

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*



Blas J. Coy, Jr., *Public Interest Counsel*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

April 26, 2010

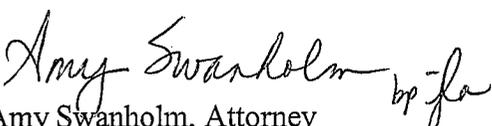
LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087

Re: NAVARRO GENERATING, LLC
TCEQ DOCKET NO. 2010-0403-IWD

Dear Ms. Castañuela:

Enclosed for filing is the Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration in the above-entitled matter.

Sincerely,


Amy Swanholm, Attorney
Assistant Public Interest Counsel

cc: Mailing List

Enclosure

REPLY TO: PUBLIC INTEREST COUNSEL, MC 103 P.O. Box 13087 AUSTIN, TEXAS 78711-3087 512-239-6363

P.O. Box 13087

Austin, Texas 78711-3087

512-239-1000

Internet address: www.tceq.state.tx.us

TCEQ DOCKET NO. 2010-0403-IWD

**IN THE MATTER OF
THE APPLICATION OF
 NAVARRO
GENERATING, LLC
FOR PERMIT NO.
 WQ0004870000**

§
§
§
§
§
§

**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY**

**THE OFFICE OF PUBLIC INTEREST COUNSEL'S
RESPONSE TO REQUESTS FOR HEARING AND REQUESTS FOR
RECONSIDERATION**

TO THE HONORABLE MEMBERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW, the Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (the Commission or TCEQ) with a Response to Requests for Hearing and Reconsideration in the above-referenced matter.

I. INTRODUCTION

A. Background of Facility

Navarro Generating LLC, (Navarro or Applicant), which proposes to operate Navarro Energy Center, has applied to the Texas Commission on Environmental Quality (TCEQ) for a new permit, proposed Texas Pollutant Discharge Elimination System Permit No. WQ0004870000. The permit would be connected with a natural gas fired combined cycle electric generating facility that receives raw water from the City of Corsicana. The proposed permit would authorize the discharge of wastewater containing cooling tower blowdown and low volume waste sources (evaporation cooler blowdown, cation/anion mixed bed waste, media filter backwash, and eye wash and shower wash) and stormwater. Cation/anionmixed bed waste would be routed to a neutralization system for treatment prior to discharge. The remaining wastewater, including cooling tower

blowdown and low volume waste sources will also be discharged, but without any treatment, at the same location (Outfall 01). This discharge would have a daily average flow not to exceed 1,430,000 gallons per day. The proposed permit would also authorize discharge of storm water after being routed to a retention pond on an intermittent and variable basis from a different outfall (Outfall 02).

The facility would be located at the intersection of Farm-to-Market Road 1394 and Southwest County Road 2100, approximately 3.3 miles southwest of Richland in Navarro County, Texas. The effluent would be discharged to an unnamed tributary of Little Pin Oak; thence to Little Pin Oak; thence to Richland-Chambers Reservoir, in Segment No. 0836 of the Trinity River Basin. The unclassified receiving waters have no significant aquatic life use for the unnamed tributary of Little Pin Oak Creek and Little Pin Oak Creek. The designated uses for Segment No. 0836 are high aquatic life use, contact recreation, and public water supply. A Tier 1 antidegradation review has preliminarily determined that existing water quality uses will not be impaired by this permit action.

B. Procedural Background

TCEQ received this application on October 22, 2008. On November 13, 2008, the Executive Director (ED) declared the application administratively complete. The Notice of Receipt and Intent to Obtain Water Quality Permit (NORI) was published in *The Corsicana Daily Sun* on November 29, 2008, and *La Prensa Comunidad* on December 10, 2008. The Notice of Application and Preliminary Decision (NAPD) was published in *The Corsicana Daily Sun* on July 2, 2009 and *La Prensa Comunidad* on June 29, 2009. A public meeting was held in Corsicana on December 7, 2009. The public comment period ended on December 7, 2009. The Chief Clerk mailed the Executive Director's Response to Comments and the Executive Director's Decision on February 10, 2010. The deadline to request a contested case hearing or request for reconsideration was March 12, 2010.

