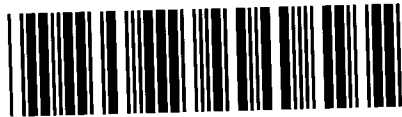


Control Number: 43572



Item Number: 60

Addendum StartPage: 0

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

43572

**R L WILSON, P.C.**  
PROFESSIONAL LEGAL SERVICES

RECEIVED

MILAM BUILDING  
115 E. TRAVIS, SUITE 1230  
SAN ANTONIO, TEXAS 78205

2014 NOV 13 AM 10:58  
TELEPHONE: (210) 223-4100  
TELECOPIER: (210) 223-4200  
RLW3D@SBCGLOBAL.NET

June 11, 2006

Honorable Cassandra J. Church  
Administrative Law Judge  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street  
Austin, Texas 78701

Via Fax 512/475-4994  
Total Pages: 26

RE: SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0664-UCR, *In Re: The Application of Bexar Metropolitan Water District To Amend Water CCN No. 10675 in Bexar County*, Before the State Office of Administrative Hearings

Dear Judge Church:

In follow-up to discussions held during the hearing on Bitterblue, Inc.'s Supplemental Motion for Summary Disposition, I have enclosed here with a "Stipulation" entered by and between all parties in Cause No. D-1-GV-000053; *City of San Antonio By and Through the San Antonio Water System v. Kathleen Hartnett White, et al.*; pending in the 200<sup>th</sup> District Court of Travis County, Texas. I have also enclosed an Affidavit of Michele Abrams - Team Leader of the TCEQ's Utility Certification and Rate Analysis Team. I respectfully request that these items become part of the summary disposition record in the administrative proceeding referenced above, and that you consider same in making your ruling on Bitterblue's pending Motion.

The Stipulation and Affidavit identify all salient occurrences and dates relating to the CCN application pending before you, as they concern the savings/grandfather/transition provisions of SB 1494. It is BexarMet's position that, at a minimum, these dates (and the evidence supporting them) give rise to a fact issue concerning whether SB 1494 is even applicable to the instant application.

By copy of this letter, together with enclosures, all persons on the service list are being served with this filing. Thank you for your attention to this matter.

Sincerely,

  
R L WILSON, P.C.

Robert L. Wilson III

CC: Service List

60

5/30/2006 12:06 FAX 512 397 67

MAY-30-2006 TUE 11:23 AM 00

LCRA WATER SERVICES

FAX NO. 00

0002

P. 02

COUNTY OF TRAVIS

STATE OF TEXAS

§  
§  
§**Affidavit of Michelle Abrams**

Before me, the undersigned authority, on this day personally appeared Michelle Abrams who, being by me duly sworn, upon oath deposes and says:

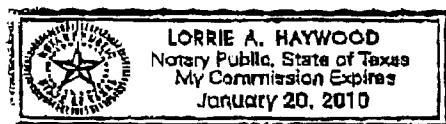
"My name is Michelle Abrams. I am over 18 years of age, of sound mind, capable of making this Affidavit, personally acquainted with the facts herein stated and they are true and correct.

In June of 2003, I was the Team Leader of the Utility Certification and Rate Analysis Team. On June 16, 2003, I initialed a memo written by a member of my staff referring the following application to the State Office of Administrative Hearings for a contested case hearing: Docket No. 2003-0664-UCK; Application of Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity (CCN) No. 10675 in Bexar County; Application No. 33862-C. This application was pending before the Texas Commission on Environmental Quality on the date I initialed the memo, June 16, 2003. A copy of the TCEQ memo referring this file to SOAH is attached to this affidavit as Exhibit 9-A.

Further affiant sayeth not."

Michelle Abrams  
Michelle Abrams

SWORN TO AND SUBSCRIBED before me on the 30<sup>th</sup> day of May 2006.



Lorrie A. Haywood  
Notary Public, State of Texas

My commission expires: 01-20-2010

MAY. 17. 2006 11:44AM

GE&amp;BROTHERS LLP

NC. 5700 P. 9

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## INTEROFFICE MEMORANDUM

TO: LaDonna Castanuela, Chief Clerk DATE: June 20, 2003

THRU: Doug Holcomb, P.E., Manager  
Utilities and Districts Section

FROM: *MA* Michelle Abrams, Team Leader  
Utility Certification and Rate Analysis Team

SUBJECT: Docket No. 2003-0664-UCR; Application of Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity (CCN) No. 10675 in Bexar County; Application No. 33862-C

We hereby transfer the official files for the above application to the Chief Clerk's Office. Please refer this application to the State Office of Administrative Hearings and request that a hearing be scheduled.

This utility's application is being protested by the City of Bulverde, and Sneekner Partners dba BSR Water Company. Staff estimates fifteen people to attend this hearing. Attached is a mailing list.

The staff assigned to this case are:

Technical - Mike Howell

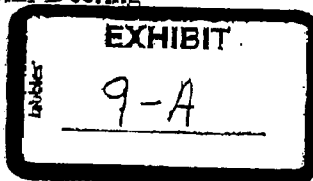
Legal -

If we may be of further service regarding this matter, please call.

*Michelle Abrams*  
Michelle Abrams, Team Leader

MA/mh/sr

cc: TCEQ Public Interest Counsel; ATTN: Vic McWherter  
TCEQ Agency Communications; ATTN: Andy Saenz, Director  
TCEQ Chief Clerk's Office; ATTN: Melanie Mohair  
TCEQ Legal; ATTN: Geoff Kirshbaum  
TCEQ Legal; ATTN: John Deering



THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

*LaDonna Castanuela* MAY 15 2006  
LaDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality

COPY

No. D-1-GV-06-000053

CITY OF SAN ANTONIO, acting by  
and through the  
SAN ANTONIO WATER SYSTEM,  
*Plaintiff,*

vs.

