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PUC DOCKET NO. 52090

PETITION BY REDBIRD	§	BEFORE THE
DEVELOPMENT, LLC FOR	§	
EXPEDITED RELEASE	§	
FROM WATER CCN NO. 11052	§	PUBLIC UTILITY COMMISSION
HELD BY DOBBIN PLANTERSVILLE	§	
WATER SUPPLY CORPORATION	§	OF TEXAS

**REDBIRD DEVELOPMENT, LLC’S RESPONSE TO DOBBIN
PLANTERSVILLE WATER SUPPLY CORPORATION’S CORRECTIONS
AND EXCEPTIONS TO PROPOSED ORDER**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW, Redbird Development, LLC (Redbird) and files this, its response to the Dobbin Plantersville Water Supply Corporation’s (Dobbin Plantersville) Corrections and Exceptions to the Proposed Order, and would respectfully show the following:

I. BACKGROUND

On May 6, 2021, Redbird filed its petition with the Public Utility Commission of Texas (PUC or Commission) for streamlined expedited release of its property from Dobbin Plantersville’s water certificate of convenience and necessity (CCN) number 11052 pursuant to Texas Water Code § 13.2541. Perry Senn, the Manager of Redbird, attested that the property to be released is not receiving service from Dobbin Plantersville, among other qualifying facts. *See* Affidavit of Perry Senn attached to the Petition by Redbird Development, LLC for Expedited Release Pursuant to Texas Water Code § 13.2541.

On August 4, 2021, the Administrative Law Judge (ALJ) issued a proposed order and provided the parties with the opportunity to submit corrections and exceptions. On September 3, 2021, Dobbin Plantersville filed its corrections and exceptions. On September 7, 2021, the ALJ filed with the Commission the ALJ’s Proposed Order Memo concluding that no changes to the

Proposed Order are warranted in response to Dobbin Plantersville's exceptions and noted that the Proposed Order remains ready for the Commission's consideration.

II. ARGUMENT

Redbird agrees with the ALJ that Dobbin Plantersville's Corrections and Exceptions to the Proposed Order should be denied. Dobbin Plantersville has not demonstrated that it has "facilities committed to providing service to the *particular* [Redbird] tract" *See General Land Office v. Crystal Clear Water Supply Corp.*, 449 S.W.3d 130, 133 (Tex. App.–Austin, 2014, pet. denied), and Dobbin Plantersville does not allege that it has made such commitments to serve the Redbird tract. Moreover, the proposed changes to the findings and conclusions are self-serving and reflect an attempt to induce the Commission to make certain unsupported findings that might bolster Dobbin Plantersville's legal position in the federal lawsuit it has filed against the Commissioners, the Commission, and Redbird. *See Dobbin Plantersville Water Supply Corp. v. Lake, et al.*, No. 1:21-CV-00612-RP (W.D. Texas filed July 13, 2021). For these reasons, Dobbin Plantersville's Corrections and Exceptions should be denied.

Redbird owns approximately 388.5 acres of land in Montgomery County, Texas that is the subject of Redbird's petition for streamlined expedited release. Redbird intends to develop a 575 home residential development on the property. *See* Affidavit of Perry Seen attached to Redbird Development, LLC's Supplemental Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss. Because the Redbird development will be a dense development, the water system must be capable of providing fire flows in addition to potable water service to the 575 connections.

Nothing in the record demonstrates that Dobbin Plantersville has committed facilities or made other contractual commitments to provide potable water service to the 575 connections at

Redbird's property or to provide water pressures sufficient to meet fire protection needs. As noted in Perry Senn's Affidavit, Redbird has not requested service from Dobbin Plantersville because Redbird has already ascertained that Dobbin Plantersville cannot provide the required service, and there are no contractual commitments, verbal or written, whereby Dobbin Plantersville has committed to constructing facilities to serve the Redbird tract. *See* Affidavit of Perry Seen attached to Redbird Development, LLC's Supplemental Response to Dobbin Plantersville Water Supply Corporation's Motion to Dismiss. In fact, Dobbin Plantersville's assessment of the facilities it has to provide service to the Redbird tract show that there is no tangible commitment to provide service – that is, Dobbin Plantersville's existing facilities are insufficiently sized to meet the water service and fire flow needs of the Redbird development, and Redbird, at its own cost, would be required to make substantial improvements to the Dobbin Plantersville's system for it to be able to provide those services at some indeterminate time in the distant future.

Respectfully submitted,

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BY: 

Emily W. Rogers

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record via email on September 8, 2021, in accordance with the requirements of 16 Tex. Admin. Code § 22.74 and PUC Order No. 2 in Docket No. 50664.

Emily W. Rogers

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