

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.’S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Applicant HOLCIM (US) INC. (“Holcim”) files this Response to Contested Case Hearing Requests, and in support thereof, would respectfully show the following:

I. Introduction

Holcim has applied to the Texas Commission on Environmental Quality (“TCEQ”) to amend Air Quality Permit Nos. 8996 and PSDTX454M5 to reflect the as-built construction and performance of pollution control equipment known as a Regenerative Thermal Oxidizer (“RTO”) on Line 2, one of two cement kilns at its plant in Midlothian, Texas (“Plant”). Holcim expected that an ancillary benefit of the RTO would be reduced carbon monoxide (“CO”) emissions. Holcim’s current permit limits CO emissions based on the RTO’s projected capabilities. This as-built amendment would reflect the actual performance of the RTO, which has limited CO less than projected.

Holcim is also seeking authorization to increase the amount of petroleum coke it may use to provide supplemental heat for its gas-fired Line 2 kiln. Holcim is already permitted to use petroleum coke. This amendment would remove a voluntary 30% cap on that use.

As set out in this table, Holcim has only requested to increase the limit on its annual total CO emissions for the Line 2 kiln:

	Existing (lb/hr)	Proposed (lb/hr)	Change (lb/hr)	Existing (TPY)	Proposed (TPY)	Change (TPY)
PM	385	385	-0-	292	292	-0-
PM ₁₀	385	385	-0-	292	292	-0-
PM _{2.5}	385	385	-0-	292	292	-0-
CO	1939	1939	-0-	2151.5	3556	1404.5

Holcim does not seek any change to the currently authorized annual or hourly limits on emissions of particulate matter (“PM”), including particulate matter equal to or less than 10 microns in diameter (“PM₁₀”) and particulate matter equal to or less than 2.5 microns in diameter (“PM_{2.5}”). Nor does Holcim seek to change the limit on hourly emissions of CO.

Despite the clearly minimal environmental impacts of the project, several interested persons filed requests for contested case hearings with TCEQ. All hearing requests should be denied for failure to meet the requirements set out in 30 TEX. ADMIN. CODE § 55.201, and because every requestor lives too far from the project to be affected by the proposed changes.

Holcim respectfully requests that the Commissioners deny all hearing requests, adopt the Executive Director’s Response to Public Comments and issue Air Quality Permit Nos. 8996 and PSDTX454M5.

A. Description of Project

Holcim previously installed an RTO on Line 2 to reduce organic hazardous air pollutants (“o-HAPs”) to the levels required by federal standards. This emissions reduction project has successfully achieved compliance with applicable standards for control of o-HAPs. It was also believed that the RTO would have the collateral effect of reducing emissions of CO from Line 2 on an annual basis even though the RTO was not designed for that purpose. The subsequent operation of the RTO did not in fact improve CO performance to the extent assumed. Holcim is submitting this as-built amendment to correct this assumption and reflect the as-built construction and performance of the Line 2 RTO.

Holcim is also seeking additional flexibility to fire additional fuels in Line 2. Specifically, Holcim is requesting authorization to remove a voluntary 30% cap on the use of petroleum coke to fuel the Line 2 kiln. The permit change will allow the plant to use the most economical and efficient mix of fuel consistent with other cement kilns from a currently authorized suite of fuels to continue to produce cement that is competitively priced and meets all environmental regulations. Line 2 is currently capable of handling multiple solid fuels and the change will not increase the clinker production rate at the Plant.

B. Air Quality Analysis

To support the application, Holcim’s contractor POWER Engineers (“POWER”) performed air dispersion modeling to determine the maximum off-property impacts of the combined air contaminants to be emitted from the proposed changes at the Plant.¹ As set out in the affidavit of Thomas I. Sullivan, attached as Exhibit 1, POWER’s analysis demonstrates that emissions from the changes at the Plant will not violate any applicable air quality standard, nor cause or contribute to an adverse impact on human health or physical property. TCEQ concurred with POWER’s analysis and conclusions in its Preliminary Determination Summary, attached as Exhibit 1-A.

Only annual emissions of CO are expected to increase above currently authorized levels as a result of the application.² No increase in hourly CO emissions is requested. Additionally, no

¹ Exhibit 1, Affidavit of Thomas I. Sullivan, P.E.

² *Id.*

increase in the existing annual or hourly PM₁₀ and PM_{2.5} emission limits are requested with this amendment.³ Nevertheless, a Prevention of Significant Deterioration (“PSD”) applicability analysis required the modeling review of CO as well as PM₁₀, and PM_{2.5} emissions to determine if they had the potential for a significant impact upon the area surrounding the Plant.⁴

The analysis demonstrates that proposed emissions of PSD pollutants from the proposed project will not cause or contribute to a violation of any applicable National Ambient Air Quality Standard (“NAAQS”), violation of a PSD increment, or have adverse effects on soils, vegetation or Class I areas.⁵ The NAAQS are federal standards that protect public health and welfare, including protecting the health of sensitive populations such as asthmatics, children, and the elderly, and no adverse impacts are expected to occur for air concentrations at or below the NAAQS.⁶

POWER compared ground level concentrations associated with hourly CO and annual and hourly PM₁₀, and PM_{2.5} emissions increases to their respective Significant Impact Levels (“SILs”).⁷ The U.S. Environmental Protection Agency considers SILs as *de minimis* screening levels below which additional analysis is not required to demonstrate that a proposed emissions increase will not cause or contribute to an exceedance of the NAAQS.⁸ SILs are not health-based standards and areas with impacts above a SIL but below the NAAQS do not indicate areas where adverse health impacts would be expected.⁹ POWER determined that off-property impacts from the proposed emissions increases of CO and PM₁₀ were below their respective SILs at all offsite receptors.¹⁰ Therefore, the proposed changes will not cause or contribute to an exceedance of the CO or PM₁₀ NAAQS and a full impacts NAAQS analysis for CO or PM₁₀ was not required.¹¹ The results of the SIL analysis is set out below:

Pollutant	Averaging Time	GLC _{max} (µg/m ³)	De Minimis (µg/m ³)
CO	1-hr	548	2000
CO	8-hr	306	500
PM ₁₀	24-hr	3	5
PM ₁₀	Annual	0.4	1
PM _{2.5}	24-hr	2.2	1.2
PM _{2.5}	Annual	0.3	0.2

Because the modeling results indicated that predicted concentrations of 24-hour and annual PM_{2.5} exceed their respective *de minimis* concentrations, POWER conducted a full NAAQS impacts analysis.¹² The full NAAQS modeling results indicated that, including conservatively selected representative background concentrations and contributions from offsite emission

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

sources, the total concentrations of 24-hour and annual PM_{2.5} were predicted to be below the NAAQS.¹³ The results of the full NAAQS analysis are below:

Pollutant	Averaging Time	GLC _{max} (µg/m ³)	Background (µg/m ³)	Total Conc. = [Background + GLC _{max}] (µg/m ³)	Standard (µg/m ³)
PM _{2.5}	24-hr	11.9	19.6	31.5	35
PM _{2.5}	Annual	2.7	8.7	11.4	12

POWER also conducted a PSD increment analysis for PM_{2.5}.¹⁴ A PSD increment is the maximum increase in ambient concentrations allowed to occur above a baseline concentration for a pollutant.¹⁵ The PM_{2.5} increment analysis concluded that new emissions will not cause or contribute to an exceedance of the PM_{2.5} 24-hour or annual increments.¹⁶ POWER also performed a PSD additional impacts analysis consisting of a growth analysis, a soil and vegetation analysis, a visibility impairment analysis, and a PSD Class I area impact analysis, each of which confirmed that emissions from the proposed changes will not result in harmful effects.¹⁷

II. Procedural Background

TCEQ received Holcim’s permit amendment application on June 3, 2019 and declared the application administratively complete on June 13, 2019.

The Notice of Receipt of Application and Intent to Obtain Air Permit (“NORI”) for the application was published in English on June 27, 2019 in the *Midlothian Mirror* and in Spanish on July 24, 2019 in *La Prensa Comunidad*. The NORI contained clear and specific instructions for public participation, including how to request a contested case hearing on the application.

The Notice of Application and Preliminary Decision (“NAPD”) and notice of public meeting were published in English on August 6, 2020 in the *Midlothian Mirror*, and in Spanish on August 11, 2020 in *La Prensa Comunidad*. Like the NORI, the NAPD also contained clear instructions on how to request a contested case hearing. TCEQ held a public meeting online on August 27, 2020.

The Executive Director issued his Response to Public Comment (“RTC”) on October 20, 2020 and rendered his final decision that the application met the requirements of applicable law on October 28, 2020. The RTC addressed all possible relevant and material concerns identified by those requesting a contested case hearing.

On January 29, 2021, the TCEQ Chief Clerk announced that all timely filed hearing requests will be considered by the Commissioners on March 10, 2021. Holcim hereby provides its response in accordance with Commission rules.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

III. Hearing Requests Should Be Denied for Failure to Comply with the TCEQ's Rules

Under TCEQ regulations, to be granted a contested case hearing, an affected person must “request a contested case hearing,”¹⁸ and that request must be timely.¹⁹ The elements of a valid contested case hearing request are set out at 30 TEX. ADMIN. CODE § 55.201(d):

A hearing request must substantially comply with the following:

(1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;

(2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

(3) request a contested case hearing;

(4) for applications filed: ...

(B) on or after September 1, 2015, list all relevant and material disputed issues of fact that were raised by the requestor during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's responses to the requestor's comments that the requestor disputes, the factual basis of the dispute, and list any disputed issues of law; and

(5) provide any other information specified in the public notice of application.

The rules do not provide a cure period or other opportunity to correct deficient hearing requests.

In addition, a hearing request must identify all relevant and material disputed issues of fact or mixed questions of law and fact that form the basis of the request for a contested case hearing. The Commission may not refer an issue to SOAH for a contested case hearing unless the Commission determines that the issue:

1. involves a disputed question of fact or a mixed question of law and fact;

¹⁸ 30 TEX. ADMIN. CODE § 55.201(d)(3).

¹⁹ 30 TEX. ADMIN. CODE § 55.211(c)(2).

2. was raised during the public comment period, and, for applications filed on or after September 1, 2015, was raised in a comment made by an affected person whose request is granted; and
3. is relevant and material to the decision on the application.²⁰

Requests by Josh Abelson, Susan Alford, Theresa Branum, Monte Carroll, Tawnya Clardy, Erica Condori, Jeralynn Cox, Amy Cuffin, Nikki Fannin, Candice Hale, Michael Hart, Sarah Ingram, Marsha Kiss, Melissa Koehler, Kristina Leos, James Majors, Lynda Martinez, Ashley McClellan, Jeffrey Millet, Michelle Mitchell, Sergio Montalvo, Katherine Montgomery, John George Opolka, Kimberly Palmer, David Parsons, Cheryl Powers, Jeff Provost, Shae Ray, Abigail Slye, Catherine Smith, Valerie Valliereboyd, and Jean Vogler fail to comply with Section 55.201(d)(2) because they do not identify a personal justiciable interest not common to the general public that would be affected by the proposed changes.

Compliance with Section 55.201(d)(2) is essential, because the Texas Clean Air Act and Texas Water Code allow only an “affected person” the opportunity to request a hearing on air permit amendment applications.²¹ The Texas Legislature has narrowly defined the universe of “affected persons” who may validly demand that a contested case hearing be held by or on behalf of the Commission. Only those persons who have “a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing” may be granted a hearing.²² “An interest common to members of the general public does not qualify as a personal justiciable interest.”²³

None of the persons listed above identified a personal justiciable interest affected by the application. Most of the hearing requests were short statements, even a single sentence, requesting an opportunity for public input on the application generally. Many of the requestors did not identify any concerns with the facility at all. For example, Amy Cuffin wrote, “Request a hearing regarding proposed changes at Holcim cement plant.”²⁴ Susan Alford wrote, “All in on hearing why????”²⁵ Others wanted an opportunity to hear directly from Holcim about the proposed changes. For example, Candice Hale wrote, “Please allow a public hearing so that Holcim can explain to our citizens why this increase is necessary.”²⁶ The public meeting on August 27, 2020 provided community members an opportunity to voice their concerns and hear directly from both TCEQ and Holcim about the permit amendment application.

Other requestors discussed generalized concerns about air quality common to members of the general public. For example, Shae Ray wrote that he was, “requesting a public hearing based on the permit request and concerns for air quality for the citizens and future citizens in the city if this is allowed.”²⁷ The health and safety of the citizenry at large is protected by the TCEQ through its permit application review process. General concerns about air quality now and in the future

²⁰ 30 TEX. ADMIN. CODE § 50.115(c).

²¹ See TEX. HEALTH & SAFETY CODE § 382.056; TEX. WATER CODE § § 5.556; 5.115.

²² TEX. WATER CODE § 5.115(a).

²³ *Id.*; see also *Collins v. Texas Natural Res. Conservation Comm’n*, 94 S.W.3d 876, 882-83 (Tex.App.—Austin 2002, no pet.).

²⁴ Exhibit 2, Request of Amy Cuffin.

²⁵ Exhibit 3, Request of Susan Alford.

²⁶ Exhibit 4, Request of Candice Hale.

²⁷ Exhibit 5, Request of Shae Ray.

are not a personal justiciable interest and cannot support a request for a contested case hearing. And having failed to identify a personal justiciable interest, these requestors also fail to identify any relevant and material disputed issues of fact or mixed questions of law and fact that form the basis of the request for a contested case hearing.

The Commission should require adherence to its clear and specific instructions, particularly given the extraordinary burdens associated with contested case hearings in Texas. Contested case hearings are formal, resource-intensive legal proceedings that resemble a trial in district court. They require many months to resolve, at substantial expense and delay to the applicant. The prospect of undergoing a contested case hearing can be a powerful deterrent to companies considering new operations or expanding existing operations in Texas; limiting economic development in this state. Contested case hearings should not be taken lightly, and the Commission should always require a would-be requester to comply with its very clear instructions regarding how to request a contested case hearing.

IV. Hearing Requestors Are Not “Affected Persons” and Are Therefore Not Entitled to a Contested Case Hearing

As noted *supra.*, the Texas Clean Air Act allows only an “affected person” the opportunity to request a hearing on air permit amendment applications.²⁸ Pursuant to the express requirements of Section 5.115 of the Texas Water Code, the TCEQ adopted rules specifying the factors that must be considered in determining whether a person is an affected person. Those factors are:

1. whether the interest claimed is one protected by the law under which the application will be considered;
2. distance restrictions or other limitations imposed by law on the affected interest;
3. whether a reasonable relationship exists between the interest claimed and the activity regulated;
4. likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
5. likely impact of the regulated activity on use of the impacted natural resource by the person;
6. for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
7. for governmental entities, their statutory authority over or interest in the issues relevant to the application.²⁹

²⁸ See TEX. HEALTH & SAFETY CODE § 382.056; TEX. WATER CODE § § 5.556; 5.115.

²⁹ 30 TEX. ADMIN. CODE § 55.203(c).

In addition, the Commission may consider additional factors in determining whether a person is an affected person:

1. the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
2. the analysis and opinions of the executive director; and
3. any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.³⁰

In considering evidence to apply the above factors to a given request, the Third Court of Appeals explained that TCEQ “enjoys the discretion to weigh and resolve matters that may go to the merits of the underlying application, including the likely impact the regulated activity . . . will have on the health, safety, and use of property by the hearing requestor and on the use of natural resources.”³¹ TCEQ’s application of the factors described above “may include reference to the permit application, attached expert reports, the analysis and opinions of professionals on its staff, and any reports, opinions, and data it has before it” and specifically may include air modeling reports.³² In making these determinations, the court was applying the Texas Supreme Court’s 2013 decision in *Texas Commission on Environmental Quality v. City of Waco*, which affirmed TCEQ’s discretion to rely on such information in making an affected person determination.³³

Distance of the requester from the emissions source is a relevant consideration in determining whether a requester has a personal justiciable interest unique from that of the general public.³⁴ The Commission has evaluated proximity in numerous cases based on TCEQ’s experience in determining whether a requester is impacted in a manner not common to the general public.³⁵ The Executive Director has routinely advocated for a one-mile limit.³⁶ In evaluating proximity, the appropriate point of reference for the emissions receptor is the requester’s place of residence, not the requester’s property line.³⁷

³⁰ *Id.* at § 55.203(d).

³¹ *Sierra Club v. Tex. Comm’n on Env’tl. Quality*, 455 S.W.3d 214, 223 (Tex. App.—Austin 2014, pet. denied).

³² *See id.*

³³ *See Tex. Comm’n on Env’tl. Quality v. City of Waco*, 413 S.W.3d 409, 420-21 (Tex. 2013).

³⁴ 30 TEX. ADMIN. CODE § 55.251(c)(2); *see also Sierra Club v. Tex. Comm’n on Env’tl. Quality* 455 S.W.3d 214, 224; *Collins v. Tex. Natural Res. Conservation Comm’n*, 94 S.W.3d 876, 882-83 (Tex.App.—Austin 2002, no pet.)

³⁵ *See, e.g.*, Executive Director’s Response to Hearing Requests, *In re Indeck Wharton, LLC, Indeck Wharton Energy Center, Danevang, Wharton County*, TCEQ Docket No. 2014-0847-AIR (Dec. 29, 2014).

³⁶ *See, e.g.*, Executive Director’s Response to Hearing Requests, *In re Regency Field Services, LLC*, TCEQ Docket No. 2010-0843-AIR at 8 (stating that “distance from the proposed facility is key to the issue whether or not there is likely impact of the regulated activity on a person’s interests (such as the health and safety of the person) and on the use of property of the person” and that the “Executive Director has generally determined that hearing requestors who reside greater than one mile from the facility are not likely to be impacted differently than any other member of the general public”); *see also* Executive Director’s Response to Hearing Request, *TPCO America Corporation*, TCEQ Docket No. 2010-0280-AIR at 5 (stating that the Executive Director “considers persons residing more than one mile from the proposed facility to be unlikely to be impacted differently from the general public.”).

³⁷ *See Collins*, 94 S.W.3d at 880-83 (affirming Commission determination that a requester was not an affected person in large part because he lived 1.3 miles from the applicant, although his property was only 590 feet away).

All of the requestors live more than one mile from the Holcim Line 2 kiln (“EPN 62*”) and therefore are too far from the facility to be deemed “affected persons.” POWER prepared an analysis and mapping regarding the requestors’ residences in relation to EPN 62*.³⁸ Exhibits 1-B and 1-C to the Affidavit of Thomas I. Sullivan demonstrate that all of the requestors live more than one mile from EPN 62*. All but six requestors live more than two miles from EPN 62*. While the Plant fenceline may extend closer to the requestors’ residences, there are no emissions in this large buffer area, whether affected by the proposed changes or otherwise associated with the Plant. Given their substantial distance from the emissions source, none of the requestors will be adversely affected by the proposed changes. This fact is further supported by the Air Quality Impacts Analysis, discussed herein, which demonstrated that emissions will meet applicable NAAQS designed to protect human health and safety. Accordingly, all requests for contested case hearing should be denied.

Of particular note is the hearing request of the group Downwinders at Risk. A group or association may only participate in a contested case hearing if four requirements are met:

- 1) comments on the application are timely submitted by the group or association;
- 2) the request identifies, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right;
- 3) the interests the group or association seeks to protect are germane to the organization's purpose; and
- 4) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.”³⁹

In support of its hearing request, Downwinders at Risk only identifies one of its members by name who may have standing to request a hearing in her own right: Ms. Sue Pope.⁴⁰ Downwinders at Risk claims that Ms. Pope’s residence is “9/10’s of a mile north [of the Plant’s property] at 476 Hidden Valley Trail Midlothian, Texas, 75104.”⁴¹ An internet map search of that address does not yield a direct hit, instead showing properties on Hidden Valley Lane, a street several miles from the Plant and without 400-block addresses. POWER has determined from Ellis County Appraisal District records that Ms. Pope may have a property interest in a series of small parcels that are identified by a yellow block on Exhibits 1-B and 1-C. POWER calculated that these parcels are three miles away from EPN 62*.

While three miles could possibly be overcome by a requester who can show a particularized adverse impact, Downwinders at Risk has not pled that Ms. Pope will be adversely affected in a way different from the general public. Instead, the group requests a hearing “on behalf of elderly residents *like Ms. Pope*, as well as children living adjacent to, or in close proximity of, or immediately downwind of Holcim’s Midlothian cement plant whose health is more sensitive than the population as a whole,” and those “with pre-existing respiratory problems and illness, such as

³⁸ See Map, Exhibit 1-B to the Affidavit of Thomas I. Sullivan.

³⁹ 30 TEX. ADMIN. CODE § 55.205(b).

⁴⁰ Dr. Laura T. Hunt mentions Ms. Pope, but does not claim her as a member of her group Midlothian Breathe.

⁴¹ Exhibit 6, Comments of Downwinders at Risk, p. 1.

asthmatics, and those with compromised immune systems.”⁴² Downwinders at Risk does not identify any way in which Ms. Pope herself will be particularly affected by the proposed changes at the Plant. TCEQ’s rules require that for a group to have standing, an individual group member must “have standing to request a hearing in their own right.”⁴³ Absent an explanation of how Ms. Pope will be personally affected by the proposed changes in her own right, Downwinders at Risk cannot claim standing for itself.

This is not the first time that Ms. Pope has sought a contested case hearing regarding the Line 2 kiln at the Plant. In 2015, Ms. Pope challenged the permit amendment required for the installation of the RTO in the Line 2 kiln. There, the TCEQ found that she was not an affected person, after both Holcim and the Executive Director argued that her distance from the emissions source meant she was not likely to be impacted differently than any other member of the general public.⁴⁴ There is no indication that Ms. Pope has moved any closer to the Line 2 kiln since 2015.

The reason that distance is a relevant consideration is the way air emissions disperse from a facility. As air contaminants travel further from an emissions point, they tend to dissipate more and more. The further a person’s residence is from the facility, the fewer contaminants will reach them, and in lesser concentrations.

As set out above, TCEQ staff concluded that emissions from the proposed changes will be well below their respective federal standards at the Plant’s property line. As the contaminants travel beyond that property line, they will continue to dissipate, reaching levels orders of magnitude below the applicable standards. The hearing requestors, who reside miles beyond the property line, cannot demonstrate that they will be adversely affected by such emissions.

To give one example: PM_{2.5} emissions are the only emissions predicted to be above applicable SILs.⁴⁵ Modeling receptors that register predicted emissions above an applicable SIL define the bounds of a project’s “Area of Impact,” and are the locations modeled for a full NAAQS analysis.⁴⁶ By definition, maximum modeled impacts outside the Area of Impact are all below the SIL and considered *de minimis* by the U.S. Environmental Protection Agency.⁴⁷ No hearing requestor’s residence falls within the Area of Impact from EPN 62*, meaning PM_{2.5} emissions near each of the hearing requestors’ residences will be *de minimis*.⁴⁸ As such, predicted emissions of all modeled pollutants, PM_{2.5}, PM₁₀, and CO, will be *de minimis* in these areas, mere fractions of the federal NAAQS standards that are protective of human health and the environment. Given these modeling results, the Commission should not find that any of the hearing requestors are affected persons.

⁴² Exhibit 6, Comments of Downwinders at Risk, pp. 2-3 (emphasis added).

⁴³ 30 TEX. ADMIN. CODE § 55.205(b)(2).

⁴⁴ Exhibits 7 and 8, Final Order, TCEQ Docket No. 2015-0460-AIR, Holcim (Texas) Limited Partnership, Permit Nos. 8996 & PSDTX454M4; Executive Director’s Response to Hearing Requests, TCEQ Docket No. 2015-0460-AIR, Holcim (Texas) Limited Partnership, Permit Nos. 8996 & PSDTX454M4.

⁴⁵ Exhibit 1, Affidavit of Thomas I. Sullivan, P.E.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

V. Conclusion and Prayer

For the reasons articulated above, Holcim respectfully requests that the Commission deny any and all contested case hearing requests, adopt the Executive Director's Response to Public Comments and issue Air Quality Permit Nos. 8996 and PSDTX454M5.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Derek McDonald', is written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Holcim (US) Inc.'s Response to Contested Case Hearing Requests has been served on the following counsel/persons by regular U.S. Mail or, with the Chief Clerk, by electronic service on this 12th day of February, 2021.

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3641 Waters Edge Dr
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Michael Hart
1970
5214 Kelly Hill Dr
Arlington, TX 76017-2271

Dr. Laura T Hunt
2941 American Sparrow Dr
Midlothian, TX 76065-1787

Sarah Elizabeth Ingram
3022 Glenview Dr
Midlothian, TX 76065-2046

Marsha Kiss
6440 Jasper Cir
Midlothian, TX 76065-2269

Melissa Koehler
4006 Arbor Grove Trl
Midlothian, TX 76065-1788

Kristina Leos
2217 Woodlands Cir
Midlothian, TX 76065-6623

James Majors
461 Hillstone Dr
Midlothian, TX 76065-1309

Lynda Martinez
1921 Duncanville Rd
Ovilla, TX 75154-1472

Ashley McClellan
928 Skyview Dr
Midlothian, TX 76065-2347

Jeffrey Millet
Holmes Millet
6881 Montgomery Rd
Midlothian, TX 76065-4829

Michelle Mitchell
6165 Sudbury Dr
Dallas, TX 75214-2330

Sergio Montalvo
4005 Pecan Grove Dr
Midlothian, TX 76065-2232

Valerie Valliereboyd
2830 Ken Ct
Midlothian, TX 76065-6610

Katherine Montgomery
6880 Shiloh Rd
Midlothian, TX 76065-4843

Jean Vogler
2745 Wood Lake Dr
Cedar Hill, TX 75104-4526

Mr. John George Opolka
430 S Walnut Grove Rd
Midlothian, TX 76065-6206

Mrs. Kimberly Palmer
6031 Quartz Cir
Midlothian, TX 76065-2234



Patrick Leahy

David Parsons
5317 McCommas Blvd
Dallas, TX 75206-5623

Cheryl Powers
6481 Fussen Trl
Midlothian, TX 76065-4895

Jeff Provost
1511 Wagon Wheel Ct
Midlothian, TX 76065-7420

Shae A Ray
1325 Yukon Dr
Midlothian, TX 76065-3806

Mr. Jim Edward Schermbeck
Downwinders At Risk Education Fund
1808 S Good Latimer Expy
Ste 202
Dallas, TX 75226-2202

Abigail Slye
434 Salt Cedar Dr
Midlothian, TX 76065-2239

Catherine Smith
931 High Point Dr
Midlothian, TX 76065-5861

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 1

TCEQ DOCKET NO. 2021-0051-AIR

**APPLICATION BY
HOLCIM (US) INC.
FOR AIR QUALITY PERMIT
NOS. 8996 AND PSDTX454M5**

§
§
§
§
§

**BEFORE THE TEXAS COMMISSION

ON

ENVIRONMENTAL QUALITY**

AFFIDAVIT OF THOMAS I. SULLIVAN, P.E.

