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September 29, 2008

Ms. LaDonna Castañuela
Office of Chief Clerk, MC-105
Attn: Agenda Docket Clerk
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. F, Room 1101
Austin, TX 78753

VIA HAND-DELIVERY

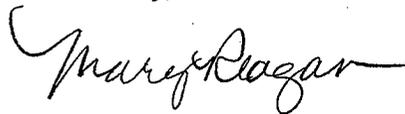
Re: In the Matter of the Application of LCS Corrections Services, Inc. for Proposed Permit
No. WQ0014802001 (TX0129607)

Dear Ms. Castañuela:

Enclosed please find the original and twelve copies of Applicant's Response to Request for Reconsideration in the above-referenced matter. Please file the original and 11 copies and return one file-marked copy to me via our courier.

If you have any questions regarding this filing, please do not hesitate to contact me at the telephone number listed above.

Sincerely,



Mary Reagan

MBR/rrh
Enclosures

cc: Service List

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 SEP 29 PM 3:38
CHIEF CLERKS OFFICE

TCEQ DOCKET NO. 2008-1406-MWD

2008 SEP 29 PM 3: 38

APPLICATION BY § TEXAS COMMISSION
LCS CORRECTIONS SERVICES, INC. § ON
FOR TPDES PERMIT NO. § ENVIRONMENTAL QUALITY
WQ0014802001

CHIEF CLERKS OFFICE

APPLICANT'S RESPONSE TO REQUEST FOR RECONSIDERATION

TO THE HONORABLE COMMISSIONERS:

LCS Corrections Services, Inc. ("LCS"), applicant in the above-referenced matter, files this Response to the request for reconsideration by Midnight Sun, Inc. VI ("Midnight Sun"). Midnight Sun's request fails to raise any valid basis for reconsideration of the Executive Director's decision to issue Permit No. WQ0014802001 (the "Permit") and should be denied.

I. BACKGROUND

LCS has applied to the TCEQ for a permit to authorize the discharge of treated domestic wastewater at an average daily flow not to exceed 150,000 gallons per day ("gpd"). The treated effluent will be discharged to a ditch; thence to Petronila Creek Above Tidal in Segment No. 2204 of the Nueces-Rio Grande Coastal Basin.

The wastewater treatment facility is an activated sludge process plant which will serve the Nueces Detention Facility (the "Facility"), a newly constructed 1,100-bed private prison for federal inmates near Robstown, Nueces County, Texas. The Facility has received the support of the local community. Attached to this Response are support letters from County Judge Samuel Neal and Robstown Mayor Rodrigo Ramon, Jr.

All required TCEQ notices relating to the proposed Permit and requesting public comment were mailed and also published in both English and Spanish language newspapers. In addition, a public meeting was held on May 15, 2008, in Corpus Christi, Texas, to receive public comment. On July 29, 2008, the Executive Director issued his Response to Comments ("RTC")

determining that LCS's permit application meets all applicable statutory and regulatory requirements.

There are no pending contested case hearing requests and no other pending requests for reconsideration of the Executive Director's decision to issue the permit. A total of 19 persons submitted comments on the proposed Permit. Two of these commenters, Robstown Mayor Rodrigo Ramon Jr., and Mayor Pro Tem Elias R. Vasquez, support issuance of the proposed Permit. The remainder of the commenters withdrew their comments prior to the filing of the RTC, except for Midnight Sun's predecessor, Winding Brook Corporation, and Lionel Lopez on behalf of the South Texas Colonia Initiative, Inc.¹ Neither Mr. Lopez nor Winding Brook requested a contested case hearing, and only Midnight Sun has sought to challenge the Executive Director's decision to issue the Permit by filing a request for reconsideration.

