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November 29, 2010

Ms. LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Bldg. F, Room 4301
Austin, Texas 78753

VIA HAND DELIVERY

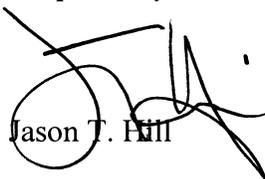
RE: TCEQ Docket No. 2008-1617-WR; SOAH Docket No. 582-10-0294
In Re: Application No. 14-1318C by City of San Angelo for Amendment to
Certificate of Adjudication No. 14-1318.

Dear Ms. Castañuela:

Enclosed with this correspondence, please find the City of San Angelo's reply to the exceptions submitted by the Protestant, Concho River Basin Water Conservancy Association, to the Proposal for Decision issued in the above-referenced contested case. As indicated below, a copy of this transmittal and the enclosed filing is being provided to Judge Cloninger, as well as to the persons identified on the official SOAH service list for this particular application.

Please do not hesitate to let me know if you have any questions that I can address for you regarding this matter.

Respectfully submitted,


Jason T. Hill

JTH/plh
1227559
ENCLOSURE

cc: The Honorable Sharon Cloninger
Martin C. Rochelle, *of the firm*
Tom C. Massey
Timothy L. Brown
Service List

**SOAH DOCKET NO. 582-10-0294
TCEQ DOCKET NO. 2008-1617-WR**

APPLICATION NO. 14-1318C BY CITY OF SAN ANGELO FOR AMENDMENT TO CERTIFICATE OF ADJUDICATION NO. 14-1318	§ § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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APPLICANT CITY OF SAN ANGELO'S REPLY TO
PROTESTANT CONCHO RIVER BASIN WATER CONSERVANCY ASSOCIATION'S
EXCEPTIONS TO PROPOSAL FOR DECISION

TO THE HONORABLE COMMISSIONERS:

On behalf of the San Angelo Water Supply Corporation, the City of San Angelo (herein referenced interchangeably as the "Applicant" or the "City") submits this reply to the exceptions made to the Proposal for Decision issued in the above-referenced application (the "1318C PFD") by the Concho River Basin Water Conservancy Association (the "Protestants"), and would respectfully show the Commissioners of the Texas Commission on Environmental Quality the following:

I.

If there were any remaining questions of the agenda-driven basis for Protestants' involvement in the above-styled and numbered matter, Protestants have thoroughly answered them with their "exceptions" to the 1318C PFD. Throughout this contested case, Protestants have refused to join issue in earnest with the City on the essential elements that inform the Commission's decision on this application. Instead, they have used their party status in this matter to advance a misplaced and glaringly transparent scheme to avail themselves of stored water that has been lawfully impounded by the City within the Twin Buttes Reservoir. Their

agenda, rooted in a misinformed understanding of the past, has been foreclosed by the Texas Legislature, neutered by the Supreme Court of Texas, rejected already by the Commission and the Executive Director, and dismissed by the 201st Judicial District Court of Travis County. It has no place in Texas water law and, as reflected by the evidentiary record, it certainly has no home in this contested case.

Indeed, the above-referenced application is not about the past—a point that Protestants have stubbornly refused to acknowledge. To the contrary, this application addresses how the water rights that authorize impoundment of state water in Twin Buttes Reservoir will be understood in the future. The overwhelming weight of evidence in the record in this case supports the Administrative Law Judge’s (the “ALJ’s”) conclusion that the draft amendment proposed by the Executive Director will not adversely impact the environment, nor any water rights, within the Colorado River Basin.

Instead of briefing yet again the irrelevancy of Protestants’ argument and its absence of any merit, the City instead simply encourages the Commission to review closely the individual fact findings and legal conclusions made by Judge Cloninger in the proposed order submitted with the 1318C PFD. The evidentiary record, the Commissioners will find, consists of much more than a mere preponderance of evidence that supports each of the ALJ’s factual and legal conclusions. The City obviously supports Judge Cloninger’s assessment that the above-referenced application should in all respects be granted, and it applauds her recommendation to adopt the proposed order.

II.

Based on the foregoing, and on the great weight of evidence admitted into the record during this contested case hearing, the City respectfully requests that the Commissioners:

- (1) approve the above-referenced application and adopt the order proposed by Judge Cloninger in the 1318C PFD; and
- (2) issue the amended certificate of adjudication proposed by the ED in response to the above-referenced application.

Respectfully submitted,

**LLOYD GOSSELINK ROCHELLE &
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**ATTORNEYS FOR APPLICANT
CITY OF SAN ANGELO**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing submittal was delivered by hand delivery, facsimile, or by email to the persons listed in the attached SOAH service list on this, the 29th day of November, 2010.



JASON T. HILL

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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STYLE/CASE: CITY OF SAN ANGELO
SOAH DOCKET NUMBER: 582-10-0294
REFERRING AGENCY CASE: 2008-1617-WR

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ SHARON CLONINGER**

REPRESENTATIVE / ADDRESS

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