

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

October 12, 2011

TO: Persons on the attached mailing list.

RE: P & L Cast Stone, Inc.
Permit No. 93109

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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 and the TCEQ Dallas/Fort Worth regional office. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Dr, Fort Worth, 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.texas.gov/about/comments.html> or by mail to the following address:

Bridget C. Bohac, 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 Public Participation and Education Program, toll free, at 1-800-687-4040.

Sincerely,



Bridget C. Bohac
Chief Clerk

BCB/ms

Enclosure

MAILING LIST
for
P & L Cast Stone, Inc.
Permit No. 93109

FOR THE APPLICANT:

Perry Rupp, President
P & L Cast Stone, Inc.
P.O. Box 1751
Roanoke, Texas 76262

INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Brian Christian, Director
Texas Commission on Environmental
Quality
Small Business and Environmental
Assistance
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

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

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

FOR PUBLIC INTEREST COUNSEL
via electronic mail:

Blas J. Coy, Jr., Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK
via electronic mail:

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

AGHILI , MEHRAN
NORTHWEST ISD
PO BOX 77070
FORT WORTH TX 76177-0070

ALCORN , VICKY
3957 HOLLOW LAKE RD
ROANOKE TX 76262-3833

ASHBY , CHARLES
1207 RIDGEWOOD CIR
SOUTHLAKE TX 76092-9236

BACH , DAVID
3730 HASLET ROANOKE RD
ROANOKE TX 76262-5807

BACH , KILA
1812 FOXFIELD
JUSTIN TX 76247-5747

BACH , PAMELA
3730 HASLET ROANOKE RD
ROANOKE TX 76262-5807

BAILEY , TIMOTHY
5749 FOUNTAIN FLAT DR
FORT WORTH TX 76244-5671

BARKETT , SHANNON
3900 CLOUD COVER RD
ROANOKE TX 76262-3826

BASS , WENDALL
13320 DOVE RANCH RD
ROANOKE TX 76262-4519

BAUERLE , JON
13825 SONTERRA RANCH RD
ROANOKE TX 76262-4593

BECK , ALAN
3520 GALLANT TRL
FORT WORTH TX 76244-4220

BELSCHNER , ANDREW
4025 HUNTER PEAK RD
ROANOKE TX 76262-3839

BOEMER , MARILYN
14301 ALLEN TRL
ROANOKE TX 76262-7602

BRANSON , DIANA
13912 RUSTLER PASS RANCH RD
ROANOKE TX 76262-4566

BULLARD , ANGELA
13930 CHAPARRAL LN
ROANOKE TX 76262-5815

BUNYARD , JAMES
3453 BANDERA RANCH RD
ROANOKE TX 76262-5873

BURRIS , RACHEL
4021 CLOUD COVER RD
ROANOKE TX 76262-3829

CAIN , CLAYTON
4005 HUNTER PEAK RD
ROANOKE TX 76262-3839

CAIN , CLAYTON & TIFFANY
4005 HUNTER PEAK RD
ROANOKE TX 76262-3839

CHARLES , IBISO B
1000 THROCKMORTON ST
FORT WORTH TX 76102-6312

CHARLEY , MIKE
15872 CHAPEL HILL CT
ROANOKE TX 76262-6373

CHILDERS , MARK S
3909 LAZY RIVER RANCH RD
ROANOKE TX 76262-3823

COLE , JEFFERY
3965 LONG HOLLOW RD
ROANOKE TX 76262-3831

CROWELL , BRIAN
THE HUDGINS COMPANIES
722 N MAIN ST
FORT WORTH TX 76164-9435

CULLEN , ANN
13701 PONDEROSA RANCH RD
ROANOKE TX 76262-4535

DAKON , DIANNA & RONALD
3957 HUNTER PEAK RD
ROANOKE TX 76262-3837

DALLUGE , CHRIS
12732 CONNEMARA LN
FORT WORTH TX 76244-9463

DANIEL , JOHNIB
14026 RIDGETOP RD
ROANOKE TX 76262-5840

ENTREKIN , DENISE
13405 DOVE RANCH RD
ROANOKE TX 76262-4548

ESPINO , SAL
CITY OF FORT WORTH - DISTRICT 2 COUNCIL ME
1000 THROCKMORTON ST
FORT WORTH TX 76102-6312

ESSER , JENNIFER
3909 HUNTER PEAK RD
ROANOKE TX 76262-3837

FICKES , GARY
STE 6
645 GRAPEVINE HWY
HURST TX 76054-2740

FLOCK , VICKI
3464 BANDERA RANCH RD
ROANOKE TX 76262-5868

FRASER , AARON
13816 SONTEERRA RANCH RD
ROANOKE TX 76262-4592

GALLAWAY , RIKKI & TIM
3901 HUNTER PEAK RD
ROANOKE TX 76262-3837

GALLAWAY , TIM
3901 HUNTER PEAK RD
ROANOKE TX 76262-3837

GIDDINGS , GARY
3925 HUNTER PEAK RD
ROANOKE TX 76262-3837

GOOLSBY , LORA
3608 CRIPPLE CREEK TRL
ROANOKE TX 76262-5888

GREEN , KRISTEN
3945 HUNTER PEAK RD
ROANOKE TX 76262-3837

HAMILTON , TRICIA
3832 BANDERA RANCH RD
FORT WORTH TX 76262

HARDISON , MEGAN
3905 LAZY RIVER RANCH RD
ROANOKE TX 76262-3823

HAWKINS , CAROLYN
14041 STAGECOACH RD
ROANOKE TX 76262-3843

HAWKINS , CAROLYN & TRACY
14041 STAGECOACH RD
ROANOKE TX 76262-3843

HOLMES , CYNTHIA
4000 HOLLOW LAKE RD
ROANOKE TX 76262-3834

HURD , MARIA
4013 CLOUD COVER RD
ROANOKE TX 76262-3829

HUTCHERSON , ROBERT & YELMA
13925 STAGECOACH RD
ROANOKE TX 76262-3841

KENDRICK , KIMBERLY
14265 CHAPARRAL LN
ROANOKE TX 76262-5819

KING , HAROLD
14041 CHAPARRAL LN
ROANOKE TX 76262-5820

KLEIN , APRIL
3913 LONG HOLLOW RD
ROANOKE TX 76262-3831

LAPRADE , DAVID
4025 HOLLOW LAKE RD
ROANOKE TX 76262-3835

LAPRADE , JAMES
4025 HOLLOW LAKE RD
ROANOKE TX 76262-3835

LAPRADE , MALINDA
4025 HOLLOW LAKE RD
ROANOKE TX 76262-3835

LARSON , ELENA & JOHN
3937 CLOUD COVER RD
ROANOKE TX 76262-3827

LONG , PAMELA
3717 LAZY RIVER RANCH RD
ROANOKE TX 76262-4595

MAHLER , JENIFER
14224 CHAPARRAL LN
ROANOKE TX 76262-5818

MAPLES , PAT
14265 ALLEN TRL
ROANOKE TX 76262-6314

MARCIANO , ANTHONY & SUE
13921 STAGECOACH RD
ROANOKE TX 76262-3841

MCCAFFERTY , CHRIS
3968 HUNTER PEAK RD
ROANOKE TX 76262-3836

MESENBRINK , KARIN
13770 HIGH MESA RD
ROANOKE TX 76262-4558

MESSICK , ASHLEY
13713 HORSESHOE CANYON RD
ROANOKE TX 76262

MESSICK, ASHLEY & DUSTY
13713 HORSESHOE CANYON RD
ROANOKE TX 76262

MESSICK, DUSTY
13713 HORSESHOE CANYON RD
ROANOKE TX 76262

MILLER, CINDY & ERIC
PO BOX 1851
ROANOKE TX 76262-1851

MIRON, GARY
15974 CHAPEL HILL CT
ROANOKE TX 76262-6374

MOORE, SANDRA G
14059 ALLEN TRL
ROANOKE TX 76262-6316

MOSLEY, BRENDA
14249 ALLEN TRL
ROANOKE TX 76262-6314

NAROWETZ, SCOTT
APT 4204
4524 SPRING VIEW LN
