

February 13, 2009

Direct Phone Number: 512.867.8462

Direct Fax Number: 512.867.8692

james.braddock@haynesboone.com

**VIA HAND DELIVERY**

LaDonna Castañuela, Chief Clerk  
Texas Commission on Environmental Quality  
12100 Park 35 Circle, Bldg. F, Room 1101  
Austin, TX 78753

Attention: Agenda Docket Clerk, MC105  
TCEQ Docket No. 2008-1786-AIR

Re: Applicant Madison Bell Partners L.P.'s Response to Hearing Requests  
Application for Air Quality Permit No. 83378 and PSD-TX-1105  
Docket No. 2008-1786-AIR

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 FEB 13 PM 3:24  
CHIEF CLERKS OFFICE

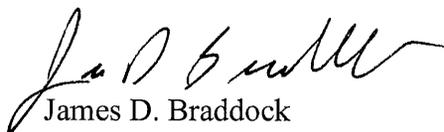
Dear Ms. Castañuela:

Enclosed for filing in the referenced and numbered matter is the original and seven copies of Applicant Madison Bell Partners L.P.'s (Madison Bell) Response to Hearing Requests. A copy of this Response is being served on the persons identified in the Certificate of Service at the end of the Response by the method indicated on that Certificate. Also enclosed is one additional copy which we request be file-stamped and returned to the courier making this delivery.

We also request that you revise your Mailing List identification of the Madison Bell contact person to correct a couple of minor errors. The correct listing should be:

Frank Giacalone, Chairman  
Madison Bell Partners L.P.  
403 Corporate Woods  
Magnolia, TX 77354-2758  
Tel.: (281) 252-5202; Fax: (832) 442-3259

Very truly yours,

  
James D. Braddock

Enclosures

219630\_1.DOC

DOCKET NO. 2008-1786-AIR

2009 FEB 13 PM 3:26

APPLICATION OF  
MADISON BELL PARTNERS LP  
FOR TCEQ AIR QUALITY  
PERMIT No. 83378 and  
PSD-TX-1105

§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
CHIEF CLERKS OFFICE

APPLICANT MADISON BELL PARTNERS LP'S RESPONSE  
TO LETTERS RECEIVED BY TCEQ REGARDING APPLICATION FOR  
AIR QUALITY PERMIT NO. 83378 AND PSD-TX-1105

TO THE COMMISSIONERS OF THE TCEQ:

MADISON BELL PARTNERS LP ("Madison Bell") requests that the Texas Commission on Environmental Quality ("TCEQ") issue the referenced permit without a contested case hearing because, as discussed more fully below, (1) the application satisfies all requirements for permit issuance and the only hearing requests, which were filed by Angela Farris Fannin, Charles L. Strawther and Patsy W. Strawther (the "Requestors"), were not timely or did not comply with applicable TCEQ regulations, and (2) the Requestors did not identify relevant and material disputed issues of fact or law raised during the public comment period and did not demonstrate that they are affected persons under TCEQ rules. Below, Madison Bell provides the procedural background for this matter, summarizes its position, and then discusses it. In that discussion, Madison Bell describes the proposed plant and its emissions, identifies and evaluates the requests for hearing, and provides its response to those requests.

I. PROCEDURAL BACKGROUND

On October 31, 2007, Madison Bell filed an application with the Texas Commission on Environmental Quality ("TCEQ") for Air Quality Permit No. 83378 and PSD-TX-1105. The permit will authorize the construction of a natural gas-fired power generation plant located

approximately six miles southwest of Madisonville. The site will be on County Road 413, a half mile south of the intersection of Highway 190 West and County Road 413, Madisonville, Madison County, Texas. The Executive Director declared the application administratively complete on November 30, 2007. Madison Bell published its Notice of Receipt of Application and Intent to Obtain an Air Quality Permit on December 19, 2007 in the Madisonville Meteor, a newspaper of general circulation in the City of Madisonville and Madison County, Texas. On December 21, 2007, the TCEQ received a request for a "public hearing" sent by Angela Farris Fannin.

The Executive Director completed technical review of the application on May 15, 2008, and Madison Bell published Notice of Application and Preliminary Decision (to issue the permit) on May 21, 2008 in the Madisonville Meteor. On June 3, 2008, the TCEQ received a letter from Angela Farris Fannin requesting "a contested case hearing."

On June 26, 2008, the TCEQ received identical letters from Charles L. Strawther and from Patsy W. Strawther, requesting a "public hearing." On August 12, 2008, in response to a request from State Representative Jim Dunnam, the Executive Director held a public meeting in Madisonville for a public discussion of the application. On October 2, 2008, the Executive Director filed his Response to Public Comments, which was mailed to interested persons on October 16, 2008. On January 30, 2009, the TCEQ Chief Clerk issued notice that the Commissioners of the TCEQ would consider the application and any timely filed hearing requests at their March 11, 2009 meeting.

## II. SUMMARY OF POSITION

- A. Based on the facts, Angela Farris Fannin is not an "affected person" entitled to a hearing because:

1. The maximum predicted concentrations of criteria air contaminants are not only insignificant -- in that they are less than a *de minimis* impact under TCEQ rules<sup>1</sup> at the Fannin house, they are also insignificant at all locations beyond the property boundaries of the plant. This fact distinguishes the proposed Madison Bell plant from coal-fired power plants that TCEQ has previously considered whose emissions exceed *de minimis* impacts at distances that are miles away from the emission points. And, the maximum predicted concentrations of the noncriteria air contaminants that the Executive Director requested be examined will be at least an order of magnitude below applicable TCEQ regulatory limits or effects screening levels (“ESLs”) at all locations beyond the property boundary of the proposed plant. All other air contaminants also will be substantially below applicable regulatory limits or ESLs. Thus, even at the point of Ms. Fannin’s property closest to the proposed plant, the impact of emissions from the plant will be insignificant.

2. Exposures to persons on the Fannin property and at the Fannin house would be essentially the same as the exposures to other members of the general public. The maximum predicted concentrations of air contaminants at distances beyond the Madison Bell property line are substantially similar to the concentrations at it.

3. The Fannin house is more than one mile away from the emission points at the proposed plant.

B. Based on the law, Angela Farris Fannin is not entitled to a hearing. The hearing requests did not comply with TCEQ rules and the requirements that were clearly explained in the public notices. The letter received from Angela Farris Fannin on December 21, 2007 did not

---

1 30 TAC §101.1(25)

indicate that she was requesting a “contested case hearing.” In addition, neither it nor her letter received June 3, 2008 following the second public notice provided a description of how she would be adversely affected by the application and the emissions in a way not common to the general public. Further, both letters raised only broad and unsupported concerns and thus failed to meet the requirement that hearing requests identify specific factual issues that are relevant and material to the decision on the application.

C. Based on the facts, neither Charles Strawther nor Patsy Strawther are an affected person entitled to a hearing. It is Madison Bell’s understanding that the Strawthers live in Madisonville approximately six miles away from the plant. The discussion regarding the affected person status of Angela Farris Fannin, in Section II. A. 1. above, also applies to the Strawthers’ claims since the impacts of emissions at the property they claim to own in the vicinity of the proposed plant will be less than *de minimis*, and the impacts at their actual residence, some six miles from the plant, will be even more insignificant.

D. Based on the law, Charles and Patsy Strawther are not entitled to a hearing. First, their hearing request was not timely. The May 21, 2008 public notice clearly stated that requests for contested case hearing had to be submitted within 30 days of the publication of the notice. Both Strawther letters were received by TCEQ on June 26, 2008, 6 days after the June 20, 2008 deadline. Therefore, these two hearing requests, to the extent they are considered by the Commissioners, may not be granted because they were not timely filed; TCEQ rules are clear that contested case hearing requests must be timely filed.<sup>2</sup> Second, the Strawthers did not follow the requirements of TCEQ rules and the directions in the public notice to request a “contested

---

<sup>2</sup> See 30 TAC §55.201(c) and (g) and 55.209 (a)

case” hearing; their request was for a “public” hearing. Third, the two Strawther letters are strikingly similar to the letters from Ms. Fannin and, like Ms. Fannin’s letters, failed to provide a description of how they would be adversely affected by the application and the emissions in a way not common to the general public; they raised only broad and unsupported concerns and thus failed to meet the requirements that hearing requests identify specific factual issues that are relevant and material to the decision on the application.

E. Madison Bell’s application for permit satisfies all requirements for approval, as evidenced by the Executive Director’s preliminary decision and response to comments, and should be approved without a hearing. The project also has the support of community leaders as evidenced by the letters of support attached as Attachment A.

### III. DISCUSSION

#### A. The Proposed Plant and Its Emissions

Madison Bell’s proposed 550-megawatt electric generating plant consists of four natural gas-fired 75-megawatt combustion turbines with associated heat recovery steam generators including duct burners, two 125-megawatt steam turbines, one diesel fuel-fired emergency generator, one diesel fuel-fired emergency firewater pump, two cooling towers and water treatment storage units. The plant will be on a 97-acre greenfield site in a rural area approximately six miles southwest of Madisonville, Texas.

The proposed plant is substantively identical to two existing plants in Texas: one near Wharton, the other near Odessa. All three plants – the two existing and the one proposed here -- are owned and operated by a partnership formed by Navasota Energy Partners LP. The two existing plants, which have operated since May 2007, are in compliance with the emission limitations as demonstrated by testing and other methods commonly accepted in the field of air

pollution control. Since the proposed Madison Bell plant is substantively identical to the existing plants, it too can be expected to operate in full compliance.

The power generated by the existing and proposed plants is needed to serve the ever growing demand for electricity in the state, and the Electric Reliability Council of Texas (“ERCOT”) is already counting on the electricity to be generated by the plant to enable it to meet its future standards for operating reserve capacity. ERCOT establishes operating reserve capacity standards to ensure that the public health and safety is protected by an adequate supply of electricity. The proposed plant can also serve as a dual interconnection to the Texas portion of the needs of Entergy Services Inc., in the Madison County area.

As set forth in the application and as confirmed by the review of the TCEQ’s executive director, emissions from the plant will comply with all applicable rules and regulations. The plant will meet or exceed the requirements of best available control technology (“BACT”) for all air contaminants, including use of dry-low nitrogen oxide (“NOx”) burners, selective catalytic reduction, good combustion practices, clean fuel, and drift eliminators. Dispersion modeling was performed to support the application, and the results showed that at all points beyond the property boundaries of the plant, the worst case potential maximum expected concentrations of criteria air contaminants are below TCEQ’s *de minimis* levels and that the potential maximum expected concentrations of other air contaminants of concern, including toxic air contaminants, are at least an order of magnitude below applicable standards set forth in TCEQ rules or the appropriate ESLs established by the executive director. Attachment B contains a table and charts comparing the potential maximum expected concentrations of air contaminants, as predicted by the dispersion model, to applicable standards, *de minimis* levels, and effects screening levels. All

other standards for permit issuance, including those unique to the Prevention of Significant Deterioration (“PSD”) program, also are satisfied.

Moreover, the dispersion of the emissions from the plant results in concentrations at and beyond the Madison Bell property line that, in addition to being insignificant, are essentially the same as concentrations at any other point at or beyond the Madison Bell property line. Therefore, exposure to the emission concentrations that would occur at the Strawther or Fannin properties essentially is the same exposure as will occur anywhere beyond the Madison Bell property line. Graphical depictions of the emission dispersion characteristics towards and beyond the Fanning property are at Attachment C. Attachment D, the affidavit of Mr. Jeffrey L. Meling, Madison Bell’s environmental consultant, provides a detailed explanation of the methodologies used to develop Attachments B and C.

B. THE REQUESTS FOR HEARING

There were three periods for requesting a contested case hearing on the application. The first was following publication of the Notice of Receipt of Application and Intent to Obtain Permit. Ms. Fannin’s first letter, requesting a “public” (not contested case) hearing, was received within the thirty-day period for contested case hearing requests following publication of the first notice.

The second thirty day period for contested case hearing requests followed publication of the Notice of Application and Preliminary Decision. Ms. Fannin’s second letter requesting a contested case hearing was received within that period. The Charles and Patsy Strawther’s letters were received six days after the close of the period for requesting contested case hearings.

The third thirty day period for contested hearing requests occurred following issuance of the Executive Director's Response to Public Comments. There was no hearing request filed in that third period.

C. STANDARDS FOR REQUESTS FOR HEARING

Section 55.201(d) of 30 TAC sets forth the requirements for hearing requests. These requirements are simple and easy to satisfy. For individuals, the request must include the name, address and daytime telephone number of the person making the request. The request must identify the person's justiciable interest affected by the application and include a specific written statement explaining the requestor's location and the distance relative to the subject of the application, and how and why they believe they will be affected by the activity in a manner not common to members of the general public. There must be a specific request for a contested case hearing and the request must include any other information specified in the public notice of the application. The public notices of the application, which Madison Bell published, made the same points, stating in bold-faced type that "a hearing request must include: (1) your name, . . . mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "I/we request a contested case hearing"; (4) a specific description of how you would be adversely affected by the application and air emissions from the facility in a way not common to members of the general public; (5) the location and distance of your property relative to the facility; and (6) a description of how you use the property which may be impacted by the facility."

