

TCEQ STANDARD PERMIT REGISTRATION NO. 78844
DOCKET NO. 2007-1000-AIR

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APPLICATION BY	§	BEFORE THE	CHIEF CLERKS OFFICE
	§		
CANYON LAKE READY MIX, INC.	§	TEXAS COMMISSION ON	
	§		
CANYON LAKE, COMAL COUNTY	§	ENVIRONMENTAL QUALITY	

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS
AND REQUESTS FOR RECONSIDERATION**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this response (Response) to the requests for a contested case hearing and requests for reconsideration submitted by persons listed herein. The Texas Clean Air Act (TCAA) §382.056(n) requires the commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code § 5.556.¹ This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

A map showing the location of the site for the proposed facility is included with this response and has been provided to all persons on the attached mailing list. In addition, a current compliance history report, technical review summary, and the Air Quality Standard Permit for Concrete Batch Plants have been filed with the TCEQ's Office of Chief Clerk for the commission's consideration. Finally, the ED's Response to Public Comments (RTC), which was mailed by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the commission's consideration.

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I. Application Request and Background Information

Canyon Lake Ready Mix, Inc. (Applicant) submitted an application to the TCEQ on April 28, 2006, requesting the registration of a permanent concrete batch plant ("CBP") under a Standard Permit.² The CBP is to be located at 5001 FM 2673, Canyon Lake, Comal County, Texas. As of August 13, 2007, the Applicant is not delinquent on any administrative penalty payments to the TCEQ.

The application was declared administratively complete on May 5, 2006. The Notice of Receipt and Intent to Obtain (NORI) an Air Quality Permit was published on May 17, 2006 and on June 7, 2006 in the *Times Guardian*. The second publication was needed because the first publication was incomplete. The Notice of Application and Preliminary Decision (NAPD) was published on

¹ Statutes cited in this response may be viewed online at www.capitol.state.tx.us/statutes/statutes.html. Relevant statutes are found primarily in the Texas Health and Safety Code and the Texas Water Code. The rules in the Texas Administrative Code may be viewed online at www.sos.state.tx.us/tac/index.shtml, or follow the "Rules, Policy & Legislation" link on the TCEQ website at www.tceq.state.tx.us.

² 30 TAC § 116.611

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July 19, 2006 in the *Times Guardian*. The public comment period ended on August 18, 2006. The TCEQ Consolidated Compliance and Enforcement Database was searched and no enforcement activities were found that are inconsistent with the compliance history. Since this application was declared administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted pursuant to House Bill 801.

The ED's RTC was mailed on May 25, 2007 to all interested persons, including those who asked to be placed on the mailing list for this application and those who submitted comment or requests for contested case hearing. The cover letter attached to the RTC included information about making requests for contested case hearing or for reconsideration of the ED's decision.³ The letter also explained hearing requesters should specify any of the ED's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy.

The TCEQ received timely hearing requests during the public comment period from the following persons: John Donahue, Robin Nava, and Ann & Robert Bartlett. The TCEQ also received a timely hearing request during the 30 day period following the filing for the RTC from the following person: Helen Thayer.

II. Applicable Law

The commission must assess the timeliness and form of the hearing requests, as discussed below. The form requirements are set forth in 30 TAC § 55.201(d):

(d) A hearing request must substantially comply with the following:

(1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

(3) request a contested case hearing;

(4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate

³ See TCEQ rules at Chapter 55, Subchapter F of Title 30 of the Texas Administrative Code. Procedural rules for public input to the permit process are found primarily in Chapters 39, 50, 55 and 80 of Title 30 of the Code.

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the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to comments the requester disputes and the factual basis of the dispute and list any disputed issues of law or policy; and

(5) provide any other information specified in the public notice of application.

The next necessary determination is whether the requests were filed by "affected persons" as defined by Tex. Water Code § 5.115, implemented in commission rule 30 TAC § 55.203. Under 30 TAC § 55.203, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest. Local governments with authority under state law over issues raised by the application receive affected person status under 30 TAC § 55.203(b).

However, hearing requests on a concrete batch plant standard permit are considered under §382.058(c) of the Texas Clean Air Act (TCAA).⁴ The statute states "only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing ... as a person who may be affected." A requester who resides within 440 yards of the proposed facility has standing to request a hearing as an affected person. Therefore, it is not necessary to consider the factors listed in 30 TAC § 55.203(c) to determine affected party status. A requester's failure to meet the distance requirement of § 382.058(c) of the TCAA is an absolute bar to affected party status.

If the commission determines a hearing request is timely and fulfills the requirements for proper form, and the hearing requester is an affected person, the commission must apply a three-part test to the issues raised in the matter to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing. The three-part test in 30 TAC § 50.211 is as follows:

- (1) The issue must involve a disputed question of fact;
- (2) The issue must have been raised during the public comment period; and
- (3) The issue must be relevant and material to the decision on the application.

The law applicable to the proposed facility may generally be summarized as follows. A person who owns or operates a facility or facilities that will emit air contaminants is required to obtain authorization from the commission prior to the construction and operation of the facility or facilities.⁵ Permit conditions of general applicability must be in rules adopted by the commission.⁶ Those rules are found in 30 TAC Chapter 116. In addition, a person is prohibited from emitting air contaminants or performing any activity that violates the TCAA or any

⁴ TEX. HEALTH AND SAFETY CODE, Chapter 382

⁵ TEX. HEALTH AND SAFETY CODE § 382.0518

⁶ TEX. HEALTH AND SAFETY CODE § 382.0513

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commission rule or order, or that causes or contributes to air pollution.⁷ The relevant rules regarding air emissions are found in 30 TAC Chapters 101 and 111-118. In addition, the commission has the authority to establish and enforce permit conditions consistent with the TCAA.⁸ The materials accompanying this response list and reference permit conditions and operational requirements and limitations applicable to this proposed facility.

III. Analysis of Hearing Requests

A. Were the requests for a contested case hearing in this matter timely and in proper form?

All hearing requests were submitted during the public comment period or during the period for requesting a contested case hearing after the close of the comment period. Furthermore, the ED has determined the hearing requests of John Donahue, Robin Nava, Ann & Robert Bartlett, and Helen Thayer substantially comply with all of the requirements for form in 30 TAC § 55.201(d).

The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk that was attached to the RTC states requesters should, to the extent possible, specify any of the ED's responses in the RTC the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy.⁹ Robin Nava and Helen Thayer each filed a response to the ED's RTC, stating a number of issues remain in dispute. In the absence of a response from John Donahue or Ann & Robert Bartlett or their representatives within the thirty-day period after the RTC was mailed, the ED cannot determine or speculate whether the hearing requesters continue to dispute issues of fact, or whether there are any outstanding issues of law or policy. The ED nevertheless has evaluated the merits of the requests before action is taken regarding this application. The remaining disputed issues identified by Robin Nava and Helen Thayer are addressed below.

B. Are those who requested a contested case hearing in this matter affected persons?

Texas Health & Safety Code § 382.058(c) provides only those persons actually residing within 440 yards of the proposed facility may request a hearing as an affected party. John Donahue and Helen Thayer reside within 440 yards of the CBP. Therefore, only John Donahue and Helen Thayer have standing to request a hearing as affected persons. John Donahue resides approximately 238 yards from the proposed facility. Helen Thayer resides approximately 186 yards from the proposed facility. Robin Nava and Ann & Robert Bartlett do not reside within 440 yards of the CBP.¹⁰ Because Robin Nava and Ann & Robert Bartlett do not actually reside in a permanent residence within 440 yards of the proposed facility, they do not have standing to request a hearing as an affected person. Robin Nava resides approximately 0.8 miles from the proposed facility. Ann & Robert Bartlett reside approximately 1.6 miles from the proposed

⁷ TEX. HEALTH AND SAFETY CODE § 382.085

⁸ TEX. HEALTH AND SAFETY CODE § 382.0513

⁹ 30 TAC § 55.201(d)(4)

¹⁰ See attached map.

