

Date: May 10, 2023
To: Chairman Landgraf and the Members of the House Committee on Environmental Regulation
CC: Rep. R. D. "Bobby" Guerra, Rep. Keith Bell, Rep. Jay Dean, Rep. John Kuempel, Rep. Janie Lopez, Rep. Thresa "Terry" Meza, Rep. Penny Morales Shaw, Rep. Ron Reynolds
Via hand delivery and by email.

From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155

Re: CSSB 471 – Disregarding complaints to TCEQ – Public Citizen testimony in opposition

Dear Chairman Landgraf and Members of the Committee:

Public Citizen appreciates the opportunity to testify in opposition to CSSB 471 by Senator Drew Springer, relating to the investigation by the Texas Commission on Environmental Quality of certain complaints.

This bill does not address a legitimate concern with TCEQ operations.

At the risk of using a cliché: CSSB 471 is a solution in search of a problem. The premise of the bill is that TCEQ is burdened by baseless complaints. This is false.

If the TCEQ's Office of Compliance and Enforcement is under resourced, it is in the area of enforcement, not investigations. The enforcement division files enforcement orders in less than 3% of the cases in which a company self-reports an illegal violation of air pollution laws.¹ This means that 97% of industry self-reported violations are going unenforced.

The Office of Compliance and Enforcement conducts more than 100,000 investigations each year.² Fewer than 5% of these investigations are based on complaints. The agency received 10,070 complaints in FY 2022 and 9,440 complaints in FY 2021.³ There is no indication the agency is burdened by this volume of complaints. The agency has not identified any "abusive" or "vexatious" complaints or complainants.

TCEQ officials should be asked directly if there is a need for this bill. I believe their answer will be, "No."

¹ "Illegal Air Pollution in Texas, 2020" Environmental Integrity Project and Environment Texas (14 Oct, 2021) available at <https://publicinterestnetwork.org/wp-content/uploads/2021/10/Illegal-Air-Pollution-in-Texas-2020-EMBARGOED-for-10-14-21.pdf>.

² "Annual Enforcement Report – Fiscal Year 2022" Office of Compliance and Enforcement, Texas Commission on Environmental Quality (30 Nov. 2022) available at <https://storymaps.arcgis.com/stories/96e4ccef365447eba51f00fb3b02789>.

³ "Biennial Report FY2021-FY2022, Appendix A – Assessment of Complaints Received" TCEQ (Dec. 2022) available at https://www.tceq.texas.gov/downloads/publications/sfr/sfr-057-22/sfr-057-22-biennial_appendix_a.pdf.

Discouraging complaints would reduce—not increase—TCEQ efficiency.

In March of this year, Mary Evans, a professor of public affairs at UT Austin, published a report on the effectiveness of citizen complaints at TCEQ.⁴ The study looked at citizen complaints to TCEQ from 2003-2019. The findings include the following:

- Investigations are two to four times more likely to uncover violations if they are based on a complaint.
- In the month after a complaint, a facility is 6% more likely to receive a notice of violation (NOV, a warning) and 1% more likely to receive a notice of enforcement (NOE, a fine).⁵
- A facility is 51% more likely to be the subject of an investigation in the month after a complaint.

The study concluded that, “citizen complaints are associated with a marked regulatory response.”⁶

This means that complaints are increasing TCEQ’s record of conducting useful investigations and issuing enforcement actions. CSSB 471, with its chilling effect on complaints, will make the agency less effective.

The Committee Substitute is still unworkably vague.

The Committee Substitute for SB 471 is still unworkably vague. The bill excuses the commission from investigating a complaint, “that may be addressed during other commission activities” (P.1, L.9)

What does “addressed” mean? Does it mean the complaint must be the subject of an investigation? Of an enforcement action? What is the timeline in which the “may be addressed” criteria is satisfied?

What “other commission activities” would satisfy this requirement? A routine inspection? An investigation? An actual enforcement action? Again, entirely unclear from the bill.

Personally, I doubt the agency would adjust its practices at all based on this language.

The bill also excuses the agency from investigating a complaint, “that was filed by an individual when there is not a reasonable probability that the commission can substantiate the complaint” (P. 1, L.11-13).

What does it mean to substantiate a complaint? There is one use of the term in the Texas Clean Air Act, “The commission shall respond and investigate not later than 18 hours after

⁴ J. Colmer, M.F.Evans and J. Shimshack, “Environmental citizen complaints” Center for Economic Performance, London School of Economics and Political Science (March 2023) *available at* <https://cep.lse.ac.uk/pubs/download/dp1903.pdf>.

⁵ *From the study, “Given sample mean NOV and NOE probabilities of 0.0032 and 0.00048, respectively, these are very large effects.”* Colmer et. al. at p. 16.

⁶ Colmer et. al. at p. 3.

receiving...a complaint concerning odor from a poultry facility at which the commission has substantiated odor nuisance conditions in the previous 12 months.”⁷

But even there the term isn’t defined. Is an investigation sufficient, or must there be an administrative action? If the agency takes hours or days to investigate, and the source of the complaint is not ongoing, is that a failure to substantiate? One of the case studies in my testimony about this bill to the senate (attached) is a landfill that generated odor complaints at night. The TCEQ investigated during the day, finding no odor. This happened hundreds of times. Is the agency’s ill-timed response evidence of a lack of substantiation, or just bad timing?

