

CAROL D. GILLESPIE
caroldgillespie@earthlink.net ✓
PO Box 2049
Waxahachie, TX 75168
214 536-1784 (cell) ✓

mwd
8/8/67

May 1, 2012

Office of the Chief Clerk, MC105
TCEQ
PO Box 13087
Austin, TX 78711-3087

REVIEWED
MAY 04 2012
By *[Signature]*

H

2012 MAY -3 PM 3:59
CHIEF CLERKS OFFICE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**RE: Avalon Water Supply and Sewer Services Corporation
Permit Amendment Application Comments
WQ0013981001**

To Whom It May Concern:

My two sisters (Mary Grace Gillespie Bates, Marcia Gillespie) and I own land adjacent to the Avalon waste water plant. I am the spokesperson for our family. Our land is listed on the adjacent landowner list as Mary Bates, etal.

Attached to this letter are our comments regarding the Permit Amendment Application which was recently submitted to the TCEQ. I have also attached supporting documentation. My contact information is at the top of this page. My preferred method of contact is either email or regular mail.

Unfortunately, AWS&SSC has chosen to use their right of eminent domain to "take" a portion of our land. While doing so, they have committed numerous violations of the Texas Open Meeting Act. A number of these violations involve discussing the waste water plant and the proposed upgrades in Executive Session. This has denied my family our rights as landowners and members of the AWS&SSC. (We own two memberships in AWS&SSC, since we own two homes in Avalon.)

At this point in time, we do not know which land they are targeting for eminent domain or exactly how much. Plus, we do not know exactly why they are "taking" our land since they

are stating it is for restricted easements that the TCEQ requires. However, the application is asking for variances instead of restricted easements. Something is not right.

Please carefully read our comments, and take appropriate action.

Sincerely,



Carol Gillespie

cc: Gregory Wilhelm, JD, MA
Senator Brian Birdwell
Representative Jim Pitts
Curt Olson, *Texas Budget Source*

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Restrictive Easements.**

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CHIEF OPERATIVE OFFICER

012 MAY - 3 PM 2012

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

In Attachment 2A – Domestic Technical Report 1.0, Avalon Water Supply and Sewer Services Corporation states, "As of March 15, 2012 the permittee has not obtained the necessary buffer zone in accordance with 30 TAC 309.13(e)(3). The current landowners are unwilling to grant restrictive buffer zone easements and are requesting that the permittee purchase their entire tracts of land. Due to the cost-prohibitive nature of the land purchase, Avalon Water Supply & Sewer Service Corporation would like to request a variance to the buffer zone requirements."

This is not entirely accurate. I am an adjoining landowner. And, I have stated to the Board that I am, "greatly opposed to restrictive easements since we feel that they violate our rights as land owners and greatly reduce the value of our land." However, not once has the AWS&SSC made an offer to purchase restrictive easements from our family. The Board of Directors of AWS&SSC seems to have difficulty understanding the difference between "easements" and "restrictive easements."

As a conciliatory gesture on January 5, 2012, our family offered to enter into negotiations to sell the AWS&SSC eleven acres of pasture. This land adjoins the current waste water plant on the west and north sides. This is NOT our entire tract of land. We own 36 acres near the waste water plant. While in our hearts we did not wish to sell land that has been in our family for over 100 years, we felt it would resolve the conflict that we have had with AWS&SSC.

Even though AWS&SSC have not been good neighbors, we were willing to sell our pasture to them. Their permit for the waste water plant expired on January 1, 1998 resulting in a loss of the grandfathering of the plant. AWS&SSC has been promising the TCEQ for years that they would have restrictive easements on our property, yet we were never notified by AWS&SSC or the TCEQ. *This is not being a good neighbor.*

AWS&SSC has been trespassing on our land for years. They have an unauthorized pipeline carrying effluent across our property to a small stream on my property. They do not have an easement or a lease for this access. They have been fined for exceeding the allowed effluent limits. Yet, neither the TCEQ nor AWS&SSC informed us of this violation. *This is not being a good neighbor.*

AWS&SSC does have a legal easement across our land for a pipeline to carry raw sewage to the plant. However, they are not maintaining this easement. On April 10, 2012 I filed a complaint with the TCEQ regarding a raw sewage leak on my property. The leak had obviously been there some time, yet it had not been repaired. A three and a half to four foot hole had been created around one of the concrete pipe/manhole covers. It was in plain sight of anyone going to the plant. I know nothing about sewer operations, yet I noticed it as soon as I drove down the driveway leading to the plant.

Not only was there an obvious leak that had not been repaired, all the pipes are in terrible shape. The concrete pipes around the manhole covers are cracked. A collapse could happen at any time. It is so bad, I am considering increasing my liability insurance. I am attaching photographs to illustrate my point, so the permitting department can see for themselves how bad this is. The permit should be denied unless AWS&SSC agrees to repair or replace the pipes and concrete going across my property.

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Restrictive Easements.**

Page 2

(Prior to mailing this document, I have received a copy of the Investigation Report from TCEQ stating that AWS&SSC is in violation again.)

Plus, this legal easement goes across my pasture. The access to the pipes are sitting so high up, that I cannot mow the easement with a tractor and stalk cutter. It needs to be cut using a weed eater. AWS&SSC should be doing this. I should not have to hire someone to clean up around their pipes. And, my fence has been damaged. Our legal agreement giving AWS&SSC an easement across our land has been violated.

The easement reads in part, "The right is reserved to Grantor to use the land over which a right-of-way or easement is herein granted for the general agricultural and grazing purposes, provided such use shall not include the growing of trees thereon or any other use which might interfere with the exercise by the Association of the rights hereby granted. Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantor's premises." *This is not being a good neighbor.*

I believe that AWS&SSC has let the vegetation on the easement grow up so tall, so that neither I nor the TCEQ can see just how bad the pipes are damaged. I do not know how the recent smoke test was completed.

Since AWS&SSC is already using our land (whether they have legal access or not) as their own, our family decided that rather than sell restrictive easements or a portion of the land that we would offer to sell the entire area that they are currently using. This is the eleven acre pasture. We do not wish to sell less than the eleven acres. The legal easement that is in such bad shape runs along the entire north section. The pipe carrying effluent runs to the west. AWS&SSC is already using the entire eleven acres! Plus, my family cannot keep selling our pasture piece by piece until we no longer have enough land for a profitable business venture. Our pasture was 15 acres prior to the existing plant being built in 1970. Now, we are down to eleven acres. If the acreage is reduced to less than 11 acres, I will be paying property taxes on land that is not usable for agriculture use. It could also leave me with acreage that I have no legal access to.

Purchasing this land would take care of the trespassing issue, the lack of maintenance of the legal easement, and the restrictive easements on the west and the north sides. It would also give AWS&SSC room for future growth. However, they chose not to make an offer.

But what is so interesting is that while AWS&SSC has asked the TCEQ for variances, they have started legal proceedings against my family to take our land by eminent domain. From the minutes of their **March 8, 2012 meeting**, "Board went into Executive Session at 7:45pm, returned from Executive Session at 8:25 pm. Patsy Russell stated that after discussion with attorney the Board had agreed to go ahead and practice their right of eminent domain. There will be an appraisal done to find fair market value for varying buffer zone of five hundred to eight hundred feet. There

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Restrictive Easements.**

Page 3

will be a letter sent to surrounding land owners advising them of the findings and offer." (Minutes of the Board Meeting are attached.)

First of all, I understood TCEQ required buffer zones of either 150 or 500 feet easements. I do not understand why eight hundred feet may be requested by AWS&SSC. Second, 500 feet includes almost all of my 11 acre pasture. Eight hundred feet actually crosses over my land and into someone else's property on the north side.

If AWS&SSC intends to "take" all of my pasture by eminent domain, why didn't they just purchase it instead declaring eminent domain? Legally, they should have made an offer of fair market value prior to declaring eminent domain. I do not know the answer to this because AWS&SSC is now conducting all discussion regarding the waste water plant in Executive Session in their meetings. This is in violation of the Texas Open Meeting Act. This and other numerous violations have been turned over to the Ellis County District Attorney's office for investigation and possible prosecution. (See the accompanying newspaper article.) Currently the Board is under criminal investigation. They have until May 4th to respond to the District Attorney's office.

Obviously, the TCEQ cannot force the AWS&SSC to follow eminent domain laws and the Texas Open Meeting Act. However, the TCEQ should take a close look at what AWS&SSC is doing. The TCEQ should not be a party to these illegal acts. The TCEQ should also realize that AWS&SSC is continuing the pattern of deception that has been going on for years in regards to adjacent landowners.

Attachment 2A - Domestic Technical Report 1.0

Item 3.e Other Requirements: Other Permit Actions (pg 2 of 44)

TPDES Permit No. WQ0013981001 other requirement No. 4 stipulates the following:

Within 60 days of permit issuance, the permittee shall submit sufficient evidence of legal restrictions prohibiting residential structures within the part of the buffer zone not owned by the permittee according to 30TAC Section 309.13(e)(3). The evidence of legal restriction shall be submitted to the executive director in care of the TCEQ Wastewater Permitting Section (MC 148). The permittee shall comply with the requirements of 30 TAC Section 309.13(a) through (d).

As of March 15, 2012 the permittee has not obtained the necessary buffer zone in accordance with 30 TAC 309.13(e)(3). The current landowners are unwilling to grant restrictive buffer zone easements and are requesting that the permittee purchase their entire tracts of land. Due to the cost-prohibitive nature of the land purchase, Avalon Water Supply & Sewer Service Corporation would like to request a variance to the buffer zone requirements.

Avalon Water and Sewer Service Corp

Board of Directors Meeting March 8, 2012

MINUTES

The Board of Directors of Avalon Water and Sewer Service Corporation met for their regularly scheduled meeting at the First Baptist Church Avalon, Texas 7:00 pm on Thursday March 8, 2012.

Directors present for this meeting were Patsy Russell, Robin Donaldson, Denice Wimbish, Harrison Romero, Avalon employee Gregg Rodriguez and Dean Carrell Sewer Plant Consultant, Wendy Frank Assistant to Dean Carrell. Present from HILCO Electric Cooperative was Kent Smith Water Operations Manager and Abby Bason Water Customer Service Representative.

Meeting was called to order at 7:10 p.m. by Board President Patsy Russell and determined the presence of a quorum.

There were two members present Marcia & Carol Gillespie. Visitors present were Cindy Sutherland with the Neo-Tribune of Italy and Scott Hoelzle with KSA.

With a motion by Harrison Romero, David Waishes was appointed to fill John Goodwyn's unexpired term. Second by Denice Wimbish, motion carried unanimously.

Minutes of the Special Meeting held January 5, 2012 were approved with a motion by Harrison Romero, second by Denice Wimbish. Motion carried unanimously.

Minutes of previous meeting of February 9, 2012 approved with a motion by Harrison Romero, second by Robin Donaldson. Motion carried unanimously.

Harrison Romero made a motion to approve the financial report for payment of current expenses, second by Denice Wimbish. Motion carried unanimously.

Harrison Romero made a motion to approve the repair invoices, second by Robin Donaldson. Motion carried unanimously.

Dean Carrell updated the Board on the sewer plant; stated smoke test had been done and machine returned, advised that there were several areas of concern. There was four thousand gallons of sludge taken to the Italy plant. Upgrades on sewer plant are going well. Scott Hoelzle with KSA stated that permit renewal was denied by TCEQ; permit was amended and done as a new permit increasing gallonage to forty thousand per day from twenty-five thousand per day. Application/administration fee will be approximately three hundred and fifty dollars.

President Patsy Russell advised Board that USDA Loan was pulled due to nothing being done. Patsy asked that Item #13 of the agenda concerning the G. Pie Land Purchase be discussed in Executive Session.

2. Harrison Romero made a motion to hire Attorney Jesse Munguia, second by Denice Wimbish. Motion carried unanimously. Attorney Munguia advised Board that there usually was a one hundred twenty-five dollar retainer but in this case will bill monthly at two hundred dollars an hour. Contract will be presented at April's Board meeting.

Harrison Romero made a motion to hire Everett Russell III (Trey) to help Gregg with reading meters and Trey will be paid ten dollars an hour, second by Robin Donaldson. Motion carried unanimously.

Issue of Health Insurance for Employee Gregg Rodriguez was tabled.

Kent Smith informed Board that a Matt Hamilton had asked about a meter(s) near Scott Green's and since we still owe Scott Green meters he told Mr. Hamilton we could not provide him with a meter at this time.

Harrison Romero made a motion to purchase an additional pump, second by Robin Donaldson. Motion carried unanimously.

Board went into Executive Session at 7:45 pm, returned from Executive Session at 8:25 pm. Patsy Russell stated that after discussion with attorney the Board had agreed to go ahead and practice their right with eminent domain. There will be an appraisal done to find fair market value for varying buffer zone of five hundred to eight hundred feet. There will be a letter sent to surrounding land owners advising them of the findings and offer.

With there being no further business the meeting was adjourned at 8:30 p.m. with a motion by Robin Donaldson, second by Denice Wimbish. Motion carried unanimously.

APPROVED BY THE BOARD OF DIRECTORS THIS _____ DAY OF _____ 2012.

Patsy Russell, President

Robin Donaldson, Sec/Trea

Copy of letter read to the Board at their
January 5, 2012 meeting.

GILLESPIE and BATES
P. O. Box 204
Avalon, TX 76623

January 5, 2012

Avalon Water Supply and Sewer Services Corporation
P.O. 246
Itasca, TX 76055

Dear Board,

We have been carefully listening to the issues affecting the Avalon Water Supply and Sewer Services Corporation. We have weighed all the facts after consulting with attorneys, real estate professionals, the TCEQ, the Texas Attorney General's office, and the Texas Comptroller of Public Accounts. Now, we would like to be heard before any decisions are made on any updates to the current sewer plant.