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facility. A requester's failure to meet the distance requirement of § 382.058(c) is an absolute bar to affected party status.

C. Which issues in this matter should be referred to SOAH for hearing?

If the commission determines any of the hearing requests in this matter are timely and in proper form, and some or all of the hearing requesters are affected persons, the commission must apply the three-part test discussed in Section II to the issues raised in this matter to determine if any of the issues should be referred to SOAH for a contested case hearing. The three-part test asks whether the issues involve disputed questions of fact, whether the issues were raised during the public comment period, and whether the issues are relevant and material to the decision on the permit application, in order to refer them to SOAH.

The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk transmitting the RTC cites 30 TAC §55.201(d)(4), which states requesters should, to the extent possible, specify any of the ED's responses in the RTC the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy. Robin Nava and Helen Thayer filed responses that identified a number of issues. In the absence of a response from John Donahue or Ann & Robert Bartlett within the thirty-day period after the RTC was mailed, the ED cannot determine or speculate whether the remaining issues of fact continue to be disputed by the hearing requesters, or any alleged outstanding issues of law or policy. However, the ED acknowledges the hearing requesters have one more opportunity to identify disputed issues of fact in their replies to the positions of the ED, Office of Public Interest Counsel and the Applicant regarding the hearing request. Therefore, to facilitate the commission's consideration of this matter, the ED has analyzed the remaining two parts of the test, assuming the issues raised in the comments in this matter remain disputed. The disputed issues identified by Robin Nava and Helen Thayer are included in the issues of fact listed below.

1. Thirteen issues involving questions of fact.

The requesters raise the following issues involving questions of fact regarding the proposed operation of the Applicant's facility:

1. Whether the air emissions from the proposed facility will adversely affect the health of residents in the area.
2. Whether the air emissions from the proposed facility will adversely affect air quality in the area.
3. Whether the air emissions from the proposed facility will adversely affect the environment.
4. Whether the air emissions from the proposed facility will adversely affect residents' quality of life as it relates to aesthetics, traffic, and noise.
5. Whether the proposed facility will be located in an inappropriate area, in that it is too close to a residential area and local winds are particularly strong.

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6. Whether the air emissions from the proposed facility will adversely affect wells in the area.
7. Whether emissions from vehicles will adversely affect air quality.
8. Whether the air emissions from the proposed facility will create nuisance conditions related to dust.
9. Whether operation of the proposed facility will create nuisance conditions related to noise.
10. Whether public notice was proper and adequate.
11. Whether road dust and emissions from internal site transport activities were taken into consideration when processing the application.
12. Whether 30 TAC § 111.155 applies to the application.
13. Whether air modeling conducted as part of the promulgation of the Concrete Batch Plant Standard Permit was adequate.

2. Were the issues raised during the public comment period?

The public comment period is defined in 30 TAC § 55.152. The public comment period begins with the publication of the Notice of Receipt and Intent to Obtain an Air Quality Permit. The end date of the public comment period depends on the type of permit. In this case, the public comment period began on May 17, 2006 and ended on August 18, 2006. Issues 1-11 listed above upon which the hearing requests in this matter are based were raised in comments received during the public comment period. These issues may be considered by the commission. Issues 12-13 were raised by Robin Nava in a letter requesting a hearing dated June 19, 2007, and received by the Agency on June 20, 2007. Therefore, these issues were not raised during the comment period by Robin Nava, nor were these issues raised by any other requester during the comment period. Therefore, issues 12-13 cannot be considered by the commission.

3. Whether the issues are relevant and material to the decision on the application.

In this case, the permit would be issued under the commission's authority in Tex. Water Code § 5.013(11) (assigning the responsibilities in Chapter 382 of the Tex. Health & Safety Code) and the TCAA. The relevant sections of the TCAA are found in Subchapter C, Permits. Subchapter C requires the commission to grant a permit to construct or modify a facility if the commission finds the proposed facility will use at least BACT and the emissions from the facility will not contravene the intent of the TCAA, including the protection of the public's health and physical property. In making this permitting decision, the commission may consider the applicant's compliance history. The commission by rule has also specified certain requirements for permitting. Therefore, in making the determination of relevance in this case, the commission should review each issue to see if it is relevant to these statutory and regulatory requirements that must be satisfied by this permit application.

Robin Nava and Helen Thayer have identified disputed issues in the RTC. In the absence of identification by the other hearing requesters of disputed issues in the RTC, the ED cannot determine which issues remain disputed. However, if the assumption is made the issues raised in

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the public comments continue to be disputed, the following is the ED's position on those issues. The issues identified by Robin Nava and Helen Thayer are included in the issues listed below.

1. Whether the air emissions from the proposed facility will adversely affect the health of residents in the area.

The requesters identified the issue of health impacts to humans in their hearing requests.¹¹ Whether the proposed facility will use BACT and will be protective of human health is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes impact of the air emissions to human health is a referable issue.

2. Whether the air emissions from the proposed facility will adversely affect air quality in the area.

The requesters identified the issue of air quality in their hearing requests.¹² Whether the proposed facility will be protective of ambient air quality is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes impact of air emissions to ambient air quality is a referable issue.

3. Whether the air emissions from the proposed facility will adversely affect the environment.

The requesters identified the issue of the effect on the environment in their hearing requests.¹³ Whether the proposed facility will be protective of the environment is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes impact of air emissions to the environment is a referable issue.

4. Whether the air emissions from the proposed facility will adversely affect residents' quality of life as it relates to aesthetics, traffic, and noise.

The requesters identified the issue of impact to quality of life.¹⁴ The TCEQ does not have jurisdiction over aesthetics, traffic, and noise. The TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization to emit air contaminants; nor can the TCEQ prohibit owners and operators from receiving authorization to emit air contaminants if they comply with all statutory and regulatory requirements. Whether the air emissions from the proposed facility will adversely affect residents' quality of life as it relates to aesthetics, traffic, and noise is not relevant and material to the commission's decision on this application. This issue should not be referred to SOAH.

5. Whether the proposed facility will be located in an inappropriate area, in that it is too close to a residential area and local winds are particularly strong.

¹¹ This issue was addressed in the ED's RTC in Response 1.

¹² This issue was addressed in the ED's RTC in Response 1.

¹³ This issue was addressed in the ED's RTC in Response 1.

¹⁴ This issue was addressed in the ED's RTC in Response 3.

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The requesters identified the issue of site location in their hearing requests.¹⁵ The TCEQ does not have zoning authority, and it is therefore beyond the agency's power to regulate the effect of an applicant's site selection. Further, the TCEQ cannot require an Applicant to relocate, or prohibit an applicant from locating at a particular site, if they meet any specific distance limitations that are enforceable by the TCEQ. So long as the Applicant meets the applicable distance limitations, adverse impacts to human health and the environment are not expected. Whether the proposed facility will be located in an inappropriate area, in that it is too close to a residential area and local winds are particularly strong, is not relevant and material to the commission's decision on this application. This issue should not be referred to SOAH.

6. Whether the air emissions from the proposed facility will adversely affect wells in the area.

The requesters identified the issue of impact to wells in their hearing requests.¹⁶ While the TCEQ is responsible for the environmental protection of all media (including water), the law governing air permits deals specifically with air-related issues. The scope of this air quality permit application review does not include water assessment or consideration of issues involving impact to wells. However, the Applicant's waste and water usage and management practices may require other authorizations from those respective agency programs. Whether the air emissions from the proposed facility will adversely affect wells in the area is not relevant and material to the commission's decision on this application for an air permit. This issue should not be referred to SOAH.

