

TCEQ AIR QUALITY PERMIT NUMBER 174578
TCEQ DOCKET NUMBER 2025-0469-AIR

APPLICATION BY	§	BEFORE THE TEXAS
GONZALEZ BROTHERS BATCH	§	COMMISSION ON
PLANT LP	§	ENVIRONMENTAL QUALITY
VAN ALSTYNE, GRAYSON, TEXAS	§	

EXECUTIVE DIRECTOR’S RESPONSE TO HEARING REQUESTS

I. EXECUTIVE SUMMARY

The Executive Director recommends denying the hearing requests of Cassie L. Coburn and Patrick Coburn. Both submitted timely comments on the application. The Executive Director recommends denying both hearing requests.

II. 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 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) § 5.556.¹ This statute is implemented through the rules in 30 Tex. Admin. Code (TAC) Chapter 55, Subchapter F.

Three maps showing the location of the proposed facility are included with this Response and have been provided to all hearing requestors listed on the mailing list for this application. An appendix is also included with this Response and has 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 Office of the Chief Clerk for the commission’s consideration.

III. PLANT DESCRIPTION

Gonzalez Brothers Batch Plant, LP (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 standard permit will authorize the Applicant to construct a Concrete Batch Plant. The plant is proposed to be located using the following driving directions: from the intersection of Hodgens Road and Central Expressway Service Road, travel South for

¹ Statutes cited in this response may be viewed online at 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 or follow the “Rules” link on the TCEQ website at www.tceq.texas.gov.

approximately 0.2 miles to find the site entrance on the right, in Van Alstyne, Grayson County. Contaminants authorized under this permit include aggregate, cement, road dust, and particulate matter including particulate matter with diameters of 10 microns (PM₁₀) or less and 2.5 microns or less (PM_{2.5}).

IV. PROCEDURAL BACKGROUND

The permit application was received on November 9, 2023, and declared administratively complete on November 10, 2023. The Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision for this permit application was published in English on December 27, 2023, in the *Herald Democrat*.

A public meeting was originally scheduled for May 2, 2024, at Kidd-Key Auditorium, 400 Elm Street, Sherman, Texas, 75090. Notice of the public meeting was mailed on March 28, 2024. This scheduled meeting was cancelled on April 30, 2024, due to the venue being unavailable. Notice of the cancelation was posted on the commission's website and calendar on April 30, 2024, and staff from the Office of the Chief Clerk were at the venue at the scheduled time to inform anyone from the public who may not have received the notice. The notice of the re-scheduled public meeting was posted in English on July 1, 2024, to the TCEQ Homepage - Public Meeting Calander and mailed to the mailing list on July 1, 2024. The rescheduled public meeting was held on August 6, 2024, at Kidd-Key Auditorium, 400 Elm Street, Sherman, Texas, 75090. The public comment period ended on August 6, 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).

TCEQ received timely hearing requests that were not withdrawn from the following people: Cassie L. Coburn and Patrick Coburn.

On February 4, 2025, the Executive Director's RTC was filed and on February 11, 2025, the RTC was mailed to all persons on the mailing list for this permit application. 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.² 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. The time period for requests for reconsideration and hearing requests ended on March 13, 2025. During this 30-day period, TCEQ did not receive any additional contested case hearing requests or requests for reconsideration.

² See TCEQ rules at 30 TAC Chapter 55, Subchapter F. Procedural rules for public input to the permit process are found primarily in 30 TAC Chapters 39, 50, 55, and 80.

V. THE EVALUATION PROCESS FOR HEARING REQUESTS

House Bill 801 (76th Legislature, 1999) 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 (84th Legislature, 2015) revised the requirements for submitting public comments 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:
 - 1) whether the interest claimed is one protected by the law under which the application will be considered;
 - 2) distance restrictions or other limitations imposed by law on the affected interest;
 - 3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
 - 4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
 - 5) likely impact of the regulated activity on use of the impacted natural resource by the person;
 - 6) 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

- 7) 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 THSC § 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).