We have been told that since we are not full time residents of Avalon that we have no say in matters relating to the community. However, we own two homes with water meters with the Avalon Water Supply and Sewer Services Corporation and one home is on the sewer system. We are also adjacent land owners to the current sewer plant on the north and west sides. Even if we are not registered to vote in this community, we have a right to state our opinion.

After attending several meetings of the Avalon Water Supply and Sewer Services Corporation during the past four months, we are of the opinion that the Board does not seem have a clear understanding of the difference between "easements" and "restrictive easements." While the TCEQ uses the term "restrictive easements" on their form for permit renewal applications and your consultant, Dean Carrell, refers to "restrictive easements," the Board members continue talk of "easements." In fact, in a letter to all affected landowners from the Board dated October 7, 2011, the word "easement" is used rather than the term, "restrictive easements."

According to our attorney, "easements" and "restrictive easements" are two completely different legal terms. There are affirmative easements and there are negative easements. Affirmative easements are the most common and are simply referred to as "easements." This type of easement gives a second party the right to do something on another person's property. Affirmative easements are typically used for such actions as driving cattle across another person's property or installing water or sewer lines.

Negative easements are typically referred to as "restrictive easements." Negative easements are used when a landowner is prevented from performing an otherwise lawful activity on their own property. "Restricted easements" significantly reduce a land's value and can make the property difficult to sell, according to several real estate professionals that we have spoken with. Because of their nature "restricted easements" are very expensive to purchase from a landowner. Our attorney has told us that in the majority of cases he has been involved with in Ellis County

and surrounding areas that it was less expensive for the second party to purchase the land than obtain a "restrictive easement" from the land owner.

After checking with the County Clerk's office and looking at every document filed regarding easements that the Avalon Water Supply and Sewer Services Corporation has obtained during its' 40+ years in existence, we have determined that not once has the Board obtained "restrictive easements." Even the easement that was purchased in 1999 from Jerry and Charlotte Wilson for \$8,400 was simply an affirmative easement. All of the previous easements obtained by the Board call for either 10 or 12 feet wide easements for the laying of pipes for either water lines or sewer lines. None of these affirmative easements have the impact on a land's value as the "restrictive easements" that the Board is considering on our land.

We are respectfully requesting that the Board call these negative easements by the correct legal term, "restrictive easements," in all future meetings and correspondence so there is no misunderstanding by Board members, land owners, or any visitors present.

Our family first learned of the Board's plan to obtain "restrictive easements" on our land during a Board Meeting held in September of 2011. According to the TCEQ, buffer zones are required because of a law passed in 1990. When we asked why buffer zones were being required for a waste water plant built in 1970, the TCEQ told us that Avalon Water Supply and Sewer Services had neglected to obtain a renewal of their permit and let it expire. Therefore, the grandfathering was lost on the current plant. Of course, this is all irrelevant since you will now need buffer zones because of upgrades/modifications to the plant. However, it does show negligence on the Board's part to be forthright.

The TCEQ was very surprised to learn that our family did not know about the "restrictive easements" until September of 2011 when we attended a "Special Meeting." They were shocked to learn that the Avalon Water Supply and Sewer Services never once discussed "restrictive easements" with our family since the Board had promised the TCEQ to have them by June of 2007. They were also shocked to learn that members of our family have owned the property in question for over 100 years and the current owners have owned it since 1997. Apparently, a representative from the TCEQ was told that the land was recently inherited and the current owners were unknown to the Board.

The TCEQ understood our reasons for being upset with the Avalon Water Supply and Sewer Services Board. At the end of our meeting in October, the TCEQ told us that they would work with the Board to find a solution that did not require "restrictive easements" from us, but would use one of the other options for buffer zones. And, they did. Yet, the Board continues to search for less expensive solutions that may in the long run cost as much money as the proposed plan by the TCEQ since the Board will have to purchase restrictive easements from several landowners.

Rather than spend several hundred thousand dollars on a short term solution to your capacity issue that will only last 10-15 years, the Board needs to consider the long-term. No matter which option you choose, you will be in debt for many years. You need to consider an option that will last for many years allowing you to payoff that debt before another major improvement is needed. And, our family does not wish to have the land issue come up again in 10 or 15 years. We are the second generation to have to deal with the Avalon Water Supply and Sewer Services Corporation. We do not wish to pass this burden on to a third generation.

We are greatly opposed to "restrictive easements" since we feel that they violate our rights as land owners and greatly reduce the value of our land. Therefore, we are willing to enter into

negotiations with the Board to purchase our pasture land. However, as we have stated in the past we will not sell a portion of our pasture. We cannot continue to sell the Avalon Water Supply and Sewer Services Corporation our land piece by piece until there is not enough left for us to continue a profitable business venture. We owned 15 acres before the current waste water plant was built in 1970. Now, we have just eleven acres. Any negotiations will have to be for the entire remaining eleven acres.

We would also like to take this opportunity to mention that while reviewing the Avalon Water Supply and Sewer Services application for renewal, we noticed on the maps that an outfall line is located on our property. After a thorough review of existing documents in the County Clerk's office, it appears that the Avalon Water Supply and Sewer Services Corporation never obtained the necessary legal permission for outfall line placement on our property. The only easement on our property is the exact same easement every homeowner in the community gave the Board back in 1970. Thus, the Avalon Water Supply and Sewer Services Corporation is currently using our property without legal permission.

Even if you did have legal permission to have the outfall line on our property, any easement given in the past could be terminated based on the fact that the Avalon Water Supply and Sewer Services Corporation has performed illegal activity on our property by polluting. Evidence of this are the violations levied by the TCEQ.

After consulting with several attorneys who specialize in eminent domain and several attorneys at state agencies, we are confident that Avalon Water Supply and Sewer Services Corporation does not have the authority to obtain "restrictive easements" or condemn our land. However, if the Board does attempt to condemn our land we will have no choice but to pursue the trespassing issue and compensation for damages to our land.

Purchasing the eleven acres will give the Avalon Water Supply and Sewer Services Corporation the buffer zones needed on the north and west sides. It will also resolve the trespassing issue, and it will give you room for growth in the future. And, it will keep us all from going to court. Rest assured this conciliatory gesture has not evolved out of fear, but more a suggestion to resolve this issue once and for all.

Any offer for the purchase of our land will need to be in writing. Offers for less than fair market value will not be considered.

Sincerely,

Mary Bates

Marcia Gillespie

Carol Gillespie

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 18, 2012

Ms. Carol Gillespie
P.O. Box 204
Avalon, TX 76623

Re: Investigation Request at:
Avalon WSC Collection System, Avalon (Ellis County), Texas
Incident No. 167034

Dear Ms. Gillespie:

The Texas Commission on Environmental Quality (TCEQ) Dallas-Fort Worth Region Office has completed an investigation of the above referenced incident. The enclosed report describes the findings that were noted during the investigation, and the TCEQ's response.

Thank you for contacting the TCEQ with your concerns. If you have questions feel free to contact Ms. Karen Smith of my staff directly at 817-588-5850 or the office at 817-588-5800.

Sincerely,

A handwritten signature in black ink, appearing to read "Sid Slocum".

Sid Slocum, Water Section Manager
DFW Region Office

SS:ks

Enclosure: Investigation Report #997291

Texas Commission on Environmental Quality
Investigation Report
Avalon Water Supply And Sewer Service Corporation
CN600788590

AVALON WATER SUPPLY & SEWER SER CORP

RN101511863

Investigation # 997291

Incident # 167034

Investigator: KAREN SMITH

Site Classification

DOMESTIC MINOR

Conducted: 04/11/2012 -- 04/11/2012

NAIC Code: 221320

SIC Code: 4952

Program(s): WASTEWATER

COPY

Investigation Type : Compliance Investigation

Location : 1,100 FT WEST OF SH 55
AND APPROX 1,900 FT SOUTH OF THE
INTERSECTION OF SH 35 AND SH 55
IN AVALONAdditional ID(s) : WQ0013981001
TX0020567

Address : , ,

Activity Type : REGION 04 - DFW METROPLEX
WWCMPL - WW ComplaintPrincipal(s) :

Role	Name
RESPONDENT	AVALON WATER SUPPLY AND SEWER SERVICE CORP

Contact(s) :

Role	Title	Name	Phone
Participated In Investigation	MANAGER OF WATER CO.	MR GREG RODRIGUEZ	Other (254) 379-0478
Regulated Entity Contact	OPERATOR	MR DEAN CARRELL	Work (972) 483-6212

Other Staff Member(s) :

Role	Name
Supervisor	SIDNEY SLOCUM
QA Reviewer	SIDNEY SLOCUM

Associated Check List

<u>Checklist Name</u>	<u>Unit Name</u>
WQ COMPLAINT INVESTIGATION	Avalon Complaint

Investigation Comments :

INTRODUCTION

On April 9, 2012, the TCEQ/DFW Region Office received a complaint which alleged that wastewater was leaking and/or bubbling near a manhole on a mainline leading to the Avalon WSC treatment plant. The operator of the system, Dean Carrell, was promptly notified and later reported no issues or sewer overflows were observed within two hours of being notified of the complaint. The complainant submitted photographs of the collection system problems on April 11, 2012 and a site investigation was conducted by Karen Smith on April 11, 2012. As a result of the investigation findings, an exit interview form was emailed to Mr. Carrell, Consultant and Operator,

and Mr. Gregg Rodriguez, Field Manager and Operator on April 11, 2012. A Notice of Violation was issued on April 16, 2012 to facilitate compliance, and to solicit a response due date of May 16, 2012.

GENERAL FACILITY AND PROCESS INFORMATION

Avalon WSC owns and operates a wastewater collection and treatment system that serves the Avalon, Ellis County community. Most of the collection system is comprised of clay tile lines which only have a limited lifespan. The Hydroxyl package treatment plant has been poorly operated and maintained for a number of years. Recently, the new operator reported that the plant was cleaned out, modified, and is operating more efficiently. A mandatory comprehensive compliance investigation (CCI) will be conducted of this system before the end of TCEQ's fiscal year which ends in August 2012.

BACKGROUND

Avalon's collection system has had a long history of storm water inflow and infiltration (I&I) which inundates the collection and treatment systems during periods of heavy rainfall. This condition is not unique to Avalon, and is an issue that almost every city in the DFW metroplex and other parts of the State is dealing with. The condition results in sanitary sewer overflows and higher influent and effluent flows at treatment systems. The permittee is aware of this I/I problem which has been cited as a violation in TCEQ investigation reports. The permittee is currently in the process of amending its permit to increase its daily average flow limit from the current limit of 25,000 gallons per day to a higher unknown amount which is still pending approval.

Avalon WSC is currently under enforcement for several permit violations as documented in Docket No. 2011-1488-MWD-E. The last CCI was conducted by the Region Office on July 6, 2011, and resulted in the citation of 5 violations. Following the investigation, the permittee was referred back to the Enforcement Division for failure to comply with previous Administrative Order, Docket No. 2008-1716-MWD-E, and for continued permit violations.

ADDITIONAL INFORMATION

During the site investigation, an exposed main line was observed in the vicinity of the second manhole upstream of the plant. This manhole receives wastewater from two clay tile lines that flows east and south to the treatment plant. Severe erosion was noted around the manhole. The first manhole upstream and about 50 feet from the plant had severe damage to the brick structure. No evidence of a sanitary sewer overflow was observed in the vicinity of either manhole. The two clay tile influent lines are approximately 8 or 10-inch and approximately 4-5 feet in depth. These lines, as well as others in the system, were reportedly smoke-tested to assess their condition about three months ago. The smoke test results indicated major deterioration in both lines and plans are being made to find the funding (in excess of \$500,000) to replace the clay tile lines leading to the plant, as well as other locations in the system, which will no doubt require additional funding.

The TCEQ will continue to track Avalon's progress to upgrade their collection and treatment systems. As required, a letter and a copy of the complaint investigation report will be mailed to the complainant on April 18, 2012.

NOV Date	Method
04/16/2012	WRITTEN
OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF VIOLATION	

Track No: 463944

Compliance Due Date: 05/16/2012

Violation Start Date: 4/11/2012

30 TAC Chapter 305.125(5)

PERMIT , WQ0013981-001

Operational Requirements, No. 1, page 9.

Alleged Violation:

Investigation: 997291

Comment Date: 04/13/2012

Failure to adequately maintain collection system. Exposed 8-inch clay tile line in the vicinity a sewer manhole that connects two influent lines just prior to the wastewater treatment plant. Also, due to wet weather conditions and infiltration, severe erosion has developed around the manhole. The brick around a second manhole in the vicinity and just prior to the plant with significant deterioration.

Recommended Corrective Action: In the short term, repair exposed line, fill in area of erosion around first manhole, and repair damaged brick around the second manhole. In the long term, secure funding to replace clay tile influent lines to the plant. Please submit emergency repair corrective action documentation to the TCEQ DFW Region Office by May 16, 2012. Also, submit a compliance plan and schedule to replace the old clay tile influent lines to the plant.

