TCEQ Docket No. 2016-0788-AIR

APPLICATION BY	§	**BEFORE THE TEXAS**
VULCAN CONSTRUCTION MATERIALS, LLC	§	**COMMISSION ON**
FOR PERMIT NO. 92565L004 TO	§	**ENVIRONMENTAL**
AUTHORIZE CHANGE OF LOCATION	§	**QUALITY**
OF CURRENTLY PERMITTED	§	
ROCK CRUSHING PLANT	§	

APPLICANT'S RESPONSE TO REQUESTS FOR CONTESTED CASE HEARING

TO THE COMMISSIONERS OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Vulcan Construction Materials, LLC ("Vulcan") submits this its response ("Response") to the request for a public hearing that was submitted by Marc K. Hoster on December 17, 2015 and the request for a contested case hearing that was submitted by Keith Hoster on May 18 and 23, 2015 in the above-referenced matter.[1] Vulcan requests that the Commissioners of the Texas Commission on Environmental Quality ("TCEQ") ("Commission") deny each of those requests and not grant a contested case hearing in response to either of them. In support thereof, Vulcan shows the following:

I. PROCEDURAL BACKGROUND

On November 9, 2015, Vulcan submitted an application requesting authorization to change the location of its rock crushing plant that is currently authorized by Permit No. 92565L002 ("Rock Crushing Plant" or "Plant") to its Weatherford Pit, whose address is 1111 Gilbert Pit Road near Millsap in Parker County ("Application"). The Rock Crushing Plant consists of crushers, screens, hoppers, conveyors, engines, and stockpiles.

Vulcan has represented to TCEQ that the only change in permit authorization for the Rock Crushing Plant that it is requesting is to re-locate the Plant to the proposed location at its Weatherboard Pit, and that it is requesting no change in authorization relative to the Plant's

[1] TCEQ's online records indicate that three hearing requests were submitted regarding the Application. But, Vulcan has only identified two hearing requests that were submitted. For some reason, Keith Hoster's hearing request was counted twice in the online records.

operations, emission controls, emissions limits, or character or types of emissions. In addition, Vulcan has represented to TCEQ that the Plant will continue to comply with the conditions of its current permit (No. 92565L002). One of the key conditions (Special Condition 16.E.(1)) is that the Plant must be located at least 188 feet from the nearest property line.

Because TCEQ received the Application after September 1, 2015, it is subject to the procedural requirements of, and rules implementing, Senate Bill 709 (84th Legislature, 2015). The Application was declared administratively complete on November 13, 2015. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for the Application was published on November 19, 2015, in the *Weatherford Democrat.* On December 14, 2015, Keith Hoster submitted comments regarding the Application. On December 17, 2015, Marc K. Hoster filed his hearing request, even though he did not file any comments regarding the Application. According to that request, his address is 4870 Old Brock Rd., Weatherford, Texas 76087, which, as is discussed below, is located about 9.85 miles from the proposed location of the Rock Crushing Plant. That address is inconsistent with his assertion in the hearing request that the proposed location of the Rock Crushing Plant is "across the street from my home".

The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published on January 29, 2016, in the *Weatherford Democrat.* On February 23, 2016, Keith Hoster submitted additional comments regarding the Application.

On April 18, 2016, the TCEQ Chief Clerk sent a letter stating that the Executive Director has made a decision that the Application meets the requirements of applicable law, and stating how people who believe they are affected persons can request a contested case hearing. In response to that letter, on May 18 and 23, 2016, Keith Hoster submitted a contested case hearing request. According to that request, his address is 370 Chism Trail, Gordon, Texas 76453, which, as is discussed below, is located about 15.15 miles from the proposed location of the Rock Crushing Plant. That address is inconsistent with his assertion in his hearing request that the proposed location of the Rock Crushing Plant is "directly across the street from my residence".

II. VULCAN'S RESPONSE TO HEARING REQUESTS

A. Legal parameters for the Commission's evaluation of the hearing requests

According to 30 Texas Administrative Code ("TAC") § 55.211(c), for the Commission to grant a contested case hearing in response to a hearing request, the hearing request must:

(1) have been filed by an affected person (30 TAC § 55.211(c)(2));

(2) include disputed issues of fact or mixed questions of fact or law that the hearing requestor raised during the comment period and did not later withdraw, and that are relevant and material to the Commission's decision on the Application (30 TAC § 55.211(c)(2)(A)(ii)); and

(3) comply with the requirements of 30 TAC § 55.201 (§ 55.211(c)(2)(D)). Further, according to 30 TAC § 55.211(d), the Commission may grant a contested case hearing request in response to the hearing request if it makes any of the determinations listed in that section.

In addition, according to 30 TAC § 55.209(e), this response to the hearing request must address the following:

(1) whether the hearing requestor is an affected person;

(2) which issues raised in the hearing request are disputed;

(3) whether the dispute involves questions of fact or law;

(4) whether the issues raised in the hearing request were raised during the public comment period;

(5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Public Comment regarding the Application ("Response to Public Comment");

(6) whether the issues raised in the hearing request are relevant and material to the decision on the Application; and

(7) a maximum expected duration for the contested case hearing in the event the Commission decides to grant a contested case hearing.

This Response addresses all of the items listed in 30 TAC §§ 55.211(c) and (d) and 55.209(e) as follows:

(1) whether the hearing request was filed by an affected person (addressing 30 TAC §§ 55.211(c)(2) and 55.209(e)(1));

(2) whether the hearing request includes disputed issues of fact or mixed questions of fact and law that the affected person raised during the comment period and did not later withdraw, and that are relevant and material to the Commission's decision

on the Application (addressing 30 TAC §§ 55.211(c)(2)(A)(ii) and 55.209(e)(2)-(6));

(3) whether the hearing request complies with the requirements of 30 TAC § 55.201 (addressing § 55.211(c)(2)(D));

(4) whether there is basis for the Commission to make any of the determinations listed in 30 TAC § 55.211(d); and

(5) the maximum expected duration for the contested case hearing in the event the Commission decides to grant a contested case hearing (addressing § 55.209(e)(7)).

B. Neither hearing request was filed by an affected person (addressing 30 TAC §§ 55.211(c)(2) and 55.209(e)(1))

According to 30 TAC § 55.203(c), the determination of whether a hearing requestor is an affected person is to be based on Commission consideration of factors that include, but are not limited to, the following factors:

(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) the likely impact of the regulated activity on the health and safety of the hearing requestor, and on the use of the property of the hearing requestor;

(5) the likely impact of the regulated activity on the use of the impacted natural resource by the hearing requestor;

(6) for a hearing request on an Application filed on or after September 1, 2015, whether the requestor timely submitted comments on the Application that were not withdrawn; and

(7) for governmental entities, their statutory authority over or interest in the issues relevant to the Application.

In addition, according to 30 TAC § 55.203(d), because the Application was filed after September 1, 2015, the Commission may also consider the following in determining whether the hearing requestor is an affected person:

(1) the merits of the Application and supporting documentation in the Commission's administrative record, including whether the Application meets the requirements for permit issuance;

(2) the analysis and opinions of the executive director; and

(3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

According to the court in *Sierra Club v. TCEQ*, in determining whether a hearing requestor is an "affected person", the Commission "enjoys the discretion to weigh and resolve matters that may go to the merits of the underlying application, including the likely impact the regulated activity . . . will have on the health, safety, and use of property by the hearing requestor and on the use of natural resources".[2] The court also stated that for a hearing requestor to demonstrate that he/she is an "affected person", he/she must establish "a concrete and particularized injury in fact, not common to the general public, that is (1) actual and imminent, (2) fairly traceable to the issuance of the permit as proposed, and (3) likely to be redressed by a favorable decision on its complaint".[3]

Vulcan believes that use of the discretion the Commission enjoys according to *Sierra Club v. TCEQ* in evaluating the above-listed factors relative to each of the hearing requestors, as is discussed below, will lead to the conclusion that neither hearing requestor is an affected person. Such evaluation will show that neither hearing requestor has established "a concrete and particularized injury in fact, not common to the general public, that is (i) actual and imminent, (ii) fairly traceable to the issuance of the permit as proposed, and (iii) likely to be redressed by a favorable decision on its complaint", which is required, according to *Sierra Club v TCEQ*, for either of the hearing requestors to be an affected person. Accordingly, Vulcan requests that the Commission determine that neither hearing requestor is an affected person, and, as a result, deny each hearing request and not grant a contested case hearing in response to either of them.

1. Whether the interest claimed is one protected by the law under which the Application will be considered

a. Marc K. Hoster

Only two of the claims raised in Marc K. Hoster's hearing request are protected by the "law under which the Application" is being considered, which refers to the air quality permitting

[2] *Sierra Club v. TCEQ*, 455 S.W.3d, 214, 217 (Tex. App. – Austin 2014, pet. denied)
[3] Id., at 221 (citing *City of Waco v. TCEQ*, 413 S.W. 3d 409, 417 (Tex. 2013))

provisions in the Texas Clean Air Act (Chapter 382 of the Texas Health and Safety Code) and the TCEQ air quality permitting rules adopted pursuant to those provisions. Those claims are the claim that the emissions from the Rock Crushing Plant at the proposed location will negatively impact the air quality on his property and the related implied claim that such emissions will negatively impact his health. As is further discussed below, he has provided absolutely no evidence or information that support either of those claims, and all of the evidence and information before the Commission demonstrate that the emissions from the Rock Crushing Plant at the proposed location will not negatively impact air quality on his property (or at any other off-site location) or his health (or the health of any other member of the public).

