

John Huckle’s Supplement to His Reply in Support of the Motions to Overturn

John Huckle files this document to supplement and add to his Reply in Support of the Motions to Overturn, filed on October 29, 2024.

Shortly after filing his Reply, Mr. Huckle received documents from the TCEQ containing NTNSM’s “updated representations” regarding the proposed location of NTNSM’s crusher.¹ The documents indicate that NTNSM’s consultants planned to bring maps of the updated location to the public meeting on August 1, 2024. However, Mr. Huckle attended the meeting and did not see any such maps.

Even if maps with the updated location had been displayed at the meeting, the meeting was held on the last day of the public comment period, so Mr. Huckle and the public would not have had time to “refute [and] test” the information presented by those maps.² Thus, even if the documents that TCEQ provided to Mr. Huckle on October 29, 2024, are taken at face value, Mr. Huckle’s and public’s procedural due process rights have still been violated. TCEQ’s provision of the maps to Mr. Huckle on October 29, 2024, the day before replies in support of the Motions to Overturn were due, is not a remedy for the violation of due process.

Mr. Huckle therefore sustains his request that the Commissioners remand the application to the Executive Director to provide the public with NTNSM’s updated maps and to reopen the public comment period for comment on the updated maps. Among other things,

¹ These documents are attached at Exhibit 1.

² *R.R. Comm’n of Tex. v. Lone Star Gas Co.*, 611 S.W.2d 908, 910 (Tex. App.—Austin 1981, writ ref’d n.r.e.) (citing *Richardson v. City of Pasadena*, 513 S.W.2d 1, 3 (Tex. 1974)).

NTNSM's relocation of the crusher to the south could encroach on the 200-foot buffer from the south property line.

Prayer

Mr. Huckle respectfully requests that the Executive Director's decision to approve NTNSM's Application be overturned or, in the alternative, remanded to the Executive Director to provide the public with NTNSM's "updated representations" and to reopen the public comment period for comment on the "updated representations."

Respectfully submitted,

McELROY, SULLIVAN, MILLER & WEBER, L.L.P.

By: /s/ Thales Smith
Adam M. Friedman
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afriedman@msmtx.com
Thales Smith
Texas State Bar No. 24117065
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P.O. Box 12127
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Tel: (512) 327-8111

ATTORNEYS FOR JOHN HUCKLE

CERTIFICATE OF SERVICE

I certify that on October 30, 2024, a true and correct copy of the foregoing was served upon all persons listed below via the methods listed.

FOR THE CHIEF CLERK:

Via E-File

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
T: (512) 239-3300
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<https://www14.tceq.texas.gov/epic/eFiling/>

FOR THE APPLICANT:

Via Email

Mr. Kevin Bernard
Vice President Operations
North Texas Natural Select Materials LLC
6500 Meyer Way
McKinney, Texas 75070-1997
kevin@ntnsmllc.com

FOR THE EXECUTIVE DIRECTOR:

Via Email

Mr. Booker Harrison
Ms. Elizabeth Black
Texas Commission on Environmental
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Environmental Law Division, MC-173
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T: (512) 239-0600
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Booker.Harrison@tceq.texas.gov
Elizabeth.Black@tceq.texas.gov

and

Ms. Kristyn Jacher
Texas Commission on Environmental
Quality
Air Permits Division, MC-163
P.O. Box 13087
Austin, Texas 78711-3087
T: (512) 239-1250
F: (512) 239-1400
Kristyn.Jacher@tceq.texas.gov

FOR THE PUBLIC INTEREST COUNSEL:

Via Email

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Mr. Eli Martinez
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Public Interest Counsel, MC-103
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Austin, Texas 78711-3087
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Eli.Martinez@tceq.texas.gov

FOR EXTERNAL RELATIONS

Via Email

Mr. Ryan Vise
Texas Commission on Environmental
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External Relations Division, MC-118
P.O. Box 13087
Austin, Texas 78711-3087
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FOR ALTERNATIVE DISPUTE RESOLUTION

Via Email

Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution
Public Education Program, MC-222
P.O. Box 13087
Austin, Texas 78711-3087
T: (512) 239-0687
Kyle.Lucas@tceq.texas.gov

FOR THE MOVANTS:

Via Email

Mr. Russell Petre
276 Cleve Cole Road.
Denison, Texas 75021-4032
Rpetrel23@yahoo.com

