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Number of Pages (including this one): 49 Date: August 17, 2005

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1572.00

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•Comments: Attached is a copy of San Antonio Water System's Motion to Intervene and to Remand/Abate.

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August 17, 2005

Via Fax & U.S. Mail

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, Mail Code 105
Austin, Texas 78711-3087

Re: 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 Ms. Castañuela:

Enclosed for filing in the above referenced cause please find the San Antonio Water System's Motion to Intervene and to Remand/Abate. Because this motion is being served on you by fax, the original will be forwarded to you by mail as required by TCEQ's rules.

Sincerely,



Jim Mathews

cc: Steve Kosub
Service List

**SOAH DOCKET NO. 582-03-3725
TCEQ DOCKET NO. 2003-0664-UCR**

IN RE: APPLICATION OF BEXAR METROPOLITAN WATER DISTRICT TO AMEND WATER CCN NO 10675 IN BEXAR COUNTY	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**SAN ANTONIO WATER SYSTEM'S
MOTION TO INTERVENE AND TO REMAND/ABATE**

COMES NOW, San Antonio Water System ("SAWS") and files this, its Motion to Intervene, and to Remand/Abate, and would respectfully show as follows:

I. BACKGROUND

Bexar Metropolitan Water District's ("BexarMet's") has an application pending in this matter to amend its water certificate of convenience and necessity ("CCN") number 10675. BexarMet seeks to add approximately 5,543 acres to its water CCN contained in an area generally bounded on the north by Cibolo Creek, on the east by State Highway 281, on the south by Borgfeld Road, and on the west by Camp Bullis (the "Requested Area"). The Requested Area is located within the City of San Antonio's extraterritorial jurisdiction ("ETJ").

Protestants to the application, including BSR Water Company, requested that a contested case hearing be held on BexarMet's CCN application, and the application was forwarded to the State Office of Administrative Hearings by the Chief Clerk of the TCEQ on June 20, 2003. A preliminary hearing was held on BexarMet's application on July 17, 2003 during which BexarMet, the Executive Director of the TCEQ, the Public Interest Counsel of the TCEQ, BSR Water Company and Water Services, Inc. were admitted as parties.

At the time of the preliminary hearing, SAWS did not contest BexarMet's application and did not request to be admitted as a party in this proceeding because SAWS believed that BexarMet would be capable of providing adequate service to the Requested Area and because SAWS had not received any requests for service inside the Requested Area. However, circumstances have changed significantly since the preliminary hearing was conducted, and SAWS now requests that it be admitted as a party to this proceeding.

II. Motion to Intervene

Pursuant to TCEQ Rule 80.109(a), to be admitted as a party, a person must have a justiciable interest and must seek to intervene; furthermore, after parties have been designated, no person other than the Executive Director may be admitted as a party except upon a finding that good cause and extenuating circumstances exist and that the hearing in process will not be unreasonably delayed.¹ SAWS asserts that it has a justiciable interest in this matter and that good cause and extenuating circumstances exist and that the hearing will not be unreasonably delayed by granting this motion.

A. Justiciable Interest

As the retail water utility owned by the City of San Antonio (the "City"), SAWS has a justiciable interest in whether BexarMet is certificated to provide service in the Requested Area. The Requested Area lies entirely inside the ETJ of the City. Thus, if any part of the Requested Area is annexed into the City, the City and SAWS will be required to ensure that the area receives water and sewer service from a retail water utility that is capable of providing continuous and adequate service.

¹ 30 TAC §80.109(a).

Additionally, SAWS has a justiciable interest as a retail public utility that also desires to provide retail water service to the area. On August 16, 2005, SAWS filed an application to amend its CCN to include the Requested Area.

B. Good Cause and Extenuating Circumstances

1. Request for Service/SAWS CCN Application

Good cause and extenuating circumstances exist to support SAWS late-intervention in this proceeding. At the time that parties were named in this proceeding, and up until very recently, SAWS had no interest in providing retail service to the area. However, recent events have caused SAWS to reevaluate its position and to now seek certification.

On August 9, 2005, Bitterblue, Inc. ("Bitterblue") submitted a letter requesting SAWS to provide retail water service to projects being developed by Bitterblue inside the Requested Area. See SAWS Exhibit 1. BexarMet, in its prefiled testimony, asserts that these same projects have requested service from BexarMet.² As noted in Bitterblue's request to SAWS, Bitterblue had previously requested service from BexarMet, but has now rescinded that request because Bitterblue is "not at all confident that BexarMet is able to timely or cost effectively provide the necessary water service for the existing and on-going development" of its properties. SAWS Exhibit 1 at 3. Bitterblue's memorandum to BexarMet rescinding its prior requests for service is attached as SAWS Exhibit 1 at 5.

On August 16, 2005, SAWS filed its own application for a CCN for the Requested Area. In part, this action was taken in response to Bitterblue's request in its August 9th letter. Bitterblue states

² BexarMet attached as Exhibit 5 to its prefiled testimony certain correspondence regarding requests for retail water service for various tracts of land in the Requested Area (i.e., the Bitterblue, Friesenhan, and Borgfeld tracts). Most of the land identified in BexarMet's Exhibit 5 is part of Bitterblue's development.

that it wants SAWS to file an application with the TCEQ to authorize it to provide retail water service to the Requested Area because Bitterblue has concluded that: (1) "SAWS has the capital resources, personnel and equipment to provide excellent service to [Bitterblue's] 4,000 customers"; and (2) BexarMet's rates "are between 40% and 115% higher than SAWS' rates in the area." SAWS Exhibit 1 at 4. SAWS' Board of Trustees authorized the filing of its application and intervention in this proceeding on August 16, 2005.

SAWS asserts that Bitterblue's request for service from SAWS, Bitterblue's withdrawal of its requests for service from BexarMet, and SAWS' CCN application represent good cause and extenuating circumstances sufficient to justify granting SAWS party status in this proceeding. SAWS only recently became aware that the owner of a significant portion of the property in the Requested Service would prefer service from SAWS rather than BexarMet. Furthermore, the Texas Legislature's passage of House Bill 2876³, which provides significant Legislative deference to the landowner's selection of utility provider and priority to city-owned utilities inside a city's ETJ, also motivated SAWS to act at this time. Accordingly, SAWS should be admitted as a party because it has a justiciable interest in the outcome of this proceeding and has demonstrated the existence of good cause and extenuating circumstances.

2. BexarMet's Newly Developed Service Problems

SAWS' decision to intervene at this time was also driven by SAWS' developing concerns regarding BexarMet's ability to provide continuous and adequate service in the areas adjacent to the Requested Area and in BexarMet's ability to provide continuous and adequate service to the Requested Area in the future. At the time BexarMet filed this application and at the time of the

³ House Bill 2876 was signed by the Governor on June 18, 2005, and will become effective on September 1, 2005.

preliminary hearing, SAWS believed that BexarMet's would have the ability to provide service to additional areas. In recent months, however, SAWS has become increasingly concerned about BexarMet's ability to provide service to areas north of Loop 1604.

