

CAUSE NO. \_\_\_\_\_

ENVIRONMENTAL INTEGRITY	§	
PROJECT, SIERRA CLUB, AIR	§	IN THE DISTRICT COURT OF
ALLIANCE HOUSTON, AND	§	
TEXAS CAMPAIGN FOR THE	§	
ENVIRONMENT	§	
	§	
PLAINTIFFS	§	
	§	
	§	TRAVIS COUNTY, TEXAS
VS.	§	
	§	
	§	
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY	§	
	§	
DEFENDANT.	§	_____ JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Environmental Integrity Project, Sierra Club, Air Alliance Houston, and Texas Campaign for the Environment (“Plaintiffs”), and file this Original Petition against the Texas Commission on Environmental Quality (“TCEQ” or “Commission”), and for cause of action would respectfully show the Court as follows:

I. SUMMARY OF THE CASE

1. Major sources of air pollution must obtain a “Title V” permit (named for Title V of the federal Clean Air Act) in order to operate. Title V permits improve compliance with the Clean Air Act’s health and welfare-based pollution control requirements by (1) compiling all emission limits established by various federal regulations, federally-approved state regulations, and preconstruction permits that apply to a major source into a single document and (2) establishing monitoring, recordkeeping, and reporting requirements that assure compliance with these air pollution limits.

2. With the U.S. Environmental Protection Agency's approval, the Texas Commission on Environmental Quality issues Title V permits in Texas. The TCEQ has a non-discretionary duty to approve or deny each complete permit application for a new or renewed Title V permit within 18 months.

3. The TCEQ missed its 18-month deadline to take final action on the following pending applications for new or renewed Title V permits:

- Permit No. O26, for Southwestern Electric Power Company's ("SWEPCO") Welsh Power Plant;
- Permit No. O1541, for BP Products North America Inc.'s ("BP") Texas City Refinery;
- Permit No. O1386, for Motiva Enterprises LLC's ("Motiva") Port Arthur Refinery;
- Permit No. O1229, for ExxonMobil Corporation's Baytown Refinery;
- Permit No. O1445, for Flint Hills Resources Corpus Christi, LLC's ("Flint Hills") Corpus Christi East Refinery;
- Permit No. O1513, for BP Amoco Chemical Company ("BP") Texas City Chemical Plant;
- Permit No. O2942, for Oak Grove Management Company's ("Oak Grove") Oak Grove Steam Electric Station; and
- Permit No. O3336, for Sandy Creek Services LLC's ("Sandy Creek") Sandy Creek Energy Station.

4. Affected persons may seek federal administrative review and state court judicial review of the TCEQ's Title V permitting decisions. Thus, the TCEQ's failure to timely act on Title V applications deprives members of the public of the protection that these permits provide and interferes with their right to challenge deficient permits. Texas law establishes a cause of action to compel TCEQ's expeditious action on Title V applications.

5. The Environmental Integrity Project, Sierra Club, Air Alliance Houston, and Texas Campaign for the Environment seek an order establishing a schedule for the TCEQ to take final action on the above-listed Title V permit applications without additional delay.

## II. DISCOVERY

6. To the extent that discovery is necessary, it should be controlled by Discovery Control Plan, Level 2. TEX. R. CIV. PROC. § 190.3.

## III. JURISDICTION AND VENUE

7. Jurisdiction of this action lies with this court pursuant to Texas Health and Safety Code §§ 382.032, 382.0542, and Texas Water Code § 5.352.

8. Venue is proper in this court under Texas Health and Safety Code § 382.032 and Texas Water Code § 5.354.

## IV. PARTIES

9. Plaintiff Environmental Integrity Project (“EIP”) is a nonprofit organization dedicated to improving the enforcement of anti-pollution laws, including the Clean Air Act. EIP has offices at 707 Rio Grande, Suite 200, Austin, Texas, 78701. EIP regularly participates in administrative proceedings for Title V permits before the TCEQ and EPA on its own behalf and on behalf of other Texas public interest organizations. EIP timely filed public comments on each of the renewal applications identified in this Petition. EIP seeks to file comments on the initial applications identified in this Petition, but has been unable to do so because the applications have not been processed.

10. Plaintiff Sierra Club is a nonprofit corporation with members in Texas. Sierra Club’s national headquarters are located at 85 Second Street, 2<sup>nd</sup> Floor, San Francisco, California, 94105. Sierra Club’s Lone Star Chapter office is located at 1202 San Antonio Street,

Austin, Texas, 78701. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth, to practice and promote the responsible use of the Earth's resources and ecosystems; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out those objectives.

