

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 2, 2009

To: Persons on the attached mailing list (By mail and facsimile as indicated)

Re: Consideration of the application by the American Rice Growers Cooperative Association and the City of Houston to amend Certificate of Adjudication No. 08-4277A and related filings; TCEQ Docket No. 2006-1723-WR.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its April 8, 2009 public meeting scheduled to begin at 9:30 A.M. On April 1, 2009, Mr. Edmond R. McCarthy, Jr., filed a joint request for an additional continuance of this matter on behalf of the Applicants and hearing requester.

The letter explains that the parties have been working to reach a settlement and that additional time is needed to complete the draft settlement agreement. After confirming with the attorneys for the Office of Public Interest Counsel and the Executive Director for this matter that they have no objection to the requested continuance, I have determined to grant the request for continuance.

Accordingly, this matter is hereby continued to a Commission public meeting to be noticed in the future.

If you have any questions about this matter, please contact Elaine M. Lucas, Assistant General Counsel, at 512-239-6215.

Very truly yours,

A handwritten signature in black ink, appearing to read "Les Trobman".

Les Trobman
General Counsel

Mailing List

Mailing List
American Rice Growers Cooperative Association
and the City of Houston
TCEQ Docket No. 2006-1723-WR

American Rice Growers Cooperative
Association
P.O. Box 129
Dayton, Texas 77535-0003
936/258-2681 FAX 936/258-8569

Fred B. Werkenthin, Jr.
Booth Ahrens & Werkenthin P.C.
515 Congress Ave., Suite 1515
Austin, Texas 78701-3504
FAX 512/473-2609

Carl Pickett
P.O. Box 10225
Liberty, Texas 77575
936/336-5604 FAX 936/336-7752

Lee Munz
Texas State Soil & Water Conservation Board
P.O. Box 658
Belton, Texas 76503-0658

Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.
711 West 7th Street
Austin, Texas 78701-2785
512/472-7600 FAX 512/225-5565

Robin Smith
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606

City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

Steve Ramos
TCEQ Water Rights Division MC 160
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6538 FAX 512/239-2214

John D. Stover
Zeleskey Cornelius Hallmark Roper Hicks LLP
P.O. Box 154540
Lufkin, Texas 75915
936/632-3130 FAX 936/632-6545

Christina Mann
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377

Frank J. Frost, Vice President
FPL Farming LTD.
1331 Lamar St., Suite 1350
Houston, Texas 77010-3025
FAX 713/658-8008

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

Robert Istre, General Manager
Gulf Coast Water Authority
3630 FM 1765
Texas City, Texas 77591-3677
FAX 409/935-4156

Bridget Bohac
TCEQ Office of Public Assistance MC 108
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4000 FAX 512/239-4007

Lawrence L. Bellatti
Andrews Kurth, L.L.P.
600 Travis St., Suite 4200
Houston, Texas 77002-3009
713/220-4200 FAX 713/220-4285

Kyle Lucas
TCEQ Alternative Dispute
Resolution Program MC 222
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015

From: Les Trobman
To: Melissa Chao
Date: 4/1/2009 5:25 PM
Subject: Fwd: DOCKET NO. 2006-1723-WR- American Rice Growers - Amendment to Certificate of Adjudication No. 08-4277

>>> "Ed McCarthy" <emccarthy@jacksonsjoberg.com> 4/1/2009 4:52 PM >>>

Mr. Trobman

This is a joint request to continue the agenda item from April 8th to the next available agenda date. The parties are working in earnest to settle the matter and the additional time is need to complete the details of the draft settlement agreement. You assistance in this regard would be appreciated.

I have the Protestants, Mr. Alders et al, permission through their counsel John Stover to make this request.

Thank you for your assistance.

Ed McCarthy

Cc: Elaine Lucas, TCEQ
Robin Smith, TCEQ
John Stover, Attorney

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 APR -2 AM 8:35
CHIEF CLERKS OFFICE

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 30, 2009

To: Persons on the attached mailing list (by mail and facsimile as indicated)

Re: Request for Briefing Extension concerning the application of American Rice Growers Cooperative Association (Applicant); TCEQ Docket No. 2006-1723-WR

By correspondence dated March 31, 2009, Mr. John Stover, on behalf of hearing requester Weldon Alders, has requested an extension of time for filing its Reply Brief, to 5:00 p.m. on Wednesday, April 1, 2009. The request indicates that the parties are close to a settlement, and that the extension will allow such settlement efforts to proceed. Mr. Stover further indicates that all parties agree to this extension.

After review of the request for extension, I have determined to extend the time for filing of the Reply Brief until 5:00 p.m. on Wednesday, April 1, 2009. See 30 TAC § 1.10; and Commission Resolution, Docket No. 2009-0059-RES, dated February 2, 2009.

