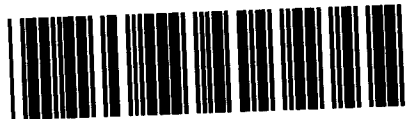


Control Number: 43943



Item Number: 11

Addendum StartPage: 0

**SOAH DOCKET NO. 582-05-1005
TCEQ DOCKET NO. 2004-1384-UCR**

**PETITION OF BEXAR METROPOLITAN §
WATER DISTRICT TO COMPEL RAW §
WATER COMMITMENT FROM §
GUADALUPE-BLANCO RIVER §
AUTHORITY §**

**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

**ORDER NO. 10
ALLOWING FURTHER BRIEFING OR ARGUMENT**

On June 2, 2006, Petitioner submitted to the State Office of Administrative Hearings ("SOAH") a letter report and brief, proposing that Petitioner reimburse GBRA \$1,492.25 for expenses incurred in this action, in order to qualify for dismissal without prejudice under 30 TAC § 80.25(e). Petitioner agreed, that is, to pay a portion of GBRA's total claimed expenses of \$2,396.14, objecting only to GBRA's claim of \$903.89 for "computer legal research."

GBRA responded to Petitioner's proposal on June 6, 2006, urging that Petitioner be ordered to pay the entire \$2,396.14 in expenses identified by GBRA. The Response noted that a SOAH judge previously has found the categories of expenses in question (including computer research expenses) to be reimbursable under § 80.25(e). This ruling occurred, specifically, in SOAH Docket No. 582-04-4678, involving Canyon Regional Water Authority ("CRWD").

The undersigned ALJ is not at all certain that the CRWD case provides a definitive precedent on the issue of allowable expenses, since the cited decision on that issue does not seem to have been explained in a written order or specifically adopted by the TCEQ commissioners thereafter. Petitioner has presented a reasonable argument that legal research expenses may *not* fall within those expenses allowable under § 80.25(e), but the principal authority it identified for this position is apparently mis-cited - i.e., 21 *TexReg* 2137 does not include any discussion of that rule.

Under these circumstances, the ALJ will allow the parties until **June 20, 2006**, to revise, supplement, or amplify their arguments and citations of authority with respect to the pending issue. Petitioner has urged that the issue represents a question of law, with no hearing on the matter.

TEXAS
COMMISSIONER
OF ENVIRONMENTAL
QUALITY
JUN 7 11 32 AM
CHIEF CLERK'S OFFICE

SOAH Docket No. 582-05-1005
TCEQ Docket No. 2004-1384-UCR

Order No. 7


Page 2

necessary. Given that the parties apparently agree on the amounts attributable to GBRA's various expenses, the ALJ agrees. GBRA's response of June 6 also seems implicitly in agreement on that point. The ALJ therefore will rule on the issue of allowable expenses after reviewing the material submitted by June 20, unless a party promptly presents a convincing showing that some other procedure would be more appropriate.

PROCEDURAL QUESTIONS

Routine procedural and logistical questions may be directed to Rita McBride at (512) 475-3419; however, please note that SOAH support personnel are not authorized to provide general advice or the interpretation of regulations or policy.

SIGNED June 7, 2006.



MIKE ROGAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

WILLIAM P. CLEMENTS BUILDING, Jr.

300 West Fifteenth Street

Austin, Texas 78701

Phone (512) 475-4993

Facsimile (512) 475-4994

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: BEXAR METROPLITIAN WATER DISTRICT

SOAH DOCKET NUMBER: 582-05-1005

REFERRING AGENCY CASE: 2004-1384-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ MIKE ROGAN**

REPRESENTATIVE / ADDRESS

PARTIES

**MOLLY CAGLE
ATTORNEY
2801 VIA FORTUNA, STE. 100
AUSTIN, TX 78746
(512) 542-8400 (PH)
(512) 542-8612 (FAX)**

GBRA

**PAUL TERRILL
ATTORNEY
810 W 10TH STREET
AUSTIN, TX 78701
(514) 474-9100 (PH)
(512) 474-9888 (FAX)**

BEXAR METROPOLITAN WATER DIST.

**ROGER NEVOLA
ATTORNEY
BEXAR COUNTY COURTESY COPY
PO BOX 2103
AUSTIN, TX 78767
(512) 499-0500 (PH)
(512) 499-0575 (FAX)**

MARK ZEPPA

**SCOTT HUMPHREY
ATTORNEY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OFFICE OF PUBLIC INTEREST COUNSEL
P.O. BOX 13087
AUSTIN, TX 78711-3087
(512) 239-6960 (PH)
(512) 239-6377 (FAX)**

TCEQ

STATE OFFICE OF ADMINISTRATIVE HEARINGS

WILLIAM P. CLEMENTS BUILDING, Jr.

300 West Fifteenth Street

Austin, Texas 78701

Phone (512) 475-4993

Facsimile (512) 475-4994

DATE:

06/07/2006

NUMBER OF PAGES INCLUDING THIS COVER SHEET:

15

REGARDING:

ORDER NO. 10 - ALLOWING FURTHER BRIEFING OR ARGUMENT

DOCKET NUMBER:

582-05-1005

FROM:

JUDGE MIKE ROGAN

FAX TO:

FAX TO:

PAUL TERRILL

(512) 474-9888

MOLLY CAGLE

(512) 542-8612

ROGER NEVOLA

(512) 499-0575

SCOTT HUMPHREY (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-6377

TODD GALIGA (TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY)

(512) 239-0606

TCEQ Docket Clerk, Fax Number 512/239-3311

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT RITA MCBRIDE(rmc) AT 512-475-4993

The information contained in this facsimile message is privileged and confidential information intended only for the use of the above-named recipient(s) or the individual or agent responsible to deliver it to the intended recipient. You are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the address via the U.S. Postal Service. Thank you

CHIEF CLERK'S OFFICE

JUN 7 2006 PM 1:32

TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY