

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

January 28, 2015

TO: Persons on the Attached Mailing List

RE: Docket No. 2014-1834-MWD

City of Temple

Request(s) filed on Permit No. WQ0010470002

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 **March 4, 2015**. 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 **February 9, 2015**. 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 **February 23, 2015**.

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
CITY OF TEMPLE
DOCKET NO. 2014-1834-MWD; PERMIT NO. WQ0010470002**

FOR THE APPLICANT:

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City of Temple
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Temple, Texas 76501-8402
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Lacy Borgeson, City Secretary
City of Temple
2 North Main Street, Suite 103
Temple, Texas 76501-7659
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Rick Kasberg
Kasberg, Patrick & Associates
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FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Vic Mcwherter, Public Interest Counsel
Texas Commission on Environmental
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Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

**FOR ALTERNATIVE DISPUTE
RESOLUTION**

via electronic mail:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Bridget C. Bohac
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3300
Fax: (512) 239-3311

**REQUESTERS / INTERESTED
PERSONS:**

See attached list.

REQUESTER(S)

CONCERNED CITIZEN
3121 RED BARN LN
TEMPLE TX 76501-7179

LINDA DROZD
12032 STAG RD
HOLLAND TX 76534-4081

FRANK LYNN JEZ
7844 FM 3117
TEMPLE TX 76501-7205

BILL & CAROL SMETANA
7422 FM 3117
TEMPLE TX 76501-7205

JIMMY SPANHEL
2752 SEATON RD
TEMPLE TX 76501-7229

AGNES TSCHOERNER
3121 RED BARN LN
TEMPLE TX 76501-7179

FRANKLIN TSCHOERNER
3121 RED BARN LN
TEMPLE TX 76501-7179

INTERESTED PERSON(S)

MR EDDIE & MRS EDDIE BARCAK
17991 FM 940
ROGERS TX 76569-3713

DARWIN BRUGGMAN
18801 CYCLONE BRANCH RD
BURLINGTON TX 76519-3104

EDWARD COUFAL
8576 FM 3117
TEMPLE TX 76501-7206

JAMES DENIO
850 N HIGHWAY 77
CAMERON TX 76520-3636

JUNE ELDRED
3709 ANTELOPE TRL
TEMPLE TX 76504-3603

CLYDE FOWLER
4578 SHAW RD
TEMPLE TX 76501-7233

LARRY JAMES GREGER
9330 STRINGTOWN RD
TEMPLE TX 76501-7246

THOMAS GUNTER
9894 STRINGTOWN RD
TEMPLE TX 76501-7247

BOBBY HENSON
11552 STRINGTOWN RD
TEMPLE TX 76501-7248

WAYNE HILLMAN
30 CR 205
BUCKHOLTS TX 76518

ROBERT HOELSCHER
17751 FM 940
ROGERS TX 76569-3713

WILLIAM KELM
445 COUNTY ROAD 226
CAMERON TX 76520-5052

FRANK KLECKA
2009 N AUSTIN AVE
CAMERON TX 76520-1626

JERRY KOSTROUN
1229 COUNTY ROAD 208
CAMERON TX 76520-3155

THOMAS KOSTROUN
205 E 9TH ST
CAMERON TX 76520-2714

DANIEL LESIKAR
17117 TWISTER RD
BURLINGTON TX 76519-3026

JEFF LESIKAR
6566 NEW COLONY LOOP
ROGERS TX 76569-3716

ANDY MACHICIK
10799 OSCAR SCHOOL RD
TEMPLE TX 76501-7224

MARGARET MIKESKA
3053 HOBBY CREEK RD
BURLINGTON TX 76519-3116

TED MOTL
13101 WOODFORD RD
TEMPLE TX 76501-3425

BROTHERS ORSAG
2311 FM 1600
CAMERON TX 76520-3581

CLARENCE PECHAL
10350 OSCAR SCHOOL RD
TEMPLE TX 76501-7218

GINGER D PRICE
108 POST OAK CIR
TEMPLE TX 76502-3502

E J PROVASEK
1606 N DAVIS AVE
CAMERON TX 76520-2030

WAYNE PSENCIK
12860 WOODFORD RD
TEMPLE TX 76501-3424

CALVIN RACHUI
244 COUNTY ROAD 116A
ROGERS TX 76569-3836

GENE SCHILLER
10864 OSCAR SCHOOL RD
TEMPLE TX 76501-7218

DAVID SEBEK
3910 RED RANGER RD
TEMPLE TX 76501-3413

JOE SEBEK
4910 RED RANGER RD
TEMPLE TX 76501

HENRY E SKALA, JR
10611 STRINGTOWN RD
TEMPLE TX 76501-7253

RONNIE G SKALA
10081 STRINGTOWN RD
TEMPLE TX 76501-7253

SHIRLEY SKALA
10480 STRINGTOWN RD
TEMPLE TX 76501-7247

BILL SMETANA
7422 FM 3117
TEMPLE TX 76501-7205

WILLIE STERMER
7306 FM 3117
TEMPLE TX 76501-7462

WAYNE TYROCH
13092 WOODFORD RD
TEMPLE TX 76501-3424

ANTON VRAZEL
6710 N FM 1915
BUCKHOLTS TX 76518-2540

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CONROE TX 77385-4825

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