

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 21, 2007

TO: Persons on the attached mailing list.

RE: Superior Crushed Stone, LC
Permit No. 75068L001

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Killeen City Library, 205 East Church, Killeen, Bell County, Texas and at the Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco Texas. The facility's compliance file, if any exists, is available for public review at the TCEQ Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be in writing and must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter: You should submit your request to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

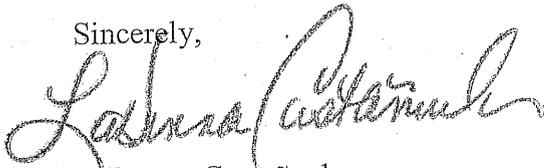
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/cz

Enclosures

MAILING LIST
for
Superior Crushed Stone, LC
Permit No. 75068L001

FOR THE APPLICANT:

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INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR:

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FOR OFFICE OF PUBLIC ASSISTANCE:

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FLORENCE TX 76527-4067

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TCEQ AIR QUALITY PERMIT NO. 75068L001

2007 AUG 14 PM 4:13

APPLICATION BY	§	BEFORE THE	CHIEF CLERKS OFFICE
SUPERIOR CRUSHED STONE LC	§		
PORTABLE ROCK CRUSHER	§	TEXAS COMMISSION ON	
CR 228 SITE	§		
FLORENCE, BELL COUNTY	§	ENVIRONMENTAL QUALITY	

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the New Source Review Authorization application and Executive Director's preliminary decision.

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from the following persons: Barry A. Clemens, Debbie Porterfield, and Arthur Winans. In addition, the following persons submitted comments and requested a public hearing via a form letter: Jeff Adams, Bob Baier, Monica Baier, Dorothy Beesley, Patrick Beesley, Glyn M. Bell, Brandi Benoit, Thomas Bohac, Jim D. Bowmer, William Brooks, Johnny L. Buck, John Burchard, Mina Burchard, Glynsha Glayzer-Castro, Lance M. Castro, Sadie Clark, Barry A Clemens, Eric Clemens, Shiela Clemens, Alice Colt, Robert Colt, Clyde M. Floyd, Glenice A. Ford, Glenda Glayzer, Kimberly Goodelle, Richard Goodelle, Chester Green, Ralph Hale, Vicki Hale, Micheal David Heiser, Lonnie Henderson, Cheryl A. Hildebrand, Phil Hopkins, Jasper E. Hunter, Donnie Jackson, Floyd A. Jackson, Marilyn Jaeger, Ann Johnson, Bill Jones, Frances Jones, Janet Kenyar, Lynn Lemmons, Joseph T. Madden, Adrian Madden, Beth Mann, Edward Mann, Peter D. Maskunas, Paul B. Mitchell, Mary Moore, Col. Netherton, Barbara Newton, Jean Porras, Johnny Porras, Debbie Porterfield, Alan, D. Procter, Gene S. Ray, Michael A Robinson, Jan Roth, Ed Rothbauer, David Schuchardt, Destiny Schuchardt, Martha Shreeve, Michael Shreeve, Jimmy Simpson, Nancy Simpson, Shirley Simpson, Wilburn Simpson, Shirley Thompson, Stayton Thompson, H. A. Thornton, Duff Tucker, Pat Tucker, Paul Vaccaro, Lynn Walker, Mike Walker, Jessie V. Warrick, Floyd W. Watson Jr., Paula Watson, Thomas Watson, Clint Watts, Randy Watts, Brenda Wilbur, Scott Wilbur, Virginia Wilson, Arthur Winans, Jessica Wise, Unnamed Concerned Citizen, and Cheryl Maxwell on behalf of Clearwater Underground Water Conservation District. All comments attributable to this group will be annotated in the RTC with "Group A."

This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

Superior Crushed Stone LC has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA) § 382.0518. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct three portable rock crushers (the plant). The facilities are proposed to be located approximately 3.5 miles northeast of Highway 195 on County Road 228, Florence, Bell County. Contaminants authorized under this permit include particulate matter including particulate matter less than 10 microns in diameter.