Ms. Anna Wylie
4476 S. Fannin Ave.
Denison, Texas 75021-3112
Annawylie.Sandle@gmail.com

FOR THE MOVANTS:

Via First-Class Mail

Ms. Edna Spillers
Mr. Gary Spillers
Mr. Andy Spillers
P.O. Box 803
Van Alstyne, Texas 75495-0803

/s/ Thales Smith

Thales Smith

EXHIBIT 1

From: Kimberli Fowler
Sent: Thursday, August 8, 2024 11:16 AM
To: Kristyn Jacher
Cc: Christyn Cavazos; Joe Nicosia
Subject: RE: Nearest Receptor Site Assessment for NTNS Denison; reg no. 175198

Good Morning,

We conducted the site assessment on August 7 and none of the nearest receptors are within the 440 yards of the new proposed location.

Thanks,

Kimberli

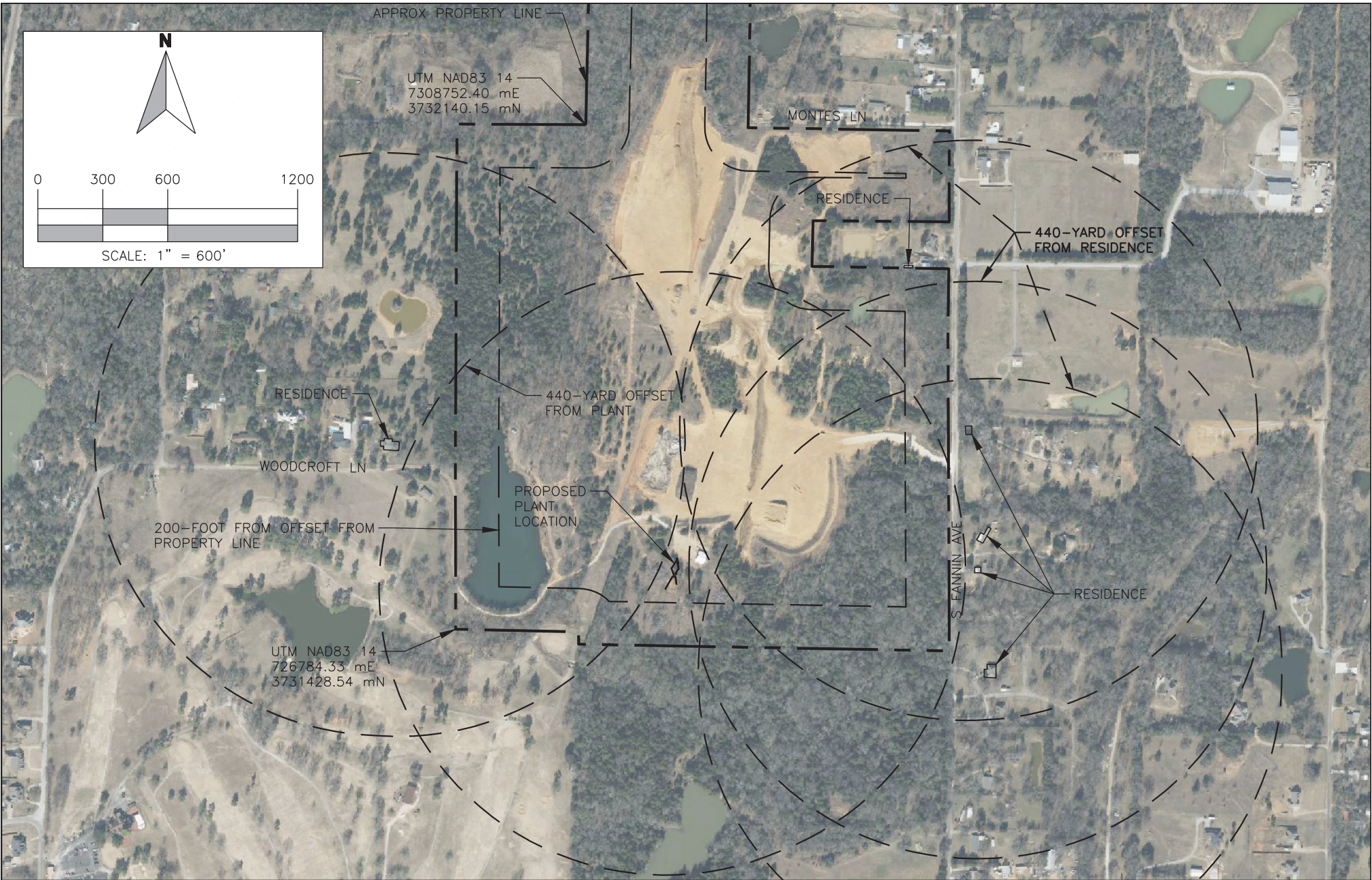
From: Kristyn Jacher <Kristyn.Jacher@tceq.texas.gov>
Sent: Tuesday, August 6, 2024 9:48 AM
To: Kimberli Fowler <kimberli.fowler@tceq.texas.gov>
Cc: Christyn Cavazos <Christyn.Cavazos@tceq.texas.gov>; Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Subject: RE: Nearest Receptor Site Assessment for NTNS Denison; reg no. 175198

