





submission of its application for TPDES Permit No. WQ0015080001, Walton learned that the Aus-Tex facility had received 39 violation notices since 2007 identified on the TCEQ website. These violations include: failure to meet permit parameters, failure to maintain adequate sampling records, failure to provide adequate safeguards to prevent the discharge of untreated wastes or inadequately treated wastes during an electrical power failure, and others. Several of these notices of violation are identified as still being active. The number and significance of these violations is of major concern to Walton.

The inability to come to even a preliminary agreement with Aus-Tex coupled with the performance of other wastewater treatment facilities owned by Aus-Tex are the primary reasons that Walton has chosen to no longer pursue a combined wastewater system with Aus-Tex.

In the letter from Willatt and Flickinger on behalf of Dempsey Buchanan, the following unsubstantiated allegations of potential adverse effects from Walton's proposed treatment facility to the Dempsey Buchanan property are made: negative impact to property value, health and safety of future occupants of the property, noise impacts, smell impacts, and visual impacts. The allegations are disingenuous on multiple levels. First, as identified in the Walton Texas LP TPDES Permit No. WQ0015080001 application, the treatment facility will serve a proposed mixed use development consisting of single-family and multi-family residential units, some of which will be constructed in the immediate vicinity of the Walton treatment facility. Walton would be ill-served by allowing its facility to under or poorly perform and not insuring that all of the stated potential negative impacts are minimized or avoided altogether. Moreover, the threatened adverse effects to the Dempsey Buchanan property speculated about in the Willatt and Flickinger letter could just as likely occur due to the poor performance of the Aus-Tex Mustang Plaza facility purposed to be built near the Dempsey Buchanan owned property, particularly given the poor performance and compliance history of Aus-Tex.

The neighboring Aus-Tex facility which to date is unbuilt, is coming due for renewal. As currently permitted, it is not capable of serving the development planned for the Walton property. Moreover, given the documented compliance history of Aus-Tex, Walton has legitimate concerns about allowing Aus-Tex to become its wastewater provider. Accordingly, Aus-Tex's existing permitted, but unbuilt, and undersized facility is not reasonably capable of serving the Walton property.

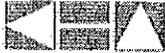
Should you have any questions or require any additional documentation, please feel free to contact me at (210) 541-9166.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.

V. Ryan Sowa, P.E.

Copy to: Mr. Adam Moore, Walton Texas, LP



Attachments

- *Letter – Willatt and Flickinger (on behalf of Aus-Tex Parts and Services, Ltd.) to TCEQ (August 2, 2013)*
- *Letter – Willatt and Flickinger (on behalf of Dempsey Buchanan LP) to TCEQ (August 2, 2013)*
- *Letter – Aus-Tex Parts and Services, Ltd. to TCEQ (June 7, 2013)*

**WILLATT & FLICKINGER  
ATTORNEYS AT LAW**

2001 NORTH LAMAR • AUSTIN, TEXAS 78705 • (512) 476-6604 • FAX (512) 469-9148

August 2, 2013

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2013 AUG - 2 PM 2:25  
CHIEF CLERKS OFFICE

**VIA CERTIFIED MAIL, RETURN RECEIPT  
REQUESTED & BY HAND-DELIVERY**

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

**REVIEWED**

AUG 05 2013

By AP

#  
MWD  
8/6/13

**Re: Application of Walton Texas, LP to Obtain a Water Quality Permit, Proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015080001 in Caldwell County, Texas; Request for a Contested Case Hearing**

Dear Chief Clerk:

This law firm represents Aus-Tex Parts and Service, Ltd. I am writing to you in connection with the above-captioned permit. Please let this letter serve as a formal request for a public hearing.

Pursuant to the requirements to request a public hearing, I am providing the information below:

**ON BEHALF OF AUS-TEX PARTS AND SERVICE, LTD., I REQUEST A CONTESTED CASE HEARING.**

**Name, Address, Phone Number**

Aus-Tex Parts and Service, Ltd.  
c/o Willatt & Flickinger  
2001 North Lamar  
Austin, Texas 78705  
Ph: (512) 476-6604

**Applicant's Name and Permit Number**

Walton Texas, LP; Permit No. WQ0015080001

**Location and Distance of Property/Activities Relative to the Proposed Facility**

The proposed facility is located within one (1) mile of the CCN held by Aus-Tex Parts and Service, Ltd., which is Mustang Plaza CCN #20953.

