

**TCEQ Docket No. 2021-1508-AIR**

<b>AMERITEX PIPE &amp; PRODUCTS, LLC’S REGISTRATION TO USE STANDARD PERMIT FOR CONCRETE BATCH PLANTS</b>	§ § § §	<b>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</b>
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**AMERITEX PIPE & PRODUCTS, LLC’S RESPONSE TO REQUESTS FOR  
CONTESTED CASE HEARING**

TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

AmeriTex Pipe & Products, LLC (“*AmeriTex*”) submits this its response to the requests for contested case hearing (“*Response*”) that were submitted regarding AmeriTex’s registration to use the Air Quality Standard Permit for Concrete Batch Plants (“*Standard Permit*”) to authorize the construction and operation of new permanent concrete batch plants (“*Plants*”) at its site near Gunter, Texas. AmeriTex requests that the Commissioners of the Texas Commission on Environmental Quality (“*Commission*” or “*TCEQ*”) deny each of those hearing requests and not grant a contested case hearing in response to any of them. In support thereof, AmeriTex shows the Commission the following:

**I. PROCEDURAL BACKGROUND**

AmeriTex submitted its registration to use the Standard Permit on March 8, 2021, and TCEQ designated it as Registration No. 164317 (“*Registration*” or “*AmeriTex’s Registration*”). The TCEQ Executive Director (“*Executive Director*”) declared AmeriTex’s registration administratively complete on March 9, 2021. AmeriTex published the required consolidated Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) and Notice of Application and Preliminary Decision for an Air Quality Standard Permit (second public notice) for its registration on March 30, 2021 in the *Herald Democrat*. Because the Registration was

submitted after September 1, 2015, it is subject to the procedural requirements of, and rules implementing, Senate Bill 709 (84th Legislature, 2015).

The Executive Director held a public meeting regarding AmeriTex's Registration on July 19, 2021. The public comment period ended at the end of the public meeting.

The Executive Director prepared a Response to Public Comments ("*RTC*") that addressed all of the written and oral comments submitted regarding AmeriTex's Registration. On October 5, 2021, the TCEQ Chief Clerk sent a letter to each person who submitted a contested case hearing request or other comments. That letter enclosed the *RTC*, stated that the Executive Director had made a decision that AmeriTex's Registration meets the requirements of applicable law, including the Standard Permit, and gave instructions regarding how people who believe they are affected persons could request a contested case hearing regarding AmeriTex's Registration. That letter triggered an additional 30-day period, ending on November 4, 2021, during which no additional contested case hearing requests were submitted.

Therefore, members of the public were provided almost four (4) months in which to submit comments regarding AmeriTex's Registration, and over seven (7) months in which to submit contested case hearing requests regarding it.

According to the TCEQ Chief Clerk's December 1, 2021 letter, hearing requests regarding AmeriTex's Registration were submitted by the following people and not withdrawn (listed in the order their requests were submitted): Jessica Seay, Michael Spano, Timothy Mark Peery, Nick Owens, Emily Lewis, Connie Jo Eubanks, Linda Hunter, Don Hunter, Wendy Wright, Don Everingham, Christina Peyton, Linda McAllister, Bryan Hemman, and Deirdre Diamond. In addition, the following people submitted hearing requests, but later withdrew them

(listed in order their requests were submitted): Paul Gabriel -- submitted by his attorney, Adam Friedman -- and Cheryl Cohagan.

## II. AMERITEX'S RESPONSE TO THE HEARING REQUESTS

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

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

- (1) Must have been filed by an affected person (30 TAC § 55.211 (c)(2); TEX. WATER CODE § 5.115(a-1)(2));
- (2) Must include disputed issues of fact or mixed questions of fact or law that the hearing requestor raised during the comment period and did not later withdraw, and that are relevant and material to the Commission's decision on AmeriTex's Registration (30 TAC § 55.211(c)(2)(A)(ii)); and
- (3) Must comply with the requirements of 30 TAC § 55.201 (§ 55.211(c)(2)(D)).

Further, according to 30 TAC § 55.211(d), notwithstanding any other TCEQ rules, the Commission may grant a contested case hearing in response to any of the hearing requests if the Commission makes any of the determinations listed in that subsection.

According to 30 TAC § 55.209(e), this Response must address the following:

- (1) whether each hearing requestor is an affected person;
- (2) which issues raised in each hearing request are disputed;
- (3) whether the dispute involves questions of fact or law;
- (4) whether the issues raised in each hearing request were raised during the public comment period;

- (5) whether each hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's RTC;
- (6) whether the issues raised in each hearing request are relevant and material to the decision on AmeriTex's Registration; and
- (7) a maximum expected duration for the contested case hearing in the event the Commission decides to grant a contested case hearing.