Good morning Kimberli,

North Texas Select Material updated their representations of the crusher located at the site on Fannin Road in Denison, TX. Could we have someone from the Region revisit the site to ensure that the new placement does not have any residences located within the new 440 yard buffer distance? We have 30 days from when the comment period ended yesterday to approve or deny the registration. If we could have someone out there within a week or so that would be helpful.

I've attached the updated plot plan for reference.

Thank you,
Kristyn Jacher
TCEQ Air Permits Division
Mechanical/Construction
512-239-1241
Kristyn.Jacher@tceq.texas.gov



SHEET NO.: 01 OF 02	IMAGE:	BING AERIAL
	ISSUE DATE:	07/31/2024
	DRAWN BY:	ES
	CHECKED BY:	MF
	SCALE: 1" =	600'
	JOB NO.:	11081-017

PLOT PLAN			
AIR QUALITY PERMANENT SPRC/CC			
NORTH TEXAS NATURAL SELECT MATERIALS, LLC			
DENISON, GRAYSON COUNTY, TEXAS			
REV.	DESCRIPTION	BY	DATE



WESTWARD

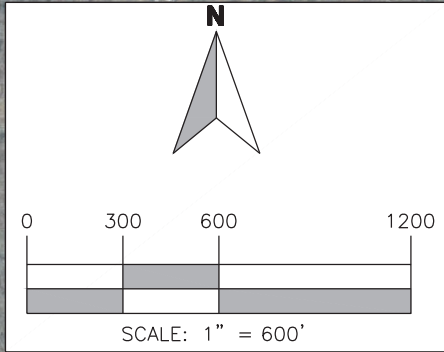
Environmental. Engineering. Natural Resources.

