

Request for Contested Case Hearing and “Reply Brief” for Affected Person Status

Requestor’s Name: **Stephanie Bush**

Address, City, State, Zip of property: **807 Pine Meadow Dr, Missouri City, TX 77489**

Daytime phone number: **713-398-5936**

Applicant’s Name and Permit Number: **Verti-Crete Houston, LLC Permit Number**

176289 Docket #: 2025-1292-AIR

I, **Stephanie Bush**, hereby request a contested case hearing regarding the Verti-Crete Houston, LLC air permit No. 176289 and henceforth offer a ‘reply brief’ to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named ‘parties’).

According to (30 TAC 55.203), I meet all the conditions to be named an Affected Person as I have personal justiciable interest and a reasonable relationship with the application and should be afforded the protections by law under which the application is considered. My interests are not common to members of the general public such that the location of my property, my health; safety, impact on my natural resources, and use and an enjoyment of the property will be adversely affected by the proposed facility and its related activities.

Issues of ‘Reply Brief’:

1. Proximity: Location of the Requestor’s Affected Property (i.e. home, business, or property)
2. Personal Justiciable Interests: I have personal justiciable interests that are not common to members of the general public.

Statement of Fact based on Parties’ Responses:

1. Proximity

My permanent residence at **807 Pine Meadow Dr, Missouri City, TX 77489** is located approximately **186.69** yards from the fence-line of the proposed Verti-Crete Houston Property and **186.69** yards from the proposed location of the concrete batch plant:



I, **Stephanie Bush**, live within 440 yards and so do my neighbors:

Janai Buxton (within 181 yards)
 911 Pine Meadow Dr
 Missouri City, TX 77489

Tynisha Wright (within 164 yards)
 906 Pine Meadow Dr
 Missouri City, TX 77489

Allison Sullivan (within 184 yards)
 1102 Mesa Verde Dr
 Missouri City, TX 77489

Xavier L Wright Sr (within 164 yards)
 906 Pine Meadow Dr
 Missouri City, TX 77489

Karen Sullivan (within 184 yards)
 1102 Mesa Verde Dr
 Missouri City, TX 77489

30 TAC 55.203 (c) (2) states:

“In determining whether a person is an affected person, all factors shall be considered, including, but not limited to [...] distance restrictions or other limitations imposed by law (emphasis added) on the affected interest.”

Per THSC Section 382.058 (c), “...persons actually residing in a permanent residence

within 440 yards of the proposed plant” are recommended for Affected Person status.

The Executive Director (ED) recommended only certain requestors as affected persons while excluding others in the same household or within the same 440-yard range. This creates an arbitrary distinction unsupported by law.

ED’s reasoning: (ED Response, p. 11 of 17).

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.

Rebuttal:

- Under THSC §382.058(c), any person actually residing in a permanent residence within 440 yards of the proposed plant qualifies as an affected person.
- I live at 807 Pine Meadow Dr, Missouri City, TX 77489, which is located **186.69 yards** from the proposed facility.
- All household members within 440 yards deserve recognition as affected persons, not just one.
- Neighbors (and all persons within their household) who also reside within 440 yards of the proposed batch location and are affected include:
 - Janai Buxton
 - Allison Sullivan
 - Karen Sullivan
 - Xavier Wright
 - Tynisha Wright

OPIC’s position: OPIC correctly recognized that multiple household members within 440 yards may qualify as affected persons. OPIC has previously affirmed that proximity and health impacts extend to all household members, not just one.

Demand: As such, I demand that I, along with my enlisted neighbors, be recommended for Affected Person status due to distance from the concrete batch plant.

2. Personal Justiciable Interests

- The personal health effects of living in close proximity to a batch plant include challenges to my health including, but not limited to, eye irritation (right eye surgery scheduled for 10/10/25), allergic reactions to airborne chemicals/pathogens (I take a daily prescription for allergies), skin irritation (hives/eczema), and respiratory issues.
- The air quality impact of living in close proximity to a batch plant will taint the organic quality of my home vegetable/fruit garden which is harvested and shared with neighbors as well as family and friends who visit my home.
- The air quality impact of living in close proximity to a batch plant jeopardizes the health of friends and family who visit our home for social occasions.

Health Effects / Air Quality

Whether the permit would be protective of human health and air quality.

ED's reasoning: (ED Response, p. 3 of 17).

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.

Rebuttal:

The particular health concerns that affect me/my household beyond the general public include:

- Eye irritation; allergies; skin irritation (hives/eczema) and respiratory issues.
- Daily activities such as gardening/landscaping, outdoor recreation, and use of the front and backyard expose all residents equally to concrete dust, particulate matter (PM2.5, PM10), silica, and diesel emissions.
- These risks are well-documented in TCEQ's own rulemakings and in federal health literature. Exposure is not speculative but certain given the facility's location within a residential neighborhood.

OPIC's Position: OPIC explicitly acknowledged that health and quality of life impacts are valid bases for affected person status. OPIC's recognition should be adopted and extended to all household members.

Demand: As such, I demand recognition as Affected Persons due to health impacts specific to my household and proximity. My lived experience and health vulnerabilities demonstrate a personal justiciable interest not common to the general public.

Dust Control / Nuisance**

Whether the proposed activity from the proposed plant would create nuisance conditions and negatively impact human health and quality of life.

ED's reasoning: (ED Response, p. 3 of 17).

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.

Rebuttal:

- I live at 807 Pine Meadow Dr, Missouri City, TX 77489, within **186.69** yards of the proposed facility. Dust from concrete batch plants is not a speculative issue but an inevitable byproduct of operations, particularly cement unloading, truck traffic, and batch mixing.
- On a daily basis, I will be forced to cease use of screened windows, increase exterior cleaning of the home, vehicles and other property directly exposed to the elements, restrict outdoor activity, limit children from playing outside, which is a direct interference with the use and enjoyment of my property.
- Dust from concrete operations includes fine particulates, silica, and diesel soot. These are not only aesthetic nuisances (dirtying cars, laundry, windows, porches) but also health stressors that trigger asthma, allergies, and respiratory irritation. My household includes children (periodically) and adults with compromised health, who will be disproportionately impacted by dust accumulation.
- The ED’s dismissal of nuisance ignores the reality that dust deposition is a physical, daily interference with life at my residence. TCEQ’s own concrete batch plant rulemakings acknowledge dust as a major concern.

OPIC’s position: OPIC explicitly acknowledged that nuisance conditions can negatively impact human health and quality of life, and considered this issue relevant in assessing affected person status (OPIC Response, p. 11-12). While OPIC noted that nuisance is not always referred to SOAH, OPIC nevertheless supported broader recognition of affected residents based on these concerns.

Demand: As such, I demand recognition as an Affected Person due to nuisance impacts that will significantly disrupt my health and daily quality of life. Dust deposition, forced indoor confinement, and repeated cleaning burdens are unique to households like mine within 440 yards of the facility. These impacts demonstrate a personal justiciable interest not common to the general public and must be considered in evaluating affected person status.

Environmental Impact

Whether the permit would be protective of flora and fauna, including backyard vegetable gardens. Whether the emissions from the proposed facility would negatively impact wildlife and the surrounding environment, including due to the cumulative impacts of the other surrounding emissions.

ED’s reasoning: (ED Response, p. 4 of 17).

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.

Rebuttal:

- I maintain a vegetable/fruit garden, fruit trees, herbs, and pollinator plants as a passion on my property within **186.69** yards of the proposed facility. Dust and particulate matter (including PM2.5, PM10, and silica) will deposit directly onto soil, leaves, and edible produce, creating unsafe conditions for food consumption.
- Concrete dust contains alkaline particles and heavy metals, which are harmful to soil chemistry, plant health, and pollinators. This risk is particular to me as a resident who depends on my garden for food, recreation, cultural practices, and household nutrition.
- Wildlife in my yard such as birds, butterflies, bees, lizards, and rabbits and other species will also be negatively affected by dust coating, air pollution, and habitat disruption.
- These impacts go beyond “generalized environmental concern” because they interfere directly with my personal use and reliance on my backyard garden, property, and local wildlife.
- TCEQ itself has acknowledged the risks of cumulative emissions in past rulemakings but failed to consider that multiple surrounding facilities in this area compound the environmental burden.

OPIC’s position: OPIC explicitly acknowledged that environmental impacts to gardens, flora, and fauna are valid bases for affected person status (OPIC Response, p. 10). OPIC recognized that residents who grow food or maintain property exposed to facility emissions have individualized, justiciable interests distinct from the general public.

Demand: As such, I demand recognition as an Affected Person due to environmental impacts specific to my property and reliance on its gardens, plants, and local wildlife. My use of my land and natural resources demonstrates a personal justiciable interest not common to the general public.

Timely Filing of Hearing Requests

Whether the hearing request was filed in a timely manner.

ED’s reasoning: (ED Response, p. 5 of 17)

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.

Rebuttal:

- I did file my comments and/or request for contested case hearing on time as confirmed by my submission on September 14, 2025 using the online filing portal.
- The ED has not provided evidence that my filing was late, nor explained how my request differs from others filed and accepted in the same timeframe.
- Even if there were clerical or administrative inconsistencies, the fact remains that my request was submitted within the public comment period and included the required elements (name, address, proximity, concerns).
- To deny affected person status on the basis of a supposed “untimely filing” without clear proof is arbitrary and contrary to 30 TAC §55.201 and §55.203, which require consideration of all persons with a personal justiciable interest.
- Courts and administrative precedent emphasize that technical filing issues should not bar participation where substantive rights and interests are at stake—especially for residents living within the statutory 440-yard threshold under THSC §382.058(c).

OPIC's position: OPIC recognized that several requestors did timely file and supported their participation. OPIC also acknowledged that residents close to the facility who demonstrated proximity and health concerns should be granted affected person status regardless of administrative errors in the handling of filings (OPIC Response, p. 3.)

Demand: As such, I demand recognition as an Affected Person because I timely filed my request and demonstrated a personal justiciable interest in this matter. My proximity to the facility, health impacts, and use of property qualify me under statute, and my filing record supports this.

In summary, I respectfully disagree that other persons within my household failed to submit timely filed comments as both myself and my husband were named on the letter. I respectfully disagree that we do not have personal justiciable interests, or failed to list concerns for the proposal in my statement resulting in denial of affected status. I respectfully disagree that the ED's oversight of permits is the 100% guarantee that all potential violations will be prevented, as no commercial property is blameless against environmental harm based on its very existence. Furthermore, I do not have confidence that the batch plant will utilize safe practices at a rate of 100%. While permits require scheduled review, the literature describes how some efforts toward safety are a preference, meaning an option beyond enforcement.

It's disappointing that that ED's position is completely dismissive of the affected residents' concerns for this proposal and is an obvious bullying tactic at our expense. The ED made no attempts to speak with me (or other persons within my household) personally to discuss my concerns which would have been a good faith effort on their part, and it appears the ED relied on the convoluted administrative process to thwart the residents from fighting back. What protections do the affected residents have when an "oops" happens? Does the company notify affected residents of such events or do they just work to correct the issue in time for the next permit review? As an affected resident there are entirely too many unknowns to support this proposal with any belief that no harm will ever occur.

As such, I demand that I be recommended for Affected Person status due to personal, justiciable interest affected by the concrete batch plant. I therefore request a Contested Case Hearing as an Affected Person under the law.

Respectfully submitted,

A handwritten signature in black ink that reads "Stephanie Bush". The script is cursive and fluid, with the first letter of each name being capitalized and prominent.

Stephanie Bush
09/26/25

Re: TCEQ Permit #176289

The Bush Family of Bolton Estates at 807 Pine Meadow Dr, Missouri City, TX 77489 is contesting the use of property on Chang An Dr for the purpose of building a concrete batch plant. The environmental hazards alone are not conducive to a healthy quality of life, nor does it support homeowner concerns for property value.

The environmental issues associated with a small batch concrete company include:

- **Air Pollution:** Dust and particulate matter from material handling and mixing can lead to health risks and air quality issues.
- **Water Pollution:** Improper disposal of wastewater can contaminate local water sources, posing risks to aquatic life.
- **Noise Pollution:** The operation of heavy machinery can disturb nearby residents, leading to complaints and potential legal issues.
- **Resource Consumption:** High water usage and the need for energy-intensive cement production contribute to environmental sustainability concerns.
- **Waste Management:** Inefficient handling of waste, including leftover concrete and packaging, can lead to land contamination and increased landfill use.

Given there are homes directly aligned to the property in question, **this proposal is a clear and present danger to their existence.** The families on Pine Meadow Dr did not work to build homes only to become surrounded by the chaos/noise of warehouses and other commercial industrial endeavors. The residents of Bolton Estates are still awaiting improvements to the surrounding draining issues that were supposed to have been corrected ~2024. This project will only exacerbate those issues.

09/14/25

Re: TCEQ Permit #176289

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- **Resource Consumption:** High water usage and the need for energy-intensive cement production contribute to environmental sustainability concerns.
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Given there are homes directly aligned to the property in question, **this proposal is a clear and present danger to their existence.** The families on Pine Meadow Dr did not work to build homes only to become surrounded by the chaos/noise of warehouses and other commercial industrial endeavors. The residents of Bolton Estates are still awaiting improvements to the surrounding draining issues that were supposed to have been corrected ~2024. This project will only exacerbate those issues.

In addition, we are requesting that the meeting to review this issue be held **virtually**.

Stephanie and Andre Bush

Request for Contested Case Hearing and “Reply Brief” for Affected Person Status

Requestor’s Name: Janai’ Buxton

Address, City, State, Zip of property: 911 Pine Meadow Dr. Missouri City TX 77489

Daytime phone number: 409-351-5789

Applicant’s Name and Permit Number: Verti-Crete Houston, LLC Permit Number

176289 Docket #: 2025-1292-AIR

I, Janai’ Buxton, hereby request a contested case hearing regarding the Verti-Crete Houston, LLC air permit No. 176289 and henceforth offer a ‘reply brief’ to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named ‘parties’).

According to (30 TAC 55.203), I meet all the conditions to be named an Affected Person as I have personal justiciable interest and a reasonable relationship with the application and should be afforded the protections by law under which the application is considered. My interests are not common to members of the general public such that the location of my property, my health & safety, impact on my natural resources, and use and an enjoyment of the property will be adversely affected by the proposed facility and its related activities.

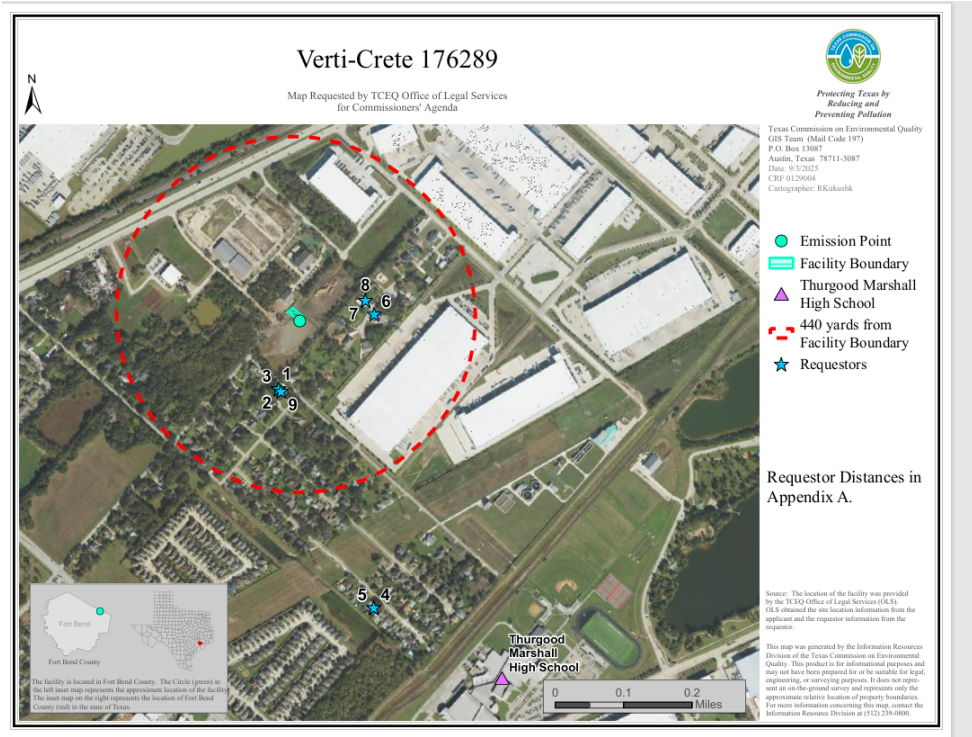
Issues of ‘Reply Brief’:

1. Proximity: Location of the Requestor’s Affected Property (i.e. home, business, or property)
2. Personal Justiciable Interests: I have personal justiciable interests that are not common to members of the general public.

Statement of Fact based on Parties’ Responses:

1. Proximity

My permanent residence at 911 Pine Meadow Dr. Missouri City TX 77489 is located within 400 yards from the fence-line of the proposed Verti-Crete Houston Property and 180.46 yards from the proposed location of the concrete batch plant:



I, **Janai' Buxton**, live within 440 yards and so do my neighbors listed in the following table from 1 through 9:

Appendix A for Verti-Crete 176289

ID	Name	Address	City	State	ZIP	Lat	Long	Distance to Facility Point (Yards)
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

30 TAC 55.203 (c) (2) states:

“In determining whether a person is an affected person, all factors shall be considered, including, but not limited to [...] distance restrictions or other limitations imposed by law (emphasis added) on the affected interest.”

Per THSC Section 382.058 (c), “...persons actually residing in a permanent residence within 440 yards of the proposed plant” are recommended for Affected Person status.

The Executive Director (ED) recommended only certain requestors as affected persons while excluding others in the same household or within the same 440-yard range. This creates an arbitrary distinction unsupported by law.

ED’s reasoning: ED response for request for reconsideration of response 6: Location/zoning.

Rebuttal:

- Under THSC §382.058(c), *any person actually residing in a permanent residence within 440 yards of the proposed plant qualifies as an affected person.*
- I live at 911 Pine Meadow Dr Missouri City TX 77489, which is located 180.46 yards from the proposed facility.
- I strongly contest the claim that the concrete batch plant being constructed just 180 yards from my primary residence does not affect me or my family. This assertion disregards both scientific evidence and the specific health vulnerabilities present in my household.
- All household members within 440 yards deserve recognition as affected persons, not just one.
- Allison Sullivan at 1102 Mese Verde Dr. Missouri City TX 77489, Michael Sullivan at 1103 Verde Dr Missouri City TX 77489, Janai Buxton at 911 Pine Meadow Dr Missouri City TX 77489, Xavier Wright at 906 Pine Meadow Dr Missouri City TX 77489, Stephanie Bush at 807 Pine Meadow Dr Missouri City TX 77489, Ham Garza at 926 Pine Meadow Dr Missouri City TX 77489, Andre Bush at 807 Pine Meadow Dr Missouri City TX 77489, William Cronin at 902 Pine Meadow Dr Missouri City Texas, all live within 400 yards from the proposed Verti-Crete concrete batch plant.

OPIC’s position: OPIC correctly recognized that multiple household members within 440 yards may qualify as affected persons. OPIC has previously affirmed that proximity and health impacts extend to all household members, not just one.

Demand: As such, I demand that I, along with my enlisted neighbors, be recommended for Affected Person status due to distance from the concrete batch plant.

2. Personal Justiciable Interests

Health Effects / Air Quality

ED's reasoning: ED Response, p. 3: Health effects/Air quality

- I reside with my husband and two young children—ages 7 and 4—who both suffer from allergies that require ongoing treatment with prescription medication from their pediatrician. My son has also experienced episodes of croup, a respiratory condition that can be triggered or worsened by poor air quality and airborne irritants. The proximity of this plant places my children at heightened risk for exacerbated symptoms and long-term respiratory complications.
- Concrete batch plants emit a range of pollutants known to compromise air quality and respiratory health:
 - Particulate Matter (PM10 and PM2.5): These microscopic particles can penetrate deep into the lungs, aggravating asthma, allergies, and other respiratory conditions.
 - Cement Dust: Contains silica and other irritants that can trigger coughing, wheezing, and chronic bronchitis.
 - Nitrogen Oxides and VOCs: These contribute to ground-level ozone and can inflame airways, especially in children.
- The EPA and multiple health studies have confirmed that children are especially vulnerable to air pollution due to their developing lungs and higher respiratory rates.
- Proximity Amplifies Exposure
- At just 186 yards from my home, the plant's emissions will not be diluted by distance. Studies show that pollutant concentrations are highest within 300 yards of concrete batch operations, making my residence—and more critically, my children—directly exposed.
- To deny the impact of this facility on my family is to ignore the ethical obligation to protect vulnerable populations. The health of my children should not be collateral damage in industrial development. I urge the responsible parties to reconsider the placement of this plant, implement stringent air quality controls, and prioritize community health over convenience.

- This concrete batch plant will affect my children being able to go outside for exercise or play in fear of having an exacerbation of allergies from the pollutants a concrete batch company creates, thus affecting our way of living.
- These risks are well-documented in TCEQ's own rulemakings and in federal health literature. Exposure is not speculative but **certain** given the facility's location within a residential neighborhood.
- According to Ziropiannis et al., Concrete batch plants in Harris County collectively emit between 38 and 111 tons of PM2.5 annually, contributing to measurable health damages including premature deaths, with disproportionate impacts on low-income and minority communities (Ziropiannis et al., 2023).
[Citation: Ziropiannis, N., Byrne, A., Hollingsworth, A. J., & Konisky, D. M. (2023). *Polluting under the Radar: Emissions, Inequality, and Concrete Batch Plants in Houston*. *Environmental Science & Technology*, 57(31), 114451–114462. American Chemical Society.]

