

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 27, 2009

TO: All Persons on Mailing List

RE: **SOAH Docket No. 582-08-0203; TCEQ Docket No. 2006-1572-MWD.** Application of **Marlin Atlantis White, Ltd.**, for a TPDES Permit to discharge treated wastewater, in **Galveston County, Texas**

The above-referenced matter is scheduled to be considered by the Texas Commission on Environmental Quality on **April 8, 2009 at 9:30 A.M.** in Room 201S, Building E, 12100 Park 35 Circle, Austin, Texas.

Pursuant to 30 TAC § 80.263, oral presentations before the commission shall be limited to five minutes each, excluding time for answering questions, unless the chairman or general counsel establishes other limitations.

Should you need any additional information, please contact Melissa Chao at the Texas Commission on Environmental Quality, Office of the Chief Clerk, (512) 239-3300.

Sincerely,

A handwritten signature in black ink, appearing to read "LaDonna Castañuela".

LaDonna Castañuela  
Chief Clerk

LDC/jf

**MAILING LIST**  
**MARLIN ATLANTIS WHITE, LTD.**  
**SOAH DOCKET NO. 582-08-0203**  
**TCEQ DOCKET NO. 2006-1572-MWD**

Arthur Val Perkins  
Coats, Rose, Yale, Ryman & Lee, P.C.  
3 East Greenway Plaza, Suite 2000  
Houston, Texas 77046  
Tel: (713) 651-0111  
Fax: (713) 651-0220

Representing Marlin Atlantis White, Ltd.

Angela Stepherson  
Coats, Rose, Yale, Ryman & Lee, P.C.  
5420 LBJ Freeway, Ste. 1300  
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Tel: (972) 982-8455  
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Mark Zeppa, Attorney  
Law Office of Mark H. Zeppa, P.C.  
4833 Spicewood Springs Rd. Ste. 202  
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Tel: (512) 346-4011  
Fax: (512) 346-6847

Representing City of Dickinson

Richard R. Morrison, IV  
Law Offices of Richard R. Morrison IV  
19901 Southwest Freeway  
Sugar Land, Texas 77479  
Tel: (281) 207-1254  
Fax: (281) 207-5401

Representing Betty Gutierrez, Dan Wright,  
Jan Culbertson, Louis Decker,  
Tropical Gardens Group,  
B.C. Schroeder, Jr., Trust, Peggy Wright

Peggy Wright  
4216 Scenic Drive  
Dickinson, Texas 77539-3687

Bert Schroeder  
3422 Oak Drive  
Dickinson, Texas 77539

Bob Stokes  
Galveston Bay Foundation  
17330 Highway 3  
Webster, Texas 77598-4133  
Tel: (281) 332-3381  
Fax: (281) 332-3153

Representing Galveston Bay Foundation

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District Director  
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District Director  
Office of Larry Taylor  
174 Calder Road, Ste 116  
League City, Texas 77573  
Tel: (281) 338-0924  
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Courtesy Copy

Navella A. Cole  
Caseworker Specialist  
Office of Ron Paul  
601 25<sup>th</sup> St. Ste. 216  
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Tel: (409) 766-7013  
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Stephen D. Holmes  
Galveston County Commissioner- Precinct Three  
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Texas City, Texas 77590  
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Courtesy Copy

Chris Ekoh, Senior Attorney  
Texas Commission on Environmental Quality  
Legal Division, MC-173  
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Representing the Executive Director  
of the TCEQ

Scott Humphrey  
Texas Commission on Environmental Quality  
Office Public Interest Counsel, MC-103  
P.O. Box 13087  
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Tel: (512) 239-0574  
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Representing the Office of Public Interest  
Counsel

Craig R. Bennett, Administrative Law Judge  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street, Ste. 502  
Austin, Texas 78701  
Tel: (512) 475-4993  
Fax: (512) 475-4994

Docket Clerk  
Texas Commission on Environmental Quality  
Office of the Chief Clerk, MC-105  
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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*

February 13, 2009

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

Re: Request for extension of time to file exceptions and replies with regard to the Proposal for Decision concerning the Application of Marlin Atlantis White, Ltd (Applicant); TCEQ Docket No. 2006-1572-MWD; SOAH Docket No. 582-08-0203.

