

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, April 27, 2015 8:26 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001
Attachments: Domahidi Request for Contested Case Hearing and Request for Reconsideration.pdf

RFR
H

From: brooke-davidson@gsfpc.com [<mailto:brooke-davidson@gsfpc.com>]
Sent: Thursday, April 23, 2015 4:36 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0015264001

*MWD
93505*

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: MR Carrick Brooke-Davidson

E-MAIL: brooke-davidson@gsfpc.com

COMPANY: Guida Slavich & Flores PC

ADDRESS: 816 CONGRESS AVE Suite 1500
AUSTIN TX 78701-2442

PHONE: 5124766300

FAX: 5124766331

COMMENTS: Protestant Hanelore Domahidi's Request for Contested Case Hearing and Request for Reconsideration and attachments.

mw

TCEQ PERMIT NO. WQ0015264001

APPLICATION BY NASH § BEFORE THE TEXAS COMMISSION
FM 529, LLC. FOR § ON
TD PES PERMIT NO. WQ0015264001 § ENVIRONMENTAL QUALITY

PROTESTANT HANELORE DOMAHIDI'S
REQUEST FOR CONTESTED CASE HEARING AND
REQUEST FOR RECONSIDERATION

1. This is a request for a contested case hearing and request for reconsideration for the above-referenced permit application (the "Nash Permit"). These requests are submitted on behalf of Hanelore Domahidi. She is the legal and court appointed Guardian of the Person of her daughter, Jennifer Melissa Domahidi, who has cerebral palsy. Hanelore Domahidi and Jennifer Melissa Domahidi reside at 23810 Stockdick School Road, Katy, Texas 77493-6318 (the "Property"). This Property is owned by the Jennifer Melissa Domahidi Management Trust ("Trust"). The Trust is managed by the court appointed trustee, Cadence Trust, a Division of Cadence Bank. The trust was created by Harris County Probate Court Number Two, Judge Mike Wood, to manage the Property for the benefit of her daughter. The Property is located less than 3,000 feet from the proposed discharge route into Mayde Creek.

2. All communication regarding this matter should be directed to counsel at the following address:

Carrick Brooke-Davidson
Guida Slavich & Flores, P.C.
816 Congress Avenue, Suite 1500
Austin, Texas 78701
brooke-davidson@gsfpc.com
T. (512) 476-6300
F: (512) 476-6331

3. Ms. Domahidi has previously submitted comments on this proposed permit. In addition to this permit, another permit is pending before the Texas Commission on Environmental Quality

("Commission" or "TCEQ"). This other permit, TCEQ Docket No. 2015-0035-MWD, TPDES Permit No. WQ0015222001, Pulte Homes of Texas, L.P. (the "Pulte Permit") also proposes to discharge into the same watercourse, Mayde Creek, as the Nash Permit.

4. Ms. Domahidi, together with her neighbors, has raised similar concerns about the Nash Permit and the Pulte Permit. In particular, she is concerned about odor, the potential for contamination of the well water on the Property, and the effect on livestock. In conjunction with the Pulte Permit, both the Executive Director and the Office of Public Interest Counsel recommended that Ms. Domahidi would be an Affected Person and her request for a contested case hearing should be granted. *See* Attachment A, excerpt from Executive Director's Response to Hearing Requests and Requests for Reconsideration, and Attachment B, excerpt from The Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration.

5. The factors in the Pulte Permit that resulted in the recommendation of affected party status for Ms. Domahidi and granting of the hearing request also apply to the Nash Permit, as it presents the same concerns. Moreover, the Nash Permit proposes to authorize a discharge of 1,000,000 gallons per day into Mayde Creek, in addition to the 900,000 gallons per day authorized by the Pulte Permit.

6. As has been raised in several comments, the cumulative effect of these combined discharges could adversely affect nearby property including the Domahidi Property. Significantly, both the Nash and Pulte Permits contain daily average mass emission limits on effluent, as well as daily and peak-hour flow limitations. The record does not indicate that these

proposed limits reflect the combined impact. These individual daily limits could be exceeded by the combined discharge of both facilities.

7. Ms. Domahidi has a justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the Nash Permit application not common to the general public, and therefore is an affected person. *See* 30 TAC § 55.203(c).

8. Ms. Domahidi specifically requests a hearing on the following issues raised during the public period and discussed above:

- a. Whether the proposed permit would adversely affect surface water quality.
- b. Whether the draft permit is adequately protective of groundwater.
- c. Whether the draft permit includes sufficient odor control provisions.
- d. Whether the discharge route has properly been characterized.
- e. Whether the proposed permit will adversely impact use and enjoyment of property or create nuisance conditions.
- f. Whether the permit is adequate protective in light of impacts by flooding conditions on the facility, and impacts of the permit upon flood conditions.
- g. Whether the proposed permit and discharge will contaminate well water and well water systems and would adversely affect Ms. Domahidi's water well and the groundwater supplying her well.

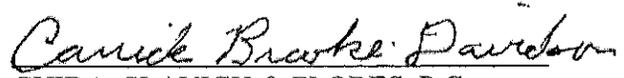
- h. Whether the proposed permit and discharge would adversely affect Ms. Domahidi's health and Ms. Domahidi's livestock's health.
- i. Whether the proposed permit is sufficient to prevent odors that would adversely affect the requester's properties.
- j. Whether the proposed facility site is located in a floodway or 100-year flood plain, contribute to existing flooding issues, and flooding biological concerns.
- k. Whether the proposed permit would adversely affect surface water quality.
- l. Whether the facility will present a health hazard.
- m. Whether impounded discharge when South Mayde Creek is dry will affect quality of life.
- n. Whether the discharge will be polluted and include sewage, and, flood neighboring properties.
- o. Whether discharge will be odorous and impact quality of life.
- p. Whether wind will push pollutants onto neighboring properties.
- q. Whether the permit includes contaminant provisions.
- r. Whether receiving treated domestic wastewater will have an environmental impact on the receiving creek.
- s. Whether the cumulative impact of the discharges authorized by the Nash and Pulte permits has been considered, and is reflected in the permit limits.

