

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 21, 2023

TO: All interested persons.

RE: R&L Concrete LLC
Air Quality Standard Permit No. 171631

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Dallas/Fort Worth Regional Office, and the Kaufman County Library, 3790 South Houston Street, Kaufman, Kaufman County, Texas 75142. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Dr, Fort Worth, Texas. Visit www.tceq.texas.gov/goto/cbp to review the standard permit.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two types of requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

A person permanently residing within 440 yards of a concrete batch plant authorized by the Air Quality Standard Permit for Concrete Batch Plants is an affected person who is entitled to request a contested case hearing. The hearing request must state a personal justiciable interest.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received** by the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Participation and Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
R&L Concrete LLC
Air Quality Standard Permit No. 171631

The Executive Director has made the Response to Public Comment (RTC) for the application by R&L Concrete LLC, for Air Quality Standard Permit No. 171631 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (171631) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. The application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Central Office, the TCEQ Dallas/Fort Worth Regional Office, and the Kaufman County Library, 3790 South Houston Street, Kaufman, Kaufman County, Texas 75142. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Dr, Fort Worth, Texas..



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas al Reducir y Prevenir la Contaminación

21 de agosto de 2023

TO: Todas las personas interesadas.

RE: R&L Concrete LLC
Permiso estándar de calidad del aire No. 171631

Decisión del Director Ejecutivo.

El director ejecutivo ha tomado la decisión de que la solicitud de permiso mencionada anteriormente cumple con los requisitos de la ley aplicable. **Esta decisión no autoriza la construcción u operación de ninguna instalación propuesta.** Esta decisión será considerada por los comisionados en una reunión pública programada regularmente antes de que se tome cualquier medida sobre esta solicitud, a menos que todas las solicitudes de audiencia o reconsideración de casos impugnados hayan sido retiradas antes de esa reunión.

Se adjuntan a esta carta las instrucciones para ver en Internet la Respuesta del Director Ejecutivo al Comentario Público (RTC). Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov. Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios públicos, están disponibles para su revisión en la Oficina Central de TCEQ. La solicitud, la decisión preliminar del director ejecutivo y el permiso estándar estarán disponibles para su visualización y copia en la Oficina Central de la TCEQ, la Oficina Regional de la TCEQ Dallas/Fort Worth y la Biblioteca del Condado de Kaufman, 3790 South Houston Street, Kaufman, Kaufman County, Texas 75142. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la Oficina Regional de la TCEQ Dallas/Fort Worth. Visite www.tceq.texas.gov/goto/cbp para revisar el permiso estándar.

Si no está de acuerdo con la decisión del director ejecutivo y cree que es una "persona afectada" como se define a continuación, puede solicitar una audiencia de caso impugnado. Además, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Los procedimientos para la evaluación de la comisión de las solicitudes de audiencia/solicitudes de reconsideración se encuentran en 30 Código Administrativo de Texas, Capítulo 55, Subcapítulo F. A continuación, se presenta una breve descripción de los procedimientos para estas dos solicitudes.

Cómo solicitar una audiencia de caso impugnado.

Es importante que su solicitud incluya toda la información que respalde su derecho a una audiencia de caso impugnado. Su solicitud de audiencia debe demostrar que cumple con los requisitos legales aplicables para que se le conceda su solicitud de audiencia. La consideración de la comisión de su solicitud se basará en la información que usted proporcione.

La solicitud debe incluir lo siguiente:

- (1) Su nombre, dirección, número de teléfono durante el día y, si es posible, un número de fax.
- (2) Si la solicitud es realizada por un grupo o asociación, la solicitud debe identificar:
 - (A) una persona por nombre, dirección, número de teléfono durante el día y, si es posible, el número de fax, de la persona que será responsable de recibir todas las comunicaciones y documentos para el grupo.;
 - (B) los comentarios sobre la solicitud presentada por el grupo que constituyen la base de la solicitud de audiencia; y
 - (C) por nombre y dirección física, uno o más miembros del grupo que de otro modo tendrían derecho a solicitar una audiencia por derecho propio. Los intereses que el grupo busca proteger deben estar relacionados con el propósito de la organización. Ni la reclamación alegada ni la reparación solicitada deben requerir la participación de los miembros individuales en el caso.
- (3) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (4) Una declaración que exprese claramente que está solicitando una audiencia de caso impugnado. Por ejemplo, la siguiente declaración sería suficiente: "Solicito una audiencia de caso impugnado".