Next, the “repetitious or redundant” in 12-months language (P.1, L.14) is also vague. Some facilities are the subject of daily complaints. Granted, these are extreme outliers, typically significant odor generators, but they do happen. Many complaints can be received in a matter of days before the agency investigates. Is this “repetitious or redundant”? If it is, surely that is the fault of the agency for not investigating and remedying an issue, not the fault of neighbors who want an environmental issue fixed.

Finally, the five complaints in seven years requirement (P. 1, L.18-19) is arbitrary. Again, if someone is being impacted in their home by pollution, odors, or other environmental issues, wouldn’t you, as a lawmaker, encourage them to call every day until the problem was fixed? A week of complaints could exhaust someone’s options for seven years. And again, this hinges on the vague concept of TCEQ “substantiating” the complaint. Substantiated how? With a fine (NOE)? A warning (NOV)? Just an investigation? Or something else?

This bill has received significant negative public attention.

SB 471 was the subject of its very own critical article in the *Texas Tribune* on April 17, 2023.⁸ The article was about the bill as filed, not the substitute, but the public statements it includes are still relevant. Let’s review them:

- “It’s absolutely and totally offensive.” –Linda Hunter, Gunter, TX resident.
- “[A]n intimidation tactic. People are going to think twice before filing an investigation.” –Deirdre Diamond, advocate with Gunter Clean Air.
- “Based on our work, it looks like citizen complaints are helping TCEQ.” –Mary Evans, UT Professor and study author.
- “We clearly need more regulatory oversight from this reluctant agency, not less.” –Jennifer Hadayia, executive director of Air Alliance Houston.

This amount of negative publicity should give any lawmaker supporting this bill pause. There is no evidence the agency wants it. The public has decried it. And the media has skewered it. For these reasons and more, we ask you not to support CSSB 471.

⁷ Health & Safety Code Sec. 382.068(b)(2).

⁸ Attached. See <https://www.texastribune.org/2023/04/17/texas-senate-bill-471-tceq-complaints-pollution/>.

BUY NOW AND SAVE



Linda Hunter sits in the dining room of her home in Gunter, where concrete batch plants can be seen through the windows. "These are 9 feet of windows," she said. "They were placed out here so that I could see outside in the country." 📷 Shelby Tauber for The Texas Tribune

Senator's bill would fine Texans for multiple environmental complaints that don't lead to enforcement

The bill would impose fines when residents make more than three complaints to the state environmental agency in a year if they don't result in enforcement action. Critics warn the bill would discourage people from reporting pollution.

BY [ALEJANDRA MARTINEZ](#), THE TEXAS TRIBUNE, AND [MARTHA PSKOWSKI](#), [INSIDE CLIMATE NEWS](#)

APRIL 17, 2023 5 AM CENTRAL

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GUNTER — From the big glass windows in her dining room, Linda Hunter has seen her view transformed from grand, green pastures to a row of side-by-side concrete batch plants.

The 59-year-old, who lives on her 224-acre ranch, says the plants have disrupted what used to be a tranquil area. The bright lights from the nearby plants keep her up at night, she says, and so does the rumbling of trucks that start passing her house as early as 2 a.m. And when Hunter tries to tend to her garden, dust from the plants stings her eyes and irritates her asthma.

“The only time I breathe [easily] and my blood pressure is down is on Saturday and Sundays,” Hunter said. Those are the days the concrete batch plants typically don’t operate.

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Over the past five years, Hunter said, she has made numerous complaints to the Texas Commission on Environmental Quality about dust clouds and water runoff from nearby plants into her property.

Under a bill filed in the Texas Senate, residents like Hunter could face fines if they make three or more complaints to environmental regulators in a calendar year and their complaints don’t result in an enforcement action. [Senate Bill 471](#), filed by Republican Sen. [Drew Springer](#) of Muenster, doesn’t specify the amount of the

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amount of the fine.



Hunter walks along the fence separating her property and land owned by the concrete batch plants next door in Gunter on March 21. Hunter says wastewater and air pollution from the plants have affected her ability to raise cattle. 📷 Shelby Tauber for The Texas Tribune

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A truck transporting reinforced concrete boxes drives past Hunter's home. She says the noise of the trucks going in and out of the concrete batch plants has ruined the tranquility of her rural area. 📷 Shelby Tauber for The Texas Tribune

In a March hearing of the Senate Committee on Water, Agriculture and Rural Affairs, Springer said the bill targets “abusive” complaints that “weaponize the system.”

“The state would be better served investigating other things that the agency sees as potentially a real threat to our environment,” Springer told the committee.

Each year, TCEQ conducts more than 100,000 investigations, issues thousands of violation notices, assesses millions of dollars in administrative penalties, and provides compliance support to thousands of small businesses and local governments, according to an email from TCEQ spokesperson Victoria Cann. TCEQ received 9,440 complaints in fiscal year 2021 and 10,070 in fiscal 2022, according to its [biennial report to the Legislature](#).

During the bill analysis, TCEQ prepared several examples of what Springer said were the kind of excessive complaints the bill intends to target. The examples, which were distributed during the hearing, included a person who filed 28

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In both cases, the handout didn't provide enough information — such as the names of the people who complained or the names of the companies — for The Texas Tribune and InsideClimate News to learn more about the nature of the complaints.

Hunter, who has complained about what she considers legitimate pollution concerns more times than she can count, said the bill is aimed at discouraging Texas residents from reporting environmental problems across the state.

“It’s absolutely and totally offensive,” she said.

Deirdre Diamond, a 40-year-old respiratory therapist and lead advocate for [Gunter Clean Air](#), a local group created to fight pollution from concrete batch plants, called Springer’s bill “an intimidation tactic. People are going to think twice before filing an investigation.”