OPIC's position: Animal, Human, and Environmental Health and Safety and Use/ Enjoyment The Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a).

Demand: As such, I demand recognition as Affected Persons due to health impacts specific to my household and proximity. My lived experience and health vulnerabilities demonstrate a personal justiciable interest not common to the general public.

Dust Control / Nuisance

ED's reasoning: ED Response for reconsideration of response 2: dust control/nuisance p. 3. "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.

Rebuttal:

- I live at 911 Pine Meadow Dr Missouri City TX 77489, within 163.51 yards of the proposed facility. Dust from concrete batch plants is not a speculative issue but an inevitable byproduct of operations, particularly cement unloading, truck traffic, and batch mixing.
- Dust from concrete batch plants is not just a health concern but a **daily nuisance** that directly interferes with the use and enjoyment of my home. Fine particles settle on our windows, porches, cars, laundry, and garden, requiring constant cleaning and forcing us to keep windows closed. This dust also limits my children's ability to safely play outside, as it aggravates their allergies and causes coughing and breathing difficulty. These impacts are not hypothetical inconveniences; they are a **persistent, physical intrusion** into our property and daily life, demonstrating why dust control is a central issue with facilities like Verti-Crete. On a daily basis, I will be forced to close windows, increase cleaning, restrict outdoor activity, or prevent children from playing outside, which is a direct interference with the use and enjoyment of my property.
- Dust from concrete operations includes fine particulates, silica, and diesel soot. These are not only aesthetic nuisances (dirtying cars, laundry, windows, porches) My household includes allergic children & adults, who will be disproportionately impacted by dust accumulation.
- The ED's dismissal of nuisance ignores the reality that dust deposition is a physical, daily interference with life at my residence. TCEQ's own concrete batch plant rulemakings acknowledge dust as a major concern.

OPIC's position: OPIC's response p. 11 & 12: "Animal, Human, and Environmental Health and Safety and Use/Enjoyment the Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a). Therefore, Issue Nos. 1, 2, and 3 are relevant and material. Public Notice the THSC § 382.056 requires the applicant to publish notice in a newspaper of general circulation within the municipality where the proposed facility is located or will be located. TCEQ implemented this public notice requirement through

its rules in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. Therefore, Issue No. 4 regarding public notice is relevant and material.”

Demand: As such, I demand recognition as an Affected Person due to nuisance impacts that will significantly disrupt my children and I’s health and daily quality of life. Dust deposition, forced indoor confinement, and repeated cleaning burdens are unique to households like mine within 440 yards of the facility. These impacts demonstrate a personal justiciable interest not common to the general public and must be considered in evaluating affected person status.

Environmental Impact

ED’s reasoning: ED’s response for reconsideration 3 Environmental concerns p. 4

“The Executive Director finds that generalized concerns about environmental impacts are not sufficient to demonstrate a personal justiciable interest” “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.”

Rebuttal:

- My family consumes vegetables from the garden of our neighbor, Stephanie Bush, whose property is located within 180 yards of the proposed facility. Dust and particulate matter (including PM2.5, PM10, and silica) will deposit directly onto soil, leaves, and edible produce, creating unsafe conditions for food consumption.
- Concrete dust contains alkaline particles and heavy metals, which are harmful to soil chemistry, plant health, and pollinators. This risk is particular to me as a resident who depends on my garden for food, recreation, & household nutrition.
- Wildlife in my yard, such as birds, butterflies, bees, & rabbits, will also be negatively affected by dust coating, air pollution, and habitat disruption.
- These impacts go beyond “generalized environmental concern” because they interfere directly with my personal use and reliance on my backyard garden, property, and local wildlife.
- TCEQ itself has acknowledged the risks of cumulative emissions in past rule makings but failed to consider that multiple surrounding facilities in this area compound the environmental burden.

OPIC's position: OPIC's response p. 11 & 12: "Animal, Human, and Environmental Health and Safety and Use/Enjoyment the Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a). Therefore, Issue Nos. 1, 2, and 3 are relevant and material. Public Notice the THSC § 382.056 requires the applicant to publish notice in a newspaper of general circulation within the municipality where the proposed facility is located or will be located. TCEQ implemented this public notice requirement through its rules in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. Therefore, Issue No. 4 regarding public notice is relevant and material."

Demand: As such, I demand recognition as an Affected Person due to environmental impacts specific to my property and reliance on its gardens, plants, and local wildlife. My use of my land and natural resources demonstrates a personal justiciable interest not common to the general public.

Timely Filing of Hearing Requests

Whether the hearing request was filed in a timely manner.

ED's reasoning: ED's response pp. 11-12 # 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, Mrs. Buxton 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 186.42 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.”

Rebuttal:

- I filed my comments and/or request for contested case hearing on time as confirmed by my submission on June 9, Jun 11, July 2, and September 15. CN# CN606261493 through the TCEQ online portal. I attended the public meeting at Houston Community College Missouri City Campus 1600 Texas Parkway, Missouri City TX 77489 on December 12, 2024 and went on record with the impact this would have on myself and my family.
- The ED has stated that I filed in a timely manner, however, I did state these concerns and demonstrate personal justiciable reasons to why I should be granted the affected person status as further expounded in this letter.
- Even if there were clerical or administrative inconsistencies, the fact remains that my request was submitted within the public comment period and included the required elements (name, address, proximity, concerns).
- Courts and administrative precedent emphasize that technical filing issues should not bar participation where substantive rights and interests are at stake—especially for residents living within the statutory 440-yard threshold under THSC §382.058(c).

OPIC's position: OPIC's response p. 2 : “The 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 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. The Executive Director (ED) mailed a Response to Comments on May 8, 2025, and the deadline to submit a hearing request or request for reconsideration of the ED's decision on this application was June 9, 2025. The Commission received timely comments and hearing requests from Missouri City, Air Alliance Houston, Stephanie Bush, Janai Buxton, Allison Sullivan, Karen Sullivan, Michael Sullivan, Tynisha Wright, and Xavier Wright.”

Demand: As such, I demand recognition as an Affected Person because I timely filed my request and demonstrated a personal justiciable interest in this matter. My proximity to the facility, health impacts, and use of property qualify me under statute, and my filing record supports this.

In summary, I respectfully disagree that I do not have personal justiciable interests. **As a Physician Assistant specializing in pediatric orthopedic care, I am deeply familiar with the implications of environmental health on vulnerable populations. I initially refrained from disclosing personal health details out of respect for privacy and in accordance with HIPAA principles, which I uphold professionally and personally. However, given the dismissive nature of the response and the urgent need to protect my family, I am compelled to share this context to underscore the real and measurable risks we face. As such, I demand that I be recommended for Affected Person status due to personal, justiciable interest affected by the concrete batch plant.** I therefore request a Contested Case Hearing as an Affected Person under the law.

Respectfully submitted,

Janai' A. Buxton

I am writing to strongly oppose the proposed construction of a concrete plant near my home and community. While I recognize the need for economic development, this facility poses significant risks that outweigh potential benefits.

Public Health & Safety Risks

Concrete plants generate large amounts of dust, particulate matter, and emissions that can worsen air quality and cause respiratory problems, especially for children, seniors, and individuals with preexisting health conditions. The constant truck traffic needed to operate such a plant will also increase noise, congestion, and the risk of accidents in our neighborhoods.

Environmental Impacts

The plant's operations threaten to damage our local environment. Dust and runoff can pollute nearby soil and water, while the noise and light pollution will disrupt the peace and quality of life that residents currently enjoy. Over time, these issues can lower property values and discourage new families from moving into the area.

Quality of Life Concerns

Our community is primarily residential. We chose to live here because it is safe, family-oriented, and conducive to healthy living. Placing an industrial facility of this magnitude so close to our homes undermines the very character of our neighborhood.

Request for Action

I urge decision-makers to reject this proposal and explore alternative sites that are properly zoned for heavy industrial use and situated away from residential neighborhoods, schools, and community spaces. Development should strengthen our community, not jeopardize its health, safety, and livability.

For the well-being of current and future residents, I respectfully request that the proposed concrete plant not be approved.

Sincerely,

Janai' Buxton

911 Pine Meadow Dr, Missouri City, TX 77489



1522 Texas Parkway
Missouri City, Texas 77489

Phone: 281.403.8500
www.missouricitytx.gov

September 26, 2025

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Sent electronically at: [TCEQ e-Comments](#)

Sent via mail, first class, return receipt requested at:

9589 0710 5270 2705 2485 62

Re: Verti-Crete Houston, LLC TCEQ Air Quality Standard Permit for Concrete Batch Plant Registration No. 176289 Response to Office of Public Interest Council ("OPIC") and Executive Director's Recommendations Regarding the City's Request for Contested Case Hearing and Request for Reconsideration

Dear Chief Clerk Gharis:

This correspondence relates to the proposed permit cited above. On May 27, 2025, the City received notice that the Executive Director "made a decision that the...permit application meets the requirements of applicable law." On June 2, 2025, I requested a contested case hearing and also requested reconsideration of the Executive Director's decision on the status of the Verti-Crete Houston, LLC TCEQ Air Quality Standard Permit for Concrete Batch Plant Registration No. 176289 (Registration No. 176289). On September 15, 2025, the City received notice that the OPIC and Executive Director are recommending that (i) the Commission find that the City of Missouri City and I, as Mayor, are not an "affected person" as it relates to Registration No. 176289, and (ii) the Commission deny the requests for reconsideration. Once again, I am writing on behalf of the City of Missouri City to formally express our disagreement with the OPIC and Executive Director's recommendations regarding our request for reconsideration and a contested case hearing. We respectfully request further consideration of our concerns.

"Affected Person" Determination

As noted in my previous correspondence, the proposed site for Registration No. 176289 is in Missouri City, Texas. According to the Executive Director's response on September 15, 2025, the Executive Director is recommending 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" (emphasis added). As an initial matter, there is no such Section 55.203 of the Texas Health and Safety Code. Setting that citation aside, though, the City of Missouri City and I, as Mayor, are an "affected person" as it relates to Registration No. 176289 under 30 Tex. Admin. Code § 55.203(b) for the following reasons:

1. **Regulatory Definition and Statutory Authority:** 30 Tex. Admin. Code § 55.103 defines an affected person as one “who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application,” with the determination governed by 30 Tex. Admin. Code § 55.203. 30 Tex. Admin. Code § 55.203(b) expressly provides that “governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.” Thus, the City of Missouri City and I, as Mayor, should be considered an “affected persons” under the relevant regulations.
2. **Additional Grounds for “Affected Person” Standing:**
 - As Mayor, I hold a statutory duty to protect the health, safety, and welfare of Missouri City residents, a unique and direct legal interest not held by the public at large.
 - The presence of residentially zoned areas and sensitive community uses in the area adjacent to the proposed batch plant site heightens the impact to municipal interests over general public concerns and supports the existence of a distinct justiciable interest.
 - As the Mayor of Missouri City, I have been elected to represent the interests of the City’s residents over zoning, local air quality, nuisance abatement, infrastructure, and notification rights—issues directly “raised by the application.”
 - Furthermore, the Executive Director’s response on September 15, 2025 fails to address my claim of improper notice presented on June 5, 2025. Failure to receive the statutorily required notice of Verti-Crete’s application at the time the TCEQ received the application demonstrates injury to a statutory right specific to cities and their presiding officers under Subsection 382.0516(b)(2) of the Texas Health and Safety Code. As previously noted, Registration No. 176289 failed to meet the legal requirements for approval and should be submitted for a contested case hearing, and if such request is denied, for reconsideration to provide the consideration process in accordance with state law and in the public’s interest.
4. **Distance Limitation is Not Absolute for Governmental Entities:** While the Executive Director’s response applies a strict “440-yard” rule based on THSC § 382.058(c), the regulatory text of 30 Tex. Admin. Code § 55.203(b)-(c) specifically carves out governmental entities with a relevant statutory role, making their authority and interest in the regulatory issues a separate – and controlling – basis for “affected person” standing, not limited to residential proximity. The regulation lists “distance restrictions” only as one of several factors, not a threshold limitation for governmental entities.
5. **Supporting Agency Regulations:** The Commission’s own rules and regulations confirm that governmental entities (and their presiding officers) may be considered affected persons when they have state-law authority “over issues raised by the application,” which is true for myself as the Mayor and presiding officer of the City of Missouri City, concerning municipal health, safety, infrastructure, and zoning impacted by the batch plant permit.

Based on the language of 30 Tex. Admin. Code §§ 55.103 and 55.203, and the factual assertions and statutory authority presented, the City of Missouri City and I, as Mayor, qualify as an “affected person” because of our legal rights, duties, and statutory authority directly related to the issues raised by the application. These interests are distinct from those common to the general public and are not subject to the residential distance limitation which should be interpreted to apply to private individuals, not to governmental entities with authority over the regulated matter.

Request for Reconsideration

In response to the Executive Director’s recommendation on September 15, 2025 that the Commission deny the requests for reconsideration, I am writing on behalf of the City of Missouri City to formally express my disagreement with the Executive Director’s recommendation and reaffirm my request for reconsideration of the Verti-Crete Houston, LLC TCEQ Air Quality Standard Permit for Concrete Batch Plant Registration No. 176289 (Registration No. 176289).

The Executive Director’s response on September 15, 2025 expressly acknowledges that Verti-Crete’s permit “will authorize the construction of a new facility that may emit air contaminants...includ[ing] particulate matter with diameters of 10 microns or less and 2.5 microns or less.” The Executive Director goes on to state that the emissions authorized by this permit are “protective of both human health and welfare and the environment,” without acknowledging that the proposed facility is to be located on property that *shares a property line with land zoned for residential uses*. According to the Commission’s own publication dated June 27, 2023 and titled *Summary of 2021 Exceptional Event Demonstration for Particulate Matter*, “[b]reathing air with high levels of particulate matter can cause health problems.” As previously noted, Verti-Crete’s application fails to provide sufficient information to determine whether the facility’s emissions will negatively affect air quality, the health and safety of the residents of my city, particularly those residents in the general area of the plant, and the use and enjoyment of property in that general area by the City’s residents.

The Executive Director’s response on September 15, 2025 to dust control and nuisance conditions fails to take into account that there is a true fact issue as to whether the location of the plant at the proposed location causes a nuisance condition. The Executive Director’s response expressly acknowledges that “nuisance conditions are not *expected* if the facility is operated in compliance with the terms of the permit.” However, this response fails to acknowledge that Verti-Crete’s permit “will authorize the construction of a new facility that may emit air contaminants...includ[ing] particulate matter with diameters of 10 microns or less and 2.5 microns or less” on property that shares a property line with land zoned for residential uses. The plant site will serve as a nuisance condition due to its proximity to residential areas and community facilities (in addition to the high school, the proposed plant is located less than approximately 5,000 feet from a middle school, elementary schools, the city hall, a church and a county community center).

Although the Executive Director noted that the TCEQ may not have jurisdiction to consider whether the proposed activity will impact roads, development and property values in the

City, the TCEQ may consider whether a reasonable relationship exists between the interest claimed and the activity regulated. *See* 30 Tex. Admin. Code § 55.203(c).

As previously noted, I hereby authorize all correspondence to be provided to the City Attorney, who may be notified as follows:

E. Joyce Iyamu
City Attorney, City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489
ejiyamu@missouricitytx.gov
(281) 403-8660 / no fax available

Thank you for your attention to this matter, and thank you for your service to the State of Texas.

Sincerely,

A handwritten signature in blue ink, reading "Robin J. Elackatt", with a long horizontal flourish extending to the right.

Robin J. Elackatt
Mayor

Cc: Angel L. Jones, City Manager
E. Joyce Iyamu, City Attorney

Request for Contested Case Hearing and “Reply Brief” for Affected Person Status

Requestor’s Name: Allison Sullivan

Address, City, State, Zip of property: 1102 Mesa Verde Drive, Missouri City Texas 77489

Daytime phone number: 832-235-9820

Applicant’s Name and Permit Number: Verti-Crete Houston, LLC Permit Number

176289 Docket #: 2025-1292-AIR

I, Allison Sullivan, hereby request a contested case hearing regarding the Verti-Crete Houston, LLC air permit No. 176289 and henceforth offer a ‘reply brief’ to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named ‘parties’).

According to (30 TAC 55.203), I meet all the conditions to be named an Affected Person as I have personal justiciable interest and a reasonable relationship with the application and should be afforded the protections by law under which the application is considered. My interests are not common to members of the general public such that the location of my property, my health & safety, impact on my natural resources, and use and an enjoyment of the property will be adversely affected by the proposed facility and its related activities.

Issues of ‘Reply Brief’:

1. Proximity: Location of the Requestor’s Affected Property (i.e. home, business, or property)
2. Personal Justiciable Interests: I have personal justiciable interests that are not common to members of the general public.

Statement of Fact based on Parties’ Responses:

1. Proximity

My permanent residence at 1102 Mesa Verde Drive, Missouri City TX 77489 is located approximately 16 yards from the fence-line of the proposed Verti-Crete Houston Property and 183.14 yards from the proposed location of the concrete batch plant:

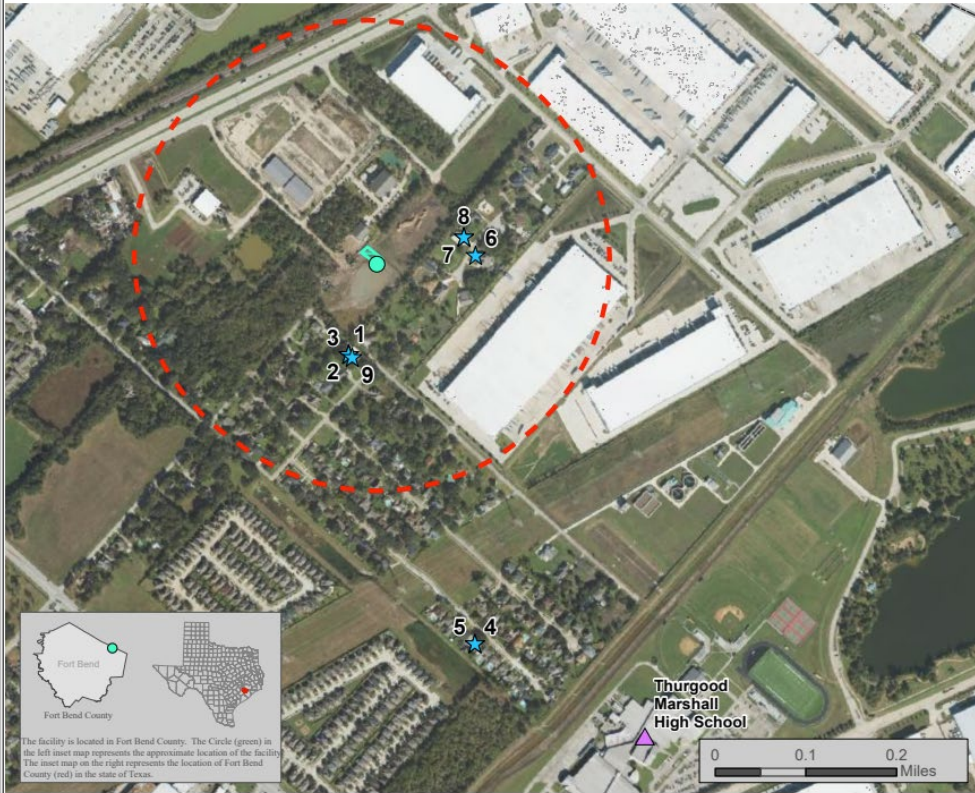
Verti-Crete 176289

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: RKakushik



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

Requestor Distances in
Appendix A.

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 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.

Thurgood
Marshall
High School

0 0.1 0.2
Miles



I, **Allison Sullivan**, live within 440 yards **and so do my neighbors:**

Karen Sullivan (within 184 yards)
1102 Mesa Verde Drive
Missouri City TX, 77489

Michael Sullivan (within 184 yards)
1102 Mesa Verde Drive
Missouri City TX, 77489

Meagan Sullivan (within 184 yards)
1102 Mesa Verde Drive
Missouri City TX, 77489

Raymonny Van (within 157 yards)
1109 Adams Street
Missouri City TX, 77489

Ann Dukes (within 334 yards)
907 Bolton Drive
Missouri City TX, 77489

Jessie McCormick (within 324 yards)
903 Bolton Drive
Missouri City TX, 77489

Tracy Spencer (within 413 yards)
914 Bolton Drive
Missouri City TX, 77489

Trinity Spencer (within 413 yards)
914 Bolton Drive
Missouri City TX, 77489

Pete Lewis (within 424 yards)
805 Bull Lane
Missouri City TX, 77489

William Parks (within 424 yards)
803 Bull Lane
Missouri City TX, 77489

Yolonda Lara (within 435 yards)
811 Bull Lane
Missouri City TX, 77489

Cecilia Ballesteros (within 430 yards)
807 Bull Lane
Missouri City TX, 77489

Norman Wood (within 415 yards)
942 Echo Creek Drive
Missouri City TX, 77489

Annette Simmons (within 288 yards)
1126 Mesa Verde Drive
Missouri City TX, 77489

Howard King (within 250 yards)
1118 Mesa Verde Drive
Missouri City TX, 77489

Raquel Sarahi Garcia (within 148 yards)
1103 Mesa Verde Drive
Missouri City TX, 77489

Rochelle Emanuel (within 288 yards)
1126 Mesa Verde Drive
Missouri City TX, 77489

Ham Garza (within 134 yards)
926 Pine Meadow Drive
Missouri City TX, 77489

Stephanie Bush (within 187 yards)
807 Pine Meadow Drive
Missouri City TX, 77489

Tynisha Wright (within 164 yards)
906 Pine Meadow Drive
Missouri City TX, 77489

Xavier L Wright Sr (within 164 yards)
906 Pine Meadow Drive
Missouri City TX, 77489

Janai Buxton (within 181 yards)
911 Pine Meadow Drive
Missouri City TX, 77489

Milton Buxton (within 181 yards)
911 Pine Meadow Drive
Missouri City TX, 77489

William Cronin (within 213 yards)
902 Pine Meadow Drive
Missouri City TX, 77489

30 TAC 55.203 (c) (2) states:

“In determining whether a person is an affected person, all factors shall be considered, including, but not limited to [...] distance restrictions or other limitations imposed by law (emphasis added) on the affected interest.”

