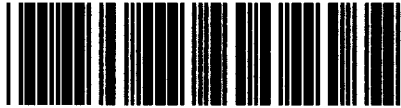




Control Number: 43891



Item Number: 25

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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

Sent By: ;

0000000;

Sep-18-03 3PM;

43891

EARL & BROWN

attorneys at law

September 18, 2003

RECEIVED

2014 DEC -5 PM 1:25

Mr. North O. West
West & West
2929 Mossrock, Suite 204
San Antonio, Texas 78230

Via Facsimile: 210-340-2715 PUBLIC UTILITY COMMISSION
FILING CLERK

Re: *Request for BSR/Bexar Met draft Agreement (SOAH No. 582-03-3725)*

Dear North:

Although I have made several requests for a draft Agreement between Bexar Metropolitan Water District and BSR Water Company, as of the date of this correspondence I have received no response from your office regarding this issue. Please be advised that Mr. Tom Moreno assured us that a draft agreement would be prepared by you, on behalf of Bexar Met, to allow finalization of negotiations for the sale of water from BSR to Bexar Met to allow the resolution of the pending TCEQ/SOAH matter. I received a phone call from Mr. Chuck Ahrens of Bexar Met to discuss this issue at 3:50 p.m. today. Subsequent to that phone conversation, Mr. Ahrens also communicated with my client regarding this issue. Both of these calls ended with the impression that a draft of the Agreement will be forthcoming. Copies of previous correspondence on this issue have been attached for your review. I am imploring you to respond to this request for the draft Agreement or to advise us in writing if it is not your client's intent to provide such draft or negotiate with my client regarding the sale of water and related settlement of the protest currently pending with the TCEQ. As you are aware, both my client and Bexar Met informed the TCEQ that they would attempt to negotiate in good faith.

I will await your response.

Sincerely,

EARL & BROWN, P.C.

By:


David L. Earl

Enclosure

cc: Sunny Sneckner
Scagal Wheatley
Janessa Glenn
Chuck Ahrens

Via Facsimile: 830-980-7286
Via Facsimile: 210-246-5999
Via Facsimile: 512-414-3520
Via Facsimile: 210-922-5152

\\F&A Files\4041-Sneckner\001 - Sneckner Ranch-BSR\WestLiv991803.doc

2014 DEC -5 AM 7:03



Riverside Towers • 111 Soledad, Suite 1111, San Antonio TX 78205 • 210.222.1100 • Fax 210.222.9100

1

Law Offices of
EARL & BROWN
A Professional Corporation

RiverView Towers
111 Soledad Street, Suite 1111
San Antonio, Texas 78205
(210) 222-1500 Telephone
(210) 222-9100 Facsimile

FACSIMILE COVER SHEET

DATE: September 29, 2003

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IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CONTACT Ann AT (210) 222-1500 AS SOON AS POSSIBLE.

TO: Judge Cassandra Church State Office of Administrative Hearings	Fax: 512-475-4994
TO: Janessa Glenn Jenkins & Gilchrist, P.C.	Fax: 512-404-3520
TO: Todd Burkey Environmental Law Division	Fax: 512-239-0606
TO: Blas Coy, Jr. Public Interest Counsel	Fax: 512-239-6377
TO: TCEQ Docket Clerk	Fax: 512-239-3311
TO: Mark H. Zeppa Law Offices of Mark H. Zeppa, P.C.	Fax: 512-346-6847
CC: Chuck Ahrens Bexar Met	Fax: 210-922-5152
CC: David Wallace Water Services, Inc.	Fax: 830-438-2721
CC: Sunny Sneckner	Fax: 830-980-7286
FROM: David L. Earl	Total No. of Pages (including cover sheet): 12
MATTER: SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0364-UCR; BSR Water Company's Status Report and Request for Continued Abatement (File No. 4041)	

