

LAW OFFICES OF
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

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OF COUNSEL
ROBERT C. WILSON
MARC O. KNISELY**

EDMOND R. McCARTHY, III

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*BOARD CERTIFIED IN
OIL, GAS AND MINERAL LAW
**BOARD CERTIFIED IN CIVIL APPELLATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

†Licensed in Texas and
Tennessee

April 5, 2012

*msw
7701e*

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

via Facsimile Transmission
(512) 239-3311
and Hand Delivery

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2012 APR - 5 PM 4:11
CHIEF CLERKS OFFICE

Re: Permit No. 2373; Affordable Dewatering Service, LLC

Dear Ms. Bohac:

This letter is being written on behalf of Alpha Equipment in Midland, Texas for the purpose of requesting a contested case hearing on the application referenced above.

Affordable Dewatering Service, LLC has applied for a Type V liquid waste processing facility permit to enable it to store and process grease trap, grit trap, septage and porta potty waste. The facility is to be located at 2201 S. Midkiff Road, Midland, Texas 79701. Notice of the application and preliminary decision to issue the permit was published on March 7, 2012. Additionally, Notice was mailed to several properties in the vicinity of the site.

Alpha Equipment is adjacent to and north of Affordable Dewatering Service site. Alpha Equipment requests a contested case hearing on the proposed issuance of the Type V municipal solid waste permit requested by Affordable Dewatering Service LLC. In keeping with the requirements under TCEQ rules, the following information is submitted in support of this request.

1. The name, address, daytime telephone number of the person filing the request is:

Robert Wilson, Of Counsel
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th Street
Austin, Texas 78701
(512) 472-7600
(512) 225-5565 (Fax)

OPA
APR 09 2012
BY *[Signature]*
H
mew

I am filing the request on behalf of Alpha Equipment, whose information is as follows:

Rod Pritchard
Alpha Equipment
1823 S. Mitkiff
Midland Texas, 79708
(432) 684-9985
(432) 685-5038 (Fax)

The person responsible for receiving all official communications and documents on behalf of Alpha Equipment is Robert Wilson.

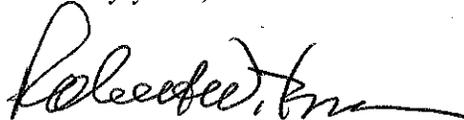
2. The personal justiciable interest of Alpha Equipment in this Application are as follows: Alpha Equipment is located adjacent to the proposed operation. Alpha Equipment is north of the Applicant's site which means that the prevailing winds blow from the Applicant's location toward Alpha Equipment. Last summer, the applicant commenced some operations at its site. Although operations ceased after complaints were made, during the period of operations there were severe odors generated at the Affordable Dewatering site. The odors were so bad that Alpha investigated to determine the sources of the odors. Those investigations showed the source to be the operations of the Applicant. The level of odors were sufficient so that some of Alpha Equipment's employees complained of being physically ill. Alpha Equipment also has customers at its facility and, when the applicant was operating, received complaints from customers about the odors. As a result, odors from Affordable Dewatering Service have and most likely will adversely impact Alpha's business operations in addition to adversely impacting its employees. Thus, the injuries suffered by Alpha Equipment are not in keeping with those of the general public.
3. Alpha Equipment requests a contested case hearing on this application.
4. Among the requirements in TCEQ rules applicable to operations such as those to be covered by the proposed permit are that air emissions from municipal solid waste facilities must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act. The Texas Clean Air Act, as codified in Section 382.001 of the Texas Health & Safety Code, includes a definition of an "air contaminant" that includes odor. Section 382.003 (3) then states that "air pollution" means the presence in the atmosphere of one or more air contaminants or a combination of air contaminants in such concentration and of such duration that: (a) are or may tend to be injurious to or to adversely affect human health and welfare, animal life, vegetation, or property; or (b) interfere with the normal use or enjoyment of animal life, vegetation or property. On the basis of its past experience, Alpha Equipment believes that operations at the site by the Applicant will cause a condition of air pollution to exist in the vicinity of the Applicant's operations.

The actual experiences of Alpha Equipment in connection with initial operations of Affordable Dewatering Service, LLC are that those operations do and will adversely affect human health or welfare, and normal use or enjoyment of property of Alpha Equipment.

