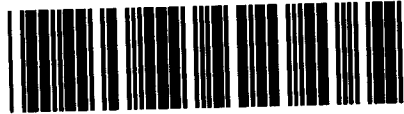




Control Number: 43943



Item Number: 33

Addendum StartPage: 0

Vinson & Elkins

Facsimile

Molly Cagle mcagle@velaw.com
Tel 512.542.8552 Fax 512.236.3280

From:		Date:	
Molly Cagle		February 17, 2005	
Regarding:		Number of Pages:	Hard Copy Follows:
GUA160/23007		7	No
To:		Fax:	Phone:
Brenda Bishop SOAH		512.936.0730	
Message:			
Please see attached.			

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Vinson & Elkins LLP Attorneys at Law Austin Beijing Dallas
Dubai Houston London Moscow New York Tokyo Washington

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Vinson&Elkins

Molly Cagle mcagle@velaw.com
Tel 512.542.8552 Fax 512.236.3280

February 17, 2005

Via Fax & Electronic Mail

LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
12100 Park 35 Circle, Building F, Room 1101
P.O. Box 13087
Austin, TX 78711-3087

Re: 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

Dear Ms. Castañuela:

Enclosed for filing in the above referenced docket is Guadalupe-Blanco River
Authority's communication to the mediator in this matter. Thank you.

Respectfully submitted,


Molly Cagle

cc: Judge Mike Rogan (Via Fax and Electronic Mail)
Brenda Bishop, SOAH Docket Clerk (via fax 512-936-0730)
Service List (Via Fax and/or Electronic Mail)

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Vinson & Elkins LLP Attorneys at Law Austin Beijing Dallas
Dubai Houston London Moscow New York Tokyo Washington

2801 Via Fortuna, Suite 100, Austin, Texas 78746-7568
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Cagle, Molly

To: Kyle Lucas (E-mail)
Cc: Paul M. Terrill III (E-mail); Scott Humphrey (E-mail); Todd Galiga (E-mail); Shannon Strong (E-mail); Roger Nevola (E-mail); Bill West (E-mail)
Subject: Mediation in BexarMet § 11.041 matter

Dear Mr. Lucas:

I write today on behalf of Guadalupe-Blanco River Authority ("**GBRA**") regarding the mediated settlement conference currently scheduled for February 24, 2005, between GBRA and Bexar Metropolitan Water District ("**BexarMet**") in SOAH Docket No. 582-05-1005. This mediation was scheduled by agreement of all the parties in this matter, and their representatives are copied on this communication.

The Board of Directors of BexarMet, the petitioner in this matter, has recently undergone significant change. Those changes are detailed in the attached article from the San Antonio Express-News. In short, on February 5th, two new directors were elected to BexarMet's Board. Those members were sworn into office at a Board meeting on February 14th, and, at that same meeting, BexarMet elected all new Board officers and scheduled a special Board meeting to take place on February 18th. The agenda for this special meeting (attached below) indicates that additional changes at BexarMet are likely to occur.

In light of these developments, principals of GBRA and BexarMet have been discussing the status of this case and other matters in which they are both involved. **Based on recent discussions that we understand occurred just this morning**, GBRA has concluded that the mediation conference currently scheduled for February 24th should not go forward. Accordingly, GBRA respectfully requests that the upcoming conference be cancelled.

If, after further developments and/or discussions with BexarMet, GBRA concludes that a mediated settlement conference on any issue in this case is in the best interests of the parties, we will contact you to request a new date for mediation.

Thank you for your time and consideration. If you have any questions regarding this matter, please do not hesitate to contact me.

I am forwarding a copy of this email and its attachments to Judge Rogan so that he is aware of this communication and the recent developments described herein.


Molly Cagle

2/17/2005

BexarMet board acts fast

New majority calls a special meeting that could dump manager.

BY JERRY NEEDHAM
EXPRESS-NEWS STAFF WRITER

Board members elected on a reform platform took the Bexar Metropolitan Water District by storm late Monday.

They elected themselves to all four officers' positions, called a quick end to an agenda they didn't like and posted a new agenda for a special meeting Friday.

Lesley Wenger and Jim Clement, elected to the seven-member board Feb. 5, were sworn in to the applause of about 50 supporters. They joined with Jose Gallegos Jr. and Victor Villarreal, who had been elected as reformers 15 months earlier, to take control of the board.

Mostly by unanimous vote, the board promptly elected Villarreal president, Wenger vice president, Gallegos treasurer and Clement secretary.

But as it became clear the new majority was ramming through a previously agreed upon meeting schedule, there was opposition by John Longo-

ria, who was ousted as president.

The new majority had prepared itself in a meeting Saturday — apparently not in violation of open meetings law because the two new board members hadn't been sworn in.

Some board members have made no secret of their dissatisfaction with the management of the district, which serves about 78,000 customers on the South and Northeast sides and in Castle Hills, Hill Country Village, Hollywood Park, Somerset and parts of Bexar, Comal, Atascosa and Medina counties.

