

June 3, 2010
Office of Chief Clerk
Attn: Agenda Docket Clerk
Mail Code 105
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

2010 JUN -7 PM 1:18

CHIEF CLERKS OFFICE

Re: Docket No. 2010-0654-MWD
130 Cactus Investments, L.P.
Formal Written Reply to Reponses filed on/before 5pm on May 24,2010.

#1 Office of Public Interest Counsel's Response to Requests for Hearing TCEQ Docket No 2010-0654-MWD submitted by James B. Murphy, Attorney ;Assistant Public Interest Counsel.

Mr. Murphy states on pg. 3 of 8 that "there is no right to a contested case hearing on this renewal application". I challenge this due to a key fact which was not present when the original permit was filed/granted. That fact is the City of Pflugerville Master Wastewater Plan for a Regional Plant which is in the process of being developed. I am attaching a letter from Darren Strozewski, P.E. of Walker Partners clarifying COP's capacity to serve 130 Cactus Investments.

On the top of pg. 6 "(E)" I would request whether Mr. Murphy has compliance history over the last 20 years for other WWTP owned and operated by either 130 Cactus Investments or partner John Lloyd ? While the plant for this renewal permit was never built so therefore has no real data/ compliance history, it would be interesting to view records/data from plants built and operated by chief partner, John Lloyd in his other projects. I trust that the plant built to high standards and specifications using the best materials available with state of the art equipment would also operate at a very high level of competence and function flawlessly.

#2 Executive Director's Response to Hearing Requests as submitted by Kathy Humphrey's, Staff Attorney

pg.12 2nd paragraph "The need for this facility is a disputed issue of fact and is relevant and material to the Commission's decision on the application by 130 Cactus for renewal of its TPDES permit". The City of Pflugerville's Master Wastewater Plan includes service to the area in this renewal permit No. WQ0014548001. Some of the area in question is in the COP City Limits and some of the area is included in the COP ETJ.(Note Attachment)

Pg.15,16 The response to #11,12,13 &14 was interesting as these were included in the legal settlement document in the SOAH process with Judge Rogan during the original permitting process. #11,12,13 &14 were requirements agreed to by original owner Tejas Viejo Land Company and the Motts and components of the signed contract which allowed settlement of the dispute between the Motts and Tejas Viejo Land Company involved in the initial permitting action. These items were a valid legal part of the initial

permitting action and should remain valid now? This action (or lack of) looks like a breach of contract since this contract was between Tejas, et.al and **its successors**.

Pg.17-18 on #19 regarding the initial application filed by Tejas Viejo Land Company and a letter from the City of Pflugerville. Attached is a letter from Walker Partners Engineers dated 5/28/2010 describing the current status.

Pg. 18 VII Executive Director's Recommendation to deny the hearing requests. I remain committed to a request for a contested case hearing based on the following:
Being labeled as an "affected person" and also being an adjacent landowner downstream from the proposed plant identified in the renewal permit and with Wilbarger Creek traversing my property and with consideration the City of Pflugerville Wastewater Master Plan, I am not convinced of the rationale for renewal of the permit.

#3 Response from Mr. John Carlton, Attorney for the Applicant
pg.8 Alternative Continuance-I concur with Mr. Carlton that consideration include a mediation period for 120 days to negotiate a long term solution to Permit No. WQ0014548-001.

Respectfully submitted,


Vernagene Mott
16814 Cameron Road
P.O. Box 951
Pflugerville, Texas 78691-0951



Walker Partners

ENGINEERS • SURVEYORS

May 28, 2010

Office of Agenda Docket Clerk (MC 105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Reference: 130 Cactus Investment, LP
Texas Pollutant Discharge Elimination System Permit (TPDES) Renewal
Permit No. WQ0014548-001

To Whom It May Concern:

The City of Pflugerville has requested that we address the below erroneous information in regard to the available capacity of the City's wastewater treatment plant.

On March 26, 2010, the Executive Director of the TCEQ filed a Response to Public Comment on 130 Cactus Investment, LP's application for a renewal of TPDES Permit No. WQ0014548-001 and the Executive Director's preliminary decision. Response 18 in this document contained erroneous information regarding the City of Pflugerville's ability to accept the final permitted flow (0.95 mgd) from the WildPflower Development. The City of Pflugerville currently has capacity to accept the ultimate flow of 0.95 mgd from the WildPflower Development.

The City owns and operates a 5.3 mgd capacity wastewater treatment facility (Upper Gilleland Creek WWTP) which is the closest constructed plant in proximity to the WildPflower Development. The following information summarizes the current capacity of the City of Pflugerville's Upper Gilleland Creek WWTP and uses the City's current engineering development standards which specify 270 gallons per day (gpd) per living unit equivalent (LUE).

Total Capacity of Upper Gilleland Creek WWTP	= 5.30 mgd
Total Allocated Capacity to Existing Customers at this WWTP	= 3.65 mgd
Total Available Capacity in Flow (mgd)	= 1.65 mgd
Total Available Capacity in LUEs	= 6,111 LUE
Available Capacity less WildPflower Development	= 0.70 mgd

It should be noted that the City actively monitors the actual treated monthly flows and number of customers served so that the City may properly plan, implement, and construct additional wastewater capacity as needs dictate. Thus, if the flow to the City's wastewater treatment plant were to suddenly and significantly increase by acceptance of new flows (i.e. flow from existing development diverted to the wastewater plant), the City would continue and/or accelerate implementing the recommendations contained in the City's Wastewater Master Plan dated March 2008.

Should you have any questions or need additional information, please contact me at (512) 382-0021.

Sincerely,

Darren Strozewski, P.E.
Senior Vice President

Cc: File
Mr. Brandon Wade, P.E. - City Manager
Mr. Felix Benavides, P.E. - City Engineer
Mr. Floyd Akers - City Attorney
Mr. James Wills - Interim Public Works Director

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DOCKET NO. 2010-0654-MWD; PERMIT NO. WQ0014548001

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