



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 11, 2024

TO: All interested persons.

RE: Bartoo Ready Mix, LLC
Air Quality Standard Permit for Concrete Batch Plants Registration No. 176138

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any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.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. Additionally, a copy of the application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Dallas/Fort Worth Regional Office, and at the Rita and Truett Smith Public Library, 300 County Club Road, Wylie, Collin County, Texas 75098. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas. Visit <https://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 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. Your hearing request 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) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) 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."
- (4) 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.

Additionally, 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.

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 Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink that reads "Laurie Gharis". The signature is written in a cursive, flowing style.

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for**

Bartoo Ready Mix, LLC

Air Quality Standard Permit for Concrete Batch Plants Registration No. 176138

The Executive Director has made the Response to Public Comment (RTC) for the application by Bartoo Ready Mix, LLC for air quality standard permit for concrete batch plants registration No. 176138 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 (176138) 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), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Dallas/Fort Worth Regional Office, and at the Rita and Truett Smith Public Library, 300 County Club Road, Wylie, Collin County, Texas 75098. The facility's compliance file, if any exists, is available for public review at the TCEQ Dallas/Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas. Visit <https://www.tceq.texas.gov/goto/cbp> to review the standard permit..



COMISIÓN DE CALIDAD AMBIENTAL DE TEXAS

Protegiendo a Texas reduciendo y previniendo la contaminación

11 de diciembre de 2024

TO: Todas las personas interesadas.

RE: Bartoo Ready Mix, LLC
Permiso Estándar de Calidad del Aire para Plantas Mezcladoras de Concreto
Registro N.º 176138

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. Además, la solicitud, la decisión preliminar del director ejecutivo y el permiso estándar estarán disponibles para su visualización y copia en la Oficina Regional de la TCEQ en Dallas/Fort Worth y la Biblioteca Pública Rita and Truett Smith, 300 County Club Road, Wylie, Condado de Collin, Texas 75098. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la oficina regional de la TCEQ en Dallas/Fort Worth, 2309 Gravel Drive, Fort Worth, Texas. Visite <https://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) El nombre del solicitante, el número de permiso y otros números enumerados anteriormente para que su solicitud pueda procesarse adecuadamente.
- (3) 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".
- (4) 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.

Además, 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.

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
Bartoo Ready Mix, LLC
Permiso Estándar de Calidad del Aire para Plantas Mezcladoras de Concreto
Registro N.º 176138

El Director Ejecutivo ha puesto a disposición de Internet la respuesta al comentario público (RTC) para la solicitud de Bartoo Ready Mix, LLC del permiso estándar de calidad del aire para plantas mezcladoras de concreto registro N.º 176138. 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 (176138) 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. Además, la solicitud, la decisión preliminar del director ejecutivo y el permiso estándar estarán disponibles para su visualización y copia en la Oficina Regional de la TCEQ en Dallas/Fort Worth y la Biblioteca Pública Rita and Truett Smith, 300 County Club Road, Wylie, Condado de Collin, Texas 75098. El archivo de cumplimiento de la instalación, si existe alguno, está disponible para su revisión pública en la oficina regional de la TCEQ en Dallas/Fort Worth, 2309 Gravel Drive, Fort Worth, Texas. Visite <https://www.tceq.texas.gov/goto/cbp> para revisar el permiso estándar.

MAILING LIST / LISTA DE CORREO

Bartoo Ready Mix, LLC

Air Quality Standard Permit for Concrete Batch Plants Registration No. 176138 / Permiso
Estándar de Calidad del Aire para Plantas Mezcladoras de Concreto Registro N.º 176138

FOR THE APPLICANT /
PARA EL SOLICITANTE:

Cary Bartoo, Owner
Bartoo Ready Mix, LLC
500 West University Drive, Suite 101
McKinney, Texas 75069

Josh Bulter, Principal Consultant
Elm Creek Environmental, LLC
611 South Highway 78, Suite 132
Wylie, Texas 75098

INTERESTED PERSONS /
PERSONAS INTERESADAS:

See attached list. / Ver lista adjunta.

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
P.O. Box 13087
Austin, Texas 78711-3087