FORT WORTH TX 76244-5959

NELSON, THE HONORABLE JANE
TEXAS SENATE
PO BOX 12068
AUSTIN TX 78711-2068

NEVAREZ, MORGAN
3512 SILVERADO TRL
ROANOKE TX 76262-5897

NOTLEY-CAIN, TIFFANY
4005 HUNTER PEAK RD
ROANOKE TX 76262-3839

OGLETREE, SILVONNA
3936 HUNTER PEAK RD
ROANOKE TX 76262-3836

OSBORN, ANTHONY & LYNNE
3901 LONG HOLLOW RD
ROANOKE TX 76262-3831

PHIPPS, PATRICIA
13833 HIGH MESA RD
ROANOKE TX 76262-4561

PIERCE, CARRIE & MARK
3513 LASSO RD
ROANOKE TX 76262-5890

PIERCE, MARK
3513 LASSO RD
ROANOKE TX 76262-5890

POPA, ALEX & REITHMEIER, CHRIS
16190 CHAPEL HILL CT
ROANOKE TX 76262-6352

POPA, DAN & LESLI
16190 CHAPEL HILL CT
ROANOKE TX 76262-6352

PRESLEY, SHAWN
13601 LOST SPURS RD
ROANOKE TX 76262-4506

REDDY, SANDRA
14548 VALETTA RANCH RD
ROANOKE TX 76262-6527

RUNNEBERG, DAVID
13901 ALLEN TRL
ROANOKE TX 76262-6322

SCHLEPPHORST, RICHARD
4032 CLOUD COVER RD
ROANOKE TX 76262-3828

SCOGGINS, BENJY
BENJY
3969 LONG HOLLOW RD
ROANOKE TX 76262-3831

SIGLER, CHRIS
3909 CLOUD COVER RD
ROANOKE TX 76262-3827

SIGLER, SARAH
3909 CLOUD COVER RD
ROANOKE TX 76262-3827

SKEELS, JOHN
4017 HUNTER PEAK RD
ROANOKE TX 76262-3839

SLONAKER, JACQUELINE
3517 SILVERADO TRL
ROANOKE TX 76262-5898

SLONAKER, RONALD
3517 SILVERADO TRL
ROANOKE TX 76262-5898

SMITH, CARLINE
14150 ALLEN TRL
ROANOKE TX 76262-6319

SMITH, CARLINE & DAVE
14150 ALLEN TRL
ROANOKE TX 76262-6319

SMITH, DAVE
14150 ALLEN TRL
ROANOKE TX 76262-6319

SMITH, DOUGLAS
3624 CATTLEBARON DR
ROANOKE TX 76262-4504

SOTO, CLAUDIA
3908 CLOUD COVER RD
ROANOKE TX 76262-3826

STONE, FALL
4008 LAZY RIVER RANCH RD
ROANOKE TX 76262-3824

SWAMINATHAN, SRIRAM
3949 HOLLOW LAKE RD
ROANOKE TX 76262-3833

TAYLOR, SCOTT
14230 RIDGETOP RD
ROANOKE TX 76262-3812

TAYLOR, SCOTT D
14231 RIDGETOP RD
ROANOKE TX 76262-5810

TIDWELL, JUDY
14300 ALLEN TRL
ROANOKE TX 76262-7603

TIDWELL, LARRY
14300 ALLEN TRL
ROANOKE TX 76262-7603

TRAMMEL, JOE
RM 401
100 E WEATHERFORD ST
FORT WORTH TX 76102-2100

TRUITT, THE HONORABLE VICKI
TX HOUSE OF REPRESENTATIVES
PO BOX 2910
AUSTIN TX 78768-2910

USREY, CARA & STEPHEN
3913 HOLLOW LAKE RD
ROANOKE TX 76262-3833

VARNER, AMY
3501 CONFIDENCE DR
FORT WORTH TX 76244-4210

WALTER, DANA
14101 RIDGETOP RD
ROANOKE TX 76262-3856

WALTER, KEITH
14101 RIDGETOP RD
ROANOKE TX 76262-3856

WALTER, RACHEL ANN
14101 RIDGETOP RD
ROANOKE TX 76262-3856

WATSON, RICK
PO BOX 370
ROANOKE TX 76262-0370

WOLF, JEFF & JENNIFER
13933 STAGECOACH RD
ROANOKE TX 76262-3841

WOLF, JEFFERY
RACHES EAST HOMEOWNER
13933 STAGECOACH RD
ROANOKE TX 76262-3841

ZUBER, STEVE
4024 HOLLOW LAKE RD
ROANOKE TX 76262-3834

TCEQ AIR QUALITY STANDARD PERMIT FOR CONCRETE BATCH PLANTS
REGISTRATION NUMBER 93109

201 OCT 5 AM 10:05
CHIEF CLERKS OFFICE

APPLICATION BY	§	BEFORE THE
	§	
P & L Cast Stone, Inc.	§	TEXAS COMMISSION ON
Concrete Batch Plant	§	
Roanoke, Tarrant 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: Mr. Mehran Aghili and Mr. Charles Ashby (both representing the Northwest Independent School District), Ms. Pamela Bach, Mr. Timothy Bailey, Mr. Shannon Barkett, Mr. Wendall Bass, Mr. Alan Beck, Mr. Andrew Belschner, Ms. Marilyn Boemer, Ms. Diana Branson, Ms. Angela Bullard, Mr. James Bunyard, Mr. Clayton Cain, Ms. Tiffany Cain(also as Ms. Tiffany Notley-Cain), Mr. Ryan Casserly, Mr. Mike Charley, Mr. Jeffery Cole, Mr. Brian Crowell (representing Kingsley Creek Venture, Ltd.), Ms. Ann Cullen, Ms. Dianna Dakon, Mr. Ronald Dakon, Mr. Chris Dalluge, Mr. Johnnie Daniel, Ms. Denise Entrekin, Fort Worth Council Member Sal Espino, Ms. Jennifer Esser, Tarrant County Commissioner Gary Fickes, Ms. Vicki Flock, Mr. Tim Gallaway, Mr. Gary Giddings, Ms. Lora Goolsby, Ms. Kristen Green, Ms. Megan Hardison, Ms. Carolyn Hawkins, Ms. Cynthia Holmes, Ms. Kimberly Kendrick, Mr. Harold King, Mr. James LaPrade, Ms. Malinda LaPrade, Ms. Jenifer Mahler, Mr. Chris McCafferty, Ms. Ashley Messick, Mr. Dusty Messick, Mr. Gary Miron, Ms. Brenda Mosley, Mr. Scott Narowetz, Texas State Senator Jane Nelson, Mr. Morgan Nevarez, Ms. Silvonna Ogletree, Mr. Anthony Osborn, Ms. Lynne Osborn, Ms. Patricia Phipps, Ms. Carrie Pierce, Mr. Mark Pierce, Mr. Alex Popa, Mr. Dan Popa, Ms. Lesli Popa, Mr. Shawn Presley, Ms. Sandra Reddy, Mr. Chris Reithweier, Mr. David Runneberg, Mr. Richard Schlepffhorst, Mr. Benjy Scoggins, Mr. Chris Sigler, Ms. Sarah Sigler, Mr. John Skeels, Ms. Jacqueline Slonaker, Ms. Carline Smith, Mr. Dave Smith, Ms. Claudia Soto, Ms. Fall Stone, Mr. Sriram Swaminathan, Mr. Scott Taylor, Ms. Judy Tidwell, Texas State Representative Vicki Truitt, Ms. Amy Varner, Ms. Dana Walter, Mr. Keith Walter, Mr. Rick Watson, Mr. Jeffery Wolf, Ms. Jennifer Wolf, and Mr. Steve Zuber. 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 Public Education Program at 1-800-687-4040. General information about the TCEQ can be found on our website at www.tceq.texas.gov.

BACKGROUND

Description of Facility

P & L Cast Stone, Inc. ("Applicant") has applied to the TCEQ for a Standard Permit under TEX. HEALTH & SAFETY CODE, commonly known as the Texas Clean Air Act (TCAA) § 382.05195. This will authorize construction of a new facility that will emit air contaminants.

This permit, if granted, will authorize the applicant to construct and operate a permanent concrete batch plant (CBP). The facility is located at 4000 Haslet-Roanoke Road, Roanoke, Tarrant County. Contaminants authorized under this permit are particulate matter (PM), including road dust, aggregate, and cement. Sizes of particulate matter emitted have the potential to be less than or equal to 10 microns in aerodynamic diameter (PM₁₀), and particulate matter less than or equal to 2.5 microns in aerodynamic diameter (PM_{2.5}).