KATHLEEN HARTNETT WHITE, *et al.*,  
*Defendants.*

§ IN THE DISTRICT COURT  
§  
§  
§  
§  
§ FOR TRAVIS COUNTY, TEXAS  
§  
§  
§ 200<sup>th</sup> JUDICIAL DISTRICT

**STIPULATION**

TO THE HONORABLE SCOTT H. JENKINS, JUDGE OF SAID COURT:

The parties to the above styled and numbered cause stipulate the following facts are true and may be made part of the facts for summary judgment purposes:

1. Bexar Metropolitan Water District (Bexar Met) filed an application to amend CCN No. 10675 to include the South-of-Cibolo Creek area on or about April 1, 2002.
2. Following notice of Bexar Met's application, protests and requests for hearing were filed by BSR Water Company and the City of Bulverde.
3. Mike Howell, a staff member with the Texas Commission on Environmental Quality's Utilities and Districts section, reviewed the requests for hearing on Bexar Met's application. On June 20, 2002, Mr. Howell sent a letter to Charles Ahrens, water resources manager for Bexar Met. The letter is attached as Stipulation Exhibit 1.
4. Based on his review, Mr. Howell initiated the referral process by drafting and submitting to his supervisor, Michelle Abrams, an interoffice memorandum (Stipulation Exhibit 2) addressed to TCEQ's Chief Clerk, requesting that Bexar Met's application be referred to the State Office of Administrative Hearings (SOAH).
5. Exhibit 2 was reviewed by Michelle Abrams, and her approval of its recommendation indicated by her initials on June 16, 2003. At the time, Ms. Abrams was the team leader of the utility certification and rate analysis team in TCEQ's Utilities and Districts section.

6. Following the action by Michelle Abrams on June 16, 2003, the processing of Stipulation Exhibit 2 within TCEQ's Utilities and Districts section was completed by Sara Rodriguez of the TCEQ Administrative Support team on June 20, 2003.
7. Stipulation Exhibit 2 was received in the office of TCEQ's Chief Clerk on June 23, 2003.
8. Within the TCEQ's Chief Clerk's office, Stipulation Exhibit 2 was assigned to Melanie Mohair, TCEQ's SOAH Coordinator, following its receipt in the Chief Clerk's office on June 23, 2003.
9. The actions required of the TCEQ Chief Clerk in connection with a case referred to SOAH are set forth in 30 TAC 80.6 (Stipulation Exhibit 3).
10. As required by 30 TAC 80.6(b)(2), Melanie Mohair coordinated with SOAH to determine a time and place for a hearing.
11. On July 2, 2003, as required by 30 TAC 80.6(b)(1), Melanie Mohair filed with SOAH the request to docket Bexar Met's case (Stipulation Exhibit 4).
12. On July 2, 2003, as required by 30 TAC 80.6(b)(3), the TCEQ Chief Clerk's office also issued public notice of the hearing on Bexar Met's application.
13. On July 8, 2003, as required by 30 TAC 80.6(b)(4), the TCEQ Chief Clerk's office sent to SOAH TCEQ's administrative record on Bexar Met's application.
14. Stipulation Exhibit 5 is Order No. 20 Transmitting Referral Documents by Administrative Law, Judge Cassandra J. Church, signed on May 31, 2006 in Bexar Met's pending application to amend CCN No. 10675 in Bexar County, SOAH Docket No. 582-03-3725.

Respectfully submitted,

GEORGE & BROTHERS, L.L.P.

By: 

R. James George, Jr.  
State Bar No. 07810000  
Catherine L. Robb  
State Bar No. 24007924

STIPULATION

PAGE 2

1100 Norwood Tower  
114 W. 7<sup>th</sup> Street  
Austin, Texas 78701  
Telephone: (512) 495-1400  
Facsimile: (512) 499-0094

STIPULATION

PAGE 3



Max Renea Hicks  
Attorney at Law  
State Bar No. 09580400  
1250 Norwood Tower  
114 West 7<sup>th</sup> Street  
Austin, Texas 78701  
Telephone No.: (512) 480-8231  
Facsimile No.: (512) 480-9105


**ATTORNEYS FOR PLAINTIFF CITY OF SAN  
ANTONIO, ACTING BY AND THROUGH  
THE SAN ANTONIO WATER SYSTEM**

By: \_\_\_\_\_

Brian E. Berwick  
State Bar No. 02258500  
Office of the Attorney General  
Natural Resources Division (Mail Code 015)  
300 W 15<sup>th</sup> Street, 10<sup>th</sup> Floor  
P. O. Box 12548  
Austin, Texas 78711-2548  
Telephone: (512) 463-2012  
Facsimile: (512) 320-0052

**ATTORNEY FOR KATHLEEN HARTNETT  
WHITE, RALPH MARQUEZ, LARRY  
SOWARD AND GLEN SHANKLE, IN THEIR  
CAPACITIES WITH THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY**

By: \_\_\_\_\_



Celina Romero  
State Bar No. 17223900  
Clark, Thomas & Winters, PC  
300 West 6<sup>th</sup> Street, 15<sup>th</sup> Floor  
Austin, Texas 78701  
Telephone: (512) 472-8800  
Facsimile: (512) 474-1129

STIPULATION

PAGE 4



Max Renea Hicks  
Attorney at Law  
State Bar No. 09580400  
1250 Norwood Tower  
114 West 7<sup>th</sup> Street  
Austin, Texas 78701  
Telephone No.: (512) 480-8231  
Facsimile No.: (512) 480-9105

