

TCEQ AIR QUALITY PERMIT NUMBER 169044L001

APPLICATION BY	§	BEFORE THE
WILCO AGGREGATES, LLC	§	TEXAS COMMISSION ON
ROCK CRUSHING FACILITY	§	ENVIRONMENTAL QUALITY
LIBERTY HILL, WILLIAMSON	§	
COUNTY		

EXECUTIVE DIRECTOR’S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the New Source Review Authorization application and Executive Director’s preliminary decision.

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received timely comments from the following persons: Senator Charles Schwertner, Williamson County Commissioner Cynthia P. Long, Liberty Hill City Council Member Amanda L. Young, David Abigt, Brien Aho, Michael Albert Alkier, Sobhan Amaraneni, Janet Y. Arlitt, Janis Austin, Paul E. Babb, Natalie Ball, Dinesh Bande, Catherine Bargh, Kathleen Barmettler, Jake Basey, Luke Basey, Tommy Bates, Marc Bittner, Oleta Bodine, Lindsay Elizabeth Boltan, Zinaida Boltan, Scott Bowman, Mira Linn Boyda, Jason Brandt, Jeff Burrus, Deanna Bye, Brad C., Gina Calderwood, Richard Calderwood, Cheryl Lynn Cantwell, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Byron A. Case, Wendy Case, Byron Alexander Case, Byron Case, Treva Hanley Chaumont, Sudhir Kumar Chavour, Bret B. Chilcott, Cindy Chrisler, Keith Neal Churchill, Jill Clark, Raymond Clark, Tammy Clopton, Kadey Cochran, Vanessa Conner, Peter Coomaraswamy, Davin Cordell, Donna Cox, Tim Cox, Lea A. Curley, Lea Curley, Chinell Darling, Jason Darling, Lindsey Darling, Asok Datla, Lawrence J. Dayhoff, Amy Demars, Laurie Dickerson, Christine Dornfeld, Jason Doyen, Lockie Ealy, Bill E. Eca, Celena Eggeling, David Elam, Julie Esh, Molly Evans, Sharon Ezell, Jerry Presley Fackler, Melinda Fink, Raymond Firkins, Michael Fischer, Cynthia L. Floyd, Kristen Floyd, Thomas Floyd, Devin Floyd, Mary Jo Foster, Thomas Reese Foster, Sandy Fox, G. Frame, Jacqueline Frame, Kristi France, Lauren Frederick, Shawn Frederick, Mandy Fults, Mike Gainer, Ernesto Galindo, Auburne Gallagher, Gopala Ganti, Henry Geiger, Stephanie George, James Douglas Gero, Melynda Gero, Kat M. Gets, Erin Giannette, Penny Goodrich, Naveen Gottumukkala, David Gould, John Pierre Gourlay, Robin Graham, Gary Greenlees, John Griffin, Daniel Ray Grubbs, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Janice Hair, Ronnie Hair, Ronnie W. Hair, Michael S. Hale, Robin Hardcastle, Chris Harper, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Frank Haskell, Carole Heald, Donald A. Hemingway, Boyd Henry, Moises Hernandez, Saira Hernandez, J. W. Hicks, Holly Hodges, Alexandra E. Hoeffner, Kim Hofstetter-Johnson, Kendal Holcombe, Seth Holcombe, Richard Hollar, Chad Horton, David H. Hutton, David Hutton, George Hyett, Audrey Izzo, Janie Jackson, Ryan Keith Jarl, Heather Jennings, Brianna Jimenez, Charles Johnson, Gregory S. Johnson, Jennifer S. Johnson, Sandy Johnson, Jason Johnston, Cameron Joiner, Hudson Joiner, Cameron Noble Joiner, Bonny Spoons Jones, Satya Kakani, Divyaksh Kapur, Shayne Allan Kilian, Yvonne Kinnibrugh, Allyson Kirkland, Susan Kittrell, Lakshmanjee Kolli, Kathy Korcz, Erik Krause, John Kretzer, Melanie Kriewaldt-Roth,

Arun Kumar, Ajay Kwatra, Pam Lafferty, Narendra V. Lakamraju, Jonathon Lande, Robert Lansing, Edward Larsen, Linda Larsen, Eric Larson, Lauren Larson, Penny Lee, Donna Leonard, Linda Lewis, Robin Lewis, Kerry Lindinger, Robin Lingren, Reagan Lochte, Sara Loftin, Haley Diane Lowrance, Todd Lueck, Chad Marak, Mike Markl, Russel A. Martin, Shauna L. Martin, Patricia Matus, Scott Matus, Roger McAleenan, Lawrence McClay, Jodi Lynn McCumber, Patrick Francis McDonough, Laura A. McFarland, Laura McFarland, Amy McHugh, John McHugh, Jessica McKee, Sheila Sellman McKinnis, Alexandra McStay, Stephen N. McStay, Brian D. Merrill, Barbara Mings, Shannon Minor, William Minor, Ashish Mishra, Sunil Mishra, Pamela Mitchel, Amber Mitchell, James Mogford, Doug Montgomery, Marbert Moore, Mary Jane Moore, N. Clark Moore, Marvin Morse, Nancy Morse, Ladonna Muennink, Anthony Nardone, Chris Nauert, James Neblett, Brian Nickels, Lisa Nickels, Brien Regina O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Erin R. O'Brien, Melanie Ocana, Monty R. Oehrlein, Shawn Oehrlein, Tasha Olds, Kate Ortiz, Lora Ortiz, Mike Ortiz, Devin Osborne, Nick Page, Pavan Paladugu, Jerome Palmer, Majida Parker, David Parrish, Monica Parrish, Edward Pavlinik, Meisha Pavlinik, Kelly Pearson, Ken Pearson, Ronald Craig Pearson, Tarakam Peddada, Raju Penmetsa, Gregory Pontejos, Ronny Porter, Rajendra C. Potluri, Private Private, Kelly Purkey, Moshell Ray, Lannie Read, Craig Reynolds, Cathy Riedel, Kerry Riggs, Susan Ringstaff, Aaron Rose, Alan Roth, C. Sanchez, Rosa Sanchez, Clem Sanchez, Tiffany Sanders, Maggi Savo, Nicholas Savo, Sridevi Sayyaparaju, Michael Schott, Fritz Schubert, Roma Schubert, Erland Schulze, Shannon Schulze, Alysia Van Scoy, Greg Van Scoy, Jack Seaquist, Denise S. Self, Dane Seward, Kim Seward, Terry Shuffler, Lisa Simmons, Susan Simon, B. Smith, Rhonda Smith, Crystal Smith, Patrick Spencer, Tina Spencer, Deva Floyd Spiking, Evan L. Stepp, Anton Stetsenko, Jill Steward, Kristen Stokes, Jami Strable, Candice Stroope, Richard Stroope, Tracy Swantner, Erika Tanner, Karen Taylor, Tracy Taylor, Malcom Terry, Pete Testone, Chandra Thondapi, Gina M. Tracy, Tonnya Troyer, Jimmy Tyree, Sheila Dawn Urbanek, Melanie Vague, Swaroop Vasireddy, Balu Velupula, Margo Voltin, Dan Vrisimo, Henry Waddell, Leanne Walsh, Heath Walz, Linda Walz, Stacey Warner, Katherine Watkins, Heidi Watts, Loren Way, Scott Weisse, Kris Weixel, Kristine Weixel, Nicole Welch, Brandon M Welley, Monique Wenneborg, Steve Wenneborg, Nancy A. Wilk, Che Dawn Williamson, Dave Wilson, Hollis Wilson, Michael Winkley, Sandra K. Winkley, Darryl Winstead, Johnathon David Wright, and Laura Zwahlen. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND

Description of Facility

Wilco Aggregates, LLC (Applicant) has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA) § 382.0518. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a Rock Crushing Plant. The plant is proposed to be located at 4655 County Road, 284 Liberty Hill, Williamson County. Contaminants authorized under this permit include particulate matter including particulate matter with diameters of 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}).

Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain a permit from the commission. This permit application is for an initial issuance of Air Quality Permit Number 169044L001.

The permit application was received on May 10, 2022 and declared administratively complete on May 17, 2022. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for this permit application was published in English, on June 2, 2022, in The Hill Country News and in Spanish, on June 2, 2022, in El Mundo. The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published in English, on July 21, 2022, in The Hill Country News, and in Spanish, on July 21, 2022, in El Mundo. A public meeting was held on August 29, 2022, at the Shooting Star Ranch, 1704 County Road 285, Liberty Hill, Texas. The notice of public meeting was mailed on July 29, 2022. The public comment period ended on September 23, 2022. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

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COMMENTS AND RESPONSES

COMMENT 1: Public Notice / Sign Posting / Public Participation

Commenters asked the TCEQ to consider their concerns. Cynthia P. Long asked TCEQ to consider the concerns of the neighbors and weigh them heavily when reviewing the application. Brian Nickels asked TCEQ to consider how the community feels about the proposed plant. Erik Krause questioned whether the comments submitted on this application would be read and considered.

Mary Jo Foster stated that every effort was made to prevent the acknowledgment of the permit’s purpose. Janice F. Hair stated that the application is being reviewed under secrecy and with questionable tactics by TCEQ. Che Dawn Williamson commented that it is a crime for the application to have been submitted behind the backs of private citizens. Jimmy Tyree commented that there was no public outreach or contact with homeowners about the proposed plant, which he stated was unethical. Balu Velupula commented that the application was being processed in a sneaky way without consideration from the public or Liberty Hill’s future development plans. Marbert Moore requested that the public be given more time to review the application.

Newspaper Notice

Commenters expressed concern about whether the Applicant met the public notice requirements and stated that public notice was inadequate. Some commenters were concerned that they were not directly or individually notified of the proposed project. Erin R. O'Brien questioned why the Applicant was not required to mail letters to area residents so that residents have ample notice to respond. Michael S. Hale commented that the Applicant's failure to comply with public notice requirements was an attempt to deceive the public and was an unethical attempt to beat the system.

Several commenters expressed concern that the Applicant did not publish notice in the *Liberty Hill Independent* newspaper and questioned why the Applicant was not required to publish in a Liberty Hill newspaper. Several commenters expressed concern about the Applicant's choice to publish notice in the *Hill Country News*, stating that this newspaper is not available to residents of Liberty Hill. In addition, some commenters stated that the chosen newspaper is an online-only publication with print copies only available to subscribers. N. Clark Moore questioned whether the Hill Country News meets the requirement for more than a de minimis number of subscribers if it only provides print copies to subscribers.

Some commenters stated that they live very near the proposed location of the plant but were not notified because of the Applicant's choice of newspaper. Richard Calderwood commented that the Applicant ran the public notice publication in an unknown newspaper and tiny Spanish language site online. Mary Jane Moore questioned whether the chosen publication meets the minimum number of required subscribers to be considered acceptable.

Ken Pearson stated that while the nearest municipality is Leander, nothing in the application indicates that the project would be of any concern to citizens of Leander and as such, the notice was misleading. Thomas Reese Foster stated that the representation that Leander is the nearest municipality was an attempt to sneak in under the radar of concerned citizens. Mary Jo Foster stated that if the requirement is to publish notice in the town affected, then Leander's newspaper does not count. Ms. Foster stated that allowing the Applicant to publish notice in a Leander online newspaper was unfair and expressed concern that the Applicant manipulated its address to use the farthest piece of its land to justify not publishing in Liberty Hill. Marbert Moore questioned why the TCEQ would not enforce its own rules concerning public notice and what value a permit represents if rules are not enforced.

Sign Posting

Some commenters also expressed concern about the signs posted at the proposed plant. Mary Jo Foster expressed concern that the Applicant did not post signs for the second public comment period, stating that it was a deliberate attempt to limit public involvement and inform neighbors. Ms. Foster stated that neither the signs nor their location were adequate. Lea Curley commented that if the signs had been properly posted where higher traffic volumes could view them, the application would have never made it to permitting. Laura McFarland commented that the Applicant placed its signs where they would be tucked away in the bushes along the sides of the road in places where they would barely be seen. Marbert Moore stated that the Applicant and

its consultant were in a deceptive rush to deny the public the right to a contested case hearing and asked why the public was kept in the dark about when signs were posted. Marbert Moore also stated that the signs were unreadable from the street.

Contested Case Hearing

Several commenters expressed concern that they were not given adequate time to request a contested case hearing. Russel A. and Shauna L. Martin stated that the Executive Director's extension of the comment period was an acknowledgment that the public notice was inadequate and is grounds for granting contested case hearing requests. Shawn Frederick stated that residents were not offered the opportunity to request a contested case hearing due to inadequate notice. Mary Jo Foster expressed concern regarding when contested case hearing requests are considered timely, stating that these timelines are not known by regular citizens. Mrs. Foster recommended that the TCEQ change the period to at least 60 days. Marbert Moore requested that the TCEQ stop its review of the application and force the Applicant to submit a new application so that the public has a fair chance to have a contested case hearing. Jodi Lynn McCumber stated that the community was not notified about the application until it was too late to request a contested case hearing. Shawn Oehrlein stated the public did not have adequate notice to properly contest the application.

Public Meeting

Ronnie W. Hair questioned why TCEQ limited the public meeting discussion to only air quality issues. Jason Doyen questioned why there was security at the public meeting if the Applicant did not know it was doing something wrong and the residents would not want them there. Ken Pearson expressed concern that TCEQ representatives were not able to answer questions concerning what other air quality permits have been issued in the general vicinity of the proposed crushing facility and stated that this evidenced that a proper review of the application was not performed.

(Senator Charles Schwertner, Commissioner Cynthia P. Long, Jeff Burrus, Richard Calderwood, Eileen Carlton, Lea A. Curley, Lea Curley, Jason Doyen, Jerry Presley Fackler, Melinda Fink, Mary Jo Foster, Thomas Reese Foster, Shawn Frederick, Ronnie W. Hair, Michael S. Hale, Holly Hodges, David H. Hutton, Audrey Izzo, Erik Krause, Eric Larson, Lauren Larson, Russel A. Martin, Shauna L. Martin, Roger McAleenan, Jodi Lynn McCumber, Laura A. McFarland, Laura McFarland, Brian D. Merrill, Barbara Mings, Marbert Moore, Mary Jane Moore, N. Clark Moore, Brian Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Monty R. Oehrlein, Shawn Oehrlein, Kelly Pearson, Ken Pearson, Rosa Sanchez, Jimmy Tyree, Balu Velupula, Linda Walz, Che Dawn Williamson)

RESPONSE 1: The TCEQ welcomes public participation in the permitting process and the Executive Director appreciates the input from community members regarding the permit application and public notice process. An overview of public participation for applications filed after September 1, 2015 is available on the TCEQ website at: <https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/public-participation-9-1-2015>.