Signed Karen Smith
Environmental Investigator

Date 4/13/2012

Signed [Signature]
Supervisor

Date 4/15/12

Attachments: (in order of final report submittal)

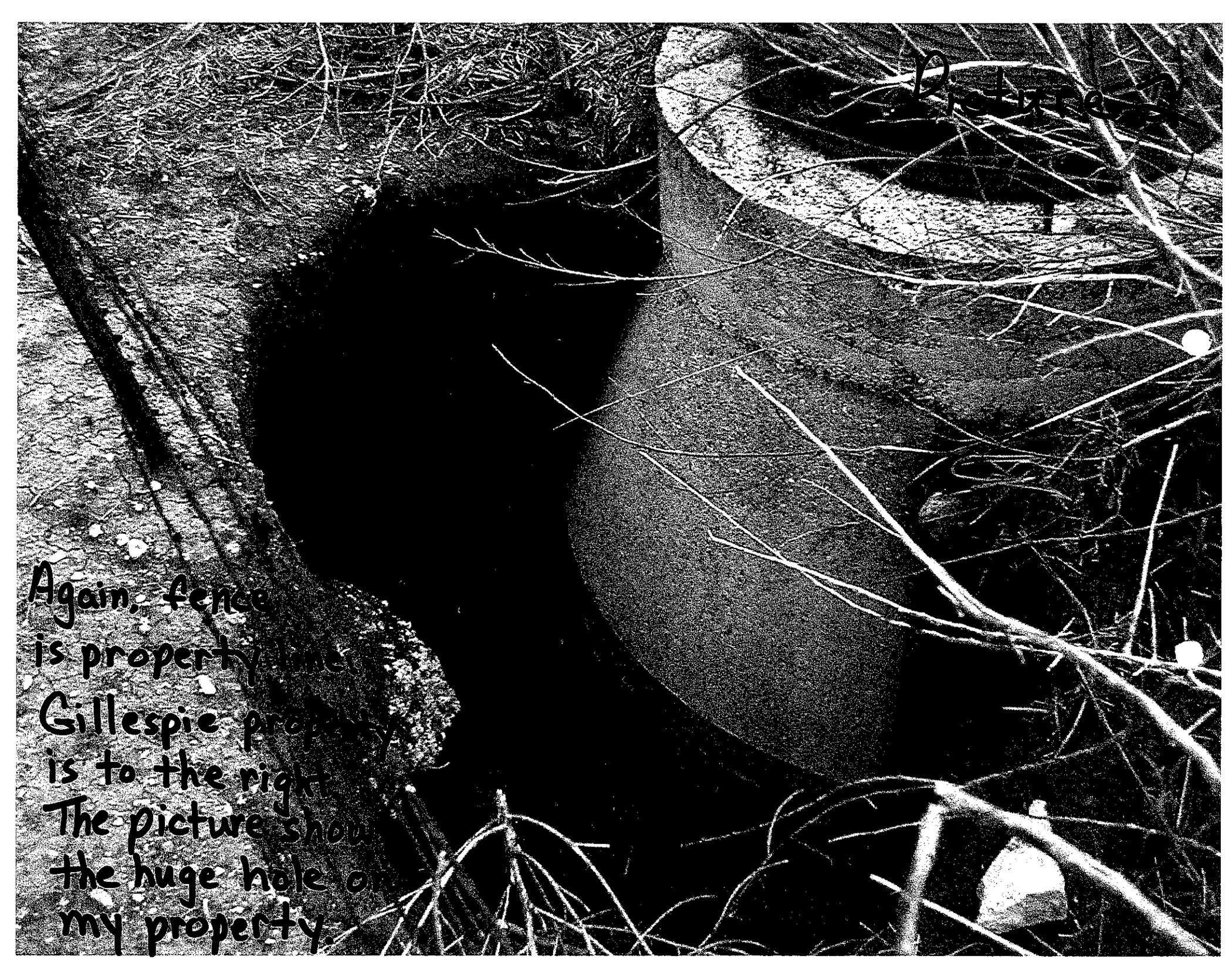
- Enforcement Action Request (EAR)
- Letter to Facility (specify type) : N DV
- Investigation Report
- Sample Analysis Results
- Manifests
- NOR

- In agency files:*
- Maps, Plans, Sketches
 - Photographs
 - Correspondence from the facility
 - Other (specify) : Exit Interview



Picture 1

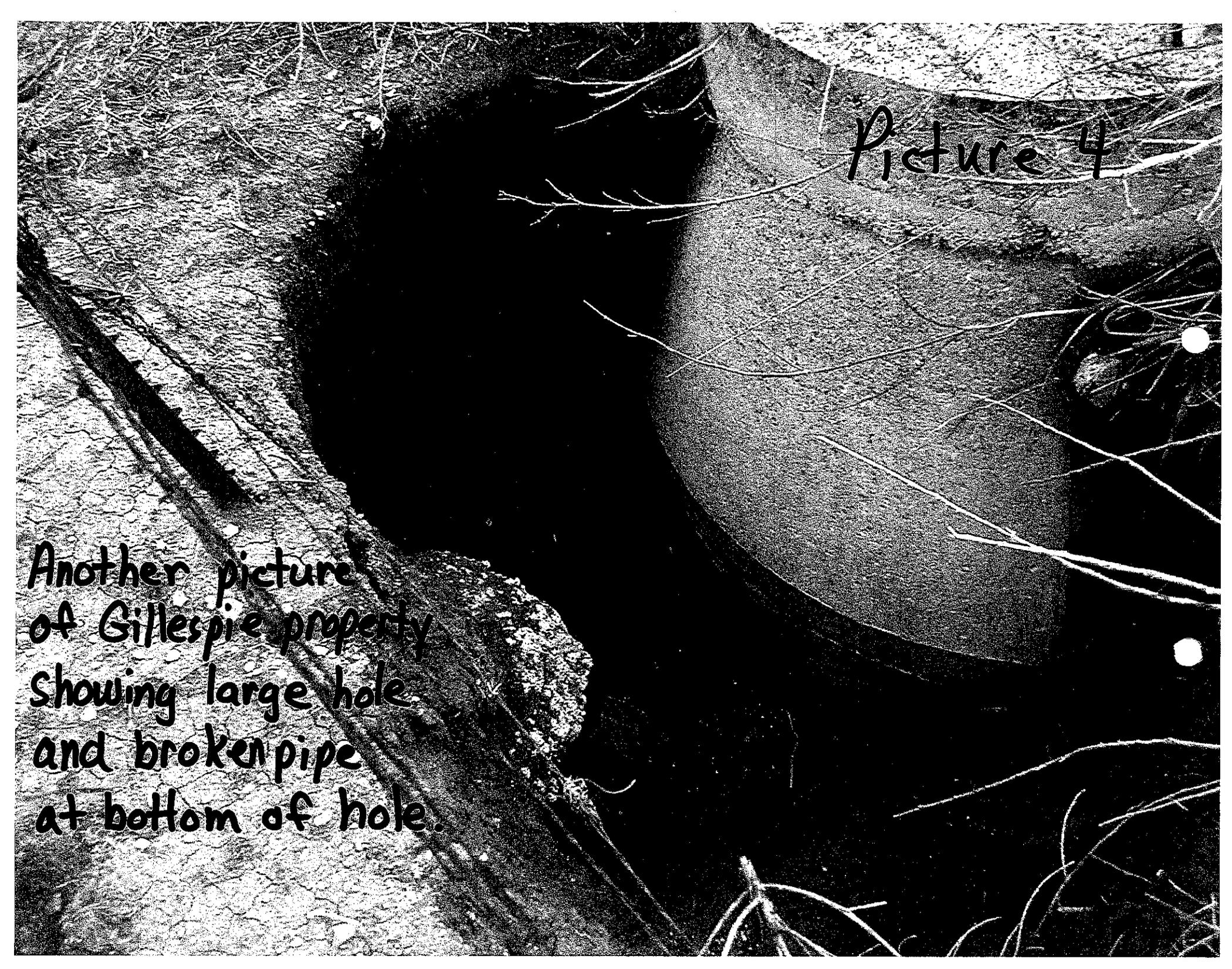
Fence is the
property line.
My property is
to the right.



Again, fence
is property line.
Gillespie property
is to the right.
The picture shows
the huge hole on
my property.



Gillespie property
is to the right of
the fence. This
picture show the
large hole and
the concrete
pipe sitting way
above ground.



Picture 4

Another picture
of Gillespie property
showing large hole
and broken pipe
at bottom of hole.

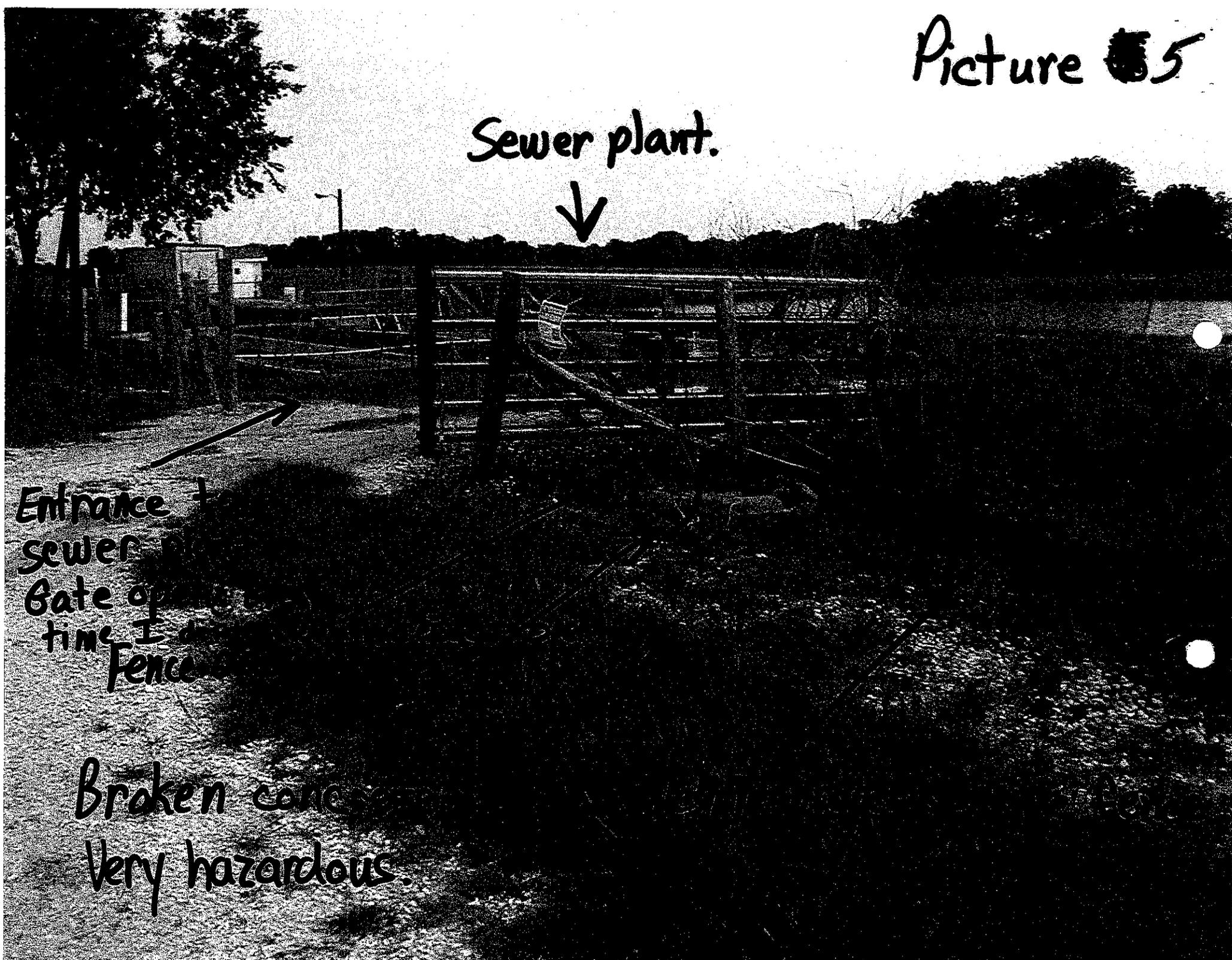
Picture 5

Sewer plant.



Entrance to
sewer plant
Gate open at
time I did
Fence

Broken concrete
Very hazardous



Gillespie
pasture.

Picture #6

Location of
raw sewage leak.

It was noticeable

by sign and smell
as soon as I

approached.

Driveway to
waste water
plant.

at the time of the
event - but not
contained.