1. Ms. Fannin's First Letter

Ms. Fannin's first letter, submitted following the publication of the Notice of Application and Intent to Obtain Permit, did not comply with the requirements for contested case hearing

requests and therefore should not be considered. The letter merely asked for a public hearing -- a different proceeding from a contested case hearing. A "public meeting," which allowed persons to submit comments, was conducted on August 12, 2008, in Madisonville. Ms. Fannin's letter also failed to include a specific description of how she would be adversely affected by the application and air emissions from the facility in a way not common to members of the general public. Her letter merely identified five broadly worded "concerns" and contained no assertion of adverse effects or any explanation as to how adverse effects could occur. Further, her letter did not state the location of her property.

2. Ms. Fannin's Second Letter

Ms. Fannin's second letter, submitted following publication of the Notice of Application and Preliminary Decision, also failed to satisfy the requirements for consideration as a valid hearing request. Although the second letter did request a contested case hearing and provided a description of the location of her property, it failed to provide a specific description of how she would be adversely affected by the application and air emissions from the facility in a way not common to members of the general public. The second letter merely restated the five "concerns" contained in the first letter and added the irrelevant notation that the proposed site formerly contained a "pesticide/herbicide spraying operation" that may have resulted in chemicals being present that could result in runoff caused contamination of humans and plants.<sup>3</sup>

---

<sup>3</sup> The TCEQ's Waco Regional Office investigated the allegations of soil contamination, took and analyzed samples, and found that there were no violations of TCEQ standards. (Letter dated October 27, 2008 from Richard Monreal, TCEQ Waco Office to Jeanne Drake, Navasota Energy Partners LP.)

### 3. The Charles and Patsy Strawther Letters

The two identical letters from the Strawthers are substantially the same as the Fannin letters but were not received during any of the thirty day periods for requesting a contested case hearing. For this reason alone, under the authority of 30 TAC Chapter 55, the Strawthers are not entitled to a contested case hearing. The Strawthers' letters were file-stamped by the Chief Clerk on June 26, 2008, six days after the close of the second period for requesting a contested case hearing and months before the start of the third period for hearing requests. The Texas Clean Air Act, TCEQ rules, and the actual public notices distinguish between public comment periods and periods for contested case hearings requests. Accordingly, the extension of the public comment period that results from the holding of a public meeting (which was done for this application) does not extend the period for requesting a contested case hearing. Therefore, there is no basis for concluding that the Strawther hearing requests were timely filed.

If TCEQ disregards the failure of the Strawthers to timely file their request, the fact that their letters are identical to each other and are substantially similar to the Fannin letters means that they suffer from the same deficiencies as the Fannin letters. The Strawthers ignored the directions in the notice and never requested a contested case hearing. Their hearing requests did not provide a specific description of how they would be adversely affected by the application and air emissions from the facility in a way not common to members of the general public. Their letters merely identified five broadly worded "concerns" and added an irrelevant notation regarding the prior existence of a pesticide/herbicide spraying operation; these are the same concerns expressed in Ms. Fannin's letters. The Strawthers' letters did not assert that they would suffer any adverse effects, let alone effects that would be different from those experienced by the general public.

Since none of the hearing requests meet the Rule 55.201(d) standards for requesting a contested case hearing, there is no basis for calling a hearing and the permit should be issued.

D. RESPONSE TO THE HEARING REQUESTS

Although, for the reasons stated above, we believe that there are no valid requests for a contested case hearing, we have set forth below a detailed response to Ms. Fannin's and the Strawthers' letters. This response demonstrates that even if those letters are considered to be valid requests for a hearing, they fail to meet TCEQ standards for the granting of a hearing. For that reason too, they should be denied, the executive director's response to comments should be adopted, and the requested permit should be issued.

1. Standards for Valid Contested Case Hearing Requests

TCEQ Rules, 30 TAC Chapter 55, Subchapter F, provide the standards for contested case hearing requests. Those rules direct that the hearing request substantially comply with the following: give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request; identify the requestor's personal justiciable interest affected by the application showing why the requestor is an "affected person" who may be adversely affected by the proposed facility or activity in a manner not common to members of the general public; request a contested case hearing; list all relevant and material disputed issues of fact that were raised during the comment period that are the basis of the hearing request; and provide any other information specified in the public notice of application.<sup>4</sup>

---

<sup>4</sup> 30 TAC §55.201(d).

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.”<sup>5</sup> An interest common to the general public is not a personal justiciable interest.<sup>6</sup> The relevant factors in determining whether a person is affected include:<sup>7</sup>

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restriction or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health, safety, and use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities; their statutory authority over or interest in the issues relevant to the application.

The Commission shall grant an affected person’s timely filed hearing request if: (1) the request is made pursuant to a right to hearing authorized by law; and (2) the request raises disputed issues of fact that were raised during the comment period and that are relevant and material to the commission’s decision on the application.<sup>8</sup>

## 2. Standards for Responses to Hearing Requests

Section 55.209(e) of 30 TAC, directs that responses to hearing requests address:

- (1) whether the requestor is an affected person;
- (2) which issues raised in the hearing request are disputed;
- (3) whether the dispute involves questions of fact or law;
- (4) whether the issues were raised during the public comment period;
- (5) whether the hearing request is based on issues raised solely in a public

---

<sup>5</sup> 30 TAC §55.203(a).

<sup>6</sup> *Id.*

<sup>7</sup> 30 TAC §55.203(c).

<sup>8</sup> 30 TAC § 55.211(c).

comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's response to Comment;

- (6) whether the issues are relevant and material to the decision on the application; and
- (7) a maximum expected duration for the contested case hearing.

3. Analysis of the Hearing Requests

a. Ms. Fannin and the Strawthers are Not Affected Persons

All three Requestors failed to satisfy the requirements of TCEQ rules, restated in the public notices which prompted their requests, to provide a specific, written statement on "how and why the requestor believes he or she will be adversely affected by the proposed facility in a manner not common to members of the general public." All four letters merely expressed "concerns" regarding the application.

The personal justiciable interest standard is part of the definition of "affected person" and the burden is on hearing requestors to demonstrate that they are an affected person. To have a personal justiciable interest, the hearing requestors also must demonstrate that their interest is not common to the members of the general public, that a reasonable relationship exists between the interests claimed and the activity regulated, the likely impact of the regulated activity on their health and safety, and the likely impact of the regulated activity on use of the impacted natural resource.

Based upon the information in Attachment D, Mr. Meling's affidavit, Ms. Fannin's house is more than one mile from the plant. The Strawthers live approximately six miles from the plant. Neither Ms. Fannin nor the Strawthers assert that they would be "adversely affected" or impacted in a manner not common to the members of the general public, or that their health, safety or use of property would be adversely affected.

To the extent that such assertions could somehow be inferred based upon the listing of “concerns,” all three Requestors still fail to demonstrate a justiciable interest because they provide no basis for an assertion that they would be adversely affected. Moreover, the application and the executive director’s review amply demonstrate that there will be no adverse effects to Ms. Fannin, the Strawthers, or anyone else and that any impacts on them are the same impacts that would be experienced by the general public. Madison Bell has analyzed the possible impacts of air contaminants from the plant at the properties identified in the hearing requests. As set forth below, this analysis demonstrates that there would be no adverse effects to health or property and that any impact of air contaminants from the Madison Bell plant at those properties would not affect any interests of Ms. Fannin or the Strawthers in a manner not common to members of the general public.

In Attachment D, Mr. Meling describes how he analyzed the results of computer dispersion modeling using commonly accepted scientific techniques to predict, based upon the emission rates in the draft permit, the worst case maximum concentrations of air contaminants that would occur at any point beyond the Madison Bell property boundaries and at the house of Ms. Fannin. Attachment B provides the maximum off-property concentrations for the criteria air contaminants predicted by the model, and compares them to the National Ambient Air Quality Standards (“NAAQS”) and the “*de minimis* impact” levels established in TCEQ rules. Under TCEQ procedures, concentrations that are *de minimis* or less are considered to be so insignificant that further impact analyses for those air contaminants is not required; these are the same levels that EPA classifies as “insignificant” in its PSD rules. As previously noted, concentrations of criteria air contaminants from the proposed Madison Bell plant are below *de minimis* at all points beyond the Madison Bell property, which encompass all property interests claimed by Ms.

Fannin and the Strawthers. Attachment B also contains the results of modeling of other air contaminants for which there are TCEQ regulatory standards and of the significant toxic air contaminants for which the executive director requested analysis and are addressed by TCEQ-established Effect Screening Levels (“ESL”). These other air contaminants are toluene, sulfuric acid mist, sulfur dioxide, ammonia and formaldehyde. The results of the modeling as contained in Attachment B show that the maximum predicted off-property concentrations are at least an order of magnitude below the applicable regulatory standard or effects screening levels. Analysis of other air contaminants that may be emitted demonstrates that the maximum predicted off-property concentration will be less than 16% of the respective ESL, and the 16% level pertains only to polycyclic organic matter and only during the unusual event where the emergency engines were operating at the same time as the combustion turbines. As the Commissioners are aware, TCEQ toxicologists believe that concentrations below an ESL would not have any adverse effect on human health or property, or other interests protected under the Texas Clean Air Act; concentrations above an ESL would not necessarily have an adverse effect, but may be looked at more closely by the TCEQ to determine whether the permit may be approved. The concentrations here are clearly insignificant and would not have an adverse effect or any other impact on the health or safety of Ms. Fannin, the Strawthers, or the uses of their properties.

Mr. Meling’s affidavit provides further support for the conclusion that Ms. Fannin and the Strawthers are not affected persons. Their interests are common to members of the general public. Mr. Meling’s affidavit demonstrates that the concentrations of air contaminants, both at Ms. Fannin’s house and at the properties in question, are not significantly different than the

concentrations that would be experienced at locations beyond those areas. This fact is clearly demonstrated by the graphs in Attachment C.

b. There are no Material or Relevant Issues Raised In The Hearing Requests

All four hearing requests also failed to comply with the TCEQ requirement to list relevant and material disputed issues of fact, which were raised during the public comment period, that are the basis of the hearing request. The TCEQ rule stating this requirement<sup>9</sup> explains that the requestor should specify any of the Executive Director's responses to comments that the requestor disputes and the factual basis of that dispute.<sup>10</sup> Ms. Fannin and the Strawthers do not identify any factual disputes they have with the application; they merely stated that they have "concerns" regarding the application. They do not identify how those concerns are relevant or material. They do not provide any information to counter the TCEQ and Madison Bell conclusions that the emissions proposed in the application would be in full compliance with the requirements for issuance of the permit.

Set forth below are responses to each of the stated concerns:

1. "The welfare of wild turkeys and wild ducks on my property . . ." (Fannin)
2. "The welfare of my family as we engage in our ranching livelihood" (Fannin)
3. "The welfare of my cattle" (Fannin)
4. "The welfare of my livestock and hay production" (Strawthers)
5. "The welfare of my family and others working on my property" (Strawthers)
6. "The welfare of wild game on my property (deer, wild turkey, etc.)" (Strawthers)

---

9 30 TAC § 55.201(d)(4).

10 Neither Ms. Fannin nor the Strawthers filed any comments regarding the Executive Director's Response to Comments and thus did not comply with the TCEQ rules.

Ms. Fannin and the Strawthers do not state that any of the above welfare concerns will be adversely impacted by emissions from the proposed plant, nor do they provide an explanation of which air contaminants would cause an adverse effect and how that effect would occur.

Even if these concerns take place on the portions of the properties closest to the plant, the Requestors still failed to demonstrate that there is any factual issue. They raised no disputes with the emissions in the draft permit, the modeling and predicted concentrations of those emissions, and the Madison Bell and the Executive Director's conclusions that the emissions would comply with the Texas Clean Air Act requirements and all applicable air quality rules. The Act and the air quality rules require that emissions of air contaminants must not be injurious to or adversely affect human health or welfare, animal life, vegetation or property or interfere with the normal use and enjoyment of animal life, vegetation or property. Both the executive director and Madison Bell have concluded, following detailed and exhaustive scientific review, that those standards will be achieved. In addition to not disputing the executive director and Madison Bell conclusions, or even alleging that welfare concerns were related to emissions of air contaminants, the Requestors did not provide any basis, let alone a scientific basis, for disputing the conclusions. Accordingly, the above three concerns do not rise to the level of a disputed issue of fact.

7. The addition of contaminants to the air already present due to the proximity of a sour gas plant on adjoining property (Fannin and Strawthers)

The Requestors did not state that the alleged addition of air contaminants would constitute a violation or exceedance of any of the standards for obtaining an air quality permit. They further did not assert that the addition of the air contaminants would cause any harm to them or their property interests. Although they did not identify the sour gas plant of concern,

Madison Bell is aware of a gas treatment plant known as the Madisonville Treatment Plant located more than one mile south southeast of the site of the proposed Madison Bell plant. Since the Fannin property is northeast and the Strawther property is southwest of the proposed plant site, there is no wind direction that would align the gas plant and the Madison Bell plant with those properties; consequently, any additive effects would be minimal. Further, the air contaminant of greatest concern with a gas treatment plant is hydrogen sulfide; there will be virtually no hydrogen sulfide emissions from the Madison Bell plant due to the minimal amount of sulfur present in the natural gas that will be used and the efficiency of the combustion process that will burn the natural gas. Again, this “concern” does not constitute a material or relevant issue of disputed fact.

