

JANUARY 31, 2021

RE: Docket No. 2021-0056-AIR

Below the Commission will find my responses to the ED's recommendation to deny my request for reconsideration, my response to the ED's recommendation to deny my request for a contested hearing, my response to the ED's recommendation to deny Gunter Clean Air's request for a contested case hearing, my response to Issues addressed by the ED, my response to OPICs recommendation to deny all requested case hearings and requests for contested case hearing, and a brief summary of why I do not agree with Ameritex's response to our request for contested case hearings and request for reconsideration. I have included supporting documents and emails within my response below, but would be happy to provide more to the Commission if necessary. I appreciate the opportunity to respond to these documents and have our position heard.

RESPONSE TO REQUEST FOR RECONSIDERATION OF RESPONSE 3 Deirdre Diamond stated that the virtual public meeting limited the voice of the community and did not allow everyone seeking to ask questions to do so. Ms. Diamond expressed concern that she was only allowed to ask two questions during the virtual public meeting and stated that her questions would not have been ignored at an in person meeting.

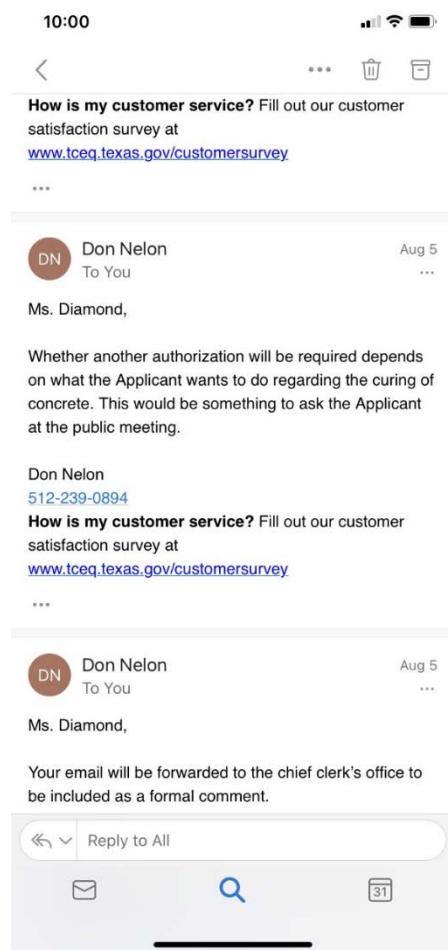
TCEQ RESPONSE: The Executive Director responded to concerns about a virtual meeting in Response 3. The public meeting for this application was held on August 13, 2020 utilizing the GoToMeeting platform. In this case, the public meeting started at 7:00 pm and ended at approximately 10:30 pm and approximately 125 people participated in the meeting and 31 of the attendees provided formal comment for the record. Throughout the comment period, the commission received over 900 timely comments on the application, including approximately 275 comments from Ms. Diamond. Accordingly, the Executive Director maintains that the public had an adequate opportunity to comment on the application.

RESPONSE:

I have not stated that I did not have the opportunity to ask questions during the public comment period of TCEQ. I stated that during our virtual public meeting that I was limited to two questions of the APPLICANT, one of which he was unable to answer. I did state that I attempted to address the steam/vapor curing process with the applicant, but was never called on again despite virtually raising my hand. I was specifically told by Don Nelon to ask the applicant at our virtual public meeting if they were going to steam cure pipes and any other associated questions, but was inhibited by TCEQ and was not given another opportunity to expand on my line of questioning regarding this subject. TCEQ has ultimately limited our ability to pursue information regarding the steam/vapor curing process at the

Ameritex's site, and as a result our community still has significant concerns for our health and environment. TCEQ played a role by not allowing us to address the applicant completely and the ED's response that we had plenty of time to submit questions during the public comment period is irrelevant, because it does not allow us to ask questions of the applicant. I am also unaware of a rule or law that states a time limitation or question limitation at public meetings and feel that our community has been muted and was unable to accurately access the risks this plant possesses on our health and environment.

Email from TCEQ stating that we should address steam/vapor curing at the public meeting.



RESPONSE TO MY REQUEST FOR RECONSIDERATION OF RESPONSE 12 Deirdre

Diamond repeated comments that were addressed in Response 12 in her request for reconsideration. Specifically, Ms. Diamond stated that because the Applicant may intend to steam cure concrete, the Standard Permit for Concrete Batch Plants is not the appropriate authorization. Ms. Diamond asked that the permit not be issued until a thorough investigation and study of the steam curing process is conducted. Ms. Diamond stated that the community deserves more protection and asked that a study and safety evaluation be conducted to ensure

that the steam curing process is protective of human health and the environment. Executive Director's Response to Hearing Requests and Requests for Reconsideration AmeriTex Pipe & Products, LLC, Registration No. 159336 Page 4 of 47 Deirdre Diamond also requested reconsideration because the Standard Permit for Concrete Batch Plants limits who can request a contested case hearing as an affected person. Ms. Diamond stated that a New Source Review (NSR) permit would not contain such a limitation.

TCEQ RESPONSE: In Response 12 the Executive Director explained that the Standard Permit for Concrete Batch Plants does not authorize steam curing and that the Applicant is not seeking to authorize steam curing in this application. Response 12 also explained that if the Applicant plans additional processes at the site, such as steam curing, those processes may require an air quality authorization depending on the nature of the equipment and its potential to emit air contaminants. The Applicant must obtain proper authorization, whether through a PBR or other mechanism, prior to constructing any additional source regulated by the TCEQ. Response 12 also explained that the type of authorization needed depends on the particular sources and processes at a facility or plant and more than one authorization may be necessary. However, the TCEQ does not have the regulatory authority to require one type of application over another so long as an applicant can demonstrate that it meets the requirements of a particular authorization. The Executive Director explained the contested case hearing process in Response 57, including the statutory limitation concerning who can request a contested case hearing in TCAA § 382.058(c).

RESPONSE:

Rocky Lorenz stated at our public meeting that steam curing concrete pipes and boxes will occur at the Ameritex Gunter site. He also had a meeting with other GCA members and stated that he would be steam/vapor curing the concrete pipes and boxes. An investigation submitted in August identified the utilization of a Direct Fire Vapor Generator (exact equipment or fuel not identified) is in use at their Seguin location. Subsequently, as of today (1-31-21) my most recent e-mail from a TCEQ investigator in Montgomery County stated that Ameritex has not responded to his requests for information regarding steam/vapor curing occurring at their Ameritex Conroe location and is delaying an investigation that was submitted in August of 2020. Please see e-mail below.

It is also well understood that introducing heat to concrete produces a stronger and more durable product, so unless Ameritex intends to not steam/vapor cure their pipes and boxes in Gunter and produce an inferior product to that of their competitors, it's safe to assume that Rocky Lorenz's statement that Ameritex will also be steam/vapor curing in Gunter is true.

With that being said, a standard concrete batch permit does not authorize steam/vapor curing and by not requiring Ameritex to show all processes that will occur at the site TCEQ is putting our community at risk unnecessarily. Ameritex should be required to present the

exact equipment used for steam/vapor curing, emissions and byproducts produced, fuel type and consumption rates, emission control technology, and how they dispose of their byproduct/waste prior to any air authorization approvals. I have spent the last few months asking TCEQ and the EPA to conduct a study of this process and it has been determined that communities are to be put at risk prior to any study being conducted to determine safety. This is unacceptable and our community deserves better. I also have very little faith that after the site is granted an air authorization that TCEQ will do what is necessary to ensure our safety or conduct a study. I have spent months trying to initiate a study and have been very disappointed at the lack of responses I have received TCEQ employees. I am not referring to not receiving timely responses with them telling me what I want to hear, I am talking about blatantly ignoring my request for information and requiring a significant amount of follow up on my part to get any answers.

I am also concerned by the investigation process and worry our community will encounter similar issues if Ameritex is allowed to proceed, putting our community unnecessarily at risk. The lack of follow through and information gathered during the Seguin investigation is alarming and shows a lack of concern for what operations are being conducted at the site. This investigation failed to identify the exact equipment used, the fuel being used with rates of consumption, and failed to obtain a copy of the PBR. After I filed a PIR, I was first told that it could take an indefinite amount of time to obtain this information, then I was told they were withholding this information because it was proprietary, and eventually learned that they actually never identified this information at all during the investigation. The relevance of this is significant because if they do not know what machine is being run at Ameritex locations, then there is no way that TCEQ can accurately determine if the PBR being used is even appropriate or protective of the environment or human health. Please see below emails to support these course of events.

Email from Montgomery County Investigator stating that Ameritex has not responded to his requests for information.

3:29 ●●●

Gerard Billeaudeaux Jan 20
To You and Letasha Miller ...

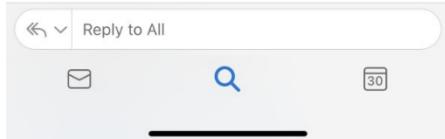
Hello Ms. Diamond,

I have not been able to conduct an on-site investigation to date due to reasons previously addressed. However, this morning I have again contacted Ameritex to obtain more specific burner and site operation information. I have left a message with the secretary at the main number for Mr. Bakonyi, or someone to please call me back ASAP. As you are aware, previous attempts to contact Ameritex representatives by telephone have been unsuccessful. I will let you know as soon as they respond and whether they can supply the requested information.

If I do not receive a response from Ameritex within a reasonable amount of time, I will discuss with my Supervisor, the possibility of a new path forward for dealing with this regulated entity.

I will keep you informed of our progress regarding this matter. Thank you,

Regards,

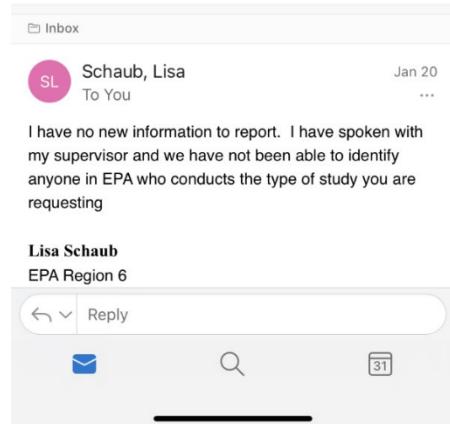


Email from EPA that states that they do not know of resources to conduct a safety study for a direct fire vapor generator.



I am following up with my previous request of initiating a study, again. TCEQ has stated that they will not conduct anything until it goes into effect, therefore there is no way that our community can be protected until we file a complaint after the fact. I am requesting the EPA conduct the study that TCEQ cannot conduct so that our community has protection prior to implementation. Please follow up with me on how we start one. Your previous response stated that you are not aware of such resources, but I am hopeful that you took the time to look into this for me so that I can be directed in the right direction.