Picture # 7



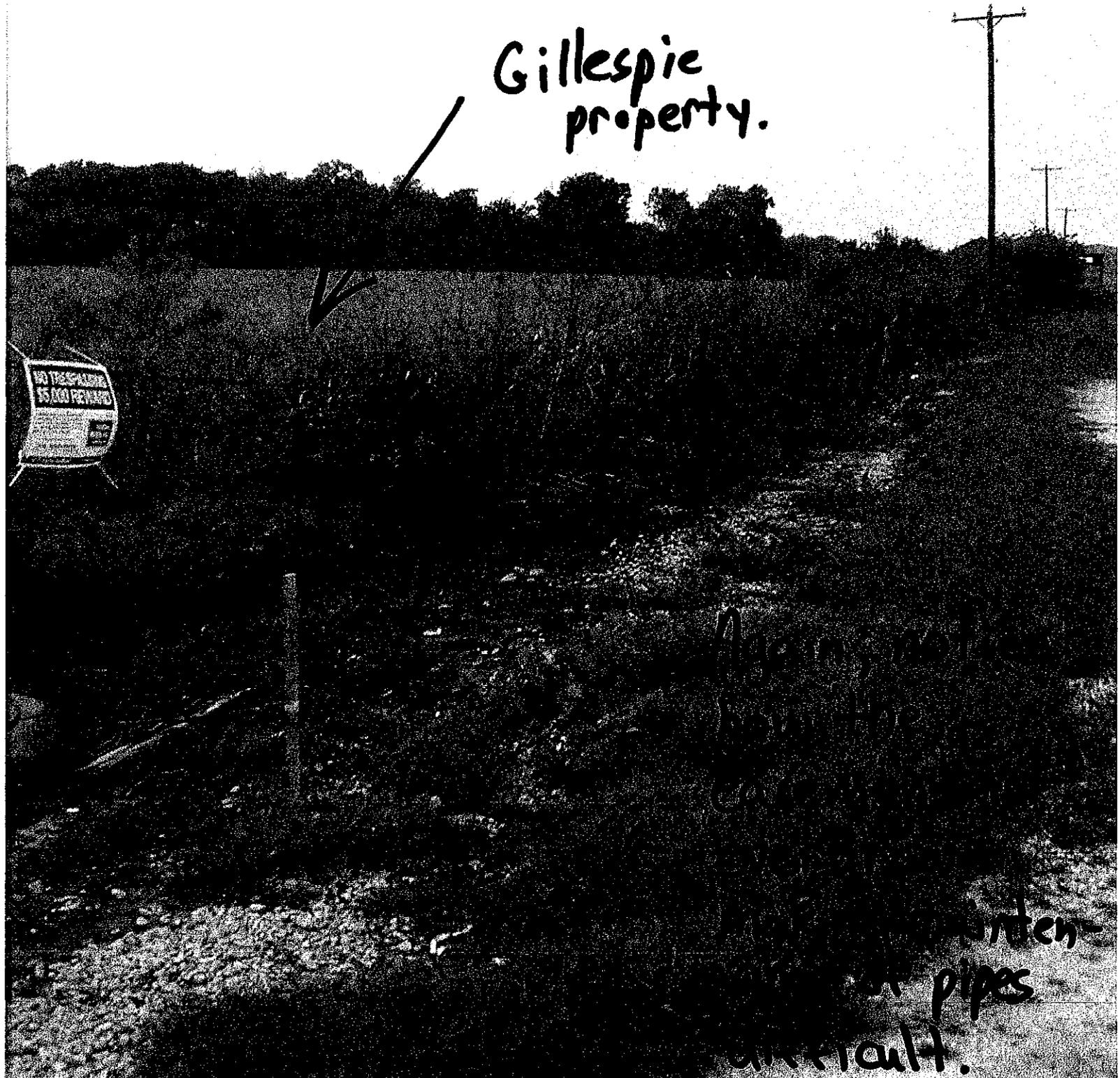
Handwritten text in the bottom left corner, possibly a date or location, but it is mostly illegible due to the high contrast and graininess of the image.

Picture 8

Gillespie
property.

GO THE SPACED
\$5,000 REWARD

... marten-
... pipes
... fault.





This is a manhole
cover. It is a sewer pipe
that is dangerous. It
is on Gillespie property.



Picture 1D

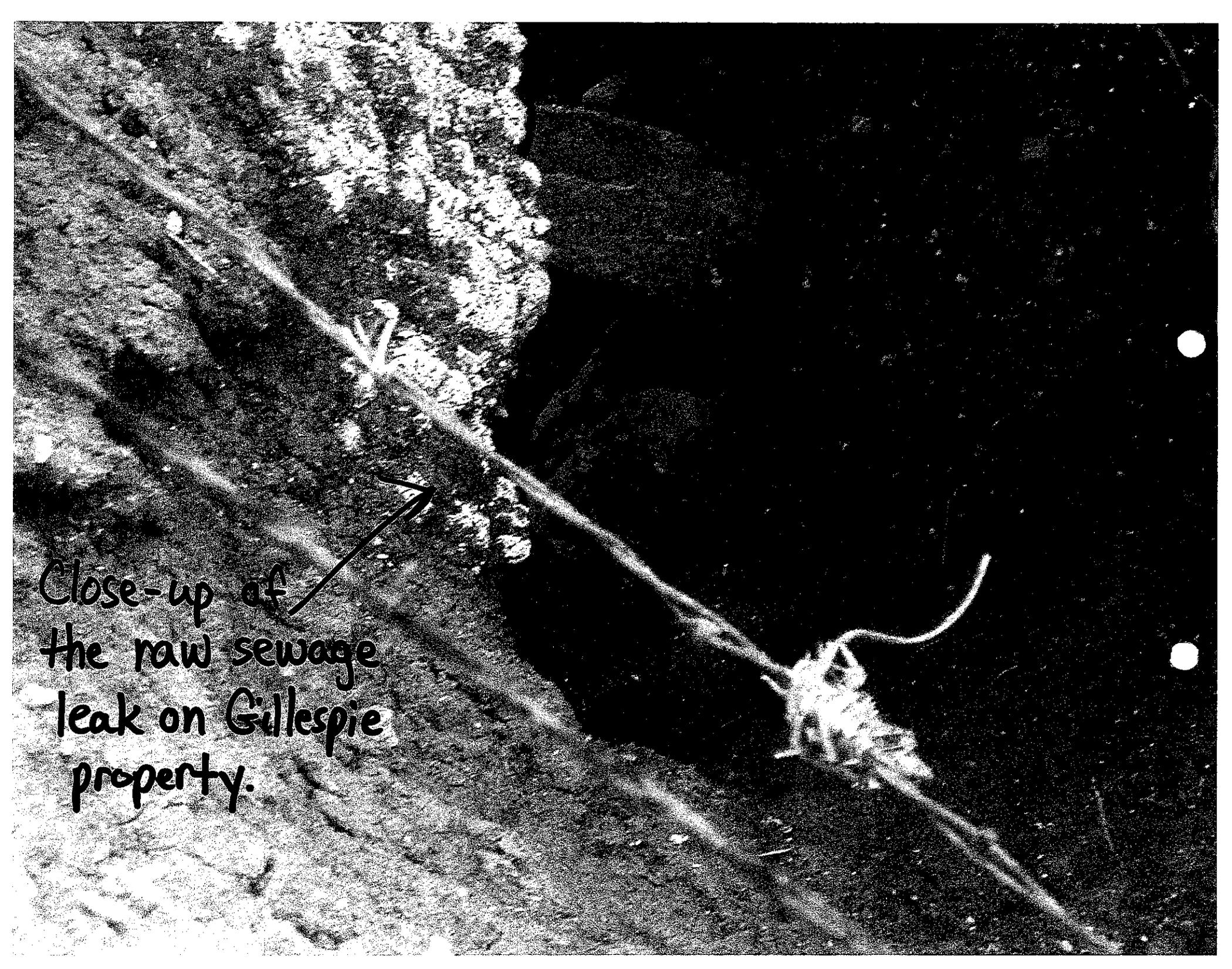
This picture shows
just how far above
ground the concrete
is. It is impossible
to mow with tractor.

Picture 11

Concrete
Pipe

Case





Close-up of
the raw sewage
leak on Gillespie
property.

13

Overgrown
Easement.



Property
line.



This picture is taken from near the plant facing north. My fence line is near the utility poles. The easement is not usable although our legal agreement states it should be.

14

Picture of easement
facing south. Easement
is unusable for
agricultural use
because the pipes
sit too far above
ground for a
tractor to access.

Sewer plant.



Gillespie
land.





Fence line.

Sewer
property.



THURSDAY

Waxahachie

Daily Light

April 19, 2012
16 Pages
1 Section

75
Cents



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Helping paws

Fundraiser event set for May 19
to help purchase aide dog

By MELISSA CADE
Daily Light staff writer

Sometimes a person needs a helping hand, or like Carl Humphrey and little Joshua Sellers, a helping paw. Both Humphrey, the mother of two, and Sellers, a lively 5-year-old, are battling the debilitating disease of Type 1 Diabetes.

Diabetes is a disease in which the body has a shortage of insulin, a decreased ability to use insulin or both. Insulin is a hormone

See PAWS, Page 15



Carl Humphrey (pictured with son Cale) has battled diabetes since she was a freshman in college. She has had several seizures, and feels having a diabetic alert dog would be an asset.

Race weekend

Flag drops on 10th annual Lions Club Mini Grand Prix Saturday

By AARON SCHWADERER
Daily Light staff writer

Ladies and gentlemen start your engines! The Waxahachie Lions Club will host the 10th anniversary of its Mini Grand Prix at 7:30 a.m. Saturday, April 21, on the square in historic downtown Waxahachie.

This year's Mini Grand Prix will feature 15 teams and 20 cars racing through downtown Waxahachie, taking hairpin turns, colliding and vying for the trophy.

Everyone involved is excited about the new competition and increased number of

drivers on the track.

"This is our 10-year anniversary and could be the best in at least the past six years with new teams and more excitement," Lions Club Race Director Tim Bass said.

The competition is expected to be fierce and as in years past, collision and wrecks



Bass



WDL file photo by Mike

The 10th annual Lions Club Mini Grand Prix returns to downtown Waxahachie Saturday, April 21.

See RACE, Page 9

cent per thousand gallon increase (from the supplier) effective May 1," City Manager Doug Young said.

He told the members of the council he received a letter

See PALMER, Page 2

is working against us. We only have a limited air supply and if that air supply is exhausted then it is basically body recovery," En-

See RESCUE, Page 14

Firefighters check the condition of a downed firefighter before attempting a move during Tuesday's Rapid Intervention training which was held for multiple fire departments in Ellis County.

retirement comes, and will be 72 years old -- time, he said, to do some other things.

"It does give me some time to do some things I want to do

See SANCHEZ, Page 2

Open Meetings Act complaints filed against special district

By CURT OLSON
Texas Budget Source

AUSTIN, Texas — Ellis County District Attorney Patrick Wilson has received three complaints from resident Carol Gillespie regarding allegations of open meetings violations with the Avalon Water Supply and Sewer Services Corp.

Gillespie's written complaints that accompany this article outline actions by the special district's governing board that may conflict with the Texas Open Meetings Act (TOMA).

Ellis County District Attorney Patrick Wilson would not confirm or deny that his office has opened an investigation against the special district's governing board.

TOMA violations are a misdemeanor punishable by jail time and a \$500 fine.

The Avalon Water Supply & Sewer Services Corp. (AWS&SSC) serves about 90 residents with sewer and a couple hundred with water in Avalon in Ellis County.

The Gillespie property abuts the Avalon Water Supply & Sewer Services Corp. Both properties sit between Farm-to-Market 55 and Jack Eastham Road, just a few hundred yards south of Highway 34.

Patsy Russell, who served as the AWS&SSC president until the vote at the annual meeting one week ago when she was moved to vice president, said all but two of the seven members have received

open meetings training.

Gillespie sent a letter to the special district's governing board on Feb. 9 alerting them it hasn't followed the 72-hour notice of a public meeting as required by law.

"I have spoken with the State Attorney General's Office and have been advised to talk with the District Attorney in Ellis County about misconduct by the board," Gillespie wrote in the letter. "However, I am giving the board the courtesy of bringing this matter to the attention of all members before taking such action. Hopefully, the board will take action to correct this and I will not have to speak with Mr. Wilson."

Gillespie said the situation intensified in March with talk

of eminent domain because the special district needs land for a state-required buffer from the water and sewer plant. The board has targeted the Gillespie property, which Carol and her two sisters had transferred to them in the late 1990s prior to the deaths of their parents.

Gillespie has hired an attorney to take up the expected legal fight with the special district.

This emphasizes the key part of her complaints: decisions apparently being made in executive session, not a public session.

Consider the March meeting minutes approved on April 9.

See TOMA, Page 2

'You're a Good Man Charlie Brown'

OCS performance April 27-28

By MELISSA CADE
Daily Light staff writer

OVILLA — The fine arts department of Ovilla Christian School will perform "You're a Good Man Charlie Brown" as its spring musical April 27-28 at Grace Church of Ovilla.

Kendra Cordero is in

her first year as the fine arts director at OCS, and said the musical is a conglomeration of Charles Schultz's comic strip "Peanuts."

"We have basically taken all of the 'Peanuts' comics and combined

See OCS, Page 2



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...it. However, she said
was another reason she
mpelled to perform this
lar show.

...m 38 weeks pregnant,
It it would be better to
ne thing familiar," Cor-
said. "You just never
what could happen, and
ght this was a better fit
s time."

...student performers
reed with Cordero, and
id they have taken this

The performances are
scheduled for 7 p.m. April 27
and 28; and at 2 p.m. April
28. Admission is \$10 and in-
cludes concessions. For more
information about the musical
or to purchase tickets, contact
Ovilla Christian School at
972-617-1177.

Contact Melissa at 469-
517-1450 or melissa.cade@wninews.com.

Sanchez

Continued from Page 1

...ay be a little strenu-
Sanchez said. "Like
backpacking and trav-
and doing things like
thought this was the
time now."

...chez said he was most
of the tremendous
the college has expe-
d during his years here,
a student numbers and
s size, with a large ex-
n in Ellis County tak-
ice.

...ege Board Chairman
Huffman acknowl-
the growth that has
place under Sanchez's
ship, and said he will

be missed.

"He's been a wonderful
president," Huffman said.
"He is totally, 100 percent
dedicated to what's good
for the school, to grow the
school, and what's good for
the students.

Huffman also pointed to
several programs he said San-
chez was responsible for, in-
cluding the "Opening Doors
to Success" program that
creates college opportunities
for first-generation college
students, and the "Elegance"
fund-raisers.

Bob Belcher may be
reached by email at belcher@corsicanadailysun.com. Story
republished with permission.

mercial or multi-family,"
Young said, giving an exam-
ple of the effect the change
will have on a residential cus-
tomer. "For a customer that

...cil also considered an appli-
cation by James Bradley for
a zoning change on a lot he
owns at 3232 Cosey Lane.
Bradley requested that the

"A recent ruling by the
courts has allowed a city
council to consider substan-
dard building cases. I feel this
is something we need to do,"

...ne purpose
"Removing the light will
save the city \$23 a month."

The request was approved.

TOMA

Continued from Page 1

"Patsy Russell stated that
after discussion with attor-
ney the board had agreed to
go ahead and practice their
right with eminent domain.
There will be an appraisal
done to find the fair market
value for varying buffer zone
of five hundred to eight hun-
dred feet. There will be a let-
ter sent to surrounding land
owners advising them of the
findings and offer."

There is no record of a
public vote to pursue eminent
domain of the Gillespie prop-
erty in those now-approved

March meeting minutes.

Bill Aleshire, an Austin
attorney who provides input
on legal matters on the Tex-
as Open Meetings Act with
the Freedom of Information
Foundation of Texas, said the
board can't do that.

"Before they take final ac-
tion, they've got to come out
(of executive session) and
put that vote on the record,"
Aleshire said.

Board attorney Jesse Joe
Munguia said he must dis-
cuss these matters with the
board before speaking pub-
licly about it.

He acknowledged if the
board has done the wrong
thing it would go back and
correct it.

Aleshire said the law gives
the board the opportunity to
fix a closed-door decision by
voting in a public session.

Additionally, Gillespie and
at least one other eyewitness
grew concerned about the
board not stating the purpose
for it's executive session on
April 9 during the regular
meeting that followed the
board annual meeting.

Aleshire said the board
must cite the section of the
Open Meetings Act with
some explanation for the
closed session.

Another complaint filed by
Gillespie against the district
is nepotism.

Munguia is a grandson to
Russell and is a nephew to

another board member, San-
tos Munguia.

Jesse Munguia, who was
hired in March, could not ad-
dress the matter of nepotism.
He said he is still waiting for
board by-laws.

Curt Olson is a journalist
with Texas Budget Source, a
nonprofit journalism project
of the Austin-based Texas
Public Policy Foundation,
with funding from the Frank-
lin Center for Government
and Public Integrity. Texas
Budget Source is on Face-
book and Twitter at [TXBudgetSource](https://www.facebook.com/TXBudgetSource).

PARENTS, GRANDPARENTS, FAMILY & FRIENDS

The Waxahachie Daily Light will be publishing the Class of 2012
senior photos in the Waxahachie Daily Light on Sunday,
May 27th and the Midlothian Mirror on Wednesday, May 30th





ELLIS COUNTY & DISTRICT ATTORNEY

PATRICK M. WILSON

ELLIS COUNTY COURTS BUILDING • 109 S. JACKSON • WAXAHACHIE, TX 75165 • (972) 825-5035 • FAX (972) 825-5047

April 23, 2012

Avalon Water Supply and Sewer Service Corp.
115 E. Main Street
P.O. Box 246
Itasca, Texas 76055-0246
Via CMRRR: 7006 3450 0002 9323 8208

Jesse Joe Munguia, Jr.
Jimenez Law Firm
1660 S. Stemmons Freeway, Suite 285
Lewisville, Texas 75067
Via CMRRR: 7006 3450 0002 9323 8215

Re: Alleged violation of Texas Open Meetings Act

Dear Mr. Munguia and Board of Directors:

This office is in receipt of three written complaints regarding alleged violations of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. The complaints pertain to multiple meetings of the Avalon Water Supply and Sewer Service Corporation (AWS&SSC), which is a governmental body for the purposes of the Texas Open Meetings Act pursuant to Section 551.003(3)(K) of the Texas Government Code. Copies of the complaints are attached. This letter is being sent to you, as is done with all local governmental entities, to provide you the opportunity to promptly respond to the allegations against you.

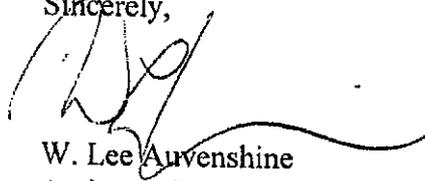
The initial complaint dated March 15, 2012, enumerates sixteen alleged violations pertaining to regular and special meetings of the AWS&SSC which occurred on November 21, 2011, December 1, 2011, December 8, 2011, January 5, 2012, February 9, 2012, and March 8, 2012. The second complaint dated April 5, 2012, addresses additional concerns pertaining to the regular meeting on March 8, 2012. The third complaint dated April 10, 2012, enumerates thirteen alleged violations pertaining to the regular meeting on April 9, 2012. These meetings apparently took place in Ellis County, Texas, at the First Baptist Church in Avalon.

The allegations of concern within the complaints relate to the notice provisions of the Texas Open Meetings Act and "executive sessions" (or "closed meetings" as that term is used within the Texas Open Meetings Act). The complaints allege that the AWS&SSC intentionally circumvented the notice provisions of the Texas Open Meetings Act to deprive the public of adequate notice of matters for proposed discussion and action, specifically pertaining to the acquisition of land for a new waste water plant. Additionally, the AWS&SSC is alleged to have inappropriately discussed matters in closed meetings for which no exception to the Texas Open Meetings Act applied, and it alleged to have taken final action on matters during closed meetings.

Mr. Jesse Joe Munguia, Jr.
and Avalon Water Supply and Sewer Service Corp.
April 23, 2012
Page 2

The allegations against you are serious. As stated above, this letter is being sent to you to provide an opportunity to respond to the serious allegations against you. A prompt response is necessary. Please provide a written response to this office no later than Friday, May 4, 2012. I will await your written reply.

Sincerely,



W. Lee Auvenshine
Assistant County & District Attorney

Enclosure: Written Complaints dated March 15, 2012, April 5, 2012, and April 10, 2012

cc: Carol D. Gillespie
P.O. Box 204
Avalon, Texas 76623
without enclosure

DA's office seeks answers from special district on allegations

By CURT W. OLSON
Texas Budget Source

AUSTIN, Texas — The Ellis County District Attorney's Office is investigating allegations of violations of the Texas Open Meetings Act committed by the Avalon Water Supply & Sewer Service Corp.

Assistant Ellis County District Attorney W. Lee Auvenshine wrote a letter dated April 23 to Jesse Joe Munguia, attorney for the non-profit corporation, to request written response by May 4 to allegations the Avalon Water Supply & Sewer Service Corp. (AWS&SSC) board has repeatedly violated the Open Meetings Act.

"The allegations against you are serious," Auvenshine writes. "As stated above, this letter is being sent to you to provide an opportunity to respond to the serious allegations against you."

This action stems from three letters sent to Ellis County DA Patrick Wilson from Carol Gillespie, who owns land that abuts property owned by the special district. Both properties sit between Farm-to-Market 55 and Jack Eastham Road, just a few hundred yards south of Highway 34.

The AWS&SSC provides water and sewer service in

the unincorporated community of Avalon and is one of more than 2,200 special districts in Texas.

The AWS&SSC seeks ways to expand the buffer zone around the plant and the special district's board has targeted property owned by Gillespie to pursue by eminent domain.

However, the AWS&SSC board has a problem.

While the seven-member board discussed the matter in March during a closed session, the approved March meeting minutes show the board never took a public vote on exercising the right of eminent domain against Gillespie.

Issues cannot be decided in a closed session without coming out of that closed session and taking a public vote on the issue.

The multitude of TOMA complaints in Gillespie's letters to Wilson dated March 15, April 5, and April 10, identify improper procedure for posting notices, discussing meetings in a closed session for which there is no exception in the law, and taking final actions in a closed session.

Violations of the Open Meetings Act, which are misdemeanors, are punishable with jail time and a fine.

Munguia previously said to Texas Budget Source that he must talk to the board before responding to allegations of violations of the Open Meetings Act. Gillespie also has hired an attorney over the expected eminent domain fight.

Meanwhile, the AWS&SSC board posted a meeting notice for 7 p.m. Friday to conduct an "emergency meeting."

The following is the agenda:

- Call meeting to order
- Approval of April 9, 2012, minutes
- Discuss and act upon accepting pro bono legal representation
- Executive session to formulate response of alleged TOMA violations; and formulate response "of blackmail threat."

However, it's possible this "emergency meeting" also violates the TOMA.

Here are the reasons for an emergency meeting as outlined in the Open Meetings Act handbook by the Office of Attorney General:

- An imminent threat to public health and safety; or
- A reasonably unforeseeable situation.

It's unknown at this point if the AWS&SSC board fol-

See TOMA, Page 8A

TOMA

Continued from Page 5A

lows through with the meeting if it would complicate matters for them.

Curt Olson is a journalist

with Texas Budget Source, a nonprofit journalism project of the Austin-based Texas Public Policy Foundation, with funding from the Franklin Center for Government and Public Integrity. Texas Budget Source is on Facebook and Twitter @TXBudgetSource.

Board adds 'vacancies' to agenda

BY CURT W. OLSON
Texas Budget Source

AUSTIN, Texas — As the clock ticks for the Avalon Water Supply & Sewer Service Corp. to respond to the Ellis County District Attorney's Office on alleged open meeting violations, the water board has internal challenges.

The board has "vacan-

cies" to fill.

The seven directors did not meet Friday evening for their "emergency meeting" because the meeting did not meet the legal requirements, said Jesse Joe Munguia, attorney for the Avalon Water Supply & Sewer Services Corp. (AWS&SSC).

See DISTRICT, Page 7

District

Continued from Page 1

However, Munguia would not confirm or deny vacancies on the board Monday.

The meeting set for this evening is the same agenda the board scheduled for its "emergency meeting." However, there is one addition: "Discuss and act on board vacancies."

The board also is scheduled to meet in executive session to respond to Assistant DA W. Lee Auvenshine's request for a response on alleged Open Meetings violations. Auvenshine gave Munguia until Friday to respond to the multiple complaints of open meetings violations directed at the AWS&SSC board.

"The allegations against you are serious," Auvenshine writes in a letter dated April 23. "As stated above, this letter is being sent to you to provide an opportunity to respond to the serious allegations against you."

This action stems from three recent letters Carol Gillespie sent to Ellis County

DA Patrick Wilson. Gillespie, who with two sisters maintain their deceased parents' property, owns land that abuts property owned by the AWS&SSC. Both properties sit between Farm-to-Market 55 and Jack Eastham Road, just a few hundred yards south of Highway 34.

The AWS&SSC provides water and sewer service in the unincorporated community of Avalon, serving more than 300 customers with water and about 90 with sewer service.

The AWS&SSC seeks ways to expand the buffer zone around the plant and the special district's board has targeted property owned by

Gillespie to pursue by eminent domain.

However, the special district's directors have a problem.

While the seven-member board discussed the matter in March during a closed session, the approved March meeting minutes show the board never took a public vote to exercise the right of eminent domain against Gillespie.

Members of public bodies must cast public votes on matters such as eminent domain.

Gillespie's TOMA complaints identify improper procedure for posting notices; discussion of items in a

closed session for which there is no exception in the law; and final action on items behind closed doors.

Violations of the Open Meetings Act, which are misdemeanors, are punishable with jail time and a fine.

Curt Olson is a journalist with Texas Budget Source, nonprofit journalism project of the Austin-based Texas Public Policy Foundation with funding from the Franklin Center for Government and Public Integrity. Texas Budget Source is on Facebook and Twitter @TXBudgetSource.

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Increased Flow.**

Page 1

Attachment 1 – Page 2 of 18

“Avalon would like to increase permitted flow from 25,000 to 40,000 gallons per day or more.”

I am very concerned that the increased flow will cause the small ditch (or stream) on my property where the effluent is dumped to overflow. Currently, the majority of my farmland is used to grow food products such as wheat, corn, soybeans, and sunflowers (oil and seed types).

The part of my land that is closest to the waste water plant is pasture. The stream where is effluent is being dumped is the water supply for our livestock. Due to concerns about the high level of contamination of the stream, we are currently using the pasture for hay production and animals are not kept on the property at this time. However, if I maintain ownership of the property I would like to have the option of using the property for livestock.

If AWS&SSC wants to increase the flow to the plant, that is another reason that they should purchase my 11 acres.

Attachment 1 - Page 2 of 18

The existing treatment plant consists of a manual bar screen, two emergency storage ponds, one oxidation ditch that serves as an equalization basin, one Hydroxyl package unit (dissolved air floatation, fixed bed bioreactor, moving bed bioreactor, and two cone bottom clarifier tanks), and chlorine contact chamber.

Avalon would like to increase permitted flow from 25,000 gallons per day to 40,000 gallons per day or more. To facilitate this increase in permitted flow Avalon is proposing to make the following changes to its wastewater treatment plant:

- Convert existing equalization basin back to an oxidation ditch, including making repairs to the oxidation ditch and installing new aeration devices.
- Upgrade pumps to transfer effluent from the oxidation ditch to Hydroxyl unit.

Avalon is also considering several options to increase clarifier capacity to manage peak flows, including the construction of an additional clarifier to serve as a partial bypass of the Hydroxyl unit during periods of high flow.

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: DMR Contact .**

Page 1

DMR Contact Information lists Dean Carrell as the Operator for Avalon Water Supply and Sewer Services Corporation.

Mr. Carrell is the full-time Public Works Director at Italy, TX. Since Mr. Carroll is employed by the City of Italy Monday-Friday from 8AM to 5PM and on call the remaining time, I do not see how he can be the operator of the Avalon waste water plant.

When I called TCEQ on April 10th to report a raw sewage leak on my property, Mr. Carroll was working in Italy. Karen Smith called me back and said he was at the property, but could not find the leak. The leak was very noticeable by both sight and smell. In fact, it would have been difficult to drive into the plant without seeing the hole.

I live less than 2 minutes away, immediately drove to the plant and Mr. Carrell was not there. No one was there. I would have passed anyone leaving the plant on my way.

I do not believe Mr. Carrell checked out the leak when it was reported as he stated.

I also do not believe the complete, accurate results of the recent smoke test were reported to TCEQ. This leak and the four foot deep hole had been there for a long time.

Check on or both: Administrative contact Technical Contact

4. DMR CONTACT INFORMATION (Instructions Page 22)

Contact Responsible for Discharge Monitoring Reports (EPA 3320-1)

Provide the name of the person and their complete mailing address delegated to receive and submit Discharge Monitoring Report Forms.

Prefix: Mr.
(Mr. Ms, Miss)
First/Last Name: Dean Carrell
Suffix: _____
Title: Operator Credential: TX WW Op. C - WW0026733
Organization Name: Avalon Water Supply & Sewer Service Corporation
Mailing Address: P.O. Box 246
Internal Routing (Mail Code, Etc.): _____
City: Itasca State: Texas ZIP Code: 76055
Mailing Information if outside USA.
Territory: _____ Country Code: _____ Postal Code: _____
Phone No.: (254) 687-2331 Extension: _____
Fax No.: (254) 687-2428 E-mail Address: _____



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<http://www.tceq.texas.gov/permitting/steers/steers.html>

Establish an electronic reporting account when you get your permit number.

5. PERMIT CONTACT INFORMATION (Instructions, Page 22)

Provide two names of individuals that can be contacted throughout the permit term.

Prefix: Ms.
(Mr. Ms, Miss)
First/Last Name: Patsy Russell
Suffix: _____
Title: President Credential: _____
Organization Name: Avalon Water Supply & Sewer Service Corporation
Mailing Address: P.O. Box 246
Internal Routing (Mail Code, Etc.): _____
City: Itasca State: TX ZIP Code: 76055
Mailing Information if outside USA.
Territory: _____ Country Code: _____ Postal Code: _____
Phone No.: (254) 687-2331 Extension: _____
Fax No.: (254) 687-2428 E-mail Address: buglady06@valomet.com

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Public Place Information.**

Page 1

Public Place Information lists the County Records Building in Waxahachie. (The County Clerk's name is Cindy Polley, not Cindy Poller.) Last summer the application was available for public viewing in the Dunlap Library in Italy, TX. *Why the change?*

Waxahachie is at least 12 miles from Avalon. Italy is 5 miles from Avalon.

The County Clerk's office charges \$1 per page for copies. The library charges 10 cents per page. I spent over \$30 obtaining copies in the County Clerk's office.

The library has tables and chairs for people to sit and read. The County Clerk's office does not. There are chairs but no tables. I had to read the application standing over a file cabinet of property deeds.

The County Clerk's office is only open from 8:00 to 4:30 on Monday through Friday. The libraries have weekend and/or evening hours available for people who work.

I also had to wait over 30 minutes on the day I went in, because the documents could not be located. I never had this problem at the library.

Since Avalon Water Supply and Sewer Services Corporation has been maintaining for years that Avalon is a low income community whose residents cannot afford an increase in sewer rates (and cannot afford to buy my land or restrictive easements), this does not seem logical. I find it interesting that the public viewing place would be changed to a location that is over twice as far from Avalon, is not convenient for the working class, and charges ten times the amount for copies.

Perhaps the real reason that AWS&SSC did not want the document available for Public Viewing in Italy is that the City of Italy's Public Works Director has been hired by AWS&SSC to be their operator. I do not think that the residents and city officials of Italy will be very happy about their full-time Public Works Director being employed by Avalon. The residents that I have talked with are under the impression Mr. Carrell is a consultant for Avalon only providing advice and spending limited time on Avalon's issues.

Also, the residents of Italy that I have talked with did not know that Avalon's sludge is going to Italy's waste water plant.

c. Contact in the Notice

Prefix: Ms.
(Mr. Ms, Miss)
First/Last Name: Patsy Russell
Suffix: _____
Title: President Credential: _____
Organization Name: Avalon Water Supply & Sewer System Corporation
Phone No.: (254) 687-2331 Extension: _____

d. Public Place Information

If the facility and/or outfall is located in more than one county, a public viewing place for each county must be provided.

Public Building name: County Records Building
Location within the building: 2nd Floor
Physical address of building: 109. S. Jackson St.
City: Waxahachie County: Ellis
Contact Name: Cindy Polter
Phone No.: (972) 825-6070 Extension: _____

e. Bilingual Notice Requirements:

For new permit applications, major amendment and renewal applications. Not applicable for minor amendment or minor modification applications.

Please call the bilingual/ESL coordinator at the nearest elementary and middle schools and obtain the following information to determine if an alternative language notice is required:

1. Is a bilingual education program required by the Texas Education Code at the nearest elementary or middle school to the facility or proposed facility?
 Yes No (If No, an alternative language notice publication is not required; skip to item 4. FACILITY INFORMATION.)
2. Are the students who attend either the elementary school or the middle school enrolled in a bilingual education program at that school?
 Yes No
3. Do the students at these schools attend a bilingual education program at another location?
 Yes No
4. Would the school be required to provide a bilingual education program but the school has waived out of this requirement under 19 TAC §89.1205(g)?
 Yes No

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Owner of Effluent Disposal Site.**

Page 1

Owner of effluent disposal site: AWS&SSC answered N/A.

(If not the same as the facility owner, there must be a long term lease agreement in effect for at least six years.)

Avalon Water Supply and Sewer Services Corporation owns 3.54 acres where the waste water plant is located. However, the pipe carrying effluent and the small stream (or ditch) where it is discharged are on the Gillespie land. AWS&SSC never obtained a legal easement or a lease to put the pipe on our land or to discharge on our property.

This should be resolved before AWS&SSC is granted a new permit. They need to pay for an easement, buy the land, or move the pipe.

Section B: Enter the site location information.

If no physical address (Street Number & Street Name), provide a written location access description to the site:

located approximately 1,100 feet west of TX F.M. Road 55 and approximately 1,900 feet south of the TX F.M. Road 55 and State Highway 34 Intersection in the Community of Avalon in Ellis County

(Ex.: Located 2 miles west from intersection of Hwy 290 & IH35 accessible on Hwy 290 South)

e. City where the site is located or, if not in a city, what is the nearest city:

Community of Avalon

f. ZIP Code where the site is located: 76623

g. County where the site is located Ellis

h. Latitude: 32° 11' 58.57" Longitude: -96° 47' 26.53"

i. In your own words, briefly describe the primary business of the Regulated Entity:

(Do not repeat the SIC and NAICS code)

water distribution, wastewater collection, water treatment, wastewater treatment provider

j. Owner of treatment facility: Avalon Water Supply & Sewer Service Corporation

Ownership of Facility: Public Private Both Federal

k. Owner of land where treatment facility is/will be: Avalon Water Supply & Sewer Service Corporation

(If not the same as the facility owner, there must be a long term lease agreement in effect for at least six years. In some cases, a lease may not suffice - see instructions.)

X l. Owner of effluent disposal site: N/A

(If not the same as the facility owner, there must be a long term lease agreement in effect for at least six years.)

m. Owner of sewage sludge disposal site: N/A

(Required only if authorization is sought in the permit for sludge disposal on property owned/controlled by the applicant.)

8. DISCHARGE/ DISPOSAL INFORMATION (Instructions, Page 27)

a. Is the point of discharge and discharge route in the existing permit correct?

Yes No

If no, or a new or amendment permit application, please give an accurate description.

The point of discharge in the current permit will remain the same. The amendment does not seek to change the discharge point.

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Penalties.**

Page 1

On Page 13 of 18 of the Administrative Report, AWS&SSC answered that they did NOT owe any penalties to the TCEQ. They also left the Enforcement Order Number blank.

I have already discussed this issue through email and phone calls with numerous TCEQ representatives. The TCEQ's response is that AWS&SSC did NOT have to state that they owe penalties to the TCEQ, because AWS&SSC completed paperwork over six months ago (October/November 2011) stating financial hardship. However, AWS&SSC was fined \$68,525 on October 13, 2011. The fine was later reduced, but only to approximately \$65,000. The fine has NOT been paid.

After a lengthy exchange of emails (and several phone calls) from the TCEQ regarding this matter, the final response from Jaya Zyman-Ponebshek of the TCEQ reads, *"As a follow-up, our legal department has checked with the appropriate sections in enforcement and came to the conclusion that Avalon currently does not owe fees or penalties to the TCEQ. However, there is an enforcement action pending against Avalon. As part of the action and negotiations to resolve the action, there is a penalty amount that is being discussed. Until an agreed order is signed by Avalon, the penalty amount will not take effect. Accordingly, Avalon is correct when it checked "no" to the questions in the application form whether it currently owe fees to the TCEQ or whether it currently owe penalties to the TCEQ. Additionally, if there is a question about whether an enforcement action is currently pending against Avalon, Avalon would be required to answer "yes" to that question."*

1. Does claiming financial hardship allow entities to incur violations, yet never have to pay the associated fines? Apparently not, according to a letter from Susan Johnson, Manager of the Enforcement Division of TCEQ. In a letter to AWS&SSC dated October 13, 2011, she states, *"Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount."* Deferral, not waiver. They still owe the fine!
2. How long does it take the TCEQ to review financial inability documents? It would seem that this needs to be a priority since AWS&SSC's permit expired on December 1, 2011 and they have submitted a Permit Amendment Application which is currently under review. If they cannot afford to pay the fine, then how can they afford the upgrades to the existing plant that they are detailed in the application? The violations and fines from October 2011 need to be resolved prior to the approval of this Permit Amendment Application.
3. It should also be noted that AWS&SSC is still under enforcement from violations from March 2009. And, they were recently (April 2012) found in violation for damage on my property.

n. Is/will the treated wastewater discharge to a city, county, or state highway right-of-way, or a flood control district drainage ditch? Yes No

If Yes, indicate by a check mark if:

Authorization granted Authorization pending

(For new and amendments, provide copies of letters that show proof of contact and the approval letter upon receipt.)

o. Is the facility located on or does the treated effluent cross American Indian Land?

Yes No

9. MISCELLANEOUS INFORMATION (Instructions, Pages 30)

a. List each person formerly employed by the TCEQ who represented your company and was paid for service regarding the application:

None

b. Do you owe fees to the TCEQ? Yes No

If yes, please provide:

Account number: _____ Amount past due: _____

c. Do you owe any penalties to the TCEQ? Yes No

If yes, please provide:

Enforcement order number _____ Amount past due _____

FW: Avalon Water/Sewer Question

From: Jaya Zyman-Ponebshek <jaya.zyman-ponebshek@tceq.texas.gov>
To: Carol Gillespie
Cc: Charles Maguire <charles.maguire@tceq.texas.gov>, Barbara Erickson <Barbara.Erickson@senate.state.tx.us>, Karen Smith <karen.smith@tceq.texas.gov>
Subject: FW: Avalon Water/Sewer Question
Date: Apr 9, 2012 3:47 PM

Carol,

We spoke with the Enforcement Coordinator assigned to this case and we were told by him that Avalon has a proposed enforcement action pending against them due to being in violation of another agreed order. The proposed Docket No. is 2011-1488-MWD-E. Avalon has filed a financial inability to pay claim regarding the administrative proposal and the Revenues section is reviewing the inability to pay claim. We spoke with the team leader and were told that the action is still pending. Because it has not been finalized, we were not able to see fees owed in the database; therefore, we moved forward with the permit application.

Please let me know if you need anything else.

Jaya

-----Original Message-----

From: Jaya Zyman-Ponebshek
Sent: Monday, April 09, 2012 11:58 AM
To: Carol Gillespie
Cc: Barbara Erickson; Charles Maguire; Karen Smith
Subject: RE: Avalon Water/Sewer Question

Carol,

It appears that you are correct, the applicant checked "no" to owing the TCEQ fees or penalties. When we review the applications, we check for delinquent/outstanding fees and if the Basis 2 Transaction Detail Report doesn't show the permittee to be delinquent or to owe any fees/penalties at the time that we check the database, we move the applications forward. We checked the database and couldn't find any fees or penalties owed by Avalon. One of our staff has a call into our Revenues section to see if they show fees owed, but we are waiting on a call back. I will get back to you as soon as I get a response back from Revenues.

Thanks

Jaya

-----Original Message-----

From: Charles Maguire
Sent: Monday, April 09, 2012 9:42 AM

To: Carol Gillespie; Karen Smith
Cc: Barbara Erickson; Jaya Zyman-Ponebshek
Subject: RE: Avalon Water/Sewer Question

Carol

I have forwarded your message to my Assistant Division Director (Jaya Zyman-Ponebshek) here in the Water Quality Division. I have been reassigned to the Radioactive Materials Division as their new Director. Jaya will check on this for you.

Thank you
Charles

-----Original Message-----

From: Carol Gillespie [mailto:caroldgillespie@earthlink.net]
Sent: Monday, April 09, 2012 9:19 AM
To: Charles Maguire; Karen Smith
Cc: Barbara Erickson
Subject: Avalon Water/Sewer Question

Mr. Maguire and Ms. Smith,

I was hoping one of you could answer a question for me. On the Permit Amendment Application on page 13, Avalon checked "No" that they do not owe any penalties to the TCEQ. They also left the enforcement order number blank. How could they leave this blank considering they were fined \$68,525 in October of 2011?

I realize this document is still under administrative review, but I am just trying to understand the process. This just does not seem correct to me.

AWS&SSC is either having their monthly meeting tonight or Thursday night. I'm not sure which. The notice states, "Thursday, April 9, 2012." Some people just can't seem to get anything right.

Thank you for your assistance,
Carol Gillespie

Carol Gillespie
caroldgillespie@earthlink.net
214-536-1784

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Buffer Zones.**

Page 1

On Page 16 of 18 of the Administrative Report, AWS&SSC checks "Variance" under the question of how the buffer zone requirement be met. Yet, in their March 8, 2012 Regular Meeting, AWS&SSC announced that they were "taking" our land by eminent domain to satisfy buffer zone requirements. The President also stated they needed 500 to 800 feet of our land to satisfy buffer zones. Previously, it was stated 150 feet or 500 feet for buffer zones. I have attached documentation (Meeting Minutes) to prove that 500 to 800 was stated.

All discussion of the waste water plant is now held in Executive Session. I have no idea why the Board is "taking" my land under the pretense of needing it for restricted easements, yet asking the TCEQ for variances. In fact, I have not heard any updates about the waste water plant since early February.

I have filed several complaints with the Ellis County District Attorney regarding violations to the Texas Open Meeting Act by AWS&SSC, including what topics can be discussed in Closed Sessions. The Board is currently under investigation for these violations.

My family is at a big disadvantage since we are being kept from hearing the plans for the waste water plant. Our rights as landowners have been violated. Our rights as citizens have been violated. Laws have been broken. The TCEQ should not approve AWS&SSC's application until this matter is resolved.

- e. As required by Texas Water Code §5.115, is any permanent school fund land affected by this application? Yes No

If yes, provide the location and foreseeable impacts and effects this application has on the land(s).

2. BUFFER ZONE MAP (Instructions, Page 34)

- a. Provide a buffer zone map on 8.5 x 11-inch paper. The applicant's property line and the buffer zone line may be distinguished by using different colors and appropriate labels. Indicate by a check mark that all the following information is included on the map.
- The applicant's property boundary
 - The required buffer zone
 - Each treatment unit
 - The distance from each treatment unit to the property boundaries
- b. How will the buffer zone requirement be met?
- Ownership
 - Restrictive easement
 - Nuisance odor control
 - Variance
- c. Does the facility comply with the requirements regarding unsuitable site characteristic found in 30 TAC §309.13(a) through (d)?
- Yes No

3. ORIGINAL PHOTOGRAPHS (Instructions, Page 37)

Provide original ground level photographs. Indicate by checking that the following information is provided.

- At least one original photograph of the new or expanded treatment unit location
- At least two photographs of the existing/proposed point of discharge and as much area downstream (photo 1) and upstream (photo 2) as can be captured.
- If the discharge is to an open water body (e.g., lake, bay), the point of discharge should be in the right or left edge of each photograph showing the open water and with as much area on each respective side of the discharge as can be captured.
- At least one photograph of the existing/proposed effluent disposal site
- A plot plan or map showing the location and direction of each photograph

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: History of Facility.**

Page 1

Attachment 2 – Page 18 of 18 states that the original facility was built sometime during the 1950's. That is incorrect. Construction on the waste water plant was started in 1970 and completed in 1971. The land that the plant sits on belonged to the Gillespie family until September 1970. It was part of our pasture until then.

Prior to that time, all the homes in Avalon had septic tanks.

This is proof that AWS&SSC does not have good records, and the Board members do not know what they are doing or signing.

Why were the adjacent landowners including my family not notified "in 2001 when the oxidation ditch was abandoned as a treatment unit and the Avalon WSSC install a packaged treatment plant made by Hydroxyl Systems, Inc. and chlorine contact chamber?" This was a major change to the plant, and seems to be the turning point when the plant started having so many issues. We should have been notified.

History of Facility

The original facility was constructed sometime during the 1950's and consisted of two (2) oxidation ponds. In the mid 1970's the oxidation ponds were replaced by a an oxidation ditch with a single fixed aerator. In 2001 the oxidation ditch was abandoned as a treatment unit and the Avalon WSSC install a packaged treatment plant made by Hydroxyl Systems, Inc. and chlorine contact chamber.

Currently the oxidation ditch is serving as a equalization basin for the Hydroxyl Systems treatment plant. The Hydroxyl package plant (dissolved air floatation, fixed bed bioreactor, moving bed bioreactor, and two cone bottom clarifier tanks) has undergone some refurbishing under the direction of the new operator and is functioning at full capacity.

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Sludge Disposal.**

Page 1

AWS&SSC states that the sludge will be hauled to the City of Italy waste water treatment plant. The permit also states that a written statement or contractual agreement is attached. However, I found no such agreement.

I would like to see the agreement. Residents of Italy are paying \$16 a month per household for sewer debt in additional to regular charges. They are concerned that taking in sludge from another facility on a regular basis will make their plant obsolete before it is paid for.

I have read the minutes from City Council Meetings in Italy and can find no record of this being approved.

This was not discussed in Open Session in the AWS&SSC's meetings. However, it was in the minutes. It must have been discussed in Executive Session.

5. FACILITY OPERATOR (Instructions, Page 41)

Provide the name and operator certification number for the facility operator:

Dean Carrell - TX WW Op. B - WW0026733

6. SEWAGE SLUDGE MANAGEMENT AND DISPOSAL (Instruction, Page 41)

a. Please check the current sludge disposal method or methods. More than one method can be checked.

Permitted landfill

Permitted or Registered land application site for beneficial use

Land application for beneficial use authorized in the wastewater permit

Marketing and distribution as authorized in the wastewater permit

Composting as authorized in the wastewater permit

Permitted surface disposal site (sludge monofill)

Surface disposal site (sludge monofill) authorized in the wastewater permit

✓ Transported to another permitted wastewater treatment plant or permitted sludge processing facility (a current statement or agreement is required, see the item below)

✓ Written statement/contractual agreement from the wastewater treatment plant or permitted sludge processing facility accepting the sludge is attached

Other method (provide description):

b. Provide the following information for the sludge site:

Disposal site name: City of Italy WWTP

TCEQ Permit or Registration Number: RN102336310

County where the site is located: Ellis

c. Provide the following:

Method of transportation (truck, train, pipe, other): Truck

Name of the hauler: Russell Brothers

Hauler Registration Number: TCEQ 23947

Transported in: liquid semi-liquid semi-solid solid state

Land application for: Reclamation Soil Conditioning

7. PERMIT AUTHORIZATION FOR SEWAGE SLUDGE DISPOSAL (Instructions, Page 41)

a. Does the existing permit include authorization for land application of sewage sludge for beneficial use? Yes No

If yes, are you requesting to continue this authorization to land apply sewage sludge for beneficial use: Yes No

If yes, is the completed **APPLICATION FOR PERMIT FOR BENEFICIAL LAND USE OF SEWAGE SLUDGE (TCEQ Form No. 10451)** attached to this permit renewal application (see the instructions for details): Yes No

**Comments Regarding Permit # WQ0013981001
Avalon Water Supply and Sewer Service Corporation
RE: Technical Report.**

Page 1

Since I am not an engineer and do not understand how waste water plants operate, I am having difficulty understanding the Technical Report. A big part of this is the fact that AWS&SSC is not discussing any of the upgrades or changes to the plant in Open Session.

Since AWS&SSC is violating the Texas Open Meeting Act by not discussing anything concerning their application in Open Session, I believe the only fair solution is for the TCEQ to hold a public hearing on the application. The landowners deserve a chance to know what is going on. Our rights have been violated.

Gillespie
P.O. Box 2049
Waxahachie, Tx 75168

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL



7010 3090 0003 2667 02A



1000



7871

CHIEF CLERK OFFICE

U.S. POSTAGE
PAID
WAXAHACHIE, TX
75168
MAY 03 12
AMOUNT
\$8.00
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TEXAS
COMMISSION
ON
ENVIRONMENTAL
QUALITY
2012 MAY -3 PM 3:50

RECEIVED

MAY 03 2012

TCEQ MAIL CENTER
FIG

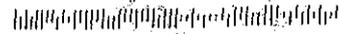
**RETURN RECEIPT
REQUESTED**

Office of the Chief Clerk, MC 105

TCEQ

PO Box 13087

Austin, Tx 78711-3087



Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:44 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

PM

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 3:16 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*For
8/8/18
mwp*

From: caroldgillespie@earthlink.net [mailto:caroldgillespie@earthlink.net]
Sent: Thursday, May 09, 2013 3:15 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

Car

COMMENTS: Request Public Meeting. This is an update to a comment that I sent to TCEQ on May 1, 2012. However, my original comment references a still outstanding issue and TCEQ has placed it under "Hearing Request" rather than as a comment. From March 2012 through December 2012, AWS&SSC held almost all discussions of their waste water plant and permit application process in closed session of their regular monthly meetings. These discussions were in violation of the Texas Open Meetings Act (TOMA). Even after being the subject of an investigation by the Ellis County District Attorney, the Board continued to violate the law. This is surprising, considering their attorney was present for almost every meeting. By their actions, the Board of AWS&SSC has denied members and affected land owners their right to know exactly what is happening with the waste water plant. These violations of the law were meant to keep my family from knowing about the plant and the permit. We believe it was also to harass our family. From March through August my family owned two memberships in the AWS&SSC. As of August 2012, we own one membership. So, we are members as well as adjacent land owners. If the Board was so willing to continue to violate the Texas Open Meetings Act and commit criminal acts, then they must have something to hide. The Board has lost all credibility with us. They cannot be trusted. TCEQ will probably say that members and landowners can go to the library and read the application and draft permit. However, the application was a work-in-process and has been modified many times. And, we are not engineers and do not understand the technical aspects of the permit. To resolve this, the TCEQ needs to schedule a meeting in the community to discuss the application/permit with members of the corporation and the affected landowners.

Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:41 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 3:17 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*MWD
81867*

From: caroldgillespie@earthlink.net [<mailto:caroldgillespie@earthlink.net>]
Sent: Thursday, May 09, 2013 3:12 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTITY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

CM

COMMENTS: Dishonest, Unethical, and Illegal Behavior. In October 2010 our family was approached by AWS&SSC. The President wanted land for a new waste water plant, and stated that they needed land adjoining the current plant. We turned her down stating that we had a 15 acre pasture in 1970 before being forced to sell almost 4 acres to them for the current plant. If we lost another 4 acres, we would not have enough land left for a profitable business venture. Our other concern was the fact that AWS&SSC admitted to us that they didn't have any money. This is the same issue that came up in 1970 when our father sold land for the original plant. The community pressured him for months to "donate" the land. In fact, this is the third time in my lifetime that members of the community have threatened my family's land with eminent domain. All three times, it was expected that the land be a gift. We suggested that the Board purchase land already for sale to the south of the plant. The President informed us that they could not purchase land from the other adjacent landowner because he had a mortgage and the lender wouldn't divide the land. Plus, they had been planning to use our land for years and already had the engineering plans drawn up. However, during the next year we were led to believe that the Board was pursuing land from the other landowner. In September of 2011 AWS&SSC held a "special meeting" for the purpose of hiring a consultant, Dean Carrell. His first PowerPoint slide was our land. One of the first things he stated was that he knew the landowners were being "difficult," but the Board had to secure 500 feet restricted easements. He said if the Board could not get them, that he could call his friends at the TCEQ in Austin and take the land in a day! He also stated that we would not be able to build or keep animals on the property. The next day I went to the library to view their pending application. It was dated June 2011, and promised the TCEQ that the Board would have restricted easements on our land by March 31, 2012. We were shocked! This is the first that we had heard of restrictive easements. This was the second time in less than a year that AWS&SSC had planned to use our land, but failed to notify our family. I spoke with representatives from TCEQ on the phone and was told that AWS&SSC told them that the land had recently been inherited and the Board didn't know who it belonged to. The land has been in our family since the early 1900's. My sisters and I have owned it since 1997. After this conversation, a face-to-face meeting with TCEQ seemed in order. On October 12, 2011 we met with TCEQ in Austin. We were told that AWS&SSC failed to renew their permit in 1998, and the grandfathering was lost on the plant built in 1970. Buffer zones were now required. On October 13, 2011 (next night) Avalon held their monthly meeting. They were furious with us. We were concerned for our safety during the meeting. They were told that we had been to Austin, that their permit was not going to be renewed, and that they were being fined \$68,000. Avalon had not received the letter (dated October 13, 2011) about the fine from TCEQ, and claimed they did not know what it was for. The Board knew they were in violation, but wanted someone else to blame. To this day, they still blame us. We felt setup by the TCEQ. In January of 2012 we told the Board that we would not "give" or sell restricted easements. They would have to purchase the land, and we thought we were going to be negotiating. Then in March 2012, the Board President abruptly hired her grandson as the Board's attorney. (His uncle was also on the Board.) At the same meeting, the Board and their new attorney went into closed session and came out announcing that they were taking our land by eminent domain. The President stated that they didn't know how much land that they needed, but said it would be between 500 and 800 feet for TCEQ required buffer zones. There had never been a bona fide offer for our land. There was no mention of eminent domain on the agenda. No vote in open session was taken. No other land owners were mentioned even though we only own land on two sides of the plant. The March meeting was the beginning of numerous Texas Open Meetings Act (TOMA) violations being committed during every meeting. The majority of the violations involve the practice of moving topics on the agenda to closed session that are not acceptable topics for closed session under the law. And, then reconvening in open session and stating that the closed session was attorney-client privilege. Unfortunately, the majority of discussions involving the waste water plant were moved to closed session. This denied my family as members of AWS&SSC and adjacent landowners to know what is happening with the plant. When announcing in the March 2012 meeting that they were taking our land by eminent domain, the Board stated it was for TCEQ buffer zones. They also stated that they needed 500-800 feet for these buffer zones. Buffer zones for waste water plants are a maximum of 500 feet! They also never mentioned the other three adjacent landowners. The Board later voted to hire surveyors and appraisers for our land. The Board also notified our attorney of their intent to use eminent domain. All of this was done in spite of the fact that AWS&SSC had applied for variances in their permit application submitted to TCEQ in February 2012. AWS&SSC had no legal need for our land at the point that

they Board decided to use eminent domain. This was clearly in retaliation for our family meeting with the TCEQ, and our refusal to give them restricted easements on our land. AWS&SSC kept the items about our land on their agenda for every monthly meeting through December 2012. Then the items suddenly disappeared. Since AWS&SSC has never discussed any updates to the eminent domain issue or voted to cease eminent domain proceedings in open session, we have to assume that they are still planning on taking our land. If the Board is not planning on using eminent domain, AWS&SSC purposely kept these items on their agenda for months to harass our family. Our family is not only disappointed with the behavior of AWS&SSC, but of TCEQ's actions as well. We complained numerous times about AWS&SSC's consultant referring to TCEQ employees as his "friends." Yet, it continued. The TCEQ never notified adjacent landowners when AWS&SSC applied for a new permit in 1999. We were also never notified at renewals in 2002 or 2007. If my family had not gone to Austin to meet with TCEQ in October of 2011, we would not have been notified of this last renewal which was changed to a major amendment. Then the TCEQ called AWS&SSC telling them that we had been to meet with the permitting group in Austin. At the same time, informing them that their renewal was being denied and a fine of \$68,000 was being levied. The TCEQ knew of AWS&SSC's eminent domain hoax, yet never made any attempts to help stop it. The raw sewage leak complaint on my property in April 2012, was not taken seriously until I submitted photographs to the TCEQ. The complaint is still outstanding a year later. And, finally, the TCEQ conspired with AWS&SSC's consultant to trespass on my land during the inspection in January of 2013. Our family would like to respectfully and adamantly urge TCEQ to address AND react to each and EVERY ONE of these issues. This has gone on long enough!

Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:41 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 3:17 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*MWD
81817*

From: caroldgillespie@earthlink.net [<mailto:caroldgillespie@earthlink.net>]
Sent: Thursday, May 09, 2013 3:08 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

MWD

COMMENTS: Trespassing by TCEQ. AWS&SSC's outfall line is on our property. This underground outfall pipe carries effluent to a small stream on our property. AWS&SSC has no legal permission to be on our land. There is no lease or no easement. In February 2012, my sister and I met with Greg Diehl and Karen Smith at the TCEQ office in Ft. Worth. We informed them that the outfall line was on our property. They showed no concern. Mr. Diehl said that this happens all the time. Some "old codger" will give permission, he dies, and then his heirs try to contest it but it's been too long. During the January 31, 2013 inspection, the TCEQ inspector trespassed on my property. I had given prior written notice to TCEQ that I was to be notified in advance of any need to go on my property due to liability issues. In response, I was told that the inspector would not be going on my property during the inspection. However, the report that I received states that the inspector did go on our property and so did Dean Carrell, consultant for AWS&SSC. When I inquired why I was told that the inspector would not go on my property, and then he did, I was answered with a very rude response from TCEQ indicating that the entity does not care about private property rights. Really? Entering private property without permission is against TCEQ policy and trespassing is against the law. This needs to be resolved before AWS&SSC is given their permit.

Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:41 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 3:17 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*MWD
050913*

From: caroldgillespie@earthlink.net [mailto:caroldgillespie@earthlink.net]
Sent: Thursday, May 09, 2013 3:08 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTITY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

MWD

COMMENTS: Proposed Increase of Daily Average Flow Limit from 25,000 to 40,000 gallons. This is an update to a comment that I sent to TCEQ on May 1, 2012. However, my original comment references a still outstanding issue and TCEQ has placed it under "Hearing Request" rather than as a comment. AWS&SSC has applied to increase the Daily Average Flow limit from 25,000 gallons to 40,000 gallons. This is a 62% increase for a system with only 92 subscribers. As adjacent landowners, my family is very concerned with this proposed increase. AWS&SSC has an outfall pipe going across our property illegally. The pipe dumps effluent into a small stream on our property. Have tests been run to see if the stream can handle this increase? Will the stream overflow onto our property if the maximum is reached? We use our land to grow cotton, wheat, sunflowers, soybeans, and corn. Four of these crops are for human consumption. AWS&SSC has been found in violation for exceeding effluent limits, but they have never reached anywhere near 40,000 gallons. Why such a large increase? The community has shown no measurable growth since the plant was first established in 1970. Less than a dozen new houses have been built. Most of those were built on land, or next to land, where another house had been torn down to make room for the new house. Several homes have been demolished and will not be rebuilt, including three for expansion of the school and one next to the fire station. One church has been demolished, leaving only two in the community. Several houses are vacant. Several businesses in the community have closed or have reduced business since 1970. The post office now has only one employee and the hours have recently been cut in half. In 1970, Avalon had both a grocery store and a gas station. There is no longer a gas station or a grocery store. There is a business on the property of the former gas station, but I believe it is a small store/eating establishment with not near the business that there was in 1970. The barber shop has closed. The farm store has closed. Since 1970 Avalon welcomed three new businesses. The landfill once did a huge business, but no longer does. Rumor is that it will be completely closed before long. Coal City Cob moved to Waxahachie several years ago. Of the three, only PSC remains open. The only real growth for the community of Avalon has been the school system. With an enrollment of approximately 325, there are twice as many students in school today that there were in 1970. However, a large portion of these are transfer students from other areas. Without building additional facilities and hiring more teachers, that growth has leveled off. TCEQ inspectors in a document dated April 11, 2012 cite "storm water inflow and infiltration (I&I) which inundates the collection and treatment systems during period of heavy rainfall." However, the community of Avalon, like most of North Texas, has been under extreme drought conditions during most of the past few years. More than likely the increase in Average Daily Flow causing AWS&SSC to exceed their 25,000 gallon per day limit, was the cause of improper use of the plant, neglect of the facility, and lack of maintenance. In a memo to Karen Smith at the TCEQ on January 13, 2012, Dean Carrell (consultant to ASW&SSC) states, "After cleaning the plant and running tests, the(sic) discovered the flow is now below the maximum levels allowed." Another factor in increasing the Average Daily Flow is the aging collection system. AWS&SSC is already in violation concerning the collection system. It is made up of 40+ year old clay tile pipes. Twenty plus problem locations with multiple issues were found during the last smoke test. Some were on private property, and others belong to AWS&SSC. A portion of this is the easement on my family's land. In fact, all influent lines run across my family's property. AWS&SSC does not have the financial means to repair the system. If the collection system is having issues now, it cannot handle an increased flow of 62%! AWS&SSC's new permit will be backdated to when their last permit expired – December 1, 2011. The new permit will expire on December 1, 2016. If the community of Avalon has shown no appreciable growth in the last 43 years, there will more than likely be none in the next 3 years. There is no need for a 62% increase in the Daily Average Flow. Perhaps a small increase can be made, with close supervision by TCEQ to make sure that there are no issues. If none, then perhaps another small increase can be re-visited at the time of the next renewal. To increase the Daily Average Flow by 62% would be to just simply increase the limit so that AWS&SSC will never be in violation again. In other words, just increase the limit so it is never exceeded again. Is that really what TCEQ needs to do?

Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:41 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 3:17 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*MWD
8/20/13*

From: caroldgillespie@earthlink.net [mailto:caroldgillespie@earthlink.net]
Sent: Thursday, May 09, 2013 3:04 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

Carla

COMMENTS: Violation (167034) Not Resolved This is an update to a comment that I sent to TCEQ on May 1, 2012. However, my original comment references a still outstanding issue and TCEQ has placed it under "Hearing Request" rather than as a comment. This violation has not been resolved, yet is now over a year old. I discovered a raw sewage leak on our property on April 10, 2012. TCEQ inspected and found that short-term repairs were needed immediately, and long-term repairs were necessary. Subsequent smoke tests indicated repairs were necessary in other areas of the 43 year old collection system which is comprised of clay tile pipes. AWS&SSC recently (April 2013) sent letters to home owners with issues discovered on private property. However, the short-term repairs completed last year to easement on my property are already failing. Sakrete® was poured over the crumbling concrete at the top of man holes. It is already cracked. On February 19, 2013 I sent an email to Karen Smith at TCEQ in Ft. Worth asking for an update on the violation. On February 21, 2013 I received the following response, "I assume they are still trying to find the funds/grants to repair the WSC issues that were found, including the replacement of the line leading to the plant and upgrades to associated manholes. I have no idea how close they are in this effort to find funds and how the repair projects will be prioritized. That's all I know so far. The region office will continue to track their progress during the rest of the year." From her response, it doesn't seem the regional office is doing a very good job of tracking. And, why was it not inspected during the annual inspection on January 31, 2013? The report written by the inspector cites the violation as "old." It seems very unusual that TCEQ would allow a violation to become over a year old, and not take some type of action when no progress is being made. Why did it take AWS&SSC from April 2012 until December 2012 to submit the results of a smoke test that TCEQ ordered? Has AWS&SSC even applied for grants or loans to repair the system? This needs to be resolved before AWS&SSC's permit is issued. Otherwise, it will never be completed. Avalon will continue to state that they have no money for repairs. If they are fined by TCEQ, the fine will be deferred due to financial hardship.

Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:40 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 3:17 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*MWD
5/9/13*

From: caroldgillespie@earthlink.net [<mailto:caroldgillespie@earthlink.net>]
Sent: Thursday, May 09, 2013 3:00 PM
To: donotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTITY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

COMMENTS: ENCROACHMENT ISSUE: This is an update to a comment that I sent to TCEQ on May 1, 2012. However, my original comment references a still outstanding issue and TCEQ has placed it under "Hearing Request" rather than as a comment. AWS&SSC has been encroaching on our land for years. They have an unauthorized outfall pipe carrying effluent across our property to a small stream on my property. They do not have an easement or a lease for this access. This pipe is underground and we would not have known of its existence had the restrictive easement issue not come up. Once the facts came out about AWS&SSC needing to have restrictive easements on our land, and promising them to TCEQ for years, I obtained copies of current and past permit applications. Apparently, AWS&SSC has needed the restrictive easements since 1998 but had not told our family. We only found out by attending a "special meeting" of the Board in September of 2011. I also completed my own search in the County Clerk's office of ALL easements ever obtained by AWS&SSC in its 40+ years of existence. AWS&SSC has no legal access to this property. AWS&SSC has been fined for exceeding the allowed effluent limits. Yet, neither the TCEQ nor AWS&SSC informed us of this violation. And, it's on our land! I believe that TCEQ should have notified our family since the violation occurred on our land. AWS&SSC needs to purchase this land or move their pipe prior to obtaining the new permit. If TCEQ grants the permit first, AWS&SSC will never resolve this issue. My family will not grant an easement because the existing easement that they have is not being maintained, and due to liability issues.

Marisa Weber

From: PUBCOMMENT
Sent: Thursday, May 09, 2013 4:44 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0013981001

From: PUBCOMMENT-OCC
Sent: Thursday, May 09, 2013 2:56 PM
To: PUBCOMMENT
Subject: FW: Public comment on Permit Number WQ0013981001

*MWD
05/09/13*

From: caroldgillespie@earthlink.net [<mailto:caroldgillespie@earthlink.net>]
Sent: Thursday, May 09, 2013 2:54 PM
To: doNotReply@tceq.state.tx.us
Subject: Public comment on Permit Number WQ0013981001

REGULATED ENTITY NAME AVALON WATER SUPPLY & SEWER SER CORP

RN NUMBER: RN101511863

PERMIT NUMBER: WQ0013981001

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION

CN NUMBER: CN600788590

FROM

NAME: MS Carol D Gillespie

E-MAIL: caroldgillespie@earthlink.net

COMPANY:

ADDRESS: 3921 BOBBIN LN
ADDISON TX 75001-3102

PHONE: 2145361784

FAX:

MWD

COMMENTS: LACK OF EASEMENT MAINTENANCE: This is an update to a comment with pictures that I sent to TCEQ on May 1, 2012. However, my original comment references a still outstanding issue and TCEQ has placed it under "Hearing Request" rather than as a comment. Avalon Water Supply & Sewer Services Corporation (AWS&SSC) has a legal easement across our land for a pipeline to carry raw sewage (influent) to the plant. However, they are not maintaining this easement. On April 10, 2012 I filed a complaint with the TCEQ regarding a raw sewage leak on the easement. The leak had obviously been there some time, yet it had not been repaired. A three and a half to four foot deep hole had been created around one of the concrete pipe/manhole covers. A broken pipe was clearly visible at the bottom of the hole with raw sewage bubbling out of it. In addition, the concrete around that manhole cover and another one nearby were severely cracked. The hole was in plain sight of anyone going to the plant. I know nothing about sewer operations, yet I noticed it as soon as I drove down the driveway leading to the plant. Not only was it visible, the smell was overpowering even though the windows on my car were up. I was later surprised to read a TCEQ report written by Karen Smith that stated, "The operator of the system, Dean Carrell, was promptly notified and later reported no issues or sewer overflows were observed within 2 hours of being notified of the complaint." Only after I forwarded pictures to the TCEQ the next day was my complaint taken seriously. All of AWS&SSC's influent pipes are on my family's property. AWS&SSC has a legal easement to go down our fence line with the pipes. We were very distressed to see that during the last annual inspection (January 31, 2013) that the collection system was not part of the inspection. This still open violation was referred to as "old." Why was the collection system not included in the annual inspection? This easement goes down the fence line of my pasture. The access to the pipes are sitting so high up, that I cannot mow the easement with a tractor and mower. My pasture is used for hay production at this time. However, I am unable to use this strip of land because the manhole covers sit so high up. It needs to be cut using a weed eater. AWS&SSC should be doing this. I should not have to hire someone to clean up around their manhole covers. And, my fence has been damaged. Our legal agreement giving AWS&SSC an easement across our land has been violated. The easement reads in part, "The right is reserved to Grantor to use the land over which a right-of-way or easement is herein granted for the general agricultural and grazing purposes, provided such use shall not include the growing of trees thereon or any other use which might interfere with the exercise by the Association of the rights hereby granted. Grantee will maintain such easement in a state of good repair and efficiency so that no unreasonable damages will result from its use to Grantor's premises." I believe that AWS&SSC has let the vegetation on the easement grow up so tall, so that neither I nor the TCEQ could view the condition of the collection system. The short-term repair that AWS&SSC made to the concrete around the manhole covers is already cracking. They simply poured Sakrete® on top of the old concrete. The permit should be denied, or delayed, unless AWS&SSC replaces the pipes and concrete going across my property as ordered by the TCEQ, and clean up the easement where I can use it again.