

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN INTERIM ORDER** concerning the application by R&L Concrete LLC for Air Quality Standard Permit for Concrete Batch Plants Registration No. 171631; TCEQ Docket No. 2023-1561-AIR.

On January 10, 2024, the Texas Commission on Environmental Quality (Commission) considered during its open meeting a request for hearing filed by Carol Bourquin and a request for reconsideration filed by Cesley Ray Gordon concerning the application by R&L Concrete LLC (Applicant) for Air Quality Standard Permit for Concrete Batch Plants Registration No. 171631, which seeks authorization to construct and operate a permanent concrete batch plant in Kaufman County, Texas. The requests for hearing and reconsideration were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code (TAC) Chapter 55. The Commission also considered the responses to the requests for hearing and reconsideration filed by the Executive Director and the Office of Public Interest Counsel; the reply filed by Ms. Bourquin; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that Carol Bourquin is an affected person under applicable law and that her hearing request should be granted. The request for reconsideration was denied.

The Commission next determined whether the request for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by the affected person during the comment period, and that are relevant and material to its decision on the application. The Commission determined that the following issues met those requirements and directed that they be referred to SOAH: A) Whether the proposed Facility will negatively affect air quality; B) Whether the proposed Facility will have an adverse effect on livestock and the requester's health; C) Whether the proposed Facility will adversely affect the use and enjoyment of the requester's property; and D) Whether the Applicant substantially complied with applicable notice requirements.

Finally, pursuant to 30 TAC § 50.115(d)(2), the Commission specified that the maximum duration of the contested case hearing shall be 180 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH.

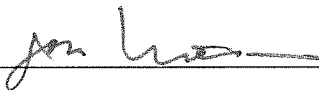
NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

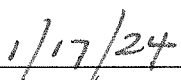
- 1) The hearing request filed by Carol Bourquin is hereby GRANTED;
- 2) The request for reconsideration is hereby DENIED;
- 3) The following issues are REFERRED to SOAH for a contested case hearing on the application:
  - A) Whether the proposed Facility will negatively affect air quality;
  - B) Whether the proposed Facility will have an adverse effect on livestock and the requester's health;
  - C) Whether the proposed Facility will adversely affect the use and enjoyment of the requester's property; and

D) Whether the Applicant substantially complied with applicable notice requirements;

- 4) This matter is REFERRED to the Commission's Alternative Dispute Resolution Program concurrent with the SOAH scheduling process;
- 5) The maximum duration of the hearing is SET at 180 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH; and
- 6) If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
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Jon Niermann, Chairman

  
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Date Signed