

October 24, 2007

Texas Commission on Environmental Quality
c/o LaDonna Castanuela, Chief Clerk
TCEQ, MC-105
P O Box 13087
Austin, Texas 78711-3087

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 OCT 29 AM 10:26

CHIEF CLERKS OFFICE

Dear Ms. Castanuela,

RE: Cape Royale Utility District
TPDES Permit No. WQ0010997001
Response to letters

In follow up to your letter of March 27, 2007, I would like to elaborate on the various points.

Comment 1: Utility District's failure to control the noise in a residential community. By a February e-mail, Tim Tucker assured me that the District would provide a solution to the noise issue that would be 'quite satisfactory'. They finally performed maintenance to the blowers (as we have been requesting for several years) and the noise level has dropped, but is still compared to the noise of a residential air conditioner that never turns off. Since the District has a history of not maintaining equipment, the residents once again, volunteered to pay for the construction of an enclosure around the blower pumps. The District declined to allow us to work thru an acceptable, technical solution with their engineer and then pay for the construction of the enclosure.

Comment 2: Concern about inaccurate reporting of unauthorized discharges.

Several residents have a concern with the quality of operation of the plant itself. A TCEQ on site review, revealed that the plant had been operating with a by-pass valve that was opened to discharge directly to the lake. The District was unaware that this by-pass valve was opened and discussed this with representatives of the TCEQ. Once this by-pass valve was closed, then the plant experienced several overflow events.

Response to the letter dated October 10, 2007 from Tim Tucker:

Item #1: I agree that the District has responded to TCEQ inspections and I ask that the TCEQ make more un-announced surveys of the site.

Item #2: The Cape sub-division comprises of nearly 1700 lots and most without homes built. Of the lots that are built on, most of the property owners are not registered voters in San Jacinto County and are not allowed to vote on any district issues. The last major issue (proposed tax increase from the District) resulted in just over 200 votes being cast. Obviously, as spread out as our sub-division is and the actual number of full time residents living around the sewer plant, one would not expect a large turnout to voice concerns. Several other residents have openly expressed their concern of the issues that we have raised, but for their own reasons, they have not expressed their concerns to the Commission.

Item #3: I purchased my property in early 2000. Since that time, I have asked the District if I could plant shrubs around the sewer plant to help it blend in better with the community...they denied my request. The noise level of the blowers was not too bad at that time, but they increasing became more noisy. For years, myself and others have been asking the District to correct the situation and we have volunteered to fund an enclosure. They have just now started their 'pro-active maintenance' of the blowers and have declined our request to erect an enclosure to reduce the noise levels.

Item #4: By continued operation of the plant with the by-pass valve opened, my understanding is

that they have under reported the effluent for as long as the valve was open. We have asked to meet with the District to discuss issues...meetings were set up but the District cancelled the discussions just prior to meeting with us. In one instance, a mediation meeting was set up by Kyle Lucas of the TCEQ Alternative Dispute Resolution Program and the District asked to cancel the meeting since they were not willing to mediate but rather just state their position.

Tim has stated that the District has completed the modifications to their bulk head (raised the lake front property level). I met with Tim Tucker in November 2006 and he proposed steps to alleviate the storm water run off issues and to repair my bulkhead where the District's contractor caused damage. The project has resulted in ponding of liquid on my property that would have previously drained to the lake. Tim had promised that they would provide drainage (see attached e-mail) but did not follow thru on his commitment, even after I spoke with him just after his contractor started work. It is due to actions such as this, that I am concerned for the quality of operation of the sewer plant and the risks associated to the surrounding area.

I am trying to have a peaceful property to enjoy and have offered help to eliminate the noise, to plant bushes, shrubs, etc. around the sewer plant property and make this a better place for all parties. So far, the District has declined any efforts of the residents to provide a facility that will blend with the surroundings and to be a good neighbor. The District does not allow property owners who are not permanent residents of the community to vote in any District affairs. We pay the same property taxes as permanent residents, but have no representation or voice on matters that affect us. We are asking for any help on this matter from your office.

Sincerely,


Patrick Shay

12418 Normont
Houston, TX 77070
281 364-2368 (wk)

Shay, Patrick

From: Shay, Patrick
Sent: Friday, December 01, 2006 5:20 PM
To: 'Tim Tucker'
Subject: RE: Bulkhead repair work

In general this looks like it would correct the situation, but I'm not the expert on it.

I'm not sure that they will need to run a concrete truck on my side for the small amount of work. I have a sprinkler system back there, etc. they should be able to do it with a towable bucket behind a pick up truck. This would be the better way to get back to that corner of the property. They will probably have to remove a section of the chain link fence to work on the bulk heads and I assume there will be plenty of concrete work on the Reserve tract where they will not have to drive on my side. In the past, the operators tend to drop concrete debris that I end up having to pick up to mow. I prefer that they do not drive a full mixer truck on my property.

Thanks for meeting with me and working out a solution. Now the trick is to get it done before too many of the northern storms come through and saturate the area.

Thanks,

Patrick

From: Tim Tucker [mailto:waterttucker@eastex.net]
Sent: Friday, December 01, 2006 10:26 AM
To: Shay, Patrick
Subject: Bulkhead repair work

Mr. Shay,

It was good to meet you personally last week. We are advancing on plans to complete the bulkhead repairs, but I want to rehash our discussion just to make sure that we are on the same page.

1. We will saw-cut the concrete walk at the point where the corner is broken. This cut would be approximately 12 inches on your side of the property line.
2. Compacted fill will be placed under your concrete walk where wash-out has occurred.
3. An expansion joint will be placed at the saw-cut.
4. Concrete will be placed at the existing level of the end of your walkway and sloped under the fence to a drainage trough formed on the District's side of the fence. The new concrete walk will match the width of your existing walk. Tamped concrete will also be placed in the gap that exists between your walk and bulkhead for a length not to exceed 48" toward your property.
5. I would like to have your permission for access to this area by the concrete truck. Any ruts that might be caused by this access will be repaired by the District. District personnel will be on hand to insure that there is no tree or planting damage.

Any other drainage issues will need to be observed after you finish with the finish grading around your home.

If you have any further comments or questions, please let me know within the next couple of weeks.

Tim Tucker
General Manager
Cape Royale Utility District

10/25/2007