

SOAH DOCKET NO. 582-12-6347
TCEQ DOCKET NO. 2012-0971-AIR

APPLICATION BY	§	BEFORE THE
	§	
EOG Resources, Inc.	§	TEXAS COMMISSION ON
	§	
For Air Quality Permit No. 95412	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the New Source Review Authorization application and ED's preliminary decision. As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments.

The Office of Chief Clerk timely received comment letters from the following elected officials: Craig Estes (Texas State Senator, District 30), Richard L. "Rick" Hardcastle (Texas House of Representatives, District 68), Greg Bohl (Muenster City Council and Street Commissioner), Robert (Tommy) Fenoglio (Mayor of Nocona, Texas), Gary Hollowell (Cooke County Commissioner, Precinct 1), Leon Klement (Cooke County Commissioner, Precinct 4), B.C. Lemons (Cooke County Commissioner, Precinct 2), John O. Roane (Cooke County Judge), Tommie Sappington (Montague County Judge), and Alan Smith (Cooke County Commissioner, Precinct 3).

The Office of Chief Clerk timely received comment letters from the following persons: Darrell Aberegg, Özlem Altiok, Richard Dean Ames, Cecilia Ashley, Brent Aston, Billy J. Atkins, Brad Bailey, Patti Bailey, JoAnn Baker, Debra Bale, Kathleen Agee Bale (or Kathleen J. Bale), Darrell Balmer, Steven R. Barnes, Charles Batchelor, Don Batchelor, Janice Bayer, Michael Bayer, Ryan Bayer, John Becker, Michael Dale Beckner, Cyndy and James R. Bell, Stacy Beynaerts, Rita Blakeley, Robert Boyd, Pat Brandon, Myrna and Roy Brawner, Deborah Bray, Cherokee Brewer, Joshua S. Brooks, Jason S. Brown, Mitch Brown, Kay and Stephen Broyles, Thomas E. Brunholtz, David Bryson, Michael Campbell, Nora Campbell, Bryan Capps, Mary Capps, Bill Carmickle, Jeffrey Scott Chandler, Ronald and Susan Chandler, Rebecca Chayrez, Don Chesier, Kalee Lynn Clark, Richard A. Clark, Todd J. Clark, Michael Clevenger, Minna Faye Cook, Charles D. Cosper, Stephen Mark Couger, Jamie and John A. Cox, Charles M. Crane, Larry Crane, David Lee Cross, Louis Cusato, Greg David, Charles Day, Diane Dees, Jeff M. Deford, Norman DeLamar, Brian Desmond, Joe Dial, Gloria J. Dickerman, Johnny Dowd, Deborah Ann Dunbar, Larry Eberhart, John Ernst, Leandro Espertino, Marianne and Robert Fazen, Terry Fender, Carlan Jay Flatt, David and Patty Fleitman, Cory J. Flippin, Jorge Flores, Jared Futrell, Todd Futrell, Alan Golightly, David Goss, Dusty Gossett, Joe Grant, Jim Gray, Randy Joe Gray, Jennifer Green, Zeth Griffin, Paul Grimes, Bobby Grinstead, Janice and Tom Halley, Rex Hamilton, Donald James Hammerlindl, J'Lynn Hare, Rhelda C. Harris, William E. (Bill) Harris, Wylie Harris, David Keith Hart, Al and Margaret Heim, Mike Henderson, Melanie Herr, Robert Herring, Jr., Dennis Hess, Gerald Hess, Sam Hess, Lynn Hinsley, Keith Hoepfner, Philip Hoepfner (full comment not received), Robert C. Holden, Sandra and William Horner, Lance Hulett, Lisa A. Hulsey, Michael David Hurd, Robert W. Hyden, Jack P. Jeter, Art Johnson, Jimmy Jones, Richard W. Jones, Penny Jordan, Eric Kancir, Billy and Joyce Karen, Jimmy Kimbrel, James Kingsley, Alan Dale Klossen, A.J. Knabe, Dana Knight, Joe A. and Kristy Koesler

(or K.M. Koesler), Jon T. Kolbensvik, Jeff Kowalski, Jeff Kring, Alice and Travis Krist, John H. Kubicek, Judith Kulp, Mark Lamb, Dee Lambert, Patsy Laborde, Leland Lash, Michael Leach, Tom Lebsack, Randy Lewellen, Jeff Leyshon, David Loggins, Bob Luecke, Ivars Lulis, David Mark Lyles, Dianne Mann, James Allen Mann, Jr. (or James Mann), Lana Maples, Marianne Matt, Michele Matt, Scotty Allen Mazzucco, Kristie McCauley, Barry and Pat McDonald, Dan and Lynne McGrew, Gail Millard, Ashley and Devin Miller, Eddie D. Miller, Susan M. Miller, Keith Milyo, Annie Mitchell, Martin B. Mollat, Vicor Monarch, Denis G. and Susan Heim Moody, Kent L. Moore, Alejandro and Maria Moreno, Kimberly Morse, Mary Nell Mosley, Michael Wade Myers, Neal D. Nelson, Erik Nielsen, Kathy Nielsen, Diafletta Norseworthy, Michael Ronnie Nugent, David Nystrom, Ricky O'Neal, Carla Orr, Cathy B. Otto, Patti Otwell, Robert Owens, Tina Palmer, William J. Pando, Pete Peach, James Pearson, William T. Pearson, James T. Pelton, Josh M. Peltonen, Jeffrey Petersen, Jennie Phifer, Bobby Pickard, Brian Pierce, Robin Pittsley, Angela and Ronald Poen, Marjorie Pullin, Diane L. and Lawrence B. Rayl, Roger Reiter, Rick Reynolds, Mark Rickards, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Barbara and Donald Rohmer, Suzanne Roper, Michele Renee Rouse, Larry Rousseau (full comment not received), Shani Rowell, Pete Rowen, Teodoro Santiesteban, Eualane Sappington, Todd Sartor, Laurence Scheel, Jeff Schnack, Flossie Schoppa, Mark F. Schubert, Robert Seloff, Linda Sepanski, Frank Shacklee, Dave Shafer, Jason C. Sharpe, Jennifer E. and John E. Shiffer, Jerry and Margaret Shofner, Brandi and Josh Shuppert, Ronda Sicking, Steven Sims, Donald Smith, Kevin E. Smith, Rachel Smith, Clara J. Sneed (also Clara Janis Sneed), Janis Sneed, Ed Soph, Alan Spears, Michael Andrew Sprinkle, Kyle St. Clair, John Stephens, Laura Stephens, Jim Stepter, Dillon Stewart, Cathy Stoffels (also commented as Group A), Jeremiah Stone, Chris C. Story, Jeff Swope, Richard Taber, Joseph and Martha Tepera, Sunny Thandassery, John F. and Martha S. Thompson, Steve Thompson, Judy Thornton, Terry Tidmore, Deann Tidwell, Sonny Truitt, Tony Tucker, Nancee Turlington, Cale Turpen, Christopher M. Twitchell, Danny W. Vardas, Alan D. Vaughan, Tommy Vieth, Julie Renee Vogel, Tony Voth, Bruce Walker, Christina and Hymen Wallace, Tim Warriner, Craig Wermske, Claude West, Holly West, Thomas West, Mark Westbrook, Roland Whitaker, Jr., Ralph White, Kenny L. Wiechman, Brant Wiederholt, Donald Wiese, Jim Wiggins, Rusty Wilson, Sharon Wilson (EARTHWORKS Texas Oil and Gas Accountability Project [Texas OGAP]), Tony Winchester, Brian Wing, and Jim Wise.

The Office of the Chief Clerk also received identical comment letters from the following persons who will be identified in the responses below as **Group A**: Alfred Bayer, Diana Bayer, Donna Bayer, Jeremy Bayer, Paul Bayer, John Endres (Mr. and Mrs.), Bernadette Otto, Ed Otto, Amber Schad, Janise Schad, Phyllis Schad, Shannon Schad, Teresa Schad, Jo Schilling, M. Schilling, Michael Schilling, Adeline Sicking, Herbie Sicking, Angie Smith, Sammy Smith, Sam B. Spamm, Sam Sparkman, Cathy Stoffels, Gerald C. Stoffels, and two concerned citizens (illegible signatures). Another group of identical comment letters was received from the following persons who will be identified in the responses below as **Group B**: Joyce Barton, Marla Bentley, Gail Knight, Jane S. Kohler, Aaron Parnell (Mr. and Mrs.), and Judith V. Patton. A group of similar comment letters from the following persons on behalf of the Bartush Land and Cattle Company (BLCC) will be identified in the responses below as **Group C**: Cindy Bartush, Daniel Bartush, Katrinka Bartush, Mary Beth Bartush, Mike G. Bartush, Valerie Bartush, William Bartush, and Mary Del Olmo. A group of similar comment letters from the following persons on behalf of Red River Motorcycle Trails, Inc. (RRMT) will be identified in the responses below as **Group D**: Brandon Bayer, Holly Harris-Bayer, Rebecca Harris, and Lewis McPherson.

On behalf of Red River Motorcycle Trails (RRMT), Holly Harris-Bayer submitted the following exhibits to the Office of the Chief Clerk: Exhibit A1, aerial map (one small map) detailing the RRMT facility in relation to the EOG Resources, Inc. (EOG) facility; Exhibit A2, aerial map (one large map) detailing the RRMT facility in relation to the EOG facility; Exhibit A3, video of the RRMT facility in relation to the EOG facility; Exhibit B1, collection of aerial photos (eight photos) showing EOG's facility in relation to RRMT; Exhibit B2, picture collection (12 photos) showing RRMT's location/trail system and distance from EOG's facility; Exhibit C, DVD - Red Bull Last Man Standing; Exhibit D, *Ride Texas* magazine, January/February edition; Exhibit E1, collection of various magazine clippings featuring RRMT; Exhibit E2, *The Entertainer's Summer Guide*, Summer 2010 edition; Exhibit F1, 210 photos of RRMT park customers; Exhibit F2, RRMT park literature; Exhibit F3, Harris Family with *Rifleman's* Johnny Crawford (late 1950s); Exhibit F4, Christmas card (2010) to RRMT from a park customer; Exhibit F5, 1970's RRMT flyer; Exhibit G1, Red Bull Last Man Standing CD; Exhibit G2, Red Bull Last Man Standing literature. Additionally, Deborah Ann Dunbar provided a packet of materials, which includes a summary of state and federal laws regarding rare, threatened, and endangered species, as well as listings from TPWD of specific species for Cooke and Montague Counties.

This Response addresses all timely public comments received, whether or not withdrawn. This Response does not address any comments received after the close of the public comment period. If you need more information about this permit application or the permitting process please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.tceq.texas.gov.¹

BACKGROUND

Description of Facility

EOG Resources, Inc. (EOG or Applicant) has applied to the TCEQ for a New Source Review (NSR) Authorization under Texas Clean Air Act (TCAA), TEX. HEALTH & SAFETY CODE § 382.0518. This will authorize the construction of a new facility that may emit air contaminants.

This permit, if granted, will authorize the Applicant to construct an industrial sand processing plant consisting of material loading operations, screens, conveyance systems, a dryer, stockpiles, and truck loading operations. The facilities will be authorized to operate 8,760 hours per year except for the dryer baghouse and associated dryer, the dry plant transfer dust collector baghouse and associated dry feed bins, dry screens and conveyors, the surge bin dust collector and the product silo dust collectors, and associated product load facilities, which will each be limited to a maximum operating schedule not to exceed 7,884 hours per year in any rolling 12-month period. The throughput of the plant is limited to a maximum of 500 tons per hour (tph) and 4,380,000 tons per year (tpy) at the vibrating scalping screen, 300 tph and 2,628,000 tpy at the wash screen, and 158 tph and 1,182,600 tpy at the dryer. The plant is proposed to be located at 14596 N FM 373 Saint Jo, Cooke County. Contaminants authorized under this permit include organic compounds (VOCs), nitrogen oxides (NO_x), sulfur dioxide (SO₂), carbon monoxide

¹ The TCEQ rules referenced in this document can be found at: www.tceq.texas.gov/rules/index.html.

(CO), and particulate matter (PM), including PM with diameters of 10 micrometers or less (PM₁₀) and 2.5 micrometers or less (PM_{2.5}).

Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain a permit from the commission. This permit application is for an initial issuance of Air Quality Permit Number 95412.

The permit application was received on March 25, 2011, and declared administratively complete on April 7, 2011. The Notice of Receipt and Intent to Obtain an Air Quality Permit (NORI or first public notice) for this permit application was published on April 15, 2011, in the *Muenster Enterprise*, and on May 27, 2011, in the *Saint Jo Tribune*. The Notice of Application and Preliminary Decision for an Air Quality Permit (NAPD or second public notice) and Notice of Hearing for this permit application was published on June 8, 2012, in the *Gainesville Daily Register*, *Muenster Enterprise*, and *Saint Jo Tribune*. A public meeting was held on August 23, 2011, in Muenster, Cooke County. The notice of public meeting was mailed to the interested parties on the Chief Clerk's mailing list on July 13, 2011, and an amended notice of public meeting was mailed to interested parties on the Chief Clerk's mailing list on August 10, 2011. A second public meeting was held on July 11, 2012, in Gainesville, Cooke County. The notice of second public meeting was mailed to the interested parties on the Chief Clerk's mailing list on July 3, 2012. The public comment period ended at the close of the second public meeting on July 11, 2012.

Table of Contents

1. ELECTED OFFICIALS	
COMMENT 1-1: <u>State Officials</u>	pg.6
2. PUBLIC NOTICE AND PUBLIC PARTICIPATION	
COMMENT 2-1: <u>First Public Notice</u>	pg.7
COMMENT 2-2: <u>Notice of Public Meetings</u>	pg.8
COMMENT 2-3: <u>Second Public Meeting</u>	pg.8
COMMENT 2-4: <u>Public Meeting Discussion</u>	pg.9
COMMENT 2-5: <u>Date Clarification</u>	pg.9
COMMENT 2-6: <u>Direct Referral and Notice of Contested Case Hearing</u>	pg.9
3. APPLICATION	
COMMENT 3-1: <u>Type of Application</u>	pg.10
COMMENT 3-2: <u>Permanent Facility</u>	pg.11
COMMENT 3-3: <u>Application Misrepresented and Incomplete</u>	pg.11
COMMENT 3-4: <u>MSS Representation</u>	pg.11
COMMENT 3-5: <u>Water Use Representation</u>	pg.12
4. PRECONSTRUCTION	
COMMENT 4-1: <u>Start of Construction/Removal of Trees/Erosion</u>	pg.12

5. AIR QUALITY PERMIT REVIEW PROCESS

COMMENT 5-1: <u>Administrative/Technical Review</u>	pg.13
COMMENT 5-2: <u>Public Review of Permit Documents</u>	pg.14
COMMENT 5-3: <u>Readability of Documents</u>	pg.15
COMMENT 5-4: <u>Muenster Public Library</u>	pg.15
COMMENT 5-5: <u>Response to Comments</u>	pg.16
COMMENT 5-6: <u>TCEQ's Permit Review Process and Responsibility to the Public</u>	pg.16
COMMENT 5-7: <u>Customers and Public Interest</u>	pg.17
COMMENT 5-8: <u>Uncontested Applications</u>	pg.18

6. EMISSION EVALUATIONS

COMMENT 6-1: <u>Environmental Impact Study</u>	pg.18
COMMENT 6-2: <u>Emission Calculations and Controls</u>	pg.19
COMMENT 6-3: <u>Access to Air Dispersion Modeling</u>	pg.21
COMMENT 6-4: <u>Air Dispersion Modeling</u>	pg.21
COMMENT 6-5: <u>Air Quality/Health Effects (Humans, Animals, Plants)/ Silica</u>	pg.22
COMMENT 6-6: <u>Other Air Emissions</u>	pg.30
COMMENT 6-7: <u>Cumulative emissions</u>	pg.30
COMMENT 6-8: <u>Air Modeling Requirement and Compliance History</u>	pg.31
COMMENT 6-9: <u>Air Monitoring</u>	pg.32

7. WATER

COMMENT 7-1: <u>Water Use</u>	pg.33
COMMENT 7-2: <u>Storm Water Pollution Prevention Plan</u>	pg.36

8. PERMIT CONDITIONS

COMMENT 8-1: <u>Operating Hours</u>	pg.36
COMMENT 8-2: <u>Visible Particulate Emissions</u>	pg.37
COMMENT 8-3: <u>Water Vapor Visible Emission</u>	pg.37
COMMENT 8-4: <u>Test Waivers</u>	pg.37
COMMENT 8-5: <u>Federal Rule Applicability</u>	pg.37
COMMENT 8-6: <u>Stockpiles</u>	pg.38
COMMENT 8-7: <u>Recordkeeping</u>	pg.38
COMMENT 8-8: <u>Enforcement of Permit Conditions</u>	pg.38
COMMENT 8-9: <u>Permit Denials</u>	pg.40
COMMENT 8-10: <u>Other Sand Plant Permits in Texas</u>	pg.40
COMMENT 8-11: <u>Change of Ownership</u>	pg.41

9. LOCAL IMPACTS

COMMENT 9-1: <u>Property Values/ Recreation / Quality of Life / Light and Noise</u>	<i>pg. 42</i>
COMMENT 9-2: <u>Location</u>	<i>pg. 45</i>
COMMENT 9-3: <u>Threatened or Endangered Species</u>	<i>pg. 46</i>

10: ADDITIONAL COMMENTS

COMMENT 10-1: <u>Truck/Traffic Hazard/Roads</u>	<i>pg. 46</i>
COMMENT 10-2: <u>Waste Disposal</u>	<i>pg. 48</i>
COMMENT 10-3: <u>Domestic Septage Permit</u>	<i>pg. 49</i>
COMMENT 10-4: <u>Mining/Blasting/Land Reclamation Plan</u>	<i>pg. 49</i>
COMMENT 10-5: <u>Hydraulic Fracking</u>	<i>pg. 50</i>

11. PUBLIC SUPPORT AND OPPOSITION

COMMENT 11-1: <u>Public Support and Opposition</u>	<i>pg. 50</i>
--	---------------

12. COMMENTS REGARDING THE TCEQ

COMMENT 12-1: <u>TCEQ Funding</u>	<i>pg. 51</i>
COMMENT 12-2: <u>The ED</u>	<i>pg. 52</i>
COMMENT 12-3: <u>Document Availability</u>	<i>pg. 52</i>

13. COMMENTS DIRECTED TO THE APPLICANT

COMMENT 13-1: <u>Questions Directed to EOG</u>	<i>pg. 52</i>
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COMMENTS AND RESPONSES

1. ELECTED OFFICIALS

COMMENT 1-1: State Officials

On June 23, 2011, Senator Estates requested a public meeting on behalf of his constituents. Additionally, by letter dated August 18, 2011, Representative Hardcastle stated his believe that his constituents have the right to have their questions regarding the proposed facility answered and to be assured that the application meets every applicable rule and requirement that the TCEQ has the authority to enforce. Representative Hardcastle stated he supports requests for a contested case hearing made by his constituents and requests that the TCEQ give every consideration available under the law and its rules to those who are concerned about the effects of the proposed facility.

Commissioner Klement submitted a written request on behalf of his constituents, supporting their legal right for a contested case hearing. Commissioner Klement stated that a contested

case hearing would allow for the public's concerns to be answered in a detailed and structured setting. Judge Roane also requested that the TCEQ hold a public meeting regarding the permit application for EOG's proposed facility.

Judge Roane provided Cooke County Commissioners' Court Resolution No. 09-12-11.01, dated September 12, 2011. The resolution states that the Cooke County Commissioners oppose the construction and operation of the proposed facility without proper EOG/TCEQ monitoring. The resolution also states that the Cooke County Commissioners support a contested case hearing for Permit Number 95412.

RESPONSE 1-1: The TCEQ held two public meetings regarding the proposed plant on August 23, 2011, in Muenster, Cooke County and on July 11, 2012, in Gainesville, Cooke County.

This document is the written response to all formal comments (RTC) received during the comment period for the application. A copy of this RTC will be sent to each person who submitted a formal comment or who requested to be on the mailing list for this permit application and provided a mailing address. Additionally, all formal comments received during the meeting, as well as those comments submitted in writing during the public comment period, are included in this RTC and are considered before a final decision is reached on the permit application.

The TCEQ acknowledges the Cooke County Commissioners' Court resolution, and appreciates the comments and interest from the County Commissioners in environmental matters before the agency. The application is currently in the contested case hearing process at the State Office of Administrative Hearings (SOAH).²

2. PUBLIC NOTICE AND PUBLIC PARTICIPATION

COMMENT 2-1: First Public Notice

Commenters requested a republication of the Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) which was published on April 15, 2011, in the *Muenster Enterprise*. Commenters stated notice was improper because residents closest to the proposed facility do not receive the *Muenster Enterprise*. Commenters requested that the Applicant be required to republish the notice in the *Saint Jo Tribune* or in both the *Saint Jo Tribune* and the *Muenster Enterprise*.

(Özlem Altiok, Cecelia Ashley, Debra Bale, Kathleen Agee Bale, Rita Blakely, Pat Brandon, Myrna and Roy Brawner, Kalee Lynn Clark, Richard A. Clark, Rebecca Harris, Rhelda C. Harris, William E. (Bill) Harris, Wylie Harris, Al and Margaret Heim, Penny Jordan, Leon Klement, Alejandro and Maria Moreno, Robert Owens, Angela and Ronald Poen, John O. Roane, Dave Shafer, Jennifer E. and John E. Shiffer, Brandi and Josh Shuppert, Clara J. Sneed, Joseph and Martha Tepera, and Nancee Turlington).

² See SOAH Docket No. 582-12-6347. The procedural schedule for the hearing was established in Order No. 1, issued on July 24, 2012.

RESPONSE 2-1: Public notice must be published in a newspaper of general circulation in the municipality which the facility is located or proposed to be located or the municipality nearest to the location of the facility as required by 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. The rule only requires publication in one newspaper of general circulation. Therefore, the Applicant must only publish in one newspaper of general circulation in order to comply with TCEQ rules. However, in response to the comments regarding the publication of the first notice, the ED instructed the Applicant to republish the first public notice in accordance with TCEQ rules. The first notice was republished on May 27, 2011, in the *Saint Jo Tribune* and provided an additional 30-day comment period.

COMMENT 2-2: Notice of Public Meetings

Commenters asked why notice of the public meetings were was not published in any of the local newspapers. Holly Harris-Bayer stated the TCEQ did not provide adequate public notice of the meetings because notice was not published in local newspapers. Nancee Turlington requested that the TCEQ publish all future notifications regarding Permit Number 95412 in the *Saint Jo Tribune*. (Özlem Altiok, Patti Bailey, J'Lynn Hare, Holly A. Harris-Bayer, Penny Jordan, Wylie Harris, Dianne Mann, James Mann, Clara Janis Sneed, Janis Sneed, and Nancee Turlington).

RESPONSE 2-2: TCEQ rules in 30 TAC Chapter 39 specify the requirements for public notice for air permit applications. Newspaper notice of a public meeting is not required. However, the TCEQ provides notice of a public meeting, by first-class mail, to those persons on a mailing list composed of individuals who have provided their mailing address through submission of a comment, a public meeting request, or a hearing request concerning the particular application or who have requested to be notified of specific issues by county. Additionally, TCEQ maintains a public calendar of all public meetings and hearing on its agency website.³

COMMENT 2-3: Second Public Meeting

Ivars Lulis asked whether the TCEQ would grant a second public meeting if the company modified its original permit application, and if not, why not. Other commenters stated that the TCEQ did not provide adequate advance notice of the second public meeting, and that it was scheduled too closely to the preliminary hearing. Commenters stated that the Gainesville public meeting location was not convenient for those wishing to attend and questioned why it was held in Gainesville. Penny Jordan commented that the TCEQ was condescending by stating that the second public meeting was held as a courtesy to the public. Robert Fazen commented that the second public meeting was a sham. Holly Harris-Bayer stated that the TCEQ did not consider that the preliminary hearing had been previously scheduled for July 12, 2012, and questions whether the TCEQ deliberately scheduled the second public meeting at a time that was inconvenient for the public. Additionally, Ms. Harris-Bayer stated that failure to have an adequate separation between the second public meeting and the preliminary hearing reflects poorly on the TCEQ. (Özlem Altiok, Patti Bailey, J'Lynn Hare, Holly Harris-Bayer, Robert Fazen, Penny Jordan, Wylie Harris, Dianne Mann, James Mann, Clara Janis Sneed, Janis Sneed, and Nancee Turlington).

RESPONSE 2-3: The preliminary hearing was scheduled prior to the publication of the second notice so that notice of the hearing could be combined with the second notice. The preliminary

³ Available at: <http://www.tceq.texas.gov/agency/hearings/calendar.html>.

hearing was scheduled for July 12, 2012, based on the availability of the statutory parties, attorneys, Administrative Law Judge(s), and space availability. The combined second notice and Notice of Hearing was published on June 8, 2012. The TCEQ received numerous comments and requests for a second public meeting following this notice, such that the ED felt there was sufficient public interest to warrant a second public meeting. However, the TCEQ does not typically schedule public meetings after preliminary hearings, where SOAH takes jurisdiction and the matter is in active litigation. Therefore, although the timing for notice was short, a second public meeting was scheduled for the evening of July 11, 2012. The TCEQ gave as much notice of the public meeting as was practicable given the previously scheduled preliminary hearing.

TCEQ staff, in conjunction with the applicant, attempted to schedule the second public meeting at the same location as the first public meeting, the Muenster ISD Cafetorium. The cafetorium facility was not available because ongoing parking lot paving left no available parking for any meeting attendees. Additionally, the Muenster ISD Band Room was also not available due to the air conditioner not working at that facility. Therefore, the public meeting was held on July 11, 2012, at the Civic Center in Gainesville.

COMMENT 2-4: Public Meeting Discussion

Dianne Mann stated that the answers that TCEQ and EOG representatives provided at the second public meeting were not complete.

RESPONSE 2-4: The public meeting format provides an opportunity for interested persons to ask the TCEQ and the Applicant questions in both an informal (Q and A) discussion and a formal comment period. Informal comments and questions are answered at the meeting but do not become part of the formal record for an application. During the informal session, the public is given the opportunity to ask questions of both TCEQ staff and EOG representatives. During the formal comment period, interested persons may make comments which are recorded and become part of the formal record. All formal comments received during the meeting, as well as those comments submitted in writing during the public comment period, are considered before a final decision is reached on the permit application.

COMMENT 2-5: Date Clarification

J'Lynn Hare stated that notification of the second public meeting included an issue date of July 3, 2012, but that the TCEQ Web site included an issue date of June 7, 2012. Ms. Hare asked for clarification regarding this discrepancy.

RESPONSE 2-5: The issue date for the notice of the second public meeting was July 3, 2012.

COMMENT 2-6: Direct Referral and Notice of Contested Case Hearing

Commenters asked when the public would be notified that a contested case hearing had been granted and when it would occur. Penny Jordan commented that the TCEQ did not make available on its web pages the letter from the Applicant requesting a direct referral of the application to State Office of Administrative Hearings (SOAH) for hearing. Additionally, Ms. Jordan commented that TCEQ did not put the letter where the public could easily find it because it was placed in the "activity" section rather than the public comment section. Ms. Jordan stated that it was a fluke that the public found out about the direct referral when it did.

Holly Harris-Bayer stated that the EOG's attempt to fast-track the application by requesting a direct referral is appalling and TCEQ's willingness to do whatever it takes to get the applicant's permit approved is shameful and a disgrace. (Özlem Altıok, Mary Del Olmo, Holly Harris-Bayer, and Penny Jordan).

RESPONSE 2-6: 30 TAC § 55.210(a) states that the ED or the applicant may file a request with the chief clerk that the application be sent directly to SOAH for a hearing on the application. On January 18, 2012, the Applicant filed a request that the matter be direct referred to SOAH for a contested case hearing. In a situation where a preliminary hearing has been scheduled prior to the application going to second notice, the TCEQ will typically combine the notices. A Notice of Hearing was combined with the Notice of Preliminary Decision (NAPD or second notice) and published on June 8, 2012, in *the Saint Jo Tribune*, *the Muenster Enterprise*, and *the Gainesville Daily Register*.

The Office of the Chief Clerk maintains the agency's Commissioner's Integrated Database (CID). The CID is organized by permit and based the type of submittal, specifically Filings, Correspondence from the Public, and Activities. A request for Direct Referral is considered an activity on the permit application and is organized accordingly. Letters requesting a direct referral of an air application are public information. However, due to limited server space, the Office of the Chief Clerk does not routinely upload activities onto the agency's Commissioner's Integrated Database (CID). However, at the request of Ms. Jordan, the direct referral letter was uploaded to the CID on March 19, 2012.

3. APPLICATION

COMMENT 3-1: Type of Application

Commenters asked why the TCEQ did not require EOG to apply for Permit by Rule (PBR) authorization under 30 TAC § 106.149, particularly in light of the fact that the PBR contains a distance limitation from recreational facilities. (Holly Harris-Bayer and David Keith Hart).

RESPONSE 3-1: Air quality authorizations are tiered, beginning with facilities or sources with very low, or insignificant, emissions and moving to facilities or sources with a higher potential to emit air contaminants. The TCEQ does not have the regulatory authority to require one type of application over another so long as an applicant can demonstrate that they meet the requirements of a particular authorization.

PBRs authorize sources with emissions less than the level of emissions that would require an NSR case-by-case permit, but greater than those sources that have emissions considered *de minimis*. In order to qualify for a PBR a facility must meet each condition of the rule exactly, with no exceptions. If the requirements can be met, an applicant registers for the authorization without public notice, public comment, or opportunity for a contested case hearing. The proposed EOG plant does not meet the requirements of a PBR, and therefore, requires an NSR permit.

COMMENT 3-2: Permanent Facility

Penny Jordan asked how it is determined that the proposed facility is permanent, as indicated on the proposed facility's permit application.

RESPONSE 3-2: The question on the TCEQ's air quality permit application form regarding permanent or portable facilities relates to representations made by the applicant. In this case, the Applicant filed Form PI-1 "General Application for Air Preconstruction Permit and Amendments" indicating in Section II.B. that the facility would be permanent. There is no change in the administrative or technical review with regards to whether the facilities are represented as Permanent or Portable except that if an applicant applies for authorization of a portable facility, the applicant must also comply with 30 TAC § 116.178, Relocations and Changes of Location of Portable Facilities.

COMMENT 3-3: Application Misrepresented and Incomplete

Commenters stated they believed that EOG's permit application is incomplete, inconsistent, or misrepresents the amount of equipment at the proposed site. Richard A. Clark stated that EOG has made deceptive statements to the TCEQ in regard to the proposed facility site. Mr. Clark stated that EOG represents that three pieces of equipment will be used at the site, when it is really at least seven pieces of large equipment. (Richard A. Clark, Joe Dial, and Donald James Hammerlindl).

RESPONSE 3-3: The TCEQ is unaware of any misrepresentations in the application. The ED's staff has conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. However, an applicant is bound by its representations in the application and those representations become an enforceable part of the permit, including production rates, authorized emission rates, and equipment. If the applicant deviates from the representations made in the application, on which the permit was developed, the applicant may be subject to enforcement action.

Staff at the TCEQ DFW Regional Office conducted an initial site visit of the proposed facility on April 26, 2011. According to that site review, regional staff determined there were no major concerns, and that it was appropriate for the permit reviewer to continue with the review of the proposed facility's permit application. On-site start of construction is discussed below in Response 4-1.

COMMENT 3-4: MSS Representation

Ivars Lulis stated that EOG did not include emissions from MSS in its permit application, and that the application should be amended to include these emissions.

RESPONSE 3-4: Planned MSS is not required to be addressed in this permit authorization. However, in accordance with 30 TAC § 101.222(h)(1)(F), the permit holder must submit an application to authorize their MSS emissions on or before January 5, 2013, in order to be eligible for an affirmative defense for any emissions events or opacity events during planned MSS activities.

COMMENT 3-5: Water Use Representation

Holly Harris-Bayer stated that EOG's permit application should be amended to include the amount of water that will be recycled at the proposed facility.

RESPONSE 3-5: This is an application for an air quality permit authorization. While the TCEQ is responsible for the environmental protection of all media (including water), the TCAA specifically addresses air-related issues. Therefore, the scope of an air quality application review does not include a specific water assessment. Depending on the nature of the facility's operations, the Applicant may be required to apply for separate authorizations that regulate water usage or water quality. It is the Applicant's responsibility to secure all necessary authorizations for operation of the proposed plant.

4. PRECONSTRUCTION

COMMENT 4-1: Start of Construction/Removal of Trees/Erosion

Commenters stated that the Applicant began constructing buildings on the property without a permit and questioned whether the TCEQ was aware of this construction. Nancee Turlington stated that a TCEQ representative said that EOG reported having several pieces of heavy equipment, but that two neighboring landowners reported seeing between 18 - 20 pieces of heavy equipment.

Additionally, commenters commented about the site of the proposed facility being cleared of trees and other plant life. Commenters stated that forests in the area are becoming increasingly scarce as more land is developed, and that the forests also need to be protected from pollutants. Charles M. Crane stated that hundreds of trees had been removed from the proposed site and that this clearing of the land will cause severe erosion problems. Wylie Harris stated that visible PM can already be viewed from the proposed site both because of repeated burning to clear the land and because of the now large area of bare earth during a drought, along with high winds. Teodoro Santiesteban stated that the site of the proposed facility has become an "eyesore" for the surrounding area.

(Michael Dale Beckner, Charles M. Crane, Mary Del Olmo, Paul Grimes, J'Lynn Hare, Holly Harris-Bayer, Wylie Harris, Mike Henderson, Gail Millard, Mark Rickards, Teodoro Santiesteban, Janis Sneed, Kyle St. Clair, Dillon Stewart, Nancee Turlington, Mark Westbrook, and Brant Wiederholt).

RESPONSE 4-1: This permit will regulate the control and abatement of air contaminants only. The TCEQ does not have jurisdiction to consider facility appearance when determining whether to approve or deny a permit application. However, the ED has reviewed the permit application in accordance with the applicable law, policy, and procedures, in accordance with the agency's mission to protect our state's human and natural resources consistent with sustainable economic development. As detailed in Response 6-5, a protectiveness review was conducted which indicates that, if the plant is operated as represented in the application, no detrimental effects are expected.

What is deemed "start of construction" is described in TCEQ guidance, which states that "[e]quipment may be received at a plant site and stored provided no attempt is made to

assemble the equipment or to connect the equipment into any electrical, plumbing, or other utility system.”⁴ All work such as excavation, form erection, or steel laying pertaining to foundations upon which permit units will rest is not considered construction.

Land clearing, soil load bearing tests, leveling of the area, sewer and utility lines, roads building, power line installation, fencing, construction shack building, etc., is considered 'site clearance/preparation' and not considered construction. However, once the soil and site are ready for foundations, the first excavation into the readied soil is “start of construction.”

In response to a complaint from a concerned citizen, staff at the Dallas/Fort Worth Regional Office conducted a compliance investigation of the proposed facility on July 5, 2011, which included a site walk-through of the property. As a result of this compliance investigation, regional staff concluded that no violations were found, and recommended the complaint be closed.

5. AIR QUALITY PERMIT REVIEW PROCESS

COMMENT 5-1: Administrative/Technical Review

Commenters stated that the permit for the proposed facility had not been made public and that the community had not had the opportunity to comment on and understand the environmental impacts from the proposed facility. Özlem Altiok asked for clarification regarding what constitutes administrative/technical review of an application and what these terms mean during the permitting process, as well as the timeline for the EOG permit evaluation.

Commenters asked whether the TCEQ would require revisions to EOG's permit application as a result of the staff's technical review, whether the revisions would begin a new application review process, and whether the public can comment on the revisions. (Özlem Altiok, Holly Harris-Bayer, Penny Jordan, Keith Milyo, Mary Del Olmo, Mark F. Schubert, Kevin E. Smith, and Christina and Hymen Wallace).

RESPONSE 5-1: Before an application is required to be available to the public, it is reviewed for administrative completeness. An administrative review verifies:

- The correct application was submitted;
- An original signature is on the application form and the Core Data Form;
- The company name qualifies as a legal entity;
- The information is accurately recorded in the TCEQ's Central Registry;
- The appropriate application fee was received;
- The mailing addresses for the company and site are USPS validated; and
- There are no delinquent fees owed by the company.

⁴ The preauthorization work that can be done at a site has been defined in a January 1996 memo entitled *TNRCC Regulatory Guidance: Before and After Your Permit is Issued*.

Additionally, the administrative reviewer completes the draft first notice package. Once administratively complete, the initial application and the first notice package (Notice of Receipt of Application and Intent to Obtain Air Permit) are made available for public review.

The air quality permit application is then evaluated with a technical review. During technical review, the permit reviewer:

- Ensures the applicant has properly identified all sources of air contaminants at the proposed facility;
- Ensures that the facility has proposed appropriate controls and will be using at least the Best Available Control Technology (BACT); and
- Reviews emission calculations, performs a protectiveness review, and obtains a toxicology review if necessary.

If errors or omissions are found in the application, the permit reviewer will send the applicant a deficiency letter which provides a date by which corrections must be received. If supplemental information is not received, the ED may suspend or void the application. The review does not start over but rather continues until all information is verified.

One of the results from this review is the emissions that are calculated and tabulated in the draft permit as the Maximum Allowable Emissions Rate Table (MAERT). The MAERT limits the quantity of emissions an applicant can emit into the atmosphere. The emissions tabulated in the MAERT are also used as the input for the air dispersion modeling evaluation to determine if any adverse effects to public health, welfare, or physical property are expected to result from a facility's proposed emissions (this is discussed in more detail in Response 6-5). The draft permit also includes the operational representations which are documented as the draft Special Conditions and are the basis upon which the emissions were determined.

Additionally, during the course of the technical review, the permit reviewer also conducts an evaluation of the applicant's Compliance History (discussed in more detail in Response 6-8) and ensures that the public notification process is completed in accordance with TCEQ rules.

The ED notes that the comments received regarding certain documents not being publically available were made during the initial comment period, during which the application was undergoing technical review and many of the referenced documents were either not yet complete or not yet created. See Response 5-4 below for additional information.

COMMENT 5-2: Public Review of Permit Documents

Commenters stated that they reviewed the permit documents that were available for public viewing at the Muenster Public Library during the second public notice period and questioned changes that occurred to the permit application and accompanying permit documents. Commenters questioned the length of the permit documents compared with the initial permit application which was available during first public notice. (Özlem Altıok, J'Lynn Hare, Wylie Harris, Melanie Herr, Penny Jordan, Ivars Lasis, Jennifer Shiffer, Clara Janis Sneed, and commenters in Group D).

RESPONSE 5-2: 30 TAC § 39.405(g), Copy of application, requires applicants to make a copy of the application available for review and copying at a public place in the county where the facility is located or proposed to be located. The Applicant represented that the application was made available at the Muenster Public Library (418 North Elm Street, Muenster, Cooke County, Texas).

Specifically, 30 TAC § 39.405(g)(1) requires a copy of the administratively complete application to be available for review and copying beginning on the first day of newspaper publication of the first public notice and to remain available during the public comment period. The Applicant represented that the documents made available during the first public notice period consisted only of the preliminary application as required by the rule.

During the second notice period, 30 TAC § 39.405(g)(2) and (3) require a copy of the complete application (including any subsequent revisions) and the ED's preliminary decision, the draft permit, preliminary determination summary, and air quality analysis to be available for public viewing beginning on the first day of the publication of the second public notice. The applicant represented that the required documents were available during the second notice period but that because of public interest and concern, additional information was also provided, including working documents to establish state and federal compliance. The TCEQ rules specify the minimum documents that must be made available but do not prohibit an applicant from providing more documentation to the public.

COMMENT 5-3: Readability of Documents

Wylie Harris stated that several pages contained within the permit documents at the Muenster Public Library were unreadable or unclear. Commenters also questioned why copies of e-mail correspondence included in the public documents referenced other e-mail correspondence that was not included. (J'Lynn Hare and Wylie Harris).

RESPONSE 5-3: A review of the documents placed in the Muenster Public Library indicated that a number of maps did not copy well and were not readable. The TCEQ requested electronic copies of these pages which were subsequently served to all the named parties to the contested case hearing.⁵ As discussed in Response 5-2 above, e-mail correspondence was not required to be included in the publically available documents.

COMMENT 5-4: Muenster Public Library

Flossie Shoppa commented that the Muenster Public Library opens at noon, so the public was not able to view the permit documents at all times of the day. Ms. Shoppa stated that the application needs to be where people can read about it any time of the day.

RESPONSE 5-4: As discussed in Response 5-2, 30 TAC § 39.405(g) requires a copy of the application to be available at a public place for viewing and copying. The rule does not specify any particular business hours for the public place.

⁵ The parties to the contested case hearing were named in Order No. 1, issued July 24, 2012. TCEQ Docket 2012-0971-AIR, SOAH Docket No. 582-12-6347.

COMMENT 5-5: Response to Comments

Commenters asked why they had not received responses to comments that they had submitted to the TCEQ, some of which had been submitted nearly a year beforehand. Commenters asked when they could expect to receive this information. Penny Jordan stated that the TCEQ has not provided a timely response to comments. Holly Harris-Bayer stated the TCEQ continually fails to address the public's comments and concerns and questioned why a response to comment was not provided before the preliminary hearing.

Janis Sneed stated that the TCEQ was violating the Public Information Act (PIA) by not providing responses to comments and asked whether the Texas Attorney General's Office could take legal action against the TCEQ for violations of the PIA.

(Özlem Altıok, J'Lynn Hare, Holly Harris-Bayer, Penny Jordan, Jennifer Shiffer, Clara Janis Sneed, and Janis Sneed).

RESPONSE 5-5: The comment period for the application began on April 15, 2011, and ended at the close of the public meeting on July 11, 2012. The TCEQ accepted formal comments on the application during the entire comment period. Responses to all comments received during the comment period are provided in this RTC document, however, no RTC can be finalized until after the close of the comment period. The ED notes that these comments were made during the comment period and this response is now provided.

Verbal responses to comments were provided to the citizens through the informal portion of the public meetings on both August 23, 2011, and July 11, 2012. Additionally, several interested persons called TCEQ staff on multiple occasions and asked questions during the permit review process.

Once completed, the ED's RTC is public information. However, the ED does not believe the PIA requires the ED to provide a response to comments prior to the close of the comment period.⁶

COMMENT 5-6: TCEQ's Permit Review Process and Responsibility to the Public

Commenters stated that the TCEQ has a legal and ethical responsibility to protect the community and natural resources from the dangers that the proposed facility poses. David Keith Hart asked whether it was the TCEQ's mission to protect the public from airborne contaminants. Rex Hamilton expressed his support for the TCEQ permitting process. Greg David stated that he appreciates the TCEQ's efforts regarding environmental protection. Mary Del Olmo asked whether the TCEQ's priority is the environment, the residents of Texas, or the oil and gas industry. J'Lynn Hare questioned how the TCEQ air permitting process protects the environment. David Keith Hart asked if the TCEQ considered the number of people who might be harmed and if the amount of money invested would impact the TCEQ's review or decision.

Commenters stated that the TCEQ has a tarnished reputation and does not protect the state's human and natural resources consistent with its mission statement. Commenters stated that the TCEQ does not take into account the concerns of the general public when issuing permits.

⁶ More information about the PIA, including enforcement actions by the Texas Attorney General can be found at: <https://www.oag.state.tx.us/open/index.shtml> or by calling the Open Government Hotline at (512) 478-OPEN (6736) or (877) OPEN-TEX (673-6839).

Joe Dial stated that the TCEQ grants permits regardless of rules and regulations and that businesses with TCEQ permits can do whatever they want to even if it puts human and natural resources at risk. Holly Harris-Bayer commented that the TCEQ's process for reviewing permit applications is wrong, shameful, a complete embarrassment, and that the process does not work the way it was intended to. Ms. Harris-Bayer stated that the TCEQ is not fooling anyone because nobody believes the TCEQ cares about protecting the public's interest and the TCEQ's track record indicates that getting permits issued is the agency's number one priority. Additionally, Ms. Harris-Bayer stated that the public is disgusted with the TCEQ's judgment to pass permits through without care or regard to the people in the area where proposed facilities are located.

Penny Jordan commented that the public asked the TCEQ for protection but there has not been any protection of the public because the TCEQ worked with the applicant to ensure that the permit would be approved. Ms. Jordan stated that she is scarred for life from dealing with the TCEQ and that the TCEQ does not really care about protecting the environment.

Commenters stated that the TCEQ needs to have a process in which it reviews all aspects of an air permit request (e.g., traffic, mining, water use) and not only air quality. Janis Sneed stated that the TCEQ needs to change its way of operating because it is totally dysfunctional.

(Brad Bailey, William Bartush, Joe Dial, J'Lynn Hare, Holly Harris-Bayer, David Keith Hart, Penny Jordan, James Mann, Mary Del Olmo, and Janis Sneed).

RESPONSE 5-6: The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ reviews all applications consistent with applicable law and the TCEQ's regulatory authority. The ED staff has reviewed the permit application in accordance with the applicable state and federal law, policy and procedures, and the agency's mission to protect the state's human and natural resources consistent with sustainable economic development. In addition, the TCEQ considers all timely comments received on applications. See Response to Comment 5-1 for more information on the permit review process.

COMMENT 5-7: Customers and Public Interest

Holly Harris-Bayer commented that TCEQ only pretends to care about the public in order to continue issuing permits and to give its "customers" exactly what they want. Additionally, Ms. Harris-Bayer stated that the entire permitting process confirms that the TCEQ works to get an applicant what it wants when it wants it. Penny Jordan commented the TCEQ does not care about protecting the environment because it is in the business of issuing permits. Ms. Jordan stated that if the protestants had paid a \$75,000 application fee, the TCEQ may have enthusiastically protected the public's interest.

RESPONSE: 5-7: The TCEQ is not an advocate for any applicant, but does work to ensure that all air quality permit applications comply with all of the applicable state and federal laws and rules. The TCEQ works with applicants to ensure that the limitations are understood and met. The TCEQ also works with the public through the public comment, meeting, and hearing process to inform the public as to the intent and purpose of a pending air quality permit and

allow them to voice pertinent concerns. All of this information, including public comment, is part of the formal record on the application.

As discussed above, the TCEQ reviews permit applications in accordance with applicable law. The term "customers" refers to how companies are classified in the TCEQ Central Registry Program. The Central Registry allows the agency to use a single central location to record common information, such as company names, addresses, and telephone numbers of entities that the TCEQ regulates. As part of the Central Registry classification system, entities are given a Customer Number (CN) and a Regulated Entity Reference Number (RN). A customer is classified as a business, governmental body, association, individual, or other entity that owns, operates, is responsible for, or affiliated with a regulated entity. Each customer is issued only one unique CN, but may be associated with any number of sites or facilities, which are classified by RN. For example, if an organization operates 50 sites, a search of that organization's unique CN will also generate a list of 50 different regulated entities sorted by their RNs. This is relevant to tracking company and site-specific compliance histories as discussed below in Response 6-8.

\$75,000 is the application fee; TCEQ is required by the Federal Clean Air Act (FCAA) and TCAA to collect fees to cover the cost of the air permitting programs.

COMMENT 5-8: Uncontested Applications

Holly Harris-Bayer questioned why the ED made a preliminary decision to issue the permit when there has been a record number of comments and complaints on the application. Ms. Harris-Bayer stated if the public had not complained, TCEQ would have already approved the permit.

RESPONSE 5-8: The draft permit and the ED's preliminary decision are based on the results of the technical review of the application and are noticed in the Notice of Application and Preliminary Decision (second public notice). The ED makes final decisions on uncontested matters; however, all applications must nonetheless meet all applicable state and federal rules and regulations. Because this is a contested application, the final decision will be made by the Commissioners of the TCEQ.

6. EMISSION EVALUATIONS

COMMENT 6-1: Environmental Impact Study

Commenters requested that an environmental impact study be conducted at the site of the proposed facility. The commenters stated that an environmental impact study is necessary so that the public can comment on and understand the air quality and other environmental impacts of the proposed facility and the contaminants that it will emit into the area. Commenters inquired about the possibility of this environmental impact study being conducted by the TCEQ, instead of the applicant. Commenters further asked about the potential for putting the permit review on hold until EOG can fund an environmental impact study to be conducted by an independent entity. Commenters requested that in addition to the results of the environmental impact study being made publicly available, they should specifically be made available to the RRMT.

(Darrell Aberegg, Özlem Altioğ, Richard Dean Ames, Debra Bale, Kathleen Agee Bale, Mary Beth Bartush, Valerie Bartush, William Bartush, Don Batchelor, Brandon Bayer, Holly Harris-Bayer, Cyndy and James R. Bell, Stacy Beynaerts, Greg Bohl, Robert Boyd, Mitch Brown, Kalee Lynn Clark, Richard A. Clark, Charles M. Crane, Louis Cusato, Mary Del Olmo, Marianne and Robert Fazen, Alan Golightly, Zeth Griffin, J'Lynn Hare, Rebecca Harris, Mike Henderson, Melanie Herr, Sandra and William Horner, Art Johnson, Penny Jordan, Eric Kancir, A.J. Knabe, Jeff Kring, Alice and Travis Krist, Tom Lebsack, Lana Maples, Marianne Matt, Michele Matt, Barry and Pat McDonald, Lewis McPherson, Gail Millard, Eddie D. Miller, Keith Milyo, Kimberly Morse, Neal D. Nelson, Robert Owens, William J. Pando, Jennie Phifer, Angela and Ronald Poen, Diane L. and Lawrence B. Rayl, Mark Rickards, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Teodoro Santiestaban, Todd Sartor, Jeff Schnack, Mark F. Schubert, Robert Seloff, Dave Shafer, Jennifer E. and John E. Shiffer, Brandi and Josh Shuppert, Kevin E. Smith, Rachel Smith, Clara J. Sneed, Dillon Stewart, Jeremiah Stone, Jeff Swope, Sunny Thandassery, Sonny Truitt, Nancee Turlington, Alan D. Vaughan, Christina and Hymen Wallace, Tim Warriner, Mark Westbrook, Ralph White, Donald Wiese, and Tony Winchester).

RESPONSE 6-1: Environmental Assessments and Environmental Impact Statements (EIS) are a specific requirement for federal agencies under the National Environmental Policy Act (NEPA).⁷ An Environmental Impact Study or EIS is not required for state actions such as this permit. However, both the TCAA and the TCEQ rules provide for an extensive review of the application to ensure that emissions from the proposed facility will not violate the NAAQS and will not be expected to adversely affect human health or the environment. This review, including the methodology used to determine compliance, is discussed in more detail in Response 6-5.

COMMENT 6-2: Emission Calculations and Controls

Wylie Harris stated that the estimates of air emissions on the permit application are questionable and poorly substantiated. Additionally, Ivars Lulis provided detailed comments regarding emission calculations and control efficiencies that TCEQ staff use to evaluate the proposed facility's permit application, specifically questioning the control factor selected for emission evaluations downstream of the dryer and the control factor for loading emissions. Mr. Lulis also stated that the control factor downstream of the dryer was assumed to be 99 percent when TCEQ regulations allow for only 90 percent control factor for full enclosures. Mr. Lulis also commented on the control factor of 70 percent that was selected for the loading emissions, stating that the TCEQ requires 70 percent control for water sprays and only 50 percent for wet material. Mr. Lulis stated that the application should be amended to include more appropriate calculations.

RESPONSE 6-2:

The emission factors used to predict the emission rates from the identified sources at the proposed facility are the latest provided by the EPA in the Compilation of Air Pollution Emission Factors, AP-42 Manual.⁸ The control factors used to calculate the emission rates are based on the control efficiencies represented in the application. The Applicant represented that BACT and best management practices will be implemented through specific control methodologies, such as the use of water sprays, partial enclosures, full enclosures, and maintenance of all in-plant

⁷ 42 United States Code (USC) § 4332.

⁸ The AP-42 Manual is available at <http://www.epa.gov/ttn/chief/ap42/index.html>.

roads, traffic areas and active work areas. The EPA's most recent emission factors indicate the use of wet suppression through water sprays, etc. can achieve over 90 percent control, and some sprays could be as effective as an enclosure. Based on these controls proposed by the Applicant, the proposed facilities meet the NAAQS requirements for protectiveness. As provided in 30 TAC § 116.116(a), the Applicant is bound by these representations, including the represented performance characteristics of the control equipment. In addition, the permit holder must operate within the limits of the permit, including the emission limits as provided by the MAERT. The total emissions of air contaminants from any of the sources of emission must not exceed the values stated on the MAERT attached to the permit. 30 TAC § 116.115(b)(2)(F).

Given the relationship between throughput and emissions, plant operating parameters (i.e., plant throughput/production) are used to calculate emissions and the draft permit requires recordkeeping of throughput on a daily, monthly, and annual basis in tons per hour, tons per month, and tons per year.

The Applicant represented the controls proposed for use at the plant as well as the predicted moisture content of the material. The TCEQ permit reviewer analyzed the proposed emission factors and the control efficiencies represented in the application for accuracy and applicability and found the factors to be acceptable. The conditions of the permit also specify those controls. However, regardless of what controls are specified, the opacity limits required by New Source Performance Standards (NSPS) and the permit special conditions must be met. Based on past experience, the proposed and required controls are fully expected to accomplish the prescribed opacity limits. In addition, the air dispersion modeling's maximum predicted ground level concentrations meet all federal and state standards as discussed in more detail in Response 6-5.

Emission calculations were based on a level of control (percent control efficiency) afforded by the specific method defined in the application. If the specific control methods represented are employed, then that level of control is expected. Furthermore, if throughput rates are adhered to by the Applicant in its operation of the plant and testing required by NSPS (as defined in 40 CFR Part 60) demonstrate compliance, then emissions rates and emission control effectiveness are also expected to be in compliance. The foregoing methods are commonly used and accepted by TCEQ and EPA and are adequate to demonstrate compliance with applicable law. The ED has found no basis to include any other specific requirements regarding measurement or monitoring.

Additionally, initial performance testing will be required by 40 CFR Part 60, Subparts A and UUU to demonstrate compliance with the regulations and the emission rates stated in the proposed permit.

Mr. Lusi is correct regarding the control factor downstream of the dryer. However, this comment reflects emission calculations submitted in the initial application. As discussed in Response 5-1, the complete design downstream of the dryer was changed from the first design to the final design in order to make it more protective and ensure compliance with all state and federal rules and regulations. The final design was changed so that all of the process flow after the dryer is enclosed and under negative pressure with emissions controlled by a baghouse with an outlet grain loading of no greater than 0.001 gr/dscf. This is reflected in the Operational

Limitations, Work Practices, and Plant Design section of the draft permit under Special Condition 13.

Similarly, Mr. Lusic is also correct regarding the control factors for loading emissions. However, as stated above, the proposed process evolved such that the load emissions are not only controlled by wet material controls, but the applicant proposed the addition of spray bars to control emissions and has additionally extended the sides of the load hoppers above the drop point of the loader to protect against any wind disturbances. This is reflected in the Operational Limitations, Work Practices, and Plant Design section of the draft permit as Special Condition 18.

COMMENT 6-3: Access to Air Dispersion Modeling

Holly Harris-Bayer requested the opportunity to review all air dispersion modeling and toxicology review information regarding this application.

RESPONSE 6-3:

In accordance with 30 TAC § 39.405(g) a copy of the air dispersion modeling, technical review, and toxicology review was available for public viewing and copying during the second comment period as discussed in Response 5-2. The ED notes this comment was made during the first public comment period while these documents were still being created.

COMMENT 6-4: Air Dispersion Modeling

Commenters requested that air dispersion modeling be done for the proposed plant, which demonstrates the location and degree of potential impacts and whether the proposed plant meets the NAAQS for all pollutants. Commenters further asked why air dispersion modeling is conducted by the Applicant, rather than by either the TCEQ or an independent third party.

Additionally, Joe Dial stated that in 2002 the leader of the TCEQ's Air Dispersion Modeling Team (ADMT) devised a formula for calculating fugitive air emissions that involved multiplying calculated emissions by 0.6. Mr. Dial stated that this change would result in actual emissions being 40 percent higher than the rate allowed under the permit.

Commenters mentioned that the winds are often quite strong in this part of the state, and questioned whether wind and potential wind events have been factored into calculations of PM emissions, including stockpiles and related emissions. Commenters also asked why EOG did not include road emissions in the proposed facility's permit application, and what the TCEQ's practice is regarding these emissions.