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 construction of a permanent concrete batch plant. The permit application was received on July 19, 2010, and declared administratively complete on August 4, 2010. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for this permit application was published on August 18, 2010 in the *Fort Worth Weekly* and re-published on March 10, 2011 in the *Fort Worth Star Telegram*. The Notice of Application and Preliminary Decision (second public notice) was published on October 13, 2010 in the *Fort Worth Weekly* and re-published on May 28, 2011 in the *Fort Worth Star Telegram*. On September 1, 2010, Senator Jane Nelson requested the TCEQ conduct a public meeting. Two public meetings were held on November 16, 2010 and June 30, 2011 at John M. Tidwell Middle School, 3937 Haslet-Roanoke Road, Roanoke, Texas 76262. The notice of public meeting was published on October 13, 2010 in the *Fort Worth Weekly* and May 23, 2011 in the *Fort Worth Star Telegram*. The public comment period ended on June 30, 2011.

COMMENTS AND RESPONSES

COMMENT 1: Several commenters indicated that they did not receive timely notice of the application and questioned why they were not notified (Ms. Pamela Bach, Mr. Johnie Daniel, Ms. Ashley Messick, and Ms. Amy Varner). Additionally, commenters

indicated the newspaper in which the Applicant published notice, *the Fort Worth Weekly*, was not available to nearby residents (Ms. Pamela Bach, Mr. Chris Dalluge, and Mr. Johnie Daniel). Additionally, several commenters indicated that the sign posting at the proposed plant were not properly located. Specifically, Ms. Ashley Messick and Mr. Johnie Daniel stated that a sign was behind a tree. Ms. Pam Bach commented that signs were not placed where they were easily visible and that the signs should have been placed closer to the school where parents would have seen them. Additionally, Ms. Bach commented that residents within 440 yards of the proposed facility should receive additional notice and not just sign or newspaper notice.

RESPONSE 1: The Executive Director directs applicants to provide public notice as required by commission rules, in accordance with statutory requirements. Specifically 30 TAC Chapter 39 requires that public notice of applications be published in a newspaper of general circulation in the municipality in which the facility is proposed to be located. The Applicant originally published notice of the application on August 18, 2010 and October 7, 2010 in the *Fort Worth Weekly*. The Executive Director determined that the *Fort Worth Weekly* was not a newspaper of general circulation in the extra-territorial jurisdiction (ETJ) of Fort Worth. Accordingly, the Applicant was directed to republish notice in a newspaper of general circulation in the ETJ of Fort Worth. The public notices for the application were republished on March 25, 2011 and May 23, 2011, in the *Fort Worth Star Telegram*.

The required newspaper notice instructs citizens how to request to be added to the mailing list for matters of interest by submitting their contact information to the Office of the Chief Clerk. The Executive Director is required to mail notice to persons on mailing lists maintained by the Office of the Chief Clerk.

TCEQ rules in 30 TAC § 39.604 stipulate the requirements for sign posting of public notice for air quality permit applications. Specifically, 30 TAC § 36.604(c) states that signs must be located within ten feet of every property line paralleling a public highway, street, or road. Signs must be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign is required, but no more than three signs are required along any property line paralleling a public highway, street, or road. The Applicant has represented that sign posting was conducted in accordance with commission rules.

COMMENT 2: Mr. Brian Crowell and Council Member Sal Espino commented that the proposed location is in the Fort Worth Extra Territorial Jurisdiction (ETJ) and not Roanoke. Additionally, Mr. Shannon Barkett commented on the complexity of the city and county boundaries.

RESPONSE 2: The application originally indicated the proposed facility would be located in Roanoke. The postal address of the plant is 4000 Haslet-Roanoke Road, Roanoke, TX. However, the facility is located in the ETJ of Fort Worth. The location description discrepancy in the application was identified and corrected. The Fort Worth City Manager, Mr. Dale Fisseler, was notified of the proposed application on October 7,

2010 and May 20, 2011, as required by the Standard Permit. Additionally, as discussed above in comment 1A, the public notice was republished in a newspaper of general circulation in the ETJ of Fort Worth.

COMMENT 3: Mr. Mehran Aghili commented that no permit applications have been filed with Tarrant County or the City of Fort Worth.

RESPONSE 3: This specific application is for an Air Quality Standard Permit which is under the purview of the TCEQ. Regulatory requirements of local or county governments are outside the scope of this review. However, the receipt of an air quality permit does not relieve the Applicant from complying with any additional applicable local, state or federal regulations. The Applicant must apply for any separate permits or authorizations needed for construction or operation of the facility.