Marc K. Hoster's hearing request raises the following claims that are not protected by the "law under which the Application" is being considered: (i) the expected "noise" due to operation of the Rock Crushing Plant at the proposed location "is a concern", (ii) the proposed location of the Rock Crushing Plant is inappropriate because it allegedly would be in "closer proximity" to his home, which is a land use/zoning claim, (iii) operation of the Rock Crushing Plant at the proposed location will impact his "happiness", and (iv) authorization of the Rock Crushing Plant at the proposed location is inappropriate because it will allow Vulcan to "increase profits", which he asserts constitutes "corporate greed". Neither noise, land use/zoning, the hearing requestor's happiness, nor profits the project will provide to the applicant is identified as a relevant issue in, much less protected by, any of the air quality permitting provisions in the Texas Clean Air Act or the associated TCEQ air quality permitting rules that apply to the Application. Therefore, none of those claims is protected by "the law under which the Application" is being considered. As a result, none of those claims needs to be, or would be appropriate to be, evaluated by the Commission, and none of them is addressed further in this Response.

b. Keith Hoster

Some of the claims raised in Keith Hoster's hearing request are protected by the "law under which the Application" is being considered, and another claim is not. The claims that are protected by the "law under which the Application" is being considered are that the emissions from the Rock Crushing Plant at the proposed location will negatively impact the health of him and his family and the use of his property, including for raising livestock and producing food. As is further discussed below, he has provided absolutely no evidence or information that support any of those claims, and all of the evidence and information before the Commission demonstrate

that the emissions from the Rock Crushing Plant at the proposed location will not negatively impact the health of him or his family or use of his property, including for raising livestock and producing food.

His hearing request also raises the following claim that is not protected by the "law under which the Application" is being considered: that the operation the Rock Crushing Plant at the proposed location will allegedly result in an increase in the transportation of crushed rock on the public road in front of his "residence" that he references in his hearing request, which will allegedly cause an increase in dust emissions that will cover his vehicles and property. That claim is not protected by the "law under which the Application" is being considered because it relates to emissions from the operation of trucks on public roads, and the TCEQ permitting requirements pursuant to which the Application was submitted and is being evaluated do not require that Vulcan obtain permit authorization, or meet other air quality requirements, for operation of trucks (or any other mobile source) on public roads. Besides, Vulcan does not understand how the trucks to which the hearing requestor referred can be transporting crushed rock from the current Vulcan crushing operation at the Weatherford Pit because trucks that transport such crushed rock do not travel on that road; instead, they travel on a road that is closer to, and leads to, Interstate Highway 20, which is the road that is used to transport the crushed rock to customers' locations. The same will be true for the trucks that will transport crushed rock from the Rock Crushing Plant at the proposed location. As a result, that claim does not need to be, and would not be appropriate to be, evaluated by the Commission, and it is not addressed further in this Response.

2. Distance restrictions or other limitations imposed by law on the affected interest

As discussed above, the only interests raised in the hearing requests that are protected by the "law under which the Application" is being considered, and, thus, are appropriate for consideration by the Commission, are that the emissions from the Rock Crushing Plant at the proposed location must not negatively impact the air quality on the hearing requestor's property, the health of him or any member of his family, or use of his property. The Rock Crushing Plant is currently subject to distance restrictions and other limitations imposed by law, specifically, by the conditions in the permit that currently applies to the Plant (No. 92565L002). Those distance restrictions and other limitations in the permit will continue to apply to the Plant when it is operated at the proposed location since, as discussed above, the Application is only requesting

authorization for Vulcan to operate the Plant at a different location, and is not requesting authorization for Vulcan to make any change in the Plant's operations that would necessitate any change to those permit conditions, such as a change in the Plant's emission controls, emissions limits, or character or types of emissions.[4]

TCEQ's prior issuance of the current permit for the Rock Crushing Plant demonstrates that the emissions due to operation of the Plant at the proposed location in compliance with the conditions in that permit will not negatively impact the air quality on the hearing requestor's property, the health of him or any member of his family, or use of his property. That is because TCEQ was statutorily authorized to issue the current permit only if it determined that compliance with those permit conditions will ensure that the emissions from the Plant will be protective of the "health and property of the public", as well as will comply with all applicable TCEQ air quality rules and with the intent of the Texas Clean Air Act. (See, e.g., 30 TAC 116.111(a)(2)(A)) .

The distance restrictions and other key limitations in the permit conditions that will apply to the Rock Crushing Plant at the proposed location, and will ensure that the Plant's emissions will not negatively impact the air quality on the hearing requestor's property, the health of him or any member of his family, or use of his property, include the following. Special Condition 1 provides that the emissions from the Plant cannot exceed the applicable emissions limits in the permit's maximum allowable emissions rates table ("MAERT"). Special Condition 2 limits the sulfur content of the fuel that will be used in the internal combustion engines that are associated with the Plant. Special Condition 6 prohibits any visible emissions, such as the dust emissions to which each hearing request refers, from leaving the property on which the Plant will be located.

[4] In his hearing request, Keith Hoster erroneously claims that there must be a "change to the currently permitted operations, character of emissions and emission rates if Vulcan is permitted" to operate the Rock Crushing Plant at the proposed location because in that event, there "will be double the amount" of emissions. That claim is erroneous for a couple of reasons. First, Mr. Hoster's allegation that operating the Plant at the proposed location will "double the amount" of the emissions cannot be referring solely to the emissions from that Plant because, as discussed above, the Plant's emissions limits in the permit that will apply to that Plant will be the same as its emissions limits in its current permit. In light of that, Mr. Hoster must also be referring to the emissions from the existing rock crushing plant at the Weatherford Pit. If that is the case, it is not appropriate for the Commission to consider the emissions from the existing rock crushing plant in its consideration of the Application, because the emissions from the existing rock crushing plant are not subject to the Application, and thus, are not relevant to the Commission's determination on the Application or on Keith Hoster's hearing request. Besides, even if it was appropriate for the Commission to consider the emissions from the existing rock crushing plant in its consideration of the Application, the addition of the emissions from the Rock Crushing Plant would not "double" the amount of the emissions from the Weatherford Pit, i.e., increase those emissions by 100%, because the maximum production rate of the Rock Crushing Plant (450 tons/hr) will be only 30% of the maximum production rate of the existing rock crushing plant at the Weatherford Pit (1,500 tons/hr).

Special Condition 8 limits the hourly and annual throughputs of the Plant. Special Condition 11 requires the use of permanently-mounted spray bars at the inlet and outlet of the crusher, shaker screen, and all transfer points as necessary to control dust. And, of significant importance, as discussed above, Special Condition 16.E.(1) imposes the distance restriction that the Plant "shall be located a minimum of 188 feet from the property line".

Neither hearing requestor asserted, nor provided any evidence or information supporting an assertion, that the Plant will not continue to one meet or more of those permit conditions if the Commission approves the Application and the Plant is operated at the proposed location. In fact, all of the evidence and information before the Commission demonstrate that the Plant will continue to meet all of those permit conditions if the Commission approves the Application and the Plant is operated at the proposed location.

Specifically, all of the evidence and information before the Commission demonstrate that the proposed location of the Plant will easily meet the requirement in Special Condition 16.E.(1) that it be located at least 188 feet from the nearest property line. In fact, in its Response to Public Comment, the Executive Director stated that the proposed location of the Plant is 522 feet away from the nearest property line.

Moreover, distances from the proposed location of the Rock Crushing Plant to other locations that are relevant to each hearing requestor are much further than the 188 feet minimum distance specified in Special Condition 16.E.(1). For example, the proposed location of the Plant is about 9.85 miles from Marc K. Hoster's address, which according his hearing request, is 4870 Old Brick Rd., Weatherford, TX 76087, and the proposed location of the Plant is about 15.15 miles from the Keith Hoster's address, which according his hearing request, is 370 Chism Trail, Gordon, TX 76453. (See the maps identified as Map Exhibits 2-4 in Exhibit A to the affidavit of David Knollhoff of Westward Environmental Consultants ("Westward"), which is attached to this Response as Attachment 1) In addition, even though those are the only addresses specified in the hearing requests, each hearing requestor states in his hearing request that the proposed location of the Plant is "across the street from my home" (Marc K. Hoster's hearing request) or "directly across the street from my residence" (Keith Hoster's hearing request). Those statements are clearly inconsistent with the addresses that the hearing requestors specified in their hearing requests since those addresses are about 9.85 miles and 15.15 miles, respectively, from the proposed location of the Rock Crushing Plant.