Sections II.B. to II.E of this Response address the relevant items listed in the above-identified sections (i.e., 30 TAC §§ 55.209(e), 55.211(c), and 55.211(d)) as follows:

- (1) Section II.B. of this Response demonstrates that none of the hearing requestors is an affected person (addressing 30 TAC §§ 55.209(e)(1) and 55.211(c)(2));
- (2) Section II.C. of this Response notes that only some of the disputed issues of fact and/or law raised in the hearing requests are relevant and material to the Commission's decision on AmeriTex's Registration, and that AmeriTex disputes those disputed issues of fact and/or law (addressing 30 TAC §§ 55.209(e)(2)-(6) and 55.211(c)(2)(A)(ii));
- (3) Section II.D. of this Response demonstrates that there is no basis for the Commission to make any of the determinations listed in 30 TAC §55.211(d) (addressing 30 TAC § 55.211(d)); and
- (4) Section II.E. of this Response suggests the maximum expected duration for the contested case hearing in the event the Commission decides to grant any of the hearing requests (addressing 30 TAC § 55.209(e)(7)).

**B. None of the hearing requestors is an affected person (addressing 30 TAC §§ 55.209(e)(1) and 55.211(c)(2))**

**1. None of the hearing requestors is an affected person based on the location of his or her permanent residence relative to the location of the proposed Plants**

**a. None of the hearing requestors is an affected person because the permanent residence of each hearing requestor is located more than 440 yards from the location of the proposed Plants**

According to TEXAS WATER CODE § 5.115(a), 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 proposed facility. According to TEXAS HEALTH AND SAFETY CODE § 382.056(b)(5), “a person who may be affected by emissions” from a proposed facility -- whom the TCEQ rules refer to as an “affected person” -- is entitled to request a contested case hearing regarding the application for the proposed facility.

Where the proposed facilities comprise a concrete batch plant that is covered by a registration to use the Standard Permit, such as AmeriTex’s Registration, TEXAS HEALTH AND SAFETY CODE § 382.058(c) affirmatively and clearly specifies when a hearing requestor regarding the registration is an affected person. According to that provision, for such a hearing requestor to be an affected person, he or she must be “actually residing in a permanent residence” that is located within 440 yards of the proposed concrete batch plant covered by the registration.<sup>1</sup> Therefore, a hearing requestor who is “actually residing in a permanent residence” that is located more than 440 yards from such a proposed concrete batch plant is *not* an affected person. According to TEXAS HEALTH AND SAFETY CODE § 382.058(c), a person may not even

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<sup>1</sup> TEX. HEALTH AND SAFETY CODE § 382.058(c) (“only those persons actually residing in a permanent residence within 440 yards of [a] proposed [permanent concrete batch] plant may request a hearing . . . as a person who may be affected”).

request a contested case hearing unless he or she is an affected person. Notwithstanding that, for each hearing requestor the Commission determines is not an affected person, the Commission is required to deny his or her hearing request pursuant to TEXAS WATER CODE § 5.556(c), which provides that the Commission “may not grant” a hearing request unless it determines the request was filed by an affected person.

Based on the foregoing, for any of the hearing requestors regarding AmeriTex’s Registration to be an affected person, that hearing requestor must be “actually residing in a permanent residence” that is located within 440 yards of the proposed Plants. However, as is demonstrated by the map in Exhibit A of Attachment 1 to this Response, the residence at the address that was provided in each hearing request is located much more than 440 yards from the proposed Plants. Accordingly, none of the hearing requestors is “actually residing in a permanent residence” that is located within 440 yards of the proposed Plants. The map in Exhibit A of Attachment 1 shows (i) the location of the building in which the proposed Plants will be located, (ii) the boundaries of an area with a 440-yard radius from that building (which means each of the proposed Plants will be located more than 440 yards from those boundaries), and (iii) the location of the residence at the address that was provided in the hearing requests of the two hearing requestors (a married couple) whose residence is close enough to that building to be shown on the map. Following the map in Exhibit A of Attachment 1 is a table that contains (i) the names of the hearing requestors, (ii) the addresses they provided in their hearing requests, which are specified in the Chief Clerk’s December 1, 2021 letter, and (iii) the numbers that correspond to the blue dots on the map that show the location of the residence at the only address that is close enough to the building in which the proposed Plants will be located to be shown

on the map. An affidavit of Curt Campbell of Westward Environmental that describes the preparation of both the map and the table precedes them in Attachment 1.

Since the map in Exhibit A of Attachment 1 shows that the residence of each of the hearing requestors is located more than 440 yards from the proposed Plants, TEXAS HEALTH AND SAFETY CODE § 382.058(c) affirmatively and clearly provides that none of the hearing requestors is an affected person relative to AmeriTex's Registration, or, thus, had a right to even submit a contested case hearing request. Accordingly, AmeriTex requests that the Commission deny the hearing request of each of the hearing requestors. But, if the Commission chooses to not deny any such hearing request based on TEXAS HEALTH AND SAFETY CODE § 382.058(c) providing that the hearing requestor had no right to even submit such a request, the Commission should nevertheless deny such request because TEXAS WATER CODE § 5.556(c) provides that the Commission "may not grant" a hearing request submitted by any person who is not an affected person.

**b. No hearing requestor is an affected person based on the alleged possibility that AmeriTex could subsequently move one or more emissions points that will comprise the proposed Plants closer to that requestor's permanent residence**

In her comments, Deirdre Diamond raised a hypothetical situation involving AmeriTex possibly changing the location of one or more of the emissions points that will comprise the proposed Plants after TCEQ approves AmeriTex's Registration such that the emissions point(s) would be within 440 yards of the permanent residence of her or another hearing requestor. She asked whether that hypothetical situation causes her or the other hearing requestor to be an affected person. For the following reasons, the answer to her question is no.

First, there is no evidence, or even indication, in AmeriTex's Registration or elsewhere

in the associated administrative record that after the Commission approves that Registration, AmeriTex might re-locate any of the emissions points that will comprise its proposed Plants. But, even if AmeriTex was to do so, it is critical to note there is no evidence or information in the hearing requests or comments of Ms. Diamond or of any other hearing requestor that even indicates it is possible AmeriTex might re-locate one or more of the emissions points that will comprise the proposed Plants to a location on its property that would meet the minimum distance requirements in the Standard Permit and be closer than 440 yards from the hearing requestor's permanent residence.

Therefore, even under Ms. Diamond's hypothetical situation, neither she nor any other hearing requestor would be an affected person.

**2. The TCEQ rules regarding Commission review of hearing requests provide further support that none of the hearing requestors is an affected person**

The TCEQ rules specify how the Commission is to make affected person determinations for contested case hearing requests. Those rules provide even further support for the conclusion that none of the hearing requestors is an affected person.

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

- (1) whether the interest claimed is one protected by the law under which AmeriTex's Registration will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;



- (4) the likely impact of the regulated activity on the health and safety of the hearing requester, and on the use of the property of the hearing requester;
- (5) the likely impact of the regulated activity on the use of the impacted natural resource by the hearing requester;
- (6) since AmeriTex's Registration was filed after September 1, 2015, whether the requestor timely submitted comments that were not withdrawn; and
- (7) if the hearing requestor was a governmental entity, the statutory authority over or interest in the issues relevant to AmeriTex's Registration.

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

- (1) the merits of AmeriTex's Registration and supporting documentation in the Commission's administrative record, including whether AmeriTex's Registration 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, AmeriTex, or any hearing requestor.

According to the court in *Sierra Club v. TCEQ*, in determining whether a hearing requestor is an "affected person", the Commission "enjoys the discretion to weigh and resolve matters that may go to the merits of the underlying application, including the likely impact the regulated activity will have on the health, safety, and use of property by the hearing requestor

and on the use of natural resources”.<sup>2</sup> The court also stated that for a hearing requestor to demonstrate that he/she is an “affected person”, he/she must establish “a concrete and particularized injury in fact, not common to the general public, that is (1) actual and imminent, (2) fairly traceable to the issuance of the permit as proposed, and (3) likely to be redressed by a favorable decision on its complaint”.<sup>3</sup>

The following analyses of relevant provisions in 30 TAC § 55.203(c) and (d) provide further support for the conclusion that none of the hearing requestors is an affected person.

**a. The distance restriction imposed by law on the affected interest of each hearing requestor shows none of them is an affected person (addressing 30 TAC § 55.203(c)(2))**

As discussed in Section II.B.1 of this Response, TEXAS HEALTH AND SAFETY CODE § 382.058(c) imposes a distance restriction on whether each of the hearing requestors regarding AmeriTex’s Registration is an affected person. According to that provision, for such a hearing requestor to be an affected person, he or she must be “actually residing in a permanent residence” that is located within 440 yards of the proposed Plants. Since Attachment 1 to this Response shows that none of the hearing requestors meets that distance restriction, none is an affected person.

**b. There will be no impact of the regulated activity on the health, safety, and property of any hearing requestor (addressing 30 TAC § 55.203(c)(4))**

As discussed below, the evidence and information in the administrative record for AmeriTex’s Registration demonstrate the emissions from the proposed Plants, i.e., the regulated activity, will not cause or contribute to any negative impact on the health, safety, or property of

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<sup>2</sup> *Sierra Club v. TCEQ*, 455 S.W.3d, 214, 217 (Tex. App. - Austin 2014, pet. denied).

<sup>3</sup> *Id.*, at 221 (citing *City of Waco v. TCEQ*, 413 S.W. 3d 409,417 (Tex. 2013)).

any hearing requestor. Moreover, none of their hearing requests has provided any evidence or information that indicates otherwise.