7. Whether emissions from vehicles will adversely affect air quality.

The requesters identified the issue of emissions from traffic in their hearing requests.¹⁷ The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. The TCEQ may only regulate stationary sources of air contaminants under its permitting authority in subchapter C of the TCAA. Accordingly, the TCEQ does not have jurisdiction to consider impacts of emissions from motor vehicles when determining whether to approve a permit application. Whether emissions from traffic will adversely affect air quality is not relevant and material to the commission's decision on this application. This issue should not be referred to SOAH.

8. Whether the air emissions from the proposed facility will create nuisance conditions related to dust.

The requesters identified the issue of dust in their hearing requests.¹⁸ Whether the air emissions from the proposed facility will create nuisance conditions related to dust is a factual issue that is

¹⁵ This issue was addressed in the ED's RTC in Response 9.

¹⁶ This issue was addressed in the ED's RTC in Response 14.

¹⁷ This issue was addressed in the ED's RTC in Response 13.

¹⁸ This issue was addressed in the ED's RTC in Response 4.

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relevant and material to the commission's decision on this application. The ED concludes causing or contributing to nuisance conditions related to dust is a referable issue.

9. Whether operation of the proposed facility will create nuisance conditions related to noise.

The requesters identified the issue of noise in their hearing requests.¹⁹ The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. Accordingly, the TCEQ does not have jurisdiction to regulate noise associated with the operation of the proposed facility. Whether operation of the proposed facility will cause or contribute to noise pollution is not relevant and material to the commission's decision on this application. This issue should not be referred to SOAH.

10. Whether public notice was proper and adequate.

The requesters identified the issue of public notice in their hearing requests.²⁰ Whether public notice of this application was proper and adequate is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes notice is a referable issue.

11. Whether road dust and emissions from internal site transport activities were taken into consideration when processing the application.

The requesters identified the issue of road dust and emissions from internal site transport activities.²¹ Whether road dust and emissions from internal site transport activities were taken into consideration when processing the application is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes the issue of road dust and emissions from internal site transport activities is a referable issue.

IV. Maximum Expected Duration of the Contested Case Hearing

The ED recommends the contested case hearing, if held, should last no longer than four months from the preliminary hearing to the proposal for decision.

V. Executive Director's Recommendation

The Executive Director respectfully recommends the commission:

- A. Find all hearing requests in this matter were timely filed;
- B. Find the hearing requests of John Donahue, Robin Nava, Ann & Robert Bartlett, and Helen Thayer satisfy the requirements for form under 30 TAC § 55.201(d);

¹⁹ This issue was addressed in the ED's RTC in Response 15.

²⁰ This issue was addressed in the ED's RTC in Response 7.

²¹ This issue was addressed in the ED's RTC in Responses 1, 8, & 13.

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C. Find John Donahue and Helen Thayer are an affected persons. Find Robin Nava and Ann & Robert Bartlett are not affected persons in this matter;

D. If the commission finds some or all of the requesters are affected persons, refer the following issues to the State Office of Administrative Hearings:

1. Whether the air emissions from the proposed facility will adversely affect the health of the residents in the area.
2. Whether the air emissions from the proposed facility will adversely affect air quality in the area.
3. Whether the air emissions from the proposed facility will adversely affect the environment.
8. Whether the air emissions from the proposed facility will create nuisance conditions related to dust.
10. Whether public notice was proper and adequate.
11. Whether road dust and emissions from internal site transport activities were taken into consideration when processing the application.

E. Find the issues regarding quality of life (4), location of the facility (5), wells (6), vehicle emissions (7), and noise pollution (9) raised during the comment period are not relevant and material to the decision on this air permit application.

G. Find the issues regarding whether 30 TAC § 111.155 applies to the application (12) and whether air modeling conducted as part of the promulgation of the Concrete Batch Plant Standard Permit was adequate (13) were not raised during the comment period.

H. Find the maximum expected duration of the contested case hearing, if held, would be four months.

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30 TAC § 55.201(e) states "Any person may file a request for reconsideration of the executive director's decision. The request must be in writing and be filed by United States mail, facsimile, or hand delivery with the chief clerk within the time provided by subsection (a) of this section." This section also requires, "The request for reconsideration must expressly state that the person is requesting reconsideration of the executive director's decision, and give reasons why the decision should be reconsidered."

Dale Leacock

Dale Leacock filed a Request for Reconsideration of the Executive Director's Preliminary Decision. The ED shall address each issue in the order it appears in Dale Leacock's request.

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1. Dale Leacock expressed concern that the health of local residents would be negatively impacted by the operation of a CBP in the immediate area. Dale Leacock states the CBP would be located near a residential area populated mostly by older citizens, many of whom suffer from respiratory conditions which would be aggravated by the CBP's operation. Dale Leacock states that pollution from the CBP threatens air quality in the area.

This issue is addressed in the ED's RTC in Response 1. The commission has determined that concrete batch plants operating under a standard permit are insignificant contributors of air contaminants to the atmosphere. The TCEQ conducted a protectiveness review for the CBP standard permit. This review concluded that, when operated properly, emissions from CBPs operating under a standard permit will be within state and federal limits.

Specifically, the protectiveness review determined CBP facilities operating under the standard permit would meet the following requirements: repealed 30 TAC § 111.155²² fence-line concentration limits of 400 $\mu\text{g}/\text{m}^3$ (micrograms of PM per cubic meter) for an one-hour period and 200 $\mu\text{g}/\text{m}^3$ for a three-hour period; the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of 10 microns or less (PM_{10}) of 150 $\mu\text{g}/\text{m}^3$ for a 24-hour period and 50 $\mu\text{g}/\text{m}^3$ annually; and applicable TCEQ toxicology and risk assessment health effects guidelines.

Since PM and PM_{10} were the only air contaminants of concern from these plants, the PM and PM_{10} ground-level concentration standards were used to determine protectiveness as mentioned above. These standards are based upon short-term and long-term health effects considerations. Using factors found in the Compilation of Air Pollutant Emission Factors Manual (AP-42), emissions were modeled to ensure all configurations would meet the NAAQS and other standards in effect.

The model used for the standard permit health effects review took into account worst-case meteorological conditions, including wind direction and speed. Emissions from the facility are expected to be protective at the property line of the proposed site. Dust (PM_{10}) disperses as it travels further from its source. Therefore, emissions from the facility would not be expected to be harmful due to wind transport.

The NAAQS are created by the United States Environmental Protection Agency (EPA), and as defined in the federal regulations (40 Code of Federal Regulations (CFR) § 50.2), include both primary and secondary standards. The primary standards are those that the Administrator of the EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions. The state's health-based emissions limits are designed to be protective of these sensitive receptors. Secondary NAAQS are those that the

²² Repealed May 17, 2006. While the ground-level concentration standards are no longer in effect, the distance limitations established under those standards remain a part of the standard permit. The distance limitations were established to ensure operation of a CBP would not adversely affect human health and the environment, regardless of the configuration of the CBP.

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Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air. The protectiveness review included both primary and secondary NAAQS and concluded that if the proposed facility is operated as required, the emissions-based production limits in the standard permit are set to be protective of all those receptors.

2. Dale Leacock requests the TCEQ to investigate further before permitting the CBP.

This issue is addressed in the ED's RTC in Response 2. The ED reviewed the application and determined that it was administratively and technically complete. The ED has also conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. Provided the CBP is operated within the terms of the standard permit, adverse health effects are not expected. Therefore, the ED does not believe additional review is required.

