum"), including but not limited to, all communications with Freese and Nichols, all drafts or earlier versions of the Memorandum or any part thereof, and all documents reflecting any information supplied to Freese and Nichols in preparing the Memorandum.

Request No. 3: Please produce all evaluations, assessments, written communications, or reports relating to the provision of water service to the Subject Tract, including, but not limited to, any updates of the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment.

Request No. 4: Please produce all correspondence, notes and documents of any kind reflecting or relating to communications between You and Mountain Peak relating to the provision of water service to the Subject Tract.

Request No. 5: Please produce all documents relating to Midlothian's consideration of or decision to not obtain water service from Mountain Peak for Midlothian's proposed development on the Subject Tract.

Prior to the decertification of the Amended Park Property, Midlothian commissioned a report to assess the costs of obtaining water service through Mountain Peak versus the costs for Midlothian to provide water service to the Amended Park Property. In doing so, Midlothian's consultant (Freese and Nichols) assessed the capacity of Mountain Peak's facilities which would be used to serve the Amended Park Property. This assessment and any documentation relied upon and related to this assessment are directly related to Mountain Peak's property that may be

rendered useless or valueless by the decertification. Communications related to this assessment are reasonably calculated to lead to the discovery of admissible evidence related to Midlothian's claims and defenses regarding Mountain Peak's property. Any additional reports or updates to this report and any documentation indicating Midlothian's consideration of this property are also relevant to the subject matter of this proceeding.

This information is reasonably calculated to lead to admissible evidence as it may demonstrate an independent analysis of property, specifically, water supply facilities belonging to Mountain Peak, that is affected by the decertification of the Amended Park Property. This information is relevant to the subject matter of this proceeding – the compensation owed to Mountain Peak – as well as to the specific issue identified in the Preliminary Order – the specific property that belongs to Mountain Peak that has been rendered useless or valueless by the decertification of the Amended Park Property. Furthermore, it is inevitable that whatever property Mountain Peak asserts has been rendered useless or valueless, Midlothian will contend has not been rendered useless or valueless. Thus, this information, which may support either party's claims or defenses, is reasonably calculated to lead to the discovery of admissible evidence, including potential testimony regarding the property that has been rendered useless or valueless by the decertification.

In addition to Midlothian's general relevance objection, Midlothian objected to Request 1 and Request 4 on the grounds that the documents were equally available to Mountain Peak. While Mountain Peak has in its possession one a copy of the December 16, 2013, Memorandum prepared by Freese & Nichols and – in theory – has any communications sent by Midlothian to Mountain Peak, production of these documents by Midlothian in this proceeding will insure that the copy of the report Mountain Peak possesses is a full, complete, and authenticated copy and will fill potential gaps in Mountain Peak's records.

2. Requests 8-9

Mountain Peak's Requests 8 and 9 relate to the number of LUEs, or living-unit equivalents, to be served on the Amended Park Property as of the date of decertification.

Request No. 8: Please describe the number of LUEs to be served as of the date of decertification on the Subject Tract.

Request No. 9: Please provide all documents relating to your response to RFI No. 8.

The number of LUEs to be served is directly tied to Mountain Peak's property that is rendered useless or valueless by the decertification of the Amended Park Property because the number of LUEs informs the size, capacity, and other needs of the physical facilities needed to serve the Amended Park Property. Midlothian's production of this information will aid in the resolution of at least one dispute related to the property rendered useless or valueless – the capacity of that property that would have been used by the development on the Amended Park Property.

3. Requests 11-12

Mountain Peak's Requests 11 and 12 seek documents related to the prior owner's plans for development on the Amended Park Property which Midlothian, as a development authority for the area, should have in its possession. Because there was a prior owner of the Amended Park Property that planned to develop it for residential use, those plans are also relevant to establishing the property owned by Mountain Peak that was intended to be used to serve the Amended Park Property and which is now rendered useless or valueless by the decertification of the Amended Park Property.

Request No. 11: Please provide all documents related to the conveyance of the Subject Tract to Midlothian, including any and all communications related to water service between Midlothian and the seller of the Subject Tract.