9. For the same reasons that the request for contested case hearing should be granted, the Executive Director should reconsider the decision to grant the Nash Permit. The Executive Director should reconsider the cumulative impact of the combined effluent discharge of the Nash Permit in conjunction with the Pulte Permit, specifically mass and flow limits, since the individual permit limits could be exceeded by the combined effluent discharge.

PRAYER

For the reasons stated above, Protestant respectfully prays that the Commission grant Hanelore Domahidi's request for contested case hearing and request for reconsideration with regard to the issues listed above, as well as any other issues recommended for referral by the Executive Director or the Office of the Public Interest Counsel. Ms. Domahidi further requests that the matter be referred to the State Office of Administrative Hearings with an expected duration of nine months.

Respectfully submitted,



GUIDA, SLAVICH & FLORES, P.C.

Carrick Brooke-Davidson

State Bar No. 05430650

brooke-davidson@gsfpc.com

816 Congress Avenue, Suite 1500

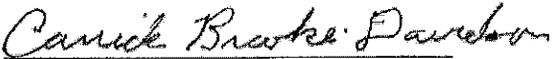
Austin, Texas 78701

512.476.6330

512.476.6331 (fax)

CERTIFICATE OF SERVICE

By my signature, below, I certify that on the 23rd day of April 2015, a true and correct copy of Hanelore Domahidi's Request for Contested Case Hearing and Request for Reconsideration set out above was served upon all parties on the attached service list in the manner indicated.


Carrick Brooke-Davidson

FOR THE APPLICANT:

Via First Class Mail

Alan F. Bauer, Vice President
Nash FM 529, LLC
10235 West Little York, Suite 300
Houston, TX 77040

Jennifer Mays, P.E.
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, TX 77042

Nathan White, P.E.
Brown & Gay Engineers, Inc.
10777 Westheimer Road, Suite 400
Houston, TX 77042

FOR PUBLIC INTEREST COUNSEL:

Vic McWherter, Attorney
Texas Commission on Environmental Quality
Office of Public Interest Counsel, MC 103
P.O. Box 13087
Austin, TX 78711-3087
T: (512) 239-6363
F: (512) 239-6377
via facsimile

FOR THE EXECUTIVE DIRECTOR:

Via Facsimile

Brian Christian, Director
Texas Commission on Environmental Quality
Environmental Assistance Division
Public Education Program MC-108
P.O. Box 13087
Austin, TX 78711-3087
F: (512) 239-5678

Ashley S. McDonald, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, TX 78711-3087
F: (512) 239-0606

Larry Diamond, Technical Staff
Texas Commission on Environmental Quality
Water Quality Division MC-148
P.O. Box 13087
Austin, TX 78711-3087
F: (512) 239-4430

FOR THE CHIEF CLERK:

Ms. Bridget C. Bohac
Chief Clerk, TCEQ
Office of the Chief Clerk, MC 105
12100 Park 35 Circle, Bldg. F
Austin, TX 78753
Via e-file

PROTESTANTS/INTERESTED PERSONS:

Via First Class Mail

James W. Riley, II
23826 Stockdick School Rd.
Katy, TX 77493-6318

Brenda Thompson
23834 Stockdick School Rd.
Katy, TX 77493-6318

Jarrold Baumann
6518 Mertlin Ln
Katy, TX 77493-1823

Shari Boothe
PO Box 680
Katy, TX 77492-0680

Christopher L. Spicer
23910 Stockdick School Rd
Katy, TX 77493-6317

Eric Allmon
Frederick, Perales, Allmon & Rockwell, P.C.
707 Rio Grande Street, Suite 200
Austin, TX 78701

T: 512-469-6000
F: 512-482-9346
Via Facsimile and First Class Mail

Tyanne Shacklett
23926 Stockdick School Rd.
Katy, TX 77493-6317

Thomas Shacklett
Alarm One
23926 Stockdick School Rd.
Katy, TX 77493-6317

ATTACHMENT A

that were raised during the public comment period, which is required under section 55.201(d)(4). Without any fact issues to base a contested case on, there is no case for the Commission to refer to SOAH under section 50.115(c) with respect to this hearing request.³ The ED concludes that Tyanne Shacklett's hearing request does not substantially comply with the section 55.201(c) and (d) requirements and recommends that the Commission deny the hearing request.

B. Whether the Requesters Meet the Affected Person Requirements

All the hearing requesters live in the same neighborhood, Mayde Creek Estates. The neighborhood is located adjacent to and east of a parcel of land on which one of the subdivisions that Pulte Homes' proposed facility will serve will be constructed; the proposed facility site is located in the northeast corner of that parcel of land. South Mayde Creek flows along the north end of Mayde Creek Estates. Please see Attachment A for a map of the facility site's and requesters' locations.

1. Hanelore Domahidi

Ms. Domahidi's property is not located adjacent to the proposed facility site or the discharge route. However, it is located about 2,000 feet from the facility site and discharge route, and she raised relevant-disputed issues of fact that could impact her and her property, such as odor and the potential for the discharged effluent to enter her well water and affect her and her livestock's health. Considering the factors listed in section 55.203(c) used to determine affected person status, her property's location in relation to the facility site and discharge route and her concerns regarding the proposed facility and its discharges suggest she has a personal justiciable interest not in common with other members of the general public, as the facility and its discharges could possibly impact the use of her property and her health and safety.⁴ Therefore, Ms. Domahidi has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application, not common to members of the general public and is an affected person.⁵

The ED recommends that the Commission find that Hanelore Domahidi is an affected person.