If you have any questions about this matter, please contact Elaine Lucas, Assistant General Counsel, at (512) 239-6215.

Very truly yours,

A handwritten signature in black ink, appearing to read "Les Trobman".

Les Trobman
General Counsel

Mailing List

Mailing List
American Rice Growers Cooperative Association
and the City of Houston
TCEQ Docket No. 2006-1723-WR

American Rice Growers Cooperative
Association
P.O. Box 129
Dayton, Texas 77535-0003
936/258-2681 FAX 936/258-8569

Fred B. Werkenthin, Jr.
Booth Ahrens & Werkenthin P.C.
515 Congress Ave., Suite 1515
Austin, Texas 78701-3504
FAX 512/473-2609

Carl Pickett
P.O. Box 10225
Liberty, Texas 77575
936/336-5604 FAX 936/336-7752

Lee Munz
Texas State Soil & Water Conservation Board
P.O. Box 658
Belton, Texas 76503-0658

Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.
711 West 7th Street
Austin, Texas 78701-2785
512/472-7600 FAX 512/225-5565

Robin Smith
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606

City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

Steve Ramos
TCEQ Water Rights Division MC 160
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6538 FAX 512/239-2214

John D. Stover
Zeleskey Cornelius Hallmark Roper Hicks LLP
P.O. Box 154540
Lufkin, Texas 75915
936/632-3130 FAX 936/632-6545

Christina Mann
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377

Frank J. Frost, Vice President
FPL Farming LTD.
1331 Lamar St., Suite 1350
Houston, Texas 77010-3025
FAX 713/658-8008

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

Robert Istre, General Manager
Gulf Coast Water Authority
3630 FM 1765
Texas City, Texas 77591-3677
FAX 409/935-4156

Bridget Bohac
TCEQ Office of Public Assistance MC 108
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4000 FAX 512/239-4007

Lawrence L. Bellatti
Andrews Kurth, L.L.P.
600 Travis St., Suite 4200
Houston, Texas 77002-3009
713/220-4200 FAX 713/220-4285

Kyle Lucas
TCEQ Alternative Dispute
Resolution Program MC 222
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015

From: "Stover, John" <jdstover@consolidated.net>
To: Blas Coy <bcoy@tceq.state.tx.us>, Ed McCarthy <emcarthy@jacksonsjoberg.c...
Date: 3/30/2009 3:29 PM
Subject: American Rice Growers; Docket No. 2006-1723

This is to confirm that all counsel have agreed to extend the deadline for Weldon Alders to file his Reply until 5:00pm, Wednesday, April 1, 2009. Applicants and Alders are close to settling this matter and need the additional time.
Thank you for your cooperation.

John D. Stover
Attorney for Alders
936/465-4341

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 MAR 30 PM 3:37
CHIEF CLERKS OFFICE

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 2, 2009

To: Persons on the attached mailing list (By mail and facsimile as indicated)

Re: Consideration of the application by the American Rice Growers Cooperative Association and the City of Houston to amend Certificate of Adjudication No. 08-4277A and related filings; TCEQ Docket No. 2006-1723-WR.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its January 14, 2009 public meeting scheduled to begin at 9:30 A.M. By letter dated December 29, 2008, Mr. Edmond R. McCarthy, Jr., filed on the behalf of the Applicants, American Rice Growers Cooperative Association and the City of Houston, as well as the Alders' Group a request for an additional continuance and a related extension of the deadline for Mr. Alders to file a reply to the responses on the behalf of the Alders' Group.

The letter explains that the parties have been working to resolve some significant engineering and related technical issues necessary to implement the settlement in principle they have reached in connection with this matter. Thus, additional time is stated as needed, and the parties jointly request a continuance at least until the middle of March, 2009. We checked with the attorneys for the Office of Public Interest Counsel and the Executive Director for this matter, and they have indicated they do not object to a continuance of this matter.

Accordingly, this matter is continued to the Commission's public meeting scheduled to begin at **9:30 A.M. on Wednesday, April 8, 2009**. In light of the continuance, the deadline for Mr. Alders to file a reply to the responses is extended until **5:00 P.M. on Monday, March 30, 2009**.

If you have any questions about this matter, please contact Celeste Baker, Assistant General Counsel, at 512-239-5500 or 512-239-5527.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Les Trobman".

