

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 28, 2015

TO: Persons on the Attached Mailing List

**RE: Docket No. 2014-1706-MWD
Lerin Hills Municipal Utility District
Request(s) filed on Permit No. WQ0014712001**

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **March 4, 2015**. The meeting will begin at 9:30 a.m. in Room 201S of Building E, at the commission's offices located at 12100 Park 35 Circle in Austin, Texas.

In accordance with commission rules, copies of the timely hearing requests/requests for reconsideration have been forwarded to the applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on or before 5:00 p.m. on **February 9, 2015**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on or before 5:00 p.m. on **February 23, 2015**.

All responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at <http://www.tceq.texas.gov/goto/eFilings> or by filing an original and 7 copies with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Applicant and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, and other requesters and the applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests/requests for reconsideration are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F (§§55.200-211) of the commission's rules. The procedures for filing and serving responses and replies are located in 30 TAC Chapters 1 (§§1.10-11) and 55 (§55.209) of the commission's rules.

The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h). Copies of these rules may be obtained by calling the Public Education Program toll free at 1-800-687-4040.

The commissioners will not take oral argument or additional comment on this matter at the public meeting. Therefore, it is important to address the sufficiency of the requests in timely filed written responses and requesters' replies. At the public meeting, the commissioners may ask questions of the applicant, requesters, or TCEQ staff. The commissioners will make a decision on the request(s) during the meeting and will base that decision on the timely written requests, public comments, any written responses and replies, any responses to questions during the meeting, and applicable statutes and rules. Copies of all timely public comments and requests have been forwarded to the Office of Alternative Dispute Resolution to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand how the TCEQ processes and evaluates hearing requests and requests for reconsideration. To obtain additional information, or to ask questions about anything in this letter, please call the Public Education Program toll free at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink that reads "Bridget C. Bohac". The signature is written in a cursive style with a large initial 'B'.

Bridget C. Bohac
Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution.

ATTACHMENT

Procedures Concerning Requests for Reconsideration and Requests for Contested Case Hearing

The purpose of this document is to describe commission procedures for evaluating requests for reconsideration and requests for contested case hearing. This document is not intended to be a comprehensive guide to public participation at the TCEQ.

The three commissioners determine the validity of requests for reconsideration and requests for contested case hearing and vote to grant or deny the requests during a public meeting. These public meetings are usually held every other Wednesday in Austin. Prior to the meeting, the following occurs:

- (1) the written requests are distributed to the executive director, the public interest counsel, and the applicant. These persons may file a response at least 23 days before the meeting;
- (2) the requester may then file a reply to the responses at least 9 days before the meeting. This is the requester's opportunity to address any deficiencies in the request that have been identified by TCEQ staff or the applicant. The requester must submit any information he or she wishes the commissioners to consider (ex: maps or diagrams showing requester's location relative to the applicant's proposed activities) by this deadline; and
- (3) the commissioners read the requests, the responses to requests, and the replies, before the public meeting. Then, during the public meeting, the commissioners vote to grant or deny the requests.

Requests for Reconsideration

A request for reconsideration must expressly state that the person is requesting that the commission reconsider the executive director's decision and state the reasons why the commission should reconsider the executive director's decision. The commission will consider a request for reconsideration at a scheduled public meeting and grant or deny the request.

Requests for Contested Case Hearing

A contested case hearing is an evidentiary proceeding, similar to a hearing in civil court. The law allows for holding a contested case hearing on certain types of applications.

A valid request for a contested case hearing must:

- (1) demonstrate that the requester is an "affected person" with a "personal justiciable interest" related to a legal right, duty, privilege, power or economic interest which would be affected by the application in a manner not common to the general public;

- (2) if the request is made by a group or association, identify one or more members who have standing to request a hearing, and the interests the group or association seeks to protect;
- (3) expressly request a contested case hearing;
- (4) raise disputed issues of fact that are relevant and material to the commission's decision on the application which were raised during the comment period and not withdrawn prior to the filing of the Executive Director's Response to Comment; and
- (5) include any other information as specified in public notices.

The commission is authorized to protect human health and safety, and natural resources. The commission cannot address other matters outside the commission's authority, such as the effect of the existence of a proposed facility on nearby property values.

When the commissioners deny hearing requests, they often proceed to vote on approval or denial of the application. Alternatively, they may remand the application to the executive director for final action. If a hearing request is granted and the application is referred to the State Office of Administrative Hearings (SOAH), the commissioners will specify a list of issues which will be the subject of the hearing and an expected date for the SOAH judge's proposal for decision. The SOAH judge will conduct the hearing and submit a proposal to the commission to approve or deny the application.

The Alternative Dispute Resolution Office may contact requesters to determine their interest in informal discussions with the permit applicant and a mediator.

By necessity this document gives a very general description of commission procedures. If you have any questions, please call the Public Education Program toll free at 1-800-687-4040.

