

TCEQ DOCKET NO. 2013-2229-MWD

APPLICATION OF	§	BEFORE THE
ABRAXAS CORPORATION	§	TEXAS COMMISSION ON
FOR NEW TPDES PERMIT	§	ENVIRONMENTAL QUALITY
NO. WQ0015010-001	§	

CITY OF FORT WORTH'S REPLY
TO RESPONSES OF THE EXECUTIVE DIRECTOR AND OPIC
TO REQUESTS FOR HEARING

To the Honorable Members of the Texas Commission on Environmental Quality:

The City of Fort Worth (the "City") files this Reply to the Responses filed by the Executive Director (the "E.D.") and the Office of Public Interest Counsel ("OPIC") concerning the hearing requests on the TPDES permit application filed by Abraxas Corporation ("Abraxas").

The City appreciates the recommendation of the E.D. and OPIC to grant the City's request for hearing in this matter. However, as consistently asserted throughout the course of this matter, the City is willing to withdraw its request for hearing if Abraxas and the E.D. are willing to include the following provision in any final TPDES permit issued to Abraxas:

"In the event the City of Fort Worth annexes any portion of the Hilltop Village subdivision, the permittee shall submit plans to the City of Fort Worth within 90 days of the date of annexation for connecting the permittee's wastewater collection system to the City's sewer system, in conformity with all applicable City of Fort Worth ordinances and policies concerning wastewater utility construction and installation. Permittee shall implement such plans upon their approval in writing by the City of Fort Worth."

An almost identical permit provision was included in the prior TPDES permit held by Abraxas (i.e., the permit that expired and is to be replaced by the subject permit) with the agreement of Abraxas and the E.D. The City understands that Abraxas has no objection to this permit provision and that the E.D. would also accept it if the permit also included the following

two sub-provisions:

“Within 30 days from the permittee’s wastewater collection system connection to the City of Fort Worth’s sewer system and ceasing operation of this facility, the permittee shall apply for cancellation of this permit.

Within 120 days from the permittee’s wastewater collection system connection to the City of Fort Worth’s sewer system and ceasing operation of this facility, the permittee shall decommission its wastewater treatment facility. The permittee shall submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC 148) of the Water Quality Division, for any closure activity at least 90 days prior to conducting such activity in accordance with the Operational Requirements 3(b), page 13 of this permit.”

The City has no objection to the inclusion of the above two sub-provisions. The requested permit provisions will help ensure that the small, old, and historically non-compliant package plant serving the Hilltop Village mobile home park will be de-commissioned and the residents connected to City wastewater service as soon as practicable. The requested permit provisions are also entirely consistent with the TCEQ’s policy on regionalization of wastewater facilities as set forth in Section 26.081(a) of the Texas Water Code.

Accordingly, the City respectfully requests that the Commission order that the above-stated provisions be included in the permit, whereupon the City will withdraw its request for hearing.

Respectfully submitted,

KELLY HART & HALLMAN LLP

301 Congress Avenue, Suite 2000

Austin, Texas 78701

Telephone: (512) 495-6400

Facsimile: (512) 495-6401

By: 

Stephen C. Dickman

State Bar No. 05836500

**ATTORNEYS FOR
THE CITY OF FORT WORTH**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on the following parties and attorneys of record on this 26th day of January, 2015.

Via Regular U.S. Postal Service and/or Email (as shown)

FOR THE APPLICANT:

Lauren Farhood-Warren
Abraxas Corporation
7921 Main Street
North Richland Hills, TX 76182-4035
Fax: 817-788-9531
Email: lfabraxas@aol.com

Terry Graham
Abaxial Inc.
454 Cattlebaron Parc Drive
Fort Worth, TX 76108-9270

FOR THE EXECUTIVE DIRECTOR:

Robert Brush, Staff Attorney
TCEQ Environmental Law Div., MC-173
P.O. Box 13087
Austin, TX 78711-3087
Email: robert.brush@tceq.texas.gov

Julian Centeno, Jr.
TCEQ Water Quality Division, MC-148
P.O. Box 13087
Austin, TX 78711-3087
Email: julian.centeno@tceq.texas.gov

Brian Christian, Director
TCEQ Environmental Assistance Division
Public Educational Program, MC-108
P.O. Box 13087
Austin, TX 78711-3087
Email: brian.christian@tceq.texas.gov

FOR THE CHIEF CLERK:

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

FOR THE ALTERNATIVE DISPUTE RESOLUTION:

Kyle Lucas
TCEQ Alternative Dispute Resolution,
MC-222
P.O. Box 13087
Austin, TX 78711-3087
Email: kyle.lucas@tceq.texas.gov

OFFICE OF PUBLIC INTEREST COUNSEL

Rudy Calderon
TCEQ Office of Public Interest, MC-103
P.O. Box 13087
Austin, TX 78711-3087
Fax: 512-239-6377
Email: rudy.calderon@tceq.texas.gov

FOR THE REQUESTORS:

Cheryl L. Coon, Attorney
Shannon, Gracey, Ratliff & Miller, LLP
777 Main Street, Suite 3800
Fort Worth, TX 76102-5304
Fax: 817-336-3735
Email: ccoon@shannongracey.com


Stephen C. Dickman