3. Dale Leacock expressed concern about dust and pollution causing nuisance conditions on the commenter's property.

This issue is addressed in the ED's RTC in Response 4. Operators of concrete batch plants must meet standards outlined in the Texas Clean Air Act and applicable state and federal rules and regulations and must comply with 30 TAC § 101.4, which prohibits nuisance conditions. Specifically the rule states, "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected. The TCEQ cannot deny authorization of a facility if a permit application demonstrates that all applicable statutes, rules, and regulations will be met.

4. Dale Leacock expressed concern about the location of the proposed CBP because a residential area populated by many older citizens is nearby.

This issue is addressed in the ED's RTC in Response 9. The TCEQ does not have zoning authority and therefore cannot prohibit an applicant from locating a facility in a certain area unless state regulations require specific distance setbacks from other structures. The Applicant's registration meets all applicable setback requirements. Zoning authority is usually held by local authorities such as cities, municipalities, and their extra-territorial jurisdictions. Any questions about zoning issues should be directed to those authorities.

In conclusion, each of the above issues has been addressed in the ED's RTC. Therefore, the ED respectfully recommends the commission deny Dale Leacock's Request for Reconsideration.

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Les Bacarisse

Les Bacarisse filed a Request for Reconsideration of the Executive Director's Preliminary Decision. The ED shall address each issue in the order it appears in Les Bacarisse's request.

1. Les Bacarisse expressed concern that the commenter's health would be negatively impacted by the operation of a CBP in the immediate area. Les Bacarisse stated the cancer he had is prone to reappear in the lungs and air quality is important to his survival. Les Bacarisse stated he would have to move if the application is approved.

This issue is addressed in the ED's RTC in Response 1. The commission has determined that concrete batch plants operating under a standard permit are insignificant contributors of air contaminants to the atmosphere. The TCEQ conducted a protectiveness review for the CBP standard permit. This review concluded that, when operated properly, emissions from CBPs operating under a standard permit will be within state and federal limits.

Specifically, the protectiveness review determined CBP facilities operating under the standard permit would meet the following requirements: repealed 30 TAC § 111.155²³ fence-line concentration limits of 400 $\mu\text{g}/\text{m}^3$ (micrograms of PM per cubic meter) for an one-hour period and 200 $\mu\text{g}/\text{m}^3$ for a three-hour period; the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of 10 microns or less (PM_{10}) of 150 $\mu\text{g}/\text{m}^3$ for a 24-hour period and 50 $\mu\text{g}/\text{m}^3$ annually; and applicable TCEQ toxicology and risk assessment health effects guidelines.

Since PM and PM_{10} were the only air contaminants of concern from these plants, the PM and PM_{10} ground-level concentration standards were used to determine protectiveness as mentioned above. These standards are based upon short-term and long-term health effects considerations. Using factors found in the Compilation of Air Pollutant Emission Factors Manual (AP-42), emissions were modeled to ensure all configurations would meet the NAAQS and other standards in effect.

The model used for the standard permit health effects review took into account worst-case meteorological conditions, including wind direction and speed. Emissions from the facility are expected to be protective at the property line of the proposed site. Dust (PM_{10}) disperses as it travels further from its source. Therefore, emissions from the facility would not be expected to be harmful due to wind transport.

The NAAQS are created by the United States Environmental Protection Agency (EPA), and as defined in the federal regulations (40 Code of Federal Regulations (CFR) § 50.2), include both primary and secondary standards. The primary standards are those that the Administrator of the

²³ Repealed May 17, 2006. While the ground-level concentration standards are no longer in effect, the distance limitations established under those standards remain a part of the standard permit. The distance limitations were established to ensure operation of a CBP would not adversely affect human health and the environment, regardless of the configuration of the CBP.

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions. The state's health-based emissions limits are designed to be protective of these sensitive receptors. Secondary NAAQS are those that the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air. The protectiveness review included both primary and secondary NAAQS and concluded that if the proposed facility is operated as required, the emissions-based production limits in the standard permit are set to be protective of all those receptors. It should be noted receipt of a state air quality permit does not relieve the regulated entity from complying with all applicable federal requirements under the Endangered Species Act.

2. Les Bacarisse expressed concern about dust and pollution causing nuisance conditions on the commenter's property. Les Bacarisse stated that several homes are located uphill and downwind from the proposed CBP. Les Bacarisse stated that dust would settle on his home because the wind grows stronger as it rises to the top of the hill.

This issue is addressed in the ED's RTC in Response 4. Operators of concrete batch plants must meet standards outlined in the Texas Clean Air Act and applicable state and federal rules and regulations and must comply with 30 TAC § 101.4, which prohibits nuisance conditions. Specifically the rule states, "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected. The TCEQ cannot deny authorization of a facility if a permit application demonstrates that all applicable statutes, rules, and regulations will be met.

3. Les Bacarisse stated it was disturbing to learn the TCEQ approved the application unless enough complaints to require a hearing are received.

Air quality permit applications are evaluated to determine whether standards outlined in the Texas Clean Air Act (TCAA) and applicable state and federal rules and regulations are met. As part of the permit evaluation process, the permit reviewer identifies all sources of air contaminants at the proposed facility, assures that the facility will be using the best available control technology (BACT) applicable for the sources and types of contaminants emitted, and determines that no adverse effects to public health, general welfare, or physical property are expected to result from a facility's proposed emissions. The TCEQ cannot deny a permit if the applicant demonstrates that all applicable statutes, rules, and regulations will be met. Special conditions and a maximum allowable emission rates table are created to establish guidelines for the operation of the facility. The permit conditions are developed such that a facility that is

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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operated within the terms and conditions of the permit should be able to operate in compliance with standards outlined in the TCAA and applicable state and federal rules and regulations.

4. Les Bacarisse expressed concern about the location of the proposed CBP because several homes lie uphill and downwind. Les Bacarisse stated that the wind, which grows stronger as it moves uphill, would blow dust on the commenter's home.

This issue is addressed in the ED's RTC in Response 9. If authorized, the CBP will be required to utilize Best Available Control Technology ("BACT") for facilities of this type in order to keep emissions within state and federal limits. BACT for permanent CBPs includes: fabric or cartridge filter systems and enclosed conveying systems for cement or flyash storage silos and weigh hoppers; overfill warning devices on each bulk-storage silo; in-plant roads paved with a cohesive hard surface that shall be cleaned; stockpiles watered or sprinkled with dust-suppressant chemicals; and proper housekeeping practices at the plant that minimize and clean up any material spills.

The health protectiveness review conducted for the standard permit analyzed emissions from CBPs based on the standard permit's authorized 24 hours a day, 7 days a week operation. Emissions from properly operated CBPs operating at that capacity are expected to be within state and federal limits. Most CBPs do not operate continuously. The Applicant represented in the registration for this standard permit that the facility would be operated 12 hours a day, 6 days a week.

The TCEQ does not have zoning authority and therefore cannot prohibit an applicant from locating a facility in a certain area unless state regulations require specific distance setbacks from other structures. The Applicant's registration meets all applicable setback requirements. Zoning authority is usually held by local authorities such as cities, municipalities, and their extra-territorial jurisdictions. Any questions about zoning issues should be directed to those authorities.

5. Les Bacarisse stated the TCEQ should inspect the area downwind from the proposed location of the CBP due to the strength of prevailing winds in that area.