When the TCEQ Air Permits Division determined that the proposed plant would be located in the ETJ of Fort Worth, the Applicant was required to send a copy of the complete application to the City of Fort Worth, Air Program Manager, Department of Environmental Management, 1000 Throckmorton Street, Fort Worth, Texas. Additionally, as mentioned above, notification of the application was also sent to the Fort Worth City Manager.

COMMENT 4: Ms. Patricia Phipps commented that it was represented by the applicant that this would be a low key operation. Mr. David Runneberg commented that the Applicant could apply for a temporary permit and asked whether the concrete would be used on or off site. Mr. Mehran Aghili asked if the CBP is on wheels and if so, how it can be considered a permanent facility.

RESPONSE 4: The authorization requested by the Applicant is for a concrete batch plant with a production rate of 150 cubic yards per hour, 12 hours a day, 5 days a week, and 52 weeks a year. The Applicant represented approximately half of the production authorized in the standard permit would be utilized. Further, the Applicant represented that the plant would be a permanent facility. The term permanent is based on the length of time the CBP will be on site. If an applicant represents the operation will be on site more than 180 days and will provide concrete for multiple projects, it is considered permanent.

Although the requested air authorization is for a permanent location, much of the equipment used in this industry may be relocated and is therefore highly portable. The Applicant may, at its discretion, apply for an authorization using the same equipment at a new location. TCEQ's Central Registry maintains a publically-accessible database with information related to permit 93109. In this database, a portable designation has been attached to the Regulated Entity name and number assigned to this concrete batch plant facility. The use of the portable designation allows the TCEQ to track the compliance history of the equipment if it is ever subsequently authorized to move to a new location. The database is available online at: www12.tceq.texas.gov/crpub/index.cfm.

This permit governs the control and abatement of air emissions only. As such, there are no restrictions within the standard permit related to what may be done with the concrete after it is produced.

COMMENT 5: Mr. Shawn Presley commented that the applicant could increase production after the permit is issued.

RESPONSE 5: Any increase in production will require notification to the TCEQ. The Executive Director's staff reviews such notifications to ensure the requirements of the standard permit will still be met. The Executive Director will not authorize the request for a change that would not meet the requirements of the standard permit. It is unlawful for the Applicant to operate at a higher production rate without written notification and authorization.

COMMENT 6: Mr. Mehran Aghili questioned why children attending Tidwell Middle School are not considered affected persons for purposes of requesting a contested case hearing?

RESPONSE 6: The TCAA § 382.058(c) states that only those persons residing in a permanent residence within 440 yards of the proposed concrete batch plant may request a hearing as a person who may be affected.

COMMENT 7: Several commenters indicated that there are numerous alternative suppliers and batch plants in the area, and asked about moving the proposed CBP to a more suitable location. (Mr. Charles Ashby, Mr. Mike Charley, Mr. Jeffery Cole, Ms. Ann Cullen, and Ms. Jennifer Esser, Mr. Harold King, Ms. Jennifer Mahler, Mr. Gary Miron, Mr. Shawn Presley, and Mr. Rick Watson). Mr. Charles Ashby commented about the number of residents who are leaving the area and that this facility may deter future development and businesses from moving to the area.

RESPONSE 7: The TCEQ's jurisdiction for air permitting is established by the legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning, land use, availability of multiple suppliers, future economic development, and residents moving are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications. Such issues should be directed toward local officials.

COMMENT 8: Many commenters expressed concern regarding the proximity of the facility to Tidwell Middle School, nearby housing developments, and indicated that some residents are living within 440 yards (Mr. Mehran Aghili, Mr. Charles Ashby, Ms. Pamela Bach, Mr. Shannon Barkett, Mr. Alan Beck, Mr. Andrew Belschner, Ms. Marilyn Boemer, Ms. Diana Branson, Ms. Angela Bullard, Mr. Clayton Cain, Mr. Mike Charley, Mr. Jeffery Cole, Mr. Brian Crowell, Ms. Ann Cullen, Ms. Dianna Dakon, Mr. Ronald Dakon, Mr. Chris Dalluge, Mr. Johnnie Daniel, Ms. Denise Entekin, Council Member Sal

Espino, Ms. Jennifer Esser, Commissioner Gary Fickes, Ms. Vicki Flock, Mr. Tim Gallaway, Mr. Gary Giddings, Ms. Lora Goolsby, Ms. Kristen Green, Ms. Carolyn Hawkins, Mr. Harold King, Mr. James LaPrade, Ms. Malinda LaPrade, Ms. Jenifer Mahler, Mr. Dusty Messick, Mr. Gary Miron, Ms. Brenda Mosley, Mr. Scott Narowitz, Senator Jane Nelson, Mr. Morgan Nevarez, Ms. Tiffany Notley-Cain, Ms. Silvonna Ogletree, Ms. Patricia Phipps, Mr. Alex Popa, Mr. Dan Popa, Ms. Lesli Popa, Mr. Shawn Presley, Ms. Sandra Reddy, Mr. Chris Reithweier, Mr. Richard Schlepphorst, Mr. Benjy Scoggins, Mr. Chris Sigler, Ms. Sarah Sigler, Ms. Jacqueline Slonaker, Ms. Carline Smith, Mr. Dave Smith, Ms. Fall Stone, Mr. Scott Taylor, Ms. Judy Tidwell, Representative Vicki Truitt, Ms. Amy Varner, Ms. Dana Walter, Mr. Keith Walter, Mr. Rick Watson, Mr. Jeffery Wolf, and Mr. Steve Zuber). Mr. Johnnie Daniel, Ms. Ashley Messick, and Mr. Rick Watson indicate they lived within 440 yards of the proposed plant.

Mr. Brian Crowell stated he had been told by two separate TCEQ employees that a CBP could not be within 440 yards of a school.

RESPONSE 8: There are no restrictions in the standard permit for CBP that limit the construction and operation of a facility nearby a school. However, TCAA § 382.052 requires the TCEQ to consider possible adverse short-term or long-term side effects of air contaminants or nuisance odors on individuals attending elementary, junior high, or senior high schools located within 3,000 feet of a proposed facility. In developing the Air Quality Standard Permit for Concrete Batch Plants, a protectiveness review was conducted for all contaminants emitted and the maximum concentration of those contaminants determined. As a result of this protectiveness evaluation, the Air Quality Standard Permit for Concrete Batch Plants requires all facilities be placed a minimum distance of 100 feet from the applicant's property line. This distance requirement is designed to protect the occupants of a residence, school, or place of worship beyond the property line.

For this specific application, the Applicant's proposed plant location will be over 250 feet from the P & L north property line (closest to the school) and over 700 feet from the middle school. The suction shroud fabric filter exhaust is also required to be a minimum of 100 feet from the property line. The Applicant has represented the exhaust will be 300 feet from the P & L north property line. The TCEQ DFW Regional Office conducted an on-site confirmation of the distance of the proposed plant to the school. Finally, with respect to locating a CBP near a school, as noted above, there is no prohibition on locating a CBP within 440 yards of a school.¹ However, the TCAA § 3825.058(c) sets out that persons residing in a permanent residence within 440 yards of a proposed CBP may request a hearing as a person who may be affected.