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Slow response to complaints could lead to missed violations, critics say

Tim Doty, an independent environmental consultant and former TCEQ air-monitoring employee, said responding to citizen complaints is part of the agency's job: "Just because it doesn't lead to an enforcement action doesn't mean your complaint is not valid."

Doty said residents often file multiple complaints because TCEQ typically takes weeks or months to resolve investigations.

Doty said it can take TCEQ weeks just to send an investigator to check out a complaint, and by then the problem may have disappeared or changed. If Springer's bill becomes law, that situation would result in a strike against the complaining person, even though the problem they reported may have been a violation had the agency responded faster.

Adrian Shelley, director of the Texas office of [Public Citizen](#), a consumer-advocacy nonprofit group, said if a problem persists, residents are justified in filing multiple complaints.

"If you are facing a situation where pollution is impacting your quality of life or even your health, then you are going to complain about that every single day," Shelley said.

Mary Evans, an economist and professor of public affairs at the University of Texas at Austin, published [a paper](#) in March with two colleagues that analyzed complaints citizens made to TCEQ between 2003 and 2019 and found that, on average, investigations stemming from citizen complaints were two to four times more likely to find violations than investigations not instigated by complaints.

"Based on our work, it looks like citizen complaints are helping TCEQ," Evans said. "I would be hesitant to support anything that would discourage the submission of complaints."

Critics of the bill say it would also discourage low-income communities of color — which are more likely to face the health and environmental impacts of industrial pollution — from reporting that pollution.

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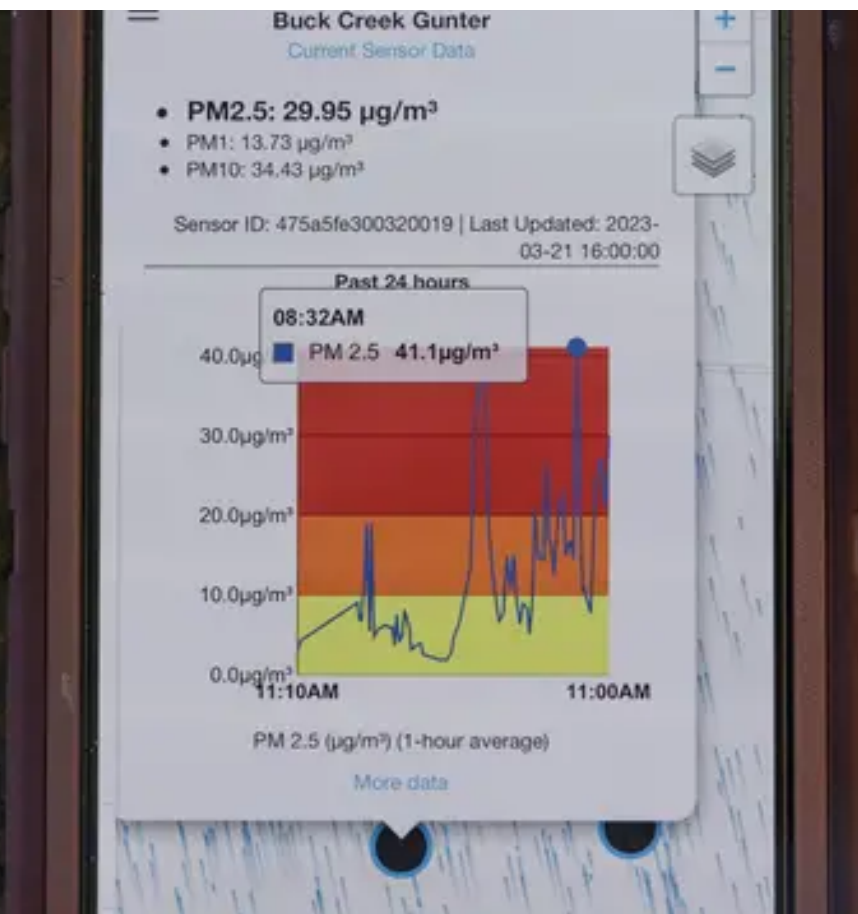
batch plants can increase the risk of asthma and cardiac arrest if people inhale too much. The TCEQ regulates batch plants as a source of particulate matter.

Shelley said that for these communities, paying a fee for filing complaints will be “especially burdensome.”



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First: Deirdre Diamond looks up at an air-quality monitor on Hunter's land in Gunter, one of many community monitors the University of Texas at Dallas has set up in North Texas. Last: Hunter monitors measurements from the monitor through an app on her phone. 📷 Shelby Tauber for The Texas Tribune

Bill clashes with Sunset review recommendations

The bill was introduced as legislators contemplate reforms to the TCEQ after a yearlong [Sunset Advisory Commission](#) review process. That state review evaluates the effectiveness of the agency and produces a report with recommendations on what changes should be made. Then legislators craft a bill based on those recommendations.

This year, the bill includes increasing TCEQ penalties from \$25,000 to \$40,000 per day for industrial facilities that violate state regulations.

The state review described TCEQ as a "reluctant regulator" and highlighted public distrust of the agency. Lawmakers encouraged the agency to find ways to increase public engagement and build trust. Opponents of SB 471 say the bill does the opposite and discourages citizen reports of air and water pollution.

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Springer, who sits on the Sunset Commission, said the state environmental agency has only a finite amount of resources and is overwhelmed by citizens' complaints.