Deirdre



I have no new information to report. I have spoken with my supervisor and we have not been able to identify anyone in EPA who conducts the type of study you are requesting

Lisa Schaub
EPA Region 6

Email from TCEQ stating they will not conduct a study or investigation until the new equipment is proposed, which means that our community is put at risk prior to TCEQ doing anything to ensure safety. Remember, Rocky Lorenz has already stated that steam/vapor curing will occur at this site and is not part of the standard air permit.

6:43

Beryl Thatcher
To You

Jan 5

Ms. Diamond,

My apologies for not responding sooner, but I was out of the office during the holidays. As we discussed, the TCEQ does not conduct studies on proposed processes. As part of the air permitting process, the TCEQ reviews the proposed facilities to determine best available control technology is applied and that the proposed emissions are protective of human health and the environment at the property line before a permit is issued. If a new technology were proposed that has not been used before, the TCEQ will evaluate it to determine if it is acceptable. Please let me know if you have any additional questions.

Thank you.

Beryl Thatcher
Assistant Deputy Director
Air Permits Division
Texas Commission on Environmental Quality
(512) 239-2270
(512) 921-7911 (mobile)
beryl.thatcher@tceq.texas.gov

How are we doing? Fill out our online customer

Reply

✉️ 🔎 📅

Multiple Emails regarding my PIR that shows the equipment type was not identified, fuel consumed, or consumption rates.

7:06

6:42

You To George Ortiz, Carl Ortmann, +1 Oct 21

I requested the equipment information. Please let me know if I need to include anything else or if I made an error.

Open Records Request - Review Your Request

Review the information below before submitting. Time remaining: 59:34

Page One:

Area Description: Ameritex Seguin at 3960 Highway 90 East, Seguin

Page Two:

Date Range: 2020

Agency Programs: Air - Emissions Inventory (OA), Air - Complaints (OCE), Air - Investigations (OCE), Compliance (OCE) and Enforcement (OCE)

Additional Record Search: I am looking to get the complete investigation report for investigation 1671288 and identify the exact equipment name and manufacturer of the reported direct fire vapor generator. I am seeking this information to ensure safety, emissions, byproducts, fuel consumption, and compliance with PBR 106.183. If the investigation did not identify the exact equipment and manufacturer of the direct fire vapor generator then please provide me the PBR onsite or any other documentation which identifies the equipment. I was told the company says it proprietary and doesn't want to share it with the public. I would appreciate your help.

Document Type: No records found

Page Three:

Name Prefix: Deirdre Diamond

Company/Organization: Gunter Clean Air

Requester Type: General Public

Preferred Contact Method: Email

Preferred Delivery Method: Email

Mailing Address 1:

City:

Status/Previous Request:

Zip/Postal Code:

Country:

E-Mail Address: caden1206@hotmail.com

Reply to All

✉️ 🔎 31

CERTIFICATION
TEX. GOV'T CODE § 552.221(c) and (d)
PIR No. 20-56512

Joel Anderson, Director
Region 13 - San Antonio
Texas Commission on Environmental Quality

November 19, 2020
Date

specification and other relevant information I asked for?

Sincerely,

Deirdre

Get [Outlook for iOS](#)

CM Carmen Molina To You Dec 8

Good morning Deirdre Diamond,

I did inquire with other staff members on our team about your question and I am waiting to hear back from them. Sorry for the delay.

Sincerely,

Carmen Molina
Administrative Assistant II/PIR Coordinator
San Antonio Region 13
TCEQ

Thank you! No problem, thank you! Thank you!

Reply

Reply

Carmen Molina
Administrative Assistant II/PIR Coordinator
OCE/Central TX Area/San Antonio
Texas Commission on Environmental Quality
Region 13 – San Antonio
14250 Judson Road
San Antonio, Texas 78233
Direct: (210) 490-3096
Fax: (210) 545-4329

RESPONSE TO ED DECLINING MY REQUEST FOR RECONSIDERATION OF RESPONSE 49

Deirdre Diamond requested that the Executive Director reconsider because the Applicant updated its application. Ms. Diamond expressed concern with the following changes that were included in the Applicant's updated application: that the initial application identified the Applicant as a small business with less than 100 employees; that the Applicant modified its application to reflect that the emissions limitations of 30 TAC §§ 106.261 and 106.262 would be met; that the Applicant updated its emission calculation tables.

TCEQ RESPONSE: The Executive Director explained the permit review process, including the Applicant's updated application in Response 49. In addition, the Executive Director responded to the concerns about the updated application throughout the RTC. Specifically, in Response 50 the Executive Director explained that the Applicant submitted an updated application representing it is not considered a small business and that this change required the Applicant to publish an amended Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (public notice). The Executive Director responded concerns regarding the emissions limitations of 30 TAC §§ 106.261 and 106.262 in Response 25. Finally, the Executive Director responded to comments concerning the Applicant's updated emissions calculations workbook in Response 13 and explained that

emissions calculations are not required to be submitted with applications to register the use of a Standard Permit for Concrete Batch Plants throughout the RTC. The Executive Director does not have additional information to provide.

RESPONSE:

The applicant did not simply update their application, they corrected mistakes and misrepresentations that were identified by the community. When Ameritex first selected Grayson county they original applied for a standard concrete batch permit air authorization in Tioga, a town not far from Gunter. Other than the location change on the Tioga application, the same misrepresentation of the size of their organization, a lack of commitment to 30 TAC emission limitations, incorrect process description, and the exact same emission table calculations were present on the Tioga application as they were on the Gunter application. Even though they actually were granted the air permit in Tioga by TCEQ (flaws and all), they withdrew from that location and applied for another air authorization in Gunter. The original application proposed for Gunter was almost identical to the one in Tioga and was filed in December of 2019. It wasn't until May of 2020 that the citizens of Gunter caught flaws in the application, which according TCEQ prompted deficiency letters to be sent to Ameritex. An amended application from Ameritex was not received by TCEQ until late June. This started the comment period over. I think it is also important to note that these applications were filed by a team of trained engineers that should have been professionally savvy enough to have identified these flaws prior to being submitted multiple times. While an emission calculation table may not be required for this type of application, what does it mean if emissions that exceed 30 TAC or the standard air permit are allowed on the applications? Are companies then legally allowed to operate within those perimeters because the air authorization was approved? I just don't see the point of including a non-required emission table, with incorrect calculations, that exceed limitations if you aren't trying to increase production beyond that of what the standard air permit allows.

Emissions table from original application and amendment summary.

Emissions Summary Table
This worksheet compiles and displays the calculated emission rates for each source of air emissions listed within this workbook.

Emission Point Number(s)	Name	PM		PM2.5		PM10	
		lb/hr	t/yr	lb/hr	t/yr	lb/hr	t/yr
1,4	Manual Handling	0.155	0.075	0.074	0.032	0.111	0.049
15	Central Baghouse Stack	0.100	0.047	0.028	0.011	0.005	0.002
10	Central Baghouse Stack	0.100	0.047	0.028	0.011	0.005	0.002
7	Loading Fugitives	0.053	0.023	0.152	0.072	0.026	0.012
10A	Central Baghouse Stack	0.100	0.047	0.028	0.011	0.005	0.002
8	Cement Stk #1	0.058	0.026	0.058	0.014	0.006	0.003
9	Supplement Stk #1	0.037	0.016	0.013	0.007	0.002	0.010

*The comments supplement weigh hopper is vented to the following filter: Central Dust Collector

Emission Point Number(s)	Name	PM		PM2.5		PM10	
		lb/hr	t/yr	lb/hr	t/yr	lb/hr	t/yr
11-16	Central Baghouse Stack	0.150	0.070	0.074	0.032	0.111	0.049
20	Central Baghouse Stack	0.100	0.047	0.028	0.011	0.005	0.002
14	Central Baghouse Stack	0.100	0.047	0.028	0.011	0.005	0.002
15A	Cement Weight Hopper*	0.053	0.023	0.152	0.072	0.026	0.012
18	Cement Stk #2	0.058	0.026	0.058	0.014	0.006	0.003
19	Supplement Stk #2	0.037	0.016	0.013	0.007	0.002	0.010

*The comments supplement weigh hopper is vented to the following filter: Central Dust Collector

Central Dust Collector

Search for ... 0 of 0 < >

40 of 60

1 of 19

June 24, 2020

Texas Commission on Environmental Quality
Air Quality Standard
Austin, Texas 78711

Project No. 10847-009

Mr. Don Nelson

Subject: Pending Air Quality Standard Permit for Concrete Batch Plants Registration No. 159336
Amertex Pipe & Products, LLC - CNG04260251
Amertex Dallas - RIN 10780335
Dallas, Grayson County, Texas

On behalf of Amertex Pipe & Products, LLC, we are submitting the attached revisions to our original application for the Air Quality Standard Permit No. 159336 for the proposed two permanent concrete batch plants to be located near Conroe, Grayson County, Texas. These revisions include the following:

1. The TCEQ Core Data Form page 1 (which is page 3 of our original application) has been corrected to represent that Amertex Pipe & Products, LLC is classified as a big business with more than 100 employees.
2. The TCEQ Form PT-15 page 6 (which is page 10 of our original application) has been corrected to represent that Amertex Pipe & Products, LLC is classified as a big business with more than 100 employees.
3. The TCEQ Form PT-15 page 7 (which is page 11 of our original application) has been revised to represent that the emission limitations of 30 Texas Administrative Code (TAC) §106.261 and §106.262 have been revised to reflect the new emission limits of 30 TAC §106.261 and §106.262.
4. The Process Description (which is page 10 of our original application) has been revised to remove any TCEQ language referencing track mix as the subject plant will be central in nature.
5. The TCEQ Form PT-15 page 10 (which is page 26 of our original application) has been revised to represent that the emission increases will meet the emission limits of 30 TAC §106.261 and §106.262 in accordance with 30 TAC §116.610(a)(1). See Emissions Summary Table for this documentation.

Office: 401 W 29th Street, Suite 1000
Main: 512.490.0200 / Fax: 512.490.0201
Email: info@westwardinc.com
www.westwardinc.com

Amertex Pipe & Products, LLC
Pending Standard Permit No. 159336
June 24, 2020

The Emission Calculations (which are pages 28-39 of our original application) have been updated to TCEQ's new Emissions Factor Table Page 19, Emissions Rate Calculations Workbook Version 2.0 (February 18, 2020). The TCEQ's previous Workbook Version 1.0 (February 19, 2019) was utilized in our original application dated November 25, 2019. The "Loading and Baghouse Emissions Factor" in page 39 of our original application incorrectly populated Track Loading Emission Factors rather than Master Loading Emission Factors as the heading indicated. This TCEQ has since corrected their Workbook.

The subject facility's estimated capital costs will exceed \$2,000,000. In accordance with 30 TAC §116.110(a), the application is hereby denied. The subject facility is a concrete batch plant and is located in a rural area. The application is hereby denied as the subject facility is not required to be registered under the direct sqt and seal below.