The agenda for the special meeting called for 9 a.m. Friday includes a presentation of the findings of a supplemental audit recently conducted by the district's accountants.

That presentation is to be followed by a closed-door session and subsequent public action on "discussion regarding the discipline and/or dismissal of the general manager, Thomas C. Moreno, and reassignment of duties as necessary."

Moreno has been under fire for a variety of things, including overspending last year's budget by 24 percent and not conducting an inventory of company assets for more than five years.

The Friday agenda also in-

cludes items aimed at curtailing the activities of the district's attorneys and legislative lobbyists and reining in their fees.

On Monday, after a motion to table items involving reports by attorneys, the district's special counsel and general counsel twice asked for time in executive session to discuss three pending lawsuits and a contract with possible action afterward.

But Villarreal pushed ahead with a motion to table the items over the objections of Longoria.

After the meeting, Longoria said he's "often been in the minority during my career" and would forge ahead under the new board makeup.

But he was critical of how the meeting was handled.

"The biggest mistake was that the attorneys pled to be heard in executive session on critical issues," Longoria said. "They (the board majority) were in accord not to hear them. They had made that decision Saturday. ... If they're going to play politics, it's a bad situation."

Said Villarreal after the meeting: "I want to avoid playing games. That's what we've had. This may be a drastic move, but I think that it probably calls for a drastic move initially."

jneedham@express-news.net

**NOTICE OF SPECIAL MEETING OF THE BOARD OF DIRECTORS
OF BEXAR METROPOLITAN WATER DISTRICT
2047 W. MALONE, SAN ANTONIO, TEXAS 78225
P.O. BOX 345994, SAN ANTONIO, TEXAS 78224**

FEBRUARY 18, 2005

In accordance with Chapter 551 of the Texas Government Code, Vernon's Annotated Civil Statutes, Section 31, notice is hereby given to the public that the Board of Directors of the BEXAR METROPOLITAN WATER DISTRICT shall have a Special Board of Directors Meeting at 9:00 a.m. on the 18th day of February 2005 in the Board Room of the Bexar Metropolitan Water District, 2047 W. Malone, San Antonio, Texas.

The District provides unrestricted access for the disabled.

AGENDA

1. Meeting called to Order.
2. Presentation of the supplemental audit/agreed upon protocol engagement by Garza, Gonzales & Associates.
3. Executive Session - §551.074 Personnel Matters
 - a. Discussion regarding the discipline, and/or dismissal of the General Manager, Thomas C. Moreno and re-assignment of duties as necessary.
4. The Board will reconvene in open session and take ACTION regarding discussions during Executive Session.
5. Consideration and action regarding attorneys and attorney's fees:
 - a. Instruct Chief Financial Officer, F. Gil Olivares to refrain from paying all outstanding legal bills until these same bills are presented to Board of Directors for review and approval;
 - b. Direct the law firm of West & West to refrain from attending board meetings and to refrain from continuing any further legal work on behalf of the District.
 - c. Direct the Law Office of Louis Rosenberg to refrain from attending board meetings and to limit any further legal work on behalf of the District to that which is necessary to protect the interest of the District and obtain pre-approval for these services from F. Gilbert Olivares, as directed by the Board.
 - d. Direct Chief Financial Officer, F. Gil Olivares to hire special counsel subject to ratification for the interim period until legal counsel is formally retained.

- e. Instructing Chief Financial Officer, F. Gil Olivares to prepare a plan for an In-House Legal Department, including a Chief In House Counsel and support staff; and
- 6. Discussion and appropriate action regarding Bexar Metropolitan Water District's Legislative Agenda for the 79th Session of the Texas Legislature and other legislative issues, to include:
 - a. Placing a cap on the combined lobbyist fees during the 79th Session of the Texas Legislative session
 - b. Status report by lobbyist(s), including specific legislative issues and bills affecting Bexar Metropolitan Water District; and
 - c. Instruct lobbyists to provide monthly reports to include a breakdown of issues and bills, identification of which lobbyist is assigned to which specific issue or bill, and time spent on each specific issue or bill, by each Lobbyist.

The Bexar Metropolitan Board of Directors reserves the right to adjourn into Executive Session at any time to discuss any of the matters listed herein, as authorized by Chapter 551, Texas Government Code, Vernon's Civil Statutes, Subchapter D, as it pertains to private consultation with the Board's attorneys (§551.071); deliberation about Real Property (§551.072); deliberations about Gifts and Donations (§551.073); as it pertains to Personnel (§551.074); deliberations about Security Devices (§551.076); and Economic Development (§551.086). EXECUTIVE SESSION ITEMS MAY BE DISCUSSED AND ACTED UPON, IF APPROPRIATE IN OPEN SESSION.

Approved this 14th day of February, 2005.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Guadalupe-Blanco River Authority's communication to the mediator was served on the following person(s) via electronic mail and/or facsimile on February 17, 2005.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Docket Clerk
Office of the Chief Clerk
P. O. Box 13087
Austin, Texas 78711-3087
PH: 239-3300
FAX: 512/239-3311

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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Texas Commission on Environmental Quality
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OFFICE OF PUBLIC INTEREST
COUNSEL, TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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BEXAR METROPOLITAN WATER
DISTRICT

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BEXAR METROPOLITAN WATER
DISTRICT

Paul M. Terrill
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Molly Cagle

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mr

HAZEN & TERRILL

A PROFESSIONAL CORPORATION

810 West 10th Street
Austin, Texas 78701-2005
Tel (512) 474-9100
Fax (512) 474-9888

February 22, 2005

Via Facsimile: (512) 475-4994

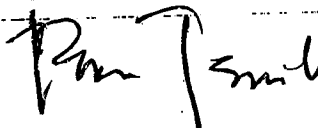
The Honorable Mike Rogan
Administrative Law Judge
State Office of Administrative Hearings
William P. Clements Building, Jr.
300 West 15th Street
Austin, Texas 78701

Re: Mediation Status Report; TCEQ Docket No. 2004-1384-UCR; SOAH Docket No. 582-05-1005; In re Petition of Bexar Metropolitan Water District to Compel Raw Water Commitment from Guadalupe-Blanco River Authority

Dear Judge Rogan:

Please be advised that the mediation in the above-captioned matter, set for February 24, 2005, has been cancelled at the request of Respondent Guadalupe-Blanco River Authority ("GBRA"). Attached hereto is a copy of the Attorney-Mediator's notice cancelling the mediation.

Sincerely,



Paul M. Terrill III
HAZEN & TERRILL, P.C.

encl.

cc: Docket Clerk *Via fax to 239-3311*
Todd Galiga *Via fax to 239-0606*
Scott Humphrey *Via fax to 239-6377*
Molly Cagle *Via fax to 236-3280*
Roger Nevola *Via fax to 499-0575*

FEB-18-05 FRI 11:56 AM

P. 02/03

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY***Protecting Texas by Reducing and Preventing Pollution***February 18, 2005**

To: ADR Participants **VIA FAX ONLY**
Re: **Bexar Metropolitan Water District; Petition to Compel Raw Water Commitment**
SOAH Docket No. 582-05-1005; TCEQ Docket No. 2004-1384-UCR

On February 14, 2005, I sent a letter to all parties confirming a February 24, 2005 mediation meeting to have taken place at the TCEQ in Austin, Texas. By request of a necessary party, *that February 24, 2005 mediation meeting is hereby cancelled*. Should the parties decide that further ADR involvement could be useful, or should any of you have questions or concerns, please call me at 512/239-0687.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Lucas".

Kyle Lucas, Attorney-Mediator
Alternative Dispute Resolution Program, Office of General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-222
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015
email: klucas@tceq.state.tx.us

cc: Attached ADR Mailing List

FEB-18-05 FRI 11:57 AM

P. 03/03

**Bexar Metropolitan Water District
SOAH Docket No. 582-05-1005; TCEQ Docket No. 2004-1384-UCR
Petition to Compel Raw Water Commitment**

ADR MAILING LIST

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Metropolitan Water District:**

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512/474-9100 FAX: 512/474-9888

Louis Rosenberg, Attorney
322 Martinez St.
San Antonio, Texas 78205
210/225-5454 FAX: 210/225-5450

**Representing RESPONDENT,
Guadalupe-Blanco River Authority**

Molly Cagle, Attorney
2801 Via Fortuna 100
Austin, Texas 78746
512/542-8552 FAX: 512/236-3280

FOR PUBLIC INTEREST COUNSEL

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TCEQ Public Interest Counsel, MC-103
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**FOR ALTERNATIVE DISPUTE
RESOLUTION**

Kyle Lucas, Attorney-Mediator
Alternative Dispute Resolution Program,
TCEQ Office of General Counsel, MC-222
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FOR THE EXECUTIVE DIRECTOR:

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HAZEN & TERRILL

A PROFESSIONAL CORPORATION

810 West 10th Street
Austin, Texas 78701
Tel (512) 474-9100
Fax (512) 474-9888**FAX COVER SHEET****DATE :** February 22, 2005**TIME :** 1:07pm**PLEASE DELIVER TO:**

NAME :	Mike Rogan, ALJ	FAX NUMBER :	475-4994
	Docket Clerk		239-3311
	Office of the Chief Clerk		
	Todd Galiga		239-0606
	Scott Humphrey		239-6377
	Molly Cagle		236-3280
	Roger Nevola		499-0575
FROM :	Alissa Worthington, Asst.		
CM #	9234		
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REMARKS :			
<i>TCEQ Docket No. 2004-1384-UCR; SOAH Docket No. 582-05-1005; In re Petition of Bexar Metropolitan Water District to Compel Raw Water Commitment from Guadalupe-Blanco River Authority</i>			
See attached Mediation Letter.			
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