During the development of the Standard Permit, TCEQ conducted an extensive protectiveness review, which is described on pages 4-7 of the RTC. That protectiveness review demonstrates that the emissions from any concrete batch plant that meets the technical requirements of the Standard Permit will not cause or contribute to any negative impact on the health, safety, or property of any member of the public.<sup>4</sup> Based on that, and on the Executive Director's determination that the representations in AmeriTex's Registration demonstrate that the proposed Plants will meet the technical requirements of the Standard Permit,<sup>5</sup> the emissions from the proposed Plants will not cause or contribute to any negative impact on the health, safety, or property of any member of the public, including any of the hearing requestors.

In addition, AmeriTex notes that the nearest part of the nearest school, which is Gunter Middle School, will be located more than 2.29 miles from the nearest part of the proposed Plants. That is reflected on the map in Exhibit B of Attachment 1 to this Response, which shows (i) the location of the building that will house the proposed Plants, (ii) the location of Gunter Middle School, and (iii) a line that shows the distance between the nearest part of that building and the nearest part of that school will be 2.29 miles. Mr. Campbell's affidavit in Attachment 1 explains how that map was prepared.

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<sup>4</sup> RTC at 7.

<sup>5</sup> *Id.*

**c. There will be no impact of the regulated activity on the use of the impacted natural resource by any hearing requestor (addressing 30 TAC § 55.203(c)(5))**

Ambient air is the only “natural resource” whose use by any hearing requestor has any potential to be impacted by the “regulated activity”, i.e., the emissions from the proposed Plants, and that is relevant to TCEQ’s consideration of AmeriTex’s Registration. “Ambient air” is the air to which the general public has access,<sup>6</sup> which is the air beyond the boundaries of AmeriTex’s property on which the proposed Plants will be located.

Based on TCEQ’s protectiveness review for the Standard Permit, the Executive Director has determined that the emissions from the proposed Plants, i.e., the “regulated activity”, will not negatively impact the quality of the ambient air.<sup>7</sup> None of the hearing requests provides any evidence or information that indicates otherwise.

Therefore, the emissions from the regulated activity will not negatively impact the use by any of the hearing requestors of any natural resource, including the ambient air.

**d. The merits of AmeriTex’s Registration and supporting documentation in the Commission’s administrative record demonstrate such Registration meets the requirements to be approved (addressing 30 TAC § 55.203(d)(1))**

AmeriTex’s Registration and supporting documentation in the Commission’s administrative record clearly demonstrate such Registration meets the requirements of the Standard Permit, and that TCEQ should approve it. The Executive Director has also reached that conclusion as reflected in the RTC and other parts of the administrative record.<sup>8</sup>

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<sup>6</sup> 40 CFR § 50.1(e).

<sup>7</sup> RTC at 4-7.

<sup>8</sup> *See, e.g.*, RTC at 7, 13, 24.

Therefore, a contested case hearing regarding AmeriTex's Registration would be a waste of TCEQ's resources, as well as AmeriTex's resources.

- e. The analysis and opinions of the Executive Director led to the determination that such Registration meets the requirements for the Commission to approve it (addressing 30 TAC § 55.203(d)(2))**

The Executive Director has fully analyzed AmeriTex's Registration and supporting documentation in the Commission's administrative record and has properly determined they demonstrate such Registration meets the requirements for the Commission to approve it.<sup>9</sup>

Therefore, a contested case hearing regarding AmeriTex's Registration would be a waste of TCEQ's resources, as well as AmeriTex's resources.

- f. All other expert reports, affidavits, opinions, or data submitted by the Executive Director, the applicant, or any hearing requestor demonstrate AmeriTex's Registration meets the requirements for the Commission to approve it (addressing 30 TAC § 55.203(d)(3))**

As discussed in Section II.B.1 of this Response, Attachment 1 to this Response contains (i) a map that demonstrates that the residence of each of the hearing requestors at the address provided in his or her hearing request is located much more than 440 yards from the proposed Plants, (ii) a map that shows that the distance from the nearest part of the proposed Plants to the nearest part of the nearest school, which is Gunter Middle School, will be more than 2.29 miles, and (iii) an affidavit of Curt Campbell of Westward Environmental describing how those maps were prepared.

Therefore, a contested case hearing regarding AmeriTex's Registration would be a waste of TCEQ's resources, as well as AmeriTex's resources.

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<sup>9</sup> *Id.*

**C. Only some of the claims raised in the hearing requests are disputed issues of fact and/or are relevant and material to the Commission’s decision on AmeriTex’s Registration, and AmeriTex disputes those claims (addressing 30 TAC §§ 55.209(e)(2)-(6) and 55.211(c)(2)(A)(ii))**

Many of the claims that were raised in the hearing requests are disputed issues of fact and/or law that are not relevant and material to the Commission’s decision on AmeriTex’s Registration. Those claims include, but are not limited to, the following: (i) alleged solid waste and wastewater disposal issues; (ii) alleged road safety; and (iii) alleged increased truck traffic. The Commission should completely disregard each of those claims and all other claims that are not relevant and material to the Commission’s decision on AmeriTex’s Registration.

