

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 10, 2009

TO: Persons on the attached mailing list.

RE: Champion Technologies, Inc.
TPDES Permit No. WQ0004306000

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Missouri City Branch, Fort Bend County Library, 1530 Texas Parkway, Missouri, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

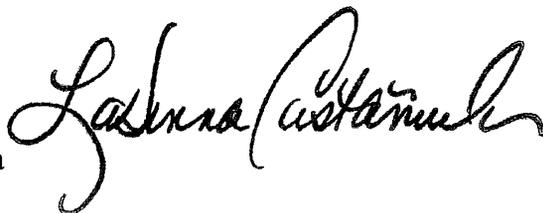
Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,

LaDonna Castañuela
Chief Clerk



LDC/lg

Enclosures

MAILING LIST
for
Champion Technologies, Inc.
TPDES Permit No. WQ0004306000

FOR THE APPLICANT:

Jim Scialabba
Champion Technologies, Inc.
3130 Farm-to-Market Road 521
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PROTESTANTS/INTERESTED PERSONS:

See attached list.

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via electronic mail:

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TPDES PERMIT NO. WQ0004306000

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CHIEF CLERKS OFFICE

APPLICATION BY

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BEFORE THE

CHAMPION TECHNOLOGIES

TEXAS COMMISSION ON

TPDES PERMIT NO. WQ0004306000

ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by Champion Technologies and the Executive Director's preliminary decision. As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters and requests for a public meeting from the following persons: The Honorable Rodney Ellis, State Senator, The Honorable Dora Olivo, State Representative, and Rodrigo Carreon. At the public meeting formal oral comments were received from Rodrigo Carreon, Dora Blossom, Bertin Duarte, Javier Flores, Victor Herrera, Erma Holdman, Javier Marquez, Victor Martinez, Francisco Palomo, and Gil Velez. State Representative Dora Olivo, Rodrigo Carreon, Patricia Barboza, and Ramsey Barboza submitted written comments at the public meeting. This response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the wastewater permitting process, please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

I. BACKGROUND

A. Description of Facility

Champion Technologies, Inc., which operates the Fresno Plant, has applied to the TCEQ for a renewal of TPDES Permit No. WQ0004306000, which authorizes the discharge of cooling tower blowdown, storm water run-off, and previously monitored effluent (boiler blowdown) at a daily average flow not to exceed 4,400 gallons per day via Outfall 001; and boiler blowdown on an intermittent and flow variable basis via Outfall 101. Outfall 001 effluent limitations are as follows: pH has a minimum limitation of 6.0 standard units and a maximum limitation of 9.0 standard units, free available chlorine has a daily average limitation of 0.20 mg/l and a daily maximum limitation of 0.50 mg/l, total copper has a daily average limitation of 0.075 mg/l and a daily maximum limitation of 0.16 mg/l, 5-day biochemical oxygen demand (BOD₅) has a report requirement for both the daily average and daily maximum limitations, total zinc has a daily average limitation of 0.54 mg/l and a daily maximum limitation of 1.14 mg/l, and *E.coli* has a daily average limitation of 120 colonies/100 mls and a daily maximum limitation of 200 colonies/100 mls. Internal Outfall 101 effluent limitations are as follows: total suspended solids daily average limitation of 30 mg/l and a daily maximum limitation of 100 mg/l, oil and grease daily average limitation of 15 mg/l and a daily maximum limitation of 20 mg/l, and pH has a minimum limitation of 6.0 standard units and a maximum limitations of 9.0 standard units

The facility is located at 3130 Farm-to-Market Road 521, approximately 2.25 miles north of the intersection of Farm-to-Market Road 521 and State Highway 6, in the City of Fresno, Fort Bend County, Texas. The effluent is discharged into a county drainage ditch, then to Mustang Bayou, then to Persimmon Bayou, then to New Bayou, then to Chocolate Bay in Segment No. 2432 of the Bays and Estuaries. The unclassified receiving waters have no significant aquatic life use for the county drainage ditch, and high aquatic life use for Mustang Bayou. The designated uses for Segment 2432 are high aquatic life use, contact recreation, and oyster waters.