Even though neither hearing requestor specified the address of, or description of the location of, his "home" or "residence" mentioned in his hearing request, Vulcan assumes that "home" or "residence" must be located on property adjacent to the Weatherford Pit property on which the Rock Crushing Plant is proposed to be located that Vulcan understands Keith Hoster owns. The proposed location of the Plant is about 7,700 feet, or about 1.46 miles, from the property line of that property that is nearest to the Plant's proposed location ("nearest Hoster property line"). (See the maps identified as Map Exhibit 1 and Map Exhibit 4 in Exhibit A to the affidavit of Mr. Knollhoff, which is attached to this response as Attachment 1)

Since the distance from the proposed location of the Rock Crushing Plant to the nearest Hoster property line is about 7,700 feet, or about 1.46 miles, the following things are true. First, as demonstrated by the results of Vulcan's air dispersion modeling (which are discussed in Section B.4.), the emissions from the Plant at the proposed location will have no negative impact on the health or safety of either hearing requestor or his family on that property, or on their use of that property. In addition, even though Keith Hoster's assertion in his hearing request that "placement [of the Rock Crushing Plant] <u>within a mile of my residence</u> would . . . negatively impact our health" is false and is completely unsubstantiated, assuming for purposes of argument that was true, that assertion would be an admission by Mr. Hoster that the emissions from the Plant at the proposed location would not negatively impact the health of him or his family since the Plant will be located much more than one mile from his residence. (Emphasis added) Mr. Hoster's assertion is false and is completely unsubstantiated because it is completely contrary to the TCEQ's prior conclusion upon which the Plant's current permit is based that the Plant's emissions will be protective of the public's health and safety and use of property as long as the Plant is located at least 188 feet from the nearest property line. Finally, since the distance from the proposed location of the Plant to the nearest Hoster property line is about 7,700 feet, or about 1.46 miles, the statements in the hearing requests that the proposed location of the Plant is "across the street from my home" (Marc K. Hoster's hearing request) and "directly across the street from my residence" (Keith Hoster's hearing request) are clearly false.

3. Whether a reasonable relationship exists between the interests claimed and the activity regulated

As discussed above, the only interests raised in the hearing requests that are protected by the "law under which the Application" is being considered, and, thus, are appropriate for consideration by the Commission, are that the emissions from the Rock Crushing Plant at the

proposed location must not negatively impact the air quality on either hearing requestor's property, the health of him or any member of his family, or use of his property. Neither hearing requestor has provided any evidence or information that demonstrates that a reasonable relationship exists between any of those claimed interests and the emissions from the Plant at the proposed location. For the following reasons, and for other reasons discussed in this Response, there is no reasonable relationship between any of those claimed interests and the emissions from the Plant at the proposed location: (i) the Plant will be located much more than the minimum of 188 feet from the property line that is imposed by Special Condition 16.E.(1) of the current permit, and there is no evidence or information that operation of the Plant at the proposed location will fail to meet any of the other conditions in its current permit, and (ii) as discussed above, compliance with those distance limitations and other conditions in the current permit will ensure that there will be no negative impact on that claimed interest.

4. Likely impact of the regulated activity on the health and safety of the hearing requestor, and on the use of the property of the hearing requestor

Neither hearing requestor has provided any evidence or information that the emissions from the Rock Crushing Plant at the proposed location will have a negative impact on his or his family's health and safety or use of his property. On the contrary, all of the evidence and information demonstrate that the emissions from the Plant at the proposed location will have no negative impact on his or his family's health or safety or use of his property, or, for that matter, on anyone else's health or safety or use of their property.

TCEQ established the requirement of the 188 feet minimum distance from the Plant to the nearest property line that is in Special Condition No. 16.E.(1) of the Plant's current permit based on the results of air dispersion modeling that was conducted as part of the application for that permit. The Executive Director determined that such modeling "provided a worst-case representation of potential impacts" of emissions from the Plant on the area surrounding it. (Response to Public Comment, p. 2) In addition, the Executive Director stated in its Response to Public Comment that the "procedures, methodology, predictions, and results [of that modeling] were reviewed by the TCEQ's Air Dispersion Modeling Team (ADMT) and were determined to be acceptable". (Id., pp. 2-3)

The results of that air dispersion modeling are shown in Table 1 on page 3 of the Response to Public Comment. Those results demonstrate that if the Rock Crushing Plant is located at least 188 feet from the nearest property line, its maximum allowable emissions will not

result in the exceedance of any National Ambient Air Quality Standard ("NAAQS") applicable to any of the pollutants that are emitted from the Plant.[5] The U.S. Environmental Protection Agency ("EPA") has determined that ambient ground level concentrations of a pollutant that are less than the pollutants NAAQS are (i) protective, with an adequate margin of safety, of the health of all members of the public, including sensitive members, such as children, the elderly, and individuals with existing lung or cardiovascular conditions, and (ii) protective of public welfare, including real property and personal property, such animals and crops. That means that the NAAQS are protective of each of the hearing requestor's and their family members' health and safety, regardless of what their current health conditions might be,[6] and the use of their property.

The only input to the air dispersion modeling for the current permit for the Rock Crushing Plant that would have the potential to be different for modeling conducted for the Plant at the proposed location, other than the distance from the Plant to the relevant offsite receptor, would be the background concentrations that were required to be used for any of the pollutants. However, the Executive Director has determined that the background concentrations used in the air dispersion modeling for the current permit are also appropriate for the Plant at the proposed location because that location has similar surrounding geography and land use as, and smaller population than, the location for the Plant when the prior modeling was conducted. (See Response to Public Comment, p. 3) In light of that, the Executive Director determined that it is appropriate to use the results from the air dispersion modeling for the current permit to evaluate the emissions from the Plant at the proposed location. Vulcan concurs with Executive Director's determination, as is reflected in Mr. Knollhoff's affidavit.

Since the results of the air dispersion modeling for the current permit assuming that the Rock Crushing Plant would be located at least 188 feet from the nearest property line showed no

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[5] The pollutants that are emitted from the Plant are particulate matter ("PM") with diameters of 10 micrometers or less ("PM_{10}") and 2.5 micrometers or less ("$PM_{2.5}$"), carbon monoxide ("CO"), nitrogen oxides ("NOx", defined as the sum of NO and NO_2, collectively expressed as NOx), sulfur dioxide ("SO_2"), and volatile organic compounds ("VOC").

[6] Vulcan included this phrase in order to respond to Mr. Hoster's assertion in his hearing request that a determination cannot be made that the emissions from the Rock Crushing Plant at the proposed location will not negatively impact his or his family's members' health without knowing their "full health information". Knowledge by TCEQ of the "full health information" of him or any of his family members is not needed to ensure their health will not be negatively impacted by the emissions from the Plant at the proposed location since the NAAQS have been established with "an adequate margin of safety" to ensure that ambient ground level concentrations below the NAAQS they are protective of the health of all members of the public, regardless of what their health conditions might be.

exceedance of any NAAQS, and because the NAAQS are protective of the health and welfare each of the hearing requestors and his family members, as well as all other members of the public, with an adequate margin of safety, the emissions from the Plant at the proposed location will clearly have no negative impact on the health or safety of the hearing requestor or his family or the use of his property since all of the locations provided by the hearing requestors are much more than 188 feet from the proposed location of the Plant.

Although the foregoing evidence is completely adequate to demonstrate that the emissions from the Rock Crushing Plant at the proposed location will have no negative impact on the health or safety of either hearing requestor or his family or use of property, Vulcan has developed further evidence that even further buttresses that conclusion. Vulcan asked Mr. Knollhoff to conduct air dispersion modeling of the maximum allowable emissions rates from the Plant at the proposed location to determine the predicted maximum ground level concentration of each pollutant for the relevant averaging periods at the nearest Hoster property line, which as discussed above, is located about 7,700 feet, or about 1.46 miles, from the proposed location of the Plant. That air dispersion modeling was of the same type as Mr. Knollhoff conducted for the permit application that resulted in the current permit for the Plant. That modeling, and the results of it, are discussed and provided in Mr. Knollhoff's affidavit, which is attached to this response as Attachment 1. As is discussed in that affidavit, those modeling results show that the maximum ground level concentration of each pollutant for each of the different NAAQS averaging periods, including, where appropriate, the pollutant's background concentration, is only a small percentage of the applicable NAAQS. In addition, each of those modeling results is much lower than the maximum ground level concentration for each pollutant determined by the air dispersion modeling that Mr. Knollhoff conducted for the original permit application for the Plant. Thus, the modeling results in Mr. Knollhoff's affidavit make it even more clear than do the results of the air dispersion modeling that Mr. Knollhoff conducted for the permit application that resulted in the Plant's current permit that the emissions from the Plant at the proposed location will have no negative impact on the health or safety of either hearing requestor or his family or use of property.

5. Likely impact of the regulated activity on the use of the impacted natural resource by the hearing requestor

The only "natural resource" whose use by the hearing requestors is relevant to the Application is the air on his property, and elsewhere beyond the property lines of the property

where the Rock Crushing Plant is proposed to be located. As discussed above, neither hearing requestor has provided any evidence or information that supports his claim that the emissions from the Plant at the proposed location will negatively impact the quality of the air on his property. On the contrary, as discussed above, the air dispersion modeling results and other evidence and information before the Commission demonstrate that the emissions from the Plant at the proposed location will not negatively impact the air quality on either hearing requestor's property, or at any other location beyond the property lines of the property where the Plant is proposed to be located.