¹ The standard permit for CBP with enhanced controls does contain a prohibition on locating a facility within 440 yards of a school under TCAA § 382.05198(a)(18). However, this application is for a standard permit concrete batch plant under TCAA § 382.05195 and 30 TAC § 116.611 which do not contain a prohibition on locating a facility within 440 yards of a school.

COMMENT 9: Several commenters commented regarding possible damage to new roads and culverts, truck and traffic safety, and damage to cars and property from trucks (Mr. Mehran Aghili, Mr. Charles Ashby, Mr. Timothy Bailey, Mr. Shannon Barkett, Mr. Andrew Belschner, Ms. Marilyn Boemer, Ms. Angela Bullard, Mr. Mike Charley, Mr. Brian Crowell, Ms. Jennifer Esser, Commissioner Gary Fickes, Mr. Tim Gallaway, Mr. Gary Giddings, Ms. Lora Goolsby, Ms. Kristen Green, Ms. Carolyn Hawkins, Ms. Kimberly Kendrick, Ms. Kimberly Kendrick, Mr. Harold King, Mr. James LaPrade, Ms. Malinda LaPrade, Ms. Jenifer Mahler, Mr. Chris McCafferty, Mr. Dusty Messick, Mr. Gary Miron, Ms. Brenda Mosley, Ms. Tiffany Notley-Cain, Ms. Silvonna Ogletree, Ms. Sandra Reddy, Mr. Richard Schlepffhorst, Mr. Benjy Scoggins, Mr. Chris Sigler, Ms. Sarah Sigler, Mr. John Skeels, Ms. Carline Smith, Mr. Dave Smith, Mr. Scott Taylor, Ms. Judy Tidwell, Representative Vicki Truitt, Ms. Dana Walter, Mr. Rick Watson, Mr. Jeffery Wolf, Ms. Jennifer Wolf, and Mr. Sriram Swaminathan).

Ms. Dana Walter, Mr. Charles Ashby, and Representative Vicki Truitt commented regarding exhaust fumes from trucks. Additionally, Mr. Charles Ashby commented that new taxes may be required to pay for repairs to roads. Ms. Fall Stone commented regarding the trucks not being cleaned prior to going in and out of the site and questioned who will be responsible if there is an accident. Ms. Kimberly Kendrick commented there is a sign posted that states "no trucks."

RESPONSE 9: The TCEQ's jurisdiction is limited to the issues set by the Legislature. Accordingly, the TCEQ does not have jurisdiction over traffic, road safety, or road repair costs. Diesel trucks are considered mobile sources, and their emissions are not regulated by the TCEQ. Moreover, the TCEQ is excluded from regulating roads, per the Texas Clean Air Act (TCAA) § 382.003, Definitions, which specifically excludes roads from the definition of "facility." Jurisdiction over traffic on public roads, including any load bearing restrictions, and public safety including access, speed limits, and public roadway issues are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation and the Department of Public Safety. Repairs to personal property from trucks, such as a cracked windshield, are typically handled by local authorities, insurance companies, or individual agreements with the trucking operators or owners. An air quality permit does not authorize a violation of any road safety or load bearing restrictions. Concerns regarding roads should be addressed to the appropriate state or local officials.

COMMENT 10: Several commenters commented regarding noise, dust, enjoyment of their homes, and that the facility will be an eyesore in the community (Mr. Andrew Belschner, Ms. Marilyn Boemer, Ms. Angela Bullard, Mr. Mike Charley, Mr. Tim Gallaway, Mr. Gary Giddings, Ms. Kristen Green, Ms. Kimberly Kendrick, Ms. Tiffany Notley-Cain, Ms. Sandra Reddy, Mr. Richard Schlepffhorst, Ms. Carline Smith, Mr. Dave Smith, and Mr. Scott Taylor). Additionally, several commenters commented regarding the reduced quality of life including watching the stars and wildlife and limiting outdoor recreation (Mr. Charles Ashby, Mr. Wendall Bass, Ms. Angela Bullard, Ms. Tiffany Notley-Cain, Mr. Anthony Osborn, Ms. Lynne Osborn, and Mr. Richard Schlepffhorst,

Mr. Rick Watson, and Mr. Steve Zuber). Ms. Tiffany Notley-Cain was commented that the proposed facility would destroy the country atmosphere of the neighborhood. Furthermore, several commenters commented regarding possible declining property values, the curb appeal of the neighborhood, the possibility that potential buyers would be less likely to purchase a home in the neighborhood. Additionally, commenters commented regarding the possible economic impact of heavy industry, and the possible visual blight of the neighborhood (Mr. Charles Ashby, Ms. Jennifer Esser, Ms Vicki Flock, Mr. Gary Giddings, Ms. Kimberly Kendrick, Mr. Scott Narowitz, Mr. Morgan Nevarez, Mr. Anthony Osborn, Ms. Lynne Osborn, Ms. Sarah Sigler, Mr. John Skeels, Ms. Jacqueline Slonaker, Mr. Rick Watson, Mr. Jeffery Wolf, and Mr. Steve Zuber).

RESPONSE 10: As discussed above, the TCEQ does not have jurisdiction to consider noise, aesthetic appearance, zoning, effects on property values, or economic impact when determining whether to approve or deny a permit application.

The standard permit requires the following management practices to reduce fugitive emissions and minimize the potential for nuisance conditions: water sprays will be required on stockpiles and in plant roads, and work areas will be paved with a cohesive hard surface and cleaned. However, these management practices are meant to reduce fugitive emissions and nuisance potential and are not meant to address the appearance of the plant.

Except under limited circumstances, which do not exist in this particular application, the issuance of a permit cannot be denied on the basis of the facility location. However, all facilities must comply with the Texas Clean Air Act and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance. 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." Based on the TCEQ's experience regulating these types of facilities, they can be operated without causing a nuisance problem, provided the facilities are operated in compliance with the terms and conditions of their permit. However, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the Dallas/Fort Worth Regional Office at 817-588-5800, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If a facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to possible enforcement action.

COMMENT 11: Several commenters expressed concern regarding effects on health (human and animal) and air quality, specifically regarding Portland Cement and PM. Commenters are especially concerned with the effects on nearby residents who have preexisting health conditions such as allergies or other respiratory conditions (Mr. Mehran Aghili, Mr. Charles Ashby, Ms. Pamela Bach, Mr. Shannon Barkett, Mr.