Per THSC Section 382.058 (c), “...persons actually residing in a permanent residence within 440 yards of the proposed plant” are recommended for Affected Person status.

The Executive Director (ED) recommended only certain requestors as affected persons while excluding others in the same household or within the same 440-yard range. This creates an arbitrary distinction unsupported by law.

ED’s reasoning:

ED response p. 13 notes that, “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.”

However, directly after this, the ED p. 13 **notes** that, “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 reasonings given for another member of my household, Karen Sullivan, being an affected persons, ED Response p. 10, include that she 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.”

Rebuttal:

- Under THSC §382.058(c), *any person actually residing in a permanent residence within 440 yards of the proposed plant qualifies as an affected person.*
- I live at 1102 Mesa Verde Drive, which is located 183.14 yards from the proposed facility.
- All household members within 440 yards deserve recognition as affected persons, not just one. Others in my household include Karen Sullivan, Allison Sullivan, and Meagan Sullivan – none of them have been recognized despite the same distance between themselves and the proposed location.
- Additionally, as stated by the ED, the proximity between a household and facility is especially important as distance determines the concentration of air emissions

affecting a household when considering the reality of air dispersion and the weight of such particulate matter in how far it is able to travel before it settles. It is an objective fact that the closer a person is to a facility site, the more air pollution they will experience simply by virtue of proximity.

- Neighbors (and all persons within their household) who also reside within 440 yards of the proposed batch plant location and are affected include, but are not limited to:

- Karen Sullivan (within 184 yards)
- Allison Sullivan (within 184 yards)
- Meagan Sullivan (within 184 yards)
- Raymonny Van (within 157 yards)
- Ann Dukes (within 334 yards)
- Jessie McCormick (within 324 yards)
- Tracy Spencer (within 413 yards)
- Trinity Spencer (within 413 yards)
- Pete Lewis (within 424 yards)
- William Parks (within 424 yards)
- Yolonda Lara (within 435 yards)
- Cecilia Ballesteros (within 430 yards)
- Norman Wood (within 415 yards)
- Annette Simmons (within 288 yards)
- Howard King (within 250 yards)
- Raquel Sarahi Garcia (within 148 yards)
- Rochelle Emanuel (within 288 yards)
- Ham Garza (within 134 yards)
- Stephanie Bush (within 187 yards)
- Tynisha Wright (within 164 yards)
- Xavier L Wright Sr (within 164 yards)
- Janai Buxton (within 181 yards)
- Milton Buxton (within 181 yards)
- William Cronin (within 213 yards)

OPIC's position:

OPIC correctly recognized that multiple household members within 440 yards may qualify as affected persons. OPIC has previously affirmed that proximity and health impacts extend to all household members, not just one.

OPIC determined that, based on the concerns I have stated, as well as my proximity to the facility location, I am to be considered affected persons. They stated that this applied for Michael Sullivan as well. OPIC response p. 9 notes, "As discussed earlier, OPIC finds that

the Sullivans have a personal justiciable interest in this matter which is not common to members of the general public, and therefore, they are affected persons under 30 TAC § 55.203.”

While the ED felt I did not present any, “personal justiciable interest,” OPIC acknowledged my doing so. In their reasoning for their finding, OPIC p. 9 documented that I, “submitted timely comments and individual hearing requests emphasizing their proximity to the proposed facility, including that they share a property line with the site and live there full-time.”

OPIC response p. 8 states, “According to the map prepared by the ED’s staff, the Sullivans are located within 440 yards from the proposed facility. This satisfies THSC Section 382.058(c) as their home is within 440 yards of the proposed plant. The Sullivans’ proximity to the Applicant’s facility increases the likelihood of impacts on their health, safety, and use of property. See 30 TAC § 55.203(c)(4). Based on the Sullivans’ concerns and proximity to the facility, the Sullivans have a personal justiciable interest in this matter which is not common to members of the general public.”

Demand: As such, I demand that I, Allison Sullivan, be recommended for Affected Person status due to distance from the concrete batch plant.

2. Personal Justiciable Interests

I request that you take my comments into account. I have copied them below and have added issue labels and am submitting additional information.

Health Effects / Air Quality

Whether the permit would be protective of human health and air quality.

ED's reasoning:

The ED p. 13 states that, "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."

As my household consisting of Michael Sullivan, Karen Sullivan, and myself, Allison Sullivan, is less than 184 yards from the proposed concrete batch facility, a measly 16 yards away from our property line, the concentration of pollution will be significant in and around our home.

In their reasoning for their ruling myself as not being affected persons, the ED response p. 13 notes that I, "did not raise an issue regarding concerns that would affect them, specifically, outside of stating their proximity to the proposed plant."

Despite the concern for health impacts such as various chronic respiratory issues, skin irritation, and long-term health problems such as heart and lung cancers and silicosis that I shared in my own comments, the ED did not consider me as an affected persons. As I am in the same household as Karen Sullivan, I would experience the same health impacts as she has noted in her comments, which were accepted by the ED.

Rebuttal:

- I am directly affected by allergies, and myself and others in my household experience respiratory sensitivities. Karen Sullivan and I both experience days-long migraine headaches which are triggered by emissions in the air. Simply walking past a diesel truck's exhaust can cause hours of pain, and this facility would be right next to my backyard. I would never be able to go outside without risking chronic pain for hours, up to days, at a time as a result.
- My family has a significant documented history of cancer and heart disease, both of which are health concerns that would only increase with this proposed concrete batch plant as the emissions are documented as leading to increased risk for both cancer and heart disease, as well as many lung and respiratory illnesses.

- My baby nephew visits my household often and he has already been sick many times in his 9 months of life, and emissions from a concrete batch plant would put him at very high risk of developing a chronic life-long health condition such as asthma.
- The pollution from this facility would be a disruption to my daily life and would directly disrupt my use of my property. I will have to either end my normal use of my property by restricting all outdoor activity, or place myself at risk of physical harm from the emissions of the concrete batch plant.
- Daily activities such as gardening, outdoor recreation, and use of my backyard would expose myself and my family to concrete dust, particulate matter (PM2.5, PM10), silica, and diesel emissions. I would not be able to be outside in my own yard without some form of protective gear due to the particulate matter/metals in the air.
- My family has been growing several gardens for our consumption, all of which will be tainted by the dust, which contains fine particulates, silica, and diesel soot.
- This dust is not only aesthetic nuisances (dirtying cars, laundry, windows, porches) but also health stressors that trigger asthma, migraines, allergies, and respiratory irritation, among other health impacts.
- I also understand that the varying sizes of dust from concrete batch plants means that the dust will find a way into a person's system no matter how many precautions are taken. My home's air filters will catch some, but not all. Walking outside without eye, nose, and mouth protection will result in some form of ingestion, and should I even use all of those, dust will still settle on clothing, skin, and hair, and thus be brought into the home.
- These risks are well-documented in TCEQ's own rulemakings and in federal health literature. Exposure is not speculative but **certain** given the facility's location within a residential neighborhood, and particularly, given my home's proximity to the facility location.
- These plants are known for health and safety concerns - air quality, noise, heavy trucks, dust emissions, and more. Outside of the pollution the plant itself releases, the operations involved in running these plants also harms those in the surrounding areas, such as my household. The noise and significantly lowered air quality will disrupt our sleep, which is a direct determinant of a person's quality of health. The

ever-present noise and dust clouds that we experienced during the clearing of the land and the construction on the facility's lot would be intolerable. The machines that drove on the facility lot shook my family's house, and the noise of the operations was audible throughout my entire house.

OPIC's position: OPIC response p. 9 notes that, "The Sullivans... expressed concerns that emissions of dust, silica, calcium oxide, and metals would worsen existing health conditions such as allergies and migraines; increase the risks of heart disease and cancer; and force the residents to limit outdoor activity or wear protective gear."

OPIC states that the criteria to be recommended as an affected person has been met by not just myself, Michael Sullivan, but also by 2 of my family members - Allison Sullivan and Karen Sullivan. OPIC noted Karen, Allison and I would be affected by the same emissions which result in significant health issues. These health impacts include, but are not limited to, various cancers, respiratory issues, silicosis, skin irritation, heart issues, asthma, and migraines. OPIC explicitly acknowledged that health and quality of life impacts are valid bases for affected person status. OPIC's recognition should be adopted and extended to all household members.

Demand: As such, I demand recognition as Affected Persons due to health impacts specific to my household and proximity. My lived experience and health vulnerabilities demonstrate a personal justiciable interest not common to the general public.

Dust Control / Nuisance

Whether the proposed activity from the proposed plant would create nuisance conditions and negatively impact human health and quality of life.

ED's reasoning:

As stated by the ED p. 3, "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.”

As stated by the ED p. 9, “In addition, Commission rules also include a general prohibition against causing a nuisance.”

As stated by the ED p. 15, “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.”

Rebuttal: Insert any **particularized dust or nuisance concerns** personal to you that make them affected beyond the general public. Example below.

- While the ED has recommended that the commission not refer this issue to SOAH, the topic of noise and nuisance is directly related to my and my family’s health and welfare, as well as our normal use and enjoyment of our property, and this topic is therefore relevant and should be considered.
- I live at 1102 Mesa Verde Drive, within 184 yards of the proposed facility. Dust from concrete batch plants is not a speculative issue but an inevitable byproduct of operations, particularly cement unloading, truck traffic, and batch mixing.
- On a daily basis, my family will be forced to increase our cleaning, restrict our outdoor activity, and prevent children from playing outside, which is a direct interference with the use and enjoyment of our property.
- My household grows several gardens for our consumption, all of which will be tainted by the dust emissions, and our grown foods will contain fine particulates, silica, and diesel soot. Ingesting these will be inevitable, as the plants absorb these particulates from the air, water, and dirt, and would not just be a matter of rinsing off our grown foods as the particulate matter would be in all of the vegetables and such themselves.

- Dust from concrete operations includes fine particulates, silica, and diesel soot. These are not only aesthetic nuisances (dirtying cars, laundry, windows, porches) but also health stressors that trigger asthma, allergies, and respiratory irritation. My household includes [children, elderly, asthmatic, or otherwise sensitive individuals], who will be disproportionately impacted by dust accumulation.
- The ED's dismissal of nuisance ignores the reality that dust deposition is a physical, daily interference with life at my residence. TCEQ's own concrete batch plant rulemakings acknowledge dust as a major concern.

OPIC's position:

OPIC explicitly acknowledged that nuisance conditions can negatively impact human health and quality of life, and considered this issue relevant in assessing affected person status (OPIC Response, p. 9). While OPIC noted that nuisance is not always referred to SOAH, OPIC nevertheless supported broader recognition of affected residents based on these concerns.

Demand: As such, I demand recognition as an Affected Person due to nuisance impacts that will significantly disrupt my health and daily quality of life. Dust deposition, forced indoor confinement, and repeated cleaning burdens are unique to households like mine within 440 yards of the facility. These impacts demonstrate a personal justiciable interest not common to the general public and must be considered in evaluating affected person status.

Environmental Impact

Whether the permit would be protective of flora and fauna, including backyard vegetable gardens. Whether the emissions from the proposed facility would negatively impact wildlife and the surrounding environment, including due to the cumulative impacts of the other surrounding emissions.

ED's reasoning:

"The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment." (ED response p. 4)

The ED response p. 3 notes 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."

Rebuttal:

- My family maintains a large vegetable garden, several fruit trees, an entire herb garden, and many pollinator plants on our property. The vegetable garden where we grow food for consumption is located directly next to the lot of the proposed facility, an estimated 16 yards from where the emissions would be originating. Dust and particulate matter (including PM2.5, PM10, and silica) will deposit directly onto soil, leaves, and edible produce, creating unsafe conditions for food consumption.
- Concrete dust contains alkaline particles and heavy metals, which are harmful to soil chemistry, plant health, and pollinators. These harmful emissions will enter the plants and our grown produce as the air, dirt, and water that our plants will absorb nutrients from will be tainted with harmful particulate matter. This risk is particular to me as a resident who depends on my family's garden for food and household nutrition.
- The wildlife in my family's yard which has been attracted by pollinator plants, bird homes, and a variety of landscaping—such as hummingbirds, hawks, owls, butterflies, bees, box turtles, rabbits, etc. — has already been and will be further negatively affected by dust coating, air pollution, and habitat disruption.
- In addition, I have 2 dogs and a rabbit. My family is planning to keep chickens outside in our backyard. All of these animals will have significant health concerns directly caused by dust and particulate matter.
- These impacts go beyond “generalized environmental concern” because they interfere directly with my personal use and reliance on my backyard garden, property, pets, and local wildlife.
- The facility property has cleared land and altered drainage, removing a significant retention pond, leading to flooding and long-standing water in my neighbors' yards. The standing water is a haven for mosquitos that carry diseases. Additionally, this localized flooding has not yet been tested in the hurricane season and may become more catastrophic with the removal of retention ponds in both the facility lot, and the neighborhood's other water retention area.
- TCEQ itself has acknowledged the risks of cumulative emissions in past rulemakings but failed to consider that multiple surrounding facilities in this area compound the environmental burden, as there is already a water treatment plant down the street from my house, as well as several large industrial buildings in the surrounding area, and 2 very busy roads with constant traffic around my community's neighborhood.

OPIC's position:

OPIC states in their response p. 8 that myself, as well as Karen Sullivan and Allison Sullivan, are, "concerned about the potential adverse impact on the air quality and the environment."

They then go on to state p. 8 that this is a reason for Karen, Allison, and myself to be considered as affected persons, as, "These concerns are interests that are protected by the law under which the application is considered, and a reasonable relationship exists between those interests and regulation of the facility. 30 TAC § 55.203(c)(1) and (3)."

In this response on p. 8, OPIC explicitly acknowledged that **environmental impacts to gardens, flora, and fauna** are valid bases for affected person status. OPIC recognized that residents who grow food or maintain property exposed to facility emissions have individualized, justiciable interests distinct from the general public.

Demand: As such, I demand recognition as an Affected Person due to environmental impacts specific to my property and reliance on its gardens, plants, and local wildlife. My use of my land and natural resources demonstrates a personal justiciable interest not common to the general public.

Timely Filing of Hearing Requests

Whether the hearing request was filed in a timely manner.

ED's reasoning:

The ED p. 13 stated that the reasoning for myself not being recommended as an affected person as being that I, "did not raise an issue regarding concerns that would affect them, specifically, outside of stating their proximity to the proposed plant."

ED response, p. 13 states, "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."

However, the ED response p. 13 did note that I, "submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information."

Rebuttal:

- I did file my comments and request for a contested case hearing on time as confirmed by my submissions via the online filing system on the dates listed:

6/19/24, 6/20/24, 11/3/24, 11/4/24, 11/9/24, 11/11/24, 11/12/24, 11/12/24, 11/13/24, 11/26/24, 12/2/24, and 12/14/24

- The ED has not provided evidence that any of my filings were late, nor explained how my requests have differed from others filed and accepted in the same timeframe.
- Even if there were clerical or administrative inconsistencies, the fact remains that my requests were submitted within the public comment period and included the required elements (name, address, proximity, as well as personal justiciable interests).
- To deny affected person status on the basis of a supposed “untimely filing” without clear proof is arbitrary and contrary to 30 TAC §55.201 and §55.203, which require consideration of all persons with a personal justiciable interest.
- Courts and administrative precedent emphasize that technical filing issues should not bar participation where substantive rights and interests are at stake—especially for residents living within the statutory 440-yard threshold under THSC §382.058(c).

OPIC’s position:

OPIC p. 2 notes that, “The Commission received timely comments and hearing requests from Missouri City, Air Alliance Houston, Stephanie Bush, Janai Buxton, Allison Sullivan, Karen Sullivan, Michael Sullivan, Tynisha Wright, and Xavier Wright.”

OPIC p. 9 notes that Michael Sullivan, Karen Sullivan, and I, Allison Sullivan, in fact, “submitted timely comments and individual hearing requests emphasizing their proximity to the proposed facility, including that they share a property line with the site and live there full-time.”

OPIC acknowledged that residents close to the facility who demonstrated proximity and health concerns should be granted affected person status regardless of administrative errors in the handling of filings.

Demand: As such, I demand recognition as an Affected Person because I timely filed my request and demonstrated a personal justiciable interest in this matter. My proximity to the facility, health impacts, and use of property qualify me under statute, and my filing record supports this.

In summary, I respectfully disagree that I do not have personal justiciable interests. **As such, I demand that I be recommended for Affected Person status due to personal, justiciable interest affected by the concrete batch plant.** I therefore request a Contested Case Hearing as an Affected Person under the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allison Sullivan". The signature is written in a cursive, flowing style with a large initial "A".

Allison Sullivan

My name is Allison Sullivan. My address is 1102 Mesa Verde Drive, Missouri City Texas, 77489. I request a virtual meeting. I am requesting that the commission reconsider the executive director's decision to approve an air permit for Verti-Crete, and I have included my contesting notes below.

1. Documents Verti-Crete was legally required to provide, were not provided.
2. Already weak environmental standards seem questionably monitored or enforced.
3. Traffic flow in the residential neighborhood has been an issue.
4. Drainage has been affected in our yards, creating a hazard.
5. Our small residential neighborhood is historic in the Fort Bend community.

First, as documented by several officials including the Mayor and the Chief Clerk of Missouri City, application 176289 was never made available to the Mayor, the presiding officer of the City, as required by Section 382.0516 of the Texas Health and Safety Code. Further, the public never had access to the documents as required by 30 Texas Administrative Code 39.405(g)(1)-(3) and as stated by the Executive Director. On April 29, 2025 and May 8, 2025 the Executive Director stated in the response to a comment and again in the notice of decision letter that the documents were publicly accessible at the Fort Bend Chamber of Commerce. This was never the case. A fellow Fort Bend resident visited the Fort Bend Chamber of Commerce in person, and the Chamber of Commerce staff stated that they had never received the permit application, or any related materials, from either the applicant or from TCEQ. The Chamber of Commerce also stated that, as they are a private business organization, they aren't responsible for government filings and thus they never should have been considered as a valid option in terms of public places at which the documents could be viewed by the public. We alerted the Executive Director that we could not access the documents and yet, there was no response, acknowledgement, or attempt to comply with the legal obligation to provide access to these documents. When we were told that documents were available online, we looked for them. When we told the staff at the TCEQ Houston Regional Office that online access was not available, they tried to find them both in person and online as well – they referred to the Air Quality Team. No one was able to provide these materials or explain how they could be accessed. The Executive Director claimed that the application documents could be viewed in Fort Bend County – this was not true. The Executive Director claimed that the application documents could be viewed online – this was not true.

Secondly, the Executive Director's response to comments completely disregarded our concerns for our small neighborhood's health and wellness. The measurements taken for air dispersion modeling are from the 1980s – nothing even in the last 30 years. It isn't representative of today's real air quality concerns or hotspots of activity. These outdated

practice numbers don't consider the climate change that has affected Fort Bend, that we have seen in high rates of asthma and heart and lung conditions. TCEQ hasn't conducted a protectiveness review because the revised standards for applicants under that Standard Permit has not yet been updated, and so Verti-Crete isn't required to submit any site-specific information on emission calculations. TCEQ and Verti-Crete have given no evidence supporting that the site will stay at or below new NAAQS thresholds. The TCEQ protectiveness review and the site-specific meteorological conditions have not been adequately measured and estimated. I think it is fair to say that the owner of Verti-Crete would not be willing to comply with my neighbors and myself in order to monitor emissions levels as he has already seen fit to tell us to our faces that we have no say in how he runs his company, even if it impacts our daily lives. I have videos of his company working on the land and stirring up dust so strongly that I had to return inside – when I contacted the local TCEQ office and they began to investigate, responses were lacking and delayed. No one reached out to collect the video that I had gotten. With this in mind, I find it hard to imagine any improved surveillance for violations if the concrete batch plant continues to be constructed.

Third, the response to concerns about traffic and trucks through the neighborhoods was lacking, but given the TCEQ's limited scope of control in this area, I understand why that was. However, I would like to point out that, after having a warehouse built near our street, even with explicit "NO THRU TRUCKS" and "NO OUTLET" signs posted around our neighborhood entrances and cross streets, there are many 18-wheelers who still disregard these signs and cause congestion in our streets, as they soon find that there is no back entrance to the warehouse available through our neighborhood. Recorded in a police report, my family's mailbox was fully demolished by one of these drivers, who sped away from the scene as my other neighbor attempted to wave him down. We do not want the many concrete trucks to contribute to this as well, as we have many children and families who walk in our neighborhood that these drivers could harm in their rush.