Su solicitud debe demostrar que usted es una "**persona afectada**". Una persona afectada es aquella que tiene un interés justiciable personal relacionado con un derecho, deber, privilegio, poder o interés económico legal afectado por la solicitud. Su solicitud debe describir cómo y por qué se vería afectado negativamente por la instalación o actividad propuesta de una manera que no sea común al público en general. Por ejemplo, en la medida en que su solicitud se base en estas preocupaciones, debe describir el impacto probable en su salud, seguridad o usos de su propiedad que puedan verse afectados negativamente por la instalación o las actividades propuestas. Para demostrar que tiene un interés personal justiciable, debe indicar, tan específicamente como pueda, su ubicación y la distancia entre su ubicación y la instalación o actividades propuestas. Una persona que pueda verse afectada por las emisiones de contaminantes del aire de la instalación tiene derecho a solicitar una audiencia de caso impugnado.

Una persona que reside permanentemente dentro de las 440 yardas de una planta de concreto autorizada por el Permiso de Estándar de Calidad del Aire para Plantas de Concreto por Lotes es una persona afectada que tiene derecho a solicitar una audiencia de caso impugnado. La solicitud de audiencia debe indicar un interés personal justiciable.

Su solicitud debe plantear cuestiones de hecho controvertidas que sean relevantes y materiales para la decisión de la comisión sobre esta solicitud que fueron planteadas **por usted** durante el período de comentarios públicos. La solicitud no puede basarse únicamente en cuestiones planteadas en los comentarios que haya retirado.

Para facilitar la determinación por parte de la comisión del número y alcance de los asuntos que se remitirán a la audiencia, usted debe: 1) especificar cualquiera de las respuestas del director ejecutivo a **sus** comentarios que usted disputa; 2) la base fáctica de la disputa; y 3) enumerar cualquier cuestión de derecho en disputa.

Cómo solicitar la reconsideración de la decisión del Director Ejecutivo.

A diferencia de una solicitud de audiencia de caso impugnado, cualquier persona puede solicitar la reconsideración de la decisión del director ejecutivo. Una solicitud de reconsideración debe contener su nombre, dirección, número de teléfono durante el día y, si es posible, su número de fax. La solicitud debe indicar que está solicitando la reconsideración de la decisión del director ejecutivo, y debe explicar por qué cree que la decisión debe ser reconsiderada.

Fecha límite para la presentación de solicitudes.

La oficina del Secretario Oficial debe **recibir** una solicitud de audiencia de caso impugnado o reconsideración de la decisión del director ejecutivo a más tardar **30 días calendario** después de la fecha de esta carta. Puede enviar su solicitud electrónicamente a www.tceq.texas.gov/agency/decisions/cc/comments.html o por correo a la siguiente dirección:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Procesamiento de solicitudes.

Las solicitudes oportunas para una audiencia de caso impugnado o para la reconsideración de la decisión del director ejecutivo se remitirán al Programa de Resolución Alternativa de Disputas de TCEQ y se incluirán en la agenda de una de las reuniones programadas regularmente de la comisión. Las instrucciones adicionales que explican estos procedimientos se enviarán a la lista de correo adjunta cuando se haya programado esta reunión.

Cómo obtener información adicional.

Si tiene alguna pregunta o necesita información adicional sobre los procedimientos descritos en esta carta, llame al Programa de Educación Pública, al número gratuito, 1-800-687-4040.

Atentamente,



Laurie Gharis
Secretaria Oficial

LG/erg

Recinto

RESPUESTA DEL DIRECTOR EJECUTIVO AL COMENTARIO DEL PÚBLICO
para
R&L Concrete LLC
Permiso estándar de calidad del aire No. 171631

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de R&L Concrete LLC, del permiso estándar de calidad del aire No. 171631. Puede ver e imprimir el documento visitando la Base de Datos Integrada de los Comisionados de TCEQ en el siguiente enlace:

<https://www.tceq.texas.gov/goto/cid>

Para ver el RTC en el enlace anterior, ingrese el número de identificación TCEQ para esta solicitud (171631) y haga clic en el botón "Buscar". Los resultados de la búsqueda mostrarán un enlace al RTC.

Las personas que prefieran una copia por correo del RTC o que tengan problemas para acceder al RTC en el sitio web, deben comunicarse con la Oficina del Secretario Oficial, por teléfono al (512) 239-3300 o por correo electrónico a chiefclk@tceq.texas.gov.

Información adicional

Para obtener más información sobre el proceso de participación pública, puede comunicarse con la Oficina del Asesor de Interés Público al (512) 239-6363 o llamar al Programa de Educación Pública, al número gratuito, (800) 687-4040.

