

Jon Niermann, *Chairman*  
Bobby Janecka, *Commissioner*  
Catarina R. Gonzales, *Commissioner*  
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
*Protecting Texas by Reducing and Preventing Pollution*

December 10, 2024

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

Re: Julpit, Inc  
Air Quality Standard Permit Registration No. 174419  
TCEQ Docket No. 2024-1751-AIR  
Executive Director's Response to the Motions to Overturn

Dear Ms. Gharis:

Enclosed please find a copy of the Executive Director's Response to the Motions to Overturn for the matter listed above.

If you have any questions, please do not hesitate to call me at (512) 239-0620, or email at [Katherine.Keithley@tceq.texas.gov](mailto:Katherine.Keithley@tceq.texas.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine Keithley".

Katherine Keithley  
Staff Attorney,  
Environmental Law Division

Cc: Mailing list

**TCEQ AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE  
CRUSHER REGISTRATION NUMBER 174419**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>JULPIT, INC.</b>	<b>§</b>	
<b>ROCK AND CONCRETE CRUSHING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>PLANT</b>	<b>§</b>	
<b>JULIFF, FORT BEND COUNTY</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**EXECUTIVE DIRECTOR’S RESPONSE TO THE MOTIONS TO OVERTURN**

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHAIRMAN  
NIERMANN, AND COMMISSIONERS JANECKA AND GONZALES

COMES NOW the Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) and files this Brief in Response to the Motions to Overturn (MTO) the decision by the Executive Director to approve the initial issuance of Air Quality Standard Permit Registration No. 174419 to Julpit, Inc. for a Permanent Rock and Concrete Crusher and in support thereof shows the following:

**I. Introduction**

Julpit, Inc. (“Applicant” or “Julpit”) has applied to 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 Rock and Concrete Crushing Plant. The plant is proposed to be located at the following driving directions: from the intersection of Texas Highway 6 and farm to Market Road 521, go south on Farm to Market Road 521 for approximately 3.8 miles and turn right onto the site, Juliff, Fort Bend County, Texas. Contaminants authorized under this permit include particulate matter (PM), including particulate matter with diameters of 10 microns or less (PM<sub>10</sub>) and 2.5 microns or less (PM<sub>2.5</sub>), carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), organic compounds, and sulfur dioxide (SO<sub>2</sub>).

The registration application was received on October 25, 2023, and declared administratively complete on October 26, 2023. Publication and notice are discussed in detail in the section below concerning public notice. The public comment period ended on August 20, 2024, but was extended to September 26, 2024, to accommodate additional sign postings and allow for further public participation. The permit was issued on October 25, 2024. The Executive Director's Response to Comments (RTC) in English was filed on November 26, 2024, and mailed on December 4, 2024.

## **II. Reply to Motion for Rehearing**

An MTO is a remedy provided by TEX. HEALTH & SAFETY CODE § 382.061(b) and 30 TAC § 50.139. There were numerous timely filed MTOs regarding the Executive Director's decision to issue the authorization to Julpit, Inc., Registration No. 174419. As a preliminary matter, the ED notes that an applicant or other person may file a "motion to overturn the executive director's action on an application." 30 TEX. ADMIN. CODE (TAC) § 50.139(a). As such, the arguments in any MTO, particularly for a standard permit, relate to the evaluation by the ED of whether the applicant met the requirements of the terms of the standard permit. Therefore, an MTO on a decision by the ED on a registration for authorization under a standard permit should not be considered a vehicle for a collateral attack on the development, including the health effects review, of the terms and conditions of the underlying standard permit.

### *a. Timing Of the RTC Filing*

Michael Watts and Fort Bend County's MTOs argue that the filing of the RTC after the issuance of the Executive Director's Final Decision Letter and after the expiration of the deadline to submit MTOs placed them at a disadvantage in preparing their MTOs.