The Executive Director instructs applicants to provide public notice as required by commission rules, in accordance with statutory requirements. Specifically, TCAA § 382.056 and corresponding rules in 30 TAC Chapter 39 require that public notice of applications be published in a newspaper of general circulation in the municipality in which the proposed plant is located or proposed to be located. The notice must include a description of the facility, information on how an affected person may request a public hearing, pollutants the facility will emit, and any other information the TCEQ requires by rule. The commission also requires that notice be published in an alternative language if the elementary or middle school nearest the proposed facility offers a bilingual education program as required by Texas Education Code Chapter 29, Subchapter B. As such, individual notice to nearby residents is not required by the statute or TCEQ rules.

In addition, the TCEQ rules require the notice to include applicable information about the opportunity to request a contested case hearing. Specifically, the first notice informed the public of the opportunity to request a contested case hearing and stated:

“You may request a contested case hearing if you are a person who may be affected by emissions of air contaminants from the facility. If requesting a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, and daytime phone number; (2) applicant's name and permit number; (3) the statement “[I/we] request a contested case hearing”; (4) a specific description of how you would be adversely affected by the application and air emissions from the facility in a way not common to the general public; (5) the location and distance of your property relative to the facility; (6) a description of how you use the property which may be impacted by the facility; and (7) a list of all disputed issues of fact that you submit during the comment period. If the request is made by a group or an association, one or more members who have standing to request a hearing must be identified by name and physical address. The interests the group or association seeks to protect must also be identified. You may also submit your proposed adjustments to the application/permit which would satisfy your concerns. The deadline to submit a request for a contested case hearing is 30 days after newspaper notice is published. If a request is timely filed, the deadline for requesting a contested case hearing will be extended to 30 days after the mailing of the response to comments.”

The TCEQ rules at 30 TAC § 55.201 contain the procedures and required content for the submission and processing of requests for reconsideration or contested case hearing. In addition, 30 TAC § 55.201 specifies those permits for which there is no right to a contested case hearing. A request for contested case hearing must be timely to be considered by the commission. If any hearing requests are received before the end of the first 30-day comment period, the opportunity to file a request for a contested case hearing is extended to 30 days after the mailing of the executive director's response to comments. If no hearing requests are received by the end of the first 30-day comment period, there is no further opportunity to request a contested case hearing. *See* 30 TAC § 39.411(e)(11)(A)(vi).

As stated above, The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for this permit application was published in English on June 2, 2022, in The Hill Country News, and in Spanish on June 2, 2022 in El Mundo. The Notice of Application and Preliminary Decision for an Air Quality Permit (second public notice) was published on July 21, 2022, in English in The Hill Country News, and in Spanish on July 21, 2022 in El Mundo. No requests for contested case hearing were received during the first public notice period.

To demonstrate compliance with public notice requirements, applicants are required to provide the Office of the Chief Clerk with copies of the published notice and a publisher's affidavit verifying facts related to the publication, including that the newspaper is a paper of general circulation in the municipality in which the proposed facility is located or proposed to be located. The Executive Director reviews the publisher's affidavit and other facts concerning the publication to ensure the applicable public notice requirements are met. However, the Executive Director cannot require an applicant to publish in a particular newspaper.

Although the mailing address of the proposed plant is listed as Liberty Hill by the United States Postal Service, the Executive Director confirmed that the proposed site is not located within the municipality of Liberty Hill or its ETJ. In addition, the Applicant submitted a detailed map depicting the location of the proposed plant and its distance to both Liberty Hill and Leander. Using the latitude and longitude coordinates of the proposed plant, the Applicant demonstrated that the closest municipality is Leander. In addition, TCEQ staff contacted the publisher and confirmed that the *Hill Country News* is not an online only publication and that, in addition to subscriber delivery, copies are available in print at several different locations throughout Leander. Accordingly, the Executive Director determined that the publication in the The Hill Country News met the requirements of the TCEQ rules.

Sign Posting

When it is determined that public notice is required, applicants must also ensure that signs regarding the requested permit action are posted as required by 30 TAC § 39.604, Sign-Posting. The sign(s) must state that an air permit application has been filed, the proposed permit number, and how the public may contact the commission for further information. Each sign placed at the site must be located within ten feet of every property line paralleling a public highway, street, or road. Signs must also be visible from the street, meet lettering requirements, meet size requirements, and be

spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs are required along any property line paralleling a public highway, street, or road. Finally, in cases which notice is required to be published in an alternative language, the applicant must also post signs in the applicable alternative language. The Applicant provided verification to the Office of the Chief Clerk in accordance with 30 TAC § 39.605 that signs were posted at the proposed site in accordance with 30 TAC § 39.604.

During the second notice period, the Executive Director began to receive written comments and complaints indicating that the signs were no longer present at the site. 30 TAC § 39.604(b) states that “the sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible throughout that public comment period...” While the Executive Director interprets the TCEQ rules to require that the signs to remain in place for the entirety of the comment period, the language of the rule does not explicitly require signs to be in place during the second notice period. This language is an artifact from a rulemaking to implement HB 801 at a time when not all applications went to second notice and will be updated by the Executive Director in a future rulemaking. Nonetheless, the Executive Director requested that the Applicant replace the signs and extended the comment period to September 23, 2022, to accommodate for the time period during the second notice in which the signs were not present.

Public Meeting

The TCEQ rules require that a public meeting be held if a member of the legislature who represents the general area in which the facility is located requests a public meeting or if the TCEQ Executive Director determines that there is a substantial or significant degree of public interest. *See* 30 TAC § 55.154(c)(2). At the request of Senator Charles Schwertner and citizens in the community, the TCEQ conducted a public meeting on August 29, 2022, in Liberty Hill, Texas.

The protocol used in public meetings was explained to the assembled audience in the preliminary remarks prior to the public meeting. Specifically, it was explained that the meeting would consist of two parts, the first being an informal discussion to ask and answer questions while the second part was a formal discussion in which the audience could provide comments that would be recorded for the official public record and responded to in writing. This information is also stated in the meeting notification that was mailed to everyone on the Chief Clerk's mailing list prior to the public meeting.

As described above, this application was submitted under TCAA § 382.0518. This permit, if issued, will regulate the control and abatement of air emissions only. Therefore, public meeting discussion may be limited to ensure all participants have an adequate opportunity to ask questions or submit comments about the particular application at issue. In addition, the Executive Director's staff makes every effort to answer questions during the informal discussion; however, in the event that staff does not have access to specific information requested by a commenter, staff may recommend that the question be submitted as a formal comment so as to receive a formal written response.

This Response is the written response to all formal comments received during the comment period for the application. A copy of this Response will be sent to each person who submitted a formal comment, a public meeting request, or a request for a contested case hearing, or who requested to be on the mailing list for this permit application and provided a mailing address. All timely formal comments received are included in this Response and were considered before a final decision is reached on the permit application.

TCAA § 382.056(f) requires the Executive Director to conduct a technical review and issue a preliminary decision. See Response 3 for an explanation of the health effects review for this application, Response 8 for additional information about the TCEQ's permitting process, and Response 9 concerning expedited permitting.

COMMENT 2: Access to Permit Documents

Commenters expressed concern that the application was not available to the public for viewing during the comment period. Ken Pearson questioned why the application was only made available in the Liberty Hill and Jonestown libraries if the Applicant was truly trying to reach a Leander audience. Jerry Presley Fackler commented that the application needs to be deciphered by those impacted by it in order to allow public participation. Monty R. Oehrlein commented that the application was sent to the library but was not on public display and was not accessible to the public. Mr. Oehrlein submitted a letter from the Liberty Hill Public Library concerning the copy of the application and explaining that citizens had been inquiring about a water use report/study for the proposed plant. The letter also stated that citizens asking for a water use report had been turned away prior to August 2nd. (Jerry Presley Fackler, Marbert Moore, Mary Jane Moore, Monty R. Oehrlein, Shawn Oehrlein, Kelly Pearson, Ken Pearson)

RESPONSE 2: 30 TAC § 39.405(g), Copy of Application, requires applicants to make a copy of the application available for review and copying at a public place in the county where the facility is located or proposed to be located. Specifically, 30 TAC § 39.405(g)(1) requires a copy of the administratively complete application to be available for review and copying beginning on the first day of newspaper publication of the first public notice and to remain available during the public comment period.

During the second notice period, 30 TAC § 39.405(g)(2) and (3) require a copy of the complete application (including any subsequent revisions) and the Executive Director's preliminary decision, the draft permit, and air quality analysis to be available for public viewing beginning on the first day of the publication of the second public notice. Thus, while the newspaper notice rules require publication in the nearest municipality, the rules require the application to be made publicly available in the county where the facility is located or proposed to be located.

As described above, the proposed plant is not located in any municipality; however, the site spans both Travis and Williamson counties. The Applicant represented that the application was made available at the Jonestown Community Library in Travis County and the Liberty Hill Public Library in Williamson County and submitted the required verification. In addition, a copy of the application was also available at the TCEQ Austin Regional Office and the TCEQ Central Office.

The Executive Director notes that the letter from the Liberty Hill Library Director that was submitted as public comment explains why certain citizens may have had difficulty viewing a copy of the application. Specifically, the letter describes citizens inquiring about a "water use report/study on a proposed rock crushing plant." This permit, if issued, will regulate the control and abatement of air emissions only. Therefore, issues concerning water use are not within the scope of the review of an air quality application and the TCEQ rules do not require a water use report to be submitted in conjunction with an air quality permit application. *See* Response 7 regarding concerns about water.

COMMENT 3: Health Effects / Air Quality / Cumulative and Aggregate Effects

Commenters expressed concern about the effect of the emissions from the proposed plant on air quality and health of people, particularly sensitive populations such as the elderly, children, people with existing medical conditions, and those with disabilities. Commenters expressed concern that the proposed project would cause health issues, such as chronic obstructive pulmonary disease (COPD), lung disease, disabilities, death, lung cancer, kidney disease, and exacerbate asthma symptoms. Brian Nickels expressed concern about adverse health effects that could be discovered in the future, comparing this potential to asbestos which was once considered safe. Patricia Matus, Deanna Bye, Hudson Carlton and Lisa Nickels questioned who would be liable if people become ill. Many commenters expressed particular concern about adverse health effects from silica emissions. Alan Roth asked for crystalline silica emissions calculations to be conducted based on the specific proposed site and for those calculations to be made available to the public.

Some commenters expressed concern that Hope House, a residential facility for severely disabled children and Smilive Boy & Girl Scout campgrounds are located less than two miles away. Monty R. Oehrlein stated that Hope House is within 3,000 feet from the proposed plant and expressed concern that effects on the Hope House were not evaluated. David Gould also expressed concern that the expedited review of the application means that the Hope House may have been overlooked and potential impacts were not considered in accordance with 30 TAC § 116.111(A)(2)(a)(i) and (ii). Mr. Gould requested the TCEQ re-review the application and potential impacts to the Hope House. Marbert Moore questioned whether the Applicant conducted due diligence to ensure there were no schools or institutions within 3,000 feet of any of the proposed plant's property lines.

Thomas Reese Foster expressed concern about the potential for small dangerous particulates to piggyback on larger particulates and be dispersed by winds. Mr. Foster requested a study be conducted to evaluate the potential impacts of this particulate piggybacking on days when water is not being used. Stephen N. McStay questioned

whether the EPA Industrial Source Complex (ISC) model considered periods of high winds. Brian Nickels expressed concern about the accuracy of the model. Scott Matus questions how health impacts can be assessed when winds that blow particulate can be unpredictable. Mr. Matus stated that the direction the wind blows cannot be predicted.

Cumulative and Aggregate Effects

Commenters also expressed concern regarding existing facilities in the area, asking that cumulative impacts be considered. Ken Pearson stated that it was apparent that neither the Applicant's consultant nor TCEQ representatives were knowledgeable about whether other air quality permits have been issued in the general vicinity of the proposed crushing facility. Mr. Pearson stated that this led him to believe that the air quality assessments provided in the application do not address cumulative or aggregate effects. Jerry Presley Fackler questioned whether the statement in the application indicating that no permanent facilities are within ten kilometers is true.

Emissions Calculations

Several commenters expressed concern that TCEQ uses theoretical calculations to determine potential health impacts rather than actually monitoring the air quality. Michael S. Hale commented that using calculations rather than monitoring is grounds for denying the permit. Russel A. Martin commented that citizens want testing to be performed prior to approving this permit to ensure emissions are not based on theoretical calculations. Ken Pearson stated that there is no substantial evidence to support a conclusion that emissions will not negatively affect human health and welfare because the calculations are not based on representative site conditions. Scott Matus commented that there must be checks and balances on the calculations that would trigger them to be recalculated.

(Commissioner Cynthia P. Long, David Abigt, Brien Aho, Michael Albert Alkier, Janis Austin, Paul E. Babb, Zinaida Boltan, Mira Linn Boyda, Jason Brandt, Jeff Burrus, Brad C., Gina Calderwood, Richard Calderwood, Cheryl Lynn Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Byron A. Case, Wendy Case, Byron Alexander Case, Byron Case, Treva Hanley Chaumont, Bret B. Chilcott, Cindy Chrisler, Keith Neal Churchill, Jill Clark, Raymond Clark, Tammy Clopton, Kadey Cochran, Peter Coomaraswamy, Lea A. Curley, Lea Curley, Chinell Darling, Lindsey Darling, Jason Darling, Asok Datla, Lawrence J. Dayhoff, Amy Demars, Laurie Dickerson, Jason Doyen, Lockie Ealy, Bill E. Ecay, Molly Evans, Sharon Ezell, Melinda Fink, Cynthia L. Floyd, Kristen Floyd, Devin Floyd, Mary Jo Foster, Thomas Reese Foster, Sandy Fox, G. Frame, Jacqueline Frame, Lauren Frederick, Shawn Frederick, Mandy Fults, Mike Gainer, Auburne Gallagher, Gopala Ganti, Henry Geiger, James Douglas Gero, Melynda Gero, David Gould, John Pierre Gourlay, John Griffin, Daniel Ray Grubbs, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie Hair, Ronnie W. Hair, Janice Hair, Michael S. Hale, Robin Hardcastle, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Frank Haskell, Carole Heald, Donald A. Hemingway, Donald A. Hemingway, Moises Hernandez, Saira Hernandez, J. W. Hicks, Alexandra E. Hoeffner, Kim Hofstetter-Johnson, Kendal Holcombe, Seth Holcombe, Richard Hollar, David H. Hutton, David Hutton, George Hyett, Ryan Keith Jarl, Gregory S. Johnson, Sandy Johnson, Jennifer S. Johnson, Jason Johnston, Cameron Joiner, Hudson Joiner, Bonny Spoons Jones, Shayne Allan Kilian, Susan Kittrell, Erik Krause, John Kretzer, Melanie

