

Brooke T. Paup, *Chairwoman*
Catarina R. Gonzales, *Commissioner*
Tonya R. Miller, *Commissioner*
Kelly Keel, *Executive Director*



Garrett T. Arthur, *Public Interest Counsel*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 10, 2025

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

RE: **IN THE MATTER OF THE APPLICATION BY RAPTOR READY MIX
INC FOR AIR QUALITY STANDARD PERMIT REGISTRATION NO.
177217L002
TCEQ DOCKET NO. 2025-1321-AIR**

Dear Ms. Gharis:

Enclosed for filing is the Office of Public Interest Counsel's Response to Requests for Hearing in the above-entitled matter.

Sincerely,

A handwritten signature in cursive script that reads "Pranjal".

Pranjal M. Mehta, Attorney
Assistant Public Interest Counsel

cc: Mailing List

DOCKET NO. 2025-1321-AIR

**APPLICATION BY
RAPTOR READY MIX INC.
CONCRETE BATCH PLANT
FORT WORTH, TARRANT
COUNTY**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**THE OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE
TO REQUESTS FOR HEARING**

To the Members of the Texas Commission on Environmental Quality:

The Office of Public Interest Counsel (OPIC) at the Texas Commission on Environmental Quality (TCEQ) files this Response to Requests for Hearing on the application in the above-captioned matter and respectfully submits the following.

I. INTRODUCTION

A. Summary of Position

Before the Commission is an application by Raptor Ready Mix Inc (Applicant) for a Concrete Batch Plant Standard Permit under Texas Health and Code § 382.05195, which would authorize the construction of a new facility that may emit air contaminants. OPIC respectfully recommends the Commission find that as a matter of law, none of the hearing requestors can qualify as an affected person, and therefore, all of the hearing requests must be denied.

B. Description of Application and Facility

Applicant seeks Registration No. 177217L002 to authorize construction of a temporary Concrete Batch Plant. The facility would be located at the following driving directions: From downtown Fort Worth, travel west on I-30 for

approximately 9 miles to I-820 N (Exit 5A). Travel north on I-820 for approximately 2.2 miles to Silver Creek Road (Exit 5B). At the light, turn left (West) on Silver Creek Road and travel approximately 0.8 miles. The entrance to the jobsite will be on the west side of Silver Creek Road, in Fort Worth, Tarrant County 76052. Contaminants authorized under this permit would include particulate matter, including aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less (PM₁₀ and PM_{2.5}, respectively).

C. Procedural Background

The application was received on October 18, 2024, and declared administratively complete on October 23, 2024. The Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (consolidated public notice) for this permit application was published in English on November 22, 2024, in the *Fort Worth Star Telegram*, and in Spanish on November 19, 2024, in *La Prensa Comunidad*. A public meeting was held on April 3, 2025, at the National Hall, 3316 Roberts Cut Off Road, Fort Worth 76114. The notice of public meeting was mailed on February 25, 2025. At the public meeting, TCEQ became aware that a copy of the application, Executive Director's preliminary decision, and standard permit was not made available at the public viewing place during the public notice and comment period. The Applicant notified TCEQ on April 8, 2025, that the materials were placed at the White Settlement Library, 8215 White Settlement Road Fort Worth 76108. The public comment period was extended from April 3,

2025, to May 7, 2025, to allow the public to provide further comments on the permit application materials. The Executive Director (ED) mailed a Response to Comments on June 12, 2025, and the deadline to submit a hearing request or request for reconsideration of the ED's preliminary decision on this application was July 14, 2025.

II. APPLICABLE LAW

The Application was filed after September 1, 2015, and is therefore subject to the procedural rules adopted pursuant to Senate Bill 709. Tex. S.B. 709, 84th Leg., R.S. (2015). Under 30 Texas Administrative Code (TAC) § 55.21(c), a hearing request by an affected person must be in writing, must be timely filed, may not be based on an issue raised solely in a public comment which has been withdrawn, and, for applications filed on or after September 1, 2015, must be based only on the affected person's timely comments.

Section 55.201(d) states that a hearing request must substantially comply with the following:

- (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request;
- (2) identify the requestor's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;
- (3) request a contested case hearing;

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

30 TAC § 55.201(d).

Under 30 TAC § 55.203(a), an "affected person" is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. An interest common to members of the general public does not qualify as a personal justiciable interest. Relevant factors to be considered in determining whether a person is affected include:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person;
- (6) for a hearing request on an application filed on or after September 1, 2015, whether the requestor timely submitted comments on the application that were not withdrawn; and
- (7) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.203(c).