This issue is addressed in the ED's RTC in Response 10. Worst-case meteorological conditions were taken into account during the development of the standard permit. The data used was from the Austin Surface Station and Victoria Upper-air Station over a period of five years. The data was used by Industrial Source Complex Model version 3 (ISCST3) to determine the highest predicted concentrations and exceedence frequencies over 43,824 hours during those five years. The comprehensive air dispersion modeling completed previously for the Air Quality Standard Permit for Concrete Batch Plants protectiveness review was used to demonstrate state and federal standards are not exceeded. The modeling was also used to develop setbacks, emission limits and operating conditions that are protective of human health and the environment regardless of the location of the facility. Because worst-case meteorological conditions were

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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taken into account when developing the standard permit, it is unnecessary to inspect the area downwind from the proposed location when reviewing the current application.

In conclusion, each of the above issues has been addressed in the ED's RTC. Therefore, the ED respectfully recommends the commission deny Les Bacarisse's Request for Reconsideration.

Respectfully submitted,

Texas Commission on Environmental Quality

Glen Shankle
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Robert Martinez, Division Director
Environmental Law Division



Timothy Eubank, Staff Attorney
Environmental Law Division
State Bar No. 24048458

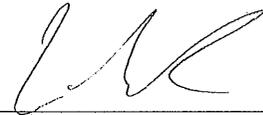
Representing the Executive Director of the Texas
Commission on Environmental Quality

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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CERTIFICATE OF SERVICE

On August 13, 2007, a true and correct copy of the foregoing instrument was served on all persons on the attached mailing list by the undersigned via deposit into the U.S. Mail, inter-agency mail, facsimile, or hand delivery.



Timothy Eubank

MAILING LIST
CANYON LAKE READY MIX, INC.
DOCKET NO. 2007-1000-AIR; PERMIT NO. 78844

For the Applicant:

William P. Murphy, Owner
Canyon Lake Ready Mix, Inc.
1929 Canyon Bend
Canyon Lake, Texas 78133

JD Kelley, General Manager
Murphy's Mobile Concrete
P.O. Box 8
Converse, Texas 78109

For the Executive Director:

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Texas Comm. on Environmental Quality
Environmental Law Division, MC 173
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Austin, Texas 78711-3087

Helga Chatelle, Technical Staff
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For Public Interest Council:

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For Office of Public Assistance:

Ms. Bridget Bohac, Director
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For Alternative Dispute Resolution:

Mr. Kyle Lucas
Texas Comm. on Environmental Quality
Alternative Dispute Resolution, MC 222
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For the Chief Clerk:

Ms. LaDonna Castañuela
Texas Comm. on Environmental Quality
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P.O. Box 13087
Austin, Texas 78711-3087

Requesters:

John Donahue
3590 Lariat Rdg
New Braunfels, TX 78132-5215

Robin Nava
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Canyon Lake, TX 78133-0021

Ann & Robert Bartlett
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Canyon Lake, TX 78133-5377

Helen Thayer
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Canyon Lake, TX 78133-5170

Dale Leacock
642 Highland Terrace Dr
Canyon Lake, Texas 78133-5267

MAILING LIST
CANYON LAKE READY MIX, INC.
DOCKET NO. 2007-1000-AIR; PERMIT NO. 78844

Les Bacarisse
1460 OC Trout Dr
Canyon Lake, Texas 78133-5542

Air Quality Standard Permit for Concrete Batch Plants

Effective Date July 10, 2003

This air quality standard permit authorizes concrete batch plant facilities which meet all of the conditions listed in paragraphs (1) through (3) and one of paragraphs (4), (5) or (6). If a standard permit registration is based on paragraphs (4), (5), or (6) and changes are proposed which change the paragraph under which the facility will be constructed and operate, the concrete batch plant must reapply for a new standard permit.

(1) Administrative Requirements

- (A) Any concrete batch plant authorized under this standard permit shall be registered in accordance with 30 TAC 116.611, Registration to Use a Standard Permit. Owners or operators shall submit a completed current PI-1S-CBP, Table 20 and a Concrete Batch Plant Standard Permit checklist. Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC 116.610(a)(1), Applicability.
- (B) Registration applications shall also comply with 30 TAC § 116.614 "Standard Permit Fees" when the registration is required to complete public notification under paragraph two of this standard permit.
- (C) No owner or operator of a concrete batch plant shall begin construction and/or operation without obtaining written approval from the executive director. The time period in 30 TAC § 116.611(b) (45 days) does not apply to facilities registering under this permit. Those facilities which are not required to comply with the public notification requirements of paragraph two should receive approval within 45 days after receipt of the registration request by the executive director. Start of construction of any facility registered under this standard permit shall comply with 30 TAC § 116.115 (b)(2)(A) and commence within 18 months of written approval from the TNRCC.
- (D) Any concrete batch plant which has registered but not constructed or filed a registration request for a permit-by-rule filed under 30 TAC §§ 106.201, 106.202, or 106.203 (relating to Permanent and Temporary Concrete Batch Plants [Previously SE 71]; Temporary Concrete Batch Plants [Previously SE 93]; and Specialty Batch Plants [Previously SE 117]) prior to the effective date of this permit will be processed under those rules.
- (E) Applicants are not required to submit air dispersion modeling as a part of any concrete batch plant standard permit application.
- (F) Records shall be maintained on-site for the following:
 - (i) production rates for each hour of operation which demonstrate compliance with the most applicable of paragraphs (4)(A), (5)(B) and (C), or (6)(C) and (D); and
 - (ii) production and other records as required by 30 TAC §§ 101.6-101.7 and by (1)(F)(i) of this standard permit shall be kept for lesser of either the most recent rolling 24-month period or the duration of operation at a given site.

(2) Public Notice

Unless the facility is to be a temporary concrete plant, as defined in paragraph five of this permit, which is located in, or contiguous to, the right-of-way of a public works project, public notice must be conducted. Notification must follow the requirements in 30 TAC Chapter 39, Subchapters H & K. In addition, sign posting must be performed following the requirements of 30 TAC § 39.604. The signs shall be headed by the words "PROPOSED AIR QUALITY STANDARD PERMIT".

(3) General Requirements

- (A) All cement/flyash storage silos and weigh hoppers shall be equipped with a fabric or cartridge filter or vented to a fabric or cartridge filter system.
- (B) Fabric filters and collection systems shall meet all of the following:
 - (i) any fabric or cartridge filter, any fabric or cartridge filter system, and any suction shroud shall be maintained and operated properly with no tears or leaks;
 - (ii) all filter systems (including any central filter system) shall be designed to meet at least 0.01 outlet grain loading (grains/dry standard cubic foot);
 - (iii) all filter systems, mixer loading, and batch truck loading emissions control devices shall meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period as determined using U.S. Environmental Protection Agency (EPA) Test Method (TM) 22; and
 - (iv) when cement or flyash silos are filled during non-daylight hours, the silo filter system exhaust shall be sufficiently illuminated to enable a determination of compliance with the visible emissions requirement in (3)(B)(iii) of this permit.
- (C) Conveying systems for the transfer of cement/flyash shall meet all of the following:
 - (i) conveying systems to and from the storage silos shall be totally enclosed, operated properly, and maintained with no tears or leaks; and
 - (ii) these systems, except during cement/flyash tanker connect and disconnect, shall meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period as determined using EPA TM 22.
- (D) A warning device shall be installed on each bulk storage silo. This device shall alert operators in sufficient time prior to the silo reaching capacity during loading operations, so that the loading operation can be stopped prior to filling to such a level as to potentially adversely impact the pollution abatement equipment. Any filling of the silo resulting in failure of the abatement system, or visible emissions in excess of paragraph (3)(B)(iii) of this standard permit, must be documented and reported following the requirements of 30 TAC § 101.6 or 30 TAC § 101.7, as appropriate.
- (E) Dust emissions from all in-plant roads and traffic areas associated with the operation of the concrete batch plant must be minimized at all times by at least one of the following methods:
 - (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);

- (ii) treated with dust-suppressant chemicals;
 - (iii) watered; or
 - (iv) paved with a cohesive hard surface that is maintained intact and cleaned.
- (F) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (G) Spillage of materials used in the batch shall be immediately cleaned up and contained or dampened so that dust emissions are minimized.