VI. 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 the appropriate length of the hearing is.

The following persons submitted timely hearing requests that were not withdrawn: Cassie L. Coburn and Patrick Coburn. 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).

A. Individual Requestors

1. Cassie L. Coburn

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 Cassie L. Coburn is not an affected person.

Cassie L. Coburn 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, Cassie L. Coburn stated that she is concerned about the proposed plant location, the air quality, and volatile organic compounds (VOCs), noise pollution, traffic congestion, runoff water pollution, and the proposed project's compliance with applicable environmental regulations and standards. Based on the representations provided by the applicant and the physical address of Mrs. Coburn provided in her hearing request, the residence of the requestor is 444.09 yards from the nearest emission point as determined by the ED's measurements. According to the site map plan provided by the applicant, the residence is 442.33 yards from the nearest emission point. Because Cassie L. Coburn is outside of 440 yards, the ED recommends denying her request as being beyond the statutorily set distance limitation.

In her request Cassie L. Coburn raised the following issues:

Issue 1: Whether the emissions generated by the proposed concrete batch plant will contain PM, VOCs, and other pollutants that may affect the air quality and health of those nearby.

Issue 2: Whether the proposed plant will increase truck traffic and negatively impact the roads.

Issue 3: Whether the proposed plant will disrupt the peace and tranquility of the surrounding area and affect property values.

Issue 4: Whether the proposed plant will contaminate nearby waterways with runoff pollution.

2. Patrick Coburn

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 Patrick Coburn is not an affected person.

Patrick Coburn submitted a timely hearing request during the comment period. The hearing request was in writing and provided the required contact information. In his hearing request, Patrick Coburn stated that he is concerned

about the proposed plant location, the air quality, and volatile organic compounds (VOCs), noise pollution, traffic congestion, runoff water pollution, and the proposed projects compliance with applicable environmental regulations and standards. Based on the representations provided by the applicant and the physical address of Mr. Coburn provided in his hearing request, the residence of the requestor is 444.09 yards from the nearest emission point as determined by the ED's measurements. According to the site map plan provided by the applicant, the residence is 442.33 yards from the nearest emission point. Because Patrick Coburn is outside of 440 yards, the ED recommends denying his request as being beyond the statutorily set distance limitation.

In his request Patrick Coburn raised the following issues:

Issue 1: Whether the emissions generated by the proposed concrete batch plant will contain PM, VOCs, and other pollutants that may affect the air quality and health of those nearby.

Issue 2: Whether the proposed plant will increase truck traffic and negatively impact the roads.

Issue 3: Whether the proposed plant will disrupt the peace and tranquility of the surrounding area and affect property values.

Issue 4: Whether the proposed plant will contaminate nearby waterways with runoff pollution.

VII. WHETHER ISSUES RAISED ARE REFERABLE TO SOAH FOR A CONTESTED CASE HEARING

The Executive Director has analyzed the 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.³ The Executive Director does not recommend referral of any issues, because there are no affected persons in this matter.

³ Tex. Govt. Code § 2003.047(e-1); 30 TAC § 55.211 (c)(2)(A)(ii).

VIII. CONCLUSION

The Executive Director respectfully recommends the commission:

1. Find all hearing requests in this matter were timely filed;
2. Find that there are no affected persons as a matter of law; and
3. Deny the hearing requests of Cassie L. Coburn and Patrick Coburn.

Respectfully submitted,

Kelly Keel, Executive Director

Phillip Ledbetter, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Katelyn Ding, Staff Attorney
Environmental Law Division
State Bar Number 24146268
MC-173, P.O. Box 13087
Austin, Texas 78711-3087

REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 28th 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. 174578 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.