Alexander Hilla
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

ANDREWS , JOSH
113 WARREN ST
NEVADA TX 75173-7129

BROWN , DEDE
9177 COUNTY ROAD 591
NEVADA TX 75173-7111

BROWN , DEANN
9187 COUNTY ROAD 591
NEVADA TX 75173-7111

BROWN , PEGGY
9177 COUNTY ROAD 591
NEVADA TX 75173-7111

BROWN , RON D
9177 COUNTY ROAD 591
NEVADA TX 75173-7111

BURKE , MADISON
9177 COUNTY ROAD 591
NEVADA TX 75173-7111

CABRAL , TERRI
18400 SKYVIEW LN
NEVADA TX 75173-7000

CANALES , BLANCA GUADALUPE
5034 COUNTY ROAD 599
FARMERSVILLE TX 75442-6578

CARROLL , JAMES B
203 W FM 6
NEVADA TX 75173-8269

CLARK , BRAD
N2 SUCCESS
2020 CONSTITUTION CT
NEVADA TX 75173-1255

COLE , TAYLOR
302 EAST ST
NEVADA TX 75173-7193

COLLINS , JAMIE
8875 COUNTY ROAD 592
NEVADA TX 75173-7086

COLLINS , JASON
8875 COUNTY ROAD 592
NEVADA TX 75173-7086

CORDAWAY , AMERICA
857 S FM 1138
ROYSE CITY TX 75189-3456

CRADDOCK , HEATHER
8460 COUNTY ROAD 592
NEVADA TX 75173-7210

DOWNING , HARRY E
8337 COUNTY ROAD 592
NEVADA TX 75173-7069

DOZAL , MR JUAN FERNANDO
20365 COUNTY ROAD 590
NEVADA TX 75173-7217

DYSON , CHANNING & JUSTIN
DAX EYEWEAR AND ALL DAY SOIREE
8530 COUNTY ROAD 592
NEVADA TX 75173-7212

DYSON , CHANNING
8530 COUNTY ROAD 592
NEVADA TX 75173-7212

DYSON , JUSTIN
8530 COUNTY ROAD 592
NEVADA TX 75173-7212

EDWARDS , MELANIE
15015 COUNTY ROAD 790
NEVADA TX 75173-6334

EVANS , MARK
14356 COUNTY ROAD 485
LAVON TX 75166-1815

FARTHING SORRELL , KARYN
20171 COUNTY ROAD 590
NEVADA TX 75173-7214

FARTHING SORRELL, KARYN &
SORRELL,JEFFREY
20171 COUNTY ROAD 590
NEVADA TX 75173-7214

FOX , ANDREW D
9749 COUNTY ROAD 540
LAVON TX 75166-1412

FREYRE , ALMA
20293 COUNTY ROAD 590
NEVADA TX 75173-7216

GAMERO , MARIA
20231 COUNTY ROAD 590
NEVADA TX 75173-7216

GAMERO , WENDY LIZBETH
9235 COUNTY ROAD 591
NEVADA TX 75173

GRACY , JAMES
118 EVE ST
NEVADA TX 75173-7136

GREENE , ALISON
302 KERENS ST
NEVADA TX 75173-7116

GRIFFIN , LISA
LEWIS LIVING TRUST
2360 COUNTY ROAD 722
MCKINNEY TX 75069-1002

HERNANDEZ , MOISES
9235 COUNTY ROAD 591
NEVADA TX 75173

HUTCHENS , CHRISTY PAUL
20424 COUNTY ROAD 1040
NEVADA TX 75173-0005

HUTCHENS , JERRY PAUL
20424 COUNTY ROAD 1040
NEVADA TX 75173-0005

JENERETTE , TERRI
5470 COUNTY ROAD 939
NEVADA TX 75173-8564

JENKINS , MEGAN
6580 COUNTY ROAD 640
NEVADA TX 75173-8557

JOHNSON , B J
8404 COUNTY ROAD 592
NEVADA TX 75173-7210

JONES , PATTI
8530 COUNTY ROAD 592
NEVADA TX 75173-7212

KEAMS , BOBBY
STE 100
2808 FOREMAN ST
DALLAS TX 75210-1334

LABARBERA , SKYLAR
8805 COUNTY ROAD 592
NEVADA TX 75173-7086

LABARBERA , AMANDA
8805 COUNTY ROAD 592
NEVADA TX 75173-7086

LONGORIA , MRS KERRIE
431 BROOKS DR
NEVADA TX 75173-8315

LOVE , MRS PATRICIA W
5818 CRESCENT POND RD
NEVADA TX 75173-6224

MARTINEZ , KAYLA
9343 COUNTY ROAD 591
NEVADA TX 75173-7138

MCBRAYER , CHERYL & DAN
19660 COUNTY ROAD 590
NEVADA TX 75173-7064

MCFARLAND , JEREMY
20404 COUNTY ROAD 1040
NEVADA TX 75173-0005

MITROFF , EDITH
823 MEADOW HILL DR
LAVON TX 75166-1233

NEWBY , LAURIE
1929 S FM 1138
ROYSE CITY TX 75189-3478

OBLANDER , AMANDA
20434 COUNTY ROAD 1040
NEVADA TX 75173-0005

OBLANDER , BRANDON
20434 COUNTY ROAD 1040
NEVADA TX 75173-0005

PAXTON , THE HONORABLE ANGELA S STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 8
604 S WATTERS RD STE 100
ALLEN TX 75013-5029

