

NSR  
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215 E. McKinney Street Denton, Texas 76201 (940) 349-7717 FAX (940) 349-8596

OFFICE OF THE MAYOR

August 5, 2008

OPA

AUG 11 2008

BY

BP

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 AUG - 8 PM 2: 53  
CHIEF CLERKS OFFICE

VIA FACSIMILE: (512) 239-3311 and  
VIA OVERNIGHT MAIL

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

Re: Application for Renewal Request for Permit Number 1360A

Dear Sir or Madam,

On June 24, 2008, TXI Operations LP (TXI) submitted an Air Permit Renewal application to the Texas Commission on Environmental Quality (TCEQ) for the operation of its Midlothian Cement Plant located in Midlothian, Ellis County, Texas. At the Denton City Council's meeting of August 5, 2008, the City Council authorized me to write this letter asking the TCEQ to strongly consider modification of the usual and customary permit term of ten (10) years sought under Air Permit Number 1360A. On behalf of the City Council of the City of Denton, Texas, and their constituents, I am requesting the Executive Director to strongly consider the impacts to air quality and the ability of this region to meet the requirements of the Federal Clean Air Act of 1990 with granting the renewal of Permit No. 1360A as it is currently proposed.

This permit renewal would authorize the continued high levels of emissions of nitrogen oxides (NOx) as well as other air quality contaminants. Meteorological and other scientific data provided by the TCEQ has demonstrated that these plants increase ozone concentrations in the 9-county Dallas-Fort Worth "non-attainment" area. Our region's inability to historically meet State Implementation Plan deadlines relates directly to our inability to sufficiently reduce nitrogen oxides. As you know, during March 2008 the United States Environmental Protection Agency (USEPA) decreased the National Ambient Air Quality Standard (NAAQS) for ozone to 75 parts per billion. This reduced standard creates an even greater and more pressing need for the Dallas / Fort Worth non-attainment area to enact ozone reduction strategies.

The City of Denton is concerned that simply renewing permits for kiln operators to continue to emit NOx at current levels for another ten years removes incentives for kiln operators to install emission reduction technologies. Denton recognizes and appreciates the efforts of TXI concerning Kiln 5, which is one of the cleanest kilns operating in the Midlothian area. However, Kiln 5 is a dry kiln and employs new manufacturing processes and technologies. Our concern is the much older, out-dated wet kilns that, though they do have minimal emission controls, they do not employ best available technology emission controls necessary to reduce NOx emissions closer to the level of dry kilns on a "per production" basis. Due to the higher emissions of various air contaminants from the wet kilns regulated by Permit 1360A and the influence of these contaminants on both ozone concentrations and public health, we believe that strong consideration should be given to retrofitting these kilns so that they meet emission standards that are more similar to dry kilns and more in keeping with modern air quality regulations. It should be noted that these kilns were originally built decades ago under markedly different air quality regulations and technology, well before the severe degradation of our region's air quality with which we must now contend.

If TCEQ grants the renewal for Permit 1360A as proposed, the resulting permit would allow emissions at current levels for the "normal" permit term of 10 years. Because of the implications of a 10-year permit period and the potential inconsistency between emissions allowed by this permit and the future Regional State Implementation Plan/Clean Air Plan for the reduction of ozone, **we formally request the Commission to limit the term of the permit to coincide with the SIP review and amendments within the next 2-3 years. If this term limit is not feasible due to statutory or similar requirements, we formally request the Commission to add a special permit condition preventing the emission rates of permit 1360A from receiving "grandfather" status during development and implementation of the State Implementation Plan.** Our current understanding is that the SIP will be reviewed and most likely amended within the next 2-3 years. The City of Denton wants to ensure that any newly established NOx emission rates will apply to kilns covered by Permit 1360A.

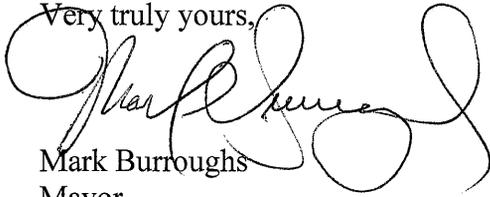
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We greatly appreciate the support of the TCEQ in this endeavor. Please also place us on the mailing list to receive any future public information related to this application from the Office of the Chief Clerk. The address for mailing these notifications is

Mark Burroughs  
Mayor, City of Denton, Texas  
215 East McKinney Street  
Denton, Texas 76201

Should you need any additional information to consider this request, please do not hesitate to contact me at (940) 349-7717, or by writing me at the address above. You may also contact Kenneth Banks, Division of Environmental Quality Manager, who may be reached at (940) 349-7165.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark Burroughs". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail that loops back under the name.

Mark Burroughs  
Mayor

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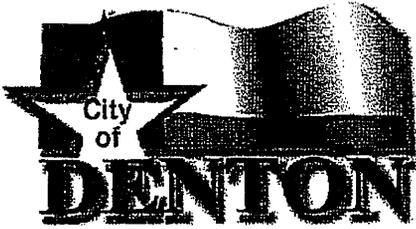
**2. From:** Print Name (Person) \_\_\_\_\_ Phone (Important) 40293012  
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 City DENTON State TX Zip 76201

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OPA  
AUG 07 2008  
BY GB

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OFFICE OF THE MAYOR

August 5, 2008

VIA FACSIMILE: (512) 239-3311 and  
VIA OVERNIGHT MAIL

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

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 AUG -7 AM 8:51  
CHIEF CLERKS OFFICE

Re: Application for Renewal Request for Permit Number 1360A

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"Dedicated to Quality Service"  
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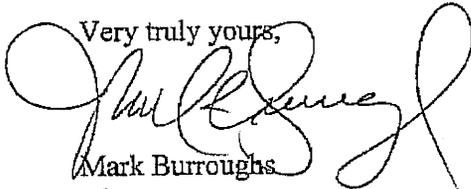
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Mark Burroughs  
Mayor

215 E. McKinney Street  
Denton, TX 76201

# City of Denton

# Fax - Resent

2008 AUG - 7 AM 8:51  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

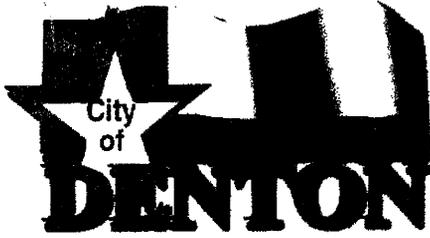
**TO:** Office of the Chief Clerk  
Texas Commission on Environmental Quality  
512-239-3311

**FROM:** Kenny Banks  
Environmental Quality Manager  
City of Denton  
901A, Texas Street  
Denton, TX, 76201  
940-349-7165  
[Kenny.Banks@cityofdenton.com](mailto:Kenny.Banks@cityofdenton.com)

Please disregard the first transmittal. An error was found on page 2 of the previous document.