Fourth, I know that this review is for air quality, not water and waste, but this is another point to why I see no reason to believe that the TCEQ office or the Verti-Crete owners will follow regulations – in the time since clearing the lot of land and constructing an 8 foot tall masonry wall around the lot, my and my neighbor's backyards had begun to flood ...while Verti-Crete added some drainage after being alerted of this serious issue, there is still the concern that a retention pond was paved over.

Finally, our neighborhood is historic, with homes dating back to 1902, and families who have been here just as long. Fort Bend is the most diverse county in all of Texas, and our neighborhood itself is historically diverse in Fort Bend. While it has been said in a

response to comments that the scope of TCEQ is not the social justice in environmental harm, that is undeniably a factor in where plants such as Verti-Crete's are planned, as there is an inherent assumption that people in these places won't care or know how to contend with the red tape in this process. Please reverse the decision and support our taking care of our community.

Request for Contested Case Hearing and “Reply Brief” for Affected Person Status

Requestor’s Name: Michael Sullivan

Address, City, State, Zip of property: 1102 Mesa Verde Drive, Missouri City Texas 77489

Daytime phone number: 832-746-7346

Applicant’s Name and Permit Number: Verti-Crete Houston, LLC Permit Number

176289 Docket #: 2025-1292-AIR

I, Michael Sullivan, hereby request a contested case hearing regarding the Verti-Crete Houston, LLC air permit No. 176289 and henceforth offer a ‘reply brief’ to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named ‘parties’).

According to (30 TAC 55.203), I meet all the conditions to be named an Affected Person as I have personal justiciable interest and a reasonable relationship with the application and should be afforded the protections by law under which the application is considered. My interests are not common to members of the general public such that the location of my property, my health & safety, impact on my natural resources, and use and an enjoyment of the property will be adversely affected by the proposed facility and its related activities.

Issues of ‘Reply Brief’:

1. Proximity: Location of the Requestor’s Affected Property (i.e. home, business, or property)
2. Personal Justiciable Interests: I have personal justiciable interests that are not common to members of the general public.

Statement of Fact based on Parties’ Responses:

1. Proximity

My permanent residence at 1102 Mesa Verde Drive, Missouri City TX 77489 is located approximately 16 yards from the fence-line of the proposed Verti-Crete Houston Property and 183.14 yards from the proposed location of the concrete batch plant:

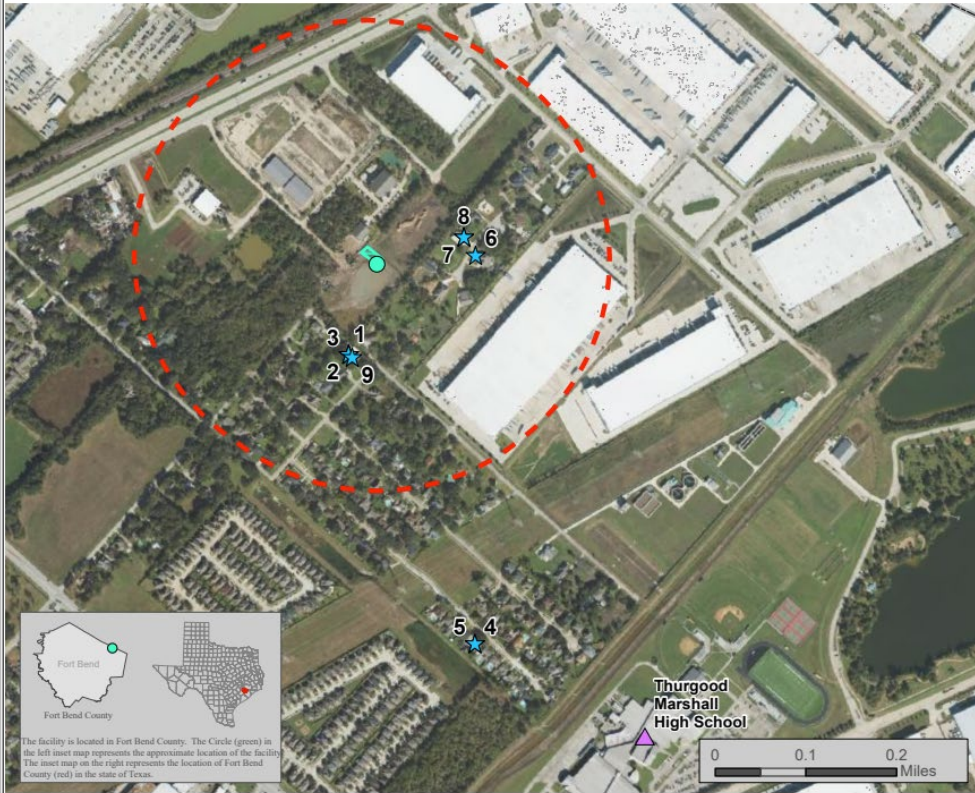
Verti-Crete 176289

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: RKakushik



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

Requestor Distances in
Appendix A.

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 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.

Thurgood
Marshall
High School

0 0.1 0.2
Miles



I, **Michael Sullivan**, live within 440 yards **and so do my neighbors**:

Allison Sullivan (within 184 yards)
1102 Mesa Verde Drive
Missouri City TX, 77489

Karen Sullivan (within 184 yards)
1102 Mesa Verde Drive
Missouri City TX, 77489

Meagan Sullivan (within 184 yards)
1102 Mesa Verde Drive
Missouri City TX, 77489

Raymonny Van (within 157 yards)
1109 Adams Street
Missouri City TX, 77489

Ann Dukes (within 334 yards)
907 Bolton Drive
Missouri City TX, 77489

Jessie McCormick (within 324 yards)
903 Bolton Drive
Missouri City TX, 77489

Tracy Spencer (within 413 yards)
914 Bolton Drive
Missouri City TX, 77489

Trinity Spencer (within 413 yards)
914 Bolton Drive
Missouri City TX, 77489

Pete Lewis (within 424 yards)
805 Bull Lane
Missouri City TX, 77489

William Parks (within 424 yards)
803 Bull Lane
Missouri City TX, 77489

Yolonda Lara (within 435 yards)
811 Bull Lane
Missouri City TX, 77489

Cecilia Ballesteros (within 430 yards)
807 Bull Lane
Missouri City TX, 77489

Norman Wood (within 415 yards)
942 Echo Creek Drive
Missouri City TX, 77489

Annette Simmons (within 288 yards)
1126 Mesa Verde Drive
Missouri City TX, 77489

Howard King (within 250 yards)
1118 Mesa Verde Drive
Missouri City TX, 77489

Raquel Sarahi Garcia (within 148 yards)
1103 Mesa Verde Drive
Missouri City TX, 77489

Rochelle Emanuel (within 288 yards)
1126 Mesa Verde Drive
Missouri City TX, 77489

Ham Garza (within 134 yards)
926 Pine Meadow Drive
Missouri City TX, 77489

Stephanie Bush (within 187 yards)
807 Pine Meadow Drive
Missouri City TX, 77489

Tynisha Wright (within 164 yards)
906 Pine Meadow Drive
Missouri City TX, 77489

Xavier L Wright Sr (within 164 yards)
906 Pine Meadow Drive
Missouri City TX, 77489

Janai Buxton (within 181 yards)
911 Pine Meadow Drive
Missouri City TX, 77489

Milton Buxton (within 181 yards)
911 Pine Meadow Drive
Missouri City TX, 77489

William Cronin (within 213 yards)
902 Pine Meadow Drive
Missouri City TX, 77489

30 TAC 55.203 (c) (2) states:

“In determining whether a person is an affected person, all factors shall be considered, including, but not limited to [...] distance restrictions or other limitations imposed by law (emphasis added) on the affected interest.”

Per THSC Section 382.058 (c), “...persons actually residing in a permanent residence within 440 yards of the proposed plant” are recommended for Affected Person status.

The Executive Director (ED) recommended only certain requestors as affected persons while excluding others in the same household or within the same 440-yard range. This creates an arbitrary distinction unsupported by law.

ED’s reasoning:

“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.”
ED response p. 13

However, directly after this, the ED p. 13 notes that, “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 reasonings given for my wife Karen Sullivan being an Affected Persons, ED Response p. 10, include that she 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.”

Rebuttal:

- Under THSC §382.058(c), *any person actually residing in a permanent residence within 440 yards of the proposed plant qualifies as an affected person.*
- I live at 1102 Mesa Verde Drive, which is located 183.14 yards from the proposed facility.
- All household members within 440 yards deserve recognition as affected persons, not just one. Others in my household include Karen Sullivan, Allison Sullivan, and Meagan Sullivan – none of them have been recognized despite the same distance between themselves and the proposed location.

- Neighbors (and all persons within their household) who also reside within 440 yards of the proposed batch plant location and are affected include, but are not limited to:

- Karen Sullivan (within 184 yards)
- Allison Sullivan (within 184 yards)
- Meagan Sullivan (within 184 yards)
- Raymonny Van (within 157 yards)
- Ann Dukes (within 334 yards)
- Jessie McCormick (within 324 yards)
- Tracy Spencer (within 413 yards)
- Trinity Spencer (within 413 yards)
- Pete Lewis (within 424 yards)
- William Parks (within 424 yards)
- Yolonda Lara (within 435 yards)
- Cecilia Ballesteros (within 430 yards)
- Norman Wood (within 415 yards)
- Annette Simmons (within 288 yards)
- Howard King (within 250 yards)
- Raquel Sarahi Garcia (within 148 yards)
- Rochelle Emanuel (within 288 yards)
- Ham Garza (within 134 yards)
- Stephanie Bush (within 187 yards)
- Tynisha Wright (within 164 yards)
- Xavier L Wright Sr (within 164 yards)
- Janai Buxton (within 181 yards)
- Milton Buxton (within 181 yards)
- William Cronin (within 213 yards)

OPIC's position:

OPIC correctly recognized that multiple household members within 440 yards may qualify as affected persons. OPIC has previously affirmed that proximity and health impacts extend to all household members, not just one.

OPIC determined that, based on the concerns I and my family have stated, as well as our proximity to the facility location, we are considered affected persons. OPIC response p. 9 notes this, "As discussed earlier, OPIC finds that the Sullivans have a personal justiciable interest in this matter which is not common to members of the general public, and therefore, they are affected persons under 30 TAC § 55.203."

While the ED felt I did not present any, "personal justiciable interest," OPIC acknowledged my doing so. In their reasoning for their finding, OPIC p. 9 documented that I, "submitted

timely comments and individual hearing requests emphasizing their proximity to the proposed facility, including that they share a property line with the site and live there full-time.”

OPIC response p. 8 states, “According to the map prepared by the ED’s staff, the Sullivans are located within 440 yards from the proposed facility. This satisfies THSC Section 382.058(c) as their home is within 440 yards of the proposed plant. The Sullivans’ proximity to the Applicant’s facility increases the likelihood of impacts on their health, safety, and use of property. See 30 TAC § 55.203(c)(4). Based on the Sullivans’ concerns and proximity to the facility, the Sullivans have a personal justiciable interest in this matter which is not common to members of the general public.”

Demand: As such, I demand that I, Michael Sullivan, be recommended for Affected Person status due to distance from the concrete batch plant.

2. Personal Justiciable Interests

I request that you take my comments into account. I have copied my previously submitted comments below and have added issue labels and am submitting additional information.

Health Effects / Air Quality

ED's reasoning:

The ED p. 13 states that, "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."

However, in their reasoning for their ruling myself as not being affected persons, the ED response p. 13 notes that I, "did not raise an issue regarding concerns that would affect them, specifically, outside of stating their proximity to the proposed plant."

Despite the concern for health impacts such as respiratory illnesses and conditions that I shared in my own comments, the ED did not consider me as an affected persons. As I am in the same household as Karen Sullivan, I would experience the same health impacts as she has noted in her comments, which were accepted by the ED.

Rebuttal:

- Concrete batch plants are one of the largest industrial sources of pollution, and the air pollution from concrete batch plants increases the risk of health problems for people living nearby. The particulate matter in plant emissions is linked to various respiratory illnesses and many other health conditions.
- I am directly affected by allergies, and myself and others in my household experience respiratory sensitivities. My wife, Karen Sullivan, and my daughter, Allison Sullivan, experience days-long migraine headaches which are triggered by emissions in the air. I tend to work on the yard and in the garden abutting the facility's lot.
- The top 2 causes of death in Fort Bend County are heart disease and cancer - both of which are caused by increased particulate matter in emissions – my wife, Karen Sullivan, has a strong family history of heart disease, and I, Michael Sullivan, have a significant family history of cancer. These health concerns would be massively exacerbated by our proximity to a concrete batch plant, as this is our full-time

residence and the concentration of emissions in the surrounding air would be very high.

- In addition, my grandson, who is 9 months old, visits our home on a weekly basis and would be particularly at high risk for health concerns due to his young age - breathing in the particulate matter at his age could cause a lifelong respiratory illness. He has already had tubes and issues with his congestions and allergies.
- The pollution from this facility would be a disruption to my everyday life and would directly interfere with my use of my own property. I will be forced to either end my normal use of my property by restricting all outdoor activity, or place myself and my family members at risk of physical harm from the emissions of the concrete batch plant.
- Daily activities such as gardening, outdoor recreation, and use of my backyard would expose myself and my family to concrete dust, particulate matter (PM2.5, PM10), silica, and diesel emissions. I would not be able to be outside in my own yard without some form of protective gear due to the particulate matter/metals in the air.
- I am growing several gardens for my family's consumption, all of which will be tainted by the dust, which contains fine particulates, silica, and diesel soot. This dust is not only aesthetic nuisances (dirtying cars, laundry, windows, porches) but also health stressors that trigger asthma, migraines, allergies, and respiratory irritation, among other health impacts.
- These risks are well-documented in TCEQ's own rulemakings and in federal health literature. Exposure is not speculative but **certain** given the facility's location within a residential neighborhood, and particularly, given my home's proximity to the facility location.
- These plants are known for health and safety concerns - air quality, noise, heavy trucks, dust emissions, and more. Outside of the pollution the plant itself releases, the operations involved in running these plants also harms those in the surrounding areas, such as myself and my family. The noise and lowered air quality will disrupt our sleep, which is directly tied to quality of health. The ever-present noise and dust similar to what we experienced during the clearing of the land and the construction on the facility's lot would be intolerable.

OPIC's position:

OPIC response p. 9 notes that, “The Sullivans... expressed concerns that emissions of dust, silica, calcium oxide, and metals would worsen existing health conditions such as allergies and migraines; increase the risks of heart disease and cancer; and force the residents to limit outdoor activity or wear protective gear.”

OPIC states that the criteria to be recommended as an affected person has been met by not just myself, Michael Sullivan, but also by 2 of my family members - Allison Sullivan and Karen Sullivan. OPIC noted Karen, Allison and I would be affected by the same emissions which result in significant health issues. These health impacts include, but are not limited to, various cancers, respiratory issues, silicosis, skin irritation, heart issues, asthma, and migraines. OPIC explicitly acknowledged that health and quality of life impacts are valid bases for affected person status. OPIC’s recognition should be adopted and extended to all household members.

Demand: As such, I demand recognition as Affected Persons due to health impacts specific to my household and proximity. My lived experience and health vulnerabilities demonstrate a personal justiciable interest not common to the general public

Dust Control / Nuisance

Whether the proposed activity from the proposed plant would create nuisance conditions and negatively impact human health and quality of life.

ED’s reasoning:

Stated by the ED p. 3, “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.”

As stated by the ED p. 9, "In addition, Commission rules also include a general prohibition against causing a nuisance."

"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." (ED response, p. 15)

Rebuttal:

- While the ED has recommended that the commission not refer this issue to SOAH, I believe that the topic of noise and nuisance is directly related to my health and welfare, as well as my normal use and enjoyment of my own property, and is therefore relevant and should be considered.
- I live at 1102 Mesa Verde Drive, within 184 yards of the proposed facility. Dust from concrete batch plants is not a speculative issue but an inevitable byproduct of operations, particularly cement unloading, truck traffic, and batch mixing.
- On a daily basis, I will be forced to increase cleaning, restrict outdoor activity, and prevent children from playing outside, which is a direct interference with the use and enjoyment of my property.
- My family is growing several gardens for our consumption, which will be tainted by the dust emissions, and our grown foods will contain fine particulates, silica, and diesel soot. Ingesting these will be inevitable, as the plants absorb these particulates from the air, water, and dirt, and would not just be a matter of rinsing off our grown foods as the particulate matter would be in all of the vegetables and such themselves.
- Dust from concrete operations includes fine particulates, silica, and diesel soot. These are not only aesthetic nuisances (dirtying cars, laundry, windows, porches) but also health stressors that trigger asthma, allergies, and respiratory irritation. My household includes individuals who will be disproportionately impacted by dust accumulation.
- The ED's dismissal of nuisance ignores the reality that dust deposition is a physical, daily interference with life at my residence. TCEQ's own concrete batch plant rulemakings acknowledge dust as a major concern.

OPIC's position:

OPIC explicitly acknowledged that nuisance conditions can negatively impact human health and quality of life, and considered this issue relevant in assessing affected person status (OPIC Response, p. 9). While OPIC noted that nuisance is not always referred to SOAH, OPIC nevertheless supported broader recognition of affected residents based on these concerns.

Demand: As such, I demand recognition as an Affected Person due to nuisance impacts that will significantly disrupt my health and daily quality of life. Dust deposition, forced indoor confinement, and repeated cleaning burdens are unique to households like mine within 440 yards of the facility. These impacts demonstrate a personal justiciable interest not common to the general public and must be considered in evaluating affected person status.

Environmental Impact

Whether the permit would be protective of flora and fauna, including backyard vegetable gardens. Whether the emissions from the proposed facility would negatively impact wildlife and the surrounding environment, including due to the cumulative impacts of the other surrounding emissions.

ED's reasoning:

“The Executive Director is required to review permit applications to ensure they will be protective of human health and the environment.” (ED response p. 4)

The ED response p. 3 notes 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.”

Rebuttal:

- My family maintains a large vegetable garden, several fruit trees, an entire herb garden, and pollinator plants on our property. The vegetable garden where we grow food for consumption is located directly next to the lot of the proposed facility. Dust and particulate matter (including PM2.5, PM10, and silica) will deposit directly onto soil, leaves, and edible produce, creating unsafe conditions for food consumption.
- Concrete dust contains alkaline particles and heavy metals, which are harmful to soil chemistry, plant health, and pollinators. These harmful emissions will enter the plants and my grown produce as the air, dirt, and water that our plants will absorb

nutrients from will be tainted with harmful particulate matter. This risk is particular to me as a resident who depends on my garden for food and household nutrition.

- The wildlife in my yard which has been attracted by pollinator plants, bird homes, and a variety of landscaping—such as hummingbirds, hawks, butterflies, bees, box turtles, rabbits, etc. — has already been and will be further negatively affected by dust coating, air pollution, and habitat disruption.
- In addition, I have 2 dogs and a rabbit. My family is planning to keep chickens outside in our backyard. All of these animals will have significant health concerns directly caused by dust and particulate matter.
- These impacts go beyond “generalized environmental concern” because they interfere directly with my personal use and reliance on my backyard garden, property, pets, and local wildlife.
- The facility property has cleared land and altered drainage, removing a significant retention pond, leading to flooding and long-standing water in my neighbors’ yards. The standing water is a haven for mosquitos that can carry West Nile and other diseases.
- TCEQ itself has acknowledged the risks of cumulative emissions in past rulemakings but failed to consider that multiple surrounding facilities in this area compound the environmental burden, as there is already a water treatment plant down the street from my house, as well as several large industrial buildings in the surrounding area, and 2 very busy roads with constant traffic around my community’s neighborhood.

OPIC’s position:

OPIC states in their response p. 8 that myself, as well as Karen Sullivan and Allison Sullivan, are, “concerned about the potential adverse impact on the air quality and the environment.”

They then go on to state p. 8 that this is a reason for Karen, Allison, and myself to be considered as affected persons, as, “These concerns are interests that are protected by the law under which the application is considered, and a reasonable relationship exists between those interests and regulation of the facility. 30 TAC § 55.203(c)(1) and (3).”

In this response on p. 8, OPIC explicitly acknowledged that **environmental impacts to gardens, flora, and fauna** are valid bases for affected person status. OPIC recognized that

residents who grow food or maintain property exposed to facility emissions have **individualized, justiciable interests** distinct from the general public.

Demand: As such, I demand recognition as an Affected Person due to environmental impacts specific to my property and reliance on its gardens, plants, and local wildlife. My use of my land and natural resources demonstrates a personal justiciable interest not common to the general public.

Timely Filing of Hearing Requests

Whether the hearing request was filed in a timely manner.

ED's reasoning:

The ED p. 13 stated that the reasoning for myself not being recommended as an affected person as being that I, “did not raise an issue regarding concerns that would affect them, specifically, outside of stating their proximity to the proposed plant.”

“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.” (ED response, p. 13)

However, the ED response p. 13 did note that I, “submitted a hearing request during the comment period. The hearing request was in writing and provided the required contact information.”

