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Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 9, 2014

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

Re: Backup Material for Executive Director's Response to Requests for
Reconsideration and Hearing Requests Brief for Tex-Mix Partners, Ltd., Concrete
Batch Plant Standard Permit Registration No. 109839
TCEQ Docket No. 2014-0525-AIR

Dear Ms. Bohac:

Enclosed please find a copy of the Executive Director's Response to Requests for Reconsideration and Hearing Requests brief for the above referenced item. If you have any questions, please do not hesitate to call me at extension 0891.

Sincerely,

A handwritten signature in black ink that reads "Amy L. Browning". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Amy L. Browning
Staff Attorney
Environmental Law Division

Enclosure

TCEQ AIR QUALITY STANDARD PERMIT REGISTRATION NO. 109839
TCEQ DOCKET NUMBER 2014-0525-AIR

APPLICATION BY	§	BEFORE THE
	§	
TEX-MIX PARTNERS, LTD.	§	TEXAS COMMISSION ON
CONCRETE BATCH PLANT	§	
BULVERDE, COMAL COUNTY	§	ENVIRONMENTAL QUALITY

**EXECUTIVE DIRECTOR'S RESPONSE TO REQUESTS FOR RECONSIDERATION
AND HEARING REQUESTS**

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this response (Response) to the requests for a contested case hearing submitted by persons listed herein. The Texas Clean Air Act (TCAA) § 382.056(n) requires the commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code (TWC) § 5.556.1 This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

A map showing the location of the site for the proposed facility is included with this response and has been provided to all persons on the attached mailing list. In addition, a current compliance history report, technical review summary, and a copy of the standard permit for concrete batch plants prepared by the ED's staff have been filed with the TCEQ's Office of Chief Clerk for the commission's consideration. Finally, the ED's Response to Public Comments (RTC), which was mailed by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the commission's consideration.

I. Application Request and Background Information

Tex-Mix Partners, Ltd. has applied to the TCEQ for a Standard Permit under TCAA § 382.05195. This permit will authorize the Applicant to construct and operate a permanent concrete batch plant. The facility is proposed to be located on the east side of Highway 281 approximately 0.5 mile south of the intersection with Rebecca Creek Road, Bulverde, Comal County. Contaminants authorized under this permit include dust, aggregate, cement, and particulate matter (PM), including particulate matter with aerodynamic diameters of 10 micrometers or less (PM₁₀) and 2.5 micrometers or less (PM_{2.5}). The Applicant is not delinquent on any administrative penalty payments to the TCEQ. The TCEQ Enforcement Database was searched and no enforcement activities were found that are inconsistent with the compliance history.

This permit application is for a new issuance of Registration 109839 for a standard permit for a concrete batch plant. The permit application was received on April 30, 2013, and it was declared administratively complete on May 3, 2013. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published in English on May 24, 2013 in the *San Antonio Express-News* and in Spanish on May 25, 2013, in *El Norte*. The Notice of Application and Preliminary Decision for an Air Quality Permit was published on July 25,

¹ Statutes cited in this response may be viewed online at www.capitol.state.tx.us/statutes/statutes.html. Relevant statutes are found primarily in the Texas Health and Safety Code and the Texas Water Code. The rules in the Texas Administrative Code may be viewed online at www.sos.state.tx.us/tac/index.shtml, or follow the "Rules, Policy & Legislation" link on the TCEQ website at www.tceq.state.tx.us.

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2013 in English in the *San Antonio Express-News* and in Spanish in *El Norte*. A public meeting was held on June 27, 2013 in Spring Branch. The notice of public meeting was mailed out to interested persons on June 14, 2013. The public comment period ended on August 26, 2013. The ED's RTC was mailed on February 26, 2014 to all interested persons, including those who asked to be placed on the mailing list for this application and those who submitted comment or requests for a contested case hearing. The cover letter attached to the RTC included information about making requests for a contested case hearing or for reconsideration of the ED's decision.² The letter also explained hearing requesters should specify any of the ED's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy.

The time for requests for reconsideration and hearing requests ended on April 7, 2014. The TCEQ received timely requests for reconsideration from the following persons: Becky P. Atkinson, Sid W. Atkinson, Angela Butler, Robert C. Butler, Juanita Marga Proffitt, Steve Proffitt, Kristen Wessale, and William Wessale. The TCEQ received timely hearing requests during the public comment period that were not withdrawn from the following persons: Rita Acker, Becky P. Atkinson, Sid W. Atkinson, Angela Butler, Robert C. Butler, Erica Colston, Janie Colston, Liliya Colston, William H. Colston, William Colston, Donna Deage, Ron Deage, Annette Gass, Emery Gass, Diana D. Hager, Johnny Henke, June Henke, Diane Kime, Rhonda Gass Luman, Marilyn Pozero, Juanita Marga Proffitt, Sharon Smith, Jay Thomas, Trudy A. Thomas, Barbara Welch, Kristen Wessale, William Wessale, and James Wollmann. TCEQ also received a timely hearing request from the organization The Neighbors of Spring Branch.

II. Applicable Law for Requests for Reconsideration

The commission must assess the timeliness and form of the requests for reconsideration, as discussed in Section I above. The form requirements are set forth in 30 TAC § 55.209(f) which states "Responses to requests for reconsideration should address the issues raised in the request."

III. Response to Requests for Reconsideration

Each of the requests for reconsideration address responses in the ED's RTC filed on February 26, 2014. The requesters stated that the ED's RTC responses 2, 3, 4, 5, 6, 7, 9, 13, 14, and 17 either did not answer the original question or did not provide an answer that substantiates that the permit application meets the requirements of the applicable law. The ED provides the following responses to the requests for reconsideration.

REQUEST FOR RECONSIDERATION OF RESPONSE 2:

Requesters asked TCEQ to reconsider its TCEQ Response 2 because commenters believe the response was contradictory. Commenters questioned how the ingredients for concrete such as Portland cement can be considered non-hazardous under normal conditions, when silica, which is an ingredient for Portland cement, has been shown to cause silicosis and lung cancer when

² See TCEQ rules at Chapter 55, Subchapter F of Title 30 of the Texas Administrative Code. Procedural rules for public input to the permit process are found primarily in Chapters 39, 50, 55 and 80 of Title 30 of the Code.