B. Procedural Background

The application was received on June 3, 2008, declared administratively complete on July 14, 2008, and declared technically complete on September 16, 2008. The Notice of Receipt of Application and Intent to Obtain Water Quality Permit Renewal (NORI) was published in the *Houston Chronicle* on July 31, 2008 and in *La Voz de Houston* on July 30, 2008. The Executive Director prepared a draft permit and the Notice of Application and Preliminary Decision for Water Quality TPDES Permit Renewal for Industrial Wastewater (NAPD) was published in the *Houston Chronicle* on November 20, 2008 and *La Voz de Houston* on November 19, 2008. Notice of a Public Meeting on an Application for a Water Quality TPDES Permit for Industrial Wastewater was published in the *Houston Chronicle* on December 4, 2008. A public meeting was held on January 8, 2009 at the Mustang Community Center in Fresno, Texas, at which time the comment period closed. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801, 76th Legislature, 1999.

C. Access to Rules, Laws, and Records

Please consult the following websites to access the rules and regulations applicable to this permit:

- Secretary of State website: www.sos.state.tx.us
- For TCEQ rules in Title 30 of the Texas Administrative Code: www.sos.state.tx.us/tac/ (select "TAC Viewer" on the right, then "Title 30 Environmental Quality")
- For Texas statutes: www.capitol.state.tx.us/statutes/statutes.html
- To access the TCEQ website: www.tceq.state.tx.us (for downloadable rules in WordPerfect or Adobe PDF formats, select "Rules, Policy, & Legislation," then "Rules and Rulemaking," then "Download TCEQ Rules")
- For Federal rules in Title 40 of the Code of Federal Regulations: www.epa.gov/epahome/cfr40.htm
- For Federal environmental laws: www.epa.gov/epahome/laws.htm

Commission records for this facility are available for viewing and copying at the TCEQ's main office in Austin, 12100 Park 35 Circle, Building F, 1st Floor (Office of Chief Clerk). The application for this facility has been available for viewing and copying at the Missouri City Branch, Fort Bend County Library, 1530 Texas Parkway, Missouri City, Texas since publication of the NORI. The draft permit, statement of basis/technical summary, and Executive Director's preliminary decision have been available for viewing and copying at the same location since publication of the NAPD.

II. COMMENTS AND RESPONSES

COMMENT 1:

State Representative Dora Olivo requested the TCEQ staff to thoroughly review the draft permit. Representative Olivo expressed concerns about contamination of public water wells by the discharge from the facility. Rodrigo Carreon, Dora Blossom, Bertin Duarte, Javier Marquez, and Victor Martinez expressed concern over the potential for chemicals in the discharge to contaminate the public drinking water supply.

RESPONSE 1:

When the TCEQ receives a permit application it goes through an administrative and technical review. The administrative review determines if the Administrative Report Section of the application has been completed in accordance with all applicable statutes and TCEQ regulations. The technical review begins with the Water Quality Standards and Assessment (WQSA) Section. They provide recommendations used in the draft permit. They determine the designated uses of the water body segment that is receiving the proposed discharge, the critical conditions for the water body (i.e. low flow) when the water body is most susceptible to adverse effects, the effluent limitations (numeric or narrative) to ensure that the dissolved oxygen criteria for the water body is maintained, and the whole-effluent toxicity testing requirements. Once the WQSA Section's review is completed, the permit application is assigned to a permit writer. The permit writer reviews the information about the facility and the proposed discharge and develops technology-based effluent

limitations based on federal effluent guidelines if applicable. Using the permit application and recommendations from the WQSA Section, the permit writer develops water quality-based effluent limitations. The permit writer then compares the technology-based limitations with the water quality-based effluent limitations and applies the more protective limits in the draft permit.

Because this is a permit renewal request, Champion Technologies collected effluent data from four separate discharges and submitted the results with the application. The effluent data was compared against water quality-based effluent limits derived using information provided by the Water Quality Assessments Section. The effluent data did not show pollutants that have the potential to exceed the water quality criteria, therefore additional monitoring, effluent limits, and/or other controls were not necessary in the draft permit to ensure protection of human health and aquatic life in the receiving stream.

The existing permit contains water quality-based effluent limits for total copper and total zinc at Outfall 001 that have been continued in the draft permit. Existing water quality-based limits were compared to those calculated in Appendix A in the Statement of Basis. The newly calculated water quality-based limits are the same as those in the existing permit; therefore, the existing limits are still protective and are continued in the draft permit.

BOD₅ report requirements were added to the draft permit based on the analytical data submitted in the application and recommendations from the Water Quality Assessments Section. No significant dissolved oxygen depletion would normally be expected to occur in the receiving waters as a result of this type of discharge. However, due to the elevated BOD₅ and five-day carbonaceous biochemical oxygen demand (CBOD₅) concentrations submitted with the application, a monitoring requirement has been included in the draft permit for BOD₅ so more information about the discharge may be obtained.

Technology-based effluent limitations in the existing permit were developed using Title 40 Code of Federal Regulations (CFR) Part 423.15(c), pertaining to Steam Electric Power Generating. This facility is not specifically subject to this effluent guideline because it is not a Steam Electric Power Generating Station. However, this guideline has requirements for cooling tower and boiler blowdown wastewater which are amenable to the instant permit and the effluent limits imposed. Outfall 101 technology-based effluent limitations were included for TSS, oil and grease, and pH.

Outfall 001 technology-based effluent limitations were included for pH and free available chlorine, are applied to the discharge of cooling tower blowdown, and are based on Best Professional Judgment using 40 CFR 423.15 (a) & (j)(1)(2) as guidance.

This permit does not authorize the discharge of process wastewater by the Applicant. The discharge from Outfall 001 consists of cooling tower blowdown, boiler blowdown and storm water runoff. The storm water runoff discharged through Outfall 001 does not come into contact with chemicals used or manufactured on site. Wastewater that comes into contact with raw material during production of organic chemicals (process wastewater) is not authorized to be discharged from this facility. Pursuant to Other Requirements number 6 of the draft permit, process wastewater must be routed to a sanitary sewer system or transported off-site for disposal at an authorized facility. The Executive Director expects ground water and public water supply to be protected from contamination if the Applicant operates and maintains the facility in accordance with all applicable laws and the requirements in the draft permit.

In accordance with Section 305.125(9) of the Commission rules, the permittee is required to report any noncompliance with the permit that could endanger human health, safety, or the environment to the TCEQ. The permittee shall report such information orally or by facsimile transmission to the Regional Office within 24 hours of becoming aware of the noncompliance. Should these conditions and/or other potential violations of the TPDES draft permit be observed at the facility, observers are encouraged to report an environmental complaint by calling toll-free, 1-888-777-3186 or calling the TCEQ, Region 12 Office, at (713) 767-3500. On a complaint basis, the regional investigators will investigate the conditions at the facility. If the regional investigator documents a violation of TCEQ regulations or conditions included in the TPDES permit, then appropriate action will be taken.

COMMENT 2:

Rodrigo Carreon requested that when renewing the permit for this facility the TCEQ consider improving the water quality issues affecting the surrounding community. Mr. Carreon expressed concern that the discharge of 4,400 gallons a day of wastewater from this facility may damage the surface water quality of the American Canal, Mustang Bayou, and Chocolate Bayou. Mr. Carreon

requested that the permit limits protect the public water well (Fresh Water Supply District #1). Mr. Carreon expressed concern with a possible wastewater pond onsite at the facility that is not covered under the permit. Mr. Carreon also expressed concern that the wastewater does not follow the discharge route stated in the permit.

RESPONSE 2:

The TCEQ appreciates Mr. Carreon's comments on the proposed draft permit. 30 TAC, Chapter 307 designates the criteria for the protection of surface water quality in the state. The document *Procedures to Implement the Texas Surface Water Quality Standards*, January 2003 (Implementation Procedures) provides guidance for implementing these criteria in wastewater permits. The effluent data from the discharge at the facility was compared against Water Quality Based effluent limitations calculated for the receiving stream. The data received was below the limitations necessary to maintain the protection of aquatic life and human health. Therefore, the draft permit should be protective of water quality in the receiving stream when the Applicant operates and maintains the facility according to the requirements of the draft permit.

