

Bexar Met may file for the remaining portion of that application in the future. Bexar Met will decertify the area covered by Application No. 32247-C to SAWS and will decertify its portion of the existing dual certification with SAWS for the area adjacent to Application No. 32247-C, except that subdivision developed by Mr. Gordon Hartman that is presently being served by Bexar Met.

ACCEPTED AND AGREED TO THIS _____ DAY OF _____, 2000.

Michael F. Thuss, P.E.
President/CEO
San Antonio Water System

Thomas C. Moreno
General Manager/CEO
Bexar Metropolitan Water
District

BMWD000032

09/14/00 THU 16:36 [TX/RX NO 5451]

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01/20/0012 11 00:21 0PM 6002-01-000



BexarMet
WATER DISTRICT
"The Water Resource People"

RECEIVED

APR 26 2002

TEXAS NATURAL RESOURCE
CONSERVATION COMMISSION
UTILITIES AND DISTRICTS

April 23, 2002

Mr. Doug Holcomb, P. E.
Texas Natural Resources Conservation Commission
Water Utilities Division
Utilities and Districts Section, MC-153
P.O. Box 13087
Austin, TX 78711-3087

Thomas C. Moreno
General Manager/CEO

BOARD OF DIRECTORS

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Robert "Tinker" Garza
Director

Ysidro Solis
Director

Dear Mr. Holcomb:

On April 1, 2002 the Bexar Metropolitan Water District (BexarMet) filed an amendment to our CCN in northern Bexar County (CCN number is pending).

Please accept this letter as notification of BexarMet's desire to amend this pending application to include a dual certification with the San Antonio Water System (SAWS) for the 814 acres indicated on the enclosed map.

This concept has been discussed and approved by the San Antonio Water System.

SAWS may accomplish this by amending their existing application No. 32248-C or by new application.

Please call me at 210-357-5710 if you have any questions regarding this amendment.

I appreciate your attention to this matter.

Sincerely,

Charles E. Ahrens

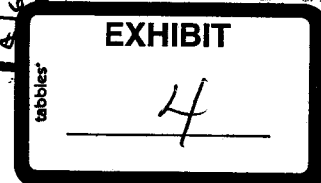
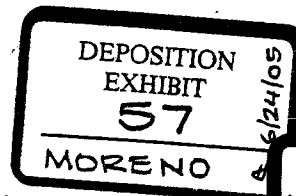
Charles E. Ahrens
Water Resources Manager

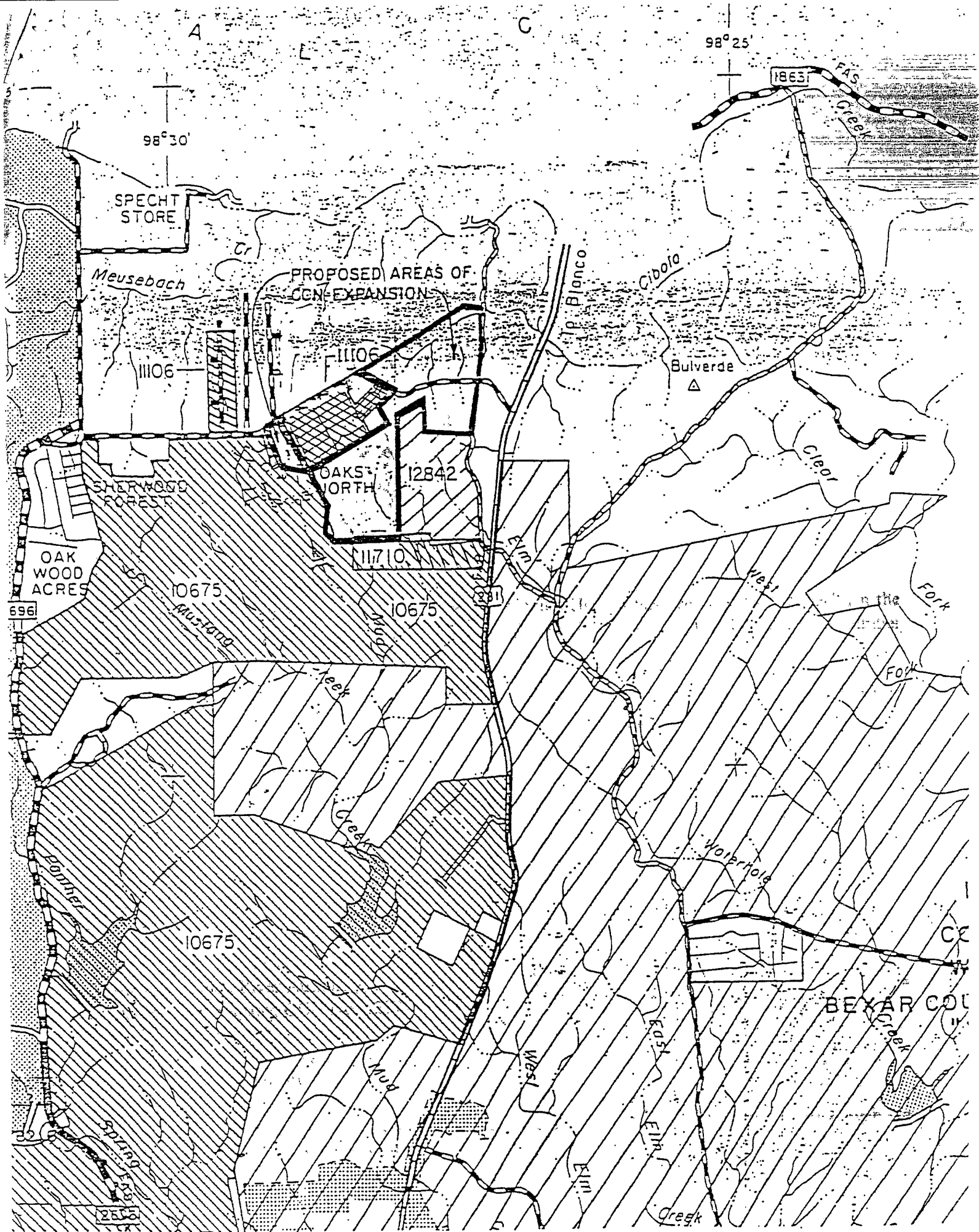
Cc: Eugene Habiger
Dwayne Rathburn
Chris Powers
Mark Zeppa

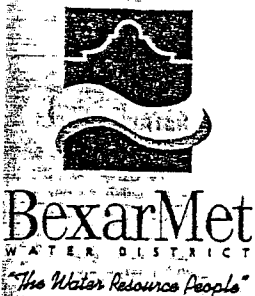
Executive Offices
2047 W. Malone
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San Branch
2706 W. Southcross
San Antonio, Texas 78211
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San Antonio, Texas 78224-5994
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Fax: (210) 922-1894







May 21, 2002

Mr. Mike Howell
Texas Natural Resources Conservation Commission
Water Utilities Division
Utility Rates and Services Section, MC - 153
P.O. Box 13087
Austin, TX 78711-3087

Re: Application of the Bexar Metropolitan Water District to amend water
CCN no 10675 in Bexar County, application No. 33862-C.

Dear Mr. Howell:

Enclosed you will find an original and three (3) copies of a publisher's affidavit and original tear sheet regarding the public notification of the above of the referenced application.

Also enclosed you will find an original and three (3) copies of an *Affidavit of Notice to Neighboring Utilities and Affected Parties* related to this application plus four (4) copies of each *Notice to Neighboring Systems and Cities*.

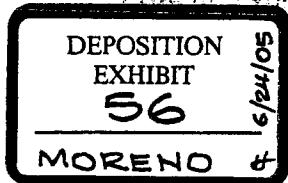
Representatives of the Bexar Metropolitan Water District and the BSR water Company have met and have preliminarily agreed to a process that will eliminate the current overlap in CCN applications. BexarMet believes that providing service to the requested area is in the public's best interest as we have developed water rights and infrastructure near the area and that the additional customer base will further develop those efficiencies.

I look forward to hearing from you at the close of the public comment period to finalize this CCN.

If you have any questions regarding this matter, please call me at 210-357-5710.

Sincerely,

Charles E. Ahrens
Deputy General Manager, Production



Thomas C. Moreno
General Manager/CEO

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San Antonio, Texas 78224-5994

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Fax: (210) 922-1894

CAUSE NO. 2004-CI-02288

1			
2	BSR WATER COMPANY, A)	IN THE DISTRICT COURT
	Texas Corporation;)	
3	SNECKNER PARTNERS, LTD.,)	
	A Texas Limited)	
4	Partnership; and DEBRA)	
	SNECKNER KENNEDY, SHERRI)	
5	MARTINEAU SNECKNER,)	
	WILLIAM KENDRICK)	
6	SNECKNER, and LOVA)	
	CATHERINE SNECKNER)	
7	BUCKNER,)	225TH JUDICIAL DISTRICT
)	
8	Plaintiffs,)	
)	
9	VS.)	
)	
10	THE CITY OF SAN ANTONIO,)	
	As Owner of SAN ANTONIO)	
11	WATER SYSTEM,)	
)	
12	Defendant.)	BEXAR COUNTY, TEXAS

VIDEOTAPED ORAL DEPOSITION OF
THOMAS C. MORENO
June 24, 2005



1 Mr. Moreno has outstanding claims related to his
2 employment and his contract. I understand
3 Mr. Wheatley may generally ask about his departure,
4 but because of the unusual circumstances of
5 Mr. Moreno's departure, we do intend to limit any
6 discussion about getting into Mr. Moreno's contract
7 issues, potential lawsuits other than just general
8 information. If we need to, we will -- we will ask to
9 stop the deposition and go over to the courthouse and
10 get a protective order if we -- if we think any of the
11 parties are going too far in that matter.

12 We understand that this -- BexarMet
13 is -- is not a party in this lawsuit and that
14 Mr. Wheatley certainly has a right on behalf of BSR to
15 get into a certain degree of specificity, but I did
16 need to put that on the record. It's our
17 understanding this is not to be a mini trial on
18 Mr. Moreno's contract.

19 MR. WILSON: My name is Trey Wilson. I
20 represent Bexar Metropolitan Water District. Although
21 BexarMet is not a party to the case, it's our position
22 that BexarMet is the witness insofar as Mr. Moreno's
23 activities upon which he is being questioned all
24 relate to the course and scope of his employment as
25 the General Manager of Bexar Metropolitan Water

1 District.

2 MR. RUIZ: My name is Adolfo Ruiz. I
3 am the General Counsel for Bexar Metropolitan Water
4 District, the in-house General Counsel.

5 MR. LANE: My name is Neel Lane. I'm
6 here on behalf of SAWS.

7 MS. RODRIGUEZ: Monica Rodriguez. I'm
8 here on behalf of SAWS.

9 MR. LANE: And later on we also --
10 Steve Kosub may join us. He is in-house counsel for
11 SAWS.

12 MR. WHEATLEY: Okay.

13 Q. (BY MR. WHEATLEY): Mr. Moreno, is it your
14 desire to have BexarMet's lawyers here?

15 A. I don't know that I have a -- particularly
16 any choice about it. No, I -- I don't have a problem
17 with them being here. I'd prefer that be the case.

18 Q. And why do you -- why do you not object to
19 them being here? Why do you want them here?

20 A. I really don't have a reason to object over
21 the legalities of why they should be here or not be
22 here, so I'm sort of a little bit indifferent to it.

23 Q. All right. Now, when were you last employed
24 by BexarMet?

25 A. I believe it was February, latter part of

1 February, the month of February. I don't remember the
2 exact date on it.

3 Q. Of 2005?

4 A. Yes.

5 Q. Now, I -- I agree with Mr. Harkins. I don't
6 want to use this deposition to try those issues, okay,
7 that you may have with BexarMet or they may have with
8 you. All right?

9 A. Mm-hmm. (Nodding).

10 Q. But I do want for the record, though, to let
11 the jury know just generally that issue. Okay? And
12 in that regard I'm going to ask you were you
13 terminated by BexarMet?

14 A. Yes.

15 Q. And can you tell me, sir, what you
16 understood to be the reasons that BexarMet gave you
17 for that termination?

18 A. The reasons as to why they terminated me
19 were basically ... I -- I don't have a clear
20 understanding, okay, of why, and so -- but the reasons
21 they gave me was because I didn't do my job,
22 basically.

23 Q. And you were General Manager of BexarMet?

24 A. Yes, sir.

25 Q. And I assume you don't -- certainly don't

1 agree with those reasons.

2 A. Of course not.

3 Q. Now, also do you -- Mr. Harkins is here,
4 your personal attorney. Are you contemplating
5 litigation against BexarMet --

6 A. Yes, I am.

7 Q. -- over your termination?

8 A. Yes, I am.

9 Q. Okay. Now, did you have an opportunity,
10 Mr. Moreno, to obtain a college degree?

11 A. No, I did not. I did not finish school.

12 Q. Okay. Were you born in San Antonio,
13 raised --

14 A. Yes --

15 Q. -- here?

16 A. -- I was.

17 Q. And how far were you able to get with your
18 education?

19 A. I was a senior at St. Mary's University.

20 Q. That's --

21 A. Through --

22 Q. -- fine.

23 A. -- the years I've -- I've added my
24 schooling, and the -- St. Mary's is a lot of -- has
25 a -- being a Catholic university, has a lot of courses

<p style="text-align: right;">Page 14</p> <p>1 District were taken care of through the managing of 2 those people. 3 Q. Did you have a -- a board of directors? 4 A. Yes, I did. 5 Q. And you would report to the Board? 6 A. Yes. 7 Q. Okay. And the board had a chairman? 8 A. Yes. 9 Q. Okay. Who would you say -- In, say, the 10 year 2000, just to pick a year, up until you were 11 terminated, who were your key staff people, your top 12 staff people? 13 A. Top staff would have been -- would -- would 14 have been my deputies and maybe the management 15 information person. Do you want me to -- 16 Q. Yeah, let's -- 17 A. -- give you -- 18 Q. -- talk about -- 19 A. -- some names? 20 Q. -- their names and generally what they did. 21 A. The Senior Deputy would have been Sylvia 22 Gamez. She was in charge of administration. Mike 23 Albach was water resources. 24 Q. Help me spell his name. 25 A. A-l-b-a-c-h.</p>	<p style="text-align: right;">Page 16</p> <p>1 mentioned were there from like 2000 till you were 2 terminated, roughly? 3 A. Roughly 2000, yes. 4 Q. Okay. Because I understood that Chuck 5 Ahrens -- Not to fuss about it, but he went over to 6 SAWS at some point before you were terminated? 7 A. Yes. 8 Q. Do you remember -- 9 A. I -- 10 Q. -- when he went over to SAWS -- 11 A. I don't -- 12 Q. -- San Antonio Water -- 13 A. -- remember -- 14 Q. -- System? 15 A. No, I don't remember the exact day, but I 16 think it was in 2004, around the summer of 2004. 17 Q. Why did he leave BexarMet? 18 A. I -- I think he -- And this is my -- He 19 just -- I haven't spoken to Chuck about it other than 20 when he told me he was -- he wanted to leave. My 21 understanding was he wanted to cut down his hours of 22 working, and -- and BexarMet, you basically work 24/7, 23 even -- even if you're a deputy. 24 Q. So who took his place in water resources or 25 conservation plan?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. He was water resources? 2 A. He was water resources, yes, and permits and 3 things of that nature fell in ... Then there was 4 Chuck Ahrens. Chuck Ahrens was both -- had a foot in 5 dealing with water resources and water efficiency, our 6 conservation plan, and -- you know, and various and 7 sundry other duties. 8 And then there was Larry Bittle, who 9 was the deputy in charge of construction, maintenance 10 and basically the operations of the District. 11 Q. And how do you spell Larry's last name? 12 A. B-i-t-t-l-e. 13 Q. Okay. And those four people would be mostly 14 your senior staff? 15 A. Yes. 16 Q. Okay. 17 A. And then -- then I had an engineer, and the 18 engineer was -- District Engineer was Johnny Terrazas. 19 Q. Kervazas? 20 A. Terrazas, T-e-r-r-a-z-a-s. 21 Q. And he was your engineer, did you say? 22 A. District Engineer, yes -- 23 Q. Okay. 24 A. -- for the District. 25 Q. All right. And those particular people you</p>	<p style="text-align: right;">Page 17</p> <p>1 A. No one -- No one really took his place. I 2 had not looked for anyone to replace him. 3 Q. You still had Mike Albach -- 4 A. Mike Albach -- 5 Q. -- with -- 6 A. -- with -- 7 Q. -- water -- 8 A. -- water -- 9 Q. -- resources? 10 A. -- resources yes. 11 Q. Well, the reason I was asking is that a lot 12 of the documents in this case, Mr. Moreno, a lot of 13 the dealings with SAWS, Mr. Sneckner, were generated 14 by Mr. Ahrens. 15 A. Yes. 16 Q. And what was it about his duties that put 17 him in that position? 18 A. The same as I described earlier. Part of 19 it -- his duties were water resources, which is ... 20 Q. How did he overlap with Albach? I'm just 21 trying to understand. 22 A. Well, they -- they had a -- they had a -- a 23 very good working relationship. They had worked at 24 the Edwards Underground Water District before. That's 25 where I brought them from. Basically I -- I could use</p>

5 (Pages 14 to 17)

Page 22

1 MR. LANE: -- form.
2 Q. (BY MR. WHEATLEY): Storages facilities or
3 anything like that?
4 A. Yes, sir.
5 MR. LANE: Objection, form.
6 Q. (BY MR. WHEATLEY): Would you tell us what
7 those projects were?
8 A. Well, there were always projects that --
9 Now, one of the -- one of the ones that I think was
10 something that we wanted to work on pretty seriously
11 was a joint tank, is the one that comes to mind right
12 now, is -- where -- basically where the two utilities
13 are right next to each other and, you know, instead of
14 one -- I think there -- elevated tanks are
15 attractive, but most people don't think they are. You
16 know, instead of building two tanks across the street
17 from each other, you know, build one joint tank, so
18 we -- we tried to -- to come together and -- and build
19 a joint tank.
20 Q. Did that project -- Was it successful?
21 A. No. It's -- It -- It could -- It may
22 still be successful some day, but at this point it's
23 not yet.
24 Q. Was it your view that SAWS backed out of it?
25 A. I don't recall who backed out of it, but,

Page 24

1 developed a favorable -- or a -- you know, an
2 agreement between SAWS and BexarMet to -- for them to
3 buy the water.
4 Q. Okay. Can you think of any major project
5 that's been undertaken jointly between BexarMet and
6 SAWS on some friendly, cooperative basis?
7 MR. LANE: Objection, form.
8 A. They were all friendly. That -- We just
9 didn't take them out and -- didn't carry them out to
10 fruition, won't carry them out -- the process.
11 Q. (BY MR. WHEATLEY): So you can't think of
12 any?
13 A. I can't think of any major projects, no.
14 Q. All right. What do you do as General
15 Manager of BexarMet to keep up with SAWS and what they
16 are doing?
17 MR. LANE: Objection, form.
18 A. I don't know that that was an objective that
19 we had.
20 Q. (BY MR. WHEATLEY): I'm not asking if it was
21 an objective, but, I mean, you're the two biggest
22 players in town and you're obviously competitors, are
23 you not?
24 A. (Nodding).
25 Q. And you have to answer.

Page 23

1 you know, the different things that -- that could be
2 pointed out, I'm sure that both sides would say, you
3 know, I remember this about it and --
4 Q. Okay.
5 A. -- somebody else remembers something else
6 about it.
7 Q. So there might be a dispute about who --
8 A. Yes.
9 Q. -- backed out? What other projects have you
10 attempted with SAWS other than this joint tank
11 project?
12 A. Oh, when we finished our -- our
13 ultrafiltration plant, there were some negotiations
14 that went on for a while to -- to have SAWS buy some
15 of the water from the plant.
16 Q. Mm-hmm.
17 A. And they -- they came and took -- took over
18 the Kelly Field -- the greater Kelly area, and we took
19 over the east Kelly area adjacent to -- to Kelly, so
20 we basically took the east side of the operation and
21 they took the west side of it.
22 Q. Okay.
23 A. And the water that was initially talked
24 about as providing water to the greater Kelly was
25 coming from that treatment plant, but we never

Page 25

1 A. Yes.
2 Q. Okay. So what do you do as a competitor of
3 SAWS to keep up with what they are doing and what
4 their plans are?
5 A. I guess you just -- if you -- if you're
6 interested in keeping up with what they are doing, you
7 attend the board meetings or check on their agenda
8 just like they would, I guess, and see what we're
9 doing, and they -- we see what they are doing.
10 Q. And that was done on a regular basis, was it
11 not?
12 A. I don't know that that was done on a regular
13 basis. If you read something in the paper about a
14 deal where they were buying some water, you know, I'd
15 get the usual calls from board members or customers.
16 Q. Mm-hmm.
17 A. And if I had to inquire about whatever
18 information they were requesting, I -- then I would
19 get -- assign someone to go find out what -- what's
20 going on so that I could answer or --
21 Q. Sure.
22 A. -- respond to the question.
23 Q. Sure. That would be just a natural part of
24 your activities --
25 A. Yes, sir.

