

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 28, 2008

TO: Persons on the attached mailing list.

RE: Wheatcraft, Inc.
Permit No. 76508

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 Butt-Holdsworth Memorial Library, 505 Water Street, Kerrville, Kerr County, Texas, and San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas.

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/er

Enclosures

MAILING LIST
for
Wheatcraft, Inc.
Permit No. 76508

FOR THE APPLICANT:

Gerald Wheatcraft, President
Wheatcraft, Inc.
P.O. Box 290068
Kerrville, Texas 78029-0068

Larry Lucarelli,
Senior Environmental Engineer
AARC Environmental, Inc.
2500 Wilcrest Drive, Suite 460
Houston, Texas 77042

FOR THE EXECUTIVE DIRECTOR:

Erin Selvera, Staff Attorney
Texas Commission on Environmental Quality
Environmental Law Division MC-173
P.O. Box 13087
Austin, Texas 78711-3087

Michael Gould, Technical Staff
Texas Commission on Environmental Quality
Air Permits Division MC-163
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Bridget Bohac, Director
Texas Commission on Environmental Quality
Office of Public Assistance MC-108
P.O. 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
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

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

INTERESTED PERSONS:

See attached list.

MARK ABBOTT
165 JJ LN
CENTER POINT TX 78010-5471

THOMAS A BARGER
PO BOX 1255
CENTER POINT TX 78010-1255

JOEL BLACKLEDGE
181 RED BIRD LOOP
CENTER POINT TX 78010-5476

ANNE ALANIZ
305
17070 RED OAK DR
HOUSTON TX 77090-2619

JENNIFER & JOHN BARNETT
360 BLUFF CREEK RD
CENTER POINT TX 78010-5417

KAREN BLACKLEDGE
181 RED BIRD LOOP
CENTER POINT TX 78010-5476

DAVID B ANDERSON
401 CENTER POINT DR E
CENTER POINT TX 78010-5432

GUY & LORNA BASON
194 SPANISH OAK LN
CENTER POINT TX 78010-5529

BARBARA & DON BOEHME
PO BOX 67
CENTER POINT TX 78010-0067

STEVE AUGUSTINE
BLUFF CREEK RANCH
CENTER POINT TX 78010

THOMAS BAYER
321 CHINA ST
CENTER POINT TX 78010-5436

BARBARA BOEHME
BLUFF CREEK RANCH
CENTER POINT TX 78010

BETTY F AYCOCK
595 BLUFF CREEK RD
CENTER POINT TX 78010-5419

JEAN BELLIS
301 CENTER POINT DR
CENTER POINT TX 78010-5431

DONALD BOEHME
BLUFF CREEK RANCH
CENTER POINT TX 78010

WILLIAM T AYCOCK III
595 BLUFF CREEK RD
CENTER POINT TX 78010-5419

ROY BENNETT
324 WILLOW BEND DR
CENTER POINT TX 78010-5542

MARIA E BOROER
BLUFF CREEK RANCH
CENTER POINT TX 78010

ILSE BAILEY
664 LOWER TURTLE CREEK RD
KERRVILLE TX 78028-8096

M CODY BISHOP
PO BOX 686
CENTER POINT TX 78010-0686

ANDREW & ANDREW BOWSER
561 BLUFF CREEK RD
CENTER POINT TX 78010-5419

HA BUSTER BALDWIN & WILLIAM H WILLIAMS
700 MAIN ST
KERRVILLE TX 78028-5323

AMBER BLACKLEDGE
181 RED BIRD LOOP
CENTER POINT TX 78010-5476

MARY PATTIE BRITTERS
158 COOK LN
CENTER POINT TX 78010-5438

AMY & TOM BARGER
PO BOX 1255
CENTER POINT TX 78010-1255

CHRISTINA BLACKLEDGE
181 RED BIRD LOOP
CENTER POINT TX 78010-5476

DENNIS BROWN
5800 HIGHWAY 27
CENTER POINT TX 78010-5467

AMY K BARGER
PO BOX 1255
CENTER POINT TX 78010-1255

JEFF BLACKLEDGE
181 RED BIRD LOOP
CENTER POINT TX 78010-5476

ROBERT L BROWN
116 2ND ST
CENTER POINT TX 78010-5410

RAYMOND L BUCK JR GENERAL DIRECTOR
UPPER GUADALUPE RIVER AUTHORITY
STE 100
125 LEHMANN DR
KERRVILLE TX 78028-6059

NEAL COLDWELL
314 CHINA ST
CENTER POINT TX 78010-5436

CLARA CONNER
260 DEER PARK LN
CENTER POINT TX 78010-5444

GUY BURNEY
DEAR PARK
CENTER POINT TX 78012

SHERRY COLLINS
261 RED BIRD LOOP
CENTER POINT TX 78010-5477

DIANA & RON CUSHMAN
PO BOX 1136
CENTER POINT TX 78010-1136

DOROTHY BURSCH
436 RED BIRD LOOP
CENTER POINT TX 78010-5479

SHERRY & THOMAS H COLLINS
261 RED BIRD LOOP
CENTER POINT TX 78010-5477

DON DAVIS
PO BOX 194
CENTER POINT TX 78010-0194

GEORGE BURSCH
436 RED BIRD LOOP
CENTER POINT TX 78010-5479

THOMAS H COLLINS
261 RED BIRD LOOP
CENTER POINT TX 78010-5477

LINDA DAVIS
PO BOX 194
CENTER POINT TX 78010-0194

MARY PATTIE BUTTERS
158 COOK LN
CENTER POINT TX 78010-5438

CONCERNED CITIZEN
PO BOX 1501
CENTER POINT TX 78010-1501

RYAN DEBARROS
5710 HAUSMAN RD W STE 121
SAN ANTONIO TX 78249-1646

JOANNE CAGLE
515 FM 480
CENTER POINT TX 78010-5462

CONCERNED CITIZEN
314 CHINA ST
CENTER POINT TX 78010-5436

JONATHAN DELMER
FAIRVIEW FARM EXOTICS
131 LOUISE EHLER LN
COMFORT TX 78013-3363

DONNA R CARDNER
154 DOSS
CENTER POINT TX 78010-5445

CONCERNED CITIZEN
PO BOX 701
CENTER POINT TX 78010-0701

JULIA C DEWEY
169 RIVER RD
CENTER POINT TX 78010

HANNAH CARDNER
154 DOSS DR
CENTER POINT TX 78010

CONCERNED CITIZEN
141 VERDE HILLS DR
CENTER POINT TX 78010-3512

TRINIDAD DOMINGUEZ
321 BOOSTER ST
CENTER POINT TX 78010-5424

ROBERT CHAMBERLAIN
409 BROADWAY
COMFORT TX 78013-2162

CONCERNED CITIZEN
BLUFF CREEK RANCH
CENTER POINT TX

CB DOUGLAS
428 CHINA ST
CENTER POINT TX 78010-5575

JOYCE CHASE
PO BOX 997
CENTER POINT TX 78010-0997

CONCERNED CITIZEN
BLUFF CREEK RANCH
CENTER POINT TX 78010

JA DOUGLAS
428 CHINA ST
CENTER POINT TX 78010-5575

JB DOUGLAS
428 CHINA ST
CENTER POINT TX 78010-5575

CONNIE ENGEL
PO BOX 377
CENTER POINT TX 78010-0377

ANN FRITZ
102 2ND ST
CENTER POINT TX 78010-5410

MARCY DOWNEY
200 ROBERTS TRL
CENTER POINT TX 78010-5521

CONNIE ENGEL
115 FM 473
COMFORT TX 78013-3626

ANN & STEVE GALLAND
143 CENTER POINT DR E
CENTER POINT TX 78010-5430

DON & JANET DRINKARD
5756 S STAPLES ST
CORPUS CHRISTI TX 78413-3782

DAVID D ERAY
7893 HWY 27 E
CENTER POINT TX 78010

STEVE GALLAND
143 CENTER POINT DR E
CENTER POINT TX 78010-5430

GENE DUNKS
247 CENTER POINT DR E
CENTER POINT TX 78010-5407

DON ESBJORNSON
470 BLUFF CREEK RD
CENTER POINT TX 78010-5418

HARRY & VICKIE GARTRELL
124 CENTER POINT DR E
CENTER POINT TX 78010-5430

NATLIE DUNLAP
PO BOX 533
CENTER POINT TX 78010-0533

MARCIA ESBJORNSON
470 BLUFF CREEK RD
CENTER POINT TX 78010-5418

PAULA & TOM GOYNES
444 PECAN PARK DR
SAN MARCOS TX 78666-8544

WILLIAM L DUNLAP
PO BOX 533
CENTER POINT TX 78010-0533

JAREDA ESKEW
336 RED BIRD LOOP
CENTER POINT TX 78010-5478

TOM GOYNES
444 PECAN PARK DR
SAN MARCOS TX 78666-8544

DON EICHLER
PO BOX 344
CENTER POINT TX 78010-0344

JOANNE FENNINGER
372 RED BIRD LOOP
CENTER POINT TX 78010-5478

JIM GRAND
208 CHINA ST
CENTER POINT TX 78010-5435

MRS RICKIE EICHLER
PO BOX 344
CENTER POINT TX 78010-0344

SHARON FORSTER
455 CHINA ST
CENTER POINT TX 78010-5575

DAVID & SUZIE GRAY
5983 HWY 27 E
CENTER POINT TX 78010

ROSE & ROY ELIZENDO
BLUFF CREEK RANCH
CENTER POINT TX 78010

THE HONORABLE TROY FRASER
TEXAS SENATE
PO BOX 12068
AUSTIN TX 78711-2068

DAVID D GRAY
5983 HIGHWAY 27
CENTER POINT TX 78010-5468

SHIRLEY ELLER
477 STONELEIGH RD
CENTER POINT TX 78010-5482

DAVID O FREDERICK ATTORNEY AT LAW
LOWERRE FREDERICK PERALES ALLMON & RO
44 EAST AVE STE 100
AUSTIN TX 78701-4386

SUSAN GRAY
5983 HIGHWAY 27
CENTER POINT TX 78010-5468

LOGAN GREEN
501 CHINA ST
CENTER POINT TX 78010-5497

GEORGIANNA HAUGHT
PO BOX 1480
CENTER POINT TX 78010-1480

JUDY JORDAN
144 LANDS END TRL
CENTER POINT TX 78010-3501

DONALD & MARY B GREER
PO BOX 256
CENTER POINT TX 78010-0256

WILLIAM E HAUGHT
PO BOX 1480
CENTER POINT TX 78010-1480

CHARLIE E KAISER
531 KELLY ST
CENTER POINT TX 78010-5473

MARY B GREER
150 SPANISH OAK LN
CENTER POINT TX 78010-5529

JIM HAYS
PO BOX 1004
CENTER POINT TX 78010-1004

LINDA KAISER
PO BOX 642
CENTER POINT TX 78010-0642

JULIA A GRIFFITH
PO BOX 410
CENTER POINT TX 78010-0410

FRED HENNEKE
2595 BANDERA HWY
KERRVILLE TX 78028-9664

FRANK KEITH
491 CENTER POINT DR E
CENTER POINT TX 78010-5432

MARION L HACKER STILES
422 CHINA ST
CENTER POINT TX 78010-5575

MARGARET HIGGINS
230 CENTER POINT DR E
CENTER POINT TX 78010-5407

J KEITH
491 CENTER POINT DR E
CENTER POINT TX 78010-5432

JACKIE HAMLIN
131 VERDE HILLS DR
CENTER POINT TX 78010-3512

THE HONORABLE HARVEY HILDERBRAN
TEXAS HOUSE OF REPRESENTATIVES
PO BOX 2910
AUSTIN TX 78768-2910

NINA KINNEY
PO BOX 215
CENTER POINT TX 78010-0215

ALICE HAMMOND
214 CENTER POINT DR E
CENTER POINT TX 78010-5407

DUSTY ANN IFFLANDER
450 CENTER POINT DR E
CENTER POINT TX 78010-5432

HENRY KNOCKE
230 RED BIRD LOOP
CENTER POINT TX 78010-5477

J NELSON HAPPY
PO BOX 464
CENTER POINT TX 78010-0464

PIERCE JAMES
280 RED BIRD LOOP
CENTER POINT TX 78010-5477

CAYCE KOVACS
428 CHINA ST
CENTER POINT TX 78010-5575

BRIAN HARDIN
1308 BANDERA HWY
KERRVILLE TX 78028-9547

DAVID L JOHN
255 RIVER RD
CENTER POINT TX 78010

JOHN C KOVACS
428 CHINA ST
CENTER POINT TX 78010-5575

KEVIN HARTLEY
322 HOOFBEE TRL
KERRVILLE TX 78028-8714

ARLENE JOHNSON
185 COOK LN
CENTER POINT TX 78010-5438

JACKIE KURESKA
305 BOOSTER ST
CENTER POINT TX 78010-5424

KAY KYLE
600 BLUFF CREEK RD
CENTER POINT TX 78010-5420

JULIANNA M LEONARD
PO BOX 14546
OKLAHOMA CITY OK 73113-0546

BEN LUCAS
6723 BRADEN CIR
KERRVILLE TX 78028-8002

BILL & KAY KYLE
600 BLUFF CREEK RD
CENTER POINT TX 78010-5420

EDGAR R LIGON
PO BOX 290583
KERRVILLE TX 78029-0583

BEN LUCAS
COTTONWOOD HOLLOW
CENTER POINT TX 78010

WILLIAM KYLE
BLUFF CREEK RANCH
CENTER POINT TX 78010

ROBERT LIGON
PO BOX 290583
KERRVILLE TX 78029-0583

ELLEN LUCAS
6723 BRADEN CIR
KERRVILLE TX 78028-8002

BETTY LACKEY
PO BOX 157
CENTER POINT TX 78010-0157

EARL & PAT LONG
PO BOX 1503
CENTER POINT TX 78010-1503

ELLEN LUCAS
COTTONWOOD HOLLOW
CENTER POINT TX 78010

GLENDALACKEY PRESIDENT
CENTER POINT ALLIANCE FOR PROGRESS
PO BOX 491
CENTER POINT TX 78010-0491

PAT LONG
PO BOX 1503
CENTER POINT TX 78010-1503

JOANN LYNCH
PO BOX 482
CENTER POINT TX 78010-0482

GLENDALACKEY
PO BOX 724
CENTER POINT TX 78010-0724

BILL LOURAWCE
PO BOX 789
CENTER POINT TX 78010-0789

JOANN LYNCH
669 FM 480
CENTER POINT TX 78010-3504

TH LACKEY
PO BOX 157
CENTER POINT TX 78010-0157

FRANCES LOVETT
6749 STATE HIGHWAY 27
COMFORT TX 78013-3350

JOEY LYNCH
PO BOX 482
CENTER POINT TX 78010-0482

DANNY & KELLY LENA
160 RED BIRD LOOP
CENTER POINT TX 78010-5476

BILL LOWRANCE
PO BOX 789
CENTER POINT TX 78010-0789

JOHN LYNCH
669 FM 480
CENTER POINT TX 78010-3504

BO & JULIE LEONARD
PO BOX 953
CENTER POINT TX 78010-0953

BILL & JUNE LOWRANCE
PO BOX 434
CENTER POINT TX 78010-0434

W R LYNCH
PO BOX 482
CENTER POINT TX 78010-0482

JULIANA M LEONARD
PO BOX 953
CENTER POINT TX 78010-0953

LINDA LOWRANCE
PO BOX 789
CENTER POINT TX 78010-0789

GERARD MACCROSSAN
429 JEFFERSON ST
KERRVILLE TX 78028-4412

L LAYLA MANSURI
LOWERRE & FREDERICK
STE 100
44 EAST AVE
AUSTIN TX 78701-4384

LAURIE MILTON
PO BOX 476
CENTER POINT TX 78010-0476

KAREN NUNNERY
410 CENTER POINT DR E
CENTER POINT TX 78010-5432

DUB MARTIN
124 VERDE HILLS DR
CENTER POINT TX 78010-3512

PHILLIP MILTON
PO BOX 476
CENTER POINT TX 78010-0476

DARYN & GEORGE OLIVER
331 CENTER POINT DR E
CENTER POINT TX 78010-5431

NEVA J MARTIN
477 STONELEIGH RD
CENTER POINT TX 78010-5482

CHUCK MORGAN
196 BOARDWALK DR
CENTER POINT TX 78010-5421

KIM OLIVES
170 SILVER CREEK LN
CENTER POINT TX 78010-5593

MARY J MATTHEWS
PO BOX 464
CENTER POINT TX 78010-0464

JEAN MOSTY
PO BOX 467
CENTER POINT TX 78010-0467

CAROLYN S OSBORN
321 CENTER POINT DR E
CENTER POINT TX 78010-5431

JON MAXWELL
PO BOX 835
CENTER POINT TX 78010-0835

JOHN MOSTY
330 CHINA ST
CENTER POINT TX 78010-5436

FRITZ OZUNA
6769 STATE HIGHWAY 27
COMFORT TX 78013-3350

JON MAXWELL
395 MCDONALD LOOP
CENTER POINT TX 78010-5506

JOHN R MOSTY
1712 SIDNEY BAKER ST
KERRVILLE TX 78028-2642

CAROL PANKRATZ
PO BOX 426
COMFORT TX 78013-0426

HEIDI MCCORD
111 LOWER TURTLE CREEK RD
KERRVILLE TX 78028-9622

ROBERT L MOSTY JR
223 LA COSTA DR
MONTGOMERY TX 77356-5360

JONATHAN & SABYN PARK
PO BOX 940
CENTER POINT TX 78010-0940

SAM MCLARTY
214 CHINA ST
CENTER POINT TX 78010-5435

BRIAN NENNINGER
STE 217-208
24165 W IH 10
SAN ANTONIO TX 78257-1159

RAUL PENA
718 WITT RD
CENTER POINT TX 78010-3524

ALMA MCLENDON
PO BOX 262
CENTER POINT TX 78010-0262

GERALD D NUNNERY
410 CENTER POINT DR E
CENTER POINT TX 78010-5432

SANDRA L PENA
718 WITT RD
CENTER POINT TX 78010-3524

JAN D MENNA
194 MOHABO RD
CENTER POINT TX 78010-5513

JERRY NUNNERY
410 CENTER POINT DR E
CENTER POINT TX 78010-5432

DOROTHY & JAMES PIERCE
280 RED BIRD LOOP
CENTER POINT TX 78010-5477

EUGENE PITTMAN
UNKNOWN
CENTER POINT TX 78010

SUSAN L SANDER
320 2ND ST
CENTER POINT TX 78010-5411

NELL I SEVEY
PO BOX 443
CENTER POINT TX 78010-0443

H POMALEA
391 MCDONALD LOOP
CENTER POINT TX 78010-5506

NEIL F SAWYER
228 PLANTATION DR
BURLESON TX 76028-1473

ROLA SEYLER
185 BOCKHOFF RD
CENTER POINT TX 78010-5423

JAMES R PULTY
BLUFF CREEK RANCH
CENTER POINT TX 78010

BRENT SAYER
PO BOX 1058
CENTER POINT TX 78010-1058

LUKE SHEETS
126 ALBRECHT RD
CENTER POINT TX 78010-5400

LEE ANN RAY & EDWIN STEARNS
PO BOX 377
CENTER POINT TX 78010-0377

THERESA M SAYER
PO BOX 1058
CENTER POINT TX 78010-1058

SARAH SHEETS
126 ALBRECHT RD
CENTER POINT TX 78010-5400

DR. LEE ANN RAY
PO BOX 448
CENTER POINT TX 78010-0448

BRET & THERESA SAYERS
BLUFF CREEK RANCH
CENTER POINT TX 78010

LINETTE SHINE
PO BOX 171
CENTER POINT TX 78010-0171

MICHAEL REUSSER
131 BALTIC AVE
CENTER POINT TX 78010-5414

PEGGY SCHLOTTMAN
PO BOX 1374
CENTER POINT TX 78010-1374

DONALD SHIRKEY
PO BOX 253
CENTER POINT TX 78010-0253

JOHN W RHODES
208 SIERRA RD
KERRVILLE TX 78028-7492

RONNIE SCHLOTTMAN
PO BOX 1374
CENTER POINT TX 78010-1374

GLADYS SIMPSON
PO BOX 278
CENTER POINT TX 78010-0278

SHERRY & SUNNY RIVERS
PO BOX 572
CENTER POINT TX 78010-0572

CLARENCE SCHMIDT
284 RED BIRD LOOP
CENTER POINT TX 78010-5477

JACK SIMPSON
PO BOX 278
CENTER POINT TX 78010-0278

MR SUNNY RIVERS
PO BOX 572
CENTER POINT TX 78010-0572

MARY SCHMIDT
284 RED BIRD LOOP
CENTER POINT TX 78010-5477

LISA SKIDMORE
PO BOX 1501
CENTER POINT TX 78010-1501

JANET ROBINSON
630 EAST LN
KERRVILLE TX 78028-2816

GEORGE H SCHROEDER
PO BOX 937
CENTER POINT TX 78010-0937

MIKE SKIDMORE
PO BOX 1501
CENTER POINT TX 78010-1501

BRIAN & SUZANNE WRAY SMITH
4602 KINGFISHER DR
HOUSTON TX 77035-5114

RICHARD STEADHAM
131 CENTER PT RIVER RD
CENTER POINT TX 78010

JIMMIE SWOFFORD
336 RED BIRD LOOP
CENTER POINT TX 78010-5478

DOUGLAS SMITH
126 BOARDWALK DR
CENTER POINT TX 78010-5421

EDWIN STEARNS
CENTER POINT ISD
PO BOX 377
CENTER POINT TX 78010-0377

PAT SWOFFORD
336 RED BIRD LOOP
CENTER POINT TX 78010-5478

FRANCES SMITH
126 BOARDWALK DR
CENTER POINT TX 78010-5421

EDWIN P STEARNS
PO BOX 599
CENTER POINT TX 78010-0599

LESLEY SWOPE
123 PUT RD
CENTER POINT TX 78010

GUY SMITH
126 BOARDWALK DR
CENTER POINT TX 78010-5421

JEFFREY C STILES
422 CHINA ST
CENTER POINT TX 78010-5575

EDDIE E TAYLOR
PO BOX 1
CENTER POINT TX 78010-0001

ROBERTA SMITH
236 SPANISH OAK LN
CENTER POINT TX 78010-5530

MARION L STILES
422 CHINA ST
CENTER POINT TX 78010-5575

FRANK THOMASON
5720 HIGHWAY 27
CENTER POINT TX 78010-5466

PHIL & SALLY SNEED
BLUFF CREEK RANCH
CENTER POINT TX 78010

JAN STOKES
51160 IH 10 W
COMFORT TX 78013-3406

PAT TINLEY COUNTY JUDGE
KERR COUNTY
700 MAIN ST
KERRVILLE TX 78028-5323

PHILLIP & SARAH M SNEED
PO BOX 3441
ABILENE TX 79604-3441

JAMES STOUT
PO BOX 842
CENTER POINT TX 78010-0842

DORA TOWNSEND
PO BOX 197
CENTER POINT TX 78010-0197

PHIL SPAIN
2745 BANDERA HWY APT 2
KERRVILLE TX 78028-9613

JAMES STOUT
170 SILVER CREEK LN
CENTER POINT TX 78010-5593

JERRY TRICE
117 JJ LN
CENTER POINT TX 78010-5471

BELINDA STANUSH
321 BLUE BONNET BLVD
SAN ANTONIO TX 78209-4632

MARY ELLEN SUMMERLIN
HEADWATERS GCD
125 LEHMANN DR STE 102
KERRVILLE TX 78028-6077

SUZANNE H TRICE
117 JJ LN
CENTER POINT TX 78010-5471

KAY STEADHAM
131 CENTER PT RIVER RD
CENTER POINT TX 78010

