

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 1, 2009

TO: Persons on the attached mailing list.

RE: Alamo Concrete Products, Ltd.
Permit No. 86959

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ central office, the TCEQ Austin Regional office, and at the Williamson County Courthouse, 710 Main Street, Georgetown, Williamson County, Texas. The facility's compliance file, if any exists, is available for public review at the Texas Commission on Environmental Quality Austin Regional Office, 2800 South Interstate Highway 35, Suite 100, Austin, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing. A person permanently residing within 440 yards of a concrete batch plant under a permit by rule is an affected person who is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

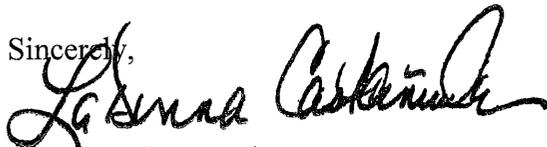
Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/er

Enclosures

MAILING LIST
for
Alamo Concrete Products, Ltd.
Permit No. 86959

FOR THE APPLICANT:

Al Mandelbaum
Alamo Concrete Products, Ltd.
P.O. Box 34210
San Antonio, Texas 78265-4210

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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FOR OFFICE OF PUBLIC ASSISTANCE
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FOR PUBLIC INTEREST COUNSEL
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FOR THE CHIEF CLERK
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LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk MC-105
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BROWN, WESLEY
306 RIDGE RUN DR
GEORGETOWN TX 78628-8264

EISMAN, DAVID
204 RIM ROCK DR
GEORGETOWN TX 78628-8260

FREERKS, MARK
201 FOX HOLLOW DR
GEORGETOWN TX 78628-8234

GRAHAM, DAVID
302 RIVER RIDGE DR
GEORGETOWN TX 78628-8257

GRAHAM, SUE
302 RIVER RIDGE DR
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HAHN, JODY
306 RIM ROCK DR
GEORGETOWN TX 78628-8261

LINDSEY, BRIAN
307 RIM ROCK DR
GEORGETOWN TX 78628-8261

LINDSEY, ROYCE
706 RIVER DOWN RD
GEORGETOWN TX 78628-8240

MORGAN, BEVERLY
317 RIDGE RUN DR
GEORGETOWN TX 78628-8264

NORFLEET, SHAND
211 RIVER DOWN RD
GEORGETOWN TX 78628-8243

PRILLIMAN, BETH & KEITH
103 RIVERVIEW CV
GEORGETOWN TX 78628-8251

SALISBURY, RICH
107 RED OAK CT
GEORGETOWN TX 78628-8247

SMIT, REBECCA
308 RIVER DOWN RD
GEORGETOWN TX 78628-8244

WILSON, JIM
311 RIM ROCK DR
GEORGETOWN TX 78628-8261

YAMMINE, PEGGY
204 RIDGE RUN CT
GEORGETOWN TX 78628-8206

TCEQ AIR QUALITY STANDARD PERMIT REGISTRATION NO. 86959

2009 NOV 30 PM 2:00

APPLICATION BY	§	BEFORE THE
	§	CHIEF CLERKS OFFICE
Alamo Concrete Products Ltd	§	TEXAS COMMISSION ON
Concrete Batch Plant	§	
Georgetown, Williamson County	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Standard Permit application and Executive Director's preliminary decision.

As required by Title 30 Texas Administrative Code (TAC) §55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk timely received comment letters from the following persons: Wesley Brown, David Eisman, Mark Freerks, David Graham, Sue Graham, Jody Hahn, Royce Lindsey, Brian Lindsey, Beverly Morgan, Shand Norfleet, Beth and Keith Prilliman, Rich Salisbury, Rebecca Smit, Jim Wilson, and Peggy Yammin. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

BACKGROUND

Description of Facility

Alamo Concrete Products, Ltd has applied to the TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) §382.05195. This will authorize the applicant to construct and operate a permanent concrete batch plant (CBP). The plant is proposed to be located at 1375 Weir Ranch Road, Georgetown, Williamson County. Contaminants authorized under this permit include particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter less than 10 microns in diameter (PM₁₀).