11. Sierra Club and its members are concerned that Texas Title V permits fail to assure compliance with pollution control requirements necessary to protect public health and environmental quality. The Sierra Club has worked for many years to improve Texas's implementation of Title V permitting requirements by filing public comments on draft permits and petitioning EPA to object to final permits issued by the TCEQ. Sierra Club filed public comments on the draft renewal Title V permits for ExxonMobil's Baytown Refinery, BP's Texas City Refinery, and BP Amoco's Texas City Chemical Plant.

12. Plaintiff Air Alliance Houston is a nonprofit corporation organized and existing under the laws of the State of Texas, located in Houston, Texas. Its offices are located at 3914 Leeland Street, Houston, Texas, 77003. Air Alliance Houston works to reduce air pollution on behalf of the communities it serves and to protect public health and environmental integrity through research, education, and advocacy. Air Alliance Houston regularly files public comments on draft permits and petitions EPA to object to deficient Title V permits issued by the TCEQ. Air Alliance Houston filed public comments on the draft renewal Title V permits for ExxonMobil's Baytown Refinery, BP's Texas City Refinery, and BP Amoco's Texas City Chemical Plant.

13. Plaintiff Texas Campaign for the Environment is a nonprofit membership organization with members in Texas, and is dedicated to informing and mobilizing Texans to protect their health, their community, and the environment. Texas Campaign for the

Environment works to promote the strict enforcement of anti-pollution laws designed to stop or clean up pollution. Texas Campaign for the Environment has offices in Austin (105 W. Riverside Drive, Suite 120, Austin, Texas, 78704), Dallas (3303 Lee Parkway, Suite 402, Dallas, Texas, 75219), and Houston (3100 Richmond Avenue, Suite 290, Houston, Texas, 77098).

14. Plaintiffs' members and employees include affected persons who live, work, and recreate nearby and/or downwind of each of the above-listed major sources and are exposed to air pollution that these sources emit.

15. Plaintiff organizations, including their members and employees affected by pollution emitted from these major sources, seek to ensure that the sources are subject to Title V permits that assure compliance with public health and welfare-based pollution control requirements. In addition, Plaintiffs seek to exercise their rights, under Texas and federal law, to participate in the Title V permitting process by commenting on and challenging permits that fail to assure compliance with these requirements.

16. The TCEQ's failure to timely act on Title V applications for the above-listed major sources has deprived and continues to deprive Plaintiffs, their employees, and their members of procedural and substantive rights under the federal Clean Air Act and the Texas Health and Safety Code.

17. Defendant Texas Commission on Environmental Quality is the agency responsible for issuing Title V permits in Texas. Service of process may be had on the TCEQ by serving Richard A. Hyde, Executive Director of the TCEQ, at 12100 Park 35 Circle, Building F, Austin, Travis County, Texas.

## V. LEGAL BACKGROUND

### The Clean Air Act's Title V Federal Operating Permit Program

18. The Clean Air Act's Title V permit program prohibits the operation of any major source of pollution, except in compliance with the terms of a Title V permit. Title V permits list

and assure compliance with all pollution control requirements that apply to the source. 42 U.S.C. §§ 7661a(a) and 7661c(c).

19. However, “if an applicant has submitted a timely and complete application for a permit . . . but final action has not been taken on such application, the source’s failure to have a permit shall not be a violation[.]” 42 U.S.C. § 7661b(d).

20. With EPA’s approval, states may implement their own programs to issue and enforce Title V permits. 42 U.S.C. § 7661a(d)(1); 40 C.F.R., Part 70. State programs must contain procedures “for expeditiously determining when applications are complete, for processing such applications, for public notice, including an opportunity for public comment and a hearing, and for expeditious review of permit actions, . . . and including an opportunity for judicial review in State court of the final permit action by . . . any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.” 42 U.S.C. § 7661a(b)(6).

21. Members of the public may also petition the EPA Administrator to object to deficient Title V permits issued by state agencies. 42 U.S.C. § 7661d(b)(2). The Administrator must issue an objection in response to a public petition “if the petitioner demonstrates . . . that the permit is not in compliance with the requirements of [the Clean Air Act].” *Id.* The Administrator must grant or deny public petitions within 60 days. *Id.*

22. Upon receipt of an objection by the EPA Administrator, a state permitting authority must revise the permit to meet the objection. 42 U.S.C. § 7661d(b)(3).

