

BRUCE E. SMITH LAW OFFICES, PLLC

201 SOUTH MAIN STREET

NICHOLASVILLE, KENTUCKY 40356

(859) 885-3393 + (859) 885-1152 FAX

BRUCE E. SMITH  
bruce@smithlawoffice.net

May 29, 2012

**VIA UPS OVERNIGHT DELIVERY**

Mr. Jeff R. Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, Kentucky 40602

RECEIVED

MAY 30 2012

PUBLIC SERVICE  
COMMISSION

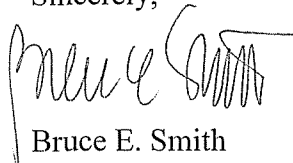
Re: Case No. 2011-00297

Dear Sir:

Enclosed are the following for filing in the above referenced Case:

- (1) **Motion to Compel Forest Creek's Answers to Supplemental Requests** and nine (9) copies thereof;
- (2) **Water District's Reply to Forest Creek's Memorandum in Opposition Filed May 16, 2012** and nine (9) copies thereof;
- (3) ***Supplement to Responses to First Information Requests Served by Forest Creek, LLC*** and nine (9) copies thereof; and
- (4) Executed **Verification of L. Nicholas Strong to Jessamine-South Elkhorn Water District's Responses to Jessamine-South Elkhorn Water District's Responses to Forest Creek's Supplemental Information Requests** and nine (9) copies thereof.

Sincerely,



Bruce E. Smith

Enclosures

g:\...JSEWD\Forest Creek\PSC Proceeding\Derouen ltr 052912

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAY 30 2012

PUBLIC SERVICE  
COMMISSION

In the Matter of:

FOREST CREEK, LLC )  
COMPLAINANT )  
VS. )  
JESSAMINE SOUTH ELKHORN )  
WATER DISTRICT )  
DEFENDANT )

CASE NO. 2011-00297

**MOTION TO COMPEL FOREST CREEK'S  
ANSWERS TO SUPPLEMENTAL REQUESTS**

Comes the Jessamine-South Elkhorn Water District ("Water District"), by counsel, and moves the Public Service Commission ("PSC") to compel Forest Creek, LLC ("Forest Creek") to respond or fully respond to the Supplemental Information Requests served by the Water District on May 4, 2012, and to which Forest Creek served Answers on May 11, 2012.

**SUPPLEMENTAL INFORMATION REQUEST NO. 4**

4. Admit or deny that the issue or disagreement between the District and Forest Creek relative to the location corridor for the proposed water main for the project along KY 29 and US 68 has been resolved and is now moot pursuant to the letter from the District's Chairman (L. Nicholas Strong) to Forest Creek's engineer (Jihad A. Hallany) and dated March 27, 2012.<sup>5</sup> If denied, please provide a full explanation of why this issue has not been resolved, and a complete statement of any issues that remain unresolved as to the location of the water main along these two roads.

<sup>5</sup> This letter was last filed in the Response by the Water District to Forest Creek's Motion to Compel (served May 2, 2012).

**FOREST CREEK ANSWER:** Deny. However, Forest Creek admits that the location of the corridor for the off-site portion of the proposed water main along KY 29 and US 68 has been approved.

### ARGUMENT

Forest Creek's response is incomplete and confusing at best. On the one hand, it denies that the issue is resolved and in the next breath it appears to say the disagreement has been settled. The Water District is entitled, as requested, to a full explanation of the denial, including a statement of remaining issues or reasons which prevent Forest Creek from fully admitting the Request. Otherwise, Forest Creek's enigmatic response permits it to play a shell game.<sup>1</sup>

### SUPPLEMENTAL INFORMATION REQUEST NO. 6

6. Admit or deny that Forest Creek has yet to submit a complete set of construction plans for the water infrastructure for its project.<sup>6</sup> If denied, please provide a full explanation of the factual basis for the denial.