Procedural Background

Before work is begun on the construction of a new facility or a modification of an existing facility that may emit air contaminants, the person planning the construction or modification must obtain a permit or permit amendment from the commission. This permit application is for an Air Quality Standard Permit for Concrete Batch Plant. The permit application was received on December 5, 2008, and declared administratively complete on December 16, 2008. The Notice

of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published on December 24, 2008, in the *Williamson County Sun* and *El Mundo Newspaper*. The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) for this permit application was published on April 19, 2009 in the *Williamson County Sun*, and in Spanish on April 16, 2009 in *El Mundo Newspaper*. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1: Several commenters express concern regarding the proposed facility's impact on air quality. (*Wesley Brown, Brian Lindsey, Royce Lindsey, Beverly Morgan, David Eisman, David Graham, Sue Graham, Jody Hahn, Beth and Keith Prilliman, Rich Salisbury, Rebecca Smit, Jim Wilson, and Peggy Yammine*)

RESPONSE 1: The technical requirements contained in the Standard Permit for Concrete Batch Plants are designed to ensure that facilities operating under 30 TAC §116.611, Registration to Use a Standard Permit, achieve the emission standards that have been determined to be protective with regard to potential impacts to human health and welfare or the environment. All facility emissions generated from a generic concrete batch plant were considered in the development of the standard permit. Emission rate calculations were based on emission factors for concrete batch plant facilities as found in the *Compilation of Air Pollutant Emission Factors Manual (AP-42)* developed by the United States Environmental Protection Agency (EPA). The impact of these emissions have been determined by comparing predicted emission concentrations from concrete batch plant facility operating under the standard permit condition to appropriate state and federal standards and effects screening levels.^{1, 2, 3} The specific health-based standards or guidance levels employed in evaluating the potential emissions include the National Ambient Air Quality Standards (NAAQS); TCEQ standards contained in 30 TAC; and TCEQ Effect Screening Levels (ESLs).³

The National Ambient Air Quality Standard (NAAQS), as defined in Title 40 of the Code of Federal Regulations (CFR) § 50.2, were created and are periodically reviewed by the EPA. The NAAQS include both primary and secondary standards. The primary standards are those which the Administrator of the EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the

¹ See the document "Air Quality Modeling Guidelines" for details on air modeling at the TCEQ website at <http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg25.pdf>. Also visit the agency air modeling page at http://www.tceq.state.tx.us/permitting/air/nav/modeling_index.html.

² Documents referenced in this response that are available on the TCEQ website are also available in printed form at a small cost from the TCEQ Publications office at 512-239-0028.

³ To view the ESL list or obtain more information on ESLs, visit the TCEQ website at http://www.tceq.state.tx.us/implementation/tox/esl/list_main.html.

elderly, and individuals with existing lung or cardiovascular conditions.⁴ Secondary NAAQS are those which the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air. The standards are set for criteria pollutants: ozone, lead, carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), and respirable particulate matter (PM), which includes PM₁₀ and PM_{2.5}. "Criteria pollutants" are those pollutants for which a NAAQS has been established.

For the Standard Permit for Concrete Batch Plants, air dispersion modeling was performed in order to predict the impacts of emissions outside the plant property. After the modeling review was complete, the modeling results were sent to the TCEQ's Toxicology Section to evaluate whether emissions from the proposed facility were expected to cause health or nuisance problems. The Toxicology Section reviews the results from the air dispersion modeling by comparing those results to the TCEQ Effects Screening Levels (ESLs).

The modeling results verified that predicted ground level concentrations from a facility operated within the constraints dictated by the Standard Permit for Concrete Batch Plants are not likely to adversely impact off-property receptors. A receptor is a point at which air quality data is modeled.

The NAAQS for PM₁₀ is based on a 24-hour time period. The measurement for predicted concentrations of air contaminants is expressed in terms of micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). One microgram is 1/1,000,000 of a gram, or 2.2/1,000,000,000 of a pound (approximately the weight of a dust mite), of air contaminant per cubic meter of ambient air. The air volume of a cubic meter is approximately the size of a washing machine. Predicted air concentrations occurring below the 24-hour NAAQS of 150 $\mu\text{g}/\text{m}^3$ and the annual NAAQS limit of 50 $\mu\text{g}/\text{m}^3$ are not expected to exacerbate existing conditions or cause adverse health effects. Modeling for the Standard Permit for Concrete Batch Plants resulted in predicted PM₁₀ concentrations of 25 $\mu\text{g}/\text{m}^3$ (24-hour), which is below the NAAQS.⁵ Since the PM₁₀ 24-hour maximum concentrations are also below the annual PM₁₀ standard of 50 $\mu\text{g}/\text{m}^3$, the standard permit also demonstrates compliance with the annual PM₁₀ standard. Therefore, based on the potential concentrations reviewed by the Executive Director's staff, it is not expected that existing health conditions will worsen or that adverse health effects in the general public, sensitive subgroups, or animal life will occur as a result of exposure to the expected levels of PM.

⁴ EPA considered animal studies indicating allergic responses to particulate matter as well as studies in children indicating increased allergic responses to traffic-related gases and particles when they established the most recent NAAQS. Therefore, emissions below the applicable NAAQS would not be expected to exacerbate allergic conditions.