Rebuttal:

- I did file my comments on time as confirmed by my submissions on via the online filing system on the dates listed: 6/18/24, 6/20/24, and 11/13/24.
- The ED has not provided evidence that my filing was late, nor explained how my request differs from others filed and accepted in the same timeframe.
- Even if there were clerical or administrative inconsistencies, the fact remains that my request was submitted within the public comment period and included the required elements (name, address, proximity, concerns).
- To deny affected person status on the basis of a supposed “untimely filing” without clear proof is arbitrary and contrary to 30 TAC §55.201 and §55.203, which require consideration of all persons with a personal justiciable interest.

- Courts and administrative precedent emphasize that technical filing issues should not bar participation where substantive rights and interests are at stake—especially for residents living within the statutory 440-yard threshold under THSC §382.058(c).

OPIC's position:

OPIC p. 2 notes that, “The Commission received timely comments and hearing requests from Missouri City, Air Alliance Houston, Stephanie Bush, Janai Buxton, Allison Sullivan, Karen Sullivan, Michael Sullivan, Tynisha Wright, and Xavier Wright.”

OPIC p. 9 notes that my family and I, “submitted timely comments and individual hearing requests emphasizing their proximity to the proposed facility, including that they share a property line with the site and live there full-time.”

OPIC also acknowledged that residents close to the facility who demonstrated proximity and health concerns should be granted affected person status regardless of administrative errors in the handling of filings.

Demand: As such, I demand recognition as an Affected Person because I timely filed my request and demonstrated a personal justiciable interest in this matter. My proximity to the facility, health impacts, and use of property qualify me under statute, and my filing record supports this.

In summary, I respectfully disagree that I do not have personal justiciable interests. **As such, I demand that I be recommended for Affected Person status due to personal, justiciable interest affected by the concrete batch plant.** I therefore request a Contested Case Hearing as an Affected Person under the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Sullivan', written in a cursive style.

Michael Sullivan

I live at 1102 Mesa Verde Drive, Missouri City Texas, 77489. My name is Michael Sullivan. I request a virtual meeting. I am requesting that the commission reconsider the executive director's decision to approve an air permit for Verti-Crete, and I have included my contesting notes below.

1. The property in question is in our backyard and creates hazardous conditions.
2. The property in question is not currently zoned for the proposed usage.
3. The proximity to schools, parks, a church, and other community interest is concerning.

First, as seen in the included photo taken from our garage roof, the property is literally in our backyard. It is adjacent to a residential neighborhood and far too close for concern. The construction already done has created flooding hazards for our backyards. Ray, behind me, and Henry, to my right, have both had to contact Verti-Crete about the lack of drainage. Standing water had created a bog, creating a West Nile and other mosquito borne illness hazard. Verti-Crete went and added some drainage, but hardly enough to replace the retention pond over which they paved.



Second, in addition to Verti-Crete not having submitted proper documents to the county, the property in question is not zoned for use that includes a batch plant. In an email with city manager, mayor, and various members of city government, it was noted that the permit did not include the use then being pursued. This seems a waste of TCEQ's and our time to contest what the city is already saying does not belong here next to our home. TCEQ granting approval is out of place with the best interests of the community.

Finally, the proposed batch-plant is simply far too close to many community areas of interest. The neighborhood is a well established neighborhood with some historic homes dating back to the early 1900's. The plant is less than 5,000 feet from Missouri City Middle School and EA Jones Elementary School, it is less than 4,000 feet from Buffalo Run Park and Thurgood Marshal HS, and it is 2,500 feet from Holy Family Catholic Church.

TCEQ mentions consequences if pollution is above monitored thresholds - a slap on the wrist. A notice with 30 to 180 days to comply, but no mention of stopping production. If it is more severe then "Austin gets involved" and "works to draft a letter"... Who knows how long that

s documented by several officials including the Mayor and the Chief Clerk of Missouri City, application 176289 was never made available to the Mayor, the presiding officer of the City, as required by Section 382.0516 of the Texas Health and Safety Code. Further, the public never had access to the documents as required by 30 Texas Administrative Code 39.405(g)(1)-(3) and as stated by the Executive Director. On April 29, 2025 and May 8, 2025 the Executive Director stated in the response to a comment and again in the notice of decision letter that the documents were publicly accessible at the Fort Bend Chamber of Commerce. This was never the case. A fellow Fort Bend resident visited the Fort Bend Chamber of Commerce in person, and the Chamber of Commerce staff stated that they had never received the permit application, or any related materials, from either the applicant or from TCEQ. The Chamber of Commerce also stated that, as they are a private business organization, they aren't responsible for government filings and thus they never should have been considered as a valid option in terms of public places at which the documents could be viewed by the public. We alerted the Executive Director that we could not access the documents and yet, there was no response, acknowledgement, or attempt to comply with the legal obligation to provide access to these documents. When we were told that documents were available online, we looked for them. When we told the staff at the TCEQ Houston Regional Office that online access was not available, they tried to find them both in person and online as well – they referred to the Air Quality Team. No one was able to provide these materials or explain how they could be accessed. The Executive Director claimed that the application documents could be viewed in Fort Bend County – this was not true. The Executive Director claimed that the application documents could be viewed online – this was not true.

Secondly, the Executive Director's response to comments completely disregarded our concerns for our small neighborhood's health and wellness. The measurements taken for air dispersion modeling are from the 1980s – nothing even in the last 30 years. It isn't representative of today's real air quality concerns or hotspots of activity. These outdated practice numbers don't consider the climate change that has affected Fort Bend, that we have seen in high rates of asthma and heart and lung conditions. TCEQ hasn't conducted a protectiveness review because the revised standards for applicants under that Standard Permit has not yet been updated, and so Verti-Crete isn't required

to submit any site-specific information on emission calculations. TCEQ and Verti-Crete have given no evidence supporting that the site will stay at or below new NAAQS thresholds. The TCEQ protectiveness review and the site-specific meteorological conditions have not been adequately measured and estimated. I think it is fair to say that the owner of Verti-Crete would not be willing to comply with my neighbors and myself in order to monitor emissions levels as he has already seen fit to tell us to our faces that we have no say in how he runs his company, even if it impacts our daily lives. I have videos of his company working on the land and stirring up dust so strongly that I had to return inside – when I contacted the local TCEQ office and they began to investigate, responses were lacking and delayed. No one reached out to collect the video that I had gotten. With this in mind, I find it hard to imagine any improved surveillance for violations if the concrete batch plant continues to be constructed.

Third, the response to concerns about traffic and trucks through the neighborhoods was lacking, but given the TCEQ's limited scope of control in this area, I understand why that was. However, I would like to point out that, after having a warehouse built near our street, even with explicit "NO THRU TRUCKS" and "NO OUTLET" signs posted around our neighborhood entrances and cross streets, there are many 18-wheelers who still disregard these signs and cause congestion in our streets, as they soon find that there is no back entrance to the warehouse available through our neighborhood. Recorded in a police report, my family's mailbox was fully demolished by one of these drivers, who sped away from the scene as my other neighbor attempted to wave him down. We do not want the many concrete trucks to contribute to this as well, as we have many children and families who walk in our neighborhood that these drivers could harm in their rush.

Fourth, I know that this review is for air quality, not water and waste, but this is another point to why I see no reason to believe that the TCEQ office or the Verti-Crete owners will follow regulations – in the time since clearing the lot of land and constructing an 8 foot tall masonry wall around the lot, my and my neighbor's backyards had begun to flood ...while Verti-Crete added some drainage after being alerted of this serious issue, there is still the concern that a retention pond was paved over.

Finally, our neighborhood is historic, with homes dating back to 1902, and families who have been here just as long. Fort Bend is the most diverse county in all of Texas, and our neighborhood itself is historically diverse in Fort Bend. While it has been said in a response to comments that the scope of TCEQ is not the social justice in environmental harm, that is undeniably a factor in where plants such as Verti-Crete's are planned, as there is an inherent assumption that people in these places won't care or know how to

contend with the red tape in this process. Please reverse the decision and support our taking care of our community.

**TCEQ AIR QUALITY STANDARD PERMIT REGISTRATION NUMBER 176298 FOR
A CONCRETE BATCH PLANT**

**APPLICATION BY
VERTI-CRETE HOUSTON,
LLC’S APPLICATION FOR AIR
QUALITY STANDARD PERMIT NO.
176298
MISSOURI CITY, FORT BEND
COUNTY, TEXAS**

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**BEFORE THE TEXAS
COMMISSION ON
ENVIRONMENTAL QUALITY
TCEQ DOCKET # 2025-1292-AIR**

**FORT BEND COUNTY’S REPLY
IN SUPPORT OF ITS REQUEST FOR RECONSIDERATION**

TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Fort Bend County (“County”) files this Reply in Support of Its Request for Reconsideration of the Executive Director’s May 8, 2025 Decision Regarding Verti-Crete Houston, LLC’s (“Verti-Crete”) Application for an Air Quality Standard Permit for a Concrete Batch Plant in Missouri City, Fort Bend County, Texas (Registration No. 176298) (“Application”). In support thereof the County shows the following:

I. INTRODUCTION

On May 8, 2025, the Executive Director (“ED”) issued its Final Decision letter announcing its conclusion that Verti-Crete’s Application “meets the requirements of applicable law” and recommending that the Commission approve the Application.¹ Prior to that decision, criticism of the Application had been sustained and robust because Verti-Crete proposed to operate a concrete

¹ Texas Commission on Environmental Quality, Letter to Interested Persons, *Decision of the Executive Director*, Verti-Crete Houston, LLC, Air Quality Standard Permit Registration No. 176298 (May 8, 2025).

batch plant in the middle of a community of houses, churches, parks, and schools. The public's attempt to sway the ED's decision culminated in a full-capacity public meeting on December 12, 2024 at which numerous interested citizens and public officials voiced their frustrations about the process and fears about the project.²

Following the public meeting and end of the comment period, on April 29, 2025 the ED published its Response to Comments ("RTC").³ The RTC did not respond directly to many of the public comments about the proposed facility's location.⁴ For example, in response to concerns that the plant might be "in close proximity" to schools and homes, the ED repeated standard "protectiveness" language common to RTCs.⁵ But the RTC did not explain the implications of or provide data as to whether the plant would be located within 440 yards of homes (the statutory threshold for an "affected-person") or within 3,000 feet of a school (triggering more stringent review.)⁶

² *Missouri City Residents, Officials Oppose Proposed Concrete Batch Plant*, Fort Bend Star (Sugar Land, Tex.), Dec. 16, 2024, https://www.fortbendstar.com/countynews/missouri-city-residents-officials-oppose-proposed-concrete-batch-plant/article_fc9c0242-bc06-11ef-a44b-f3f9df1cebee.html (last visited Sept. 29, 2025).

³ Texas Commission on Environmental Quality, *Executive Director's Response to Public Comment*, Verti-Crete Houston, LLC, Standard Permit Registration No. 176298 (April 29, 2025).

⁴ 30 Tex. Admin. Code § 39.405(g)(2); Texas Commission on Environmental Quality, *Executive Director's Response to Public Comment*, Verti-Crete Houston, LLC, Standard Permit Registration No. 176298 (April 29, 2025) (comments 1,3,4, 6, 12, and 20).

⁵ *Id.*

⁶ Tex. Health & Safety Code §§ 382.058(c), 382.052.

The Decision Letter issued on May 8, 2025, reflected the RTC.⁷ After receiving the letter, local governments, elected officials, and residents timely filed more than twenty Requests for Reconsideration and Requests for Contested Case Hearing.⁸ The public’s message has been consistent and clear: the proposed plant will endanger the community’s health and diminish the use, enjoyment, and value of its property.

That concern is well-founded because, as evident in the ED’s September 15, 2025 Response to Requests for Reconsideration and Contested Case Hearing (“Response”), disputed material issues exist as to whether the Verti-Crete facility would protect health, property, or the surrounding environment.⁹ Consequently, the ED now recommends the Verti-Crete Application be referred to the State Office of Administrative Hearings (“SOAH”) to develop evidence on whether the Application would be protective of human health and safety, as well as flora, and fauna. The Office of Public Interest Counsel (“OPIC”) likewise recommends a contested case hearing and identifies additional issues requiring an evidentiary record, including (1) protectiveness for air quality and human health; (2) impacts on wildlife and the surrounding

⁷ Texas Commission on Environmental Quality, Letter to Interested Persons, *Decision of the Executive Director*, Verti-Crete Houston, LLC, Air Quality Standard Permit Registration No. 176298 (May 8, 2025).

⁸ Texas Commission on Environmental Quality, Commissioners’ Integrated Database, Item ID 215531082024157, *All Comments* (Reg. No. 176298, Verti-Crete Houston LLC).

⁹ Texas Commission on Environmental Quality, *Executive Director’s Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025).

environment, including cumulative emissions; (3) nuisance conditions affecting use and enjoyment of property; and (4) compliance with public-notice requirements.¹⁰

Both the ED and OPIC agree that contested issues must be developed at SOAH before the Commission can decide on the Application. Yet, at the same time, the ED urges denial of all Requests for Reconsideration notwithstanding the dispositive defects identified by Fort Bend County and other protestants/requesters.¹¹ The ED's recommendation would send the matter to SOAH without first addressing Verti-Crete's fundamental compliance failures, namely, that Verti-Crete did not make the Application available in Fort Bend County and it did not provide accurate location and distance information in its Application.¹²

Fort Bend County does not oppose a contested case hearing, but it is premature. Texas's standard permit, by design, is a streamlined alternative to a full, site-specific permit. It relies on general protectiveness data and assumptions instead of facility-specific analysis and review. But the tradeoff for a robust individual site regulatory scheme is strict compliance with permit requirements. When the public does not have access to the Application and the Application is incomplete and inaccurate, the Applicant has not satisfied basic threshold conditions for approval.

¹⁰ Texas Commission on Environmental Quality, Office of Public Interest Counsel, *Response to Requests for Hearing and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025).

¹¹ OPIC noted that the concerns raised in the Requests for Reconsideration were "relevant and material" but that an evidentiary record is needed before recommending a request for reconsideration be granted.

¹² 30 Tex. Admin. Code § 39.405(g)(1)-(3); TCEQ Form PI-1S-CBP (the specialty Concrete Batch Plant registration), specifically its internal "6004 Checklist".

Before deciding on whether to refer the matter to SOAH, Fort Bend County requests that the Commission first resolve the notice and compliance failures raised in Fort Bend County's Request for Reconsideration.¹³ If the Commission finds these (and other) Application defects are fatal, the proper remedy is to reverse the ED's Final Decision and find that the Application does not meet "the requirements of applicable law."¹⁴

II. BACKGROUND

TCEQ administers the Texas Clean Air Act (TCAA), which safeguards the state's air by requiring authorization for construction of facilities that may emit air contaminants.¹⁵ The TCAA authorizes "standard permits" for categories of similar facilities. The standard-permit process allows qualifying facilities to obtain authorization without a case-specific permit if they meet eligibility criteria and comply with operating and emissions limits that are intended to protect public health and ensure compliance with state and federal standards.

For concrete batch plants, TCEQ has adopted the Air Quality Standard Permit for Concrete Batch Plants (amended in 2023 and effective January 2024).¹⁶ That permit relies on a

¹³ Fort Bend County hereby incorporates by reference, as if fully set forth herein, the following documents previously submitted in this matter: (1) *Request for Reconsideration* (filed June 9, 2025); (2) *Amended Request for Reconsideration* filed June 18, 2025; and (3) *Public Comments of Fort Bend County* filed December 12, 2024. To the extent of any inconsistency, this Reply controls.

¹⁴ If the Commission proceeds to a hearing, it should admit Fort Bend County as a party and expressly refer the issues raised by Fort Bend County in this Reply to SOAH.

¹⁵ *Tex. Health & Safety Code* § 382.002(a).

¹⁶ Texas Commission on Environmental Quality, *Air Quality Standard Permit for Concrete Batch Plants* (effective Jan. 24, 2024), <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbpsp-stdpmt.pdf> (last visited Sept. 29, 2025).

category-wide protectiveness review and imposes public notice requirements, operating limits, controls, work practices, recordkeeping, and setback/distance requirements intended to reduce off-site impacts and ensure that the public's health, general welfare and physical property are protected.

Verti-Crete's Application must satisfy all statutory and regulatory compliance requirements and provide legally adequate public notice and a fair opportunity for participation. These are mandatory predicates. If not met, and the present record shows they are not, the Application must be denied.¹⁷ Only if the Application itself is fully compliant with applicable laws and regulations should the analysis proceed to other broader protectiveness issues, where the Application likewise fails.

III. ARGUMENT

A. **The public did not – and does not – have access to the Application as required by 30 Tex. Admin. Code § 39.405(g)(1)–(3).**

Section 39.405(g) could not be clearer: the applicant must ensure the administratively complete application is available at a location within the same county as the facility that is open to the public for review and copying during normal business hours. The application should be available to the public from the Notice of Receipt of Application and Intent to Obtain Permit through the comment period. Further, the complete application, any revisions, the ED's preliminary decision, and (as applicable) the draft permit, preliminary determination summary,

¹⁷ See 30 Tex. Admin. Code §§ 116.611(a), 116.615(10); 30 Tex. Admin. Code § 39.405(g)(1)–(2); 30 Tex. Admin. Code § 55.156(b)(1); Tex. Health & Safety Code §§ 382.05199, 382.058.

and air analysis must remain available in-county until the Commission acts on the matter or refers it to SOAH.¹⁸

The June 5, 2024 Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision stated that as of June 5, 2024, “[t]he Application, Executive Director’s preliminary decision, and standard permit will be available for viewing and copying at ... the **Fort Bend Chamber of Commerce**, 445 Commerce Green Boulevard, Sugar Land, Fort Bend County, Texas 77478, beginning the first day of publication of this notice.”¹⁹

The November 8, 2024 Notice of Public Meeting stated that “[t]he Application, Executive Director’s preliminary decision, and standard permit will be available for viewing and copying at ... the **Fort Bend Chamber of Commerce**, 445 Commerce Green Boulevard, Sugar Land, Fort Bend County, Texas 77478.”²⁰

The May 8, 2025 Decision Letter stated that “[t]he Application, Executive Director’s preliminary decision, and standard permit will be available for viewing and copying at the

¹⁸ 30 Tex. Admin. Code (TAC) § 39.405(g)(1)–(3).

¹⁹ Texas Commission on Environmental Quality, *Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision*, Air Quality Standard Permit for Concrete Batch Plants, Proposed Reg. No. 176298 (June 5, 2024)(emphasis added).

²⁰ Texas Commission on Environmental Quality, *Notice of Public Meeting, Air Quality Standard Permit for Concrete Batch Plants (Proposed Reg. No. 176298, Verti-Crete Houston, LLC)* (Nov. 8, 2024)(emphasis added).

*Fort Bend Chamber of Commerce, 445 Commerce Green Boulevard, Sugar Land, Fort Bend County, Texas 77478, beginning the first day of publication of this notice.*²¹

The Application was not available at the Fort Bend Chamber of Commerce on the date of any of these Notices. Fort Bend Chamber of Commerce (“Chamber”) President and CEO, Keri Schmidt, has confirmed that the Application was available for viewing and copying at the Chamber from June 20, 2024 – July 23, 2024 only. Moreover, according to Ms. Schmidt, the Chamber had not consented or authorized use of its office for this purpose. Upon learning (after the fact on June 17, 2024) that Verti-Crete had listed the Chamber as a repository for the Application, Ms. Schmidt notified Edge Engineering, Verti-Crete’s consultant, that the Chamber had not agreed to do so. Edge said the filing “could not be changed.” The Chamber thereafter made the Application available from June 20, 2024 through July 23, 2024, but on June 19, 2024, the Chamber issued a formal do-not-use letter to Edge Engineering.²²

The Application has not been available to the public at the Fort Bend Chamber of Commerce since July 23, 2024.²³ At least one resident has signed an affidavit attesting to her reliance on Verti-Crete’s representation that she could view and copy the Application at the Chamber, only to be turned away when they tried to do so. Haley Schulz traveled to 445 Commerce Green Blvd, Sugar Land, TX, because the ED’s May 8, 2025 letter said the Application

²¹ Texas Commission on Environmental Quality, *Executive Director’s Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025)(emphasis added).

²² Email from Keri Schmidt re: Availability of Application (Sept. 25, 2025); Email from Keri Schmidt to Huma Ahmed re: Availability of Application (Sept. 24, 2025) at Exhibits A and B attached hereto.

²³ *Id.*

was there. It was not. Jamie Loasby, the Chamber’s Public Policy Director, told Ms. Schulz that the Chamber did not have the Application and explained that the Chamber was not a public institution like a library or government building. In her affidavit, Ms. Schulz states that being unable to obtain the file impeded her review and “was cause for great harm.”²⁴

This was not a minor paperwork lapse. From July 24, 2024 forward, there has been no in-county location where the public could view and copy the Application even though that is precisely what § 39.405(g) demands. In its Request for Reconsideration, the County notified the ED that the file could not be found at the Chamber. The ED responded:

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.²⁵

The ED appears to rely solely on Verti-Crete’s representations that the Application is available at the Chamber, but the record contains no evidence that it is. The only evidence in the record is that Verti-Crete did not comply with 30 TAC § 39.405(g)(1)–(3) and that the public has not had and does not have access to the Application in Fort Bend County.

Counsel for Fort Bend County obtained a copy of the Application by email from the Houston Office of the TCEQ on June 9, 2025. The Application was not available in the Houston

²⁴ Affidavit of Haley G. Schulz (Sept. 25, 2025) attached as Exhibit C hereto.

²⁵ Texas Commission on Environmental Quality, *Executive Director’s Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025).

