

TCEQ AIR QUALITY PERMIT NUMBER 176289
TCEQ DOCKET NUMBER 2025-1292-AIR

APPLICATION BY	§	BEFORE THE
FORT BEND CONCRETE BATCH	§	
PLANT	§	TEXAS COMMISSION ON
MISSOURI CITY	§	
FORT BEND COUNTY	§	ENVIRONMENTAL QUALITY

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

I. INTRODUCTION

The Executive Director of the Texas Commission on Environmental Quality (Commission or TCEQ) files this response (Response) to the requests for reconsideration and contested case hearing submitted by persons listed herein regarding the above-referenced matter. The Texas Clean Air Act (TCAA), TEX. 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.

Maps showing the location of the proposed plant are included with this Response and have been provided to all hearing requestors listed on the service list for this application. In addition, a current compliance history report, technical review 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 transmitted by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the Commission’s consideration.

II. PLANT DESCRIPTION

Verti-Crete Houston, LLC (Applicant) has applied to TCEQ for a Standard Permit under Tex. Health & Safety Code (THSC) § 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 proposed to be located at 953 Pheasant Valley Drive, Missouri City, Fort Bend County. Contaminants authorized under this permit include particulate matter with diameters of 10 microns or less and 2.5 microns or less.

III. PROCEDURAL BACKGROUND

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain a permit from the

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.

commission. This permit application is for an initial issuance of Air Quality Permit Number 176289.

The permit application was received on May 8, 2024, and declared administratively complete on June 5, 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 19, 2024, in the *Fort Bend Star*, and in Spanish on June 23, 2024, in *La Prensa de Houston*. A public meeting was held on December 12, 2024, at Houston Community College - Missouri City Campus, 1600 Texas Parkway, Missouri City, Fort Bend County, Texas 77489. The notice of public meeting was published in English and Spanish to the TCEQ Website - Public Meetings Calendar and mailed to individuals on the mailing list on November 8, 2024. The public comment period ended on December 16, 2024. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

The Executive Director's RTC was filed with the Chief Clerk's Office on April 29, 2025, and instructions to access the electronic RTC or request a hard copy were mailed to all interested persons on May 8, 2025, including to those who asked to be placed on the mailing list for this application and those who submitted comments or requests for a contested case hearing. The cover letter attached to the RTC included information about making requests for a contested case hearing or for reconsideration of the Executive Director's decision. The letter also explained that hearing requestors should specify any of the Executive Director's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy. The time for requests for reconsideration and hearing requests ended on June 9, 2025.

The TCEQ received timely hearing requests that were not withdrawn during the comment period from: Air Alliance Houston, Robin J. Elackatt (The Mayor of The City of Missouri City), Stephanie Bush, Janai Buxton, Karen Sullivan, Michael Sullivan, Allison Sullivan (individually and listed as "affected persons" on Air Alliance Houston's request for contested case hearing), Xavier Wright, and Tynisha Wright. Untimely Hearing Requests were received from Lauren Reed and Thomas Gregory Romaine.

IV. APPLICABLE LAW FOR REQUESTS FOR RECONSIDERATION

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

V. RESPONSE TO REQUESTS FOR RECONSIDERATION

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

The TCEQ received timely requests for reconsideration from Mayor Robin J. Elackatt and the City of Missouri City, Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County, Bryan K. Crowder, Amber Johnson, Pete Lewis, Oralia Moreno, Martha Noyola, and Thomas Gregory Romaine. Prior to the Executive Director making a final decision, TCEQ received requests for reconsideration from: Mayor Robin J. Elackatt and the City of Missouri City, Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County, Bryan K. Crowder, Amber Johnson, Pete Lewis, Oralia Moreno, Martha Noyola, and Thomas Gregory Romaine. In general, the requests for reconsideration reiterated concerns that the Executive Director responded to in the RTC. The requestors referenced several RTC responses with which they disagreed. Where a response was not directly mentioned the Executive Director will respond to the requests for reconsideration under the RTC Response that best matches the issue or concern. The Executive Director provides the following response to the requests for reconsideration.