RESPONSE TO ED DECLINING MY REQUEST FOR RECONSIDERATION OF

RESPONSE 63 Deirdre Diamond requested reconsideration based on complaints she submitted concerning operations at the Applicant's other plants and specifically whether the use of steam curing was properly authorized. Ms. Diamond expressed concern that the specific equipment was not identified in the investigation reports and that authorization for a direct fire generator under 30 TAC § 106.183 does not appear on STEERS. Ms. Diamond stated that the specific equipment and manufacturer must be submitted to the TCEQ in order to evaluate whether the 30 TAC § 106.183 Permit by Rule (PBR) is sufficient to protect human health and the environment. TCEQ RESPONSE: This is an application to register the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 159336; accordingly, comments concerning PBRs are outside the scope of the review of this application. However, the Executive Director responded to concerns about the Applicant's other plants in Response 63. The Executive Director explained that in response to the commenters' complaints, the TCEQ San Antonio and Houston Regional offices conducted investigations of the Applicant's plants in Seguin and Conroe, respectively. Both investigations determined that the Applicant had obtained proper

authorization for its operations, including for the use of a generator to create steam under the PBR in 30 TAC § 106.183, and no violations or instances of noncompliance were substantiated. The Executive Director notes that the 30 TAC § 106.183, Boilers, Heaters, and Other Combustion Devices, PBR does not require registration with the commission and would therefore not be reflected in the State of Texas Environmental Electronic Reporting System (STEERS).

RESPONSE:

As indicated above, the Seguin investigation was deficient in identifying the exact equipment, type of fuel consumed, or the consumption rates of the direct fire vapor generator. The appropriateness of the PBR is in question without such identification and I do not think it is appropriate of TCEQ to suggest that the PBR is sufficient in being protective of the environment and human health without doing the work necessary to obtain this information. Also, indicated above and contrary to the response by the Executive Director the Conroe investigation in Montgomery County has not been completed. The e-mail above from Mr. Billeaudeux states that Ameritex has not responded to his request for information and that the investigation has not been completed. Below you will also find an e-mail from EPA engineers that states that they do not believe that a direct fire vapor generator is a boiler,

which provokes yet another question of whether the PBR is appropriate.

1:02 

Johnson, Mary Oct 22

To You, Fellner, Christian, Eddinger, Jim, +2 ...

Ms. Diamond,

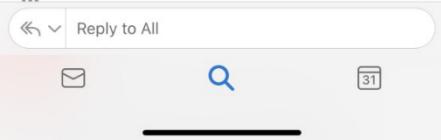
Your request for clarification of equipment type at a specific location is not something that those of us that received your inquiry do. We develop national air regulations for certain categories of sources such as engines, turbines, and boilers, and received your inquiry because it mentioned engines and turbines. However, our opinion based further considering the manufacturer's description, is that this equipment that generates vapor that is then distributed within an enclosure to cure concrete products is not a boiler (or an engine or turbine). We are attempting to find an EPA Region 6 contact to put you in touch with that can help with your inquiry.

Thank you.

Mary Johnson

Mary Johnson | Environmental Engineer | Energy Strategies Group | Sector Policies and Programs Division | Office of Air Quality Planning & Standards | U.S. Environmental Protection Agency | 109 T.W. Alexander Drive | D243-01 | [Research Triangle Park, NC 27711](#) | Desk Phone: [919-541-5025](#)

Note: Positions or views expressed here do not represent official EPA policy.



RESPONSE TO ED RECOMMENDATION TO DECLINE MY PERSONAL REQUEST FOR A CONTESTED CASE HEARING

3. Deirdre Diamond The ED reviewed the factors found in 30 TAC § 55.201(c) and (d), and § 55.203 for determining whether a requestor is an affected person, and recommends the commission find that Deirdre Diamond is not an affected person. Deirdre Diamond submitted three hearing requests during the comment period. She also submitted five hearing requests and requests for reconsideration during the 30day period after the RTC was mailed out by the Commission. The hearing requests were in writing, provided the required contact information, and included issues that are the basis of her hearing requests. In one of her hearing requests, Ms. Diamond expressed concern about "cement-producing activities." That request stated that cement plants are a significant source of PM2.5, PM10, silica, SO₂, NO₂, and CO and expressed concern about adverse health effects caused by NO_x, SO₂, and CO emissions. This application is not for a cement plant or cement kiln, but rather for a concrete batch plant. The proposed plant will not emit NO_x, SO₂, or CO. In subsequent hearing requests, Ms. Diamond stated that she believes she is an affected person and will experience damage to her environment, health, and property if the permit is issued. Ms. Diamond also stated that she believes air contaminants put

the community's health and safety at risk. In her hearing requests, Ms. Diamond provided two addresses, one in McKinney, Texas and one in Gunter, Texas. Ms. Diamond stated her address in Gunter is 123 Bledsoe Rd. Ms. Diamond did not provide the distance of either residence to the proposed plant but stated that she is "too close for comfort and from schools." The Executive Director was unable to determine the location of the address Ms. Diamond provided in Gunter. The Grayson County Appraisal District property records do not reflect any property with the given street address or reflect that Ms. Diamond owns property in Grayson County. Accordingly, the Executive Director was unable to map the address in Gunter, Texas. Based on the address in McKinney, Texas, the Executive Director determined that Ms. Diamond resides more than 440 yards from the proposed location of the

Executive Director's Response to Hearing Requests and Requests for Reconsideration AmeriTex Pipe & Products, LLC, Registration No. 159336 Page 12 of 47

plant. For a registration for a concrete batch plant standard permit, TCAA § 382.058(c) states that "only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing...as a person who may be affected." As shown on the map, Ms. Diamond does not reside within 440 yards of the proposed plant and therefore she cannot be considered an affected person. Accordingly, the Executive Director recommends that the commission find that Deirdre Diamond is not an affected person based on the criteria set out in 30 TAC § 55.203 and that her hearing request be denied.

RESPONSE:

My husband and I actually do own property on Bledsoe road in Gunter and when our home is complete, we be moving ourselves and our five children to this community. Gunter will be our primary residence in the very near future and for many years to come. Please check the records again. This land was purchased prior to the ED's decision. Most of north Texas is impacted by the increasingly invasive APO industry on communities, so regardless of where I live at this very moment, I do have a personal and financial interest in the organizations and industries that come to Gunter and I recognize how this site might cause harm to community health, enviornment, and property values. The safety of the steam/vapor curing process has yet to be evaluated by TCEQ, so if it is a safe process please show me with scientific evaluation of the process and best control technology/BMPs. I again request a study to be conducted by TCEQ to determine the exact steam/vapor curing equipment, the emissions and byproducts, the control technology utilized, the waste disposal of the byproducts, fuel consumed, and the fuel consumption. Only then can TCEQ accurately tell our community that our health and environment are not at risk. A few months of thorough investigation can lead to a lifetime of protection for the Gunter community.

RESPONSE TO ED'S RECOMMENDATION TO DECLINE GCA'S REQUEST FOR A CONTESTED CASE HEARING

1. Gunter Clean Air

(1) Whether the group or association submitted timely comments on the application.

Deirdre Diamond submitted a hearing request on behalf of Gunter Clean Air during the 30-day period after the RTC was mailed out by the Commission. Mr. Trent Lewis submitted timely comments during the comment period on behalf of Gunter Clean Air. The issues raised in Gunter Clean Air's hearing request were raised in the group's timely comments. The Executive Director recommends that the Commission find that Gunter Clean Air has met this requirement for associational standing.

(2) Whether one or more members of the group or association would otherwise have standing to request a hearing in their own right.

Gunter Clean Air's hearing request states that all members of the group will be affected by air contaminants from the proposed plant. The hearing request identified Deirdre Diamond as a member who has standing to request a contested case hearing in her own right. However, the Executive Director recommends that Deirdre Diamond, who submitted the hearing request on behalf of Gunter Clean Air, is not an affected person in her own right. Accordingly, the Executive Director recommends that the Commission find that Gunter Clean Air has not met this requirement for associational standing.

Executive Director's Response to Hearing Requests and Requests for Reconsideration AmeriTEx Pipe & Products, LLC, Registration No. 159336

Page 37 of 47

(3) Whether the interests the group or association seeks to protect are germane to the organization's purpose.

The hearing request submitted by Gunter Clean Air stated that the group represents the interest of the community of Gunter and aims to protect the community's health, property, and environment from the harmful effects inflicted by the concrete batching process and the steam/vapor curing that occurs when producing concrete pipes and boxes. Although the Executive Director has determined that the Standard Permit for Concrete Batch Plants is protective of human health and the environment, the Executive Director recommends that the Commission find that Gunter Clean Air has met this requirement for associational standing.

(4) Whether the claim asserted or the relief requested requires the participation of the individual members in the case.

The relief requested by Gunter Clean Air does not require the participation of any individual member of Gunter Clean Air. Thus, the Executive Director has determined that Gunter Clean Air has met this requirement for associational standing.

Because Gunter Clean Air did not meet all four requirements for associational standing, the Executive Director recommends the Commission find that Gunter Clean Air is not an affected person.

RESPONSE:

I disagree with the ED that Gunter Clean Air does not have standing for a contested case hearing simply because I filed the request on our group's behalf. Someone had to file the request and because I had the time to devote to it, I was the one. Our group is comprised of many community members including residents that live on Wall Street (next to or adjacent to the site), city council members, and concerned citizens of Gunter and Grayson County. Despite Ameritex's redundant suggestion that I am the only identifiable member of GCA, that is simply not true and I invite the Commissioner and the court to meet with our group and hear our concerns surrounding the impact of this application on our community. You will be able to meet the owner of a working farm that was started in 1928 that is now sandwiched in between three concrete batch plants and the Ameritex site. You can speak with city council members that are having to creatively design Gunter's downtown area due to an increasing amount of APO truck traffic. You can learn how this project has the potential to stunt the economic growth of our downtown area and areas proposed for development near the site. And, finally you can see all our faces and hear our concerns surrounding the safety of this application and determine for yourself if we are not worth taking the time to study the steam/vapor curing process so that our safety can be assured. Where the property line of Ameritex ends is where GCA begins and for this very reason GCA deserves a contested case hearing and the opportunity to defend our health, environment, and property by establishing the necessity of the.