TCEQ received numerous individual, timely hearing requests and requests for reconsideration as discussed in further detail in Section II below. Also, Wendi Hammond submitted a request for reconsideration and a hearing request on behalf of Citizens

Opposed to Power Plants and COPPS for Clean Air, and KIDS for Clean Air. TCEQ also received four untimely requests from Tina Roberts Denbow, Barbara Roberts, Daniel Roberts, and Tonya Roberts.¹

Based on timely hearing requests from Bryan Downs, Constance Jones, Ella Mae Jones, Patricia Jones, Daniel Roberts, Barbara Roberts, and James Thompson (who submitted Letter B and stated how they are affected) and Wendi Hammond on behalf of Citizens Opposed to Power Plants and COPPS for Clean Air, and KIDS for Clean Air, and for the reasons discussed below, OPIC recommends referring this application to the State Office of Administrative Hearings (SOAH) for a contested case hearing.

II. ANALYSIS OF REQUESTS FOR RECONSIDERATION

A. Applicable Law

Section 55.201(e) of the TCEQ procedural rules states that any person may file a request for reconsideration of the executive director's decision, and the request must expressly state that the person is requesting reconsideration of the executive director's decision and give reasons why the decision should be reconsidered. 30 Tex. Admin. Code § 55.201(e). The request must be in writing and filed with the Chief Clerk no later than 30 days after the Chief Clerk mails the ED's decision and response to comments. *Id.*

B. Requests for Reconsideration

Wendi Hammond on behalf of Citizens Opposed to Power Plants, COPPS for Clean Air and KIDS for Clean Air filed a request for reconsideration, as did Helen J. Hyden. Letter A,² submitted by thirty three individuals, also requests reconsideration of the ED's decision.

The requests for reconsideration rely on substantially similar issues cited to support the hearing requests. An evidentiary record would be necessary for OPIC to make a recommendation to the Commission on whether the ED's decision to issue the

¹ Each of these requestors also submitted timely requests and are included on the list of timely requestors contained in Appendix B.

² See Appendix A.

permit should be reconsidered, based on these issues. Accordingly, OPIC recommends denying the requests for reconsideration.

III. ANALYSIS OF REQUESTS FOR CONTESTED CASE HEARINGS

A. Applicable Law

This application was declared administratively complete after September 1, 1999, and is subject to the requirements of Texas Water Code (TWC) § 5.556 added by Acts 1999, 76th Leg., ch 1350 (commonly known as "House Bill 801"). Under the applicable statutory and regulatory requirements, a hearing request must substantially comply with the following: give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request; identify the requestor's personal justiciable interest affected by the application showing why the requestor is an "affected person" who may be adversely affected by the proposed facility or activity in a manner not common to members of the general public; request a contested case hearing; list all relevant and material disputed issues of fact that were raised during the comment period that are the basis of the hearing request; and provide any other information specified in the public notice of application. 30 TAC § 55.201(d). Under 30 TAC § 55.203(a), 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." This justiciable interest does not include an interest common to the general public. 30 TAC § 55.203(c) also provides relevant factors that will be considered in determining whether a person is affected. These factors include:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

A group or association may request a contested case hearing if:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.

30 TAC § 55.205(a). The ED, OPIC, or applicant may request the group or association provide an explanation of how the group or association meets these requirements. 30 TAC § 55.205(b).

The Commission shall grant an affected person's timely filed hearing request if: (1) the request is made pursuant to a right to hearing authorized by law; and (2) the request raises disputed issues of fact that were raised during the comment period and that are relevant and material to the commission's decision on the application. 30 TAC §55.211(c).