2. Mayde Creek Estates OA

Mayde Creek Estates is located adjacent to both the proposed facility site and the discharge route. In accordance with section 55.205(a) and as laid out in this subsection, at least four landowners in Mayde Creek Estates, who would also be members of the OA,

³ Accord TEX. WATER CODE ANN. § 5.556(d)(2) (Vernon 2008) (Commission may not refer an issue to SOAH unless it was raised during the public comment period).

⁴ See 30 TEX. ADMIN. CODE § 55.203(c)(4) (listing the likely impact of the regulated activity on the health and safety of the person and on the use of the property of the person as a factor the Commission shall consider when determining if a person is an affected person).

⁵ *Id.* § 55.203(a); see also *id.* § 55.211(c)(2) (addressing hearing requests from affected persons that will be granted).

ATTACHMENT B

III. DISCUSSION

Hanelore Domahidi, Philip Evan Morris, James W. Riley, II, Tyanne Shacklett, Christopher Spicer, Donnisha Spicer, and the Mayde Creek Estate Owners Association filed timely requests for a contested case hearing that substantially comply with the procedural requirements for hearing requests pursuant 30 TAC § 55.201(d). Brenda Thompson filed an untimely request for a contested case hearing that otherwise complies with the procedural requirements for hearing requests.

A. Determination of Affected Person Status

For a hearing requestor to be an affected person, the request must be based on an interest that is protected under the law governing the permit application. 30 TAC 55.203(a). The TCEQ administers waste water discharge permit applications pursuant to its authority under TWC § 26.027(a). As further explained below, OPIC finds that Hanelore Domahidi, Philip Evan Morris, James W. Riley, II, Tyanne Shacklett, Christopher Spicer, and Donnisha Spicer are affected persons.

Hanelore Domahidi

Hanelore Domahidi is concerned (1) that the Facility will release water that will flow into South Mayde Creek and onto Hanelore Domahidi's property along with neighboring properties, (2) that discharges will pose a hazard because they may contaminate well water on Hanelore Domahidi's property, (3) that discharges may be odorous, (4) that discharges may affect the health of farm animals, (5) that drainage ditches along the discharge route cannot carry additional flows and this will lead to toxic run-off, (6) that the Facility is located on a 100-year floodplain, (7) that Pulte submitted misleading photos in its application to the TCEQ, and (8) that landowners on the northern side of South Mayde Creek and downstream from the Facility did

not receive notice of the application. Hanelore Domahidi is approximately half a mile from the proposed Facility. Executive Director's Map, Exhibit 1.

OPIC reviewed the published notices and affidavits for this application and did not find a notice issue. Further, OPIC reviewed the maps and photos submitted by Pulte with its application and cannot conclude that these maps were submitted with an intent to deceive the TCEQ; several maps show the location of potentially affected landowners. The issue concerning the health of farm animals was not raised during the comment period by any requester; therefore, Hanelore Domahidi cannot rely on this issue to assert affected person status. The issue concerning the capacity of drainage ditches to handle additional flows is beyond the TCEQ's jurisdiction. However, the remainder of the issues raised by Hanelore Domahidi concern health and safety, the use of the requester's property, and limitations imposed by the law under which the application will be considered. Because Hanelore Domahidi raises issues that are not common to the general public, OPIC finds Hanelore Domahidi is an affected person.

Philip Evan Morris

Mr. Morris is concerned (1) that discharges may be odorous, (2) that discharges will contribute to existing flooding problems in the area and other biological concerns from flooding, (3) that his quality of life will be impacted when the discharge is impounded when South Mayde Creek is dry, and (4) that Pulte submitted misleading photos in its application to the TCEQ. Mr. Morris is less than a half a mile from the proposed Facility. Executive Director's Map, Exhibit 1.

OPIC reviewed the maps and photos submitted by Pulte with its application and cannot conclude that these maps were submitted with an intent to deceive the TCEQ; several maps show the location of potentially affected landowners. However, the remainder of the issues raised by

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, April 27, 2015 8:25 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001

RFR
H

From: trained_mind@yahoo.com [mailto:trained_mind@yahoo.com]
Sent: Thursday, April 23, 2015 9:38 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0015264001

*SMC
93580*

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: H Domahidi

E-MAIL: trained_mind@yahoo.com

COMPANY:

ADDRESS: 23810 STOCKDICK SCHOOL RD
KATY TX 77493-6318

PHONE: 8324500186

FAX:

COMMENTS: I'd like to request a hearing and reconsideration of moving the facility somewhere else. South Mayde Creek/SMC is bordering our community and 4 families own part of the creek. Is TCEQ going to allow Nash to dump 1,000,000 gallon of sewer water daily in that creek without the residents' approval? SMC will receive daily 900,000 gallons from the Pulte development on top of the Nash sewer water release. We will

SMC

flood, the wells will be contaminated, we will get sick, and our horses won't be able to graze any longer. Would you like to drink water from our wells after a flooding from the sewer water? Are you & Nash going to pay our doctor bills? Does TCEQ worry about the environment at all? If you approve this permit, it clearly proves that TCEQ doesn't care about the environment at all!!!!

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Thursday, October 16, 2014 2:43 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001

PM
H

MWD
93585

From: trained_mind@yahoo.com [mailto:trained_mind@yahoo.com]
Sent: Thursday, October 16, 2014 11:28 AM
To: donotreply
Subject: Public comment on Permit Number WQ0015264001

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: H Domahidi

E-MAIL: trained_mind@yahoo.com

COMPANY:

ADDRESS: 23810 STOCKDICK SCHOOL RD
KATY TX 77493-6318

PHONE: 8324500187

FAX:

COMMENTS: We want to request a contested case hearing, public meeting and eventually stop this new development altogether. The 1,000,000 gallon of waste water will flood our community & will contaminate our water wells. This will affect homes and nearby businesses, it will bring down our property values. Mayde Creek is a small creek and floods easily.