SCAH DOCKET NO. 582-03-3725
TCEQ DOCKET NO. 2003-0364-UCR

0664

APPLICATION OF BEXAR	§	BEFORE THE STATE
METROPOLITAN WATER DISTRICT	§	OFFICE OF
TO AMEND CERTIFICATE	§	ADMINISTRATIVE
CONVENIENCE AND NECESSITY	§	HEARINGS
IN BEXAR COUNTY	§	

**BSR WATER COMPANY'S (SNECKNER) REPORT
AND REQUEST FOR CONTINUED ABATEMENT**

The Preliminary hearing was conducted in this docket on July 17, 2003. Parties were named. Bexar Metropolitan Water District (Bexar Met) announced that it was in settlement discussions with the sole protestant, Sneckner Partners, Ltd. dba BSR Water Co. (Sneckner). With the concurrence of the other named parties, Water Services, Inc. (WSI) and the TCEQ Executive Director (ED), these two parties agreed to abate the proceedings 60 days to allow for these discussions to continue.

On September 17, 2003, Mark H. Zeppa for Bexar Met and Water Services, Inc. submitted a status report and request for continued abatement of the above-styled matter. In this report, he stated that Mr. W.R. Sneckner, principle of Sneckner, was in Montana and could not be contacted to finish negotiations. Mr. Zeppa also requested a 10-day extension to allow Mr. Sneckner to return to Texas to resume the negotiations in person. The 10-day extension was granted to allow for continued negotiations.

During the 60-day abatement, BSR Water Company (or its representatives) was in consistent contact with Bexar Met in an attempt to negotiate this matter. Bexar Met informed BSR that it would draft an agreement and forward the agreement to BSR Water Company through the undersigned. There were numerous contacts from BSR to Bexar Met during this time attempting to finalize negotiations of the outstanding matter between the parties. These contacts included, but were not limited to, the following:

1. Telephone and personal contact immediately after the hearing in which BSR was informed that Bexar Met would be providing a draft agreement.

2. July 31, 2003; Fax to North West, attorney for Bexar Met, referencing awaiting the draft agreement and emphasizing that the negotiations were time sensitive (Attachment 1).
3. August 4, 2003; Fax sent by the law offices of Earl & Brown relaying a message from Tom Moreno of Bexar Met regarding requesting the draft agreement so it may be reviewed by BSR (Attachment 2).
4. August 14, 2003; Fax from law offices of Earl & Brown to Tom Moreno again requesting the draft agreement and emphasizing the state-imposed timeline on negotiation (Attachment 3).
5. August 15, 2003; Fax from law offices of Earl & Brown to Tom Moreno again requesting information on when a draft agreement would be forthcoming (Attachment 4).
6. August 18, 2003; Email from Chuck Ahrens of Bexar Met to David Earl of Earl & Brown, P.C. acknowledging receipt of faxes regarding status of BSR contract being drafted by Bexar Met's attorneys and requesting BSR to be patient in receiving the draft agreement (Attachment 5).
7. September 18, 2003; Letter from Earl & Brown, P.C. to North West, attorney for Bexar Met, again requesting draft agreement and confirming that, as of the date of the letter, neither BSR nor its attorneys have received any draft to consider (Attachment 6).

In addition to the above emails, fax transmittals and letters, a number of phone calls were made on behalf of BSR Water Company to Bexar Met and/or its representatives requesting the draft agreement so that it could be meaningfully considered and reviewed as part of the negotiation process. A draft agreement was not received from Bexar Met until September 22, 2003, five days after the request for the 10-day extension submitted by Bexar Met. This draft agreement, together with a proposed Letter of Intent that was submitted Bexar Met more than 65 days after the abatement of the matter for negotiation, provided BSR Water Company only four business days to review and attempt to negotiate on the agreement.