(4) Additional Requirements for Concrete Batch and Specialty Batch Concrete, Mortar, Grout Mixing, or Pre-cast Concrete Products Plants

- (A) Site production shall not exceed 30 cubic yards per hour.
- (B) As an alternative to the requirement in paragraph (3)(A) of this section, the cement/flyash weigh hopper may be vented inside the batch mixer.
- (C) Dust emissions at the batch mixer feed shall be controlled by one of the following:
- (i) a spray device which eliminates visible emissions;
 - (ii) a pickup device delivering air to a fabric or cartridge filter;
 - (iii) an enclosed batch mixer feed such that no visible emissions occur; or
 - (iv) conducting the entire mixing operation inside the enclosed process building such that no visible emissions from the building occur during mixing activities.
- (D) Except for incidental traffic, vehicles used for the operation of the concrete batch plant may not be operated within 25 feet of any property line, except for entrance and exit to the site. In lieu of meeting this distance requirement, roads and other traffic areas must be bordered by dust preventive fencing or other barrier along all traffic routes or work areas within the 25-foot specified buffer area. These borders shall be constructed to a height of at least 12 feet.

(5) Additional Requirements for Temporary Concrete Plants

For the purposes of this section, a temporary concrete plant is one that occupies a designated site for not more than 180 consecutive days or supplies concrete for a single project (single contract or same contractor for related project segments), but not other unrelated projects.

- (A) Site production shall be limited to no more than 300 cubic yards per hour.
- (B) Dust control at the truck drop or mixing point shall comply with one of the following:
- (i) Facilities which occupy a site for less than 180 consecutive days and have production rates less than 200 cy/hr may load rotary mix trucks through a discharge spout equipped with a water fog ring having low-velocity fog nozzles spaced to create a continuous fog curtain that minimizes dust emissions. If a water fog ring is used at the truck drop point, the visible emissions limitations (and associated compliance determination methods) of subsection (3)(B)(3) and (4) must be met.

- (ii) All other facilities must use a suction shroud and fabric filter /cartridge filter system. The suction shroud or other pickup device shall be installed at the batch drop point (drum feed for central mix plants) and vented to a fabric or cartridge filter system with a minimum of 4,000 actual cubic feet per minute of air and must meet subsection (3)(B).
- (C) All of the following applicable distance limitations must be met. For concrete batch plants which supply concrete for a single public works project, the "property line" measurements for purposes of compliance with this standard permit and 30 TAC § 111.155 shall be made to the outer boundaries of the designated public property, roadway project and associated rights-of-way.
- (i) The suction shroud baghouse exhaust or truck drop point shall be located at least 100 feet from any property line.
 - (ii) For those facilities with a water fog ring, the truck drop point shall be a minimum of 300 feet from the nearest non-industrial receptor.
 - (iii) Stationary equipment, stockpiles, or vehicles used for the operation of the concrete batch plant (except for incidental traffic and the entrance and exit to the site) may not be located or operated, respectively, within the following specified distances from any property line:
 - (iv) for those facilities with production rates less than or equal to 200 cubic yards per hour, at least 25 feet; and
 - (v) for those facilities with production rates more than 200 and less than or equal to 300 cubic yards per hour, at least 50 feet.
- (D) In lieu of meeting the distance requirements for roads and stockpiles of (5)(C)(iii), the following may be followed:
- (i) roads and other traffic areas within the buffer distance must be bordered by dust suppressing fencing or other barrier along all traffic routes or work areas. These borders shall be constructed to a height of at least twelve (12) feet; and
 - (ii) stockpiles within this buffer distance must be contained within a three-walled bunker which extends at least two (2) feet above the top of the stockpile.
- (E) The owner or operator of a temporary concrete plant that has previously been determined by the commission to be in compliance with the technical requirements of the standard permit in effect at the time of registration, which supplies concrete to a public works project and is located in or contiguous to the right of way of that public works project may, in lieu of the registration requirement in subsection(1)(A) of this standard permit, register by notifying the appropriate TCEQ regional office and any local air pollution control agency having jurisdiction in writing at least 30 calendar days prior to locating at the site. The notification shall include the owner and, if applicable, the operator's name, address, and phone number as well as the physical description of the site, scaled plot plan of site with location of equipment authorized by this standard permit, concrete plant serial number, account number or regulated entity number, expected hours of operation, expected date of arrival on site and expected date to vacate the site, a completed Table 20,

and a Concrete Batch Plant Standard Permit Checklist. Temporary concrete plants that do not supply concrete to a public works project must apply for a new registration under subsection (1)(A) of this standard permit in order to relocate at a new site.

(6) Additional Requirements for Other Concrete Plants

- (A) Site production shall be limited to no more than 300 cubic yard per hour.
- (B) A suction shroud or other pickup device shall be installed at the batch drop point (drum feed for central mix plants) and vented to a fabric or cartridge filter system with a minimum of 4,000 actual cubic feet per minute of air.
- (C) All entry and exit roads and main traffic routes associated with the operation of the concrete batch plant (including batch truck and material delivery truck roads) shall be paved with a cohesive hard surface that can be maintained intact and shall be cleaned. All batch trucks and material delivery trucks shall remain on paved surface when entering, conducting primary function, and leaving the property. Other traffic areas must comply with the control requirements of paragraph (3)(E).
- (D) The following distance limitations must be met:
 - (i) the suction shroud baghouse exhaust shall be at least 100 feet from any property line;
 - (ii) stationary equipment, stockpiles, or vehicles used for the operation of the concrete batch plant (except for incidental traffic and the entrance and exit to the site) may not be located or operated, respectively, within the following specified distances from any property line:
 - (iii) for those facilities with production rates less than or equal to 200 cubic yards per hour, at least 25 feet; and
 - (iv) for those facilities with production rates more than 200 and less than or equal to 300 cubic yards per hour, at least 50 feet.
- (E) In lieu of meeting the distance requirements for roads and stockpiles of (5)(C)(ii), the following may be followed:
 - (i) roads and other traffic areas within the buffer distance must be bordered by dust suppressing fencing or other barrier along all traffic routes or work areas. These borders shall be constructed to a height of at least 12 feet; and
 - (ii) stockpiles within this buffer distance must be contained within a three-walled bunker which extends at least two feet above the top of the stockpile.

**CONCRETE BATCH PLANT STANDARD PERMIT
REVIEW ANALYSIS & TECHNICAL REVIEW**

Company:	Canyon Lake Ready Mix, Inc.	Permit No.:	78844
City:	Canyon Lake	Project No.:	122486
County:	Comal	Regulated Entity No.:	RN104946264
TCEQ Date Received:	April 28, 2006	Customer Reference No.:	CN603031725
Site Address:	5001 FM 2673		
Project Reviewer:	Helga Chatelle	Attorney:	Timothy Eubank

INFORMATION RECEIVED:

x	PI-S-CBP	x	Location Description
x	CBP Standard Permit Checklists	x	Area Map
x	Tables 11 for each Fabric Filter	x	Plot Plan
x	Table 20	x	Emissions Information

FACILITY DESCRIPTION.

This is the proposed authorization of a permanent concrete batch plant with a production rate of 180 cubic yards per hour.

PROCESS DESCRIPTION.

