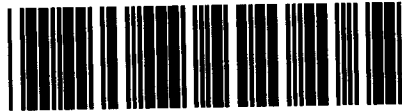


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SOAH DOCKET NO. 582-03-2282
TCEQ DOCKET NO. 2003-0033-UCR

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APPLICATION OF DENTON COUNTY	§	BEFORE THE TEXAS
FRESH WATER SUPPLY DISTRICT	§	
NO. 10 TO AMEND WATER AND	§	COMMISSION ON
SEWER CCNS IN DENTON COUNTY	§	
(APPLICATION NOS. 34068-C/34069-C)	§	ENVIRONMENTAL QUALITY

**DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10's RESPONSE
TO THE EXECUTIVE DIRECTOR'S MOTION TO DISMISS**

On September 3, 2003, Denton County Fresh Water Supply District No. 10 (District) filed a response to Order No. 7 advising the presiding administrative law judge that all parties, including the TCEQ Executive Director (ED), had agreed to abate the proceedings in this docket in order to submit various controlling legal and policy issues to the TCEQ Commissioners for their interpretation pursuant to SOAH Rule 155.35.

On September 8, 2003, in Order No. 8, Presiding Judge James Norman stated that the parties may not unilaterally abate a proceeding that the hearing schedule was still in effect. Order No. 8 made no further provisions regarding any other matter in this docket.

Having agreed to the plan to seek TCEQ Commissioner review of legal issues, the ED now complains and seeks dismissal of the application to the prejudice of the District rather than seek other relief from filing testimony as scheduled. The

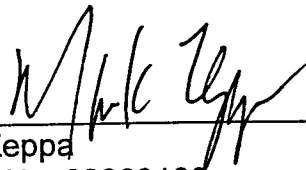
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certified questions have been filed and served on all parties as permitted by TCEQ rule. The docket should be abated as provided under SOAH rules.

Further, while the ED may not have been acting on this docket, the other parties have been meeting to resolve it by negotiation. This is their duty under the Lawyers' Creed – to attempt to resolve the dispute without litigation. It is consistent with the TCEQ's and SOAH's maintenance of alternative dispute resolution offices.

The appropriate relief of the ED in this docket is that the other parties have been seeking – abatement of the schedule while the certified questions are resolved. If a hearing is still necessary, a mutually acceptable one can then be established.

Respectfully submitted,




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WATER SUPPLY DISTRICT NO. 10

CERTIFICATE OF SERVICE

I, Mark H. Zeppa, attorney for DCFWSD #10, certify that true and correct copies of the foregoing pleading were served on the following by facsimile, hand delivery or first class USPS mail on the 24th day of September 2003:


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