MWD

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, September 08, 2014 3:48 PM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001

H

From: Prarie69@clear.net [mailto:Prarie69@clear.net]
Sent: Monday, September 08, 2014 1:48 PM
To: donotreply
Subject: Public comment on Permit Number WQ0015264001

MWD
93585

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: MR James W Riley

E-MAIL: Prarie69@clear.net

COMPANY:

ADDRESS: 23826 STOCKDICK SCHOOL RD
KATY TX 77493-6318

PHONE: 2817281147

FAX:

COMMENTS: I request a contested case hearing of the Nash FM 529, LLC proposed permit No: WQ0015264001. Our property I would estimate is within approx 1000' of the permitted outfall into Mayde Creek as are many of my neighbors. The Nash request is the second such permit (Pulte permit no: WQ0015222001) to dump into the creek within appr 1000' of each other. Our neighborhood has flooding problems now, and the two new developments will eliminaste many acres of absorption area as well as dumping

MWD

up to 1,900,000 gal/day or treated waste into Myade Creek. The most superficial study of Mayde Creek will reveal that many areas are clogged with brush and debris, and I and my neighbors contend that the creek cannot handle the Pulte waste, let alone a second development. We have contacted the flood control district who have no sense of urgency and do not plan any cleaning, clearing or improvement of the creek in clogged areas for several more years. It is difficult to imagine that at least some of our homes will not be flooded assuming development as advertised. Even with improvement on Mayde Creek, no suitable engineering studies supporting the contention that the creek can handle the run off and/or waste have been provided to the community. With these comments we submit for public record the threat to our community and we will strongly contest the permit(s).

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Friday, September 05, 2014 10:04 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001

H

From: tyshack@gmail.com [<mailto:tyshack@gmail.com>]
Sent: Friday, September 05, 2014 9:51 AM
To: donotreply
Subject: Public comment on Permit Number WQ0015264001

MWD
93585

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: Tom Shacklett

E-MAIL: tyshack@gmail.com

COMPANY: Alarm One

ADDRESS: 23926 STOCKDICK SCHOOL RD
KATY TX 77493-6317

PHONE: 2813710255

FAX:

COMMENTS: I would like to request a contested hearing on this permit.

MWD

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Thursday, April 23, 2015 9:42 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001
Attachments: nash.set1TECQcreekh2photo.docx

RFR
HR

*MWD
93505*

From: spicerhousekaty@yahoo.com [mailto:spicerhousekaty@yahoo.com]
Sent: Wednesday, April 22, 2015 11:08 PM
To: DoNot Reply
Subject: Public comment on Permit Number WQ0015264001

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: Christopher Spicer

E-MAIL: spicerhousekaty@yahoo.com

COMPANY:

ADDRESS: 23910 STOCKDICK SCHOOL RD
KATY TX 77493-6317

PHONE: 7134711123

FAX:

COMMENTS: I am requesting reconsideration/contested case hearing on the approval of permit #WQ0015264001 being proposed by Nash FM529 LLC ED Response1: Our concerns over treated effluent over flowing the water bed and banks will affect the enjoyment of my property. Once South Mayde Creek (SMC),