**ATTORNEYS FOR PLAINTIFF CITY OF SAN  
ANTONIO, ACTING BY AND THROUGH  
THE SAN ANTONIO WATER SYSTEM**

By: Brian E. Berwick  
Brian E. Berwick  
State Bar No. 02258500  
Office of the Attorney General  
Natural Resources Division (Mail Code 015)  
300 W 15<sup>th</sup> Street, 10<sup>th</sup> Floor  
P. O. Box 12548  
Austin, Texas 78711-2548  
Telephone: (512) 463-2012  
Facsimile: (512) 320-0052

**ATTORNEY FOR KATHLEEN HARTNETT  
WHITE, RALPH MARQUEZ, LARRY  
SOWARD AND GLEN SHANKLE, IN THEIR  
CAPACITIES WITH THE TEXAS  
COMMISSION ON ENVIRONMENTAL  
QUALITY**

By: \_\_\_\_\_  
Celina Romero  
State Bar No. 17223900  
Clark, Thomas & Winters, PC  
300 West 6<sup>th</sup> Street, 15<sup>th</sup> Floor  
Austin, Texas 78701  
Telephone: (512) 472-8800  
Facsimile: (512) 474-1129

STIPULATION

PAGE 4

END

\*\*\* TOTAL PAGE.02 \*\*\*

Adolfo Ruiz, General Counsel  
State Bar No.: 1738560  
Bexar Metropolitan Water District  
2047 W. Malone  
San Antonio, Texas 78225  
Telephone: 201/354-6502  
Facsimile: 210/922-5152

**ATTORNEYS FOR DEFENDANT,  
BEXAR METROPLITAN WATER DISTRICT**

By Laurence Kurth  
Laurence S. Kurth *g CR*  
State Bar No.  
Clark, Thomas & Winters, PC  
755 E. Mulberry, Suite 165  
McCombs Plaza  
San Antonio, Texas 78212  
Telephone: (210) 582-0220  
Facsimile: (210) 582-0231

**ATTORNEY FOR INTERVENORS,  
JUAN AND LUANN RIVARA AND  
JOSEPH AND DAWN FIORINO**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served, pursuant to Texas Rules of Civil Procedure, upon counsel of record on this 1<sup>st</sup> day of June, 2006, as indicated below: *2nd*

Karen W. Kornell  
Brian E. Berwick  
Gregg Abbott  
Barry R. McBee  
Edward D. Burbach  
Office of the Attorney General  
Natural Resources Division (Mail Code 015)  
300 W 15<sup>th</sup> Street, 10<sup>th</sup> Floor  
P. O. Box 12548  
Austin, Texas 78711-2548  
*Via Hand Delivery*

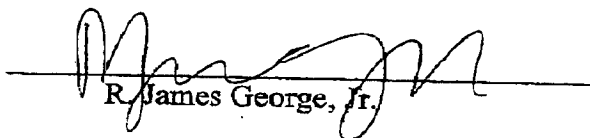
STIPULATION

PAGE 5

Celina Romero  
Clark, Thomas & Winters, PC  
300 West 6<sup>th</sup> Street, 15<sup>th</sup> Floor  
Austin, Texas 78701  
*Via Hand Delivery*

Adolfo Ruiz, General Counsel  
Bexar Metropolitan Water District  
2047 W. Malone  
San Antonio, Texas 78225  
*Via Facsimile and CMRRR No. 7004 1160 0006 9628 1182*

Laurence S. Kurth  
Clark, Thomas & Winters, PC  
755 E. Mulberry, Suite 165  
McCombs Plaza  
San Antonio, Texas 78212  
*Via Facsimile and CMRRR No. 7004 1160 0006 9628 1199*

  
R. James George, Jr.

STIPULATION

PAGE 5

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
Kathleen Hartnett White, *Commissioner*  
Jeffrey A. Saitas, *Executive Director*



## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

June 20, 2002

### CERTIFIED MAIL

Mr. Charles E. Ahrens  
Water Resources Manager  
Bexar Metropolitan Water District  
2047 West Malone  
San Antonio, Texas 78225

Re: Application from Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity (CCN) No. 10675 in Bexar County; Application No. 33862-C

Dear Mr. Ahrens:

The Texas Natural Resource Conservation Commission (TNRCC) received letters protesting the Bexar Metropolitan Water District's Water CCN application and requesting a hearing. Enclosed are the protest letters from BSR Water Company (CCN No. 12842) and the City of Bulverde.

These letters are sent to you so you may contact the utility representative or the person protesting the application to resolve the issues brought forward by each protestant. A signed agreement from each protestant stating they agree to withdraw their protest is required to withdraw the protest.

Please provide a response by July 31, 2002. Your attention to this matter is appreciated. If you have any questions, please contact me at (512)239-6960, or if by correspondence, include MC 153 in the letterhead address.

Sincerely,

A handwritten signature in cursive script that reads "Mike Howell".

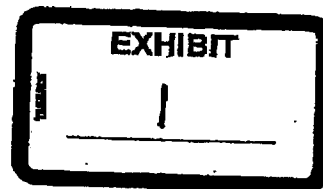
Mike Howell  
Utility Certification & Rate Analysis Team, MC-153  
Utilities & Districts Section  
Water Supply Division

MH/lg

enclosures:

Letter from protestants

cc: TNRCC, Region 13 Office - San Antonio



P.O. Box 13087 • Austin, Texas 78711-3087 • 512/239-1000 • Internet address: [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us)

without an approved color relief non-toxic ink

MIR-  
HOWE1**BSR WATER COMPANY**

12255 West Avenue, Suite 5  
San Antonio, TX 78216  
Phone: 210-342-5214  
Fax: 210-342-1034

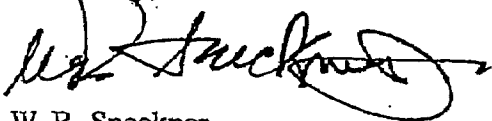
Texas Natural Resource Conservation Commission  
Water Utilities Division  
Utility Rates and Services Section, MC-153  
P.O. Box 13087  
Austin, TX 78711-3087

To Whom It May Concern:

We recently received a Notice of Application for CCN No. 10675, mailed 5-10-02. We had previously protested this application, copy enclosed. We wish to extend this protest. Is our original protest, dated May 29, 2001, still valid?

