

Cause No. _____

HARRIS COUNTY HOSPITAL
DISTRICT d/b/a HARRIS HEALTH
SYSTEM, SUPER NEIGHBORHOOD
48 TRINITY / HOUSTON GARDENS,
and KASHMERE GARDENS SUPER
NEIGHBORHOOD #52 COUNCIL

Plaintiffs,

v.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY,
KELLY KEEL IN HER OFFICIAL
CAPACITY AS TCEQ
EXECUTIVE DIRECTOR, AND
JON NIERMANN IN HIS
OFFICIAL CAPACITY AS TCEQ
CHAIRMAN,

Defendants.

§ IN THE DISTRICT COURT OF

§ TRAVIS COUNTY, TEXAS

§ 345TH, DISTRICT COURT

§ _____ JUDICIAL DISTRICT

PLAINTIFFS' PETITION FOR JUDICIAL REVIEW

Plaintiffs Harris County Hospital District d/b/a Harris Health System ("Harris Health"), Super Neighborhood 48 Trinity / Houston Gardens and Kashmere Gardens Super Neighborhood #52 Council (collectively, the "Plaintiffs") file this Petition for Judicial Review against Defendants Texas Commission on Environmental Quality ("TCEQ" or the "Commission"), Kelly Keel, in her official capacity as TCEQ Executive Director (the "Executive Director"), and Jon Niermann, in his capacity as TCEQ Chairman (the "Chairman").

Plaintiffs seek reversal and remand of the Executive Director's January 11, 2024 decision to approve Texas Coastal Materials, LLC's ("Texas Coastal" or "TCM") application to operate a permanent rock and concrete crusher ("Crusher") under Air Quality Standard Permit Registration No. 173296 ("Permit") at 5875 Kelley Street, Houston, TX 77026 because it was invalid, arbitrary or unreasonable.

I. CASE OVERVIEW

1. Permanent rock and concrete crushers utilize an expedited permitting process with a limited technical review under the TCEQ's Air Quality Standard Permit for Rock and Concrete Crushing ("Standard Permit"). TCEQ justifies authorizing crushers under the Standard Permit in two ways. First, TCEQ relies on a Protectiveness Review that generally evaluates the safety of rock and concrete crushers across the State so long as operations comply with the uniform terms of the Standard Permit. Second, TCEQ imposes strict regulatory distance limitations to ensure community members and certain sensitive community assets are adequately protected from the air pollution emitted from crushers. The Protectiveness Review that supported TCEQ's adoption of the underlying Standard Permit, however, was conducted in 2008—over 16 years before Texas Coastal applied to operate its crusher pursuant to the Standard Permit—and is severely outdated. Limits on primary pollutants emitted by crushers have been substantially reduced since 2008. Texas Coastal's facility, therefore, has never been proven to be safe for those nearby. Texas Coastal's proposed crusher also failed to comply with express distance limitations from two nearby places of worship, one of which is also a school. TCEQ's issuance of the Permit despite these failures to protect public health was invalid, arbitrary and/or unreasonable, and should be reversed.

II. PARTIES

A. PLAINTIFF HARRIS HEALTH

2. Plaintiff Harris County Hospital District d/b/a Harris Health System is a statutorily created political subdivision in Harris County in the State of Texas. Harris Health owns and operates LBJ Hospital, a Level III trauma facility that is a place of worship and school and is closer to the proposed crusher than the statutory required setback of 440 yards between a rock crusher and place of worship or school. During the administrative review of the Permit, Harris Health submitted comments on the Permit, raising these concerns. *See* Exhibits 5, 6, and 7.

B. PLAINTIFF SUPER NEIGHBORHOOD 48 TRINITY / HOUSTON GARDENS

3. Plaintiff Trinity / Houston Gardens Super Neighborhood 48 Trinity/Houston Gardens (“SN48”) is an unincorporated nonprofit association representing individuals, property owners, civic clubs, and businesses in Trinity/Houston Gardens within a defined boundary in the Northeast quadrant of the City of Houston in Harris County. SN48 engages residents and obtains information and resources for the community on issues of interest. TCM’s Crusher is located within SN48’s boundaries and will adversely affect the property, health, and environment of SN48 community members and impair their legal rights and interests. During the administrative review of the Permit, SN48 and other stakeholders in the area submitted comments on the Permit, raising these concerns. *See* Exhibits 8, 9, 10.

C. PLAINTIFF KASHMERE GARDENS SUPER NEIGHBORHOOD #52 COUNCIL

4. Kashmere Gardens Super Neighborhood #52 Council (“SN52”) is an incorporated nonprofit 501(c)(3) corporation that represents the individuals, property owners, civic clubs, and residents in Kashmere Gardens within a defined boundary in the Northeast quadrant of the City of Houston, Harris County, Texas. SN52 engages citizens and obtains resources and information for the community on issues of interest. The Crusher is located at the northern boundary of Super Neighborhood 52. During the administrative review of the Permit, SN52 and other stakeholders in the area submitted comments on the Permit, raising these concerns. *See* Exhibits 8, 9, 10.

D. DEFENDANTS: TCEQ AND THE EXECUTIVE DIRECTOR, IN HER OFFICIAL CAPACITY

5. Defendant Texas Commission on Environmental Quality is an administrative agency of this State responsible for, *inter alia*, implementation and administration of certain laws of Texas under the Texas Clean Air Act, Chapter 382 of the Texas Health & Safety Code. TCEQ is also responsible for implementation and administration of the Texas Water Code, which provides TCEQ with its general authority for permitting, enforcement, and other actions to protect

public health and welfare and private property. Final decisions of the agency are subject to judicial review. *See* TEX. WATER CODE § 5.351; 30 TEX. HEALTH & SAFETY CODE § 382.032. TCEQ may be served at 12100 Park 35 Circle, Bldg D, Austin, TX 78753.

6. Defendant Kelly Keel is sued in her official capacity as Executive Director of TCEQ. Ms. Keel may be served at 12100 Park 35 Circle, Bldg D, Austin, TX 78753.

III. DISCOVERY

7. This case involves a petition for judicial review of a Commission decision under Section 382.032(a) of the Texas Health and Safety Code and Section 5.351 of the Texas Water Code. Should it be necessary, discovery in this matter should be conducted under Level 3 of Texas Rule of Civil Procedure 190.4.

8. This case is not subject to the restrictions of expedited proceedings under Rule 169 because Plaintiffs seek non-monetary injunctive relief. TEX. R. CIV. P. 47(c)(2).

IV. AUTHORITY TO SUE

9. Harris Health brings this cause of action by and through the Harris County Attorney as authorized through a formal order of its governing body, the Board of Trustees.

V. JURISDICTION AND VENUE

10. Jurisdiction of this matter seeking judicial review of a final action by the TCEQ lies in this district court pursuant to Section 382.032(a) of the Texas Health and Safety Code and Section 5.351 of the Texas Water Code.

11. Venue is mandatory in Travis County for these proceedings. TEX. HEALTH & SAFETY CODE § 382.032(b); TEX. WATER CODE § 5.351(b).

VI. FACTUAL BACKGROUND

12. On July 7, 2023, Texas Coastal applied for authorization to construct and operate a new permanent rock and concrete crushing facility under the standard permit for permanent rock

and concrete crushers at 5875 Kelley Street, Houston, Texas 77026.¹

13. On August 24, 2023, a notice of application was published in English in the *Highlands Star/Crosby Courier* and in Spanish on August 24, 2023 in the *El Perico Spanish Newspaper*.

14. Because the *Highlands Star/Crosby Courier* did not have circulation in the community that will be affected by the Crusher, the TCEQ ordered that Texas Coastal republish its notice in a paper of “general circulation” as the regulations require. 30 TEX. ADMIN CODE § 39.603(e).

15. On October 24, 2023, Texas Coastal republished notice of its application in *The Houston Chronicle*.

16. Harris Health submitted comments on September 11, 2023, October 19, 2023 and December 6, 2023.²

17. SN48 and SN52 submitted comments on December 4, 2023, December 6, 2023, and December 11, 2023.³

18. In these collective comments, Plaintiffs broadly asserted that TCM’s Crusher Application was deficient; the proposed Crusher did not qualify for authorization under the Standard Permit because the location at 5875 Kelley Street failed to comply with regulatory distance limitations; and the Crusher Application failed to protect public health.

19. Plaintiffs’ comments specifically asserted:

- (a) the protectiveness of the Standard Permit for this Crusher hinges on an outdated Protectiveness Review from 2008 that TCEQ has never updated

¹ Exhibit 4.

² Exhibits 5, 6, and 7.

³ Exhibits 8, 9, and 10.

to comply with the significant changes to (i) National Ambient Air Quality Standards pursuant to the Texas Clean Air Act and the Federal Clean Air Act and (ii) the lower TCEQ long-term effects screening level (“ESL”) for quartz silica; and

- (b) the Crusher will exceed the 2012 and 2024 annual NAAQS for PM_{2.5};
- (c) the Crusher does not comply with the TCEQ ESL for quartz silica; and
- (d) the Permit is not sufficiently protective of human health.

In addition to TCEQ’s failure to update its Protectiveness Review to ensure the Permit is protective of human health, Plaintiffs’ and other public comments highlighted that City of Houston air monitoring readings near the Crusher established background concentrations for annual PM_{2.5} either already exceed the NAAQS or are likely to exceed the NAAQS with the additional pollution from the Crusher.

20. Plaintiffs’ comments also focused on the location of the Crusher, which was too close to sensitive community assets, such as residences, school, and places of worship. TEX. HEALTH & SAFETY CODE § 382.065. Specifically, the Crusher would be located across the street from LBJ Hospital, which is both a school and a place of worship.

21. Plaintiffs’ comments further echoed the general community opposition to the Crusher based on various nuisance and health-related concerns, such as:

- (a) Health concerns: breathing silica dust can cause serious respiratory diseases, negative public health outcomes; breathing problems; exacerbated COPD; asthma aggravation; dust is a health hazard; contamination; risky to community health;
- (b) Noise and traffic concerns;

- (c) Harm to water systems;
- (d) Environmental justice and cumulative impacts on the overburdened communities of SN48 and SN52; and
- (e) The Crusher being sited in a floodplain.

22. On December 7, 2023, an informational meeting on the Application was held in the gymnasium at New Mount Calvary Missionary Baptist Church, 4711 Kelley Street, Houston, Texas 77026. Over 200 people attended this meeting and made oral public comments on the record for over three hours.

23. On January 10, 2024, the Executive Director issued her Response to Comments (“RTC”).⁴

24. On January 11, 2024, the Executive Director approved Texas Coastal’s Permit for a rock and concrete crushing plant at 5875 Kelley Street.⁵

25. On or before February 5, 2024, Plaintiffs, which are adversely affected by Texas Coastal’s Permit, timely filed motions to overturn the Executive Director’s decision.⁶ 30 TEX. ADMIN. CODE § 382.061(b); 30 TEX. ADMIN. CODE § 50.139. In all, there were 47 motions to overturn this Permit filed with TCEQ.

26. TCEQ requested briefing on the motions to overturn, which extended the deadline for the Commission’s consideration of the Permit. TCM, the Executive Director, and Office of Public Interest Counsel filed responses to the motions to overturn.⁷ Harris Health and SN48 and SN52 filed replies in further support of their motions.⁸ When the Commission failed to take action,

⁴ Exhibit 2.

⁵ Exhibit 1.

⁶ Exhibits 11 and 12.

⁷ Exhibits 13, 14, and 15.

⁸ Exhibits 16 and 17.

the motions to overturn were overruled by operation of law. 30 TEX. ADMIN. CODE § 50.139.

27. Plaintiffs have exhausted their administrative remedies.

**VII. LEGAL DEFICIENCY IN THE PERMIT NO. 1:
FAILURE TO MEET REQUIRED AIR QUALITY STANDARDS**

28. The Federal Clean Air Act (“FCAA”) requires the U.S. Environmental Protection Agency (“EPA”) to set National Ambient Air Quality Standards or NAAQS.⁹ The purpose of these standards is to “protect the public health” with “an adequate margin of safety.”¹⁰

29. Consistent with this, the purpose of the Texas Clean Air Act (“TCAA”) is “to safeguard the state's air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and the maintenance of adequate visibility.”¹¹ The TCAA provides that, unless authorized by TCEQ, no person may “cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that causes or contributes to, or that will cause or contribute to, air pollution.”¹²

30. The FCAA includes a New Source Review (“NSR”) Program. The purpose is to track new sources of pollution and ensure that newly constructed facilities are not contributing to violations of applicable air quality standards—like the NAAQS.¹³ To accomplish this, new sources of pollution would be subject to new and more stringent controls.¹⁴

31. Texas implements its NSR Program via its State Implementation Plan (“SIP”).¹⁵

⁹ 42 U.S.C. §§ 7408, 7409.

¹⁰ 42 U.S.C. § 7409(b)(1).

¹¹ TEX. HEALTH & SAFETY CODE § 382.002(A).

¹² TEX. HEALTH & SAFETY CODE § 382.085(a).

¹³ TEX. HEALTH & SAFETY CODE § 382.0518(b)(2).

¹⁴ TEX. HEALTH & SAFETY CODE § 382.0518(b)(1).

¹⁵ 42 U.S.C. § 7407(a).

The Texas legislature added standard permits under a 1999 amendment to the TCAA.¹⁶ The amendment authorized TCEQ's predecessor agency, Texas Natural Resource Conservation Commission, to identify similar categories of air-contaminant emitting facilities and issue a standard permit for the entire category of facilities.¹⁷

32. The authority to issue standard permits, such as this rock and concrete crusher standard permit, are included in Texas' SIP and approved by the EPA.¹⁸ As such, standard permits should contain uniform terms and emissions control technologies that have proven to be compliant with NAAQS, BACT, and state public health standards.¹⁹

A. THE PERMIT FAILS TO COMPLY WITH NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PM_{2.5}.

33. The EPA must review NAAQS standards every 5 years—incorporating the latest scientific studies on health effects—and update those standards accordingly.²⁰ Importantly, in each permit evaluation, total particulate matter emissions must meet NAAQS.²¹

34. TCEQ issued the Standard Permit effective on July 31, 2008. As evidence that the Standard Permit itself is protective of public health by meeting the NAAQS *in 2008*, the Standard Permit relies on a Protectiveness Review supported by air dispersion modeling which is even older—dated March 2006.²² The Protectiveness Review is also deficient because it omits known sources of PM_{2.5}. Because the Protectiveness Review that the Standard Permit relies on has not been updated in 16 years, but NAAQS standards for PM_{2.5} continue to be lowered, TCEQ has

¹⁶ Approval and Promulgation of Implementation Plans, Texas, 68 Fed. Reg. 64543 (Nov. 14, 2003).

¹⁷ TEX. HEALTH & SAFETY CODE § 382.05195(a).

¹⁸ TEX. HEALTH & SAFETY CODE § 382.05195(a)(3).

¹⁹ Approval and Promulgation of Implementation Plans, Texas, 68 Fed. Reg. 64543 (Nov. 14, 2003); TEX. HEALTH & SAFETY CODE § 382.0518(b)(1), (b)(2).

²⁰ 42 U.S.C. § 7409(d).

²¹ TCEQ, Interoffice Memorandum on Toxicology Factor Database Screening Levels (Mar. 8, 2018); *see also* Harris County Comments (Dec. 6, 2023) at Exhibit 7.

²² TCEQ, Memo from Keith Zimmerman, P.E. to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (Jan. 2, 2006); TCEQ, Memo from Keith Zimmerman, P.E. to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (Mar. 27, 2006); *see also* Harris County Comments (Dec. 6, 2023) at Exhibit 7.

never proven that the Standard Permit issued to TCM complies with the FCAA and NAAQS. In other words, the Crusher has never been proven to be safe for those that will be exposed to its emissions.

Table 1: Timeline of Changes to Annual NAAQS for PM_{2.5} and lack of changes to the Protectiveness Review.

PM _{2.5} NAAQS REVISIONS	PROTECTIVENESS REVIEW REVISIONS
2006: EPA set the primary and secondary Annual NAAQS for PM _{2.5} at 15 µg/m ³ .	<i>Updated March 2008</i>
2012: EPA dropped the Annual NAAQS for PM _{2.5} from 15 µg/m ³ to 12 µg/m ³ .	
2020: EPA maintained the Annual NAAQS for PM _{2.5} at 12 µg/m ³ .	
2024: EPA revised the NAAQS for PM _{2.5} µg/m ³ to 9µg/m ³	

35. Despite these changes to the NAAQS over the past twelve years, TCEQ has never revisited the Protectiveness Review for the Standard Permit for compliance with the updated PM_{2.5} NAAQS.

36. Moreover, any air emissions from the proposed crusher combined with current Harris County background concentrations of PM_{2.5} will likely exceed the 2012 NAAQS for PM_{2.5} of 12 µg/m³. For example, in TCEQ’s very recent 2023 protectiveness review for the Concrete Batch Plant Standard Permit, the Executive Director adopted an annual background concentration of 11.1 µg/m³ for PM_{2.5} in Harris County.²³ Further, the TCEQ monitor on N. Wayside, the closest regulatory monitor to the Crusher, has been out of compliance for PM_{2.5} since its installation on May 4, 2021. The first three years of operations for the N. Wayside Monitor reveal average annual background concentrations for PM_{2.5} of 12.8 µg/m³ (May 4, 2021-Jan 2022), 11.8 µg/m³ (Jan

²³ Monitoring Data from nine air quality monitors in Harris County for the three years from 2020 through 2022 showed an average annual concentration of PM_{2.5} ranging from 8.2 µg/m³ to 12.3 µg/m³, supporting the Executive Director’s choice of 11.1 µg/m³ as representative of the background concentration for Harris County.

2022-Dec 2022), and 13.1 $\mu\text{g}/\text{m}^3$ (Jan 2023-Dec 2023), and 12.3 $\mu\text{g}/\text{m}^3$ (Jan 2024-May 2, 2024).²⁴ Because of the background concentrations recorded at the closest regulatory monitor in Harris County, the Crusher's $\text{PM}_{2.5}$ emissions are likely to exceed the 2012 NAAQS of 12.0 $\mu\text{g}/\text{m}^3$ as soon as it begins operating. Finally, the Crusher's emissions will significantly exceed the reduced $\text{PM}_{2.5}$ NAAQS of 9.0 $\mu\text{g}/\text{m}^3$ effective May 6, 2024.

B. THE CRUSHER DOES NOT COMPLY WITH TCEQ LONG-TERM EFFECTS SCREENING LEVELS FOR QUARTZ SILICA.

37. Texas Coastal's crushing facility will also emit quartz silica. The 2008 Protectiveness Review model projected a maximum concentration for quartz silica of 0.3 $\mu\text{g}/\text{m}^3$.²⁵ The Executive Director deemed silica impacts at that level to be protective because the modeled concentration was below the TCEQ Long-Term Effects Screening Level, which *at the time* was 1.0 $\mu\text{g}/\text{m}^3$.²⁶

38. TCEQ, however, has since lowered that standard. The TCEQ Long-Term Effects Screening Level is now 0.27 $\mu\text{g}/\text{m}^3$. The Executive Director's own projected maximum quartz silica concentrations of 0.3 $\mu\text{g}/\text{m}^3$ from the 2008 Protectiveness Review shows that the proposed crusher *exceeds* the TCEQ Long-Term Effects Screening Level by 10%.

39. For all of these reasons, the Crusher that TCEQ approved is not protective of public health and will potentially emit dangerous levels of $\text{PM}_{2.5}$ and quartz silica. SN48 and SN52 are particularly vulnerable and categorically "at-risk" as defined by EPA. TCEQ's Protectiveness Review does not evaluate fully permits issued in these "at-risk" communities despite known concerns about background concentrations in the immediate area of the Crusher even higher than

²⁴ TCEQ, Regulatory Air Monitoring Data for Houston North Wayside C405/C1033 - EPA Site: 48_201_0046, available at https://www.tceq.texas.gov/cgi-bin/compliance/monops/yearly_summary.pl

²⁵ Summary Document for Air Quality Standard Permanent Rock and Concrete Crushers at 8.

²⁶ *Id.*

the 11.1 µg/m³ for PM_{2.5} that the TCEQ previously found as representative for Harris County in 2023.

**VIII. LEGAL DEFICIENCY IN THE PERMIT NO. 2:
FAILURE TO COMPLY WITH STATUTORY DISTANCE LIMITATIONS FROM
SENSITIVE COMMUNITY ASSETS**

40. Under Texas law, a rock and concrete crusher facility may not be sited within 440 yards of a single or multifamily residence, school, or place of worship. TEX. HEALTH & SAFETY CODE § 382.065(a). This distance “is to be measured between the closest points of the Facility and the residence, school, or place of worship.” TEX. HEALTH & SAFETY CODE § 382.056; *see also* TCEQ Summary Document for Air Quality Standard Permit for Permanent Rock Crusher and Concrete Crushers at 5.

41. Facility means a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment as defined by TEX. HEALTH & SAFETY CODE § 382.003(6) and includes other emission sources defined by the Standard Permit for Permanent Rock and Concrete Crushers General Requirements (1)(A)(ii).(hereinafter “Facility”).

42. The Standard Permit’s distance limitations are intended to ensure compliance with NAAQS for PM.

43. TCEQ approved a Permit which has sited the Crusher across the street from LBJ Hospital, 5656 Kelley St. Houston, Texas 77026, which is both a school and a place of worship. A second place of worship, St. Francis of Assisi Catholic Church, 5102 Dabney Street, Houston, Texas 77026 is also within the prohibited statutory distance from the Crusher.

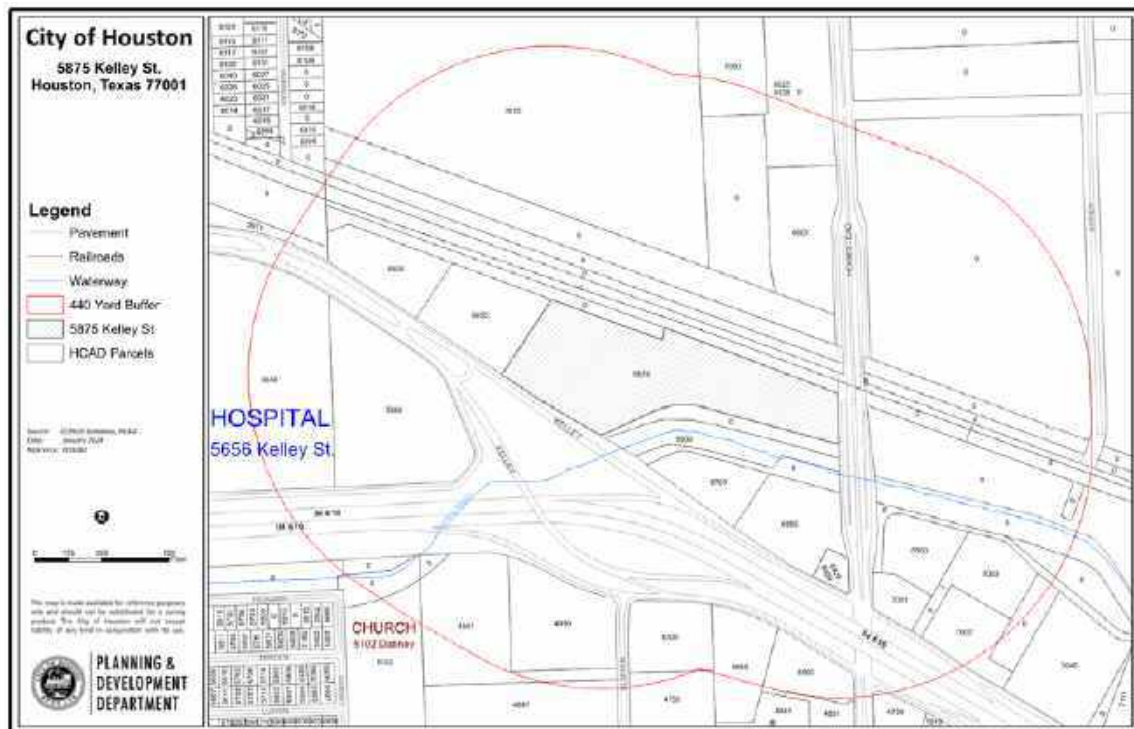
44. Initially, TCM’s Application wholly failed to identify the Crusher Facility and its proximity to the two nearest places of worship.

Table 2: Places of Worship Excluded from TCM's Application

Place of Worship	Address	Approximate Distance
LBJ Hospital	5656 Kelley Street	366 yards
St. Francis of Assisi Catholic Church	5102 Dabney Street	402 yards

45. Moreover, LBJ Hospital is a teaching hospital for the University of Texas Health System, and thus, a school, which is also less than 440 yards from the permitted Crusher Facility.

Figure 1: Depicting 440 yard radius around TCM's Crusher



46. The maps in TCM's Application measure from an unidentified point within the proposed location and then to a residence, place of worship, or school. That chosen point, however, does not accurately depict the Facility as defined by TCEQ regulations and the Standard Permit.

47. In TCM's response to the motions to overturn ("Response"), TCM submitted a survey ("Survey"), which was not part of its original application. In its Response, TCM admitted that it moved the Facility by approximately 10 yards on the Survey from the coordinates in the

Application.²⁷ Thus, in order for the Facility to comply with the statutory distances, TCM had to move the Facility (after the TCEQ staff had finished its technical review, after the public comment period had closed, and after the TCEQ issued the Permit). TCEQ cannot consider the distances depicted by the Survey because –for purposes of permit approval—these these distances are determined “at the time the application for a permit is filed with the Commission.” TEX. HEALTH & SAFETY CODE § 382.056. If TCM wants to cure its failure to prove proper distance setbacks, then it can submit an application amendment that will go through the proper channels of an application review, including the critical opportunity for public comment.

48. The Crusher does not comply with distance limitations. The Permit also endangers the air quality of the nearby sensitive community assets and local communities in Harris County, including SN48 and SN52, and most specifically LBJ Hospital’s school and place of worship. TCEQ’s action of issuing the Permit, therefore, violated its responsibilities under the FCAA and the TCAA.

IX. CAUSES OF ACTION

Plaintiffs allege the following cause of action or point of error:

Point of Error No. 1: TCEQ erred by approving Air Quality Standard Permit Registration No. 173296.

35. Plaintiffs incorporate by reference and re-alleges the facts and allegations contained in all preceding paragraphs, as if set forth verbatim herein.

49. Under the Texas Clean Air Act, a person who has exhausted all administrative remedies available within a state agency and who is aggrieved by a final decision of the Commission is entitled to judicial review. TEX. HEALTH & SAFETY CODE § 382.032; *see also* TEX. WATER CODE § 5.351.

²⁷ TCM’s Response at 5, n10.