MARY ELLEN SUMMERLIN
105 TURNBERRY CIR
KERRVILLE TX 78028-6511

BETTY TROMM
590 CENTER POINT DR E
CENTER POINT TX 78010-5433

BECKY VALENZUELA
5966 HIGHWAY 27
CENTER POINT TX 78010-5468

JERRY WHEATCRAFT
PO BOX 68
KERRVILLE TX 78029-0068

KIMBERLY WILLIAMS
165 JJ LN
CENTER POINT TX 78010-5471

MICHAEL R VAN WINKLE
126 RIOJAS DR
KERRVILLE TX 78028-9088

BETTY WHITE
6723 STATE HIGHWAY 27
COMFORT TX 78013-3350

WILLIAM H WILLIAMS
KERR COUNTY COMMISSIONER
700 MAIN ST
KERRVILLE TX 78028-5323

AUDREY & RENE VERHALST
244 RED BIRD LOOP
CENTER POINT TX 78010-5477

PAM WHITE
2745 BANDERA HWY # A2
KERRVILLE TX 78028-9613

BERNICE WILLIS
PO BOX 315
CENTER POINT TX 78010-0315

EW WALKER
169 RIVER RD
CENTER POINT TX 78010

ROBERT WHITE
6723 STATE HIGHWAY 27
COMFORT TX 78013-3350

BONNIE WILLIS
PO BOX 315
CENTER POINT TX 78010-0315

SHERRY C WALLACE
103 SKYLINE DR
CENTER POINT TX 78010

MILTON & PATRICIA WHITWORTH
PO BOX 431
CENTER POINT TX 78010-0431

JOANNE M WILSON
210 RED BIRD LOOP
CENTER POINT TX 78010-5477

KENNETH H WARDLAW
PO BOX 7
CENTER POINT TX 78010-0007

PATRICIA WHITWORTH
PO BOX 431
CENTER POINT TX 78010-0431

JOHN WILSON
210 RED BIRD LOOP
CENTER POINT TX 78010-5477

HUGH WEAVER
141 VERDE HILLS DR
CENTER POINT TX 78010-3512

MARILYN L WILES
260 DEER PARK LN
CENTER POINT TX 78010-5444

JONI WISEMAN
PO BOX 503
CENTER POINT TX 78010-0503

DAVE & MARY WEEKLEY
510 BLUFF CREEK RD
CENTER POINT TX 78010-5419

BILL WILLIAMS COMMISSIONER
KERR COUNTY
700 MAIN ST
KERRVILLE TX 78028-5323

HAMMIT WOMACK
PO BOX 178
CENTER POINT TX 78010-0178

DAVID R WEEKLEY
510 BLUFF CREEK RD
CENTER POINT TX 78010-5419

DEBBIE WILLIAMS
271 DEER PARK LN
CENTER POINT TX 78010-5444

KAY WOODWARD
813 RIM ROCK RD
KERRVILLE TX 78028-7007

MARY K WEEKLEY
510 BLUFF CREEK RD
CENTER POINT TX 78010-5419

GREG WILLIAMS
271 DEER PARK LN
CENTER POINT TX 78010-5444

STEPHEN WRAY
2601 DOUGLAS ST
AUSTIN TX 78741-5709

C JEAN YOUNG
305 CENTER POINT DR E
CENTER POINT TX 78010-5431

CHARLES YOUNG
104 CANE LN
CENTER POINT TX 78010

ELDO YOUNG
305 CENTER POINT DR E
CENTER POINT TX 78010-5431

TCEQ AIR QUALITY PERMIT NO. 76508

2006 APR 21 PM 4:31

APPLICATION BY § BEFORE THE
WHEATCRAFT, INC. § TEXAS COMMISSION ON
CENTER POINT, KERR COUNTY, TEXAS § ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (RTC or Response) on the application for an Air Quality Permit No. 76508 and the ED's preliminary decision. As required by 30 TEXAS ADMINISTRATIVE CODE (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. 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.

Written and oral comments were received from the persons on the attached list. The Office of Chief Clerk also received comments in the form of a petition submitted by Robert Ligon. The petitioners are denoted by an asterisk (*) on the list, and shall be referred to as "Group A" within this document. This Response addresses all timely public comments received, whether or not withdrawn.

BACKGROUND

Description of Facility

Wheatcraft, Inc. (Applicant) has applied to the TCEQ for an Air Quality Permit No. 76508, which would authorize the construction of a Rock Crushing Facility at the Rhodes Pit Rock Quarry located at 6133 Highway 27, Center Point, Kerr County, Texas. The facility will emit the following air contaminant: particulate matter (PM), including particulate matter having diameter of 10 microns or less (PM₁₀).

Procedural Background

The application for a new permit was received August 1, 2005. The application was declared administratively complete August 12, 2005. The Notice of Receipt and Intent to Obtain (NORI) an Air Quality Permit was published September 6, 2005 in *Kerrville Daily Times*. More than 85 letters were received during the first comment period. These included 80 hearing requests, and public meeting requests from Senator Fraser and Rep. Hilderbran. A public meeting held in Center Point on January 24, 2006, was attended by 168 persons, including Rep. Hilderbran. Upon resolution of all technical deficiencies, the technical review was completed in August 2006. The Notice of Application and Preliminary Decision (NAPD) was published August 8, 2006 in *Kerrville Daily Times*. A second public meeting was requested by Rep. Harvey Hilderbran. The public meeting was

held in Center Point on November 9, 2006. The comment period that started on September 7, 2005 closed at the end of the second public meeting on November 9, 2006 (428 days). This application received 296 hearing requests and 118 meeting requests. Comments were received from 225 persons and/or groups. 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.

Since the inception of the permit time frame reduction (PTR) project in March 2002, Office of Permitting, Remediation, and Registration (OPRR) has significantly reduced its permitting backlogs and increased permit efficiencies. In 2002, the Air Permits Division (APD) had a backlog of 1150 permits; APD has decreased that backlog to less than 270 projects currently. This represents a 76% reduction over this time period. Part of PTR is to identify older projects (greater than 2 yrs) and place the needed resources to resolve the issues and to ultimately process the application. Prior to eliminating the division's backlog this was very difficult to do on a consistent basis. Since the reduction of the backlog, all of the projects that are greater than 2 years old are being processed. Currently there are appropriately 60 projects within the division that are greater than 24 months old. Over that same time period this represents less than 1.0% of all applications completed by the division. Additionally, control measures have been put in place to identify problem projects early on in the review, highlight them, and focus on their completion within the expected backlog timeframes for the air permits division.

COMMENTS AND RESPONSES

Written and oral comments have been combined where it was determined that a common response could be provided.

COMMENT 1: Air Pollution

Commenters ask what the Applicant will do to prevent pollution (*John & Cayce Kovacs*). Commenters express concern emissions from the proposed rock crusher will adversely affect air quality, or will cause or contribute to air pollution (*Anne Alaniz, Betty Aycock, Amy Barger, Thomas Barger, Don & Barbara Boehme, Guy & Lorna Bason, Joyce Chase, Sherry Collins, Thomas Collins, Linda Davis, Marcy Downey, Natalie Dunlap, William Dunlap, Rickie Eichler, Shirley Eller, Connie Engel, Marion Hacker, Jackie Hamlyn, Kevin Hartley, Georgianna Haught, Nina Kinney, John Kovacs, Kay Kyle, TH Lackey, Bill Lawrence, Linda Lawrence, Robert Ligon, Earl & Pat Long, Ellen Lucas, Ben Lucas, JoAnn Lynch, Jon Maxwell, Laurie Milton, Phillip Milton, John Mosty, Robert Mosty, Gerald Nunnery, Jerry Nunnery, Karen Nunnery, Carolyn Osborn, Sandra Peña, Theresa Sayer, Peggy Schlottman, Ronnie Schlottman, Luke Sheets, Sarah Sheets, Linnette Shine, Donald Shirkey, Brian & Suzanne Smith, Phillip & Sarah Sneed, Phil Spain, Jeffery Stiles, Frank Thomason, Suzanne Trice, Jerry Trice, Michael Van Winkle, David Weekley, Greg Williams, Bernice Willis, Stephen Wray, Eldo Young, Jean Young, CPISD*). One commenter states no provisions have been made in the application to control air, water, or noise pollution (*Don Esbjornson*). Commenters state draft permit terms should be written to prevent air pollution, rather

than provide unenforceable reactionary measures once a condition of air pollution has occurred (*GREAT, TRPA*).

RESPONSE 1: Air Pollution

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. The TCAA prohibits anyone from causing or contributing to air pollution. The TCAA defines air pollution to mean the presence in the atmosphere of one or more air contaminants or combination of air contaminants in such a concentration and of such duration that: are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property; or interfere with the normal use or enjoyment of animal life, vegetation, or property.¹ 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 permit reviewer then drafts the Special conditions and a Maximum Allowable Emission Rates Table (MAERT) to establish guidelines for the operation of the facility. The permit conditions are developed such that a facility that is 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.

The TCEQ does not have jurisdiction to prohibit owners and operators from seeking or receiving authorization to emit air contaminants if they comply with all statutory and regulatory requirements.

COMMENT 2: BACT, Health, and Welfare Effects

Commenters express concern regarding potential health impacts of air emissions from the proposed rock crusher on: themselves (*Mr. & Mrs. Andrew Bowser, Don & Barbara Boehme, Joyce Chase, Thomas & Sherry Collins, William Dunlap, Rickie Eichler, Steve & Ann Galland, Donald & Mary Greer, Marion Hacker, Kevin Hartley, Nina Kinney, Cayce Kovacs, Kay Kyle, Robert Ligon, Earl & Pat Long, Neva Martin, Sam McLanty, Gerald Nunnery, Neil Sawyer, Theresa Sayer, Brent Sayer, Nell Sevey, Linnette Shine, Brian & Suzanne Smith, Phil Spain, Belinda Stanush, Jeffery Stiles, Jerry Trice, Pam White, Greg & Debbie Williams, Kimberly Williams, David Weekley, MK Weekley, Stephen Wray, Center Point Alliance for Progress, GREAT, TRPA, Group A*), children/infants/unborn children (*Betty Aycock, Amy Barger, Thomas Barger, Guy & Lorna Bason, Don & Barbara Boehme, Mr. & Mrs. Andrew Bowser, Mary Butters, Joyce Chase, Steve & Ann Galland, Kay Kyle, TH Lackey, Earl & Pat Long, Frances Lovett, Joey Lynch, Sam McLanty, Chuck Morgan, Neil Sawyer, Nell Sevey, Luke Sheets, Linnette Shine, Belinda Stanush, Frank Thomason, Bernice Willis, Center Point Alliance for Progress, CPISD, Kerr County Commissioners' Court, Group A*), adults (*Thomas & Sherry Collins, Steve & Ann Galland, Sam McLanty, Nell Sevey, Frank Thomason, Kerr County Commissioners' Court*), the elderly (*Guy & Lorna Bason, Alice Hammond,*

¹ TEX. HEALTH & SAFETY CODE §382.003(3).

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

Wheatcraft, Inc. Permit No. 76508

Page 4 of 52

Fred Henneke, John Kovacs, TH Lackey, Earl & Pat Long, JoAnn Lynch, Karen Nunnery, Gerald Nunnery, Neil Sawyer, Donald Shirkey, Michael Skidmore, Jeffery Stiles, Frank Thomason, Eldo Young, Jean Young, Group A), the public (Anne Alaniz, William Aycock, Amy Barger, Thomas Barger, Don & Barbara Boehme, Robert Brown, Rickie Eichler, Marcia Esbjornson, Steve & Ann Galland, Marion Hacker, William Haught, John Kovacs, Kay Kyle, TH Lackey, Robert Ligon, Earl & Pat Long, JoAnn Lynch, WR Lynch, Robert Mosty, Neil Sawyer, Theresa Sayer, Sarah Sheets, Donald Shirkey, Brian & Suzanne Smith, Jeffery Stiles, Pat Tinley, Bernice Willis, Greg Williams, David Weekley, Mary Weekley, MK Weekley, Stephen Wray, CPISD), future residents of Center Point (Phil Spain Pam White), students and staff at the nearby schools (Amy Barger, Guy & Lorna Bason, Robert Brown, Steve & Ann Galland, Connie Engel, Fred Henneke, Kay Kyle, Edgar Ligon, Robert Ligon, Frances Lovett, JoAnn Lynch, Joey Lynch, Chuck Morgan, Jerry Nunnery, Karen Nunnery, Fritz Ozuna, Sandra Peña, Brent Sayer, Sarah Sheets, Edwin Stearns, Mary Weekley, MK Weekley, Center Point Alliance for Progress, CPISD, Group A), those working nearby (Mary Weekley, MK Weekley), members of their group Texas Rivers Protection Association (Tom Goynes), livestock (Mary Butters, Don Davis, Linda Davis, Marcy Downey, Marcia Esbjornson, Steve & Ann Galland, Nina Kinney, Kay Kyle, Bill Lawrence, Linda Lawrence, Jon Maxwell, Gerald Nunnery, Karen Nunnery, Theresa Sayer, George Schroeder, Sarah Sheets, Belinda Stanush, Jeffery Stiles, David Weekley, Mary Weekley, Greg Williams, Group A), wildlife/animals (Mary Butters, Thomas Collins, Linda Davis, Rickie Eichler, Don Esbjornson, Marcia Esbjornson, Steve & Ann Galland, Marion Hacker, Jackie Hamlyn, Robert Ligon, Ben Lucas, Ellen Lucas, Gerald Nunnery, Carolyn Osborn, Nell Sevey, Phil Spain, Jerry Trice, Suzanne Trice, Michael Van Winkle, David Weekley, Mary Weekley, Jean Young, Eldo Young), fish/aquatic life (William Aycock, Linda Davis, Gerald Nunnery, Karen Nunnery, Belinda Stanush, Kenneth Wardlaw, Mary Weekley, Jean Young, Eldo Young), plant life or crops (Marcy Downey, Marcia Esbjornson, Steve & Ann Galland, Marion Hacker, Cayce Kovacs, TH Lackey, Robert Ligon, Ben Lucas, Ellen Lucas, Gerald Nunnery, Karen Nunnery, Carolyn Osborn, Theresa Sayer, Peggy Schlottman, Ronnie Schlottman, George Schroeder, Belinda Stanush, Jeffery Stiles, Suzanne Trice, David Weekley, Mary Weekley), and river vegetation (Gerald Nunnery, Karen Nunnery, Eldo Young, Jean Young).

Commenters are concerned the operation of the proposed rock crusher will adversely affect those with the following respiratory conditions: pulmonary fibrosis, pulmonary disease, bronchitis, chronic bronchitis, asthma, pneumonia, pleurisy, asbestosis, silicosis, lung irritation, lung disease, lung tissue damage, pulmonary problems, emphysema, bronchoconstriction, and lung inflammation (*Anne Alaniz, Amy Barger, Thomas Barger, Thomas & Sherry Collins, Don Davis, William Dunlap, Shirley Eller, Connie Engel, Steve & Ann Galland, Tom Goynes, Marion Hacker, Fred Henneke, Nina Kinney, Kay Kyle, TH Lackey, Bill Lawrence, Linda Lawrence, Edgar Ligon, Earl & Pat Long, Frances Lovett, JoAnn Lynch, Joey Lynch, Neva Martin, Gerald Nunnery, Karen Nunnery, George & Daryn Oliver, Carolyn Osborn, Fritz Ozuna, Sandra Peña, Brent Sayer, Nell Sevey, Neil Sawyer, Peggy Schlottman, Ronnie Schlottman, Sarah Sheets, Lisa Skidmore, Michael Skidmore, Brian & Suzanne Smith, Phil Spain, Belinda Stanush, Edwin Stearns, Jeffery Stiles, Frank Thomason, Jerry Trice, Suzanne Trice, Michael Van Winkle, David Weekley, Mary Weekley, Greg & Debbie Williams,*

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

Wheatcraft, Inc. Permit No. 76508

Page 5 of 52

Kimberly Williams, Bernice Willis, Eldo Young, Jean Young, CPISD, Group A, Kerr County Commissioners' Court).

Commenters are also concerned about the effect the proposed facility will have on the following conditions: allergies (*Amy Barger, Mary Butters, Connie Engel, Jackie Hamlyn, Fred Henneke, Kay Kyle, Linda Lawrence, Robert Ligon, JoAnn Lynch, WR Lynch, Neva Martin, Gerald Nunnery, Theresa Sayer, Luke Sheets, Sarah Sheets, Donald Shirkey, Brian & Suzanne Smith, Jerry Trice, Suzanne Trice, Milton & Patricia Whitworth, Kimberly Williams, Stephen Wray, CPISD, Group A*), irritation to eyes (*Bernice Willis*), heart problems (*Milton & Patricia Whitworth*), sinus problems (*Jerry Trice*), and cancer (*Steve & Ann Galland*). One commenter asks the TCEQ to prevent the sky from turning white and the citizens' lungs filling with dust (*Alice Hammond*).

One commenter expresses concern for health effects related to limestone (*Frances Lovett*). One commenter expresses concern for health effects related to particulate matter smaller than 10 microns in diameter (*Frances Lovett*). Commenters ask if the Applicant knows the number of people living in the affected area, the number of students attending schools in the area, and the number of people that live, work or go to school in the area that have compromised respiratory or immune systems (*John & Cayce Kovacs*).