Accordingly, pursuant to 30 TAC § 55.209(e), responses to hearing requests must specifically address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's response to Comment;
- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

B. Determination of Affected Person Status

Numerous individuals and three citizens groups request a contested case hearing. Thirty three individuals submitted identical letters requesting a contested case hearing and also requesting the ED's decision be reconsidered. A list of these individuals, (Group A) and a copy of one of the identical letters (Letter A) is included in Appendix A. Ten individuals submitted a different form letter requesting a contested case hearing and

listing several reasons that each individual may be affected. A list of these individuals, (Group B) and a copy of one of the identical letters (Letter B) which list various reasons that each individual claims to be affected, is included in Appendix B. Wendi Hammond submitted a hearing request on behalf of Citizens Opposed to Power Plants and COPPS for Clean Air, and KIDS for Clean Air.

Based on timely hearing requests from Bryan Downs, Constance Jones, Ella Mae Jones, Patricia Jones, Daniel Roberts, Barbara Roberts, James Thompson, and Wendi Hammond on behalf of Citizens Opposed to Power Plants, COPPS for Clean Air, and KIDS, OPIC recommends referring this application to SOAH for a contested case hearing.

1. Letter A

Thirty three individuals submitted identical letters requesting a contested case hearing and requesting reconsideration. The letter also lists reasons that ED should reconsider its decision to grant the draft permit. This letter expresses concern with the adequacy of the receiving stream, TCEQ's procedure for evaluating applications and its evaluation of Navarro's application, human health toxic criteria, lack of effluent data in the application, decreased access to property by affected landowners because of water and erosion, freshwater toxicity testing, the construction of the draft permit, and whether TCEQ is acting in accordance with the 14th Amendment of the U.S. Constitution.

None of the individuals submitting this letter have provided sufficient information to show that a reasonable relationship exists between the interest claimed and the activity regulated. The ED has provided a map showing the property location of as many of the hearing requestors as the ED could identify. All of the individuals whose property could be located by the ED own property over 10 miles downstream from the proposed discharge. Without additional information showing how the individuals are impacted in a manner not common to the general public, OPIC cannot recommend that any of the hearing requestors submitting Letter A are affected. In other words, they have not stated any personal justicable interest. But, OPIC would recommend these individuals, especially those individuals whose property could not be located by the ED,³ be given an

³ The ED's map lists the following requestors' addresses as "Not Found": JJ Horan, Dan Lawrence,

opportunity to show, at SOAH, whether their property is located along the downstream waterway or in close enough proximity to the proposed facility that the issues raised in the hearing request will personally impact them.

2. Letter B

Ten individuals submitted separate identical letters requesting a contested case hearing. The letter states that they are concerned about water quality and the large volumes of wastewater containing numerous harmful contaminants to be discharged from the proposed facility and that the discharge may cause degradation and poor water quality leading to unsafe drinking water and unsanitary water generally.

All but one individual who submitted a copy of this letter state that they are affected because the creek runs across their property. All state they use water for gardening, residential purposes, and other purposes, and this water may be impacted by the proposed facility's discharge.

Several of these Letter B requests are deficient because of conflicting or missing information. Tina Roberts Denbow and Tonya Roberts, state they own property that would be bisected by the proposed discharge. But, according to the ED's map, they do not appear to own property on the waterway or even within several miles of the proposed facility. Vicky Prater did not specify how she is affected. Therefore OPIC cannot find that these individuals are affected. Should the Commission grant the hearing requests of other requestors as recommended below, these requestors may present evidence at the preliminary hearing to support their assertions that they have a personal justiciable interest.

OPIC finds the following individuals who submitted a copy of Letter B are affected: Bryan Downs; Constance Jones; Ella Mae Jones; Patricia Jones; Daniel Roberts; Barbara Roberts; and James Thompson. They own property bordering the unnamed tributary and downstream of the discharge points, have animals and wildlife that drink from the creek, have children and workers that access the creek, and may be impacted by the overflow of the receiving waters. They are also concerned with water quality,

Jennifer Muir, Bob Robert, Fran Nickell, Vicky Prater, Lonnie Strebeck, Deanna Tompkins, and Tommy Tompkins.

degradation of Texas waterways, and contamination of drinking water sources. Therefore OPIC finds they are affected.