5. In addition, although Alpha made complaints about the initial operations of Affordable Dewatering Service, no mention of those problems, complaints and actions taken in response appears in the enforcement history portion of the TCEQ application file. Attached are copies of comments and some of the complaints made by Alpha Equipment on June 16, 2011 and June 29, 2011 that do appear in the Applicant's TCEQ file.

For the reasons stated, Alpha Equipment requests a contested case hearing on this Application and urges that the proposed permit not be issued and that the Applicants should not be allowed at the location proposed. Should additional information be required, please contact me.

Sincerely yours,



Robert Wilson

RW/tn

Encl.

cc: Alpha Equipment
Affordable Dewatering Service, LLC

From: PUBCOMMENT-OPA
To: PUBCOMMENT-OC02
Date: 6/30/2011 2:27 PM
Subject: Fwd: Public comment on Permit Number 2373
Place: PUBCOMMENT-OC02

>>> PUBCOMMENT-OC02 6/29/2011 3:13 PM >>>

>>> <rprichard@coexpipe.com> 6/29/2011 2:47 PM >>>

msw
77016

REGULATED ENTITY NAME AFFORDABLE DEWATERING SERVICE

RN NUMBER: RN106119399

PERMIT NUMBER: 2373

DOCKET NUMBER:

COUNTY: MIDLAND

PRINCIPAL NAME: AFFORDABLE DEWATERING SERVICE LLC

CN NUMBER: CN603835323

FROM

NAME: Rod Prichard

E-MAIL: rprichard@coexpipe.com

COMPANY: Alpha Equipment

ADDRESS: 1823 S MIDKIFF RD

MIDLAND TX 79701-8848

PHONE: 4326849985

FAX: 4326855038

COMMENTS: I have already filed a comment and want someone to know that we had extreme odor inside and outside our building on 6-28-11 and called out a local plumbing company (Bosworth Company) and had them check all of our lines for plugged lines etc. They ran a camera down all of our lines and said they were clear with now breaks or holes in any of the pipes. I also called the Midland Water and Sewer Maintenance and had them come out and check the main sewer line for clogs and they said it was all clear. The wind was blowing approximately 20-25 mph from the south. Both the city people and Bosworth plumbers got an extreme dose of the smell towards the back of our building and said that was not coming from our building but from the south of us. This all occurred at 3:00 to 3:30 p.m. Since I have written you the principal applicant have approached me twice to discuss the problem. As I am writing this note, the odor has become extreme again today. The wind is out of the south again approximately 20 mph and it is about 2:30 p.m. on 6-29-11. On other occasions I have had other plumbing companies out to check for where the odor is coming from and they two say it is not in our plumbing. I have had the toilets removed and reseated with no change in the odor. I will continue to post these comments negative or positive as often as I can. I have run out of things to try to combat the smell. We burn candles to try to cover the smell. Thank you, Rod Prichard President Alpha Equipment 1823 S. Midkiff Midland, Texas

msw

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DAVID E. JACKSON*
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msw
7/10/12

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April 5, 2012

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CHIEF CLERKS OFFICE

2012 APR -5 PM 2:38

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Permit No. 2373: Affordable Dewatering Service, LLC

Dear Ms. Bohac:

This letter is being written on behalf of Alpha Equipment in Midland, Texas for the purpose of requesting a contested case hearing on the application referenced above.

Affordable Dewatering Service, LLC has applied for a Type V liquid waste processing facility permit to enable it to store and process grease trap, grit trap, septage and porta potty waste. The facility is to be located at 2201 S. Midkiff Road, Midland, Texas 79701. Notice of the application and preliminary decision to issue the permit was published on March 7, 2012. Additionally, Notice was mailed to several properties in the vicinity of the site.

Alpha Equipment is adjacent to and north of Affordable Dewatering Service site. Alpha Equipment requests a contested case hearing on the proposed issuance of the Type V municipal solid waste permit requested by Affordable Dewatering Service LLC. In keeping with the requirements under TCEQ rules, the following information is submitted in support of this request.

- 1. The name, address, daytime telephone number of the person filing the request is:

Robert Wilson, Of Counsel
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th Street
Austin, Texas 78701
(512) 472-7600
(512) 225-5565 (Fax)

OPA

APR 05 2012

BY

[Signature]

H

msw

April 5, 2012

Page 2

I am filing the request on behalf of Alpha Equipment, whose information is as follows:

Rod Pritchard
Alpha Equipment
1823 S. Mitkiff
Midland Texas, 79708
(432) 684-9985
(432) 685-5038 (Fax)

The person responsible for receiving all official communications and documents on behalf of Alpha Equipment is Robert Wilson.