For the claims that are relevant and material to the Commission’s decision on AmeriTex’s Registration, the evidence and information before the Commission demonstrate that none of those claims supports the Commission granting any of the hearing requests, or not approving AmeriTex’s Registration.

**D. There is no basis under 30 TAC § 55.211(d) for the Commission to refer AmeriTex’s Registration to the State Office of Administrative Hearings for a contested case hearing (addressing 30 TAC § 55.211(d))**

30 TAC § 55.211(d) provides that “notwithstanding any other [TCEQ] rules” the Commission may refer a permit application to the State Office of Administrative Hearings (“SOAH”) for a contested case hearing if the Commission makes any of the determinations described in that provision. That provision does not provide a means by which the Commission may refer AmeriTex’s Registration to SOAH for a contested case hearing because the phrase “notwithstanding any other [TCEQ] rules” does not, and cannot, trump the statutory provisions discussed in Section II.B.1 of this Response pursuant to which none of the hearing requestors is

an affected person (TEXAS HEALTH AND SAFETY CODE § 382.058(c)), and, thus, the Commission “may not grant” any of the hearing requests (TEXAS WATER CODE § 5.556(c)). The phrase “notwithstanding any other [TCEQ] rules” does not trump those statutory provisions because it only refers to “rules”, and not also to statutory provisions. Also, the phrase “notwithstanding any other [TCEQ] rules” cannot legally trump those statutory provisions because it is in a rule, and a rule cannot legally trump a statutory provision. Therefore, it would be inappropriate for the Commission to refer any of the hearing requests to SOAH for a contested case hearing under 30 TAC § 55.211(d).

Notwithstanding that, AmeriTex notes that the compliance history for its site at which its proposed Plants will be located contains no violations that are unresolved or that constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations, as referenced in 30 TAC § 55.211(d)(2).

**E. While there is no basis for the Commission to grant a contested case hearing for AmeriTex’s Registration, if one was to be granted, its maximum expected duration should be six (6) months (addressing 30 TAC § 55.209(e)(7))**

AmeriTex believes that while this Response demonstrates there is no basis for the Commission to grant a contested case hearing for AmeriTex’s Registration in response to any of the hearing requests, if the Commission was to nevertheless grant a contested case hearing, it should last no more than six (6) months.

### III. PRAYER

For the foregoing reasons, AmeriTex respectfully requests that the Commission do the following:

1. Deny each of the hearing requests regarding AmeriTex's Registration, and not grant a contested case hearing in response to any of them, and
2. Approve AmeriTex's Registration, in accordance with the Executive Director's decision that AmeriTex's Registration meets the requirements of the Standard Permit.

Respectfully Submitted,

By: Keith Courtney

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**CERTIFICATE OF SERVICE**

I certify that on December 13, 2021, a true and complete copy of the foregoing AmeriTex Pipe & Products, LLC's Response to Requests for Contested Case Hearing was sent to each of the following parties by email or first class mail, as is indicated below.

By: Keith Courtney  
Keith A. Courtney

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**(via email)**

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# Attachment 1

**TCEQ Docket No. 2021-1508-AIR**

**AMERITEX PIPE & PRODUCTS, LLC'S § BEFORE THE TEXAS  
REGISTRATION NO. 164317 TO USE § COMMISSION ON  
THE STANDARD PERMIT FOR § ENVIRONMENTAL  
CONCRETE BATCH PLANTS § QUALITY**

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**AFFIDAVIT OF CURT G. CAMPBELL, P.E.**

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STATE OF TEXAS  
COUNTY OF KENDALL

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


1. My name is Curt G. Campbell, P.E. I am over 21 years of age, am of sound mind, and am fully competent to make this affidavit. Each and every statement contained in this affidavit is based upon my personal knowledge, and each and every statement is true and correct.
2. I am the Vice President - Engineering & Natural Resources for Westward Environmental Inc. ("Westward"). I am a licensed Professional Engineer in the State of Texas. I have about 17 years of professional experience using mapping programs and Graphic Information Systems ("GIS") to prepare maps for various projects. That experience has included me regularly utilizing, and overseeing others utilizing, mapping programs and GIS to prepare maps that show the locations of proposed process equipment covered by permit applications or standard permit registrations and the addresses/locations of people who requested contested case hearings regarding them.
3. Autodesk AutoCAD Civil 3D 2021 was used under my direct supervision and oversight to locate (i) the building that will house the two proposed concrete batch plants ("Plants") covered by the Standard Permit Registration No. 164317 ("Registration"), based on the building's GPS coordinates, (ii) an area with a 440-yard radius from that building, and (iii) the residence of each person who filed a contested case hearing request regarding the Registration ("hearing requestor"). Texas NAIP 2020 Imagery was used as the base map in that effort. The residence of each hearing requestor was located on the base map as follows: (i) the address search feature in Google Earth was used and cross referenced with the Grayson County Property Appraisal District Records to locate the address that is listed for that hearing requestor on the mailing list that was attached to the Texas Commission on Environmental Quality ("TCEQ") Chief Clerk's December 1, 2021 letter stating

