

Mr. Castleberry's Direct Line: (512) 322-5856  
bcastleberry@lglawfirm.com

MWD  
86430

December 2, 2013

REVIEWED

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DEC 05 2013

By BR

Ms. Bridget Bohac (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78767-3087

VIA ELECTRONIC TRANSMISSION  
AND FIRST CLASS MAIL

Re: Algonquin Water Resources of Texas, LLC  
TPDES Permit No. WQ0013849001 (2694-5)

Dear Ms. Bohac:

On March 6, 2013, Upper Neches River Municipal Water Authority ("UNRMWA") filed a contested case hearing request regarding the Applicant's Application. On October 31, 2013, UNRMWA received a copy of the Executive Director's October 30, 2013 response to comments regarding this matter. UNRMWA continues to oppose the issuance of this permit on the basis of water quality concerns and regionalization and reasserts its request for a contested case hearing regarding this matter and based on the information submitted in UNRMWA's March 6, 2013 letter.

Thank you for your assistance in this important matter. If you or your staff has questions concerning this letter, or I may be of service to you, please feel free to call me at your earliest convenience.

Sincerely,

Brad B. Castleberry

BBC/jdg

cc: Mr. Monty Shank, UNRMWA  
Ms. Sara Thornton

CHIEF CLERKS OFFICE  
2013 DEC 03 AM 9:49  
TXCOMMISSION ON ENVIRONMENTAL QUALITY

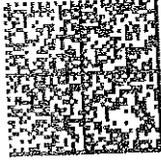
MWD



Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue Suite 1900 Austin, Texas 78701

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JR



UNITED STATES POSTAGE  
METRO  
\$ 00.46<sup>00</sup>  
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0004274116 DEC 02-2013  
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OFFICE

Ms. Bridget Bohac (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78767-3087



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816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Telephone: (512) 322-5800  
Facsimile: (512) 472-0532  
www.lglawfirm.com

Mr. Castleberry's Direct Line: (512) 322-5856  
bcastleberry@lglawfirm.com

December 2, 2013

MWD  
86430

Ms. Bridget Bohac (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78767-3087

VIA ELECTRONIC TRANSMISSION  
AND FIRST CLASS MAIL

2013 DEC -2 PM 4:19  
OFFICE CLERK'S OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Re: Algonquin Water Resources of Texas, LLC  
TPDES Permit No. WQ0013849001 (2694-5)

REVIEWED

DEC 03 2013

By BP

Dear Ms. Bohac:

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Sincerely,

Brad B. Castleberry

BBC/jdg

cc: Mr. Monty Shank, UNRMWA  
Ms. Sara Thornton

MWD



816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
Telephone: (512) 322-5800  
Facsimile: (512) 472-0532  
www.lglawfirm.com

TELECOPIER COVER SHEET

December 2, 2013

PLEASE DELIVER THE FOLLOWING PAGES:

To: Bridget Bohac  
Firm: TCEQ Chief Clerk  
Telecopy No.: 512-239-3311  
Verification No.: 512-239-3300

Client No.: 2694-5  
From: Brad Castleberry

No. of Pages: 1 + cover sheet  
Documents transmitted: Reaffirmation of request for contested case hearing  
Comments: Algonquin Water Resources of Texas, LLC TPDES Permit No. WQ0013849001

2013 DEC -2 PM 4:19  
CHIEF CLERK'S OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL US AS SOON AS POSSIBLE AT (512) 322-5844.

**Marisa Weber**

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**From:** PUBCOMMENT-OCC  
**Sent:** Monday, December 02, 2013 3:37 PM  
**To:** PUBCOMMENT-OCC2  
**Subject:** FW: Public comment on Permit Number WQ0013849001  
**Attachments:** 2013 12 02 BBC to B Bohac reiterating CCH request Algonquin TPDES.pdf

H

**From:** [jgoldstein@lglawfirm.com](mailto:jgoldstein@lglawfirm.com) [<mailto:jgoldstein@lglawfirm.com>]  
**Sent:** Monday, December 02, 2013 3:17 PM  
**To:** [donotReply@tceq.state.tx.us](mailto:donotReply@tceq.state.tx.us)  
**Subject:** Public comment on Permit Number WQ0013849001

*mwd*  
*86430*

**REGULATED ENTITY NAME** THE VILLAGES RESORT

**RN NUMBER:** RN102076270

**PERMIT NUMBER:** WQ0013849001

**DOCKET NUMBER:**

**COUNTY:** SMITH

**PRINCIPAL NAME:** ALGONQUIN WATER RESOURCES OF TEXAS LLC

**CN NUMBER:** CN602882839

**FROM**

**NAME:** MR Brad Castleberry

**E-MAIL:** [jgoldstein@lglawfirm.com](mailto:jgoldstein@lglawfirm.com)

**COMPANY:** Lloyd Gosselink Rochelle & Townsend

**ADDRESS:** 816 CONGRESS AVE Suite 1900  
AUSTIN TX 78701-2442

**PHONE:** 5123225800

**FAX:**

**COMMENTS:** Reaffirmation of contested case hearing request attached.

*MW*

Mr. Castleberry's Direct Line: (512) 322-5856  
bcastleberry@lglawfirm.com

December 2, 2013

Ms. Bridget Bohac (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78767-3087

**VIA ELECTRONIC TRANSMISSION  
AND FIRST CLASS MAIL**

Re: Algonquin Water Resources of Texas, LLC  
TPDES Permit No. WQ0013849001 (2694-5)

Dear Ms. Bohac:

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Sincerely,

Brad B. Castleberry

BBC/jdg

cc: Mr. Monty Shank, UNRMWA  
Ms. Sara Thornton

**Marisa Weber**

---

**From:** PUBCOMMENT  
**Sent:** Wednesday, March 06, 2013 11:05 AM  
**To:** PUBCOMMENT-OCC2  
**Subject:** FW: Public comment on Permit Number WQ0013849001  
**Attachments:** 2013 03 06 BBC to B Bohac re CCH on Algonquin TPDES1.pdf

H

**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, March 06, 2013 9:08 AM  
**To:** PUBCOMMENT  
**Subject:** FW: Public comment on Permit Number WQ0013849001

MWD  
86430

**From:** [jgoldstein@lglawfirm.com](mailto:jgoldstein@lglawfirm.com) [<mailto:jgoldstein@lglawfirm.com>]  
**Sent:** Wednesday, March 06, 2013 8:45 AM  
**To:** [donotReply@tceq.state.tx.us](mailto:donotReply@tceq.state.tx.us)  
**Subject:** Public comment on Permit Number WQ0013849001