PAXTON , THE HONORABLE ANGELA S STATE
SENATOR
THE SENATE OF TEXAS DISTRICT 8
PO BOX 12068
AUSTIN TX 78711-2068

PINA , BRENDA
19678 COUNTY ROAD 590
NEVADA TX 75173-7064

PONCE , BEN MAYOR
CITY OF NEVADA
424 E FM 6
NEVADA TX 75173-8296

PONCE , BEN
402 COLLIN ST
NEVADA TX 75173-7134

PONCE , FINA
8620 COUNTY ROAD 592
NEVADA TX 75173-7098

POTHINI , PUNDARI
2625 CREEKSIDE PL
FLOWER MOUND TX 75022-5345

POTHINI , PUNDARI
NEVADA 92 LLC
STE 100
5900 BALCONES DR
AUSTIN TX 78731-4257

REES , DAVID
8911 COUNTY ROAD 592
NEVADA TX 75173-7081

RIDGWAY , JANE E
PO BOX 127
CADD0 MILLS TX 75135-0127

RIDGWAY , JANE E
5754 FM 6
JOSEPHINE TX 75189-4000

RIDGWAY , JAMES M
PO BOX 127
CADDO MILLS TX 75135-0127

RIDGWAY , JAMES M
5754 FM 6
JOSEPHINE TX 75189-4000

RUVALCABA , MR ALEJANDRO
8418 COUNTY ROAD 592
NEVADA TX 75173-7210

RUVALCABA , SILVIA
8418 COUNTY ROAD 592
NEVADA TX 75173-7210

SCHNOEBELEN , HEATHER
8911 COUNTY ROAD 592
NEVADA TX 75173-7081

SHEPHERD , JAMES E
SHEPHERD LAW FIRM
STE 430
1901 N CENTRAL EXPY
RICHARDSON TX 75080-3558

SHERIFF , JEFF
8363 COUNTY ROAD 592
NEVADA TX 75173-7069

SIERRA , JAYDEN
20293 COUNTY ROAD 590
NEVADA TX 75173-7216

SORRELL , JEFF
20171 COUNTY ROAD 590
NEVADA TX 75173-7214

TAYLOR , PRESTON
STE 100
6657 VIRGINIA PKWY
MCKINNEY TX 75071-5628

THORN , JANICE
475 KERENS ST
NEVADA TX 75173-7119

VARGAS , LAURA
9224 COUNTY ROAD 592
NEVADA TX 75173-7082

WADDELL , TRAVIS L
330 EAST ST
NEVADA TX 75173-7193

WALKER , SHARON
355 PECAN CT
NEVADA TX 75173-7013

**TCEQ AIR QUALITY STANDARD PERMIT NUMBER CONCRETE BATCH PLANT
REGISTRATION 176138**

**APPLICATION BY
BARTOO READY MIX, LLC
CONCRETE BATCH PLANT
NEVADA, COLLIN COUNTY**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

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: Senator Angela S. Paxton, Mayor Benito Ponce (on behalf of the City of Nevada), Josh Andrews, Deann Brown, Peggy Brown, Ron D. Brown, Madison Burke, Terri Cabral, Blanca Guadalupe Canales, James B. Carroll, Brad Clark, Taylor Cole, Jason Collins, America Cordaway, Heather Craddock, Juan Fernando Dozal, Channing Dyson, Justin Dyson, Melanie Edwards, Mark Evans, Karyn Farthing Sorrell, Andrew D. Fox, Alma Freyre, Maria Gamero, Wendy Lizbeth Gamero, Alison Greene, Lisa Griffin, Moises Hernandez, Christy Paul Hutchens, Jerry Paul Hutchens, Terri Jenerette, Megan Jenkins, Patti Jones, Amanda Labarbera, Kerrie Longoria, Patricia W. Love, Kayla Martinez, Jeremy McFarland, Edith Mitroff, Laurie Newby, Amanda Oblander, Brandon Oblander, Brenda Pina, Fina Ponce, Pundari Pothini, David Rees, Jane E. Ridgway, James M. Ridgway, Alejandro Ruvalcaba, Silvia Ruvalcaba, Heather Schnobelen, Jayden Sierra, Jeff Sorrell, Jeffrey Sorrell, Karyn Sorrell, Preston Taylor, Janice Thorn, Laura Vargas, Travis L. Waddell, and Sharon Walker. 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

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.

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).

COMMENTS AND RESPONSES

COMMENT 1: Air Quality / Health and Cumulative Effects

Commenters are concerned about the effect of the emissions from the proposed project on air quality and the environment, including cumulative effects. Commenters expressed concern regarding the potential adverse health effects of people in close proximity to the project, particularly sensitive populations such as the elderly, children, and people with existing medical conditions. Commenters expressed concerns about workers at the proposed plant and health effects to them. Commenters expressed concern regarding potential health effects and symptoms such as asthma, respiratory illness, pneumonia, bronchitis, silicosis, pneumoconiosis, carcinoma, and issues with the central nervous system. In addition, commenters are concerned that children will be exposed to contaminants during outdoor activities and will not be able to go outside. Commenters expressed concern regarding emissions of hazardous air pollutants (HAPs), volatile organic compounds (VOC), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), heavy metals, crystalline silica, and lime.

(Deann Brown, Terri Cabral, Brad Clark, Jason Collins, America Cordaway, Heather Craddock, Juan Fernando Dozal, Channing Dyson, Justin Dyson, Melanie Edwards, Mark Evans, Andrew D. Fox, Alma Freyre, Wendy Lizbeth Gamero, Alison Greene, Lisa Griffin, Moises Hernandez, Jerry Paul Hutchens, Terri Jenerette, Megan Jenkins, Amanda Labarbera, Kerrie Longoria, Patricia W. Love, Kayla Martinez, Edith Mitroff, Amanda Oblander, Angela S. Paxton, Brenda Pina, Ben Ponce, Fina Ponce, Pundari Pothini, David Rees, Jane E. Ridgway, Silvia Ruvalcaba, Heather Schnoebelen, Jayden Sierra, Jeffrey Sorrell, Karyn Farthing Sorrell, Karyn Sorrell, Janice Thorn, Laura Vargas, Travis L. Waddell, Sharon Walker)

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.¹ 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}).