Request No. 12: Please produce all documents relating to any development plans approved by Midlothian for the Subject Tract or for property of which the Subject Tract was a portion in the last 10 years.

Again, this information is relevant to the subject matter of this proceeding and to the specific issue identified in the Preliminary Order. Communications and documents related to the conveyance of the Amended Park Property related to water service are reasonably calculated to lead to admissible evidence as they may contain information indicating the seller's knowledge of property owned by Mountain Peak that was intended to be used to provide water service to the Amended Park Property. This information could support the claims by Mountain Peak regarding the specific property rendered useless or valueless by the decertification of the Amended Park Property and could aid in the resolution of the disputes in this proceeding.

Midlothian also objected to Request 11 on the grounds that it was unreasonable and unduly burdensome. Request 11 specifically sought documents related to the conveyance of the Amended Park Property including communications related to water service between Midlothian and the seller of the Amended Park Property. Mountain Peak agreed to narrow the scope of this

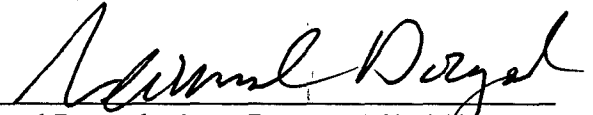
request to focus on documents and communications related to water service which should eliminate the vast majority of conveyance and communication documents between Midlothian and the seller. Thus, it is unclear to Mountain Peak how this request remains unduly burdensome. Rather, Midlothian's objection appears to simply be an extension of its relevance objection. And, as discussed above, this Request is relevant to the subject matter of this proceeding. The communications between the seller and Midlothian could support Mountain Peak's claims that certain property belonging to it has been rendered useless or valueless by the decertification of the Amended Park Property.

**CONCLUSION**

For these reasons, Mountain Peak respectfully requests that the Honorable Administrative Law Judge issue an order compelling Midlothian to respond to Mountain Peak's Requests for Information Nos. 1-5, 8, 9, 11, and 12.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

Leonard Dougal - State Bar No. 06031400

Mallory Beck - State Bar No: 24073899

100 Congress, Suite 1100

Austin, Texas 78701

E: ldougal@jw.com

T: (512) 236 2233

F: (512) 391-2112

David A. Miller – State Bar No. 14067025

MILLER MENTZER WALKER, P.C.

P.O. Box 130

Palmer, Texas 75152

E: dmiller@milmen.com

T: (972) 845-2222

F: (972) 845-3398

ATTORNEYS FOR MOUNTAIN PEAK  
SPECIAL UTILITY DISTRICT

**CERTIFICATE OF SERVICE**

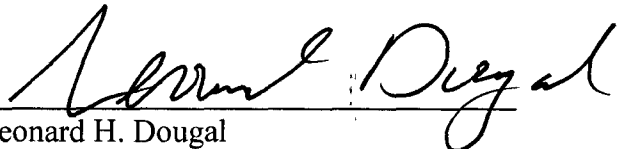
I hereby certify that on the 10th day of October 2016, a true and correct copy of the foregoing document was served on the individuals listed below by facsimile.

Patrick W. Lindner  
Paul M. Gonzalez  
Davidson, Troilo, Ream, & Garza, P.C.  
601 NW Loop 410, Suite 100  
San Antonio, Texas 78216  
Telephone: (210) 349-6484  
Facsimile: (210) 349-0041  
Email: plindner@davidsontroilo.com

*Attorney for City of Midlothian, Texas*

Sam Chang  
Stephen Mack  
Attorney-Legal Division  
Public Utility Commission  
1701 N. Congress  
P. O. Box 13326  
Austin, Texas 78711-3326  
sam.chang@puc.texas.gov  
stephen.mack@puc.texas.gov  
512-936-7261  
512-936-7442  
512-936-7268 (Facsimile)