August 2, 2013  
Page 2

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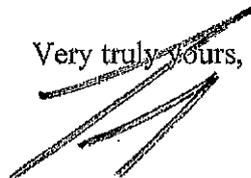
**Specific Description of How Aus-Tex Parts and Service, Ltd. Would be Adversely Affected by the Facility in a Way Not Common to the General Public**

The applicant, Walton Texas, LP previously requested wastewater service for their proposed development of 850 single-family and multi-family units from Mustang Plaza's CCN on December 3, 2012. Aus-Tex Parts and Service, Ltd. requested information to facilitate review of the request by letter dated December 20, 2012. Copies of those letters were filed by the Applicant with the Commission on May 24, 2013.

Aus-Tex Parts and Service, Ltd. already holds wastewater CCN #20953 and Water Quality Permit No. WQ0014104-001 which are located within one (1) mile of the proposed facility. Aus-Tex Parts and Service, Ltd. received a letter from Ryan Sowa, P.E. regarding a proposed development that needed wastewater service. The information he provided was not sufficient to complete his request. On December 20, 2012, Aus-Tex Parts and Service, Ltd. conveyed through its letter that the request did not provide sufficient information and that Aus-Tex Parts and Service, Ltd. expected it to cost approximately \$6,000 for the engineering analyses and to develop cost estimates for extending service to complete his request. Mr. Sowa did not respond to that correspondence and has made no effort to provide additional information. The request for service has not been denied. The proposed application is therefore not in compliance with the "Regionalization of Wastewater Utilities" expressed in TCEQ policy statement RG-357.

Aus-Tex Parts and Service, Ltd. requests a contested case hearing on the above-captioned application filed by Walton Texas, LP.

Very truly yours,



Bill Flickinger

BF/jc

cc: Mr. Donald Dempsey, President  
Aus-Texas Parts and Service, Ltd.  
P.O. Box 17547  
Austin, Texas 78760-754

Mr. Joseph Etzler, EIT, Project Manager  
Travis Associates Consulting Engineers, Inc. F-127  
1390 Hillside Terrace  
Buda, Texas 78610

**WILLATT & FLICKINGER  
ATTORNEYS AT LAW**

2001 NORTH LAMAR • AUSTIN, TEXAS 78705 • (512) 476-6604 • FAX (512) 469-9148

August 2, 2013

**VIA CERTIFIED MAIL, RETURN RECEIPT  
REQUESTED & BY HAND-DELIVERY**

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

REVIEWED

AUG 05 2013

By BP

TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2013 AUG -2 PM 2:25  
CHIEF CLERK'S OFFICE

MWD  
86692

**Re: Application of Walton Texas, LP to Obtain a Water Quality Permit, Proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0015080001 in Caldwell County, Texas; Request for a Contested Case Hearing**

Dear Chief Clerk:

This law firm represents landowner, Dempsey Buchanan LP. I am writing to you in connection with the above-captioned permit. Please let this letter serve as a formal request for a public hearing.

Pursuant to the requirements to request a public hearing, I am providing the information below:

**ON BEHALF OF LANDOWNER, DEMPSEY BUCHANAN LP, I REQUEST A CONTESTED CASE HEARING.**

**Name, Address, Phone Number**

Dempsey Buchanan LP  
c/o Willatt & Flickinger  
2001 North Lamar  
Austin, Texas 78705  
Ph: (512) 476-6604

**Applicant's Name and Permit Number**

Walton Texas, LP; Permit No. WQ0015080001

August 2, 2013  
Page 2

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**Location and Distance of Property/Activities Relative to the Proposed Facility**

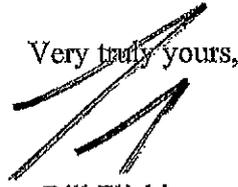
The proposed discharge point is located less than one (1) mile upstream of property owned by Dempsey Buchanan LP. The property owned by Dempsey Buchanan LP is depicted as Tract 20 on the Property Ownership Exhibit Sheet EX 1 in the application filed with the Commission by Walton Texas, LP. Walton Texas, LP's proposed treatment plant is proposed to be located approximately 1,200 feet from the property line of the property owned by Dempsey Buchanan LP.