7 (Pages 22 to 25)

<p style="text-align: right;">Page 30</p> <p>1 A. No. Not off the top of my head, no.</p> <p>2 Q. All right. You know where Mr. Sneckner's</p> <p>3 ranch is, don't you?</p> <p>4 A. Generally, yes.</p> <p>5 Q. Well, I mean, it's --</p> <p>6 A. It's -- It's up in the -- I believe it's</p> <p>7 north of Timberwood or somewhere --</p> <p>8 Q. Well, if --</p> <p>9 A. -- in --</p> <p>10 Q. -- you --</p> <p>11 A. -- that --</p> <p>12 Q. -- went out 281 to Bulverde Road and turned</p> <p>13 left --</p> <p>14 A. I have never been to Mr. --</p> <p>15 Q. Okay. It's --</p> <p>16 A. -- Sneckner's --</p> <p>17 Q. -- about a mile up in there.</p> <p>18 A. Okay.</p> <p>19 Q. You -- But you know that area, do you not?</p> <p>20 A. Not -- Not as familiar as I would like to</p> <p>21 be --</p> <p>22 Q. Okay.</p> <p>23 A. -- obviously, but --</p> <p>24 Q. All right. Do you remember in 1998,</p> <p>25 Mr. Moreno, that SAWS filed a CCN application -- And</p>	<p style="text-align: right;">Page 32</p> <p>1 for it.</p> <p>2 MR. WHEATLEY: Excuse me just a minute.</p> <p>3 THE WITNESS: Sure.</p> <p>4 (Discussion off the record).</p> <p>5 (Exhibit No. 53 marked).</p> <p>6 Q. (BY MR. WHEATLEY): Let me hand you</p> <p>7 Exhibit 53, which is a letter, excuse me, of June</p> <p>8 19th, 1998, from San Antonio Water System to the Texas</p> <p>9 Natural Resource Conservation Commission and ask if</p> <p>10 you can identify that as their--oh, I'm</p> <p>11 sorry--application.</p> <p>12 A. (Indicating). I don't recall specifically</p> <p>13 seeing this. I -- These applications did not come to</p> <p>14 me directly. Those were handled by either Chuck or</p> <p>15 Mike.</p> <p>16 MR. LANE: Can I just ask on the</p> <p>17 record, is this what is previously marked as</p> <p>18 Exhibit 15?</p> <p>19 MR. WHEATLEY: I'm not sure. Do you</p> <p>20 have extra copies for Mr. Lane? The Bates number --</p> <p>21 Let me -- Hand it back, Mr. Lane. Neel, the Bates is</p> <p>22 BSR/SAWS 3835. I don't show it previously marked. .</p> <p>23 MR. LANE: I think it's Exhibit 15, but</p> <p>24 that's fine.</p> <p>25 MR. WHEATLEY: Okay.</p>
<p style="text-align: right;">Page 31</p> <p>1 by "CCN" we mean Certificate of Convenience and</p> <p>2 Necessity, right?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. Do you recall they filed a CCN</p> <p>5 application -- I think they filed maybe 12 of them</p> <p>6 that would have covered about 12,000 acres in northern</p> <p>7 Bexar County?</p> <p>8 A. I do not recall that, sir, no.</p> <p>9 Q. Well, BexarMet protested that, did they not?</p> <p>10 A. 1998, sir, is a good ways back. I do not</p> <p>11 recall the specifics of it, no, sir.</p> <p>12 Q. Do you recall that BexarMet protested?</p> <p>13 A. I recall that -- that we may have protested,</p> <p>14 which is something that is very common until you get</p> <p>15 an understanding of what -- what the CCN application</p> <p>16 is about. I mean, it -- it's a fairly common thing</p> <p>17 for you to get a -- a -- a notice from an adjacent</p> <p>18 utility saying that you've applied or a CCN</p> <p>19 application has been submitted, and it's almost an</p> <p>20 automatic that you oppose it or ask questions about</p> <p>21 it.</p> <p>22 Q. Well, why did BexarMet oppose SAWS'</p> <p>23 application for that in that --</p> <p>24 A. I don't recall exactly what it was at that</p> <p>25 time, but I'm sure that it was -- there was a reason</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. (BY MR. WHEATLEY): Let me show you</p> <p>2 Deposition Exhibit 47 from Mr. Ahrens' deposition.</p> <p>3 This is a BexarMet letter, Mr. Moreno, dated September</p> <p>4 21st, 1998, which is BexarMet's protest to SAWS'</p> <p>5 application, and that's signed by you.</p> <p>6 A. Mm-hmm. (Indicating). Okay.</p> <p>7 Q. And you do now recall, having your memory</p> <p>8 refreshed, that Exhibit 47 is the protest filed by</p> <p>9 BexarMet to the State on September -- by letter of</p> <p>10 September 21st, 1998, protesting SAWS' application, do</p> <p>11 you not?</p> <p>12 MR. LANE: Objection, form.</p> <p>13 A. That's when it was, yes.</p> <p>14 Q. (BY MR. WHEATLEY): Okay. And you see that</p> <p>15 one of the application numbers that was being</p> <p>16 protested was 32248-C.</p> <p>17 A. What page are you looking at?</p> <p>18 Q. It's in the heading of the letter.</p> <p>19 A. Okay.</p> <p>20 Q. And it's also --</p> <p>21 A. Okay.</p> <p>22 Q. -- in the first full paragraph.</p> <p>23 A. On the reference. Okay.</p> <p>24 Q. Is that correct?</p> <p>25 A. (Nodding).</p>

9 (Pages 30 to 33)

<p style="text-align: right;">Page 38</p> <p>1 called him?</p> <p>2 A. No, don't recall. I mean, there -- they</p> <p>3 communicated all the time, so, I mean -- No, I do not</p> <p>4 recall that --</p> <p>5 Q. All right.</p> <p>6 A. -- conversation having taken place.</p> <p>7 Q. Okay. Look at -- Let's continue with your</p> <p>8 protest letter, Mr. Moreno. In the next sentence you</p> <p>9 said, quote, singly certifying -- Excuse me. "Singly</p> <p>10 certificating surrounding or adjacent to SAWS would</p> <p>11 unduly restrict BexarMet's ability to expand its</p> <p>12 service area as now provided by the Texas Water Code</p> <p>13 and the Commission's Chapter 291 rules." Did I read</p> <p>14 that correctly?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And what were you saying there, sir? What</p> <p>17 concern were you expressing?</p> <p>18 A. I don't recall exactly what the objection --</p> <p>19 or why this objection was -- was put in there, but</p> <p>20 right now what comes off the top of my head would be</p> <p>21 the fact that we had other systems that were both</p> <p>22 above and below this area that is being talked about,</p> <p>23 so obviously an interconnect would have been a</p> <p>24 favorable issue for us, so that was the reason for it.</p> <p>25 Q. Let's read the next sentence in your protest</p>	<p style="text-align: right;">Page 40</p> <p>1 I'll read it, quote: "BexarMet respectfully submits</p> <p>2 that SAWS various CCN application constitute an</p> <p>3 attempt to use water CCN's as land use and development</p> <p>4 tools - activities for which they were never intended</p> <p>5 by the Legislature." Did I read that correctly?</p> <p>6 A. Yes, sir.</p> <p>7 Q. And then you added in the next sentence</p> <p>8 "Those powers may be exercised only by the San</p> <p>9 Antonio City Council to the extent and as permitted by</p> <p>10 the Texas Local Government Code." Was that -- Read</p> <p>11 that correctly?</p> <p>12 A. Yes, sir.</p> <p>13 Q. All right. And then, under paragraph (6),</p> <p>14 another part of your protest, you said, quote, "CCN's</p> <p>15 are not permissible methods of regulating water rights</p> <p>16 or aquifer protection [sic]." did I read that</p> <p>17 correctly?</p> <p>18 A. Correct.</p> <p>19 Q. Now ... And then you went on and had other</p> <p>20 reasons for your protest, did you not?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And this letter, I'm sure, don't you</p> <p>23 believe, Mr. Moreno, went over to SAWS or became part</p> <p>24 of the official records of the State?</p> <p>25 MR. LANE: Objection, form.</p>
<p style="text-align: right;">Page 39</p> <p>1 letter, quote: "SAWS has not demonstrated a need for</p> <p>2 its service to the [sic] proposed new service areas,</p> <p>3 only that SAWS wants control of these future service</p> <p>4 areas." Did I read that correctly?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And was that true?</p> <p>7 MR. LANE: Objection, form.</p> <p>8 A. Probably so if -- if that was the area -- if</p> <p>9 that was what their intent was.</p> <p>10 Q. (BY MR. WHEATLEY): Well, you believed it</p> <p>11 when you put it in the letter, didn't you?</p> <p>12 A. Well, again, part of what was here -- here</p> <p>13 in section (3) -- on item (3) says "The Bexar</p> <p>14 Metropolitan Water District protests these</p> <p>15 applications and requests a public hearing"</p> <p>16 That's to find out more information.</p> <p>17 Q. Mm-hmm.</p> <p>18 A. This is not -- We're saying, Look, here are</p> <p>19 reasons as to why we object to it. Possibly -- I</p> <p>20 mean, if you -- we have a meeting or a public hearing,</p> <p>21 we may straighten out these issues. But that's the</p> <p>22 way it appears here if we don't have any more</p> <p>23 information, so we're basically trying to find out.</p> <p>24 Q. I understand. Look over on paragraph (5) on</p> <p>25 Page 3. It's Bates page 579. "BexarMet" And</p>	<p style="text-align: right;">Page 41</p> <p>1 A. I imagine that's what happened, yes.</p> <p>2 Q. (BY MR. WHEATLEY): Now, do you recall, sir,</p> <p>3 that shortly after this protest letter was sent in by</p> <p>4 you to the State in September 1998, that y'all began</p> <p>5 discussion with SAWS to try to, as you said, resolve</p> <p>6 some of these issues?</p> <p>7 A. I don't recall if we -- how soon thereafter</p> <p>8 we started talking, but I know that Chuck Ahrens, who</p> <p>9 was assigned this task, had an ongoing dialogue with</p> <p>10 folks at SAWS.</p> <p>11 Q. And those discussions that Mr. Ahrens of</p> <p>12 BexarMet was having were to -- some attempt to resolve</p> <p>13 some of the issues that BexarMet had --</p> <p>14 A. Correct.</p> <p>15 Q. -- about SAWS' --</p> <p>16 MR. LANE: Objection --</p> <p>17 Q. (BY MR. WHEATLEY): -- application; is that</p> <p>18 correct?</p> <p>19 MR. LANE: Objection, form and leading.</p> <p>20 A. That was it.</p> <p>21 Q. (BY MR. WHEATLEY): Who else participated in</p> <p>22 the discussion with SAWS after this protest letter</p> <p>23 went out other than Chuck Ahrens? For example, did</p> <p>24 you?</p> <p>25 A. No, I did not.</p>

<div>Page 46</div> <div><p>1 it not?</p><p>2 MR. LANE: Objection, form.</p><p>3 Q. (BY MR. WHEATLEY): 32248-C?</p><p>4 A. Yes.</p><p>5 Q. And then it reads -- the agreement reads,</p><p>6 quote, "SAWS agrees to amend its existing application</p><p>7 to exclude the currently uncertified [sic] areas west</p><p>8 of U.S. 281. SAWS further agrees to rescind its</p><p>9 Application 32249-C."</p><p>10 And then, to continue reading, it says</p><p>11 "SAWS further agrees to decertify that portion of its</p><p>12 existing certificated service area that is bounded by</p><p>13 the western property line of the Mountain Lodge</p><p>14 subdivision and south of Wilderness Oaks Drive (Map</p><p>15 2)."</p><p>16 Continuing, "Bexar Met will then be</p><p>17 free to file an application with TNRCC to include</p><p>18 those properties in its CCN. In return, Bexar Met</p><p>19 will rescind its protest pending at TNRCC for SAWS</p><p>20 Application No. 32248-C, as amended, and to</p><p>21 Application Numbers 32251-C, 32295-C, 32250-C," and I</p><p>22 can't make out that other one, and the last one is</p><p>23 3225-C [sic]. Did we read that correctly?</p><p>24 MR. LANE: Objection, form.</p><p>25 A. Yes.</p></div>	<div>Page 48</div> <div><p>1 BexarMet, in accordance with this Interlocal</p><p>2 Agreement, file a CCN application for the area that</p><p>3 was currently uncertified --</p><p>4 A. I believe --</p><p>5 Q. -- west of 281?</p><p>6 A. I believe we did. I'm not -- I'm not -- I</p><p>7 don't recall.</p><p>8 Q. Well, we have it. I'll show it to you in a</p><p>9 little --</p><p>10 A. Okay.</p><p>11 Q. -- while. Okay. Now, when paragraph 5</p><p>12 said, Mr. Moreno, that SAWS would amend its existing</p><p>13 application to exclude the currently uncertified areas</p><p>14 west of 281, what -- what area was that talking about</p><p>15 generally?</p><p>16 A. I -- I don't know exactly what areas</p><p>17 were -- were covered in that, but it was whatever was</p><p>18 west of 281 generally would have been something that</p><p>19 would have been considered as part of this.</p><p>20 Q. All right, sir. Now ...</p><p>21 (Exhibit No. 54 marked).</p><p>22 Q. (BY MR. WHEATLEY): I'm going to hand you</p><p>23 Exhibit 54, Mr. Moreno --</p><p>24 A. Okay.</p><p>25 Q. -- and ask you if you can identify that,</p></div>
<div>Page 47</div> <div><p>1 Q. (BY MR. WHEATLEY): All right. Now,</p><p>2 wasn't -- was the effect of this paragraph in the</p><p>3 Interlocal Agreement with SAWS that SAWS would exclude</p><p>4 from the CCN it had on file the currently</p><p>5 uncertificated areas west of 281?</p><p>6 MR. LANE: Objection, form.</p><p>7 Q. (BY MR. WHEATLEY): Was that the agreement?</p><p>8 MR. LANE: Same --</p><p>9 A. It --</p><p>10 MR. LANE: -- objection.</p><p>11 A. -- appears that that's what it was referring</p><p>12 to, yes.</p><p>13 Q. (BY MR. WHEATLEY): Okay. And is it also</p><p>14 part of the agreement that after SAWS excluded that</p><p>15 uncertificated area west of 281, as it says, that two</p><p>16 things would happen: BexarMet could then file an</p><p>17 application to include that area in your CCN, and you</p><p>18 would withdraw your protest to SAWS' application as to</p><p>19 that --</p><p>20 MR. LANE: Objection, form.</p><p>21 Q. (BY MR. WHEATLEY): Was that your</p><p>22 understanding of the agreement?</p><p>23 A. Yes.</p><p>24 MR. LANE: Same objection.</p><p>25 Q. (BY MR. WHEATLEY): All right. And did</p></div>	<div>Page 49</div> <div><p>1 sir, as a -- the CCN application of BexarMet that was</p><p>2 received by the State on April the 3rd, 2002. And</p><p>3 I'll notice you signed it on page 13.</p><p>4 A. Okay.</p><p>5 Q. And that was the Water CCN #10675; is that</p><p>6 correct?</p><p>7 A. That's what it says, yes.</p><p>8 MR. LANE: Mr. Wheatley, is this</p><p>9 Exhibit 54 a -- a complete copy of the application?</p><p>10 MR. WHEATLEY: I have the -- what I</p><p>11 understand, Counsel--I'm just getting to it--from the</p><p>12 State, I think is their two-volume complete</p><p>13 application with letters -- It's not just the</p><p>14 application, but it's really the file on their</p><p>15 application. But if you'll look at Exhibit 49,</p><p>16 Neel ...</p><p>17 MR. LANE: What's that?</p><p>18 MR. WHEATLEY: Oh, it just hasn't been</p><p>19 offered yet.</p><p>20 MR. LANE: Yeah. I'm just looking that</p><p>21 it says it's 1 of --</p><p>22 MR. WHEATLEY: Okay.</p><p>23 MR. LANE: -- 27, and we clearly don't</p><p>24 have 27 pages. I don't know if you're asking the</p><p>25 witness to affirm that this is the application.</p></div>

<p style="text-align: right;">Page 54</p> <p>1 MR. HARKINS: Seagal, why don't you 2 mark the stand-alone as 50-A since it's already in 3 the -- the copies you've got there. 4 MR. WHEATLEY: I just want to keep it 5 all together so nobody questions the authenticity of 6 the State's certification. 7 (Discussion off the record). 8 (Exhibit No. 50-A marked). 9 Q. (BY MR. WHEATLEY): Okay. Mr. Moreno, I'm 10 going to -- Exhibit 50 is a certified copy of a 11 portion of your file from the State, and I'm going to 12 put Exhibit 50-A, like "Andy," on the map I just 13 showed you, okay -- 14 A. All right. 15 Q. -- so we'll have a -- an exhibit for it. Do 16 you see on the map -- the BexarMet map there, BSR 17 Water Company location? 18 A. I see it here, yes. 19 Q. West of 281? 20 A. Yes, sir. 21 Q. And is the area shown on the map, "50-A" -- 22 does it surround the east, north and west side of BSR 23 Water Company? 24 A. Yes, it does, mm-hmm. According to the map, 25 yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. -- "BSR" -- 2 A. No, that -- that was not something that I 3 necessarily wanted to know or understand or would have 4 a need to understand. 5 Q. Well -- 6 MR. HARKINS: I'm -- 7 Q. (BY MR. WHEATLEY): -- wasn't it true -- 8 MR. HARKINS: Mr. Moreno -- 9 Q. (BY MR. WHEATLEY): -- sir -- 10 MR. HARKINS: -- I'm going to instruct 11 you to wait for a question before you -- 12 THE WITNESS: Okay. 13 MR. HARKINS: -- give a response. 14 Q. (BY MR. WHEATLEY): Prior to the Interlocal 15 Agreement that we've seen of September 22nd, 2000, had 16 you had any discussions at all with Mr. Sneckner? 17 A. I don't recall, sir. 18 Q. But you did know at some point that 19 Mr. Sneckner wanted to expand his CCN area, did you 20 not? 21 A. No. I was -- I -- I can't tell you that 22 about any of the other water systems or anybody else 23 that was there. It was someone that was interested 24 possibly in selling water, so under the category, no, 25 I -- I did not know what Mr. Sneckner wanted, no.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. All right, sir. Do you understand that the 2 BSR Water Company shown on that map is Mr. Sneckner 3 and his family's ranch -- 4 A. Yes, sir. 5 Q. -- off of Bulverde Road? 6 A. Mm-hmm. Yes. 7 Q. Okay. Do you understand that Mr. Sneckner 8 already had a CCN for his ranch area there called the 9 BSR Water Company? 10 A. No, I -- I don't recall if he did or not, 11 no. 12 Q. You never heard that, don't know it today? 13 A. No. I -- I thought that he had -- he was 14 in the process of applying for a -- for a CCN, but I 15 don't recall what Mr. Sneckner had in his property. 16 Q. Okay. Well, you've heard the phrase "BSR 17 Water Company"? 18 A. Yes. 19 Q. What did you understand that to refer to? 20 A. The -- I didn't know what the "BSR" stood 21 for, but I knew that BSR was connected to 22 Mr. Sneckner. 23 Q. Okay. It's Bulverde Sneckner Ranch. No 24 magic to the -- 25 A. No.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Were you aware that he had filed a protest 2 like you had to the SAWS application? 3 A. I -- I recall that he -- that that's how I 4 remember BSR, that they had filed a -- a protest to 5 what SAWS and Bexar Metro were doing, yes. 6 Q. And you knew that to be Mr. Sneckner's 7 ranch? 8 A. I connected -- Yes, I knew that Sneckner 9 was BSR. 10 Q. All right. So you knew that Bexar -- BSR, 11 Mr. Sneckner's company, had filed a protest just like 12 you had, right? 13 A. (Nodding). 14 Q. And you anticipated that SAWS would be out 15 trying to negotiate some agreement with him on his 16 protest, didn't you, just like they did on yours? 17 MR. LANE: Objection -- 18 A. No. 19 MR. LANE: -- form and leading. 20 A. No. Didn't think of anything at that ... 21 Q. I'm sorry? 22 A. I didn't -- I don't remember thinking of 23 anything at that time. 24 Q. Well, was it SAWS' policy at that time to 25 try to resolve protests to its applications?</p>

15 (Pages 54 to 57)

