SOAH DOCKET NO. 582-12-5103
TECQ DOCKET NO. 2011-1786-DIS

PETITION FOR THE CREATION	§	**BEFORE THE STATE**
	§	
OF SOUTH PORT ALTO	§	
	§	**OFFICE OF**
MUNICIPAL UTILITY DISTRICT	§	
	§	
IN CALHOUHN COUNTY	§	**ADMINISTRATIVE HEARINGS**

PROTESTANTS HERBERT AND CLAUDIA D. HAAS' REPLY TO EXCEPTIONS

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Now comes Protestants Herbert and Claudia D. Haas (hereinafter "Protestants") submits this Reply to Exceptions to the Administrative Law Judge's (ALJ) Proposal for Decision (PFD) in the above-captioned matter and would respectfully show the following.

INTRODUCTION

On September 25, 2012, the Honorable ALJ Sharon Cloninger held an evidentiary hearing on behalf of the State Office of Administrative Hearings (SOAH) concerning a petition for the creation of south Port Alto Municipal Utility District. On January 8, 2013 the ALJ issued her proposal for Decision in which she primarily recommended that the Commission deny the petition in its entirety. The ALJ's first alternative recommendation was to grant the petition but to exclude any land owned by any of the parties that were protesting the creation of the district. Her second alternative recommendation was to grant the petition but to exclude the land owned by Robert L. & Lynn Bolleter and Paul E. & Patricia Lawson, the protesting landowners who participated in this case (Participating Landowners). The OPIC Exceptions recommends the approval of the SPA MUD in part and supports the ALJ's first and second alternative recommendation. Protestants disagree with the recommendation to approve the application. Protestants agree with the first alternative but recommends the second alternative be amended to exclude any land owned by the Protestants as well because the Protestants participated in the case and/or meet the same criteria as the Bolleters and the Lawsons.

BACKGROUND

1. Protestants have lived in their home in the South Port Alto since 2002. This home is their homestead and full time residence. Their home is located within the proposed boundaries of the South Port Alto Municipal Utility District ("SPA MUD"). The Haas' waste water needs are currently addressed by an aerobic septic system that was installed on their property when the home was constructed in early 2002 at an investment of approximately $6000 dollars.

This system was/is:

a) designed in compliance with criteria for domestic wastewater systems as outlined by the Texas Commission on Environmental Quality; and

b) properly permitted for construction; and

c) approved for construction and inspected by the Crossroads Public Health District, an authorized agent of the Texas Commission on Environmental Quality; and

d) approved to operate on April 26, 2002 by the Texas Commission on Environmental Quality under permit number 202-88.

Protestants had argued that the SPA MUD is of no benefit and they should be removed from the boundaries of the proposed because:

a) they have a TEQC approved septic system in place; and

b) the proposed SPA MUD would increase Protestants property taxes by $2500 per year with no related benefit to Protestants; and

c) the proposed SPA MUD would place a financial hardship on the Protestants; and

d) the proposed SPA MUD plan would decrease Protestants property value by placing a lift station near their property; and

e) the proposed SPA MUD has excluded the homes in the Sunny Landing subdivision from the boundaries because their wastewater need are currently serviced by the Enchanted Harbor Utility and their land would not benefit, therefore the Protestants land should be excluded from the boundaries of the proposed district because they are currently serviced by their own system and their land would not benefit

f) the Protestants land is not benefited therefore should be removed from the proposed district per Texas Water code §54.021(c)

2. The Protestants were not represented by counsel and believed they had met the requirements to be considered participants in this case. Herbert Haas was in attendance at the hearing, and after hearing the testimony provided by the other participants had no further arguments to add at that time. Also, Herbert and Claudia Haas submitted closing arguments though the TECQ site on November 1, 2012. (Acknowledgement code 117612012012306).

CONCLUSION

Based on the foregoing, Protestants Herbert and Claudia Haas respectfully request the Commission overrule all the proposed Exceptions and deny the approval of the SPA MUD. In the alternative, remove all protesting landowners from the district boundaries, which would include Protestants Herbert and Claudia Haas whose land would not benefit.

Dated this 7 day of February, 2013.
Respectively submitted,

Herbert Haas

Claudia D. Haas

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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2012 the original of the forgoing was filed with the Chief Clerk of the TCEQ through the TCEQ website and a copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, and other electronic transmission or by U.S Mail.

Herbert Haas

Claudia D. Haas