Commenters asked why the air dispersion modeling relied on meteorological data from the Dallas/Fort Worth area from the year 1988. Jennifer Shiffer stated that the 1988 data provides the wind speed in knots, and asked whether there is a more recent chart or graph that clearly depicts the wind velocity. (Özlem Altioik, Holly Harris-Bayer, Greg Bohl, Mary Del Olmo, Joe Dial, J'Lynn Hare, Rebecca Harris, Wylie Harris, Penny Jordan, Ivars Lusic, Jennifer Shiffer, and Sharon Wilson).

RESPONSE 6-4: An air dispersion model, or analogous method to determine protectiveness, is required of all initial NSR applications and is conducted to determine compliance with applicable state and federal standards. Applicants are required to supply the modeling protocol, information, and results in a modeling report submitted either with the permit application or after the initial review when emission sources and emission limits, as documented in the draft MAERT, are established.⁹ The modeling report is then audited by the TCEQ Air Dispersion Modeling Team (ADMT) to ensure that the evaluation was conducted in a manner consistent with established EPA and TCEQ protocol, procedures, and requirements.

Several modeling methodologies are supported by the EPA. One approach is to use a model known as SCREEN3, which is easy to use but incorporates considerable simplifying assumptions to provide "ballpark" estimates of contaminant concentrations. Because of the simplification of the modeling algorithms, a review conducted by the TCEQ demonstrated that the results were considerably conservative and not comparable to more refined modeling techniques. Thus, applicants using the SCREEN3 modeling methodology are allowed to multiply their emissions by 0.6, which was found to correlate well with the other acceptable EPA modeling methodologies. However, for this permit, the Applicant did not use the SCREEN3 but used the refined AERMOD (Version 11353) modeling program for which no reduction in emission calculations is allowed.

While daily weather conditions can vary within a given year, the worst-case meteorological conditions that occur during a given year are typically representative of other years. With over 8,000 hourly samples contained within the one-year meteorological dataset used in the air dispersion modeling analysis, the worst-case meteorological conditions have been sufficiently represented in the dataset. Therefore, use of meteorological data from 1988 does not affect the validity of the air quality analysis submitted by the Applicant. The data presents wind speed in knots, which is the unit of measure most often used in meteorological evaluations.¹⁰

As will be explained in more detail in the following response, background concentrations for some contaminants were obtained from monitors in the Dallas and Tarrant County area. These were the closest monitors to the site and were conservative based on countywide emissions and population comparisons.

This modeling procedure and meteorological data was used to evaluate the emission concentrations for all emission points defined as facilities that the TCEQ is delegated the authority to regulate¹¹. A summary of the modeling results and subsequent protectiveness review and toxicology evaluation will be discussed in detail in the following responses.

COMMENT 6-5: Air Quality/Health Effects (Humans, Animals, Plants)/ Silica
Commenters asked about the amount and type of emissions that will be generated from operations at the proposed facility and the effect that these emissions may have on air quality. Commenters asked whether all of the possible contaminants were included in the permit

9 Only "small businesses" are eligible for assistance with air dispersion modeling from the TCEQ.

10 One can convert knots to any other unit of speed such as one knot = 1.1508 miles per hour.

11 Specifically, TCAA § 382.003(6) defines facility as "a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not considered to be a facility."

application. Commenters asked about the potential short- and long-term health effects that could occur as a result of the processes that take place at the proposed facility. Specifically, commenters asked about health effects on children and those with preexisting respiratory and cardiovascular conditions, as well as the health effects on livestock, other farm and ranch animals, wildlife, threatened or endangered species, aquatic species, and plant life and crops. Jeff Swope commented that an air permit is required because chemical toxins are dangerous.

Commenters asked about PM, specifically silica, or PM₄, that will be emitted from the proposed facility and associated short- and long-term health effects. Commenters are specifically concerned about silicosis, and want to know how PM emissions will affect people, as well as animals, crops, and plant life on their ranches, farms, and other businesses. Commenters asked how PM will be controlled throughout the proposed facility, including the sedimentation pond. Commenters stated that PM will be blown onto their properties by the area's frequent, strong winds. Holly Harris-Bayer stated that both TCEQ and EOG need to stop lying to the public about the true effects of the proposed operation, in particular the fine silica. Flossie Shoppa stated her cardiologist told her the proposed facility would impact her heart and breathing.

Additionally, Ms. Harris-Bayer stated that silica is so small it cannot be seen with the naked eye and is so small that it can be carried long distances. Joe Dial commented that in the past, the TCEQ raised the ESLs for silica and other contaminants.

J'Lynn Hare asked whether the TCEQ considered its own study on crystalline silica during consideration of the proposed facility's permit. Deborah Ann Dunbar stated that EOG has not disclosed its plans to ensure no release of silica to the general population. A.J. Knabe stated that these emissions could affect and change the ecosystem of the area. Commenters inquired about safety measures to be taken by employees who will work at the proposed facility and will therefore be exposed to PM. Robert Fazen stated that sand and gravel screening is a high risk occupation for developing silicosis.

Commenters inquired about the TCEQ's regulatory or statutory basis for the Toxicology Division's determination that the proposed facility's exceedance of the ESL for silica is permissible. Commenters also questioned whether the TCEQ's Toxicology Division staff took into account the fact that the proposed facility is adjacent to RRMT, and why staff did not accordingly recommend reducing the permitted emission rates. Wylie Harris commented that for EOG's Hood County sand mining facility, the Toxicology Division staff noted consideration of adjacent property development in its review.

Commenters questioned whether the local ecosystem or productivity of the land will be affected. Commenters also asked whether cattle and other animals can continue to safely graze on the grass. Additionally, several commenters stated that they and visitors to their properties hunt and eat wild game, and these commenters are concerned about possible contamination of these food sources. Janis Sneed stated she hoped the public would not eat a piece of steak that has cancer in it from exposure to emissions from the proposed facility. J'Lynn Hare asked whether the TCEQ has conducted or plans to conduct any studies regarding the long-term impact of this proposed facility on the area's air quality. Robert Fazen stated the TCEQ should conduct an independent study to determine safe levels of emissions.

Commenters also questioned what health impacts the emissions from the proposed facility may have on the owners and customers of RRMT, because of its proximity to the proposed facility.

(Özlem Altıok, Brent Aston, Billy J. Atkins, Cecelia Ashley, Brent Aston, Brad Bailey, Debra Bale, Kathleen Agee Bale, Steven R. Barnes, Cindy Bartush, Katrinka Bartush, Mary Beth Bartush, Mike G. Bartush, Valerie Bartush, William Bartush, Charles Batchelor, Don Batchelor, Cyndy and James R. Bell, Janice Bayer, Michael Bayer, Cyndy and James R. Bell, Rita Blakely, Greg Bohl, Robert Boyd, Pat Brandon, Myrna and Roy Brawner, Deborah Bray, Cherokee Brewer, Jason S. Brown, Mitch Brown, Kay and Stephen Broyles, Thomas E. Brunholtz, David Bryson, Michael Campbell, Nora Campbell, Bryan Capps, Bill Carmickle, Ronald and Susan Chandler, Kaylee Lynn Clark, Richard A. Clark, Michael Clevenger, Charles D. Cospers, Jamie and John A. Cox, Charles M. Crane, Larry Crane, David Lee Cross, Louis Cusato, Charles Day, Diane Dees, Jeff M. Deford, Norman DeLamar, Mary Del Olmo, Gloria J. Dickerman, Joe Dial, Gloria J. Dickerman, Johnny Dowd, Deborah Ann Dunbar, Larry Eberhart, Leandro Espertino, Marianne and Robert Fazen, Terry Fender, Carlan Jay Flatt, Cory J. Flippin, Jorge Flores, Jared Futrell, Todd Futrell, Joe Grant, Jennifer Green, Paul Grimes, Alan Golightly, Joe Grant, Jennifer Green, Zeth Griffen, Bobby Grinstead, Janice and Tom Halley, Donald James Hammerlindl, J'Lynn Hare, Rhelda C. Harris, William E. (Bill) Harris, Wylie Harris, David Keith Hart, Al and Margaret Heim, Mike Henderson, Melanie Herr, Robert Herring, Jr., Sam Hess, Keith Hoepfner, Philip Hoepfner, Lance Hulett, Michael David Hurd, Robert W. Hyden, Jack P. Jeter, Art Johnson, Penny Jordan, Eric Kancir, Jimmy Kimbrel, Alan Dale Klossen, Albert James Knabe, Kristy Koesler, Jon T. Kolbensvik, Jeff Kowalski, Jeff Kring, Alice and Travis Krist, Mark Lamb, Dee Lambert, Michael Leach, Tom Lebsack, Bob Luecke, David Mark Lyles, James Allen Mann, Jr., Lana Maples, Marianne Matt, Michele Matt, Kristie McCauley, Dan and Lynne McGrew, Gail Millard, Ashley and Devin Miller, Eddie D. Miller, Keith Milyo, Martin B. Mollat, Denis G. and Susan Heim Moody, Kent L. Moore, Alejandro and Maria Moreno, Kimberly Morse, Mary Nell Mosley, Neal D. Nelson, Erik Nielsen, Kathy Nielsen, Michael Ronnie Nugent, David Nystrom, Carla Orr, Patti Otwell, Robert Owens, Tina Palmer, William J. Pando, Pete Peach, William T. Pearson, James T. Pelton, Bobby Pickard, Brian Pierce, Angela and Ronald Poen, Marjorie Pullin, Diane L. and Lawrence B. Rayl, Rick Reynolds, Mark Rickards, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Barbara and Donald Rohmer, Suzanne Roper, Michele Renee Rouse, Larry Rousseau, Shani Rowell, Teodoro Santiesteban, Eualane Sappington, Tommie Sappington, Laurence Scheel, Jeff Schnack, Mark F. Schubert, Flossie Schoppa, Mark F. Schubert, Robert Seloff, Linda Sepanski, Frank Shacklee, Dave Shafer, Jennifer E. and John E. Shiffer, Jerry and Margaret Shofner, Brandi and Josh Shuppert, Steven Sims, Donald Smith, Kevin E. Smith, Rachel Smith, Clara J. Sneed, Janis Sneed, Ed Soph, Kyle St. Clair, John Stephens, Laura Stephens, Jim Stepter, Jeremiah Stone, Chris C. Story, Jeff Swope, Joseph and Martha Tepera, John F. and Martha S. Thompson, Judy Thornton, Terry Tidmore, Deann Tidwell, Sonny Truitt, Tony Tucker, Nancee Turlington, Cale Turpen, Alan D. Vaughan, Tommy Vieth, Julie Renee Vogel, Christina and Hymen Wallace, Bruce Walker, Tim Warriner, Claude West, Thomas West, Mark Westbrook, Ralph White, Kenny L. Wiechman, Brant Wiederholt, Donald Wiese, Jim Wiggins, Rusty Wilson, Sharon Wilson, Jim Wise, and commenters in Groups A, B, and D).

RESPONSE 6-5: For permits such as this, potential impacts to human health and welfare or the environment are determined by comparing air dispersion modeling predicted emission concentrations from the proposed facility to appropriate state and federal standards and effects

screening levels (ESLs). The specific health-based standards or guidance levels employed in evaluating the potential emissions include the NAAQS; TCEQ standards contained in 30 TAC and TCEQ ESLs.

The NAAQS are created and periodically reviewed by the United States Environmental Protection Agency (EPA). The NAAQS, as defined in 40 CFR § 50.2, include both primary and secondary standards. Primary standards are those which the Administrator of the EPA determines are necessary, within an adequate margin of safety, to protect public health, including sensitive members of the population such as children, the elderly, and those with preexisting health conditions. Secondary standards are those which the Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air.

For this specific permit application, appropriate air dispersion modeling was performed. The applicant used the EPA-approved AERMOD (Version 11353) air modeling program to provide a reasonable worst-case representation of potential impacts from the proposed facility on the area surrounding the proposed plant. The evaluation incorporated the 24-hour per day operation as represented in the application and reflected all emissions authorized at the site and the throughput associated with all emissions as defined in the permit application. The modeling procedures, methodology, predictions, and results were reviewed by the TCEQ ADMT and were determined to be acceptable.

The EPA has set NAAQS for criteria pollutants: Carbon Monoxide (CO), Lead (Pb), Nitrogen Dioxide (NO₂), Ozone (O₃), Sulfur Dioxide (SO₂), and Particulate Matter (PM), including PM₁₀ and PM_{2.5}. A criteria pollutant is one for which a NAAQS has been established. Of the criteria pollutants listed, this plant proposes to emit: PM₁₀, PM_{2.5}, CO, NO₂, and SO₂.¹²

Particulate Matter

Fine PM has been defined as PM with diameters less than 10 micrometers (PM₁₀) and less than 2.5 micrometers in diameter (PM_{2.5}). To determine PM concentrations, the EPA has documented a compendium of emission factors that can be used to determine the emissions from many sources including such facilities as conveyor drops, screens, stockpiles, etc. These factors are incorporated throughout industries in Texas and have been used to evaluate the predicted emissions at the proposed plant. The TCEQ ensures the conservative nature of these calculations by evaluating each emission point at the maximum material throughput on both an hourly and an annual basis. The resultant emissions are used as one of the inputs to an EPA approved air dispersion modeling program that determines concentration of PM at locations surrounding the facilities. Other data that are incorporated into the air dispersion modeling program include such information as the release height of the emissions, the type of release, the location of the sources, the surrounding land type, meteorological data for the area, and the background concentrations of the specific contaminant already existing in that area.

PM₁₀

¹² The secondary NAAQS for PM_{2.5}, PM₁₀, NO₂, and CO are set to the same level as the primary NAAQS for each pollutant.

The NAAQS for PM₁₀ are based on 24-hour time periods. The measurement for predicted concentrations of air contaminants in modeling exercises is expressed in terms of micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). A microgram is approximately the size of a dust mite and cubic meter is approximately the size of a washing machine. Predicted concentrations occurring below the 24-hour NAAQS of $150 \mu\text{g}/\text{m}^3$ are not expected to cause adverse health effects or exacerbate existing health conditions. Modeling for these facilities resulted in a predicted maximum ground level PM₁₀ concentration at the plant's nearest property line of $2.2 \mu\text{g}/\text{m}^3$, which is below both the NAAQS for PM₁₀ and the *de minimis* value of $5 \mu\text{g}/\text{m}^3$. The *de minimis* value is defined as that value below which a significant change in air quality is not anticipated due to the emissions that are generated by the source, and no further evaluation of that contaminant is required.

PM_{2.5}

The NAAQS for PM_{2.5} are based on 24-hour and annual time periods. The predicted concentrations occurring below the 24-hour and annual NAAQS of $35 \mu\text{g}/\text{m}^3$ and $15 \mu\text{g}/\text{m}^3$, respectively, are not expected to cause adverse health effects or exacerbate existing health conditions. Modeling for these facilities resulted in predicted PM_{2.5} concentrations, at the facility's property line, on a 24-hour time averaging basis, to be $1.97 \mu\text{g}/\text{m}^3$ which, when added to the background concentration of $24.5 \mu\text{g}/\text{m}^3$ results in a total 24-hour time averaging PM_{2.5} concentration of $26.47 \mu\text{g}/\text{m}^3$. This concentration is below the PM_{2.5} NAAQS of $35 \mu\text{g}/\text{m}^3$. Similarly, the annual PM_{2.5} concentration at the facility's property line was predicted to be $0.41 \mu\text{g}/\text{m}^3$ which, when added to the background concentration of $10.7 \mu\text{g}/\text{m}^3$ results in a total annual time averaged PM_{2.5} concentration of $11.11 \mu\text{g}/\text{m}^3$. This concentration is below the annual PM_{2.5} NAAQS of $15 \mu\text{g}/\text{m}^3$.

There is currently no interim EPA or TCEQ approved PM_{2.5} screening for the background concentrations for either the 24-hour or annual evaluations. Therefore, because recent EPA guidance documentation requires three years of data, the Applicant reviewed monitors in Dallas and Tarrant Counties. The monitor with the highest background concentration for each averaging time was used to represent the background concentration at the project site. The use of monitors in either Dallas or Tarrant Counties is conservative because the populations and 2008 reported PM_{2.5} emissions in Dallas County (2,368,139 and 7,089 tons) and Tarrant County (1,809,034 and 5,190) are greater than the population and 2008 reported PM_{2.5} emissions in Cooke County (38,437 and 961 tons). The 24-hour PM_{2.5} background concentration was obtained from the EPA AIRS monitor 484391006 located at 600 1/2 Congress Street, Fort Worth, Tarrant County. The annual PM_{2.5} background concentration was obtained from the EPA AIRS monitor 481130050 located at 717 South Akard, Dallas, Dallas County. In both cases the three-year average (2008-2010) of the 98th percentile of the respective averaging time was used. The TCEQ ADMT reviewed more recent monitoring data and determined it would not change the overall result.

PM₄

The EPA has not classified PM₄, or silica, as a hazardous air pollutant or criteria pollutant. Accordingly, EPA does not provide specific emission factors or limits for PM₄. However, silica has been classified as a known human carcinogen by NIOSH (National Institute of Occupational Safety and Health) and by the TCEQ. The TCEQ relies on health- and welfare-protective values developed by its toxicologists to ensure that airborne concentrations of pollutants stay below

levels of concern. In order to evaluate PM₄, the TCEQ, through the Toxicology Division, has established guidelines, in the form of an Effect Screening Level (ESL).

The guideline concentrations for a constituent for which an ESL has been developed are based on a constituent's potential to cause adverse health effects, in addition to odor nuisances, vegetation effects, or materials damage. Health-based screening levels are set at levels lower than those reported to produce adverse health effects, and are set to protect the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions.

ESLs are determined by the Toxicology Division and are derived from all available toxicological information. Occupational exposure, epidemiological, and experimental data are considered in the process. The exposure data at which level there are no observable adverse effects is divided by multiple orders of magnitude as safety factors to account for various relevant considerations. Some of the considerations which may need to be accounted for are differences between animals and humans (depending on the study being considered), differences between people (to assure ESLs are protective of the sensitive individuals within the population), or differences in exposure times.¹³

If an air concentration of a constituent is below its ESL, adverse effects are not expected. However, if an air concentration of a constituent is above the screening level, it is not indicative that an adverse effect will occur, but rather that further evaluation is warranted. It should be understood that, unlike the NAAQS standards discussed above, an ESL is not a limit which cannot be exceeded. As the name implies, it is a screening factor which determines whether or not the permit reviewer should seek further review in the determination of health effects protectiveness. Therefore, if further evaluation is warranted on a particular application, the results of the air dispersion modeling are sent to the Toxicology Division for evaluation.¹⁴

The PM₄ value determined for short-term protectiveness by the Occupational Safety and Health Administration (OSHA) is 10,000 µg/m³. The short-term ESL value determined by the Toxicology Division to be protective is 14 µg/m³, or 0.14% of the value allowed by OSHA. The long-term OSHA value is 100 µg/m³ compared to the Toxicology Division ESL value of 0.27 µg/m³ (0.27% of the value allowed by OSHA).

Although respirable silica, which is the portion of particulate matter that is referenced in the numbers above, is assumed to be that portion which is 4 microns or less (PM₄), an additional degree of safety is incorporated into the silica evaluation by assuming that all PM₁₀ particulate matter would be considered for short-term concentration evaluations. Also, although sand may

¹³ A complete review of the factors and methodology that constitute the development of ESLs can be found in "TCEQ Guidelines to Develop Toxicity Factors" prepared by Toxicology Division, Chief Engineer's Office, RB-442, Revised DRAFT 2012. Specific information on silica ESLs which demonstrates the degree of safety associated with the assigned ESL value can be found at: Support Document, "Silica, Crystalline Forms CAS Registration Numbers: 14808-60-7 (quartz), 14464-46-1 (cristobalite), 1317-95-9 (Tripoli), 15468-32-3 (tridymite)" prepared by Valerie Meyers, Ph.D., Jong-Song Lee, Ph.D., and Roberta L. Grant, Ph.D., TCEQ, Toxicology Division, Chief Engineer's Office, October 8, 2009.

¹⁴ "Modeling and Effects Review Applicability: How to Determine the Scope of Modeling and Effects Review for Air Permits (TCEQ 2009)."

be made up of different speciated particulate matter, it was assumed that silica would be 100% of the aggregate material. This does not mean that the entire concentration will be PM₄, but rather that it was assumed so in order to provide a conservative review. For long-term silica concentrations which are represented by PM₄, the Applicant added an additional safety factor by using the calculation procedure for PM₅, which provides a larger distribution of possible respirable particulate matter.

Based on these conservative assumptions, the air dispersion modeling determined the maximum Ground Level Concentration (GLC_{max}) for a one-hour time and an annual time averaging periods. The air dispersion model also predicted the non-industrial Ground Level Concentration (GLC_{ni}) for the one-hour and an annual time averaging periods. The GLC_{max} value is the maximum predicted off-property occurrence. The GLC_{ni} is the maximum that would occur at a non-industrial receptor. The air dispersion modeling showed that the short-term effects (1-hour averaging time) resulted in a maximum ground level concentration (GLC_{max}) of 16.4 µg/m³ with a non-industrial maximum ground level concentration of 15 µg/m³. Both numbers are only slightly higher than the protective short term ESL value of 14 µg/m³, however, this was found to happen for only one hour per year at the GLC_{ni} location. The long term GLC_{max} exposure was found to be 0.44 µg/m³, which is also slightly higher than the long-term ESL of 0.27 µg/m³. The GLC_{ni} value was determined to be 0.19 µg/m³, which is below 0.27 µg/m³ which has been found to be protective by the Toxicology Division.

In this evaluation, the GLC_{max} values for both the one-hour and annual time averaging periods were found to be on FM 373 that cuts through the northeast section of the property. The GLC_{ni} values for both the one-hour and annual time averaging periods occur at the north property line of the privately owned land that is inset within the EOG site.

Because the air dispersion model predicted exceedance of the ESLs, the results were sent to the Toxicology Division for further evaluation. Additional evaluation of the air dispersion model indicated that predicted exceedance of the ESL at the GLC_{ni} location would occur for one hour per year. The Toxicology Division reviewed the short- and long-term concentrations and hours of exceedance that were determined to exist in regard to this application including the locations of the exceedances and the use of the land where the exceedances occurred, and determined that all concentrations and exceedances would cause no adverse health effects. In addition, no degradation of the ecosystem, including effects on animals, crops, and plant life on ranches, farms, and businesses, is expected to occur.

The toxicology review is site-specific and takes into account the current use, and in some cases the future use, of the neighboring properties. The Toxicology Division reviewed the use of the property surrounding the subject site and concluded that no restrictions were required because no adverse effects on neighboring properties are expected.

The potential for off-property PM emissions will be controlled through the BACT criteria, which includes water sprays, partial and full enclosures, and baghouses, as well as best management practices to control PM emissions from all in-plant roads, traffic areas, and active work areas.

TCEQ does not have the authority to enforce employee safety regulations. However, the applicant is required to comply with all applicable regulations, including those addressing employee safety.

Nitrogen Dioxide

NO₂ emission concentrations were also evaluated by the Applicant and audited by the TCEQ ADMT. The NO₂ NAAQS are based on a one-hour and an annual time period. Predicted NO₂ air concentrations occurring below the one-hour NAAQS of 188 µg/m³ and an annual NAAQS of 100 µg/m³ are not expected to cause adverse health effects or exacerbate existing health conditions. Modeling of this facility resulted in predicted air concentrations of NO₂ to be 118.1 µg/m³ for the one-hour time averaging period, which is below the NAAQS limit. The concentration is the summation of the 15.2 µg/m³ concentration from the proposed facility and the background concentration of 102.9 µg/m³ found by, again, reviewing the monitors in Dallas and Tarrant Counties. The use of these counties as conservative representations is justified based on the description and definition of these counties given above. The one-hour NO₂ background concentration was obtained from the EPA AIRS monitor 481130069 located at 1415 Hinton Street, Dallas, Dallas County. The Applicant used a three-year average (2008-2010) of the 98th percentile of the annual distribution of daily maximum one-hour concentrations for the one-hour value. The ADMT reviewed more recent monitoring data and determined it would not change the overall results. The annual NO₂ concentration was predicted to be 0.66 µg/m³, which is below both the annual NAAQS and the *de minimis* value of 1 µg/m³. Thus, no further evaluation of the NO₂ annual concentrations was warranted.

Sulfur Dioxide

SO₂ was also modeled and evaluated for the proposed facility. The SO₂ primary and secondary NAAQS are based on a one-hour, three-hour, 24-hour, and annual time periods. Predicted SO₂ air concentrations occurring below the one-hour, three-hour, 24-hour, and annual NAAQS of 196 µg/m³, 1,300 µg/m³, 365 µg/m³, and 80 µg/m³, respectively, are not expected to cause adverse health effects or exacerbate existing health conditions. Modeling of the proposed facility resulted in predicted air concentrations of 1.7 µg/m³ (one-hour time period), 0.07 µg/m³ (three-hour time period), 0.04 µg/m³ (24-hour) and 0.007 µg/m³ (annual) of SO₂, which are each significantly below the respective NAAQS limitations. The modeled concentrations are also below the *de minimis* levels of 7.8 µg/m³ (one-hour), 25 µg/m³ (three-hour), 5 µg/m³ (24-hour), and 1 µg/m³ (annual). Therefore, no further evaluation of the SO₂ concentrations was warranted.

Carbon Monoxide

CO was also modeled and evaluated for the proposed facility. The predicted maximum concentrations of CO from the sources associated with this facility were compared to the federal Modeling Significance Level (MSL) (found in 40 CFR § 52.21(b)(23)) to determine the significance of CO. Concentrations that do not exceed the MSL are considered to be so low that they do not require further NAAQS analysis. The CO MSL is based on one-hour and eight-hour time periods. The CO MSLs are 2,000 µg/m³ (one-hour) and 500 µg/m³ (eight-hour). Modeling of this facility resulted in predicted air concentrations of CO to be 10 µg/m³ (one-hour) and 3 µg/m³ (eight-hour). Therefore, because predicted CO air concentrations occur below the MSL, further NAAQS analysis was not warranted for this pollutant.

In summary, all of the contaminants proposed to be authorized were evaluated as required by federal and state rules and regulations. It was determined that based on the potential predicted concentrations reviewed by the ED's staff, adverse short- or long-term health effects in the general public, including sensitive subgroups such as children, the elderly, or persons with respiratory ailments, animal life, crops, or vegetation are not expected as a result of exposure to emissions from the proposed plant. Accordingly, adverse health effects are not expected on persons living on or visiting nearby properties.

COMMENT 6-6: Other Air Emissions

Donald James Hammerlindl questioned what the proposed facility will do with the 350 tons per hour of tailings from the finished product (*amount stated by commenter*). Mr. Hammerlindl also commented that EOG's permit application stated that only the final conveyer at the proposed facility will emit NO_x, CO₂, VOCs, SO₂, and PM, and asked whether there are any other facility processes that may emit these pollutants, and what the other processes are. Cherokee Brewer commented that emissions from operations at the proposed facility will cause diesel fumes and dust to travel to nearby properties.

RESPONSE 6-6: In accordance with the TCAA, an air quality permit is required prior to the construction of a new facility or modification of an existing facility that may emit air contaminants. See TCAA § 382.0518. The ED's staff has conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. A draft permit has been developed according to the representations made in the permit application and applicable regulations. The draft permit includes both Special Conditions that define the operating parameters of the proposed facility and the Maximum Allowable Emissions Rate Table (MAERT) that specifies the type and amount of emissions allowed. Contaminants listed on the MAERT reflect the criteria pollutants as defined by the EPA. For this application, the criteria pollutants consist of PM, PM₁₀, PM_{2.5}, NO_x, CO, SO₂ and VOC. Emissions proposed to be authorized in the draft permit are limited to 17.49 tpy of PM, of which 12.04 tpy is PM₁₀ and 9.55 tpy is PM_{2.5}, 26.23 tpy of NO_x, 13.71 tpy of CO, 2.33 tpy of SO₂, and 0.90 tpy of VOC. The air dispersion modeling evaluations, discussed in detail in previous responses, demonstrate that all emissions are expected to meet the requirements of the TCAA and the NAAQS.

The permit review addressed all sources of emissions as represented in the application in accordance with all applicable rules and regulations. The disposition of any tailings, however, is not germane to an air quality review unless the disposal of tailings creates the potential for the emission of air contaminants. All tailings, defined in this response as material not suited for final product, have been represented as being stockpiled and returned to the quarry area.

The dryer associated with this process is fired by pipeline-quality sweet natural gas, which does not emit diesel fumes. This dryer stack is the only facility that will generate products of combustion (PM, NO_x, CO, SO₂, and VOC). All other sources of potential emissions throughout the proposed plant will be PM.

COMMENT 6-7: Cumulative emissions

Commenters asked whether truck emissions, if not controlled, would affect the overall air quality of Cooke County, such that additional air quality regulations would be imposed on the

county. J'Lynn Hare asked whether emissions from the proposed facility would affect the overall air quality of Cooke County, such that additional air quality regulations would be imposed on the county. (J'Lynn Hare and Jennifer Shiffer).

RESPONSE 6-7: Currently Cooke County is in attainment of all federal NAAQS standards. The applicant followed appropriate modeling procedures by conducting a preliminary impacts determination. The preliminary impacts determination consists of modeling new and increased emissions of criteria pollutants from the proposed project and comparing the results to the applicable significant impact level (SIL) for each pollutant and averaging period. If the predicted concentration equals or exceeds a SIL, significant receptors are used to define the area of impact (AOI). The full impacts evaluation includes sources located within the AOI plus 50 kilometers (km). The resulting predicted concentration is added with a background concentration for comparison to the applicable NAAQS.

The predicted concentrations for the proposed sources were below the SILs for 1-hr, 3-hr, 24-hr, and annual SO₂, 24-hr PM₁₀, annual NO₂, and 1-hr and 8-hr CO; therefore, no further review was required, as discussed in previous responses. The preliminary impacts determination indicated predicted concentrations greater than the SIL for 24-hr and annual PM_{2.5} and 1-hr NO₂. The applicant developed an off-property emissions inventory that considered sources located within a distance of the AOI plus 50 km, including any applicable sources in Oklahoma.

In addition to the off-property sources that were included in the modeling for 24-hr and annual PM_{2.5} and 1-hr NO₂, the applicant included a monitored background concentration to account for emissions from sources that are both manmade and natural. Although there is no air monitor located in Cooke County, conservative background concentrations were obtained by the applicant for PM_{2.5} and NO₂ from other monitors located in counties with much higher populations and much greater emissions inventories than Cooke County. The TCEQ does not have the authority to regulate mobile sources, such as trucks. However, emissions from all sources are accounted for in the conservative background concentrations. This is discussed in greater detail in the previous response. However, based on the review of the air quality analysis, the applicant demonstrated compliance with the NAAQS for all the criteria pollutants.

The current attainment status for Cooke County is attainment or unclassifiable for all criteria pollutants. With regards to how the proposed facility would affect the overall air quality of Cooke County, the air quality analysis results indicate predicted concentrations to be less than the NAAQS for all criteria pollutants. Therefore, there would not be any changes expected regarding the attainment status for Cooke County as a result of the project.

TCEQ rules do not require an applicant to analyze emissions resulting from the use of trucks in an individual permit application. Trucks are categorized as mobile sources and their emissions by definition are not subject to review under the New Source Review permitting requirements of the Clean Air Act, even if traveling on site.

COMMENT 6-8: Air Modeling Requirement and Compliance History

Joe Dial stated that if citizens had not opposed the pending application, the TCEQ would have granted the permit without requiring air dispersion modeling even though EOG was cited for eight violations at a separate facility location (number provided by the commenter).

RESPONSE 6-8: For this application, air dispersion modeling was required and conducted pursuant to the requirements of the TCAA and has been audited in accordance with TCEQ procedures. This modeling analysis was required irrespective of any citizen opposition.

During the technical review of the permit application a compliance history review of the company and the site was conducted based on the criteria in 30 TAC Chapter 60. The compliance history for the company and site was reviewed for the five-year period prior to the date the permit application was received by the ED. The compliance history includes multimedia compliance-related components about the site under review and is not limited to air related issues. These components include: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emission events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance.

The applicable compliance history ratings are classified as following:

- High: rating less than 0.01 (above average compliance record);
- Average by Default: rating equal to 3.01 (sites that have never been investigated);
- Average: rating greater than 0.01, but less than 45 (generally complies with environmental regulations); and
- Poor: rating greater than 45 (performs below average).

Because this is a new site, the site has a rating of 3.01 and a classification of "Average by Default." The company rating and classification, which is the multi-media average of the ratings for all sites the company owns, is rated as 2.90 and classified as "Average." This rating takes into account all sites owned and operated by the company and reflects all violations that may have occurred at the separate facility locations.

COMMENT 6-9: Air Monitoring

Commenters asked whether the TCEQ would require that EOG install an air monitoring system at the proposed facility. Commenters additionally inquired about the possibility of EOG installing an air monitoring system at the proposed facility and along the perimeters of its property to measure PM emissions. Commenters asked about the TCEQ's evaluation process regarding air monitoring for a site and under what circumstances in the past the TCEQ has required air monitoring, particularly if a company has a poor compliance history.

Commenters stated that air monitoring is necessary, because they are not able to see fine PM and silica to report potential violations to the TCEQ regional office. Commenters further stated that the TCEQ should require EOG to pay for monitoring, provide for independent collection of the results, and provide the data to the county and the public regularly. Nancee Turlington asked whether there is any type of equipment that can accurately measure silica levels in the air.

Robert Fazen requested that the proposed facility's permit conditions include the following requirements: silica monitors on the periphery of the plant to create a baseline to compare against future measurements; that EOG contract with an independent service to monitor the monitors for the duration of the plant's operation; and a TCEQ and EOG commitment to enforce

a plant shutdown when the monitors indicate a dangerous rate. Mr. Fazen stated granting the permit without the addition of these four provisions will be tantamount to releasing a dirty nuclear bomb.

Holly Harris-Bayer asked if the TCEQ is afraid of the results of continuous air monitoring and what the TCEQ has to hide by not requiring monitors. Ms. Harris-Bayer stated that if the TCEQ is sure the plant will meet applicable regulations, it should gain the trust of the public by requiring extensive continuous air monitors. Brandon Bayer commented that there is no way to ensure his children will not get cancer without a monitor.

(Özlem Altıok, Billy J. Atkins, Cindy Bartush, Brandon Bayer, Holly Harris-Bayer, Janice Bayer, Greg Bohl, Ronald Chandler, Jeff M. Deford, Mary Del Olmo, Marianne and Robert Fazen, Joe Grant, Jennifer Green, J'Lynn Hare, Rebecca Harris, Wylie Harris, David Keith Hart, Melanie Herr, Keith Hoepfner, Philip Hoepfner, Penny Jordan, Alan Dale Klossen, A.J. Knabe, Bob Luecke, Ivars Lulis, Kristie McCauley, Mary Nell Mosley, Tina Palmer, William T. Pearson, Jennifer Shiffer, Janis Sneed, Chris C. Story, Deann Tidwell, Nancee Turlington, Tommy Vieth, and Sharon Wilson)

RESPONSE 6-9: The TCEQ generally places air quality monitors in urban areas. The TCEQ has not required continuous air monitoring for minor source air permits unless conditions are exacerbated by such things as significant documented and justified complaints, poor performance, or enforcement actions. There are no site specific air monitors contemplated for the proposed facility. However, mobile monitoring can be implemented by the TCEQ DFW Regional office if conditions warrant. As described in detail in the responses above, if the applicant operates in accordance with the terms of the draft permit, adverse impacts to public health or welfare are not expected. See Responses 7-1 and 8-8 for more information on making complaints and the enforcement process.

7. WATER

COMMENT 7-1: Water Use

Commenters inquired about the amount of water that will be used at the proposed facility. Specifically, commenters are concerned about the effect of proposed water use on the Trinity Aquifer and nearby watersheds, and how this use will affect individual water wells, particularly in drought conditions. Other commenters stated that the water levels in Mountain Creek and the Red River may become low with the amount of water the proposed facility will need to operate. Judge Tommie Sappington commented that denial of the permit will help Montague County extend the availability of groundwater. Özlem Altıok stated that Cooke and Montague Counties are already within a designated Priority Groundwater Management Area. Other commenters stated that whenever there is a direct impact on water use in Texas, the public has a right to be informed regarding a company's water use plan and how it may affect the ecosystem in the region. Jennifer Shiffer asked whether Cooke County will be notified of the proposed facility's water use to meet the conditions of its permit through the North Texas Groundwater Conservation District.

Commenters questioned whether EOG will use water from the Trinity Aquifer rather than brackish water from the Pennsylvanian for its processes. Jennifer Shiffer asked whether EOG

will use brackish water to spray the roads and works areas, as required in its permit conditions. Commenters stated that the TCEQ is considering allowing the environment and surrounding cities to be economically devastated by permitting the aquifers. Additionally, Mark Westbrook questioned whether the company had received all necessary city, county, and state permits in regards to water use at the proposed facility. Terry Fender asked whether there are any laws regulating EOG's potential use of potable water.

Commenters are concerned that EOG has not stated what percentage of water will be recycled for its processes, if any, how that amount will be calculated, and what will be done with wastewater. Donald James Hammerlindl questioned how many gallons per minute of makeup groundwater will need to be produced to maintain the proposed facility's operation.

Commenters also had the following questions regarding water use issues at the proposed facility: whether there has been a geological or hydrological study of the aquifer and whether it was determined how the proposed facility could impact the wells of adjacent landowners; whether a hydrologist will provide a plan to monitor residents' wells within a five-mile radius of the proposed facility; and how operations at the proposed facility would be affected by depletion of the Trinity Aquifer or lowering of nearby residents' water wells, and what action the TCEQ would take if this happens.

Commenters are concerned that operations at the proposed facility will contaminate groundwater and surface water. Specifically, commenters asked about the possibility of contamination of the Trinity Aquifer by brackish water, wastewater, or PM. Commenters asked what entity will study and monitor the proposed facility to ensure that contamination of the aquifer does not occur. Commenters also asked whether the TCEQ will require that information regarding groundwater quantity and quality be provided to the public on a regular basis, such as quarterly or annually. Commenters asked what entity residents in the area should contact for concerns regarding water quality. In addition, commenters mentioned the possibility that oil or diesel spills may affect water quality.

Additionally, commenters questioned the possibility of surface water contamination of the Red River, Mountain Creek, and Lake Texoma, as well as ponds and stock tanks for livestock located on various individual properties. Commenters are concerned that potential contamination could negatively affect crops, livestock, wildlife, and recreational businesses in the area.

John Becker asked what effect brackish water has on old wells over time. Sharon Wilson asked whether a jurisdictional determination had been conducted with the Army Corps of Engineers; whether chemicals will be used in the water during processing; how process water will be handled and where it will be routed at the end of processing; and whether lined pits will be used for industrial storm water or process water. Mary Del Olmo asked about the size of the reservoir at the proposed site, whether the water in the reservoir is reusable, and whether it is safe for humans and wildlife.

(Özlem Altıok, Cecilia Ashley, Brent Aston, Brad Bailey, Debra Bale, Kathleen Agee Bale, Steven R. Barnes, Cindy Bartush, Daniel Bartush, Mary Beth Bartush, Valerie Bartush, William Bartush, Charles Batchelor, Don Batchelor, John Becker, Michael Dale Beckner, Cyndy and James R. Bell, Greg Bohl, Robert Boyd, Pat Brandon, Myrna and Roy Brawner, Deborah Bray,

Cherokee Brewer, Kay and Stephen Broyles, Thomas E. Brunholtz, Michael Campbell, Nora Campbell, Bill Carmickle, Ronald Chandler, Susan Chandler, Richard A. Clark, Don Chesier, Michael Clevenger, Charles M. Crane, Mary Del Olmo, Joe Dial, Deborah Ann Dunbar, Leandro Espertino, Marianne and Robert Fazen, Terry Fender, Carlan Jay Flatt, Carlan Jay Flatt, David and Patty Fleitman, Jorge Flores, Todd Futrell, Alan Golightly, Joe Grant, Jennifer Green, Bobby Grinstead, Donald James Hammerlindl, J'Lynn Hare, Donald Rhelda C. Harris, Wylie Harris, David Keith Hart, Mike Henderson, Dennis Hess, Sam Hess, Michael David Hurd, Jack P. Jeter, Penny Jordan, Billy and Joyce Karen, Kristy Koesler, Alice and Travis Krist, John H. Kubicek, Judith Kulp, Mark Lamb, Tom Lebsack, David Mark Lyles, James Allen Mann, Jr., Lana Maples, Marianne Matt, Michele Matt, Barry and Pat McDonald, Dan and Lynne McGrew, Gail Millard, Keith Milyo, Denis G. and Susan Heim Moody, Neal D. Nelson, Erik Nielsen, David Nystrom, William J. Pando, Pete Peach, William T. Pearson, Angela and Ronald Poen, Diane L. and Lawrence B. Rayl, Roger Reiter, Rick Reynolds, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Teodoro Santiesteban, Eualane Sappington, Tommie Sappington, Mark F. Schubert, Robert Seloff, Linda Sepanski, Frank Shacklee, Dave Shafer, Jason C. Sharpe, Jennifer E. and John E. Shiffer, Jerry and Margaret Shofner, Brandi and Josh Shuppert, Ronda Sicking, Steven Sims, Kevin E. Smith, Clara J. Sneed, Janis Sneed, Ed Soph, Kyle St. Clair, , Jim Stepter, Dillon Stewart, Cathy Stoffels, Jeremiah Stone, Jeff Swope, Tony Tucker, Nancee Turlington, Alan D. Vaughan, Julie Renee Vogel, Bruce Walker, Christina and Hymen Wallace, Tim Warriner, Claude West, Mark Westbrook, Ralph White, Donald Wiese, Jim Wiggins, Sharon Wilson, Jim Wise).

RESPONSE 7-1: While the TCEQ is responsible for the environmental protection of all media (including water), the TCAA specifically addresses air-related issues. This permit, if issued, will regulate the control and abatement of air emissions only, and therefore issues regarding water use are not within the scope of this permit review. Accordingly, this air quality permit application review did not include a specific water assessment or consideration of issues involving water quantity. However, as described in Response 6-5 above, the secondary NAAQS are set to protect public welfare and the environment and the proposed facility is expected to be in compliance with all NAAQS. Additionally, depending on the nature of the facility's operations, the applicant may be required to apply for separate authorizations that regulate water quality or water usage. It is the applicant's responsibility to secure any authorizations necessary for operation of the proposed facility. The issuance of an air quality permit does not negate the responsibility of an applicant to apply for any additionally required authorizations prior to operating a facility.

The Applicant represented that a combination of water sprays, enclosures, and baghouses will be used to control emissions. Accordingly, the permit conditions state that in compliance with BACT requirements the water spray systems shall be operated as necessary to maintain compliance with the TCEQ rules and regulations, which include opacity requirements and visible fugitive emission limitations. If the Applicant operates the proposed facility without an adequate water supply to meet the permit conditions, the Applicant could potentially be in violation of its permit and subject to enforcement action. In addition, the enclosures and baghouses represented by the Applicant in the permit application must also be in place and operational at all times or the Applicant could potentially be in violation of the permit and subject to enforcement action.

This permit does not authorize the discharge of pollution into a body of water. Individuals are encouraged to report environmental concerns, including water quality issues, or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the Dallas/Fort Worth Regional Office at 817-588-5800, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ investigates all complaints received. If the facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to possible enforcement action. Enforcement is discussed in greater detail in Response 8-8.

COMMENT 7-2: Storm Water Pollution Prevention Plan

Ivars Lulis asked whether EOG has completed the Storm Water Pollution Prevention Plan for the proposed facility. Mr. Lulis questioned how work on the proposed facility can occur if this process is not complete.

RESPONSE 7-2: Because this is an air quality application, any Storm Water Pollution Prevention Plan is outside the scope of this review. However, the Applicant was required to develop a Storm Water Pollution Prevention Plan (SWP3) prior to obtaining authorization to discharge storm water pursuant to the Construction General Permit (CGP), TPDES Permit No. 150000. The Applicant has submitted a Notice of Intent (NOI) to discharge under the terms and conditions of the CGP to the ED. Coverage under Authorization No. TXR15RJ45 began on December 24, 2010. Pursuant to the terms of the GCP, the Applicant must retain the SWP3 at the construction site or, if the site is inactive or does not have an on-site location to store the plan, a notice must be posted describing the location of the SWP3. The SWP3 must be made readily available at the time of an on-site inspection to: the ED; a federal, state, or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; and the operator of a Municipal Separate Storm Sewer (MS4) receiving discharges from the site.

8. PERMIT CONDITIONS

COMMENT 8-1: Operating Hours

Wylie Harris questioned why the TCEQ did not limit the hours of operation for the proposed facility, particularly when a similar EOG facility in Hood County was limited to operating 15 hours a day. Mr. Harris suggested that the proposed facility's permit conditions should prohibit the operation of the proposed facility during the hours of darkness or on weekends and holidays. Jennifer Shiffer asked that the proposed facility's hours be limited to five days a week with no operation during the area's annual Germanfest. Holly Harris-Bayer stated that authorizing the plant to operate 24/7 would negatively affect RRMT's business. (Holly Harris-Bayer, Wylie Harris, and Jennifer Shiffer).

RESPONSE 8-1: The TCEQ has not been delegated the authority to regulate the hours of operations of a facility or site if the permit review demonstrates all applicable federal and state regulations are met. Each permit review is conducted on a case-by-case basis and restrictions vary from application to application. Restrictions imposed on one plant or operation may have been done for various reasons that were not found to be pertinent to another plant or operation. However, the review and evaluations described above have indicated that, while operating continuously, the facilities have been shown to be protective with respect to the NAAQS and the

TCAA. The review is based on applicable regulations and is not contingent upon, or comparable to, restrictions that may have been placed on another independent site during the review of that site's operation.

COMMENT 8-2: Visible Particulate Emissions

Wylie Harris stated that the visible emissions controls required by the draft permit conditions are inadequate, because the infrequent monitoring schedule and the nature of the monitoring (visual observation of emissions) provide no means of quantifying actual emissions.

RESPONSE 8-2: Special Conditions 5, 6, and 7 prohibit visible emissions from leaving the property and stipulate visible emission observations from facilities to ensure that abatement equipment is performing as required to meet the evaluated protectiveness review. As discussed in Response 6-9, the TCEQ cannot require continuous air monitoring for minor source air permits unless conditions are exacerbated by poor performance and enforcement actions.

COMMENT 8-3: Water Vapor Visible Emission

Jennifer Shiffer asked about the draft permit condition that states "there shall be no visible emissions, except for visible water vapor or fog..." Ms. Shiffer asked whether this refers to the use of brackish water that EOG says it will use to reduce emissions from their operations.

RESPONSE 8-3: Special Condition 7 states "[t]here shall be no visible emissions, except for visible water vapor or fog, from the saturated Wet Plant Screen (EPN SCREEN)" The special condition refers to water vapor or fog which may be produced by the drying of wet material and which may be visible under certain meteorological conditions. The use of brackish water will not increase or decrease the potential for water vapor or fog.

COMMENT 8-4: Test Waivers

Wylie Harris noted that in the proposed facility's permit, provision is made for the permit holder to request waivers of emissions testing or to propose alternate sampling methods, but that public notice of any granted waivers is not required.

RESPONSE 8-4: Special conditions 22 and 23 state that all required sampling and tests demonstrate compliance with the MAERT and the emission performance levels as specified in the Special Conditions must be accomplished in accordance with the TCEQ Sampling Procedures Manual or in accordance with the applicable EPA 40 CFR procedures. All proposed alternative test waivers and/or sampling methods must be equivalent to and meet the same overall requirements as those initially established by the TCEQ and the EPA. Requests for an alternate sampling methodology may be proposed by the company for review by the TCEQ regional office with jurisdiction and must be approved in writing before any alternative sampling is conducted. Requests to waive testing for any pollutant must be submitted in writing for approval by the TCEQ Office of Air. Public notification of these requests is not required.

COMMENT 8-5: Federal Rule Applicability

Wylie Harris commented that the Applicant is required to comply with 40 CFR Part 60, Subparts A and UUU. He stated that the applicable portions of these subparts are unclear, and questioned whether the subparts require continuous direct measurement of potential emissions at the proposed facility's property boundary.

RESPONSE 8-5: Special Condition 4, Federal Applicability, requires compliance with all applicable federal New Source Performance Standards (NSPS). The applicable subparts do not require the direct measurement of emissions at the property line.

COMMENT 8-6: Stockpiles

Jennifer Shiffer asked about the proposed facility's permit conditions regarding stockpiles. Ms. Shiffer asked whether the stockpiles are required to be totally enclosed or sprayed with water to reduce potential emissions.

RESPONSE 8-6: Special Condition 20 prohibits stockpiles from exceeding 2.1 acres of cumulative area and requires stockpiles to be sprayed with water upon detection of visible PM emissions to maintain compliance with all applicable TCEQ rules and regulations. Thus, stockpile water sprays are required, but the stockpiles are not required to be totally enclosed. However, the applicant has represented that some stockpiles will be open and sprayed with water, while others will be partially or fully enclosed.

COMMENT 8-7: Recordkeeping

Commenters asked about recordkeeping requirements for the proposed facility, and how often EOG will be required to provide reporting to the TCEQ or the EPA. Mary Del Olmo asked whether any reporting to the TCEQ or EPA is available to the public. (Holly Harris-Bayer, Mary Del Olmo, and Penny Jordan).

RESPONSE 8-7: The draft permit Special Condition 34 specifies recordkeeping requirements for the proposed plant. Specifically, records must be maintained for a rolling 24-month period and made available at the request of personnel from the TCEQ or any other air pollution control program having jurisdiction. There are no specific provisions to provide these records outside the TCEQ; however, company compliance history and enforcement actions are public information as discussed in the response below.

COMMENT 8-8: Enforcement of Permit Conditions

Commenters asked about the TCEQ's policies and procedures regarding enforcement of permit conditions, under what circumstances a facility can be fined or shut down, and how fines are calculated. Commenters stated that several complaints and notices of violations for EOG facilities appear on the TCEQ's Web site.

Penny Jordan asked what actions the TCEQ will take in response to EOG's poor compliance history, and whether the TCEQ regional offices adjust their inspection schedule of a facility based on poor compliance histories, or conduct unannounced inspections of a facility. Janis Sneed asked which state agency has the authority to stop construction of the proposed facility.

Commenters also asked what actions the TCEQ would take if emissions at the proposed facility are independently tested and found to exceed company representations. Commenters questioned whether either Cooke County or the public would be directly notified or alerted if exceedances occur. Terry Fender asked how the TCEQ will assure that dust collection systems at the proposed facility will be properly maintained. Holly Harris-Bayer stated the TCEQ needs to become accountable for the permits that it issues and needs to make applicants more

accountable for their actions. Ronald Chandler stated that this is Enron, a company famous for lying and deceiving regulators.

(Özlem Altıok, Holly Harris-Bayer, Myrna and Roy Brawner, Ronald Chandler, Louis Cusato, Mary Del Olmo, Robert Fazen, Terry Fender, J'Lynn Hare, Wylie Harris, David Keith Hart, Penny Jordan, A.J. Knabe, Judith Kulp, Ivars Lulis, and Nancee Turlington).

RESPONSE 8-8: There are a number of mechanisms by which the TCEQ monitors compliance with permits and state and federal regulations. To the extent that personnel, time, and resources are available, the TCEQ does randomly investigate permit operations to ensure compliance with applicable rules and regulations. Although specific to each site, investigations generally explore the entire operation of the plant to ensure compliance with permit conditions and all applicable laws and regulations. The investigation schedule may be increased if violations are found, repeated, or if a regulated entity is classified as a poor performer.

With respect to complaints, the TCEQ regional offices prioritize their responses based on the potential for adverse health effects associated with the alleged violation. For example, a "priority one" case means serious health concerns exist and the case will be investigated immediately. A "priority four" case, on the other hand, means no immediate health concerns exist; therefore, it will be investigated within 30 days. Staff from the TCEQ regional office will respond to all complaints and regional investigations are not limited by media. Complaints may be addressed to the Dallas/Fort Worth Regional Office at 817-588-5800, or the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

Violations are initially addressed through a notice of violation (NOV) letter which generally allows the operator a specified period of time within which to comply. The violation is considered resolved upon timely corrective action. If a violation is not timely corrected, repeated, or causes an impact to the environment or neighboring properties, formal enforcement action will begin according to the TCEQ Enforcement Initiation Criteria.¹⁵ Administrative penalties are calculated in accordance with the TCEQ's penalty policy,¹⁶ which takes into account the harm and severity of the violation and considers adjustments that may be made to the base penalty amount after the review of case-specific information and information concerning the respondent. For example, a penalty reduction might be granted for a good faith effort to comply, while a penalty may be increased for a repeated violation or a respondent with a poor compliance history. The components of a compliance history rating are discussed in greater detail in Response 6-8.

Citizen-collected evidence may also be used in an enforcement action. For details on gathering and reporting such evidence, see 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law. The information, if gathered

¹⁵ The TCEQ Enforcement Initiation Criteria is available at:
www.tceq.texas.gov/assets/public/agency/eic_rev_13_090110.pdf.

¹⁶ The TCEQ Penalty Policy is available at:
http://www.tceq.texas.gov/assets/public/comm_exec/pubs/rg/rg253/penaltypolicy2011.pdf. For additional information on enforcement policies and procedures, please visit the TCEQ's Compliance, Enforcement and Cleanups Web site at: <http://www.tceq.texas.gov/enforcement/process.html>

according to agency procedures and guidelines, can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?" This booklet is available in English and Spanish from the TCEQ Publications Office at 512-239-0028, and may be downloaded from the agency Web site.¹⁷

Emission events¹⁸ are required to be reported to the TCEQ are public information.¹⁹ As discussed above, TCEQ regional inspectors conduct inspections at facilities and the resultant inspection reports are also public information. Notices of Violation (NOVs) are also public information. Additionally, the public is able to track complaints on the TCEQ Web site by complaint tracking number, date, county, TCEQ Region, or Regulated Entity/Customer name or number.²⁰ A regulated entity's compliance history is public information.²¹ The TCEQ does notify local health officials, County Judges, and potentially affected water well owners in the event of potential groundwater contamination.

COMMENT 8-9: Permit Denials

Commenters asked how many air quality permits have been approved and denied since the TCEQ was formed, and what the reasons were for denial of a permit. Penny Jordan asked how many permit applications the TCEQ staff has denied as the permit was originally written with no revisions from the applicant. (Holly Harris-Bayer, Mary Del Olmo, J'Lynn Hare, and Penny Jordan).

RESPONSE 8-9: As discussed previously in Response 3-1, the TCEQ issues many different types of air quality authorizations, and a permit application must meet all applicable rules and regulations before it can be approved by the TCEQ. Because the TCEQ and its predecessor agencies have been in existence for over 40 years, it would be impracticable for agency staff to generate information on the exact number of air quality applications and the specific dispensation of each application processed throughout this time.

COMMENT 8-10: Other Sand Plant Permits in Texas

Nancee Turlington asked how many sand processing facilities or processing plants are authorized in Texas, the names of the companies and their locations, the date a permit was issued, a record of violations at these sites, and public access to monitoring for any of these facilities.

RESPONSE 8-10: At present, there are 11 authorized sand plants in the state of Texas, two of which are currently undergoing amendments to existing authorization, and two initial construction permit applications. All of these plants are authorized under NSR permits. The

17 Available at: www.tceq.texas.gov (under Publications, search for Document Number 278).

18 See 30 TAC §§ 101.1(28) and 101.201. An emission event is any upset event or unscheduled maintenance, startup, or shutdown activity, from a common cause that results in unauthorized emissions of air contaminants from one or more emissions points at a regulated entity.

19 Available at: <http://www11.tceq.texas.gov/oce/eeer/index.cfm>.

20 Available at: www2.tceq.texas.gov/oce/waci/index.cfm.

21 Available at: http://www.tceq.state.tx.us/compliance/enforcement/history/get_list.html.

existing sand plants, the latest permit activity, and the dates of the latest permit activity are shown below:

Hood County:

Hood County Sand Pit, authorized on January 30, 2008
Lonestar Prospects, currently being amended

Limestone County:

Superior Silica Sands LLC, alteration December 20, 2010

Mason County:

Erna Frac Sand, LC, authorized on September 22, 2010

McCullouch County:

Oglebay Norton Industrial Sands, Inc., amended December 21, 2009
Texas Mining LP, renewed November 10, 2008
Texas Mining LP, renewed May 12, 2005
Unimin Texas Company LP, renewed September 15, 2006
Proppant Specialists LLC, currently being amended
Cadre Material Products LLC, currently being amended
Smith, Andrew G., authorized April 5, 2012

The two initial construction permit applications currently under are:

Cooke County:

EOG Resources, Inc. submitted March 25, 2011

Mason County:

Proppant Specialists, LLC, submitted July 11, 2011

No site-specific property line monitors are stipulated for any of these facilities. A record of any violations is not included in this Response.