"We're not trying to say you can't file complaints. If you think something's wrong, we want to hear from you," he said during the March hearing at the Capitol. "But when done over and over and over again, I think it gets to the point that we're getting abusive on weaponizing the agency with that."

Filings with the Texas Ethics Commission show that Springer has accepted campaign donations from industries that are often the subject of citizen environmental complaints. During 2022, for example, industry groups that donated to Springer included the Texas Aggregates and Concrete Association PAC (\$2,000), Texas Oil and Gas Association Good Government Committee (\$5,000) and the Texas Chemical Council Free Enterprise Political Action Committee, known as FreePAC (\$1,000).

TCEQ is seeking \$56 million for salary increases for staff positions including attorneys, geoscientists and engineering specialists. The agency said it's struggling to retain staff and many skilled people, including investigators, have left the agency for better-paying jobs.

Turnover has remained high at TCEQ's largest regional office, in Houston. Last fiscal year, it increased to 52%, from 31% the fiscal year prior.

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After moving with her six children to Gunter for a better quality of life, Diamond learned of residents' environmental concerns about concrete batch plants and became a lead advocate for Gunter Clean Air, a local group working to limit pollution in the town. 📷 Shelby Tauber for The Texas Tribune

Gunter residents prepare for fight

Hunter, who lives in Springer's district, said after calling his office with her concerns, his chief of staff and another staff member visited her ranch in August. They sat at her dining table and looked out the same window she gazes through each day. She wanted them to see how the concrete facilities have "ruined" her way of life.

Hunter said she pointed to a creek that she says appeared on her property after the concrete plants opened. She's convinced it's runoff from the concrete plants, where workers frequently hose down the inside of concrete trucks. She suspects that contaminated water from the plants got into a pond on her property and caused the deaths of five of her cows in the winter of 2019-20. She said she filed complaints with TCEQ after the cows died.

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A concrete truck is washed at a concrete batch plant. 📷 Shelby Tauber for The Texas Tribune

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BUY NOW AND SAVE



Hunter drives along a gully that she says appeared on her property after the concrete plants opened. She's convinced it was caused by runoff from the plants, where workers frequently hose down the inside of concrete trucks. 📷 Shelby Tauber for The Texas Tribune

Three companies that Hunter has complained to the TCEQ about — Nelson Bros. Ready Mix, Wildcatter Redi-Mix and Preferred Materials — didn't respond to the Tribune's request for comment.

TCEQ records show that after receiving complaints from residents (the agency did not release the names of people who file complaints), the agency issued notices of violation to all three companies between 2020 and 2022 for failing to control dust from their facilities. It also issued notices of violation to Wildcatter Redi-Mix and Preferred Materials for failing to minimize or prevent contaminated wastewater discharge.

As of April 12, TCEQ public records don't show any enforcement action against the companies related to those violation notices. The agency's website says most violations "are quickly corrected in response to notices of violation" within the time frame the agency gives companies to fix the problems.

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She said her complaints are valid and if SB 471 becomes law, it won't stop her from calling TCEQ when she sees what she thinks is a violation. (It's unclear how the bill would apply to Hunter's situation, since TCEQ took preliminary action after her complaints and "enforcement action" isn't defined in the bill.)

"They want to fine people like me who complain, but would they rather have my money or find something? I think they would rather have my money," Hunter said.

Disclosure: Air Alliance Houston and the University of Texas at Austin have been financial supporters of The Texas Tribune, a nonprofit, nonpartisan news organization that is funded in part by donations from members, foundations and corporate sponsors. Financial supporters play no role in the Tribune's journalism. Find a complete [list of them here](#).

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SB 471 by Sen. Springer

Opposition testimony by Public Citizen

To the Senate Committee on Water, Agriculture, and Rural Affairs

March 13, 2023

There is no one-size-fits-all strategy for addressing complaints at TCEQ.

Or

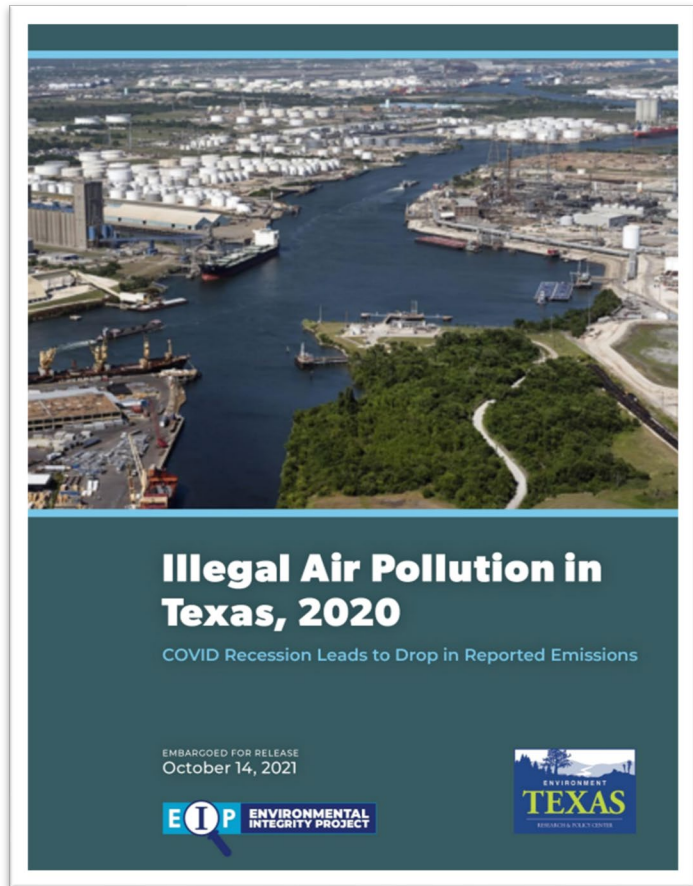
The squeaky wheel gets the grease.

