

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 OCT -4 AM 8:25

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

Protecting Texas by Reducing and Preventing Pollution

October 3, 2007

To: Persons on the attached Mailing List (By mail and facsimile as indicated)

Re: Application by City of Sabinal for TPDES Permit No. 14689-001; TCEQ Docket No. 2007-0004-MWD.

On October 3, 2007, on behalf of the City of Sabinal and L.T. McCann, Kyle Lucas with the Texas Commission on Environmental Quality's (Commission) Alternate Dispute Resolution ("ADR") Program filed a second continuance request in the above-referenced matter to allow for continuing settlement discussions. This letter is to advise you that the Commission's Office of General Counsel, in accordance with 30 TAC §10.4, is continuing the above-referenced matter indefinitely. The Applicant and Mr. McCann either supported the continuance request or had no objections.

If you have any questions regarding this matter, please feel free to contact Shannon Strong, Assistant General Counsel, at 512-239-0972.

Respectfully,

A handwritten signature in cursive script that reads "Celeste Baker".

Celeste Baker
Acting General Counsel

Mailing List

h:/counsel/strong/letters/continuance/Sabinal.con

Mailing List
City of Sabinal
TCEQ Docket No. 2007-0004-MWD

Steven M. Pena, Sr.
Patrick W. Lindner
Davidson & Troilo, P.C.
7550 W. IH-10, Suite 800
San Antonio, Texas 78229-5803
210/349-6484 FAX 210/349-0041

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

David M. Gottfried
Law Office of David M. Gottfried, PC
1505 W. 6th St.
Austin, Texas 78703
512/494-1481 FAX 512/472-4013

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

Ken Trede
TCEQ Water Quality Division MC 148
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4540 FAX 512/239-4114

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

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

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

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 3, 2007

Celeste Baker, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-101
Austin, Texas 78711-3087

via hand delivery
2007 OCT -3 PM 3:39
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Re: **City of Sabinal**; Application for TPDES Permit No. 14689-001
TCEQ Docket No. 2007-0004-MWD

General Counsel Baker:

On behalf of the parties to this matter and Pursuant to 30 TAC §10.4, the Alternative Dispute Resolution (ADR) Program of the Texas Commission on Environmental Quality (TCEQ) respectfully requests a second continuance of this matter, which is currently scheduled for the Commission's October 10, 2007 agenda meeting. To allow for continuing settlement discussions, the parties request an indefinite continuance of this matter (the ED states he defers to the General Counsel as to whether a defined-duration or indefinite continuance is warranted). I have spoken with ED representative Marc Friberg, OPIC representative Christina Mann, Applicant representative Steve Pena, and David Gottfried (counsel to hearing requester L.T. McCann), all of whom are either supportive of or have no objection to this continuance request. All parties have filed their allowed pleadings on this hearing request matter, so filing deadlines need not be addressed.

Thank you for your attention to this matter. Should you have any questions, please contact me at 512/239-0687.

Respectfully,

A handwritten signature in black ink, appearing to read "Kyle Lucas".

Kyle Lucas, Attorney-Mediator
Alternative Dispute Resolution Program, Office of General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-222
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015

cc: Attached ADR Mailing List

City of Sabinal

Application for TPDES Permit No. 14689-001; TCEQ Docket No. 2007-0004-MWD

ADR MAILING LIST

Representing APPLICANT:

Steven M. Pena, Sr.
Davidson & Troilo, P. C.
7550 W. IH-10, Ste. 800
San Antonio, Texas 78229-5803
210/349-6484 FAX 210/349-0041

Patrick W. Lindner
Davidson & Troilo, P. C.
7550 W. IH-10, Ste. 800
San Antonio, Texas 78229-5803
210/442-2310 FAX 210/349-0041

HEARING REQUESTER

David M. Gottfried, Attorney
Law Office of David M. Gottfried, PC
1505 W. 6th St.
Austin, Texas 78703
512/494-1481 FAX 512/472-4013
representing L.T. McCann

FOR THE EXECUTIVE DIRECTOR:

Marc Friberg, Staff Attorney
TCEQ Environmental Law Div., MC-173
P. O. Box 13087
Austin, Texas 78711-3087
512/239-0611 FAX 512/239-0606

