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November 18, 2013

***Via TCEQ Electronic Filing System***

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

Re: SOAH Docket No. 582-12-6347; TCEQ Docket No. 2012-0971-AIR; EOG Resources, Inc., Air Quality Proposed Permit No. 95412

Dear Ms. Bohac:

Pursuant to Judge Wilkov and Judge Vickery's October 18, 2013 letter, enclosed is PROTESTANTS REBECCA HARRIS, HOLLY HARRIS-BAYER AND RED RIVER MOTORCYCLE TRAILS, INC.'S REPLY TO EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION and ORDER. All parties are being provided with a copy pursuant to the Certificate of Service attached to the filing.

Should you have any questions regarding this filing, counsel for Protestants may be reached at (713) 524-1012.

Sincerely,

BLACKBURN CARTER, P.C.



Zona Amerson – Legal Assistant

Enclosure

c: Judge Penny A. Wilkov and Judge Travis Vickery – Via SOAH's E-Filing System

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November 18, 2013

***Via SOAH's E-Filing System***

Penny A. Wilkov  
Travis Vickery  
Administrative Law Judges  
State Office of Administrative Hearings  
300 W 15<sup>th</sup> Street, Suite 502  
Austin, Texas 78701-1649

Re: SOAH Docket No. 582-12-6347; TCEQ Docket No. 2012-0971-AIR; EOG Resources, Inc., Air Quality Proposed Permit No. 95412

Dear Judge Wilkov and Judge Vickery:

Enclosed please find PROTESTANTS REBECCA HARRIS, HOLLY HARRIS-BAYER AND RED RIVER MOTORCYCLE TRAILS, INC.'S REPLY TO EXCEPTIONS TO THE ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION and ORDER, filed today with the Chief Clerk of the Texas Commission on Environmental Quality, in connection with the above referenced proceeding. All parties are being provided with a copy pursuant to the Certificate of Service attached to the filing.

Should you have questions or concerns regarding this document, counsel for Protestants may be reached at (713) 524-1012.

Sincerely,

BLACKBURN CARTER, P.C.

by

  
\_\_\_\_\_  
Zona Amerson, Legal Assistant

Enclosure

SOAH DOCKET NO. 582-12-6347  
TCEQ DOCKET NO. 2012-0971-AIR

APPLICATION BY EOG RESOURCES, INC., § BEFORE THE STATE OFFICE  
FOR AIR QUALITY PERMIT § OF  
NUMBER 95412 § ADMINISTRATIVE HEARINGS

**PROTESTANTS REBECCA HARRIS, HOLLY HARRIS-BAYER AND RED RIVER  
MOTORCYCLE TRAILS, INC. RECREATION PARK'S REPLY TO EXCEPTIONS TO  
THE ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COME NOW Rebecca Harris, Holly Harris-Bayer and Red River Motorcycle Trails, Inc. Recreation Park ("Protestants" or "RRMT"), and file their Reply to Exceptions to the Administrative Law Judges' Proposal for Decision issued in the above referenced case on October 18, 2013.

Protestants maintain their disagreement and disappointment with the Administrative Judges Penny A. Wilkov and Travis Vickery's ("ALJs") Proposal for Decision ("PFD"). Protestants respectfully request that the Texas Commission on Environmental Quality ("TCEQ" or "Commission") reject the ALJs' recommendation to grant the permit and instead deny EOG Resources, Inc.'s application for Air Quality Permit No. 95412 in Cooke County, Texas. Protestants support the Exceptions and Final Closing Argument filed by the Office of Public Interest ("OPIC) in this case.

**REPLY TO EXCEPTIONS**

Protestants do not have specific objections to the exceptions raised by the Executive Director ("ED"), other than to oppose the issuance of this permit based on Protestants' Closing Argument and Exceptions to the PFD previously filed in this case. The same applies to the exceptions raised by EOG Resources, Inc. ("EOG" or "Applicant"), except as follows:

Protestants object to Applicant's Exception No. 4 to the PFD, in which EOG requests that the ALJs' recommended Findings of Fact No. 28(i) be amended to eliminate the requirement that all "on-property roads" be paved, and instead only require that all "in-plant roads" be paved. It should be noted that the ED did not request such a change to this Findings of Fact, despite the extensive review and comments made by the ED on the PFD and its Findings of Fact and Conclusions of Law. The evidence at the hearing was undisputed that paving all "on-property roads" will minimize the emissions from these roads as a means of reducing the risk of adverse health effects on the public, including the Protestants and their visitors to the adjacent park. The ALJs, after considering all of the evidence and the witness testimony presented during the contested case hearing, clearly recognized the importance of possible road emissions associated with this proposed project and the benefit to the health and welfare of the public to have such roads paved. The ALJs specifically recommended in their PFD "that EOG pave all roads on the property", even though EOG had agreed during the hearing to pave all "in-plant roads" and the road leading from the plant to the quarry.<sup>1</sup> Protestants would urge the Commission to follow the ALJs' recommendation and preserve this Findings of Fact No. 28(i) to require that all "on-property roads" be paved, in order to minimize road emissions for the protection of the health and welfare of the public.

## **CONCLUSION**

For the foregoing reasons and the reasons expressed in Protestants Rebecca Harris, Holly Harris-Bayer and Red River Motorcycle Trails, Inc. Recreation Park's Exceptions and Closing Argument, Protestants respectfully maintain their prior requests that the Commission reject the recommendation of the PFD to grant the permit and instead deny the application for this air quality permit.

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<sup>1</sup> PFD at 22.

Respectfully submitted,

BLACKBURN CARTER, P.C.

By: Mary W. Carter

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***Attorneys for Protestants Rebecca  
Harris, Holly Harris-Bayer, Red River  
Motorcycle Trails, Inc. Recreation Park***

**CERTIFICATE OF SERVICE**

On this 18<sup>th</sup> day of November, 2013, a true and correct copy of the foregoing instrument was served on all attorneys of record by the undersigned via the method designated below.

  
\_\_\_\_\_  
Mary W. Carter

**FOR THE OFFICE OF THE CHIEF CLERK:**

Bridget C. Bohac, Chief Clerk  
Office of the Chief Clerk – MC 105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711  
*Via TCEQ Electronic Filing System*

**ADMINISTRATIVE LAW JUDGE:**

Penny A. Wilkov  
Travis Vickery  
Administrative Law Judge  
State Office of Administrative Hearings  
300 W 15<sup>th</sup> Street, Suite 502  
Austin, Texas 78701-1649  
*Via SOAH's E-Filing System*

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