P.O. Box 2205 Boerne, Texas 78006

(830) 249-8284 Fax: (830) 249-0221

TBPE REG. NO.: F-4524

TBPGE REG. NO.: 50112



APPROX. PROPERTY LINE

UTM NAD83 14
7308752.40 mE
3732140.15 mN

MONTE LN

RESIDENCE

RESIDENCE

WOODCROFT LN

200-FOOT FROM OFFSET FROM
PROPERTY LINE

440-YARD OFFSET
FROM PLANT

PROPOSED PLANT
LOCATION

UTM NAD83 14
726784.33 mE
3731428.54 mN

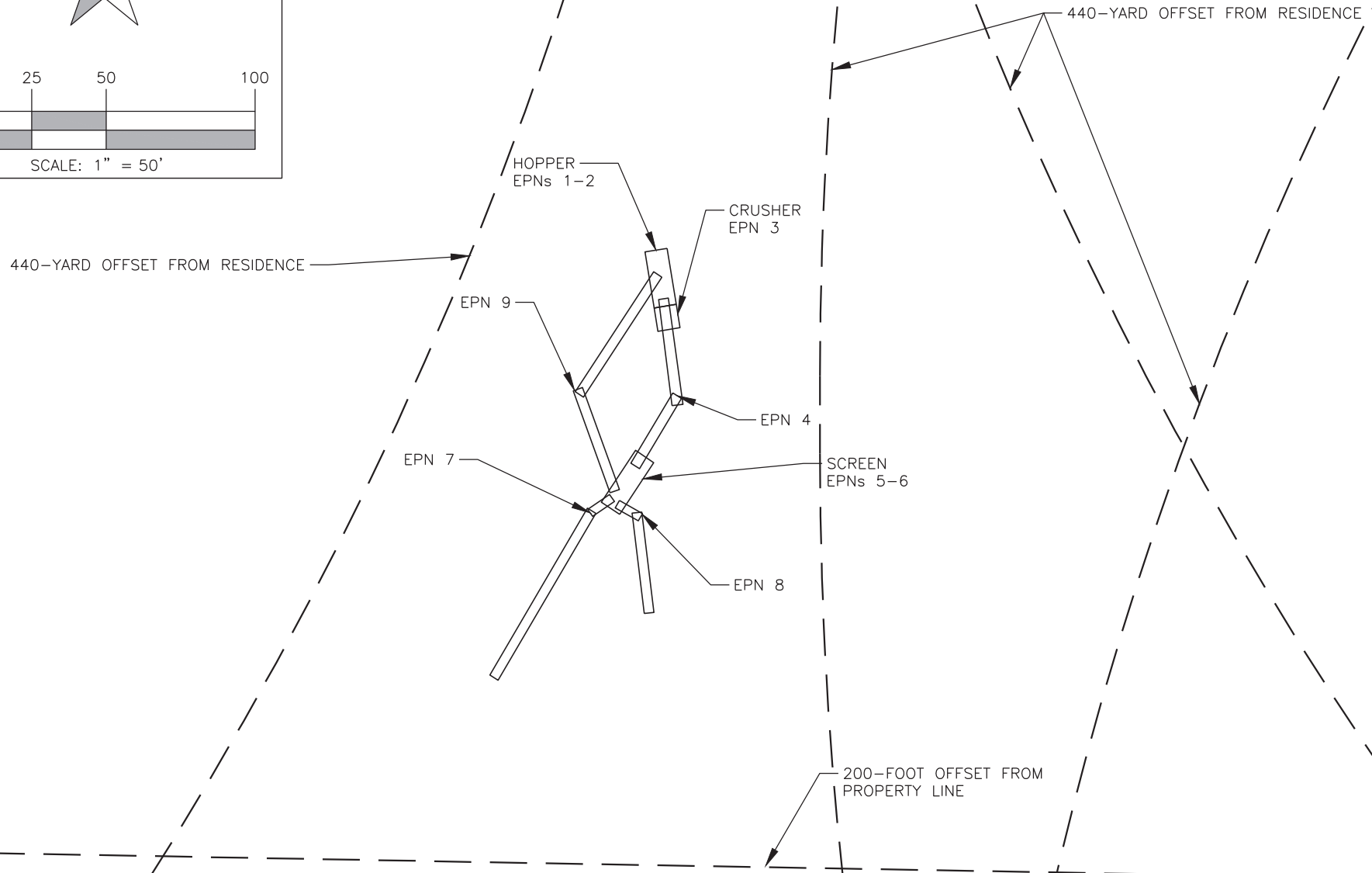
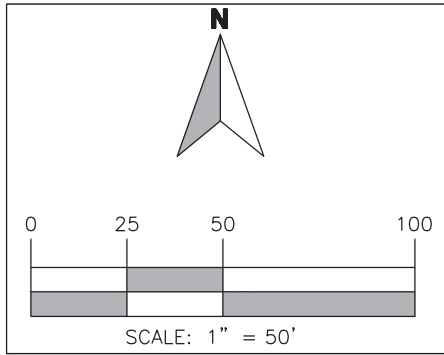
S FANNIN AVE

RESIDENCE

SHEET NO.: 01 OF 02	IMAGE: BING AERIAL	
	ISSUE DATE:	07/31/2024
	DRAWN BY:	ES
	CHECKED BY:	MF
	SCALE: 1" =	600'
	JOB NO.:	11081-017

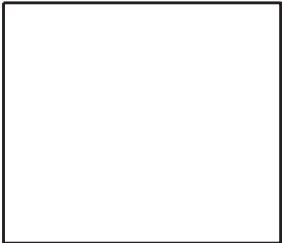
PLOT PLAN			
AIR QUALITY PERMANENT SPRC/CC			
NORTH TEXAS NATURAL SELECT MATERIALS, LLC			
DENISON, GRAYSON COUNTY, TEXAS			
REV.	DESCRIPTION	BY	DATE


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 Environmental. Engineering. Natural Resources.
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SHEET NO.: 02 OF 02	IMAGE: BING AERIAL	
	ISSUE DATE:	07/31/2024
	DRAWN BY:	ES
	CHECKED BY:	MF
	SCALE: 1" =	50'
	JOB NO.:	11081-017

