

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

December 4, 2006

CHIEF CLERKS OFFICE

2006 DEC -4 PM 12:37

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Derek Seal
General Counsel
Texas Commission on Environmental Quality
PO Box 13087
Austin Texas 78711-3087

Re: SOAH Docket No. 582-06-2038; TCEQ Docket No. 2006-0402-IWD; In Re:
Application of Sandy Creek Energy Associates, L.P. for TPDES Permit no.
WQ0004755000

Dear Mr. Seal:

I have reviewed the exceptions filed by the Public Interest Counsel and the Protestants and the replies to exceptions filed by the Applicant and the Executive Director. I recommend that the substantive exceptions be overruled for the reasons set out in the Proposal for Decision and the replies to exceptions.

The Protestants have also filed procedural exceptions addressing the implementation of Governor Perry's Executive Order RP 49, which required expedited hearing procedures, and challenging the role of the Executive Director in this proceeding. I also recommend that these exceptions be overruled. The hearing schedule was, in fact, accelerated in accordance with the Governor's executive order, but the burdens of the expedited process were distributed fairly and appropriately. Additionally, I do not believe the Executive Director inappropriately assisted the Applicant by making its staff members available for deposition in accordance with the Commission's rules. Nor did it do so by tendering its witnesses for cross examination in accordance with my request.

Accordingly, I recommend that all exceptions be overruled.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry D. Sullivan".

Kerry D. Sullivan
Administrative Law Judge

KDS/ds
Enclosures
cc: Mailing List

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AGENCY: TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
(TCEQ)

STYLE/CASE: SANDY CREEK ENERGY ASSOCIATES LP

SOAH DOCKET NUMBER: 582-06-2038

TCEQ DOCKET NUMBER: 2006-0402-IWD

STATE OFFICE OF ADMINISTRATIVE
HEARINGS

KERRY D. SULLIVAN
ADMINISTRATIVE LAW JUDGE

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