#### Texas’s EPA-Approved Title V Federal Operating Permit Program

23. With EPA’s permission, the TCEQ issues Title V permits for major sources in Texas, pursuant to Texas Health and Safety Code §§ 382.054-382.0543, 382.056-382.0654, and

the TCEQ's regulations at 30 Texas Administrative Code, Chapter 122. *Clean Air Act Full Approval of Operating Permits Program; State of Texas*, 66 FED. REG. 63,318 (December 6, 2001); *Public Citizen v. EPA*, 343 F.3d 449 (5th Cir. 2003) (upholding EPA's approval of Texas's federal operating permit program).

24. The TCEQ's Executive Director must take final action on an application for a new or renewed Title V permit no later than 18 months after the date on which he receives a complete application.<sup>1</sup> TEX. HEALTH & SAFETY CODE § 382.0542(b)(1); 30 TEX. ADMIN. CODE § 122.139(3).

25. A Title V permit application is deemed complete by operation of law on the 61<sup>st</sup> day after receipt by the Executive Director, unless the Executive Director has requested additional information or otherwise notified the applicant of incompleteness. TEX. HEALTH & SAFETY CODE § 382.0543(c); 30 TEX. ADMIN. CODE § 122.134(a).

26. After conducting his technical review of an application for a new or renewed Title V permit, the Executive Director must issue a draft permit and preliminary decision, notice of which must be published by the applicant in a newspaper of general circulation. 30 TEX. ADMIN. CODE § 122.320(b).

27. Upon publication of this notice, members of the public may submit public comments or request a public hearing on the draft permit for 30 days. 30 TEX. ADMIN. CODE § 122.320(i) and (j).

28. After considering comments received during the public comment period, the Executive Director must send notice of his proposed final action on the application to any person who commented on it. 30 TEX. ADMIN. CODE § 122.345(a). This notice must include the

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<sup>1</sup> The TCEQ has delegated responsibility for issuing Title V permits to its Executive Director. 30 TEX. ADMIN. CODE § 122.110.

Executive Director's response to public comments, identification of any change in the conditions of the draft permit and the reasons for the change, a description and explanation of the process for public petitions to the EPA, the date by which such petitions must be filed, and a statement that any person affected by the decision of the Executive Director may petition the EPA Administrator to object to the permit. 30 TEX. ADMIN. CODE § 122.345(b).

29. If the Executive Director fails to timely take final action on an application for a new or renewed Title V permit, a person affected by that failure may obtain judicial review at any time before final action is taken. TEX. HEALTH & SAFETY CODE § 382.0542(c); *see also* TEX. WATER CODE § 5.352. If the Executive Director's failure to act is arbitrary or unreasonable, a reviewing court may order the Executive Director to act on the application without additional delay. TEX. HEALTH & SAFETY CODE § 382.0542(c); *see also* TEX. WATER CODE § 5.352.

## VI. FACTUAL BACKGROUND

### Permit No. O26: Expired in 2009

30. American Electric Power and Southwestern Electric Power Company's ("SWEPCO") Welsh Power Plant is a large coal-fired electric power plant located in Titus County, Texas. At all times relevant to this suit, the Welsh power plant has been a major source subject to Title V permit program requirements.

31. The TCEQ initially issued Title V Permit No. O26 to SWEPCO, authorizing operation of the power plant on April 9, 1999. This permit was last renewed on October 11, 2004 and expired on October 11, 2009.

32. The Executive Director received SWEPCO's Title V permit renewal application on March 3, 2009. This application became administratively complete by operation of law 61



days later, no later than May 3, 2009. Accordingly, the Executive Director was required to take final action on the renewal application by November 3, 2010, 18 months after the application became administratively complete.

33. The Executive Director placed SWEPCO's application on a management delay for more than three years, from June 1, 2009 to November 6, 2012. The Executive Director conducted his technical review of the renewal application from November 7, 2012 to March 4, 2014.

34. Approximately a year and a half after the Executive Director ended the management delay, and nearly five years from the date that SWEPCO filed its renewal application, the Executive Director made a preliminary decision to approve the application and issued a draft permit. The public comment period for this draft permit ended on May 5, 2014.

35. On May 5, 2014, EIP timely submitted comments identifying deficiencies in the draft permit that the Executive Director must correct to assure compliance with applicable health and welfare -based requirements.

36. SWEPCO's application was placed on management delay again on May 5, 2014, the date EIP filed its public comments.

37. As of the date that this Petition was filed, the Executive Director has not responded to EIP's public comments and has not taken final action to approve or disapprove the application.

Permit No. O1541: Expired in 2009

38. BP's Texas City Refinery is a major source of air pollution located in Galveston County, Texas. At all times relevant to this suit, the Texas City Refinery has been a major source subject Title V permit program requirements.