The executive director respectfully disagrees with this argument. The MTOs that were filed on this application articulate several arguments and clearly show why the movants disagree with the executive director's decision. There was robust public participation in this permit application, with the commission receiving approximately 400 written comments and approximately two hours of formal oral testimony at a public meeting. The executive director is required to respond to all of these comments in writing, and the requirements in the standard permit contemplate that such a process may take more time than required to issue the permit. The RTC for this application was issued as soon as was practicable, given the large number of comments that required thoughtful, measured responses.

*b. Errors In the Applicant's Name*

Fort Bend County's MTO contends that the Applicant's name associated with the permit and TCEQ Customer Number do not match records with the Texas Secretary of State and that the Applicant's registration documents do not list a Secretary of State filing number. Fort Bend County's MTO further argues that, because the Executive Director approved a permit for a company that did not request the permit, the application, review, and decision is based on inaccurate information and should be overturned.

A Customer Number (CN) is associated with an applicant's compliance history rating and classification. The entity name associated with a CN should match the name listed on the Texas Secretary of State (TX SOS) registration, but the name displayed on the CN can be updated in the TCEQ Central Registry to list the name matching the TX SOS registration. Importantly, the TX SOS filing number listed in the registration for 174419 matches the TX SOS filing number associated with Julpit, Inc. Accordingly, the

CN for this Applicant accurately considers the correct TX SOS filing number. The final decision letter, all associated notices, and RTC for this permit use the correct CN. Therefore, TCEQ accurately tracked the correct entity through the Applicant's CN, considered the correct entity when evaluating the Applicant's compliance history, and can update the Central Registry to appropriately reflect the entity's name as needed.

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 Ch. 60. When evaluating an applicant's compliance history, TCEQ reviews the compliance history 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, TCEQ does not have jurisdiction to consider violations outside of the State of Texas.

*c. Location Of the Proposed Plant to the Nearest Residence*

Fort Bend County's MTO contends that the evidence submitted by the Applicant is insufficient to prove that the proposed facility will be located at least 440 yards away from the nearest residence. Fort Bend County's MTO further contends that, because the foliage at the proposed site is so dense, it is not possible for the Applicant to know that it will be able to construct the plant at the location provided in the registration application. Further, the MTO contends that none of the information in the application supports the contention that the plant will be at least 440 yards away from the nearest residence.

Several MTOs assert that houses, schools, and a church within a one-mile radius are too close to the proposed site.<sup>1</sup>

To account for nearby receptors, TCEQ routinely requests that applicants submit and label potential receptors within 3,000 feet of the proposed facility. This request is outlined in the PI-1S Instructions (II) B which states the TCEQ may request a map showing the location of the facility during the review of the standard permit registration. Area maps for New Source Review applications routinely require the 3,000-foot boundary.<sup>2</sup> More importantly, TCEQ requires the Applicant label the receptors closest to the proposed facility to ensure that the proposed facility meets the distance requirements of the Standard Permit. The residences that Fort Bend County's MTO claims are unlabeled in this application are within 3,000 feet of the proposed facility, but they are much farther away than 1,320 feet (440 yards). The Applicant's maps did properly include nearby businesses, landmarks, and labeled residences outside of the 440-yard distance requirement.

When evaluating the distance requirements imposed in the Standard Permit and the TCAA, TCEQ measures the distance from the emission point source(s) to the residence, school, or place of worship. The Air Quality Standard Permit for Rock and Concrete Crushers provides that distance shall be measured "from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that

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<sup>1</sup> The MTOs of Clayton Collier, George Moussa, Afolake Cannon, Angelica B. Baines, Hernan Ortiz, Orlando Parra, Mariela Parra, Courtney Lewis, Pauline and James Spatafore, Charnella Mims, Leslie Boards, Teresa Roher, Erika Johnson, Janzen Viator, Matthew Metharatta, Latoya and Marquis Lane, and Ashly Waltman.

