

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

January 12, 2011

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

Via Facsimile 512/239-5533

**RE: SOAH DOCKET NO. 582-10-2631; TCEQ DOCKET NO. 2009-1573-DIS;
IN RE: COLLIN COUNTY WATER CONTROL AND IMPROVEMENT**

Dear Mr. Trobman:

On December 10, 2010, the Administrative Law Judge (ALJ) issued a proposal for decision (PFD), recommending that the Texas Commission on Environmental Quality (Commission) grant the petition of Lavon 593 Land Investment Partners, L.P (Applicant) for the creation of the Collin County Water Control and Improvement District No. 3 (District). On December 30, 2010, the City of Wylie (City) and the Executive Director (ED) filed exceptions to the PFD and the ALJ's proposed order. On January 10, 2011, Applicant filed a reply to the other parties' exceptions.

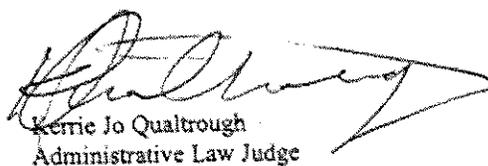
In a footnote to its January 10, 2011 reply, Applicant stated that it did not receive the PFD until December 31, 2010, one day after exceptions to the PFD were due. In its reply, Applicant requested that additional language be added to the end of Ordering Provision No. 1. Applicant also attached "Exhibit A" to its reply, which contains a legal description of the District.

Due to an error in the mailing address on Applicant's envelope, Applicant did not receive the PFD in time to file exceptions. Therefore, the ALJ recommends that the Commission determine that Applicant timely filed its request to amend Ordering Provision No. 1 and to attach Exhibit A to the Commission's final order. No party contested the accuracy of the legal description, and the description is included in the evidentiary record.¹

After reviewing the exceptions and the replies, the ALJ makes the following recommendations:

1. The City's December 30, 2011 Exceptions to Proposal for Decision should be overruled in their entirety.
2. The ED's December 30, 2011 Exceptions to the Proposal for Decision should be granted. Accordingly, the ALJ recommends that the Commission revise the proposed order as suggested by the ED.
3. Applicant's request in its January 10, 2011 Reply to Exceptions should be granted. Accordingly, the ALJ recommends that the Commission revise the proposed order to add Applicant's suggested language to Ordering Provision No. 1, and attach Exhibit A to the Commission's order.

Sincerely,



Kerrie Jo Qualtrough
Administrative Law Judge

KJQ/lfg
cc: Mailing List

¹ App. Ex. 15, Att. B, "Legal Description."