

**TCEQ AIR QUALITY STANDARD PERMIT FOR CONCRETE BATCH PLANTS**  
**REGISTRATION NUMBER 176138**  
**TCEQ DOCKET NUMBER 2025-0287-AIR**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE TEXAS</b>
<b>BARTOO READY MIX, LLC</b>	<b>§</b>	<b>COMMISSION ON</b>
<b>CONCRETE BATCH PLANT NEVADA,</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>COLLIN COUNTY</b>	<b>§</b>	

**EXECUTIVE DIRECTOR’S AMENDED RESPONSE TO HEARING REQUESTS AND  
REQUESTS FOR RECONSIDERATION**

**I. INTRODUCTION**

The Executive Director of the Texas Commission on Environmental Quality (commission or TCEQ) files this response (Response) to the requests for a contested case hearing and requests for reconsideration submitted by persons listed herein regarding the above-referenced matter. The Texas Clean Air Act (TCAA), Texas Health & Safety Code (THSC) § 382.056(n), requires the Commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code (TWC) § 5.556.<sup>1</sup> This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

Updated maps showing the location of the proposed plant are included with this Response and have been provided to all hearing requestors listed on the mailing list for this application. In addition, the technical review summary, which includes a compliance summary, and a copy of the Standard Permit for Concrete Batch Plants prepared by the Executive Director’s staff have been filed as backup material for the commissioners’ agenda. The Executive Director’s Response to Public Comment (RTC), which was mailed by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the commission’s consideration.

**II. PLANT DESCRIPTION**

Bartoo Ready Mix, 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 to be located at 8929 County Road 591, Nevada, Collin County. Contaminants authorized under this permit include particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

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<sup>1</sup> Statutes cited in this response may be viewed online at [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us). Relevant statutes are found primarily in the THSC and the TWC. The rules in the TAC may be viewed online at [www.sos.state.tx.us/tac/index.shtml](http://www.sos.state.tx.us/tac/index.shtml) or follow the “Rules” link on the TCEQ website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

### **III. 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 176138.

The permit application was received on April 20, 2024 and declared administratively complete on April 23, 2024. The Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (public notice) for this permit application was published in English on June 5, 2024, in the *Wylie News*, and in Spanish on June 4, 2024 in *La Prensa Comunidad*. A public meeting was held on September 12, 2024 at 7:00 P.M. at the Community ISD High School, 440 North Farm-To-Market Road 1138, Nevada, Texas. The notice of public meeting was mailed on August 7, 2024. The public comment period ended on September 16, 2024. 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).

The TCEQ received timely hearing requests that were not withdrawn during the comment period from Laura Vargas, Alison Greene, and Jane Ridgway and a request for reconsideration from Heather Craddock.

The Executive Director's RTC was filed with the Chief Clerk's Office on December 4, 2024 and mailed to all interested persons on December 11, 2024, including to those who asked to be placed on the mailing list for this application and those who submitted comments or requests for a contested case hearing. The cover letter attached to the RTC included information about making requests for a contested case hearing or for reconsideration of the Executive Director's decision. The letter also explained that hearing requestors should specify any of the Executive Director's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy. The time for requests for reconsideration and hearing requests ended on January 11, 2025.

The Executive Director filed their Response to Hearing Request on March 10, 2025. The Applicant filed a reply brief on March 24, 2025. After reviewing the information presented in the Applicant's reply brief, the Executive Director filed a Motion to Continue on March 27, 2025, requesting additional briefing. The Office of the General Counsel granted that motion on March 28, 2025.

### **IV. APPLICABLE LAW FOR REQUESTS FOR RECONSIDERATION**

Any person may file a request for reconsideration of the Executive Director's decision. However, for the commission to consider the request, it must substantially comply with the following requirements set forth in 30 TAC § 55.201(e): give the name, address, daytime telephone number and, when possible, fax number of the person who files the request; expressly state that the person is requesting reconsideration of the Executive Director's decision; and give reasons why the decision should be reconsidered.

## **V. RESPONSE TO REQUESTS FOR RECONSIDERATION**

The TCEQ received a request for reconsideration from Heather Craddock. Although the Executive Director determined that the permit application meets the applicable rules and requirements, a final decision to approve the proposed registration has not been made. The application must be considered by the commissioners of the TCEQ at a regularly scheduled public meeting before any final action can be taken on the application.

The request for reconsideration was submitted during the comment period, prior to the filing of the RTC, and therefore did not state any of the Executive Director's responses that they are specifically requesting to be reconsidered. Because the request for reconsideration raises concerns about several RTC responses, where possible, the Executive Director is interpreting statements in the request for reconsideration as they correspond to the appropriate response in the RTC. The Executive Director provides the following responses to the request for reconsideration.

### **REQUEST FOR RECONSIDERATION OF RESPONSE 1**

Heather Craddock requested reconsideration of the application given concerns about health effects of the proposed plant.

**TCEQ RESPONSE:** 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. The Executive Director determined that the emissions authorized by the standard permit are protective of both human health and welfare and the environment.

A further discussion of the health effects and air quality was included in the RTC, specifically in Response 1.

### **REQUEST FOR RECONSIDERATION OF RESPONSE 8**

Heather Craddock requested reconsideration due to concerns regarding the location of the plant as it relates to proximity to residential areas.

**TCEQ RESPONSE:** This issue was addressed in the RTC in Response 8. The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider plant location when determining whether to approve or deny a permit application.

## **VI. THE EVALUATION PROCESS FOR HEARING REQUESTS**

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. Senate Bill 709 revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

## **A. Response to Requests**

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to hearing requests. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requestor is an affected person;
- 2) which issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;
- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

## **B. Hearing Request Requirements**

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements:

Affected persons may request a contested case hearing. The request must be made in writing and timely filed with the chief clerk. The request must be based only on the requestor's timely comments and may not be based on an issue that was raised solely in a public comment that was withdrawn by the requestor prior to the filing of the Executive Director's Response to Comment.

30 TAC § 55.201(c).

A hearing request must substantially comply with the following:

- 1) give the time, address, daytime telephone number, and where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
- 2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

- 3) request a contested case hearing;
- 4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the Executive Director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law; and
- 5) provide any other information specified in the public notice of application.

30 TAC § 55.201(d).

### **C. Requirement that Requestor be an Affected Person/ "Affected Person" Status**

In order to grant a contested case hearing, the Commission must determine that a requestor is an "affected" person. Section 55.203 sets out who may be considered an affected person.

- a) For any application, 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. An interest common to members of the general public does not qualify as a personal justiciable interest.
- b) Except as provided by 30 TAC § 55.103, governmental entities, including local governments and public agencies with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall be considered, including, but not limited to, the following:
- d) whether the interest claimed is one protected by the law under which the application will be considered;
  - 1) distance restrictions or other limitations imposed by law on the affected interest;
  - 2) whether a reasonable relationship exists between the interest claimed and the activity regulated;
  - 3) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
  - 4) likely impact of the regulated activity on use of the impacted natural resource by the person;
  - 5) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application which were not withdrawn; and

- 6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

### 30 TAC § 55.203

In regard specifically to air quality permits, the activity the commission regulates is the emissions of air contaminants into the atmosphere. Any person who plans to construct or modify a facility that may emit air contaminants must receive authorization from the commission. Commission rules also include a general prohibition against causing a nuisance. Further, for air quality permits, distance from the proposed facility is particularly relevant to the issue of whether there is a likely impact of the regulated activity on a person's interests because of the dispersion and effects of individual air contaminants emitted from a facility.

Additionally, this application is for registration for the Standard Permit for Concrete Batch Plants. Hearing requests on a concrete batch plant standard permit are subject to the requirements in TCAA § 382.058(c), which states that "only those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing...as a person who may be affected."

For applications filed on or after September 1, 2015, 30 TAC § 55.201(d) allows the commission to consider, to the extent consistent with case law:

1. the merits of the underlying application and supporting documentation in the commission's administrative record, including whether the application meets the requirements for permit issuance;
2. the analysis and opinions of the Executive Director; and
3. any other expert reports, affidavits, opinions, or data submitted by the Executive Director, the applicant, or hearing requestor.

### **D. Referral to the State Office of Administrative Hearings**

"When the commission grants a request for a contested case hearing, the commission shall issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing." 30 TAC § 50.115(b). The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue:

- 1) involves a disputed question of fact or a mixed question of law and fact;
- 2) was raised during the public comment period by an affected person whose hearing request is granted; and
- 3) is relevant and material to the decision on the application.

30 TAC § 50.115(c).

## **VII. ANALYSIS OF THE HEARING REQUESTS**

The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

The following persons submitted timely hearing requests that were not withdrawn: Laura Vargas, Alison Greene, and Jane Ridgway. The hearing requests were submitted during the public comment period. Furthermore, the ED has determined the hearing requests substantially complied with all of the requirements for form in 30 TAC § 55.201(d).