3. Citizens Opposed to Power Plants and COPPS for Clean Air, and KIDS for Clean Air

Wendi Hammond submitted a hearing request on behalf of Citizens Opposed to Power Plants and COPPS for Clean Air, and KIDS for Clean Air. The request states that the interests the group or association seeks to protect are germane to the organization's purpose because the groups seek to protect members from the adverse effects associated with power plants like the facility proposed by Navarro. Further, the request claims that neither the claims asserted nor the relief requested requires the participation of the organizations' individual members.

The hearing request claims that each organization has members that work and/or recreate in the immediate area and downstream of the proposed facility. Ms. Hammond states that Daniel Roberts and his family are members of Citizens Opposed to Power Plants (COPPS) and COPPS for Clean Air. The request also states that he is concerned the proposed facility will impact his property, livelihood, and/or aesthetic enjoyment of the downstream waterways, and general enjoyment of the outdoors. OPIC has already concluded that Daniel and Barbara Roberts are affected. Therefore, because the organizations meet all the requirements for a group to request a contested case hearing, COPPS and COPPS for Clean Air are affected.

The hearing request states that KIDS for Clean Air (KIDS) has standing through Jason Hammond, a resident of Plano who recreates with his family in the Richland-Chambers Reservoir. OPIC finds that because he recreates downstream of the proposed discharge and is concerned about the impact of the discharge upon his ability to recreate in the area, he would have standing in his own right. Therefore, because KIDS has met all the requirements for a group to request a contested case hearing, OPIC finds that KIDS is affected.

C. Issues Raised in the Hearing Requests

Letter B raises concerns about large volumes of wastewater containing harmful contaminants generated by the facility. The requestors are also concerned about water quality, and the possible degradation of water quality leading to unsafe public drinking water and unsanitary conditions.

Wendi Hammond's request on behalf of COPPS, COPPS for Clean Air, and KIDS lists the following issues:

- Whether the application and the draft permit comply with all federal and state laws and regulations;
- Whether the application and the draft permit would cause health hazards, nuisances, and/or other adverse effects to the public and environment;
- Whether the application and the draft permit would allow contamination of groundwater and surface water;
- Whether the application and the draft permit would comply with requisite analysis and use best available technology;
- Whether the application and the draft permit would allow violations of water quality standards;
- Whether the application and the draft permit would allow degradation of the receiving waters;
- Whether notice complied with all federal and state laws and regulations.

D. Issues raised in Comment Period

All of the hearing requests raise issues that were also raised during the comment period. Specifically, Vicky Prater's handwritten letter submitted to TCEQ on December 15, 2008, raises concerns about whether notice was sufficient, harmful constituents in the discharge, problems with the discharge route, and harm to the environment and drinking water sources. In a letter filed with TCEQ on June 23, 2009, she questions the impact the proposed discharge will have upon human health, wildlife, aquatic animals and plants, and children recreating in the effluent. In another handwritten letter submitted to the TCEQ on December 7, 2009, during the public meeting, she raised further concerns relating to human health and the environment.

In addition, all of the issues raised by Wendi Hammond's hearing request were also raised by her during the comment period.

E. Disputed Issues

There is no agreement between hearing requestors and the Applicant or Executive Director on the issues raised in the hearing requests.

F. Issues of Fact

If the Commission considers an issue to be one of fact, rather than one of law or policy, it is appropriate for referral to hearing if it meets all other applicable requirements. All of the issues raised in timely hearing requests by affected parties are issues of fact. *See* 30 TAC §55.211(b)(3)(A) and (B).