Les Trobman
General Counsel

Mailing List

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American Rice Growers Cooperative Association
and the City of Houston
TCEQ Docket No. 2006-1723-WR

American Rice Growers Cooperative
Association
P.O. Box 129
Dayton, Texas 77535-0003
936/258-2681 FAX 936/258-8569

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Booth Ahrens & Werkenthin P.C.
515 Congress Ave., Suite 1515
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FAX 512/473-2609

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P.O. Box 10225
Liberty, Texas 77575
936/336-5604 FAX 936/336-7752

Lee Munz
Texas State Soil & Water Conservation Board
P.O. Box 658
Belton, Texas 76503-0658

Edmond R. McCarthy, Jr.
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.
711 West 7th Street
Austin, Texas 78701-2785
512/472-7600 FAX 512/225-5565

Robin Smith
TCEQ Environmental Law Division MC 173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0606

City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

Steve Ramos
TCEQ Water Rights Division MC 160
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6538 FAX 512/239-2214

John D. Stover
Zeleskey Cornelius Hallmark Roper Hicks LLP
P.O. Box 154540
Lufkin, Texas 75915
936/632-3130 FAX 636/632-6545

Christina Mann
TCEQ Office of Public Interest Counsel MC 103
P.O. Box 13087
Austin, Texas 78711-3087
512/239-6363 FAX 512/239-6377

Frank J. Frost, Vice President
FPL Farming LTD.
1331 Lamar St., Suite 1350
Houston, Texas 77010-3025
FAX 713/658-8008

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

Robert Istre, General Manager
Gulf Coast Water Authority
3630 FM 1765
Texas City, Texas 77591-3677
FAX 409/935-4156

Bridget Bohac
TCEQ Office of Public Assistance MC 108
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4000 FAX 512/239-4007

Lawrence L. Bellatti
Andrews Kurth, L.L.P.
600 Travis St., Suite 4200
Houston, Texas 77002-3009
FAX 713/220-4200

Kyle Lucas
TCEQ Alternative Dispute
Resolution Program MC 222
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015

LAW OFFICES OF

JACKSON, SJOBERG, MCCARTHY & WILSON, L.L.P.

711 WEST 7TH STREET
AUSTIN, TEXAS 78701-2785

(512) 472-7600
FAX (512) 225-5565

DAVID E. JACKSON*
JOHN MATTHEW SJOBERG*

*BOARD CERTIFIED IN OIL,
GAS AND MINERAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

December 29, 2008

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 DEC 29 PM 2:07
CHIEF OF STAFF OFFICE
EDMOND R. MCCARTHY, JR.
ROBERT WILSON
ELIZABETH A. TOWNSEND
OF COUNSEL
LICENSED IN TEXAS AND
TENNESSEE

Ms. Celeste Baker (MC-101)
Assistant General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3311

via Fax & Regular Mail

Re: Application by the American Rice Growers Cooperative Association and the City of Houston to amend Certificate of Adjudication No. 08-4277A – TCEQ Docket No. 2006-1723-WR

Dear Ms. Baker:

I am writing on behalf of (i) the Applicants, American Rice Growers Cooperative Association and the City of Houston, and (ii) Buddy Alders, et al (the "Alders Group") who has a pending hearing request. The purpose of my letter is to request on behalf of both the Applicants and the Alders' Group an extension of the January 14, 2009, setting of the above-referenced matter on the Commission's Agenda for consideration of the "Request for a Contested Case Hearing" filed by the "Alders Group." This extension request, if granted, would include an extension of the deadline for Mr. Alders to file his response, now set for January 5, 2009.

On October 22, 2008, I filed a "Joint Motion for Continuance" seeking additional time for the parties to work out the details of a settlement in principle they had reached in connection with this matter that would avoid the need for a contested case hearing. Since that time and the Commission setting this matter for its January 14th Agenda, the parties have been working to resolve and address some significant engineering and other related technical issues necessary to implement the settlement in principle. As recently as December 23rd, representatives of the City of Houston and the Coastal Water Authority, which owns and operates the CWA canal which is the proposed source of water to be provided to Mr. Alders under the settlement in principle, met with Mr. Alders, his attorney, John Stover, and his engineer, George King.

During the December 23rd meeting, the parties discussed technical issues related to construction of a diversion works on the CWA canal and the related construction of pipes and pumps and meters from that point to Mr. Alders' property. This was the first meeting in which Mr. Alders' engineer participated. Mr. King proposed several engineering alternatives to the normal requirements of CWA and the City with respect to construction and operation of diversion works off the CWA canal, as well as metering and monitoring equipment, that Mr. Alders wished the parties to explore. Those alternatives need to be evaluated by the City and

December 29, 2008
Page 2

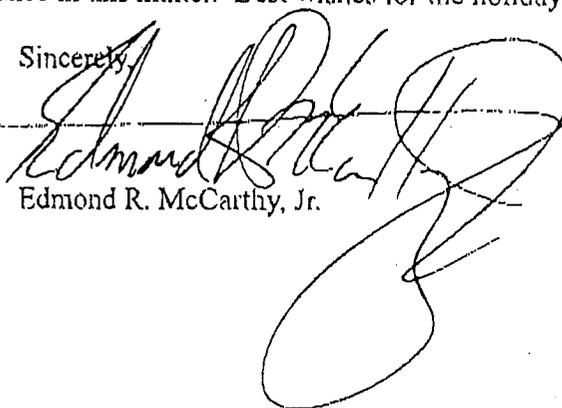
CWA. Additionally, Mr. Alders' engineer, Mr. King, is going to provide additional supporting documentation.