50. Similarly, a person affected by a ruling, order, decision, or other act of the commission, may appeal the action by filing a petition in a district court of Travis County. TEX. HEALTH & SAFETY CODE § 382.032(a). In an appeal of an action of the Commission, the issue is whether the action is invalid, arbitrary or unreasonable. TEX. HEALTH & SAFETY CODE § 382.032(b).

51. Further, a person affected by a ruling, order, decision, or other act of the Commission may file a petition to review, set aside, modify or suspend an action of the TCEQ. TEX. WATER CODE § 5.351; TEX. HEALTH & SAFETY CODE § 382.032.

52. By this petition and this statutory authority, Plaintiffs seek judicial review of the decision to issue Permit No. 173296 for a rock crushing plant to Texas Coastal.

53. Plaintiffs ask the Court to review whether TCEQ's actions in approving Permit No. 173296 were invalid, arbitrary or unreasonable. TEX. HEALTH & SAFETY CODE § 382.032(b) and § 382.032(e). Specifically, Plaintiffs seek judicial review of TCEQ's approval because the issued Permit:

- (a) ignores strict regulatory distance limitations;
- (b) fails to comply with federal and state air quality standards; and
- (c) endangers public health.

X. CONDITIONS PRECEDENT

54. All conditions precedent have been performed or have occurred as required by Texas Rule of Civil Procedure 54.

XI. DAMAGES AND RELIEF SOUGHT

55. The relief sought is within the jurisdictional limits of this Court.

56. As described herein, Plaintiffs only seek non-monetary relief.

XII. EXHIBITS

57. Plaintiffs specifically identify and incorporate by reference herein the following exhibits in support of their petition:

#	Description of Exhibit
1	January 11, 2024 Letter re: Permit No. 173296 Approval and enclosing Response to Comments
2	Executive Director's Response to Comments dated January 10, 2024
3	TCEQ Summary Document for Air Quality Standard Permit for Permanent Rock Crusher and Concrete Crusher
4	Standard Permit for Permanent Rock Crusher and Concrete Crusher
5	Harris Health's Written Comments dated September 11, 2023
6	Harris Health's Written Comments dated October 19, 2023
7	Harris Health's Written Comments dated December 6, 2023
8	Written Comments by SN48 and SN52 dated December 4 and 11, 2023
9	Written Comments by SN48 and SN52 dated December 6, 2023
10	Harris Health's Motion to Overturn dated February 2, 2024
11	Motion to Overturn by SN48 and SN52 dated February 5, 2024
12	Texas Coastal Materials Response to Motions to Overturn dated March 8, 2024
13	Executive Director's Response to Motions to Overturn dated March 8, 2024
14	Office of Public Interest Counsel Response to Motions to Overturn dated March 8, 2024
15	Harris Health's Reply in Support of Motion to Overturn dated March 21, 2024.
16	Reply in Support of Motion to Overturn by SN48 and SN52 dated March 21, 2024

XIII. PRAYER

Plaintiffs pray that this Court enter an order reversing the TCEQ's invalid, arbitrary, and unreasonable action issuing Air Quality Standard Permit Registration No. 173296 to Texas Coastal Materials, LLC and for all other relief in law or equity to which Plaintiffs may be justly entitled.

Respectfully submitted,

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Harris County Attorney

JONATHAN G. C. FOMBONNE
First Assistant County Attorney

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By: /s/ Sarah Jane Utley

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GARDENS SUPER NEIGHBORHOOD #52
COUNCIL**

EXHIBIT 1

Plaintiffs' Petition for Judicial Review

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 11, 2024

TO: Persons on the attached mailing list

Re: Permit Number: 173296
Texas Coastal Materials LLC
Rock Crushing Plant
Houston, Harris County
Regulated Entity Number: RN111769154
Customer Reference Number: CN606158293

On January 11, 2024 the Texas Commission on Environmental Quality (TCEQ) executive director (ED) approved the above-referenced application, in accordance with Title 30 Texas Administrative Code (30 TAC) Section 50.135. Enclosed is a copy of the ED's response to comments.

The Texas Clean Air Act, Texas Health & Safety Code Section 382.061(b), provides that a person affected by an action of the ED may appeal to the Commission by filing a motion to overturn the ED's decision. TCEQ rules related to motion to overturn are found in 30 TAC Section 50.139.

If a motion to overturn is filed, the motion must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person, or by mail to the chief clerk's address on the attached mailing list. On the same day the motion is transmitted to the chief clerk, please provide copies to the applicant, the ED's attorney, and the Public Interest Counsel at the addresses listed on the attached mailing list.

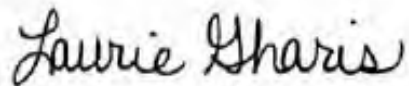
You may also request judicial review of the ED's action. The procedure and timelines for seeking judicial review of a commission or executive director action are governed by Texas Health and Safety Code Section 382.032.

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January 11, 2024

Re: Permit Number 173296

Individual members of the public may seek further information by calling the TCEQ Public Education Program toll free at 1-800-687-4040.

Sincerely,



Laurie Gharis
Chief Clerk
Office of the Chief Clerk
Texas Commission on Environmental Quality

Enclosure

cc: Mr. Jay Lindholm, Trinity Consultants, Austin
Senior Project Manager, Houston Department of Health and Human Services, Bureau of Pollution
Control & Prevention, Houston
Director, Harris County, Pollution Control Services, Pasadena
Air Section Manager, Region 12 - Houston

Project Number: 360066

EXHIBIT 2

Plaintiffs' Petition for Judicial Review

**TCEQ AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE
CRUSHER REGISTRATION NUMBER 173296**

APPLICATION BY	§	BEFORE THE
TEXAS COASTAL MATERIALS, LLC	§	TEXAS COMMISSION ON
ROCK CRUSHING PLANT	§	ENVIRONMENTAL QUALITY
HOUSTON, HARRIS COUNTY	§	

EXECUTIVE DIRECTOR’S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or the commission) files this Response to Public Comment (Response) on the Standard Permit application and Executive Director’s preliminary decision.

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. A list of all persons who submitted timely comments to the Office of the Chief Clerk (OCC) is included as Appendix A. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND

Description of Plant

Texas Coastal Materials, LLC (Applicant) has applied to TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) § 382.05195. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a Concrete Crushing Plant. The plant is proposed to be located at 5875 Kelley Street Houston, Harris County, Texas 77026. Contaminants authorized under this permit include particulate matter (PM), including particulate matter with diameters of 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}), carbon monoxide (CO), nitrogen oxides (NO_x), organic compounds, and sulfur dioxide (SO₂).

Procedural Background

Before work is begun on the construction of a new plant that may emit air contaminants, the person planning the construction must obtain an authorization from the commission. This permit application is for an initial issuance of Air Quality Registration Number 173296.

The permit application was received on July 7, 2023, and declared administratively complete on July 31, 2023. The Notice of Application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (public notice) for this permit application was published in English on August 24, 2023 in the *Highlands Star/Crosby Courier*, and in Spanish on August 24, 2023, in the *El Perico Spanish Newspaper*. The public notice was later re-published in English on October 4, 2023 in *The Houston Chronicle*. A public meeting was held on Thursday, December 7, 2023 at 6:00 P.M. at

the New Mount Calvary Missionary Baptist Church (gymnasium), 4711 Kelley Street, Houston, Texas 77026. The notice of public meeting was mailed on November 2, 2023. The public comment period ended on December 11, 2023 at 5:00 P.M. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

COMMENTS AND RESPONSES

COMMENT 1: Health Effects / Air Quality / Cumulative Effects

Commenters expressed concern about the effect of the emissions from the proposed project on the air quality and the environment. Commenters also expressed concern regarding the potential adverse health effects of people in close proximity to the project, particularly sensitive populations such as the elderly, children, and people with existing medical conditions. Commenters have concerns regarding potential health effects and symptoms such as respiratory diseases, lung cancer, kidney disease, diabetes, high blood pressure, chronic obstructive pulmonary disease (COPD), attention deficit hyperactivity disorder (ADHD), asthma, stroke, ischemic heart disease, lung cancer, lower-respiratory infections, kidney failure, silicosis, pneumonia, influenza, autoimmune disease, bronchitis, cardiovascular illness, impaired lung development in children, cancer, pleurisy, ischemic heart disease, cardiac arrhythmias, heart failure, and thrombosis, stroke and premature death.

Commenters are also concerned about potential emissions of silica. Commenters expressed concern about the cumulative effects of this project with pending or existing facilities in the area and stated that cumulative impacts should be taken into consideration. Commenters expressed concern that the area already shows background pollution concentrations greater than the national standard limits, and the proposed project would exacerbate air quality conditions. Commenters expressed concern regarding the protectiveness review that was conducted for the Standard Permit. Commenters are also concerned about proposed emissions compared to the proposed Environmental Protection Agency updates to the National Ambient Air Quality Standards standard for PM_{2.5}. Commenters asked what measures will be taken to control the escape of particulate matter and commented his concern for the addition of another crusher adding concrete dust and particulates into the air around a medical facility (hospital) negatively affecting the health of those that seek care at the hospital.

(Group A, Brigida Addison, Rickey Addison, Amy Dinn, Lynn Anderson, Albany Ashiru, Hamza Awais, Mychelle Banks, Ruby L Banks, Charyl Bell-Gordon, M Bhalakia, Robin Bickham, Gina Biekman, Debra Blacklock-Sloan, Kathy Blueford-Daniels, Donna Bolding, Brinda Brantley, Mary Brenda, Lesley Briones, Ben Broadway, Allen Broussard, Maria Burdick, Hendrix Burrus, Shawna Callaghan, Loren Campos, Dontrell Carter, Faith Carter, Stephanie Coates, Northeast Action Collective, McCloskey Conner, Molly Cook, Sue Crawford, Martha Davila, Brenda Davis, Clarence Davis, Cregg Davis, Debra Davis, Mittie Davis, Rhonda Davis, Tommy Davis, Joyce Davis, David Dow, Keith Downey, Anthony Peter D'Souza, Sherry Dunlap, Kathryn Earle, Nancy Edwards, Raynese Edwards, Martin Eke, Rodney Ellis, Jim D Elmore, Cathy Elmore, Sophie Elsner, Kelly Epstein, Elizabeth Escalante, Andy Escobar, Rosa M Estrada, Martin Estrada, Erin Fleming, M Fleming, Pamela Fletcher, Katherine Fletcher, Dallas Foreman, William Freire, Arely Galindo-Sanchez, Mary Gangelhoff, Linda Gray, Sydney Greenblatt, Joanne

Guarino, Onari B Guidry, Julie Gutierrez, Tracy Hamblin, Tracey Harell, Lutricia Harrison, Monica Hatcher, Carol Hawkins, Allison Hay, Bertha Hector, Calista Herbert, Joseph Higgs, Jane Holland, Trishela Pipkins Holmes, Sable Horton, Jacquelyn Howard, Karon Howard, Elizabeth Howley, Erica Hubbard, Keith Hughes, Lisa Hunt, S Irvin, Jon'nae Jackson, Tarsha Jackson, Arceneaux Jackson, Kelsie Jones, James Joseph, M Howard Jr., Renee Kimble, Denae King, C Ko, Ellen Koch, Pamela Laflin, Consuelo Lara, Cynthia Larkin, Diane Larsen, Traci Latson, Felicia Latson, Alene Levy, Lee Lowery, Marie Madzimoyo, Ana Maldonado, Lizbeth Maldonado, Olga Maldonado, Alexander Martinez, Mark Mateker, Lisa May, Delores McGruder, Susan McKinley, Judi Messina, Borris L Miles, L Miller, P Miller, Genie Mims, Beulah Monette, Charles Monette, Deidra Monette, Cristina Murdock, Bridgette L Murray, Gary Nauling, Xuan Nguyen, Rhita Njuki, Cheryl O'Brien, Teresa Odonnell, Kim Ogg, Jocellia Orphey, David Pedersen, Rolando Perez, Angela Peterman, Douglas Pierre, Versia Pierre, C Pierson, Letitia Plummer, Esmaeil Porsa, Marie Pousson, Gerson Pozmantier, Dianne Pulsipher, Himika Rahman, E Ramirez, Billy Reagins, Georgina Reynoso, Warren Rich, Bessie Richard, Beverly Richard, John Riggs, Carolyn Rivera, Claudzella Robinson, Cynthia Rocha, Anthony Rodriguez, A Roeger, Jocelyn Ronquillo, Joy Ross, A Rowe, Frank Rynd, Lauren Salomon, M Scherr, Judy Schockling, Kevin Scott, Rebecca Selle, Adrian Shelley, Mary Shields, M Silva, Anna Sklut, Deanna Sloan, John Sloan, Kenneth Smith, Barbara Smith, Dedra Sonier, Isaac M Stephen, Brittney Stewart, Mario Stewart, Lisa Stone, Lupita Talley, Elesther Thibodeaux, Marie Torres, Garcia Trevino, Sarah Jane Utley, Selina Valdez, Evan Salas Vargas, Derrick Vaughn, Rebecca Vestal, Juan Villarreal, Audrey Vonborstel, Debra E Walker, Alan Watkins, Mitchell White, Kenneth Dwayne Williams, Marie Willis, Huey German Wilson, Dennis Woodward, Evelyn Wagner Wright, Price Wright, Karina Yonekawa-Blest, and Allison Zaragoza)

RESPONSE 1: During the development of the Standard Permit, the Executive Director conducted an extensive protectiveness review to ensure protectiveness of human health and the environment. The protectiveness review determined potential impacts to human health and welfare or the environment by comparing emissions allowed by the Standard Permit to appropriate state and federal standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS) and TCEQ rules. As described in detail below, the Executive Director determined that the emissions authorized by the Standard Permit are protective of both human health and welfare and the environment.

The United States (U.S.) Environmental Protection Agency (EPA) created and continues to evaluate the NAAQS, which include both primary and secondary standards, for pollutants considered harmful to public health and the environment. Primary standards protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects from air contaminants. The EPA has set NAAQS for criteria pollutants, which include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), sulfur dioxide (SO₂), particulate matter less than or equal to 10 microns in aerodynamic diameter (PM₁₀), and particulate matter less than or equal to 2.5 microns in aerodynamic diameter (PM_{2.5}). The Standard Permit is designed to be in compliance with the NAAQS.

The primary contaminants that have the potential to be emitted from the plant are dust particles having particle sizes of less than or equal to 10 and 2.5 micrometers in aerodynamic diameter (PM₁₀ and PM_{2.5}, respectively). Products of combustion including CO, nitrogen oxides (NO_x), organic compounds, and sulfur dioxide (SO₂) also have the potential to be emitted. All the potential dust concentrations, as well as emissions from combustion sources, have been evaluated using reasonable worst-case operating parameters and compared to the federal criteria mentioned above. The Standard Permit requires substantial dust control processes to minimize dust issues, which include paving in-plant roads and work areas, using water sprays on stockpiles, and using a suction shroud and three-sided curtain to prevent flyaway dust. In addition, stockpiles are required to be watered, treated with dust suppressant chemicals, or covered as necessary to minimize emissions from these sources. Screens and conveyors are required to be covered if >300 feet long. When owners or operators follow the requirements in the Standard Permit, there should be no visible dust leaving the property for more than thirty-seconds in any six-minute period. If visible emissions are detected this is an indication that the plant is not operating properly and should cease operation until the issue is resolved. The controls required in the Standard Permit should ensure that fugitive dust does not become a nuisance. When a company operates in compliance with the Standard Permit, they should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.

TCEQ has reviewed ambient air crystalline silica levels measured near aggregate production operations (APOs) similar to this proposed plant in various locations throughout the United States where data are available. These data indicate that the contribution of crystalline silica from these plants to ambient levels of PM and respirable crystalline silica is negligible or minimal and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by TCEQ. See TCEQ Toxicology Division's publication on silica at APOs at the following site:

<https://www.tceq.texas.gov/downloads/toxicology/publications/community-health-impacts-as-202.pdf>.

One of the most common health concerns expressed about crushing operations relates to the potential exposure to silica. Although visible PM can create a nuisance if not properly managed, most of the particles emitted during the crushing process are too large to be inhaled and are not, therefore, directly toxic. Due to their size, these large particles fall to the ground close to the source, limiting off-property impacts. The Standard Permit review also evaluated the impact on air quality if the crushed material had up to twenty-percent silica, which is a very conservative assumption. The model predicted the maximum one-hour and maximum annual concentrations of silica would be half of TCEQ's health-based screening values. Based on TCEQ's conservative modeling analysis, TCEQ is confident that when a company operates in compliance with the Standard Permit, there should be no deterioration of air quality that would cause health effects to the surrounding community, including the patients and staff at the nearby hospital. In summary, adverse impacts to human health or welfare as a result of silica emissions from the proposed plant are not expected.

As discussed above, TCEQ conducted a protectiveness review during the development of the Standard Permit to ensure that the requirements of the Standard Permit were protective of human health and the environment. The maximum modeled concentration typically occurs at a relatively short distance from the source, so that

the peak modeled concentrations represent the source's impact at a few receptors within the modeled area. Therefore, review of other off-site sources is not necessary when determining approval of any particular Standard Permit application. See Response 1 for additional information regarding the Standard Permit protectiveness review.

Regarding cumulative emissions and operation of rock crushers in the area, subsection (3)(D) establishes a separation distance of 550 feet between any crushing facility authorized under the standard permit and either an additional operating crushing facility, concrete batch plant, or hot mix asphalt plant to help ensure that cumulative emissions do not result in adverse off-property impacts. If this distance cannot be met, the crushing facility authorized under the Standard Permit cannot operate at the same time as the additional crushing facility, concrete batch plant, or hot mix asphalt plant. The distance is to be measured between the closest points of the facilities of concern.

COMMENT 2: EPA NAAQS Standard Updates for PM_{2.5}

Commenters expressed concern regarding the EPA's updated NAAQS Standard for PM_{2.5} and want TCEQ to evaluate the proposed project based on the updated standards. Amy Dinn commented that the proposed NAAQS revisions will increase the likelihood of noncompliance of the proposed project. Sarah Jane Utley expressed concern that Harris County, currently designated as unclassifiable/attainment for PM_{2.5} will likely be classified as nonattainment should EPA adopt the newly proposed PM_{2.5} NAAQS. Ms. Utley further commented that the Standard Permit protectiveness review would be impacted by a more protective NAAQS and asked that TCEQ plan on reopening the Standard Permit should the NAAQS be changed. Letitia Plummer asked if the cumulative impact study for the Standard Permit would change if TCEQ updated the PM standards that the EPA has updated/established. Cathy Elmore asked why are permits reviewed knowing that the EPA standard is going to change. Senator Borris Miles asked if TCEQ will agree to upgrade the requirements since the PM_{2.5} requirements have not changed since 2008.

(Senator Borris Miles, Amy Dinn, Lynn Anderson, Cathy Elmore, and Letitia Plummer)

RESPONSE 2: As stated in Response 1 above, this application to construct a concrete crushing plant is evaluated using the current requirements. If the annual PM_{2.5} standard is adopted by the EPA, TCEQ will re-evaluate the protectiveness review and take necessary steps to ensure compliance with the NAAQS.

COMMENT 3: Standard Permit and Protectiveness Review

Commenters expressed concern about the protectiveness review performed by TCEQ during the development of the Standard Permit. Commenters also expressed concern regarding the Standard Permit requirements themselves, stating that they have not been updated since 2008. Cecile Wright asked how often TCEQ requirements within the Standard Permit are revised or updated. Cathy Elmore asked for the specific data, assumptions, and model for the Standard Permit related to PM₁₀, PM_{2.5}, nitric oxide, and nitrogen oxide.

Amy Dinn commented that the protectiveness review for the Standard Permit did not competently evaluate crystalline silica emissions, further expressing concern that there are no health effects analysis for the silica component of PM emissions from the emission points directly associated with the current proposed facility accounted for in the application or draft permit.

Amy Dinn and Sarah Jane Utley questioned whether the Standard Permit is adequately protective of human health and the environment. Sarah Jane Utley asked TCEQ to deny the application and fully evaluate the protectiveness of the Standard Permit before authorizing any additional facilities under its terms. Ms. Utley further commented that the Standard Permit fails to protect human health and the environment from PM_{2.5} emissions, taking into consideration the newly proposed PM_{2.5} NAAQS standards by EPA. Ms. Utley expressed concern that the protectiveness review was never updated for 2012 PM_{2.5} NAAQS and failed to account for background levels of PM_{2.5} and failed to account for engines and other PM_{2.5} sources. Ms. Utley also commented that the Standard Permit fails to protect human health and the environment from PM₁₀, SO₂, and NO₂ emissions, and expressed concern that the Standard Permit is not protective because it does not consider cumulative impacts. Ms. Utley commented that the Standard Permit protectiveness review used a modeling method that is not the EPA preferred modeling method.

Ms. Utley further commented that the Standard Permit may not account for Best Available Control Technology (BACT), specifically stating that 30 TAC § 116.602(c) mandates that standard permits issued by TCEQ require BACT, and asked TCEQ to assess whether the permit accounts for BACT. Ms. Utley further recommended TCEQ consider adding the following controls to the Standard Permit: (1) pave each road, parking lot, or other area at the site that is used by vehicles with a cohesive hard surface and properly maintained, cleaned and watered so as to minimize dust emissions; (2) keep stationary equipment, stockpiles, and vehicles used at the plant, except for incidental traffic and vehicles as they enter and exit the site, located or operated more than 100 feet from any property line; (3) install a 12-foot high, dust suppressing barrier as a border around roads, traffic areas and work areas; (4) place three-walled bunkers around all stockpiles that are at least two feet above the top of the stockpile; (5) install an enclosed structure routed to a capture system that meets the emission limits of NSPS OOO; to cover each transfer point, crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station to prevent potential particulate nuisance; (6) ensure that the fabric/cartridge filter systems and suction shroud are operated properly with no tears or leaks; (7) cover stockpiles when not in use so as to minimize dust emissions; (8) maintain a vegetative barrier (trees and other foliage) around as much of the perimeter of the facility as possible; (9) install a wheel wash and rumble strips at the exit of the facility to prevent tracking concrete on the roadway; (10) consider whether proximity to a church, school, medical facility, residential or other sensitive populations should result in an increased buffer distance; and (11) only operate between official sunrise and sunset, in lieu of the current requirement that the facility operate from one hour before official sunrise to one hour after official sunset.

(Amy Dinn, Martin Eke, Cathy Elmore, Sarah Jane Utley, and Cecile Wright)

RESPONSE 3: TCAA § 382.05195 provides the authority for TCEQ to develop standard permits. The standard permits must be enforceable, must be able to be monitored, and must use best available control technology. In this case, the Standard Permit limits production that shall not exceed 200 tons per hour, and operating no more than 2640 hours per year, requires setback requirements for the crusher and all associated facilities shall be located no less than 200 feet from the nearest property, all associated sources including but not limited to, roads (except for incidental traffic and the entrance and exit to the site), work areas, and stockpiles, shall be located at least 100 feet from the property line. This Standard Permit requires all affected plants authorized by this Standard Permit all applicable conditions of Title 40 Code of Federal Regulations (40 CFR) Part 60, Subpart A, General Provisions, and OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

Standard Permit does not require individual BACT review because the protectiveness review and impacts analysis were performed with a worst-case operating scenario when it was developed. The impacts analysis found that when plants operate within the parameters listed within this Standard Permit, should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.

COMMENT 4: Dust Control / Winds

Commenters expressed concern that the proposed site would create nuisance dust conditions near the plant, which could be exacerbated by winds. Commenters are concerned that dust would impact visibility in the area and are concerned about potential dust on their vehicles, residences, and dust impacting their home air conditioning units.

(Debra Blacklock-Sloan, Kathy Blueford-Daniels, David Dow, Keith Downey, Rodney Ellis, Sophie Elsner, Rosa M Estrada, Martin Estrada, Katherine Fletcher, Sydney Greenblatt, Joanne Guarino, Tracy Hamblin, Bertha Hector, Jane Holland, Elizabeth Howley, Diane King, Tien C Ko, Cynthia Larkin, Deidra Monette, Charles Monette, Kim Xuan Nguyen, Billy Reagins, Georgina Reynoso, Carolyn Rivera, Janice A Rowe, Max Kenneth Smith, Dedra Sonier, Isaac M Stephen, Sarah Jane Utley, and Juan Villarreal)

RESPONSE 4: Vehicle traffic and material handling are the primary activities that have the potential to emit particulate matter (i.e., dust) resulting from the proposed plant. All the potential dust concentrations from the permitted sources have been evaluated based on operating parameters represented in the application and compared to the impacts criteria. The Standard Permit requires control processes to minimize dust including treating with dust-suppressant chemicals, watering or paved with a cohesive hard surface that is maintained intact and cleaned. The Standard Permit also dictates that water sprays shall be used on the stockpiles to minimize dust emissions. When a company operates in compliance with the Standard Permit requirements there should be no deterioration of air quality or the generation of dust such that it impacts visibility. While these conditions are not expected if the plant is operated in compliance with the terms of the permit, operators must also comply with 30 TAC § 101.4, which prohibits nuisance conditions.

COMMENT 5: Environmental Concerns

Commenters expressed concern that emissions from the proposed plant would negatively impact the surrounding wildlife, the environment, surrounding soils, and cause soil erosion.

(Hamza Awais, Charyl Bell-Gordon, Kathy Blueford-Daniels, Mary Brenda, Lesley Briones, Rodney Ellis, Sophie Elsner, Arely Galindo-Sanchez, Tracey Harell, Carol Hawkins, Erica Hubbard, Lisa Hunt, Tarsha Jackson, Jessica Johnson, Denae King, Mary Ellen Koch, Diane Larsen, Felicia Latson, Ana Maldonado, Sandra Mann, Mark Mateker, Susan McKinley, Cristina Murdock, Kim Xuan Nguyen, Letitia Plummer, Esmaeil Porsa, Bianca E Ramirez, John Riggs, Frank Rynd, Anna Sklut, Deanna Sloan, John Sloan, Max Kenneth Smith, Lupita Talley, Sarah Jane Utley, Evan Salas Vargas, and Evelyn Wagner Wright)

RESPONSE 5: The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the emissions from this facility should not cause an exceedance of the NAAQS, air emissions from this facility are not expected to adversely impact land, livestock, wildlife, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water. *See* Response 1 for an evaluation of the Standard Permit's impacts in relation to the NAAQS. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life.

COMMENT 6: Water / Waste / Floodplain / Runoff / Other Authorizations

Commenters expressed concern about the effect of the proposed project on nearby water resources, including, bayous, streams, the watershed, local water supply, and the Gulf of Mexico. Commenters expressed concern about rainwater runoff and flooding in the area. Commenters also expressed concern about solid waste and that the proposed project would increase waste generation. Commenters are concerned that the site is located within a flood plain. Additionally, commenters asked what other authorizations, including water authorizations, have been acquired by the Applicant. Senator Borris Miles asked what measures will be taken to stop or lessen runoff during weather events.