Midnight Sun's August 4, 2008 letter to the Chief Clerk was signed by its property manager, Michael Baumann, on Midnight Sun's behalf. Mr. Baumann raises two concerns in his letter. First, he alleges that the wastewater discharge will increase flooding of Midnight Sun's property during periods of heavy rainfall, should Petronila Creek overflow, and damage property and crops. Second, he conjectures that the discharge "may have possible adverse effects on the soil of this farm," decreasing its productivity and adversely affecting its value. Neither of these concerns merits reconsideration of the Executive Director's decision.

¹ The following persons jointly submitted comments and requested a contested case hearing: Robert and Sandra Bristol, Becky Cantu, Johnny Luna, Terry Luna, Debra Martinez, Jimmy and Shelly Monse, Antonio M. Orozco, Rene M. Orozco, Christina Ponce, and Rorque Torrez. Reagan Brown separately submitted comments and requested a hearing. Israel J. Carrasco, Sr., and Israel J. Carrasco, Jr. submitted oral comments at the public meeting. All of these comments and hearing requests have been withdrawn.

II. FLOODING CONCERNS

1. **Midnight Sun's request does not raise an issue that is relevant and material to the decision on the application.**

Midnight Sun has failed to raise any issue that is relevant and material to the Commission's decision on the application. Midnight Sun's request for reconsideration is based solely on concerns associated with flooding. Flooding is not mentioned in the applicable statute, Texas Water Code Chapter 26, or applicable regulations as an issue relevant to the Commission's consideration of whether to issue a wastewater discharge permit. Consistent with this analysis, the Commission recently denied a request for contested case hearing based on flooding concerns and issued the discharge permit. *TCEQ Docket No. 2008-0625-MWD, Application by AUC Group, L.P. for TPDES Permit No. WQ0014724002 (Sept. 10, 2008).*

Midnight Sun has not pointed to any statutory and regulatory requirement alleged not to have been met, nor does it cite any statutory or regulatory basis for objecting to the Executive Director's decision. Thus, having raised no issue relevant and material to the Commission's deliberation of the merits of LCS's permit application, Midnight Sun's request for reconsideration should be denied.

2. **Midnight Sun's concern that the discharge could possibly cause crop or soil damage lacks merit.**

In addition to being irrelevant, a concern that the effluent could possibly damage crops should Petronila Creek overflow during periods of heavy rainfall is unfounded. LCS's discharge will not cause the adverse effects on crops and soils alleged by Midnight Sun. First, LCS's discharge volume of 150,000 gpd will not increase the flooding potential of Petronila Creek. This discharge volume will have no appreciable effect on the volume of water carried by Petronila Creek during periods of heavy rainfall. It corresponds to a flow generated by the

wastewater treatment plant of approximately 0.23 cubic feet per second (“cfs”) compared to the Creek’s approximate capacity of 6,500 cfs, meaning that the discharge volume represents only 0.0035 percent of the Creek’s capacity.

In addition, the wastewater treatment plant’s effluent will meet required discharge limitations based on a 30-day average of 10 mg/l biochemical oxygen demand (“BOD”), 15 mg/l total suspended solids (“TSS”), 4.0 mg/l minimum dissolved oxygen (“DO”), and required chlorine residual concentrations. These effluent limitations reflect compliance with stream standards and waste load allocations established in the Texas Water Quality Standards and the secondary treatment and disinfection requirements found in 30 TEX. ADMIN. CODE CHAPTER 309. A Tier 1 antidegradation review further determined that issuance of the proposed Permit will not impair existing water quality uses.

It should be further noted that the Commission’s own rules approve as safe the re-use of treated domestic effluent like LCS’s for irrigation purposes. *See* generally 30 TEX. ADMIN. CODE CHAPTER 210. LCS’s treated effluent is consistent with the quality standards for Type II reclaimed water provided in § 210.33.² Type II uses include general irrigation uses such as irrigation of sod farms, food crops and animal feed crops. 30 TEX. ADMIN. CODE § 210.32. Midnight Sun’s claim that the discharge could adversely affect crops and soil simply lacks any supporting basis.

Flooding was the chief concern raised by the other commenters who have subsequently withdrawn their comments and objections to LCS’s permit application. Consequently, although lacking in relevance, this issue became the focus of a settlement between LCS and these

² The term “reclaimed water” is defined as “domestic or municipal wastewater which has been treated to a quality suitable for a beneficial use, pursuant to the provisions of [Chapter 210] and other applicable rules and permits.” 30 TEX. ADMIN. CODE § 210.3(24).

commenters which resulted in the removal of debris from Petronila Creek at locations requested by the commenters. These locations were accessed by property located in the George H. Paul Farm Sections, Block 74, and as clearly shown on the attached map from the permit application, are directly adjacent to Midnight Sun's property. Thus, it is clear that these improvements will benefit Midnight Sun's property as well.

CONCLUSION AND PRAYER

The Executive Director has correctly determined that LCS's permit application meets all applicable statutory and regulatory criteria. Midnight Sun's request for reconsideration is based on irrelevant concerns related to flooding, which, nevertheless, lack merit because the discharge will meet required effluent limitations and not contribute to increased flooding potential of Petronila Creek in a manner so as to cause the possible adverse effects alleged by Midnight Sun in its request for reconsideration.

WHEREFORE, PREMISES CONSIDERED, LCS Corrections Services, Inc. respectfully requests that the request for reconsideration filed by Midnight Sun, Inc. VI be in all respects denied and TPDES Permit No. WQ0014802001 issued forthwith.

Respectfully submitted,

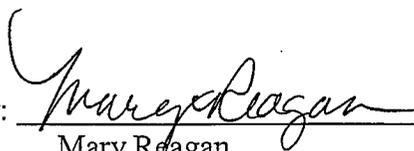
MCGINNIS, LOCHRIDGE & KILGORE, L.L.P.

600 Congress Avenue, Suite 2100

Austin, Texas 78701

Tel: (512) 495-6000

Fax: (512) 495-6093

By: 
Mary Reagan
State Bar No. 16629700

CERTIFICATE OF SERVICE

I hereby certify by my signature above that the original and eleven true and correct copies of the Applicant's Response to Request for Reconsideration were filed with the Chief Clerk of the TCEQ, and a copy was served to all persons listed on the attached service list via hand-delivery, facsimile transmission and/or by certified mail, return receipt requested on this the 29th day of September, 2008.



Mary Reagan

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 SEP 29 PM 3: 38
CHIEF CLERKS OFFICE

SERVICE LIST
LCS CORRECTIONS SERVICES, INC.
DOCKET NO. 2008-1406-MWD; PERMIT NO. WQ0014802001

FOR THE APPLICANT:

Dick Harbison
LCS Corrections Services, Inc.
147 Easy St.
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FOR THE EXECUTIVE DIRECTOR

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FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac, Director
Texas Commission on Environmental
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Office of Public Assistance, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-4007 *(via fax)*

FOR ALTERNATIVE DISPUTE
RESOLUTION:

Mr. Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015 *(via fax)*

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311 *(via hand-delivery)*

REQUESTER(S):

Michael M. Baumann
Michael M. Baumann & Co.
820 Main St. Ste. 207
Kerrville, Texas 78028-5300
Tel: (830) 257-7373
Fax: (830) 257-7353
(via fax and CMRRR)



SAMUEL L. NEAL, JR.
County Judge

August 22, 2008

Claudia Lobell
Chief Executive
claudia.lobell@co.nueces.tx.us

Bill Roberts, E.M.C.
(361) 888-0513
bill.roberts@co.nueces.tx.us

Marie Carrales
Secretary
marie.carrales@co.nueces.tx.us

The Honorable Juan Hinojosa
Texas Senator
P.O. Box 12068, Capitol Station
Austin, TX 78711

**RE: LCS Correction Services, Inc.
Proposed Permit No. WQ0014802001**

Dear Senator Hinojosa:

I am writing to you to follow up on our telephone call of last week, and to express my support for the expedited consideration and issuance of Permit No. WQ0014802001 by the Texas Commission on Environmental Quality ("TCEQ") to LCS Corrections Services, Inc. ("LCS") for the operation of a wastewater treatment plant. The proposed wastewater treatment plant will serve the Nueces Detention Facility, a new 1,100-bed private prison near Robstown, Texas, built to house federal inmates.

The Nueces Detention Facility is a welcome addition to Nueces County. The facility will bring needed jobs to our area and is expected to generate over \$1.4 million in property taxes and revenue for the County. With construction almost complete, the facility may begin receiving and housing prisoners once the TCEQ issues the wastewater discharge permit. The TCEQ's Executive Director has determined that the permit meets all applicable statutory and regulatory criteria.

I appreciate your time in allowing me to follow up on this matter of vital economic importance to the County and for your prompt response to my telephone call. I sincerely appreciate all efforts by you and your office to gain expedited consideration of LCS's permit at the TCEQ.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel L. Neal, Jr.", written in a cursive style.

Samuel L. Neal, Jr.
County Judge

SLN/el

P.O. Box 872
Robstown, Texas 78380
Phone (361) 387-4589
Fax (361) 387-9353



Office
of the Mayor

City of Robstown

August 28, 2008

The Honorable Juan Hinojosa
Texas Senator
P.O. Box 12068, Capitol Station
Austin, TX 78711

Re: LCS Correction Services, Inc.
Proposed Permit No. WQ 0014802001

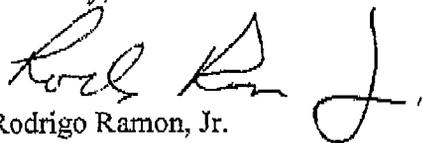
Dear Senator Hinojosa:

As Mayor of the City of Robstown, I am writing to indicate my support for the Nueces Detention Facility being built by LCS Corrections Services, Inc. ("LCS") near Robstown in Nueces County Texas. This detention facility is a private facility which will house approximately 1,100 inmates and will be operated by LCS. The detention facility will bring jobs to the City and has a wide support in our community.

Part of the detention facility's plans includes the construction and operation of a wastewater treatment plant to serve the facility. Proposed Permit NO. WQ 0014802001 to authorize wastewater discharge from this treatment plant is currently pending for consideration at the Texas Commission on Environmental Quality ("TCEQ"). The TCEQ's Executive Director has determined that the permit meets all applicable statutory and regulatory requirements.

The permit's expedited issuance by the TCEQ will allow the Nueces Detention Facility to begin operation and service to our community. Any efforts that you can provide to expedite the TCEQ's consideration of LCS's permit are greatly appreciated.