The parties are continuing to pursue efforts to consummate the settlement agreement in good faith. In order to complete the engineering reviews and necessary related negotiations amongst the parties, the Applicants believe that an additional 60 days will be necessary. Accordingly, on behalf of the Applicants, City of Houston and American Rice Growers Cooperative Association, and the Alders' Group, I am requesting that the Commission continue the Agenda item scheduled for January 14th until at least the middle of March, 2009.

In the interim, we will provide updates on the status of settlement negotiations between the parties. By copy of this letter I am confirming this communication to representatives of American Rice, and the Alders' Group. I am also mailing copies to the persons and/or entities shown on the attached Mailing List.

Should you have any questions, please feel free to contact me. My direct dial number is (512) 225-5606. Thank you for your assistance in this matter. Best wishes for the holidays.

Sincerely,



Edmond R. McCarthy, Jr.

cc: Attached Mailing List

December 29, 2008
Page 3

FOR AMERICAN RICE GROWERS
COOPERATIVE ASSOCIATION

Carl Pickett
PICKETT & PICKETT, P.C.
P.O. Box 10225
Liberty, Texas 77575
Telephone (936) 336-5604
Telecopier (936) 336-7752

FOR THE EXECUTIVE DIRECTOR:

Todd Galiga, Senior Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Steve Ramos, Technical Staff
Texas Commission on Environmental Quality
Water Rights Division, MC-160
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-6538
Fax: (512) 239-2214

Todd Chenoweth, Director
Texas Commission on Environmental Quality
Water Supply Division MC 154
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4485
Fax: (512) 239-6145

FOR ATTORNEYS FOR WELDON
"BUDDY" ALDERS ET AL

John D. Stover
ZELESKEY CORNELIUS HALLMARK
ROPER HICKS LLP
1616 S. Chestnut
P. O. Box 154540
Lufkin, Texas 75915
Telephone (936) 632-3130
Telecopier (936)632-6545

FOR THE COMMISSION

Les Trobman, General Counsel
Office of the Commissioners
Environmental Law Division, MC-101
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-5525
Fax: (512) 239-4015

FOR ALTERNATIVE DISPUTE
RESOLUTION:

Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

WITHDRAW OF REQUEST(S):

Ford J. Frost, Vice President
FPI Farming LTD.
1331 Lamar St., Suite 1350
Houston, TX 77010-3025

December 29, 2008
Page 4

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

Robert Istre, General Manager
Gulf Coast Water Authority
3630 FM 1765
Texas City, TX 77591-3677

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC-108
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

Lawrence L. Bellatti
Andrews Kurth, L.L.P.
600 Travis St., Suite 4200
Houston, TX 77002-3009

Fred B. Werkenthin, Jr.
Booth Ahrens & Werkenthin, P.C.
515 Congress Ave., Suite 1515
Austin, TX 78701-3504

INTERESTED PERSONS:

Lec Munz
Texas State Soil & Water Conservation Board
P.O. Box 658
Temple, TX 76503-0658

Law Offices Of
JACKSON, SJOBERG, McCARTHY & WILSON, L.L.P.

711 WEST 7TH STREET
AUSTIN, TEXAS 78701-2785
(512) 472-7600
FAX (512) 225-5565
SENDER'S DID (512) 225-5606

2008 DEC 29 PM 12:01
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

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DATE: December 29, 2008 **NO. PAGES (including cover):** 5

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|---|--------------------------------|------------------------------------|
| TO: LalDonna Castanuela, Chief Clerk, TCEQ | FAX NO.: 239-3311 | CONTACT NO.: 239-3300 |
| TO: Todd Galiga, Sr. Auy. TCEQ | FAX NO.: 239-0606 | CONTACT NO.: 239-0600 |
| TO: Steve Ramos, Tech. Staff, TCEQ | FAX NO.: 239-2214 | CONTACT NO.: 239-6538 |
| TO: Les Trobman, Gen. Counsel, Office of the Commissioners | FAX NO.: 239-4015 | CONTACT NO.: 239-5525 |
| TO: Kyle Lucas, ADR, TCEQ | FAX NO.: 239-4010 | CONTACT NO.: 239-4010 |
| TO: Todd Chenoweth, Dir., TCEQ | FAX NO.: 239-6145 | CONTACT NO.: 239-4485 |
| TO: Blas Coy, OPIC, TCEQ | FAX NO.: 239-6377 | CONTACT NO.: 239-6363 |
| TO: Bridget Bohac, Dir. OPIC | FAX NO.: 239-4007 | CONTACT NO.: 239-4000 |
| TO: Carl Pickett | FAX NO.: (936) 336-7752 | CONTACT NO.: (936) 336-5604 |
| TO: John D. Stover | FAX NO.: (936) 632-6545 | CONTACT NO.: (936) 632-3130 |

