



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

May 5, 2010

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

Re: San Jacinto River Authority NPDES permit appeal no. 09-09

Dear Clerk of the Board:

Attached for electronic filing in the above referenced matter is Respondent's Unopposed Motion for a Change in Date of Oral Argument.

A handwritten signature in black ink, appearing to read "T. D. Gillespie".

Thomas David Gillespie
Assistant Regional Counsel, Region 6

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

_____))
In the Matter of:))
)) Appeal No. NPDES 09-09
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))
San Jacinto River Authority))
))
))
Permit No. TX0054186))
_____))

**RESPONDENT'S UNOPPOSED MOTION FOR A CHANGE IN DATE
OF ORAL ARGUMENT**

The United States Environmental Protection Agency, Region 6 (Respondent) respectfully requests that the Environmental Appeals Board (Board) change the date of oral argument in this case from June 10, 2010, to June 7, 2010. The Board set the June 10, 2010 oral argument date in this Petition by order dated April 14, 2010. This change in date would allow counsel for Respondent to have their expert for all matters in this case, Mr. Phillip Jennings, to attend the oral argument so that he may provide technical information to Respondent's counsel. Respondent believes that his attendance and available technical expertise would be very helpful to Respondent to provide a thorough oral argument on technical matters in this case. Mr. Jennings is on vacation in Hawaii from June 8, 2010, until June 30, 2010. Mr. Jennings made these travel arrangements on December 16, 2009, and cannot change them without significant hardship. Attached hereto and incorporated herein by reference as Exhibit 1 is the travel itinerary for Mr. Jennings. The technical expertise of Mr. Jennings is detailed in his resume, attached hereto and incorporated herein by reference as Exhibit 2. If June 7, 2010, is not

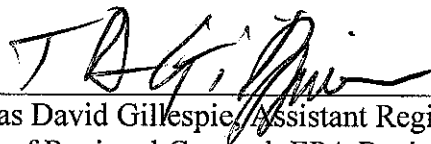
acceptable to the Board, Mr. Jennings will be available for attending oral argument after July 1, 2010.

The attorney for the Respondent has contacted the attorney for the Petitioner by phone and the attorney for the Petitioner indicated that the Petitioner does not oppose this request for a change of date to June 7, 2010. The attorney for the Respondent further indicated that they will have two of their own experts attending the oral argument. Therefore, the Respondent believes it will be imperative to also have an expert in attendance.

For the reasons set forth above, the Respondent respectfully requests that the Environmental Appeals Board change the date for oral argument to June 7, 2010, or in the alternative, to a date after July 1, 2010. Based on a telephone discussion with the attorney for Petitioner, it is the Respondent's understanding that the Petitioner's experts may have conflicts after July 1, 2010, and that the Petitioner expects to file a response to this motion, including dates that would be available after July 1, 2010.

Respectfully submitted this 5th day of May, 2010.

United States Environmental Protection Agency, Region 6




Thomas David Gillespie, Assistant Regional Counsel
Office of Regional Counsel, EPA Region 6
Arkansas Bar No. 96210

United States Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2010, copies of the foregoing were served upon Lauren Kalisek, attorney for the San Jacinto River Authority, and to the Clerk of the Board, Environmental Appeals Board, as indicated below.



Thomas David Gillespie

MAILING LIST

VIA OVERNIGHT UPS

Lauren Kalisek, Esq.
Loyd Gosselink Blevins Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5847

VIA ELECTRONIC FILING

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Suite 600
Washington, D.C. 20005

EXHIBIT 1

American Airlines

Note: This is not your receipt. You will be receiving your itinerary confirmation along with your receipt soon. You may print your itinerary & Receipt directly from AA.com once the status is updated from "Purchased" to "Ticketed".

