

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

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**NO. 03-07-00252-CV**

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**Engelman Irrigation District, Appellant**

**v.**

**Texas Commission on Environmental Quality and Shields Brothers, Inc., Appellees**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 98TH JUDICIAL DISTRICT  
NO. D-1-GN-04-003790, HONORABLE SCOTT H. JENKINS, JUDGE PRESIDING**

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**ORDER OF REFERRAL**

After hearing oral argument, the Court has determined that this case is appropriate for referral to mediation. The parties in this cause are referred to Karl Bayer, 8911 N. Capital of Texas Highway, Suite 2120, Austin, Texas 78759, 512-345-8537, who shall complete a mediation conference with Engelman Irrigation District and Shields Brothers, Inc. and their respective attorneys by Friday, February 15, 2008. Authorized representatives for Engelman Irrigation District and Shields Brothers, Inc. shall attend the entire mediation with their counsel of record unless the parties and mediator agree differently. The Texas Commission on Environmental Quality (TCEQ) shall cooperate but is not required to attend the mediation.

Before the first scheduled mediation session, each party, including TCEQ, shall provide the mediator with all information necessary for the mediator to understand the issues presented. The mediator may require any party to supplement the information provided.

The mediator will encourage and assist, but will not compel or coerce, the parties in reaching a settlement of their dispute. The expenses of mediation shall be borne equally by Engelman Irrigation District and Shields Brothers, Inc., not by TCEQ, the mediator, or this Court. Prior to the mediation, the mediator shall provide the parties with his fee schedule in writing and advise the parties of their obligations and the specific manner in which payment will be due.

After mediation, the mediator will advise the Court if the parties fully settled, partially settled, or failed to settle their dispute and, if the parties consent, shall provide to the Court any settlement agreement signed by the parties. All matters revealed during mediation, including the conduct and demeanor of the parties, shall remain confidential. *See* Tex. Civ. Prac. & Rem. Code Ann. §§ 154.053, 154.073 (West 2005). If the mediation resolves the issues in the case, the parties shall file a joint motion to dismiss within 10 days of the conclusion of the mediation. If the parties need more time to effectuate the terms of the settlement agreement, they must file a joint motion for extension of time to file a motion to dismiss. The motion for extension is due within 10 days of the conclusion of the mediation.

Any objection to this order must be filed with the Clerk of this Court and served upon all parties and the mediator within ten (10) days of the date of this order.

It is ordered January 10, 2008.

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Diane Henson, Justice

Before Chief Justice Law, Justices Waldrop and Henson