



Control Number: 43943



Item Number: 59

Addendum StartPage: 0

HAZEN & TERRILL

A PROFESSIONAL CORPORATION

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

February 1, 2005

Via Facsimile: (512) 475-4994

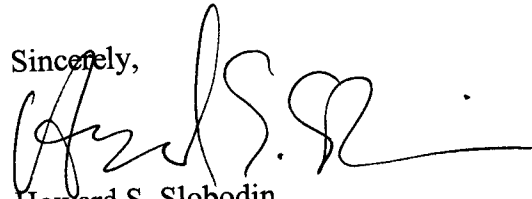
The Honorable Mike Rogan
Administrative Law Judge
State Office of Administrative Hearings
William P. Clements Building, Jr.
300 West 15th Street
Austin, Texas 78701

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:

Pursuant to your Order No. 1 in the above-captioned case, this letter serves as Bexar Metropolitan Water District's ("BexarMet") required mediation status report. As of today, the parties have all provided their availabilities to the assigned mediator at the Texas Commission on Environmental Quality. A date when all the parties are available to mediate this case will shortly be selected. BexarMet anticipates that mediation in this case will be completed during the second half of February, at the earliest mutual convenience of the parties. Once mediation is completed, BexarMet will report further.

Sincerely,



Howard S. Slobodin
HAZEN & TERRILL, P.C.

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*

CHIEF CLERK'S OFFICE

2005 FEB -3 AM 9:54

2005 FEB 3 10:10

HAZEN & TERRILL

A PROFESSIONAL CORPORATION

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

February 1, 2005

CHIEF CLERK'S OFFICE

152-1111-1111

Via Facsimile: (512) 475-4994

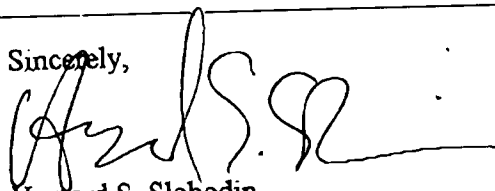
The Honorable Mike Rogan
Administrative Law Judge
State Office of Administrative Hearings
William P. Clements Building, Jr.
300 West 15th Street
Austin, Texas 78701

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:

Pursuant to your Order No. 1 in the above-captioned case, this letter serves as Bexar Metropolitan Water District's ("BexarMet")-required mediation status report. As of today, the parties have all provided their availabilities to the assigned mediator at the Texas Commission on Environmental Quality. A date when all the parties are available to mediate this case will shortly be selected. BexarMet anticipates that mediation in this case will be completed during the second half of February, at the earliest mutual convenience of the parties. Once mediation is completed, BexarMet will report further.

Sincerely,



Howard S. Slobodin
HAZEN & TERRILL, P.C.

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*

HAZEN & TERRILL

A PROFESSIONAL CORPORATION

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

CHIEF CLERK'S OFFICE

2005-FEB-01 11:32

FAX COVER SHEET**DATE : February 1, 2005****TIME : 6:00pm****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 :	Jackie Taylor, Paralegal		
CM #	9234		
TOTAL NUMBER OF PAGES SENT (Including coversheet) :			2 pages
IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE.			
REMARKS :			
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			
See attached Mediation Status Report.			
CONFIDENTIALITY NOTICE			
This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for the return of the documents.			

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

January 24, 2005

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2005 JAN 24 PM 12:31
CHIEF CLERKS OFFICE

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

I am a mediator in the Alternative Dispute Resolution (ADR) Program of the Texas Commission on Environmental Quality (TCEQ or "Commission"). This matter has been referred to my office by the judge presiding over your hearing before the State Office of Administrative Hearings (SOAH), and the purpose of this letter is to invite you to consider a mechanism by which the parties may resolve this matter and thus eliminate the need for continued litigation before SOAH.