**REGULATED ENTITY NAME** THE VILLAGES RESORT

**RN NUMBER:** RN102076270

**PERMIT NUMBER:** WQ0013849001

**DOCKET NUMBER:**

**COUNTY:** SMITH

**PRINCIPAL NAME:** ALGONQUIN WATER RESOURCES OF TEXAS LLC

**CN NUMBER:** CN602882839

**FROM**

**NAME:** MR Brad Castleberry

**E-MAIL:** [jgoldstein@lglawfirm.com](mailto:jgoldstein@lglawfirm.com)

**COMPANY:** Lloyd Gosselink Rochelle & Townsend PC

**ADDRESS:** 816 CONGRESS AVE Suite 1900  
AUSTIN TX 78701-2442

**PHONE:** 5123225856

MWD

**FAX:**

**COMMENTS:** Please see attached comment and contested case hearing request

Mr. Castleberry's Direct Line: (512) 322-5856  
[bcastleberry@lglawfirm.com](mailto:bcastleberry@lglawfirm.com)

March 6, 2013

Ms. Bridget Bohac (MC 105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78767-3087

VIA ELECTRONIC TRANSMISSION

Re: Algonquin Water Resources of Texas, LLC  
TPDES Permit No. WQ0013849001 (2694-5)

Dear Ms. Bohac:

This letter is submitted on behalf of the Upper Neches River Municipal Water Authority ("UNRMWA"), in response to the notice of receipt of an application and intent to obtain water quality permit (the "Application") filed by Algonquin Water Resources of Texas, LLC ("Applicant"). Please consider this letter as UNRMWA's formal comment and request for a contested case hearing on the Application.

First, please be advised that I represent UNRMWA regarding the above-referenced matter. Please direct all correspondence to me at:

Mr. Brad B. Castleberry  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
(512) 322-5856 (Phone)  
(512) 472-0532 (Fax)  
[bcastleberry@lglawfirm.com](mailto:bcastleberry@lglawfirm.com)

UNRMWA is a conservation and reclamation district pursuant to the Texas Constitution, Article XVI, Section 59. UNRMWA was created with the power to store, control, conserve, protect, distribute, and utilize storm and floodwaters and unappropriated flow of the Neches River and its tributaries as are located within all of Anderson, Cherokee, Henderson, and Smith Counties. UNRMWA relies upon water supplies in the Neches River Basin to meet the municipal and industrial water needs of its customers. UNRMWA is the owner and operator of Lake Palestine, authorized by Certificate of Adjudication (COA) No. 06-3254, as amended. UNRMWA also holds and/or has contracts for other water rights in the Neches River Basin. The Neches River and its tributaries provide water that supports the economic health and wellbeing

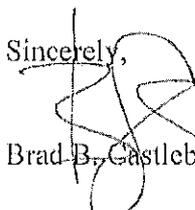
Ms. Bridget Bohac  
March 6, 2013  
Page 2

of UNRMWA and its potable water customers. Accordingly, UNRMWA has significant interests in the waters of the Neches River Basin, and more specifically Lake Palestine. The Application, by requesting a major amendment to now discharge into the waters of the State, and specifically to Lake Palestine, may significantly impact the quality of water in Lake Palestine. As such, the Application may not be in the public welfare of the citizens of East Texas. The Application fails to identify an actual demand for the ability to discharge treated effluent versus the land application of same, which suggests that the applicant has not met its burden of proof on need, as well as the myriad of public interest factors, including but not limited to water quality, nuisance and odor, maintenance of stream standards, and potential impacts to human health and the environment that may increase pollutant loading to Lake Palestine.

For these reasons noted herein, and on behalf of UNRMWA, I hereby request a contested case hearing on the Application. My mailing address, phone number and fax number are provided above. UNRMWA reserves the right to raise and pursue any and all issues that may be relevant to its interests in the event of a contested case hearing. Furthermore, UNRMWA has interests, as discussed above, that are not common to the general public in issues that are, or may be, raised in any proceeding on the Application.

Thank you for your assistance in this important matter. If you or your staff has questions concerning this letter, or I may be of service to you, please feel free to call me at your earliest convenience.

Sincerely,

  
Brad B. Castleberry

BBC/jdg

cc: Ms. Pauline Cantu, TCEQ  
Mr. Monty Shank, UNRMWA  
Ms. Sara Thornton

**MATHEWS & FREELAND, L.L.P.**

ATTORNEYS AT LAW

JIM MATHEWS  
JOE FREELAND

Westpark II, Suite 260  
8140 North Mopac Expressway  
AUSTIN, TEXAS 78768-1568

CHIEF CLERK'S OFFICE

(512) 404-7800  
FAX: (512) 703-2785

November 25, 2013

REVIEWED

DEC 02 2013

By bf

H

*Via Electronic Submission & Mail*

Bridget C. Bohac, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

MWD  
86430

Re: Algonquin Water Resources of Texas, LLC TPDES Permit No. WQ0013849001,  
City of Tyler's Comments

Dear Ms. Bohac:

We are legal counsel for the City of Tyler and have been authorized by Tyler to make the following request for contested case hearing of the referenced TPDES permit amendment application.

**Request for Contested Case Hearing**

The City of Tyler requests a contested case hearing. Tyler disputes the ED's decision to allow Algonquin Water Resources of Texas, LLC, (Algonquin) to begin discharging treated wastewater effluent into one of Tyler's major sources of drinking water. Tyler believes that the draft permit is inadequate because it fails to adequately protect water quality in the receiving stream, provides for insufficient capacity, and fails to contain provisions to ensure that the permittee will properly operate and maintain the facility, conditions that are needed given the permittee's abysmal compliance history.

