

District also reserves the right to reference, discover, or offer into evidence at the time of hearing any and all facts, documents, and things that it does not presently recall but may recall at some time in the future.

GENERAL OBJECTIONS

1. The Water District objects to Forest Creek's Requests on the grounds that it seeks disclosure of information protected by the attorney-client, work product, and any other applicable privileges. To the extent that The Water District inadvertently discloses information that may arguably be protected from discovery under attorney-client privilege, the work product doctrine, or any other applicable privilege, such inadvertent disclosure does not constitute a waiver of any such privilege.

2. The Water District objects to Forest Creek's Requests insofar as they seek information concerning matters unrelated to the subject matter of this Complaint, on the grounds that they are overly broad, unduly burdensome, and seek information that is neither relevant to the subject matter of this Complaint nor reasonably calculated to lead to discovery of admissible evidence.

3. The Water District objects to Forest Creek's Requests insofar as they seek confidential proprietary and/or trade secret information of The Water District that, if disclosed, could irreparably harm The Water District. Accordingly, The Water District objects to producing any such information absent entry of an appropriate Protective Order.

4. The Water District objects to Forest Creek's Requests on the grounds that they are not limited in time frame and are overly broad and unduly burdensome because they are more than inclusive of the time period at issue at this case.

5. The Water District objects to Forest Creek's Requests to the extent that they call for information or documents that are not currently in the Water District's possession, custody or control.

6. The responses set forth below are made without in any manner waiving (1) the right to object to the use of any response for any purpose, in this proceeding or any other action, on the grounds of privilege, relevance, materiality, or any other appropriate grounds; (2) the right to object to any other documents requests involving or relating to the subject matter of the responses herein; and (3) the right to revise, correct, supplement or clarify any of the responses provided below, at any time.

The General Objections are applicable to each and every one of the following responses and objections, and failure to repeat an objection in response to a specific request shall not be deemed a waiver of the objection. Further, when The Water District specifically repeats one or more of these General Objections in response to a specific request, such specific request cannot be a waiver of these General Objections.

Subject to and without waiving these General Objections, and subject to and without waiving the specific objections noted below, The Water District responds as follows to Forest Creek's Requests for Information in accordance with the Water District's understanding of the fair meaning of those Requests. The respondent or witness for each Response will be shown in bold-faced type following the Response or that portion of the Response for which the individual is responsible.

RESPONSES FOLLOW ON NEXT PAGE

Jessamine-South Elkhorn Water District

Information Request No. 1: Please identify the rules issued or followed by the Water District from January 1, 2005 through March 1, 2012, in reviewing, denying and/or approving an application for a water extension.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that its rules are not at issue herein because Forest Creek's application was approved and because Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 2: Please identify the personnel, including but not limited to outside contractors, at the Water District that determined during the time period from January 1, 2005 through March 1, 2012, whether an application for water line extension is approved or denied, and provide a brief summary of each person's duties in this process.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 3: Please provide a copy of the contract to be entered into by individuals or entities selecting Option I when requesting a water line extension from the Water District during the time period from January 1, 2005 through March 1, 2012.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. The Water District further objects on the grounds that the time period which the Request covers is excessive in that Forest Creek did not make a demand to switch to Option I until December of 2010. Furthermore, the Water District objects and asserts that Forest Creek is bound by its Agreement and until it is found that such Agreement is no longer in effect, any new method, tariff or rule is only applicable prospectively pursuant to KRS 278.280. Accordingly, Option I is not available to Forest Creek. **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 4: Please provide a copy of the contract to be entered into by individuals or entities selecting Option II when requesting a water line extension from the Water District during the time period from January 1, 2005 through March 1, 2012.

Answer: See Objections to Request No. 3. **[Respondent – Counsel for Water District]** The contract to which Forest Creek agreed at arms length and with the advice of counsel was previously provided by the Water District as an attachment to its First Information Requests to Forest Creek. **[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 5: Please state the number of individuals or entities selecting Option I when requesting a water line extension from the Water District since January 1, 2000.

Answer: See objections to Request No. 3. Furthermore, The Water District objects on the ground that individuals or entities choice as to Option I or II is totally irrelevant to any issue raised by the Complaint. **[Respondent – Counsel for Water District]**

Notwithstanding the objection, no applicant has chosen Option I in that time frame. No other applicant has attempted to choose Option I after having contractually committed to proceeding under Option II, or asserted that it has the right to do so.