By letters dated February 9, 2009, and February 13, 2009, Ms. Peggy Wright and Mr. Bert Schroeder, Co-Trustee, for the B.C. Schroeder, Jr. Marital Trust (Marital Trust) have requested an extension of time to file exceptions and replies. Specifically, by their letter dated February 13, 2009, they have requested an extension until February 27, 2009 to file exceptions and an extension of time until March 13, 2009 to file replies. They explain in their letters that Mr. Richard R. Morrison is no longer representing them and several other individuals in this matter and that they were unaware that the Proposal for Decision had been issued until they received a copy of Mr. Mark Zeppa's exceptions in the mail two or three days after the February 4, 2009 deadline for submitting exceptions. The Applicant by letter dated February 11, 2009 responded to their February 9, 2009 letters requesting an extension by stating that it did not oppose additional time for the filings, but that to ensure expeditious resolution of this matter, it requested the deadlines for the filing of exceptions and replies be extended respectively to February 23, 2009, and March 2, 2009.

After review of all of the filings in this matter and in light of the time for notice of the Proposal for Decision to Ms. Wright and the Marital Trust and the difficulties they experienced in filing with the Commission's Office of Chief Clerk their extension requests, I have determined to extend the time for filing exceptions to **5:00 P.M. on Friday, February 27, 2009**, and the time for filing replies to **5:00 P.M. on Friday, March 13, 2009**. See 30 TAC § 80.257(b) (authorizing the General Counsel to extend the exceptions and replies deadlines). To be considered timely, an original and seven copies of exceptions and replies must be received in the Commission's Office of Chief Clerk on or before 5:00 P.M. on the respective deadline. All exceptions and replies should be addressed to the attention of the Agenda Docket Clerk.

At this time, this matter has not been scheduled for Commission consideration during an open meeting. The request by the Applicant for the scheduling of this matter no later than April will be taken into consideration when this matter is scheduled for consideration by the Commissioners. When it is so scheduled, you will be notified by subsequent letter from the Office of Chief Clerk. If you have any questions about this matter, please contact Celeste Baker, Assistant General Counsel, at (512) 239-5527.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Les Trobman".

Les Trobman  
General Counsel

Mailing List

Mailing List  
Marlin Atlantis White, Ltd.  
TCEQ Docket No. 2006-1572-MWD  
SOAH Docket No. 582-08-0203

Mark Zeppa  
Law Offices of Mark H. Zeppa, P.C.  
4833 Spicewood Springs Road, Suite 202  
Austin, Texas 78759-8436  
512/346-4011 FAX 512/346-6847

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District Director  
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Teri Goodman  
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Caseworker Specialist  
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Administrative Law Judge  
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512/475-4993 FAX 512/475-4994

Chris Ekoh  
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512/239-3300 FAX 512/239-3311

Bridget Bohac  
TCEQ Office of Public Assistance MC 108  
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512/239-4000 FAX 512/239-4007

Kyle Lucas  
TCEQ Alternative Dispute  
Resolution Program MC 222  
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Austin, Texas 78711-3087  
512/239-0687 FAX 512/239-4015

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Direct Fax  
(972) 982-8451

HOUSTON  
CLEARLAKE/GALVESTON CO.  
SAN ANTONIO  
DALLAS  
AUSTIN  
NEW ORLEANS

February 11, 2009

VIA FACSIMILE

Les Trobman, General Counsel  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

CHIEF CLERKS OFFICE

2009 FEB 13 PM 4:49

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: SOAH Docket No. 582-08-0203; TCEQ Docket No. 2006-1572-MWD;  
*Application of Marlin Atlantis White, Ltd. for TPDES Permit No. WQ0014570001*

