

**SOAH DOCKET NO. 582-08-0523
TCEQ DOCKET NO. 2007-0768-AIR-E**

EXECUTIVE DIRECTOR OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, PETITIONER VS. ADVANTAGE ASPHALT PRODUCTS, LTD. RN104955497, RESPONDENT	§ § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**AGREED REQUEST FOR COMMISSION TO CONSIDER ALL OF THE PARTIES'
BRIEFINGS AFTER THE ISSUANCE OF THE PROPOSAL FOR DECISION**

Pursuant to 30 TEX. ADMIN. CODE § 80.257(b), the Executive Director ("ED") of the Texas Commission on Environmental Quality, with the agreement of the Respondent, files this request for the General Counsel to change the filing deadlines in this case so that the Commission to consider all briefing that was filed after the issuance of the Proposal for Decision in this case.

1. After the Proposal for Decision (PFD) was issued in this case, the parties filed exceptions, replies to exceptions, and replies to replies. Specifically, the following documents have been filed and/or served:

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| a. PFD | March 14, 2011 |
| b. ED's exceptions to PFD | April 4, 2011 |
| c. Respondent's exceptions | April 22, 2011
(served April 4, 2011) |
| d. ED's reply to Respondent's exceptions | April 22, 2011 |
| e. Respondent's response to the ED's Reply | Unfiled – ED to file today
(served April 27, 2011) |
| f. ED's sur-reply | April 29, 2011 |
| g. ALJ's reply to exceptions | May 19, 2011 |

2. The parties agree that they would like for these briefings to be considered by the Commission in making it's decision regarding this case. The ED's counsel

today noticed that the Respondent's response to the ED's Reply (1.e. above) may not have been filed with the Chief Clerk's Office. The ED will file it today.

3. In the Administrative Law Judge's (ALJ's) reply to the parties' exceptions filed on May 19, 2011, the ALJ stated that he had considered all of the parties' filings listed above. Additionally, the parties were in communication with SOAH regarding the timing of the above-listed filings.
4. The filings in this case were not intended to be untimely and have been filed in the interest of timely addressing the issues in this case before the Commission.
5. The ED does not anticipate any additional filings by the parties other than those listed above.

Prayer

For these reasons, the ED, with the Respondent's agreement, respectfully requests the General Counsel change the filing deadlines to accommodate the filing of the documents listed above. Specifically, the ED will file the Respondent's Objections and Response to the Executive Director's Reply on the same date as this request, and respectfully requests that the General Counsel change the deadlines so that all the documents above can be considered by the Commission.

Respectfully submitted,

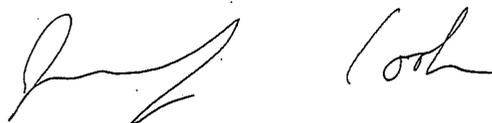
Texas Commission on Environmental Quality

Mark R. Vickery
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Kathleen C. Decker, Director
Litigation Division

by

Two handwritten signatures in black ink. The first signature is on the left and the second is on the right. Both are written in a cursive style.

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CERTIFICATE OF SERVICE

I hereby certify that on May 26, 2011, the foregoing original document and seven (7) copies were filed with the Chief Clerk, additionally the document was electronically filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day true and correct copies of the foregoing document were served to the following persons by the method of service indicated:

The Honorable Stephen J. Pacey
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Via Facsimile

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Jennifer Cook