In meetings requested by Bexar County Commissioner Lyle Larson and others, SAWS has become aware of BexarMet's recent service deficiencies in the Timberwood Park and Stone Oak subdivisions, which are located immediately adjacent to the Requested Area, and which are cited in BexarMet's pre-filed testimony as a source of water for providing service in the Requested Area.⁴ If BexarMet is having problems providing service to Timberwood Park and Stone Oak today, then SAWS doubts BexarMet's ability to provide service to the Requested Area using the same facilities.

SAWS is concerned about BexarMet's ability to provide service in all of its service area north of Loop 1604 because BexarMet's ability to provide service appears to be based on taking water from SAWS. In May of 2003, approximately two months prior to the preliminary hearing in this matter, BexarMet sent a letter to SAWS requesting an interconnection with SAWS' system in the area that is immediately south of the Requested Area. BexarMet indicated that an interconnection was needed for two reasons. SAWS Exhibit 2 at 1. At that time, BexarMet indicated it would make necessary improvements to its system so that it would be able to provide adequate service.

Because it was never SAWS' intention that the interconnection be used as a permanent solution to BexarMet's inability to meet its existing demand, on December 16, 2004, more than 20 months after BexarMet had begun to rely on SAWS' water, SAWS sent a letter to BexarMet reiterating that the interconnection was not meant to be a permanent solution. SAWS Exhibit 2 at 3.

⁴ Direct Pre-Filed Testimony of Michael J. Albach at 7-8.

SAWS indicated that BexarMet had failed to provide any information regarding what action it would take to implement a permanent solution. In an effort to resolve this matter without decreasing the amount of water available to BexarMet's customers over the short-term, SAWS voluntarily agreed to give BexarMet until May 2005 to implement a permanent solution to its water supply problems, after which time SAWS indicated it would terminate the interconnection. In reply, BexarMet stated that it had taken steps to remedy its problems. SAWS Exhibit 2 at 4.

Recently, it has become apparent to SAWS that BexarMet has not fixed its problems and is continuing to use the interconnection to meet a portion of its customers' demand for water on a regular basis and that BexarMet has failed to meet its obligation to provide continuous and adequate service to its service areas north of Loop 1604. On June 21, 2005, BexarMet once again asked for water at the emergency interconnect for a period of no more than 24 hours. SAWS Exhibit 2 at 5. By July 1, 2005, BexarMet was requesting that the interconnect remain open, even though "all of BexarMet's wells serving the subdivision are open." SAWS Exhibit 2 at 6. On July 5, 2005, BexarMet stated that it was unable to state the duration of the interconnect. SAWS Exhibit 2 at 9. Throughout July, BexarMet repeatedly asked for more water through the interconnect. SAWS Exhibit 2 at 10-14. On August 1, 2005, BexarMet again asked that the interconnect be opened, this time because one of BexarMet's pumps failed. SAWS Exhibit 2 at 15. BexarMet continued to take water from the interconnect until August 10, 2005.

Even with the emergency interconnect water from SAWS, BexarMet appears to be having difficulty meeting demands in its existing service area. BexarMet has used press releases and "reverse-911" calls to issue advisories to its customers, (SAWS Exhibit 2 at 6) and BexarMet has issued a number of water advisories this year requesting that its customers reduce water consumption

because it is unable to meet demand. SAWS Exhibit 3. BexarMet clearly lacks capacity in the area to meet its existing demand, much less any additional demand.

As of the filing of this motion, BexarMet has still failed to implement a long-term solution to its water supply problems and it continues to rely on supplies provided by SAWS. Even though SAWS has the right to do so, it has decided not to terminate the interconnection with BexarMet at this time because it does not want residents in the San Antonio ETJ who rely on BexarMet's system to suffer because BexarMet has failed to manage its water utility system properly.

At the time of the preliminary hearing in this matter, SAWS had no basis to believe that BexarMet would not be capable of providing continuous and adequate service to the Requested Area. At that time, SAWS' understanding was that BexarMet would act responsibly to implement a permanent solution to problems it had with its system located immediately south of the Requested Area. However, that was more than twenty-seven months ago and BexarMet still has not implemented a permanent solution. Instead, BexarMet has continued to rely on SAWS for water to provide to its customers. BexarMet's failure to implement a permanent solution, or even a temporary solution, to meet its customers' demand has caused SAWS to conclude that BexarMet is not capable of providing continuous and adequate service to any additional area north of Loop 1604. SAWS asserts that BexarMet's ongoing service problems, and BexarMet's continued use of the interconnect with SAWS, represent good cause and extenuating circumstances sufficient to justify SAWS' late intervention in this proceeding.

3. BexarMet's Lack of Authority to Provide Service

SAWS finally asserts that good cause and extenuating circumstances exist based on BexarMet's failure to properly obtain authority to provide service to the Requested Area. In June of

2003, approximately one month before the preliminary hearing, the Texas Legislature amended BexarMet's enabling legislation. Among other things, Senate Bill 1494 added section 5A to BexarMet's enabling legislation. See SAWS Exhibit 4. This section acts to limit the areas where BexarMet may provide retail water utility service to the area described in Section 5 of BexarMet's enabling statute, and to any area certificated to BexarMet by the Commission as of June, 2003. In addition, through Section 5(c) of the bill, the Legislature provided that BexarMet could expand its service area further to include areas that were part of CCN applications referred to SOAH before the effective date of the bill.

SAWS assumed that the savings provision in Section 5(c) of the bill applied to this application⁵, and SAWS assumed that BexarMet would follow the directive of the Legislature and annex the Requested Area into BexarMet's district boundaries before this matter went to hearing. BexarMet, however, has not attempted to annex the Requested Area pursuant to Section 6 of BexarMet's enabling statute, and cannot possibly complete annexation before the scheduled hearing date in this matter. SAWS asserts that BexarMet's failure to annex the Requested Area before the hearing on the merits in this proceeding presents additional good cause and extenuating circumstances to justify allowing SAWS to intervene in this proceeding.

C. Hearing in Progress Will Not be Unreasonably Delayed

SAWS asserts that the hearing in progress will not be unreasonably delayed because any delay resulting from SAWS' intervention *will be reasonable* given the bases for SAWS' request. It will not be unreasonable to delay this proceeding to allow Commission staff to review SAWS' application and to consolidate the two competing applications into a single proceeding. Competing

⁵ SAWS is no longer sure of the applicability of the savings provision to this application.

applications are best addressed at the same time and in the same proceeding to give the Commission the best possible view of which utility (if either) should provide service. In fact, no purpose will be gained from proceeding with the scheduled hearing because the Commission will not want to act on any proposal for decision on BexarMet's application until SAWS' application is also before them.

III. Motion to Remand/Abate

SAWS requests that the ALJ remand this proceeding to the Executive Director. A remand would provide the Executive Director with the ability to review the competing applications and to make a recommendation regarding which utility should be allowed to provide service to the Requested Area. Additionally, a remand would also cure any notice problems that may have arisen during the two years since the preliminary hearing. Texas Water Code §13.246(a) states that any person affected may intervene in a hearing on an application for a CCN. The Commission's notice of hearing in this proceeding was issued more than two years ago. A new notice of hearing would allow all persons affected by the changed circumstances that have arisen in the last two years the opportunity to participate in the hearing.