PLOT PLAN			
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NORTH TEXAS NATURAL SELECT MATERIALS, LLC			
DENISON, GRAYSON COUNTY, TEXAS			
REV.	DESCRIPTION	BY	DATE



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P.O. Box 2205 Boerne, Texas 78006
 (830) 249-8284 Fax: (830) 249-0221
 TBPE REG. NO.: F-4524
 TBPGE REG. NO.: 50112

From: Melissa Fitts <mfitts@westwardenv.com>
Sent: Wednesday, July 31, 2024 2:01 PM
To: Kristyn Jacher
Cc: Kevin Bernard; Eric Shelander
Subject: RE: Updated representations required; North Texas Natural Select Materials 175198/369622
Attachments: 240731_11081-017_Plot-Plan-v3.pdf; 240731_11081-017_Detail.pdf; 240731_11081-017_GE.jpg; 240731_11081-017_Offset.pdf

Hi Kristyn, attached are the 2 revised maps (plot plan & detail) showing the missing residence (4778 Fannin) and the location of the plant a little farther south onsite which meets all of the required distances. I've also attached a Google Earth image (aerial dated 6/18/2023) showing the lat/long coordinate as 33.699412°, -096.549743° and 2 of the buildings you had noted have been removed (your #4 removed in 2023 & your #3 removed in 2015). We've also attached a 3rd map which is a little less busy with an offset of only the plant showing all of the houses are located outside of 440 yards away. I will bring copies of these maps to the meeting tomorrow for public viewing. Please let me know if this is sufficient or if you need any additional information.

Thank you-

Melissa Fitts
Senior Vice President
Westward Environmental, Inc.
4 Shooting Club Rd
P.O. Box 2205
Boerne, Texas 78006
830.249.8284 Phone
830.249.0221 Fax

TBPE Registered Engineering Firm #F-4524
TBPG Registered Geoscience Firm #50112



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11081-017

From: Kristyn Jacher <Kristyn.Jacher@tceq.texas.gov>
Sent: Wednesday, July 31, 2024 11:45 AM
To: Eric Shelander <eshelander@westwardenv.com>
Cc: Melissa Fitts <mfitts@westwardenv.com>; KEVIN@NTNSMLLC.COM
Subject: Updated representations required; North Texas Natural Select Materials 175198/369622

Good afternoon,

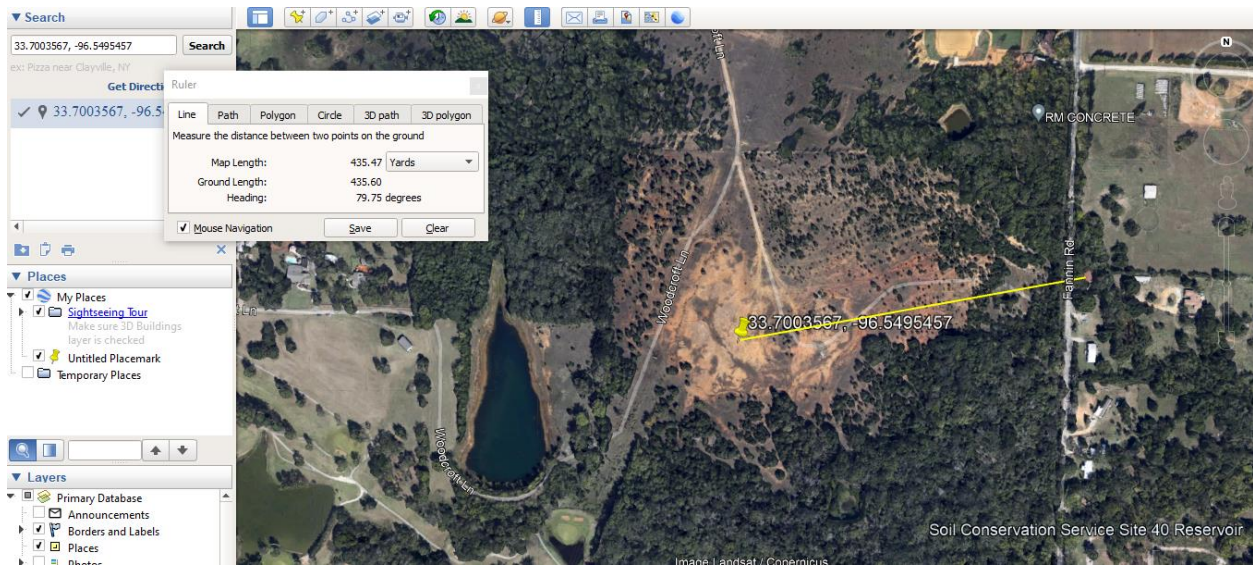
It has been brought to our attention that the location of the rock crusher in this standard air permit application represents a potential residence within the 440 yard buffer of the plant. Please update your representations to indicate that the crusher will adhere to the distance requirements of the standard permit.

In addition, we encourage you to be prepared to sufficiently answer questions that arise from the community at the public meeting tomorrow pertaining to the plant being located within the buffer zone.

Thank you,
Kristyn Jacher
TCEQ Air Permits Division
Mechanical/Construction
512-239-1241
Kristyn.Jacher@tceq.texas.gov



How is our customer service? Fill out our online customer satisfaction survey at www.tceq.texas.gov/goto/customersurvey

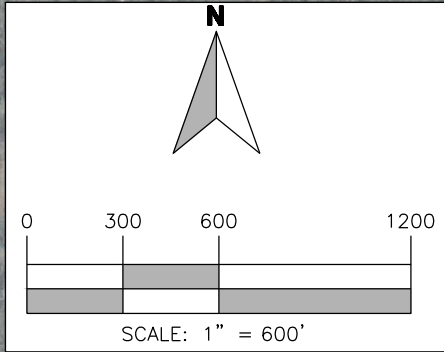


From: Kimberli Fowler
Sent: Tuesday, July 30, 2024 5:27 PM
To: Katherine Keithley; Christyn Cavazos; Amanda Kraynok; Kristyn Jacher; Brad Patterson; Joe Nicosia; Bonnie Evridge; Andres Targa; Booker Harrison
Cc: Elizabeth Smith; Alyssa Taylor; Archer Tate
Subject: Nearest Receptor Site Assessment for NTNS Denison
Attachments: NTNS Receptor measure.docx

Good Evening,

Based on our site assessment, there appears to be a structure that is not on the map. Attached are google earth imagery and google map street view imagery that shows a potential residence at 4778 Fannin Rd that does not appear on the maps provided but is located to the left of the site exit. From Google Earth measure tool it looks like it could be just within 440 yard at 435 yards but the trees make the line of sight hard to tell. Placing the measure tool straight to the middle of the brown color it is right at 440. The other nearest receptors outside of the red circle on the maps provided by the facility appear to be approximately 450-452 yards from the GPS coordinates gathered at the site today. 4884 Fannin Road.

Kimberli



APPROX PROPERTY LINE

UTM NAD83 14
7308752.40 mE
3732140.15 mN

MONTES LN

440-YARD OFFSET
FROM RESIDENCE

RESIDENCE

440-YARD OFFSET
FROM CRUSHER

RESIDENCE

WOODCROFT LN

200-FOOT FROM OFFSET FROM
PROPERTY LINE

PROPOSED
PLANT
LOCATION

S FANNIN AVE

RESIDENCE

UTM NAD83 14
726784.33 mE
3731428.54 mN

PLOT PLAN

AIR QUALITY PERMANENT SPRC/CC
NORTH TEXAS NATURAL SELECT MATERIALS, LLC
DENISON, GRAYSON COUNTY, TEXAS

REV.	DESCRIPTION	BY	DATE

WESTWARD
Environmental. Engineering. Natural Resources.
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(830) 249-8284 Fax: (830) 249-0221
TBPE REG. NO.: F-4524
TBPGE REG. NO.: 50112

SHEET NO.:

01

OF 02

IMAGE:

BING AERIAL

ISSUE DATE: 05/02/2024

DRAWN BY: ES

CHECKED BY: MF

SCALE: 1" = 600'

JOB NO.: 11081-017

From: Eric Shelander <eshelander@westwardenv.com>
Sent: Thursday, May 2, 2024 2:42 PM
To: Kristyn Jacher; Aine Carroll
Cc: Melissa Fitts
Subject: RE: Requesting updated information - North Texas Natural Select Permit 175198 Project 369622
Attachments: 240502_11081-017_T17.pdf; 240502_1081-017_Plot Plan-Revised.pdf

Good Afternoon Kristyn,

Please see attached Table 17 and Revised Plot Plan. I added the 440 yard offset from the crusher in red and shifted the map so that the offset area south of the crusher is visible. The two closest residences are 441 yards(West) and 442 yards (East), measured in AutoCAD. Let me know if you need anything else.