<sup>2</sup> See 30 TAC § 116.111(a)(2)(ii) ("For issuance of a permit for construction or modification of any facility within 3,000 feet of an elementary, junior high/middle, or senior high school, the commission shall consider any possible adverse short-term or long-term side effects that an air contaminant or nuisance odor from the facility may have on the individuals attending the school(s).").

is nearest the concrete crushing facility.” TCEQ does not measure from the emission point source to the property line of a residence, school, or place of worship when determining if the distance requirements are met. TCEQ requires that applicants (1) represent emission point sources in the application; (2) label the emission point sources in a plot map; and (3) include emission calculations. This application met all three requirements.

The coordinates provided in this application appropriately represent the nearest point on the crushing facilities that is nearest to the residence, school, or place of worship. Based on the Applicant's representations, the residences highlighted by Fort Bend County are further away from the proposed facility than the residence detailed in the application. Beyond the application, Fort Bend County's MTO acknowledges that TCEQ's regional investigators conducted a site visit at the property. In fact, TCEQ's regional investigators conducted two site visits, one on June 5, 2024, and another on June 26, 2024.<sup>3</sup> In the notes for the June 26, 2024, site visit, TCEQ investigators recorded that the nearest residence had an estimated distance greater than 440 yards away.

Applicants are bound to the representations made in their permit applications. If this Applicant were to place the rock crushing facility in a spot other than the one represented in this permit application, the Applicant would be violating the permit conditions. If this Applicant were to place the rock crushing facility within 440 yards of a residence, it would be subject to enforcement of both its representations in the registration application and the conditions of the standard permit. However, based on

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<sup>3</sup> Both site investigations contain the original name the Applicant listed on the application prior to correction. Both investigations are at the same location as the one listed in the notices for permit no. 174419, and the plant name is consistent and correct on both investigation reports.

the permit application, technical review, multiple site maps submitted, and site visits conducted by the TCEQ Regional Office, the ED staff have concluded that Applicant's representations would meet the requirements of the Standard Permit because the proposed location of the facility is greater than 440 yards from a residence, school, or place of worship.

*d. Protectiveness of the Standard Permit for Rock and Concrete Crushers*

Fort Bend County's MTO contends that the Standard Permit is outdated, and that TCEQ needs to update the permit to match the new PM<sub>2.5</sub> NAAQS. Several MTOs contended that the proposed permit did not sufficiently consider silica emissions.<sup>4</sup> Several MTOs contended that carbon monoxide, volatile organic compounds, sulfur dioxide, nitrogen oxides, and PM<sub>2.5</sub> emissions from the proposed plant would pose health hazards to the local communities.<sup>5</sup> Several MTOs contend that the noise and light pollution would pose health hazards to the local communities.<sup>6</sup> Several MTOs contend that the proposed permit did not sufficiently consider cumulative impacts.<sup>7</sup> Fort Bend County's MTO contends that, because the background concentration for quartz silica was lowered after 2008, a protectiveness review from 2008 will allow for the concentration of quartz silica to exceed the current TCEQ Long-Term

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<sup>4</sup> The MTOs of Fort Bend County, Clayton Collier, George Moussa, Afolake Cannon, Angelica B. Baines, Hernan Ortiz, Orlando Parra, Mariela Parra, Pauline and James Spatafore, Charnella Mims, Leslie Boards, Teresa Roher, Erika Johnson, Janzen Viator, Matthew Metharatta, Ashly Waltman, Latoya and Marquis Lane, and Michael Watts.

<sup>5</sup> The MTOs of Fort Bend County, Michael Watts, Angelica B. Baines, Clayton Collier, Hernan Ortiz, Orlando Parra, Afolake Cannon, George Moussa, Latoya and Marquis Lane, Ashly Waltman, Matthew Metharatta, Janzen Viator, Erika Johnson, Teresa Roher, Leslie Boards, Charnella Mims, Pauline and James Spatafore, Courtney Lewis, and Mariela Parra.

<sup>6</sup> The MTOs of Angelica B. Baines, Clayton Collier, Hernan Ortiz, Orlando Parra, Afolake Cannon, George Moussa, Latoya and Marquis Lane, Ashly Waltman, Matthew Metharatta, Janzen Viator, Erika Johnson, Teresa Roher, Leslie Boards, Charnella Mims, Pauline and James Spatafore, Courtney Lewis, and Mariela Parra.

