

REVIEWED

MAR 06 2015

By

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March 3, 2015

Via Electronic Submission & Mail

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

TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY
2015 MAR -6 04:10:19
CHIEF CLERK'S OFFICE

Re: Request for Contested Case Hearing - TPDES Permit No. WQ0015242001
Timberwood Development Co.

Dear Ms. Bohac:

We are legal counsel for the San Antonio Water System ("SAWS") and have been authorized by SAWS to make the following request for contested case hearing of the TPDES Permit No. WQ0015242001 requested by Timberwood Development Co. ("Timberwood").

Second Request for Contested Case Hearing

By September 15, 2014, letter, SAWS filed a request for contested case hearing regarding the referenced application. (Attachment A). Subsequently, the Executive Director drafted his response to comments and determined that the application meets the requirements of applicable law and that no changes are needed to the draft permit. SAWS disputes the Executive Director's determination. Furthermore, the Chief Clerk by letter dated February 3, 2015, included instructions for filing a request for a contested case hearing. In conformance with those instructions, SAWS again requests a contested case hearing for the reasons discussed below.

Identity of Requester

SAWS is the water and sewer utility for the City of San Antonio, which is a home-rule municipality located in Bexar County, Texas. SAWS' contact information for this proceeding is as follows:

SAWS Contact
Mr. Keith Martin
San Antonio Water System
2800 US Highway 281 N.
San Antonio, TX 78212
Fax: (210) 233-3867

Authorized Representative
Mr. Joe Freeland
Mathews & Freeland, LLP
8140 N. Mo-Pac Expwy Ste 2-260
Austin, Texas 78759
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jfreeland@mandf.com

mu

SAWS' Demonstration of Affected Person Status

SAWS has interests related to legal rights, duties, privileges, powers, or economic interests affected by Timberwood's application. Some of SAWS' specific interests are as follow:

1. Timberwood's proposed treatment facility is located less than 2 miles from SAWS' nearest sewer main, and SAWS is ready willing and able to provide sewer service to the area proposed to be served by Timberwood;
2. Timberwood's proposed treatment facility and the area proposed to be served by the facility are located entirely inside SAWS' certificated sewer service area, and SAWS has not consented to Timberwood providing retail sewer service inside SAWS' certificated area;
3. Timberwood's proposed treatment facility will discharge treated effluent that will reach the Edwards Aquifer recharge zone and will enter that aquifer, which is SAWS' primary source of drinking water; and
4. Timberwood's proposed treatment facility is located in San Antonio's extraterritorial jurisdiction and subject to San Antonio's Aquifer Protection Ordinance, which is administered by SAWS.

SAWS' Disputed Issues

SAWS raises all disputed issues previously raised in its comments filed on September 15, 2014. The following are SAWS' replies to the Executive Director's response to comments. By including these issues, SAWS is not waiving or withdrawing any other issues raised in its comments, but not addressed by the Executive Director.

1. **SAWS disputes the Executive Director's conclusion that the proposed treatment plant is needed and that granting the permit satisfies the Commission's regionalization policy. [Comment 7.]**

The proposed treatment plant is located within 2 miles of a sewer main owned by SAWS. SAWS has expressed its willingness to extend service to serve the same area that Timberwood seeks to serve. SAWS, as the exclusive lawful provider of retail sewer service in the area, is legally authorized, and obligated, to serve these potential customers. Timberwood is not authorized to serve these customers. SAWS disputes the cost figures used by the Executive Director to determine that an exception to the Commission's regionalization policy should apply. SAWS also disputes the manner in which the Executive Director evaluated the exception, which was not consistent with the regionalization policy.

SAWS further disputes the Executive Director's conclusion that there is a need for the treatment plant. Texas Water Code §26.0282 authorizes the Commission to deny a discharge permit application based on a consideration of need or the availability of areawide or regional systems. Timberwood seeks to provide service to 65 customers. Timberwood lacks the legal authority to provide such service because Timberwood does not possess a CCN. SAWS, as the

holder of CCN No. 20285 has the exclusive right to provide retail sewer service within the area sought to be served by Timberwood. Because Timberwood cannot legally provide service to these customers, there is no need for the treatment plant. The Executive Director did not respond to SAWS' comment relating to this issue.