In response to Mr. Carreon's concerns, on January 12, 2009 a TCEQ investigator from Region 12 conducted an investigation of the facility. A site visit was conducted to address the concerns with an onsite wastewater pond. The entire facility was inspected and no wastewater pond was found. According to the Applicant, there used to be a wastewater pond along the southwest area of the facility, and the pond was closed in accordance with TCEQ closure regulations.

During the investigation on January 12, 2009, TCEQ regional staff also inspected the discharge route. The investigator found that the receiving stream, a wide flat county drainage ditch, runs in front of the entire facility. This receiving stream addressed the drainage concerns raised by Mr. Carreon. Near the north end of the facility, outfall 001 discharges into the county drainage ditch. The county drainage ditch was overgrown with cat tails and other vegetation. The vegetative growth and the wide flat nature of the drainage ditch slow down the water flow in the ditch. The vegetative growth extended approximately 20 feet to the south and 1000 feet to the north of outfall 001. The vegetative growth indicates moist conditions where the water is not rapidly flowing through the

ditch. The predominance of the vegetative growth to the north indicated that the flow generally goes northward. Therefore, the flow from outfall 001 flows in accordance with the permit.

COMMENT 3:

Patricia and Ramsey Barboza requested that TCEQ or the Applicant provide a translation service during a public meeting when attendees of the meeting do not speak English.

RESPONSE 3:

TCEQ rules currently do not require the Executive Director or the Applicant to provide a bilingual interpreter at a public meeting. However, in response to the Spanish speaking participants present at the public meeting held on January 8, 2009 in Fresno, Texas, the Executive Director and TCEQ Office of Public Assistance made efforts to encourage formal comments on the record, even if they were not in English. The Office of Public Assistance facilitated the public meeting; received all Spanish comments; the comments were later translated by TCEQ staff from the audio recording of the meeting; and are included in this Response to Public Comments.

COMMENT 4:

Rodrigo Carreon, Dora Blossom, Bertin Duarte, Javier Flores, Victor Herrera, Javier Marquez, Victor Martinez, and Gil Velez expressed concern about the chemicals that were discharged from the facility. Javier Flores and Victor Herrera asked what specific chemicals were discharged from the facility. Gil Velez requested to know whether Champion Technologies, Inc., could recycle the chemicals instead of discharging them into the stream.

RESPONSE 4:

The chemicals produced and manufactured at this facility are not permitted to be discharged via Outfall 001 under the draft permit. Wastewater that comes into contact with raw material during production of organic chemicals (process wastewater) is not authorized to be discharged from this facility. Pursuant to Other Requirements number 6 of the draft permit, process wastewater must be routed to a sanitary sewer system or transported off-site for disposal at an authorized facility.

The draft permit identifies and establishes effluent limits for constituents that have the potential to arise in the proposed discharge. These constituents are separate and distinct from the process wastewater, as well as the chemicals produced at the facility. The limitations established in the draft permit should ensure that the constituents at the point of discharge should not cause adverse impact to the receiving stream, human health, safety or the environment. The Executive Director expects ground water and public water supply to be protected from contamination if the Applicant operates and maintains the facility in accordance with all applicable laws and the requirements in the draft permit.

In accordance with Section 305.125(9) of the Commission rules, the permittee is required to report any noncompliance with the permit that could endanger human health, safety, or the environment to the TCEQ. The permittee shall provide this information orally or by facsimile transmission to the Regional Office within 24 hours of becoming aware of the noncompliance. Should these conditions and/or other potential violations of the TPDES draft permit be observed at the facility, observers are encouraged to report an environmental complaint by calling toll-free, 1-888-777-3186 or calling the TCEQ, Region 12 Office, at (713) 767-3500. On a complaint basis, the regional investigators will investigate the conditions at the facility. If the regional investigator documents a violation of TCEQ regulations or conditions included in the TPDES permit, then appropriate action will be taken.