G. Relevant and Material Issues

Hearing requests may raise issues relevant and material to the Commission's decision under 30 TAC §§ 55.201(d)(4) and 55.211(c)(2)(A). In order to refer an issue to SOAH, the Commission must find that the issue is relevant and material to the Commission's decision to issue or deny this permit.⁴ Relevant and material issues are those governed by the substantive law under which this permit is to be issued.⁵

TCEQ is responsible for the protection of water quality under Chapter 26 of the TWC and 30 TAC Chapters 305, 307 and 309, as well as under specific rules related to wastewater systems found at 30 TAC Chapters 30 and 217. The Texas Surface Water Quality Standards in 30 TAC Chapter 307 require the proposed permit "maintain the quality of water in the state consistent with public health and enjoyment." 30 TAC § 307.1. Furthermore, the proposed permit must comply with 30 TAC § 305.122(c), 307.1 and 309.10, which prohibit injury to private property and invasion of property rights and require minimization of exposure to nuisance conditions. Applicant is also required to

⁴ *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-251(1986) (in discussing the standards applicable to reviewing motions for summary judgment the Court stated "[a]s to materiality, the substantive law will identify which facts are material. ... it is the substantive law's identification of which facts are critical and which facts are irrelevant that governs.")

⁵ *Id.*

control and abate nuisance odor under 30 TAC § 307.4(b)(1) and 309.13(e). Finally, Applicants must comply with all notice requirements, including relevant sections in 30 TAC Chapters 305 and 39.

H. Issues Recommended for Referral

OPIC recommends the Commission refer the following disputed issues of fact to the State Office of Administrative Hearings for a contested case hearing:

1. Will the application and the draft permit comply with all federal and state laws and regulations?
2. Will the application and the draft permit cause health hazards, nuisances, and/or other adverse effects to the public and environment?
3. Will the application and the draft permit allow contamination of groundwater and surface water?
4. Will the application and the draft permit comply with requisite analysis and use best available technology?
5. Will the application and the draft permit allow violations of water quality standards?
6. Will the application and the draft permit allow degradation of the receiving waters?
7. Did notice comply with all federal and state laws and regulations?
8. Will the wastewater generated by the facility contain harmful contaminants?
9. Would the Discharge lead to unsafe public drinking water and unsanitary conditions?

IV. MAXIMUM EXPECTED DURATION OF HEARING

Commission Rule 30 TEX. ADMIN. CODE § 55.115(d) requires that any Commission order referring a case to SOAH specify the maximum expected duration of the hearing by stating a date by which the judge is expected to issue a proposal for decision. The rule further provides that no hearing shall be longer than one year from the first day of the preliminary hearing to the date the proposal for decision is issued. To

assist the Commission in stating a date by which the judge is expected to issue a proposal for decision, and as required by 30 TEX. ADMIN. CODE §55.209(d)(7), OPIC estimates that the maximum expected duration of a hearing on this application would be one year from the first date of the preliminary hearing until the proposal for decision is issued.

V. CONCLUSION

OPIC recommends the Commission deny all requests for reconsideration. OPIC also recommends granting the hearing requests of Bryan Downs, Constance Jones, Ella Mae Jones, Patricia Jones, Daniel Roberts, Barbara Roberts, and James Thompson, COPPs, COPPs for Clean Air, and KIDS for Clean Air, and referring the above-referenced issues to the State Office of Administrative Hearings.

Respectfully submitted,

Blas J. Coy, Jr.
Public Interest Counsel

By: 
Amy Swanholm
Assistant Public Interest Counsel
State Bar No. 24056400
(512)239-6823 PHONE
(512)239-6377 FAX

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2010 the original and seven true and correct copies of the Office of the Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration were filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, Inter-Agency Mail or by deposit in the U.S. Mail.


Amy Swanholm

Appendix A

Group A

Tom Blake
Jeanette Blanton
Jerry Burroughs
Janet Cornwall
Tim Eaves
Sharon Ellis
Sharon Findley
Delores Graves
Edmond Graves
Aimee Hess
Pat Hoelldtke
Raymond Hoelldtke
JJ Horan
Janet Hummel
Barbara Lawrence
Dan Lawrence
Robert Muir⁶
Jennifer Muir⁷
Fran Nickell
Ken Nickell
Vicky Prater⁸
Don Rapp
Barbara Stanely
Lonnie Strebeck
Jack Suggs
Susan Suggs
Deanna Tompkins
Tommy Tompkins
Kathy Troop
Stan Troop
Carol Ward
Ron Watkins
Charles Wilson

⁶ Although this letter is not identical to the others, it is substantially similar and presents most of the same issues, in the same words.