39. The TCEQ initially issued Title V Permit No. O1541 to BP, authorizing operation of the Texas City Refinery on December 7, 2004. This permit expired on December 7, 2009.

40. The Executive Director received BP's Title V permit renewal application on March 3, 2009. This application became administratively complete by operation of law 61 days later, no later than May 3, 2009. Accordingly, the Executive Director was required to take final action on the renewal application by November 3, 2010, 18 months after the application became administratively complete.

41. Six months after the Executive Director received BP's renewal application, he placed it on management delay for nearly two years, from November 12, 2010 to August 20, 2012.

42. Nearly three years after BP filed its renewal application, the Executive Director made a preliminary decision to approve the application and issued a draft permit. The public comment period for this draft permit ended on October 8, 2012.

43. On October 5<sup>th</sup>, 2012 EIP timely submitted comments on behalf of itself, Sierra Club, and Air Alliance Houston identifying deficiencies in the draft permit that the Executive Director must correct to assure compliance with applicable health and welfare-based requirements.

44. The Executive Director completed a draft of his response to public comments and submitted it for internal review on October 17, 2014 and again on October 22, 2014.

45. BP's renewal application was then placed on management delay for a second time on December 10, 2014, and remains on management delay as of the date this Petition was filed.

46. As of the date that this Petition was filed, the Executive Director has not responded to EIP, Sierra Club, and Air Alliance Houston's public comments and has not taken final action to approve or disapprove the application.

Permit No. O1386: Expired in 2009

47. Motiva's Port Arthur Refinery is a major source of air pollution located in Jefferson County, Texas. At all times relevant to this suit, the Port Arthur Refinery has been a major source subject to Title V permit program requirements.

48. The TCEQ initially issued Title V Permit No. O1386 to Motiva, authorizing operation of the Port Arthur Refinery on October 7, 2004. This permit expired on October 7, 2009.

49. The Executive Director received Motiva's renewal application on April 6, 2009. This application became administratively complete by operation of law 61 days later, no later than June 6, 2009. Accordingly, the Executive Director was required to take final action on the renewal application by December 6, 2010, 18 months after the application became administratively complete.

50. Eight months after Motiva submitted its renewal application, the Executive Director placed it on management delay for nearly four years, from December 14, 2009 to October 7, 2013.

51. More than five years after Motiva filed its renewal application, the Executive Director made a preliminary decision to approve the application and issued a draft permit. The public comment period for this draft permit ended on November 4, 2014.

52. On November 4, 2014, EIP timely submitted comments identifying deficiencies in the draft permit that the Executive Director must correct to assure compliance with public health and welfare-based requirements.

53. On the same day that the Executive Director received EIP's comments, he placed Motiva's renewal application on management delay again. Motiva's application remains on management delay as of the date this Petition was filed.

54. As of the date that this Petition was filed, the Executive Director has not responded to EIP's public comments and has not taken final action to approve or disapprove the application.

Permit No. O1229: Expired in 2010

55. ExxonMobil's Baytown Refinery is a major source of air pollution located in Harris County, Texas. At all times relevant to this suit, the Baytown Refinery has been a major source subject to Title V permit program requirements.

56. The TCEQ issued Title V Permit No. O1229 to ExxonMobil authorizing operation of the Baytown Refinery on November 21, 2005. This permit expired on November 11, 2010.

57. The Executive Director received ExxonMobil's renewal application on May 17, 2010. This application became administratively complete by operation of law 61 days later, no later than July 17, 2010. Accordingly, the Executive Director was required to take final action on the renewal application by January 17, 2012, 18 months after the application became administratively complete.

58. More than two years after ExxonMobil filed its renewal application, the Executive Director made a preliminary decision to approve the application and issued a draft permit. The public comment period for this draft period ended on January 28, 2013.

59. On December 18, 2012, EIP submitted by mail comments on behalf of itself, Sierra Club, and Air Alliance Houston identifying deficiencies in the draft permit that the Executive Director must correct to assure compliance with applicable health and welfare-based requirements. Because EIP submitted these comments before the public comment period began, EIP resubmitted them on January 18, 2013.

60. The Executive Director placed ExxonMobil's renewal application on management delay on December 19, 2012, the date he received EIP, Sierra Club, and Air Alliance Houston's comments.

61. The Executive Director completed a draft response to public comments and submitted it for internal review on October 23, 2014.

62. As of the date that this Petition was filed, the Executive Director has not responded to EIP, Sierra Club, and Air Alliance Houston's public comments and has not taken final action to approve or disapprove the application.