<p style="text-align: right;">Page 62</p> <p>1 Question: "-- of the agreement?"</p> <p>2 Answer: "I knew there was -- I knew</p> <p>3 SAWS had some relationship with BSR."</p> <p>4 Question: "And what did you understand</p> <p>5 that relationship with SAWS and BSR to be prior to the</p> <p>6 Interlocal Agreement?"</p> <p>7 Answer: "At that time I knew ... they</p> <p>8 were having some discussions about getting water from</p> <p>9 that area from different sources."</p> <p>10 Question: "Well, tell me exactly what</p> <p>11 you recall Chris Powers told you about ... he was --</p> <p>12 the discussions he was having with BSR Water Company</p> <p>13 prior to the date of the Interlocal Agreement."</p> <p>14 Answer: "I -- I don't even -- I --</p> <p>15 I couldn't report to you that it was Chris Powers that</p> <p>16 told me. It might have been anecdotal discussion that</p> <p>17 I may have heard at a meeting about SAWS as part of</p> <p>18 their water supply program that they were getting</p> <p>19 water from the [sic] BSR area as well as other areas</p> <p>20 up there close to BSR."</p> <p>21 Question: "So you knew ... BSR and</p> <p>22 SAWS had some type of relationship, did you not,</p> <p>23 concerning water?"</p> <p>24 Answer: "Right. I knew ... there was</p> <p>25 some -- some discussion going on with ... that area."</p>	<p style="text-align: right;">Page 64</p> <p>1 agreement with BSR, Mr. Moreno?</p> <p>2 MR. LANE: Objection, form.</p> <p>3 A. I don't recall. I am very much like Chuck:</p> <p>4 I don't know what agreement they had with SAWS, so I</p> <p>5 was totally unfamiliar with it.</p> <p>6 Q. (BY MR. WHEATLEY): I'm asking you when you</p> <p>7 first heard that there was some agreement.</p> <p>8 A. I do not --</p> <p>9 MR. LANE: Objection --</p> <p>10 A. -- recall.</p> <p>11 MR. LANE: -- form.</p> <p>12 A. I do not recall.</p> <p>13 Q. (BY MR. WHEATLEY): Well, you certainly</p> <p>14 heard before today --</p> <p>15 MR. LANE: Objection, form and leading.</p> <p>16 Q. (BY MR. WHEATLEY): -- have you not?</p> <p>17 A. Yes. Yes, I had heard that there was an</p> <p>18 agreement between SAWS and BSR, but specifics of it I</p> <p>19 did not know, I was not privy to.</p> <p>20 Q. Well, you have heard prior to today that</p> <p>21 both agreements, both the Interlocal and the one with</p> <p>22 SAWS and BSR, covers in some extent the same land</p> <p>23 area?</p> <p>24 MR. LANE: Objection, form and leading.</p> <p>25 Q. (BY MR. WHEATLEY): Did you know that before</p>
<p style="text-align: right;">Page 63</p> <p>1 Question: "Well, prior to signing the</p> <p>2 Interlocal Agreement ... -- or prior to BexarMet</p> <p>3 signing the Interlocal Agreement, did you ever ask</p> <p>4 Chris Powers, Well, Chris, tell me exactly what your</p> <p>5 deal is with BSR?</p> <p>6 "No, sir."</p> <p>7 Okay. Do you see that?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. Did I read it correctly?</p> <p>10 MR. LANE: Objection, form.</p> <p>11 Q. (BY MR. WHEATLEY): Do you have any reason</p> <p>12 to controvert what Mr. Chuck Ahrens said in his</p> <p>13 deposition?</p> <p>14 MR. LANE: Objection, form.</p> <p>15 A. No, I do not.</p> <p>16 Q. (BY MR. WHEATLEY): Okay. Have you talked</p> <p>17 to Mr. Ahrens about that testimony since you read his</p> <p>18 deposition?</p> <p>19 A. Not at all, sir.</p> <p>20 Q. All right. Now, you have seen -- physically</p> <p>21 seen a copy of the SAWS-BSR agreement, have you not?</p> <p>22 A. No, I have not.</p> <p>23 Q. Huh?</p> <p>24 A. No.</p> <p>25 Q. When did you first hear that SAWS had an</p>	<p style="text-align: right;">Page 65</p> <p>1 today?</p> <p>2 MR. LANE: Same --</p> <p>3 A. No.</p> <p>4 MR. LANE: -- objection.</p> <p>5 Q. (BY MR. WHEATLEY): Huh?</p> <p>6 A. No.</p> <p>7 Q. You didn't?</p> <p>8 A. I knew this before today, yes, but I did not</p> <p>9 know that at this time.</p> <p>10 Q. At what time?</p> <p>11 A. At the time that you're describing when all</p> <p>12 these things were going on, like when you asked Chuck</p> <p>13 about what did they know about BSR. No, I did not</p> <p>14 need to know that. I did not see any reason to -- for</p> <p>15 me to know something that SAWS was doing with someone</p> <p>16 else.</p> <p>17 Q. Well, let me -- Well, let's be clear and</p> <p>18 we'll talk about it. Okay? Okay. Let me ask you</p> <p>19 again: Prior to today --</p> <p>20 A. Yes.</p> <p>21 Q. -- you have heard that the agreement -- the</p> <p>22 Interlocal Agreement that you had with SAWS and the</p> <p>23 agreement BSR had with SAWS covered to some extent the</p> <p>24 same land area?</p> <p>25 MR. LANE: Objection, form and leading.</p>

17 (Pages 62 to 65)

<div>Page 70</div> <div><p>1 agreement were and I don't know how I could help, but</p><p>2 my first reaction would be "Let me hear what you've</p><p>3 got."</p><p>4 Q. (BY MR. WHEATLEY): But you would have</p><p>5 certainly been willing to listen to try to reach some</p><p>6 solution to it --</p><p>7 MR. LANE: Objection --</p><p>8 Q. (BY MR. WHEATLEY): -- as speaking for</p><p>9 BexarMet?</p><p>10 MR. LANE: Objection, form and leading.</p><p>11 A. Well, I -- I would have listened if SAWS had</p><p>12 called me. I would have said -- I don't know how I</p><p>13 could help, but, yes, I would have -- in fairness, I</p><p>14 would have said, "Yes, let me hear it."</p><p>15 Q. (BY MR. WHEATLEY): Okay. Well, as General</p><p>16 Manager, if SAWS had called and said, Look, we -- we</p><p>17 agreed that Mr. Sneckner could apply -- or could -- we</p><p>18 would go ahead with our big application -- You know,</p><p>19 the one you protested?</p><p>20 A. (Nodding).</p><p>21 Q. We -- Let me start over. SAWS would say,</p><p>22 Here is the deal, Tom. Prior to the Interlocal</p><p>23 Agreement that we made with you, we had our CCN</p><p>24 application pending and we had an agreement with</p><p>25 Mr. Sneckner that we would pursue that application,</p></div>	<div>Page 72</div> <div><p>1 wanted it to happen that way, so I don't know, but I</p><p>2 would have listened. It didn't happen, but, yes, I</p><p>3 would have listened.</p><p>4 Q. No, I know they -- I know SAWS never called</p><p>5 you, to my knowledge, on that point.</p><p>6 A. Right.</p><p>7 MR. LANE: Objection, form and leading;</p><p>8 and objection, side-bar.</p><p>9 Q. (BY MR. WHEATLEY): So I want to be sure I</p><p>10 understand your position as General Manager at the</p><p>11 time. If SAWS had made the call I just outlined to</p><p>12 you, you're not willing to say that you would have</p><p>13 solicited your board's approval to go along with</p><p>14 that --</p><p>15 MR. LANE: Objection, form.</p><p>16 Q. (BY MR. WHEATLEY): -- without something</p><p>17 further--some discussion, some talk, something?</p><p>18 MR. LANE: Same objection.</p><p>19 MR. HARKINS: Objection, form.</p><p>20 Q. (BY MR. WHEATLEY): Would you have</p><p>21 recommended it to your board?</p><p>22 MR. LANE: Objection, form.</p><p>23 A. I don't know that -- I don't know what</p><p>24 you're asking me to -- to -- to agree upon. It --</p><p>25 It's not quite that simple is really what I'm having a</p></div>
<div>Page 71</div> <div><p>1 and when we got it, then we would support transferring</p><p>2 880-so acres of our application over to Mr. Sneckner</p><p>3 so he could expand in that area around his ranch.</p><p>4 And, unfortunately, Tom, when we made our Interlocal</p><p>5 with you, we gave up all that so that you could apply</p><p>6 for it, and we want you now, BexarMet, to release to</p><p>7 Mr. Sneckner or find some way so he can still enjoy</p><p>8 that 880 acres for a CCN.</p><p>9 MR. LANE: Objection, form --</p><p>10 Q. (BY MR. WHEATLEY): Would --</p><p>11 MR. LANE: -- and leading.</p><p>12 Q. (BY MR. WHEATLEY): -- you have been willing</p><p>13 to consider that?</p><p>14 MR. LANE: Same objection.</p><p>15 A. I don't know that I could make that</p><p>16 decision, sir, but I would listen.</p><p>17 Q. (BY MR. WHEATLEY): Well, what reason can</p><p>18 you think of that you would oppose that idea?</p><p>19 MR. LANE: Objection, form.</p><p>20 A. Various reasons. Maybe Mr. Sneckner didn't</p><p>21 want it or ... The whole idea of getting a CCN is to</p><p>22 have no one oppose it and have the agreement be</p><p>23 endorsed by everyone surrounding the area.</p><p>24 Q. (BY MR. WHEATLEY): Okay.</p><p>25 A. So it could have been my board may not have</p></div>	<div>Page 73</div> <div><p>1 problem with. I've -- I've already told you that I</p><p>2 would listen, and beyond that I -- I don't know that I</p><p>3 would make a commitment to say yes, I would help or</p><p>4 not help.</p><p>5 Q. (BY MR. WHEATLEY): I'm not pushing -- If</p><p>6 you think it was a problem and you think it was</p><p>7 complicated --</p><p>8 A. Mm-hmm.</p><p>9 Q. -- and needed some -- a lot of talk and</p><p>10 solution --</p><p>11 A. Sure.</p><p>12 Q. -- to see -- even see if it could work out,</p><p>13 that's fine with me.</p><p>14 A. Mm-hmm.</p><p>15 Q. I'm not trying to press you beyond that.</p><p>16 Okay?</p><p>17 MR. LANE: Objection to the side-bar;</p><p>18 objection to form and leading if that's a question.</p><p>19 MR. WHEATLEY: Excuse me just a</p><p>20 moment.</p><p>21 THE WITNESS: Mm-hmm.</p><p>22 Q. (BY MR. WHEATLEY): When -- At the time</p><p>23 that you left as General Manager, what were y'all</p><p>24 paying for water, acre-feet, roughly? What was the</p><p>25 market?</p></div>

<p style="text-align: right;">Page 78</p> <p>1 price of that water?</p> <p>2 A. No, sir.</p> <p>3 Q. Well, where would the wells be located that</p> <p>4 would supply customers in the 5,543-acre area shown on</p> <p>5 the map?</p> <p>6 A. Where would the what?</p> <p>7 Q. Where are the wells that are going to supply</p> <p>8 those customers?</p> <p>9 MR. LANE: Objection, form.</p> <p>10 A. I described to you the same wells that we</p> <p>11 were talking about, which were the -- the ones in the</p> <p>12 Wild Turkey area.</p> <p>13 Q. (BY MR. WHEATLEY): Three in Wild Turkey?</p> <p>14 A. I think we had three. I think they were</p> <p>15 about to drill the fourth one.</p> <p>16 Q. Three to four --</p> <p>17 A. Mm-hmm.</p> <p>18 Q. -- in Wild Turkey. And that's -- Do you</p> <p>19 have any infrastructure in place?</p> <p>20 A. Some infrastructure but not a lot. I won't</p> <p>21 say that it's all there and connected.</p> <p>22 Q. How much infrastructure would you have to</p> <p>23 put in for those three to four wells in Wild Turkey to</p> <p>24 serve the area that the CCN is --</p> <p>25 A. It would be --</p>	<p style="text-align: right;">Page 80</p> <p>1 those three to four wells in Wild Turkey?</p> <p>2 A. It's going into the distribution system.</p> <p>3 Q. So you already have customers for that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. And are you using all of it for the --</p> <p>6 currently for customers?</p> <p>7 A. I believe so, yes.</p> <p>8 Q. Well, how much would you have left to use to</p> <p>9 serve the 5,000-plus-acre area?</p> <p>10 A. I don't know that you would have any left.</p> <p>11 Pretty much they're using it all up. But then, again,</p> <p>12 you know, adding two pennies to that, we were talking</p> <p>13 about bringing water from Canyon Lake, so that would</p> <p>14 have helped have water for that area.</p> <p>15 Q. Do you have a -- Did you have a contract</p> <p>16 when you left to buy water from Canyon Lake?</p> <p>17 A. Had a contract to buy water from the Canyon</p> <p>18 Lake Water Supply Corporation, yes.</p> <p>19 Q. How many acre-feet?</p> <p>20 A. I believe it was -- it was around 500,000.</p> <p>21 Q. A year?</p> <p>22 A. A year.</p> <p>23 Q. And has that been constructed yet?</p> <p>24 A. The pipeline is instructed to bring water to</p> <p>25 Bulverde. The rest of the pipeline to take water into</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. -- is in place?</p> <p>2 A. -- expensive, but it -- It would be a lot</p> <p>3 of infrastructure to do.</p> <p>4 Q. At what cost?</p> <p>5 A. Couldn't give you a number.</p> <p>6 Q. And how many acre-feet, say per month, are</p> <p>7 those three to four wells in Wild Turkey producing?</p> <p>8 MR. LANE: Objection, form.</p> <p>9 A. I don't recall exactly, but they -- let's --</p> <p>10 Let me give you just a number as to what their</p> <p>11 capacity was. They're -- They're were ranging</p> <p>12 about -- about the 500-gallons-per-minute range.</p> <p>13 Q. (BY MR. WHEATLEY): At what depth; do you</p> <p>14 know?</p> <p>15 A. Don't recall, no.</p> <p>16 Q. And where are you -- Are you selling that</p> <p>17 water now or are you storing it, out of those three</p> <p>18 wells in Wild Turkey -- three to four wells?</p> <p>19 MR. LANE: Objection --</p> <p>20 A. Storing --</p> <p>21 MR. LANE: -- form.</p> <p>22 A. Storing it? Storing it?</p> <p>23 Q. (BY MR. WHEATLEY): You're storing it?</p> <p>24 A. No. Where?</p> <p>25 Q. Oh. What are you doing with the water from</p>	<p style="text-align: right;">Page 81</p> <p>1 this area is not -- was not built at the time that I</p> <p>2 left.</p> <p>3 Q. And what would be the plan? BexarMet would</p> <p>4 buy that water?</p> <p>5 A. From -- From the --</p> <p>6 Q. Well, who would you buy it from on the</p> <p>7 Canyon Lake project?</p> <p>8 A. Well, we were buying it through Canyon Lake</p> <p>9 Water Supply Corporation.</p> <p>10 Q. Oh, okay. At the time that application was</p> <p>11 filed by BexarMet, what was the plan in place to -- to</p> <p>12 find water to serve that area?</p> <p>13 MR. LANE: Objection, form.</p> <p>14 A. It was to bring water from Canyon Lake.</p> <p>15 Q. (BY MR. WHEATLEY): Okay. And when will</p> <p>16 that water be deliverable?</p> <p>17 A. That water was deliverable the day we -- we</p> <p>18 made that agreement. That water is available -- If</p> <p>19 that contract is still in place, it's deliverable</p> <p>20 today.</p> <p>21 Q. Okay. And is the infrastructure in place to</p> <p>22 serve the area with that water?</p> <p>23 A. Not all of it, no.</p> <p>24 Q. Some of it?</p> <p>25 A. Some of it is, yes.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q. So he was Chief Financial Officer?</p> <p>2 A. Yes, sir, and learning.</p> <p>3 Q. I understand that. I'm just trying to find</p> <p>4 what managerial capability Mr. Olivares has to be the</p> <p>5 General Manager of BexarMet.</p> <p>6 MR. LANE: Objection, form; and --</p> <p>7 Q. (BY MR. WHEATLEY): Are you --</p> <p>8 MR. LANE: -- objection --</p> <p>9 Q. (BY MR. WHEATLEY): -- aware --</p> <p>10 MR. LANE: -- to the --</p> <p>11 Q. (BY MR. WHEATLEY): -- of any?</p> <p>12 MR. LANE: -- side-bar.</p> <p>13 A. No, sir.</p> <p>14 Q. (BY MR. WHEATLEY): Who at BexarMet ...</p> <p>15 Well, let me ask it another way: Does Gil Olivares,</p> <p>16 the man you hired, have any experience with the</p> <p>17 technical capability needed to be General Manager?</p> <p>18 MR. HARKINS: Objection, form.</p> <p>19 MR. LANE: Yeah. Objection, form.</p> <p>20 A. Not to my knowledge, sir, no.</p> <p>21 Q. (BY MR. WHEATLEY): Who is the most</p> <p>22 technically qualified person that you're aware of</p> <p>23 that's still over at BexarMet that would have the</p> <p>24 capability to provide the technical expertise needed</p> <p>25 and the managerial expertise needed?</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yes, they have.</p> <p>2 Q. And you know -- of course, you know North</p> <p>3 West very well, do you not?</p> <p>4 A. I worked with him for a long time, yes.</p> <p>5 Q. Well, see this memo he wrote to Mark Zeppa,</p> <p>6 Z-e-p-p-a? Mr. Zeppa was also a -- an attorney who</p> <p>7 did regulatory work for y'all at the state agency?</p> <p>8 A. Yes, that's correct.</p> <p>9 Q. And I want to look at this memo Mr. West</p> <p>10 wrote on September 19th, 2000. He says "Dear Mark:</p> <p>11 There follows copy of a document worked out between</p> <p>12 key BexarMet staff and key SAWS staff (namely Chris</p> <p>13 Powers) whereby each party will withdraw certain</p> <p>14 objections in certain pending cases and agree not to</p> <p>15 object to the other party's future CCN applications</p> <p>16 for certain areas."</p> <p>17 And then he has the second paragraph.</p> <p>18 If you want to read that, I'll give you a moment to do</p> <p>19 that. And then he comes down and says in paragraph</p> <p>20 number 3 -- or, excuse me, number 1, "BexarMet is</p> <p>21 thrilled and shocked that SAWS is indicating a</p> <p>22 willingness to sign this document;" Now, what -- why</p> <p>23 was BexarMet thrilled and shocked that SAWS would sign</p> <p>24 the Interlocal Agreement?</p> <p>25 MR. LANE: Objection, form.</p>
<p style="text-align: right;">Page 87</p> <p>1 MR. LANE: Objection, form.</p> <p>2 Q. (BY MR. WHEATLEY): Is there anybody there</p> <p>3 that you know of?</p> <p>4 MR. HARKINS: Objection --</p> <p>5 MR. LANE: Same objection --</p> <p>6 MR. HARKINS: -- form.</p> <p>7 MR. LANE: -- form.</p> <p>8 Q. (BY MR. WHEATLEY): You may answer.</p> <p>9 A. I don't know of anyone, sir.</p> <p>10 Q. All right, sir.</p> <p>11 MR. WHEATLEY: Hold on just a minute,</p> <p>12 Mr. Moreno. I may be finished. Okay?</p> <p>13 THE WITNESS: Okay.</p> <p>14 (Exhibit No. 55 marked).</p> <p>15 Q. (BY MR. WHEATLEY): Let me hand you</p> <p>16 Exhibit 55, Mr. Moreno. It's a letter ...</p> <p>17 (Discussion off the record).</p> <p>18 Q. (BY MR. WHEATLEY): This is a -- a fax of</p> <p>19 September 19th, 2000 from West & West. Do you see</p> <p>20 that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And West & West were your attorneys at</p> <p>23 BexarMet, were they not, for many years?</p> <p>24 A. Yes, sir.</p> <p>25 Q. I think they have been terminated?</p>	<p style="text-align: right;">Page 89</p> <p>1 MR. HARKINS: Objection, form.</p> <p>2 A. That's Mr. Word's -- Mr. North's words, sir.</p> <p>3 I don't know what he was alluding to.</p> <p>4 Q. (BY MR. WHEATLEY): Did you share that view?</p> <p>5 A. I don't know what he's -- what he's</p> <p>6 referring to, sir.</p> <p>7 Q. Well, were you thrilled and shocked that</p> <p>8 SAWS would sign the Interlocal?</p> <p>9 A. From -- From any -- Any -- I guess any</p> <p>10 part that I could say that we could come to some</p> <p>11 agreement was -- was good, I guess.</p> <p>12 Q. All right. Second paragraph, number 2:</p> <p>13 "BexarMet does not want to do anything to derail this</p> <p>14 apparent spirit of cooperation;"</p> <p>15 A. That's it.</p> <p>16 Q. Do you share that --</p> <p>17 A. Yes --</p> <p>18 Q. -- view</p> <p>19 A. -- I do.</p> <p>20 Q. Number 3: "BexarMet wants to get something</p> <p>21 signed as soon as possible before somebody (i.e., a</p> <p>22 SAWS board member, SAWS staffer, City Councilperson,</p> <p>23 influential developer, etc.) says they don't like some</p> <p>24 aspect of the agreement;" Did I read that correctly?</p> <p>25 A. Yes, sir.</p>

23 (Pages 86 to 89)

