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January 2, 2013

**VIA HAND DELIVERY**

Jeff Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40601

RECEIVED

JAN 02 2013

PUBLIC SERVICE  
COMMISSION

**RE: *In the Matter of: Application of Jessamine-South Elkhorn Water District for a Certificate of Public Convenience and Necessity to Construct and Finance a Waterworks Improvement Project Pursuant to KRS 278.020 and 278.300 – Case No. 2012-00470***

Dear Mr. Derouen:

In accordance with the Commission's November 27, 2012 Order, please find and accept for filing the original and five copies of Forest Hills Residents' Association, Inc.'s and William Bates' Responses to the Supplemental Requests for Information propounded by Jessamine-South Elkhorn Water District.

Please acknowledge receipt of these filings by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me. Should you have any questions please contact me at your convenience.

Sincerely,

Stoll Keenon Ogden PLLC

Monica H. Braun

114681.140074/4097676.1



COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JESSAMINE-SOUTH )  
 ELKHORN WATER DISTRICT FOR A )  
 CERTIFICATE OF PUBLIC )  
 CONVENIENCE AND NECESSITY TO ) CASE NO. 2012-00470  
 CONSTRUCT AND FINANCE A )  
 WATERWORKS IMPROVEMENT )  
 PROJECT PURSUANT TO KRS 278.020 )  
 AND 278.300 )

CERTIFICATION OF RESPONSES TO INFORMATION REQUESTS

COMMONWEALTH OF KENTUCKY )  
 ) SS:  
 COUNTY OF JESSAMINE )

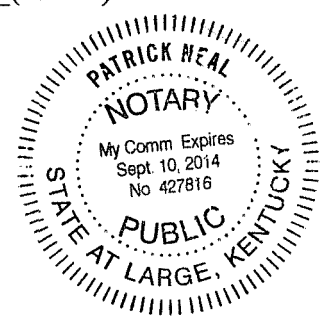
This is to certify that I have supervised the preparation of Forest Hills Residents' Association, Inc. and William Bates' January 2, 2013 Responses to the Supplemental Requests for Information propounded by the Jessamine-South Elkhorn Water District in this matter and that the responses are true and accurate to the best of my knowledge, information and belief formed after reasonable inquiry.

Date: 12/31/12 \_\_\_\_\_  
 William Bates  
 Individually and as President of Forest Hills Residents' Association, Inc.

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 31<sup>st</sup> day of December 2012.

\_\_\_\_\_  
 Notary Public (SEAL)

My Commission Expires:  
Sept. 10 2014



**JESSAMINE-SOUTH ELKHORN WATER DISTRICT**  
**CASE NO. 2012-00470**  
***FOREST HILLS RESIDENTS' ASSOCIATION, INC.'S AND WILLIAM BATES'***  
***RESPONSE TO JESSAMINE-SOUTH ELKHORN WATER DISTRICT'S***  
***SUPPLEMENTAL REQUESTS FOR INFORMATION***

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**Witness: William Bates**

1. As the Intervenor's investigation continues, please provide a supplemental response to any answer which the Intervenor has claimed is premature in their initial Responses to JSEWD's First Set of Informational Requests due to their ongoing investigation. This is specifically stated to be an ongoing request.

**Response:**

Intervenor will provide supplemental responses to the Water District's Requests for Information.

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**Witness: William Bates**

2. Please admit or deny that as stated on FH-BATES\_R\_JSEWD1#2h, page 9 of 14, property values in the Forest Hills subdivision have been affected significantly by the economic downturn described therein.

**Response:**

The statement at the cited page number is "downturn in real estate market." Intervenors acknowledge that the downturn in the real estate market has affected property values in Forest Hills Estates.