Finally, the draft permit for this facility is limited to establishing effluent limitations for the proposed discharge and does not permit the Applicant to recycling the effluent, process wastewater, or the chemicals manufactured at the facility.

COMMENT 5:

Erma Holdman expressed concern about chemicals going into the soil and asked whether there were any public notification procedures addressing what was going into the soil, or being discharged and how much.

RESPONSE 5:

This permit prohibits the discharge of process wastewater. Therefore chemicals used and

produced at the facility will not be leached into the soil or discharged from this facility. Any wastewaters that contain raw product (process wastewater) are removed and must be routed to a sanitary sewer system or transported off-site for disposal at an authorized facility, pursuant to Other Requirements number 6 of the draft permit.

Any noncompliance that may endanger human health or safety, or the environment must be reported by the permittee to the TCEQ. The permittee shall provide this information orally or by facsimile transmission to the Regional Office within 24 hours of becoming aware of the noncompliance.

COMMENT 6:

Dora Blossom requested to know if there have been previous effluent samples analyzed from the discharge at Outfall 001 and, if so, did the samples identify any problems from the discharge at Outfall 001. Ms. Blossom also expressed concern that the proposed discharge from this facility would cause potential harm to people and livestock living in close proximity to the facility.

RESPONSE 6:

Effluent limitations reported in the application were compared against water quality standards for the receiving stream. None of the effluent data reported in the application exceeded the standard criteria for the protection of aquatic life or human health.

Both 30 TAC Chapter 307 and the Implantation Procedures provide the regulatory framework for the regulation of water in the state to protect human health, safety, and the environment. The designated uses for Segment 2432 of the Bays and Estuaries include contact recreation. The proposed permit was drafted in accordance with 30 TAC Chapter 307 and the Implementation Procedures, and should be protective of human health in the receiving stream when the Applicant operates and maintains the facility according to the requirements of the draft permit. Should these conditions and/or other potential violations of the TPDES permit be observed at the facility, observers are encouraged to report an environmental complaint by calling toll-free, 1-888-777-3186 or calling the TCEQ, Region 12 Office, at (713) 767-3500. On a complaint basis, the regional investigators will investigate the conditions at the facility. If the regional investigator documents a

violation of TCEQ regulations or conditions included in the TPDES permit, then appropriate action will be taken.

Furthermore, 30 TAC Chapter 307 also states that surface waters cannot be made toxic to aquatic or terrestrial organisms. While 30 TAC Chapter 307 and the Implementation Procedures do not specifically designate criteria for the protection of livestock, they do designate criteria for the protection of aquatic life and human health that should preclude impacts to the health and performance of livestock.

A guidance document provided by the Texas Agricultural Extension Service entitled *Water Quality: Its Relationship to Livestock* (Doc. No. L2374) states that the most common water quality problems affecting livestock production are high mineral concentrations (excess salinity), high nitrogen, bacteria contamination, heavy growths of blue-green algae, petroleum, pesticide, and fertilizer spills.

The constituents of concern mentioned in the document are generally not associated with the waste streams generated from this facility; therefore the wastewater discharged from this facility should not affect livestock.

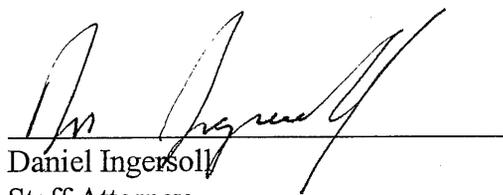
No changes were made to the draft permit in response to the comments above.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

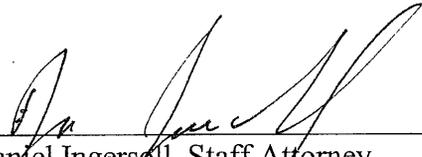
A handwritten signature in black ink, appearing to read "Dan Ingersoll", is written over a horizontal line.

Daniel Ingersoll
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on March 6, 2009, the "Executive Director's Response to Public Comment" for Permit No. WQ0004306000 was filed with the Texas Commission on Environmental Quality, Office of the Chief Clerk.



Daniel Ingersoll, Staff Attorney
Environmental Law Division
State Bar No. 24062792

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CHIEF CLERKS OFFICE