Reservation Details

Record Locator KFYIDM Your record locator is your reservation confirmation number and will be needed to retrieve or reference your reservation.	Status On Request - Dec 16, 2009	Reservation Name DFW/OGG You can name your reservation so it's easier to locate when you return to AA.com (e.g. Quarterly Meeting). Bottom of Form
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Your Itinerary

Carrier	Flight	Departing		Arriving		Cabin	Seats
		City	Date & Time	City	Date & Time	Booking Code	
AA AMERICAN AIRLINES	7	DFW Dallas/ Fort Worth	Jun 08, 2010 12:15 PM	OGG Kahului/ Maui	Jun 08, 2010 03:25 PM	Economy V	40J, 40H
AA AMERICAN AIRLINES OPERATED BY HAWAIIAN AIRLINES	7893	OGG Kahului/ Maui	Jun 08, 2010 04:35 PM	HNL Honolulu/ Oahu	Jun 08, 2010 05:09 PM	Economy V	19A, 19B
AA AMERICAN AIRLINES OPERATED BY HAWAIIAN AIRLINES	7906	HNL Honolulu/ Oahu	Jun 08, 2010 06:15 PM	ITO Hilo/ Big Island	Jun 08, 2010 07:06 PM	Economy V	18A, 18B
AA AMERICAN AIRLINES OPERATED BY HAWAIIAN AIRLINES	7921	ITO Hilo/ Big Island	Jun 29, 2010 04:12 PM	HNL Honolulu/ Oahu	Jun 29, 2010 05:01 PM	Economy V	18A, 18B
AA AMERICAN AIRLINES	102	HNL Honolulu/ Oahu	Jun 29, 2010 06:45 PM	DFW Dallas/ Fort Worth	Jun 30, 2010 07:16 AM	Economy V	39J, 39H

Your Notifications

Contact	Notification Summary	Actions
:		Enabled

Fare Summary

Passenger Type Used in Pricing	Fare per Person	Additional Taxes and Fees per Person	Total Price
2 Adult	570.00 USD	53.00 USD	1248.00 USD
Total Price			1248.00 USD

Summary Details

Reminder:

- If your itinerary contains international flights, it is the sole responsibility of each passenger in the itinerary to have the proper documents for entry/re-entry into a country. To obtain documentation requirements, contact the embassy or consulate of all countries involved in your itinerary, including all countries in which you may be transiting. You can also contact your international carrier(s) for further information on documentation requirements, embargoes, travel advisories and/or additional requirements that may apply to the country or countries in your itinerary. Passengers will need to present Itinerary and Receipt (I & R) to an immigration officer upon request.
- Some fares purchased on AAdvantage participating airlines are not eligible for mileage accrual. View eligible booking codes and mileage accrual rates by airlines at www.aa.com/participantairlines.
- American Airlines will restrict boarding pass issuance when any uncollected Change Fees involving an itinerary change exist. To avoid any inconvenience to you, we encourage you to satisfy Change Fee collection with Reservations or your travel agent at the time the itinerary change is made.
- To expedite check-in, gate locations at airports will accept credit cards only. Passengers with Electronic tickets on international flights will need to present the Itinerary and Receipt (I & R) to an immigration officer upon request. If your I & R are not received by mail or post prior to departure, you will need to request one in person at the ticket counter.
- Many common items used every day in the home or workplace may be considered dangerous when transported in baggage by air. You must declare your dangerous goods to the airline. Failure to do so violates U.S. Federal Law.

CLOSE WINDOW

EXHIBIT 2

Phillip Jennings, 6WQ-P
NPDES Permitting Senior Technical Advisor
US EPA Region 6
1445 Ross Ave.
Dallas, TX 75202

P 214/665-7538
F 214/665-2191
E jennings.phillip@epa.gov

Environmental Scientist; GS-1301-14, Supervisor – Claudia Hosch, Associate Division Director,
Water Quality Protection Division

EXPERIENCE (06/1991 to Present)