Commenters express concern about potential environmental impacts of air emissions from the proposed rock crusher (*William Aycock, Amy Barger, Thomas Collins, Don & Janet Drinkard, Linda Davis, Natalie Dunlap, Steve & Ann Galland, Tom Goynes, Donald & Mary Greer, Kevin Hartley, Fred Henneke, Nina Kinney, Bill Lawrence, Linda Lawrence, Juliana Leonard, WR Lynch, Jon Maxwell, Fritz Ozuna, Sandra Peña, Brent Sayer, Phillip & Sarah Sneed, Phil Spain, Belinda Stanush, David Weekley, Mary Weekley, Greg & Debbie Williams, Pam White, Group A*). One commenter states the cypress trees are impacted by raw materials that are stacked against the trees (*Bo Leonard*). Commenters state PM from the facility will adversely affect the local geology, cause erosion, create risks from explosions and vibrations, and effect land use relationships (*Brent Sayer, Belinda Stanush*).

Some commenters state they or others use the Guadalupe River for recreational purposes and are concerned the operation of the rock crusher will adversely affect their use and enjoyment of the river (*Anne Alaniz, William Aycock, Mary Butters, Joyce Chase, Thomas & Sherry Collins, Marcy Downey, Steve & Ann Galland, Tom Goynes, Robert Ligon, Ellen Lucas, Ben Lucas, Jon Maxwell, Laurie Milton, Phillip Milton, Robert Mosty, Gerald Nunnery, Jerry Nunnery, Karen Nunnery, Carolyn Osborn, Theresa Sayer, Sarah Sheets, Belinda Stanush, Suzanne Trice, Michael Van Winkle, Eldo Young, Jean Young, GREAT, TRPA*); the serenity, aesthetic beauty, or quality of life in the area (*Anne Alaniz, Thomas Barger, Guy & Lorna Bason, Sherry Collins, Thomas Collins, Marcy Downey, Natalie Dunlap, Rickie Eichler, Steve & Ann Galland, Tom Goynes, Jackie Hamlyn, Nina Kinney, Kay Kyle, Juliana Leonard, Robert Ligon, JoAnn Lynch, WR Lynch, Jon Maxwell, Gerald Nunnery, Karen Nunnery, George & Daryn Oliver, Carolyn Osborn, Brent Sayer, Sarah Sheets, Brian & Suzanne Smith, Phillip & Sarah Sneed, Phil Spain, Jeffery Stiles, Pat Tinley, David*

Weekley, Mary Weekley, Pam White, Milton & Patricia Whitworth, Bill Williams, Stephen Wray, Eldo Young, Jean Young, GREAT, TRPA); use and enjoyment of their property (*Donald Shirkey, Belinda Stanush, GREAT, TRPA*). One commenter states operation of the proposed rock crusher will cause her to lose fellowship with friends and family that utilize the recreational area (*Suzanne Trice*).

Commenters dispute the draft permit achieves BACT for PM control (*GREAT, TRPA*). Commenters state neither the Applicant nor the TCEQ performed a comparison of available technologies (*GREAT, TRPA*). Commenters state water sprays with chemical additives are technically practicable and economically reasonable, and have been demonstrated elsewhere to achieve a higher level of particulate control than water sprayers alone (*GREAT, TRPA*). Commenters state the application indicates the BACT refers to a minimum of 70% of fugitive dust emissions, and ask why a performance of 90% or better can't be achieved (*John & Cayce Kovacs*). Some commenters ask whether air contaminants could be controlled by "hooding," instead of using 700 gallons per minute of water (*John & Cayce Kovacs*).

Some commenters ask to what extent pipes will be used instead of conveyers to reduce air emissions (*David Weekley, Mary Weekley*).

Commenters state the application and draft permit should include the material to be crushed at the proposed facility, including the constituent make-up of the material, so that the proper ESLs may be applied (*GREAT, TRPA*).

These commenters ask how the public can know the proposed rock crusher is safe to operate (*John & Cayce Kovacs*).

RESPONSE 2: BACT, Health and Welfare Effects

The Texas Clean Air Act (TCAA)² and TCEQ rules require an evaluation of air quality permit applications to determine whether adverse effects to public health, general welfare, or physical property are expected as a result of a facility's proposed emissions. As stated above, the permit reviewer identifies all sources of air contaminants at the proposed facility and verifies the facility will be using the Best Available Control Technology (BACT) applicable for the sources and types of contaminants emitted. BACT is based upon control measures that are designed to minimize the level of emissions from specific sources at a facility. Applying BACT results in requiring technology that best controls air emissions with consideration given to the technical practicability and economic reasonableness of reducing or eliminating emissions.

The only contaminant this facility will emit is PM, including PM₁₀. The TCEQ has determined BACT for rock crushers is use of water sprays to control particulate matter emissions. As primary control measures proposed for this facility, water spray bars shall be located at the inlet and outlet of all crushers, screens, and transfer points. In addition, paving of plant roads; and applying water or

² Texas Health & Safety Code, Chapter 382.

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

Wheatcraft, Inc. Permit No. 76508

Page 7 of 52

environmentally sensitive chemicals on all aggregate stockpiles is required. The draft permit also includes restrictions on visible fugitive emissions from crushers, screens, transfer points on belt conveyors, and stockpiles.

The overall permit application evaluation process provides a conservative prediction that is protective of the public health and the environment. This process includes an evaluation of the potential ground level concentrations of air emissions at the Applicant's property line. To establish the property line concentrations of PM, and thus verifying the off-property concentrations of ground level emissions from the proposed facility are not likely to adversely impact off-property receptors, the Applicant was required to perform computer air dispersion modeling and submit the results to the TCEQ. The Applicant's modeled predictions of ground level concentrations are added to the appropriate background concentration of each pollutant listed for the location of the proposed facility. The background concentrations used in the modeling are from Region 13,³ and include contributions from other facilities in the area. The sum of the concentrations due to the facility's emissions and the background concentration is compared against the NAAQS for the pollutant. The sums obtained and reviewed for this application were determined not to exceed the NAAQS. Therefore, adverse effects to health and welfare are not anticipated.

TCEQ Air Dispersion Modeling Team (ADMT) audited the modeling report and determined it to be acceptable. By comparing the facility's predicted emission concentrations to the applicable state and federal standards, ED Staff determined the likelihood of the Applicant's emissions causing adverse health effects. See Response 4 below for a more in-depth description of the modeling and audit conducted for this permit review.

As stated in response 1 above, the specific health-based standards employed in evaluating the potential PM emissions from this facility include the NAAQS. The NAAQS are defined in the federal regulations at 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.⁴ 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.⁵ Because the emissions from this facility should not cause an

³ Kerr County is located in Region 13.

⁴ EPA considered animal studies indicating allergic responses to PM as well as studies in children indicating allergic responses to traffic-related gases and particles when they established the most recent NAAQS. Emissions below the applicable NAAQS would not be expected to exacerbate allergic conditions. There is no indication that there are any adverse health effects from PM emissions specific to pregnant women, fetuses or those with cancer.

⁵ Section 302(h) of the Federal Clean Air Act (FCAA) defines effects on welfare to include effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, hazards to transportation, and impacts to personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.

exceedance of the NAAQS, air emissions from this facility are not expected to adversely impact land, livestock, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water. In addition, the secondary NAAQS are set below levels which would be expected to cause nuisance conditions (dust accumulation, decreased visibility) or eye and throat irritation, and, therefore, the air emissions should not impact the quality of life of those living near the proposed facility.⁶

The NAAQS for PM₁₀ is based on 24-hour and annual time periods. The measurement for predicted concentrations of air contaminants in modeling exercises is expressed in terms of micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Predicted air concentrations occurring below the 24-hour and annual NAAQS of $150 \mu\text{g}/\text{m}^3$ and $50 \mu\text{g}/\text{m}^3$, respectively, are not expected to exacerbate existing conditions or cause adverse health effects.⁷ According to the facility's maximum allowable emission rate table in the draft permit, the facility may not emit more than 3.06 tons per year (tpy) of particulate matter. Based on the results of the air dispersion model provided by the Applicant, the concentration of PM₁₀, including background concentration, is expected to be $84 \mu\text{g}/\text{m}^3$ (24-hour) and $25 \mu\text{g}/\text{m}^3$ (annual), both of which are below the NAAQS. Therefore, based on the potential concentrations reviewed by the ED's staff, it is not expected existing health conditions will worsen or adverse health effects in the general public, sensitive subgroups, animal life, or the environment will occur as a result of exposure to the expected levels of PM from the proposed facility.

The next step in an air permit review may include the TCEQ Toxicology and Risk Assessment (TARA) Section. Depending on the type of facility and associated air emissions, TARA may conduct an effects evaluation using the results of the air dispersion modeling, existing exposure levels and guideline concentrations called Effects Screening Levels (ESLs). However, TARA has also compiled a list of facilities which do not require a health effects review (commonly referred to as the "Toxicology Emissions Screening List"). Emissions from rock crushing facilities are included in this list. Therefore, particulate matter emissions from the crushing operation at Wheatcraft were not speciated.

The Environmental Protection Agency does not speciate the particulate matter emissions, including silica, from crushed stone processes. In EPA's *Compilation of Air Pollutant Emission Factors* manual (commonly referred to as AP-42) emission factors are given for only the general category of particulate matter. However, the TCEQ has previously determined, using conservative methods on rock crushing plants of similar size to that proposed by Wheatcraft, that the speciated silica portion should not adversely affect public health and welfare. For example, the TCEQ evaluated the predicted silica emissions for the protectiveness review accomplished for the proposed Air Quality Standard Permit for Permanent Rock or Concrete Crushing Plants. The standard permit will have the same production rate as that proposed by Wheatcraft. The predicted concentrations of silica, based

⁶ The secondary NAAQS for PM and PM₁₀ is the same as the primary NAAQS.

⁷ The annual standard for PM₁₀ has been repealed by the EPA. The 24 hour standard has not been repealed. It should also be noted that at the time modeling was requested and performed by the Applicant, TCEQ Regulation 30 TAC 111.155 was in effect (one- and three-hour standards for PM). This rule was repealed on June 11, 2006.

upon conservative estimates, were evaluated by TCEQ toxicologists and those concentrations were not expected to adversely impact public health.

With regard to the question whether the Applicant knows the number of people living in the affected area that have compromised respiratory or immune systems, the TCEQ is not aware of whether the Applicant has specific population numbers, as the permit application does not request this information.

See Responses 33 and 34 below for more information about effects on water and water use violations

COMMENT 3: Nuisance

Many commenters state operation of the rock crusher will cause or contribute to the following nuisance conditions: dust (*David Anderson, Betty Aycock, William Aycock, Don & Barbara Boehme, Mr. & Mrs. Andrew Bowser, Sherry Collins, Thomas Collins, Don Davis, Shirley Eller, Logan Green, Donald & Mary Greer, David & Suzie Gray, Alice Hammond, John Kovacs, Bo Leonard, Juliana Leonard, Gerald Nunnery, Karen Nunnery, Fritz Ozuna, Neil Sawyer, Theresa Sayer, George Schroeder, Sarah Sheets, Donald Shirkey, Jeffery Stiles, David Weekley, Mary Weekley, Bill Williams, Stephen Wray, Eldo Young, Jean Young, CPISD, Group A*), mold (Group A), noise (*Anne Alaniz, Betty Aycock, William Aycock, Amy Barger, Don & Barbara Boehme, Sherry Collins, Thomas Collins, Marcy Downey, Natalie Dunlap, Rickie Eichler, Shirley Eller, Steve & Ann Galland, Tom Goynes, Jackie Hamlyn, Georgianna Haught William Haught, John Kovacs, Kay Kyle, Juliana Leonard, Robert Ligon, Earl & Pat Long, Ben Lucas, Ellen Lucas, JoAnn Lynch, WR Lynch, Jon Maxwell, Laurie Milton, Gerald Nunnery, Karen Nunnery, George & Daryn Oliver, Carolyn Osborn, Fritz Ozuna, Sandra Peña, Brent Sayer, Peggy Schlottman, Ronnie Schlottman, Donald Shirkey, George Schroeder, Luke Sheets, Sarah Sheets, Brian & Suzanne Smith, Belinda Stanush, Jerry Trice, Suzanne Trice, David Weekley, Mary Weekley, Bill Williams, Greg Williams, Bernice Willis, Stephen Wray, Eldo Young, Jean Young, Group A*), silica dust (*Thomas & Sherry Collins, Bill Lawrence, Linda Lawrence, Karen Nunnery, Gerald Nunnery, Peggy Schlottman, Ronnie Schlottman, Eldo Young, Jean Young*), heavy metal particles (*Peggy Schlottman, Ronnie Schlottman*), odor (*Nina Kinney*), and light pollution (*Marcy Downey, Cayce Kovacs, Ellen Lucas, Ben Lucas*). Commenters ask how it was determined the area is not a sensitive location with respect to nuisance (*Thomas & Sherry Collins*).

Commenter ask the following questions relating to noise pollution: whether noise pollution will exceed standards set by the EPA (*Jon Maxwell*); how loud, in decibels, the rock crusher will be when operating (*Neil Sawyer*); what the Applicant will do reduce noise (*Thomas & Sherry Collins*); whether any agency will measure the noise level generated by the proposed rock crusher (*Thomas & Sherry Collins*); what state rules apply to noise abatement, and if there are rules, who will monitor and enforce those rules (*Thomas & Sherry Collins*).

One commenter asks if the Applicant will be required to suppress dust by watering (*Thomas Collins*). One commenter asks whether dust generated by winds picking up dirt on the property is considered a nuisance when that dust is carried off property (*Sherry Collins*). Some commenters submitted photographs they claim shows dust being generated and then carried off the Applicant's property (*Tom Collins, Donald Shirkey*). One commenter asks why dust cannot be controlled currently, before the issuance of the proposed permit (*Bill Williams*). Some commenters state plant roads have not been paved and see large amounts of dust weekly (*Thomas & Sherry Collins*). Commenters ask how the TCEQ can approve this permit when the paving of roads has not been completed (*Thomas & Sherry Collins*). They state the dust generated by air emissions from the proposed rock crusher can obscure visibility (*Thomas & Sherry Collins*). Other commenters ask how the emissions are affected if traffic exceeds 5 mph (*John & Cayce Kovacs, WR Lynch*). Commenters ask whether trucks will be required to cover their loads to control the dust (*John & Cayce Kovacs, WR Lynch*).

One commenter is concerned that the Applicant's holding ponds or settlement ponds will be an attractive nuisance for children (*Kenneth Wardlaw*). One commenter states open pits used to store water will harbor mosquitoes and subject Center Point to the West Nile Virus (*Gladys Simpson*).

RESPONSE 3: Nuisance

As stated above, the permit application must meet standards outlined in the Texas Clean Air Act and applicable state and federal rules and regulations. This includes compliance with TCEQ rule 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 only air contaminant to be emitted from this facility is PM, which should not include any mold. Additionally, emissions from the facility are not expected to produce nuisance odors. The TCEQ cannot deny authorization of a facility if a permit application demonstrates that all applicable statutes, rules, and regulations will be met.

The San Antonio Regional Office conducted a site review of the area on August 23, 2005. According to that site review, nuisance, odor, and hazard potentials were low. However, individuals are encouraged to report any concerns about nuisance issues by contacting the San Antonio Regional Office at 210-490-3096, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. 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. The status of complaints to the TCEQ may be tracked at the following website <http://www.tceq.state.tx.us/compliance/complaints/waci.html>

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider noise or light pollution emanating from the facility in determining whether to approve a permit application. Furthermore, the TCEQ does not have jurisdiction to consider the potential of attractive nuisances or increase in mosquitoes when determining whether to approve an application for an air quality permit. The scope of the Agency's regulatory jurisdiction does not affect or limit the ability of a landowner to seek relief from a court in response to activities that interfere with the landowner's use and enjoyment of his property.

The draft permit for Wheatcraft does include provisions to minimize emissions from road dust due to vehicle traffic at the site. Special condition 5B of the draft permit for the rock crushing facility requires the plant roads to be paved with a cohesive hard surface which can be cleaned by sweeping or washing. Wheatcraft has stated that they will use a double coat of a combination of oil and rock to obtain this cohesive hard surface that is required by the permit. Under Wheatcraft's permit by rule authorization for their wet sand and gravel operation already at this site, the company is required to pave or water the roads. See Responses 37, 38, and 39 for more information on roads, traffic, and trucks.

COMMENT 4: Modeling

Commenters ask whether an air dispersion model has been completed, or state no modeling has been performed (*John & Cayce Kovacs, Kay Kyle, Robert Ligon, Frances Lovett, JoAnn Lynch, WR Lynch, Brent Sayer, John Mosty, Neil Sawyer, Theresa Sayer, Sarah Sheets, David Weekley, Mary Weekley, CPISD, Kerr County Commissioners' Court*). Another commenter asks for the results of the air dispersion model (*Kay Kyle, Sarah Sheets, David Weekley, Mary Weekley*). Commenters request air dispersion modeling be performed before further consideration of the permit (*John & Cayce Kovacs*). Commenters state ground level concentrations apply to the application, and ask if the TCEQ is going to require air dispersion modeling (*John & Cayce Kovacs*).

Commenters state the application indicates modeling will be provided upon request by the TCEQ to show off-site contamination impacts are below TCEQ guidelines. Further, commenters ask who is responsible for this modeling and whether the responsible party will provide the public with the modeling (*John & Cayce Kovacs*). Some commenters ask whether the TCEQ staff is required to accept the model provided by the Applicant, and can the TCEQ describe how it incorporates actual equipment sizes, local conditions, local raw material, etc. (*Thomas & Sherry Collins*).

Commenters allege the Applicant inappropriately enlarged the area source in its modeling demonstration, thus underestimating off-property impacts of particulate matter (*GREAT, TRPA*). One commenter asks what location for the proposed crusher was used in the computer model, as this would impact the pollutants at the property boundaries (*David Weekley*). This commenter asks if the TCEQ will consider the correct location of the proposed crusher when evaluating the permit, given the actual location is closer to homes and the school (*David Weekley*). Some commenters also

express concern that all of the items in TCEQ's March 27, 2006 letter detailing modeling deficiencies have not been appropriately addressed (*GREAT, TRPA*).

Commenters state the permit application does not provide any analysis or modeling to demonstrate compliance with the NAAQS for particulate matter having diameter equal to or less than 2.5 microns ($PM_{2.5}$) (*GREAT, TRPA*). Commenters state the permit application does not provide any modeling of respirable limestone, silica, or other possible contaminants, beyond the broad category of "particulate matter" (*GREAT, TRPA*). Commenters ask how far the 28 tons of emissions travel (*John & Cayce Kovacs, Sherry Wallace*).

RESPONSE 4: Modeling

The methodology for determining the impact of air emissions from a particular facility is generally prescribed by established standard modeling procedures or practices. An example of this is the NAAQS demonstration. First, the applicant would model their net emissions increase to determine if that emissions increase would produce a greater than de minimis impact for the criteria pollutant's concentration in ambient air. If the increase in concentration is less than the de minimis level then it would be considered de minimis and the demonstration would be complete at that point. If the increase in concentration was deemed greater than the de minimis level, then a full NAAQS demonstration would follow. The prescribed methodology is to model all the sources at the site and all surrounding sources of that pollutant that could contribute to the area surrounding the site. A monitored background value would then be added to this result.

The next step is to review the model inputs for consistency with the modeling report and the permit application. The applicant is expected to represent all input data, e.g., source identifiers, elevations, locations, and exit parameters; building and structure locations, elevations, and heights; meteorological data for the proper period; and proper elevations of receptors where concentrations are calculated. The ADMT staff checks all representations against what was actually modeled. If the site is existing and the data are available, the ADMT checks the data for accuracy, such as is the location of a source represented where the source is really located on a map.

The final step of the modeling audit is to judge whether the source characterizations are representative and/or appropriate. For some sources, particularly sources that are not emitted from a vent or stack, the representation can vary. The ADMT judges whether the source characterizations are representatively accurate or, if not, are represented in a conservative manner such that predicted concentrations should overestimate what ambient air concentrations would be. These steps are the validation process of the modeling inputs. If there are technical deficiencies in the source characterizations or representations, the ADMT judges whether these deficiencies would change the modeling results to the point that they would not be technically equivalent had the modeling been more correct.

As part of this application, the Applicant submitted air dispersion modeling, using SCREEN3 (Version 96043), which was audited by the TCEQ ADMT. The audit process involved verifying all

of the information put in the model, such as flow rates, exhaust stack dimensions, emission rates, and meteorological data used. The applicant's technical consultants provided ADMT staff the information necessary for the audit. The ADMT staff had further questions regarding the modeling and these were conveyed to the Applicant on March 27, 2006. ADMT staff then evaluated the air dispersion modeling based on current modeling methods.

The TCEQ is not required to accept the model provided by the Applicant if it is incomplete, insufficient, or if it does not meet currently accepted methods. For this application, ADMT determined that Wheatcraft's modeling was acceptable. Based on the results of the air dispersion model provided by the Applicant, the concentration of PM₁₀, including background concentration, is expected to be 84 µg/m³ (24-hour) and 25 µg/m³ (annual).

Concerning public access to the modeling results and the representations therein, the modeling is part of the application file and therefore available to the public. The Applicant is bound to its representations made in the permit application including location of equipment on the site. The facility is required to operate as represented in the permit application, in compliance with the permit conditions, and TCEQ and EPA regulations. Any violation of permit conditions or TCEQ or EPA regulations may result in an enforcement action against Wheatcraft.

With regard to commenters concern about PM_{2.5}, EPA has not yet provided guidance for the implementation of the PM_{2.5} NAAQS for the New Source Review program. Guidance from EPA has been provided for attainment demonstrations for purposes of submitting State Implementation Plans.⁸ The TCEQ currently follows this EPA guidance and has incorporated it into the current TCEQ Air Quality Modeling Guidelines: "Compliance with the pre-1997 form of the PM₁₀ NAAQS will be the surrogate for compliance with the 1997 form of the PM₁₀ NAAQS, and the new PM_{2.5} NAAQS."⁹ Additionally, the EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning & Standards dated October 23, 1997, and the memorandum from Steve Page, Director, Office of Air Quality Planning & Standards, dated April 5, 2005 provides this same guidance. Furthermore, the Commission decided in a 2 to 1 vote on November 15, 2006, in the application of KBDJ L.P. for Permit No. 55480, the TCEQ would continue to use PM₁₀ as a surrogate for PM_{2.5} until EPA fully implements the new PM_{2.5} NAAQS.¹⁰ The Applicant's modeling demonstrates compliance with the PM₁₀ NAAQS, therefore an additional PM_{2.5} compliance demonstration is not required.

The calculated emissions for this facility are actually 3.09 tpy, not the 28 tpy originally calculated. There is no definitive distance that all the emissions will travel. The model checked receptors out to a distance of 5000 meters (16,400 ft) or approximately 3 miles. The concentration of dust reduces significantly with distance. For this reason the protectiveness review is conducted at the company's

⁸ Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze (EPA-454/B-07-002).

⁹ TNRCC RG-25, February 1999.

¹⁰ TCEQ Docket No. 2004-1774-AIR.

property line. In this case, all state and federal standards were predicted to be met at the company's property line; therefore, there should be no adverse health effects off property.

Refer to the discussion of speciation in Response 2 for more information.

COMMENT 5: Monitoring

Commenters ask why no particulate ambient air monitoring has been proposed, or that no monitoring of particulate matter will occur (*Joyce Chase, Don & Janet Drinkard, Steve & Ann Galland, Kay Kyle, JoAnn Lynch, Sandra Peña, Neil Sawyer, Brent Sayer, Theresa Sayer, Sarah Sheets, Kenneth H. Wardlaw, David Weekley, Mary Weekley, Kimberly Williams, CPISD, Kerr County Commissioners' Court*). One commenter asks why ambient air monitoring is not required all the time (*Bill Williams*). Other commenters suggest the draft permit should require property line air contaminant monitors (*GREAT, TRPA*). Commenters state if the permit is issued, strict monitoring and controls should be enforced (*CPISD*). Some commenters state the draft permit should require continuous opacity or emissions monitoring (*GREAT, TRPA*). One commenter states the original application contained a provision for monitoring, but the TCEQ informed the Applicant monitoring was not required (*Frances Lovett*).

One commenter asks what methods will be used to ensure compliance (*Vickie Gartrell*). Some commenters ask why the proposed facility is not required to be able to measure emissions of significant air contaminants with details attached (*Robert Ligon, David Weekley, Mary Weekley*). One commenter asks how the operation of the proposed rock crusher can be monitored (*Bill Williams*). Some commenters ask how far away from the site will air quality be monitored, who will monitor and who will enforce the rules (*Thomas & Sherry Collins*).

Commenters state the draft permit provides no monitoring to assure the limit on throughput represented in the permit application will be met, and a special condition should be added requiring installation of a weight belt at the load-out point (*GREAT, TRPA*).

Commenters state the Applicant has not been required to conduct baseline air quality monitoring for particulates at the proposed site, and the permit should require one year of monitoring to establish baseline conditions (*GREAT, TRPA*).

Commenters ask how much an ambient air network costs (*John & Cayce Kovacs*). These commenters state an ambient air network is important to monitor emissions and keep everyone in the area safe (*John & Cayce Kovacs*).

RESPONSE 5: Monitoring

There is no requirement in an individual air permit application review to determine preexisting or current ambient air data in the region. Nor is baseline air quality monitoring a requirement to obtain an air quality permit of this type. As discussed in Response 4, background concentrations were

included in the modeled concentrations for the NAAQS analysis. The modeled concentrations, with background concentration included, were below the NAAQS for PM₁₀.

Additionally, the TCEQ does not routinely require continuous opacity monitoring for rock crushing facilities. If the TCEQ determines the Applicant is not consistently meeting, or is attempting to circumvent the opacity limits of the permit or TCEQ regulations, additional monitoring or controls may be required. However, if operated as represented in the application and in compliance with state and federal regulations, no off-property impacts are expected.

As stated in the draft permit Special Condition 7, if necessary to determine compliance, the TCEQ Regional Director having jurisdiction, has the authority request the holder of this permit to perform ambient air monitoring, or other testing as required to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere.

In addition, Special Condition 8 includes recordkeeping requirements established to show compliance with the emissions limitation, throughput, maintenance, and repair conditions of the permit.

Purchasing a monitor is not a requirement of this air permit review.

COMMENT 6: Opacity/Visibility

Commenters ask, regarding visible emissions, what “not exceeding 20 percent over an average 6 minutes” means, and ask if this can be improved (*John & Cayce Kovacs*). Some commenters state the draft permit’s visibility limits are unenforceable; the permit should state personnel trained to make that determination are available on-site (*GREAT, TRPA*). Commenters ask how such determination will be made at night; the draft permit limits operation to 12 hours a day, but does not specify day-time only (*GREAT, TRPA*).

Some commenters ask how the public can be ensured opacity standards are being met (*Thomas & Sherry Collins*). Commenters ask what equivalents are for EPA Test Method 9 and EPA Test Method 22 (*Thomas & Sherry Collins*). Commenters request the special condition which states “control or process changes may be required,” if the Applicant violates opacity or visible emissions limitations, be amended to read “control or process changes will be required” (*Thomas & Sherry Collins*).

RESPONSE 6: Opacity/Visibility

The draft permit does not limit visible emissions to less than 20 percent averaged over 6 minutes. Instead, the draft permit states that opacity shall not exceed 10 percent (and from any crusher 15 percent), averaged over a 6 minute period as determined by EPA Test Method 9 or equivalent. The draft permit also states no visible emissions shall leave the property. The visible emissions shall not exceed 30 seconds in duration in any 6 minute period, as determined by EPA Test Method 22 or equivalent. The TCEQ does not routinely include specific provisions within air quality permits to

addressing training requirement for opacity readers. However, the applicant is required to meet all terms and conditions of the permit which may necessitate training of personnel to accomplish this.

EPA Test Method 9 and Method 22 are the EPA approved methods to determine visible opacity and fugitive opacity from stationary sources, respectively. The term "equivalent" has been included in the draft permit conditions to allow for possible changes in the future. Prior to issuance, a draft permit is reviewed by regional inspectors to evaluate enforceability. If the Applicant does not comply with the terms and conditions of its permit, including the opacity and visible emission limitations, it may be subject to possible enforcement action. Therefore, the permit language has not been altered.

See Response 28 below for more information regarding investigations conducted by the regional office to ensure opacity and visibility requirements are met.

COMMENT 7: Applicable Rules and Regulations

Some commenters ask what air standards apply to a quarry, a rock crusher, and to air quality in general (*Thomas & Sherry Collins*).

Commenters state the proposed rock crusher fails to meet the minimum requirements for a permit by rule (PBR) (*Thomas & Sherry Collins, Don & Janet Drinkard, Don Esbjornson, Marcia Esbjornson, Harry Gartrell, John & Cayce Kovacs, Kay Kyle, Linda Lawrence, Robert Ligon, Jerry Nunnery, Gerald Nunnery, Karen Nunnery, Carolyn Osborn, Raul Peña, Sandra Peña, Theresa Sayer, Brent Sayer, Sarah Sheets, Jerry Trice, Suzanne Trice, David Weekley, Mary Weekley, Eldo Young, Jean Young*). Commenters ask the TCEQ to define a PBR (*Thomas & Sherry Collins*). One commenter states the PBR allows the Applicant to operate with a lack of controls and asks for the PBR to be revoked (*J. Nelson Happy*).

Some commenters ask the TCEQ to explain AP-42 emissions factors (*Thomas & Sherry Collins*). Commenters state the draft permit is based on incorrect and outdated emission factors, and ask whether the final emissions calculations included the appropriate emission factors for all screens (*GREAT, TRPA*).

Commenters state, under the heading for Determination of Compliance, performance testing states the proposed rock crusher must meet deadlines stated in Subpart A, and ask where is Subpart A (*Thomas & Sherry Collins*).

RESPONSE 7: Applicable Rules and Regulations

Before work is begun on the construction of a new facility or modification of an existing facility that may emit air contaminants, an applicant must obtain a permit or permit amendment from the commission.¹¹ There are several different types of permits or authorizations an applicant may seek from the commission, including New Source Review (NSR) permits, standard permits, or PBRs. A

¹¹ THSC § 382.0518.

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

Wheatcraft, Inc. Permit No. 76508

Page 17 of 52

permit by rule may be issued for types of facilities or changes within facilities that will not significantly contribute air contaminants to the atmosphere. The permit by rule for rock crushers, (including the conditions required by the rule), may be found in TCEQ rules at 30 TAC § 106.142. In this case, the Applicant is seeking a NSR permit, and not a PBR. The NSR permit does not contain the same restrictions found in 30 TAC § 106.142, but does result in a more rigorous review.

Wheatcraft currently has a PBR to operate their Wet Sand and Gravel Production operations under 30 TAC 106.143. This PBR does not allow the crushing of material. The Applicant did not request registration under another PBR for the rock crushing facility; the application currently under review is for a New Source Review permit. See Response 28 below for additional information regarding compliance with applicable rules and regulations.

With regard to AP42, an emissions factor is a representative value that attempts to relate the quantity of a pollutant released to the atmosphere with an activity associated with the release of that pollutant. These factors are usually expressed as the weight of pollutant divided by a unit weight, volume, distance, or duration of the activity emitting the pollutant (e.g., kilograms of particulate emitted per megagram of coal burned). Such factors facilitate estimation of emissions from various sources of air pollution. In most cases, these factors are simply averages of all available data of acceptable quality, and are generally assumed to be representative of long-term averages for all facilities in the source category (i.e., a population average). The EPA has compiled a list of Emission factors for a variety of industrial processes. The Applicant used emission factors that were obtained from the EPA publication entitled, *Compilation of Air Pollutant Emission Factors*, commonly referred to as "AP-42." The emission factors published in AP-42 are the most commonly accepted factors used in calculating emissions from rock crushing operations. Since the equipment used in rock crushing operations can vary greatly and can be adjusted for site specific needs, equipment-specific emissions factors are not usually available. Emissions from rock crushing related activities may be calculated by using the applicable emission factor and the material throughput rate. Hourly emission rates can be determined from facility production records and operating schedule. During review of the permit application, the most recently published AP-42 emission factors were used to determine emission rates. The AP-42 emission factors were used for all screens at the facility.

For more information on emission factors, the EPA's *Compilation of Air Pollution Emission Factors*, AP-42 Manual, is available online at <http://www.epa.gov/ttn/chief/ap42/index.html>. If you have questions that are not addressed by this website, or if you cannot find the document online, call the info CHIEF help desk at (919) 541-1000.

With regard to the question about Subpart A, this regulation is found in 40 Code of Federal Regulations, Part 60 (40 CFR 60) and is titled "General Provisions." The text of the rule is available at <http://www.tceq.state.tx.us/permitting/air/rules/federal/60/a/ahp.html>.

With regard to air quality in general, as stated in response 1, the TCAA applies. For this application, TCEQ rules found at 30 TAC Section 116 addressing emission controls, sampling and testing are

applicable. In addition, rules regarding public notice found at 30 TAC Chapter 39 and rules at 30 TAC chapter 60 regarding compliance history apply. The draft permit special condition no. 2 also requires Wheatcraft to comply with EPA regulation 40 CFR 60, Subparts A and OOO for Nonmetallic Mineral Processing Plants.

As for a quarry, the TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The Texas Clean Air Act, § 382.003(6) provides that quarries are not facilities for purposes of air quality permitting.

COMMENT 8: Application Content

One commenter states, regarding the TCEQ Core Data Form submitted by the Applicant, the Applicant is not a new customer as stated in Item 6. This commenter also states Item 38 was not addressed and asks why this item was not addressed. This commenter also asks why the Core Data Form was not submitted to EPA Region 6 (*Robert Ligon*).

Some commenters ask how the Applicant determined the measurements on Page 6, Section VII, D. of the application, given this is an application for the initial installation of the rock crusher (*David Weekley, Mary Weekley*).

Some commenters ask what a "material balance table" is and ask why one is not attached to the application (*John & Cayce Kovacs*).

Some commenters ask what an "equipment process of control device table" is, and ask why one is not attached to the application (*John & Cayce Kovacs*).

Some commenters state routine maintenance, start-up, or shutdown emissions are important parts of an application, and ask why they are not included in this application (*John & Cayce Kovacs*).

Commenters ask, in regards the certification of the applicant by the Applicant, whether the Applicant read and signed the application (*John & Cayce Kovacs*). These commenters ask whether the Applicant has followed the laws, rules and regulations relevant to the application (*John & Cayce Kovacs*).

One commenter states the application names Gerald Wheatcraft as the responsible party, but Mr. Wheatcraft has since passed away, and someone else should be named as the responsible party (*M. K. Weekley*).

RESPONSE 8: Application Content

The Core Data Form collects contact information (names, mailing addresses, and phone numbers) about the people, businesses, and institutions that are regulated by the TCEQ. The information on the Core Data Form is used in conjunction with all other information submitted by applicants in permit applications. Addressing Item 38 in the Core Data Form is not necessary to obtain an air

quality permit. The Core Data Form is a TCEQ document and the applicant is not required to submit it to the EPA. Because the permit sought by the Applicant is a state permit, and not a federal permit, only public notice affidavits are sent to the EPA by the Applicant.

The type of permit Wheatcraft has applied for must be obtained before any construction begins on the facility. Therefore, the review is based on the future location of the plant. The Applicant is bound to all representations made in a permit application and the facility must be constructed as represented.

The material balance table lists the materials that go into a facility and materials, products, or emissions that leave a facility. A material balance table was not submitted for this application but the same information was obtained from emission calculations.

Equipment, process, and/or control device tables have been developed by the TCEQ Air Permits Division to identify important parameters for some common equipment types, processes, and control devices. Depending on the type of facility to be permitted, one or more of these tables may be required as a part of the application. Table 17 for rock crushing plants is required for review of rock crushing plant permit applications and one was submitted by Wheatcraft.

There are no routine maintenance, start-up, or shutdown emissions related to the operation of rock crushers. Emissions are only expected when the crusher is running i.e. crushing rock.

An applicant is required to sign application and certify that he "has knowledge of the facts included in this application and that these facts are true and correct to the best of his/her knowledge and belief." Curtis Wheatcraft is now the responsible party.

COMMENT 9: Application deficiencies

One commenter states the application for the proposed rock crusher is deficient in many areas and the health and safety of the community has not been adequately addressed (*Center Point Alliance for Progress*).

RESPONSE 9: Application deficiencies

During a permit application review, the permit reviewer determines any deficiencies in the application and notifies the applicant. It is possible to have more than one deficiency cycle during a permit review. All technical deficiencies have to be addressed by the applicant before a review can be conducted. There were several deficiency cycles with the application by Wheatcraft and all technical information needed for the review was obtained from the applicant or their technical consultants prior to the completion of the review and subsequent Notice of Application and Preliminary Decision published on August 8, 2006.

COMMENT 10: Costs information

Commenters ask what equipment is included in Table 30, I.A (Direct Costs) of the application (*John & Cayce Kovacs*). Commenters ask whether the \$15,000 purchased those items listed in Table 30, I.B. (*John & Cayce Kovacs*). Commenters ask what type and how many waste disposal facilities and or air pollution control equipment was purchased (*John & Cayce Kovacs*). Commenters question what installations were performed of those listed in Table 30, I.E of the application (*John & Cayce Kovacs*). Commenters state the application indicates there were no indirect costs (*John & Cayce Kovacs*). These commenters ask how an operation of this magnitude is designed and erected without any engineering design, supervision or administrative overhead (*John & Cayce Kovacs*). Commenters question how site preparation was completed without expense (*John & Cayce Kovacs*). These commenters also ask how a rock crusher can be built without construction expense, insurance, temporary facilities, or construction clean-up (*John & Cayce Kovacs*). These commenters ask if there is no contractor fee or overhead, who is building the facility and ensuring it is done safely (*John & Cayce Kovacs*).

RESPONSE 10: Cost Information

Table 30 is used to calculate the permit application fee. This table asks permit applicants to list costs associated with the project such as process or control equipment, freight, site preparation, engineering design, and construction related costs. A list of what constitutes direct and indirect costs is located in 30 TAC §116.141. According to TCEQ regulations, only projects that cost more than \$2,000,000 have to be reviewed and signed by a professional engineer licensed in Texas.

Any waste disposal facilities purchased are not within the scope of this permit application review.

COMMENT 11: Other Approvals related to Air

Commenters ask what role the EPA, OSHA, and the Kerr County Commissioners' Court play in the permitting process and/or operation of the quarry and rock crusher (*Thomas & Sherry Collins*). They also ask whether the Texas Parks and Wildlife Department has any input in this permit (*Thomas & Sherry Collins*).

RESPONSE 11: Other Approvals related to Air

The draft permit special condition no. 2 requires Wheatcraft to comply with EPA regulation 40 CFR 60, Subparts A and OOO for Nonmetallic Mineral Processing Plants. This is available for viewing online at the following address: <http://www.tceq.state.tx.us/permitting/air/rules/federal/60/60hmpg.html>. Texas Parks and Wildlife Department is not required but welcome to have input in this permit review. Any OSHA or Kerr County Commissioners' Court rules regarding rock crushing facilities are not within the scope of this review. However, an air quality permit will not negate or affect the responsibility of the Applicant to comply with any additional local, state, or federal requirements.

COMMENT 12: Power Source

One commenter asks how the Applicant will power the rock crushing equipment (*Kenneth Wardlaw*). Other commenters ask whether the proposed rock crusher will be run by electrical or diesel power (*Thomas & Sherry Collins*).

RESPONSE 12: Power Source

Wheatcraft did not represent or obtain authorization for a power generator. The permit does not authorize the operation of an internal combustion engine. The application is for a permanent plant that has access to electricity; therefore, it is assumed the plant will receive its power this way. If the facility is found out of compliance with the terms and conditions of its permit, it may be subject to possible enforcement action.

COMMENT 13: Regional Office

Commenters ask whether the TCEQ Regional Director is involved in the process, and what will cause him to issue a request to perform ambient air monitoring or other testing (*Thomas & Sherry Collins*). Commenters ask whether anyone from the TCEQ visited the site, when they visited, and what they documented on that visit (*Thomas & Sherry Collins*).

One commenter asks how many people work at the San Antonio Regional Office and how many people are available to respond to complaints of violations. Commenters express concern for the response time of TCEQ investigators after an environmental complaint is made (*Robert Ligon, GREAT, TRPA*). These commenters express disappointment with the lack of TCEQ response to previous violations by the Applicant, and express concern for future enforcement against the Applicant when violations occur (*J. Nelson Happy, Kenneth H. Wardlaw*). Another commenter asks how many complaints must be made before action is taken by the TCEQ (*Fritz Ozuna*).