FROM: Ed McCarthy, Jr. **C/M NO.:** 40-836/2034

RE: Docket No. 2006-1723-WR; Letter to Celeste Baker, Assistant General Counsel, TCEQ

ATTACHMENT: Yes.

MESSAGE:

ORIGINALS TO FOLLOW: YES X NO

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 27, 2008

TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY
2008 OCT 27 AM 2:59
CHIEF COUNSEL OFFICE

To: Persons on the attached mailing list (By mail and facsimile as indicated)

Re: Consideration of the application by the American Rice Growers Cooperative Association and the City of Houston to amend Certificate of Adjudication No. 08-4277A and related filings; TCEQ Docket No. 2006-1723-WR.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its November 5, 2008, public meeting. The Applicants and the remaining hearing requestor, "Buddy Alders, et al (the "Alders Group") filed on October 22, 2008, a joint motion for a continuance of at least 30 days. The Joint Motion provides that the parties have reached a settlement in principle and that additional time is needed to verify certain information related to the terms of the settlement. The Executive Director's representative, Robert Martinez, has indicated that he has no objections to a continuance, and our office was able to confirm the Office of Public Interest Counsel also does not object to a continuance. Accordingly, this matter is continued to the Commission's public meeting scheduled to begin at **9:30 A.M. on Wednesday, January 14, 2009**. In light of the continuance, the deadline for filing a reply or replies to the responses is extended until **5:00 P.M. on Monday, January 5, 2009**.

If you have any questions about this matter, please contact Celeste Baker, Assistant General Counsel, at 512-239-5500 or 512-239-5527.

Very truly yours,

A handwritten signature in black ink that reads "Les Trobman".

Les Trobman
General Counsel

Mailing List

h:/counsel/baker/letters/08/continuance/AmericanRiceGrowersrequest.com

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TCEQ Docket No. 2006-1723-WR

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Association
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Austin, Texas 78701-3504
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P.O. Box 154540
Lufkin, Texas 75915
936/632-3130 FAX 636/632-6545

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512/239-6363 FAX 512/239-6377

Frank J. Frost, Vice President
FPL Farming LTD.
1331 Lamar St., Suite 1350
Houston, Texas 77010-3025
FAX 713/658-8008

Docket Clerk
TCEQ Office of Chief Clerk MC 105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

Robert Istre, General Manager
Gulf Coast Water Authority
3630 FM 1765
Texas City, Texas 77591-3677
FAX 409/935-4156

Bridget Bohac
TCEQ Office of Public Assistance MC 108
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4000 FAX 512/239-4007

Lawrence L. Bellatti
Andrews Kurth, L.L.P.
600 Travis St., Suite 4200
Houston, Texas 77002-3009
FAX 713/220-4200

Kyle Lucas
TCEQ Alternative Dispute
Resolution Program MC 222
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015

LAW OFFICES OF

JACKSON, SJOBERG, MCCARTHY & WILSON, L.L.P.

711 WEST 7TH STREET
AUSTIN, TEXAS 78701-2785

(512) 472-7600
FAX (512) 225-5565

DAVID E. JACKSON*
JOHN MATTHEW SJOBERG*
EDMOND R. MCCARTHY, JR.
ROBERT WILSON

SHERIDAN GILKERSON THOMPSON
LAURA KELLEY

ELIZABETH A. TOWNSEND†
OF COUNSEL

†LICENSED IN TEXAS AND
TENNESSEE

October 13, 2008

*BOARD CERTIFIED IN OIL,
GAS AND MINERAL LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

LaDonna Castanuela
Chief Clerk
ATTN: Agenda Docket Clerk, Mail Code 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3311

via Fax & Regular Mail
2008 OCT 24 AM 10:11
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Docket No. 2006-1723-WR; Application No. 08-4277A; Application by
the American Rice Growers and the City of Houston to amend Certificate
of Adjudication No. 08-4277

