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May 21, 2010

VIA OVERNIGHT DELIVERY

LaDonna Castañuela  
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TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
MAY 24 AM 10:31  
CHIEF CLERKS OFFICE

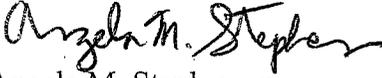
Re: Application by Katy 884 Partners, Ltd. for Permit No. WQ0014943001; TCEQ Docket  
No. 2010-0500-MWD

Dear Ms. Castañuela:

Enclosed for filing please find the original and seven copies of Applicant's Response to  
Hearing Request in the above-referenced matter. Copies of the response have also been served  
today on all persons on the mailing list.

Thank you for your assistance.

Very truly yours,

  
Angela M. Stepherson

Enclosures

cc: Mailing List

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TCEQ DOCKET NO. 2010-0500-MWD

APPLICATION BY KATY 884  
PARTNERS, LTD. FOR PERMIT  
NO. WQ0014943001

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2010 MAY 24 AM 10:31  
BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY  
CLERK'S OFFICE

### APPLICANT'S RESPONSE TO HEARING REQUEST

TO THE HONORABLE COMMISSIONERS:

COMES NOW, Katy 884 Partners, Ltd. ("Applicant"), and files this response to the hearing request made by Nona Fain on behalf of The Robert H. Fain Family Partnership ("Fain") regarding the application for Permit No. WQ0014943001. For the reasons set out below, Applicant respectfully urges the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") to deny Fain's hearing request.

Applicant has applied for a new permit to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 750,000 gallons per day. The wastewater treatment facility will be located in Waller County approximately 1,400 feet northwest of the intersection of Stockdick Road and Schlipf Road. The TCEQ Executive Director has recommended issuance of the permit. The request filed by Fain was the only hearing request filed concerning the application.

This application is subject to Chapter 55, Subchapter F, of the TCEQ rules. A hearing request must comply with Section 55.201 of the TCEQ rules. Subsection (d) of that rule provides in relevant part that a hearing request must "identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language . . . how and why the requestor believes he or she will be adversely affected by the proposed facility . . ." and "list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request." 30 Tex.

Admin. Code §§ 55.201(d)(2), (4); *see also id.* § 55.211(c)(2)(A) (hearing request may be granted if it “raises disputed issues of fact that were raised during the comment period, that were not withdrawn . . . , and that are relevant and material to the commission’s decision on the application,” and it complies with Section 55.201).

Fain’s hearing request does not identify any interest of any kind that will be affected by the application, does not state how Fain believes it will be affected by the proposed facility, and does not list any relevant and material issues of fact that form the basis of the hearing request. Fain’s hearing request does not list any issues at all. Rather, it merely states that:

With reference to the above water quality permit application The Robert H. Fain Family Partnership as a downstream property owner would like to call for a public meeting and contested case hearing to discuss the ramifications of approving this application.

The only other information contained in the letter is the name of the applicant, the location of the proposed facility, and contact information for Fain. Because Fain’s hearing request fails to comply with the applicable requirements of the TCEQ rules, it must be denied.

WHEREFORE, PREMISES CONSIDERED, Katy 884 Partners, Ltd. hereby respectfully urges the Commission to deny The Robert H. Fain Family Partnership’s hearing request and issue Permit No. WQ0014943001.

Respectfully submitted,

COATS, ROSE, YALE, RYMAN & LEE, P.C.

By: Angela M. Stepherson

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ATTORNEYS FOR KATY 884 PARTNERS, LTD.

**CERTIFICATE OF SERVICE**

2010 MAY 24 AM 10:32

I hereby certify that I have served a true and correct copy of the foregoing on this 21<sup>st</sup> day of May, 2010 on the following:

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