Applicants seeking to obtain authorization to operate under the Standard Permit for Concrete Batch Plants are not required to submit site-specific emission calculations or air dispersion modeling. During the protectiveness review for the 2024 amendment to the Standard Permit for Concrete Batch Plants, the TCEQ performed an Air Quality Analysis (AQA), which included air dispersion modeling that was inherently conservative and tended to over-predict ground-level concentrations of emissions. The emission generating facilities or activities included in the AQA were material handling operations, truck loading, stockpiles, cement silos, and an internal combustion engine to generate power for equipment at the site. The TCEQ calculated emission rates using conservative emission factors and methodology from the EPA in the Compilation of Air Pollution Emission Factors, AP-42 manual. The TCEQ ensures the conservative nature of these calculations by evaluating each emission point at the maximum material throughput on both an hourly and an annual basis. The analysis also conservatively assumed the operating schedule of facilities or activities at the site as 24 hours per day. The air contaminants evaluated were carbon monoxide, nitrogen dioxide, sulfur dioxide, PM₁₀ and PM_{2.5}, nickel particulate, and formaldehyde. Lime was not evaluated in the protectiveness review and air emissions of lime are not authorized by this standard permit.

The TCEQ applied the model in a screening mode to ensure predictions were conservative (higher than expected concentrations) and applicable for any location in the state. For example, the protectiveness review evaluated both rural and urban

¹ 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. Updates to the Air Quality Standard Permit for Concrete Batch Plants (standard permit) were adopted on January 24, 2024. All pending and new applications to register for authorization under the standard permits are required to meet the recently adopted amendment. Due to the changes in the annual NAAQS standard for PM_{2.5} becoming effective on May 6, 2024, the TCEQ will evaluate whether updates are necessary to the current standard permit technical requirements.

dispersion coefficients and the higher of the two was used as the maximum predicted concentration for developing the conditions of the Standard Permit for Concrete Batch Plants. The model also incorporated five years of meteorological data, including wind directions, which would include worst-case, short-term meteorological conditions that could occur anywhere in the state. In addition, all emissions sources were co-located in order to minimize bias due to source configuration and wind direction. This technique also provided conservative results since the impact from all sources was maximized.

The TCEQ also evaluated the potential for cumulative or additive emissions. The maximum modeled concentration typically occurs at a relatively short distance from the source, so that the peak modeled concentrations represent the source's impact at only a relatively few receptors within the modeled area. The commission included site-wide production limits to avoid the potential for cumulative emissions that would be higher than what is authorized by the standard permit. The applicant represented hourly production limit of 200 cubic yards per hour, and an annual production limit of 650,000 cubic yards per year in any rolling 12-month period. For permit registrations operating a truck mix plant in Collin County, the maximum production is limited at 200 cubic yards per hour and a setback distance of 100 feet. In addition, distance requirements to the nearest rock crusher, concrete crusher, or hot mix asphalt plant were also included to avoid potential cumulative emission higher than the permit limit. Therefore, the commission determined that a review of other off-site sources is not necessary when determining approval of any particular standard permit application. In addition, based on the results of the protectiveness review, no adverse impacts are expected as a result of operations of multiple similar facilities, such as concrete batch plants, rock crushing plants, or hot-mix asphalt plants.

Nickel particulate, carbon monoxide, sulfur dioxide, nitrogen oxides, organic compounds and formaldehyde were included in the protectiveness review because they are products of diesel fuel combustion. The most recent amendment of the Air Quality Standard Permit for Concrete Batch Plants (standard permit) adopted on January 24, 2024 made changes to the requirement that owners or operators of concrete batch plants that include a stationary compression ignition internal combustion engines shall comply with additional applicable engine requirements in 40 CFR 60 Subpart IIII, Standards of Performance for Stationary Compression Ignition, 40 CFR 63, Subpart ZZZZ, National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds, and any other applicable state or federal regulation.

You can read TCEQ Toxicology Division's publication on silica at APOs at the following site:

<https://www.tceq.texas.gov/downloads/toxicology/publications/community-health-impacts-as-202.pdf>

As to concerns over crystalline silica exposure for workers and safe handling of concrete, 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 enforce employee safety regulations promulgated by the Occupational Safety and Health Association (OSHA) or to consider employee health when determining whether to approve or deny an application for an air authorization.

COMMENT 2: Dust Control / Nuisance / Winds

Commenters expressed concern that the proposed site would create nuisance dust conditions near the facility, which could be exacerbated by winds.