Kriewaldt-Roth, Arun Kumar, Ajay Kwatra, Narendra V. Lakamraju, Jonathon Lande, Robert Lansing, Edward Larsen, Linda Larsen, Eric Larson, Lauren Larson, Penny Lee, Linda Lewis, Robin Lewis, Reagan Lochte, Sara Loftin, Haley Diane Lowrance, Todd Lueck, Chad Marak, Mike Markl, Russel A. Martin, Shauna L. Martin, Patricia Matus, Roger McAleenan, Lawrence McClay, Jodi Lynn McCumber, Patrick Francis McDonough, Laura A. McFarland, Laura McFarland, Amy McHugh, John McHugh, Jessica McKee, Sheila Sellman McKinnis, Alexandra McStay, Stephen N. McStay, Brian D. Merrill, Barbara Mings, Shannon Minor, William Minor, Ashish Mishra, Pamela Mitchel, Amber Mitchell, James Mogford, Doug Montgomery, Mary Jane Moore, N. Clark Moore, Marvin Morse, Ladonna Muennink, Anthony Nardone, James Neblett, Brian Nickels, Lisa Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Melanie Ocana, Monty R. Oehrlein, Kate Ortiz, Devin Osborne, Pavan Paladugu, Kelly Pearson, Ken Pearson, Tarakam Peddada, Raju Penmetsa, Rajendra C. Potluri, Craig Reynolds, Cathy Riedel, Kerry Riggs, Alan Roth, Rosa Sanchez, Maggi Savo, Sridevi Sayyaparaju, Fritz Schubert, Erland Schulze, Shannon Schulze, Alysia Van Scoy, Greg Van Scoy, Lisa Simmons, Susan Simon, Rhonda Smith, Tina Spencer, Evan L. Stepp, Anton Stetsenko, Jill Steward, Jami Strable, Candice Stroope, Richard Stroope, Tracy Swantner, Erika Tanner, Karen Taylor, Tracy Taylor, Tonnya Troyer, Jimmy Tyree, Sheila Dawn Urbanek, Melanie Vague, Balu Velupula, Henry Waddell, Leanne Walsh, Heath Walz, Linda Walz, Stacey Warner, Kris Weixel, Kristine Weixel, Monique Wenneborg, Steve Wenneborg, Nancy A. Wilk, Che Dawn Williamson, Sandra K. Winkley, Amanda L. Young)

RESPONSE 3: The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment. For this type of air permit application, potential impacts to human health and welfare or the environment are determined by comparing the emissions proposed to be authorized to appropriate state and federal standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS), TCEQ Effects Screening Levels (ESLs), and TCEQ rules. As described in detail below, the Executive Director determined that the emissions authorized by this permit are protective of both human health and welfare and the environment.

NAAQS

The U.S. Environmental Protection Agency (EPA) created and continues to evaluate the NAAQS, which include both primary and secondary standards, for pollutants considered harmful to public health and the environment.¹ Primary standards protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects from air contaminants. The EPA has set NAAQS for criteria pollutants, which include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), sulfur dioxide (SO₂), particulate matter less than or equal to 10 microns in aerodynamic diameter (PM₁₀), and PM less than or equal to 2.5 microns in aerodynamic diameter (PM_{2.5}). The proposed plant will emit PM, including PM₁₀ and PM_{2.5}.

Emissions Calculations

During the technical review of applications, the TCEQ permit reviewer evaluates the application to ensure that emissions calculations have been completed correctly using an approved methodology and appropriate emission factors. The EPA has documented a list of emission factors that can be used to calculate the estimated emissions from many sources, including sources proposed to be authorized in this permit. These emission factors were developed and compiled from source test data, material balance studies, and engineering estimates and are incorporated throughout industries in Texas. The emissions rates for the sources proposed to be authorized by this permit were determined using the latest emissions factors provided by the EPA in the Compilation of Air Pollution Emission Factors, AP-42 Manual.² The TCEQ permit reviewer analyzed the proposed emission factors and the control efficiencies represented in the application for accuracy and applicability and found the factors and corresponding calculations to be acceptable. In addition, the TCEQ ensures the conservative nature of these calculations by evaluating each emission point at the maximum operating conditions on both an hourly and an annual basis.

Once all emission rates have been verified, the draft permit is created. The draft permit includes a Maximum Allowable Emissions Rate Table (MAERT) which limits the quantity of emissions authorized to be emitted into the atmosphere. The emissions tabulated in the MAERT are also used as the input for the air dispersion modeling evaluation to determine if any adverse effects to public health, welfare, or physical property are expected to result from a facility's proposed emissions. The draft permit also includes the operational representations which are documented in the draft Special Conditions and are the basis upon which the emissions were determined.

Silica

The TCEQ's Toxicology Risk Assessment, & Research Division has developed Effects Screening Levels (ESLs) for silica. ESLs are constituent-specific guideline concentrations used in TCEQ's effects evaluation of certain pollutants. These guidelines are derived by the TCEQ's Toxicology Division and are based on a pollutant's potential to cause

¹ 40 CFR § 50.2

² The AP-42 Manual is available at <http://www.epa.gov/ttn/chief/ap42/index.html>.

adverse health effects, odor nuisances, or effects on vegetation. Health-based ESLs are set below levels reported to produce adverse health effects and are set to protect the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions. However, an exceedance of the ESL is not an indication that adverse effects will occur but rather that further review is warranted.

The Toxicology Division has reviewed the potential for adverse health effects from silica emissions at rock crushing facilities and determined that because limestone rock crushing facilities typically emit insignificant amounts of respirable crystalline silica, a case-by-case evaluation of silica emissions from rock crushers is unnecessary. In addition, the Toxicology Division recently released a publication which specifically addresses crystalline silica as it pertains to aggregate processing operations (APOs).³ TCEQ studied crystalline silica levels measured in the ambient air near APOs at various locations throughout the United States where data were available. These data indicate that the contribution of crystalline silica from these facilities to ambient levels of particulate matter and respirable crystalline silica is negligible or minimal and that the levels generally are below the health-based air monitoring comparison values (AMCVs) ⁴ for crystalline silica developed by the TCEQ. The types of emissions generated by an APO are similar to what would be expected at a rock crusher.

Health-based AMCVs are safe levels at which exposure is unlikely to result in adverse health effects. When compared to TCEQ's AMCVs for crystalline silica, the ambient air concentrations of crystalline silica near APOs are generally not likely to cause acute or chronic adverse health effects and are not associated with silicosis. While there is no federal requirement for TCEQ to measure ambient levels of crystalline silica, federal standards for PM, a component of which may include silica, are in effect for PM₁₀ and PM_{2.5}. In October 2019, TCEQ began installing ambient air PM_{2.5} monitoring sites located within one mile of APOs in central Texas. There are currently five sites near APOs that are located predominantly downwind of these facilities. The available data currently show the concentrations of PM_{2.5} at these monitoring sites near APOs follow the general regional trend for PM_{2.5}. The data also indicate that APOs do not appear to have an impact on measured PM_{2.5} concentrations.

³ This publication (AS-202) may be found at the following web address:

https://www.tceq.texas.gov/assets/public/comm_exec/pubs/as/202.pdf

⁴ AMCVs are used to evaluate the potential for effects to occur as a result of exposure to concentrations of constituents in the air. AMCVs are based on data concerning health effects, odor, and vegetation effects. They are not ambient air standards. If predicted or measured airborne levels of a constituent do not exceed the comparison level, adverse health or welfare effects would not be expected to result. If ambient levels of constituents in air exceed the comparison levels, it does not necessarily indicate a problem, but rather, triggers a more in-depth review.

NAAQS Analysis

For this specific permit application, the Applicant used the American Meteorological Society (AMS)/EPA Regulatory Model (AERMOD) modeling system, one of the EPA's preferred air dispersion models for New Source Review (NSR) permitting. The likelihood of whether adverse health effects caused by emissions from the plant could occur in members of the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions, was determined by comparing the air dispersion computer modeling predicted concentrations to the relevant state and federal standards.

The TCEQ rules require an evaluation of any possible adverse short- or long-term effects a facility may have on individuals attending schools within 3,000 feet of a proposed facility. *See* 30 TAC § 116.111(A)(2)(a)(i) and (ii). However, as described in Response 20, the TCEQ does not have jurisdiction over the proposed location of a facility. Thus, the rules do not prohibit a facility from being located within 3,000 feet of a school but require an evaluation of potential adverse effects on persons attending schools. Potential effects are evaluated through the use of the air dispersion modeling, which includes a receptor grid sufficient in density and spatial coverage to capture representative maximum ground-level concentrations.

TCEQ staff used modeling results to verify that predicted ground-level concentrations from the proposed plant are not likely to adversely impact public health and welfare. The overall evaluation process provides a conservative prediction that is protective of public health. The modeling predictions were reviewed by the TCEQ Air Dispersion Modeling Team, and the modeling analysis was determined to be acceptable.

The Applicant conducted a NAAQS analysis for PM₁₀ and PM_{2.5}. The first step of the NAAQS analysis is to compare the maximum predicted ground level concentrations against the established de minimis level. Predicted concentrations (GLCmax⁵) below the de minimis level are considered to be so low that they do not require further NAAQS analysis. The GLCmax concentrations are predicted using the maximum allowable emission rates and worst-case meteorological conditions which may or may not actually occur. Table 1 contains the results of the de minimis analysis.

Table 1. Modeling Results for De Minimis Review

Pollutant	Averaging Time	GLCmax (µg/m³)	De Minimis (µg/m³)
PM₁₀	24-hr	55	5
PM_{2.5}	24-hr	8	1.2
PM_{2.5}	Annual	2	0.2

Because the predicted concentrations exceeded the de minimis level, the Applicant was required to conduct a full NAAQS analysis. The full NAAQS analysis included all the emissions proposed to be authorized and, to account for cumulative and aggregate effects, also included all applicable off-property sources and representative monitored

⁵ The GLCmax is the maximum ground level concentration predicted by the modeling.

background concentrations. Other data that are incorporated into the air dispersion modeling program include such information as the release height of the emissions, the type of release, the location of the sources, the surrounding land type, meteorological data for the area, terrain data, and when appropriate, the background concentrations of the specific contaminants already existing in that area. The model included a full year of meteorological data. While daily weather conditions can vary within a given year, the worst-case meteorological conditions that occur during a given year are typically representative of other years. With over 8,000 hourly samples contained within the one-year meteorological dataset used in the air dispersion modeling analysis, the worst-case meteorological conditions, including periods of high winds, have been sufficiently represented in the dataset.

Results of the full NAAQS analysis are presented below in Table 2. The total concentration was determined by adding the GLCmax to the appropriate background concentration. Background concentrations are obtained from ambient air monitors across the state and are added to the modeled concentration (both on-property and off-property sources) to account for sources not explicitly modeled. The ambient air monitors were selected to ensure that they are conservatively representative of the proposed site. The total concentration was then compared to the NAAQS to ensure that the concentration is below the standard.

Table 2. Total Concentrations for NSR 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 ($\mu\text{g}/\text{m}^3$)
PM ₁₀	24-hr	55	86	141	150
PM _{2.5}	24-hr	8	17	25	35
PM _{2.5}	Annual	2	8	10	12

The NAAQS analysis results demonstrated that the emissions are below the standard for each pollutant and therefore, should not cause or contribute to an exceedance of the NAAQS and are protective of human health and the environment. In summary, based on the Executive Director's staff review, it is not expected that existing health conditions will worsen, or that there will be adverse health effects on the general public, sensitive subgroups, or the public welfare and the environment as a result of proposed emission rates associated with this project.

COMMENT 4: Dust Emissions

Commenters expressed concern that nuisance dust could be generated by the proposed plant, which they stated would be exacerbated by local winds. Commenters questioned what the standards are for dust suppression and who ensures that these requirements are met. Commenters are also concerned that dust may cover their properties, livestock, and negatively impact their HVAC systems, solar panels, and other infrastructure. Some commenters questioned whether dust created from

aggregate operations is considered air pollution. Several commenters expressed concern that transporting materials from the quarry to the crusher will create PM emissions. Thomas Reese Foster requested proof that the Applicant will suppress dust at the entrance to the plant. N. Clark Moore and Mary Jane Moore asked if the Applicant would be willing to install plastic covers on its conveyor belts to minimize dust, stating that other aggregate companies have done this.

Several commenters are concerned that the Applicant will not have enough water to comply with the dust suppression requirements in the permit. Rosa Sanchez requested information on the plan to control emissions without water. David Hutton questioned whether the TCEQ would require the Applicant to demonstrate it will have adequate water or to perform a water balance study to ensure they have enough water for peak operations.

Some commenters expressed concern that the Applicant would use chemicals to control dust on roads and stated that those chemicals could run off into nearby water sources. Marbert Moore questioned whether the Applicant would use surfactants to control dust. Rosa Sanchez commented that caustic chemicals used to control dust are dangerous to humans, wildlife, pets, and the environment. Ken Pearson, Kelly Pearson, and Jerry Presley Fackler asked why a Material Safety Data Sheet (MSDS) for proposed dust suppressing chemicals was not provided in the application. Ken Pearson stated that not including the MSDS was another example of due diligence not being performed during the fast tracking of this application.

(Commissioner Cynthia P. Long, Brien Aho, Michael Albert Alkier, Paul E. Babb, Luke Basey, Tommy Bates, Marc Bittner, Oleta Bodine, Gina Calderwood, Richard Calderwood, Cheryl Lynn Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Byron Alexander Case, Byron Case, Wendy Case, Cindy Chrisler, Raymond Clark, Chinell Darling, Jason Darling, Lindsey Darling, Laurie Dickerson, Molly Evans, Sharon Ezell, Raymond Firkins, Michael Fischer, Devin Floyd, Kristen Floyd, Mary Jo Foster, Thomas Reese Foster, Jacqueline Frame, Lauren Frederick, Shawn Frederick, Mike Gainer, Stephanie George, James Douglas Gero, David Gould, John Pierre Gourlay, Daniel Ray Grubbs, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie W. Hair, Michael S. Hale, Chris Harper, Kaellen Harrington, Frank Haskell, Carole Heald, J. W. Hicks, Holly Hodges, Chad Horton, David H. Hutton, David Hutton, George Hyett, Audrey Izzo, Ryan Keith Jarl, Jason Johnston, Bonny Spoons Jones, John Kretzer, Arun Kumar, Pam Lafferty, Edward Larsen, Linda Larsen, Eric Larson, Lauren Larson, Robin Lewis, Kerry Lindinger, Todd Lueck, Russel A. Martin, Shauna L. Martin, Patricia Matus, Scott Matus, Roger McAleenan, Jodi Lynn McCumber, Laura A. McFarland, Laura McFarland, Jessica McKee, Sheila Sellman McKinnis, Stephen N McStay, Stephen N. McStay, Brian D. Merrill, Barbara Mings, Pamela Mitchel, Amber Mitchell, Mary Jane Moore, N. Clark Moore, James Neblett, Brian Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Monty R. Oehrlein, Lora Ortiz, Nick Page, Kelly Pearson, Ronald Craig Pearson, Ken Pearson, Gregory Pontejos, Kelly Purkey, Cathy Riedel, Rosa Sanchez, Fritz Schubert, Erland Schulze, Shannon Schulze, Alysia Van Scoy, Greg Van Scoy, Denise S Self, Rhonda Smith, Evan L. Stepp, Jill Steward, Candice Stroope, Richard Stroope, Erika Tanner, Karen Taylor, Tracy Taylor, Pete Testone, Jimmy Tyree, Margo Voltin, Kris Weixel, Kristine Weixel, Nancy A Wilk, Nancy A. Wilk, Hollis Wilson, Amanda L. Young, Laura Zwahlen)

RESPONSE 4: The TCAA defines “air contaminant” as particulate matter, radioactive material, dust, fumes, gas, mist, smoke, vapor, or odor, including any combination of those items, produced by processes other than natural. See TCAA § 382.003(2). In addition, “air pollution” means the presence in the atmosphere of one or more air contaminants or combination of air contaminants in such concentration and of such duration that are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property or interfere with the normal use or enjoyment of animal life, vegetation, or property. See TCAA § 382.003(3).