[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]

Jessamine-South Elkhorn Water District

Information Request No. 6: Please state the number of individuals or entities selecting Option II when requesting a water line extension from the Water District since January 1, 2000.

Answer: See objections to Request No. 5. **[Respondent – Counsel for Water District]**

Notwithstanding the foregoing objections, all individual or entities since January 1, 2000, have selected Option II. **[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 7: Please identify the Water District rule or regulation in existence from January 1, 2000 that prevents an individual or entity from changing its selection from Option 1 to Option II when requesting a water line extension from the Water District.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. The Water District further objects on the grounds that the time period which the Request covers is excessive in that Forest Creek did not make a demand to switch to Option I until December of 2010. Notwithstanding the objections, the terms and conditions of the Agreement between the Water District and Forest Creek are clearly set forth in the Application dated April 27, 2007 and the Interim Water Service Agreement dated May 2, 2007, which are attached to the Water District's Initial Information Requests to Forest Creek. Further, Option II requires that an applicant enter an agreement when selecting Option II. Neither the tariff nor the Agreement which Forest Creek voluntarily executed with advice of counsel, nor contract law in general, provides that a party to an arms length voluntary agreement may unilaterally revoke a contract and demand a new agreement or option. Should an applicant be permitted to revoke its choice at will and after many years, the tariff requirement for an applicant to enter into an agreement upon choosing Option II would be meaningless and superfluous. **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 8: Please state the date when Forest Creek submitted to the Water District its application for water line extension.

Answer: April 27, 2007. [Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]

Jessamine-South Elkhorn Water District

Information Request No. 9: Please state the dates when Forest Creek submitted for approval its plans for the construction of its water line extension to the Water District.

Answer: To date, Forest Creek has never submitted a complete set of construction plans to the Water District. Following is a listing of dates of documented submissions by Forest Creek and responses by the Water District, all of which were incomplete construction plans except as noted:

Submissions

April 23, 2007 (**preliminary plat**)
Prior to November 18, 2008
February 5, 2009
March 1, 2009
Prior to June 23, 2009
(aerial map of line route)
Sometime between 02/02/10 & 05/04/10
November 23, 2011
March of 2012

Responses

April 30, 2007
November 18, 2008
February 28, 2009
March 3, 2009/March 30, 2009
June 23, 2009
May 4, 2010
November 28, 2011
March 27, 2012

None of the aforementioned submittals constituted a full and complete set of construction plans and specifications, which would meet the minimum standard of the engineering profession. Missing from all of the submittals by Forest Creek were the following details that are standard to construction plans, including but not limited to:

- Construction Details -
 - Thrust blocks
 - Gate Valves
 - Anchors
 - Line Markers
 - Meter Setting
 - Pavement Repair
 - Stream Crossing
 - Fire Service Vault
 - Bore & Case
 - Backflow Preventers
 - Fire Hydrant
 - fencing/gates

Jessamine-South Elkhorn Water District

- Elevated Tank Electrical Service
- Pump Station Electrical Service
- Contract Specifications
- Pump Station Design
- Telemetry Design
- Pump Design
- Elevated Tank Design
- Tank Foundation – Geotechnical
- Tank Site Boundary Plat
- KYTC Bore/Case Details
- Irrigation Plan (golf course and club house)

Only recently (March of 2012) has Forest Creek presented an acceptable routing of the offsite sewer/water connections. **[Witness: John G. Horne, Horne Engineering, Inc.]**

Jessamine-South Elkhorn Water District

Information Request No. 10: Please identify the engineer that reviewed each of the plans submitted for the construction of Forest Creek's water line extension.

Answer: John G. Horne and L. Christopher Horne reviewed the incomplete plans submitted by Forest Creek as detailed in the Response to Information Request No. 9 above. [**Witness: John G. Horne and L. Christopher Horne - Horne Engineering, Inc.**]

Jessamine-South Elkhorn Water District

Information Request No. 11: Please provide copies of any documents issued by the Water District, its employees, officers or contractors, concerning the plan submitted to the Water District concerning the construction of Forest Creek's water line extension, including but not limited to any documents denying the plans and stating the reasons for the denial of the plans.