Permit No. O1445: Expired in 2012

63. Flint Hills' Corpus Christi East Refinery is a major source of air pollution located in Nueces County, Texas. At all times relevant to this suit, the Corpus Christi East Refinery has been a major source subject to Title V permit program requirements.

64. The TCEQ initially issued Title V Permit No. O1445 to Flint Hills authorizing operation of the East Refinery on January 29, 2007. This permit expired on January 29, 2012.

65. The Executive Director received Flint Hills' renewal application on July 22, 2011. This application became administratively complete by operation of law 61 days later, no later than September 21, 2011. Accordingly, the Executive Director was required to take final action on the renewal application by March 21, 2013, 18 months after the application became administratively complete.

66. Nearly two years after Flint Hills filed its renewal application, the Executive Director made a preliminary decision to approve the application and issued a draft permit. The public comment period for this draft permit ended on June 24, 2013.

67. On June 24, 2013, EIP timely submitted comments identifying deficiencies in the draft permit that the Executive Director must correct to assure compliance with applicable health and welfare-based requirements.

68. On the same day the Executive Director received EIP's comments, he placed Flint Hills' renewal application on management delay.

69. The Executive Director completed a draft response to public comments and submitted it for internal review on January 21, 2015.

70. As of the date this Petition was filed, the Executive Director has not responded to EIP's public comments and has not taken final action to approve or disapprove the application.

Permit No. O1513: Expired in 2014

71. BP's Texas City Chemical Plant is a major source of air pollution located in Galveston County, Texas. At all times relevant to this suit, the Texas City Chemical Plant has been a major source subject to Title V permit program requirements.

72. The TCEQ issued Title V Permit No. O1513 to BP authorizing operation of the Texas City Chemical Plant on January 12, 2004. This permit was renewed on May 18, 2009 and expired on May 18, 2014.

73. The Executive Director received BP's renewal application on November 14, 2013. This application became administratively complete by operation of law 61 days later, no later than January 14, 2014. Accordingly, the Executive Director was required to take final action on the renewal application by July 14, 2015, 18 months after the application became administratively complete.

74. The Executive Director made a preliminary decision to approve the application and issued a draft permit. The public comment period for this draft permit ended on July 14, 2014.

75. On July 14, 2014, EIP timely submitted comments on behalf of itself, Sierra Club, and Air Alliance Houston identifying deficiencies in the draft permit that the Executive Director must correct to assure compliance with applicable health and welfare-based requirements.

76. On the same day the Executive Director received these public comments, he placed BP's renewal application on management delay.

77. As of the date this Petition was filed, the Executive Director has not responded to EIP, Sierra Club, and Air Alliance Houston's public comments and has not taken final action to approve or disapprove the application.

Permit No. O2942: Initial Application Filed in 2007

78. The Oak Grove Steam Electric Station is a major source of pollution located in Robertson County, Texas. At all times relevant to this suit, the Oak Grove Steam Electric Station has been a major source subject to Title V permit program requirements.

79. The Executive Director received Oak Grove's initial Title V permit application on March 23, 2007. This application became administratively complete by operation of law 61 days later, no later than May 23, 2007. Accordingly, the Executive Director was required to take final action on the initial application by November 23, 2008, 18 months after the application became administratively complete.

80. After Oak Grove filed its application, the Executive Director placed it on management delay from October 19, 2007 to May 1, 2009 and again from October 11, 2013 to April 24, 2015.

81. As of the date this Petition was filed, the Executive Director has not made a preliminary decision to approve or disapprove the application.

82. As of the date this Petition was filed, the Executive Director has not taken final action to approve or disapprove Oak Grove's application.

Permit No. O3336: Initial Application Filed in 2009

83. The Sandy Creek Energy Station is a major source of pollution located in McLennon County, Texas. At all times relevant to this suit, the Sandy Creek Energy Station has been a major source subject to Title V permit program requirements.

84. The Executive Director received Sandy Creek's initial Title V permit application on October 30, 2009. This application became administratively complete by operation of law 61 days later, no later than December 30, 2009. Accordingly, the Executive Director was required to take final action on the initial application by June 30, 2011, 18 months after the application became administratively complete.

85. On November 17, 2009, the Executive Director placed Sandy Creek's permit application on management delay.



86. As of the date this Petition was filed, the Executive Director has not made a preliminary decision to approve or disapprove the application.

87. As of the date this Petition was filed, the Executive Director has not taken final action to approve or disapprove Sandy Creek's application

## VII. CAUSES OF ACTION

### Texas Health and Safety Code §§ 382.032 and 382.0542

Plaintiffs incorporate by reference herein paragraphs 1-87 above.