8. Traffic congestion on State Highway 21 where it intersects with Strawther Road

Even if the concern of traffic congestion could be construed to rise to the level of a disputed issue of fact, it is clear that traffic congestion is not a relevant consideration in air quality permitting. There are no requirements that air quality permit applicants address possible traffic congestion. Accordingly, this also is not a disputed issue that is relevant or material to the decision on the application.

9. The possible contamination of the ground at the proposed plant site caused by the alleged former operation of a pesticide/herbicide spraying operation that could cause runoff contamination.

The Requestors provided no specific information to support this concern. The issue of runoff contamination from the site is not relevant to the decision on an air quality application. Further, as noted earlier, the TCEQ took soil samples, stated no violations would be alleged, and

took no further action. This concern also is not a disputed issue relevant to the decision on the application.

c. The Disputed Issues If a Hearing Is Called

Ms. Fannin and the Strawthers have not identified or even asserted that Madison Bell has failed to demonstrate that all of the standards for permit issuance will be met. They have not disputed that the proposed control technology meets TCEQ requirements, that the draft permit accurately represent the emissions that would come from the plant, and that those emissions would comply with all applicable rules and regulations. Accordingly, none of those issues are appropriate for referral for a contested case hearing. Although Madison Bell disagrees that a contested case hearing should be granted, should TCEQ refer the application for hearing, the only possible relevant and material factual issue suggested by the four letters would be whether the projected concentrations of air contaminants contained in the application would be injurious to or adversely affect health or welfare, animal life, vegetation or property or interfere with the normal use and enjoyment of animal life, vegetation or property at the properties identified in the letters.

d. Duration of Hearing

Given that any possible relevant and material issue of fact raised in Ms. Fannin's letters is limited in scope, Madison Bell believes that the duration of the hearing should be no more than four months from the date the request for hearing is sent to the State Office of Administrative Hearings ("SOAH").

IV. CONCLUSION

Section 55.209(e) of 30 TAC identifies the elements that should be addressed in a response to a hearing request. For the reasons set forth in this response, that there are no valid

hearing requests in this matter. Assuming, however, for the sake of argument, that there are valid hearing requests, the hearing requests should be denied. In summary and responsive to the subsections of TCEQ Rule 55.209(e) that set forth the requirements for responses to hearing requests:

(1) Neither Ms. Fannin nor the Strawthers are affected persons;

(2) The listing of “concerns” does not raise a disputed issue. Madison Bell’s application clearly demonstrates that emissions of all air contaminants would be in full compliance with all requirements of the Texas Clean Air Act, including the intent of that Act, and the applicable requirements of the TCEQ. The Requestors did not dispute and provided no facts or basis for disputing the conclusions of both the application and the executive director regarding the standards for permit issuance; therefore, there are no disputed issues;

(3) Madison Bell agrees that Ms. Fannin’s “concerns” were raised during the first and second public comment periods, but disagrees that those concerns constitute “issues.” Madison Bell does not agree that the Strawthers’ concerns were raised during the public comment periods and also disagrees that those concerns constitute issues;

(4) There have been no comments withdrawn by the commenter in writing;

(5) To the extent Ms. Fannin’s and the Strawthers’ “concerns” rise to the level of issues,<sup>11</sup> the only issue that is relevant and material is whether the air contaminants set forth in the application and draft permit would adversely affect the interest identified in their concerns.

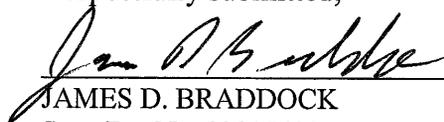
(6) If Ms. Fannin’s and the Strawthers’ concerns are determined to comprise an issue, it is an extremely limited one. They have not disputed either the projected types and amounts of

---

<sup>11</sup> This does not include the concerns regarding traffic congestion and the alleged pesticide/herbicide operation which clearly are irrelevant.

air contaminants that would be emitted from the plant, nor the dispersion characteristics, including projected maximum concentrations of those emissions. Therefore, the only issue would be whether the projected maximum concentrations of air contaminants, as contained in the air quality analysis submitted by Madison Bell and in the executive director's preliminary decision, would adversely affect the welfare of people working on the subject property and wild turkeys, wild ducks, and deer, and cattle, as well as hay production, on the subject property. Accordingly, although a contested case hearing is not warranted, should a hearing be called, the duration should be no longer than four months from the date of referral to SOAH.

Respectfully submitted,



---

JAMES D. BRADDOCK  
State Bar No. 02815400  
HAYNES AND BOONE, LLP  
600 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Telephone: (512) 867-8462  
Telecopier: (512) 867-8692

JEFF CIVINS  
State Bar No. 04256700  
600 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Telephone: (512) 867-8477  
Telecopier: (512) 867-8691

**ATTORNEYS FOR APPLICANT MADISON BELL  
PARTNERS LP**

CERTIFICATE OF SERVICE

By my signature below, I certify that a copy of this response was served on the following individuals by the method indicated below, on February 13, 2009

  
James D. Braddock

FOR THE APPLICANT

Frank Giacalone, Chairman  
Madison Bell Partners, LP  
403 Corporate Woods  
Magnolia, TX 77354-2758  
Tel.: (281) 252-5202  
Fax: (832) 442-3259

FOR THE EXECUTIVE DIRECTOR

VIA HAND-DELIVERY

Erin Selvera, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division, MC-173  
12100 Park 35 Circle, Building A, 3<sup>rd</sup> Floor  
Austin, TX 78753  
Tel.: (512) 239-0600  
Fax: (512) 239-0606

Erik H. Hendrickson, Technical Staff  
Texas Commission on Environmental  
Quality  
Air Permits Division, MC-163  
12100 Park 35 Circle, Building C, 2<sup>nd</sup> Floor  
Austin, TX 78753  
Tel.: (512) 239-1095  
Fax: (512) 239-1300

Beecher Cameron, Technical Staff  
Texas Commission on Environmental  
Quality  
Air Permits Division, MC-163  
12100 Park 35 Circle, Building C, 329 East  
Austin, TX 78711-3087  
Tel.: (512) 239-1495; Fax: (512) 239-1300

FOR PUBLIC INTEREST COUNSEL

VIA HAND DELIVERY

Mr. Blas J. Coy, Jr., Attorney  
Texas Commission on Environmental  
Quality  
12100 Park 35 Circle, Bldg. F, Suite 259  
Austin, TX 78753  
Tel.: (512) 239-6363  
Fax: (512) 239-6377

FOR OFFICE OF PUBLIC ASSISTANCE

VIA HAND DELIVERY

Ms. Bridget Bohac, Director  
Texas Commission on Environmental  
Quality  
Office of Public Assistance, MC-108  
12100 Park 35 Circle, Bldg. F, 3<sup>rd</sup> Floor  
Austin, TX 78753  
Tel.: (512) 239-1056  
Fax: (512) 239-4007

FOR ALTERNATIVE DISPUTE  
RESOLUTION

VIA HAND DELIVERY

Mr. Kyle Lucas  
Texas Commission on Environmental  
Quality  
Alternative Dispute Resolution, MC-222  
12100 Park 35 Circle, Bldg. F, 4<sup>th</sup> Floor  
Austin, TX 78753  
Tel.: (512) 239-0687  
Fax: (512) 239-4015

CHIEF CLERKS OFFICE  
2009 FEB 13 PM 3:26  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

FOR THE CHIEF CLERK  
(Original and seven copies)

VIA HAND DELIVERY

Ms. LaDonna Castañuela  
Texas Commission on Environmental  
Quality  
12100 Park 35 Circle, Bldg. F, Room 1101  
Austin, TX 78753  
Tel.: (512) 239-3300  
Fax: (512) 239-3311

REQUESTORS

VIA U.S. FIRST CLASS MAIL

Angela Farris Fannin  
P.O. Box 753  
Madisonville, TX 77864-0573

Charles L. Strawther  
P.O. Box 552  
Madisonville, TX 77864

Patsy W. Strawther  
P.O. Box 552  
Madisonville, TX 77864

ATTACHMENT A  
LETTERS OF SUPPORT





Commissioner  
**RONALD STANDLEY**  
Precinct 1

Commissioner  
**PHILLIP GRISHAM**  
Precinct 2

### Madison County Commissioners Court

101 West Main, Room 110  
Madisonville, Texas 77864  
(936)348-2670 Fax: (936)348-2690

**ARTHUR M. HENSON**  
County Judge

Commissioner  
**TOMMY CORNELIUS**  
Precinct 3

Commissioner  
**MARY ANDRUS**  
Precinct 4

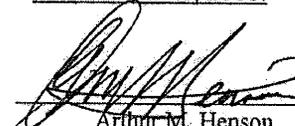
December 15, 2008

Re: Texas Commission on Environmental Quality Pending permit No. 83378 and PSD TX 1105

Madison County is primarily an agricultural community and consequently County Government and services are funded in a large part by taxes from agricultural property. We are always looking for opportunities to expand our economy and tax base. Locating new industry that is environmentally friendly and that will provide long term employment opportunities with competitive wages and benefits for our current work force and employment opportunities for our young people who are graduating from high school and college, will help achieve this goal. Based on our information, construction of the proposed electric generating plant will provide 200 plus jobs during construction and will provide 15-20 permanent jobs after plant is completed. This plant will also provide much needed generating capacity for Texas's increasing energy needs.

The Madison County Commissioners Court supports Madison Bell Partners' L.P. pending application for Air Quality Permit No. 83378 and PSD TX 1105 as long as the Commission's decision to issue the permit is based on the latest and best technology and scientific evidence available and will not cause the air quality to deteriorate. We do not support any action that would cause long term damage to the environment of Madison County.

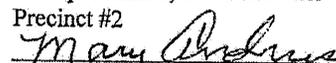
Approved in Commissioners Court the 22<sup>nd</sup> December, 2008.

  
Arthur M. Henson  
Madison County Judge

  
Ronald Standley, Commissioner  
Precinct #1

  
Tommy Cornelius, Commissioner  
Precinct #3

  
Phillip Grisham, Commissioner  
Precinct #2

  
Mary Andrus, Commissioner  
Precinct #4

  
Charlotte Barrett  
Madison County Clerk

ATTACHMENT B

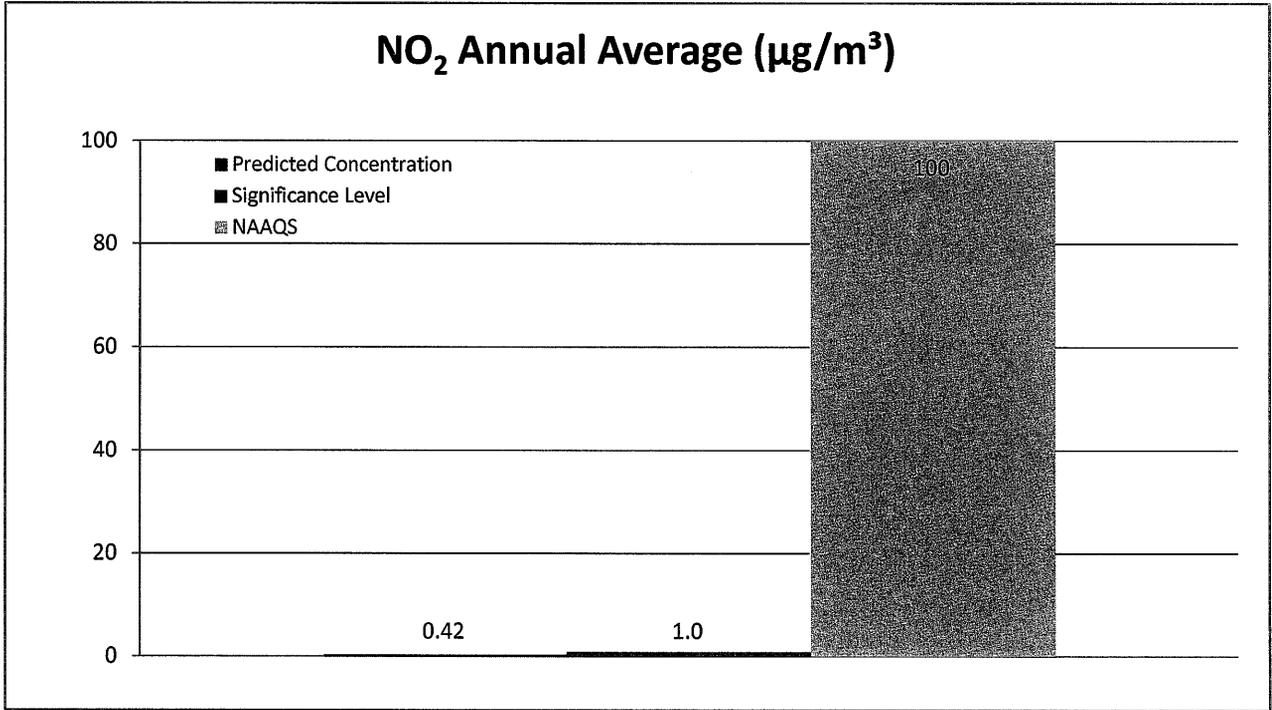
COMPARISON OF MAXIMUM EXPECTED  
CONCENTRATIONS OF EMISSIONS

### Maximum Predicted Concentrations Versus Target Levels

Pollutant	Maximum Predicted Concentration ( $\mu\text{g}/\text{m}^3$ )	Averaging Time	PSD Significance Level ( $\mu\text{g}/\text{m}^3$ )	Percent of PSD Significance Level (%)
NO <sub>2</sub>	0.42	Annual	1	42.0
PM <sub>10</sub>	0.9	Annual	1	90.0
PM <sub>10</sub>	4.73	24-hour	5	94.6
CO	105	8-hour	500	21.0
CO	228	1-hour	2,000	11.4