Thank you for your time and assistance.

Tonya



NSR  
641144

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2008 AUG - 6 PM 3:49  
CHIEF CLERKS OFFICE  
OFFICE OF THE MAYOR

215 E. McKinney Street Denton, Texas 76201 (940) 349-7717 FAX (940) 349-8596

OFFICE OF THE MAYOR

August 5, 2008

VIA FACSIMILE: (512) 239-3311 and  
VIA OVERNIGHT MAIL

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AUG 07 2008

BY AB

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Austin, Texas 78711-3087

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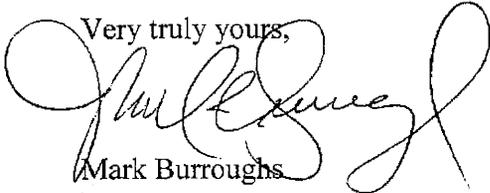
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Very truly yours,



Mark Burroughs  
Mayor

215 E. McKinney Street  
Denton, TX 76201

# City of Denton

# Fax

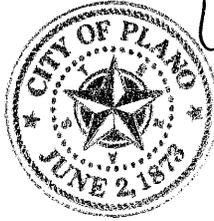
CHIEF CLERKS OFFICE

2008 AUG - 6 PM 3:40

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**TO:** Office of the Chief Clerk  
Texas Commission on Environmental Quality  
512-239-3311

**FROM:** Kenny Banks  
Environmental Quality Manager  
City of Denton  
901A, Texas Street  
Denton, TX, 76201  
940-349-7165  
Kenny.Banks@cityofdenton.com



NSR  
04144

OPA

AUG 11 2008

BY BP

*Office of the Mayor*

Pat Evans  
MAYOR

August 6, 2008

2008 AUG 11 AM 10:54  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Office of the Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

VIA FAX: 512-239-3311

RE: Permit Number 1360A

To Whom It May Concern:

On June 24, 2008, TXI Operations LP (TXI) submitted an Air Permit Renewal application to the Texas Commission on Environmental Quality (TCEQ) for the operation of its Midlothian Cement Plant located in Midlothian, Ellis County, Texas. The City of Plano has taken the opportunity to review this application and offer the following comments:

The City of Plano would like to commend TXI on their commitment to work with the region to improve air quality. TXI operates one of the cleanest kilns in the non-attainment area, (Kiln #5), and with respect to that kiln, the City wishes to recognize the strong commitment of TXI to both economic development and environmental protection. However, the City wishes to point out that TXI also operates some of the dirtiest kilns, (Kilns #1-4), in the area. Those dirtier kilns disproportionately contribute to a condition of air pollution - that condition being a continuing violation of the 8 hour ozone standard.

As the region begins to consider the implementation of a more stringent 8 hour ozone standard, the City of Plano believes that additional reductions in emissions of NOx and VOC will be necessary to ensure our region's compliance with that standard. Given the effect of the kilns' emissions on the surrounding area, the City requests that the TCEQ review all economically reasonable and technically practicable air pollution control technologies and impose those technologies as a condition for renewal of the preconstruction permit. The City also intends to continue working with all partners, including TXI, to assure that additional reductions are put in place to achieve compliance with the national ambient air quality standards.

August 6, 2008

Page 2, Comment Letter on Permit Number 1360A

TXI is a major industrial source of air pollution located in the southern sector of the DFW Ozone Non-attainment Region. As proposed, the permit limits are not consistent with the most recently adopted State Implementation Plan (SIP). With this permit renewal, the City would like to request that TCEQ align the permit limits with the source cap outlined in the SIP. We would also request that the permit be limited to a five year term. This will coincide with the SIP development under the new ozone standard.

The City of Plano has used the powers available to them to ensure that technically and economically feasible reductions are made. In the instant case, for example, the City of Plano has adopted a green cement purchasing policy, which we believe will lead to voluntary emission reductions for our region. The City Council adopted a purchasing policy in April of 2008 in an attempt to encourage kilns to reduce their contribution on the Dallas-Fort Worth ozone problem. The policy included a base bid for dry kiln cement only, an alternative bid for cement from any source, and a preference from dry kilns with a NOx emission level less than 1.7 tons of NOx per clinker produced. While this type of purchasing policy provides for incentives for private companies to make some of the needed reductions, more are needed. TCEQ now has the opportunity to do its part to address these continuing violations, and we urge the agency to do so in this context. Clean air is important to our citizens and our economy. By granting these requests, we can ensure a beneficial partnership for all parties involved.

I appreciate your consideration of these requests. Please let me know if I can provide additional information.

Sincerely,

A handwritten signature in black ink that reads "Pat Evans". The signature is written in a cursive, flowing style.

Pat Evans  
MAYOR

c: Council  
Tom Muehlenbeck, City Manager

*NSR*  
*04141*



**OPA**

**AUG 06 2008**

BY *CB*

*Office of the Mayor*

**Pat Evans  
MAYOR**

August 6, 2008

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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The City of Plano would like to commend TXI on their commitment to work with the region to improve air quality. TXI operates one of the cleanest kilns in the non-attainment area, (Kiln #5), and with respect to that kiln, the City wishes to recognize the strong commitment of TXI to both economic development and environmental protection. However, the City wishes to point out that TXI also operates some of the dirtiest kilns, (Kilns #1-4), in the area. Those dirtier kilns disproportionately contribute to a condition of air pollution - that condition being a continuing violation of the 8 hour ozone standard.