STATE OF TEXAS §
COUNTY OF TRAVIS §

Before me, the undersigned Notary Public in and for the State of Texas, personally appeared Thomas I. Sullivan, P.E., the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. My name is Thomas I. Sullivan. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts in this affidavit are within my personal knowledge and are true and correct.
2. I am a Client Services Manager with POWER Engineers (“POWER”). My experience includes more than 24 years of work in the field of air quality, including experience with air permitting, air quality evaluations, air dispersion modeling, and regulatory compliance support. I am a registered Professional Engineer in the state of Texas. The use of “POWER” in this affidavit may include POWER and any subconsultants that performed work on behalf of POWER.
3. I have prepared this affidavit in support of Applicant Holcim (US) Inc.’s (“Holcim’s”) Response to Contested Case Hearing Request on its air quality permit application (which I will refer to as the “application”) to reflect the as-built construction and performance of its Regenerative Thermal Oxidizer (“RTO”) on Line 2 and provide fuel flexibility at its Portland cement plant in Midlothian, Ellis County, Texas (the “Plant”).
4. As part of the application, POWER performed air dispersion modeling in support of the air quality impacts review. Accordingly, under my direction, POWER performed air dispersion modeling to determine the maximum off-property impacts (i.e. ground level airborne concentrations) of the combined air contaminants to be emitted from the proposed changes at the Plant.
5. The air dispersion modeling analysis that POWER performed is summarized in a February 2020 report with revisions and addendums that was submitted to TCEQ in support of the air permit application (the “Air Quality Analysis”). The purpose of the Air Quality Analysis was to demonstrate that emissions from the changes at the Plant will not violate any applicable air quality standard nor cause or contribute to an adverse impact on human health or physical property. Specifically, the Air Quality Analysis demonstrates that

proposed emissions of Prevention of Significant Deterioration (“PSD”) pollutants from the proposed project will not cause or contribute to a violation any applicable National Ambient Air Quality Standard (“NAAQS”), violation of a PSD increment, or have adverse effects on soils, vegetation or Class I areas. The NAAQS are federal standards that protect public health and welfare, including protecting the health of “sensitive” populations such as asthmatics, children, and the elderly, and no adverse impacts are expected to occur for air concentrations at or below the NAAQS. TCEQ concurred with POWER’s analysis and conclusions in its Preliminary Determination Summary. The Preliminary Determination Summary is attached as Exhibit 1-A.

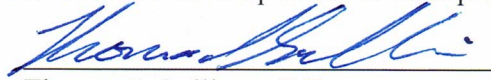
6. A PSD applicability analysis triggered the modeling review of carbon monoxide (“CO”), particulate matter equal to or less than 10 microns in diameter (“PM₁₀”) and particulate matter equal to or less than 2.5 microns in diameter (“PM_{2.5}”) as part of this amendment. For the PSD air quality modeling analysis, POWER evaluated emissions of CO, PM₁₀, and PM_{2.5} to determine if they had the potential for a significant impact upon the area surrounding the Plant. Only emissions of CO are expected to result in an increase in currently authorized levels as a result of the application. No increase in the existing PM₁₀ and PM_{2.5} emission limits are requested with this amendment to Air Quality Permit Nos. 8996 and PSDTX454M5.
7. POWER compared ground level concentrations associated with hourly CO and annual and hourly PM₁₀, and PM_{2.5} emissions increases to their respective Significant Impact Levels (“SILs”). The U.S. Environmental Protection Agency considers SILs to be *de minimis* screening levels below which additional analysis is not required to demonstrate that a proposed emissions increase will not cause or contribute to an exceedance of the NAAQS. SILs are not health-based standards and areas with impacts above a SIL but below the NAAQS do not indicate areas where adverse health impacts would be expected. POWER determined that off-property impacts from the proposed emissions increases of CO and PM₁₀ were below their respective SILs at all offsite receptors. Therefore, the proposed changes will not cause or contribute to an exceedance of the CO or PM₁₀ NAAQS and a full impacts NAAQS analysis for CO or PM₁₀ was not required.
8. Because the significance analysis modeling results indicated that predicted concentrations of 24-hour and annual PM_{2.5} exceed their respective *de minimis* concentrations, POWER conducted a full NAAQS impacts analysis. The full NAAQS modeling results indicated that, including conservatively selected representative background concentrations and contributions from offsite emission sources, the total concentrations of 24-hour and annual PM_{2.5} were predicted to be below the NAAQS.
9. POWER also conducted a PSD increment analysis for PM_{2.5}. A PSD increment is the maximum increase in ambient concentrations allowed to occur above a baseline concentration for a pollutant. The PM_{2.5} increment analysis concluded that new emissions will not cause or contribute to an exceedance of the PM_{2.5} 24-hour or annual increments.
10. POWER performed a PSD additional impacts analysis consisting of a growth analysis, a soil and vegetation analysis, a visibility impairment analysis, and a PSD Class I area impact analysis. The growth analysis considered associated industrial, commercial, and

residential growth that could occur in the area of impact due to the proposed changes. POWER concluded that adverse impacts from this project are not expected. The soils and vegetation analysis considered secondary NAAQS impacts to soil and vegetation that may not be sufficiently protected by the primary NAAQS standards. POWER concluded that because ambient air concentrations are less than the secondary NAAQS, emissions from the proposed changes will not result in harmful effects to either soil or vegetation. The visibility impairment analysis determined that Holcim will comply with the visibility and opacity requirements in 30 Texas Administrative Code Chapter 111, which satisfies visibility impairment analysis requirements for Class II areas. Finally, POWER assessed possible impacts in Class I areas, concluding that the project will not adversely affect any Class I areas.

11. The air quality modeling analysis reflected in the Air Quality Analysis was conservative for two reasons. First, the federal and state standards themselves are set at very conservative levels. Second, POWER's analysis assumed increases in PM₁₀ and PM_{2.5} even though emissions will not exceed levels that were already authorized and found to be protective. Third, POWER's analysis likely over-predicted levels of air contaminants that could actually occur, given that the modeling was based on the assumption that maximum emissions would occur simultaneously with those hours in which meteorological conditions least favor the dispersion of air contaminants.
12. Under my direction, POWER subsequently performed additional analysis to corroborate that persons who have requested a contested case hearing would not be adversely impacted by emissions from the project at their residences.
13. The map at Exhibit 1-B shows the address identified by each person who requested a contested case hearing, as well as Downwinders at Risk representative Sue Pope,¹ in relation to the Holcim Line 2 kiln ("EPN 62*"). The background imagery of the map was obtained from Environmental Systems Research Institute. POWER plotted the residential address provided by each hearing requestor, as well as Ms. Pope's property, on the map and measured from that location to EPN 62*. As the map demonstrates, no hearing requestor lives closer than 1.31 miles from EPN 62*. Exhibit 1-C reproduces the same information but omits those requestors' residences that are even more distant from EPN 62*.
14. POWER also compared the location of each requestor's residence to the "Area of Impact" of predicted PM_{2.5} emissions from the proposed changes to the Plant. A project's "Area of Impact" is defined by those modeled receptors where modeled emissions are predicted to be above the SIL, and is the area required to be modeled for a full NAAQS analysis, including impacts from onsite and offsite sources. Maximum modeled impacts outside the Area of Impact are all below the SIL and considered to be *de minimis* by the U.S. Environmental Protection Agency. POWER's review showed that no hearing requestor's

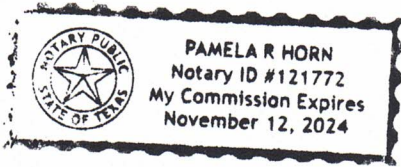
¹ The address that Downwinders at Risk provided on behalf of Ms. Pope does not appear on readily available maps. However, POWER determined from Ellis County Appraisal District records that Ms. Pope likely resides within the yellow block shown on the map. The property under the yellow block is owned by at least two trusts that appear affiliated with Ms. Pope. Ellis County Appraisal District records show that Ms. Pope's residence is three miles from Emissions Point Number ("EPN") 62*.

residence falls within the Area of Impact from EPN 62*. Accordingly, there will be no adverse impacts from the proposed changes at the Plant to the requestors or their properties.



Thomas I. Sullivan, P.E.

Sworn and subscribed before me by Thomas I. Sullivan, P.E. on this 12th day of February, 2021.





Notary Public in and for the State of Texas

My commission expires: NOV. 12, 2024

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 1-A

AFFIDAVIT OF THOMAS I. SULLIVAN, P.E.
EXHIBIT 1-A

Preliminary Determination Summary

Holcim (Us) Inc.

Permit Numbers 8996 and PSDTX454M5

I. Applicant

Holcim Us Inc
1800 Dove Ln
Midlothian, TX 76065-4435

II. Project Location

Portland Cement Plant
1800 Dove Ln
Ellis County
Midlothian, Texas 76065

III. Project Description

Holcim submitted an expedited amendment application to reflect the as-built construction and performance of the Line 2 Regenerative Thermal Oxidizer (RTO). Holcim is also seeking additional fuel flexibility for Line 2, requesting authorization for complete replacement of coal with petroleum coke in the Line 2 kiln. Additionally, Holcim proposes refinements in emission calculation methodologies and changes to optimize combustion in the Line 2 kiln. Maintenance, startup, and shutdown (MSS) is authorized by this permit.

IV. Emissions

Air Contaminant	Proposed Allowable Emission Rates (tpy)
PM	781.58
PM ₁₀	756.61
PM _{2.5}	617.66
CO	7197.06

V. Federal Applicability

The following chart illustrates the annual project emissions for each pollutant and whether this pollutant triggers PSD or Nonattainment (NA) review.

Pollutant	Project Emissions (tpy)	Major Mod Trigger (tpy)	NA Triggered Y/N	PSD Triggered Y/N
CO	4,260	100	N	Y
PM	198.78	25	N	Y
PM ₁₀	198.78	15	N	Y
PM _{2.5}	198.78	10	N	Y

Pollutant	Project Increase (tpy) ¹	NA Netting Trigger (tpy)	PSD Netting Trigger (tpy)	Netting Required Y/N	Net Emission Change (tpy) ²	Major Mod Trigger (tpy)	PSD Triggered Y/N	NA Triggered Y/N
CO	4,260	N/A	100	Y	198.78	100	Y	N
PM	198.78	N/A	25	Y	198.78	25	Y	N
PM ₁₀	198.78	N/A	15	Y	198.78	15	Y	N
PM _{2.5} ⁴	198.78	N/A	10	Y	4260	10	Y	N

- ¹ Project Increases: Comparison of Baseline Actual to PTE (or Projected Actual) Increases only
- ² Net Emissions: Baseline Actual to PTE (or Projected Actual) for the project currently under review, Baseline Actual to PTE for all other increases and decreases within netting window.
- ³ Ozone precursor. Either pollutant precursor can trigger BACT/LAER and impacts analysis, as applicable.
- ⁴ Use PM₁₀ emissions only if PM_{2.5} emissions cannot be quantified or estimated. (PM_{2.5} Implementation Plan).

VI. Control Technology Review

Source Name	EPN	Best Available Control Technology Description
Cement Kiln 1		CO: Annual limit of 5.33 lb/ton clinker and good combustion practices; operation of the kiln and existing

Source Name	EPN	Best Available Control Technology Description
		TO at appropriate oxygen range and temperature to promote complete combustion and minimize CO formation.
Cement Kiln 2		CO: Annual limit of 5.33 lb/ton clinker and good combustion practices; operation of the kiln and existing TO at appropriate oxygen range and temperature to promote complete combustion and minimize CO formation. PM/PM ₁₀ /PM _{2.5} : Existing baghouse/fabric filter and wet scrubber with an annual limit of 0.44 lb total PM/PM ₁₀ /PM _{2.5} per ton clinker

VII. Air Quality Analysis

The air quality analysis (AQA) is acceptable for all review types and pollutants. The results are summarized below.

A. De Minimis Analysis

A De Minimis analysis was initially conducted to determine if a full impacts analysis would be required. The De Minimis analysis modeling results indicate that 24-hr and annual PM_{2.5} exceed the respective de minimis concentrations and require a full impacts analysis. The De Minimis analysis modeling results for 24-hr PM₁₀ and 1-hr and 8-hr CO indicate that the project is below the respective de minimis concentrations and no further analysis is required.

The PM_{2.5} De Minimis levels are the EPA recommended De Minimis levels. The use of the EPA recommended De Minimis levels is sufficient to conclude that a proposed source will not cause or contribute to a violation of a PM_{2.5} NAAQS or PM_{2.5} PSD increments based on the analyses documented in EPA guidance and policy memoranda¹.

While the De Minimis levels for both the NAAQS and increment are identical for PM_{2.5} in the table below, the procedures to determine significance (that is, predicted concentrations to compare to the De Minimis levels) are different. This difference occurs because the NAAQS for PM_{2.5} are statistically-based, but the corresponding increments are exceedance-based.

Since the project does not emit either precursor pollutant that leads to the formation of secondary PM_{2.5} (NO_x and SO₂), secondary contributions of PM_{2.5} are not expected.

¹ www.tceq.texas.gov/permitting/air/modeling/epa-mod-guidance.html

Table 1. Modeling Results for PSD De Minimis Analysis in Micrograms Per Cubic Meter ($\mu\text{g}/\text{m}^3$)

Pollutant	Averaging Time	GLCmax ($\mu\text{g}/\text{m}^3$)	De Minimis ($\mu\text{g}/\text{m}^3$)
PM ₁₀	24-hr	3	5
PM ₁₀	Annual	0.4	1
PM _{2.5} (NAAQS)	24-hr	2.2	1.2
PM _{2.5} (NAAQS)	Annual	0.3	0.2
PM _{2.5} (Increment)	24-hr	2.7	1.2
PM _{2.5} (Increment)	Annual	0.4	0.2
CO	1-hr	548	2000
CO	8-hr	306	500

The 24-hr and annual PM_{2.5} (NAAQS) are based on the highest five-year averages of the maximum predicted concentrations determined for each receptor.

The GLCmax for all other pollutants and averaging times represent the maximum predicted concentrations over five years of meteorological data.

B. Air Quality Monitoring

The De Minimis analysis modeling results indicate that 24-hr PM₁₀ and 8-hr CO are below their respective monitoring significance level.

Table 2. Modeling Results for PSD Monitoring Significance Levels

Pollutant	Averaging Time	GLCmax ($\mu\text{g}/\text{m}^3$)	Significance ($\mu\text{g}/\text{m}^3$)
PM ₁₀	24-hr	3	10
CO	8-hr	306	575

The GLCmax for all pollutants and averaging times represent the maximum predicted concentrations over five years of meteorological data.

The applicant evaluated ambient PM_{2.5} monitoring data to satisfy the requirements for the pre-application air quality analysis.

Background concentrations for PM_{2.5} were obtained from the EPA AIRS monitor 481390016 located at 2725 Old Fort Worth Rd., Midlothian, Ellis County. The applicant used a three-year average (2017-2019) of the 98th percentile of the annual distribution of

the 24-hr concentrations for the 24-hr value (19.6 $\mu\text{g}/\text{m}^3$). The three-year average (2017-2019) of the annual concentrations was used for the annual value (8.7 $\mu\text{g}/\text{m}^3$). The monitoring data for the second quarter of 2019 did not meet completeness criteria. However, the monitoring data are valid based on the applicant's analysis using the substitution test procedures from Appendix N of 40 CFR Part 50. The use of the monitor is reasonable based on its proximity to the project site and the applicant's comparison of emissions within 10 kilometers (km) of the project site and the monitor. The background concentrations were also used in the PSD NAAQS analysis.

C. National Ambient Air Quality Standards (NAAQS) Analysis

The De Minimis analysis modeling results indicate that 24-hr and annual $\text{PM}_{2.5}$ exceed the respective de minimis concentration and require a full impacts analysis. The full NAAQS modeling results indicate the total predicted concentrations will not result in an exceedance of the NAAQS.

Table 3. Total Concentrations for PSD NAAQS (Concentrations > De Minimis)

Pollutant	Averaging Time	GLCmax ($\mu\text{g}/\text{m}^3$)	Background ($\mu\text{g}/\text{m}^3$)	Total Conc. = [Background + GLCmax] ($\mu\text{g}/\text{m}^3$)	Standard ($\mu\text{g}/\text{m}^3$)
$\text{PM}_{2.5}$	24-hr	11.9	19.6	31.5	35
$\text{PM}_{2.5}$	Annual	2.7	8.7	11.4	12

The 24-hr $\text{PM}_{2.5}$ GLCmax is the highest five-year average of the 98th percentile of the annual distribution of predicted 24-hr concentrations determined for each receptor.

The annual $\text{PM}_{2.5}$ GLCmax is the maximum five-year average of the annual concentrations determined for each receptor across five years of meteorological data.

D. Increment Analysis

The De Minimis analysis modeling results indicate that 24-hr and annual $\text{PM}_{2.5}$ exceed the respective de minimis concentrations and require a PSD increment analysis.

Table 4. Results for PSD Increment Analysis

Pollutant	Averaging Time	GLCmax ($\mu\text{g}/\text{m}^3$)	Increment ($\mu\text{g}/\text{m}^3$)
$\text{PM}_{2.5}$	24-hr	7.14	9
$\text{PM}_{2.5}$	Annual	2.64	4

The GLCmax for 24-hr $\text{PM}_{2.5}$ is the maximum high, second high (H2H) predicted concentration across five years of meteorological data.

For annual $\text{PM}_{2.5}$, the GLCmax is the highest annual predicted concentration associated with five years of meteorological data.

E. Additional Impacts Analysis

The applicant performed an Additional Impacts Analysis as part of the PSD AQA. The applicant conducted a growth analysis and determined that population will not significantly increase as a result of the proposed project. The applicant conducted a soils and vegetation analysis and determined that all evaluated criteria pollutant concentrations are below their respective secondary NAAQS. The applicant meets the Class II visibility analysis requirement by complying with the opacity requirements of 30 TAC Chapter 111. The Additional Impacts Analyses are reasonable and possible adverse impacts from this project are not expected.

The ADMT evaluated predicted concentrations from the proposed project to determine if emissions could adversely affect a Class I area. The nearest Class I area, Wichita Mountains (Charon Gardens Unit), is located approximately 289 km from the proposed site.

The predicted concentrations of PM₁₀ and PM_{2.5} for all averaging times, are all less than de minimis levels at a distance of four km from the proposed sources in the direction the Wichita Mountains (Charon Gardens Unit) Class I area. The Wichita Mountains (Charon Gardens Unit) Class I area is an additional 285 km from the location where the predicted concentrations of PM₁₀ and PM_{2.5} for all averaging times are less than de minimis. Therefore, emissions from the proposed project are not expected to adversely affect the Wichita Mountains (Charon Gardens Unit) Class I area.

F. Minor Source NSR and Air Toxics Review

No minor analysis or air toxics analysis was required with the project.

VIII. Conclusion

As described above, the applicant has demonstrated that the project meets all applicable rules, regulations and requirements of the Texas and Federal Clean Air Acts. The Executive Director's preliminary determination is that the permits should be issued.

TCEQ DOCKET NO. 2021-0051-AIR

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HOLCIM (US) INC.	§	
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NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 1-B

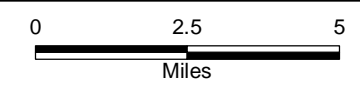
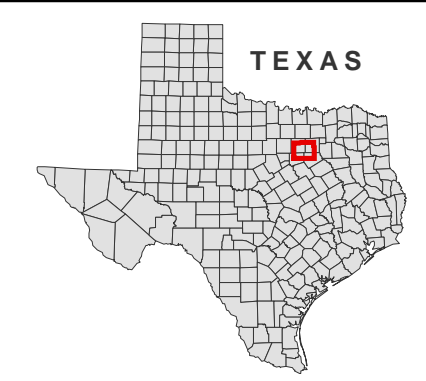
**EXHIBIT 1-B
HEARING REQUESTOR
LOCATION MAP**

ELLIS COUNTY
TEXAS

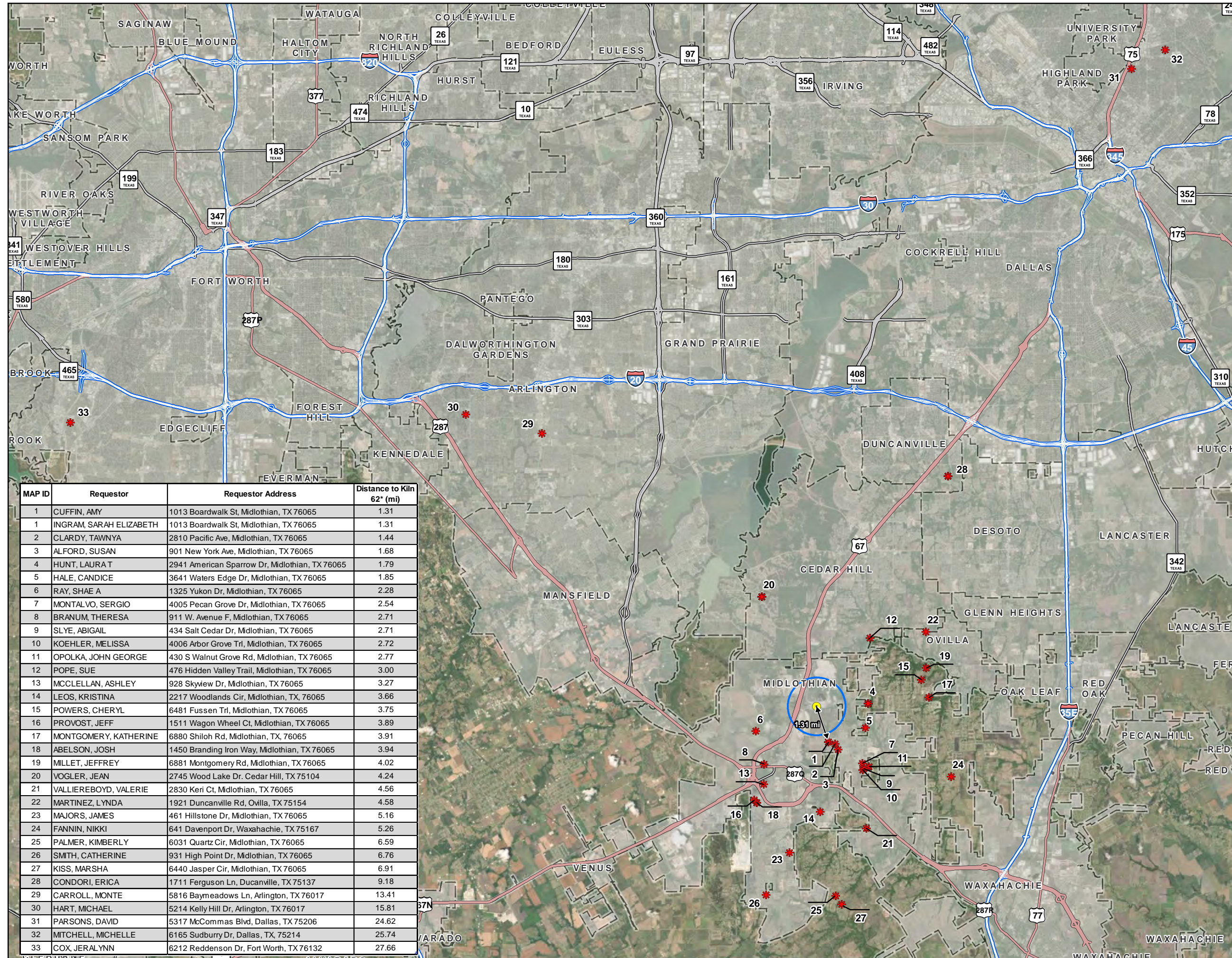
Legend

- * Hearing Requestor Location
- EPN 62*
- 1 Mile Radius
- City Boundary

Map Source:
ESRI World Imagery Basemap



Date: 2/12/2021



MAP ID	Requestor	Requestor Address	Distance to Kiln 62* (mi)
1	CUFFIN, AMY	1013 Boardwalk St, Midlothian, TX 76065	1.31
1	INGRAM, SARAH ELIZABETH	1013 Boardwalk St, Midlothian, TX 76065	1.31
2	CLARDY, TAWNIA	2810 Pacific Ave, Midlothian, TX 76065	1.44
3	ALFORD, SUSAN	901 New York Ave, Midlothian, TX 76065	1.68
4	HUNT, LAURA T	2941 American Sparrow Dr, Midlothian, TX 76065	1.79
5	HALE, CANDICE	3641 Waters Edge Dr, Midlothian, TX 76065	1.85
6	RAY, SHAE A	1325 Yukon Dr, Midlothian, TX 76065	2.28
7	MONTALVO, SERGIO	4005 Pecan Grove Dr, Midlothian, TX 76065	2.54
8	BRANUM, THERESA	911 W. Avenue F, Midlothian, TX 76065	2.71
9	SLYE, ABIGAIL	434 Salt Cedar Dr, Midlothian, TX 76065	2.71
10	KOEHLER, MELISSA	4006 Arbor Grove Trl, Midlothian, TX 76065	2.72
11	OPOLKA, JOHN GEORGE	430 S Walnut Grove Rd, Midlothian, TX 76065	2.77
12	POPE, SUE	476 Hidden Valley Trail, Midlothian, TX 76065	3.00
13	MCCLELLAN, ASHLEY	928 Skyview Dr, Midlothian, TX 76065	3.27
14	LEOS, KRISTINA	2217 Woodlands Cir, Midlothian, TX, 76065	3.66
15	POWERS, CHERYL	6481 Fussen Trl, Midlothian, TX 76065	3.75
16	PROVOST, JEFF	1511 Wagon Wheel Ct, Midlothian, TX 76065	3.89
17	MONTGOMERY, KATHERINE	6880 Shiloh Rd, Midlothian, TX, 76065	3.91
18	ABELSON, JOSH	1450 Branding Iron Way, Midlothian, TX 76065	3.94
19	MILLET, JEFFREY	6881 Montgomery Rd, Midlothian, TX 76065	4.02
20	VOGLER, JEAN	2745 Wood Lake Dr, Cedar Hill, TX 75104	4.24
21	VALLIEREBOYD, VALERIE	2830 Keri Ct, Midlothian, TX 76065	4.56
22	MARTINEZ, LYNDA	1921 Duncanville Rd, Ovilla, TX 75154	4.58
23	MAJORS, JAMES	461 Hillstone Dr, Midlothian, TX 76065	5.16
24	FANNIN, NIKKI	641 Davenport Dr, Waxahachie, TX 75167	5.26
25	PALMER, KIMBERLY	6031 Quartz Cir, Midlothian, TX 76065	6.59
26	SMITH, CATHERINE	931 High Point Dr, Midlothian, TX 76065	6.76
27	KISS, MARSHA	6440 Jasper Cir, Midlothian, TX 76065	6.91
28	CONDORI, ERICA	1711 Ferguson Ln, Ducanville, TX 75137	9.18
29	CARROLL, MONTE	5816 Baymeadows Ln, Arlington, TX 76017	13.41
30	HART, MICHAEL	5214 Kelly Hill Dr, Arlington, TX 76017	15.81
31	PARSONS, DAVID	5317 McCommas Blvd, Dallas, TX 75206	24.62
32	MITCHELL, MICHELLE	6165 Sudbury Dr, Dallas, TX, 75214	25.74
33	COX, JERALYNN	6212 Reddenson Dr, Fort Worth, TX 76132	27.66

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TO CONTESTED CASE HEARING REQUESTS**

Exhibit 1-C

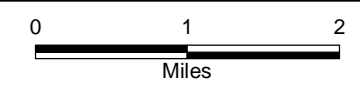
**EXHIBIT 1-C
HEARING REQUESTOR
LOCATION MAP**

ELLIS COUNTY
TEXAS

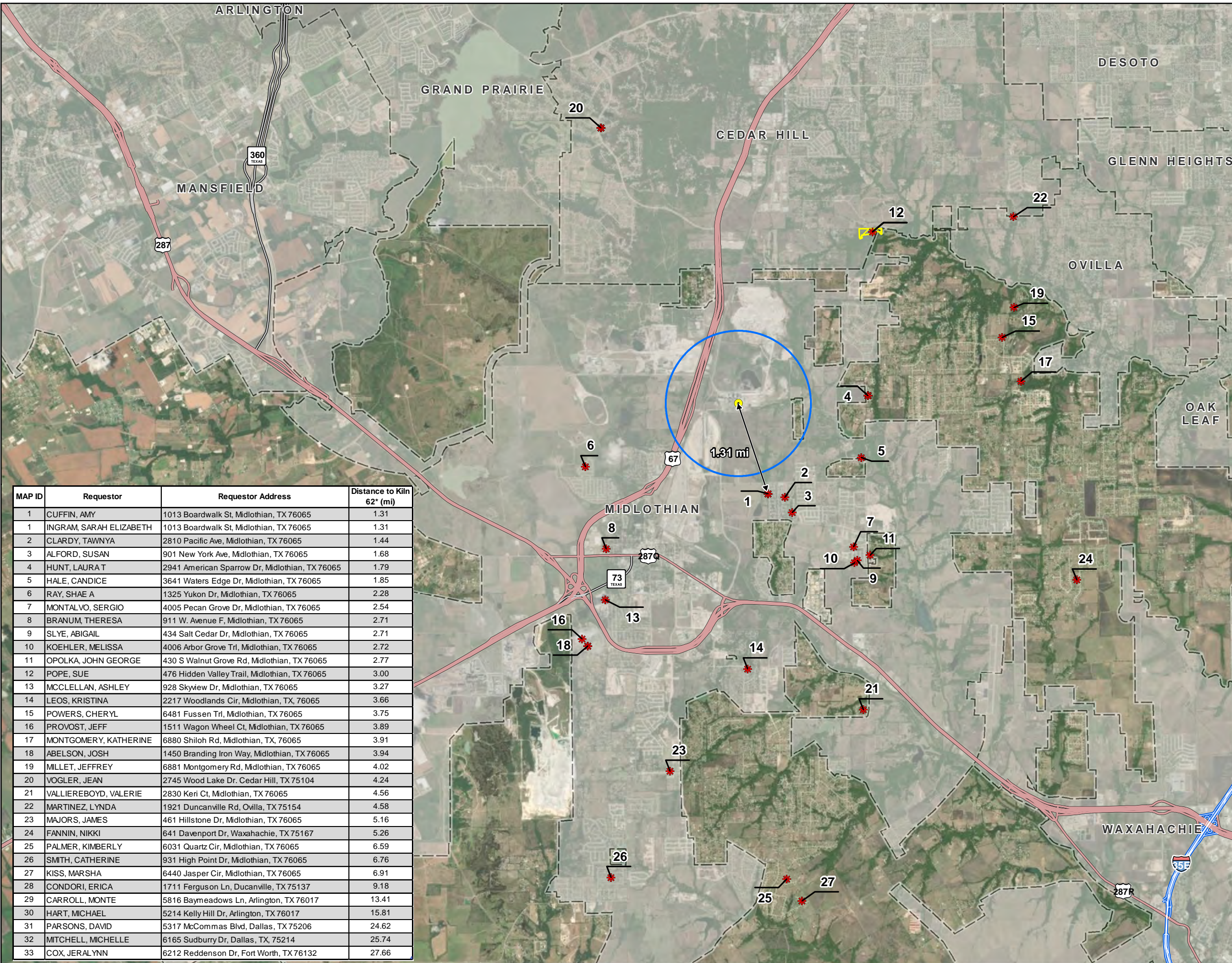
Legend

- * Hearing Requestor Location
- EPN 62*
- 1 Mile Radius
- Parcel of Interest
- City Boundary

Map Source:
ESRI World Imagery Basemap



Date: 2/12/2021



MAP ID	Requestor	Requestor Address	Distance to Kiln 62* (mi)
1	CUFFIN, AMY	1013 Boardwalk St, Midlothian, TX 76065	1.31
1	INGRAM, SARAH ELIZABETH	1013 Boardwalk St, Midlothian, TX 76065	1.31
2	CLARDY, TAWNIA	2810 Pacific Ave, Midlothian, TX 76065	1.44
3	ALFORD, SUSAN	901 New York Ave, Midlothian, TX 76065	1.68
4	HUNT, LAURA T	2941 American Sparrow Dr, Midlothian, TX 76065	1.79
5	HALE, CANDICE	3641 Waters Edge Dr, Midlothian, TX 76065	1.85
6	RAY, SHAE A	1325 Yukon Dr, Midlothian, TX 76065	2.28
7	MONTALVO, SERGIO	4005 Pecan Grove Dr, Midlothian, TX 76065	2.54
8	BRANUM, THERESA	911 W. Avenue F, Midlothian, TX 76065	2.71
9	SLYE, ABIGAIL	434 Salt Cedar Dr, Midlothian, TX 76065	2.71
10	KOEHLER, MELISSA	4006 Arbor Grove Trl, Midlothian, TX 76065	2.72
11	OPOLKA, JOHN GEORGE	430 S Walnut Grove Rd, Midlothian, TX 76065	2.77
12	POPE, SUE	476 Hidden Valley Trail, Midlothian, TX 76065	3.00
13	MCCLELLAN, ASHLEY	928 Skyview Dr, Midlothian, TX 76065	3.27
14	LEOS, KRISTINA	2217 Woodlands Cir, Midlothian, TX, 76065	3.66
15	POWERS, CHERYL	6481 Fussen Trl, Midlothian, TX 76065	3.75
16	PROVOST, JEFF	1511 Wagon Wheel Ct, Midlothian, TX 76065	3.89
17	MONTGOMERY, KATHERINE	6880 Shiloh Rd, Midlothian, TX, 76065	3.91
18	ABELSON, JOSH	1450 Branding Iron Way, Midlothian, TX 76065	3.94
19	MILLET, JEFFREY	6881 Montgomery Rd, Midlothian, TX 76065	4.02
20	VOGLER, JEAN	2745 Wood Lake Dr, Cedar Hill, TX 75104	4.24
21	VALLIEREBOYD, VALERIE	2830 Keri Ct, Midlothian, TX 76065	4.56
22	MARTINEZ, LYNDA	1921 Duncanville Rd, Ovilla, TX 75154	4.58
23	MAJORS, JAMES	461 Hillstone Dr, Midlothian, TX 76065	5.16
24	FANNIN, NIKKI	641 Davenport Dr, Waxahachie, TX 75167	5.26
25	PALMER, KIMBERLY	6031 Quartz Cir, Midlothian, TX 76065	6.59
26	SMITH, CATHERINE	931 High Point Dr, Midlothian, TX 76065	6.76
27	KISS, MARSHA	6440 Jasper Cir, Midlothian, TX 76065	6.91
28	CONDORI, ERICA	1711 Ferguson Ln, Ducanville, TX 75137	9.18
29	CARROLL, MONTE	5816 Baymeadows Ln, Arlington, TX 76017	13.41
30	HART, MICHAEL	5214 Kelly Hill Dr, Arlington, TX 76017	15.81
31	PARSONS, DAVID	5317 McCommas Blvd, Dallas, TX 75206	24.62
32	MITCHELL, MICHELLE	6165 Sudbury Dr, Dallas, TX, 75214	25.74
33	COX, JERALYNN	6212 Reddenson Dr, Fort Worth, TX 76132	27.66

TCEQ DOCKET NO. 2021-0051-AIR

**APPLICATION BY
HOLCIM (US) INC.
FOR AIR QUALITY PERMIT
NOS. 8996 and PSDTX454M5**

§
§
§
§
§

BEFORE THE TEXAS COMMISSION

ON

ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 2

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Thursday, July 25, 2019 9:57 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 8996

H

From: Lacuffin@aol.com <Lacuffin@aol.com>
Sent: Wednesday, July 24, 2019 6:03 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 8996

REGULATED ENTY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM US INC

CN NUMBER: CN601505985

FROM

NAME: Amy Cuffin

E-MAIL: Lacuffin@aol.com

COMPANY:

ADDRESS: 1013 BOARDWALK ST
MIDLOTHIAN TX 76065-6706

PHONE: 2149060477

FAX:

COMMENTS: Request a hearing regarding proposed changes at Holcim cement plant.

TCEQ DOCKET NO. 2021-0051-AIR

**APPLICATION BY
HOLCIM (US) INC.
FOR AIR QUALITY PERMIT
NOS. 8996 and PSDTX454M5**

§
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§
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§

BEFORE THE TEXAS COMMISSION

ON

ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 3

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, July 29, 2019 10:36 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 8996

H

From: susan3573@att.net <susan3573@att.net>
Sent: Friday, July 26, 2019 6:00 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 8996

REGULATED ENTY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM US INC

CN NUMBER: CN601505985

FROM

NAME: MRS Susan Alford

E-MAIL: susan3573@att.net

COMPANY:

ADDRESS: 901 NEW YORK AVE
MIDLOTHIAN TX 76065-8758

PHONE: 8179085480

FAX:

COMMENTS: All in on hearing why?????

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 4

NSR
116060

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, July 29, 2019 11:29 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 8996

H

From: candice@thehalelawfirm.com <candice@thehalelawfirm.com>
Sent: Monday, July 29, 2019 7:34 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 8996

REGULATED ENTY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM US INC

CN NUMBER: CN601505985

FROM

NAME: Candice Hale

E-MAIL: candice@thehalelawfirm.com

COMPANY:

ADDRESS: 3641 WATERS EDGE DR candice@thehalelawfirm.com
MIDLOTHIAN TX 76065-2276

PHONE: 4694264801

FAX:

COMMENTS: Please allow a public hearing so that Holcim can explain to our citizens why this increase necessary.

ms

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 5

NSR
116060

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Friday, July 26, 2019 8:22 AM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 8996

H

From: Shaeray2@gmail.com <Shaeray2@gmail.com>
Sent: Thursday, July 25, 2019 4:54 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 8996

REGULATED ENTY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM US INC

CN NUMBER: CN601505985

FROM

NAME: Shae A Ray

E-MAIL: Shaeray2@gmail.com

COMPANY:

ADDRESS: 1325 YUKON DR
MIDLOTHIAN TX 76065-3806

PHONE: 8175421828

FAX:

COMMENTS: Requesting a public hearing based on the permit request and concerns for air quality for the citizens and future citizens in the city if this is allowed

Handwritten initials or mark.

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 6

Elisa Guerra

From: PUBCOMMENT-OCC
Sent: Wednesday, September 16, 2020 9:28 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 8996
Attachments: Comments on Holcim 2020 permit5.docx

H

From: schermbeck@aol.com <schermbeck@aol.com>
Sent: Tuesday, September 15, 2020 10:50 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 8996

REGULATED ENTY NAME: HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER: 2020-0613-AIR-E

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM US INC

CN NUMBER: CN601505985

FROM

NAME: Jim Schermbeck

E-MAIL: schermbeck@aol.com

COMPANY: Downwinders at Risk Education Fund

ADDRESS: 1808 S GOOD LATIMER EXPY
DALLAS TX 75226-2202

PHONE: 8067876567

FAX:

COMMENTS: see attached

**Comments on:
Modifications to State Air Quality Permit Number 8996 and PSDTX454M4**

**Submitted by Downwinders at Risk
September 15th, 2020
to the
Texas Commission on Environmental Quality
Office of the Chief Clerk
MC 105, P.O. box 13087
Austin, Texas 78711-3087**

Downwinders at Risk is a 26-year old organization with a long history of regulatory involvement with the facility that's the subject of this permit application.

We represent local Midlothian residents such as rancher Sue Pope, who are directly affected by the pollution from Holcim's Midlothian cement plant because they live immediately adjacent to the plant's property, as Ms. Pope does (9/10's of a mile north at 476 Hidden Valley Trail Midlothian, Texas, 75104), or in close proximity of it (within one to two miles), and whose health and well-being have been, and continue to be, threatened by its routine operation.

We also represent residents who live in Cedar Hill, DeSoto, Duncanville, Arlington, Grand Prairie, Mansfield, Fort Worth, Dallas, and other communities whose health is directly affected by the voluminous pollution from Holcim's Midlothian cement plant because of the predominant wind direction as documented by TCEQ in numerous regulatory filings and findings. Our decades of official regulatory involvement with Holcim's operations are well established in the public record, as is Ms. Pope's eligibility for legal standing in matters regarding Holcim's operations governed by state and federal statutes.

Per Texas Administrative Code RULE §39.602, as persons who are filing public comment or hearing requests on or before the deadline for filing public comment or hearing requests, Downwinders at Risk requests to be mailed any correspondence related to the referenced permit application from this day forward at the address listed below.

Holcim's Midlothian cement manufacturing plant is a Major Source of air pollution in the nation's 4th largest metropolitan area, now in its 28th straight year of violating the Clean Air Act.

Since it began operation the Holcim plant has been snake-bit, rife with operational and process problems, and consistently more polluting than its Midlothian peers. Holcim blames this poor track record on quality of the limestone raw material but refuses to relocate its plant or import less-contaminated limestone. The history of the last two decades of Holcim's operation is the story of the company unsuccessfully trying to engineer its way out of their supposedly cursed raw material. Just how unsuccessful has Holcim been? According to the data the TCEQ collects, in 2017 it was the dirtiest, worst-performing cement plant in Texas, releasing 50% more pollution than the runner-up.

EPA "PRIORITY POLLUTANTS" TONS PER YEAR

2017 POINT SOURCE EMISSIONS

TEXAS CEMENT PLANTS |

	CO	NOx	PM2.5	SO2	VOCs	TOTAL
GCC PERMIAN	159	938	35	18	52	1,204
LEHIGH	123	427	28	28	20	1,651
LONE STAR	463	502	61	95	57	3,336
CEMEX	1057	1738	52	34	22	1,951
TXI/HUNTER	867	912	105	16	49	2,905
ALAMO	759	2,500	25	3	47	1,180
CAPITOL	483	500	53	530	82	627
ASH GROVE	101	453	65	7	26	684
TXI/MID	247	185	70	435	42	1,982
HOLCIM	2763	1057	193	970	207	5,193

Approving Holcim’s request to modify this permit to allow 100% use of the refinery waste Petroleum Coke to be burned will only make the Holcim Midlothian plant that much dirtier. Besides increasing CO2 emissions, it’s also likely to increase NOX, PM, CO, VOC pollution as well. Increased NOX and VOC emissions will make it harder for DFW to come into compliance with the Clean Air Act. Increased PM pollution will add to local health burdens.

At the very least a trial burn using 100% Petroleum Coke should be required of Holcim before a decision on this permit modification is made by the Commission. The burden of proof should be on Holcim to prove the modification won’t add additional pollution, not on citizens to prove it won’t. The track record shows that citizens’ skepticism of Holcim’s - and the TCEQ’s – exaggerated claims of “no harm” is well earned.

Downwinders is specifically concerned about Holcim’s misapplication of EPA’s “capable of accommodating” provisions of the PSD rules and the utter lack of enforceability of many of Holcim’s assumptions about increases in pollution. With the company’s own modeling showing little to no margin to meet the PM_{2.5} National Ambient Air Quality Standards (NAAQS) in the immediate vicinity of its plant, the Commission shouldn’t allow any modifications to the permit without a trial burn and monitoring demonstrating compliance.

Because the current version of the Holcim permit modification allows the possibility of potentially significant increases in pollution from its Midlothian cement plant and raises issues for local and regional public health, **Downwinders at Risk** requests a contested case hearing on this permit application on behalf of our members such as Sue Pope, and all our members who live adjacent to, in close proximity of, or immediately downwind of Holcim’s Midlothian cement plant who are adversely affected by the pollution Holcim would or could release as a result of the referenced permit modification in a way not common to the general public.

These members include populations of elderly residents like Ms. Pope, as well as children living adjacent to, or in close proximity of, or immediately downwind of Holcim’s Midlothian cement plant whose health is more sensitive than the population as a whole to increased exposure to Particulate Matter, Nitrogen Oxide, and Carbon Monoxide pollution identified by the company as the consequence of granting its permit application request.

They also include members living adjacent to, or in close proximity of, or immediately downwind of Holcim's Midlothian cement plant, again like Ms. Pope, with pre-existing respiratory problems and illness, such as asthmatics, and those with compromised immune systems, whose health is more sensitive than the general public, and might be further impaired as a result of exposure to the increases in routine pollution identified by the company as the consequence of granting its permit application request.

I. **Holcim's request for an increase in its Carbon Monoxide limit demonstrates poor combustion practices are still plaguing its Midlothian plant.**

In an incinerator or cement kiln, excessive CO is consistently linked in the literature and in practice to poor combustion chemistry. According to "Boiler Room Basics," *"If there is insufficient air or inadequate mixing of fuel and air for complete combustion, the carbon reaction will not be completed, forming carbon monoxide."*

The National Board of Boiler and Pressure Vessel Inspectors states that, *"Carbon monoxide is the result of incomplete or improper combustion..."*

The 2015 textbook, "Improving Energy Efficiency of Boiler System" by Anuj Bhatia concludes *"When too little air is supplied to the burner, there is not enough oxygen to completely form CO₂. It suggests incomplete combustion and is characterized by large amount of carbon monoxide (CO) in the stack."*

Nowhere could we find any engineering reference to increased CO pollution via an Regenerative Thermal Oxidizer linked to the decomposition of organic material in the kiln feed as Holcim suggests in making its excuse for a limit increase.

In fact, we found the opposite in a 1996 published paper in the periodical *Chemistry*, "Reduction of carbon monoxide emissions with regenerative thermal oxidizers," by S. Firmin, S. Lipke, and A. Bataray:

"Regenerative thermal oxidizers (RTOs) have been extensively used for the control of volatile organic compound (VOC) emissions from various sources. However, very little information is available on the ability of RTOs to control carbon monoxide (CO) emissions. This paper presents the results of extensive tests conducted on two RTOs to determine their VOC and CO control efficiencies. The inlet gas stream to the RTOs includes VOC and CO concentrations as high as 2,000 ppm and 3,600 ppm, respectively. The testing demonstrated that both RTOs were capable of controlling greater than 98% of both inlet VOCs and CO."

Indeed, many RTO manufacturer's websites tout their equipment as being effective in capturing CO pollution. Excessive CO emissions for any reason, much less the ones cities by Holcim are not addressed. We take this to mean this is not a common problem. And in fact it appears unique to Holcim's snake-bit Midlothian plant.

In addition, Holcim makes the further claim that that organic content has gone up in recent years compared to their baseline, and that increase also justifies a limit increase. But how is that possible if they're drawing their limestone raw material from the same quarry that they say has ALWAYS been higher in organic content? Ever since Holcim took ownership of the plant, the company has bemoaned its organic-laden limestone. This has been the default excuse for all of their past air pollution violations and attempted repairs. Despite being less than a mile from its nearest competitor and just across the highway from both their rivals, Holcim has always claimed their quarry has very different limestone than the other two in town.

So is Holcim mining a section of its quarry now that's *even higher* in organic content? It's extremely difficult to believe that given the company's history, it doesn't have a chemical characteristics map of their quarry that would identify the *very high-in-organic-content* limestone from just the merely high-in-organic-content limestone. If the recent CO increases are due to the raw material from one part of its quarry, can't the company use limestone from another part of its quarry to bring them down and avoid an increase in the limit?

Holcim states in its Executive Summary that "*operational difficulties such as significant waste build-up within the [regenerative thermal oxidizer] RTO has limited its operation for [carbon monoxide] CO control.*" However, these operational difficulties are not described in any technical detail in the application. What's really causing the increase in CO pollution? Properly designed and operated RTOs, especially one that is relatively new like Holcim's, should reduce both VOC and CO emissions – yet, Holcim claims that while the RTO is successful in reducing VOC emissions, it can't reduce CO emissions. Why?

When it installed the RTO Holcim predicted the RTO would cut CO pollution by 50%. When it built its second kiln at the turn of the Century, it promised it would cut all pollution by 50%. Both of these predictions were grossly inaccurate. And yet by approving this permit before a trial burn is conducted, TCEQ is giving a company that could not have been more wrong in the past about its air pollution levels carte blanche to be wrong again.

Is the problem really with the raw material or perhaps with the Holcim plant itself? A well-thought-out trial burn scenario would be able to reveal the answer. This is why a trial burn is absolutely necessary before approving this permit modification.

II. Use of 100% Petroleum Coke in Kiln 2 Could Release Significantly More Smog-Forming Nitrogen Oxide (NOx) Pollution.

There is a high likelihood that burning 100% Petroleum Coke will result in large increases in smog-forming Nitrogen Oxide pollution. In the application, Holcim states:

"While changes to kiln firing system and fuel mix have the potential to change the NOX emissions profile in the kiln, no changes to actual stack emissions are expected."

So while Holcim admits in the application there could be swings in smog-forming Nitrogen Oxides as a result of 100% Petroleum Coke use, they don't expect to see any swings in actual stack emissions because of their NOx-capturing SNCR controls.

Holcim made the same prediction about the RTO's capacity to capture Carbon Monoxide. Without a trial burn, there's no way to prove what will happen to NOx pollution when 100% Petroleum Coke is burned. Holcim's SNCR system has not demonstrated a capacity to contain the kind of increase in NOx pollution that burning 100% Petroleum Coke could emit. Ellis County is in the DFW federal "non-attainment" area for ozone pollution. TCEQ is on the record as saying it's Nitrogen Oxide and Volatile Organic Compound pollution that drive DFW ozone levels. Allowing Holcim to potentially release more NOx pollution into the DFW airshed will make it more difficult to avoid 30 years of continuous violations of the Clean Air Act.

III. Holcim uses Unreliable "Capable of Accommodating" Adjustments for NO_x, VOC, SO₂, and Climate Crisis pollution to Avoid Triggering PSD requirements

Holcim repeatedly uses "capable of accommodating" adjustments to justify why SO₂, NO_x, and Climate Crisis pollution will not meet de minimis netting threshold for PSD determination.

In the application Holcim's "baseline emissions are assuming a full non-stop 8760 hours of operation a year – an impossible accomplishment for any cement plant and especially one as troubled as Holcim's. This is a baseline on paper, not one based in the real world. It's a technically lazy way to use the "capable of accommodating" adjustment provision and violates the PSD protocols.

The PSD emissions calculus in the application is inaccurate for NO_x, VOC, SO₂, and Climate Crisis pollution.

NOx is a good example and one specifically tied to DFW regulatory classifications. Holcim says it expects NO_x pollution to increase by 256 tons per year. That's a huge increase. It's 100 tons more NOx pollution than the entire TXI Midlothian cement plant reported releasing in 2017, and more than half of the Midlothian Ash Grove cement plant's NOx total for the same year. Usually an increase of just 40 tons per year would trigger a federal Prevention of Significant Deterioration review.

But Holcim tries to downplay this increase in two ways in the application.

By setting a paper "potential" baseline that's unrealistically high, the estimated increases don't seem as large. That 256 tons could be twice as big if the baseline was taken from actual annual operations. Secondly, by claiming a "capable of accommodating" exemption that assumes its existing NOx controls will handle this extra load, Holcim is wiping out the increase with an untested hypothesis on paper that they haven't earned the right to apply without a trial burn.

Without the control equipment tested at the estimated volume of new pollution, there's no way to know if it will actually work as efficiently. Note that Holcim is already the largest NOx polluter of the three Midlothian cement plants. Their SNCR system is already being taxed. Can it adequately handle another cement plant' worth of NOx pollution?

IV. National Ambient Air Standards for PM_{2.5} Will Likely be Exceeded

As presented in the application, Holcim's modifications have it teetering on the brink of exceeding both the 24 hour and annual National Ambient Air Quality Standards for Particulate Matter 2.5 microns or smaller:

TABLE 12-4 NAAQS ANALYSIS RESULTS

POLLUTANT	AVERAGING PERIOD	MAXIMUM PREDICTED CONCENTRATIONS (µg/m ³)	BACKGROUND CONCENTRATION (µg/m ³)	TOTAL (µg/m ³)	NAAQS (µg/m ³)
PM _{2.5}	24-Hour	14.5	19.61	34.1	35
	Annual	2.90	9.688	11.6	12

There's little margin of error between Holcim's own self-interested predictions and violating the PM 2.5 NAAQS. This proximity alone should be prompting a more intense TCEQ review and actual operational evidence from a trial burn.

This is especially true since enforcement of Holcim's compliance with the PM 2.5 NAAQS is impossible with current air monitoring in the Midlothian area – or lack thereof. Without a PM 2.5 monitor at the modeled highest receptor location during a pre-permit trial burn or post-permit operation there is no way of know if the NAAQS will be violated by Holcim's modification or not.

Given the long and messy track record of this plant, a conservative approach to public health demands monitoring.

V. Impossibility of Enforcing "Good Combustion" as Best Available Control Technology for Carbon Monoxide.

Holcim suggests that it rely on "good combustion practices" and "properly controlled combustion" to comply with BACT for the capture of Carbon Monoxide. Holcim doesn't define what "good combustion" means. Downwinders at Risk would suggest that based on its track record Holcim is reluctant to define it since it's never practiced it.

Within the same permit application, Holcim both admits a massive failure to estimate or capture excess emissions of Carbon Monoxide and offers assurances of "good combustion" to capture that excess from here on out. What's kept Holcim from following "good combustion" practices prior to the submission of this application? If that's all there is to it, why haven't they been able to tweak their current production lines to reduce the excess CO?

In its 2014 permit request for the RTO, Holcim stated that it expected an increase of 25% in Carbon Monoxide (CO) pollution as a result of “the oxidation of the THC that is present in the kiln exhaust stream” as well as an increase in natural gas use, plus an almost 58,000 ton per year increase in CO₂. The company assured the public and TCEQ that wet scrubbers alone and “good combustion practices” would be sufficient to control these increases. Once again it was wrong. It couldn’t practice good combustion then and it shouldn’t be allowed to use it as a loophole to escape pollution controls.

While the RTO was being pursued by Holcim, Downwinders argued that BACT for CO and VOCs both was really Selective Catalytic Reduction pollution control technology.

In October 2006, the Manufacturers of Emission Controls Association (MECA) submitted a written statement to the U.S. EPA regarding newly proposed emission standards for internal combustion engines. In that statement, MECA reported **one of the multi-pollutant benefits of SCR installations was a removal rate of over 80% of carbon monoxide.**

Diesel engine manufacturers have identified **CO reductions as large as 50-90% with use of SCR.**

(<http://www.dieselforum.org/files/dmfile/SelectiveCatalyticReduction.pdf>).

SCR manufacturers have **reported the same 50-90% CO removal rates.**

(<http://www.factsaboutscr.com/scr/engine-control-standards.aspx>)

In addition, **reliance on an SNCR unit like the one Holcim currently operates at its Midlothian cement plant can also cause CO and CO₂ increases:**

*“... the use of ammonia-solution based SNCR for NO_x control will adversely affect the oxidation of CO to CO₂ because both reactions will compete for OH*radicals required for reduction of CO and NO_x. One study revealed that a molar ratio of NH₃ to NO_x of 0.4 increased CO emissions by up to 0.5 pounds per ton of clinker. When such ratio increased to 0.8 and 1.0, the CO emissions were increased by up to 1.0 and 1.5 pounds per ton of clinker respectively.”* (“Prevention of Significant Air Quality Deterioration Review, Preliminary Determination” March, 2008 State of Georgia - Department of Natural Resources Environmental Protection Division - Air Protection Branch)

In this case, “good combustion practices” seem to translate to installation of SCR to prevent unnecessary CO and CO₂ pollution increases, rather than allowing increases in CO limits.

Given Holcim’s plant history and the ambiguity of the volumes of new air pollution potentially caused by approval of the application, the Public Health and Welfare of Midlothian and adjacent cities will only be served by requiring a trial burn to determine the accuracy of Holcim’s pollution predictions before a permit modification is made.

Submitted by
Downwinders at Risk Education Fund
Jim Schermbeck, Director
1808 South Good Latimer
Dallas, Texas 75226

A hard copy of these comments is being mailed to the Chief Clerk's office.

NSR
116060

Melissa Schmidt

From: PUBCOMMENT-OCC
Sent: Monday, July 29, 2019 11:28 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-ELD; PUBCOMMENT-OPIC; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 8996

H

From: downwindersatrisk@gmail.com <downwindersatrisk@gmail.com>
Sent: Sunday, July 28, 2019 10:46 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 8996

REGULATED ENTY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM US INC

CN NUMBER: CN601505985

FROM

NAME: Jim Schermbeck

E-MAIL: downwindersatrisk@gmail.com

COMPANY: Downwinders at Risk Education Fund

ADDRESS: 1808 S GOOD LATIMER EXPY 202
DALLAS TX 75226-2202

PHONE: 4696081972

FAX:

COMMENTS: Dear Chief Clerk, On behalf of the board of the Downwinders at Risk Education Fund, a 25-year old clean air non-profit citizens' group based in the Dallas-Fort Worth area, I'm writing to to express our strong opposition to a large increase in air pollution being sought by Holcim Cement's Midlothian plant and request public meetings in Ellis, Dallas, and Tarrant Counties to enable residents to learn more about the company's permit amendment request (Holcim, Air Quality Permit 8996 and PSDTX454M5). Downwinders at Risk has a long history of regulatory involvement with the Holcim facility and our organization was formed specifically to fight air pollution increases at the three

MS

Midlothian cement plants. We represent local Midlothian residents such as rancher and Downwinders at Risk Education Fund board member Sue Pope, who are directly affected by the pollution from Holcim's Midlothian cement plant because they live immediately adjacent to the plant's property. Ms. Pope lives 9/10's of a mile north of the plant at 476 Hidden Valley Trail Midlothian, Texas, 75104 and is already in poor health because of past Holcim practices. We also support Midlothian residents who live close to the Holcim cement plant in new subdivisions and/or whose children attend one of the near-by public schools, and whose health and well-being have been, and continue to be, threatened by its routine operation, much less large increases in pollution. We also represent residents who live in Cedar Hill, DeSoto, Duncanville, Arlington, Grand Prairie, Mansfield, Fort Worth, Dallas, and other communities whose health is directly affected by the voluminous pollution from Holcim's Midlothian cement plant because of the predominant wind direction as documented by TCEQ in numerous regulatory filings and findings. Our decades of official regulatory involvement with Holcim's operations are well established in the public record, as is Ms. Pope's eligibility for legal standing in matters regarding Holcim's operations governed by state and federal statutes. According to the company's published notice, it's seeking permission to burn 100% Petroleum Coke in its Kiln #2. Carbon Monoxide pollution could increase by almost 3000 tons a year and dangerous Particulate Matter pollution could increase by 100 tons a year. There's evidence that smog-forming Nitrogen Oxide and acid-rain forming Sulfur Dioxide could also increase if the company is granted this permit amendment. There's no mention of the impact to climate crisis pollutants but increases in CO2 are also expected from burning Petroleum Coke for fuel. DFW has a long history of chronic air pollution, as do the Midlothian cement plants. Awarding this permit amendment to allow Holcim to pollute even more is making those problems worse. Therefore Downwinders at Risk Education Fund is seeking a contested case hearing on Holcim's permit change - Air Quality Permit 8996 and PSDTX454M5. Because of the close proximity of our board members and supporters to the Holcim cement plant, we represent a group inherently at greater risk of being harmed than the general public from the increased pollution Holcim wants to release, including, but not limited to Particulate Matter, Carbon Monoxide, Nitrogen Oxide, Sulfur Dioxide and Carbon Dioxide. We believe the increases in pollution Holcim is pursuing represent inefficiencies and less-than-best practices rather than last resort options. Holcim emissions are already far above the norm - for the other Midlothian cement plants as well as within the Holcim network of US. plants. While TXI and Ash Grove have rebuilt their Midlothian plants to reflect modern technology, Holcim hasn't yet done so, despite owning the worst-performing plant in Texas. Moreover, the public record shows Holcim to be a poor judge of actual performance versus what's promised in permit proceedings. At least twice over the last two decades, the company has grossly underestimated the volume of harmful air pollution generated as a result of its permit modifications. A thorough examination of the full consequences of this new permit change is warranted, especially by the residents most affected by its pollution. Sincerely, Jim Schermbeck, Director, Downwinders at Risk Education Fund 806-787-6567 1808 South Good Latimer Dallas Texas 75226

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 7

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER concerning Holcim (Texas) Limited Partnership's amendment to Air Quality Permit Nos. 8996 and PSDTX454M4 to authorize a pollution control project at its existing portland cement manufacturing plant; TCEQ Docket No. 2015-0460-AIR.

On April 29, 2015, the Texas Commission on Environmental Quality (Commission) considered during its open meeting a request for hearing filed by Sue Pope concerning Holcim (Texas) Limited Partnership's (Applicant) amendment to Air Quality Permit Nos. 8996 and PSDTX454M4 to authorize a pollution control project at its existing portland cement manufacturing plant in Midlothian, Ellis County, Texas. The request for hearing was evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code (TAC) Chapter 55. The Commission also considered the responses to the hearing request filed by the Executive Director, Office of Public Interest Counsel, and the Applicant; Sue Pope's reply to responses; all timely public comment; and the Executive Director's Response to Comment.

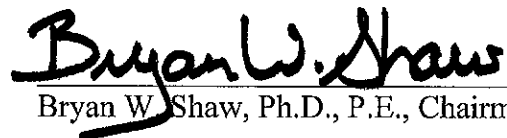
After evaluation of all relevant filings, the Commission denied the hearing request of Sue Pope. The Commission also adopted the Executive Director's Response to Public Comment and issued Air Quality Permit Nos. 8996 and PSDTX454M4 to Holcim (Texas) Limited Partnership.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. The hearing request filed by Sue Pope is hereby DENIED;
3. The permit amendment to Air Quality Permit Nos. 8996 and PSDTX454M4 to Holcim (Texas) Limited Partnership is APPROVED and the attached permit is ISSUED in the form as shown in the draft permit prepared by the Executive Director;
4. The Executive Director's Response to Public Comment is ADOPTED in accordance with 30 TAC Chapter 55; and
5. If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue date: **MAY 12 2015**

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY


Bryan W. Shaw, Ph.D., P.E., Chairman

TCEQ DOCKET NO. 2021-0051-AIR

APPLICATION BY	§	BEFORE THE TEXAS COMMISSION
HOLCIM (US) INC.	§	
FOR AIR QUALITY PERMIT	§	ON
NOS. 8996 and PSDTX454M5	§	
	§	ENVIRONMENTAL QUALITY

**HOLCIM (US) INC.'S RESPONSE
TO CONTESTED CASE HEARING REQUESTS**

Exhibit 8

**TCEQ AIR QUALITY PERMIT REGISTRATION NO. 8996 & PSDTX454M4
TCEQ DOCKET NUMBER 2015-0460-AIR**

APPLICATION BY	§	BEFORE THE
HOLCIM (TEXAS) LIMITED	§	
PARTNERSHIP	§	TEXAS COMMISSION ON
PORTLAND CEMENT PLANT	§	
MIDLOTHIAN, ELLIS COUNTY	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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

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

I. Application Request and Background Information

Holcim (Texas) Limited Partnership (Holcim) has applied to the TCEQ for a NSR Authorization under Texas Clean Air Act (TCAA), Texas Health and Safety Code, §382.0518. This will authorize the modification of an existing facility that may emit air contaminants.

This permit will authorize the applicant to modify an existing Portland Cement plant. The plant is located at 1800 Dove Lane, Midlothian, Ellis County. Contaminants authorized under this permit include particulate matter including particulate matter with diameters of 10 micrometers or less (PM₁₀) and 2.5 micrometers or less (PM_{2.5}), sulfuric acid (H₂SO₄), organic compounds, nitrogen oxides (NO_x), sulfur dioxide (SO₂), carbon monoxide (CO), total reduced sulfur, hazardous air pollutants, and other speciated compounds. The Applicant is not delinquent on any administrative penalty payments to the TCEQ. The TCEQ Enforcement Database was searched and no enforcement activities were found that are inconsistent with the compliance history.

The permit application was received on June 2, 2014, and declared administratively complete on June 4, 2014. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published in English on June 11, 2014, in the *Midlothian Mirror* and in Spanish on June 30, 2014, in *La Prensa Comunidad*. Republication in English was made

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

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS
TCEQ DOCKET NUMBER 2015-0460-AIR
Holcim (Texas) Limited Partnership, Permit Nos. 8996 & PSDTX454M4
Page 2

on July 2, 2014 in the *Midlothian Mirror* to correct formatting errors in the initial publication. The Notice of Application and Preliminary Decision for an Air Quality Permit was published on October 22, 2014, in English in the *Midlothian Mirror* and in Spanish on October 30, 2014, in *La Prensa Comunidad*. A public meeting was held on November 3, 2014 in Midlothian. The notice of public meeting was published in English on October 22, 2014 in the *Midlothian Mirror* and in Spanish on October 30, 2014 in *La Prensa Comunidad*. The public comment period ended on December 1, 2014. The ED's RTC was mailed on February 19, 2015 to all interested persons, including those who asked to be placed on the mailing list for this application and those who submitted comment or requests for a contested case hearing. The cover letter attached to the RTC included information about making requests for a contested case hearing or for reconsideration of the ED's decision.² The letter also explained hearing requesters should specify any of the ED's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy.

The time for requests for reconsideration and hearing requests ended on March 23, 2015. The TCEQ received timely hearing requests during the public comment period that were not withdrawn from Sue Pope. The TCEQ also received timely hearing requests from Patricia Brown on her own behalf, from Grace Darling and Jim Schermbeck on behalf of Downwinders at Risk Education Fund, and from Grace Darling on behalf of Green Arlington and the Arlington Conservation Council. These requests were withdrawn by Patricia Brown and Grace Darling.

II. Applicable Law for Requests for Reconsideration

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

III. Applicable Law for Hearing Requests

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

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

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the

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

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS
TCEQ DOCKET NUMBER 2015-0460-AIR
Holcim (Texas) Limited Partnership, Permit Nos. 8996 & PSDTX454M4
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- subject of the application and how and why the requester believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;
 - (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to comments that the requester disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
 - (5) provide any other information specified in the public notice of application.

The next necessary determination is whether the requests were filed by "affected persons" as defined by TWC § 5.115, implemented in commission rule 30 TAC § 55.203. Under 30 TAC § 55.203, an affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest. Local governments with authority under state law over issues raised by the application receive affected person status under 30 TAC § 55.203(b).

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

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

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

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

³ 30 TAC § 55.205(a)

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS
TCEQ DOCKET NUMBER 2015-0460-AIR
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If the commission determines a hearing request is timely and fulfills the requirements for proper form and the hearing requester is an affected person, the commission must apply a three-part test to the issues raised in the request to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing. The three-part test in 30 TAC § 50.115(c) is as follows:

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

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

IV. Analysis of Hearing Requests

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

The following persons submitted timely hearing requests that were not withdrawn: Sue Pope. All other timely submitted hearing requests were withdrawn. The address provided by Sue Pope indicates that she is approximately three miles from the Holcim plant (see attached map). The hearing request was submitted during the public comment period or during the period for requesting a contested case hearing after the filing of the ED's RTC. Furthermore, the ED has determined the hearing request substantially complies with all of the requirements for form in 30 TAC § 55.201(d).

The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk attached to the RTC states that requesters should, to the extent possible, specify any of the ED's responses in the RTC that the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy.⁸

⁴ TEXAS HEALTH & SAFETY CODE § 382.0518

⁵ TEXAS HEALTH & SAFETY CODE § 382.0513

⁶ TEXAS HEALTH & SAFETY CODE § 382.085

⁷ TEXAS HEALTH & SAFETY CODE § 382.0513

⁸ See 30 TAC § 55.201(d)(4).

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

The threshold test of affected person status, as defined in 30 TAC § 55.203, is whether the requestor has a personal justiciable interest affected by the application, and this interest is different from that of the general public.⁹ The primary concern of the hearing requestor was that Holcim install control equipment, specifically Selective Catalytic Reduction (SCR). The proposed permit does require an SCR on one of Holcim's kilns and a Regenerative Thermal Oxidizer, another type of control device, on the other kiln. Ms. Pope also did not specify any particularized interest not common to the general public other than that she lives less than one mile from Holcim's property. The attached map demonstrates that the address provided is approximately three miles from the Holcim plant where the proposed facilities will be located. As she resides approximately three miles from the proposed facility, Ms. Pope is not likely to be impacted differently than any other member of the general public. Therefore, Ms. Pope is not an affected person as defined in 30 TAC § 55.203.

C. Do those groups who requested a hearing meet the group or associational standing requirements?

Three groups originally requested a hearing on this permit application, Green Arlington, the Arlington Conservation Council, and Downwinders at Risk Education Fund (Downwinders). These requests have been withdrawn by Grace Darling, and no other organizations have requested a hearing on this application.

Although the hearing request submitted by Downwinders was withdrawn by Grace Darling, the signature block on the letter also included Jim Schermbeck, who has not independently submitted a request to withdraw the hearing request. Therefore, the ED has analyzed the request of Downwinders, and found that the group lacks the required associational standing to request a hearing on this application. The only one of these three groups that identified a specific member of the group who might be an affected person was Downwinders, which identified Sue Pope as a member. As previously discussed, Sue Pope does not meet the requirements to be an affected person as defined in 30 TAC §55.203. Without a specific identified member who is an affected person, none of the identified groups can meet the requirement of §55.205(a)(1), and therefore none of these groups, including Downwinders, would have the associational status necessary to request a contested case hearing on this application.

V. Executive Director's Recommendation

The Executive Director respectfully recommends the commission:

- A. Find all hearing requests in this matter were timely filed.
- B. Find no hearing requesters are affected persons in this matter.

⁹ *United Copper Industries and TNRCC v. Joe Grissom*, 17 S.W.3d 797 (Tex. App.-Austin, 2000)

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS
TCEQ DOCKET NUMBER 2015-0460-AIR
Holcim (Texas) Limited Partnership, Permit Nos. 8996 & PSDTX454M4
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C. Deny the hearing requests of Sue Pope, Green Arlington, the Arlington Conservation Council, and Downwinders at Risk Education Fund.

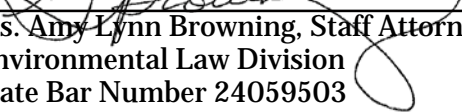
Respectfully submitted,

Texas Commission on Environmental Quality

Richard Hyde, P.E., Executive Director

Caroline Sweeney, Deputy Director
Office of Legal Services

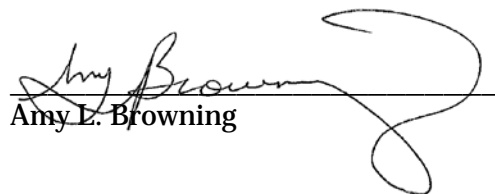
Robert Martinez, Division Director
Environmental Law Division


Ms. Amy Lynn Browning, Staff Attorney
Environmental Law Division
State Bar Number 24059503
(512) 239-0891
PO Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

On the 6th day of April, 2015, a true and correct copy of the foregoing instrument was served on all persons on the mailing list by the undersigned via deposit into the U.S. Mail, inter-agency mail, facsimile, electronic mail, or hand delivery.


Amy L. Browning

Attachment A
Map of hearing requestor

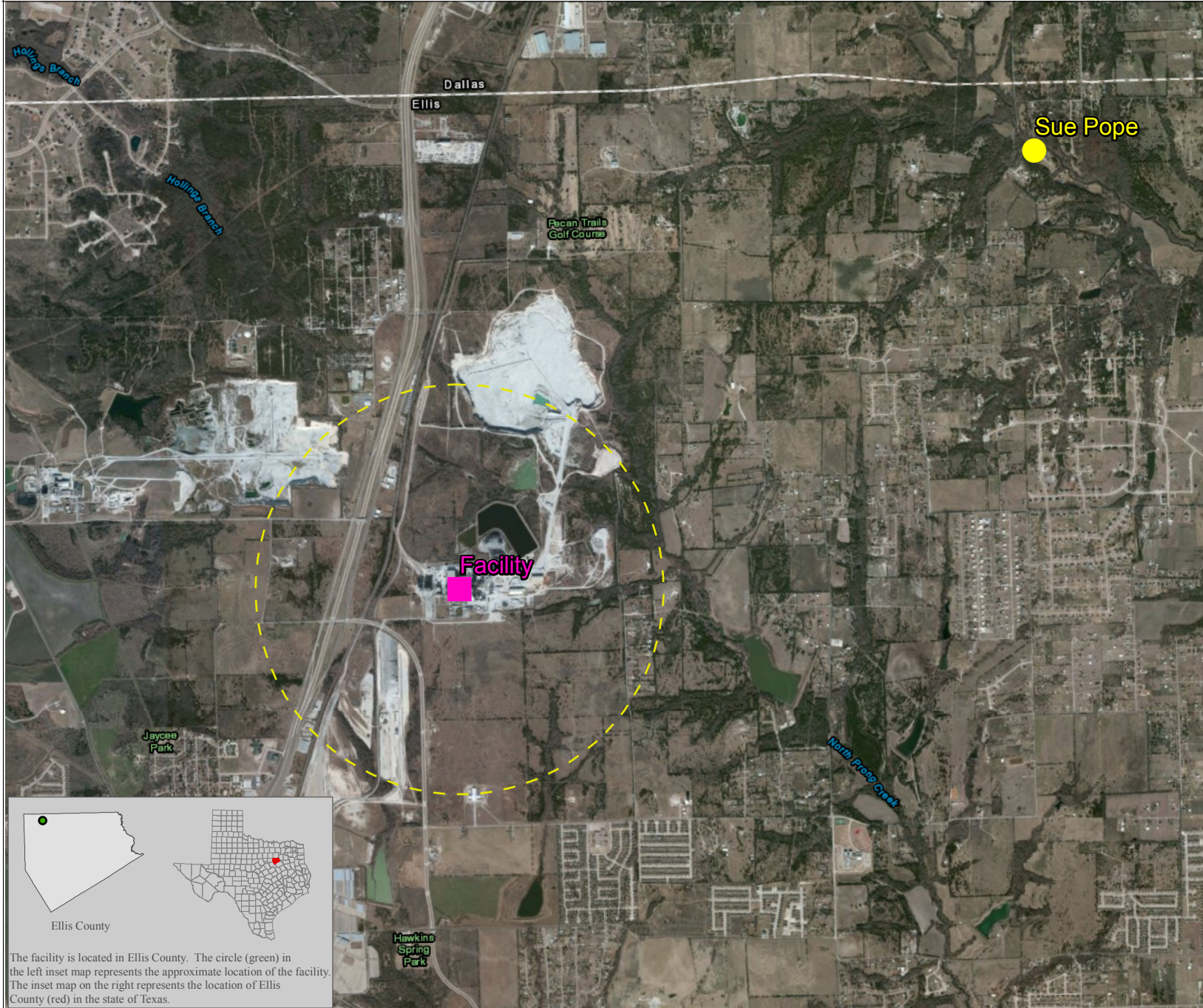
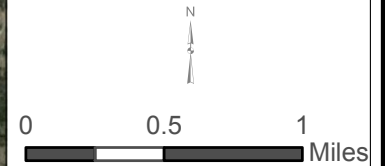
ED's Response to Hearing Request Holcim Ltd Partnership; Permit Nos. 8996 & PSDTX454M4

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

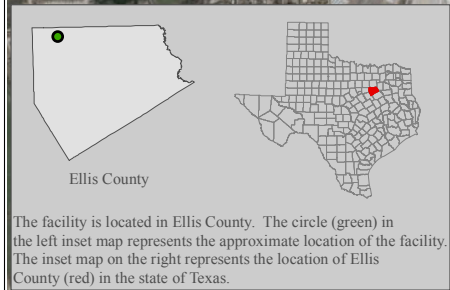


Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

Date: 3/27/2015



- Facility
- Sue Pope (Requester)
- 1 mile radial distance from facility



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

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

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

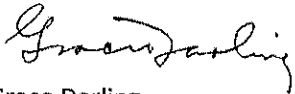
Attachment B
Withdrawals of hearing requests

To Whom It May Concern:

RE: TCEQ permit application #8996

In reference to the above-cited application by HolcimUS for a permit to install SCR technology in one of its Midlothian kilns, the Arlington Conservation Council withdraws its request for a contested hearing.

Because of the uncertainties in the original application and the nature of the permitting process, in order to have any opportunity for further involvement or comment about the terms of the permit our only recourse was to file for a case hearing through TCEQ. Subsequent discussions with cement plant personnel by one of our members have rendered further delays unnecessary, and ACC hereby cancels its request.



Grace Darling

(for) Arlington Conservation Council

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2015 APR -2 AM 9:57

CHIEF CLERKS OFFICE

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Monday, December 01, 2014 7:42 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number PSDTX454M4

WH

From: [REDACTED]
Sent: Monday, December 01, 2014 12:40 AM
To: donotreply
Subject: Public comment on Permit Number PSDTX454M4

NSR
92487

REGULATED ENTITY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: PSDTX454M4

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM TEXAS LIMITED PARTNERSHIP

CN NUMBER: CN601231459

FROM

NAME: Grace Darling

E-MAIL: [REDACTED]

COMPANY: Green Arlington Foundation and Downwinders at Risk EdFund

ADDRESS: 1316 S PECAN ST
ARLINGTON TX 76010-2535

PHONE: 2147098791

FAX:

COMMENTS: On behalf of Green Arlington Foundation and Downwinders at Risk Education Fund, I write to withdraw our request for a contested hearing re Permit #PSDTX454M4. We wish Holcim much success utilizing SCR technology to reduce CO2 emissions and look forward to seeing early reporting data to that effect. Grace Darling, Chair, DAREF Secretary-treasurer, GAF DAREF

MW

Marisa Weber

From: PUBCOMMENT-OCC
Sent: Thursday, January 15, 2015 8:36 AM
To: PUBCOMMENT-OCC2
Subject: FW: Public comment on Permit Number 8996

*NSR
9/24/07*

WH

From: [REDACTED]
Sent: Thursday, January 15, 2015 5:53 AM
To: DoNot Reply
Subject: Public comment on Permit Number 8996

REGULATED ENTITY NAME HOLCIM TEXAS

RN NUMBER: RN100219286

PERMIT NUMBER: 8996

DOCKET NUMBER:

COUNTY: ELLIS

PRINCIPAL NAME: HOLCIM TEXAS LIMITED PARTNERSHIP

CN NUMBER: CN601231459

FROM

NAME: MS Patricia Brown

E-MAIL: [REDACTED]

COMPANY:

ADDRESS: 5005 PROSPERITY ROW
MIDLOTHIAN TX 76065-8859

PHONE: 2404199520

FAX:

COMMENTS: Please accept my request to withdrawal my former request for a contested case hearing regarding the renew of Holcim's (Midlothian, TX) Air Permit (No. 8996) Thank you, Patricia A. Brown

mu

MAILING LIST
HOLCIM (TEXAS) LIMITED PARTNERSHIP
DOCKET NO. 2015-0460-AIR; PERMIT NOS. 8996 & PSDTX454M4

FOR THE APPLICANT:

Michel Moser, Plant Manager
Holcim (Texas) Limited Partnership
1800 Dove Lane
Midlothian, Texas 76065-4435
Tel: (972) 923-5800
Fax: (972) 923-5923

Giri Bhavani
Holcim (Texas) Limited Partnership
1800 Dove Lane
Midlothian, Texas 76065-4435
Tel: (972) 923-5800
Fax: (972) 923-2923

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Amy Browning, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-0600
Fax: (512) 239-0606

Toni Oyler, Technical Staff
Texas Commission on Environmental
Quality
Water Quality Division, MC-163
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-1311
Fax: (512) 239-0424

Laura Gibson, Technical Staff
Texas Commission on Environmental
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Austin, Texas 78711-3087
Tel: (512) 239-2175
Fax: (512) 239-0424

Brian Christian, Director
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