The primary activities that have the potential to emit particulate matter (i.e. dust) resulting from this project are vehicle traffic and material processing and handling. All of the potential dust concentrations from the sources proposed to be authorized were evaluated based on operating parameters represented in the application and compared to the federal criteria mentioned above. Dust emissions are included in the health impact analysis as PM, PM₁₀, and PM_{2.5}.

The use of appropriate control measures at the plant as required by the draft permit's Special Conditions is expected to decrease the amount of air contaminants emitted into the atmosphere. As required in the draft permit, the control measure required to be applied at this proposed plant will be the application of water at the inlet and outlet of all crushers, all shaker screens, and at all material transfer points. In addition, the

Special Conditions require the Applicant to spray all in-plant roads and traffic areas, active work areas, and aggregate stockpiles with water upon the detection of visible PM emissions. The permit requires that a dedicated water truck or area-type water spray be available or installed at all stockpiles and active work areas and that all water spray systems be operated as necessary to maintain compliance with TCEQ rules and regulations. The use of water sprays is expected to reduce PM emissions by 70 percent. Surface wetness causes fine particles to adhere to the faces of stones, with a resulting dust suppression effect. Plants that utilize wet suppression systems (spray nozzles) to maintain relatively high material moisture contents can effectively control PM emissions throughout the process.

Covering of conveyors has not been represented by the Applicant and is not typically required at rock crushing plants given the low level of emissions from these sources on a pound per ton basis. Additionally, rock material on plant conveyors will retain residual moisture from water sprays, which will reduce particulate matter emissions. The TCEQ cannot impose requirements more stringent than those required for other similar rock crushing plants unless there is a documented unsatisfactory compliance history. As described in Response 16, the Applicant has a satisfactory compliance history. This combination of controls and control measures, as specified in the proposed permit, meet current Best Available Control Technology (BACT) requirements for plants of this type.

It is the Applicant's responsibility to secure any permits or authorizations necessary to obtain the water needed for its operation. TCEQ rules state that the plant may not be operated unless all pollution control equipment is functioning properly. Acceptance of a permit is an acknowledgment and agreement by the Applicant to be bound by the permit conditions. The issuance of an air quality permit does not negate the responsibility of an applicant to apply for any additionally required authorizations before operating a plant. *See* Response 7 concerning water issues.

The air dispersion modeling performed for the project to estimate pollutant concentrations included sufficient data to capture the worst-case meteorological conditions, which would include various wind speeds (i.e. windy conditions). Accordingly, as detailed in Response 3, there is no expectation of adverse health effects and the air contaminants proposed to be authorized in this permit application were evaluated in accordance with applicable federal and state rules and regulations. Based on the potential predicted concentrations reviewed by the Executive Director's staff, adverse short- or long-term health effects for the general public, including sensitive subgroups such as children, the elderly, or those individuals with preexisting health conditions, animal life, crops, and vegetation are not expected as a result of exposure to the proposed emissions. In addition, adverse health effects are not expected for persons living on or visiting nearby properties.

Dust suppressants are commonly used in this industry and are expected to be environmentally safe, nontoxic compounds similar to soaps or saline solutions that increase the ability of water to adhere to surfaces, thus significantly decreasing overall water usage. Chemical dust suppressants may not contain VOCs or be a source of

emissions. However, the Applicant did not represent that any chemical dust suppressant would be used at the proposed plant and accordingly, the draft permit does not authorize the use of dust suppressant chemicals.

COMMENT 5: Environmental Concerns / Environmental Impact Statement / Impacts to Wildlife

Commenters expressed concern regarding adverse effects the proposed plant may have on the surrounding environment and wildlife, including endangered species, pets, bees, livestock, migratory birds, the black-capped vireo, and the golden cheek warbler. Commenters are concerned that the project would negatively impact biodiversity and cause soil erosion. Some commenters are concerned about the potential impact to environmentally sensitive areas, including the Balcones Canyonland Wildlife Nature Preserve. Commenters asked if the TCEQ will intervene in a timely manner to ensure the safety of protected birds. N. Clark Moore stated the nature preserve was created to protect the endangered golden-cheeked warbler and black-capped vireo habitats. Mike Markl expressed concern that no studies have been conducted to determine the potential impacts to the Balcones Wildlife refuge adjacent to the proposed location of the plant.

Commenters questioned whether an environmental impact study (EIS) was conducted and if not, request that one be conducted before the permit decision is made. Ronnie W. Hair asked that a study be conducted on the limestone at a nearby ranch. Shauna L. Martin and Russel A. Martin stated that issuing the permit without conducting studies on potential impacts to wildlife will be a grievous mistake. Mr. and Mrs. Martin commented that the purpose of air quality permits should be to prevent potential disaster rather than reprimand offenders after irreparable damage has occurred. Laura McFarland requested that the limestone be tested for crystalline silica prior to issuing the permit. Mary Jo Foster requested that a PM study be conducted.

(Commissioner Cynthia P. Long, Brien Aho, Janet Y. Arlitt, Janis Austin, Paul E. Babb, Natalie Ball, Kathleen Barmettler, Jake Basey, Lindsay Elizabeth Boltan, Jeff Burrus, Deanna Bye, Brad C., Gina Calderwood, Richard Calderwood, Cheryl Lynn Cantwell, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Byron A. Case, Wendy Case, Byron Alexander Case, Treva Hanley Chaumont, Bret B. Chilcott, Cindy Chrisler, Tammy Clopton, Lea A. Curley, Chinell Darling, Jason Darling, Lawrence J. Dayhoff, Laurie Dickerson, Lockie Ealy, Bill E. Ecay, Sharon Ezell, Melinda Fink, Raymond Firkins, Devin Floyd, Thomas Floyd, Kristen Floyd, Thomas Reese Foster, Mary Jo Foster, Sandy Fox, Jacqueline Frame, Lauren Frederick, Shawn Frederick, Mandy Fults, Mike Gainer, Ernesto Galindo, Auburne Gallagher, Henry Geiger, James Douglas Gero, Melynda Gero, Kat M. Gets, Erin Giannette, Penny Goodrich, John Griffin, Daniel Ray Grubbs, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie Hair, Ronnie W. Hair, Janice Hair, Robin Hardcastle, Chris Harper, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Frank Haskell, Carole Heald, Donald A. Hemingway, Moises Hernandez, Saira Hernandez, J. W. Hicks, Alexandra E. Hoeffner, Kendal Holcombe, Seth Holcombe, Richard Hollar, David H. Hutton, David Hutton, George Hyett, Audrey Izzo, Ryan Keith Jarl, Jason Johnston, Bonny Spoons Jones, Shayne Allan Kilian, Allyson Kirkland, Susan Kittrell, Erik Krause,

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RESPONSE 5: The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and structures, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the emissions from this plant should not cause an exceedance of the NAAQS, air emissions from the plant are not expected to adversely impact land, livestock, wildlife, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water.

Environmental Assessments and Environmental Impact Statements (EIS) are a specific requirement for federal agencies under the National Environmental Policy Act (NEPA). An EIS is not required for state actions such as this permit. However, both the TCAA and the TCEQ rules provide for an extensive review of the application to ensure that emissions from the proposed facility will not violate the NAAQS and will not be expected to adversely affect human health or the environment. A health effects review was conducted for the proposed facilities during the permit review and the permit was found to be protective of human health and the environment. *See* Response 3 for information about the evaluation of this plant's impacts in relation to the NAAQS. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

Compliance with rules and regulations regarding endangered species is handled at the state level by the Texas Parks and Wildlife Department and at the federal level by the United States Fish and Wildlife Service. It is incumbent upon an applicant to request and acquire any additional authorizations that may be required under state or federal law. However, if operated in accordance with the requirements of the permit, adverse impacts from the proposed plant are not expected.

COMMENT 6: Authorized Production Rates

Richard Stroope stated that the operational characteristics described to the public by the Applicant are notably different than what was represented in the permit application. For example, Mr. Stroope stated that at the public meeting the Applicant

stated hourly throughputs and stockpile acreage was less than what it sought authorization for in the application. Mr. Stroope expressed concern that there was a disconnect between the Applicant's intentions and what its environmental consultant prepared in the application and stated the public should have a clear and honest description of the plant's planned operation. Laura McFarland stated that the level of production considered safe is based on the availability of water to control emissions and requested that the Applicant be limited to a fifth or less of what was represented in the application to ensure air quality is maintained. (Laura McFarland, Richard Stroope)

RESPONSE 6: Applicants often represent the maximum possible production or stockpile acreage for conservatism and flexibility in operations. Given the relationship between throughput and emissions, plant operating parameters (i.e., plant throughput/production) are used to calculate emissions, and the draft permit requires recordkeeping of throughput on a daily, monthly, and annual basis in tons per hour, tons per month, and tons per year. The process for calculating emissions and their proposed impacts is described in Response 3.

Based on the Applicant's representations, the draft permit limits plant-wide throughput to 1,200 tons per hour and 5,000,000 tons per year in any rolling 12-month period and limits stockpiles to no more than 10 acres in area. In addition, the Maximum Allowable Emission Rate Table (MAERT) limits the amount of emissions that are proposed to be authorized by the permit. *See* Response 4 concerning dust emissions and the obligation to ensure there is sufficient water for operations.

COMMENT 7: Water Quality / Water Availability

Commenters questioned why the permit application only addressed air emissions, stating that the application should consider water, roads, traffic, and environmental issues along with air quality. Marbert Moore questioned why a water permit is not attached to the air permit. Brian Nickels commented that water could not be separated from dust because water is the primary method of control.

Commenters expressed concern about stormwater and wastewater runoff from the proposed plant. Some commenters also questioned how water will be disposed of and whether it will be discharged from the plant. Scott Matus requested that the permit include a condition requiring water well testing for nearby property owners. Some commenters requested a hydrology or water availability study be conducted to ensure surrounding properties will not be impacted. Mr. Matus commented that an unrelated industrial plant agreed to drill a deeper well for any affected property owners if residents experience a drop in output from their wells and requested that this Applicant be required to do the same.

Commenters also expressed concern regarding potential impacts on water sources in the area, including creeks, rivers, drinking water, groundwater, the water table, water wells, waterways, watersheds, and the Edwards and Trinity aquifers. Some commenters stated that the area is experiencing water supply problems and expressed concern that the proposed plant will exacerbate this issue by overconsuming available water. To that end, commenters questioned how much water the plant will use, what draw it will

have on the aquifer, and what research has been done to determine impact on nearby water wells. Some commenters stated that aggregate miners use, on average, 50 gallons of water per hour per ton of material processed. Marbert Moore asked how many wells the Applicant will dig and at what depth will they dig to get enough water. Monty R. Oehrlein questioned what amount of water would be needed to suppress dust in accordance with the permit. Ernesto Galindo suggested the parties involved contact the City of Liberty Hill or the LCRA to provide water supply. Susan Ringstaff commented that the plant should be required to obtain its water from the city. Che Dawn Williamson commented that the project constituted a taking that violates water rights.

Some commenters also expressed concern that a ground water conservation district has not been formed for the area. Boyd Henry commented that Williamson County is the only county in Texas that does not have a ground water plan and expressed concern that TCEQ does not have the authority to mandate that the county create one. Mr. Henry questioned the purpose of the TCEQ if it did not have such authority. In addition, Mr. Henry expressed concern that Williamson County has not responded to an open records request he made concerning the ground water district. Commenters questioned what would happen if the proposed plant operated without the water necessary to control dust emissions and specifically whether the plant would be required to shut down.

(Commissioner Cynthia P. Long, David Abigt, Michael Albert Alkier, Janet Y. Arlitt, Janis Austin, Paul E. Babb, Natalie Ball, Catherine Bargh, Kathleen Barmettler, Jake Basey, Luke Basey, Tommy Bates, Marc Bittner, Oleta Bodine, Lindsay Elizabeth Boltan, Zinaida Boltan, Scott Bowman, Mira Linn Boyda, Jason Brandt, Jeff Burrus, Deanna Bye, Brad C., Gina Calderwood, Richard Calderwood, Cheryl Lynn Cantwell, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Byron Case, Wendy Case, Treva Hanley Chaumont, Cindy Chrisler, Keith Neal Churchill, Jill Clark, Raymond Clark, Tammy Clopton, Kadey Cochran, Vanessa Conner, Peter Coomaraswamy, Tim Cox, Lea A. Curley, Chinell Darling, Jason Darling, Lindsey Darling, Asok Datla, Lawrence J. Dayhoff, Amy Demars, Laurie Dickerson, Christine Dornfeld, Jason Doyen, Lockie Ealy, Bill E. Ecay, David Elam, Molly Evans, Sharon Ezell, Melinda Fink, Raymond Firkins, Cynthia L Floyd, Kristen Floyd, Thomas Floyd, Cynthia L. Floyd, Devin Floyd, Mary Jo Foster, Thomas Reese Foster, Sandy Fox, Jacqueline Frame, Kristi France, Lauren Frederick, Shawn Frederick, Ernesto Galindo, Auburne Gallagher, Gopala Ganti, Henry Geiger, Stephanie George, James Douglas Gero, Melynda Gero, Kat M. Gets, Penny Goodrich, John Pierre Gourlay, Gary Greenlees, John Griffin, Daniel Ray Grubbs, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Janice Hair, Ronnie Hair, Ronnie W. Hair, Michael S. Hale, Robin Hardcastle, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Frank Haskell, Carole Heald, Donald A Hemingway, Donald A. Hemingway, Boyd Henry, Saira Hernandez, J. W. Hicks, Holly Hodges, Chad Horton, David H. Hutton, David Hutton, George Hyett, Audrey Izzo, Janie Jackson, Ryan Keith Jarl, Heather Jennings, Brianna Jimenez, Charles Johnson, Jennifer S. Johnson, Kim Hofstetter Johnson, Gregory S. Johnson, Jason Johnston, Cameron Joiner, Cameron Noble Joiner, Hudson Joiner, Bonny Spoons Jones, Shayne Allan Kilian, Yvonne Kinnibrugh, Allyson Kirkland, Susan Kittrell, Kathy Korcz, Erik