Wendall Bass, Mr. Alan Beck, Ms. Marilyn Boemer, Ms. Angela Bullard, Mr. Clayton Cain, Mr. Mike Charley, Mr. Jeffery Cole, Mr. Brian Crowell, Ms. Ann Cullen, Ms. Dianna Dakon, Mr. Ronald Dakon, Mr. Chris Dalluge, Ms. Denise Entrekin, Council Member Sal Espino, Ms. Jennifer Esser, Commissioner Gary Fickes, Ms. Vicki Flock, Mr. Tim Gallaway, Mr. Gary Giddings, Ms. Lora Goolsby, Ms. Kristen Green, Ms. Carolyn Hawkins, Ms. Kimberly Kendrick, Mr. James LaPrade, Ms. Malinda LaPrade, Ms. Jenifer Mahler, Ms. Ashley Messick, Mr. Dusty Messick, Ms. Brenda Mosley, Mr. Scott Narowetz, Mr. Morgan Nevarez, Ms. Tiffany Notley-Cain, Ms. Silvonna Ogletree, Mr. Anthony Osborn, Ms. Lynne Osborn, Ms. Patricia Phipps, Ms. Carrie Pierce, Mr. Mark Pierce, Mr. Alex Popa, Mr. Dan Popa, Ms. Lesli Popa, Mr. Shawn Presley, Ms. Sandra Reddy, Mr. Chris Reithweier, Mr. David Runneberg, Mr. Richard Schlepffhorst, Mr. Benjy Scoggins, Mr. Chris Sigler, Mr. John Skeels, Ms. Jacqueline Slonaker, Ms. Carline Smith, Mr. Dave Smith, Ms. Claudia Soto, Ms. Fall Stone, Mr. Scott Taylor, Ms. Judy Tidwell, Representative Vicki Truitt, Ms. Dana Walter, Mr. Rick Watson, Mr. Jeffery Wolf, Ms. Jennifer Wolf, and Mr. Steve Zuber). Ms. Patricia Phipps commented that PM effects children more, especially those with asthma. Mr. Charles Ashby is concerned about indoor and outdoor air quality. Additionally, Mr. Tim Gallaway and Mr. Dave Smith commented that because of the prevailing wind, emissions from the plant will blow in the direction of the neighboring school and nearby housing developments.

Ms. Ashley Messick commented that she has a preexisting health condition and is concerned that emissions from the plant will aggravate her condition. Mr. Shannon Barkett commented that Cardio Obstructive Pulmonary Disease (COPD) is heavily linked to the cement industry and its works, and that silica, alumina, iron oxide, lime, and gypsum are all materials used in this industry and would be airborne hazards. Mr. Shawn Presley asked how anyone could be 100% safe considering no baseline air quality test has been performed and no monitors are nearby?

RESPONSE 11: The proposed facility will be registered under a Standard Permit pursuant to 30 TAC § 116.611, Registration to Use a Standard Permit, which has been determined to be protective of public health and welfare beginning at the property line. The technical requirements contained in the Standard Permit are designed to ensure that facilities operating within the parameters of the standard permit achieve emission standards determined to be protective of human health and the environment by the TCEQ protectiveness review. These technical requirements require compliance with the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM).

The NAAQS are created and periodically reviewed by the United States Environmental Protection Agency (EPA). The NAAQS are defined in federal regulation 40 C.F.R. § 50.2, and include both primary and secondary standards. Primary standards are those which the Administrator of the EPA determines are necessary, within an adequate margin of safety, to protect public health, including sensitive members of the population. Secondary standards are those which the Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with

the presence of a contaminant in the ambient air. The NAAQS for PM are set for respirable particulate matter, specifically, PM₁₀ and PM_{2.5}. The Standard Permit for Concrete Batch Plants is designed to be in compliance with these EPA standards and to be protective of public health, welfare, and the environment.

As an additional method of control for potential air emissions from the proposed facility, any vehicles used for the on-site operation of the plant are required to be at least 25 feet from the property line. The only exceptions to this distance requirement are traffic entering and exiting the property, and incidental traffic. Additional emission controls intended to prevent the accumulation and fly-away of dust will be required at the plant, such as a pickup device delivering air to a fabric or cartridge filter. Operations at the plant in compliance with the permit will result in the emission of particulate matter in compliance with state and federal standards. The Applicant has represented it meets or exceeds all requirements stipulated in the standard permit. The Executive Director's staff has conducted a thorough review of permit application 93109 to confirm it meets the requirements of all applicable state and federal standards. So long as the Applicant operates its plant within the parameters of the standard permit, adverse health effects or off-property receptor effects are not expected to occur.

The TCEQ does not have jurisdiction over indoor air quality. The Texas Department of State Health Services (formerly TDH) is responsible for indoor air quality. However, all facilities must comply with the Texas Clean Air Act and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance. 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." Based on the commission's experience regulating these types of facilities, they can be operated without causing a nuisance problem, provided the facilities are operated in compliance with the terms and conditions of their permit. However, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or environmental regulation by contacting the Dallas/Fort Worth Regional Office at 817-588-5800 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If a facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to possible enforcement action.

Additionally, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 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." Accordingly, the Applicant is prohibited from creating a traffic hazard with emissions from its facility.

As previously mentioned, this is an application for an Air Quality Standard Permit for Concrete Batch Plants. This is not an application for a Portland cement production facility. The only pollutant authorized by this application is PM. Emissions of silica, alumina, iron oxide, lime, or gypsum are not authorized by this permit.

COMMENT 12: Mr. Wendall Bass and Ms. Jennifer Esser commented regarding the cumulative effects of nearby facilities such as Alliance Airport, IH-35, and several active gas wells and drilling pad sites. Council Member Sal Espino commented that Fort Worth is EPA Non Attainment.

RESPONSE 12: Tarrant County is in nonattainment for the National Ambient Air Quality Standard (NAAQS) for ozone. Nonattainment means the levels of ozone in Tarrant County are contributing to the exceedance of the ozone NAAQS. The precursors to ozone development are nitrogen oxides (NO_x) and volatile organic compounds (VOC). In the Tarrant County area, the primary contributor to ozone nonattainment is nitrogen oxides. The proposed concrete batch plant should not contribute to the deterioration of the Tarrant County nonattainment area because the plant will not emit nitrogen oxides or volatile organic compounds.² As stated above, the only contaminant the Applicant is authorized to emit is particulate matter (PM). Tarrant County is in attainment with the PM NAAQS. Therefore, if 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.

COMMENT 13: Commenters expressed concern regarding the lack of a monitoring system, request that an air quality base line be established before the application is complete, request random testing for air and water quality, and would like to see what the air quality is at other sites including the proposed facility (Mr. Mehran Aghili, Mr. Charles Ashby, Mr. Shannon Barkett, Mr. Chris Dalluge, Ms. Vicki Flock, Ms. Megan Hardison, and Mr. Shawn Presley, and Ms. Dana Walter).

Additionally, Ms. Patricia Phipps would like to know how to request air monitoring and would like monitoring information. Ms. Diana Branson requests air and water monitoring. Mr. Chris Dalluge requests air monitoring. Council Member Sal Espino requests air quality monitoring information on the Barnett Shale.

RESPONSE 13: The TCEQ has air quality monitors in and around Tarrant County. However, at this time, there are no plans to conduct an air quality evaluation specific to the proposed facility location prior to the construction of the concrete batch plant.