2. The personal justiciable interest of Alpha Equipment in this Application are as follows: Alpha Equipment is located adjacent to the proposed operation. Alpha Equipment is north of the Applicant's site which means that the prevailing winds blow from the Applicant's location toward Alpha Equipment. Last summer, the applicant commenced some operations at its site. Although operations ceased after complaints were made, during the period of operations there were severe odors generated at the Affordable Dewatering site. The odors were so bad that Alpha investigated to determine the sources of the odors. Those investigations showed the source to be the operations of the Applicant. The level of odors were sufficient so that some of Alpha Equipment's employees complained of being physically ill. Alpha Equipment also has customers at its facility and, when the applicant was operating, received complaints from customers about the odors. As a result, odors from Affordable Dewatering Service have and most likely will adversely impact Alpha's business operations in addition to adversely impacting its employees. Thus, the injuries suffered by Alpha Equipment are not in keeping with those of the general public.
3. Alpha Equipment requests a contested case hearing on this application.
4. Among the requirements in TCEQ rules applicable to operations such as those to be covered by the proposed permit are that air emissions from municipal solid waste facilities must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act. The Texas Clean Air Act, as codified in Section 382.001 of the Texas Health & Safety Code, includes a definition of an "air contaminant" that includes odor. Section 382.003 (3) then states that "air pollution" means the presence in the atmosphere of one or more air contaminants or a combination of air contaminants in such concentration and of such duration that: (a) are or may tend to be injurious to or to adversely affect human health and welfare, animal life, vegetation, or property; or (b) interfere with the normal use or enjoyment of animal life, vegetation or property. On the basis of its past experience, Alpha Equipment believes that operations at the site by the Applicant will cause a condition of air pollution to exist in the vicinity of the Applicant's operations.

April 5, 2012

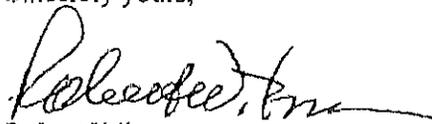
Page 3

The actual experiences of Alpha Equipment in connection with initial operations of Affordable Dewatering Service, LLC are that those operations do and will adversely affect human health or welfare, and normal use or enjoyment of property of Alpha Equipment.

5. In addition, although Alpha made complaints about the initial operations of Affordable Dewatering Service, no mention of those problems, complaints and actions taken in response appears in the enforcement history portion of the TCEQ application file. Attached are copies of comments and some of the complaints made by Alpha Equipment on June 16, 2011 and June 29, 2011 that do appear in the Applicant's TCEQ file.

For the reasons stated, Alpha Equipment requests a contested case hearing on this Application and urges that the proposed permit not be issued and that the Applicants should not be allowed at the location proposed. Should additional information be required, please contact me.

Sincerely yours,



Robert Wilson

RW/tn
Encl.

cc: Alpha Equipment
Affordable Dewatering Service, LLC

(6/30/2011) PUBCOMMENT-0002 - Fwd: Public comment on Permit Number 2373

Page

From: PUBCOMMENT-OPA
 To: PUBCOMMENT-OCC2
 Date: 6/30/2011 2:27 PM
 Subject: Fwd: Public comment on Permit Number 2373
 Place: PUBCOMMENT-OCC2

>>> PUBCOMMENT-OCC 6/29/2011 3:13 PM >>>

>>> <prichard@coexplpe.com> 6/29/2011 2:47 PM >>>

msw

77016

REGULATED ENTITY NAME AFFORDABLE DEWATERING SERVICE
 RN NUMBER: RN106119399
 PERMIT NUMBER: 2373
 DOCKET NUMBER:
 COUNTY: MIDLAND
 PRINCIPAL NAME: AFFORDABLE DEWATERING SERVICE LLC
 CN NUMBER: CN603835323
 FROM

NAME: Rod Prichard
 E-MAIL: rprichard@coexplpe.com
 COMPANY: Alpha Equipment
 ADDRESS: 1823 S MIDKIFF RD
 MIDLAND TX 79701-8848
 PHONE: 4326849985
 FAX: 4326855038