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inhaled over long periods of time. Commenters questioned why a permit would be granted with even the slight possibility of the silica damage to humans.

Commenters also asked what can be considered "normal conditions." Commenters expressed doubt in the accuracy of the site visit performed by the San Antonio Regional Office, because commenters believe potentials for nuisance, odor and hazard potentials will be much higher once the facility is built. Commenters asked the commission to justify how there could be no concerns for the impact of the facility on the area when a neighbor residing within 440 yards of the plant has COPD. Commenters also expressed doubt over the completeness of the site visit's nuisance evaluations because the landowners in the area were not contacted. Commenters requested to review the site visit report and the commission's extensive protectiveness review. Commenters requested the name of the person who performed the site review and also requested access to that person's performance reviews.

Commenters asked whether any of the commission's numbers related to expected outcomes are based on actual working plants now in operation, rather than modeling analysis. Commenters also asked what long term studies can the commission produce for environmental impacts by facilities that have been in operation.

TCEQ RESPONSE:

Although certain types of silica, when inhaled over long periods of time, have been shown to cause silicosis, no adverse health effects are expected because concrete production facilities under standard permits have been determined not to make a significant contribution of air contaminants to the atmosphere. Under normal conditions, meaning the terms and conditions of the permit, silica from the facility is not expected to cause adverse health effects. Concrete production facilities under standard permits have been determined by the TCEQ not to make a significant contribution of air contaminants to the atmosphere. Emissions from these facilities have already undergone a comprehensive TCEQ internal modeling of impacts and a health effects review. No adverse effects are expected to occur from facilities that meet all requirements of the Air Quality Standard Permit for Concrete Batch Plants.

The site visit performed by the San Antonio Regional Office evaluated the area in its current condition, but also considered the potentials for nuisance, odor, and hazard potentials. The analysis for these potentials contemplated the levels expected once the facility is constructed and running. Requests for the site evaluator's name and performance evaluations, as well as the site visit report are outside the scope of the initial public comment.

REQUEST FOR RECONSIDERATION OF RESPONSE 3:

Commenters asked the commission to reconsider its Response 3 because commenters believe the commission's response is predicated upon self-reporting and auditing. Commenters asked for statistics that indicate self-reporting works.

TCEQ RESPONSE:

Response 3 answers concerns raised about the 440-yard statutory requirement for affected party status for this application, and about the original site investigation by the TCEQ regional investigator. The requirement that an affected party reside within 440 yards of the plant that is the subject of the application is a statutory requirement. Therefore, the 440 yard statutory

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limitation for affected party status that was imposed by the Texas legislature is the legal boundary which must be used by TCEQ. This limit is for a person who actually lives in a permanent residence within 440 yards of the proposed facility.

As to the site investigation question, the “no concerns” language referenced in the site review by the TCEQ regional investigator refers to the low potential of a dust nuisance to be created at an off-property receptor based on the distance from the facility to that receptor, and the type of operation in question, in this case a concrete batch plant. The purpose of the site review is to evaluate these factors as part of the review to ensure that the application meets the requirements of the standard permit for concrete batch plants.

The concerns addressed by this response are factual issues regarding statutory requirements (the 440 yard limitation requirement) and agency action (the TCEQ site investigation). They do not rely upon self-reporting and auditing.

REQUEST FOR RECONSIDERATION OF RESPONSE 4:

Commenters requested the commission to reconsider its Response 4 because commenters maintain there are additional residences within 440 yards of the proposed facility. Commenters asked why the 440 yard distance requirement is not based on the lot line if the facility owner can place equipment anywhere on the facility's lot.

Commenters questioned why the facility would not be considered a nuisance if numerous neighbors in the area expressly claim the facility will prevent them from enjoying their properties.

Commenters expressed doubt in the commission's statement that the proposed plant will not be using a diesel engine or generator if aggregate delivery trucks, onsite front-end loaders, and concrete trucks can be expected to have diesel engines.

TCEQ RESPONSE:

The requirement that an affected party reside within 440 yards of the plant that is the subject of the application is a statutory requirement. The executive director reviews the application as submitted, which includes a map indicating where on the property the plant will be constructed. The footprint of the plant contains the emissions points that are the potential sources of air emissions that would be permitted. Therefore, distances are measured from these potential emission points to actual residences to make a determination of affected party status. The standard permit itself was developed to ensure that if operated properly and in accordance with the requirements of the standard permit it would be protective at the property line of the concrete batch plant site and beyond.

The executive director can only evaluate the potential for nuisance, as this plant has not yet been constructed. As previously discussed, the TCEQ conducted an extensive protectiveness review to determine the technical requirements of the Standard Permit, which included property line distance requirements, compliance with the NAAQS, and maximum production rates at which a plant's operation will not be detrimental to human health and welfare or the environment. The final Standard Permit was determined to be protective, and if the plant is operated properly in

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accordance with the requirements of the standard permit, nuisance conditions are not expected to occur.

As for diesel engines, the executive director can only review the application for compliance with the terms of the standard permit. Diesel engines will not be used as part of plant operations; whether diesel engines will be used for mobile sources such as trucks that may be present at the site is beyond the scope of the review for the permit application.

REQUEST FOR RECONSIDERATION OF RESPONSES 5 and 6:

Commenters requested the commission to reconsider its Responses 5 and 6 because the commission failed to state how often monitoring, investigations, and other reports are performed and reviewed. Commenters asked whether monitoring is scheduled or unannounced.

Commenters stated that if the possibility of air contamination exists, how can the commission state that adverse impacts to the public health or welfare are not expected.

TCEQ RESPONSE:

If the facility is found to be out of compliance with the terms and conditions of the permit, it will be subject possible enforcement action including financial penalties. Citizen-collected evidence may be used in such an action. Consult 30 TAC Section 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. TCEQ has procedures in place for accepting environmental complaints from the public, as well as tools 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 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 TCEQ publication "Do You Want to Make an Environmental Complaint? Do You Have Information or Evidence?" This booklet is available in English and Spanish from TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.texas.gov (click on the Publications link on the left sidebar, and search for Publication Number 278).