2. SAWS disputes the Executive Director's conclusion that more extensive monitoring and operation requirements are necessary to protect public health and the environment. [Comment 8].

The proposed treatment plant is located near the Edwards Aquifer Recharge Zone. San Antonio depends on the Edwards Aquifer for its drinking water supply. The discharge route for effluent from the proposed plant would pass through the back yards of a number of residences. Based on these facts, SAWS commented that the draft permit should contain more extensive monitoring requirements to provide sufficient protection for water quality in the discharge route and in the aquifer. Requiring testing and the onsite presence of an operator only five days a week does not protect the neighbors or SAWS' water customers during the other two days of the week. The Executive Director, in his response to comments, did not address SAWS' comment or provide a justification for the limited monitoring requirements.

3. SAWS disputes the Executive Director's conclusion that the nuisance odor prevention plan is adequate to protect against nuisance conditions. [Comment 9].

SAWS commented that the plant should be required to submit a nuisance odor prevention plan and that review of the plan should be part of the public review and comment process. No such plan was submitted with the application, nor were the details of the plan included in the draft permit and supporting documentation. According to the response to comment, the applicant submitted a plan on November 20, 2014, and was conditionally approved by the Executive Director's staff. No copy of the submittal was provided to SAWS. No copy of the Executive Director's conditional approval was provided to SAWS. The public comment period on this application closed in October 2014. Thus, no public comments could have been provided on the plan.

The nuisance odor prevention plan is critically important in this case. Timberwood proposes to construct its treatment plant on a residential lot in the middle of a residential subdivisions closely surrounded by other residential lots that Timberwood will sell to members of the public. Timberwood cannot satisfy the Commission's buffer zone requirements, and thus, must have an acceptable alternative plan to prevent nuisance odors. SAWS disputes whether Timberwood has an acceptable nuisance odor prevention plan.

4. SAWS disputes the Executive Director's conclusion that the proposed plant will not discharge pollutants to waters in the state and will not create additional pollutant loading on the Edwards Aquifer Recharge Zone. [Comment 10].

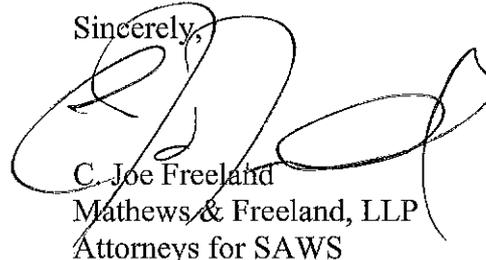
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Recharge Zone. The Executive Director's responded to SAWS' comment by stating that the proposed permit does not authorize the discharge of pollutants to waters in the state, and thus no additional pollutant loading will result. SAWS disputes the Executive Director's conclusion that the permit is not a discharge permit. The proposed permit would expressly authorize the discharge of pollutants to waters in the state. The proposed permit is not a no-discharge permit. SAWS disputes that the permit does not authorize a discharge to waters in the state and that the discharges from the plant will not create additional pollutant loading on the Edwards Aquifer Recharge Zone

Summary

SAWS has a justiciable interest in the TCEQ's decision on Timberwood's application, and SAWS could be adversely affected if the TCEQ were to grant the requested permit. As such SAWS is an "affected person." SAWS requests a contested case hearing to address the issues raised by Timberwood's application as set forth in the comments made on the draft permit.

Sincerely,



C. Joe Freeland
Mathews & Freeland, LLP
Attorneys for SAWS

ATTACHMENT A

**SAWS COMMENTS
SEPTEMBER 15, 2014**

ATTACHMENT A

**SAWS COMMENTS
SEPTEMBER 15, 2014**

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

Westpark II, Suite 260
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AUSTIN, TEXAS 78759

(512) 404-7800
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September 15, 2014

Via Electronic Submission & Mail

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

Re: Preliminary Decision and Draft TPDES Permit No. WQ0015242001 requested by
Timberwood Development Co.

Dear Ms. Bohac:

On behalf of the San Antonio Water System ("SAWS") we are providing comments on the Executive Director's Preliminary Decision and the Draft TPDES Permit No. WQ0015242001 requested by Timberwood Development Co. ("Timberwood").

Background

By June 24, 2014 letter SAWS requested a contested case hearing in this matter and stated that it was an affected person because:

1. Timberwood's proposed service area is located less than 2 miles from SAWS' nearest sewer main and Timberwood had failed to demonstrate that it contacted SAWS to request that SAWS provide sewer service;
2. Timberwood's proposed service area is located entirely inside SAWS' certificated sewer service area and SAWS has not consented to Timberwood providing retail sewer service inside SAWS' certificated area; and
3. Timberwood's proposed treatment facility will discharge treated effluent that will reach the Edwards Aquifer recharge zone and will enter that aquifer, which is one of SAWS' primary drinking water supplies.

The Preliminary Decision and the draft Permit raise issues related to those interests of SAWS raised in its request for hearing, as discussed below.

Preliminary Decision

The Executive Director notes that the plant site will be located 740 feet north of the intersection of Slumber Pass and White Eagle Drive in Bexar County. Preliminary Decision p. 1. However, the Executive Director does not in any way address whether SAWS could or should be

the sewer service provider based on the proximity of SAWS' closest sewer main to the proposed development. Under section 26.0282 of the Texas Water Code, the TCEQ may alter or deny a proposed permit based on whether a nearby sewer utility may provide the service. SAWS has a sewer main located approximately 1.5 miles from the proposed development and SAWS could, and prefers to, provide service to that area. See Exhibit 1. Furthermore, from a water quality perspective it would be much more beneficial to have the wastewater generated from the Timberwood development treated at SAWS' treatment plant than it would to have the waste treated at Timberwood's proposed package treatment plant. For example, the package treatment plant would not be staffed or monitored anywhere near the level that occurs at SAWS' wastewater treatment plants. However, the Executive Director has completely ignored the regionalization issue and fails to state any basis as to why Timberwood should be the service provider rather than SAWS.

Similarly, the Executive Director does not mention the fact that Timberwood's proposed service area is within SAWS' certificated sewer service area and that SAWS has not authorized Timberwood to provide sewer service there. Timberwood admits that its proposed service area is within SAWS' sewer CCN area. Timberwood admits, therefore, that it may not provide retail sewer service in the area. Without having obtained authorization from SAWS to provide service in SAWS' CCN service area, Timberwood has no need of a permit because it cannot provide service. Under section 26.0282 of the Texas Water Code the TCEQ also may alter or deny a proposed permit based on whether the proposed treatment plant is needed. There is no discussion of this issue in the Executive Director's Preliminary Decision.

With respect to the draft permit conditions, the Executive Director does not address the frequency at which Timberwood must test for various parameters identified in the permit. SAWS notes that the draft permit requires testing for chlorine residual five times per week. Permit p. 2. Given the proximity of the discharge point to the Edwards Aquifer recharge zone, the requirement to test chlorine residual five times per week is insufficient to protect SAWS' water supply. If the permit issues, Timberwood should be required to conduct daily testing for chlorine residual because doing so will greatly assist Timberwood in determining whether it is discharging treated effluent that would not be harmful to SAWS' water supply. Another reason to require daily testing for chlorine residual relates to the location of the discharge route. The discharge route is through a neighborhood, and apparently along the property lines of numerous residences, where children could easily come into contact with the treated effluent. Unless daily testing is required, it is quite possible that Timberwood would not test on the weekends when children are more likely to come into contact with the treated effluent.

SAWS also notes the Executive Director concludes the draft permit allows Timberwood to obtain authorization for a nuisance odor prevention plan after obtaining the discharge permit. Preliminary Decision p. 3. Taking that approach would prevent SAWS, and other persons, from having any meaningful input as to the odor prevention strategy selected by Timberwood. This is especially troubling given that information provided by Timberwood indicates it desires to locate the treatment plant closer than 150 feet from adjacent lots. In fact, Timberwood proposes to locate its treatment plant in the middle of a residential subdivision, in what otherwise would be residential lots. The better approach is to require that Timberwood submit a nuisance odor prevention plan to the TCEQ for approval prior to the time a permit issues.

Draft Permit

The permit should not be granted because Timberwood has not demonstrated a need for it for two reasons. First, SAWS could provide the sewer service and doing so would promote the TCEQ's regionalization goals and would be more protective of water quality. Second, because Timberwood has no authority to provide service in its proposed service area even if TCEQ grants the permit Timberwood has not demonstrated a need for the permit.