COMMENT 8-11: Change of Ownership

Commenters asked whether a new owner would continue operation with the current air permit if the proposed facility is sold, or whether a new owner would need to apply for a new air permit, and whether the public would be notified of a change of ownership. (Mary Del Olmo, J'Lynn Hare, and Penny Jordan).

RESPONSE 8-11: Change in ownership of a facility holding an air permit is governed by 30 TAC § 116.110(e). Specifically, this subsection states the following:

- (1) Within 30 days after the change of ownership of a facility permitted under this chapter, the new owner shall notify the commission and certify the following:
 - (A) the date of the ownership change;
 - (B) the name, address, phone number, and contact person for the new owner;
 - (C) an agreement by the new owner to be bound by all permit conditions and all representations made in the permit application and any amendments or alterations;
 - (D) there will be no change in the type of pollutants emitted; and
 - (E) there will be no increase in the quantity of pollutants emitted.

(2) The new owner shall comply with all permit conditions and all representations made in the permit application and any amendments and alterations.

Under the provisions of 30 TAC § 116.110(e), no public notification of a change of ownership is required. However, a new owner or operator would be required to comply with all applicable permit conditions, in addition to TCEQ rules and regulations.

9. LOCAL IMPACTS

COMMENT 9-1: Property Values/ Recreation/ Light and Noise

Commenters expressed concern that emissions and operations from the proposed facility will affect their properties and the surrounding area, which could, in turn, affect their personal well-being. Some commenters indicated that their land has been in their families for generations, and they are concerned about their future prospects on the property for their children and grandchildren. Several commenters stated that they lived in or retired to this part of Texas in order to not be exposed to industrial pollutants.

Commenters stated that the proposed facility will have a negative economic impact on their livelihoods and property values; specifically, ranches, farms, recreational businesses, and other businesses in the area that cater to tourists. Steven R. Barnes commented that operations at the proposed facility may cause damage to the water and air in the region, which may result in fewer customers for various local businesses.

Additionally, commenters stated that if the water supply in the area is affected by the proposed facility, it may adversely affect the value of their properties, as well as cause additional costs for property owners to drill new or deeper wells. Commenters also inquired about the possibility of the TCEQ requiring noise abatement measures and monitoring the lighting used at the proposed facility. Barry and Pat McDonald asked which agency in Texas enforces noise abatement measures for permitted facilities in Texas, if not the TCEQ. Myrna and Roy Brawner asked what the projected level of noise will be for the proposed facility.

Commenters stated that air emissions from the proposed facility could negatively affect recreation in the area. Commenters on behalf of Bartush Land and Cattle Company (BLCC) stated that they are concerned about the impact of the proposed facility's air emissions on their recreational business. These commenters explained that BLCC is a 3,200-acre family-owned working ranch, located approximately two to five miles east of the proposed facility. The business provides commercial, wildlife-based recreation, such as a hunt club, commercial hunts, fishing, hiking, and birding, as well as lodging.

BLCC stated that it participates in the Texas Park and Wildlife Department's (TPWD's) Managed Land Program for Whitetail Deer, and that BLCC land is leased for hunters to participate in the TPWD's Texas Whitetail Bonanza. These commenters further stated that in coordination with the Texas Department of Transportation and TPWD, the BLCC property is included on the map of the Prairies and Pineywoods Wildlife Trail-East. Richard A. Clark also stated that he participates in the Managed Lands Deer Permit program as supervised by the TPWD. Angela

Poen stated that large portions of the property that she and her husband own are designated as Wildlife Management Areas. These commenters expressed concern that emissions from the proposed facility will hamper efforts to maintain these designations.

Commenters stated they consider themselves to be good stewards of the land, and of wildlife and natural resources, and they are concerned about the impact of the proposed facility on these natural resources. Commenters stated, on behalf of BLLC, that clean air is particularly important for visitors to their property, because it is a working ranch that provides lodging, wildlife-based recreation, and educational visits for school children. Commenters stated they wish to maintain the integrity of natural resources in the area.

Commenters are concerned about the effect that air emissions from the proposed facility may have on RRMT, and the resulting economic impact both to RRMT and to other businesses in the Muenster and Dallas/Fort Worth areas. Commenters further noted that they often travel long distances to RRMT to escape large metropolitan areas, traffic, noise, and pollution and to experience the natural surroundings of the park.

Additionally, these commenters stated that the negative effects on air and water quality, along with increased truck traffic and noise may discourage them from visiting RRMT, and that their quality of life may be degraded since they visit RRMT frequently. Commenters on behalf of RRMT acknowledged the possibility of decreased business and revenue, and also expressed concern that if the air and water quality at RRMT is affected negatively by the proposed facility and the health of visitors to the park is at risk, RRMT may have to consider closing. Commenters asked about the impact that lighting and noise from operations at the proposed facility will have on the surrounding area and on RRMT. Commenters asked about the type of lighting and volume of noise that the proposed facility will generate with operation occurring 24 hours a day, seven days a week, as proposed in the permit application. Commenters stated that in addition to operations at the proposed facility, the high volume of truck traffic will generate noise. Commenters explained that many visitors to RRMT camp overnight and are accustomed to a very quiet and natural setting, because RRMT does not allow riding during evening hours. Other commenters questioned how the air emissions from the proposed facility will affect the Turtle Hill Golf Course as well as nearby properties, because many use their properties for recreation. Commenters who travel to the Bulcher area for all types of recreation expressed concern for the well-being of local residents.

(Darrell Aberegg, Özlem Altıok, Richard Dean Ames, Cecelia Ashley, Brent Aston, Billy J. Atkins, Debra Bale, Kathleen Agee Bale, Darrell Balmer, Steven R. Barnes, Cindy Bartush, Katrinka Bartush, Mary Beth Bartush, Mike G. Bartush, Valerie Bartush, William Bartush, Charles Batchelor, Don Batchelor, Brandon Bayer, Holly Harris-Bayer, Janice Bayer, Michael Bayer, Ryan Bayer, Michael Dale Beckner, Cyndy and James R. Bell, Stacy Beynaerts, Pat Brandon, Robert Boyd, Myrna and Roy Brawner, Deborah Bray, Cherokee Brewer, Joshua S. Brooks, Jason S. Brown, Mitch Brown, David Bryson, Bryan Capps, Bill Carmickle, Jeffrey Scott Chandler, Ronald and Susan Chandler, Rebecca Chayrez, Kalee Lynn Clark, Richard A. Clark, Michael Clevenger, Charles D. Cosper, Stephen Mark Couger, Louis Cusato, Jamie and John A. Cox, Charles M. Crane, Larry Crane, David Lee Cross, Charles Day, Jeff M. Deford, Norman DeLamar, Mary Del Olmo, Gloria J. Dickerman, Johnny Dowd, Larry Eberhart, John Ernst, Leandro Espertino, Marianne and Robert Fazen, Terry Fender, Cory J. Flippin, Carlan Jay Flatt,

Jorge Flores, Jared Futrell, Todd Futrell, Alan Golightly, Dusty Gossett, Joe Grant, Randy Joe Gray, Jennifer Green, Zeth Griffin, Paul Grimes, Bobby Grinstead, J'Lynn Hare, William E. (Bill) Harris, Wylie Harris, David Keith Hart, Al and Margaret Heim, Mike Henderson, Melanie Herr, Robert Herring, Jr., Sam Hess, Keith Hoepfner, Philip Hoepfner, Robert C. Holden, Sandra and William Horner, Lance Hulett, Lisa A. Hulsey, Michael David Hurd, Robert W. Hyden, Jack P. Jeter, Art Johnson, Jimmy Jones, Richard W. Jones, Penny Jordan, Eric Kancir, Jimmy Kimbrel, Alan Dale Klossen, Jeff Kowalski, Jeff Kring, Alice and Travis Krist, Mark Lamb, Dee Lambert, Leland Lash, Michael Leach, Tom Lebsack, Jeff Leyshon, David Loggins, Bob Luecke, David Mark Lyles, James Allen Mann, Jr., Lana Maples, Marianne Matt, Michele Matt, Scotty Allen Mazzucco, Kristie McCauley, Barry and Pat McDonald, Dan and Lynne McGrew, Gail Millard, Ashley and Devin Miller, Eddie D. Miller, Keith Milyo, Martin B. Mollat, Denis G. and Susan Heim Moody, Kent L. Moore, Alejandro and Maria Moreno, Kimberly Morse, Mary Nell Mosley, Michael Wade Myers, Neal D. Nelson, Erik Nielsen, Kathy Nielsen, Michael Ronnie Nugent, David Nystrom, Robert Owens, Tina Palmer, William J. Pando, Pete Peach, James Pearson, William T. Pearson, James T. Pelton, Jeffrey Petersen, Jennie Phifer, Bobby Pickard, Robin Pittsley, Angela and Ronald Poen, Diane L. and Lawrence B. Rayl, Mark Rickards, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Michele Renee Rouse, Larry Rousseau, Shani Rowell, Pete Rowen, Teodoro Santiesteban, Eualane Sappington, Tommie Sappington, Todd Sartor, Laurence Scheel, Jeff Schnack, Mark F. Schubert, Robert Seloff, Dave Shafer, Jason C. Sharpe, Jennifer E. and John E. Shiffer, Jerry and Margaret Shofner, Ronda Sicking, Steven Sims, Kevin E. Smith, Rachel Smith, Clara J. Sneed, Janis Sneed, Michael Andrew Sprinkle, Kyle St. Clair, Laura Stephens, Jim Stepter, Dillon Stewart, Jeremiah Stone, Chris C. Story, Jeff Swope, Richard Taber, Sunny Thandassery, John F. and Martha S. Thompson, Judy Thornton, Terry Tidmore, Deann Tidwell, Sonny Truitt, Nancee Turlington, Cale Turpen, Christopher M. Twitchell, Danny W. Vardas, Alan D. Vaughn, Tommy Vieth, Tony Voth, Bruce Walker, Christina and Hymen Wallace, Tim Warriner, Craig Wermske, Claude West, Holly West, Mark Westbrook, Kenny L. Wiechman, Jim Wiggins, Sharon Wilson, Tony Winchester, Jim Wise, Ralph White, and commenters in Groups A, B, and D).

RESPONSE 9-1: The TCEQ appreciates the work the people in the community do to maintain the environment. The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider effects on property values or economic impact when determining whether to approve or deny a permit application. The TCEQ similarly does not have jurisdiction to consider lighting or noise from a facility when determining whether to approve or deny a permit application. As such, the TCEQ does not have authority under the TCAA to require or enforce any noise abatement measures. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. Commenters should contact their local authorities with questions or complaints about noise.

The effects of air emissions from this facility have been described in detail in previous responses. No adverse effects on public health, welfare, or the environment are expected. All facilities that receive an air quality permit authorization from the TCEQ must comply with the TCAA and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance. Specifically the rule states, "[n]o person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect

human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property.” Based on the Commission’s experience regulating these types of facilities, they can be operated without causing a nuisance problem, provided the facilities are operated in compliance with the terms and conditions of its permit.

COMMENT 9-2: Location

Commenters stated that EOG should elect to place the proposed facility in a less populated area, away from an existing recreational facility. These commenters stated that because EOG is a large corporation, it has the resources to locate elsewhere and could easily find a comparable location for the proposed facility. Commenters stated that while the owners are not able to move their recreational park and all of its amenities and trails away from EOG’s proposed facility, the company is able to locate its proposed facility further away from RRMT. Commenters further questioned why the company elected to purchase this particular parcel of land, knowing that RRMT was located on the adjoining property. Commenters stated that no other sand mine within the state of Texas has proposed to locate next to a recreational facility. Holly Harris-Bayer stated that EOG failed to do adequate research in order to find a suitable location that is not next to a recreational park and questioned how a sand mine and a recreational park could coexist. Larry Eberhart stated that, because of the potential for air emissions, these types of facilities should be placed as far away from the public as possible.

Commenters requested that TCEQ staff read and review in detail comment letters and documents sent to the TCEQ on behalf of RRMT to understand the positive impacts that this park has on the region, the recreational community, and the state. Ms. Harris-Bayer requested that RRMT be allowed to show TCEQ staff all of the adjoining boundary lines between the RRMT park and the proposed facility. Additionally, commenters requested that TCEQ regional staff visit RRMT to make an official determination regarding the distance from RRMT to the proposed facility while the owners of RRMT are present. Ms. Harris-Bayer also requested that the TCEQ Commissioners view a DVD provided by RRMT of a televised race held at RRMT so that the beauty and varied terrain of the area can be demonstrated.

(Darrell Aberegg, Brent Aston, Brandon Bayer, Holly Harris-Bayer, Larry Eberhart, Rebecca Harris, David Keith Hart, Mike Henderson, Tom Lebsack, Lana Maples, Martin B. Mollat, Erik Nielsen, William J. Pando, Jenny Phifer, Diane L. and Lawrence B. Rayl, Belinda and Mark Rogers, Teodoro Santiesteban, Rachel Smith, Michael Andrew Sprinkle, Kyle St. Clair, Sunny Thandassery, Alan D. Vaughan, Mark Westbrook, and Ralph White).

RESPONSE 9-2: The TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. Except under limited circumstances, which do not exist under this particular permit application, the issuance of a permit cannot be denied on the basis of the facility location.

At the request of Ms. Harris-Bayer, staff from the DFW Regional Office travelled to the RRMT facility on July 5, 2011, to make an official determination of the distances between the two properties; however, the front gate of the property was locked, and no one was available to let regional staff onto the RRMT property. Nonetheless, TCEQ staff extensively reviewed area maps and took into account the surrounding land uses as described in Response 6-5 above and determined no adverse effects are expected.

The photos and DVD provided by Ms. Harris-Bayer on behalf of RRMT are on file with the Office of the Chief Clerk, and available to the TCEQ Commissioners, staff, and the general public for viewing. Although not directly relevant to the development of the draft permit, TCEQ staff members reviewed the photos and DVD in conjunction with the permit review.

COMMENT 9-3: Threatened or Endangered Species

Commenters questioned whether operation of the proposed facility will negatively affect any rare, threatened, or endangered species, including those that migrate through Cooke or Montague County. Several commenters mentioned specific species of threatened or endangered wildlife with which they are particularly concerned, including Bald Eagles, Interior Least Terns, Red Cockaded Woodpeckers, Whooping Cranes, and Black-capped Vireos. Commenters on behalf of BLCC and RRMT stated that Bald Eagles and Interior Least Terns (BLCC) reside on their properties along the Red River. These commenters are concerned that the operations from the proposed facility will disrupt the habitat of these birds. Deborah Ann Dunbar requested that the TCEQ process the proposed air permit on a parallel or later track with processes that are required of EOG by other state agencies and with federal agencies in regards to rare, threatened, and endangered species. (Cindy Bartush, Mary Beth Bartush, William Bartush, Brandon Bayer, Holly Harris-Bayer, Mary Del Olmo, Gloria J. Dickerman, Deborah Ann Dunbar, Lewis McPherson, Eric Robinson, and Sharon Wilson).

RESPONSE 9-3:

Compliance with rules and regulations regarding endangered species is handled at the state level by Texas Parks and Wildlife Department and at the federal level by US Fish and Wildlife Service. It is incumbent upon the applicant to request and acquire any additional authorizations that may be required under state or federal law. However, as discussed above, if operated in accordance with the requirements of the permit, adverse impacts from the proposed facility are not expected. Additionally, the applicant must comply with 30 TAC § 101.4, which prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

10: ADDITIONAL COMMENTS

COMMENT 10-1: Truck/Traffic Hazard/Roads

Commenters asked about the increased truck traffic that the proposed facility will generate, noting that in its permit application, the company stated that it will move 500 tons of processed sand each hour. Commenters stated that EOG is simply relocating its carbon footprint to their area, rather than reducing it, as the company claims. Commenters questioned specifically how many trucks will be on the roads per hour and per day, and asked about the permitting of the trucks and how the permit fees are applied. Commenters asked whether trucks will run 24 hours a day, seven days a week.

In addition, commenters stated that additional traffic on already winding, narrow country roads, specifically FM 373 and FM 2382, will introduce new traffic hazards and safety issues, particularly if trucks do not adhere to all traffic laws. Commenters questioned how the roads in the area of the proposed facility (including Muenster, Lindsay, and Gainesville) can be kept properly maintained with the additional truck traffic. Commenters also stated that many county roads are already in disrepair, and the additional heavy truck traffic from the proposed facility will only add to the problem. Neal D. Nelson stated that the increase in traffic could eventually lead to roadway expansions and the potential for eminent domain seizures. Marianne and Robert Fazen asked if there is any state agency that will regulate the trucks and ensure that they operate safely. Flossie Shoppa is concerned that trucks will endanger school children.

Other commenters stated that with the increased traffic from the proposed facility, the state or the county may experience higher costs for road maintenance or upgrades to the roads, which may result in higher taxes for nearby residents. Commenters stated that costs to repair roads in the area will exceed the expected tax revenue from the proposed facility. Muenster Street Commissioner, Greg Bohl clarified that FM 373 is maintained by the state, as opposed to the streets within Muenster that are maintained by the city. Jennifer Schiffer requested that TCEQ require EOG to reimburse Texas Department of Transportation (TxDot) for any damage to Farm to Market roads.

Commenters expressed specific concern regarding the noise and pollution from increased diesel truck traffic and how that may affect people and animals in the area. William Bartush stated that a typical diesel-powered 18-wheeler can emit as much NO_x and fine PM as about 150 passenger cars.

Commenters stated that they are concerned about potential automobile suspension damage, and the impact to trailers, recreational vehicles, motorcyclists, and bicyclists that share the road with the sand trucks. Terry Fender stated that litter resulting from the additional truck traffic may become a problem.

Additionally, commenters had several questions regarding roads surrounding the proposed facility. Commenters asked about any planned road improvements with the volume of truck traffic proposed; what the proposed routes of the trucks to and from the proposed facility will be; whether a traffic impact analysis had been conducted, and if not, why not; and whether EOG has determined that there is no traffic hazard, and how that determination was made.