<sup>7</sup> The MTOs of Fort Bend County, Michael Watts, Angelica B. Baines, Clayton Collier, Hernan Ortiz, Orlando Parra, Afolake Cannon, George Moussa, Latoya and Marquis Lane, Ashly Waltman, Matthew Metharatta, Janzen Viator, Erika Johnson, Teresa Roher, Leslie Boards, Charnella Mims, Pauline and James Spatafore, Courtney Lewis, and Mariela Parra.

Effects Screening Level by 10%. Michael Watts's MTO contends that TCEQ needed to consider alternative mitigation methods.

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 and 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. 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. The Standard Permit is designed to comply with the NAAQS in place at the time the Standard Permit was issued, on July 30, 2008. The primary contaminants that have the potential to be emitted from this plant are particulate matter, including PM<sub>10</sub> and PM<sub>2.5</sub>. Under the Standard Permit, Julpit is required to implement substantial dust control processes to minimize their emissions. These control processes ensure that operation of the plant will not cause or contribute to a violation of the NAAQS in place at the time the Standard Permit was issued, and operation of the plant is protective of human health and the environment.<sup>8</sup> The Executive Director determined that the emissions authorized by the Standard Permit are protective of both human health and welfare and the environment.

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<sup>8</sup> Issuance of a standard permit considers the standards in effect at the time of issuance. Individual registrations for authorization under a standard permit must demonstrate compliance with the standard permit. Due to the changes in the annual NAAQS standard for PM<sub>2.5</sub> becoming effective on May 6, 2024, the TCEQ will evaluate whether updates are necessary to the current standard permit technical requirements.

One of the most common health concerns expressed about crushing operations relates to the potential exposure to silica. TCEQ has reviewed ambient air crystalline silica levels measured near aggregate production operations (APOs) similar to this proposed plant in various locations throughout the United States where data are available.<sup>9</sup> These data indicate that the contribution of crystalline silica from these plants to ambient levels of PM and respirable crystalline silica is negligible or minimal and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by TCEQ.

The EPA does not monitor for crystalline silica, therefore there is no EPA requirement for TCEQ to monitor for crystalline silica. However, TCEQ conducted an air monitoring project in 2022-2023 near aggregate production operation (APO) facilities to better assess the crystalline silica concentrations near APOs.<sup>10</sup> These data indicate that the contribution of crystalline silica from these plants to ambient levels of PM and respirable crystalline silica is negligible or minimal, and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by TCEQ. Therefore, the contemporary analysis indicates that the proposed project should not significantly contribute to ambient levels of PM and respirable crystalline silica or a non-negligible impact to background concentrations of the two.

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<sup>9</sup> This request is outlined in the PI-1S Instructions (II) B which states the TCEQ may request a map showing the location of the facility during the review of the standard permit registration. Area maps for New Source Review application routinely require the 3,000-foot boundary.

<sup>10</sup> See TEX. COMM'N ON ENV'T QUALITY TOXICOLOGY, RISK ASSESSMENT, AND RESEARCH DIVISION, AMBIENT MONITORING OF PARTICULATES, INCLUDING CRYSTALLINE SILICA, NEAR APO FACILITIES, FINAL REPORT (2024).

Additionally, the Standard Permit protectiveness review evaluated particulate matter, including PM<sub>10</sub> and PM<sub>2.5</sub>, silica, and products of combustions from the engines, including PM<sub>10</sub>, sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), and nitrogen dioxide (NO<sub>2</sub>). Regarding silica emissions, the protectiveness review evaluated the impact on air quality if the crushed material had up to twenty-percent silica, which is a very conservative assumption. The model predicted that the maximum one-hour and maximum annual concentrations of silica would be half of TCEQ's health-based screening values. Based on TCEQ's conservative modeling analysis, a company operating in compliance with the Standard Permit should not contribute to the deterioration of air quality that would cause health effects to the surrounding community, including residents in the local neighborhoods. In summary, adverse impacts to human health or welfare as a result of silica emissions from the proposed plant are not expected.

*e. Notice and Public Participation*

Michael Watts's MTO contends that the permit process did not adequately involve public input or address community concerns. His MTO further contends that notification procedures were insufficient, and it negatively impacted the ability of local residents to leave comments and engage with the permitting process.

For this permit application, the Standard Permit requires publication of the Notice of Application For an Air Quality Standard Permit For Permanent Rock and Concrete Crushers in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. The Standard Permit also requires signs to be placed at the site of the proposed facility stating that an application for a standard permit had been

filed and the manner in which the commission may be contacted for further information. Additionally, the Notice of Application For an Air Quality Standard Permit For Permanent Rock and Concrete Crushers, Amended Notice of Application For an Air Quality Standard Permit For Permanent Rock and Concrete Crushers, and Notice of Public Meeting were all published to the Commissioners' Integrated Database for this permit.

The Applicant verified that Notice of Application For an Air Quality Standard Permit For Permanent Rock and Concrete Crushers was originally published in English on January 10, 2024, in *The Fort Bend Star*. The Applicant requested to publish an amended Public Notice to correct a clerical error in the application. The amended Notice of Application For an Air Quality Standard Permit For Permanent Rock and Concrete Crushers for this application was then published in English on March 27, 2024, in *The Fort Bend Star*. The amended Notice was also published in Spanish on March 28, 2024, in *The Greensheet*. A public meeting was held at the Restoration City Life Center on August 20, 2024, in Rosharon, Texas, with Spanish interpreters present. The Notice of Public Meeting was published in English and Spanish on July 16, 2024, to the TCEQ Homepage Meeting Calendar.

Because the Applicant did not verify that signs were posted for the initial comment period, and signs were not posted properly at the time of the public meeting, TCEQ received a request to extend the comment period for the referenced project due to the amount of public interest and lack of required sign postings. Signs were then posted at the site in accordance with TCEQ's requirements. The comment period was extended from the initial end date on August 20, 2024, to September 26, 2024. The Applicant provided verification to the Office of the Chief Clerk that signs were posted

at the proposed site for the duration of the extension of the comment period from August 27, 2024, until September 26, 2024. At the close of the comment period, approximately 400 comments were received on this permit application and almost two hours of formal oral comments were received at the public meeting. Accordingly, this permit process encouraged and allowed for enhanced public participation.

*f. Environmental Justice and Consideration of the Affected Communities*

Several MTOs contend that TCEQ did not consider the specific circumstances of the surrounding communities.<sup>11</sup> Several MTOs further contended that TCEQ did not appropriately consider environmental justice when approving this permit.<sup>12</sup>

Air authorizations evaluated by TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community. TCEQ is committed to protecting the health of the people of Texas and the environment regardless of location or socioeconomic status. A health effects review was conducted during the standard permit development and concluded the standard permit is protective of human health and the environment. TCEQ encourages participation in the permitting process. The Office of the Chief Clerk works to help the public and neighborhood groups participate in the regulatory process to ensure that agency programs that may affect human health or the environment operate without discrimination and to make sure that concerns are considered thoroughly and are handled in a way that is fair to all.

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<sup>11</sup> The MTOs of Angelica B. Baines, Michael Watts, Clayton Collier, Hernan Ortiz, Orlando Parra, Afolake Cannon, George Moussa, Latoya and Marquis Lane, Ashly Waltman, Matthew Metharatta, Janzen Viator, Erika Johnson, Teresa Roher, Leslie Boards, Charnella Mims, Pauline and James Spatafore, Courtney Lewis, and Mariela Parra.

<sup>12</sup> The MTOs of Angelica B. Baines, Michael Watts, Clayton Collier, Hernan Ortiz, Orlando Parra, Afolake Cannon, George Moussa, Latoya and Marquis Lane, Ashly Waltman, Matthew Metharatta, Janzen Viator, Erika Johnson, Teresa Roher, Leslie Boards, Charnella Mims, Pauline and James Spatafore, Courtney Lewis, and Mariela Parra.

*g. Location Choices Made By the Applicant*

Michael Watts's MTO contends that TCEQ did not sufficiently consider alternative locations for the plant to be located. This MTO also contends that TCEQ's lack of consideration for feasible alternative locations and mitigation methods does not comply "with TAC § 50.139(b)(2) [sic]."

Information on the filing deadlines for a motion to overturn can be found in 30 TAC § 50.139(b), and this section does not include information on an applicant's location choices. TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, TCEQ does not have jurisdiction to consider plant location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule imposes specific distance limitations that are enforceable by TCEQ. Zoning and land use are beyond the authority of 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.

Texas Health & Safety Code § 382.065 prohibits the operation of a concrete crushing facility within 440 yards of a building in use as a single or multifamily residence, school, or place of worship at the time the application for a permit to operate the facility is filed with the commission. As discussed above, the Applicant sufficiently demonstrated that this distance requirement would be satisfied.

*h. TCEQ's Monitoring Network*

Angelica B. Baines's MTO contends that TCEQ needs to investigate the air quality in the immediate area and conduct air quality monitoring near the plant. Her MTO further contends that TCEQ should take additional action to investigate the air quality in the immediate area of the proposed facility. Additionally, her MTO requests that TCEQ inform the public and engage the community about air quality testing and findings, commission action taken to address environmental concerns, health impacts, mitigation, and preventative measures. However, the issues she raised relate to air quality in general and not to the merits of the representations upon which the authorization issuance was based.

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, 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.

Since stationary air monitors are sited to measure air quality that is representative of a broader area or region, monitors are not typically placed to measure the impacts from specific industrial facilities.

Mobile air monitoring is an approach typically used to support on-going field investigations regarding a specific source or group of sources, or to provide short-term evaluations of air quality in areas where the agency suspects potential air quality issues. Mobile monitoring is not appropriate for ambient air monitoring to determine compliance with the NAAQS.

*i. TCEQ's Enforcement and Compliance Process*

Angelica B. Baines's MTO contends that TCEQ needs to ensure that the plant complies with all federal and state environmental regulations, and that TCEQ enforces corrective actions if violations are found. However, the issues raised are concerns after operation at the site begins and requests for commission action and are not related to the merits of the air permit's issuance.

Operations authorized under the Air Quality Standard Permit for Rock and Concrete Crushers are not on a set schedule for compliance investigations. Instead, investigations are generally conducted in response to complaints. TCEQ evaluates all complaints received, and investigations are not limited by media. The investigation may include an inspection of the site, including all equipment, control devices, and a review of all required records. If a facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation.

Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. Under the citizen-collected evidence program,

individuals are providing information on possible violations of environmental law and the information can be used by TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation.

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.

#### **IV. Conclusion**

For the foregoing reasons, the Executive Director respectfully requests that the commission deny all Motions to Overturn the Executive Director's Decision on Julpit, Inc., Rock and Concrete Crushing Plant, Registration No. 174419.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



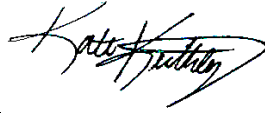
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Katherine Keithley, Staff Attorney  
Environmental Law Division  
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Austin, Texas 78711-3087

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing Executive Director's Response to the Motions to Overturn the Executive Director's Decision on Julpit, Inc. Air Quality Standard Permit Registration No. 174419 have been served on the following service list via electronic mail or electronic filing on this 10<sup>th</sup> day of December 2024.

A handwritten signature in black ink, appearing to read "Katherine Keithley", is written over a horizontal line.

Katherine Keithley

**Mailing List  
Julpit, Inc.  
TCEQ Docket No. 2024-1751-AIR**

**FOR THE CHIEF CLERK:**

*via electronic filing*

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