<p style="text-align: right;">Page 94</p> <p>1 MR. LANE: -- form.</p> <p>2 Q. (BY MR. WHEATLEY): You can answer.</p> <p>3 A. I don't -- I don't know what this is</p> <p>4 referring to, sir.</p> <p>5 (Exhibit No. 57 marked).</p> <p>6 Q. (BY MR. WHEATLEY): Let me hand you</p> <p>7 Exhibit 57. This is a letter of April 23rd, 2002,</p> <p>8 again from Chuck Ahrens -- Charles Ahrens to the State</p> <p>9 Natural Resources [sic] Conservation Commission. Do</p> <p>10 you see it?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Now, he sent a copy of this to</p> <p>13 General Habiger over at SAWS, did he not?</p> <p>14 MR. LANE: Objection --</p> <p>15 A. I see that --</p> <p>16 MR. LANE: -- form.</p> <p>17 A. -- yes.</p> <p>18 Q. (BY MR. WHEATLEY): And a copy to Dwayne</p> <p>19 Rathburn. Do you know Dwayne Rathburn.</p> <p>20 MR. LANE: Objection --</p> <p>21 A. I know --</p> <p>22 MR. LANE: -- form.</p> <p>23 A. -- of him, yes.</p> <p>24 Q. (BY MR. WHEATLEY): And Chris Powers you</p> <p>25 know?</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Apparently it's something that -- some</p> <p>2 agreement with SAWS about -- or maybe something that</p> <p>3 SAWS had requested.</p> <p>4 Q. Do you see the map that says "12842" on it?</p> <p>5 A. (Indicating). Yes, sir.</p> <p>6 Q. That's Mr. Sneckner's ranch. That's his CCN</p> <p>7 number.</p> <p>8 A. Okay.</p> <p>9 Q. And you see the area outlined around it in</p> <p>10 black?</p> <p>11 A. Yes.</p> <p>12 Q. It appears to be similar to the expansion</p> <p>13 area, does it not, Mr. Moreno?</p> <p>14 A. Yes, which you have there.</p> <p>15 Q. And don't you understand Mr. Ahrens was</p> <p>16 telling the State that they had made a deal with SAWS</p> <p>17 to now have a dual -- dual certification for this area</p> <p>18 around Mr. Sneckner's ranch?</p> <p>19 MR. LANE: Objection, form and leading.</p> <p>20 Q. (BY MR. WHEATLEY): Isn't that the way you</p> <p>21 understand that, sir?</p> <p>22 MR. LANE: Same objection.</p> <p>23 A. No, I don't know what he was referring to or</p> <p>24 what -- what this was about.</p> <p>25 Q. (BY MR. WHEATLEY): Well, while -- why --</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Yes.</p> <p>2 Q. And Mark Zeppa we've identified, right?</p> <p>3 A. Right.</p> <p>4 Q. Now, I want to -- He says--Mr. Ahrens for</p> <p>5 BexarMet--On April 1st, 2002 the Bexar Metropolitan</p> <p>6 Water District filed an amendment to our CCN in</p> <p>7 northern Bexar County.</p> <p>8 Please accept this letter as a -- as</p> <p>9 notification of BexarMet's desire to amend this</p> <p>10 pending application to include a dual certification</p> <p>11 with the San Antonio Water System for the 814 acres</p> <p>12 indicated on the enclosed map.</p> <p>13 This concept has been discussed and</p> <p>14 approved by the San Antonio Water System.</p> <p>15 SAWS may accomplish this by amending</p> <p>16 their existing application ... 32248-C or by new</p> <p>17 application.</p> <p>18 Now, do you see that letter?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And what was Mr. Ahrens telling the State in</p> <p>21 this letter, as you understand it, Mr. Moreno?</p> <p>22 MR. HARKINS: Objection, form.</p> <p>23 A. I don't know what he was -- what he was</p> <p>24 referring to.</p> <p>25 Q. (BY MR. WHEATLEY): Look at the map.</p>	<p style="text-align: right;">Page 97</p> <p>1 why in God's green earth would he send a copy of this</p> <p>2 to SAWS, to General Habiger.</p> <p>3 MR. LANE: Objection, form.</p> <p>4 MR. HARKINS: Same objection.</p> <p>5 A. I have no idea.</p> <p>6 Q. (BY MR. WHEATLEY): Isn't this consistent</p> <p>7 with what I asked you earlier that -- that SAWS called</p> <p>8 y'all--may have talked to Chuck Ahrens, doesn't</p> <p>9 matter--and said, We've got a problem. We've got a</p> <p>10 problem because we have now given y'all the right to</p> <p>11 apply for this, and we had earlier said that we would</p> <p>12 help Mr. Sneckner with it. Give us a dual cert and</p> <p>13 maybe it will clean our skirts.</p> <p>14 Isn't that what was going on here?</p> <p>15 MR. LANE: Objection, form --</p> <p>16 A. I don't know.</p> <p>17 MR. LANE: -- and leading.</p> <p>18 Q. (BY MR. WHEATLEY): Huh?</p> <p>19 MR. HARKINS: Same objection.</p> <p>20 A. I don't know what was going on. I don't</p> <p>21 know the specifics of why this was submitted.</p> <p>22 Q. (BY MR. WHEATLEY): Well, why would you even</p> <p>23 agree to a dual cert when you told a -- the State in</p> <p>24 your protest they were against public policy?</p> <p>25 MR. LANE: Objection, form and leading.</p>

25 (Pages 94 to 97)

<p style="text-align: right;">Page 102</p> <p>1 (Indicating). Okay.</p> <p>2 Q. Okay. And this is -- this paragraph</p> <p>3 concerns the area around IH-10 West; is that correct?</p> <p>4 A. That's correct.</p> <p>5 Q. And it states, in the second sentence -- or</p> <p>6 the first sentence of paragraph 4, after Application</p> <p>7 No. 32243-C (area along IH 10 West), "SAWS will amend</p> <p>8 its existing application to exclude everything east of</p> <p>9 IH 10 as depicted in the attached map" Do you</p> <p>10 see where I read that?</p> <p>11 A. Yes.</p> <p>12 Q. Now, is this a -- This is -- This copy of</p> <p>13 the exhibit I don't believe has the map attached, does</p> <p>14 it?</p> <p>15 A. No.</p> <p>16 Q. Okay. But, in any event, it goes on to say</p> <p>17 "Bexar Met will then be free to file a CCN</p> <p>18 application for that area." Do you see that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Now, of course, prior to that time -- prior</p> <p>21 to the time of this agreement, BexarMet had been free</p> <p>22 to file a CCN application for that area or for any</p> <p>23 other area; is that --</p> <p>24 A. Yes.</p> <p>25 Q. -- right?</p>	<p style="text-align: right;">Page 104</p> <p>1 paragraph 4, "Bexar Met will then be free to file an</p> <p>2 application with TNRCC to include those properties in</p> <p>3 its CCN." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Previously, prior to execution of this</p> <p>6 agreement, BexarMet had already been free to file an</p> <p>7 application with TNRCC to include those properties in</p> <p>8 its CCN; is that right?</p> <p>9 A. Of course.</p> <p>10 Q. It does not say, as it does in paragraph 4,</p> <p>11 that SAWS agrees not to oppose BexarMet's application.</p> <p>12 That's a difference, isn't it?</p> <p>13 A. That's a difference, yes.</p> <p>14 Q. So although BexarMet can file an application</p> <p>15 to include those properties in its CCN, this agreement</p> <p>16 left SAWS free to protest the application if it so</p> <p>17 chose; is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Or if someone asked it and had the right to</p> <p>20 ask it to oppose; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. Now, you previously had mentioned -- you</p> <p>23 described the CCN as something that is--and I wrote</p> <p>24 down your words--awarded based on merit. Could you</p> <p>25 explain just for the jury, who may not be familiar</p>
<p style="text-align: right;">Page 103</p> <p>1 A. Right.</p> <p>2 Q. It goes on to say "SAWS agrees not to oppose</p> <p>3 Bexar Met application." Do you see that there?</p> <p>4 A. Yes.</p> <p>5 Q. And so you understood that to be an</p> <p>6 undertaking by SAWS not to oppose an application in</p> <p>7 the area of IH-10?</p> <p>8 A. Correct, mm-hmm.</p> <p>9 Q. The next paragraph is the one that</p> <p>10 Mr. Wheatley asked you for -- asked you about,</p> <p>11 rather. It says -- It refers to Application No.</p> <p>12 32248-C, (area along U. S. 281 North). Do you see</p> <p>13 that?</p> <p>14 A. Mm-hmm.</p> <p>15 Q. And do you see in the midst of that</p> <p>16 paragraph, as well, it states: SAWS further agrees to</p> <p>17 rescind its Application No. 33- -- or, rather,</p> <p>18 32249-C. "SAWS further agrees to decertify that</p> <p>19 portion of its existing certificated service area that</p> <p>20 is bounded by the western property line of the</p> <p>21 Mountain Lodge subdivision and south of Wilderness</p> <p>22 Oaks Drive", and it says "(Map 2)." Did I read that</p> <p>23 correctly?</p> <p>24 A. That's correct.</p> <p>25 Q. And it goes on to say, as it did in</p>	<p style="text-align: right;">Page 105</p> <p>1 with the CCN process, what you meant by that.</p> <p>2 A. Well, it -- Not necessarily all entirely on</p> <p>3 merit, but that's one of the things that would be</p> <p>4 considered. I mean, how close you are to it,</p> <p>5 proximity, water that you may have already in place,</p> <p>6 various and -- very many other issues that are taken</p> <p>7 into consideration, so ...</p> <p>8 Q. Now, Mr. Wheatley asked you a number of</p> <p>9 questions about BSR, which he described as Bulverde</p> <p>10 Sneckner Ranch, that the property that was included --</p> <p>11 or owned by BSR was the Bulverde Sneckner Ranch. Do</p> <p>12 you recall that?</p> <p>13 A. Right.</p> <p>14 Q. And he asked you -- He actually marked on</p> <p>15 one of the exhibits the expansion area outside of the</p> <p>16 property owned by BSR. Do you recall that?</p> <p>17 A. Yes.</p> <p>18 Q. And he told you that BSR had applied for a</p> <p>19 CCN covering that area. Do you recall that?</p> <p>20 A. The -- What he called the --</p> <p>21 MR. WHEATLEY: Expansion area.</p> <p>22 A. -- expansion area, yes.</p> <p>23 Q. (BY MR. LANE): Yes. Let me ask you a few</p> <p>24 questions about that. Did you know prior to today</p> <p>25 that BSR has never been in the retail water business?</p>

27 (Pages 102 to 105)

<p>Page 110</p> <p>1 MR. WILSON: I want to -- I want to 2 make a brief announcement for the record. As part of 3 the agreement amongst counsel, BexarMet, who is not a 4 party to this lawsuit but who has been served with a 5 draft amended petition bringing them in as a 6 defendant, appear here today but lack the ability to 7 cross-examine the witness. 8 Several of the questions presented by 9 plaintiffs' counsel went to the merits of a pending 10 CCN application which is being disputed by the 11 plaintiff in this lawsuit. Based on BexarMet's lack 12 of ability to cross-examine the witness in this case, 13 we object to any use of Mr. Moreno's testimony in the 14 pending CCN application case at the State Office of 15 Administrative Hearings. 16 In addition, it's come to my attention 17 today that Exhibit Number 55 in this lawsuit, 18 correspondence from North O. West to Mark Zeppa, dated 19 September 19th, 2000, is clearly a confidential 20 document that was inadvertently produced, apparently 21 through a subpoena. Mr. Zeppa and Mr. West are both 22 attorneys for BexarMet. This is a communication 23 between the two of them. 24 I'm going to move to have the Court 25 withdraw this exhibit from the record and have a -- a</p>	<p>Page 112</p> <p>1 BY MR. WHEATLEY: 2 Q. Mr. Moreno, Mr. Neel Lane had asked you a 3 series of questions about, you know, applying for CCNs 4 on land you did not own. Do you recall generally some 5 of those questions? 6 A. Generally. 7 Q. Okay. You don't have to own land to apply 8 for a CCN, do you? 9 A. (Shaking head). 10 Q. Speak up. I'm sorry? 11 A. No. 12 Q. How much of the 5,543 acres you're applying 13 for does SAWS -- does BexarMet own? 14 MR. HARKINS: Objection, form. 15 Q. (BY MR. WHEATLEY): Huh? 16 A. We do not. 17 Q. You don't own any of it, do you? 18 A. No. 19 MR. WHEATLEY: That's all I have. 20 EXAMINATION 21 BY MR. LANE: 22 Q. Let me follow up a little bit, Mr. Moreno. 23 What's -- However, BSR -- or, rather, BexarMet has 24 from its inception been in the retail water business; 25 is that correct?</p>
<p>Page 111</p> <p>1 ruling that it was inadvertently produced in response 2 to Mr. Wheatley's subpoena. 3 MR. WHEATLEY: Mr. Wilson, you're -- 4 you're -- you're here through the graciousness of 5 counsel and through our courtesy, and you have no 6 right to say anything in this proceeding at all. 7 Now, while we are -- while you are on 8 the record, would you admit in the record that you've 9 been passing questions to SAWS' lawyer as BexarMet's 10 lawyer? 11 MR. WILSON: I'll make no such 12 admission. 13 MR. WHEATLEY: Huh? 14 MR. WILSON: I'll make no such 15 admission. 16 MR. WHEATLEY: Have you? 17 MR. WILSON: I'm -- I'm not going to 18 make any admission about that. 19 MR. WHEATLEY: Have you given your 20 questions to SAWS' lawyers to ask? 21 MR. WILSON: I'm not the witness today, 22 Mr. Wheatley. 23 MR. WHEATLEY: Well, it seems that you 24 just want to have a one-way street, Counsel. 25 EXAMINATION</p>	<p>Page 113</p> <p>1 A. Yes, we have. 2 Q. There are some other entities that apply for 3 CCNs over property that they own that are not in -- 4 that -- that have not historically been in the retail 5 water business; is that correct? 6 A. Yes. 7 Q. But I had asked you specifically about 8 companies that were not in the retail water business 9 applying for CCNs over land that they don't own. 10 Do -- Did you understand that -- 11 A. That was -- 12 Q. -- to be -- 13 A. -- the question -- 14 Q. -- my question? 15 A. -- you asked me, yes. 16 Q. And -- And if I understand correctly, you 17 feel that that would be an unusual circumstance? 18 MR. WHEATLEY: Object to the question, 19 the form. 20 A. Based on the criteria that I know of from 21 the TCEQ, yes, that would be in a -- would have been 22 a -- an unusual granting. 23 MR. WHEATLEY: Object to the response. 24 MR. LANE: Thank you. I -- I 25 appreciate your patience and I pass the witness.</p>

1 signature and return to me by ;
 2 That the amount of time used by each party at
 3 the deposition is as follows:
 4 Mr. Seagal V. Wheatley - 1:51
 5 Mr. Daniel McNeel Lane, Jr. - 0:15

6 That pursuant to information given to me at the
 7 time said testimony was taken, the following includes
 8 counsel for all parties of record:

9 Mr. Seagal V. Wheatley, Attorney for Plaintiffs;
 10 Mr. Daniel McNeel Lane, Jr., Attorney for
 11 Defendant.

12 I further certify that I am neither counsel for,
 13 related to, nor employed by any of the parties in the
 14 action in which this proceeding was taken, and
 15 further that I am not financially or otherwise
 16 interested in the outcome of the action.

17 Further certification requirements pursuant to
 18 Rule 203 TRCP will be certified to after they have
 19 occurred.

20 Certified to by me this day of
 21 , 2005.

22
 23 JAY HARPER, Texas CSR 1101
 24 Expiration Date: 12/31/06
 25 Firm Registration No. 415
 909 N.E. Loop 410, Suite 810
 San Antonio, Texas 78209
 (210) 222-9161

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2
 3 The original deposition was/was not returned to
 4 the deposition officer on ;

5 If returned, the attached Changes and Signature
 6 page contains any changes and the reasons therefor;

7 If returned, the original deposition was
 8 delivered to Mr. Seagal V. Wheatley, Custodial
 9 Attorney;

10 That \$ are the deposition officer's
 11 charges to Plaintiffs for preparing the original
 12 deposition transcript and any copies of exhibits.

13 That the deposition was delivered in accordance
 14 with Rule 203.3, and that a copy of this certificate
 15 was served on all parties shown herein and filed with
 16 the Clerk.

17 Certified to by me this day of
 18 , 2005.

19
 20
 21 JAY HARPER, Texas CSR 1101
 22 Expiration Date: 12/31/06
 23 Firm Registration No. 415
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A				
ability 36:9 38:11 110:6,12 able 9:17 67:18,22 68:19 about 6:3,6 7:16 10:8 11:22 12:7 14:18 16:5,19 17:16 18:9 19:9,18,24 20:2,5,8 23:3,6,7,24 25:13,17 28:10,12 30:17 31:6 31:16,20 36:1 38:22 41:15 43:23 48:14 52:12 56:22 59:13 60:3 61:15,18 62:8 62:11,17 63:17 65:13 65:13,18 66:19 68:18 75:20 78:11,15 79:12 79:12 80:13 82:11 91:7,18 92:11 93:6 96:2,24 98:22 99:2,4 101:17 103:10 105:9 105:24 106:23 108:16 111:18 112:3 113:7 above 38:22 116:1 above-styled 3:9 absolutely 98:4 accept 50:4 95:8 accident 35:22 accomplish 95:15 accordance 48:1 119:13 According 54:24 achieved 43:15 acknowledged 116:14 acquired 27:12 42:21 acquisition 27:2 28:5 acres 31:6 42:15,18 52:13,25 53:1,6,11 71:2,8 84:10,17 95:11 100:4,7 112:12 acre-feet 73:24 79:6 80:19 82:14 84:9 acre-foot 74:6,20 83:2 83:11,18 across 22:16 82:5 action 99:6 118:13,15 activities 6:23 25:24 40:4 actually 105:14 109:12 ad 11:9 added 9:23 40:7 adding 80:12 addition 110:16 address 5:10 adjacent 21:13 23:19 31:17 38:10 administration 14:22 Administrative 110:15 admission 111:12,15 111:18 admit 111:8 Adolfo 2:16 7:2 advised 42:3 affected 34:23	affirm 49:25 affix 115:25 affordable 13:24 after 12:10 41:3,22 44:13 47:14 66:25 67:6 102:6 118:17 again 12:4 27:9 35:17 39:12 45:4 52:5 65:19 66:11 80:11 84:11 94:8 106:18 109:15 against 9:5 97:24 agencies 90:23 agency 88:7 agency's 5:15 agenda 25:7 agree 8:5 9:1 28:17 36:16 72:24 88:14 90:1,13 97:23 agreed 3:15 70:17 92:17 93:14 agreement 4:11 21:14 24:2 27:7 28:7,11 44:8,14,17 45:1,6,12 45:14,15 46:5 47:3,7 47:14,22 48:2 56:15 57:15 58:6,13,15 61:15,18,22 62:1,6 62:13 63:2,3,21 64:1 64:4,7,18 65:21,22 65:23 66:14,20 67:1 67:5,7,10,25 68:3,21 69:7,21 70:1,23,24 71:22 81:18 88:24 89:11,24 92:20 93:8 93:16,18 96:2 100:11 101:5,15,18 102:21 104:6,15 110:3 agreements 64:21 90:21 agrees 46:6,8,11 103:2 103:16,18 104:11 ahead 70:18 108:22 Ahrens 4:13,16 15:4,4 16:5 17:14 33:2 37:22 41:8,11,23 42:1,3,8 51:15 60:23 61:17 63:12,17 69:5 92:1 94:8,8 95:4,20 96:15 97:8 98:2 99:2 99:8 AKIN 2:8 Alamo 3:13 Albach 14:23 17:3,4,20 18:24 allow 36:10 allowed 11:15 alluding 89:3 almost 20:24 31:19 42:15 along 18:3 45:21 67:4 72:13 102:7 103:12 already 36:8 42:21 54:2 55:8 58:15 73:1 80:3 104:6 105:5 although 6:20 104:14	always 21:1 22:8 27:6 27:15 44:10 amend 4:7,14 46:6 48:12 51:17 92:11 95:9 102:7 amended 46:20 110:5 amending 95:15 amendment 95:6 amicably 42:12 44:1 amongst 110:3 amount 118:2 Andy 54:12 anecdotal 62:16 announcement 110:2 announcements 5:19 another 35:21 40:14 86:15 101:9 answer 24:25 25:20 27:23 62:2,7,14,24 66:5 87:8 91:10 92:25 94:2 98:19,20 108:18 109:5,16 answered 27:21 61:17 answering 108:20 answers 61:25 anticipated 57:14 Antonio 1:10,10 2:4,9 2:10,11,15,17,22 3:14 9:12 16:12 19:10 20:19,22 26:4 32:8 35:2 37:11,21 40:9 42:4 45:15 95:11,14 100:4 117:10,10 118:24 119:23 anybody 19:15 26:13 56:22 87:2 99:4 anyone 17:2 87:9 anything 22:3 29:15 52:20 57:20,23 89:13 100:17 111:6 apologize 75:14 apparent 89:14 apparently 96:1 110:20 appear 60:22 110:6 Appearances 3:19 appeared 116:9 appears 39:22 47:11 51:25 96:12 application 4:7,9,13,14 11:14 30:25 31:5,15 31:19,23 32:11 33:5 33:10,15 35:3 37:18 40:2 41:17 45:20,25 46:6,9,17,20,21 47:17,18 48:2,13 49:1,9,13,14,15,25 50:5 51:9,17,20 52:8 52:11,12,21 53:9,11 57:2 60:17 66:12 70:18,24,25 71:2 81:10 84:14 92:10 93:23 95:10,16,17 102:6,8,18,22 103:3 103:6,11,17 104:2,7 104:11,14,16 108:3	109:18 110:10,14 applications 32:13 34:22 39:15 57:25 88:15 92:19,21 applied 31:18 52:23 53:1,9,18 101:22,23 105:18 applies 37:19 apply 27:25 53:6 69:8 70:17 71:5 97:11 106:16,20 112:7 113:2 applying 28:16 55:14 106:8 112:3,12 113:9 appreciate 109:24 113:25 appropriate 83:19 approval 72:13 approved 95:14 approximately 11:17 April 49:2 51:12 61:1 94:7 95:5 aquifer 40:16 74:10 75:21 area 19:13 20:13 23:18 23:19 26:20,21,24 27:2,13,13 29:5,14 29:16,17,25 30:19 36:8 38:12,22 39:8 43:1,2,3,7 45:21 46:12 47:15,17 48:2 48:14 54:21 55:8 56:19 60:19,20 62:9 62:19,25 64:23 65:24 66:17 71:3,23 76:21 77:4,19 78:4,12,24 80:9,14 81:1,12,22 82:8 84:6,21,24 85:1 96:9,13,17 101:23 102:3,7,18,22,23 103:7,12,19 105:15 105:19,21,22 106:10 106:14 107:6 108:4 108:12 109:1,19 areas 28:17 29:4 35:11 35:22 36:12 39:2,4 45:15 46:7 47:5 48:13,16 60:11 62:19 66:1,19 88:16 arguing 36:22 around 12:18 16:16 29:15 42:22,23 68:25 71:3 80:20 96:9,18 102:3 asked 12:12 27:21 42:18 50:1 65:12 97:7 103:10,10 104:19 105:8,14 112:2 113:7,15 114:5 asking 17:11 24:20 36:17,21 49:24 64:6 66:11 72:24 90:13 aspect 89:24 assert 91:8 assign 25:19 assigned 41:9	assignment 18:8,10 Assistant 12:19 13:2 assume 8:25 attached 3:20 102:9,13 119:5 attachment 4:16 attachments 4:8,12 attempt 40:3 41:12 attempted 23:10 attend 25:7 attention 110:16 attorney 9:4 35:15 88:6 118:9,9 119:9 attorneys 19:3 87:22 110:22 attorney-client 91:9 attractive 22:15 attrition 12:23 authenticity 54:5 automatic 31:20 available 81:18 award 107:20 awarded 26:20 104:24 aware 37:10 57:1 58:6 86:9,22 92:19 108:1 away 68:23 A-l-b-a-c-h 14:25 a.m 3:10,10

B

back 10:1,10 31:10
32:21 60:8 91:1
backed 22:24,25 23:9
based 26:21 27:1,2
104:24 110:11
113:20
basically 8:19,22 10:2
12:12 13:21 15:10
16:22 17:25 18:1
21:13 22:12 23:20
28:13 36:22 37:2
39:23 43:7
basis 20:24 24:6 25:10
25:13 82:25
Bates 32:20,21 39:25
bears 34:19
became 12:19,25 40:23
become 13:6,9
before 3:10 16:6 17:24
51:12 52:10 53:3
56:11 60:8 64:14,25
65:8 66:11 89:21
90:7 91:6,17 98:8,10
101:4,13 116:8
began 11:18 41:4
beginning 61:6
behalf 6:14 7:6,8 91:9
being 6:23 7:17,19 9:25
21:18 33:15 38:22
50:4 68:19 106:3
107:2,24 110:10
believe 7:25 19:17 30:6
40:23 43:11 48:4,6
80:7,20 82:15 85:23
85:24 93:22 102:13
believed 39:10

111:5,24 114:3 118:8 118:11 Country 27:3 43:10,13 County 1:12 4:14 26:24 31:7 82:10 95:7 116:7 117:12 couple 10:10 course 6:24 9:2 18:12 76:5 77:3 88:2 102:20 104:9 courses 9:25 10:3,11 Court 1:2 110:24 117:2 courtesy 111:5 courthouse 6:9 Cover 4:10 covered 31:6 48:17 65:23 66:13,13 covering 69:7,21 105:19 106:8,16,21 107:3 108:3,11 109:19 covers 64:22 crammed 11:11 crazy 69:1 criteria 113:20 cross-examine 110:7 110:12 CSR 3:11 118:22 119:21 current 92:18,21 currently 46:7 47:4 48:3,13 80:6 Custodial 119:8 customers 13:15,18,24 19:23,24,25 20:6,12 21:11 25:15 26:10,18 78:4,8 80:3,6 cut 16:21	deliverable 81:16,17 81:19 delivered 119:8,13 delivering 13:23 demonstrated 39:1 deny 59:1 departure 6:3,5 depend 37:16 depending 74:6 Depends 82:23,25 depicted 102:9 deposition 1:15 3:6 5:13 6:9 8:6 33:2,2 42:25 44:18 60:23 63:13,18 101:14 114:4 115:25 117:14 117:22,24 118:3 119:3,4,7,10,12,13 depositions 3:16 depth 79:13 deputies 14:14 18:4 deputy 14:21 15:9 16:23 18:2 92:3 derail 89:13 describe 18:13 described 17:18 27:11 50:15 78:10 90:20 104:23 105:9 describing 65:11 description 4:4 116:11 deserve 26:21 design 35:23 designate 60:18 desire 7:14 95:9 detail 60:25 details 61:24 93:5 developed 24:1 developer 89:23 developers 84:24 85:1 development 40:3 84:6 84:10 dialogue 41:9 44:10 differ 35:11 difference 104:12,13 differences 42:11 101:18 different 18:15 23:1 44:11 62:9 direct 35:3 directly 32:14 directors 14:3 discussed 66:1 95:13 discussion 6:6 32:4 41:5,22 54:7 62:16 62:25 72:17 87:17 91:23 discussions 5:25 41:11 42:4 44:6,15 45:7 56:16 58:7 62:8,12 dispute 23:7 44:2 disputed 110:10 distribution 80:2 district 1:2,7 2:13 4:5 4:14 5:14 6:20 7:1,4 13:9 14:1 15:10,18 15:22,24 17:24 34:21	35:13 39:14 45:16 92:16 95:6 117:2,7 District's 84:25 Division 4:11 document 50:14 88:11 88:22 110:20 116:12 documents 17:12 DOCUMENTS/INF... 4:1 doing 10:23 11:5,6,7 24:16 25:3,6,9,9 57:5 65:15 79:25 dollars 74:6,20 Dominion 29:14 done 18:23 21:5,6 25:10,12 91:17 107:24 Doug 4:16 down 16:21 35:6,21 88:19 104:24 draft 110:5 drill 78:15 Drive 46:14 103:22 driven 21:9 dual 35:21 36:2,5,12,25 37:10,22 95:10 96:17 96:17 97:12,23 99:9 99:10 100:3,7 due 21:17 duly 3:8 5:2 117:20 duration 36:9 during 5:13 11:16 13:11 61:14 114:4 duties 12:3 13:20 15:7 17:16,19 duty 26:1 Dwayne 94:18,19 Dym 77:23	employment 6:2,24 10:13 enclosed 95:12 enclosing 51:16 end 68:5 85:23 endorsed 71:23 engineer 15:17,18,18 15:21,22 enjoy 71:7 enough 59:9 69:4 98:16 enrolled 11:1 entailed 61:19 entered 37:9 entirely 105:2 entities 36:6 37:2 113:2 essentially 12:4 establish 51:5 estate 43:4 estimate 74:4 75:9 etc 89:23 even 16:23,23 19:15 20:11 36:5 62:14 73:12 93:17 97:22 event 102:16 ever 27:11,25 37:9 53:3 63:3 69:4 92:20 98:4 99:8 106:3 107:1 every 50:7 106:25 everybody 5:23 28:15 everyone 13:22 71:23 everything 102:8 everywhere 28:16 exact 8:2 16:15 19:21 35:16 108:13 exactly 29:19 31:24 36:3,4 38:18 48:16 62:10 63:4 74:12 77:5 79:9 108:13 examination 3:21,21 3:22,22,23 5:3 100:25 111:25 112:20 117:25 example 19:20 21:3 41:23 examples 20:21 except 116:1 exclude 46:7 47:3 48:13 102:8 excluded 47:14 excuse 32:2,7 38:9 45:14 53:24 60:1 73:19 85:7 88:20 91:20 executed 116:14 execution 104:5 exercised 40:8 exhibit 32:5,7,18,23 33:2,8 44:19 45:24 48:21,23 49:9,15 51:7 52:4 53:25 54:8 54:10,12,15 87:14,16 91:24,25 94:5,7 101:4,8,14 102:13 110:17,25 exhibits 4:3 105:15 119:12	exist 44:1 existing 28:10 46:6,12 48:12 95:16 102:8 103:19 expand 38:11 56:19 71:3 expansion 60:19,20 66:16,19 96:12 105:15,21,22 106:14 108:3,12 109:19 expensive 79:2 experience 85:18 86:16 expertise 86:24,25 Expiration 118:23 119:21 explain 104:25 expressed 116:15 expressing 38:17 extent 40:9 64:22 65:23 66:21 extra 32:20
D DAHL 2:20 daily 20:24 21:15,16 Daniel 2:7 118:4,9 date 8:2 11:17 62:13 98:22 118:23 119:21 dated 33:3 110:18 day 3:9 16:15 22:22 81:17 106:25 116:9 116:17 118:19 119:17 days 51:12 De 2:14 deal 25:14 63:5 70:22 96:16 dealing 15:5 18:17 dealings 17:13 42:9 deals 101:22 Dear 88:10 DEBRA 1:4 117:4 decertify 46:11 103:18 decided 11:9 84:23 decision 71:16 defendant 1:12 2:6 110:6 117:12 118:10 degree 6:15 9:10 12:14 90:25	E E 2:1,1,11 EA 60:12,20 each 20:25 21:18 22:13 22:17 43:21 88:13 118:2 eager 21:21 earlier 13:11 17:18 42:25 97:7,11 100:10 early 13:12 earth 97:1 east 2:4 3:13 23:19,20 27:5,8,11 54:22 102:8 education 9:18 EDUs 82:22 83:2,7,10 84:16 Edwards 17:24 74:20 74:25 effect 47:2 efficiency 15:5 efforts 45:8 either 32:14 36:23 37:4 93:13 elevated 22:14 eliminate 92:18,21 employed 7:23 118:12	F facets 13:25 facilities 22:2 84:21 fact 28:19 38:21 58:14 59:24 67:9 Fair 69:4 fairly 31:16 fairness 70:13 familiar 30:20 104:25 109:13 family's 55:3 far 6:11 9:17 fashion 10:13 12:5 favorable 24:1 37:19 38:24 fax 4:10 87:18 fearful 90:25 February 7:25 8:1,1 11:25 75:3 85:3 100:2 feel 113:17 FELD 2:8 fell 15:3 few 101:2 105:23 Field 23:18 figure 68:24 83:22 84:1 file 46:17 47:4,16 48:2 49:14 51:18 52:6 54:11 99:14 102:17 102:22 104:1,6,14 filed 30:25 31:4,5 33:8 44:13 45:5,25 52:12 57:1,4,11 81:11 84:13 95:6 108:2 119:15 finances 85:1 Financial 86:1 financially 118:14 find 25:19 39:16,23 60:4 66:22 67:2 71:7 81:12 86:3 finding 68:15 fine 9:22 19:1,7 32:24 73:13 75:9		

60:16 72:11 73:19 75:9,18 76:19 77:8 79:10 85:7 86:3 87:11 91:20 98:16 99:13,13,14 101:17 104:25 107:23 108:16,23,23 109:4 109:15 111:24 114:1	81:7,8,14 84:3 land 28:1 40:3 42:14,21 64:22 65:24 66:13 69:7,22 106:8,10,16 106:21 107:3 112:4,7 113:9 landscaping 11:5 Lane 2:7 3:22,23 7:5,5 7:9 21:24 22:1,5 24:7 24:17 26:2 27:17,20 27:22 28:24 32:16,20 32:21,23 33:12 34:3 34:5,7,12,15 39:7 40:25 41:16,19 42:10 43:18,20 44:9 46:2 46:24 47:6,8,10,20 47:24 49:8,17,20,23 50:3,10,12,19,21,23 51:23 52:14,16 53:20 57:17,19 58:17,19,21 58:23 59:2,4,6,8,14 59:19,21 63:10,14 64:2,9,11,15,24 65:2 65:4,25 66:8,15,18 67:12,15,21 68:9,11 68:13,20 69:10,16,18 69:24 70:7,10 71:9 71:11,14,19 72:7,15 72:18,22 73:17 74:1 74:11,17,22 78:9 79:8,19,21 81:13 82:3 83:24 84:22 86:6,8,10,12,19 87:1 87:5,7 88:25 90:2,9 92:22,24 93:3,10,24 94:1,14,16,20,22 96:19,22 97:3,15,17 97:25 98:7,11,14,19 98:23 99:17,23 100:9 100:22 101:1,7,12,13 105:23 107:1,16,22 108:1,9,19 109:4,8 109:11,12,15,24 112:2,21 113:24 114:6 118:4,9 largest 19:13 Larry 15:8 Larry's 15:11 last 7:23 15:11 19:11 46:22 82:11 later 7:9 107:17 LATIMER 2:20 latter 7:25 lawsuit 6:13 110:4,11 110:17 lawsuits 6:7 lawyer 5:22 90:15 91:5 111:9,10 lawyers 5:19 7:14 111:20 lead 10:22 leading 34:7,12 41:19 51:23 52:14 53:21 57:19 58:23 59:4,14 59:21 64:15,24 65:25 66:8 67:12,21 68:9	69:18,24 70:10 71:11 72:7 73:18 96:19 97:17,25 98:7,23 99:17 learning 86:2 least 36:8 leave 16:17,20 44:2 left 5:24 20:8 30:13 73:23 75:2 80:8,10 80:16 81:2 84:19 85:3,6 100:1 104:16 legalities 7:21 Legislature 40:5 let 8:10 19:2 26:6 32:6 32:21 33:1 42:24 45:3,4,11,12 50:11 53:20,23,25 65:17,18 70:2,14,21 79:10 86:15 87:15 94:6 99:13,13,13 101:25 105:23 109:4,15,17 112:22 114:1 letter 4:6,13,16 32:7 33:3,9,18 34:9,16 35:14,15,17,19,24 36:11 38:8 39:1,11 40:22 41:3,22 45:24 45:25 51:11,12 87:16 92:1 93:20 94:7 95:8 95:18,21 98:2,5,21 98:25 99:7 100:20 letters 49:13 let's 14:16 18:19 19:8 26:17 35:1 38:7,25 60:3 65:17 74:9 75:11 79:9 90:23 91:3 levels 44:11 like 5:18 16:1 19:11 22:3 25:8 30:20 36:23,24,25 54:12 57:2,11,16 61:15 64:3 65:12 89:23 90:8 109:4 limit 6:5 limited 1:3 27:3 43:10 43:13 117:3 line 35:6 46:13 61:5,11 82:6 103:20 lines 21:12 listen 70:5 71:16 73:2 listened 70:11 72:2,3 litigation 9:5 little 7:22 11:4 12:15 12:15 19:8 48:9 112:22 lived 106:9 Local 40:10 located 42:19 76:4 78:3 location 54:17 Lodge 46:13 103:21 logo 52:22 long 59:9 88:4 98:16 longer 93:22 long-standing 35:23 36:13	long-term 35:10 look 28:15 34:19 35:1 38:7 39:18,24 45:11 49:15 51:11,20 66:10 69:6 70:16 88:9 95:25 99:9 looked 17:2 looking 33:17 37:8 49:20 52:1 Loop 118:24 119:22 loss 68:8 lot 9:24,25 17:11,12 60:25 73:9 75:8 78:20 79:2 90:20 LOVA 1:6 117:6 LTD 1:3 117:3 L.L.P 2:8	M machine 3:12 made 11:13 12:12 28:7 44:7 58:15 68:22,23 69:6,6,21 70:23 71:4 72:11 81:18 92:20 93:8 96:16 magic 55:24 maintenance 15:9 major 24:4,13 make 36:15,20 46:22 66:4 71:15 73:3 110:2 111:11,14,18 makes 107:17 making 13:21,24 28:12 Malone 2:17 man 86:16 management 14:14 Manager 6:25 8:23 12:6,7,11,20,25 13:1 13:2,3,7,19 21:4 24:15 28:19 34:10 37:13 51:16 69:15 70:16 72:10 73:23 75:2 85:11,12,19 86:5,17 91:12 92:3 100:8,16 managerial 86:4,25 Manager's 12:9,10 managing 14:1 85:9 many 18:13 42:15,18 53:1,6 75:5 76:2,8 79:6 80:19 82:14,22 83:6 84:9,16 87:23 105:6 map 4:5 46:14 52:10,21 53:3,4,22,24 54:12 54:16,16,21,24 55:2 60:9,16 66:10,17 76:17 78:5 95:12,25 96:4 102:9,13 103:22 mark 4:10 53:24 54:2 88:5,10 95:2 110:18 marked 32:5,17,22 48:21 52:9 54:8 87:14 91:24 94:5 101:4,8,14 105:14 market 2:11 73:25	MARTINEAU 1:5 117:5 Martinez 2:15 Mary's 2:21 9:19,24 10:7 11:1 match 66:6 math 83:8,19 84:12 matter 6:11 97:9 may 6:3 7:10 8:7,7 18:18 21:10 22:21 26:14 27:23 31:13 36:8 39:21 40:8 59:8 61:23 62:17 71:25 87:8,12 91:1 92:6 95:15 97:8 100:12,14 104:25 105:5 107:24 maybe 12:16 14:14 31:5 37:6 43:24,25 71:20 74:5 77:4 83:2 93:15 96:2 97:13 Mazieres 2:14 McNeel 2:7 118:4,9 mean 21:15 24:21 26:12 28:7 30:5 31:1 31:16 37:13 38:2,3 39:20 43:4 61:21 68:4 83:4 105:4 108:13 meant 105:1 Medina 75:1,12,15,17 meeting 39:20 62:17 meetings 25:7 member 89:22 members 25:15 memo 88:5,9 memory 33:7 mentioned 16:1 42:25 104:22 mentioning 20:12 merit 104:24 105:3 merits 26:21 110:9 met 46:16,18 67:6 92:17 102:17 103:3 104:1 methods 40:15 Metro 12:8 19:24 57:5 100:12 108:14 Metropolitan 2:13 4:5 4:14 5:14 6:20,25 7:3 34:21 39:14 45:16 92:16 95:5 Michael 44:22 Mid 11:2 midst 101:21 103:15 might 21:22 23:7 62:16 Mike 4:13 14:22 17:3,4 18:3,24 32:15 92:7 mile 30:17 milestone 10:13 12:4 mind 22:11 68:18 77:16 mini 6:17 minute 32:2 60:1,9 85:7 87:11 mistake 69:6 Mister 29:1
---	--	---	---	--	--

MOORE HOWARD/FREDERICKS CARROLL

909 N.E. LOOP 410, SUITE 810, SAN ANTONIO, TX 78209 - (210) 222-9161 - (800) 767-9161

<p> paying 73:24 74:13,15 payroll 12:20,20 Pecan 2:4 3:13 pending 46:19 70:24 88:14 95:10 110:9,14 pennies 80:12 people 14:2,11,12 15:13,25 18:14,17 22:15 106:9 per 74:6,20 79:6 83:2 83:11,11,11 permissible 40:15 permission 36:7 permits 15:2 permitted 40:9 person 14:15 18:16,20 18:22 20:10 86:22 116:12 personal 5:22 9:4 50:21 personally 116:9 personnel 12:21 petition 110:5 Phil 2:10 philosophy 10:3 phrase 55:16 physically 63:20 pick 14:10 20:10 pipeline 80:24,25 82:4 place 16:24 17:1 19:16 36:23,24 38:6 78:19 79:1 81:11,19,21 82:1,6 85:14 105:5 plaintiff 110:11 plaintiffs 1:8 2:2 3:8 110:9 117:8 118:9 119:11 plan 15:6 16:25 81:3,11 plans 25:4 42:19 plant 23:13,15,25 players 24:22 please 5:7,8,20 45:13 95:8 point 16:6 22:22 37:21 43:22 44:13 56:18 72:5 108:2 pointed 23:2 policy 35:23 36:13 57:24 97:24 portion 46:11 54:11 103:19 position 6:21 12:10 17:17 72:10 possible 89:21 90:17 possibly 39:19 56:24 69:17,19 potential 6:7 power 107:19 powers 40:8 58:9,10 59:13,18 61:6,13 62:11,15 63:4 88:13 94:24 prefer 7:17 preliminarily 92:17 93:14 preparing 119:11 </p>	<p> presence 19:4 PRESENT 3:1 presented 110:8 press 73:15 prestigious 19:3 pretty 11:7 22:10 27:9 42:2 68:23 80:11 prevented 68:18 previously 32:17,22 101:4 104:5,22 price 78:1 prior 3:16 10:16,23 56:14 62:5,13 63:1,2 64:20 65:19 69:21 70:22 102:20,20 104:5 105:24 privilege 91:9 privy 64:19 probably 12:15 19:22 21:9 39:8 problem 7:16 73:1,6 97:9,10 Procedure 3:15 proceeding 111:6 118:13 process 18:11 24:10 55:14 92:17 105:1 produced 3:7 110:20 111:1 producing 79:7 Production 92:4 productive 76:14 program 62:18 progressed 12:5 project 22:20 23:11 24:4 81:7 projected 84:16 projects 20:19 21:4,6 21:20 22:7,8 23:9 24:13 properties 46:18 104:2 104:7,15 property 28:23 46:13 55:15 76:16 77:23 103:20 105:10,16 108:12 113:3 proposed 35:11 39:2 protection 40:16 protective 6:10 protest 33:4,8 38:8,25 40:14,20 41:3,22 43:16 44:13 45:5,9 45:23,25 46:19 47:18 57:1,4,11,16 97:24 104:16 protested 31:9,12,13 33:16 35:2 70:19 93:22 protesting 33:10 34:2 protests 34:21 39:14 57:25 proved 116:10 provide 21:10,13 86:24 106:9 107:7 provided 34:23 38:12 providing 23:24 108:24 </p>	<p> provisions 3:15 proximity 105:5 public 18:1 34:22 35:12,23 36:13 39:15 39:20 97:24 116:20 pump 11:11 purposes 116:15 pursuant 3:14 118:6,16 pursue 70:25 pursued 69:3 purveyor 20:13 35:8 pushing 73:5 put 5:22 6:16 17:16 35:13,24 38:19 39:11 42:14 54:12 60:14,18 66:12 78:23 99:14 P.C 2:3,20 </p> <hr/> <p style="text-align: center;">Q</p> <p> qualifications 108:17 qualified 86:22 quantify 13:14 question 25:22 35:18 45:4 56:11 61:3,13 61:21 62:1,4,10,21 63:1 66:4 73:18 113:13,14,18 questioned 6:23 questions 31:20 54:5 98:16 101:2 105:9,24 110:8 111:9,20 112:3 112:5 114:3 quick 13:1 quickly 90:17 quite 72:25 quote 35:7,21 38:9 39:1 40:1,14 46:6 92:15 </p> <hr/> <p style="text-align: center;">R</p> <p> R 2:1 3:3 13:5 raised 9:13 ranch 30:3 55:3,8,23 57:7 67:13 71:3 96:6 96:18 105:10,11 Randy 77:23 range 74:15 79:12 ranged 74:5 ranging 79:11 ratepayer 37:3,6 ratepayers 85:1 Rathburn 94:19,19 rather 103:11,17 112:23 Re 4:7,11,13 reach 67:10 70:5 reaction 70:2 read 25:13 34:24 35:7 38:13,25 39:4 40:1,5 40:10,16 45:12 46:23 60:23 61:2 63:9,17 88:18 89:24 99:14 101:25 102:10 103:22 115:24 reading 46:10 reads 46:5,5 real 43:4 </p>	<p> really 7:20 17:1 20:16 49:14 72:25 reason 7:20 17:11 31:25 38:24 63:11 65:14 71:17 100:14 109:21 115:2 reasons 8:16,18,20 9:1 34:23 35:1 39:19 40:20 71:20 119:6 recall 22:25 28:3 29:18 31:4,8,11,12,13,24 32:12 33:7 35:16 36:3 37:12,24 38:2,4 38:18 41:2,7 48:7 50:7 53:1,4,8 55:10 55:15 56:17 57:3 58:18,20,24 59:5,12 61:17 62:11 64:3,10 64:12 66:24 67:2,3,4 74:2,18 75:24 76:3 77:5,12,25 79:9,15 91:2 98:12,24 99:3,5 99:25 105:12,16,19 108:13 112:4 received 49:2 51:13 recently 5:24 Recess 60:6 107:25 reciprocal 21:14 recognize 44:25 recommended 72:21 record 5:23 6:16 8:10 19:2 32:4,17 45:13 54:7 60:17 87:17 91:23 109:16 110:2 110:25 111:8,8 114:2 117:22 118:8 records 40:24 rectify 69:9 refer 5:13 55:19 reference 33:23 referring 47:11 89:6 93:12 94:4 95:24 96:23 refers 45:19 103:11 reflect 19:2 60:17 refreshed 33:8 refuse 12:13 regard 8:12 regional 35:7 Registration 118:23 119:22 regular 25:10,12 regulating 40:15 regulatory 88:7 relate 6:24 26:25 related 6:1 91:11 118:12 relationship 17:23 18:19,24 37:1 62:3,5 62:22 relatively 12:21 release 71:6 relief 11:12 remember 8:1 16:8,13 16:15 23:3 28:6,9,12 30:24 36:4 57:4,22 </p>	<p> 74:12 76:10 remembers 23:5 replace 17:2 report 14:5 62:15 reported 3:11 Reporter 98:13 108:7 117:17 Reporter's 3:25 117:14 represent 5:20 6:20 53:10 representation 93:21 114:2 representative 34:9 Representatives 92:15 requested 4:1 96:3 requesting 25:18 requests 34:22 39:15 required 10:1 requirements 118:16 rescind 46:8,19 103:17 resistant 69:22 resolution 68:16 resolve 41:5,12 42:11 43:22,24 44:3,16 45:8 57:25 Resource 32:9 resources 14:23 15:1,2 15:5 16:24 17:9,10 17:19 51:15 92:7 94:9 respectfully 40:1 respond 25:22 response 56:13 109:2 109:23 111:1 113:23 rest 80:25 restate 109:17 restrict 38:11 retail 77:25 105:25 106:4,7,9,16,20 107:2,8,8 112:24 113:4,8 retired 12:8 13:3 return 46:18 118:1 returned 119:3,5,7 revenue 13:17 re-marked 101:8 right 6:14 7:23 8:8 10:12 15:25 20:5,17 20:25 22:11,13 24:14 29:15 30:2,24 31:2 34:4 38:5,20 40:13 44:16 45:18,19,21 47:1,25 48:20 52:7 53:19 54:14 55:1 57:10,12 58:5 59:25 61:6,13,25 62:24 63:20 72:6 75:5 76:20 82:5 83:17 84:3 87:10 89:12 95:2,3 97:10 98:5 102:25 103:1 104:8 104:19 105:13 107:7 111:6 rights 40:15 river 74:25 Road 29:16,25 30:12 </p>
---	--	---	---	--

MOORE HOWARD/FREDERICKS CARROLL

909 N.E. LOOP 410, SUITE 810, SAN ANTONIO, TX 78209 - (210) 222-9161 - (800) 767-9161

<p>suppliers 75:5,8,10 supply 62:18 78:4,7 80:18 81:9 106:9 support 71:1 supposed 13:22 42:8 sure 11:8 13:21,25 23:2 25:21,23 31:25 32:3 32:19 40:22 44:18 50:19 60:2 72:9 73:11 85:8 98:18 109:13 surface 74:7 surround 54:22 surrounding 38:10 71:23 sworn 3:8 5:2 117:21 Sylvia 14:21 system 1:11 2:10 16:14 19:10 20:19,23 26:4 27:3 32:8 37:11,21 42:4 43:6,6 45:16 80:2 95:11,14 100:4 117:11 systems 29:17 38:21 42:20 56:22 System's 35:2</p> <hr/> <p>T</p> <p>table 44:2 tacitly 27:15 take 10:3 24:9 50:16 60:3 80:25 84:9 99:6 107:22 taken 3:8 10:11 14:1 38:6 61:1 100:2,6 105:6 118:7,13 taking 75:25 talk 14:18 19:8,18 65:18 72:17 73:9 99:2,4 talked 23:23 38:22 52:12 63:16 97:8 talking 19:10 41:8 48:14 61:18 75:20 78:11 80:12 92:11 93:6 Tammi 3:2 tank 22:11,17,19 23:10 tanks 22:14,16 tape 107:23,24 task 41:9 TCEQ 107:17 113:21 team 18:3 technical 86:17,24 technically 86:22 tell 8:15 10:12 12:4 13:19 21:8 22:6 42:6 52:9 53:23 56:21 62:10 63:4 82:14 99:8,12 telling 52:17,19 59:18 95:20 96:16 98:3 100:16 terminated 8:13,18 14:11 16:2,6 87:25 termination 8:17 9:7</p>	<p>11:24 terms 13:14,18 28:14 Terrazas 15:18,20 territory 13:18 28:11 testified 5:2 58:12 testimony 63:17 110:13 117:22 118:7 Texas 1:2,3,12 2:4,9,11 2:15,17,22 3:11,14 3:14 32:8 38:12 40:10 92:7 116:6,21 117:2,3,12,18 118:22 118:24 119:21,23 Thad 2:20 5:21 Thank 113:24 their 14:20 21:12,12 25:4,7 32:10 36:25 39:9 49:12,14 62:18 79:10 95:16 107:15 107:15 108:16 therefor 119:6 thing 21:14 31:16 things 10:4 12:24 15:3 18:2,16 23:1 43:23 47:16 65:12 105:3 think 6:10 13:10 16:16 16:18 22:9,14,15 24:4,11,13 26:13 27:10 28:3,10 29:17 29:19 31:5 32:23 49:12 57:20 71:18 73:6,6 75:3 76:15 77:14 78:14,14 84:23 87:25 101:3 107:5,24 109:8,21 thinking 57:22 91:2 108:14,15 third 19:15,25 20:10 92:14 Thirty 10:19 Thirty-six 10:22 Thomas 1:16 2:19 3:6 5:1,9 115:24 116:3,9 117:14,20 though 8:10 29:15 59:1 thought 26:8 55:13 58:3 90:16 108:16 109:6 thousand 74:5,20 82:17 83:10 three 19:11 51:17 76:3 76:14,24 78:13,14,16 78:23 79:7,17,18 80:1 three-quarters 12:14 thrilled 88:21,23 89:7 through 9:21 11:6 12:2 12:24 14:1 60:24 81:8 109:7 110:21 111:4,5 116:11 thumb 83:1,4,5 Thuss 44:22 till 16:1 Timberwood 30:7 76:6 76:9,10 77:3 82:8 time 5:19 10:14 20:8</p>	<p>31:25 38:3 44:7 45:5 53:2 57:23,24 58:6 58:12 61:14 62:7 65:9,10,11 67:9 68:15 72:11 73:22 75:6 81:1,10 85:3,5,5 88:4 91:3 92:3 98:1,4 100:1 102:20,21 108:15 118:2,7 times 5:12 10:3,10 title 45:13 92:4 titles 12:2 TNRCC 4:6 46:17,19 104:2,7 107:17 TNRCC's 107:14 today 55:12 64:14,20 65:1,8,19 66:11 81:20 85:10 105:24 110:6,17 111:21 together 20:22 21:7 22:18 54:5 told 16:20 37:25 61:15 61:21 62:11,16 73:1 97:23 99:10 100:10 105:18 Tom 70:22 71:4 91:14 tools 40:4 top 14:11,13 30:1 38:20 83:25 totally 64:5 town 24:22 town's 19:3 track 12:2 transcript 117:21,24 119:12 transferring 71:1 Transmittal 4:10 Travis 2:21 TRCP 118:17 119:1 treatment 23:25 Trey 2:14 6:19 trial 6:17 tried 22:18 Trinity 74:9,16 75:20 75:20,24,25 76:7,13 77:14 trouble 36:21 true 39:6 56:7 90:6 93:2,4 116:1 117:22 truth 59:18 try 8:6 37:22 41:5 44:16 45:8 57:25 66:4 68:24 69:9 70:5 93:21 100:6 trying 17:21 39:23 57:15 67:10 68:7 73:15 86:3 106:11 Turkey 76:15,16,25 78:12,13,18,23 79:7 79:18 80:1 turn 101:3 turned 30:12 two 11:12 19:13,18 22:12,16 24:21 36:6 37:2 47:15 51:12 60:11 80:12 83:2,10</p>	<p>90:23 110:23 two-volume 49:12 type 18:23 20:18 62:22 69:23 Tyson 3:4 T-e-r-r-a-z-a-s 15:20</p> <hr/> <p>U</p> <p>U 103:12 Uh-huh 83:14 ultimately 12:25 13:2 ultrafiltration 23:13 uncertificated 47:5,15 uncertified 46:7 48:3 48:13 under 28:5 34:20 40:13 56:24 58:12 59:17 60:19 116:16 119:1 Underground 17:24 understand 6:2,12 12:5 17:21 26:23 39:24 44:12 49:11 50:8 55:1,7,19 56:3,4 62:4 66:7 68:6,10 72:10 82:13 83:6 86:3 91:13,16 93:20 95:21 96:15,21 106:6,11 113:10,16 understanding 6:17 8:20 16:21 31:15 47:22 67:24 understood 8:16 16:4 27:16 103:5 undertaken 24:5 undertaking 103:6 unduly 38:11 unfamiliar 64:5 unfortunately 71:4 unique 35:13 university 9:19,25 11:2 until 10:14 11:24 14:10 31:14 44:7,14 45:6 unusual 6:4 106:15,19 106:23 113:17,22 use 8:6 17:25 40:3,3 68:24 80:8 82:25 83:3 110:13 used 5:15 84:5 109:21 118:2 users 107:6 using 75:12 77:13 80:5 80:11 83:15 usual 25:15 utilities 19:13,19 22:12 utility 19:19 31:18 U.S 45:21 46:8</p> <hr/> <p>V</p> <p>V 2:3 118:4,9 119:8 various 15:6 40:2 71:20 105:6 very 17:23 18:19 31:14 52:2 64:3 76:14 88:3 93:15 105:6 Videographer 3:4 VIDEOTAPED 1:15</p>	<p>view 22:24 89:4,18 Village 27:3 virtue 18:8 VS 1:9 117:9</p> <hr/> <p>W</p> <p>W 2:17 wait 56:11 waited 10:3 Walker 13:5 want 5:22 7:19 8:6,10 12:13 14:15 26:12,14 28:20 36:25 43:14,25 44:1 52:9 54:4 60:4,7 60:8,21 61:1,2 68:5 71:6,21 72:9 88:9,18 89:13 95:4 99:10 101:17 109:16 110:1 110:1 111:24 wanted 16:20,21 18:14 22:10 28:14 42:20 56:3,19,25 58:4 60:16 68:14,15 72:1 90:6 91:17 109:3 wants 26:13 39:3 89:20 wasn't 27:15 47:2 56:7 59:5 75:14 was/was 119:3 water 1:2,11 2:10,13 4:5,7,9,14,14 5:14 6:20,25 7:3 13:9,23 13:24,24 14:23 15:1 15:2,5,5 16:12,24 17:7,8,19,24 18:5,14 18:15,18 19:10,13,19 20:12,19,23 21:11 23:15,23,24 24:3 25:14 26:4,18,20 27:3 28:13,16 32:8 34:21 35:2,7 36:9 37:7,11,21 42:12 39:14 40:3,15 42:4 43:5 45:15,16 49:5 51:15 54:17,23 55:2 55:9,17 56:22,24 61:16,22 62:8,12,18 62:19,23 67:11 68:4 68:8 73:24 74:6,7,9 74:16,21 75:1,6,7,10 75:11,12,20,23,25 77:13 78:1 79:17,25 80:13,14,16,17,18,24 80:25 81:4,9,12,14 81:16,17,18,22 82:4 82:6,6 84:4,4,21 92:16,16 95:6,11,14 100:4 105:5,25 106:2 106:4,7,9,16,20 107:2,8,9 109:22 112:24 113:5,8 117:2 117:11 way 5:15 36:4 39:22 43:9 59:13 66:25 67:4 68:24 71:7 72:1 82:1 86:15 96:20 100:17 106:4</p>
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<div>6</div> <div>6 40:13 6/19/98 4:7 60s 11:2 66 11:3 67 11:3 68 11:3,19,19 69 11:3</div> <div>7</div> <div>70s 13:12 71 10:8 11:22 71-72 12:7 72 10:8 11:22 12:18 78205 2:4,9,11,15,22 78209 118:24 119:23 78225 2:17</div> <div>8</div> <div>8th 3:13 80 19:25 810 118:24 119:22 814 95:11 85,000 19:25 87 4:12 88,000 20:5 880 71:8 880-so 71:2</div> <div>9</div> <div>9 61:5,11 9/19/00 4:11 9:32 3:10 90 61:5,10 900 2:4 909 118:24 119:22 91 4:15 94 4:16 98 44:14</div>				
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Commissioner Larson slams BexarMet's expansion plans

SAWS sees chance to serve the area, next to Timberwood Park.

BY ELIZABETH ALLEN
EXPRESS-NEWS STAFF WRITER

It's been a tough summer for the Bexar Metropolitan Water District. Its Stone Oak and Timberwood Park customers were told to ration their lawn watering, the board has been in turmoil and the utility has been forced to buy millions of gallons of water from the San Antonio Water System.

Now Bexar County Commissioner Lyle Larson is threatening to oppose a permit BexarMet seeks to serve 5,000 acres in North Bexar County — and SAWS may decide to pursue that permit for itself.

"We're up in there, too, and we can easily serve that area," SAWS President David Chardavoyne said Thursday. "There's property up there where we actually have production wells."

Larson called a meeting on Wednesday with BexarMet General Manager Gil Olivares, board member Lesley Wenger, Chardavoyne, SAWS Chairman Jim Mayor, Pape-Dawson Engineers President Gene Dawson Jr. and City Councilmen Kevin Wolff and Richard Perez.

"Lyle essentially read them the riot act," Wolff said.

Larson said he was most concerned with BexarMet's attempts to expand its service area to property between U.S. 281 and Camp Bullis, adjacent to Timberwood Park.

"I couldn't support that," Larson said. "They can't service the areas they have. We said, 'Wait until you get all your water issues resolved.'"

Several years ago BexarMet sought a permit to serve the area from the Texas Commission on Environmental Quality, Wenger said. The permit was contested and held up for reasons she's not clear on, she said, but the utility has a hearing before the TCEQ in September.

"BexarMet is always going to seek to expand its service area in contiguous areas," Wenger said. "It's the only way we can keep our rates low and pay off our debt."

Wenger said she was baffled about Larson's motives for the meeting, because BexarMet board members and staff are already working to resolve the problems that began with the previous administration.

"I'm not sure what it was all about," Wenger said. "To the extent that there were questions, they were answered."

Olivares also said he felt Larson's concerns were addressed.

"We went over our business plan, which I'm pretty proud

of, and the development of alternate sources of water," he said. "Any change of management, it's going to take a while for a transition to occur."

Chardavoyne said SAWS has helped BexarMet serve its Stone Oak customers since 2003, and this summer provided by about 20 million gallons of water through its emergency interconnect.

"In the last 30 days, we've opened it up four or five times at the request of BexarMet," Chardavoyne said. "We are billing them for it, but this is water that was planned for our customers."

Chardavoyne would not say SAWS has been asked to serve the 5,000 acres but said the utility would have to be asked "officially" and that the possibility is "under review."

"I don't want to go into discussions with developers, etc., but basically we would think that it's probably good public policy for us to serve there at this point in time," he said.

The meeting, which Larson said was to encourage better big-picture water planning with local government, didn't start SAWS thinking about putting in a competing application, Chardavoyne said, but "probably brought it more into focus."

ellen@express-news.net
Staff Writer Greg Jefferson contributed to this report.

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Utility's makes so it's a

BY JERRY NEE
EXPRESS-NEWS STAFF WRITER

Verbal spar regional wat day over the System's prop water plan.