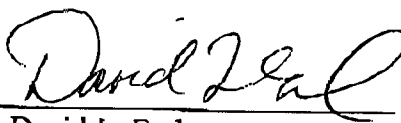
Based on the above information, it should be apparent that Sneckner Partners Ltd. and BSR Water Company have been diligent in pursuing negotiations with Bexar Met, but have only received a draft agreement (over 20 pages in length) on September 22, 2003 and has had less than five business days to review and negotiate said agreement.

In light of the above, Sneckner Partners, Ltd. and BSR Water Company hereby respectfully request an additional 60-day abatement to allow meaningful negotiations with Bexar Met for the purpose of resolving the outstanding issues between the parties.

The undersigned has contacted Mr. Mark Zeppa, attorney for Bexar Met and Water Services, Inc., regarding a continued abatement, and Mr. Zeppa has no objection to the filing of the request for continued abatement. Additionally, the undersigned has contacted Mr. Blas Coy, Jr., Public Interest Counsel, and has contacted the office of Mr. Todd Burkey, Environmental Law Division, and has received no opposition from the same regarding the filing for the continued abatement.

Respectfully submitted,

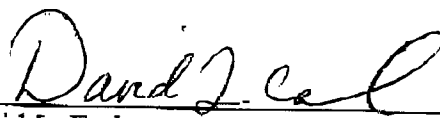
EARL & BROWN, P.C.
111 Soledad, Suite 1111
San Antonio, Texas 78205
(210) 222-1500 Phone
(210) 222-9100 Facsimile

By: 
David L. Earl
State Bar No. 06343030

ATTORNEY FOR
SNECKNER PARTNERS, LTD.
(BSR WATER COMPANY)

CERTIFICATE OF SERVICE

I, David L. Earl, certify that the foregoing pleading was served on all parties of record, the presiding SOAH Judge and the TCEQ Docket Clerk by facsimile transmission and 1st class USPS mail on the 29th day of September 2003:


David L. Earl

1. Judge Cassandra Church
State Office of Administrative Hearings
P.O. Box 13025
Austin, Texas 78711-3025
Fax: 512-475-4994
2. Janessa Glenn
Jenkins & Gilchrist, P.C.
2200 One American Center
600 Congress Avenue
Austin, Texas 78701-3248
Fax: 512-404-3520
3. Todd Burkey
Environmental Law Division
Texas Commission on Environmental Quality
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
Fax: 512-239-0606
4. Blas Coy, Jr.
Public Interest Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC 103
Austin, Texas 78711-3087
Fax: 512-239-6377
5. TCEQ Docket Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087
Fax: 512-239-3311
6. Mark H. Zeppa
Law Offices of Mark H. Zeppa, P.C.
4833 Spicewood Springs Road, Suite 202
Austin, Texas 78759-8436
Fax: 512-346-6847

Law Offices of
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A Professional Corporation
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FACSIMILE COVER SHEET

DATE: July 31, 2003

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IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CONTACT Ann AT (210) 222-1500 AS SOON AS POSSIBLE.

TO: North West CC: Tom Moreno CC: Sunny Sneekner CC: Seagal Wheatley	Fax: 340-2715 Fax: 922-5152 Fax: 830-980-7286 Fax: 246-5999
FROM: David Earl	Total No. of Pages (including cover sheet): 1
FILE NO: 4041	MATIER: Water Purchase Agreement
MESSAGE: Mr. West, I have made attempts to contact your office regarding the status of the agreement between BSR Water Company and Bexar Met. As you know from my previous messages, Tom Moreno has advised us that you would produce the initial draft of a Water Purchase Agreement between the parties. Please understand that this is a time sensitive issue in light of the administrative action pending at the TCEQ. Please forward us a draft for our review as soon as possible, or contact our office if there is any information that you require or if your office does not intend to prepare the initial draft of the agreement. Thank you.	

FILE A BILL 4041 Remission Water Fee 08/10/03.doc

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111 Soledad Street, Suite 1111
San Antonio, Texas 78205
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FACSIMILE COVER SHEET

DATE: August 4, 2003

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IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CONTACT Ann AT (210) 222-1500 AS SOON AS POSSIBLE.

