

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
*Protecting Texas by Reducing and Preventing Pollution*

April 25, 2014

**TO: Persons on the Attached Mailing List**

**RE: Docket No. 2014-0525-AIR  
Tex-Mix Partners, Ltd.  
Request(s) filed on Permit No. 109839**

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **June 4, 2014**. The meeting will begin at 9:30 a.m. in Room 201S of Building E, at the commission's offices located at 12100 Park 35 Circle in Austin, Texas.

In accordance with commission rules, copies of the timely hearing requests/requests for reconsideration have been forwarded to the applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on or before 5:00 p.m. on **May 9, 2014**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on or before 5:00 p.m. on **May 23, 2014**.

All responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at <http://www.tceq.texas.gov/goto/eFilings> or by filing an original and 7 copies with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Applicant and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, and other requesters and the applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests/requests for reconsideration are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F (§§55.200-211) of the commission's rules. The procedures for filing and serving responses and replies are located in 30 TAC Chapters 1 (§§1.10-11) and 55 (§55.209) of the commission's rules.

The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h). Copies of these rules may be obtained by calling the Public Education Program toll free at 1-800-687-4040.

The commissioners will not take oral argument or additional comment on this matter at the public meeting. Therefore, it is important to address the sufficiency of the requests in timely filed written responses and requesters' replies. At the public meeting, the commissioners may ask questions of the applicant, requesters, or TCEQ staff. The commissioners will make a decision on the request(s) during the meeting and will base that decision on the timely written requests, public comments, any written responses and replies, any responses to questions during the meeting, and applicable statutes and rules. Copies of all timely public comments and requests have been forwarded to the Office of Alternative Dispute Resolution to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand how the TCEQ processes and evaluates hearing requests and requests for reconsideration. To obtain additional information, or to ask questions about anything in this letter, please call the Public Education Program toll free at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink that reads "Bridget C. Bohac". The signature is written in a cursive, flowing style.

Bridget C. Bohac  
Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution.

## **ATTACHMENT**

### **Procedures Concerning Requests for Reconsideration and Requests for Contested Case Hearing**

The purpose of this document is to describe commission procedures for evaluating requests for reconsideration and requests for contested case hearing. This document is not intended to be a comprehensive guide to public participation at the TCEQ.

The three commissioners determine the validity of requests for reconsideration and requests for contested case hearing and vote to grant or deny the requests during a public meeting. These public meetings are usually held every other Wednesday in Austin. Prior to the meeting, the following occurs:

- (1) the written requests are distributed to the executive director, the public interest counsel, and the applicant. These persons may file a response at least 23 days before the meeting;
- (2) the requester may then file a reply to the responses at least 9 days before the meeting. This is the requester's opportunity to address any deficiencies in the request that have been identified by TCEQ staff or the applicant. The requester must submit any information he or she wishes the commissioners to consider (ex: maps or diagrams showing requester's location relative to the applicant's proposed activities) by this deadline; and
- (3) the commissioners read the requests, the responses to requests, and the replies, before the public meeting. Then, during the public meeting, the commissioners vote to grant or deny the requests.

#### **Requests for Reconsideration**

A request for reconsideration must expressly state that the person is requesting that the commission reconsider the executive director's decision and state the reasons why the commission should reconsider the executive director's decision. The commission will consider a request for reconsideration at a scheduled public meeting and grant or deny the request.

#### **Requests for Contested Case Hearing**

A contested case hearing is an evidentiary proceeding, similar to a hearing in civil court. The law allows for holding a contested case hearing on certain types of applications.

A valid request for a contested case hearing must:

- (1) demonstrate that the requester is an "affected person" with a "personal justiciable interest" related to a legal right, duty, privilege, power or economic interest which would be affected by the application in a manner not common to the general public;

- (2) if the request is made by a group or association, identify one or more members who have standing to request a hearing, and the interests the group or association seeks to protect;
- (3) expressly request a contested case hearing;
- (4) raise disputed issues of fact that are relevant and material to the commission's decision on the application which were raised during the comment period and not withdrawn prior to the filing of the Executive Director's Response to Comment; and
- (5) include any other information as specified in public notices.

The commission is authorized to protect human health and safety, and natural resources. The commission cannot address other matters outside the commission's authority, such as the effect of the existence of a proposed facility on nearby property values.

When the commissioners deny hearing requests, they often proceed to vote on approval or denial of the application. Alternatively, they may remand the application to the executive director for final action. If a hearing request is granted and the application is referred to the State Office of Administrative Hearings (SOAH), the commissioners will specify a list of issues which will be the subject of the hearing and an expected date for the SOAH judge's proposal for decision. The SOAH judge will conduct the hearing and submit a proposal to the commission to approve or deny the application.