REQUEST FOR RECONSIDERATION OF RESPONSE 1: Health Effects/Air Quality

Mayor Robin J. Elackatt and the City of Missouri City, Oralia Moreno, Pete Lewis, Martha Noyola, and Amber Johnson requested reconsideration due to the health effects of the proposed plant. Oralia Moreno and Pete Lewis expressed concern that air quality would be degraded by dust emissions, negatively impacting the health of nearby residents. Oralia Moreno, Pete Lewis, and Amber Johnson voiced concern about the health impact of silica emissions. Amber Johnson expressed concern about the health effects from volatile organic compounds (VOCs), dust, and crystalline silica.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 1 of the RTC, the Executive Director determined that the emissions authorized by this permit are protective of both human health and welfare and the environment. The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment.

REQUEST FOR RECONSIDERATION OF RESPONSE 2: Dust Control/ Nuisance.

Mayor Robin J. Elackatt and the City of Missouri City requested reconsideration due to the amount of dust that may be emitted, and the effect it will have on the surrounding area.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 2 of the RTC, the Executive Director determined 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 condition of 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.

REQUEST FOR RECONSIDERATION OF RESPONSE 3: Environmental Concerns

Mayor Robin J. Elackatt and the City of Missouri City, Oralia Moreno and Pete Lewis requested reconsideration due to concerns that the emissions from the proposed plant would impact wildlife and the surrounding environment. Oralia Moreno and Pete Lewis expressed concern that dust emissions would negatively impact the health of local wildlife.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 3 of the RTC, the Executive Director determined that the emissions authorized by this permit are protective of public welfare and the environment, including local wildlife, from any known or anticipated adverse effects associated with the presence of a contaminant. The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment.

REQUEST FOR RECONSIDERATION OF RESPONSE 6: Location / Zoning

Oralia Moreno, Pete Lewis, Martha Noyola, Amber Johnson, and Bryan K. Crowder requested reconsideration due to the location of the proposed plant. Oralia Moreno and Pete Lewis voiced concern that the location of the proposed plant next to residential areas does not match the character of the neighborhood and should not be located in the area. Oralia Moreno and Pete Lewis voiced concern that the proposed plant should be located in an industrial area. Bryan K. Crowder, and Amber Johnson expressed concern about the proximity of the proposed plant to a high school. Bryan K. Crowder also expressed concern about the proximity to local parks.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 6 of the RTC, TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule specifically requires the Commission to consider some aspect of the location. Generally, zoning is beyond the jurisdiction of TCEQ to consider when reviewing air quality permit applications.

REQUEST FOR RECONSIDERATION OF RESPONSE 7: Traffic / Trucks / Roads

Mayor Robin J. Elackatt and the City of Missouri City, Oralia Moreno and Pete Lewis requested reconsideration due to the traffic and impact to roads from the proposed plant.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 7 of the RTC, TCEQ does not have jurisdiction to consider traffic, road safety, or road repair costs when determining whether to approve or deny a permit application.

REQUEST FOR RECONSIDERATION OF RESPONSE 8: Property Values

Oralia Moreno and Pete Lewis requested reconsideration due to the potential impact on property values from the proposed plant. Oralia Moreno and Pete Lewis expressed concern that truck traffic associated with the plant would result in declining property values.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 8 of the RTC, TCEQ does not have jurisdiction to consider whether the proposed activity will impact

property values, property transactions, or investment property when determining whether to approve or deny a permit application.

REQUEST FOR RECONSIDERATION OF RESPONSE 9: Noise

Oralia Moreno, Pete Lewis, Amber Johnson, and Bryan K. Crowder requested reconsideration due to the noise from the proposed plant and associated activities.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 9 of the RTC, TCEQ does not have jurisdiction to consider noise from a facility when determining whether to approve or deny a permit application.

REQUEST FOR RECONSIDERATION OF RESPONSE 15: Water Quality

Bryan K. Crowder requested reconsideration due to the impact on water quality due to the proposed plant.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 15 of the RTC, this registration only regulates the control and abatement of air emissions. Therefore, issues regarding water quality is not within the scope of this review.

REQUEST FOR RECONSIDERATION OF RESPONSE 16: Public Notice – Newspaper Publication

Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County requested reconsideration due to the assertion that the newspaper selected for public notice was not appropriate and that they were not properly informed about the proposed project or public meeting.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 16, the Applicant provided verification that it met all applicable notice requirements required by TCEQ rules and statutes. 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 19, 2024, in the *Fort Bend Star*, and in Spanish on June 23, 2024, in *La Prensa de Houston*. The notice of public meeting was published in English and Spanish to the TCEQ Website - Public Meetings Calendar and mailed to individuals on the mailing list on November 8, 2024.

REQUEST FOR RECONSIDERATION OF RESPONSE 17: Public Notice-Sign Posting

Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County requested reconsideration due to the assertion that they could not see the signs from their backyards or the nearby highway.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 17 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.

REQUEST FOR RECONSIDERATION OF RESPONSE 18: Access to permit documents

Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County requested reconsideration due to the assertion that they did not have access to the permit documents.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 18, The Applicant represented that the application was made available at Fort Bend Chamber of Commerce, 445 Commerce Green Boulevard, Sugar Land, Fort Bend County, Texas 77478. In addition, a copy of the application was also available at the TCEQ Houston Regional Office and the TCEQ Central Office. Specific representations were included in the application materials available at the aforementioned locations for the duration of the comment period.

REQUEST FOR RECONSIDERATION OF RESPONSE 20: Application Incomplete

Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County requested reconsideration due to the assertion that the application was incomplete and that the facility was in violation of Texas Health and Safety Code § 382.065 and Texas Health and Safety Code § 382.05198(a)(19) and EPA rules regarding setback distances for concrete batch plants.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 20, 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.

Texas Health and Safety Code § 382.065 relates to prohibiting Concrete Crushing Facility within 440 yards of a building in use as a single or multifamily residence, school, or place of worship at the time the application. Texas Health and Safety Code Section 382.065 is not applicable in this situation as the proposed initial authorization application for permit no. 176289 is for a Concrete Batch Plant and not a Concrete Crushing Facility.

REQUEST FOR RECONSIDERATION OF RESPONSE 25: Public Official Notifications.

Huma Ahmed and Earnest W. Wotring on behalf of Fort Bend County requested reconsideration due to the assertion that the local elected officials were notified about this pending application.

EXECUTIVE DIRECTOR'S RESPONSE: As described in detail in Response 25, the notification titled Registration under an Air Quality Standard Permit for Concrete Batch Plants was mailed on May 9, 2024, to Senator Borris L. Miles, Representative Ron Reynolds, Missouri City Mayor Robin Elackatt, and Fort Bend County Judge KP George.

VI. THE EVALUATION PROCESS FOR HEARING REQUESTS

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings, specifically regarding public notice and public comment and the Commission's consideration of hearing requests. Senate Bill 709

revised the requirements for submitting public comment and the Commission's consideration of hearing requests. The evaluation process for hearing requests is as follows:

A. Response to Hearing Requests

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a 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:

- 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;
- 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;

- request a contested case hearing;
- 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
- 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. In addition, 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.

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

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

D. Referral to the State Office of Administrative Hearings

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

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

30 TAC § 50.115(c).

VII. ANALYSIS OF THE HEARING REQUESTS

The commission received timely hearing requests from the following persons: Air Alliance Houston, Robin J. Elackatt (The Mayor of The City of Missouri City), Stephanie Bush, Janai Buxton, Karen Sullivan, Michael Sullivan, Allison Sullivan (individually and listed as "affected persons" on Air Alliance Houston's request for contested case hearing), Xavier Wright, and Tynisha Wright. Untimely Hearing Requests were received from Lauren Reed, and Thomas Gregory Romaine. The Executive Director has analyzed the hearing requests to determine whether they comply with Commission rules, if the requestors qualify as affected persons, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

Persons the Executive Director Recommends the Commission Find are Affected Persons

1. Karen Sullivan

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 Karen Sullivan is an affected person.

Ms. Sullivan submitted three requests for a contested case hearing during the comment period. Her hearing requests were in writing, provided the required contact information, and included issues that are the basis of the hearing request. Some of the issues raised in this hearing request were based on timely filed comments. Ms. Sullivan lives approximately 183.14 yards away from the proposed facility and raises the personal justiciable interest of health effects, as she suffers from allergies, migraines and a family history of cancer. She is particularly concerned that the operation of the proposed plant will result in exacerbation of her and her family's symptoms associated with the above illnesses. She is also concerned about and impacts to flora and fauna, including her backyard vegetable gardens. Based on the location of her property, issues raised, and interests affected by the application, Karen Sullivan has identified personal justiciable interests not common to members of the general public. Therefore, the Executive Director recommends that the Commission find Karen Sullivan is an affected person based on the criteria set out in 30 TAC § 55.203.

In her hearing request, Ms. Sullivan raised the following issues that were also raised in her timely comments:

- **Issue 1:** Whether the permit would be protective of human health.
- **Issue 2:** Whether the permit would be protective of flora and fauna, including backyard vegetable gardens.
- **Issue 3:** Whether the noise from the proposed plant would impact human health and quality of life.

Persons the Executive Director Recommends the Commission Find are NOT Affected Persons:

Individuals that did not meet the requirements of 30 TAC § 55.203.

- **Hearing Requestors who do not reside in the immediately surrounding area**

1. Robin J. Elackatt (The Mayor of The City of Missouri City)

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 Mayor Robin J. Elackatt and the City of Missouri City is not an affected person.

Mayor Robin J. Elackatt and the City of Missouri City submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information. In his hearing request, Mayor Elackatt claims the preliminary decision and standard permit were never available at the Fort Bend Chamber of Commerce, and when Fort Bend's legal

counsel visited the TCEQ Houston office, no one provided the documents or instructions to access the documents. They also challenge the economic benefit from Verti Crete, stating there has been no published support to show economic benefit to Fort Bend or the state. However, he did not raise an issue regarding concerns that would affect him, specifically, outside of stating his proximity to the proposed plant and the cities interests. For air authorizations, distance from the proposed plant 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. 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." The natural resource that is the subject of this permit is the ambient air an individual breathes. Even though his city is within 440 yards of the proposed plant, he has not demonstrated a personal justiciable interest and is not an affected party. Accordingly, the Executive Director recommends that the Commission find that Mayor Robin J. Elackatt and The City of Missouri City are not an affected person based on the criteria set out in 30 TAC §55.203 and THSC §55.203.

- **Hearing Requestors residing in the immediately surrounding location**

- 1. Stephanie Bush**

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 Stephanie Bush is not an affected person.

Stephanie Bush submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information. In her hearing request, Ms. Bush did not raise an issue other than general opposition to the permit application, and she did not leave another comment during the comment period. Using the address provided, the Executive Director determined that she lives approximately 186.69 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is the ambient air an individual breathes. Even though she is within 440 yards of the proposed plant, she has not demonstrated a personal justiciable interest and is not an affected party. Accordingly, the Executive Director recommends that the Commission find that Stephanie Bush is not an affected person based on the criteria set out in 30 TAC § 55.203.

- 2. Janai Buxton**

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 Janai Buxton is not an affected person.

Janai Buxton submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information. In her hearing request, Ms. Buxton did not raise an issue other than general opposition to the permit application, and she did not leave another comment during the comment period. Using the address provided, the Executive Director determined that she lives approximately 180.46 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is the ambient air an individual breathes. Although she is within 440 yards of the proposed plant, Ms. Buxton has not demonstrated a personal justiciable interest and is therefore not an affected party. Accordingly, the Executive Director recommends that the Commission find that Janai Buxton is not an affected person based on the criteria set out in 30 TAC § 55.203.

3. Lauren Reed

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 Lauren Reed is not an affected person.

Lauren Reed submitted a hearing request outside of the comment period because her June 11, 2025, request was not received before the deadline of June 9, 2025, under 30 TAC § 55.201(c). In her hearing request, Ms. Reed did not raise an issue other than general opposition to the permit application, and she did not leave another comment during the comment period. Using the address provided, the Executive Director determined that she lives 759.34 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is the ambient air an individual breathes. Ms. Reed does not reside within 440 yards of the proposed plant, she has not demonstrated a personal justiciable interest and is not an affected party, and her hearing request was not timely. Accordingly, the Executive Director recommends that the Commission find that Lauren Reed is not an affected person based on the criteria set out in 30 TAC § 55.203.

4. Thomas Gregory Romaine

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 Thomas Gregory Romaine is not an affected person.

Thomas Gregory Romaine submitted a hearing request outside of the comment period because his June 11, 2025, request was not received before the deadline of June 9, 2025, under 30 TAC § 55.201(c). In his hearing request, Mr. Romaine did not raise an issue other than general opposition to the permit application, and he did not leave another comment during the comment period. Using the

address provided, the Executive Director determined that he lives 759.34 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is the ambient air an individual breathes. Mr. Romaine does not reside within 440 yards of the proposed plant, he has not demonstrated a personal justiciable interest and is not an affected party, and his hearing request was not timely. Accordingly, the Executive Director recommends that the Commission find that Thomas Gregory Romaine is not an affected person based on the criteria set out in 30 TAC § 55.203.

