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April 26, 2005

**By Courier**

Mr. Mike Rogan  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West 15th Street, Suite 502B  
Austin, Texas 78701

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 Judge Rogan:

Guadalupe-Blanco River Authority ("**GBRA**") filed its Motion to Dismiss in the above referenced matter on March 9, 2005. To assist in your review of GBRA's Motion to Dismiss and Reply to the Response of BexarMet to GBRA's Motion to Dismiss, are various supplemental newspaper articles.

Thank you for your time and attention to this matter.

Very truly yours,

  
Molly Cagle

Enclosure

cc: LaDonna Castañuela (*By Courier*)  
Service List (*By Courier*)

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COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
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**SOAH DOCKET NO. 582-05-1005  
TCEQ DOCKET NO. 2004-1384-UCR**

**PETITION OF BEXAR METROPOLITAN § BEFORE THE STATE OFFICE  
WATER DISTRICT TO COMPEL RAW §  
WATER COMMITMENT FROM § OF  
GUADALUPE-BLANCO RIVER §  
AUTHORITY § ADMINISTRATIVE HEARINGS**

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**SUPPLEMENTAL APPENDIX TO  
GUADALUPE-BLANCO RIVER AUTHORITY'S  
MOTION TO DISMISS**

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## ADMINISTRATIVE HEARINGS

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- B. Jerry Needham, *BexarMet board fires its general manager*, SAN ANTONIO EXPRESS-NEWS, Apr. 19, 2005, available at <http://www.mysanantonio.com/news/metro/stories/MYSA041905.1A.Moreno.1effc79c6.html>.
- C. Editorial, *BexarMet shake-up thoroughly justified*, SAN ANTONIO EXPRESS-NEWS, Apr. 12, 2005, available at <http://www.mysanantonio.com/opinion/editorials/stories/MYSA041205.06B.bexarmet.1ca755e48.html>.
- D. Jerry Needham, *Water district says it intends to fire Moreno*, SAN ANTONIO EXPRESS-NEWS, Apr. 5, 2005, available at <http://www.mysanantonio.com/news/metro/stories/MYSA040505.01A.bexarmet.1a7df62e4.html>.
- E. Jerry Needham, *BexarMet fires its 3 lobbyists*, SAN ANTONIO EXPRESS-NEWS, Mar. 29, 2005, available at <http://www.mysanantonio.com/news/metro/stories/MYSA032905.03B.bexarmet.183d13c23.html>.

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Supplemental Appendix to Guadalupe-Blanco River Authority's Motion to Dismiss was served on the following person(s) via hand delivery and/or certified mail on April 26, 2005.

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## BexarMet fires its 3 lobbyists

Web Posted: 03/29/2005 12:00 AM CST

**Jerry Needham**  
Express-News Staff Writer

The board of the Bexar Metropolitan Water District fired the utility's three lobbyists in the Texas Legislature late Monday as it reviewed a proposed new budget that for the first time in years doesn't include a rate increase.

The reformist board — whose two newest members were elected early last month — has zeroed in on professional fees as an easy target for cuts. It already has fired its 30-year general counsel and its longtime special counsel.

Its longtime general manager, Tom Moreno, is on two months of unpaid leave while the board looks into alleged financial irregularities.

The three lobbyists — Charles "Chuck" Bailey, Mario Martinez and former 18-year legislator Ron Lewis — reportedly are paid a total of \$23,000 a month by the retail water agency, which serves about 80,000 customers in the Bexar County area.

The three had given a report to the board but had left the meeting when the agenda item involving their firing came up.

Several of the seven board members seemed perturbed that the lobbyists couldn't point to specific things they were doing for BexarMet in the current legislative session, which ends in about two months.

Board member John Longoria, himself a former legislator, spoke against the motion by board member Lesley Wenger.

"It would be a mistake of extreme magnitude, first, to declare them in breach of contract, and second, to cut them off and not have any representation at the Legislature," Longoria said. "If we are at the Legislature without lobbyists, we are going to get butchered."

Wenger pressed on with the motion.

"We had three separate people here, and I didn't hear anything from any of them that anything is being done for us," she said. "Actually, I think we need our money back."