TCEQ office.²⁶ Review of the Application reveals that it lists the public place for viewing as “Fort Bend Chamber of Commerce, 445 Commerce Green Blvd, Sugar Land, TX 77478.” And, contrary to the information provided by Ms. Schmidt and Ms. Loasby, Verti-Crete affirmed that it obtained authorization to place the Application there.²⁷ Neither of these statements in the Application was true based on the information provided by the Chamber. It is more than troubling that the record does not support Verti-Crete’s Application representations and that Verti-Crete did not meet this fundamental administrative requirement.

Failing to keep the Application in the county of the facility, and misrepresenting that it is, is not a paperwork glitch. It violates the plain text of 30 TAC § 39.405(g)(1)–(3) and contravenes TCEQ’s commitment to “meaningful public participation” through timely, practical access to information and transparent communication. Verti-Crete’s misrepresentation deprived the County and other residents of a fair chance to understand the project, prepare comments, assert hearing rights and ascertain and take advantage of other administrative and legal options.

Verti-Crete’s failure is so fundamental to the integrity of the standard-permit program that the ED’s decision must be reversed and the Application denied.

B. The public lacked online access to the Application and related materials.

²⁶ Email from Warda Omar, Texas Commission on Environmental Quality, Air Section Program Coordinator (June 9, 2025) attached here at Exhibit D.

²⁷ Texas Commission on Environmental Quality, *Verti-Crete Houston, LLC—Standard Permit Initial Registration*, Form PI-1S-CBP, Public Notice sheet, “Public place” entry (Fort Bend Chamber of Commerce, 445 Commerce Green Blvd., Sugar Land, Fort Bend County; “Has the public place granted authorization...?”—Yes) (May 2, 2024).

Not only was the Application unavailable in the county most affected by the proposed facility, but neither the County nor its residents could access it online. Unlike similar concrete batch plant permits, the Verti-Crete application materials are not posted on TCEQ's online records portal.²⁸ That forced the County and residents to rely on in-person retrieval during a short filing period. In-person access is not the same as online access when people have fewer than 30 days to decide whether they qualify for a contested case hearing and to prepare a Request for Reconsideration – and when the Application is not actually available in the county. Online access allows residents review the plot plan, equipment placement, and measured distances to property lines and nearby receptors after hours, share links with neighbors, seek legal advice and check details more than once without traveling.

The record is silent as to why Verti-Crete's Application was not uploaded, other than the ED's reference to a general policy about projects declared technically complete after September 2024. That does not address the County's evidence that other, comparable permits declared technically complete before September 2024 do appear online with full files. Those examples show the agency can and does upload complete permit records for other concrete batch plants declared technically complete before September 2024 and they raise a straightforward question: what criteria determine which permit files are made available online?

Because of Verti-Crete's misrepresentations, and because the Application was not uploaded to TCEQ's Online Records, the Application has been effectively inaccessible to the public for more

²⁸ See Fort Bend County's arguments and evidence presented in the County's *Request for Reconsideration and Amended Request for Reconsideration*.

than a year, including during the comment period and the post-decision filing window, except through ad hoc requests to TCEQ staff in Houston. This ongoing failure defeats meaningful public notice and participation and undermines the Commission’s mission and the standard permitting process. The Commission should reverse the Executive Director’s decision and deny the Application.

C. The Application lacks setback data and off-site receptor mapping.

Setback requirements for concrete batch plants are extremely small. A “specialty” plant like Verti-Crete’s may operate as close as 100 - 200 feet from property lines.²⁹ That makes strict, transparent compliance and agency verification vital, because small errors in location inputs can erase the only modest buffers the rules provide.

The standard-permit application must include a plot plan that clearly shows: (1) a distance scale; (2) a north arrow; (3) all property lines, emission points, buildings, tanks, process vessels, and other process equipment in the area in which the facility will be located; (4) at least two benchmark locations in the area; and (5) if the permit requires a distance, setback, or buffer from other property or structures as a permit condition, whether the required distance or setback will be met.³⁰

Verti-Crete did not meet these requirements. The Application does not demonstrate a compliant plot plan that (i) labels two benchmark locations, (ii) designates a facility/nearest

²⁹ Texas Commission on Environmental Quality, *Air Quality Standard Permit for Concrete Batch Plants* (effective Jan. 24, 2024).

³⁰ Texas Health and Safety Code Section 382.05195; PI-1S-CBP instructions; Air Quality Standard Permit for Concrete Batch Plants.

measurement point, (iii) identifies nearest boundary points for off-site receptors (residences, schools, places of worship), or (iv) provides annotated distance labels to off-site property and structures.³¹ Without those items, the public cannot verify whether the asserted buffers or other statutory distance requirements (including the 440-yard affected-person” radius) are actually met.

From the Application, one can measure on-site distances, but not distances from the facility to specific houses or schools. The Core Data Form’s latitude/longitude fields are blank, so there is no exact map location for the site. Verti-Crete’s drawings show the layout of the facility inside the site, but they do not identify where that layout sits in the neighborhood. Further, Verti-Crete’s maps do not plot off-site receptors: the Area Map shows only the property boundary and a 3,000-ft circle. The Plot Plan shows only the on-site layout.³²

Verti-Crete’s omissions are material, not technical. Even if “setback” here means only the 100 - 200-foot buffer from the site boundary, the missing data nonetheless matters. The Application provides no coordinates by which the public could determine whether a home falls within a few hundred feet, whether someone qualifies as an affected-person” within 440 yards, or whether a school is within 3,000 feet. This is not nitpicking; it goes to meaningful notice and participation and to confidence that the distance-based requirements the program relies on - to ensure impacts to the community are safe - are actually met.

³¹ Texas Commission on Environmental Quality, *Form PI-1S-CBP (Air Quality Standard Permit Registration—Concrete Batch Plants)*, “6004 Checklist.”

³² Texas Commission on Environmental Quality, *Verti-Crete Houston, LLC—Standard Permit Initial Registration*, Form PI-1S-CBP (May 2024).

Because the Application does not comply with the standard-permit requirements set out in Texas Health & Safety Code § 382.05195, the PI-1S-CBP instructions, and the Air Quality Standard Permit for Concrete Batch Plants, the Commission should reverse the ED's May 8, 2025 decision and deny the Application.³³

D. The ED relied on data not available to the public.

In its Response, the ED for the first time supplied proximity measurements and map annotations that identify a facility point and report straight-line distances to residences and to Thurgood Marshall High School.³⁴ The public did not have a meaningful opportunity to review and respond to this new and relevant information as required by the public notice and participation rules that govern this Application.³⁵ According to the Response Appendix A, this information was obtained and generated on September 3, 2025 – after the public comment period and the deadlines for requests for contested case hearings and reconsideration. This should be fatal to the Application.

To produce the location and distance information in the ED's attachments, TCEQ used a site location “obtained from the applicant” and the requestors' addresses, then mapped and calculated distances to a defined “facility point.” This work necessarily goes beyond the four

³⁴ Texas Commission on Environmental Quality, *Executive Director's Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025) at Appendix A.

³⁵ 30 Tex. Admin. Code § 39.405(g)(1)–(2); § 55.156(b).

corners of the Application.³⁶ The ED’s map carries a disclaimer that it is for informational purposes, “may not be... suitable for legal, engineering, or surveying purposes,” and “does not represent an on-the-ground survey.”³⁷

The ED’s after-the-fact mapping cannot fix Verti-Crete’s omissions and inaccuracies. That the ED was required to fill in Verti-Crete’s blanks to respond to the Requests for Reconsideration and Contested Case Hearing highlights both the absence and necessity of this information. Under the 440-yard “affected-person” threshold, distance is dispositive of who may seek a hearing; likewise, the 3,000-foot school screen raises heightened protectiveness concerns.³⁸ Verti-Crete’s failure to disclose the coordinates, receptor mapping, and measurement anchor from the Application effectively deprived neighbors and the County of a fair chance to (i) determine whether they qualified as affected persons, (ii) verify the represented distances, and (iii) frame requests for reconsideration or contested case hearing.

This point is underscored by Appendix A to the ED’s Response, which lists (some) residents and one school with distances, measured by the ED on September 3, 2205, from the facility point (yards):

Allison Sullivan, 1102 Mesa Verde Dr., Missouri City, 77489: 183.14 yards from “Facility Point”

³⁶ Which was not available to the public as required by Tex. Admin. Code (TAC) § 39.405(g)(1)–(3).

³⁷ Texas Commission on Environmental Quality, *Executive Director’s Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025) at Appendix A.

³⁸ Texas Commission on Environmental Quality, *Air Quality Standard Permit for Concrete Batch Plants* (effective Jan. 24, 2024).

Michael Sullivan, 1103 Mesa Verde Dr., Missouri City, 77489: 183.14 yards from “Facility Point”

Karen Sullivan, 1104 Mesa Verde Dr., Missouri City, 77489: 183.14 yards from “Facility Point”

Janai Buxton, 911 Pine Meadow Dr., Missouri City, 77489: 180.46 yards from “Facility Point”

Xavier Wright, 906 Pine Meadow Dr., Missouri City, 77489: 163.51 yards from “Facility Point”

Tynisha Wright, 906 Pine Meadow Dr., Missouri City, 77489: 163.51 yards from “Facility Point”

Stephanie Bush, 807 Pine Meadow Dr., Missouri City, 77489: 186.69 yards from “Facility Point”

Lauren Reed, 1110 Circle Bend Dr., Missouri City, 77489: 759.34 yards from “Facility Point”

Thomas Gregory Romaine, 1111 Circle Bend Dr., Missouri City, 77489: 759.34 yards from “Facility Point”

Thurgood Marshall High School, 1220 Buffalo Run, Missouri City, 77489: 1,050.82 yards from the “Facility Point”

These names and measurements illustrate that nearby residents (and likely others not identified here) needed access to accurate location and distance data during the participation period to fully and fairly assess their status and rights. Verti-Crete’s failure to provide this information prejudiced potential “affected-persons.” During the period when residents had to decide whether to file a Request for Reconsideration or a Request for Contested Case Hearing (May 8, 2025 to June 9, 2025), the Application was not reliably available to the public in person or online. At the same time, the Application itself did not provide the location and distance information needed to verify proximity to homes, schools, churches, or parks. Verti-Crete failed to furnish the public with timely, usable location and distance data, which prevented residents and the County from accurately and properly testing the ED’s decision, establishing affected-person status tied to the 440-yard criterion, or determining whether nearby schools warranted closer scrutiny.

Because the ED’s analysis relied on mapping and measurements that were unavailable to the public when it mattered, the appropriate remedy is to deny the Application. Alternatively, the Commission should order the ED to require Verti-Crete to submit a compliant, publicly accessible Application and re-open public participation. Only then can the public and the agency verify who is an “affected-person,” whether distances are correct and complete, and whether statutory screens and buffers are actually met.

E. The Protectiveness Review is not protective.

The protectiveness review, or Air Quality Analysis, is detailed in the TCEQ’s “2023 Amendments to the Air Quality Standard Permit for Concrete Batch Plants,” which was revised and adopted in January 2024.³⁹ That review involved air dispersion modeling that purportedly accounted for five years of meteorological data - from 1983, 1984, 1986, 1987, and 1988 - including surface meteorological data from Austin and upper-air meteorological data from Victoria.⁴⁰ TCEQ maintains that this dataset includes worst-case, short-term meteorological conditions that could occur anywhere in the state. However, the EPA, in public comment, questioned the use of such outdated data and requested more recent and localized meteorological data.⁴¹

³⁹ *Technical Background Summary: Amendments to the Air Quality Standard Permit for Concrete Batch Plants* (Tex. Comm’n on Env’tl. Quality, revised Jan. 2024), at 40.

⁴⁰ *Technical Background Summary: Amendments to the Air Quality Standard Permit for Concrete Batch Plants* (Tex. Comm’n on Env’tl. Quality, revised Jan. 2024), at 10.

⁴¹ *Id.* at 41.

Air modeling based on Austin and Victoria weather from the 1980s does not predict health risks for people living, working, studying, or playing near a concrete batch plant more than 100 miles away in Missouri City in 2025.

The ED's Response does not explain how those decades old, distant datasets reflect current, or even recent, air and dispersion conditions in Fort Bend County. The Response does not demonstrate that weather and climate patterns in Austin and Victoria forty years ago are relevant to Fort Bend County today. TCEQ's assumptions about these data ignore four decades of climate change that can significantly alter wind patterns, inversion layers, and other dispersion factors in Fort Bend County today.

Fort Bend County believes TCEQ's modeling does not - or has not been shown to - protect the area around the proposed Verti-Crete plant from harmful levels of airborne dust (including PM₁₀/PM_{2.5} and crystalline silica), diesel exhaust, and related dust fallout on homes and property. Because the Protectiveness Review is not reliably protective of the residents of Fort Bend County, the Executive Director's May 8, 2025 decision cannot be sustained and should be reversed.

F. The PM_{2.5} NAAQS standard is outdated.

In 2024 EPA strengthened the primary annual PM_{2.5} NAAQS to 9 µg/m³ (effective May 6, 2024).⁴² The ED acknowledged the change and that the Concrete Batch Plant Standard Permit has not been updated to reflect it. Standard-permit registrations like Verti-Crete's do not require

⁴² U.S. Env'tl. Prot. Agency, *National Ambient Air Quality Standards (NAAQS) for PM* (Feb. 7, 2024).

site-specific emissions calculations or modeling, and the record contains no analysis showing that this project “will not cause or contribute to a violation” of the revised PM_{2.5} standard. Without updated modeling or a permit framework aligned to the current NAAQS, TCEQ lacks a basis to conclude compliance and the ED’s May 8, 2025 decision should be reversed.

G. The ED did not consider cumulative effects.

The New Source Review guidance calls for evaluating site-wide emissions and using Effects Screening Levels to assess cumulative impacts from multiple facilities and pollutants. The Verti-Crete site is near at least five existing concrete batch plants (including facilities on S. Gessner, Cash Road, McHard Road, and Pike Road). This clustering increases the likelihood of overlapping particulate and diesel emissions and combined impacts. The record does not include a cumulative analysis addressing these nearby sources.

H. The proposed plant is too close to sensitive receptors.

The Verti-Crete concrete batch plant will be located close to homes, parks, churches and schools. These include Thurgood Marshall High School (1220 Buffalo Run Blvd), Lake Olympia Middle School (3100 Lake Olympia Pkwy), Fort Bend Transformation Church (3900 Wallenberg Lane), Holy Family Catholic Church (1510 5th Street) and Buffalo Run Park (1122 Buffalo Run Blvd). Thurgood Marshall High School frequently hosts outdoor athletic events, including regular football practices and games, and Buffalo Run Park is a public recreational space.

The nearby receptors include children, young athletes, and families - all of whom may face increased exposure to emissions such as particulate matter (PM_{2.5} and PM₁₀), diesel exhaust, and silica dust associated with concrete operations. Further increasing the number of potentially affected individuals, the lot on which Verti-Crete plans to build its plant is surrounded by

residential neighborhoods, with at least one home located as close as 132 yards from the site.⁴³ The ED confirmed 7 homes within 440 yards of the proposed facility.⁴⁴ Given the facility's proximity to schools, recreational areas, and homes, and the absence of a robust assessment of potential health impacts, the ED's May 8, 2025 decision does not adequately address the risk to sensitive receptors and its May 8, 2025 decision should be reversed.⁴⁵

I. Verti-Crete did not demonstrate economic benefit.

Expedited processing requires a record showing that “the purpose of the application will benefit the economy of this state or an area of this state.”⁴⁶ Verti-Crete did not provide such a demonstration; it checked the expedited box and paid the surcharge, but the record contains no analysis or documentation of an economic benefit to Fort Bend County or the state. The ED's Response does not address this issue.

J. The ED's delay in responding to comments impacts public participation.

The comment period closed on December 16, 2024, but the ED did not issue the Response to Comments until April 29, 2025, about four months later. That timing conflicts with the governing standards, which require filing the response “within the shortest practical time” and “not

⁴³ J. Hadayia Request for Reconsideration and Request for Contested Case Hearing to Texas Commission on Environmental Quality on behalf of Karen, Michael, and Alison Sullivan (June 9, 2025) (regarding Air Quality Standard Permit No. 176298, Verti-Crete Houston LLC.).

⁴⁴ Texas Commission on Environmental Quality, *Executive Director's Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025).

⁴⁵ See TCEQ, *Modeling and Effects Review Applicability (MERA)* Guidance Document (rev. Mar. 2018), <https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mera.pdf>.

⁴⁶ 30 Tex. Admin. Code § 101.600(a).

to exceed 60 days” after the close of comment (30 TAC § 55.156) and “at the same time as or as soon as practicable after” the decision (Tex. Health & Safety Code § 382.05199(i)). The delay reduced the public’s ability to stay informed and to prepare timely, record-based Requests for Reconsideration or Contested Case Hearing. The ED’s September 15, 2025 response does not address this objection.

K. The ED misattributed objections to Fort Bend County.

The ED’s Response misattributes positions to the County and, in doing so, may have overlooked the County’s actual grounds for reconsideration. For example, the ED asserts that the County requested reconsideration related to the newspaper and public notice, but the County’s Request focuses on public access failures, specifically, that the Application was not available locally at the Fort Bend Chamber of Commerce and was not posted online.

Likewise, the County did not seek affected-person status or request a contested case hearing; it filed a Request for Reconsideration, asked that the matter be placed on the Commission’s agenda, and, if necessary, requested that its filing be treated as a Motion to Overturn so the Commission would consider the County’s objections.⁴⁷

By attributing to the County objections it did not make and by evaluating the County’s Request as if the County had sought affected-person status, the ED’s Response risks applying the wrong legal standards and missing the County’s central compliance-and-notice argument: the

⁴⁷ Texas Commission on Environmental Quality, *Executive Director’s Response to Hearing Requests and Requests for Reconsideration*, Verti-Crete Houston, LLC, Air Quality Standard Permit Reg. No. 176298, TCEQ Docket No. 2025-1292-AIR (Sept. 15, 2025).

public could not access the Application locally or online and therefore could not evaluate distances, receptor proximity, or other compliance elements during the participation window. The implication is that the County's request may not have been thoroughly or accurately evaluated.

L. The County's issues track the matters ED and OPIC recommend referring.

If the Commission denies the County's Request for Reconsideration and grants any contested case hearing on this Application at its October 8, 2025, meeting, Fort Bend County respectfully requests that the Commission designate the County as a party for the SOAH proceeding, or, in the alternative, expressly direct that the County be admitted as a party at the SOAH preliminary hearing under 30 TAC §§ 80.109(a) and 55.203.

Fort Bend County has the authority to inspect the Facility for compliance with various state environmental statutes, and TCEQ rules and orders issued thereunder. In addition to these investigatory powers, Fort Bend County, as a local government, has the authority to file civil suits for injunctive relief, civil penalties, or both. Fort Bend County has actively participated in the TCEQ permitting process and timely submitted comments and filed a Request for Reconsideration.

Party status is warranted because the County has statutory responsibilities and a concrete interest directly implicated by this Application (including roads, drainage, emergency response, and protection of public health and safety), the facility is proximate to County-maintained infrastructure and sensitive receptors, and the County's record-focused issues align with those the ED and OPIC recommend referring, so its participation will assist in developing a complete record without duplication.

IV. CONCLUSION

For the foregoing reasons, Fort Bend County respectfully requests that the Commission grant its Request for Reconsideration, reverse the ED's May 8, 2025 decision, and deny the Application.

In the alternative, the County requests that the Commission remand the Application with instructions to (1) verify and document the status of all public application repositories; (2) upload a new, complete and accurate application to the TCEQ Online Records and ensure in-county access; and (3) reopen any applicable comment and filing deadlines after verified access to the new application and notice of its availability.

If the Commission refers Verti-Crete Houston, LLC's Application to SOAH for an evidentiary hearing, the County asks that the Commission include the issues raised in this Reply (A – L) in those referred to SOAH. The County further requests that it be designated a party, or that the ALJ be directed to admit the County as a party at the preliminary hearing under 30 TAC §§ 80.109 and 55.203. Finally, the County requests that the Application be uploaded to the TCEQ Online Records before the preliminary hearing.

Respectfully submitted,

BRIDGETTE SMITH-LAWSON
FORT BEND COUNTY ATTORNEY

/s/ Huma Ahmed
Bridgette Smith-Lawson
Fort Bend County Attorney
Huma Ahmed
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**ATTORNEYS FOR FORT BEND
COUNTY**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing was served on the following *via electronic service* on September 29, 2025.

/s/ Earnest W. Wotring
Earnest W. Wotring

EXHIBIT A

From: Keri Schmidt <Keri@fortbendcc.org>
Sent: Wednesday, September 24, 2025 1:36 PM
To: Ahmed, Huma; Jamie Loasby
Cc: laurie.gharis@tceq.texas.gov
Subject: RE: Availability of TCEQ Applications

Huma,

In June 2024, we were notified that the Fort Bend Chamber was listed as one of the locations where Verti-crete permit information would be available for public review. We had not approved this use of our address, nor had we been informed beforehand. Upon review, we learned that Edge Engineering and Science was the firm contracted to handle the permitting process. I contacted Ana de la Garza with Edge Engineering to let her know the Chamber had not authorized this. Ana explained that the filing had already been submitted and could not be changed. Edge then provided us with the materials, which we made available for the requested period in 2024.

On June 19, 2024, we issued a formal letter to Ms. de la Garza placing her on notice that the Fort Bend Chamber address may not be used in the future without our prior knowledge and written approval. Since that time, we have not received any further Verti-crete permitting information.

