

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

August 11, 2008

TO: Persons on Attached Mailing List

RE: **Docket No. 2007-1895-DIS, Polk County FWSD 2; TCEQ Internal Control Number 07132006-D07**; Requests filed regarding authority to levy standby fees.

The Office of the General Counsel has requested that the Office of the Chief Clerk re-send the notice of the Agenda meeting to the parties in the above-referenced matter due to the determination that a commenter, Sharon Threadgill, was not included in the mailing list for the original Agenda-setting letter dated July 31, 2008. The remainder of this letter is the same as the letter dated July 31, 2008.

The above-referenced application and all timely filed requests filed on the application will be considered by the Commissioners of the Texas Commission on Environmental Quality during the public meeting on **September 10, 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.

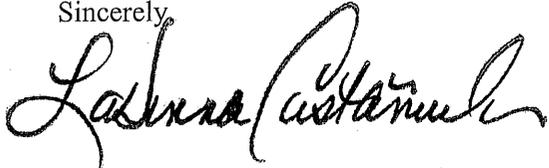
In accordance with Commission rules, copies of the request(s) have been forwarded to the applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. They may file written responses to these requests on or before 5:00 p.m. on **August 15, 2008**. Persons who filed requests (requesters) may file a written reply to responses on or before 5:00 p.m. on **August 29, 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 requests are found in Chapter 55 of the Commission's rules. Commission Rules 1.10, 1.11, and 55.254 concern the filing and serving of documents.

The Commissioners will not take oral argument or 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 requests, written responses to the requests, any written replies to those responses, and any response to questions.

Copies of all 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.

The attachment to this letter is intended to help you better understand public participation and the processing of requests. Individual members of the public may seek further information concerning the application, public participation, the processing of requests, copies of Commission rules, or the attachment, by calling the TCEQ Office of Public Assistance, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink, written in a cursive style. The signature reads "LaDonna Castañuela". The first name "LaDonna" is written in a larger, more prominent script, while "Castañuela" is written in a smaller, more compact script. The signature is fluid and connected.

LaDonna Castañuela, Chief Clerk

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The formal way for public participation is through the contested case hearing. The law allows for holding contested case hearings on certain types of applications; the remainder of this document provides an overview of the processing of requests for a contested case hearing. It describes the requirements for a hearing request and how the Commission processes hearing requests.

A hearing request must:

- (1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
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- (5) be timely filed with the Chief Clerk, as set out in the public notice; and
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- (3) the Commissioners read the hearing requests, the responses to the hearing requests, and the replies, before the public meeting. Then during the public meeting the Commissioners discuss the application and the hearing requests, and vote to grant or deny the hearing requests.

If the Commissioners deny the hearing requests then they often will proceed and vote to approve or deny the application. If the Commissioners grant the hearing requests they will refer the application to the State Office of Administrative Hearings (SOAH), which will conduct a contested case hearing. A SOAH judge will then submit a recommendation to the Commission to approve or deny the application.

The Commission's evaluation of a hearing request is based on Texas Water Code Chapter 5, which provides the Commission need not grant a hearing request if the requester does not have a personal justiciable interest. The

Commission's rules on processing hearing requests are at 30 Texas Administrative Code, Chapter 55. The "personal justiciable interest" requirement means that a hearing requester must be impacted personally, not just as a member of the general public, by the Commission's decision on the application. Also, the hearing requester's interest must be "justiciable," meaning the Commission will grant hearing requests only if the requester complains of matters within the Commission's authority. So a hearing request complaining of other matters outside the Commission's authority would be denied.

The Alternative Dispute Resolution Office may contact hearing requesters to learn if they would participate in informal discussions with the applicant and a mediator. The Public Interest Counsel may also provide information on the processing of hearing requests.

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MAILING LIST
POLK COUNTY FWSD 2
DOCKET NO. 2007-1895-DIS; TCEQ INTERNAL CONTROL NO. 07132006-D07

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FOR ALTERNATIVE DISPUTE
RESOLUTION

Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
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Fax: (512) 239-4015

FOR THE CHIEF CLERK:

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Texas Commission on Environmental Quality
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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

July 31, 2008

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DOCKET NO. 2007-1895-DIS; TCEQ INTERNAL CONTROL NO. 07132006-2007

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