<sup>6</sup>A "complete set of construction plans" as the term is used herein would include, but not be limited to, at least the level of detail as set forth in the Water District's answer to Forest Creek's Request for Information No. 9 contained in the Water District's Responses to First Information Requests Served by Forest Creek served and filed on March 29, 2012. Reference is hereby made to the detail contained in said answer and same is incorporated herein.

**FOREST CREEK ANSWER:** Deny. Forest Creek states that it has submitted a complete set of construction plans for the on-site portion of the project. Forest Creek states that it has not yet submitted a complete set of construction plans for the off-site portion of the project

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<sup>1</sup> Part of Forest Creek's response to the Water District's Supplemental Information Request No. 6 was: "... because it has just recently received approval of the location of the corridor for the off-site portion of the proposed water main along KY 29 and US 68." This response appears to support a full admission of Supplemental Information Request No. 4.

because it just recently received approval of the location of the corridor for the off-site portion of the proposed water main along KY 29 and US 68.

### ARGUMENT

As with the response to Supplemental Information Request No. 4, Forest Creek fails to provide a full explanation of the factual basis for its denial by not identifying what it considers to be a “full set” of construction plans for the on-site portion or the date such plans were submitted.

### SUPPLEMENTAL INFORMATION REQUEST NO. 11

11. Did Forest Creek authorize and/or direct its counsel in this PSC proceeding and/or its counsel in the Jessamine Circuit Court Civil Action No. 12-CI-00081 to exchange discovery and/or Open Records request responses by the District?

**FOREST CREEK ANSWER:** Objection. Forest Creek objects to this request on the basis that it requests information that is irrelevant and unlikely to lead to the discovery of information relevant to issues in this case.

### ARGUMENT

Forest Creek has made the exchange of discovery an issue herein through the collaboration of its respective counsel in this case and in Jessamine Circuit Court Civil Action No. 12-CI-00081. This collaboration is the subject of three (3) filings by the Water District herein.<sup>2</sup>

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<sup>2</sup> See *Reply by Water District to Response of Forest Creek Opposing Water District's Motions for Rehearing/Reconsiderations, to Stay Procedural Schedule and/or Bifurcate and/or Modify Procedural Schedule to Provide for Informal Conference*, filed May 2, 2012; *Response by Water District to Forest Creek's Motion to Compel*, filed May 3, 2012; and *Jessamine –South Elkhorn Water District's Responses to Forest Creek, LLC's Supplemental Requests (see Answer to Forest Creek Supplemental Information Request No. 1)*, filed May 18, 2012) This collaboration is ongoing as evidenced by the email string attached hereto as Exhibit “A” where counsel in each proceeding has continued to cause the Water District’s staff needless additional work by virtue of their multiple Open Records requests.

**SUPPLEMENTAL INFORMATION REQUEST NOS. 13, 14, 15 and 16**

13. State with specificity the facts which connect the letter from Hallany to Nick Strong, dated April 30, 2007 and included by Forest Creek in its Attachment B, to Forest Creek's Complaint herein and state with specificity how this letter supports or relates to Forest Creek's claims stated within its Complaint?

14. State with specificity the facts which connect the letter from Betty L. Taylor to "To Whom It May Concern", dated July 18, 2007 and included by Forest Creek in its Attachment B, to Forest Creek's Complaint herein and state with specificity how this letter supports or relates to Forest Creek's claims stated within its Complaint?

15. State with specificity the facts which connect the letter from Betty L. Taylor to "To Whom It May Concern", dated November 15, 2007 and included by Forest Creek in its Attachment B, to Forest Creek's Complaint herein and state with specificity how this letter supports or relates to Forest Creek's claims stated within its Complaint?

16. State with specificity the facts which connect the letter from Horne to Hallany, dated December 19, 2008 and included by Forest Creek in its Attachment B, to Forest Creek's Complaint herein and state with specificity how this letter supports or relates to Forest Creek's claims stated within its Complaint?