Washed sand and gravel are to be delivered by trucks and stockpiled at the facility. The stored material will be sprinkled with water as needed for dust-control. When needed for production, the aggregate will be moved via a front-end loader to the conveyor that leads to the aggregate bin from where the material will drop into the weigh batcher. After weighing each batch will drop into the rotating drums of mixer trucks.

Cement will be pneumatically conveyed from delivery tankers into the cement silo(s). Remaining in total enclosure, the cement will then be gravity dropped from the silo into the cement weigh batcher. The weighed cement batch will then be gravity dropped into the rotating drums of mixer trucks. Particulate matter control of cement dust from the silo will be a vent style bag house. Aggregate and cement emissions at the truck drop point will be vented to a central dust collector.

DEFICIENCIES:

Above items missing or incomplete? Yes
 Date Applicant was notified? 05/26/2006
 Note: Missing Table 11 for dust-collector at the drop point.
 Date registration claim technically complete: 06/13/2006

SITE REVIEW REQUEST FOR COMMENTS: Not applicable for this type of authorization.

PUBLIC NOTICE INFORMATION:

Public Notice Information Required? Yes
 Has the applicant submitted information that indicates that the proposed plant site is adjacent and contiguous to the right of way of a public works project? No
 §39.403 Date Administrative Complete: 05/05/2006
 Small Business Source? Yes
 §39.418 Date 1st Notice and legislator letters mailed: 05/05/2006
 §39.603 Date Published in Newspaper: **05/17/2006 in the Times Guardian**
 When reviewing the publication we notice that 30% of the text was missing.
 §39.603 Re-Published in Newspaper: **06/07/2006 in the Times Guardian**
 Pollutants: Particulate matter including (but not limited to) aggregate, cement, and road dust.
 Date Affidavits/Copies received: **05/24/2006 & 06/13/2006** Last day for comment 06/22/2006.
 Bilingual notice required? No, no bilingual program in place
 §39.419 2nd Public Notification required? Yes
 Date 2nd Public Notice mailed: 07/11/2006
 Preliminary Determination Proposed facility meets standard permit
 Date Published in Newspaper: **07/19/2006 in the Times Guardian**
 Date Affidavits/Copies received: **07/27/2006** Last day for comment 08/18/2006.

PUBLIC COMMENT INFORMATION:

**CONCRETE BATCH PLANT STANDARD PERMIT
REVIEW ANALYSIS & TECHNICAL REVIEW**

Regulated Entity Number: RN104946264

Page 2

Public Comments Received? Yes
As of 8/10/07 Meeting requested?: 0 Hearing requested?: 2 Comments?: 17
Hearing and Meeting requests:
06/16/2006, John P. Donahue Jr., 3590 Lariat Ridge, New Braunfels, Texas 78132. H
08/15/2006, Ana & Robert Bartlett, 1041 Blue Water Drive, Canyon Lake, Texas 78133 H
Are comment (s) withdrawn?..... No
If not, was a public meeting(s) held? No Date of public meeting: Applicant wants to go directly to Agenda
Was the hearing request(s) withdrawn? No Date withdrawn: N/a
Date of hearing or commission agenda? 09/05/2007

Comments: Concerns about facility location, air pollution, ground contamination, traffic, water availability, property value.

RESPONSE TO COMMENT (RTC) INFORMATION:

RTC received by OCC: yes
Date RTC received by OCC: 05/21/2007
Final Action letters sent: pending

COMPLIANCE HISTORY:

In accordance with 30 TAC Chapter 60, a compliance history report was reviewed on: 05/20/2006
The compliance period was from 04/28/2006 to 04/29/2001
Was the application received after September 1, 2002? Yes
Rating & classification? 3.01, average by default. Company rating & classification? 3.01, average by default.
Is the permit recommended to be denied on the basis of compliance history or rating? No
Has the permit changed on the basis of the compliance history or rating? No

RECOMMENDATIONS:

All Conditions of Standard Permit Satisfied? Yes
Final Action: Issue standard permit
Comments: **Last day for public comment is 08/18/2006.**

Permit Reviewer	Date	Team Leader/Section Manager/Backup	Date
-----------------	------	------------------------------------	------

Document# 330256

Last edit: 8/10/07

Compliance History

Customer/Respondent/Owner-Operator:	CN603031725 Canyon Lake Ready Mix, Inc	Classification:	Rating:
Regulated Entity:	RN104946264 CANYON LAKE READY MIX	Classification:	Site Rating:
ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	78844
Location:	5001 FM 2673 CANYON LAKE TX 78133		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	August 13, 2007		
Agency Decision Requiring Compliance History:			
Compliance Period:	September 01, 2001 to August 31, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	TEUBANK	Phone:	N/A

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Canyon Lake Ready Mix, Inc
4. If Yes, who was/were the prior owner(s)? W. P. Murphy Inc.
5. When did the change(s) in ownership occur? 05/09/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Canyon Lake CBP



Protecting Texas by
Reducing and
Preventing Pollution

Texas Commission on Environmental Quality
Information Resources Division
GIS Team (MC-197)
P.O. Box 13087
Austin, TX 78711-3087

July 18, 2007

0 0.125 0.25 0.5
Miles

Projection: Texas Centric Mapping System
(TCMS), Albers Equal-Area, Meters

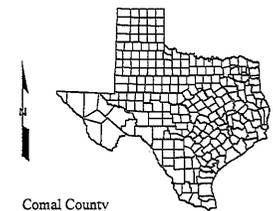
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440 Yards = 1/4 Mile

