



Control Number: 43943



Item Number: 20

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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. 5
REQUEST FOR STATUS REPORT**

As this matter has been in abatement for some time, the Administrative Law Judge ("ALJ") requests that Bexar Metropolitan Water District and Guadalupe-Blanco River Authority ("GBRA") submit brief written status reports on the controversy by **April 5, 2006**. Primarily, of course, the reports need to address any action taken in district court to resolve the issue relating to the District's legal authority to supply water outside the area defined in its enabling act.

Since the action before SOAH appears to be in large part contingent upon the outcome of district court action, the ALJ has not completed a full analysis of the parties' arguments and citations of authority relating to the propriety of the District's maintaining its claim before TCEQ and SOAH. However, as a preliminary matter, the ALJ does not find persuasive the first basis cited by GBRA for its pending Motion to Dismiss – *i.e.*, the lack of sufficient explanation for the District's "entitlement" to GBRA-supplied water in the petition that initiated action before TCEQ, as required by 30 TAC § 291.44(a)(1) and by § 11.041(a)(1) of the Water Code.


The ALJ believes that these matters of pleading are either (1) merely directory or (2) have been permissibly waived by TCEQ in the processing of the petition prior to referral of the controversy to SOAH, thus placing the question of the pleadings' accuracy beyond SOAH's immediate, derived jurisdiction.

Accordingly, the ALJ does not expect to give this issue further consideration unless the parties submit significant additional analysis or citation of authority supporting its applicability to this case.

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 March 22, 2006.



MIKE ROGAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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SERVICE LIST

AGENCY: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
(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

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ORDER NO. 5 REQUEST FOR STATUS REPORT

DOCKET NUMBER:

582-05-1005

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From:	Date:
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DATE: April 5, 2006

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RE: SOAH Docket No. 582-05-1005; TCEQ Docket No.2004-0384-UCR

MESSAGE: Please see GBRA's Status Report.

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MR

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March 27, 2006

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Via Facsimile: 512-475-4994
1 page

**RE: SOAH Docket No. 582-05-1005
TCEQ Docket No. 2004-1384-UCR
ORDER No. 5 Request for Status Report**

To whom it may concern,

Please remove our firm's name from the Certificate of Service for the above referenced matter. Our office is no longer counsel for Bexar Metropolitan Water District. Ms. Shannon Strong is also no longer with this office and is not counsel for Bexar Metropolitan Water District.

Thank you for your prompt attention to this matter.

Sincerely,

LAW OFFICES OF LOUIS T. ROSENBERG, P.C.

Louis T. Rosenberg
Louis T. Rosenberg
LTR:sh