Katelyn Ding, Staff Attorney
Environmental Law Division

**MAILING LIST
FOR
GONZALEZ BROTHERS BATCH PLANT, LP
TCEQ AIR QUALITY STANDARD CONCRETE BATCH PLANT PERMIT NO. 174578**

FOR THE CHIEF CLERK:

via e-filing

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

FOR THE APPLICANT:

via electronic mail

Deissy De La Rosa, Administrative
Assistant
Gonzalez Brothers Batch Plant, LP
P.O. Box 29955
Dallas, Texas 78664
r.e.consulting.m.a@gmail.com

**FOR THE EXTERNAL RELATIONS
DIVISION:**

via electronic mail

Ryan Vise, Deputy Director TCEQ
External Relations Division
Public Education Program,
MC-108
P.O. Box 13087
Austin, Texas 78711
pep@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 78711-3087
Garrett.Arthur@tceq.texas.gov

FOR THE EXECUTIVE DIRECTOR:

via electronic mail

Katelyn Ding, Staff Attorney
TCEQ Environmental Law Division
MC-173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-5933 FAX 512/239-0600
Katelyn.Ding@tceq.texas.gov

Amy Browning, Acting Senior Attorney
TCEQ Environmental Law Division
MC-173
P.O. Box 13087
Austin, Texas 78711-3087
512/239-0600 FAX 512/239-0600
Amy.Browning@tceq.texas.gov

Alexander Hilla
TCEQ Air Permits Division
MC-163
P.O. Box 13087
Austin, Texas 78711-3087
512/239-1137 FAX 512/239-7815
Alexander.Hilla@tceq.texas.gov

Joe Nicosia
TCEQ Air Permits Division
MC-163
P.O. Box 13087
Austin, Texas 78711-3087
512/239-1137 FAX 512/239-7815
Joe.Nicosia@tceq.texas.gov

Hearing Requestors:

via electronic mail

Cassie L. Coburn
175 Bear Rd.
Van Alstyne, Texas 78495
cassiecoburn@gmail.com

Patrick Coburn
175 Bear Rd.
Van Alstyne, Texas 78495
patrickcoburn@hotmail.com;
owners@g4gsports.com

Appendix A for Gonzalez Brothers 174578 Van Alstyne, GIS Map

Name	Lat	Long	State	Distance to Facility Point	Distance to Facility Boundary
1- Cassie & Patrick Coburn	33.445615	-96.60506	TX	456.48 Yards	444.09 Yards

Gonzalez Brothers 174578 Van Alstyne

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: 4/17/2025
CRF 0118011
Cartographer: mattoh



- Facility Point
- Cassie & Patrick Coburn
- Facility Boundary
- 440 Yards Radius From Facility Permit Point
- 0.5 Mile Radius From Facility Permit Point
- 1.0 Mile Radius From Facility Permit Point
- County Boundary

Distance From Requestor To Facility Point:

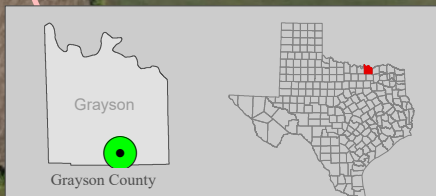
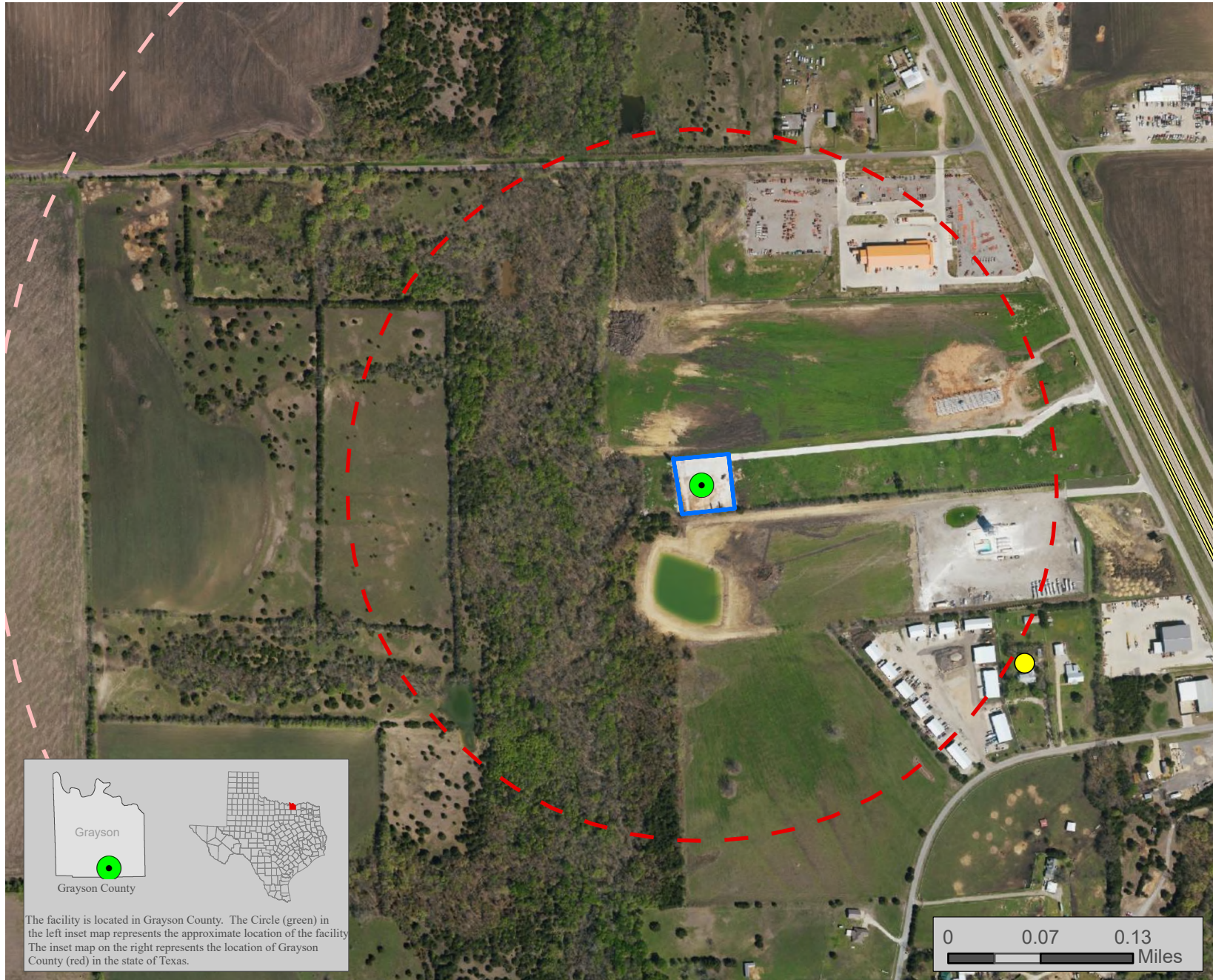
Cassie & Patrick Coburn: 456.48 Yards

Distance From Requestor To Facility Boundary:

Cassie & Patrick Coburn: 444.09 Yards

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.



The facility is located in Grayson 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 Grayson County (red) in the state of Texas.

Gonzalez Brothers 174578 Van Alstyne

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: 4/17/2025
CRF 0118011
Cartographer: mattoh



- Facility Point
- Cassie & Patrick Coburn
- Facility Boundary
- 440 Yards Radius From Facility Permit Point
- 0.5 Mile Radius From Facility Permit Point
- 1.0 Mile Radius From Facility Permit Point
- County Boundary

Distance From Requestor To Facility Point:

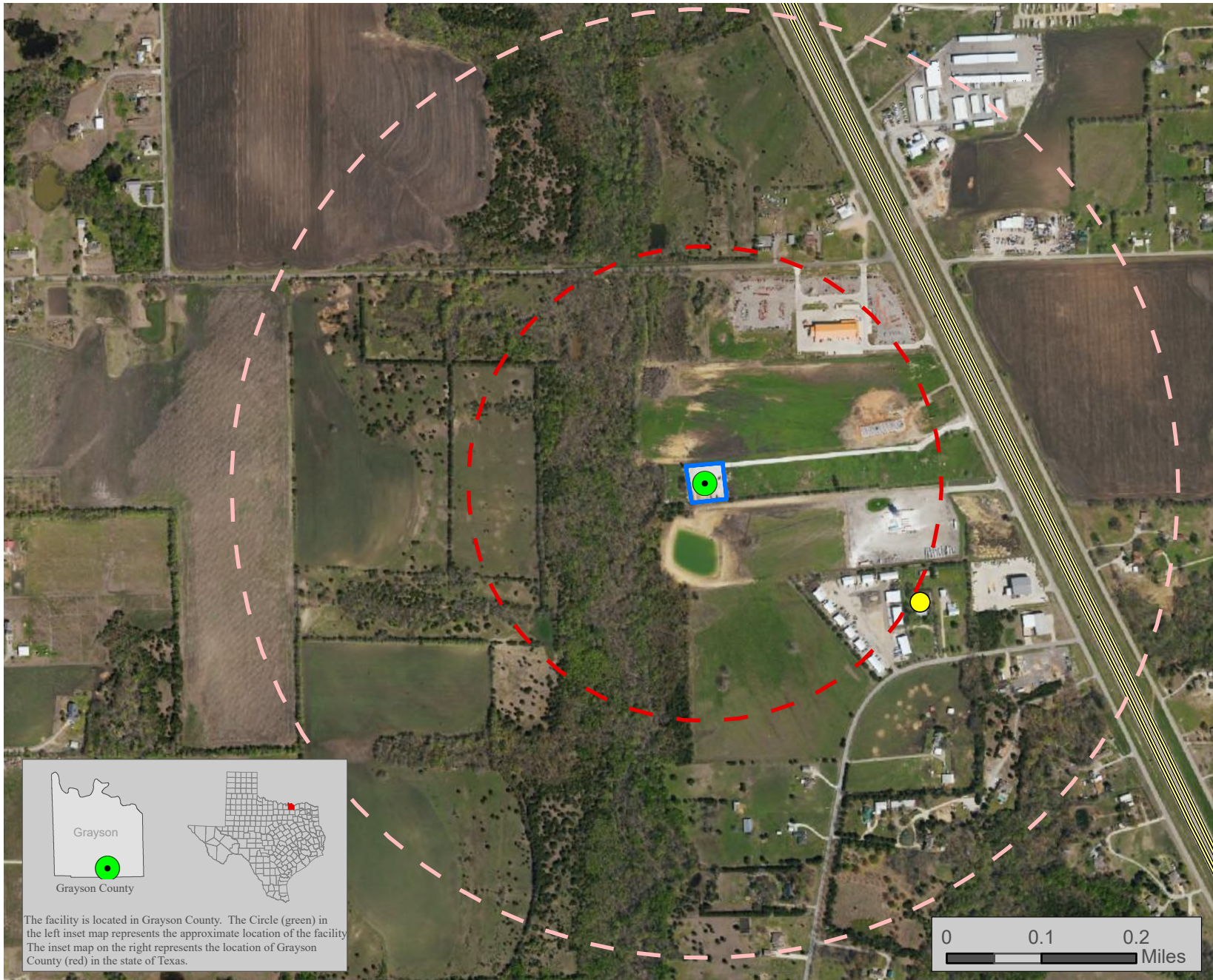
Cassie & Patrick Coburn: 456.48 Yards

Distance From Requestor To Facility Boundary:

Cassie & Patrick Coburn: 444.09 Yards

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.



The facility is located in Grayson 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 Grayson County (red) in the state of Texas.

Gonzalez Brothers 174578 Van Alstyne

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: 4/17/2025
CRF 0118011
Cartographer: mattoh



- Facility Point
- Cassie & Patrick Coburn
- Facility Boundary
- 440 Yards Radius From Facility Permit Point
- 0.5 Mile Radius From Facility Permit Point
- 1.0 Mile Radius From Facility Permit Point
- County Boundary

Distance From Requestor To Facility Point:

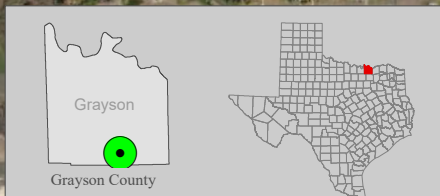
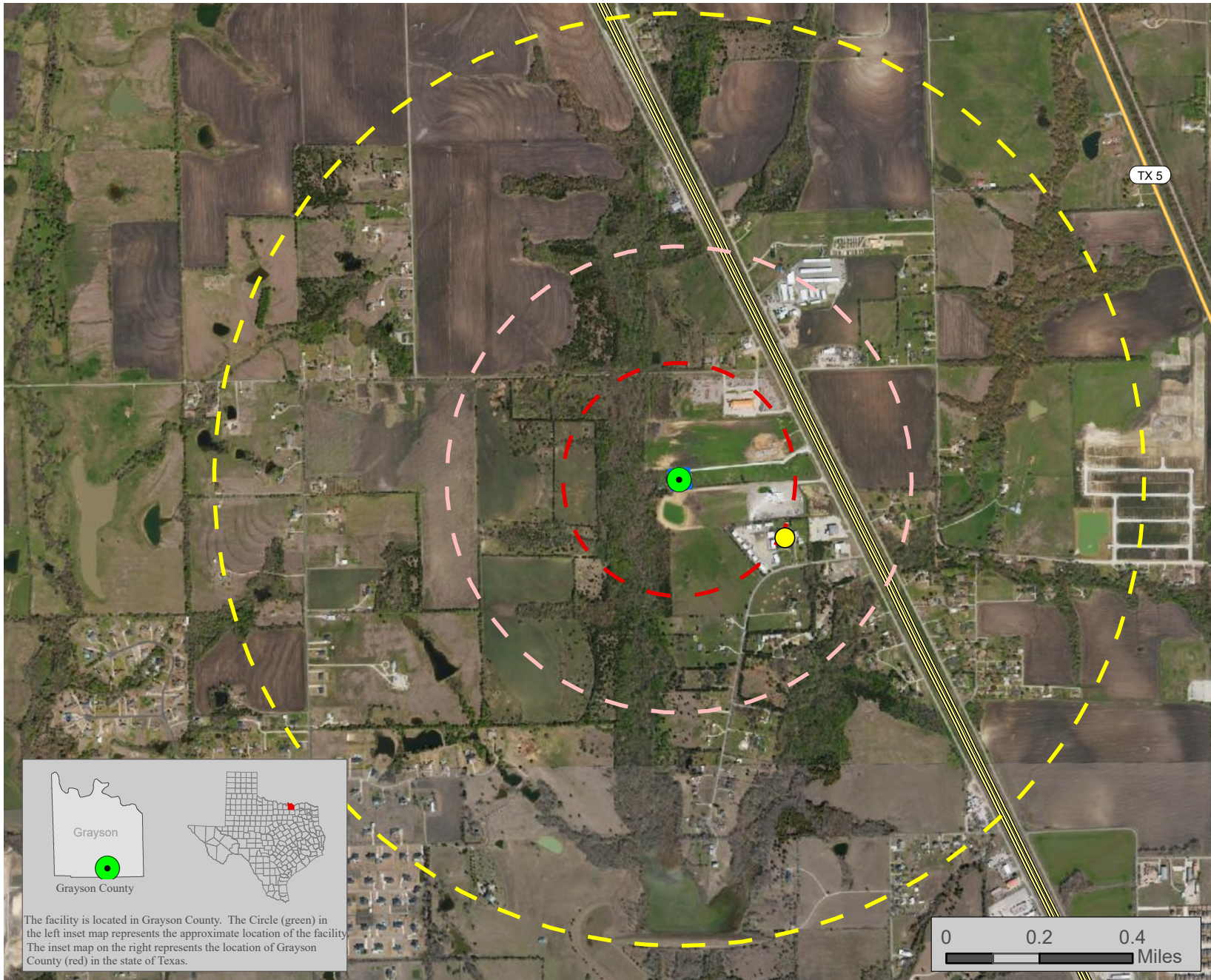
Cassie & Patrick Coburn: 456.48 Yards

Distance From Requestor To Facility Boundary:

Cassie & Patrick Coburn: 444.09 Yards

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.



The facility is located in Grayson 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 Grayson County (red) in the state of Texas.

0 0.2 0.4
Miles