⁷ Although this letter is not identical to the others, it is substantially similar and presents most of the same issues, in the same words.

⁸ This letter also raises concerns about children and individuals recreating in the discharge route and Chambers Lake, as well as the impact of the discharge upon future drinking water sources.

February 21, 2010

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

FFR
HR.
OPA
MAR 03 2010
BY BP

IKUP
66032
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2010 MAR -3 AM 9:40
CHIEF CLERKS OFFICE

RE: Navarro Generating LLC, TPDES Permit No. WQ000487000

Dear Ms. Castanuela,

This is a request for reconsideration of the Executive Director's decision to grant a preliminary permit to Navarro Generating LLC, TPDES PERMIT NO. WQ000487000. I request reconsideration for the following reasons:

1. The TCEQ must consider their responsibility to the public extends further than the quality of water coming out of the #1 outflow pipe.
2. The proposed power plant water route within the first three miles is no more than a dry ditch that Mother Nature created after years of flooding water in that area. Rather than build a pipeline to discharge their waste water, Navarro Generating LLC has chosen to take the free and cheap way of discharging their waste water at the cost of private land owners.
3. I maintain the preliminary decision to grant this permit was based solely on the information provided in the application permit and NO TCEQ employee every visited the site. At what point did the TCEQ decide paperwork was better than feet on the ground? Do applicants now set their own standards and guidelines for the TCEQ to follow? In the TCEQ's efforts to go by the book on this one, you failed the affected parties.
4. I would DISPUTE that human health toxic criteria is not applicable if the effluent does not reach a perennial body of water within three miles of the discharge point. I would argue landowners on the route of discharge within those three miles must be considered. The Director does not live in the path of the proposed discharged waste water that he granted the preliminary permit for, and he should visit the site before a final permit is granted. He does have a position to protect and serve the public's best interest.
5. I find great fault there is NO effluent data submitted with the application as the Navarro facility has not been built yet! After the fact, is way too late to help private landowners within those three miles of discharge. Their quality of life and land will be degraded from day one of discharge. No actions could come fast enough from the TCEQ or the EPA to undo the damage suffered by these private landowners. REFERENCE: How many times will the TCEQ go back to Freestone County to address the problems with Sanderson's' Chicken Farms permits and the STINK this year? If I read news reports correctly, Chairman of the House Committee on Environmental Regulations, State REP. Byron Cook, is looking in to that matter. What is the difference between land and air rights? The TCEQ can not pick and choose their responsibilities when making decisions.
6. I would assert the TCEQ is forcing their preliminary decision to grant this permit against the will of the people affected.
7. Those affected by this permit will not be able to access all of their property due to water and erosion.

mm

8. The draft permit requires 48-hour Acute and 24-hour Acute freshwater toxicity testing. Those landowners would call that closing the gate after all the animals had escaped. Really Mr. Director, after the fact is too late! Are you really protecting the best interest of the affected people of Navarro County, Texas in your preliminary decision?
9. I would ask that Response #36: page 24 of the Executive Director's decision be reviewed. The TCEQ has failed to meet their obligation to protect the public within the three miles of initial outfall/flow of Navarro Generating LLC's proposed waste water.
10. It would be my opinion the TCEQ has written draft permit No. WQ000487000 in such a way as to excuse themselves from future responsibility of their actions in this matter.
11. In an email dated 2-10-2010 @ 9:57:39 A.M. forwarded by Tres Koenings, Industrial Permit Team, Wastewater Permitting Section of the TCEQ, and I quote his own words: "the decision to grant the wastewater permit to Navarro has not been made yet."
12. On that same day (2-10-2010) letters were sent out by mail to every person (pro or con) of the Executive Director's decision to grant the preliminary permit to Navarro Generating LLC. How many hours of overtime did that take?
13. ### That's the fastest work ever done by government !!
14. The Director's decision was dated 2-10-2010. Tres Koenings received an email on 2-05-2010 of pictures of the dry ditch in flood stage. Please add them to my comments now. I have many copies.
15. The 14th Amendment guarantees equal protection under the law! Who better than the TCEQ to enforce that law? To admit in writing the issuance of this permit does not grant to the permitted the right to use private or public property for the conveyance of waste water along the discharge route described in this permit is just cause to grant the affected party landowners a CONTESTED CASE HEARING. The TCEQ can not sidestep nor pass their responsibility in this matter to any others.
16. I therefore request a Contested Case Hearing in this matter.