² Because mobile emissions (on-road and non-road vehicles) represent over half the nitrogen oxide emissions and more than twice the nitrogen oxide and volatile organic compound emissions from industrial point sources statewide, it is likely IH-35 and Alliance Airport are contributing to high nitrogen dioxide levels in Tarrant County.

Additionally, the majority of Barnett Shale sources (gas wells and drilling pad sites) are north and west of the DFW nonattainment area. For approximately 80% of the time between May and October (months with weather conditions most conducive to ozone formation) winds blow emissions from the Barnett Shale away from the DFW area, and therefore, are also not expected to significantly affect ozone in the DFW area.

There are no monitoring devices specifically stipulated for this facility. The TCEQ does not require air monitors for concrete batch plants.

Although there are no plant-specific air monitors contemplated for this facility, mobile monitoring can be implemented by the TCEQ if conditions warrant. Requests for installation of air monitors may be received by email at: monops@tceq.texas.gov. All requests are reviewed and considered based on priority and schedules for placement of future monitors.

Additionally, the TCEQ regional offices respond to all complaints in a timely manner and will prioritize their response based on the potential for adverse health effects associated with any alleged violation. For example, a "priority one" case means serious health concerns exist, and the case will be investigated immediately. Conversely, a "priority four" case means no immediate health concerns exist and thus will be investigated within 30 days. More information about making an environmental complaint can be found at: www.tceq.state.tx.us/compliance/complaints/index.html.

The TCEQ provides daily updated information and provides general information regarding air quality across the state at:
www.tceq.texas.gov/airquality/monops/forecast_today.html.³

Based on the permit application, air contaminants from this facility will consist of particulate matter, including (but not limited to) aggregate, cement, road dust and particulate matter less than 10 microns in diameter. Emissions will be monitored by maintaining records of production rates for each hour of operation and other records as required by 30 TAC §§ 101.201 and 101.211. These records shall be kept for lesser of either the most recent rolling 24-month period or the duration of operation at the proposed location. These records may be subject to investigation by the TCEQ regional office. Additionally, the permit contains provisions requiring self monitoring. Specifically, Section 3. of the General Requirements in the standard permit require the following:

- (B) Fabric filters and collection systems shall meet all of the following:
 - (i) any fabric or cartridge filter, any fabric or cartridge filter system, and any suction shroud shall be maintained and operated properly with no tears or leaks;
 - (ii) all filter systems (including any central filter system) shall be designed to meet at least 0.01 outlet grain loading (grains/dry standard cubic foot);
 - (iii) all filter systems, mixer loading, and batch truck loading emissions control devices shall meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period as determined using U.S. Environmental

³ Information about the Barnett Shale can be found at: www.tceq.texas.gov/airquality/barnettshale.

Protection Agency (EPA) Test Method (TM) 22; and
(iv) when cement or flyash silos are filled during non-daylight hours, the silo filter system exhaust shall be sufficiently illuminated to enable a determination of compliance with the visible emissions requirement in (3)(B)(iii) of this permit.

(C) Conveying systems for the transfer of cement/flyash shall meet all of the following:

(i) conveying systems to and from the storage silos shall be totally enclosed, operated properly, and maintained with no tears or leaks; and

(ii) these systems, except during cement/flyash tanker connect and disconnect, shall meet a performance standard of no visible emissions exceeding 30 seconds in any six-minute period as determined using EPA TM 22.

As discussed previously, this is an application for an Air Quality Standard Permit. While the TCEQ is responsible for the environmental protection of all media (including water), the TCAA specifically addresses air-related issues. The scope of this air quality permit application review does not include a water assessment or consideration of issues involving water quality or quantity. Depending on the nature of the facility's operations, the Applicant may be required to apply for separate authorizations that regulate water quality or water usage.

COMMENT 14: Ms. Megan Hardison asked if any studies or tests have been done on cast stone facilities and where they are available for review.

RESPONSE 14: The Executive Director is not aware of any specific studies or tests on cast stone facilities. However, our experience has been that these types of facilities are low production, usually less than 30 cubic yards of concrete produced per hour and often the plant is located within a confined building. The EPA, through testing, developed emission factors for concrete manufacturing processes.⁴ While EPA did not specifically test a cast stone plant, they did test much larger truck mix or central mix plants. The TCEQ used EPA's emission factors in the development of the Air Quality Standard Permit for Concrete Batch Plants. Additionally, the TCEQ did extensive air dispersion modeling in the development of the standard permit. The primary purpose was to ensure the protection of public health and welfare when the plant is being operated in accordance with the permit anywhere in the state of Texas. As discussed above, if the facility is operated in accordance with the standard permit, adverse effects are not expected to occur.

⁴ Additional information on EPA's development of concrete batch plant emission factors and the background information for their processes is available at: www.epa.gov/ttn/chief/ap42/ch11/index.html. Information, including studies, on the PM NAAQS can be found at: www.epa.gov/ttn/naaqs/standards/pm/s_pm_index.html.

COMMENT 15: Several commenters indicated that the location of the facility is within the 100 year flood plain of Henrietta Creek. Specifically, commenters expressed concern about storm water runoff, the fact that the plant's recycled wastewater will be stored in a pond located in a flood zone, and the possibility of particulate or other impurities entering the local water system. Additionally, commenters indicated that the facility's use of water could cause a shortage of well water (Mr. Mehran Aghili, Mr. Charles Ashby, Mr. Shannon Barkett, Mr. Clayton Cain, Mr. Brian Crowell, Commissioner Gary Fickes, Ms. Sandra Reddy, Ms. Megan Hardison, Ms. Kimberly Kendrick, Ms. Carline Smith, Mr. Dave Smith, Mr. Scott Taylor, and Mr. Rick Watson).

RESPONSE 15: A review of an application for a standard permit for a concrete batch plant does not include a review of flood plains or other water related issues. However, the air quality authorization requested by P & L Cast Stone does not authorize the use of or any contamination of ground water. To the extent operations at the Plant require other authorizations, either from the TCEQ or other entities with jurisdiction regarding construction in flood plains, it is the responsibility of the Applicant to receive such authorizations. If the referenced pond is located on a state watercourse, or if it captures the flow of a state watercourse during flood events, then the pond may require a water use permit. Additionally, any other diversion or impoundment of water from a state watercourse by the facility during its operation will require a water use permit from the TCEQ.

The air quality standard permit under review may require the use of water to control fugitive dust emissions. Additionally, the standard permit conditions state that the water spray systems shall be operated as necessary to maintain compliance with the TCEQ rules and regulations which include the opacity requirements and visible fugitive emission limitations. It is the Applicant's responsibility to secure all permits and authorizations necessary to obtain the water needed for their operation. TCEQ rules state that the plant may not be operated if all pollution control equipment is not functioning properly. However, the scope of an air quality permit does not cover the source of water for emission controls. The issuance of an air quality permit does not negate the responsibility of an applicant to apply for any additionally required authorizations prior to constructing or operating a facility.

The TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials.

COMMENT 16: Mr. Scott Taylor asked how many concrete batch plant applications that were near schools have been approved in Tarrant County.

RESPONSE 16: A review of the Air Permits database identified 8 authorizations in Tarrant County since January 1, 2009. Of these 8 authorizations, 4 locations appear to have either a school or place of worship within 3,000 feet.