Generally, investigations are not specifically scheduled for these types of small plants. If the TCEQ receives a complaint regarding a specific facility, an investigator will be sent in response to the complaint.

REQUEST FOR RECONSIDERATION OF RESPONSE 7:

Commenters asked the commission to reconsider its Response 7 and explain how Tex-Mix met the requirements of the law for public notice if the papers in which the notice was published are not readily available in the retail facilities that service the neighborhood surrounding the proposed location.

TCEQ RESPONSE:

Applicants are required to publish notice in a newspaper of general circulation in the municipality in which the facility is located or is proposed to be located, or in the municipality nearest to the location or proposed location of the facility. It is the applicant's responsibility to publish notice in compliance with this publication requirement. The applicant did submit a

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signed affidavit from the newspaper indicating the San Antonio Express-News was in general circulation in Bulverde. It is not a requirement that the newspapers in which notice are published be available in any specific retail location.

REQUEST FOR RECONSIDERATION OF RESPONSE 9:

Commenters asked the commission to reconsider its Response 9, asking the commission to demonstrate its ability to maintain objectivity and act independently. Commenters asked how the commission can protect the needs and desires of their community when its jurisdiction is set by the legislature in a pro-business state.

Commenters asked how many permits has the commission granted, how many has the commission denied, and for what reasons.

TCEQ RESPONSE:

The TCEQ can only act within its authority as delegated by the Texas legislature. Accordingly, the TCEQ reviews all applications consistent with applicable law and the TCEQ's regulatory authority. The Executive Director's staff reviewed the permit application in accordance with the applicable state and federal law, TCEQ 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 Response 13 of the RTC, a permit application must meet all applicable rules and regulations before the executive director recommends approval of the application. The TCEQ does not keep a list of how many permit applications are denied or withdrawn by applicants.

REQUEST FOR RECONSIDERATION OF RESPONSE 13:

Commenters requested the commission to reconsider its Response 13 because the answer failed to state whether a permit application has been denied.

TCEQ RESPONSE: The TCEQ does not keep records of how many permit applications are denied or withdrawn by applicants, and does not have any way of easily identifying such information. However, applications which are incomplete, inaccurate, or would violate rules or law do not pass the commission's administrative review or the commission's technical review, may be withdrawn by the applicant.

REQUEST FOR RECONSIDERATION OF RESPONSE 14:

Commenters requested the commission to reconsider its Response 14 and explain how a concrete batch operating 24 hours a day and 7 days per week within a residential area is not a nuisance. Commenters asked how individuals can successfully demonstrate that the facility interferes with the enjoyment of their property.

TCEQ RESPONSE:

As previously discussed, the executive director can only evaluate the potential for nuisance, as this plant has not yet been constructed. The final Standard Permit was developed to be protective, and if the plant is operated properly in accordance with the requirements of the standard permit, nuisance conditions are not expected to occur. If individuals believe that the

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plant is causing a nuisance condition after the permit has been issued, and the plant is constructed and operating, individuals can file a complaint with the regional office.

REQUEST FOR RECONSIDERATION OF RESPONSE 17:

Commenters requested the commission reconsider its Response 17 and questioned what evidence exists to show how the commission's practice of assessing administrative penalties amounting to relatively small amounts against Tex-Mix in the past results in minimizing future incidents.

TCEQ RESPONSE:

The executive director can only evaluate the application currently before the commission on its own merits, including the compliance history available for the applicant in accordance with current TCEQ rules in Chapter 60. The standard permit includes conditions that must be followed for maintenance and reporting requirements, and failure to follow these requirements by the applicant could result in enforcement action in the future. The executive director cannot speculate about all possible future actions when making a decision to recommend issuing a permit when an application meets all applicable rules and regulations.

IV. Applicable Law for Hearing Requests

The commission must assess the timeliness and form of the hearing requests, as discussed in Section I above. The form requirements are set forth in 30 TAC § 55.201(d):

(d) A hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to comments that the requester disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

The next necessary determination is whether the requests were filed by "affected persons" as defined by TWC § 5.115, implemented in commission rule 30 TAC § 55.203. Under 30 TAC §

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55.203, 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. An interest common to members of the general public does not qualify as a personal justiciable interest. Local governments with authority under state law over issues raised by the application receive affected person status under 30 TAC § 55.203(b).

In determining whether a person is affected, 30 TAC § 55.203(c) requires all factors be considered, including, but not limited to, the following:

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

In addition to the requirements noted above regarding affected person status, in accordance with 30 TAC § 55.205(a), a group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.³

Additionally, this application is for registration for the Standard Permit for Concrete Batch Plants. Hearing requests on a concrete batch plant standard permit are subject to the requirements in TCAA § 382.058(c), which states that “only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing ... as a person who may be affected.”

If the commission determines a hearing request is timely and fulfills the requirements for proper form and the hearing requester is an affected person, the commission must apply a three-part test to the issues raised in the request to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing. The three-part test in 30 TAC § 50.115(c) is as follows:

³ 30 TAC § 55.205(a)

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- (1) The issue must involve a disputed question of fact;
- (2) The issue must have been raised during the public comment period; and
- (3) The issue must be relevant and material to the decision on the application.

The law applicable to the proposed facility may generally be summarized as follows. A person who owns or operates a facility or facilities that will emit air contaminants is required to obtain authorization from the commission prior to the construction and operation of the facility or facilities.⁴ Thus, the location and operation of the proposed facility requires authorization under the TCAA. Permit conditions of general applicability must be in rules adopted by the commission.⁵ Those rules are found in 30 TAC Chapter 116. In addition, a person is prohibited from emitting air contaminants or performing any activity that violates the TCAA or any commission rule or order, or that causes or contributes to air pollution.⁶ The relevant rules regarding air emissions are found in 30 TAC Chapters 101 and 111-118. In addition, the commission has the authority to establish and enforce permit conditions consistent with this chapter.⁷ The materials accompanying this response list and reference permit conditions and operational requirements and limitations applicable to this proposed facility.