Procedural Background

Before work is begun on the construction of a new facility or a modification of an existing facility that may emit air contaminants, the person planning the construction or modification must obtain a permit or permit amendment from the commission. This permit application is for an initial issuance. The permit application was received on February 23, 2005, and declared administratively complete on March 25, 2005. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published on April 21, 2005, in the *Killeen Daily Herald*. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1: Air Quality

Commenters express concerns regarding potential dust pollution created by the Applicant's facility and the potential impact it will have on the air quality and the environment. (Arthur Winans, Barry A. Clemens, Ms. Debbie Porterfield, and Group A.)

RESPONSE 1: Air Quality

The TCAA and TCEQ rules require an evaluation of air quality permit applications to determine whether adverse affects to public health, general welfare, or physical property are expected from emissions from the applicant's proposed facility. The term "facility" is defined in the TCAA as a discrete or identifiable structure, device, item, equipment or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment.¹ In the permit evaluation process, the permit reviewer identifies all sources of air contaminants at the proposed facility and assures that the facility will be using the Best Available Control Technology (BACT).

¹ TEX. HEALTH & SAFETY CODE § 382.003(6).

BACT is based upon control measures that are designed to minimize the level of emissions from specific sources with consideration given to technical practicability and economic reasonableness.²

The Applicant represented in the permit application that BACT will be used at the proposed site. The facility will emit particulate matter including particulate matter less than 10 micron in diameter (PM₁₀). The primary control measures for particulate matter for rock crushing plants include permanently mounted spray bars installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points. Area-type water sprays shall be installed at all stockpiles and active work areas. Fugitive dust from plant roads and aggregate stockpiles shall be controlled by applying water or environmentally sensitive chemicals to these dust sources. The draft permit includes restrictions on visible fugitive emissions from crushers, screens, transfer points on belt conveyors, and stockpiles to determine compliance with abatement controls.

With respect to the potential for adverse health effects, a protectiveness review must be conducted for all contaminants emitted. The maximum concentrations are evaluated at the property line, at the nearest off-property receptor, and at any schools located within 3,000 feet of the facilities. For many permits, potential impacts to human health and welfare or the environment are determined by comparing air dispersion modeling predicted emission concentrations from the proposed facility to appropriate state and federal standards and effects screening levels. The specific health-based standards or guidance levels employed in evaluating the potential emissions include the National Ambient Air Quality Standards (NAAQS) and TCEQ Effect Screening Levels (ESLs).³ NAAQS are created by the United States Environmental Protection Agency (EPA) and, as defined in the federal regulations (40 C.F.R. § 50.2), include both primary and secondary standards. The primary standards are those which 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. Secondary NAAQS are those which 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 NAAQS are set for the following criteria pollutants: ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and respirable particulate matter (PM). "Criteria pollutants" are those pollutants for which a NAAQS has been established.

² TEX. HEALTH & SAFETY CODE § 382.0518 *See also*, 30 TEX. ADMIN. CODE §116.111(C).

³ See the document "Air Quality Modeling Guidelines" for details on air modeling at the TCEQ website at <http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg25.pdf>. Also, visit the agency air modeling page at http://www.tceq.state.tx.us/permitting/air/nav/modeling_index.html. To view the ESL list or obtain more information on ESLs, visit the TCEQ website at http://www.tceq.state.tx.us/implementation/tox/esl/list_main.html. Documents referenced in this response that are available on the TCEQ website are also available in printed form at a small cost from the TCEQ Publications office at 512-239-0028.

For most permit applications, air dispersion modeling is performed. After a permit application's modeling review is complete, in most instances, the modeling results are then sent to the TCEQ's toxicology section to evaluate whether emissions from the proposed facility are expected to cause health or nuisance problems. The toxicology section reviews the results from air dispersion modeling by comparing those results to the TCEQ Effects Screening Levels (ESLs). However, emissions from certain industries on the toxicology section "screening list" do not require a toxicology impacts review. Emissions of particulate matter from facilities like rock crushers, concrete batch plants, and soil-stabilization plants are included on the screening list because the PM emissions are not expected to have adverse impacts, and therefore, if expected emissions are within state and federal limits, the permit is considered protective.

For this specific permit application, appropriate air dispersion modeling was performed. The likelihood of whether adverse health effects caused by emissions from Superior Crushed Stone's facility could occur in members of the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions, was determined by comparing the facility's predicted air dispersion computer modeling concentrations to the relevant state and federal standards and effects screening levels. The permit reviewer used modeling results to verify that predicted ground level concentrations from the proposed facility are not likely to adversely impact off-property receptors. TCEQ uses background concentrations from the geographic region or other appropriate background concentrations when applicable to model predicted values. The overall evaluation process provides a conservative prediction that is protective of the public. The modeling predictions were reviewed by the TCEQ Air Permits Division, and the modeling analysis was determined to be acceptable.

The permit conditions are drafted to prevent nuisance conditions and the Applicant is prohibited from operating in such a manner that causes nuisance conditions. Specifically, Applicants must adhere to Title 30 Texas Administrative Code §101.4 which states that "no person shall discharge from any source" air contaminants which are or may "tend to be injurious to or 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." When the plant is operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected.

In the event that an individual feels that nuisance conditions exist or are exacerbated by the Applicant's activities, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the Waco Regional Office at (254) 751-0335, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of

compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. Citizen-collected evidence may be used in such an action.

Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication Do You Want to Report an Environmental Problem? Do You Have Information or Evidence? This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.state.tx.us (Publications, Document no. 278).

COMMENT 2: Traffic

Commenters express concern regarding the increase in truck traffic and subsequent damage to the roads due to operation of the proposed facility. (Group A., Arthur Winans, Barry A. Clemens, Jeff Adams, and Ralph and Vickie Hale)

RESPONSE 2: Traffic

The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. Therefore, the TCEQ does not have jurisdiction over traffic or road safety. Jurisdiction over traffic on public roads is the responsibility of the cities, county, and/or other state agencies such as the Texas Department of Public Safety and the Texas Department of Transportation.

Further, the TCEQ may regulate stationary sources of air contaminants, but has no authority to regulate mobile sources. Accordingly, the TCEQ does not have jurisdiction to consider impacts of emissions from motor vehicles when determining whether to approve a permit application. However, TCEQ rules state, "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use."⁴ Therefore, emissions from the facility may not create a traffic hazard.

COMMENT 3: Noise

Commenters express concern that the operation of the proposed facility will cause or contribute to noise pollution. (Group A., Arthur Winans, Barry A. Clemens, Jeff Adams, Jasper E. Hunter).

RESPONSE 3: Noise

4 30 TEX. ADMIN. CODE § 101.5.

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 facilities. In addition, the TCAA does not grant the TCEQ authority over traffic noise. If you have concerns regarding noise, or other issues which are not within the jurisdiction of the TCEQ, please contact your city or county officials.

COMMENT 4: Property Values

Commenter expresses concern that the operation of the proposed facility will adversely affect property values. (Debbie Porterfield)

RESPONSE 4: Property Values

The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. Therefore, the TCEQ does not have zoning authority, and it is beyond the TCEQ's power to regulate an applicant's site selection or the effect of that selection on property values. Zoning, where existent, is typically controlled by local municipalities.

COMMENT 5: Other Quarries and Abandoned Quarry/Crusher

Commenters express concern with the growing number of quarries in the surrounding area (Arthur Winans) and concerns regarding an abandoned quarry and rock crusher on FM 2484 and Gravel Crossing Road. (Ralph and Vickie Hale)

RESPONSE 5: Other Quarries and Abandoned Quarry/Crusher

The TCEQ does not have jurisdiction to consider blasting or mining in determining whether to approve or deny a permit application. Blasting operations are associated with quarry operations, and the TCAA § 382.003(6) provides that quarries are not facilities for purposes of air quality permitting. Therefore, quarries and associated blasting operations are not included in the review of an air quality permit application. Additionally, the commission also has no authority to address property damage claims alleged to result from blasting. With regard to other rock crushers, facilities not included in this NSR permit application are outside the scope of this RTC.