As the region begins to consider the implementation of a more stringent 8 hour ozone standard, the City of Plano believes that additional reductions in emissions of NOx and VOC will be necessary to ensure our region's compliance with that standard. Given the effect of the kilns' emissions on the surrounding area, the City requests that the TCEQ review all economically reasonable and technically practicable air pollution control technologies and impose those technologies as a condition for renewal of the preconstruction permit. The City also intends to continue working with all partners, including TXI, to assure that additional reductions are put in place to achieve compliance with the national ambient air quality standards.

August 6, 2008

Page 2, Comment Letter on Permit Number 1360A

TXI is a major industrial source of air pollution located in the southern sector of the DFW Ozone Non-attainment Region. As proposed, the permit limits are not consistent with the most recently adopted State Implementation Plan (SIP). With this permit renewal, the City would like to request that TCEQ align the permit limits with the source cap outlined in the SIP. We would also request that the permit be limited to a five year term. This will coincide with the SIP development under the new ozone standard.

The City of Plano has used the powers available to them to ensure that technically and economically feasible reductions are made. In the instant case, for example, the City of Plano has adopted a green cement purchasing policy, which we believe will lead to voluntary emission reductions for our region. The City Council adopted a purchasing policy in April of 2008 in an attempt to encourage kilns to reduce their contribution on the Dallas-Fort Worth ozone problem. The policy included a base bid for dry kiln cement only, an alternative bid for cement from any source, and a preference from dry kilns with a NOx emission level less than 1.7 tons of NOx per clinker produced. While this type of purchasing policy provides for incentives for private companies to make some of the needed reductions, more are needed. TCEQ now has the opportunity to do its part to address these continuing violations, and we urge the agency to do so in this context. Clean air is important to our citizens and our economy. By granting these requests, we can ensure a beneficial partnership for all parties involved.

I appreciate your consideration of these requests. Please let me know if I can provide additional information.

Sincerely,



Pat Evans  
MAYOR

c: Council  
Tom Muehlenbeck, City Manager

August 02, 2008

JSR  
04144



OPA

AUG 05 2008

BY WB

Ms. Ladonna Castanuel  
Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

TEXAS  
COMMISSION ON  
ENVIRONMENTAL  
QUALITY

2008 AUG -5 AM 10:01  
CHIEF CLERKS OFFICE

Re: TXI Operations LP, Permit No 1360A, Application for Renewal

Ms. Castanuel:

I am taking this opportunity to express my concern regarding the application and intent to obtain an air permit renewal referenced above. It is my understanding that this permit (No. 1360A) would authorize TXI to continue emitting nitrogen oxides, carbon monoxide, hydrogen chloride, organic compounds, sulfur dioxide, chlorine, hydrogen fluoride, sulfuric acid, total reduced sulfur, hydrogen sulfide, PM 10 or less, barium, trivalent chromium, lead, selenium, thallium, zinc, trace metals including (but not limited to) lead and mercury into to the air that I breath.

My residence is within just a few miles from the emissions from this facility. It is my understanding that these emissions have been proven to adversely affect my health and the health of my family and pets. Additionally, I have observed that the dust and grim within my home is worst than any other place which I have lived (north Texas, Central Texas, the Texas Gulf Coast, Kansas, Wyoming, South Dakota and Nassau, Bahamas).

Again, I understand that the federal Agency for Toxic Substances and Disease Registry released part one of a series of reports examining the pubic health threat caused by Midlothian's three cement plants and steel mill. Though this report is incomplete in covering the total emissions from the plants, including TXI, it does not conclude that these emissions were safe.

Until such time that it can be reasonably proven and/or confirmed that my health and the health of my family (and pets) are safe from toxics from these facilities I shall be in protest of the approval of this subject application.

Apparently TXI is seeking an operating permit for a technology that was abandoned by the cement industry itself over 25 years ago. Instead of renewing this permit for obsolete and polluting wet kilns, TXI should be required to either retrofit them to modern standards or replace them with another dry kiln to meet cement production needs. A thorough hearing on whether obsolete wet kilns are in fact "Best Available Control Technology" is another excellent reason to grant citizens a the opportunity to a contested case hearing.

Additionally, I protest the approval of this application based upon past what I have heard as a history of permit violations and non-compliance which have resulted in excess emission releases that are proven injurious to my health.

I also would like to be placed on a mailing list to receive updates on the progress of this issue and application.

With respect,

Floyd T. Hopkins, Architect  
(Still supporting our troops)

August 02, 2008

*NSR  
64144*

Ms. Ladonna Castanuela  
Office of the Chief Clerk MC-105  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

**OPA**  
**AUG 05 2008**  
BY *EB*

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 AUG - 5 AM 10:03  
CHIEF CLERKS OFFICE

Re: TXI Operations LP, Permit No 1360A, Application for Renewal

Ms. Castanuel:

I am taking this opportunity to express my concern regarding the application and intent to obtain an air permit renewal referenced above. It is my understanding that this permit (No. 1360A) would authorize TXI to continue emitting nitrogen oxides, carbon monoxide, hydrogen chloride, organic compounds, sulfur dioxide, chlorine, hydrogen fluoride, sulfuric acid, total reduced sulfur, hydrogen sulfide, PM 10 or less, barium, trivalent chromium, lead, selenium, thallium, zinc, trace metals including (but not limited to) lead and mercury into to the air that I breath.

My residence is within just a few miles from the emissions from this facility. It is my understanding that these emissions have been proven to adversely affect my health and the health of my family and pets. Additionally, I have observed that the dust and grim within my home is worst than any other place which I have lived (Texas, Alaska, Michigan, Alabama, Virginia and Nassau, Bahamas).

Again, I understand that the federal Agency for Toxic Substances and Disease Registry released part one of a series of reports examining the pubic health threat caused by Midlothian's three cement plants and steel mill. Though this report is incomplete in covering the total emissions from the plants, including TXI, it does not conclude that these emissions were safe.

Until such time that it can be reasonably proven and/or confirmed that my health and the health of my family (and pets) are safe from toxics from these facilities I shall be in protest of the approval of this subject application.

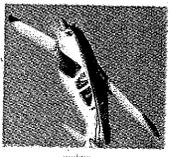
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I also would like to be placed on a mailing list to receive updates on the progress of this issue and application.