Her motion was supported by Jim Clement, Jose Gallegos Jr. and board President Victor Villarreal.

Earlier, the board had heard from acting General Manager Gil Olivares about the proposed budget for the next fiscal year which starts in May.

The \$48.2 million operating budget and \$14.2 million capital spending budget propose no rate increase, although Olivares noted "we're showing a very slim year next year, ending with net revenues of \$263,000."

The proposed budget chops another \$750,000 from professional fees for attorneys, lobbyists and engineers. That item of \$1.1 million is down from \$2.5 million.

"There's been a conscious effort to make sure we're good stewards of the public's money," said Gallegos, who as chairman of the board's finance committee helped guide the drafting of the budget.

The board also indicated it will set a couple of public hearings on the budget in the community next month — probably at Reagan High School and the other at Kennedy High School.

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Online at: <http://www.mysanantonio.com/news/metro/stories/MYSA032905.03B.bexarmet.183d13c23.html>





## New bill would rein in BexarMet

Web Posted: 04/22/2005 12:00 AM CDT

**Jerry Needham**  
Express-News Staff Writer

Now that a new board has fired the attorneys and general manager who masterminded the rapid expansion of the Bexar Metropolitan Water District, a lawmaker has filed a bill to hobble any future growth plans.

The bill filed Tuesday by state Rep. Robert Puente, D-San Antonio, would turn BexarMet from a municipal corporation into a special utility district with limited powers. Such a district also can be taken over by a city.

But at least one observer charged that the bill is motivated by personal politics.

"This is not about an orderly process for developing public policy to deal with water problems in South Texas," said Bob Anderson, former mayor of BexarMet customer Castle Hills and husband of BexarMet board member Lesley Wenger, who was in Austin and unavailable for comment Thursday.

"This is angry men using their power to try to punish people because they didn't like the way an election turned out," Anderson said. "It's not about reason and logic."

Puente, who is chairman of the House Natural Resources Committee, denied any ulterior motives.

"What prompted it was the continuing problems that BexarMet has in trying to deliver water at a reasonable rate and in a quality condition," he said. "So I'm helping them along."

Leaders at river authorities and cities in the region for years have expressed concern about BexarMet's broad powers and its willingness to use them, along with lawsuits, to expand its territory into surrounding counties.

The district has bought dozens of smaller companies and expanded into three adjacent counties over the past 10 years more than doubling its number of connections to 80,000.

That threat seemed to have been dissipated when the district's 20-year general manager, Tom Moreno, was fired Monday after two new board members took office in February, making a new majority on the seven-member board.

The new majority also voted itself into the four officers' positions, ousting John Longoria as president. Longoria, who been on the board for almost three years, claimed he was on a slower course for reform.

Anderson said he believes the snub of Longoria is behind Puente's attempt to throttle BexarMet.

"He's angry about the fact that his friend John Longoria is not the president and is not going to be the leader," he said. Puente wouldn't respond to the comments of Anderson, who he said testified recently in his committee against any meetings bill aimed at Wenger without disclosing that he is her husband.

And even though the proponents for expansion may be gone, Puente said "this reform movement is only good as long as there are quote — reformers — unquote in place."

Longoria said he had no knowledge that the bill was even being considered and he had not seen it late Thursday.

Anderson said turning "BexarMet into a special utility district makes no sense.

They were designed for water cooperatives in rural areas — not to operate within cities. They were designed for water cooperatives in rural areas.

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them get better financing arrangements and to avoid certain fees and taxes," he said.

Anderson said a SUD operating within a city would have to get permission to build a pump, put in a water tower, or drill a well and the city can say no.

Another feature of special utility districts is that they can be taken over by cities, and it would be possible for the San Antonio Water System to one day absorb BexarMet.

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Online at: [http://www.mysanantonio.com/news/metro/stories/MYSA042205.3B\\_bexarmet.1feb122f0.html](http://www.mysanantonio.com/news/metro/stories/MYSA042205.3B_bexarmet.1feb122f0.html)



## BexarMet board fires its general manager

Web Posted: 04/19/2005 12:00 AM CDT

**Jerry Needham**  
**San Antonio Express-News**

Tom Moreno's 20-year reign as general manager of the Bexar Metropolitan Water District ended Monday night when the district's board voted to terminate the remaining five years of his employment contract for cause.