Response to Hearing Requests

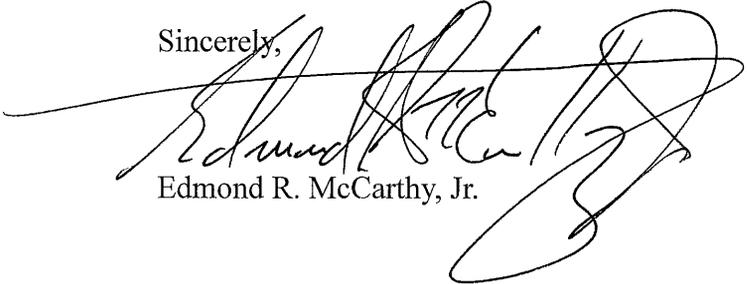
Dear Ms. Castanuela:

Enclosed please find the American Rice Growers Cooperative Association's and City of
Houston's Response to the Request for Contested Case Hearing filed in the matter of the
Application to Amend Certificate of Adjudication No. 08-4277A. By copy of this letter, the
enclosed document has been served on the Parties identified on the Certificate of Service.

Thank you for your assistance. If you should have any questions, you can reach me here
in Austin at (512) 225-5606.

Best wishes.

Sincerely,


Edmond R. McCarthy, Jr.

ERM/tn
Encl.

cc: Certificate of Service (via Regular Mail)

October 23, 2008

Page 2

cc: Certificate of Service (via telecopier & Regular Mail)
The Alders Group
Attn: John Stover, Attorney
American Rice Growers Association
Attn: Aaron Holbrook, President
Carl Picket, General Counsel
City of Houston
Attn: Andy Icken, Deputy Director, Public Works & Engineering
Jun Chang, P.E., Interim Deputy Director, Public Works & Engineering
Bill Beauchamp, Assistant City Attorney

DOCKET No. 2006-1723-WR

2008 OCT 24 AM 10: 11

IN THE MATTER OF THE APPLICATION § BEFORE THE TEXAS COMMISSION
 §
 § ON
 §
 § ENVIRONMENTAL QUALITY
 §
ADJUDICATION No. 08-4277A

CHIEF CLERKS OFFICE

**JOINT MOTION FOR CONTINUANCE OF THE PROTESTANTS,
WELDON “BUDDY” ALDERS, ET AL, AND APPLICANTS,
AMERICAN RICE GROWERS COOPERATIVE ASSOCIATION
AND THE CITY OF HOUSTON**

**TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY:**

COME NOW WELDON “BUDDY” ALDERS, ET AL (THE “ALDERS GROUP”), AMERICAN
RICE GROWERS COOPERATIVE ASSOCIATION (“AMERICAN RICE”) AND THE CITY OF
HOUSTON (THE “CITY”), and file this their joint Motion for Continuance of the November 5,
2008, Agenda item in the matter of the Application to Amend Certificate of Adjudication No.
08-4277A (the “Certificate”), and in support thereof would show the Commissioners as follows:

I.

Motion

The Applicants American Rice and the City and the Protestant Alders Group
(collectively the “Parties”) have been in communication for some time trying to address the
concerns expressed by the Alders Group in the request for a contested case hearing filed in this
matter. On October 22, 2008, the Applicants and Protestants reached a settlement in principle on
those concerns. The implementation of the settlement agreement requires the Parties to verify on
the ground locations and data related to the terms of the settlement. In order to facilitate the
Parties’ efforts to accomplish the finalization and implementation of the settlement and avoid the

expenditure of unnecessary resources of both the Commission and the Parties, the Parties respectfully request that the Commissioners continue the Commission's Agenda consideration of this matter, currently set for November 5, 2008, for at least thirty (30) days. Similarly, the Parties request that the Protestants' date for responding to the responses of the Applicant, Executive Director and Office of OPIC's responses to the Alders Group's hearing request, currently set for Monday, October 27, 2008, be delayed for a comparable period of time prior to the new Agenda date. The continuance of these two dates will facilitate the Parties' ability to focus respective efforts and resources on implementation of the settlement.

This request is not made for purposes of delay but in order to accomplish the goals of all concerned, including the Commission, as well as to maximize the beneficial use of the available resources of all affected Parties. On behalf of the Parties, the undersigned Counsel for the City has spoken with Counsel for the Executive Director, Robert Martinez, who indicated that the Executive Director had no objection to the requested continuance. Counsel for the City attempted to confer with counsel in the office of OPIC but was advised that Counsel were all out of the office on a site visit. Counsel for the City left a detailed message for Christina Mann, Counsel, in the office of OPIC.

II.