(Senator Borris Miles, Amy Dinn, Debra Blacklock-Sloan, Ben Broadway, Carol Hendrix Burrus, Rodney Ellis, Cathy Elmore, Sophie Elsner, Tracey Harell, Erica Hubbard, Troy Hypolite, Jessica Johnson, James Joseph, Mary Ellen Koch, Gary Nauling, Bianca E Ramirez, Billy Reagins, Norman Warren Rich, Deanna Sloan, and Evelyn Wagner Wright)

RESPONSE 6: While TCEQ is responsible for the environmental protection of all media, including water, the TCAA specifically addresses air-related issues. This permit, if issued, would regulate the control and abatement of air emissions only, and therefore, issues regarding water use, water quality, or water availability are not within the scope of this permit review. This permit does not authorize the discharge of pollution into a body of water and does not authorize effluent. The TCAA does not give TCEQ authority to regulate air emissions beyond the direct impacts (inhalation) that the air emissions have on human health or welfare. However, as described in Response 1, the secondary NAAQS are those the Administrator determined are necessary to protect

public welfare and the environment, including animals, crops, vegetation, visibility, and buildings from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the Standard Permit was developed to comply with the NAAQS, air emissions from the proposed plant are not expected to adversely impact land, livestock, wildlife, crops, or visibility nor should emissions interfere with the use and enjoyment of surrounding land or water. As described in Response 8, TCEQ does not have jurisdiction to consider plant location choices made by an applicant when determining whether to approve or deny a permit application.

Accordingly, the TCEQ cannot deny an application because a plant is proposed to be located in a floodplain. In addition, issues concerning the creation of the floodplain maps are outside the scope of the review of this application.

Depending on the nature of the plant's operations, the Applicant may be required to apply for separate authorizations, including any applicable development permits from the city or county. It is the Applicant's responsibility to secure all necessary authorizations to operate the proposed plant. Individuals are encouraged to report environmental concerns, including water quality issues, or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. TCEQ reviews all complaints received. If the proposed plant is found to be out of compliance with the terms and conditions of the permit, the Applicant may be subject to investigation and enforcement action.

COMMENT 7: Air Monitoring and Air Monitoring Network

Commenters expressed concern that there is inadequate air monitoring in the area. David Pedersen expressed concern regarding the current network of regulatory monitoring stations, stating that the network is inadequate and does not allow the public to gauge their exposure as the stations report hourly. Hamza Awais commented that the 'best of the best quality measurement tools' should be used to monitor the site precisely and ensure no health issues for the surrounding area. James Joseph commented that the Applicant should install a fence line monitoring station to record how much PM is in the air.

(Amy Dinn, Hamza Awais, James Joseph, and David Pedersen)

RESPONSE 7: Due to cost and logistical constraints, the placement of air monitors is prioritized to provide data on regional air quality in areas frequented by the public. The existing air monitoring network is the result of a strategic balance of matching federal monitoring requirements with state and local needs. Consistent with federal air monitoring requirements, TCEQ evaluates the placement of air quality monitors within the air monitoring network using trends in population, reported emissions inventory data, and existing air monitoring data for a given area. In addition, TCEQ may prioritize monitor placement in areas with potential regional air quality issues, such as those related to increased oil and gas activity in the Barnett Shale and Eagle Ford Shale areas.

TCEQ annually evaluates the number and location of air monitors within its network to assess compliance with federal monitoring requirements and the adequacy of monitoring coverage for identified monitoring objectives as a part of the Annual

Monitoring Network Plan provided to EPA on July 1 of each year. This plan is made available on the TCEQ's website for public review and comment for 30 days beginning in mid-May. Requests for additional monitoring or the identification of additional monitoring needs may be made during this public comment period and will be considered along with other monitoring priorities across the state. To receive email announcements related to the ambient air monitoring network, including the availability of the Annual Monitoring Network Plan for public review and comment, please visit the following link <https://service.govdelivery.com/accounts/TXTCEO/subscriber/new> and select "Air Monitoring Network Announcements."

Since stationary air monitors are sited to measure air quality that is representative of a broader area or region, monitors are not typically placed to measure the impacts from specific industrial facilities. In addition, TCEQ does not have a routine monitoring plan for this type of industry. *See* Response 12 for concerns regarding demonstration of compliance with the permit.

Mobile air monitoring is an approach typically used to support on-going field investigations regarding a specific source or group of sources, or to provide short-term evaluations of air quality in areas where the agency suspects potential air quality issues. Mobile monitoring is not appropriate for ambient air monitoring to determine compliance with the NAAQS.

Fenceline monitoring is not typically required unless a plant has a confirmed compliance issue that demonstrates a need for monitoring as part of a corrective action program or is known to emit one or more pollutants that are of unusually serious concern to surrounding or nearby residents.

COMMENT 8: Jurisdictional Issues

Location/Zoning

Commenters expressed concern regarding the proposed location of the plant as it relates to current zoning ordinances and the proximity to private and public areas, including residences, schools, childcare facilities, public transit centers, places of worship, hospitals, public parks, and walking trails. Commenters also expressed concern regarding the location of the plant and the proximity of other existing plants in the area, including existing crushers and concrete batch plants, Toxic Release Inventory reporting facilities, large quantity generators of hazardous waste, hazardous waste treatment facilities, major air pollutant dischargers, significant stormwater discharging facility, and Superfund sites. Commenters asked that the proposed plant should be located somewhere else.

(Group A, Brigida Addison, Rickey Addison, German Amador, Amy Dinn, Lynn Anderson, Margarita Arevalo, Albany Ashiru, Hamza Awais, Mychelle Banks, Ruby L Banks, Ruthie Beck, Charyl Bell-Gordon, M Bhalakia, Robin Bickham, Gina Biekman, Debra Blacklock-Sloan, Donna Bolding, Brinda Brantley, Mary Brenda, Lesley Briones, Ben Broadway, Allen Broussard, Maria Burdick, Anne Burr, Hendrix Burrus, Shawna Callaghan, Loren Campos, Dontrell Carter, Faith Carter, Patrick Casey, Helen Chambers, Concerned Citizen, Northeast Action Collective, McCloskey Conner, Molly Cook, Brenda Davis, Clarence Davis, Cregg Davis, Debra Davis, Mittie Davis, Rhonda Davis, Tommy Davis, Joyce Davis, Derek Dawes, Kay Dotsey, Edward Douglas, David Dow, Keith

Downey, Anthony Peter D'souza, Sherry Dunlap, Kathryn Earle, Nancy Edwards, Raynese Edwards, Martin Eke, Ashley Ellis, Rodney Ellis, Cathy Elmore, Sophie Elsner, Elizabeth Escalante, Rosa M Estrada, Martin Estrada, Jose Bravo Figueroa, Moslin Fisher, Erin Fleming, M Fleming, Pamela Fletcher, Katherine Fletcher, Jimmy Ford, Dallas Foreman, William Freire, Arely Galindo-Sanchez, Mary Gangelhoff, Kory Goodly, Linda Gray, Sydney Greenblatt, Joanne Guarino, Alan Guerdrum, Onari B Guidry, Julie Gutierrez, Tracy Hamblin, Tracey Harell, Lutricia Harrison, Monica Hatcher, Carol Hawkins, Allison Hay, Bertha Hector, Calista Herbert, Joseph Higgs, Jane Holland, Trishela Pipkins Holmes, Sable Horton, Jacquelyn Howard, Karon Howard, Elizabeth Howley, Erica Hubbard, H Hughes, Keith Hughes, Lisa Hunt, Troy Hypolite, Mae Hypolite, S Irvin, Jon'nae Jackson, Arceneaux Jackson, Jessica Johnson, Kelsie Jones, Rhonda Jones, James Joseph, M Howard Jr., Renee Kimble, Denae King, Diane King, C Ko, Ellen Koch, Pamela Laflin, Cynthia Larkin, Diane Larsen, Traci Latson, Felicia Latson, Alene Levy, Lee Lowery, Abner Lyons, Marie Madzimoyo, Ana Maldonado, Lizbeth Maldonado, Olga Maldonado, Walter Mallett, Sandra Mann, Alexander Martinez, Janet Massey, Mark Mateker, Lisa May, Delores Mcgruder, Rebecca Mcilwain, Susan Mckinley, Judi Messina, Borris L Miles, L Miller, P Miller, Genie Mims, Beulah Monette, Charles Monette, Deidra Monette, Cristina Murdock, Bridgette L Murray, Gary Nauling, Maria Negrete, Xuan Nguyen, Rhita Njuki, Cheryl O'brien, Teresa Odonnell, Kim Ogg, Jocellia Orphey, J Paul, David Pedersen, Rolando Perez, Angela Peterman, Douglas Pierre, Versia Pierre, C Pierson, Letitia Plummer, Esmaeil Porsa, Marie Pousson, Gerson Pozmantier, Dianne Pulsipher, Himika Rahman, E Ramirez, Georgina Reynoso, Warren Rich, Bessie Richard, Beverly Richard, John Riggs, Carolyn Rivera, Claudzella Robinson, Cynthia Rocha, Anthony Rodriguez, A Roeger, Jocelyn Ronquillo, Joy Ross, A Rowe, Frank Rynd, Lauren Salomon, Sylvia Scarbrough, M Scherr, Judy Schockling, Kevin Scott, Rebecca Selle, Adrian Shelley, Mary Shields, M Silva, Anna Sklut, Deanna Sloan, John Sloan, Kenneth Smith, Barbara Smith, Dedra Sonier, Denise Stasio, Isaac M Stephen, Brittney Stewart, Mario Stewart, Lisa Stone, Lupita Talley, Elesther Thibodeaux, Marie Torres, Garcia Trevino, Sarah Jane Utley, Selina Valdez, Evan Salas Vargas, Derrick Vaughn, Rebecca Vestal, Audrey Vonborstel, Connie W, Debra E Walker, Alan Watkins, Mitchell White, Kenneth Dwayne Williams, Marie Willis, Huey German Wilson, Dennis Woodward, Evelyn Wagner Wright, Pearl Wright, Price Wright, Cecile Wright, Karina Yonekawa-Blest, Allison Zaragoza, and Chester Zawalski)

Trucks / Traffic / Roads / Railroads

Commenters expressed concern that the proposed project would increase truck traffic in the surrounding area. Commenters are also concerned about subsequent diesel emissions from trucks, spillage of debris from trucks, safety concerns from truck traffic, and damage to roads and public infrastructure. Commenters expressed concern that increased traffic due to the proposed project would slow emergency vehicles and families from accessing the nearby hospital. Commenters also expressed concern about nearby railroads.

(Margarita Arevalo, Debra Blacklock-Sloan, Stephanie Coates, Rodney Ellis, Kelly Epstein, Rosa M Estrada, Martin Estrada, William Freire, Linda Gray, Tracey Harell, Allison Hay, Tarsha Jackson, James Joseph, Denae King, Letitia Plummer, Billy Reagins, Georgina Reynoso, Kenneth Smith, Sarah Jane Utley, Juan Villarreal, Roger Watkins, and Marie Willis)

Noise / Light / Quality of Life / Property Values / Aesthetics

Commenters expressed concern regarding noise and light pollution from the proposed project. Commenters are concerned about the effect of the proposed project on their quality of life, on their property values and aesthetics of the area. Commentors also asked if the plant will comply with City of Houston noise requirements.

(Senator Borris Miles, Group A, Margarita Arevalo, Brinda Brantley, Mary Brenda, Ben And Shawna Callaghan, Helen Chambers, Northeast Action Collective, Janine McCloskey Conner, David Dow, Kathryn Earle, Rodney Ellis, Erin Fleming, William Freire, Sydney Greenblatt, Joanne Guarino, Tracy Hamblin, Tracey Harell, Jane Holland, Patsy Karon Howard, Elizabeth Howley, Cynthia M Arceneaux Jackson, Cynthia Larkin, Felicia Latson, Mark Mateker, Lisa May, Rebecca McIlwain, Judi Messina, Nettie P Miller, Genie Mims, Teresa Odonnell, David Pedersen, Letitia Plummer, Billy Reagins, Georgina Reynoso, Carolyn Rivera, Judy Schockling, Derrick Vaughn, Rebecca Vestal, Juan Villarreal, Audrey Vonborstel, and Cecile Wright)

Local Economy

Commenters expressed concern that the proposed project would negatively affect the local economy.

(Jose Bravo Figueroa and Debra E. Walker)

RESPONSE 8: TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, TCEQ does not have jurisdiction to consider plant location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule imposes specific distance limitations that are enforceable by TCEQ. Zoning and land use are beyond the authority of TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. The issuance of an air quality authorization does not override any local zoning requirements that may be in effect and does not authorize an applicant to operate outside of local zoning requirements.

TCEQ also does not have jurisdiction to consider traffic, road safety, or road repair costs when determining whether to approve or deny a permit application. In addition, trucks are considered mobile sources, which are not regulated by TCEQ. Moreover, TCEQ is prohibited from regulating roads per the TCAA § 382.003(6) which excludes roads from the definition of "facility."

Although TCEQ is prohibited from regulating trucks, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 30 TAC § 101.5 states: "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use." Accordingly, the Applicant is prohibited from creating a traffic hazard with emissions from its plant.

Jurisdiction over traffic on public roads, including any load-bearing restrictions and public safety, including access, speed limits, and public roadway issues, are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation (TxDOT) and the Texas Department of Public Safety (DPS). An air quality permit does not authorize a violation of any road safety or load-bearing restrictions. Concerns regarding roads should be addressed to appropriate state or local officials.

TCEQ also does not have jurisdiction to consider noise or light from a plant when determining whether to approve or deny a permit application. As such, TCEQ does not have authority under the TCAA to require or enforce any noise abatement measures. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. Commenters should contact their local authorities with questions or complaints about noise. Additionally, TCEQ does not have authority under the TCAA to consider light pollution when determining whether to approve or deny a permit application.

Accordingly, TCEQ does not have jurisdiction to consider potential effects from plant location, aesthetics, zoning and land use issues, or effects on property values when determining whether to approve or deny a permit. Except under limited circumstances, which do not exist under this particular permit application, the issuance of a permit cannot be denied on the basis of plant location.

COMMENT 9: Operating Hours

The NAC expressed concern that the site would be permitted to operate 24-hours a day, 7-days per week. Senator Borris Miles asked what the normal operating hours of the plant are.

(Northeast Action Collective)

RESPONSE 9: TCEQ has not been delegated the authority to regulate the hours of operations of a facility or site if the permit review demonstrates all applicable federal and state regulations are met. Accordingly, TCEQ cannot limit the hours of operation unless an emission rate is dependent on a limit on operational hours or there are issues associated with the air quality analysis that require the limitation. The Applicant represented operations up to 2,640 hours per year and will not operate at night. The proposed maximum operating schedule for the plant will be 10-hours per day, 5-days per week, and 52-weeks per year.

COMMENT 10: Application Representations

Commenters expressed concern regarding application representations, and that the Applicant fails to demonstrate that they qualify for TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers. Commenters expressed concern that the application failed to correctly identify the nearest place of worship and nearest school, stating that the application is deficient unless the errors are corrected and should therefore be denied.

Amy Dinn expressed concern that the application was inconsistent regarding the represented address of the proposed facility, citing two different addresses (5875 Kettley Street and 5873 Kelley Street) found in the application, further stating that the exact location is important for determining statutory distances and ensure compliance with the 'buffer zone'. Senator Borris Miles asked where exactly on the property will the concrete-crushing facility (including the baghouse) be located on the property.

(Senator Borris Miles, Amy Dinn, and Sarah Jane Utley)

RESPONSE 10: See Response 11 regarding the 440-yard distance requirements and Response 1 regarding the Standard Permit. In addition, the proposed crushers will be located approximately 1200 feet east of the 5875 Kelley Street location. The facility

will be operated greater than 200 feet to any property line and over 440 yards from any residence, school, or place of worship. In addition, all stockpiles will be maintained 100 feet from any property line.

COMMENT 11: Distance Requirements

Commenters expressed concern that the proposed project is located within 440-yards of a building in use as a single or multifamily residence, school, or place of worship. Sarah Jane Utley commented that the Standard Permit and TCEQ rules do not define "place of worship" or "school", further commenting that the nearby LBJ Hospital meets the criterion for being considered a place of worship as well as a school with respect to the 440-yard distance limitation. Frank Rynd and Sarah Jane Utley commented that the Saint Francis of Assisi Catholic Church uses their outside spaces for worship at various times throughout the year for worship, stating that the outside spaces are within 440-yards of the facility.

Stephanie Coates expressed concern that the operation of the proposed facility will be within 550-feet of an existing concrete batch plant. stating that this is prohibited under the Standard Permit. Ms. Coates further expressed concern that the site plan in the application appears to show a work area that would be fewer than 100 feet from the property line, as required by the Standard Permit. Senator Borris Miles asked if there are any other permitted rock crushers in this state that operate within 500 yards of a hospital.

(Senator Borris Miles, Amy Dinn, Lynn Anderson, Albany Ashiru, Stephanie Coates, Cathy Elmore, Tien C. Ko, Frank Rynd, and Sarah Jane Utley)

RESPONSE 11: Texas Health and Safety Code (THSC) § 382.065 prohibits the operation of certain concrete crushing facilities within 440-yards of a building in use as a single or multifamily residence, school, or place of worship at the time the application for a permit to operate the facility at a site near the residence, school, or place of worship is filed with the commission. The plant is located greater than 1,320 feet (440 yards) away from any point of the noted nearby hospital, and from the noted Saint Francis of Assisi Catholic Church. The Applicant represented that it would meet the appropriate distance requirements listed in the Standard permit, including distance from the property line and distance to the nearest crusher, concrete batch plant or hot-mix asphalt plant. As mentioned previously, the technical requirements, which include property line distance requirements, specific statutory requirements for concrete crushing, and maximum production rates at which a plant's operation will not be detrimental to human health and welfare or the environment for the surrounding community.

COMMENT 12: Compliance and Enforcement

Commenters expressed concern regarding compliance of the permit and enforcement of the permit requirements. Commenters are concerned that TCEQ cannot provide enough oversight to ensure compliance and are concerned that private industry will ignore federal laws and the welfare of the community. David Pedersen expressed concern that applicants are allowed to self-report emissions, stating that the permittee will just underreport emissions to avoid enforcement actions. Senator Borris Miles asked what processes will be put in place to allow complaints to be made by community members.

(Senator Borris Miles, Margarita Arevalo, Tracey Harell, and David Pedersen)

RESPONSE 12: Monitoring requirements are included in the Standard Permit. Emissions will be monitored by documenting hours of operation and total throughput per hour. The permit holder is required to maintain records to demonstrate compliance with the emission rates and terms of the permit, including the monitoring requirements. Records must be made available upon request to representatives of the TCEQ, EPA, or any local air pollution control program having jurisdiction. The Regional Office may perform investigations of the plant as required. The investigation may include an inspection of the site including all equipment, control devices, monitors, and a review of all required recordkeeping.

TCEQ regional offices prioritize their responses to complaints based on the potential for adverse health effects associated with the alleged violation. For example, a "priority one" case means serious health concerns exist, and the case will be investigated immediately. A "priority four" case, on the other hand, means no immediate health concerns exist; therefore, it will be investigated within 30 days. Staff from the TCEQ regional office reviews all complaints received, and regional investigations are not limited by media. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at (713) 767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If a plant is found to be out of compliance with the terms and conditions of its registration, it may be subject to investigation and possible enforcement action.

Citizen-collected evidence may be used in such an enforcement action. *See* 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. Under the citizen-collected evidence program, individuals are providing information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, *see* the TCEQ publication, "Do You Want to Make an Environmental Complaint? Do You Have Information or Evidence"? This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028 and may be downloaded from the agency website at www.tceq.texas.gov (under Publications, search for Publication Number 278).

There are a number of mechanisms by which TCEQ monitors compliance with permit conditions and state and federal regulations. To the extent that personnel, time, and resources are available, TCEQ investigates permit operations to ensure compliance with applicable rules and regulations. Although specific to each site, investigations generally explore the entire operation of the plant. The investigation schedule may be increased if violations are found, repeated, or if a regulated entity is classified as an unsatisfactory performer. Notices of Violation (NOVs) are public information. Additionally, the public is able to track complaints on the TCEQ website by complaint tracking number, date, county, TCEQ region, or regulated entity/customer name or number (<http://www2.tceq.texas.gov/oce/waci/index.cfm>).

COMMENT 13: Compliance History

James Joseph asked if a 'background check' was conducted for the other out of Houston site, and if so, asked what deficiencies were found at the other site. Nguyen Ly expressed concern regarding the compliance history of other sites in the area, nothing historical issues and complaints for similar types of facilities and common issues that the community has encountered.

(James Joseph and Nguyen Ly)

RESPONSE 13: During the technical review of the permit application, a compliance history review of both the company and the site is conducted based on the criteria in 30 TAC Chapter 60. These rules may be found at the following website:

<https://www.tceq.texas.gov/rules/index.html>.

The compliance history is reviewed for the five-year period prior to the date the permit application was received and includes multimedia compliance-related components about the site under review. These components include enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance. However, TCEQ does not have jurisdiction to consider violations outside of the State of Texas. The compliance history of other regulated entities or the industry as a whole is not within the scope of the review of this particular application.

A company and site may have one of the following classifications and ratings:

- High: rating below 0.10 - complies with environmental regulations extremely well;
- Satisfactory: rating 0.10 - 55.00 - generally complies with environmental regulations;
- Unsatisfactory: rating greater than 55.00 - fails to comply with a significant portion of the relevant environmental regulations.

Because both the site and the company are new, neither the site nor the company have an established compliance history rating with the TCEQ. *See* Response 12 concerning Enforcement.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with the terms of any permit or other environmental regulation by contacting the TCEQ Houston Regional Office at 713-767-3500 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. TCEQ evaluates all complaints received. If the plant is found to be out of compliance with the terms and conditions of the permit, it may be subject to investigation and possible enforcement action.

COMMENT 14: Environmental Justice

Commenters raised concerns regarding the environmental justice implications of this project.

(Brigida Addison, Rickey Addison, Amy Dinn, Mychelle Banks, Ruthie Beck, Charyl Bell-Gordon, Robin Bickham, Lesley Briones, Allen Broussard, Dontrell Carter, Faith Carter, Stephanie Coates, Cregg Davis, Rhonda Davis, Derek Dawes, Keith Downey, Raynese Edwards, Rodney Ellis, Sophie Elsner, Gordon, Trishela Pipkins Holmes, Sable Horton, Elizabeth Howley, Carolyn H Hughes, Lisa Hunt, Troy Hypolite, Tarsha Jackson, Rhonda Jones, Kelsie Jones, Renee Kimble, Denae King, Diane King, Tien C Ko, Mary Ellen Koch, Pamela Laflin, Krista Marie Madzimoyo, Lizbeth Maldonado, Sandra Mann, Delores Mcgruder, Angela L Miller, Charles Monette, Deidra Monette, Bridgette L Murray, Kim Ogg, Jocellia Orphey, Letitia Plummer, Esmaeil Porsa, Himika Rahman, Bianca E Ramirez, Bessie Richard, Beverly Richard, Carolyn Rivera, Joy Ross, Frank Rynd, Kevin Scott, Adrian Shelley, John Sloan, Mario Stewart, Lisa Stone, Elesther Thibodeaux, Marie Torres, Sarah Jane Utley, Selina Valdez, and Debra E Walker)

RESPONSE 14: TCEQ is committed to protecting the health of the citizens of Texas and its environment. Air permits evaluated by TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community. However, discrimination on the basis of race, color, national origin, sex, or disability in the administration of our programs or activities, is not allowed as required by federal and state laws and regulations. The Office of the Chief Clerk works to help citizens and neighborhood groups participate in the regulatory process to ensure that agency programs that may affect human health or the environment operate without discrimination and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all. Contact the Office of the Chief Clerk at 512-239-3300 for further information. More information on Environmental Equity may be found on the TCEQ website: www.tceq.texas.gov/agency/hearings/envequ.html.

COMMENT 15: Public Notice / Public Participation / Contested Case Hearing

Commenters expressed concern that the Applicant published the required public notice outside of Houston and the affected community area, stating that this was done to keep the community uninformed. The Northeast Action Collective commented that the community was not properly notified of the ongoing application process and was intentionally left out of the conversation. Commenters requested that an in-person public meeting be held on the application and that the meeting include Spanish interpretation. Commenters requested that the comment period be extended after the informal meeting. Willie Glass commented that the public notice should have been published in the *North Forest News*.

Sarah Jane Utley commented that Harris County and Harris Health have concerns with TCEQ holding an informational only meeting rather than a formal public meeting, stating that failure to hold a formal meeting and allowing public comment impacts the community and their ability to participate in the TCEQ permitting process. Senator Borris Miles asked that although TCEQ states that there is no requirement for a contested case hearing in statute, will TCEQ agree to have one due to the close proximity of the facility to St. Francis of Assisi Catholic Church and the existing chapel and school inside LBJ Hospital.

(Senator Borris L. Miles, Representative Harold V. Dutton; Northeast Action Collective, Erin Fleming, Pamela Fletcher, Willie Glas, Lutricia Harrison, Jocellia Orphey, Esmaeil Porsa, and Sarah Jane Utley)

RESPONSE 15: As stated in the Procedural Background of this Response above, the Applicant published the Notice of Application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (public notice) for this permit application was published in English on August 24, 2023, in the *Highlands Star/Crosby Courier*, and in Spanish on August 24, 2023, in the *El Perico Spanish Newspaper*. The public notice was later re-published in English on October 4, 2023 in *The Houston Chronicle*. An in-person public meeting was held on Thursday, December 7, 2023 at 6:00 P.M. at the New Mount Calvary Missionary Baptist Church (gymnasium), 4711 Kelley Street, Houston, Texas 77026. The notice of public meeting was mailed on November 2, 2023. The public comment period ended on December 11, 2023 at 5:00 PM. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

This Response is the written response to all formal comments received during the comment period for the application. A copy of this Response will be sent to each person who submitted a formal comment or who requested to be on the mailing list for this permit application and provided a mailing address. All timely formal comments received are included in this Response and were considered before a final decision was reached on this permit application.

Public participation is an integral part of the permitting process. Under the notice requirements in 30 TAC Chapter 39, Subchapters H and K, public meetings do not apply under this Standard Permit. Therefore, there was no opportunity to hold a public meeting. However, to provide an opportunity for public participation, an informational meeting was held on December 7, 2023. The informational meeting gave the community an opportunity to ask questions and to discuss the application. The public comment period for this application was extended until Monday, December 11, 2023, at 5:00 P.M. See the link below for additional information on our website about public participation : https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/pub_part.html.

