



261ST DISTRICT COURT

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June 20, 2011

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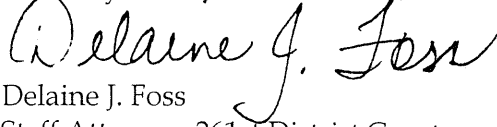
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Re: Cause No. GN-11-000011 *Environmental Defense Fund, Inc. v. Texas Commission on Environmental Quality*, in the 201<sup>st</sup> Judicial District Court of Travis County, Texas.

Dear Counsel:

Enclosed is a copy of the signed Order in the above-referenced case. Judge Livingston reviewed the orders submitted by the parties and determined that Plaintiff's proposed order more accurately reflects her ruling.

Sincerely,

  
Delaine J. Foss  
Staff Attorney, 261st District Court

Encl.

cc: Ms. Amalia Rodriguez-Mendoza, Travis County District Clerk

CAUSE NO. D-1-GN-11-000011

ENVIRONMENTAL DEFENSE FUND, INC.,	§	IN THE DISTRICT COURT OF
	§	
PLAINTIFF	§	
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY,	§	
	§	
DEFENDANT	§	201 <sup>st</sup> JUDICIAL DISTRICT

ORDER

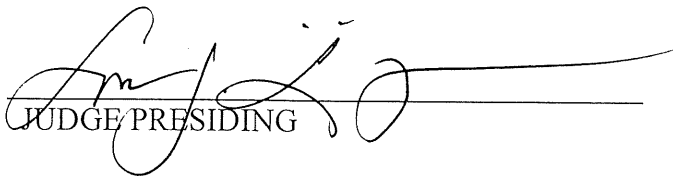
On May 24, 2011, the Court heard Plaintiff Environmental Defense Fund, Inc. (“EDF”)’s Motion for Remand under Texas Government Code § 2001.175(c). EDF, Defendant Texas Commission on Environmental Quality (“TCEQ”) and Intervenor White Stallion Energy Center, LLC (“WSEC”) appeared through their respective counsel. The Court has considered the pleadings, the evidence and the arguments of and authorities cited by counsel. The Court is satisfied that the additional evidence is material and there are good reasons why it was not presented in the proceeding before the State Office of Administrative Hearings (“SOAH”) (SOAH Docket No. 582-09-3008) and the TCEQ (TCEQ Docket No. 2009-0283-AIR) and that unless the Court grants this motion, the public will not be afforded meaningful participation in the permit application review process. The Court therefore GRANTS the motion as follows.

1. It is ORDERED that, pursuant to Texas Government Code §2001.175(c), this matter be remanded for the taking of additional evidence on the October 25, 2010 site plan submitted by WSEC to the U.S. Army Corps of Engineers (“Site Plan 4”) and on its impacts on WSEC’s TCEQ air permit application under applicable law.

2. It is FURTHER ORDERED that this appeal shall be abated pending the taking of such additional evidence and pending TCEQ’s decision whether to change its findings and decision by reason of the additional evidence as provided under Tex. Gov’t Code § 2001.175(c).

3. It is FURTHER ORDERED that, pursuant to Tex. Gov’t Code § 2001.175(c), the additional evidence admitted in the re-opened TCEQ/SOAH proceedings and any changes in findings, new findings, or decisions shall be filed by TCEQ with this Court.

SIGNED this 20<sup>th</sup> day of JUNE, 2011.

  
JUDGE PRESIDING