

**TCEQ DOCKET NO. 2025-0887-AIR
TCEQ AIR QUALITY PERMIT NO. 169687**

APPLICATION BY	§	BEFORE THE
BEAUMONT NEW AMMONIA, LLC	§	TEXAS COMMISSION ON
AMMONIA PRODUCTION FACILITY	§	
NEDERLAND, JEFFERSON COUNTY	§	ENVIRONMENTAL QUALITY

**APPLICANT BEAUMONT NEW AMMONIA, LLC'S
RESPONSE TO HEARING REQUESTS**

Beaumont New Ammonia LLC (BNA) files this response to the “requests”¹ for a Contested Case Hearing submitted for BNA’s application² (Application) to amend Texas Commission on Environmental Quality (Commission) Air Quality Permit No. 169687 (the Permit). When approved, the Permit amendment will allow BNA to build a second ammonia production train (Train 2) at its facility in Jefferson County, Texas. The first production train (Train 1) was previously approved under the Permit in December of 2022.

The Commission received two sets of comments in response to the Notice of Receipt and Intent to Obtain an Air Quality Permit published on June 26, 2024. The first set of comments was from the Golden Triangle Group of the Sierra Club (Golden Triangle Group) and two residents of Nederland—Terry Stelly and Ariana Akbari (the Residents). The second set of comments was from Lone Star Legal Aid (Lone Star) on behalf of an unnamed client. As set out in detail below: (1) Golden Triangle Group’s hearing request should be denied because its request does not satisfy

¹ As discussed in the next paragraph, one of the comments categorized as a request for a contested case hearing was, on its face, not one.

² As discussed later, the Application was original submitted by OCI Clean Ammonia LLC.

regulatory requirements and the Residents do not have standing; (2) Lone Star's comments were not intended to be, and cannot be construed as, a hearing request; and (3) even if Lone Star's comments were deemed a hearing request, the request should be denied because its unnamed client does not have standing. In accordance with applicable laws and regulations, BNA requests that the Commission deny the hearing requests, approve the Application, and issue the amended Permit.

I. Factual and Procedural Background³

This application to amend the Permit was originally filed by OCI Clean Ammonia LLC (OCI) on June 17, 2024. In September of 2024, Woodside Energy Group Ltd.⁴ acquired 100% of OCI Clean Ammonia B.V., and its subsidiary OCI Clean Ammonia LLC, including the facility and permit that are the subject of this proceeding.⁵ Following that transaction, OCI Clean Ammonia LLC was renamed Beaumont New Ammonia LLC. As a result of this transaction, BNA became the Applicant for this pending Permit amendment.

The Commission's Executive Director (ED) declared the application administratively complete on June 25, 2024. The Notice of Receipt and Intent to Obtain an Air Quality Permit was published in the *Beaumont Enterprise* (English) and in *El Perico* (Spanish) on July 11, 2024. The Notice of Application and Preliminary Decision for an Air Quality Permit was published in the same publications on August 29, 2024.

³ The procedural steps listed in this section are reflected in the Commission records database.

⁴ Woodside Energy is a global energy company founded in Australia. The BNA facility will produce a lower-carbon product. See: <https://www.woodside.com/what-we-do/growth-projects/beaumont-new-ammonia>

⁵ See Affidavit of David Randall attached as Attachment A.

The Commission received two sets of comments before the close of the comment period on September 30, 2024. The first set of comments, filed on August 6, 2024, was from Golden Triangle Group and two residents of Nederland—Terry Stelly and Ariana Akbari. The second set, filed on September 28, 2024, was from Lone Star on behalf of an unnamed client who lives at some unknown location. On March 31, 2025, the ED issued its Response to Public Comment, with no changes to the draft permit, and subsequently filed its Decision of the Executive Director on April 4, 2025, finding that the application “meets the requirements of applicable law.”⁶ On June 10, 2025, the Applicant requested, and was issued, a TCEQ Docket Number (2025-0887-AIR). On July 16, 2025, the Applicant was informed that the two comment letters⁷ would be considered by the Commission at its August 20, 2025 public meeting. The Agenda Setting Letter set July 28, 2025 as the deadline for the applicant to respond to hearing requests. This response is timely filed.

In brief, neither of the two comment letters being considered by the Commission establishes that the commenters are entitled to a contested case hearing. Golden Triangle Group’s comments were filed on behalf of itself and two residents of Nederland. The comments do not claim that the Residents are members of Golden Triangle Group, and thus, Golden Triangle Group has not established that it is entitled to organizational standing. Moreover, Golden Triangle Group’s comments do not allege any specific issues with the permit application and instead allege that the facility will increase emissions that “would adversely affect the air quality conditions of the

⁶ Decision of the Executive Director, Air Permit no. 169687 (Tex. Comm’n on Env’tl. Quality Jun. 25, 2024), accessible at: https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.detail&item_id=490568562024177&detail=action&StartRow=1&EndRow=1&Step=5.

⁷ As noted above, the Applicant disputes that Lone Star’s comments constitute a hearing request, but the Commission has classified it as such.

residents of Nederland.”⁸ Its comments do not explain how the emissions will personally impact the Residents who signed the comments or how those Residents have a personal justiciable interest not common to members of the general public. The Golden Triangle Group’s comments about the applicant’s compliance history⁹ are misguided because their complaints are about an entity that is not the applicant for the pending Permit amendment and about a facility that is not the facility seeking the permit amendment; thus, this issue is not relevant to this application.

Lone Star filed its comments on behalf of an unnamed resident of Nederland, Texas, who assertedly lives at some unspecified location within three miles of the facility. As discussed in more detail below, Lone Star did not submit a hearing request because its comments *did not* request a contested case hearing, but instead explicitly reserved the right to request a hearing in the future—which it never did. Additionally, its comments do not comply with the regulatory requirements of hearing requests to establish the requestor’s personal justiciable interest.

II. Applicable Law for Contested Case Hearing Request

Only the Commission, the ED, the applicant, or an “affected person” have standing to request a hearing.¹⁰ When determining whether to grant a hearing request that was filed by a purportedly

⁸ Public Comments by Golden Triangle Group, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Aug. 6, 2024) (on file with TCEQ, Office of the Chief Clerk).

⁹ Golden Triangle Group’s comments contain a link to a website and state that it is concerned about the compliance history of “OCI Beaumont” because of 109 recorded incidents at a different nearby facility. Following the link provided by the Golden Triangle Group leads to the TCEQ’s central registry entry for a location owned or operated by Methanex Beaumont LLC.⁹ Based on information and belief, Methanex Corporation acquired OCI Global’s methanol business in 2025. See <https://www.methanex.com/news/release/methanex-corporation-completes-acquisition-of-oci-globals-methanol-business/>. These incidents are not attributable to BNA and do not relate to BNA’s compliance.

¹⁰ 30 Tex. Admin. Code § 55.201(b) (2024) (Tex. Comm’n on Env’tl. Quality, Requests for Consideration or Contested Case Hearing).

affected person (requestor), the Commission must first evaluate if the filing is, in fact, a valid hearing request.¹¹ After determining that the hearing request complies with the requirements, the Commission must then determine if the requestor is an “affected person” and has standing to file the request.¹²

A. The Commission must deny a hearing request if the request does not comply with regulatory requirements.

Hearing requests must be made in writing by an affected person and based only on the requestor’s timely comments.¹³ A commenter cannot provide new information at a later time to cure a deficiency in a hearing request.¹⁴ The hearing request must comply with the requirements outlined in 30 TAC § 55.201(d) and must:

- (1) state the name, address, and phone number of the requestor;
- (2) identify the requestor’s “personal justiciable interest” that is affected by the application, including a specific statement explaining the requestor’s distance from the facility and how he or she will be adversely affected in a manner that is “not common to members of the general public;”
- (3) state that the party is requesting a contested case hearing;
- (4) list all relevant and material disputed facts that were raised by the requestor during the public comment period; and
- (5) provide any other information specified in the public notice of application.¹⁵

¹¹ *Id.* § 55.201(d).

¹² 30 Tex. Admin. Code § 55.203 (2024) (Tex. Comm’n on Env’tl. Quality, Determination of Affected Person).

¹³ 30 Tex. Admin. Code § 55.201(c) (2024) (Tex. Comm’n on Env’tl. Quality, Requests for Consideration or Contested Case Hearing).

¹⁴ *See Id.* § 55.201(c & d) requiring that a hearing request to be based solely on issues raised in public comment and list all disputed facts that were raised during public comment. Therefore, a requestor cannot raise new facts or issues during its reply.

¹⁵ *Id.* § 55.201(d).

The public notice associated with BNA's application incorporated these requirements and required that a requestor also include:

- (1) the statement "I/we request a contested case hearing" (quotes in original);
- (2) the location of the requestor's property and distance from the facility; and
- (3) a description of how the requestor uses the property and how it will be impacted by the facility.¹⁶

Section 55.201(d) of 30 TAC specifies that hearing requests "must substantially comply" with these requirements.¹⁷ Therefore, the Commission must deny hearing requests that do not satisfy the substantially comply.

B. The Commission must deny a hearing request when the requestor is not an affected person with a personal justiciable interest not common to members of the general public.

The Commission's rules prescribe factors the Commission must consider when determining if a requestor is an affected person, specifically the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and

¹⁶ Notice of Receipt of Application and Intent to Obtain Air Permit, Air Permit No. 169687 (Tex. Comm'n on Env'tl. Quality Jun. 25, 2024), accessible at: https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.detail&item_id=490568562024177&detail=action&StartRow=1&EndRow=1&Step=5.

¹⁷ 30 Tex. Admin. Code § 55.201(d) (2024) (Tex. Comm'n on Env'tl. Quality, Requests for Consideration or Contested Case Hearing).

- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.¹⁸

The Commission rules also state that the Commission may consider the following factors for applications filed after September 1, 2015:

- (1) the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
- (2) the analysis and opinions of the executive director; and
- (3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

While all factors are relevant, “[a] ‘personal justiciable interest’ not common to members of the ‘general public’ is the cornerstone [of the definition of] affected person.”¹⁹ The Commission rules confirm that “an affected person is one who has a personal justiciable interest...affected by the application.”²⁰ The interest must be personal to the individual and not common to a larger group of people. Furthermore, the statute and Commission rules unequivocally state that “[a]n interest common to members of the general public does not qualify as a personal justiciable interest.”²¹ When determining if a requestor is an affected person, the Commission is essentially evaluating if the individual would meet Article III standing requirements.²² When evaluating the prescribed

¹⁸ 30 Tex. Admin. Code § 55.203(c) (2024) (Tex. Comm’n on Env’tl. Quality, Determination of Affected Person).