COMMENT 17: Mr. Scott Taylor asked why Cabela's closed down a nearby concrete batch plant?

RESPONSE 17: The TCEQ is the relevant regulatory authority governing these types of authorizations. However, issues regarding other facilities or private agreements are not relevant to the TCEQ's review of this application.

COMMENT 18: Mr. John Skeels stated that there would be no guarantee of the type of people working at the plant and asked if employees would be background checked, experienced or licensed commercial drivers, and about their safety record.

RESPONSE 18: The TCEQ's air permitting 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 an applicant's human resource decisions when considering whether to approve or deny an application for an air authorization.

COMMENT 19: Mr. Steve Zuber commented that a cement plant in Midlothian is known to operate in perpetual violation of federal EPA regulations, choosing to pay a small fine daily to continue operating out of compliance and that cement plants are toxic in Texas.

RESPONSE 19: As discussed above, this application is not for a cement plant but rather for a Standard Permit for Concrete Batch Plant. Nonetheless, compliance issues of other facilities or companies not associated with P & L Cast Stone, Inc. were not considered in the review of this application.

COMMENT 20: Mr. Shannon Barkett asked when the City of Fort Worth would be conducting a meeting for citizens to ask questions.

RESPONSE 20: The TCEQ is not aware of any scheduled or potential meetings with the City of Fort Worth. However, any meetings or business conducted by local groups or municipalities are not regulated by the TCEQ.

COMMENT 21: Mr. Shawn Presley commented that there are no controls in the vicinity to ensure that equipment is working properly and to alert if an emergency situation arises such as a catastrophic equipment failure.

RESPONSE 21: The standard permit contains general conditions that related to equipment maintenance. Specifically, general condition 9, Maintenance of emission control states "The facilities covered by the standard permit may not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. Notification

for upsets and maintenance shall be made in accordance with 30 TAC §§ 101.201 and 101.211 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements, Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements, Recordkeeping; and Operational Requirements).”

An emissions event is any upset or unscheduled maintenance, startup, or shutdown activity that results in unauthorized emissions from an emission point. 30 TAC § 101.201(a), requires regulated entities to notify the appropriate TCEQ regional office within 24 hours of the discovery of any emission event in excess of a reportable quantity. The reportable quantity for PM is 100 pounds. If an emissions even occurs, the facility must comply with the requirements in 30 Texas Administrative Code § 101.201 regarding the recording and reporting of emission events. These notifications are available to the public online at: <http://www.tceq.texas.gov/field/eventreporting>.

If the facility fails to report in accordance with 30 TAC § 101.201, the commission will initiate enforcement action for failing to report and the underlying emissions event itself. Such events do not exempt the facility from the prohibition of the creation of a nuisance found in 30 TAC § 101.4 and complying with opacity limits, as set forth in 30 TAC Chapter 111. Individuals are encouraged to report any concerns about nuisance issues, upsets or suspected noncompliance with terms of any permit or other environmental regulation by contacting the DFW Regional Office at 817-588-5800 or by calling the twenty-four hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received.

In the event of an emergency, the Local Emergency Planning Committee (LEPC) and the regulated entity have the primary responsibility of notifying potentially impacted parties regarding the situation. This application did not require disaster review.

COMMENT 22: Commenters indicated that they opposed the permit or asked that the TCEQ deny the permit application. Additionally, several commenters asked that the TCEQ “table” the application until the results of an air quality study commissioned by the City of Fort Worth are released (Mr. Mehran Aghili, Mr. Charles Ashby, Ms. Pamela Bach, Mr. Timothy Bailey, Mr. Shannon Barkett, Mr. Wendall Bass, Mr. Andrew Belschner, Ms. Marilyn Boemer, Ms. Diana Branson, Ms. Angela Bullard, Mr. James Bunyard, Mr. Clayton Cain, Ms. Tiffany Cain, Mr. Ryan Casserly, Mr. Mike Charley, Mr. Jeffery Cole, Mr. Brian Crowell, Mr. Chris Dalluge, Council Member Sal Espino, Ms. Jennifer Esser, Ms. Vicki Flock, Mr. Gary Giddings, Ms. Lora Goolsby, Ms. Kristen Green, Ms. Carolyn Hawkins, Ms. Cynthia Holmes, Ms. Kimberly Kendrick, Mr. James LaPrade, Ms. Malinda LaPrade, Ms. Jenifer Mahler, Mr. Chris McCafferty, Ms. Ashley Messick, Mr. Dusty Messick, Mr. Gary Miron, Ms. Brenda Mosley, Mr. Scott Narowitz, Mr. Anthony Osborn, Ms. Lynne Osborn, Ms. Carrie Pierce, Mr. Mark Pierce, Mr. Alex Popa, Mr. Dan Popa, Ms. Lesli Popa, Mr. Shawn Presley, Ms. Sandra Reddy, Mr. Chris Reithweier, Mr. Richard Schlepffhorst, Mr. Chris Sigler, Ms. Sarah Sigler, Mr. John Skeels, Ms. Jacqueline Slonaker, Ms. Carline Smith, Mr. Dave Smith, Ms. Claudia Soto, Mr. Sriram Swaminathan, Mr. Scott Taylor, Ms. Judy Tidwell, Ms. Dana Walter, Mr. Keith Walter, Mr. Jeffery Wolf, and Mr. Steve Zuber).

RESPONSE 22: The TCEQ appreciates the comments and interest from the public in environmental matters before the agency. TCEQ staff evaluates air quality permit applications based on whether the application meets the standards outlined in the TCAA and the applicable state and federal rules and regulations. Although the ED recognizes the opposition of the commenters, public opposition alone is not legally sufficient to justify denial or the delay of a permit application.

COMMENT 23: Mr. Keith Walter was commented that he believed this was a “done deal” no matter what citizens concerns were, and that the public meeting (on November 16, 2010) was held only to humor the public. County Commissioner Gary Fickes asked the TCEQ to consider citizen concerns when making a decision on the permit.

RESPONSE 23: The application review process includes both an administrative and technical review of the representations submitted by the Applicant. Additionally, the TCEQ considers all formal public comment in its decision making process. However, because the representations submitted by the Applicant meet the requirements of the standard permit, the Executive Director has issued a preliminary determination to issue the permit. The application and preliminary recommendation will be forwarded by the Executive Director to the TCEQ Commissioner's for determination of whether to approve or deny the permit, or whether to grant the timely hearing requests and refer the matter to the State Office of Administrative Hearings (SOAH) for a contested case hearing.

COMMENT 24: Mr. Andrew Belschner asked that we consider the agencies philosophy when reviewing this permit.

RESPONSE 24: The Executive Director has reviewed the permit application in accordance with the applicable law, policy and procedures, and the Agency's mission to protect the state's human and natural resources consistent with sustainable economic development. As discussed in detail above, if the Applicant operates in accordance with the terms of the permit, adverse impacts to public health or welfare are not expected.

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

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REPRESENTING THE
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ENVIRONMENTAL QUALITY