⁵ EPA repealed the annual time period standard, which had been set at 50 $\mu\text{g}/\text{m}^3$. Despite the repeal, annual time period modeling was conducted. It was found that this facility would meet the repealed standard.

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Alamo Concrete Products Ltd., Standard Permit No. 86959
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The Executive Director has reviewed the application in accordance with the criteria required by the relevant law, policy and procedures, and the Agency's mission to protect the state's human and natural resources consistent with sustainable economic development. As long as the facility is operated as specified in the Standard Permit for Concrete Batch Plants, the proposed emissions are not expected to adversely impact human health, air quality, or the welfare of persons living in the area.

COMMENT 2: One commenter expressed concern that the proposed concrete batch plant will inhibit the enjoyment of their home and property. (*Rebecca Smit*)

RESPONSE 2: In addition to complying with the federal and state standards and guidelines mentioned above, the facility must also comply with 30 TAC §101.4, which prohibits nuisance conditions. Specifically the rule states, "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is operated in compliance with the terms of the Standard Permit for Concrete Batch Plants, nuisance conditions or conditions of air pollution are not expected.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Regional Office at 325-655-9479, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?" This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.state.tx.us (under Publications, search for document no. 278).

COMMENT 3: Commenters express concern regarding the increase in hazardous truck traffic due to the operation of the proposed Concrete Batch Plant (*Wesley Brown, David Eisman, Mark Freerks Jody Hahn, Beverly Morgan, and Shand Norfleet*). Some of these commenters also express concern regarding noise related to the operation of the facility (*Wesley Brown, David*

Eisman, Mark Freerks, David Graham, Royce Lindsey, Brian Lindsey, Beverly Morgan, Shand Norfleet, Beth and Keith Prilliman, Rich Salisbury, Rebecca Smit, and Jim Wilson).

RESPONSE 3: The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. Therefore, the TCEQ does not have jurisdiction over traffic or road safety. Jurisdiction over traffic on public roads is the responsibility of the cities, county, and/or other state agencies such as the Texas Department of Public Safety and the Texas Department of Transportation.

Further, the TCEQ may regulate stationary sources of air contaminants, but has no authority to regulate mobile sources. Accordingly, the TCEQ does not have jurisdiction to consider impacts of emissions from motor vehicles when determining whether to approve a permit application.

However, 30 TAC §101.5 states, "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use." Therefore, emissions from the facility may not create a traffic hazard.

Concerning noise associated with operation of the concrete batch plant, the TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider noise from a facility when determining whether to approve a permit application. Noise ordinances are typically established by local authorities.

COMMENT 4: Some commenters state that the proposed site is in area that is rural residential and not appropriate for industrial use. They express further concern regarding the facility's impact on their property value. (*Sue Graham, David Graham, Jody Hahn, and Rebecca Smit*).

RESPONSE 4: The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. The TCEQ does not have zoning authority, and it is therefore beyond the agency's power to regulate the effect of an applicant's site selection or the effect of that selection on property values. Zoning is usually controlled by local municipalities. However, the protectiveness review performed for the standard permit requires specific distances to the property line be set for equipment in order to meet all state and federal standards at the property line. When a plant is operating in compliance with the permit, including the distance requirements, then no adverse health effects are expected to off-property receptors, including local schools and any neighboring residents.

The standard permit requires the suction shroud baghouse exhaust or truck mix point must be located at least 100 feet from any property line. Stationary equipment, stockpiles, or vehicles used for the operation of the concrete batch plant (except for incidental traffic and the entrance and exit to the site) may not be located or operated, respectively, within the following specified distances to any property line: for those facilities with production rates less than or equal to 200

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

Alamo Concrete Products Ltd., Standard Permit No. 86959

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cubic yards per hour, at least 25 feet; and for those facilities with production rates more than 200 and less than or equal to 300 cubic yards per hour, at least 50 feet.

The Applicant certifies they will be using a suction shroud for the truck drop with the exhaust air venting to a central dust collector and this emission point will be located more than 100 feet from any property line. The Applicant also ensures the facility's production rate will be 150 cubic yards or less, requiring them to meet the 25 foot distance requirements for all applicable emission points. The Applicant represents they meet all distance requirements stipulated in the standard permit and therefore will be protective of any off-property receptors.