Thank you,  


Janet Gray-Hopkins, School Teacher



Floyd T. Hopkins  
 1458 Vicki Ln.  
 Cedar Hill, TX 75104-3010

DAVIDS TX 752  
 ON AUG 2008 PM 4 3



RECEIVED

AUG 05 2008  
 TCEQ MAIL CENTER

Ms. LADONIA CASTANIEL  
 OFFICE OF CHIEF CLERK MC-10FS  
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
 P.O. Box 13087  
 Austin TX 78711-3087

2008 AUG -5 AM 10:03  
 CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY





NSR  
041144

LINDA L. KOOP  
Councilmember  
District 11

**Committees:**  
Transportation & Environment, Chair  
Economic Development  
Housing  
Trinity River Project

OPA

SEP 17 2008

BY bp

September 15, 2008

Office of the Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

RE: Permit Number 1360A

To Whom It May Concern:

On August 6<sup>th</sup>, 2008 the City of Dallas submitted the attached comments concerning the TXI Operations LP Air Permit Renewal application to the Texas Commission on Environmental Quality.

On August 27<sup>th</sup>, 2008, TXI republished its notice for comments on its permit renewal application for the operation of its Midlothian Cement Plant. In response, the City of Dallas hereby submits the following additional comments regarding the permit renewal.

Since the previous comment period, TXI announced plans to idle its four wet process kilns in Midlothian, TX for an unspecified length of time. The City of Dallas applauds TXI's plans to shut down its wet process kilns and supports a permanent closure of these kilns. Wet kilns use more energy and generally have higher emissions rates, specifically emissions of NOx, than dry process kilns. As a result, shutting down TXI's wet kilns permanently and solely operating the cleaner dry kiln will ensure compliance with source cap limits established in the DFW SIP, and is in accordance with the standards required by the City of Dallas cement purchasing policies.

On behalf of the City of Dallas, I appreciate your consideration of these additional comments.

Sincerely,

Linda L. Koop  
Chair, Transportation and Environmental Committee  
Dallas City Council

2008 SEP 17 AM 10:43  
CHIEF CLERKS OFFICE  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

mw

NSR  
04144



LINDA L. KOOP  
Council member  
District 11

**Committees:**  
Transportation & Environment, Chair  
Economic Development  
Housing  
Trinity River Project

September 15, 2008

Office of the Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

OPA

SEP 15 2008

BY BP

CHIEF CLERKS OFFICE

2008 SEP 15 PM 2:56

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

RE: Permit Number 1360A

To Whom It May Concern:

On August 6<sup>th</sup>, 2008 the City of Dallas submitted the attached comments concerning the TXI Operations LP Air Permit Renewal application to the Texas Commission on Environmental Quality.

On August 27<sup>th</sup>, 2008, TXI republished its notice for comments on its permit renewal application for the operation of its Midlothian Cement Plant. In response, the City of Dallas hereby submits the following additional comments regarding the permit renewal.

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On behalf of the City of Dallas, I appreciate your consideration of these additional comments.

Sincerely,

Linda L. Koop  
Chair, Transportation and Environmental Committee  
Dallas City Council

MW



NSR  
06/11/08

LINDA L. KOOP  
Councilmember  
District 11

OPA

AUG 11 2008

BY BP

**Committees:**  
Transportation & Environment, Chair  
Economic Development  
Housing  
Trinity River Project

August 6, 2008

Office of the Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

RE: Permit Number 1360A

2008 AUG 11 AM 11:00  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

To Whom It May Concern:

On June 24, 2008, TXI Operations LP (TXI) submitted an Air Permit Renewal application to the Texas Commission on Environmental Quality (TCEQ) for the operation of its Midlothian Cement Plant located in Midlothian, Ellis County, Texas. The city of Dallas has taken the opportunity to review this application and offer the following comments:

The City of Dallas would like to commend TXI on their commitment to work with the region to improve air quality. TXI operates one of the cleanest kilns in the nonattainment area, (Kiln #5), and with respect to that kiln, the City wishes to recognize TXI's strong commitment to both economic development and environmental protection. However, the City also wishes to point out that TXI also operates some of the dirtiest kilns, (Kilns #1-4), in the area. Those dirtier kilns disproportionately contribute to a condition of air pollution, that condition being a continuing violation of the 8 hour ozone standard.

As the region begins to consider the implementation of a more stringent 8 hour ozone standard, the City of Dallas believes that additional reductions in emissions of NOx and VOC will be necessary to ensure our region's compliance with that standard. Given the effect of the kilns' emissions on the surrounding area, the City requests that the TCEQ review all economically reasonable and technically practicable air pollution control technologies and impose those technologies as a condition for renewal of the preconstruction permit. The City also intends to continue working with all partners, including TXI, to assure that additional reductions are put in place to achieve compliance with the national ambient air quality standards.

BP

TXI is a major industrial source of air pollution located in the southern sector of the DFW Ozone Non-attainment Region. As proposed, the permit limits are not consistent with the most recently adopted State Implementation Plan (SIP). With this permit renewal, the City would like to request that TCEQ align the permit limits with the source cap outlined in the SIP. We would also request that the permit be limited to a five year term. This will coincide with the SIP development under the new ozone standard.

The City of Dallas has used the powers available to them to ensure that technically and economically feasible reductions are made. The City adopted a green cement purchasing policy, which we believe will lead to voluntary emission reductions for our region. In May 2007, the City Council adopted a purchasing policy in an attempt to encourage kilns to reduce their contribution on the Dallas-Fort Worth ozone problem. The policy included a base bid for dry kiln cement only, an alternative bid from cement from any source, and a preference from dry kilns with a NOx emission level less than 1.7 tons of NOx per clinker produced. While this type of purchasing policy provides for incentives for private companies to make some of the needed reductions, more are needed. TCEQ now has the opportunity to do its part to address these continuing violations, and we urge the agency to do so in this context. Clean air is important to our citizens and our economy. By granting these requests, we can ensure a beneficial partnership for all parties involved.

I appreciate your consideration of these requests. .

Sincerely,

A handwritten signature in black ink, appearing to read "Linda L. Koop". The signature is written in a cursive style with a large, looping initial "L".

Linda L. Koop

Chair, Transportation and Environment Committee



LINDA L. KOOP  
Councilmember  
District 11

**Committees:**  
Transportation & Environment, Chair  
Economic Development  
Housing  
Trinity River Project

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2008 AUG - 6 PM 3:41  
CHIEF CLERKS OFFICE

NSR  
04/144

August 6, 2008

Office of the Chief Clerk  
MC-105  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin, TX 78711-3087

OPA  
AUG 07 2008  
BY EB

RE: Permit Number 1360A

To Whom It May Concern:

On June 24, 2008, TXI Operations LP (TXI) submitted an Air Permit Renewal application to the Texas Commission on Environmental Quality (TCEQ) for the operation of its Midlothian Cement Plant located in Midlothian, Ellis County, Texas. The city of Dallas has taken the opportunity to review this application and offer the following comments:

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As the region begins to consider the implementation of a more stringent 8 hour ozone standard, the City of Dallas believes that additional reductions in emissions of NOx and VOC will be necessary to ensure our region's compliance with that standard. Given the effect of the kilns' emissions on the surrounding area, the City requests that the TCEQ review all economically reasonable and technically practicable air pollution control technologies and impose those technologies as a condition for renewal of the preconstruction permit. The City also intends to continue working with all partners, including TXI, to assure that additional reductions are put in place to achieve compliance with the national ambient air quality standards.

BG

Page 2, Comment Letter on Permit Number 1360A

TXI is a major industrial source of air pollution located in the southern sector of the DFW Ozone Non-attainment Region. As proposed, the permit limits are not consistent with the most recently adopted State Implementation Plan (SIP). With this permit renewal, the City would like to request that TCEQ align the permit limits with the source cap outlined in the SIP. We would also request that the permit be limited to a five year term. This will coincide with the SIP development under the new ozone standard.

The City of Dallas has used the powers available to them to ensure that technically and economically feasible reductions are made. The City adopted a green cement purchasing policy, which we believe will lead to voluntary emission reductions for our region. In May 2007, the City Council adopted a purchasing policy in an attempt to encourage kilns to reduce their contribution on the Dallas-Fort Worth ozone problem. The policy included a base bid for dry kiln cement only, an alternative bid from cement from any source, and a preference from dry kilns with a NOx emission level less than 1.7 tons of NOx per clinker produced. While this type of purchasing policy provides for incentives for private companies to make some of the needed reductions, more are needed. TCEQ now has the opportunity to do its part to address these continuing violations, and we urge the agency to do so in this context. Clean air is important to our citizens and our economy. By granting these requests, we can ensure a beneficial partnership for all parties involved.

I appreciate your consideration of these requests. .

Sincerely,



Linda L. Koop

Chair, Transportation and Environment Committee



# CITY OF DALLAS

CHIEF CLERKS OFFICE

2008 AUG - 6 PM 3:41

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Office of  
Councilmember Linda L. Koop  
City of Dallas  
1500 Marilla, Suite 5FN  
Dallas, Texas 75201  
214.670.7817  
214.670.0765-fax

Date: August 6, 2008

Number of Pages including cover sheet: 3

Please deliver to: Office of the Chief Clerk

Fax # 512.2393311

Comments:

Please contact Debbie Brown at the above number if you have difficulty receiving this fax.

Sal and Grace Mier  
1551 Bois D'Arc  
Midlothian, Texas 76065  
(phone: 972-775-7853)

September 06, 2008

VIA FACSIMILE TRANSMISSION 512-239-3311  
And U.S. POSTAL SERVICE

NSR  
601144

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 SEP 10 PM 3: 37  
CHIEF CLERKS OFFICE

Ms. LaDonna Castanuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

OPA

Re: Midlothian, Ellis County, Texas  
Permit No. 1360A  
Application for Permit Renewal

IP+ SEP 11 2008  
BY     a    

To Whom It May Concern:

TXI Operations LP (TXI) is requesting to renew their permit to operate 4 hazardous-waste-burning wet kilns operating on antiquated technology and kiln No.5 which has not demonstrated the capacity to deliver the emissions control which was the basis for permitting the original petition.

TXI was permitted to expand production based on the premises that kiln #5 was one of the most environmental friendly kilns built. At the heart of this allegation was the much-touted RTO technology. TXI (with TCEQ aiding and abetting) has attempted to abandon this technology. Even after SOAH Docket No. 582-05-5189 and TCEQ Docket No. 2004-1378-AIR Settlement Agreement to continue use of the RTO, TCEQ (contrary to the spirit of this settlement) continues to assist TXI in bypassing the RTO.

From the beginning TCEQ has issued a series of permits to allow TXI increases in production and increases in toxic emissions based on allegations that no additional toxic emissions will occur. There has been a constant "netting out" shell game with allegations and promises that increases in NOx and CO will not exceed the permitted level. There has been no apparent testing or verification by TCEQ.

What appears to have been ignored throughout the entire "netting out" process is the magnitude of other hazardous air pollutants that keep increasing with production increases. We do not have a handle on the volume of these toxins and their impact on the community. There is no scientifically reliable monitoring data. TCEQ cannot produce evidence that the Midlothian's air-monitoring system (with emphasis on the placement of the monitors) was scientifically established based on dispersion modeling, meteorology and other analyses that would indicate likely impact. We have a volume of data collected from haphazardly placed monitors, mostly in areas not likely to capture emissions from the local industries.

MW

**In justifying the releases of more and more toxic emissions, TCEQ has found refuge in outdated and questionable risk assessments that did not take into consideration the subsequent increases of all toxic emissions and do not reflect current science and the deleterious impact of toxins at levels much lower than levels previously considered acceptable or safe. Take lead and mercury for example:**

- Science has concluded that there are no safe levels of lead. EPA proposes to make revisions to the NAAQS for lead to a much lower level to provide requisite protection of public health and welfare. Adequate monitoring designed to capture true lead emissions is not available; therefore, it is impossible to determine whether TXI can meet these higher standards.
- Science has concluded that there are no safe levels of mercury. Cement production by nature of the process and materials and fuels used releases large volumes of mercury into the environment. It is common knowledge that sound science for accurately estimating mercury data submitted to EPA TRI does not exist. The methodology for estimating emissions seems to be a one size fits all approach without factoring in differences due to equipment configurations, raw materials and fuels utilized, etc. EPA recently estimated that cement kilns emit twice as much mercury as is actually reported to the EPA TRI.