Una copia completa del RTC (incluida la lista de correo), la solicitud completa, el borrador del permiso y los documentos relacionados, incluidos los comentarios, están disponibles para su revisión en la Oficina Central de TCEQ en Austin, Texas. La solicitud, la decisión preliminar del director ejecutivo y el permiso estándar estarán disponibles para su visualización y copia en la Oficina Central de la TCEQ, la Oficina Regional de la TCEQ Dallas/Fort Worth y la Biblioteca del Condado de Kaufman, 3790 South Houston Street, Kaufman, Kaufman County, Texas 75142. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la Oficina Regional de la TCEQ Dallas/Fort Worth. Visite www.tceq.texas.gov/goto/cbp para revisar el permiso estándar.

MAIL LIST / LISTA DE CORREO

for / para

R&L Concrete LLC

Air Quality Standard Permit No. 171631 / Permiso estándar de calidad del aire No. 171631

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Rolando Suarez, Manager
R&L Concrete LLC
907 Royse Ridge Road
Ennis, Texas 75119

Venkata Godasi, Graduate Engineer
Aarc Environmental Inc
2000 West Sam Houston Parkway South
Suite 850
Houston, Texas 77042

INTERESTED PERSONS /
PERSONAS INTERESADAS:

Carol Bourquin
8550 County Road 148
Kaufman, Texas 75142

Cesley Ray Gordon
5615 East US Highway 175
Kaufman, Texas 75142

FOR THE EXECUTIVE DIRECTOR / PARA
EL DIRECTOR EJECUTIVO
via electronic mail /
por correo electrónico:

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program MC-108
P.O. Box 13087
Austin, Texas 78711-3087

Abigail Adkins, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division MC-173
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Austin, Texas 78711-3087

Alexander Hilla, Technical Staff
Texas Commission on Environmental
Quality
Air Permits Division MC-163
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL /
PARA ABOGADOS DE INTERÉS PÚBLICO
via electronic mail /
por correo electrónico:

Garrett T. Arthur, Attorney
Texas Commission on Environmental
Quality
Public Interest Counsel MC-103
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK /
PARA EL SECRETARIO OFICIAL
via electronic mail
por correo electrónico:

Laurie Gharis, Chief Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk MC-105
P.O. Box 13087
Austin, Texas 78711-3087

**TCEQ AIR QUALITY STANDARD PERMIT NUMBER CONCRETE BATCH PLANT
REGISTRATION 171631**

APPLICATION BY	§	BEFORE THE
R&L CONCRETE LLC	§	TEXAS COMMISSION ON
CONCRETE BATCH PLANT	§	ENVIRONMENTAL QUALITY
KAUFMAN, KAUFMAN 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 Standard Permit 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: Carol Bourquin and Cesley Ray Gordon. 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

R&L Concrete LLC (Applicant) has applied to the TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) § 382.05195. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a Concrete Batch Plant. The plant is proposed to be located at the following driving directions: from the intersection of Jiba Road 147 and US Highway 175, drive 0.4 miles South on US Highway 175 and the site entrance is on the left side, Kaufman, Kaufman County. Contaminants authorized under this permit include aggregate, cement, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less and road dust.

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 an authorization from the commission. This permit application is for an initial issuance of Air Quality Permit Number 171631.

The permit application was received on January 30, 2023 and declared administratively complete on February 06, 2023. The Consolidated Notice of Receipt and Intent to Obtain an Air Quality Permit and Notice of Application and Preliminary Decision (public notice) for this permit application was published in English on March 30, 2023, in *The Kaufman Herald* and published in Spanish on March 28, 2023, in *La Prensa Cominidad*. The comment period ended on May 1, 2023. 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).

COMMENTS AND RESPONSES

COMMENT 1: Health Effects/Air Quality

Commenters are concerned about the effect of the emissions from the proposed project on the air quality and health of people, particularly sensitive populations such as the elderly, children, and people with existing medical conditions.

(Carol Bourquin, Cesley Ray Gordon)

RESPONSE 1: During the development of the Standard Permit, the Executive Director conducted an extensive protectiveness review to ensure protectiveness of human health and the environment. The protectiveness review determined potential impacts to human health and welfare or the environment by comparing emissions allowed by the standard permit to appropriate state and federal standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS) and TCEQ rules. As described in detail below, the Executive Director determined that the emissions authorized by the standard permit are protective of both human health and welfare and the environment.

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. 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 Standard Permit is designed to be in compliance with the NAAQS.

The primary contaminants that have the potential to be emitted from the plant are dust particles having particle sizes of less than or equal to 10 and 2.5 micrometers in aerodynamic diameter (PM₁₀ and PM_{2.5}, respectively). All of the potential dust concentrations, as well as emissions from combustion sources, have been evaluated using reasonable worst-case operating parameters and compared to the federal criteria mentioned above. The Standard Permit requires substantial dust control processes to minimize dust issues, which include paving in-plant roads and work areas, using water

sprays on stockpiles, and using a suction shroud and three-sided curtain to prevent flyaway dust. When a company operates in compliance with the Standard Permit, they should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.