			Net Ground Level Concentration ( $\mu\text{g}/\text{m}^3$ )	Percent of NET GLC (%)
SO <sub>2</sub>	13.3	30-minute	1,021	1.3
H <sub>2</sub> SO <sub>4</sub>	0.1	24-hour	50	0.2
H <sub>2</sub> SO <sub>4</sub>	0.06	1-hour	15	0.4

			Effects Screening Level ( $\mu\text{g}/\text{m}^3$ )	Percent of ESL (%)
Ammonia	0.61	Annual	17	3.6
Ammonia	5.68	1-hour	170	3.3
Formaldehyde	0.02	Annual	3.3	0.6
Formaldehyde	0.18	1-hour	15	1.2
Toluene	0.01	Annual	1,200	0.001
Toluene	0.08	1-hour	640	0.013

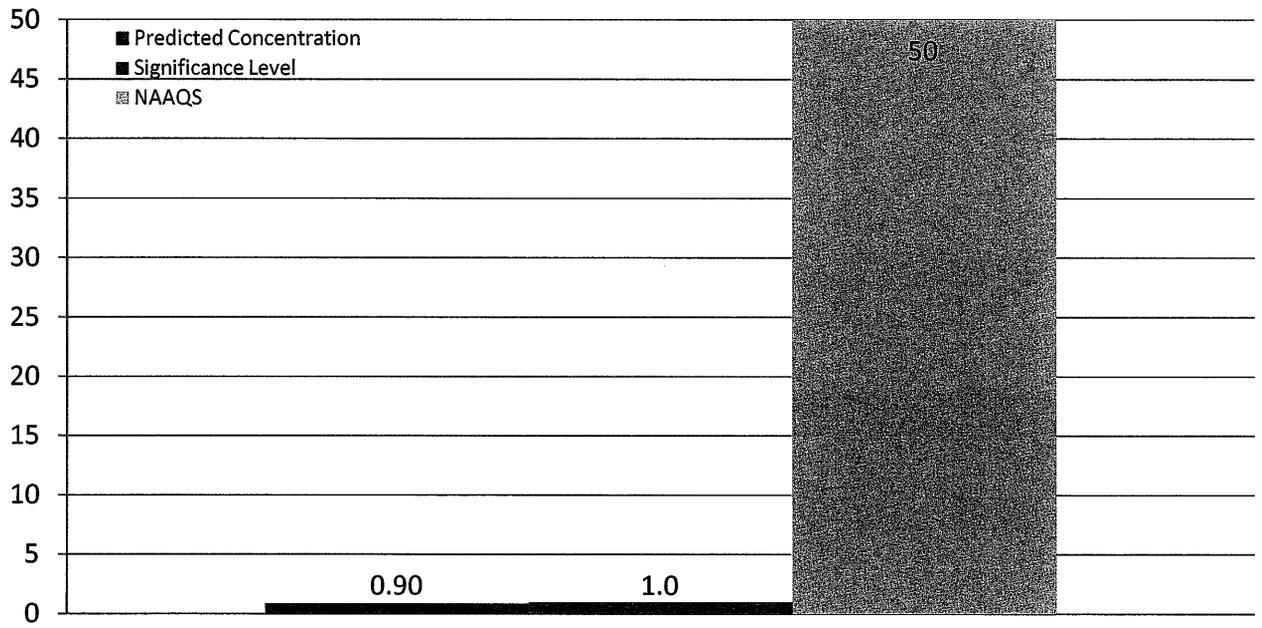


MAXIMUM PREDICTED CONCENTRATION OF NO<sub>2</sub>  
VERSUS THE PSD SIGNIFICANT IMPACT LEVEL  
AND NATIONAL AMBIENT AIR QUALITY STANDARD

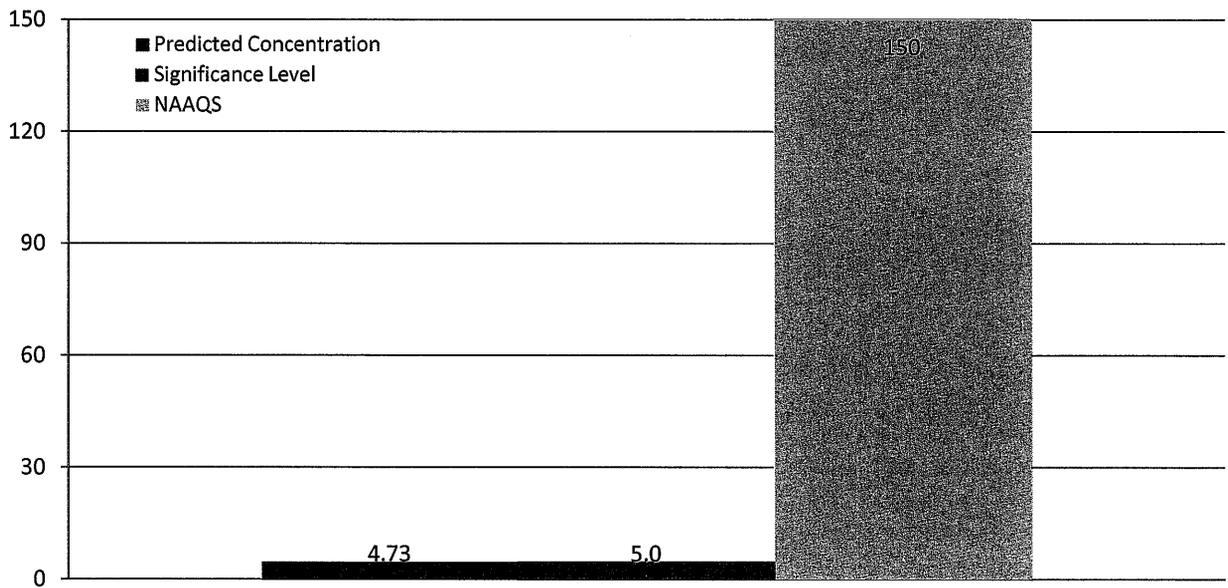
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

### PM<sub>10</sub> Annual Average (µg/m<sup>3</sup>)



### PM<sub>10</sub> 24-Hour Average (µg/m<sup>3</sup>)

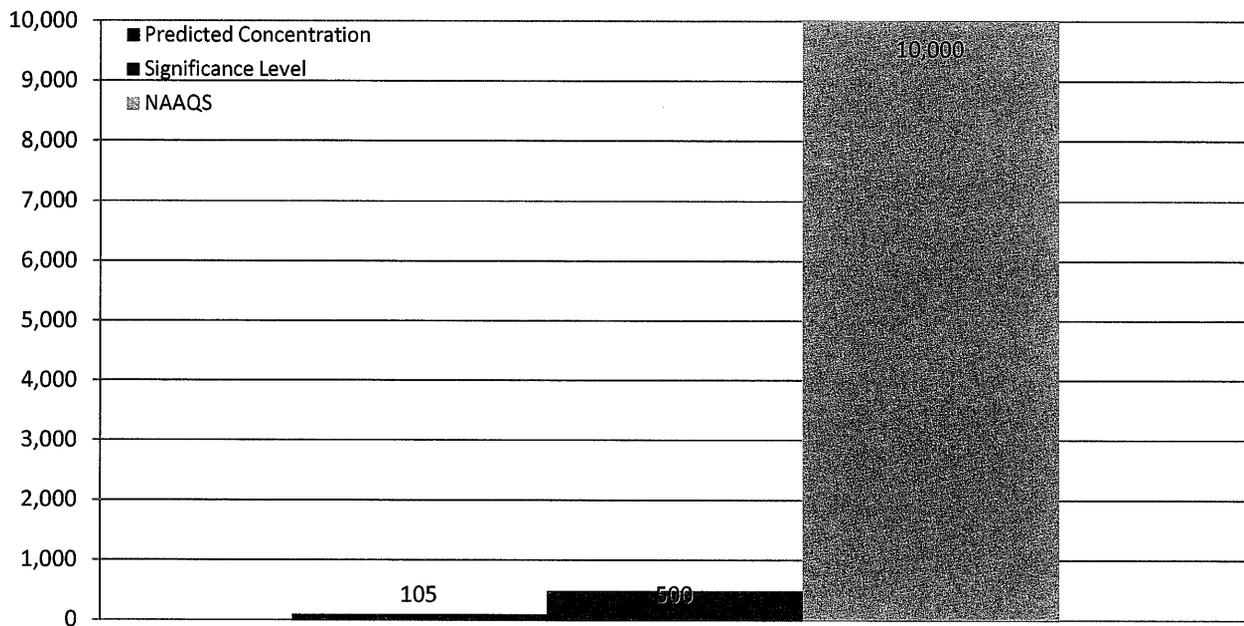


MAXIMUM PREDICTED CONCENTRATION OF PM<sub>10</sub>  
VERSUS THE PSD SIGNIFICANT IMPACT LEVEL  
AND NATIONAL AMBIENT AIR QUALITY STANDARD

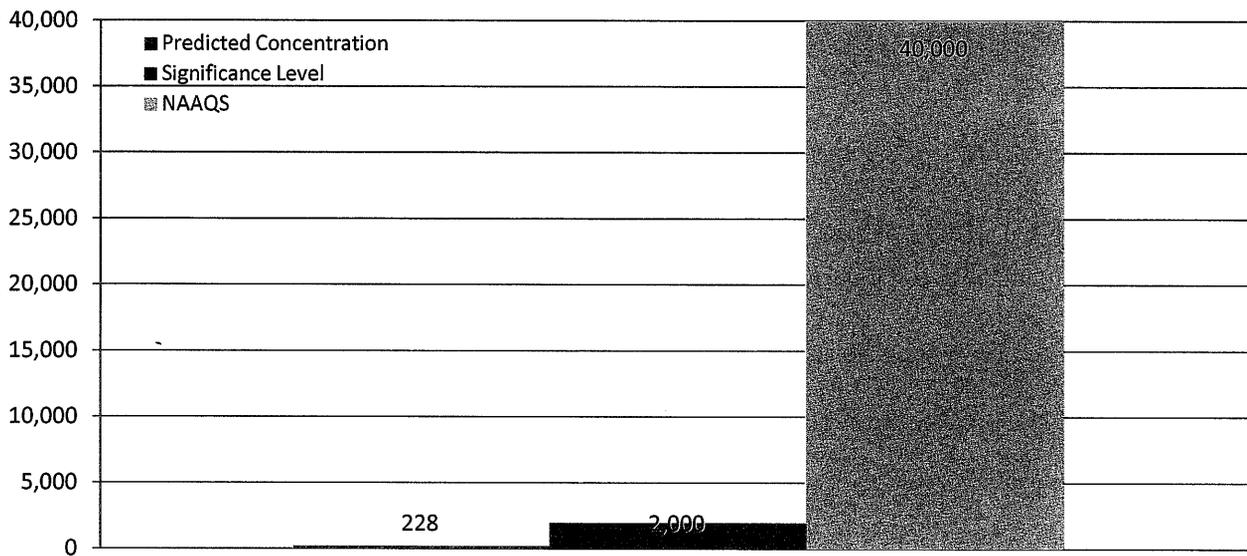
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

### CO 8-Hour Average ( $\mu\text{g}/\text{m}^3$ )



### CO 1-Hour Average ( $\mu\text{g}/\text{m}^3$ )



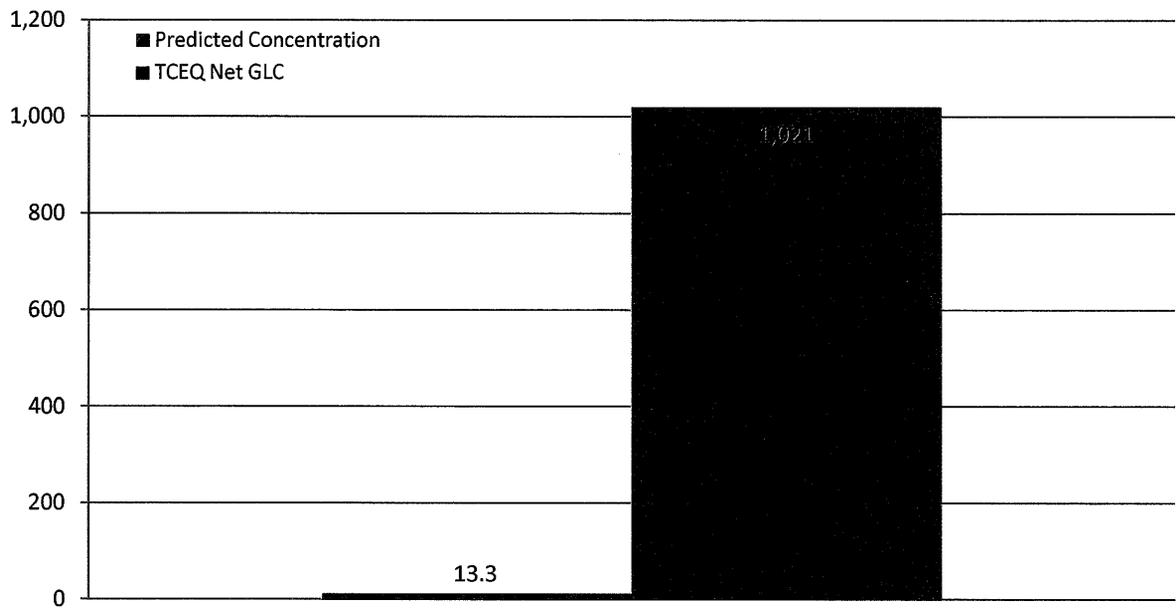
MAXIMUM PREDICTED CONCENTRATION OF CO  
VERSUS THE PSD SIGNIFICANT IMPACT LEVEL  
AND NATIONAL AMBIENT AIR QUALITY STANDARD

Source: ECT, 2009.

**ECT**

Environmental Consulting & Technology, Inc.

### SO<sub>2</sub> 30-Minute Average (µg/m<sup>3</sup>)

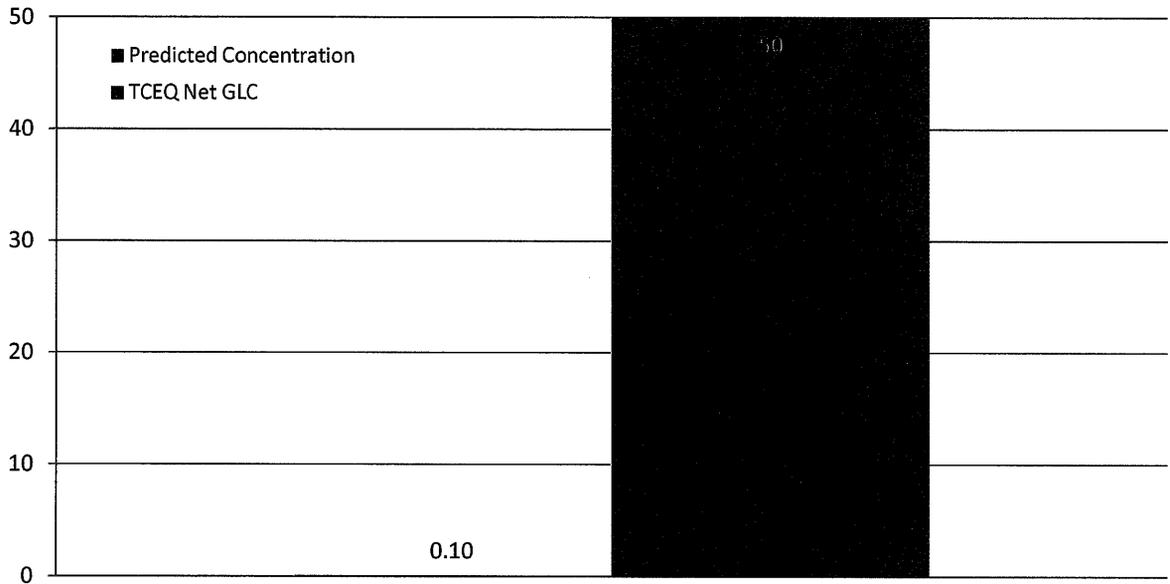


MAXIMUM PREDICTED CONCENTRATION OF SO<sub>2</sub>  
VERSUS THE TCEQ NET GROUND LEVEL  
CONCENTRATION

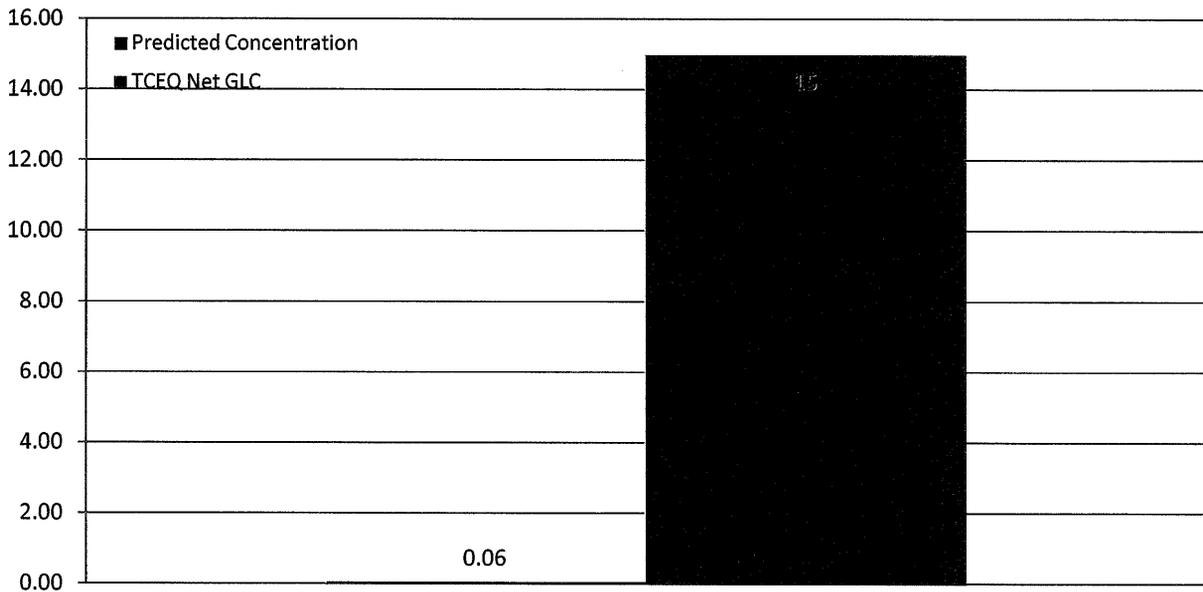
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

### H<sub>2</sub>SO<sub>4</sub> 1-Hour Average (µg/m<sup>3</sup>)



### H<sub>2</sub>SO<sub>4</sub> 24-Hour Average (µg/m<sup>3</sup>)

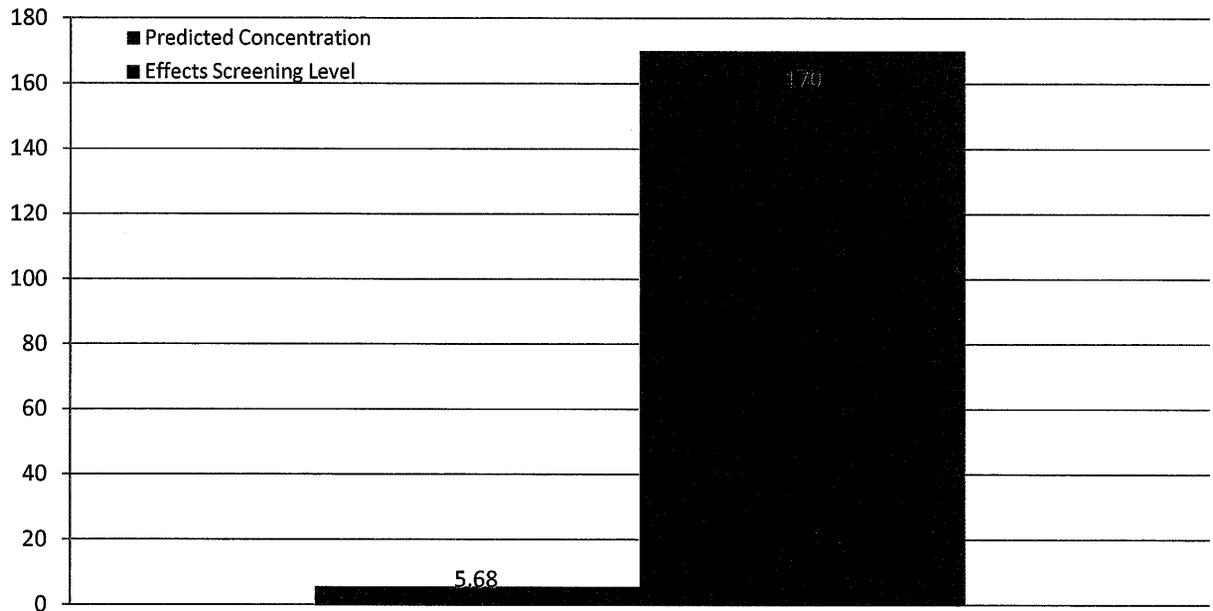


MAXIMUM PREDICTED CONCENTRATION OF H<sub>2</sub>SO<sub>4</sub>  
VERSUS THE TCEQ NET GROUND LEVEL  
CONCENTRATION

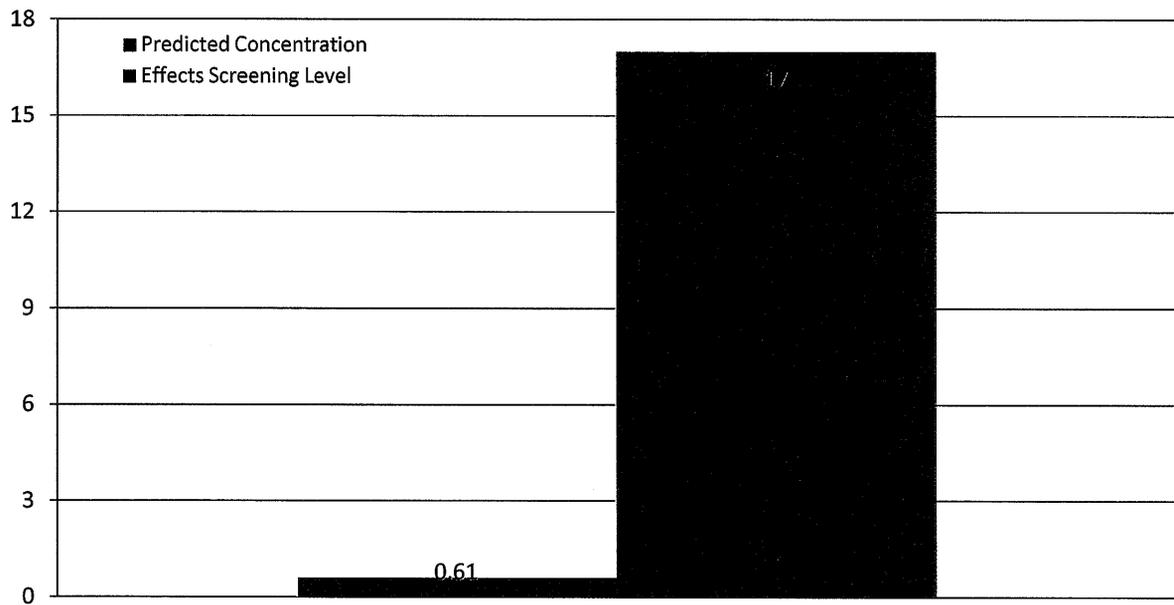
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

### Ammonia 1-Hour Average ( $\mu\text{g}/\text{m}^3$ )



### Ammonia Annual Average ( $\mu\text{g}/\text{m}^3$ )

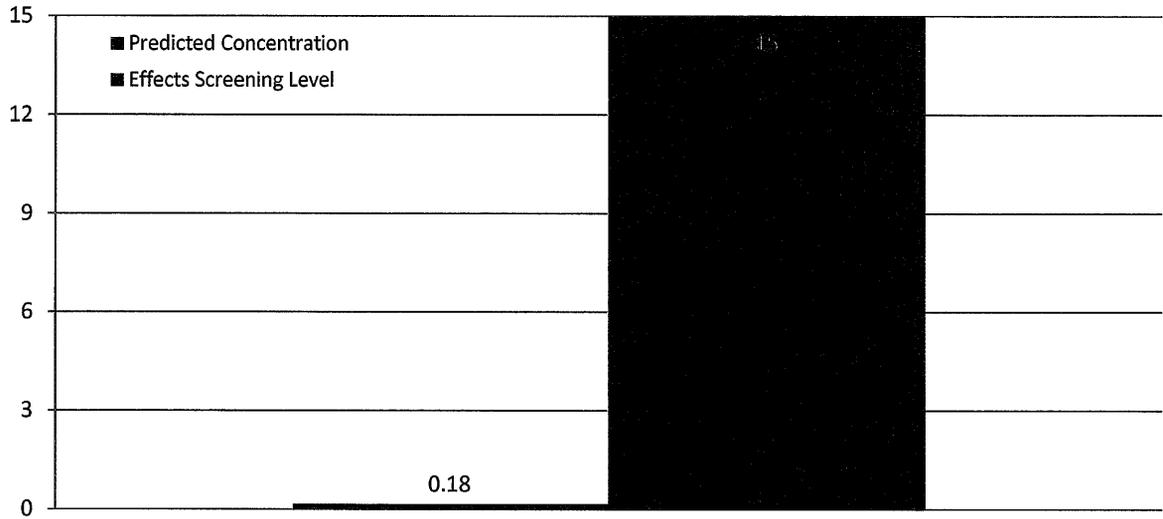


MAXIMUM PREDICTED CONCENTRATION OF AMMONIA VERSUS THE EFFECTS SCREENING LEVELS

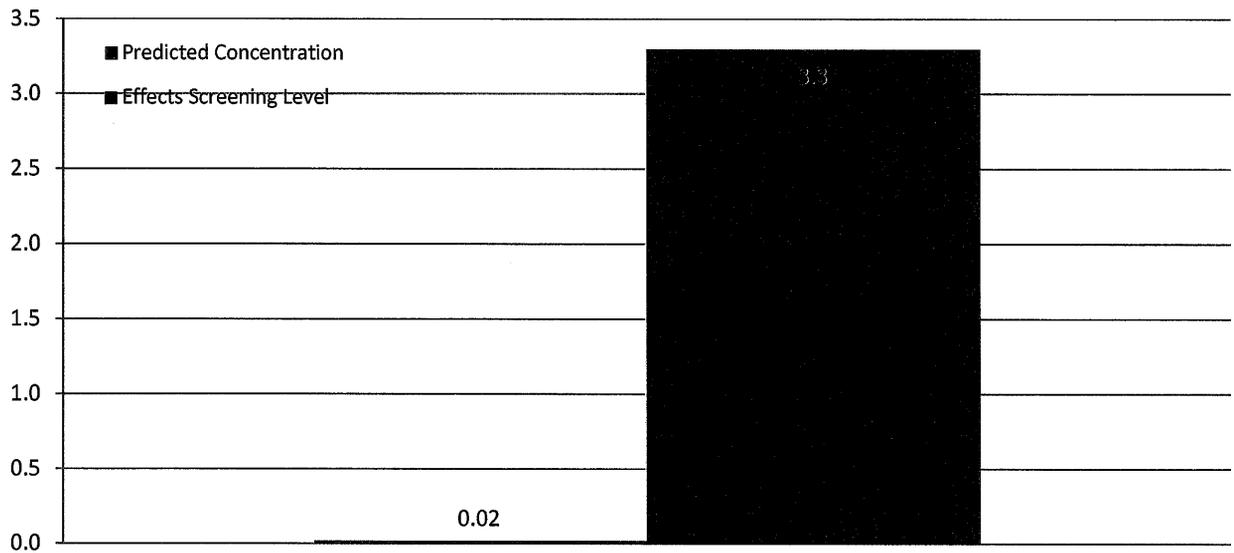
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