With great respect, sincerely,

Signature: _____

Name: _____

Address: _____

Phone: _____

Email: _____

Tom Blake

Tom Blake

372 Knight Circle

903-389-3048

tblake@postpach.com ✓

CHIEF CLERKS OFFICE
 2010 MAR -3 AM 9:40
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Appendix B

Group B

Tina Roberts Denbow
Bryan Downs
Constance Jones
Ella Mae Jones
Patricia Jones
Vicky Prater
Daniel Roberts
Barbara Roberts
Tonya Roberts
James Thompson

Maie G.

PM
H

OPA

DEC 29 2008

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Ms. LaDonna Castanuela
Chief Clerk, MC-105
Texas Commission on Air Quality
PO Box 13087
Austin, Texas 78711-3087

BY BP

2008 DEC 29 AM 10:56

IWD
W6032

CHIEF CLERKS OFFICE

Dear Ms. Castanuela,

The proposed Navarro Generating LLC has filed a water permit application #WQ0004870000 (EPA ID# TX0131814) with the TCEQ to use water and discharge waste water into the public waters of Navarro County and the state of Texas. Navarro Generating seeks to discharge large volumes of waste water containing numerous harmful contaminants from its electric utility generating plant into the public waters of Navarro County and the state of Texas.

As a resident of Navarro County who is concerned about water quality in the area, I am requesting a public meeting be held by the TCEQ on this waste water permit request, and as an affected person living in Navarro County I request a contested case hearing on the Navarro Generating's waste water discharge permit application #WQ0004870000.

I live in Navarro County at the address listed below, which is 2 miles from the location of the proposed facility and will be affected by the water use and waste water discharges by Navarro Generating if the water permit is approved by the TCEQ.

I am requesting affected party status for the following reasons:

- the creek(s) run across my property
- my animals and wild life drink from the creek
- my stock tanks get run-off from the creek
- children and workers have access to the creek
- my well water might be affected
- we eat fish from the creek TANKS
- Richland and Pin Oak Creeks overflow which affects my ability to travel
- Richland and Pin Oak Creeks overflow which affects my ability to access part of my property
- Richland and Pin Oak Creeks overflow which affects hay production in my hay meadows
- I use water from the creek to irrigate my land.

I use water at our property for gardening, residence, and other purposes. Our water use and the quality of local water will be affected by Navarro Generating's waste water discharges. I do not want to see our water quality degraded as it will be by Navarro Generating's waste water permit if it is approved, since I am concerned that degradation will lead to poor water quality making the water unsafe for public drinking purposes and unsanitary for other uses as well.

Please help us protect our good water quality in Navarro County.

Sincerely,

Daniel Roberts, Barbara Roberts
(Signature)

Name: Daniel Roberts BARBARA ROBERTS

Address: P.O. Box 174

City, State, Zip Code Richland Tex. 76681

Telephone number: 903-362-3332

ma

MAILING LIST
NAVARRO GENERATING, LLC
TCEQ DOCKET NO. 2010-0403-IWD

FOR THE APPLICANT:

Chris Shugart
Navarro Generating, LLC
1600 Smith St. Ste. 4025
Houston, Texas 77002- 7357
Tel: (713) 571-8900
Fax (713) 571-8004

FOR THE CHIEF CLERK:

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

FOR THE EXECUTIVE DIRECTOR:

Christiaan Siano, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6743
Fax: (512) 239-0606

REQUESTERS:

See attached list.

