

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 30, 2012

Bridget C. Bohac, Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087, MC 105
Austin, Texas 78711-3087

Re: Enterprise Products Operating, LLC., Permit No. 73384
TCEQ Docket No. 2011-2265-AIR

Dear Ms. Bohac:

Enclosed is a copy of the following documents for inclusion in the background material for the Commissioner's Agenda scheduled for this permit application:

- The permit face and Special Conditions for permit 73384;
- The summary of the technical review of the permit application with the MAERT;
- The compliance summary of the Applicant;
- A map indicating the proximate location of the hearing requestor, and;
- The Executive Director's Response to Hearing Requests and Request for Reconsideration.

If you have any questions, please do not hesitate to call me at extension 0649.

Sincerely,

A handwritten signature in cursive script that reads "Alexis Lorick".

Alexis Lorick
Staff Attorney
Environmental Law Division

Enclosures

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

September 9, 2011

MR TERRY L HURLBURT
SR VICE PRESIDENT GAS PIPELINE PLANT OPERATIONS
ENTERPRISE PRODUCTS OPERATING LLC
PO BOX 4324
HOUSTON TX 77210-4324

Re: Permit Amendment Application
Permit Number: 73384
Bandera Compressor Station
Bandera, Bandera County
Regulated Entity Number: RN101630481
Customer Reference Number: CN603211277
Account Number: BB-0005-C

Dear Mr. Hurlburt:

This is in response to your letter received October 28, 2010 and your Form PI-1 (General Application for Air Preconstruction Permits and Amendments) concerning the proposed amendment to Permit Number 73384. We understand that you propose to amend your permit to increase your VOC emissions due to a change in emission factors and to add formaldehyde emissions which were not previously authorized.

As indicated in Title 30 Texas Administrative Code § 116.116(b) and § 116.160 [30 TAC § 116.116(b) and § 116.160], and based on our review, Permit Number 73384 is hereby amended. This information will be incorporated into the existing permit file. Enclosed are revised special conditions pages and a maximum allowable emission rates table to replace those currently attached to your permit. We appreciate your careful review of the special conditions of the permit and assuring that all requirements are consistently met.

No planned maintenance, startup, and shutdown emissions have been reviewed or represented in this application and none are authorized by this permit.

As of July 1, 2008, all analytical data generated by a mobile or stationary laboratory in support of compliance with air permits must be obtained from a NELAC (National Environmental Laboratory Accreditation Conference) accredited laboratory under the Texas Laboratory Accreditation Program or meet one of several exemptions. Specific information concerning which laboratories must be accredited and which are exempt may be found in 30 TAC § 25.4 and § 25.6.

Mr. Terry L Hurlburt
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September 9, 2011

Re: Permit Number: 73384

For additional information regarding the laboratory accreditation program and a list of accredited laboratories and their fields of accreditation, please see the following Web site:

www.tceq.texas.gov/compliance/compliance_support/qa/env_lab_accreditation.html

For questions regarding the accreditation program, you may contact the Texas Laboratory Accreditation Program at (512) 239-3754 or by e-mail at labprgms@tceq.texas.gov.

You may file a **motion to overturn** with the Chief Clerk. A motion to overturn is a request for the commission to review the executive director's decision. Any motion must explain why the commission should review the executive director's decision. According to 30 TAC § 50.139, an action by the executive director is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

A motion to overturn must be received by the Chief Clerk within 23 days after the date of this letter. An original and 11 copies of a motion must be filed with the Chief Clerk in person, or by mail to the Chief Clerk's address on the attached mailing list. On the same day the motion is transmitted to the Chief Clerk, please provide copies to the applicant, the executive director's attorney, and the Public Interest Counsel at the addresses listed on the attached mailing list. If a motion to overturn is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the executive director's approval. According to Texas Health and Safety Code § 382.032, a person affected by the executive director's approval must file a petition appealing the executive director's approval in Travis County district court within 30 days after the effective date of the approval. Even if you request judicial review, you still must exhaust your administrative remedies, which includes filing a motion to overturn in accordance with the previous paragraphs.

Your cooperation in this matter is appreciated. If you need further information or have any questions, please contact Mr. Marc Sturdivant at (512) 239-1313 or write to the Texas Commission on Environmental Quality, Office of Air, Air Permits Division, MC-163, P.O. Box 13087, Austin, Texas 78711-3087.

This action is taken under authority delegated by the Executive Director of the TCEQ.

Mr. Terry L Hurlburt
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September 9, 2011

Re: Permit Number: 73384

Sincerely,

Michael Wilson, P.E., Director
Air Permits Division
Office of Air
Texas Commission on Environmental Quality

MPW/MS/

Enclosures

cc: Air Section Manager, Region 13 - San Antonio

Project Number: 161112

SPECIAL CONDITIONS

Permit Number 73384

1. This permit authorizes emissions from existing pipeline facility engines located on Highway 16, 3½ miles south of Bandera, Texas 78003. **(08/11)**

FEDERAL APPLICABILITY

2. These facilities shall comply with applicable requirements of the EPA regulations in Title 40 Code of Federal Regulations (40 CFR) Part 63 on National Emission Standards for Hazardous Air Pollutants for Source Categories promulgated for: **(08/11)**
 - A. Applicable General Conditions, Subpart A, and
 - B. The stationary reciprocating internal combustion engines subject to the applicable requirements of Subpart ZZZZ.

