JOHNSON RADCLIFFE
PETROV & BOBBITT PLLC

June 30, 2011

VIA FEDERAL EXPRESS
Ms. Melissa Chao, Acting Chief Clerk
Office of Chief Clerk
Texas Commission on Environmental Quality
P. O. Box 13087, MC105
Austin, Texas 78711-3087

Re: *Application of Roman Forest Consolidated Municipal Utility District for a Standby Fee for Unimproved Property within the District*; SOAH Docket No. 582-11-0486; TCEQ Docket No. 2009-1872-DIS

Dear Ms. Chao:

Enclosed for filing with the Texas Commission on Environmental Quality are one (1) original and seven (7) copies of the Applicant's Reply to the Executive Director's and the Protestant's Exceptions to the Administrative Law Judge's Proposal for Decision for the above styled application.

Should you have any questions regarding this matter, please do not hesitate to contact me at 713/237-1221.

Very truly yours,

Jessica M. Estrada
Legal Secretary to Alan P. Petrov

Enclosures
cc: Mailing List

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SOAH DOCKET NO. 582-11-0486

TCEQ DOCKET NO. 2009-1872-DIS

APPLICATION OF ROMAN FOREST CONSOLIDATED MUNICIPAL UTILITY DISTRICT FOR A STANDBY FEE FOR UNIMPROVED PROPERTY WITHIN THE DISTRICT	§ § § § § §	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

APPLICANT'S REPLY TO THE EXECUTIVE DIRECTOR'S AND THE PROTESTANT'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION

COMES NOW, Roman Forest Consolidated Municipal Utility District (the "District"), the Applicant in the above captioned matter, and files this Reply to the Executive Director's ("ED") and the Protestant's Exceptions to the Administrative Law Judge's ("ALJ") Proposal for Decision ("PFD"). The Applicant agrees with the ED's Exceptions and opposes the Protestant's Exceptions.

I. BACKGROUND

On August 26, 2009, the Applicant filed its application for approval of a standby fee with the Texas Commission on Environmental Quality (the "TCEQ"). The standby fee applied for represented the same fee previously approved by the TCEQ and the same fee that the Applicant has been charging undeveloped property for approximately twenty (20) years. Mohammed Ashraf, an absentee property owner within the District, who purchased his property after the District had been levying a standby fee for several years and with full knowledge of the standby fee, requested a hearing regarding the standby fee application. Mr. Ashraf had also requested a hearing on the District's two prior standby fee applications. With respect to the two prior applications, Mr. Ashraf failed to appear at the initial hearing that he requested and the

applications were remanded to the ED for administrative processing. With respect to the pending application, Mr. Ashraf was permitted to appear at the initial hearing by phone and was named a party.

At the initial hearing on the pending application, the ED recommended a standby fee of $190 per year per undeveloped lot and the Applicant agreed with the ED staff's recommendation. Mr. Ashraf did not agree and instead requested a hearing on the merits which necessitated a discovery schedule, pre-filed testimony, prehearing conferences and finally the hearing on the merits. While this schedule was established at Mr. Ashraf's request, Mr. Ashraf did not file any discovery request, did not file pre-filed testimony, did not appear at the prehearing conference and did not appear at the hearing on the merits.

II. APPLICANT'S REPLY TO EXECUTIVE DIRECTOR'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION

While the ED agreed with the ALJ's recommendation to approve an annual operation and maintenance standby fee of $190 and supports issuance of the ALJ's proposed Order, the ED filed Exceptions requesting minor modifications to the proposed Order. The Applicant agrees to and supports the ED's Exceptions.

III. APPLICANT'S REPLY TO PROTESTTANT'S EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION

After requesting a hearing and delaying consideration of the District's application for more than a year, but then choosing not to participate in the hearing and presenting no evidence, Protestant objects to the ALJ's proposed Order. The Applicant objects to Protestant's Exceptions. Said Exceptions are not supported by any evidence in the record nor are they supported by fact. Contrary to Mr. Ashraf's unsubstantiated statements, the standby fee has enabled the District to

actually lower its tax rate over the last several years thereby improving the marketability of property in the District.

IV. CONCLUSION

The Applicant respectfully requests that the TCEQ adopt the PFD and grant the ALJ's proposed Order with the minor modifications recommended by the ED.

Respectfully submitted,

JOHNSON RADCLIFFE PETROV & BOBBITT PLLC

By: _____

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ATTORNEYS FOR ROMAN FOREST
CONSOLIDATED MUNICIPAL UTILITY DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of June, 2011, a true and correct copy of the foregoing Roman Forest Consolidated Municipal Utility District's Reply to the Executive Director's and the Protestant's Exceptions to the Administrative Law Judge's Proposal for Decision was forwarded by overnight mail for filing with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas, and a copy was sent to all persons on the attached mailing list by US Mail, messenger, electronic mail and/or facsimile.

Alan P. Petrov

MAILING LIST
ROMAN FOREST CONSOLIDATED MUNICIPAL UTILITY DISTRICT
SOAH DOCKET NO. 582-11-0486
TCEQ DOCKET NO. 2009-1872-DIS

The Honorable Thomas H. Walston
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