

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*



Blas J. Coy, Jr., *Public Interest Counsel*

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
*Protecting Texas by Reducing and Preventing Pollution*

July 22, 2010

The Honorable Henry D. Card  
Administrative Law Judge  
State Office of Administrative Hearings  
P.O. Box 13025  
Austin, Texas 78711-3025

**Re: FAR HILLS UTILITY DISTRICT**  
**SOAH DOCKET NO. 582-09-5727**  
**TCEQ DOCKET NO. 2009-0290-MWD**

Dear Judge Card:

Enclosed for filing is the Office of Public Interest Counsel's Replies to Exceptions to the PFD in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Amy Swanholm".

Amy Swanholm, Attorney  
Assistant Public Interest Counsel

cc: Mailing List

Enclosure

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*



Blas J. Coy, Jr., *Public Interest Counsel*

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
*Protecting Texas by Reducing and Preventing Pollution*

July 22, 2010

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

**Re: FAR HILLS UTILITY DISTRICT**  
**SOAH DOCKET NO. 582-09-5727**  
**TCEQ DOCKET NO. 2009-0290-MWD**

Dear Ms. Castañuela:

Enclosed for filing is the Office of Public Interest Counsel's Replies to Exceptions to the PFD in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Amy Swankholm".

Amy Swankholm, Attorney  
Assistant Public Interest Counsel

cc: Mailing List

Enclosure

TCEQ Docket No. 2009-0290-MWD  
SOAH Docket No. 582-09-5727

PETITION TO REVOKE	§	BEFORE THE TEXAS
TCEQ WATER	§	COMMISSION ON
QUALITY PERMIT NO.	§	ENVIRONMENTAL
WQ0014555002 ISSUED	§	QUALITY
TO FAR HILLS	§	
UTILITY DISTRICT	§	

THE OFFICE OF PUBLIC INTEREST COUNSEL'S  
REPLIES TO EXCEPTIONS TO THE PFD

TO THE HONORABLE TCEQ COMMISSIONERS:

COMES NOW, the Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (the Commission or TCEQ) and files this Replies to Exceptions to the PFD in the matter of the *Petition by Suzanne O'Neal, Judith Spencer, and Everett Simmons to Revoke Permit No. WQ0014555002 Allegedly Authorizing the Construction and Operation of a Wastewater Treatment Plant by Far Hills Utility District and Request for Enforcement Action.*

OPIC generally approves of the Proposal for Decision recommending Far Hills' permit be revoked. However, OPIC supports the Protestants objection to Finding of Fact No. 32, as this Finding of Fact is contrary to TCEQ policy, as explained by Ms. McClarron, testifying on behalf of the ED. The Petitioners property and the five acres depicted in the application were separated only by an access road.<sup>1</sup> Ms. McClarron testified that any landowner adjacent to an access road or a private driveway would need to be identified in the adjacent landowner list and map,<sup>2</sup> and therefore considered adjacent to the property, for the purpose of TCEQ's evaluation of the application. Therefore this Finding of Fact is incorrect in its application of TCEQ's working definition of "adjacent."

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<sup>1</sup> Tr. at p. 121.

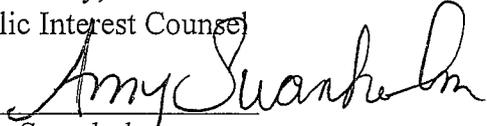
<sup>2</sup> Tr. at p. 229-230, ED-1 at p. 8-9.

OPIC also supports Protestants objections to Findings of Fact No. 56. Even if the Far Hills Board believed that it had an enforceable oral agreement for the sale of land with Brussard-Christi, to be executed at a future date, Far Hills did not actually own the property when submitting the application, and the record shows that Far Hills knew at the time it submitted the application that it did not own the property.<sup>3</sup>

Further, OPIC does not object to the suggestion by the ALJ to postpone consideration of this matter until the Commission has considered Far Hills' Application for a Temporary Order.

Respectfully submitted,

Blas J. Coy, Jr.  
Public Interest Counsel

By   
Amy Swanholm  
Assistant Public Interest Counsel  
State Bar No. 24056400  
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### CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2010, the original document and seven copies was served upon the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, Inter-Agency Mail or by deposit in the U.S. Mail.

  
Amy Swanholm

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<sup>3</sup> Tr. at p. 166-171.

**MAILING LIST  
FAR HILLS UTILITY DISTRICT  
SOAH DOCKET NO. 582-09-5727  
TCEQ DOCKET NO. 2009-0290-MWD**

The Honorable Henry D. Card  
Administrative Law Judge  
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