Alternatively, if the permit is granted it should be revised to address the following concerns. The requirement to monitor chlorine residual five times per week by grab sample should be revised to require daily samples given the proximity of the discharge point to the Edwards Aquifer recharge zone, and given that the receiving streams run through residential areas where children could come into contact with the effluent. Draft Permit p. 2. The TCEQ is authorized to require the additional sampling. 30 TAC §319.5 (c). The TCEQ should also include a provision specifying that samples must be taken at peak loading periods as required by 30 TAC §319.9. These provisions are needed in order to better ensure that Timberwood's treated effluent discharged into SAWS' water supply is compliant with its permit parameters each day it discharges wastewater.

The Monitoring and Reporting Requirements section of the permit should be revised to instruct Timberwood to provide to SAWS all of the monitoring, notifications and reports that it is required to provide to the TCEQ. This provision is needed so that SAWS can adequately monitor the quality of Timberwood's discharges into SAWS' water supply.

The Operational Requirements section should be revised to instruct Timberwood to conduct a physical inspection of the wastewater treatment plant at least once daily when the plant is operating at its peak load. This provision is needed so that Timberwood will be able to determine whether its plant is operating properly for every day that discharges occur.

Item 9 on page 15 should be revised to state that the wastewater treatment plant shall be operated by an operator with at least a Category B license. The location of this treatment plant inside the proposed subdivision and the location of the discharge route through residential backyards present "unusual operation and maintenance conditions" justifying increasing the classification. 30 TAC §30.350(h).

Item 4 on page 31 should be revised to state that Timberwood has provided a nuisance odor prevention plan to the Executive Director, which has been approved. This provision is needed to require that Timberwood obtain the plan approval before the permit is issued so that SAWS and other persons may have the opportunity to review and comment on the prevention plan. SAWS is concerned that the odor controls might not be sufficient to protect other parties who wish to develop property in other parts of SAWS' CCN area in close proximity to Timberwood's property, and to those persons who purchase lots from Timberwood located within San Antonio's ETJ.

Summary

For the reasons stated above, the TCEQ should deny Timberwood's application for a wastewater discharge permit because there is no need for the proposed wastewater treatment plant. In the alternative, if the TCEQ decides to issue the permit it should do so in accordance with the revisions discussed above. Finally, SAWS' renews its request for a contested case hearing, and requests a public meeting regarding the draft permit.

Sincerely,



Joe Freeland
Attorneys for SAWS

Mathews & Freehand LLP
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Austin, TX 78759-



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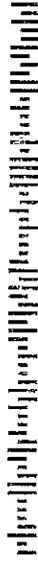
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TCEQ MAIL CENTER
BC



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

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Tuesday, March 03, 2015 4:53 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015242001
Attachments: SAWS Request for Contested Case Hearing.pdf

H

*MWD
Done
92457*

From: jfreeland@mandf.com [<mailto:jfreeland@mandf.com>]
Sent: Tuesday, March 03, 2015 4:31 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0015242001

REGULATED ENTY NAME TIMBERWOOD VILLAS II WWTF

RN NUMBER: RN106913114

PERMIT NUMBER: WQ0015242001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: TIMBERWOOD DEVELOPMENT COMPANY LP

CN NUMBER: CN602918864

FROM

NAME: Joe Freeland

E-MAIL: jfreeland@mandf.com

COMPANY: Mathews & Freeland LLP

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

PHONE: 5124047800

FAX:

COMMENTS: See attached request for contested case hearing

mw

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

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JOE FREELAND

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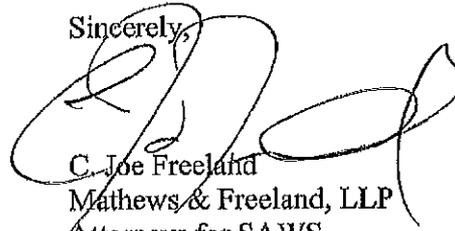
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Sincerely,



C. Joe Freeland
Mathews & Freeland, LLP
Attorneys for SAWS

ATTACHMENT A

**SAWS COMMENTS
SEPTEMBER 15, 2014**

ATTACHMENT A

**SAWS COMMENTS
SEPTEMBER 15, 2014**

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

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Draft Permit

The permit should not be granted because Timberwood has not demonstrated a need for it for two reasons. First, SAWS could provide the sewer service and doing so would promote the TCEQ's regionalization goals and would be more protective of water quality. Second, because Timberwood has no authority to provide service in its proposed service area even if TCEQ grants the permit Timberwood has not demonstrated a need for the permit.