In the alternative, SAWS requests that the ALJ abate this proceeding until such time as SAWS' application is referred to SOAH and can be consolidated with this proceeding. Such an abatement would be in the interest of justice and would conserve SOAH's and the parties' resources by having one hearing on both applications rather than having a separate hearing on each application.

IV. Prayer

SAWS respectfully requests that the Administrative Law Judge: (1) find that good cause and extenuating circumstances exist to justify SAWS' intervention at this time and that the hearing in progress will not be unreasonably delayed by SAWS' intervention; (2) admit SAWS as a party to this

contested case hearing; and (3) remand BexarMet's application to the TCEQ so that it may review BexarMet's application in conjunction with processing and reviewing SAWS' application.

In the alternative, if the Administrative Law Judge concludes it would be inappropriate to remand BexarMet's application to the TCEQ after admitting SAWS as a party, SAWS requests that: (1) these proceedings be abated until the TCEQ completes its review of SAWS' water CCN application; and (2) SAWS' application and BexarMet's application be consolidated into a single proceeding before the Administrative Law Judge after the TCEQ completes its review of SAWS' application.

In the alternative, if the Administrative Law Judge concludes it would be inappropriate to either remand BexarMet's application or abate these proceedings after admitting SAWS as a party, SAWS requests that a telephonic hearing be convened at the earliest practicable date to establish a schedule whereby SAWS would be able to participate in the discovery phase of this contested case hearing.

Respectfully submitted,

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P.O. Box 1568
Austin, Texas 78768-1568
(512) 404-7800
Fax: (512) 703-2785

By: _____


Jim Mathews

State Bar Number 13188700

ATTORNEYS FOR SAWS

CERTIFICATE OF SERVICE

I hereby certify that on this the 17th day of August 2005, a true and correct copy of SAWS Motion to Intervene and to Remand/Abate was served on the parties of record by facsimile transmission and First Class Mail.

STATE OFFICE OF ADMINISTRATIVE
HEARINGS

Cassandra J. Church
Presiding Administrative Law Judge
State Office of Administrative Hearings
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Austin, TX 78711-3025
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TEXAS COMMISSION ON
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Jim Mathews

SAWS EXHIBIT 1

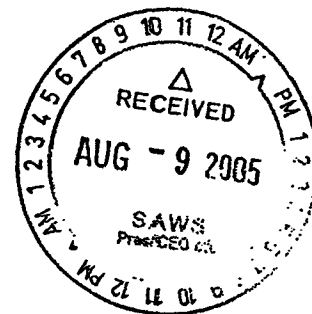
BITTERBLUE LETTER

DATED AUGUST 9, 2005

Bitterblue, Inc.

...developing a difference.

MEMORANDUM



TO: Mr. David Chardavoyne
President and Chief Executive Officer
SAN ANTONIO WATER SYSTEM

FROM: Gene Powell

DATE: August 9, 2005

RE: *Transmission Package to SAWS*

Mr. Chardavoyne, this package includes the following:

1. Request for Contract for Service West of US-281: Attachments included are as follows:
 - A. CCN Map
 - B. Chart Listing Projects
2. Letter to F. Gil Olivares at BexarMet Rescinding Bitterblue's Previously Submitted USA's on Two of These Tracts.
3. Supplement to Letter No. 1 Above: List of Outstanding Items at SAWS for Bitterblue and Bitterblue's projects. These items are old and need to be resolved in order for us to move forward and expedite the projects listed in Letter No. 1 above.

Please call me at 828-6131 should you have any questions on any of these matters.

Thank you for your assistance.

WEP/ds

Bitterblue, Inc.

Developing a Better Future

August 9, 2005



Mr. David Chardavoyne
President and Chief Executive Officer
San Antonio Water System
1001 E. Market Street
San Antonio TX 78205

RE: *Request for Water Service West of US Hwy 281, and Along East Side of
Bulverde Road, and Either Side of Borgfeld Road*

Dear Mr. Chardavoyne:

Since the late 1970's, our Company has been designing and developing subdivisions on either side of US Hwy 281, north of Loop 1604. During those years we have worked extensively with SAWS and occasionally with BexarMet.

Currently we are working with several families and land owners that represent six (6) tracts of land along Bulverde Road and Borgfeld Road. All these tracts are west of US Hwy 281, and they represent a demand for 2016 annual acre feet of water to service just over 4,000 Equivalent Dwelling Units (EDUs) on these tracts. A chart and map identifying these tracts is attached for your reference.

SAWS has been extremely helpful with the extending sewer service to this area. Over the past several years we have worked with SAWS to extend sewer lines up Bulverde Road to Indian Springs, and current plans are to extend these lines across US Hwy 281, up to Borgfeld Road, and then west to the Kinder tract. In addition, we have worked with SAWS to extend the Mud Creek sewer line north to Oliver Ranch and we plan to extend those lines on to the north to service the Friesenhahn and Dym tracts. As a result, we have (or will have) sewer lines and sewer capacity in place to service all 4,000 EDUs of sewer through SAWS.

Mr. David Chardavoyne

August 9, 2005

Page 2

We have not, however, been successful in obtaining the necessary water service to this area. As you know, BexarMet has a Certificate of Convenience and Necessity (CCN) application pending at the Texas Commission on Environmental Quality (TCEQ) to service these tracts. Approval of this application has been delayed several times due to adverse testimony or competing applications. However, we have now been advised that Bexar Met's CCN application will be reviewed at a hearing in September. After extensive meetings with executives at BexarMet, and consultation with our partners, engineers, risk management consultants and lenders, we are not at all confident that BexarMet is able to timely or cost effectively provide the necessary water service for the existing and on-going development of these properties.

Therefore, in order to proceed with the development of these properties and to protect our considerable infrastructure investment in these areas, we are requesting that SAWS make application for a CCN to service the referenced tracts of land and immediately agree to provide the requested water service. If SAWS submits its CCN application, we are prepared to testify at the TCEQ hearings in support of the SAWS application to service this area. We are further prepared to immediately submit to SAWS for a Contract For Service that can be converted to a Utility Service Agreement (USA) on each of the six tracts once SAWS is successful in acquiring the CCN.

Our reasons for supporting the SAWS' CCN application over the BexarMet application are summarized as follows:

1. Water Supply

- A. SAWS has demonstrated that it has sufficient water resources to supply the number of EDUs we require in the area.
- B. BexarMet has not been able to satisfy us that BexarMet has (or will have in the near future) sufficient water resources to service our customers. The fact that BexarMet has for some time had to serve their Stone Oak customers with water purchased from SAWS is a major concern to our Company.

2. Development Time Table

- A. We have approved Master Development Plans (MDPs) on two of these tracts, and we are ready to start construction.
- B. We believe SAWS has the capital resources and water resources to immediately service our needs.
- C. We believe that if BexarMet can ever service our needs, the service would not be available until several years in the future. We need to move forward immediately in order to meet the market demand in the area.

