

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 30, 2012

Bridget Bohac, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105  
Austin, Texas 78711-3087

Re: TCEQ Docket No. 2011-1786-DIS; South Port Alto Municipal Utility District;  
Requests filed regarding Internal Control No. 03102010-D02.

Dear Ms. Bohac:

Transmitted herewith for filing with the Texas Commission on Environmental Quality (Commission or TCEQ) are the following items to be filed as backup materials for the February 22, 2012, agenda on hearing requests for the creation of South Port Alto Municipal Utility District of Calhoun County:

1. Executive Director's Response to Hearing Requests;
2. Hearing requests;
3. Map of proposed boundaries; and
4. Technical memorandum prepared by staff.

Please do not hesitate to contact me at (512) 239-4761 if you have any questions regarding this material. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kayla Murray".

Kayla Murray, Staff Attorney  
Environmental Law Division

Enclosures

cc: Mailing list

**MAILING LIST  
SOUTH PORT ALTO MUD  
TCEQ DOCKET NO. 2011-1786-DIS  
INTERNAL CONTROL NO. 03012010-D02**

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TEXAS COMMISSION ON  
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**CERTIFICATE OF SERVICE**

I certify that on January 30, 2012, a copy of the foregoing document was sent by first class, agency mail, electronic mail and/or facsimile to the persons on the attached Mailing List.

A handwritten signature in black ink that reads "Kayla Murray". The signature is written in a cursive, flowing style.

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Kayla Murray, Staff Attorney  
Environmental Law Division

## TCEQ DOCKET NO. 2011-1786-DIS

APPLICATION FOR THE § BEFORE THE  
CREATION OF SOUTH PORT § TEXAS COMMISSION  
ALTO MUNICIPAL UTILITY § ON  
DISTRICT OF CALHOUN COUNTY § ENVIRONMENTAL QUALITY

### EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

#### I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") files this Response to Hearing Requests on the petition by Christine L. Withee, Terrance D. Withee, et. all for the creation of South Port Alto Municipal Utility District of Calhoun County ("District").

The proposed District would contain 52.5 acres, located within Calhoun County. It is located just east of the intersection of State Highway 172 and County Road 314 in Calhoun County on the western shore of Carancahua Bay. It is approximately 17 miles east of the City of Port Lavaca and 43 miles southeast of the City of Victoria. The proposed district is not located within the limits or extraterritorial jurisdiction of any city in Calhoun County.

The petition states that the purpose of the proposed district will be to purchase, construct, acquire, improve, maintain, and operate a centralized wastewater system to serve customers within the boundaries of the district. In addition, the proposed district will improve the existing water supply system for the District. Bond proceeds will be used to purchase and upgrade the existing water supply facilities, to expand the adjacent wastewater treatment plant, to construct a centralized wastewater collection system, and to fund land costs associated with two new lift stations.

#### II. PROCEDURAL HISTORY

The Petitioners filed an application for the creation of the District on January 13, 2010. A Notice of Deficiency was sent to the Petitioners on January 25, 2010, and the application was subsequently declared administratively complete on March 11, 2010. The Petitioners published the Notice of District Petition in the Port Lavaca Wave, a newspaper generally circulated in Calhoun County, where the district is proposed to be located, on June 26, 2010 and July 3, 2010. On June 29, 2010, proper notice of the application was posted on the bulletin board used for posting legal notices in Calhoun County, Texas. Between July 6, 2010 and August 2, 2010, the TCEQ received seven letters from landowners and one letter from the current Certificate of Convenience and Necessity ("CCN") holder opposing the creation of the district. The period to request a contested case hearing ended August 2, 2010.

On April 12, 2010, the TCEQ Districts staff sent a Notice of Deficiency (“NOD”) to the District. The District provided responsive documents on April 23, 2010. On August 11, 2010, the TCEQ Districts staff sent a second NOD to the District. The TCEQ received responsive documents on February 4, 2010. Included with these documents are the attached letters between the current CCN holder, Jesse Wood, and the District. The letter dated January 16, 2011 from Mr. Wood states that he plans to sell his existing wastewater treatment plant, Sunilandings Utilities, and its respective sewer CCN to the proposed District. The letter also states that he plans to sell the Sunilandings’ water CCN and its facilities to the proposed District. In addition, Mr. Wood states that he plans to sell the water facilities and water CCN of Enchanted Harbor, which is located within the proposed boundaries, to the proposed district. Mr. Wood states that his reason for doing so is to allow the District “...more flexibility to design and operate a more cost efficient method of delivering these services to the community.” The response dated January 26, 2011, from the District states that the District will purchase the facilities upon the TCEQ’s approval of the District’s creation. It is the ED’s understanding from these documents that a new plant will no longer be built. Rather, the existing one will be upgraded and expanded, and a centralized wastewater collection system will be constructed. As a result of this, the original acreage amount has been reduced from 56.6 acres to 52.5 acres. The bond amount has increased from \$1,890,000 to \$2,261,000.

The Office of the Chief Clerk sent notice of the agenda setting for the Commission’s consideration of the hearing requests on January 18, 2012.

### **III. THE CREATION OF MUNICIPAL UTILITY DISTRICTS**

A municipal utility district (MUD) may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution. TEX. WATER CODE § 54.011. The District in this case is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59, of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

A MUD may be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;

- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

TEX. WATER CODE § 54.012. The commission has jurisdiction to hear this case and create the district. TEX. WATER CODE § 54.014.

The Commission must grant or deny a MUD creation application in accordance with Section 54.021 of the Texas Water Code. In order to grant an application, the Commission must find that organization of the district as requested is feasible and practicable and is necessary and would be a benefit to the land to be included in the district. TEX. WATER CODE § 54.021(a); 30 TEX. ADMIN. CODE § 293.13(b)(1). If the commission fails to make these findings, it shall refuse to grant the petition. TEX. WATER CODE § 54.021(d); 30 TEX. ADMIN. CODE § 293.13(a).

In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

- (1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;
- (2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:
  - (A) land elevation;
  - (B) subsidence;
  - (C) groundwater level within the region;
  - (D) recharge capability of a groundwater source;
  - (E) natural run-off rates and drainage;
  - (F) water quality; and
  - (G) total tax assessments on all land located within a district.

TEX. WATER CODE § 54.021(b).

The Commission, however, must exclude the areas that it finds would not be benefited by the creation of the district and must redefine the boundaries of the proposed district according to its findings. 30 TEX. ADMIN. CODE § 293.13(b)(2); TEX. WATER CODE § 54.021(c).

#### **IV. THE EVALUATION PROCESS FOR HEARING REQUESTS**

As the application was declared administratively complete after September 1, 1999, it is subject to the requirements of Title 30, Chapter 55, Subchapter G, Sections 55.250-55.256 of the Texas Administrative Code. The Commission, the Executive Director, the applicant or affected persons may request a contested case hearing on this application. 30 TEX. ADMIN. CODE § 55.251(a). The Commission must evaluate the hearing requests and may take one of the following actions:

- (1) determine that the hearing requests do not meet the rule requirements and act on the application;
- (2) determine that the hearing requests do not meet the rule requirements and refer the application to a public meeting to develop public comment before acting on the application;
- (3) determine that the hearing requests meet the rule requirements and refer the application to the State Office of Administrative Hearings ("SOAH") for a hearing; or
- (4) refer the hearing requests to SOAH for a hearing on whether the hearing requests meet the rule requirements.

30 TEX. ADMIN. CODE § 55.255(a). The regulations provide that a hearing request made by an affected person must be in writing and must be filed with the Office of the Chief Clerk within the time provided in the Notice Of District Petition. 30 TEX. ADMIN. CODE § 55.251(b) and (d). These two requirements are mandatory. The affected person's hearing request must also substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.

30 TEX. ADMIN. CODE § 55.251(c). An affected person's personal justiciable interest must be related to a legal right, duty, privilege, power, or economic interest affected by the application belonging to the requestor and not an interest common to members of the general public. 30 TEX. ADMIN. CODE § 55.256(a). The regulations give the Commission flexibility to determine affected person status by considering any relevant factor, including the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person; and
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person.

- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TEX. ADMIN. CODE § 55.256(a). Government entities, including local governments, may be affected persons if they have authority under state law over issues contemplated by the application. 30 TEX. ADMIN. CODE § 55.256(b).

## **V. THE HEARING REQUESTS**

### **A. Analysis of the Hearing Requests**

- (1) Frank and D'Ann Hurta submitted a timely letter which contained their names, address, and phone number; all required for a contested case hearing request pursuant to TAC §55.251(c)(1). They requested a contested case hearing pursuant to 30 TAC §55.251(c)(3). The Hurtas also provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). The Hurtas provided their property's description and stated that it was within the proposed district's boundaries. They also asserted that they have a septic system that works well and therefore they do not need a public sewer system. Moreover, they said that there is a wastewater treatment plant that serves a nearby area that could serve the petitioners. They stated that the creation of the district would place an "additional financial hardship" on them due to the increased taxes. Thus, the Hurtas identified their personal justiciable interest which is required by 30 TAC §55.251(c)(2) by providing their location in relation to the proposed district and by explaining how they would be affected by the activity in a manner not common to members of the general public. They also meet the definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on them. Therefore, Mr. and Mrs. Hurta's contested case hearing request should be granted pursuant to section 55.251(a).
- (2) Claudia D. Haas submitted a timely letter which contained her name, address, and phone number; all required for a contested case hearing request pursuant to TAC §55.251(c)(1). She requested a contested case hearing pursuant to 30 TAC §55.251(c)(3). Ms. Haas also provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). Ms. Haas provided the location of her property in relation to the proposed district; she provided the name of the section as well as the section, block, and lot numbers. Ms. Haas stated that she already has a wastewater system and "cannot afford the additional cost as proposed by the [district]." She also states that the proposed district would increase her property taxes. Thus, Ms. Haas identified her personal justiciable interest which is required by 30 TAC §55.251(c)(2) by providing her location in relation to the proposed district and by explaining how she would be affected by the activity in a manner not common to members of the general public. She also meets the

definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on her. Therefore, Ms. Haas's contested case hearing request should be granted pursuant to section 55.251(a).

