



# The Highlander

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## Legal counsel asks TCEQ to remove quarry permit

By Connie Swinney  
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The Office of Public Interest Counsel (OPIC) released a response March 28 to a state legislator's call to overturn the permit of a proposed rock crushing operation in Burnet County.

OPIC issued their re-

view following a complaint about an air quality permit granted by the Texas Commission on Environmental Quality (TCEQ).

OPIC was created by the state legislature "to ensure that the public's interest is represented in issues considered by the

commission."

While the entity does not formally represent individuals at commission proceedings, the entity responds to legal challenges in which TCEQ can act upon.

State Rep. Ellen Troxclair (HD-19) filed the legal maneuver, known

as a motion to overturn (MTO), in March following the approval of a permit for an aggregate company planning to operate a rock crushing/quarry operation just outside Burnet.

The proposed facility by Asphalt Inc., LCC would be located at 3221 Farm to Market Road

3509 in Burnet County.

Troxclair's 7-page document resembles a civil lawsuit which addresses TCEQ commissioners with the recommendation they take action.

Components of the MTO delve into "Public

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## Permit

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Health and Welfare," "Air Quality" and "Emissions Control."

The Office of Public Interest reviewed the MTO and provided the following conclusion.

"Movants have raised credible evidence that the emissions rates expressed in the application may have been underestimated and that air dispersion modeling was not adequately addressed," the response stated. "Movants further assert that the comments made to this effect were not sufficiently responded to in accordance with 30 TAC § 55.156(b).

"OPIC is persuaded by Movants' argument

that these issues were incompletely addressed and analyzed by the ED (TCEQ executive director). OPIC therefore recommends that the Commission grant the motions to overturn."

OPIC addressed the following elements in the MTO:

- Emissions Information and Modeling;
- Permit Registration Number 16835 is not protective of human health or general air quality;
- There is insufficient air monitoring available for the area surrounding the proposed facility; and
- Permit Registration Number 176835 is not protective of the environment and endangered

species.

"Movants argue that the proposed facility will have disproportionate impacts on the environment, particularly given the proposed facility's proximity to two state parks and a children's summer camp," OPIC stated. "Movants further argue that TPWD has raised concerns about the proposed facility's adverse impact on the environment and endangered species."

At the heart of concerns, OPIC stated, were that "emission rates used in the application were not suitably addressed ..."

In conclusion, the counsel recommended TCEQ withdraw the air quality permit.

"If the Applicant cannot meet the requirements of the standard permit, its application cannot be granted," the document stated.

Either administrators or the TCEQ board are not required but can opt to take action based on OPIC's conclusion.

The air quality permit application was initially received on July 3, 2024, and declared administratively complete on Aug. 20, 2024. A public meeting was held on Dec. 10, 2024, in Burnet. The public comment period ended on Dec. 10, 2024. After considering more than 4000 comments, the Executive Director's (ED) Response to Comments (RTC) was mailed on February 14, 2025.