Krause, John Kretzer, Arun Kumar, Ajay Kwatra, Pam Lafferty, Narendra V. Lakamraju, Jonathon Lande, Edward Larsen, Linda Larsen, Eric Larson, Lauren Larson, Penny Lee, Donna Leonard, Linda Lewis, Robin Lewis, Kerry Lindinger, Robin Lingren, Sara Loftin, Haley Diane Lowrance, Todd Lueck, Chad Marak, Mike Markl, Scott Matus, Roger McAleenan, Lawrence McClay, Jodi Lynn Mccumber, Patrick Francis McDonough, Laura A. McFarland, Laura McFarland, Amy McHugh, John McHugh, Jessica McKee, Sheila Sellman McKinnis, Alexandra Mcstay, Brian D. Merrill, Barbara Mings, Shannon Minor, William Minor, Ashish Mishra, Pamela Mitchel, James Mogford, Doug Montgomery, Marbert Moore, Mary Jane Moore, Marvin Morse, Ladonna Muennink, Anthony Nardone, Chris Nauert, James Neblett, Brian Nickels, Lisa Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Melanie Ocana, Monty R. Oehrlein, Shawn Oehrlein, Kate Ortiz, Lora Ortiz, Devin Osborne, Edward Pavlinik, Kelly Pearson, Ken Pearson, Ronald Craig Pearson, Tarakam Peddada, Raju Penmetsa, Gregory Pontejos, Rajendra C. Potluri, Private Private, Moshell Ray, Lannie Read, Craig Reynolds, Cathy Riedel, Kerry Riggs, Susan Ringstaff, C. Sanchez, Rosa Sanchez, Tiffany Sanders, Maggi Savo, Nicholas Savo, Sridevi Sayyaparaju, Fritz Schubert, Roma Schubert, Erland Schulze, Shannon Schulze, Alysia Van Scoy, Greg Van Scoy, Denise S. Self, Dane Seward, Kim Seward, Terry Shuffler, Lisa Simmons, Susan Simon, B. Smith, Rhonda Smith, Tina Spencer, Deva Floyd Spiking, Anton Stetsenko, Kristen Stokes, Jami Strable, Candice Stroope, Richard Stroope, Tracy Swantner, Karen Taylor, Malcom Terry, Gina M. Tracy, Tonnya Troyer, Jimmy Tyree, Sheila Dawn Urbanek, Margo Voltin, Dan Vrisimo, Henry Waddell, Leanne Walsh, Heath Walz, Linda Walz, Stacey Warner, Katherine Watkins, Heidi Watts, Loren Way, Scott Weisse, Kris Weixel, Kristine Weixel, Monique Wenneborg, Steve Wenneborg, Nancy A. Wilk, Che Dawn Williamson, Hollis Wilson, Michael Winkley, Sandra K. Winkley, Darryl Winstead, Amanda L. Young, Johnathon David Wright, Jonathon David Wright)

RESPONSE 7: Although the TCEQ is responsible for the environmental protection of all media, including water, the TCAA specifically addresses air-related issues. This permit, if issued, will regulate the control and abatement of air emissions only; therefore, issues regarding water quality, water availability, or water use are not within the scope of this permit review. Accordingly, this air quality permit review did not include a specific water assessment or consideration of issues involving water quality or water use. This permit does not authorize the discharge of pollutants into a body of water.

The Applicant represented that a combination of water sprays will be used to control emissions. Accordingly, the permit conditions state that, in compliance with BACT requirements, the water spray systems shall be operated as necessary to maintain compliance with the TCEQ rules and regulations, which include opacity requirements and visible fugitive emission limitations. *See* Response 5 for concerns regarding the environment, Response 4 concerning dust emissions, and Response 17 regarding compliance and enforcement.

COMMENT 8: Permit Review Process

Commenters expressed concern that a thorough review of the application has not been conducted, questioning the permit review process and stating that the TCEQ just checks boxes. Michael S. Hale commented that if TCEQ had properly reviewed the

application, it would have been apparent that the proposed plant will be detrimental to public health and natural resources. Kelly Pearson stated that the permitting process wreaks of political short cuts taken at the detriment to local residents and should be slowed down or restarted. Marbert Moore commented that the TCEQ gives out permits blindly without validating water sources, whether road infrastructure is sufficient, or whether there are sensitive areas near the proposed location. Jason Doyen asked TCEQ to not rubber stamp the permit. Monty R. Oehrlein stated that the TCEQ must apply some critical thinking to its review of the application and not just check boxes but do the right thing. Roger McAleenan expressed concern regarding the review of applications and commented that a P.E. Seal was all that was needed to state "all is good, no issues here."

Several commenters requested that TCEQ stop its review of the application in order to conduct a more robust technical review. Commenters stated that while the application only deals with air quality issues, other environmental impacts should also be reviewed. Thomas Reese Foster asked that the application be stopped or the Applicant be required to restart its application. Jimmy Tyree commented that the application and review should contain a complete analysis of all potential impacts and not just focus on air quality.

(Commissioner Cynthia P. Long, Jason Doyen, Jerry Presley Fackler, Mary Jo Foster, Thomas Reese Foster, Joseph Haertsch, Steffany Haertsch, Michael S. Hale, Frank Haskell, Erik Krause, Roger McAleenan, Brian D. Merrill, Marbert Moore, Monty R. Oehrlein, Kelly Pearson, Ken Pearson, Jimmy Tyree)

RESPONSE 8: The Air Permits Division and other applicable TCEQ staff have conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. An applicant is bound by its representations in the application and those representations become an enforceable part of the permit, including production rates, authorized emission rates, and equipment. If the Applicant deviates from the representations made in the application, on which the permit was developed, the Applicant may be subject to enforcement action. The first step of the application review process is an administrative review which verifies the following:

- The correct application was submitted;
- The application form and TCEQ Core Data Form have been signed by the Responsible Official.;
- The company is an entity legally entitled to do business in Texas;
- The information is accurately recorded in the TCEQ's Central Registry;
- The appropriate application fee was received;
- The mailing addresses for the company and site are USPS validated; and
- There are no delinquent fees owed by the company.

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

The air quality permit application then undergoes a technical review. TCAA § 382.056(f) requires the Executive Director to conduct a technical review and issue a preliminary decision. During the technical review, the permit reviewer evaluates the following:

- All sources of air contaminants at the proposed plant have been properly identified;
- Appropriate controls have been proposed for each emission source, including Best Available Control Technology (BACT) at a minimum;
- Emission calculations have been completed correctly using approved methodology and appropriate emission factors; and
- Proposed emissions meet applicable state and federal requirements to be considered protective;
- Compliance history for the site and the operator; and
- Public notice requirements are fulfilled.

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

Once all emission rates have been verified, the draft permit is created. The draft permit includes a Maximum Allowable Emissions Rate Table (MAERT) which limits the quantity of emissions an applicant can emit into the atmosphere. The emissions tabulated in the MAERT are also used as the input for the air dispersion modeling evaluation to determine if any adverse effects to public health, welfare, or physical property are expected to result from a facility's proposed emissions. The draft permit also includes the operational representations which are documented in the draft Special Conditions and are the basis upon which the emissions were determined.

If the capital costs of the project will exceed two million dollars, 30 TAC § 116.110(f) requires it to be submitted under the seal of a licensed professional engineer. The Applicant represented that the proposed project did not exceed this threshold. Therefore, the application was not required to be submitted under seal. Nonetheless, the Executive Director's staff have conducted a thorough review of the application in accordance with the applicable law, policy, procedures, and the Agency's mission to protect the state's human and natural resources consistent with sustainable economic development. See Response 1 regarding public participation, Response 3 concerning the health effects review, Response 7 concerning water issues, and Response 20 concerning roads.

COMMENT 9: Expedited Permitting / Timing of Application Submittal

Commenters expressed concern regarding expedited permitting and questioned why the permit application was being "fast tracked." Commenters are concerned that the Applicant represented the project would benefit the economy so that it could expedite the permit and asked for proof of how the economy will be benefitted by the project. Commenters are concerned that expediting the permit means the application will not be properly reviewed or go through the proper permitting process. Commenters state the TCEQ should slow the review of the permit down, rather than expedite it. Some commenters asked that the expedite review be suspended so that the public can request a contested case hearing. Shawn Oehrlein expressed concern that expedited processing prevented the public from being notified about the application.

Mary Jo Foster expressed concern regarding the expedited permitting fee, asking why a company would spend \$10,000 to expedite their application unless they knew it was a done deal and blindly given, further calling the permit politically paid for. Ms. Foster questioned whether the expedited permitting fee was paid because the permit requires the use of water that is not available. Molly Evans stated the permit was being fast tracked by self-serving politicians who care nothing for the community or the environment, but only fattening their own wallets.

Several commenters stated that there is not a need for this plant that would justify the expedited review. Shawn Oehrlein stated that there are 35 rock crushers in Williamson County and thus, expedited processing was meant to cover up and rush things so nobody knew what was happening. Marbert Moore commented that given other aggregate facilities in the area, there is not a need for these types of materials. Mr. Moore questioned what information or statistics demonstrate there is a grave need for aggregate materials in the state. Lauren and Eric Larson stated that there is not an urgent need for this type of operation. Shawn Frederick commented that rock quarries have saturated the market in Williamson County. Thomas Reese Foster stated that there are already many rock crushers in the area so there is no need for another one. Mr. Foster requested that the application be denied due to their being other crushers in the area.

Commenters also expressed concern about the time that the Applicant chose to submit its application, stating that the application was "snuck in" at a time when a water conservation district has yet to be formed and when residents are preoccupied with other construction in the area.

(Richard Calderwood, Cheryl Lynn Cantwell, Byron Alexander Case, Wendy Case, Byron Case, Katherine Watkins, Lea Curley, Lea A. Curley, Jason Darling, Molly Evans, Melinda Fink, Mary Jo Foster, Lauren Frederick, Auburne Gallagher, David Gould, Janice F. Hair, Michael S. Hale, Carole Heald, Audrey Izzo, John Kretzer, Melanie Kriewaldt-Roth, Donna Leonard, Robin Lingren, Sheila Sellman McKinnis, Brian D. Merrill, Marbert Moore, Brian Nickels, Monty R. Oehrlein, Shawn Oehrlein, Devin Osborne, Kelly Pearson, Ken Pearson, Jendra C. Potluri, Anton Stetsenko, Richard Stroope, Katherine Watkins, Che Dawn Williamson)

RESPONSE 9: The TCEQ cannot prevent any applicant from submitting an application, and the TCEQ rules do not prohibit applications from being submitted at certain times of the year. *See* Response 1 concerning public participation, notice, and contested case hearings.

Senate Bill 1756, 83rd Legislature, 2013,⁶ amended the TCAA to provide TCEQ with the authority to accept a surcharge from applicants to cover the expenses incurred for additional resources to expedite the processing of an application. Any applicant may request to have their application expedited. Expedited applications undergo the same level of scrutiny and review as non-expedited applications and must follow all air permitting process requirements. In addition, the applicable public notice requirements and the duration of the comment period is the same for both expedited and non-expedited projects. The TCEQ's permitting process for air quality applications is generally described in Response 8. *See also* Response 3 concerning the health effects review.

COMMENT 10: Area Map

Monty R. Oehrlein expressed concern that the area map submitted with the application was not adequately detailed, specifically stating that the map failed to show all permanent facilities within 10 kilometers, the Hope House, the Balcones National Wildlife Refuge, underground species, and water sources.

RESPONSE 10: Area maps are required to be submitted with air quality applications. The area map must include a true north arrow, accurate scale, the entire plant property, and the location of the property relative to prominent geographical features. The area map submitted with the application and the supplemental use of software-based mapping tools was sufficient to allow the permit reviewer to confirm that the representations provided met the requirements of the NSR permit.

COMMENT 11: Authorized Rock Crushers

Jerry Presley Fackler expressed concern that the permit application had contradictions. Specifically, Mr. Fackler stated that the application is for "rock crusher #2" but mentions "crusher #1" repeatedly.

⁶The statute was also amended by Senate Bill 698, 86th Legislature, 2019; however, those amendments do not impact this application.

RESPONSE 11: The Applicant proposed to authorize two rock crushers, Crusher #1 (EPN 3) and Crusher #2 (EPN 15). The technical review of the application and the air quality analysis was based on this representation. The Maximum Allowable Emission Rate Table (MAERT) includes emissions limits for both crushers and the draft permit authorizes the following hourly and annual throughput for each crusher:

Source	Tons per hour	Tons per year in any rolling 12-month period
Crusher #1 (EPN 3)	1,000	4,166,667
Crusher #2 (EPN 15)	700	2,916,667

COMMENT 12: Impact Sheet / Impact Analysis

Jerry Presley Fackler commented that the application referenced an “impact sheet” but stated that he reviewed the application and could not find an impact sheet. In addition, Mr. Fackler commented that the application referenced an impact analysis in one spot but that it later states that an impact analysis is not applicable. Mr. Fackler expressed concern about this inconsistency and stated he would reject the application on that basis.

RESPONSE 12: The Executive Director is not aware to what specific portion of the application the commenter is referring. However, as described throughout this response, the Executive Director's staff have conducted a thorough review of the application in accordance with the applicable law, policy, procedures, and the Agency's mission to protect the state's human and natural resources consistent with sustainable economic development. See Response 3 concerning the health effects review and Response 8 concerning the permitting process.

COMMENT 13: Address of the Proposed Plant

Jerry Presley Fackler questioned the accuracy of the mailing address of the proposed plant and stated that addresses are critical in his job as a firefighter. Specifically, Mr. Fackler commented that the address is noted as being on Highway 284 but stated that the entrance to the proposed plant is off of Highway 286.

RESPONSE 13: As stated above, the mailing address of the proposed plant is 4655 County Road 284, Liberty Hill, Texas 78642. Mailing addresses are assigned by the United States Postal Service. However, the air quality analysis and health effects review was conducted based on the latitude and longitude coordinates of the proposed plant. See Response 3 concerning the health effect review of the application.

COMMENT 14: Operating Hours

Commenters expressed concern that the site would be authorized to operate 24/7. Several commenters expressed concern that nighttime operations would create excessive noise and light that would disrupt families and wildlife. Some commenters expressed concern that 24/7 operations would be authorized even though the application states the facility will operate less. Richard Stroope expressed concern that at the public meeting, the Applicant stated it only planned to operate 9 hours per day

five days a week while the application requests authorization for 24/7 operations. Mary Jo Foster asked if the operations can be restricted to only Monday through Friday, with no weekends or holidays.