Kent Trede
TCEQ Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
512/239-1747 FAX 512/239-4430

FOR PUBLIC INTEREST COUNSEL

Christina Mann, Staff Attorney
TCEQ Public Interest Counsel, MC-103
P. O. Box 13087
Austin, Texas 78711-3087
512/239-4014 FAX 512/239-6377

FOR THE CHIEF CLERK

LaDonna Castañuela
TCEQ Chief Clerk's Office, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

FOR OFFICE OF PUBLIC ASSISTANCE

Bridget Bohac, Director
TCEQ Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 SEP -7 PM 2:13

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHIEF CLERKS OFFICE

Protecting Texas by Reducing and Preventing Pollution

September 7, 2007

Celeste Baker, General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-101
Austin, Texas 78711-3087

via hand delivery

Re: **City of Sabinal**; Application for TPDES Permit No. 14689-001
TCEQ Docket No. 2007-0004-MWD

General Counsel Baker:

On behalf of the parties to this matter and Pursuant to 30 TAC §10.4, the Alternative Dispute Resolution (ADR) Program of the Texas Commission on Environmental Quality (TCEQ) requests that consideration of this matter, currently scheduled for the Commission's September 19, 2007 agenda meeting, be continued to the Commission's October 10, 2007 agenda meeting. A mediation meeting has been scheduled in this matter, and ADR believes that a full settlement is possible at such time, which would eliminate the necessity for Commission action on this matter. I have spoken with OPIC representative Christina Mann, Applicant representative Pat Lindner and David Gottfried (counsel to hearing requester L.T. McCann), all of whom are either supportive or have no objection to this continuance request. As of the time of this filing, I have not received an answer from the Executive Director. Should this request be granted, the parties have requested the reply deadline, currently set for September 10, be shifted as well.

Thank you for your attention to this matter. Should you have any questions, please contact me at 512/239-0687.

Respectfully,

A handwritten signature in black ink, appearing to read "Kyle Lucas", written over a horizontal line.

Kyle Lucas, Attorney-Mediator
Alternative Dispute Resolution Program, Office of General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087, MC-222
Austin, Texas 78711-3087
512/239-0687 FAX 512/239-4015

cc: Attached ADR Mailing List

City of Sabinal

Application for TPDES Permit No. 14689-001; TCEQ Docket No. 2007-0004-MWD

ADR MAILING LIST

Representing APPLICANT:

Steven M. Pena, Sr.
Davidson & Troilo, P. C.
7550 W. IH-10, Ste. 800
San Antonio, Texas 78229-5803
210/349-6484 FAX 210/349-0041

Patrick W. Lindner
Davidson & Troilo, P. C.
7550 W. IH-10, Ste. 800
San Antonio, Texas 78229-5803
210/442-2310 FAX 210/349-0041

HEARING REQUESTER

David M. Gottfried, Attorney
Law Office of David M. Gottfried, PC
1505 W. 6th St.
Austin, Texas 78703
512/494-1481 FAX 512/472-4013
representing L.T. McCann

FOR THE EXECUTIVE DIRECTOR:

Marc Friberg, Staff Attorney
TCEQ Environmental Law Div., MC-173
P. O. Box 13087
Austin, Texas 78711-3087
512/239-0611 FAX 512/239-0606

Kent Trede
TCEQ Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
512/239-1747 FAX 512/239-4430

FOR PUBLIC INTEREST COUNSEL

Christina Mann, Staff Attorney
TCEQ Public Interest Counsel, MC-103
P. O. Box 13087
Austin, Texas 78711-3087
512/239-4014 FAX 512/239-6377

FOR THE CHIEF CLERK

LaDonna Castañuela
TCEQ Chief Clerk's Office, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
512/239-3300 FAX 512/239-3311

FOR OFFICE OF PUBLIC ASSISTANCE

Bridget Bohac, Director
TCEQ Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 10, 2007

To: Persons on the attached Mailing List (By mail and facsimile as indicated)

Re: Application by City of Sabinal for TPDES Permit No. 14689-001; TCEQ Docket No. 2007-0004-MWD.