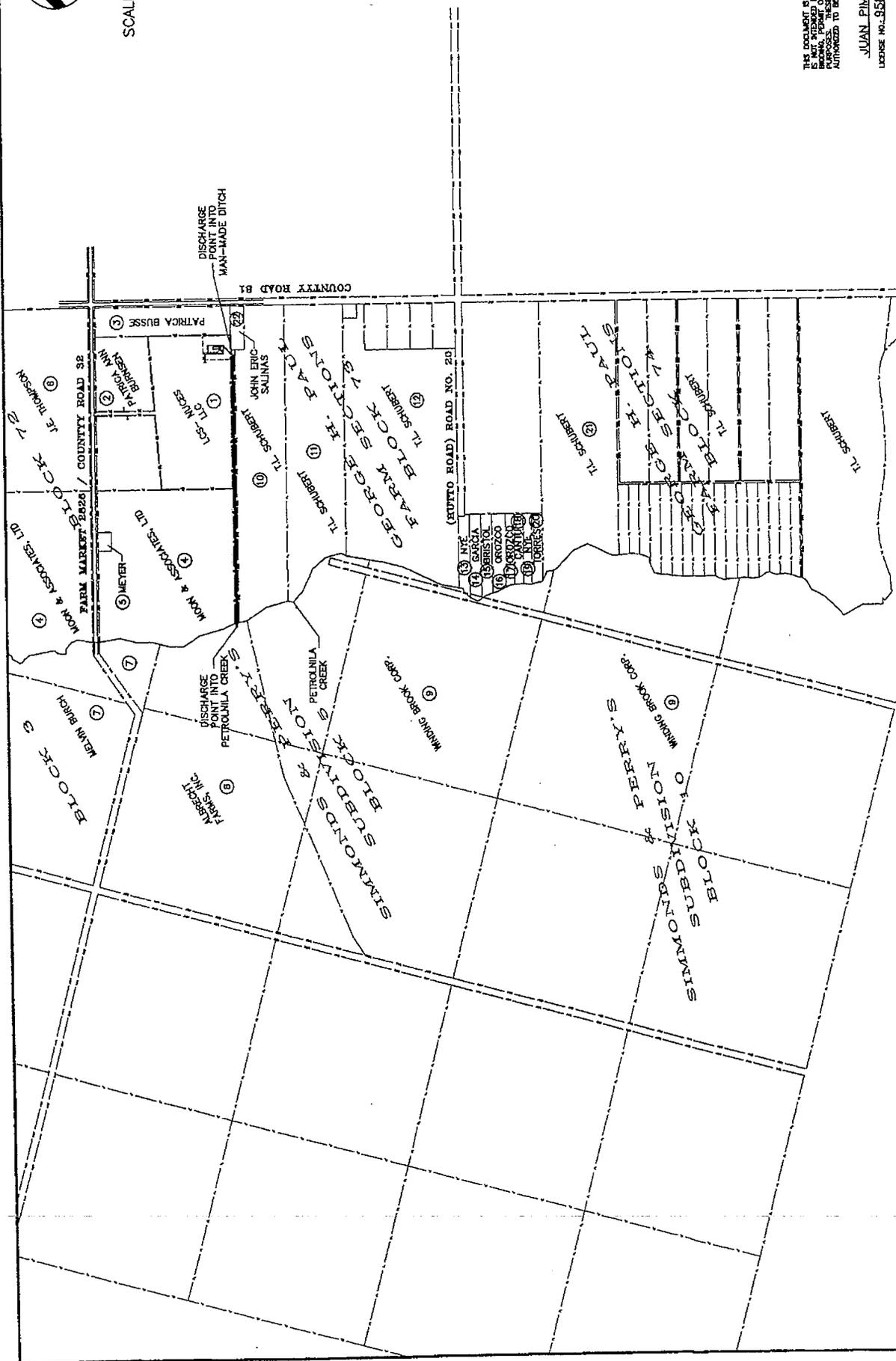
Sincerely,


Rodrigo Ramon, Jr.
Mayor, City of Robstown

/File



SCALE: 1"=2000'



THIS DOCUMENT IS FOR THE USE OF THE CLIENT AND IS NOT TO BE USED FOR CONSTRUCTION PURPOSES. THESE DOCUMENTS/PLANS WERE AUTHORIZED TO BE RELEASED.

JUAN PIMENTEL P.E.
 LICENSE NO. 95847 DATE: 4/30/07

COUNTY OF NUECES
 NUECES DETENTION FACILITY
 FARM MARKET 2826 & COUNTY ROAD 81
 AFFECTED LANDOWNER MAP

LNV ENGINEERING
 ENGINEERS & CONSULTANTS
 CIVIL * STRUCTURAL * TRANSPORTATION * SURVEYING *
 MARINE * CONSTRUCTION MANAGEMENT
 901 NAVIGATION, SUITE 300
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 ARCHITECTS PLANNERS
 Lafayette, Louisiana & Baton Rouge, Louisiana