Please let me know if you need any further information.



Advocate. Elevate. Lead.

Keri Schmidt, CCE, IOM

President & CEO

445 Commerce Green Blvd.

Sugar Land, Texas 77478

O: 281-566-0216 | keri@fortbendcc.org

From: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>

Sent: Tuesday, September 23, 2025 3:47 PM

To: Jamie Loasby <jamie@fortbendcc.org>

Cc: Keri Schmidt <Keri@fortbendcc.org>

Subject: Re: Availability of TCEQ Applications

Thank you, Jamie. Please let me know if I can help answer any questions.

Best,

Huma

From: Jamie Loasby <jamie@fortbendcc.org>

Sent: Tuesday, September 23, 2025 12:44 PM

To: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>

Cc: Schmidt, Keri <Keri@fortbendcc.org>

Subject: RE: Availability of TCEQ Applications

Good Afternoon Huma,

I am referring this to our President, Keri Schmidt, for response.

Thanks,



Advocate. Elevate. Lead.

Jamie Loasby

Director of Public Policy

445 Commerce Green Blvd.

Sugar Land, Texas 77478

O: 281-566-2163 | jamie@fortbendcc.org

From: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>

Sent: Tuesday, September 23, 2025 11:53 AM

To: Jamie Loasby <jamie@fortbendcc.org>

Subject: Availability of TCEQ Applications

Good morning, Ms. Loasby-

I hope you're doing well. My name is Huma Ahmed and I'm with the Fort Bend County Attorney's Office. We have been working with Commissioner Prestage's Office and members of the community regarding the construction of a proposed concrete batch plant near Thurgood Marshall High School.

The applicant, Verti-Crete Houston, LLC, indicated on its application to the Texas Commission on Environmental Quality (TCEQ) that the Fort Bend Chamber of Commerce would have a copy of the application available for public viewing. However, a community member, Haley Schulz, visited your office in June and was unable to locate the document. She mentioned you confirmed that the Chamber does not house such applications and is not a public facility, like a library or government building, where the public would have public access.

It appears this is not an isolated incident—other applicants have also listed the Chamber as a public access point for application review. We've notified TCEQ that the Chamber has not made this or any similar applications available to the public.

We kindly request that you send a letter to TCEQ confirming that your office does not, and has not, housed applications for public review, including the Verti-Crete Houston, LLC application (Concrete Batch Plant Registration No. 176289).

Letters can be directed to:

Ms. Brooke Paup, Chairwoman
c/o Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087
laurie.gharis@tceq.texas.gov
RE: TCEQ DOCKET NO. 2025-1292-AIR

TCEQ is reviewing this matter in the coming weeks, and responses are requested by **September 29, 2025**.

Please feel free to contact me with any questions at 281-341-4555 or 832-451-2116. I'm happy to discuss this further.

I know that you will want to clear up this misunderstanding to ensure that applicants do not share misleading information with the public.

Best regards,

Huma

Ms. Huma N. Ahmed
Chief, Regulatory Division
Fort Bend County Attorney's Office
401 Jackson Street
Richmond, Texas 77469
Telephone No. 281-341-4555
Fax No. 281-341-4557
huma.ahmed@fortbendcountytexas.gov

***Office of Bridgette Smith-Lawson
Fort Bend County Attorney***

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EXHIBIT B

From: Keri Schmidt <Keri@fortbendcc.org>
Sent: Thursday, September 25, 2025 10:28 AM
To: Ahmed, Huma; Jamie Loasby
Subject: RE: Availability of TCEQ Applications

Huma,

The application was available at our office from June 20, 2024, through July 23, 2024. We were never notified or made aware of any additional postings or listings for the public notice after that date. As noted previously, we sent a letter to Edge Engineering specifically requesting that our office not be used as a location for public notices without our explicit authorization.

We received the public notice accompanied by a letter from Edge Engineering dated June 17, 2024, which was provided to us either by mail or delivery (I do not recall which).

Please let me know if you have any further questions.



Keri Schmidt, CCE, IOM

President & CEO

445 Commerce Green Blvd.

Sugar Land, Texas 77478

O: 281-566-0216 | keri@fortbendcc.org

Advocate. Elevate. Lead.

From: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>
Sent: Wednesday, September 24, 2025 5:11 PM
To: Keri Schmidt <Keri@fortbendcc.org>; Jamie Loasby <jamie@fortbendcc.org>
Subject: Re: Availability of TCEQ Applications

Ms. Schmidt-

Thank you so much for your quick reply! I truly appreciate it. I'd like to make sure that I understand all of the different dates that the application was actually at the Chamber office, if at all. The Chamber is mentioned as the location given by the Applicant for the application in multiple notices from TCEQ from June 2024 through at least May of 2025. Could you let me know:

1. when were the application and supporting documents first made available for review at the Chamber, if available at all; and
2. if they were made available, when those documents no longer became available?
3. did you have a physical copy available or were you only sent an electronic copy?

Thank you again for your help!

Best regards,
Huma

From: Keri Schmidt <Keri@fortbendcc.org>
Sent: Wednesday, September 24, 2025 1:35 PM
To: Ahmed, Huma <Huma.Ahmed@fortbendcountytx.gov>; Jamie Loasby <jamie@fortbendcc.org>
Cc: laurie.gharis@tceq.texas.gov <laurie.gharis@tceq.texas.gov>
Subject: RE: Availability of TCEQ Applications

Huma,

In June 2024, we were notified that the Fort Bend Chamber was listed as one of the locations where Verti-crete permit information would be available for public review. We had not approved this use of our address, nor had we been informed beforehand. Upon review, we learned that Edge Engineering and Science was the firm contracted to handle the permitting process. I contacted Ana de la Garza with Edge Engineering to let her know the Chamber had not authorized this. Ana explained that the filing had already been submitted and could not be changed. Edge then provided us with the materials, which we made available for the requested period in 2024.

On June 19, 2024, we issued a formal letter to Ms. de la Garza placing her on notice that the Fort Bend Chamber address may not be used in the future without our prior knowledge and written approval. Since that time, we have not received any further Verti-crete permitting information.

Please let me know if you need any further information.



[fortbendchamber.com]

Advocate. Elevate. Lead.

**Keri Schmidt,
CCE, IOM**

President & CEO

445 Commerce Green
Blvd.

Sugar Land, Texas
77478

O: 281-566-0216 |
keri@fortbendcc.org

From: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>
Sent: Tuesday, September 23, 2025 3:47 PM
To: Jamie Loasby <jamie@fortbendcc.org>
Cc: Keri Schmidt <Keri@fortbendcc.org>
Subject: Re: Availability of TCEQ Applications

Thank you, Jamie. Please let me know if I can help answer any questions.

Best,

Huma

From: Jamie Loasby <jamie@fortbendcc.org>
Sent: Tuesday, September 23, 2025 12:44 PM
To: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>
Cc: Schmidt, Keri <Keri@fortbendcc.org>
Subject: RE: Availability of TCEQ Applications

Good Afternoon Huma,

I am referring this to our President, Keri Schmidt, for response.

Thanks,



Jamie Loasby

Director of Public Policy

445 Commerce Green Blvd.

Advocate. Elevate. Lead.

Sugar Land, Texas 77478

O: 281-566-2163 | jamie@fortbendcc.org

From: Ahmed, Huma <Huma.Ahmed@fortbendcountytexas.gov>

Sent: Tuesday, September 23, 2025 11:53 AM

To: Jamie Loasby <jamie@fortbendcc.org>

Subject: Availability of TCEQ Applications

Good morning, Ms. Loasby-

I hope you're doing well. My name is Huma Ahmed and I'm with the Fort Bend County Attorney's Office. We have been working with Commissioner Prestage's Office and members of the community regarding the construction of a proposed concrete batch plant near Thurgood Marshall High School.

The applicant, Verti-Crete Houston, LLC, indicated on its application to the Texas Commission on Environmental Quality (TCEQ) that the Fort Bend Chamber of Commerce would have a copy of the application available for public viewing. However, a community member, Haley Schulz, visited your office in June and was unable to locate the document. She mentioned you confirmed that the Chamber does not house such applications and is not a public facility, like a library or government building, where the public would have public access.

It appears this is not an isolated incident—other applicants have also listed the Chamber as a public access point for application review. We've notified TCEQ that the Chamber has not made this or any similar applications available to the public.

We kindly request that you send a letter to TCEQ confirming that your office does not, and has not, housed applications for public review, including the Verti-Crete Houston, LLC application (Concrete Batch Plant Registration No. 176289).

Letters can be directed to:

Ms. Brooke Paup, Chairwoman
c/o Laurie Gharis, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087

laurie.gharis@tceq.texas.gov

RE: TCEQ DOCKET NO. 2025-1292-AIR

TCEQ is reviewing this matter in the coming weeks, and responses are requested by **September 29, 2025**.

Please feel free to contact me with any questions at 281-341-4555 or 832-451-2116. I'm happy to discuss this further.

I know that you will want to clear up this misunderstanding to ensure that applicants do not share misleading information with the public.

Best regards,

Huma

Ms. Huma N. Ahmed

Chief, Regulatory Division

Fort Bend County Attorney's Office

401 Jackson Street

Richmond, Texas 77469

Telephone No. 281-341-4555

Fax No. 281-341-4557

huma.ahmed@fortbendcountytexas.gov

Office of Bridgette Smith-Lawson

Fort Bend County Attorney

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EXHIBIT C

IN THE MATTER OF THE §
APPLICATION §
BY VERTI-CRETE HOUSTON, LLC FOR §
CONCRETE BATCH PLANT PERMIT — §
NO. 176289 §
§
§
FORT BEND COUNTY, TEXAS §

As a citizen of the State of Texas, my right to properly review an application submitted to the TCEQ for a Standard Permit for a concrete batch plant was prevented because of the false statements made by the Applicant regarding the location of the application. I was unable to obtain a copy of the application, which impeded my ability to properly evaluate the application which was cause for great harm.

Further Affiant sayeth not."

Haley S. Schulz
Haley Schulz

SWORN TO AND SUBSCRIBED before me on this 25 day of September, 2025.

Sandra H. Degollado
Notary Public, State of Texas

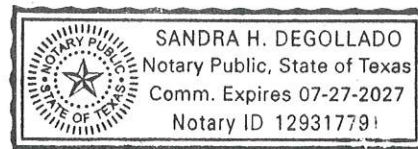


EXHIBIT D

From: Warda Omar <Warda.Omar@Tceq.Texas.Gov>
Sent: Monday, June 9, 2025 1:01 PM
To: Tammy Jones
Cc: Joseph Doby; Corbett Brinly
Subject: RE: Permit
Attachments: MDC2024-0001_Ft_Bend_Co_CBP_SP_Registration_Final_app_v2.0.pdf; 176289 Verti-Crete PM Notice of Executive Decision.pdf; 176289.pdf; 22033-oth-nr-cbbsp-stdpmt.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email is originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Tammy,

As discussed, all but the permit application and the Air Quality Standard Permit for Concrete Batch Plants is currently accessible via the following link: [CID-176289](#)

The easiest way to get to the Commissioners' Integrated Database is to search for "CID" in the search box, top right corner, of the tceq.texas.gov page. Once you are on the CID page, enter the permit/registration number in the "TCEQ ID Number" box and click search. To see all activities/actions associated to the particular permit/registration, scroll down and select "Display all Activity Actions".

The Air Quality Standard Permit for Concrete Batch Plants is also available on the agency's page. Easiest way to get there would be to search for concrete batch plant and select the first option from the list: [Standard Permit for Concrete Batch Plants](#).

Regards,

Warda Omar

Air Section Program Coordinator
Office: 713-767-3763 | Fax: 713-767-3761
Office of Compliance and Enforcement - Houston Regional Office
5425 Polk Street, Suite H, Houston, Texas 77023



From: Tammy Jones <TJones@BakerWotring.com>
Sent: Monday, June 9, 2025 10:43 AM
To: Savannah Benavides <Savannah.Benavides@tceq.texas.gov>
Subject: Fw: Permit

Get [Outlook for iOS](#)

From: Tammy Jones <TJones@BakerWotring.com>

Sent: Monday, June 9, 2025 10:40:06 AM

To: Tammy Jones <TJones@BakerWotring.com>

Subject: Permit

Get [Outlook for iOS](#)

Request for Contested Case Hearing and “Reply Brief” for Affected Person Status

Requestor’s Name: Tynisha Wright

Address, City, State, Zip of property: 906 Pine Meadow Dr. Missouri City TX 77489

Daytime phone number: 832-520-7285

Applicant’s Name and Permit Number: Verti-Crete Houston, LLC Permit Number

176289 Docket #: 2025-1292-AIR

I, Tynisha Wright, hereby request a contested case hearing regarding the Verti-Crete Houston, LLC air permit No. 176289 and henceforth offer a ‘reply brief’ to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named ‘parties’).

According to (30 TAC 55.203), I meet all the conditions to be named an Affected Person as I have personal justiciable interest and a reasonable relationship with the application and should be afforded the protections by law under which the application is considered. My interests are not common to members of the general public such that the location of my property, my health & safety, impact on my natural resources, and use and an enjoyment of the property will be adversely affected by the proposed facility and its related activities.

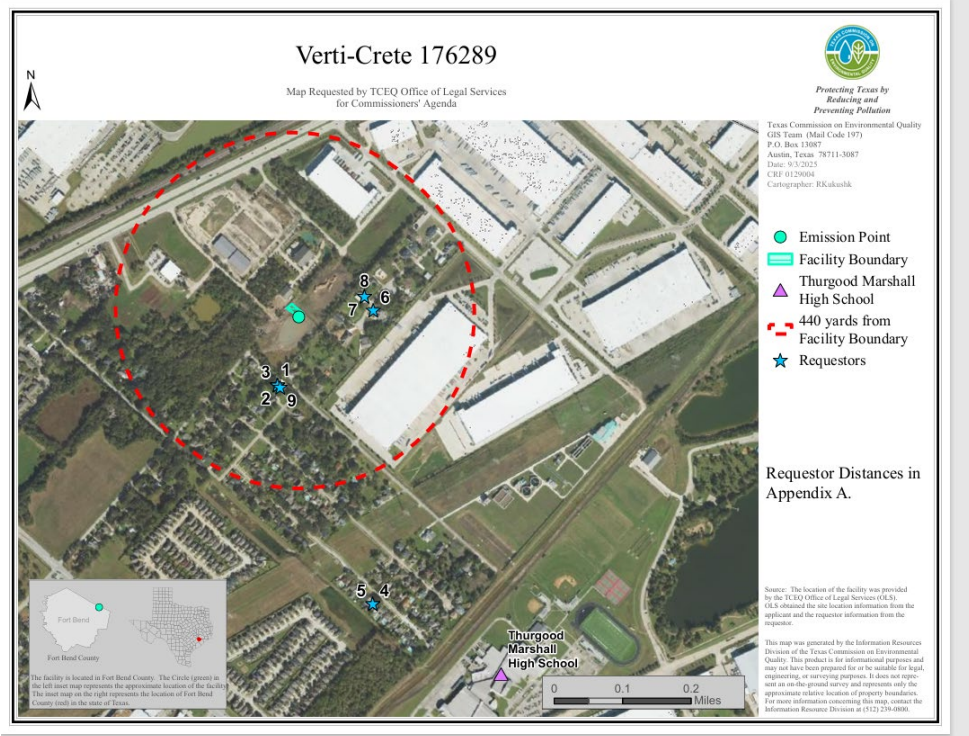
Issues of ‘Reply Brief’:

1. Proximity: Location of the Requestor’s Affected Property (i.e. home, business, or property)
2. Personal Justiciable Interests: I have personal justiciable interests that are not common to members of the general public.

Statement of Fact based on Parties’ Responses:

1. Proximity

My permanent residence at 906 Pine Meadow Dr. Missouri City TX 77489 is located approximately 400 yards from the fence-line of the proposed Verti-Crete Houston Property and 163.51 yards from the proposed location of the concrete batch plant:



I, **Tynisha Wright**, live within 440 yards and so do my neighbors listed in the following table from 1 through 9:

Appendix A for Verti-Crete 176289

ID	Name	Address	City	State	ZIP	Lat	Long	Distance to Facility Point (Yards)
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

30 TAC 55.203 (c) (2) states:

“In determining whether a person is an affected person, all factors shall be considered, including, but not limited to [...] distance restrictions or other limitations imposed by law (emphasis added) on the affected interest.”

Per THSC Section 382.058 (c), “...persons actually residing in a permanent residence within 440 yards of the proposed plant” are recommended for Affected Person status.

The Executive Director (ED) recommended only certain requestors as affected persons while excluding others in the same household or within the same 440-yard range. This creates an arbitrary distinction unsupported by law.

ED’s reasoning: ED response for request for reconsideration of response 6:
Location/zoning.

Rebuttal:

- Under THSC §382.058(c), *any person actually residing in a permanent residence within 440 yards of the proposed plant qualifies as an affected person.*
- I live at 906 Pine Meadow Dr Missouri City TX 77489, which is located 163.51 yards from the proposed facility.
- All household members within 440 yards deserve recognition as affected persons, not just one.
- Allison Sullivan at 1102 Mese Verde Dr. Missouri City TX 77489, Michael Sullivan at 1103 Verde Dr Missouri City TX 77489, Janai Buxton at 911 Pine Meadow Dr Missouri City TX 77489, Xavier Wright at 906 Pine Meadow Dr Missouri City TX 77489, Stephanie Bush at 807 Pine Meadow Dr Missouri City TX 77489, Ham Garza at 926 Pine Meadow Dr Missouri City TX 77489, Andre Bush at 807 Pine Meadow Dr Missouri City TX 77489, William Cronin at 902 Pine Meadow Dr Missouri City Texas, all live within 400 yards from the proposed Verti-Crete concrete batch plant.

OPIC’s position: OPIC correctly recognized that multiple household members within 440 yards may qualify as affected persons. OPIC has previously affirmed that proximity and health impacts extend to all household members, not just one.

Demand: As such, I demand that I, along with my enlisted neighbors, be recommended for Affected Person status due to distance from the concrete batch plant.

2. Personal Justiciable Interests

Health Effects / Air Quality

ED's reasoning: ED Response, p. 3: Health effects/Air quality

Rebuttal:

- Myself, and my 2 sons Jeremiah Lavette & Carl Sanders suffer from asthma which is maintained by medication Albuterol inhaler. I made it known every chance that my children and I suffer from asthma, and this batch company will significantly affect our health and quality of life. Per the Health and Environmental aka EPA, “small particles less than 10 micrometers in diameter pose the greatest problems, because they can get deep into your lungs, and some may even get into your bloodstream. Exposure to such particles can affect both a person’s lungs and heart. Numerous scientific studies have linked particle pollution exposure to a variety of problems such as premature death in people with heart/lung disease, nonfatal heart attacks, irregular heartbeat. The issues that directly impact my kids and I is aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing have also been linked to particle pollution” created by a concrete batch plant such as Verti-Crete.
- My son has a garden in the backyard in which he grows fresh vegetables. The concrete batch plant will significantly affect his garden and quality of food.
- This concrete batch plant will affect my children being able to go outside for exercise or play in fear of having an asthma attack from the pollutants a concrete batch company creates, thus affecting our way of living.
- These risks are well-documented in TCEQ’s own rulemakings and in federal health literature. Exposure is not speculative but **certain** given the facility’s location within a residential neighborhood.
- According to Ziropiannis et al., Concrete batch plants in Harris County collectively emit between 38 and 111 tons of PM2.5 annually, contributing to measurable health damages including premature deaths, with disproportionate impacts on low-income and minority communities (Ziropiannis et al., 2023).
[Citation: Ziropiannis, N., Byrne, A., Hollingsworth, A. J., & Konisky, D. M. (2023). *Polluting under the Radar: Emissions, Inequality, and Concrete Batch Plants in Houston*. *Environmental Science & Technology*, 57(31), 114451–114462. American Chemical Society.]

OPIC's position: Animal, Human, and Environmental Health and Safety and Use/Enjoyment The Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a).

Demand: As such, I demand recognition as Affected Persons due to health impacts specific to my household and proximity. My lived experience and health vulnerabilities demonstrate a personal justiciable interest not common to the general public.

Dust Control / Nuisance

ED's reasoning: ED Response for reconsideration of response 2: dust control/nuisance p. 3. "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.

Rebuttal:

- I live at 906 Pine Meadow Dr Missouri City TX 77489, within 163.51 yards of the proposed facility. Dust from concrete batch plants is not a speculative issue but an inevitable byproduct of operations, particularly cement unloading, truck traffic, and batch mixing.
- Dust from concrete batch plants is not just a health concern but a **daily nuisance** that directly interferes with the use and enjoyment of my home. Fine particles settle on our windows, porches, cars, laundry, and garden, requiring constant cleaning and forcing us to keep windows closed. This dust also limits my children's ability to safely play outside, as it aggravates their asthma and causes coughing and breathing difficulty. These impacts are not hypothetical inconveniences; they are a **persistent, physical intrusion** into our property and daily life, demonstrating why dust control is a central issue with facilities like Verti-Crete. On a daily basis, I will

be forced to close windows, increase cleaning, restrict outdoor activity, or prevent children from playing outside, which is a direct interference with the use and enjoyment of my property.

- Dust from concrete operations includes fine particulates, silica, and diesel soot. These are not only aesthetic nuisances (dirtying cars, laundry, windows, porches) My household includes asthmatic children & adults, who will be disproportionately impacted by dust accumulation.
- The ED's dismissal of nuisance ignores the reality that dust deposition is a physical, daily interference with life at my residence. TCEQ's own concrete batch plant rulemakings acknowledge dust as a major concern.

