

NO. 5858

IN THE MATTER OF THE WATER
RIGHTS APPLICATION OF TEXAS
MUNICIPAL POWER AGENCY

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§
§

BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL QUALITY

**WITHDRAWAL OF REQUEST FOR CONTESTED CASE HEARING
OF CHOCOLATE BAYOU WATER COMPANY**

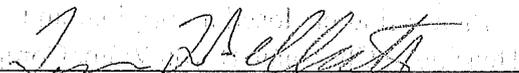
TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW Chocolate Bayou Water Company and hereby withdraws its Request for

Contested Case Hearing on file herein.

Respectfully submitted,

ANDREWS KURTH LLP

By: 

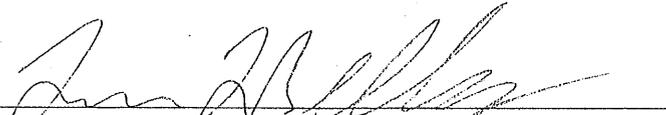
Lawrence L. Bellatti
Texas Bar No. 02105500
600 Travis, Suite 4200
Houston, Texas 77002
(713) 220-4200
Fax: (713) 238-7207

Attorneys for Protestant
Chocolate Bayou Water Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on the Applicant set forth below by certified mail, return receipt requested, on this 19th day of July, 2005.

Texas Municipal Power Agency
P.O. Box 7000
Bryan, Texas 77805


Lawrence L. Bellatti

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Lawrence L. Bellatti
713-220-4196 Direct
713-238-7207 Fax

March 22, 2005

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BY DL

Ms. LaDonna Castañuela
Office of the Chief Clerk, MC 105
12100 Park 35 Circle
Austin, Texas 78753

Re: No. 5858; *In the Matter of the Water Rights Application of Texas Municipal Power Agency*

Dear Ms. Castañuela:

Please find enclosed an original and 12 copies of a Request for Contested Case Hearing of Chocolate Bayou Water Company which we request that you file among the papers of the above-referenced cause. Please stamp one copy with your file mark and return to the undersigned.

Thank you for your courtesies and cooperation.

Yours very truly,



Lawrence L. Bellatti

1128:amm
Enclosure

cc/enc: **BY CERTIFIED MAIL**
RETURN RECEIPT REQUESTED
Texas Municipal Power Agency
P.O. Box 7000
Bryan, Texas 78505



NO. 5858

2015 FEB 04 PM 2:15

IN THE MATTER OF THE WATER
RIGHTS APPLICATION OF TEXAS
MUNICIPAL POWER AGENCY

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§

BEFORE THE TEXAS
COMMISSION ON CHIEF CLERKS OFFICE
ENVIRONMENTAL QUALITY

**REQUEST FOR CONTESTED CASE HEARING
OF CHOCOLATE BAYOU WATER COMPANY**

1. The name and address of the Protestant is Chocolate Bayou Water Company ("Chocolate Bayou"), P.O. Box 550, Alvin, Texas 77512-0550; its telephone number is 281-393-1596; and its facsimile number is 281-581-9921.

2. The pending application is No. 5858 (the "Application"), being the application of Texas Municipal Power Agency in which the Applicant seeks a Water Use Permit for authorization to maintain 31 existing on-channel reservoirs on multiple water courses in the Brazos River Basin, Grimes County, and to impound therein a combined amount of 8,487.80 acre-feet of water for recreational, domestic, livestock, parks and wildlife and game preserve purposes.

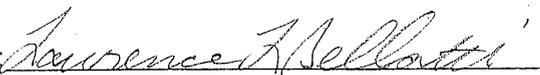
3. The basis of the interest of Chocolate Bayou is that it is the holder of Certificate of Adjudication 12-5322 as amended, which authorizes diversion of 155,000 acre-feet of water per annum with priority dates of February 8, 1929, for the first 40,000 acre-feet, March 14, 1955 for the next 40,000 acre-feet, and July 25, 1983 for the remaining 75,000 acre-feet at a rate of 900 cubic feet per second from the Brazos River at Juliff, Fort Bend County, Texas. The exercise of the rights sought under the Application may impair Chocolate Bayou's downstream senior water rights.

4. The diversion point authorized under Chocolate Bayou's Certificate of Adjudication 12-5322 as amended is located at river mile marker 67.5 on the Brazos River. The Applicant's reservoirs are located on various tributaries of the Navasota River, tributary of the Brazos River

approximately 250 miles upstream of Chocolate Bayou's diversion point. Accordingly, Chocolate Bayou respectfully requests that the Commission set this matter for a contested case hearing to determine whether the approval of the Application would adversely impact and impair Chocolate Bayou's senior downstream water rights, is in the public interest, and authorized by Texas law.

Respectfully submitted,

ANDREWS KURTH LLP

By: 

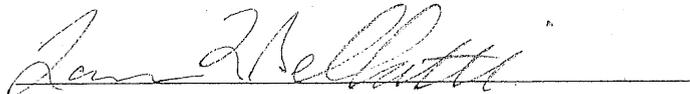
Lawrence L. Bellatti
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Attorneys for Protestant
Chocolate Bayou Water Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on the Applicant set forth below by certified mail, return receipt requested, on this 23rd day of March, 2005.

Texas Municipal Power Agency
P.O. Box 7000
Bryan, Texas 78505


Lawrence L. Bellatti