Answer: With the exception of the one (1) document attached, all of the documents issued by the Water District in response to the incomplete submittals by Forest Creek were mailed or delivered to Forest Creek's engineer, Jihad A. Hallany, Vision Engineering, 3399 Tates Creek Road, Suite 250, Lexington, KY 40503; to Mr. James A. Kelley, member of Forest Creek, LLC; or to Robert L. Gullette, Jr., counsel for Forest Creek, LLC. The dates of the mailings and/or delivery of responses were as follows:

April 30, 2007
November 18, 2008
December 19, 2008
February 28, 2009 (x2)
March 3, 2009
March 30, 2009
June 23, 2009
February 2, 2010
November 24, 2010
November 28, 2010 (x2)
November 29, 2010
December 6, 2011
March 12, 2012

All of the responses for the aforementioned dates are already in the possession of Forest Creek, its engineer or its attorney. **[Witness: John G. Horne, Horne Engineering, Inc.]**

Horne Engineering, Inc.

216 SOUTH MAIN STREET • NICHOLASVILLE, KENTUCKY 40356 • (859)885-9441 • FAX (859)885-5160

ENGINEERS • LAND SURVEYORS • PLANNERS
email@horneeng.com

November 18, 2008

Nick Strong, Chairman
Jessamine South Elkhorn Water District
3520 Keene Road
Nicholasville, KY 40356

Re: Construction Plans
Forest Brook Development
Harrodsburg Road
Jessamine South Elkhorn Water District

Dear Nick:

I have made a preliminary review of the referenced construction plan which was proffered by the developer's engineer. This engineer made the statement at the presentation that the construction plans did not match or reflect the proposed changes in the Development Plan, to which I concur. In addition, the plans do not address specific uses such as:

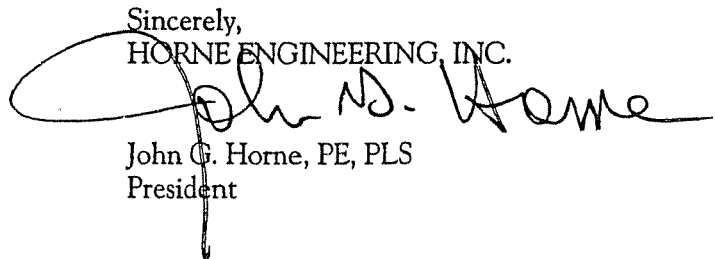
- a. Detail connection to US-68 Relocated.
- b. Address nor specify offsite construction of sewer service.
- c. Describe nor detail how adequate flow and pressure of water will be furnished to the development, by required offsite construction.

These, among other issues, lead me to believe that further review of these plans would not be prudent, if not feasible. Therefore, I have deferred any further review of the plans, which I understand are incomplete and admittedly incorrect.

Based on this premise, I am of the opinion that the Jessamine-South Elkhorn Water District cannot approve said plans, and to do so would imply condoning by implicit support to a project phase that by admission is incorrect.

Should you have any questions and/or comments, please contact me at (859) 885-9441.

Sincerely,
HORNE ENGINEERING, INC.



John G. Horne, PE, PLS
President

JGH/jt

cc: Bruce E. Smith Glenn T. Smith
Engr/3719 Engr/3803
Engr/3830 Engr/3832
Corr.

Jessamine-South Elkhorn Water District

Information Request No. 12: Please identify the individuals or entities that have submitted to the Water District one or more applications for water extension since January 1, 2000, and for each, state the date the application was submitted and the date it was approved or denied.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. The Water District further objects on the grounds that the time period which the Request covers is excessive in that Forest Creek did not make an application for extension until April of 2007. Furthermore, the Water District objects on the basis that Forest Creek appears to be seeking information herein which it intends to use in Jessamine Circuit Court Civil Action 12-CI-00081, styled: *Forest Creek, LLC vs. Harold Eugene Snowden, Jr., et al.* **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 13: Please identify any individuals or entities to which the Water District has offered free or reduced rates or service since January 1, 2000, and state whether such individual or entity is an officer, agent or employee of the Water District.

Answer: The Water District objects on the grounds that the Request is totally beyond the scope of this proceeding and is therefore irrelevant. **[Respondent – Counsel for Water District]**

Notwithstanding the foregoing objection, no individual or entity has been offered or provided free or reduced rates or service since January 1, 2000, or before. **[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 14: Please state whether any individuals employed by Horne Engineering are also employees of the Water District.

Answer: The Water District objects on the grounds that the information the Request seeks is totally irrelevant to any issue raised by the Complaint and on the basis that Forest Creek appears to be seeking information herein which it intends to use in Jessamine Circuit Court Civil Action 12-CI-00081, styled: *Forest Creek, LLC vs. Harold Eugene Snowden, Jr., et al.* Notwithstanding the foregoing objections, there are no individuals employed by Horne Engineering who are also employees of the Water District. **[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 15: Please identify the third parties that have provided engineering services to the Water District at any time during the time period from January 1, 2000 to March 15, 2012, and if so, please state the name of the third party that provided engineering services to the Water District.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. The Water District further objects on the grounds that the time period which the Request covers is excessive in that Forest Creek did not make a request for extension until April of 2007. Furthermore, the Water District objects on the basis that Forest Creek appears to be seeking information herein which it intends to use in Jessamine Circuit Court Civil Action 12-CI-00081, styled: *Forest Creek, LLC vs. Harold Eugene Snowden, Jr., et al.* **[Respondent – Counsel for Water District]**

Notwithstanding the objection, the only time that the Water District might employ a third party for an engineering analysis is when required to do so by federal or state financing requirements or when the Water District's consulting engineer represented an applicant. The only third party engineer that has provided engineering services to the Water District under one of the foregoing requirements during the subject time period was Qore Engineers of Lexington, KY. **[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 16: Please state whether any of the third parties identified in the answer to Information Request No. 15 above, have provided engineering services to entities or individuals that have applied to the Water District for a water line extension, and identify the third parties that have done so.

Answer: See objection to Request No. 15. Notwithstanding the objection, Qore has not represented any applicant. **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 17: Please state whether the contracts entered into by the individuals or entities wishing to obtain water line extensions from the Water District, including but not limited to the Water District's Interim Water Service Agreement, have been approved by the Commission, and if so, how they were approved.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. The Water District further objects on the grounds that the time period which the Request covers is excessive in that Forest Creek did not sign a contract with the Water District until May of 2007. Furthermore, the Water District objects and asserts that Forest Creek is bound by its Agreement and until it is found that such Agreement is no longer in effect, any new method, tariff or rule is applicable prospectively pursuant to KRS 278.280. Accordingly, Option I is not available to Forest Creek. Notwithstanding the foregoing objection, no contracts of the type referenced in the Request have been filed with or approved by the Kentucky Public Service Commission.

[Respondent – Counsel for Water District]

Jessamine-South Elkhorn Water District

Information Request No. 18: Please state the total amount that Forest
Creek has been required to pay to the Water district for engineering fees.

Answer: \$ 22,891.56. [Witness: **L. Nicholas Strong, Chairman,**
Jessamine-South Elkhorn Water District]

Jessamine-South Elkhorn Water District

Information Request No. 19: Please state the total amount that Forest Creek has been required to pay to the Water District for attorneys fees.

Answer: \$ 8,375.00. [Witness: **L. Nicholas Strong, Chairman,**
Jessamine-South Elkhorn Water District]

Jessamine-South Elkhorn Water District

Information Request No. 20: Please identify each individual or entity that initially chose Option I or Option II in constructing a water line extension and was then allowed by the Water District to switch to constructing the water line extension under a different option.

Answer: The Water District asserts that the information the Request seeks is irrelevant and objects to it on the grounds that Forest Creek's Complaint raises an issue about a specific application which was approved and not about applications for extension of water service generally. The Water District further objects on the grounds that the time period which the Request covers is excessive in that Forest Creek did not sign a contract with the Water District until May of 2007. Furthermore, the Water District objects on the basis that Forest Creek appears to be seeking information herein which it intends to use in Jessamine Circuit Court Civil Action 12-CI-00081, styled: *Forest Creek, LLC vs. Harold Eugene Snowden, Jr., et al.* Lastly, The Water District objects on the ground that an individual's or entity's choice as to Option I or II is totally irrelevant to any issue raised by the Complaint. **[Respondent – Counsel for Water District]**

Notwithstanding the foregoing objections, no individual or entity has in the past chosen Option II and then asked to switch to Option I. As previously stated, no individual or entity has ever requested Option I initially. **[Witness: L. Nicholas Strong, Chairman, Jessamine-South Elkhorn Water District]**

Jessamine-South Elkhorn Water District

Information Request No. 22: For each of the third parties identified in your answer to Information Request No. 16, please state the amount paid to each of these third parties in each of the following years: 2005, 2006, 2007, 2008, 2009, 2010 and 2011.

Answer: See objection to Request No. 15. **[Respondent – Counsel for Water District]**

Jessamine-South Elkhorn Water District

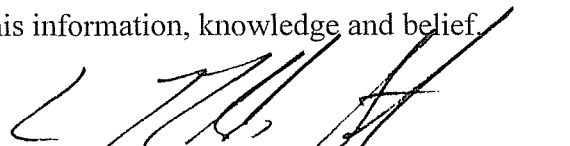
Information Request No. 23: Please provide a copy of any agreements entered into from January 1, 2000 to March 1, 2012 by the Water District and any governmental agency, including but not limited to municipalities, concerning water line extensions to the governmental agencies or to third parties.

Answer: The Water District objects on the grounds that the request is totally beyond the scope of this proceeding and is therefore irrelevant. **[Respondent – Counsel for Water District]**

WITNESS VERIFICATIONS ARE ATTACHED TO THIS FILING

VERIFICATION

The undersigned, L. Nicholas Strong, being duly sworn, deposes and says he is the Chairman of the Jessamine-South Elkhorn Water District, that he has personal knowledge of the matters set forth in the foregoing responses for which he is the identified witness and that the information contained therein is true and correct to the best of his information, knowledge and belief.

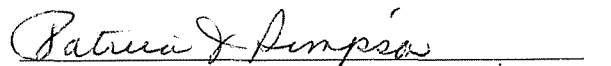


L. NICHOLAS STRONG

COMMONWEALTH OF KENTUCKY
COUNTY OF JESSAMINE, SCT...

Acknowledged, subscribed and sworn to me, a Notary Public in and before said County and State, by L. Nicholas Strong, this the 13 day of April, 2012.

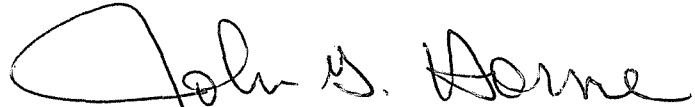
My Commission expires: March 23, 2016



NOTARY PUBLIC NO. 462930

VERIFICATION

The undersigned, John G. Horne, being duly sworn, deposes and says he is the consulting engineer for the Jessamine-South Elkhorn Water District, that he has personal knowledge of the matters set forth in the foregoing responses for which he is the identified witness and that the information contained therein is true and correct to the best of his information, knowledge and belief.



JOHN G. HORNE

COMMONWEALTH OF KENTUCKY
COUNTY OF JESSAMINE, SCT...

Acknowledged, subscribed and sworn to me, a Notary Public in and before said County and State, by John G. Horne, this the 12 day of April, 2012.

My Commission expires: 12-21-2014.



NOTARY PUBLIC 433464
NO.

VERIFICATION

The undersigned, L. Christopher Horne, being duly sworn, deposes and says he is the consulting engineer for the Jessamine-South Elkhorn Water District, that he has personal knowledge of the matters set forth in the foregoing responses for which he is the identified witness and that the information contained therein is true and correct to the best of his information, knowledge and belief.

L. CHRISTOPHER HORNE
L. CHRISTOPHER HORNE

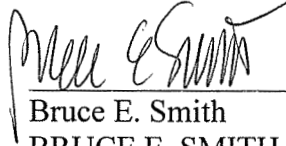
COMMONWEALTH OF KENTUCKY
COUNTY OF JESSAMINE, SCT...

Acknowledged, subscribed and sworn to me, a Notary Public in and before said County and State, by L. Christopher Horne, this the 13 day of April, 2012.

My Commission expires: 12-21-2014.

Michael E. Smith 433464
NOTARY PUBLIC NO.

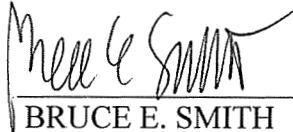
Respectfully submitted,



Bruce E. Smith
BRUCE E. SMITH LAW OFFICES, PLLC
201 South Main Street
Nicholasville, Kentucky 40356
**ATTORNEY FOR JESSAMINE-SOUTH
ELKHORN WATER DISTRICT**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Jessamine-South Elkhorn Water District's Responses to First Information Requests Served by Forest Creek, LLC was served by first class mail, postage prepaid, this the 13th day of April, 2012, to Robert C. Moore, Esq., Hazelrigg & Cox, LLP, P. O. Box 676, Frankfort, KY 40602-0676.



BRUCE E. SMITH

g:\...JSEWD\ForestCreekFirstInfoRequests to JSEWD Revised Final -41212

