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August 12, 2021

Ms. Laurie Gharis
Chief Clerk, MC-105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Via Electronic Filing

Re: Contested Case Hearing Request on TPC Group, LLC’s Applications to Amend Air Quality Permit Nos. 19806, 22052, 46307, and 46426 Authorizing the Construction of New and Modified Facilities and Increases to Emission Limits for Certain Facilities at TPC’s Houston Plant

Dear Ms. Gharis,

Sierra Club requests a contested case hearing on TPC Group, LLC’s (“TPC”) applications to amend air quality permit numbers 19806, 22052, 46307, and 46426. Please direct all communications regarding this hearing request to Gabriel Clark-Leach, Senior Attorney at Environmental Integrity Project.

Sierra Club, along with the Environmental Integrity Project, Air Alliance Houston, Texas Campaign for the Environment, and Environment Texas (“Commenters”), has filed two sets of comments in this matter; first on November 27, 2020 and then again on June 14, 2021. The allegations and evidence included in these two filings, as well as in comments filed by Air Alliance Houston on August 12, 2021 and Harris County Pollution Control Services on June 14, 2021 are hereby incorporated by reference into this contested case hearing request.

This Matter is Germane to Sierra Club’s Organizational Purpose

Sierra Club is the nation’s oldest conservation organization with thousands of Texas members dedicated to exploring, enjoying, and protecting the state’s natural resources and wild places. Sierra Club is a non-profit corporation formed under California law with offices and programs in Texas. Sierra Club promotes the responsible use of the Earth’s ecosystem and resources, and works to restore the quality of the natural and human environment. In addition to organizing nature outings and public education campaigns, Sierra Club and its Texas members pursue advocacy and litigation on issues including clean air and clean water, solid waste reduction,

and sustainable energy and land use policies. Sierra Club members live and work near TPC's Houston Plant and are harmed by air pollution from the plant.

Sierra Club Members are Affected Persons

Bryan Parras is a Sierra Club member and employee who is an affected person with standing to request a contested case hearing on TPC's air permit applications. Mr. Parras is 43 years old and has dealt with air pollution from TPC's Houston Plant his entire life. Mr. Parras currently resides less than 2.5 southwest from TPC's Houston Plant and his childhood home, where his parents still live, is only a short distance away from his current home. Mr. Parras has long suffered from asthma and skin conditions that are triggered and exacerbated by exposure to air pollution. As a teenager, Mr. Parras experienced constant acute health problems, like headaches, nausea, and irritability, that made it difficult to feel comfortable in his own body. These experiences were particularly upsetting, because Mr. Parras was unable to figure out what was causing them and so he could not modify his behavior to protect himself. This feeling of helplessness was intensified by worry that the unseen cause of his health problems would lead to even more serious consequences down the road. Mr. Parras' anxiety as a teenager was well justified. His symptoms, and other similar symptoms commonly experienced by his friends and loved-ones, are associated with exposure to air pollution emitted by large industrial sources, like TPC's Houston Plant.

Mr. Parras began actively tracking air pollution from TPC's Houston Plant and other sources located near his home more than two decades ago after he became aware that pollution was responsible for many of his ongoing health problems. Over the years, he has identified TPC's Houston Plant one of the worst environmental offenders in the area where he lives. This conclusion is confirmed by the many different enforcement actions undertaken by the TCEQ against TPC, the many emission events reported by TPC, and TPC's repeated failures to comply with pollution control requirements in its permits. Mr. Parras's conclusion is also supported by the 2019 explosion at TPC's Port Neches plant. That disaster, like the proposed expansion project at TPC's Houston Plant, involved butadiene production processes, and required the evacuation of people living within a four-mile radius of the plant.

Aside from reliable common sense, Mr. Parras knows that he is exposed to air pollution from TPC's Houston Plant because he is familiar with the gasoline-like odor of 1,3-Butadiene, one of the primary chemicals produced at the plant, and has encountered the odor of 1,3-Butadiene after reported upsets at the Houston Plant involving releases of this chemical. On occasion after encountering such odors near his home, he has noticed that they grow stronger as he travels towards TPC's Houston Plant. Mr. Parras also suffers from asthma and skin irritation that are made worse by exposure to air pollution, and he has noticed at times that these conditions are particularly bad during and shortly after reported upset events at TPC's Houston Plant. Mr. Parras has also tracked smoke plumes from TPC's flares to his neighborhood on multiple occasions. Mr. Parras has also noticed oily residue on his car on mornings and believes that it is the result of

pollution from TPC's Houston Plant and other nearby sources emitted during the night settling as temperatures cool.

These experiences have had a profound and negative effect on Mr. Parras. For example, Mr. Parras avoids spending time outdoors and exercises less than he would like to, because he is worried that exposure to air pollution will cause an asthma attack and do more harm than the exercise does good. Mr. Parras's awareness of his constant exposure to air pollution and the potentially dire consequences of this exposure is a source of constant stress. This stress is made worse by the fact that chemical plants and refineries in Texas, like TPC's Houston Plant, often explode. *See, e.g., Editorial: Who's Counting All Texas' Explosions? Not the Chemical Safety Board*, The Editorial Board, Houston Chronicle (July 25, 2021) (recounting that a chemical fire or explosion occurs in the Houston area every six week on average).¹ While these kinds of physical and psychic harms are common in the area where Mr. Parras lives, they are not shared by the general population. These harms are the discrete and particularized consequences of decades of under-regulation by the state of Texas and the development of poorly-maintained and under-controlled sources of many of the most dangerous kinds of industrial air pollution in and near neighborhoods like the one where Mr. Parras lives.