Moreno was making \$180,000 a year, potentially subjecting the district to a \$900,000 payout unless the contract was ended with good cause.

The board voted 4-3 to end the contract and, again, by the same margin, to appoint Gil Olivares, chief financial officer and acting general manager, as interim general manager.

Moreno's attorney, Thad Harkins, spent 45 minutes responding to a list of alleged deficiencies, oversights and wrongdoings laid out by the board in an April 6 notice of termination.

"Tom Moreno wants to resolve any issues he has with this board," Harkins said. "Tom Moreno wants to continue to serve."

But without discussion, board member Lesley Wenger made a motion to terminate Moreno's contract for cause, and it drew a quick second from Jose Gallegos Jr.

Moreno, a 35-year employee who oversaw the district as it grew from a sleepy rural water provider into a four-county behemoth that has been racking up debt while swallowing dozens of small companies, has been on unpaid leave for almost two months.

Dissatisfaction with the district's tactics grew as water rates for its mostly poor customers increased rapidly while the district filed lawsuits to grab more customers and water. Four new board members were elected to the seven-member board over a 15-month period ending in February.

Moreno was placed on leave Feb. 18 — his second suspension in three months — after a special audit found \$155,000 in questionable spending over the past two years. That included alleged salary overpayments of \$100,000 for 15 employees for 2003 and 2004, including almost \$30,000 for Moreno and \$13,550 for Sylvia Gámez, Moreno's now-fired former chief deputy.

Another special audit released earlier this month found alleged excess salary payments of almost \$60,000 to Moreno and \$21,143 to Gámez, from 1999 through 2002, for buyback of unused vacation time.

Other allegations against Moreno included entering into contracts without board approval, not giving employees annual evaluations, questionable handling of BexarMet property, continued payments to lobbyists whose contracts had been canceled and deferment of impact fees without board approval.

"I think that a majority of the board saw fit to move forward and to make BexarMet accountable and to make the leadership, the management of BexarMet, responsible for their actions or inactions," Gallegos said after the meeting.

Harkins said the complaints about Moreno were dead issues dredged up for political reasons. He said Moreno had not made any missteps since the board gave him a good job evaluation and a year's extension on his contract in January.

"If you decide for political reasons, which are the reasons that we're seeing here, to get rid of Tom Moreno, at least have the common sense as public servants to honor the contract that's in place instead of trying to find some fiction to continue to injure my client," Harkins said.

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In opposing the motion, board member John Longoria said Moreno had been given abbreviated due process.

"I do not agree with the procedures that have occurred," said Longoria, a former state legislator and Bexar County judge.  
"I do not agree with the conclusions that have been drawn."

Longoria was joined by Herman Sanchez and Ysidro Solis in voting against the motion.

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Online at: <http://www.mysanantonio.com/news/metro/stories/MYSA041905.1A.moreno.1effc79c6.html>



## Editorial: BexarMet shake-up thoroughly justified

Web Posted: 04/12/2005 12:00 AM CDT

### San Antonio Express-News

A big housecleaning is under way at the Bexar Metropolitan Water District.

The bright light of unobstructed public scrutiny is finally shining on the workings of the water utility under suspended General Manager Tom Moreno, and it's not a pretty picture.

A new study of BexarMet spending practices, conducted by the auditing firm of Garza Gonzalez and Associates, found shoddy records and \$155,000 in questionable spending during the previous two years.

The examination found almost \$60,000 in payments made to Moreno in excess of his approved salary from 1999 through 2002.

Former City Councilman Rick Vasquez was paid for three years of consulting work, but BexarMet has no records of any work product from Vasquez during that time, the study found.

Moreno's record appears indefensible, and the board, which has a majority of reform-minded members after the February election, has scheduled an April 18 hearing on whether to fire him.

The board must act cautiously to protect the agency from being required to buy out Moreno's contract, which was mysteriously extended a year by the previous board majority.