(Deanna Bye, Gina Calderwood, Cheryl Lynn Cantwell, Eileen Carlton, Byron Case, Wendy Case, Cindy Chrisler, Lawrence J. Dayhoff, Jason Doyen, Bill E. Ecay, Molly Evans, Mary Jo Foster, Thomas Reese Foster, Jimmy Tyree, Shawn Frederick, Robin Graham, John Griffin, Michael Guerrero, Belinda Harrison, Jerrod Harrison, Carole Heald, Ryan Keith Jarl, Jason Johnston, Kathy Korcz, John Kretzer, Donna Leonard, Patricia Matus, Sheila Sellman McKinnis, Pamela Mitchel, Lisa Nickels, Kate Ortiz, Kelly Pearson, Ken Pearson, Shannon Schulze, Alysia Van Scoy, Denise S. Self, Candice Stroope, Richard Stroope, Tracy Swantner, Jimmy Tyree)

RESPONSE 14: The TCEQ does not have the authority to regulate the hours of operations of a facility or site if the permit review demonstrates all applicable federal and state regulations are met. Accordingly, TCEQ cannot limit the hours of operation unless an emission rate is dependent on a limit on operational hours or there are issues associated with the air quality analysis that require the limitation. The Applicant represented operations up to 8,760 hours per year. However, despite the representation of 8,760 hours per year, which is typically done for conservatism and flexibility in operations, facilities typically do not operate that many hours per year.

COMMENT 15: Start of Construction

Marbert Moore questioned whether the TCEQ had conducted an inspection demonstrating the Applicant is ready to start operations. Mr. Moore asked if the rock crusher machine had been moved to the proposed location of the plant and stated that the permit seems like a rubber stamp because water permitting actions have not been addressed prior to the crushing machine being put in place. Marbert Moore questioned how TCEQ could possibly say the Applicant is ready to operate crushing equipment without inspecting the machine.

RESPONSE 15: Crushers are classified by the TCEQ and in EPA guidance. Emissions from crushers are quantified according to type of crusher and its specific throughput rather than the make or model given that the mechanical processes are the same between the specific types of crushers (divided into primary, secondary, and tertiary crushing). Accordingly, the permitting process does not include an inspection of the equipment at a proposed facility. *See* Response 3 concerning emissions calculations and Response 8 concerning the permitting process.

COMMENT 16: Compliance History

Commenters expressed concern regarding the compliance history of the Applicant, stating that the Applicant has had violations at other plant locations. David Hutton stated that he visited the Applicant's other plants and witnessed huge plumes of dust and air contaminants being emitted from that crusher. Michael S. Hale expressed concern that the onus of compliance is on the Applicant who he stated has a poor history of compliance. Ronnie W. Hair questioned why TCEQ would consider an application from an applicant who has previously had violations. Mr. Hair asked what penalty was assessed and whether there were adverse effects on nearby families when the Applicant has previous compliance issues.

(Thomas Reese Foster, Ronnie W. Hair, Michael S. Hale, David H. Hutton, David Hutton, Sandy Johnson, Cameron Joiner, Hudson Joiner, Brian D. Merrill, N. Clark Moore, James Neblett, Jill Steward)

RESPONSE 16: During the technical review of the permit application, a compliance history review of both the company and the site is conducted based on the criteria in 30 TAC Chapter 60. These rules may be found at the following website:
<https://www.tceq.texas.gov/rules/index.html>.

The compliance history is reviewed for the five-year period prior to the date the permit application was received and includes multimedia compliance-related components about the site under review. These components include: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance. However, the TCEQ does not have jurisdiction to consider violations outside of the State of Texas.

A company and site may have one of the following classifications and ratings:

- High: rating below 0.10 - complies with environmental regulations extremely well;
- Satisfactory: rating 0.10 - 55.00 - generally complies with environmental regulations;
- Unsatisfactory: rating greater than 55.00 - fails to comply with a significant portion of the relevant environmental regulations.

Because the site is new, it has a rating of 'unclassified'. The company rating has a rating of 0.00, and a classification of High. The company rating reflects the average of the ratings for all sites the company owns in Texas.

COMMENT 17: Compliance / Enforcement

Commenters question how the Applicant will demonstrate compliance with the terms of the permit. Several commenters questioned how TCEQ would assure compliance without an air quality monitor. Stephen N. McStay asked how air emissions will be tested, what systems are used, what frequency testing occurs, asks who will conduct the tests. Mr. McStay also asked whether the results of any testing will be made publicly available and how the public would be notified if there is a violation. Mr.

McStay also asked what the protocol is if the plant fails its emissions testing on multiple occasions. Monty R. Oehrlein asks what monitoring is required other than self-regulation, further asking how TCEQ knows if the crusher continues to operate when the water needed to suppress dust and comply with their permit is not available. Commenters expressed concern that compliance with the permit would not be based on air quality monitoring data but only on theoretical calculations. Commenters questioned what the point of getting a permit was if TCEQ does not monitor air quality. Shawn Frederick stated the method TCEQ uses to measure air quality is inherently flawed because it uses theoretical data from far away monitors, which could be affected by local winds.

Enforcement

Commenters questioned how TCEQ would monitor compliance with the permit and asked what the penalties are for violations of the air permit. Marbert Moore questioned whether the TCEQ would monitor operations at the plant and whether investigations would only be conducted in response to a complaint. Stephen N. McStay asked if any imposed penalties would be paid to area residents or to the county and what would be done with any penalties collected. Michael S. Hale expressed concern that operating out of compliance would be more profitable for the Applicant because the imposition of fines is unlikely.

(Natalie Ball, Richard Calderwood, Eileen Carlton, Hudson Carlton, Byron A. Case, Wendy Case, Byron Alexander Case, Bret B. Chilcott, Chinell Darling, Jason Darling, Lindsey Darling, Sharon Ezell, Devin Floyd, Kristen Floyd, Jacqueline Frame, Shawn Frederick, Mike Gainer, James Douglas Gero, Melynda Gero, Daniel Ray Grubbs, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Janice Hair, Ronnie Hair, Ronnie W. Hair, Michael S. Hale, J. W. Hicks, Alexandra E. Hoeffner, Kendal Holcombe, Seth Holcombe, Richard Hollar, David H. Hutton, George Hyett, Bonny Spoons Jones, Robert Lansing, Edward Larsen, Linda Larsen, Eric Larson, Lauren Larson, Kristine Weixel, Russel A. Martin, Scott Matus, Laura A. McFarland, Laura McFarland, Stephen N. McStay, Brian D. Merrill, Barbara Mings, Pamela Mitchel, Marbert Moore, N. Clark Moore, Brian Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Monty R. Oehrlein, Kelly Pearson, Ken Pearson, Fritz Schubert, Alysia Van Scoy, Greg Van Scoy, Rhonda Smith, Candice Stroope, Richard Stroope, Melanie Vague, Heath Walz, Linda Walz)

RESPONSE 17: The draft permit contains detailed monitoring and recordkeeping requirements. The permit requires the Applicant to conduct quarterly visible fugitive emissions monitoring to demonstrate compliance with the limitations on visible fugitive emissions. While visible fugitive emissions determinations are required quarterly, the limitation and restriction on visible fugitive emissions crossing the property line is continuous. The quarterly observations requirements are intended as a means of demonstrating compliance with the Special Conditions as well as being a reminder that the owner/operator of the plant must be in compliance with the limitations at all times. The quarterly observation requirement is consistent with other minor source case-by-case permits. If visible emissions are observed leaving the property for a time period exceeding 30 cumulative seconds in any six-minute period, the owner or operator is required take immediate action (as appropriate) to eliminate the excessive visible fugitive emissions. The corrective action must also be documented within 24 business hours of completion.

Records containing the information and data sufficient to demonstrate compliance with the permit are required by 30 TAC § 116.115(b)(2)(E). The permit requires the Applicant to maintain these records for each calendar month for a rolling 24-month period. The recordkeeping requirements in the permit require documentation of throughput, which serves as a means of determining emissions from the plant. As detailed throughout this Response, the emission rates which were utilized in the model are based on acceptable calculation methodologies and factors, which have been developed by the EPA. These emission factors have been used to estimate the proposed emissions for this plant and include all processing and material handling activities associated with rock crushing at the proposed plant. The TCEQ ensures the conservative nature of these calculations by evaluating each emission point at the maximum operating conditions on both an hourly and an annual basis. Accordingly, the Executive Director expects that compliance with the permit will result in the authorized emissions meeting all applicable rules and regulations. In addition, records of road cleaning, application of road dust control, or road maintenance for dust control and records of inspections, malfunctions, repairs, and maintenance of abatement equipment is required. Records must be made available upon request to representatives of the TCEQ, EPA, or any local air pollution control program having jurisdiction.

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

The TCEQ regional offices prioritize their responses to complaints based on the potential for adverse health effects associated with the alleged violation. For example, a "priority one" case means serious health concerns exist, and the case will be investigated immediately. A "priority four" case, on the other hand, means no immediate health concerns exist; therefore, it will be investigated within 30 days.

Staff from the TCEQ regional office consider all complaints and regional investigations and are not limited by media. Complaints regarding regulated entities may be addressed to the TCEQ Austin Regional Office at 512-339-2929 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. Citizen-collected evidence may be used. *See* 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual.

Violations are usually addressed through a notice of violation letter that allows the operator a specified period of time within which to correct the problem. The violation is considered resolved upon timely corrective action. A formal enforcement referral will be made if the cited problem is not timely corrected, if the violation is repeated, or if a violation is causing substantial impact to the environment or neighbors. In most cases, formal enforcement results in an agreed enforcement order including penalties and technical requirements for corrective action. Penalties are based upon the severity and duration of the violation(s). Violations are maintained on file and are included in the calculation of a facility and a person's compliance history. Compliance history ratings are considered during permit application reviews.

Generally, administrative and civil penalties in the amount of \$0-10,000 and \$50-25,000, respectively, may be assessed for violations of the TCEQ rules. See Tex. Water Code Chapter 7. However, the specific penalties associated with each violation will be determined on a case-by-case basis according to the TCEQ Penalty Policy. First, the commission will evaluate the penalty based on the size of the respondent's (i.e. alleged violator) site. For example, under the TCEQ Penalty Policy any stationary facility that has the potential to emit more than 100 tons per year of any air pollutant is classified as a "major source." Second, the "harm" is categorized as major, moderate, or minor, according to the "Environmental/Property and Human Health Matrix." The harm classification is based on whether an "actual" or "potential" release of contaminants occurred. Third, additional factors including compliance history, repeat violations, culpability, and whether there was a good faith effort to comply with regulations, will be assessed and will influence the overall amount of the penalty. In addition, any economic benefit or monetary gain derived from a failure to comply with TCEQ rules or regulations will be considered and may increase the penalty. The final penalty amount will be checked against the minimum and maximum penalty amounts allowed by statute, per day of violation, in order to obtain the final assessed penalty. The TCEQ Enforcement Initiation Criteria is available at <https://www.tceq.texas.gov/compliance/enforcement/eic.html>. The TCEQ's Penalty Policy is available at <http://www.tceq.texas.gov/publications/rg/rg-253.html>.

COMMENT 18: Mailing List

Commenters requested that they be added to a distribution list to receive regular test results from the proposed plant that demonstrate air quality is not being negatively affected by the plant.

(Barbara Mings, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Kristine Weixel)

RESPONSE 18: The TCEQ maintains mailing lists and will mail notice to persons who request to be on the mailing list for any particular permit application and provide a mailing address. However, the TCEQ does not maintain a mailing or distribution list for test results such as those requested by the commenters. *See* Response 3 concerning the health effects review of the application and Response 17 concerning the monitoring and recordkeeping provisions of the draft permit.

COMMENT 19: Air Monitoring

Commenters expressed concern that air quality monitors will not be required to be placed at the plant's property line. Commenters express concern that the nearest air monitor is several miles away and asked that monitors be placed closer to the site and on adjacent properties. Marbert Moore asked where the nearest monitor is and who monitors the monitor. Scott Matus asked that additional monitoring stations be installed and that the results be made available to the public. Mr. Matus stated that nearly everyone would be willing to install a monitoring station on their property if it was monitored and maintained by TCEQ so long as the results were visible to everybody. Kristine Weixel asks why monitors are not required to be installed on the property to prove that the calculated emissions are correct. Laura McFarland requested that the Applicant be required to install air quality monitors within a half mile from the proposed location in all directions.

Ken Pearson and Kristine Weixel stated that when EPA amended the NAAQS for PM₁₀ and PM_{2.5}, businesses were required to install monitoring equipment to prove compliance and questioned why the aggregate industry was exempt from such monitoring requirements.

(Eileen Carlton, Shawn Frederick, Melynda Gero, Daniel Ray Grubbs, Joseph Haertsch, Steffany Haertsch, Alexandra E. Hoeffner, Eric Larson, Lauren Larson, Russel A. Martin, Shauna L. Martin, Scott Matus, Kristine Weixel, Laura McFarland, Stephen N. McStay, Marbert Moore, N. Clark Moore, Brian Nickels, Kelly Pearson, Ken Pearson, Karen Taylor)

RESPONSE 19: Due to cost and logistical constraints, the placement of air monitors is prioritized to provide data on regional air quality in areas frequented by the public. The existing air monitoring network is the result of a strategic balance of matching federal monitoring requirements with state and local needs. Consistent with federal air monitoring requirements, the TCEQ evaluates the placement of air quality monitors within the air monitoring network using trends in population, reported emissions inventory data, and existing air monitoring data for a given area. In addition, the TCEQ may prioritize monitor placement in areas with potential regional air quality issues, such as those related to increased oil and gas activity in the Barnett Shale and Eagle Ford Shale areas.

The TCEQ annually evaluates the number and location of air monitors within its network to assess compliance with federal monitoring requirements and the adequacy of monitoring coverage for identified monitoring objectives as a part of the Annual Monitoring Network Plan provided to EPA on July 1 of each year. This plan is made available on the TCEQ's website for public review and comment for 30 days beginning

in mid-May. Requests for additional monitoring or the identification of additional monitoring needs may be made during this public comment period and will be considered along with other monitoring priorities across the state. To receive email announcements related to the ambient air monitoring network, including the availability of the Annual Monitoring Network Plan for public review and comment, please visit the following link <https://service.govdelivery.com/accounts/TXTCEO/subscriber/new> and select "Air Monitoring Network Announcements."

Stationary air monitors are sited to measure air quality that is representative of a broader area or region. Therefore, monitors are not typically placed to measure the impacts from specific industrial facilities. More information concerning ambient air monitoring, including the locations of monitors, may be found on the TCEQ's website at <https://www.tceq.texas.gov/airquality/monops>. See Response 3 for information concerning emissions calculations and Response 17 concerning monitoring and recordkeeping.

As described in Response 3, the EPA created and continues to evaluate the NAAQS, which include both primary and secondary standards. The NAAQS are limits on the atmospheric concentration of criteria pollutants in the ambient air and do not contain specific monitoring requirements. More information about the NAAQS can be found on EPA's website at <https://www.epa.gov/naaqs>.