**Identity of Requester**

The City of Tyler is a home-rule municipality located in Smith County, Texas. Tyler's contact information for this proceeding is as follows:

Tyler Contact  
Mr. Gregory M. Morgan, P.E.  
Director of Utilities and Public Works  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710  
(903) 531-1234  
Fax: (903) 531-1259

Authorized Representative  
Mr. Joe Freeland  
Mathews & Freeland, LLP  
Westpark II, Suite 260  
8140 N. MoPac Expy  
Austin, Texas 78759  
(512) 404-7800  
Fax: (512) 703-2785  
[jfreeland@mandf.com](mailto:jfreeland@mandf.com)

MWD

### **Tyler's Demonstration of Affected Person Status**

The City of Tyler has interests related to legal rights, duties, privileges, powers, or economic interests affected by this application. Through the referenced application, Algonquin seeks authorization to discharge wastewater effluent into Lake Palestine. The location of the proposed discharge from this facility is near to the location of Tyler's intake structure in Lake Palestine. Tyler obtains a significant portion of its municipal water supply from Lake Palestine, and the share of Tyler's water supply from Lake Palestine will increase in the future as Tyler expands pumping from the reservoir. Tyler currently pumps approximately 20 MGD from Lake Palestine to meet drinking water needs in Tyler and throughout Smith County and has contract rights to purchase up to 60 MGD in the future to meet growing drinking water needs in Smith County.

### **Tyler's Disputed Issues**

- 1. Tyler disputes the ED's conclusion that the permitted discharge will not adversely affect water quality in Lake Palestine. [Comment 1]**

The proposed discharge, even with the discharge limits contained in the draft permit, will increase the pollutant load into Lake Palestine. Ongoing monitoring of Lake Palestine indicates a number of existing water quality issues, including depressed dissolved oxygen, high pH, and high levels of nutrients in the lake. Tyler is concerned that this increase pollutant loading will impair Tyler's use of water from Lake Palestine for drinking water purposes.

- 2. Tyler disputes the ED's conclusion that the permitted discharge will not exacerbate existing taste and odor issues related to water diverted from Lake Palestine. [Comment 2]**

Since bringing its Lake Palestine Water Treatment Plant online in 2004, Tyler has been faced with a number of taste and odor issues that have forced the city to incur significant unanticipated costs. Tyler is concerned that the additional pollutant loading associated with this application will exacerbate these problems. The Commission is authorized by statute and its rules to impose sufficient conditions on the discharges from this facility to adequately protect Tyler's source of drinking water. Tyler wants the Commission to use its authority appropriately.

- 3. Tyler disputes the ED's conclusion that the permitted flow rates are appropriate given the reasonably expected level of demand on the plant. [Comment 3]**

Applicant seeks to treat a proposed maximum flow of 0.200 MGD. Based on information provided by the Applicant's engineer, a review of the Smith County Appraisal District maps, and the Commission's minimum design requirements, the plant should be constructed to handle a capacity of greater than 0.200 MGD. The application does not contain a calculation of design flows nor does it set out the flows at the existing facility. The Commission should not issue a permit that is insufficient to address the expected actual flows into a facility. Undersized facilities will lead to exceedences of permit limits and increased pollutant loading.

**4. Tyler disputes the ED's conclusion that the draft permit contains sufficient provisions to adequately ensure compliance with applicable regulations and permit provisions given the applicant compliance history. [Comment 4]**

Tyler is concerned that the draft permit does not contain sufficient provisions to ensure compliance by the applicant. This applicant, Algonquin Water Resources of Texas, owns two other treatment plants in Smith County – Tall Timbers Utility Company, TPDES Permit WQ0013000001; and Woodmark Utilities, TPDES Permit WQ0013168001. Both of these plants have had numerous operational and compliance issues in recent years. The Tall Timbers plant was recently fined \$60,000 for permit violations in TCEQ Docket No. 2012-0629-MWD-E. The Woodmark Plant was recently fined \$47,182 for permit violations in TCEQ Docket No. 2012-0647-MWD-E. Both of these violations were for discharges of sewage sludge into waters of the State. The same management and operations staff responsible for those violations are also responsible for the facility that is the subject of this application. Tyler is concerned about the applicant's ability to properly operate and maintain the plant associated with this application. Tyler does not want sewage sludge discharged into Lake Palestine. If the Commission decides to amend the permit as requested by the permittee, Tyler believes that the permit should contain more stringent compliance provisions to ensure that Tyler's water supply is adequately protected.

**Conclusion**

Tyler has a justiciable interest in the Commission's decision on this permit application that could be adversely affected if the Commission were to grant the requested permit. As such, Tyler is an "affected person." Tyler requests a contested case hearing to address issues raised by Algonquin's application.

Please do not hesitate to contact me if you have any questions regarding this request for a contested case hearing.

Sincerely,



Joe Freeland  
Attorney on Behalf of the City of Tyler

cc: Deborah Pullum, City Attorney  
Greg Morgan, Director of Utilities and Public Works

Mathews & Freeland LLP  
8140 N. Mopac Expressway  
Building 2, Suite 260  
Austin, TX 78759

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ON ENVIRONMENTAL  
QUALITY  
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CHIEF CLERKS OFFICE



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

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Monday, November 25, 2013 4:45 PM  
**To:** PUBCOMMENT-OCC2  
**Subject:** FW: Public comment on Permit Number WQ0013849001  
**Attachments:** Tyler Contested Case Request.pdf

H

**From:** jfreeland@mandf.com [mailto:jfreeland@mandf.com]  
**Sent:** Monday, November 25, 2013 3:36 PM  
**To:** donotReply@tceq.state.tx.us  
**Subject:** Public comment on Permit Number WQ0013849001

*MWD  
36430*

**REGULATED ENTITY NAME** THE VILLAGES RESORT

**RN NUMBER:** RN102076270

**PERMIT NUMBER:** WQ0013849001

**DOCKET NUMBER:**

**COUNTY:** SMITH

**PRINCIPAL NAME:** ALGONQUIN WATER RESOURCES OF TEXAS LLC

**CN NUMBER:** CN602882839

**FROM**

**NAME:** Joe Freeland

**E-MAIL:** [jfreeland@mandf.com](mailto:jfreeland@mandf.com)

**COMPANY:** Mathews & Freeland, LLP

**ADDRESS:** 8140 N MOPAC EXPY Ste 2-260  
AUSTIN TX 78759-8837

**PHONE:** 5124047800

**FAX:**

**COMMENTS:** Request for Contested Case Hearing The City of Tyler requests a contested case hearing. Tyler disputes the ED's decision to allow Algonquin Water Resources of Texas, LLC, (Algonquin) to begin discharging treated wastewater effluent into one of Tyler's major sources of drinking water. Tyler believes that the draft permit is inadequate because it fails to adequately protect water quality in the receiving stream,

