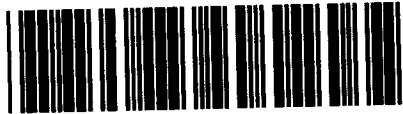


Control Number: 44069



Item Number: 45

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
Legislature, Regular Session, transferred the functions
relating to the economic regulation of water and sewer
utilities from the TCEQ to the PUC effective
September 1, 2014

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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SOAH DOCKET NO. 582-06-1697
TCEQ DOCKET NO. 2005-2092-UCR
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2007 AUG -6 AM 11:29

CHIEF CLERKS OFFICE

APPLICATION OF THE CITY OF COLLEGE STATION TO AMEND SEWER CERTIFICATES OF CONVENIENCE AND NECESSITY IN BRAZOS COUNTY

§
§
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§
§

BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS


ORDER NO. 9

GRANTING REQUEST FOR ADDITIONAL ABATEMENT

On August 6, 2007, the City of College Station (College Station or Applicant) timely filed a status report requesting that the abatement period in this case be continued an additional 60 days. The motion is unopposed. A mediation will occur on August 9, 2007.

Applicant's request for an additional abatement period has merit and is GRANTED. College Station shall file a status report on or before August 29, 2007. If a settlement of all contested issues cannot be reached, Applicant may submit a revised schedule or three proposed dates for a prehearing conference.

SIGNED August 6, 2007.


WENDY K. L. HARVEL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: CITY OF COLLEGE STATION

SOAH DOCKET NUMBER: 582-06-1697

REFERRING AGENCY CASE: 2005-2092-UCR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ LILO D. POMERLEAU**

REPRESENTATIVE / ADDRESS

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DOCKET NUMBER: 582-06-1697

JUDGE LILO D POMERLEAU

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SOAH DOCKET NO. 582-06-1697
TCEQ DOCKET NO. 2005-2092-UCR

2007 AUG 30 AM 10:04

CITY OF COLLEGE STATION'S
APPLICATION TO AMEND
SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY
IN BRAZOS COUNTY

§
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§
§
§

BEFORE THE STATE CHIEF CLERK'S OFFICE
OF
ADMINISTRATIVE HEARINGS

**STATUS REPORT AND UNOPPOSED
MOTION TO EXTEND ABATEMENT PERIOD**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

The City of College Station ("College Station") files this Status Report and Unopposed Motion to Extend Abatement Period.

INTRODUCTION

In Order No.9, the last Order issued in this Docket, the ALJ requested that College Station submit a revised schedule or three dates for a prehearing conference, if settlement on all contested issues could not be reached. Settlement negotiations are still active and the parties request further abatement of the schedule in an attempt to settle the matter.

BACKGROUND

A preliminary hearing in the above-captioned matter was held on June 6, 2006. In Order Number 1, the ALJ set out the prehearing and hearing schedule. On August 3, 2006, College Station filed a motion to abate the schedule while the parties conducted settlement negotiations. In Order Number 2, dated August 4, 2006, the ALJ granted the abatement and required College Station to submit a status report on October 3, 2006. On October 3, 2006, College Station filed an unopposed motion to extend the abatement period. College Station settled with all protesting

parties except for Main Street Homes (“MSH”) and Wellborn Special Utility District (“WSUD”). In Orders Number 3 and 4, the ALJ dismissed the parties who settled with College Station. In Order Number 5, the ALJ granted College Station’s October 3, 2006 request for an extension of the abatement period and ordered College Station to file a status report on or before January 5, 2007. College Station submitted a status report and request for abatement extension, which the ALJ granted in Order Number 6. The ALJ also ordered College Station to file a status report on or before March 5, 2007. College Station submitted a status report and request for abatement extension, which the ALJ granted in Order Number 7. The ALJ also ordered College Station to file a status report on or before June 6, 2007. College Station submitted a status report on June 6, 2007 requesting an additional 60 days to conduct mediation. In Order Number 8, the ALJ granted the extension and required a report on or before August 6, 2007. On that date, College Station requested an abatement to participate in an August 9, 2007 mediation, which the ALJ granted in Order No. 9. A status report is due to the ALJ on or before August 29, 2007.