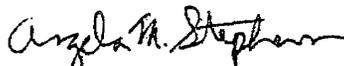
Dear Mr. Trobman:

The purpose of this letter is to respond to the requests filed by the protestants Tropical Gardens Group and the B. C. Schroeder, Jr. Marital Trust to extend the briefing deadlines in the above-referenced proceeding. Under the circumstances, Marlin Atlantis White, Ltd. ("Applicant") does not oppose allowing some additional time for briefing. Applicant would note, however, that this application has been pending since October 2004. All parties have previously had ample opportunity to address the issues in this case.

To ensure an expeditious resolution of this matter, Applicant requests that the deadline for filing exceptions or briefs be extended to February 23, 2009 and that the deadline for filing replies be extended to March 2, 2009. Applicant also requests that this matter be scheduled for consideration by the Commissioners no later than April.

Thank you.

Very truly yours,

  
Angela M. Stepherson

cc: Mailing List

COATS | ROSE | YALE | RYMAN | LEE  
*A Professional Corporation*

Two Lincoln Centre, 5420 LBJ Freeway, Suite 1300 Dallas, Texas 75240

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Web: [www.coatsrose.com](http://www.coatsrose.com)

1207772.1/005870.000004

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2009 FEB 13 PM 4:49 SOAH DOCKET NO. 582-08-0203  
TCEQ DOCKET NO. 2006-1572-MWD

CHIEF CLERK'S OFFICE  
IN RE: APPLICATION BY § BEFORE THE TEXAS  
§  
MARLIN ATLANTIS WHITE, LTD. § COMMISSION ON  
§  
FOR PERMIT NO. WQ0014570001 § ENVIRONMENTAL QUALITY

### SERVICE LIST

STATE OFFICE OF ADMINISTRATIVE HEARINGS	ADMINISTRATIVE LAW JUDGE ALJ CRAIG R. BENNETT
<b>REPRESENTATIVE / ADDRESS</b>	<b>PARTIES</b>
Scott A. Humphrey Attorney Texas Commission on Environmental Quality Public Interest Counsel P.O. Box 13087, MC-103 Austin, TX 78711-3087 Tel: 512-239-0574 Fax: 512-239-6377 shumphre@tceq.state.tx.us	TCEQ PUBLIC INTEREST COUNSEL
Mark Zeppa Attorney Law Offices of Mark H. Zeppa, P.C. 4833 Spicewood Springs Road, Suite 202 Austin, TX 78759-8436 Tel: 512-346-4011 Fax: 512-346-6847 Email: mark@zeppalaw.com	CITY OF DICKINSON
Mr. Chris Ekoh Staff Attorney Texas Commission on Environmental Quality Environmental Law Division P.O. Box 13087, MC-173 Austin, TX 78711-3087 Tel: 512-239-5487 Fax: 512-239-0606 Email: cekoh@tceq.state.tx.us	TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

<p>Les Trobman  General Counsel  Texas Commission on Environmental  Quality  Environmental Law Division  P.O. Box 13087, MC-101  Austin, TX 78711-3087</p> <p>Fax: 512-239-5533</p>	<p>TEXAS COMMISSION ON  ENVIRONMENTAL QUALITY</p>
<p>Bob Stokes  President  Galveston Bay Foundation  17330 Highway 3  Webster, TX 77598  281-332-3381 ext. 211  <b>bstokes@galvbay.org</b>  Fax: 281-332-3153</p>	<p>GALVESTON BAY FOUNDATION</p>
<p>Richard R. Morrison, IV  19901 Southwest Freeway  Sugar Land, Texas 77479  Tel: 281-207-1254  Fax: 281-207-5401  Email: </p> <p>Peggy Wright  4216 Scenic Drive  Dickinson, Texas 77539-3687  Tel: 832-425-4344  </p>	<p>TROPICAL GARDENS GROUP  JAN CULBERTSON  DAN WRIGHT  LOUIS DECKER  BETTY GUTIERREZ</p>
<p>Bert Schroeder  3422 Oak Drive  Dickinson, TX 77539  Voice/Fax: 281-332-5226  Cell: 832-561-6633  </p>	<p>B. C. Schroeder, Jr. Trust</p>
<p>Lamoin Scott  District Director  Office of Mike Jackson  201 Enterprise, Suite 600-A  League City, TX 77573  Tel: 281-334-0011  Fax: 281-334-3043</p>	<p>OFFICE OF MIKE JACKSON</p>