Thanks,



Eric Shelander
Air Team Leader

Westward Environmental, Inc.
4 Shooting Club Road / PO Box 2205
Boerne, TX 78006
830.249.8284 Phone
830.249.0221 Fax
www.westwardenv.com



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11081-017

From: Kristyn Jacher <Kristyn.Jacher@tceq.texas.gov>
Sent: Thursday, May 2, 2024 9:23 AM
To: Aine Carroll <Aine.Carroll@tceq.texas.gov>; Eric Shelander <eshelander@westwardenv.com>
Subject: RE: Requesting updated information - North Texas Natural Select Permit 175198 Project 369622

Hi Eric,

Once last item—can you please update the Table 17 for Rock Crushers with the accurate maximum operating schedule of the facility? All crushers, associated facilities, and associated sources (excluding stockpiles) shall not operate for more than an aggregate of 2,640 hours at the authorized site in any rolling 12 month period. The operational schedule you have provided is not an appropriate response.

Thank you,
Kristyn Jacher
TCEQ Air Permits Division
Mechanical/Construction
512-239-1241
Kristyn.Jacher@tceq.texas.gov

From: Kristyn Jacher
Sent: Thursday, May 2, 2024 9:17 AM
To: Aine Carroll <Aine.Carroll@tceq.texas.gov>; Eric Shelander <eshelander@westwardenv.com>
Subject: RE: Requesting updated information - North Texas Natural Select Permit 175198 Project 369622

Hi Eric,

In addition, to updating the plot plan to show a clear 440 yard distance from the rock crusher to any residence, place of worship or school, please also include the two benchmark locations as required.

Please keep in mind that the 440 yard distance should be measured from the point on the facility nearest the residence, school, or place of worship to the point on the residence, school, or place of worship nearest the facility. Please ensure you are being as accurate as possible with your measurements as there are multiple residences in the vicinity of the subject property.

Thank you,
Kristyn Jacher
TCEQ Air Permits Division
Mechanical/Construction
512-239-1241
Kristyn.Jacher@tceq.texas.gov

From: Aine Carroll <Aine.Carroll@tceq.texas.gov>
Sent: Wednesday, May 1, 2024 3:22 PM
To: Eric Shelander <eshelander@westwardenv.com>
Cc: Kristyn Jacher <Kristyn.Jacher@tceq.texas.gov>
Subject: Requesting updated information - North Texas Natural Select Permit 175198 Project 369622