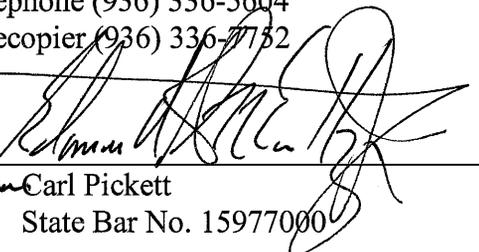
Conclusion & Prayer

WHEREFORE, Premises considered, the Joint Movants pray that their Motion for Continuance be granted.

Respectfully submitted:

PICKETT & PICKETT, P.C.

Carl Pickett
P.O. Box 10225
Liberty, Texas 77575
Telephone (936) 336-5604
Telecopier (936) 336-7752

By: 
Carl Pickett

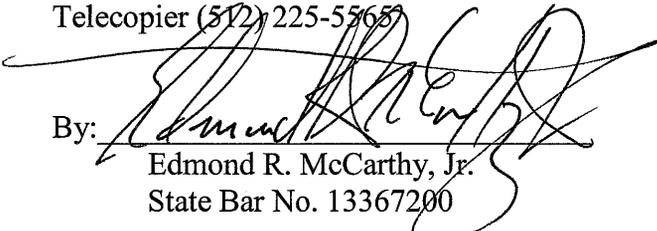
State Bar No. 15977000

*With Permission
For*

**ATTORNEYS FOR THE AMERICAN RICE
GROWERS COOPERATIVE ASSOCIATION**

JACKSON, SJOBERG, MCCARTHY & WILSON, L.L.P.

Edmond R. McCarthy, Jr
711 West 7th Street
Austin, Texas 78701
Telephone (512) 225-5606
Telecopier (512) 225-5565

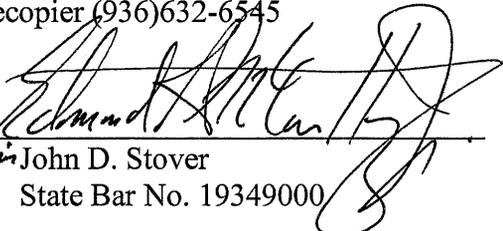
By: 
Edmond R. McCarthy, Jr.

State Bar No. 13367200

ATTORNEYS FOR THE CITY OF HOUSTON

ZELESKEY CORNELIUS HALLMARK
ROPER HICKS LLP

John D. Stover
1616 S. Chestnut
P. O. Box 154540
Lufkin, Texas 75915
Telephone (936) 632-3130
Telecopier (936) 632-6545

By: 
John D. Stover

State Bar No. 19349000

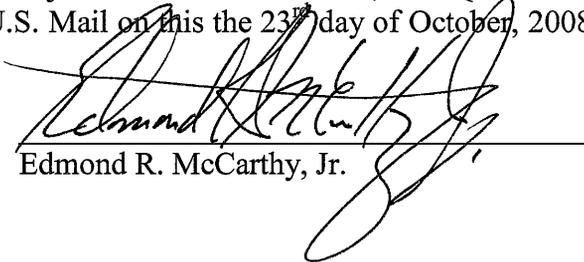
*With Permission
For*

**ATTORNEYS FOR WELDON "BUDDY" ALDERS
ET AL**

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 OCT 24 AM 10:11
CHIEF CLERKS OFFICE

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Joint Motion for Continuance in the matter of the Application to Amend Certificate of Adjudication No. 08-4277A, TCEQ DOCKET No. 2006-1723-WR, has been served via regular U.S. Mail on this the 23rd day of October, 2008 to the following:


Edmond R. McCarthy, Jr.

FOR THE EXECUTIVE DIRECTOR:

Todd Galiga, Senior Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Steve Ramos, Technical Staff
Texas Commission on Environmental Quality
Water Rights Division, MC-160
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-6538
Fax: (512) 239-2214

Todd Chenoweth, Director
Texas Commission on Environmental Quality
Water Supply Division MC 154
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4485
Fax: (512) 239-6145

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance, MC-108
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

FOR THE COMMISSION

Les Trobman, General Counsel
Office of the Commissioners
Environmental Law Division, MC-101
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-5525
Fax: (512) 239-4015

FOR ALTERNATIVE DISPUTE

RESOLUTION:
Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, TX 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

WITHDRAW OF REQUEST(S):

Ford J. Frost, Vice President
FPL Farming LTD.
1331 Lamar St., Suite 1350
Houston, TX 77010-3025

Robert Istre, General Manager
Gulf Coast Water Authority
3630 FM 1765
Texas City, TX 77591-3677

Lawrence L. Bellatti
Andrews Kurth, L.L.P.
600 Travis St., Suite 4200
Houston, TX 77002-3009

Fred B. Werkenthin, Jr.
Booth Ahrens & Werkenthin, P.C.
515 Congress Ave., Suite 1515
Austin, TX 78701-3504

INTERESTED PERSONS:

Lee Munz

Texas State Soil & Water Conservation Board

P.O. Box 658

Temple, TX 76503-0658

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 1, 2008

TO: Persons on Attached Mailing List

**RE: Docket No. 2006-1723-WR
American Rice Growers Cooperative Association
Hearing Requests filed on ADJ 4277A**

The above-referenced application and all timely filed hearing requests filed on the application will be considered by the Commissioners of the Texas Commission on Environmental Quality during the public meeting on **November 5, 2008**. The meeting will begin at 9:30 a.m. in Room 201S of Building E, at the Commission's offices located at 12100 Park 35 Circle in Austin, Texas.