<p>Teri Goodman  District Director  Office of Larry Taylor  174 Calder Road, Suite 116  League City, TX 77573  Tel: 281-338-0924  Fax: 281-554-9240</p>	<p>OFFICE OF LARRY TAYLOR</p>
<p>Navella A. Cole  Caseworker Specialist  Office of Ron Paul  601 25<sup>th</sup> Street, Suite 216  Galveston, TX 77550  Tel: 409-766-7013  Fax: 409-765-7036</p>	<p>OFFICE OF RON PAUL</p>
<p>Stephen D. Holmes  Galveston County Commissioner –  Precinct Three  2516 Texas Avenue  Texas City, TX 77590  Tel: 409-770-5806  Fax: 409-949-9144</p>	<p>GALVESTON COUNTY  COMMISSIONER – PRECINCT THREE  ████████████████████</p>
<p>TCEQ Chief Clerk  Texas Commission on Environmental  Quality  Office of Chief Clerk, MC-105  P.O. Box 13087  Austin, Texas 78711-3087</p>	<p>████████████████████</p>
<p>Docketing Clerk  State Office of Administrative Hearings  300 West 15th Street, Room 502  Austin, Texas 78701</p>	<p>████████████████████</p>
<p>Honorable Craig R. Bennett  Administrative Law Judge  State Office of Administrative Hearings  300 West Fifteenth Street  Austin, Texas 78701</p>	<p>████████████████████</p>

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## FACSIMILE TRANSMITTAL PAGE

<b>DATE:</b> February 11, 2009	
<b>TO:</b>	<b>TELEFAX NO.:</b>
Les Trobman	512-239-5533
Scott A. Humphrey	512-239-6377
Mark Zeppa	512-346-6847
Chris Ekoh	512-239-0606
Bob Stokes	281-332-3153
Richard Morrison, IV	281-207-5401
Bert Schroeder	281-332-5226
Peggy Wright	By email
TCEQ Chief Clerk	512-475-4994
Stephen D. Holmes	409-949-9144
Teri Goodman	281-554-9240
Lamoin Scott	281-334-3043
Navella Cole	409-765-7036
Mike Wright	713-948-0004
<b>NO. OF PAGES</b> (including cover page): 5	
<b>CLIENT/MATTER NO.:</b> 5870.4	
<b>FROM:</b> Arthur Val Perkins & Angela Stepherson	<b>SENDER'S PHONE NO.</b> (713) 653-7341
<b>MESSAGE:</b> Please see the attached.	

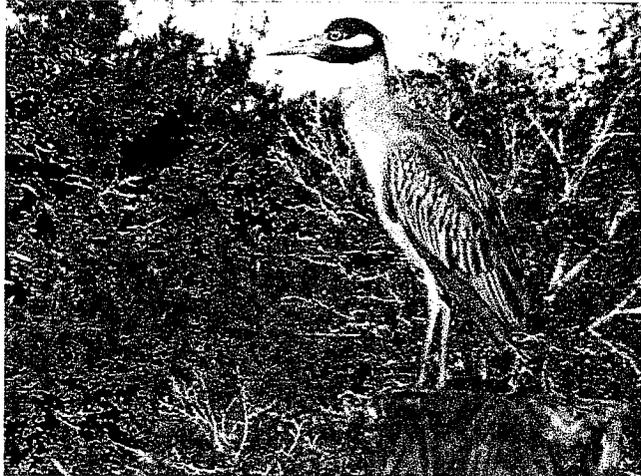
If this FAX transmission is illegible or you do not receive  
 all pages, please call the sender at the number above.

**If you wish to respond, use FAX No. (713) 651-0220**

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual(s) named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

2009 FEB 20 PM 3:19

CHIEF CLERKS OFFICE



**TROPICAL GARDEN'S SUBDIVISION  
DICKINSON, TX**

February 13, 2009

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

Re: **MARLIN ATLANTIS WHITE, LTD**  
**SOAH DOCKET NO. 582-08-0203**  
**TCEQ DOCKET NO. 2006-1572-MWD**

Dear Ms. Castanuela:

Enclosed for filing in the above referenced matter is a fax/letter sent to Mr. Les Trobman, Office of General Counsel. This letter is asking for extensions to the deadline for the Aggrieved Parties to file their Exceptions to the Proposal for Decision (PFD) be Friday, February 27, 2009. This letter/fax is also asking that the deadline for Parties to file Replies to Exceptions to the PFD be Friday, March 13, 2009. A certificate of service is attached to indicate who has been served via either fax, USPS and/or electronic mail. Also, included in your packet are seven copies as directed by Scott Humphrey in TCEQ's Office of Public Interest Office (OPIC).

Sincerely,

Peggy Wright, Spokesperson Tropical Gardens Group

CC: Attachments  
Mailing List

February 13, 2009

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Via Fax, USPS, electronic mail

2009 FEB 20 PM 3:19

CHIEF CLERKS OFFICE

Les Trobman, General Counsel  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

Re: SOAH Docket No. 582-08-0203; TCEQ Docket No. 2006-1572-MWD;  
Application of Marlin Atlantis White, Ltd. For TPDES Permit No.. WQ0014570001

Dear Mr. Trobman:

In the above referenced matter Mr. Schroeder and Tropical Gardens Group (TGG), represented by spokesperson Peggy Wright, were not included in Judge Craig Bennett's mailing of the Proposal for Decision (PFD). Until Mr. Zeppa's Reponse to Exceptions arrived in the mail on February 6, 2009 we were unaware that the Judge had rendered a PFD.

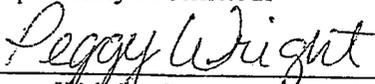
Ms. Wright (TGG) and Mr. Schroeder both contacted Judge Bennett's office in response to this matter. Ms. Wright was told by the Judge's office to file a request for an extension of time. We filed that request on Monday, February 9, 2009 fully believing that Judge Bennett's office could rectify the error and grant the extension for filing. It is now Friday, February 13, 2009, and I have spoken with six different TCEQ entities and still do not have resolution with respect to a new extension deadline.

In recognition of the many delays and deadends we have encountered we are asking to extend the deadline for the Aggrieved Parties to file their Exceptions to the Proposal for Decision be Friday, February 27, 2009. This letter is also asking that the deadline for Parties to file Replies to Exceptions to the PFD be Friday, March 13, 2009.

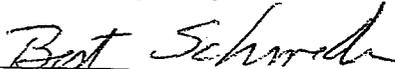
We put forth a TRCP Rule 11 Agreement but were unable to get total agreement by all parties.

As referenced in a letter to Judge Bennett, dated November 17, 2008, Ms. Wright notified the Judge that Mr. Morrison no longer represented TGG. Please note that the aligned parties of Jan Culberson, Dan Wright, Louis Decker and Betty Gutierrez were aligned with TGG and represented by Ms. Wright. Ms. Wright and Mr. Schroeder retained and paid for the services of Mr. Morrison. Ms. Wright felt she had properly addressed the issue of Mr. Morrison no longer representing TGG in the above referenced letter and had properly asked that he be removed by Judge Bennett and all Parties from the service list.

Respectfully submitted,



Peggy Wright, Spokesperson for Tropical Gardens Group



Bert Schroeder, B.C. Schroeder, Jr. Marital Trust

COPY

February 9, 2009

By fax transmission, electronic mail and USPS  
Honorable Craig R. Bennett  
Administrative Law Judge  
300 West Fifteenth Street  
Austin, TX 78701

**Re: SOAH Docket No. 582-08-0203; TCEQ Docket No. 2006-1572-MWD; Application of Marlin Atlantis White for TPDES Permit No. WQ0014570001**

Dear Judge Bennett,

Enclosed for filing in the above referenced matter please find Protestant TGG's request for an extension of time to file their response to the Administrative Law Judge's (ALJ's) Proposal for Decision (PFD).

TGG requested on November 17, 2009 that the service list be corrected by the ALJ and all Parties to reflect that Mr. Richard Morrison was no longer representing TGG. Ms. Wright and Mr. Schroeder were unaware that you written a PFD until the Reply from Mr. Zeppa arrived in the mail on Friday, February 6, 2009.

TGG is requesting that time be given to formulate a reply to the PFD. TGG would like to request a new deadline, for filing said response, of February 24, 2009. I have spoken with Mr. Schroeder and he is amenable to the above date and will be contacting you via email or fax.

Respectfully submitted,

  
Peggy Wright, Spokesperson for Tropical Gardens Group  
4216 Scenic Drive  
Dickinson, TX 77539  


See Attachments

COPY

November 17, 2008

By fax transmission  
Honorable Craig R. Bennett  
Administrative Law Judge  
300 West Fifteenth Street  
Austin, TX 78701

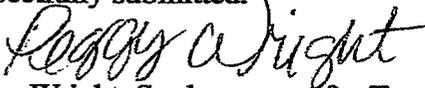
**Re: SOAH Docket No. 582-08-0203; TCEQ Docket No. 2006-1572-MWD; Application of Marlin Atlantis White for TPDES Permit No. WQ0014570001**

Dear Judge Bennett,

Enclosed for filing in the above referenced matter please find Protestant TGG's Reply to Closing Arguments. Please note the enclosure of TGG's comments and opinions on issues to be considered in the contested case hearing referred to SOAH by the Commission.

Also, Judge Bennett, all Parties and Interested Persons on the Service List should be advised that Mr. Richard Morrison was retained for Ms. Wright's deposition and the three day hearing. No further services have been rendered since the last day of the hearing. Please remove him from the service list.

Respectfully submitted.



Peggy Wright, Spokesperson for Tropical Gardens Group  
4216 Scenic Drive  
Dickinson, TX 77539

**CERTIFICATE OF SERVICE/MAILING LIST**

I hereby certify that I have delivered a true and correct copy of the forgoing by regular mail, electronic mail, hand delivery, and/or facsimile transmission on this the 13th day of February 2009.

**NAME/ADDRESS**

Les Trobman  
General Counsel  
Texas Commission on Environmental Quality  
Environmental Law Division  
P.O. Box 13087, MC-101  
Austin, TX 78711-3087  
Phone:  
Fax: 512-239-5533

Honorable Craig R. Bennett  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West Fifteenth Street  
Austin, TX 78701  
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Phone: 512-239-3300  
Fax: 512-239-3311

Docketing Clerk  
State Office of Administrative Hearings  
300 West Fifteenth Street, Room 502  
Austin, TX 78701

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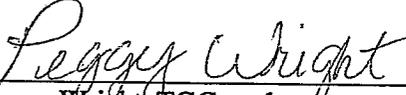
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(I have included Mr. Morrison's info at the request of a TCEQ representative even though he has not represented Mr. Schroeder, Tropical Gardens Group or Galveston Bay Foundation since the hearing that was held in Galveston in Sept. 2008.)

  
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