MSH and WSUD have a CCN application before SOAH in Docket No. 582-07-1251, which College Station contested. ALJ Carol Wood has abated that docket until October 5, 2007. The MSH/WSUD application is to certificate the Meadow Creek subdivision, which MSH is developing. College Station seeks to certificate the subdivision in its application.

STATUS REPORT

On August 9, 2007, College Station and MSH participated in mediation with Plaintiffs in Brazos County District Court litigation in an effort to resolve the CCN dispute. By letter dated August 23, 2007, the Plaintiffs’ attorney notified MSH and College Station that Plaintiffs’ claims were unresolved by the offers made in mediation.

On August 28, 2007, College Station transmitted a new settlement offer to MSH and WSUD.

MOTION FOR EXTENSION OF ABATEMENT

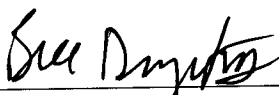
College Station requests an extension of the abatement while MSH and WSUD are considering College Station's August 28, 2007 settlement proposal. College Station requests that the matter be abated until October 5, 2007, which is the same date of the abated proceeding SOAH Docket No. 582-07-1251, which is related to this proceeding.

CONCLUSION

College Station requests an extension of the abatement. In the event settlement is not completed, College Station will submit a status report to the ALJ on or before October 5, 2007. In the status report, College Station will coordinate with the parties and submit a revised schedule or request additional time for settlement, whichever is necessary. Counsel for College Station has conferred with Leonard Dougal, counsel for WSUD, Rick Jenkins of MSH and MSH's counsel, Mark Zeppa, and Kayla Murray, counsel for the Executive Director. All parties concur with this request.

Respectfully submitted,

BICKERSTAFF HEATH DELGADO ACOSTA LLP
816 Congress Avenue, Suite 1700
Austin, TX 78701
Tel: (512) 472-8021
Fax: (512) 320-5638

By: 


William D. Dugat III
State Bar No. 06173600

ATTORNEYS FOR COLLEGE STATION

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this 29th day of August, 2007, a true and complete copy of the foregoing was sent to the following by facsimile, overnight delivery, or by first class mail:

Parties	Representative / Address	Phone
TCEQ Executive Director	Kayla Murray, Staff Attorney TCEQ, MC-175 P.O. Box 13087 Austin, TX 78711-3087	Tel: (512) 239-0600 Fax: (512) 239-0606
Office of Public Interest Counsel	Blas J. Coy, OPIC TCEQ, MC-103 P.O. Box 13087 Austin, TX 78711-3087	Tel: (512) 239-6363 Fax: (512) 239-6377
Wellborn Special Utility District	Leonard Dougal Jackson Walker, L.L.P. 100 Congress Avenue, Suite 1100 Austin, TX 78701	Tel: (512) 236-2000 Fax: (512) 236-2002
Main Street Homes-CS	Mark Zeppa Law Offices of Mark H. Zeppa, P.C. 4833 Spicewood Springs Road Suite 202 Austin, TX 78759-8436	Tel: (512) 346-4011 Fax: (512) 346-6847
The Honorable Lilo D. Pomerleau Administrative Law Judge	SOAH 300 W. 15 th Street, Ste. 504 Austin, TX 78711-3025	Tel: (512) 475-4993 Fax: (512) 475-4994
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William D. Dugat III

CHIEF CLERKS OFFICE

2007 AUG 30 AM 10: 04

TEXAS
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August 29, 2007

VIA FACSIMILE AND U.S. MAIL

La Donna Castañuela
Office of the Chief Clerk - MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2007 AUG 30 AM 10:04
CHIEF CLERKS OFFICE

Re: SOAH Docket No. 582-06-1697; TCEQ Docket No. 2005-2092-UCR; *City of College Station's Application to Amend Sewer Certificate of Convenience and Necessity in Brazos County*

Dear Ms. Castañuela:

Enclosed for filing is an original and one copy of the Status Report and Unopposed Motion to Extend Abatement Period in connection with the above-referenced matter. Please file the original and have the copy filed-stamped and returned to me in the enclosed self-addressed, stamped envelope.

Should you have questions or need to reach me, please call (512) 472-8021.

Sincerely,


William D. Dugat III

WDD/db
Enclosures

cc: The Honorable Lilo D. Pomerleau (*via facsimile only*)
Administrative Law Judge

All Parties of Record (*via facsimile and/or mail*)

AUSTIN

DALLAS

EL PASO

HOUSTON