With respect to hearings, aside from the statutory provision in THSC § 382.05195(g) excluding standard permits from consideration under the Texas Administrative Procedure Act (Texas Government Code chapter 2001), the Air Quality Standard Permit for Rock and Concrete Crushers includes public notice provisions specific to the Standard Permit. These provisions do not provide or allow for a contested case hearing on a registration for authorization under the Standard Permit. The Standard Permit specifically provides that the public notice requirements in 30 TAC Chapter 39, Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications, do not apply. The provision in the Standard Permit that the crusher and all associated facilities be located no less than 440-yards from any building which was in use as a single or multi-family residence, school, or place of worship is an operational requirement not related to whether there is an opportunity for a contested case hearing. Given these provisions taken together, the Executive Director does not have the authority to refer the matter for a contested case hearing.

COMMENT 16: Expedited Permitting

Stephanie Coates commented that the permit review should not be expedited, stating that the Applicant did not demonstrate that the purpose of the application will benefit the economy of this state or an area of this state.

(Stephanie Coates)

RESPONSE 16: Any applicant may request to have their application expedited. TCEQ will expedite the review of the application if the applicant can demonstrate eligibility under 30 TAC § 101.600 and remits the appropriate fee. Expedited applications undergo the same level of scrutiny and review as non-expedited applications and follow all air permitting process requirements. Further, the public notice requirements and the duration of the public notice comment period is the same for both expedited and non-expedited projects. The economic benefit analysis is not part of the administrative or technical review and does not impact the issuance of a permit.

COMMENT 17: Corporate Profits

Commenters asked TCEQ to put the health of people above the profits of a company and prioritize communities over profits.

(Avni M Bhalakia, Concerned Citizen, Collective Northeast Action Collective, Angela L Miller, Jocelyn Ronquillo, and Robert Chester Zawalski)

RESPONSE 17: TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization to emit air contaminants; nor can TCEQ prohibit owners and operators from receiving authorization to emit air contaminants if they comply with all statutory and regulatory requirements. Further, TCEQ is not authorized to consider a company's financial status or profit issues, including tax abatements, in determining whether or not a permit should be issued. As explained in previous responses, the decision by the Executive Director to issue the permit is based upon the authority and direction of the TCCA. Specifically, TCAA § 382.0518 provides that TCEQ shall issue the permit if an application demonstrates that the proposed facility will use at least the BACT and there is no indication that the emissions from the facility will contravene the intent of the TCAA. TCEQ is not authorized to consider an applicant's experience with a particular facility type. However, TCEQ does consider an applicant's compliance history.

COMMENT 18: Responsibility of TCEQ to the Community

Commenters asked that TCEQ consider residents and their wishes and choose not to approve the permit registration for the proposed plant. Commenters expressed general opposition regarding the proposed permit.

(Group A, Brigida Addison, Rickey Addison, German Amador, Dinn Amy, Lynn Anderson, Margarita Arevalo, Albany Ashiru, Hamza Awais, Mychelle Banks, Ruby L Banks, Ruthie Beck, Mary Brenda, Allen Broussard, Maria Burdick, Barbara Anne Burr, Ben And Shawna Callaghan, Dontrell Carter, Faith Carter, Northeast Action Collective, Janine McCloskey Conner, Sue Crawford, Brenda Davis, Clarence Davis, Cregg Davis, Debra Davis, Mittie Davis, Rhonda Davis, Tommy Davis, Joyce Davis, Kay Dotsey, Edward Douglas, David Dow, Roshida Downey, Keith Downey, Anthony Peter D'souza, Sherry Dunlap, Kathryn Earle, Nancy Edwards, Sandra Edwards, Martin Eke, Ashley Ellis, Rodney Ellis, Jim D Elmore, Sophie Elsner, Yeiglin Elizabeth Escalante, Andy Escobar, Erin Fleming, Francine M Fleming, Pamela Fletcher, Katherine Fletcher, Jimmy Ford, Mary Gangelhoff, Sydney Greenblatt, Joanne Guarino, Tracy Hamblin, Bertha Hector, Calista Herbert, Joseph Higgs, Jane Holland, Trishela Pipkins Holmes, Jacquelyn Howard, Patsy Karon Howard, Elizabeth Howley, Erica Hubbard, Lisa Hunt,

Necole S Irvin, Jon'nae Jackson, Tarsha Jackson, Rhonda Jones, Diane King, Mary Ellen Koch, Pamela Laflin, Diane Larsen, Felicia Latson, Alene Levy, Ana Maldonado, Walter Mallett, Ryan Alexander Martinez, Mark Mateker, Lisa May, Judi Messina, Sterling Miles, Nettie P Miller, Angela L Miller, Beulah Monette, Charles Monette, Deidra Monette, Rhita Njuki, Cheryl O'Brien, Teresa Odonnell, Kim Ogg, Jocellia Orphey, Angela Peterman, Donna C Pierson, Letitia Plummer, Esmaeil Porsa, Marie Pousson, Paula Gerson Pozmantier, Kirste Reimers, Georgina Reynoso, Norman Warren Rich, Bessie Richard, Beverly Richard, Carolyn Rivera, Claudzella Robinson, Anthony Rodriguez, Cecile A Roeger, Jocelyn Ronquillo, Joy Ross, Frank Rynd, Lauren Salomon, Stephanie M Scherr, Judy Schockling, Kevin Scott, Rebecca Selle, Adrian Shelley, Mary Shields, John Sloan, Dedra Sonier, Denise Stasio, Isaac M Stephen, Brittney Stewart, Mario Stewart, Lisa Stone, Lupita Talley, Elesther Thibodeaux, Marie Torres, Vicky Garcia Trevino, Sarah Jane Utley, Derrick Vaughn, Rebecca Vestal, Juan Villarreal, Audrey Vonborstel, Theodore Weisgal, Huey German Wilson, Dennis Woodward, Demetress Price Wright, Karina Yonekawa-Blest, and Robert Chester Zawalski)

RESPONSE 18: The Executive Director acknowledges the concerns of the citizens. As stated previously, TCEQ reviews all applications consistent with applicable law and TCEQ's regulatory authority. The Executive Director's staff has reviewed the Standard Permit registration in accordance with the applicable state and federal law, policy and procedures, and the agency's mission to protect the state's human and natural resources consistent with sustainable economic development. As stated in previous responses, TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met.

COMMENT 19: Comments and Questions for Applicant

Commenters asked the Applicant to withdraw their application and abort their plans to build in the area. Commenters asked the Applicant if they are going to provide jobs for members of the community, as well as asked the Applicant what they plan to do to support the community. Commenters asked the Applicant why they chose their specific location for the project and asked how many and what other locations were considered for development. Martha Davila asked the Applicant what type of incentives are going to be given back to the community, and what portion of their profit margins are they willing to commit to the community. Letitia Plummer asked the Applicant to commit to not adding a concrete batch plant on their property.

Senator Miles asked if Texas Coastal Materials will agree to work with the community if the community presents alternate sites for the rock crushing facility, and if the Applicant will agree to work with federal agencies if those agencies decide to intervene in this permitting process. In addition, Senator Miles asked if the Applicant would agree to engage with the community and elected officials regarding the place their facility will occupy in the already overburdened industrial ecosystem of the area.

Senator Miles asked if the Applicant would agree to install fence line monitoring stations to record how much particulate matter is in the air and if the permit holder agree to incorporate measures to discourage the idling of trucks waiting to enter the facility. He also asked if the Applicant would commit to not adding a concrete batch plant on to the premises of the property.

Senator Miles asked how many trucks the Applicant expects to come in and out of the permitted site on a daily basis.

(Senator Borris Miles, Mary Brenda, Lesley Briones, Carol Hendrix Burrus, Martha Davila, Tommy Davis, Moslin Fisher, Bridgette L. Murray, Letitia Plummer, Dianne Pulsipher, Sylvia Scarbrough, Louis Smith, and Connie W.)

RESPONSE 19: These specific questions or concerns were addressed to the Applicant and are therefore included for completeness, but not addressed by the Executive Director.

COMMENT 20: Miscellaneous

Noemi Hernandez commented that she supports the construction of new hospitals and clinics to serve people in need of medical attention. Burl Gilmore commented that he supports clean air and would like updates. Richard J. Hixon commented to "let business run as without further restrictions." Billy Reagins expressed concern that private companies are forcing nearby residents to move out. Martin Eke commented that the plant is bringing aggression to the neighborhood. Rosa M. Estrada and Martin Estrada asked specifically where the concrete used at the facility will come from, expressing concerns about asbestos.

(Senator Borris Miles, Martin Eke, Burl Gilmore, Noemi Hernandez, Richard J. Hixon, Billy Reagins)

RESPONSE 20: These comments or concerns are outside the scope of the air permit review and are therefore included for completeness, but not addressed by the Executive Director.

CHANGES MADE IN RESPONSE TO COMMENT

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

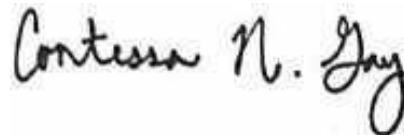
Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Erin E. Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**Texas Coastal Materials, LLC
Standard Permit Registration No. 173296**

Appendix A

The Office of Chief Clerk received timely comments from the following persons:

Senator Borris L. Miles, Representative Harold V. Dutton, Amy Dinn of Lone Star Legal Aid "LSLA" (on behalf of Super Neighborhood 48 Trinity/Houston Gardens, "SN48" and Kashmere Gardens Super Neighborhood Council #52, "SN52"), Donna Bolding (on behalf of Canaan Missionary Baptist Church), Stephanie Coates (on behalf of the Environmental Defense Fund "EDF"), Nguyen Ly (on behalf of the City of Houston Health Department "HHD" and Bureau of Pollution Control and Prevention "BPCP"), Frank Rynd (on behalf of the Saint Francis of Assisi Catholic Church), Sarah Jane Utley (on behalf of the Harris County Attorney's Office, "Harris County", and the Harris County Hospital District and Harris Health System "Harris Health"), Brigida Addison, Rickey Addison, Elizabeth Aguirre, Theila Akubue, H Allen, James Allen, Kenneth Allen, Marry Allen, German Amador, Dinn Amy, Donald Anderson, Elizabeth Anderson, Jeff Anderson, Jerome Anderson, Lynn Anderson, Virginia Anderson, Robert Angello, Shellia Archield, Margarita Arevalo, Albany Ashiru, Hamza Awais, Shelina Baines, Sterling Baines, Mychelle Banks, L Banks, Sean Baptiste, L Barker, Chondra Barnes, Sondra Barnes, Wilton Barnes, Clarissa Barras, Justin Barras, Edwina Loche Barrett, Allen Barrow, Ruthie Beck, Charyl Bell-Gordon, M Bhalakia, Robin Bickham, Gina Biekman, Debra Blacklock-Sloan, Kathy Blueford-Daniels, Donna Bolding, Chaunte Bonham, Linda Bonham, Doris Borrow, Charles Boudreaut, B. Branch, Brinda Brantley, Evaline Brassaid, Mary Brenda, Lesley Briones, Ben Broadway, Allen Broussard, Dninna Brown, Traun Brown, Maria Burdick, Anne Burr, Hendrix Burrus, Shawna Callaghan, Clarice Campbell, Loren Campos, Junius Canter, Yaureen Cantu, Diana Carmon-Jones, Dontrell Carter, Faith Carter, Carolyn Carter, Patrick Casey, Martha Castor, Helen Chambers, A Chargois, Concerned Citizen Citizen, Stephanie Coates, Northeast Action Collective, Mccloskey Conner, Molly Cook, Ollie Crawford, Sue Crawford, Cheryl Crenshaw, Rod Daniel, Charlene Daniels, Martha Davila, Brenda Davis, Clarence Davis, Cregg Davis, Debra Davis, Mittie Davis, Rhonda Davis, Tommy Davis, Joyce Davis, B. Davis, Derek Dawes, Kelly Dehay, Noel Denison, Beverly Dennis, Shannon Dennis, Derrick Dixon, E Dixon, Kay Dotsey, Edward Douglas, David Dow, Keith Downey, Roshida Downey, Peter D'souza, Sherry Dunlap, V Dutton, Kathryn Earle, Nancy Edwards, Raynese Edwards, Sandra Edwards, Martin Eke, Rodney Ellis, Ashley Ellis, D Elmore, Cathy Elmore, Sophie Elsner, Marty Emale, Kelly Epstein, Elizabeth Escalante, Andy Escobar, Martin Estrada, M Estrada, Johnetta Ferguson, Jose Bravo Figueroa, Moslin Fisher, John Flarity, Erin Fleming, M Fleming, Pamela Fletcher, Katherine Fletcher, Jimmy Ford, Dallas Foreman, M Francis, Joe Francis, Anthony Freddie, William Freire, Ponthip Gage, Arely Galindo-Sanchez, Amelita Gallagher, Daniel Gallagher, Mary Gangelhoff, Artrice Gant, Kate Garza, Gwendolyn Gibson, Annie Gilliam, Vanestine Gilliam, Burl Gilmore, Willie Glas, John Glenn, Job Gonzalez, Kory Goodly, Kelly Goodson, Linda Gray, Sydney Greenblatt, Joanne Guarino, Alan Guerdrum, B Guidry, Julie Gutierrez, L Hall, Robert Hall, Tracy Hamblin, Tracey Harell, Robert Harris, Lutricia Harrison, Monica Hatcher, Carol Hawkins, Allison Hay, Bertha Hector, Calista Herbert, Noemi Hernandez, Joseph Higgs, Mary Hill, J Hixon, Jane Holland, Pipkins Holmes, Sable Horton, Jacquelyn Howard, Karon Howard, Elizabeth Howley, Erica

Hubbard, H Hughes, Keith Hughes, Lisa Hunt, Sharon Hutson, Mae Hypolite, Troy Hypolite, Dewalt Grace Iii, S Irvin, Jon'nae Jackson, Arceneaux Jackson, Leola Jackson, Tarsha Jackson, Michael Jahnke, Sylvia Jefferson, Jessica Johnson, Andre Johnson, K Johnson, Johnny Johnson, Samuel Johnson, Sherron Johnson, Toryn Johnson, H Jones, Kelsie Jones, Rhonda Jones, Raquel Jonhson, James Joseph, Earline Joseph, M Howard Jr., Patrick Killough, Renee Kimble, Elizabeth Kindle, Denae King, Bobbie King, Diane King, Mary King, Lannis Kirkland, C Ko, Ellen Koch, Pamela Laflin, Consuelo Lara, Cynthia Larkin, Diane Larsen, Felicia Latson, Traci Latson, Kim Leblanc, Robert Leggington, Mylene Lemelle, Alene Levy, Carla Lewis, Elnora Lewis, Robert Lewis, Carolyn Louviere, Lee Lowery, Ernest Lowery, Nguyen Ly, Abner Lyons, Barnard Mackey, Therese Maduka, Marie Madzimoyo, Debrah Magee, Tomie Magee, Ana Maldonado, Lizbeth Maldonado, Olga Maldonado, Walter Mallett, Sandra Mann, Ashanti Manuel, Alexander Martinez, Janet Massey, Mark Mateker, John Mathis, Eva Matthews, Matt Matthews, Lisa May, Delores Mcgruder, Rebecca Mcilwain, Susan Mckinley, Kobin Mercy, Judi Messina, L Miles, Sterling Miles, L Miller, P Miller, Marie Milton, Genie Mims, Beulah Monette, Charles Monette, Deidra Monette, Monica Monroe, Lenora Moore, Frankie Morgan, Anne Mosley, Mary Mouton, Cristina Murdock, L Murray, Name Name, Gary Nauling, James Ndubuisi, Wiltz Ndubuisi, Maria Negrete, Xuan Nguyen, Rhita Njuki, Cheryl O'brien, Teresa Odonnell, Kim Ogg, Jocellia Orphey, Kendra Ouzenne, J Paul, David Pedersen, Rolando Perez, A Perry, Angela Peterman, Elsa Phillips, Sheila Pickard, Douglas Pierre, Versia Pierre, C Pierson, Letitia Plummer, Esmaeil Porsa, Anthony Porter, Jacqueline Porter, Marie Pousson, Gerson Pozmantier, Mary Prejean, Darlene Price, Hb Price, Dianne Pulsipher, Barbara Rachal, Felicia Rachal, John Rachal, Himika Rahman, E Ramirez, Theda Randle, Martha Rauris, Billy Reagins, Brenda Reed, May Reed, Kirste Reimers, Deborah Reynolds, Lane Reynolds, Georgina Reynoso, Warren Rich, Bessie Richard, Beverly Richard, John Riggs, Carolyn Rivera, Vivian Roberto, Claudzella Robinson, Cynthia Rocha, Anthony Rodriguez, A Roeger, Jocelyn Ronquillo, Chelsea Rose, Mary Rose, Wilbert Rose, Tyrone Rosemond, Joy Ross, A Rowe, Clara Runnels, Amber Ryan, Emma Ryan, Frank Rynd, Andrea Sabine, Lauren Salomon, Ben Sampson, Leon Sandles, Sylvia Scarbrough, M Scherr, Judy Schockling, Kevin Scott, Mike Scott, Rita Sebalu, Rebecca Selle, Adrian Shelley, B. Sherman, Mary Shields, Deborah Shorter, M Silva, Anna Sklut, Deanna Sloan, John Sloan, Barbara Smith, Louis Smith, Kenneth Smith, Dedra Sonier, Linda Sonnier, Roberto Spears, Denise Stasio, M Stephen, Brittney Stewart, Mario Stewart, Robin Stilwell, Lisa Stone, Jacqueline Sylvester, Andrea Tafer, Lupita Talley, B. Taylor, Cleopatre Thelus, Elesther Thibodeaux, Bertha Thomas, Jacqueline Thomas, Lydia Thomas, Marie Torres, Garcia Trevino, Jane Utley, Sarah Utley, Mary Utulu, Selina Valdez, Salas Vargas, Derrick Vaughn, Rebecca Vestal, Juan Villarreal, Audrey Vonborstel, Connie W, E Walker, Sharon Washington, Alan Watkins, Roger Watkins, Nancy Weinreich, Theodore Weisgal, Clifton Wells, Felicia White, Mitchell White, Dwayne Williams, Robin Williams, L. Williams, Marie Willis, Huey German Wilson, Huey Wilson, Leroy Windon, Dennis Woodward, Ollie Worthham, Evelyn Wagner Wright, Cecile Wright, Price Wright, Pearl Wright, Karina Yonekawa-Blest, Allison Zaragoza, and Chester Zawalski.

COMMENT GROUP A:

Elizabeth Aguirre, Mary-Theila Akubue, Karina Alaniz, Sallie Alcorn, Kenneth Allen, James Allen, Arnetta H Allen, Marry Allen, Donald Anderson, Elizabeth Anderson, Jerome Anderson, Jeff Anderson, Virginia Anderson, Sherell Andres, Edastelle C Andress, Robert Angello, Elizabeth Angello, Ikenna Anyikam, Valencia Arceneaux,

Linda Arceneaux, Shellia Archield, Jude Aulenne, Gwendolyn Auzenne, Sterling Baines, Shelina Baines, Sean Baptiste, Corene L Barker, Wilton Barnes, Sondra Barnes, Chondra Barnes, Clarissa Barras, Justin Barras, John Barras, Edwina Loche Barrett, Stacy Allen Barrow, Shaisley Barton, Mary Beard, Mary Berard, Rita Bernard, Gil Betancourt, Martha Blake, Chaunte Bonham, Linda Bonham, Doris Borrow, Charles Boudreaux, Felesita B. Branch, Brinda Brantley, Evaline Brassaid, Johanna Broussard, Eula Broussard, Rodney Broussard, Eula P Broussard, Traun Brown, Dninna Brown, Lakesha Brown, Willie Brown, Clarice Campbell, Junius Canter, Yaureen Cantu, Diana Carmon-Jones, Davis Carriere, Carolyn Carter, Martha Castor, Kirk A Chargois, Mary Charles, Deidre Cole, Brenda Compton, Rodney Cooper, Joe Cooper, Ollie Crawford, Cheryl Crenshaw, Stephen Crimi, Ruby Dabney, Rod Daniel, Charlene Daniels, Selma Daniels, Mark B. Davis, Linda Davis, Valeria Davis, William Davis, Julia Davis, Kelly Dehay, Katherine Noel Denison, Shannon Dennis, Beverly Dennis, Derrick Dixon, Jerry E Dixon, Ellen Duqus, Ruth Elliott, Marty Emale, Jorge Esquivel, Johnetta Ferguson, John Flarity, Gaila Fontenot, Dola M Francis, Joe Francis, Anthony Freddie, Ponthip Gage, Amelita Gallagher, Daniel Gallagher, Artrice Gant, Jose Garcia, Kate Garza, Shen Ge, Raymond Geegan, Gwendolyn Gibson, Sylvia Gilbert, Camilla Gilbert, Annie Gilliam, Vanestine Gilliam, John Glenn, Debra Glenn, Job Gonzalez, Antoinette Goodly, Kelly Goodson, Cindy Goodson, Jerry Goree, Stephen Gray, Graylin Guidry, Robert Hall, Brynda L Hall, Christine L Hall, Portia Hampton, Georgia Harper, Robert Harris, Bertha Hector, Reesa Hedrick, Vanessa Henderson, Mary Hill, Bryant Hoe, Shirley Horton, Michael E. Hunt, Sharon Hutson, William Dewalt Grace Iii, Leola Jackson, Tawanna Jackson, Kenneth Jackson, Jean Jackson, Wanda Jackson, Michael Jahnke, Sylvia Jefferson, Johnny Johnson, David K Johnson, Samuel Johnson, Michael Johnson, Annie Johnson, Ola Johnson, Kathy Johnson, Andre Johnson, Sherron Johnson, Toryn Johnson, Frank H Jones, Ron Jones, Mary Jones, Major Jones, Raquel Jonhson, Earline Joseph, Barbara Joseph, Jones Joseph, Mary Jane Joseph, Ignatius Joseph, Mary St. Julian, Patrick Killough, Elizabeth Kindle, Bobbie King, Mary King, Lannis Kirkland, Larry Laidig, Donna Latson, Kim Leblanc, Shanna Lebrum, Robert Leggington, Mylene Lemelle, Robert Lewis, Elnora Lewis, Bradley Lewis, Latricia Lewis, Earline Lewis, Melvin Lewis, Tebben Lewis, Carla Lewis, Carolyn Louviere, Ernest Lowery, Barnard Mackey, Marie-Therese Maduka, Debrah Magee, Tomie Magee, Kenneth Malone, Ashanti Manuel, John Mathis, Matt Matthews, Eva Matthews, Carolyne Mbong, Kobin Mercy, Joyce Miller, Marie Milton, Angela Mitchell, Monica Monroe, Valencia Montgomery, Lenora Moore, Ulysses Moore, Frankie Morgan, Melane Morris, Medrick Morris, Maland Morris, Lessie Morris, Anne Mosley, Mary Mouton, Davida Mouton, Stacey Wiltz Ndubuisi, James Ndubuisi, Ann Nelson, Kendra Ouzenne, Trina Parker, Renite Patterson, Henry Patterson, Rene Penson, Roderick Penson, Alton A Perry, Erma Perry, Coetta Peterson, Elsa Phillips, Sheila Pickard, Jacqueline Porter, Anthony Porter, Mary Prejean, Tony Preston, Ruby Preston, Hb Price, Darlene Price, Melvin Price, Leona Price, Dianne Pulsipher, John Rachal, Barbara Rachal, Felicia Rachal, Theda Randle, Martha Rauris, Nina Reagins, Bridget Reagins, May Reed, Brenda Reed, Lane Reynolds, Deborah Reynolds, Alvin Richard, Carolyn Richardson, Mary Rivertson, Vivian Roberto, Wilbert Rose, Chelsea Rose, Mary Rose, Tyrone Rosemond, Richard Ruble, Clara Runnels, Emma Ryan, Amber Ryan, Gladys Andrea Sabine, Ben Sampson, Leon Sandles, James Sawyers, Mike Scott, Rita Sebalu, Carolyn B. Sherman, Deborah Shorter, Ramona Simon, Gloria Sloan, Joseph Sloan, Paul Sloan, Cheryl Smith, Nikki Hamilton Smith, Linda Sonnier, Roberto Spears, Robin Stilwell, Jacqueline Sylvester, Andrea Tafer, Renee Taplin, David B. Taylor, Nicole Taylor, Altonette Terrance, Cleopatre Thelus, Paula

Thibodeaux, Jacqueline Thomas, Lydia Thomas, Bertha Thomas, Gloria Thomas, Jerome Thompson, Cecilia Thompson, Carrie Thompson, Cheryl Tillman, Mary Utulu, Arthur Wagner, Evelyn Wagner-Wright, Sharon Washington, Dorothy Webb, Richard Webb, Nancy Weinreich, Sabrina Weinreich, Clifton Wells, Felicia White, Eugene White, Lester White, Lester L White, Mattie Wilkinson, Selwyn Wilkinson, Robin Williams, Carmen Williams, Carl Williams, Jamie Williams, Joseph Williams, Edgar Williams, Ronnie L. Williams, Destiny Willis, Rebecca Wills, Victoria Winburne, Leroy Windon, Sara Wolfe, Ollie Worthham, Tajere Wright, Alicia Y Yancy, Meagan Yarbrough, Enola Zenon, David Zenon, Enola Zerion, and David Zerion.

EXHIBIT 3

Plaintiffs' Petition for Judicial Review

STANDARD PERMIT FOR ROCK AND CONCRETE CRUSHING

**Texas Coastal Materials LLC
Kelley Street Plant**

Prepared By:

Jay Lindholm

TRINITY CONSULTANTS

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July 2023

Project 234404.0180



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1. INTRODUCTION

1.1 Facility Information

Texas Coastal Materials, LLC (Texas Coastal) is requesting to construct a new concrete crushing plant at 5875 Kelley Street, Houston, Harris County, Texas. The site will be constructed under a Permanent Standard Permit for Rock and Concrete Crushers for the Kelley Street Plant. The site location is shown on the area map found in Appendix B of this document.

1.2 Purpose of Application

Texas Coastal is providing this document to the Texas Commission on Environmental Quality (TCEQ) as an application for construction of a new source to operate a new concrete crushing plant. The facility will recycle broken concrete by crushing and screening to produce an aggregate material. The request for an air permit to construct is being made under the New Source Review (NSR) air permitting program as specified in 30 Texas Administrative Code (TAC) Chapter 116, Subchapter F. Specifically, this authorization is sought under the provisions of 30 TAC Section (§) 116.610 for Standard Air Permits.

