

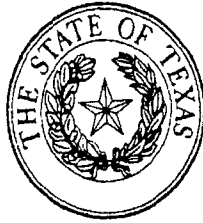
Control Number: 43943



Item Number: 2

Addendum StartPage: 0

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Dismissing Without Prejudice the Petition of Bexar Metropolitan Water District to Compel Raw Water Commitment from Guadalupe-Blanco River Authority; TCEQ Docket No. 2004-1384-UCR; SOAH Docket No. 582-05-1005

On November 15, 2006, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the request of Bexar Metropolitan Water District (Petitioner) to withdraw without prejudice its previously filed petition to compel raw water commitment from Guadalupe-Blanco River Authority (GBRA). A Proposal for Decision (PFD) was presented by Mike Rogan, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), who conducted a public preliminary hearing concerning the petition on January 11, 2005, in Austin, Texas.

After considering the ALJ's Proposal for Decision, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Bexar Metropolitan Water District (Petitioner) filed with the Commission a petition seeking to compel a commitment of raw water supply from Guadalupe-Blanco River Authority.
2. During a preliminary hearing on the petition, convened before SOAH on January 11, 2005, the following were designated as parties to the proceeding: the Petitioner (represented by Paul Terrill, Attorney), the Executive Director of TCEQ (represented by Todd Galiga, Staff

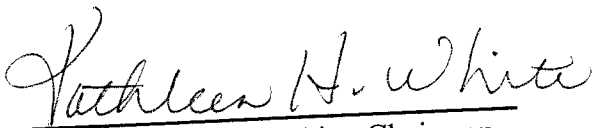
GBRA's response of June 6 also seems implicitly in agreement on that point. The ALJ therefore will rule on the issue of allowable expenses after reviewing the material submitted by June 20 [2006], unless a party promptly presents a convincing showing that some other procedure would be more appropriate.

8. On June 27, 2006, the ALJ issued an order concluding that GBRA's claim of \$903.89 for "computer legal research" should be encompassed within non-reimbursable attorney's fees, under 30 TAC § 80.25(e)(2), and that Petitioner accordingly would be entitled, under that rule, to obtain dismissal of its petition without prejudice upon reimbursing GBRA \$1,492.25 for expenses incurred in this action.
9. On July 5, 2006, the ALJ received a report stating that Petitioner had tendered to GBRA a check for \$1,492.25, which Petitioner asserted "covers all legitimate expenses Bexar Met is required to reimburse to obtain dismissal of this matter without prejudice pursuant to 30 TEX. ADMIN. CODE § 80.25(e)(2)."
10. No party has submitted any statement contradicting Petitioner's contention that it tendered the payment noted in the previous Finding of Fact.
11. At its November 15, 2006, agenda, the Commission concluded that GBRA's "computer legal research" expenses do not represent an element of attorney's fees. Therefore, the \$903.89 sought by GBRA for "computer legal research" is reimbursable under 30 TAC § 80.25(e)(2).
12. On November 14, 2006, Petitioner submitted documentation that it had reimbursed the \$903.89 GBRA sought for computer legal research expenses in this matter.

1. The request of Bexar Metropolitan Water District to withdraw its petition to compel raw water commitment from Guadalupe-Blanco River Authority is granted, without prejudice to refile, and the matter is hereby dismissed upon that basis from the docket of the Texas Commission on Environmental Quality.
2. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.
3. All other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and other requests for general or specific relief, if not expressly granted herein, are hereby denied for want of merit.
4. The effective date of this Order is the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 80.273 and TEX. GOV'T CODE ANN. § 2001.144.
5. The Commission's Chief Clerk shall forward a copy of this Order to Petitioner.