6. Whether the hearing requestor timely submitted comments on the Application that were not withdrawn (since the Application was filed after September 1, 2015)

Marc K. Hoster did not submit any comments on the Application, but instead, only submitted his hearing request. The only comments submitted regarding the Application were submitted by Keith Hoster.

7. The merits of the Application and supporting documentation in the Commission's administrative record, including whether the Application meets the requirements for permit issuance

The Application and supporting documentation in the Commission's administrative record demonstrate that the Application meets the requirements for permit issuance. The Executive Director has also reached that conclusion. In addition, evidence and information that Vulcan has included in this Response, including the air dispersion modeling results and other information that are presented in Mr. Knollhoff's affidavit (Attachment 1 to this Response), provide even further support for the conclusion that the Application meets the requirements for permit issuance. Of key importance, neither of the hearing requestors has presented any evidence or information that demonstrates, or even indicates, that any of the requirements for permit issuance has not been met. Therefore, a contested case hearing regarding the Application would be a waste of TCEQ's resources, as well as Vulcan's resources.

8. The analysis and opinions of the executive director

The Executive Director has fully analyzed the Application and supporting documentation in the Commission's administrative record and has determined that they demonstrate that the Application meets the requirements for permit issuance, and that the Application should be approved. Therefore, a contested case hearing regarding the Application would be a waste of TCEQ's resources, as well as Vulcan's resources.

9. Any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor

As discussed above, Attachment 1 to this Response contains Mr. Knollhoff's affidavit discusses and provides the results of the air dispersion modeling that he conducted, and also provides maps showing the distances of the proposed location of the Rock Crushing Plant from places identified by the hearing requestors. As is discussed in that affidavit, those air dispersion modeling results show that the maximum ground level concentration of each pollutant for each of the different NAAQS averaging periods is only a small percentage of the applicable NAAQS, and also is much lower than the maximum ground level concentration for that pollutant determined by the air dispersion modeling that Mr. Knollhoff conducted as part of the application for the Plant's current permit. Those modeling results make it even more clear than do the results of the air dispersion modeling that Mr. Knollhoff conducted as part of the application for the Plant's current permit that the emissions from the Rock Crushing Plant at the proposed location will have no negative impact on the health or safety of either hearing requestor or his family or use of property.

C. Only some of the claims raised in the hearing requests are disputed issues of fact that are relevant and material to the Commission's decision on the Application, and Vulcan disputes those claims for the reasons discussed in this Response (addressing 30 TAC §§ 55.211(c)(2)(A)(ii) and 55.209(e)(2)-(6))

1. Marc K. Hoster

Only two of the claims raised in Marc K. Hoster's hearing request are relevant and material to the Commission's decision on the Application according the air quality permitting provisions in the Texas Clean Air Act and the associated TCEQ air quality permitting rules that apply to the Application. Those claims are that the emissions from the Rock Crushing Plant at the proposed location will allegedly negatively impact the air quality on his property and will allegedly negatively impact his health. Vulcan disputes those claims because, as discussed herein, he has provided absolutely no evidence or information to support either of them, and all of the evidence and information before the Commission demonstrate that the emissions from the Plant at the proposed location will <u>not</u> negatively impact off-site air quality, whether on his property or elsewhere, or the health of him, his family, or any other member of the public.

2. Keith Hoster

The only claims raised in Keith Hoster's hearing request that are relevant and material to the Commission's decision on the Application according the air quality permitting provisions in

the Texas Clean Air Act and the associated TCEQ air quality permitting rules that apply to the Application are that the emissions from the Rock Crushing Plant at the proposed location will allegedly negatively impact the health of him and his family, and their use of his property, including for raising livestock and producing food. Vulcan disputes those claims because, as is further discussed herein, he has provided absolutely no evidence or information to support either of them, and all of the evidence and information before the Commission demonstrate that the emissions from the Plant at the proposed location will not negatively impact the health of him or his family, or use of his property, including for raising livestock and producing food.

D. The hearing request does not comply with the requirements of 30 TAC § 55.201 (addressing 30 TAC § 55.211(c)(2)(D))

According to 30 TAC § 55.211(c)(2)(D), the hearing request must comply with the requirements in 30 TAC § 55.201 that are discussed below. As is demonstrated by that discussion, neither hearing request meets those requirements. Therefore, Vulcan requests that the Commission deny each hearing request and not grant a contested case hearing in response to either of them.

1. 30 TAC § 55.201(c)

According to 30 TAC § 55.201(c), since the Application was filed after September 1, 2015, the hearing request must be based only on comments that the hearing requestor filed. Marc K. Hoster did not file any comments, but instead, only filed his hearing request. Therefore, his hearing request does not meet the requirement that it must be based only on comments that he filed. In light of that Vulcan asks that the Commission deny his hearing request.

2. 30 TAC § 55.201(d)

The hearing request must substantially comply with the requirements set forth in 30 TAC § 55.201(d). Neither hearing request meets those requirements, as is discussed below.

a. 30 TAC § 55.201(d)(2)

The hearing request must state (i) the hearing requestor's location and distance to the proposed location of the Rock Crushing Plant, and (ii) how and why the hearing requestor believes he will be adversely affected by operation of the Rock Crushing Plant at the proposed location in a manner not common to members of the general public. Neither hearing request meets those requirements.

i. Marc K. Hoster

Marc K. Hoster's hearing request gave his address as 4870 Old Brick Rd., Weatherford, TX 76087, but it did not state how far that address is from the proposed location of the Rock Crushing Plant. In fact, that address is about 9.85 miles from the proposed location of the Plant. (See the maps identified as Map Exhibit 2 and Map Exhibit 4 in Exhibit A to the affidavit of Mr. Knollhoff, which is attached to this Response as Attachment 1) That distance is much too great for the Plant's emissions to have any impact on Marc K. Hoster or anyone else at his address.

His hearing request also stated that the proposed location of the Rock Crushing Plant is "across the street from my home". That statement is clearly inconsistent with the address specified in his hearing request. In addition, even though the hearing request did not specify the address of that "home", Vulcan assumes that "home" must be located on property adjacent to Vulcan's Weatherford Pit property on which the Plant is proposed to be located that Vulcan understands that Keith Hoster owns. As discussed above, the distance from the proposed location of the Plant to the nearest Hoster property line is about 7,700 feet, or about 1.46 miles. (See the maps identified as Map Exhibit 1 and Map Exhibit 4 in Exhibit A to the affidavit of Mr. Knollhoff, which is attached to this response as Attachment 1) Therefore, the hearing requestor's statement that the proposed location of the Plant is "across the street from my home" is clearly false.

As discussed above, the only claims in his hearing request that are relevant and material to the Commission's decision on the Application are that the emissions from the Rock Crushing Plant at the proposed location will allegedly negatively impact the air quality on his property and the related implied claim that will allegedly negatively impact his health. However, his hearing request does not state why he believes that will be true, much less does it provide any evidence or information supporting that claim. As a result, that claim is an unsubstantiated claim. In fact, as discussed herein, all of the evidence and information that are before the Commission are contrary to that claim.

ii. Keith Hoster

Keith Hoster's hearing request gave his address as 370 Chism Trail, Gordon, TX 76453, but it did not state how far that address is from the proposed location of the Rock Crushing Plant. In fact, as discussed above, that address is about 15.15 miles from the proposed location of the Plant. (See the maps identified as Map Exhibit 3 and Map Exhibit 4 in Exhibit A to the affidavit

of Mr. Knollhoff, which is attached to this Response as Attachment 1) That distance is much too great for the Plant's emissions to have any impact on Keith Hoster or anyone else at his address.

His hearing request also stated that the proposed location of the Rock Crushing Plant is "across the street from my residence". That statement is clearly inconsistent with the address specified in his hearing request. In addition, even though his hearing request did not specify the address of that "residence", Vulcan assumes that "residence" must be located on property adjacent to Vulcan's Weatherford Pit property on which the Rock Crushing Plant is proposed to be located that Vulcan understands he owns. As discussed above, the distance from the proposed location of the Plant to the nearest Hoster property line is about 7,700 feet, or about 1.46 miles. (See the maps identified as Map Exhibit 1 and Map Exhibit 4 in Exhibit A to the affidavit of Mr. Knollhoff, which is attached to this response as Attachment 1) Therefore, the hearing requestor's statement that the proposed location of the Plant is "across the street from my residence" is clearly false.

As discussed above, the only claims that he makes in his hearing request that are relevant and material to the Commission's decision on the Application are that the emissions from the Rock Crushing Plant at the proposed location will allegedly negatively impact the health of him and his family, and his use of his property, including for raising livestock and producing food. However, his hearing request does not state why he believes that will be true, much less provide any evidence or information supporting those claims. As a result, those claims are unsubstantiated claims. In fact, as discussed herein, all of the evidence and information before the Commission are contrary to those claims.

b. 30 TAC § 55.201(d)(3)

According to 30 TAC § 55.201(d)(3), the hearing request must request a contested case hearing. Nowhere in Marc K. Hoster's hearing request did he request a contested case hearing. Instead, his hearing request only requests a "public hearing", which based on the language in his hearing request, sounds like a request for a public meeting, rather than a contested case hearing.