5. Allison and Sullivan

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 Allison and Michael Sullivan are not affected persons.

Allison and Michael Sullivan submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information. In their hearing request, the Sullivan's did not raise an issue regarding concerns that would affect them, specifically, outside of stating their proximity to the proposed plant. Using the address provided, the Executive Director determined that they live 183.14 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is the ambient air an individual breathes. Although they live within 440 yards of the proposed plant, they have not demonstrated a personal justiciable interest and is therefore not an affected party. Accordingly, the Executive Director recommends that the Commission find that Allison and Michael Sullivan are not affected persons based on the criteria set out in 30 TAC § 55.203.

6. Xavier Wright

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 Xavier Wright is not an affected person.

Xaiver Wright submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information. In his hearing request, Mr. Wright did not raise an issue regarding concerns that would affect him, specifically, outside of stating his proximity to the proposed plant. Using the address provided, the Executive Director determined that he lives approximately 163.51 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is

the ambient air an individual breathes. Although he is within 440 yards of the proposed plant, he has not demonstrated a personal justiciable interest and is therefore not an affected party. Accordingly, the Executive Director recommends that the Commission find that Xavier Wright is not an affected person based on the criteria set out in 30 TAC § 55.203.

7. Tynisha Wright

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 Tynisha Wright is not an affected person.

Tynisha Wright submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information. In her hearing request, Mrs. Wright did not raise an issue regarding concerns that would affect her, specifically, outside of stating her proximity to the proposed plant. Using the address provided, the Executive Director determined that she lives approximately 163.51 yards from the proposed plant. For air authorizations, distance from the proposed plant 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. The natural resource that is the subject of this permit is the ambient air an individual breathes. Although she is within 440 yards of the proposed plant, she has not demonstrated a personal justiciable interest and is therefore not an affected party. Accordingly, the Executive Director recommends that the Commission find that Tynisha Wright is not an affected person based on the criteria set out in 30 TAC § 55.203.

Whether the Group and Association Requestors Meet the Affected Person Requirements

In addition to the requirements in 30 TAC § 55.201 and 30 TAC § 55.203, requests for a contested case hearing by a group or association on an application filed on or after September 1, 2015, must meet the requirements in 30 TAC § 55.205(b). Specifically: (1) the group or association must have submitted timely comments on the application; (2) the request must identify, by name and physical address, one or more members of the group or association that would otherwise have standing to request a hearing in their own right; (3) the interests the group or association seeks to protect must be germane to the organization's purpose; and (4) the claim asserted or the relief requested may not require the participation of the individual members in the case.

An association cannot have affected person status for contested case hearing requests on Standard Permits for concrete batch plant because the Texas Clean Air Act definitively states that an affected person must be within 440 yards of the nearest facility for these permit applications.² An association is not a person and the association that submitted hearing requests is outside of 440 yards. Therefore, the

² See Tex. Health & Safety Code § 382.058(c) (“[O]nly those persons actually residing in a permanent residence within 440 yards of the proposed plant may request a hearing under Section 382.056 as a person who may be affected.”).

association that submitted hearing requests for this permit application cannot have affected party status.

a. Air Alliance Houston (AAH)

Although AAH submitted timely comments on behalf of its members: Karen Sullivan, Allison Sullivan, and Michael Sullivan, the address provided for AAH itself on the submitted comment letter is not located within 440 yards of the proposed plant, and it is therefore not a person residing within 440 yards of the plant that may request a hearing as an affected person, as required by THSC § 382.058(c). Thus, the Executive Director recommends that the commission find that AAH is not an affected person.

Whether Issues Raised are Referable to SOAH for a Contested Case Hearing

The Executive Director has analyzed issues raised in accordance with the regulatory criteria. The issues discussed were raised during the public comment period and addressed in the RTC. None of the issues were withdrawn. For applications submitted on or after September 1, 2015, only those issues raised in a timely comment by a requestor whose request is granted may be referred.³ The issues raised for this application and the Executive Director's analysis and recommendations follow.

Issue 1: Whether the permit would be protective of human health and safety.

This issue involves a disputed question of fact, and was not withdrawn, and is relevant and material to the issuance of the draft permit. The issue was raised by a requestor who the Executive Director recommends the Commission find is an affected person. Therefore, the Executive Director recommends that the commission refer this issue to SOAH.

The Executive Director recommends referring this issue to SOAH.

Issue 2: Whether the permit would be protective of flora and fauna, including backyard vegetable gardens.