Meanwhile, the new board majority has dumped the agency's old lobbyists and hired two new firms. The three previous lobbyists were unable to tell the board what they were doing for the agency during the ongoing legislative session.

The new board also has severed ties with the agency's longtime general counsel, West and West.

Under the new board's proposed budget, expenses for professional fees of lawyers, lobbyists and engineers will be reduced from \$2.5 million to \$1 million. Ratepayers finally have something to be happy about.

While the changes may seem dramatic and disruptive to some, they are steps in the right direction. Under Moreno's management, BexarMet had become the most dysfunctional public entity in the county.

Reforms are needed to bring BexarMet into the 21st century as a transparent, professionally operated government agency. This is a cleanup effort that is long overdue.

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Online at: <http://www.mysanantonio.com/opinion/editorials/stories/MYSA041205.06B.bexarmet.1ca755e48.html>



## Water district says it intends to fire Moreno

Web Posted: 04/05/2005 12:00 AM CDT

**Jerry Needham**  
Express-News Staff Writer

After another supplementary audit questioned more costs, the board of the Bexar Metropolitan Water District voted late Monday to give suspended General Manager Tom Moreno a notice of termination for cause.

The board, acting under terms of Moreno's contract, issued the notice and set a Friday hearing to allow him to respond to allegations that have been building against him since a reformist board took power in February.

"As a responsibility to our ratepayers and customers, we have to make sure that any breach of fiduciary duty does not occur, and if it does occur, then we need to take corrective action," said Jose Gallegos Jr., who made the motion for notice of termination. "This is part of what we feel is regrettable but corrective action that needs to take place."

The board had placed Moreno on an unpaid 60-day suspension on Feb. 18 — his second suspension in just over three months — after an audit found \$155,000 in questionable spending at the utility over the past two years.

The board had directed the auditing firm of Garza Gonzalez and Associates to look at some more specific records in the interim and received that report Monday night before adjourning to an almost two-hour closed session.

The new audit reported excess salary payments of almost \$60,000 to Moreno and \$21,143 to his now-fired chief aide, Sylvia Gámez, from 1999 through 2002 for buyback of unused vacation time.

The certified public accountant, Rene Gonzalez, also reported that Gámez wrote checks to Moreno totaling \$10,173 in 2001 for alleged excess payroll deductions, but added that "we determined that \$5,212 of the \$10,173 paid to the general manager was never deducted from the general manager's salary."

Gonzalez also reported finding no evidence of any work product for more than three years of consulting work by former City Councilman Richard Vasquez. He was supposed to be putting in 40 hours a week on planning and grant acquisitions from October 1997 through November 2000 at a cost of more than \$131,000.

"With all of the evidence we were presented, it just became impossible to ignore the overwhelming record of mismanagement," said Lesley Wenger, who took office in February. "It's incumbent on the board to act."

The vote to give the notice of termination was 4-3 with President Victor Villarreal and Jim Clement joining Gallegos and Wenger.

Board member John Longoria, who led the opposition to the motion, was joined by Robert Sanchez and Ysidro Solis.

"If he's done wrong, I don't defend him, but for someone who's been here for 35 years, he should at least be given a chance to answer the allegations before he's given a notice of termination and publicly humiliated," Longoria said. "People should be given due process whether they're a maintenance worker or the general manager."

Moreno, who has a five-year employment contract after the board in January added a year to it, was making \$180,000, potentially subjecting the district to a \$900,000 payout unless the contract is ended with good cause. Moreno has served as the district's general manager for the past 20 years.

The previous special audit had found about \$100,000 in salary overpayments for 15 employees for 2003 and 2004, including almost \$30,000 for Moreno and \$13,550 for Gámez.

The two newest members of the reformist board had campaigned to clean up the operation, which has been plagued by overspending and years of double-digit rate increases for its 80,000 customers.

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Since taking office in mid-February, the board has fired its long-time general counsel, special counsel and three legislative lobbyists. Its budget for the fiscal year that starts next month has no rate increase for the first time in years.

Also on Friday, the board may choose another lobbyist.

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Online at: <http://www.mysanantonio.com/news/metro/stories/MYSA040505.01A.bexarmet.1a7df62e4.html>