Section 55.201(f) provides that any submittal that does not request a contested case hearing "shall be treated as a public comment". Since Marc K. Hoster's hearing request does not request a contested case hearing, Vulcan requests that the Commission treat it as a public comment, rather than as a request for a contested case hearing.

c. 30 TAC § 55.201(d)(4)

According to 30 TAC § 55.201(d)(4)(B), because the Application was filed after September 1, 2015, each hearing request must list all relevant and material disputed issues of fact that were raised by the hearing requestor during the public comment period and that are the basis of the hearing request.

i. Marc K. Hoster

As stated above, Marc K. Hoster did not raise any of the issues he listed in his hearing request in a comment letter before, or after, he submitted the hearing request. Therefore, his hearing request does not meet the requirement in 30 TAC § 55.201(d)(4)(B). In light of that, Vulcan requests that the Commission deny it.

ii. Keith Hoster

Keith Hoster did not raise some of the relevant issues that he listed in his hearing request in any comment letter before, or after, he submitted his hearing request. Those issues are that the dust emissions from the Rock Crushing Plant at the proposed location will allegedly negatively impact (i) his "personal property as well as his real property", including covering his "vehicles and residence" and "a portion of [his] real property [that he cultivates] to produce food for human consumption" with dust, and (ii) the health of his "livestock". Therefore, his hearing request does not meet the requirement in 30 TAC § 55.201(d)(4)(B) relative to those issues. In light of that, Vulcan requests that the Commission refuse to address those issues.

E. There is no basis for the Commission to make any of the determinations listed in 30 TAC § 55.211(d)

Because the Application relates to an air permit, the only determinations under 30 TAC § 55.211(d) that are potentially relevant to either hearing request are the following: (i) a possible determination that a contested case hearing regarding the Application would be in the public interest; or (ii) a possible determination that the Application involves a facility -- the Rock Crushing Plant -- for which the compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations. As discussed below, there is no basis for the Commission to make either of those determinations for either hearing request.

1. A contested case hearing would not be in the public interest

There is no basis for a Commission determination that a contested case hearing regarding the Application would be in the public interest. First, only two hearing requests were submitted regarding the Application, and as discussed above, one of those requests does not even request a contested case hearing. In addition, neither hearing request contains any evidence or information that provides any support for the only relevant claims in it. Moreover, all of the evidence and information before the Commission regarding the Application are contrary to the claims in the hearing requests and demonstrate that such claims are wrong. Finally, the interests of the public will best be served by the Commission denying each hearing request so that the Rock Crushing Plant can begin operation at the proposed location as soon as possible. That will best serve the interests of the public because the Executive Director has already determined that operation of the Plant at the proposed location will "benefit the economy of the state or an area of the state". That is reflected by Executive Director's decision to process the Application as an expedited application under the TCEQ's Expedited Permitting Program.

2. The compliance history for the Rock Crushing Plant contains no violations that are unresolved or that constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations.

According to the Compliance History Report for the Rock Crushing Plant (RN105932172), its compliance history contains no violations, much less any violations "that are unresolved or that constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations". (See copy of the Compliance History Report in Attachment 2 to this Response) In fact, that Compliance History Report shows that the compliance history classification for the Plant is "Unclassified", and that the compliance history classification for Vulcan is "High".

F. The maximum expected duration for the contested case hearing (addressing 30 TAC § 55.209(e)(7))

As required by 30 TAC § 55.209(e)(7), Vulcan believes that if the Commission was to grant a contested case hearing for the Application, the contested case hearing should last no more than six (6) months.

III. PRAYER

For the foregoing reasons, Vulcan respectfully requests that the Commission deny both of the hearing requests regarding the Application and not grant a contested case hearing in response to either of them, and in accordance with the position of the Executive Director, approve the Application.

Respectfully Submitted,

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Tel: 512-370-2813
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Keith A. Courtney

Keith A. Courtney
State Bar No. 04892700

COUNSEL FOR APPLICANT
VULCAN CONSTRUCTION MATERIALS, LLC

CERTIFICATE OF SERVICE

I certify that a true and complete copy of the foregoing Response and attachments were served on the following parties on June 13, 2016.

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via mail:
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Gordon, Texas 76453-4848

Marc K. Hoster
4870 Old Brock Road
Weatherford, Texas 76087-6634

Keith A. Courtney

Keith A. Courtney

ATTACHMENT 1

TCEQ DOCKET NO. 2016-0788-AIR

APPLICATION BY	§	**BEFORE THE TEXAS**
VULCAN CONSTRUCTION MATERIALS, LLC	§	**COMMISSION ON**
FOR PERMIT NO. 92565L004 TO	§	**ENVIRONMENTAL**
AUTHORIZE CHANGE OF LOCATION	§	**QUALITY**
OF CURRENTLY PERMITTED	§	
ROCK CRUSHING PLANT	§	

AFFIDAVIT OF DAVID KNOLLHOFF

STATE OF TEXAS §
COUNTY OF KENDALL §

BEFORE ME, the undersigned notary public, on this day personally appeared David Knollhoff, who known to me to be the person whose name is subscribed below, and who after being duly sworn by me, did upon his oath, state and depose as follows:

1. My name is David Knollhoff. I am over 21 years of age, am of sound mind, and am fully competent to make this affidavit. Each and every statement contained in this affidavit is based upon my personal knowledge, and each and every statement is true and correct.

2. I have about 13 years of experience preparing applications for air new source review permits, including case-by-case permits, standard permits, and permits by rule, for all types of industry across Texas, and working with Texas Commission on Environmental Quality ("TCEQ") staff regarding their processing of those applications. That experience includes me conducting complex air dispersion modeling analyses in support of those applications, as well as auditing air dispersion modeling analyses conducted by others. I have extensive experience with and knowledge of various air dispersion models (i.e., SCREEN3, ISCST3, ISC-PRIME and AERMOD), and extensive experience conducting air dispersion modeling using those models and preparing summaries of the results of such modeling. I have B.S. and M.S. degrees in Meteorology, and I am a Certified Consulting Meteorologist (CCM #651) designated by the American Meteorological Society.

3. By the application that is the subject of the pending hearing requests, Vulcan Construction Materials, LLC ("Vulcan") requests authorization to re-locate its rock crushing plant ("Rock Crushing Plant" or "Plant") that is currently authorized by Permit No. 92565L002 to its Weatherford Pit, which is located near

Millsap in Parker County ("Application"). I conducted the air dispersion modeling that supported the TCEQ's issuance of the original permit for the Rock Crushing Plant, which was located 188 feet from the nearest property line. The results of that modeling are shown on Table 1 on page 3 of the TCEQ Executive Director's Response to Public Comment regarding the Application.

4. In support of Vulcan's response to the pending hearing requests regarding the Application, I conducted air dispersion modeling of the maximum allowable emissions rates for the Rock Crushing Plant at the proposed location to determine the predicted maximum ground level concentrations of each pollutant from the Rock Crushing Plant at the property line of the property upon which is located the "residence" that is referenced in Keith Hoster's hearing request and the "home" that is referenced in Marc Hoster's hearing request that is nearest to the proposed location of the Rock Crushing Plant ("nearest Hoster property line"). That air dispersion modeling was the same type of air dispersion modeling that I conducted for the original permit application for the Rock Crushing Plant. In conducting that air dispersion modeling, I used the same modeling inputs that I used in the air dispersion modeling for the original permit application for the Rock Crushing Plant, except that I used the distance from the proposed location of the Rock Crushing Plant to the nearest Hoster property line of about 7,700 feet, instead of 188 feet. I used the same modeling inputs, other than the 188 feet distance, because all of them are representative and accurate relative to dispersion of the emissions from the Rock Crushing Plant at its proposed location.

5. I used the distance of 7,700 feet in my air dispersion modeling of the maximum allowable emissions rates for the Rock Crushing Plant at the proposed location because, according to the map identified as Map Exhibit 1 in the attached Exhibit A, that is the approximate distance from the proposed location of the Rock Crushing Plant to the nearest Hoster property line. That map was prepared at my direction and under my supervision by one of Westward's Draftsman/GIS Specialists, who has significant experience preparing such maps. I obtained the coordinates that were used to locate the nearest Hoster property line on the map from Eddie Saucedo, Vulcan's Environmental Services Manager, Southwest Division, and the coordinates that were used to locate the proposed location of the Rock Crushing Plant on the map from the Application. Mr. Saucedo has reviewed the map and has confirmed to me that the nearest Hoster property line and the proposed location of the Rock Crushing Plant are accurately shown on it.

