

**TCEQ AIR QUALITY PERMIT NUMBERS 914 AND PSDTX1642
TCEQ DOCKET NUMBER 2025-0889-AIR**

APPLICATION BY	§	BEFORE THE TEXAS
THE DOW CHEMICAL COMPANY	§	COMMISSION ON
ORANGE, TEXAS	§	ENVIRONMENTAL QUALITY
ORANGE COUNTY	§	

**EXECUTIVE DIRECTOR'S RESPONSE TO THE OFFICE OF PUBLIC INTEREST
COUNSEL'S REQUEST TO REMAND**

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, CHAIRWOMAN PAUP, COMMISSIONER JANECKA, AND COMMISSIONER GONZALES COMES NOW the Executive Director of the Texas Commission on Environmental Quality (TCEQ or commission) and files this Response to the Office of Public Interest Counsel's (OPIC) Request to Remand the above-captioned matter.

As stated in the Office of Public Interest Counsel's (OPIC) Request to Remand, this matter is scheduled to be considered by the commission at the July 23, 2025, Agenda. There was a single timely filed hearing request on this permit application. Terry Stelly, President of Southwest Texas Clean Air and Water, Inc. (CAW), filed a letter that requested a "public hearing" on the permit application. Because the letter plainly requested a hearing, it was classified as a contested case hearing request by the Office of the Chief Clerk, as could clearly be seen by anyone on the online Commissioners' Integrated Database (CID), where all correspondence submitted on permit applications is available. This hearing request was dated August 27, 2024.

On June 18, 2025, this application, including Mr. Stelly's hearing request, was set for commission consideration on the July 23, 2025, Agenda; and everyone on the mailing list, including Mr. Stelly, was notified of the agenda setting. On June 30, 2025, both OPIC and the Executive Director filed Responses to Mr. Stelly's Hearing Request. Both responses recommend that Mr. Stelly's hearing request be denied. Shortly after these Responses were filed, nearly a year after his original letter was submitted, Mr. Stelly contacted agency staff to express that he intended to request a public meeting, not a contested case hearing. Mr. Stelly then submitted a letter on July 10, 2025 (dated

July 6, 2025), contending that his request was for a public meeting, not a contested case hearing. This letter, however, does not request a withdrawal of the original letter. Instead, the letter asserts that CAW still supports a public meeting.

In Mr. Stelly's July 10, 2025, letter, he accepts full responsibility for causing confusion. There were two public notices published for this permit application, and both clearly stated that a member of the public could request a public meeting or a contested case hearing. It is the long-standing practice of the commission to consider any request for a "hearing" that is timely received during the public comment period to be a request for a contested case hearing and to treat them as such. This can be especially important for certain types of air quality permit applications, where a timely request for a contested case hearing determines whether such opportunity continues to exist throughout the rest of the comment period. Mr. Stelly's year-late "clarification" does nothing to change the language in his original hearing request. It does not withdraw that request, as OPIC seems to suggest. Nor does it turn it into a request for a public meeting. The most it can do is serve as a very late-filed public meeting request. To find otherwise would contravene agency practice and invite arguments that could create an undue burden. Namely, the Executive Director should reopen the public comment period and provide an additional opportunity to request a contested case hearing not just for Mr. Stelly but for any member of the public who previously failed to do so. All interested parties have already been provided with full opportunity for notice and comment, and only one person--Mr. Stelly--submitted comments and requested a public hearing. Mr. Stelly's request has been properly evaluated by the Executive Director, in a manner consistent with long-standing commission practice.

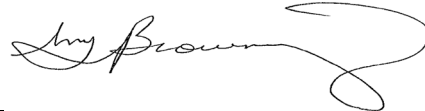
Accordingly, the Executive Director requests that the commission deny OPIC's request for remand and consider this matter at its July 23, 2025, Agenda as scheduled.

Respectfully submitted,

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine K. Backens, Deputy Director
Environmental Law Division

A handwritten signature in black ink, appearing to read "Amy Browning", with a long, sweeping horizontal line extending to the right.

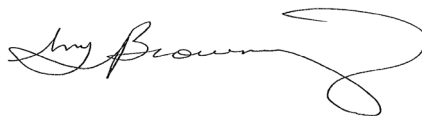
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REPRESENTING THE
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TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 17th day of July 2025, a true and correct copy of the “Executive Director’s Response to the Office of Public Interest Counsel’s Request to Remand” for Air Quality Permit Nos. 914 and PSDTX1642 was served on all persons on the service list by the undersigned via electronic filing, electronic mail, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.

A handwritten signature in black ink, appearing to read "Amy Browning", with a large, stylized flourish at the end.

Amy Browning, Senior Attorney
Environmental Law Division

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