Alternatively, if the permit is granted it should be revised to address the following concerns. The requirement to monitor chlorine residual five times per week by grab sample should be revised to require daily samples given the proximity of the discharge point to the Edwards Aquifer recharge zone, and given that the receiving streams run through residential areas where children could come into contact with the effluent. Draft Permit p. 2. The TCEQ is authorized to require the additional sampling. 30 TAC §319.5 (c). The TCEQ should also include a provision specifying that samples must be taken at peak loading periods as required by 30 TAC §319.9. These provisions are needed in order to better ensure that Timberwood's treated effluent discharged into SAWS' water supply is compliant with its permit parameters each day it discharges wastewater.

The Monitoring and Reporting Requirements section of the permit should be revised to instruct Timberwood to provide to SAWS all of the monitoring, notifications and reports that it is required to provide to the TCEQ. This provision is needed so that SAWS can adequately monitor the quality of Timberwood's discharges into SAWS' water supply.

The Operational Requirements section should be revised to instruct Timberwood to conduct a physical inspection of the wastewater treatment plant at least once daily when the plant is operating at its peak load. This provision is needed so that Timberwood will be able to determine whether its plant is operating properly for every day that discharges occur.

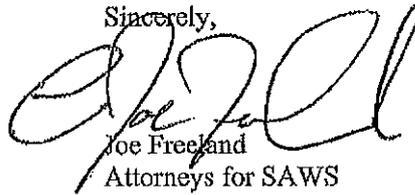
Item 9 on page 15 should be revised to state that the wastewater treatment plant shall be operated by an operator with at least a Category B license. The location of this treatment plant inside the proposed subdivision and the location of the discharge route through residential backyards present "unusual operation and maintenance conditions" justifying increasing the classification. 30 TAC §30.350(h).

Item 4 on page 31 should be revised to state that Timberwood has provided a nuisance odor prevention plan to the Executive Director, which has been approved. This provision is needed to require that Timberwood obtain the plan approval before the permit is issued so that SAWS and other persons may have the opportunity to review and comment on the prevention plan. SAWS is concerned that the odor controls might not be sufficient to protect other parties who wish to develop property in other parts of SAWS' CCN area in close proximity to Timberwood's property, and to those persons who purchase lots from Timberwood located within San Antonio's ETJ.

Summary

For the reasons stated above, the TCEQ should deny Timberwood's application for a wastewater discharge permit because there is no need for the proposed wastewater treatment plant. In the alternative, if the TCEQ decides to issue the permit it should do so in accordance with the revisions discussed above. Finally, SAWS' renews its request for a contested case hearing, and requests a public meeting regarding the draft permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Freeland", is written over the typed name and title.

Joe Freeland
Attorneys for SAWS

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, September 15, 2014 4:22 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015242001
Attachments: Comments on Preliminary Decisions1.pdf

PM
H

From: jfreeland@mandf.com [<mailto:jfreeland@mandf.com>]
Sent: Monday, September 15, 2014 1:20 PM
To: donotreply
Subject: Public comment on Permit Number WQ0015242001

*MWD
92457*

REGULATED ENTY NAME TIMBERWOOD VILLAS II WWTF

RN NUMBER: RN106913114

PERMIT NUMBER: WQ0015242001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: TIMBERWOOD DEVELOPMENT COMPANY LP

CN NUMBER: CN602918864

FROM

NAME: Joe Freeland

E-MAIL: jfreeland@mandf.com

COMPANY: Mathews & Freeland LLP

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

PHONE: 5124047800

FAX:

COMMENTS: See attached letter

MWD

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

Westpark II, Suite 260
8140 North MoPac Expressway
AUSTIN, TEXAS 78759

(512) 404-7800
FAX: (512) 708-2785

September 15, 2014

Via Electronic Submission & Mail

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

Re: Preliminary Decision and Draft TPDES Permit No. WQ0015242001 requested by
Timberwood Development Co.

Dear Ms. Bohac:

On behalf of the San Antonio Water System ("SAWS") we are providing comments on the Executive Director's Preliminary Decision and the Draft TPDES Permit No. WQ0015242001 requested by Timberwood Development Co. ("Timberwood").