Tres A. Koenings, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-1189
Fax: (512) 239-4430

FOR OFFICE OF PUBLIC ASSISTANCE:

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:

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

TOM BLAKE
322 KNIGHTS CIR
STREETMAN TX 75859-3060

ED GRAVES
15125 SAPPHERE LN
STREETMAN TX 75859-7163

PATRICIA J JONES
6346 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

JEANNETTE BLANTON
127 BULL RUN DR
STREETMAN TX 75859-3202

WENDI HAMMOND
LAW OFFICE OF WENDI HAMMOND
7325 AUGUSTA CIR
PLANO TX 75025-3517

BARBARA LAWRENCE
286 LINCOLN DR
STREETMAN TX 75859-3295

JERRY B BURROUGHS
152 KNIGHTS CIR
STREETMAN TX 75859-3058

AIMEE HESS
6967 SE COUNTY ROAD 2385
STREETMAN TX 75859-7067

DAN LAWRENCE
286 LINCOLN DR
STREETMAN TX 75859-3295

JANET CORNWALL
359 STONEWALL DR
STREETMAN TX 75859-3199

PAT HOELDTKE
723 GRANDVIEW DR
CORSICANA TX 75109-0543

JENNIFER MUIR
ROBERT MUIR
PO BOX 2244
CORSICANA TX 75151-2244

TINA ROBERTS DENBOW
1028 HIDDEN HILLS DR
CORSICANA TX 75110-9562

RAYMOND HOELDTKE
723 GRANDVIEW DR
CORSICANA TX 75109-0543

FRAN NICKELL
3007 ETHERIDGE POINT LN
KERENS TX 75144-6207

BRYAN DOWNS
6346 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

J J HORAN
PO BOX 9015
ADDISON TX 75001-9015

KEN NICKELL
3007 ETHERIDGE POINT LN
KERENS TX 75144-6207

TIM EAVES
1015 OAK TREE DR
FORT WORTH TX 76140-9746

JANET HUMMEL
716 GRANDVIEW DR
CORSICANA TX 75109-0542

VICKY PRATER
PO BOX 1896
CORSICANA TX 75151-1896

SHARON ELLIS
9649 VIEWSIDE DR
DALLAS TX 75231-1507

HELEN J HYDEN
181 SW COUNTY ROAD 0020
CORSICANA TX 75110-9312

DON RAPP
4 NORA CT
PANTEGO TX 76013-3169

SHARON FINDLEY
183 KINGSWOOD DR
STREETMAN TX 75859-3062

CONSTANCE L JONES
13412 HWY 14
RICHLAND TX 76681-4319

BARBARA S & DANIEL E ROBERTS
PO BOX 174
RICHLAND TX 76681-0174

DELORES GRAVES
15125 SAPPHERE LN
STREETMAN TX 75859-7163

ELLA MAE JONES
13412 HWY 14
RICHLAND TX 76681-4319

TONYA ROBERTS
120 MARTIN RD
CORSICANA TX 75110-8780

BARBARA J STANLEY
240 STONEWALL DR
STREETMAN TX 75859-3194

CHARLES J WILSON
5405 FALLS RD
DALLAS TX 75220-2109

LONNIE STREBECK
302 LINCOLN DR
STREETMAN TX 75859-3287

JACK R & SUSAN G SUGGS
155 JUNE BLVD
STREETMAN TX 75859-3188

JAMES L THOMPSON
6346 SW COUNTY ROAD 2150
RICHLAND TX 76681-4306

DEANNA TOMPKINS
15008 SE COUNTY ROAD 2359A
STREETMAN TX 75859-7258

TOMMY TOMPKINS
15008 SE COUNTY ROAD 2359A
STREETMAN TX 75859-7258

KATHY TROOP
183 BULL RUN DR
STREETMAN TX 75859-3202

STAN TROOP
183 BULL RUN DR
STREETMAN TX 75859-3202

CARL WARD
6967 SE COUNTY ROAD 2385
STREETMAN TX 75859-7067

RON WATKINS
3400 WENTWOOD DR
DALLAS TX 75225-4848