*MWD*

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**Identity of Requester** The City of Tyler is a home-rule municipality located in Smith County, Texas. Tyler's contact information for this proceeding is as follows: Tyler Contact Authorized Representative Mr. Gregory M. Morgan, P.E. Mr. Joe Freeland Director of Utilities and Public Works Mathews & Freeland, LLP City of Tyler Westpark II, Suite 260 P.O. Box 2039 8140 N. MoPac Expry Tyler, Texas 75710 Austin, Texas 78759 (903) 531-1234 (512) 404-7800 Fax: (903) 531-1259 Fax: (512) 703-2785 [jfreeland@mandf.com](mailto:jfreeland@mandf.com) Tyler's

**Demonstration of Affected Person Status** The City of Tyler has interests related to legal rights, duties, privileges, powers, or economic interests affected by this application. Through the referenced application, Algonquin seeks authorization to discharge wastewater effluent into Lake Palestine. The location of the proposed discharge from this facility is near to the location of Tyler's intake structure in Lake Palestine. Tyler obtains a significant portion of its municipal water supply from Lake Palestine, and the share of Tyler's water supply from Lake Palestine will increase in the future as Tyler expands pumping from the reservoir. Tyler currently pumps approximately 20 MGD from Lake Palestine to meet drinking water needs in Tyler and throughout Smith County and has contract rights to purchase up to 60 MGD in the future to meet growing drinking water needs in Smith County.

**Tyler's Disputed Issues**

1. Tyler disputes the ED's conclusion that the permitted discharge will not adversely affect water quality in Lake Palestine. [Comment 1] The proposed discharge, even with the discharge limits contained in the draft permit, will increase the pollutant load into Lake Palestine. Ongoing monitoring of Lake Palestine indicates a number of existing water quality issues, including depressed dissolved oxygen, high pH, and high levels of nutrients in the lake. Tyler is concerned that this increase pollutant loading will impair Tyler's use of water from Lake Palestine for drinking water purposes.
2. Tyler disputes the ED's conclusion that the permitted discharge will not exacerbate existing taste and odor issues related to water diverted from Lake Palestine. [Comment 2] Since bringing its Lake Palestine Water Treatment Plant online in 2004, Tyler has been faced with a number of taste and odor issues that have forced the city to incur significant unanticipated costs. Tyler is concerned that the additional pollutant loading associated with this application will exacerbate these problems. The Commission is authorized by statute and its rules to impose sufficient conditions on the discharges from this facility to adequately protect Tyler's source of drinking water. Tyler wants the Commission to use its authority appropriately.
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**Conclusion** Tyler has a justiciable interest in the Commission's decision on this permit application that could be adversely affected if the Commission were to grant the requested permit. As such,

Tyler is an “affected person.” Tyler requests a contested case hearing to address issues raised by Algonquin’s application. Please do not hesitate to contact me if you have any questions regarding this request for a contested case hearing.

# MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS  
JOE FREELAND

Westpark II, Suite 260  
8140 North Mopac Expressway  
AUSTIN, TEXAS 78768-1568

(512) 404-7800  
FAX: (512) 703-2785

November 25, 2013

*Via Electronic Submission & Mail*

Bridget C. Bohac, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Algonquin Water Resources of Texas, LLC TPDES Permit No. WQ0013849001,  
City of Tyler's Comments

Dear Ms. Bohac:

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### **Identity of Requester**

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Tyler Contact  
Mr. Gregory M. Morgan, P.E.  
Director of Utilities and Public Works  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710  
(903) 531-1234  
Fax: (903) 531-1259

Authorized Representative  
Mr. Joe Freeland  
Mathews & Freeland, LLP  
Westpark II, Suite 260  
8140 N. MoPac Expy  
Austin, Texas 78759  
(512) 404-7800  
Fax: (512) 703-2785  
[jfreeland@mandf.com](mailto:jfreeland@mandf.com)

### Tyler's Demonstration of Affected Person Status

The City of Tyler has interests related to legal rights, duties, privileges, powers, or economic interests affected by this application. Through the referenced application, Algonquin seeks authorization to discharge wastewater effluent into Lake Palestine. The location of the proposed discharge from this facility is near to the location of Tyler's intake structure in Lake Palestine. Tyler obtains a significant portion of its municipal water supply from Lake Palestine, and the share of Tyler's water supply from Lake Palestine will increase in the future as Tyler expands pumping from the reservoir. Tyler currently pumps approximately 20 MGD from Lake Palestine to meet drinking water needs in Tyler and throughout Smith County and has contract rights to purchase up to 60 MGD in the future to meet growing drinking water needs in Smith County.

### Tyler's Disputed Issues

1. **Tyler disputes the ED's conclusion that the permitted discharge will not adversely affect water quality in Lake Palestine. [Comment 1]**

The proposed discharge, even with the discharge limits contained in the draft permit, will increase the pollutant load into Lake Palestine. Ongoing monitoring of Lake Palestine indicates a number of existing water quality issues, including depressed dissolved oxygen, high pH, and high levels of nutrients in the lake. Tyler is concerned that this increase pollutant loading will impair Tyler's use of water from Lake Palestine for drinking water purposes.

2. **Tyler disputes the ED's conclusion that the permitted discharge will not exacerbate existing taste and odor issues related to water diverted from Lake Palestine. [Comment 2]**

Since bringing its Lake Palestine Water Treatment Plant online in 2004, Tyler has been faced with a number of taste and odor issues that have forced the city to incur significant unanticipated costs. Tyler is concerned that the additional pollutant loading associated with this application will exacerbate these problems. The Commission is authorized by statute and its rules to impose sufficient conditions on the discharges from this facility to adequately protect Tyler's source of drinking water. Tyler wants the Commission to use its authority appropriately.

3. **Tyler disputes the ED's conclusion that the permitted flow rates are appropriate given the reasonably expected level of demand on the plant. [Comment 3]**

Applicant seeks to treat a proposed maximum flow of 0.200 MGD. Based on information provided by the Applicant's engineer, a review of the Smith County Appraisal District maps, and the Commission's minimum design requirements, the plant should be constructed to handle a capacity of greater than 0.200 MGD. The application does not contain a calculation of design flows nor does it set out the flows at the existing facility. The Commission should not issue a permit that is insufficient to address the expected actual flows into a facility. Undersized facilities will lead to exceedences of permit limits and increased pollutant loading.