6. The results of my air dispersion modeling of the maximum allowable emissions rates for the Rock Crushing Plant based on it being about 7,700 feet from the nearest Hoster property line are provided in Table 3 of the summary of my air dispersion modeling that is in Exhibit B to this affidavit. Table 3 shows the predicted maximum ground level concentrations of each pollutant from the Rock Crushing Plant at the nearest Hoster property line. Those predicted maximum ground level concentrations include the applicable background concentrations where required by TCEQ modeling requirements (See column entitled "Total

Predicted GLC_{max}"). Table 3 also shows the percentage that the Total Predicted GLC_{max} for each pollutant for each averaging period is of the applicable National Ambient Air Quality Standard. Table 1, Table 2, and other parts of Table 3 of the summary of my air dispersion modeling in Exhibit B provide other summary information regarding my air dispersion modeling of the maximum allowable emissions rates for the Rock Crushing Plant at the proposed location.

7. Exhibit A to this affidavit also contains three other maps: (i) Map Exhibit 2 in the attached Exhibit A shows that it is about 9.85 miles from the proposed location of the Rock Crushing Plant to Marc Hoster's address, which according to his hearing request, is 4870 Old Brock Road, Weatherford, Texas 76087, (ii) Map Exhibit 3 in the attached Exhibit A shows that it is about 15.15 miles from the proposed location of the Rock Crushing Plant to Keith Hoster's address, which according to his hearing request, is 370 Chism Trail, Gordon, Texas 76453, and (iii) Map Exhibit 4 in the attached Exhibit A shows the location of the proposed location of the Rock Crushing Plant relative to the nearest Hoster property line, Marc Hoster's address, and Keith Hoster's address, and the distances between each of them and the proposed location of the Rock Crushing Plant. Each of those maps was prepared at my direction and under my supervision by one of Westward's Draftsman/GIS Specialists, who has significant experience preparing such maps. I obtained the coordinates that were used to locate the proposed location of the Rock Crushing Plant on each of those maps from the Application, and the coordinates that were used to locate the nearest Hoster property line on Map Exhibit 4 from Mr. Saucedo. He has reviewed all three maps in Exhibit A and has confirmed to me that the proposed locations of the Rock Crushing Plant and the nearest Hoster property line are accurately shown on them.

Further, affiant sayeth not.

David Knollhoff

David Knollhoff

Sworn to and signed before me, the undersigned authority, on this 8 day of June, 2016.

Andrea S. Kidd

Notary Public in and for
The State of Texas

ANDREA S. KIDD
Notary Public, State of Texas
My Commission Expires
November 06, 2019