**FOREST CREEK'S ANSWER TO REQUEST NO. 13:** Objection. Forest Creek objects to this request on the basis that it is ambiguous and requires Forest Creek to speculate as to its meaning. Without waiving the objection, Forest Creek states that this letter concerns correspondence between Forest 'Creek and the water District.

**[Forest Creek's answers to Nos. 14, 15 and 16 were: "See Answer to Request No. 13.]**

## ARGUMENT

The documents referenced in Water District Request Nos. 13-16 were filed herein by Forest Creek. It is a valid question how such documents either support or are related to Forest Creek's Complaint. If they are irrelevant, Forest Creek can simply say so. If same are relevant, the Water District is entitled to know why. Once again, discovery is not a shell game.

### SUPPLEMENTAL INFORMATION REQUEST NO. 20

20. Admit or deny that Forest Creek has yet to submit to the District or its representative a set of "on-site"<sup>8</sup> construction plans for the water infrastructure for its project. If denied, please provide a full explanation of the factual basis for the denial.

<sup>8</sup> *As detailed in Footnote No. Six (6) along with the components for "on-site" construction plans.*

**FOREST CREEK ANSWER:** Deny. See Answer to Request No. 6.

## ARGUMENT

As with Forest Creek's response to the Water District's Supplemental Request No. 6, Forest Creek fails to provide a full explanation of the factual basis for its denial by not identifying precisely what it considers to be a "full set" of on-site construction plans or the date on which such plans were submitted.

### SUPPLEMENTAL INFORMATION REQUEST NOS. 12, 17, 18, 19, 22, 23 and 24

[Request not repeated here, as done above, because the language of each Request is not important to the argument below.]

**FOREST CREEK ANSWER:** In each of its answers to the foregoing Requests, Forest Creek responded in part with: “However, without waiving this objection, Forest Creek has requested the information responsive to this request and will provide it to the Water District upon its receipt.”

**ARGUMENT**

The Water District moves the PSC to order Forest Creek to provide the aforementioned information on or before Friday, June 5, 2012, to enable the Water District to have time to adequately prepare its case in defense.



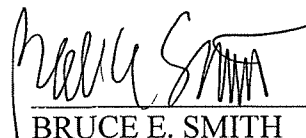
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BRUCE E. SMITH  
201 SOUTH MAIN STREET  
NICHOLASVILLE, KY 40356  
(859) 885-3393  
Fax: (859) 885-1152  
**Attorney for Water District**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing Motion to Compel Forest Creek’s Answers to Supplemental Requests was served on the following by mailing same via first class U.S. postage paid, on May 29, 2012:

Robert C. Moore, Esq.  
P.O. Box 676  
Frankfort, Kentucky 40602-0676  
**Counsel for Complainant**



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BRUCE E. SMITH

**Bruce Smith**

---

**From:** Bruce Smith  
**Sent:** Monday, May 21, 2012 4:06 PM  
**To:** 'Robert Moore'  
**Cc:** 'Constance Grayson'  
**Subject:** FW: Rob Moore  
Rob

To follow our telephone conversation on Thursday, May 17, 2012, the records requested in your letter of May 1, 2012 (of which you already have an electronic version) will be available for your personal inspection on Friday, May 25, 2012. If you are unable to come that day, please advise.

Also be advised that Connie Grayson told me during a telephone conversation on Friday that she had printed paper copies of the electronic scan of the aforementioned. She also mentioned that you could look at her paper instead of my client's paper at your convenience. Based on the emails below, you have apparently decided otherwise.

