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February 13, 2013

Via TCEQ's e-Filing System

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

Re: SOAH Docket No. 582-12-3294; TCEQ Docket No. 2011-0667-MWD-E;
*Executive Director of the Texas Commission on Environmental Quality v. West
Houston Airport Corporation*

Dear Ms. Bohac:

Enclosed please find *West Houston Airport Corporation's Exceptions to the
Administrative Law Judge's Proposal For Decision and Order* in connection with the above
referenced matter.

Should you have any questions in connection with the enclosed document, please call our
office.

Sincerely,

BLACKBURN CARTER, P.C.

by s/Mary W. Carter
Mary W. Carter

Enclosure

c: Jennifer Cook *Via E-Mail*
Rudy Calderon *Via E-Mail*
Blas J. Coy, Jr. *Via E-Mail*
Judge Richard R. Wilfong - *Via SOAH Electronic Filing System*

EXECUTIVE DIRECTOR OF THE	§	BEFORE THE STATE OFFICE
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY	§	
	§	
v.	§	OF
	§	
WEST HOUSTON AIRPORT	§	
CORPORATION	§	ADMINISTRATIVE HEARINGS

WEST HOUSTON AIRPORT CORPORATION'S
EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGE'S
PROPOSAL FOR DECISION AND ORDER

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

COMES NOW, West Houston Airport Corporation, (“Respondent”), and files its Exceptions to the Administrative Law Judge’s Proposal For Decision and Order issued in the above-referenced case on January 24, 2013.

Respondent agrees with Administrative Law Judge Richard R. Wilfong’s Proposal for Decision that recommends “although the Executive Director (“ED”) proved the violations, the proposed penalty of \$125,750.00 is excessive and the proposed enhancement of the base penalty by \$101,250.00 (225% of the total base penalty) should not be assessed and rather Respondent should be assessed a penalty of \$24,500.00.”

Although Respondent continues to disagree with the Administrative Law Judge’s (“ALJ”) finding and the Office of Public Interest Counsel’s (“OPIC”) position that the ED correctly calculated the base penalty, Respondent accepts the ALJ’s Proposal For Decision, Findings of Fact and Conclusions of Law, and Order without substantive changes. Specifically, Respondent agrees with the ALJ’s analysis and OPIC’s position that an enhancement of \$101,250.00 (225%) is an unreasonable and excessive penalty; an administrative penalty of

\$24,500.00 is sufficient to hold Respondent accountable for the violations; but at the same time recognizes the extraordinary efforts made by Respondent to connect to the City of Houston Wastewater Treatment Plant; the substantial costs incurred to insure that the violations would be resolved; and the potential for continuing harm to the environment would be avoided permanently.

Respondent excepts to Finding of Fact No. 24 because it contains a typographical error. The Houston City Council approved the Sanitary Sewer Agreement to allow Respondent to connect to the City's regional wastewater treatment system on April 20, 2011, not April 20, 2012 as noted in the above Finding.

Respondent adds Finding of Fact No. 27:

The enhancement amount of \$101,250.00 assigned by the ED based on Respondent's compliance history resulted in an excessive and unreasonable penalty.

CONCLUSION

Respondent respectfully requests that the Texas Commission on Environmental Quality ("TCEQ") accept and affirm the ALJ's Proposal for Decision, Findings of Fact and Conclusions of Law, and the recommendation that the Respondent be assessed an administrative penalty in the amount of \$24,500.00.

The amount of this recommended administrative penalty is reasonable under the circumstances of this case, and in accordance with the factors listed in Tex. Water Code § 7.053, as well as being in accordance with the State's Regional Water Policy, "to encourage and promote the development and use of regional and areawide waste collection, treatment and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy." Tex. Water Code § 26.003.

Respectfully submitted,

BLACKBURN CARTER, P.C.

by: Mary W. Carter

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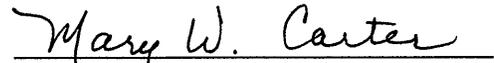
713-782-4646

713-782-5544 fax

Counsel for Respondent

CERTIFICATE OF SERVICE

On this 13th day of February, 2013, a true and correct copy of the foregoing instrument was served on all attorneys of record by the undersigned via the method designated below.



Mary W. Carter

Via Chief Clerk's E Filing System
Bridget Bohac, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk
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Austin, Texas 78711-3087

Via SOAH Electronic Filing System
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Administrative Law Judge
State Office of Administrative Hearings
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