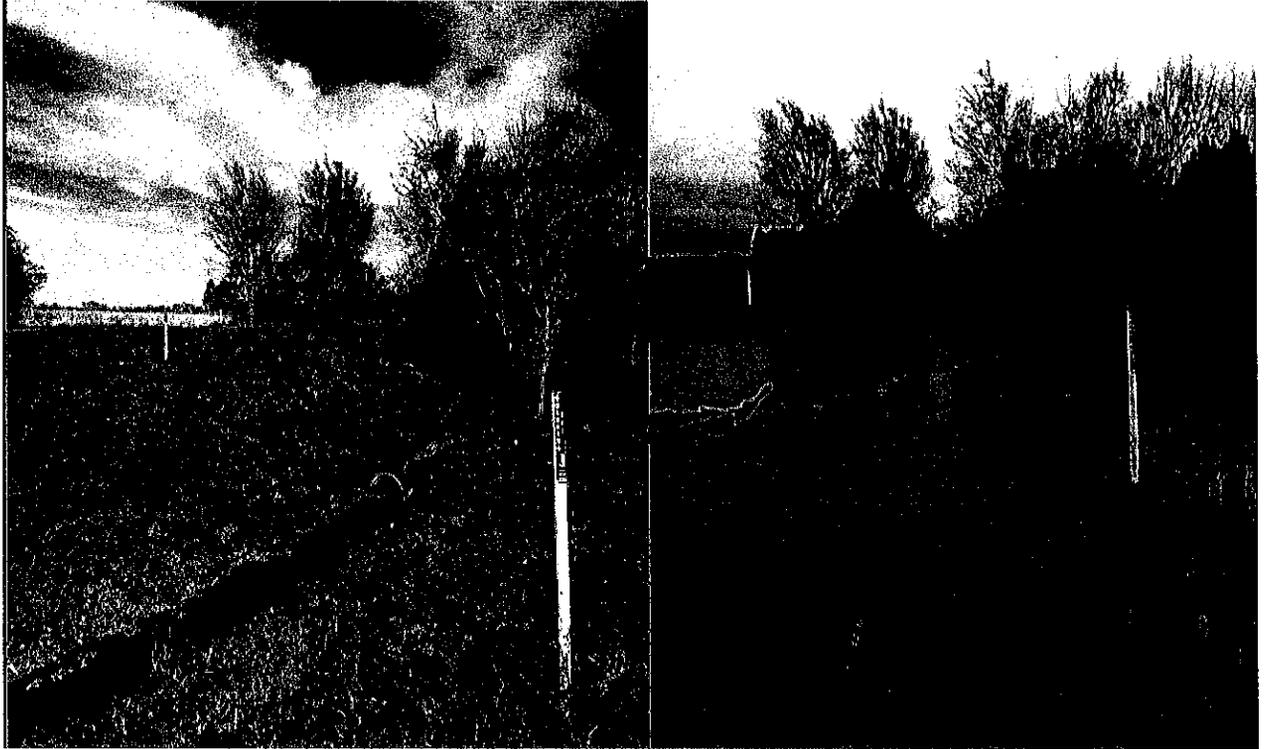
MWD

which is the applied for discharge rout gets backed up and the wastewater effluent spills onto my property line I will lose use of that part of my property and this will constitute a taking of my property. I will be affect to a greater extend then someone in the general public as my property line which goes to the middle of SMC is less than a 1,000 feet from the discharge rout proposed in this permit request. I also question whether proper characterization has been presented with this permit showing this is a true state recognized natural watercourse and if not does the TECQ have the authority to authorize the use of the proposed rout. I respectfully ask that these issues be referred to SOAH. With respect to the ED as far as reviewing USGS topographic maps and aerial photographs during the review process, and determining that the increase of 1,000,000 gallons of water into SMC is not expected to have a flood impact I respectfully disagree (please see attachment for photographic real life proof of SMC flooding with as little as 2.74 inches of rain). The ED gives a real life example of a 1,000,000 gallons of water saying it would be like 26 standard water hoses running all at the same time all day long operating at 60 PSI. This, to me, sounds like a tremendous amount of water to just assume it would have no effect on flooding without ever even tested the receiving body to see if it could hold that amount of load on top of any additional rainfall. According to the U.S. Department of the Interior division of U.S. Geological Survey (USGS) One inch of rain falling on 1 acre of ground is equal to about 27,154 gallons. So if a very conservative (calculations based on 1 acre of land which the creek is not) calculation is done using the formula provided by the USGS (2.74in X 27,154 gallons= 74,456 gallons) the photos in the attachment show a minimum 74,456 gallons of water in the creek over a 2 day span. Nash FM 529 LLC request of the TECQ to allow this proposed WWTP to dump an additional 1,000,000 gallons of waste effluent will without a doubt will spill over SMC banks and contaminate my property. This additional water being released into SMC will cause serious hardships, contamination threatening my family's health, and decrease my property value, quality of life and enjoyment of my property. Nash FM 529 LLC may maintain that their proposed WWTP will not be like other WWTPs. That this proposed WWTP will more effectively treat waste water. Unfortunately, the opposite is probably more likely for this location. Many factors play a role in the effectiveness of a WWTP, but this WWTP location will be hindered by them all. • Size: The size of the receiving waters for the WWTP effluent plays a big role in the dilution and potency of toxins and contamination and the effect on the environment, soil contamination along with seepage to the water table of the many chemicals that have been shown in the effluent of WWTP. The creek into which the proposed WWTP would discharge water floods its bank with as little as 2-3 in of rain (see attachment). • Temperature: High temperatures and high humidity decrease WWTP efficiency. Increased temperature (Houston summer) allow for Increase tolerance to reduction rates from the treatment process. Gene transfer rates have been found to be temperature sensitive, i.e. the transfer rate increases 1000 times at 25 degrease Celsius compared to 5 degrease Celsius in a study of multi-resistant coliforms from sewage. The humidity in the hot Houston summer weather is also not conducive to the efficiency of a WWTP or to the harmful odors/VOCs that will come from a WWTP. • High Precipitation: According to the EPA Handbook, vol. 1: Excessive storm water can cause a WWTP system to overflow. In this event, excess flow can be directed into waterways untreated, resulting in contamination. In urban areas sewage is carried separately in sanitary sewers and runoff from streets is carried in storm drains. Access to either of these is typically through a manhole. During high precipitation periods a combined sewer overflow can occur, forcing untreated sewage to flow back into the environment. This can pose a serious threat to public health and the surrounding environment. Because Harris County is a humid subtropical region, it is subject to extreme weather and precipitation fluctuations. This includes intense rainstorms and resultant flooding. • Low Precipitation: When rainfall is low and receiving waters flows are low. The WWTP discharged effluent can be up to 50% higher in concentration. Any residual unidentified contaminants will only be diluted 2-fold at best. Despite being a humid subtropical climate, Harris County was part of the state-wide drought for several years ending in 2013. Anyone who lives here knows cattlemen had to sell off herds, tanks dried up, and reservoirs dropped. While Harris County is no longer in drought conditions, much of Texas is water needy, and Harris County could experience drought again any summer. During this time the 1,000,000 gallons a day the WWTP proposes to discharge onto my back property line will be undiluted by anything save said trickle. Therefore, the concentration of any contaminants and their effect on soil, water, plant and animal life will be greater. The following passage from Daughton and Ternes-(Pharmaceuticals and Personal Care Products in the Environment) addresses contaminant concentration. A worst-case scenario may not be unusual; the concentration of a drug leaving a WWTP in the