¹⁹ *Tex. Comm’n on Env’tl. Quality & Max Midstream, LLC v. San Antonio Bay Estuarine Waterkeeper, Texas Campaign for the Environment, & S. Diane Wilson*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *29 (Tex. App. – Austin [15th Dist.] May 20, 2025).

²⁰ 30 Tex. Admin. Code § 55.203(a) (2024) (Tex. Comm’n on Env’tl. Quality, Determination of Affected Person). *Emphasis Added*.

²¹ *Id* § 55.203; Tex. Water Code § 5.556(a).

²² *Max Midstream*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *17.

factors to determine if a requestor is an affected party, the Commission has the discretion to weigh competing evidence and resolve disputed facts to reach its conclusion.²³

C. The Commission must deny a group or association's hearing request if the request does not comply with the regulatory requirements to establish standing.

A public interest group or association (collectively “organization”) may request a contested case hearing on behalf of its membership if at least one member of the organization would have individual standing, the organization timely filed comments on the application, the interests the organization seeks to protect are germane to its purpose, and neither the claim, nor relief requested, require the participation of the individual member.²⁴ The Commission may not grant a hearing request for an organization unless all of these requirements are met.²⁵ It is within the Commission's discretion to determine that an organization does not have standing when the organization has not established that at least one member has a personal justiciable interest that is not common to members of the general public.²⁶ To determine if a member of the organization has individual standing, the Commission performs the same analysis as it would for an individual requestor.

III. Application of the Law to Hearing Requests

The Commission received only two comments on BNA's Application, both filed prior to the ED's response to comments. BNA understands that Commission staff have listed both documents as

²³ *Max Midstream*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *32 (citing *Tex. Comm'n on Env'tl. Quality v. City of Waco*, 413 S.W.3d 409, 424-25 (Tex. 2013)).

²⁴ 30 Tex. Admin. Code § 55.205(b) (2024) (Tex. Comm'n on Env'tl. Quality, Request by Group or Association).

²⁵ *Id.*

²⁶ *Max Midstream*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *32 (citing *Tex. Comm'n on Env'tl. Quality v. City of Waco*, 413 S.W.3d 409, 424-25 (Tex. 2013)).

“hearing requests;” however, only the comment filed by Golden Triangle Group purports to request a hearing.²⁷ The comments filed by Lone Star on behalf of an unidentified person state the purpose of the document is to “file comments” and explicitly reserves the right to request a hearing in the future — which Lone Star never did.²⁸

A. The Commission should deny the hearing request filed by the Golden Triangle Group of the Sierra Club and the Residents because the organization and Residents are not affected persons and their interests are common to members of the general public.

- i. Golden Triangle Group, as an organization, does not have standing because it has not complied with the minimum requirements for organizational standing.

An organization has standing to request a hearing if, among other factors, at least one member of the organization would individually have standing to request the hearing.²⁹ Golden Triangle Group has not claimed that the Residents are members of the organization. Nor has it claimed that any of its other members would individually have standing to request a hearing.³⁰ Even if the two Residents who signed Golden Triangle Group’s comment letter are members of Golden Triangle Group, the organization would not have standing because, as discussed below, the two Residents do not individually have standing to request a hearing. Golden Triangle Group has failed to show that it satisfies organizational standing the requirements of 30 TAC § 55.205(b), and therefore, the Commission must deny its hearing request.

²⁷ Public Comments by Golden Triangle Group, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Aug. 6, 2024) (on file with TCEQ, Office of the Chief Clerk).

²⁸ Public Comments by Lone Star, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Sep. 28, 2024) (on file with TCEQ, Office of the Chief Clerk).

²⁹ 30 Tex. Admin. Code § 55.205(b) (2024) (Tex. Comm’n on Env’tl. Quality, Request by Group or Association).

³⁰ Golden Triangle Group’s comments are also signed by Ellen Buchanan, who represents that she is the chair of the organization. She does not assert any personal justiciable interest in the pending permit amendment, nor does she give a location of where she lives. The only address for Ms. Buchanan is a Post Office box in Kountze, Texas.

- ii. The Residents are not affected persons because the air quality at their residences will not be adversely impacted by the facility's operations.

To determine if a requestor is an affected person, the Commission must evaluate the factors in 30 TAC § 55.203. The Commission has the discretion to weigh the evidence regarding each of the factors to determine if the requestor is an affected person.³¹ Essentially, the Commission must evaluate if granting BNA's Permit amendment would "likely impact" the requestors, and if that impact is sufficient to make the requestors affected persons.³²

During its evaluation of the requests, the Commission should consider evidence in the record and weigh that evidence against the prescribed factors. The recent 15th Court of Appeals decision in *TCEQ & Max Midstream, LLC v. San Antonio Bay Estuarine Waterkeeper, Texas Campaign for the Environment, & S. Diane Wilson* (Max Midstream) is illustrative. In that case, the 15th Court of Appeals affirmed the Commission's denial of hearing requests, noting that the Commission appropriately reviewed substantial evidence when evaluating the prescribed factors.³³ After reviewing the evidence considered by the Commission, the court determined that none of the requestors had a personal justiciable interest that was not common to members of the general public, and therefore that none had standing to request a hearing.³⁴ In affirming the Commission's

³¹ *Max Midstream*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *32 (citing *Tex. Comm'n on Env'tl. Quality v. City of Waco*, 413 S.W.3d 409, 424-25 (Tex. 2013)).

³² *See Id.* at *33.

³³ *See Id.* at *24-32.

³⁴ *See Id.* at *24-32.

decision to deny the hearing requests, the court noted that a requestor is not an affected person when:

- (1) the “permitted activity will [only] have a minimal effect on [the requestor’s] health and safety”³⁵;
- (2) the permitted activity’s minimal effect on the use and enjoyment of the requestor’s property was common to members of the general public;
- (3) the permitted activity’s minimal effect on the requestor’s use and enjoyment of natural resources was common to members of the general public.
- (4) the injuries alleged by the requestor were “merely speculation and were not supported by evidence.”³⁶

Similar to the requestors in *Max Midstream*, Golden Triangle Group and the Residents have asserted only generalized interests that would be held by members of the public at large. They point to emissions that they allege would likely impact “the health and safety” of the residents of and facilities in Nederland but fail to discuss particular impacts upon them and upon their residences. Other than broadly stating that emissions will increase, Golden Triangle Group does not provide any evidence to support its allegation. In the words of the court in *Max Midstream*, these allegations are nothing more than “mere speculation” and “not supported by evidence.”³⁷ The evidence is to the contrary and shows that the projected emissions are protective of the public at large and the Residents in particular.

As is explained further in the affidavits of Mr. Albert D. Kennedy, P.E., of Burns & McDonnell, and Dr. Kirby Tyndall, Ph.D., DABT, the Residents will not experience any adverse impacts to

³⁵ *See id.*

³⁶ *See id.*

³⁷ *Id. at* *30.

their health or welfare at their residences.³⁸ Mr. Kennedy modeled emission concentrations at 1 mile, 1.5 miles, 2 miles, 2.5 miles, 3 miles, and 3.5 miles from the facility property line, as well as at each commenter's residence, and determined that all emissions meet levels that TCEQ deems protective of human health and welfare, and the environment.³⁹

According to the Affidavit of Dr. Kirby Tyndall, Ph.D., DABT, "people residing in or working in areas off-property from the BNA facility would not experience discernible health or welfare impacts."⁴⁰ Dr. Tyndall is a Diplomate of the American Board of Toxicology (DABT). To make her determination, she reviewed the Application and work of Burns & McDonnell, specifically: (1) the evaluation using National Ambient Air Quality Standards (NAAQS); (2) the evaluation for sulfur emissions; and (3) the evaluation using Effects Screening Levels (ESLs) and Modeling and Effects Review for Air Permits (MERA), and determined that none of the emissions are expected to pose a threat to the health or welfare of the people who reside near the facility.

In addition to Dr. Tyndall's and Mr. Kennedy's affidavits stating that there will be no effect beyond the property line, the ED evaluated the application and also determined that there would be no "exceedances of Effects Screening Levels at any point beyond the property line."⁴¹

³⁸ See generally, Affidavit of Mr. Albert D. Kennedy, attached as Attachment B; Affidavit of Dr. Kirby Tyndall, Ph.D., DABT, attached as Attachment C.

³⁹ Affidavit of Mr. Albert D. Kennedy at p. 3.

⁴⁰ Affidavit of Dr. Kirby Tyndall, Ph.D., DABT at p. 8.

⁴¹ Executive Director's Response to Public Comment, Air Permit No. 169687 (Tex. Comm'n on Env'tl. Quality Mar. 31, 2025).

Neither Resident lives close enough to the facility to experience any impact from its operations. Even though required by the rules to do so, Golden Triangle Group's comments do not specify how far away the Residents live; however, they do provide the Residents' addresses. From their addresses, the Applicant determined that Terry Stelly lives 3.5 miles from the project area boundary, and Ariana Akbari lives 1.5 miles from the project area boundary.⁴² When considering additional BNA-owned land adjacent to the project, but upon which there are no emission sources, Terry Stelly lives 3.4 miles from the property line, and Ariana Akbari lives 1.3 miles from the property line.⁴³ At those distances, the Residents will not experience any emission greater than the ESLs and will not experience any adverse effects from the emissions generated by the facility.⁴⁴ The record demonstrates that there will be no adverse effects at the property line, yet alone at the Residents' homes, more than a mile away.⁴⁵ The Residents in this case are in no different position than the requestors in *Max Midstream*, where the 15th Court of Appeals explained that the requestors "are not affected persons because the permitted activity will have minimal effect on their health and safety."⁴⁶ Because the Residents will not be affected by the facility, they cannot be classified as "affected persons" for the purpose of standing to request a hearing.

⁴² Affidavit of Mr. Albert D. Kennedy at p. 4.

⁴³ *Id.*

⁴⁴ *See id.*; Affidavit of Dr. Kirby Tyndall, Ph.D., DABT at 7.

⁴⁵ *See generally*, OCI Clean Ammonia LLC's Application to Amend Air Permit No. 169687 (Tex. Comm'n on Env'tl. Quality June, 17 2024), on file with TCEQ, Office of the Chief Clerk; Affidavit of Mr. Albert D. Kennedy; Affidavit of Dr. Kirby Tyndall, Ph.D., DABT.

⁴⁶ *Tex. Comm'n on Env'tl. Quality v. Sierra Club*, 455 S.W.3d 228, 240 (Tex. App. – Austin [3rd Dist.] Dec. 30, 2014).