*Attorney for the Public Utility Commission of Texas*

  
Leonard H. Dougal



# EXHIBIT “A”

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OF TEXAS

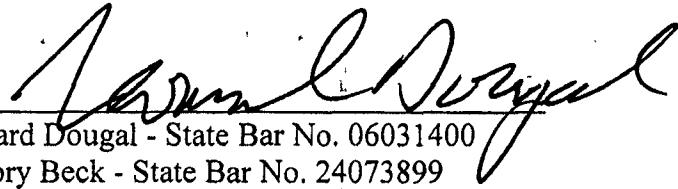
CITY OF MIDLOTHIAN NOTICE OF §  
INTENT TO PROVIDE WATER §  
SERVICE TO LAND DECERTIFIED §  
FROM MOUNTAIN PEAK SPECIAL §  
UTILITY DISTRICT §

**MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S FIRST SET OF REQUESTS FOR INFORMATION TO THE CITY OF MIDLOTHIAN, TEXAS**

Pursuant to PUC Proc. Rule 22.144, Mountain Peak Special Utility District ("Mountain Peak") hereby files its First Set of Requests for Information ("RFIs") to the City of Midlothian, Texas ("Midlothian"). Responses to the RFIs set forth in Exhibit "A" hereto should be served on the undersigned counsel for Mountain Peak at the address indicated within twenty (20) days of service hereof. Exhibit "A" is attached hereto and incorporated herein for all purposes.

Respectfully submitted,

JACKSON WALKER L.L.P.

By:   
Leonard Dougal - State Bar No. 06031400  
Mallory Beck - State Bar No. 24073899

100 Congress, Suite 1100  
Austin, Texas 78701  
E: ldougal@jw.com  
T: (512) 236-2233  
F: (512) 391-2112

David A. Miller - State Bar No. 14067025  
MILLER MENTZER WALKER, P.C.  
P.O. Box 130  
Palmer, Texas 75152  
E: dmiller@milmen.com  
T: (972) 845-2222  
F: (972) 845-3398

ATTORNEYS FOR MOUNTAIN PEAK  
SPECIAL UTILITY DISTRICT

15

**CERTIFICATE OF SERVICE**

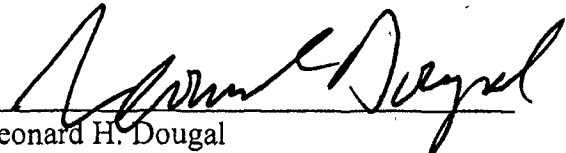
I hereby certify that on the 23rd day of September 2016, a true and correct copy of the foregoing document was served on the individuals listed below by hand delivery, email, facsimile or First Class Mail.

Patrick W. Lindner  
Paul M. Gonzalez  
Davidson, Troilo, Ream, & Garza, P.C.  
601 NW Loop 410, Suite 100  
San Antonio, Texas 78216  
Telephone: (210) 349-6484  
Facsimile: (210) 349-0041  
Email: plindner@davidsontroilo.com

*Attorney for City of Midlothian, Texas*

Sam Chang  
Stephen Mack  
Attorney-Legal Division  
Public Utility Commission  
1701 N. Congress  
P. O. Box 13326  
Austin, Texas 78711-3326  
sam.chang@puc.texas.gov  
stephen.mack@puc.texas.gov  
512-936-7261  
512-936-7442  
512-936-7268 (Facsimile)