COMMENT 5: Commenters express concern regarding an accumulative effect on air quality with the addition of the proposed concrete batch plant in conjunction with the existing facilities (quarries, rock crusher, and asphalt plant) in the area. They further express concern for the damage to homes and residential property due to the blasting activities associated with the local quarries. (*Wesley Brown, David Eisman, David Graham, Jody Hahn, Royce Lindsey, Brian Lindsey, Beverly Morgan, Shand Norfleet, Beth and Keith Prilliman, Rich Salisbury, Rebecca Smit, Jim Wilson, and Peggy Yammine.*)

RESPONSE 5: The primary contaminant of concern from the sources in the general area of the proposed permit is particulate matter. Williamson County is in compliance (or in attainment) with the particulate matter NAAQS set forth by the EPA. The EPA requires the implementation of a specific process to ensure that new and existing sources of a criteria contaminant, such as particulate matter, is reviewed to demonstrate compliance with NAAQS. This federal program is called Prevention of Significant Deterioration (PSD) and is triggered during the review of major sources. A major source is defined by EPA as a source that emits 250 tons per year (tpy) of a criteria contaminant, or particulate matter in this case. The applicant's proposed concrete batch plant is classified as a minor source and is expected to emit less than 10 tpy; consequently a federal review is not triggered.

The state evaluated background concentrations for Williamson County for a cumulative particulate matter concentration. The background concentrations are based upon a statewide review of the highest monitored values of PM₁₀; the countywide point source emissions; and population, as a surrogate for non-point source emissions. The background concentrations are meant to be conservative. The 24-hour PM₁₀ background concentration assigned to Williamson County is 75 µg/m³. The background concentrations include contributions from existing sources. The PM₁₀ concentration evaluation for the proposed standard permit (see Response 1), when combined with the background level, results in an overall concentration substantially less than the NAAQS. Also, the standard permit restricts the sitewide concrete production rate to 300 cubic yards per hour which further reduces the cumulative effect due to simultaneous plant operations. Therefore, when the plant is operated in accordance with the proposed permit there should be no adverse impact to air quality as a result of cumulative operations.

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Alamo Concrete Products Ltd., Standard Permit No. 86959

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The TCEQ's jurisdiction is established by the TCAA and is limited to the issues set forth in that statute. The TCEQ does not have jurisdiction to consider blasting or mining in determining whether to approve or deny a permit application. Blasting operations are associated with quarry operations, and the Texas Clean Air Act §382.003(6) provides that quarries are not facilities for purposes of air quality permitting. Therefore, quarries and associated blasting operations are not included in the review of an air quality permit application. Additionally, the commission also has no authority to address property damage claims alleged to result from blasting.

COMMENT 6: One commenter expressed concern regarding the policies that are in place to ensure compliance with the air quality regulations should the permit be approved (*Jody Hahn*). Another commenter expressed concern regarding the enforcement of these requirements (*Rebecca Smit*).

RESPONSE 6: Compliance determinations and provisions to ensure proper abatement and control of air emissions are included in several portions of the permit. Since the impacts evaluation for the permit relies on compliance with the conditions of the permit, there are several requirements for recordkeeping and visible emissions limitations included throughout the permit.

In addition, the permit's conditions establish opacity and visible emissions limitations and compliance determination methods. This includes the limitation of no visible emissions exceeding 30 seconds in a six-minute period in accordance with EPA Test Method (TM) 22.

As indicated in Response 2, individuals are encouraged to report any concerns about suspected noncompliance with terms of the permit or other environmental regulation by contacting the Austin Regional Office at 512-339-2929, or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ places a high priority on responding to citizen complaints. If a citizen files an environmental complaint with one of our regional offices, we will investigate the complaint according to established criteria for prioritizing complaints, and will provide the citizen with a report on the outcome of our investigation.⁶

TCEQ investigations are primarily risk-based. Concrete Batch Plants are generally considered low risk. If there is reason to raise the risk level, such as if a complaint is received, TCEQ will investigate. If the TCEQ receives a complaint, the facility is generally not notified in advance of the investigation. Also, if the complaint concerns dust or odor, off-site surveillance is conducted prior to approaching the facility. If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject to possible enforcement action.

⁶ See <http://www5.tceq.state.tx.us/oce/waci>.

CHANGES MADE IN RESPONSE TO COMMENT

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

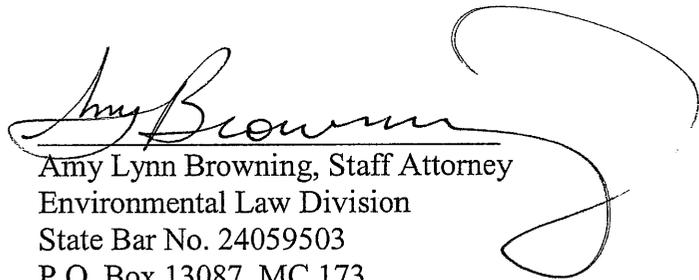
Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G., Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Robert Martinez, Division Director
Environmental Law Division

A handwritten signature in black ink that reads "Amy Lynn Browning". The signature is written in a cursive style and is positioned above the typed name and contact information.

Amy Lynn Browning, Staff Attorney
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY