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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

September 11, 2009

**TO: Persons on Attached Mailing List**

**RE: Docket No. 2006-1831-WR**
**City of College Station**
**Hearing Requests filed on Water Rights Permit No. WRPERM 5913**

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 **October 21, 2009**. 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 **September 25, 2009**. Persons who filed hearing requests (hearing requesters) may file a written reply to responses on or before 5:00 p.m. on **October 9, 2009**. 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. Responses and replies may be filed with the Chief Clerk electronically at http://www10.tceq.state.tx.us/epic/efilings/ or by filing an original and 7 copies with the Chief Clerk of the TCEQ. 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 and serving responses and replies are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter G (§§55.250-55.256) and 30 TAC §§1.10-1.11. The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h).

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 Castañuela, Chief Clerk

**MAILING LIST**
**CITY OF COLLEGE STATION**
**DOCKET NO. 2006-1831-WR; PERMIT NO. WRPERM 5913**

FOR THE APPLICANT:
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FOR ALTERNATIVE DISPUTE RESOLUTION:
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Alternative Dispute Resolution, MC-222
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***See attached list of Requesters/Interested Persons.***

## REQUESTER(S)

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ATTORNEY, JACKSON WALKER LLP
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ROBIN A MELVIN
GRAVES DOUGHERTY HEARON & MOODY
401 CONGRESS AVE STE 2200
AUSTIN TX 78701-4071

## INTERESTED PERSON(S)

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BOOTH AHRENS & WERKENTHIN PC
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AUSTIN TX 78701-3504

## 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).