

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 15, 2008

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

Re: Application by Aqua Utilities, Inc. for new Permit No. WQ0014754001 and related filings; TCEQ Docket No. 2008-0486-MWD.

CHIEF CLERKS OFFICE
2008 AUG 15 PM 4:43
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its September 10, 2008 public meeting. By letter dated August 14, 2008, Steve Berry, a requester in the above matter, submitted a letter stating that as a Hood County Commissioner he would be involved in County business at that time. He therefore requested a setting at some time in early October. Mr. Berry stated he had talked with the attorney for Aqua Utilities, Inc., Mark Zeppa, and that Mr. Zeppa had no problem with the request. The Office of General Counsel has contacted Celia Castro, attorney for the Commission's Executive Director (ED), and Scott Humphrey of the Office of Public Interest Counsel (OPIC), and neither oppose the requested continuance.

Accordingly, this matter is hereby continued to the Commission's public meeting of **Wednesday, October 8, 2008 at 9:00AM.** The meeting will take place in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

In addition, you are hereby notified that the deadlines for filing responses and replies have been re-set. Responses to the hearing requests by the Applicant, ED, or OPIC must be filed with the Chief Clerk's Office no later than **5:00 p.m. on Monday, September 15, 2008.** Any reply briefs by the requesters must be filed with the Chief Clerk's Office no later than **5:00 p.m. on Monday, September 29, 2008.** 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 about this matter, please contact Anne Rowland, Assistant General Counsel, at 512/239-6376.

Very truly yours,

Handwritten signature of Les Trobman in black ink.

Les Trobman
General Counsel

Mailing List

MAILING LIST
AQUA UTILITIES, INC.
DOCKET NO. 2008-0486-MWD; PERMIT NO. WQ0014754001

FOR THE APPLICANT:

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FOR ALTERNATIVE DISPUTE
RESOLUTION:

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**STEVE BERRY
HOOD COUNTY COMMISSIONER
PRECINCT 4**



1410 West Pearl OO GRANBURY, TEXAS 76048 OO 817-579-3300 OO FAX 817-579-0396

August 14th 2008

Chief Clerk of TCEQ
Texas Commission on Environmental Quality
Office of Chief Clerk MC 105
PO Box 13087
Austin TX 78711-3087

C/O Les Trobman

2008 AUG 14 PM 2:34
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

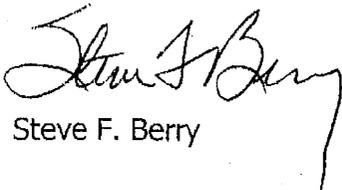
This letter is in response to letters and fax I sent out yesterday in regard to a hearing dated September 10th 2008 at 1:00 pm I am asking for a continuance due to me being associated with 2008-2009 Hood County Budget process. I am asking we postpone the hearing until October 2008, after visiting with Aqua Utility Counsel Mark Zeppa, he had no problems with a date change other than he could not be available from October 20-24 2008 due to 2 other hearings.

The hearing I am requesting to move is—Aqua Utilities, WQ0014754001

I have enclosed a letter sent out yesterday to 3 players involved in the case.

Thank you for your consideration and I await your decision.

Sincerely


Steve F. Berry



STEVE BERRY
HOOD COUNTY COMMISSIONER
PRECINCT 4



1410 West Pearl St. OO GRANBURY, TEXAS 76048 OO 817-579-3300 OO FAX 817-579-0396

August 13, 2008

Reference to –Aqua Utilities: 2008-0486-MWD; WQ0014754001

Mark Zeppa-Law Office
Celia Castro –ED TCEQ
Bias Coy- Public Interest Counsel –TCEQ

Per my phone conversation with Melissa Choa asking her about a delay or continued cause for above case....I am in the middle of Hood County Commissioners Court budget for 2008-2009 year and I would like to move the above case to October if all parties agree.

I spoke with Mr Mark Zeppa this a.m. and ask him if a move would be a problem and what would work for his office. Mr Zeppa had no problem with date change and only time in October that would not work for him or his office was 3rd week of October (October 20-24). I left phone message for Celia Castro and decided to fax all parties involved so if the date changed is approved we can advise all parties with plenty of time so no one changes there schedules.

Please advise if there is a problem or if any more information is needed. Thanks for the date change consideration.

Steve Berry
Hood Co. Commissioner Pct 4
817-579-3300
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817-408-7030 cell

sfberry@co.hood.tx.us email

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 1, 2008

TO: Persons on the Attached Mailing List

RE: Docket No. 2008-0486-MWD
Aqua Utilities, Inc.
Request(s) filed on Permit No. WQ0014754001

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 10, 2008**. The meeting will begin at **1:00 p.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 15, 2008**. 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 **August 29, 2008**.

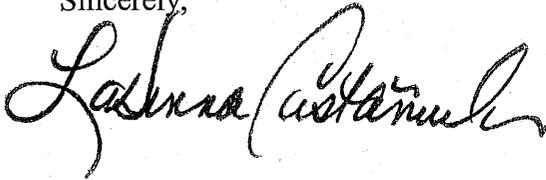
An original and 11 copies of any response or reply must be filed with the Chief Clerk of the TCEQ. The address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response 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 black ink, appearing to read "LaDonna Castañuela". The signature is fluid and cursive, with the first name being the most prominent.

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
AQUA UTILITIES, INC.
DOCKET NO. 2008-0486-MWD; PERMIT NO. WQ0014754001

FOR THE APPLICANT:

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