88. A person affected by the Executive Director's failure to take final action on a Title V permit application within 18 months may obtain judicial review at any time before the permit is issued. TEX. HEALTH & SAFETY CODE §§ 382.032 and 382.0542(c).

89. A reviewing court may order the Executive Director to act on the application without further delay if it finds that the Executive Director's failure to act is arbitrary or unreasonable. TEX. HEALTH & SAFETY CODE § 382.0542(c).

90. The Executive Director has arbitrarily and unreasonably failed to act on Title V applications for Permit No. O26 (Welsh Power Plant), Permit No. O1541 (Texas City Refinery), Permit No. O1386 (Port Arthur Refinery), Permit No. O1229 (Baytown Refinery), Permit No. O1445 (Corpus Christi East Refinery), Permit No. O1513 (Texas City Chemical Plant), Permit No. O2942 (Oak Grove Steam Electric Station), and Permit No. O3336 (Sandy Creek Electric Station) within 18 months of receipt of a complete application, as required by the Texas Health and Safety Code and the Texas Administrative Code.

Texas Water Code § 5.352

Plaintiffs incorporate by reference herein paragraphs 1-90 above.

91. Texas Water Code § 5.352 provides that “[a] person affected by the failure of the commission or the executive director to act in a reasonable time . . . to perform any . . . duty with reasonable promptness may file a petition to compel the commission or the executive director to show cause why it should not be directed by the court to take immediate action.”

92. The Executive Director of the TCEQ has a non-discretionary duty to take final action on federal operating permit applications within 18 months after he receives an administratively complete application. TEX. HEALTH & SAFETY CODE § 382.0542(b)(1); 30 TEX. ADMIN. CODE § 122.139(3).

93. The Executive Director has failed to act on Title V applications for Permit No. O26 (Welsh Power Plant), Permit No. O1541 (Texas City Refinery), Permit No. O1386 (Port Arthur Refinery), Permit No. O1229 (Baytown Refinery), Permit No. O1445 (Corpus Christi East Refinery), Permit No. O1513 (Texas City Chemical Plant), Permit No. O2942 (Oak Grove Steam Electric Station), and Permit No. O3336 (Sandy Creek Electric Station) with reasonable promptness within 18 months of receipt of a complete application, as required by the Texas Health and Safety Code and the Texas Administrative Code.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

Order the Executive Director to take final action on the Title V permit applications for the following sources with expeditious deadlines specified by this Court:

- Southwestern Electric Power Company’s (“SWEPCO”) Welsh Power Plant (Permit No. O26);

- BP Products North America Inc.’s (“BP”) Texas City Refinery (Permit No. O1541);
- Motiva Enterprises LLC’s (“Motiva”) Port Arthur Refinery (Permit No. O1386) ;
- ExxonMobil Corporation’s Baytown Refinery (Permit No. O1229);
- Flint Hills Resources Corpus Christi, LLC’s (“Flint Hills”) Corpus Christi East Refinery (Permit No. O1445);
- BP Amoco Chemical Company (“BP”) Texas City Chemical Plant (Permit No. O1513);
- Oak Grove Management Company’s (“Oak Grove”) Oak Grove Steam Electric Station (Permit No. O2942); and
- Sandy Creek Services LLC’s (“Sandy Creek”) Sandy Creek Energy Station (Permit No. O3336)

Retain jurisdiction of this action to ensure compliance with this Court’s decree; and

Grant such other relief as the Court deems just and proper.

Respectfully Submitted,

By: \_\_\_\_\_/s/\_\_\_\_\_  
ENVIRONMENTAL INTEGRITY PROJECT  
Gabriel Clark-Leach  
Texas Bar No. 24069516  
707 Rio Grande, Suite 200  
Austin, Texas 78701  
Phone: 512-637-9478  
Fax: 512-584-8019

ATTORNEY FOR PLAINTIFFS

**Environmental Integrity Project**  
**707 Rio Grande, Suite 200**  
**Austin, Texas 78701**  
**Phone: (512) 637-9478**  
**Fax: (512) 584-8019**  
**www.environmentalintegrity.org**

November 24, 2015

**Via Electronic Filing**

Ms. Velva L. Price  
District Clerk, Travis County  
Travis County Courthouse  
1000 Guadalupe, 3<sup>rd</sup> Floor  
Austin, Texas 78701

**Re: *Environmental Integrity Project, Sierra Club, Air Alliance Houston, and Texas Campaign for the Environment v. Texas Commission on Environmental Quality***

Dear Ms. Price:

Enclosed for filing in the above referenced matter is Plaintiffs' Original Petition. Please contact me if you have any questions.