effluent could essentially be the same as that entering. Only the several-fold to multiple order of magnitude dilution when the effluent is mixed into the receiving water, assuming a sufficiently high natural flow, serves to reduce the concentration; obviously, smaller streams have increased potential for having higher concentrations of any pharmaceuticals and active ingredients in personal care products (PPCP) that has been introduced (Velagaleti R.- Behavior of pharmaceutical drugs in the environment). Other transients that could affect removal of toxins/contamination include transitions between seasons and sporadic plug-flow influx of toxicants from various sources. Overflows from WWTP failure or overcapacity events (e.g., floods, excessive water use) lead to direct, untreated introduction of sewage into the environment (Daughton and Ternes-Pharmaceuticals and Personal Care Products in the Environment). ED Response 2: this is somewhat confusing in that one of the criteria is economic impact when the TECQ is reviewing a permit for approval. I would think that surrounding property owner's loss of property value would fall under economic impact. ED Response 3: As a Texas land owner that will be affected to a great extent then the general public by the approval of this WWTP permit I find it very disturbing that according to 26.081 of the Texas Water Code, TECQ has been mandated to "encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal system to serve the waste disposal needs of the citizens in the state" this makes me an affected person more so than someone in the general public by this WWTP feel like the deck is stacked against me and my rights, in that if at all possible the TECQ is encourage to approve any and all WWTP permit applications. In regards to ED Response 4: As stated above and will be stated below the approval of the WWTP permit will affect the enjoyment of my home/property and way of living. For this reason that is a matter of fact, I humbly ask that the ED and OPIC refer this onto SOAH. Ed Response 5: The windrose study that was submitted with this proposed WWTP permit request is outdated and at a distance greater than 27 miles away. This brings into question the accuracy and validity of the windrose study up on the Nash FM 529 LLC location and how the nuisance odor will affect the leeward (downwind) property owner's. I ask the ED and OPIC to refer this matter to SOAH. Also in question is whether nuisance odor stops to exist beyond the 150 feet buffer zone. It is a matter of fact that there is no guarantee that 100% of the time the nuisance odor will stay with in the 150 feet buffer zone and not affect my quality of life and enjoyment of my property. Also it is called into question whether the odor from the wastewater effluent which travel well beyond the 150 feet buffer zone impact is taken into consideration in how it will affect my quality of life enjoyment of my property. As this is an open air and not a closed air WWTP the number of occurrences and opportunities of nuisance odor is greatly increased. For all these reasons I ask that the ED and OPIC refer this matter onto SOAH. ED Response 6: I call into question as to whether the proposed site for the WWTP is truly out of the 100 flood plan as a very large area in and around the proposed WWTP site falls within the 100 flood plan maps. Further I call into question how Nash can say with 100% certainty that the wastewater effluent will not affect our area water well and groundwater. This could have a great effect on human health on the area, as such the burden of proof should fall on Nash FM 529 LLC. For this reason I ask that the ED and OPIC refer this matter onto to SOAH.

Photo#1

South Mayde Creek After .25 in then after 1.8 in of rain fall



Comparison of flow capacity of South Mayde creek this is after .25in of rain fall vs 1.8 in of rain fall

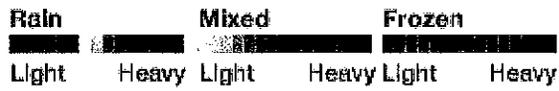
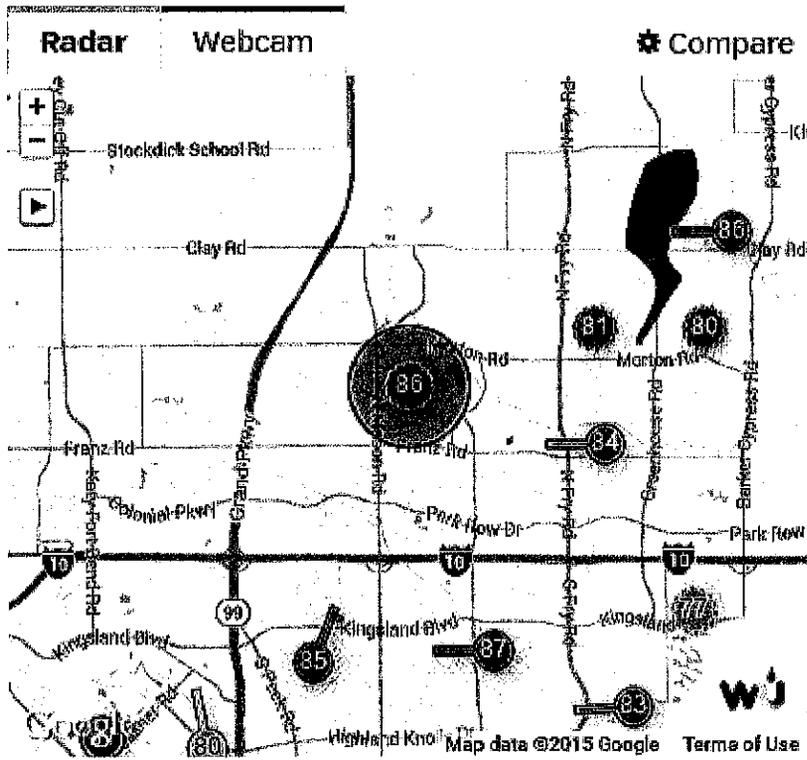
Weather History for Katy, TX [KTXKATY93]

[Previous](#) Daily Mode ▼ March ▼ 9 ▼ 2015 ▼ View

Summary March 9, 2015

	High	Low	Average		High	Low	Average
Temperature	65.3 °F	51.4 °F	58.4 °F	Wind Speed	0 mph	--	0 mph
Dew Point	63.7 °F	50.6 °F	57.6 °F	Wind Gust	0 mph	--	--
Humidity	100%	91%	95%	Wind Direction	--	--	North
Precipitation	1.81 in	--	--	Pressure	29.78 in	29.54 in	--

Location of weather station



Photo#2



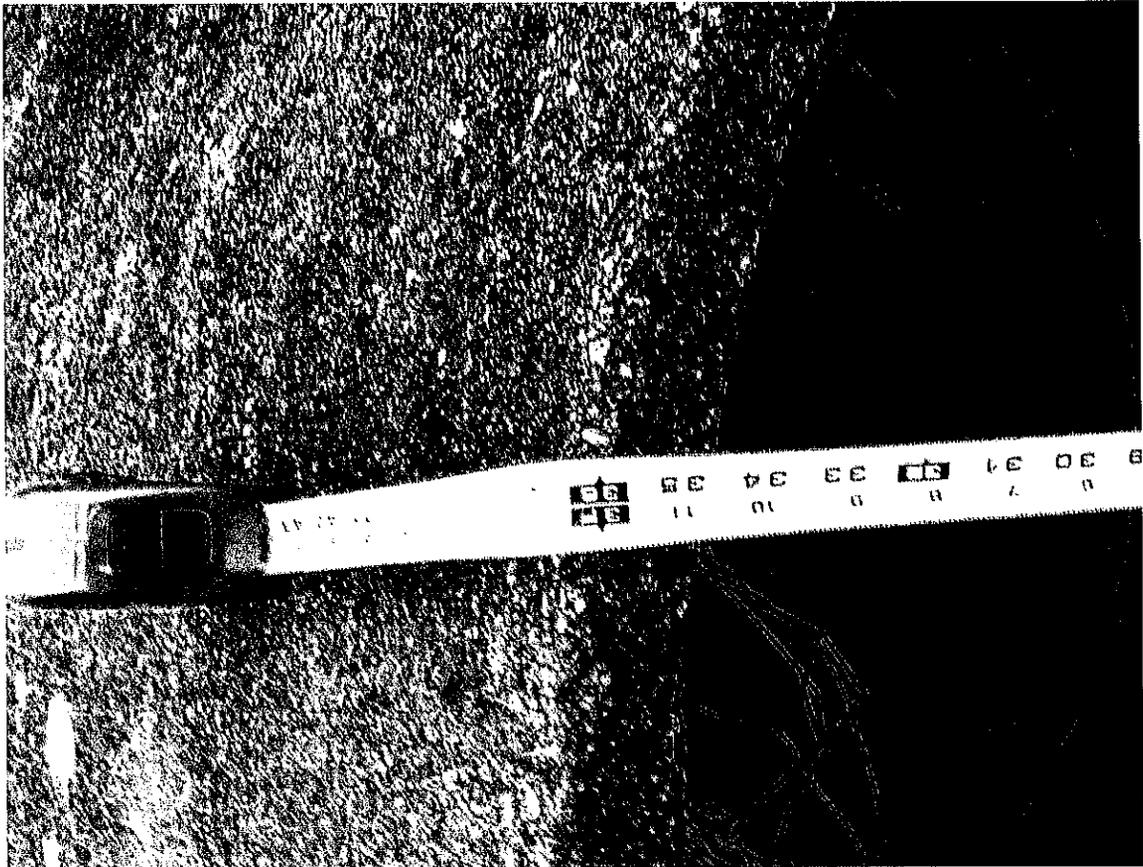
Creek bed 18" across in low flow times

Photo#3



36" culvert

Photo#4



36" Culvert

Photo #5



3/7/15 36" culvert in South Mayde Creek (turtle on log (wildlife))

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Friday, September 05, 2014 11:43 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number WQ0015264001
Attachments: photos of Environmental concerns.docx

H

From: spicerhousekaty@yahoo.com [mailto:spicerhousekaty@yahoo.com]
Sent: Friday, September 05, 2014 11:06 AM
To: donotreply
Subject: Public comment on Permit Number WQ0015264001

*MWD
93585*

REGULATED ENTY NAME NASH FM 529 WWTP

RN NUMBER: RN107309437

PERMIT NUMBER: WQ0015264001

DOCKET NUMBER:

COUNTY: HARRIS

PRINCIPAL NAME: NASH FM 529 LLC

CN NUMBER: CN604588350

FROM

NAME: Christopher Spicer

E-MAIL: spicerhousekaty@yahoo.com

COMPANY:

ADDRESS: 23910 STOCKDICK SCHOOL RD
KATY TX 77493-6317

PHONE: 7134711123

FAX:

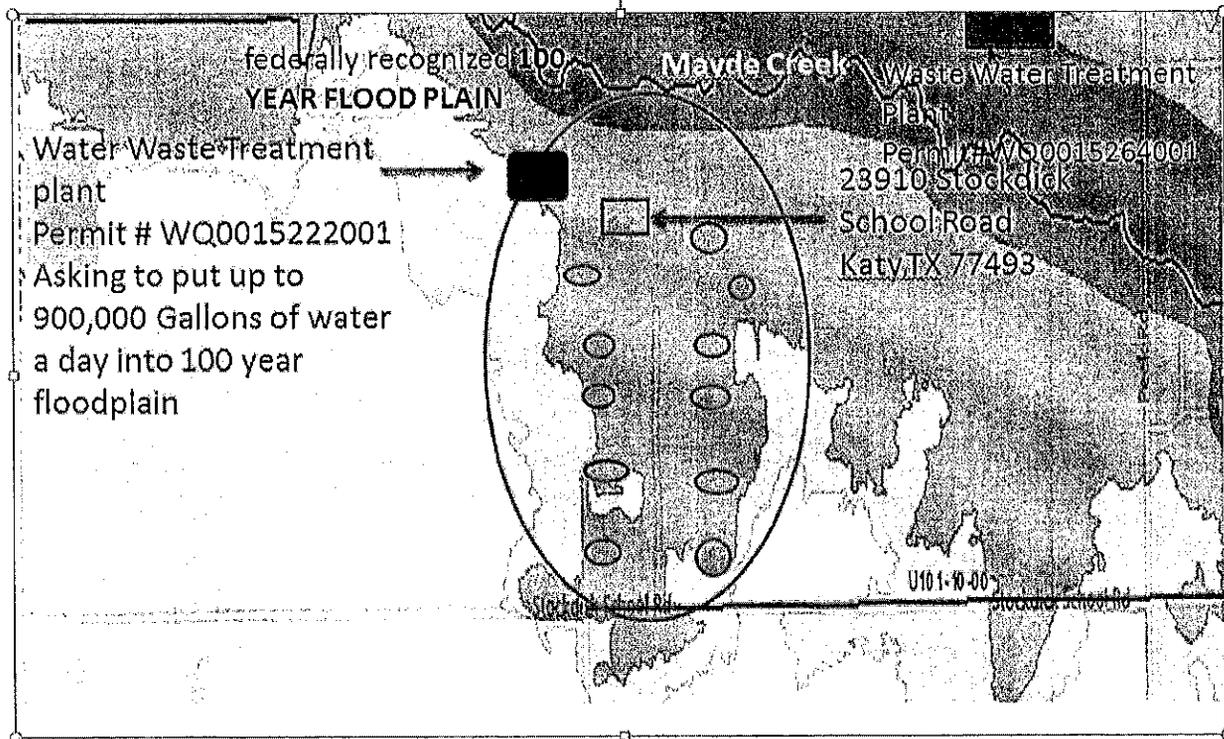
COMMENTS: I am requesting an contested hearing on Permit Application WQ0015264001. Our property and home stead is located within Mayde Creek Estates, on the 23,000 block of Stockdick School Rd and Porter Rd. Our home is located less than a mile of the proposed project site. As you can understand this project is of great concern to me and my family. If this project is allowed to go as requested, it will be dumping over 1,000,000