Adrian Shelley
Texas Director, Public Citizen
512-477-1155, ashelley@citizen.org

Summary of our position

- **We oppose SB 471** because complaints are an important tool for TCEQ and community members.
- TCEQ's enforcement division does not keep up with violations of pollution laws meant to protect our health.
- Only a small number of TCEQ investigations are complaint based.
- Three case studies show that when complaints are frequent, there is usually a serious underlying issue.
- There is no indication that TCEQ has trouble dealing with vexatious complainants.
- Charging community members to make complaints will have a chilling effect on enforcement of pollution laws.

TCEQ's Enforcement Division simply cannot keep up

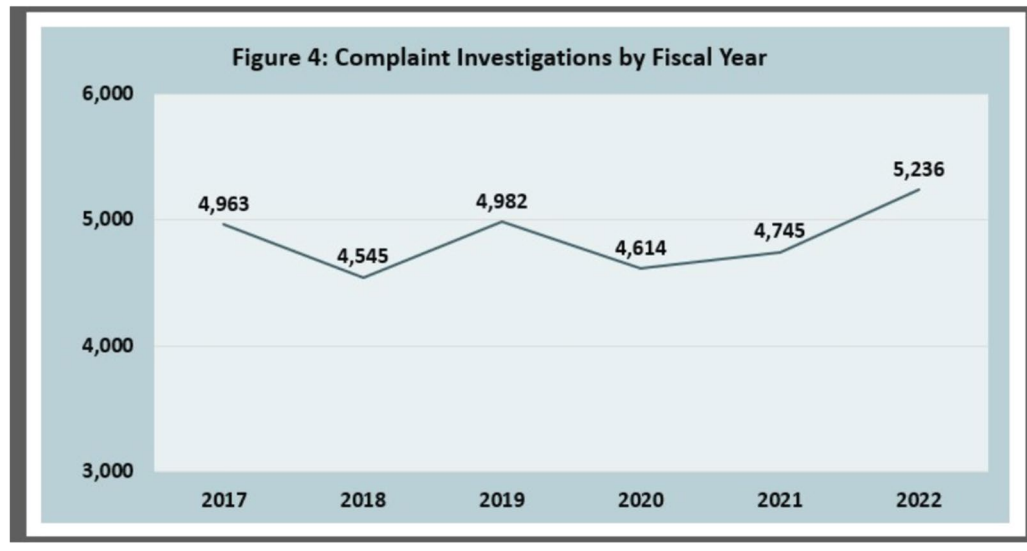
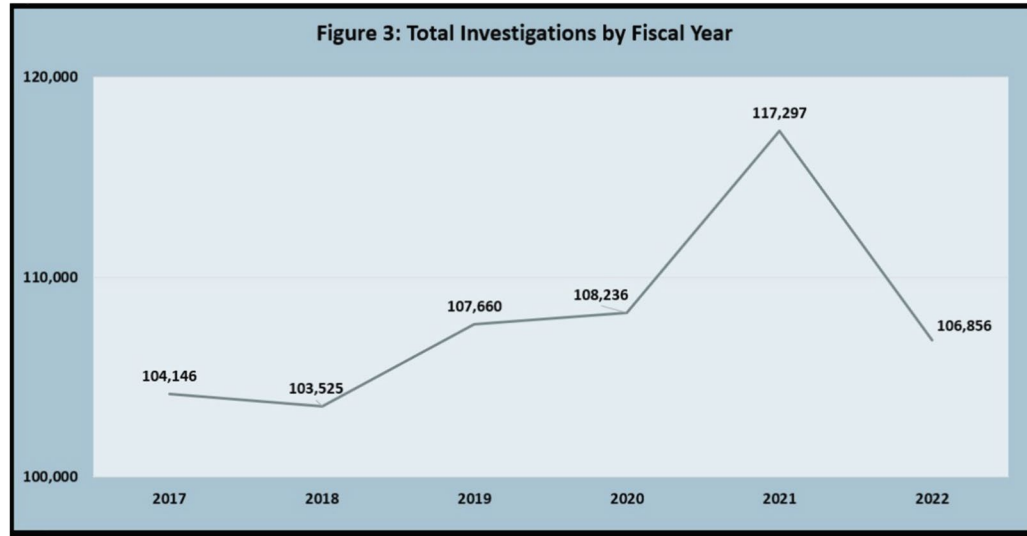


“Looking back over the last nine years, the total number of enforcement orders filed by TCEQ for air pollution events is *less than 3 percent* of the total number of unauthorized air pollution events recorded by the agency in that time.”

Note that this is the record for industry self-reported violations of the law.

<https://publicinterestnetwork.org/wp-content/uploads/2021/10/Illegal-Air-Pollution-in-Texas-2020-EMBARGOED-for-10-14-21.pdf>

Less than 5% of TCEQ investigations are complaint based



	Percentage of Investigations based on a complaint
2017	4.8%
2018	4.4%
2019	4.6%
2020	4.3%
2021	4.0%
2022	4.9%


Case Study 1: Sam Kane/STX Beef

- This beef processing plant in Corpus Christi bothered neighbors for years with foul odors.
- TCEQ finally investigated and fined the company.
- Investigation found “pile of raw guts and pile of raw bone material” outside.
- The investigation happened after ***eight complaints were filed*** across three days in a single week.
- Complaints continue to pour in, with 565 complaints in total, including 15 so far this year.