Do you need something other than this correspondence to extend our protest?

Yours truly,



W. R. Sneckner

cc David Earl  
Earl & Brown, P.C.

**RECEIVED**

JUN 07 2002

TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION  
UTILITIES AND DISTRICTS

**EARL & BROWN**  
attorneys at law

May 29, 2001

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

CMRRR: Z 300 178 137

Re: Written protest and request for a hearing in relation to Bexar Metropolitan Water District Application to Amend Water CCN No. 10675

To Whom It May Concern:

On behalf of our client, BSR Water Company, we are hereby formally requesting a hearing with regard to the above mentioned application to amend CCN, and protest the proposed expansion of the CCN area, as requested by Bexar Metropolitan Water District. In connection with this protest and request for hearing, our client would provide you with the following information:

1. Protestant's name: BSR Water Company  
12255 West Avenue, Suite 5  
San Antonio, TX 78216  
Daytime phone: (210) 342-5214  
Legal representative: David L. Earl  
Earl & Brown, P.C.  
111 Soledad, Suite 1111  
San Antonio, TX 78205  
Daytime phone: (210) 222-1500
2. Applicant's name: Bexar Metropolitan Water District  
Application for expansion to amend water CCN No. 10675
3. Description of adverse effect: Bexar Metropolitan Water District's application to amend and expand CCN No. 10675 will result in additional withdrawal of water from the Lower Trinity Aquifer. BSR Water Company holds a CCN to provide water service to property within close proximity to the proposed expansion of CCN No. 10675. BSR Water Company will serve future customers within the boundaries of its CCN, as they exist now or may be expanded, utilizing water from the Lower Trinity Aquifer. In addition, BSR Water Company has entered into a contract with the San Antonio Water System to provide wholesale water from within its CCN sourced in the Lower Trinity to the San Antonio Water System for retail sale to customers within the San Antonio Water System's CCN. Additional withdrawals on the Lower Trinity made by Bexar Metropolitan Water District may have a direct negative impact on BSR Water Company's ability to



Riverside Towers • 111 Soledad, Suite 1111, San Antonio, TX 78205 • 210 222-1500 • Fax 210 222-2100

TNRCC  
May 29, 2001  
Page 2

serve future customers within its CCN as it exists today or may be expanded, as well as to continue to comply with contractual requirements to provide wholesale water from the Lower Trinity to the San Antonio Water System and other potential wholesale customers. In addition to the reasons stated above, BSR Water Supply Company has plans to expand its CCN to the north, west and northwest of its current location. The proposed expansion by Bexar Metropolitan Water District may be in direct conflict to the proposed plans for expansion by BSR Water Company. For the reasons addressed above, we request a public hearing with respect to the above referenced application of Bexar Metropolitan Water District, and hereby formally protest same.

4. Proposed adjustment: BSR Water Company believes that there may be an equitable and reasonable adjustment which may be made to satisfy its concerns and possibly result in a withdrawal of its request for a hearing and its protest of Bexar Metropolitan Water District's application to amend its CCN. The potential agreements may include the following: 1) recognition of BSR Water Company's priority to groundwater from the Trinity during times of drought or limited rainfall, 2) cooperative agreements with respect to withdrawals from the Trinity, or contracts for Bexar Metropolitan Water District to purchase wholesale Trinity water from BSR Water Company rather than drill new wells to serve its expanded CCN area. The above may all be potential adjustments to the application or to Bexar Metropolitan Water District's existing CCN, which may satisfy BSR Water Company's concerns and potentially cause BSR Water Company to withdraw its request for a hearing and protest.

In light of the above protest and request for hearing, we respectfully request that the Executive Director of the TNRCC not issue the CCN amendment, and that the application be forwarded to the State Office of Administrative Hearings for proper action. If you have any questions or require further information or clarification with respect to the contents of this letter, please do not hesitate to contact our office at (210) 222-1500. Thank you in advance for your consideration in this matter.

I remain sincerely,

**EARL & BROWN**  
A Professional Corporation

By:



David L. Earl  
Attorney for BSR Water Company

Cc: BSR Water Company, c/o Surmy Sneekner

Via Fax: (210) 342-1034

F:\0341\TNRCC ltr Protect\ProtectHearing 052901

mike

**CITY OF BULVERDE**  
**P. O. Box 335**  
**Bulverde, Texas 78163**  
**830-438-3612**  
**830-438-4339 fax**

Bev Lemes, Mayor

Alderman:

Warren Alston  
Bob Barton  
Rick Gravens  
Bill Krawietz  
Mal McClinchie

May 24, 2002

Mr. Doug Holcomb, P.E.  
Texas Natural Resource Conservation Commission  
Water Utilities Division  
Utility Rates and Services Section, MC-153  
P.O. Box 13087  
Austin, Texas 78711-3087

Dear Mr. Holcomb:

I received the Commission's notice dated May 10, 2002 of the Bexar Metropolitan Water District's (Bexar Met) pending application to amend Certificate of Convenience and Necessity No. 10675 in order to provide water service within Bexar County. As Mayor of the City of Bulverde, I protest this application and request a formal hearing on the subject. Bexar Met's application overlaps part of the area requested by the City of Bulverde's CCN application which is on file with the Commission staff.

Bulverde filed its application in the interests of serving its citizens and assuring present and in particular long range quality growth and development and an integrated utility system in this sector of Comal County and the present extraterritorial jurisdiction of the City of Bulverde.