COMMENT 2: Dust Control/Nuisance

Commenters are concerned about dust generated by the proposed project.

(Carol Bourquin, Cesley Ray Gordon)

RESPONSE 2: The permit application must meet standards outlined in the TCAA and all applicable state and federal rules and regulations. As discussed in Response 1, the technical requirements contained in the Standard Permit are designed to ensure that facilities operating under 30 TAC § 116.611, Registration to Use a Standard Permit, achieve the emission standards determined to be protective of human health and the environment.

Vehicle traffic and material handling are the primary activities that have the potential to emit particulate matter (i.e., dust) resulting from the proposed plant. All of the potential dust concentrations from the permitted sources have been evaluated based on operating parameters represented in the application and compared to the impacts criteria described in Response 1. The Standard Permit requires control processes to minimize dust including paving all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant (including batch truck and material delivery truck roads) with a cohesive hard surface that can be maintained intact and cleaned. The Standard Permit also dictates that water sprays shall be used on the stockpiles to minimize dust emissions, and a three-sided curtain and suction shroud shall be installed at the truck drop point to minimize fly away dust. When a company operates in compliance with the Standard Permit requirements there should be no deterioration of air quality or the generation of dust such that it impacts visibility. While nuisance conditions are not expected if the facility is operated in compliance with the terms of the permit, operators must also comply with 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance that interferes with a landowner's use and enjoyment of a property. Specifically, the rule states that "no person shall discharge from any source" air contaminants which are or may "tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." When a company operates in compliance with the Standard Permit requirements, such as those listed above, there should be no deterioration of air quality or the generation of dust such that it impacts visibility or accumulates on water in fields.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Dallas/Fort Worth Regional Office at 817-588-5800 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

COMMENT 3: Jurisdictional Issues

Location/Zoning

Commenters expressed concern regarding the location of the facility as it relates to current zoning ordinances and the proximity to residential and public areas, including schools.

(Carol Bourquin, Cesley Ray Gordon)

Quality of Life/Aesthetics/Property Value

Commenter is concerned about the effect of the proposed project on their quality of life, on the aesthetics of the area, and on their property value.

(Carol Bourquin)

RESPONSE 3: The TCEQ does not have jurisdiction to consider plant location, aesthetics, zoning and land use issues, or effects on property values when determining whether to approve or deny this air permit, unless a statute or rule imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. The issuance of an air quality authorization does not override any local zoning requirements that may be in effect and does not authorize an applicant to operate outside of local zoning requirements.

COMMENT 4: Water

Commenter is concerned about water contamination and runoff from the proposed project. Commenter is concerned the proposed plant will negatively impact water sources in the area, including groundwater, and a nearby reservoir.

(Carol Bourquin)

RESPONSE 4: Although the TCEQ is responsible for the environmental protection of air and water as well as the safe management of waste, this registration will regulate the control and abatement of air emissions only. Therefore, issues regarding water quality or discharge and the handling of waste are not within the scope of this review. However, the Applicant may be required to apply for separate authorizations for water quality, water usage, or the handling of waste.

This permit does not authorize the discharge of pollution into a body of water or the storage or handling of hazardous waste. Individuals are encouraged to report environmental concerns, including water quality issues, or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the TCEQ Dallas/Fort Worth Regional Office at 817-588-5800 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. The TCEQ evaluates all complaints received. If the plant is found to be out of compliance with the terms and conditions of the permit, the Applicant will be subject to enforcement action.

COMMENT 5: Notification to Neighbors/EPA

Commenter asked about notification requirements to neighbors and other agencies, such as the EPA and FAA.

(Carol Bourquin)

RESPONSE 5: The TCAA § 382.056 requires that the applicant for this Standard Permit publish notice in a newspaper of general circulation in the municipality in which the proposed facility 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. The TCEQ adopted rules for these public notice requirements in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice.

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.

TCEQ is not required to notify the EPA for this standard permit as the EPA reviewed the standard permit during its development. Additionally, the TCEQ is not required to notify the FAA. However, for each standard permit concrete batch plant project, application notifications are sent to county judges, senators, and district representatives. For this application letters were sent to Senator Bob Hall, Judge Jakie Allen, and Representative Keith Bell.

CHANGES MADE IN RESPONSE TO COMMENT

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

Respectfully submitted,

Texas Commission on Environmental Quality

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REPRESENTING THE
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