- iii. The Residents' interests are common to members of the general public because the entire population of Nederland has the same interests.

To have standing to request a hearing, a requestor must show that his/her personal justiciable interests are “not common to members of the general public.”⁴⁷ Golden Triangle Group's comments failed to demonstrate that the Residents' interests are not common to members of the general public, and therefore, it has failed to demonstrate that the Residents have standing to request a hearing

Golden Triangle Group's comments allege, without any evidence, that BNA's proposed facility would “adversely affect the air quality conditions of the residents of Nederland...” Golden Triangle Group's comments focus on the entire community as a whole and do not identify a specific person's or group of persons' interests. Golden Triangle Group has essentially argued that because the Residents live in Nederland, and Nederland will allegedly experience adverse effects,⁴⁸ the Residents have a justiciable interest. This interest is common to members of the general public because all residents (the general public) in the city would have the same interest. Therefore, the Residents' hearing request must be denied because it has not alleged a personal justiciable interest that is not common to members of the general public.

The bar for determining that an interest is not common to members of the general public is a high one. In *Max Midstream*, the 15th Court of Appeals determined that members of an organization did not have an individual justiciable interest in natural resources they used for recreation,

⁴⁷ 30 Tex. Admin. Code § 55.201(d) (2024) (Tex. Comm'n on Env'tl. Quality, Requests for Consideration or Contested Case Hearing).

⁴⁸ The Applicant maintains that the emissions from the facility will not impact the residents of Nederland.

swimming, hiking, kayaking, and fishing, because those natural resources were “open to the public and accessible to anyone.”⁴⁹ Similar to the court’s determination in *Max Midstream*, the Commission should determine that the Residents do not have a justiciable interest because their interests—the air in the City of Nederland—are “common to members of the general public.”⁵⁰

While Golden Triangle Group alleged that the Applicant’s compliance history was concerning, the compliance history referenced by Golden Triangle Group’s comments is not BNA’s compliance history. The reference is to a different facility and to a different owner/operator than the facility and Applicant for the pending permit application. A search of the TCEQ’s database for the link provided in Golden Triangle Group’s comments returned a link to Methanex Beaumont LLC (formerly OCI Beaumont LLC) located at 5470 N. Twin City Hwy., Nederland, Texas. Neither BNA or Woodside are related to Methanex Beaumont LLC. The Executive Director’s Response to Comments addressed this issue and found that the site and the applicant had “a rating of N/A, and a classification of “Unclassified,” as both the site and company have been in operation for less than the five-year review period.”⁵¹ Because the allegation is with respect to a different location and a different owner/operator, this allegation is not relevant to the pending application or to the Residents’ or Golden Triangle Group’s client’s personal justiciable interest.

⁴⁹ *Max Midstream*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *28.

⁵⁰ *Id.*

⁵¹ Executive Director’s Response to Public Comment, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Mar. 31, 2025) at p. 6.

B. *The Commission should determine that Lone Star’s comments are not a hearing request because the comments did not request a contested case hearing or comply with the most basic requirements of a hearing request.*

- i. The Commission should determine that Lone Star’s comments are not a hearing request because its letter explicitly indicates that Lone Star did not intend for the comments to serve as a hearing request.

Lone Star’s comments cannot serve as a hearing request and were not intended to do so. In evaluating the comments, the Commission does not have to speculate about Lone Star’s intent—Lone Star tells the Commission its intent. The comments expressly state that the commenter “maintained [the] right to request a Contested Case Hearing after the response to these comments is published by [the Commission].”⁵² By maintaining its right to request a hearing, Lone Star made clear that it was not intending to exercise that right—it would be impossible to both exercise a right to request a hearing and maintain a right to request a hearing in the future. The distinction between commenting and requesting a hearing is not merely a technicality. Lone Star’s comments were filed by a licensed attorney, who knew (or should know) the difference between comments and a hearing request. The decision not to request a hearing indicates that the attorney and the unnamed client made a conscious decision about how the client wanted to participate in the Commission’s process. Since Lone Star never exercised its right to request a hearing before the deadline, the only logical assumptions are that Lone Star’s client reviewed the ED’s response to comments and either was satisfied with the response or determined that a hearing was not how he or she wanted to proceed. Furthermore, the Commission’s rules state that “documents that are filed

⁵² Public Comments by Lone Star, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Sep. 28, 2024) (on file with TCEQ, Office of the Chief Clerk).

with the chief clerk before the public comment deadline that comment on an application but do not request reconsideration or a contested case hearing shall be treated as public comment.”⁵³

- ii. The Commission should determine that Lone Star’s comments are not a hearing request because they do not substantially comply with the regulatory requirements for a hearing request.

The Commission should determine that Lone Star’s comments are insufficient to serve as a hearing request because they do not substantially comply with the regulatory requirements prescribed in 30 TAC § 55.201(d).⁵⁴

A hearing request must: (1) contain the name, address, and phone number of the requestor; (2) identify his or her personal justiciable interest; (3) include the statement “I request a contested case hearing;” (4) list all material disputed facts that were raised during the public comment period; (5) provide the location of the requestor’s property and distance from the facility; and (6) describe how the operations of the facility will impact the requestor’s use of the property.⁵⁵ Lone Star’s comments did not provide, with any level of specificity, the required information to qualify as a hearing request or to allow the Commission or Applicant to evaluate the validity of such a request.

Lone Star’s comments fail upon almost every point. Lone Star’s comments do not contain the name, address, or phone number of the unnamed client it represents, but instead state that it is providing “comments” on behalf of an unnamed client who is “a resident of Nederland, Texas who

⁵³ 30 Tex. Admin. Code § 55.201(f) (2024) (Tex. Comm’n on Env’tl. Quality, Requests for Consideration or Contested Case Hearing). *Emphasis Added*.

⁵⁴ 30 Tex. Admin. Code § 55.201(d) (2024) (Tex. Comm’n on Env’tl. Quality, Requests for Consideration or Contested Case Hearing).

⁵⁵ *See id.*; Notice of Receipt of Application and Intent to Obtain Air Permit, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Jun. 25, 2024).

lives within three (3) miles of the proposed facility.”⁵⁶ Without identifying the client, it is impossible for the Commission, the ED, or the applicant to evaluate the unnamed client’s “personal justiciable interest” because no “person” is named.⁵⁷ Additionally, because Lone Star has not provided an address for the unnamed client, Lone Star also fails to state the property’s distance from the facility, and does not say that the facility will impact the unnamed client’s use of his or her property with any specificity. Perhaps most importantly, and as discussed above, the comments do not contain the statement “I request a contested case hearing” or any variant of that, showing that Lone Star did not intend to request a hearing. Because the comments do not comply with the requirements of hearing requests, and because they do not request a hearing, the Commission must determine that Lone Star’s comments are just that—comments.⁵⁸

C. If the Commission determines that Lone Star Legal Aid’s comments are a hearing request, the Commission should deny the request because Lone Star Legal Aid has not demonstrated that its unnamed client is an affected person who has a personal justiciable interest that is not common to members of the general public.⁵⁹

- i. The Commission should deny Lone Star’s “hearing request” because it has not demonstrated that its unnamed client is an affected person.

As noted above, to be an affected person, the requestor must be personally affected by the permitted activity. While Lone Star provides a list of concerns with the application and permit, it

⁵⁶ Public Comments by Lone Star, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Sep. 28, 2024) (on file with TCEQ, Office of the Chief Clerk).

⁵⁷ See Tex. Water Code § 5.556(a); 30 Tex. Admin. Code § 55.203 (2024) (Tex. Comm’n on Env’tl. Quality, Determination of Affected Person).

⁵⁸ 30 Tex. Admin. Code § 55.201(d & f) (2024) (Tex. Comm’n on Env’tl. Quality, Requests for Consideration or Contested Case Hearing);

⁵⁹ To aid with readability in this section only, Applicant will refer to Lone Star’s comments as a “hearing request.” Applicant maintains that Lone Star’s comments are not a hearing request.

does not state how those concerns will personally impact its unnamed client. The comments state that the “Commenter raises these concerns because they live within 3 miles of the facility, have children attending school within a similar distance, work nearby, and therefore will be affected by air emissions from the facility in ways different from the general public.”⁶⁰ Simply stating that the unnamed client will be affected in ways “different from the general public” does not give the unnamed client a personal justiciable interest; instead, to be an affected party, they must show that such interest exists.⁶¹

Because Lone Star has not identified its client, or its client’s home, work, or children’s school’s address, it is impossible for the Applicant to directly address the unnamed client’s position and any potential effects the unnamed client might experience. However, it is clear from the discussion above, in Section III(A)(ii) and the affidavits of Dr. Tyndall and Mr. Kennedy, that anyone living “within three miles of the facility” will not be affected by the air emissions from the facility.⁶² We need not repeat that analysis here.

As noted to determine if a requestor is an affected person, the Commission must evaluate the factors found in 30 TAC § 203(c) and determine if the evidence supports a determination that the requestor is an affected person. Here, the unnamed client cannot be an affected person because there is no “likely impact of the regulated activity on the health and safety of the person, and on

⁶⁰ Public Comments by Lone Star, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Sep. 28, 2024) (on file with TCEQ, Office of the Chief Clerk).

⁶¹ 30 Tex. Admin. Code § 55.203(a) (2024) (Tex. Comm’n on Env’tl. Quality, Determination of Affected Person).

⁶² See Affidavit of Mr. Albert D. Kennedy at p.3, stating that emissions levels at off-property locations that are 1, 1.5, 2, 2.5, 3, and 3.5 miles from the project area are expected to be “below all standards and screening levels.”

the use of property of the person”⁶³ as demonstrated by the affidavits of Dr. Tyndall and Mr. Kennedy, and ED’s Response to Public Comments.⁶⁴

Even though the commenter is not an affected person, Lone Star’s comments also allege that the Applicant failed to consider the effects of the emissions on a nearby school, and that control technology does not satisfy the Best Available Control Technology (BACT) requirement. After reviewing the proposed Application, the ED determined that the proposed BACT is acceptable⁶⁵ and that because there will be no “exceedances of ESLs at any point beyond the property line [], the potential existence of a school or other non-industrial receptor was irrelevant to the review.”⁶⁶ The affidavits of Mr. Kennedy and Dr. Tyndall further support that there would be no adverse effects to public health or welfare outside of the project’s property line.⁶⁷

- ii. The Commission should deny Lone Star’s “hearing request” because its unnamed client’s alleged justiciable interest is common to members of the general public.