**Bruce E. Smith**

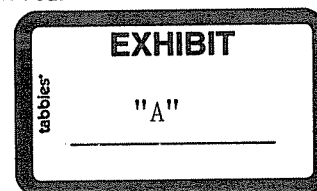
Bruce E. Smith Law Offices, PLLC  
201 South Main Street  
Nicholasville, KY 40356  
Phone: (859) 885-3393  
FAX: (859) 885-1152  
[bruce@smithlawoffice.net](mailto:bruce@smithlawoffice.net)

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The following warning is required by the IRS whenever tax advice is given. If this email contains no direct or indirect tax advice, the warning is not applicable. As a result of perceived abuses, the Treasury has recently promulgated Regulations for practice before the IRS. These Circular 230 regulations require all attorneys and accountants to provide extensive disclosure when providing certain written tax communications to clients. In order to comply with our obligations under these Regulations, we would like to inform you that since this document does not contain all of such disclosure, you may not rely on any tax advice contained in this document to avoid tax penalties nor may any portion of this document be referred in any marketing or promotional materials.

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5/21/2012



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**From:** Constance Grayson [mailto:cgraysonlaw@yahoo.com]  
**Sent:** Monday, May 21, 2012 3:24 PM  
**To:** Bruce Smith  
**Subject:** Re: Rob Moore

I will just do an open records request for those documents. I did not realize that what was being scanned included Rob's request. I paid to have it scanned and I am not going to return it. I got no paper copies, just the cd.

Constance G. Grayson  
Gullette and Grayson  
125 S. Main Street  
Nicholasville, KY 40356  
(859) 885-5536

---

**From:** Bruce Smith <bsmith@smithlawoffice.net>  
**To:** Constance Grayson <cgraysonlaw@yahoo.com>  
**Sent:** Monday, May 21, 2012 2:47 PM  
**Subject:** RE: Rob Moore

Connie

That being the case, I want to retrieve from you the CD and paper copies of those documents that were part of his Open Records request not included in yours. In other words, the documents (electronic and otherwise) as to Clays Crossing, Forest Hills and Meadow Ridge.

Please let me know when it is convenient for you to return the above.

**Bruce E. Smith**  
Bruce E. Smith Law Offices, PLLC  
201 South Main Street  
Nicholasville, KY 40356  
Phone: (859) 885-3393  
FAX: (859) 885-1152  
[bruce@smithlawoffice.net](mailto:bruce@smithlawoffice.net)

---

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5/21/2012

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**From:** Constance Grayson [mailto:cgraysonlaw@yahoo.com]  
**Sent:** Monday, May 21, 2012 2:36 PM  
**To:** Bruce Smith  
**Subject:** Re: Rob Moore

I spoke with Rob. He knew I was sending him a cd of the documents that pertained to my open records request. I think he is taking the position that his request was different and that he wants to see the documents themselves. He is going to call you.

Constance G. Grayson  
Gullette and Grayson  
125 S. Main Street  
Nicholasville, KY 40356  
(859) 885-5536

---

**From:** Bruce Smith <bsmith@smithlawoffice.net>  
**To:** Constance Grayson <cgraysonlaw@yahoo.com>  
**Sent:** Monday, May 21, 2012 9:59 AM  
**Subject:** Rob Moore

Connie

Were you able to make connections with Moore Friday and work things out?

**Bruce E. Smith**  
Bruce E. Smith Law Offices, PLLC  
201 South Main Street  
Nicholasville, KY 40356  
Phone: (859) 885-3393  
FAX: (859) 885-1152  
[bruce@smithlawoffice.net](mailto:bruce@smithlawoffice.net)

---

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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAY 30 2012

PUBLIC SERVICE  
COMMISSION

In the Matter of:

|                         |   |                     |
|-------------------------|---|---------------------|
| FOREST CREEK, LLC       | ) |                     |
| COMPLAINANT             | ) |                     |
|                         | ) |                     |
| VS.                     | ) | CASE NO. 2011-00297 |
|                         | ) |                     |
| JESSAMINE SOUTH ELKHORN | ) |                     |
| WATER DISTRICT          | ) |                     |
|                         | ) |                     |
| DEFENDANT               | ) |                     |

**WATER DISTRICT'S REPLY TO FOREST CREEK'S  
MEMORANDUM IN OPPOSITION FILED MAY 16, 2012**

Comes now the Jessamine – South Elkhorn Water District (“the Water District”), by counsel, and for its Reply to Memorandum of Forest Creek, LLC (“Forest Creek”) in Opposition (“Memorandum in Opposition”) to the Water District’s Motion to Dismiss Complaint and Alternatively, Motion to Suspend Proceedings and Supplement the Record (“Motion”), filed May 16, 2012, states as follows.