COMMENTS: I have already filed a comment and want someone to know that we had extreme odor inside and outside our building on 6-28-11 and called out a local plumbing company (Bosworth Company) and had them check all of our lines for plugged lines etc. They ran a camera down all of our lines and said they were clear with now breaks or holes in any of the pipes. I also called the Midland Water and Sewer Maintenance and had them come out and check the main sewer line for clogs and they said it was all clear. The wind was blowing approximately 20-25 mph from the south. Both the city people and Bosworth plumbers got an extreme dose of the smell towards the back of our building and said that was not coming from our building but from the south of us. This all occurred at 3:00 to 3:30 p.m. Since I have written you the principal applicant have approached me twice to discuss the problem. As I am writing this note, the odor has become extreme again today. The wind is out of the south again approximately 20 mph and it is about 2:30 p.m. on 6-29-11. On other occasions I have had other plumbing companies out to check for where the odor is coming from and they two say it is not in our plumbing. I have had the toilets removed and resealed with no change in the odor. I will continue to post these comments negative or positive as often as I can. I have run out of things to try to combat the smell. We burn candles to try to cover the smell. Thank you, Rod Prichard President Alpha Equipment 1823 S. Midkiff Midland, Texas

msw

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711 WEST 7TH STREET
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(512) 472-7600
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SENDER'S DID (512) 225-5595

FACSIMILE TRANSMISSION

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DATE: April 5, 2012 **NO. PAGES (including cover):** 6

TO: Brenda Bohac, Chief Clerk **FAX NO.:** 239-3311 **CONTACT NO.:** 239-3300

FROM: Bob Wilson **C/MNO.:** 12-526

RE: Permit No. 2373; Affordable Dewatering Service

ATTACHMENT: Letter requesting contested case hearing on behalf of Alpha Equipment

MESSAGE:

ORIGINALS TO FOLLOW: YES NO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2012 APR -5 PM 2:37
CHIEF CLERKS OFFICE

LAW OFFICES OF
JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

DAVID E. JACKSON*
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EDMOND R. MCCARTHY, III

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Tennessee

msj
77012

April 5, 2012

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

via Facsimile Transmission
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2012 APR - 5 PM 2:37
CHIEF CLERK'S OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Permit No. 2373; Affordable Dewatering Service, LLC

Dear Ms. Bohac:

This letter is being written on behalf of FenceCo in Midland, Texas for the purpose of requesting a contested case hearing on the above-referenced application.

Affordable Dewatering Service, LLC has applied for a Type V liquid waste processing facility permit to enable it to store and process grease trap, grit trap, septage and porta potty waste. The facility is located at 2201 S. Midkiff Road, Midland, Texas 79701. Notice of the application and preliminary decision to issue the permit was published on March 7, 2012. Additionally, Notice was mailed to several properties in the vicinity of the site. FenceCo is located on one of the properties close to the Affordable Dewatering Service site.

FenceCo requests a contested case hearing on the proposed issuance of the Type V municipal solid waste permit requested by Affordable Dewatering Service LLC. In keeping with the requirements under TCEQ rules, the following information is submitted in support of this request.

- 1. The name, address, daytime telephone number of the person filing the request is:

Robert Wilson, Of Counsel
Jackson, Sjoberg, McCarthy & Townsend, LLP
711 W. 7th Street
Austin, Texas 78701
(512) 472-7600
(512) 225-5565 (Fax)

OPA
APR 05 2012
BY 

H

mw

April 5, 2012

Page 2

I am filing the request on behalf of FenceCo, whose information is as follows:

Fred Squire, Owner
FenceCo
P.O. Box 8878
Midland Texas, 79708
(432) 570-1175
(432) 570-0838 (Fax)

The person responsible for receiving all official communications and documents on behalf of FenceCo is Robert Wilson.