1.3 Federal Applicability Review

The Kelley Street Plant is located in Harris County, which is within a designated non-attainment area for ozone and ozone precursors. The county is listed as attainment for all other criteria pollutants. The proposed facility will emit NO_x and VOC as a result of two diesel powered engines to provide electric or mechanical power for the primary and secondary crusher and other associated facilities. The proposed emission rate for NO_x and VOC are estimated to be 14.83 tons/yr and 0.03 tons per year respectively. Based on this estimate, the plant will not trigger non-attainment review.

Harris County is listed as attainment for all other criteria pollutants. Therefore, new construction or physical and/or operational changes are potentially subject to Prevention of Significant Deterioration (PSD) permitting requirements. This application is requesting to construct a new facility with emissions which will remain below the significance level for PSD requirements. As a minor source, emission increases of 250 tons would be required to trigger a PSD review. The increase in emissions proposed by this NSR application request is 2.33 tons/yr of particulate emissions, 1.85 tons/yr of CO emissions and 1.33 tons/yr of SO₂ emissions; therefore, this application is for a state only minor source permit.

1.4 Facility Information

The Kelley Street Plant is located at 5873 Kelley Street, Houston, Harris County, Texas. The Standard Industrial Classification (SIC) code for crushed concrete is 1422. The North American Industrial Classification System (NAICS) code is 212312. The facility is new and has no TCEQ designation at this time. The TCEQ does not have a Customer Number for Texas Coastal and will need to assign a number for the newly formed company. In addition, the TCEQ Regulated

Entity Number (RN) for the new site is pending following submittal of this application. As a new site and permit, a core data form has been included with this application.

1.5 Registration Overview

The following materials are included in this registration application to provide support for the authorization:

- A process description is included in Section 2;
- Emission rate calculations are discussed in Section 3;
- Standard Permit Regulatory Applicability are addressed in Section 4;
- Permit Fee determination is provided in Section 5;
- Appendix A contains completed TCEQ administrative forms, including the Form PI-1S, Standard Permit Checklist, Standard Permit General Checklist, and Table 17;
- Appendix B includes the area map, site map and process flow diagrams for the facility;
- Appendix C contains emission rate calculations; and
- Appendix D contains requirements for the Standard Permit for Rock Crushing Facilities.

2. PROCESS DESCRIPTION

Texas Coastal is constructing a new crushed concrete plant that will produce a bull rock, inch and one-half aggregate, and other construction products. Broken concrete will be delivered to the site by truck and placed in a storage pile. From the pile, materials will be loaded into the crusher hopper by front end loader or excavator. From the feeder hopper, materials are gravity fed into the crusher where the materials are ground into smaller sizes (C-1). Crushed materials are delivered to a deck screen via conveyors (BC-1 and BC-2). The crusher is controlled by water sprays on the inlet and outlet. The screen separates materials into different sizes. These include oversize materials, bull rock, fines, and small aggregates. The small aggregates pass through the screen and drop to conveyor belt BC-3 to be delivered to the aggregate product pile. Bull rock is passed from the screen onto BC-5a and BC-5 for delivery to the bull rock pile. Oversize materials are sent to the secondary crusher (C-2) via belt conveyor (BC-6) for further size reduction or diverted to BC-7 for delivery to an oversize pile. Materials passing into the secondary crusher are returned to the deck screen by use of BC-4. All material transfers, the screen deck, and the inlet and outlet of each crusher are controlled by water spray.

Stockpiled products are loaded into trucks via front end loader (T-009) for delivery to customers off-site. A process flow diagram is provided in Appendix B of this document.

3. EMISSION CALCULATIONS

This section includes a description of the method used to calculate emission rates associated with the added fugitive components. The emissions calculations have been submitted in Appendix C.

3.1 Crushing and Screening

Emissions from the crushers were determined by utilizing factors from RG-058 Rock Crushing Plants Table 6. A wet factor was used for the primary crusher and for the screening operation due to the use of water sprays at the inlet and outlet of these devices. In addition, the use of water sprays at all material transfer locations results in wet materials (i.e., materials greater than 1.5% moisture) prior to processing. No additional controls were assumed due to the use of this wet factor. The PM2.5 factor was developed from the PM10 factor by assuming a 15% value based on the ratio of the k factors provided in AP-42 13.2.4.3. Detailed calculations are provided in Appendix C.

3.2 Emissions from Material Transfers

Emissions from transferring materials to hoppers and belts or drops to piles may result in fugitive losses. To control these losses, transfer areas are equipped with water sprays and/or enclosed to the extent possible to minimize potential emissions. Losses from these material transfers are determined utilizing a material factor from Vol. 1, 5th Ed., AP-42, Section 11.19.2-2 (November 2006). All calculations are provided in Appendix C of this application.

3.3 Emissions Due to Wind Erosion from Storage Piles

Stockpile emissions due to wind erosion associated with the storage of the raw materials and final products were determined utilizing an equation from the TCEQ Rock Crushing Guidance Document RG-058 found in Table 5 of Section F. Emissions were determined for the active and inactive portions of the pile. The area of the active and inactive portions has been estimated based on current and future projected use. The calculated emissions determined for this source utilizing this methodology are included in Appendix C of this application.

4. STANDARD PERMIT GENERAL REQUIREMENTS

The following information demonstrates that the applicable standard permit general requirements specified in 30 TAC §116.604 (1) and (2), §116.605(d)(1) and (2), §116.610, §116.611, §116.614 and §116.615 are met.

§116.604

(1) The registration to use a standard permit is valid for a term not to exceed ten years.

The Standard Permit will be renewed in 10 years.

(2) The holder of a standard permit shall be required to renew the registration to use a standard permit by the date the registration expires. Any registration renewal shall include the requirements, as applicable, of §116.611 of this title (relating to Registration to Use a Standard Permit) and shall provide information determined by the commission to be necessary to demonstrate compliance with the requirements and conditions of the standard permit and with applicable state and federal regulations.

A renewal application will be provided by the expiration date of this permit if required by TCEQ.

§116.605(d)(1)

(1) To remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed. The commission may not require compliance with an amended standard permit within 24 months of its amendment unless it is necessary to protect public health.

Should an amendment to this standard permit registration be issued, the facility will either amend the standard permit as required or submit a request of other authorization under the TCEQ rules present at the time the rule is issued within 24 months of the change being issued.

§116.605(d)(2)

(2) Before the date the facility is required to comply with the amendment, the standard permit, as it read before the amendment, applies to the facility.

The facility will comply with the standard permit until any amendment or change in authorization is approved by the TCEQ.

§116.610(a)(1)

(1) Any project that results in a net increase in emissions of air contaminants from the project other than water, nitrogen, ethane, hydrogen, oxygen, or greenhouse gases (GHGs) as defined in §101.1 of this title (relating to Definitions), or those for which a national ambient air quality standard has been established must meet the emission limitations of §106.261 of this title (relating to Facilities (Emission Limitations)), unless otherwise specified by a particular standard permit.

The proposed project will comply with the emissions limitations of the standard permit requested. The proposed facilities will result in an increase in actual or allowable emissions as authorized by the referenced standard permit.

§116.610(a)(2)

(2) Construction or operation of the project must be commenced prior to the effective date of a revision to this subchapter under which the project would no longer meet the requirements for a standard permit.

The construction or operation of the permitted source addressed in this application will commence prior to the effective date of a revision of this standard permit under which the proposed project would no longer meet the requirements for the standard permit. Should such an amendment become effective prior to the construction of this project a new authorization will be obtained.

§116.610(a)(3)

(3) The proposed project must comply with the applicable provisions of the Federal Clean Air Act (FCAA), §111 (concerning New Source Performance Standards) as listed under 40 Code of Federal Regulations (CFR) Part 60, promulgated by the United States Environmental Protection Agency (EPA).

The proposed project is for the construction of a permanent rock and concrete crushing facility. The facilities will comply with NSPS 000 requirements as specified above.

§116.610(a)(4)

(4) The proposed project must comply with the applicable provisions of FCAA, §112 (concerning Hazardous Air Pollutants) as listed under 40 CFR Part 61, promulgated by the EPA.

The proposed project will have no applicable provisions of the Federal Clean Air Act (FCAA) Section 112 (Hazardous Air Pollutants) under 40 CFR 61.

§116.610(a)(5)

(5) The proposed project must comply with the applicable maximum achievable control technology standards as listed under 40 CFR Part 63, promulgated by the EPA under FCAA, §112 or as listed under Chapter 113, Subchapter C of this title (relating to National Emissions Standards for Hazardous Air Pollutants for Source Categories (FCAA, §112, 40 CFR Part 63)).

There are no applicable provisions of the Maximum Achievable Control Technology (MACT) standards under FCAA 40 CFR Part 63 for this facility.

§116.610(a)(6)

(6) If subject to Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program) the proposed facility, group of facilities or account must obtain allocations to operate.

The proposed project is located in Harris County and may trigger applicability under the Cap and Trade Program. If so, allowances will be purchased annually as required by the program.

§116.610(b)

(b) Any project that constitutes a new major stationary source or major modification as defined in §116.12 of this title (relating to Nonattainment and Prevention of Significant Deterioration Review Definitions) because of emissions of air contaminants other than greenhouse gases is subject to the requirements of §116.110 of this title (relating to Applicability) rather than this subchapter. Notwithstanding any provision in any specific standard permit to the contrary, any project that constitutes a new major stationary source or major modification which is subject to Subchapter B, Division 6 of this chapter (relating to Prevention of Significant Deterioration Review) due solely to emissions of greenhouse gases may use a standard permit under this chapter for air contaminants that are not greenhouse gases.

The proposed project does not constitute a new major source or major modification for Prevention of Significant Deterioration (PSD) or Nonattainment New Source Review (NNSR) permits. The proposed emissions are below the significance levels for PSD. Therefore, no Federal review is required.

§116.610(c)

(c) Persons may not circumvent by artificial limitations the requirements of §116.110 of this title.

The proposed project does not circumvent by artificial limitations the requirements of the §116.610 concerning applicability for a standard permit.

§116.610(d)

(d) Any project involving a proposed affected source (as defined in §116.15(1) of this title (relating to Section 112(g) Definitions)) shall comply with all applicable requirements under Subchapter E of this chapter (relating to Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources (FCAA, §112(g), 40 CFR Part 63)). Affected sources subject to Subchapter E of this chapter may use a standard permit under this subchapter only if the terms and conditions of the specific standard permit meet the requirements of Subchapter E of this chapter.

The proposed project does not contain sources applicable to the provisions of §112(g), 40 CFR Part 63, or 30 TAC Chapter 116, Subchapter C. Therefore, this paragraph is not applicable to the proposed project.

§116.611

(a) If required, registration to use a standard permit shall be sent by certified mail, return receipt requested, or hand delivered to the executive director, the appropriate commission regional office, and any local air pollution program with jurisdiction, before a standard permit can be used. The registration must be submitted on the required form and must document compliance with the requirements of this section, including, but not limited to:

- (1) The basis of emission estimates;
- (2) Quantification of all emission increases and decreases associated with the project being registered;
- (3) Sufficient information as may be necessary to demonstrate that the project will comply with §116.610(b) of this title (relating to Applicability);

- (4) Information that describes efforts to be taken to minimize any collateral emissions increases that will result from the project;
- (5) A description of the project and related process; and
- (6) A description of any equipment being installed.

The registration information will be delivered to the TCEQ via STEERS and contain required forms, emissions estimates, maps and discussion of the project and how compliance with all specified requirements are met.

(b) Construction may begin any time after receipt of written notification from the executive director that there are no objections or 45 days after receipt by the executive director of the registration, whichever occurs first, except where a different time period is specified for a particular standard permit or the source obtains a prevention of significant deterioration permit for greenhouse gases as provided in §116.164(a) of this title (relating to Prevention of Significant Deterioration Applicability for Greenhouse Gases Sources).

Construction of the changes included in this registration will not be conducted until a letter of notification is received from the TCEQ.

(c) In order to avoid applicability of Chapter 122 of this title (relating to Federal Operating Permits), a certified registration shall be submitted. The certified registration must state the maximum allowable emission rates and must include documentation of the basis of emission estimates and a written statement by the registrant certifying that the maximum emission rates listed on the registration reflect the reasonably anticipated maximums for operation of the facility. The certified registration shall be amended if the basis of the emission estimates changes or the maximum emission rates listed on the registration no longer reflect the reasonably anticipated maximums for operation of the facility. The certified registration shall be submitted to the executive director; to the appropriate commission regional office; and to all local air pollution control agencies having jurisdiction over the site. Certified registrations must also be maintained in accordance with the requirements of §116.115 of this title (relating to General and Special Conditions).

- (1) Certified registrations established prior to December 11, 2002, shall be submitted on or before February 3, 2003.
- (2) Certified registrations established on or after December 11, 2002, shall be submitted no later than the date of operation.
- (3) Certified registrations established for greenhouse gases (as defined in §101.1 of this title (relating to Definitions)) on or after the effective date of EPA's final action approving amendments to §122.122 of this title (relating to Potential to Emit) into the State Implementation Plan shall be submitted:
 - (A) For existing sites that emit or have the potential to emit greenhouse gases, no later than 12 months after the effective date of EPA's final action approving amendments to §122.122 of this title as a revision to the Federal Operating Permits Program; or
 - (B) For new sites that emit or have the potential to emit greenhouse gases, no later than the date of operation.

The facility is a minor source and not applicable to Chapter 122 of the Texas Administrative Code. Therefore, this section does not apply to this facility.

§116.614

Any person who registers to use a standard permit or an amended standard permit, or to renew a registration to use a standard permit shall remit, at the time of registration, a flat fee of \$900 for each standard permit being registered, unless otherwise specified in a particular standard permit. No fee is required if a registration is automatically renewed by the commission. All standard permit fees will be remitted in the form of a check, certified check, electronic funds transfer, or money order made payable to the Texas Commission on Environmental Quality (TCEQ) and delivered with the permit registration to the TCEQ, P.O. Box 13088, MC 214, Austin, Texas 78711-3087. No fees will be refunded.

A fee of \$900.00 will be provided as discussed in Section 5 of this registration below.

§116.615(1)

(1) Protection of public health and welfare. The emissions from the facility, including dockside vessel emissions, must comply with all applicable rules and regulations of the commission adopted under Texas Health and Safety Code, Chapter 382, and with the intent of the Texas Clean Air Act (TCAA), including protection of health and property of the public.

The proposed project will comply with all applicable rules and regulations of the commission adopted under Texas Health and Safety Code, Chapter 382, and with the intent of the Texas Clean Air Act, including protection of health and property of the public.

§116.615(2)

(2) Standard permit representations. All representations with regard to construction plans, operating procedures, and maximum emission rates in any registration for a standard permit become conditions upon which the facility or changes thereto, must be constructed and operated. It is unlawful for any person to vary from such representations if the change will affect that person's right to claim a standard permit under this section. Any change in condition such that a person is no longer eligible to claim a standard permit under this section requires proper authorization under §116.110 of this title (relating to Applicability). If the facility remains eligible for a standard permit, the owner or operator of the facility shall notify the executive director of any change in conditions which will result in a change in the method of control of emissions, a change in the character of the emissions, or an increase in the discharge of the various emissions as compared to the representations in the original registration or any previous notification of a change in representations. Notice of changes in representations must be received by the executive director no later than 30 days after the change.

All representations with regard to construction plans, operating procedures, and maximum emission rates within this application will become conditions upon which the facility or changes thereto, will be constructed and operated. A notification will be made to TCEQ of any change in conditions, which will result in a change in the method of control of emissions, a change in the character of emissions, or an increase in the discharge of the various emissions as compared to the representations in this registration. The notice of any change will be received by the executive director within 30 days of making the change.

§116.615(3)

(3) Standard permit in lieu of permit amendment. All changes authorized by standard permit to a facility previously permitted under §116.110 of this title shall be administratively incorporated into that facility's permit at such time as the permit is amended or renewed.

Should this standard permit still be active at the time of the next standard permit renewal or amendment, any changes authorized will be rolled into that permit which was issued under §116.110.

§116.615(4)

(4) Construction progress. Start of construction, construction interruptions exceeding 45 days, and completion of construction shall be reported to the appropriate regional office not later than 15 working days after occurrence of the event, except where a different time period is specified for a particular standard permit.

Start of construction, construction interruptions exceeding 45 days, and completion of construction will be reported to the appropriate regional office within 15 working days after the event occurs.

§116.615(5)(A)

(A) The appropriate air program regional office of the commission and any other air pollution control agency having jurisdiction shall be notified prior to the commencement of operations of the facilities authorized by a standard permit in such a manner that a representative of the executive director may be present.

The appropriate air program regional office of the commission and any other air pollution control agency having jurisdiction will be notified prior to the commencement of operations of the facilities authorized by the standard permit in such a manner that a representative of the executive director may be present.

§116.615(5)(B)

(B) For phased construction, which may involve a series of units commencing operations at different times, the owner or operator of the facility shall provide separate notification for the commencement of operations for each unit.

This project will not involve any phased construction; therefore, this paragraph does not apply to this project.

§116.615(5)(C)

(C) Prior to beginning operations of the facilities authorized by the permit, the permit holder shall identify to the Office of Permitting, Remediation, and Registration, the source or sources of allowances to be utilized for compliance with Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program).

This facility is located in Harris County and if needed will purchase allowances from the TCEQ bank.

§116.615(5)(D)

(D) A particular standard permit may modify start-up notification requirements.

This facility will follow the applicable start-notification requirements under the standard permit registration.

§116.615(6)

(6) Sampling requirements. If sampling of stacks or process vents is required, the standard permit holder shall contact the commission's appropriate regional office and any other air pollution control agency having jurisdiction prior to sampling to obtain the proper data forms and procedures. All sampling and testing procedures must be approved by the executive director and coordinated with the regional representatives of the commission. The standard permit holder is also responsible for providing sampling facilities and conducting the sampling operations or contracting with an independent sampling consultant.

This facility will not have any stack testing requirements. Therefore, this paragraph is not applicable to this facility.

§116.615(7)

(7) Equivalency of methods. The standard permit holder shall demonstrate or otherwise justify the equivalency of emission control methods, sampling or other emission testing methods, and monitoring methods proposed as alternatives to methods indicated in the conditions of the standard permit. Alternative methods must be applied for in writing and must be reviewed and approved by the executive director prior to their use in fulfilling any requirements of the standard permit.

The proposed facility is not requesting any alternative control methods or sampling methodology. Therefore, this paragraph is not applicable to this facility.

§116.615(8)

(8) Recordkeeping. A copy of the standard permit along with information and data sufficient to demonstrate applicability of and compliance with the standard permit shall be maintained in a file at the plant site and made available at the request of representatives of the executive director, the United States Environmental Protection Agency, or any air pollution control agency having jurisdiction. For facilities that normally operate unattended, this information shall be maintained at the nearest staffed location within Texas specified by the standard permit holder in the standard permit registration. This information must include, but is not limited to, production records and operating hours. Additional recordkeeping requirements may be specified in the conditions of the standard permit. Information and data sufficient to demonstrate applicability of and compliance with the standard permit must be retained for at least two years following the date that the information or data is obtained. The copy of the standard permit must be maintained as a permanent record.

A copy of the standard permit along with information and data sufficient to demonstrate applicability of and compliance with the standard permit will be kept at the site and made available to representatives of the executive director, the EPA, or any air pollution control agency having jurisdiction. This information must include, but is not limited to, emissions event reporting, MSS reporting and recordkeeping requirements, production rate for each hour and day of operation, all repairs and maintenance of abatement systems, MSDS sheets for all additives and other chemicals, road and work area cleaning and dust suppression logs, and stockpile dust suppression logs, and quarterly

visible emissions observations. These records will be kept for a period of two years following the date the information was obtained. A copy of the standard permit will be maintained as a permanent record.

§116.615(9)

(9) Maintenance of emission control. The facilities covered by the standard permit may not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. Notification for emissions events and scheduled maintenance shall be made in accordance with §101.201 and §101.211 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements; and Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements).

The facilities covered by this standard permit may not be operated unless all pollution control equipment is maintained in good working order and operating properly during normal facility operations. Notification for emissions events and scheduled maintenance shall be made in accordance with §101.201 and §101.211 (relating to Emissions Event Reporting Requirements; and Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping).

§116.615(10)

(10) Compliance with rules. Registration of a standard permit by a standard permit applicant constitutes an acknowledgment and agreement that the holder will comply with all rules, regulations, and orders of the commission issued in conformity with the TCAA and the conditions precedent to the claiming of the standard permit. If more than one state or federal rule or regulation or permit condition are applicable, the most stringent limit or condition shall govern. Acceptance includes consent to the entrance of commission employees and designated representatives of any air pollution control agency having jurisdiction into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the standard permit.

Registration of this standard permit constitutes acknowledgement and agreement that the holder will comply with all rules, regulations and orders of the commission issued in conformity with the TCAA and the conditions precedent to the claiming of the standard permit. Acceptance includes consent to the entrance of commission employees and designated representatives of any air pollution control agency having jurisdiction into the permitted premises at reasonable times to investigate conditions and relating to the emission or concentration of air contaminants, including compliance with the standard permit.

§116.615(11)

(11) Distance limitations, setbacks, and buffer zones. Notwithstanding any requirement in any standard permit, if a standard permit for a facility requires a distance, setback, or buffer from other property or structures as a condition of the permit, the determination of whether the distance, setback, or buffer is satisfied shall be made based on conditions existing at the earlier of:

(A) The date new construction, expansion, or modification of a facility begins; or

(B) The date any application or notice of intent is first filed with the commission to obtain approval for the construction or operation of the facility.

The facility will be operated at a distance of greater than 200 feet to any property line and over 440 yards from any residence, school, or place of worship. In addition, all stockpiles will be maintained 100 feet from any property line.

5. PERMIT FEE DETERMINATION

As stated in 30 TAC §116.114, "Any person who registers to use a standard permit or an amended standard permit, or to renew a registration to use a standard permit shall remit, at the time of registration, a flat fee of \$900 for each standard permit being registered, unless otherwise specified in a particular standard permit."

The required \$900.00 application fee is being paid at the time of submittal of this application to TCEQ via ePay.

APPENDIX A. TCEQ FORMS

The following documents are included in this appendix:

- PI-1S Standard Permit Registration Form;
- Core Data Form;
- Standard Permit General Checklist;
- Rock Crusher Standard Permit Checklist;
- Table 17; and
- Table 29.

Texas Commission on Environmental Quality
Form PI-1S
Registrations for Air Standard Permit
(Page 1)

I. Registrant Information		
A. Company or Other Legal Customer Name:		
Texas Coastal Materials, LLC		
B. Company Official Contact Information (<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/> Other:)		
Name: Blake Hays		
Title: Director of Operations		
Mailing Address: 9026 Lambright Road		
City: Houston	State: <u>TX</u>	ZIP Code: 77075
Phone: 281-508-6352	Fax:	
Email Address: bhays210@gmail.com		
<i>All permit correspondence will be sent via email.</i>		
C. Technical Contact Information (<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/> Other:)		
Name: Jay Lindholm		
Title: Project Manager		
Company Name: Trinity Consultants, Inc.		
Mailing Address: 9737 Great Hills Trail, Suite 340		
City: Austin	State: Texas	ZIP Code: 78759
Phone: (512) 567-8280	Fax:	
Email Address: jay.lindholm@trinityconsultants.com		
II. Facility and Site Information		
A. Name and Type of Facility		
Facility Name: Coastal Crushed Concrete Kelley Street Plant		
Type of Facility:	<input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Temporary	
For portable units, please provide the serial number of the equipment being authorized below.		
Serial No: TBD	Serial No: TBD	

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II. Facility and Site Information (continued)		
B. Facility Location Information		
Street Address: 5875 Kelley Street		
If there is no street address, provide written driving directions to the site and provide the closest city or town, county, and ZIP code for the site (attach description if additional space is needed).		
City: Houston	County: Harris	ZIP Code: 77015
Latitude (nearest second): 29.811062	Longitude (nearest second): -95.306940	
C. Core Data Form (required for Standard Permits 6006, 6007, and 6013).		
Is the Core Data Form (TCEQ Form 10400) attached?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If "No," provide customer reference number (CN) and regulated entity number (RN) below.		
Customer Reference Number (CN): TBD		
Regulated Entity Number (RN): TBD		
D. TCEQ Account Identification Number (if known):		
E. Type of Action:		
<input checked="" type="checkbox"/> Initial Application <input type="checkbox"/> Change to Registration <input type="checkbox"/> Renewal <input type="checkbox"/> Renewal Certification		
For Change to Registration, Renewal, or Renewal Certification actions provide the following:		
Registration Number:	Expiration Date:	
F. Standard Permit Claimed: 6013		
G. Previous Standard Exemption or PBR Registration Number:		
Is this authorization for a change to an existing facility previously authorized under a standard exemption or PBR?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," enter previous standard exemption number(s) and PBR registration number(s) and associated effective date in the spaces provided below.		
Standard Exemption and PBR Registration Number(s)		Effective Date

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Registrations for Air Standard Permit
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II. Facility and Site Information (continued)	
H. Other Facilities at this Site Authorized by Standard Exemption, PBR, or Standard Permit	
Are there any other facilities at this site that are authorized by an Air Standard Exemption, PBR, or Standard Permit?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," enter standard exemption number(s), PBR registration number(s), and Standard Permit registration number(s), and associated effective date in the spaces provided below.	
Standard Exemption, PBR Registration, and Standard Permit Registration Number(s)	Effective Date
I. Other Air Preconstruction Permits	
Are there any other air preconstruction permits at this site?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," enter permit number(s) in the spaces provided below.	
J. Affected Air Preconstruction Permits	
Does the standard permit directly affect any permitted facility?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes," enter permit number(s) in the spaces provided below.	