MWD

GALLONS OF SEWAGE WATER into our back yard in. This 1,000,000 gallons of waste water will be in addition to the 900,000 gallons of sewage water from PERMIT NUMBER: WQ0015222001 if either or both are allowed to go forward. I don't want either sewage plant, but I don't see why if there has to be one why two are needed. I would like there to be none, but if one had to be approved I would want the one that is downstream from our neighborhood. We have an established residence in which we bought without having two SEWAGE PLANTS next to it. Now if these projects are allowed to go through, we will have two SEWAGE PLANTS right next door to our home. This project will have an huge impact on our way of living and life's not to mention our property value. I feel this falls within both the Private and Public Nuisance claim for civil wrong. As shown by the permit request the wind study alone should be enough to stop this request as this would push all air pollutants directly into our neighborhood, which again is an already established neighborhood. Then Our neighborhood is A federally recognized 100 YEAR FLOOD PLAIN and drains directly into South Mayde Creek. We don't have storm drains in this part of Harris County, the nearest concrete storm drain is 2 miles away, and we rely on drainage ditches from our neighborhood for water to flow directly into South Mayde Creek. South Mayde Creek is still in a natural state with heavy underbrush and silt. The creek can go from being dry and empty with no water, to overflowing its banks during a mild to heavy rain. It is common for South Mayde Creek to overflow its banks and for water come up into our back yard. Now if the permit is allow we will not only have rain water in our back yard but sewage water as well. The water comes to within a foot from entering our home, my fear is with the addition of 1, 900,000 GALLONS OF SEWAGE WATER the water will now enter into our home (again which is already established on location). Our property has a retention area for our neighborhood on the back side of our property which is barely sufficient for the water shed of our neighborhood. If these projects are allowed to go forward it will not be matter of if, but when our homes will be flooded by the extra 1,900,000 GALLONS OF SEWAGE WATER being put directly into A federally recognized 100 YEAR FLOOD PLAIN water shed. The overflow from South Mayde Creek already backs up standing water on our properties for days, sometimes as high as 1 foot. Harris County sends out road maintenance crews on a regular basis to put up "HIGH WATER" signs. Pulte Homes and Nash FM 529 LLC have applied for a permit to build Two SEWAGE PLANTS only a couple hundred feet from our homes. The 1,900,000 GALLONS OF SEWAGE WATER a day discharge, will backup water draining from our homes and cause our properties to flood. In the summer when the creek is dry, the discharge will sit still and the smell will impact our quality of life. We ask that you reject Nash FM 529 LLC application to build their sewage plant next to our homes. Thank you.

Environmental & Health concerns

Location:



Conservation:

The area of Mayde Creek where the proposed TPDES site is located is only a couple of miles from where the creek originates. It is still mostly in a natural, undeveloped state. In the area of the proposed waste treatment facility, the creek itself is dry during the summer months. During these months, the only water that would be flowing in the creek would be the discharge of treated wastewater. Further study needs to be done to determine the environmental impact if the creek water will be 100% wastewater during the dry months of the year.

Flooding photos:

During large rainfall periods, the creek is the only drainage for the area, and is prone to flood. High water from Stockdick School Rd and Porter Rd north of Stockdick School Rd flow down the Porter Rd easement toward Mayde Creek. This area has flooded significantly on two occasions in the last 10 years.

The pictures below are from 2009, showing flood waters that backed up from Mayde Creek into the Mayde Creek Estates neighborhood.



These pictures were taken late in the day of the flood, several hours earlier water had been flowing over the driveways and was nearly into the homes.



Another view towards the creek, showing the water flowing back from the creek into the neighborhood.



There are no noticeable drainage improvements to Mayde Creek for several miles downstream of the proposed site. Up to the point of where Mayde Creek crosses Clay road, there are significant trees, brush and undergrowth, as well as debris from illegal dumping all along the creek bed. Does the applicant plan on making significant cleanup and improvements to the drainage?

Loss of property value and effects on homes in the immediate area downstream of the proposed wastewater treatment plant:

- Offensive odors from the treatment sewage.
- Most of the homes in Mayde Creek Estates have small private ponds that could become polluted with wastewater in the event of a flood.
- All the homes have private water wells that could become contaminated by flood water as well as seepage of heavy metals into ground water.
- Biohazards from open sewage tanks – Aerosols from the treatment process can contain hazardous bacteria, viruses and parasites which can cause respiratory and digestive infections, tuberculosis, hepatitis, meningitis, Cholera, to name a few.
- Studies have shown people who live near wastewater treatment plants show higher levels of skin disease and gastrointestinal symptoms the closer they live to the wastewater treatment plant.

<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1001&context=manuals>