### **Laura Vargas**

The Executive Director reviewed the factors found in 30 TAC § 55.201(c) and (d), and § 55.203 for determining whether a requestor is an affected person, and recommends the commission find that Laura Vargas is not an affected person.

Ms. Vargas submitted a timely hearing request during the comment period. The hearing request was in writing and provided the required contact information. In her hearing request, Ms. Vargas stated that she is concerned about adverse health effects to herself and her children, impact on surrounding nature, and impacts on property rights of surrounding landowners. Based on the representations provided by the applicant and the physical address of Ms. Vargas provided in her hearing request, the residence of the requestor is outside of the 440 yards, at 583.39 yards from the nearest emission point within the proposed plant. Because Ms. Vargas is outside of the 440 yards, the ED recommends denying her request.

In her hearing request, Ms. Vargas raised the following issues:

**Issue 1:** Whether the proposed plant will negatively affect human health, including sensitive subgroups.

**Issue 2:** Whether the proposed plant will negatively impact the property rights of surrounding landowners and interfere with residents' use and enjoyment of the property.

**Issue 3:** Whether the proposed plant will negatively impact roads.

### **Alison Greene**

The Executive Director reviewed the factors found in 30 TAC § 55.201(c) and (d), and § 55.203 for determining whether a requestor is an affected person, and recommends the commission find that Alison Greene is not an affected person.

Alison Greene submitted a timely hearing request during the comment period. The hearing request was in writing and provided the required contact information. In her hearing request, Ms. Greene stated that she is concerned about air quality, truck traffic, and noise. Based on the representations provided by the applicant and the physical address provided by Ms. Greene in her hearing request, the residence of the requestor is outside of the 440 yards. Because Ms. Greene is outside of the 440 yards, the ED recommends denying her request.

In her request Ms. Greene raised the following issues:

**Issue 4:** Whether the proposed plant will negatively affect air quality.

**Issue 5:** Whether the plant will increase truck traffic.

**Issue 6:** Whether the plant will create nuisance noise issues.

## **Jane Ridgway**

The Executive Director reviewed the factors found in 30 TAC § 55.201(c) and (d), and § 55.203 for determining whether a requestor is an affected person, and recommends the commission find that Jane Ridgway is not an affected person.

Jane Ridgway submitted a timely hearing request during the comment period. The hearing request was in writing and provided the required contact information. In her hearing request, Ms. Ridgway stated that she is concerned about health effects, truck traffic, and water availability. Based on the representations provided by the applicant and the physical address provided by Ms. Ridgway in her hearing request, the residence of the requestor is outside of the 440 yards. Because Ms. Ridgway is outside of the 440 yards, the ED recommends denying her request.

In her request Ms. Ridgway raised the following request:

**Issue 1:** Whether the proposed plant will negatively affect human health, including sensitive subgroups.

**Issue 5:** Whether the plant will increase truck traffic.

**Issue 7:** Whether water availability will be negatively impacted.

## **VIII. WHETHER ISSUES RAISED ARE REFERABLE TO SOAH FOR A CONTESTED CASE HEARING**

The Executive Director has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment by a requestor whose request is granted may be referred.<sup>2</sup> The Executive Director does not recommend referral of any issues, because there are no affected persons in this matter.

## **IX. CONCLUSION**

The Executive Director respectfully recommends the Commission:

1. Find the hearing requests in this matter were timely filed;
2. Find that no persons were affected;
3. Deny the hearing requests of Laura Vargas, Alison Greene, and Jane Ridgway; and
4. Deny the request for reconsideration filed by Heather Craddock.

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<sup>2</sup> Tex. Govt. Code § 2003.047(e-1); 30 TAC § 55.211 (c)(2)(A)(ii).




Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Phillip Ledbetter, Director  
Office of Legal Services

Charmaine K. Backens, Deputy Director  
Environmental Law Division



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Abigail Adkins, Staff Attorney  
Environmental Law Division  
State Bar Number 24132018  
MC-173, P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-2496  
Fax: (512) 239-0606

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

I certify that on this 3rd day of April 2025, a true and correct copy of the "Executive Director's Response to Hearing Requests and Requests for Reconsideration" for Air Quality Permit No. 176138 was served on all persons on the service list by the undersigned via electronic filing, electronic mail, facsimile transmission, inter-agency mail, electronic submittal, or by deposit in the U.S. Mail.