Background

By June 24, 2014 letter SAWS requested a contested case hearing in this matter and stated that it was an affected person because:

1. Timberwood's proposed service area is located less than 2 miles from SAWS' nearest sewer main and Timberwood had failed to demonstrate that it contacted SAWS to request that SAWS provide sewer service;
2. Timberwood's proposed service area is located entirely inside SAWS' certificated sewer service area and SAWS has not consented to Timberwood providing retail sewer service inside SAWS' certificated area; and
3. Timberwood's proposed treatment facility will discharge treated effluent that will reach the Edwards Aquifer recharge zone and will enter that aquifer, which is one of SAWS' primary drinking water supplies.

The Preliminary Decision and the draft Permit raise issues related to those interests of SAWS raised in its request for hearing, as discussed below.

Preliminary Decision

The Executive Director notes that the plant site will be located 740 feet north of the intersection of Slumber Pass and White Eagle Drive in Bexar County. Preliminary Decision p. 1. However, the Executive Director does not in any way address whether SAWS could or should be

the sewer service provider based on the proximity of SAWS' closest sewer main to the proposed development. Under section 26.0282 of the Texas Water Code, the TCEQ may alter or deny a proposed permit based on whether a nearby sewer utility may provide the service. SAWS has a sewer main located approximately 1.5 miles from the proposed development and SAWS could, and prefers to, provide service to that area. See Exhibit 1. Furthermore, from a water quality perspective it would be much more beneficial to have the wastewater generated from the Timberwood development treated at SAWS' treatment plant than it would to have the waste treated at Timberwood's proposed package treatment plant. For example, the package treatment plant would not be staffed or monitored anywhere near the level that occurs at SAWS' wastewater treatment plants. However, the Executive Director has completely ignored the regionalization issue and fails to state any basis as to why Timberwood should be the service provider rather than SAWS.

Similarly, the Executive Director does not mention the fact that Timberwood's proposed service area is within SAWS' certificated sewer service area and that SAWS has not authorized Timberwood to provide sewer service there. Timberwood admits that its proposed service area is within SAWS' sewer CCN area. Timberwood admits, therefore, that it may not provide retail sewer service in the area. Without having obtained authorization from SAWS to provide service in SAWS' CCN service area, Timberwood has no need of a permit because it cannot provide service. Under section 26.0282 of the Texas Water Code the TCEQ also may alter or deny a proposed permit based on whether the proposed treatment plant is needed. There is no discussion of this issue in the Executive Director's Preliminary Decision.

With respect to the draft permit conditions, the Executive Director does not address the frequency at which Timberwood must test for various parameters identified in the permit. SAWS notes that the draft permit requires testing for chlorine residual five times per week. Permit p. 2. Given the proximity of the discharge point to the Edwards Aquifer recharge zone, the requirement to test chlorine residual five times per week is insufficient to protect SAWS' water supply. If the permit issues, Timberwood should be required to conduct daily testing for chlorine residual because doing so will greatly assist Timberwood in determining whether it is discharging treated effluent that would not be harmful to SAWS' water supply. Another reason to require daily testing for chlorine residual relates to the location of the discharge route. The discharge route is through a neighborhood, and apparently along the property lines of numerous residences, where children could easily come into contact with the treated effluent. Unless daily testing is required, it is quite possible that Timberwood would not test on the weekends when children are more likely to come into contact with the treated effluent.

SAWS also notes the Executive Director concludes the draft permit allows Timberwood to obtain authorization for a nuisance odor prevention plan after obtaining the discharge permit. Preliminary Decision p. 3. Taking that approach would prevent SAWS, and other persons, from having any meaningful input as to the odor prevention strategy selected by Timberwood. This is especially troubling given that information provided by Timberwood indicates it desires to locate the treatment plant closer than 150 feet from adjacent lots. In fact, Timberwood proposes to locate its treatment plant in the middle of a residential subdivision, in what otherwise would be residential lots. The better approach is to require that Timberwood submit a nuisance odor prevention plan to the TCEQ for approval prior to the time a permit issues.

Draft Permit

The permit should not be granted because Timberwood has not demonstrated a need for it for two reasons. First, SAWS could provide the sewer service and doing so would promote the TCEQ's regionalization goals and would be more protective of water quality. Second, because Timberwood has no authority to provide service in its proposed service area even if TCEQ grants the permit Timberwood has not demonstrated a need for the permit.