MAILING LIST
LERIN HILLS MUNICIPAL UTILITY DISTRICT
DOCKET NO. 2014-1706-MWD; PERMIT NO. WQ0014712001

FOR THE APPLICANT:

Mark S. Brown
Jones & Carter, Inc.
1000 Central Parkway North, Suite 100
San Antonio, Texas 78232-5050
Tel: (210) 494-5511
Fax: (210) 494-5519

Danny G. Worrell
Katten Muchin Rosenman LLP
111 Congress Avenue, Suite 1000
Austin, Texas 78701-4050
Tel: (512) 691-4012
Fax: (512) 691-4001

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Ashley McDonald, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Jose Alfonso Martinez, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division, MC-148
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4668
Fax: (512) 239-4430

Brian Christian, Director
Texas Commission on Environmental
Quality
Environmental Assistance Division
Public Education Program, MC-108
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4000
Fax: (512) 239-5678

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Vic Mcwherter, Public Interest Counsel
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-6363
Fax: (512) 239-6377

FOR ALTERNATIVE DISPUTE
RESOLUTION
via electronic mail:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-4010
Fax: (512) 239-4015

FOR THE CHIEF CLERK:

Bridget C. Bohac

Texas Commission on Environmental
Quality

Office of Chief Clerk, MC-105

P.O. Box 13087

Austin, Texas 78711-3087

Tel: (512) 239-3300

Fax: (512) 239-3311

REQUESTERS / INTERESTED
PERSONS:

See attached list.

REQUESTER(S)

ROBERT WEBSTER
325 W STATE HIGHWAY
BOERNE TX 78006

RICK WOOD
306 STATE HIGHWAY 46 W
BOERNE TX 78006-8104

WILLIAM R WOOD
PE
306 STATE HIGHWAY 46 W
BOERNE TX 78006-8104

INTERESTED PERSON(S)

ANDREW ABRAMEIT
GORDON ARATA MCCOLLAM DUPLANTIS & EAGAN LLC
10606 ENDICOTT LN
HOUSTON TX 77035-3208

JOHN E & PATRICIA S BAKKE
305 STATE HIGHWAY 46 W
BOERNE TX 78006-8113

ROBERTA CHURCHIN
221 EDGE FALLS RD
KENDALIA TX 78027-2006

RITA CUNNINGHAM
323 WILD TURKEY BLVD
BOERNE TX 78006-8021

MATT DIANA
16 DEEP HOLLOW DR
BOERNE TX 78006-9413

BRENT EVANS
EXECUTIVE DIRECTOR, CIBOLO CONSERVANCY
25 SPRING CREEK RD
BOERNE TX 78006-8234

VICTOR H FARIAS
109 CHINKAPIN PASS
BOERNE TX 78006-8131

JOHN M HERNANDEZ
19186 BANDERA RD
HELOTES TX 78023-2802

NEIL HERNANDEZ
14124 TOBIANO TRL
HELOTES TX 78023-2828

PAMELA M HODGES
414 MOUNTAIN SPRING DR
BOERNE TX 78006-6211

RANDALL HOUSTON
1205 KYLE LN
FREDERICKSBURG TX 78624-2562

DAVID & SHAWN LEWIS
409 KENDALL PKWY
BOERNE TX 78015-8358

PATRICK LINDER
KENDALL CO UTILITY, TAPATIO SPRINGS SERVICES
PO BOX 550
BOERNE TX 78006-0550

RICHARD LINES
VICE PRESIDENT, INDIAN SPRINGS HOMEOWNERS
ASSOCIATION
108 CHINKAPIN PASS
BOERNE TX 78006-8127

GARY D LUXON
103 INDIAN SPRINGS TRL
BOERNE TX 78006-8128

DARRELL & LINDA MARTIN
107 TOWNE VIEW CIR
BOERNE TX 78006-9431

SUE MARTIN
101 LANDA ST
BOERNE TX 78006-2631

MILAN J MICHALEC
12 BRANDT RD
BOERNE TX 78006-5707

DAVE & KATHY MOORE
106 WILD HORSE DR
BOERNE TX 78006-8552

LARRY PIRMANTGEN
107 MORNINGVIEW CIR
BOERNE TX 78006-9414

JO RASH
108 MORNINGVIEW CIR
BOERNE TX 78006-9414

ANN REISSIG
227 W HIGHLAND DR
BOERNE TX 78006-2619

JAMES RICHMOND
331 WILD TURKEY BLVD
BOERNE TX 78006-8021

RAUN RICHMOND
331 WILD TURKEY BLVD
BOERNE TX 78006-8021

STAN SCOTT
KENDALL COUNTY UTILITY CO
PO BOX 1335
BOERNE TX 78006-1335

W C SMOTHERS
136 SPRING HILL DR
BOERNE TX 78006-8611

AL TAPIA
107 COTTONTAIL CIR
BOERNE TX 78006-9417

DON TITUS
9 COUGHRAN RD
BOERNE TX 78006-8103

M WALTERS
106 ROADRUNNER TRL
BOERNE TX 78006-8938

W F WEIDLER
109 HUMMINGBIRD HILL DR
BOERNE TX 78006-9456

NANCY WHITE
401 S BRACKENRIDGE
BOERNE TX 78006-2215

JOHN WOLTERS
47 STATE HIGHWAY 46 W
BOERNE TX 78006-8123