Mr. David Chardavoyne
August 9, 2005
Page 3

- D. Our partners and lenders are not comfortable with our starting construction if our source of water is BexarMet.
3. Service
- A. We are very comfortable that SAWS has the capital resources, personnel and equipment to provide excellent service to our 4,000 customers.
 - B. We do not believe BexarMet has the resources to service these customers.
 - C. Our risk management consultants do not think it would be prudent for our Company to rely on the performance of BexarMet to service these customers in the future.
4. Cost of Water
- A. A review of the water rates in the area reveal that BexarMet water delivery rates are between 40% and 115% higher than SAWS' rates in the area.
 - B. These higher rates make it much more difficult to sell houses served by BexarMet.
 - C. These higher rates are an unfair imposition on our customers when we believe SAWS can provide a more dependable supply of water at a much lower cost.

Mr. Chardavoyne, time is of the essence with our proposal. We need an answer from you and SAWS in the next five to ten days on the following questions:

1. Will SAWS submit an application to TCEQ for a CCN to serve the area in question and aggressively pursue approval of this CCN?
2. Will SAWS immediately agree to provide water service to these tracts under a Contract For Service that can eventually be converted to a Utility Service Agreement (USA) if SAWS is successful in acquiring a CCN for the area?

Thank you for taking the time to review this request, and we look forward to your prompt response in this matter. If you need any other information regarding this matter, please contact me.

Yours truly,



William E. Powell, CEO
Bitterblue, Inc.

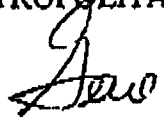
WEP:ss

cc: Ms. Kathleen White, Chairman, TCEQ
Mr. Lyle Larson, Bexar County Commissioner
Councilman Kevin Wolff, San Antonio City Council, District 9

Bitterblue, Inc.

MEMORANDUM

TO: F. Gil Olivares
CFO/In-house District General Counsel
BEXAR METROPOLITAN WATER DISTRICT

FROM: Gene Powell 

DATE: August 9, 2005

RE: 1) *Utility Service Agreement Request Dated June 22, 2005
regarding the Kinder Ranch Development (see attached)*
2) *Utility Service Agreement Request Dated June 22, 2005
regarding the Friesenhahn Tract (see attached)*

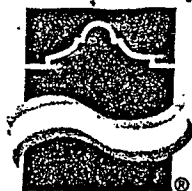
Mr. Olivares, please accept this letter as official notice to BexarMet that we are hereby rescinding our request for water service to the above captioned tract.

Thank you for your time in working on the project.

WEP/ds

SAWS EXHIBIT 2

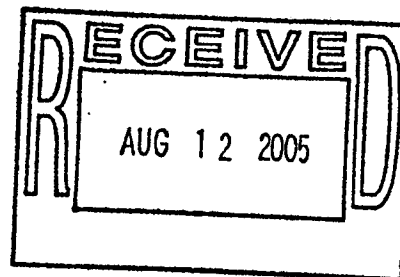
**CORRESPONDENCE RELATING TO
BEXARMET EMERGENCY INTERCONNECT
WITH SAWS**



BexarMet
WATER DISTRICT
"The Water Resource People"

Visit our website
www.bexarmet.org

May 5, 2003



Thomas C. Moreno
General Manager CEO

Kelley Neumann, P.E.
Director of Infrastructure Planning
San Antonio Water System
P.O. Box 2449
San Antonio, TX 78298-2449

BOARD OF DIRECTORS

Ronald C. Williamson
President

Dean H. Perry
Vice President

Robert "Tinker" Garza
Secretary

Jim Lopez
Treasurer

Arturo Siller
Director

Ysidro Solis
Director

Gabe Gonzalez Sr.
Director

Dear Ms. Neumann:

This is a formal request for a water distribution system interconnection between the San Antonio Water System (SAWS) and the Bexar Metropolitan Water District (BexarMet) connecting the SAWS 24" main located on the south side of Hwy. 1604 between Blanco Rd. and Stone Oak parkway and the BexarMet Facility # 63 located north of Hwy. 1604 just east of Blanco Rd.

The purpose of this interconnect is twofold. First, we were experiencing some cloudy water in one of our major production wells and as such, we anticipated the possibility of removing the well from service. Second, the Stone Oak area is currently being served by two wells. These wells have been in operation since the beginning of the Stone Oak development and will certainly need to have motors and pumps replaced in the future. Although, we have secured the replacement motors and pumps for these wells, the current demand in the area will require us to make repairs during the winter when demand is low and have some additional supply. To address the additional supply needs, we have drilled a third well and soon will be interconnecting the Stone Oak system to our Timberwood Park system which will include a new 2.5 million gallon elevated tank this time next year. We believe our interconnect coupled with the additional well and storage will give us the support we need to complete repairs as needed and be ready to respond in the event of system difficulties.

Our wells are currently producing water of sufficient quality and quantity and thus we are currently not utilizing your water and did not need to do so over the weekend.

We will begin work soon to coordinate with appropriate individuals to plan for a permanent interconnect at this location.

Thanks to all that assisted in the effort to get this job done quickly and efficiently.

Executive Offices
2047 W. Malone
San Antonio, Texas 78225
Phone: (210) 354-6500
Fax: (210) 922-5152

Northwest Branch
9823 Marbach
San Antonio, Texas 78245
Phone: (210) 670-3100
Fax: (210) 673-3404

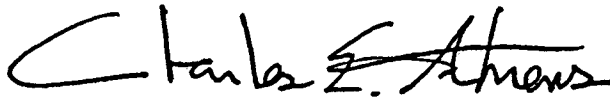
South San Branch
2706 W. Southcross
San Antonio, Texas 78211
P.O. Box 245994
San Antonio, Texas 78224-5994
Phone: (210) 922-1221
Fax: (210) 922-1894

Ms. Kelley Neumann, P.E.
May 5, 2003
Page 2

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

Sincerely,

BEXARMET WATER DISTRICT

A handwritten signature in black ink, appearing to read "Charles E. Ahrens". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles E. Ahrens
Deputy General Manager, Production

December 16, 2004

COPY

Mr. Michael J. Albach
Deputy General Manager
Bexar Metropolitan Water District
2047 W. Malone
San Antonio, Texas 78225

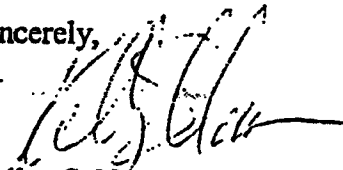
Dear Mr. Albach:

In July 2003, the San Antonio Water System provided a temporary emergency connection to provide water under emergency conditions to the Bexar Metropolitan Water District's Hill Country district. Two Bexar Met wells on Bitters Road were experiencing high levels of sediments and were shut off. Bexar Met acknowledged that these wells have had this problem in the past. As a result, there was not an adequate supply of water from the Bexar Met production facilities to meet summer demands in the Stone Oak area.

Because of the emergency nature of the situation, SAWS agreed to provide water so that the citizens of San Antonio would be well served; however, we were very clear that this was not to be considered a permanent solution for the problems at the Bitters Well. At that time, Bexar Met assured SAWS that they intended to construct a filtration plant and the need for water from SAWS was a temporary need. At that time, Bexar Met stated that the filtration plant would be constructed within six months, and that you would keep SAWS advised of the progress of the corrective action. We have not received any information regarding your corrective action.