- (3) Harry G. and Patricia A. Forbes submitted a timely letter which contained their names, address, and phone number; all required for a contested case hearing request pursuant to TAC §55.251(c)(1). The Forbes requested a contested case hearing pursuant to 30 TAC §55.251(c)(3). They also provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). Regarding 30 TAC §55.251(c)(2), Mr. and Mrs. Forbes provided their address and stated that it is located at the north end of the proposed district. Mr. and Mrs. Forbes stated that they do not "want to be saddled with an additional taxing authority and a debt of \$2 million to be paid back by a very small number of residents." This is the Forbes' second home and since they are not "full-time residents" in Calhoun County, they have "no opportunity to vote on issues such as this." They also stated that this is their second home and its taxes and insurance are "already exorbitantly high due to its location." Thus, the Forbes identified their personal justiciable interest which is required by 30 TAC §55.251(c)(2) by providing their location in relation to the proposed district and by explaining how they would be affected by the activity in a manner not common to members of the general public. They also meet the definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on them. Therefore, Mr. and Mrs. Forbes' contested case hearing request should be granted pursuant to section 55.251(a).
- (4) Paul E. Lawson submitted a timely letter which contained his name, address, and phone number; all required for a contested case hearing request pursuant to TAC §55.251(c)(1). He requested a contested case hearing pursuant to 30 TAC §55.251(c)(3). He also provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). Mr. Lawson stated that his property was within the district's boundaries and attached its legal description. Regarding section 55.251(c)(2), Mr. Lawson stated that the "imposition by the district of unnecessary taxes and charges will have a punitive effect on [his] property." He asserts that his property already contains a treatment system and therefore, his property "will not derive any benefit from the creation of the proposed district." He goes on to state that a water system already exists that is serving an adjacent area and it has enough capacity to serve any petitioners who need wastewater services. Thus, Mr. Lawson identified his personal justiciable interest which is required by 30 TAC §55.251(c)(2) by providing his location in relation to the proposed district and by explaining how he would be affected by the activity in a manner not common to members of the general public. He also meets the definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on him.

Therefore, Mr. Lawson's contested case hearing request should be granted pursuant to section 55.251(a).

- (5) Frederick J. and Jane F. Dennick submitted a timely letter which contained their names and address, which is required for a contested case hearing request pursuant to TAC §55.251(c)(1). Pursuant to 30 TAC §55.251(c)(3), Mr. and Mrs. Dennick did request a contested case hearing. TAC §55.251(c)(1) also requires a phone number, which was not provided. They did provide the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). Mr. and Mrs. Dennick provided the location of their lot and stated that their property is within the proposed district. Regarding 30 TAC §55.251(c)(2), the Dennicks state that since their property would be taxed by the district, they would be affected in a way not common to the general public. Thus, Mr. and Mrs. Dennick identified their personal justiciable interest which is required by 30 TAC §55.251(c)(2). The Dennicks also meet the definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on them. Therefore, Mr. and Mrs. Dennick's contested case hearing request should be granted pursuant to section 55.251(a).
- (6) On behalf of Sunilandings Utilities, Jesse Wood submitted a timely letter which contained the name, address and phone number of his utility company. Pursuant to 30 TAC §55.251(c)(3), he requested a contested case hearing. Mr. Wood is the owner of Sunilandings Utilities, which contains the wastewater treatment plant that is adjacent to the proposed plant. (However, Mr. Wood is apparently now in the process of selling those facilities to the petitioners.) He did not provide the location of the plant, which is required by 30 TAC §55.251(c)(2), but the map created by the TCEQ shows that the plant is in close proximity to the boundaries of the proposed district. Mr. Wood did provide the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). Pursuant to 30 TAC §55.251(c)(2), he states that he is the CCN holder for the nearby wastewater treatment plant and that the proposed district's new plant would "encroach... into [his] TCEQ protected area." He also asserts that the tax revenue calculations used by the petitioners are incorrect. Thus, although he did not provide his location in relation to the proposed district, he did explain how he would be affected by the activity in a manner not common to members of the general public and therefore appears to have identified his personal justiciable interest which is required by 30 TAC §55.251(c)(2). He also meets the definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on him. Therefore, Mr. Wood's contested case hearing request should be granted pursuant to section 55.251(a).
- (7) James C. Towers submitted a timely letter which contained his name, address, and phone number; all required for a contested case hearing request pursuant to TAC §55.251(c)(1). He requested a contested case hearing pursuant to 30

TAC §55.251(c)(3). Mr. Towers also provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). Regarding the location of his property, Mr. Towers states that his lots are located in Sunilandings, which is a subdivision that is located adjacent to the proposed district's boundaries. Regarding section 55.251(c)(2), Mr. Towers stated the new wastewater treatment plant will be located near where he gathers oysters, and the effluent discharge from the plant could contaminate the oysters. He also states that the existing wastewater treatment plant could treat the waste for which the new plant would be designed. He also asserts that the creation of the new district will result in more connections to the existing plant which already experiences "shocks" to the system on weekends and holidays. However, the existing plant is operating pursuant to a TPDES (Texas Pollutant Discharge Elimination System) permit. If a new plant is built, Mr. Towers will be able to participate in its permitting process if he still has the same concerns and is deemed affected. He also implied that the creation of the new district would put stress on the already existing treatment plant. However, this claim, along with his other claim that the oysters he eats could be contaminated from the effluent discharge, are not factors that are contemplated to satisfy the personal justiciable interest prongs required by 30 TAC §55.251(c)(2). Therefore, Mr. Towers does not meet the definition of an affected person pursuant to 30 TAC §55.256(a) and his request for a contest case hearing should not be granted pursuant to section 55.251(a).

- (8) R.L. Bolleter submitted a timely letter which contained his name, address, and phone number; all required for a contested case hearing request pursuant to TAC §55.251(c)(1). While Mr. Bolleter did not explicitly state where his property is located, or that his property is located within the boundaries of the proposed district, the TCEQ cartographer determined that it was within the proposed district. Pursuant to 30 TAC §55.251(c)(3), Mr. Bolleter requested a contested case hearing. He also provided the TCEQ Internal Control Number for the case as required in the notice and pursuant to section 55.251(c)(4). In his letter to the TCEQ, Mr. Bolleter stated that the existing wastewater treatment plant is useful and could be improved if needed. He also said that a new wastewater treatment plant two blocks away from the existing one is not necessary. In other letters Mr. Bolleter wrote to his neighbors and County Commissioner, he stated that the creation of the district would increase property taxes to 57 cents per \$100. In the letter to his County Commissioner, Mr. Bolleter states his desire to protect Carancahua Bay, which would abut the district. Therefore, through the totality of his letters, Mr. Bolleter has identified his personal justiciable interest which is required by 30 TAC §55.251(c)(2) by explaining how he would be affected by the activity in a manner not common to members of the general public. He also meets the definition of an affected person pursuant to 30 TAC §55.256(a) by raising the economic impact the proposed district could potentially have on him. Therefore, Mr. Bolleter's contested case hearing request should be granted pursuant to section 55.251(a).

## **B. Whether the Issues Raised are Referable to SOAH for a Contested Case Hearing**

In evaluating whether a MUD is feasible, practicable, necessary and would be a benefit to the land included in the district, the commission shall consider "the availability of comparable service from other systems, included but not limited to water districts, municipalities, and regional authorities; the reasonableness of projected construction costs, tax rates, and water and sewer rates; and whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following: (A) land elevation; (B) subsidence; (C) groundwater level within the region; (D) recharge capability of a groundwater source; (E) natural run-off rates and drainage; (F) water quality; and (G) total tax assessments on all land located within a district." Tex. Water Code § 54.021(b)(1-3). The following hearing requestors raised the issue of comparable service under TWC 54.021(b)(1) and the effects on their tax rates under TWC 54.021(b)(2) and (b)(3)(G) which are issues referable to SOAH for a contested case hearing: Frank and D'Ann Hurta; Claudia D. Haas; Paul E. Lawson; and R.L. Bolleter. Harry G. and Patricia A. Forbes and Frederick J. and Jane F. Dennick raise the issue of increased taxes pursuant to TWC 54.021(b)(2) and (b)(3)(G). As the current CCN holder and owner of the existing wastewater treatment plant, Jesse Wood inherently raises issues referable to SOAH for a contested case hearing. James C. Towers primarily raises water quality issues which are not deemed referable to SOAH for this type of case. Rather, the type of water quality issues that Mr. Towers discusses refers to the water that is discharged from the treatment plant. As stated earlier, there is a discharge permit that governs such a discharge. That permit also governs any water quality issues that result from that discharge.

## **VI. Duration for the Contested Case Hearing**

The Executive Director recommends that the projected duration for any contested case hearing between preliminary hearing on the matter and presentation of a proposal for decision before the Commission, should be four (4) months.

## **VII. Recommendation**

The following letters contained the required contact information, requests for a contested case hearing, explanations of their personal justiciable interests, and descriptions of their properties in relation to the boundaries of the proposed district: Harry G. and Patricia A. Forbes; Claudia Haas; Paul E. Lawson; Frederick J. and Jane F. Dennick; and Frank and D'Ann Hurta. Therefore, they all appear to be affected persons. They also all raised issues referable to SOAH for a contested case hearing. Thus, their hearing requests should be granted.

R. L. Bolleter's letter contained all of the aforementioned information as well, but he did not state where his property was in relation to the proposed district's boundaries. The TCEQ cartographer, however, determined that Mr. Bolleter's property was contained within the proposed boundaries. Thus, Mr. Bolleter appears to be an affected person. He

also raised issues referable to SOAH for a contested case hearing. Thus, his hearing request should be granted as well.

Jesse Wood's letter on behalf of Sunilandings Utilities contained the aforementioned required contact information, a request for a contested case hearing, and an explanation of his personal justiciable interest. Mr. Wood did not provide the location of his wastewater treatment plant in relation to the proposed district, but it has been determined to be in close proximity to the district's boundaries. As the current CCN holder and owner of the existing wastewater treatment plant, Mr. Wood also raises issues referable to SOAH for a contested case hearing. Therefore, Mr. Wood appears to be an affected person and his hearing request should be granted.

Lastly, James C. Towers' letter contained the required contact information, a request for a contested case hearing, and a description of his property in relation to the boundaries of the proposed district. However, Mr. Towers' complaints – that the oysters he catches could potentially be contaminated by the new plant, and the potential for additional pressure on the existing plant – are not factors that amount to being an affected person as set out in 30 TAC §55.256. His complaints also do not raise issues referable to SOAH for a contested case hearing. Therefore, his hearing request should be denied.

If the Commission chooses to deny the hearing requests, then ED staff recommends that the application be granted.

Respectfully submitted,

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY  
Mark Vickery, P.G., Executive Director

Robert Martinez, Director  
Environmental Law Division



By: \_\_\_\_\_  
Kayla Murray, Staff Attorney

Enchanted Harbor & Sunlandings Utilities

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JoAnna Weaver, P.E.  
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Utilities & Districts Section  
Water Supply Division  
TOEQ

January 16, 2011

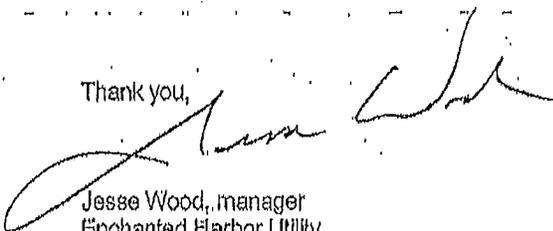
Re: Pending CCN transfer to proposed Port Alto M.U.D.