Accordingly, Mr. Parras opposes the TCEQ's proposal to authorize new construction and increased emissions from TPC's Houston Plant. He is an affected person with a concrete and particularized stake in the outcome of this matter. Texas and federal law prohibit construction of a major modification to an existing stationary source, unless and until the applicant demonstrates that the modification will be properly controlled and safe. As Commenters have explained, TPC failed to make this demonstration. Accordingly, Mr. Parras has standing to challenge the Executive Director's proposal to authorize TPC's expansion project and other related changes to TPC's air permits in a contested case hearing.

Contested Issues of Fact and Law

- Whether TPC made all demonstrations required by 30 Tex. Admin. Code § 116.111(a)(2);
- Whether proposed emissions increases will threaten the health and safety of nearby residents and children who attend nearby schools, including Cesar Chavez High School and Rucker Elementary School. 30 Tex. Admin. Code. § 116.111(a)(2)(A)(i);
- Whether proposed emissions increases will cause nuisance conditions. 30 Tex. Admin. Code § 101.4;
- Whether the Draft Permit terms are adequate to protect the public from cumulative risks. Tex. Water Code § 5.130;

¹ Available electronically at: <https://www.houstonchronicle.com/opinion/editorials/article/Editorial-Who-s-counting-all-Texas-16337288.php>

- Whether TPC complied with public notice requirements established by 30 Texas Administrative Code Chapters 39 and 55. 30 Tex. Admin. Code § 116.111(b);
- Whether TPC’s applications consider alternative sites, sizes, production processes, and control techniques for the proposed projects subject to Nonattainment New Source Review and demonstrate that the benefits of those proposed projects significantly outweigh the environmental and social costs imposed as a result of their location, construction, and modification. 42 U.S.C. § 7503(a)(5); 30 Tex. Admin. Code §§ 116.111(a)(2)(H), 116.150(d)(4);
- Whether the construction of new and modified facilities TPC proposes constitute a major modification triggering Nonattainment New Source Review preconstruction permitting requirements for NOx, and if so, whether TPC has demonstrated compliance with those requirements. 30 Tex. Admin. Code §§ 116.111(a)(2)(H), 116.150;
- Whether NOx reductions resulting from the proposed shutdown of Boiler 9 are creditable for purposes of avoiding Nonattainment New Source Review preconstruction permitting requirements for construction of new and modified facilities proposed by TPC’s applications, and whether TPC’s representations regarding the extent of those reductions are accurate. 30 Tex. Admin. Code §§ 116.12(22), 116.111(a)(2)(H), 116.150(c), (d);
- Whether TPC has demonstrated that its proposed construction of a major modification to its Houston Plant complies with applicable Nonattainment New Source Review preconstruction permitting requirements for VOC, including but not limited to Lowest Achievable Emission Rate (“LAER”) control requirements. 30 Tex. Admin. Code §§ 116.111(a)(2)(H), 116.150;
- Whether all major stationary sources owned or operated by TPC (or by any person controlling, controlled by, or under common control with the applicant) are in compliance or on a schedule for compliance with all applicable state and federal emission limitations and standards. 30 Tex. Admin. Code §§ 116.111(a)(2)(H), 116.150(d)(2);
- Whether TPC has demonstrated that proposed new and modified facilities will operate as represented, whether emission factors and calculation methods TPC used to determine project emissions are sufficiently justified, and whether the draft permits in this matter contain monitoring, testing, and/or recordkeeping requirements sufficient to assure compliance with applicable emission limits and operating requirements. 30 Tex. Admin. Code §§ 116.111(a)(2)(B), (G), (H), (I), 116.150, 116.160;
- Whether TPC has demonstrated that new and modified facilities, as well as changes in representations proposed by TPC’s applications comply with applicable Prevention of Significant Deterioration requirements, including but not limited to Best Available Control Technology (“BACT”) requirements, impacts analysis requirements, alternatives analysis

requirements, and public notice and participation requirements. 30 Tex. Admin. Code §§ 116.111(a)(2)(C), (I), (b), 116.160(c), (d);

- Whether proposed emissions increases that are not subject to Prevention of Significant Deterioration or Nonattainment New Source Review comply with applicable minor New Source Review requirements. 30 Tex. Admin. Code § 116.111(a)(2);
- Whether TPC has properly identified and demonstrated compliance with applicable New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; 30 Tex. Admin. Code § 116.11(a)(2)(D), (E), (F);
- Whether enforceable representations in TPC’s permit amendment applications that specify applicable emission limits, operating limits, work practice standards, or other types of “emission data,” as defined by 40 C.F.R. § 2.31(a)(2), have been improperly designated confidential. 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(f).

Conclusion

Environmental Integrity Project and Sierra Club appreciate the opportunity to file this contested case hearing request and reserve the right to provide additional information on the matters discussed in this document as allowed by the Clean Air Act, the Texas Clean Air Act, and regulations implementing these statutes.

Sincerely,

/s/ Gabriel Clark-Leach

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