

**SOAH DOCKET NO. 582-13-5205
TCEQ DOCKET NO. 2013-1191-AIR**

APPLICATION OF CORPUS	§	BEFORE THE STATE OFFICE
CHRISTI LIQUEFACTION, L.L.C.,	§	
SAN PATRICIO COUNTY, TEXAS	§	OF
FOR AIR QUALITY PERMIT NO.	§	
105710/PSDTX-1306	§	ADMINISTRATIVE HEARINGS

EXECUTIVE DIRECTOR’S REPLY TO PROTESTANT’S EXCEPTIONS

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COMES NOW, the Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) and files this, his Reply to Protestant’s Exceptions, and in support thereof, would show as follows:

I. BACT

In its exceptions, Sierra Club (SC) argues that the Administrative Law Judges (ALJs) reached the incorrect conclusions with respect to BACT for three reasons: 1) excluding electric compression because it would replace the proposed natural gas compression “violates” the Federal Clean Air Act and TCEQ guidance; 2) “... the conclusion that all evidence regarding electrically driven compression is irrelevant ... precludes upholding the permit on the basis of any factual comparison between electrical and gas driven compression;” and 3) BACT for fugitives should be 28LAER.

With respect to SC’s first two arguments, EPA guidance is clear and the preponderance of the evidence shows that the requirement to meet BACT is not a “means to redefine the design of the source when considering available control

alternatives.”¹ The permit reviewer will begin with the source as proposed, follow the three-tier approach, and determine whether the source will meet BACT, which is commonly a numeric emission limit.² The consideration of alternative processes is left to the discretion of the states³ and the evidence shows that Texas’ PSD program is fully SIP-approved.⁴ Sierra Club’s quote from TCEQ’s BACT guidance document is taken out of context and is inapplicable, in that it is quoting from a paragraph on pollution prevention. First, the plant as proposed meets all applicable state and federal requirements, and second, the reference is to “process changes” and not redefining the source. In this case, the preponderance of the evidence shows that the plant, as proposed by Corpus Christi Liquefaction (CCL), will meet all state and federal standards and not cause or contribute to a violation of any NAAQS or PSD increment.⁵ The ALJs correctly concluded in the PFD that consideration of electrically-driven compression would redefine the source proposed by CCL and therefore was properly not necessary to consider in the BACT analysis.

Regarding SC’s third argument, the preponderance of the record evidence is clear that the proposed location of the plant is in an attainment area and therefore, based on the proposed fugitive emissions, the fugitive monitoring program representing BACT is 28VHP.

¹ Ex. ED-5 at 210.

² Ex. ED-1 at 9.

³ Ex. ED-5 at 210-211.

⁴ Ex. ED-1 at 11-12; Ex. ED-6; and Ex. EDF-7.

⁵ Ex. ED-1 at 14-25.

II. Conclusion

The ED respectfully recommends that the ALJs take no action with respect to the arguments raised by Sierra Club.

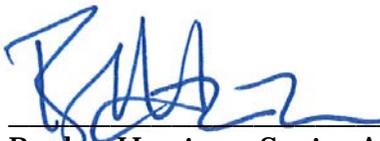
Respectfully submitted,

Texas Commission on Environmental Quality

Richard A. Hyde, P.E., Executive Director

Caroline Sweeney, Deputy Director
Office of Legal Services

Robert Martinez, Division Director
Environmental Law Division



Booker Harrison, Senior Attorney
Environmental Law Division
State Bar No. 00793910
(512) 239-4113
Booker.Harrison@tceq.texas.gov
P.O. Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 16th day of June, 2014, a true and correct copy of the foregoing document has been served upon all parties via electronic mail:

CORPUS CHRISTI LIQUEFACTION

Derek McDonald
Baker Botts L.L.P.
98 San Jacinto Blvd, Suite 1500
Austin, Texas 78701
Phone: (512) 322-2500
Fax: (512) 322-2501
Derek.mcdonald@bakerbotts.com

SIERRA CLUB

David O. Frederick
Frederick, Perales, Allmon & Rockwell
707 Rio Grande, Suite 200
Austin, Texas 778701
Phone: (512) 469-6000
Fax: (512) 482-9346
Dof@lf-lawfirm.com

Nathan Matthews

Associate Attorney
Sierra Club Environmental Law Program
85 2nd St., Second Floor
San Francisco, CA 94105
Phone: (415)977-5695
Nathan.Matthews@sierraclub.org

OFFICE OF PUBLIC INTEREST COUNSEL

Garrett Arthur
Texas Commission on Environmental Quality
Office of the Public Interest Counsel – MC 103
P.O. Box 13087
Austin, Texas 78711
Phone: (512) 239-6823
Fax: (512) 239-6377
Garrett.arthur@tceq.texas.gov



Booker Harrison