Some ques utility is ab borly approac Edwards Aqu

"I'm gettin with SAWS," Nueces River manager. "W point in recer of your neigh you as being than you usec

Under the plan, which t sider adoptin meeting, SAV rights to 25,0 wards Aquife leases, as we 35,000 acre-fee

It would bu Bexar County feet a year of l ter. It also woi sive and ambi velop water lower Guadab Simsboro Aqu

An acre-foot gallons— enc the annual ne families of fou SAWS' part

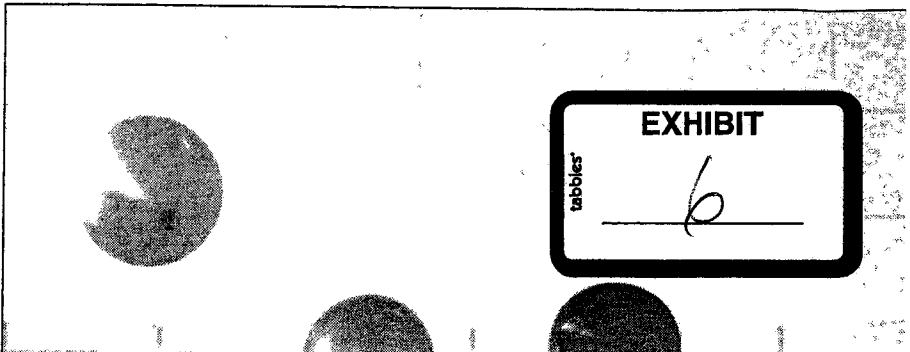
Buff Camp aimed at easing trans

CONTINUED FROM 1B

the campus and learned about teamwork through activities such as juggling.

"It's helpful because that way I won't get lost when school starts, and I can get to know the teachers better," Willie Jackson Jr. said.

Fox Tech bills itself as the "Pride of Downtown." Its neighbors include Compass Bank and



son slams ion plans

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ss *ellen@express-news.net*
id Staff Writer Greg Jefferson contributed to this report.

Neighbors criticize SAWS

Utility's 50-year plan makes some wonder if it's a water hog.

By JERRY NEEDHAM
EXPRESS-NEWS STAFF WRITER

Verbal sparring erupted among regional water planners Thursday over the San Antonio Water System's proposed new long-term water plan.

Some questioned whether the utility is abandoning a neighboring approach and claiming the Edwards Aquifer as its own.

"I'm getting a little nervous with SAWS," said Con Mims, Nueces River Authority general manager. "We have reached a point in recent years where a lot of your neighbors were looking at you as being a better neighbor than you used to be."

Under the updated 50-year plan, which trustees are to consider adopting at their Aug. 16 meeting, SAWS would buy the rights to 25,000 acre-feet of Edwards Aquifer water it currently leases, as well as an additional 35,000 acre-feet.

It would build a plant in South Bexar County to treat 10,000 acre-feet a year of brackish groundwater. It also would abandon expensive and ambitious projects to develop water supplies from the lower Guadalupe River and the Simsboro Aquifer.

An acre-foot is equal to 325,851 gallons — enough water to meet the annual needs of two average families of four.

SAWS' partners in the lower

Water plans compared

The San Antonio Water System's 50-year plan to provide water to its customers is more optimistic about the area's future water needs than a similar regional plan. That's important because SAWS is dropping some ambitious water projects favored by its neighbors.

■ **SAWS predicts** an almost 5 percent lower growth rate within its service area and almost 4 percent higher growth rate in the greater metropolitan area by 2050 than does the regional plan.

■ **SAWS predicts that water use per person** in Bexar County will be about 10 percent lower than regional planners project.

■ **SAWS' plan to handle a worst-case scenario** is based on the region's third-worst drought in 1980s instead of the worst drought in the 1950s.

■ **SAWS estimates its existing supplies** from the Edwards Aquifer during drought is 6 percent more than regional planners estimate.

Source: HDR Engineering study

EXPRESS-NEWS GRAPHIC

Guadalupe project — the Guadalupe-Blanco River Authority and the San Antonio River Authority — have been critical of the latter decision and want to proceed with the Guadalupe project.

The SAWS board, along with the City Council, also is expected to decide by year's end whether the utility should focus solely on satisfying the needs of its own customers or build larger projects and become a regional wholesale water provider.

The 21-member South Central Texas Regional Water Planning Group, which has spent three

years updating its own 50-year water plan, due to state officials Jan. 6, was presented a comparison by HDR Engineering of the two plans on Thursday.

"It appears to me that this is an attempt to discredit the SAWS plan, and that appears unfair to me," SAWS President David Chardavoyne said after the hour-long presentation.

SAWS had paid \$3,500 of the \$9,500 cost of the comparison study commissioned by the planning group.

Chardavoyne said he received a copy of the comparison study at 11 o'clock the night before the 9 a.m. meeting and hadn't had a chance to review it.

"This is public retribution by the river authorities for SAWS recommending cancellation of the Lower Guadalupe Water Supply Project, which is a water marketing tool for GBRA and SARA and certainly not a legitimate water-management strategy," said Bill Jones, who represents agricultural interests on the planning group.

Jones represents a ranching family that could have suffered from groundwater withdrawals by the project, among the many rural interests opposed to it.

But others said SAWS' continuing reliance on the Edwards could spell trouble for others who depend on the aquifer and the rivers supported by its springflows.

"Some of us want to see the non-Edwards factor come sooner because who knows when we're going to get in the next dry cycle," said Bill West, general manager of the GBRA.

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at easing transition

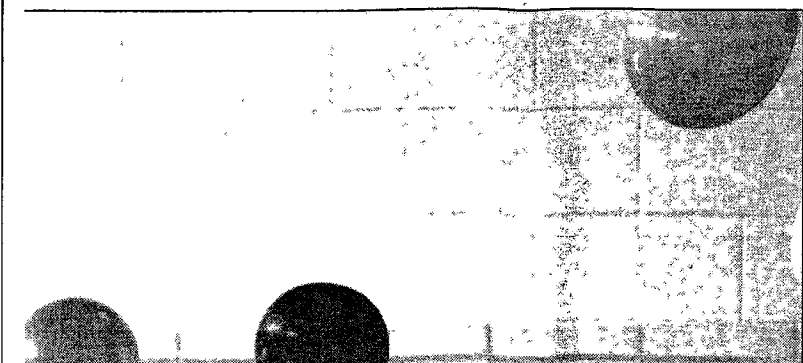
Feds' input sought on housing merger

City, county officials to meet with HUD to discuss consolidation.

By RON WILSON
EXPRESS-NEWS STAFF WRITER

erning boards of SAHA and the Housing Authority of Bexar County begin studying consolidation.

Last week HABC commissioners decided to hold a special retreat this month with staff to study the issue. That decision was made after employees asked





Comment: Water district soaks residents

Web Posted: 06/13/2004 12:00 AM CDT

Lesley Wenger

On May 24, despite opposition from its own finance committee, the Bexar Metropolitan Water District board voted 4-3 for an 8 percent rate increase.

In the past five years the district has sharply raised water rates, generating 100 percent more revenue between 1999 and 2004. During that same period there was only a 10 percent increase in its customer base.

Aside from the shock of skyrocketing bills, these unprecedented rate increases have caused financial hardship for many customers. More than 2,000 residential users had their water shut off for late payment in April — a figure that was consistent with prior months.

The cost to each household to turn the water back on is \$35 on a weekday before 4 p.m.

After that, there is an additional \$25 fee on top of the bill payment and late charge.

As board member Jose Gallegos pointed out, cutoff fees generated more than \$2 million for Bexar Met in the past fiscal year. This would explain the method Bexar Met uses to notify ratepayers that their bill is past due.

Rather than a call, customers receive the next month's bill with a notice to pay in full within three days. That bill may arrive after the three-day period if the mail is slow, but typically it arrives on a Friday with the due date being the following day, when offices are closed.

Many customers do not understand they must drop everything and race down to Bexar Met headquarters to avoid a turnoff.

About 80 percent of Bexar Met's customers live on the South Side.

The utility's hard-nosed attitude toward late payment and its unforgiving water shutoff policy reflect past voter apathy in the water district's board of director elections.

Even South Side Director Jim Lopez of District 5 stated at the board's April meeting that he thought the management's proposed rate increase might be low and he was prepared to vote to increase rates up to 25 percent if General Manager Tom Moreno asked for it.

North Side Director Dean Perry of District 6 felt comfortable at the same meeting, stating he wanted management to "crack down" on the late payers lest his own water bill go up 3 percent.

By his own admission, Perry did not receive a copy of the proposed budget till the Friday before the meeting on May 24, yet he threw a few figures together during a 15-minute recess to come up with what he claimed would be a 7.9 percent increase.

No one in the audience of angry ratepayers knew what he was talking about.

The driving factor behind the rate increase has been excessive spending by the district to purchase water companies that do not now and never will be able to service Bexar County ratepayers.

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EXHIBIT "6"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/opinion/stories/MYSA...> 5/16/2005

This expansion, like those of overextended companies that end up going bankrupt, had put Bexar Met \$206 million in debt by April 2003. No wonder the bankers attend the board meetings.

And there is more good news for the bankers: The new budget provides for \$14 million in additional debt during the next 11 months.

While Bexar Met's management has a great regard for the banking community, many of its policies exhibit a total lack of compassion and, indeed, disrespect for the Bexar County community it was created to serve.

Last November disgruntled customers elected two new directors: Gallegos and Victor Villarreal who, together with veteran Director Ysidro Solis, proposed no rate increase and have been working to change the district's financial policies.

This November two more seats are on the ballot: Perry's in District 6 and Lopez's in District 5.

It will be up to the voters to elect new directors to finally force Bexar Met's management to respect and properly serve their Bexar County customers.

Lesley Wenger is treasurer of the Committee to Reduce Water Rates.

Online at: <http://www.mysanantonio.com/opinion/stories/MYSA061304.5H.BexarMetcomment.15265d467.html>



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Comment: Bexar Met flouts law, voting rights

Web Posted: 08/08/2004 12:00 AM CDT

Bob Anderson

Is it still legal for some Americans to be denied their right to vote in 2004? According to the Bexar Metropolitan Water District board of directors and their "voting rights" attorneys, 27,000 people who were scheduled to vote in the water district elections this November will be denied this right.

They claim that the Federal Voting Rights Act of 1965, the Civil Rights Division of the Department of Justice and, to top it off, U.S. District Court have forced Bexar Met to disenfranchise all 27,000 individuals.

Like so many other Bexar Met claims, this too is a canard — a device of their own construction to violate the primary right granted by the Constitution, alleging "federal protection" as a cover.

Bexar Met's record on law enforcement brings forth a mighty groan from beleaguered ratepayers, other state water agencies, city governments and the press.

Bexar Met has violated state law each time it has raised its water rates in the past six years by failing to provide timely notice of the increases to its 77,000 customers.

U.S. District Judge Orlando Garcia noted last month that since 1997 Bexar Met has continued to elect its directors for six-year terms, in violation of a state mandate that required four-year terms. He has ordered Bexar Met to obey the law.

The Guadalupe-Blanco River Authority, in documents filed with Judge Garcia, has outlined a pattern of abusive behavior and clear violations of state law by Bexar Met in its aggressive attempts to expand its service into Comal County.

Included in the court documents are charges from the city of Bulverde of Bexar Met's coercive efforts to provide service within its city limits without permission from the

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EXHIBIT "7"

Promotions	municipality — another violation of state law.
Horoscope	
SPECIAL INTEREST	The Express-News has long been aware of the secrecy practiced by Bexar Met in violation of the state Public Information Act with, for example, its annual failure to provide a copy of its proposed budget to the public or to the press.
Lottery	
Celebrations	
Crimebase	Most of Bexar Met's unlawful actions arise from a 1996 "consent decree" in U.S. District Court on single-member district elections of directors.
Legal Resources	
Personals	
What's Happening	Using that decree like a fake passport, the utility has trampled on Texas law governing its operations and has used the power of the federal court to bludgeon any and all opposition from its critics.
TV Listings	
E-cards	
MARKETPLACE	For instance, in June 2003 the Texas Legislature passed SB 1494, which redefined Bexar Met's geographic boundaries and froze further expansion into Comal County.
Classifieds	The board's response at its October 2003 meeting was to ignore the Legislature and proceed with a \$4 million purchase of new water service areas in Comal County.
Yellow Pages	
Newspaper Ads	
Video Ads	Those of us suffering under the heavy extractions of a water monopoly, which has been without effective state oversight, have now been denied our voting rights.
Coupons	
Shopping	
E-N Subscriptions	Our situation is a classic one: taxation without representation. The Bexar Met board is seeking to simultaneously deny us due process and suspend equal protection under the law.
E-N Archives	
E-N Store	
Great Day S.A. Store	
ABOUT US	It is time now for the Department of Justice's Civil Rights Division to mete out some justice and protect our voting rights. It is time for the federal court to put a stop to the unlawful use of its powers. It is time for the press to protest the secret proceedings of this "public utility." And it is time for the voters to throw the rascals out.
Express-News	
KENS 5	
MySanAntonio.com	
Corrections	

Bob Anderson is former mayor of Castle Hills.

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 News
 Weather
 Traffic
 Sports
 Spurs
 H.S. Sports
 Business
 Local Elections
 Entertainment
 S.A. Life
 Health
 Travel & City Guide
 Obituaries
 News Wires
 AP en Español
 News Feeds **XML**
 MULTIMEDIA
 KENS 5 Video
 Slide Shows
 Web Cams
 OPINION
 Editorials / Op Ed
 Columnists
 Commentary
 Editorials
 Letters to Editor
 E-N Columnists
 SPECIAL SECTIONS
 Fiesta
 Blogs
 Pets | Animals
 Special Reports
 Mideast Battlefield
 Great Day S.A.
 DIVERSIONS
 Comics & Games
 Contests &

Editorials

Comment: Bexar Met expansion plans unlawful

Web Posted: 09/05/2004 12:00 AM CDT

San Antonio Express-News

In his Aug. 22 comment, "Bexar Met redistricting protects voters' rights," Rolando Rios advocates "transparency," which certainly includes public disclosure of all relevant facts. Mr. Rios neglects to mention two very important facts, however.

First, Mr. Rios fails to mention he is the named plaintiff suing the Bexar Metropolitan Water District in the federal Voting Rights Act lawsuit. Bexar Met and the plaintiff (Mr. Rios) curiously agree on all issues — the so-called adverse parties jointly proposed to the court a consent decree that purports to expand Bexar Met's boundaries beyond those defined by the Texas Legislature; Bexar Met agreed to pay the plaintiff's (Mr. Rios') legal expenses in pursuing the lawsuit he filed; and the plaintiff (Mr. Rios) gave and continues to give his unqualified support for Bexar Met's unlawful expansion plans.

Second, Mr. Rios, who is a lawyer, also fails to mention he is on Bexar Met's payroll — to provide "legal services" to the very same governmental entity he is suing.

The things Mr. Rios says in his comment are predictable, given his and Bexar Met's highly questionable conduct in their contrived lawsuit. He tries to deflect the public's attention from Bexar Met's "pattern of abusive behavior" by wrongly attacking the Guadalupe-Blanco River Authority, or GBRA.

In evaluating Mr. Rios' comments, citizens should take into account the contrived lawsuit and the relationship between Bexar Met and Mr. Rios. The public should also consider the following:

While it is true that the GBRA board is appointed by the governor, it is wrong for Mr. Rios to insinuate this somehow makes GBRA less accountable or that GBRA's board does not fairly represent our service area. GBRA is accountable to the Legislature, and our board members live in the areas they represent.

Promotions	GBRA serves the 10-county district the Legislature authorized us to serve. We do not solicit business in Bexar County where Bexar Met has been authorized to do business. Our conflict with Bexar Met is in Comal County. This was initiated by Bexar Met's unlawful encroachment into our service territory.
Horoscope	
SPECIAL INTEREST	
Lottery	
Celebrations	The law in Texas for years has been clear that the statutes governing water districts do not authorize districts to roam at large and solicit customers wherever they wish.
Crimebase	In 2003, Bexar Met sought an amendment to its governing act that, if passed by the Legislature, would have granted Bexar Met that very power. Sen. Frank Madla filed the bill desired by Bexar Met.
Legal Resources	
Personals	
What's Happening	
TV Listings	The Texas Legislature, however, rejected Madla's attempt and made significant changes to the bill he filed. The bill, as finally passed by the Legislature in 2003, does just the opposite of what Madla's original bill would have done.
E-cards	
MARKETPLACE	
Classifieds	
Yellow Pages	The final legislation fixes Bexar Met's boundaries to coincide with Bexar Met's current boundaries. It clarifies that Bexar Met can develop, transport, deliver, distribute, store and treat water only within the existing Bexar Met district.
Newspaper Ads	
Video Ads	
Coupons	In complete disregard of that recent legislation, Bexar Met has continued to buy water systems, solicit customers and apply for service areas outside its jurisdiction, thereby infringing on the rights of Bulverde and GBRA. These efforts by Bexar Met are not only illegal, they also are fraudulent because Bexar Met has no long-term, firm water supply to properly service areas outside its boundaries.
Shopping	
E-N Subscriptions	
E-N Archives	
E-N Store	
Great Day S.A. Store	Bexar Met's "solution" was to file a petition with the Texas Commission on Environmental Quality, or TCEQ, asking that state agency to force GBRA to provide Bexar Met the water it wants in Comal County.
ABOUT US	
Express-News	
KENS 5	
MySanAntonio.com	Against this backdrop, Bulverde and GBRA sued Bexar Met in Comal County, seeking a judgment from State District Judge Gary Steel that essentially would require Bexar Met to honor the boundaries the Legislature imposed.
Corrections	

Bexar Met and Mr. Rios also were less than candid with U.S. District Judge Orlando Garcia in their recent joint request for "clarification" of the consent decree entered in their Voting Rights Act litigation. The joint request for "clarification" did not disclose the ongoing Comal County lawsuit. And the "clarification" sought jointly by Bexar Met and Mr. Rios would have made Judge Garcia an unwitting ally of Bexar Met's in that Comal County litigation.

What Bexar Met and Mr. Rios sought was a decree that Bexar Met is free to expand wherever and whenever it wants, regardless of the legislative limitations that water districts face regarding expansion areas. Judge Garcia appropriately declined to enter such a decree.

GBRA got involved in Bexar Met's and Mr. Rios' voting rights litigation because our water contract with the city of Bulverde and its attendant financial considerations, as well as the impact to regional water resources, can be significantly affected by the outcome of this case.

GBRA sought intervenor status to protect those interests that depend on GBRA to ensure their future water resources — which is exactly what the Legislature has charged us to do.

W.E. West Jr.

W.E. West Jr. is the general manager of the Guadalupe-Blanco River Authority.

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- Weather
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- Sports
- Spurs
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- S.A. Life
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Major overspending cited at Bexar Met

Web Posted: 09/15/2004 12:00 AM CDT

Jerry Needham
San Antonio Express-News

The Bexar Metropolitan Water District spent \$8.2 million more than it budgeted last year, a new audit has found. Managers blamed the overspending on unforeseen events that probably won't be repeated.

An independent audit of the water utility, released Tuesday, found that spending for the fiscal year that ended in April was 24 percent over budget.

The auditor, Garza/Gonzalez & Associates, said that Bexar Met's management attributed the excessive spending to unscheduled needs that included expansion of its treatment plant and repair of Medina Dam, higher fuel costs, flood debris cleanup that threatened the quality of water used by the treatment plant, and professional fees related to lawsuits.

The utility also collected more money than it expected, with total operating revenues 5.1 percent higher than projected at \$43.9 million, according to the audit.

Water sales were only 2.6 percent higher than budgeted, at \$37.3 million. Most of the extra revenue came from an unanticipated 83 percent jump, of \$1.2 million, in customer penalties and fees collected.

That has been a sore point with many customers, who claim the utility is too quick to turn off service for slow payment, and is balancing its books on the backs of its mainly low-income customers.

The auditing firm, in a separate letter on management of the utility, also made a number of recommendations to bring things in line with generally accepted accounting practices.

It noted that the utility has not conducted a physical inventory of its capital assets in

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EXHIBIT "9"

Mideast Battlefield	at least five years and recommended that one be conducted every two years.	
Great Day S.A.		Ne
DIVERSIONS	The firm also said that real estate appraisals generally are not obtained before property is purchased, and they should be.	Sea
Comics & Games		
Contests & Promotions	The current operating budget is \$39.2 million, with a projected bottom line of \$3.8 million.	
Horoscope		
SPECIAL INTEREST	The utility would have shown a significant loss for the year, if not for taking in one-time extra revenues of \$3.8 million from an interest rate swap transaction on some of its debt, and \$6.4 million in capital assets from developers who handed over water systems they had built in new neighborhoods.	
Lottery		
Celebrations		
Crimebase		
Legal Resources	Instead, the utility posted a profit of \$1.5 million, which was almost 80 percent below projections, and added \$5.2 million to its net assets. Even though Bexar Met owes \$213 million in debt, its assets exceed debts by \$48.2 million.	
Personals		
What's Happening		
TV Listings		
E-cards	Jose Gallegos Jr., one of four members who have joined the seven-member board in the past year or so, said the panel is turning things around.	
MARKETPLACE		
Classifieds		
Yellow Pages	"I think the management letter pointed out a lot of areas the company needs to look at," said Gallegos, who added that he is bothered by the overspending. "Certainly, we will be correcting those areas."	Ho
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Roddy Stinson: Bexar Met bad? Dreadful? Horrid? Rotten? Pick your poison

Web Posted: 09/23/2004 12:00 AM CDT

San Antonio Express-News

San Antonio's premier public-sector basket case — Bexar Metropolitan Water District — has gone from bad to dreadful.

Or dreadful to horrid.

Or horrid to unspeakably rotten.