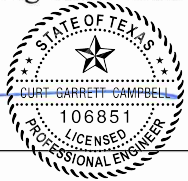
that the Registration and all timely filed hearing requests will be considered by the TCEQ commissioners at their January 12, 2022 meeting, and (ii) a visual review was conducted of the area around the location of the hearing requestor's address on the ESRI World Imagery base map to determine the location of the hearing requestor's residence. I verify that I reviewed all of the work described in this paragraph that I did not personally conduct, and I determined it was conducted properly.

Exhibit A to this affidavit contains a map that was prepared under my direct supervision and oversight, and was verified by me for accuracy. It shows (i) the location of the building that will house the Plants, which is identified as a rectangle outlined in red, (ii) an area with a 440-yard radius from that building, which is shaded in yellow, and (iii) the location of the residence of each of the hearing requestors that is close enough to be shown on the map, each of which is represented on the map by a blue dot and a corresponding number. Exhibit A also contains a table that contains (i) the names of the hearing requestors, (ii) the addresses listed for them on the mailing list attached to the Chief Clerk's December 1, 2021 letter, and (iii) the numbers that correspond to the blue dots on the map that show the locations of the residences at those addresses that are close enough to be shown on the map.

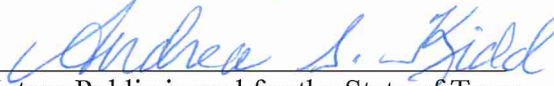
4. Exhibit B contains a map that was prepared under my direct supervision and oversight, and was verified by me for accuracy. That map shows (i) the location of the building that will house the Plants, which is identified as a rectangle outlined in red, (ii) an area with a 440-yard radius from that building, which is shaded in yellow, and (iii) a line that shows there are 2.29 miles between the nearest part of that building and the nearest part of the nearest school, which is Gunter Middle School. Texas NAIP 2020 Imagery was used as the base map in the preparation of this map. The location of the building that will house the Plants was determined using the same technique as was used to locate that building on the map in Exhibit A. The location of Gunter Middle School was determined by locating all schools in the area on the Texas Education Agency map, determining their addresses using the Gunter Independent School District Website, and locating those addresses on the map in Exhibit B.

Further, affiant sayeth not.

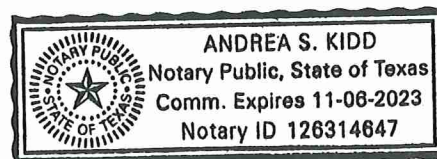
  
Curt G. Campbell, P.E.



Sworn to and signed before me, the undersigned authority, on this 2 day of December, 2021.

  
Notary Public in and for the State of Texas

My Commission Expires: 11-06-2023  
Commission No. 126314647






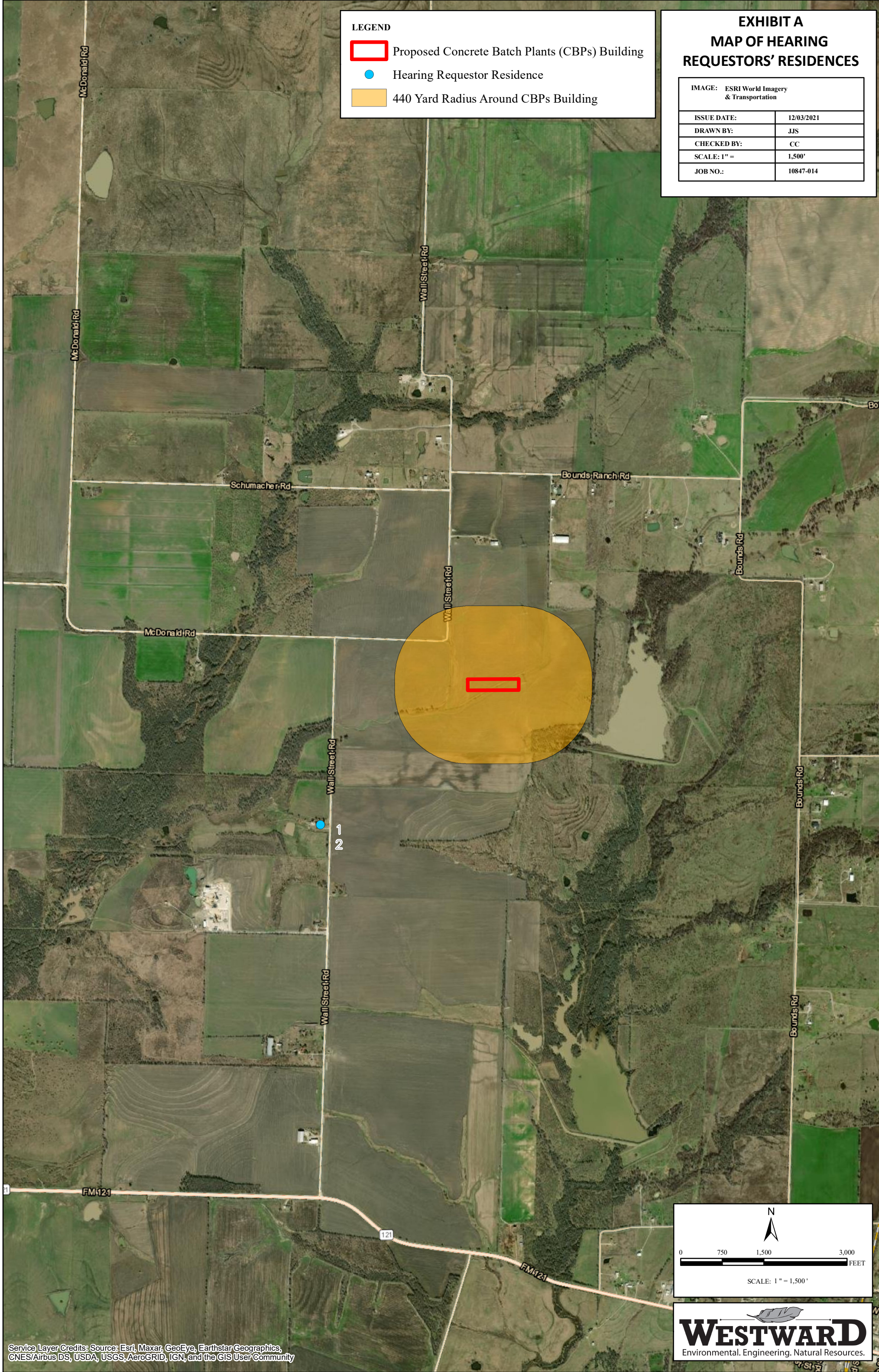
# Exhibit A

**EXHIBIT A**  
**MAP OF HEARING**  
**REQUESTORS' RESIDENCES**


IMAGE: ESRI World Imagery & Transportation	
ISSUE DATE:	12/03/2021
DRAWN BY:	JJS
CHECKED BY:	CC
SCALE: 1" =	1,500'
JOB NO.:	10847-014

**LEGEND**

-  Proposed Concrete Batch Plants (CBPs) Building
-  Hearing Requestor Residence
-  440 Yard Radius Around CBPs Building



N



0 750 1,500 3,000 FEET

SCALE: 1" = 1,500'

**WESTWARD**  
 Environmental. Engineering. Natural Resources.

Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Addresses of Hearing Requestors Who Did Not Withdraw Their Requests**

<b>No. on Map</b>	<b>Hearing Requestor</b>	<b>Address Provided in TCEQ Chief Clerk's letter</b>
1	Linda Hunter	1273 Wall Street Rd Gunter, TX, 75058
2	Don Hunter	1273 Wall Street Rd Gunter, TX, 75058
N/A <sup>1</sup>	Emily Lewis	P.O. Box 1147 Prosper, TX, 75078
N/A <sup>1</sup>	Christina Peyton	2025 Fox Bend Trace Gunter, TX, 75058
N/A <sup>2</sup>	Deirdre Diamond	123 Bledsoe Rd Gunter, TX 75058
N/A <sup>1</sup>	Jessica Seay	240 Sharp Rd Gunter, TX, 75058
N/A <sup>1</sup>	Nick Owens	121 Lazy S Ranch Rd Gunter, TX, 75058
N/A <sup>1</sup>	Connie Jo Eubanks	105 Beavers Bend Dr. Gunter, TX, 75058
N/A <sup>1</sup>	Michael Spano	152 Silverado Dr. Georgetown, TX, 78633
N/A <sup>1</sup>	Timothy Mark Peery	10620 Signal Hill Rd Austin, TX, 78737
N/A <sup>1</sup>	Wendy Wright	615 Vista View Trail Spicewood, TX, 78669
N/A <sup>1</sup>	Don Everingham	601 Pfeiffer Rd Bulverde, TX, 78163
N/A <sup>1</sup>	Linda McAllister	467 Vaughan Ln Tioga, TX, 76271
N/A <sup>1</sup>	Bryan Hemman	2117 Austin Ln Prosper, TX, 75078




<sup>1</sup> This address is not shown on the map associated with this table because it is much too far away from AmeriTex's proposed concrete batch plants to be seen on that map.

<sup>2</sup> This address could not be verified through the Grayson County Appraisal District Property Search.