My Commission Expires: 11-6-19
Notary ID No. 12631464-7

EXHIBIT A

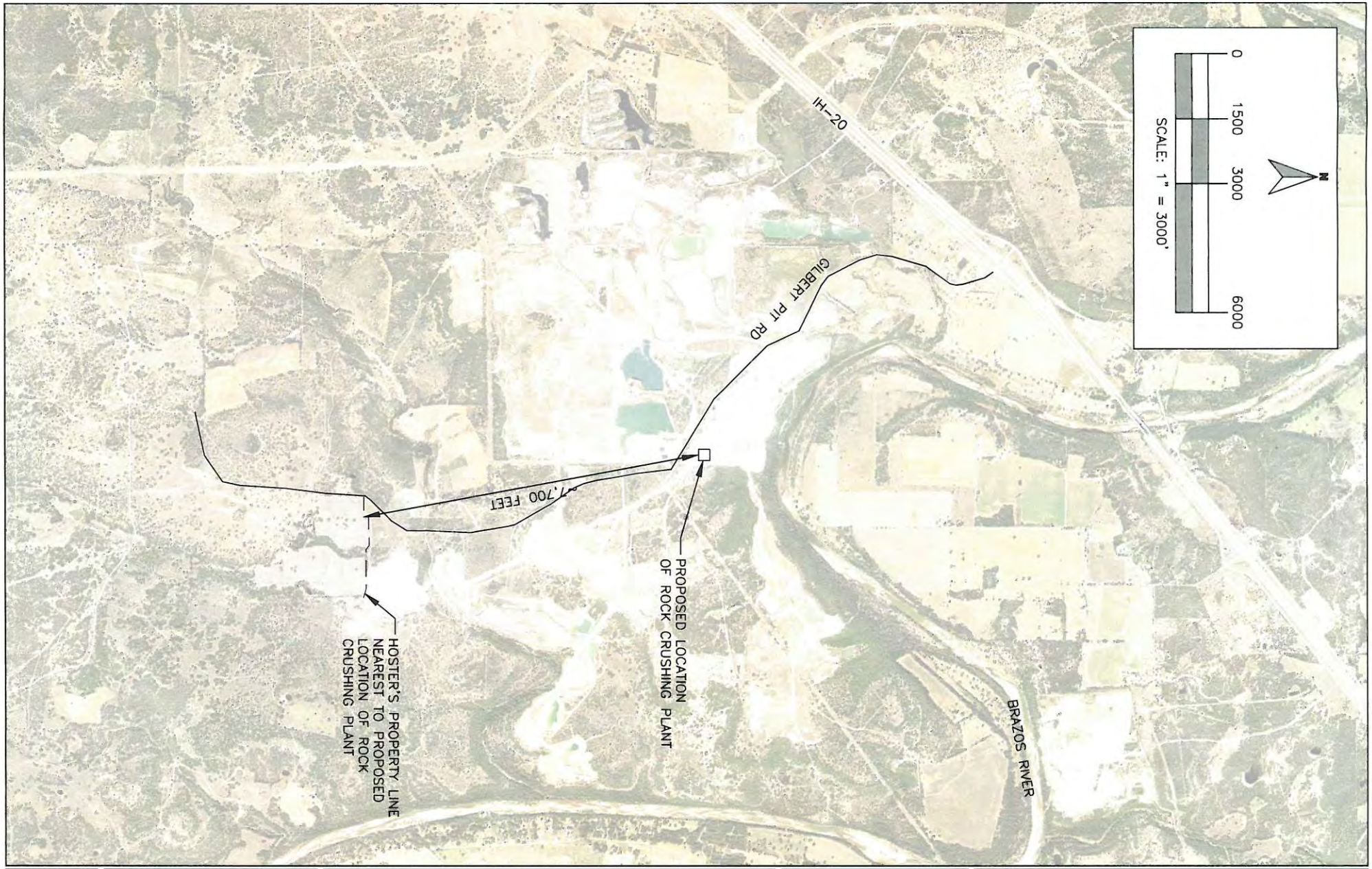


IMAGE:	BRAZOS EAST 2014 SE
ISSUE DATE:	06/06/2016
DRAWN BY:	JJS
CHECKED BY:	DSK
SCALE: 1" =	3000'
JOB #:	10003-365

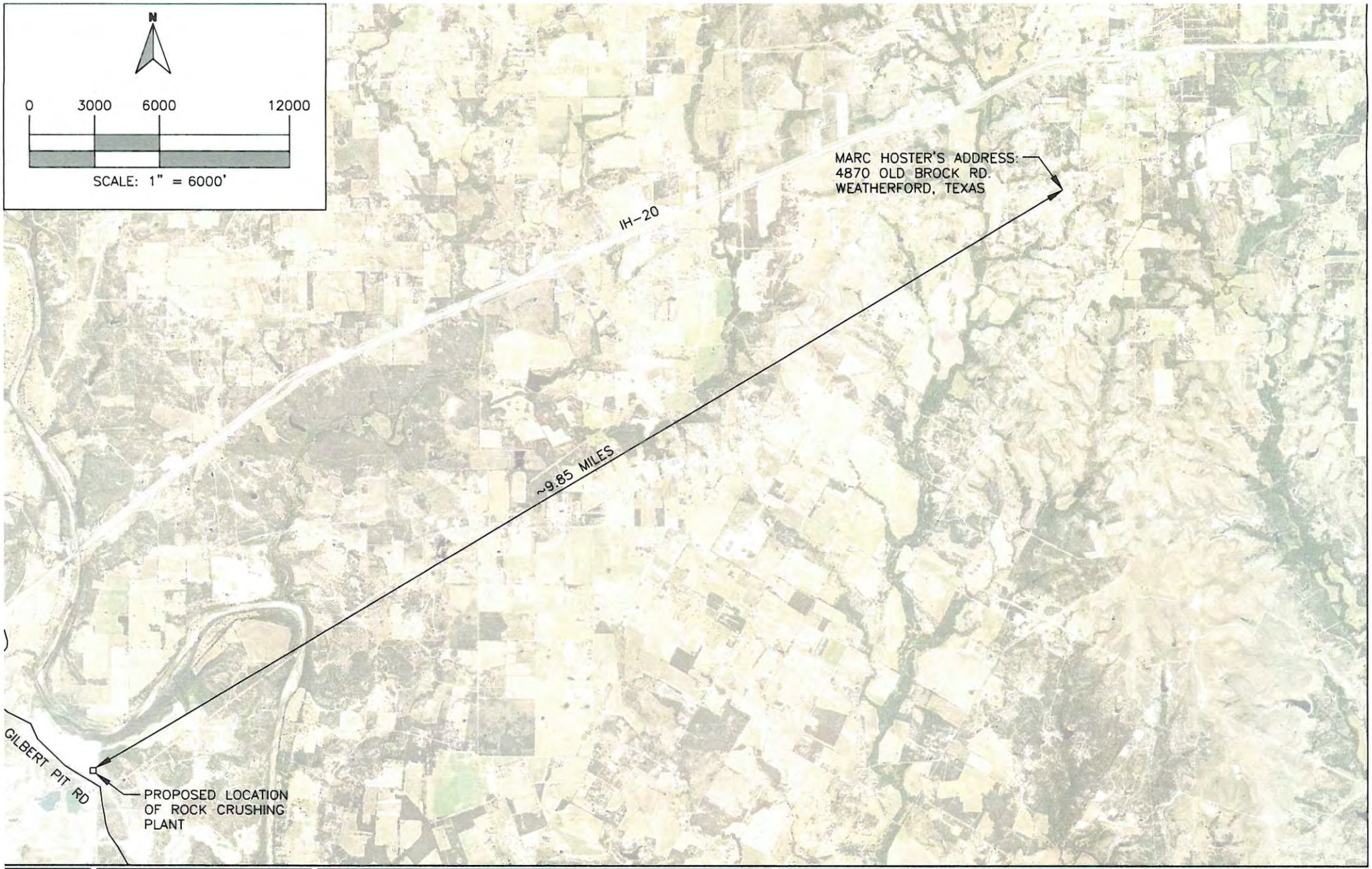
SHEET #: 1 OF 4

MAP EXHIBIT 1

MAP SHOWING PROPOSED LOCATION OF ROCK CRUSHING PLANT RELATIVE TO NEAREST PART OF HOSTER'S PROPERTY LINE

REV.	DESCRIPTION	BY	DATE

WESTWARD
Environmental. Engineering. Natural Resources.
P.O. Box 2205 Boerne, Texas 78006
(830) 249-8284 Fax: (830) 249-0221
TBPE REG. NO.: F-4524
TBPG REG. NO.: 50112



SHEET #: 2 OF 4

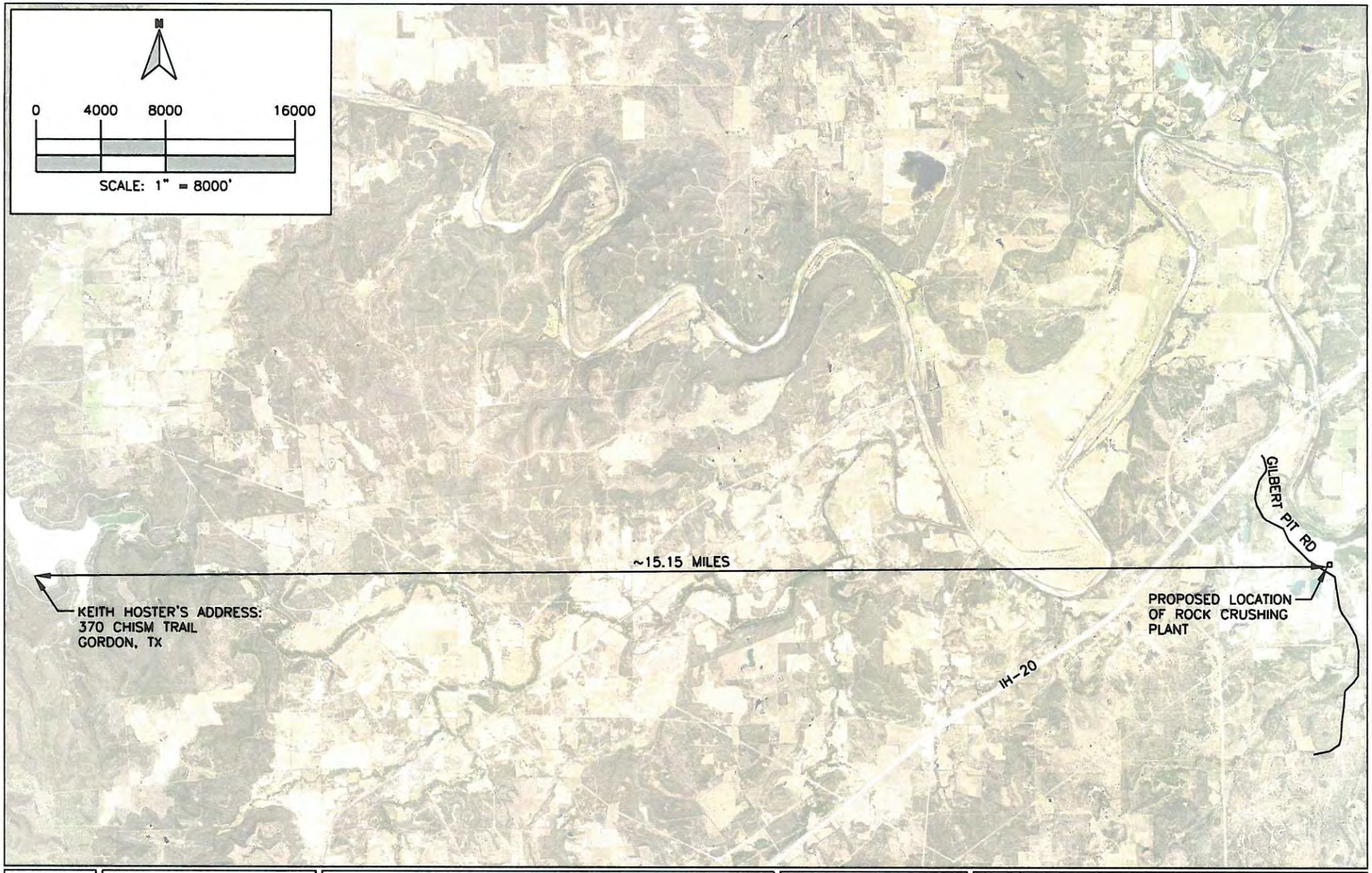
IMAGE: NAIP 1m	
ISSUE DATE:	06/06/2016
DRAWN BY:	JJS
CHECKED BY:	DSK
SCALE: 1" =	6000'
JOB #:	10003-365

MAP EXHIBIT 2

MAP SHOWING PROPOSED LOCATION OF ROCK CRUSHING PLANT RELATIVE TO MARC HOSTER'S ADDRESS PER HIS HEARING REQUEST

REV.	DESCRIPTION	BY	DATE

WESTWARD
Environmental. Engineering. Natural Resources.
P.O. Box 2205 Boerne, Texas 78006
(830) 249-8284 Fax: (830) 249-0221
TBPE REG. NO.: F-4524
TBPG REG. NO.: 50112



SHEET #: 3 OF 4

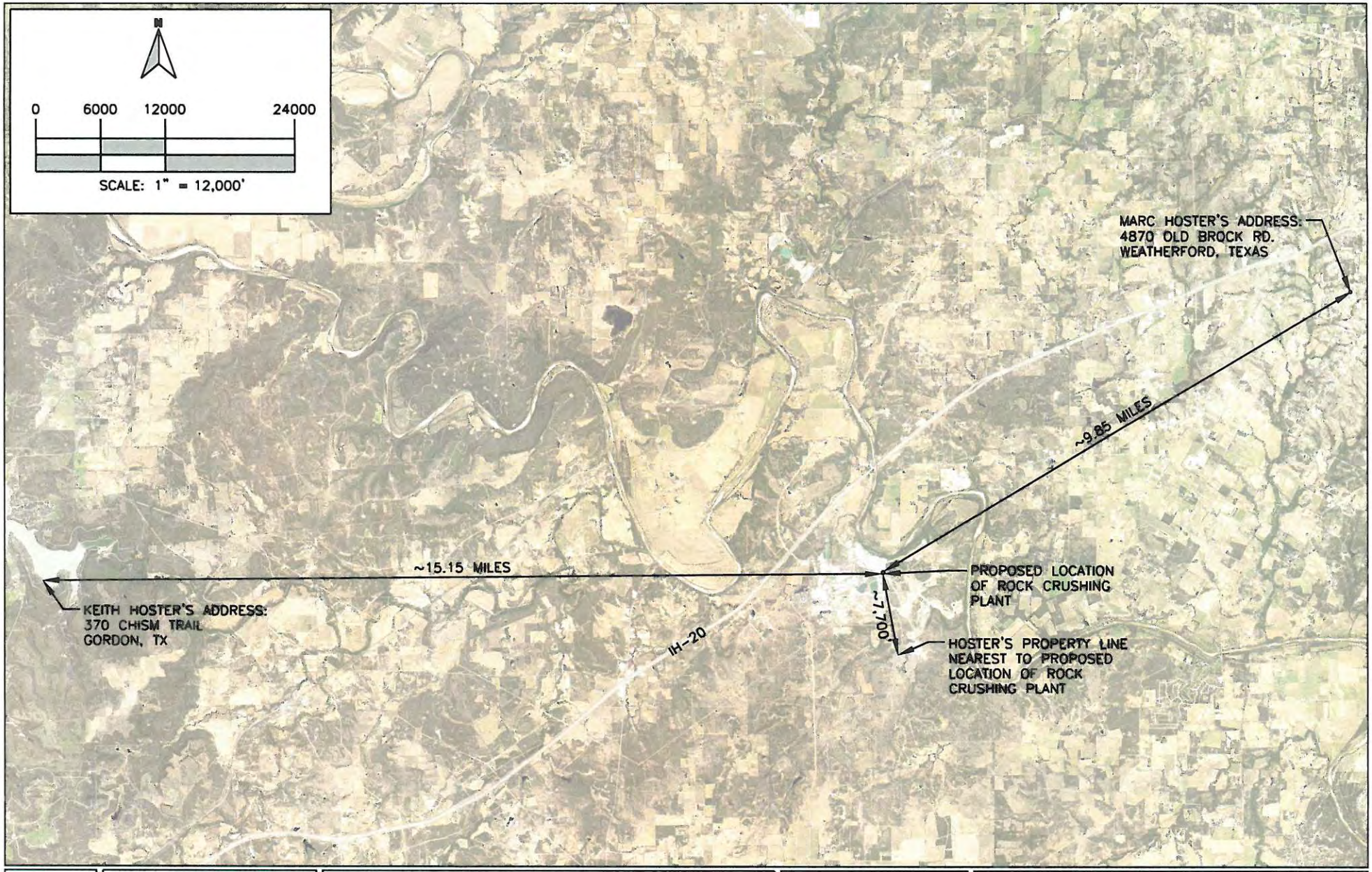
IMAGE: NAIP 2014 1m	
ISSUE DATE:	06/08/2016
DRAWN BY:	NM
CHECKED BY:	DSK/CC
SCALE: 1" =	8000'
JOB #:	10003-365