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Abigail Adkins, Staff Attorney  
Environmental Law Division

**MAILING LIST**  
**Bartoo Ready Mix, LLC**  
**TCEQ Docket No. 2025-0287-AIR;**  
**Air Permit No. 176138**

**FOR THE CHIEF CLERK**

*via eFilings:*

Docket Clerk  
Texas Commission on Environmental Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711  
<https://www.tceq.texas.gov/goto/efilings>

**FOR THE APPLICANT**

*via electronic mail:*

Cary Bartoo, Owner  
Bartoo Ready Mix, LLC  
500 West University Drive, Suite 101  
McKinney, Texas 75069  
[cary@bartooreadymix.com](mailto:cary@bartooreadymix.com)

Josh Butler, Principal Consultant  
Elm Creek Environmental, LLC  
611 South Highway 78, Suite 132  
Wylie, Texas 75098  
[Josh@elmcreekenvironment.com](mailto:Josh@elmcreekenvironment.com)

Chapman Bauerlein  
Saunders, Walsh, & Beard  
6850 TPC Drive, Suite 210  
McKinney, Texas 75070  
[chapman@saunderswalsh.com](mailto:chapman@saunderswalsh.com)

**FOR THE EXECUTIVE DIRECTOR**

*via electronic mail:*

Abigail Adkins, Staff Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division, MC-173  
P.O. Box 13087  
Austin, Texas 78711  
[Abigail.Adkins@tceq.texas.gov](mailto:Abigail.Adkins@tceq.texas.gov)

Alexander Hilla, Technical Staff  
Texas Commission on Environmental Quality  
Air Permits Division, MC-163  
P.O. Box 13087  
Austin, Texas 78711  
[Alexander.Hilla@tceq.texas.gov](mailto:Alexander.Hilla@tceq.texas.gov)

Ryan Vise, Deputy Director  
Texas Commission on Environmental Quality  
External Relations Division  
Public Education Program, MC-108  
P.O. Box 13087  
Austin, Texas 78711  
[Ryan.Vise@tceq.texas.gov](mailto:Ryan.Vise@tceq.texas.gov)

**FOR PUBLIC INTEREST COUNSEL**

*via electronic mail:*

Garrett T. Arthur, Attorney  
Texas Commission on Environmental Quality  
Public Interest Counsel, MC-103  
P.O. Box 13087  
Austin, Texas 78711  
[Garrett.Arthur@tceq.texas.gov](mailto:Garrett.Arthur@tceq.texas.gov)

**FOR ALTERNATIVE DISPUTE RESOLUTION**

*via electronic mail:*

Kyle Lucas  
Texas Commission on Environmental Quality  
Alternative Dispute Resolution, MC-222  
P.O. Box 13087  
Austin, Texas 78711

**REQUESTOR(S)/INTERESTED PERSON(S)**

*via electronic mail:*

Laura Vargas  
9224 County Road 592  
Nevada, Texas 75173-7082  
[getlaurav@gmail.com](mailto:getlaurav@gmail.com)

Jane E. Ridgway  
5754 FM 6  
Josephine, Texas 75189-4000  
P.O. Box 127  
Caddo Mills, Texas 75135-0127  
[jridgway1971@gmail.com](mailto:jridgway1971@gmail.com)

Alison Greene  
302 Kerens Street  
Nevada, Texas 75173-7116  
[agplano@yahoo.com](mailto:agplano@yahoo.com)

Heather Craddock  
8460 County Road 592  
Nevada, Texas 75173-7210  
[Hcraddock6@gmail.com](mailto:Hcraddock6@gmail.com)

# Hearing Requestors Bartoo Ready Mix LLC





Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 4/2/2025  
CRF 0115683  
Cartographer: RKukushk



