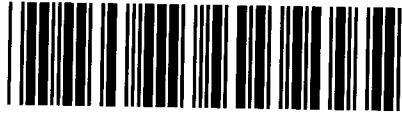




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September 6, 2005

Via Fax: (512) 475-4995

Honorable Cassandra J. Church
Administrative Law Judge
State Office of Administrative Hearings
300 W. 15th Street
Austin, Texas 78701Re: In Re: Application of Bexar Metropolitan Water District to Amend Water CCN
No. 10675 in Bexar County, TCEQ Docket No. 2003-0664-UCR, SOAH Docket
No. 582-03-3725

Dear Judge Church:

San Antonio Water System (SAWS) objects to the stream of late-submitted information flowing from BexarMet's counsel. Rather than presenting this material in its response to SAWS' motion, BexarMet appears to be trying to ambush SAWS with irrelevant and immaterial "legal" issues. For this reason alone, SAWS asks that you disregard Robert Wilson's September 6, 2005 letter on behalf of BexarMet.

As to the substance of the letter, SAWS notes that the issues addressed in the referenced Proposal for Decision bear no resemblance to the issues related to SAWS' motion to intervene or SAWS' arguments therein. In the reference PFD, the City of Austin fully participated in the hearing on the application, and Austin did not file its application or motion to stay the proceedings until *eight months after the evidentiary hearing*. Austin's motion to stay in the referenced PFD is procedurally far different than SAWS' motion to intervene in this matter. The motions are governed by different legal standards, and entirely different facts are at issue.

The issue before you is whether SAWS has demonstrated good cause and extenuating circumstances to be allowed to intervene in this matter. SAWS asserts that it demonstrated three different changed circumstances sufficient to meet the standard under TCEQ's rules: (1) a request for service from a major developer in the requested area; (2) the recent deterioration of BexarMet's ability to provide adequate service to adjacent areas; and (3) BexarMet's loss of legal authority to provide service to the requested area. SAWS has not asserted, as a changed circumstance, that the requested area is located within San Antonio's ETJ. For that matter, SAWS has not even asserted that San Antonio's recent limited-purpose annexation of part of the requested area is a changed circumstance because counsel for SAWS was not aware of San Antonio's action at the time the motion was filed.

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Judge Cassandra Church
September 6, 2005
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BexarMet's counsel also misrepresents Judge Craven's action in the referenced PFD by implying that Austin argued that its motion to stay should be granted because the area was in Austin's ETJ. The issues relating to Austin's motion to stay are not even addressed in the PFD, and the PFD provides no basis to conclude that the issue of Austin's ETJ had any bearing on her decision on Austin's motion. The issue of Austin's ETJ is addressed in the PFD only in reference to the issue of the effect of Creedmoor-Maha's application on neighboring utilities.

If you have any questions about SAWS' response or would like to receive more formal briefing on whether any of the issues raised and determined in the referenced PFD "mirror" any of SAWS' arguments, please let us know.

Sincerely,



Jim Mathews

cc: Service List
Steve Kosub

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Reference:

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