To have standing to request a hearing, an affected person’s justiciable interest must be one that is “not common to members of the general public.”⁶⁸ While Lone Star’s comments have alleged that its unnamed client will be “affected by air emissions from the facility in ways different from the

⁶³ 30 Tex. Admin. Code § 55.203(c)(4) (2024) (Tex. Comm’n on Env’tl. Quality, Determination of Affected Person).

⁶⁴ See generally, Affidavit of Mr. Albert D. Kennedy; Affidavit of Dr. Kirby Tyndall, Ph.D., DABT; Executive Director’s Response to Public Comment, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Mar. 31, 2025), p. 6.

⁶⁵ See Executive Director’s Response to Public Comment, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Mar. 31, 2025).

⁶⁶ See Executive Director’s Response to Public Comment, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Mar. 31, 2025).

⁶⁷ See generally, Affidavit of Mr. Albert D. Kennedy; Affidavit of Dr. Kirby Tyndall, Ph.D., DABT.

⁶⁸ 30 Tex. Admin. Code § 55.201(d) (2024) (Tex. Comm’n on Env’tl. Quality, Requests for Consideration or Contested Case Hearing).

general public,”⁶⁹ it has not provided any information about how the effects will be different from those who are similarly situated in the community. At one point in the letter, Lone Star discussed the 14,337 people who live within 3 miles of the facility without differentiating their unnamed client from those 14,337 people in any way. Even if Lone Star’s unnamed client was impacted by emissions from the facility, which he or she will not be, the impact on Lone Star’s unnamed client would be the same as every other person living within three miles of the facility, and therefore very common to members of the general public.

Lone Star’s comments note that the unnamed client has children attending a school that is also within three miles of the facility, possibly implying that this distinction could make the unnamed client’s justiciable interest not common to members of the general public. However, this distinction is not sufficient to give the unnamed client a “personal justiciable interest.” In *Max Midstream*, two requestors argued that they had personal justiciable interests that were not common to members of the general public because they made a living by shrimping and oystering in the bay near the proposed facility. They alleged that their livelihood would be impacted more than that of the general public. The 15th Court of Appeals disagreed and determined that the requestors had not alleged a likely adverse impact that was different “from that experienced by the general public.”⁷⁰ Similarly, the fact that Lone Star’s unnamed client’s children supposedly attend a school within three miles of the facility does not create a justiciable interest not common to members of the general public. As shown in the evaluation by Dr. Tyndall, there will be no adverse air impacts

⁶⁹ Public Comments by Lone Star, Air Permit No. 169687 (Tex. Comm’n on Env’tl. Quality Sep. 28, 2024). *Emphasis added.*

⁷⁰ *Max Midstream*, No. 15-24-00036-CV, 2025 Tex. App. LEXIS 3410 at *31.

within this three-mile radius, even at the unnamed school.⁷¹ Because Lone Star has not provided sufficient evidence that its unnamed client's alleged justiciable interests are not common to members of the general public, the Commission must reject its "hearing request."⁷²

Lone Star's comments also raise numerous concerns about the Permit, making allegations about the Permit's compliance with applicable law. However, after a thorough review of the Application, the ED determined that the concerns did not warrant any changes to the draft permit. The ED addressed each of Lone Star's concerns in its Response to Comments. These allegations alone are not sufficient for a commenter to establish a personal justiciable interest. The Commission must reject Lone Star's request because its comments fail to show how its unnamed client would have a personal justiciable interest.

D. The Commission must deny the hearing requests because they are incurably deficient.

Commission rules give the ED, the Public Interest Counsel (OPIC), and the Applicant the right to respond to the information and allegations in hearing requests by submitting written responses.⁷³ The rules also provide requestors with the opportunity to reply to those written responses.⁷⁴ A requestor must satisfy the requirements for a hearing request before the requesting period ends.⁷⁵

⁷¹ Affidavit of Dr. Kirby Tyndall, Ph.D., DABT at p.7.

⁷² See generally, 30 Tex. Admin. Code § 55.201(d) (2024) (Tex. Comm'n on Env'tl. Quality, Requests for Consideration or Contested Case Hearing).

⁷³ 30 Tex. Admin. Code § 55.209(e) (2024) (Tex. Comm'n on Env'tl. Quality, Processing Requests for Reconsideration and Contested Case Hearing).

⁷⁴ *Id.* § 55.209(g).

⁷⁵ 30 Tex. Admin. Code § 55.201(a) (2024) (Tex. Comm'n on Env'tl. Quality, Requests for Consideration or Contested Case Hearing).

Requestors cannot be allowed to submit new information or make new arguments after the requesting period ends.⁷⁶ To allow such a submission would deprive the ED, OPIC, and the Applicant of their right to respond to the information and allegations in the hearing requests.

The hearing requests in this proceeding are therefore incurably deficient. The hearing requests do not satisfy the submission requirements found in the Commission rules, nor do they provide sufficient evidence for the Commission to determine that the requestors are affected persons with personal justiciable interests that are not common to members of the general public.⁷⁷ The requestors cannot rehabilitate their hearing requests by providing new information, such as the identify of the requestor, the location of the requestor's residence, or how each requestor would be personally affected if the Application is approved. Therefore, because the hearing requests are incurably deficient, the Commission must deny the requests.

IV. Conclusion and Prayer

As the application and the attached affidavits demonstrate, the approval of the Applicant's Permit amendment application would not have a negative effect on the requestors, the community, or the environment.⁷⁸ The concentration of emissions at the project boundary are all within levels deemed to be protective of human health, and these levels decrease markedly with distance from the project.⁷⁹ Therefore, the Applicant requests that the Commission: (1) deny Golden Triangle

⁷⁶ See *id.* § 55.201(c & d) requiring that a hearing request to be based solely on issues raised in public comment and list all disputed facts that were raised during public comment. Therefore, a requestor cannot raise new facts or issues during its reply.

⁷⁷ See *id.* § 55.201(d).

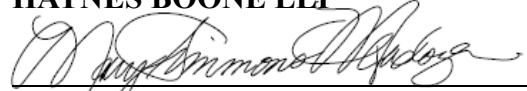
⁷⁸ Affidavit of Dr. Kirby Tyndall, Ph.D., DABT at p.8.

⁷⁹ Affidavit of Mr. Albert D. Kennedy at p.3.

Group's and the Resident's hearing request; (2) determine that Lone Star's comments are not a hearing request, or in the alternative, deny its hearing request; and (3) approve BNA's Application and issue the Permit.

Respectfully submitted,

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**ATTORNEYS FOR BEAUMONT NEW
AMMONIA LLC.**

CERTIFICATE OF SERVICE

I, Mary Mendoza, counsel for Beaumont New Ammonia LLC hereby certify that, on July 28, 2025, a copy of this document was served on those listed in the attached Mailing List by Federal Express delivery, certified mail, or electronic mail. The list of parties served is attached.



Mary Mendoza

MAILING LIST
Beaumont New Ammonia LLC
TCEQ Docket No. 2025-0887-AIR;
Air Permit No. 169687

COMMENTS(S), REQUESTER(S) &
INTERESTED PERSON(S)

See attached list

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RESOLUTION

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STELLY , TERRY D PRESIDENT
SOUTHEAST TEXAS CLEAN AIR & WATER INC
227 N 30TH ST
NEDERLAND TX 77627-7031

ATTACHMENT A

**TCEQ DOCKET NO. 2025-0887-AIR
TCEQ AIR QUALITY PERMIT NO. 169687
AFFIDAVIT OF DAVID RANDALL**

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**STATE OF TEXAS
COUNTY OF HARRIS**

Before me, the undersigned authority in, and for the State of Texas on this day personally appeared, David Randall who, after being duly sworn, did upon his oath, state as follows:

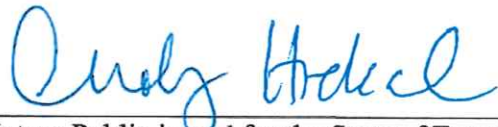
1. My name is David Randall. I am of sound mind, 18 years of age or older, and competent to give this affidavit. I serve as the Head of Integration, Beaumont New Ammonia for Woodside Energy. In my capacity as Head of Integration, I have personal knowledge of the facts discussed below.
2. The original applicant in TCEQ Docket No. 2025-0887-AIR, to amend TCEQ Air Quality Permit No. 169687, was OCI Clean Ammonia, LLC (OCI). In September of 2024, Woodside Energy Group Ltd purchased from OCI Global 100% of OCI Clean Ammonia Holding B.V., which, through its subsidiary OCI Clean Ammonia LLC, included the facility that is the subject of this proceeding. Following that transaction, OCI Clean Ammonia LLC became Beaumont New Ammonia LLC (BNA) and OCI Clean Ammonia Holding B.V. became Beaumont New Ammonia Holding B.V.
3. The Texas Commission on Environmental Quality was notified of the transaction and of the change of applicant. Therefore, BNA is now the applicant for this permit amendment application.

Further affiant sayeth not.

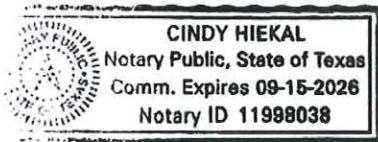


David Randall

Subscribed and sworn to before me, the undersigned authority, on this the 28 day of July, 2025.



Notary Public in and for the State of Texas



ATTACHMENT B

**TCEQ DOCKET NO. 2025-0887-AIR
TCEQ AIR QUALITY PERMIT NO. 169687
AFFIDAVIT OF ALBERT KENNEDY, P.E.
BURNS & MCDONNELL ENGINEERING COMPANY, INC.**

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**STATE OF TEXAS
COUNTY OF TRAVIS**

Before me, the undersigned authority in, and for the State of Texas, on this day personally appeared, Albert David Kennedy who, after being duly sworn, did upon his oath state as follows:

My name is Albert D. Kennedy. I am over 21 years of age, am of sound legal mind, and am fully competent to make this affidavit. Each and every statement contained in this affidavit is based upon my personal knowledge, and each and every statement is true and correct.