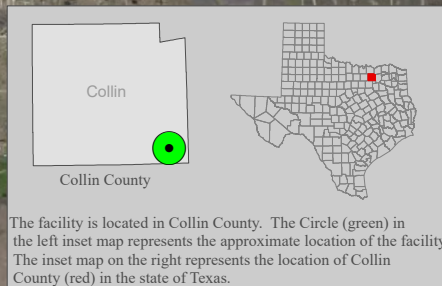
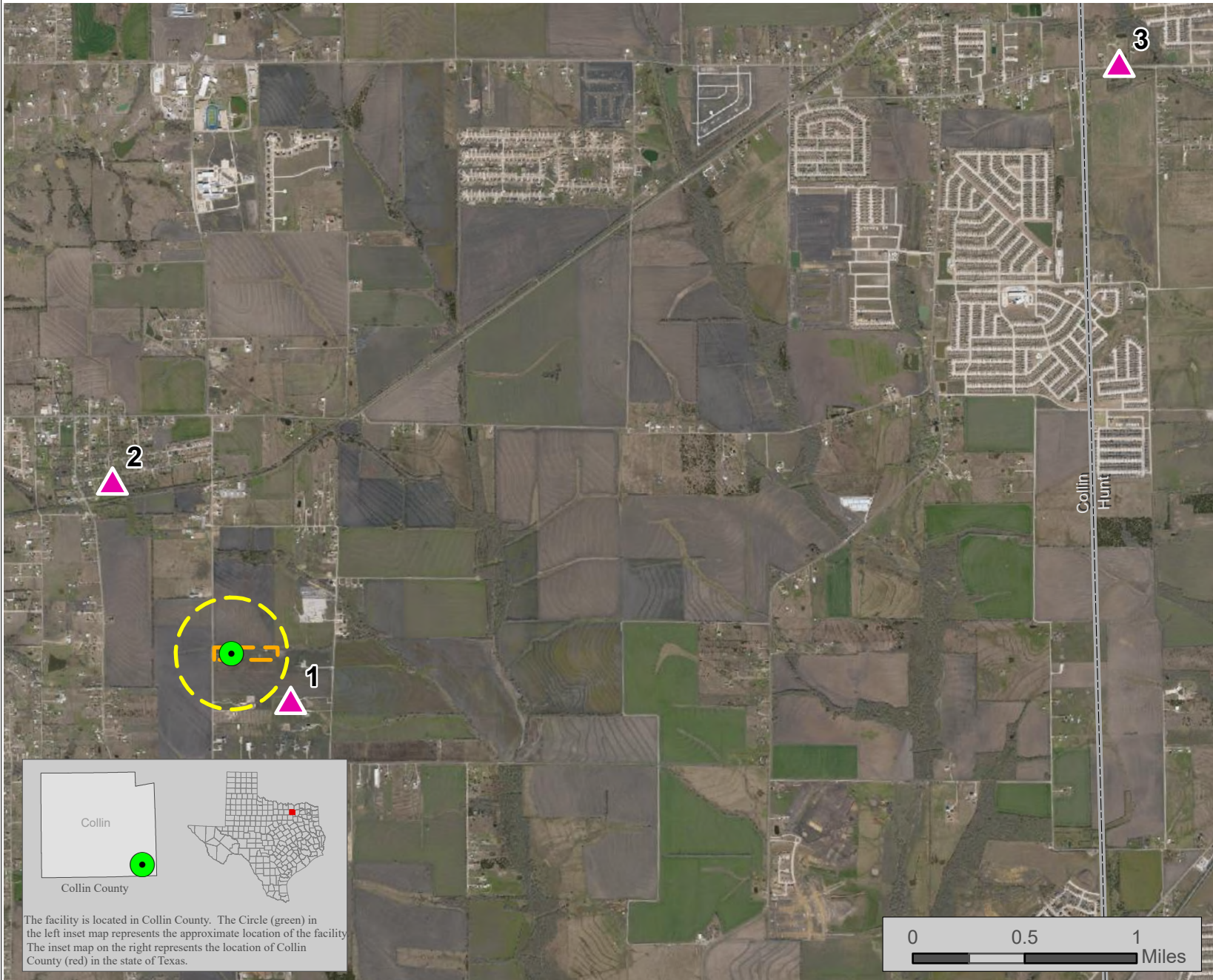
-  Requestors
-  Emission Point
-  Site
-  440 Yard Radius from Emission Point

## Distance from Emission Point to Requestors in Yards (yds)

1. Laura Vargas 583.39 yds
2. Alison Greene 1,660.57 yds
3. Jane Ridgway 8,385.94 yds

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information from the applicant and the requestor information from the requestor.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.





# Hearing Requestors Bartoo Ready Mix LLC

Map Requested by TCEQ Office of Legal Services  
for Commissioners' Agenda



*Protecting Texas by  
Reducing and  
Preventing Pollution*

Texas Commission on Environmental Quality  
GIS Team (Mail Code 197)  
P.O. Box 13087  
Austin, Texas 78711-3087  
Date: 3/26/2025  
CRF 0115683  
Cartographer: aprovcn



-  Requestors
-  Emission Point
-  Site
-  440 Yard Radius from Emission Point

## Distance from Emission Point to Requestors in Yards (yds)

1. Laura Vargas 583.39 yds
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The facility is located in Collin County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Collin County (red) in the state of Texas.