COMMENT 20: Location/ Quality of Life/ Property Values/Aesthetics/Local Economy Truck Traffic/Roads/Infrastructure/ Noise/ Light

Location

Commenters expressed concern regarding the location of the proposed plant and its proximity to residential and public areas, including homes, schools, the Balcones Canyonlands Wildlife Nature Preserve, Hope House, wedding and entertainment venues, farms, campsites, and ranches. Many commenters questioned why the proposed plant could not be located somewhere else. Commenters are concerned that the proposed project is not in a water conservation district.

(Commissioner Cynthia P. Long, Janet Y. Arlitt, Janis Austin, Natalie Ball, Catherine Bargh, Jake Basey, Luke Basey, Oleta Bodine, Lindsay Elizabeth Boltan, Zinaida Boltan, Mira Linn Boyda, Deanna Bye, Brad C., Gina Calderwood, Richard Calderwood, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Byron A. Case, Wendy Case, Byron Alexander Case, Bret B. Chilcott, Cindy Chrisler, Keith Neal Churchill, Raymond Clark, Tammy Clopton, Lea A. Curley, Chinell Darling, Lindsey Darling, Jason Darling, Asok Datla, Lawrence J. Dayhoff, Amy Demars, Laurie Dickerson, Christine Dornfeld, Bill E. Ecay, Molly Evans, Sharon Ezell, Melinda Fink, Raymond Firkins, Michael Fischer, Devin Floyd, Kristen Floyd, Thomas Reese Foster, Mary Jo Foster, Sandy Fox, G. Frame, Jacqueline Frame, Lauren Frederick, Shawn Frederick, Mike Gainer, Henry Geiger, James Douglas Gero, Melynda Gero, Kat M. Gets, Erin Giannette, Penny Goodrich, David Gould, John Pierre Gourlay, Gary Greenlees, John Griffin, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie Hair, Ronnie W. Hair, Janice Hair, Robin Hardcastle, Chris Harper,

Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Frank Haskell, Carole Heald, Donald A. Hemingway, J. W. Hicks, Holly Hodges, Alexandra E. Hoeffner, Kendal Holcombe, Seth Holcombe, Richard Hollar, Chad Horton, David H. Hutton, David Hutton, George Hyett, Ryan Keith Jarl, Gregory S. Johnson, Jennifer S. Johnson, Jason Johnston, Bonny Spoons Jones, Yvonne Kinnibrugh, Kathy Korcz, Erik Krause, John Kretzer, Melanie Kriewaldt-Roth, Arun Kumar, Ajay Kwatra, Pam Lafferty, Jonathon Lande, Robert Lansing, Edward Larsen, Linda Larsen, Eric Larson, Lauren Larson, Penny Lee, Donna Leonard, Linda Lewis, Kerry Lindinger, Reagan Lochte, Sara Loftin, Todd Lueck, Chad Marak, Russel A. Martin, Shauna L. Martin, Patricia Matus, Roger McAleenan, Jodi Lynn McCumber, Laura A. McFarland, Laura McFarland, Jessica McKee, Alexandra McStay, Brian D. Merrill, Barbara Mings, Shannon Minor, William Minor, Pamela Mitchel, Amber Mitchell, Doug Montgomery, Marbert Moore, Mary Jane Moore, James Neblett, Brian Nickels, Lisa Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Monty R. Oehrlein, Kate Ortiz, Lora Ortiz, Devin Osborne, Nick Page, Pavan Paladugu, Majida Parker, Kelly Pearson, Ken Pearson, Tarakam Peddada, Raju Penmetsa, Gregory Pontejos, Ronny Porter, Rajendra C. Potluri, Private Private, Kelly Purkey, Moshell Ray, Craig Reynolds, Cathy Riedel, Kerry Riggs, Susan Ringstaff, Alan Roth, C. Sanchez, Rosa Sanchez, Tiffany Sanders, Maggi Savo, Sridevi Sayyaparaju, Fritz Schubert, Erland Schulze, Shannon Schulze, Alysia Van Scoy, Scoy Alysia Van Scoy, Greg Van Scoy, Denise S Self, Terry Shuffler, B. Smith, Rhonda Smith, Tina Spencer, Evan L. Stepp, Anton Stetsenko, Jill Steward, Jami Strable, Candice Stroope, Richard Stroope, Tracy Swantner, Erika Tanner, Karen Taylor, Tracy Taylor, Pete Testone, Gina M. Tracy, Jimmy Tyree, Sheila Dawn Urbanek, Melanie Vague, Balu Velupula, Margo Voltin, Leanne Walsh, Heath Walz, Linda Walz, Stacey Warner, Katherine Watkins, Loren Way, Kristine Weixel, Nicole Welch, Nancy A Wilk, Nancy A. Wilk, Dave Wilson, Laura Zwahlen)

Quality of Life/ Property Values/Aesthetics/Local Economy

Commenters expressed concern that the proposed plant would negatively impact their quality of life, impact the aesthetic appeal of the area, harm the local economy, and decrease property values. Jerrod Harrison commented that he and his wife saved for years to move to the area away from crime and pollution and raise their kids in a safe wholesome environment. Brian Nickels commented that potentially losing the equity in his home was a financial nightmare. Jason Darling stated that some of the homes in the area are valued at over \$800,000 and there are also multiple multimillion dollar properties that would be devalued by the proposed plant.

(Commissioner Cynthia P. Long, Natalie Ball, Deanna Bye, Richard Calderwood, Cheryl Lynn Cantwell, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Cindy Chrisler, Tammy Clopton, Chinell Darling, Jason Darling, Lindsey Darling, Amy Demars, Laurie Dickerson, Lockie Ealy, Bill E. Ecay, David Elam, Sharon Ezell, Devin Floyd, Kristen Floyd, Mary Jo Foster, Thomas Reese Foster, Jacqueline Frame, Lauren Frederick, Shawn Frederick, Mike Gainer, Auburne Gallagher, Stephanie George, James Douglas Gero, Melynda Gero, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie W. Hair, Robin Hardcastle, Belinda Harrison, Jerrod Harrison, J. W. Hicks, David H. Hutton, George Hyett, Jason Johnston, Cameron Joiner, Hudson Joiner, Bonny Spoons Jones, Erik Krause, John Kretzer, Edward Larsen, Penny Lee,

Donna Leonard, Robin Lewis, Sara Loftin, Chad Marak, Mike Markl, Roger McAleenan, Jodi Lynn McCumber, Laura A. McFarland, Laura McFarland, Sheila Sellman McKinnis, Brian D. Merrill, Pamela Mitchel, Doug Montgomery, Marvin Morse, James Neblett, Brian Nickels, Pavan Paladugu, Kelly Pearson, Ken Pearson, Gregory Pontejos, Ronny Porter, Private Private, Cathy Riedel, Fritz Schubert, Alysia Van Scoy, Greg Van Scoy, Denise S. Self, Rhonda Smith, Tina Spencer, Anton Stetsenko, Jami Strable, Candice Stroope, Richard Stroope, Tracy Swantner, Tracy Taylor, Henry Waddell, Linda Walz, Stacey Warner, Kristine Weixel, Sandra K. Winkley)

Truck Traffic/Roads/Infrastructure

Commenters expressed concern about truck traffic that would be generated by the proposed plant and about truck emissions and potential damages to roads and public infrastructure. Some commenters expressed concern that transporting aggregate will create additional dust in the area. Erin R. O'Brien questioned whether TCEQ would be monitoring the carbon footprint of the rock crushing machinery and trucks used to haul rocks to and from the crusher.

Commenters also expressed concern that an increase in truck activity would pose risks and safety hazards to the community. Thomas Reese Foster commented that the roads are too narrow to accommodate more than one truck. Nick Page expressed concern that truck drivers would not drive safely and requested that the Applicant widen the road before requesting a permit. Stephen N. McStay asked who will monitor the trucks transporting material to ensure they are in compliance and what penalties are in place for trucks transporting the material to their final destination. Tim Cox asked that the Applicant pay to build the infrastructure needed to replace lost or damaged resources. Deanna Bye, Ryan Keith Jarl, Hudson Carlton, Hudson Kenneth Carlton and Lisa Nickels questioned who would be liable in the event of a traffic accident with a large commercial vehicle.

(Commissioner Cynthia P. Long, Brien Aho, Michael Albert Alkier, Janet Y. Arlitt, Janis Austin, Natalie Ball, Kathleen Barmettler, Jake Basey, Luke Basey, Tommy Bates, Marc Bittner, Lindsay Elizabeth Boltan, Scott Bowman, Mira Linn Boyda, Jeff Burrus, Deanna Bye, Gina Calderwood, Richard Calderwood, Cheryl Lynn Cantwell, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Wendy Case Byron Case, Treva Hanley Chaumont, Cindy Chrisler, Keith Neal Churchill, Jill Clark, Raymond Clark, Tammy Clopton, Donna Cox, Tim Cox, Chinell Darling, Lindsey Darling, Jason Darling, Asok Datla, Lawrence J. Dayhoff, Laurie Dickerson, Bill E. Ecay, Sharon Ezell, Devin Floyd, Thomas Floyd, Kristen Floyd, Mary Jo Foster, Thomas Reese Foster, Sandy Fox, Jacqueline Frame, Kristi France, Shawn Frederick, Gopala Ganti, Henry Geiger, Stephanie George, James Douglas Gero, Melynda Gero, Kat M. Gets, Erin Giannette, Penny Goodrich, John Pierre Gourlay, Robin Graham, Gary Greenlees, John Griffin, Daniel Ray Grubbs, Michael Guerrero, Phillip Haack, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie Hair, Ronnie W. Hair, Michael S. Hale, Robin Hardcastle, Chris Harper, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Donald A Hemingway, Boyd Henry, J. W. Hicks, Kim Hofstetter-Johnson, Chad Horton, David H. Hutton, David Hutton, George Hyett, Audrey Izzo, Ryan Keith Jarl, Charles Johnson, Gregory S. Johnson, Jennifer S. Johnson, Jason Johnston, Bonny Spoons Jones, Shayne Allan Kilian, Yvonne Kinnibrugh, Allyson Kirkland, Susan Kittrell, Erik Krause, John

Kretzer, Ajay Kwatra, Narendra V. Lakamraju, Jonathon Lande, Edward Larsen, Linda Larsen, Lauren Larson, Penny Lee, Donna Leonard, Robin Lewis, Kerry Lindinger, Robin Lingren, Haley Diane Lowrance, Todd Lueck, Chad Marak, Mike Markl, Patricia Matus, Roger McAleenan, Larence McClay, Lawrence McClay, Jodi Lynn McCumber, Patrick Francis McDonough, Laura A. McFarland, Laura McFarland, Sheila Sellman McKinnis, Alexandra McStay, Stephen N Mcstay, Stephen N. McStay, Brian D. Merrill, Barbara Mings, Ashish Mishra, Pamela Mitchel, Doug Montgomery, Mary Jane Moore, James Neblett, Brian Nickels, Lisa Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Kate Ortiz, Nick Page, Edward Pavlinik, Kelly Pearson, Ronald Craig Pearson, Ken Pearson, Tarakam Peddada, Raju Penmetsa, Gregory Pontejos, Ronny Porter, Rajendra C. Potluri, Private Private, Kelly Purkey, Moshell Ray, Craig Reynolds, Cathy Riedel, Susan Ringstaff, Rosa Sanchez, Nicholas Savo, Sridevi Sayyaparaju, Fritz Schubert, Roma Schubert, Erland Schulze, Shannon Schulze, Alysia Van Scoy, Greg Van Scoy, Denise S. Self, Terry Shuffler, B. Smith, Rhonda Smith, Anton Stetsenko, Jami Strable, Candice Stroope, Richard Stroope, Tracy Swantner, Karen Taylor, Malcom Terry, Pete Testone, Jimmy Tyree, Margo Voltin, Henry Waddell, Stacey Warner, Heidi Watts, Loren Way, Scott Weisse, Kristine Weixel, Monique Wenneborg, Steve Wenneborg, Nancy A Wilk, Nancy A. Wilk, Hollis Wilson, Michael Winkley, Sandra K. Winkley, Laura Zwahlen)

Noise/Light

Commenters expressed concern regarding noise and light pollution from the proposed plant. Some commenters questioned whether the plant will be "dark sky compliant." Molly Evans commented that the city council recently passed a Dark Skies Lighting ordinance to protect the country way of life and that the plant will operate in contradiction with this new ordinance.

Terrence David O'Brien, Erin R. O'Brien and Regina Marie O'Brien questioned what noise limitations would be put on the crusher, trucks and blasting activities and who would monitor the noise levels. Paul E. Babb also questioned what decibel limitations would be placed on the plant. Thomas Reese Foster and David Gould expressed concern that the Hope House would be affected by noise.

(Michael Albert Alkier, Paul E. Babb, Kathleen Barmettler, Luke Basey, Tommy Bates, Marc Bittner, Mira Linn Boyda, Jeff Burrus, Deanna Bye, Gina Calderwood, Cheryl Lynn Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Treva Hanley Chaumont, Cindy Chrisler, Keith Neal Churchill, Jill Clark, Tammy Clopton, Kadey Cochran, Asok Datla, Lawrence J. Dayhoff, Laurie Dickerson, Bill E. Ecay, Molly Evans, Michael Fischer, Mary Jo Foster, Thomas Reese Foster, Jacqueline Frame, Lauren Frederick, Shawn Frederick, Gopala Ganti, Stephanie George, James Douglas Gero, Melynda Gero, David Gould, John Pierre Gourlay, John Griffin, Daniel Ray Grubbs, Michael Guerrero, Janice Hair, Robin Hardcastle, Chris Harper, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Carole Heald, Donald A. Hemingway, Holly Hodges, David H. Hutton, David Hutton, Charles Johnson, Jason Johnston, Shayne Allan Kilian, Susan Kittrell, Kathy Korcz, Erik Krause, John Kretzer, Arun Kumar, Ajay Kwatra, Pam Lafferty, Narendra V. Lakamraju, Penny Lee, Donna Leonard, Robin Lewis, Kerry Lindinger, Sara Loftin, Chad Marak, Patricia Matus, Lawrence McClay, Patrick Francis McDonough, Laura McFarland, Sheila Sellman McKinnis, Barbara Mings, Ashish Mishra,

Pamela Mitchel, Mary Jane Moore, James Neblett, Lisa Nickels, Erin R. O'Brien, Terrence David O'Brien, Regina Marie O'Brien, Melanie Ocana, Tasha Olds, Kate Ortiz, Kelly Pearson, Ronald Craig Pearson, Ken Pearson, Tarakam Peddada, Raju Penmetsa, Rajendra C. Potluri, Kelly Purkey, Moshell Ray, Craig Reynolds, Cathy Riedel, Susan Ringstaff, Maggi Savo, Sridevi Sayyaparaju, Shannon Schulze, Scoy Alysia Van Scoy, Denise S Self, Denise S. Self, Tina Spencer, Anton Stetsenko, Candice Stroope, Richard Stroope, Tracy Swantner, Karen Taylor, Tracy Taylor, Pete Testone, Jimmy Tyree, Balu Velupula, Henry Waddell, Kristine Weixel, Monique Wenneborg, Steve Wenneborg, Nancy A Wilk, Nancy A. Wilk, Hollis Wilson, Sandra K. Winkley, Johnathon David Wright, Jonathon David Wright, Amanda L. Young, Laura Zwahlen)

RESPONSE 20: The TCAA establishes the TCEQ's jurisdiction to regulate air emissions in the state of Texas. The TCEQ's review of requests for air quality authorizations is limited to a review of the best available control technology (BACT) and a health effects review. Accordingly, the TCEQ does not have jurisdiction to consider facility location or land use issues when determining whether to issue a permit. Except under limited circumstances, which do not exist under this particular permit application, the issuance of a permit cannot be denied on the basis of facility location. Similarly, the TCEQ does not have jurisdiction to consider potential effects on property values, aesthetic impacts, or to consider economic issues such as effects on local economies.