Repeated newsworthy complaints


Caller Times
NEWS

Rep. Abel Herrero leads charge against foul odor from Kane Beef plant

 **Chris Ramirez**
Corpus Christi

Published 6:30 a.m. CT Nov. 10, 2018



USA TODAY

After a decade-long decline, low prices, strong disposable incomes and a guarded thumbs up for the healthiness of red meat have combined to give beef a resurgence. USA TODAY

Corpus Christi Caller Times
November 10, 2018

<https://www.caller.com/story/news/2018/11/10/rep-abel-herrero-leads-charge-against-foul-odor-kane-beef-plant/1948225002/>

ACTION 10 NEWS
KZTV | CORPUS CHRISTI

NEWS > LOCAL NEWS

STX Beef Processing says they're working on foul odor complaints



Problems Getting Fixed
STX Beef Processing Plant

STX Beef listens to neighbors, promises to fix odor issue

By: Site Administrator
Posted at 11:30 PM, Dec 03, 2019 and last updated 11:30 PM, Dec 03, 2019

Action 10 News KZTV, December 3, 2019

<https://www.kztv10.com/news/local-news/stx-beef-processing-says-theyre-working-on-foul-odor-complaints>

Eight complaints in one week

TCEQ Web Access to Complaint Information

Your search returned 565 records. You may also view and save this list with additional fields (county, region) as an [Excel spreadsheet](#).

Page << < 3 4 5 6 7 8 9 10 11 12 > 201-250 of 565 Records

344646	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/21/2020
344642	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/22/2020
344592	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/22/2020
344451	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/20/2020
344381	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/20/2020
344360	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/19/2020
344358	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/20/2020
344342	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/19/2020
344029	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/14/2020
344025	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/14/2020
343989	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/14/2020
343702	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/10/2020
343562	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	10/08/2020

Complaints lead to investigation & fines

Executive Summary – Enforcement Matter – Case No. 60162
STX Beef Company, LLC
RN100664986
Docket No. 2020-1565-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Sam Kane Beef Processors, 9001 Leopard Street, Corpus Christi, Nueces County

Type of Operation:

Rendering plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: September 24, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,625

Amount Deferred for Expedited Settlement: \$1,525

Total Paid to General Revenue: \$6,100

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): October 14, 2020, October 15, 2020, October 19, 2020, and October 20, 2020

Complaint Information: Alleged a strong and foul odor of dead animals was coming from the Respondent's facility.

Date(s) of Investigation: October 20, 2020


Date(s) of NOE(s): December 4, 2020

Page 1 of 4

TCEQ's enforcement report sites **four consecutive complaints** as leading up to the investigation.

Complaints continue today

TCEQ Web Access to Complaint Information

Your search returned 565 records. You may also view and save this list with additional fields (county, region) as an  Excel spreadsheet.

Page **1** 2 3 4 5 6 7 8 9 10 > >> **1-50 of 565 Records**

Complaint Tracking # ▼	RN	RE Name	Associated Customer	Status ?	County	Received Date
396323	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	03/01/2023
396321	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	02/28/2023
395884	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	02/21/2023
395766	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	02/21/2023
395075	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	02/07/2023
394992	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	02/06/2023
394644	RN100664986	SAM KANE BEEF PROCESSORS		CLOSED	NUECES	01/30/2023
394096	RN100664986	SAM KANE BEEF PROCESSORS	CN604321414 SAM KANE BEEF PROCESSORS LLC	CLOSED	NUECES	01/19/2023
393851	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/17/2023
393613	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/10/2023
393387	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/07/2023
393377	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/06/2023
393372	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/07/2023
393368	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/06/2023
393290	RN100664986	SAM KANE BEEF PROCESSORS	CN605627124 STX BEEF COMPANY LLC	CLOSED	NUECES	01/06/2023

Case Study 2: Blue Ridge Landfill

- This landfill in Pearland has received **5,540 complaints** since 2004.
- A 2016 enforcement action came only after a high volume of complaints over two months.
- In 2018, the company faced lawsuits and a TCEQ-imposed odor control plan.
- Complaints continue, and TCEQ now issues a quarterly review of citizen complaints.
- Despite this, the company still has a “satisfactory” compliance history rating.
- Complaints continue to this day.

Landfill located next to a Pearland neighborhood



Google Earth at 29°33'13.59"N; 95°26'39.45"W

2016 enforcement followed a series of complaints

Executive Summary – Enforcement Matter – Case No. 53555
Blue Ridge Landfill TX, LP
RN102610102
Docket No. 2016-1923-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Blue Ridge Landfill, 2200 Farm-to-Market Road 521, Fresno, Fort Bend County

Type of Operation:

Landfill

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant(s) have expressed an interest in this matter but do not wish to speak at Agenda.

Texas Register Publication Date: April 28, 2017

Comments Received: No

Penalty Information

Total Penalty Assessed: \$43,712

Amount Deferred for Expedited Settlement: \$8,742

Total Paid to General Revenue: \$17,485

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$17,485

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Page 1 of 5

Investigation Information

Complaint Date(s): May 2, 2016 through May 6, 2016 and June 21, 2016 through June 23, 2016.

Complaint Information: Alleged there were nuisance odors coming from the landfill.

Date(s) of Investigation: May 4, 2016 through August 18, 2016 and October 18, 2016 through November 10, 2016

Date(s) of NOE(s): October 21, 2016 and January 3, 2017

TCEQ’s investigation followed a **series of complaints** filed over two months.