RESPONSE 13: Regional Office

The San Antonio regional office employs approximately thirty-four investigators to address all media (air, water and waste) for the 15 counties in the region. This includes approximately six investigators for the air section. The TCEQ employs other staff at the regional office as well as at the headquarters in Austin to address compliance issues such as administrative staff, field operations staff and legal staff.

The Regional Office conducted a site review and reviewed the draft permit. Bernice Beck, investigator with TCEQ San Antonio Region visited the site on August 23, 2005. Bernice Beck conducted a routine site review, as part of a permit review process. During a site review, the TCEQ investigator makes and records observations regarding the site such as surrounding land use, nearby receptors, and any other information related to the permit application.

Alex Berksan, PE, TCEQ Air Permits Division and Brad Patterson, Staff Attorney, TCEQ Environmental Law Division, along with Bernice Beck, visited the site on January 24, 2006.

The TCEQ also investigates every environmental complaint received, which is conducted by investigators in the regional offices. Upon receiving a complaint, the TCEQ staff evaluate the severity of the possible violation and respond accordingly. If the facility is found to be operating out of compliance, they may be subject to an enforcement action. Additionally, if the TCEQ discovers a pattern of noncompliance, additional controls, monitoring, and/or testing may be required.

See Response 28 below for a more detailed explanation of other actions taken by TCEQ regional staff regarding investigations and compliance issues.

COMMENT 14: Applicant's site visit and application preparation

Commenters ask why the personnel filling out the application prepared an environmental impact comment in the application without a site visit (*Kay Kyle, Sarah Sheets*). Other commenters ask if the preparer of the application visited the site, and if so, how many times (*John & Cayce Kovacs*).

RESPONSE 14: Applicant's site visit and application preparation

Certain information is required in order to conduct a technical review of the proposed facility's emissions for the permit application. Some applicants acquire the services of environmental consultants to complete an application. Specific information regarding how many times and whether the preparer of the application visited the site is not included in the application. However, all necessary information regarding the site and applicable equipment must be obtained by the preparer and included in the application materials submitted to the TCEQ.

COMMENT 15: Location

Commenters state operations such as the proposed rock crusher must completely control dangerous pollution, or be relocated to isolated areas where they will not threaten the health of the public (*Steve & Ann Galland*). Commenters ask for the GPS location (UTM preferred) of the rock crusher (*Thomas & Sherry Collins*). Commenters ask for the exact location of the proposed rock crusher, and whether it can be moved to another location at the site or to other property owned by the Applicant (*John & Cayce Kovacs*). Commenters ask if a site map showing the location of each stored material, process equipment, parking areas, roads, storm water collection area, wells, and buildings is required (*Thomas & Sherry Collins*). These commenters ask if such a map is required, has it been prepared, and whether the public can view the map (*Thomas & Sherry Collins*).

Commenters state the map attached to the application is identified as current; they ask what the date of the map is, and how much has the area changed since it was made (*John & Cayce Kovacs*). These commenters ask if the map accurately reflects the location of the proposed rock crusher, because the "star" indicating the location of the rock crusher is at the entrance to the facility (*John & Cayce Kovacs, David Weekley*). Commenters state the map attached to the application is obsolete and does not show the actual proximity and extent of established residential development adjacent to and within the setback limits published on the TCEQ website (*Kay Kyle, Sarah Sheets, David Weekley, Mary Weekley*). Another commenter asks if the Applicant will have to re-apply to reflect the correct location of the proposed rock crusher (*David Weekley*). One commenter asks why the attached map

does not properly identify the location of the proposed rock crusher on the PI-1, General Application (*Robert Ligon*).

Commenters state there are existing homes, roads, and churches in the nearby area, as well as the Center Point Independent School District (CPISD) within 3000 feet of the proposed rock crusher (*David Anderson, Betty Aycock, Amy Barger, Mr. & Mrs. Andrew Bowser, Robert Brown, Joyce Chase, Sherry Collins, Don Davis, Linda Davis, Don & Janet Drinkard, Rickie Eichler, Don Esbjornson, Marcia Esbjornson, Steve & Ann Galland, Marion Hacker, William Haught, John Kovacs, Kay Kyle, Linda Lawrence, Juliana Leonard, Robert Ligon, Edgar Ligon, Frances Lovett, Ellen Lucas, Ben Lucas, JoAnn Lynch, WR Lynch, John Mosty, Karen Nunnery, Jerry Nunnery, George & Daryn Oliver, Carolyn Osborn, Raul Peña, Sandra Peña, Neil Sawyer, Luke Sheets, Sarah Sheets, Linnette Shine, Donald Shirkey, Michael Skidmore, Lisa Skidmore, Edwin Stearns, Jeffery Stiles, Frank Thomason, Suzanne Trice, Kenneth Wardlaw, David Weekley, Mary Weekley, Kimberly Williams, Greg Williams, Center Point Alliance for Progress, CPISD, GREAT, TRPA*). Commenters state CPISD schools are within 2000 feet of the proposed rock crusher, and TCAA §382.056 requires the TCEQ to consider the possible adverse effects of air contaminants if a proposed facility is within 3000 feet of an elementary, junior high, or senior high school (*Connie Engel, Edgar Ligon, Robert Ligon, WR Lynch, CPISD, Kerr County Commissioners' Court*). This commenter asks how the TCEQ can guarantee the health and safety of school children and residents living within 3000 feet of the proposed facility (*Robert Ligon*). This commenter also asks why the facility is not required to install additional monitors on adjacent properties, including the school, and why the monitors are not available to school staff and residents (*Robert Ligon*). Commenters ask how many schools are within 3000 feet of the proposed facility, how close are these schools to the proposed rock crusher, how many students attend these schools, and how close the new proposed school site is to the location of the proposed rock crusher (*John & Cayce Kovacs*).

Commenters ask if the rock crusher is more than ½ mile from any residences. These commenters ask if the proposed rock crusher is within 1000 feet of State Highway 27 (*Thomas & Sherry Collins*). Another commenter states dust from the proposed rock crusher will cross a well-traveled highway to new housing development (*Alice Hammond*).

One commenter believes the rock crusher should be moved to a less populous location (*Donald Shirkey*).

One commenter asks the TCEQ to propose to the Texas Legislature that regulations be passed that would not allow this type of operation within a five mile radius of a town, school, park, or business (*Robert Ligon*).

RESPONSE 15: Location

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law

imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are therefore beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials.

The maps submitted in an application are not required to include off-property structures or features unrelated to or that do not emit air contaminants. Some of this information is provided by the TCEQ regional investigator who conducts a site review of the proposed operation as part of the permit review. All maps submitted as part of the application are available to the public. Wheatcraft submitted several maps that show the location of the property and the location of the crushing operation. The dates of the maps submitted by Wheatcraft range from 2000 to 2005. These maps are used to give the TCEQ staff a general idea of the site and surroundings. Much more accurate and current maps are used for modeling purposes, and to determine the locations of nearby receptors such as residences and schools. The location of the crushing operation was verified by TCEQ staff during the review of the permit application. For an application such as the one submitted by Wheatcraft, there are no predetermined setbacks. Each permit application is reviewed on a case-by-case basis. Additionally, the applicant is bound to all representations in the permit application.

The facility benchmark is located at UTM Easting 498,284.50; Northing 3,312,875.80; Zone: 14R. Moving the plant to another location on the site or moving it to another site would require prior authorization from the TCEQ Air Permits Division.

As set forth in TCAA § 382.052 the commission is required to consider possible adverse short-term or long-term side effects of air contaminants or nuisance odors from the facility on the individuals attending the school facilities located within 3,000 feet of a proposed facility. 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. The site review, conducted by TCEQ San Antonio Regional Office, indicated there was no school within 3,000 feet of the proposed facility. The recommendation of the San Antonio Regional Office was to proceed with the permit review, and the site review indicated no reasons to deny the permit application. There is no requirement of this permit review to determine whether the proposed facility will be located within ½ mile of a residence, or within 1000 feet of a highway. Please see Response 2 for a detailed discussion of the health-effects review conducted for this particular permit application.

With regard to the request regarding new rules or regulations, citizens should contact their elected state officials directly to suggest legislation.

COMMENT 16: Stockpiles

Commenters state the Applicant's stockpiles cover several acres, contradicting the 0.4 acres stated in the application (*John & Cayce Kovacs, Robert Ligon*). Commenters ask what is the actual area covered by stockpiles (*John & Cayce Kovacs*). Commenters ask if the stockpiles are included in the air quality data submitted to the TCEQ (*John & Cayce Kovacs*). Commenters ask what the

cumulative effect is of all the stockpiles on the people and students in the area (*John & Cayce Kovacs*). They ask what is done with the "overburden" accumulated as a result of excavation, asking will it be removed or piled on the property (*John & Cayce Kovacs*). These commenters ask how the stockpiles will be protected from runoff (*John & Cayce Kovacs*). Other commenters state that there are high stockpiles and ask if anyone from the TCEQ has measured the stockpiles (*Thomas & Sherry Collins*).

RESPONSE 16: Stockpiles

The stockpile area represented by the applicant (0.4 acres) refers only to the portion of the operations on site that are related to rock crushing. Wheatcraft may have other operations on the property that do not require an air quality authorization. All stockpiles related to the crushing operation were included in emission calculations. No information was submitted by Wheatcraft regarding the overburden; this information was not necessary for the review of the permit application. Runoff from the stockpiles is not within the scope of this air quality permit application. The draft permit conditions include a 45-foot height limit on stockpiles at the permitted plant.

COMMENT 17: Emission rates/levels

Commenters express concern for the amount of particulate matter that will be discharged into the air daily (*Connie Engel, WR Lynch, Sandra Peña, Neil Sawyer, CPISD, Kerr County Commissioners' Court*). Some commenters ask what minimum amount of dust particles is permitted over a 24 hour period (*Thomas & Sherry Collins*). Commenters ask what process was used to determine that site emissions of any individual air contaminant would not exceed 50 tpy and that all air contaminants would not exceed 75 tpy (*John & Cayce Kovacs*). Commenters ask whether the 28.452 tpy of emissions include all operations and processes at the facility, and if not, the commenters ask for the total yearly emissions for the entire facility (*John & Cayce Kovacs*). Commenters ask what are "worst-case emissions data and calculations" and why it is not required with this application (*John & Cayce Kovacs, Robert Ligon*). Commenters ask how short term spikes in pollution will be managed or contained (*Brian & Suzanne Smith, Stephen Wray*).

RESPONSE 17: Emission rates/levels

During review of the application, the sources of potential emissions are identified, and the emission rates are determined from the operation of the facility based on maximum throughput or production rates. The EPA publication *Compilation of Air Pollutant Emission Factors* (AP-42) is the accepted reference for emission factors. The original permit application stated the total emissions would be approximately 28 tons per year. However, during review of the permit application, the applicant changed its representation of total PM emissions to be 3.06 tons per year, and the permit limits the emissions to this amount. This determination is based on the production rates and use of AP-42 emission factors. As stated previously, the Applicant is bound to its representations and if found out of compliance with the terms and conditions of its permit (including the 3.06 tons per year of PM emissions), it may be subject to enforcement action. As explained in Response 1, as part of the permit review process TCEQ staff verifies ground level emissions concentrations from the proposed facility are not likely to adversely impact off-property receptors.

For a permit application such as the one submitted by Wheatcraft, the applicant is required to represent the maximum possible production or throughput rates. These representations become limits in the permit and they are enforceable. The potential emissions from the facility are then calculated by using these maximum throughput rates. The emission rates obtained from these calculations represent the maximum or worst-case emission rates and are listed on the Maximum Allowable Emissions Rates Table (MAERT). Wheatcraft submitted their maximum throughput as well as the maximum emission rates and these were evaluated during the permit review.

The EPA, under the authority of the Federal Clean Air Act, established NAAQS as levels of air quality to protect public health and welfare. As discussed in Response 2, a NAAQS has been established for a 24-hour and an annual time period. The TCEQ has no requirement to determine possible impacts of PM over a shorter period. However, if the Applicant exceeds the limits for either the 24 hour or annual time period, they may be subject to enforcement action. TCEQ staff reviewed both long term (annual) and short term (one hour) maximum emissions. The modeling based on these maximum emission rates was determined to be acceptable.

Short term spikes in pollution are not anticipated from this facility. However regarding maintenance of emission control TCEQ rules at section 116.155(b)(2)(G) state "The permitted facilities shall not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. The permit holder shall provide notification for emissions events and maintenance in accordance with 101.201, 101.211, and 101.221 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements; Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements; and Operational Requirements)."

COMMENT 18: Emission Sources

Commenters state the application omits several sources of particulate matter emissions, and the draft permit does not accurately represent the emissions that will be generated or the impact of these emissions (*GREAT, TRPA*).

RESPONSE 18: Emission Sources

During review of the application, the permit reviewer ensures all sources of emissions from the facility are identified and reflected in the Maximum Allowable Emission Rates Table (MAERT). As discussed in Response 1 the TCEQ does not have jurisdiction to consider impacts of emissions from mobile sources when determining whether to approve an air permit application. If the Applicant is found to be emitting air contaminants from an unauthorized source, it may be subject to an enforcement action.

COMMENT 19: Material being crushed

Commenters ask what materials the Applicant plans to process at the site, whether a detailed list of materials can be provided to the public showing the amount to be crushed annually, and whether the

TCEQ will require monitoring of these materials (*Thomas & Sherry Collins*). These commenters also ask whether the Applicant must report all products it processes, to what agency is that reported, and whether this information will be available to the public (*Thomas & Sherry Collins*). Commenters ask what other products, including asphalt and asbestos, will be processed that could have serious health impacts (*Thomas & Sherry Collins*).

Commenters state the proposed rock crusher will be used to crush concrete, and TCEQ rules prohibit the operation of a concrete crushing facility within 440 yards of a building used as a residence, school, or place of worship (*Steve & Ann Galland*). Other commenters ask if the proposed rock crusher will crush rock, concrete, or both (*Ann Galland, Kay Kyle, Brent Sayer, Theresa Sayer, Sarah Sheets, David Weekley, Mary Weekley*). Other commenters ask whether used concrete that contains silica will be processed by the proposed facility (*Thomas & Sherry Collins*). These commenters further state the Occupational Safety and Health Administration (OSHA) has defined a Permissible Exposure Level (PEL) for crystalline silica, and asks whether this PEL will be used and monitored (*Thomas & Sherry Collins*). Another commenter asks if rock crushing is the same as cement crushing. (*Joyce Chase*). One commenter states the permit application includes cement which would produce more dust and particulate matter than crushing native stone. Some commenters ask if dolomite and cement rock are naturally occurring products, and whether the Applicant plans to crush or process any substance or product brought from off-site such as concrete, asphalt, or other construction products (*John & Cayce Kovacs, Kay Kyle, Sarah Sheets, David Weekley, Mary Weekley*).

RESPONSE 19: Material being crushed

Wheatcraft applied for, and the permit only authorizes, the crushing of naturally occurring rock. This does not include concrete or cement. Wheatcraft has not represented it will crush rock obtained from another site. Crushing any other materials would be in violation of the permit. If the Applicant wishes to crush anything other than the material represented in the application, it would have to apply for an amendment of the permit and comply with all applicable TCEQ regulations. As stated previously, the applicant is bound to all the representations it made in the permit application. Also, an air quality permit will not negate or affect the responsibility of the Applicant to comply with any additional local, state, or federal requirements, such as OSHA regulations. See Response 2 for more information on health effects review conducted for this facility. Wheatcraft is not required to make their production information available to the general public, but is required to keep certain records at the plant site and make them available to TCEQ staff upon request. See draft permit Special Condition number 8 for recordkeeping requirements.

COMMENT 20: Material handling

Commenters ask whether a spill plan exists for any material spill requiring state notification (*Thomas & Sherry Collins*). Commenters ask whether storm-water ponds and rainwater containment areas exist around process equipment (*Thomas & Sherry Collins*). These commenters also ask if there is a requirement to report overflow and runoff from rainwater that is not contained in the process area (*Thomas & Sherry Collins*).

RESPONSE 20: Material handling Spill plans and retention ponds are not within the scope of an air quality permit application review. As stated previously, the air quality permit does not negate or affect the responsibility of the Applicant to comply with any additional local, state or federal rules.

See Response 33 for information regarding how to access water authorizations including storm water permits for this company.

COMMENT 21: Material Storage

Commenters ask what chemicals will be stored and used at the site (*Thomas & Sherry Collins*). These commenters also ask whether Material Safety Data Sheet (MSDS) sheets exist and are available to the public (*Thomas & Sherry Collins*).

Commenters ask what facilities have been built for storage, employees, or equipment maintenance, and what materials will be stored in these facilities (*John & Cayce Kovacs*).

RESPONSE 21: Material Storage

Rock crushing operations do not typically involve the use of chemicals. Wheatcraft has not represented that any chemicals would be used in their rock crushing operations. As stated previously, the air quality permit does not negate or affect the Applicant's responsibility to comply with any additional state or federal rules, including OSHA.

The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. Any storage, maintenance, or office structures at the site that do not have the potential for air emissions are beyond the scope of this review.

COMMENT 22: Operating schedule

Commenters state the maximum operating schedule in the application is 12 hours a day/7 days a week/52 weeks per year, and ask what is the actual schedule needed for the operation of the proposed rock crusher (*John & Cayce Kovacs*). Commenters also assert the Applicant stated in the media the proposed crusher would only operate 4 days a week, and TCEQ regulations do not allow a rock crusher to operate more than 1600 hours per year (*John & Cayce Kovacs*). Some commenters ask why hours of operation cannot be limited, or request hours of operation be limited (*Bill Williams, CPISD*). One commenter asks the hours of operation to be restricted to daytime hours (*J. Nelson Happy*). One commenter states if the Applicant operates during nighttime hours, nighttime dispersion modeling should be required (*J. Nelson Happy*). Another commenter asks how many days a week and how many hours a day the proposed rock crusher will operate (*Neil Sawyer*). Some commenters ask for yearly calculations of operating hours for the proposed rock crusher (*Thomas & Sherry Collins*). Some commenters state the application indicates the facility does not operate at night, and ask whether that statement includes other operations at the site (*John & Cayce Kovacs*). These commenters assert they have heard heavy equipment operating after 9:00 p.m. on numerous

occasions (*John & Cayce Kovacs*). One commenter states the Applicant's hours of operation exceed the permit (*Robert Ligon*).

RESPONSE 22: Operating schedule

The applicant for an air quality permit is required to list the maximum operating schedule, i.e. 12 hours a day/7 days a week/52 weeks per year for their operation. Exceeding this schedule may result in an enforcement action. The Permit by Rule for Rock Crushers, located at 30 TAC § 106.142, limits hours to 1600 hours per year or less. This application is for a New Source Review Permit and not a PBR.

The actual operating hours of the facility are at the discretion of the permit holder, provided the maximum schedule is not exceeded. If necessary, TCEQ may request information from a permit holder to determine compliance with the permit representations or conditions.

The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. The TCAA does not give the TCEQ jurisdiction to limit operations at the site that do not require an air quality authorization. The permit does not prohibit or limit the hours the Applicant may conduct operations which are unrelated to the air permit. See Response 3 for more information on noise.

COMMENT 23: Start of Construction

Some commenters ask whether the Applicant began construction of the proposed rock crusher and related infrastructure, in violation of the application process (*John & Cayce Kovacs, MK Weekley*). Commenters ask why the Applicant was allowed to begin construction of the rock crusher without a permit, and ask if the Applicant is subject to any fines (*Thomas & Sherry Collins, Fritz Ozuna, Raul Peña, Kenneth H. Wardlaw*). Commenters ask whether this activity will impact the TCEQ decision on this application (*Thomas & Sherry Collins*). One commenter states it appears the rock crusher is operating again (*Robert Ligon*). Some commenters indicate the Water Code contains certain criminal penalties for certain violations (*John & Cayce Kovacs*).

RESPONSE 23: Start of Construction

Wheatcraft received a Notice of Violation (NOV) from the TCEQ for starting construction of a rock crushing facility without first obtaining an air quality permit. In their letter dated December 29, 2005, Wheatcraft stated that they ceased operation. The NOV has not resulted in any fines against Wheatcraft, but has been included in the compliance history rating for the company. The compliance history rating is a factor considered by the TCEQ when deciding whether to grant a permit. See Responses 28 and 29 below for additional information regarding compliance and how the company's compliance history is affected by this issue.

Anyone concerned about possible violations of TCEQ regulations should contact the TCEQ San Antonio Regional Office at (210) 490-3096 or the 24-hour toll-free TCEQ Environmental Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. The public can track the status of

pending enforcement actions, and view prior Administrative orders issued since September 1, 1998 and Court orders issued since September 1, 1998 at the following website <http://www.tceq.state.tx.us/compliance/enforcement/penenfac/index.html>.

COMMENT 24: Equipment Maintenance

One commenter asks who determines if the quality of equipment used is sufficient to attain the level of particulates permitted (*Sherry Collins*). Some commenters ask who will ensure equipment complies with the pertinent United States Environmental Protection Agency (EPA) regulations on Standards of Performance for New Stationary Sources (*Thomas & Sherry Collins*).

Commenters state mining equipment maintenance has been a source of waste through metal parts cleaning, changing, and adding lubricants, etc., and ask what controls are in place to minimize such pollution (*John & Cayce Kovacs*).

RESPONSE 24: Equipment Maintenance

TCEQ regulations require that all pollution control and abatement equipment operate properly while the facility is operating. See response 17 above for additional information regarding equipment maintenance rules and regulations.

Within regard to the mining equipment, the TCEQ can only regulate the pollution control equipment at a facility. As noted in responses 7 and 46, the TCEQ does not consider mining or quarries as facilities. The quality and maintenance of any other equipment are beyond the scope of TCEQ's jurisdiction. Even if a TCEQ permit is not required for certain activities, the applicant is responsible for complying with all applicable state and federal environmental regulations.

COMMENT 25: Recordkeeping

Commenters ask what mechanism the Applicant will use to measure emissions and how the Applicant is expected to keep accurate records (*Thomas & Sherry Collins, John and Cayce Kovacs*). Commenters state the fox is watching the chicken coup in regards to sampling and testing (*Thomas & Sherry Collins*). Commenters ask whether the Applicant will provide this information to the public on a regular basis (*Thomas & Sherry Collins, John and Cayce Kovacs*). Commenters ask why records are only maintained for two years, should be expanded to cover a 5 year period and/or for the life of the equipment, and provide public access (*Thomas & Sherry Collins, GREAT, TRPA*). Commenters state that the application indicates the proposed facility will not be able to measure emissions of significant air contaminants, and ask why the Applicant cannot measure emissions when it will be polluting the air from numerous sources (*John & Cayce Kovacs*). Commenters question how the Applicant can claim to comply with all rules and regulations of the TCEQ, especially when it cannot measure emissions (*Thomas & Sherry Collins, John & Cayce Kovacs*). Commenters state hourly emission limits are unenforceable unless the permit requires recordkeeping of hourly rates (*GREAT, TRPA*). One commenter asks whether production records are verified by an official or is the word of the Applicant accepted (*Alice Hammond*). Commenters ask if the Applicant has kept records on road maintenance and whether the Applicant will be required to keep records if

this permit is denied (*Thomas & Sherry Collins*). One commenter is uncertain the Applicant will be truthful about emissions, given the varying amounts discussed at the public meeting (*Sherry Wallace*).

RESPONSE 25: Recordkeeping

The facility is required to operate within the representations made in the application, within the terms of the permit, and in compliance with all applicable state and federal rules. The Applicant is required to maintain production records for a rolling 24 month period. Using those records and AP-42 emission factors, the total emissions can be determined. The Applicant is required to make these records available to TCEQ staff upon request. In addition, according to the requirements of 30 TAC § 116.115, the facility's compliance file is a public record. If the Applicant is found to be out of compliance with the terms of its permit, it may be subject to an enforcement action.

Due to the nature of a rock crusher operation, the PM emissions from this facility are fugitive, i.e. the emissions do not come from a specific point source such as a stack. Therefore, it is not feasible to precisely measure actual PM emissions; instead the total emissions are determined using production records and the AP-42 emission factors.

COMMENT 26: Enforceability

Commenters state the phrase "as necessary to control dust" is too vague to be enforceable, and the draft permit should be written to specify how and when the dust control systems will be used (*GREAT, TRPA*).

RESPONSE 26: Enforceability

Prior to issuance, a draft permit is reviewed by regional inspectors to evaluate enforceability. They consider such factors as clarity, applicability of TCEQ and EPA regulations, enforceability, completeness, consistency, and compliance with representations. Under certain meteorological conditions, additional watering may not be necessary, and may even be wasteful. Therefore, the Applicant will be required to water "as necessary" to control particulate emissions. Failure to operate all abatement devices to control emissions would be in violation of the permit and TCEQ regulations and may result in an enforcement action.

See Response 3 above regarding contact information for reporting potential violations to the TCEQ San Antonio Regional Office or the Environmental Complaints Hotline.

COMMENT 27: Bond

One commenter states the Applicant should post a substantial bond to guarantee mitigation of any environmental impact (*Kevin Hartley*).

RESPONSE 27: Bond

A bond to guarantee mitigation of any environmental impact is not required to obtain an air quality permit.

COMMENT 28: Compliance

One commenter states the TCEQ asks the citizens to police the operation of the proposed rock crusher (*John Kovacs*). One commenter asks how the TCEQ will monitor the operation of the rock crusher to ensure compliance (*Alice Hammond*). Some commenters ask if the site will be monitored regularly, and whether site visits will be unannounced (*Kay Kyle, Sarah Sheets*).

Commenters state the draft permit provides no monitoring to assure the limit on throughput represented in the permit application will be met, and a special condition should be added requiring installation of a weight belt at the load-out point (*GREAT, TRPA*).

Some commenters ask what reporting of "facility out of compliance" will be made to the public, and how and at what frequency will this be done (*Thomas & Sherry Collins*). Some commenters ask to whom and how can the public file complaints when it appears "out of compliance" (*Thomas & Sherry Collins*). Commenters ask what records are made to document "out of compliance" (*Thomas & Sherry Collins*). Commenters ask what type of "out of compliance" will result in fines or suspension of operations (*Thomas & Sherry Collins*). One commenter asks what the amount of fine per occurrence is (*Sherry Collins*). This commenter asks if there is a limit to the number of fines that can be assessed before a facility is forced to shut down (*Sherry Collins*).

Some commenters ask what additional information regarding performance demonstration the Applicant can make available to the TCEQ to further demonstrate operational levels and emission limitations are being upheld, and will the Applicant voluntarily provide this information (*John & Cayce Kovacs*).

Commenters ask the TCEQ to carefully examine all aspects of the permit to ensure it complies with all state laws and regulations (*Alice Hammond, Robert Ligon, Kerr County Commissioners' Court*). Another commenter states that the application for the rock crusher ignores state environmental requirements for this permit (*Joyce Chase*). Another commenter wishes all environmental tests to be performed prior to permit approval (*John Mosty*).

Some commenters state, under the heading for Emission Controls, the TCEQ states the facility is expected to perform as represented in the application, and ask on what the TCEQ bases this conclusion (*Thomas & Sherry Collins*).

RESPONSE 28: Compliance

All representations made by the applicant in the permit application become part of the permit and are enforceable. The requirement to install and operate a weigh belt is determined on a case-by-case basis. The ED believes the permit conditions to be sufficient to demonstrate compliance with the permit, as well as state and federal regulations, without requiring installation of a weight belt.

The applicant will be required to perform certain testing and to keep and maintain records to demonstrate compliance with the requirements of their permit. These records have to be kept at the plant site and they have to be provided to TCEQ staff upon request. Any questions about whether the Applicant will voluntarily provide additional information that is not required should be directed to the Applicant.

All facilities that are required to obtain a permit from the TCEQ must operate in compliance with those permits and any applicable TCEQ or EPA regulations. All air quality permit applications are evaluated to determine whether standards outlined in the TCAA and applicable state and federal rules and regulations are met. Wheatcraft must comply with the testing requirements located in 40 CFR 60, Subparts A and OOO for Nonmetallic Mineral Processing Plants. Any violations of terms or conditions of the permit may result in enforcement action.

There is no requirement for the TCEQ or an owner or operator of a facility to inform the public when it has been out of compliance with the terms and conditions of its permit. However, pursuant to 30 TAC § 101.201(a), regulated entities are required to notify the TCEQ Regional Office within 24 hours of the discovery of releases into the air and in advance of maintenance activities which could result in emissions in excess of a reportable quantity. This quantity varies based on the air contaminant released. These notifications are available to the public upon request. See Response 29 for more information on fines and suspension of operations.

In addition to the permit conditions established to demonstrate compliance, there are three different types of actions TCEQ regional staff take to check compliance of operations under a TCEQ permit or permit application. First, the regional staff conducts a site review during the permit review process to verify the site is appropriate for the air permit the applicant is seeking. The second type of action addresses citizen complaints. If the citizen indicates that they are being impacted on their property, the information is logged as a complaint. The TCEQ employs a tiered priority system for responding to complaints. For instance, situations involving an immediate threat to public health or the environment, the regional office will generally respond within 24 hours. After receiving a complaint, an investigator will contact the complainant to discuss the issue.

If the citizen is not impacted on his or her property, but sees a potential violation, the complaint is logged as a Notification. This information can be used for the third type action taken by regional staff, which is referred to as a reconnaissance inspection. In a reconnaissance inspection, a regional staff person will drive by a facility to see if there appears to be any emissions or other compliance issues at the site. If it appears that there may be compliance issues, the regional staff would conduct an unannounced on-site investigation to see if any violations of environmental regulations exist. The inspection includes speaking with the company, reviewing any applicable permits, and addressing any potential violations. In addition to using these inspections as a method of responding to citizen complaints, reconnaissance inspections are also conducted on a random basis where the regional staff routinely drive by facilities to observe operations.

If the investigation reveals any violations, TCEQ will take appropriate action to ensure that the violation is corrected within a reasonable timeframe. Actions could include issuing an order to correct the problem and assessing a fine, or filing a lawsuit against the violator. Monetary penalties are generally based on the severity and duration of the violation, and therefore there is no assigned fee amount for a violation. There is no limit to the number of fines that can be assessed before a facility is forced to shut down.

In addition to the above noted complaint reporting options, citizen-collected evidence may be used in an enforcement action. Consult 30 TAC § 70.4, *Enforcement Action Using Information Provided by Private Individual*, for details on gathering and reporting such evidence. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by 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 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 TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.state.tx.us (under Publications, search for document no. 278).

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 TCEQ San Antonio Regional Office at 210-490-3096 or by calling the 24-hour toll-free TCEQ Environmental Hotline at 1-888-777-3186. All complaints are investigated. The public can track the status of complaints and enforcement actions submitted to the TCEQ at the following websites:
<http://www.tceq.state.tx.us/compliance/complaints/waci.html>
<http://www.tceq.state.tx.us/compliance/enforcement/penenfac/index.html>

Additional information regarding how the TCEQ handles complaints and the enforcement process including an explanation of the various phases of action that can occur when environmental violations are found can be viewed at the following websites:

http://www.tceq.state.tx.us/compliance/complaints/handle_complaint.html

<http://www.tceq.state.tx.us/compliance/enforcement/process.html>

COMMENT 29: Compliance History

Commenters state the Applicant's compliance history warrants denial of the application or imposition of stringent controls (*Thomas Collins, J. Nelson Happy, Robert Ligon, GREAT, TRPA*). One commenter also states the Applicant has been cited for failure to follow TCEQ guidelines (*Robert Ligon*). Another commenter states the Applicant was cited by the TCEQ for operating the quarry without the proper water quality safeguards in place (*Ray Buck*). Commenters ask how the TCEQ can ensure the Applicant will abide by all the regulations and quality control methods in the permit, given the Applicant has previously violated TCEQ rules and has been cited for disturbing the peace (*J. Nelson Happy, John Kovacs, Kay Kyle, Sarah Sheets, Brian & Suzanne Smith, Stephen Wray*). One commenter states violations by the Applicant include the following: pumping from the

river, operating in a floodplain, failure to have flood control runoff barriers, and septic system (*Robert Ligon*). Other commenters state the Applicant has shown disregard for and violated laws and regulations in the past (*Vickie Gartrell, John & Cayce Kovacs, Robert Ligon, Donald Shirkey*).

RESPONSE 29: Compliance History

During the technical review, a compliance history review of the company and the site is conducted based on the criteria in Title 30, Chapter 60 of the Texas Administrative Code. These rules may be found at the following website: <http://www.tceq.state.tx.us/rules/index.html>. The compliance history for the company and site is reviewed for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance. The compliance history does not include violations or investigations of issues that do not fall within the jurisdiction of the TCEQ, such as floodplain or septic system issues.

This permit application was received after September 1, 2002, and the company and site have been rated and classified pursuant to Title 30, Chapter 60 of the Texas Administrative Code. A company and site may have one of the following classifications and ratings:

- High: rating < 0.10 (above-average compliance record)
- Average by Default: rating =3.01 (these are for sites which have not yet been investigated)
- Average: 0.10 < rating < 45 (generally complies with environmental regulations)
- Poor: 45 < rating (performs below average)

This site has a rating of 3.01 and a classification of Average by Default. The company rating and classification, which is the average of the ratings for all sites the company owns, is 2, which is Average. A compliance history report generated as part of the permit application review revealed two investigations. On September 27, 2005, an investigation was conducted but no violation was issued. A second investigation was conducted on December 5, 2005, and a notice of violation was issued thereafter for "failure to obtain a permit prior to start of construction."

Poor ratings can cause denial or modification of permits, stricter regulation, and higher penalties. In this case, the Applicant's compliance history is not *Poor* and thus will not result in modification or denial of the permit.

COMMENT 30: Permit Issuance

One commenter states citizens raised a number of concerns and documented violations, but the permit was still issued (*David Anderson*). One commenter states the Applicant has previously devastated property in the area and has no concern for his neighbors (*Pam White*).

RESPONSE 30: Permit Issuance

The permit sought by the Applicant has not been issued. The ED has completed technical review of the application, determined that the application meets the requirements for obtaining an air quality permit, and issued a draft permit. However, the Applicant may not begin operating until after the final permit is issued.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The TCEQ does not have jurisdiction to prohibit owners and operations from seeking authorization to emit air contaminants if they comply with all the statutory and regulatory requirements of the TCAA. The scope of the Agency's regulatory jurisdiction does not affect or limit a landowner seeking relief from a court in response to activities that interfere with the landowner's use and enjoyment of his property.

As stated in previous responses, the TCEQ investigates all complaints received, and the compliance history of a company and a site are reviewed prior to permit issuance. See Response 29 for more information on compliance history.

COMMENT 31: Cumulative Effects

One commenter is concerned over the proximity of the Applicant's quarry to other quarries in the area, and asks the TCEQ to consider the cumulative effects of the rock crushers in the area (*Cayce Kovacs*). One commenter states there are three quarries within 12 miles of each other along the river (*Alice Hammond*). Some commenters state that the draft permit and the permit application do not appropriately account for other near-by sources of particulate matter emissions (*GREAT, TRPA*). One commenter expresses concern that an additional rock crusher in the area will cause the concentration of effluent in the air to exceed safe levels, even if both rock crushers are operating within TCEQ guidelines (*MK Weekley*). This commenter also states that the relocation of another rock crusher to Center Point poses greater health risks for the citizens of Center Point and complicates monitoring of air quality and other environmental issues surrounding the two quarries (*MK Weekley*).

RESPONSE 31: Cumulative Effects

The review of the Applicant's air quality permit application includes computer air dispersion modeling to predict the off-property concentration of the pollutants. These concentrations are added to the appropriate background concentration of each pollutant listed for the location of the proposed

facility. The background concentrations used in the modeling are from Region 13,¹² and include contributions from other facilities in the area. The sum of the concentrations due to the facility's emissions and the background concentration is compared against the NAAQS for the pollutant. The sums obtained and reviewed for this application were determined not to exceed the NAAQS. Therefore, adverse effects to health and welfare are not anticipated, and a cumulative effects review is not required.

COMMENT 32: Air Quality Study

One commenter asks what study has been conducted to determine the current damage, if any, to the air quality in the community; if so, what are the results (*Kenneth Wardlaw*). This commenter further asks, if no study has been done, how one can be requested (*Kenneth Wardlaw*). Another commenter states no environmental study has been conducted (*Amy Barger*).

RESPONSE 32: Air Quality Study

The TCEQ has not conducted an air quality study in or near Center Point. No air quality or environmental studies were required; those are outside the scope of this review. Persons who wish to request such a study should contact the TCEQ San Antonio Regional Office at 1-210-490-3096.

COMMENT 33: Water Use

Commenters express concern for the proximity of the proposed rock crusher to the Guadalupe River (*Amy Barger, Guy & Lorna Bason, Mary Butters, Don & Janet Drinkard, Natalie Dunlap, Steve & Ann Galland, Tom Goynes, Nina Kinney, Bo Leonard, Juliana Leonard, John Mosty, Gerald Nunnery, Jerry Nunnery, Karen Nunnery, George & Daryn Oliver, Carolyn Osborn, Fritz Ozuna, Brent Sayer, David Weekley, Center Point Alliance for Progress*). Commenters state air emissions from the proposed rock crusher will pollute the river, or adversely affect water quality or quantity, including ground water, surface water, water wells, the watershed, and fisheries (*Anne Alaniz, William Aycock, Betty Aycock, Amy Barger, Guy & Lorna Bason, Don & Barbara Boehme, Mary Butters, Thomas & Sherry Collins, Linda Davis, Marcy Downey, Don & Janet Drinkard, Natalie Dunlap, Rickie Eichler, Shirley Eller, Marcia Esbjornson, Steve & Ann Galland, Tom Goynes, Marion Hacker, Jackie Hamlyn, Alice Hammond, William Haught, Georgianna Haught, Nina Kinney, John & Cayce Kovacs, Kay Kyle, Linda Lawrence, Bill Lawrence, Robert Ligon, Edgar Ligon, Earl & Pat Long, Ellen Lucas, Ben Lucas, JoAnn Lynch, WR Lynch, Jon Maxwell, Laurie Milton, Phillip Milton, Robert Mosty, Karen Nunnery, Gerald Nunnery, Jerry Nunnery, Carolyn Osborn, Fritz Ozuna, Sandra Peña, Neil Sawyer, Brent Sayer, Theresa Sayer, Peggy Schlottman, Ronnie Schlottman, George Schroeder, Nell Sevey, Luke Sheets, Sarah Sheets, Linnette Shine, Donald Shirkey, Brian & Suzanne Smith, Belinda Stanush, Jeffery Stiles, Frank Thomason, Pat Tinley, Jerry Trice, Kenneth Wardlaw, Mary Weekley, David Weekley, Pam White, Milton & Patricia Whitworth, Greg & Debbie Williams, Kimberly Williams, Bernice Willis, Michael Van Winkle, Kay Woodward, Stephen Wray, Eldo Young, Jean Young, Group A, Headwaters Groundwater Conservation District*).

¹² Kerr County is located in Region 13.

Commenters state potential silting along the river could degrade water quality, which could only be determined after the damage occurs, especially after rain (*Ray Buck, Alice Hammond*). One commenter states dirty water is being drained into the river, and asks who will control this (*Alice Hammond*).

Some commenters state run-off (including oil used on the roads) from the facility will pollute the river and groundwater, and asks what will be done to prevent run-off (*Amy Barger, Thomas & Sherry Collins, John & Cayce Kovacs, Kay Kyle, Robert Ligon, WR Lynch, Jon Maxwell, John Mosty, Karen Nunnery, George & Daryn Oliver, Carolyn Osborn, Fritz Ozuna, Brent Sayer, Theresa Sayer, Sarah Sheets, Donald Shirkey, Kenneth Wardlaw, David Weekley, Mary Weekley*). Commenters ask how much sediment will be discharged into the Guadalupe River. (*John & Cayce Kovacs, Robert Ligon, WR Lynch, Neil Sawyer, Michael Van Winkle, Mary Weekley CPISD, Kerr County Commissioners' Court*). Commenters are concerned and ask how much petrochemicals will leak from the trucks, and how much other chemicals will be washed into the Guadalupe River or onto the ground (*Amy Barger, Robert Ligon, WR Lynch, Kay Kyle, Sarah Sheets, Kenneth Wardlaw, Mary Weekley, CPISD, Kerr County Commissioners' Court*).

Other commenters state there are no monitors to measure effluents running into the Guadalupe River (*Don & Janet Drinkard*). Another commenter asks whether there is any mechanism for monitoring any treatment and discharge of water taken from the Guadalupe River to ensure no degradation of water quality occurs (*Ben Lucas*). Some commenters ask if there are plans for drought conditions (*Kay Kyle, Joey Lynch*).

