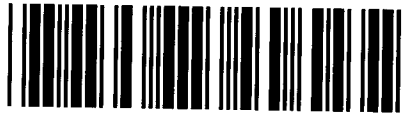


Control Number: 43534



Item Number: 4

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

**SOAH DOCKET NO. 582-07-0520  
TCEQ DOCKET NO. 2006-1339-UCR**

43534  
2011 OCT 20 AM 11:42  
FILED  
TCEQ-FILED CLERK

**APPLICATION OF MUSTANG § BEFORE THE STATE OFFICE**  
**VALLEY WATER SUPPLY §**  
**CORPORATION (WSC) TO AMEND §**  
**CERTIFICATE OF CONVENIENCE § OF**  
**AND NECESSITY (CCN) NO. 11175, IN §**  
**BOSQUE AND CORYELL COUNTIES, §**  
**TEXAS; APPLICATION NO. 35384-C § ADMINISTRATIVE HEARINGS**

**ORDER NO. 1**

**I. INTRODUCTION**

On November 21, 2006, a preliminary hearing was held in this case, and jurisdiction was proven. The following appeared and were admitted as parties:

<b>PARTY</b>	<b>REPRESENTATIVE</b>
Mustang Valley Water Supply Corp.	Patricia Coy
Executive Director (ED)	Brian McLeod on behalf of Spencer Marks
Public Interest Counsel (PIC)	N/A
Protestant Landowner	Jeffrey Martin Hewlett
City of Meridian	Kerry Russell

**II. SCHEDULE**

The parties agreed on the following schedule for prehearing activities and the hearing on the merits of the application, which schedule shall govern this proceeding:

<b>DEADLINE/DATE</b>	<b>ACTIVITY</b>
January 8, 2007	Discovery Begins.
February 28, 2007	Deadline to serve written discovery requests.
March 30, 2007	Deadline to serve responses to written discovery requests.
April 23, 2007	Applicant to prefile its direct case in writing, including all testimony and exhibits.

DEADLINE/DATE	ACTIVITY
May 25, 2007	Protestants to prefile their direct cases in writing, including all testimony and exhibits.
June 29, 2007	ED to prefile its direct case in writing, including all testimony and exhibits
July 13, 2007	Deposition period ends.
August 3, 2007	Deadline to file objections to and motions to strike any prefiled evidence.
August 10, 2007	Deadline to file responses to objections and motions to strike prefiled evidence
August 17, 2007	Pretrial Telephone Conference
August 22-23, 2007	Hearing on the merits (HOM) of application begins.

### III. HEARING AND PREHEARING DATES AND LOCATION

The hearing on the merits will convene at **9:00 a.m., August 22, 2007**, at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas . Unless the parties request additional time in writing at least three weeks prior to the commencement of the hearing, the hearing will conclude at the close of business on August 23, 2007.

### IV. PROCEDURAL SCHEDULE

Except as otherwise provided herein, this case shall be conducted in accordance with the procedural rules of the Texas Commission on Environmental Quality (TCEQ) and SOAH. 30 Tex. Administrative Code (TAC) Chapter 80 and 1 TAC Chapter 155. In the event of conflict, the TCEQ's rules apply. 1 TAC § 155.1 (b).

## V. DISCOVERY

Discovery shall be conducted according to the Texas Rules of Civil Procedure (TRCP), as supplemented by SOAH's discovery rules. 1 TAC § 155.31. The TRCP shall be interpreted consistently with chapter 80 of the TCEQ's rules, the Texas Water Code, the Texas Health and Safety Code, and the Administrative Procedure Act. 30 TAC § 80.151. Pursuant to SOAH Procedural Rule 1 TAC § 155.23(3), discovery documents shall be served on the other parties but shall not be filed with the Administrative Law Judge (ALJ) unless such materials are the subject of a discovery dispute and only those portions relevant to the dispute shall be attached to any pertinent motion.

The parties are expected to attempt to resolve discovery disputes; however, significant disputes which cannot be resolved should be brought to the ALJ's attention in a motion to compel. Any such motion shall include a copy of any discovery correspondence necessary for an informed ruling on the dispute.

The total time for the Applicant, Protestants as a group, the ED, and the PIC to each take oral depositions may not exceed 50 hours, although each may divided its total time among the witnesses as it sees fit. The total number of written interrogatories that any party may serve on any other party may not exceed 25. 30 TAC § 80.152(c).