(Josh Andrews, Deann Brown, Brad Clark, Jason Collins, Heather Craddock, Juan Fernando Dozal, Channing Dyson, Justin Dyson, Melanie Edwards, Maria Gamero, Alison Greene, Moises Hernandez, Patricia W. Love, Kayla Martinez, Angela S. Paxton, Brenda Pina, Fina Ponce, David Rees, Jane E. Ridgway, Heather Schnoebelen, Jayden Sierra, Janice Thorn, Sharon Walker)

RESPONSE 2: 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 Air Quality Standard Permit for Concrete Batch Plants requires substantial dust control processes to minimize dust emissions, which include paving in-plant roads and work areas, using water sprays on stockpiles, and using a suction shroud with a three-sided curtain to prevent flyaway dust at the product loading point. 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.

Concrete is made up of four main ingredients: water, Portland cement, fly ash, and aggregates. Portland cement is the most common cement used and is composed of alumina, silica, lime, iron, and gypsum. Aggregates are sand, gravel, and crushed stone.

These ingredients are considered non-hazardous dust under normal conditions. Certain types of silica (e.g., crystalline silica), when inhaled over a long period, have been shown to cause adverse health effects. However, concrete production facilities operating under standard permits have been determined to not make a significant contribution of these types of air contaminants to the atmosphere. The commission performed an updated air quality analysis (AQA) in support of the 2024 concrete batch plant standard permit amendment to address public concern about potential health impacts from concrete batch plants registered under the standard permit. The adopted revisions to the standard permit are a result of the updated AQA. No adverse effects are expected to occur from facilities that meet all requirements and operate in compliance with the conditions of the Air Quality Standard Permit for Concrete Batch Plants.

Adopted subsection 8 (G) of the amended standard permit is based on public comment to improve best management practices, reduce the potential generation of nuisance dust, and prevent the tracking of sediment onto adjacent roadways. The adopted language includes requirements to prevent tracking of sediment onto roadways and reduce the generation of dusts by using one or more of the listed methods. Further, the amendment includes increased setback distances for some areas of the state and options for additional controls. Additionally, TCEQ has reviewed ambient air crystalline silica levels measured near aggregate production operations (APOs). Similar to this proposed facility, APOs in various locations throughout the United States provided data. These data indicate that the contribution of crystalline silica from these facilities to ambient levels of particulate matter and respirable crystalline silica is

negligible or minimal and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by the TCEQ.

You can read TCEQ Toxicology Division's publication on silica at APOs at the following site: <https://www.tceq.texas.gov/downloads/toxicology/publications/community-health-impacts-as-202.pdf>

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 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, the generation of dust, or odors 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: Environmental Impacts

Commenters expressed concern that emissions from the proposed project would negatively impact the surrounding environment and wildlife, including farmland, crops, bees, and cattle.

(Deann Brown, Ron D Brown, Brad Clark, Jason Collins, Juan Fernando Dozal, Channing Dyson, Justin Dyson, Melanie Edwards, Wendy Lizbeth Gamero, Moises Hernandez, Jerry Paul Hutchens, Kayla Martinez, Fina Ponce, Pundari Pothini, David Rees, Jane E Ridgway, Heather Schnobelen, Jayden Sierra, Janice Thorn, Laura Vargas)

RESPONSE 3: The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the emissions from this facility should not cause an exceedance of the NAAQS, air emissions from this facility are not expected to adversely impact land, livestock, wildlife, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water. Please see Response 1 for an evaluation of the Standard Permit's impacts in relation to the NAAQS. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

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

COMMENT 4: Water Quality and Runoff / Other Required Authorizations

Commenters expressed concern that the proposed project would negatively impact water resources in the area, including surface water, water wells, groundwater, water contamination, and water runoff. Commenters also expressed concern regarding water availability as it relates to the proposed project.

(Melanie Edwards, Pundari Pothini, Jane E. Ridgway, Jayden Sierra, Jeffrey Sorrell, Karyn Sorrell, Preston Taylor)

RESPONSE 4: Although the TCEQ is responsible for the environmental protection of all media, including water, the TCAA specifically addresses air-related issues. This registration, if issued, 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. Additionally, should the nature of the facility's operation require, the Applicant may be required to apply for separate authorizations that regulate water quality, water usage, or the handling of waste. The issuance of an air quality registration does not negate the responsibility of an applicant to apply for any additional required authorizations prior to operating a facility.

COMMENT 5: Monitors

Commenters asked about air quality monitors in the area and requested additional monitors so that they can evaluate the nearby air quality.

(James M. Ridgway, Jeff Sorrell, Karyn Farthing Sorrell)

RESPONSE 5: Due to cost and logistical constraints, the placement of air monitors is prioritized to provide data on regional air quality in areas frequented by the public. The existing air monitoring network is the result of a strategic balance of matching federal monitoring requirements with state and local needs. Consistent with federal air monitoring requirements, the TCEQ evaluates the placement of air quality monitors within the air monitoring network using trends in population, reported emissions inventory data, and existing air monitoring data for a given area. In addition, the TCEQ may prioritize monitor placement in areas with potential regional air quality issues, such as those related to increased oil and gas activity in the Barnett Shale and Eagle Ford Shale areas.

The TCEQ annually evaluates the number and location of air monitors within its network to assess compliance with federal monitoring requirements and the adequacy of monitoring coverage for identified monitoring objectives as a part of the Annual Monitoring Network Plan provided to EPA on July 1 of each year. This plan is made available on the TCEQ's website for public review and comment for 30 days beginning in mid-May. Requests for additional monitoring or the identification of additional monitoring needs may be made during this public comment period and will be considered along with other monitoring priorities across the state. To receive email announcements related to the ambient air monitoring network, including the availability of the Annual Monitoring Network Plan for public review and comment, please visit the following link <https://service.govdelivery.com/accounts/TXTCEQ/subscriber/new> and select "Air Monitoring Network Announcements."

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. In addition, the TCEQ does not have a routine monitoring plan for this type of industry.

COMMENT 6: Permit Review Process / Application Representations

Jane Ridgway expressed concern regarding representations in the application, questioning whether the core data form, checklists, process description, process flow diagram, and public involvement plan were lacking the appropriate information.

RESPONSE 6: The TCEQ conducted a review and verified the representations in the application meet the standard permit requirements. This review included both an administrative and technical review. During the administrative review, TCEQ verified the following:

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

The application then undergoes a technical review. During the technical review, the permit reviewer evaluates the following:

- All sources of air contaminants at the proposed facility have been properly identified;
- Appropriate controls have been proposed for each emission source;
- Proposed operations meet all applicable Standard Permit requirements;
- Compliance history for the site and the operator; and
- Public notice requirements were fulfilled.

Based on this review, the TCEQ determined the application meets the requirements of the standard permit.

Application Representations

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

The TCEQ is unaware of any misrepresentations in the application. The Air Permits Division and other applicable TCEQ staff have conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and

federal standards. An applicant is bound by its representations in the application and those representations become an enforceable part of the permit, including production rates, authorized emission rates, and equipment. If the Applicant deviates from the representations made in the application, on which the permit was developed, the Applicant may be subject to enforcement action.

COMMENT 7: Expedited Permitting Process

Melanie Edwards expressed concern that the application was submitted with a request for expedited permitting, commenting that the Applicant is trying to move through the process quickly, so no one notices them moving in.

RESPONSE 7: Senate Bill 1756, 83rd Legislature, 2013, amended the TCAA to provide TCEQ with the authority to accept a surcharge from applicants to cover the expenses incurred by expediting the processing of an application. This surcharge may be used to fund the use of additional resources in the form of overtime or contract labor to process the application in an expedited manner. However, expedited applications undergo the same level of scrutiny and review as non-expedited applications and follow all air permitting process requirements. Guidance on the implementation of the Expedited Permitting Program is available on the TCEQ website:
https://www.tceq.texas.gov/permitting/air/nav/air_docs_newssource.html.

COMMENT 8: Jurisdictional Issues

Location / Zoning

Commenters expressed concern regarding the location of the facility as it relates to current zoning ordinances and the proximity to public and residential areas, including homes, schools, churches, and future housing developments. Commenters also commented that the proposed plant should be located somewhere else. Commenters expressed concern regarding the proposed project as it relates to the proximity of other existing plants.

(Josh Andrews, Terri Cabral, Blanca Guadalupe Canales, James B. Carroll, Brad Clark, Taylor Cole, Jason Collins, America Cordaway, Heather Craddock, Juan Fernando Dozal, Channing Dyson, Justin Dyson, Melanie Edwards, Mark Evans, Andrew D. Fox, Alma Freyre, Maria Gamero, Wendy Lizbeth Gamero, Alison Greene, Moises Hernandez, Christy Paul Hutchens, Jerry Paul Hutchens, Terri Jenerette, Megan Jenkins, Amanda Labarbera, Kerrie Longoria, Patricia W. Love, Kayla Martinez, Jeremy McFarland, Edith Mitroff, Laurie Newby, Amanda Oblander, Brandon Oblander, Angela S. Paxton, Brenda Pina, Ben Ponce, Fina Ponce, Pundari Pothini, David Rees, Jane E. Ridgway, Silvia Ruvalcaba, Heather Schnoebelen, Jayden Sierra, Jeffrey Sorrell, Karyn Sorrell, Preston Taylor, Janice Thorn, Laura Vargas, Travis L. Waddell, Sharon Walker)

Truck Traffic / Roads / Infrastructure / Local Economy

Commenters expressed concern regarding truck traffic, diesel emissions, spillage of debris from the truck traffic, and damage to roads. Commenters expressed safety concerns from truck traffic as well as the impact on the existing infrastructure and public utilities.

(Deann Brown, Madison Burke, Terri Cabral, Blanca Guadalupe Canales, James B. Carroll, Taylor Cole, Juan Fernando Dozal, Melanie Edwards, Andrew D. Fox, Alma Freyre, Maria Gamero, Wendy Lizbeth Gamero, Alison Greene, Moises Hernandez,

Christy Paul Hutchens, Jerry Paul Hutchens, Kerrie Longoria, Patricia W. Love, Kayla Martinez, Jeremy McFarland, Edith Mitroff, Laurie Newby, Brandon Oblander, Pundari Pothini, Jane E. Ridgway, Alejandro Ruvalcaba, Silvia Ruvalcaba, Jayden Sierra, Jeffrey Sorrell, Karyn Sorrell)

Noise / Light / Quality of Life / Property Values / Aesthetics

Commenters expressed concern regarding noise and light pollution from the proposed project. Commenters are concerned about the effect of the proposed project on their quality of life, on the aesthetics of the area, and on their property value.

(Josh Andrews, Deann Brown, Terri Cabral, James B. Carroll, America Cordaway, Juan Fernando Dozal, Mark Evans, Andrew D. Fox, Maria Gamero, Wendy Lizbeth Gamero, Alison Greene, Moises Hernandez, Christy Paul Hutchens, Jerry Paul Hutchens, Kayla Martinez, Jeremy McFarland, Amanda Oblander, Brandon Oblander, Ben Ponce, Pundari Pothini, Alejandro Ruvalcaba, Jayden Sierra, Jeff Sorrell, Jeffrey Sorrell, Karyn Sorrell, Preston Taylor, Laura Vargas)

RESPONSE 8:

Location / Zoning

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 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 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.

Truck Traffic / Roads / Infrastructure / Local Economy

The TCEQ does not have jurisdiction to consider traffic, road safety, or road repair costs when determining whether to approve or deny a permit application. In addition, trucks are considered mobile sources, which are not regulated by the TCEQ. Moreover, the TCEQ is prohibited from regulating roads per the TCAA § 382.003(6) which excludes roads from the definition of "facility." Although the TCEQ is prohibited from regulating trucks, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 30 TAC § 101.5 states: "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use." Accordingly, the Applicant is prohibited from creating a traffic hazard with emissions from its facility. Jurisdiction over traffic on public roads, including any load-bearing restrictions and public safety, including access, speed limits, and public roadway issues, are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation (TxDot) and the Texas Department of Public Safety (DPS). An air quality permit does not authorize a violation of any road safety or load-bearing restrictions. Concerns regarding roads should be addressed to appropriate state or local officials.

Issues related to the local economy are outside the scope of review of an air quality permit. The Executive Director has reviewed the permit application in accordance with the applicable law, policy, and procedures, in accordance with the agency's mission to protect our state's human and natural resources consistent with sustainable economic development. If an applicant meets the requirements for an air quality permit, the TCEQ must grant the permit.

Noise / Light / Quality of Life/ Property Values / Aesthetics

The TCEQ also does not have jurisdiction to consider noise or light from a plant when determining whether to approve or deny a permit application. As such, the TCEQ does not have authority under the TCAA to require or enforce any noise abatement measures. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. Commenters should contact their local authorities with questions or complaints about noise. Additionally, the TCEQ does not have authority under the TCAA to consider light pollution when determining whether to approve or deny a permit application.

Accordingly, the TCEQ does not have jurisdiction to consider potential effects from plant location, aesthetics, zoning and land use issues, or effects on property values when determining whether to approve or deny a permit.

COMMENT 9: Demonstrate Compliance with Permit

Commenters asked how the Applicant will demonstrate compliance with the terms of their permit on a continuous basis.

(Benito Ponce, James M. Ridgway, Jeff Sorrell)

RESPONSE 9: Monitoring requirements are included in the Standard Permit. Owners or operators are required to keep written records on-site for a rolling 24-month period. Emissions will be monitored, and the applicant shall demonstrate compliance by including records of road cleaning, application of road dust control, stockpile dust suppression, monthly silo warning devices or system shut-off tests, quarterly visible emissions observations, and repairs/maintenance of dust suppression controls. Records must be made available upon request to representatives of the TCEQ, EPA, or any local air pollution control program having jurisdiction. The Regional Office may perform investigations of the plant as required. The investigation may include an inspection of the site including all equipment, control devices, monitors, and a review of all required recordkeeping.

The TCEQ evaluates all complaints received. 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 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.

COMMENT 10: Violations / Enforcement

Commenters ask about the consequences of violating the terms of the permit. Mark Evans commented that penalties are rarely enforced and that plant operators cannot be trusted to act in good faith.

(Mark Evans, James M. Ridgway, Jeff Sorrell, Karyn Farthing)

RESPONSE 10: TCEQ reviews all complaints received. The TCEQ regional offices prioritize their responses to complaints based on the potential for adverse health effects associated with the alleged violation. For example, a “priority one” case means serious health concerns exist, and the case will be investigated immediately. A “priority four” case, on the other hand, means no immediate health concerns exist; therefore, it will be investigated within 30 days. Staff from the TCEQ regional office reviews all complaints, and regional investigations are not limited by media. 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. If a facility is found to be out of compliance with the terms and conditions of its registration, it may be subject to investigation and possible enforcement action.

Citizen-collected evidence may be used in such an enforcement 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 the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Make an Environmental Complaint? Do You Have Information or Evidence"? This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028 and may be downloaded from the agency website at www.tceq.texas.gov (under Publications, search for Publication Number 278).

There are a number of mechanisms by which the TCEQ monitors compliance with permit conditions and state and federal regulations. Operations authorized under the Standard Permit for Concrete Batch Plants are not on a set schedule for compliance investigations. Instead, investigations are generally conducted in response to complaints. Although specific to each site, investigations generally explore the entire operation of the plant. The investigation schedule may be increased if violations are found, repeated, or if a regulated entity is classified as an unsatisfactory performer. Notices of Violation (NOVs) are public information. Additionally, the public is able to track complaints on the TCEQ website by complaint tracking number, date, county, TCEQ region, or regulated entity/customer name or number (<http://www2.tceq.texas.gov/oce/waci/index.cfm>).