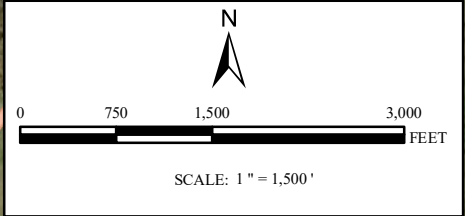
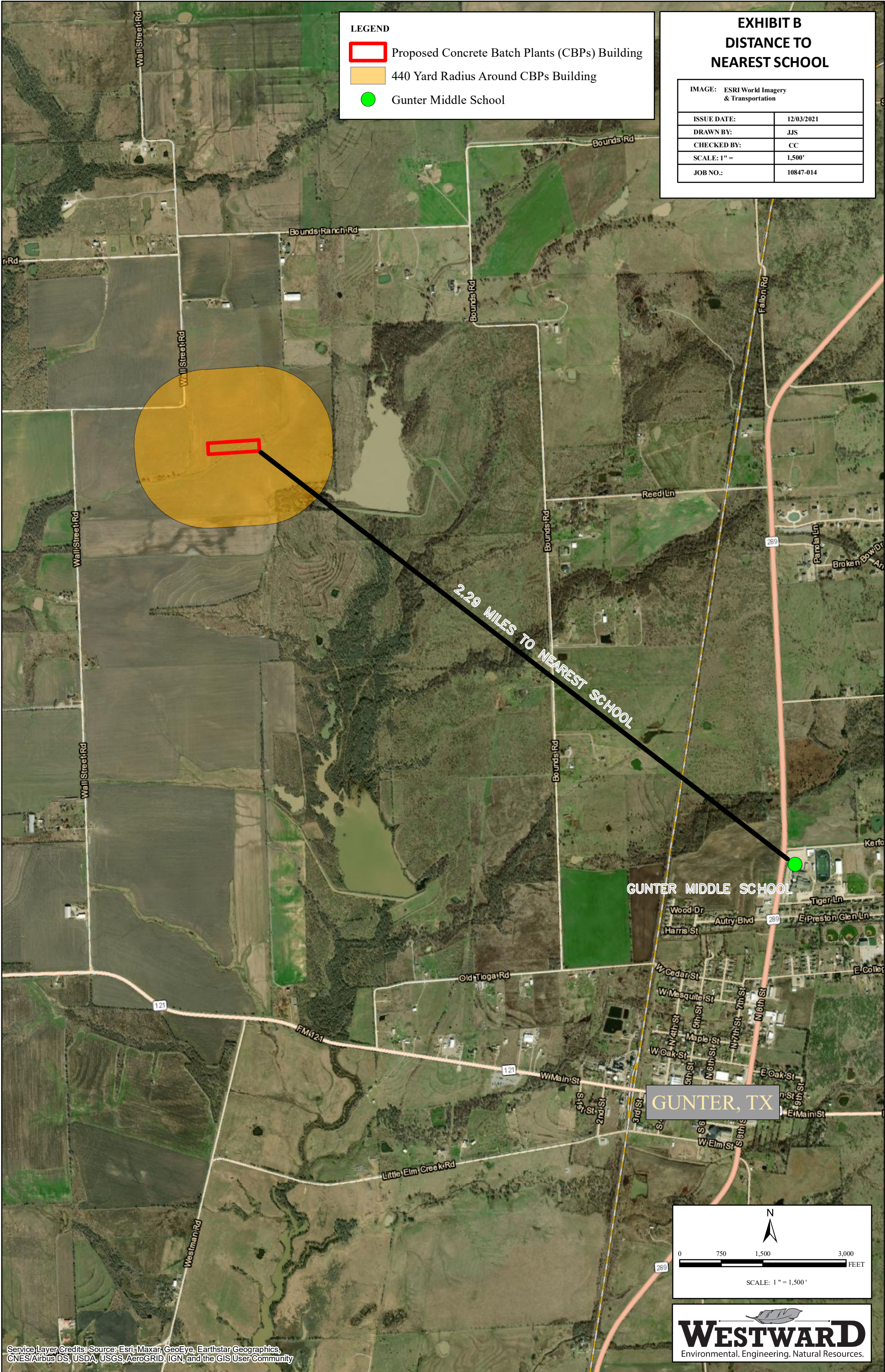
# Exhibit B

**LEGEND**

-  Proposed Concrete Batch Plants (CBPs) Building
-  440 Yard Radius Around CBPs Building
-  Gunter Middle School

**EXHIBIT B**  
**DISTANCE TO**  
**NEAREST SCHOOL**

IMAGE: ESRI World Imagery & Transportation	
ISSUE DATE:	12/03/2021
DRAWN BY:	JJS
CHECKED BY:	CC
SCALE: 1" =	1,500'
JOB NO.:	10847-014



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community