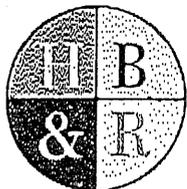


TEXAS ENVIRONMENTAL  
COMMISSION  
2008 MAR 24 PM 4:34  
CHIEF CLERKS OFFICE



# Hilgers Bell & Richards<sup>LLP</sup>

816 Congress, Suite 1200  
Austin, Texas 78701  
Phone (512) 476-0005  
Fax (512) 476-1513  
[www.hbfirm.com](http://www.hbfirm.com)

John B. Turney  
Senior Counsel

March 24, 2008

*Via telefax and first class mail*

Ms. LaDonna Castañuela  
Chief Clerk, MC 105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

RE: TCEQ Docket No. 2008-0141-AIR  
Air Quality Standard Permit Registration No. 80840  
Transit-Mix Concrete & Materials Co.

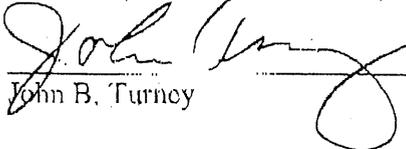
Dear Ms. Castañuela:

Enclosed for filing in the above referenced matter is Transit-Mix Concrete & Materials Co.'s Reply to the Executive Director's Response to Hearing Requests concerning the above referenced matter. Please stamp the extra copy and return to this office in the enclosed postage paid envelope.

Thank you for your assistance in this matter. Should you have any questions, please let me know.

Sincerely,

HILGERS, BELL & RICHARDS, L.L.P.

  
John B. Turney

Enclosures

cc: Ms. Andrea Casey, TCEQ, MC-175  
Mr. Blas Coy, OPIC, MC-103

**C ORIGINAL**

TCEQ DOCKET No. 2008-0141-AIR  
AIR QUALITY STANDARD PERMIT REGISTRATION NO. 80840

APPLICATION BY § BEFORE THE  
§  
TRANSIT MIX CONCRETE § TEXAS COMMISSION ON  
MATERIALS COMPANY §  
KAUFMAN COUNTY, TEXAS § ENVIRONMENTAL QUALITY

APPLICANT'S REPLY TO EXECUTIVE DIRECTOR'S RESPONSE TO  
HEARING REQUESTS

Transit Mix Concrete Materials Company ("Transit Mix") files this REPLY TO EXECUTIVE DIRECTOR'S HEARING REQUESTS in the above referenced matter and would respectfully show as follows:

2008 MAR 25 AM 10:15  
CHIEF CLERK'S OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

This application for a standard permit was declared administratively complete on January 23, 2007. Timely hearing requests were received by the Commission from various persons, some in an individual and some in a representative capacity. However, as correctly pointed out by the Executive Director, standing in matters of this type is limited by statute to "persons actually residing in a permanent residence with 440 yards of the proposed plant..." Tex. Health & Safety Code, Section 382.058 (c). None of the hearing requests provides the Commission with any basis for concluding that the requestor meets this statutory requirement.

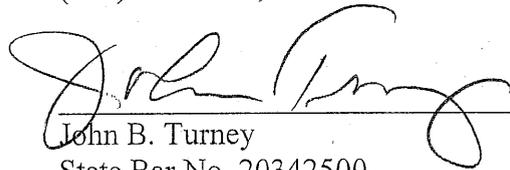
Transit Mix respectfully submits that there is no cognizable basis for disregarding the statutory mandate applicable to this matter, and that the hearing requests should therefore be denied. It should also be emphasized that granting any of these hearing requests would contradict the extensive work performed by the agency in evaluating the terms of the standard permit. The very purpose of the standard permit program is to avoid unnecessary and wasteful individual reviews of these facilities when the Commission can have confidence, based on years of experience and substantial technical expertise, that the terms of the Standard Permit are protective of public health and welfare. Finally,

disregarding the statutory mandate in this matter would invite other protestants to expect similar consideration, and would have the unintended effect of encouraging what are in effect land use disputes.

WHEREFORE, PREMISES CONSIDERED; Transit Mix respectfully requests that the hearing requests in this matter be denied, and for other relief to which it is justly entitled.

Respectfully submitted,

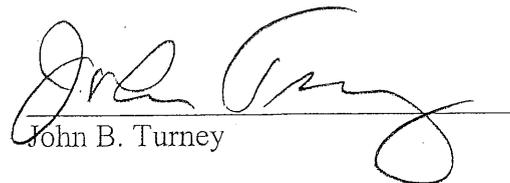
HILGERS, BELL, & RICHARDS, L.L.P.  
816 Congress, Suite 1200  
Austin, Texas 78701  
(512) 476-0005, telephone  
(512) 476-1513, telefax

  
\_\_\_\_\_  
John B. Turney  
State Bar No. 20342500

ATTORNEYS FOR APPLICANT,  
Transit Mix Concrete & Materials Company

#### CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion has been served on all interested persons on the attached service list by First Class Mail, postage prepaid.

  
\_\_\_\_\_  
John B. Turney

**SERVICE LIST**  
**TRANSIT MIX & CONCRETE MATERIALS, INC.**  
**PERMIT NO. 80840**

**Representing the Executive Director of the  
Texas Commission on Environmental**

**Quality:**

Andrea Casey, Staff Attorney  
Texas Commission on Environmental Quality  
Office of Legal Services  
Environmental Law Division  
PO Box 13087, MC-173  
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**For the Executive Director:**

Mike Gould, Technical Staff  
Texas Commission on Environmental Quality  
Public Interest Counsel, MC-103  
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**For Alternative Dispute Resolution:**

Mr. Kyle Lucas  
Texas Commission on Environmental Quality  
Alternative Dispute Resolution, MC-222  
PO Box 13087  
Austin, Texas 78711-3087

**For Public Interest Counsel:**

Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental Quality  
Public Interest Counsel, MC-103  
PO Box 13087  
Austin, Texas 78711-3087

**For Public Officials Requester(s):**

The Honorable Betty Brown  
Texas House of Representative, District 4  
PO Box 2910  
Austin, Texas 78768-2910

**For the Applicant:**

Matthew Hallmark  
Transit Mix Concrete & Materials Co.  
2525 North Stemmons Freeway  
Dallas, TX 75207

**For the Applicant:**

Bobby Bailey, Environmental Coordinator  
Transit Mix Concrete & Materials Co.  
2525 North Stemmons Freeway  
Dallas, TX 75207

**For Office of Public Assistance:**

Bridget Bohac, Director  
Texas Commission on Environmental Quality  
Office of Public Assistance, MC-108  
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**Requesters:**

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Kaufman, Texas 75142

Amy and Larry Walker  
1866 Fair Haven Circle  
Kaufman, Texas 75142

**For Public Officials – Interested Person(s)**

The Honorable Robert F. Deuell

Attn: Ms. Cindy Burkett

PO Box 12068

Austin, Texas 78711-2068

**For Interested Persons:**

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1000 S. Bend Drive

Kaufman, Texas 75142

W.T. Shaw

Kaufman Schools

9919 CR 158

Kaufman, Texas 75142