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) according to the penalty policy adopted by the commission. Violations are maintained on file and are included in the calculation of a facility and a person's compliance history. Compliance history ratings are considered during permit application reviews.

COMMENT 11: Compliance History

Mark Evans expressed concern regarding the compliance history of the Applicant and site.

RESPONSE 11: During the technical review of the permit application, a compliance history review of both the company and the site is conducted based on the criteria in 30 TAC Chapter 60. These rules may be found at the following website:
<https://www.tceq.texas.gov/rules/index.html>.

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

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

- High: rating below 0.10 – complies with environmental regulations extremely well;
- Satisfactory: rating 0.10 – 55.00 – generally complies with environmental regulations;
- Unsatisfactory: rating greater than 55.00 – fails to comply with a significant portion of the relevant environmental regulations.
- Unclassified: rating of N/A – generally given to new facilities without a history to rate or facilities under local air quality program jurisdiction.

This site has a rating of N/A and a classification of Unclassified, as it is a new facility. The company has a rating of 0.00, and a classification of High. The company rating reflects the average of the ratings for all sites the company owns in Texas.

COMMENT 12: Public Notice - Sign posting

Travis L. Waddell questioned if the sign posting requirements were met, stating that the sign that was there and to remain for 30 days was removed.

RESPONSE 12: Title 30 TAC § 39.604 requires that signs be placed at the site of the existing or proposed facility. The sign(s) must state that an application for a standard permit has been filed and the manner in which the commission may be contacted for further information.

Each sign placed at the site must be located within ten feet of every property line paralleling a public highway, street, or road. Signs must also be visible from the street and spaced at not more than 1,500-foot intervals. A minimum of one sign, but no more than three signs are required along any property line paralleling a public highway,

street, or road. Finally, in cases which notice is required to be published in an alternative language, the applicant must also post signs in the applicable alternative language.

The Applicant provided verification to the Office of the Chief Clerk in accordance with 30 TAC § 39.605 that signs were posted at the proposed site in accordance with 30 TAC § 39.604. The Applicant has met these requirements.

COMMENT 13: Corporate Profits

Jane E. Ridgway commenters expressed concern that the Applicant was only interested in profit without concern for impacts to neighbors.

RESPONSE 13: TCEQ does not have jurisdiction to consider a company's financial status or profit issues, including tax abatements, in determining whether or not a permit should be issued. As explained in previous responses, the decision by the Executive Director to issue the permit is based upon the authority and direction of the TCCA. Specifically, TCAA § 382.0518 provides that the TCEQ shall issue the permit if an application demonstrates that the proposed facility will use at least the BACT and there is no indication that the emissions from the facility will contravene the intent of the TCAA.

COMMENT 14: TCEQs Responsibility to the Community / General Opposition

Commenters asked that the TCEQ consider residents and their wishes and choose not to approve the permit registration for the proposed plant. Commenters expressed general opposition to the proposed project.

(Josh Andrews, Deann Brown, Peggy Brown, Terri Cabral, Brad Clark, Jason Collins, America Cordaway, Heather Craddock, Juan Fernando Dozal, Channing Dyson, Justin Dyson, Melanie Edwards, Mark Evans, Karyn Farthing Sorrell, Andrew D. Fox, Maria Gamero, Wendy Lizbeth Gamero, Lisa Griffin, Moises Hernandez, Christy Paul Hutchens, Jerry Paul Hutchens, Patti Jones, Amanda Labarbera, Kerrie Longoria, Patricia W. Love, Jeremy McFarland, Laurie Newby, Amanda Oblander, Brandon Oblander, Brenda Pina, Ben Ponce, Benito Ponce, Pundari Pothini, David Rees, Jane E. Ridgway, Silvia Ruvalcaba, Heather Schnoebelen, Jayden Sierra, Jeffrey Sorrell, Karyn Farthing Sorrell, Janice Thorn, Laura Vargas, Sharon Walker)

RESPONSE 14: The Executive Director acknowledges the concerns of the citizens. The TCEQ appreciates the comments and interest from the public in environmental matters before the agency and acknowledges the comments in opposition of the project. As stated previously, the TCEQ reviews all applications consistent with applicable law and the TCEQ's regulatory authority. The Executive Director's staff has reviewed the Standard Permit registration in accordance with the applicable state and federal law, policy and procedures, and the agency's mission to protect the state's human and natural resources consistent with sustainable economic development. As stated in previous responses, the TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met.

The approval of a permit does not bar anyone from civil claims. Should an individual wish to seek counsel they may do so. For further questions related to the permitting process, the Office of Public Interest Counsel can be reached at 512-239-6363.

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

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine K. Backens, Deputy Director
Environmental Law Division



Abigail Adkins, Staff Attorney
Environmental Law Division
State Bar Number 24132018
PO Box 13087, MC 173
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY