



Post Oak Savannah Groundwater Conservation District

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VIA REGULAR AND CERTIFIED, RETURN RECEIPT REQUESTED

NO. _____

Mr. Ross Cummings
Blue Water Vista Ridge, LLC
9606 N. MOPAC, Suite 125
Austin, Texas 78759

July 17, 2020

Re: San Antonio Water Systems and disposal of water near Agua Vista plant

Dear Mr. Cummings

As you are aware, on or about June 10, 2020, Post Oak Savannah Groundwater Conservation District ("District") was made aware of the disposal of water into Mud Creek, which runs near the newly constructed Agua Vista Plant. As you are equally aware, the Vista Ridge pipeline which is delivering water from wells in our District to the San Antonio Water System ("SAWS") was completed early this year, and according to reports, both received by our staff from other sources and given to the SAWS Board during public meetings, testing had been conducted and completed well before April, 2020. We understand via reports to the SAWS Board that Vista Ridge water began to be delivered to the SAWS Agua Vista Plant on April 15 of this year. The permits are held by Vista Ridge LLC (as noted in the last amendment application) and , as we understand it, the permit administrator is Blue Water Vista Ridge LLC; for purposes of this letter, they will be referred to as Vista Ridge. It came to our attention on June 10, 2020 that some of the water being delivered to SAWS was being disposed of into Mud Creek adjacent to the Agua Vista Plant. Specifically, we have been informed that the volume of water being delivered was 20 million gallons per day (mgd), of which 10 mgd was being disposed of, into Mud Creek because it was not needed for the testing that was being done for the Agua Vista Plant, the testing of the intermingling of the water, and/or the delivery of water to area subdivisions. It was not needed and it was unused.

The District's Board received information that on April 15, 2020, well after the pipeline and all testing of such pipeline was completed, and at the time contractual delivery of Vista Ridge water commenced, that the pipeline was required to be run carrying minimally 20 million gallons per day. It was concerning to learn only later that SAWS requested/allowed such gallonage to be delivered to the Agua Vista plant when SAWS staff was also well aware that it was in no position to receive the full volume of such water. Our Board understands that the Agua Vista plant needed to be tested and the exact mixture of the current water supply with the waters coming from the wells within the District needed to be tested. This Board does *not* understand why the infrastructure necessary to *receive* the entire 20 mgd was *not* completed and was *not* expected to be completed until mid-July 2020. Further, this Board does not understand why the delivery of this water was not delayed until the full amount of 20 mgd could be beneficially received and utilized. Miraculously, within days of contact by the District's General Manager to SAWS, the disposal stopped, and another use or avenue for use was located and utilized. Unfortunately, by the time that occurred, the volume of water disposed of into Mud Creek, roughly the equivalent to the amount of water needed to supply a community in our District of approximately 5,000 people *for an entire year*, had already occurred.

This Board has always had heightened concerns relative to waste of the groundwater and several Boardmembers are now lasered into the waste of *this* water. These concerns seem well founded since Vista Ridge or any other entity with an ownership interest in the permits or the water transported to SAWS was nowhere to be found when this disposal was occurring. Despite the knowledge that the taps were finally being turned on for delivery of the water as well as ensuring that there were no hiccups in such delivery, Vista Ridge seems to have failed to even once check with SAWS once water began to flow to ensure, as is its duty under the permits, that *all* water was being put to beneficial use and not wasted. Vista Ridge has secured numerous permits through the years; most recently, they came before this Board and were granted permits to increase the amount of production allowed under such permits. Each permit contains requirements to ensure that the water is put to beneficial use and not wasted and each one has been attested to by the governance of Vista Ridge. Further, this comes on the heels of the debacle involving Kinder Morgan Permian Pipeline construction crews having hit the Vista Ridge pipeline ostensibly because someone had not registered it with 811 for a “call before you dig” event that resulted in millions of gallons of water being lost after being damaged, repaired and flushed.

The requirements in the District’s Rules and the permits issued to Vista Ridge which allow both the pumping and transport of this water to SAWS require that assurances be given to our Board *by the permit holders* that *all* water withdrawn and transported to SAWS would be put to beneficial use, and not wasted *as required* under the various provisions of the Water Code¹.

Upon learning about this “disposal” and that the water drawn from wells permitted to you and transported by you to SAWS was disposed “unused” and thus not part of any start up testing, several members of our Board requested that this matter be taken up at a Board meeting, which occurred on July 16, 2020. Following the meeting, the Board voted to have staff and general counsel request TCEQ pursue a formal investigation into SAWS’ actions, with the assertion that is believed by the majority that it was waste that occurred for nearly 60 days at 10 mgd each day as well as correcting the assertion that such disposal is covered under the TXG670000 permit issued for TPDES purposes. In addition, the District has determined to continue to pursue its own investigation of this matter. Following such investigations, the Board will meet to review any findings and consider all of its options, including but not limited to permit reduction and/or fines, including those allowed under Chapter 36 for up to \$10,000 per day for every day the waste continued.

Respectfully,



Sidney Youngblood
President, Board of Directors
Post Oak Savannah GCD

cc: Hon. Keith Schroeder, Burleson County Judge
Hon. Steve Young, Milam County Judge
Mr. Paul Terrill

¹ Texas Water Code, Sec. 36.001, Definitions, specifically subsection (8), (9) and (29); additionally, Texas Water Code, Secs. 36.1071, Management Plan, subsection (f), 36.113, Permits for Wells; Permit Amendments, subsection (d)(3); and 36.1131, Element of Permits, subsection (5).