To whom it may concern:

We have researched the option of increasing the capacity of the wastewater plant and extending the wastewater collection system to provide service to the residents along Beach Drive, Whiteliff Way and Marshall Avenue. It seems that if we do all the necessary upgrades we have no guarantee of getting a return on our investment as we cannot force the residence along these streets to connect to our services. And although most have old and antiquated septic type sewer systems the vast majority of these homes is considered second or weekend homes and are only inhabited a few weekends each year and the owners see no need to pay monthly to connect to a sewer plant. It is for this reason that we have signed a letter of intent to sell our interest in the Sunlandings Water, CCN 12625 and Sunlandings Wastewater Utilities, CCN 20739 to the proposed Port Alto M.U.D.

Enchanted Harbor Utility consist solely of a water utility but since it will lie within the new proposed MUD we think it prudent to also assign this CCN 12683 to the proposed M.U.D. We will also be signing a letter of intent to this effect. It is our hope that by obtaining both utilities this will allow the M.U.D. much more flexibility to design and operate a more cost efficient method of delivering these services to the community.

Thank you,



Jesse Wood, manager  
Enchanted Harbor Utility,  
Sunlandings Utilities

**EXHIBIT 18**

***SOUTH PORT ALTO MUNICIPAL UTILITY DISTRICT  
1931 CR 314 EAST  
PORT LAVACA, TEXAS 77979***

January 26, 2011

Farmers Transport, Inc.  
Mr. Jesse Wood, President  
2301 Nancy Lou Street  
El Campo, TX 77437

Re: Sale of Water and Sewer Treatment  
Facility

Dear Mr. Wood:

This is to confirm the intent of South Port Alto Municipal Utility District (SPA MUD) to purchase the Water and Sewer Treatment Facility known as Sunilandings Utilities and Enchanted Harbor Utility currently owned and operated by Jesse Wood, and/or Farmers Transport, Inc. and the real property listed below which is owned by Jesse Wood, et ux, individually (hereinafter Facility). In the event the Texas Commission on Environmental Quality approves the formation of the South Port Alto Municipal Utility District the SPA MUD agrees to purchase the Facility under the following terms and conditions:

1. SPA MUD shall pay to Farmers Transport, Inc., upon closing, the sum of one hundred eighty five thousand dollars (\$185,000.00). The terms of this letter of intent shall expire on December 31, 2011.
2. The Purchase Price shall include title to the following tracts of land along with all improvements located thereon.

Parcel A: Being all of lot #309 of Sunilandings Phase 1, as per plat of said subdivision recorded in Volume Z, Page 527 of the Plat Records of Calhoun County, Texas including all appurtenances;

Parcel B: Being a tract or parcel of land containing 8106 square feet, more or less, and the area contained within a radius of 15 feet around an existing water well which is located East of Dolphin Drive and bears 6.42 deg. 17' 04" East, a distance of 154.16 feet from the Northeast corner of Lot #309 as per recorded plat of Sunilandings, Phase 1, of record in Volume Z, Page 527, Plat Records of Calhoun County, Texas and all appurtenances;

Parcel C: Being a tract or parcel of land containing 3.02 acres, more or less, situated in and a part of Lots 396 through 399; Lots 463 through 476 and Cap Cod

**EXHIBIT 17 - P 1 of 4**

Drive, Enchanted Harbor, Section II, William Arnold League, A-2 Calhoun County, Texas; also shown as Tract A on Plat of Sunilandings, Phase II, of record in Volume Z, Page 536 of the Plat Records of Calhoun County, Texas and all appurtenances;

Parcel D: A tract or parcel of land containing 0.15 acres situated in and a part of Lot 517 through 519, Enchanted Harbor, Section II, William Arnold League, Abstract #2, Calhoun County, Texas and all appurtenances;

Parcel E: Lots 517, 518, 519 and 520, Section II, a subdivision of lands in the William Arnold League, Abstract No. 2, Calhoun County, Texas, according to the plat of said subdivision of record in Volume Z, page 439, of the Plat Records of Calhoun County, Texas and all appurtenances.

Parcel F: Lot Thirty (30), Block Two (2) of the Marshall Johnson Subdivision of Carancahua Beach as recorded in Volume 255, Page 531, Plat Record of Calhoun County, Texas and all appurtenances, including but not limited to the associated water system equipment, storage tank, pressure tank, pumps, and water well.

Easements, including, but not limited to sewer, utilities, influent and effluent lines, and any other such relating only to the Facility and as needed to provide utilities for the subdivision, as per the plat of Sunilandings, Phase 1, duly recorded in Volume Z, Page 527 of the Plat Records of Calhoun County, Texas; as per various recorded instruments of record in the Official Records of Calhoun County, Texas and those indicated on Utility Drainage and Elevation Engineered Plans produced by G and W Engineers, Inc. of Port Lavaca, Texas.

3. Jesse Wood shall provide all customer lists to SPA MUD at the time of closing.
4. The SPA MUD boundaries shown on the map in Figure 1 shall become a part of this agreement and shall not at any time be changed to include Sunilandings Subdivision, Phase I. ...

The conveyance shall include all permits, including but not limited to the Certificate of Convenience and Necessity, necessary to the operation of the Facility. Farmers Transport, Inc. and/or Jesse Wood shall take all necessary steps to ensure that all permits remain in place during the pendency of the Letter of Intent.

After completion of the sale SPA MUD agrees to furnish water and sewer service to all areas presently served by the Facility. SPA MUD will serve Sunilandings as an Out of District customer at the same rates as In District customers.

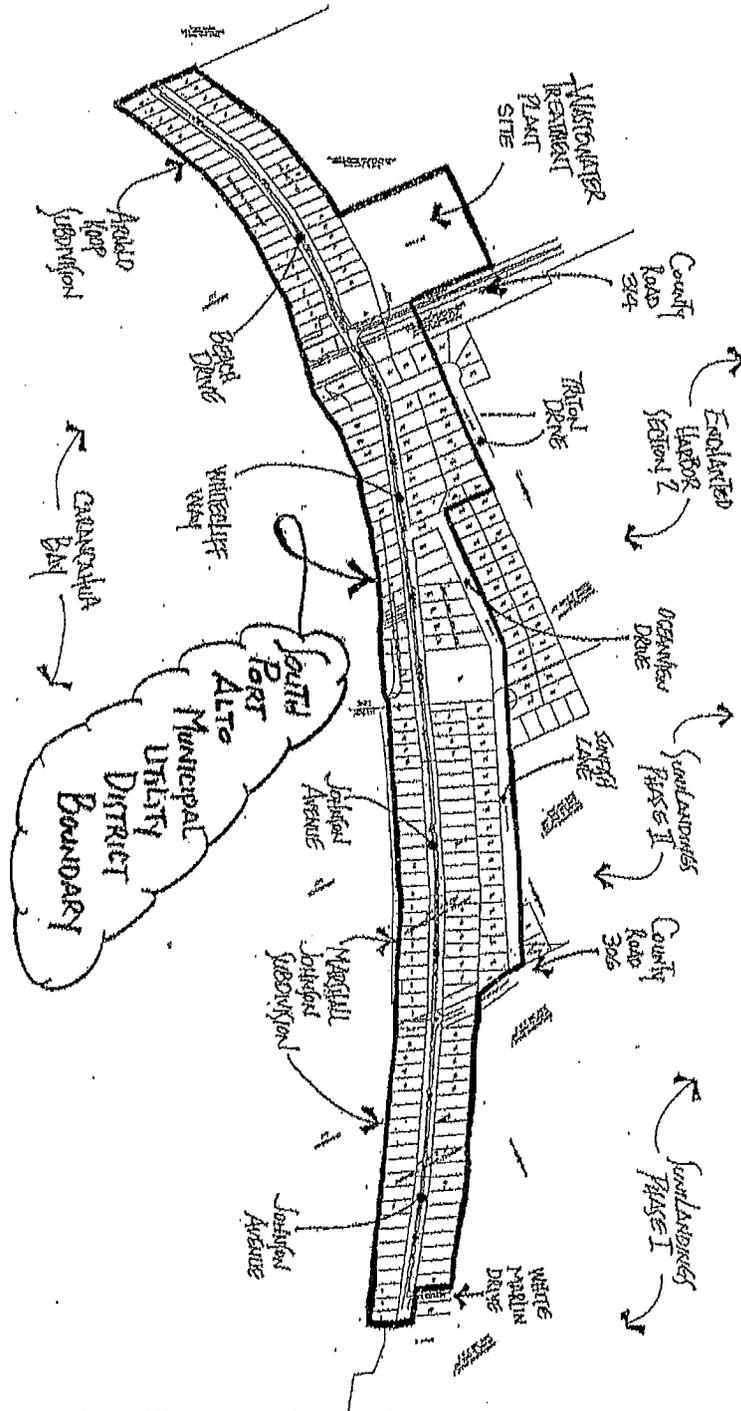
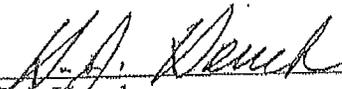


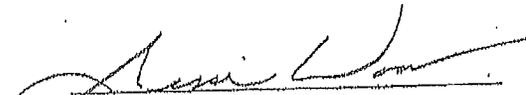
Figure 1 SPA MUD Boundaries Map

If this accurately reflects our agreement please sign this letter in duplicate and return an original to the undersigned.

Yours truly,

  
\_\_\_\_\_  
H. J. Bouck

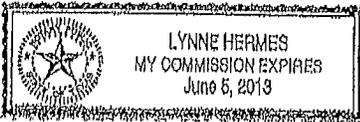
AGREED AND ACCEPTED BY FARMERS TRANSPORT, INC., JESSE WOOD  
PRESIDENT AND JESSE WOOD, INDIVIDUALLY, THIS 1 DAY OF  
February, 2011.

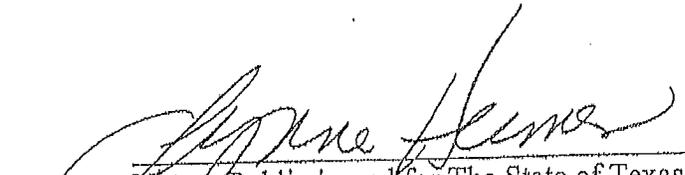
  
\_\_\_\_\_  
Jesse Wood

THE STATE OF TEXAS  
COUNTY OF Calhoun

§  
§  
§

Subscribed and sworn to before me by the said Jesse Wood, this the 1<sup>st</sup> day of  
February, 2011.