- Development and critical evaluation of national, regional and state issues related to industrial and municipal wastewater and development of NPDES permit strategies and controls for EPA Region 6 Office. Assisted or developed EPA Regional strategies to control toxicity related to total dissolved solids, organophosphate pesticides and ammonia, and the national strategy to control effects of pathogenic bacteria in WET tests.
- Review and provide comment/technical support on over 150 toxicity reduction evaluations (TREs), toxicant identification Evaluations (TIEs), and thousands of whole effluent toxicity (WET) tests performed for purposes of NPDES permit compliance. This includes resolving toxicity issues related to single and multiple toxicants such as organic compounds, metals, chlorine, ammonia, total dissolved solids (TDS), ionic imbalances, pesticides and housekeeping practices.
- Develop all the basic NPDES permit languages for EPA Region 6 and its States.
- Review and comment on State water quality standards and implementation procedures submitted to EPA for approval.
- Develop and provide training for the EPA Regions, States and the regulated community, as well as for international audiences. I am a recognized regional, national and international technical expert on wastewater permitting to preclude toxic effects to aquatic life in waters of the United States, including development of testing manual requirements, test design, regulatory and enforcement issues and program defense against challenges. EPA Technical Expert in litigation and NPDES permit challenges, work with the public, the regulated community, contractors, labs and attorneys on State, regional and national and international bases to facilitate non-confrontational implementation of complex and contentious program requirements. I am an authorized US EPA Enforcement Officer.
- Work with US EPA HQ and the Region 6 States to bring NPDES permits into full compliance with federal regulations with regards to establishing limits on whole effluent toxicity (WET) for sub-lethal effects as well as lethal effects, where it is determined that reasonable potential to cause or contribute to an exceedance of a State narrative criterion for the protection of aquatic life exists.
- Peer Review of "Development of Salinity Toxicity Relationships for Produced Water Discharges" for ENSR Laboratories.

- Peer review of current state-of-the-art book and CD, "Toxicity Reduction Evaluations (TRE) and Toxicity Identification Evaluations (TIE) For Effluents, Ambient Waters, and Other Aqueous Media", published November, 2005, by the Society of Toxicology and Chemistry (SETAC).
- Member of the Water Environment Research Foundation Project Committee for the product document "Navigating the TMDL Process: Method Development for Addressing Narrative Criteria", published 12/03.

PRESENTATIONS and TRAINING SEMINARS

Developed and presented numerous talks across the US with on WET testing, how and when to perform toxicity reduction evaluations and/or toxicity identification evaluations, including toxicity related to total dissolved solids and ionic imbalances.

Developed and presented over 60 toxicity training courses (durations of 1-8 days) across the US (1996 - present), Africa (2009), Thailand (2007), South Korea (2007) South America (1999, 2001, 2008) and Cuba (2002), and have assisted with toxicity testing, program development and training course development for Japan, Israel, Chile, Brazil and Jamaica.

I have been a member of the Whole Effluent Toxicity Expert Training Panel for the Society of Environmental Toxicology and Chemistry (SETAC) since its inception in 1995.

EDUCATION

Thomas Jefferson, San Antonio, TX; 1966 High School Diploma

Stephen F. Austin State University, Nacogdoches, TX; BS in Biology, 1987

Stephen F. Austin State University, Nacogdoches, TX; MA in Biology, Aquatic Emphasis, 1989

Selected Technical Document Development

1. Alternate Testing Procedures for NPDES Permits, national regulation development workgroup member (2007-2008)
2. MicroTox as an Alternate WET Test Procedure, national review panel member (2006-2008)
3. Final review/comment and revisions to WET Methods manuals, US EPA, "Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, 5th Ed."; "Short-Term Methods For Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms, 4th Ed."; and "Short-Term Methods For Estimating the Chronic Toxicity of Effluents and Receiving Water to Marine and Estuarine Organisms, 3rd Ed."
4. Final review/comment and revisions to "Understanding and Accounting for Method Variability in Whole Effluent Toxicity Applications Under the National Pollutant Discharge Elimination System Program", (EPA 833-R-00-003, June 2000).
5. Clarifications Regarding Toxicity Reduction and Identification Evaluations in the National Pollutant Discharge Elimination System Program US EPA Office of Water, Co-author, (March 2001)