

Control Number: 43965



Item Number: 45

Addendum StartPage: 0

43965

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

RECEIVED

2014 DEC 17 AM 7:42

APPLICATION OF DENTON COUNTY	§	BEFORE THE PUBLIC UTILITY COMMISSION
FRESH WATER SUPPLY DISTRICT	§	OF THE STATE OF TEXAS
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**

*Never mentioned in us or received concurred*

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

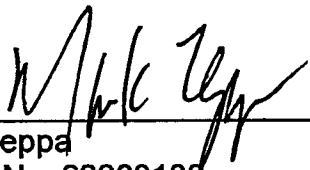
certified questions have been filed and served on all parties as permitted by TCEQ rule. The docket should be abated as provided under SOAH rules.

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.

*No indication of this;  
no filing*

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,



Mark H. Zeppa  
State Bar No. 22260100  
Law Offices of Mark H. Zeppa, PC  
4833 Spicewood Springs Road #202  
Austin, TX 78759-8436  
(512) 346-4011, Fax (512) 346-6847

ATTORNEY FOR DENTON COUNTY FRESH  
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:

  
Mark H. Zeppa

1. Judge James Norman  
State Office of Administrative Hearings  
P O Box 13025  
Austin, Texas 78711-3025  
Fax (512) 475-4994
2. Lara Nehman, Staff Attorney  
Sheridan Gilkerson, Staff Attorney  
Environmental Law Division  
TCEQ  
P O Box 13087, MC 173  
Austin, TX 78711-3087  
Fax (512) 239-0606
3. Blas Coy, Jr., Public Interest Counsel  
Office of the OPIC  
TCEQ  
P O Box 13087, MC 103  
Austin, TX 78711-3087  
Fax (512) 239-6377
4. John Turney  
Bell, Turney, Coogan & Richards, LLP  
823 Congress Avenue, Ste. 706  
Austin, TX 78701  
Fax (512) 476-1513
5. Ms. Maria Sanchez, Esq.  
Davidson & Trolie, PC  
919 Congress, Suite 810  
Austin, Texas 78701  
Fax (512) 473-2159
6. TCEQ Docket Clerk  
Office of the Chief Clerk  
P O Box 13087, MC 105  
Austin, TX 78711-3087  
Fax (239) 3311

\*\*\*\*\*  
\*\*\* RX REPORT \*\*\*  
\*\*\*\*\*

RECEPTION OK

TX/RX NO	6137
RECIPIENT ADDRESS	512 346 6847
DESTINATION ID	
ST. TIME	09/24 17:34
TIME USE	01'51
PGS.	4
RESULT	OK