More than one year has elapsed providing adequate time for Bexar Met to have completed corrective action. This is to advise you that as of May 2005, SAWS will disconnect the emergency connection at Stone Oak.

Sincerely,


Kelley S. Neumann, P.E.
Interim Vice-President
Planning, Programming and
Quality Control



BexarMet
WATER DISTRICT

Visit our website
www.bexarmet.org

December 27, 2004

Ms. Kelley S. Neumann, P.E.
Interim Vice-President
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449

Dear Ms. Neumann:

Thank you for your letter advising BexarMet that as of May 2005 SAWS will disconnect the emergency connection at Stone Oak. We very much appreciate your assistance during that difficult time in the summer of 2003 when two of BexarMet's wells were producing visible levels of sediment.

Since that time BexarMet has taken steps to remedy the sediment problem in the largest well at the Bitters Road site and has installed equipment on a smaller well to prevent sediment from entering the distribution system. Additional steps have been taken to increase supply to the Stone Oak area and more work is underway. However, we have determined that a treatment facility is not an efficient course of action. We sincerely regret that we did not advise you of the work BexarMet was doing in this area.

Again, BexarMet and its customers are grateful for SAWS' assistance.

Sincerely,
BEXARMET WATER DISTRICT

Michael J. Albach
Michael J. Albach
Deputy General Manager

Thomas C. Moreno
General Manager (CEO)

BOARD OF DIRECTORS

John A. Longoria
President

Dean H. Perry
Vice President

Jim Lopez
Secretary

Jose Gallegos, Jr.
Treasurer

Herman E. Sanchez
Director

Ysidro Solis
Director

Victor V. Villarreal
Director

Executive Offices
2047 W. Malone
San Antonio, Texas 78225
Phone: (210) 354-6500
Fax: (210) 922-5152

Northwest Branch
9823 Marbach
San Antonio, Texas 78245
Phone: (210) 670-3100
Fax: (210) 673-3404

Southwest Branch
2706 W. Southcross
San Antonio, Texas 78211
P.O. Box 245994
San Antonio, Texas 78224-5994
Phone: (210) 922-1221
Fax: (210) 922-1894

June 21, 2005

Mr. David E. Chardavoyne
President/Chief Executive Officer
San Antonio Water System
1001 E. Market Street
San Antonio, Texas 78298

Via Fax No: 704-1712
Total Pages: 1

RE: SAWS Interconnect to BexarMet's Tank located at Blanco/1604

Dear Mr. Chardavoyne:

Pursuant to instructions from Val Ruiz, I am providing this letter requesting temporary assistance from SAWS to BexarMet by providing additional water supply to our Stone Oak facility. We are currently experiencing cloudy water at our Bitters Road pumping facility #91, Well 1. At this time, we are flushing in order to clear up the well. Due to these actions, we have seen significant improvement in water quality/clarity within the last 24 hours and we will begin the introduction of this water back into our system within the next eight (8) hours.

We anticipate having this issue resolved within the next 24 hours. Therefore, we are requesting that we have the SAWS Interconnect to BexarMet's tank located at Blanco/1604 be opened as soon as possible. This will allow us to meet current demand and have ample water available in storage to meet peak demand this evening.

Sincerely,

BexarMet Water District



Larry Bittle

Deputy General Manager Operations

Cc: Victor V. Villarreal, Board President
F. Gilbert Olivares, General Manager
BexarMet Water District





TELEFAX COMMUNICATIONS

DATE: Friday, July 1, 2005

TO: Mr. David Chardavoyne, President, San Antonio Water System

FAX NUMBER: 704-7132

FROM: F. Gilbert Olivares, General Manager, BexarMet Water Dist.

F. Gilbert Olivares
General Manager/CEO

BOARD OF DIRECTORS

Victor V. Villarreal
President

Lesley Wenger
Vice President

Jim H. Clement
Secretary

Jesse Gallegos, Jr.
Treasurer

Director

Director

Director

TELEPHONE NUMBER: (210) 357-5707

FAX NUMBER: (210) 922-5152

PAGES TO FOLLOW (INCLUDING COVER SHEET): 1

PLEASE NOTIFY THIS PERSON THAT A FAX HAS BEEN RECEIVED

Mr. Chardavoyne:

BexarMet requests your assistance to avoid temporary water service interruptions within BexarMet's Stone Oak service area. We request that the interconnection between BexarMet's and SAWS' systems near Blanco Road and Loop 1604 remain open until we can control the extraordinary peak demand that is occurring in this large subdivision. All of BexarMet's wells serving this subdivision are working. We have issued press releases and are speaking with the media. We are using a "reverse 911" phone message system to advise the residents and businesses in Stone Oak to refrain from landscape irrigation. We are aware of widespread violations of the City's year-round watering restrictions that are contributing to the problem. Once we have gained the upper hand on this matter, we request a meeting with you and your staff to discuss the Stone Oak area and BexarMet's plans. Thank you for your continued support of BexarMet during this difficult period.

Executive Offices
2047 W. Malone
San Antonio, Texas 78225
Phone: (210) 354-6500
Fax: (210) 922-5152

Northwest Branch
9823 Marbach
San Antonio, Texas 78245
Phone: (210) 670-3100
Fax: (210) 673-3404

South San Branch
2706 W. Southcross
San Antonio, Texas 78211
P.O. Box 245994
San Antonio, Texas 78224-5994
Phone: (210) 922-1221
Fax: (210) 924-1894

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PLEASE CALL US IF YOU HAVE ANY PROBLEMS IN RECEIVING THIS OR IF THERE ARE ANY PAGES MISSING.

TELEFAX COMMUNICATION

DATE: 07-05-2005
TO: Val Ruiz - Via Fax - (210) 704-1705
FROM: Helen S. Casias
BexarMet Water District
(210) 354-6501
FAX No. (210) 922-5152

Please notify this person that a fax has been received.

PAGES FAXED (including cover page): 2

Per Larry Bittle

Attached please find a copy of an email dated 7-5-05 addressed to Jeff Andrews re: BMWD - SAWS interconnect

Thank you

CONFIDENTIALITY NOTICE: The information contained in this facsimile message is privileged or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please immediately notify us at the above telephone number.

Please call us if you have any problems in receiving this fax or if there are any pages missing.

10/11/05
VH1 Ruiz

Larry Bittle

From: Larry Bittle [lbittle@bexarmet.org]
Sent: Tuesday, July 05, 2005 8:01 AM
To: 'Jeff Andrews@saws.org'
Cc: Michael J. Albach; 'stokland@bexarmet.org'
Subject: BexarMet-SAWS Interconnect

Jeff,

As per our telephone conversation this morning, I am requesting the opening of the Interconnect located at 1804 and Panther Creek. This Interconnect feeds directly into our ground storage tank (Station 63). We are currently unable to recover and due to high demand. We are not sure of the duration the Interconnect will need to be open. The number however, as in the past we would like to receive approximately 12-gallons per minute until we reach a level of 27 feet. Thanks in advance for your assistance and cooperation in this matter. 1200

Larry Bittle Jr.