If any condition of this permit is more stringent than the regulations so incorporated, then for the purposes of complying with this permit, the permit shall govern and be the standard by which compliance shall be demonstrated.

3. Fuel for the compressor engines shall be limited to pipeline-quality, sweet natural gas as provided by the gas distributor. Use of any other fuel requires authorization from the TCEQ. The total natural gas usage for all combustion sources shall be monitored, recorded and tabulated on a monthly basis. Fuel sulfur content shall be monitored by representative fuel sampling data demonstrating the fuel meets the definition of natural gas, as defined by Title 40 CFR Part 72.2, on a frequency based on a tier approach. Fuel sampling data would be collected initially on a monthly basis until the results of three consecutive months show the fuel gas meeting the definition of natural gas, then annually to verify that the fuel still meets the definition of natural gas. If the annual results show that the fuel no longer meets the definition of natural gas, then the tier approached would be re-established. **(08/11)**

EMISSION SPECIFICATION AND OPERATING LIMITATIONS

4. The exhaust stacks shall have no restrictions or obstructions to vertical discharge of exhaust, such as rain caps, unless such devices are designed to automatically open when the fan is in operation. In addition, the following stacks shall have a height (as measured from ground level to the discharge point) that is equal to or greater than the following: **(08/11)**

SPECIAL CONDITIONS

Permit Number 73384

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NAME	EPN	HEIGHT (feet)
Unit 606 Delaval HCV-16.CV Reciprocating Engine	606	24
Unit 627 Delaval HCV-16.CV Reciprocating Engine	627	24
Unit 628 Delaval HCV-16.CV Reciprocating Engine	628	24

CONTINUOUS DETERMINATION OF COMPLIANCE

5. The holder of this permit shall begin performing the following for each engine identified on the attached maximum allowable emission rates table (MAERT) within 180 days of permit issuance.
 - A. Conduct annual evaluations of engine performance by measuring the nitrogen oxides (NO_x), carbon monoxide (CO), and oxygen content of the exhaust. The use of portable analyzers specifically designed for measuring the concentration of each contaminant in parts per million by volume is acceptable for these evaluations. A hot air probe or equivalent shall be used with portable analyzers to prevent error in results due to high exhaust gas temperatures. Three sets of measurements shall be averaged to determine the concentrations. Prior to and following the entire set of measurements, the portable analyzer shall be checked for accuracy using an audit gas that conforms to the specifications in 40 CFR Part 60, Appendix F, § 5.1.2(3). Any other method approved by the appropriate Texas Commission on Environmental Quality (TCEQ) Regional Director or the TCEQ Air Permits Division in Austin is also acceptable.
 - B. If the portable analyzer is capable of measuring nitric oxide and nitrogen dioxide, then these measurements shall be summed to determine the NO_x emission rate.

Emissions shall be measured and recorded in the as-found operating condition, except no compliance determination shall be established during start-up, shutdown, or under breakdown conditions.

SPECIAL CONDITIONS

Permit Number 73384

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6. Emissions calculations shall be used to convert the portable analyzer data to a clear demonstration of the pounds an hour NO_x and CO shown on the MAERT on an annual basis for each engine.

RECORDKEEPING

7. The following written records demonstrating compliance shall be made and maintained by the holder of this permit on a five-year rolling retention basis and shall be made immediately available upon request to designated representatives of the TCEQ or U.S. Environmental Protection Agency.
 - A. Natural gas usage and sulfur content as required by in Special Condition No. 3. (08/11)
 - B. The results of all testing required in Special Condition No. 5.
 - C. Date and description of any significant engine maintenance. Significant is defined as maintenance activities exceeding \$5,000.00.

Dated _____

Permit Amendment Source Analysis & Technical Review

Company	Enterprise Products Operating LLC	Permit Number	73384
City	Bandera	Project Number	161112
County	Bandera	Account Number	BB-0005-C
Project Type	Amend	Regulated Entity Number	RN101630481
Project Reviewer	Mr. Marc Sturdivant	Customer Reference Number	CN603211277
Site Name	Bandera Compressor Station		

Project Overview

Enterprise Products is seeking an amendment to increase VOC emissions from its three Delaval reciprocating engines at their site. Enterprise would also like to include formaldehyde on their MAERT. The VOC emissions are increasing from 3.89 tpy to 15.51 tpy and the formaldehyde emissions will be 6.94 tpy for each engine. CO emissions will also increase slightly from 46.35 tpy to 48.87 tpy. The emission increases are attributed to changes in the emission factors.