## VI. PLEADINGS

Unless a party seeks a hearing and the motion is granted, the ALJ will rule on motions based on the written pleadings. If oral argument is granted, it shall be conducted by telephone conference, unless the ALJ specifies otherwise.

If a deadline is approaching and a party cannot get a fax through for reasons beyond its control, the party should call SOAH's Docketing Division, (512) 475-3445, to discuss the problem.

When filing or serving documents, the parties shall use the service list attached to this order and attach a copy of that list to each filing.

## **VII. PREFILED EVIDENCE**

All parties shall prefile their direct-case evidence in writing. One copy shall be served on the representative of every other party, and one copy shall be filed with the Judge. Rebuttal evidence and documents used for impeachment or rebuttal purposes need not be prefiled. The prefiled evidence should include all testimony and other evidence necessary to support a party's direct case.

Non-rebuttal and non-cross-examination evidence that is not prefiled will not be admitted unless the offering party shows that there is good cause to do so. Good cause will be determined primarily based the offering party's showing a need for the additional evidence, that need could not have been reasonably anticipated, the evidence was inadvertently not prefiled due to an error, and the other parties will not be unduly prejudiced by the late offering of the evidence. The party with the burden of proof is cautioned not to attempt to gain a strategic advantage by saving evidence for rebuttal that is more properly part of its direct case, since that might lead to a motion for summary disposition.

Prefiled testimony shall be written as if the questions were asked by the party's lawyer and answered by the witness. Each witness must be called to testify and adopt the prefiled testimony under oath. The testimony should then be offered as an exhibit. Every other party will have an opportunity to cross examine the witness unless that opportunity has been waived. If all other parties have waived cross-examination, the witness's testimony shall be admitted without the witness appearing.

When a party prefiles testimony, it shall indicate the sequence in which it intends to call its witnesses. If there is a need to deviate from that order, the judge and the other parties shall be informed at least 24-hours before the witness is called to testify unless the judge permits shorter notice.

Every page of every prefiled document shall be appropriately numbered, preferably in the lower right corner, to allow easy identification and reference.

On the day they will be offered, two copies of every exhibit, which will be referred to as the "Record Set" and the "Appeal Set," shall be provided to the court reporter before the hearing starts, so that the court reporter can mark them and not delay the hearing.

### **VIII. OPEN GOVERNMENT**


The Judge intends to strictly limit admission of evidence under seal and closing of the hearing on the merits to the public. The parties shall negotiate prior to the hearing to agree on redacted versions of any confidential documents that can be admitted or to stipulate to facts to which they pertain. If the parties are legitimately unable to reach an agreement, the Judge will resolve the dispute at the hearing in a session closed to the public.

### **IX. TRANSCRIPT**

For any proceeding set to last longer than one day, a court reporter is generally required and an ALJ may order one on his or her own motion. 1 TAC § 155.43(b) and 30 TAC § 80.23 (b)(4). The parties have estimated that the hearing on the merits will last longer than one day. The Applicant shall arrange for and pay a court reporter to record and transcribe the hearing on the merits and deliver the original transcript to the ALJ and two copies to the TCEQ's Chief Clerk within two weeks after the end of the hearing. The delivered transcript shall also include electronic copies

thereof on disc in text format. When the Commission makes a final decision in this case, the costs of the recording and transcription shall be allocated among the parties in accordance with 30 TAC § 80.23.

**SIGNED November 22, 2006.**

  
\_\_\_\_\_  
**AMI LARSON**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

**WILLIAM P. CLEMENTS BUILDING, Jr.**

**300 West Fifteenth Street**

**Austin, Texas 78701**

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**SERVICE LIST**

**AGENCY:** Environmental Quality, Texas Commission on (TCEQ)

**STYLE/CASE:** MUSTANG VALLEY WATER SUPPLY CORP

**SOAH DOCKET NUMBER:** 582-07-0520

**REFERRING AGENCY CASE:** 2006-1339-UCR

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**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**ADMINISTRATIVE LAW JUDGE**

**ALJ AMI LARSON**

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**REPRESENTATIVE / ADDRESS**

**PARTIES**

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xc: Docket Clerk, State Office of Administrative Hearings

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**582-07-0520**

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