JUL-05-2005 10:04

2109225152

94%

SAWS Exhibit 2 Page 9

P. 02

7/5/2005

TELEFAX COMMUNICATION**DATE:** 07-11-2005**TO:** Val Ruiz - Via Fax - (210) 704-1705**FROM:** Helen S. Casias
BexarMet Water District
(210) 354-6501
FAX No. (210) 922-5152*Please notify this person that a fax has been received.***PAGES FAXED (including cover page): 2****Per Mr. Bittle****Attached please find letter dated 7-11-05.
Thank you**

CONFIDENTIALITY NOTICE: The information contained in this facsimile message is privileged or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please immediately notify us at the above telephone number.

Please call us if you have any problems in receiving this fax or if there are any pages missing.

11 July 2005

Val Ruiz, Vice President Operations/Distribution
San Antonio Water System
3930 E. Houston Street
P.O. Box 2449
San Antonio, Texas 78220

Dear Mr. Ruiz:

As per my telephone conversation this morning with Mr. Jeff Andrews, I am notifying you of the opening of the interconnect located at 1604 and Panther Creek. The interconnect was opened Saturday July 9th at 10:35 pm and remained open since. This interconnect feeds directly into our ground storage tank (Station 63). We are not sure of the duration the interconnect will need to be open. As in the past we would like to receive approximately 1200 gallons per minute until we reach a level of 27 feet in our ground storage tanks at Station 63.

Thanks in advance for your assistance and cooperation in this matter.

Sincerely,

BEXARMET WATER DISTRICT

Larry Bittle Jr.
Deputy General Manager Operations

Cc: F. Gilbert Olivares
General Manager



TELEFAX COMMUNICATION

DATE: JULY 14, 2005

TO: MR. VAL RUIZ

FAX No.: (210) 704-1705 & 704-1712

FROM: MICHAEL J. ALBACH

PHONE No.: (210) 279-9705 (MOBILE)

Please notify this person that a fax has been received.

PAGES FAXED (including cover page): 1

<p><u>MR. RUIZ:</u></p> <p><u>WE REQUEST AN INCREASE IN THE AMOUNT</u> <u>OF WATER DIVERTED FROM YOUR SYSTEM INTO</u> <u>BEXARMET'S AT THE INTERCONNECTION AT</u> <u>NORTH LOOP 1604 AND BLANCO ROAD AS SOON</u> <u>AS POSSIBLE.</u></p> <p><u>WE REQUEST AN INCREASE TO (1,700 GPM)</u> <u>FROM 1,150 GPM. THANK YOU</u></p>

myl

CONFIDENTIALITY NOTICE: The information contained in this facsimile message is privileged or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please immediately notify us at the above telephone number.

Please call us if you have any problems in receiving this fax or if there are any pages missing.



TELEFAX COMMUNICATION

DATE: 07-08-2005

TO: Val Ruiz - Via Fax - (210) 704,705

FROM: Helen S. Casias
BexarMet Water District
(210) 354-6501

FAX No. (210) 922-5152

Please notify this person that a fax has been received.

PAGES FAXED (including cover page): 2

Per Larry Bittle

Attached please find letter dated July 13, 2005

Thank you

CONFIDENTIALITY NOTICE: The information contained in this facsimile message is privileged or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is prohibited. If you have received this communication in error, please immediately notify us at the above telephone number.

Please call us if you have any problems in receiving this fax or if there are any pages missing.

13 July 2005

Val Ruiz, Vice President Operations/Distribution
San Antonio Water System
3930 E. Houston Street
P.O. Box 2449
San Antonio, Texas 78220

Dear Mr. Ruiz:

As per my telephone conversation this morning with Mr. Jeff Andrews, I am requesting the opening of the interconnect located at 1604 and Panther Creek. This interconnect feeds directly into our ground storage tank (Station 63). We are currently unable to recover and due to high demand. We are uncertain of the duration the interconnect will need to be open however, as in the past we would like to receive approximately 1200 gallons per minute until we reach a level of 27 feet.

Thanks in advance for your assistance and cooperation in this matter.

Sincerely,

BEXARMET WATER DISTRICT


Larry Bittle Jr.

Deputy General Manager Operations

Cc: F. Gilbert Olivares
General Manager



JUL-13-2005 10:04

2109225152

01 August 2005

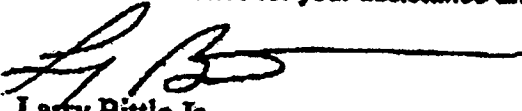
Val Ruiz, Vice President Operations/Distribution
San Antonio Water System
3930 E. Houston Street
P.O. Box 2449
San Antonio, Texas 78220

Attn.
Jeff
Andrews

Dear Mr. Ruiz,

As per my telephone conversation this morning with your Control Center Operator, I am requesting the opening of the interconnect located at 1604 and Panther Creek. On Friday 29 July 2005 one of our pumps/motors located at Bitters Rd. and Aspen Ln. failed. We are taking steps to replace this pump as quickly as possible. Please be advised that from time to time we will need to open the interconnect in order to maintain ample water supplies for our customers. We are not sure of the duration the interconnect will need to be open however, I will keep you advised of the progress and status of the repair/replacement of our pump and motor as updates become available. As in the past we would like to receive approximately 1200 gallons per minute until we reach a level of 27 feet at our Panther Creek pump station (83).

Thanks in advance for your assistance and cooperation in this matter.


Larry Bittle Jr.
BexarMet Water District

Cc: Gil Olivares, General Manager/CEO
Mike Albach, Director of Operations

AUG-01-2005 07:17

2103575724

P.01

05 August 2005

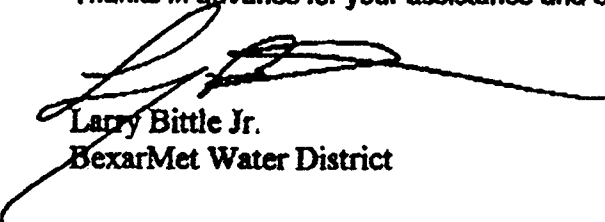
Val Ruiz, Vice President Operations/Distribution
San Antonio Water System
3930 E. Houston Street
P.O. Box 2449
San Antonio, Texas 78220

Dear Mr. Ruiz,

As I mentioned to you in my letter of 01 August regarding the status of the failed pump/motor at our Bitters Rd. pump facility, the pump and motor have been pulled from the well and are currently being diagnosed. Once we have been apprised of the diagnosis I will relay that information to you along with a possible date for repair completion.

I am requesting the opening of the interconnect located at 1604 and Panther Creek. Please be advised that from time to time we will need to open the interconnect in order to maintain ample water supplies for our customers. We are not sure of the duration the interconnect will need to be open. As in the past we would like to receive approximately 1200 gallons per minute until we reach a level of 27 feet at our Panther Creek pump station (63).

Thanks in advance for your assistance and cooperation in this matter.