Emission Summary

Air Contaminant	Current Allowable Emission Rates (tpy)	Proposed Allowable Emission Rates (tpy)	Change in Allowable Emission Rates (tpy)
PM	3.93	3.93	0.00
VOC	11.67	46.52	34.85
NO _x	1853.97	1853.97	0.00
CO	139.05	146.00	6.95
SO ₂	0.24	0.24	0.00
CH ₂ O	-	11.58	11.58

Compliance History Evaluation - 30 TAC Chapter 60 Rules

A compliance history report was reviewed on:	02/23/2011
Compliance period:	10/2010-10/2005
Site rating & classification:	Average
Company rating & classification:	2.27
If the rating is 40<RATING<45, what was the outcome, if any, based on the findings in the formal report:	NA
Has the permit changed on the basis of the compliance history or rating?	No

Public Notice Information - 30 TAC Chapter 39 Rules

Rule Citation	Requirement	
39.403	Is Public Notice Required?	Yes, Initially it was believed that public notice was not necessary when the application first came in, but upon further review it was determined that since formaldehyde was being added to the MAERT the company would have to publish notice.
	Date Application Received:	October 28, 2010
	Date Administratively Complete:	March 8, 2011
	Small Business Source?	Yes
	Date Leg Letters mailed:	November 2, 2010
	Date Published:	March 31, 2011
39.603	Publication Name:	<i>Bandera County Courier</i>
	Pollutants:	VOC, formaldehyde, CO, NO _x , SO ₂ , and PM/PM ₁₀ /PM _{2.5}
	Date Affidavits/Copies Received:	April 28, 2011

Permit Amendment
Source Analysis & Technical Review

Permit No. 73384
Page 2

Regulated Entity No. RN101630481

Rule Citation	Requirement	
	Is bilingual notice required?	No
	Language:	N/A
	Date Published:	N/A
	Publication Name:	N/A
	Date Affidavits/Copies Received:	N/A
	Date Certification of Sign Posting / Application Availability Received:	N/A
39.604	Public Comments Received?	Yes
	Hearing Requested?	Yes
	Meeting Request?	No
	Date Meeting Held:	
	Date Response to Comments sent to OCC:	
	Request(s) withdrawn?	
	Date Withdrawn:	
	Consideration of Comments:	
	Is 2nd Public Notice required?	Yes
39.419	Date 2nd Public Notice/Preliminary Decision Letter Mailed:	July 5, 2011
39.413	Date Cnty Judge, Mayor, and COG letters mailed:	November 2, 2010
	Date Federal Land Manager letter mailed:	November 2, 2010
39.605	Date affected states letter mailed:	November 2, 2011
39.603	Date Published:	July 28, 2011
	Publication Name:	<i>Bandera County Courier</i>
	Pollutants:	Organic compounds, formaldehyde, carbon monoxide, nitrogen oxides, sulfur dioxide and particulate matter including particulate matter with diameters of 10 microns and less and 2.5 microns and less
	Date Affidavits/Copies Received:	August 11, 2011
	Is bilingual notice required?	No
	Language:	N/A
	Date Published:	N/A
	Publication Name:	N/A
	Date Affidavits/Copies Received:	N/A
	Date Certification of Sign Posting / Application Availability Received:	August 11, 2011
	Public Comments Received?	No
	Meeting Request?	No
	Date Meeting Held:	N/A
	Hearing Request?	No
	Date Hearing Held:	N/A

Permit Amendment
Source Analysis & Technical Review

Permit No. 73384
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Regulated Entity No. RN101630481

Rule Citation	Requirement	
	Request(s) withdrawn?	N/A
	Date Withdrawn:	N/a
	Consideration of Comments:	
39.421	Date RTC, Technical Review & Draft Permit Conditions sent to OCC:	
	Request for Reconsideration Received?	
	Final Action:	
	Are letters Enclosed?	

Construction Permit & Amendment Requirements - 30 TAC Chapter 116 Rules

Rule Citation	Requirement	
116.111(a)(2)(G)	Is the facility expected to perform as represented in the application?	Yes
116.111(a)(2)(A)(i)	Are emissions from this facility expected to comply with all TCEQ air quality Rules & Regulations, and the intent of the Texas Clean Air Act?	Yes
116.111(a)(2)(B)	Emissions will be measured using the following method: Comments on emission verification:	Portable analyzers that measures NO _x , CO and O ₂ . Fuel sampling to measure sulfur content.
116.111(a)(2)(D)	Subject to NSPS?	No
116.111(a)(2)(E)	Subject to NESHAP? Subparts &	No
116.111(a)(2)(F)	Subject to NESHAP (MACT) for source categories? Subparts A & ZZZZ	Yes
116.111(a)(2)(H)	Is nonattainment review required?	No
	Is the site located in a nonattainment area?	No
	Is the site a federal major source for a nonattainment pollutant?	No
	Is the project a federal major source for a nonattainment pollutant by itself?	No
	Is the project a federal major modification for a nonattainment pollutant?	No
	Did the project emission increases for nonattainment pollutant minus the two-year average actual emissions trigger netting?	No
	If yes, attach Table 1N & 9N. If no, explain:	
	Is the contemporaneous increase significant?	No
	If the contemporaneous increase is significant a nonattainment review is required.	
116.111(a)(2)(I)	Is PSD applicable?	No
	Is the site a federal major source (100/250 tons/yr)?	Yes
	Is the project a federal major source by itself?	No
	Is the project a federal major modification?	No
	Did project emission increases, without decreases, for pollutant of concern, minus the two-year average actual emissions trigger netting?	No
	Was the contemporaneous increase significant?	No
	If yes, explain:	
	Is the change excluded by 40 CFR 52.21(b)(2)(iii)?	No
	If yes, explain:	
116.111(a)(2)(L)	Is Mass Emissions Cap and Trade applicable to the new or modified facilities?	No
	If yes, did the proposed facility, group of facilities, or account obtain allowances to operate:	
116.140 - 141	Permit Fee: \$ 900.00	Fee certification: R104616