1. I am an Associate Environmental Engineer for Burns & McDonnell Engineering Company, Inc. ("Burns & McDonnell"), which is recognized nationally for performing engineering and consulting projects for compliance with state and federal air permitting requirements. I have worked in the environmental field since graduating from Metropolitan State University of Denver in 2008 with Bachelor of Science degrees in Meteorology and Mathematics. I have been licensed by the Texas Board of Professional Engineers and Land Surveyors, or its predecessor agencies, as an engineer since August 25, 2020. I have over 17 years of air quality experience specializing in air permitting and air dispersion modeling. From 2008 until 2011, I was a member of the Air Dispersion Modeling Team within the Air Permits Division of the Texas Commission on Environmental Quality ("TCEQ"). The duties of this role involved performing full audits of air dispersion modeling conducted in support of New Source Review ("NSR") air permit applications submitted to the TCEQ for numerous industries. Since 2011, I have worked as an air quality consultant, preparing or overseeing the preparation of hundreds of major or minor air permit applications. I have particular experience with complex air dispersion modeling analyses conducted in support of air permit applications and documenting the results in formal air quality analysis reports. I have used multiple air dispersion models (*e.g.*, SCREEN3, AERSCREEN, ISCST3, ISC-PRIME, and AERMOD) regularly throughout my career, and I have extensive experience conducting air dispersion modeling analyses and reviewing analyses conducted by others.
2. Under my supervision and direction, Burns & McDonnell conducted an air dispersion modeling analysis associated with TCEQ Air Permit Application No. 169687 submitted to TCEQ on behalf of Beaumont New Ammonia LLC ("BNA") for an expansion project at its

Beaumont, Texas ammonia production facility. This modeling was conducted using AERMOD (Version 23132) and calculated the maximum off-property¹ ground-level concentrations (“GLCmax”) of each regulated pollutant that will be authorized from the ammonia production facility for each relevant averaging period once the air permit is issued. The modeling conducted is summarized in TCEQ’s Air Quality Analysis Audit (“Modeling Audit”) for NSR Project Number 375277 dated August 14, 2024, attached hereto as part of AK-EX. 1. The modeling was conducted in accordance with the TCEQ’s *Air Quality Modeling Guidelines* (APDG 6232, June 2024) and TCEQ’s *Modeling and Effects Review Applicability (MERA)* (APDG 5874, March 2018) and was accepted by TCEQ, as explained in the Modeling Audit.

3. Burns & McDonnell conducted three types of modeling analyses in support of the air permit application: a State Property Line Standard Analysis, National Ambient Air Quality Standards (“NAAQS”) analyses, and a State Health Effects evaluation. For State Property Line Standard analyses and NAAQS analyses, if the model-predicted impacts from project emissions are less than a de minimis threshold, the model-predicted impacts are considered insignificant, and no further analysis is required. For State Property Line Analyses, the de minimis thresholds are two percent of the State Property Line Standards. For NAAQS analyses, the de minimis thresholds are Significant Impact Levels (SILs) set by the U.S. Environmental Protection Agency (EPA). State Health Effects Evaluations compare model-predicted impacts to Effects Screening Levels (“ESLs”) set by the TCEQ Toxicology Division. According to the TCEQ Toxicology Division, “ESLs are based on data concerning health effects, odor/nuisance potential, and effects on vegetation. They are not ambient air standards. If predicted or measured airborne levels of a constituent do not exceed the screening level, adverse health or welfare effects would not be expected to result. If ambient levels of constituents in air exceed the screening level, it does not necessarily indicate a problem, but a more in-depth review is conducted.”²
4. Burns & McDonnell conducted a State Property Line Analysis for SO₂. As indicated in Table 1 of the Modeling Audit, the GLCmax was less than the listed *de minimis* level. Therefore, no further evaluation was necessary to show compliance with this standard.
5. Burns & McDonnell also conducted a NAAQS analysis for each applicable criteria pollutant. As indicated in Table 2 of the Modeling Audit, the GLCmax for many NAAQS pollutants and averaging periods were below the *de minimis* level, and for these, no further analysis was required. For the NAAQS pollutants and averaging periods in which the GLCmax were above the De Minimis levels, an additional analysis was required. As shown in Table 3 of the

¹ “Off-property” means areas beyond the boundaries of the property on which the project is located.

² TCEQ Interoffice Memorandum, *Toxicity Factor Database Effects Screening Levels*, Dated March 8, 2018

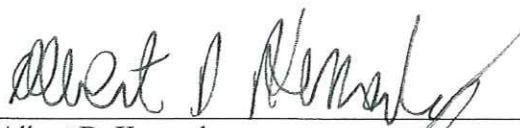
Modeling Audit, the GLCmax for each pollutant and averaging period are below the applicable NAAQS.

6. Finally, Burns & McDonnell performed a State Health Effects evaluation. As shown on Table 4 of the Modeling audit, the GLCmax for ammonia are below the 1-hour and annual Effects Screening Levels ("ESLs"). Therefore, no further analysis was required.
7. BNA owns two pieces of property that are adjacent to each other. One piece contains all of the regulated air emissions to be permitted, and the second piece contains no air emissions to be permitted. The receptors used in the modeling analyses to determine the GLCmax were conservatively placed over the second piece of property in addition to other surrounding off-property areas. Even using this conservative approach, all model-predicted GLCmax are well below all State Property Line Standards, NAAQS, and ESLs. Therefore, per the modeling processes prescribed by the TCEQ *Air Quality Modeling Guidelines*, no adverse impacts to human health and welfare as a result of the proposed project are expected.
8. I have reviewed the comments in opposition to the air permit application provided on August 6, 2024 by the Golden Triangle Group of the Sierra Club ("Golden Triangle Group") and the comments in opposition to the air permit application provided on September 28, 2024 by Lone Star Legal Aid ("Lone Star"). The addresses of the two commenters associated with the Golden Triangle Group were provided while an address for the commenter associated with Lone Star was not. The distances of the two addresses associated with the Golden Triangle Group comments from the BNA property line and from the center of the project area are provided in the table below. To determine the GLCmax for each pollutant and averaging period most representative of the commenters' locations, impacts tables for the project modeling conducted, full NAAQS analyses conducted, and health effects analysis conducted are attached hereto as AK-EX. 2-A, AK-EX. 2-B, and AK-EX. 2-C, respectively. Since an address for the commenter associated with Lone Star was not provided, GLCmax concentrations for each pollutant and averaging period within 1 mile, 1.5 miles, 2 miles, 2.5 miles, 3 miles, and 3.5 miles of the approximate geometric centroid of the project area are included. In addition, the model-predicted concentrations for each pollutant and averaging period at the receptor closest to each commenter's residence identified in the Golden Triangle Group comments are included. These tables show that while all model-predicted impacts for all pollutants and averaging periods are below all standards and screening levels at all off-property locations, the predicted impacts decrease markedly with distance from the project area, and the predicted concentrations nearest to the specified commenter locations and within 3.5 miles of the project area are well below the GLCmax model-predicted concentrations. Therefore, per the modeling processes prescribed by the TCEQ *Air Quality Modeling Guidelines*, no adverse impacts to human health or welfare are to be expected at commenters' residences or within 3.5 miles of the project area as a result of the project.

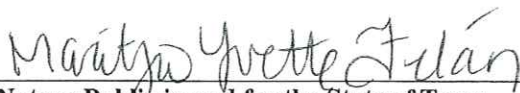
Golden Triangle Sierra Club Group Letter - Address Distance Summary Table

Cosigner	Address NEDERLAND, TX, 77627	Distance from BNA Property Line	Distance from BNA Project Area Boundary
Ariana Akbari	108 1 st AVE	1.3 miles	1.5 miles
Terry Stelly	227 N 30 th ST	3.4 miles	3.5 miles

Further affiant sayeth not.


Albert D. Kennedy

Subscribed and sworn to before me, the undersigned authority, on this the 28th day of July, 2025.


Notary Public in and for the State of Texas



AK-EX. No. 1
TCEQ Modeling Audit

TCEQ Interoffice Memorandum

To: Ariel Ramirez
Mechanical/Coatings Section

Thru: Chad Dumas, Team Leader
Air Dispersion Modeling Team (ADMT)

From: Noah Hinton
ADMT

Date: August 14, 2024

Subject: Air Quality Analysis Audit – OCI Clean Ammonia LLC (RN111536918)

1. Project Identification Information

Permit Application Number: 169687
New Source Review (NSR) Project Number: 375277
ADMT Project Number: 9306
County: Jefferson

Air Quality Analysis: Submitted by Burns & McDonnell, July 2024, on behalf of OCI Clean Ammonia LLC. Supplemental information was provided August 2024.

2. Report Summary

The air quality analysis is acceptable for all review types and pollutants. The results are summarized below.

A. Minor NSR and Air Toxics Analysis

Table 1. Project-Related Modeling Results for State Property Line

Pollutant	Averaging Time	GLCmax ¹ (µg/m ³)	De Minimis (µg/m ³)
SO ₂	1-hr	7.52	16.34

Table 2. Modeling Results for Minor NSR De Minimis

Pollutant	Averaging Time	GLCmax (µg/m ³)	De Minimis (µg/m ³)
SO ₂	1-hr	7.52	7.8
SO ₂	3-hr	7.15	25
PM ₁₀	24-hr	6.94	5

¹ Ground level maximum concentration

TCEQ Interoffice Memorandum

Pollutant	Averaging Time	GLCmax ($\mu\text{g}/\text{m}^3$)	De Minimis ($\mu\text{g}/\text{m}^3$)
PM _{2.5}	24-hr	5.49	1.2
PM _{2.5}	Annual	0.04	0.13
NO ₂	1-hr	28.24	7.5
NO ₂	Annual	1.23	1
CO	1-hr	618.74	2000
CO	8-hr	140.32	500

The GLCmax for 1-hr and 3-hr SO₂, 24-hr PM₁₀, 1-hr and 8-hr CO, and annual NO₂ represent the maximum predicted concentrations associated with five years of meteorological data. The GLCmax for all other pollutants and averaging times are based on the highest five-year averages of the maximum predicted concentrations determined for each receptor.

EPA intermittent guidance was relied on for the 1-hr NO₂ De Minimis analysis. Refer to the Modeling Emissions Inventory section for details.

The justification for selecting EPA's interim 1-hr NO₂ and 1-hr SO₂ De Minimis levels was based on the assumptions underlying EPA's development of the 1-hr NO₂ and 1-hr SO₂ De Minimis levels. As explained in EPA guidance memoranda^{2,3}, EPA believes it is reasonable as an interim approach to use a De Minimis level that represents 4% of the 1-hr NO₂ and 1-hr SO₂ National Ambient Air Quality Standards (NAAQS).

The PM_{2.5} De Minimis levels are EPA recommended De Minimis levels. The use of EPA recommended De Minimis levels is sufficient to conclude that a proposed source will not cause or contribute to a violation of a PM_{2.5} NAAQS based on the analyses documented in EPA guidance and policy memoranda⁴.

To evaluate secondary PM_{2.5} impacts, the applicant provided an analysis based on a Tier 1 demonstration approach consistent with EPA's Guideline on Air Quality Models (GAQM). Specifically, the applicant used a Tier 1 demonstration tool developed by EPA referred to as Modeled Emission Rates for Precursors (MERPs). The basic idea behind MERPs is to use technically credible air quality modeling to relate precursor emissions and peak secondary pollutants impacts

² www.epa.gov/sites/production/files/2015-07/documents/appwso2.pdf

³ www.tceq.texas.gov/assets/public/permitting/air/memos/guidance_1hr_no2naaqs.pdf

⁴ www.tceq.texas.gov/permitting/air/modeling/epa-mod-guidance.html

TCEQ Interoffice Memorandum

from a source. Using data associated with the worst-case hypothetical source, the applicant estimated 24-hr and annual secondary PM_{2.5} concentrations of 0.02245 µg/m³ and 0.00082 µg/m³, respectively. When these estimates are added to the GLCmax listed in the table above, the result for annual PM_{2.5} is less than the De Minimis level. Since the combined direct and secondary 24-hr PM_{2.5} concentration is greater than the De minimis level, a full impacts analysis is required.

Table 3. Total Concentrations for Minor NSR NAAQS (Concentrations > De Minimis)

Pollutant	Averaging Time	GLCmax (µg/m ³)	Background (µg/m ³)	Total Conc. = [Background + GLCmax] (µg/m ³)	Standard (µg/m ³)
PM ₁₀	24-hr	7.42	122	129.42	150
PM _{2.5}	24-hr	5.16	20	25.16	35
NO ₂	1-hr	42.22	47	89.22	188
NO ₂	Annual	1.36	9	10.36	100

The 24-hr PM₁₀ GLCmax is based on the maximum high, sixth high (H6H) predicted concentration over a five-year period. The 24-hr PM_{2.5} GLCmax is based on the highest five-year average of the 98th percentile, or high, eighth high (H8H), predicted concentrations determined for each receptor. The 1-hr NO₂ GLCmax is based on the highest five-year average of the 98th percentile of the annual distribution of predicted daily maximum 1-hr concentrations determined for each receptor. The annual NO₂ GLCmax is the maximum predicted concentration associated with five years of meteorological data.

A background concentration for PM₁₀ was obtained from EPA AIRS monitor 482450628 located at 6956 James Gamble Dr., Port Arthur, Jefferson County. The highest 24-hr concentration from (2021-2023) was used for the 24-hr value. Use of this monitor is reasonable based on the applicant's quantitative review of emissions sources in the surrounding area of the monitor site relative to the project site.

A background concentration for PM_{2.5} was obtained from EPA AIRS monitor 482450021 located at 2200 Jefferson Dr., Port Arthur, Jefferson County. The three-year average (2021-2023) of the 98th percentile of the annual distribution of the 24-hr concentrations for the 24-hr value. Use of this monitor is reasonable based on the applicant's quantitative review of emissions sources in the surrounding area of the monitor site relative to the project site.

TCEQ Interoffice Memorandum

Background concentrations for NO₂ were obtained from EPA AIRS monitor 482450102 located at Jefferson County Airport, Port Arthur, Jefferson County. The three-year average (2021-2023) of the 98th percentile of the annual distribution of the daily maximum 1-hr concentrations was used for the 1-hr value. The annual mean concentration from the most recent complete year (2023) was used for the annual value. Use of this monitor is reasonable based on the applicant's quantitative review of emissions sources in the surrounding area of the monitor site relative to the project site.

As stated above, to evaluate secondary PM_{2.5} impacts, the applicant provided an analysis based on a Tier 1 demonstration approach consistent with EPA's GAQM. Specifically, the applicant used a Tier 1 demonstration tool developed by EPA referred to as MERPs. Using data associated with the worst-case hypothetical source, the applicant estimated a 24-hr secondary PM_{2.5} concentration of 0.02245 µg/m³. When this estimate is added to the GLCmax listed in Table 3 above, the result is less than the NAAQS.

Table 4. Minor NSR Site-Wide Modeling Results for Health Effects

Pollutant	CAS# ⁵	Averaging Time	GLCmax (µg/m ³)	GLCmax Location	ESL ⁶ (µg/m ³)
ammonia	7664-41-7	1-hr	113.58	NW Property Line	180
ammonia	7664-41-7	Annual	8.63	NW Property Line	92

The GLCmax and locations are listed in Table 4 above.

3. Model Used and Modeling Techniques

AERMOD (Version 23132) was used in a refined screening mode.

The applicant conducted the 1-hr NO₂ NAAQS analyses using the Ambient Ratio Method - 2 (ARM2) model option following EPA guidance. For the annual NO₂ analysis, the applicant assumed full conversion of NO_x to NO₂, which is conservative.

A. Land Use

Medium roughness and elevated terrain were used in the modeling analysis. These selections are consistent with the AERSURFACE analysis, digital elevation

⁵ Chemical Abstract Service Number

⁶ Effects Screening Level

TCEQ Interoffice Memorandum

models (DEMs), and aerial photography. The selection of medium roughness is reasonable.

B. Meteorological Data

Surface Station and ID: Port Arthur, TX (Station #: 12917)

Upper Air Station and ID: Lake Charles, LA (Station #: 3937)

Meteorological Dataset: 2017-2021 for State Property Line, Minor NSR De Minimis, and Minor NSR NAAQS analyses; 2020 for Health Effects analysis

Profile Base Elevation: 4.9 meters

C. Receptor Grid

The grid modeled was sufficient in density and spatial coverage to capture representative maximum ground-level concentrations.

Some receptors on the east side of the property were modeled on-site. This is conservative.

D. Building Wake Effects (Downwash)

Input data to Building Profile Input Program Prime (Version 04274) are consistent with the aerial photography, plot plan, and modeling report.

4. Modeling Emissions Inventory

The modeled emission point, area, and volume source parameters and rates are generally consistent with the modeling report. The source characterizations used to represent the sources are appropriate.

The annual NO_x emission rate reported in the EMEW for EPN FLR1 was reported in tons per year (7.07) instead of lb/hr. The appropriate emission rate of 1.61 lb/hr was modeled.

The computation of the effective stack diameters for the flares is consistent with TCEQ modeling guidance.

For the 1-hr NO₂ De Minimis and NAAQS analyses, emissions from the emergency engines (EPNs ENG1, ENG2, ENG3, ENG4, ENG5, and ENG6) were modeled with an annual average emission rate, consistent with EPA guidance for evaluating intermittent emissions. Emissions from the engines were represented to occur for no more than 100 hours per year.

TCEQ Interoffice Memorandum

The applicant modeled an annual emission rate that is double the annual allowable NO₂ emission rates for EPNs ENG2, ENG3, ENG4, and ENG5; this is conservative.

For the following emergency engines: EPNs ENG2, ENG3, ENG4, and ENG5, the applicant modeled an emission rate based on two hours of operation for the 8-hr averaging time of CO and the 24-hr averaging times of PM₁₀ and PM_{2.5}.

Except as noted above, maximum allowable hourly emission rates were used for the short-term averaging time analyses, and annual average emission rates were used for the annual averaging time analyses.

AK-EX. No. 2
Modeling Data Tables

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DRAFT WORK PRODUCT

AK-EX. 2-A

Train 2 Project Modeling Results Summary

H1 and H2 in each table represent the concentrations at the closest modeled receptors to 108 1st Ave and 227 N 30th St, respectively
Distance values are as measured from the approximate geometric centroid of the BNA project area.

Avg Period	Pollutant	De Minimis ($\mu\text{g}/\text{m}^3$)	GLCmax ($\mu\text{g}/\text{m}^3$)	1 mile	1.5 mile	2 mile	2.5 mile	3 mile	3.5 mile	H1	H2
1-hr	SO ₂	7.8	7.52	1.58	1.55	1.45	1.33	1.25	1.25	0.9	0.87
3-hr	SO ₂	25	7.15	1.02	0.72	0.72	0.7	0.7	0.68	0.66	0.49
1-hr	CO	2000	618.74	53.11	51.38	49.19	44.99	42	39.21	49.52	33.83
8-hr	CO	500	140.32	10	7.83	7.61	7.3	7.3	5.35	5.58	2.98
Annual	PM _{2.5}	0.13	0.04	0.0004	0.003	0.002	0.002	0.001	0.001	0.0011	0.0004

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DRAFT WORK PRODUCT

AK-EX. 2-B

Train 2 Full NAAQS Modeling Results Summary

H1 and H2 in each table represent the concentrations at the closest modeled receptors to 108 1st Ave and 227 N 30th St, respectively
Distance values are as measured from the approximate geometric centroid of the BNA project area.

Avg Period	Pollutant	NAAQS ($\mu\text{g}/\text{m}^3$)	GLCmax ($\mu\text{g}/\text{m}^3$)	Background ($\mu\text{g}/\text{m}^3$)	1 mile	1.5 mile	2 mile	2.5 mile	3 mile	3.5 mile	H1	H2
24-hr	PM ₁₀	150	7.42	122	0.51	0.39	0.28	0.22	0.2	0.17	0.25	0.09
24-hr	PM _{2.5}	35	5.16	20	0.34	0.27	0.18	0.15	0.12	0.1	0.14	0.05
1-hr	NO ₂	188	42.22	47	11.97	8.93	6.03	5.06	4.7	4.52	7.15	4.2
Annual	NO ₂	100	1.36	9	0.16	0.13	0.08	0.06	0.05	0.04	0.04	0.01

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DRAFT WORK PRODUCT

AK-EX. 2-C

Train 2 State Health Effects Modeling Results Summary

H1 and H2 in each table represent the concentrations at the closest modeled receptors to 108 1st Ave and 227 N 30th St, respectively
Distance values are as measured from the approximate geometric centroid of the BNA project area.

Avg Period	Pollutant	ESL ($\mu\text{g}/\text{m}^3$)	GLCmax ($\mu\text{g}/\text{m}^3$)	1 mile	1.5 mile	2 mile	2.5 mile	3 mile	3.5 mile	H1	H2
1-hr	NH ₃	180	113.58	28.43	28.43	26.57	24.36	22.29	20.47	13.8	11.42
Annual	NH ₃	92	8.63	0.2	0.14	0.09	0.07	0.06	0.05	0.05	0.02

ATTACHMENT C

**TCEQ DOCKET NO. 2025-0887-AIR
TCEQ AIR QUALITY PERMIT NO. 169687
AFFIDAVIT OF KIRBY TYNDALL**

§
§
§
§
§

**STATE OF TEXAS
COUNTY OF TRAVIS**

Before me, the undersigned authority in, and for the State of Texas, on this day personally appeared, Kirby Tyndall who, after being duly sworn, did upon her oath state as follows:

My name is Kirby Tyndall. I am of sound mind, 18 years of age or older, and competent to give this affidavit. The facts, opinions and conclusions stated in this affidavit are based on my education, training, and experience, and on underlying information I have reviewed. The facts I state in this affidavit are true and correct.