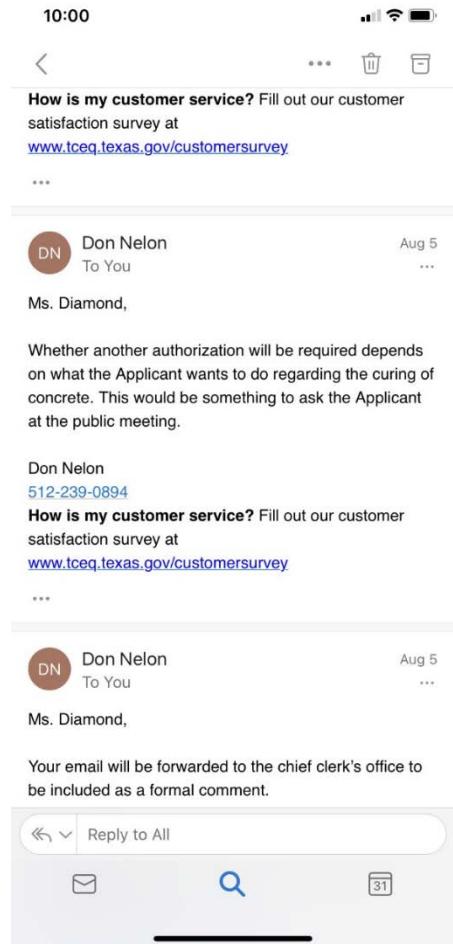
RESPONSE TO ISSUES DISCUSSED BY ED:

Issue 9: Whether the public meeting on the application should have been held in person at a physical location in Grayson County. This issue involves a question of law which is not relevant and material to the Commission's decision on the application. TCEQ's rules provide that only disputed issues of fact or mixed questions of fact and law may be referred to SOAH. 30 TAC § 50.115(c).

RESPONSE:

I disagree that this issues should not be relevant to the application. By law we should have had a public meeting that allowed for us to adequately ask the applicant questions. Instead, the virtual meeting limited our voice as a community and we did not get sufficient time or opportunity to have our questions answered. Please also review the audio of the meeting and take note of the moderator attempting to discourage our line of questioning of the applicant when we attempted to address steam/vapor curing at the site. I was specifically

told by a TCEQ representative that the public meeting was my opportunity to narrow down whether they will be steam/vapor curing concrete pipes and boxes.



Issue 10: Whether the permit application is in compliance with the requirements of the Standard Permit for Concrete Batch Plants. This issue involves a disputed question of fact, was not withdrawn, and is relevant and material to the issuance of the permit. This issue was raised by Deirdre Diamond, Bruce and Connie Jo Eubanks, Paul "Gabe" Gabriel, Barbara A. "Bonnie" Hill, Diana and John Angus Hudson, Robin Elizabeth Workman, Grayson County, and Gunter Clean Air who the Executive Director recommends are not affected persons.

RESPONSE:

I have clearly stated in this document that Rocky Lorenz stated that he will be steam/vapor curing concrete pipes and boxes at the Ameritex Gunter site at our public meeting. This provokes the question of whether the right permit is being applied for. If it turns out that they do need a NSR case by case permit then eligibility of who can apply for a contested case

is expanded. I also want to note that the Final Decision Letter sent to us did not list the distance limitation for an affected person common on other Standard Air Permit Final Decision letters. I am including a copy of our letter in regards to affected person requirements and a copy another application listing the 440 yards as a requirement.

Final Decision Letter-Gunter

"affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedure for these two types of requests follows.

How to Request a Contested Case Hearing

It is important that you include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

PO Box 12087 • Austin, Texas 78711-0087 • 512-239-1000 • tac.texas.gov
How to ask customer service? • tac.texas.gov/contactus

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise be entitled to request a hearing in their own right. The interested group must present a hearing to the same purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an "affected person." 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner that is relevant to the public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as applicable, that you are able to demonstrate that the facility or activity and the proposed facility or activities. A person may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised by you during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

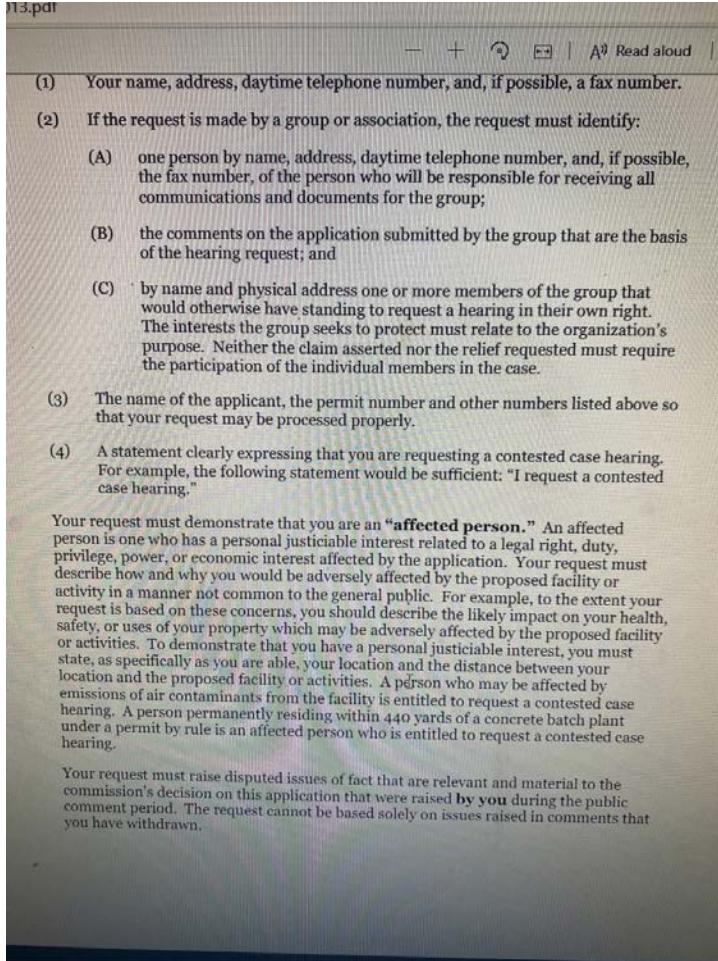
To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to your comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Editorial comment for editorial consideration and distribution of the



Final Decision Letter-Bosque



(1) Your name, address, daytime telephone number, and, if possible, a fax number.

(2) If the request is made by a group or association, the request must identify:

(A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;

(B) the comments on the application submitted by the group that are the basis of the hearing request; and

(C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

(3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

(4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing. A person permanently residing within 440 yards of a concrete batch plant under a permit by rule is an affected person who is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

RESPONSE TO OPIC'S RESPONSE TO REQUESTS:

OPIC stated *"Although many of these concerns are within the Commission's jurisdiction, OPIC cannot recommend reversal of the ED's decision or remand of the application to the ED on these issues without the development of an evidentiary record. For this reason, OPIC must recommend denial The Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration Page 6 of 9 of the requests for reconsideration received in this matter. OPIC does, however, acknowledge that these issues were addressed at length in the ED's RTC and reiterates those responses here."*

RESPONSE:

Please have OPIC initiate the development of an evidentiary record. It is not fair to deny a request for reconsideration because the time was not taken to develop such a record. While the ED might have addressed my concerns in the RTC there were no consequences or fines assessed to Ameritex and the application has proceeded without being denied for errors. Regardless of whether the ED responded to my questions regarding the application errors does not negate the fact that it is wrong for a company to have errors such as the ones previously discussed without consequences. Ameritex suggested that the delay in the EDs decision was consequence enough, but the delay was provoked by their errors and should not be considered a punishment.

OPIC stated *“Regarding Issue No. 2, the virtual meeting format utilized by TCEQ complies with all applicable constitutional, statutory, and regulatory requirements, as well as protocols established by the Governor and the Texas Supreme Court for conducting public business during the COVID19 pandemic. See ED's RTC, Response 3, at 10-11. ”*

Response:

While the Governor established a virtual meeting format, this protocol did not establish guidelines for limiting the number of questions communities can ask or guidelines for limiting the voice of communities by denying requests to ask questions of an applicant. Unfortunately, TCEQ limited our ability to communicate and establish safety procedures with the applicant. This is relevant to the application process and part of how the APO industry and the community develop working relationships. TCEQ should not be a barrier in our ability to establish safety guidelines with applicants and the amount of advocacy for the applicant during this process, as well as the lack of advocacy for the community, by TCEQ is alarming.

OPIC stated “Regarding Issues No. 3, 4, and 5, according to the ED's RTC, the equipment Applicant represented it will use in its application meets the Standard Permit's definition of a concrete batch plant, and if additional permits and authorizations are necessary for operation, it will be Applicant's responsibility to obtain them. See ED's RTC, Response 12, at 24-25. Additional processes at the site may require additional air quality authorizations depending on the equipment to be used and potential air emissions, but plans for additional processes do not preclude Applicant from obtaining a Standard Permit for Concrete Batch Plants and operating in compliance with that permit. Id. at 25-26. The RTC also explains in detail that an extensive protectiveness review to ensure authorized emissions would be protective of human health and the environment was conducted during the development of the Standard Permit for Concrete Batch Plants. See ED's RTC, Response 8, at 16-19.”

Response:

I have repeatedly discussed how Rocky Lorenz stated at our virtual public meeting that steam/vapor curing concrete pipes would be occurring at the Ameritex Gunter site. The steam/vapor curing process was not part of the protectiveness review of the standard concrete batch permit and is a reason why this application needs further review.

**RESPONSE TO AMERITEX'S RESPONSE TO REQUEST FOR CONTESTED CASE
HEARING AND RECONSIDERATION**

RESPONSE: I have already discussed many of Ameritex's responses in detail within this document while addressing specific ED and OPIC responses. However, I would like to address my concern for an organization that can easily ensure community safety by being forth coming with all processes proposed at this site, but ultimately refuses to do so. This is the same company that needed to amend their application because of errors, but then complains that they were being punished by a delay in the ED's decision. The same organization that is not forth coming with TCEQ requested information and is delaying an investigation, yet in their response to our requests they state that they have concern for TCEQ resources. I hope that I have been able to accurately convey the barriers to safety our community may encounter if TCEQ does not approve our request for contested case hearings/reconsiderations by providing statements and documentation that shows what an uphill battle this has been for myself and our community. I would appreciate the Commission advocating on our behalf and considering our requests.

Thank you,

Deirdre Diamond

Caden1206@hotmail.com

214.448.7149

From: caden1206@hotmail.com
To: [PUBCOMMENT-OCC](#)
Subject: Public comment on Permit Number 159336
Date: Sunday, January 31, 2021 5:58:31 PM
Attachments: [RESPONSE TO RESPONSE AMERITEXDocument - 2.docx](#)

REGULATED ENTY NAME AMERITEX DALLAS

RN NUMBER: RN110780335

PERMIT NUMBER: 159336

DOCKET NUMBER: 2021-0056-AIR

COUNTY: GRAYSON

PRINCIPAL NAME: AMERITEX PIPE & PRODUCTS LLC

CN NUMBER: CN604263251

FROM

NAME: Deirdre Diamond

E-MAIL: caden1206@hotmail.com

COMPANY:

ADDRESS: 2711 ROCHELLE DR
MCKINNEY TX 75070-4244

PHONE: 2144487149

FAX:

COMMENTS: Please accept this response to the responses of the ED, OPIC and Ameritex on Docket No. 2021-0056-AIR to be heard by the Commissioners meeting of TCEQ.

JANUARY 31, 2021

RE: Docket No. 2021-0056-AIR

Below the Commission will find my responses to the ED's recommendation to deny my request for reconsideration, my response to the ED's recommendation to deny my request for a contested hearing, my response to the ED's recommendation to deny Gunter Clean Air's request for a contested case hearing, my response to Issues addressed by the ED, my response to OPICs recommendation to deny all requested case hearings and requests for contested case hearing, and a brief summary of why I do not agree with Ameritex's response to our request for contested case hearings and request for reconsideration. I have included supporting documents and emails within my response below, but would be happy to provide more to the Commission if necessary. I appreciate the opportunity to respond to these documents and have our position heard.

RESPONSE TO REQUEST FOR RECONSIDERATION OF RESPONSE 3 Deirdre Diamond stated that the virtual public meeting limited the voice of the community and did not allow everyone seeking to ask questions to do so. Ms. Diamond expressed concern that she was only allowed to ask two questions during the virtual public meeting and stated that her questions would not have been ignored at an in person meeting.

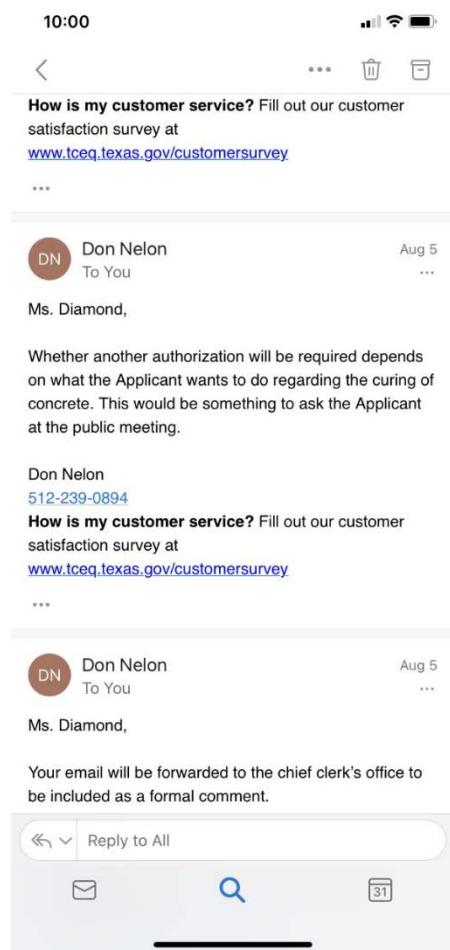
TCEQ RESPONSE: The Executive Director responded to concerns about a virtual meeting in Response 3. The public meeting for this application was held on August 13, 2020 utilizing the GoToMeeting platform. In this case, the public meeting started at 7:00 pm and ended at approximately 10:30 pm and approximately 125 people participated in the meeting and 31 of the attendees provided formal comment for the record. Throughout the comment period, the commission received over 900 timely comments on the application, including approximately 275 comments from Ms. Diamond. Accordingly, the Executive Director maintains that the public had an adequate opportunity to comment on the application.

RESPONSE:

I have not stated that I did not have the opportunity to ask questions during the public comment period of TCEQ. I stated that during our virtual public meeting that I was limited to two questions of the APPLICANT, one of which he was unable to answer. I did state that I attempted to address the steam/vapor curing process with the applicant, but was never called on again despite virtually raising my hand. I was specifically told by Don Nelon to ask the applicant at our virtual public meeting if they were going to steam cure pipes and any other associated questions, but was inhibited by TCEQ and was not given another opportunity to expand on my line of questioning regarding this subject. TCEQ has ultimately limited our ability to pursue information regarding the steam/vapor curing process at the

Ameritex's site, and as a result our community still has significant concerns for our health and environment. TCEQ played a role by not allowing us to address the applicant completely and the ED's response that we had plenty of time to submit questions during the public comment period is irrelevant, because it does not allow us to ask questions of the applicant. I am also unaware of a rule or law that states a time limitation or question limitation at public meetings and feel that our community has been muted and was unable to accurately access the risks this plant possesses on our health and environment.

Email from TCEQ stating that we should address steam/vapor curing at the public meeting.



RESPONSE TO MY REQUEST FOR RECONSIDERATION OF RESPONSE 12 Deirdre

Diamond repeated comments that were addressed in Response 12 in her request for reconsideration. Specifically, Ms. Diamond stated that because the Applicant may intend to steam cure concrete, the Standard Permit for Concrete Batch Plants is not the appropriate authorization. Ms. Diamond asked that the permit not be issued until a thorough investigation and study of the steam curing process is conducted. Ms. Diamond stated that the community deserves more protection and asked that a study and safety evaluation be conducted to ensure

that the steam curing process is protective of human health and the environment. Executive Director's Response to Hearing Requests and Requests for Reconsideration AmeriTex Pipe & Products, LLC, Registration No. 159336 Page 4 of 47 Deirdre Diamond also requested reconsideration because the Standard Permit for Concrete Batch Plants limits who can request a contested case hearing as an affected person. Ms. Diamond stated that a New Source Review (NSR) permit would not contain such a limitation.

TCEQ RESPONSE: In Response 12 the Executive Director explained that the Standard Permit for Concrete Batch Plants does not authorize steam curing and that the Applicant is not seeking to authorize steam curing in this application. Response 12 also explained that if the Applicant plans additional processes at the site, such as steam curing, those processes may require an air quality authorization depending on the nature of the equipment and its potential to emit air contaminants. The Applicant must obtain proper authorization, whether through a PBR or other mechanism, prior to constructing any additional source regulated by the TCEQ. Response 12 also explained that the type of authorization needed depends on the particular sources and processes at a facility or plant and more than one authorization may be necessary. However, the TCEQ does not have the regulatory authority to require one type of application over another so long as an applicant can demonstrate that it meets the requirements of a particular authorization. The Executive Director explained the contested case hearing process in Response 57, including the statutory limitation concerning who can request a contested case hearing in TCAA § 382.058(c).

RESPONSE:

Rocky Lorenz stated at our public meeting that steam curing concrete pipes and boxes will occur at the Ameritex Gunter site. He also had a meeting with other GCA members and stated that he would be steam/vapor curing the concrete pipes and boxes. An investigation submitted in August identified the utilization of a Direct Fire Vapor Generator (exact equipment or fuel not identified) is in use at their Seguin location. Subsequently, as of today (1-31-21) my most recent e-mail from a TCEQ investigator in Montgomery County stated that Ameritex has not responded to his requests for information regarding steam/vapor curing occurring at their Ameritex Conroe location and is delaying an investigation that was submitted in August of 2020. Please see e-mail below.

It is also well understood that introducing heat to concrete produces a stronger and more durable product, so unless Ameritex intends to not steam/vapor cure their pipes and boxes in Gunter and produce an inferior product to that of their competitors, it's safe to assume that Rocky Lorenz's statement that Ameritex will also be steam/vapor curing in Gunter is true.

With that being said, a standard concrete batch permit does not authorize steam/vapor curing and by not requiring Ameritex to show all processes that will occur at the site TCEQ is putting our community at risk unnecessarily. Ameritex should be required to present the

exact equipment used for steam/vapor curing, emissions and byproducts produced, fuel type and consumption rates, emission control technology, and how they dispose of their byproduct/waste prior to any air authorization approvals. I have spent the last few months asking TCEQ and the EPA to conduct a study of this process and it has been determined that communities are to be put at risk prior to any study being conducted to determine safety. This is unacceptable and our community deserves better. I also have very little faith that after the site is granted an air authorization that TCEQ will do what is necessary to ensure our safety or conduct a study. I have spent months trying to initiate a study and have been very disappointed at the lack of responses I have received TCEQ employees. I am not referring to not receiving timely responses with them telling me what I want to hear, I am talking about blatantly ignoring my request for information and requiring a significant amount of follow up on my part to get any answers.

I am also concerned by the investigation process and worry our community will encounter similar issues if Ameritex is allowed to proceed, putting our community unnecessarily at risk. The lack of follow through and information gathered during the Seguin investigation is alarming and shows a lack of concern for what operations are being conducted at the site. This investigation failed to identify the exact equipment used, the fuel being used with rates of consumption, and failed to obtain a copy of the PBR. After I filed a PIR, I was first told that it could take an indefinite amount of time to obtain this information, then I was told they were withholding this information because it was proprietary, and eventually learned that they actually never identified this information at all during the investigation. The relevance of this is significant because if they do not know what machine is being run at Ameritex locations, then there is no way that TCEQ can accurately determine if the PBR being used is even appropriate or protective of the environment or human health. Please see below emails to support these course of events.

Email from Montgomery County Investigator stating that Ameritex has not responded to his requests for information.

3:29 ●●●

Gerard Billeaudeaux Jan 20
To You and Letasha Miller ...

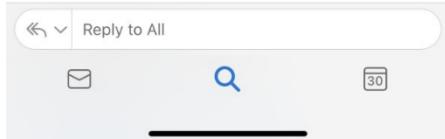
Hello Ms. Diamond,

I have not been able to conduct an on-site investigation to date due to reasons previously addressed. However, this morning I have again contacted Ameritex to obtain more specific burner and site operation information. I have left a message with the secretary at the main number for Mr. Bakonyi, or someone to please call me back ASAP. As you are aware, previous attempts to contact Ameritex representatives by telephone have been unsuccessful. I will let you know as soon as they respond and whether they can supply the requested information.

If I do not receive a response from Ameritex within a reasonable amount of time, I will discuss with my Supervisor, the possibility of a new path forward for dealing with this regulated entity.

I will keep you informed of our progress regarding this matter. Thank you,

Regards,

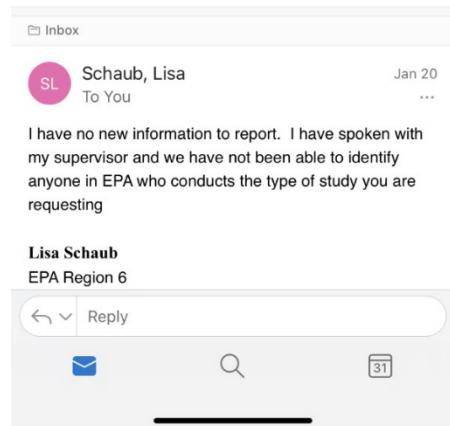


Email from EPA that states that they do not know of resources to conduct a safety study for a direct fire vapor generator.



I am following up with my previous request of initiating a study, again. TCEQ has stated that they will not conduct anything until it goes into effect, therefore there is no way that our community can be protected until we file a complaint after the fact. I am requesting the EPA conduct the study that TCEQ cannot conduct so that our community has protection prior to implementation. Please follow up with me on how we start one. Your previous response stated that you are not aware of such resources, but I am hopeful that you took the time to look into this for me so that I can be directed in the right direction.

