

**SOAH DOCKET NO. 582-14-3427  
TCEQ DOCKET NO. 2013-2228-MWD**

<b>APPLICATION OF DHJB</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>DEVELOPMENT, LLC FOR</b>	<b>§</b>	<b>OF</b>
<b>A MAJOR AMENDMENT TO</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>TPDES PERMIT NO. WQ0014975001</b>	<b>§</b>	

**APPLICANT, DHJB DEVELOPMENT LLC, & THE JOHNSON RANCH  
MUNICIPAL UTILITY DISTRICT'S COMBINED MOTION FOR EXTENSION OF  
TIME TO FILE EXCEPTIONS TO THE PROPOSAL FOR DECISION**

**TO: The Honorable Sarah G. Ramos, Administrative Law Judge:**

COMES NOW, DHJB Development LLC, Applicant in the above referenced proceeding, and Aligned Party, Johnson Ranch Municipal Utility District (collectively the “Applicant”) and file this their Combined Motion for Extension of Time to File Exceptions to the Proposal for Decision in the matter of the Application to Amend TPDES Permit No. WQ0014975001 to increase its flow and authorize a discharge, and would show the ALJ as follows:

**I.  
REQUEST FOR EXTENSION OF TIME**

On March 30, 2015, Applicant delivered and filed its exceptions to the Proposal for Decision electronically at SOAH and TCEQ Chief Clerk’s office. Applicant experienced some technical difficulty when completing this process. Applicant believed that it was successful in timely completing the filing of its Exceptions. Applicant also delivered copies of its Exceptions to the other parties, and the parties all filed replies to the Applicant’s Exceptions.

On May 7, 2015, however, Applicant received a call from the TCEQ Clerk’s office to notify the Applicant that the uploading of Applicant’s filing of Exceptions to the Proposal for Decision were not actually received until 5:36 P.M. on March 30, 2015. Despite Applicant’s

best efforts to timely accomplish the electronic filing, while Applicant did file their Exceptions on March 30, 2015, there apparently was a late filing by 36 minutes due to technical complications because the final electronic file was apparently not received and formally uploaded until after 5 P.M. Applicant had not been aware of the late filing until this point in time.

Applicant began the file upload at approximately 4:30 P.M. and believed in good faith that the file was uploaded before 5:00 P.M. Applicant received a confirmation at 5:36 that the file was uploaded, as seen in the email attached as Attachment "A," and assumed the delay in receiving the confirmation e-mail was just the electronic filing system taking some time to generate a confirmation.

It was not until receiving a call from the TCEQ Clerk's office on May 7th that Applicant learned the confirmation came after 5:00 because the file upload did not register until after 5:00 P.M.. Given the Applicant now realizes its Exceptions were inadvertently delivered late, Applicant files this Motion requesting an Extension of Time to file its Exceptions.

As noted, all Parties were able to reply and timely file their replies to Applicant's Exceptions and, therefore, here is no prejudice or harm to the other Parties in granting the requested extension. As described above, the delay was a mere 36 minutes. Further, all Parties received the Applicant's Exceptions and had opportunity to respond in the Replies to Exceptions. Both the Protestant and the Executive Director did file Replies to Exceptions and included references to the Applicant's Exceptions. While Applicant recognizes its Exceptions were not filed by the 5:00 P.M. deadline and apologizes, Applicant believes there is no harm or prejudice to any party in allowing the Exceptions be considered in the record as normal. As stated above,

Applicant only learned of this delay on May 7th, otherwise this request would have been brought previously.

**II.  
CERTIFICATE OF CONFERENCE**

Applicant's Certificate of Conference is appended hereto.

**III.  
CONCLUSION & PRAYER**

WHEREFORE, PREMISES Considered, for all of the foregoing reasons, DHJB Development LLC and Johnson Ranch Municipal Utility District respectfully request that the ALJ grant the Applicant's Motion for Extension of Time to File the Applicant's Exceptions to the Proposal For Decision at 5:36 P.M., March 30, 2015.

Respectfully submitted,

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By: /s/ Edmond R. McCarthy, Jr.  
Edmond R. McCarthy, Jr.  
State Bar No. 13367200

By: /s/ Phillip Haag  
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ATTORNEYS FOR THE APPLICANT,  
DHJB DEVELOPMENT LLC

ATTORNEYS FOR JOHNSON RANCH  
MUNICIPAL UTILITY DISTRICT

**CERTIFICATE OF CONFERENCE**

I hereby certify that on May 8, 2015, I conferred with the following parties through their respective counsel, Charles Irvine, counsel for Protestants, Kathy Humphreys and Daniel Ingersoll, counsel for the Executive Director, and Rudy Calderon, counsel for the Office of Public Interest Counsel on this Motion for Extension of Time to File Exceptions to the Proposal for Decision.

On May 8, 2015, counsel for both the Executive Director and the Office of Public Interest Counsel responded that they had no objection to Applicant's Motion. The Applicant did not receive any response from counsel for the Protestants and, on May 13, 2015, Applicant sent a second e-mail with a copy of its motion to Mr. Irvine, counsel for Protestants, advising him of Applicant's intent to file this Motion today, May 14<sup>th</sup>. Mr. Irvine has not responded to the e-mail as of the filing of this Motion.

By: /s/ Edmond R. McCarthy, Jr.  
Edmond R. McCarthy, Jr.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the above and foregoing Motion for Extension of Time to File Exceptions to the Proposal for Decision (was electronically filed with SOAH and the Clerk of the Texas Commission on Environmental Quality,) as well as sent via e-mail and/or facsimile transmission as available and/or by Regular U.S. Mail to the following attorneys and/or party representatives on this the 14<sup>th</sup> day of May, 2015.

Ms. Mary B. Connor  
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Patricia Lux Graham et al, Protestants

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Johnson Ranch MUD

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TCEQ Public Interest Counsel

By: /s/ Edmond R. McCarthy, Jr.  
Edmond R. McCarthy, Jr.

**ATTACHMENT "A"**

**CONFIRMATION EMAIL FROM TCEQ OF UPLOAD OF APPLICANT'S  
EXCEPTIONS TO PROPOSAL FOR DECISION**

**Temple Noble**

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**From:** donotreply@tceq.texas.gov  
**Sent:** Monday, March 30, 2015 5:36 PM  
**To:** Temple Noble  
**Subject:** TCEQ Confirmation: Your Filing on Permit Number/Docket Number 2013-2228-MWD was received.  
**Attachments:** Applicant's Exceptions to PFD2.pdf

**FILING CONFIRMATION NUMBER** 131633582015089

**REGULATED ENTITY NAME** JOHNSON RANCH WWTP

**RN NUMBER:** RN104912704

**PERMIT NUMBER:** WQ0014975001

**DOCKET NUMBER:** 2013-2228-MWD

**COUNTY:** COMAL

**PRINCIPAL NAME:** DHJB DEVELOPMENT LLC

**CN NUMBER:** CN604156356

**FROM**

**FILED BY:** Temple Noble

**FILED FOR NAME:** MR EDMOND R. MCCARTHY, JR

**E-MAIL:** [tnoble@jacksonsjoberg.com](mailto:tnoble@jacksonsjoberg.com)

**COMPANY:** JACKSON, SJOBERG, MCCARTHY & TOWNSEND, LLP

**ADDRESS:** 711 W 7TH ST  
AUSTIN TX78701-2711

**PHONE:** 512-225-5606

**DOCUMENT NAME:** Applicant's Exceptions to PFD2.pdf

*Based on 30 TAC Section 1.10(h), the TCEQ General Counsel has waived the filing requirements of Section 1.10(c) to allow the filing of documents using this online system. The General Counsel also has waived the requirements of Section 1.10(e) so that the time of filing your documents is the time this online system receives your filings. Filings are considered timely if received by close of business (usually 5:00 p.m. CST) on the deadline date unless otherwise ordered. If your document is 20 pages or less (including cover letter, mailing list, and attachments) and it is for Commission consideration at an open meeting, the General Counsel has also waived the requirement of Section 1.10(d) to file paper copies with the Office of the Chief Clerk.*