Larry Bittle Jr.
BexarMet Water District

Cc: Gil Olivares, General Manager/CEO
Mike Albach, Director of Operations

SAWS EXHIBIT 3

BEXARMET WATER ADVISORIES

The following is cut from the Bexar Met web page www.bexarmet.org:

WATER ADVISORY FOR STONE OAK RESIDENTS & BUSINESSES (Posted 7-1-05 at 10:00am)

Advisory in effect until 7-5-05...

The tremendous amount of lawn watering currently taking place in Stone Oak has triggered this advisory...

WATER ADVISORY FOR STONE OAK AREA

Due to the potential for service interruptions and to ensure adequate fire protection in BexarMet's Stone Oak service area over the 4th of July weekend, BexarMet is strongly urging all residents and businesses in Stone Oak to please refrain from non-essential water use such as irrigating lawns, common areas and filling swimming pools beginning immediately through Tuesday July 5, 2005. The quality of the water in the system is perfectly fine; it is the amount of water available that is the concern. For more information, please contact Diane Pfeil at (210) 279-9704. For more information on efficient lawn watering practices and determining the output of your sprinkler system, please check our page on watering efficiently. Thank you for your conservation and cooperation.

WATER ADVISORY FOR WOODS OF FAIR OAKS/VILLAGE GREEN RESIDENTS & BUSINESSES (Posted 6-24-05 at 9:00am)

Advisory in effect until further notice...

The sensitivity of the Trinity Aquifer water supply for the Village Green/Woods of Fair Oaks area has triggered this advisory...

WATER ADVISORY FOR THE WOODS AT FAIR OAKS/VILLAGE GREEN WATER SYSTEM

Residents are asked to modify lawn watering practices and swimming pool construction/filling activities.

Read the advisories below for more information. For more information on efficient lawn watering practices and determining the output of your sprinkler system, please check our page on watering efficiently. Thank you for your cooperation and conservation!!

[CLICK HERE FOR INFORMATION ON THE LAWN WATERING ADVISORY](#)

[CLICK HERE FOR INFORMATION ON THE SWIMMING POOL ADVISORY](#)

[BACK TO TOP](#)

SPECIAL MESSAGE FOR TIMBERWOOD PARK RESIDENTS (Posted 6-21-05 at 8:00am)

Advisory in effect until further notice...

BexarMet continues to work diligently to prevent service interruptions in Timberwood Park. We are pleased to announce that homes and businesses may resume lawn watering in Timberwood Park. We strongly recommend watering deeply once per week. Please set any automatic sprinkler systems to irrigate only once per week between the hours of 8PM and 10 AM and water long enough to deliver approximately 1 inch or 0.62 gallons per square foot. Please keep swimming pools covered during the day to reduce evaporation. BexarMet asks that all possible conservation measures be used during this extended drought period. For more information on efficient lawn watering practices and determining the output of your sprinkler system, please check our page on watering efficiently. Thank you for your continued conservation!

SAWS EXHIBIT 4

SENATE BILL 1494

78TH LEGISLATURE 2003

AN ACT

relating to the powers of Bexar Metropolitan Water District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. The District is hereby created as a governmental agency, a body politic and corporate, and a municipal corporation, vested with all the authority as such under the Constitution and laws of the State of Texas; and shall have and be empowered to exercise all the rights, privileges, functions, and powers of such governmental agency and body politic and corporate as authorized or implied by the provisions of Article 16, Section 59 of the Constitution and as have been or may be conferred by General Law upon conservation districts and as authorized or implied by the provisions of this Act, for the purpose of controlling, conserving, protecting, preserving, distributing, and utilizing the storm and flood waters of the rivers and streams situated in said District ~~[and the underground waters situated thereunder]~~ and for the purpose of regulating and controlling the disposal of sewage, wastes, and other refuse, and the collection and disposal thereof, to prevent the contamination and pollution of the public waters of the District. It shall have the power to formulate and execute any and all plans deemed essential to the accomplishment of the

1 purposes for which it is created and shall be recognized to have
2 such authority and power of control and regulation over the storm
3 and flood waters of its rivers and streams [~~and its underground~~
4 ~~waters~~] as may be exercised by the State of Texas, subject to the
5 provisions of the Constitution and Section 4 of this Act.

6 SECTION 2. Section 3, Chapter 306, Acts of the 49th
7 Legislature, Regular Session, 1945 (Article 8280-126, Vernon's
8 Texas Civil Statutes), is amended to read as follows:

9 Sec. 3. In addition to the powers vested by the Constitution
10 and general laws in such public agency for the greatest practicable
11 measure of the conservation, preservation, and beneficial
12 utilization of its public waters, the power to control and utilize
13 its public waters and to regulate the disposal and the disposal of
14 sewage, waste, and refuse, the District shall have the following
15 general powers:

16 (a) Through every practical and legal means to develop,
17 transport, deliver, distribute, store, and treat water for use
18 within the District, including [~~control and regulate and to~~
19 ~~coordinate the control and regulation of the waters of the~~
20 ~~watershed of the San Antonio River and tributaries in the District~~
21 ~~and~~] the storm and flood [~~and underground~~] waters within [~~of~~] the
22 District, including the power to cooperate with the United States
23 Government or any agency thereof, or any municipality, public,
24 quasi-public or private agency and to contract, negotiate, and
25 enter into agreements with any one or more of such agencies in
26 effecting such purposes;

27 (b) to store, control, and conserve storm and flood waters

1 of its rivers and streams and to prevent the escape of any such
2 waters without first obtaining therefrom a maximum of public
3 service; to prevent devastation of property from overflow and to
4 protect life and property from uncontrolled flood and storm waters;

5 (c) to conserve and distribute waters essential for
6 domestic and other uses by the inhabitants of the District,
7 including necessary water supply for cities and towns situated
8 within the District;

9 (d) to provide for the development of drainage systems to
10 control, regulate, and dispose of all storm and flood waters of the
11 District so as to protect effectively lives and property, and to
12 utilize such waters for each and every purpose for which flood and
13 storm waters when controlled, conserved, or regulated may be
14 utilized as contemplated by the Constitution and the public policy
15 therein declared;

16 (e) to provide by purchase, construction, lease, gift, or in
17 any other manner and to operate any and all facilities deemed by the
18 District essential for preserving the purity of all the surface and
19 underground waters of the District for the protection of the health
20 of its inhabitants, and to formulate plans to make and enforce rules
21 and regulations for the effective disposal of any and all sewage
22 wastes, refuse, or residuum, however accumulated; which otherwise
23 would contaminate, pollute, or render unsafe and insanitary the
24 surface and underground waters of the District and which might
25 threaten or impair the health of its inhabitants or which might
26 adversely affect the health of the inhabitants downstream below the
27 District;

1 (f) to acquire by purchase, construction, lease, gift, or in
2 any other manner (otherwise than by condemnation) and to maintain,
3 use, and operate any and all property of any kind, real, personal,
4 or mixed, or any interest therein within or without the boundaries
5 of the District deemed by its Board of Directors necessary or
6 convenient to the exercise of the powers, rights, privileges, and
7 functions conferred upon it by this Act;

