

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2010

LaDonna Castañuela, Chief Clerk
TCEQ Office of the Chief Clerk
P.O. Box 13087, MC-103
Austin, TX 78711-3087

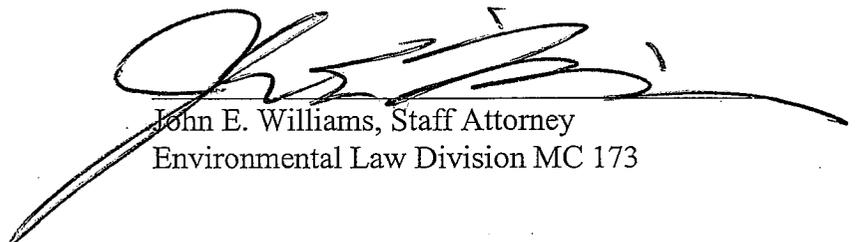
RE: Petition to Revoke TPDES Permit No. WQ0014555002 Issued to Far Hills Utility
District; SOAH Docket No. 582-09-5727; TCEQ Docket No. 2009-0290-MWD

Dear Ms. Castañuela:

Enclosed for the above styled application and docket numbers find seven copies of the Executive Director's Exception to the Proposal for Decision and Proposed Order.

If you have any questions or comments, please call me at 239-0455. Thank you for your attention to this matter.

Sincerely,



John E. Williams, Staff Attorney
Environmental Law Division MC 173

Enclosure

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 12, 2010

Hon. Henry Card; Administrative Law Judge
State Office of Administrative Hearings
P.O. Box 13025
Austin, TX 78711-3025

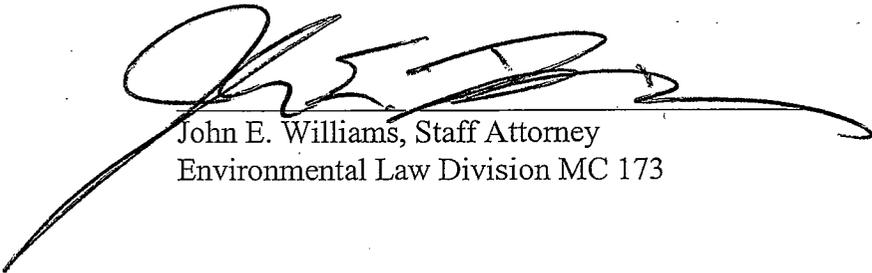
RE: Petition to Revoke TPDES Permit No. WQ0014555002 Issued to Far Hills Utility
District; SOAH Docket No. 582-09-5727; TCEQ Docket No. 2009-0290-MWD

Dear Judge Card:

Enclosed for the above styled application and docket numbers find the Executive Director's
Exception to the Proposal for Decision and Proposed Order.

If you have any questions or comments, please call me at 239-0455. Thank you for your
attention to this matter.

Sincerely,



John E. Williams, Staff Attorney
Environmental Law Division MC 173

Enclosure

SOAH DOCKET NO. 582-09-5727
TCEQ DOCKET NO. 2009-0290-MWD

Petition to **REVOKE**
TPDES Permit No. WQ0014555002
Issued to
FAR HILLS UTILITY DISTRICT

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Before the
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR'S EXCEPTION TO THE PROPOSAL FOR DECISION AND
PROPOSED ORDER**

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files exceptions to the Proposal for Decision and Proposed Order in the matter of the petition to revoke Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014555002 issued to Far Hills Utility District.

The Executive Director specifically excepts to Finding of Fact No. 53 in the Proposed Order. Finding of Fact No. 53 currently reads:

53. Far Hills failed to fully disclose all relevant facts, misrepresent any relevant facts or make any false or misleading statements with respect to mailed notice. (*Referred Issue No. 2*)

Because the first verb in the sentence, "failed," is in the past tense, the verbs "misrepresent" and "make" seem, by form and inflection, to be parallel with the infinitive "to . . . disclose." Thus, the Finding seems to say that "Far Hills failed to fully disclose . . ., [failed to] misrepresent . . . or [failed to] make" This may not be what the Judge intended.

The Executive Director believes the verbs "misrepresent" and "make" should be in the past tense, making them parallel with "failed." Thus the Finding ought to say that "Far Hills failed . . ., misrepresented . . . or made" The Executive Director also believes that with the verbs in the past tense, the modifier "any" is unnecessary in the two contexts in which it is used.

Therefore, the Executive Director requests that Finding of Fact 53 be changed to read:

53. Far Hills failed to fully disclose all relevant facts, misrepresented relevant facts or made false or misleading statements with respect to mailed notice. (*Referred Issue No. 2*)

Respectfully submitted,

Texas Commission on Environmental
Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Division Director
Environmental Law Division



John Williams, Staff Attorney
State Bar No. 24004991

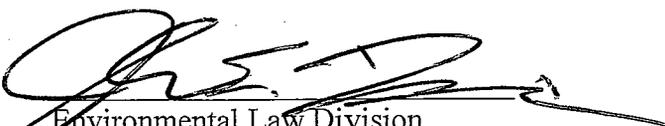
Daniel Ingersoll, Staff Attorney
State Bar No. 24062794

Environmental Law Division
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(512)239-0600
(512)239-0606 (FAX)

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on July 12, 2010, the foregoing Executive Director's Exception to the Proposal for Decision and Proposed Order was electronically filed with the Office of the Chief Clerk, seven additional hard copies were filed with the Office of the Chief Clerk, a hard copy was sent by courier to the Administrative Law Judge, and electronic copies were sent by e-mail to all other persons on the attached mailing list.



Environmental Law Division
MC 173

EXECUTIVE DIRECTOR'S MAILING LIST

Petition to Revoke TPDES Permit No. WQ0014555002 Issued to Far Hills Utility District
SOAH Docket No. 582-09-5727
TCEQ Docket No. 2009-0290-MWD

FOR THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS

The Hon. Henry Card
Administrative Law Judge
State Office of Administrative Hearings
300 West 15th Street, Suite 502
Austin, TX 78701
FAX (512) 475-4994
by courier and FAX (no Discovery)

FOR THE OFFICE OF CHIEF CLERK

LaDonna Castañuela, Chief Clerk
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P.O. Box 13087, MC-103
Austin, TX 78711-3087
by electronic e-Filing or Hand Delivery (no
Discovery)

FOR THE OFFICE OF PUBLIC
INTEREST COUNSEL

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TCEQ Office of Public Interest Counsel
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& Judith Spencer

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FOR THE RESPONDENT, Far Hills Utility
District

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Matthew B. Kutac, Attorney
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