

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 7, 2009

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

Re: Application by City of Dripping Springs for TPDES Permit No. WQ0014488002; TCEQ Docket No. 2009-0012-MWD.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its April 8, 2009 public meeting. On April 7, 2009, Andrew Hawkins, on behalf of the sole Protestant, Save Our Springs Alliance, requested a continuance in the above-referenced matter to allow for continuing settlement discussions. Mr. Hawkin's letter states that all parties, including Susan Zachos, representing the City of Dripping Springs, Chris Ekoh, representing the Executive Director, and Blas Coy, representing the Office of Public Interest Counsel have agreed to a two-week continuance. 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 until the May 6, 2009 public meeting. The meeting will take place in Room 201S of Building E, 12100 Park 35 Circle, Austin, Texas.

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

Very Truly Yours,

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

Les Trobman
General Counsel

Mailing List

Mailing List
City of Dripping Springs
TCEQ Docket No. 2009-0012-MWD

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S.O.S.

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 APR -7 PM 3:17

CHIEF CLERKS OFFICE

SAVE OUR SPRINGS ALLIANCE

April 7, 2009

Les Trobman
General Counsel
Texas Commission on Environmental Quality
Via Email: ltrobman@tceq.state.tx.us

Re: Joint Request for Two-Week Continuance of Item #5 of April 8, 2009, TCEQ Commissioners Meeting; Docket No. 2009-0012-MWD: Consideration of application by City of Dripping Springs for a new permit, proposed Permit No. WQ0014488002

Dear Mr. Trobman:

This morning at our offices Bill Bunch and I, as attorneys for the sole Protestant, Save Our Springs Alliance, met with representatives of the Applicant, the City of Dripping Springs, including their attorney of record, Ms. Susan Zachos, and the developer of Scenic Greens, Mr. Ted Stewart.

All parties are working diligently to achieve a settlement and have resolved to herein jointly request a two-week continuance of tomorrow's setting before the TCEQ Commissioners. Ms. Zachos has talked to Mr. Chris Ekoh for the Executive Director about the continuance, and I have talked to Mr. Blas Coy in the Office of Public Interest Counsel. Through their representatives, the Executive Director and OPIC have both indicated that they are agreeable to a two-week continuance.

We apologize for the late notice of this joint request for continuance, but would respectfully request that the TCEQ Commissioners grant this continuance in the interest of having all the parties continue to work toward a settlement in the next two weeks.

Sincerely,



Andrew Hawkins
Staff Attorney
Save Our Springs Alliance

Cc:

Susan Zachos, Attorney for the City of Dripping Springs, zachos@zachoslaw.com
Blas Coy, for Public Interest Counsel, bcoy@tceq.state.tx.us
John Williams, for Executive Director, johwilli@tceq.state.tx.us
Chris Ekoh, for Executive Director, cekoh@tceq.state.tx.us
TCEQ Chief Clerk's Office, Via Fax: (512) (512) 239-3311



SAVE OUR SPRINGS
ALLIANCE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 APR -7 PM 3:17

CHIEF CLERKS OFFICE

FACSIMILE TRANSMITTAL SHEET

TO: TCFQ Chief Clerk FROM: Andrew Hawkins

COMPANY: _____ DATE: 4/7/09

FAX NUMBER: 239-3311 TOTAL NO. OF PAGES INCLUDING COVER: 2

PHONE NUMBER: _____ SENDER'S FAX NUMBER: (512) 477-6410

RE: copy of Joint request for continuance SENDER'S PHONE NUMBER: (512) 477-2320

- URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

I think Mr. Trobman will contact you all about the proper filing of this, but I wanted to send a copy for now in any case.

Thank you,

Andrew Hawkins

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 4, 2009

TO: Persons on the Attached Mailing List

**RE: Docket No. 2009-0012-MWD
City of Dripping Springs
Request(s) filed on Permit No. WQ0014488002**

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 **April 8, 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 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 **March 16, 2009**. 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 **March 30, 2009**.

An original and 7 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, reading "LaDonna Castañuela". The signature is written in black ink and is positioned below the word "Sincerely,".

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 DRIPPING SPRINGS
DOCKET NO. 2009-0012-MWD; PERMIT NO. WQ0014488002

FOR THE APPLICANT:

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FOR OFFICE OF PUBLIC ASSISTANCE:

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FOR ALTERNATIVE DISPUTE
RESOLUTION:

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Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
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FOR THE CHIEF CLERK:

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*Please see attached for complete list
of Requesters and Interested Persons.*

REQUESTER(S)

ANDREW HAWKINS
SAVE OUR SPRINGS ALLIANCE
PO BOX 684881
AUSTIN TX 78768-4881

WITHDRAW OF REQUEST(S)

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DRIPPING SPRINGS TX 78620

KEVIN GLASS
3600 HWY 290 W
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