**Specific Description of How Landowner, Dempsey Buchanan LP Would be Adversely Affected by the Facility in a Way Not Common to the General Public**

The property owned by Dempsey Buchanan LP is adjacent to Cedar Creek and less than one (1) mile downstream from the proposed discharge point. Dempsey Buchanan LP is developing the property for residential use and is concerned with the potential adverse impact on the property's value, and the potential for impacting the health and safety of future occupants of the property.

Also, since the proposed treatment plant to be built by Walton Texas, LP is approximately 1,200 feet from the property line of the property owned by Dempsey Buchanan LP there is concern with adverse impacts including noise, smell and the visual impact of the proposed plant.

Dempsey Buchanan LP requests a contested case hearing on the above-captioned application filed by Walton Texas, LP.

Very truly yours,  
  
Bill Flickinger

BF/jc

cc: Mr. Donald Dempsey, President  
Aus-Texas Parts and Service, Ltd.  
P.O. Box 17547  
Austin, Texas 78760-754

Mr. Joseph Etzler, EIT, Project Manager  
Travis Associates Consulting Engineers, Inc. F-127  
1390 Hillside Terrace  
Buda, Texas 78610



MWD  
86692

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

*Satisfying customers year after year*

CHIEF CLERKS OFFICE

June 7, 2013

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

REVIEWED

JUN 14 2013

By PH

CHIEF CLERKS OFFICE

2013 JUN 13 PM 2:40

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Subject: Contested Case Hearing/Water Quality Permit  
Proposed TPDES Permit WQ0015080001  
Walton Texas, LP

Executive Director:

I am hereby requesting on behalf of Aus-Tex Parts and Services Ltd, requesting a contested case hearing to the issuance of the proposed water quality permit.

1. Contact Information:

Aus-Tex Parts and Service Ltd.  
Donald Dempsey, President  
PO Box 17547  
Austin, Texas 78760-754  
(512) 385-9700

2. Applicants Name and Permit No.:

Walton Texas, LP; Proposed permit WQ0015080001

3. Location:

Within one mile of Aus-Tex Parts and Services, LTD wwtp site and discharge point and within 1/2 mile of the Mustang Plaza CCN boundary, See attached map.

4. Justification:

Aus-Tex Parts and Service already holds wastewater CCN #20953 and Water Quality Permit No WQ0014104-001 which are located within 1 mile of the proposed facility. On December 3, 2012 we were contacted by Ryan Sowa, P.E. regarding a proposed development that needed wastewater service (see attached letter). The information he provided was not sufficient to complete his request. On December 20, 2012, I conveyed through the attached letter that is request did not provided sufficient information and that we expected it to cost approximately \$6000 for the engineering analyses and to develop cost estimates for extending service to complete his request. Mr. Sowa did not respond to my correspondence. In our opinion, the proposed application is not in compliance with the "Regionalization of Wastewater Utilities" expressed in TCEQ policy statement RG-357.

Respectfully,

Donald Dempsey, President  
Aus-Tex Parts and Service, Ltd.



*Satisfying customers year after year*

December 20, 2012

V. Ryan Sowa, P.E.  
Kinley-Horn and Associates, Inc.  
610 NW Loop 410, Suite 350  
San Antonio, Texas 78216

**Subject: Sanitary Sewer Service Request  
CCN #20953 Mustang Plaza  
Aus-Tex Parts and Services Ltd.**

**Mr. Sowa:**

We are in receipt of a December 3, 2012 letter with accompanying map requesting wastewater service ("sanitary sewer service" or "wastewater collection"). As you are aware, your property is not within or CCN area, but we are willing to provide wastewater service to your development, contingent upon cost and feasibility analyses and proper contract with the property owner.

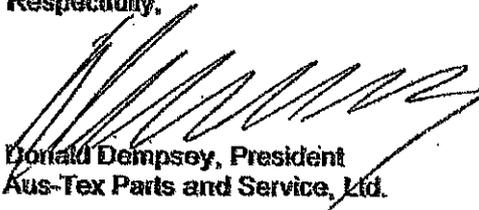
Your letter states your development is planning 850 residential units as well as some commercial and retail units scheduled to begin construction January 2014. Unfortunately this is not sufficient information for us evaluate your request, much less give you up or down answer on whether service can be made available within 30 days of your letter

At a minimum we will need a formal application that includes the following.

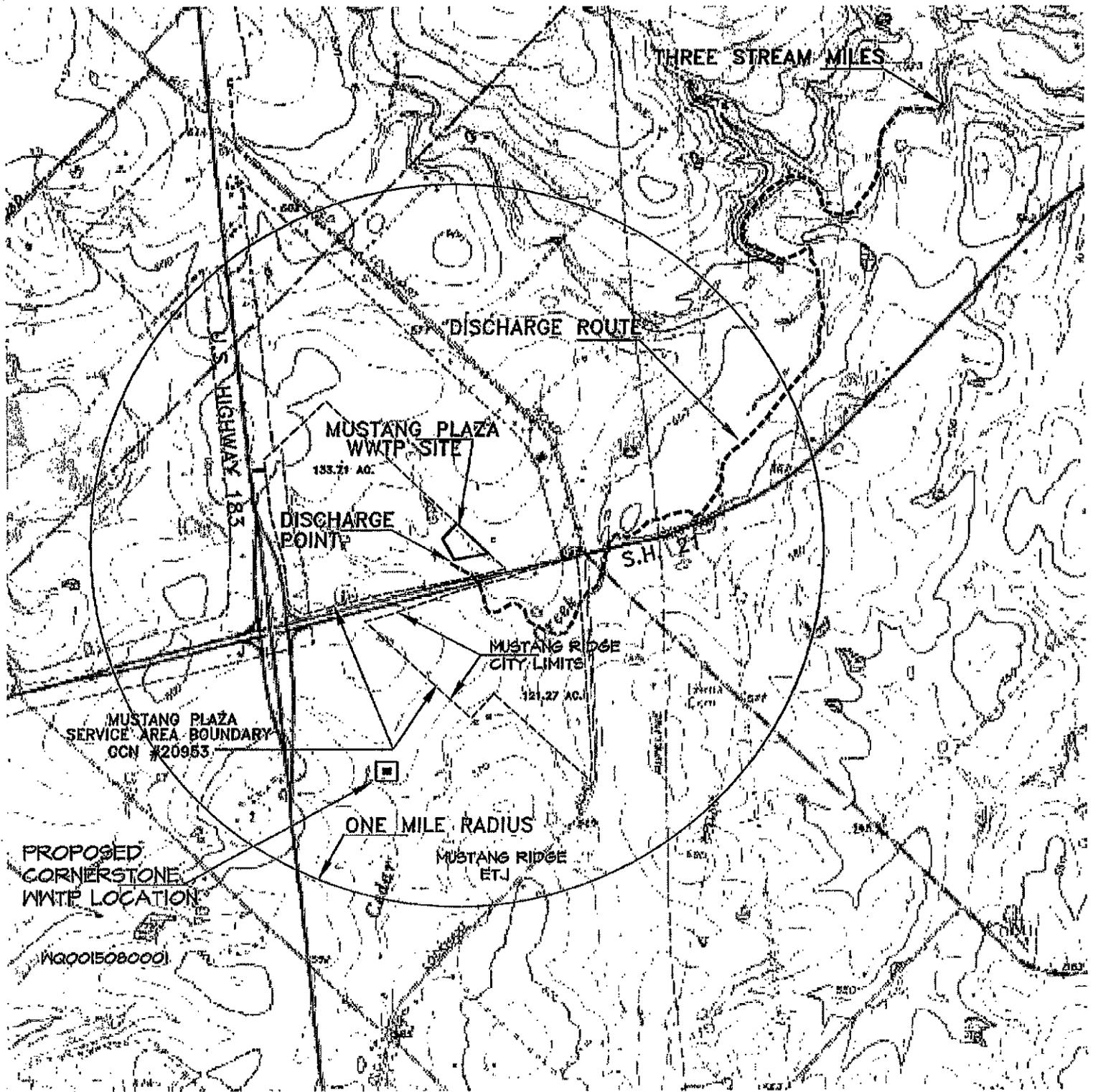
1. Letter of formal request of wastewater service from the owner of the property that identifies the responsible party for the application.
2. 2 sets of the Development Master Plan on 24"x36" sheets
3. Phasing plan for the development that identifies the types of structures served per phase, LUE tabulation per phase, estimated daily wastewater flow per phase, and dates wastewater service is required to be available by phase.
4. Preliminary Construction plans on the phases and contour maps of the entire property.
5. All planning material must be signed and sealed by a professional engineer.
6. Application fee of \$6,000 for review of the application and developing cost estimates for the necessary wastewater improvements due to your development.

If you have any questions regarding the above, please contact me at your earliest convenience.

Respectfully,

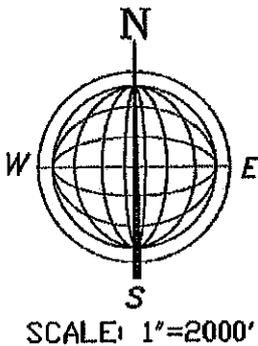


Donald Dempsey, President  
Aus-Tex Parts and Service, Ltd.



**MUSTANG PLAZA WWTP**

AUS-TEX PARTS AND SERVICE LLC  
 P.O. BOX 17547  
 AUSTIN, TEXAS 78760



03/02/2004



*Chase Baromeo, Jr.*

CREEDMOOR 1994 USGS 7.5 MIN. QUAD

**TA TRAVIS ASSOCIATES**  
 CONSULTING ENGINEERS, INC. F-127  
 CIVIL-STRUCTURAL-ENVIRONMENTAL-MECHANICS-MATERIALS  
 1360 Hillside Terrace Buda, Texas 78610



Kimley-Horn  
and Associates, Inc.

~ VTD-12

December 3, 2012

Mustang Plaza CCN  
Aus-Tex Parts and Services, Ltd.  
P.O. Box 17547  
Austin, Texas 78760-7547

601 NW Loop 410  
Suite 350  
San Antonio, Texas  
78218

TBPE F028

**Re: Sanitary Sewer Service Request  
CCN #20953**

Dear Sir or Madam:

The purpose of this letter is to fulfill the requirements of the Texas Commission on Environmental Quality (TCEQ) in requesting service for wastewater collection in our proposed development. We need a determination from Mustang Plaza CCN of your ability to provide sanitary sewer service to our 200-acre site in a timely manner for a mixed use development with approximately 850 residential (single-family and multi-family) units as well as some commercial and retail units. Our site is located within two (2) miles of the property designated for CCN #20953, as indicated on the attached map. Our project is tentatively scheduled to begin construction in January 2014.

Please notify me in writing within 30 days whether or not service can be made available to the site.

Thank you for your timely response in this matter.

Respectfully,

**KIMLEY-HORN AND ASSOCIATES, INC.**

V. Ryan Sowa, P.E.

Attachment: Location Map

TEL 210 541 8160  
FAX 210 541 8699

\\SNA\FP01\Data\Project\SNA\_Util\11049223915\DOC\SV.tr\_MustangPlaza-CCNServiceRequest.docx

AUS-TEX PARTS & SERVICES, LTD.  
dba VILLAGE HOMES  
P.O. BOX 17547  
AUSTIN, TX 78760  
512-385-9700

**CERTIFIED MAIL™**



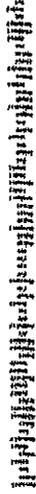
7011 3500 0000 0275 6265

CHIEF CLERK, MC 105  
TCEQ  
PO BOX 13087  
AUSTIN, TX 78711-3087



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