

HOLIDAY BEACH PROPERTY OWNERS' ASSOCIATION, INCORPORATED

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Rockport, Texas 78382

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January 7, 2008

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

2009 JAN -9 PM 2:58
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

Reference: Aransas County Municipal Utility District No. 1
TCEQ Docket No.2008-1010MWD

Dear Ms. Castanuela:

The following is submitted in response to your letter dated December 10, 2008 captioned and referenced as above:

The Holiday Beach Property Owners' Association Incorporated (HBPOA) represents the Holiday Beach Subdivision, Aransas County, Texas. The Holiday Beach Subdivision has 1844 property owners consisting of 3714.5 lots and occupying 921.4 acres located approximately two (2) miles north and west of the proposed location of proposed discharge point. This subdivision was platted circa 1963 and consists of 640 homes with approximately 270 being occupied year round. The HBPOA owns three bay front parcels along with the two parcels located on two major canals. One of the bay front lots is identified as "Kayak Park" and is located on Newcomb Bend and is approximately three fourth (3/4) of a mile from the proposed discharge point.

The proposed discharge permit is located east of the Copano Bay Causeway at the convergence of Aransas and Copano Bays. The convergence point of these bays is a subjective location depending on the various maps but is normally associated with the causeway. The Texas Commission on Environmental Quality (TCEQ) confirmed studies related to the discharge was limited to Aransas Bay and no studies were needed or required as part of the permitting purposes.

In December 3, 2007 a Mission and Aransas Rivers and Copano Bay Stakeholder Meeting was held at the Refugio City Hull, Refugio, Texas. This area has been designated a Total Maximum Daily Load Limit (TDML) area. This determines the maximum amount of a pollutant that a lake, river, or estuary can receive and still attain and maintain the standards set for its use;

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allocates the allowable amount (load) to point and non point sources in the watershed. The status of the water quality of Copano Bay was discussed and concerns were voiced By Ward Ling, TCEQ concerning the long term effects from fresh water runoff in the bay from the Aransas & Mission rivers. Clyde Bohmfalk, TCEQ, Bacteria Task Force, reported where the project fits in to the three tiered process of response. Inquiries with TCEQ representatives present determine that none were aware of the proposed discharge permit at the convergence of Copano and Aransas Bays. Based on location they felt this would have a significant impact on Copano Bay. They indicate that they would inquire concerning the proposed discharge permit.

The prevailing wind is from the Southeast and travels directly to Newcomb Bend. The convergence of the Aransas Bay and Copano bay has no predictable tidal movement. The tides or water movement at this point are driven by the wind. The further you travel into Copano Bay the more pronounced the lack of tidal movement exists. Any discharge at the convergence of these two bays is wind blown and enters into Newcomb Bend, Turtle Pen, and the Holiday Beach Canals and subsequently into all of Copano Bay. A sad demonstration of this wind driven event occurred this month when a vehicle was driven off the North end of the Copano Causeway Fishing pier. The occupant was killed and was eventually found washed up in Newcomb Bend per local news media. This was not far from our "Kayak Park". If that large amount of fresh water is discharge at the proposed site and the fact that fresh water floats higher than salt water it is obvious that our area will be affected and no study has been made of this area.

It was determined from the Public Hearing in Rockport, Texas in 2007 that there are no similar plants operating in Texas and those in the United States are discharged only in fresh water not in coastal salt water. The residents in Holiday Beach have seen on numerous occasions the effect of how large rainfall runoff effects Newcomb Bend and Copano Bay. The deterioration of the water quality is significant and takes many months to clear. There is such a small tidal movement in the back bays because of the limitation of natural flowing cuts to the Gulf.

The Holiday Beach Property Owners have regular and daily access to the water surrounding the proposed discharge site and are concerned with the effects that this amount of fresh water will have. Our property owners are worried because we have homes here and are an established community and damage to our recreational water use would be critical. No one seems to have considered the new property owners to the areas to be served by the new plant. They are nice, exclusive and beautiful subdivisions. Persons purchasing this property are buying the property because of the waters of Aransas and Copano Bays. This quality may not be there if the discharge is in their front yard.

The Texas Department of Transportation (TXDOT) held a public hearing in Rockport, Texas during November, 2008 concerning an eight year plan to replace the existing Copano Bay Causeway, the site of the proposed discharge site. Three of the four proposed sites go to the east of the existing causeway. It would appear that some are all of them will have a further impact on this discharge point.

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The HBPOA is the representative of all Property Owners in the Holiday Beach Subdivision and have a responsibility with regard to conditions, which may affect the Property Owners, their property values, their recreational facilities and activities. The Subdivision is the base for 20 to 25 fishing guides (Property Owners) who reside and use the boat launch facilities to further their vocation. Many of these guides use the waters adjacent to the subdivision and/or discharge permit. The HBPOA also has 5 property owners who base their operations for "crabbing" and bait sales in the subdivision. These too would be economically damaged by a failure of the surrounding waters. The Subdivision also has 120 commercial lots with business ranging from boat barns to restaurants that would be affected if the discharge cause a change in their business.

The HBPOA continues to object that there are impact considerations of the discharge location that have not been reviewed, and other options that are more environmentally friendly. There is the concern of plant failures, reporting and enforcement. There seems to always be a large number of facilities in Texas that are sighted for violation on a regular basis and no real enforcement seems to occur. Increase monitoring is needed, so much of the industry in general are self regulating and self reporting and the Aransas County MUD #1 (ACMUD#1) has never been operated properly on a long term basis.

Representatives of the TCEQ and/or an Administrative Judge should use the most discretionary view when considering who has "associational standing". It is inconceivable that one or more property owners in the Holiday Beach are not affected by this proposed discharge. As such the HBPOA should be granted such standing as necessary to represent all 1844 property owners. The public must be granted more leeway since they lack the resources either technically or legally to properly relate their concerns. None of proposals for the ACMUD #1, which have been submitted in the past, have been successful. This proposed discharge location is probably the one that has the most potential for wide spread environmental damage. Particular concern is the lack of study on the impact on Copano Bay.

Please consider our appeal in this matter.

Sincerely,

William H. Schmidt
President

P. O. Box 1238
Fulton, Texas 78358-1238
January 7, 2008

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I regularly access the water surrounding the proposed discharge site and am concerned with the effects that this amount of fresh water will have. I am worried because my home is in an established community and damage to our recreational water use would be critical.

The Texas Department of Transportation (TXDOT) held a public hearing in Rockport, Texas during November, 2008 concerning an eight year plan to replace the existing Copano Bay Causeway, the site of the proposed discharge site. Three of the four proposed sites go to the east of the existing causeway. It would appear that some are all of them will have a further impact on this discharge point.

I object that there are impact considerations of the discharge location that have not been reviewed, and other options that are more environmentally friendly. There is the concern of plant failures, reporting and enforcement. There seems to always be a large number of facilities in Texas that are sighted for violation on a regular basis and no real enforcement seems to occur. Increase monitoring is needed, so much of the industry in general are self regulating and self reporting and the Aransas County MUD #1 (ACMUD#1) has never been operated properly on a long term basis.

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Your attention in this matter would be appreciated.

Sincerely,

A handwritten signature in cursive script that reads "William H. Schmidt". The signature is written in dark ink and is positioned above the printed name.

William H. Schmidt