Hi Eric,

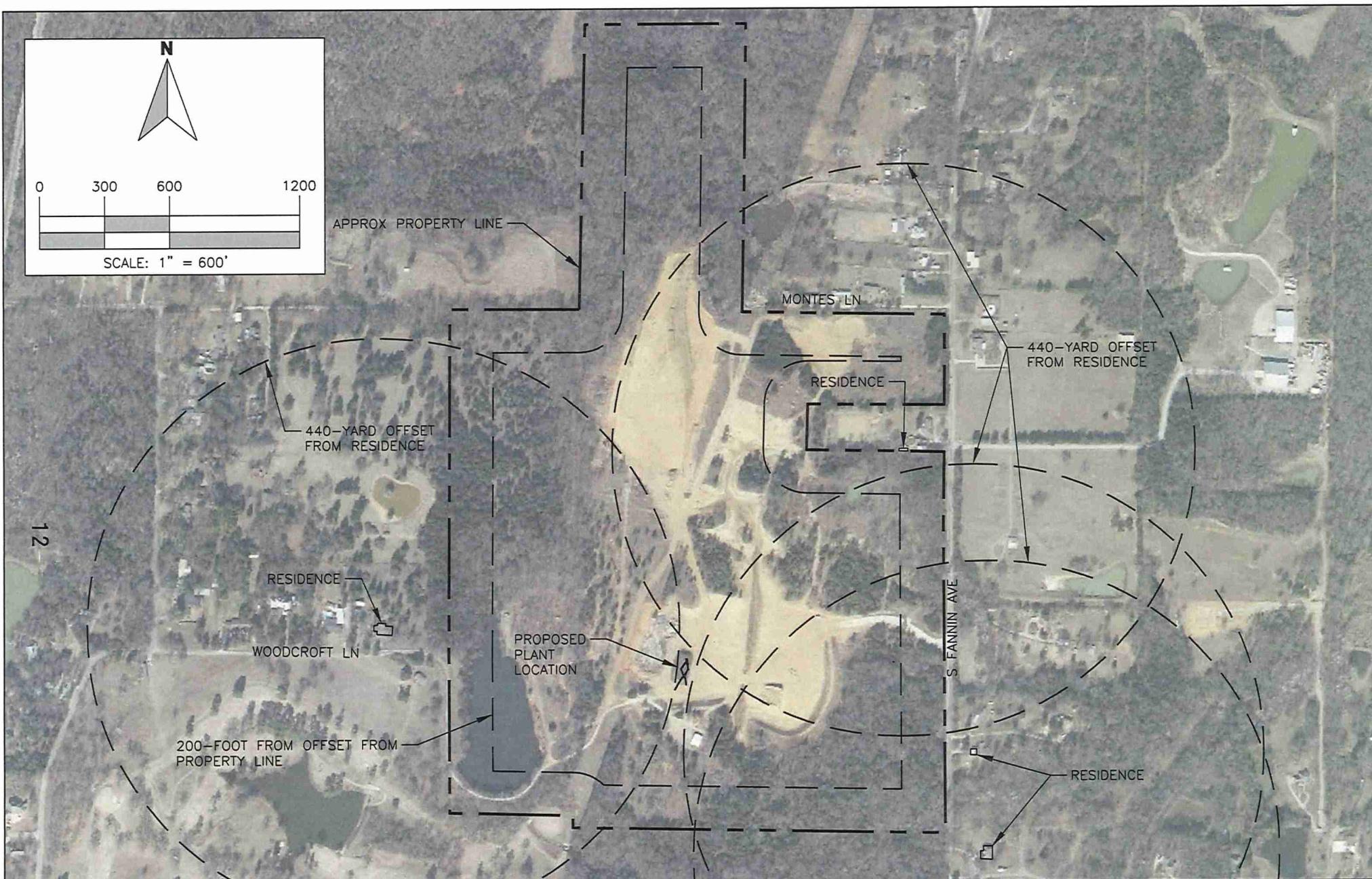
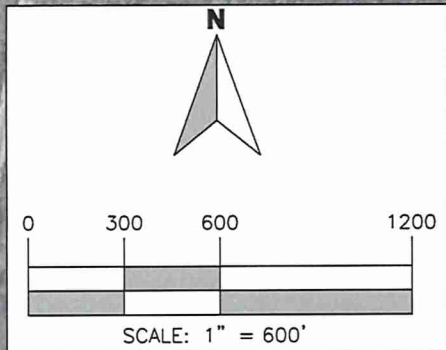
We have been receiving a high volume of public comments and an elected official has requested a public meeting for this project (60 current total public comments and 7 public meeting requests). I have been reviewing the application and would like to request some supplemental information. Can you please provide us with an updated plot plan with a 440 yd circle around their facility to confirm that there are no residences within that range?

In addition, this project is actually getting transferred over to another permit reviewer, Kristyn Jacher, whom I have CC'd on this email. I will be out of office during the public meeting and RTC prep timeline due to maternity leave. Please let me know if you have any questions.

Thank you,

Aine Carroll

Office of Air | Air Permits Division | NSR Mechanical Section
Texas Commission on Environmental Quality
(512) 239-1362



SHEET NO.:

01

OF 02

IMAGE:

BING AERIAL

ISSUE DATE: 11/21/2023

DRAWN BY: ES

CHECKED BY: MF

SCALE: 1" = 600'

JOB NO.: 11081-017

PLOT PLAN

AIR QUALITY PERMANENT SPRC/CC
NORTH TEXAS NATURAL SELECT MATERIALS, LLC
DENISON, GRAYSON COUNTY, TEXAS

REV.	DESCRIPTION	BY	DATE

WESTWARD
Environmental. Engineering. Natural Resources.
P.O. Box 2205 Boerne, Texas 78006
(830) 249-8284 Fax: (830) 249-0221
TBPE REG. NO.: F-4524
TBPGE REG. NO.: 50112