2018: lawsuits & odor control plan

COMMUNITY IMPACT

NEWS EVERYONE GETS

HOUSTON / PEARLAND - FRIENDSWOOD / GOVERNMENT

Blue Ridge Landfill pledges to control odor amid lawsuits, property value decline



By Matt Dulin | 11:00 AM May 18, 2018 CDT



Among other changes, Republic Services Inc. said it is adding more gas wells like this one to contain odors from decomposing waste.

Blue Ridge Landfill has a state-approved plan to remedy its odor problem, but residents who have borne the brunt of it say the measures are not bringing relief swiftly enough.

Community Impact, May 18, 2018

<https://communityimpact.com/houston/pearland-friendswood/city-county/2018/05/18/blue-ridge-control-odor/>

BLUE RIDGE LANDFILL

FORT BEND COUNTY, TEXAS

ODOR CONTROL PLAN

Prepared for

Blue Ridge Landfill TX, LP

April 2018

TCEQ Odor control plan, April 2018

<https://www.tceq.texas.gov/downloads/compliance/complaints/pearland/brlf-odor-control-plan.pdf>

TCEQ now provides quarterly complaint updates

Pearland Odor Complaints

Fact Sheet

Updated January 1, 2023

Subsequent to December 1, 2021, the frequency for posting updates to this information will transition to posting on the first business day following each calendar quarter. The next update will be posted on **April 3, 2023**.

INVESTIGATIONS

- In August 2015, the TCEQ Houston Region Office began receiving odor related complaints from citizens in and around the Shadow Creek Ranch subdivision.
- As of **January 1, 2023**, citizens have filed approximately **7,238** complaints and the TCEQ has conducted approximately **287** investigations into these complaints.
- Odors have been described as “garbage,” “chemical,” and “sewage” and are typically reported to occur overnight and during the early morning hours.
- The TCEQ issued a complaint investigation report and Notice of Enforcement on October 21, 2016, alleging that Blue Ridge Landfill was the source of the nuisance odors documented in investigations conducted May 4 and 5, 2016, May 23 and 24, 2016, June 6 and June 23, 2016. Information on the enforcement process is available on the TCEQ website at <https://www.tceq.texas.gov/enforcement/process.html>.
- The TCEQ performed a surface emissions monitoring investigation to assess compliance with air regulations concerning emissions from landfills in October and November 2016. The investigation report and a Notice of Enforcement letter were issued on January 3, 2017, alleging that Blue Ridge Landfill failed to perform surface emissions monitoring in accordance with the requirements of the applicable rules. Information on the enforcement process is available on the TCEQ website at <https://www.tceq.texas.gov/enforcement/process.html>.
- Investigators from the TCEQ Houston Region Office have conducted odor surveys beginning as early as 12:00 a.m. and as late as 11:00 p.m. These surveys often include multiple teams of two and have also included staff from the City of Pearland Public Works Department. **The latest odor survey was conducted on December 7, 2022. Landfill odors were not detected during this survey.**

Compliance history is still “satisfactory”

TCEQ Compliance History Search

Compliance History - RN102610102

Regulated Entity Information

RN: [?](#) RN102610102
Name: BLUE RIDGE LANDFILL
Location: 2200 FM 521 RD
FRESNO, TX 77545-8214
County: FORT BEND
Region: REGION 12 - HOUSTON

Compliance History by Customer

There are 6 customers associated to this site. The Customer's compliance history for the site is displayed below.


1-6 of 6 Records

CN ▲	Customer Name	Related Program IDs ?	Rating	Classification	Date Rated
CN600343826	BFI WASTE SYSTEMS OF NORTH AMERICA INC	No Active IDs found. Please see the CR Query for a full list.	---	UNCLASSIFIED	09/01/2022
CN601527963	BFI WASTE SERVICES OF TEXAS LP	PSTREG 64950	0.00	HIGH	09/01/2022
CN601721657	LONGHORN EXCAVATORS INC	No Active IDs found. Please see the CR Query for a full list.	---	UNCLASSIFIED	09/01/2022
CN602820599	BLUE RIDGE LANDFILL TX LP	AIRNSR 156301 AIRNSR 161141 AIRNSR 81004 AIROP 1472 IHW 89429 MSWDISP 1505A STORM TXR05S302	0.18	SATISFACTORY	09/01/2022
CN603713595	GRISHAM & JHA GROUP LLC	No Active IDs found. Please see the CR Query for a full list.	---	UNCLASSIFIED	09/01/2022
CN605441328	BLUE RIDGE RENEWABLES LLC	AIRNSR 149416 MSWPROC 48043	---	UNCLASSIFIED	09/01/2022

1-6 of 6 Records

High volume of complaints continues

TCEQ Web Access to Complaint Information

Your search returned 5540 records. You may also view and save this list with additional fields (county, region) as an  Excel spreadsheet.