This issue involves a disputed question of fact, and was not withdrawn, and is relevant and material to the issuance of the draft permit. The issue was raised by a requestor who the Executive Director recommends the Commission find is an affected persons. Therefore, the Executive Director recommends that the commission refer this issue to SOAH.

The Executive Director recommends not referring this issue to SOAH.

Issue 3: Whether the noise from the proposed plant would impact human health and quality of life.

This issue involves a disputed question of fact and was not withdrawn; however, it is not relevant and material to the issuance of the draft permit. TCEQ's jurisdiction is limited to issues set forth in statute. TCEQ does not have authority to consider noise pollution or noise abatement measures. Therefore, the Executive Director recommends that the commission not refer this issue to SOAH.

³ TEX. GOVT. CODE § 2003.047(e-1); 30 TAC § 55.211 (c)(2)(A)(ii).

VIII. Executive Director's Recommendation

The Executive Director respectfully recommends the following actions by the Commission:

1. The Executive Director recommends that the Commission find that Karen Sullivan is an affected person and grant her hearing request.
2. The Executive Director recommends the Commission find that the remaining hearing requestors are not affected persons and deny their hearing requests.
3. The Executive Director recommends that the Commission deny the requests for reconsideration.
4. If referred to SOAH, refer the following issues as raised by an affected person as identified by the Executive Director:
 - **Issue 1:** Whether the permit would be protective of human health and safety.
 - **Issue 2:** Whether the permit would be protective of flora and fauna, including backyard vegetable gardens.

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



Katelyn Ding, Staff Attorney
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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on this 15th day of September, a true and correct copy of the "Executive Director's Response to Hearing Requests" for Air Quality Permit No. 176289 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.

A handwritten signature in blue ink that reads "Katelyn MR Ding". The signature is written in a cursive style with a horizontal line underneath the name.

Katelyn Ding, Staff Attorney
Environmental Law Division

Attachment A

Appendix A for Verti-Crete 176289

<i>ID</i>	<i>Name</i>	<i>Address</i>	<i>City</i>	<i>State</i>	<i>ZIP</i>	<i>Lat</i>	<i>Long</i>	<i>Distance to Facility Point (Yards)</i>
1	Allison Sullivan	1102 MESA VERDE DR	MISSOURI CITY	TX	77489	29.618	-95.5274	183.14
2	Michael Sullivan	1103 MESA VERDE DR	MISSOURI CITY	TX	77489	29.618	-95.5274	183.14
3	Karen Sullivan	1104 MESA VERDE DR	MISSOURI CITY	TX	77489	29.618	-95.5274	183.14
4	Lauren Reed	1110 CIRCLE BEND DR	MISSOURI CITY	TX	77489	29.6133	-95.5253	759.34
5	Thomas Gregory Romaine	1111 CIRCLE BEND DR	MISSOURI CITY	TX	77489	29.6133	-95.5253	759.34
6	Janai Buxton	911 PINE MEADOW DR	MISSOURI CITY	TX	77489	29.6195	-95.525	180.46
7	Xavier Wright	906 PINE MEADOW DR	MISSOURI CITY	TX	77489	29.6198	-95.5252	163.51
8	Tynisha Wright	906 PINE MEADOW DR	MISSOURI CITY	TX	77489	29.6198	-95.5252	163.51
9	Stephanie Bush	807 PINE MEADOW DR	MISSOURI CITY	TX	77489	29.6179	-95.5273	186.69
10	Mayor Robin J. Elackatt and the City of Missouri City, Thurgood Marshall High School	1229 BUFFALO RUN	MISSOURI CITY	TX	77489	29.6117	-95.5223	1050.82