The ADR procedure which the Commission employs is mediation. Mediation is a form of informal dispute resolution involving the use of an impartial third-party neutral called a mediator, who assists the parties in negotiating their dispute. I as mediator have no stake in the outcome of this matter, and it is not my role to pressure any party into settling. My role is to encourage and facilitate productive communications between parties, to elicit their true concerns and issues, and ultimately to guide them toward resolution of their dispute which addresses those concerns and issues. It is not my function as mediator to formulate the solution to a dispute, as an arbitrator or judge would - that responsibility falls on the parties themselves during mediation. I instead provide the parties the forum, the tools and the guidance to formulate their own solution.

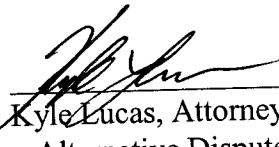
The success of the negotiations depends on the flexibility and good-faith efforts of the participants, as well as their understanding that compromise, creative thinking and reasonable expectations often play essential roles in reaching a settlement agreement. Because the resolution of disputes through mediation results from negotiations and compromise, mediation often results in a win/win outcome for the disputants, especially when taking into account the potential costs involved in proceeding to litigation. Should you settle this matter through mediation, there may be no need for you to incur the expense of hiring expert witnesses and/or attorneys, or of conducting lengthy and expensive discovery in preparation for a formal evidentiary hearing before SOAH. If this matter is not resolved through mediation, it is then litigated at hearing before a SOAH administrative law judge.

Please understand that if this matter is not resolved through mediation, *no party's legal right to proceed to a SOAH evidentiary hearing is affected by mere participation in mediation*, and because a mediated settlement agreement requires the consent of all parties, should any party wish to discontinue settlement discussions at any time, that party is free to do so knowing that his or her legal rights in this matter have not been impaired in any way. Please note also that in an effort to

encourage people to negotiate in earnest and to talk openly during mediation, all communications made by participants during and leading up to a mediation meeting are, by law, to be kept confidential, and cannot be disclosed to outside persons.

I hope this letter has provided a helpful introduction to the Commission's ADR Program and how it may assist you in this matter. **I will contact each of you soon (or you may call or email me first if you wish) to discuss whether mediation is an option you wish to pursue, and if so, to discuss your availabilities for a weekday mediation date between January 25 and February 25. Because mediation is a voluntary process, both Petitioner Bexar Metropolitan Water Dist. and Respondent GBRA must agree to participate before I may schedule a mediation.** Should the parties wish to negotiate this matter informally (ie, by phone or fax) through me instead of participating in a formal face-to-face mediation meeting, or should the parties wish to engage in a period of informal discovery (information exchange) prior to entering into negotiations, my offer of mediation assistance extends to facilitating those discussions as well. Please let me know if this is a preferable course of action. Should any party, however, not wish to attempt to negotiate a resolution of this dispute, but prefers to litigate this matter before SOAH, I will cease mediation efforts. Please feel free to call me at 512/239-0687 should you have any questions.

Sincerely,



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

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

**Representing PETITIONER, Bexar
Metropolitan Water District:**

Paul Terrill, Attorney
810 W. 10th St.
Austin, Texas 78701
512/474-9100 FAX: 512/474-9888

Louis Rosenberg, Attorney
Shannon Strong, 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 THE EXECUTIVE DIRECTOR:

Todd Galiga, Staff Attorney
TCEQ Environmental Law Div., MC-173
P. O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX: 512/239-0606

Elsie Pascua
TCEQ Water Utility Division, MC-153
P.O. Box 13087
Austin, Texas 78711-3087
512/239-5367 FAX: 512/239-6972

Brian Dickey
TCEQ Water Utility Division, MC-153
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0963 FAX: 512/239-6972

FOR PUBLIC INTEREST COUNSEL

Scott Humphrey
TCEQ Public Interest Counsel, MC-103
P. O. Box 13087
Austin, Texas 78711-3087
512/239-6960 FAX: 512/239-6377

**FOR ALTERNATIVE DISPUTE
RESOLUTION**

Kyle Lucas, Attorney-Mediator
Alternative Dispute Resolution Program,
TCEQ Office of General Counsel, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0687 FAX: 512/239-4015

FOR THE CHIEF CLERK

LaDonna Castañuela
TCEQ Chief Clerk's Office, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX: 512/239-3311