The TCEQ also does not have jurisdiction to consider highway or road traffic or safety issues when determining whether to approve or deny a permit application. Trucks and other vehicles are considered mobile sources, which are not regulated by the TCEQ. Moreover, the TCEQ is prohibited from regulating roads per TCAA § 382.003(6), which excludes roads from the definition of "facility." However, emissions from these sources may not constitute a nuisance as defined in 30 TAC § 101.4. Although the TCEQ is prohibited from regulating mobile sources, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 30 TAC § 101.5 states, "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use."

Jurisdiction over traffic on public roads, including any load-bearing restrictions and public safety, including access, speed limits, and public roadway issues, are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation (TxDot) and the Texas Department of Public Safety (DPS). An air quality permit does not authorize a violation of any road safety or load-bearing restrictions. Concerns regarding roads should be addressed to appropriate state or local officials.

The TCEQ also does not have jurisdiction to consider noise or light pollution from a proposed facility when determining whether to approve or deny a permit application. As such, the TCEQ does not have authority under the TCAA to require or enforce any noise or light abatement measures. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. Commenters should contact their local authorities with questions or complaints about noise or light. *See* Response 3 concerning the health effects review, Response 4 concerning Dust Emissions, and Response 21 concerning blasting.

COMMENT 21: Quarry / Mining / Blasting

Commenters are concerned about the emissions from the associated quarry, mining, or blasting operations and stated that the quarry is not far enough removed. Commenters stated they did not want another quarry in the area. Erik Krause questioned why a quarry would be needed in the middle of a growing area. In addition, commenters are concerned about the use of explosives during quarry or mining operations and that the proposed plant will cause the formation of caves and sinkholes. Some commenters expressed concern that blasting emissions were not included in the application. Mary Jo Foster asked for a blasting schedule, including how often and at what times blasting will occur. Ken Pearson expressed concern that blasting operations were not discussed during the public meeting. Cindy Chrisler commented that blasting will impact the critical karst formations that protect the aquifer and filter groundwater.

Clem Sanchez commented regarding TCEQ's funding of grants through the Clean Fleet Program in addition to other efforts TCEQ is undertaking to improve air quality and questioned whether these measures would be necessary if TCEQ simply prevented unregulated mining.

(Luke Basey, Richard Calderwood, Thomas Cantwell, Eileen Carlton, Hudson Carlton, Cindy Chrisler, Raymond Clark, Chinell Darling, Lawrence J. Dayhoff, Bill E. Ecay, Sharon Ezell, Devin Floyd, Kristen Floyd, Mary Jo Foster, Jacqueline Frame, Shawn Frederick, Ernesto Galindo, Auburne Gallagher, James Douglas Gero, John Griffin, Phillip Haack, Janice F. Hair, Ronnie W. Hair, Belinda Harrison, Jerrod Harrison, J. W. Hicks, David Hutton, George Hyett, Bonny Spoons Jones, Erik Krause, Edward Larsen, Chad Marak, Scott Matus, Roger McAleenan, Laura A. McFarland, Laura McFarland, Brian D. Merrill, Barbara Mings, Brian Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Kate Ortiz, Nick Page, Kelly Pearson, Ken Pearson, Clem Sanchez, Rosa Sanchez, Roma Schubert, Alysia Van Scoy, Greg Van Scoy, Rhonda Smith, Patrick Spencer, Candice Stroope, Richard Stroope, Tracy Swantner, Tracy Taylor, Jimmy Tyree, Margo Voltin, Kristine Weixel)

RESPONSE 21: Under the TCAA, the TCEQ regulates facilities that contain a source of air emissions. Mines and quarries are specifically excluded from the definition of facility in TCAA § 382.003(6). Therefore, any potential emissions related to mining operations, including any blasting at the site, are not part of the review of air quality permit applications. The location of any mining operations is also outside the scope of an air quality permit. However, emissions of PM from a quarry cannot create a nuisance condition. The Applicant must comply with the TCAA and all TCEQ rules and regulations, including 30 TAC § 101.4, which prohibits a person from creating or

maintaining a nuisance. In addition, the air dispersion modeling accounts for other sources of particulate matter in an area by taking into account the background concentrations in the county. *See* Response 3 concerning the health effects review.

COMMENT 22: Reclamation / Remediation Plan

Erik Krause is concerned that once the project is done, the Applicant will move on and residents will be left with the impact to clean up. Roger McAleenan expressed concern that no consideration has been made regarding reclamation or remediation commitments. Candice Stroope commented that aggregate mining operations are known for leaving large holes and unsightly pits in the ground and expressed concern that the land would not be reclaimed.

(Michael Fischer, Erik Krause, Roger McAleenan, Candice Stroope)

RESPONSE 22: The TCEQ regulations that govern the air quality permit application under review do not include rules regarding the future land use of property. The TCEQ does not have any regulations on reclamation of the site for other uses and does not have the authority to require a reclamation, remediation, or environmental protection bond or to require the Applicant to obtain financial assurance for reclamation.

COMMENT 23: Contract with Landowner

Mary Jo Foster asked if land is being sold to Capital Aggregates for this project. In addition, Ms. Foster also expressed concern that the Applicant's contract with the landowner left open the possibility of 24/7 operations and asked if the Applicant would be willing to make the contract public. Thomas Reese Foster expressed concern that the Applicant would not comply with the terms of its contract with the landowners.

(Mary Jo Foster, Thomas Reese Foster)

RESPONSE 23: A review of third-party agreements is outside the scope of the review of air quality permit applications. It is an applicant's responsibility to ensure that it has the legal authority to construct and operate a proposed facility. Accordingly, permit applicants are not required to submit any contracts with landowners to the TCEQ and the TCEQ cannot enforce contractual provisions outside of an air quality permit. *See* Response 14 concerning operating hours.

COMMENT 24: Future Regulations

David Gould commented that EPA has signaled that it will propose new PM NAAQS and expressed concern that the standard would be lowered.

RESPONSE 24: As described throughout this Response, TCEQ staff reviewed the permit application in accordance with the applicable state and federal law, policy, and procedures, and in accordance with the agency's mission to protect the state's public health and natural resources consistent with sustainable economic development. The combination of controls and control measures as specified in the permit meet current BACT requirements for plants of this type. The TCEQ cannot require an applicant to use more stringent requirements than those required for other similar rock crushing plants unless there is a documented unsatisfactory compliance history.

The EPA is the regulatory agency charged with ensuring the NAAQS are set at levels that are protective of human health and welfare. As such, concerns about the protectiveness of the current NAAQS or whether the standards may be amended in the future are outside the TCEQ's jurisdiction.

COMMENT 25: Corporate Profits

Commenters expressed concern the corporate profits that would be made from the proposed plant would come at a cost to the surrounding community. Chinell Darling expressed concern that the Applicant is forcing residents out of their wells to gain tax money and forcing residents to sell their property to developers. Chinell Darling also stated the Applicant is placating foreign investors that do not care about the country lifestyle of neighbors. Jason Johnston expressed concern that the land owner is making money and is making local residents pay the price to have his land cleaned up. Eric Larson commented that the permit creates the opportunity for the Applicant to profit from the natural resources while avoiding compliance.

(Thomas Cantwell, Chinell Darling, Molly Evans, Thomas Reese Foster, Penny Goodrich, Jason Johnston, John Kretzer, Jonathon Lande, Eric Larson, Todd Lueck, Roger McAleenan, Amy McHugh, John McHugh, Private Private, Che Dawn Williamson)

RESPONSE 25: Under the TCAA, the TCEQ regulates facilities that contain a source of air emissions. Accordingly, the TCEQ is not authorized to consider a company's financial status nor any profits that may be made in the review of air quality applications. TCEQ's review of the application included an analysis of health impacts and application of best available control technology (BACT), and based on this review, the proposed plant would not be expected to cause adverse effects. However, as described in Response 17, any economic benefit or monetary gain derived from a failure to comply with TCEQ rules or regulations will be considered and may increase a penalty imposed for noncompliance.

COMMENT 26: TCEQ's Funding

Ronnie W. Hair asked how the TCEQ is funded and questioned whether it receives taxpayer money or whether it is partnership with businesses.

RESPONSE 26: The TCEQ's biennial budget is funded from a variety of different sources at the discretion of the Legislature. The TCEQ is authorized to charge fees to recover the costs of implementing programs required by both the federal CAA and the TCAA. In addition, as described in Response 9, the TCEQ is authorized to collect fees to fund the use of additional resources used to expedite the review of applications. Additional information about state agency funding can be found on the Legislative Budget Board's website at www.lbb.state.tx.us.

COMMENT 27: TCEQs Responsibility to the Community / General Opposition

Many commenters expressed general opposition to the project and asked that the TCEQ consider residents and their wishes and choose not to approve the permit application. Commenters asked that TCEQ uphold its mission statement. Janice F. Hair asked who oversees the TCEQ and asked what the TCEQ has done to protect the families living in the area. Janice F. Hair commented that it is unfair and un-American

that no consideration is given to Williamson County taxpayers. Alan Roth asked how residents can be assured that TCEQ is acting in the best interest of the citizens. David Hutton asked TCEQ to protect citizens. Donna Leonard questioned whether the TCEQ had lost its mind to consider the application. Mary Jo Foster stated the people of Liberty Hill are counting on TCEQ to be a righteous and fair organization. Melanie Kriewaldt-Roth questioned where the advocates for the public were and stated that, in her view, TCEQ is an advocate for the Applicant. Ms. Kriewaldt-Roth stated that while businesses exist to make money, TCEQ is there to protect the community and preserve the land. Nicole Welch stated that TCEQ is advocating for the business and not for the air quality and asked that TCEQ clarify its responsibility to act in the best interest of citizens. Mary Jo Foster submitted a positive comment for a TCEQ employee that answered her questions about policies and rules.

(Commissioner Cynthia P. Long, David Abigt, Brien Aho, Michael Albert Alkier, Janet Y. Arlitt, Janis Austin, Paul E. Babb, Natalie Ball, Catherine Bargh, Jake Basey, Luke Basey, Tommy Bates, Zinaida Boltan, Scott Bowman, Jason Brandt, Deanna Bye, Richard Calderwood, Cheryl Lynn Cantwell, Eileen Carlton, Hudson Carlton, Hudson Kenneth Carlton, Cindy Chrisler, Keith Neal Churchill, Jill Clark, Raymond Clark, Tammy Clopton, Vanessa Conner, Peter Coomaraswamy, Tim Cox, Lea A. Curley, Lea Curley, Lawrence J. Dayhoff, Amy Demars, Laurie Dickerson, Jason Doyen, Bill E. Ecay, Melinda Fink, Michael Fischer, Cynthia L. Floyd, Devin Floyd, Kristen Floyd, Mary Jo Foster, Thomas Reese Foster, Sandy Fox, Jacqueline Frame, Kristi France, Shawn Frederick, Mandy Fults, Auburne Gallagher, Henry Geiger, James Douglas Gero, Melynda Gero, Kat M. Gets, Erin Giannette, Penny Goodrich, David Gould, John Griffin, Michael Guerrero, Joseph Haertsch, Steffany Haertsch, Janice F. Hair, Ronnie W. Hair, Michael S. Hale, Robin Hardcastle, Kaellen Harrington, Belinda Harrison, Jerrod Harrison, Boyd Henry, Saira Hernandez, J. W. Hicks, Kim Hofstetter-Johnson, Chad Horton, David H. Hutton, David Hutton, Janie Jackson, Ryan Keith Jarl, Heather Jennings, Charles Johnson, Gregory S. Johnson, Jennifer S. Johnson, Cameron Noble Joiner, Bonny Spoons Jones, Allyson Kirkland, Erik Krause, Arun Kumar, Pam Lafferty, Jonathon Lande, Edward Larsen, Eric Larson, Lauren Larson, Penny Lee, Donna Leonard, Linda Lewis, Kerry Lindinger, Robin Lingren, Reagan Lochte, Sara Loftin, Haley Diane Lowrance, Todd Lueck, Mike Markl, Russel A. Martin, Shauna L. Martin, Roger McAleenan, Lawrence McClay, Jodi Lynn McCumber, Laura McFarland, Amy McHugh, John McHugh, Sheila Sellman McKinnis, Alexandra McStay, Stephen N. McStay, Barbara Mings, Shannon Minor, William Minor, Amber Mitchell, James Mogford, Marbert Moore, Mary Jane Moore, Nancy Morse, Ladonna Muennink, Brian Nickels, Erin R. O'Brien, Regina Marie O'Brien, Terrence David O'Brien, Monty R. Oehrlein, Kate Ortiz, Kelly Pearson, Ken Pearson, Ronny Porter, Lannie Read, Craig Reynolds, Cathy Riedel, Kerry Riggs, Susan Ringstaff, Aaron Rose, Alan Roth, C. Sanchez, Rosa Sanchez, Clem Sanchez, Fritz Schubert, Roma Schubert, Erland Schulze, Alysia Van Scoy, Greg Van Scoy, Denise S Self, Denise S. Self, Dane Seward, Kim Seward, Terry Shuffler, Lisa Simmons, Susan Simon, Crystal Smith, Rhonda Smith, Patrick Spencer, Tina Spencer, Deva Floyd Spiking, Anton Stetsenko, Jill Steward, Candice Stroope, Richard Stroope, Tracy Swanter, Tracy Swantner, Pete Testone, Tonnya Troyer, Sheila Dawn Urbanek, Margo Voltin, Henry Waddell, Leanne Walsh, Linda Walz, Stacey Warner, Katherine Watkins, Kris Weixel, Kristine Weixel, Che Dawn Williamson, Amanda L. Young)

RESPONSE 27: The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. The Executive Director's staff has reviewed the permit application in accordance with the applicable state and federal law, policy and procedures, and the agency's mission to protect the state's human and natural resources consistent with sustainable economic development. The TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met. *See* Response 3 concerning the health effects review and Response 8 concerning the application review process.

CHANGES MADE IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY