

TCEQ DOCKET NO. 2013-1507-MWD

IN RE THE APPLICATION BY	§
AVALON WATER SUPPLY AND	§
SEWER SERVICE CORPORATION	§
FOR A MAJOR AMENDMENT TO	§
PERMIT NO. WQ0013981001	§

PROTESTANTS' RESPONSE TO HEARING REQUESTS

TO THE HONORABLE COMMISSION:

NOW COME Protestants, Carol Gillespie, Mary Grace Gillespie Bates, and Marcia Gillespie, and file this response to hearing request in the above-referenced matter.

I. Request for Contested Case Hearing

Ms. Carol Gillespie, on behalf of the Protestants, filed information and comments, dated May 1, 2012, that included a request for a public hearing (contested case hearing) on Avalon Water Supply and Sewer Service Corporation's ("the Applicant's") application for a major amendment to Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013981001 ("the Application"). The Protestants assert that there are several contested issues, relevant to Avalon's application and within the jurisdiction of the Texas Commission on Environmental Quality ("TCEQ"), that warrant referral for hearing to the State Office of Administrative Hearings (SOAH).

II. No Objection from Avalon

Despite having ample opportunity to respond to the Protestants' request for contested case hearing, and despite having notice of the Executive Director's ("ED's") and the Office of Public Interest Counsel's ("OPIC's") responses to the hearing request, the Applicant **has not**

served Protestants with an objection or other response in regard to these matters. The Protestants have therefore been rendered unable to develop and file a full response to any of the Applicant's potential objections, because **no such objections have been communicated to the Protestants.**

Furthermore, Protestants were prepared to enter into mediation, prior to the Commission's November 20, 2013, hearing on the request for a contested case hearing. The Applicant, however, has elected to delay participation in mediation, until after the November 20, 2013, hearing.

III. Affected Persons

The Protestants concur with the Executive Director ("ED") and the Office of Public Interest Counsel ("OPIC") that they are affected persons under the requirements of 30 TAC § 55.203, and incorporate by reference the ED's analysis on pages 5 and 6 of its response and OPIC's analysis on pages 6 through 8 of its response.

IV. Matters to Be Referred to SOAH

The Protestants respectfully concur with the ED that the following issues, at a minimum, should be referred to SOAH for a contested case hearing:

- 1. Whether the Applicant properly requested a variance from the buffer zone requirements?**
- 2. Whether the Applicant's request for an increase in flow complies with the applicable sections of the TCEQ rules?**

3. Whether the facility's collection system is adequate and properly maintained for the requested increase in flow?

4. Whether the sludge disposal provision requiring the Applicant to dispose sludge generated at the facility at the City of Italy's wastewater treatment plant is consistent with TCEQ rules?

5. Whether the permitted discharge will negatively impact the water supply for the requestor's livestock in violation of the Texas Surface Water Quality Standards and the proposed permit conditions?

6. Whether the application was made available for reviewing and copying in compliance with TCEQ rules?

In addition, the Protestants respectfully concur with OPIC that the following issues should be referred to SOAH for a contested case hearing:

1. Whether the Applicant has shown good cause for obtaining a buffer zone variance consistent with the requirements of the Commission's Chapter 309 rules?

2. Whether the proposed discharge will adversely impact crops raised for human consumption and water supplies and grazing pasture for livestock?

3. Whether the Applicant's facility has an adequately functioning discharge route with capacity suitable to accommodate the increased volume of effluent authorized for discharge by the proposed permit amendment?

4. Whether the proposed amendment should be denied based on the Applicant's failure to maintain and repair the wastewater collection system used in currently permitted operations?

WHEREFORE, in light of the fact that the Protestants are affected persons, and the fact that there are numerous contested issues with regard to the Application, the Protestants pray that the Commission will refer the contested issues to SOAH for a contested case hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 8, 2013, the original and seven copies of the "Protestants' Response to Hearing Requests" for Avalon Water Supply and Sewer Service Corporation, TPDES Permit No. WQ0013981001, were filed with the TCEQ's Office of the Chief Clerk and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, electronic mail, or by deposit in the U.S. Mail.



GREG WILHELM

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