

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

LIVINGSTON & LIVINGSTON

A TEXAS L.L.C.  
ATTORNEYS AT LAW

1770 ST. JAMES PLACE, SUITE 100  
HOUSTON, TEXAS 77056-3405

OPA

OCT 18 2007

BY



TELEPHONE (713) 783-6919  
FACSIMILE (713) 862-9587

2007 OCT 17 PM 2:22  
CHIEF CLERKS OFFICE

October 11, 2007

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

*Via Certified Mail/RRR*  
# 7004 1160 0002 8465 4947

MWD  
59313

**Re: Application for Proposed Permit No. WQ00 14804-001  
Dolphin Cove WWTP  
Comments from Richard T. Gustafson**

Dear Chief Clerk:

This firm represents Richard T. Gustafson, a landowner in the area affected by the referenced permit application and facility. All communication concerning this matter should be directed to Phillip R. Livingston at the address and telephone numbers printed above.

Mr. Gustafson is the owner of 10 acres of residential homestead real property on the south side of Avenue Q and west of 28<sup>th</sup> Street and a separate 1 and 1/4 acre tract on the north side of Avenue Q and west of 28<sup>th</sup> Street in the San Leon Farm Home Tracts in Galveston County, Texas. These properties are respectively located as Lots 2 and 2A, Block 74 and that portion of Lot 5, Block 65, in the San Leon Farm Home Tracts. These properties are directly north along 28<sup>th</sup> Street from the proposed WWTP facility site. It appears that a substantial portion of Mr. Gustafson's property in Block 74 has been included in the designated "Area Served" on the map provided by South Central Water Company for the referenced Application for the Dolphin Cove WWTP. Prior to receiving information about this Application, Mr. Gustafson had no knowledge of the WWTP, the Application or the inclusion in the "Area Served."

Mr. Gustafson's property has never been included in the Dolphin Cove development and he has not been provided with any information that he is included in the MUD which, to his understanding prior to this Application, only included the Dolphin Cove development, which is the sponsor of the Dolphin Cove WWTP. It is Mr. Gustafson's understanding the Dolphin Cove development is owned or controlled by Max Bowen, who is apparently included on the mailing list of property owners for the Application. To his knowledge, Mr. Gustafson has never been included on any service list of affected property owners, even though his property is less than 1/2 mile from the projected treatment plant site and is in the prevailing downwind of the project.

Further, Mr. Gustafson was the owner of a separate 5 acre tract south of his existing property. This tract is identified as Lot 3A, Block 74, in the San Leon Farm Home Tracts. This 5 acre tract

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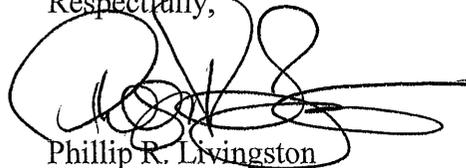
is located north of Avenue R and west of 28<sup>th</sup> Street and is within 1/4 mile of the proposed treatment plant site. This property is directly north along 28<sup>th</sup> Street from the WWTP facility proposed site. This property has been owned by Stoots and Balanski since 2002 and is not part of the Dolphin Cove development. Mr. Gustafson continues to hold the purchase money mortgage on this property and is aware that neither Stoots nor Balanski are on the list of property owners receiving notice of this Application. Further, Mr. Gustafson has no information that Stoots and Balanski have ever been informed of the WWTP, the Application or that their property has been included in the "Area Served."

There is another property owner, to the west of Mr. Gustafson's property, on the south side of Avenue Q, east of Highway 517, whose property is also partially included in the "Area Served" portion of the Application map. That property is also not part of the Dolphin Cove development and is not part of the MUD. Further, to Mr. Gustafson's knowledge, this property owner has not been put on notice of the Application, the WWTP facility or the inclusion of his property in the "Area Served."

In addition to being improperly included in the "Area Served" designation and to not being on the service list of property owners, Mr. Gustafson objects to the location of the WWTP for the reason that his property is directly down wind, in the prevailing breeze, from the proposed treatment plant site. Mr. Gustafson has worked out an appropriate relationship with Durotherm concerning noxious smells and fumes from their operations. **Because the Application fails to even acknowledge Mr. Gustafson's ownership of affected property and improperly includes his residential homestead property in the Application as though it were someone else's property, Mr. Gustafson objects to the Application. Mr. Gustafson further objects to the Application until such time as he is informed of the WWTP's proposed method of resolving the odor problem which will affect Mr. Gustafson as a downwind neighbor.**

To the extent that a proper designation of the "Area Served" is important, Mr. Gustafson requests that the errors in the "Area Served" on the Application map be brought to the Commission's attention and that the application properly identify all affected property owners and give proper notice of the Application. A color coded version of the Application map has been included for your reference. Your attention to these comments, concerns and requests is greatly appreciated.