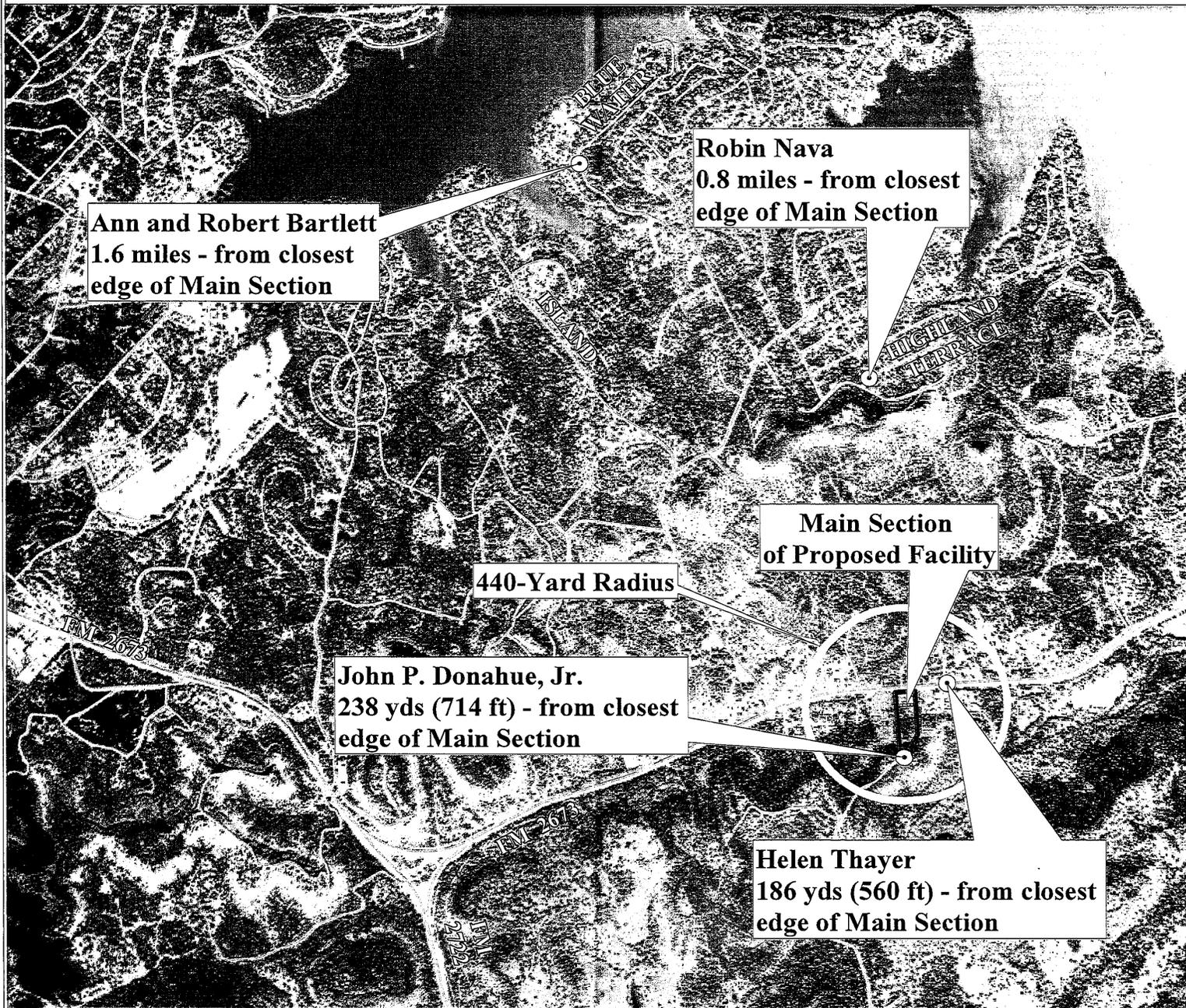
Legend

- Hearing Requestor Residence
- 440-Yard Radius Around Proposed Facility
- Proposed Facility Boundary

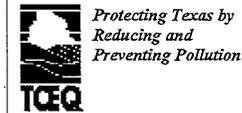
Sources: The DOQQ (Digital Orthophoto Quarter Quadrangle) aerial imagery was obtained from the USDA Farm Service Agency's National Agriculture Imagery Program (NAIP). The 2004 imagery is color infrared (CIR) at one-meter resolution. The hearing requestor's addresses and proposed facility property lines were provided by the TCEQ Office of Legal Services (OLS) and digitized or geocoded by the TCEQ Information Resources Division using Geographic Data Technology (GDT) street data, 2006-2007 and supplementary maps as a reference.



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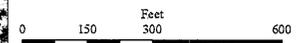


Canyon Lake CBP



Texas Commission on Environmental Quality
 Information Resources Division
 GIS Team (MC-197)
 P.O. Box 13087
 Austin, TX 78711-3087

July 18, 2007



Projection: Texas Centric Mapping System (TCMS), Albers Equal-Area, Meters

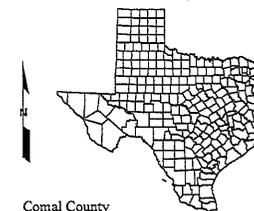
1 inch equals 0.1 miles

440 Yards = 1/4 Mile

Legend

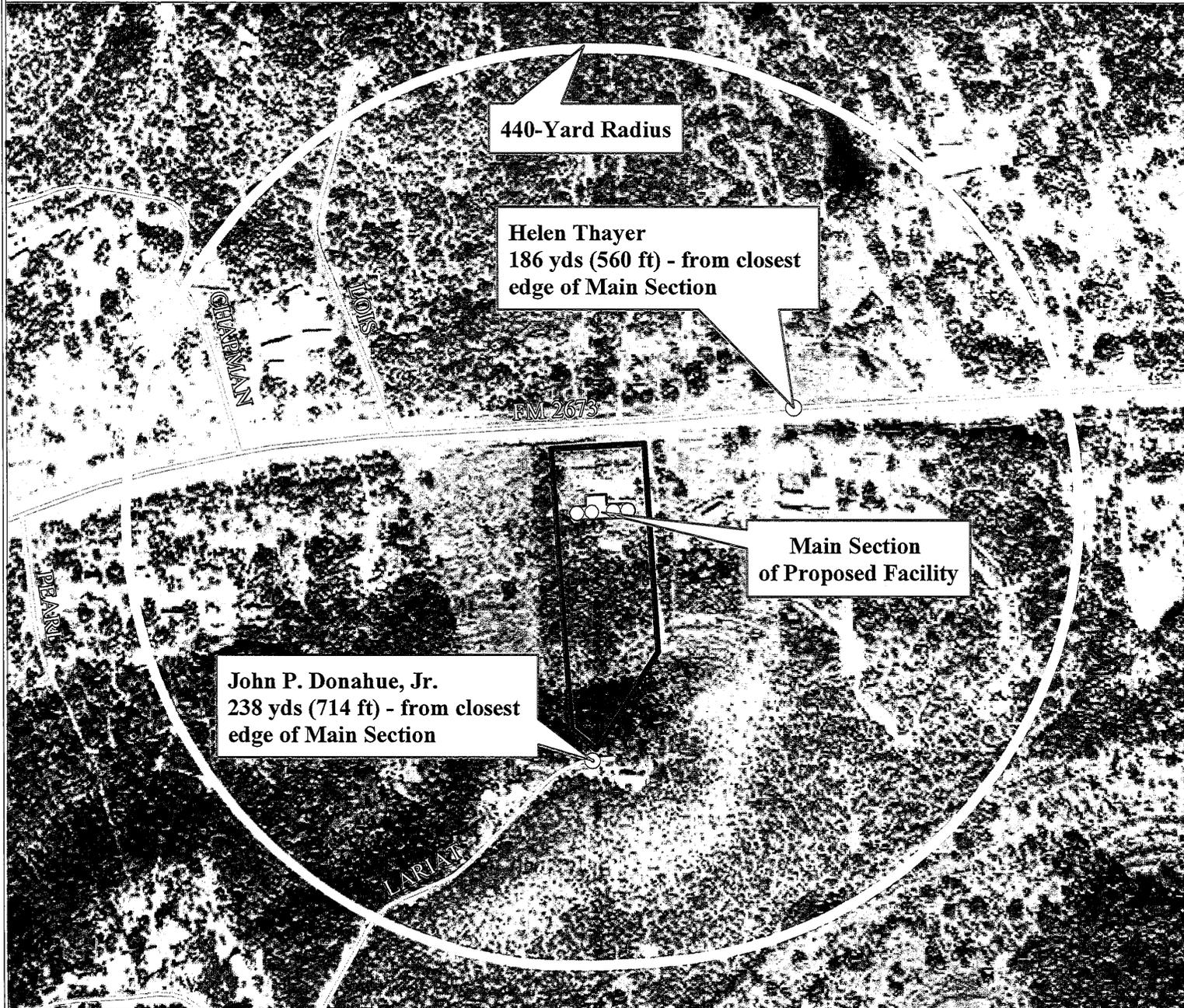
- Hearing Requestor Residence
- 440-Yard Radius Around Proposed Facility
- Proposed Facility Boundary

Sources: The DOQQ (Digital Orthophoto Quarter Quadrangle) aerial imagery was obtained from the USDA Farm Service Agency's National Agriculture Imagery Program (NAIP). The 2004 imagery is color infrared (CIR) at one-meter resolution. The hearing requestor's addresses and proposed facility property lines were provided by the TCEQ Office of Legal Services (OLS) and digitized or geocoded by the TCEQ Information Resources Division using Geographic Data Technology (GDT) street data, 2006-2007 and supplementary maps as a reference.



Comal County

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440-Yard Radius

Helen Thayer
 186 yds (560 ft) - from closest
 edge of Main Section

Main Section
 of Proposed Facility

John P. Donahue, Jr.
 238 yds (714 ft) - from closest
 edge of Main Section