

Formulating Responses to Hearing Requests Issued by Texas Commission on Environmental Quality (TCEQ), the Applicant (Vulcan vial Winstead Attorneys in Austin), and Office of Public Interest Council (OPIC)

Important Dates and Activities You Need to Engage In

December 3rd @ 5 p.m. The final filing date for all those persons who were NOT recommended for ‘Affected Party’ (AP) status by TCEQ, the Applicant and/or OPIC (hereby named ‘the parties’). In filing your ‘reply brief’ you are afforded to opportunity to reply to any arguments filed by the parties.

Who should file a ‘reply brief’?

Any hearing requestor* who was not recommended for ‘AP status. (*NOTE: You may only file a ‘reply brief’ if you initially filed a CCH/AP request on or before 10/15/18. If you did not file a claim at that time, then you cannot file a CCH/AP request now. If you do not recall whether you filed a claim or not, review this [TCEQ document](#) for your name. If you name is NOT in the TCEQ document, then you CANNOT file a CCH/AP request now)

How do I know if I was or was NOT recommended for ‘AP’ status?

Review pages 4 and 5. If your name appears on one, two or all the parties’ list, then you are recommended by that party to be an ‘AP’

What if my name is only on one or two but not all three lists?

You are encouraged to file a ‘reply brief’ to the parties who did not recommend you for ‘AP’ status.

What are the reason(s) why someone would be recommended vs not recommended for ‘AP’ status by a party?

The primary reason portrayed by all parties is the application of “arbitrary” radius limits of the person’s homestead to the crusher which is the only permitted facility. There is no law, code or scientific data for such decisions, but rather they are a “matter of custom”. Each parties’ arbitrary radius’ selected are:

- TCEQ – arbitrary 1-mile radius
- The Applicant – arbitrary 1-mile radius
- OPIC – arbitrary 2 – mile radius

Other reasons may be cited by each party. The TCEQ document is the most comprehensive as to other issues considered. It is recommended that you review the issues shown under your name so that you may file a more comprehensive ‘reply brief’. Get TCEQ document [here](#).

If my homestead/business is outside the arbitrary radius limit, what do I do? Say?

If you were not recommended for “AP” status due to your location exceeding the arbitrary radius limitations, focus on qualifying that your distance SHOULD NOT be a preemptive strike!

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We have prepared a ‘template’ for all hearing requestors to follow, with the first issue to address being ‘proximity’ to the crusher. Follow the instructions on the template and use our recommended language to assist you in making your claim as to ‘why’ you should be recommended for ‘AP’ status.

A single template which is personalized can be used for your ‘reply brief’ to all the parties.

Also focus on ‘bolstering’ your original issues* with detailed personal data, scientific articles, legal data, enhanced personal health history which will be affected by fugitive dust containing crystalline silica at or below PM 2.5. If you don’t know what ‘issues’ were recognized by the TCEQ, look at this [document](#). Find your name and under your name, the ‘issues’ recognized will be listed. (*NOTE: You cannot raise new issues to bolster you claim. If you do so, TCEQ will not acknowledge them.)

What do I do if my name is listed on at least one of the parties’ lists as being recommended for ‘AP’ status?

- If you were recommended for ‘AP’ status by all three parties, you do not need to file a reply brief.
- If you were recommended for ‘AP’ status by only one and/or two of the three parties, you are encouraged to file an ‘reply brief’ with the parties who did not recommend you for ‘AP’ status.

How do I file by reply brief? Are there other things I must do to guarantee my ‘reply brief’ is accepted?

The deadline for filing is 12/3/18 @ 5 p.m. That means anything mailed must be ‘date stamped’ as received on this date. A postmark date of 12/3/18 will not be accepted. Plan on mailing anything no later than Thursday, 11/29/18.