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**Witness: William Bates / E. Clark Toleman**

3. With respect to the response to JSEWD's Request No. 3 of its First Set of Information Requests, please provide the following:
- a. For each member of the Residents' Association who believes that her or his property value will be diminished by the construction of the proposed water tank, a detailed statement of the support for such belief, including any analysis of how such a belief was formed. Further provide for each such member a statement as to what inquiry, if any, they made as to the ownership and anticipated use of any neighboring property prior to purchasing their property – if no such inquiry was made, please so state. Please also provide for each such member a statement as to whether they were advised by anyone, including any realtor, of the proposed use of JSEWD's subject property at any time.
  - b. Please state on behalf of the Residents' Association or any member thereof when and under what circumstances the Association or any members thereof learned that the developer of the subdivision was "aware years earlier of the location for the proposed water tower", as stated in FH-BATES\_R-JSEWD1#2h, page 8 of 14.
  - c. For any response under JSEWD's Request No. 3 of its First Set of Information Requests or its subparts, or any other of JSEWD's First Request in which the Intervenor stated that a response was dependent upon additional investigation, please provide an additional response based upon the Intervenor's investigation and review of the Information Responses filed on December 11, 2012 or as a result of any other investigation conducted by the Intervenor.

**Response:**

Intervenor do not speak for each member of the Residents' Association with respect to each member's property value. This response is made on behalf of Mr. Bates.

- a. Mr. Bates believes that the presence of a 1,000,000 gallon above ground water tank on a lot that adjoins his subdivision will diminish the value of his property because of the negative impact of such water tank on the aesthetics of the neighborhood. His view is based on common sense. Mr. Bates asked about the number of homes to be built in the subdivision and the status of the farm from which the lots were developed. He was aware that the farm was for sale and was told that there could not be any additional lots developed.

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E. Clark Toleman is a certified real estate appraiser with MAI and SRA designation from the Appraisal Institute. Mr. Toleman is of the opinion, based upon his training and experience, that the value of the lots and homes in Forest Hills Estates will be dramatically affected if the proposed water tank is constructed in the lot adjacent to the subdivision. An important factor in the purchasing decision of persons who might be interested in buying property in the subdivision is the view that is available. View has an impact on both developed and undeveloped land. The construction of the proposed water tank will have a negative impact on the sight view shed in the neighborhood. The properties on Chinkapin Drive will be more negatively affected than the properties on Burr Oak Drive. However, low sales prices for the Chinkapin properties will be used as comparable valuations for the Burr Oak properties and the presence of the water tank will, thus, cause valuations on Burr Oak to be lower than they might otherwise be without the water tank. The water tank will have a more significant negative impact on the properties in Forest Hills Estates because the subdivision is an upscale neighborhood. Prospective purchasers of these upscale properties have more choices as to where they can purchase properties and will simply choose not to purchase property in a subdivision with a 1,000,000 gallon above-ground water tank adjacent to it. The presence of the water tank will cause market resistance to properties in the subdivision to develop. In addition, lenders will be resistant to loan money to purchase property in the subdivision if the water tank is constructed. The principle of conformity and regression will apply if the water tank is constructed. Under that principle, the value of real estate reduces until there is no market resistance. It is difficult to determine what that value is, but Mr. Toleman is confident that it is significantly lower than the purchase prices paid for property in the subdivision as the highest and best use of the subdivision will change to a lower value neighborhood.

- b. April 7, 2010, when a representative of the Water District so advised representatives of the Residents' Association.
- c. Intervenor will provide a supplemental response to the Water District's Request No. 3 of its First Set of Information Requests upon completion of their investigation.

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**Witness:**      **William Bates / Counsel**

4.      With respect to the response to JSEWD's Request No. 7 of its First Set of Information Requests, please provide any authority known to the Intervenors or to be relied upon by the Intervenors that does not involve a high voltage electric transmission, this is specifically stated to be an ongoing request.

**Response:**

Intervenors currently intend to rely on the authorities cited in their response to Request No. 7 of JSEWD's First Set of Information Requests.



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**Witness:**      **William Bates**

5.      With respect to JSEWD's Request No. 10 of its First Set of Information Requests, please provide any objections to the suitability of the proposed site under the conditions stated therein that the Intervenors have discovered after their review of the District's responses. If none, so state. This is specifically stated to be an ongoing request.

**Response:**

The Intervenors' investigation is still ongoing. This response will be supplemented when the investigation is completed.

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**Witness: William Bates**

6. Assuming *arguendo* that the PSC determines that the proposed water tank is needed, please respond to JSEWD's Request No. 11 of its First Set of Information Requests.

**Response:**

Intervenors decline to assume that the proposed water tank is needed.