V. Analysis of Hearing Requests

A. Were the requests for a contested case hearing in this matter timely and in proper form?

The following persons submitted timely hearing requests that were not withdrawn: Rita Acker, Becky P. Atkinson, Sid W. Atkinson, Angela Butler, Robert C. Butler, Erica Colston, Janie Colston, Liliya Colston, William H. Colston, William Colston, Donna Deage, Ron Deage, Annette Gass, Emery Gass, Diana D. Hager, Johnny Henke, June Henke, Diane Kime, Rhonda Gass Luman, Marilyn Pozero, Juanita Marga Proffitt, Sharon Smith, Thomas Jay, Trudy A. Thomas, Barbara Welch, Kristen Wessale, William Wessale, and James Wollmann. A timely hearing request was also submitted by the organization The Neighbors of Spring Branch.

1. Annette and Emery Gass

Annette and Emery Gass submitted a request for a contested case hearing on June 5, 2013, which they resubmitted on June 10, 2013. Their request was made in a comment they timely submitted to the agency during the relevant public comment period. They provided their names and a residential address in their request. Annette and Emery Gass gave their proximity to the proposed plant while also stating that they believe they will be adversely affected by the application in the following ways:

- The facility's proposed location would be directly across the highway from their home.
- That the emissions and runoff from the facility could harm their conservation efforts on their property.
- That the emissions and runoff from the facility could contaminate water sources on their property.

⁴ TEXAS HEALTH & SAFETY CODE § 382.0518

⁵ TEXAS HEALTH & SAFETY CODE § 382.0513

⁶ TEXAS HEALTH & SAFETY CODE § 382.085

⁷ TEXAS HEALTH & SAFETY CODE § 382.0513

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- That the emissions and runoff from the plant could harm the vegetation and animal life on their property.
- That emissions and runoff from the facility would make animals and vegetation on their land unsafe to consume.
- That the cement dust from this proposed plant could be harmful to Emery Gass' health, aggravate his COPD, and interfere with his breathing treatments.
- That cement dust could be harmful to their children, grandchildren, and other visitors to their ranch.

Based on the address provided by Annette and Emery Gass and the plot plan submitted by the Applicant, the ED's staff was able to confirm that the Gass residence is within 440 yards of the plant.

Annette and Emery Gass requested a contested case hearing in the first sentence of their comment. In addition, the ED finds that, of the issues raised in their request, some may be considered personal justiciable interests that are also relevant and material disputed issues of fact. The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk attached to the RTC states that requesters should, to the extent possible, specify any of the ED's responses in the RTC that the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy.⁸ Annette and Emery Gass submitted a response to the ED's RTC and submitted another request for a hearing on April 2, 2014.

Based on the foregoing, the ED finds that Annette and Emery Gass substantially complied with all of the requirements to request a contested case hearing required by 30 TAC 55.201(d). Because the requesters provided information that is in compliance with 30 TAC 55.201(d), the ED can determine whether it is likely that these requesters will be impacted differently than any other members of the general public or if there is a likely impact of the regulated activity on these persons' interests, which will be discussed in detail in subsection B below.

2. Rita Acker

Rita Acker submitted a request for a contested case hearing on June 14, 2013. Her request was made in a comment she timely submitted to the agency during the relevant comment period. She provided her name, telephone number, and a residential address. As indicated by the enclosed map, Rita Acker does not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Rita Acker resides greater than 440 yards from the proposed plant, she is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

3. Becky P. and Sid W. Atkinson

Becky P. Atkinson and Sid W. Atkinson submitted requests for a contested case hearing on August 20, 2013. Their requests were made in comments they timely submitted to the agency

⁸ See 30 TAC § 55.201(d)(4).

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during the relevant comment period. Their requests were made on behalf of the organization The Neighbors of Spring Branch (the analysis for the organization's request follows in subsection C below). Their requests listed Sid Atkinson's name, but did not provide a telephone number or a residential address. However, they did provide their address and contact information in other comments submitted to the agency. As indicated by the enclosed map, Becky and Sid Atkinson do not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Becky and Sid Atkinson reside greater than 440 yards from the proposed plant, they are not "affected persons" and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

4. Angela and Robert C. Butler

Angela and Robert C. Butler submitted a request for a contested case hearing on June 5, 2013, which they resubmitted on June 7, 2013. Robert Butler also submitted a different request for a contested case hearing on behalf of the organization The Neighbors of Spring Branch (the analysis for the organization's request follows in subsection C below). Angela and Robert Butler's June 5, 2013 and June 7, 2013 requests were made in comments they timely submitted to the agency during the relevant public comment period. They provided their names, a telephone number, and a residential address. However, as indicated by the enclosed map, Angela and Robert Butler do not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Angela and Robert Butler reside greater than 440 yards from the proposed plant, they are not "affected persons" and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

5. Erica, Liliya, and William Colston

Erica, Liliya, and William Colston submitted a request for a contested case hearing on June 13, 2013. Their request was made in a comment they timely submitted to the agency during the relevant public comment period. They provided their names, a telephone number, and a residential address. As indicated by the enclosed map, they do not reside within the 440 yards of the proposed plant.

For a concrete batch plant, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Erica, Liliya, and William Colston reside greater than 440 yards from the proposed plant, they are not "affected persons" and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

6. Janie and William H. Colston

Janie and William H. Colston submitted a request for a contested case hearing on June 13, 2013. Their request was made in a comment they timely submitted to the agency during the relevant public comment period. Janie and William H. Colston provided their names, a telephone

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number, and a residential address. As indicated by the enclosed map, Janie and William H. Colston do not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Janie and William H. Colston reside greater than 440 yards from the proposed plant, they are not “affected persons” and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

7. Donna and Ron Deage

Donna and Ron Deage submitted a request for a contested case hearing on August 22, 2013 on behalf of themselves as well as the organization The Neighbors of Spring Branch (the analysis for the organization’s request follows in subsection C below). Donna and Ron Deage’s request was made in a comment they timely submitted to the agency during the relevant public comment period. They provided their names and a residential address in their request. However, as indicated by the enclosed map, Donna and Ron Deage’s residence is not within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Donna and Ron Deage reside greater than 440 yards from the proposed plant, they are not “affected persons” and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

8. Diana D. Hager

Diana D. Hager submitted a request for a contested case hearing on May 29, 2013. Her request was made in a comment she timely submitted to the agency during the relevant comment period. Diana Hager’s comment did not contain her name, residential address, or telephone number, but she did submit her residential address to the commission’s mailing list in this matter. As indicated by the enclosed map, Diana Hager does not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Diana D. Hager resides greater than 440 yards from the proposed plant, she is not an “affected person” and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

9. Johnny and June Henke

Johnny and June Henke submitted a request for a contested case hearing on June 7, 2013. Johnny and June Henke’s request was made in a comment they timely submitted to the agency during the relevant public comment period. They provided their names, a telephone number, and a residential address in their request. However, as indicated by the enclosed map, Johnny and June Henke’s residence is not within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined

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that Johnny and June Henke reside greater than 440 yards from the proposed plant, they are not "affected persons" and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

10. Diane Kime

Diane Kime submitted a request for a contested case hearing on August 26, 2013 on behalf of herself and the organization The Neighbors of Spring Branch (the analysis for the organization's request follows in subsection C below). Diane Kime's request was made in a comment she timely submitted to the agency during the relevant public comment period. She provided her name, a telephone number, and a residential address in her request. However, as indicated by the enclosed map, Diane Kime's residence is not within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Diane Kime resides greater than 440 yards from the proposed plant, she is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

11. Rhonda Gass Luman

Rhonda Gass Luman submitted a request for a contested case hearing on June 5, 2013, which she resubmitted on June 7, 2013 and on June 10, 2013. Rhonda Gass Luman's request was made in a comment she timely submitted to the agency during the relevant public comment period. She provided her name, a telephone number, and a residential address in her request. Rhonda Gass Luman's permanent residence, which is located in Schertz, Texas, is not within the 440 yards of the proposed plant, as evidenced by her home's location on the enclosed map. Although she identified property she owns near the proposed site, the property is not where she resides.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Rhonda Gass Luman resides greater than 440 yards from the proposed plant, she is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

12. Marilyn Pozero

Marilyn Pozero submitted a request for a contested case hearing on August 26, 2013 on behalf of herself and the organization The Neighbors of Spring Branch (the analysis for the organization's request follows in subsection C below). Marilyn Pozero's request was made in a comment she timely submitted to the agency during the relevant public comment period. She provided her name, a telephone number, and a residential address in her request. However, as indicated by the enclosed map, Marilyn Pozero's residence is not within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Marilyn Pozero resides greater than 440 yards from the proposed plant, she is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

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13. James Wollmann

James Wollmann submitted a request for a contested case hearing on August 26, 2013 on behalf of himself and the organization The Neighbors of Spring Branch (the analysis for the organization's request follows in subsection C below). James Wollmann's request was made in a comment he timely submitted to the agency during the relevant public comment period. He provided his name, a telephone number, and a residential address in his request. However, as indicated by the enclosed map, James Wollmann's residence is not within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that James Wollmann resides greater than 440 yards from the proposed plant, he is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

14. Juanita Marga Proffitt

Juanita Marga Proffitt submitted requests for a contested case hearing on June 3, 2013 and June 10, 2013. Her requests were made in comments she timely submitted to the agency during the relevant comment period. Juanita Proffitt's comments contained her name, telephone number, and her residential address. As indicated by the enclosed map, Juanita Proffitt does not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Juanita Marga Proffitt resides greater than 440 yards from the proposed plant, she is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

15. Sharon Smith

Sharon Smith submitted a request for a contested case hearing on May 30, 2013. Her request was made in a comment she timely submitted to the agency during the relevant comment period. Sharon Smith's comment contained her name, but it did not include her residential address or telephone number. However, Sharon Smith did submit her residential address to the commission's mailing list in this matter. As indicated by the enclosed map, Sharon Smith does not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Sharon Smith resides greater than 440 yards from the proposed plant, she is not an "affected person" and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

16. Jay and Trudy A. Thomas

Jay and Trudy A. Thomas submitted a request for a contested case hearing on August 21, 2013 on behalf of themselves and the organization The Neighbors of Spring Branch (the analysis for the group's request follows in subsection C below). Their request was made in a comment they timely submitted to the agency during the relevant public comment period. Jay and Trudy

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Thomas provided their names, a telephone number, and a residential address. As indicated by the enclosed map, Jay and Trudy Thomas do not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Jay and Trudy A. Thomas reside greater than 440 yards from the proposed plant, they are not “affected persons” and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

17. Barbara Welch

Barbara Welch submitted a request for a contested case hearing on June 3, 2013, which she resubmitted on June 13, 2013. Barbara Welch also submitted a request on behalf of the organization The Neighbors of Spring Branch on August 24, 2013 (analysis for the organization follows in subsection C below). Her June 3, 2013 request was made in a comment she timely submitted to the agency during the relevant comment period. She provided her name, telephone number, and a residential address. As indicated by the enclosed map, Barbara Welch does not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Barbara Welch resides greater than 440 yards from the proposed plant, she is not an “affected person” and does not meet the requirements of a person able to request a contested case hearing according to 30 TAC § 55.201.

18. Kristen and William Wessale

Kristen and William Wessale submitted a request for a contested case hearing on June 10, 2013. They also submitted a request for a contested case hearing on behalf of the organization The Neighbors of Spring Branch (the analysis for the group’s request follows in subsection C below) on August 23, 2013. Their requests were made in comments they timely submitted to the agency during the relevant public comment period. Kristen and William Wessale provided their names, a telephone number, and a residential address. As indicated by the enclosed map, Kristen and William Wessale do not reside within the 440 yards of the proposed plant.

For a concrete batch plant standard permit, TCAA § 382.058(c) requires that a person reside within 440 yards of the proposed plant for affected person status. Because the ED determined that Kristen and William Wessale reside greater than 440 yards from the proposed plant, they are not “affected persons” and do not meet the requirements of persons able to request a contested case hearing according to 30 TAC § 55.201.

B. Are those who requested a contested case hearing affected persons?

The law applicable to this permit application is outlined above in Section IV. The following hearing requesters reside more than 440 yards from the proposed facility, and therefore pursuant to TCAA § 382.058(c) are not affected persons: Rita Acker, Becky P. Atkinson, Sid W. Atkinson, Angela Butler, Robert C. Butler, Erica Colston, Janie Colston, Liliya Colston, William Colston, William H. Colston, Donna Deage, Ron Deage, Diana D. Hager, Johnny Henke, June

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Henke, Diane Kime, Rhonda Gass Luman, Marilyn Pozero, Juanita Marga Proffitt, Sharon Smith, Jay Thomas, Trudy A. Thomas, Barbara Welch, Kristen Wessale, William Wessale, and James Wollmann. Annette and Emery Gass reside within 440 yards of the proposed facility

Because Annette and Emery Gass satisfy the requirement of TCAA § 382.058(c) and have stated personal justiciable interests, the commission must next consider the non-exhaustive list of factors for determining whether a person is an affected person contained in 30 TAC §55.203(c).

First, the commission must consider whether the interest claimed is one protected by the law under which the application will be considered.

The interests Annette and Emery Gass claim are:

- The facility's proposed location would be directly across the highway from their home.
- That the emissions and runoff from the facility could harm their conservation efforts on their property.
- That the emissions and runoff from the facility could contaminate water sources on their property.
- That the emissions and runoff from the plant could harm the vegetation and animal life on their property.
- That the emissions and runoff from the plant could make animals and vegetation on their property unsafe to consume.
- That the cement dust from this proposed plant could be harmful to Emery Gass' health, aggravate his COPD, and interfere with his breathing treatments.
- That cement dust could be harmful to their children, grandchildren, and other visitors to their ranch.

Of the interests claimed by Annette and Emery Gass, the ones which are protected by the law under which the application will be issued are:

- That the emissions and runoff from the facility could contaminate water sources on their property.
- That the emissions and runoff from the plant could harm the vegetation and animal life on their property.
- That the emissions and runoff from the plant could make animals and vegetation on their property unsafe to consume.
- That the cement dust from this proposed plant could be harmful to Emery Gass' health, aggravate his COPD, and interfere with his breathing treatments.
- That cement dust could be harmful to their children, grandchildren, and other visitors to their ranch.

The commission must consider whether a reasonable relationship exists between the interest claimed and the activity regulated. The activity the commission regulates is the authorized emissions into the air of contaminants by a person who owns or operates a facility or facilities. Those persons who own or operate a facility or facilities are prohibited from emitting air contaminants or performing any activities that contravene the TCAA or any other commission

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rule or order, or that causes or contributes to air pollution. The interests Annette and Emery Gass claim are within the scope of an air quality Standard Permit authorization focus on the potential adverse effects of potential air contaminants from the facility, and the ED finds that a reasonable relationship exists between the interest claimed and the activity the commission regulates.

Next, the commission must consider distance restrictions or other limitations imposed by law on the affected interest, the likely impact of the regulated activity on the health and safety of the person, and on the use of the property of the person, and the likely impact of the regulated activity on the use or the impact on the natural resource by the person. For air authorizations, distance from the proposed facility is particularly relevant to the issue of whether there is a likely impact of the regulated activity on a person's interests because of the dispersion and effects of individual air contaminants emitted from a facility. As discussed above, the ED agrees that Annette and Emery Gass reside in close proximity of the footprint of the plant which is the subject of this permit authorization and notes that Annette and Emery Gass' comments reveal concern for the health and welfare of residents in their home, as well as the health and welfare of the vegetation and animal life on their property. The natural resource that is the subject of this permit is the ambient air that Annette and Emery Gass breathe, and they have indicated several ways in which emissions from the plant could impact it. The ED finds that Annette and Emery Gass have a personal justiciable interest within the meaning of TWC § 5.115 and TAC § 55.203(a) affected by this permit application.

Because Annette and Emery Gass reside within 440 yards of the proposed facility and have also articulated a personal justiciable interest in the proposed facility that is not common to the general public, they are affected persons entitled to a contested case hearing, under the requirements of TCAA § 382.058(c).

C. Does the organization The Neighbors of Spring Branch meet the group or associational standing requirements?

The hearing requests filed on behalf of The Neighbors of Spring Branch identify Annette and Emery Gass as members of the group who live within 440 yards of the proposed facility. The hearing request from Annette and Emery Gass meets the requirements for form and affected person status. Therefore, these persons may be affected in a manner different from the general public. Additionally, the hearing requests raise issues pertinent to the application and the group's purpose of protecting the environment and maintenance of the quality of life around Spring Branch is germane to the relief it seeks. Such issues are:

- That the concrete batch plant could cause or contribute to the following nuisance conditions: dust, silica dust, and odor.
- That the facility's emissions could adversely affect sensitive subgroups such as the elderly, children, and individuals with allergies and respiratory illnesses.
- That the facility could negatively impact requesters' real property and personal property.
- That emissions from the facility could adversely affect human health and welfare.
- That the facility could adversely impact animal life and vegetation in the area.
- That the facility could bring increased traffic to the area.

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- That the facility could be unpleasant to the local aesthetic and decrease property values.
- That the facility's emissions and runoff could have adverse effects on the Rebecca Creek, ground water, and water quality.
- That the facility's water usage could violate water usage rules and restrictions and deplete water sources in the area.
- That the facility will require other necessary water-related approvals.

For these reasons, The Neighbors of Spring Branch qualifies as an affected group.

D. Which issues in this matter should be referred to SOAH for hearing?

If the commission determines any of the hearing requests in this matter are timely and in proper form, and some or all of the hearing requesters are affected persons, the commission must apply the three-part test discussed in Section IV to the issues raised in this matter to determine if any of the issues should be referred to SOAH for a contested case hearing. The three-part test asks whether the issues involve disputed questions of fact, whether the issues were raised during the public comment period, and whether the issues are relevant and material to the decision on the permit application, in order to refer them to SOAH.

The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk transmitting the RTC cites 30 TAC § 55.201(d)(4), which states that requesters should, to the extent possible, specify any of the ED's responses in the RTC the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy.

1. What issues are questions of fact?

Annette and Emery Gass and The Neighbors of Spring Branch raised the following questions of fact for this application during the public comment period:

- Whether the facility will have any adverse effects on air quality;
- Whether adverse health impacts are expected on the those living nearby, guests at nearby establishments, and the public;
- Whether adverse health impacts are expected on sensitive subgroups such as the elderly, children, or individuals with allergies or respiratory illnesses;
- Whether there will be an adverse impact on the animal life or vegetation;
- Whether emissions and runoff from the facility will make animals and vegetation on their land unsafe to consume;
- Whether the concrete batch plant will cause or contribute to the following nuisance conditions: dust, silica dust, and odor;
- Whether the facility will have any adverse effects on the Rebecca Creek, ground water, or water quality;
- Whether the facility's water usage will deplete water sources in the area and whether usage violations will occur; and

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- That the facility will require other necessary water-related approvals.

2. Were the issues raised during the public comment period?

The public comment period is defined in 30 TAC § 55.152. The public comment period begins with the publication of the Notice of Receipt and Intent to Obtain an Air Quality Permit. The end date of the public comment period depends on the type of permit. In this case, the public comment period began on May 24, 2013 and ended on August 26, 2013. All of the issues listed above upon which the hearing requests in this matter are based were raised in comments received during the public comment period.

3. Whether the issues are relevant and material to the decision on the application.

In this case, the permit would be issued under the commission's authority in Tex. Water Code § 5.013(11) (assigning the responsibilities in Chapter 382 of the Tex. Health and Safety Code), and the TCAA. The Standard Permit for Concrete Batch Plants was developed under the commission's authority granted by the TCAA, and codified in 30 TAC Chapter 116, Subchapter F, Standard Permits. Additionally, the legislature has imposed certain requirements for Concrete Batch Plant Standard Permits in TCAA § 382.058(c). In making this permitting decision, the commission may consider the Applicant's compliance history. The commission by rule has also specified certain requirements for permitting. Therefore, in making the determination of relevance in this case, the commission should review each issue to see if it is relevant to these statutory and regulatory requirements that must be satisfied by this permit application.

The ED finds the following issues relevant and material to the decision on the application:

- Whether the facility will have any adverse effects on air quality;
- Whether adverse health impacts are expected on those living nearby, guests at nearby establishments, or the public;
- Whether adverse health impacts are expected on sensitive subgroups such as the elderly, children, or individuals with allergies or respiratory illnesses;
- Whether there will be an adverse impact on the animal life or vegetation;
- Whether emissions from the facility would make animals and vegetation on their land unsafe to consume; and
- Whether concrete batch plant will cause or contribute to the following nuisance conditions: dust, silica dust, and odor.

The ED finds the following issues are beyond the jurisdiction of TCEQ and thus not material to the decision on the application:

- Whether the facility will negatively impact requesters' real property and personal property;
- Whether the facility will bring increased traffic to the area; and
- Whether the facility will be unpleasant to the local aesthetic and decrease property values.

EXECUTIVE DIRECTOR'S RESPONSE TO REQUESTS FOR RECONSIDERATION AND HEARING REQUESTS
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The ED finds the following issues, although within the TCEQ's jurisdiction, not within the scope of this air permit review and thus not material to the decision on the application:

- Whether the facility will have any adverse effects on the Rebecca Creek, ground water, or water quality;
- Whether the facility's water usage will deplete water sources in the area and whether usage violations will occur; and
- Whether runoff from the facility would make animals and vegetation on their land unsafe to consume
- That the facility will require other necessary water-related approvals.

VI. Maximum Expected Duration of the Contested Case Hearing

The ED recommends the contested case hearing, if held, should last no longer than six months from the preliminary hearing to the proposal for decision.

VII. Executive Director's Recommendation

The Executive Director respectfully recommends the commission:

A. Find all requests for reconsideration and hearing requests in this matter were timely filed.

B. Find that the requests of the following groups or persons satisfy the requirements for form under 30 TACS § 55.201(d) and are affected persons under 30 TAC § 55.203:

1. Annette and Emery Gass
2. The Neighbors of Spring Branch

C. Find all other hearing requesters are not affected persons in this matter;

D. If the commission determines any requester is an affected person, refer the following issues to SOAH:

1. Whether the facility will have any adverse effects on air quality;
2. Whether adverse health impacts are expected on the elderly, those living nearby, guests at nearby establishments, and the public;
3. Whether adverse health impacts are expected on sensitive subgroups such as the elderly, children, or individuals with allergies or respiratory illnesses;
4. Whether there will be an adverse impact on the animal life or vegetation;
5. Whether emissions from the facility would make animals and vegetation on their land unsafe to consume; and
6. Whether the concrete batch plant will cause or contribute to the following nuisance conditions: dust, silica dust, and odor.

E. Find the maximum expected duration of the contested case hearing, if held, would be six months.

EXECUTIVE DIRECTOR'S RESPONSE TO REQUESTS FOR RECONSIDERATION AND HEARING REQUESTS

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F. Deny the requests for reconsideration filed by Becky P. Atkinson, Sid W. Atkinson, Angela Butler, Robert C. Butler, Juanita Marga Proffitt, Steve Proffitt, Kristen Wessale, and William Wessale.

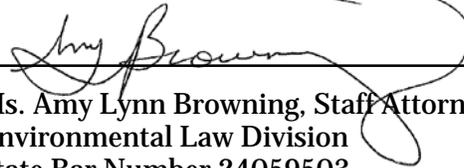
Respectfully submitted,

Texas Commission on Environmental Quality

Richard Hyde, P.E., Executive Director

Caroline Sweeney, Deputy Director
Office of Legal Services

Robert Martinez, Division Director
Environmental Law Division

A handwritten signature in black ink, appearing to read "Amy Lynn Browning", is written over a horizontal line. The signature is fluid and cursive.

Ms. Amy Lynn Browning, Staff Attorney
Environmental Law Division
State Bar Number 24059503
(512) 239-0891

Ms. Jennifer Furrow
State Bar Number 24078524
(512) 239-1439
PO Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Response to Requests for Contested Case Hearing

Tex-Mix partners, Ltd.

Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

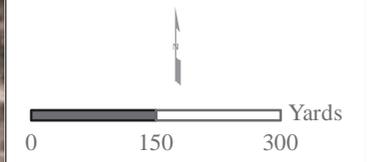
May 6, 2014

Projection: Texas Centric Mapping System
Albers (TCMS-A), meters
Scale 1:8,282



- Facility
- 440 yd radial distance from the facility
- Requestor Locations

1	A. Gass, E. Gass
2	Acker
3	J. Colston, W.H. Colston
4	E. Colston, L. Colston,
5	W. Colston
6	Hager
7	Proffitt
8	A. Butler, R. Butler
9	K. Wessale, W. Wessale
10	Smith
11	B. Atkinson, S. Atkinson
12	B. Welch



Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The background imagery of this map is from the current Environmental Systems Research Institute (ESRI) map service, as of the date of this map.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.



The facility is located in Comal County. The circle (red) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Comal County (red) in the state of Texas;

Response to Requests for Contested Case Hearing

Tex-Mix partners, Ltd.

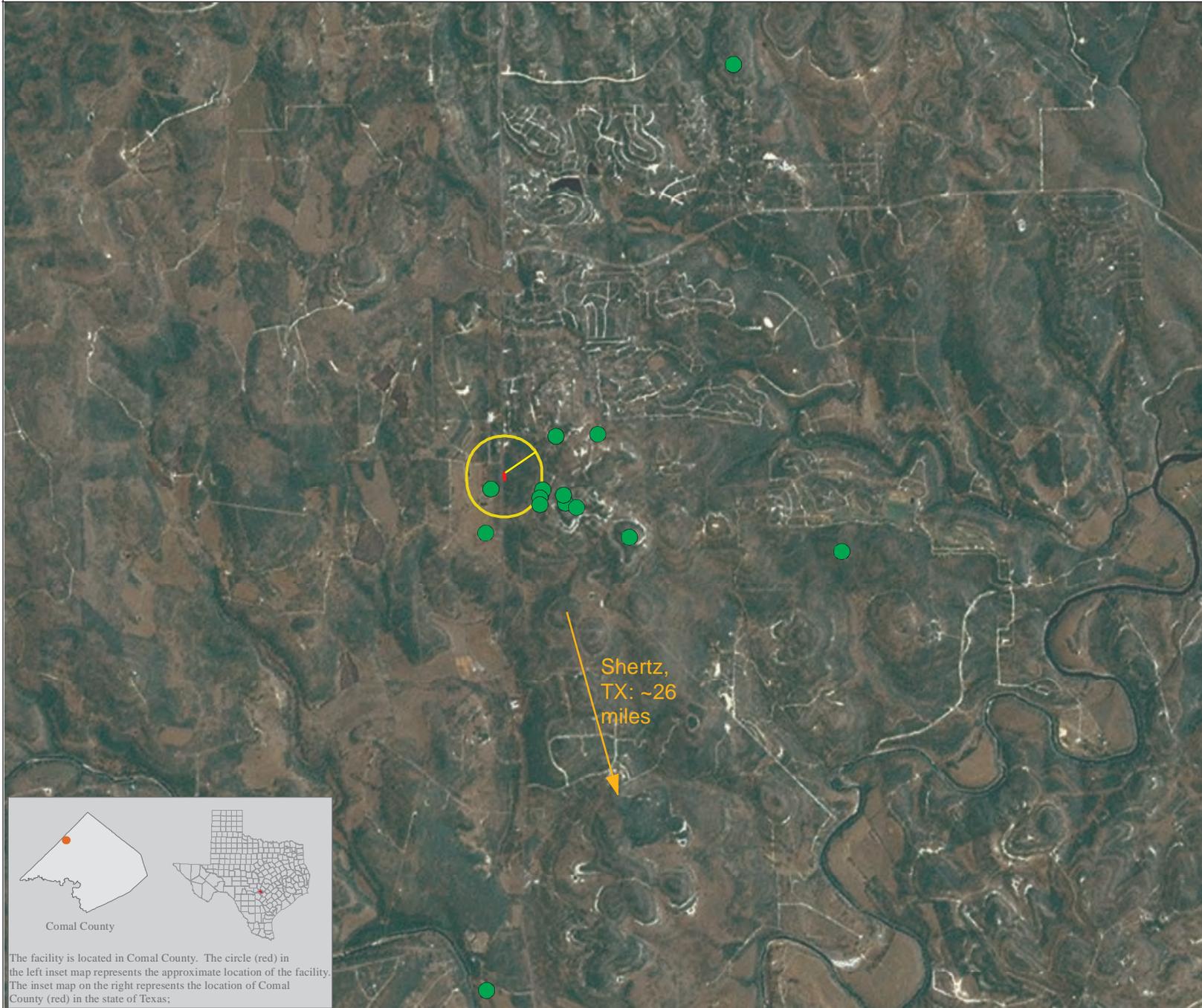
Map Requested by TCEQ Office of Legal Services
for Commissioners' Agenda



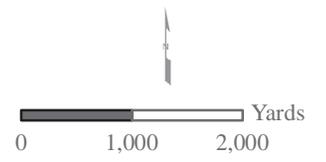
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

May 6, 2014

Projection: Texas Centric Mapping System
Albers (TCMS-A), meters
Scale 1:62,090



- Facility
- 440 yd radial distance from the facility
- Requestor Locations



Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor. The background imagery of this map is from the current Environmental Systems Research Institute (ESRI) map service, as of the date of this map.

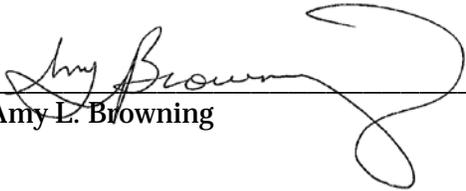
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The facility is located in Comal County. The circle (red) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Comal County (red) in the state of Texas;

CERTIFICATE OF SERVICE

On the 9th day of May, 2014, a true and correct copy of the foregoing instrument was served on all persons on the mailing list by the undersigned via deposit into the U.S. Mail, inter-agency mail, facsimile, electronic mail, or hand delivery.


Amy L. Browning

**MAILING LIST
TEX-MIX PARTNERS,
LTD.
DOCKET NO. 2014-0525-AIR; PERMIT NO.
109839**

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FOR ALTERNATIVE DISPUTE
RESOLUTION

via electronic mail:

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