After nearly a decade of litigation and multiple court orders directing EPA to do so, EPA finally agreed to set new standards and regulate mercury from cement kilns. TCEQ and TXI possibly could take refuge in a defense that this will not apply to existing facilities. **Whether or not an industry is grand fathered in or out from regulatory requirements does not affect the impact or fate of the toxins they emit nor as in this situation does it diminish the need for mercury reduction – and neither does it alter mercury's impact on public health. Respect for human life and TCEQ mission statement should prevail.**

Issues regarding cement kiln dust exist. CKD is still an un-addressed issue, particularly for the residents of Midlothian. Problems with TXI's handling of CKD at TXI Riverside and chromium 6 have already surfaced. There is no indication that the citizens of Midlothian will not encounter the same issues.

*(Although this permit request addresses air releases, I feel that that this point must be made: CKD deposited in unlined quarries in karstic terrain is destined to have a far-reaching negative effect on our water system – either for this generation, or for future generations. Refer to [www.epa.gov/epaoswer/other/ckd/ckd/ckdp0102.pdf](http://www.epa.gov/epaoswer/other/ckd/ckd/ckdp0102.pdf). There has been evidence of leaching in the Midlothian area. There is no evidence of a plan in place to prevent this.)*

Specific Requests:

We have read comments submitted by Downwinders at Risk regarding the renewal of TXI's Application and Intent to Obtain Air Permit Renewal. We wish to echo those findings and also make them our issues of concern. In addition, before any further action is taken on executing this air permit renewal request we are asking that:

1. Lead and its deleterious impact on public health be given due respect and no action be taken until the NAAQs issue is resolved and it can be assured that TXI and the other industries in Midlothian can meet the higher standards; and
2. Mercury and its deleterious impact on public health be given due respect, emissions be reduced and confined to levels protective of public health, adequate methods for measurement are developed and continuous monitoring systems are built into the system; and
3. TCEQ, in keeping with their mission statement, consider the cumulative impact of all Midlothian industries on the public health of the affected populace. TCEQ historically issues permits to industries as if they stand alone in a pristine world. Because of the concentration of industries within a small perimeter in Midlothian we are asking that any permits issued consider the total toxic burden imposed upon the populace; and
4. A monitoring system based on science, dispersion modeling, meteorology and other analyses that would indicate likely impact be established in Midlothian; and
5. But most important of all, we request that TCEQ to do an updated risk assessment that incorporates increases in toxic emission and most importantly all of the recent science before any further action to renew this permit is taken.

We request that we be added to TCEQ mailing list to receive all future correspondence regarding this application.

Respectfully,



Sal and Grace Mier

SAL & C

155150'S D AIR NAME  
WILKINSON TEXAS 76065

DALLAS TX 752

8 SEP

\$1.01



U.S. POSTAGE  
PAID  
PERMIT NO. 75154  
SEP 09 '06  
AMOUNT

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2/8/06

CHIEF CLERKS OFFICE

2008 SEP 10 PM 3:37

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

RECEIVED

SEP 10 2008

TCEQ MAIL CENTER  
JR

105

Texas Commission on Environmental Quality  
ATTN: Ms. La Donna Castanuela  
P.O. Box 13087  
Austin, Texas 78711-3087

Sal and Grace Mier  
1551 Bois D'Arc  
Midlothian, Texas 76065  
(phone: 972-775-7853)  
September 06, 2008  
VIA FACSIMILE TRANSMISSION 512-239-3311  
And U.S. POSTAL SERVICE

*NSR*  
*64144*

2008 SEP -9 AM 10:02  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Ms. LaDonna Castanuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

OPA

Re: Midlothian, Ellis County, Texas  
Permit No. 1360A  
Application for Permit Renewal

*IP+* SEP 09 2008  
BY *MC*

To Whom It May Concern:

TXI Operations LP (TXI) is requesting to renew their permit to operate 4 hazardous-waste-burning wet kilns operating on antiquated technology and kiln No.5 which has not demonstrated the capacity to deliver the emissions control which was the basis for permitting the original petition.

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*MC*

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3. TCEQ, in keeping with their mission statement, consider the cumulative impact of all Midlothian industries on the public health of the affected populace. TCEQ historically issues permits to industries as if they stand alone in a pristine world. Because of the concentration of industries within a small perimeter in Midlothian we are asking that any permits issued consider the total toxic burden imposed upon the populace; and
4. A monitoring system based on science, dispersion modeling, meteorology and other analyses that would indicate likely impact be established in Midlothian; and
5. But most important of all, we request that TCEQ to do an updated risk assessment that incorporates increases in toxic emission and most importantly all of the recent science before any further action to renew this permit is taken.

We request that we be added to TCEQ mailing list to receive all future correspondence regarding this application.

Respectfully,

Sal and Grace Mier

**In justifying the releases of more and more toxic emissions, TCEQ has found refuge in outdated and questionable risk assessments that did not take into consideration the subsequent increases of all toxic emissions and do not reflect current science and the deleterious impact of toxins at levels much lower than levels previously considered acceptable or safe. Take lead and mercury for example:**

- Science has concluded that there are no safe levels of lead. EPA proposes to make revisions to the NAAQS for lead to a much lower level to provide requisite protection of public health and welfare. Adequate monitoring designed to capture true lead emissions is not available; therefore, it is impossible to determine whether TXI can meet these higher standards.
- Science has concluded that there are no safe levels of mercury. Cement production by nature of the process and materials and fuels used releases large volumes of mercury into the environment. It is common knowledge that sound science for accurately estimating mercury data submitted to EPA TRI does not exist. The methodology for estimating emissions seems to be a one size fits all approach without factoring in differences due to equipment configurations, raw materials and fuels utilized, etc. EPA recently estimated that cement kilns emit twice as much mercury as is actually reported to the EPA TRI.

After nearly a decade of litigation and multiple court orders directing EPA to do so, EPA finally agreed to set new standards and regulate mercury from cement kilns. TCEQ and TXI possibly could take refuge in a defense that this will not apply to existing facilities. **Whether or not an industry is grand fathered in or out from regulatory requirements does not affect the impact or fate of the toxins they emit nor as in this situation does it diminish the need for mercury reduction – and neither does it alter mercury's impact on public health. Respect for human life and TCEQ mission statement should prevail.**

Issues regarding cement kiln dust exist. CKD is still an un-addressed issue, particularly for the residents of Midlothian. Problems with TXI's handling of CKD at TXI Riverside and chromium 6 have already surfaced. There is no indication that the citizens of Midlothian will not encounter the same issues.