### Formaldehyde 1-Hour Average ( $\mu\text{g}/\text{m}^3$ )



### Formaldehyde Annual Average ( $\mu\text{g}/\text{m}^3$ )

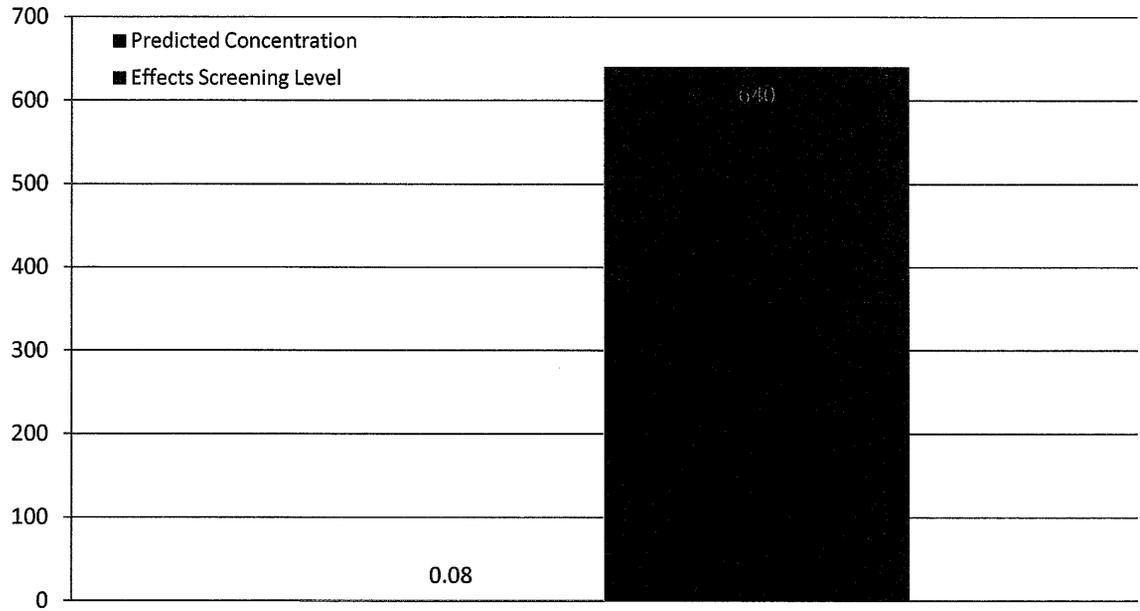


MAXIMUM PREDICTED CONCENTRATION OF  
FORMALDEHYDE VERSUS THE EFFECTS  
SCREENING LEVELS

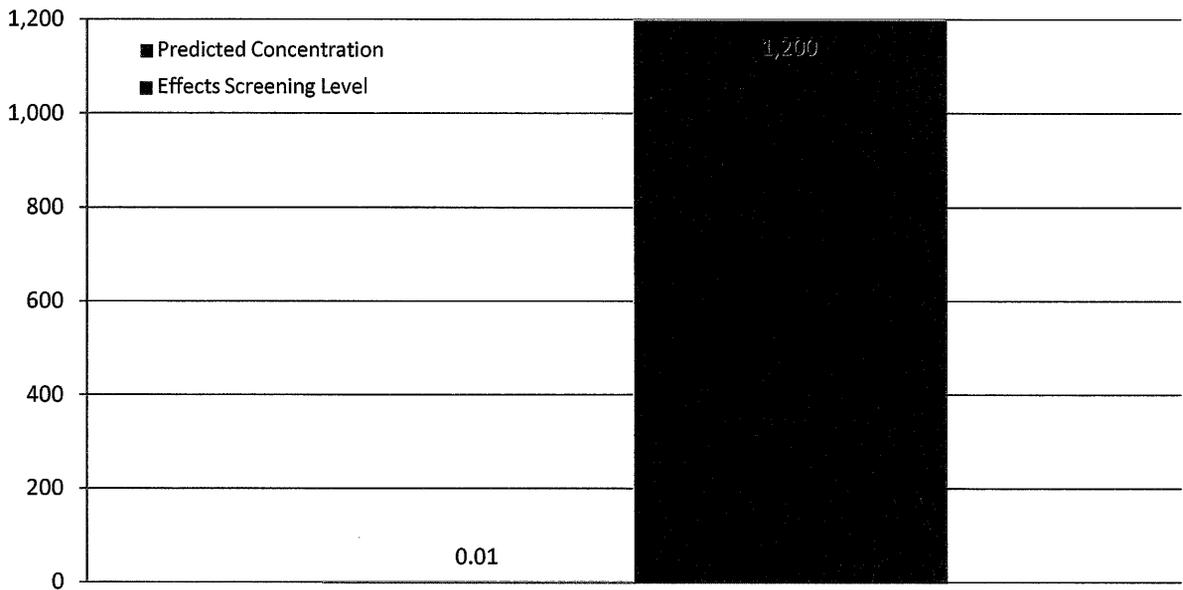
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

### Toluene 1-Hour Average ( $\mu\text{g}/\text{m}^3$ )



### Toluene Annual Average ( $\mu\text{g}/\text{m}^3$ )



MAXIMUM PREDICTED CONCENTRATION OF  
TOLUENE VERSUS THE EFFECTS SCREENING  
LEVELS

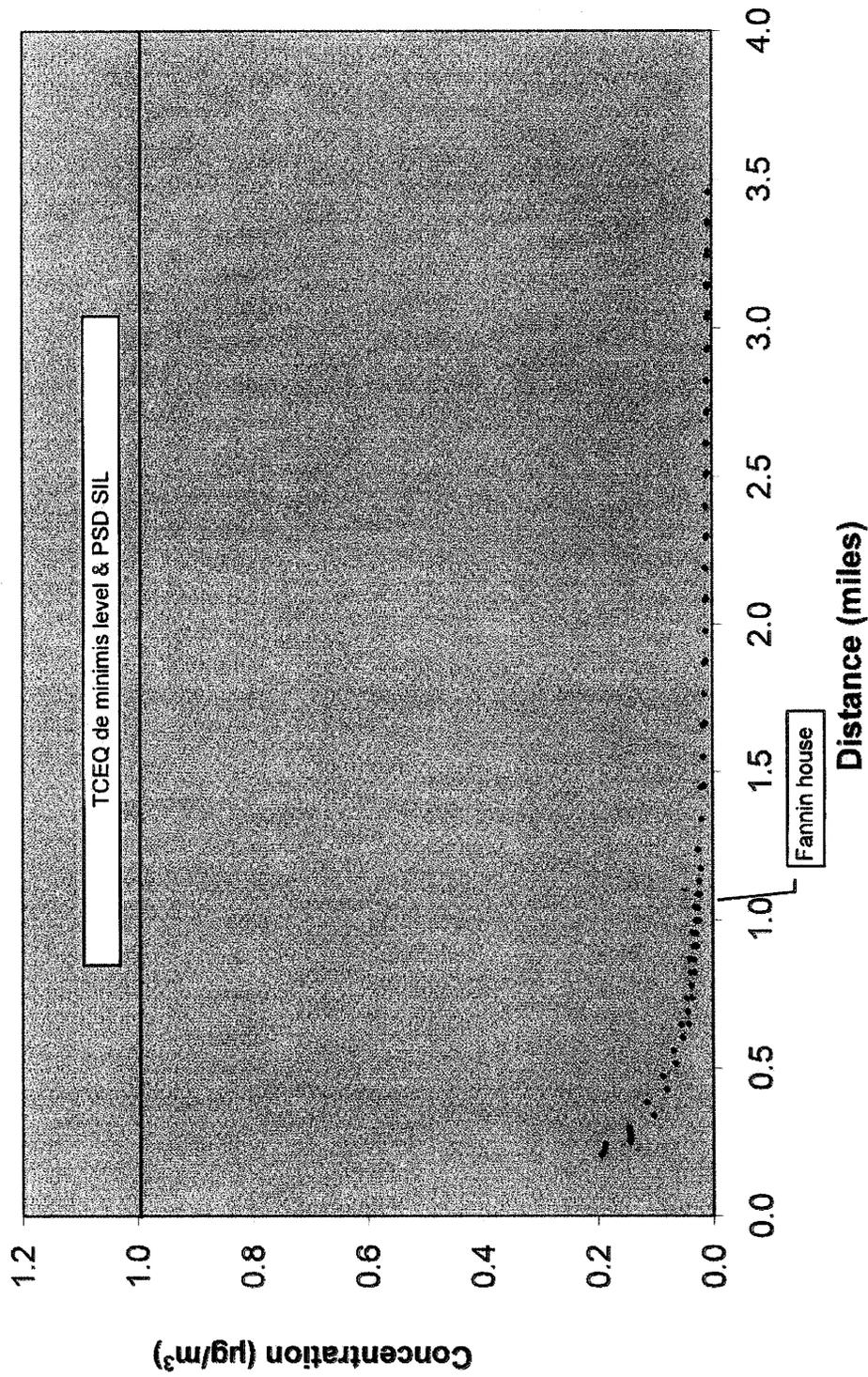
Source: ECT, 2009.