The Water District incorporates its Motion by reference and will not reiterate the arguments contained therein except as may be necessary to respond to specific arguments contained in Forest Creek’s Memorandum in Opposition.

**1. Email of April 10, 2012**

Forest Creek dismisses the email as it “did not concern this case, and was not read by Mr. Wuetcher”. This statement is inaccurate on both counts. Mr. Wuetcher obviously did read the disparaging email itself (although not the attachments), and it was his response to it that revealed

that the *ex parte* contact by Forest Creek occurred. As noted in the Motion, the email does not appear to initiate a conversation; rather it refers to the “latest response to our complaint” in the Jessamine Circuit Court. Further, as detailed in the Motion, Forest Creek is making numerous allegations in Case No. 12-CI-00081 that relate to the same transaction which Forest Creek currently claims is subject to the exclusive jurisdiction of the Kentucky Public Service Commission (PSC), at least in its arguments in Case No 2011-00297. Forest Creek’s facile dismissal of this obvious and blatant attempt to influence the PSC on this transaction, and indeed to induce the PSC to make Forest Creek’s argument for it in the Jessamine Circuit Court, further supports the need for the relief requested in the Water District’s Motion..

**2. Earlier *Ex Parte* Communications**

Forest Creek’s apparent position is that any contacts between its representatives or agents that occurred prior to August 5, 2011 (the date that Forest Creek filed its Complaint that initiated Case No. 2011-00297) are of no relevance to this proceeding. In other pleadings, Forest Creek has stated that its interest in avoiding its contractual obligations and “choosing” a new option began after it learned about Option 1 in its conversations with PSC staff in May, 2010. Based on those conversations, Forest Creek came to the conclusion that it was entitled to avoid its years-old contractual obligations and choose a different option. Whether this conclusion was an accurate reflection of what Forest Creek was advised by the Commission is not knowable based on Forest Creek’s limited responses to date. However, one point is clear. Forest Creek began its campaign to force the Water District to accept a different option for service based on its understanding of whatever it was told at its *ex parte* meetings with the PSC. All of the events that have followed, including Forest Creek’s Complaint, must be viewed in this context.

It is correct that officials from the Water District met with PSC staff on November 30, 2010. The purpose of this discussion was to ascertain what basis there was for Forest Creek's demand to exit its long standing contract and proceed under a different option. This meeting, which was discussed in the Motion, was immediately made known to Forest Creek, and indeed Forest Creek mentioned the meeting in a letter from one of its three separate counsel dated the very next day, December 1, 2010. This meeting had no effect on subsequent events, as the Water District has not requested any relief from the PSC. Forest Creek, on the other hand, has filed a complaint seeking relief from the PSC on the subject matter and transaction that are directly involved in this proceeding and that were the subject of *ex parte* discussions in May, 2010. This proceeding follows a direct line from Forest Creek's original *ex parte* contacts through the filing and processing of its complaint.

### **3. Purpose of the Motion**

Forest Creek's Response states that the Water District's Motion is an "attempt to delay the resolution of this matter." Memorandum in Opposition at page 2. Forest Creek further refers to the Water District's Motion as "frivolous" and mischaracterizes the Water District's attempt to determine the extent of Forest Creek's shadow contacts with the PSC as intended "to avoid having to address the merits of Forest Creek's Complaint and the Water District's practices...". Memorandum in Opposition at page 4.