Background and Experience

In 1987, I graduated from Texas A&M University with a Bachelor of Science in Biomedical Science. In 1991, I received a PhD in Toxicology from Texas A&M. In 1995, I obtained certification in Toxicology from the American Board of Toxicology (ABT), which is the largest professional toxicology credentialing organization in the world, and therefore I am a Diplomate of the American Board of Toxicology (DABT). I obtained recertification in 2000, 2005, 2010, 2015, 2020 and 2025. The ABT certification represents competency and commitment to human health and environmental sciences. It requires a combination of higher education, experience, and rigorous testing and recertification processes every five years. A copy of my current curriculum vitae is attached.

After receiving my PhD in 1991, I was first employed by the Radian Corporation from 1991 through 1994, and then by the Texas Natural Resources Conservation Commission (TNRCC), a predecessor agency to the Texas Commission on Environmental Quality (TCEQ), from 1994 to 1996. While employed at TNRCC, my job duties and responsibilities included toxicological analysis of soil, water and air data to assess potential human health risks associated with these data, deriving Effects Screening Levels for various compounds and working on special projects such as Sewage Sludge regulations and Hazardous Waste Combustion multi-pathway risk assessments.

I am currently employed as a Senior Associate Toxicologist with GSI Environmental. I have over 30 years of experience in the fields of toxicology, risk assessment, and risk management. I also have extensive experience evaluating human health risks associated with potential exposure to constituents in environmental media (air, water, soil, and sediment) under a number of regulatory programs including those administered by TNRCC, TCEQ and the United States Environmental Protection Agency (USEPA). In addition, I have significant experience communicating toxicology and environmental exposure/risk issues to the public, media, regulators, and stakeholders. I have also provided expert opinions, analyses, and testimony in a variety of public, legislative, legal and administrative settings.

Scope of Review and Objective

I have been retained on behalf of Beaumont New Ammonia LLC (BNA or the Applicant) to conduct a public health and welfare effects evaluation related to the **maximum allowable emissions from a facility owned by BNA. BNA has applied to the TCEQ for a New Source Review Authorization under the Texas Clean Air Act (30 TAC §116.111) Permit Application No. 169687 (Application) for Train 2 Ammonia Production Facility.** In preparing this affidavit and conducting a public health and welfare effects evaluation associated with the emissions as identified in the Application, I reviewed the following documents as would be standard practice for any toxicologist.

- Clean Ammonia Production Facility New Source Review Permit No. 169687. Amendment Application OCI Clean Ammonia, LLC Jefferson Co, Beaumont, TX that includes fenceline emission estimates;
- TCEQ's Air Quality Analysis Audit dated August 14, 2024 (Modeling Audit);
- Comments and Hearing Requests on the Application submitted on August 6, 2024 by Golden Triangle Group and September 28, 2024 by Lone Star Legal Aid;
- TCEQ Executive Director's Response to Public Comment to the above hearing requests;
- TCEQ's Modeling and Effects Applicability Review: How to Determine the Scope of Modeling and Effects Review for Air Permits (APDG 5874-) (2018) (MERA);
- TCEQ's Guidelines to Develop Toxicity Factors (RG-442) (September 2015);
- TCEQ's Toxicology Divisions Effects Screening Level Information Page at [About Effects Screening Levels \(ESLs\) - Texas Commission on Environmental Quality](#) - www.tceq.texas.gov ; and
- Additional air modeling by Burns & McDonnell Consultants that estimated the maximum off-property air concentrations of project pollutants at several intervals as well as at two addresses off-property.

FUNDAMENTAL PRINCIPLES OF TOXICOLOGY

Toxicology is the study of external agents and the adverse effects of those agents on living organisms when the living organisms are exposed to various concentrations of the agent over various periods of time. The science of toxicology includes: (a) understanding the hazardous properties of substances; (b) observing and obtaining data on substances in the environment; and (c) predicting outcomes based on varying concentrations and durations of exposure.¹

In evaluating whether a substance has caused toxicity (or harm) to a person or population, the science of toxicology employs certain fundamental, scientifically accepted principles. Among these fundamental principles is that before any reliable opinion or conclusion linking an external agent to adverse effects may be formed, an exposure pathway must be complete. The exposure pathway is

¹Klassen, CD, 2007. Casarett and Doull's Toxicology, The Basic Science of Poisons. Seventh Edition. The McGraw-Hill Companies, Inc. 2007.

the course the agent takes from the potential source, in this case the facility, to an exposed person or population (i.e., receptor). For an exposure pathway to be complete, it must include the following essential elements: (a) a release from a source; (b) a transport mechanism and media (such as air); (c) a point of exposure where the person or population comes into contact with the agent; and (d) a route of entry into living organisms (i.e., breathing).

TCEQ'S AIR PERMITTING PROCESS DEMONSTRATED THAT THE APPLICANT'S AIR EMISSIONS DO NOT EXCEED CONSERVATIVE HEALTH-BASED REGULATORY THRESHOLDS

TCEQ has a robust permitting process for ensuring that emissions do not cause harm to off-site receptors as described in greater detail below. Applicants for TCEQ air permit applications use air dispersion modeling to predict concentrations of the air pollutants from the proposed facilities at "receptors," which TCEQ modeling guidance defines as locations "where the public could be exposed to an air contaminant in the ambient air."² Part of the process for evaluating the safety of air emissions, is comparing modeled air concentrations to health-based regulatory threshold values. These health-based regulatory threshold values are conservatively derived to represent a level of potential exposure where additional evaluation is recommended. The regulatory threshold values that are discussed later in this affidavit do not represent a brightline above which adverse health or welfare effects would be expected due to the overly protective assumptions considered when deriving the values. However, because of the conservative assumptions used in their derivation, it can be stated with certainty that concentrations below the regulatory threshold values will not result in an adverse health or welfare effect.

Air dispersion models predict movement of contaminants in the atmosphere and provide conservative estimates (i.e., overestimates) of air pollutant concentrations at different distances and directions from the emissions source using facility-specific, geography-specific and chemical-specific information. Exposure can occur when local populations (i.e., receptors) contact pollutants from permitted emissions or other type of release. As such, air dispersion modeling provides conservatively estimated air concentrations that are routinely used to evaluate potential exposures at different locations. It is important to note that the conservatively modeled air concentrations are generally higher than the actual concentration measured in air. The concentration of a pollutant to which a member of the public is potentially exposed is critical to determining whether adverse health or welfare effects could occur.

Toxicologists in TCEQ's Toxicology Division use the results from the air dispersion modeling in their toxicological evaluations to determine potential effects of proposed emissions. The objectives of the analysis are to: 1) establish off-property ground-level concentrations (GLCs) of contaminants resulting from proposed and/or existing emissions; and 2) evaluate these GLCs for their potential to cause adverse health or welfare effects. TCEQ's thorough effects evaluation process, which relies on air dispersion modeling results, includes three areas of review that rely on the GLCs and various health-based regulatory thresholds. These are discussed below.

FIRST EFFECTS EVALUATION USING NAAQS. The first TCEQ effects evaluation includes examining pollutants for which the USEPA has established a National Ambient Air Quality Standard (NAAQS); the compounds with NAAQS are also known as "criteria pollutants". In the State NAAQS Analysis, proposed emissions of criteria pollutants from the project are modeled to estimate the maximum ground-level concentration (GLCmax) for each criteria pollutant, with

² TCEQ-Modeling and Effects Review Applicability (MERA) , Glossary: non-industrial receptor.

the objective of determining whether the project has the potential to cause or contribute to an exceedance of the NAAQS. USEPA establishes each NAAQS at a level that is protective of public health and welfare with an adequate Margin of Safety (MOS). Employing conservative measures in deriving the NAAQS helps USEPA to ensure that there is an adequate MOS between exposure concentrations associated with adverse health/welfare effects and the NAAQS. Additionally, NAAQS are designed to be protective of sensitive subpopulations such as children, the elderly and those with other pre-existing health conditions.

According to the TCEQ's review of the air dispersion modeling associated with the Application, which is included in the Modeling Audit and presented in the Executive Director's Response to Public Comments and is indicated in **Exhibit 1**, the GLCmax for PM_{2.5} (Annual), CO (1-hr) and CO (8-hr), and SO₂ (1-hr) and SO₂ (3-hr) were below their respective *de minimis* level, so no further evaluation was warranted because no adverse health or welfare effects are expected from *de minimis* levels.

Exhibit 1. Modeling Results for De Minimis Review

Table 1. Modeling Results for De Minimis Review

Pollutant	Averaging Time	GLC _{max} (µg/m ³)	De Minimis (µg/m ³)
NO ₂	1-hr	28.24	7.5
NO ₂	Annual	1.23	1
CO	1-hr	618.74	2000
CO	8-hr	140.32	500
PM ₁₀	24-hr	6.94	5
PM _{2.5}	24-hr	5.49	1.2
PM _{2.5}	Annual	0.04	0.13
SO ₂	1-hr	7.52	7.8
SO ₂	3-hr	7.15	25

Thus, the highest modeled criteria pollutant concentrations from proposed Train 2 sources at or beyond the fence line were below the *de minimis* NAAQS, otherwise known as Significant Impact Levels (SILs), PM_{2.5} (Annual), CO (1-hr) and CO (8-hr), and SO₂ (1-hr) and SO₂ (3-hr). **Since the SILs are established at a small fraction of the health and welfare-protective NAAQS, these criteria pollutants are not expected to pose a health or welfare threat to the general public including sensitive subpopulations.**

For the NAAQS criteria pollutants for which the GLCmax was modeled at a concentration greater than the *de minimis* level, NO₂ (1-hr) and NO₂ (annual), PM₁₀ (24-hr), and PM_{2.5} (24-hr), an additional evaluation was conducted. Based on the additional evaluation summarized in the Modeling Audit and Executive Director's Response to Public Comments and presented in **Exhibit 2**, the GLCmax plus estimated background levels for NO₂ (1-hr) and NO₂ (annual), PM₁₀ (24-hr), and PM_{2.5} (24-hr) was only a fraction of their respective NAAQS. The maximum total concentrations of NO₂ (1-hr) and NO₂ (annual), PM₁₀ (24-hr), and PM_{2.5} (24-hr) (represented by the modeled concentration from BNA plus the ambient monitored background air concentration within an extended area) were well below their primary and secondary NAAQS.