**Texas Commission on Environmental Quality
Form PI-1S
Registrations for Air Standard Permit
(Page 4)**

II. Facility and Site Information (continued)	
K. Federal Operating Permit (FOP) Requirements	
Is this facility located at a site that is required to obtain a FOP pursuant to 30 TAC Chapter 122?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> To Be Determined
If the site currently has an existing FOP, enter the permit number:	
Check the requirements of 30 TAC Chapter 122 that will be triggered if this standard permit is approved (check all that apply).	
<input type="checkbox"/> Initial Application for a FOP <input type="checkbox"/> Significant Revision for a SOP <input type="checkbox"/> Minor Revision for a SOP <input type="checkbox"/> Operational Flexibility/Off Permit Notification for a SOP <input type="checkbox"/> Revision for a GOP <input type="checkbox"/> To be Determined <input checked="" type="checkbox"/> None	
Identify the type(s) of FOP issued and/or FOP application(s) submitted/pending for the site. (check all that apply)	
<input type="checkbox"/> SOP <input type="checkbox"/> GOP <input type="checkbox"/> GOP application/revision (submitted or under APD review) <input checked="" type="checkbox"/> N/A <input type="checkbox"/> SOP application/revision (submitted or under APD review)	
III. Fee Information (go to www.tceq.texas.gov/epay to pay online)	
A. Fee Amount: \$900	
B. Voucher number from ePay:	
IV. Public Notice (if applicable)	
A. Responsible Person (<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/> Other:)	
Name: Blake Hays	
Title: Director of Operations	
Company: Texas Coastal Materials LLC	
Mailing Address: 9026 Lambright Road	
City: Houston	State: <input checked="" type="checkbox"/> TX ZIP Code: 77075
Phone: 281-508-6352	Fax No.:
Email Address: bhays210@gmail.com	

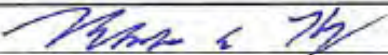
Texas Commission on Environmental Quality
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IV. Public Notice (continued) (if applicable)		
B. Technical Contact (<input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Mrs. <input type="checkbox"/> Ms. <input type="checkbox"/> Other): _____		
Name: Jay Lindholm		
Title: Project Manager		
Company: Trinity Consultants, Inc.		
Mailing Address: 9737 Great Hills Trail, Suite 340		
City: Austin	State: TX	ZIP Code: 78759
Phone No.: 512-567-8280	Fax No.:	
Email Address: jay.lindholm@trinityconsultants.com		
C. Bilingual Notice		
Is a bilingual program required by the Texas Education Code in the School District?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Are the children who attend either the elementary school or the middle school closest to your facility eligible to be enrolled in a bilingual program provided by the district?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If "Yes," list which language(s) are required by the bilingual program?		
Spanish		
D. Small Business Classification and Alternate Public Notice		
Does this company (including parent companies and subsidiary companies) have fewer than 100 employees or less than \$6 million in annual gross receipts?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Is the site a major source under 30 TAC Chapter 122, Federal Operating Permit Program?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Are the site emissions of any individual regulated air contaminant equal to or greater than 50 tpy?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Are the site emissions of all regulated air contaminant combined equal to or greater than 75 tpy?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
V. Renewal Certification Option		
A. Does the permitted facility emit an air contaminant on the Air Pollutant Watch List, and is the permitted facility located in an area on the watch list?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
B. For facilities participating in the Houston/Galveston/Brazoria area (HGB) cap and trade program for highly reactive VOCs (HRVOCs), do the HRVOCs need to be speciated on the maximum allowable emission rates table (MAERT)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
C. Does the company and/or site have an unsatisfactory compliance history?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
D. Are there any applications currently under review for this standard permit registration?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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Form PI-1S
Registrations for Air Standard Permit
(Page 6)

V. Renewal Certification Option (continued)	
E. Are scheduled maintenance, startup, or shutdown emissions required to be included in the standard permit registration at this time?	<input type="checkbox"/> Yes <input type="checkbox"/> No
F. Are any of the following actions being requested at the time of renewal:	<input type="checkbox"/> Yes <input type="checkbox"/> No
1. Are there any facilities that have been permanently shutdown that are proposed to be removed from the standard permit registration?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Do changes need to be made to the standard permit registration in order to remain in compliance?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are sources or facilities that have always been present and represented, but never identified in the standard permit registration, proposed to be included with this renewal?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Are there any changes to the current emission rates table being proposed?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Note: If answers to all of the questions in Section V. Renewal Certification Option are "No," use the certification option and skip to Section VII. of this form. If the answers to any of the questions in Section V. Renewal Certification Option are "Yes," the certification option cannot be used.</i>	
*If notice is applicable and comments are received in response to the public notice, the application does not qualify for the renewal certification option.	
VI. Technical Information Including State and Federal Regulatory Requirements	
Place a check next to the appropriate box to indicate what you have included in your submittal.	
<i>Note: Any technical or essential information needed to confirm that facilities are meeting the requirements of the standard permit must be provided. Not providing key information could result in an automatic deficiency and voiding of the project.</i>	
A. Standard Permit requirements (Checklists are optional; however, your review will go faster if you provide applicable checklists.)	
Did you demonstrate that the general requirements in 30 TAC Sections 116.610 and 116.615 are met?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Did you demonstrate that emission limitations in 30 TAC Sections 106.261 and 106.262 are met?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Did you demonstrate that the individual requirements of the specific standard permit are met?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
B. Confidential Information (All pages properly marked "CONFIDENTIAL")	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
C. Process Flow Diagram	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Texas Commission on Environmental Quality
Form PI-1S
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VI. Technical Information Including State and Federal Regulatory Requirements (continued)	
Place a check next to the appropriate box to indicate what you have included in your submittal.	
<i>Note: Any technical or essential information needed to confirm that facilities are meeting the requirements of the standard permit must be provided. Not providing key information could result in an automatic deficiency and voiding of the project.</i>	
D. Process Description	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
E. Maximum Emissions Data and Calculations	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
F. Plot Plan	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
G. Projected Start Of Construction Date, Start Of Operation Date, and Length of Time at Site:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Projected Start of Construction (provide date): 7/1/23	
Projected Start of Operation (provide date): 7/15/23	
Length of Time at the Site: Permanent	
VII. Delinquent Fees and Penalties	
This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol. For more information regarding Delinquent Fees and Penalties, go to the TCEQ website at: www.tceq.texas.gov/agency/financial/fees/delin/index.html .	
VIII. Signature Requirements	
The signature below confirms that I have knowledge of the facts included in this application and that these facts are true and correct to the best of my knowledge and belief. I further state that to the best of my knowledge and belief, the project for which application is made will not in any way violate any provision of the Texas Water Code (TWC), Chapter 7; the Texas Health and Safety Code, Chapter 382, the Texas Clean Air Act (TCAA) the air quality rules of the Texas Commission on Environmental Quality; or any local governmental ordinance or resolution enacted pursuant to the TCAA. I further state that I understand my signature indicates that this application meets all applicable nonattainment, prevention of significant deterioration, or major source of hazardous air pollutant permitting requirements. The signature further signifies awareness that intentionally or knowingly making or causing to be made false material statements or representations in the application is a criminal offense subject to criminal penalties.	
Name (printed): Blake Hays	
Signature (original signature required): 	
Date: 7-7-23	
IX. Copies of the Registration	
The PI-1S application must be submitted through ePermits. No additional copies need to be sent to the Regional Office or local Air Pollution Control Program(s). The link to ePermits can be found here: www3.tceq.texas.gov/steers/ .	

Reset Form



TCEQ Core Data Form

TCEQ Use Only

For detailed instructions regarding completion of this form, please read the Core Data Form Instructions or call 512-239-5175.

SECTION I: General Information

1. Reason for Submission (If other is checked please describe in space provided.)		
<input checked="" type="checkbox"/> New Permit, Registration or Authorization (Core Data Form should be submitted with the program application.)		
<input type="checkbox"/> Renewal (Core Data Form should be submitted with the renewal form)	<input type="checkbox"/> Other	
2. Customer Reference Number (if issued)	Follow this link to search for CN or RN numbers in Central Registry**	3. Regulated Entity Reference Number (if issued)
CN TBD		RN TBD

SECTION II: Customer Information

4. General Customer Information		5. Effective Date for Customer Information Updates (mm/dd/yyyy)	
<input type="checkbox"/> New Customer		<input checked="" type="checkbox"/> Update to Customer Information	
<input type="checkbox"/> Change in Legal Name (Verifiable with the Texas Secretary of State or Texas Comptroller of Public Accounts)		<input type="checkbox"/> Change in Regulated Entity Ownership	
The Customer Name submitted here may be updated automatically based on what is current and active with the Texas Secretary of State (SOS) or Texas Comptroller of Public Accounts (CPA).			
6. Customer Legal Name (If an individual, print last name first: eg: Doe, John)		If new Customer, enter previous Customer below:	
Texas Coastal Materials, LLC			
7. TX SOS/CPA Filing Number	8. TX State Tax ID (11 digits)	9. Federal Tax ID (9 digits)	10. DUNS Number (if applicable)
0805033967	32089588977		
11. Type of Customer:	<input type="checkbox"/> Corporation	<input type="checkbox"/> Individual	Partnership: <input type="checkbox"/> General <input type="checkbox"/> Limited
Government: <input type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Other:	
12. Number of Employees		13. Independently Owned and Operated?	
<input checked="" type="checkbox"/> 0-20 <input type="checkbox"/> 21-100 <input type="checkbox"/> 101-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501 and higher		<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Customer Role (Proposed or Actual) – as it relates to the Regulated Entity listed on this form. Please check one of the following:			
<input type="checkbox"/> Owner <input type="checkbox"/> Operator <input type="checkbox"/> Owner & Operator			
<input type="checkbox"/> Occupational Licensee <input type="checkbox"/> Responsible Party <input type="checkbox"/> Voluntary Cleanup Applicant <input type="checkbox"/> Other:			
15. Mailing Address:	9026 Lambright Road		
	City	Houston	State TX ZIP 77075 ZIP + 4
16. Country Mailing Information (if outside USA)		17. E-Mail Address (if applicable)	
18. Telephone Number		19. Extension or Code	20. Fax Number (if applicable)
(281) 508- 6352			() -

SECTION III: Regulated Entity Information

21. General Regulated Entity Information (If 'New Regulated Entity' is selected below this form should be accompanied by a permit application)	
<input checked="" type="checkbox"/> New Regulated Entity <input type="checkbox"/> Update to Regulated Entity Name <input type="checkbox"/> Update to Regulated Entity Information	
The Regulated Entity Name submitted may be updated in order to meet TCEQ Agency Data Standards (removal of organizational endings such as Inc, LP, or LLC.)	
22. Regulated Entity Name (Enter name of the site where the regulated action is taking place.)	
Texas Coastal Kelley Street Plant	

23. Street Address of the Regulated Entity: <i>(No PO Boxes)</i>	5875 Kelley Street						
	City	Houston	State	TX	ZIP	77026	ZIP + 4
24. County	Harris						

Enter Physical Location Description if no street address is provided.

25. Description to Physical Location:							
26. Nearest City					State	Nearest ZIP Code	
27. Latitude (N) In Decimal:	29.811062			28. Longitude (W) In Decimal:	-95.306940		
Degrees	Minutes	Seconds	Degrees	Minutes	Seconds		
29. Primary SIC Code (4 digits)	30. Secondary SIC Code (4 digits)		31. Primary NAICS Code (5 or 6 digits)		32. Secondary NAICS Code (5 or 6 digits)		
1422			212312				
33. What is the Primary Business of this entity? <i>(Do not repeat the SIC or NAICS description.)</i>							
Crushed Concrete aggregate production							
34. Mailing Address:	9026 Lambright Road						
	City	Houston	State	TX	ZIP	77075	ZIP + 4
35. E-Mail Address:		bhays210@gmail.com					
36. Telephone Number			37. Extension or Code		38. Fax Number <i>(if applicable)</i>		
() -					() -		

39. TCEQ Programs and ID Numbers Check all Programs and write in the permits/registration numbers that will be affected by the updates submitted on this form. See the Core Data Form instructions for additional guidance.

<input type="checkbox"/> Dam Safety	<input type="checkbox"/> Districts	<input type="checkbox"/> Edwards Aquifer	<input type="checkbox"/> Emissions Inventory Air	<input type="checkbox"/> Industrial Hazardous Waste
<input type="checkbox"/> Municipal Solid Waste	<input checked="" type="checkbox"/> New Source Review Air	<input type="checkbox"/> OSSF	<input type="checkbox"/> Petroleum Storage Tank	<input type="checkbox"/> PWS
	TBD			
<input type="checkbox"/> Sludge	<input type="checkbox"/> Storm Water	<input type="checkbox"/> Title V Air	<input type="checkbox"/> Tires	<input type="checkbox"/> Used Oil
<input type="checkbox"/> Voluntary Cleanup	<input type="checkbox"/> Waste Water	<input type="checkbox"/> Wastewater Agriculture	<input type="checkbox"/> Water Rights	<input type="checkbox"/> Other:

SECTION IV: Preparer Information


40. Name:	Jay Lindholm	41. Title:	Project Manager
42. Telephone Number	43. Ext./Code	44. Fax Number	45. E-Mail Address
(512) 567 - 8280		() -	jay.lindholm@trinityconsultants.com

SECTION V: Authorized Signature

46. By my signature below, I certify, to the best of my knowledge, that the information provided in this form is true and complete, and that I have signature authority to submit this form on behalf of the entity specified in Section II, Field 6 and/or as required for the updates to the ID numbers identified in field 39.

Company:	Texas Coastal Materials, LLC	Job Title:	Director of Operations
Name (In Print):	Blake Hays	Phone:	(281) 508 - 6352
Signature:		Date:	7-7-23

**Texas Commission on Environmental Quality
Form PL-15
Registrations for Air Standard Permit
(Page 7)**

VI. Technical Information Including State and Federal Regulatory Requirements (continued)	
Place a check next to the appropriate box to indicate what you have included in your submittal.	
Note: Any technical or essential information needed to confirm that facilities are meeting the requirements of the standard permit must be provided. Not providing key information could result in an automatic deficiency and voiding of the project.	
D. Process Description	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
E. Maximum Emissions Data and Calculations	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
F. Plot Plan	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
G. Projected Start Of Construction Date, Start Of Operation Date, and Length of Time at Site:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Projected Start of Construction (provide date):	1/1/23
Projected Start of Operation (provide date):	7/15/23
Length of Time at the Site:	Permanent
VII. Delinquent Fees and Penalties	
This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol. For more information regarding Delinquent Fees and Penalties, go to the TCEQ website at: www.tceq.texas.gov/agency/financial/fees/delin/index.html .	
VIII. Signature Requirements	
The signature below confirms that I have knowledge of the facts included in this application and that these facts are true and correct to the best of my knowledge and belief. I further state that to the best of my knowledge and belief, the project for which application is made will not in any way violate any provision of the Texas Water Code (TWC), Chapter 7; the Texas Health and Safety Code, Chapter 382, the Texas Clean Air Act (TCAA) the air quality rules of the Texas Commission on Environmental Quality; or any local governmental ordinance or resolution enacted pursuant to the TCAA. I further state that I understand my signature indicates that this application meets all applicable nonattainment, prevention of significant deterioration, or major source of hazardous air pollutant permitting requirements. The signature further signifies awareness that intentionally or knowingly making or causing to be made false material statements or representations in the application is a criminal offense subject to criminal penalties.	
Name (printed):	Blake Hays
Signature (original signature required):	
Date:	05/09/23
IX. Copies of the Registration	
The PL-15 application must be submitted through ePermits. No additional copies need to be sent to the Regional Office or local Air Pollution Control Program(s). The link to ePermits can be found here: www3.tceq.texas.gov/steers/ .	

Reset Form

Texas Commission on Environmental Quality
Air Quality Standard Permits
General Requirements Checklist
Title 30 Texas Administrative Code §§116.610-116.615

Check the most appropriate answer and include any additional information in the spaces provided. If additional space is needed, please include an extra page and reference the rule number. The SP forms, tables, checklists, and guidance documents are available from the TCEQ, Air Permits Division web site at:
www.tceq.texas.gov/permitting/air/nav/standard.html.

Most Standard Permits require registration with the commission's Office of Permitting, Remediation, and Registration in Austin. The facilities and/or changes to facilities can be registered by completing a [Form PI-1S](#), "Registration for Air Standard Permit." This checklist should accompany the registration form to expedite any registration review.

CHECK THE MOST APPROPRIATE ANSWERS AND FILL IN THE REQUESTED INFORMATION		
Rule	Questions/Description	Response
116.610(a)(1)	Are there net emissions increases associated with this registration?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	<i>If "YES," will net emission increases of air contaminants from the project, other than those for which a National Ambient Air Quality Standard (NAAQS) has been established, meet the emission limits of § 106.261 or § 106.262?</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> NA
	<i>If "NO," does the specific standard permit exempt emissions from this limit?</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
Attach emissions summary and calculations:		
116.610(a)(3)	Do any of the Title 40 Code of Federal Regulations Part (CFR) 60, New Source Performance Standards apply to this registration?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<i>If "YES," list subparts: </i> ○○○		
116.610 (a)(4)	Do any Hazardous Air Pollutant requirements apply to this registration?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
<i>If "YES," list subparts</i>		
116.610 (a)(5)	Do any maximum achievable control technology (MACT) standards as listed under 40 CFR Part 63 or Chapter 113, Subchapter C (National Emissions Standard for Hazardous Air for Source Categories) apply to this registration?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
<i>If "YES," list subparts:</i>		
116.610(a)(6)	Will additional emission allowances under Chapter 101, Subchapter H, Division 3, Emissions Banking and Trading, need to be obtained following this registration?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
116.611(a)(1-6)	Is the following documentation included with this registration:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Emissions calculations including the basis of the calculations?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Quantification of all emission increases and/or decreases associated with this project?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Sufficient information demonstrating that this project does not trigger PSD or NNSR review?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Description of efforts to minimize collateral emissions increases associated with this project?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Process descriptions including related processes?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Description of any equipment being installed?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

**Texas Commission on Environmental Quality
Air Quality Standard Permits
General Requirements Checklist
Title 30 Texas Administrative Code §§116.610-116.615**

Rule	Question/Description	Response
116.614	Are the required fee and a copy of the check or money order provided with the application?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
116.615(1)	Will emissions from the facility comply with all applicable rules and regulations of the commission adopted under Texas Health and Safety Code, Chapter 382, and with the intent of the Texas Clean Air Act?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
116.615(2)	Do you understand that all representations with regard to construction plans, operating procedures, and maximum emission rates in this registration become conditions upon which the facility will be constructed and operated?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
116.615(3)	Do you understand that all changes authorized by this registration need to be incorporated into the facility's permit if the facility is currently permitted under §116.110 (relating to Applicability)?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<i>List all related permit numbers:</i>		
116.615(9)617(e)(1)	Will all air pollution emission capture and abatement equipment be maintained in good working order?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
116.615(10)	Will the facility comply with all applicable rules and regulations of the TCEQ, the Texas Health and Safety Code, Chapter 382, and the Texas Clean Air Act?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

Save Form

Reset Form



Texas Commission on Environmental Quality
Air Quality Standard Permit for Permanent Rock and Concrete Crushers
Registration Checklist

The following checklist has been developed to help the Texas Commission Environmental Quality (TCEQ), Air Permits Division (APD) confirm that the permanent rock or concrete crusher meets the standard permit requirements. Please read all questions and check “YES,” “NO,” or “N/A” or give specific information for the facility. If the permanent rock or concrete crusher plant does not meet all conditions of this standard permit, it will not be allowed to operate under the standard permit and must apply for a case-by-case preconstruction permit as required under Title 30 Texas Administrative Code § 116.111 (30 TAC § 116.111).

Please Check The Type of Facility: <input type="checkbox"/> Rock Crusher <input checked="" type="checkbox"/> Concrete Crusher	
CONDITION NUMBER AND DESCRIPTION	
<p>(1)(B) If crushing concrete, will the concrete crushing facility be operated at least 440 yards from any building which is in use as a single or multi-family residence, school, or place of worship at the time this application is filed?</p> <p>(The measurement of distance shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that is nearest the concrete crushing facility.)</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
<p>(1)(C)(ii) In lieu of meeting the distance requirements of (1)(B), will the structure(s) within 440 yards of the concrete crushing facilities be occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located?</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
<p>(1)(D) In lieu of meeting the distance requirements in (1)(B), will all the following occur:</p> <p>(1)(D)(i) Will this plant be engaged in crushing concrete and other materials resulting from the demolition of a structure on this site and will the concrete and other materials being crushed be used primarily at this site?</p> <p>(1)(D)(ii) Will this plant operate onsite for one period of 180 calendar days or less?</p> <p>(1)(D)(iii) Will all applicable conditions stated in commission rules, including operating conditions be met?</p> <p>(1)(D)(iv) Will the plant be located in a county with a population of 2.4 million or more persons, or in a county adjacent to such a county?</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
<p>(1)(E) Do you intend to apply for an authorization under Texas Health and Safety Code (THSC) § 382.0518, Preconstruction Permit, for any other crushing facility to be located at the same site within 12 months from the date of this authorization?</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A



Air Quality Standard Permit for Permanent Rock and Concrete Crushers Registration Checklist

Please Check The Type of Facility: <input type="checkbox"/> Rock Crusher <input checked="" type="checkbox"/> Concrete Crusher	
CONDITION NUMBER AND DESCRIPTION <i>(continued)</i>	
(1)(F)	<p>Is there a rock crusher (or concrete crusher) authorized under Texas Health and Safety Code (THSC) § 382.0518, Preconstruction Permit, at this site?</p> <p style="text-align: right;"> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A </p> <p>Have you withdrawn, within the previous 12 months, an application for authorization of a crushing facility under (THSC) § 382.0518, Preconstruction Permit, at this site?</p> <p style="text-align: right;"> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(G)	<p>Are the current registration form PI-1S entitled, "Registration for an Air Standard Permit", Table 17 and supporting information attached or mailed to the TCEQ, including Table 29 (if applicable), control devices and methods explanation, process flow diagram, process description, plot plan, and area map?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p> <p>Is the company's compliance history rating poor?</p> <p style="text-align: right;"> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(H)	<p>Has construction and/or operation begun on the facility?</p> <p style="text-align: right;"> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A </p> <p>Is there a non operational crusher stored onsite?</p> <p style="text-align: right;"> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(I)	<p>In accordance with 30 TAC § 116.614, Standard Permit Fees, was a \$900 fee sent to TCEQ Revenue Section?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(J)	<p>Will all facilities associated with this application for a standard permit comply with the conditions of Title 40 Code of Federal Regulations (40 CFR) Part 60, Subpart A, General Provisions and Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(K)	<p>Will these crushing facilities only process nonmetallic minerals or a combination of nonmetallic minerals as described in 40 CFR Part 60, Subpart OOO?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(L)	<p>Is 30 TAC Chapter 101, Subchapter H, Division 3, Mass Emissions Cap and Trade Program; or 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds applicable to this plant?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p>
(1)(M)	<p>Will written records be kept for a rolling 24-month period at the site and made available at the request of any personnel from the TCEQ or any air pollution control program having jurisdiction?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p> <p>Will these written records be maintained onsite to show daily hourly operations and hourly throughput; road and work area cleaning and dust suppression logs; and stockpile dust suppression logs?</p> <p style="text-align: right;"> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A </p>



Air Quality Standard Permit for Permanent Rock and Concrete Crushers Registration Checklist

Please Check The Type of Facility: <input type="checkbox"/> Rock Crusher <input checked="" type="checkbox"/> Concrete Crusher		
CONDITION NUMBER AND DESCRIPTION <i>(continued)</i>		
(1)(N)	Will this crushing operation and related activities comply with applicable requirements of 30 TAC Chapter 101, Subchapter F, Emission Events and Scheduled Maintenance, Startup, and Shutdown Activities?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(1)(P)	Have maintenance emissions been authorized? (Maintenance emissions are not included in this permit and must be approved under separate authorization.) Have start-up and shutdown emissions been authorized? (Start-up and shutdown emissions that will exceed those expected during production operations must be approved under separate authorization.) Will start-up and shutdown emissions exceed those expected during production operations?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(1)(Q)	Do you intend to authorize any facilities located at the same site as this rock crusher, by 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement or 30 TAC § 106.512, Stationary Engines and Turbines?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
PUBLIC NOTICE REQUIREMENTS - Detailed Public Notice Information will be Sent upon Determination of Technical Completeness		
(2)(B)(i)	Will public notice be published no later than 30 days after the application is determined to be technically complete?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
OPERATIONAL REQUIREMENTS		
(3)(A)	Will the primary crusher throughput exceed 200 tons per hour?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(B)	Will the crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, be located less than 200 feet from the nearest property line, as measured from the point on the facility nearest the property line?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(C)	At the time this application is filed, will the crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, be located at least 440 yards from any building which is in use as a single or multi-family residence, school, or place of worship? (Distance shall be measured from the point on the facility nearest the residence, school, or place of worship to the point on the residence, school, or place of worship nearest the facility).	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A



Air Quality Standard Permit for Permanent Rock and Concrete Crushers Registration Checklist

Please Check The Type of Facility: <input type="checkbox"/> Rock Crusher <input checked="" type="checkbox"/> Concrete Crusher		
OPERATIONAL REQUIREMENTS (continued)		
(3)(D)	<p>Will the crushing facilities (not including associated sources) be located at least 550 feet from any other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant?</p> <p>Will the crusher operate at the same time as any other rock crusher, concrete batch plant, or hot mix asphalt plant within a 550 foot radius?</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
(3)(E)	<p>Will all associated sources, including but not limited to work areas, stockpiles, and roads (except for incidental traffic and the entrance and exit to the site), be located at least 100 ft. from the property line?</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(F)	<p>Will this crushing operation consist of any additional facilities other than one primary crusher, one secondary crusher, one vibrating grizzly, two screens, any conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 total horsepower?</p> <p>(Equipment that is not a source of emissions does not require authorization.)</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(G)	<p>Will any of the crushers, associated facilities, and/or associated sources (excluding stockpiles) exceed 2,640 operating hours in any rolling 12-month period?</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(H)	<p>Will any of the rock crusher/ concrete crusher or associated facilities operate during any time between one hour after official sunset to one hour before official sunrise?</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(I)	<p>Will all crushers be equipped with runtime meters and will the runtime meters be operating during crushing operations?</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(J)	<p>Will permanently mounted spray bars be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all TCEQ rules and regulations?</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(K)	<p>Will opacity of emissions from any transfer point on belt conveyors or any screen exceed 10 percent, averaged over a six-minute period as determined using EPA Test Method 9?</p> <p>Will opacity of emissions from any crusher exceed 15 percent, averaged over a six-minute period as determined using EPA Test Method 9?</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(L)	<p>Will visible emissions leave the property for more than 30 seconds in duration in any six-minute period from the crusher(s), associated facilities, associated sources, and in-plant roads associated with the plant as determined using EPA Test Method 22?</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A



Air Quality Standard Permit for Permanent Rock and Concrete Crushers Registration Checklist

Please Check The Type of Facility: <input type="checkbox"/> Rock Crusher <input checked="" type="checkbox"/> Concrete Crusher	
OPERATIONAL REQUIREMENTS <i>(continued)</i>	
(3)(M)	Will all in-plant roads and active work areas that are associated with the operation of the crusher, associated facilities, and associated sources be treated at all times with any of the following:
(3)(M)(i)	Covered with a material such as, but not limited to roofing shingles or tire chips? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
(3)(M)(ii)	Dust-suppressant chemicals? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
(3)(M)(iii)	Water? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(M)(iv)	Paved with a cohesive hard surface that is maintained intact and cleaned? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A
(3)(N)	Will all stockpiles be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(O)	Will raw material and product stockpile heights exceed 45 ft? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(P)	Will the crusher be equipped with a weigh hopper or scale belt that accurately determines the mass of material being crushed? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A
(3)(Q)	Will the crusher remain at least 440 yards from any existing residence, school, or place of worship when moving to a different location onsite? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A



Texas Commission on Environment Quality

Table 17
Rock Crushers

Please Complete the Following						
Maximum operating schedule:	10	hours/day	5	days/week	52	weeks/year
Does the facility operate at night?					<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
Maximum Plant Production Rates:						
<input checked="" type="checkbox"/> Primary Crusher	Type: Jaw	200	tons/hour	528000	tons/year	
<input checked="" type="checkbox"/> Secondary Crusher(s)	Type: Impact	200	tons/hour	528000	tons/year	
<input type="checkbox"/> Tertiary Crusher(s)	Type:		tons/hour		tons/year	
The Following Pieces of Equipment will be Controlled as Shown:						
Feed Hoppers:	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Water Spray	<input type="checkbox"/> Suction to Baghouse	<input type="checkbox"/> Other: _____		
All Belt Transfer Points:	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Water Spray	<input type="checkbox"/> Suction to Baghouse	<input type="checkbox"/> Other: _____		
Inlet of all Crushers:	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Water Spray	<input type="checkbox"/> Suction to Baghouse	<input type="checkbox"/> Other: _____		
Outlet of all Crushers:	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Water Spray	<input type="checkbox"/> Suction to Baghouse	<input type="checkbox"/> Other: _____		
All Shaker Screens:	<input type="checkbox"/> None	<input checked="" type="checkbox"/> Water Spray	<input type="checkbox"/> Suction to Baghouse	<input type="checkbox"/> Other: _____		
If Water Sprays are used, Provide the Following Data:						
Water Flow Rate (gpm): 3						
Water Pressure at the Nozzle (psi): 30						
Number of Nozzles at each location: 1-3						
<i>If baghouse is used, attach a Table 11 "Fabric Filters."</i>						
Average material moisture content (%): 1.5						
Maximum acreage covered by stockpiles (acres): 5						
Stockpiles have the following controls: <input type="checkbox"/> None <input checked="" type="checkbox"/> Water <input type="checkbox"/> Chemical						
In-plant roads will be: <input type="checkbox"/> Paved and Vacuumed <input type="checkbox"/> Paved and Swept <input type="checkbox"/> Oiled						
<input checked="" type="checkbox"/> Sprinkled with Water and/or Chemicals <input type="checkbox"/> Other: _____						

PRINT FORM

RESET FORM

**Texas Commission on Environmental Quality
Table 29 Reciprocating Engines**

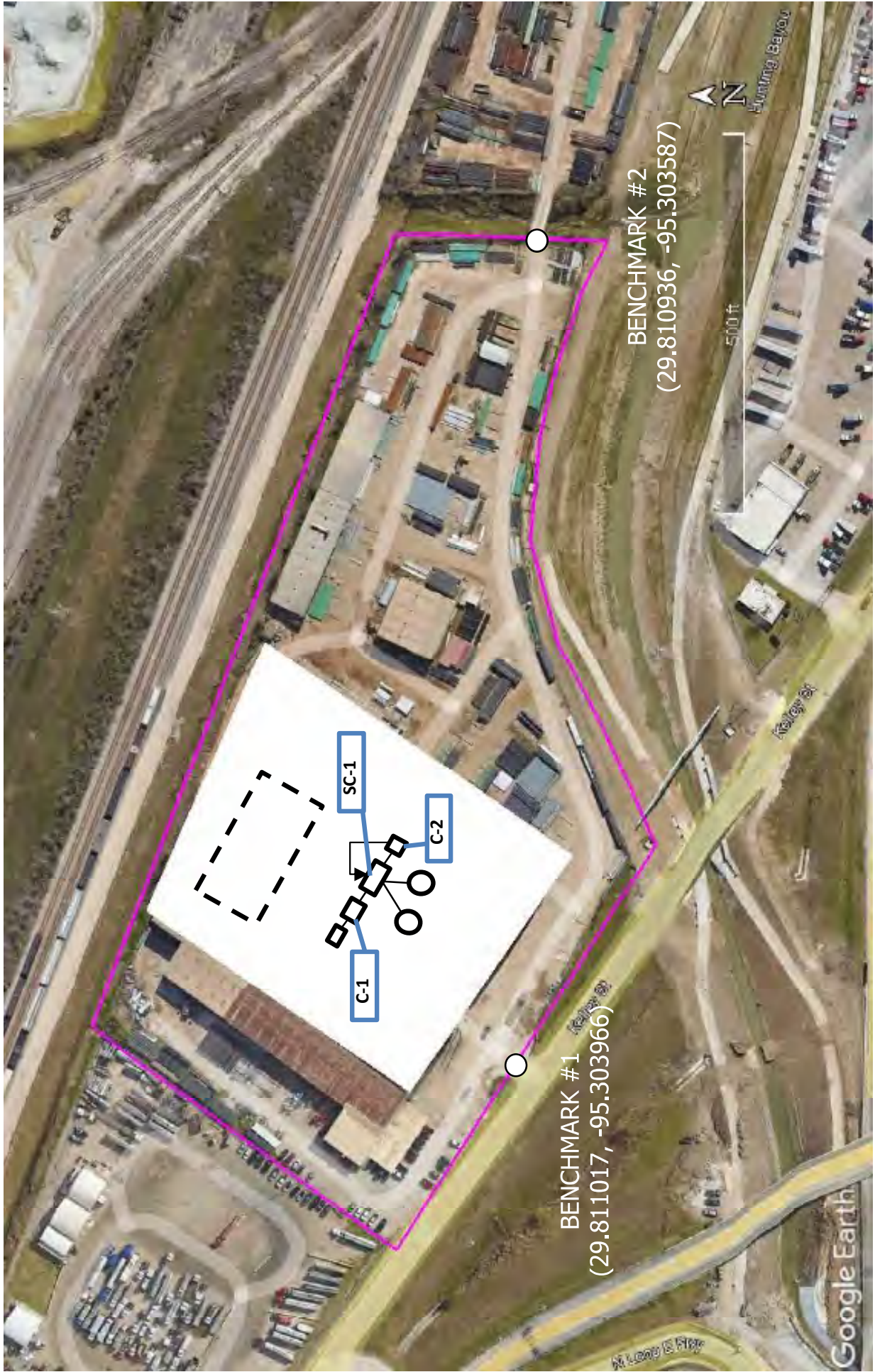
I. Engine Data											
Manufacturer: Caterpillar			Model No. C13			Serial No. TBD			Manufacture Date: 05/20/2016		
Rebuilds Date: N/A			No. of Cylinders: 6			Compression Ratio:			EPN: 9		
Application: <input type="checkbox"/> Gas Compression <input checked="" type="checkbox"/> Electric Generation <input type="checkbox"/> Refrigeration <input type="checkbox"/> Emergency/Stand by											
<input checked="" type="checkbox"/> 4 Stroke Cycle <input type="checkbox"/> 2 Stroke Cycle <input type="checkbox"/> Carbureted <input type="checkbox"/> Spark Ignited <input type="checkbox"/> Dual Fuel <input checked="" type="checkbox"/> Fuel Injected											
<input checked="" type="checkbox"/> Diesel <input type="checkbox"/> Naturally Aspirated <input type="checkbox"/> Blower /Pump Scavenged <input checked="" type="checkbox"/> Turbo Charged and I.C. <input type="checkbox"/> Turbo Charged											
<input type="checkbox"/> Intercooled <input type="checkbox"/> I.C. Water Temperature <input type="checkbox"/> Lean Burn <input type="checkbox"/> Rich Burn											
Ignition/Injection Timing: Fixed:						Variable:					
Manufacture Horsepower Rating: 415						Proposed Horsepower Rating: 490					
Discharge Parameters											
Stack Height (Feet)			Stack Diameter (Feet)			Stack Temperature (°F)			Exit Velocity (FPS)		
II. Fuel Data											
Type of Fuel: <input type="checkbox"/> Field Gas <input type="checkbox"/> Landfill Gas <input type="checkbox"/> LP Gas <input type="checkbox"/> Natural Gas <input type="checkbox"/> Digester Gas <input checked="" type="checkbox"/> Diesel											
Fuel Consumption (BTU/bhp-hr):				Heating Value:				Lower Heating Value:			
Sulfur Content (grains/100 scf - weight %): Sulfur Content (grains/100 scf - weight %): <0.0015											
III. Emission Factors (Before Control)											
NO _x		CO		SO ₂		VOC		Formaldehyde		PM ₁₀	
g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv
Source of Emission Factors: <input checked="" type="checkbox"/> Manufacturer Data <input checked="" type="checkbox"/> AP-42 <input type="checkbox"/> Other (specify):											
IV. Emission Factors (Post Control)											
NO _x		CO		SO ₂		VOC		Formaldehyde		PM ₁₀	
g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv	g/hp-hr	ppmv
0.30		2.6				.14				.15	
Method of Emission Control: <input type="checkbox"/> NSCR Catalyst <input type="checkbox"/> Lean Operation <input type="checkbox"/> Parameter Adjustment <input type="checkbox"/> Stratified Charge <input type="checkbox"/> JLCC Catalyst <input type="checkbox"/> Other (Specify):											
<i>Note: Must submit a copy of any manufacturer control information that demonstrates control efficiency.</i>											
Is Formaldehyde included in the VOCs?									<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
V. Federal and State Standards (Check all that apply)											
<input type="checkbox"/> NSPS JJJJ <input type="checkbox"/> MACT ZZZZ <input type="checkbox"/> NSPS IIII <input type="checkbox"/> Title 30 Chapter 117 - List County: _____											
VI. Additional Information											
1. Submit a copy of the engine manufacturer's site rating or general rating specification data. 2. Submit a typical fuel gas analysis, including sulfur content and heating value. For gaseous fuels, provide mole percent of constituents. 3. Submit description of air/fuel ratio control system (manufacturer information is acceptable).											

Reset Form

Print Form

APPENDIX B. MAPS AND FLOWS

TEXAS COASTAL MATERIALS, LLC
KELLEY STREET PLANT



BENCHMARK #1
(29.811017, -95.303966)

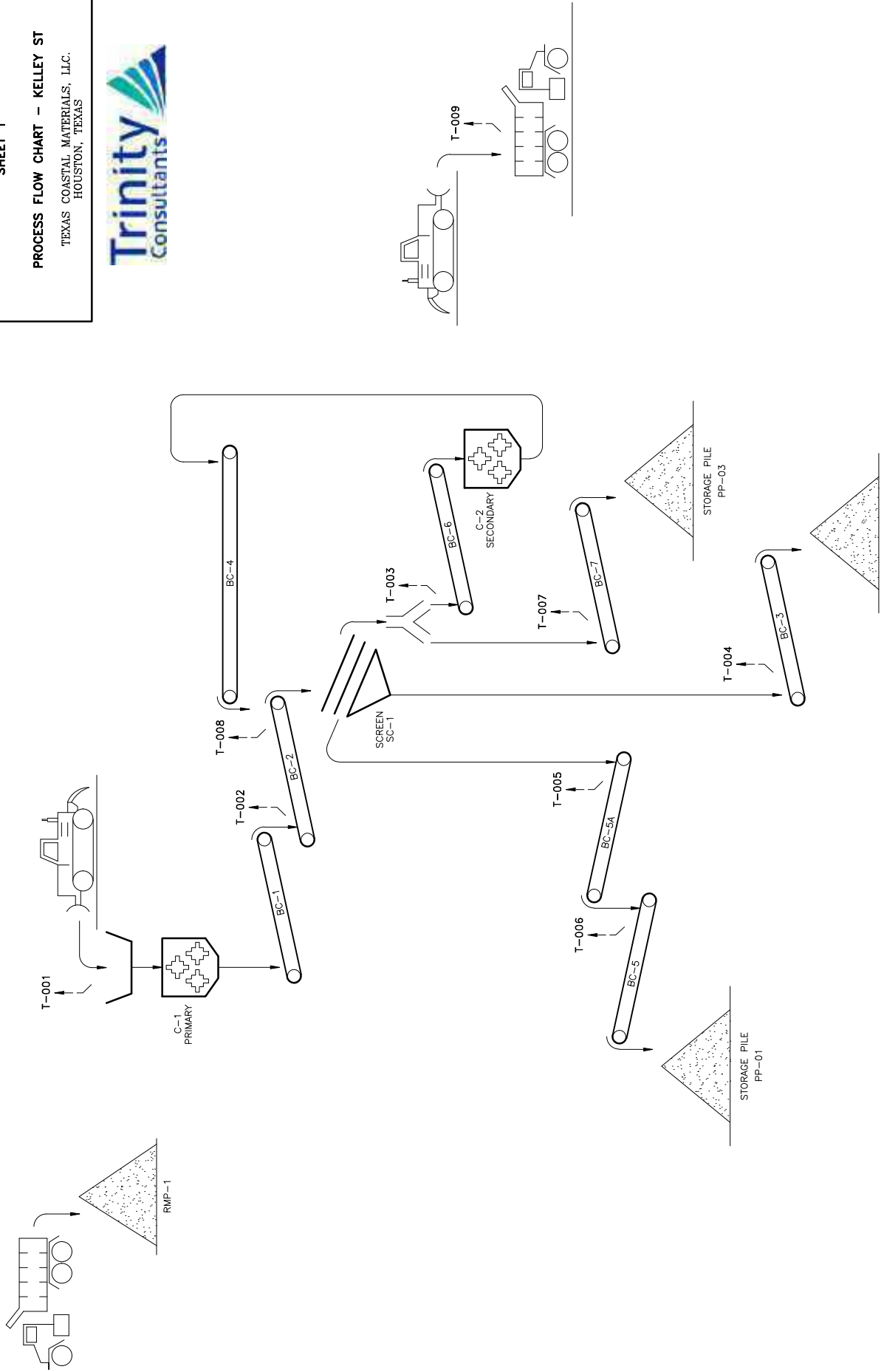
BENCHMARK #2
(29.810936, -95.303587)

500 ft



Google Earth

PROCESS FLOW CHART - KELLEY ST
TEXAS COASTAL MATERIALS, LLC.
HOUSTON, TEXAS

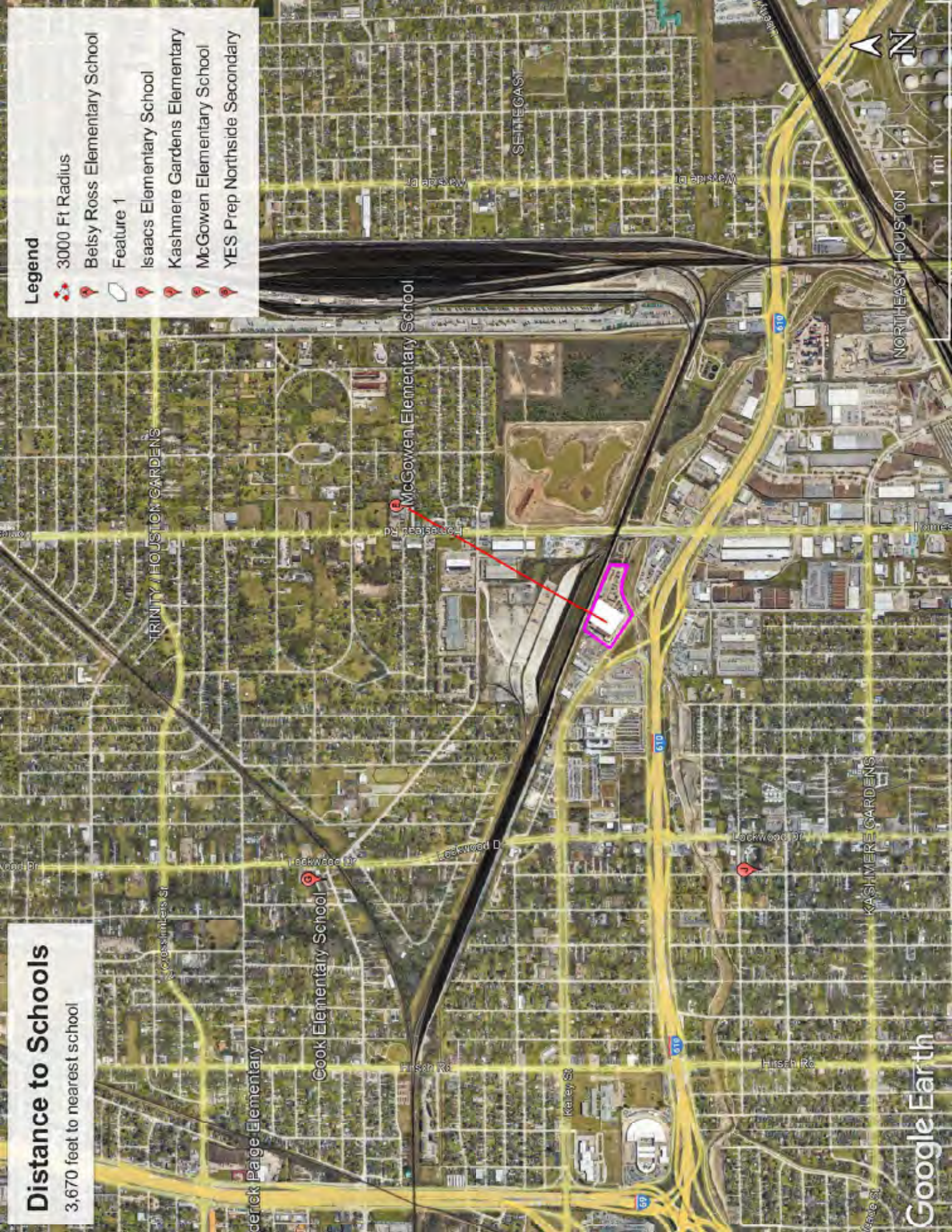


Distance to Schools

3,670 feet to nearest school

Legend

- 3000 Ft Radius
- Belsy Ross Elementary School
- Feature 1
- Isaacs Elementary School
- Kashmere Gardens Elementary
- McGowen Elementary School
- YES Prep Northside Secondary



Distance to Nearest Church

5,500 Feet

Gospel Hill Baptist Church

Legend

- Creston Baptist Church
- Feature 1
- Garden Grove Christian Church
- Gospel Hill Baptist Church
- Mission Baptist Church
- New Light Baptist Church
- North Houston Church of Christ
- The Phileo Church

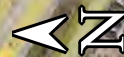


Distance to Nearest Residence

1,900 feet

Legend

- 5875 Kelley St
- Feature 1
- Line Measure



1000 ft



APPENDIX C. CALCULATIONS



TEXAS COMISSION ON ENVIRONMENTAL QUALITY

Table 1(a) Emission Point Summary

Permit	TBD	RN	TDB	Date
Company	Texas Coastal Materials, LLC			
July 2023				

Review of applications and issuance of permits will be expedited by supplying all necessary information requested on this Table.

AIR CONTAMINANT DATA					
1. Emission Point		2. Component or Air Contaminant Name		3. Air Contaminant Emission Rate	
EPN (A)	FIN (B)	NAME (C)		Pounds per Hour (A)	TPY (B)
			PM	0.04	0.06
C-1	C-1	Primary Jaw Crusher	PM ₁₀	0.02	0.03
			PM _{2.5}	0.00	0.00
			PM	0.24	0.32
C-2	C-2	Secondary Cone Crusher	PM ₁₀	0.11	0.14
			PM _{2.5}	0.02	0.02
			PM	0.04	0.06
SC-1	SC-1	Deck Screen	PM ₁₀	0.01	0.02
			PM _{2.5}	0.0022	0.00
			PM	0.25	0.33
MHFug	MHFug	Material Handling Fugitives	PM ₁₀	0.08	0.11
			PM _{2.5}	0.02	0.03
PILE Fug	PILE Fug	Wind Erosion from Piles	PM	0.31	1.36
			PM ₁₀	0.15	0.68
			PM _{2.5}	0.08	0.34



TEXAS COMISSION ON ENVIRONMENTAL QUALITY

Table 1(a) Emission Point Summary

Permit	TBD	RN	TDB	Date	July 2023
Company	Texas Coastal Materials, LLC				

Review of applications and issuance of permits will be expedited by supplying all necessary information requested on this Table.

AIR CONTAMINANT DATA					
1. Emission Point		2. Component or Air Contaminant Name		3. Air Contaminant Emission Rate	
EPN (A)	FIN (B)	NAME (C)	Pounds per Hour (A)	TPY (B)	Date
ENG1	Eng 1	Primary Crusher Engine	NOx	5.62	7.41
			CO	1.40	1.85
			SO2	1.00	1.33
			VOC	0.01	0.01
			PM/PM10/PM2.5	0.16	0.21
			NOx	5.62	7.41
			CO	1.40	1.85
ENG2	Eng 2	Secondary Crusher Engine	SO2	1.00	1.33
			VOC	0.01	0.01
			PM/PM10/PM2.5	0.16	0.21

Texas Coastal Materials, LLC
Kelley Street Plant

Table C-1: Emissions Determination Summary for Standard Permit Application

Activity	TSP		PM ₁₀		PM _{2.5}		NO _x		CO		SO ₂		VOC	
	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)
Crushing and Screening Emissions	0.33	0.43	0.14	0.19	0.02	0.03								
Material Transfers	0.25	0.33	0.08	0.11	0.02	0.03								
Wind Erosion Emissions from Piles	0.31	1.36	0.15	0.68	0.08	0.34								
Generator Emissions	0.52	0.43	0.52	0.43	0.32	0.43	11.23	14.83	2.81	3.71	2.01	2.65	0.02	0.03
Total	1.21	2.55	0.70	1.40	0.45	0.83	11.23	14.83	2.81	3.71	2.01	2.65	0.02	0.03

Texas Coastal Materials, LLC
Kelley Street Plant
Table C-2: Emissions Determination for Crushing and Screening Facilities

Source ID	Source Type	Annual Tons (tons/yr)	Hourly Tons (tons/hr)	TSP			PM ₁₀			PM _{2.5}		
				Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	Emission Rate (lbs/hr)	Emission Rate (tons/yr)	
C-1	Primary Jaw	528000	200	0.04	0.06	0.020	0.026	0.003	0.004			
C-2	Secondary Impact	528000	200	0.24	0.32	0.108	0.143	0.016	0.021			
SC-1	Screen	528000	200	0.04	0.06	0.015	0.02	0.002	0.003			
Total				0.33	0.43	0.14	0.19	0.02	0.03			

Source: TABLE A, Emission Factors From TCEQ Spreadsheet for Rock Crushing Facilities

Emission Source	Emission Factor		
	PM (lb/ton)	PM ₁₀ (lb/ton)	PM _{2.5} (lb/ton) ¹
Primary Crushing (Jaw) - Wet	0.00021	0.0001	0.000015
Secondary Crushing (All) - Wet	0.0012	0.00054	0.000081
Tertiary Crushing (All) - Wet	0.0012	0.00054	0.000081
Screening (All) - Wet	0.0022	0.00074	0.000111

Notes:
¹ PM_{2.5} is assumed to be 15% of PM₁₀ based on ratio of k factors from AP-42 13.2.4.3.
 Normal Operating Schedule is 10 hours/day 5 days per week
 90% Control Assumed for screen enclosure

Texas Coastal Materials, LLC
Kelley Street Plant

Table C-3: Annual Particulate Fugitive Emission Estimates Resulting from Wind Erosion from Open Stockpiles

Source: TCEQ Draft RG 058 (February 2002) Rock Crushing Plants
 Equations following Table 5 in Section F:

$$E_{17H} = \left(\frac{3.5 \text{ lb PM}}{\text{acre day}} \right) \times \left(\frac{\text{day}}{24 \text{ hours}} \right) \times A \times CF$$

$$E_{17} = \left(\frac{3.5 \text{ lb PM}}{\text{acre day}} \right) \times \left(\frac{365-D}{\text{year}} \right) \times A \times \left(\frac{1 \text{ ton}}{2000 \text{ lbs}} \right) \times CF$$

$$E_{18H} = 0.5 \times E_{17H}$$

$$E_{18} = 0.5 \times E_{17}$$

$$E_{19H} = \left(\frac{13.2 \text{ lb PM}}{\text{acre day}} \right) \times \left(\frac{\text{day}}{24 \text{ hours}} \right) \times A \times CF$$

$$E_{19} = \left(\frac{13.2 \text{ lb PM}}{\text{acre day}} \right) \times \left(\frac{D}{\text{year}} \right) \times A \times \left(\frac{1 \text{ ton}}{2000 \text{ lbs}} \right) \times CF$$

$$E_{20H} = 0.5 \times E_{19H}$$

$$E_{20} = 0.5 \times E_{19}$$

where

- E_{17H} = PM emissions for inactive stockpiles (lbs/hr)
- E₁₇ = PM emissions for inactive stockpiles (ton/yr)
- E_{18H} = PM emissions for inactive stockpiles (lbs/hr)
- E₁₈ = PM emissions for inactive stockpiles (ton/yr)
- E_{19H} = PM emissions for active stockpiles (lbs/hr)
- E₁₉ = PM emissions for active stockpiles (ton/yr)
- E_{20H} = PM emissions for active stockpiles (lbs/hr)
- E₂₀ = PM emissions for active stockpiles (ton/yr)
- A = Stockpile area (acres)
- CF = Control factor (from Table 7) (control factor = 1-% control)

Example Calculation: EPN RMP-I

$$E = 13.2 \times 0.25 \times 365 / 2000 \times 0.3$$

$$E = 0.1807 \text{ tons/yr}$$

D = Number of active days per year (8-12 hrs of activity per 24 hour period)

FIN	EPN	Activity	Control Factor CF	Stockpile Area A (acres)	Active Days D (days/yr)	Inactive Days 365-D (days/yr)	TSP		PM ₁₀ ¹		PM _{2.5} ²	
							Hourly Emissions (lb/hr)	Annual Emissions (tons/yr)	Hourly Emissions (lb/hr)	Annual Emissions (tons/yr)	Hourly Emissions (lb/hr)	Annual Emissions (tons/yr)
RMP-I	RMP-I	Raw Material Surge Pile	0.3	0.25	365	-	0.0413	0.1807	0.0207	0.0904	0.0103	0.0452
		Raw Material Surge Pile	0.3	1.75	0	365	0.0766	0.3353	0.0383	0.1677	0.0192	0.0838
							Active + Inactive Stockpile =					
							0.1179	0.5160	0.0590	0.2581	0.0295	0.1290
							0.12	0.52	0.06	0.26	0.03	0.13
							Subtotal =		0.12		0.03	
PP-01	PP-01	Product Pile 1 Wind Erosion	0.3	0.25	365	-	0.0413	0.1807	0.0207	0.0904	0.0103	0.0452
		Product Pile 1 Wind Erosion	0.3	1.25	0	365	0.0547	0.2395	0.0274	0.1198	0.0137	0.0599
							Active + Inactive Stockpile =					
							0.0960	0.4202	0.0480	0.2102	0.0240	0.1051
							0.10	0.42	0.05	0.21	0.02	0.11
							Subtotal =		0.10		0.02	
PP-02	PP-02	Product Pile 2 Wind Erosion	0.3	0.25	365	-	0.0413	0.1807	0.0207	0.0904	0.0103	0.0452
		Product Pile 2 Wind Erosion	0.3	1.25	0	365	0.0547	0.2395	0.0274	0.1198	0.0137	0.0599
							Active + Inactive Stockpile =					
							0.0960	0.4202	0.0480	0.2102	0.0240	0.1051
							0.10	0.42	0.05	0.21	0.02	0.11
							Subtotal =		0.10		0.02	
							0.31	1.36	0.15	0.68	0.08	0.34
							Total All Piles =		0.31		0.08	

Notes:
¹PM₁₀ is assumed to be 50% of TSP.
²PM_{2.5} is assumed to be 25% of TSP.