Under § 55.203(d), to determine whether a person is an affected person for the purpose of granting a hearing request for an application filed on or after September 1, 2015, the Commission may also consider the following:

- (1) the merits of the underlying application and supporting documentation in the administrative record, including whether the application meets the requirements for permit issuance;
- (2) the analysis and opinions of the executive director; and
- (3) any other expert reports, affidavits, opinions, or data submitted by the executive director, the applicant, or hearing requestor.

30 TAC § 55.203(d).

Under 30 TAC § 55.211(c)(2)(A)(ii), for an application filed on or after September 1, 2015, the Commission must grant a hearing request made by an affected person if the request raises disputed issues of fact that were raised by the affected person during the comment period, that were not withdrawn by filing a withdrawal letter with the Chief Clerk prior to the filing of the ED's RTC, and that are relevant and material to the Commission's decision on the application.

Under § 55.211(c)(2)(B)–(D), the hearing request, to be granted, must also be timely filed with the Chief Clerk, pursuant to a right to hearing authorized by law, and comply with the requirements of § 55.201.

III. ANALYSIS OF HEARING REQUESTS

A. Whether the requestors are affected persons

Texas Health and Safety Code (THSC) Section 382.058(c) limits affected

person status to “only those persons actually residing in a permanent residence within 440 yards of the proposed plant” authorized by a Standard Permit registration under THSC § 382.05195. Accordingly, OPIC’s analysis is constrained by the distance limitation imposed by statute.

The Commission received timely comments and hearing requests from Fay Adamson (869.24 yards), Sheila Anderson (7885.88 yards), Dean Arnove (695.66 yards), Ginger Arnove (695.66 yards), Robert Benda (854.53 yards), Camilla Brannon (2665.37 yards), Aaron Brooks (1137.37 yards), Isabelle Canard (2363.25 yards), Holly Clifford (1073.73 yards), Kee Crees (7011.44 yards), Frank Crow (2198.82 yards), Justin Daniels (4247.68 yards), Christina Ford (3073.8 yards), Daniel Gasparovic (2382.22 yards), Kerri Gasparovic (2382.22 yards), Cheryl Grier (6248.26 yards), Debra Haynie (3073.8 yards), Ben Jenkins (1948 yards), Elizabeth Jenswold (1263.51 yards), Chethika Karunaratne (1204.64 yards), Ezekiel Keator (3073.8 yards), Dennis Maguth (2446.49 yards), Nadine Mihalicz (5360.45 yards), Leisa Moses (6486.3 yards), Buddhika Paranathantri (1204.64 yards), Amanda Perez (1041.3 yards), Ross Perez (1608.95 yards), Christine Petrovick (6125.4 yards), Jim Ratterree (1775.81 yards), Luz Ravelo (992.45 yards), Beverly Robertson (2761.78 yards), Jacobie Robinson (6163.64 yards), Nancy Saunders (2281.1 yards), Amy Scieneaux (1126.09 yards), Nicole Scott (2003.82 yards), Eric Starnes (1228.17 yards), Garland Tate (802.1 yards), Sharon Tate (802.1 yards), Patti Turner (6205.53 yards), Christie Vennel (2557.17 yards), and April Wyatt (6369.35 yards).¹ They raised concerns about air quality, health risks, adverse

¹ ED’s Appendix for Raptor Ready Mix Inc. GIS Map.

impact on the quality of life, cumulative effects, environmental impacts, dust, debris, and odor nuisances. While many of these concerns are relevant and material to the Commission's decision on this application, the map prepared by ED staff shows that these requestors all reside outside the 440-yard radius imposed by statute.

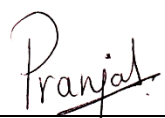
Again, Texas Health and Safety Code Section 382.058(c) limits affected person status to "only those persons actually residing in a permanent residence within 440 yards of the proposed plant" authorized by a Standard Permit registration under THSC § 382.05195. Accordingly, OPIC's analysis is directed by this distance limitation imposed by statute. Because none of the requestors reside within 440 yards of the proposed plant, OPIC must find that as a matter of law, none of these requestors can qualify as an affected person.

V. CONCLUSION

For the reasons discussed above, OPIC respectfully recommends the Commission find that as a matter of law, none of the hearing requestors can qualify as an affected person under THSC § 382.058, and therefore, all of the hearing requests must be denied.

Respectfully submitted,

Garrett T. Arthur
Public Interest Counsel

By: 
Pranjali M. Mehta

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2025, the original of the Office of Public Interest Counsel's Response to Requests for Hearing and Requests for Reconsideration was filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via Inter-Agency Mail, electronic mail, or by deposit in the U.S. Mail.

A handwritten signature in black ink, reading "Pranjal", is positioned above a horizontal line.

Pranjal M. Mehta

**MAILING LIST
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TCEQ DOCKET NO. 2025-1321-AIR**

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