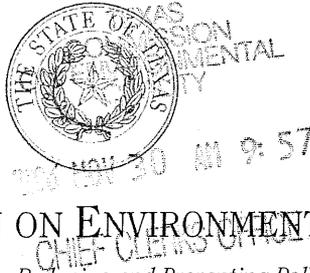


Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
Martin A. Hubert, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 28, 2006

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

Re: Extension of Filing Deadlines concerning the Proposal for Decision regarding UA Holdings 1994-5 for new TPDES Permit No. 14468-001; TCEQ Docket No. 2005-1184-MWD; SOAH Docket No. 582-06-0393.

This letter is in response to the November 21, 2006, request by Lauren Kalisek for an extension of time to file exceptions to the Proposal for Decision in the above-referenced matter. The request states that an extension of the deadline until December 14, 2006, is necessary to provide new counsel for UA Holdings adequate time to review the record. Ms. Kalisek notes that representatives for Doug Joslyn, the Executive Director, and OPIC do not object to the requested extension.

Since this matter has not yet been set for Commission Agenda, I have determined that an extension until December 12, 2006, will not result in any additional delay. Therefore, by this letter I am extending the deadline for filing an original and eleven copies of exceptions to the Proposal for Decision in the Commission's Office of Chief Clerk until **5:00 p.m. on Tuesday, December 12, 2006**, and the deadline for filing an original and eleven copies of replies to exceptions in the Commission's Office of Chief Clerk until **5:00 p.m. on Friday, December 22, 2006**. These deadlines have been extended pursuant to 30 Texas Administrative Code § 80.257(b). Please reference both the SOAH and TCEQ docket numbers on any filing, and file exceptions and replies to the Attention of the Agenda Docket Clerk, Office of Chief Clerk, TCEQ, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087.

Respectfully,

Derek Seal  
General Counsel

Mailing List

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Mailing List  
UA Holdings 1994-5  
TCEQ Docket No. 2005-1184-MWD  
SOAH Docket No. 582-06-0393

Lauren Kalisek  
Lloyd Gosselink  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
512/322-5800 FAX: 512/472-0532

LaDonna Castanuela  
TCEQ Office of Chief Clerk MC 105  
P.O. Box 13087  
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512/239-3300 FAX: 512/239-3311

Tommy L. Broyles  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street  
Austin, Texas 78701  
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TCEQ Environmental Law Division MC 173  
P.O. Box 13087  
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257 Blue Heron Drive  
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512/239-6960 FAX: 512/239-6377

Phil Berthelot  
17814 N. Blue Heron Drive  
Montgomery, Texas 77316-3107

Doug Joslyn  
244 E. Blue Heron Drive  
Montgomery, Texas 73356

Ms. Kalisek's Direct Line: (512) 322-5847  
E-mail: lkalisek@lglawfirm.com

November 21, 2006

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

VIA FACSIMILE  
AND U.S. MAIL  
CHIEF CLERKS OFFICE  
NOV 21 2 10 PM '06  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: SOAH Docket No. 582-06-0393; TCEQ Docket No. 2005-1184-MWD;  
Application of UA Holdings 1994-5 for New TPDES Permit No. 14468-001

Dear Ms. Castañuela:

Please find enclosed for filing UA Holdings 1994-5's Motion to Extend the Deadline to File Exceptions to the Administrative Law Judge's Proposal for Decision. Please file-stamp and return the extra copy in the enclosed, self-addressed stamped envelope.

If you have questions concerning this matter, please do not hesitate to contact me.

Sincerely,

  
Lauren Kalisek

LJK/tkj  
2594/00/ltr061121

Enclosures

cc: Mr. Derek Seal, General Counsel  
Texas Commission on Environmental Quality

Mr. Steve Bowen

SOAH DOCKET NO. 582-06-0393  
TCEQ DOCKET NO. 2005-1184-MWD

APPLICATION OF UA HOLDINGS § BEFORE THE STATE OFFICE  
1994-5 FOR A NEW TPDES PERMIT § OF  
NO. WQ 14468-001 § ADMINISTRATIVE HEARINGS

UA HOLDINGS 1994-5'S MOTION TO EXTEND THE DEADLINE TO FILE  
EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S  
PROPOSAL FOR DECISION

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
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CHIEF CLERK'S OFFICE

TO: THE GENERAL COUNSEL OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

COMES NOW Applicant UA Holdings 1994-5 ("UA"), and files this its *Motion* to *Extend the Deadline to File Exceptions to the Administrative Law Judge's Proposal for Decision* (the "Motion"), and would respectfully show the following:

I. BACKGROUND AND ARGUMENT

On October 31, 2006, UA notified the Administrative Law Judge ("ALJ") and the parties that it had retained a new attorney of record in the above-referenced proceeding. See Attachment A. On November 10, 2006, the ALJ issued his Proposal for Decision (the "PFD") in this proceeding. In the PFD, the ALJ recommends that the Texas Commission on Environmental Quality ("TCEQ" or the "Commission") deny UA's application for a Texas Pollutant Discharge Elimination System ("TPDES") permit No. WQ 14468-001. Exceptions to the PFD are due November 30, 2006.

Title 30, Section 80.257(b) of the Texas Administrative Code reads as follows:

On his own motion or at the request of a party, the general counsel may change the deadlines to file pleadings following the proposal for decision. A party requesting a change must file a written request with the chief clerk, and must serve a copy on the general counsel, the judge, and the other parties. The request must explain that the party requesting the change has contacted the other parties, and whether the request is opposed by any party. The request must include

proposed dates (preferably a range of dates) and must indicate whether the judge and the parties agree on the proposed dates.<sup>1</sup>

Because UA's newly-retained counsel has not had sufficient time to review the record and files in this proceeding, UA requests an extension of the deadline to file exceptions to the PFD. Counsel for UA has contacted James B. Blackburn (representing Doug Joslyn); Anthony Tatu (representing the Executive Director of the Commission); and Scott Humphrey (representing the Office of Public Interest Council) regarding its request to extend the deadline for filing exceptions to the PFD until December 14, 2006. These parties do not have an objection to such an extension. Counsel for UA has contacted Ms. Maria Brasher who has not yet decided whether to object to UA's request as of the date of this Motion. Counsel for UA has also contacted Mr. Phil Berthelot and exchanged messages, but has been unable to confirm Mr. Berthelot's position on this request. Finally, counsel for UA has contacted Judge Broyle's staff who indicate that Judge Broyle does not object to this Motion. Based on the need for UA's counsel to adequately review the record and files in this proceeding before filing exceptions and that the majority of the parties, including the Judge, do not object to such extension, UA respectfully requests that the deadline to file exceptions to the PFD be extended until December 14, 2006.

### **III. PRAYER**

WHEREFORE, PREMISES CONSIDERED, UA respectfully requests that the deadline to file exceptions to the Administrative Law Judge's Proposal for Decision be extended until December 14, 2006 in the above-referenced proceeding so that new counsel for UA may have adequate time to review the record and files of this case.

---

<sup>1</sup> 30 TEX. ADMIN. CODE § 80.257(b).

Respectfully submitted,

LLOYD GOSSELINK BLEVINS  
ROCHELLE & TOWNSEND, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5800  
Fax: (512) 472-0532



---

LAUREN KALISEK  
State Bar No. 00794063

ATTORNEY FOR UA HOLDINGS 1994-5

**CERTIFICATE OF SERVICE**

**UA HOLDINGS 1994-5  
SOAH DOCKET NO. 582-06-0393  
TCEQ DOCKET NO. 2005-1184-MWD**

I hereby certify that on this the 21<sup>st</sup> day of November 2006, a true and correct copy of the foregoing document was provided by hand delivery, first class mail, or facsimile to the following persons:

The Honorable Tommy L. Broyles  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West Fifteenth Street  
Austin, Texas 78701  
Fax: 475-4994

Scott Humphrey, Attorney  
Texas Commission on Environmental Quality  
P.O. Box 13087 (MC-103)  
Austin, Texas 78711  
Fax: 239-6377

Ms. LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087 (MC-105)  
Austin, Texas 78711  
Fax: 239-3311

James B. Blackburn, Jr.  
Blackburn Carter, P.C.  
4709 Austin  
Houston, Texas 77004  
Fax: (713) 524-5165

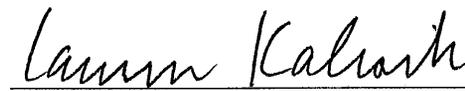
Anthony Tatu, Staff Attorney  
Texas Commission on Environmental Quality  
P.O. Box 13087 (MC-173)  
Austin, Texas 78711  
Fax: 239-0606

Maria Brasher  
257 Blue Heron Dr.  
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Pinar Dogru, Staff Attorney  
Texas Commission on Environmental Quality  
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Austin, Texas 78711  
Fax: 239-0606

Phil Berthelot  
17814 N. Blue Heron Dr.  
Montgomery, Texas 77316-3107

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2006 NOV 22 11:10:24  
CHIEF CLERKS OFFICE

  
\_\_\_\_\_  
LAUREN KALISEK

Ms. Kalisek's Direct Line: (512) 322-5847  
lkalisek@lglawfirm.com

October 31, 2006

**VIA FACSIMILE  
AND REGULAR MAIL**

Mr. Tommy Broyles  
Administrative Law Judge  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street, Room 502  
Austin, TX 78701

Re: SOAH Docket No. 582-06-0393; TCEQ Docket No. 2005-1184-MWD;  
Application of UA Holdings 1994-5 for New TPDES Permit No. 14468-001

Dear Judge Broyles:

The undersigned has been retained as the new attorney of record for the applicant in the above-referenced matter, UA Holdings 1994-5. By copy of this letter, I am notifying all parties of the same. Please replace our contact information on the mailing list for counsel for the applicant as follows:

Lauren Kalisek  
Lloyd, Gosselink, Blevins, Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Tel: (512) 322-5847  
Fax: (512) 472-0532

Thank you for your attention to this matter.

Sincerely,



Lauren Kalisek

LJK/arm

cc: Mailing List  
Mr. Steve Bowen

**ATTACHMENT A**

**MAILING LIST**

**UA HOLDINGS 1994-5  
SOAH DOCKET NO. 582-06-0393  
TCEQ DOCKET NO. 2005-1184-MWD**

The Honorable Tommy L. Broyles  
Administrative Law Judge  
State Office of Administrative Hearings  
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Austin, Texas 78701  
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