Alternatively, if the permit is granted it should be revised to address the following concerns. The requirement to monitor chlorine residual five times per week by grab sample should be revised to require daily samples given the proximity of the discharge point to the Edwards Aquifer recharge zone, and given that the receiving streams run through residential areas where children could come into contact with the effluent. Draft Permit p. 2. The TCEQ is authorized to require the additional sampling. 30 TAC §319.5 (c). The TCEQ should also include a provision specifying that samples must be taken at peak loading periods as required by 30 TAC §319.9. These provisions are needed in order to better ensure that Timberwood's treated effluent discharged into SAWS' water supply is compliant with its permit parameters each day it discharges wastewater.

The Monitoring and Reporting Requirements section of the permit should be revised to instruct Timberwood to provide to SAWS all of the monitoring, notifications and reports that it is required to provide to the TCEQ. This provision is needed so that SAWS can adequately monitor the quality of Timberwood's discharges into SAWS' water supply.

The Operational Requirements section should be revised to instruct Timberwood to conduct a physical inspection of the wastewater treatment plant at least once daily when the plant is operating at its peak load. This provision is needed so that Timberwood will be able to determine whether its plant is operating properly for every day that discharges occur.

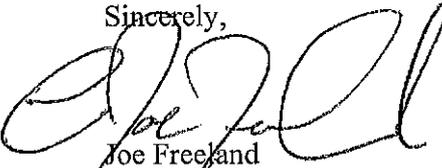
Item 9 on page 15 should be revised to state that the wastewater treatment plant shall be operated by an operator with at least a Category B license. The location of this treatment plant inside the proposed subdivision and the location of the discharge route through residential backyards present "unusual operation and maintenance conditions" justifying increasing the classification. 30 TAC §30.350(h).

Item 4 on page 31 should be revised to state that Timberwood has provided a nuisance odor prevention plan to the Executive Director, which has been approved. This provision is needed to require that Timberwood obtain the plan approval before the permit is issued so that SAWS and other persons may have the opportunity to review and comment on the prevention plan. SAWS is concerned that the odor controls might not be sufficient to protect other parties who wish to develop property in other parts of SAWS' CCN area in close proximity to Timberwood's property, and to those persons who purchase lots from Timberwood located within San Antonio's ETJ.

Summary

For the reasons stated above, the TCEQ should deny Timberwood's application for a wastewater discharge permit because there is no need for the proposed wastewater treatment plant. In the alternative, if the TCEQ decides to issue the permit it should do so in accordance with the revisions discussed above. Finally, SAWS' renews its request for a contested case hearing, and requests a public meeting regarding the draft permit.

Sincerely,



Joe Freehand
Attorneys for SAWS

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Wednesday, June 25, 2014 7:46 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015242001
Attachments: Request for Contested Case Hearing 6-24-14.pdf

H

From: jfreeland@mandf.com [<mailto:jfreeland@mandf.com>]
Sent: Tuesday, June 24, 2014 3:18 PM
To: donotReply@tceq.texas.gov
Subject: Public comment on Permit Number WQ0015242001

*MWD
92457*

REGULATED ENTY NAME TIMBERWOOD VILLAS II WWTF

RN NUMBER: RN106913114

PERMIT NUMBER: WQ0015242001

DOCKET NUMBER:

COUNTY: BEXAR

PRINCIPAL NAME: TIMBERWOOD DEVELOPMENT COMPANY LP

CN NUMBER: CN602918864

FROM

NAME: Joe Freeland

E-MAIL: jfreeland@mandf.com

COMPANY: Mathews & Freeland, LLP

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

PHONE: 5124047800

FAX:

COMMENTS: See attached letter

MWD

MATHEWS & FREELAND, L.L.P.

ATTORNEYS AT LAW

JIM MATHEWS
JOE FREELAND

Westpark II, Suite 260
8140 North MoPac Expressway
AUSTIN, TEXAS 78759

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

June 24, 2014

Via Electronic Submission & Mail

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

Re: Timberwood Development Co., L.P., TPDES Permit No. WQ0015242001, San Antonio Water System's Request for Contested Case Hearing

Dear Ms. Bohac:

We are legal counsel for the San Antonio Water System ("SAWS"), and have been authorized by SAWS to make the following request for contested case hearing regarding the referenced TPDES permit application.

Request for Contested Case Hearing

SAWS requests a contested case hearing.

Identity of Requester

SAWS is the water and sewer utility for The City of San Antonio, which is a home-rule municipality located in Bexar County, Texas. SAWS' contact information for this proceeding is as follows:

SAWS Contact
Mr. Keith Martin
San Antonio Water System
2800 US Highway 281 N.
San Antonio, TX 78212
Fax: (210) 233-3867

Authorized Representative
Mr. Joe Freeland
Mathews & Freeland, LLP
8140 N. Mo-Pac Expwy Ste 2-260
Austin, Texas 78759
Fax: (512) 703-2785 Phone: (512) 404-7800
jfreeland@mandf.com

SAWS's Demonstration of Affected Person Status

SAWS has interests related to legal rights, duties, privileges, powers, or economic interests affected by this application. Some of SAWS' specific interests are as follow:

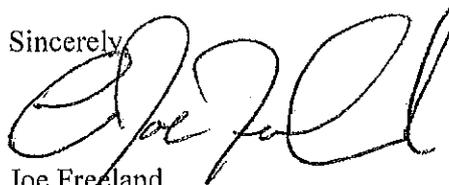
- Timberwood Development's proposed facility, which is the subject of the application, is located entirely inside the City of San Antonio's extraterritorial jurisdiction, and adjacent to San Antonio's corporate limits. SAWS is wholly-owned by San Antonio.
- SAWS holds Sewer CCN No. 20286. The facility, and its proposed service area, is located entirely inside the SAWS' certificated sewer service area. SAWS has not consented to Timberwood Development providing retail sewer service inside SAWS' certificated service area.
- Timberwood Development's proposed service area is located approximately 1.25 miles from SAWS' nearest sewer main. The application does not contain an adequate demonstration that the applicant contacted SAWS regarding service.
- The treatment facility will be located within the Contributing Zone of the Edwards Aquifer, very near the edge of the Recharge Zone. The discharge drains to the Recharge Zone. SAWS relies on the Edwards Aquifer as the source of the vast majority of its drinking water supplies. Given the close proximity of the treatment plant to the Recharge Zone, there is a potential risk for wastewater to enter SAWS' water supply.

Summary of SAWS' Position/Bases for Granting Contested Case Hearing

SAWS would be adversely affected by the proposed permit in a way not common to the general public for at least two reasons. First, the treatment plant is not needed because no entity other than SAWS has the right to provide retail sewer service in this area. Because Timberwood Development does not have the right to provide retail sewer service to the lots its wishes to serve with the treatment plant, Timberwood Development has no need for a treatment plant. Second, operation of the treatment plant and the disposal of the treated effluent from the treatment plant have the potential to enter SAWS' water supply -- the Edwards Aquifer. The potential contamination of its water supply is significant concern to SAWS.

Accordingly, SAWS' request for a contested case hearing should be granted.

Sincerely,



Joe Freeland
Mathews and Freeland
Attorneys for SAWS

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, July 14, 2014 3:15 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015242001

H

From: seth.prescott@gmail.com [<mailto:seth.prescott@gmail.com>]
Sent: Monday, July 14, 2014 10:41 AM
To: donotReply@tceq.texas.gov
Subject: Public comment on Permit Number WQ0015242001

*MWD
92457*

REGULATED ENTY NAME: TIMBERWOOD VILLAS II WWTF
RN NUMBER: RN106913114
PERMIT NUMBER: WQ0015242001
DOCKET NUMBER:
COUNTY: BEXAR
PRINCIPAL NAME: TIMBERWOOD DEVELOPMENT COMPANY LP
CN NUMBER: CN602918864
FROM:
NAME: Gregory Seth Prescott
E-MAIL: seth.prescott@gmail.com
COMPANY:
ADDRESS: 738 BEST WAY
SAN ANTONIO TX 78260-5325
PHONE: 2104788999
FAX:

COMMENTS: I would like to request a public hearing on the above proposed permit. I would like to understand what is being requested and proposed behind my house, and I believe any and all of the people that would be potentially affected have the right to know as well. Thank you. Have a great day! Seth

MWD