*Attorney for the Public Utility Commission of Texas*

  
Leonard H. Dougal

## EXHIBIT "A"

### DEFINITIONS

1. "Midlothian," "You," or "Your" refer to the City of Midlothian, Texas, its mayor, city council members, officers, employees, consultants, agents, attorneys, and affiliates to the extent such other persons are acting for or on behalf of Midlothian.
2. "Document" and/or "Documents" refers to all written, reported, or graphic material within the scope of Rule 192 of the Texas Rules of Civil Procedure, however produced or reproduced. Without limiting the foregoing, the terms include the following: agreements, contracts, communications, correspondence, letters, faxes, e-mail, instant message records, text message records, memoranda, records, reports, summaries, records of telephone conversations, diary entries, calendars, appointment books, drafts, notes, telephone bills or records, bills, statements, records of obligations and expenditures, invoices, lists, journals, receipts, checks, canceled checks, letters of credit, envelopes, or folders voice recordings, voice recordings, electronic data, electronic media, and any other data or information that exists in written, electronic, or magnetic form.
3. "Communication" refers to any oral or written utterance, notation, or statement of any nature whatsoever, by or to whomsoever made, and every manner or means of disclosure, transfer, or exchange of information, whether orally or by document, whether in person, in writing, by telephone, by cell phone, or otherwise, including, but not limited to: correspondence, conversation, dialogues, discussions, interviews, consultations, agreements, telegrams, telexes, cables, memorandum, electronic mail, hand-deliveries, facsimile, or other understandings and exchanges of ideas or information between two or more persons.
4. "Relate to," "related to," or "relating to" means concerning, relating to, referring to, having a relationship with or to, pertaining to, identifying, describing, explaining, summarizing, or to be otherwise factually, legally or logistically connected to the subject matter of the particular request.
5. "LUE" or "Living Unit Equivalent" means the quantity of water consumed by one single-family residential unit, or its equivalent, in gallons of potable water per day, based on a 30-day average.
6. "Subject Tract" means the property subject to decertification in PUC Docket No. 44394, which was described as an approximately 97.7-acre tract of land.

### INSTRUCTIONS

1. Your responses should conform to the Texas Rules of Civil Procedure and/or the rules of procedure of the Public Utility Commission of Texas.
2. Each document that is made available for review in response to these RFIs shall be produced as it is kept in the usual course of business (i.e., in the file folder or binder in

- which the documents were located when the request was served) or the documents shall be organized or labeled to correspond to the category of documents requested.
3. If the documents requested herein include electronic data and magnetic data, they shall be produced in their native format with all metadata intact.
  4. When answering these RFIs, you are requested to furnish all information available to you, including information in the possession of your attorneys, investigators, consultants, employees, agents, representatives, or any other person acting on your behalf, and not merely such information as is held or known by you personally.
  5. In the event any document or other thing referred to in these RFIs is not in your possession, custody, or control, specify what disposition was made of it and identify the person or entity who now has possession, custody, or control of the document or thing.
  6. If you withhold any requested documents or information — including redactions of portions of documents — pursuant to an applicable privilege, provide a privilege log describing the documents, communications, or things withheld or redacted with sufficient specificity that the applicability of the privilege or protection may be assessed. See TEX. R. CIV. P. 193.3.
  7. PLEASE TAKE FURTHER NOTICE that these RFIs are continuing in nature. Your answers and responses must include all documents that are currently in your possession, custody, and control and that come into your possession, custody, or control in the future.

## REQUESTS FOR INFORMATION

RFI No. 1. Please produce the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment, including all exhibits and attachments.

Response:

RFI No. 2. Please produce all documents related to the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment (the "Memorandum"), including but not limited to, all communications with Freese and Nichols, all drafts or earlier versions of the Memorandum or any part thereof, and all documents reflecting any information supplied to Freese and Nichols in preparing the Memorandum.

Response:

RFI No. 3. Please produce all evaluations, assessments, written communications, or reports relating to the provision of water service to the Subject Tract, including, but not limited to, any updates of the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment.

Response:

RFI No. 4. Please produce all correspondence, notes and documents of any kind reflecting or relating to communications between You and Mountain Peak relating to the provision of water service to the Subject Tract.

Response:

RFI No. 5. Please produce all documents relating to Midlothian's consideration of or decision to not obtain water service from Mountain Peak for Midlothian's proposed development on the Subject Tract.

Response:

RFI No. 6. Please provide all documents relating to Midlothian's proposed or actual development of the Subject Tract, including, but not limited to, all development plats or plans and construction plans for the Subject Tract, reports or analyses prepared and the minutes of any meetings at which it was discussed.

Response:

RFI No. 7. Please produce all correspondence, notes, and documents of any kind (including communications) reflecting or relating to Midlothian's proposed development on the Subject Tract, including, but not limited to, documents reflecting the

anticipated construction, completion, and opening of Midlothian's proposed development on the Subject Tract.

Response:

RFI No. 8. Please describe the number of LUEs to be served on the Subject Tract.

Response:

RFI No. 9. Please provide all documents relating to your response to RFI No. 8.

Response:

RFI No. 10. Please provide all documents relating to plans for the provision of water service to the Subject Tract or any property within Mountain Peak's CCN, other than for an industrial customer within the Dual Certificated Area.

