



April 4, 2014

Joe Thomas
TCEQ Emissions Banking and Trading Programs
MC-206
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CC: State Senator Larry Taylor

Re: Emissions Banking and Trading Stakeholder Group Issues

Dear Mr. Thomas:

Thank you for the opportunity to provide comments on the emissions banking and trading issues TCEQ is considering for future rulemaking. Our comments focus on one issue—area sources. In its presentation to stakeholders, TCEQ presents two possible changes to the current rules that allow area sources to generate ERCs:

- Adjust the rules as needed to address the difficulties associated with demonstrating how specific area source emissions are represented in the state implementation plan (SIP) and the reductions are surplus to the SIP.

Consider removing the option to generate credits from area source emission reductions.

Who We Are

Mainland Custom Marble Company (Mainland) is a family-owned small business located in Alvin, Brazoria County. We make various marble products, including (until December 2013) a cultured marble product manufactured using a styrene resin. That process is authorized in TCEQ NSR Permit No. 41682 with a VOC limit of 8.41 tpy, making us a “point source” area source under the TCEQ’s rules. Because our emissions were less than 10 tons, we were not required to submit an emissions inventory.

The cultured marble business has been hit very badly by the downturn in building associated with the 2008 recession as well as changing consumer tastes. Mainland was once one of five businesses manufacturing cultured marble in the Houston area; there are now two left. Two of our direct competitors who shut down virtually identical operations have been granted ERCs (Bonanza and Arrow Marble). Yet when we submitted our ERC application—using identical methodologies to calculate ERCs—our application was rejected because we are an area source.



We understand the importance of clean air in the Houston area. And we can understand that TCEQ may have concerns that some area sources could be closed down yet those emissions do not really leave the area—people are still putting gas in their cars or going to the dry cleaners, even if the one down the street from them shut down. But not every area source is like that. Mainland certainly is not. We are a point source for purposes of NSR permitting and our allowable emissions were known to the TCEQ. We did not write the emissions inventory reporting rules, which exclude small sources from being subject to reporting annual emissions to the Emissions Inventory group. We merely followed them. Yet because of that exclusion, we are being treated differently than our peers. Essentially, we are being penalized for being a small business—which seems to go against everything Texas is about.

TCEQ Should Not Remove the Option to Generate Credits from Area Sources

In addition to being a potentially important source of credits to aid in Houston's continued economic growth, TCEQ should recognize the importance of the money generated by the sale of ERCs to small businesses. That money would likely go right back into the Texas economy—to pay off loans, to send kids to college, and to expand into other business opportunities, which creates jobs. Small businesses should have the same opportunities to generate ERCs as larger businesses.

If the agency is concerned about program integrity and staff work load issues as we have been told, then TCEQ should write guidance that further refines how or which area sources can satisfy the emission credit requirements found in Section 101.301(c)(1). Instead of throwing up barriers to companies like us, TCEQ should be dedicating resources to determine how our emissions were "reported or represented in the SIP." Given the sheer magnitude of the area source portion of the emissions inventory (over 160,000 tons of VOC in the 2006 Emissions Inventory compared to 44,000 tons from point sources), we cannot comprehend how TCEQ can take the position that emissions that the agency knew about and permitted (at less than 9 tons per year) were not included in that total in some form or fashion. We can demonstrate what our actual emissions were; TCEQ should have some responsibility in helping us determine how they were represented in the SIP.

TCEQ Does Not Need to Adjust the Rules to Address Area Source "Difficulties"

TCEQ is seeking comment on whether adjustment to the rules are needed to address the difficulties associated with demonstrating how specific area source emissions are represented in the SIP and how the reductions are surplus to the SIP. As stated above, we believe any adjustments needed could be addressed by guidance, not by rule changes.

While it may be possible and desirable to address certain types of area sources by group in order to show that reductions associated with such sources are "surplus to the SIP," we think it is important to leave in the option for a case-by-case demonstration as is currently available. The requirement in Section 101.302(c)(1)(A) is that "reductions must be enforceable, permanent,



quantifiable, real, and surplus.” In Mainland’s case, we can demonstrate that no rules required us to reduce or eliminate our use of VOCs. That is the same requirement our competitors were subject to and the same requirement other point sources must demonstrate. Thus, we can meet the required showing that our emissions reductions are surplus.

As to the difficulties associated with demonstrating how specific area source emissions are represented in the SIP, we suggest that TCEQ review the assumptions it used in estimating area source SIP emissions, especially in instances where emissions are likely grossly overstated (to reach that 160,000 daily ton assumption) and work with appropriate categories of small businesses on determining how those sources were represented in the SIP. We think this is particularly important for companies like us—that have a permit from the TCEQ, have proven (and accepted) methodologies for calculating emissions, and are being penalized for being smaller than other companies who have been awarded ERCs. We think that is an appropriate use of staff resources and should not create undo “work load” issues for TCEQ staff.

Thank you for the opportunity to present these comments. This is a critical issue for Mainland and one we feel very strongly about.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Bertelsman', written over a horizontal line.

Kevin Bertelsman
Owner, Mainland Custom Marble Company