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

December 7, 2010

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

Re: Application of Deer Creek Ranch Water Company, LLC, to Change Its Water Rates and Tariff Under CCN No. 11241 in Travis and Hays County. SOAH Docket No. 582-09-5328; TCEQ Docket No. 2009-0929-UCR

Dear Ms. Castañuela:

Please find enclosed the Executive Director's Exceptions to the Proposal for Decision on Remand. Please let me know if you have any questions.

Sincerely,

Brian D. MacLeod
Staff Attorney
Environmental Law Division

cc: Mailing list

SOAH DOCKET NO. 582-09-5328
TCEQ DOCKET NO. 2009-0929-UCR

APPLICATION OF DEER CREEK RANCH WATER CO., LLC TO CHANGES ITS WATER RATES AND TARIFF UNDER CERTIFICATE OF CONVENIENCE AND NECESSITY NO. 11241 IN TRAVIS AND HAYS COUNTIES	§ § § § § § §	**BEFORE THE** **TEXAS COMMISSION ON** **ENVIRONMENTAL QUALITY**

THE EXECUTIVE DIRECTOR'S EXCEPTION TO THE PROPOSAL FOR DECISION ON REMAND

TO THE HONORABLE COMMISSIONERS:

COMES NOW THE EXECUTIVE DIRECTOR (ED) OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) by and through a representative of the Commission's Environmental Law Division, and files this exception to the proposal for decision on remand.

On September 29, 2010, the referenced application was heard at the Commission Agenda after the State Office of Administrative Hearings held a hearing on the merits. On October 5, 2010, the Commission issued an interim order remanding the case to the State Office of Administrative Hearings for the following purposes: (1) to address any additional evidence needed to allow calculation of amounts left blank in the order submitted with the original PFD, including refund amounts due to the customers plus interest at .61% to be refunded over 17 months; (2) to re-run all calculations to address any changes that may result from changing the truck depreciation from twenty to five years; (3) to determine whether the Protestants ordered a copy of the transcript or

otherwise have responsibility for a portion of costs; and (4) to modify conclusion of law 16 and ordering provision 1 to set the rate at the Utility's previously approved rates.

On remand the ALJ was able to establish findings on all the information requested in the interim order. The PFD on remand needs only one revision -- in particular, conclusion of law number 23 does not reflect the fact that the parties stipulated to the fact that the protestants did not order a copy of the transcript and are not liable for any portion of the transcript costs. Therefore, conclusion of law number 23 should be deleted and replaced with the following conclusion: "In accordance with the factors set out in 30 TAC § 80.23, the costs of the recording and transcribing the hearings in this case should be assessed against the Applicant."

Respectfully Submitted,

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Robert Martinez, Director
Environmental Law Division

By _____
Brian D. MacLeod
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Environmental Law Division
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served on all parties on the attached mailing list in accordance with SOAH and TCEQ rules on December 7, 2010.

Staff Attorney

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