**Permit Amendment
Source Analysis & Technical Review**

Permit No. 73384
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Regulated Entity No. RN101630481

Title V Applicability - 30 TAC Chapter 122 Rules

Rule Citation	Requirement	
122.10(13)(A)	Is the site a major source under FCAA Section 112(b)?	Yes
	Does the site emit 10 tons or more of any single HAP?	Yes
	Does the site emit 25 tons or more of a combination?	No
122.10(13)(C)	Does the site emit 100 tons or more of any air pollutant?	Yes
122.10(13)(D)	Is the site a non-attainment major source?	No
122.602	Periodic Monitoring (PM) applicability: PM applies since site is a major source; compliance with the permit emission limits is demonstrated through annually sampling of NO_x and CO using portable analyzers. Compliance with the permit SO₂ emission limit is demonstrated through monthly records of fuel consumption and records of fuel sulfur content.	
122.604	Compliance Assurance Monitoring (CAM) applicability: CAM does not apply at this major source since no emission controls are used to meet an emission standard.	

Request for Comments

Received From	Program/Area Name	Reviewed By	Comments
Region:	13	Carol McGrath	No comments.
City:	Bandera		
County:	Bandera		
Toxicology:			
Compliance:			
Legal:			
Comment resolution and/or unresolved issues:			

Process/Project Description

The Bandera Compressor Station compresses sweet natural gas to increase pressure for pipeline transmission. Incoming natural gas first enters an inlet separator where liquids are removed. The separated liquids are piped to a slop oil storage tank. The slop oil liquids are periodically transferred from the facility by truck. After the liquids are separated, the gas is piped to a compressor. There are three 4000 HP Delaval compressor units on site (EPNs 606, 627, and 628).

There are three pipelines that pass through the facility. A 30" pipeline traverses through the station in an east-west direction. A 24" pipeline goes toward the south-east. The compressors are connected to the pipeline in a manner that gas may be compressed either west to east or east to west. Natural gas can also free flow when compression is not needed.

Permit Amendment
Source Analysis & Technical Review

Permit No. 73384
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Regulated Entity No. RN101630481

Pollution Prevention, Sources, Controls and BACT- [30 TAC 116.111(a)(2)(C)]

Tier 1 and 2 for the company's BACT Analysis indicates that oxidation catalyst has been demonstrated to be technically feasible in reducing VOC, formaldehyde, and CO. However, Enterprise believes costs are not reasonable for reducing the incremental increases of VOC (34.85 tpy), formaldehyde (11.58 tpy), and CO (6.95 tpy). In order to evaluate the economic reasonableness, Tier 3, Enterprise obtained a cost estimate of \$583,162 from Dresser-Rand to retrofit a single engine with a new combination oxidation catalyst and silencer. The cost to retrofit three engines would be threefold. For VOC the cost effectiveness was \$7,107/ton, for formaldehyde \$11,901/ton, and for CO \$35,635/ton. Therefore, this is considered BACT for this size and type of facility.

Impacts Evaluation - 30 TAC 116.111(a)(2)(J)

Was modeling conducted?	Yes	Type of Modeling:	SCREEN3
Will GLC of any air contaminant cause violation of NAAQS?			No
Is this a sensitive location with respect to nuisance?			No
[§116.111(a)(2)(A)(ii)] Is the site within 3000 feet of any school?			No
Additional site/land use information: The facility is located in a rural area with the nearest residence about 1500 ft to the east. There is additional residential development about 2000 ft to the south.			

Summary of Modeling Results

The impacts from the individual species were conducted using Screen3 with the emission rate of 4.74 lb/hr for formaldehyde and 33.33 lb/hr for CO. The emission point closest to the fence line was used to determine off property impacts. The concentrations for formaldehyde were 22.62 µg/m³ when the stack height was at 15 ft. The ESL for formaldehyde is 15 µg/m³, so to ensure that the actual limits were not exceeded the company conducted EPA's test method 323 to find the actual emission rate of formaldehyde which is 2.65 µg/m³. Using the actual emission rates the results show that the concentration of formaldehyde was still slightly higher than the ESL, but when the stack height was raised to 24 ft the concentration was 8.53 µg/m³, which is less than the ESL. The concentration for CO was 107.33 µg/m³ which is below SIL of 500 µg/m³. Enterprise now raised the stacks to 24 ft. Therefore, the increases should not have an impact on known health or the environment.

Permit Concurrence and Related Authorization Actions

Is the applicant in agreement with special conditions?	Yes
Company representative(s):	Ray Terrazas
Contacted Via:	Phone, Email
Date of contact:	June 24, 2011
Other permit(s) or permits by rule affected by this action:	
List permit and/or PBR number(s) and actions required or taken:	

Project Reviewer	Date	Team Leader/Section Manager/Backup	Date
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EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

Permit Number 73384

This table lists the maximum allowable emission rates and all sources of air contaminants on the applicant's property covered by this permit. The emission rates shown are those derived from information submitted as part of the application for permit and are the maximum rates allowed for these facilities, sources, and related activities. Any proposed increase in emission rates may require an application for a modification of the facilities covered by this permit.

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates	
			lbs/hour	TPY (4)
606	Unit 606 Delaval HCV-16.CV Reciprocating Engine	NO _x	141.09	617.99
		CO	11.11	48.67
		VOC	3.54	15.51
		SO ₂	0.02	0.08
		PM ₁₀	0.30	1.31
		CH ₂ O	0.88	3.86
627	Unit 627 Delaval HCV-16.CV Reciprocating Engine	NO _x	141.09	617.99
		CO	11.11	48.67
		VOC	3.54	15.51
		SO ₂	0.02	0.08
		PM ₁₀	0.30	1.31
		CH ₂ O	0.88	3.86
628	Unit 628 Delaval HCV-16.CV Reciprocating Engine	NO _x	141.09	617.99
		CO	11.11	48.67
		VOC	3.54	15.51
		SO ₂	0.02	0.08
		PM ₁₀	0.30	1.31
		CH ₂ O	0.88	3.86

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

- (1) Emission point identification - either specific equipment designation or emission point number from plot plan.
- (2) Specific point source name. For fugitive sources, use area name or fugitive source name.
- (3) VOC - volatile organic compounds as defined in Title 30 Texas Administrative Code § 101.1
NO_x - total oxides of nitrogen
SO₂ - sulfur dioxide
PM₁₀ - total particulate matter equal to or less than 10 microns in diameter, including PM_{2.5}, as represented
CO - carbon monoxide
CH₂O - formaldehyde
- (4) Compliance with annual emission limits (tons per year) is based on a 12-month rolling period.
- (5) Emission rate is an estimate and is enforceable through compliance with the applicable special condition(s) and permit application representations.

Date: _____

Enterprise Products Operating, LLC Determination of Affected Party Status for Commissioner's Agenda February 22, 2012



Texas Commission on Environmental Quality
 GIS Team (Mail Code 197)
 P.O. Box 13087
 Austin, Texas 78711-3087
 January 18, 2012

0 0.1 0.2 0.4 Miles



Projection: Texas Statewide Mapping System
 (TSMMS)
 Scale 1:20,000

- Legend**
- Facility
 - Requestor's Property
 - Emission Points

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The vector data are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a one-half meter photograph from the 2008 Texas Orthorectification Project.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

MAP:Bandera_CRF-56529



Bandera County

The facility is located in Bandera County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of Bandera County in the state of Texas. Bandera County is shaded in red.

TCEQ STATE AIR QUALITY PERMIT NUMBER 73384
TCEQ DOCKET NUMBER 2011-2265-AIR

APPLICATION BY	§	BEFORE THE
	§	
ENTERPRISE PRODUCTS OPERATING LLC	§	TEXAS COMMISSION ON
	§	
BANDERA, BANDERA COUNTY	§	ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS AND REQUEST
FOR RECONSIDERATION**

The Executive Director of the Texas Commission on Environmental Quality (commission or TCEQ) files this response (Response) to the requests for a contested case hearing submitted by the person(s) listed herein regarding the above-referenced matter. The Texas Clean Air Act (TCAA), Texas Health & Safety Code (THSC) § 382.056(n) requires the commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code (TWC)§5.556.¹ This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

A map showing the location of the site for the proposed facility is included with this response and has been provided to all persons on the attached mailing list. In addition, a current compliance history report, technical review summary, and a copy of the conditions in the New Source Review (NSR) authorization permit for the compressor station prepared by the Executive Director's staff have been filed with the TCEQ's Office of Chief Clerk for the commission's consideration. Finally, the Executive Director's Response to Public Comments (RTC), which was mailed by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the commission's consideration.