4. **Tyler disputes the ED's conclusion that the draft permit contains sufficient provisions to adequately ensure compliance with applicable regulations and permit provisions given the applicant compliance history. [Comment 4]**

Tyler is concerned that the draft permit does not contain sufficient provisions to ensure compliance by the applicant. This applicant, Algonquin Water Resources of Texas, owns two other treatment plants in Smith County – Tall Timbers Utility Company, TPDES Permit WQ0013000001; and Woodmark Utilities, TPDES Permit WQ0013168001. Both of these plants have had numerous operational and compliance issues in recent years. The Tall Timbers plant was recently fined \$60,000 for permit violations in TCEQ Docket No. 2012-0629-MWD-E. The Woodmark Plant was recently fined \$47,182 for permit violations in TCEQ Docket No. 2012-0647-MWD-E. Both of these violations were for discharges of sewage sludge into waters of the State. The same management and operations staff responsible for those violations are also responsible for the facility that is the subject of this application. Tyler is concerned about the applicant's ability to properly operate and maintain the plant associated with this application. Tyler does not want sewage sludge discharged into Lake Palestine. If the Commission decides to amend the permit as requested by the permittee, Tyler believes that the permit should contain more stringent compliance provisions to ensure that Tyler's water supply is adequately protected.

#### Conclusion

Tyler has a justiciable interest in the Commission's decision on this permit application that could be adversely affected if the Commission were to grant the requested permit. As such, Tyler is an "affected person." Tyler requests a contested case hearing to address issues raised by Algonquin's application.

Please do not hesitate to contact me if you have any questions regarding this request for a contested case hearing.

Sincerely,



Joe Freeland

Attorney on Behalf of the City of Tyler

cc: Deborah Pullum, City Attorney  
Greg Morgan, Director of Utilities and Public Works



in the lake. Since bringing its Lake Palestine Water Treatment Plant online in 2004, Tyler has been faced with a number of taste and odor issues that have forced the city to incur significant unanticipated costs. Tyler is concerned that the additional pollutant loading associated with this application will exacerbate these problems. Tyler is also concerned that the referenced wastewater treatment plant is inadequately sized to treat the anticipated wastewater demand, and that, based on the applicant's corporate compliance history, the permit does not contain sufficiently stringent compliance provisions to protect Tyler's drinking water supply.

## 2. Specific Comments

### a. Capacity

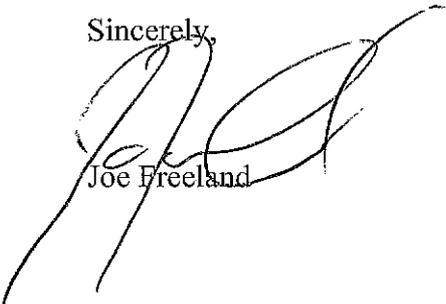
Applicant seeks to treat proposed flow of 0.200 MGD. Based on information provided by the Applicant's engineer (Attachment A), the plant is currently providing service to 644 residential units within Silverleaf Resorts, with an additional 204 units listed as planned expansion, and with future development of 424 additional units. Also, based on a review of the Smith County Appraisal District maps (Attachment B shows a small part of the service area), the service area served by the treatment plant has hundreds (if not thousands) of undeveloped lots. This information suggests that a rated capacity of 0.200 MGD is insufficient to meet the Commission's minimum design criteria with regard to current flows as well as reasonably anticipated future flows.

### b. Compliance

Tyler is concerned that the draft permit does not contain sufficient provisions to ensure compliance by the applicant. This applicant, Algonquin Water Resources of Texas, owns another treatment plant that is located inside the City of Tyler – Tall Timbers Utility Company TPDES Permit WQ0013000001. That plant has had numerous operational and compliance issues. That plant was recently fined \$60,000 for permit violations in TCEQ Docket No. 2012-0629-MWD-E. This applicant has the same management personnel. Tyler has concerns with the applicant's ability to properly operate and maintain the plant associated with this application. If the Commission decides to amend the permit as requested by the permittee, Tyler believes that the permit should contain more stringent compliance provisions to ensure that Tyler's water supply is adequately protected.

Thank you for your assistance in this matter. Please contact me if you have any questions.

Sincerely,



Joe Freeland

cc: Mr. Gregory M. Morgan, P.E.

**Attachment A**

**Silverleaf Resorts, Inc.  
Building Counts**

MARCH 2013 RESORTS SUMMARY OF SRI UNITS AND ANCILLIARY BUILDINGS COUNT W/ PRIVATELY OW

EXISTING  
PRIVATELY  
OWNED UNITS  
OR HOUSES -  
OCCUPIED  
AND VACANT

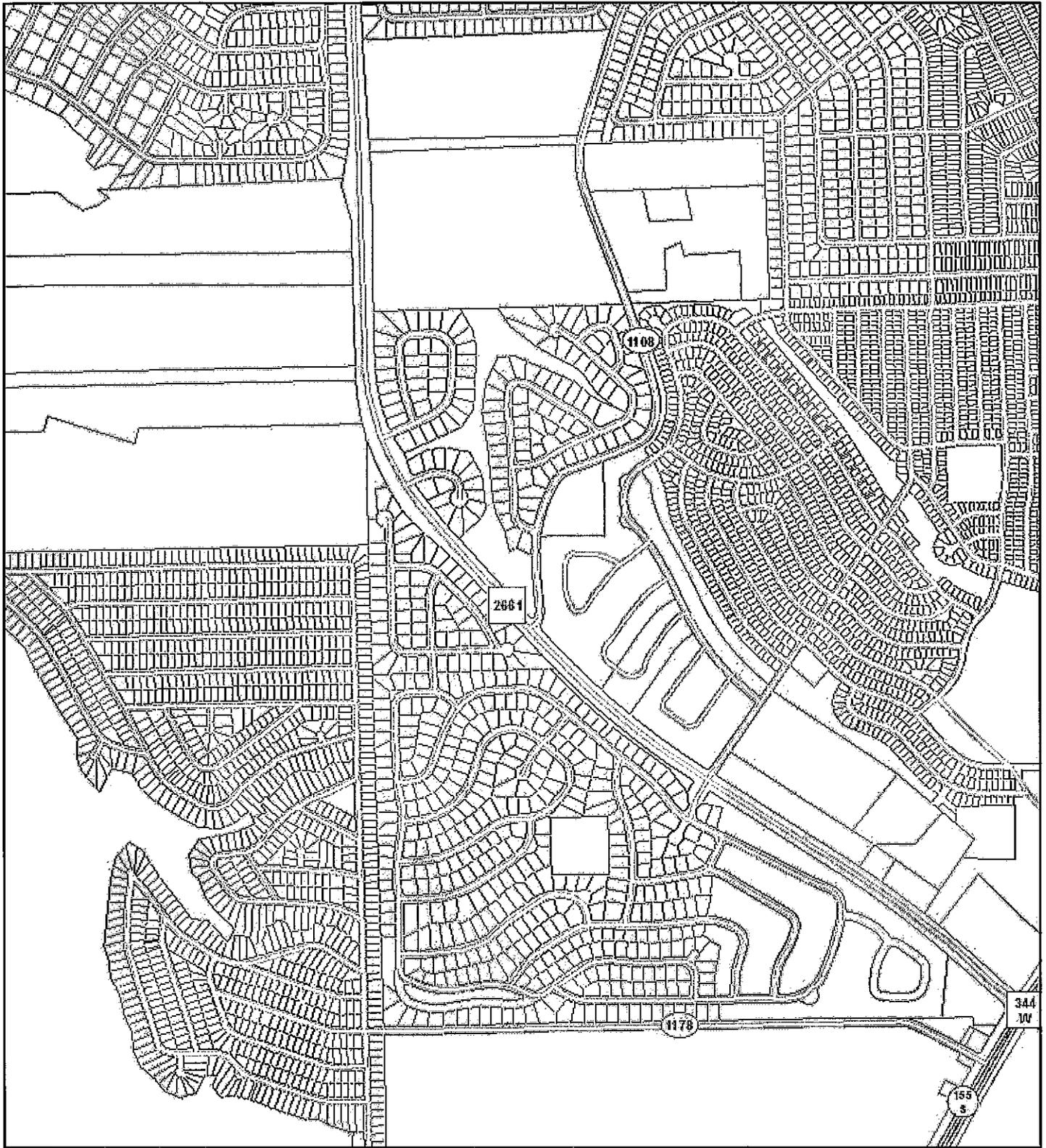
| RESORT    | CURRENT SRI OWNED CONDOS EXISTING UNITS | PLANNED EXPANSION | FUTURE DEVELOPMENT | POTENTIAL BUILD-OUT (TOTAL) | Ancillary Buildings - including commercial laundry facilities | Pools w/Bathrooms | Pools w/o Bathrooms | 2013 Growth w/ Scheduled Occupancy Date   |
|-----------|---|-------------------|--------------------|-----------------------------|---|-------------------|---------------------|---|
| FRR       | 252                                     | 264               | 1230               | 1746                        | 5   | 2                 |                     | 16 more units scheduled to be on line 7-1-13  |
| HCR       | 390                                     | 172               | 168                |                             | 5   | 2                 | 3                   | A new swimming pool and a new sales office scheduled to be on line 7-1-13. Also (12) new lodges scheduled to be on line 10-1-13 |
| HHR       | 514                                     | 484               | 752                | 1750                        | 4   | 1                 | 2                   |   |
| HLR       | 130                                     | 0                 | 178                | 308                         | 7   | 1                 | -                   |   |
| OMR       | 160                                     | 0                 | 432                | 592                         | 5   | 1                 | -                   |   |
| PSR       | 266                                     | 172               | 384                | 822                         | 6   | 1                 | 2                   | A new swimming pool scheduled to be on line 6-1-13  |
| SSR       | 168                                     | 252               | 62                 | 482                         | 3   | -                 | 1                   | (12) new units went on line 2-1-13  |
| TCR       | 72                                      | 24                | 600                | 696                         | 6   | -                 | 1                   |   |
| TVR (BEW) | 394                                     | 204               | 424                | 1022                        | 14  | 2                 | 2                   |   |
| SubTotal  | <b>2346</b>                             | <b>1572</b>       | <b>4230</b>        | <b>8148</b>                 | <b>55</b>   | <b>10</b>         | <b>11</b>           |   |

276  
1738  
223

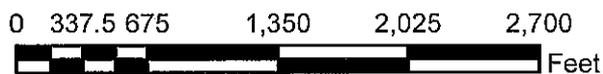
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**Attachment B**

**Smith County Appraisal District Map**



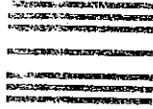
# Silverleaf



This map was prepared by the Smith County map site and may be revised without notification to any user. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The user is encouraged to check with the City of Tyler, SCAD, and the 911 Administration to verify that the map being used is the latest, most current one available. <http://www.smithcountymapsite.org/>

Matnews & Freeland  
Westpark II, Suite 260  
8140 North Mopac Expressway  
Austin, TX 78759

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FIRST-CLASS  
FROM 78701  
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stamps.com



Bridget Bohac  
TCEQ, Mail Code 106  
PO Box 13087  
Austin TX 78711-3087

**RECEIVED**

AUG 26 2013

TCEQ MAIL CENTER  
AJ

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2013 AUG 26 AM 10: 51

CHIEF CLERKS OFFICE

**Marisa Weber**

---

**From:** PUBCOMMENT-OCC  
**Sent:** Thursday, August 22, 2013 12:58 PM  
**To:** PUBCOMMENT-OCC2  
**Subject:** FW: Public comment on Permit Number WQ0013849001  
**Attachments:** City of Tyler Comments.pdf

H

**From:** [jfreeland@mandf.com](mailto:jfreeland@mandf.com) [mailto:[jfreeland@mandf.com](mailto:jfreeland@mandf.com)]  
**Sent:** Wednesday, August 21, 2013 3:24 PM  
**To:** [donotReply@tceq.state.tx.us](mailto:donotReply@tceq.state.tx.us)  
**Subject:** Public comment on Permit Number WQ0013849001

*MWD  
86430*

**REGULATED ENTY NAME** THE VILLAGES RESORT

**RN NUMBER:** RN102076270

**PERMIT NUMBER:** WQ0013849001

**DOCKET NUMBER:**

**COUNTY:** SMITH

**PRINCIPAL NAME:** ALGONQUIN WATER RESOURCES OF TEXAS LLC

**CN NUMBER:** CN602882839

**FROM**

**NAME:** Joe Freeland

**E-MAIL:** [jfreeland@mandf.com](mailto:jfreeland@mandf.com)

**COMPANY:** Mathews & Freeland, LLP

**ADDRESS:** 8140 N MOPAC EXPY Ste 2-260  
AUSTIN TX 78759-8837

**PHONE:** 5124047800

**FAX:**

**COMMENTS:** City of Tyler's comments on the draft permit are attached.

*MWD*

# MATHEWS & FREELAND, L.L.P.

## ATTORNEYS AT LAW

JIM MATHEWS  
JOE FREELAND

Westpark II, Suite 260  
8140 North Mopac Expressway  
AUSTIN, TEXAS 78768-1568

(512) 404-7800  
FAX: (512) 703-2785

August 21, 2013

### *Via Electronic Submission & Mail*

Bridget C. Bohac, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Algonquin Water Resources of Texas, LLC TPDES Permit No. WQ0013849001,  
City of Tyler's Comments

Dear Ms. Bohac:

We are counsel for the City of Tyler, and have been authorized by Tyler to provide the following comments on the referenced application. Based on the information reviewed to date, Tyler protests this application and requests a contested case hearing.

The City of Tyler is a home-rule municipality located in Smith County, Texas. Tyler's contact information for this matter is as follows:

#### Tyler Contact

Mr. Gregory M. Morgan, P.E.  
Director of Utilities and Public Works  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710  
(903) 531-1234  
(903) 531-1259 (Fax)  
[gmorgan@tylertexas.com](mailto:gmorgan@tylertexas.com)

#### Authorized Representative

Mr. Joe Freeland  
Mathews & Freeland, LLP  
Westpark II, Suite 260  
8140 N. MoPac Expy  
Austin, Texas 78759  
(512) 404-7800  
(512) 703-2785 (Fax)  
[jfreeland@mandf.com](mailto:jfreeland@mandf.com)

The City of Tyler has interests related to legal rights, duties, privileges, powers, or economic interests affected by this application. Through the referenced application, Algonquin seeks authorization to discharge wastewater effluent into Lake Palestine. Tyler obtains a significant portion of its municipal water supply from Lake Palestine through a contract with the Upper Neches River Municipal Water Authority. The share of Tyler's water supply from Lake Palestine will increase in the future as Tyler expands pumping from the reservoir.

### **1. General Comments**

Tyler is concerned about the possible effects this discharge might have on the quality of water in Lake Palestine. Ongoing monitoring of Lake Palestine indicates a number of existing water quality issues, including depressed dissolved oxygen, high pH, and high levels of nutrients

in the lake. Since bringing its Lake Palestine Water Treatment Plant online in 2004, Tyler has been faced with a number of taste and odor issues that have forced the city to incur significant unanticipated costs. Tyler is concerned that the additional pollutant loading associated with this application will exacerbate these problems. Tyler is also concerned that the referenced wastewater treatment plant is inadequately sized to treat the anticipated wastewater demand, and that, based on the applicant's corporate compliance history, the permit does not contain sufficiently stringent compliance provisions to protect Tyler's drinking water supply.

## 2. Specific Comments

### a. Capacity

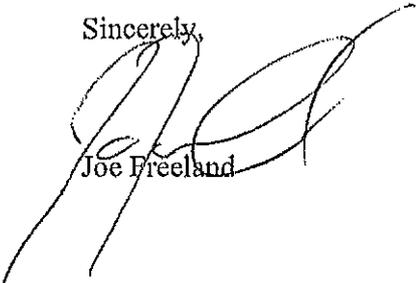
Applicant seeks to treat proposed flow of 0.200 MGD. Based on information provided by the Applicant's engineer (Attachment A), the plant is currently providing service to 644 residential units within Silverleaf Resorts, with an additional 204 units listed as planned expansion, and with future development of 424 additional units. Also, based on a review of the Smith County Appraisal District maps (Attachment B shows a small part of the service area), the service area served by the treatment plant has hundreds (if not thousands) of undeveloped lots. This information suggests that a rated capacity of 0.200 MGD is insufficient to meet the Commission's minimum design criteria with regard to current flows as well as reasonably anticipated future flows.

### b. Compliance

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Thank you for your assistance in this matter. Please contact me if you have any questions.

Sincerely,



Joe Freeland

cc: Mr. Gregory M. Morgan, P.E.

**Attachment A**

**Silverleaf Resorts, Inc.  
Building Counts**

MARCH 2013 RESORTS SUMMARY OF SRI UNITS AND ANCILLIARY BUILDINGS COUNT W/ PRIVATELY OW

| RESORT    | CURRENT SRI OWNED CONDOS EXISTING UNITS | PLANNED EXPANSION | FUTURE DEVELOPMENT | POTENTIAL BUILD-OUT (TOTAL) | Ancillary Buildings - including commercial laundry facilities | Pools w/Bathrooms | Pools w/o Bathrooms | 2013 Growth w/ Scheduled Occupancy Date   |
|-----------|---|-------------------|--------------------|-----------------------------|---|-------------------|---------------------|---|
| FRR       | 252                                     | 264               | 1230               | 1746                        | 5   | 2                 |                     | 16 more units scheduled to be on line 7-1-13  |
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| HHR       | 514                                     | 484               | 752                | 1750                        | 4   | 1                 | 2                   |   |
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| TCR       | 72                                      | 24                | 600                | 696                         | 6   | -                 | 1                   |   |
| TVR (BEW) | 394                                     | 204               | 424                | 1022                        | 14  | 2                 | 2                   |   |
| SubTotal  | 2346                                    | 1572              | 4230               | 8148                        | 55  | 10                | 11                  |   |

EXISTING PRIVATELY OWNED UNITS OR HOUSES - OCCUPIED AND VACANT

|      |
|------|
| 276  |
| 1738 |
| 223  |

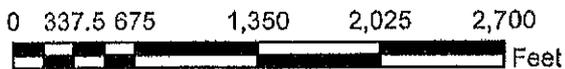
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| 250  |
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**Attachment B**

**Smith County Appraisal District Map**



# Silverleaf



This map was prepared by the Smith County map site and may be revised without notification to any user. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The user is encouraged to check with the City of Tyler, SCAD, and the 911 Administration to verify that the map being used is the latest, most current one available. <http://www.smithcountymapsite.org/>

**MATHEWS & FREELAND, L.L.P.**

ATTORNEYS AT LAW

JIM MATHEWS  
JOE FREELAND

P.O. Box 1568  
AUSTIN, TEXAS 78768-1568

(512) 404-7800  
FAX: (512) 703-2785

REVIEWED

April 2, 2013

APR 05 2013

By [Signature]

*Via Electronic Submission & Mail*

Bridget C. Bohac, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

MWD  
86430

H  
CHIEF CLERK  
TCEQ  
APR - 5 AM 15  
COMMUNICATIONS AND  
INFORMATION SERVICES

Re: Algonquin Water Resources of Texas, LLC TPDES Permit No. W00013849001,  
City of Tyler's Preliminary Comments

Dear Ms. Bohac:

We are counsel for the City of Tyler, and have been authorized by Tyler to provide the following preliminary comments on the referenced application. Based on the information reviewed to date, Tyler protests this application and requests a contested case hearing.

The City of Tyler is a home-rule municipality located in Smith County, Texas. Tyler's contact information for this matter is as follows:

Tyler Contact

Mr. Gregory M. Morgan, P.E.  
Director of Utilities and Public Works  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710  
(903) 531-1234  
(903) 531-1259 (Fax)  
[gmorgan@tylertexas.com](mailto:gmorgan@tylertexas.com)

Authorized Representative

Mr. Joe Freeland  
Mathews & Freeland, LLP  
327 Congress Avenue  
Suite 300  
Austin, Texas 78701  
(512) 404-7800  
(512) 703-2785 (Fax)  
[jfreeland@mandf.com](mailto:jfreeland@mandf.com)

The City of Tyler has interests related to legal rights, duties, privileges, powers, or economic interests affected by this application. Through the referenced application, Algonquin seeks authorization to discharge wastewater effluent into Lake Palestine. Tyler obtains a significant portion of its municipal water supply from Lake Palestine through a contract with the Upper Neches River Municipal Water Authority. The share of Tyler's water supply from Lake Palestine will increase in the future as Tyler expands pumping from the reservoir.

Tyler is concerned about the possible effects this discharge might have on the quality of water in Lake Palestine. Ongoing monitoring of Lake Palestine indicates a number of existing

MWD

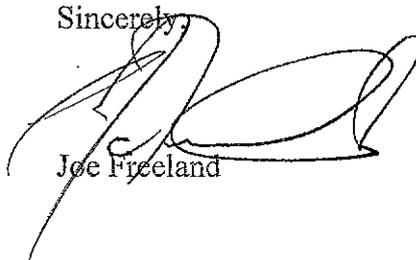
Ms. Bridget Bohac  
April 2, 2013  
Page 2

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Tyler respectfully requests the Executive Director staff carefully review the application and the possible adverse effects the discharge might have on the lake's water quality. Tyler objects to the issuance of a permit based on this application and requests a contested case hearing to allow the applicant the opportunity to prove that it can meet all applicable statutory and regulatory criteria for the issuance of a permit. Tyler reserves the right to raise additional issues after further review of the application and information provided by the applicant.

Thank you for your assistance in this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Freeland", is written over a large, stylized, circular scribble or flourish.

Joe Freeland

cc: Mr. Gregory M. Morgan, P.E.

MATHEWS & FREELAND, L.L.P.  
ATTORNEYS AT LAW  
P.O. BOX 1568  
AUSTIN, TEXAS 78768-1568



RECEIVED

APR 05 2013

TCEQ MAIL CENTER  
MM

Bridget C. Bohac, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

ON ENVELOPE  
APR 05 2013  
MAIL SERVICES OFFICE

78711308767

**Marisa Weber**

---

**From:** PUBCOMMENT  
**Sent:** Wednesday, April 03, 2013 8:22 AM  
**To:** PUBCOMMENT-OCC2  
**Subject:** FW: Public comment on Permit Number WQ0013849001  
**Attachments:** Tyler Preliminary Comments2.pdf

H

**From:** PUBCOMMENT-OCC  
**Sent:** Wednesday, April 03, 2013 7:13 AM  
**To:** PUBCOMMENT  
**Subject:** FW: Public comment on Permit Number WQ0013849001

*MWD  
06430*

**From:** [jfreeland@mandf.com](mailto:jfreeland@mandf.com) [mailto:[jfreeland@mandf.com](mailto:jfreeland@mandf.com)]  
**Sent:** Tuesday, April 02, 2013 4:33 PM  
**To:** [donotReply@tceq.state.tx.us](mailto:donotReply@tceq.state.tx.us)  
**Subject:** Public comment on Permit Number WQ0013849001

**REGULATED ENTITY NAME** THE VILLAGES RESORT

**RN NUMBER:** RN102076270

**PERMIT NUMBER:** WQ0013849001

**DOCKET NUMBER:**

**COUNTY:** SMITH

**PRINCIPAL NAME:** ALGONQUIN WATER RESOURCES OF TEXAS LLC

**CN NUMBER:** CN602882839

**FROM**

**NAME:** Joe Freeland

**E-MAIL:** [jfreeland@mandf.com](mailto:jfreeland@mandf.com)

**COMPANY:** Mathews & Freeland, LLP

**ADDRESS:** 327 CONGRESS AVE Suite 300  
AUSTIN TX 78701-4058

**PHONE:** 5124047800

*CM*

**FAX:**

**COMMENTS:** See attached comments filed on behalf of the City of Tyler.

# MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS  
JOE FREELAND

P.O. Box 1568  
AUSTIN, TEXAS 78768-1568

(512) 404-7800  
FAX: (512) 703-2785

April 2, 2013

*Via Electronic Submission & Mail*

Bridget C. Bohac, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Algonquin Water Resources of Texas, LLC TPDES Permit No. WQ0013849001,  
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Director of Utilities and Public Works  
City of Tyler  
P.O. Box 2039  
Tyler, Texas 75710  
(903) 531-1234  
(903) 531-1259 (Fax)  
[gmorgan@tylertexas.com](mailto:gmorgan@tylertexas.com)

Authorized Representative

Mr. Joe Freeland  
Mathews & Freeland, LLP  
327 Congress Avenue  
Suite 300  
Austin, Texas 78701  
(512) 404-7800  
(512) 703-2785 (Fax)  
[jfreeland@mandf.com](mailto:jfreeland@mandf.com)

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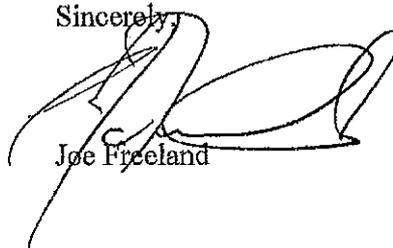
Ms. Bridget Bohac  
April 2, 2013  
Page 2

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Thank you for your assistance in this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Freeland', is written over a horizontal line. The signature is stylized and somewhat cursive.

Joe Freeland

cc: Mr. Gregory M. Morgan, P.E.