TEXAS HOUSE OF REPRESENTATIVES

CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0740

DISTRICT OFFICE:
1067 W. MAGNOLIA
FORT WORTH, TEXAS 76104
817-924-1997

EMAIL: LON.BURNAM@HOUSE.STATE.TX.US

LEGISLATIVE STUDY GROUP, VICE-CHAIR
MEXICAN-AMERICAN LEGISLATIVE CAUCUS
ENVIRONMENTAL LEGISLATIVE CAUCUS
WOMEN'S HEALTH CAUCUS

LON BURNAM
DISTRICT 90 • FORT WORTH

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TRACKING # 16213
ASSIGNED TO: OLS
AUG 06 2008

NSR
64144

DUE DATE: 8-13-08

August 4, 2008

Mr. Mark Vickery
Executive Director
Texas Commission on Environmental Quality
MC-109
PO Box 13087
Austin, TX 78711-3087

OPA
AUG 07 2008
BY GB

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 AUG -7 AM 10: 44
CHIEF CLERKS OFFICE

RE: Permit # 1360A

Dear Mr. Vickery,

I am writing to request a **contested case hearing** for the permit referenced above. This application by TXI Operations to renew the air permit for four wet cement kilns in Midlothian, Texas needs to be reevaluated in light of continued complaints about sulfur dioxide odor in the area and the Agency for Toxic Substances and Disease Control's indeterminate finding regarding the impact of the cement kilns on public health.

A contested case hearing will allow residents affected by these facilities to be involved in the decision to renew this permit.

Thank you for your attention to this important matter.

RECEIVED
AUG 06 2008
EXECUTIVE DIRECTOR

Sincerely,

Lon Burnam

Lon Burnam

cc: Becky Bornhorst, Downwinders at Risk Education Fund
Jack Smith, Fort Worth Star Telegram

BG

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2008 AUG 28 PM 3:07
CHIEF CLERKS OFFICE

August 27, 2008

The Honorable Lon Burnam
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Re: TXI Operations, LP, Midlothian Cement Plant, Air Quality Permit No. 1360A

Dear Representative Burnam:

Thank you for your letter regarding the air quality permit renewal application submitted to the Texas Commission on Environmental Quality (TCEQ) by TXI Operations, LP, Midlothian Cement Plant (TXI).

TXI has applied for renewal of air quality permit number 1360A at the Midlothian site. As part of the application process, TXI is required to publish notice of the application in a general circulation newspaper, to post signage at the site, and to make a copy of the application available for review and copying at a public place. TXI initially published notice in the *Waxahachie Daily Light* on July 24, 2008, with the comment period ending on August 8, 2008. However, TXI has reported to TCEQ that it intends to republish notice for this application on August 27, 2008. Therefore, the comment period will be extended until September 11, 2008. All comments received through September 11, 2008,will be considered in processing this renewal application and included in the Executive Director's Response to Comments for this application.

The hearing requests received on this application will be processed in compliance with the Texas Clean Air Act and TCEQ rules. A contested case hearing is not required under state law for a renewal application that does not alter the allowable emissions or result in the emission of an air contaminant not previously emitted, unless the application involves a facility for which the applicant is classified as a "poor performer." The TCEQ staff's review of this renewal application concluded that the permit will not result in an increase in allowable emissions and will not result in the emission of an air contaminant not previously emitted. Because TXI's compliance history rating does not fall in the "poor performer" classification, it is not expected that TXI's compliance history will affect the renewal of this application at this time. However, final determination of whether a contested hearing will be granted to the numerous requestors will be made by the Commissioners in an open meeting. All commenters will be notified of the opportunity to file briefs with the Commission and of the date of the meeting.

mw

Finally, regarding odor complaints received for the TXI Midlothian facility, the TCEQ received two odor complaints for sulfur in the past year. Investigations for those complaints did not find a nuisance odor. Additionally, TCEQ staff conducted four focused odor monitoring investigations in the past year. Investigators detected brief light to moderate sulfur odors only on one such investigation.

I hope this information is helpful to you. If you have any further questions as we move forward with processing TXI's renewal application, please feel free to call me at (512) 239-3900 or Janis Hudson in our Environmental Law Division at (512) 239-0466.

Sincerely,

Mark R. Vickery, P.G., Executive Director
Texas Commission on Environmental Quality

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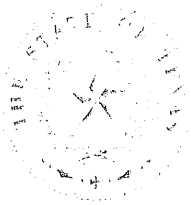

LON BURNAM

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