

Cape Royale Utility District

1330 Cape Royale Dr .

Coldspring TX 77331

Telephone:

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

FAX: (936) 653-2611



2007 OCT 12 PM 2: 54

CHIEF CLERKS OFFICE

October 10, 2007

Office of the Chief Clerk
ATTN: Agenda Docket Clerk
Mail Code 105, TCEQ
PO Box 13087
Austin TX 78711-3087

RE: Applicant's Response, Docket No. 2007-0550-MWD

Commission Members:

Cape Royale Utility District's response to the Requested Case Hearing under the Commission's consideration is as follows:

1. This is a permit renewal application without amendment to alter or increase the treatment process or effluent. This wastewater treatment plant has been operating under the scrutiny of TCEQ and other regulatory agencies since 1969. Required testing is accomplished according to specified schedules, and results are consistently within TCEQ's guidelines. Regular inspections have revealed minor areas of concern, but documented evidence of the District's corrective actions show that we are quick to respond to any concerns expressed by inspectors.
2. The hearing requestors comprise a group of four property owners immediately adjacent to the treatment plant location. In addition to these residents, the District is responsible for providing water and wastewater service to the other 1,700 property owners within its boundaries. All of these property owners and residents have a legal right, duty, privilege, power, and economic interest in the uninterrupted operation of this facility, and the four requestors have no justifiable interest that is not shared by the general public.
3. All four requestors purchased or constructed homes at least 20 years after the plant began operation.
4. Based on guidelines in 30 TAC Chapter 55, Sect. 55.31, the District contends that the requestors have not demonstrated that the District has a disregard for the regulatory process, nor have they proven that the District has violated any TCEQ regulations. The only comment that falls within the jurisdiction of the Commission, regarding "inaccurate reporting of unauthorized discharges", was addressed and invalidated by the TCEQ Executive Director (decision published March 7, 2007, Response No. 2). All other comments by the requestors are based solely on subjective concerns outside the Commission's jurisdiction and have been addressed by court judgment (the deed restriction violation suit was resolved in favor of the District) or pro-active maintenance by the District. (Blower noise has been addressed through a scheduled maintenance

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program that will soon be completed. Noise measurements have been reduced to a level that is less than neighboring residential air conditioner compressors.)

In conclusion, the persons that have requested a hearing have not raised disputed issues of fact that are subject to the Commission's jurisdiction. We would respectfully request that the Commission consider the particular issues as to the protection of human health and safety; find that this hearing request is based on issues outside the Commission's authority; deny the hearing request; and proceed to vote on approval of the application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Tucker', with a long horizontal flourish extending to the right.

Tim Tucker
General Manager

Cc: Executive Director, TCEQ
Public Interest Council
Director of the Office of Public Assistance
Alternate Dispute Resolution
Requestors (as individually specified on the Docket Mailing List)