Bexar Met has consistently refused to cooperate with the City of Bulverde on mutual concerns and has had trouble meeting the service needs of existing customers in this area.

Should you require additional information please contact the City of Bulverde City Administrator Mr. Chuck Woods at (830) 438-3612.

Very truly yours,



Bev Lemes  
Mayor

cc: Honorable Jay Millikin Commissioner Comal County  
David Welsch, GBRA  
Chuck Woods, City Administrator

**RECEIVED**

**MAY 28 2002**

**TEXAS NATURAL RESOURCE  
CONSERVATION COMMISSION  
UTILITIES AND DISTRICTS**



05/31/2006 14:11 FAX

STATE OFF ADMIN HEARINGS

004/009

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## INTEROFFICE MEMORANDUM

TO: LaDonna Castanuela, Chief Clerk      DATE: June 20, 2003

THRU: Doug Holcomb, P.E., Manager  
Utilities and Districts Section

FROM: *MA* Michelle Abrams, Team Leader  
Utility Certification and Rate Analysis Team

SUBJECT: Docket No. 2003-0664-UCR; Application of Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity (CCN) No. 10675 in Bexar County, Application No. 33862-C

We hereby transfer the official files for the above application to the Chief Clerk's Office. Please refer this application to the State Office of Administrative Hearings and request that a hearing be scheduled.

This utility's application is being protested by the City of Bulverde, and Sackner Partners dba BSR Water Company. Staff estimates fifteen people to attend this hearing. Attached is a mailing list.

The staff assigned to this case are:

Technical - Mike Howell

Legal -

If we may be of further service regarding this matter, please call.

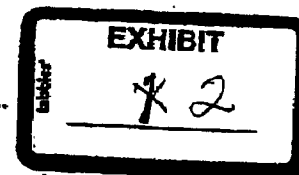
*Michelle Abrams*  
Michelle Abrams, Team Leader

MA/mh/sr

cc: TCEQ Public Interest Counsel; ATTN: Vic McWhorter  
TCEQ Agency Communications; ATTN: Andy Saenz, Director  
TCEQ Chief Clerk's Office; ATTN: Melanie Mohair  
TCEQ Legal; ATTN: Geoff Kirschbaum  
TCEQ Legal; ATTN: John Deering

THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I hereby certify that this is a true and correct copy of a  
Texas Commission on Environmental Quality document,  
which is filed in the permanent records of the Commission.  
Given under my hand and the seal of office on

*LaDonna Castanuela* JUL 08 2003  
LaDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality



&lt;&lt;Prev Rule

**Texas Administrative Code**

Next Rule&gt;&gt;

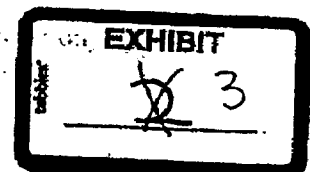
**TITLE 30****ENVIRONMENTAL QUALITY****PART 1****TEXAS COMMISSION ON ENVIRONMENTAL QUALITY****CHAPTER 80****CONTESTED CASE HEARINGS****SUBCHAPTER A****GENERAL RULES****RULE §80.6****Referral to SOAH**

- (a) Any application that is declared administratively complete on or after September 1, 1999 is subject to this section.
- (b) When a case is referred to SOAH, the chief clerk shall:
- (1) file with SOAH a Request for Setting of Hearing form, or Request for Assignment of Administrative Law Judge form, whichever is appropriate;
  - (2) coordinate with SOAH to determine a time and place for hearing;
  - (3) issue public notice of the hearing as required by law and commission rules;
  - (4) send a copy of the chief clerk's case file to SOAH which, in permitting matters, shall include the following certified copies of documents:
    - (A) the documents described in §80.118 of this title (relating to Administrative Record); and
    - (B) for cases referred under §55.210 of this title (relating to Direct Referrals) any public comment and the executive director's response to comments to be included in the administrative record, except that these documents may be sent to SOAH after referral of the case, if they are filed subsequent to referral; and
  - (5) send the commission's list of disputed issues and maximum expected duration of the hearing to SOAH unless the case is referred under §55.210 of this title.
- (c) In an enforcement case, the executive director's petition or Executive Director Preliminary Report shall serve as the list of issues or areas that must be addressed.
- (d) When a case is referred to SOAH, only those issues referred by the commission or added by the judge under §80.4(c)(16) of this title (relating to Judges) may be considered in the hearing. The judge shall provide proposed findings of fact and conclusions of law only on those issues. This subsection does not apply to a case referred under §55.210 of this title.

**Source Note:** The provisions of this §80.6 adopted to be effective September 23, 1999, 24 TexReg 8276; amended to be effective December 27, 2001, 26 TexReg 10611

Next Page

Previous Page



05/31/2006 14:11 FAX

## STATE OFF ADMIN HEARINGS

006/009

(Revised - 4/2001)	FOR SOAR USE ONLY		(Fiscal Year)
Date complete request received by SOAR: <u>7-2-03</u>	Processing date set by SOAR: <u>2-17-05 C/10am</u>	SOAR Docket number type of case: <u>682-03-3725</u>	

## REQUEST TO DOCKET CASE (Please type or print)

## PLEASE CHECK ACTION(S) REQUESTED:

☐ SETTING OF HEARING ☐ ASSIGNMENT OF ALJ ☐ ALTERNATIVE DISPUTE RESOLUTION (ADR)

REFERRING AGENCY NAME: TCEOAGENCY'S AGENCY NO.: 582 FILE/CASE NO. 2003-0654-UCRNAME/STYLE OF THE CASE BEAR METROPOLITAN

DATE APPLICATION FILED AT AGENCY: \_\_\_\_\_

DOCKET NO. SUFFIX, if applicable: UCRPROCEEDING DATE(S) REQUESTED (Include range of dates if possible): JULY 17, 2003