*(Although this permit request addresses air releases, I feel that that this point must be made: CKD deposited in unlined quarries in karstic terrain is destined to have a far-reaching negative effect on our water system – either for this generation, or for future generations. Refer to *There has been evidence of leaching in the Midlothian area. There is no evidence of a plan in place to prevent this.*)*

**FORT WORTH**



ISR  
04/14/11

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 AUG -8 PM 2: 55

**OPA**

**CHIEF CLERKS OFFICE**

August 6, 2008

**AUG 11 2008**

**BY** BP

VIA FACSIMILE: (512) 239-3311 and  
VIA OVERNIGHT MAIL

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

Re: Application for Renewal Request for Permit Number 1360A

Dear Sir or Madam,

On June 24, 2008, TXI Operations LP (TXI) submitted an Air Permit Renewal application to the Texas Commission on Environmental Quality (TCEQ) for the operation of its Midlothian Cement Plant located in Midlothian, Ellis County, Texas. On behalf of the Fort Worth City Council, and their constituents, I am requesting the Executive Director to strongly consider the impacts to air quality associated with granting the renewal of Permit No. 1360A as it is currently proposed and limit the permit term to 5 years.

Our region's inability to historically meet State Implementation Plan deadlines relates directly to our inability to sufficiently reduce nitrogen oxides in our nine-county non-attainment region. As you know, during March 2008 the United States Environmental Protection Agency (USEPA) decreased the National Ambient Air Quality Standard (NAAQS) for ozone to 75 parts per billion. This reduced standard creates an even greater and more pressing need for the Dallas / Fort Worth non-attainment area to enact ozone reduction strategies.

As proposed, this permit renewal would authorize the continued emissions of nitrogen oxides (NOx) as well as other air quality contaminants. The City of Fort Worth is concerned that simply renewing permits for kiln operators to continue to emit NOx at current levels for another ten years removes incentives for kiln operators to install emission reduction technologies. Fort Worth recognizes and appreciates the efforts of TXI concerning Kiln 5, which is one of the cleanest kilns operating in the Midlothian area. However, Kiln 5 is a dry kiln and employs new manufacturing processes and technologies. Our concern is the much older, out-dated wet kilns that, though they do have minimal emission controls, they do not reduce NOx emissions to the level of dry kilns on a "per production" basis. Due to the higher emissions of various air contaminants from the wet kilns regulated by Permit 1360A and the influence of these contaminants on both ozone concentrations and public health, we believe that strong consideration should be given to retrofitting these kilns so that they meet emission standards that are more similar to dry kilns and more in keeping with modern air quality regulations.

**MIKE MONCRIEF, MAYOR**

THE CITY OF FORT WORTH \* 1000 THROCKMORTON STREET \* FORT WORTH, TEXAS 76102  
817-392-6118 \* FAX 817-392-2409

BG

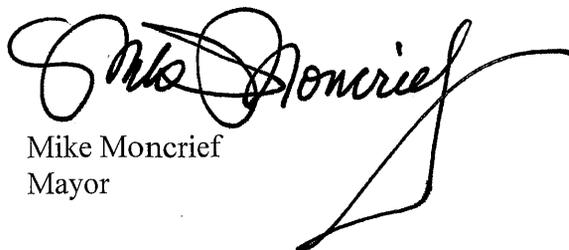
If TCEQ grants the renewal for Permit 1360A as proposed, the resulting permit would allow emissions at current levels for the "normal" permit term of 10 years. Because of the implications of a 10-year permit period and the potential inconsistency between emissions allowed by this permit and the future Regional State Implementation Plan/Clean Air Plan for the reduction of ozone, **we formally request the Commission to limit the term of the permit to coincide with the SIP review and amendments within the next 5 years. If this term limit is not feasible due to statutory or similar requirements, we formally request the Commission to add a special permit condition preventing the emission rates of permit 1360A from receiving "grandfather" status during development and implementation of the State Implementation Plan.** The City of Fort Worth wants to ensure that Permit 1360A are consistent with any newly established NOx emission rates and will apply to these kilns and the region.

Granting this air permit in its current form has the potential to significantly impact air quality and public health in the Dallas/Fort Worth Metroplex for the next ten years. It also has the potential to hinder our region's ability to meet current and future air quality standards. We believe that our request is both justified and necessary to ensure that air pollution from these operations does not negatively impact efforts to control ozone concentrations in non attainment areas. In the interest of protecting public health and safety as well as the use and enjoyment of public and private properties, we urge the TCEQ to seriously consider and grant our request.

The City of Fort Worth appreciates the support of the TCEQ in this endeavor. Please also place us on the mailing list to receive any future public information related to this application from the Office of the Chief Clerk.

Should you need any additional information to consider this request, please do not hesitate to contact me at (817) 392-6110 or Mr. Brian K. Boerner, Environmental Management Director, at (817) 392-8085.

Sincerely,

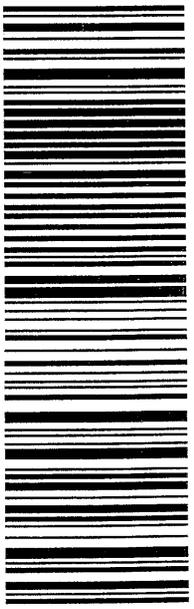


Mike Moncrief  
Mayor

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City AUSTIN State TX ZIP 78753  
Phone 512 239-3306

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FedEx Express Saver  
Third business day, NOT available.  
FedEx 1Day Freight  
Next business morning, Monday unless SATURDAY Delivery is selected.  
FedEx 2Day Freight  
Second business day, Monday unless SATURDAY Delivery is selected.  
FedEx 3Day Freight  
Third business day, NOT available.  
\* To meet locations, call for Confirmation.

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FedEx 2Day Freight  
Second business day, Monday unless SATURDAY Delivery is selected.  
FedEx 3Day Freight  
Third business day, NOT available.  
\* To meet locations, call for Confirmation.