Respectfully,



Phillip R. Livingston

PRL/aaa  
Enclosure

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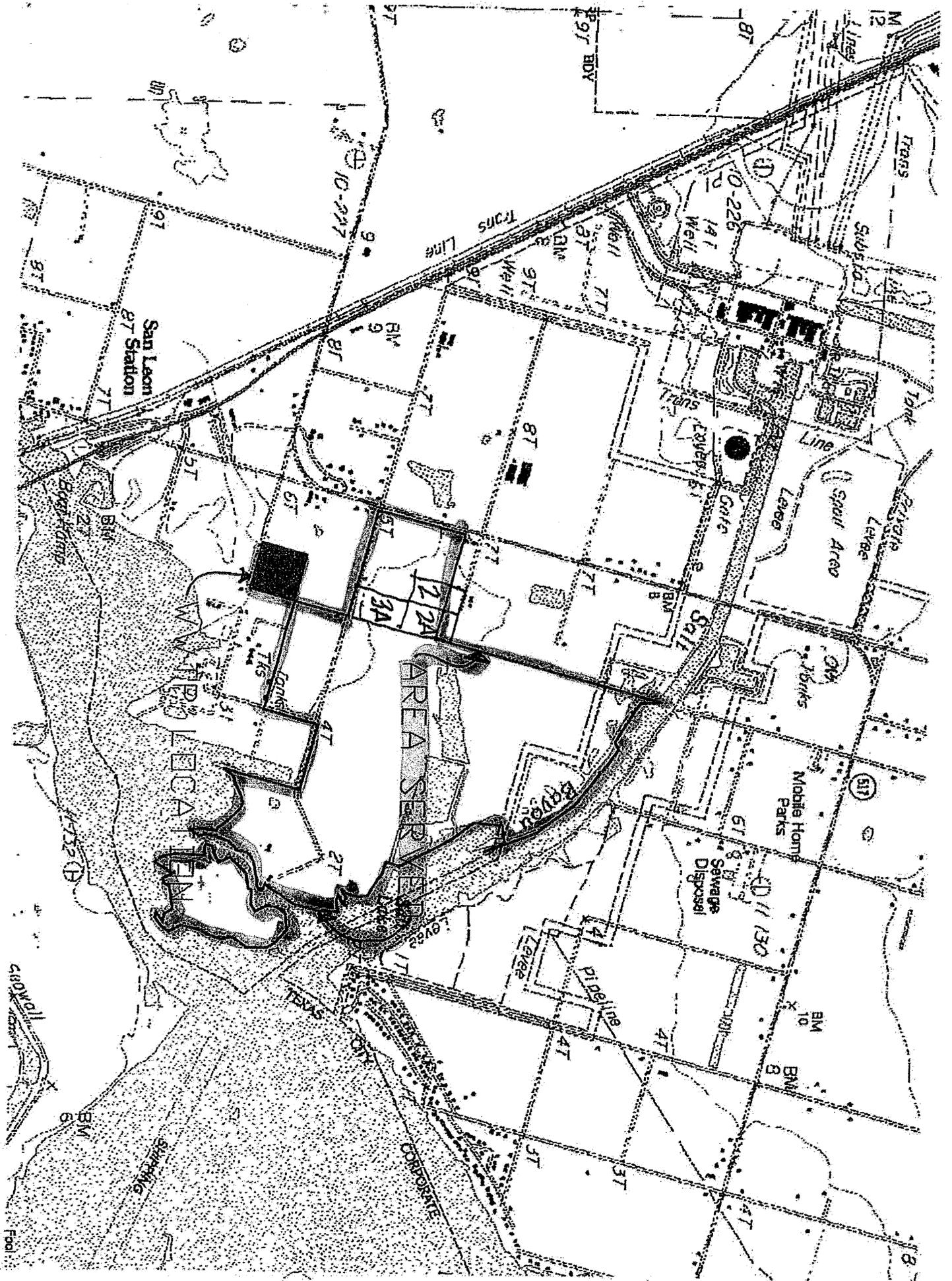
A TEXAS L.L.C.

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cc: Ms. Cindy Cavazos  
Texas Commission on Environmental Quality  
Water Quality Division  
P.O. Box 13087  
Austin, TX 78711-3087

Mr. Jeff Goebel  
South Central Water Company  
P.O. Box 570177  
Houston, TX 77257-0177



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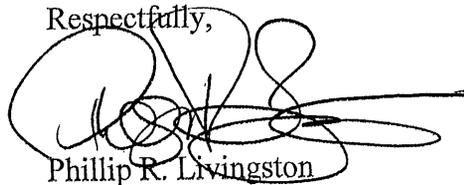
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Respectfully,

A handwritten signature in black ink, appearing to read "P. Livingston", with a long horizontal flourish extending to the right.

Phillip R. Livingston

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