- Recommend you file online at: <http://www14.tceq.texas.gov/epic/eFiling/>
 - You must upload a document. There is no opportunity to input comments.
 - Any document over 20 pages must also be mailed with the original and 7 copies to:
 - Bridget C. Bohac Texas Commission on Environmental Quality Office of Chief Clerk, MC-105 P.O. Box 13087 Austin, Texas 78711-3087 (remember the 12/3/18 deadline)
 - You must also email your ‘reply to comments’ to the following people. This is required by statute. **DO NOT SKIP THIS STEP**
 - FOR THE EXECUTIVE DIRECTOR:
 - Colleen.Ford@tceq.texas.gov
 - Katie.Moore@Tceq.Texas.Gov

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- Nicolas.Parke@tceq.texas.gov
- Joel.Stanford@tceq.texas.gov
- PUBCOMMENT-SBEA@tceq.texas.gov
- FOR THE PUBLIC INTEREST COUNSEL:
 - Vic.Mcwherter@tceq.texas.gov
- FOR ALTERNATIVE DISPUTE RESOLUTION:
 - Kyle.Lucas@tceq.texas.gov
- You do not need to send an email to Bridget C. Bohac. That requirement is met by e Filing at the link above.
- FOR THE APPLICANT:
 - kcourtney@winstead.com
 - saucedoe@vmcmail.com
 - DMATHEWS@westwardenv.com
 - KSIPE@westwardenv.com
- FOR THE COMMENTERS:
 - Stop3009vulcanquarry@gmail.com

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Affected Parties Recommended by TCEQ, the Applicant, and/or OPIC (Each party's responses is linked to the document)		
<u>OPIC</u>	<u>TCEQ ED</u>	<u>Applicant</u>
NOTE: arbitrary 2-mile radius	NOTE: arbitrary 1-mile radius	NOTE: arbitrary 1-mile radius
Comal County	Friends of Dry Comal Creek	Friends of Dry Comal Creek
City of Bulverde	Stop 3009 Vulcan Quarry	Stop 3009 Vulcan Quarry
Friends of Dry Comal Creek	R. Cox	Heritage Oaks Association
Stop 3009 Vulcan Quarry	M. & P. Guckian	M. & P. Guckian
Heritage Oaks Association	R. Hartman	K. & D. Higby
K. Banse	K. & D. Higby	C. Johnson
D. Bell	L. James	P. Seay
M. Bell	C. Johnson	D. Seay
R & E Bigbee	P. Seay	R. Wilson
T. Brand	R. Wilson	
B. W. Burton		
W. Cobb		
H. Coley		
B. Cox		
D.Dell		
K. & M. Drake		
R. Ecks		
L. Everingham		
D. Farrar		
D. Foster		
C. & S. Gerdes		
E. & D. Grun		
M. & P. Guckian		
A. & K. Hammack		
D. Harrison		
R. Hartman		
C. Herb		
K. & D. Higby		
C. Hopmann		
L. James		
C. Johnson		
M. & P. Laster		
E. & T. Martin		
E. McClellan		

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Affected Parties Recommended by TCEQ, the Applicant, and/or OPIC (Each party's responses is linked to the document)		
TCEQ ED	Applicant	Applicant
NOTE: arbitrary 1-mile radius	NOTE: arbitrary 1-mile radius	NOTE: arbitrary 1-mile radius
K. Olson		
N. Olson		
K. & K. Olson		
T. Olson		
M. Olson		
P. Olson		
L. Quisenberry		
J. Saul		
G. Snider		
S. Walker		
R. Wilson		
D. & M.J. Zimmerman		
D.W. & S.D. Zimmerman		
S.W. & S. Zimmerman		

If your name does not appear on any of these lists, then you either were NOT RECOMMENDED as an Affected Person or you did not file your CCH/AP request by 10/15/18.

- To determine if you were NOT RECOMMENDED for AP status due to distance or some other limitation, check this TCEQ [document](#).
- If you do not recall whether you filed a timely CCH/AP request, check this TCEQ [document](#). If your name does NOT appear, then you cannot file a CCH/AP request at this time.