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6 Special Handling  
 Not available for this shipment.  
 Hold at FedEx Location  
FedEx First Overnight, Express Saver or FedEx 3Day Freight.  
Does this shipment contain dangerous goods?  
One box must be checked:  
 No  
 Yes  
As per attached Shipper's Declaration  
Shipper's Declaration not required.  
Shipper's Declaration required.  
Dry Ice  
UN 1845  
Length Aircraft Only

7 Payment Bill to:  
 Sender  
 Recipient  
 Third Party  
 Credit Card  
 Cash/Check  
Enter FedEx Acct. No. or Credit Card No. below  
Obtain Receipt

8 Residential Delivery Signature Options  
If you require a signature, check one or indicate:  
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 Required  
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Total Weight  
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AUG 07 2008

BY EB

August 6, 2008

VIA FACSIMILE: (512) 239-3311 and  
VIA OVERNIGHT MAIL

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

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 AUG -7 AM 9:11  
CHIEF CLERKS OFFICE

Re: Application for Renewal Request for Permit Number 1360A

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**MIKE MONCRIEF, MAYOR**

THE CITY OF FORT WORTH \* 1000 THROCKMORTON STREET \* FORT WORTH, TEXAS 76102  
817-392-6118 \* FAX 817-392-2409

Office of Chief Clerk  
TCEQ  
August 6, 2008  
Page 2

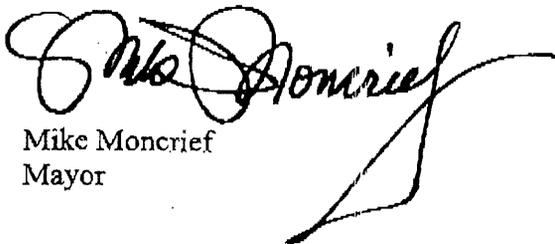
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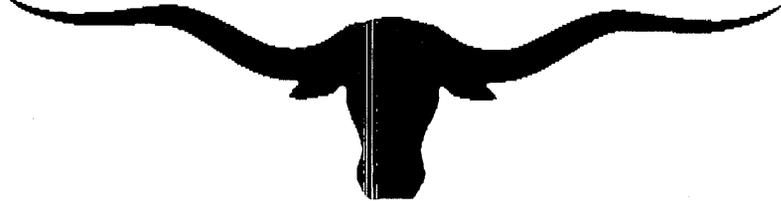
Should you need any additional information to consider this request, please do not hesitate to contact me at (817) 392-6110 or Mr. Brian K. Boerner, Environmental Management Director, at (817) 392-8085.

Sincerely,



Mike Moncrief  
Mayor

# FORT WORTH



Environmental Management Department  
1000 Throckmorton Street  
Fort Worth, Texas 76102  
(817) 392-6088  
(817) 392-6359 (fax)

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2008 AUG -7 AM 9:11  
CHIEF CLERKS OFFICE

# FAX

Date: 8-7-08

To: OFFICE OF THE CHIEF CLERK  
TCEQ

Fax #: 512-239-3311

From: BRIAN BOERNER

Fax # (817) 392-6359

Number of Pages, Including This Sheet: 3

Remarks: RE: APPLICATION FOR RENEWAL REQUEST  
FOR PERMIT 1360A

*The mission of the Environmental Management Department is to provide efficient, effective and compliant environmental and solid waste management services.*



## Enclosure

1. Section 4.1.5 – The application lists NO<sub>x</sub> emission rates of 2.726 lb/ton of clinker for the dry process kiln, and 500 lbs/hr per wet kiln or 2190 tons/yr per wet kiln. However, the permit should, at a minimum, reflect the proposed Dallas-Fort Worth (DFW) State Implementation Plan, Control of Emissions of NO<sub>x</sub> from Cement Kilns. The plan states that in Ellis County, dry preheater-precalsiner kilns should achieve an emission rate of 1.7 lb/ton clinker and long wet kilns should achieve an emission rate of 3.4 lb NO<sub>x</sub>/ton of clinker no later than March 1, 2009, during the Dallas-Fort Worth ozone season. See Texas Administrative Code 117.3123(b).
2. There is no mention of maintenance, start up, and shut down emissions (MSS) in the permit application. The TCEQ must follow EPA policy for addressing periods of MSS when preparing the draft permit.
3. Although not a requirement in the permit, the EPA understands that TXI is operating regenerative thermal oxidizers (RTO) during the ozone season to reduce Volatile Organic Compound emissions. The EPA encourages this commitment be reinforced by incorporating emission rates reflecting use of the RTO to ensure that emission controls are utilized effectively, in addition to making the permit more practicably enforceable. In addition, 40 CFR Part 58, Appendix D, *Ozone Monitoring Season by State*, which was approved into the State's SIP by EPA, defines the ozone monitoring season in the DFW area as March through October.

1360A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

AUG 05 2008

OPA

SEP 02 2008

BY DM

Office of the Chief Clerk (MC-105)  
Texas Commission on  
Environmental Quality  
P.O. Box 13087  
Austin, TX 78711-3087

NSR  
LC4144

CHIEF CLERKS OFFICE

2008 AUG -5 PM 1:12

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

RE: TXI Operations, Ellis County, Texas - Prevention of Significant Deterioration (PSD)  
Permit Application, PSD-TX-632M1

To Whom It May Concern:

We have reviewed the permit application for the renewal of the Midlothian Cement PSD Permit, received in our office on July 22, 2008. The application was evaluated to ensure consistency with the Texas PSD State Implementation Plan (SIP) and Federal Clean Air Act requirements. Our comments on the permit application are enclosed.

We look forward to working with TCEQ to resolve the issues identified in our comments and to ensure that the final permit is consistent with the requirements of the Texas PSD SIP. This letter is not a final position by the U.S. Environmental Protection Agency (EPA) concerning the disposition of the application and draft permit. Please contact me at (214) 665-7250 or Stephanie Kordzi, of my staff, at (214) 665-7520, if you have questions. Thank you for your cooperation.

Sincerely yours,

Jeff Robinson  
Chief  
Air Permits Section

Enclosures

cc: Mr. Steve Hagle (MC-163)  
Texas Commission on Environmental Quality  
Ms. Ruth Alvirez (MC-163)  
Texas Commission on Environmental Quality

mw

Enclosure

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FAX

To: Office of the  
Chief Clerk  
512-239-3311

CHIEF CLERKS OFFICE

2008 AUG -5 PM 1:12

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

From: Stephanie Korda  
214-665-7520

Rstanford@ceg.state.tx.us