(Özlem Altıok, Brent Aston, Brad Bailey, Darrell Balmer, Steven R. Barnes, Cindy Bartush, William Bartush, Charles Batchelor, Brandon Bayer, Holly Harris-Bayer, John Becker, Greg Bohl, Robert Boyd, Myrna and Roy Brawner, Mitch Brown, Kay and Stephen Broyles, David Bryson, Ronald Chandler, Stephen Mark Couger, Charles M. Crane, Mary Del Olmo, Larry Eberhart, Marianne and Robert Fazen, Terry Fender, Jorge Flores, Zeth Griffin, Paul Grimes, Donald James Hammerlindl, J'Lynn Hare, Wylie Harris, David Keith Hart, Mike Henderson, Robert Herring, Jr., Dennis Hess, Lisa A. Hulsey, Penny Jordan, Jimmy Kimbrel, Alice and Travis Krist, Tom Lebsack, Lana Maples, Lewis McPherson, Gail Millard, Keith Milyo, Alejandro and Maria Moreno, Neal D. Nelson, David Nystrom, Carla Orr, Pete Peach, Brian Pierce, Diane L. and Lawrence B. Rayl, Mark Rickards, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Pete Rowen, Teodoro Santiesteban, Flossie Schoppa, Mark F. Schubert, Robert Seloff,

Frank Shacklee, Jennifer Shiffer, Jerry and Margaret Shofner, Kevin E. Smith, Rachel Smith, Janis Sneed, Kyle St. Clair, Dillon Stewart, Jeremiah Stone, John F. and Martha S. Thompson, Nancee Turlington, Alan D. Vaughan, Christina and Hymen Wallace, Tim Warriner, Claude West, Ralph White, Donald Wiese, and Sharon Wilson).

RESPONSE 10-1: Although, the application stated the process will be initiated at a throughput rate of 500 tons per hour, the amount of saleable material that eventually passes through the dryer and into the loadout facilities to be transported off site has been limited to a throughput rate of 158 tons per hour. Any truck traffic estimation to be associated with this facility should be evaluated at the 158 tons per hour limit and not at the initial process rate. However, as discussed above, the TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider traffic, road safety, or road repair costs when determining whether to approve or deny a permit application. Trucks are considered mobile sources, which are not regulated by the TCEQ. Moreover, the TCEQ is prohibited from regulating roads per TCAA § 382.003(6), which excludes roads from the definition of "facility."

Although, the TCEQ is prohibited from regulating trucks, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 30 TAC § 101.5 states: "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use." Accordingly, the Applicant is prohibited from creating a traffic hazard with emissions from its facility.

Jurisdiction over traffic on public roads, including any load-bearing restrictions and public safety including access, speed limits, and public roadway issues, are typically the responsibility of local, county, or other state agencies, such as the TxDOT and the Texas Department of Public Safety. Repairs to personal property are typically handled by local authorities, insurance companies, or individual agreements with the trucking owners or operators. An air quality permit does not authorize a violation of any road safety or load-bearing restrictions. Concerns regarding roads should be addressed to appropriate state or local officials.

Several of these comments were addressed to the Applicant and the Applicant's method of operation and have, therefore, not been addressed by the TCEQ.

COMMENT 10-2: Waste Disposal

Nancee Turlington asked whether the TCEQ has current rules regarding how wastes from this type of facility are handled.

RESPONSE 10-2: Given the nature of the operations, it is unlikely that the proposed facility will generate a waste product regulated by the TCEQ. However, the TCEQ's rules regarding Municipal and Industrial Solid Waste are located in 30 TAC Chapters 330 and 335. It is the Applicant's responsibility to secure all permits and authorizations necessary for operation of the proposed facility. The issuance of an air quality permit does not negate the responsibility of an applicant to apply for any additionally required authorizations prior to constructing or operating a facility.

COMMENT 10-3: Domestic Septage Permit

Several commenters asked about a proposed permit application (Registration Number 710917), for 276 Rock Bluff Road, Saint Jo, Texas 76265. Özlem Altioik stated that this application is to apply domestic septage on 99 acres. Ms. Altioik also stated that this site is not suitable for applying domestic septage because it is classified as "highly erodible" by the National Resource Conservation Service, the land slopes, and run-off onto adjacent properties and nearby bodies of water is inevitable. Other commenters also commented regarding run-off into nearby bodies of water, as well as the Red River. These commenters questioned whether the domestic septage is in solid or liquid form, and how it will affect local water wells. Other commenters stated that this project will affect their health and financial well-being. (Özlem Altioik, Angela and Ronald Poen, and Jennifer and John E. Shiffer).

RESPONSE 10-3: Because this is an air quality application, other authorizations were outside the scope of this review.

COMMENT 10-4: Mining/Blasting/Land Reclamation Plan

Commenters asked about the mining plan for the proposed facility site and wanted to know specifically how many years of mining the company plans, where the phases of the mining will occur, and in what direction the mining will occur. Commenters asked whether blasting will occur at the proposed facility, how often blasting would occur, what measures the company will take to lessen the impacts, and how people will be notified of any blasting.

Janis Sneed questioned whether the proposed facility should be considered a mine or a quarry. Sharon Wilson asked whether the TCEQ will be monitoring drilling and blasting at the proposed facility, and at what frequency. Other commenters stated that PM emissions from mining at the proposed facility are not required to be addressed in the company's air quality permit and also expressed concern regarding the effects of off-gasses or by-products from the mining on visitors to the area. Brandon Bayer asked how the TCEQ will distinguish emissions from the mine and the plant. Jennifer Shiffer asked about the location and depth of the mining at the proposed facility. James Mann questioned whether any core samples had been done on the mine.

Commenters asked about the proposed reclamation plan once mining at the proposed plant is complete, as well as the end use, and whether the reclamation will be done in phases and if so, what the phases will be. Robert Fazen stated that if the proposed facility has been inactive for longer than six months, the TCEQ should require that reclamation begin automatically and requested that there be an EOG commitment to design and fund a complete reclamation of the property that is approved by TCEQ engineers.

(Brent Aston, Brandon Bayer, Holly Harris-Bayer, Mary Del Olmo, Marianne and Robert Fazen, Robert Fazen, David and Patty Fleitman, J'Lynn Hare, Penny Jordan, Jennifer Shiffer, Jerry and Margaret Shofner, Janis Sneed, Nancee Turlington, and Sharon Wilson).

RESPONSE 10-4: The TCEQ's jurisdiction is established by the Legislature. Mines and quarries are specifically excluded from the definition of facility in the TCAA § 382.003(6). Accordingly, the TCEQ does not have jurisdiction to regulate mines, quarries, any associated blasting, or to require applicants to establish a plan for land reclamation. Concerns regarding noise and vibrations should be directed to local officials.

Emission of PM from the quarry, however, cannot create a nuisance condition. All facilities must comply with the TCAA and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance. Thus, a potential investigation by the TCEQ Regional DFW Regional office would not speculate emissions from the mine, quarry, or the plant to the extent that any of those operations caused a nuisance.

Several comments were addressed to the Applicant and are, therefore, not specifically answered by the TCEQ.

COMMENT 10-5: Hydraulic Fracking

Commenters expressed concern because the sand processed at the facility would ultimately be used for hydraulic fracking. Janis Sneed stated that she does not want any earthquakes. (Penny Jordan and Janis Sneed).

RESPONSE 10-5: This permit will regulate the control and abatement of air emissions only. The ultimate use or disposition of any sand from the proposed facility is outside the scope of this review.

11. PUBLIC SUPPORT AND OPPOSITION

COMMENT 11-1: Public Support and Opposition

Commenters requested that the TCEQ deny EOG's permit request for the proposed facility. As a reason for denial, some commenters cited past violations of TCEQ rules by EOG and similar companies at other sites; these commenters stated that EOG will continue to violate TCEQ rules at the proposed facility. Holly Harris-Bayer challenged TCEQ to "do the right thing" and deny the permit application.

Several commenters expressed support for EOG's proposed facility and Permit Number 95412. Steve Thompson stated his belief that EOG will operate the proposed facility in a safe and environmentally friendly manner. Mayor Robert Fenoglio expressed his support for oil and gas companies such as EOG and the jobs and income that they bring to communities in that region. Mayor Fenoglio further expressed certainty that EOG adheres to all federal and state safety requirements, as well as reusing water and reducing emissions when possible. Commenters urged the TCEQ to approve the permit for the proposed facility without delay.

For:

(JoAnn Baker, Greg David, Brian Desmond, Robert (Tommy) Fenoglio, Jim Gray, Rex Hamilton, Gerald Hess, Lynn Hinsley, Randy Lewellen, Ricky O'Neal, Alan Spears, Steve Thompson, and Roland Whitaker, Jr.)

Against:

(Darrell Aberegg, Özlem Altiok, Darrell Balmer, Cindy Bartush, Katrinka Bartush, Mary Beth Bartush, Mike G. Bartush, William Bartush, Janice Bayer, Ryan Bayer, John Becker, Michael Dale Beckner, Cyndy and James R. Bell, Greg Bohl, Deborah Bray, Cherokee Brewer, Thomas E. Brunholtz, Nora Campbell, Ronald and Susan Chandler, Rebecca Chayrez, Todd J. Clark, Michael Clevenger, Charles D. Cospers, Stephen Mark Couger, Larry Crane, David Lee Cross,

Louis Cusato, Norman DeLamar, Charles Day, Jeff M. Deford, Mary Del Olmo, Gloria J. Dickerman, Johnny Dowd, Larry Eberhart, John Ernst, Leandro Espertino, Marianne and Robert Fazen, Carlan Jay Flatt, Cory J. Flippin, Jared Futrell, Todd Futrell, David Goss, Joe Grant, Randy Joe Gray, Bobby Grinstead, Rhelda C. Harris, William E. (Bill) Harris, Wylie Harris, David Keith Hart, Al and Margaret Heim, Melanie Herr, Keith Hoepfner, Philip Hoepfner, Robert C. Holden, Lisa A. Hulsey, Michael David Hurd, Robert W. Hyden, Jack P. Jeter, Penny Jordan, Eric Kancir, James Kingsley, Alan Dale Klossen, Albert James Knabe, Dana Knight, Jon T. Kolbensvik, Jeff Kowalski, Alice and Travis Krist, Mark Lamb, Dee Lambert, Michael Leach, Jeff Leyshon, David Loggins, Bob Luecke, Ivars Lusic, David Mark Lyles, James Allen Mann, Jr., Scotty Allen Mazzucco, Kristie McCauley, Dan and Lynne McGrew, Ashley and Devin Miller, Susan M. Miller, Keith Milyo, Denis G. and Susan Heim Moody, Kent L. Moore, Alejandro and Maria Moreno, Mary Nell Mosley, Michael Wade Myers, Neal D. Nelson, Erik Nielsen, Kathy Nielsen, Michael Ronnie Nugent, Cathy B. Otto, Tina Palmer, Pete Peach, Josh M. Peltonen, Jeffrey Petersen, Bobby Pickard, Robin Pittsley, Diane L. and Lawrence B. Rayl, Rick Reynolds, Kevin Roberts, Eric Robinson, Belinda and Mark Rogers, Larry Rousseau, Shani Rowell, Jeff Schnack, Mark F. Schubert, Robert Seloff, Kevin E. Smith, Janis Sneed, Michael Andrew Sprinkle, Kyle St. Clair, Laura Stephens, Jim Stepter, Chris C. Story, Richard Taber, John F. and Martha S. Thompson, Terry Tidmore, Deann Tidwell, Nancee Turlington, Cale Turpen, Christopher M. Twitchell, Danny W. Vardas, Tommy Vieth, Julie Renee Vogel, Tony Voth, Bruce Walker, Christina and Hymen Wallace, Craig Wermeske, Thomas West, Ralph White, Kenny L. Wiechman, Jim Wiggins, Rusty Wilson, Brian Wing, Jim Wise, and Group D)

RESPONSE 11: The TCEQ appreciates the comments and interest from the public in environmental matters before the agency and acknowledges the comments in support and opposition. The TCEQ cannot deny a permit if the applicant demonstrates that all applicable statutes, rules, and regulations will be met. Special conditions and a maximum allowable emission rates table are created to establish limits for the operation of the facility. The permit conditions are developed such that a facility that is operated within the terms and conditions of the permit should be able to operate in compliance with standards outlined in the TCAA and applicable state and federal rules and regulations.

As discussed in Response 6-8, a compliance history review of the company and the site was conducted during the technical review of the application and the compliance scores were found to be Average and Average by Default.

12. COMMENTS REGARDING THE TCEQ

COMMENT 12-1: TCEQ Funding
J'Lynn Hare asked how the TCEQ is funded.

Response 12-1: The TCEQ's biennial budget is funded from a variety of different sources at the discretion of the Legislature. The TCEQ is authorized to charge fees to recover the costs of implementing programs required by both the federal CAA and the TCAA. For more information about state agency funding see the Legislative Budget Board's website at www.lbb.state.tx.us.

COMMENT 12-2: The ED

David Keith Hart asked about the ED of the TCEQ. Specifically, Mr. Hart wanted to know whether the ED is a person or a group; if a person, the length of that person's tenure in the position, and whether the ED is an appointed or elected position. Additionally, Mr. Hart asked if the ED was the decision maker on this application.

RESPONSE 12-2: The ED is the person responsible for managing the day-to-day operations of the TCEQ. Major responsibilities include directing the operations of 17 statewide offices, implementing commission policies, making recommendations to the Commissioners about contested permitting and enforcement matters, and approving uncontested permit applications and registrations. The ED staff completed the technical review of the application and prepared the draft permit. Based on this information, the ED made a preliminary decision to issue the permit because it meets all rules and regulations. A contested case hearing has been scheduled for this application. At the close of the hearing, the Administrative Law Judge(s) will make a Proposal for Decision to the Commissioners of the TCEQ, who make the final decision on the application.

Mr. Zak Covar became the ED of the TCEQ on May 1, 2012, as approved by the commission on May 7, 2012. Mr. Covar previously served as Deputy ED and Assistant Deputy ED. Prior to his appointment to the executive office, he served as the executive assistant to TCEQ Commissioner Bryan W. Shaw, Ph.D. Additionally, Mr. Covar worked as the environmental and natural resource advisor to Governor Rick Perry from 2005 to 2007.

COMMENT 12-3: Document Availability

Penny Jordan stated she was unable to locate specific 2007 EOG records, despite requesting the information from several TCEQ staff members in several program areas.

RESPONSE 12-3: Ms. Jordan contacted the TCEQ's Fort Worth regional office to locate the 2007 records to which she referred in her comment. She was informed that the regional office did not have the staff resources to locate these records. However, the air manager of the Fort Worth regional office indicated to other agency staff at the public meeting that the region did have the 2007 records, and the response that Ms. Jordan received was inappropriate.

13. COMMENTS DIRECTED TO THE APPLICANT

COMMENT 13-1: Questions Directed to EOG

Nancee Turlington asked whether EOG owns, operates, or has an interest in any other bulk sand handling facilities, and asked where they are located. Ms. Turlington also noted that on its website, EOG states that the proposed facility incorporates state-of-the-art technology to reduce emissions. She asked whether this technology has been used at other EOG sites, the location of these sites, and whether independent air monitoring is used at these other sites. Ms. Turlington requested access to the specific monitoring information. J'Lynn Hare asked whether the proposed facility will process materials from other sites, including out-of-state sites, and who would regulate this transport. Mary Del Olmo asked how much money the proposed plant will generate annually.

Mary Del Olmo asked why EOG specifically addresses the proposed facility on its web page, and exactly how many acres were used to create the proposed facility. Sharon Wilson requested more detailed drawings and design information for the entire facility and asked about the appearance of the proposed facility. Commenters stated that EOG did not actively engage the community at the beginning of its process in developing the proposed facility, and asked why EOG is so secretive about its activities.

Street Commissioner, Greg Bohl stated that he is the street commissioner for Muenster, and requested that EOG work with him on concerns regarding truck and road use for the proposed facility. Jennifer Shiffer asked whether EOG plans to retrofit its diesel trucks to reduce the amount of emissions and noise. Commenters asked whether EOG would use either structures or 100-foot tree and vegetation abatement both to screen the proposed facility and to reduce the noise from idling trucks and other operations, and whether these abatement measures would be effective at the proposed facility's location. Commenters asked whether EOG would be willing to make a larger financial contribution for road repairs, beyond the tax revenues that EOG will already pay. Terry Fender asked what EOG will do to minimize light pollution from its proposed facility, and to ensure that truck drivers operate vehicles safely.

Commenters inquired about EOG's reasons for choosing a site for the proposed facility in which water supply is a concern, and whether the company plans to purchase water from neighboring landowners. Commenters further asked whether EOG has registered current wells at the proposed facility with the North Texas Groundwater Conservation District, and whether EOG will make the proposed facility's water use available to the public. Jennifer Shiffer asked if EOG will monitor water wells of residents who live in close proximity to any new oil/gas wells drilled in Cooke or Montague Counties.

Commenters asked what plans EOG has in place to financially compensate residents whose health is adversely affected by degraded air quality and whose wells go dry. Mary Del Olmo asked several additional questions of EOG regarding the proposed facility: who from EOG will inspect and regulate the proposed facility, and how will that person communicate with the TCEQ, EPA, and the community to ensure that standards are being met; how will this site remain a permanent facility when the sand and water supplies are depleted, and will local employees be laid off at that point; where will the sand from the proposed facility be used; what is the purpose of the white transport vans seen in the county; exactly how many jobs will be reserved for local residents; and how did EOG locate this property and choose it above others within the state.

Commenters asked whether their community could come to a contractual agreement with EOG regarding specific operating conditions for the proposed facility, such as the agreement that was made between residents and EOG at a site in Chippewa County, Wisconsin.

Commenters also asked what steps EOG will undertake to ensure that groundwater and surface water are not contaminated by process water or industrial storm water during potential spills or rain events, and what steps EOG plans to take if contamination of water sources does occur. Donald James Hammerlindl asked whether the use of brackish water, which contains salt, will harm the on-site dryer equipment, and how EOG plans to prevent this damage.

Sharon Wilson asked the following questions of EOG: how EOG will conduct training of personnel at the site regarding emission control procedures and ensure that staff adheres to procedures; specific questions regarding which parts of the operation are fully enclosed for wet and dry operations; whether EOG had considered the use of renewable energy sources for operation of the dryer; whether EOG had considered a riparian buffer around Mountain Creek; whether the company is willing to go beyond the minimum requirements of the law to monitor air and water quality; and whether EOG is willing to partner with any environmental organizations on the items mentioned.

J'Lynn Hare commented that she requested a Material Safety Data Sheet from EOG regarding silica, and had not yet received this information.

Jennifer Shiffer asked whether EOG will inform and educate employees regarding the long-term health hazards of exposure to silica. Ms. Shiffer also asked about the exact consistency of a "belt filter press" wet cake.

Jennifer Shiffer asked whether it is a conflict of interest for EOG to retain hydrologists at Collier Consultants, when the North Texas Groundwater Conservation District uses the same consultant on its Technical Committee.

(Greg Bohl, Myrna and Roy Brawner, Mary Del Olmo, Marianne and Robert Fazen, Terry Fender, Donald James Hammerlindl, J'Lynn Hare, Barry and Pat McDonald, Jennifer Shiffer, Nancee Turlington, and Sharon Wilson).

RESPONSE 13-1: These specific questions or concerns were addressed to the Applicant and are therefore included for completeness but not addressed by the ED.

CHANGES MADE IN RESPONSE TO COMMENT

No changes to the draft permit have been made in response to public comment.

Respectfully submitted,

Texas Commission on Environmental Quality

Zak Covar, Executive Director

Caroline Sweeney, Deputy Director
Office of Legal Services

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Executive Director's Response To Public Comment
EOG Resources, Inc., Permit No. 95412
Page 55 of 55

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