Response:

RFI No. 11. Please provide all documents related to the conveyance of the Subject Tract to Midlothian, including any and all communications between Midlothian and the seller of the Subject Tract.

Response:

RFI No. 12. Please produce all documents relating to any development plans approved by Midlothian for the Subject Tract or for property of which the Subject Tract was a portion in the last 10 years.

Response:

RFI No. 13. Please provide all documents supporting or relating to any assertion that any of Mountain Peak's property has or will be rendered useless or valueless to Mountain Peak as a result of the decertification of the Subject Tract.

Response:

RFI No. 14. Please provide all documents supporting or relating to any assertion that none of Mountain Peak's property has or will be rendered useless or valueless to Mountain Peak as a result of the decertification of the Subject Tract.

Response:

RFI No. 15. Please produce all correspondence or documents exchanged between you and any person who may be called to present expert testimony in this case.

Response:

RFI No. 16. Please produce the curriculum vitae of each witness you may call to present expert testimony in this case or by deposition.

Response:

RFI No. 17. Please produce the curriculum vitae of each consulting expert whose opinions, impressions or work product have been reviewed by a testifying expert in connection with the issues presented in this proceeding.

Response:

RFI No. 18. Please produce all documents prepared, considered, reviewed, or relied upon by each testifying expert and/or consulting expert whose opinions or impressions have been reviewed by a testifying expert or whose work has formed the basis, in whole or in part, for the mental impressions and opinions of an expert who may be called to testify.

Response:

RFI No. 19. Please produce all documents relating to the charges or expenses you have incurred as result of the work done by any expert who may be called to testify as a witnesses in this proceeding and by each consulting expert whose opinions or impressions have been reviewed by a testifying expert or whose work has formed the basis, in whole or in part, for the mental impressions and opinions of a testifying expert.

Response:

RFI No. 20. Please produce all documents relating to all impeachment or rebuttal witnesses that you may call to testify at a hearing in this proceeding, the necessity of whose testimony can be reasonably anticipated before the hearing.

Response:

RFI No. 21. Please produce all writings, drawings, graphs, charts, maps, photographs, or other tangible items intended to be used by You as exhibits, including demonstrative exhibits, in a hearing in this proceeding.

Response:

RFI No. 22. Please produce all documents containing or reflecting any admissions or statements and/or admissions you contend were made by Mountain Peak Special Utility District relating to the issues in this proceeding.

Response:



# EXHIBIT “B”

CITY OF MIDLOTHIAN NOTICE OF §  
INTENT TO PROVIDE WATER §  
SERVICE TO LAND DECERTIFIED §  
FROM MOUNTAIN PEAK SPECIAL §  
UTILITY DISTRICT §

BEFORE THE PUBLIC UTILITY COMMISSION  
FILING CLERK  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**OBJECTIONS OF CITY OF MIDLOTHIAN TO  
MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S  
FIRST REQUEST FOR INFORMATION**

To: Mountain Peak Special Utility District, by and through its Attorney of Record:  
Leonard Dougal  
Mallory Beck  
JACKSON WALKER, LLP

David A. Miller  
MILLER MENTZER WALKER, PC

Now Comes the City of Midlothian ("Midlothian"), in the above-styled proceeding, and serves its Objections to Mountain Peak Special Utility District's ("Mountain Peak's") First Set of Requests for Information ("RFIs"). Midlothian files these objections pursuant to PUC Procedural Rule 22.144(d). Legal counsel of the parties have conducted negotiations diligently and in good faith and were unable to resolve disputes related to these RFIs.<sup>1</sup> These objections are filed within ten calendar days of Midlothian's receipt of the discovery requests by facsimile on September 23, 2016.

Set forth below are the individual discovery requests to which objections are being filed and the specific grounds relied upon by Midlothian ("Objections").

**I. GENERAL STATEMENT OF OBJECTION ON RELEVANCE**

As a threshold objection, Midlothian objects to several of the requests (RFI Nos. 1-6, 8, 9, 11 & 12) because they are outside the scope of discovery, particularly as it relates to the limited issues presented in this proceeding. The Preliminary Order identified the following issue to be addressed: "What property, if any, has been rendered useless or valueless to Mountain

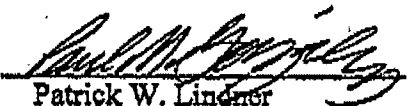
<sup>1</sup> As a result of the conference between counsel, two RFIs were withdrawn (Nos. 7 and 10) and other RFIs were clarified or narrowed by Mountain Peak (Nos. 8, 11 and 12). The RFIs, as amended, are set forth below, with additions underscored.

Peak by the decertification granted in Docket No. 44394? TWC § 13.254(d); 16 TAC § 24.113(h)."<sup>2</sup> The focus of the inquiry is *Mountain Peak and its property* as of the date the subject property was decertified, and *not*, for example, the actions, plans or statements of Midlothian or others.

Due to the very narrow scope of issues in this proceeding and the fact that any such determination is based upon the actions and property of Mountain Peak, the information sought is not admissible in this Docket, is not reasonably tailored to include only matters relevant to this Docket, and is not reasonably calculated to lead to the discovery of admissible evidence. The requests will provide no assistance to the Honorable Administrative Law Judge or the Commission in making a determination as whether *any property of Mountain Peak* was rendered useless or valueless *as a result of the decertification* of the park property in Docket No. 44394, nor will it lead to information which would be of assistance.

Respectfully submitted,  
DAVIDSON, TROLO, REAM & GARZA, P.C.  
601 NW Loop 410, Suite 100  
San Antonio, Texas 78216  
Telephone: (210) 349-6484  
Facsimile: (210) 349-0041

By:

  
Patrick W. Lindner  
[plindner@dtgrlaw.com](mailto:plindner@dtgrlaw.com)  
State Bar No. 12367850  
Paul M. González  
[pgonzalez@dtgrlaw.com](mailto:pgonzalez@dtgrlaw.com)  
State Bar No. 00796652  
Richard Lindner  
State Bar No. 24065626  
[rlindner@dtgrlaw.com](mailto:rlindner@dtgrlaw.com)

ATTORNEYS FOR CITY OF MIDLOTHIAN

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<sup>2</sup> Preliminary Order at 2 (September 23, 2016). The Preliminary Order also states that the proceeding should consist of two phases; (1) identifying any property (if any) rendered useless or valueless; and (2) the compensation due for any such property. *Id.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document is being served on the following parties on October 3, 2016, via facsimile:

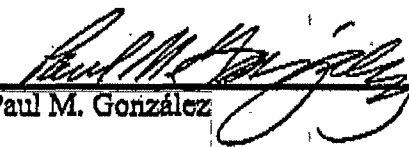
**Counsel for Mountain Peak Special Utility District:**

David A. Miller  
MILLER MENTZER WALKER, PC  
P.O. Box 130  
Palmer, Texas 75152  
Email: [dmiller@milmen.com](mailto:dmiller@milmen.com)  
Telephone: (972) 845-2222  
Facsimile: (972) 845-3398

Leonard Dougal  
Mallory Beck  
JACKSON WALKER, LLP  
100 Congress, Suite 1100  
Austin, Texas 78701  
Email: [ldougal@jw.com](mailto:ldougal@jw.com)  
Telephone: (512) 236-2233  
Facsimile: (512) 391-2112

**Attorneys for the Public Utility  
Commission of Texas:**

Sam Chang  
Stephen Mack  
Attorney-Legal Division  
Public Utility Commission  
1701 N. Congress  
P.O. Box 13326  
Austin, Texas 78711-3326  
Email: [sam.chang@puc.texas.gov](mailto:sam.chang@puc.texas.gov)  
Telephone: 512-936-7261  
Email: [stephen.mack@puc.texas.gov](mailto:stephen.mack@puc.texas.gov)  
Telephone: 512-936-7442  
Facsimile: 512-936-7268

  
Paul M. Gonzalez

**OBJECTIONS OF CITY OF MIDLOTHIAN  
TO MOUNTAIN PEAK SPECIAL UTILITY DISTRICT'S  
FIRST SET OF REQUESTS FOR INFORMATION**

**REQUEST FOR INFORMATION NO. 1:**

Please produce the December 16, 2013, Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment, including all exhibits and attachments.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian further objects to this request as the information is equally, if not more, available to requesting party.

**REQUEST FOR INFORMATION NO. 2:**

Please produce all documents related to the December 16, 2013 Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment (the "Memorandum"), including, but not limited to, all communications with Freese and Nichols, all drafts or earlier versions of the Memorandum or any part thereof, and all documents reflecting any information supplied to Freese and Nichols in preparing the Memorandum,

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

**REQUEST FOR INFORMATION NO. 3:**

Please produce all evaluations, assessments, written communications, or reports relating to the provision of water service to the Subject Tract, including, but not limited to, any updates of the December 16, 2013 Memorandum prepared by Freese and Nichols related to the Midlothian Community Park Water Assessment.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated

herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

**REQUEST FOR INFORMATION NO. 8:**

Please describe the number of LUEs to be served as of the date of decertification on the Subject Tract.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

**REQUEST FOR INFORMATION NO. 9:**

Please provide all documents relating to your response to RFI No. 8.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

**REQUEST FOR INFORMATION NO. 10:**

Please provide all documents relating to plans for the provision of water service to the Subject Tract or any property within Mountain Peak's CCN, other than for an industrial customer within the Dual Certificated Area.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless

or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is overbroad and unduly burdensome, providing no boundaries of time or property against which the completeness of a response might be tested, and is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

**REQUEST FOR INFORMATION NO. 11:**

Please provide all documents related to the conveyance of the Subject Tract to Midlothian, including any and all communications related to water service between Midlothian and the seller of the Subject Tract.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

Midlothian also objects that this request is unreasonable and unduly burdensome under the circumstances of this case, as contemplated by Tex. R. Civ. P. 192.4(a) & (b).

**REQUEST FOR INFORMATION NO. 12:**

Please produce any development plans approved by Midlothian for the Subject Tract or for property of which the Subject Tract was a portion in the last 10 years.

**OBJECTION:** Midlothian specifically objects to this request as it is not calculated to lead to the discovery of evidence related to the issues in this case. The General Statement of Objection on Relevance, above, is incorporated herein. The request is not relevant to the PUC's determination of the existence of any real or personal property of Mountain Peak that was rendered useless or valueless by Commission decertification in Docket No. 44394, if any. For the same reasons, the information is equally irrelevant to a determination of the compensation due to Mountain Peak in this proceeding.

**REQUEST FOR INFORMATION NO. 13:**

Please provide all documents supporting or relating to any assertion that any of Mountain Peak's property has or will be rendered useless or valueless to Mountain Peak as a result of the decertification of the Subject Tract.

**OBJECTION:** This request fails to specifically identify the document(s) sought to be produced, and thus, constitutes a "fishing expedition." See *Loflin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989). A request for production must be specific, must establish materiality, and must recite precisely what documents are sought. This request also seeks attorney work-product as defined by TEX. R. CIV. P. 192.5. No documents are currently withheld, but the creation of documents that would fall within the scope of this request is anticipated, and this objection is not made prophylactically, but in anticipation of the creation of those documents. Further, this request improperly requires defendant to marshal the evidence in violation of TEX. R. CIV. P. 197.

**REQUEST FOR INFORMATION NO. 14:**

Please provide all documents supporting or relating to any assertion that none of Mountain Peak's property has or will be rendered useless or valueless to Mountain Peak as a result of the decertification of the Subject Tract.

**OBJECTION:** This request fails to specifically identify the document(s) sought to be produced, and thus, constitutes a "fishing expedition." See *Loflin v. Martin*, 776 S.W.2d 145, 148 (Tex. 1989). A request for production must be specific, must establish materiality, and must recite precisely what documents are sought. This request also seeks attorney work-product as defined by TEX. R. CIV. P. 192.5. No documents are currently withheld, but the creation of documents that would fall within the scope of this request is anticipated, and this objection is not made prophylactically, but in anticipation of the creation of those documents. Further, this request improperly requires defendant to marshal the evidence in violation of TEX. R. CIV. P. 197.