Sincerely,



Gabriel Clark-Leach  
ENVIRONMENTAL INTEGRITY PROJECT  
Attorney for Plaintiffs.


Enclosures

# CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_ COURT (FOR CLERK USE ONLY): \_\_\_\_\_

**STYLED ENVIRONMENTAL INTEGRITY PROJECT, SIERRA CLUB, AIR ALLIANCE HOUSTON, AND TEXAS CAMPAIGN  
FOR THE ENVIRONMENT V. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact information for person completing case information sheet:</b>  Name: Gabriel Clark-Leach Email: gclark-leach@environmentalintegrity.org Address: 707 Rio Grande, Suite 200 City/State/Zip: Austin, Texas Telephone: 512-637-9478 Fax: 512-584-8019 State Bar No: 24069516 Signature:  /s/	<b>Names of parties in case:</b>  Plaintiff(s)/Petitioner(s): Environmental Integrity Project, Sierra Club, Air Alliance Houston, and Texas Campaign for the Environment  Defendant(s)/Respondent(s): Texas Commission on Environmental Quality	<b>Person or entity completing sheet is:</b> <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____  Additional Parties in Child Support Case:  Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____
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[Attach additional page as necessary to list all parties]

**2. Indicate case type, or identify the most important issue in the case (select only 1):**

Civil			Family Law	
<b>Contract</b> <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____  <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<b>Injury or Damage</b> <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <b>Malpractice</b> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<b>Real Property</b> <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____  <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<b>Marriage Relationship</b> <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <b>Divorce</b> <input type="checkbox"/> With Children <input type="checkbox"/> No Children  <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<b>Post-judgment Actions (non-Title IV-D)</b> <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order  <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Paternity/Parentage <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
<b>Employment</b> <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<b>Other Civil</b> <input checked="" type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____			
<b>Tax</b> <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax: _____	<b>Probate &amp; Mental Health</b> <b>Probate/Wills/Intestate Administration</b> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____			

**3. Indicate procedure or remedy, if applicable (may select more than 1):**

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
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**4. Indicate damages sought (do not select if it is a family law case):**

- Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorneys fees
- Less than \$100,000 and non-monetary relief
- Over \$100,000 but not more than \$200,000
- Over \$200,000 but not more than \$1,000,000
- Over \$1,000,000



**SUPPLEMENTARY PROBATE CASE INFORMATION SHEET**  
**TRAVIS COUNTY PROBATE COURT NO. 1**

CAUSE NO. C-1-PB-\_\_\_\_\_ - \_\_\_\_\_

**This sheet is a supplement to the Civil Case Information Sheet required by Texas Rule of Civil Procedure 78a. Both the Civil Case Information Sheet and this supplementary sheet should be completed whenever an original petition or application is filed in this Court.** Except for the case style, there's no duplication between the two sheets. If you are e-filing the original petition or application, an information sheet cannot be the lead document.

The information should be the best available at the time of filing, understanding that the information may change before trial. This information does not constitute a discovery request, response, or supplementation, and is not admissible at trial.

<b>1. Case style.</b> Please indicate the correct case style. For <u>example</u> , "Estate of Decedent's name," "Guardianship of the Person and Estate of Proposed Ward's name," or "Plaintiff(s) v. Defendant(s)." If "Plaintiff v. Defendant," list <u>all</u> parties; attach additional page as necessary (an estate or guardianship cannot be a party; it's the executor, administrator, or guardian who has the capacity to sue or be sued).		
<b>2. Related case(s). Has this case been previously filed, or is it related to a case previously filed in this court or in another court?</b>		
<input type="checkbox"/> No <input type="checkbox"/> Yes, in this court. Cause No. C-1-PB- <input type="checkbox"/> - new case is guardianship after 1102; will be same cause number <input type="checkbox"/> - new case is guardianship after chapter 48; new cause number & new style <input type="checkbox"/> Yes, in another court: Court: _____ Cause No. _____ Attach page(s) as needed. If you are attaching page(s) with information about additional related cases, check here: <input type="checkbox"/>		
<b>3. Indicate case type (check only one case type, but see additional box if filing a guardianship application)</b>		
<b>Independent Administration</b> <input type="checkbox"/> Probate Letters Testamentary (independent) (PBL + 3020) <input type="checkbox"/> Letters w/ copy of will (PBL + 3130) <input type="checkbox"/> Indep. Admin., Will Annexed (PAI + 3030) <input type="checkbox"/> Indep. Admin. with Heirship (PAH + 3032) <input type="checkbox"/> Foreign Will Letters (indep't) (PWL + 3102)	<b>All Other Estate Proceedings</b> <input type="checkbox"/> Probate Muniment of Title (PMU + 3021) <input type="checkbox"/> Muniment of Title <b>more than 4 years after date of death</b> (PMU + 3133) <input type="checkbox"/> Muniment <b>copy of will</b> (PMU + 3132) <input type="checkbox"/> Heirship / No Administration (PHE + 3033) <input type="checkbox"/> Small Estate Affidavit (PSM + 3040) <input type="checkbox"/> Foreign Will Recording <u>only</u> (PWR + 3044) <input type="checkbox"/> 252 Will Deposit or Application to Produce Will (PWD + 3041) <input type="checkbox"/> 1355 Custodial Account (887 + 3014) <input type="checkbox"/> 1351 Sale of Property of Minor (PSP + 3035)	<b>Ancillary Cases (new cause #)</b> <input type="checkbox"/> Ancillary action related to an Independent Administration (includes court-ordered severance) (PIA + 3115) <input type="checkbox"/> Ancillary action related to a Dependent Administration (includes court-ordered severance) (PDA + 3116) <input type="checkbox"/> Ancillary action related to Guardianship of an Adult (includes court-ordered severance) (PAA + 3117) <input type="checkbox"/> Ancillary action related to Guardianship of a Minor (includes court-ordered severance) (PAM + 3118) <input type="checkbox"/> Ancillary action that is in this court because a trustee is a party (includes court-ordered severance) (PTP + 3119)
<b>Dependent Administration</b> <input type="checkbox"/> Dependent Administration ( <u>all</u> dependent administrations: executor, will annexed, with heirship, or with heirship to follow) (PAD + 3031) <input type="checkbox"/> Temporary Administration (PAT + 3019) <input type="checkbox"/> Foreign Will Letters (dependent) PW1 + 3043)	<b>Guardianship / 1301 Trust – Adult</b> An attorney representing a guardianship applicant <b>must</b> be certified by the State Bar of Texas for having successfully completed a four-hour course of study in guardianship law. If this is a guardianship application, answer the following question <u>and</u> check the case type in the boxes below: <p align="center"><b>Is the applicant's attorney certified?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <input type="checkbox"/> Guard'ship Adult Person only (PG1 + 3023) <input type="checkbox"/> Guard'ship Adult Estate only (PG2 + 3024) <input type="checkbox"/> Guard'ship Adult Per & Estate (PG3 + 3022) <input type="checkbox"/> Guard'ship Adult Temporary (PGT + 3027) <input type="checkbox"/> 1301 or QIT Trust Adult (867 + 3016) <input type="checkbox"/> 1252 Appointment of Non-Resident Guardian – Adult (PNA + 3108) <input type="checkbox"/> 1353 Incapacitated Spouse; Community Property (883 + 3015)	<b>Guardianship / 1301 Trust – Minor</b> <input type="checkbox"/> Guard'ship Minor Person only (PM1 + 3047) <input type="checkbox"/> Guard'ship Minor Estate only (PM2 + 3049) <input type="checkbox"/> Guard'ship Minor Per & Estate (PM3 + 3025) <input type="checkbox"/> Guard'ship Minor Temporary (PMT + 3105) <input type="checkbox"/> 1301 Trust Minor (86M + 3106) <input type="checkbox"/> 1252 Appointment of Non-Resident Guardian – Minor (PNM + 3107)
<b>Miscellaneous Estate Applications</b> <input type="checkbox"/> 151 Application to Open Safety Deposit Box (PDB + 3103) <input type="checkbox"/> 152 Emergency Intervention (funeral, burial, rental) (PEI + 3104) <input type="checkbox"/> 153 Application for Access to Intestate's Account Information (PIF + 3013)		
<b>1102 Investigations &amp; Chapter 48</b> <input type="checkbox"/> Court Initiated / 1102 (PCI + 3028) <input type="checkbox"/> Chapter 48 Protection (PEL + 3122)		
<b>All Other Cases</b> <input type="checkbox"/> Trust action <u>not</u> related to estate or guardianship (PBT + 3018) ( <i>if related to estate or guardianship, see "ancillary cases" above</i> ) <input type="checkbox"/> 1354 Receivership of Minor or Incapacitated (PRM + 3120) <input type="checkbox"/> 1356 Contracts of Minors (PCM + 3121)		