**ECT**  
Environmental Consulting & Technology, Inc.

ATTACHMENT C

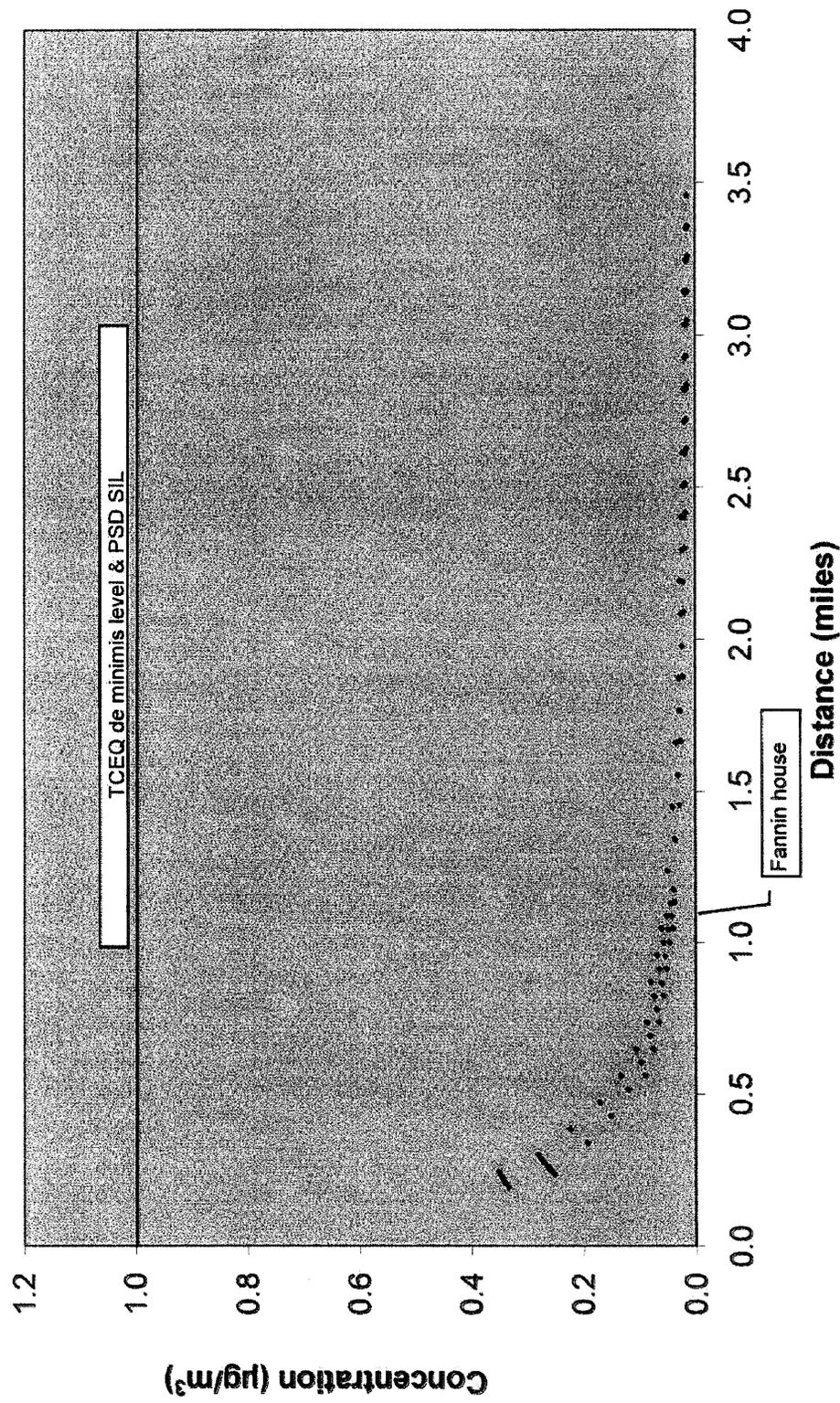
GRAPHS DEPICTING DISPERSION  
OF THE AIR CONTAMINANTS

### Distance versus Modeled Concentration of Annual Average $\text{NO}_2$ ( $\mu\text{g}/\text{m}^3$ )



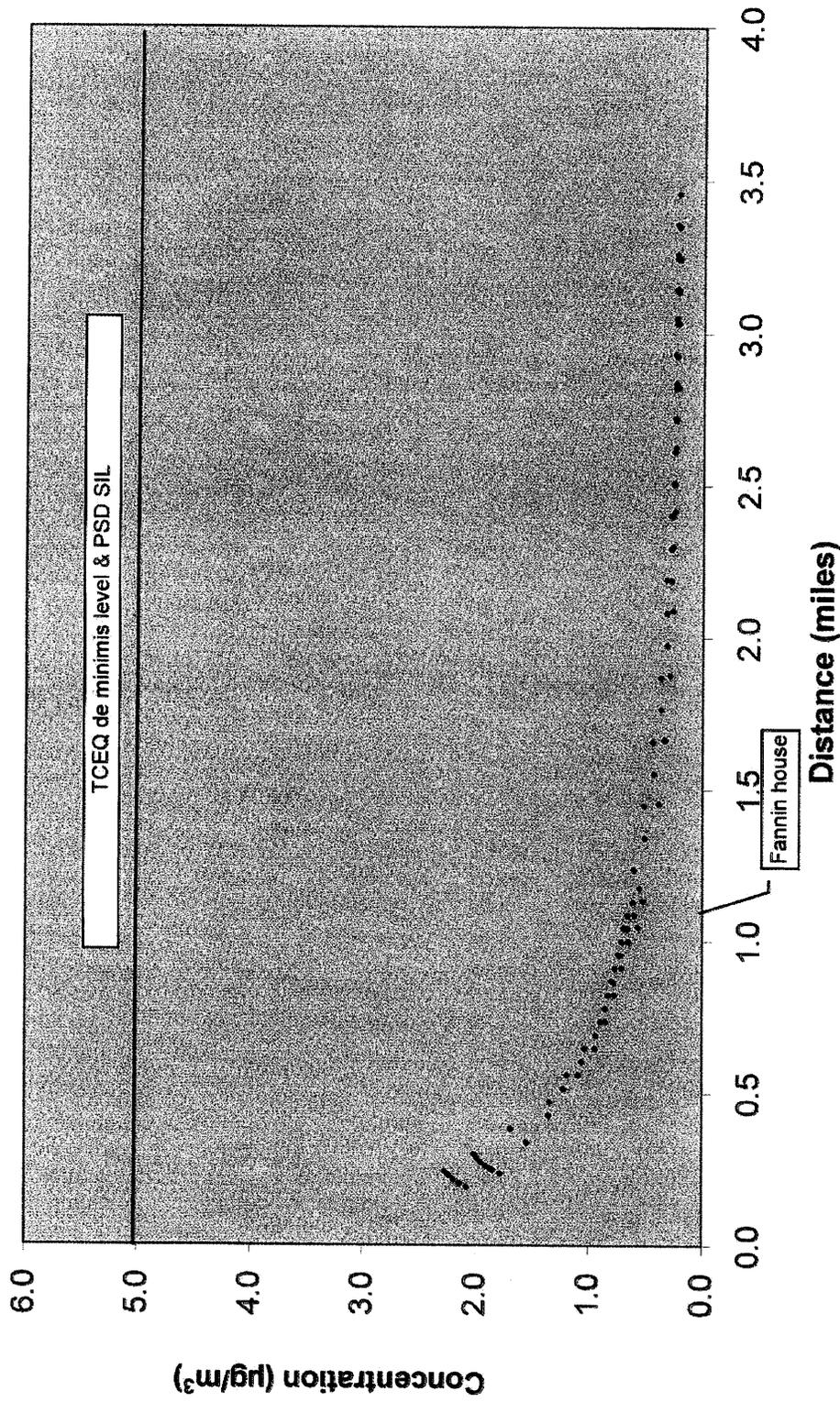
Concentrations begin at plant fenceline and include locations northeast of plant, i.e., in direction of Ms. Fannin's home. The TCEQ *de minimis* impact level and the PSD significant impact level (SIL) is 1.0  $\mu\text{g}/\text{m}^3$  for  $\text{NO}_2$  annual average. The minimum distance to Ms. Fannin's home is 1.06 mile.—Source: ECT, 2009.

# Distance versus Modeled Concentration of Annual Average $PM_{10}$ ( $\mu\text{g}/\text{m}^3$ )



Concentrations begin at plant fence line and include locations northeast of plant, i.e., in direction of Ms. Fannin's home. The TCEQ de minimis impact level and the PSD significant impact level (SIL) is  $1.0 \mu\text{g}/\text{m}^3$  for  $\text{NO}_2$  annual average. The minimum distance to Ms. Fannin's home is 1.06 mile. —Source: ECT, 2009.

## Distance versus Modeled Concentration of 24-hour Average $PM_{10}$ ( $\mu\text{g}/\text{m}^3$ )



Concentrations begin at plant fenceline and include locations northeast of plant, i.e., in direction of Ms. Fannin's home. The TCEQ de minimis impact level and the PSD significant impact level (SIL) is 1.0  $\mu\text{g}/\text{m}^3$  for  $\text{NO}_2$  annual average. The minimum distance to Ms. Fannin's home is 1.06 mile. —Source: ECT, 2009.

ATTACHMENT D

AFFIDAVIT OF JEFFREY L. MELING, P.E.

STATE OF FLORIDA §

COUNTY OF ALACHUA §

AFFIDAVIT OF JEFFREY L. MELING, P.E.

BEFORE ME, the undersigned, a Notary Public in and for said county and state, on this day personally appeared Jeffrey L. Meling, who, being by me duly sworn, upon his oath deposed and stated as follows:

My name is Jeffrey L. Meling. I am more than twenty-one (21) years of age, have never been convicted of a felony, and have personal knowledge of all facts stated in this Affidavit, which are true and correct.

I am a Senior Vice President with Environmental Consulting & Technology, Inc. ("ECT"), a national environmental consulting firm; I am located in ECT's Gainesville, Florida office. I hold Bachelor of Sciences (Civil Engineering) and Master of Sciences (Environmental Engineering) degrees from the University of Illinois. I am a registered professional engineer in the State of Texas.

I have spent 29 years in the field of environmental consulting with an emphasis on air quality issues related to electrical generating facilities. My responsibilities have included preparing and supervising the preparation of air quality permit applications including calculation of emissions, determination of appropriate control technologies, dispersion modeling of emissions and determinations of compliance with air quality regulations.

I am familiar with and supervised the preparation of Madison Bell Partner's ("Madison Bell") application for Texas Commission on Environmental Quality (TCEQ) air quality permit Number 83378 and PSD-TX-1105. This application is for a natural gas fired combined cycle power plant to be located near Madisonville, Texas. The proposed plant is essentially the same as two existing plants in Texas owned and operated by partnerships formed by Navasota Energy Partners L.P. ("Navasota"); the proposed plant will also be owned by a partnership formed by Navasota. I supervised the permitting work for those two existing plants which have been operating since May 2007. I have also supervised a number of activities assessing and managing the compliance of both plants.

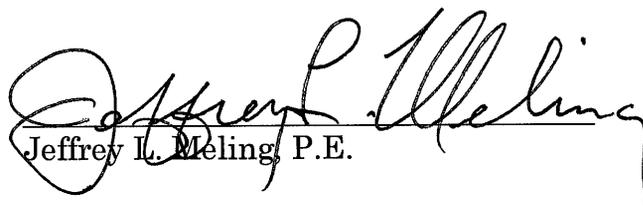
Our work on the Madison Bell application has included calculating expected emission rates and performing air dispersion modeling of emissions from the plant. An air dispersion model is used to estimate the ground level concentrations of air contaminants at varying distances from a source or sources of air contaminants. Information regarding the emission rates and location and parameters of the emission points, along with meteorological data, are inputs into the model, which then predicts the expected worst case concentrations of the air contaminants that might occur at specified receptor distances.

The modeling we performed on behalf of Madison Bell utilized the AERMOD model. This dispersion model is routinely used by the TCEQ and other regulatory agencies to provide a worst case prediction of off property concentrations of air emissions from a plant. I have extensive experience in applying the AERMOD dispersion model. The results of the dispersion modeling were submitted to the TCEQ in support of the Madison Bell application. The modeling report was reviewed and approved by the TCEQ modeling staff. My conclusions, agreed to by TCEQ's Executive Director, are that maximum ground-level concentrations of criteria air contaminants will be below the *de minimis* levels set in TCEQ rules and maximum ground level concentrations of other contaminants will be substantially below the levels set in TCEQ rules or the applicable Effects Screening Level ("ESL"). Concentrations below an ESL should not result in adverse health or welfare effects. Concentrations above an ESL do not mean that adverse health or welfare effects would necessarily occur. A table illustrating these concentrations compared to the regulatory standard or ESL is attached as Appendix A.

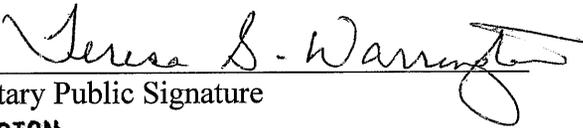
I have supervised the preparation of a graphical depiction of how the predicted concentration of certain air contaminants emitted from the plant would decrease as the distance from the emission point increases. I specifically examined the distance for the address of Ms. Angela Farris Fannin listed in her correspondence with the TCEQ regarding this application and relied upon an on-site examination by Ms. Jeanne Drake of Madison Bell for the location of the house on the Ms. Fannin's property. The depiction is attached as Appendix B. The depiction includes the house of Ms. Fannin and demonstrates that predicted maximum concentrations of the air contaminant are at insignificant levels at the property line and the concentrations experienced at the property line and beyond, including the house of Ms. Fannin (included in the depiction), do not vary significantly. Since the maximum concentrations are insignificant at the property line, the concentrations that will occur on the property owned by Charles and Patsy Strawther also will be insignificant and will not vary significantly from the concentrations that would be experienced beyond that property. Further, since the Strawthers actually reside in Madisonville, approximately six miles from the proposed plant site the concentrations they would experience at that residence would also be insignificant and similar to that of the general public.

Therefore the predicted concentrations of air contaminants at and beyond the property claimed by Ms. Fannin are substantially the same and any effects of those air contaminants on Ms. Fannin and her property would be essentially the same as the effects on any member of the general public at any location outside of the Madison Bell property. Based upon this analysis, Ms. Fannin would not be exposed to concentrations of air contaminants that could adversely affect her or her property and any impacts on her or her property essentially would be no different than impacts common to the general public. The conservatism inherent in the AERMOD dispersion modeling analysis provides even greater support for these conclusions.

FURTHER AFFIANT SAYETH NOT.

  
Jeffrey L. Meling, P.E.

SUBSCRIBED AND SWORN TO BEFORE ME on Feb. 11, 2009.

  
Notary Public Signature

(PERSONALIZED SEAL) **TERESA S. WARRINGTON**  
**Notary Public, State of Florida**  
**My comm. exp. Aug. 16, 2009**  
**Comm. No. DD 434508**

## **APPENDIX A**

**Maximum Predicted Concentrations Versus Target Levels**

<b>Pollutant</b>	<b>Maximum Predicted Concentration (ug/m<sup>3</sup>)</b>	<b>Averaging Time</b>	<b>PSD Significance Level (ug/m<sup>3</sup>)</b>	<b>Percent of PSD Significance Level (%)</b>
NO <sub>2</sub>	0.42	Annual	1	42.0
PM <sub>10</sub>	0.9	Annual	1	90.0
PM <sub>10</sub>	4.73	24-hour	5	94.6
CO	105	8-hour	500	21.0
CO	228	1-hour	2,000	11.4

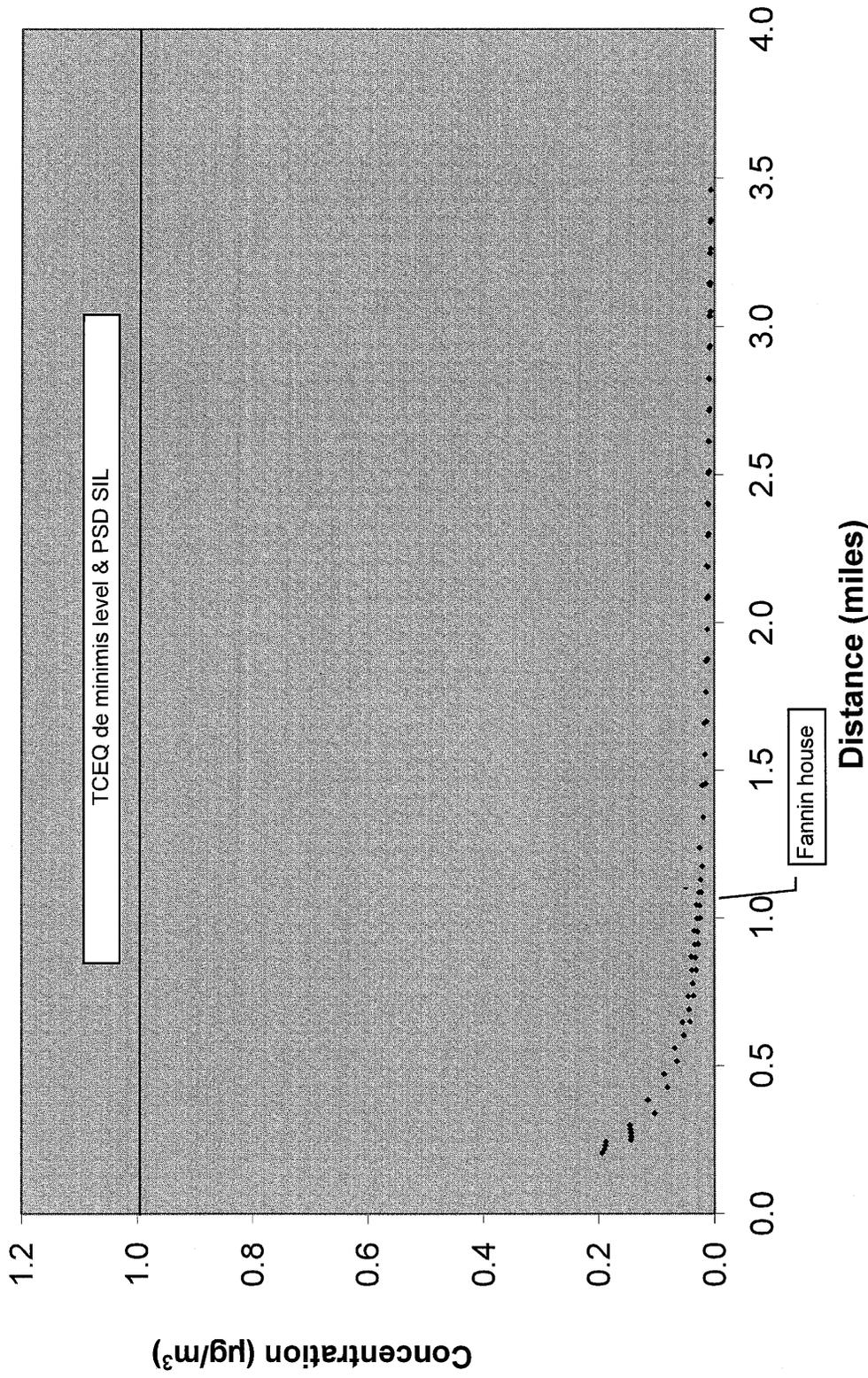
			<b>Net Ground Level Concentration (ug/m<sup>3</sup>)</b>	<b>Percent of NET GLC (%)</b>
SO <sub>2</sub>	13.3	30-minute	1,021	1.3
H <sub>2</sub> SO <sub>4</sub>	0.1	24-hour	50	0.2
H <sub>2</sub> SO <sub>4</sub>	0.06	1-hour	15	0.4

			<b>Effects Screening Level (ug/m<sup>3</sup>)</b>	<b>Percent of ESL (%)</b>
Ammonia	0.61	Annual	17	3.6
Ammonia	5.68	1-hour	170	3.3
Formaldehyde	0.02	Annual	3.3	0.6
Formaldehyde	0.18	1-hour	15	1.2
Toluene	0.01	Annual	1,200	0.001
Toluene	0.08	1-hour	640	0.013

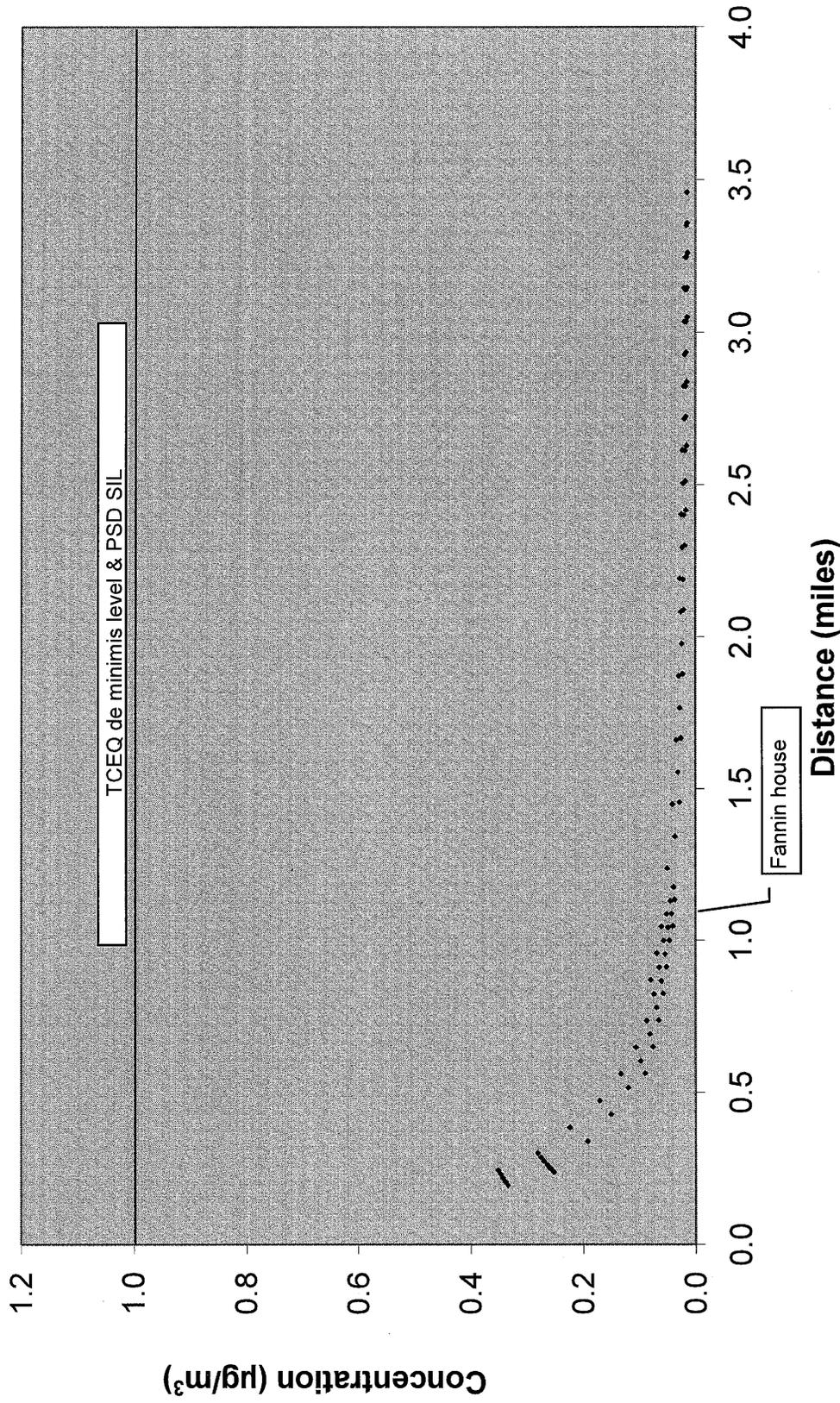
## **APPENDIX B**

# Distance versus Modeled Concentration of Annual Average NO<sub>2</sub> (µg/m<sup>3</sup>)



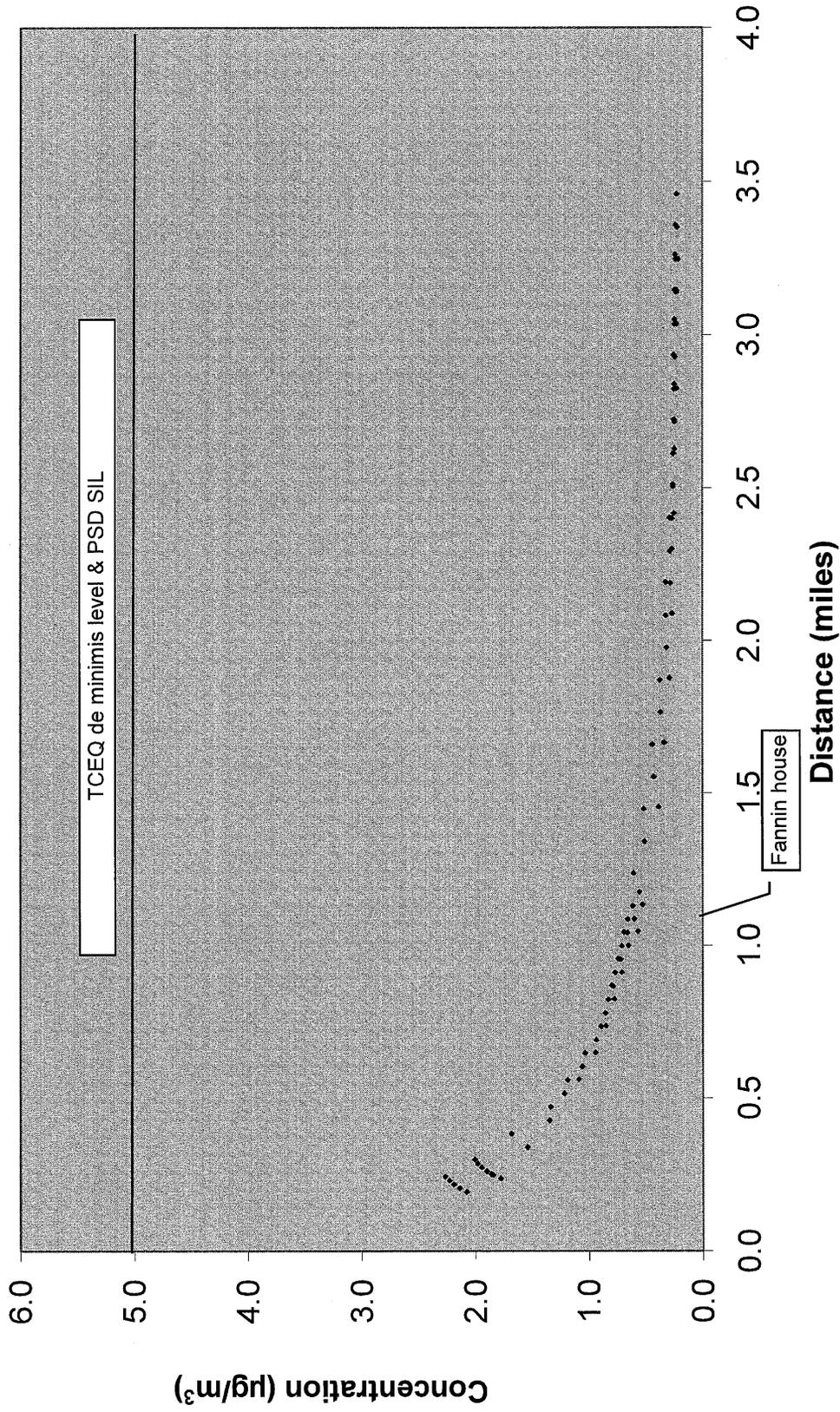
Concentrations begin at plant fenceline and include locations northeast of plant, i.e., in direction of Ms. Fannin's home. The TCEQ *de minimis* impact level and the PSD significant impact level (SIL) is 1.0 µg/m<sup>3</sup> for NO<sub>2</sub> annual average. The minimum distance to Ms. Fannin's home is 1.06 mile.—Source: ECT, 2009.

# Distance versus Modeled Concentration of Annual Average PM<sub>10</sub> (µg/m<sup>3</sup>)



Concentrations begin at plant fenceline and include locations northeast of plant, i.e., in direction of Ms. Fannin's home. The TCEQ *de minimis* impact level and the PSD significant impact level (SIL) is 1.0 µg/m<sup>3</sup> for NO<sub>2</sub> annual average. The minimum distance to Ms. Fannin's home is 1.06 mile. —Source: ECT, 2009.

### Distance versus Modeled Concentration of 24-hour Average $PM_{10}$ ( $\mu\text{g}/\text{m}^3$ )



Concentrations begin at plant fenceline and include locations northeast of plant, i.e., in direction of Ms. Fannin's home. The TCEQ de minimis impact level and the PSD significant impact level (SIL) is  $1.0 \mu\text{g}/\text{m}^3$  for  $\text{NO}_2$  annual average. The minimum distance to Ms. Fannin's home is 1.06 mile.—Source: ECT, 2009.