OPIC's position: OPIC's response p. 11 & 12: "Animal, Human, and Environmental Health and Safety and Use/Enjoyment the Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a). Therefore, Issue Nos. 1, 2, and 3 are relevant and material. Public Notice the THSC § 382.056 requires the applicant to publish notice in a newspaper of general circulation within the municipality where the proposed facility is located or will be located. TCEQ implemented this public notice requirement through its rules in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. Therefore, Issue No. 4 regarding public notice is relevant and material."

Demand: As such, I demand recognition as an Affected Person due to nuisance impacts that will significantly disrupt my children and I's health and daily quality of life. Dust deposition, forced indoor confinement, and repeated cleaning burdens are unique to households like mine within 440 yards of the facility. These impacts demonstrate a personal justiciable interest not common to the general public and must be considered in evaluating affected person status.

Environmental Impact

ED's reasoning: ED's response for reconsideration 3 Environmental concerns p. 4

"The Executive Director finds that generalized concerns about environmental impacts are not sufficient to demonstrate a personal justiciable interest" "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.”

Rebuttal:

- I maintain a vegetable garden, avocado trees, and a dog on my property within 163.51 yards of the proposed facility. Dust and particulate matter (including PM2.5, PM10, and silica) will deposit directly onto soil, leaves, and edible produce, creating unsafe conditions for food consumption.
- Concrete dust contains alkaline particles and heavy metals, which are harmful to soil chemistry, plant health, and pollinators. This risk is particular to me as a resident who depends on my garden for food, recreation, & household nutrition.
- Wildlife in my yard, such as my dog, birds, butterflies, bees, & rabbits, will also be negatively affected by dust coating, air pollution, and habitat disruption.
- These impacts go beyond “generalized environmental concern” because they interfere directly with my personal use and reliance on my backyard garden, property, and local wildlife.
- TCEQ itself has acknowledged the risks of cumulative emissions in past rulemakings but failed to consider that multiple surrounding facilities in this area compound the environmental burden.

OPIC’s position: OPIC’s response p. 11 & 12: “Animal, Human, and Environmental Health and Safety and Use/Enjoyment the Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public’s health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state’s air resources from pollution by controlling or abating air pollution OPIC’s Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a). Therefore, Issue Nos. 1, 2, and 3 are relevant and material. Public Notice the THSC § 382.056 requires the applicant to publish notice in a newspaper of general circulation within the municipality where the proposed facility is located or will be located. TCEQ implemented this public notice requirement through its rules in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. Therefore, Issue No. 4 regarding public notice is relevant and material.”

Demand: As such, I demand recognition as an Affected Person due to environmental impacts specific to my property and reliance on its gardens, plants, and local wildlife. My use of my land and natural resources demonstrates a personal justiciable interest not common to the general public.

Timely Filing of Hearing Requests

Whether the hearing request was filed in a timely manner.

ED's reasoning: ED's response p. 14 # 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."

Rebuttal:

- I filed my comments and/or request for contested case hearing on time as confirmed by my submission on June 9 CN# CN606261493 through the TCEQ online portal. I attended the public meeting at Houston Community College Missouri City Campus 1600 Texas Parkway, Missouri City TX 77489 on December 12, 2024 and went on record with the impact this would have on me.
- The ED has stated that I filed in a timely manner, however, I did state these concerns and demonstrate personal justiciable reasons to why I should be granted the affected person status as further expounded in this letter.

- Even if there were clerical or administrative inconsistencies, the fact remains that my request was submitted within the public comment period and included the required elements (name, address, proximity, concerns).
- Courts and administrative precedent emphasize that technical filing issues should not bar participation where substantive rights and interests are at stake—especially for residents living within the statutory 440-yard threshold under THSC §382.058(c).

OPIC's position: OPIC's response p. 2 : "The 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 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. The Executive Director (ED) mailed a Response to Comments on May 8, 2025, and the deadline to submit a hearing request or request for reconsideration of the ED's decision on this application was June 9, 2025. The Commission received timely comments and hearing requests from Missouri City, Air Alliance Houston, Stephanie Bush, Janai Buxton, Allison Sullivan, Karen Sullivan, Michael Sullivan, Tynisha Wright, and Xavier Wright."

Demand: As such, I demand recognition as an Affected Person because I timely filed my request and demonstrated a personal justiciable interest in this matter. My proximity to the facility, health impacts, and use of property qualify me under statute, and my filing record supports this.

In summary, I respectfully disagree that I failed to submit timely filed comments, do not have personal justiciable interests, list reason you were denied affected status. **As such, I demand that I be recommended for Affected Person status due to personal, justiciable interest affected by the concrete batch plant.** I therefore request a Contested Case Hearing as an Affected Person under the law.

Respectfully submitted,

Tynisha Wright

Tynisha Wright

RE Docket No. 2025-1292-AIR

Tynisha Wright (Respondant)

Request filed on Air Permit No. 176289

I am writing to formally oppose the proposed concrete batch plant to be located directly behind my residence at 906 Pine Meadow Dr. Missouri City TX 77489. I strongly urge the Texas Commission on Environmental Quality (TCEQ) to deny this application due to the serious health, safety, and environmental risks it will impose on my family, my property, and my community.

As both an adult with asthma and the parent of children who also suffer from asthma, I am deeply concerned about the harmful air pollutants generated by concrete batch plant operations. Dust, particulate matter (silica, cement dust, sand, and aggregate), and diesel emissions pose significant respiratory hazards that can trigger asthma attacks, worsen existing health conditions, and lead to long-term lung and heart issues. The proximity of this plant to our home places my family in direct danger, as even minor exposure to airborne pollutants could result in severe health consequences.

In addition to the personal health risks, the plant's emissions will negatively affect overall air quality in the area. Increased particulate matter and chemical pollutants can travel beyond the plant's boundaries, impacting not just my home but also the broader neighborhood. The cumulative impact of these pollutants is inconsistent with the TCEQ's duty to protect public health and the environment.

Beyond health concerns, I am also troubled by the potential devaluation of my property, increased noise, heavy truck traffic, and safety hazards posed by the facility. Families like mine have invested in this community to raise children in a safe and healthy environment. A concrete batch plant directly behind our backyard is incompatible with residential living and will irreparably damage the quality of life for myself and my neighbors.

For these reasons, I respectfully request that TCEQ deny the permit for this concrete batch plant. I also request that, should a public hearing be scheduled, a **virtual hearing option** be made available. Many working families, including myself, may not be able to attend in person due to work obligations but still deserve the opportunity to voice our concerns.

Sincerely,

Tynisha Wright

Request for Contested Case Hearing and “Reply Brief” for Affected Person Status

Requestor’s Name: Xavier Wright

Address, City, State, Zip of property: 906 Pine Meadow Dr. Missouri City TX 77489

Daytime phone number: 832-372-6297

Applicant’s Name and Permit Number: Verti-Crete Houston, LLC Permit Number

176289 Docket #: 2025-1292-AIR

I, Xavier Wright, hereby request a contested case hearing regarding the Verti-Crete Houston, LLC air permit No. 176289 and henceforth offer a ‘reply brief’ to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named ‘parties’).

According to (30 TAC 55.203), I meet all the conditions to be named an Affected Person as I have personal justiciable interest and a reasonable relationship with the application and should be afforded the protections by law under which the application is considered. My interests are not common to members of the general public such that the location of my property, my health & safety, impact on my natural resources, and use and an enjoyment of the property will be adversely affected by the proposed facility and its related activities.

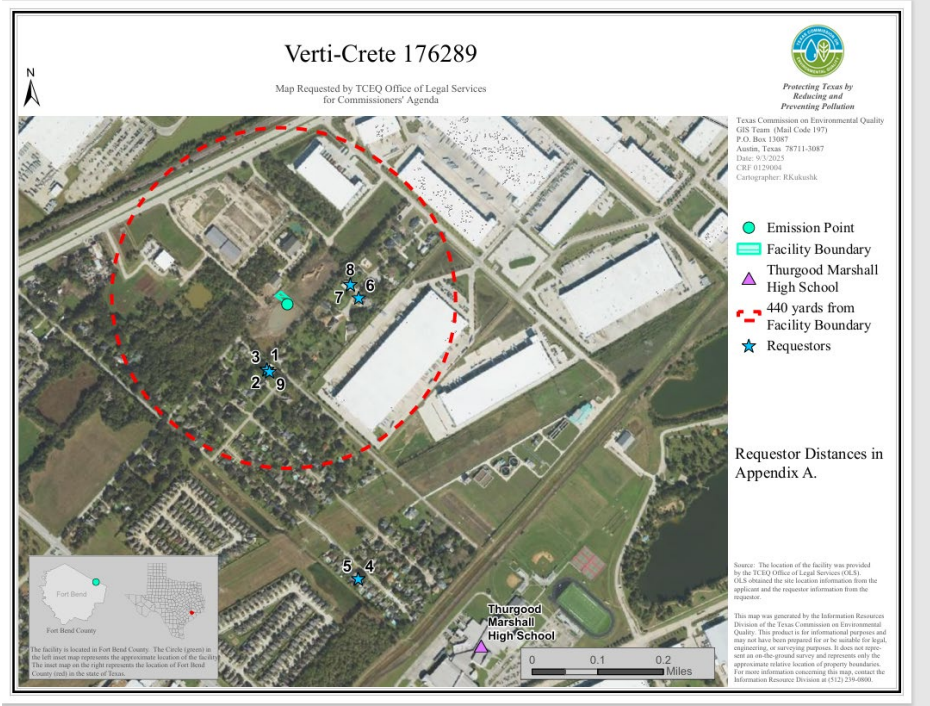
Issues of ‘Reply Brief’:

1. Proximity: Location of the Requestor’s Affected Property (i.e. home, business, or property)
2. Personal Justiciable Interests: I have personal justiciable interests that are not common to members of the general public.

Statement of Fact based on Parties’ Responses:

1. Proximity

My permanent residence at 906 Pine Meadow Dr. Missouri City TX 77489 is located approximately 400 yards from the fence-line of the proposed Verti-Crete Houston Property and 163.51 yards from the proposed location of the concrete batch plant:



I, Xavier Wright, live within 440 yards and so do my neighbors listed in the following table from 1 through 9:

Appendix A for Verti-Crete 176289

ID	Name	Address	City	State	ZIP	Lat	Long	Distance to Facility Point (Yards)
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

30 TAC 55.203 (c) (2) states:

“In determining whether a person is an affected person, all factors shall be considered, including, but not limited to [...] distance restrictions or other limitations imposed by law (emphasis added) on the affected interest.”

Per THSC Section 382.058 (c), “...persons actually residing in a permanent residence within 440 yards of the proposed plant” are recommended for Affected Person status.

The Executive Director (ED) recommended only certain requestors as affected persons while excluding others in the same household or within the same 440-yard range. This creates an arbitrary distinction unsupported by law.

ED’s reasoning: ED response for request for reconsideration of response 6:
Location/zoning.

Rebuttal:

- Under THSC §382.058(c), any person actually residing in a permanent residence within 440 yards of the proposed plant qualifies as an affected person.
- I live at 906 Pine Meadow Dr Missouri City TX 77489, which is located 163.51 yards from the proposed facility.
- All household members within 440 yards deserve recognition as affected persons, not just one.
- Allison Sullivan at 1102 Mese Verde Dr. Missouri City TX 77489, Michael Sullivan at 1103 Verde Dr Missouri City TX 77489, Janai Buxton at 911 Pine Meadow Dr Missouri City TX 77489, Tynisha Wright at 906 Pine Meadow Dr Missouri City TX 77489, Stephanie Bush at 807 Pine Meadow Dr Missouri City TX 77489, Ham Garza at 926 Pine Meadow Dr Missouri City TX 77489, Andre Bush at 807 Pine Meadow Dr Missouri City TX 77489, William Cronin at 902 Pine Meadow Dr Missouri City Texas, all live within 400 yards from the proposed Verti-Crete concrete batch plant.

OPIC’s position: OPIC correctly recognized that multiple household members within 440 yards may qualify as affected persons. OPIC has previously affirmed that proximity and health impacts extend to all household members, not just one.

Demand: As such, I demand that I, along with my enlisted neighbors, be recommended for Affected Person status due to distance from the concrete batch plant.

2. Personal Justiciable Interests

Health Effects / Air Quality

ED's reasoning: ED Response, p. 3: Health effects/Air quality

Rebuttal:

- I have a family history of heart disease and cancer on both my mother & father side of the family. My mother died from heart disease, and it is a fear that this concrete batch plant will cause heart disease as being one of the factors from particle dust.
- My family and I have a garden in the backyard in which he grows fresh vegetables. The concrete batch plant will significantly affect his garden and quality of food.
- This concrete batch plant will affect my children and wife being able to go outside for exercise or play in fear of having an asthma attack from the pollutants a concrete batch company creates, thus affecting our way of living.
- These risks are well-documented in TCEQ's own rulemakings and in federal health literature. Exposure is not speculative but certain given the facility's location within a residential neighborhood.

- According to Ziropiannis et al., Concrete batch plants in Harris County collectively emit between 38 and 111 tons of PM2.5 annually, contributing to measurable health damages including premature deaths, with disproportionate impacts on low-income and minority communities (Ziropiannis et al., 2023).
[Citation: Ziropiannis, N., Byrne, A., Hollingsworth, A. J., & Konisky, D. M. (2023). Polluting under the Radar: Emissions, Inequality, and Concrete Batch Plants in Houston. Environmental Science & Technology, 57(31), 114451–114462. American Chemical Society.]

OPIC's position: Animal, Human, and Environmental Health and Safety and Use/Enjoyment The Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and

Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a).

Dust Control / Nuisance

Whether the proposed activity from the proposed plant would create nuisance conditions and negatively impact human health and quality of life.

ED's reasoning: ED Response for reconsideration of response 2: dust control/nuisance p. 3. "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.

Rebuttal:

- I live at 906 Pine Meadow Dr Missouri City TX 77489, within 163.51 yards of the proposed facility. Dust from concrete batch plants is not a speculative issue but an inevitable byproduct of operations, particularly cement unloading, truck traffic, and batch mixing.
- Per the Health and Environmental aka EPA, "small particles less than 10 micrometers in diameter pose the greatest problems, because they can get deep into your lungs, and some may even get into your bloodstream. Exposure to such particles can affect both a person's lungs and heart. Numerous scientific studies have linked particle pollution exposure to a variety of problems such as premature death in people with heart/lung disease, nonfatal heart attacks, irregular heartbeat. The issues that directly impact my kids and I is aggravated asthma, decreased lung function, and increased respiratory symptoms, such as irritation of the airways, coughing or difficulty breathing have also been linked to particle pollution" created by a concrete batch plant such as Verti-Crete.
- On a daily basis, I will be forced to [close windows, increase cleaning, restrict outdoor activity, or prevent children from playing outside], which is a direct interference with the use and enjoyment of my property.
- Dust from concrete operations includes fine particulates, silica, and diesel soot. These are not only aesthetic nuisances (dirtying cars, laundry, windows, porches)

My household includes [asthmatic children & adults, or otherwise sensitive individuals], who will be disproportionately impacted by dust accumulation.

- The ED's dismissal of nuisance ignores the reality that dust deposition is a physical, daily interference with life at my residence. TCEQ's own concrete batch plant rulemakings acknowledge dust as a major concern.

OPIC's position: OPIC's response p. 11 & 12: "Animal, Human, and Environmental Health and Safety and Use/Enjoyment the Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public's health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state's air resources from pollution by controlling or abating air pollution OPIC's Response to Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a). Therefore, Issue Nos. 1, 2, and 3 are relevant and material. Public Notice the THSC § 382.056 requires the applicant to publish notice in a newspaper of general circulation within the municipality where the proposed facility is located or will be located. TCEQ implemented this public notice requirement through its rules in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. Therefore, Issue No. 4 regarding public notice is relevant and material."

Demand: As such, I demand recognition as an Affected Person due to nuisance impacts that will significantly disrupt my children and wife's health and daily quality of life. Dust deposition, forced indoor confinement, and repeated cleaning burdens are unique to households like mine within 440 yards of the facility. These impacts demonstrate a personal justiciable interest not common to the general public and must be considered in evaluating affected person status.

Environmental Impact

Whether the permit would be protective of flora and fauna, including backyard vegetable gardens. Whether the emissions from the proposed facility would negatively impact wildlife and the surrounding environment, including due to the cumulative impacts of the other surrounding emissions.

ED's reasoning: ED's response for reconsideration 3 Environmental concerns p. 4

“The Executive Director finds that generalized concerns about environmental impacts are not sufficient to demonstrate a personal justiciable interest” “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.”

Rebuttal:

Insert any particularized environmental concerns personal to you that make them affected beyond the general public. Example below.

- My family and I maintain a vegetable garden, avocado trees, and a dog on my property within 163.51 yards of the proposed facility. Dust and particulate matter (including PM2.5, PM10, and silica) will deposit directly onto soil, leaves, and edible produce, creating unsafe conditions for food consumption.
- Concrete dust contains alkaline particles and heavy metals, which are harmful to soil chemistry, plant health, and pollinators. This risk is particular to me as a resident who depends on my garden for food, recreation, & household nutrition.
- Wildlife in my yard—such as my dog, birds, butterflies, bees, & rabbits—will also be negatively affected by dust coating, air pollution, and habitat disruption.
- These impacts go beyond “generalized environmental concern” because they interfere directly with my personal use and reliance on my backyard garden, property, and local wildlife.
- TCEQ itself has acknowledged the risks of cumulative emissions in past rulemakings but failed to consider that multiple surrounding facilities in this area compound the environmental burden.

OPIC’s position: OPIC’s response p. 11 & 12: “Animal, Human, and Environmental Health and Safety and Use/Enjoyment the Commission may issue this permit only if it finds no indication that the emissions from the facility will contravene the intent of the Texas Clean Air Act, including protection of the public’s health and physical property. THSC § 382.0518(b)(2). Further, the purpose of the Texas Clean Air Act is to safeguard the state’s air resources from pollution by controlling or abating air pollution OPIC’s Response to

Requests for Hearing and Requests for Reconsideration 11 and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property. THSC § 382.002(a). Therefore, Issue Nos. 1, 2, and 3 are relevant and material. Public Notice the THSC § 382.056 requires the applicant to publish notice in a newspaper of general circulation within the municipality where the proposed facility is located or will be located. TCEQ implemented this public notice requirement through its rules in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice. Therefore, Issue No. 4 regarding public notice is relevant and material.”

Demand: As such, I demand recognition as an Affected Person due to environmental impacts specific to my property and reliance on its gardens, plants, and local wildlife. My use of my land and natural resources demonstrates a personal justiciable interest not common to the general public.

Timely Filing of Hearing Requests

Whether the hearing request was filed in a timely manner.

ED’s reasoning: ED’s response p. 13 # 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. Xavier 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.”

Rebuttal:

- I filed my comments and/or request for contested case hearing on time as confirmed by my submission on June 9 RN# RN111970471 through the TCEQ online portal. I attended the public meeting at Houston Community College Missouri City Campus 1600 Texas Parkway, Missouri City TX 77489 on December 12, 2024, and went on record with the impact this would have on me.
- The ED stated that I filed in a timely manner, however, I did state these concerns and demonstrate personal justiciable reasons to why I should be granted the affected person status as further expounded in this letter
- Even if there were clerical or administrative inconsistencies, the fact remains that my request was submitted within the public comment period and included the required elements (name, address, proximity, concerns).
- Courts and administrative precedent emphasize that technical filing issues should not bar participation where substantive rights and interests are at stake—especially for residents living within the statutory 440-yard threshold under THSC §382.058(c).

OPIC's position: OPIC's response p. 2: "The 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 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. The Executive Director (ED) mailed a Response to Comments on May 8, 2025, and the deadline to submit a hearing request or request for reconsideration of the ED's decision on this application was June 9, 2025. The Commission received timely comments and hearing requests from Missouri City, Air Alliance Houston, Stephanie Bush, Janai Buxton, Allison Sullivan, Karen Sullivan, Michael Sullivan, Tynisha Wright, and Xavier Wright."

Demand: As such, I demand recognition as an Affected Person because I timely filed my request and demonstrated a personal justiciable interest in this matter. My proximity to the facility, health impacts, and use of property qualify me under statute, and my filing record supports this.

In summary, I respectfully disagree that I failed to submit timely filed comments, do not have personal justiciable interests, list reason you were denied affected status. As such, I demand that I be recommended for Affected Person status due to personal, justiciable interest affected by the concrete batch plant. I therefore request a Contested Case Hearing as an Affected Person under the law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Xavier Wright', written in a cursive style.

Xavier Wright



Please assist on preventing this project on moving forward. I have purchased my property at 906 Pine Meadow Dr. to only be threatened to a hazardous atmosphere. my investment exceeds \$600,000. Not only does this threaten my investment but, also threatens my wife's health as she is asthmatic. Also, road conditions on my commute home are at risk. Furthermore, noise pollution is jeopardized. My subdivision is a small subdivision that has no HOA and we have to defend our neighborhood ourselves as we intend to. Please advise on what steps I/we can take to ensure our environmental, investment and health safety. Furthermore, I would like to have our meeting via virtual. I am employed and this accommodation is essential as I make a living while protecting my homestead Attached is a screenshot of how my property is abutted to the exposure of this plant.