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TEXAS  
COMMISSION  
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QUALITY

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2005 JUL 20 PM 3:16

CHIEF CLERKS OFFICE

Lawrence L. Bellatti  
713-220-4196 Direct  
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July 19, 2005

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

OPA w/lt 45872  
WRC  
JUL 25 2005  
BY g

Re: No. 4340A; *In the Matter of the Water Rights Application of the City of Lubbock*

Dear Ms. Castañuela:

Please find enclosed an original and 12 copies of a Withdrawal of 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

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Enclosure

cc/enc: **BY CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

NO. 4340A

IN THE MATTER OF THE  
WATER RIGHTS APPLICATION  
OF THE CITY OF LUBBOCK

§  
§  
§

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

CHIEF CLERKS OFFICE

2005 JUL 20 PM 3:16

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**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 19<sup>th</sup> day of July, 2005.

City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

  
Lawrence L. Bellatti



OPA

HR

JAN 13 2005

NO. 4340A

BY [Signature]

IN THE MATTER OF THE  
WATER RIGHTS APPLICATION  
OF THE CITY OF LUBBOCK

§  
§  
§

BEFORE THE TEXAS  
COMMISSION ON  
ENVIRONMENTAL QUALITY

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

2005 JUN 12 PM 3:09  
CHIEF CLERK'S OFFICE  
TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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. 4340A (the "Application"), being the application of the City of Lubbock in which the Applicant seeks to amend Water Use Permit No. 3985 (Application No. 4340) to, among other things, authorize and use from the North Fork Double Mountain Fork Brazos River ("North Fork") all historic and future discharges of Canadian River Basin surface water-based effluent and ground water-based effluent and to convey same via the bed and banks of the North Fork downstream to new diversion points.

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

proposed diversion points on the North Fork are approximately 570 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  
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 11<sup>th</sup> day of January, 2005.

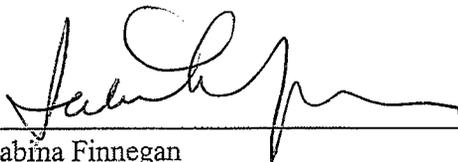
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

  
Lawrence L. Bellatti

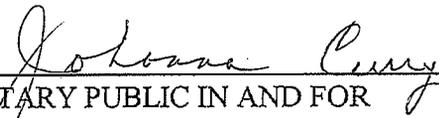
VERIFICATION

THE STATE OF NEW JERSEY   §  
  §  
COUNTY OF BERGEN         §

Sabina Finnegan, Vice President and General Manager of Chocolate Bayou Water Company, personally appeared before me, and being first duly sworn declared that she signed this Request for Contested Case Hearing in the capacity designated, and is authorized to request this evidentiary hearing by Chocolate Bayou Water Company, and further states that she has read the above Request for Contested Case Hearing and the statements therein contained are true and correct.

  
\_\_\_\_\_  
Sabina Finnegan

SWORN TO AND SUBSCRIBED BEFORE ME this 6<sup>th</sup> day of JANUARY, 2005.

  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
THE STATE OF NEW JERSEY

**JOHANNA CURRY**  
Notary Public, State of New Jersey  
My Commission Expires October 5, 2005



Item

Number 45872 TCEQ Docket Number Status ACTIVE HB 801 NO  
Program WATERIGHT ID Type PERMIT Additional ID WRPERM 3985  
Regulated Entity 11203985001 DP1 WRPERM 3985  
Reference No RN104271457  
Principal CITY OF LUBBOCK  
Reference No CN600130736

Activity Actions

Date	Document Type	Action	Performed By
12/22/2004	Notice - Application	MAILED	ELLISON, DORIS
12/14/2004	File	RECEIVED	ELLISON, DORIS
10/12/2004	Administrative Review	COMPLETE	ELLISON, DORIS