EXPECTED NUMBER OF HOURS (if less than a day) OR DAYS NEEDED FOR PROCEEDING: \_\_\_\_\_ HOURS \_\_\_\_\_ DAYS

☐ ADMIN. FINE ☐ GRIEVANCE ☐ ENFORCEMENT ☐ CONTRACT CLAIM (Govt. Code 2260) ☐ OTHER \_\_\_\_\_

SPECIAL NEEDS OR ACCOMMODATIONS Seating for 15 people hearing in August

IF ADR REQUESTED PLEASE DESCRIBE PROCESS NEEDED: \_\_\_\_\_

☐ PREHEARING CONFERENCE REQUESTED☐ CASE FILE ☐ HEARING IS CONFIDENTIAL (Specify applicable statute): \_\_\_\_\_NAME OF INDIVIDUAL SENDING REQUEST FORM MELANIE MOHAIR PHONE NO. 239-2576 FAX NO. \_\_\_\_\_

## PARTIES AND REPRESENTATIVES

PARTY REPRESENTED BY: ☐ SELF ☐ ATTORNEY☐ OTHER, if so, relationship: \_\_\_\_\_

REPRESENTATIVE'S

NAME Todd Burkey

PARTY'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE No.: \_\_\_\_\_

FAX No.: \_\_\_\_\_

PARTY REPRESENTED BY: ☐ SELF ☐ ATTORNEY☐ OTHER, if so, relationship: \_\_\_\_\_

REPRESENTATIVE'S

NAME: \_\_\_\_\_

PARTY'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE No.: \_\_\_\_\_

FAX No.: \_\_\_\_\_

## PLEASE LIST ADDITIONAL PARTIES AND/OR REPRESENTATIVES ON EXTRA FORM PROVIDED.

SEND TO

STATE OFFICE OF ADMINISTRATIVE HEARINGS  
ATTN: Deputy Clerk  
William P. Clemens Building  
300 West 1901 Street, Suite 504  
AUSTIN, Texas 78701

OR

Post Office Box 13025  
Austin, Texas 78711-3025  
Docket Phone No. (512) 475-3445  
Fax No. (512) 475-4994

PLEASE FORWARD A COPY OF THE APPLICATION, APPEAL, OR COMPLAINT WITH THIS REQUEST FORM, AS WELL AS ANY OTHER PLEADING, FILED IN THE CASE TO DATE. A REQUEST IS NOT COMPLETE WITHOUT ALL OF THESE ITEMS WHICH HAVE BEEN GENERATED IN THE CASE. COPY OF THE NOTICE OF PROCEEDING MUST BE FORWARDED TO SOAR AT THE SAME TIME IT IS MAILED TO THE PARTIES.

EXHIBIT

X4

07/02/03 WRD 08:58 [TX/RX NO 7458]

06/12/06 MON 09:12 [TX/RX NO 8148]

05/31/2006 14:10 FAX

STATE OFF ADMIN HEARINGS

002/009

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

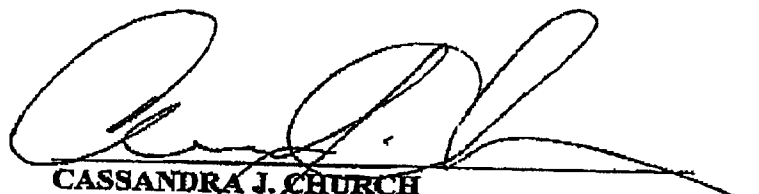
**IN RE: THE APPLICATION OF BEXAR § BEFORE THE STATE OFFICE**  
**METROPOLITAN WATER DISTRICT §**  
**TO AMEND WATER CCN NO. 10675 IN § OF**  
**BEXAR COUNTY § ADMINISTRATIVE HEARINGS**

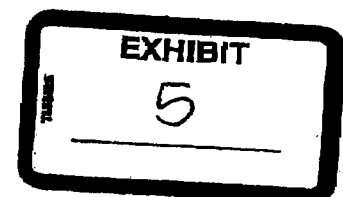
**ORDER NO. 20**  
**TRANSMITTING REFERRAL DOCUMENTS**

Pursuant to discussion had at the motion hearing on May 30, 2006, regarding the date on which this matter was referred to State Office of Administrative Hearings (SOAH), copies of the referral documents received by SOAH are being sent to the parties with this order. Attached are the following:

1. A copy of the referral memorandum, dated June 20, 2003, sent by facsimile to SOAH.
2. A copy of the "request to docket case" form.
3. A certified copy of the referral memorandum, dated June 20, 2003, received at SOAH with a document set comprising the memorandum, application, public notice documents, and Chief Clerk's Affidavit. The cover memorandum to that document set is also attached, although not the other documents referenced.

**SIGNED May 31, 2006.**

  
**CASSANDRA J. CHURCH**  
**ADMINISTRATIVE LAW JUDGE**  
**STATE OFFICE OF ADMINISTRATIVE HEARINGS**



05/31/2006 14:11 FAX

STATE OFF ADMIN HEARINGS

003/009

**TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY**  
**TRANSMITTAL OF ADMINISTRATIVE RECORD**

**DATE:** July 8, 2003

**TO:** SOAH Natural Resources Docket Clerk

**THRU:** Deanna Avalos, TCEQ Final Documents Team Leader

**FROM:** Melanie Mohair, TCEQ SOAH Docket Coordinator

**RE:** Bexar Metropolitan Water District  
SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0654-UCR

Pursuant to 30 TAC § 80.6(b)(4) regarding referrals to SOAH, a copy of the Chief Clerk's case file is attached. Please find certified copies of the following documents:

- ✓ 1. the application;
- ✓ 2. public hearing notice and Chief Clerk's affidavit.