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**Witness: William Bates**

7. With respect to JSEWD's Request No. 12 of its First Set of Information Requests, please state with specificity what, if any, inaccuracies that the Intervenors have discovered in the history and background statement after their review of JSEWD's responses. If none, so state. This is specifically stated to be an ongoing request.

**Response:**

Please see the Intervenors' response to Request No. 12 of the Water District's First Set of Information Requests.

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**Witness:**      **Counsel / William Bates**

8.      Please advise as to when the Intervenor expect to be prepared to offer the results of their investigation in the form of any proposals or arguments (including the rationale, basis and support for such proposals) as to alternatives for either the site of the proposed water tank or the need for the proposed water tank.

**Response:**

Intervenor expect to be prepared to offer the results of their investigation when it is completed.

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**Witness:**      **Counsel / William Bates**

9.      Provide details of any and all communications, conversations or discussions between the Intervenor, or any contractors, agents or representatives of the Intervenor and any officials, agents, contractors or representatives of Kentucky American Water Company ("KAWC"), that involve any reference whatsoever to this Application, the Intervenor's prior complaint in Case No. 2011-00138, or any other issue or aspect related to the subject water tank, including the dates, participants and subjects of such communications, conversations and discussions. Included in the response should be any documents, electronic conversations or other written documents that in any way reference this case. Should any claim of privilege be asserted, the Intervenor should state the date and nature of the contact and the full rationale and basis asserted for such a privilege.

**Response:**

Objection. Information regarding communications or the lack of communications between counsel for Intervenor and other persons that occurred in anticipation of, or preparation for, this proceeding are protected from disclosure by the work product doctrine. Without waiving the foregoing objection, Intervenor state that they are not aware of any communications between contractors, agents or representatives of the Intervenor and any officials, agents, contractors or representatives of Kentucky-American Water Company ("KAWC") that involve any reference to the Application in this proceeding.

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**Witness:**      **Counsel / William Bates**

10.      Provide details of the full relationship between any member of the Forest Hills Residents' Association, Inc. and KAWC or any employee, agent or contractor of KAWC. The same information should be provided for any resident or property owner in the Forest Hills Subdivision who is not formally a member of the Forest Hills Residents' Association, Inc. This should include any financial interests held by the above in KAWC or SKO; whether any resident or family of any resident is employed by KAWC either as an employee, contractor or otherwise; and any other information that is relevant to determining the nature and the extent, if any, of the relationship between KAWC and the Intervenors.

**Response:**

Other than the fact that the law firm with whom counsel for the Intervenors practice also represents KAWC in certain matters, Intervenors are aware of no relationship responsive to Request No. 10.

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**Witness: Counsel / William Bates**

11. Provide details of all assistance, if any, which has been provided or is planned to be provided by KAWC to the Intervenors or residents and owners in the Forest Hills Subdivision or their representatives in preparing or pursuing the Intervenors' position in this proceeding or in preparing and pursuing the interest that the Intervenors asserted in PSC Case No. 2011-00138. As used herein, "assistance" includes financial, technical, consulting, advice or any other form of assistance.

**Response:**

Objection. Information regarding assistance or the lack of assistance sought or obtained by counsel for Intervenors from other persons that occurred in anticipation of, or preparation for, this proceeding is protected from disclosure by the work product doctrine. Without waiving the foregoing objection, Intervenors state that they are aware of no assistance provided or planned to be provided by KAWC to the Intervenors in this proceeding.

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**Witness: Counsel**

12. Please admit or deny that JSEWD's storage capacity must be sufficiently sized to provide adequate storage capacity for its customers under both normal conditions and drought of record conditions, in order to for the system to have sufficient contracted water supply and storage to meet maximum daily customer demands under both scenarios. If denied in whole or in part, please provide a detailed explanation of the reason or reasons that all or part of this request is denied, with the rationale, basis and support for such denial. In particular, if denied, please state how such denial is consistent with the PSC's Order of April 25, 2008 at page 36 in Case No. 2007-00134.

**Response:**

The order cited in Request No. 12 does not relate to water storage capacity; it relates to sufficiency of supply and water treatment capacity. 807 KAR 5:066, Section 4(4) and Commission orders construing same provide the standard for water storage capacity.