

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 16, 2008

TO: Persons on the attached mailing list.

RE: Madison Bell Partners, LP
Permit No. 83378 and PSD-TX-1105

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central Office, the TCEQ Waco Regional Office, and at the County Clerk's Office, 101 West Main Street, Madisonville, Madison County, Texas. The facility's compliance file, if any exists, is available for public review at the Texas Commission on Environmental Quality Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be in writing and must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/er

Enclosures

MAILING LIST
for
Madison Bell Partners, LP
Permit No. 83378 and PSD-TX-1105

FOR THE APPLICANT:

Frank Giacalone, President
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FOR THE EXECUTIVE DIRECTOR:

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FOR OFFICE OF PUBLIC ASSISTANCE:

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FOR PUBLIC INTEREST COUNSEL:

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FOR THE CHIEF CLERK:

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
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INTERESTED PERSONS:

See attached list.

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620 SHADY CREEK LN
MADISONVILLE TX 77864

BOOTY , DON
PO BOX 183
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AUSTIN TX 78701-3238

DELFIELD , GEORGE A
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PO BOX 552
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STRAWTHER , PATSY W
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TINSLEY , ALAN
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WARD , DAVE
PO BOX 187
MADISONVILLE TX 77864

**TCEQ AIR QUALITY PERMIT NO 83378 AND
PREVENTION OF SIGNIFICANT DETERIORATION PERMIT NO PSD-TX-1105**

APPLICATION BY	§	BEFORE THE
	§	
MADISON BELL PARTNERS, LP	§	TEXAS COMMISSION ON
CENTRAL PLANT	§	
MADISONVILLE, MADISON COUNTY	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the New Source Review Authorization application and Executive Director's preliminary decision.

As required by Title 30 Texas Administrative Code § 55.156 (30 TAC § 55.156), before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from the following persons: Mr. Jeff Robinson, Chief, Air Permits Section, Region 6, Environmental Protection Agency (EPA), Angela Fannin, Jerry Fannin, Blair Fannin, Gerald Jozwiak, Charles Strawther and Patsy Strawther. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

Madison Bell Partners, LP applied for a New Source Review pre-construction permit and issuance of a Prevention of Significant Deterioration (PSD) permit under Texas Clean Air Act (TCAA) §382.0518. These actions will authorize equipment that will emit the following air contaminants in a significant amount: nitrogen oxides (NO_x), volatile organic compounds (VOC), carbon monoxide (CO), and particulate matter less than ten microns in diameter (PM₁₀). Other contaminants to be authorized under this permit application include lead (Pb), ammonia (H₂S), sulfur dioxide (SO₂), sulfuric acid (H₂SO₄), and organic compounds including, but not limited to, formaldehyde, hexane, toluene, and xylene. This permit application will authorize the applicant to install four gas turbines, fired heat recovery steam generators with provisions for duct firing, and other equipment which will generate electricity and provide heating and cooling to surrounding buildings. The facility is located at the Madison Bell Energy Center (MBEC) approximately six miles southwest of Madisonville via U.S. Highway 190 West, Madisonville, Madison County.

Procedural Background

Before work is begun on the construction of a new facility or a modification of an existing facility that may emit air contaminants, the person planning the construction or modification must obtain a permit from the commission. This permit application is for a New Source Review pre-construction permit and issuance of a Prevention of Significant Deterioration (PSD) permit. The permit application was received on October 31, 2007, and declared administratively complete on November 30, 2007. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published on December 19, 2007, in the *Madisonville Meteor*. The Notice of Application and Preliminary Decision (second public notice) for this permit application was published on May 21, 2008, in the *Madisonville Meteor*. The TCEQ held a public meeting in Madisonville on August 12, 2008 at the request of Representative Jim Dunnam. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1:

Commenter states: "The State did not provide in the Preliminary Determination Summary a detailed analysis documenting appropriate Best Available Control Technology (BACT) determinations for the new emissions of nitrogen oxides . . . particulate matter . . . volatile organic compounds . . . and carbon monoxide In particular, there should be a comparison of emission rates/control units to similar types of electric generating unit operations that have recently been issued PSD permits." Commenter also notes that the CO emissions from the new gas-fired combined-cycle electric generation unit are higher than BACT limits in recently permitted PSD applications in other parts of the country. (EPA)

RESPONSE 1:

The EPA's RACT/BACT/LAER Clearinghouse (RBLC) database was searched for BACT determinations of large (i.e., greater than 25 MW capacity) combined cycle combustion turbines firing natural gas. The search was conducted for recent determinations between 2003 and the present. The results for each of the pollutants are as follows:

NO_x

The search resulted in 64 NO_x BACT determinations. The lowest NO_x limits are based on the use of dry low NO_x burners and selective catalytic reduction (SCR). The lowest NO_x BACT emission limits are at 2.0 parts per million by volume dry at 15 percent oxygen (ppmvd @ 15% O₂). Since MBEC is proposing control technology and emission limits equal to the most stringent BACT, further analysis is not required.

CO

The search resulted in 76 CO BACT determinations. The lowest limits are based on the use of an oxidation catalyst and good combustion practices. The lowest CO BACT limits are 2.0 ppmvd @ 15% O₂. The CPV Warren facility of Virginia has lower limits, however, it is reported that this was voluntary installation of the oxidation catalyst as opposed to BACT determination. It should also be noted that the CPV Warren facility is not in operation, and therefore, the emission limits have not been demonstrated. The other examples of low CO limits are achieved using good combustion practices in combination with an oxidation catalyst. MBEC is proposing good combustion practices and CO emissions at 17.5 ppmvd as BACT. The applicant asserts the incremental cost to control CO at 90% control efficiency with the use of an oxidation catalyst in order to meet 2.0 ppmvd was estimated to be at least \$6,247 per ton. This cost is higher, by twice as much in some instances, as other BACT determinations that rejected the use of an oxidation catalyst based on cost. Therefore, an oxidation catalyst was rejected as an economically viable control technology for this facility.

VOC

The search resulted in 41 VOC BACT determinations. The lowest VOC BACT limits are based on the use of an oxidation catalyst and good combustion practices. The lowest VOC BACT emission limits are 1.0 ppmvd @ 15% O₂. MBEC is proposing good combustion practices and 1.5 ppmvd @ 15% O₂ (average at 100% load) and 3.5 ppmvd @ 15% O₂ (average at 100% load with duct firing) as BACT. The applicant asserts the incremental cost to control VOC at approximately 60% control efficiency with the use of an oxidation catalyst to meet 1.0 ppmvd was estimated to be at least \$240,000 per ton. This cost is not economically viable, and thus an oxidation catalyst was rejected as a control technology for this facility.

PM/PM₁₀

The search resulted in 38 PM/PM₁₀ BACT determinations for large combustion turbines. The control method in all cases, including 4 LAER and 7 "other case-by-case" determinations, was listed as clean fuels and good combustion practice. No pre- or post- controls were required. Furthermore, there are no practical post-combustion control methods for combustion turbines because of the low particulate loadings and high exhaust flows.

COMMENT 2:

Commenter notes that the BACT emission rate from the PDS for VOC is not represented in the Permit Special Conditions. (EPA)

RESPONSE 2:

Special Condition No. 2 has been altered to include the BACT emission limit for VOC to ensure compliance.

COMMENT 3:

Commenter notes that the EPA did not receive a copy of the Air Dispersion Modeling conducted by the applicant. (EPA)

RESPONSE 3:

A copy of the Air Dispersion Modeling conducted by the applicant was sent to the EPA office for review on March 17, 2008.

COMMENT 4:

Commenter expressed concerns over additional traffic at the intersection of Highway 21 and Strawther Road because of the plant. (Angela Fannin, Charles Strawther, Patsy Strawther)

RESPONSE 4:

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider additional traffic when determining whether to approve or deny air permit applications.

COMMENT 5:

Commenter states that the TCEQ did not provide enough notice for the public meeting. (Blair Fannin, Jerry Fannin)

RESPONSE 5:

The commission provides notice of a public meeting for air permit applications to those persons who have requested to be placed on the chief clerk's mailing list in accordance with TCEQ rules at 30 TAC § 39.407. Notice of the public meeting on this application was sent via first class mail on July 25, 2008, more than two weeks prior to the public meeting. Additionally, staff from the TCEQ Office of Public Assistance contacted the commenter and explained notification requirements for public meetings.

COMMENT 6:

Commenter expressed concerns about the plant's proposed source of water. Commenters are worried that a power plant of this size would deplete existing aquifers and pose a severe threat to regional supplies. (Blair Fannin, Gerald Jozwiak)

RESPONSE 6:

Concerns related to regional water supply and usage are beyond the scope of an air permit application review. The applicant is responsible for obtaining all necessary permit authorizations and water rights, independent of the air permitting process, prior to operation.

COMMENT 7:

Commenter is concerned that the proposed site for the location of the power plant was the former location of a pesticide/herbicide spraying operation and there is a possibility that chemicals were

deposited on the property. They believe an environmental impact study should be done on the property. (Angela Fannin, Jerry Fannin, Charles Strawther, Patsy Strawther)

RESPONSE 7:

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, federal agencies must, for certain federal actions, prepare detailed statements known as an Environmental Impact Statements (EIS). An EIS is not required for state actions such as this permit. Furthermore, permits issued by the EPA are exempt from the requirement for an EIS.

TCEQ Regional Office Staff were present at the Public Meeting when this comment was offered. At the time this RTC was prepared, regional staff visited the site and collected soil samples for analysis. This analysis takes approximately one month and thus is not complete.

COMMENT 8:

Commenter expressed concerns that this plant will burn alternative fuels in the future, which would release hazardous material for individuals to breathe and inhale. (Blair Fannin)

RESPONSE 8:

The TCEQ conducted an air quality impacts review based upon how the applicant proposed to operate the plant, including the type of fuel that would be burned. A permit was drafted that limited the type of fuel that could be used in the plant. Any change in the type of fuel used would require review and evaluation by the TCEQ to ensure protection of public health. Any unapproved variation of permitting conditions will be subject to possible enforcement action.

COMMENT 9:

Commenter is concerned that the addition of another plant will decrease the air quality because of the proximity of a sour gas plant already in the area. They are concerned about the welfare of their family and others working on their property, livestock, wild game on the property, and hay production. (Blair Fannin, Angela Fannin, Charles Strawther, Patsy Strawther)

RESPONSE 9:

The TCEQ conducted an air quality impacts review and concluded that emissions from the proposed facility would comply with all air quality standards and would not endanger human health and the environment. The effects of the nearby sour gas plant on ambient air quality will not be exacerbated by emissions from MBEC, since modeled concentration from MBEC were below *de minimis* levels and since the contaminant of principal concern from sour gas plants, hydrogen sulfide, will not be emitted in significant quantities from MBEC.

CHANGES MADE IN RESPONSE TO COMMENT

As noted in Response to Comment 2 above, Special Condition Number 2 has been altered to include the BACT emission limit for VOC to ensure compliance.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G, Executive Director

Stephanie Bergeron, Deputy Director
Office of Legal Services

Robert Martinez, Director
Environmental Law Division



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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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