Forest Creek is mistaken in believing that *ex parte* communications are frivolous. As the Court of Appeals has stated with respect to a similar argument, *ex parte* contacts are not the "bread and butter" of the administrative process in Kentucky, and are not to be tolerated with a

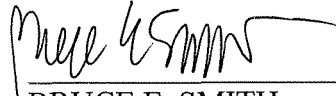
knowing wink. Such contacts are not to be treated as what is normal and usual in administrative agencies or the courts.<sup>1</sup>

Forest Creek has admitted initiating numerous *ex parte* communications concerning the issues and underlying transaction in this case, including the most recently revealed *ex parte* communication, which is outrageous in its content and very worthy of suspicion in its implications of other previous and as yet unrevealed communications. However, Forest Creek would deny the Water District the right to know what has occurred to bring about the current procedural train wreck involving two still pending Jessamine Circuit Court cases (Forest Creek's counterclaim in Case No. 10-CI-01394 and 12-CI-00081), a PSC proceeding, and a Court of Appeals proceeding on the same underlying transaction. Forest Creek even objects to the Water District's making a Motion as "frivolous", and objects not only to consideration of the Motion to Dismiss, but also to the PSC revealing the contacts in this case and allowing the Water District the opportunity to review what has occurred. Given Forest Creek's cavalier attitude even after being caught soliciting the PSC staff to act as its attorney in Case No. 12-CI-00081, the Water District is certainly entitled to have the PSC itself detail all contacts related to this underlying transaction. The Water District is further entitled to a reasonable opportunity to review those contacts to determine the full impact that such contacts may have had on this proceeding. The Water District has no interest in pursuing purely procedural contacts, but the record in this case already has examples of substantive *ex parte* contacts about this underlying transaction. A complete record of all such contacts is required to meet the standard set forth by the Court of Appeals. Given Forest Creek's cavalier attitude towards such contacts, the Water District is unable to rely on Forest Creek's responses alone in creating such a complete record.

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<sup>1</sup> Louisville Gas and Electric v. Commonwealth of Kentucky, et al., 867 S.W. 2d 897 (Ky. App. 1993).

WHEREFORE, the Water District moves that the PSC grant the relief requested in the Water District's Motion.



BRUCE E. SMITH  
201 SOUTH MAIN STREET  
NICHOLASVILLE, KY 40356  
(859) 885-3393  
Fax: (859) 885-1152  
**Attorney for Water District**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing Water District's Reply to Forest Creek's Memorandum in Opposition Filed May 16, 2012 was served on the following by mailing same via first class U.S. postage paid, on May 29, 2012:

Robert C. Moore, Esq.  
P.O. Box 676  
Frankfort, Kentucky 40602-0676  
**Counsel for Complainant**



BRUCE E. SMITH



COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

FOREST CREEK, LLC  
  
COMPLAINANT

vs.

JESSAMINE- SOUTH ELKHORN WATER DISTRICT  
  
DEFENDANT

)  
)  
)  
) **Case No.**  
) **2011-00297**  
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**SUPPLEMENT TO**  
**JESSAMINE-SOUTH ELKHORN WATER DISTRICT'S RESPONSES TO FIRST**  
**INFORMATION REQUESTS SERVED BY FOREST CREEK, LLC**

Comes Jessamine - South Elkhorn Water District ("Water District"), by counsel, and, without waiving its jurisdictional challenge, states as follows regarding its *Supplement to Responses to First Information Requests* ("Requests") served by Forest Creek, LLC ("Forest Creek"):

The Water District has not completed its investigation, discovery or analysis of all the facts of this case and has not completed preparation for the hearing. Accordingly, all of the following responses are provided without prejudice to its right to introduce at the hearing any evidence that is subsequently discovered relating to the proof of subsequently discovered material facts. Moreover, facts, documents and things now known may be imperfectly understood and, accordingly, such facts, documents, and things may not be included in the following responses. The Water District reserves the right to reference, discover, or offer into evidence at the time of hearing any and all facts, documents and

things notwithstanding the initial responses and objections interposed herein. The Water 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.

**SUPPLEMENTAL RESPONSE FOLLOWS ON NEXT PAGE**

**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.

**Supplemental Answer:** There is a correction to the initial Answer to this Information Request below and there is one additional document attached hereto which was not mailed or delivered to Forest Creek or its representatives.<sup>1</sup>

**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 **27**, 2012

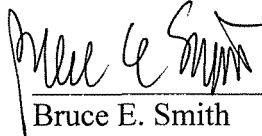
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<sup>1</sup> The correction to the initial Answer is underlined and printed in bold type.

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.]

**WITNESS VERIFICATION IS ATTACHED TO THIS FILING**

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 *Supplement to Responses to First Information Requests Served by Forest Creek, LLC* was served by first class mail, postage prepaid, this the 29th day of May, 2012, to Robert C. Moore, Esq., Hazelrigg & Cox, LLP, P. O. Box 676, Frankfort, KY 40602-0676.



---

BRUCE E. SMITH

# Horne Engineering, Inc.


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

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ENGINEERS • LAND SURVEYORS • PLANNERS  
*email@horneeng.com*

## MEMORANDUM

To: Board of Commissioners  
Jessamine South Elkhorn Water District

From: John G. Horne, PE, PLS   
Consulting Engineer

Date: April 13, 2012

Subject: Corridor Location, Offsite Utilities - Forest Brook Subdivision

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Attached, please find copy of the letter forwarded to the Forest Brook Subdivision representative relative to the committee meeting pertaining to the offsite utilities location. It is my understanding, based on discussion with Mr. Carlstedt that nothing has been submitted to his office pertaining to the route within Wilmore and ultimate connection point.

JGH/jt  
enc.

cc: David Carlstedt  
Richard Decker  
Glenn T. Smith  
Bruce E. Smith  
Engr/3719  
Engr/3803  
Engr/3976  
Engr/3978  
Corr.

# Jessamine-South Elkhorn Water District

802 South Main Street, P.O. Box 731  
Nicholasville, Kentucky 40356  
Phone: (859) 881-0589 Fax: (859) 881-5080

March 27, 2012

FILE COPY

Jihad A. Hallany, PE  
Vision Engineering  
3399 Tates Creek Rd., Suite 250  
Lexington, KY 40503

Subject: Location Corridor, Offsite Utilities, Forest Brook Subdivision.

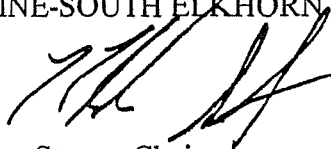
Dear Mr. Hallany:

The Committee has reviewed your plans showing the location corridor for the proposed offsite utilities for Forest Brook Subdivision and has found the proposed position located within our service territory to be acceptable. It is our assumption that your omission of sheets 13 thru 16 is because that portion falls within the City of Wilmore, and we concur that location acceptance is the purview of the City of Wilmore .

However, I would again point out to you that final approval of the construction plans is predicated on the fact that the plans must be complete. That is, continuity of service from beginning to end, and specific construction details and specifications for all components including, telemetry, pumps, master meter, etc.

We have instructed our consulting engineers to be available to meet with you and assist in whatever manner possible. Please contact them at your convenience.

Sincerely,  
JESSAMINE-SOUTH ELKHORN WATER DISTRICT


  
L. Nicholas Strong, Chairman

LNS/jt

cc: James Kelley  
David Carlstedt  
Horne Engineering, Inc.  
Engr 3803/3719  
Engr 3978  
Cov

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 29 day of May, 2012.

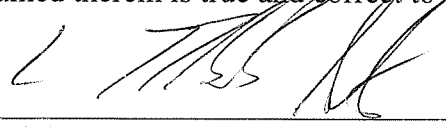
My Commission expires: 12-21-2014.

  
NOTARY PUBLIC      433464  
NO.



**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, Chairman

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 17th day of May, 2012.

My Commission expires March 23, 2016.

 462930  
NOTARY PUBLIC NO.

**RECEIVED**

**MAY 30 2012**

**PUBLIC SERVICE  
COMMISSION**