ISSUED DATE: **NOV 29 2006**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY


Kathleen Hartnett White, Chairman

CCN/ 10615/ 582-05-1005-1
Derek Seal - FW: BexarMet Petition to Compel Raw Water - TCEQ Docket No. 2004-1384-UCR;
SOAH Docket No. 582-05-1005

From: "Beckie Figg" <BFigg@hazen-terrill.com>
To: <elucas@tceq.state.tx.us>
Date: 11/15/2006 12:32 PM
Subject: FW: BexarMet Petition to Compel Raw Water - TCEQ Docket No. 2004-1384-UCR; SOAH
Docket No. 582-05-1005
CC: "Paul Terrill" <pterrill@hazen-terrill.com>

From: Paul Terrill
Sent: Tuesday, November 14, 2006 2:44 PM
To: 'Todd Galiga'
Cc: Beckie Figg; 'Adolfo Ruiz'
Subject: BexarMet Petition to Compel Raw Water - TCEQ Docket No. 2004-1384-UCR; SOAH Docket No. 582-05-1005

Todd -

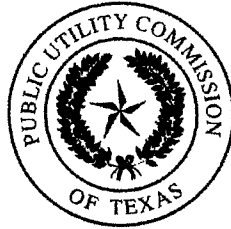
In response to your inquiry about BexarMet's Petition to Compel, BexarMet has cut a check to GBRA for the disputed amount and has that check sent to GBRA via FedEx for delivery tomorrow morning (see attached). BexarMet has now paid all of the claimed costs in order to receive a dismissal without prejudice.

I have been instructed by my client to not attend Agenda tomorrow and consider this matter closed. Please let me know if you think there is anything additional that needs to be done by BexarMet.

If you have any questions, please feel free to call.

Sincerely,

Paul M. Terrill
Hazen & Terrill, P.C.
810 W. 10th St.
Austin, Texas 78701
Ph. (512) 474-9100
Fax (512) 474-9888



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

Central Records Personally Identifiable Information Audit

NOTICE OF REDACTION

Documents containing Personally Identifiable Information* have been redacted from electronic posting, in accordance with Texas privacy statutes.

*"Personally Identifiable Information" (PII) is defined to include information that alone or in conjunction with other information identifies an individual, including an individual's: Social security or employer taxpayer identification number, driver's license number, government-issued identification card number, or passport numbers, checking and savings account numbers, credit card numbers, debit card numbers, unique electronic identification number, address, or routing code, electronic mail names or addresses, internet account numbers, or internet identification names, digital signatures, unique biometric data, and mother's maiden name, marriage and any other numbers or information used to access an individual's financial account.

To...

Cc...

Subject: Docket Change

Case Name: BEXAR METROPOLITAN WATER DISTRI
 Docket Number: 582-05-1005
 ALJ: MIKE ROGAN
 Date: Tue 07/18/2006

Type of Action:

PFD/Final Order/Decision and Order

Asterisk denotes a required field.

Setting Date and Time

On/To Date and Time: None None
 From Date and Time: None None
 Duration: 0 hours

Disposition of Case/File

Date Order Signed: None
 Disposition of case file:
 Assigned to ALJ:

Special Instructions:

Measures Reporting

Notice of Hearing: Wed 12/08/2004
 Hearing on Merits: Tue 01/11/2005
 Record Closed: Wed 07/05/2006
 PFD/FO/DO Issued: Tue 07/18/2006
 Was this an Admin. Penalty Case?: No
 Was a Fine Recommended?:
 Amount of fine (\$): \$0.00

Amended PFD Issued: None
 Remand Dismissed: None
 Remand Hearing: None
 Remand Record Closed: None
 Remand PFD Issued: None
 Amended Remand PFD Issued: None
 PFD Changed by Referring Agency: None
 PFD Overturned/Remanded by a Court: None
 PFD Due Date: None

Mediation (MSC) / ADR Information

Date Mediation Requested: None
 Date Mediation Granted/Ordered: None
 Date Mediation Denied: None
 Date Mediation Successful: None
 Date Mediation Unsuccessful: None
 Date For Mediation Withdrawn: None
 Date Referred to TCEQ: None
 Date For Telephonic Mediation: None