If any of these documents are not included as enclosures with this memo, please notify Melanie Mohair, SOAH Coordinator at (512) 239-2578 or Deanna Avalos, Final Documents Team Leader at (512) 239-3327.

RECEIVED  
2003 JUL -9 PM 12:50  
STATE OFFICE OF  
ADMINISTRATIVE  
HEARINGS

05/31/2006 14:11 FAX

STATE OFF ADMIN HEARINGS

004/008

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## INTEROFFICE MEMORANDUM

TO: LaDonna Castanuela, Chief Clerk

DATE: June 20, 2003

THRU: Doug Holcomb, P.E., Manager  
Utilities and Districts Section

FROM: *MA* Michelle Abrams, Team Leader  
Utility Certification and Rate Analysis Team

SUBJECT: Docket No. 2003-0664-UCR; Application of Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity (CCN) No. 10675 in Bexar County; Application No. 33862-C

We hereby transfer the official files for the above application to the Chief Clerk's Office. Please refer this application to the State Office of Administrative Hearings and request that a hearing be scheduled.

This utility's application is being protested by the City of Bulverde, and Sneckner Partners dba BSR Water Company. Staff estimates fifteen people to attend this hearing. Attached is a mailing list.

The staff assigned to this case are:

Technical - Mike Howell

Legal -

If we may be of further service regarding this matter, please call.

*Michelle Abrams*  
Michelle Abrams, Team Leader

MA/mh/sr

cc: TCEQ Public Interest Counsel; ATTN: Vic McWherter  
TCEQ Agency Communications; ATTN: Andy Saenz, Director  
TCEQ Chief Clerk's Office; ATTN: Melanie Mohair  
TCEQ Legal; ATTN: Geoff Kirshbaum  
TCEQ Legal; ATTN: John Deering

THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document which is filed in the permanent records of the Commission given under my hand and the seal of office on

*LaDonna Castanuela* JUL 08 2003  
LaDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality

05/31/2008 14:11 FAX

STATE OFF ADMIN HEARINGS


005/008

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

## INTEROFFICE MEMORANDUM

TO: LaDonna Castanuela, Chief Clerk  
DATE: June 20, 2003

THRU: Doug Holcomb, P.E., Manager  
Utilities and Districts Section

FROM:  Michelle Abrams, Team Leader  
Utility Certification and Rate Analysis Team

SUBJECT: Docket No. 2003-0664-UCR; Application of Bexar Metropolitan Water District to Amend Water Certificate of Convenience and Necessity (CCN) No. 10675 in Bexar County, Application No. 33862-C

We hereby transfer the official files for the above application to the Chief Clerk's Office. Please refer this application to the State Office of Administrative Hearings and request that a hearing be scheduled.

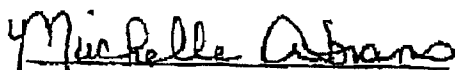
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The staff assigned to this case are:

Technical - Mike Howell

Legal -

If we may be of further service regarding this matter, please call.

  
Michelle Abrams, Team Leader

MA/mh/sr

cc. TCEQ Public Interest Counsel; ATTN: Vic McWhorter  
TCEQ Agency Communications; ATTN: Andy Saenz, Director  
TCEQ Chief Clerk's Office, ATTN: Melanie Mohair  
TCEQ Legal; ATTN: Geoff Kirshbaum  
TCEQ Legal, ATTN: John Deering

07/02/03 WED 08:56 [TX/RX NO 7459]

06/12/06 MON 09:12 [TX/RX NO 8148]

05/31/2006 14:11 FAX

## STATE OFF ADMIN HEARINGS

0006/009

(Revised - 4/2001)	FOR SOAH USE ONLY	SOAH Docket Number type of case:
Case completely request received by SOAH:	Proceeding case set by SOAH:	(Form 17-1)
7-2-03	7-17-05 C/Dam	582-03-3725

## REQUEST TO DOCKET CASE (Please type or print)

## PLEASE CHECK ACTION(S) REQUESTED:

☐ SETTING OF HEARING ☐ ASSIGNMENT OF ALI ☐ ALTERNATIVE DISPUTE RESOLUTION (ADR)

REFERRING AGENCY NAME: TCEQ

AGENCY NO.: 582 FILE/CASE NO. 2003-0664-UCR

NAME/STYLE OF THE CASE: BEXAR METROPOLITAN

DATE APPLICATION FILED AT AGENCY: DOCKET NO. SUFFIX, if applicable: UCR

PROCEEDING DATE(S) REQUESTED (Include range of dates if possible): JULY 17, 2005

EXPECTED NUMBER OF HOURS (if less than a day) OR DAYS NEEDED FOR PROCEEDING: HOURS DAYS

☐ ADMIN. FINE ☐ GRIEVANCE ☐ ENFORCEMENT ☐ CONTRACT CLAIM (Govt. Code 2260) ☐ OTHER

SPECIAL NEEDS OR ACCOMMODATIONS: Seating for 15 people hearing in Austin

IF ADR REQUESTED PLEASE DESCRIBE PROCESS NEEDED:

☐ PREHEARING CONFERENCE REQUESTED☐ CASE FILE and/or ☐ HEARING IS CONFIDENTIAL (Specify applicable statute):

NAME OF INDIVIDUAL SENDING REQUEST FORM: MELANIE MOHAIR, PHONE NO. 239-2576 FAX NO.

## PARTIES AND REPRESENTATIVES

PARTY REPRESENTED BY: ☐ SELF ☐ ATTORNEY☐ OTHER, if so, relationship:

REPRESENTATIVE'S NAME: Todd Burkey

PARTY'S NAME:

ADDRESS:

PHONE No.: FAX No.:

PARTY REPRESENTED BY: ☐ SELF ☐ ATTORNEY☐ OTHER, if so, relationship:

REPRESENTATIVE'S NAME:

PARTY'S NAME:

ADDRESS:

PHONE No.: FAX No.

## PLEASE LIST ADDITIONAL PARTIES AND/OR REPRESENTATIVES ON EXTRA FORM PROVIDED.

SEND TO

STATE OFFICE OF ADMINISTRATIVE HEARINGS  
ATTN: Deputy Clerk  
William P. Clements Building  
300 West 15th Street, Suite 504  
Austin, Texas 78701

OR

Post Office Box 13025  
Austin, Texas 78711-3025  
Docket Phone No. (512) 475-3445  
Fax No. (512) 475-4994

PLEASE FORWARD A COPY OF THE APPLICATION, APPEAL, OR COMPLAINT WITH THIS REQUEST FORM, AS WELL AS ANY OTHER PLEADING, FILED IN THE CASE TO DATE. A REQUEST IS NOT COMPLETE WITHOUT ALL OF THESE ITEMS WHICH HAVE BEEN GENERATED IN THE CASE. COPY OF THE NOTICE OF PROCEEDING MUST BE FORWARDED TO SOAH AT THE SAME TIME IT IS MAILED TO THE PARTIES.

07/02/03 WRD 08:56 [TX/RX NO 74591]

06/12/06 MON 09:12 [TX/RX NO 8148]



05/31/2006 14:12 FAX

STATE OFF ADMIN HEARINGS

007/009

**STATE OFFICE OF ADMINISTRATIVE HEARINGS****WILLIAM P. CLEMENTS BUILDING****300 West Fifteenth Street****Austin, Texas 78701****Phone (512) 475-4993****Facsimile (512) 475-4994****SERVICE LIST****AGENCY:****TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
(TCEQ)****STYLE/CASE:****IN THE APPLICATION OF BEXAR METROPOLITAN WATER  
DISTRICT TO AMEND WATER CCN NO. 10675 IN BEXAR  
COUNTY****SOAH DOCKET NUMBER: 582-03-3725****TCEQ DOCKET NUMBER: 2003-0664-UCR**

---

**ADMINISTRATIVE COURT****STATE OFFICE OF ADMINISTRATIVE  
HEARINGS****CASSANDRA J. CHURCH  
PRESIDING ADMINISTRATIVE LAW JUDGE**

---

**PARTIES**

---

**REPRESENTATIVE/ADDRESS****TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY****Todd Galiga  
Attorney  
Texas Commission on Environmental Quality  
MC-175  
P.O. Box 13087  
Austin, TX 78711-3087  
Tel 512/239-0600  
Fax 512/239-0606****OFFICE OF PUBLIC INTEREST COUNSEL  
OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY****Blas Coy, Jr.  
Office of the Public Interest Counsel  
Texas Commission on Environmental Quality  
MC-103  
P.O. Box 13087  
Austin, TX 78711-3087  
Tel 512/239-6363  
Fax 512/239-6377**

05/31/2006 14:12 FAX

STATE OFF ADMIN HEARINGS

008/009

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

**SERVICE LIST**

PAGE 2

BEXAR METROPOLITAN WATER  
DISTRICT  
WATER SERVICES, INC.

Robert L. Wilson, III  
RL Wilson, P.C.  
PO Box 831583  
San Antonio, TX 78283  
Tel 210/223-4100  
Fax 210/223-4200

Adolfo Ruiz  
Bexar Metropolitan Water District  
2047 W. Malone  
San Antonio, Texas 78225  
Tel: 210/354-6502  
Fax: 210/922-5152

BSR WATER COMPANY - Lead Attorney  
(SNECKNER PARTNERS, LTD.)

David L. Earl  
Law Offices of Earl & Brown  
A Professional Corporation  
River View Towers  
111 Soledad Street, Suite 1111  
San Antonio, Texas 78205  
Tel 210/222-1500  
Fax 210/222-9100

BITTERBLUE, INC., et al's

Ronald J. Freeman  
Freeman & Corbett, LLP  
8500 Bluffstone Cove, Suite B-104  
Austin, TX 78759  
Tel 512/451-6689  
Fax 512/453-0865

**COURTESY COPY OF ORDER MAILED OR  
FAXED TO THE FOLLOWING PARTY:**

CITY OF BULVERDE

Bruce Wasinger  
Attorney  
Bickerstaff, Heath, Smiley, Pollen, Kever &  
McDaniel, L.L.P.  
816 Congress, Suite 1700  
Austin, Texas 78701-2443  
Tel 512/472-8021  
Fax 512/320-5638

05/31/2006 14:12 FAX

## STATE OFF ADMIN HEARINGS

009/008

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

## SERVICE LIST

PAGE 3

BSR WATER COMPANY  
(SNECKNER PARTNERS, LTD.)

Janessa Glenn  
Jenkins & Gilchrist  
A Professional Corporation  
600 Congress Avenue  
Austin, Texas 78701  
Tel 512/499-3858  
Fax 512/499-3810

Seagal V. Wheatly  
Jenkins & Gilchrist  
A Professional Corporation  
Weston Centre, Suite 900  
112 E. Pecan Street  
San Antonio, Texas 78205  
Tel 210/246-5000  
Fax 210/246-5999

SAWS

Jim Mathews  
Mathews & Freeland, LLP  
Attorneys at Law  
PO Box 1568  
Austin, TX 78768-1568  
Tel 512/404-7800  
Fax 512/703-2785

---

cc: Docket Clerk, State Office of Administrative Hearings  
Docket Clerk, Office of the Chief Clerk, TCEQ, Fax No. (512) 239-3311