One commenter states the TCEQ should identify appropriate legal standards to protect water quality before granting the permit (*Robert Ligon*). Some commenters ask what water process clean-up methods the Applicant will use to address all the water used to wash stockpiles, transfer points, shaker screens, inlets, and outlets (*Thomas & Sherry Collins*). Commenters ask whether the washing process will be monitored to ensure proper operation and adherence to air and water quality standards, who will monitor these instruments, and what lab processes will be used to monitor air and water (*Thomas & Sherry Collins*). Further, they ask whether the Applicant conducts these processes and how they will be monitored to ensure compliance (*Thomas & Sherry Collins*). These commenters ask whether process water will be discharged into the Guadalupe River or to underground wells (*Thomas & Sherry Collins*). These commenters ask how much process water will be returned to the environment on a yearly basis (*Thomas & Sherry Collins*). Some commenters ask what will be done with the used water (*Betty Aycock, Kenneth Wardlaw*). Other commenters state no water analysis or water quality study has been done (*Lisa Skidmore, Michael Skidmore*). Additionally, commenters ask whether changes in water quality from the Guadalupe River will be monitored (*Thomas & Sherry Collins*).

Some commenters state crushing operations create waste that may contain materials that react with air and water to produce metal ions capable of contaminating rivers, streams and groundwater, and

state there is nothing in the application designed to avoid such a scenario (*John & Cayce Kovacs*). Other commenters state that metals released during cement recycling will pollute the Guadalupe River (*David Weekley, Mary Weekley*).

Some commenters ask what the actual water usage rate will be at the proposed rock crusher, and how much water will be used each year (*John & Cayce Kovacs, WR Lynch*). Commenters ask from where the 700 gallons per minute of water use is originating (*Betty Aycock, Thomas & Sherry Collins, Steve & Ann Galland, John & Cayce Kovacs, Kay Kyle, Bill Lawrence, Robert Ligon, WR Lynch, Neil Sawyer, Brent Sayer, Theresa Sayer, Sarah Sheets, Donald Shirkey, Kenneth Wardlaw, David Weekley, Mary Weekley, CPISD, Kerr County Commissioners' Court*). Some commenters ask how much river water will be drawn yearly and where the diversion point is (*Thomas & Sherry Collins*). Commenters express concern that the water supply cannot support operation of the proposed rock crusher, including the water necessary to control dust and PM emissions, and ask whether the applicant demonstrated water is available in adequate quantities (*Marcy Downey, Kevin Hartley, Jim Hays, Robert Ligon, Earl & Pat Long, Stephen Wray, GREAT, TRPA*).

Commenters ask whether the Applicant's current agricultural permit will be used, or whether the agricultural permit has been converted to allow for a new use (*Joyce Chase, Kay Kyle, John Mosty, Neil Sawyer, Sarah Sheets, David Weekley, Mary Weekley*). One commenter states the Upper Guadalupe River Authority (UGRA) is not certain the Applicant's surface water permit contains a sufficient amount of water to control airborne particulate as required under the draft permit (*Ray Buck*). Another commenter states the current permit for surface water is not allocated to mining (*Ben Lucas*). Another commenter states the Applicant does not possess sufficient water rights to accommodate the use described in the application (*Brent Sayer*). Other commenters state the projected daily water use will exceed the existing water permit (*Ben Lucas, Sandra Peña*). One commenter states well water and future irrigation needs will be adversely affected by the operation of the proposed rock crusher (*Kevin Hartley, Brian & Suzanne Smith, Stephen Wray*). Some commenters ask if there are any wells are being drilled for use in processing, what the planned usage in gallons per year is, and the location of the well (*Thomas & Sherry Collins*).

Some commenters ask if the Applicant obtained a TCEQ Industrial Wastewater Permit, and if not, why not (*Thomas & Sherry Collins*). Some commenters ask what water quality discharge rules (Ph, TDS, oil sheen, turbidity, and temperature) will be required and who will monitor all water returned to the environment (*Thomas & Sherry Collins*). Some commenters ask why the application or draft permit makes no mention of the used water volume and water disposal permitting requirements (*Thomas & Sherry Collins*).

Commenters ask how the public may obtain a hearing to address water issues (*Steve & Ann Galland*). Other commenters ask whether the applicant needs to complete a water quality permitting process (*Thomas & Sherry Collins*).

RESPONSE 33: Water use

Water quality, water quantity, and wastewater issues are outside the scope of this air permit application review. The TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization to emit air contaminants if they comply with all the statutory and regulatory requirements of the TCAA. The air quality permit does not negate or affect the responsibility of the Applicant to comply with any additional local, state, or federal requirements. Should the nature of the facility's operations require, the applicant may be required to apply for separate permits which regulate water and/or waste. It is the applicant's responsibility to obtain all required permits for their operation. Such concerns may be addressed by contacting the TCEQ Waste Permits and/or Water Quality Divisions. The public can search the TCEQ's database for water quality individual permits using the Applicant's name at the following website: <http://www4.tceq.state.tx.us/wqpaq/>. The public can search the TCEQ's database for stormwater general permits using the Applicant's customer number (CN), which is 600848832, at the following website: http://www5.tceq.state.tx.us/wq_dpa/.

Also, see Response 5 for more information on monitoring of air emissions.

COMMENT 34: Water usage violations

Commenter states UGRA found a pump in the river at the Applicant's quarry, reported the observation to the TCEQ, and the Applicant was cited by the TCEQ for pumping water without a permit (*Ray Buck*). This commenter adds that the UGRA does not know whether the Applicant has applied to change the diversion point for his water rights permit (*Ray Buck*). Commenters state the UGRA discovered the Applicant was operating the quarry without a Storm Water Discharge Permit and reported the activity to the TCEQ (*Ray Buck, Brian & Suzanne Smith, Stephen Wray*). Some commenters state the Applicant has illegally pumped water from the Guadalupe River in violation of TCEQ regulations (*John Kovacs, Donald Shirkey, Brian & Suzanne Smith, Stephen Wray*). Some commenters ask whether the Applicant followed all rules regarding pumping water from the Guadalupe River (*John & Cayce Kovacs*). Some commenters state the Applicant has been pumping water from the Guadalupe River to support its mining operations without adequate authorization (*GREAT, TRPA*).

One commenter states she has been amazed by the treatment of the Guadalupe River, and she has seen the river pumped during drought by those without water rights, public works employees dumping in the river, and people build human trash monuments that foster the rat population and bring pollution to the creeks (*Alice Hammond*).

Commenter asks why this facility has been allowed to operate when it will create pollution, contaminate the Guadalupe River, would render the air and water harmful, detrimental, and injurious to humans, animal life, and vegetation, and impair the usefulness and public enjoyment of the water, which is a violation of Texas Water Code, Chapter 26 (*Robert Ligon*). This commenter also asks why this facility has been allowed to operate equipment in beds and banks of the Guadalupe River, which is a violation of TXR 150000 (*Robert Ligon*). The commenter further asks why this facility

has not provided a storm water pollution prevention plan as required by TXR 150000 (*Robert Ligon*). This commenter also asks why this facility has been allowed to operate, in violation of Title 40 CFR 122, Section 2, which governs waters of the United States, and states a facility must not interfere with a river which could be used by interstate or foreign travelers for recreational or other purposes (*Robert Ligon*).

RESPONSE 34: Water usage violations

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The TCAA does not give the TCEQ the authority to regulate air emissions beyond the direct impacts the air emissions may have to human health or welfare. Issues related to pumping from the river are not within the scope of review for an air quality permit. However, if the Applicant pumps water from the Guadalupe River, it is required to obtain and maintain necessary water rights permits and comply with any applicable requirements.

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 TCEQ San Antonio Regional Office at 210-490-3096 or by calling the 24-hour toll-free TCEQ Environmental Hotline at 1-888-777-3186.

See Response 33 for information on water and wastewater. As stated previously, the air quality permit does not negate or affect the responsibility of the Applicant to obtain any other necessary permits (such as TXR 150000), and comply with any applicable state and federal rules.

The prior treatment of the Guadalupe River is not specifically within scope of an air quality permit review, with the exception of how it may affect compliance history. See Response 29 for more information on compliance history. As stated in that response, any violations of TCEQ rules can affect the compliance history of an applicant or site. However, any violations of UGRA or HGRA rules are not considered part of the compliance history, pursuant to 30 TAC § 60. Individuals are encouraged to report any concerns about possible violations of environmental regulations by calling the 24-hour toll-free TCEQ Environmental Hotline at 1-888-777-3186.

COMMENT 35: Location related to flood plain

Commenters state operation of the rock crusher will increase the risk of flood or the damage caused by flooding (*Joyce Chase, Rickie Eichler, Fritz Ozuna, Gladys Simpson, Phil Spain, Kenneth H. Wardlaw, Pam White*). Other commenters state the facility is within the 100 year floodplain of the Guadalupe River, and this may increase the risk of pollutants washing into the river (*Mary Butters, Sherry Collins, Thomas Collins, Ben Lucas, Kenneth Wardlaw*). Some commenters ask whether the proposed facility is in a floodplain, and if so, what state rules apply to a quarry and a rock crusher in a floodplain (*Thomas & Sherry Collins*). One commenter asks whether the Applicant has a permit to operate in a floodplain (*Kenneth Wardlaw*). One commenter states the Applicant is mining in the floodplain without a permit (*John Kovacs*). Some commenters ask if there is an evacuation plan to remove equipment and chemicals in case of a flood (*Thomas & Sherry Collins*). Commenters ask

whether the Applicant has a plan in place in event of flooding (*Kay Kyle, Sarah Sheets, David Weekley, Mary Weekley*). Commenter asks to what degree to the Applicant's property line encroaches on the gradient boundary line of the Guadalupe River (*Michael Van Winkle*). Finally, other commenters state the Corps of Engineers should be contacted when mining in the floodplain (*Steve & Ann Galland, Kay Woodward*).

RESPONSE 35: Location related to flood plain

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. It is beyond the Agency's power to regulate the effect of an applicant's site selection. 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 enforceable by statute or in TCEQ rules. The review of an air quality permit application does not include an investigation of restrictions, plans, or necessary permits related to floodplains applicable to a proposed site. Such concerns should be addressed to the nearest municipality, county, or entity with authority over those issues. As stated previously, the air quality permit does not negate or affect the responsibility of the Applicant to comply with any additional local, state, or federal requirements.

COMMENT 36: Other approvals related to water

Commenters ask if the UGRA has been advised of or approved any request for river water, and if the Headwaters Groundwater Conservation District (HGCD) has been advised of or approved any request for groundwater (*Thomas & Sherry Collins*).

RESPONSE 36: Other approvals related to water

The Applicants' plans for obtaining and disposing of water, and complying with any jurisdictional requirements associated with the UGRA or the HGCD are not within the scope of this air quality permit review. As stated previously, the air quality permit does not negate or affect the responsibility of the Applicant to comply with any additional local, state or federal requirements. See Response 33 for more information.

COMMENT 37: Roads

Commenters state the site is not currently watering operational roads and ask if this applies even if the permit is not approved (*Thomas & Sherry Collins*). Commenters ask why the required watering is not being enforced, and how can the public expect it to be enforced if the permit is approved (*Thomas & Sherry Collins*). Commenters also ask what factors determine the frequency of watering (*Thomas & Sherry Collins*). One commenter asks if the TCEQ requires a water permit for spraying roads and equipment, why has this not been done (*Sherry Collins*). Commenter states watering is an air quality requirement according to TCEQ rules (*Sherry Collins*).

Commenters state the application indicates the roads will be oiled to assist dust/air contaminant control, and ask how many acres will be treated with oil, at what rate, and how many times a month (*John & Cayce Kovacs, WR Lynch*). Some commenters ask what happens to the oil and dirt when it rains (*John & Cayce Kovacs, WR Lynch*). Some commenters ask if there is a system in place to

ensure no oil contaminates the Guadalupe River (*John & Cayce Kovacs, WR Lynch*). Commenters ask what effect the oil will have on the environment and whether groundwater contamination can occur (*John & Cayce Kovacs, WR Lynch*).

RESPONSE 37: Roads

The TCEQ's jurisdiction is established by the Texas Legislature and is limited to the issues set forth in statute. Since roads are not considered facilities under the Texas Clean Air Act, the air quality permit does not address or deal with roads outside the plant. However, the roads inside the plant are considered sources of emissions and are addressed in the permit through best management practices. The draft permit requires that plant roads be paved with a cohesive hard surface, which can be accomplished by different methods. In addition, the facility is required to operate in compliance with all applicable local, state or federal rules.

The draft permit contains a provision which requires the Applicant to pave the plant roads with a cohesive hard surface which can be cleaned by sweeping or washing. The draft permit requires all roads to be sprinkled with water and/or environmentally sensitive chemicals upon detection of visible particulate emissions. As stated in Response 33, the Applicant will be required to water "as necessary" to control emissions. The Applicant will be required to comply with the terms and conditions of its permit only after the permit has been issued. The Applicant does not have authorization to emit air contaminants until this time. However, the Applicant may still be subject to enforcement even if a permit has not been issued.

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 TCEQ San Antonio Regional Office at 210-490-3096 or by calling the 24-hour toll-free TCEQ Environmental Hotline at 1-888-777-3186.

COMMENT 38: Traffic

Commenters express concern that the increase in traffic will increase pollution, create traffic hazards, damage the roads, and increase traffic accidents (*David Anderson, Betty Aycock, William Aycock, Sherry Collins, Thomas Collins, Marcy Downey, Natalie Dunlap, Rickie Eichler, William Haught, Georgianna Haught, Nina Kinney, Kay Kyle, Bill Lawrence, Linda Lawrence, WR Lynch, Jon Maxwell, Phillip Milton, Karen Nunnery, Gerald Nunnery, Carolyn Osborn, Brent Sayer, Theresa Sayer, Peggy Schlottman, Ronnie Schlottman, Luke Sheets, Sarah Sheets, Jerry Trice, Kenneth Wardlaw, Mary Weekley, Milton & Patricia Whitworth, Kimberly Williams, Eldo Young, Jean Young*). Other commenters state trucks leaving the facility will spread dust (*Thomas & Sherry Collins, Theresa Sayer, Donald Shirkey*). Another commenter states traffic enforcement is rare, and trucks from another quarry frequently drop gravel onto the road (*David Anderson*). Other commenters state trucks will increase the noise pollution (*Thomas & Sherry Collins, Natalie Dunlap, Steve & Ann Galland, David Weekley, Mary Weekley, Stephen Wray*). One commenter states rock falling from the loaded trucks creates a safety hazard to motorists and damages vehicles (*M. K.*

Weekley). This commenter also states the truck traffic generates more dust on a rock road surface than on asphalt (*M. K. Weekley*).

Commenters ask what steps will be taken to address additional traffic on Highway 27 and whether TXDOT has studied the impact of additional traffic (*Thomas & Sherry Collins*). Another commenter requests a study to determine the effect the proposed rock crusher will have on traffic (*David Anderson*).

RESPONSE 38: Traffic

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Trucks are categorized as mobile sources and their emissions by definition are not subject to regulation by the TCAA. The draft permit for Wheatcraft does include provisions to minimize emissions from road dust due to vehicle traffic at the site. All other aspects of vehicle traffic are beyond the scope of TCEQ regulations. Accordingly, the TCEQ does not have jurisdiction to consider additional traffic when determining whether to approve or deny a permit application. Therefore, a traffic study is not within the scope of an air quality permit review. Concerns about traffic are more appropriately directed to TXDOT.

However, if truck movement within the site results in air emissions, nuisance-related regulatory provisions may be triggered. 30 TAC § 101.4 prohibits a person from creating or maintaining a condition of nuisance that interferes with a landowner's use and enjoyment of his property. 30 TAC § 101.5 also provides, "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." See Response 3 for more information on nuisance and 39 for more information on mobile sources.

COMMENT 39: Trucks

Commenters ask how many 18 wheelers are used at the facility, including the mining, screening, and crushing operation (*John & Cayce Kovacs, WR Lynch*). One commenter asks how many vehicles the Applicant will obtain after the application is received (*Suzanne Trice*). Some commenters ask how the 5 mph speed limit used to calculate emissions will be enforced (*John & Cayce Kovacs, WR Lynch*). Commenters ask whether the lack of control over trucks necessitate on-site monitoring (*John & Cayce Kovacs, WR Lynch*). Commenters ask whether there are any laws or requirements a facility must meet to limit heavy-duty vehicle traffic (*Thomas & Sherry Collins*). Commenters express concern over diesel emissions from trucks and other equipment associated with the rock crusher (*William Haught, Nina Kinney, John Kovacs, Stephen Wray*). One commenter expresses concern for the amount of nitrogen dioxide emitted by the trucks (*Sandra Peña*). Commenters state the Applicant is operating a diesel engine and asks if the Applicant has filed a permit to operate the diesel engine (*Thomas & Sherry Collins*).

Further, commenters ask how the application excludes the use of motor vehicles, when every step of mining, crushing, separating, stockpiling, and delivering require motor vehicles (*John & Cayce*

Kovacs, Sandra Peña). These commenters ask what the total air pollution is from all motor vehicles used for any purpose at the site (*John & Cayce Kovacs*). These commenters ask how many trucks, tractors, or other motorized equipment the Applicant owns, leases, or rents (*John & Cayce Kovacs*). Commenters ask if the application includes all currently operated coverer belts, back hoes, dozers, loaders, and road traffic (*Thomas & Sherry Collins*).

RESPONSE 39: Trucks

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The draft permit for Wheatcraft includes provisions to minimize emissions from road dust due to vehicle traffic at the site. All other aspects of vehicle traffic are beyond the scope of TCEQ regulations. The speed limit was not used to calculate the emissions from this facility.

The TCEQ may regulate stationary sources of air contaminants, but has no authority to regulate mobile sources. Motorized vehicles such as trucks, back hoes, dozers, and loaders are categorized as mobile sources and their emissions by definition are not subject to regulation by the TCAA. Accordingly, the TCEQ does not have jurisdiction to consider impacts of emissions from motor vehicles when determining whether to approve air quality permit applications.

COMMENT 40: Other Site uses

One commenter states the Applicant has claimed in advertising the site is a full service materials yard (*Gene Dunks*).

RESPONSE 40: Other Site uses

Wheatcraft has applied for an air quality permit to construct and operate a rock crushing facility. Any other operations on the site that do not have potential air emissions are beyond the scope of this review.

COMMENT 41: Property Values/Property Rights

Commenters state the proposed rock crusher will adversely affect property value (*Mr. & Mrs. Andrew Bowser, Joyce Chase, Sherry Collins, Marcy Downey, Don Esbjornson, Steve & Ann Galland, Nina Kinney, Juliana Leonard, Sam McLanty, Robert Mosty, George & Daryn Oliver, Carolyn Osborn, Fritz Ozuna, Donald Shirkey, Brian & Suzanne Smith, Belinda Stanush, Jerry Trice, Suzanne Trice, Milton & Patricia Whitworth, Stephen Wray*). Another commenter states this type of business ruins neighborhoods (*Phil Spain*). Another commenter expresses concern for her riverfront property located within one mile of the proposed facility (*Belinda Stanush*).

RESPONSE 41: Property Values/Property Rights

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider zoning or effects on property values when determining whether to approve or deny an air quality permit application. Except under limited circumstances, which do not exist under this particular permit application, the issuance of a permit cannot be denied on the basis of the facility location.

COMMENT 42: Economic Impact

Commenters state pollution from the proposed rock crusher will adversely affect the local economy (*Ray Buck, Linda Davis, Rickie Eichler, Marcia Esbjornson, Steve & Ann Galland, Earl & Pat Long, Phil Spain, Jeffery Stiles, Jerry Trice, Suzanne Trice, Michael Van Winkle, Mary Weekley*). One commenter states only the Applicant gains through the issuance of this permit (*Belinda Stanush*). Commenters state business, including agricultural business and ranching, will be adversely affected by operation of the proposed rock crusher (*Cayce Kovacs, JoAnn Lynch, WR Lynch, Gerald Nunnery, Donald Shirkey, Jerry Trice, Suzanne Trice, Mary Weekley*).

Commenters are concerned the operation of the rock crusher will adversely affect future development of their property (*Sherry Collins, Rickie Eichler, Phil Spain, Pam White*). Commenters state the proposed rock crusher will prevent future growth in the area, or keep people from moving into the area (*Earl & Pat Long*). Other commenters state many persons will lose their investment in property or livestock (*Steve & Ann Galland, Mary Weekley*).

Commenters feel the residents here before the Applicant should not have to suffer for the benefit of the Applicant, and the Applicant is harming their property rights (*David Anderson, Cayce Kovacs, Edgar Ligon*). One commenter states the town and the people of Center Point were here before the Applicant arrived to begin mining and operating a rock crusher (*John Kovacs*).