On September 7, 2007, on behalf of the City of Sabinal and L.T. McCann, Kyle Lucas with the TCEQ's Alternate Dispute Resolution ("ADR") Program filed a continuance request in the above-referenced matter to allow additional time for mediation efforts. This letter is to advise you that the Texas Commission on Environmental Quality's Office of General Counsel is continuing the above-referenced matter currently scheduled for the September 19, 2007, Agenda to the Commission's public meeting on **Wednesday, October 10, 2007**, starting at **9:30 a.m.** in Room 201S, Building E, 12100 Park 35 Circle, Austin, Texas 78753. The Commission will not take oral argument on this matter, but may ask questions.

In addition, you are hereby notified that the deadline for filing replies is re-set as provided herein. Responses have already been filed in this matter, and thus, the response deadline is not being extended. A reply brief by the requester must be filed with the Chief Clerk's Office no later than **5:00 p.m. on Monday, October 1, 2007**. Filings should include an original and eleven (11) copies, reference the above-mentioned TCEQ Docket number, and be filed to the attention of the Agenda Docket Clerk, Office of the Chief Clerk, MC 105, P.O. Box 13087, Austin, Texas, 78711.

If you have any questions regarding this matter, please feel free to contact Shannon Strong, Assistant General Counsel, at 512-239-0972.

Respectfully,


Celeste Baker
Acting General Counsel.

CHIEF CLERK'S OFFICE

2007 SEP 11 PM 2:50

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Mailing List
h:\counsel\strong\letters\continuance\sabinalreset.con

Mailing List
City of Sabinal
TCEQ Docket No. 2007-0004-MWD

Steven M. Pena, Sr.
Patrick W. Lindner
Davidson & Troilo, P.C.
7550 W. IH-10, Suite 800
San Antonio, Texas 78229-5803
210/349-6484 FAX 210/349-0041

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

David M. Gottfried
Law Office of David M. Gottfried, PC
1505 W. 6th St.
Austin, Texas 78703
512/494-1481 FAX 512/472-4013

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

Ken Trede
TCEQ Water Quality Division MC 148
P.O. Box 13087
Austin, Texas 78711-3087
512/239-4540 FAX 512/239-4114

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

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

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

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 14, 2007

TO: Persons on the Attached Mailing List

**RE: Docket No. 2007-0004-MWD
City of Sabinal
Request(s) filed on Permit No. WQ00146890001**

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **September 19, 2007**. 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 timely hearing requests/requests for reconsideration have been forwarded to the applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on or before 5:00 p.m. on **August 27, 2007**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on or before 5:00 p.m. on **September 10, 2007**.

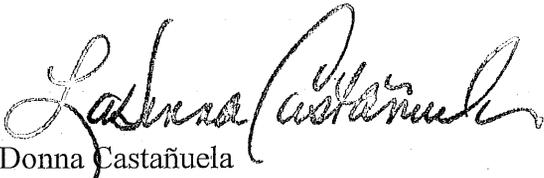
An original and 11 copies of any response or reply must be filed with the Chief Clerk of the TCEQ. The address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Director of the Office of Public Assistance, the Applicant and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Director of the Office of Public Assistance, and other requesters and the applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests/requests for reconsideration are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F (§§55.200-211) of the commission's rules. The procedures for the filing of responses and replies are located in 30 TAC Chapters 1 (§§1.10-11) and 55 (§55.209) of the commission's rules. Copies of these rules may be obtained by calling the Office of Public Assistance toll free at 1-800-687-4040.

The commissioners will not take oral argument or additional comment on this matter at the public meeting. Therefore, it is important to address the sufficiency of the requests in timely filed written responses and requesters' replies. At the public meeting, the commissioners may ask questions of the applicant, requesters, or TCEQ staff. The commissioners will make a decision on the request(s) during the meeting and will base that decision on the timely written requests, public comments, any written responses and replies, any responses to questions during the meeting, and applicable statutes and rules. Copies of all timely public comments and requests have been forwarded to the Office of Alternative Dispute Resolution to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand how the TCEQ processes and evaluates hearing requests and requests for reconsideration. To obtain additional information, or to ask questions about anything in this letter, please call the TCEQ's Office of Public Assistance toll-free at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script, appearing to read "LaDonna Castañuela".