MAP EXHIBIT 3

MAP SHOWING PROPOSED LOCATION OF ROCK CRUSHING PLANT RELATIVE TO KEITH HOSTER'S ADDRESS PER HIS HEARING REQUEST

REV.	DESCRIPTION	BY	DATE

WESTWARD
Environmental. Engineering. Natural Resources.
P.O. Box 2205 Boerne, Texas 78006
(830) 249-8284 Fax: (830) 249-0221
TBPE REG. NO.: F-4524
TBPG REG. NO.: 50112



SHEET #: 4 OF 4

IMAGE: NAIP 2014 1m	
ISSUE DATE:	06/08/2016
DRAWN BY:	NM
CHECKED BY:	DSK/CC
SCALE: 1" =	12,000'
JOB #:	10003-365

MAP EXHIBIT 4

MAP SHOWING PROPOSED LOCATION OF ROCK CRUSHING PLANT RELATIVE TO MARC & KEITH HOSTER'S ADDRESSES PER THEIR HEARING REQUESTS & HOSTER'S PROPERTY LINE

REV.	DESCRIPTION	BY	DATE

WESTWARD
Environmental. Engineering. Natural Resources.
P.O. Box 2205 Boerne, Texas 78006
(830) 249-8284 Fax: (830) 249-0221
TBPE REG. NO.: F-4524
TBPG REG. NO.: 50112

EXHIBIT B

Modeling Demonstration Calculations
Prepared By Westward Environmental, Inc.

Table 1. Unit Impacts - Assuming 7,700 ft Distance Between Proposed Location of Rock Crushing Plant and Closest Property Line of Hoster's Property

Source Group ID	Source ID	EPN(s)	Distance from proposed location of Rock Crushing Plant to closest property line of Hoster's property	1-hr	3-hr	8-hr	24-hr	Annual
				($\mu g/m^3$ per lb/hr)				
Active Fugitives	Active Fugitives	1-8, MGFUG, STK1	2,347 m (7,700 ft)	11.80	10.62	8.26	4.72	0.94
Engine 1	Engine 1	9	2,347 m (7,700 ft)	9.46	8.51	6.62	3.78	0.76
Engine 2	Engine 2	10	2,347 m (7,700 ft)	10.61	9.54	7.42	4.24	0.85
Engine 3	Engine 3	11	2,347 m (7,700 ft)	11.52	10.36	8.06	4.61	0.92

Table 2. 1-hr Modeled Emission Rates

Pollutant	Active Fugitives (40% Fugitive Reduction Factor)	Engine 1	Engine 2	Engine 3	Total
	(lb/hr)				
PM_{10}	0.40	0.07	0.02	0.04	0.53
$PM_{2.5}$	0.08	0.07	0.02	0.04	0.21
NO_2*		0.36	0.14	0.12	0.63
CO		1.59	0.18	0.16	1.93
SO_2		0.90	0.20	0.17	1.28

*The calculated maxmium 1-hr NOx emission rate from each engine is multiplied 14% (i.e., 0.14) to attain a NO_2 hourly emission rate. The emission rate adjustment is based on a guidance document (i.e., Ambient and Plume Sampling to Evaulate Gas Compressor Engine NO_2 Emissions at Chevron SACROC CO_2 Station, Snyder, Texas February 5-9, 1979 that the TCEQ APD utilizes.

Table 3. Results of SCREEN3 Modeling for State NAAQS - Assuming 7,700 ft Distance Between Proposed Location of Rock Crushing Plant and Closest Property Line of Hoster's Property

Pollutant	Averaging Time	Ratioed Impacts				Predicted GLC_{max}	De Minimis	Background Concentration	Total Predicted GLC_{max}	NAAQS	Percent of NAAQS
		Active Fugitives	Engine 1	Engine 2	Engine 3						
		($\mu g/m^3$)									(%)
		A	B	C	D	E = A+B+C+D		F	G = E + F	H	I = G / H
PM_{10}	24-hr[1]	1.88	0.27	0.10	0.18	2.43	5	N/A	2.43	150	1.6%
$PM_{2.5}$	24-hr[1]	0.37	0.27	0.10	0.18	0.92	1.2	N/A	0.92	35	2.6%
	Annual[1]	0.07	0.05	0.02	0.04	0.18	0.3	N/A	0.18	12	1.5%
NO_2	1-hr[1]		3.45	1.54	1.41	6.39	7.5	N/A	6.39	188	3.4%
	Annual[1]		0.28	0.12	0.11	0.51	1	N/A	0.51	100	0.5%
CO	1-hr[1]		15.05	1.86	1.87	18.77	2000	N/A	18.77	40000	0.05%
	8-hr[1]		10.53	1.30	1.31	13.14	500	N/A	13.14	20000	0.1%
SO_2	1-hr[2]		8.53	2.11	2.01	12.64	7.8	22.56	35.20	196	18.0%
	3-hr[1]		7.68	1.90	1.81	11.38	25	N/A	11.38	1300	0.9%
	24-hr[3]		3.41	0.84	0.80	5.06	5	36	41.06	365	11.2%
	Annual[3]		0.68	0.17	0.16	1.01	1	8	9.01	80	11.3%

[1]The "N/A" in the Background Concentration column means that no background concentration needs to be added to the Predicted GLC_{max} because that Predicted GLC_{max} is below the applicable "de minimis" level (sometimes referred to as the significant impact level ("SIL")).

[2]For the 1-hr SO_2 NAAQS analysis, the 3 year (2007, 2008, 2009) average of the daily H1H monitored background concentrations was utilized. These background concentrations are the same as those utilized in the original air dispersion modeling for the Rock Crushing Plant.

[3]For the 24-hr and annual SO_2 NAAQS analyses, the 1998 TCEQ Screening Background Concentrations were utilized. These background concentrations are the same as those utilized in the original air dispersion modeling for the Rock Crushing Plant.

ATTACHMENT 2

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN600355465, RN105932172, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN600355465, Vulcan Construction Materials, LLC	**Classification:** HIGH	**Rating:** 0.02
Regulated Entity:	RN105932172, WEST TEXAS PORTABLE CRUSHER NO 3	**Classification:** UNCLASSIFIED	**Rating:** -----
Complexity Points:	2	**Repeat Violator:** NO	
CH Group:	04 - Mining		
Location:	EASTLAND PIT 702 CR 442 EASTLAND EASTLAND, TX, EASTLAND COUNTY		
TCEQ Region:	REGION 03 - ABILENE		

ID Number(s):

AIR NEW SOURCE PERMITS PERMIT 92565L001
AIR NEW SOURCE PERMITS PERMIT 92565L002
AIR NEW SOURCE PERMITS PERMIT 92565L004
AIR NEW SOURCE PERMITS PERMIT 92565L003
AIR NEW SOURCE PERMITS AFS NUM 4877702108
AIR EMISSIONS INVENTORY ACCOUNT NUMBER 960402T
AIR EMISSIONS INVENTORY ACCOUNT NUMBER 960402T

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: June 01, 2016

Agency Decision Requiring Compliance History: Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.

Component Period Selected: September 01, 2010 to August 31, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Bill Moody **Phone:** (512) 239-1859

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?	YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period?	NO
3) If **YES** for #2, who is the current owner/operator?	N/A
4) If **YES** for #2, who was/were the prior owner(s)/operator(s)?	N/A
5) If **YES**, when did the change(s) in owner or operator occur?	N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

Component Appendices

Appendix A
All NOVs Issued During Component Period 9/1/2010 and 8/31/2015

N/A

For Informational Purposes Only

Appendix B
All Investigations Conducted During Component Period September 01, 2010 and August 31, 2015

N/A

For Informational Purposes Only