I. Application Request and Background Information

Enterprise Products Operating, LLC (Enterprise or Applicant) has applied to the TCEQ for an amendment to NSR authorization 73384 under THSC § 382.0518, which would authorize the modification of an existing compressor station.² This permit will authorize Enterprise to modify an existing compressor station by authorizing the increased emission of volatile organic compounds (VOCs) and carbon monoxide (CO) from three reciprocating engines at the station. The compressor station is located 3 1/2 miles outside Bandera, in Bandera County, Texas.

The permit application was received on January 20, 2010, and declared administratively complete on March 8, 2011. The Notice of Receipt of Application and Intent to Obtain an Air

¹ Statutes cited in this response may be viewed online at www.capitol.state.tx.us/statutes/statutes.html. Relevant statutes are found primarily in the Texas Health and Safety Code and the Texas Water Code. The rules in the Texas Administrative Code may be viewed online at www.sos.state.tx.us/tac/index.shtml, or follow the "Rules, Policy & Legislation" link on the TCEQ website at www.tceq.state.tx.us.

² The contaminants authorized under this permit include VOCs, CO, NO_x, SO₂, CH₂O (formaldehyde) and particulate matter less than or equal to 10 and 2.5 microns in diameter (PM₁₀ and PM_{2.5}, respectively).

Quality Permit Registration (NORI or first public notice) for this permit application was published on March 31, 2011 in the Bandera County Courier. The second public notice, or the Notice of Application and Preliminary Decision for an Air Quality Standard Permit (NAPD), was published on July 28, 2011, also in the Bandera County Courier. One hearing request by Mr. David Mabry was timely received by the TCEQ. The public comment period ended on August 29, 2011. The RTC was filed on November 2, 2011.

II. Applicable Law

The commission must assess the timeliness and form of the hearing request, noted above. The form requirements are set forth in 30 TAC § 55.201(d):

(d) A hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to comments that the requester disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

The next necessary determination is whether the requests were filed by "affected persons," pursuant to TWC § 5.115 and 30 TAC § 55.203(a). 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. An interest common to members of the general public does not qualify as a personal justiciable interest. Local governments with authority under state law over issues raised by the application receive affected person status under 30 TAC § 55.203(b).

In determining whether a person is affected, 30 TAC § 55.203(c) requires all factors be considered, including, but not limited to, the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected

- interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
 - (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

If the commission determines a hearing request is timely, fulfills the requirements for proper form, and the hearing requester is an affected person, the commission must then apply a three-part test to the issues raised in the matter to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing. The three-part test in 30 TAC § 50.115(c) is as follows:

- (1) The issue involves a disputed question of fact;
- (2) The issue was raised during the public comment period; and
- (3) The issue is relevant and material to the decision on the application.

The law applicable to the amendment to permit 73384 requested by Enterprise may generally be summarized as follows. A person who owns or operates a facility or facilities that will emit air contaminants is required to obtain authorization from the commission pursuant to the TCAA prior to the construction and operation of the facility or facilities.³ Permit conditions of general applicability must be in rules adopted by the commission.⁴ Those rules are found in 30 TAC Chapter 116. In addition, a person is prohibited from emitting air contaminants or performing any activity that violates the TCAA or any commission rule or order, or that causes or contributes to air pollution.⁵ The relevant rules regarding air emissions are found in 30 TAC Chapters 101 and 111-118. In addition, the commission has the authority to establish and enforce permit conditions consistent with this chapter.⁶ The materials accompanying this response list and reference permit conditions and operational requirements and limitations applicable to the existing compressor station.

III. Evaluation and Analysis of the Requests

A. Did the hearing request for application for 73384 comply with the contested case hearing requirements in 30 TAC § 55.201(d)?

Mr. Mabry submitted a request for a contested case hearing on April 7, 2011. His request was made in a comment he timely submitted to the agency during the relevant comment period. He gave his name, telephone number, and two addresses at which he could be located, one a P.O. Box number, the other a residential address. The second address Mr. Mabry provided at the

³ TEXAS HEALTH & SAFETY CODE ANN. § 382.0518 (Vernon 2001).

⁴ TEXAS HEALTH & SAFETY CODE ANN. § 382.0513 (Vernon 1995).

⁵ TEXAS HEALTH & SAFETY CODE ANN. § 382.085 (a) and (b) (Vernon 1997).

⁶ TEXAS HEALTH & SAFETY CODE ANN. § 382.0513 (Vernon 1995).

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time of his request was "2088 Forest Trail," presumably Bandera, Bandera County. Mr. Mabry in plain language gave his proximity to the proposed facility or activity (stating he lived "less than a half mile," from the compressor station) while also stating that he believes he will be adversely affected by the application in the following ways:

- That the compressor station will adversely affect the health and welfare of the surrounding residents;
- That the compressor station will affect the health of anyone with medical conditions pertaining to their heart or lungs;
- That the permit should not be authorized based on the proximity of the sub-station to the Privilege Creek Water Basin;
- That the emissions from the compressor station would spread along Highway 16 by traffic traveling to and from Bandera, and;
- That the emissions will contaminate the air and water in the surrounding Hill County.

Based on the second address provided by Mr. Mabry, the Executive Director's staff was able to confirm Mr. Mabry's representation that he lives within a 1-mile radius from the reciprocating engines the subject of this permit amendment. Mr. Mabry requested a contested case hearing in the first sentence of his comment. In addition, the Executive Director finds that of the issues Mr. Mabry raised in his request, several may be considered personal justiciable interests that are also relevant, and material disputed issues of fact. Though following the end of the public comment period and the filing of the Executive Director's formal response to Mr. Mabry's comments, Mr. Mabry did not submit a response or reply, he did submit a request for reconsideration. His request for reconsideration was beyond time period allowed for such requests, and is discussed in greater detail later in this Response.

Based on the forgoing, the Executive Director finds that Mr. Mabry substantially complied with all of the requirements to request a contested case hearing required by 30 TAC § 55.201(d).

B. Is Mr. Mabry an "affected person," within the meaning of TWC § 5.115 and 30 TAC § 55.203(a)?

Section II states the law applicable to this permit amendment. In order to determine whether Mr. Mabry is an affected person, the commission must consider the non-exhaustive list of factors contained in 30 TAC § 55.203(c).

First, the commission must consider whether the interest claimed is one protected by the law under which the application will be considered. The law under which the application may be considered has been summarized in section II.

The interests Mr. Mabry claims are:

- That the compressor station will adversely affect the health and welfare of the surrounding residents;
- That the compressor station will affect the health of anyone with medical

- conditions pertaining to their heart or lungs;
- That the permit should not be authorized based on the proximity of the sub-station to the Privilege Creek Water Basin;
- That the emissions from the compressor station would spread along Highway 16 by traffic traveling to and from Bandera, and;
- That the emissions will contaminate the air and water in the surrounding Hill County.

The following interests claimed by Mr. Mabry protected by the law under which the application will be issued are:

- That the compressor station will adversely affect the health and welfare of the surrounding residents;
- That the compressor station will affect the health of anyone with medical conditions pertaining to their heart or lungs, and;
- That the emissions will contaminate the air in the surrounding Hill County.

Mr. Mabry's interests related to the location of the compressor station and the effect of air emissions on Privilege Creek Water Basin and water (generally) in the surrounding Hill Country are beyond the scope of review for an air quality NSR authorization the kind for which the Applicant has applied.

The commission must also consider whether a reasonable relationship exists between the interest claimed and the activity regulated. The activity the commission regulates is the authorized emission into the air of contaminants by a person who owns or operates a facility or facilities. Those persons who own or operate a facility or facilities are prohibited from emitting air contaminants or performing any activities that contravene the TCAA or any other commission rule or order, or that causes or contributes to air pollution. The interests Mr. Mabry claims within the scope of an air quality NSR authorization focus on the potential adverse effects of potential air contaminants from the facility, and the Executive Director finds that a reasonable relationship exists between the interest claimed and the activity the commission regulates.

Next, the commission must consider distance restrictions or other limitations imposed by law on the affected interest, 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, and the likely impact of the regulated activity on the use or the impact natural resource by the person. For Air authorizations, distance from the proposed facility is particularly relevant to the issue of whether or not there is a likely impact of the regulated activity on a person's interests because of the dispersion and effects of individual air contaminants emitted from a facility. The Executive Director agrees that Mr. Mabry resides in close proximity of the reciprocating engines the subject of this permit amendment and notes that Mr. Mabry's comments reveal concern for the health and welfare of residents near the compressor station (as do his comments related to the possible contamination of air quality in the surrounding Hill Country) that include himself given his proximity. The natural resource the subject of this permit application is the ambient air that Mr. Mabry and his neighbors breathe and he has indicated several ways in which emissions from the

reciprocating engines could impact it. The Executive finds that it is likely that Mr. Mabry has a personal justiciable interest within the meaning of TWC § 5.115 and 30 TAC § 55.203(a) affected by this permit application.

C. Other Factors the Commission must Consider in Evaluating the Hearing Requests

If the Commission agrees with the assessment of the Executive Director and finds that Mr. Mabry is an affected person, the Commission must apply the three-part test discussed in Section II to the issues raised in this matter to determine if any of the issues should be referred to SOAH for a contested case hearing. The three-part test asks whether the issues involve disputed questions of fact, whether the issues were raised during the public comment period, and whether the issues are relevant and material to the decision on the permit application, in order to refer them to SOAH.

The Executive Director addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk transmitting the RTC cites 30 TAC § 55.201(d)(4), which states that requesters should, to the extent possible, specify any of the ED's responses in the RTC the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy. As stated previously, Mr. Mabry did not submit a response to the Agency within the thirty-day period after the RTC was mailed; however, Mr. Mabry did request reconsideration of the commission's decision to issue the preliminary draft permit on January 24, 2012. Mr. Mabry stated in his request for reconsideration that he lives within one mile of the compressor station and that his, "waterwell and drinking water come from the privledge creek basin (*sic*)." In his request for reconsideration, Mr. Mabry requested clarification of the contaminants proposed to be emitted with the amendment to the reciprocating engines, and inquired how the contaminants will affect the environmentally sensitive areas surrounding the compressor station. In addition, Mr. Mabry re-urged his previous comments relating to the effect of the station on the health and welfare of surrounding residents (specifying the elderly this time), and raised new issues, commenting on commuters driving through the area to and from San Antonio, and whether the contaminants proposed to be released will affect recreational activities on the Medina River and Lake Medina.

The Executive Director includes only the issues raised by Mr. Mabry regarding this application submitted during the period allowed.⁷

1. *Issues involving questions of fact.*

Mr. Mabry raised the following questions of fact for this application:

- Whether the compressor station will adversely affect the health and welfare of the surrounding residents;
- Whether the compressor station will affect the health of anyone with medical

⁷ 30 TAC 55.201(a) states, "A request for reconsideration or contested case hearing must be filed no later than 30 days after the chief clerk mails (or otherwise transmits) the executive director's decision and response to comments and provides instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing." The time period ended on December 07, 2011, and Mr. Mabry's request for reconsideration was received one January 24, 2012.

- conditions affecting their heart or lungs;
- Whether the permit should be authorized based on the proximity of the sub-station to the Privilege Creek Water Basin;
- Whether the emissions from the compressor station would spread along Highway 16 by traffic traveling to and from Bandera, and;
- Whether the emissions will contaminate the air and water in the surrounding Hill County?

2. *Were the issues raised during the public comment period?*

The public comment period is defined in 30 TAC § 55.152. The public comment period begins with the publication of the NORI and ended on August 29, 2011. The following issues were raised during the public comment period:

- Whether the compressor station will adversely affect the health and welfare of the surrounding residents;
- Whether the compressor station will affect the health of anyone with medical conditions affecting their heart or lungs;
- Whether the permit should be authorized based on the proximity of the sub-station to the Privilege Creek Water Basin;
- Whether the emissions from the compressor station would spread along Highway 16 by traffic traveling to and from Bandera, and;
- Whether the emissions will contaminate the air and water in the surrounding Hill County?

3. *Whether the issues are relevant and material to the decision on the application.*

In this case, the permit would be issued under the Commission's authority in Tex. Water Code § 5.013(11) (assigning the responsibilities in Chapter 382 of the Tex. Health and Safety Code) and the TCAA. The relevant sections of the TCAA are found in Subchapter C (Permits). Subchapter C requires the Commission to grant a permit to construct or modify a facility if the Commission finds the proposed facility will use at least the best available control technology (BACT) and the emissions from the facility will not contravene the intent of the TCAA, including the protection of the public's health and physical property. In making this permitting decision, the Commission may consider Applicant's compliance history. The Commission by rule has also specified certain requirements for permitting. Therefore, in making the determination of relevance in this case, the Commission should review each issue to see if it is relevant to these statutory and regulatory requirements that must be satisfied by this permit application.

The Executive Director finds the following issues relevant and material to the decision on the application:

- Whether the compressor station will adversely affect the health and welfare of the surrounding residents;

- Whether the compressor station will affect the health of anyone with medical conditions affecting their heart or lungs, and;
- Whether the emissions will contaminate the air in the surrounding Hill County?

The Executive Director finds the following issues are beyond the scope of review for an NSR permit application and thus not material or relevant to the decision on permit 73384:

- Whether the permit should be authorized based on the proximity of the sub-station to the Privilege Creek Water Basin;
- Whether the emissions from the compressor station would spread along Highway 16 by traffic traveling to and from Bandera, and;
- Whether the emissions will contaminate water in the surrounding Hill County?

As stated in Responses 2 and 3 of the Executive Director's Response to Public Comment, the commission's jurisdiction is limited to those issues set forth in statute, among which facility location choices and emissions from mobile sources are absent. Furthermore, Mr. Mabry asked whether emissions from the compressor station will contaminate the air *and* water in the Hill County. The Executive Director finds that the issue of whether the emissions from the station will adversely affect air quality to be relevant and material and should be referred to SOAH for a hearing on the merits; however, the issue of whether emissions from the station will adversely affect the water quality in the Hill Country is beyond the scope of review for permit 73384.

IV. Maximum Expected Duration of the Contested Case Hearing

The ED recommends the contested case hearing, if held, should last no longer than six months from the preliminary hearing to the proposal for decision.

V. Conclusion and Recommendation

The Executive Director respectfully recommends the Commission to grant Mr. Mabry's hearing request for permit no. 73384. If the Commission determines Mr. Mabry is an affected person, refer the following issues to SOAH:

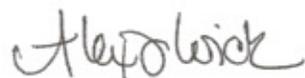
- Whether the amendments to the compressor station as proposed will adversely affect the health and welfare of the surrounding residents, including sensitive members of the population (including children, the elderly, and those suffering from medical conditions), and;
- Whether the emissions will adversely affect the air quality in the surrounding Hill County?

Respectfully submitted,

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