  
\_\_\_\_\_  
Notary Public in and for The State of Texas  
Printed Name: Lynne Hermes  
Comm. Expires: 6-5-13

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2010 AUG -2 PM 3:15

CHIEF CLERKS OFFICE

42 Casa Blanca Dr.  
Inez, Texas 77968  
July 29, 2010

RE: TCEQ Internal Control No. 03012010-D02  
Contested Case Hearing

DIS  
7/32/15

Office of the Chief Clerk, MC105  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Dear Chief Clerk,

The following information is submitted for your review regarding the reference above:

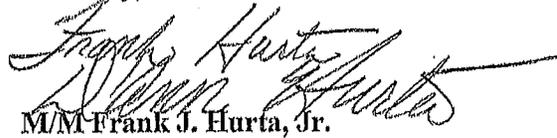
- Frank & D'Ann Hurta  
42 Casa Blanca Drive  
Inez, Texas 77968  
Home number: 361.582.4709; Cell number 361.649.5810
- South Port Alto Municipal Utility District of Calhoun County, Texas  
Petitioners listed as exhibit "A" filed with TCEQ  
TCEQ Internal Control Number 03012010
- We request a contested case hearing.
- WE DO NOT NEED a public sewer system. We purchased extra lots fourteen years ago to be able to install a licensed septic system which is still working well. There is much to address and question in this matter to get factual information regarding the need to even create this MUD. There is a State licensed public sewer system and treatment plant operating in South Port Alto fairly close to the boundary which was submitted to TCEQ. We understand it could be expanded for much less money to serve the needs of those who need sewer. Jesse Wood owns and operates this system. Why not approach him to expand the system at MUCH LESS COST? We are concerned there was some deception of the long range cost/purpose of this project, as the petition was initially being presented for signatures. We wouldn't sign it, and others have asked to be taken off the petition when they realized what they had actually signed. Another one of our concerns is the motivation/benefit to some individuals in this small group at the cost of

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others. If sewer was their only objective, they would be talking to Jesse Wood. This seems so reasonable, but the petitioners will not consider this alternative or answer questions regarding the impact a MUD would have on us now or in the future. We also question whether the petitioner actually owns title to a majority of the land value in the proposed "district." Since our homestead is in Victoria County, we can not vote on this matter and only have a voice through your Commission. It is mindboggling to us that we could be obligated to pay, and pay, and pay for something we do not need, by a vote of approximately 10% of the land owners in this small fishing village. WE ARE IN OUR MID 60'S AND TAXING US FOR THIS PROJECT WOULD DEFINITELY PLACE AN ADDITIONAL FINANCIAL HARDSHIP ON US, AS WE TRY TO HOLD ON TO OUR DREAM OF OWNING A SMALL BAY PROPERTY FOR THE ENJOYMENT OF OUR CHILDREN AND GRANDCHILDREN.

- Our property description: Enchanted Harbor, Block 16, Lot 590, 591, 596, 597, and Enchanted Harbor Sec 2, Lot 643, Calhoun County, Texas. This is within the proposed boundary of the MUD.

Sincerely,

  
M/M Frank J. Hurta, Jr.

CLAUDIA D. HAAS  
522 MARSHALL JOHNSON AVENUE SOUTH  
PORT LAVACA (PORT ALTO), TEXAS 77979-5340  
(281) 768-0120

July 25, 2010

*U.S. Certified Mail  
Return Receipt Requested*

*DIS  
7/32/10*

Ms. LaDonna Castañuela, Chief Clerk  
Office of the Chief Clerk  
Texas Commission of Environmental Quality  
MC 105  
P.O. Box 13087  
Austin, Texas 78711-3087

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2010 JUL -2 PM 3:04  
CHIEF CLERKS OFFICE

Re: TCEQ Internal Control Number 03012010-D02  
South Port Alto Municipal Utility District of Calhoun County

Dear Ms. Castañuela:

In connection with the above referenced matter, please consider this letter a request for a contested case hearing. In accordance with your notice dated June 10, 2010 I submit the following information:

- 1) Claudia D. Haas  
522 Marshall Johnson Avenue South  
Port Lavaca, Texas 77979  
Daytime phone number: (281) 768-0120  
No fax
- 2) Please see attached Exhibit A, the name of Petitioners  
TECQ Internal Control Number 03012010-D02
- 3) I request a contested case hearing.
- 4) I am affected by the petition in a way not common to the general public as follows:

I have already invested a Norweco Singular Bio-Kinetic  
Wastewater System which utilizes the most up to date wastewater

*mw*

Ms. LaDonna Castañuela, Chief Clerk  
July 25, 2010  
Page 2

treatment technology at a cost of over \$6,000.00 and can not afford the additional cost as proposed by the SPA MUD.

The proposed SPA MUD would increase my property taxes.

- 5) My property is located within the boundaries of the proposed South Port Alto Municipal Utility District more specifically described as Enchanted Harbor Section 2, Lot 644 and Enchanted Harbor Block 16, Lots 593, 594 and 646.

My proposed adjustment to the petition would be to retract it in its entirety due to the fact that the existing waste water treatment system located at Sunny Landing subdivision which borders the North end of the proposed SPA MUD has the capacity to handle South Port Alto waste water treatment.

Please be advised that a property owner of a large contiguous area (**not inclusive in the MUD, therefore not taxed**) which after development of the MUD would increase the potential development value of this private individuals property and is inequitable to the proposed SPA MUD property owners.

If you have any question, or need additional information, please do not hesitate to contact me.

Sincerely,



Claudia D. Haas  
Property Owner, South Port Alto, Texas

Enclosure: Exhibit A

Exhibit A

Signers of Petition or Listed on the Central Appraisal District Certificate

South Port Alto Municipal Utility District of Calhoun County  
TCBQ Internal Control No. 03012010-D02

Kristen E. Posey	Jan Clinkscales	Robert A. Smith	Shirley J. Reed
Catricia L. Mills	Ronald Clinkscales	Marsha Smith	Rames C. Hoiby, Jr.
Lesley Koop	Willard E. Ulbricht	Robert Busby	Sue Ann Henry
Gloria Koop	Lee B. Ulbricht	Linda Busby	Martha McCampsey
Frank Zboril	Alton K. Barton	Henry H. Ahrens, II	Darrell Atkinson
Marlaine Zboril	Audrey D. Shultz	Sharon Ahrens	Donna Atkinson
Rhonda Martinica	Barton	Avis Payne Lessar	Robert Ferguson
Stephen Martinica	Myron E. Goforth	Charles E. Doyle, Jr.	Eveleyn Ferguson
Regina M. Schneider	Dorothy A. Goforth	Stephen McCarty	Thomas Bulckwell
Anita L. Koop	Monroe Lee King, Jr.	Gerald F. Kallina	Thomas B. Blackwell, Jr.
Roy E. Floyd, Jr.	Jane Ann King	Christine L. Withee	Dick Koop
Joyce Lovelace	Eugene A. Notardus	Terrance D. Withee	Cindy W. Speck
Les Hunge, Jr.	Beatrice B. Notardus	Jason L. Kallina	Lance Speck
L. Kristine Carpenter	H.J. Houck	Patrick A. Kallina	Frank H. Reading, Jr.
Naiser	Virgie Houck	Raymond P. Jacob	Nelda O. Reading
Doris Ellis	Shacka D. Goad	Carrol Jacob	McHenry Lee
Mary Moody	Ronald Crain	Laval H. Bolling, Jr.	Carol Ann Lee
Millard Brisbois	Evelyn Crain	Jenneth A. Bolling	James D. Moers
Lucille Brisbois	Michael Glibert, II	Thomas G. Post	Rhonda Lynn Moers
Kimberly Hyatt	Ill Gilbert	Carol Post	Frank W. Marek
Donald P. Hyatt	Josephine H.	Larry Obenhaus	Gloria Marek
Elizabeth Powell	Harrington	Lynn A. Obenhaus	Jon T. Cutskall
Michael Powell	C. Michael	James David Samsing	Weide K. Cutshall
Cornelia Cobb Norman	Harrington	J.K. Warford	Timothy Reub
Peterson	Kenneth P. Kingdon	Edward C. Warford	
Priscilla Cobb Wisnisk	Joe Ann Kingdon	Caren Smith	
Ronald J. Crist	Cathy Smith	Keith L. Smith	
Carol Crist	Gregory Cox	Bruce Kacal	
Job Freeman	Carrie Guevara	Gary W. Kacal	
Suzana Freeman	Stephane Rene	Edna E. Kacal	
Anna K. Williams	Guevara	Randy Kacal	
Robby Williams	James E. Koop Jr.	Beverly Hensley	
Joyce S. Rufford	Willard R. Clark	Jeany Hensley	
Kristie Stevers	Shelta Koop	Nelda Zwahlr	
Mark Stevers	Anne J. Clark	Chester L. Zwahlr	
Michael Anderson, Jr.	Billy A. Forrester, Jr.	Frederick J. Dentnick	
David Sappington	Evelyn Saucier	Joe L. Reed	

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2010 AUG -2 PM 3:04  
CHIEF CLERKS OFFICE

*Claudia Bras*  
532 Marshall Johnson Ave  
Port Lavaca Tx 77979-3340

Ms. LaDonna Castaneda, Chief Clerk  
Office of the Chief Clerk  
MC 105  
P.O. Box 13087  
Austin Texas 78711-3087

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Harry G. Forbes, Jr.  
433 Crestwind Drive  
San Antonio, Texas 78239

2010 JUL 27 AM 9:44

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CHIEF CLERKS OFFICE

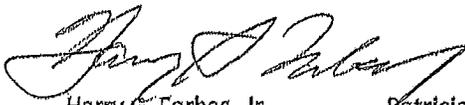
July 24, 2010

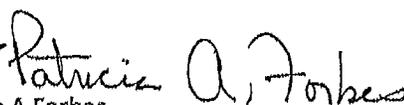
Office of the Chief Clerk  
MCI05 TCEQ  
PO Box 130087  
Austin, Texas 78711-3087

DIS  
7/32/10

1. From: Harry G. Jr & Patricia A. Forbes  
223 Marshall Johnson Avenue North  
Port Lavaca, TX  
Tel: 361 893 5164 (Port Alto) 210 590 4468 (San Antonio) 210 215 1640 (Cell)
2. Petitioners are South Port Alto Municipal Utility District of Calhoun County, Internal Control No. 03012010-D02
3. My request for a contested case hearing is based on the following:
  - a. Petitioners are planning a system that includes a new commercial-sized aerobic treatment plant. There is an existing fully functioning and TCEQ-inspected and compliant plant less than 300 yards from the proposed MUD boundary. The existing plant is modular in construction and can be enlarged if it becomes necessary. We are not hooked up to this system; however, the people directly across the street from us are hooked up to it. If given an opportunity, we would be very agreeable to being hooked up to this system. We have been advised that it would require a lift system be installed to accomplish this. The cost estimates to include the houses on our side of the street are much lower than the estimated almost \$2 million proposed for the MUD to install a completely new system.
  - b. We do not want to be saddled with an additional taxing authority and a debt of \$2 million to be paid back by a very small number of residents, especially when there are other alternatives that are much less costly. Additionally, we already have a fully functioning septic tank which has given us absolutely no trouble in the 7 years we have owned the home.
  - c. This is a second home for us and the taxes and insurance are already exorbitantly high due to its location. Since we are not full-time residents in Calhoun County, we have no opportunity to vote on issues such as this, but have to live with the full effects of these decisions.
4. Our home is located at 223 Marshall Johnson Avenue, North – at the north end of the proposed MUD.