In accordance with Commission rules, copies of the hearing request(s) have been forwarded to the applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. They may file written responses to these hearing requests on or before 5:00 p.m. on **October 13 2008**. Persons who filed hearing requests (hearing requesters) may file a written reply to responses on or before 5:00 p.m. on **October 27, 2008**. All responses and replies must be filed with the Chief Clerk of the TCEQ, and sent on the same day to all individuals on the attached mailing list. The address of the Chief Clerk's Office is: Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087 (Fax 512/239-3311). The procedures for evaluating hearing requests and for filing responses and replies are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter G (Sections 55.250-55.256) and 30 TAC Sections 1.10-1.11.

The Commissioners will not take oral argument or additional public comment on this matter, but may wish to ask questions of the applicant, hearing requesters or staff. The Commissioners will make their decision based on the hearing requests, written responses to the hearing requests, any written replies to those responses, and any response to questions.

Copies of all public comment and hearing requests have also been referred to the Alternative Dispute Resolution Office, where they will be evaluated to determine if informal, voluntary mediation might help resolve any dispute.

Individual members of the public may seek further information concerning the application, public participation, the processing of hearing requests, copies of Commission rules, or the attachment, by calling the TCEQ Office of Public Assistance, toll free, at 1-800-687-4040.

Sincerely,


LaDonna Castanuecia, Chief Clerk

MAILING LIST
AMERICAN RICE GROWERS COOPERATIVE ASSOCIATION
DOCKET NO. 2006-1723-WR; PERMIT NO. ADJ 4277A

FOR THE APPLICANT:

American Rice Growers Cooperative Association
P.O. Box 129
Dayton, Texas 77535-0003

Ed McCarthy
Jackson, Sjoberg, McCarthy & Wilson, L.L.P.
711 West 7th Street
Austin, Texas 78701-2785

City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

FOR THE EXECUTIVE DIRECTOR:

Todd Galiga, Senior Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Steve Ramos, Technical Staff
Texas Commission on Environmental Quality
Water Rights Division, MC-160
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6538
Fax: (512) 239-2214

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

FOR OFFICE OF PUBLIC ASSISTANCE:

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Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007

FOR ALTERNATIVE DISPUTE
RESOLUTION:

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Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

REQUESTERS:

John D. Stover
Law Offices of John D. Stover
515 S. 1st St.
Lufkin, Texas 75901-3867

WITHDRAW OF REQUEST(S):

Ford J. Frost, Vice President
FPL Farming LTD.
1331 Lamar St. Ste 1350
Houston, Texas 77010-3025

Robert Istre, General Manager
Gulf Coast Water Authority
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Booth Ahrens & Werekenthin P.C.
515 Congress Ave. Ste. 1515
Austin, Texas 78701-3504

INTERESTED PERSONS:

Lee Munz
Texas State Soil & Water Conservation Board
P.O. Box 658
Temple, Texas 76503-0658

REQUIREMENTS FOR WATER RIGHTS HEARING REQUESTS

Commission Rules in 30 TAC Section 55.251 (b) and (c) require a hearing request to:

- (1) be in writing and be filed with the Office of the Chief Clerk during the public comment period;
- (2) give the name, address, and daytime telephone number of the person who files the request;
- (3) identify the person's personal justiciable interest affected by the application including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public; and
- (4) request a contested case hearing.

A hearing request must comply with requirement (1) above and "substantially comply" with requirements (2) through (4). In addition, a group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right,
- (2) the interests the group or association seeks to protect are germane to the organization's purpose,
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

A request for a contested case hearing must be granted if the request is made by an affected person and the request: (A) complies with the requirements of 30 TAC Section 55.251; (B) is timely filed; and (C) is pursuant to a right to hearing authorized by law.

An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to the general public does not constitute a justiciable interest. To determine whether a person is an affected person, all relevant factors must be considered, including but not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) the likely impact of the regulated activity on the health, safety, and use of property of the person; and
- (5) the likely impact of the regulated activity on the use of the impacted natural resource by the person.

30 TAC Section 55.256(c).