COMMENT 6: Endangered Species (Black Capped Vireo-Vireo atricapilla)

Commenter expresses concerns regarding the detrimental effect the facility may have on the native wildlife species, specifically the endangered Black Capped Vireo. (Barry Clemens)

RESPONSE 6: Endangered Species (Black Capped Vireo-Vireo atricapilla)

Texas Administrative Code Section 101.4 prohibits, in part, the discharge of contaminants which may be injurious to, or adversely affect, animal life. In review of the permit application, the Executive Director has determined that, if the facility is operated in accordance with the conditions of the permit, there should be no adverse impacts to public health and welfare, the environment, or

animal life. Furthermore, the secondary NAAQS are set, in part, to protect the environment, including animals. Because the modeling shows operation of the plant in compliance with the permit will meet the secondary NAAQS, no adverse impacts on animals are expected. It should be noted that 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.

COMMENT 7: Inspections, Enforcement of Regulations

Commenter expressed concerns that no one is inspecting or enforcing compliance with the regulations applicable to the Applicant's type of facility. (Arthur Winans)

RESPONSE 7: Inspections, Enforcement of Regulations

Compliance determinations and provisions to ensure proper abatement and control of air emissions are included in several portions of the permit. Since the impacts evaluation for the permit relies on compliance with the conditions of the permit, there are several requirements for recordkeeping and visible emissions limitations included throughout the permit. Specifically, Special Condition 7A requires retention of records for a rolling two-year period.

In addition, the permit's Special Conditions establish opacity and visible emissions limitations and compliance determination methods. This includes the limitation of no visible emissions exceeding 30 seconds in a six-minute period in accordance with EPA Test Method (TM) 22. Another Special Condition establishes that upon request by the TCEQ Regional Director having jurisdiction, the holder of the permit shall perform ambient air monitoring, or other testing as required to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere.

As indicated above, individuals are encouraged to report any concerns about suspected noncompliance with terms of the permit or other environmental regulation by contacting the Waco Regional Office at (254) 751-0335, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ places a high priority on responding to citizen complaints. If a citizen files an environmental complaint with one of our regional offices, we will investigate the complaint according to established criteria for prioritizing complaints, and will provide the citizen with a report on the outcome of our investigation.⁵

TCEQ investigations are primarily risk-based. Rock crushing facilities are generally considered low risk. If there is reason to raise the risk level, such as when a complaint is received, TCEQ will investigate. If the TCEQ receives a complaint, the facility is generally not notified in advance of the investigation. Also, if the complaint concerns dust or odor, off-site surveillance is conducted prior to

⁵ Details of a complaint incident, or our investigation of that incident, can be found by accessing the following website:
<http://www5.tceq.state.tx.us/oce/waci>.

approaching the facility. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action.

COMMENT 8: Applicable Regulations

Commenter would like to know where to obtain a copy of the applicable regulations. (Arthur Winans)

RESPONSE 8: Applicable Regulations

The location of the applicable rules and statutes concerning air quality can be found online at the following websites: For the TCAA, found in the Tex. Health & Safety Code Chapter 382, go to: <http://tlo2.tlc.state.tx.us/statutes/index.htm>. Title 30 of the Texas Administrative Code can be found at: <http://info.sos.state.tx.us>. For official copies of TCEQ Rules, contact Jill Ledbetter, *Texas Register*, Office of the Secretary of State, by e-mail at register@sos.state.tx.us, or by phone at (512) 305-9623.