Sincerely,

  
Harry G. Forbes, Jr.

  
Patricia A Forbes

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COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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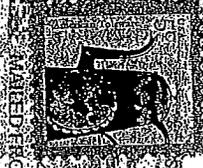
TECHNICAL CENTER  
J.P.

Office of the Chief Clerk

MC105 TCEQ

PO Box 130087

Austin TX 78711-3087



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Faint, mostly illegible text on the right side of the envelope, possibly a return address or recipient information.



# PEPPER-LAWSON CONSTRUCTION, L.P.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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2010 JUL 26 PM 3:02

CHIEF CLERKS OFFICE

Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

Via Facsimile Transmission to (512) 239-3311

DIS  
73215

Re: TCEQ Internal Control No. 03012010-D02; Petition to Create South Port Alto  
Municipal Utility District of Calhoun County, Texas

Ladies and Gentlemen:

By this letter, I request a contested case hearing on the above-referenced matter. My  
contact information is as follows:

Name: Paul E. Lawson  
Mailing Address: P.O. Box 219227, Houston, Texas 77218  
Daytime Phone No.: (713) 882-2158  
FAX No.: (281) 371-2029

The Petitioners in this matter, TCEQ Internal Control No. 03012010-D02, are listed on  
Exhibit A to the Notice of District Petition included herein and made a part hereof for all  
purposes.

I am a property owner within the boundaries of the proposed district and I, along with  
numerous other similarly situated property owners, will be adversely affected by the  
petition in a way not common to the general public, as follows:

The area within the proposed district includes a number of residences that are  
used partly as full time residences, but predominantly as second homes, with  
virtually no taxable commercial property. The Petitioners are predominantly  
owners of residences within the proposed district that were constructed using  
inadequate, undersized or improperly constructed and maintained conventional  
septic tank systems and field line areas. They seek to create the district to  
finance, construct and operate a sanitary sewer system to improve sewer services  
to and the value of their properties at an unfair and disproportionate cost and  
expense burden to me and to other similarly situated property owners. My  
residence, and many others that are similarly situated, were constructed using  
modern, aerobic treatment systems that are situated on adequately sized discharge  
areas purchased by me and others in the form of additional lots in order to  
properly accommodate these sewage systems. As such, my property, and the  
property of many other similarly situated owners, will not derive any benefit from  
the creation of the proposed district; the creation of the proposed district, the

P.O. Box 219227, Houston, Texas 77218-9227 TEL (281) 371-3100  
4555 Katy-Hockley Cut-Off Road, Katy, Texas 77493 FAX (281) 371-2029

mw

incurrence of debt by the district, and the imposition by the district of unnecessary taxes and charges will have a punitive effect on my property and other similar properties that have already incurred the additional costs to construct and operate proper sewage systems; and my property and other similar properties, based upon the size and taxable value of residences utilizing proper sewage systems, when compared to residences using inadequate systems, will be disproportionately taxed on an ad valorem and a usage basis to finance a sewage system only to benefit others who have, by their own (in)actions, inadequate systems and who will pay a disproportionately smaller tax or charge.

In addition, based upon my familiarity with municipal utility districts, and as an experienced contractor in the construction of sewage systems, I believe it is not economically feasible to create and operate a municipal utility district over an area of only 56.6 acres of sparsely populated land and that a more efficient and cost effective system serving only those properties with inadequate sewage systems can be easily designed and constructed. There currently exists a water system that serves all of the Petitioners and all others within the proposed district. That operator also operates a Wastewater Treatment Plant that serves an immediately adjacent area. This existing plant has more than enough capacity to serve all of the Petitioners who need wastewater services. All of the Petitioners, except a small minority, are a great deal closer to the existing plant than to the proposed facility location. Accordingly, the proposed district is not feasible from either an engineering or economic standpoint, is not necessary and does not benefit my property and a significant portion of the properties proposed to be included within the district.

A legal description of my affected property is included. I respectfully request that the petition be denied or, alternatively, that my property be excluded from the boundaries of the proposed district.

Yours very truly,



Paul E. Lawson

Attachments:

· Notice of District Petition  
Legal Description

Legal Description

(509 Marshall Johnson Avenue, Port Lavaca, Texas 77979)

0.66 ACRE SURVEY  
LOTS 647 – 649 OF  
ENCHANTED HARBOR, SECTION TWO  
VOLUME Z, PAGE 439 OF THE  
CALHOUN CO. PLAT RECORDS  
AND THE ADJOINING 20.00'  
VOLUME 223, PAGE 573  
CALHOUN CO. OFFICIAL RECORDS  
WILLIAM ARNOLD SURVEY  
ABSTRACT NO. 2  
CALHOUN COUNTY, TEXAS

LOTS NUMBERED FIVE HUNDRED AND SEVEN (507) AND FIVE  
HUNDRED AND EIGHT (508) AND FIVE HUNDRED AND NINE (509),  
ENCHANTED HARBOR, SECTION II, a subdivision of lands in the William  
Arnold League, Abstract #2, Calhoun County, Texas, according to the plat of said  
subdivision of record in Volume "Z", Page 439, of the Plat records of Calhoun  
County, Texas.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

JUL 26 PM 3:02  
CHIEF CLERKS OFFICE

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**PEPPER-LAWSON**  
CONSTRUCTION, L.P.  
P.O. Box 219227  
Houston, Texas 77218-9227

Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

RECEIVED  
JUL 26 2010  
TCEQ MAIL CENTER  
JC

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Frederick J. Dennick, Jr., P.E.  
402 Gladeview Drive  
Round Rock, TX 78681-4917  
512.769.6681  
512.388.3895 Fax  
[fred@dennick.org](mailto:fred@dennick.org) ✓

2010 JUL 26 PM 2:59  
H  
CHIEF CLERKS OFFICE

2010-07-23

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

SUBJECT: South Port Alto Municipal Utility District of Calhoun County  
TCEQ Internal Control No.: 03012010-D02

I request a contested case hearing in regard to the Subject.

This petition is from:

Frederick J. Dennick, Jr. and Jane F. Dennick

The petitioners are property owners within the proposed district. The petitioner's property is located at:

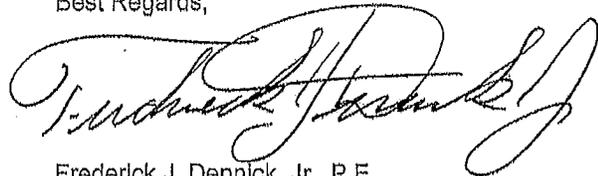
630 Marshall Johnson Drive South

The petitioner's property is described as:

Lot 42, Arnold Koop

The creation of this proposed district directly affects this property in a way not common to the general public by including it within its taxing boundary.

Best Regards,



Frederick J. Dennick, Jr., P.E.  
Texas Registration Number: 48537  
Texas Firm Number: F-1168

Attachments: Notice of District Petition  
Calhoun County CAD Petitioner's Property Information

DIS  
7/22/15

MW

Calhoun CAD

[Property Search](#) [Login](#)

Property Search Results > 1 - 1 of 1 for Year 2010

[New Search](#)

Click the "Details" or "Map" link to view more information about the property or click the checkbox next to each property and click "View Selected on Map" to view the properties on a single map.

Property Address     Legal Description

Property ID	Geographic ID	Type	Legal Description	Owner Name	Appraised Value	
24949	50405-00000-0032-00	Real	ARNOLD KOOP, LOT 42	DENNICK FREDERICK J JR	\$58,040	<input type="checkbox"/> <a href="#">View Details</a>

Page: 1

[View Selected on Map](#)

Questions Please Call (361) 552-4560

Website version: 1.2.2.2

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TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

F.J. Demnick, Jr., P.E.  
402 Gladeview Dr.  
Round Rock, TX 78681-4917

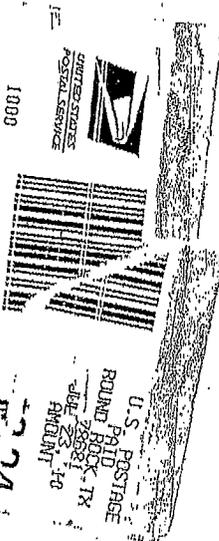
2010 JUL 26 PM 2:59  
CHIEF CLERKS OFFICE

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

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Enchanted Harbor & Sunilandings Utilities

2301 Nancy Lou St.  
El Campo, TX 77437  
979-637-0010  
jwood@jwnet.net ✓

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

H  
2010 JUL -6 AM 10: 07  
CHIEF CLERKS OFFICE

Office of the Chief Clerk  
TCEQ, MC 105  
PO Box 13087  
Austin, Texas, 78711-3087

DIS  
7/3/10

June 30, 2010

Re: South Port Alto MUD, TCEQ Control No. 03012010-D02

Dear Chief Clerk:

I request a contested case hearing for the above petition.

As the CCN holder for the area in which they have listed on their petition I would like to protest encroachment into my TCEQ protected area. If more than that is required I respectfully submit the following:

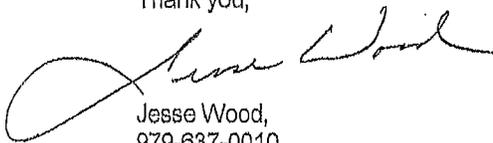
The tax revenue numbers that the petitioners were using are base on false numbers.

When the MUD was first proposed at a general meeting of the public 2008 the general consensus was that a sewer line in the area of interest was needed to replace the old septic tanks. After a meeting to discuss the final update to the MUD was held on September 1, 2008 there were many questions that needed to be answered. Since that time the main MUD organizers have refused to communicate with me and several others. After researching the proposed MUD taxable dollar numbers we found a 3 fold flaw in the taxable property values the effect of which would result in much higher taxes than stated in literature distributed by the promoters. We approached the Calhoun County Tax office and after making them aware of the flawed software thus the flawed numbers they agreed with our findings and thanked us profusely and we proceeded to forward our finding on to the MUD organizers. We have yet to hear anything from them. I believe they are obligated to revise the numbers and give the public the correct information but they have not.

I also would like to question the signatures on the petition as many have called, written, or emailed their request that in light of the new data that their names be removed from the petition.

As the CCN holder I have yet to receive my written notice from the petitioners as I believe is required.