Page **1** 2 3 4 5 6 7 8 9 10 > >> 1-50 of 5540 Records

Complaint Tracking # ▼	RN	RE Name	Associated Customer	Status ?	County	Received Date
394556	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/27/2023
394047	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/18/2023
393923	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/17/2023
393919	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/17/2023
393913	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/17/2023
393903	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/17/2023
393311	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/06/2023
393163	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/04/2023
393149	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/04/2023
393142	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	01/04/2023
392978	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	12/27/2022
392972	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	12/27/2022
392967	RN102610102	BLUE RIDGE LANDFILL	CN602820599 BLUE RIDGE LANDFILL TX LP	CLOSED	FORT BEND	12/27/2022

Case Study 3: Gulf Chemical & Metallurgical / Gladieux Metals Recycling

- July 2009 – Former employee tips TCEQ to GCM manipulating its water pollution data.
- May 2010 – Company pleads guilty to 11 felonies and pays \$2.75 million fine.
- Dozens of complaints are filed between 2009 and 2011.
- August 2013 – Company settles 2011 Clean Air Act lawsuit for \$7.5 million.

https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=regent.showSingleRN&re_id=489381632001134

Whistleblower complaint in 2009 leads to 11 felonies and huge fine



The Facts
COVERING BRAZORIA COUNTY ★ WHERE TEXAS BEGAN

TOP STORY

Gulf Chemical pays \$2.75 million fine

Company officials plead guilty to skirting environmental regulations.

By NATHANIEL LUKEFAHR May 29, 2010 4

f t e p b

FREEPORT — Gulf Chemical & Metallurgical Corp. officials said Friday the company pleaded guilty to 11 felony violations and agreed to pay a \$2.75 million fine to end a criminal investigation into environmental violations at its Freeport plant.

Gulf Chemical officials made the agreement with Travis County prosecutors after the company was accused of manipulating its water releases at the site's catalyst recycling plant to skirt environmental regulations.

Complaints were most common during the years the company was under investigation.

TCEQ Web Access to Complaint Information

Your search returned 95 records. You may also view and save this list with additional fields (county, region) as an [Excel spreadsheet](#).

Page 1 2 > 1-50 of 95 Records

Complaint Tracking #	RN	RE Name	Associated Customer	Status	County	Received Date
292683	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/19/2018
292260	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/14/2018
292254	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/13/2018
256775	RN100210129	GLADIEUX METALS RECYCLING	CN600124598 GCM LIQUIDATION CORPORATION	CLOSED	BRAZORIA	04/24/2017
175654	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	11/04/2012
175641	RN100210129	GLADIEUX METALS RECYCLING	CN600124598 GCM LIQUIDATION CORPORATION	CLOSED	BRAZORIA	11/04/2012
173508	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/14/2012
173349	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/11/2012
172736	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	08/24/2012
172733	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	08/23/2012
160308	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	10/07/2011
159417	RN100210129	GLADIEUX METALS RECYCLING	CN600124598 GCM LIQUIDATION CORPORATION	CLOSED	BRAZORIA	09/15/2011
152655	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	03/29/2011
149954	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	01/27/2011
149569	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	01/19/2011
146927	RN100210129	GLADIEUX METALS RECYCLING	CN600124598 GCM LIQUIDATION CORPORATION	CLOSED	BRAZORIA	10/30/2010
146765	RN100210129	GLADIEUX METALS RECYCLING	CN600124598 GCM LIQUIDATION CORPORATION	CLOSED	BRAZORIA	10/28/2010
146214	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	10/15/2010
146208	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	10/15/2010
145502	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/30/2010
145105	RN100210129	GLADIEUX METALS RECYCLING		CLOSED	BRAZORIA	09/20/2010

Citizen complaints point to further issues.

TEXAS OBSERVER

SINCE 1954

HEAVY METAL

The 'long, sordid history' of Texas' most brazen polluter.

by **FORREST WILDER**
AUGUST 1, 2012, 9:20 PM, CDT



- “Between the summer of 2009 and early 2011, residents filed more than 50 complaints against Gulf Chemical. Some were very detailed.
 - “The complainant understands that the smoke is arsenic and nickel powder”;
 - “The plume, which was not steam, measured at least one mile long, and when emissions passed overhead, it was estimated to be greater than 200 feet in diameter”;
 - Gulf is “emitting heavy acidic fumes creating a haze, acidic odor and irritating the citizen’s eyes.”

<https://www.texasobserver.org/heavy-metal/>

Clean Air Act lawsuit in 2011 leads to \$7.5 million settlement

BUSINESS INSURANCE

Risk Management

Gulf Chemical & Metallurgical to settle Clean Air Act lawsuit for \$7.5M

Matt Dunning

August 21, 2013

Gulf Chemical & Metallurgical Corp. will pay \$7.5 million to settle a 2011 lawsuit for violation of the Texas Clean Air Act, according to the state's Attorney General.

A series of investigations by the Texas Commission on Environmental Quality conducted in 2008 and 2009 found that the Freeport, Texas-based chemical recycling and processing firm unlawfully emitted a number of potentially hazardous pollutants into the air, including ammonia, nitrous oxide, sulfur dioxide and various airborne metals, according to a statement released last week by Texas Attorney General Greg Abbott.

After issues continued at the plant, a lawsuit leads to the third largest Clean Air Act settlement in Texas history at the time.

[https://www.businessinsurance.com/article/20130821/news06/130829949/gulf-chemical-&-metallurgical-to-settle-clean-air-act-lawsuit-for-\\$75m](https://www.businessinsurance.com/article/20130821/news06/130829949/gulf-chemical-&-metallurgical-to-settle-clean-air-act-lawsuit-for-$75m)

Conclusion: Complaints work!

- Each of these cases is unique. But in all cases, a high number of citizen complaints pointed to an ongoing issue at a facility.
- Limiting a community member's ability to make complaints could lead to the worst pollution problems going unaddressed. Sometimes one complainant makes all the difference.
- TCEQ handles complaints every day. If vexatious complainants exist, let the agency deal with them.
- **Please vote no on SB 471.**

Adrian Shelley
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