For the Federal regulations applicable to this application, the Code of Federal Regulations (CFR) is published in the Federal Register by Executive departments and agencies of the Federal Government. The CFR is divided into 50 titles which represent broad areas subject to Federal regulation, with environmental regulations contained mainly in title 40. Federal regulations applicable in Texas can be found on the web at: <http://www.epa.gov/epacfr40/find-aid.info/state/tx/tx.htm>.

COMMENT 9: Location

Commenter expresses concern regarding the true location of the facilities versus the address represented in the application. Specifically, the address is listed in the application on C.R. 228 but all the truck traffic and the entrance are in reality on Firefly Road. (Barry A. Clemens) Commenter also wants to know what distance restrictions apply to this operation in relation to residents. (Barry A. Clemens)

RESPONSE 9: Location

The proposed site for the NSR application is located between County Road 228 and County Road 231 which becomes Fire Fly Road. The activity of concern may be from the Applicant's Permit by Rule (PBR) authorization, Permit 75069L001. This PBR previously authorized a single crusher at the site but it has since been relocated to another site. The entrance to this previous operation was on County Road 231 (Fire Fly Road). The Applicant's previous PBR authorization is not the subject of the proposed air quality permit application currently under review. The proposed site can be accessed from either Country Road 228 or County Road 231 (Fire Fly Road), so the Applicant may decide to utilize the previous entrance. With regard to the NSR application, the Applicant cannot operate or begin construction for the proposed activities in the NSR application without approval and permit issuance per Section 382.0518(a) of the TCAA (relating to preconstruction authorization) which

states: "Before work is begun on the construction of a new facility or a modification of an existing facility that may emit air contaminants, the person planning the construction or modification must obtain a permit from the commission."

TCEQ's jurisdiction is established by the Legislature as codified in the TCAA and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to prescribe facility locations for applicants when determining whether to approve or deny a permit application. Instead, the TCEQ evaluates the application using the applicant's choice of location. Where applicable, TCEQ enforces specific distance limitations imposed by state statute and rules. In this instance, the applicant must comply with the Special Conditions section E which requires the facility to be located a minimum of 975 feet from the property line and at least 550 feet from any other rock crushing plant. Furthermore, the rock crusher shall be located a minimum of 440 yards from any single or multi-family residence, school or place of worship unless other conditions are met. Finally, the stockpiles and vehicle traffic areas must be located at least 25 feet from any property line unless other protective measures outlined in Special Condition E3 are met.

In addition to the specific distance limitations applicable to these facilities, as set forth in TCAA § 382.052, the TCEQ shall consider possible adverse health effects on individuals attending schools which are located within 3,000 feet of a facility or proposed facility. See Response to Comment 1 for additional information regarding the protectiveness review that is conducted to evaluate the potential for adverse health effects.

With regard to the Applicant's choice of location, other issues such as zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials.

COMMENT 10: Facility Operations

Commenter wants to know the hour and day restrictions for this operation. (Barry A. Clemens)

RESPONSE 10: Facility Operations

The proposed operating schedule is 10 hours a day, 7 days a week, 52 weeks per year, totaling 3,640 hours per year. Any modifications to the plants operation after the permit is issued will require additional authorization from the TCEQ.

COMMENT 11: Water Quality

Commenter expresses concerns on the effect the plant will have on their water well. (Debbie Porterfield)

RESPONSE 11: Water Quality

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 water quality or quantity. Depending on the nature of the facility's operations, the Applicant may be required to apply for separate permits that regulate water quality.

COMMENT 12: Future Plans of Applicant

Commenter expresses concerns regarding the future plans of the applicant. (Debbie Porterfield)

RESPONSE 12: Future Plans of Applicant

It is not within TCEQ's jurisdiction to request information pertaining to the future plans of the Applicant and their proposed facilities. The Applicant has applied for a portable permit which, with proper authorization, would enable the facility to be moved to another site. However, this particular authorization does not require or restrict the Applicant from remaining at one site for any one period of time. A company's business plan is not part of the permit review process; however, business decisions affecting the permit conditions or facility operations may require an application for a permit amendment.

CHANGES MADE IN RESPONSE TO COMMENT

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

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