RESPONSE 42: Economic Impact

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The TCEQ cannot consider possible future economic impacts in an air permit application. However, the scope of the Agency's regulatory jurisdiction does not affect or limit a landowner seeking relief from a court in response to activities that interfere with the landowner's use and enjoyment of his property.

COMMENT 43: Land reclamation

Commenters ask whether there are any land reclamation provisions associated with this permit (*Steve & Ann Galland, William Haught*). One commenter asks what the Applicant will do to restore the environment he has already destroyed (*Gladys Simpson*).

RESPONSE 43: Land reclamation

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The draft permit does not include any land reclamation provisions. Land reclamation is not within the scope of this air quality permit review.

COMMENT 44: Jobs

Commenters ask about the nature of the new jobs listed on the application, specifically what are the job functions and what is the pay (*John & Cayce Kovacs*).

RESPONSE 44: Jobs

Issues regarding employment by Wheatcraft at this site should be directed to the applicant.

COMMENT 45: Archaeology Study

Commenters ask whether an archeological study has been completed, especially considering the operation is located in a historically significant part of Kerr County (*Amy Barger, Joyce Chase, Steve & Ann Galland, John & Cayce Kovacs, Kay Kyle, Robert Ligon, JoAnn Lynch, WR Lynch, Sarah Sheets, David Weekley, Mary Weekley, Kay Woodward, CPISD, Kerr County Commissioners' Court*). Commenters ask if the Applicant is aware there is an archeological stratum approximately 14-16 feet below the ground surface in the Center Point area (*John & Cayce Kovacs*). Commenters ask what the Applicant will do if a "scientific find" is unearthed (*John & Cayce Kovacs*).

RESPONSE 45: Archaeology Study

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. An archeological study is not a requirement for obtaining an air quality permit and therefore outside the scope of this review. The air quality permit does not negate or affect the responsibility of the Applicant to comply with any additional local, state, or federal requirements.

COMMENT 46: Quarry

Some commenters state the present operation of the quarry is tracking dirt and dust onto Highway 27 (*Don Esbjornson, Fritz Ozuna*). Commenters also state the dust from the mining operation will obstruct views of drivers on Highways 27 and 1350 (*George & Daryn Oliver*). One commenter states dust from the loaded trucks is already in the air before the trucks reach the highway (*M. K. Weekley*). Other commenters state the dust resulting from the quarry is bad enough without adding a rock crusher (*Thomas & Sherry Collins, Phil Spain*). One commenter states the operation of the quarry is polluting the air (*M. K. Weekley*). One commenter states her home, barns, orchard, and pastures are covered with dust from operations around the mining and processing area (*Marcy Downey*). Other commenters state the air and water quality will be adversely affected by the mining (*George & Daryn Oliver*). One commenter states the noise keeps her and her animals nervous (*Marcy Downey*). One commenter states the Applicant has demonstrated a lack of regard concerning PM emissions (*Brent Sayer*). This commenter states this site is already operating without any apparent oversight (*William Haught*). Another commenter expresses concern over the "stink of explosives" (*Nina Kinney*). Commenters also state the Applicant's quarry is the ugliest wound in the earth for miles around and the operation will leave the community with a hole in the ground (*Nina Kinney, Kay Kyle, Fritz Ozuna*). Another commenter states the proposed rock crusher and the quarry are not necessary because there are existing facilities to develop the local infrastructure (*David Weekley*). Other commenters state excavation at the site has already caused substantial pollution of the Guadalupe River, and that the river is murky and full of silt (*Peggy Schlottman, Ronnie Schlottman*). Another commenter states the current excavation at the expense of riverfront property and vegetation seems unnecessary and greedy (*JoAnn Lynch*). One commenter asks if the TCEQ has jurisdiction over mining and quarrying (*Juliana Leonard*).

Commenters also state that blasting at the site will only increase noise and danger to the community (*George & Daryn Oliver*). Other commenters state there is already noise coming from the quarry (*Steve & Ann Galland, Sarah Sheets, Brian & Suzanne Smith, David Weekley, Mary Weekley, Stephen Wray*). Another commenter asks if blasting is a part of the operation, and where the nitro is stored (*William Haught*).

Some commenters ask how the Applicant plans to minimize erosion caused by mining, and ask whether any state rules apply to erosion caused by mining (*Thomas & Sherry Collins*). Other commenters state contaminated soil will erode into the river (*David Weekley, Mary Weekley*). Commenter states it is unclear the extent to which the Guadalupe River may be affected by erosion of the quarried site (*David Weekley*).

Commenters express concern for the effects of blasting on rock strata, water tables, wells, and wildlife (*Steve & Ann Galland*). Commenters ask if there is a seismograph or a vibration monitor to measure the blasting (*Steve & Ann Galland*).

RESPONSE 46: Quarry

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider blasting or mining in determining whether to approve or deny a permit application. For the purposes of air quality permits of this type, the term "Facility" is defined as a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than control equipment.¹³ A mine or a quarry is not considered to be a facility. Therefore, quarry blasting operations are not included in the review of an air quality permit application. The commission also has no authority to address property damage claims alleged to result from blasting, nor jurisdiction regarding noise pollution or vibrations. Concerns regarding noise and vibrations should be directed to local officials.

See Response 29 for more information on compliance history. As explained in that response, a compliance history report was generated as part of this application review. The compliance history report did not indicate the TCEQ has cited the applicant for operating the quarry without a storm water discharge permit.

COMMENT 47: Other Crusher's Compliance

One commenter states other rock crushing operations in the area emit large dust clouds all day, every day (*Alice Hammond*). This commenter asks whether the other two rock crushing operations in Center Point have permits (*Alice Hammond*).

RESPONSE 47: Other Crusher's Compliance

There are other rock crushing operations near Center Point that have New Source Review permits.

¹³ THSC § 382.003(6)

However, compliance issues related to other rock crushing facilities is beyond the scope of this permitting action. Persons concerned about violations of TCEQ regulations should call the TCEQ Environmental Hotline at 1-888-777-3186 or the San Antonio Regional Office at 210-490-3096.

COMMENT 48: Public Meeting

One commenter states the January 24, 2006 public meeting was a charade to let people vent their anger regarding the proposed facility (*David Anderson*).

RESPONSE 48: Public Meeting

For this application, a public meeting was held January 24, 2006 in Center Point, and a second public meeting was held November 9, 2006. A public meeting is intended for the taking of public comment, and is not a contested case hearing.¹⁴ The applicant, in conjunction with the executive director, may hold a public meeting in order to inform the public about the application and obtain public input.¹⁵ The comments received at the public meetings and written comments received during the comment period are the subject of this Response. As noted above, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments.¹⁶ Comments received during the public comment period are considered by the Executive Director when determining whether or not to recommend issuance of the permit and by the Commission when determining whether or not to issue the permit. When necessary, comments may result in changes to the terms or conditions of the permit. As noted below, no changes have been made in response to comments received on this application or draft permit.

COMMENT 49: Response to Comments

Some commenters state they have not received a response to their letter dated January 16, 2006 (*Thomas & Sherry Collins*).

RESPONSE 49: Response to Comments

As noted above, all timely comments received on this application are the subject of this Response. As required by TCEQ rules, after the ED files the response to comments, the chief clerk shall mail (or otherwise transmit) the ED's decision, the ED's response to public comments, and instructions for requesting that the commission reconsider the ED's decision or hold a contested case hearing.¹⁷ This Response will be transmitted to any person who submitted comment during the comment period and any person who requested to be placed on the mailing list for this application.

COMMENT 50: Contested Case Hearing Requests

One commenter expresses concern whether a contested case hearing will be granted, and whether the commission can issue the permit without a contested case hearing. (*Robert Ligon*)

¹⁴ 30 TAC § 55.154(a)

¹⁵ 30 TAC § 55.154(b)

¹⁶ 30 TAC § 55.156(b)

¹⁷ 30 TAC § 55.156(c)

RESPONSE 50: Contested Case Hearing Requests

30 TAC § 55.201 allows the commission, the ED, the Applicant, or an affected person to request a contested case hearing (CCH).¹⁸ At a future open meeting, the commission will determine whether a contested case hearing will be held in this matter. A request for a CCH may be granted if it is made by an affected person, in writing, and if the request raises disputed issues of fact that were raised during the comment period, and not withdrawn by the commenter, and that are relevant and material to the commission's decision on the application. The request for a CCH must be timely filed with the chief clerk, sought pursuant to a right to hearing authorized by law, and comply with the requirements of Title 30 Texas Administrative Code § 55.201. Hearing requesters will be notified of this meeting and will have an opportunity to file a brief in support of their status as affected persons.

Any person with further questions regarding any and all legal rights and remedies available under Texas law should consult with the Office of Public Interest Counsel or an attorney.

COMMENT 51: Access to Draft Permit

One commenter states some persons on the mailing list received a copy of the draft permit with the Notice of Application and Preliminary Decision, while other persons did not (*Bill Williams*).

RESPONSE 51: Access to Draft Permit

After technical review is complete, the chief clerk is required to mail the preliminary decision concurrently with the NAPD to the Applicant, persons on the mailing list, any other person the ED or the chief clerk may elect to include, and persons who filed timely public comments or requests for a contested case hearing. There is no requirement to include a copy of the draft permit in this mailing. However, 30 TAC § 39.405(g) requires the Applicant to make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located. The Applicant is required to update the application after the ED makes his preliminary decision.¹⁹ The application must be available upon publication of NAPD and remain available until the commission has taken action on the application or the commission refers issues to State Office of Administrative Hearings.²⁰ The copy of the application includes a copy of the draft permit. According to the Public Notice Verification Form filed by the Applicant, a complete copy of the application and draft permit is available for viewing and copying at the Butt-Holdsworth Memorial Library in Kerrville, Texas.

COMMENT 52: OPIC's Role

Commenters ask what the role of the Office of Public Interest Counsel is in the permitting process (*Thomas & Sherry Collins*).

¹⁸ "Affected person" is defined in Texas Water Code § 5.115, which is implemented in 30 TAC § 55.203.

¹⁹ 30 TAC § 39.405(g)

²⁰ *Id.*

RESPONSE 52: OPIC's Role

The Office of Public Interest Counsel was created by the legislature to ensure that the public's interest is represented in issues considered by the commission. The office does not formally represent individuals at commission proceedings. However, citizens who have questions about the legal aspects of dealing with the TCEQ, its hearing process, and its rules can obtain help from this office. Assistance is available to anyone who is affected by a particular permit application or other agency authorization. For further information, you may contact the Office of Public Interest Counsel at 512-239-6363.

COMMENT 53: Permit Opposition/TCEQ Mission

Many commenters ask the TCEQ to deny or oppose the permit application, or state they oppose the permit (*Anne Alaniz, David Anderson, William Aycock, Amy Barger, Thomas Barger, Don & Barbara Boehme, Robert Brown, Joyce Chase, Thomas & Sherry Collins, Clara Conner, Rickie Eichler, Shirley Eller, Steve & Ann Galland, Logan Green, Donald & Mary Greer, Marion Hacker, Jackie Hamlyn, J. Nelson Happy, William Haught, Nina Kinney, Cayce Kovacs, John Kovacs, Linda Lawrence, Bill Lawrence, Juliana Leonard, Robert Ligon, Edgar Ligon, Neva Martin, Jon Maxwell, Sam McLanty, Karen Nunnery, Gerald Nunnery, Jerry Nunnery, Fritz Ozuna, Theresa Sayer, Brent Sayer, Peggy Schlottman, Ronnie Schlottman, Sarah Sheets, Donald Shirkey, Brian & Suzanne Smith, Phillip & Sarah Sneed, Jeffery Stiles, Jerry Trice, Suzanne Trice, David Weekley, MK Weekley, Pam White, Marilyn Wiles, Kimberly Williams, Stephen Wray, Eldo Young, Jean Young, CPI SD*). Commenters state Representative H. Hilderbran, County Commissioner B. Williams, and other local and state officials oppose the permit (*Thomas & Sherry Collins, WR Lynch*). One commenter asserts the TCEQ fails in its mission when it is controlled by money and politics (*Sam McLanty*). Another commenter asks if the TCEQ's mission is to protect citizens of this state, how the TCEQ can grant this permit (*Raul Peña*). Commenters feel the TCEQ is geared to vote 51% for the Applicant and 49% for the public, and ask the TCEQ to explain this is not the case (*Thomas & Sherry Collins*).

RESPONSE 53: Permit Opposition/TCEQ Mission:

The TCEQ appreciates the comments and interest from the public in environmental matters before the agency. TCEQ staff evaluates air quality permit applications to determine whether standards outlined in the TCAA and applicable state and federal rules and regulations are met. Although the ED recognizes the opposition of the commenters, public opposition alone is not legally sufficient to justify denial of a permit application.

COMMENT 54: Support for project

Some commenters support the application for the rock crusher, or express support for the Applicant (*John Rhodes, Eddie Taylor*).

RESPONSE 54: Support for project

The ED acknowledges the comment and appreciates the interest in environmental matters before the agency.

CHANGES MADE IN RESPONSE TO PUBLIC COMMENTS

No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on Environmental Quality
Glenn Shankle, Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Robert Martinez, Director
Environmental Law Division



Erin Selvera, Staff Attorney
Environmental Law Division
State Bar No. 24043385

Amy Lynn Browning, Staff Attorney
Environmental Law Division
State Bar No. 24059503
P.O. Box 13087, MC 173
Austin, Texas 78711-3087
(512) 239-6033

REPRESENTING THE EXECUTIVE DIRECTOR
OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

WHEATCRAFT, INC.
TCEQ AIR QUALITY PERMIT NO. 76508
COMMENTER LIST

1. Mark Abbott*
2. Anne Alaniz
3. David Anderson
4. Betty Aycock*
5. William T. Aycock III*
6. Amy K. Barger
7. Thomas A. Barger
8. John & Jennifer Barnett*
9. Guy & Lorna Bason
10. Thomas A. Bayn*
11. Jean Bellis
12. M. Cody Bishop*
13. Amber Blackledge*
14. Christina Blackledge*
15. Joel Blackledge*
16. Karen Blackledge*
17. Barbara Boehme*
18. Donald Boeme*
19. Mr. & Mrs. Andrew Bowser
20. Maria E. Bowser*
21. Dennis Brown*
22. Robert L. Brown
23. Ray Buck, General Manager Upper
Guadalupe River Authority
24. Guy Burney*
25. Dorothy Bursch*
26. Mary Butters*
27. Jo Anne Cagle*
28. Hannah Cardner*
29. Joyce Chase
30. Neal Coldwell*
31. Sherry Collins*
32. Thomas Collins*
33. Clara Conner
34. Don Davis
35. Linda Davis
36. Julia C. Dewey*
37. Trinidad Dominguez*
38. O. A. Douglas
39. Marcy Downey
40. Don and Janet Drinkard*
41. Gene Dunks
42. Natalie J. Dunlap
43. William Dunlap
44. Don Eichler*
45. Rickie Eichler*
46. Rose & Roy Elizondo*
47. Shirley Eller
48. Connie Engel, CPISD
49. Don Esbjornson*
50. Marcia Esbjornson
51. Freda Eskew*
52. Joanne Fenninger*
53. Sharon Forster*
54. Ann Fritz*
55. Steve & Ann Galland
56. Harry Gartrell
57. Vickie Gartrell
58. Paula Goynes
59. Tom Goynes, President Texas
Rivers Protection Association
60. Jim Grand*
61. David Gray*
62. Logan Green
63. Donald H. & Mary B. Greer*
64. Julie A. Griffith*
65. Philip H.
66. Marion L. Stiles Hacker
67. Jackie Hamlyn*
68. Alice Hammond*
69. J. Nelson Happy*
70. Kevin Hartley
71. Georgianna Haught*
72. William E. Haught*
73. Jim Hays
74. Fred Henneke
75. David L. John*
76. Arlene Johnson*
77. Judy Jordan*

WheatCraft Commenter List

Page 2 of 3

78. Charlie Kaiser*
79. Jerilyn Keith*
80. Nina Kinney
81. Henry Knocke*
82. Cayce Kovacs, GREAT
83. John C. Kovacs
84. Kay & Bill Kyle*
85. William Kyle*
86. Glenda Lackey, Center Point Alliance for Progress
87. TH Lackey
88. Danny & Kelly Lena*
89. Bo Leonard
90. Juliana M. Leonard
91. Edgar R. Ligon
92. Edgar R. Ligon, Jr.*
93. Earl & Pat Long
94. Frances Lovett
95. Bill Lowrence
96. Linda Lowrence
97. Ben Lucas*
98. Ellen Lucas*
99. JoAnn Lynch*
100. Joey Lynch
101. WR Lynch
102. Dub Martin*
103. Neva Martin*
104. Mary J. Matthews*
105. Jon Maxwell*
106. Sam McLarty
107. Alma McLendon*
108. Jan Menna*
109. Laurie Milton*
110. Phillip Milton*
111. Chuck Morgan
112. Jean Mosty*
113. John Mosty*
114. Robert L. & Darlene Mosty
115. Gerald Nunnery*
116. Karen Nunnery*
117. George & Daryn Oliver
118. Carolyn Osborn
119. Fritz Ozuna
120. Raul V. Peña
121. Sandra Peña
122. James Perlitz*
123. Dorothy Pierce*
124. James Pierce*
125. Eugene Pittman*
126. Lee Ann Ray, CPISD
127. John Rhodes
128. Susan Sander*
129. Neil F. Sawyer
130. Brent Sayer
131. Theresa M. Sayer
132. Theresa & Bret Sayers*
133. Peggy Schlottman
134. Ronnie Schlottman
135. Clarence Schmidt*
136. Mary Schmidt*
137. George H. Schroeder*
138. Nell Sevey
139. Rola J. Seyler*
140. Luke Sheets*
141. Sarah Sheets*
142. Linnette Shine
143. Donald Shirkey
144. Gladys Simpson
145. Lisa Skidmore*
146. Michael R. Skidmore*
147. Brian & Suzanne Smith
148. Douglas Smith*
149. Frances Smith*
150. Guy Smith*
151. Phillip W. & Sarah M. Sneed
152. Phil Spain
153. Belinda Stanush
154. Kay Steadham*
155. Richard Steadham*
156. Edwin Stearns, Center Point Independent School District (CPISD)
157. Jeffery C. & Sheila Stiles
158. Marion Stiles*
159. Mary Ellen Summerlin, Headwaters Groundwater Conservation District
160. Jimmie Swofford*
161. Pat Swofford*

162. Lesley Swope*
163. Eddie E. Taylor
164. Frank Thomason
165. Jerry Trice*
166. Suzanne Trice*
167. Mary Truckley
168. Becky Valenzuela*
169. Michael Van Winkle
170. Rene & Audrey Verhelst*
171. Mr. & Mrs. EW Walker*
172. Sherry Wallace
173. Kenneth H. Wardlaw, Rockin River Inn
174. Hugh Weaver*
175. David R. Weekley
176. Mary & Mark E. Weekley*
177. Pam White*
178. Mr. & Mrs. MA Whitworth
179. Patricia Whitworth*
180. Marilyn Wiles
181. Greg & Debbie Williams
182. Kimberly Williams*
183. Bernice Willis*
184. Joanne M. & John Wilson*
185. Kay Woodward, Steward, Texas Archeological Stewardship Network
186. Stephen Wray
187. C. Jean Young
188. Charles E. Young*
189. Eldo W. Young
190. CB Concerned Citizen at 428 China
191. Concerned Citizen (PO Box 1501, Center Point, Texas 78010)
192. Concerned Citizen at 314 China
193. Concerned Citizen at 436 Red Bird Loop
194. Concerned Citizen (PO Box 315, Center Point, Texas 78010)
195. Concerned Citizen at 391 McDonald Loop*
196. Concerned Citizen at 141 Verde Hills
197. Concerned Citizen at Bluff Creek Ranch
198. Concerned Citizen at 428 China Street
199. Gayle Concerned Citizen*
200. JB Concerned Citizen at 428 China
201. Guadalupe River Environmental Action Team (GREAT)
202. Kerr County Commissioners' Court:
 - Pat Tinley, County Judge
 - H.A. "Buster" Baldwin
 - Commissioner, Precinct 1
 - William H. Williams,
 - Commissioner, Precinct 2
 - Jonathan Letz, Commissioner,
 - Precinct 3
 - Dave Nicholson, Commissioner,
 - Precinct 4
203. Texas Rivers Protection Association(TRPA)