

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

P.O. Box 1568
AUSTIN, TEXAS 78768-1568

(512) 404-...
FAX: (512) 703-...

June 26, 2006

Via Fax & U.S. Mail, Return Receipt Requested

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, Mail Code 105
Austin, Texas 78711-3087

Handwritten: *MWD/6/27/06*
Stamp: OPA
Stamp: JUN 27 2006
Text: BY *[Signature]*

Vertical stamps:
- TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
- CHIEF CLERK'S OFFICE
- JUN 27 2006 PM 11:57

Re: In Re: Application by Westlakes Utility Corporation, Proposed Permit No. WQ0014658001

Dear Ms. Castañuela:

Enclosed for filing in the above referenced cause please find the San Antonio Water System's Request for Contested Case Hearing. Because this motion is being served on you by fax, the original will be forwarded to you by mail as required by TCEQ's rules.

Sincerely,

[Handwritten Signature]
Joe Freeland

cc: Steve Kosub
Randy Wilburn

OPA H

JUN 27 2006

CHIEF CLERK'S OFFICE
JUN 27 11 57 AM '06
TARRANT

PROPOSED PERMIT NO. WQ0014658001

APPLICATION BY
WESTLAKES UTILITY
CORPORATION

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BEFORE THE
TEXAS COMMISSION
ENVIRONMENTAL QUALITY

**SAN ANTONIO WATER SYSTEM'S
REQUEST FOR CONTESTED CASE HEARING**

The San Antonio Water System (SAWS), the publicly-owned water agency of the City of San Antonio, Texas, disagrees with the Executive Director's preliminary decision to issue the referenced permit and hereby requests a contested case hearing.

I. Authorized Representative

SAWS requests that all correspondence, pleadings, briefs, requests for information and other documents in this proceeding be served on SAWS' authorized representative. SAWS' authorized representative in this matter is:

Joe Freeland
Mathews & Freeland, LLP
327 Congress Avenue, Suite 300
Austin, Texas 78703
Telephone: (512) 404-7800
Fax: (512) 703-2785
Email: jfreeland@mandf.com

II. Justiciable Interest

SAWS is an affected person and has a justiciable interest in this permitting matter in that SAWS operates an adjacent sewer system with capacity to treat the wastewater proposed to be treated by the facility for which applicants are seeking a permit. The proposed wastewater treatment facility and the proposed collection system feeding that facility are located immediately adjacent to the corporate limits of the City of San Antonio and inside San Antonio's extraterritorial jurisdiction (ETJ). The facility will be located within approximately 2900 feet

from an existing SAWS lift station that transports wastewater to SAWS' Medio Creek Wastewater Treatment plant. SAWS plans to serve the tracts proposed to be served by the facility. SAWS included these tracts in a wastewater impact fee service area that was approved by the San Antonio City Council in July 2004, and again June 2006. SAWS is willing to accept and treat the proposed wastewater, and SAWS believes that a privately owned treatment facility in this location is inconsistent with policies supporting regionalization, including Texas Water Code §26.0282, and SAWS' goal of providing high quality wastewater treatment service on the most efficient and economical long-term basis for the area. SAWS has a justiciable interest in that it wishes to treat the wastewater proposed to go to this facility.

Pursuant to Texas Local Government Code §217.042, the City of San Antonio may regulate nuisances within 5,000 feet of its corporate limits. Parts of the development to receive service from this facility are located within 5,000 feet of San Antonio's corporate limits. San Antonio has enacted ordinances regulating nuisances and has delegated enforcement authority to SAWS. Thus, SAWS as a regulatory authority over part of the area in question, has an interest in the issuance of this permit and the terms and conditions contained therein.

III. SAWS' Comments/ED's Responses

SAWS commented that there is no need for this facility because of the proximity of the area to existing SAWS' facilities and SAWS' willingness to accept these flows. In its response to SAWS comments, the Executive Director states that the SAWS nearest treatment facility is over three miles away in another watershed and lacks sufficient capacity to serve the demands of the development. The Executive Director also states that SAWS force main that transports wastewater to the Medio Creek Wastewater Treatment Plant has inadequate capacity to serve the

proposed development. SAWS disputes that it lacks sufficient capacity to serve the demands of the development.

Additionally, as SAWS commented previously, no copy of the application or the draft permit were made available by the applicant, as represented in the notice received by SAWS. In its response to comments, the Executive Director states that the applicant submitted a verification form certifying that a copy of the permit application, technical summary, draft permit, the Executive Director's preliminary decision, and all other related correspondence were available during the comment period. SAWS disputes that the applicant provided adequate notice.

IV. Disputed Issues

A. Need for Facility/Regionalization

SAWS asserts that a disputed issue of fact exist that is relevant and material to the Commission's decision on this application. SAWS disputes the need for the facility to be permitted, particularly given the availability of existing areawide or regional waste collection, treatment, and disposal systems. The Commission is charged by Texas Water Code §26.0252 to consider the need for the issuance of a new wastewater permit based on regionalization. SAWS has collection facilities within 2900 feet of the area and has adequate transportation and treatment capacity to meet the demands of the proposed development. The applicant has failed to justify the need for the construction of a new facility and has failed to adequately demonstrate that it would be economically unreasonable to use SAWS' existing facilities.

B. Adequacy of Notice

SAWS disputes that the applicant provided adequate public notice as required by 30 IAC §39.405(g) by failing to make the application documents available at a site accessible to the general public. Because SAWS was unable to review the application documents and the draft

permit, SAWS was unable to fully comment on the application and raise additional issues of concern.

V. Prayer

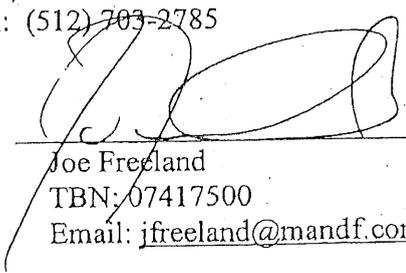
SAWS respectfully requests that the Commission hold a contested case hearing to address the need for the facility, the adequacy of the notice provided by the applicant, and such other facts identified by SAWS after a review of the application documents and the draft permit.

Respectfully submitted,
SAN ANTONIO WATER SYSTEM
2800 U.S. Highway 281 North
San Antonio, Texas 78212
(210) 233-3872
(210) 233-4292 (facsimile)

Phil Steven Kosub
TBN: 11692500

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P.O. Box 1568
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By: _____


Joe Freeland
TBN: 07417500
Email: jfreeland@mandf.com

Jim Mathews
TBN: 13188700

ATTORNEYS FOR SAN ANTONIO
WATER SYSTEM

MATHEWS & FREELAND, L.L.P.

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Ms. LaDonna Castañuela, Chief Clerk
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Austin, Texas 78711-3087

HR
OPA

JUN 30 2006

MDWD
5/12/06
6/26/06

BY 

CHIEF CLERK'S OFFICE

JUN 27 11 2:38 AM '06

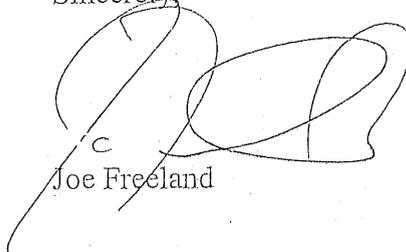
TEXAS
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ON ENVIRONMENTAL
QUALITY

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Joe Freeland

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Randy Wilburn

Me

PROPOSED PERMIT NO. WQ0014658001

HR OPA

JUN 30 2006

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CORPORATION

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BEFORE THE
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ENVIRONMENTAL QUALITY

BY *[Signature]*

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
JUN 29 PM 2:38
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Jim Mathews
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ATTORNEYS FOR SAN ANTONIO
WATER SYSTEM



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2006 MAR 16 PM 2:58

CHIEF CLERKS OFFICE

March 15, 2005

OPA

PH

HR

MAR 17 2006

BY DM

*mwd
5/26/09*

Office of the Chief Clerk
MC 105, TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

Re: Proposed TPDES Permit No. WQ0014658001 in the name of Westlakes
Utility Corporation

To Whom it May Concern:

The San Antonio Water System (SAWS), a publicly-owned water agency of the City of San Antonio, Texas, hereby protests issuance of the referenced permit for discharge of municipal wastewater and requests a public meeting and opportunity for a contested case hearing, if necessary, on the application. SAWS offers these public comments in support of this protest and request.

The proposed wastewater treatment facility would be located within the extraterritorial jurisdiction of the City of San Antonio. The site for the proposed facility lies approximately 2900 feet from an existing lift station that transports waste discharge to the San Antonio Water System Medio Creek Wastewater Treatment Plant. The tracts included in the application are located in and adjacent to a wastewater impact fee service area that was approved by the San Antonio City Council in July 2004. This impact fee service area specifically includes the geographical area and the projected wastewater demand for portions of the tracts. The Capital Improvements Plan for the impact fee service area incorporates expansions to the Medio Creek Wastewater Treatment Plant, and construction of collection lines and lift stations that will adequately provide service to the entire area included in the application.

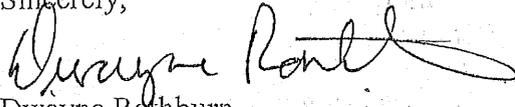
The San Antonio Water System has extension policies that work in conjunction with new development for construction of necessary water and wastewater infrastructure at reasonable expense to both the developer and our ratepayers. SAWS believes that a privately owned treatment facility in this location is inconsistent with the policy of regionalization and inconsistent with our goal of providing high quality wastewater service on the most efficient and economical long-term basis possible for all concerned.

SAWS staff attempted to review the discharge permit application at the Bexar County Clerk's office as indicated in the Notice of Application, however, the clerk could not locate any copy of the application.

SAWS requests an opportunity to present these comments at a public meeting. SAWS further requests a contested case hearing if necessary to address the contested factual issues outlined in these comments.

Thank you for your consideration.

Sincerely,



Dwayne Rathburn
Manager of Program Planning
(210) 233-3456