8 (g) to acquire by condemnation any and all property of any
9 kind, real, personal, or mixed, or any interest therein, within or
10 outside of the boundaries of the District, necessary to the
11 exercise of the powers, rights, privileges, and functions conferred
12 by this Act, in the manner provided by General Law relative to
13 condemnation, or at the option of the District, in the manner
14 provided by law with respect to condemnation by agencies organized
15 pursuant to Section 59, Article 16 of the Constitution of the State
16 of Texas; provided that the District shall not have the right or
17 power to so condemn any such property that may be owned by any other
18 political subdivision, city, or town located within the District;

19 (h) to cooperate, contract, and enter into agreements with
20 towns, cities, districts, or political subdivisions located in or
21 outside of the District and with Bexar County, in the construction,
22 purchase, lease, maintenance, improvement, use, and operation of
23 any and all facilities, works, and plants necessary or convenient
24 to the accomplishment of the purposes for which the District was
25 created;

26 (i) to make contracts with any person, private corporation,
27 municipal corporation, political subdivision, or the Board of

1 Trustees thereof, operating water distribution facilities for the
2 benefit of a city or town within the District, under which the
3 District may perform services for such parties or such parties may
4 perform services for the District, or under which either may
5 operate all or any part of the facilities of the other, having due
6 regard for the duties and obligations of such parties in the
7 instrument prescribing their or its duties;

8 (j) to construct, extend, improve, maintain, and
9 reconstruct, to cause to be constructed, extended, improved,
10 maintained, or reconstructed and to use and operate any and all
11 facilities of any kind necessary or convenient to the exercise of
12 the powers, rights, privileges, and functions conferred by this
13 Act;

14 (k) to sue and be sued in its corporate name;

15 (l) to make by-laws for the management and regulation of its
16 affairs conformably to the powers and purposes herein conferred and
17 consistent with the Constitution of this State;

18 (m) to make rules and regulations and to prescribe penalties
19 for the breach of any rule or regulation of the District, which
20 penalties shall not exceed fines of more than Two Hundred Dollars
21 (\$200), or imprisonment for more than thirty (30) days, or may
22 provide both such fine and such imprisonment. The penalties hereby
23 authorized shall be in addition to any other penalties provided by
24 the laws of Texas and may be enforced by complaints filed in the
25 appropriate court of jurisdiction in the county in which the
26 district's principal office is located; provided, however, that no
27 rule or regulation which provides a penalty for the violation

1 thereof shall be in effect, as to enforcement of the penalty, until
2 five days next after the district may have caused a substantive
3 statement of the particular rule or regulation and the penalty for
4 the violation thereof to be published, once a week for two
5 consecutive weeks, in one or more newspapers affording general
6 circulation in the area in which the property of the district is
7 situated; and, the substantive statement so to be published shall
8 be as condensed as is possible to afford an intelligent direction of
9 the mind to the object sought to be accomplished or the act
10 forbidden by the rule or regulation; one notice may embrace any
11 number of regulations; there must be embraced in the notice advice
12 that breach of the particular regulation, or regulations, will
13 subject the violator to the infliction of a penalty and there also
14 shall be included in the notice advice that the full text of the
15 regulation sought to be enforced is on file in the principal office
16 of the District, where the same may be read by any interested
17 person. Five (5) days after the second publication of the notice
18 hereby required, the advertised regulation shall be in effect, and
19 ignorance of any such regulation shall not constitute a defense to a
20 prosecution for the enforcement of a penalty; and, the rules and
21 regulations authorized hereby, after the required publication,
22 shall judicially be known to the courts and shall be considered of a
23 nature like unto that of valid penal ordinances of a city of the
24 State;

25 (n) to adopt, use, and alter a corporate seal;

26 (o) to appoint agents and employees; prescribe their duties
27 and fix their compensation;

1 (p) to make contracts and execute instruments necessary or
2 convenient to the exercise of the powers, rights, privileges, and
3 functions herein conferred;

4 (q) to borrow money for its authorized purposes, to accept
5 grants or loans or allotments from the United States Government or
6 any of its agencies, or others, and in connection with any such
7 grants, loans, or allotments to enter into such agreements as may be
8 required to make them effective, and for the purpose of obtaining
9 funds to issue its negotiable tax bonds and its negotiable revenue
10 bonds in the manner and to the extent hereinafter provided;

11 (r) to operate and maintain with consent of the governing
12 body of any city, town, or political subdivision located in the
13 District any works, plants, or facilities deemed necessary or
14 convenient to the accomplishment of the purposes for which the
15 District is created;

16 (s) to enter into planning agreements with the Texas Water
17 Development Board under Subchapter C, Chapter 16, Water Code, for
18 the purpose of conducting studies necessary to maintain retail
19 water supply services to customers within the boundaries of the
20 District; and

21 (t) to cooperate with and support local fire departments and
22 economic development activities sponsored by local entities within
23 the District that use water and water resources provided, or to be
24 provided, by the District.

25 SECTION 3. Chapter 306, Acts of the 49th Legislature,
26 Regular Session, 1945 (Article 8280-126, Vernon's Texas Civil
27 Statutes), is amended by adding Section 5A to read as follows:

1 Sec. 5A. (a) The District's boundaries for purposes of the
2 exercise of its powers and duties is defined in Section 5 of this
3 Act.

4 (b) In conformity with the court's judgment dated April 22,
5 1996, in Cause No. SA96CA0335, Rios v. Bexar Metropolitan Water
6 District et al., in the United States District Court, Western
7 District of Texas, and for the purpose of the exercise of its
8 current retail water utility services, the District's boundaries
9 shall include the territory defined in all or applicable portions
10 of census tracts or property situated within any area certificated
11 by the Texas Commission on Environmental Quality to the District on
12 the date of passage of the Act adding this section pursuant to
13 Certificates of Convenience and Necessity Nos. 10675, 12759, and
14 12760.

15 SECTION 4. Sections 6, 6a, and 20, Chapter 306, Acts of the
16 49th Legislature, Regular Session, 1945 (Article 8280-126,
17 Vernon's Texas Civil Statutes), are repealed.

18 SECTION 5. (a) This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2003.

23 (b) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts
24 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,
25 Vernon's Texas Civil Statutes), does not affect an annexation
26 proceeding initiated before the effective date of this Act. An
27 annexation proceeding initiated before the effective date of this

1 Act is governed by the law in effect immediately before the
2 effective date of this Act, and the former law is continued in
3 effect for that purpose.

4 (c) The repeal of Sections 6, 6a, and 20, Chapter 306, Acts
5 of the 49th Legislature, Regular Session, 1945 (Article 8280-126,
6 Vernon's Texas Civil Statutes), does not affect a pending
7 application for a certificate of convenience and necessity that has
8 been referred by the Texas Commission on Environmental Quality to
9 the State Office of Administrative Hearings before the effective
10 date of this Act. An application referred before the effective date
11 of this Act is governed by the law in effect immediately before the
12 effective date of this Act, and the former law is continued in
13 effect for that purpose.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1494 passed the Senate on May 13, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1494 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor