



TROPICAL GARDEN'S SUBDIVISION
Dickinson, TX

LaDonna Castañuela, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
P.O. Box 13087
Austin, TX 78711-3087

Re: **MARLIN ATLANTIS WHITE, LTD**
TCEQ DOCKET NO. 2006-1572-MWD

Dear Ms. Castañuela:

Enclosed for filing are the Affected Persons Requesting a Contested Case Hearing and Residents Requesting Reconsideration Replies to the Responses in the above referenced matter.

Sincerely,

Peggy Wright, Spokesperson
Tropical Garden's Affected Persons for a
Contested Case Hearing and Residents
Requesting Reconsideration

Cc: Mailing List

CHIEF CLERKS OFFICE

2006 NOV - 6 PM 3:13

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

DOCKET NUMBER 2006-1572-MWD

**APPLICATION BY
MARLIN ATLANTIS WHITE, LTD.
FOR TPDES PERMIT NO. WQ0014570001**

**BEFORE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**THE TROPICAL GARDENS AFFECTED PERSONS REQUESTING HEARING
AND RESIDENTS REQUESTING RECONSIDERATION REPLY TO
THE EXECUTIVE DIRECTOR'S RESPONSE**

I. INTRODUCTION

The affected persons of Tropical Gardens that are requesting a Contested Case Hearing (CCH) and the residents that are Requesting Reconsideration file this Reply to the Executive Director's (ED's) Response to Hearing Request and Request for Reconsideration in the matter of the application by Marlin Atlantis White, Ltd. (Applicant).

II. DESCRIPTION OF FACILITY

Per the applicant's website, the proposed facility has increased from 370 acres to 420 acres (Attachment A).

III. PROCEDURAL BACKGROUND

*The original application, statement of basis/technical summary and ED's preliminary decision and draft permit were to be available for viewing and copying at Dickinson City Hall. On October 5, 2005 the City receptionist was unable to produce above documents. Peggy and Ed Wright were directed to the library. The librarian was unable to produce above documents. Wrights were redirected to City Hall and met Mayor Masters who was unable to produce above documents. Again, on September 29, 2006, Peggy Wright requested of Mayor Masters above referenced documents. On October 2, 2006, Rena Hardage, City Secretary, said documents had been found in former city administrator's office and could not verify that said documents were available in their entirety. Not all pages referenced in ED's initial response were available for viewing/copying. After viewing on October 6, an order for copies of documents was placed. Because of heavy workload, documents were not available for pick-up until October 12, 2006.

*Many affected persons felt the Notice of Receipt and Intent to Obtain a Water Quality Permit should have been published in the Galveston County newspaper. We recognize the notice met TCEQ's rules for notice.

*Also, for the record, the ED states the October 6, 2005 public meeting was held in Dickinson when in actuality it was held in League City.

IV. EVALUATION OF HEARING REQUESTS

A. Group Hearing Requests

For purposes of efficiency for all involved, the Citizens of Tropical Gardens Group and the Tropical Gardens Senior Citizen Group submitted group hearing requests, as authorized by Section 55.205 of the TCEQ rules. Ms. Peggy Wright has been designated as the contact person for the group hearing requests. Subsection (b) of Section 55.205 provides that the Executive Director, the Public Interest Counsel, or the Applicant may request additional information regarding such a hearing request and provides that the requested information may be provided in a reply to a response to hearing requests. However, rather than requesting additional information in accordance with the rules, the Executive Director and Applicant have recommended that the hearing requests of the Citizens of Tropical Gardens Group and the Tropical Gardens Senior Citizen Group be denied because of missing information. They do not even explain what information it is that they contend is missing. Regardless, additional information is provided below further illustrating that the hearing requests on behalf of the Citizens of Tropical Gardens and the Tropical Gardens Senior Citizen Group meet all applicable requirements and should be granted.

The three requirements established in Section 55.205(a) for group hearing requests are that:

- (1) one or more members must have standing in his or her own right,
- (2) the interests the group seeks to protect are germane to group's purposes, and
- (3) participation of individual group members is not required

B. Whether Requestor Meets the Requirements of an Affected Person

1. Bert Schroeder on behalf of the B.C. Schroeder Marital Trust

The Affected Persons of Tropical Gardens believe that Mr. Schroeder meets the requirements of an Affected Person. Mr. Schroeder's knowledge of the bayous and surrounding lands combined with a knowledge of the history of said area is relevant to the application.

2. City of Dickinson

The Affected Persons of Tropical Gardens believe that the City of Dickinson, as their local governmental body, has statutory authority over or interest in the issues relevant to the application.

- #### **3. Peggy Wright**, spokesperson for affected persons of Tropical Gardens, represents residents who have standing to request a hearing in their own right.
- *Information concerning landowners and their mailing addresses (including the downstream landowner's map) were not made available as stipulated in the "Notice of Application and Preliminary Decision of Water Quality TPDES Permit for Municipal Wastewater (Proposed Permit WQ0014570001), until a month after submitting the requests for reconsideration and the request for contested case hearing in early September 2006.

*May it be noted, that the Technical Report, Page 12, Item 1 was not available and the landowners and mailing addresses could not be referenced to that map with the information available.

*Peggy Wright and Affected Persons will submit a more current list of affected property owners, their addresses and lot and block numbers along with a more current plat/map. (Attachments B, C, D, E, F, and G)

4. **Rena Hardage**

The Affected Persons of Tropical Gardens believe Ms. Hardage was acting within the capacity of her role as City Secretary for Dickinson and had the best interests of the Affected Persons in mind when she protested the WWTP.

5. **Ray and Sherry Jones**

Other residents, including Ray and Sherry Jones and a large majority of residents requesting reconsideration, have waterfront property that does not immediately adjoin Gum Bayou, but that would be affected by the discharge. As noted in the ED's Response, Gum Bayou in this area is tidally influenced. Accordingly, the discharged water will flow into other connected water bodies under various flow and weather conditions. As a result, residents whose property adjoins those connected water bodies near to the confluence with Gum Bayou also have standing because they will be affected by the discharge. Many landowners fall within the one mile radius designated on the ED's map.

6. **Chat Magee**

Please note that Mr. Magee is an Affected Person of Tropical Gardens with property adjacent to Gum Bayou, 4139 Gum, Lot 13, Block 6 (see Attachment E)

7. **Senior Citizens of Tropical Gardens/Citizens of Tropical Gardens**

As the ED's response acknowledges (ED's response page 3), individual members of the groups have been identified. As further acknowledged in the ED's response, at least one of those individual members clearly has standing in her own right: Betty Gutierrez (E.D. Response page 3 and page 5). That alone is sufficient to satisfy the first criterion of Section 55.205 (a). Also, as explained further immediately below, many additional members also have standing.

*May it be noted, that the following people are Affected Persons and have property adjacent to Gum Bayou: Steve Reckner, Louis Starz, Alton & Alison Rouse, Cliff Watts, David Roye, Danny R. Daniel, Kenneth Henderson, Tom Bennett, Maris Michaels, Robert Duty, Benjamin Brantley. Other residents, including Kelly Brautigam, Betty Gutierrez, James Evans, Tom Dayton, Martin Tien, Mark Bowers, Kenneth Howard, John Jacobs, Matthew Dayton, and Mark Lester have properties, not adjacent to Gum Bayou, that are engulfed by Gum Bayou in high tide events. High tide events are defined as high tide, heavy rains, runoff and southeasterly winds that push Gum Bayou onto properties along both sides of Gum Drive and Scenic Drive. During these high tide events homes experience the overflow of both Gum Bayou and Dickinson Bayou converging along Scenic and Gum Drives.

(Photos will also be attached showing the latest high tide event on October 15, 2006. See attachment H)

*Also, Betty Gutierrez is very supportive of Peggy Wright as the spokesperson coordinating the affected persons of Tropical Gardens in the effort against the proposed waste water treatment plant on Gum Bayou. (Affected Persons with attached letters in support of Peggy Wright as spokesperson will be found in attachment I.)

Because the groups seek only to ensure that no permit is issued unless it has clearly been shown to adequately protect water quality and the natural resources in the area, there is no need for participation by the members individually. The interest in protection water quality and natural resources in the area is common to all of the members in the groups.

Because the citizens of Tropical Gardens Group and the Tropical Gardens Senior Citizen Group have submitted timely and adequate hearing requests and because the status of the numerous members of those groups as affected persons has been demonstrated, the hearing requests should be granted. The granting of those requests is mandated by TCEQ rules. In addition, it is more advantageous to all parties, in the interest of efficiency, to provide the opportunity to participate to the Groups rather than to force each individual who has established the right to participate to do so individually.

C. Opportunity to Respond

Written replies will be submitted in a timely manner to the ED's response letter.

D. Whether Issues Raised are Referable to the State Office of Administrative Hearings (SOAH) for a CCH

Issue #1: Whether the proposed discharge will negatively impact the requestor's property.

Residents whose properties are often under water when Gum Bayou overflows its banks have a right to have their health and well being protected. This is the mission of TCEQ. In a perfect world there would never be a WWTP upset and Gum Bayou would never overflow it's banks. Unfortunately, this is an imperfect world and TCEQ in permitting the WWTP must consider the inevitability of both mishaps and the effect they will have on residents.

Affected persons of Tropical Gardens request this issue be referred to SOAH.

Issue #2: Whether data provided by the Applicant and used by the ED's staff for modeling was accurate.

Affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue # 3: Whether the dissolved oxygen in the impaired region would be impacted.

Affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue #4: Whether a proper stream survey should be conducted.

This issue should be relevant and material to the Commission's decision on the application in order that the permitting decision not result in a happening similar to the Bayridge subdivision. The Bayridge wastewater permit also involved Gum Bayou (near its origin) and the WWTP eventually was closed and dismantled because it could not safely handle the treated effluent.

Affected persons of Tropical Gardens request this issue be referred to the SOAH.

Issue #5: Whether the info provided in the application caused the ED to perform an improper evaluation.

Affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue #6: Whether Gum Bayou is tidally influenced at the point of discharge.

Affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue #7: Whether it would be better for the environment to have a less dense development using septic systems.

The majority of affected person prefer that the Applicant use the regional approach to wastewater management.

The affected persons of Tropical Gardens concur that this issue not be referred to the SOAH.

Issue # 8: Whether a TMDL study should be performed before the draft permit is issued.

Knowing that the TMDL development is separate from the TPDES permitting process we strongly believe that the permitting department should allow the TMDL evaluation to be used in this instance. The Fall 2006 study, evaluation and results could have bearing on this particular case. The affected persons of Tropical Gardens strongly believe the study results may have a negative impact on the permitting of the Gum Bayou WWTP.

The affected persons of Tropical Gardens request this issue be referred to SOAH.

Issue #9: Whether the Applicant's queries into potential service from wastewater treatment plants contained within the required three mile survey were adequate.

The affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue #10: Whether the discharge will negatively impact the waterbody.

The affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue # 11: Whether the description of Segment 1103D is correct.

Incorrect data is relevant in the permitting process.

The affected persons of Tropical Gardens request this issue be referred to SOAH.

Issue #12: Whether the notices were published in the correct newspapers.

It is agreed the Applicant followed the law. It is also noted that the Applicant (as a show of good faith) could have published the notice in both the Houston Chronicle and the Galveston News and the notice of Public Meeting would then not be an issue.

The affected persons of Tropical Gardens are split on the importance of this issue.

Issue #13: Whether the discharge will lead to flooding of neighborhood properties.

Under normal or drought conditions the affected persons of Tropical Gardens might agree there would be no flooding problems. Yet, considering the numerous high water events residents experience each year, Affected Persons do not concur that TCEQ can ignore the impact the discharge will have on our health and well being. Please see the attached photos and mentally add another 500,000 gallons of treated wastewater (in the twenty four hour period) and ponder the effect on our affected residents.

The affected persons of Tropical Gardens request this issue be referred to SOAH.

Issue #14: Whether fish and wildlife will be negatively impacted by the facility's discharge of wastewater.

The affected persons of Tropical Gardens, Senior Citizens of Tropical Gardens and Citizens of Tropical Gardens all seek to protect water quality and natural resources in the area.

These groups therefore recommend that this issue be referred to SOAH.

Issue #15: Whether it is appropriate for the Commission to authorize a discharge to a 303(d) listed water.

The Executive Director incorrectly characterizes this as raising solely a legal issue and recommends that it not be referred. (E.D. Response page 10). The applicable rules provide that a new discharge may not be authorized if it would cause or contribute to the impairment. Obviously, whether or not the discharge may cause or contribute to the impairment is a question of fact. The Executive Director's response specifically refers to the modeling results in asserting that dissolved oxygen levels "would not be significantly impacted." Clearly, whether this discharge to an impaired waterbody may be authorized turns on the factual determination of the potential for the discharge to contribute to the impairment.

The affected persons of Tropical Gardens strongly recommend that this issue be referred to SOAH.

Issue #16: Whether the discharge limits are appropriate.

The affected persons of Tropical Gardens concur that this issue be referred to SOAH.

Issue #17: Whether the property where the WWTP would be located has been properly remediated.

Residents downstream of the WWTP could be adversely effected if the permitted plant were allowed on inappropriately remediated land.

The affected persons of Tropical Gardens recommend this issue be referred to the SOAH.

Issue #18: Whether the wastewater treatment plant should be manned 24 hours a day, 7 days a week.

The affected persons of Tropical Gardens are split on this issue.

Issue #19: Whether the Applicant should be required to find a more desirable location for the wastewater treatment plant.

The residents of Tropical Gardens are not against responsible development and this issue would be a moot point if Applicant would work with San Leon Mud to send wastewater to a regional plant. To our knowledge, San Leon has been aggressive in pursuing the regional wastewater concept.

The affected persons of Tropical Gardens recommend this issue be referred to SOAH.

Issue #20: Whether other agencies, such as Texas Parks and Wildlife and the Health Department should comment on the application.

Since these agencies deal with the environmental fallout of the TCEQ permitting process they should have some degree of input.

The affected persons of Tropical Gardens recommends this issue be referred to SOAH.

VI. Duration for the Contested Case Hearing

The affected persons of Tropical Gardens request that there not be a rush to judgement and that all pertinent data (Fall 2006 TMDL especially) be carefully weighed with special attention given to the effects of normal fall and spring high water events that impact our subdivision.

VII. Bert Schroeder's Request for Reconsideration

The affected persons of Tropical Gardens request that Bert Schroeder's Request for Reconsideration be considered. Mr. Schroeder is an articulate representative with unique knowledge of Gum Bayou and the surrounding properties. Mr. Schroeder's input has a historical and local knowledge-based perspective that the Applicant and the TCEQ's ED staff lack.

VIII. Resident's Requests for Reconsideration

Issue 1: The Residents state that faulty data was used by the ED's modeling staff to assess Gum bayou's physical characteristics.

Response 10: Residents feel that pending data from the TMDL study would support our belief that, near the proposed WWTP, the sections of Gum and Dickinson Bayous will be impacted with respect to increased dissolved oxygen levels and increased bacteria levels. The residents realize that the discharge is below the currently listed impaired region (with respect to dissolved oxygen levels) near Hwy.3.

Let the newly acquired data and evaluation resolve the issue of whether or not our section of the bayous be listed as impaired not only with increased fecal coliform levels but also

increased dissolved oxygen levels.

Response 11: Allow the TMDL project to address this issue based on new data inhouse.

Response 15: REQUIRE accurate dimensions be acquired in order to properly assess the streams viability. Aerial photos do not supply sufficient detail for evaluating the the application.

Issue 2: The Resident's state that the ED's modeling staff failed to fully consider and physically measure the tidal affect on Gum Bayou.

Response 17: Require physical measurements of the area to properly assess stream viability.

Issue 3: The Residents feel that the permit is being allowed based solely on hypothetical discharge data from the Applicant and the modeling staff, and that the permit process does not take into consideration the affect the discharge will have on the receiving body of water or surrounding area.

Response 3: Residents still contend that the permit is being allowed based on incorrect data supplied by the Applicant and unquestioned by the modeling staff. Require an independent party provide precise data that accurately reflects the receiving body of water and surrounding area. The inhouse TMDL group most likely have more precise data with respect to width, depth and tidal effects than the Applicant or modeling staff.

Based on the reasons stated above, the Residents of Tropical Gardens respectfully request that our Request for Reconsideration be approved.

VIII. The Affected Persons of Tropical Garden's Subdivision Recommendations

- A. The Affected Persons of Tropical Gardens, with Peggy Wright as spokesperson, request a CCH. Please see Attachments B-G (downstream landowners map with updated information on residents with justicable interests affected by the permit application.
- B. The Affected Persons of Tropical Gardens concur that should the Commission refer the CCH requests to SOAH, the following issues be considered:
 - 1. **Whether the data provided by the Applicant and used by the Executive Director for modeling was accurate.**
 - 2. **Whether the dissolved oxygen in the impaired region would be impacted.**
 - 3. **Whether the information provided in the application caused the Executive Director to perform an improper evaluation.**
 - 4. **Whether Gum Bayou is tidally influenced at the point of discharge.**
 - 5. **Whether the Applicant's queries into potential service from wastewater treatment plants contained within the required three-mile survery were adequate.**
 - 6. **Whether the discharge will negatively impact the waterbody.**
 - 7. **Whether the fish and wildlife will be negatively impacted by the facility.**
 - 8. **Whether the discharge limits are appropriate.**

C. Approve the Requests for Reconsideration. The concerns of the Residents are reiterated by the Executive Director in VIII-Section B (previous page).

Specifically: No.1
No. 3
No. 4
No. 6

If the above issues are referred to SOAH on CCH proceedings then the same issues are relevant with respect to the Requests for Reconsideration.

Respectfully submitted,

Affected Persons and Residents of
Tropical Garden's Subdivision

A handwritten signature in cursive script, appearing to read "Peggy Wright".

Peggy Wright, Spokesperson

DOCKET NUMBER 2006-1572-MWD

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FOR TPDES PERMIT NO. WQ0014570001**

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TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**THE TROPICAL GARDENS AFFECTED PERSONS REQUESTING HEARING
AND RESIDENTS REQUESTING RECONSIDERATION REPLIES TO
THE OFFICE OF PUBLIC INTEREST COUNSEL**

I. INTRODUCTION

The affected persons of Tropical Gardens that are requesting a Contested Case Hearing (CCH) and the residents that are Requesting Reconsideration file this Reply to the Executive Director's (ED's) Response to Hearing Request and Request for Reconsideration in the matter of the application by Marlin Atlantis White, Ltd. (Applicant).

Per the applicant's website, the proposed facility has increased from 370 acres to 420 acres (Attachment A).

The original application, statement of basis/technical summary and ED's preliminary decision and draft permit were to be available for viewing and copying at Dickinson City Hall. On October 5, 2005 the City receptionist was unable to produce above documents. Peggy and Ed Wright were directed to the library. The librarian was unable to produce above documents. Wrights were redirected to City Hall and met Mayor Masters who was unable to produce above documents. Again, in September of 2006, Peggy Wright requested of Mayor Masters above referenced documents. On October 2, 2006, Rena Hardage, City Secretary, said documents had been found in former city administrator's office and could not verify that said documents were available in their entirety. Not all pages referenced in ED's initial response were available for viewing/copying.

Many affected persons felt the Notice of Receipt and Intent to Obtain a Water Quality Permit should have been published in the Galveston County newspaper. We recognize the notice met TCEQ's rules for notice.

The Affected Persons of Tropical Gardens agree with the Office of Public Interest (OPIC) that the hearing requests should be granted. The Residents strongly disagree that the requests for reconsideration be denied. The ED, in his response, refers several issues that were raised by the Residents to the SOAH on CCH proceedings. If the issues are relevant for consideration by the SOAH in CCH then they should be relevant with respect to the Requests for Reconsideration.

II. REQUIREMENTS OF APPLICABLE LAW

For purposes of efficiency for all involved, the Citizens of Tropical Gardens Group and the Tropical Gardens Senior Citizen Group submitted group hearing requests, as authorized by Section 55.205 of TCEQ rules. Ms. Peggy Wright has been designated as the contact person for the group hearing requests. Subsection (b) of Section 55.205 provides that the Executive Director, the Public Interest Counsel, or the Applicant may request additional information regarding such a hearing request and provides that the requested information may be provided in a reply to a response to hearing requests. However, rather than requesting additional information in accordance with the rules, the Executive Director and Applicant have recommended that the hearing requests of the Citizens of Tropical Gardens Group and the Tropical Gardens Senior Citizen Group be denied because of missing information. They do not even explain what information it is that they contend is missing. Regardless, additional information is provided below further illustrating that the hearing requests on behalf of the Citizens of Tropical Gardens and the Tropical Gardens Senior Citizen Group meet all applicable requirements and should be granted.

The three requirements established in Section 55.205 (a) for group hearing requests are that:

- (1) one or more members must have standing in his or her own right
- (2) the interests the group seeks to protect are germane to group's purposes, and
- (3) participation of individual group members is not required

III. RESPONSE TO DISCUSSION

A. Determination of Affected Person Status

1. Group Hearing Request

- (a.) Affected persons of Tropical Gardens, represented by spokesperson Peggy Wright, will show their proximity to the proposed plant with an updated map/plat of area. OPIC could not identify affected persons because the landowners list provided by TCEQ is woefully out of date. An updated list will also be provided. (See Attachments B-G)
- (b) Please note that the original application, statement of basis/technical summary and Executive Director's preliminary decision and draft permit were not available for viewing and copying at Dickinson City Hall. October 5, 2005, city receptionist was unable to produce above documents. Peggy and Ed Wright were directed to the library. The librarian was unable to produce above documents. Wrights were redirected to City Hall and met Mayor Masters who also unable to produce above documents. Again, in September 2006, Peggy Wright requested of Mayor Masters the above referenced documents. On October 2, 2006, Rena Hardage, City Secretary, said documents had been found in former city administrator's office and could

not verify that said documents were available in their entirety. Several pages are missing.

Peggy Wright did not have access to above referenced documents when preparing the request for contested case hearing for the September 8, 2006 deadline.

- (c) As the ED's response acknowledges (E.D. Response page 3), individual members Of the groups have been identified. As further acknowledged in the Executive Director's Response, at least one of those individual members clearly has standing in her own right: Betty Gutierrez (E.D. Response page 3 and page 5). That alone is sufficient to satisfy the first criterion of Section 55.205 (a).

2. Mayors Veta Winick and Julie Masters

The affected persons of Tropical Gardens support the recommendation that Mayor Julie Masters be authorized to request a hearing on behalf of the city and council.

3. Chat Magee

Mr. Magee is an Affected Person and landowner with property adjacent to Gum Bayou. Property address is 4139 Gum Drive, Block 6, Lot #13. See Attachment E.

4. Rena Hardage

The affected persons of Tropical Gardens recognize Ms. Hardage as the City Secretary of Dickinson. We feel she was acting in her official capacity on behalf of residents of Tropical Gardens and concerned citizens of Dickinson.

5. Sherry and Ray Jones

The Jones are waterfront property owners of Tropical Gardens. Other residents, including the Jones, have waterfront property that does not immediately adjoin Gum Bayou, but that would be affected by the discharge. As noted in the ED's Response, Gum Bayou in this area is tidally influenced. Accordingly, the discharged water will flow into other connected water bodies under various flow and weather conditions. As a result, residents whose property adjoins those connected water bodies near to the confluence with Gum Bayou also have standing because they will be affected by the discharge. (See photos Attachment H)

A **high water event** is defined as follows: heavy rains, combined with runoff, high tides and a southeasterly wind that pushes Gum and Dickinson Bayous out of their banks and submerging landowner's properties. The Jones property is within the one mile radius downstream of the proposed WWTP (per the ED's map.)

6. Peggy Wright

Ms. Wright was approached by a group of affected residents to articulate their concerns as affected landowners. The general consensus was that the agency (TCEQ) charged with protecting their health and well being had become their adversary in the consideration of a WWTP on Gum Bayou/Dickinson Bayou. The Wrights have waterfront property within the one mile radius downstream of the proposed WWTP (per the ED's map.)

7. Bert Schroeder

The affected persons of Tropical Gardens concur that Mr. Schroeder is an affected person entitled to a contested case hearing.

B. Issues Raised in the Hearing Requests

1. Issues Disputed

The affected persons of Tropical Gardens agree that many issues remain disputed.

2. Issues of Fact

The affected persons of Tropical Gardens concur with OPIC that the following issues be referred to SOAH:

- (a) Whether the modeling was properly conducted
- (b) Whether the permit is protective of aquatic life and human health
- (d) Whether the WWTP is consistent with TCEQ's regionalization rules

The affected persons believe that one of the remaining issues (that of additional studies/TMDL results)) should be included in the referral to the SOAH.

3. Issues Raised During the Comment Period

The affected citizens concur that questions regarding modeling, protection of human health and aquatic life, regionalization, additional studies and emergency measures were all raised in a timely manner during the comment period.

4. Relevant and Material Issues

The affected persons of Tropical Gardens concur with the OPIC that hearing requests raise issues relevant and material to the Commission's decision on the permitting of the WWTP located on Gum Bayou. Affected persons do not agree that TCEQ Fall 2006 TMDL studies should not be used to determine whether the permit should be issued.

5. Issues Recommended for Referral to Hearing

Affected persons of Tropical Gardens concur that the following disputed issues be referred to the SOAH.

- 1. Was the modeling in the evaluation of the proposed permit conducted accurately?
- 2. Is the granting of this permit consistent with regionalization?
- 3. Is the proposed permit protective of aquatic life and human health?

Affected persons do not agree with the OPIC on the issue of not allowing additional studies for consideration in the permitting process.

C. Maximum Expected Duration of Hearing

The Affected Persons of Tropical Gardens request that there not be a rush to judgment in the matter of the permitting process of the WWTP requested by the Applicant.

III. REQUEST FOR RECONSIDERATION

The Residents of Tropical Gardens feel that the Executive Director reiterated their concerns when he referred several issues to the SOAH for consideration in the advent of a CCH. The Residents continue their Request for Reconsideration.

Respectfully Submitted by

Peggy Wright, Spokesperson
Affected Persons of Tropical Gardens Subdivision
Residents Requesting Reconsideration

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IV. GENERAL RESPONSE

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V. INDIVIDUAL HEARING REQUESTS

A. City of Dickinson

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B. Chat Magee

Please note that Mr. Magee is an Affected Person of Tropical Gardens with property adjacent to Gum Bayou, 4139 Gum, Lot 13, Block 6 (see Attachment E)

C. Ray and Sherry Jones

Ray and Sherry Jones are waterfront property owners within the Tropical Gardens subdivision and fall within the one mile radius designated on the ED's map. The outfall of the WWTP into Gum and Dickinson Bayous during high tide events will have an impact on their property.

D. Rena Hardage

The Affected Persons of Tropical Gardens believe Ms. Hardage was acting within the capacity of her role as City Secretary for Dickinson and had the best interests of the Affected Persons in mind when she protested the WWTP.

VI. THE "TROPICAL GARDENS" GROUPS

A. Peggy Wright, spokesperson for Affected Persons of Tropical Gardens, represents residents who have standing to request a hearing in their own right.

*Information concerning landowners and their mailing addresses (including the downstream landowner's map) were not made available as stipulated in the "Notice of Application and Preliminary Decision of Water Quality TPDES Permit for Municipal Wastewater (Proposed Permit WQ0014570001), until a month after submitting the requests for reconsideration and the request for contested case hearing in early September 2006.

*May it be noted, that the Technical Report, Page 12, Item 1 was not available and the landowners and mailing addresses provided could not be referenced to the map provided.

*Peggy Wright and Affected Persons will submit a more current list of affected property owners, their addresses and lot and block numbers along with a more current plat/map. (Attachments B, C, D, E, F, and G)

B. Senior Citizens of Tropical Gardens/Citizens of Tropical Gardens

As the ED's response acknowledges (ED's response page 3), individual members of the groups have been identified. As further acknowledged in the ED's response, at least one of those individual members clearly has standing in her own right: Betty Gutierrez (E.D. Response page 3 and page 5). That alone is sufficient to satisfy the first criterion of Section 55.205 (a). Also, as explained further immediately below, many additional members also have standing.

May it be noted, that the following people are Affected Persons and have property adjacent to Gum Bayou: Steve Reckner, Louis Starz, Alton & Alison Rouse, Cliff Watts, David Roye, Danny R. Daniel, Kenneth Henderson, Tom Bennett, Maris Michaels, Robert Duty, Benjamin Brantley.

May it also be noted, that Kelly Brautigam, Betty Gutierrez, James Evans, Tom Dayton, Martin Tien, Mark Bowers, Kenneth Howard, John Jacobs, Matthew Dayton, and Mark Lester have properties, not adjacent to Gum Bayou, but that are engulfed by Gum Bayou in high tide events.

High tide events are defined as high tide, heavy rains, runoff and southeasterly winds that push Gum Bayou onto properties along both sides of Gum Drive and Scenic Drive. During these high tide events homes experience the overflow of both Gum Bayou and Dickinson Bayou converging along Scenic and Gum Drives. (Photos will also be attached showing the latest high tide event on October 15, 2006. (See attachment H)

C. Residents Requests for Reconsideration

The Residents of Tropical Gardens feel their Requests for Reconsideration should be considered by the Commission. Issues referred to SOAH in contested case hearings by the Executive Director are issues raised by Residents in their "form letters." All Residents fall within the one mile radius of the ED's map and will be impacted by the treated wastewater flowing into Gum and Dickinson Bayous during high tide events. (See attachment I)

VII. THE SCHROEDER REQUEST

The Affected Persons of Tropical Gardens concur with the ED that Mr. Schroeder's request for a contested case hearing go forward.

VIII. RESPONSE TO HEARING REQUESTS

A. Concerns Regarding the Level of Effluent to be Permitted

The Affected Persons of Tropical Gardens and the Residents Requesting Reconsideration are concerned that the additional treated effluent will have a serious negative impact on landowner's properties and health during high tide events.

B. Impact on Gum Bayou

The Affected Persons recognize that the proposed point of discharge is downstream of the current impaired region. Affected Persons and Residents question the logic of adding yet another point of discharge and further degrading an already impaired section of the bayous with respect to increased fecal coliform concentrations and potentially impacting another section with respect to depressed dissolved oxygen levels.

C. Claimed Degradation of the Receiving Stream

The Affected Persons and Residents simply request that the new data and evaluations from the Fall 2006 TMDL study be considered in the decision on whether or not the receiving streams will be degraded. Let TCEQ allow the modeling staff to use the new and supposedly improved model and data.

D . Impact on Aquatic Life

We concur with the ED in his response that this issue be referred to the SOAH in the matter of the contested case hearings.

E. "Regionalization" Issues

The Affected Persons feel that all negotiations with San Leon MUD be exhausted prior to permitting the WWTP. It has been our understanding that the San Leon representatives have been actively pursuing the regionalization plan that supposedly is the goal of TCEQ in planning for wastewater management.

F. Plant Location

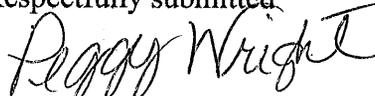
The Affected Persons of Tropical Gardens respectfully disagree that the proposed sight of the WWTP on Gum Bayou is a superior location with regard to the impaired regions of Gum Bayou and Dickinson Bayou. We firmly believe that the influx of an additional 500,000 gallons during our high tide events will have serious consequences for the landowners and residents. The Affected Persons and Residents feel strongly that our region of the bayou will soon be more negatively impacted because of the TCEQ permitting department allowing the WWTP be place on a receiving stream whose viability is in question.

IX. CONCLUSION

The Affected Persons and Residents Requesting Reconsideration beg to differ with the Applicant. We concur with the Executive Director that following issues be referred to the SOAH for consideration in the contested case hearing.

1. Whether the data provided by the Applicant and used by the Executive Director for modeling was accurate.
2. Whether the dissolved oxygen in the impaired region would be impacted.
3. Whether the information provided in the application caused the Executive Director to perform an improper evaluation.
4. Whether Gum Bayou is tidally influenced at the point of discharge.
5. Whether the Applicant's queries into potential service from wastewater Treatment plants contained within the required three-mile survey were adequate.
6. Whether the discharge will negatively impact the waterbody.
7. Whether the fish and wildlife will be negatively impacted by the facility.
8. Whether the discharge limits are appropriate.

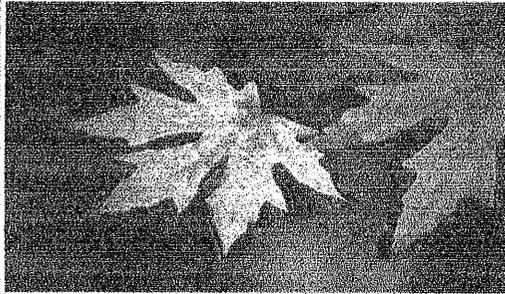
Respectfully submitted



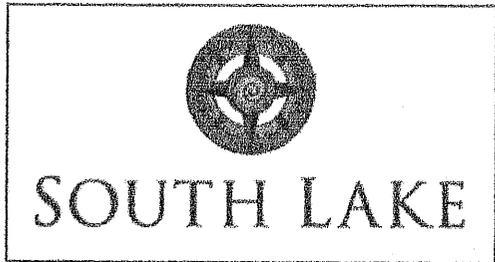
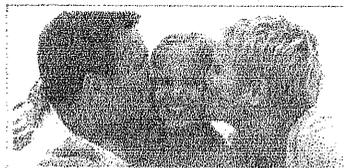
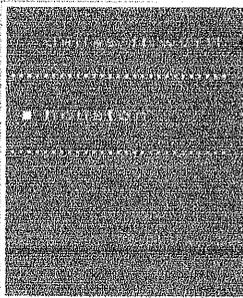
Peggy Wright, Spokesperson
Affected Persons of Tropical Gardens
Residents Requesting Reconsideration of
Executive Director's Permit Decision



* HOME



- [ABOUT US](#)
- [COMMUNITIES](#)
- [WHAT'S NEW](#)
- [CONTACT US](#)



COMMUNITIES

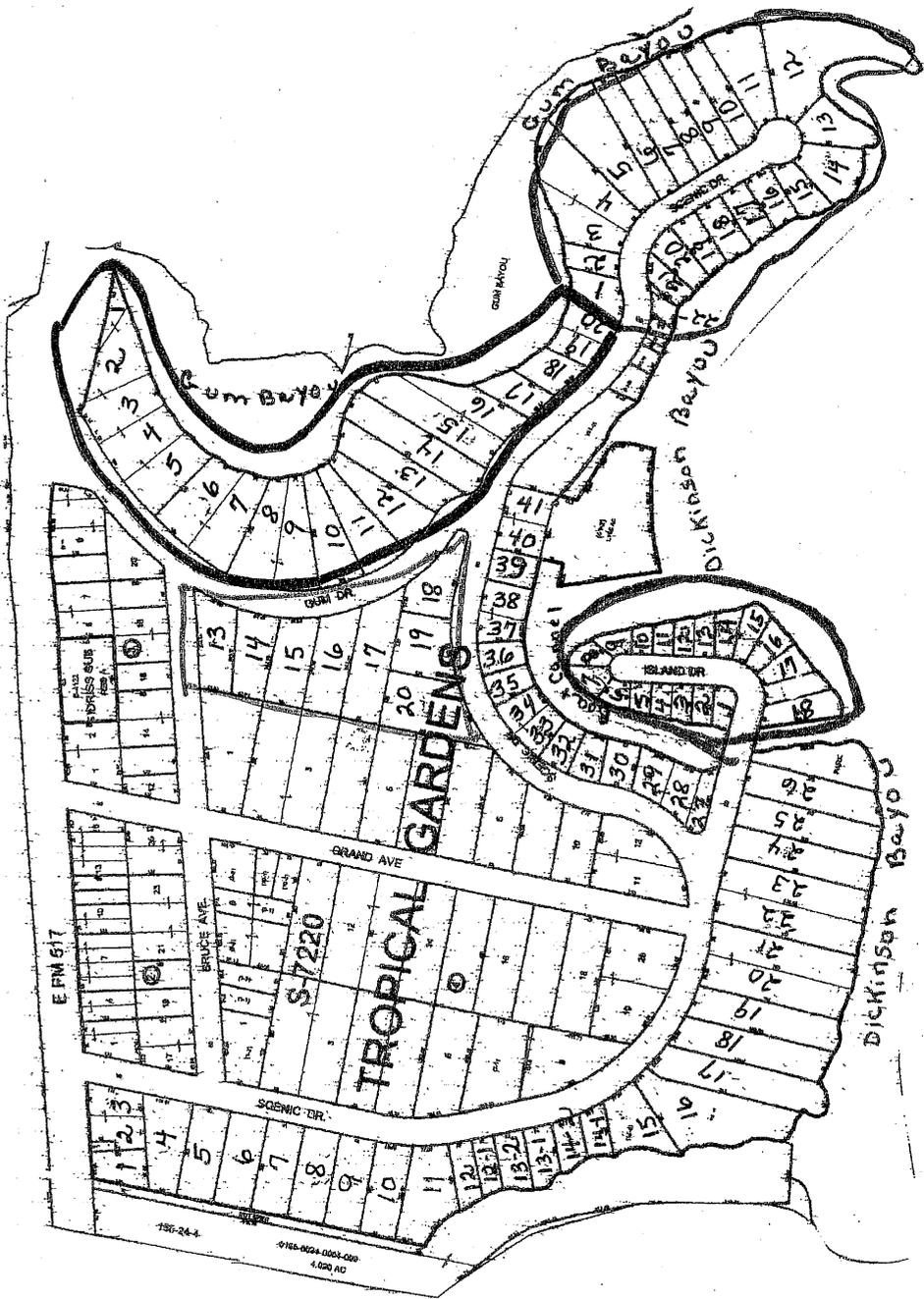
South Lake is a 420 acre Master Planned Community located in Texas City, Texas, near beautiful Galveston Bay. South Lake is located within a submarket of Houston that has almost doubled in size over the past four years. The pace of residential activity is increasing and momentum is clearly pushing activity higher in this submarket. Throughout Houston, builders are struggling to acquire sufficient lot positions to meet their needs. This submarket has very strong employment trends with nearby NASA, industrial employment and one of the nations largest ship channel. South Lake offers great access to Highway 646, good schools, good amenities and affordable prices. South Lake is planned to contain over 1,250 lots of varying size to reach multiple price points.



(click image for larger view )

« Back

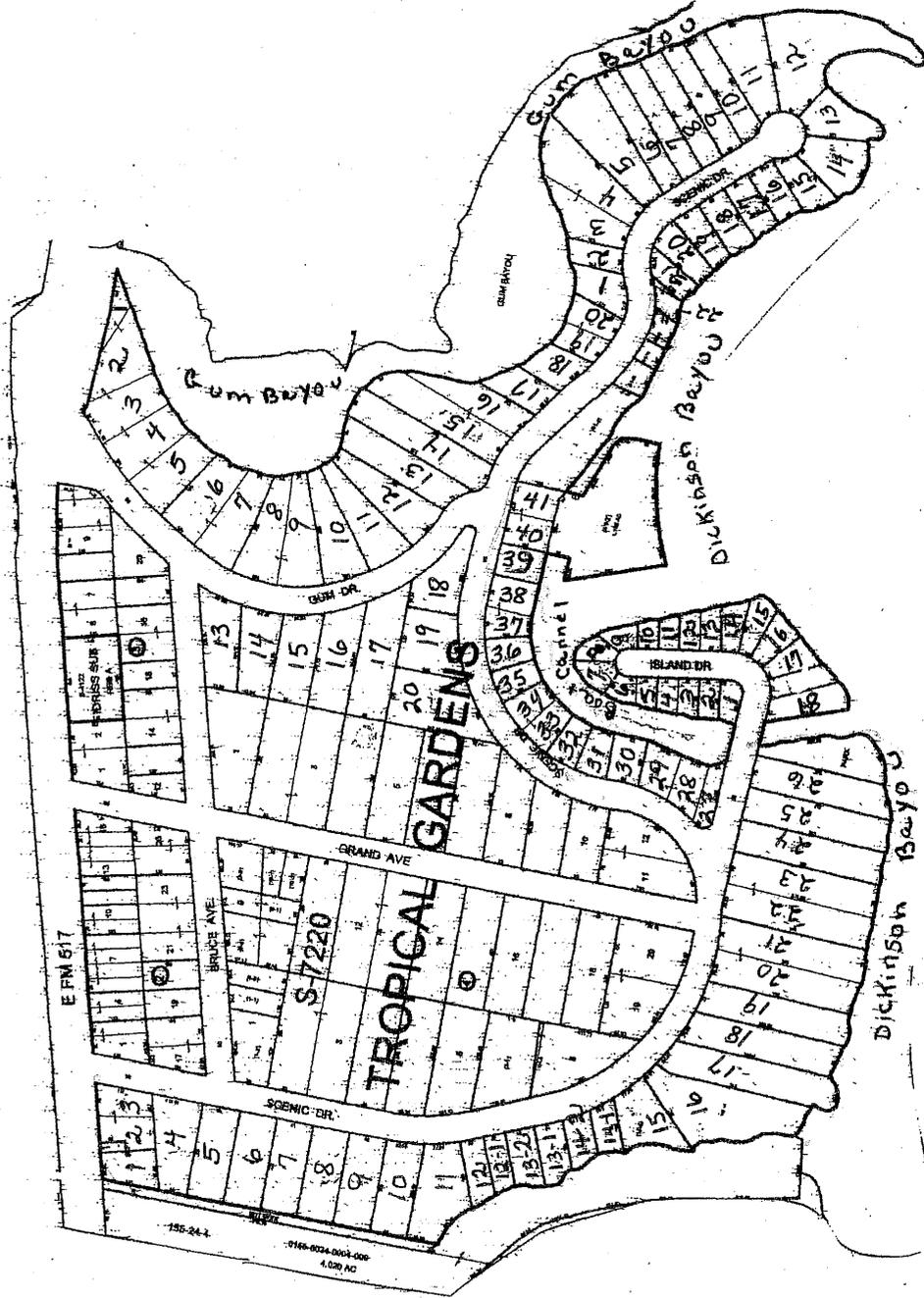
- Block 1
- Block 2
- Block 3
- Block 4
- Block 5
- Block 6
- Block 7



Attachment B

Block 1 Tropical Gardens

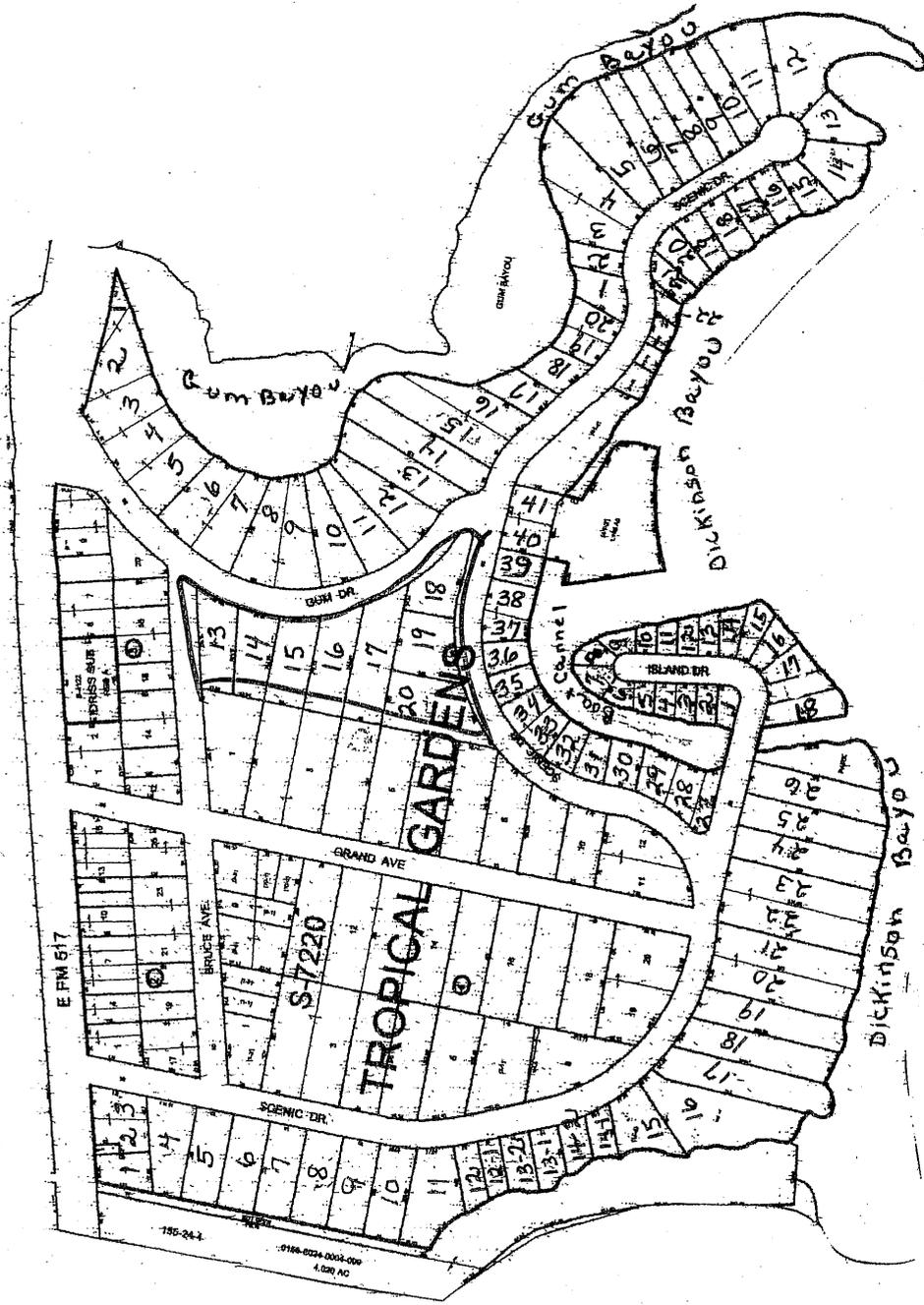
<u>Lot No.</u>	<u>Name</u>	<u>Address</u>
1	John E. Canter	4100 Scenic
2 & 3	Robert & Donna Moerlean	4104 Scenic
4	Joe Rodriguez	4108 Scenic
5		
6	Mike Tachquard	4118 Scenic
7	Carl & Dorothy Griffith	4120 Scenic
8	Harry Kirk	4122 Scenic
9		
10	Noe Segura	4132 Scenic
11	Medardo Alvarado	4200 Scenic
12		
13		
14	Bill & Cindi Mulvaney	4212 Scenic
15	Ed & Peg Wright	4216 Scenic
16	Sam & Starla Reichel	4220 Scenic
17	Gary & Patti McEntrye	4224 Scenic
18	Ed Quilter	4228 Scenic
19	Ray & Sherry Jones	4300 Scenic
20 & 21	Tho & My Nguyen	4312 Scenic
22	Young Reese	4318 Scenic
23	Robert & Lorna Malone	4320 Scenic
24	Wade Duphily	4324 Scenic
25	Michael Inglis	4400 Scenic
26	James Alber	4412 Scenic
27, 28 & 29	Julius Figueroa	4416 Scenic
30	Ann Jordan	4420 Scenic
31	Nancy Priddy	4424 Scenic
32	Danny & Linda Oakes	4432 Scenic
33 & 34	Dudley & Bridgett Long	4436 Scenic
35	Randy Callaway	4444 Scenic
36	Wanda & James Ettell	4456 Scenic
37 & 38	Wick & Alison Rouse	
39, 40 & 41 (41-4)		



Attachment C

Block 5 Tropical Gardens

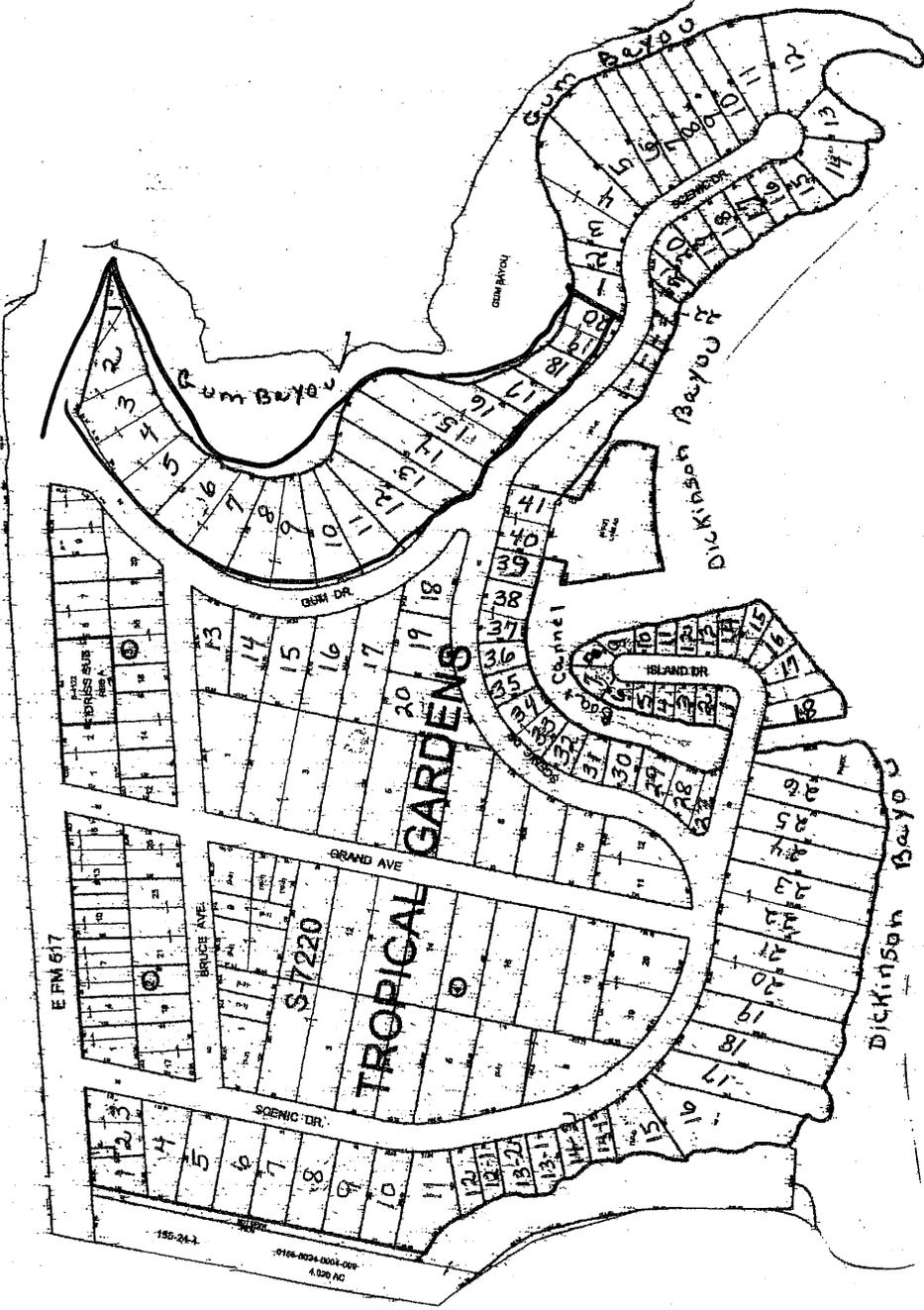
Lot No.	Name	Address
13	Wanda Toole	4124 Gum
14		
15		
16	Dawn C. Pajak	4136 Gum
17	Diane Garcia	4138 Gum
18	Mike Eagle	4435 Scenic
20	Michael & Bonnie Wolcott	4426 Scenic



Attachment D

Block 6 Tropical Gardens

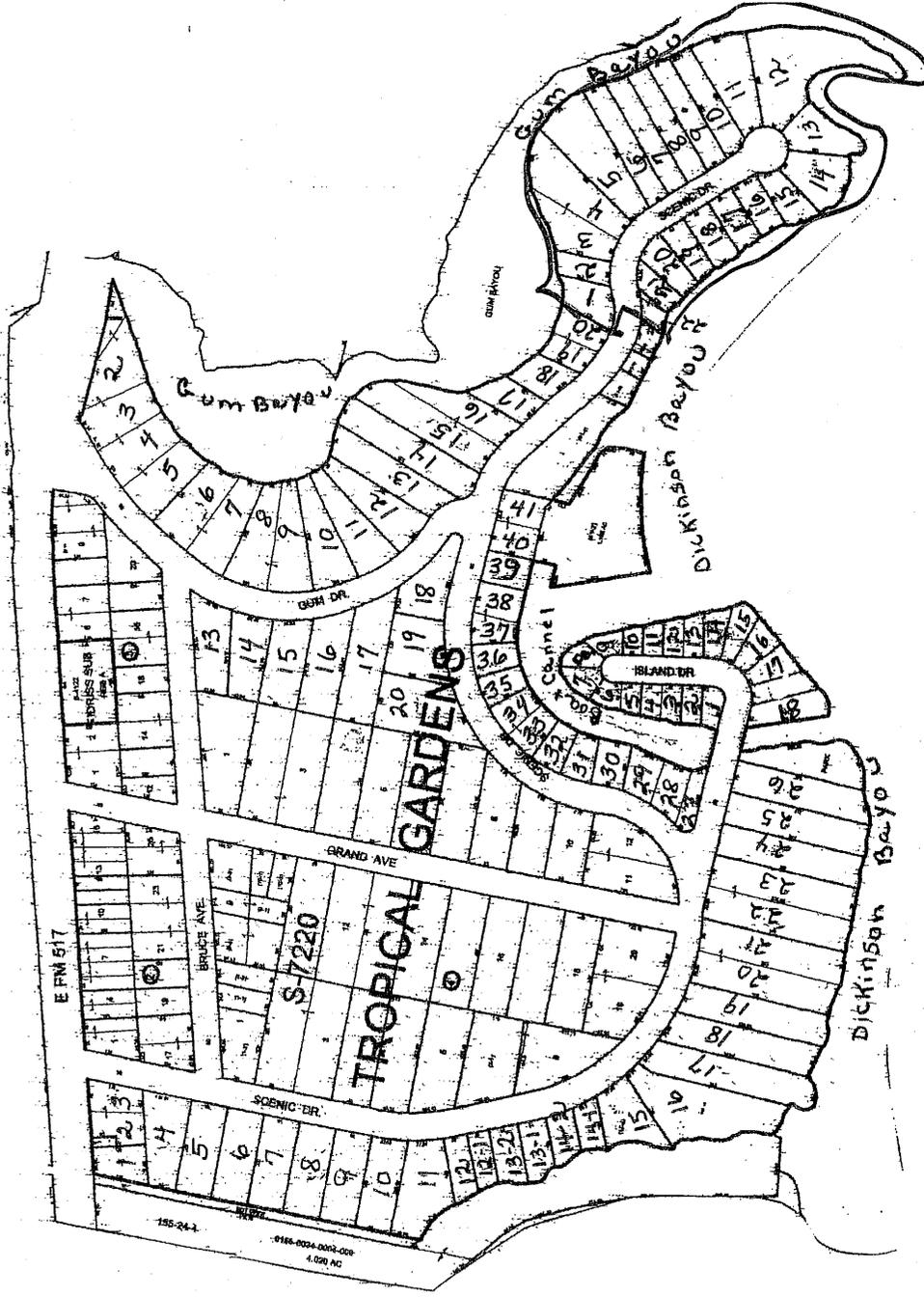
Lot No.	Name	Address
1, 2, 3, 4 & 5	Wick & Alison Rouse	
6 & 7		
8 & 9	Cliff Watts	4125 Gum
10	David T. Roye	4129 Gum
11		
12	Danny Ray Daniel	4137 Gum
13	Chat & Linda Magee	4139 Gum
14		
15 & 16	Kenneth & Patricia Henderson	4207 Gum
17	Tom Bennett	5007 Scenic
	Stephen Reckner	5009 Scenic
19 & 20	Maris Marlene Michaels	5011 Scenic



Attachment E

Block 7 Tropical Gardens

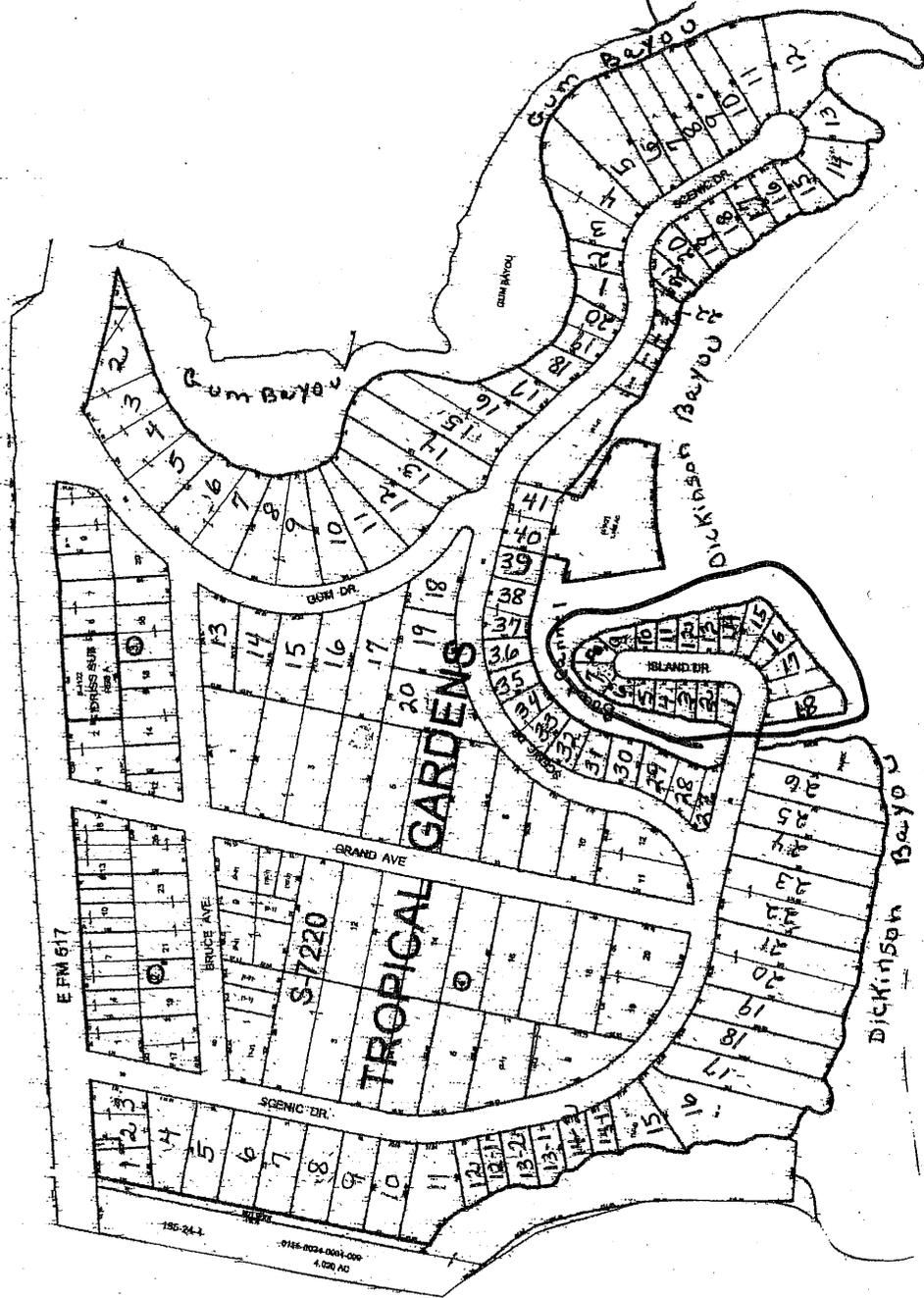
Lot No.	Name	Address
1	Robert Duty	5015 Scenic
2	Benjamin Brantley	5017 Scenic
3 & 4	Louis & Mary Starz	5021 Scenic
5		
6		
7		
8		
9		
10		
11		
12		
13	James & Sandra Evans	5034 Scenic
14	Tom & Carol Dayton	5032 Scenic
15	Mahn Tien & Han Do	5030 Scenic
16	Mark Bowers	5028 Scenic
17	Kenneth Howard	5026 Scenic
18	Kelly Brautigam	5024 Scenic
19	John E. & Theresa Jacobs	5022 Scenic
20	Bety Gutierrez	5020 Scenic
21	Matthew & Kristin Dayton	5018 Scenic
22	Mark A. Lester	5016 Scenic



Attachment F

Block 8 Tropical Gardens

Lot No.	Name	Address
1	George Dressendorfer	4434 Island
2	Richard & Lisa Scott	4430 Island
3 & 4	Jason Fennelly	4426 Island
5 & 6	Lavern Ekstrom	4430 Island
7	L.T. Ekstrom	4420 Island
8	Ric A. Legge	4418 Island
9	Huyth H. & Ha Dioph Pham	4414 Island
10 & 11	Pam Williams	4410 Island
12 & 13	Orvil & Glenda Barnes	4408 Island
14		
16	Van & Betty Bush	4400 Island
17		
18		



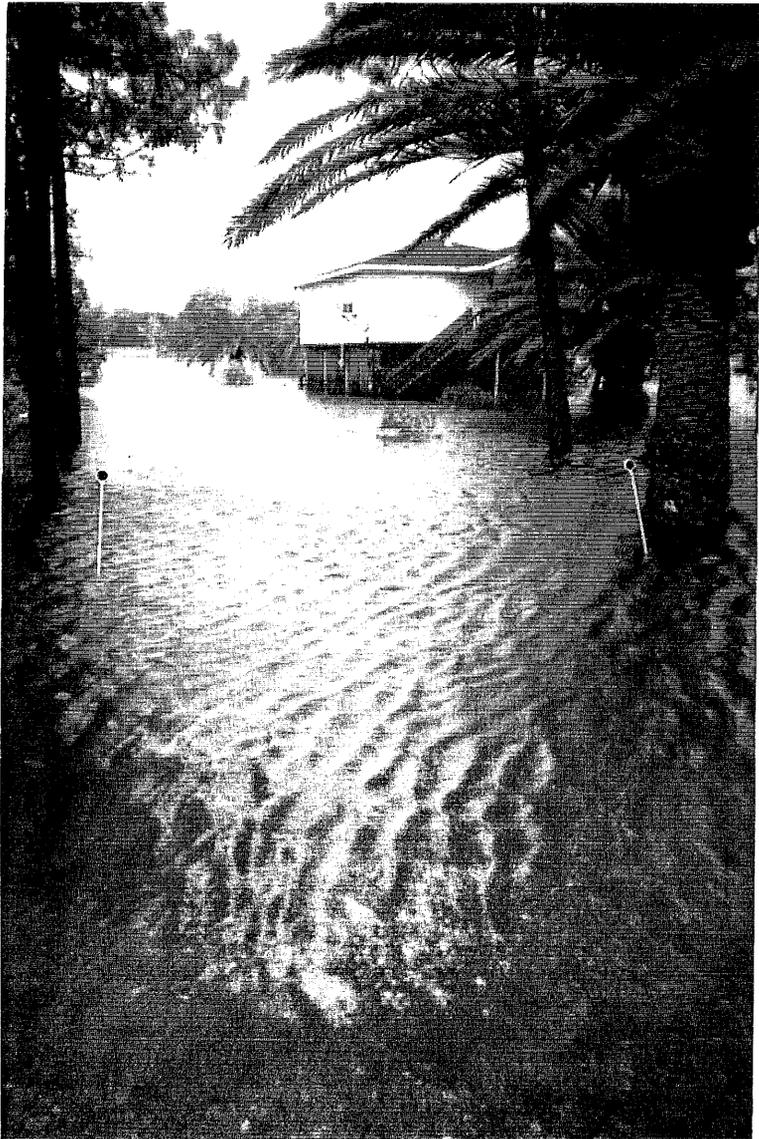
Attachment G



Intersection of Scenic Dr.
and Gum Dr.

Block 1, Block 5 and
Block 6

Gum Bayou and
Dickinson Bayou
converging in Oct. 15,
2006 high water event



Block 6, Lot 13



Block 7 Lots on Gum Bayou
Dickinson Bayou

October 30, 2006

Attention: Mr. Glenn Shankle, TCEQ

This letter is in response to the requested Case Hearing for
Marlin Atlantis White LTD. TCEQ Docket No. 2006.1572 MWD
For proposed TCEQ Permit NO WQ0014570001

Dear Mr. Shankle,

My name is Louis Starz. I live at 5021 Scenic Drive in the Tropical Gardens subdivision of Dickinson, Texas. My family and I live approximately 600 feet downstream from the FM517 Bridge on Gum Bayou. We are very concerned about the proposed Sewage Treatment Plant to be built on Gum Bayou. The discharge from this plant could have a big impact on our health as it will have an impact on the water quality of Gum Bayou. We do a lot of canoeing and fishing on the Bayou and we worry about the effect that the change in the water will have on our health. We are concerned about the diluting effect of the fresh water that will flow into Gum Bayou. Gum is a nursery area for many saltwater species of birds and aquatic animals that depend on the brackish water for survival.

At a public meeting held at the Dickinson Police Station, Mrs. Peggy Wright was chosen to represent us and to speak for our community in Austin and in Washington, D.C. We wish for our voices to be heard as we are taxpaying citizens and our health and property are at stake. Thank you for your attention to this matter.

Sincerely,



Louis P. Starz

Attachment I

Reckner, Steve

From: Reckner, Steve
To: kokokat@hotmail.com
Cc:
Subject: Wast WaterTreatment Plant
Attachments:

Sent: Fri 11/3/2006 4:30 PM

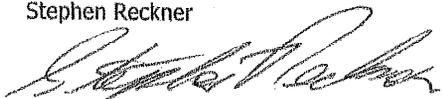
To whom it may concern,

As the owner of five lots, in the discharge path of the proposed treatment plant, on Gum Bayou I would like to convey my concerns and distress as to the way this permit has been handled. In my letter of concerns and objections to the Marlin White Atlantis application I referred to the inaccuracies stated in the width, depth and flow characterization of the bayou. In addition I objected to the lack of consideration of upstream property owners for the upstream tidal flow of the effluent during low rainfall periods. These issues were not answered with quantatative values or evaluation. In the Executive Director's response I saw little or no mention of actual measurements taken by TCEQ staff. What I did see is a large dependence on hypothetical modeling.

Upon reading the Executive director's decision to grant the permit I object to the reference to "insignificant" impact. I would like to know where, in the state laws governing the approval of this permit, is the determination between significant and insignificant impact cited and what are those values.

These issues and the lack of answers that address them in quantative ways causes me to contest this decision.

Sincerely,
Stephen Reckner



October 30, 2006

Dear Mr. Glenn Shankle, TCEQ,

This letter is in response to Requested Case Hearing for Marlin Atlantis White, Ltd. TCEQ Docket Number 2006-1572-MWD for proposed TPDES Permit No. WQ0014570001.

My name is Betty Gutierrez. I reside at 5020 Scenic Dr., Dickinson, Texas in the Tropical Gardens Addition. I have lived in the same location since 1963. My home property is between Dickinson Bayou and Scenic Drive. I also own a small vacant lot on Gum Bayou, which is directly across the street from my home. Using your map, it looks like I would be about 1/2 mile from the facility.

My home is on 8-foot pilings. During the last 43 years, I would guess my property has been flooded at least ten times. Most of the time, the flooding starts with Gum Bayou rising enough to start emptying into the ditch along our side of the street. When the ditch is full, it starts covering the street and our driveways and yards. My vacant lot was completely under water. Meanwhile, Dickinson Bayou is starting to rise enough to flow over our bulkheads, and start encroaching on our bayou yards. There were times when both bayous met under my house, as they did two weeks ago. I am 78 years old, and I really shouldn't be wading in contaminated waters.

A public meeting was held at the Dickinson Police Station and we chose Mrs. Peggy Wright to be our spokesperson to speak for us in Austin and Washington D.C. We want our voices heard as we are tax-paying citizens and our state of health would be in peril if this treatment plant is located this close to us.

As an affected property owner, I want a contested case hearing and as a resident, request the executive director to reconsider the applicant permit for WWTP.

Thank you,

A handwritten signature in cursive script that reads "Betty Gutierrez". The signature is written in black ink and is positioned below the typed name.

Orvil & Glenda Barnes
4408 Island Dr
Dickinson, TX 77539

November 2, 2006

RE: TCEQ DOCKET NO> 2006=1572-MWD; IN re: Application by
Marlin Atlantis White, Ltd., For Permit No. WQ0014570001

To: Glen Shankle,

As concerned and affected persons living in the Tropical Garden Subdivision, at 4408 Island Dr., Dickinson, TX. 77539, we are writing this letter to express our concerns regarding the above mentioned.

Pumping thousands of gallons of fresh water into salt water will be detrimental to our environment.

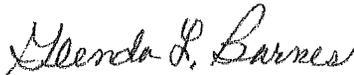
All sewer plants, at some time, will have spills. This is not a free running stream. It is a tidal area and the waste from a spill would just sit until a high tide, which would cause the waste to back up over our property. So we are sure this WOULD become a health issue. We understand there have already been several cases of bacterial infections from the Bayou as it is now. We certainly don't need even more health issues.

We would like to see the Bayou cleaned up, not polluted even more.

Sincerely,



Orvil R. Barnes



Glenda L. Barnes

p.s. Peggy Wright was delegated to be the spokes person for Tropical Garden Subdivision.

Attention: Mr. Glenn Shankle TCEQ

This is a response letter to the requested case hearing for Marlin Attantis White LTD. TCEQ Docket No. # 2006.1572 for proposed TCEQ Permit No. WQ0014570001

My name is Ina Barnes. I am a resident @ 5024 Scenic Dr. Dickinson, TX. 77539, in Tropical Gardens Subdivision. I have attended several public meetings concerning the development of a new sewage plant. I have voiced my opinion and objection to this facility on record at the meetings. Our community has elected Mrs. Peggy Wright to be our neighborhood spokes person if one is needed to speak at further hearings. I would like her to have the opportunity to be heard.

I am very against the proposed plan to build this sewage facility. I believe they could use San Leon's existing facility. I live approx. 50ft from Gum Bayou, during low tide and sometimes during high tide with some rain, Gum Bayou flows on my property. I am approx. 125 ft from the planned sewage facility. Dickinson Bayou is at my back yard property line. Dumping 500,000 gallons of sewage daily into Gum Bayou will fill my property with bacteria and germs that can and will endanger the health and lives of myself, my grandchildren and my animals. As a senior individual I will be much more at risk for infections related to unclean water invading my land and dwellings. This bayou can't handle heavy rain flow at high tide now, to add more volume to it would be a huge catastrophe. This bayou has flooded my home a few times in the past. This will increase the % of times a year I may be flooded. It will increase my risk greatly of being exposed to germs.

The sewer treatment facility in Webster smells like raw sewage every time I drive by, I can't imagine the stench that will come from this facility. If that facility is not held to the highest standards I doubt this one will be either. My home will be ruined, our property value destroyed. There is so much news about pollution to our bays and oceans; this is one more strike against them and all living things surviving on them.

Ina Barnes



Attention: Mr. Glenn Shankle TCEQ

This is a response letter to the requested case hearing for Marlin Attantis White LTD. TCEQ Docket No. # 2006.1572 for proposed TCEQ Permit No. WQ0014570001

My name is Kelly Brautigam. I am a tax paying resident @ 5024 Scenic Dr. Dickinson, TX. 77539, in Tropical Gardens Subdivision. I have attended several public meetings concerning the development of a new sewage plant. Our community has elected Mrs. Peggy Wright to be our neighborhood spokes person if one is needed to speak at further hearings. I would like her to have the opportunity to be heard.

I am very against the proposed plan to build this sewage facility. I believe they could use San Leon's existing facility. I live approx. 50ft from Gum Bayou, during low tide and sometimes during high tide with some rain, Gum Bayou flows on my property. I am approx. 125 ft from the planned sewage facility. Dickinson Bayou is at my back yard property line. Dumping 500,000 gallons of sewage daily into Gum Bayou will fill my property with bacteria and germs that can and will endanger the health and lives of myself, my children and my animals. It will infect my home and ruin my property value. Last week I flooded and lost my truck do to high tide, heavy rain and the south wind. This bayou can't handle all of mother nature, to add more man made garbage would be unbearable. Also there is no plan to hold this company to the highest of standards. What all will be in my home? Once again the red fish breeding area is @ risk for destruction. There are times of the year when Gum Bayou is so low water is stagnant and the bottom of the bayou can be seen in areas. What horrible smell and incurable bacteria will come from there then? Please don't destroy our homes, our environment and our lives.

Kelly Brautigam

A handwritten signature in cursive script that reads "Kelly Brautigam". The signature is written in black ink and is positioned below the typed name.

Attention: Mr. Glenn Shankle T.C.E.Q.

This letter is in response to the requested case hearing for Marlin Atlantis White Ltd. TCEQ Docket No. 2006-1572-MWD for proposed TCEQ Permit No. WQ0014570001.

Our Names are Dudley and Bridget Long

Our Address is 4432 Scenic Drive, Dickinson, TX. 77539

We live in the Tropical Gardens Subdivision which is less than one half mile from Gum Bayou where the new package plant will be built and will affect our lives and the value of our home and health. The new package plant sits on Gum Bayou that runs into our subdivision that is the first big problem! Gum Bayou is too small to handle the run off waters from the new subdivision. That means more flooding for everyone in Tropical Gardens. With these floods comes health problems. Tropical Gardens have many reported cases now on file. Dudley is one of them. His infection took 3 months to heal and was an added expense to our budget. Flooding cost everyone money and time. And for Sr's clean up work is too hard to do alone. It is also an insurance problem. The new package plant has not addressed how they can and will protect its neighbors. Yet, this is a major problem. The new package plant will bring in more traffic. This is a real problem for everyone It will mean more time getting to and from home. More gas money, another added cost for our Sr's budget. Possible higher insurance and road repairs! The new package plant has not addressed the traffic problems for its neighbors. Yet, this too is a major problem. The new package plant will bring in noise and odors which will bring down our home values and tax values. When you bring down our taxes you hurt the city and schools. The new package plant will add to our police and fire departments that take them away from us. Building a plant takes time! A new package plane will bring in more problems for our wild life because, spills do occur! A new package plant will need bright lights. Neighbors could be effected! The new package plant is down from another sewer plant that TCEQ closed. Yet , you are ready to put this plant in our 1/2 mile path. Does anyone have plans should this new package plant fail? What are the plans for regional sewer plants? Part of the long range plan should be discharge levels above the 500,000 gallons shall be lifted to a "to be developed regional plant". The new package plant should be phased out when the flow reaches 450,000 gallons. Does TCEQ have plans for clean up when this new package plant dumps human waste in to the bayous and our yards? We have seen this in Dickinson Bayou. Check your own records, Stacy Pentecost 713.767.3667.

Mr. Vic McWheter has placed the burden on the citizens of Tropical Gardens and the city of Dickinson to prove why the new package plant should not be built on Gum Bayou. We have worked hard to give you many reasons, Health being first ! Yet the new package plant has your approval using pre TMDL 1999-2001 published September 27, 2005 data from your own records. When this new package plant does not meet TCEQ standards will it be the tax payers problem or the developer who is gone? Taxes are money from us the homeowners.

We have elected Mrs. Peggy Wright to speak for us at public meetings..

Sincerely

Dudley and Bridget Long
Dudley & Bridget Long ages 69 & 65 Voters!
Affected Persons

Attention: Mr Glenn Shankle TCEQ

This letter is in response to the requested case hearing for
MARLIN ATLANTIS white ltd. TCEQ Docket no 2006-1572 MWD for Proposed
TCEQ Permitt No WQ0014570001.

our NAMES are = John & Janice PATTERSON, 4115 GRAND BLVD, DICKINSON TX
TROPICAL GARDENS SUBDIVISION. Our Property is located only 400^{ft} from
water edge of Gum Bayou at low tide and only approx 200^{ft} at high tide
we are also approx 1100^{ft} from where the propose PACKAGE PLANT
is to be installed. Gum Bayou empties into Dickinson Bayou only a
couple block down stream, which is also contaminated all ready.

We held a public meeting at the Dickinson Police Station
previously and elected Mrs Peggy Wright to be our states person
for us in Austin TX or Washington DC if the need should arise.

We want our voices heard. Since we are the affected person
and the tax paying citizens, I fully believe this is a very bad
idea as all the rest up & down Dickinson Bayou & Gum Bayou
and you are already aware of our opinions and has already
been document to many various departments.

John Patterson

30 Oct-06