TO: Sunny Sneckner	Fax: 830-980-7286
FROM: Ann for David Earl	Total No. of Pages (including cover sheet): 1
FILE NO: 4041	MATTER: Water Purchase Agreement
MESSAGE: Tom Moreno phoned this morning during your meeting and mentioned that the agreement will be forthcoming this week. Thank you.	

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A Professional Corporation
RiverView Towers
111 Soledad Street, Suite 1111
San Antonio, Texas 78205
(210) 222-1500 Telephone
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FACSIMILE COVER SHEET

DATE: August 14, 2003

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TO: Tom Moreno CC: North West CC: Sunny Sneckner CC: Seagal Whentley	Fax: 922-9152 Fax: 340-2715 Fax: 830-940-7286 Fax: 246-5999
FROM: David Earl	Total No. of Pages (including cover sheet): 1
FILE NO: 4041	MATTER: Water Purchase Agreement
MESSAGE: Tom, It is our understanding that a draft contract would be received by Friday, August 8, 2003. To date, we have not received any documents or a draft contract for review. As you know, we are under a state-imposed timeline on this matter and are still operating under the good-faith assumption that a draft contract would be forthcoming. Please advise, as soon as possible, as to when the contract will be received for our review. Thank you.	

F:\Bz A Plic\M041-Sneckner\Moreno Fax 081403.doc

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111 Soledad Street, Suite 1111
San Antonio, Texas 78205
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(210) 222-9100 Facsimile

FACSIMILE COVER SHEET

DATE: August 15, 2003

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TO: Tom Moreno CC: North West CC: Sunny Sneckner CC: Segal Wheatley	Fax: 922-5152 Fax: 340-2715 Fax: 830-980-7286 Fax: 246-5999
FROM: David Earl	Total No. of Pages (including cover sheet): 1
FILE NO: 4041	MATTER: Water Purchase Agreement
MESSAGE: Tom, Please let me know when I may expect the draft contract for review. Thank you.	

F:\CA A Files\4041-Sneckner-Moreno Fax 081503.doc

Ann Roach

From: Chuck Ahrens [cuhrens@beaumont.org]
Sent: Monday, August 18, 2003 5:30 PM
To: dean@eerieandbrown.com
Subject: BSR contract

David,

We are in receipt of your faxes regarding the status of the BSR contract that Mr. West is drafting for your review.

I know that Mr. West is moving quickly to draft this agreement and that we have provided him the deal points to be included.

I hope that you will be patient and allow for this document to be drafted, however, we understand if you must proceed in a different direction.

Call me if you have any questions or you may contact North O. West at 340-2200.

Thanks.

Chuck

8/20/2003

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 A Professional Corporation
 RiverView Towers
 111 Soledad Street, Suite 1111
 San Antonio, Texas 78205
 (210) 222-1500 Telephone
 (210) 222-9100 Facsimile

FACSIMILE COVER SHEET

DATE: September 29, 2003

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TO: Todd Burkey Environmental Law Division	Fax: 512-239-0606
TO: Blas Coy, Jr. Public Interest Counsel	Fax: 512-239-6377
TO: TCEQ Docket Clerk	Fax: 512-239-3311
TO: Mark H. Zeppa Law Offices of Mark H. Zeppa, P.C.	Fax: 512-346-6847
CC: Chuck Ahrens Bexar Met	Fax: 210-922-5152
CC: David Wallace Water Services, Inc.	Fax: 830-438-2721
CC: Sunny Sneckner	Fax: 830-980-7286
FROM: David L. Earl	Total No. of Pages (including cover sheet): 12
MATTER: SOAH Docket No. 582-03-3725; TCEQ Docket No. 2003-0364-UCR; BSR Water Company's Status Report and Request for Continued Abatement (File No. 4041)	