The Alternative Dispute Resolution Office may contact requesters to determine their interest in informal discussions with the permit applicant and a mediator.

By necessity this document gives a very general description of commission procedures. If you have any questions, please call the Public Education Program toll free at 1-800-687-4040.

**MAILING LIST**  
**TEX-MIX PARTNERS, LTD.**  
**DOCKET NO. 2014-0525-AIR; PERMIT NO. 109839**

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**FOR ALTERNATIVE DISPUTE**  
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SPRING BRANCH TX 78070-1278

MR JAHZEEL N SEQUEIRA  
9008 GAINSBOROUGH DR  
SPRING BRANCH TX 78070-6405

MR WILLIAM BENNETT SHATTUCK, JR  
7906 ELK DR  
SPRING BRANCH TX 78070-4020

MR AUBREY ZACHARIAH SHIPMAN  
13375 REBECCA CREEK RD  
SPRING BRANCH TX 78070-6321

DESIREE SNELL  
800 COYOTE RIDGE DR  
SPRING BRANCH TX 78070-6342

GREG SNELL  
800 COYOTE RIDGE DR  
SPRING BRANCH TX 78070-6342

ELAINE SOLIZ  
13140 US HIGHWAY 281 N  
SPRING BRANCH TX 78070-3936

KEN STREET  
PO BOX 1345  
SPRING BRANCH TX 78070-1345

JAMIE SULLIVAN  
253 WASHINGTON BLVD APT C  
OAK PARK IL 60302-4831

VICTOR SUMMERS  
SUMMER FISH  
377 INDIAN TRL  
SPRING BRANCH TX 78070-3830

GARY SUTTON  
PO BOX 1003  
SPRING BRANCH TX 78070-1003

GLENN TACKABERRY  
110 SPIRITUAL PASS  
SPRING BRANCH TX 78070-5388

JON TAMAYO  
PO BOX 331  
KENDALIA TX 78027-0331

KANDI TEAGUE  
1225 CHERRY CREEK BLVD  
SPRING BRANCH TX 78070-6328

CHARLIE THOMAS  
2410 ROLLING CRK  
SPRING BRANCH TX 78070-5758

MS TRUDY THOMAS  
125 GREY FOX CIR  
SPRING BRANCH TX 78070-4608

MARTHA TOWNSEND  
3678 HIDDEN DR #2102  
SAN ANTONIO TX 78217-4678

MRS CHERYL TOWNSLEY  
347 CREEK CT  
SPRING BRANCH TX 78070-3502

PAMELA TREVINO  
141 HILL DR  
SPRING BRANCH TX 78070-3801

MR HERK H TRUSSELL, JR  
2349 WHISPERING WATER  
SPRING BRANCH TX 78070-8005

PAMELA VANDERMEY  
1336 WINDING CREEK TRL  
SPRING BRANCH TX 78070-5404

JIM VAUGHN  
758 LANDONS WAY  
SPRING BRANCH TX 78070-4923

STELLA VAUGHN  
758 LANDONS WAY  
SPRING BRANCH TX 78070-4923

JESSICA VEILLEUX  
15828 LOMITA SPRINGS DR  
SAN ANTONIO TX 78247-5608

MRS ELEANOR VILLEGAS  
33300 US HIGHWAY 281 N NO MH6  
BULVERDE TX 78163-3143

MOBI WARREN  
1826 POPPY PEAK ST  
SAN ANTONIO TX 78232-2418

SCOTT R WATSON  
SECRETARY, COMAL ISD BOARD OF TRUSTEES  
2 WATSON WAY  
SPRING BRANCH TX 78070-4412

JOHN WEAKLY  
1320 CYPRESS COVE RD  
SPRING BRANCH TX 78070-4852

JAMES WEAVER  
271 PARK GRV  
SPRING BRANCH TX 78070-3817

MARY JO WEAVER  
870 COYOTE TRL  
SPRING BRANCH TX 78070-6335

KRISTEN A WESSALE  
360 BENT OAK DR  
SPRING BRANCH TX 78070-6312

SANDRA WHITEHEAD  
205 BENT OAK DR  
SPRING BRANCH TX 78070-6311

BYRON WILLIAMS  
1210 MISTY LN  
SPRING BRANCH TX 78070-5787

FRANK WISSLER  
695 HILLCREST TRL  
SPRING BRANCH TX 78070-3709

MRS TAMMY TULLIS YANDLE  
439 MYSTIC PKWY  
SPRING BRANCH TX 78070-5272

MRS REBECCA M YARD  
1043 SUNRISE PL  
SPRING BRANCH TX 78070-5152

ROBERT YARD  
1043 SUNRISE PL  
SPRING BRANCH TX 78070-5152

EDITH & KEVIN ZAIONTZ  
458 COYOTE RIDGE DR  
SPRING BRANCH TX 78070-6346