2. The personal justiciable interests of FenceCo in this Application are as follows: FenceCo is located within approximately 1,000 feet of the proposed operation. FenceCo is north of the site which means that the prevailing winds blow from the applicant's location toward FenceCo. Last summer, the applicant commenced some operations at its proposed site. Although operations ceased after complaints were made, during the period of operations there were severe odors generated at the Affordable Dewatering site. Some of FenceCo operations are in an open building. The level of odors were sufficient so that some of FenceCo's employees complained of being physically ill and at least one said they would quit being a FenceCo employee if the odors emanating from operations at Affordable Dewatering Service persisted. FenceCo also has customers at its facility from time to time and believes that odors emanating from operations at Affordable Dewatering Service will adversely impact its business operations at the site in addition to adversely impacting its employees. Thus, the injuries suffered by FenceCo are not in keeping with those of the general public.
3. FenceCo requests a contested case hearing on this application.
4. Among the requirements in TCEQ rules applicable to operations such as those to be covered by the proposed permit are that air emissions from municipal solid waste facilities must not cause or contribute to a condition of air pollution as defined in the Texas Clean Air Act. The Texas Clean Air Act, as codified in Section 382.001 of the Texas Health & Safety Code, includes a definition of an "air contaminant" that covers odor. Section 382.003 (3) then states that "air pollution" means the presence in the atmosphere of one or more air contaminants or a combination of air contaminants in such concentration and of such duration that: (a) are or may tend to be injurious to or to adversely affect human health and welfare, animal life, vegetation, or property; or (b) interfere with the normal use or enjoyment of animal life, vegetation or property. On the basis of its past experience, FenceCo believes that operations at the site will cause a condition of air pollution to exist in the vicinity of the Applicant's operations. The actual experiences of FenceCo in connection with initial operations of Affordable Dewatering Service, LLC are that those operations do and will adversely affect human health or welfare, and normal use or enjoyment of property of FenceCo.

April 5, 2012
Page 3

5. In addition, although there were complaints made about the initial operations of Affordable Dewatering Service, no mention of problems or complaints and actions taken in response appears in the enforcement history portion of the TCEQ application file. FenceCo has complained and commented to TCEQ. A copy of the FenceCo comment as it appears in the application file is attached.

For the reasons stated, FenceCo requests a contested case hearing on this Application and urges that the proposed application should not be granted nor the Applicant's operations be allowed at the location proposed.

Should additional information be required, please contact me.

Sincerely yours,



Robert Wilson

RW/tn
Encl.

cc: Affordable Dewatering Service, LLC
FenceCo

From: PUBCOMMENT-OPA
 To: PUBCOMMENT-OCC2
 Date: 6/16/2011 1:17 PM
 Subject: Fwd: Public comment on Permit Number 2373
 Place: PUBCOMMENT-OCC2

>>> PUBCOMMENT-OCC 6/15/2011 3:25 PM >>>

>>> <kristal@fence-co.com> 6/15/2011 3:18 PM >>>

REGULATED ENTITY NAME AFFORDABLE DEWATERING SERVICE
 RN NUMBER: RN106119399
 PERMIT NUMBER: 2373
 DOCKET NUMBER:
 COUNTY: MIDLAND
 PRINCIPAL NAME: AFFORDABLE DEWATERING SERVICE LLC
 CN NUMBER: CN603835323

FROM

NAME: Fred Squire
 E-MAIL: kristal@fence-co.com
 COMPANY: FenceCo
 ADDRESS: 1809 S MIDKIFF RD
 MIDLAND TX 79701-8848
 PHONE: 4325701175
 FAX: 4325700838

COMMENTS: We are in receipt of a proposed permit # 2373, application for Affordable Dewatering Service, LLC, Mockingbird Lane, Midland, TX, Midland County, 79707-1615. This proposed permit # 2373, is to operate a MSW 5 grease and grit processing facility. We are concerned that this proposed permit site will negatively affect our area. This is a busy commercial area with residential homes mixed in and we have already been subjected to the smells associated with this operation. We have witnessed a disposal truck pulling up behind the business located at 2201 S. Midkiff Rd, and emptying the contents into a black holding tank. I have a store front with customers frequenting my business on a regular basis. Myself and my employees have been subjected to this odor from that facility for the past 2-3 months and I am worried that if this continues or progressively worsens, this could affect our customers and business activity. I, as the building and land owner, am also very concerned about this type of facility being not only located close to my property but also on one of the major roads in the city of Midland. I'm also worried how this business could negatively affect my property values. Respectfully submitted, Fred Squire Owner, FenceCo 1809 S. Midkiff Rd. Midland, TX 79701
 Phone: 432-570-1175

MSW
 77016

MSW

Law Offices Of

JACKSON, SJOBERG, McCARTHY & TOWNSEND, L.L.P.

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2012 APR 5 PM 2:37
CHIEF OF POLICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DATE: April 5, 2012 **NO. PAGES (including cover):** 5

TO: Brenda Bohac, Chief Clerk **FAX NO.:** 239-3311 **CONTACT NO.:** 239-3300

FROM: Bob Wilson **C/M NO.:** 12-525

RE: Permit No. 2373; Affordable Dewatering Service

ATTACHMENT: Letter requesting contested case hearing on behalf of FenceCo

MESSAGE:

ORIGINALS TO FOLLOW: YES NO