Exhibit 2. Total Concentrations for Minor NSR NAAQS

Table 2. Total Concentrations for Minor NSR NAAQS (Concentrations > De Minimis)

Pollutant	Averaging Time	GLC _{max} (µg/m ³)	Background (µg/m ³)	Total Conc. = [Background + GLC _{max}] (µg/m ³)	Standard (µg/m ³)
NO ₂	1-hr	42.22	47	89.22	188
NO ₂	Annual	1.36	9	10.36	100
PM ₁₀	24-hr	7.42	122	129.42	150
PM _{2.5}	24-hr	5.16	20	25.16	35

Since NAAQS are designed to be abundantly protective of public health and welfare (including sensitive subpopulations) and contain an ample margin of safety, it is my opinion that BNA's Train 2 emissions of the criteria pollutants do not pose a health or welfare threat to the general population, including sensitive subpopulations.

SECOND EFFECTS EVALUATION FOR SULFUR EMISSIONS. When sulfur emissions are expected, they must be accounted for in the Application. The second effects evaluation that TCEQ includes in their assessment process is a State Property Line Standard analysis per 30 TAC Chapter 112 for sulfur emissions. This is completed for sulfur compounds in which measured or modeled GLCmax net ground-level concentrations for sulfur dioxide (SO₂), hydrogen sulfide (H₂S) and sulfuric acid (H₂SO₄) are compared to TCEQ-derived State Property Line Standards in addition to the federal NAAQS. Per the Executive Director's Response to Public Comment, the State Property Line analysis "demonstrated that resulting air concentrations will not exceed the applicable state standard". **Therefore, it is my opinion that emissions of sulfur compounds from BNA do not pose a health or welfare threat.**

THIRD EFFECTS EVALUATION USING ESLs AND MERA PROCESS. The third TCEQ effects evaluation involves a public health and welfare effects evaluation for constituents lacking a NAAQS or TCEQ State Property Line Standard, and for these constituents, an evaluation is conducted in accordance with Appendix D of TCEQ's guidance entitled *Modeling and Effects Applicability Review: How to Determine the Scope of Modeling and Effects Review for Air Permits* (APDG 58.74) (2018) (MERA). In the MERA evaluation, modeled GLCmax are compared to TCEQ-derived Effects Screening Levels (ESLs), which are health and/or welfare-based screening levels used in the TCEQ permitting process. It should be noted that ESL are not promulgated standards, such as the NAAQS and State Property Line Standards, instead, ESLs are guidelines or screening levels that TCEQ establishes at concentrations that correspond to a "no significant risk level". As such, if predicted (i.e., modeled) air concentrations of a compound exceed the relevant ESL, adverse health or welfare effects would not necessarily be expected to occur, but rather a more in-depth evaluation and review would be triggered. Because they are designed to be preventative in nature, ESLs are set at levels: 1) well below the threshold for health effects; 2) corresponding to an insignificant risk; or 3) where odor nuisance or vegetative effects are unlikely. Setting ESLs at these conservative levels that include an ample margin of safety ensures that public health and welfare are protected. TCEQ's MERA guidance establishes a process for determining the scope of air modeling and the extent of the health effects review necessary. MERA Steps 1-7

consist of conservative procedures used by air permitting engineers to evaluate the potential for health effects of air contaminants. The Toxicology Effects Evaluation Procedure contained in Appendix D of the MERA guidance is based on a three-tiered approach, with Tiers I, II, and III representing progressively more complex levels of review but all Tiers are considered protective of health and welfare effects.

Tier I includes a determination of whether the off-property GLCmax is below the ESL. If the GLCmax is below the ESL, adverse health/welfare effects are not expected. If the GLCmax concentration exceeds the ESL for any compound, the analysis continues to the next tier. Tier II is a determination of whether the GLCmax occurs on industrial property. If the GLCmax occurs on industrial property and is less than or equal to two times the ESL, adverse health and welfare effects are not expected to occur. If the GLCmax occurs on non-industrial property (GLCni) and the GLCni is less than the ESL, the impacts are considered acceptable and adverse health/welfare effects are not expected to occur. If either the GLCmax is on industrial property and is greater than two times the ESL or the GLCni is greater than the ESL, the analysis continues to Tier III of evaluation per MERA guidelines. A case-by-case Tier III MERA Analysis³ is only conducted by TCEQ toxicologists for compounds that do not satisfy Tier I or Tier II criteria.

The MERA process and Tier I and II of the Toxicology Effects Evaluation Procedure represent screening procedures developed by the TCEQ that allows a permit applicant to demonstrate that emissions of non-criteria pollutants from a facility will be protective of the public's health and welfare. In other words, for constituents eliminated during the MERA process or in Tier I or II of the Toxicology Effects Evaluation Procedure, steps which only require comparing modeled air concentrations (i.e., GLCmax and GLCni) to ESLs (or multiples of the ESL), there is no need for a more detailed Tier III review.

As reflected in Exhibit 3, the Modeling Audit shows that modeled concentrations (1-hour and annual) for ammonia to which the Tier 1 Public Health and Welfare Effects Evaluation applies are well below the applicable ESL. Thus, because modeled concentrations of ammonia (annual) and ammonia (1-hr) are well below the ESL, no health or welfare impacts to the general public, including sensitive subpopulations, are expected. Neither a Tier II nor Tier III evaluation were conducted as they were not necessary given the results of the Tier I analysis.

Exhibit 3. Health Effects Modeling for Ammonia

Table 4. Minor NSR Site-Wide Modeling Results for Health Effects					
Pollutant	CAS# ⁵	Averaging Time	GLCmax (µg/m ³)	GLCmax Location	ESL ⁶ (µg/m ³)
ammonia	7664-41-7	1-hr	113.58	NW Property Line	180
ammonia	7664-41-7	Annual	8.63	NW Property Line	92

³ TCEQ, 2025. Toxicology Guidance. Guidance on ESL Exceedances for Air Permitting (Tier III Evaluations). July 10, 2025. [Toxicology Guidance on ESL Exceedances for Air Permitting \(Tier III Evaluations\) - Texas Commission on Environmental Quality - www.tceq.texas.gov](https://www.tceq.texas.gov/EnvironmentalQuality)

MAXIMUM MODELED OFF-SITE CONCENTRATIONS

Because maximum concentrations of modeled emissions at the **fenceline** are not likely to present adverse health or welfare effects per the effects evaluation described above even when combined with background concentrations, and since air concentrations of these facility-related compounds decrease with increasing distance from the facility in all directions, it is unlikely that emissions from BNA's Train 2 would adversely impact health and welfare of individuals in any nearby areas. However, the Applicant conducted additional modeling to determine the off-site concentrations at 1, 1.5, 2, 2.5, 3, and 3.5 miles from the facility as well as at the two addresses of persons requesting a hearing in a letter submitted on August 6, 2024 by the Golden Triangle Group. **The maximum modeled off-site air concentrations at various distances from the facility (provided by Burns & McDonnell and shown in Exhibit 4) are well below all health-based regulatory thresholds; therefore, I would not expect adverse health or welfare impacts to the general population, including sensitive subpopulations, as a result of air emissions from the BNA facility for which authorization is requested by the Application.**

Exhibit 4. Off-Property Train 2 Modeling Results Compared to Several Regulatory Threshold Values at Varying Distances from BNA

PROJECT MODELING										
Avg Period	Pollutant	De Minimis (µg/m ³)	1 mile	1.5 mile	2 mile	2.5 mile	3 mile	3.5 mile	H1	H2
1-hr	SO ₂	7.8	1.58	1.55	1.45	1.33	1.25	1.25	0.9	0.87
3-hr	SO ₂	25	1.02	0.72	0.72	0.7	0.7	0.68	0.66	0.49
1-hr	CO	2000	53.11	51.38	49.19	44.99	42	39.21	49.52	33.83
8-hr	CO	500	10	7.83	7.61	7.3	7.3	5.35	5.58	2.98
Annual	PM _{2.5}	0.13	0.0004	0.003	0.002	0.002	0.001	0.001	0.0011	0.0004
FULL NAAQS MODELING (INCREASE ABOVE BACKGROUND*)										
Avg Period	Pollutant	NAAQS (µg/m ³)	1 mile	1.5 mile	2 mile	2.5 mile	3 mile	3.5 mile	H1	H2
24-hr	PM ₁₀	150	0.51	0.39	0.28	0.22	0.2	0.17	0.25	0.09
24-hr	PM _{2.5}	35	0.34	0.27	0.18	0.15	0.12	0.1	0.14	0.05
1-hr	NO ₂	188	11.97	8.93	6.03	5.06	4.7	4.52	7.15	4.2
Annual	NO ₂	100	0.16	0.13	0.08	0.06	0.05	0.04	0.04	0.01
HEALTH EFFECTS MODELING										
Avg Period	Pollutant	ESL (µg/m ³)	1 mile	1.5 mile	2 mile	2.5 mile	3 mile	3.5 mile	H1	H2
1-hr	NH ₃	180	28.43	28.43	26.57	24.36	22.29	20.47	13.8	11.42
Annual	NH ₃	92	0.2	0.14	0.09	0.07	0.06	0.05	0.05	0.02

Notes:

H1 and H2 in each table represent the concentrations at the closest modeled receptors to 108 1st Ave and 227 N 30th St, respectively.

Distance values are as measured from the approximate geometric centroid of the BNA project area.

*Background concentrations of PM₁₀, PM_{2.5}, NO₂, and NO₂ for the area of interest are 122, 20, 47, and 9 µg/m³.

CONCLUSIONS

As noted in Exhibit 4, all modeled air concentrations of BNA's emissions in off-property areas are well below health-based regulatory threshold values, which suggest adverse health or welfare impacts are improbable. Based on my thorough review of the modeled air concentrations and the health effects evaluation required as part of TCEQ's air permitting program, it is my opinion that people residing in or working in areas off-property from the BNA facility, including those whose addresses were identified in the **hearing request letter**, would not experience discernible health or welfare impacts from BNA's emissions.

My name is Kirby Tyndall, my date of birth is September 10, 1964, and my address is 388 River Chase Boulevard, Georgetown, Texas, 78628, and the United States of America. I declare under penalty of perjury that the foregoing is true and correct.

Further affiant sayeth not.

Kirby Tyndall

Kirby Tyndall, Ph.D., DABT

Subscribed and sworn to before me, the undersigned authority, on this the 28th day of July, 2025.

Sarah Hansen

Notary Public in and for the State of Texas