Deirdre



I have no new information to report. I have spoken with my supervisor and we have not been able to identify anyone in EPA who conducts the type of study you are requesting

Lisa Schaub
EPA Region 6

Email from TCEQ stating they will not conduct a study or investigation until the new equipment is proposed, which means that our community is put at risk prior to TCEQ doing anything to ensure safety. Remember, Rocky Lorenz has already stated that steam/vapor curing will occur at this site and is not part of the standard air permit.

6:43

Beryl Thatcher
To You

Jan 5

Ms. Diamond,

My apologies for not responding sooner, but I was out of the office during the holidays. As we discussed, the TCEQ does not conduct studies on proposed processes. As part of the air permitting process, the TCEQ reviews the proposed facilities to determine best available control technology is applied and that the proposed emissions are protective of human health and the environment at the property line before a permit is issued. If a new technology were proposed that has not been used before, the TCEQ will evaluate it to determine if it is acceptable. Please let me know if you have any additional questions.

Thank you.

Beryl Thatcher
Assistant Deputy Director
Air Permits Division
Texas Commission on Environmental Quality
(512) 239-2270
(512) 921-7911 (mobile)
beryl.thatcher@tceq.texas.gov

How are we doing? Fill out our online customer

Reply

✉️ 🔎 📅

Multiple Emails regarding my PIR that shows the equipment type was not identified, fuel consumed, or consumption rates.

7:06

6:42

You To George Ortiz, Carl Ortmann, +1 Oct 21

I requested the equipment information. Please let me know if I need to include anything else or if I made an error.

Open Records Request - Review Your Request

Review the information below before submitting. Time remaining: 59:34

Page One:

Area Description: Ameritex Seguin at 3960 Highway 90 East, Seguin

Page Two:

Date Range: 2020

Agency Programs: Air - Emissions Inventory (OA), Air - Complaints (OCE), Air - Investigations (OCE), Compliance (OCE) and Enforcement (OCE)

Additional Record Search: I am looking to get the complete investigation report for investigation 1671288 and identify the exact equipment name and manufacturer of the reported direct fire vapor generator. I am seeking this information to ensure safety, emissions, byproducts, fuel consumption, and compliance with PBR 106.183. If the investigation did not identify the exact equipment and manufacturer of the direct fire vapor generator then please provide me the PBR onsite or any other documentation which identifies the equipment. I was told the company says it proprietary and doesn't want to share it with the public. I would appreciate your help.

Document Type: No records found

Page Three:

Name Prefix: Deirdre Diamond

Company/Organization: Gunter Clean Air

Requester Type: General Public

Preferred Contact Method: Email

Preferred Delivery Method: Email

Mailing Address 1:

City:

Status/Previous Request:

Zip/Postal Code:

Country:

E-Mail Address: caden1206@hotmail.com

Reply to All

✉️ 🔎 31

CERTIFICATION
TEX. GOV'T CODE § 552.221(c) and (d)
PIR No. 20-56512

Joel Anderson, Director
Region 13 - San Antonio
Texas Commission on Environmental Quality

November 19, 2020
Date

specification and other relevant information I asked for?

Sincerely,

Deirdre

Get [Outlook for iOS](#)

CM Carmen Molina To You Dec 8

Good morning Deirdre Diamond,

I did inquire with other staff members on our team about your question and I am waiting to hear back from them. Sorry for the delay.

Sincerely,

Carmen Molina
Administrative Assistant II/PIR Coordinator
San Antonio Region 13
TCEQ

Thank you! No problem, thank you! Thank you!

Reply

Reply

Carmen Molina
Administrative Assistant II/PIR Coordinator
OCE/Central TX Area/San Antonio
Texas Commission on Environmental Quality
Region 13 – San Antonio
14250 Judson Road
San Antonio, Texas 78233
Direct: (210) 490-3096
Fax: (210) 545-4329

RESPONSE TO ED DECLINING MY REQUEST FOR RECONSIDERATION OF RESPONSE 49

Deirdre Diamond requested that the Executive Director reconsider because the Applicant updated its application. Ms. Diamond expressed concern with the following changes that were included in the Applicant's updated application: that the initial application identified the Applicant as a small business with less than 100 employees; that the Applicant modified its application to reflect that the emissions limitations of 30 TAC §§ 106.261 and 106.262 would be met; that the Applicant updated its emission calculation tables.

TCEQ RESPONSE: The Executive Director explained the permit review process, including the Applicant's updated application in Response 49. In addition, the Executive Director responded to the concerns about the updated application throughout the RTC. Specifically, in Response 50 the Executive Director explained that the Applicant submitted an updated application representing it is not considered a small business and that this change required the Applicant to publish an amended Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (public notice). The Executive Director responded concerns regarding the emissions limitations of 30 TAC §§ 106.261 and 106.262 in Response 25. Finally, the Executive Director responded to comments concerning the Applicant's updated emissions calculations workbook in Response 13 and explained that

emissions calculations are not required to be submitted with applications to register the use of a Standard Permit for Concrete Batch Plants throughout the RTC. The Executive Director does not have additional information to provide.

RESPONSE:

The applicant did not simply update their application, they corrected mistakes and misrepresentations that were identified by the community. When Ameritex first selected Grayson county they original applied for a standard concrete batch permit air authorization in Tioga, a town not far from Gunter. Other than the location change on the Tioga application, the same misrepresentation of the size of their organization, a lack of commitment to 30 TAC emission limitations, incorrect process description, and the exact same emission table calculations were present on the Tioga application as they were on the Gunter application. Even though they actually were granted the air permit in Tioga by TCEQ (flaws and all), they withdrew from that location and applied for another air authorization in Gunter. The original application proposed for Gunter was almost identical to the one in Tioga and was filed in December of 2019. It wasn't until May of 2020 that the citizens of Gunter caught flaws in the application, which according TCEQ prompted deficiency letters to be sent to Ameritex. An amended application from Ameritex was not received by TCEQ until late June. This started the comment period over. I think it is also important to note that these applications were filed by a team of trained engineers that should have been professionally savvy enough to have identified these flaws prior to being submitted multiple times. While an emission calculation table may not be required for this type of application, what does it mean if emissions that exceed 30 TAC or the standard air permit are allowed on the applications? Are companies then legally allowed to operate within those perimeters because the air authorization was approved? I just don't see the point of including a non-required emission table, with incorrect calculations, that exceed limitations if you aren't trying to increase production beyond that of what the standard air permit allows.

Emissions table from original application and amendment summary.

RESPONSE TO ED DECLINING MY REQUEST FOR RECONSIDERATION OF

RESPONSE 63 Deirdre Diamond requested reconsideration based on complaints she submitted concerning operations at the Applicant's other plants and specifically whether the use of steam curing was properly authorized. Ms. Diamond expressed concern that the specific equipment was not identified in the investigation reports and that authorization for a direct fire generator under 30 TAC § 106.183 does not appear on STEERS. Ms. Diamond stated that the specific equipment and manufacturer must be submitted to the TCEQ in order to evaluate whether the 30 TAC § 106.183 Permit by Rule (PBR) is sufficient to protect human health and the environment. TCEQ RESPONSE: This is an application to register the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 159336; accordingly, comments concerning PBRs are outside the scope of the review of this application. However, the Executive Director responded to concerns about the Applicant's other plants in Response 63. The Executive Director explained that in response to the commenters' complaints, the TCEQ San Antonio and Houston Regional offices conducted investigations of the Applicant's plants in Seguin and Conroe, respectively. Both investigations determined that the Applicant had obtained proper

authorization for its operations, including for the use of a generator to create steam under the PBR in 30 TAC § 106.183, and no violations or instances of noncompliance were substantiated. The Executive Director notes that the 30 TAC § 106.183, Boilers, Heaters, and Other Combustion Devices, PBR does not require registration with the commission and would therefore not be reflected in the State of Texas Environmental Electronic Reporting System (STEERS).

RESPONSE:

As indicated above, the Seguin investigation was deficient in identifying the exact equipment, type of fuel consumed, or the consumption rates of the direct fire vapor generator. The appropriateness of the PBR is in question without such identification and I do not think it is appropriate of TCEQ to suggest that the PBR is sufficient in being protective of the environment and human health without doing the work necessary to obtain this information. Also, indicated above and contrary to the response by the Executive Director the Conroe investigation in Montgomery County has not been completed. The e-mail above from Mr. Billeaudeux states that Ameritex has not responded to his request for information and that the investigation has not been completed. Below you will also find an e-mail from EPA engineers that states that they do not believe that a direct fire vapor generator is a boiler,

which provokes yet another question of whether the PBR is appropriate.

1:02 

Johnson, Mary Oct 22

To You, Fellner, Christian, Eddinger, Jim, +2 ...

Ms. Diamond,

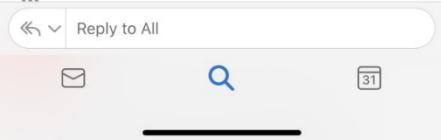
Your request for clarification of equipment type at a specific location is not something that those of us that received your inquiry do. We develop national air regulations for certain categories of sources such as engines, turbines, and boilers, and received your inquiry because it mentioned engines and turbines. However, our opinion based further considering the manufacturer's description, is that this equipment that generates vapor that is then distributed within an enclosure to cure concrete products is not a boiler (or an engine or turbine). We are attempting to find an EPA Region 6 contact to put you in touch with that can help with your inquiry.

Thank you.

Mary Johnson

Mary Johnson | Environmental Engineer | Energy Strategies Group | Sector Policies and Programs Division | Office of Air Quality Planning & Standards | U.S. Environmental Protection Agency | 109 T.W. Alexander Drive | D243-01 | [Research Triangle Park, NC 27711](#) | Desk Phone: [919-541-5025](#)

Note: Positions or views expressed here do not represent official EPA policy.



RESPONSE TO ED RECOMMENDATION TO DECLINE MY PERSONAL REQUEST FOR A CONTESTED CASE HEARING

3. Deirdre Diamond The ED reviewed the factors found in 30 TAC § 55.201(c) and (d), and § 55.203 for determining whether a requestor is an affected person, and recommends the commission find that Deirdre Diamond is not an affected person. Deirdre Diamond submitted three hearing requests during the comment period. She also submitted five hearing requests and requests for reconsideration during the 30day period after the RTC was mailed out by the Commission. The hearing requests were in writing, provided the required contact information, and included issues that are the basis of her hearing requests. In one of her hearing requests, Ms. Diamond expressed concern about "cement-producing activities." That request stated that cement plants are a significant source of PM2.5, PM10, silica, SO₂, NO₂, and CO and expressed concern about adverse health effects caused by NO_x, SO₂, and CO emissions. This application is not for a cement plant or cement kiln, but rather for a concrete batch plant. The proposed plant will not emit NO_x, SO₂, or CO. In subsequent hearing requests, Ms. Diamond stated that she believes she is an affected person and will experience damage to her environment, health, and property if the permit is issued. Ms. Diamond also stated that she believes air contaminants put

the community's health and safety at risk. In her hearing requests, Ms. Diamond provided two addresses, one in McKinney, Texas and one in Gunter, Texas. Ms. Diamond stated her address in Gunter is 123 Bledsoe Rd. Ms. Diamond did not provide the distance of either residence to the proposed plant but stated that she is "too close for comfort and from schools." The Executive Director was unable to determine the location of the address Ms. Diamond provided in Gunter. The Grayson County Appraisal District property records do not reflect any property with the given street address or reflect that Ms. Diamond owns property in Grayson County. Accordingly, the Executive Director was unable to map the address in Gunter, Texas. Based on the address in McKinney, Texas, the Executive Director determined that Ms. Diamond resides more than 440 yards from the proposed location of the

Executive Director's Response to Hearing Requests and Requests for Reconsideration AmeriTex Pipe & Products, LLC, Registration No. 159336 Page 12 of 47

plant. For a registration for a concrete batch plant standard permit, TCAA § 382.058(c) states that "only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing...as a person who may be affected." As shown on the map, Ms. Diamond does not reside within 440 yards of the proposed plant and therefore she cannot be considered an affected person. Accordingly, the Executive Director recommends that the commission find that Deirdre Diamond is not an affected person based on the criteria set out in 30 TAC § 55.203 and that her hearing request be denied.

RESPONSE:

My husband and I actually do own property on Bledsoe road in Gunter and when our home is complete, we be moving ourselves and our five children to this community. Gunter will be our primary residence in the very near future and for many years to come. Please check the records again. This land was purchased prior to the ED's decision. Most of north Texas is impacted by the increasingly invasive APO industry on communities, so regardless of where I live at this very moment, I do have a personal and financial interest in the organizations and industries that come to Gunter and I recognize how this site might cause harm to community health, enviornment, and property values. The safety of the steam/vapor curing process has yet to be evaluated by TCEQ, so if it is a safe process please show me with scientific evaluation of the process and best control technology/BMPs. I again request a study to be conducted by TCEQ to determine the exact steam/vapor curing equipment, the emissions and byproducts, the control technology utilized, the waste disposal of the byproducts, fuel consumed, and the fuel consumption. Only then can TCEQ accurately tell our community that our health and environment are not at risk. A few months of thorough investigation can lead to a lifetime of protection for the Gunter community.

RESPONSE TO ED'S RECOMMENDATION TO DECLINE GCA'S REQUEST FOR A CONTESTED CASE HEARING

1. Gunter Clean Air

(1) Whether the group or association submitted timely comments on the application.

Deirdre Diamond submitted a hearing request on behalf of Gunter Clean Air during the 30-day period after the RTC was mailed out by the Commission. Mr. Trent Lewis submitted timely comments during the comment period on behalf of Gunter Clean Air. The issues raised in Gunter Clean Air's hearing request were raised in the group's timely comments. The Executive Director recommends that the Commission find that Gunter Clean Air has met this requirement for associational standing.

(2) Whether one or more members of the group or association would otherwise have standing to request a hearing in their own right.

Gunter Clean Air's hearing request states that all members of the group will be affected by air contaminants from the proposed plant. The hearing request identified Deirdre Diamond as a member who has standing to request a contested case hearing in her own right. However, the Executive Director recommends that Deirdre Diamond, who submitted the hearing request on behalf of Gunter Clean Air, is not an affected person in her own right. Accordingly, the Executive Director recommends that the Commission find that Gunter Clean Air has not met this requirement for associational standing.

Executive Director's Response to Hearing Requests and Requests for Reconsideration AmeriTEx Pipe & Products, LLC, Registration No. 159336

Page 37 of 47

(3) Whether the interests the group or association seeks to protect are germane to the organization's purpose.

The hearing request submitted by Gunter Clean Air stated that the group represents the interest of the community of Gunter and aims to protect the community's health, property, and environment from the harmful effects inflicted by the concrete batching process and the steam/vapor curing that occurs when producing concrete pipes and boxes. Although the Executive Director has determined that the Standard Permit for Concrete Batch Plants is protective of human health and the environment, the Executive Director recommends that the Commission find that Gunter Clean Air has met this requirement for associational standing.

(4) Whether the claim asserted or the relief requested requires the participation of the individual members in the case.

The relief requested by Gunter Clean Air does not require the participation of any individual member of Gunter Clean Air. Thus, the Executive Director has determined that Gunter Clean Air has met this requirement for associational standing.

Because Gunter Clean Air did not meet all four requirements for associational standing, the Executive Director recommends the Commission find that Gunter Clean Air is not an affected person.

RESPONSE:

I disagree with the ED that Gunter Clean Air does not have standing for a contested case hearing simply because I filed the request on our group's behalf. Someone had to file the request and because I had the time to devote to it, I was the one. Our group is comprised of many community members including residents that live on Wall Street (next to or adjacent to the site), city council members, and concerned citizens of Gunter and Grayson County. Despite Ameritex's redundant suggestion that I am the only identifiable member of GCA, that is simply not true and I invite the Commissioner and the court to meet with our group and hear our concerns surrounding the impact of this application on our community. You will be able to meet the owner of a working farm that was started in 1928 that is now sandwiched in between three concrete batch plants and the Ameritex site. You can speak with city council members that are having to creatively design Gunter's downtown area due to an increasing amount of APO truck traffic. You can learn how this project has the potential to stunt the economic growth of our downtown area and areas proposed for development near the site. And, finally you can see all our faces and hear our concerns surrounding the safety of this application and determine for yourself if we are not worth taking the time to study the steam/vapor curing process so that our safety can be assured. Where the property line of Ameritex ends is where GCA begins and for this very reason GCA deserves a contested case hearing and the opportunity to defend our health, environment, and property by establishing the necessity of the.

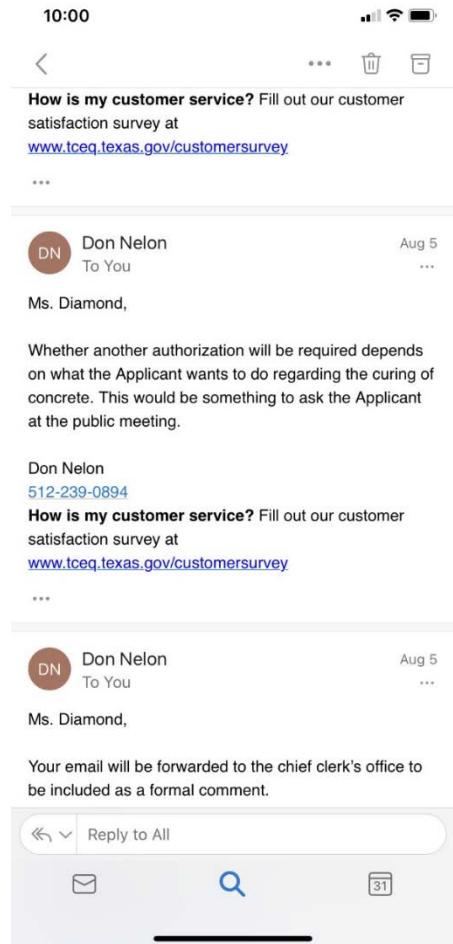
RESPONSE TO ISSUES DISCUSSED BY ED:

Issue 9: Whether the public meeting on the application should have been held in person at a physical location in Grayson County. This issue involves a question of law which is not relevant and material to the Commission's decision on the application. TCEQ's rules provide that only disputed issues of fact or mixed questions of fact and law may be referred to SOAH. 30 TAC § 50.115(c).

RESPONSE:

I disagree that this issues should not be relevant to the application. By law we should have had a public meeting that allowed for us to adequately ask the applicant questions. Instead, the virtual meeting limited our voice as a community and we did not get sufficient time or opportunity to have our questions answered. Please also review the audio of the meeting and take note of the moderator attempting to discourage our line of questioning of the applicant when we attempted to address steam/vapor curing at the site. I was specifically

told by a TCEQ representative that the public meeting was my opportunity to narrow down whether they will be steam/vapor curing concrete pipes and boxes.



Issue 10: Whether the permit application is in compliance with the requirements of the Standard Permit for Concrete Batch Plants. This issue involves a disputed question of fact, was not withdrawn, and is relevant and material to the issuance of the permit. This issue was raised by Deirdre Diamond, Bruce and Connie Jo Eubanks, Paul "Gabe" Gabriel, Barbara A. "Bonnie" Hill, Diana and John Angus Hudson, Robin Elizabeth Workman, Grayson County, and Gunter Clean Air who the Executive Director recommends are not affected persons.

RESPONSE:

I have clearly stated in this document that Rocky Lorenz stated that he will be steam/vapor curing concrete pipes and boxes at the Ameritex Gunter site at our public meeting. This provokes the question of whether the right permit is being applied for. If it turns out that they do need a NSR case by case permit then eligibility of who can apply for a contested case

is expanded. I also want to note that the Final Decision Letter sent to us did not list the distance limitation for an affected person common on other Standard Air Permit Final Decision letters. I am including a copy of our letter in regards to affected person requirements and a copy another application listing the 440 yards as a requirement.

Final Decision Letter-Gunter

"affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedure for these two types of requests follows.

How to Request a Contested Case Hearing

It is important that you include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

PO Box 15087 • Austin, Texas 78711-5087 • 512-239-1000 • tac.state.tx.us
How to ask customer service? • tac.state.tx.us/askcustomerservice

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise be entitled to request a hearing in their own right. The interested group must present a hearing to the same purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an "affected person." 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner that is relevant to the public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as applicable, if you are able to demonstrate that the facility or activity will affect the proposed facility or activities. A person may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised by you during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

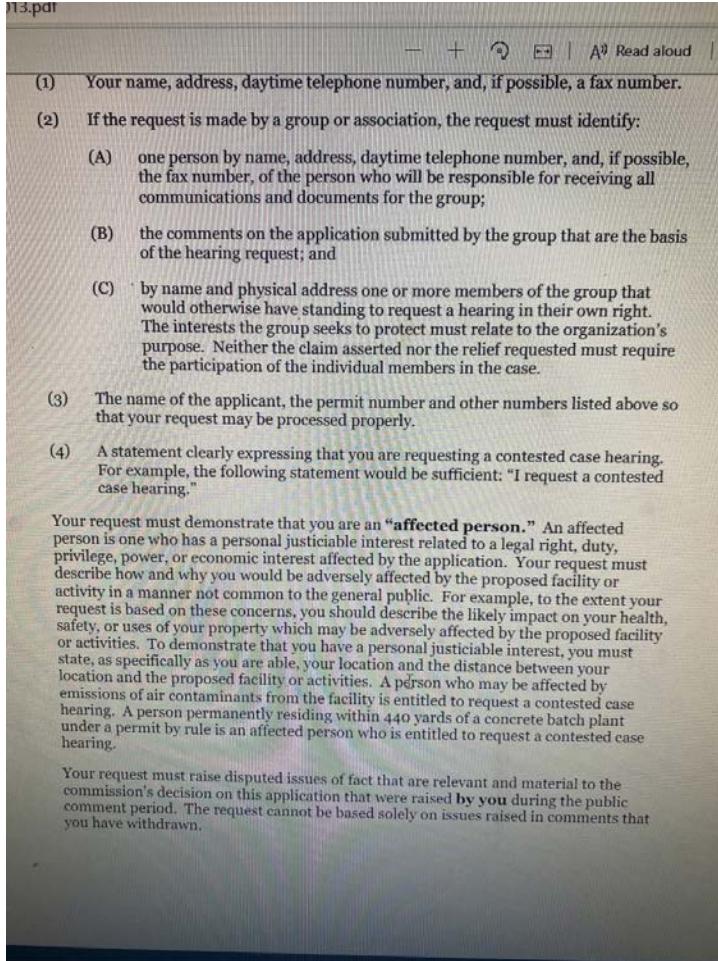
To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to your comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Editorial comment for consideration by the commission on the executive director's decision



Final Decision Letter-Bosque



(1) Your name, address, daytime telephone number, and, if possible, a fax number.

(2) If the request is made by a group or association, the request must identify:

(A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;

(B) the comments on the application submitted by the group that are the basis of the hearing request; and

(C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

(3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

(4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing. A person permanently residing within 440 yards of a concrete batch plant under a permit by rule is an affected person who is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

RESPONSE TO OPIC'S RESPONSE TO REQUESTS:

OPIC stated *"Although many of these concerns are within the Commission's jurisdiction, OPIC cannot recommend reversal of the ED's decision or remand of the application to the ED on these issues without the development of an evidentiary record. For this reason, OPIC must recommend denial The Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration Page 6 of 9 of the requests for reconsideration received in this matter. OPIC does, however, acknowledge that these issues were addressed at length in the ED's RTC and reiterates those responses here."*

RESPONSE:

Please have OPIC initiate the development of an evidentiary record. It is not fair to deny a request for reconsideration because the time was not taken to develop such a record. While the ED might have addressed my concerns in the RTC there were no consequences or fines assessed to Ameritex and the application has proceeded without being denied for errors. Regardless of whether the ED responded to my questions regarding the application errors does not negate the fact that it is wrong for a company to have errors such as the ones previously discussed without consequences. Ameritex suggested that the delay in the EDs decision was consequence enough, but the delay was provoked by their errors and should not be considered a punishment.

OPIC stated “*Regarding Issue No. 2, the virtual meeting format utilized by TCEQ complies with all applicable constitutional, statutory, and regulatory requirements, as well as protocols established by the Governor and the Texas Supreme Court for conducting public business during the COVID19 pandemic. See ED's RTC, Response 3, at 10-11.*”

Response:

While the Governor established a virtual meeting format, this protocol did not establish guidelines for limiting the number of questions communities can ask or guidelines for limiting the voice of communities by denying requests to ask questions of an applicant. Unfortunately, TCEQ limited our ability to communicate and establish safety procedures with the applicant. This is relevant to the application process and part of how the APO industry and the community develop working relationships. TCEQ should not be a barrier in our ability to establish safety guidelines with applicants and the amount of advocacy for the applicant during this process, as well as the lack of advocacy for the community, by TCEQ is alarming.

OPIC stated “*Regarding Issues No. 3, 4, and 5, according to the ED's RTC, the equipment Applicant represented it will use in its application meets the Standard Permit's definition of a concrete batch plant, and if additional permits and authorizations are necessary for operation, it will be Applicant's responsibility to obtain them. See ED's RTC, Response 12, at 24-25. Additional processes at the site may require additional air quality authorizations depending on the equipment to be used and potential air emissions, but plans for additional processes do not preclude Applicant from obtaining a Standard Permit for Concrete Batch Plants and operating in compliance with that permit. Id. at 25-26. The RTC also explains in detail that an extensive protectiveness review to ensure authorized emissions would be protective of human health and the environment was conducted during the development of the Standard Permit for Concrete Batch Plants. See ED's RTC, Response 8, at 16-19.*”

Response:

I have repeatedly discussed how Rocky Lorenz stated at our virtual public meeting that steam/vapor curing concrete pipes would be occurring at the Ameritex Gunter site. The steam/vapor curing process was not part of the protectiveness review of the standard concrete batch permit and is a reason why this application needs further review.

**RESPONSE TO AMERITEX'S RESPONSE TO REQUEST FOR CONTESTED CASE
HEARING AND RECONSIDERATION**

RESPONSE: I have already discussed many of Ameritex's responses in detail within this document while addressing specific ED and OPIC responses. However, I would like to address my concern for an organization that can easily ensure community safety by being forth coming with all processes proposed at this site, but ultimately refuses to do so. This is the same company that needed to amend their application because of errors, but then complains that they were being punished by a delay in the ED's decision. The same organization that is not forth coming with TCEQ requested information and is delaying an investigation, yet in their response to our requests they state that they have concern for TCEQ resources. I hope that I have been able to accurately convey the barriers to safety our community may encounter if TCEQ does not approve our request for contested case hearings/reconsiderations by providing statements and documentation that shows what an uphill battle this has been for myself and our community. I would appreciate the Commission advocating on our behalf and considering our requests.

Thank you,

Deirdre Diamond

Caden1206@hotmail.com

214.448.7149

From: [Deirdre Diamond](#)
To: [Laurie Gharis](#)
Subject: Re: Response to Responses Docket No. 2021-0056-AIR
Date: Sunday, January 31, 2021 6:16:04 PM

Am I responsible for getting this to all the offices like the letter we received in January suggests or do you send it to them? I sent it to [@Betsy Peticolas](#) [@Vic Mcwherter](#) [@Amanda Pesonen](#) [@Rocky Lorenz](#) via email.

Deirdre

From: Deirdre Diamond
Sent: Sunday, January 31, 2021 11:54 PM
To: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Subject: Response to Responses Docket No. 2021-0056-AIR

Attached in my response to the responses of the ED, OPIC, and Ameritex in regards to *Docket No. 2021-0056-AIR*.

Thank you,

Deirdre Diamond

From: [Deirdre Diamond](#)
To: [Carmen Molina](#); [Laurie Gharis](#)
Subject: Equipment identification
Date: Friday, January 29, 2021 4:08:13 PM

I am again the name and equipment type identified at the Conroe and Seguin Ameritex sites. The last I was told is that this information was not specifically identified, but Betsy Peticolas responded different in her defense of this permit and stated that the PBR is appropriate. This cannot happen without actually identifying the exact equipment.

Also, I have been in direct contact with the Conroe investigator and he has not even been to the site and has not heard back from the company.

Please send me this information.

Deirdre Diamond



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Public Information Request

Confidential Information Options

All TCEQ records are available for public view subject to the exceptions to disclosure listed in the Public Information Act, Texas Government Code Chapter 552 (see [Tex. Gov't Code §§ 552.101-160](#) for the complete list of exceptions).

Your request for public information either was not clear or did not specify whether you are requesting public information only or both public and confidential information.

As permitted under Texas Government Code § 552.222, TCEQ requests that you please clarify your request by checking the appropriate boxed below to indicate your preferences with regard whether you would like to receive public information only or both public and confidential information, and, if you would like to receive confidential information, if there are any categories of confidential information that can be excluded from your request:

Public Information Only

If you choose this option, you agree to allow TCEQ to withhold, without requiring an Attorney General ruling, information that TCEQ determines to be confidential or otherwise excepted from disclosure under the Public Information Act (see [Tex. Gov't Code §§ 552.101-552.158](#)).

Public and Confidential Information

If you choose this option, TCEQ will provide you with the public information and will request an Attorney General ruling for the information that TCEQ determines to be confidential or otherwise excepted from disclosure under the Public Information Act (see [Tex. Gov't Code § 552.301](#)), which could take 60 business days or more (see [Tex. Gov't Code § 552.306](#)).

If you are requesting both public and confidential information, please indicate below any confidential information that you wish to be excluded from your request:

- Attorney-client privileged communications (§ 552.107; TRE Rule 103)
- Information related to computer network security, Homeland Security, or critical infrastructure (§§ 552.101 and 552.139; Tex. Gov't Code chs. 418 and 2059)
- Confidential agency memoranda (§ 552.111)
- Draft-deliberative documents (§ 552.111)
- Work product (§ 552.111; TRCP 192.5)
- Information related to ongoing or anticipated litigation (§ 552.103)
- Information that identifies or tends to identify a complainant (§ 552.101)
- Third-party proprietary, commercial, financial, or trade secret information (§§ 552.110 and 552.1101)

Please be advised that, pursuant to Texas Government Code § 552.222(d), your request for information will be considered be withdrawn if you do not respond in writing to this request for clarification within 61 calendar days.

Thank you in advance for your assistance with this request for clarification.



TCEQ RESPONSE: The Executive Director explained in Response 67 that the TCEQ does not have jurisdiction to consider traffic or road safety issues and that the TCEQ is prohibited from regulating roads and mobile sources, such as trucks. However, emissions from these sources may not constitute a nuisance or cause a traffic hazard or an interference with normal road use. Similarly, the TCEQ does not have jurisdiction to consider noise or light pollution from a proposed facility. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities.

REQUEST FOR RECONSIDERATION OF RESPONSE 63

Deirdre Diamond requested reconsideration based on complaints she submitted concerning operations at the Applicant's other plants and specifically whether the use of steam curing was properly authorized. Ms. Diamond expressed concern that the specific equipment was not identified in the investigation reports and that authorization for a direct fire generator under 30 TAC § 106.183 does not appear on STEERS. Ms. Diamond stated that the specific equipment and manufacturer must be submitted to the TCEQ in order to evaluate whether the 30 TAC § 106.183 Permit by Rule (PBR) is sufficient to protect human health and the environment.

TCEQ RESPONSE: This is an application to register the Air Quality Standard Permit for Concrete Batch Plants, Registration No. 159336; accordingly, comments concerning PBRs are outside the scope of the review of this application. However, the Executive Director responded to concerns about the Applicant's other plants in Response 63. The Executive Director explained that in response to the commenters' complaints, the TCEQ San Antonio and Houston Regional offices conducted investigations of the Applicant's plants in Seguin and Conroe, respectively. Both investigations determined that the Applicant had obtained proper authorization for its operations, including for the use of a generator to create steam under the PBR in 30 TAC § 106.183, and no violations or instances of noncompliance were substantiated. The Executive Director notes that the 30 TAC § 106.183, Boilers, Heaters, and Other Combustion Devices, PBR does not require registration with the commission and would therefore not be reflected in the State of Texas Environmental Electronic Reporting System (STEERS).

VI. THE EVALUATION PROCESS FOR HEARING REQUESTS

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. Senate Bill 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

A. Response to Requests

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing requests. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requestor is an affected person;

- 2) which issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;
- 5) whether the hearing request is based on issues raised solely in a public