Thank you,



Jesse Wood,  
979-637-0010  
Sunilandings Utilities Wastewater CCN #20739  
Sunilandings Utilities Water Utility CCN #12525  
Enchanted Harbor Water Utility CCN #12683

MW

Surf Landings/Equipainted  
Harbor Utilities  
2301 Nancy Lou  
El Campo, TX 77437  
MW  
TCEQ CENTER T14W OEQ1

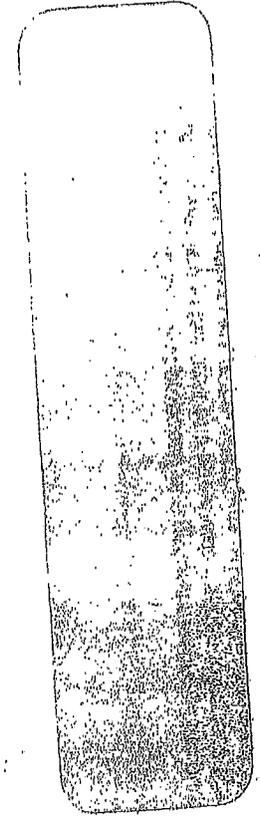
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COMMISSION  
ON ENVIRONMENTAL  
QUALITY



*Requested Materials  
Request*



James C. Towers  
P. O. Box 508  
Point Comfort, Texas 77978  
361 893 5904,  
July 31, 2010

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

TX  
2010 AUG -2 PM 3:03  
CHIEF CLERKS OFFICE

Office of the Chief Clerk  
MC 105, TCEQ  
P. O. Box 1300878  
Austin, TX 78711-3087

From: James C. Towers  
64 Warsaw Landing  
Port Alto, Texas  
Tel: 361 893 5904  
Email: [jctowers@jcti.biz](mailto:jctowers@jcti.biz) ✓

DIS  
7/32/10

1. My name is James C. Towers.
2. Petitioners are South Port Alto Municipal Utility District of Calhoun County, Internal Control No. 03012010-D02
3. I request a contested case hearing. My request for a contested case hearing is based on:

Petitioners are planning a system that includes a new commercial sized treating plant that is of such a small capacity that the waste could be treated within the capacity of an already existing treating plant located adjacent to one of the boundaries of the proposed district. In addition, there are actually about 250 homes along the Western shore of Carancahua Bay that need to be connected to proper treatment systems. About 34 homes, located in the Sunilandings subdivision are already connected to a system originally supplied by Process Engineered Equipment, Inc. of Corpus Christi, TX. That system was designed for over 100 homes, a hotel, marina and yacht club processing. The Sunilandings subdivision went into bankruptcy years ago and only about 34 homes exist there today. There will probably never be any more homes and certainly the hotel and yacht club will never become a reality. See Figure 1 below.

4. I would be impacted in several ways. If the proposal is approved the effluent discharge for the new plant would be very near where I gather oysters in the winter which I eat. I have no way of testing these oysters for contamination except to eat them. The commercial reefs there need protection. There is also the improvement in treatment plant operations that would follow connection of all the Port Alto homes to it (both North and South community sections). The existing plant sees very wide swings in throughput because there are so few permanent residents like myself in South Port Alto. Then on weekends and holidays throughput increases suddenly shocking the system. With the addition of North Port Alto connections more permanent residents would be connected.

*MW*

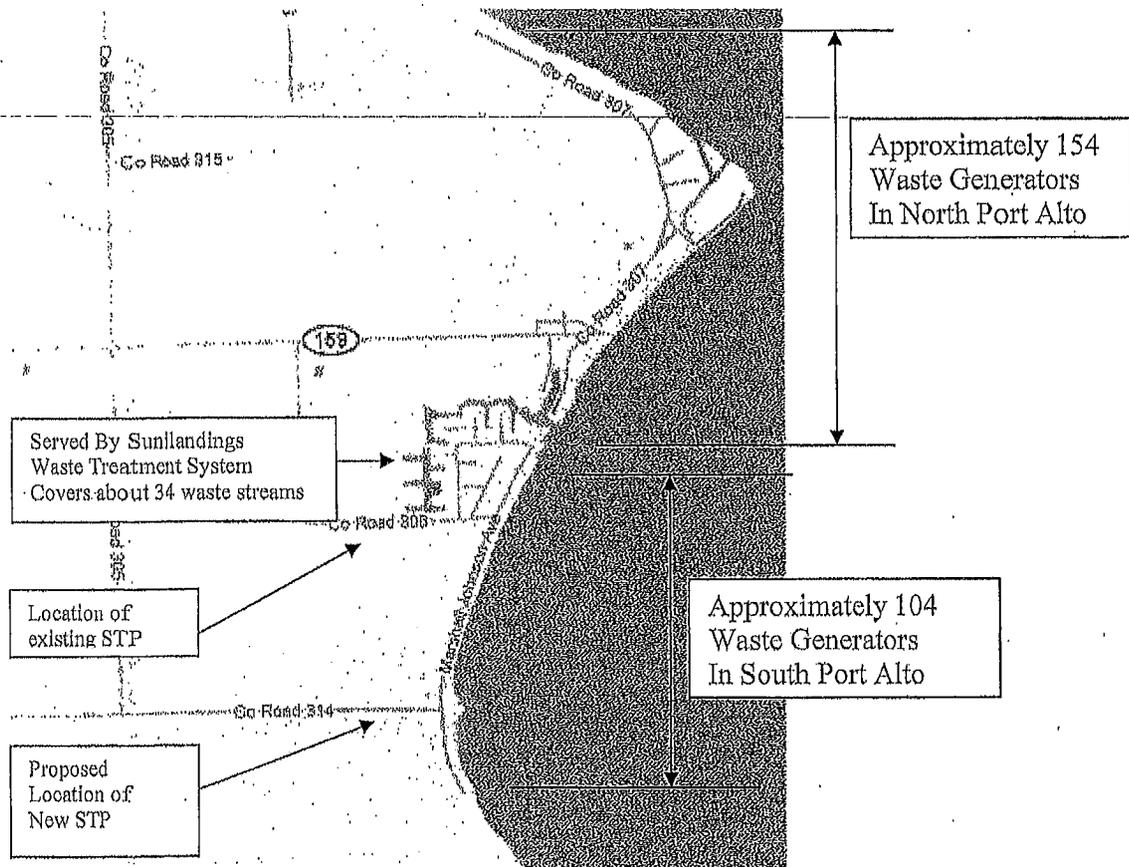


Figure 1

Also, the land proposed for the location of the new sewage processing plant is in an area where I understand a permanent easement exists as it was part of a protected area set aside by Corps of Engineers Permit Number 17026(02) in July 1990 which requires that the hydrology of the tidal and non-tidal wetlands in this area not be altered. The existing site is much better as it was built of fill with a protective dyke to avoid being washed away during storm surges. The effluent of that plant is much further from commercial oyster reefs that are located at the southern end of Carancahua Bay.

5. My property is in Sunilandings. I own 21 lots there. The closest boundary to my any of my properties is a few hundred feet. I am not disputing the need to solve the waste treatment problems of our community. I feel the current proposal dose not address the majority of the pollution sources affecting our bay and any TECQ action should.

Sincerely

*James C. Towers*  
James C. Towers

TEXAS  
COMMISSION  
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QUALITY

2010 AUG -2 PM 3:03  
CHIEF CLERKS OFFICE

J.C. Towers  
P.O. Box 508  
Point Barrow,

TX 77978

Office Of The Clerk

ME POST OFFICE

P.O. Box 130-0878

AUSTIN, TX 78711-3087

R. L. BOLLETER  
119 MARSHALL JOHNSON AVE. SO.  
PORT LAVACA, TX 77979  
Telephone: 361.893.5402 Fax: 361.893.5402  
lbolleter@aol.com

August 3, 2010

Office of the Chief Clerk  
MC105, TCEQ  
P O Box 130087  
Austin, TX 78711-3087

DIS  
7/32/10

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2010 AUG -9 AM 10:57  
CHIEF CLERKS OFFICE

Re: Internal Control No. 03012010-D02

Dear Madam:

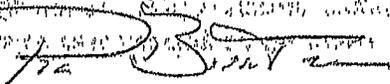
I have requested a contested case hearing on the above referenced MUD. I assume we will get a fair hearing, but an event yesterday suggested otherwise.

Part of our difference of opinion with the petitioner's plan concerns a proposal to build a new sewer plant. We believe the existing plant to be useful and certainly upgradeable if it becomes necessary.

Anita Koop, the failed developer of Sunnilandings and a petitioner was photographed yesterday touring the plant with a TCEQ employee who arrived in a TCEQ car. Ms. Koop, who owns property adjacent to the MUD and until recently advertised that property for sale is well beyond being simply a petition signer.

Please look into the TCEQ visit. If your representative was on official business to inspect the plant I have no complaint. However, if she requested that Ms. Koop accompany her, then I certainly do have a complaint.

Sincerely,

  
R. L. Bolleter

MW

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119 Marshall Johnson Ave. So.  
Port Lavaca, TX 77979

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MC105, TCEQ  
P O Box 130087  
Austin, TX 78711-3087



78711-3087

R. L. BOLLETER  
119 MARSHALL JOHNSON AVE. SO.  
PORT LAVACA, TX 77979  
Telephone: 361.893.5402 Fax: 361.893.5402  
lbolleter@aol.com ✓

July 26, 2010

Office of the Chief Clerk  
MC 105 TCEQ  
P O Box 130087  
Austin, TX 78711-3087

RE: Internal Control No: 03012010-D02

Dear Sir:

I am well aware that the enclosed letters and memos are not part of the official process when seeking a contested case hearing. I have followed that process in another letter to you in which I formally requested a contested case hearing.

However, events and secrecy on the part of petition leaders force me to present my case before TCEQ makes a decision on whether or not to grant a hearing.

Events included, for example, very short notice of the item even being on the Calhoun County Commissioners Court agenda. I am partially crippled and do not get to the Court like I used to. Anyway the Court supported the petition with very few facts. I point out some of the missing items in the enclosed letter to Neil Fritsch, my commissioner.

Several of my neighbors have requested that their names be removed from the petition after learning the costs. I don't know the process and am assuming their names will be removed.

Yes, I could telephone you at every turn, but I write better than I speak. You will note that I have even asked petition leaders to withdraw their petition. They are apparently hoping to get their MUD political unit approved before telling us much else.

DIS  
7/22/10

H  
2ND JUL 28 AM 10:26  
CHIEF CLERKS OFFICE

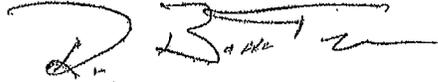
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QUALITY

MW

Except for the sudden Commissioner's Court meeting we have heard nothing from petition leaders for over a year. Hopefully TCEQ can get some details from them. We have tried without any luck. Most petition signers did so because they were told it will protect the bay, but were not told or did not really understand how much it would cost.

I have battled to protect this bay for more than twenty years. It can be done with TCEQ support for far less money. For starters, we sure don't need another sewer plant two blocks away from the present one.

Yours very truly,

A handwritten signature in black ink, appearing to be 'R. L. Bolleter', written over a horizontal line.

R. L. Bolleter

Cc: Sandy Haas  
J. Towers  
Paul Lawson

R. L. BOLLETER  
119 MARSHALL JOHNSON AVE. SO.  
PORT LAVACA, TX 77979  
Telephone: 361.893.5402. Fax: 361.893.5402  
lbolleter@aol.com

July 22, 2010

Commissioner Neil Fritsch  
24627 State Highway 172  
Port Lavaca, Texas 77979

Commissioner:

I am astounded that you could support the South Port Alto MUD, at least in its present form. Do you realize that the project will cost users 57 cents on each \$100 of their property valuation? The much hated Port O'Connor MUD levy is only 19 cents. I believe a 57 cent mill rate is even higher than that of Calhoun County.

Your newspaper comment that the County is "committing no money to it" and therefore it is okay is pure politics. I am actually ashamed to hear my commissioner say that costs don't matter as long as someone else picks up the bill.

Your actions in support of this project are apparently based on very few, if any, facts. Look into it. Have the appraisal district supply you with the correct numbers. Hopefully they have corrected their errors which resulted in the earlier \$100,000,000 MUD valuation. Petitioners used that number to calculate an 8 cent mill rate, rather than the correct mill rate of 57 cents. Petition leaders were informed of a correction in October, 2009, and yet proceeded with their plan. **THE PETITION SHOULD BE WITHDRAWN.** Withdrawal of the Commissioners Court support would certainly help. Others, who signed the petition, are asking that their names be removed.

Also look into verifying comments attributed to you in the Port Lavaca Wave about the existing sewer plant. I can only hope that your comments were based on a study by a qualified engineer. Off the cuff remarks are not useful when discussing a whole new system. I personally do not know much about sewer plants except that I know for sure that concrete tanks do not rust. I also know that the existing plant is modular and thus expandable and was originally built to handle homes on all the

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2010 JUL 28 AM 10:26

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QUALITY

lots in Sunnilandings, which is somewhere around 200. There are currently 30 Sunnilandings homes on the system and 104 within the proposed MUD.

---

Commissioner, I truly believe that the case for a MUD has been misrepresented to you and to some, but not all, Port Alto residents. We care deeply about protecting Carancahua Bay and feel we have been let down by Health Department officials over the years. We must do something, but this current project is not the answer. I have asked a younger and very bright man to help us come up with an answer. He will need your help.

Sincerely,

R. L. Bolleter

Cc: Sandy Haas

P. S. Commissioner, I would consider it appropriate to enter this letter into the Court record.

R. L. BOLLETER  
119 MARSHALL JOHNSON AVE. SO.  
PORT LAVACA, TX 77979  
Telephone: 361.893.5402 Fax: 361.893.5402  
[lbolleter@aol.com](mailto:lbolleter@aol.com)

July 19, 2010

CHIEF CLERKS OFFICE

2010 JUL 28 AM 10:26

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

To My Neighbors – especially those who signed the MUD petition

Leaders of the MUD petition drive as well as those who signed the petition are serious about protecting Carancahua Bay. It is a very worthwhile endeavor, but the numbers used just don't add up. The petition should be recalled.

Here is why! The actual property tax valuation for area included in the MUD is \$14,000,000, not \$100,000,000. The really big \$100,000,000 number was used in the last publicly available calculation of a mill rate.

In case you don't already know, the basis for calculating your tax, a mill rate, is arrived at by dividing annual debt service costs by total property valuation divided by 100. The mill rate is stated in terms of cents per \$100. The annual debt service costs last available to me is \$79,845.08.

Using a \$100,000,000 total valuation for homes within the MUD boundary yields a mill rate of 8 cents per \$100 in valuation. Using the real total valuation of \$14,000,000 yields a mill rate of 57 cents per \$100 in valuation. No matter how you slice up the \$100,000,000 by say, removing Sunnilandings, you are still stuck at \$14,000,000 and a 57 cent mill rate.

A simple calculation will give each of you your MUD tax costs. Divide your assessed value by 100 and multiply by 0.57. You will see that it is a pretty big number, which must then be added to \$720 in fees. If you don't mind that, let it ride. If you do mind, ask leaders of the petition to withdraw the petition. Then ask them to do what they have avoided. Sit down with us and discuss serious alternatives, of which there are several good ones. Protecting Carancahua Bay will always be the object.

If petition leaders refuse to recall the petition or simply don't respond to the request, take it upon yourself to write TCEQ and ask to have your name removed. Please do this before July 30. Be sure to give the TCEQ control number which is 03012010-D02.

---

Finally, I have requested a contested case hearing. Hopefully this can be resolved without that formal legal proceeding. Signing a petition does have consequences even if your intent is benevolent.

Sincerely,

R. L. Bolleter

Address for TCEQ

Office of the Chief Clerk  
MC 105 TCEQ  
P.O. Box 130087  
Austin, TX 78711-3087

Petitioners are South Port Alto Municipal Utility District of Calhoun County.  
Internal Control No: 03012010-DO2

Cc: Judge Pfeifer  
Commissioner N. Fritch

R. L. Bolleter  
119 Marshall Johnson Ave. So.  
Port Lavaca, TX 77979

TEXAS  
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QUALITY

2010 JUL 28 AM 10: 25

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2271440007

Office of the Chief Clerk  
MC 405 TCEQ  
P O Box 130087  
Austin, TX 78711-3087

COBBLE CREEK TX 75743  
RFD GRADE DISTRICT  
26 JUL 2010 PM 4



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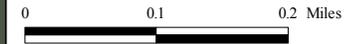
# Proposed South Port Alto Municipal Utility District

## Map Requested by TCEQ Office of Legal Services for Commissioners' Agenda



Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087

September 22, 2011



Projection: Texas Statewide Mapping System (TSMS)

Scale 1:9,200

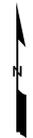
### Legend

- Protestant's Property

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthoimagery Project. The M.U.D boundary was drawn using a survey site map, not from metes and bounds.

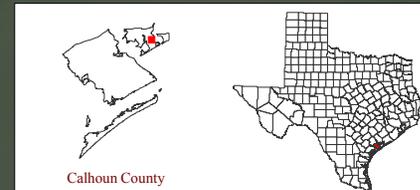
This map depicts the following:

- (1) The approximate location of the protestants.
- (2) The approximate location of the wastewater treatment plant.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M McDonough CRF-357610



Calhoun County

The facility is located in Calhoun County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of Calhoun County in the state of Texas; Calhoun County is shaded in red.

# Texas Commission on Environmental Quality

## TECHNICAL MEMORANDUM

**To:** Linda Brookins, Director  
Water Supply Division

**Date:** August 31, 2011

**Thru:** *Assy* Tammy Benter, Manager  
*AFB* Utilities and Districts Section  
*Ass* Anthony J. Schneider, P.E., Team Leader  
*8/31/11* Utilities and Districts Section  
*RN 8-31-11*

**From:** *SR* Izzy Polcyn  
*8-31-11* Districts Bond Team

**Subject:** Petition by Christine L. Withee, Terrance D. Withee, et. all for the Creation of South Port Alto Municipal Utility District of Calhoun County; Pursuant to Texas Water Code Chapters 49 and 54.  
TCEQ Internal Control Number: 03012010-D02(TC)  
CN: 603637828 RN: 105887731

### **A. GENERAL INFORMATION**

The Commission received a petition within the application requesting approval for the creation of South Port Alto Municipal Utility District of Calhoun County (the "District"). The petition was signed by over 50 Individuals holding title to land in the proposed District as indicated by tax rolls of the Calhoun County Appraisal District.

The District is proposed to be created and organized according to the terms and provisions of Article XVI, Section 59 of the Texas Constitution, and Chapters 49 and 54 of the Texas Water Code.

#### **Location and Access**

The proposed District is located just east of the intersection of State Highway 172 and County Road 314 in Calhoun County on the western shore of Carancahua Bay. Application material indicates that the proposed District is located approximately 17 miles east of the City of Port Lavaca and 43 miles southeast of the City of Victoria. Access to the proposed District is from County Road 306 to Johnson Avenue and County Road 314 to Beach Drive and Whitecliffe Way. The petition states that the proposed District is not located within the limits or extraterritorial jurisdiction of any city in Calhoun County.

Metes and Bounds Description

The proposed District contains a 52.5 acre tract according to a revised boundary description. The metes and bounds description for the tract of land for the proposed District has been checked by TCEQ staff and has been found to form an acceptable closure.

City Consent

The petition asserts that the boundaries of the proposed District are not located within the corporate limits or extraterritorial jurisdiction of any city in Calhoun County; therefore, city consent is not required.

Statements of Filing Petition

Evidence of filing the petition with the Calhoun County clerk's office and the Commission's Region 14 office has been provided.

Type of Project

Based on information provided, the proposed District will provide centralized water and wastewater services to existing homes; therefore, the district will not be considered a developer project.

Developer Qualifications

At this point in time Commission staff are not aware of developer involvement in the creation of the proposed District. It appears that the purpose for the creation of the District is to provide centralized water and wastewater services to existing customers within the boundaries of the proposed District.

Appraisal District Certificate

The proposed District has provided Calhoun County appraisal rolls which support that the petitioners own land in the proposed District.

Temporary Director Affidavits

The Commission has received affidavits for Commission consideration of the appointment of temporary directors for the following:

Jane Ann King  
Carol Crist

H.J. Houck  
Wiede Koop Cutshall

Alton K. Easton

Each of the above persons named is qualified, as required by 30 TAC Section 293.32(a), to serve as a temporary director of the proposed District since each: (1) is at least 18 years old; (2) is a resident of the State of Texas; and (3) either owns land subject to taxation within the proposed District, or is a qualified voter within the District. It does not

appear that any of the proposed directors are considered a developer as defined by Texas Water Code Section 49.052(d); however, the District should ensure that all board members are not disqualified under Texas Water Code Section 49.052(a).

#### Notice Requirements

Proper notice of the application was published in the Port Lavaca Wave, a newspaper regularly published or circulated in Calhoun County, the county where the District is proposed to be located, on June 26, 2010 and July 3, 2010, and posted in Calhoun County on a bulletin board used for posting legal notices, on June 29, 2010. Accordingly, the notice requirements of 30 TAC Section 293.12(b) have been satisfied.

### **B. ENGINEERING ANALYSIS**

The creation engineering report provided indicates the following:

#### Availability of Comparable Service

The proposed District is wholly within Enchanted Harbor Utility which holds certificate of convenience and necessity (CCN) no. 12683 to provide water. The Sunilandings Utilities exists adjacent to the boundary of the proposed District which hold CCNs to provide water (12525) and wastewater (20739) to its residents. The current owner of the Enchanted Harbor Utility and the Sunilandings Utilities has provided a letter of intent, dated January 16, 2011, to sell the Sunilandings Utilities and the Enchanted Harbor Utility to the proposed District. By agreement, dated January 26, 2011, with Jesse Wood, representatives of the proposed District have agreed to purchase the Sunilandings Utilities.

#### Water Supply

Water supply for the District is currently provided by the Enchanted Harbor Utility. The proposed District intends to purchase the existing system and the neighboring Sunilandings Utility. The proposed District will finance improvements to the existing water systems to provide adequate water supply to customers within the proposed District. Existing Sunilandings customers are planned to served as out-of-district customers.

#### Water Distribution

The water distribution system of the proposed District will consist of 10,000 linear feet of water distribution lines varying from 4-6 inches in diameter, with flushing valves and fire hydrants and will replace existing Enchanted Harbor lines. The water distribution system will be looped in order to provide two-way flow and eliminate a dead end line and flush valve. All water utilities to serve the proposed District will be designed in accordance with criteria established by the TCEQ and Calhoun County.

Wastewater Treatment

Initial application material indicated that the District would construct its own wastewater treatment plant. Revised application material indicates that the proposed District intends to purchase the existing Sunlandings Utilities, which includes a 25,000 gallons per day (GPD) wastewater treatment plant (WWTP). The proposed District will increase capacity of the plant to 50,000 GPD in order to provide service to the District and enhance service to existing Sunlandings customers.

Wastewater Collection

The wastewater collection system of the proposed District will consist of approximately 5,000 linear feet of 4 inch service line, 7,000 linear feet of main line, and 500 linear feet of force main. The proposed District will upgrade the existing lift station and construct two new lift stations. All wastewater utilities to serve the proposed District will be designed in accordance with criteria established by the TCEQ and Calhoun County.

Storm Water Drainage

Drainage is an authorized purpose of a municipal utility district pursuant to Texas Water Code Section 54.012. Information provided indicates that the proposed District does not intend to assume responsibility for drainage and that Calhoun County will maintain drainage after the formation of the District.

Topography

Information provided with the application indicates that the land to be included in the proposed District is flat and featureless. Elevation data has not been provided.

Floodplain

Application material indicates that the proposed District lies within the 100 year flood plain. According to the engineering report, the construction of water and wastewater utilities will comply with Calhoun County requirements and manhole lid elevations will be constructed above base flood elevations.

Impact on Natural Resources

Creation of the proposed District will have no adverse effect on land elevation, subsidence, groundwater levels, recharge capability, natural runoff rates and drainage, or water quality.

**C. SUMMARY OF COSTS**

<u>Construction Costs</u>	<u>District Share</u> (1)
A. Developer Contribution Items	\$0
<b>TOTAL DEVELOPER CONTRIBUTION ITEMS</b>	<b>\$0</b>

B. District Items	
1. Purchase Existing Water and Wastewater Utilities	\$185,000
2. Water Supply Improvements	102,000
3. Wastewater Treatment Plant Expansion	225,000
4. Water Distribution System	478,800
5. Wastewater Collection System	759,850
6. Contingencies (10% of Items 1 thru 5)	175,065
7. Engineering (14.3% of Items 1 thru 5)	249,727
8. Wastewater Discharge Permit	11,550
9. Land Acquisition - Lift Stations	<u>57,508</u>
<b>TOTAL DISTRICT ITEMS</b>	<b><u>\$2,244,500</u></b>
<b>TOTAL CONSTRUCTION COSTS (99.3% of BIR)</b>	<b><u>\$2,244,500</u></b>
<b><u>Non-Construction Costs</u></b>	
A. Legal Fees	<u>\$16,500</u>
<b>TOTAL NON-CONSTRUCTION COSTS</b>	<b><u>\$16,500</u></b>
<b>TOTAL BOND ISSUE REQUIREMENT</b>	<b><u>\$2,261,000</u></b>

Note: (1) Assumes 100% funding of anticipated developer contribution items.

Eligibility of costs for District funding and the 30% developer contribution requirement will be determined in accordance with Commission rules in effect at the time bond applications are reviewed.

**D. ECONOMIC ANALYSIS**

Land Use

The proposed District area currently includes 96 homes and an additional 20 homes are estimated for vacant lots for a total of 116 homes on 52.5 acres.

Market Study

The proposed District is projected to serve an existing community; therefore, a market study has not been provided.

Project Financing

The estimated total assessed valuation of the proposed District is as follows:

<b><u>Type of Units</u></b>	<b><u># of Units</u></b>	<b><u>Total Value at Build-Out</u></b>
Single Family Residential	96	\$14,895,311
<b>Total Assessed Valuation</b>		<b>\$14,895,311<sup>(1)</sup></b>

Note: (1). Represents the proposed District's January 1, 2010 net taxable value, pursuant to a Calhoun County Appraisal District certificate dated January 11, 2011.

Considering an estimated bond issue requirement of \$2,261,000 (assuming 100% financing), a coupon bond interest rate of 6.5%, and a 40-year bond life, the annual debt service requirement would be approximately \$159,839. Assuming \$18,334 out of the \$159,839 is proposed to be funded with operating revenue, the remaining \$141,505 (\$159,839 - \$18,334) is proposed to be funded with debt service tax. Assuming a 95% collection rate and a January 1, 2010 assessed valuation of \$14,895,311, a tax rate of \$1.00 per \$100 assessed valuation would be necessary to meet the annual debt service requirements. No operation and maintenance tax is planned.

The total year 2010 overlapping tax rates on land within the proposed District are shown in the following table:

<u>Taxing Jurisdiction</u>	<u>Tax per \$100 Valuation</u>
District	\$ 1.000
Calhoun ISD	\$ 1.133
Calhoun County	\$ 0.490
Calhoun Port Authority	\$ 0.004
<b>Total tax per \$100 valuation</b>	<b>\$ 2.627</b>

Based on the proposed District's combined projected tax rate of \$1.00 and the year 2010 overlapping tax rates on land within the proposed District, the project is considered economically feasible.

#### Water and Wastewater Rates

Based on information provided, the estimated monthly rate for water supply would be \$36.50 for the first 2,000 gallons of usage and \$1.50 for each 1,000 gallons of use after that. The proposed District intends to provide wastewater service at a rate of \$40.00 per month. The total minimum monthly fee for water and wastewater service would be \$76.50 (\$36.50 for water and \$40.00 for wastewater).

Information provided estimates that annual operating costs are \$65,400. The portion of debt service to be funded with operating revenue is estimated to be \$18,334. The total of \$83,734 (\$65,400 + \$18,334) divided by 12 months and the 96 existing homes would require a monthly water and wastewater revenue of at least \$73 per connection. If all of the debt service (\$159,839) and operating (\$65,400) costs, total of \$225,239 were funded with revenues, then monthly water and wastewater revenue would need to be \$196 (\$225,239/12/96) per connection.

#### Comparative Costs

The combined projected tax rate of \$1.00 for the proposed District, the \$2.63 overlapping tax rate, and the planned improvements along with the projected water and wastewater rate of \$76.50 per month appears to meet the feasibility requirements of 30 TAC Section 293.59.

The proposed District has indicated that a portion of the costs may be funded with grant proceeds which would enhance the feasibility of the proposed District.

## **E. SPECIAL CONSIDERATIONS**

### **1. County Notification**

Application material indicates that the proposed District is not within the limits or extraterritorial jurisdiction of any city. Therefore, pursuant to Texas Water Code Section 54.0161, the Commission notified Calhoun County of the proposed District. By letter dated July 8, 2010 Calhoun County indicated support for the creation of the proposed District to solve a wastewater problem in the area.

### **2. Protests**

Seven requests have been received for a contested case hearing on the proposed application for creation. The requests have been submitted by residents within the boundaries of the proposed District.

### **3. District Area**

The original area of the proposed District submitted with the petition included 56.6 acres. Pursuant to a letter dated February 4, 2011 the proposed District's engineer provided additional information including a revised metes and bounds description including 52.5 acres. The revised 52.5 acre area appears to be the same as the original 56.6 acres except for excluding land for a wastewater treatment plant.

### **4. Developer Contribution Requirement**

The current area of the proposed District consists of existing homes and some vacant lots, and would not be considered subject to the 30% developer contribution requirement. However, portions of land within the District or adjacent to the District, which may be included within the District's service area or the District itself, may be considered a project subject to the 30% developer contribution requirement pursuant to 30 TAC Section 293.47.

### **5. Wastewater Treatment**

Existing residents within the proposed District are served by individual on-site septic systems or in some cases convey wastewater directly into Carancahua Bay. Information provided indicates that some of the septic systems have been notified of violations. Construction of a centralized wastewater system is expected to solve wastewater treatment issues.

The proposed District has indicated that it may purchase and expand the existing Sunilandings wastewater treatment plant to serve customers of the District and the Sunilandings subdivision. If the Sunilandings plant is purchased by the proposed District and the Sunilandings subdivision is not annexed into the proposed District, the District should ensure that wastewater rates meet the requirements of Texas Water Code Chapter 49.215(f).

6. Easements

The proposed District should ensure that utilities are located within public easements or right-of-ways in order to allow for District operation and maintenance.

**F. CONCLUSIONS**

1. Based on Commission policy, compliance with Commission rules, and review of the engineering report and supporting documents, the proposed District is considered feasible, practicable, would be a benefit to the land within the proposed District, and would be necessary as a means to finance utilities and to provide utility service to future customers.
2. Based on a review of the preliminary engineering report, the proposed District's water and wastewater facilities, a combined projected tax rate of \$1.00, the proposed District obtaining a 6.5% bond coupon interest rate, and other supporting data, the proposed District is considered feasible under the feasibility limits prescribed by 30 TAC Section 293.59.
3. The recommendations are made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

**G. RECOMMENDATIONS**

1. Grant the petition for the creation of South Port Alto Municipal Utility District of Calhoun County.
2. The order granting the petition should include the following statements:  
  
"This order shall in no event be construed as an approval of any proposed agreements or of any particular items in any documents provided in support of the petition for creation, nor as a commitment or requirement of the Commission in the future to approve or disapprove any particular items or agreements in future applications submitted by the District for Commission consideration."
3. Appoint the following five persons to serve as temporary directors until permanent directors are elected and qualified:

Linda Brookins, Director, Water Supply Division

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August 31, 2011

Jane Ann King  
H.J. Houck

Alton K. Easton  
Carol Crist

Welde Koop Cutshall

#### **H. ADDITIONAL INFORMATION**

The petitioner's professional representatives are as follows:

Attorney: Ms. Wanda Roberts - Roberts, Roberts, Odefey, & Witte

Engineer: Mr. Jerry G. Shepherd, P.E. - G & W Engineers, Inc.