(Pick your adjectival poison.)

Pundits who monitor the goings-on at the ineptly managed utility will soon run out of words to describe the depths to which it has sunk.

Here is the latest stinking news about the public agency:

An independent audit of Bexar Met's books, covering the period of May 2003 through April 2004, was released last week.

In a "management letter" addressed to Bexar Met officials, the auditing firm, Garza/Gonzalez & Associates, described in no-nonsense terms the "material weaknesses" and "reportable conditions" that its staff uncovered:

"A physical inventory count of capital assets has not occurred within the last five years."

"Capital assets are not tagged for accountability and inventory purposes."

"Documentation was unavailable to support \$2 million of land recorded in the general ledger."

"Real estate appraisals are generally not obtained prior to real property being purchased."

"Board approval was not obtained for the extension of an existing contract, for the awarding of several construction projects or for change orders for two different construction projects."

"There is no control or accountability of the receipt books maintained or issued."

"Total expenditures for the year ended April 30, 2004, exceeded the total budgeted expenditures, and item expenditures exceeded the item budget by more than 25 percent in various budget areas, without Board approval."

"... issuance of blank checks is not controlled."

"Of the 55 items selected for physical inventory counts from all locations, including the truck and stock inventory, there were 23 instances in which the physical count differed from the quantity reflected in the inventory system."

EXHIBIT "10"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/columnists/stories/MY...> 5/16/2005

Space limitation forces me to end the list of horrors with that 42 percent inventory "error." But those examples should be sufficient to leave the most cynical public-agency critics shaking their heads in disbelief.

Those same cynics will probably not be surprised to learn that the telling audit report will lead to little change at Bexar Met.

During an interview about the auditor's findings, I asked Bexar Met Board Chairman John Longoria if he felt that longtime CEO Tom Moreno was incapable of managing the utility.

His response: "I consider him competent."

Longoria also insisted that "we've changed quite a few things, and we'll continue to do that until we get things as they should be."

I asked him specifically if the board planned to do anything about the lax control of employee vehicles.

"Hell, yes," he said.

Yet similar laxity was described in the 2003 audit. ("There is nothing to prevent an employee from taking a District vehicle on an extended vacation.") And at that time, CEO Moreno promised: "Those employees who exceed the established mileage limits will pay for those excess miles."

One year later, auditors discovered:

"Vehicles are provided to the CEO, all deputies and most managers for their exclusive use. ... Employees do not maintain or report their business or personal use of vehicles to the District as required by Board Administrative Policies."

So nothing has changed.

Bexar Met mismanagement continues.

And the abuse of ratepayers goes on.

To contact Roddy Stinson, call (210) 250-3155 or e-mail rstinson@express-news.net. His column appears on Sundays, Tuesdays and Thursdays.

Online at: <http://www.mysanantonio.com/columnists/stories/MYSA092304.3A.Stinson.abcbfa34.html>



Editorial: Bexar Met taking too many missteps

Web Posted: 10/06/2004 12:00 AM CDT

San Antonio Express-News

The Bexar Metropolitan Water District's misguided attempt to draw new districts for the second time in less than a year has backfired.

In addition to creating a mess that resulted in delayed elections, the redistricting bid raised serious questions about the water agency's commitment to giving all voters a fair say in electing board members.

The U.S. Justice Department rejected the latest redistricting plan until Bexar Met provided thorough information about the impact and origin of the plan. U.S. District Judge Orlando Garcia then stopped the effort in its tracks.

Garcia ordered Bexar Met to use already existing boundaries and delay elections for District 5 and District 6 board members until February.

Garcia's order, which was obeyed by the board Monday night, prevented Bexar Met from holding elections under new lines that would have deprived about 27,000 customers from voting for an additional two or four years.

The delay is necessary; it is too late for the district to hold a new candidate-filing period in time for the Nov. 2 election.

Garcia, who earlier ordered Bexar Met to follow state law by reducing board terms from six years to four years, also will determine whether board members now in the fourth year of six-year terms should be on the February ballot.

The judge's findings on that issue will be released in time to put two additional districts on the February ballot, if necessary.

None of these judicial actions would have occurred if Bexar Met officials hadn't attempted to pursue the late-hour and suspicious restricting plan, which critics say was designed to limit the voice of opponents of the board's status quo.

The redistricting mess shows the status quo could use some shaking up.

Bexar Met officials also have been hit with an embarrassing management letter from its new auditing firm revealing a series of bad management practices, as recently detailed by Express-News columnist Roddy Stinson.

Add the agency's recent state district court loss in its effort to force its services on the city of Bulverde, and the pattern of misguided actions by Bexar Met is devastating.

Bexar Met is a troubled agency woefully in need of a major housecleaning.

Online at: <http://www.mysanantonio.com/opinion/editorials/stories/MYSA100604.06B.bexarmet1ed.ee6dc029.html>

EXHIBIT "11"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/opinion/editorials/stori...> 5/16/2005



Bruce Davidson: Bexar Met still awash in turmoil

Web Posted: 12/19/2004 12:00 AM CST

San Antonio Express-News

The Bexar Metropolitan Water District continues to be plagued by turmoil as February elections for two board seats approach.

In a marathon meeting last week, the utility's board failed to agree on an evaluation process for embattled General Manager Tom Moreno. A week earlier the board failed to get a quorum to address the issue.

Moreno, who has not been formally evaluated by the board since becoming general manager in 1985, returned to work in early December after a 30-day suspension.

Board President John Longoria said Moreno was suspended because he failed to present contracts to the board in a timely manner and other governance issues.

"Everything I've seen him do has been good stuff. He was used to doing it his way," said Longoria, noting that the historically weak board is attempting to do its job of setting policy.

"It's a new process," said Longoria, who has been a board member for a little more than a year. Longoria added that he can't stomach management by crisis.

Not all observers agree with Longoria's positive assessment of Moreno's performance, and the general manager is sure to be a major issue in the upcoming campaigns.

Board member Victor Villarreal said he hopes the board will adopt an evaluation process at its regular meeting Monday and that Moreno's evaluation is completed before the end of the year.

As board members debated the evaluation process, the biggest development at the meeting was District 6 incumbent Dean Perry's announcement that he will not seek re-election.

Perry is now supporting candidate Blanche Atkinson, a neighborhood activist who is seeking the post he has occupied for 10 years. She faces another activist, Leslie Wenger, who has been one of the most vocal critics of Bexar Met's management.

Atkinson said she is not willing to pass judgment until she is elected and sees the Bexar Met situation firsthand.

"I'm just a novice at this. Mr. Perry is helping me. He is an expert on this. He's teaching me," Atkinson said.

Wenger, treasurer of the Committee to Reduce Water Rates, helped lead the fight against Bexar Met's second redistricting plan of 2005.

"I just think that there has been poor management on every level," Wenger said, adding the Bexar Met spends big money in ways that don't benefit the ratepayers.

Wenger added that Bexar Met's meter fees are problematic. Earlier this year, Wenger said, she compared water rates and found that "if I were in the San Antonio Water System, I would be paying \$12.75 a month for the same meter that I'm paying \$75 for."

EXHIBIT "12"

The Committee to Reduce Water Rates is backing James Henry Clement in the District 5 race. Clement is challenging incumbent Jim Lopez. Nick Pena also is a candidate for the seat.

The election was originally scheduled for last month. However, U.S. District Judge Orlando Garcia ordered the board to cancel it and move the voting to Feb. 5 after the U.S. Justice Department rejected the agency's latest redistricting plan. That plan would have prevented some Castle Hills residents from voting for board members for an additional two to four years.

Garcia also ordered Bexar Met to start following state law by establishing four-year terms for board members instead of six-year terms. He had called for six-year terms when single-member districts were created, but state lawmakers later set water district terms at four years. Bexar Met ignored the change in state law.

Bexar Met desperately needs a high-profile election so voters can examine the massive problems at the agency and decide which candidates can best deal with them.

Voters have a lot at stake. Longoria noted that 10 years ago the agency's budget was \$6 million and has grown to \$48 million.

The wisdom of the rapid growth and Bexar Met's difficulties in coping with it are issues that candidates must address.

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Online at: <http://www.mysanantonio.com/columnists/stories/MYSA121904.2H.davidson.139e7e46.html>



Editorial: Bexar Met needs new executive management

Web Posted: 12/28/2004 12:00 AM CST

San Antonio Express-News

An Express-News report on the latest turn of events at Bexar Metropolitan Water District exposed the staggering chaos that is hampering the agency.

Castro & Associates, a legal team hired to investigate leadership at Bexar Met, found the agency's human resources department has become "entirely dysfunctional," the newspaper revealed.

Tom Moreno, the agency's general manager, returned from his 30-day suspension and rehired Sylvia Gamez, the supervisor who oversaw the department. She had been fired by Moreno's interim replacement during his absence.

And Moreno's interim replacement, Gil Olivares, has been given a contract that places him outside of Moreno's supervision. Does the board not trust Moreno to deal fairly with Olivares?

According to copies of the Castro & Associates reports obtained by the Express-News, Gamez's behavior "has created a culture of fear and intimidation within the organization." The legal team recommended immediate termination of the deputy general manager.

Bexar Met board President John Longoria defended Moreno's decision to rehire Gamez, saying she had not had an opportunity to respond to the complaints from employees that are detailed in the Castro & Associates reports.

Meanwhile, after sputtering for weeks, the board has set a Jan. 3 date for Moreno's first evaluation since he became Bexar Met's general manager in 1985.

Clearly, Bexar Met is in shambles. The buck should stop at the top, and Moreno should be ousted.

It is difficult to imagine Moreno leading the agency out of the chaos that engulfs it. Bexar Met needs a fresh start with new executive leadership.

Online at: <http://www.mysanantonio.com/opinion/editorials/stories/MYSA122804.6B.ed.bexarmet.4bdb035f.html>

EXHIBIT "13"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/opinion/editorials/stori...> 5/16/2005



Bruce Davidson: Bexar Met continues bad cycle

Web Posted: 01/09/2005 12:00 AM CST

San Antonio Express-News

The Bexar Metropolitan Water District is soaring to new heights of chaos.

In a jolting move last week, the Bexar Met board extended General Manager Tom Moreno's contract for an additional year.

The extension came on the heels of a 30-day unpaid leave that the water agency boss received from the same board in November because of contracts that were enacted without board approval.

First slap him. Then reward him.

The main change that occurred between the conflicting board decisions seems to be that the board developed an "evaluation tool" for measuring Moreno's performance.

Not to be forgotten: When Moreno returned from his unpaid leave, he rehired a manager whom his interim replacement had fired because a legal team reported her behavior created a culture of fear and intimidation. The controversial manager already had been replaced.

For the record, board members Jose Gallegos, Victor Villarreal and Dean Perry stubbornly stuck to reason and opposed the contract extension for Moreno.

Last week's contract extension evolved from Moreno's evaluation, the first he has received in his 20 years as general manager.

The extension follows a thoroughly disastrous year for Bexar Met that would lead almost any outsider to conclude that the agency is poorly managed.

Bexar Met attempted to redraw board district lines twice in a single year.

The U.S. Justice Department shot down the second attempt, causing U.S. District Judge Orlando Garcia to order the agency to move its board elections from November to February.

The agency also lost a state district court battle after it filed a lawsuit to force its way into serving Bulverde in Comal County.

Express-News staff writer Jerry Needham recently reported that an audit released last year showed Bexar Met overspent its budget by 24 percent.

Other audit findings reported by Needham: The agency failed to conduct an inventory of assets for the past five years and has purchased hundreds of acres of property without getting appraisals.

Showing a unique brand of leadership, a majority of the board rewarded Moreno with another year on his contract, which now runs through March 2007.

Moreno's board supporters are Jim Lopez, Herman Sanchez, Ysidro Solis and John Longoria, the board

EXHIBIT "14"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/columnists/stories/MY...> 5/16/2005

president.

Eight-year veteran Lopez is the lone incumbent on the Feb. 5 ballot. Perry opted not to seek re-election.

Lopez made the motion to extend Moreno's contract. He said he supported the November unpaid leave as a concession to other board members, but he didn't believe it was justified.

"I think Mr. Moreno was prejudged. I think mostly by our new board members," Lopez said, referring to Villarreal and Gallegos.

Jim Clement, who is challenging Lopez, said Bexar Met is "like a train out of control."

He said Moreno's actions "put a scar on that company that shouldn't be there."

Lopez acknowledged that Bexar Met has some flaws. "There are some things that we need to work on. Some of these changes that we need to make cost money," Lopez said.

But Lopez warned against micromanaging by the board.

In the race for Perry's seat, Lesley Wenger is facing Blanche Atkinson.

Wenger said last week that she would support firing Moreno. Atkinson said in a recent interview that she wouldn't judge the situation until she was on the board to see it firsthand.

Nobody will be watching the Bexar Met election results more closely than Moreno.

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Online at: <http://www.mysanantonio.com/columnists/stories/MYSA010905.2H.davidson.7f9ce21e.html>



Roddy Stinson: S.A.'s worst prodigal agency rewards top squandermaniac

Web Posted: 01/09/2005 12:00 AM CST

San Antonio Express-News

No more Mr. Nice Guy ...

Par for the chorus. Despite back-to-back annual audits that revealed dumbfounding mismanagement and staggering financial prodigality, Bexar Metropolitan Water District's off-key board of directors — conducted by Chairman John Longoria — rewarded the utility's general manager, Tom Moreno, by adding a year to his employment contract.

Ergo: Bexar Met's customers have nothing to look forward to except months and months and more months of rising water bills and deplorable service from San Antonio's hands-down worst public agency.

The plague spreads. Longoria, a longtime Democratic kingpin, has been in the news recently for another reason. Last month, he announced that he would back a fellow Democratic loyalist, Phil Hardberger, in the upcoming mayoral campaign.

"(Hardberger) has spent his life fighting for justice," the Bexar Metropolitan Water District board chairman declared in his endorsement of the man he believes can instill Bexar Met-esque virtues at San Antonio City Hall.

Tell him you want 'justice'. A Bexar Met customer reports: *"Roddy, I took an extended out-of-town holiday and was surprised to see the following figures on my Bexar Met water bill: 'Gallons used: 0 ... Charges: \$60.01.' HELP!"*

Heaven knows I wish I could do something, but there is no help in sight for Bexar Met ratepayers. The only thing I can do is encourage all customers with billing problems and service complaints to call board chairman Longoria at his law office (223-9422). Last week, he carved "inept status quo" in stone, and only he can erase it.

Fiddling while S. A. burns. After a FOUR-MONTH investigation by her staff and the Texas Rangers, District Attorney Susan Reed has determined that Mayor Ed Garza did NOT violate the state's Open Meetings Act in the process of firing former City Manager Terry Brechtel last August.

My effort to determine the amount of man-hours spent on the witch hunt produced only a curious explanation that the investigation was "relatively short." Meanwhile, across the community, homes were being burgled, stores were being robbed, citizens were being murdered and government officials were playing fast and loose with public money at a relatively standard clip.

Dry Ideal. The waste of crime-stopping time and public money was initiated by City Councilwoman Patti Radle, who filed the complaint against Garza. On learning of the DA's decision, Radle did not apologize to the mayor, the council or taxpayers, thereby sparing her friends, family members and faithful acolytes the pain of watching a saint sweat.

I'm still laughing. An ongoing investigation by the Dallas Morning News has uncovered *"strong evidence of organized, educator-led cheating on the TAKS test in dozens of Texas schools."* In a particularly intriguing Dec. 31 report, the newspaper identified one of the schools: *"Houston's Wesley Elementary."*

On putting the name of the school into an Internet database, I found this article from the Nov. 15, 2001, issue of

EXHIBIT "15"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/news/metro/stories/M...> 5/16/2005

the Houston Chronicle: *"Seven Houston Independent School District schools received five-star and 'top' ratings in the November issue of Texas Monthly magazine. The list of top schools includes ... Wesley Elementary."* How divivable. How droll. How deliciously — and priggishly — perfect.

Post-Christmas Howl. On the morning of Dec. 21, I mailed a check to my three grandchildren in Williamsville, N.Y. To make certain it arrived by Christmas, I paid a few bucks for "priority" delivery — "two days" the nice man at the downtown post office assured me. He was off by only five days. The check was delivered 168 hours later, on Dec. 28.

In an attempt to determine what method of travel was used, I divided the number of miles between San Antonio and Williamsville by 168 and learned that the check traveled at approximately 9.8 miles per hour.

I then put "10 miles an hour" into the Yahoo Internet search engine and found this telling piece of information:

"Wolves can trot at speeds of 10 miles an hour indefinitely."

A mailbag would probably slow them to about 9.8 miles.

United States Lobo Service.

It's good to see a public agency benefit from the nation's success in saving endangered species.

To contact Roddy Stinson, call (210) 250-3155 or e-mail rstinson@express-news.net. His column appears Sundays, Tuesdays and Thursdays.

Online at: <http://www.mysanantonio.com/news/metro/stories/MYSA010905.3A.stinson.8a71b101.html>



NEW: Reform-minded Bexar Met board suspends general manager

Web Posted: 02/18/2005 02:34 PM CST

Jerry Needham
Express-News Staff Writer

The controversial general manager of the Bexar Metropolitan Water District was slapped with an unpaid 60-day suspension today as a new, reform-minded board majority signaled its disapproval with his job performance.

Tom Moreno received his second suspension in just over three months after an audit found \$155,000 in questionable spending at the utility over the past two years.

And despite the fact Moreno was recently granted a five-year contract extension by the previous board, the suspension put a cloud over his future with the water utility he has run for two decades.

The newly formulated board, holding its first meeting with its own agenda in place, also hired a special attorney and told BexarMet's 30-year general counsel to stop any work for the district pending further notice.

The suspension of Moreno came after certified public accountant Rene Gonzalez presented to the board the results of a special audit that looked at certain areas the board had requested.

"There are some checks and balances, but in some cases policy wasn't being followed and in some cases they were being circumvented," Gonzalez told the board.

After a closed-door session with the new special attorney, board member Jose Gallegos Jr. moved to suspend Moreno "in the interests of the ratepayers, the employees and the district as a whole. I think the audit reveals some very serious findings."

Although the questionable spending of petty cash, credit cards and overpayment of salaries was not done directly by Moreno, Gallegos said the general manager was ultimately responsible and that he didn't want the opportunity for "a continuation of this mismanagement to occur."

Two reformers were elected to the seven-member board on Feb. 5, joining two others who had been elected 15 months earlier. They elected themselves as officers after the new members were sworn in Monday and set out to make changes.

John Longoria, a former state legislator and Bexar County judge who was ousted as board president, opposed Moreno's suspension, calling it a breach of contract without giving Moreno any due process to respond and without any specific allegations.

Longoria also said he was disturbed that the two members-elect met last weekend with two other members, apparently to plan out an agenda that they're now following.

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Online at:

<http://www.mysanantonio.com/news/environment/stories/MYSA021805.bexarmeten.online.be9b1ce1.html>

EXHIBIT "16"

<http://www.mysanantonio.com/global-includes/printstory.jsp?path=/news/environment/sto...> 5/16/2005



NEW: Bexar Met boss put on leave pending investigation

Web Posted: 02/18/2005 01:22 PM CST

Marvin Hurst
KENS 5 Eyewitness News

The general manager of Bexar Metropolitan Water District has been put on administrative leave without pay pending the outcome of an investigation into the possible misuse of funds, the agency's board announced today.

The announcement came at a morning meeting where board members discussed a recent audit that reported alleged misuse of funds by general manager Thomas Moreno and members of his staff.

Some of the financial expenditures in question include credit card use, overpayment of payroll, unauthorized salary increases and misuse of petty cash, according to the audit.

Moreno will be on administrative leave for 60 days while the board investigates the claims.

Moreno would not comment on today's board meeting .

Online at: <http://www.mysanantonio.com/news/metro/stories/MYSA0218bexarmet.kens.be4dbe17.html>



Bexar Met board hires 2 new lobbying firms

Web Posted: 04/09/2005 12:00 AM CDT

Jerry Needham
Express-News Staff Writer

The board of the Bexar Metropolitan Water District has its back covered again in the Texas Legislature.

After firing its three legislative lobbyists early last week, the board hired two more teams of lobbyists Friday to watch out for its interests for the remainder of the session that ends May 30.

Former U.S. Rep. Ciro Rodriguez, who has joined with his former chief of staff, Jeff Mendelsohn, to form a firm called the Rio Strategy Group, was hired as one of the lobbyists to represent the district.

The Loeffler Group was hired as the other team. It's composed of San Antonio attorney Mary Q. Kelly, Rob Finney and Jennifer Modgling, who was chief clerk for the Texas House Natural Resources Committee for seven years.

The board selected the two firms unanimously from seven firms or individuals that applied for the position. Each will get \$6,000 a month for the next three months.

"Everybody was very impressive," said board member Lesley Wenger. "From the presentations, they seemed to be the best fit for us. They are looking forward to working together."

The board fired its previous lobbyists, claiming it was not getting any indication about what was being done for the district since they had been hired last September. They were being paid \$23,000 a month.

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