LaDonna Castañuela
Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, Office of Public Assistance and Alternative Dispute Resolution.

ATTACHMENT

Procedures Concerning Requests for Reconsideration and Requests for Contested Case Hearing

The purpose of this document is to describe commission procedures for evaluating requests for reconsideration and requests for contested case hearing. This document is not intended to be a comprehensive guide to public participation at the TCEQ.

The three commissioners determine the validity of requests for reconsideration and requests for contested case hearing and vote to grant or deny the requests during a public meeting. These public meetings are usually held every other Wednesday in Austin. Prior to the meeting, the following occurs:

- 1) the written requests are distributed to the executive director, the public interest counsel, and the applicant. These persons may file a response at least 23 days before the meeting;
- 2) the requester may then file a reply to the responses at least 9 days before the meeting. This is the requester's opportunity to address any deficiencies in the request that have been identified by TCEQ staff or the applicant. The requester must submit any information he or she wishes the commissioners to consider (ex: maps or diagrams showing requester's location relative to the applicant's proposed activities) by this deadline; and
- 3) the commissioners read the requests, the responses to requests, and the replies, before the public meeting. Then, during the public meeting, the commissioners vote to grant or deny the requests.

Requests for Reconsideration

A request for reconsideration must expressly state that the person is requesting that the commission reconsider the executive director's decision and state the reasons why the commission should reconsider the executive director's decision. The commission will consider a request for reconsideration at a scheduled public meeting and grant or deny the request.

Requests for Contested Case Hearing

A contested case hearing is an evidentiary proceeding, similar to a hearing in civil court. The law allows for holding a contested case hearing on certain types of applications.

A valid request for a contested case hearing must:

- 1) demonstrate that the requester is an "affected person" with a "personal justiciable interest" related to a legal right, duty, privilege, power or economic interest which would be affected by the application in a manner not common to the general public;
- 2) if the request is made by a group or association, identify one or more members who have standing to request a hearing, and the interests the group or association seeks to

- protect;
- 3) expressly request a contested case hearing;
 - 4) raise disputed issues of fact that are relevant and material to the commission's decision on the application which were raised during the comment period and not withdrawn prior to the filing of the Executive Director's Response to Comment; and
 - 5) include any other information as specified in public notices.

The commission is authorized to protect human health and safety, and natural resources. The commission cannot address other matters outside the commission's authority, such as the effect of the existence of a proposed facility on nearby property values.

When the commissioners deny hearing requests, they often proceed to vote on approval or denial of the application. Alternatively, they may remand the application to the executive director for final action. If a hearing request is granted and the application is referred to the State Office of Administrative Hearings (SOAH), the commissioners will specify a list of issues which will be the subject of the hearing and an expected date for the SOAH judge's proposal for decision. The SOAH judge will conduct the hearing and submit a proposal to the commission to approve or deny the application.

The Alternative Dispute Resolution Office may contact requesters to determine their interest in informal discussions with the permit applicant and a mediator.

By necessity this document gives a very general description of commission procedures. If you have any questions, please call OPA toll-free at 1-800-687-4040.

**MAILING LIST
CITY OF SABINAL**

DOCKET NO. 2007-0004-MWD; PERMIT NO. WQ0014689001

FOR THE APPLICANT:

Raul H. Garcia, PE
Garcia & Wright Consulting
407 W. Rhapsody, Dr.
San Antonio, Texas 78216-3111

Betty Harris
City of Sabinal, WWTP
P.O. Box 838
Sabinal, Texas 78881-0838
Tel: (830) 988-2218
Fax: (830) 988-2217

FOR THE EXECUTIVE DIRECTOR:

Marc Friberg, Staff 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

Adriene Cecilia M. McClarron, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division, MC-150
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-5137
Fax: (512) 239-4114

Firoj B. Vahora, Team Leader
Texas Commission on Environmental Quality
Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4540
Fax: (512) 239-4114

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:

Ms. Bridget Bohac, Director
Texas Commission on Environmental Quality
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:

Mr. Kyle Lucas
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:

David M. Gottfried, Attorney
Law Office of David M. Gottfried
1505 West 6th Street
Austin, Texas 78703

L.T. McCann
LTM Land & Cattle
P.O. Box 5954
Austin, Texas 78763