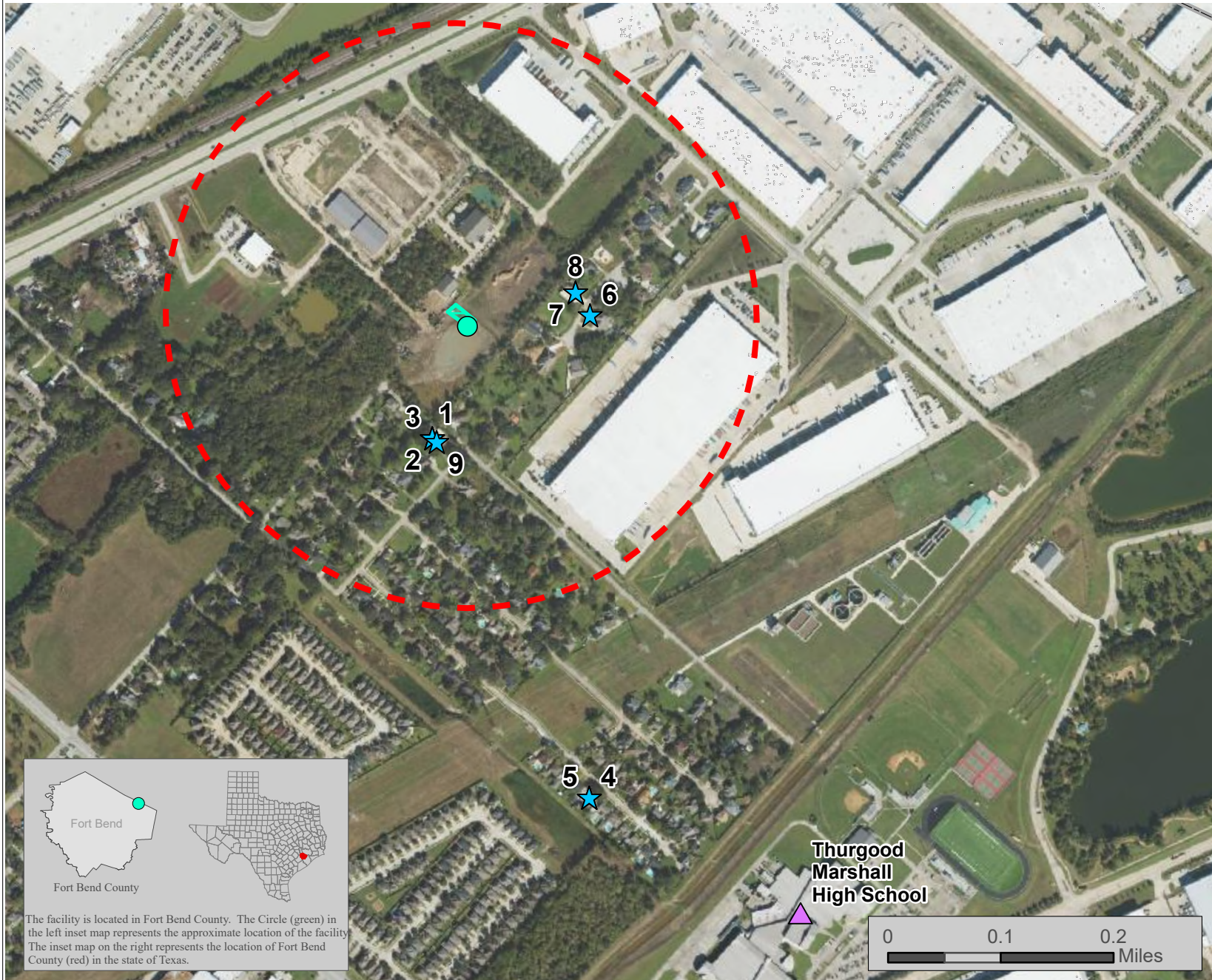
Verti-Crete 176289

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



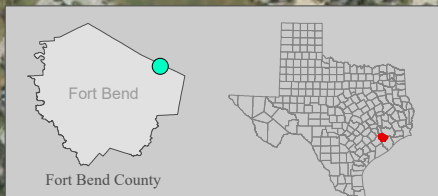
*Protecting Texas by
Reducing and
Preventing Pollution*

Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
Date: 9/3/2025
CRF 0129004
Cartographer: RKukushk



-  Emission Point
-  Facility Boundary
-  Thurgood Marshall High School
-  440 yards from Facility Boundary
-  Requestors

Requestor Distances in
Appendix A.

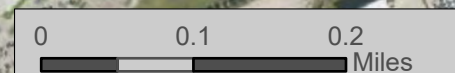


The facility is located in Fort Bend County. The Circle (green) in the left inset map represents the approximate location of the facility. The inset map on the right represents the location of Fort Bend County (red) in the state of Texas.

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.

**Thurgood
Marshall
High School**



MAILING LIST

Verti-Crete Houston, LLC
Air Permit No./Air Permiso No. 176289
TCEQ Docket No./ TCEQ Expediente No. 2025-1292-AIR

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See attached list/Ver listado adjunto.

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