

**SOAH DOCKET NO. 582-11-6030  
TCEQ DOCKET NO. 2009-2074-MWD-E**

<b>EXECUTIVE DIRECTOR OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, PETITIONER</b>	§	
	§	<b>BEFORE THE</b>
	§	
	§	
<b>VS.</b>	§	<b>TEXAS COMMISSION ON</b>
	§	
	§	
<b>CITY OF HAWK COVE, RESPONDENT</b>	§	<b>ENVIRONMENTAL QUALITY</b>

**MOTION FOR CONTINUANCE**

TO THE GENERAL COUNSEL:

NOW COMES the Executive Director of the Texas Commission on Environmental Quality ("Executive Director" or "ED") by and through his attorney, Tammy L. Mitchell, and files this Motion for Continuance ("Motion"), and in support thereof would show the following:

**I. FACTUAL CIRCUMSTANCES**

The Proposal for Decision rendered by the Administrative Law Judge ("ALJ") in this case is currently scheduled to be heard before the Commission on May 16, 2012. The attorney representing the ED is scheduled for surgery on May 14, 2012, and may not be available to appear. The investigator and enforcement coordinator for this case have prior commitments and are also not available to appear on May 16, 2012. The attendance of these staff members is critical to the ED's presentation of the case.

This Motion is not filed for purposes of delay, but so that justice may be served. The ED respectfully requests that the Proposal for Decision be scheduled for a later agenda, pursuant to 30 TEX. ADMIN. CODE § 80.261. The Executive Director, the ALJ, and the TCEQ Office of Public Interest Counsel are available May 30, 2012 and June 13, 2012. Respondent is not available May 30, 2012, but is available June 13, 2012. The Office of Public Interest Counsel ("OPIC"), the ALJ, and Respondent have no objection to this Motion.

## II. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Executive Director respectfully requests that the Administrative Law Judge grant this Motion and continue the evidentiary hearing in this matter.

Respectfully submitted,

Texas Commission on Environmental Quality

Zak Covar,  
Executive Director

Caroline M. Sweeney, Deputy Director  
Office of Legal Services

Kathleen C. Decker, Division Director  
Litigation Division

By   
Tammy L. Mitchell  
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(512) 239-3434 (FAX)  
Attorney for the Executive Director

**CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of May, 2012, the original of the foregoing "Motion for Continuance" ("Motion") and seven copies were filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day a true and correct copy of the foregoing Motion was sent to the following people by the delivery method stated:

Mr. Les Trobman, General Counsel  
Texas Commission on Environmental Quality

Via Electronic Filing and Electronic Mail

The Honorable Rebecca S. Smith  
Administrative Law Judge  
State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 502  
Austin, Texas 78711-3025

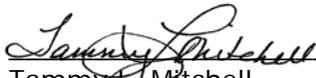
Via Electronic Filing  
and Via Inter-Agency Mail

Mr. Blas Coy  
Office of the Public Interest Counsel  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Via Electronic Mail:  
bcoy@tceq.state.tx.us

The Honorable Dwain Moore, Mayor  
City of Hawk Cove  
1585 Maria  
Hawk Cove, Texas 75474

Via Facsimile (903) 447-5655  
and Via First Class Mail

  
\_\_\_\_\_  
Tammy L. Mitchell  
Attorney, Litigation Division  
Texas Commission on Environmental Quality

**CERTIFICATE OF CONFERENCE**

On May 8, 2012, counsel for the ED conferred with the Office of Public Interest Counsel ("OPIC"), the ALJ, and Respondent, who have no objection to this Motion.

  
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Tammy L. Mitchell