

Joe Rice

Wills Point, Tx 75169

November 26, 2010

Sunset Advisory Commission  
Attn. Mr. Levine  
P.O. Box 13066  
Austin, Texas 78711-3066

Dear Mr. Levine:

Thank you for this opportunity to "raise other issues or provide any other information" for the Sunset Advisory Commission to consider. First I must offer corrective criticism to the Commission proper. Your letter cultivating my response has TCEQ all over it. The letter was prepared November 18, 2010 (Thu), it was postmark metered, which I have retained, Nov 23 ( the following Tue). Then delivered to my mailbox November 26 ( Friday at approximately 4:00 PM ). It laid around somewhere a long time. US Mail does not leave here until late Monday, and I need proper preparation time. I fear I will not be able to meet the deadline of November 30, ( Tue ) but I intent to try. I assume travel time is four days either direction. This brings to mind a TCEQ alleged investigation. If submitted complaints are obvious violations, the return is usually long enough to give permit holder time to correct. I have one complaint almost a year old and not finalized now. See Lonnie Gilley, Petroleum Storage Tanks, 817-588-5800. I have received several others sixty to ninety days old, some never answered, and some changing the complaint to something easier to correct or sidestepping a complaint. I am becoming accustom to this inept activity and failure to do their job.

There are three current Air Permits in my community. The oldest, issued in August 2000, is the recently renewed 42073, the newest is 85088, and the third is preliminarily approved 91150. I have documents for the past ten years in my collection and can produce evidence of operator rule violation and lying on government documents by permit holder and TCEQ. I believe misrepresentation or half truth are the same as a lie.

2

42073 (Trinity through many other names) began operation with a circumvented crusher. During that down time the plant was issued a Permit BY Rule which was swept under the rug later. An investigator logged in an interview with plant manager telling of restrictor plate installation after a TPH complaint. Later TNRCC forgave that NOV. (Notice and Finding of Violations.) I have both reports. Operator claimed County Road 317, through traffic haul road, US 80 to plant was paved. Was not, never was, and still is not, but misrepresentation was useful in obtaining the permit. SC 5b requires CR 317 to crusher, on site haul road, to be paved. This paving was never satisfactorily done with cohesive material, if ever done at all, and three NOV's have been issued. Seems operator would owe a fine to Texas for ten years violation. GC 14 (air pollution) was continually overlooked through out the site and on off site dirt county roads by TCEQ. Also 42073 was quarrying on 85088 Application Site, and later Construction Site Permit. Also a violation without an attempt by TCEQ to correct. Crusher misrepresentation is believed but only an EPA compliance investigation can prove that. Crusher Identification by RN numbers was changed by operator to serial numbers and accepted by TCEQ. This was done to conceal crusher size increase. Many complaints because of stockpile surface overage, documented with pictures, were never excepted by TCEQ. Estimated acreage was ten and allowance was three. When 85088 was issued, the 700 TPH crusher at 42073 was believed moved to that permitted 350 tph site. **SERIOUS FEDERAL VIOLATION.** Also the 42073 permit could not move as it was not eligible for the more free movement of sites issued after 2005. **42073 SHOULD NOT HAVE BEEN RENEWED** because of their poor history. There are other violations but the above should cultivate interest .

Permit 85088 should never have been issued because of poor operator history.(Trinity at 42073). There were 85088 violations prior to Air Permit issue. A crusher ramp, documented with pictures, was illegally built during the Construction Permit, and excavation was required but not allowed for that illegal ramp. The plant manager said the ramp was to load raw material into trucks, not a crusher ramp. Quarry excavation also was continuous and illegal during the construction period. This quarry operation caused air pollution as the crusher was about a mile away at 42073. TCEQ was aware of these violations, documented with pictures. It took three complaints to get TCEQ to admit this site was in a non attainment county and subject to federal rules. (Sub 000) Trinity has some ADVANCE knowledge of permit approval as haul road #1 was built to CR 314, 1000 yards to US 80. For

3

unknown reasons #2 haul road was built 500 yards from US 80 and 400 yards from an active Church. This is a Community Notification Violation and will be State Regulation 30 TAC Chapter 101.4 nuisance and 101.5 traffic violation as well as further verify what a terrible neighbor these operations are when in a populated community. An existing entrance is available onsite without using a county road. This County road has approximately 20 residents and the Church that will have to mingle with 2 or 3 hundred trucks almost daily. Documented with pictures. This will be on a class 3 road, one way traffic on pavement. There was a rock truck related death on this very road south of this Church. A high school cheer leader was killed when truck damaged road conditions caused a one car accident. It is believed Kaufman County shared liability because they did not keep the road repaired or the Through Truck Traffic off. This new site, 85088 is now crushing rock with the crusher believed to be moved from retired 42073. At this time an investigation is in order for tph violation and stockpile violation. Stockpile location and crusher location are also violations of Community notification. Over production, stockpile surface area violation, and site emission locations can only be confirmed by an EPA audit. It would not be advisable to "take TCEQ's word" for any investigation. You are welcome to any of my documents or pictures, but they must be examined here. We are both, records and me, too old to bundle up and come to Austin, and the problem is in Kaufman county, not Austin.

Permit 91150 if issued, will create more liability, and more community hardship than should be allowed. Entrance to US 80, south of site, can not be gained without illegally crossing T & N Rail. Distance from rail to US 80 stop sign is 40 feet. 18 wheelers and Pups will remain on the rail or driver will run the stop sign. I suspect community residents will howl to keep that stop sign enforced. There are six crossings in a fifteen mile strip all forty foot area. There was a death at CR 350, because of rock truck traffic and rail incompatibility, and many accidents. I have newspaper prints and photos of some of those problems. All county roads are dirt and one way near the proposed site. The EPA logged an opacity of 80% during a compliance investigation at this same site. We have to live in that as well as damage to our homes and equipment. At one time the county went "partners" on road maintenance with the operator at that time and the partnership pushed down the fences. Those people did not get repaid, many thousand dollars. The application at the public library for viewing and copying was not available for copying. There were 179 pages, usually 20/30 needed, in a non

removable binder that would not copy fully. Multiple pages were penciled or erased and not removed. The application is very, very unprofessional with the intent of misrepresentation to the community. There was no way out designated. The site is three separate pieces of property all separated by a county road, not contiguous. The maps are old, 2005, and show about one third of area residents and no crusher site. The State should be liable for resulting damages when issuing permits in a populated area.

I do thank you for this chance to speak, such as it is, and I apologize for my poor presentation. There is just so much to tell and not being able to show these documents make it more difficult. I didn't get around to telling of one of the past permits crushing and selling a county road. That happened here in Kaufman county, and when the Commissioner retired he burned all his precinct records. This poor to no State management cultivates corruption and FRAUD. TCEQ takes EPA money and does not do the contracted job.

Respectfully,



Joe Rice

Wills point, Tx

*c/c interested parties*