Texas Coastal Materials, LLC
Kelley Street Plant
SHORT TERM AND ANNUAL MAXIMUM PARTICULATE EMISSION ESTIMATES
Table C-4: Particulate Fugitive Emission Estimates from Material Transfers

Tons/hr * EF = Lbs/hr Emission Rate Vol. 1, 5th Ed., AP-42, Section 11.19.2-2 (August 2004)

Where:
 EF = emission factor (lb./ton)
 Tons/hr = Maximum Production Rate

Example Calculation: EPN T-001
 TSP: E = 200 tons/hr * 0.00014 = 0.0280 lb/hr
 TSP: Annual Emiss. = 0.00014 lb/ton * 528000 tons/year * 1 ton/2,000 lb = 0.0370 tons/yr

FIN	EPN	Activity	Maximum Predicted throughput (tons/hr)	Maximum Predicted throughput (tons/yr)	TSP		PM ₁₀		PM _{2.5}		
					E lb/ton	Annual Emissions (tons/yr)	Emission Rate (lb/hr)	Annual Emissions (tons/yr)	Emission Rate (lb/hr)	Annual Emissions (tons/yr)	Emission Rate (lb/hr)
T-001		Drop to Hopper	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-002		BC-1 to BC-2	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-003		Screen to BC-6	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-004		Screen to BC-3	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-005		Screen to BC-5A	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-006		BC-5A to BC-5	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-007		Screen to BC-7	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-008		BC-4 to BC-2	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
T-009		Drop to Truck	200.00	528,000	0.00014	0.0370	0.00005	0.0090	0.000013	0.0026	0.0034
Total =					0.25	0.33	0.08	0.11	0.02	0.03	

Texas Coastal Materials, LLC
Kelley Street Generator Emissions
ANNUAL EMISSIONS ESTIMATES FOR

Table C-5: Emissions Determination for Generators and Stationary Engines

Assumptions: AP-42, 5th Edition, Section 3.3, Table 3.3-1

Fuel Type: Diesel

Equation: unit HP x e(factor) x hours of operation ÷ 2000 lb/ton

Annual Hours of Operation : 2640

FIN	EPN	Activity	Unit HP	Factor (e) lb/HP-hr	Hourly Emissions lbs/hr	Annual Emissions tons/yr	
NO_x							
	Gen Set No. 1	Eng1	C13 Engine	490	1.15E-02	5.62	7.41
	Gen Set No. 2	Eng2	C13 Engine	490	1.15E-02	5.62	7.41
					NO_x Total =	11.23	14.83
TSP / PM₁₀ / PM_{2.5}							
	Gen Set No. 1	Eng1	C13 Engine	490	3.31E-04	0.16	0.21
	Gen Set No. 2	Eng2	C13 Engine	490	3.31E-04	0.16	0.21
					PM Total =	0.32	0.43
CO							
	Gen Set No. 1	Eng1	C13 Engine	490	2.87E-03	1.40	1.85
	Gen Set No. 2	Eng2	C13 Engine	490	2.87E-03	1.40	1.85
					CO Total =	2.81	3.71
SO₂							
	Gen Set No. 1	Eng1	C13 Engine	490	2.05E-03	1.00	1.33
	Gen Set No. 2	Eng2	C13 Engine	490	2.05E-03	1.00	1.33
					SO₂ Total =	2.01	2.65
VOC (EXHAUST)							
	Gen Set No. 1	Eng1	C13 Engine	490	2.20E-05	0.01	0.01
	Gen Set No. 2	Eng2	C13 Engine	490	2.20E-05	0.01	0.01
					VOC Exhaust =	0.02	0.03
VOC (CRANKCASE)							
	Gen Set No. 1	Eng1	C13 Engine	490	NA		
		Eng2					
					VOC Crankcase =	0.00	0.00
					VOC Total =	0.02	0.03
Formaldehyde							
	Gen Set No. 1	Eng1	C13 Engine	490	8.26E-06	0.00	0.01
	Gen Set No. 2	Eng2	C13 Engine	490	8.26E-06	0.00	0.01
					Formaldehyde Total =	0.01	0.01

Assumptions:

SO₂ Calculation based on AP-42 factor 5th Edition Section 3.3-1 in lbs/HP-hr

Formaldehyde Calculation based on AP-42 factor 5th Edition Section 3.3-3 in lbs/HP-hr

Emission Factors for Gen Set from Manufacturers Data

Annual operating hours based on 10 hours/day 5 days per week.

NOx Emission factor from Tier 3 2112+ EPA standards 40 CFR §1042.101 Table 1

APPENDIX D. AIR QUALITY STANDARD PERMIT FOR ROCK AND CONCRETE CRUSHERS

Air Quality Standard Permit for Permanent Rock and Concrete Crushers
Effective Date July 31, 2008

This air quality standard permit authorizes rock and concrete crushing facilities that meet all of the conditions listed in sections (1), (2), and (3) of this standard permit. It is the permit holder's responsibility to demonstrate compliance with all conditions of this permit upon request by the executive director or any air pollution control agency having jurisdiction.

(1) General Requirements:

(A) For the purposes of this standard permit, the following definitions apply.

- (i) A site is one or more contiguous or adjacent properties which are under common control of the same person (or persons under common control).
- (ii) Associated sources are sources of air emissions that are related to the rock or concrete crushing operation, that are not "facilities" as defined under Title 30 Texas Administrative Code (30 TAC) § 116.10, General Definitions. Associated sources include, but are not limited to, stockpiles and outdoor work areas. Screens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities and are not associated sources.
- (iii) A residence is a structure primarily used as a permanent dwelling.

(B) Except as provided in subsections (C) and (D) of this section, when crushing concrete, the concrete crushing facility shall be operated at least 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship at the time an application was filed. The measurement of distance shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that is nearest the concrete crushing facility.

(C) Subsection (B) does not apply to:

- (i) a concrete crushing facility at a location for which the distance requirements of subsection (B) were satisfied at the time an application was filed with the commission, provided that the authorization was granted and maintained, regardless of whether a single or multi-family residence, school, or place of worship is subsequently built or put to use within 440 yards of the facility; or
- (ii) structures occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located.

(D) Subsection (B) does not apply to a concrete crushing facility that:

- (i) is engaged in crushing concrete and other materials resulting from the demolition of a structure on that site and the concrete and other materials are being crushed primarily for use at that site;
- (ii) operates at that site during one period of no more than 180 calendar days;

- (iii) complies with all applicable conditions stated in commission rules, including operating conditions; and
 - (iv) is not located in a county with a population of 2.4 million or more persons, or in a county adjacent to such a county.
- (E) For any owner or operator with a facility authorized by this standard permit, the TCEQ will not accept an application for authorization of a crushing facility under Texas Health and Safety Code (THSC) § 382.0518, Preconstruction Permit, located at the same site for a period of 12 months from the date of authorization.
- (F) An applicant for authorization of a rock crusher under THSC § 382.0518, is not eligible for this standard permit at the same site until 12 months after the application for authorization under § 382.0518 is withdrawn. Facilities already authorized by a permit under § 382.0518 are not eligible for this standard permit.
- (G) Applications for this standard permit shall be registered in accordance with 30 TAC § 116.611, Registration to Use a Standard Permit (including a current Form PI-1S, Crushing Plant Standard Permit Checklist and Table 17). A compliance history review shall be performed by the executive director in accordance with 30 TAC Chapter 60, Compliance History. If a facility is determined to be a poor performer, as defined in 30 TAC Chapter 60, a standard permit registration shall not be issued.
- (H) No owner or operator of a crushing facility shall begin construction and/or operation without obtaining written approval from the executive director (except for crushers in non operational storage for which construction has not commenced as considered under the Texas Clean Air Act). Start of construction of any facility registered under this standard permit shall be no later than 18 months from the date of authorization. Construction progress and startup notification shall be made in accordance with 30 TAC § 116.115(b)(2), General and Special Conditions.
- (I) Applications for registration under this standard permit shall comply with 30 TAC § 116.614, Standard Permit Fees.
- (J) All affected facilities authorized by this standard permit must meet all applicable conditions of Title 40 Code of Federal Regulations (40 CFR) Part 60, Subpart A, General Provisions, and OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (K) Only crushing facilities that are processing nonmetallic minerals or a combination of nonmetallic minerals that are described in 40 (CFR) Part 60, Subpart OOO, shall be authorized by this standard permit.
- (L) This standard permit does not supersede the requirements of any other commission rule, including 30 TAC Chapter 101, Subchapter H, Division 3, Mass Emissions Cap and Trade Program; and 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds.
- (M) Written records shall be kept for a rolling 24-month period and shall always remain on site. These records shall be made available at the request of any personnel from the TCEQ or any air pollution control program having jurisdiction. These written records shall contain the following:

- (i) daily hours of operation;
 - (ii) the throughput per hour;
 - (iii) road and work area cleaning and dust suppression logs; and
 - (iv) stockpile dust suppression logs.
- (N) Crushing operations and related activities shall comply with applicable requirements of 30 TAC Chapter 101, Subchapter F, Emission Events and Scheduled Maintenance, Startup, and Shutdown Activities.
- (O) Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC § 116.610(a)(1), Applicability.
- (P) Maintenance emissions are not included in this permit and must be approved under separate authorization. Startup and shutdown emissions that exceed those expected during production operations must be approved under separate authorization.
- (Q) Owners or operators of facilities authorized by this standard permit are not eligible for any authorization in 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement or 30 TAC § 106.512, Stationary Engines and Turbines, for a facility located at the same site as a rock crusher authorized by this standard permit.
- (R) Upon issuance of this standard permit, the TCEQ will no longer accept a registration for § 106.142, Rock Crushers.
- (2) Public Notice Requirements:
- (A) An application for authorization to construct and operate a rock crusher under this standard permit is not subject to the public notice requirements in 30 TAC Chapter 39 Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications.
 - (B) For authorization to use this standard permit, an applicant must publish notice under this section not later than the earlier of:
 - (i) the 30th day after the date the applicant receives written notice from the executive director that the application is technically complete; or
 - (ii) the 75th day after the date the executive director receives the application.
 - (C) The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. If the elementary or middle school nearest to the proposed plant provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice.

- (D) The notice must include:
- (i) a brief description of the proposed location and nature of the proposed crusher;
 - (ii) a description, including a telephone number, of the manner in which the executive director may be contacted for further information;
 - (iii) a description, including a telephone number, of the manner in which the applicant may be contacted for further information;
 - (iv) the location and hours of operation of the commission's regional office at which a copy of the application is available for review and copying; and
 - (v) a brief description of the public comment process, including the mailing address and deadline for filing written comments.
- (E) At the applicant's expense, a sign or signs shall be placed at the site of the proposed facility declaring the filing of an application for a permit and stating the manner in which the commission may be contacted for further information. Such signs shall be provided by the applicant and shall meet the following requirements:
- (i) signs shall consist of dark lettering on a white background and shall be no smaller than 18 inches by 28 inches;
 - (ii) signs shall be headed by the words "PROPOSED AIR QUALITY PERMIT" in no less than two-inch boldface block-printed capital lettering;
 - (iii) signs shall include the words "APPLICATION NUMBER" and the number of the permit application in no less than one-inch boldface block-printed capital lettering (more than one number may be included on the signs if the respective public comment periods coincide);
 - (iv) signs shall include the words "for further information contact" in no less than 1/2-inch lettering;
 - (v) signs shall include the words "Texas Commission on Environmental Quality," and the address of the appropriate commission regional office in no less than one-inch boldface capital lettering and 3/4-inch boldface lower case lettering; and
 - (vi) signs shall include the phone number of the appropriate commission office in no less than two-inch boldface numbers.
- (F) The sign or signs must be in place by the date of publication of the newspaper notice required by subsection (2)(C) of this section and must remain in place and legible throughout the period of public comment provided for in subsection (2)(I) of this section.
- (G) Each sign placed at the site must be located within ten feet (ft.) of each (every) property line paralleling a street or other public thoroughfare. Signs must be completely visible from the street and spaced at not more than 1,500-ft. intervals. A minimum of one sign, but no more than three signs shall be required along any property line paralleling a public thoroughfare.

The commission may approve variations from these requirements if it is determined that alternative sign posting plans proposed by the applicant are more effective in providing notice to the public.

- (H) The alternate language sign posting requirements of this subsection are applicable whenever either the elementary school or the middle school located nearest to the facility or proposed facility provides a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B, and 19 TAC § 89.1205(a) or if either school has waived out of such a required bilingual education program under the provisions of 19 TAC § 89.1205(g). Schools not governed by the provisions of 19 TAC § 89.1205(a) shall not be considered in determining applicability of the requirements of this subsection. Each affected facility shall meet the following requirements.
 - (i) The applicant shall post an additional sign in each alternate language in which the bilingual education program is taught. If the nearest elementary or middle school has waived out of the requirements of 19 TAC § 89.1205(a) under 19 TAC § 89.1205(g), the alternate language signs shall be published in the alternate languages in which the bilingual education program would have been taught had the school not waived out of the bilingual education program.
 - (ii) The alternate language signs shall be posted adjacent to each English language sign required in this section.
 - (iii) The alternate language sign posting requirements of this subsection shall be satisfied without regard to whether alternate language notice is required under subsection (C) of this section.
 - (iv) The alternate language signs shall meet all other requirements of this section.
- (I) The public comment period begins on the first date notice is published under subsection (2)(B) and extends no less than 30 days from the publication date.
- (J) Not later than the 30th day after the end of the public comment period, the executive director will approve or deny the application for authorization to use the standard permit. The executive director must base the decision on whether the application meets the requirements of this standard permit. The executive director must consider all comments received during the public comment period in determining whether to approve the application. If the executive director denies the application, the executive director must state the reasons for the denial and any modifications to the application necessary for the proposed plant to qualify for the authorization.
- (K) The executive director will issue a written response to any public comments received related to the issuance of an authorization to use the standard permit at the same time as or as soon as practicable after the executive director grants or denies the application. Issuance of the response after the granting or denial of the application does not affect the validity of the executive director's decision to grant or deny the application. The executive director will:
 - (i) mail the response to each person who filed a comment; and
 - (ii) make the response available to the public.

(3) Operational Requirements:

- (A) The primary crusher throughput shall not exceed 200 tons per hour.
- (B) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 200 ft. from the nearest property line, as measured from the point on the facility nearest the property line.
- (C) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship, at the time an application was filed, as measured from the point on the facility nearest the residence, school, or place of worship to the point on the residence, school, or place of worship nearest the facility.
- (D) The crushing facilities (not including associated sources) operating under this standard permit shall be located at least 550 ft. from any other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. If this distance cannot be met, then the crusher shall not operate at the same time as the other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. Measurement shall be from the closest point on the rock crushing facility to the closest point on any other facility.
- (E) All associated sources, including but not limited to, roads (except for incidental traffic and the entrance and exit to the site), work areas, and stockpiles, shall be located at least 100 ft. from the property line.
- (F) The facilities (as defined in 30 TAC § 116.10(4)) authorized under this standard permit shall be limited to one primary crusher, one secondary crusher, one vibrating grizzly, two screens, any conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 total horsepower. Equipment that is not a source of emissions does not require authorization.
- (G) All crushers, associated facilities, and associated sources (excluding stockpiles) shall not operate for more than an aggregate of 2,640 hours at the authorized site in any rolling 12 month period. Once the operating hours (2,640 hours) for the site have been exhausted, the owner or operator shall not use a standard permit to operate another rock crusher on the site.
- (H) The rock crusher and associated facilities shall not operate from one hour after official sunset to one hour before official sunrise.
- (I) Each crusher shall be equipped with a runtime meter, which will be operating during crushing during crushing operations.
- (J) Permanently mounted spray bars shall be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all TCEQ rules and regulations.
- (K) Opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period, and according to U.S. Environmental Protection Agency (EPA) Test Method (TM) 9.

- (L) Visible emissions from the crusher, associated facilities, associated sources, and in-plant roads associated with the plant shall not leave the property for a period exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22.
- (M) Dust emissions from all in-plant roads and active work areas that are associated with the operation of the crusher, associated facilities, and associated sources shall be minimized at all times by at least one of the following methods:
 - (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);
 - (ii) treated with dust-suppressant chemicals;
 - (iii) watered; or
 - (iv) paved with a cohesive hard surface that is maintained intact and cleaned.
- (N) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (O) Raw material and product stockpile heights shall not exceed 45 ft.
- (P) The crusher shall be equipped with a weigh hopper or scale belt to accurately determine the mass of material being crushed.
- (Q) The crusher may relocate on the site for which it has been authorized without reauthorization as long as it remains at least 440 yards from any residence, school, or place of worship that was in existence at the time of the move.

EXHIBIT 4

Plaintiffs' Petition for Judicial Review

Air Quality Standard Permit for Permanent Rock and Concrete Crushers
Effective Date July 31, 2008

This air quality standard permit authorizes rock and concrete crushing facilities that meet all of the conditions listed in sections (1), (2), and (3) of this standard permit. It is the permit holder's responsibility to demonstrate compliance with all conditions of this permit upon request by the executive director or any air pollution control agency having jurisdiction.

(1) General Requirements:

(A) For the purposes of this standard permit, the following definitions apply.

- (i) A site is one or more contiguous or adjacent properties which are under common control of the same person (or persons under common control).
- (ii) Associated sources are sources of air emissions that are related to the rock or concrete crushing operation, that are not "facilities" as defined under Title 30 Texas Administrative Code (30 TAC) § 116.10, General Definitions. Associated sources include, but are not limited to, stockpiles and outdoor work areas. Screens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities and are not associated sources.
- (iii) A residence is a structure primarily used as a permanent dwelling.

(B) Except as provided in subsections (C) and (D) of this section, when crushing concrete, the concrete crushing facility shall be operated at least 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship at the time an application was filed. The measurement of distance shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that is nearest the concrete crushing facility.

(C) Subsection (B) does not apply to:

- (i) a concrete crushing facility at a location for which the distance requirements of subsection (B) were satisfied at the time an application was filed with the commission, provided that the authorization was granted and maintained, regardless of whether a single or multi-family residence, school, or place of worship is subsequently built or put to use within 440 yards of the facility; or
- (ii) structures occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located.

(D) Subsection (B) does not apply to a concrete crushing facility that:

- (i) is engaged in crushing concrete and other materials resulting from the demolition of a structure on that site and the concrete and other materials are being crushed primarily for use at that site;
- (ii) operates at that site during one period of no more than 180 calendar days;

- (iii) complies with all applicable conditions stated in commission rules, including operating conditions; and
 - (iv) is not located in a county with a population of 2.4 million or more persons, or in a county adjacent to such a county.
- (E) For any owner or operator with a facility authorized by this standard permit, the TCEQ will not accept an application for authorization of a crushing facility under Texas Health and Safety Code (THSC) § 382.0518, Preconstruction Permit, located at the same site for a period of 12 months from the date of authorization.
- (F) An applicant for authorization of a rock crusher under THSC § 382.0518, is not eligible for this standard permit at the same site until 12 months after the application for authorization under § 382.0518 is withdrawn. Facilities already authorized by a permit under § 382.0518 are not eligible for this standard permit.
- (G) Applications for this standard permit shall be registered in accordance with 30 TAC § 116.611, Registration to Use a Standard Permit (including a current Form PI-1S, Crushing Plant Standard Permit Checklist and Table 17). A compliance history review shall be performed by the executive director in accordance with 30 TAC Chapter 60, Compliance History. If a facility is determined to be a poor performer, as defined in 30 TAC Chapter 60, a standard permit registration shall not be issued.
- (H) No owner or operator of a crushing facility shall begin construction and/or operation without obtaining written approval from the executive director (except for crushers in non operational storage for which construction has not commenced as considered under the Texas Clean Air Act). Start of construction of any facility registered under this standard permit shall be no later than 18 months from the date of authorization. Construction progress and startup notification shall be made in accordance with 30 TAC § 116.115(b)(2), General and Special Conditions.
- (I) Applications for registration under this standard permit shall comply with 30 TAC § 116.614, Standard Permit Fees.
- (J) All affected facilities authorized by this standard permit must meet all applicable conditions of Title 40 Code of Federal Regulations (40 CFR) Part 60, Subpart A, General Provisions, and OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (K) Only crushing facilities that are processing nonmetallic minerals or a combination of nonmetallic minerals that are described in 40 (CFR) Part 60, Subpart OOO, shall be authorized by this standard permit.
- (L) This standard permit does not supersede the requirements of any other commission rule, including 30 TAC Chapter 101, Subchapter H, Division 3, Mass Emissions Cap and Trade Program; and 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds.
- (M) Written records shall be kept for a rolling 24-month period and shall always remain on site. These records shall be made available at the request of any personnel from the TCEQ or any air pollution control program having jurisdiction. These written records shall contain the following:

- (i) daily hours of operation;
 - (ii) the throughput per hour;
 - (iii) road and work area cleaning and dust suppression logs; and
 - (iv) stockpile dust suppression logs.
- (N) Crushing operations and related activities shall comply with applicable requirements of 30 TAC Chapter 101, Subchapter F, Emission Events and Scheduled Maintenance, Startup, and Shutdown Activities.
- (O) Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC § 116.610(a)(1), Applicability.
- (P) Maintenance emissions are not included in this permit and must be approved under separate authorization. Startup and shutdown emissions that exceed those expected during production operations must be approved under separate authorization.
- (Q) Owners or operators of facilities authorized by this standard permit are not eligible for any authorization in 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement or 30 TAC § 106.512, Stationary Engines and Turbines, for a facility located at the same site as a rock crusher authorized by this standard permit.
- (R) Upon issuance of this standard permit, the TCEQ will no longer accept a registration for § 106.142, Rock Crushers.
- (2) Public Notice Requirements:
- (A) An application for authorization to construct and operate a rock crusher under this standard permit is not subject to the public notice requirements in 30 TAC Chapter 39 Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications.
 - (B) For authorization to use this standard permit, an applicant must publish notice under this section not later than the earlier of:
 - (i) the 30th day after the date the applicant receives written notice from the executive director that the application is technically complete; or
 - (ii) the 75th day after the date the executive director receives the application.
 - (C) The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. If the elementary or middle school nearest to the proposed plant provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice.

- (D) The notice must include:
- (i) a brief description of the proposed location and nature of the proposed crusher;
 - (ii) a description, including a telephone number, of the manner in which the executive director may be contacted for further information;
 - (iii) a description, including a telephone number, of the manner in which the applicant may be contacted for further information;
 - (iv) the location and hours of operation of the commission's regional office at which a copy of the application is available for review and copying; and
 - (v) a brief description of the public comment process, including the mailing address and deadline for filing written comments.
- (E) At the applicant's expense, a sign or signs shall be placed at the site of the proposed facility declaring the filing of an application for a permit and stating the manner in which the commission may be contacted for further information. Such signs shall be provided by the applicant and shall meet the following requirements:
- (i) signs shall consist of dark lettering on a white background and shall be no smaller than 18 inches by 28 inches;
 - (ii) signs shall be headed by the words "PROPOSED AIR QUALITY PERMIT" in no less than two-inch boldface block-printed capital lettering;
 - (iii) signs shall include the words "APPLICATION NUMBER" and the number of the permit application in no less than one-inch boldface block-printed capital lettering (more than one number may be included on the signs if the respective public comment periods coincide);
 - (iv) signs shall include the words "for further information contact" in no less than 1/2-inch lettering;
 - (v) signs shall include the words "Texas Commission on Environmental Quality," and the address of the appropriate commission regional office in no less than one-inch boldface capital lettering and 3/4-inch boldface lower case lettering; and
 - (vi) signs shall include the phone number of the appropriate commission office in no less than two-inch boldface numbers.
- (F) The sign or signs must be in place by the date of publication of the newspaper notice required by subsection (2)(C) of this section and must remain in place and legible throughout the period of public comment provided for in subsection (2)(I) of this section.
- (G) Each sign placed at the site must be located within ten feet (ft.) of each (every) property line paralleling a street or other public thoroughfare. Signs must be completely visible from the street and spaced at not more than 1,500-ft. intervals. A minimum of one sign, but no more than three signs shall be required along any property line paralleling a public thoroughfare.

The commission may approve variations from these requirements if it is determined that alternative sign posting plans proposed by the applicant are more effective in providing notice to the public.

- (H) The alternate language sign posting requirements of this subsection are applicable whenever either the elementary school or the middle school located nearest to the facility or proposed facility provides a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B, and 19 TAC § 89.1205(a) or if either school has waived out of such a required bilingual education program under the provisions of 19 TAC § 89.1205(g). Schools not governed by the provisions of 19 TAC § 89.1205(a) shall not be considered in determining applicability of the requirements of this subsection. Each affected facility shall meet the following requirements.
 - (i) The applicant shall post an additional sign in each alternate language in which the bilingual education program is taught. If the nearest elementary or middle school has waived out of the requirements of 19 TAC § 89.1205(a) under 19 TAC § 89.1205(g), the alternate language signs shall be published in the alternate languages in which the bilingual education program would have been taught had the school not waived out of the bilingual education program.
 - (ii) The alternate language signs shall be posted adjacent to each English language sign required in this section.
 - (iii) The alternate language sign posting requirements of this subsection shall be satisfied without regard to whether alternate language notice is required under subsection (C) of this section.
 - (iv) The alternate language signs shall meet all other requirements of this section.
- (I) The public comment period begins on the first date notice is published under subsection (2)(B) and extends no less than 30 days from the publication date.
- (J) Not later than the 30th day after the end of the public comment period, the executive director will approve or deny the application for authorization to use the standard permit. The executive director must base the decision on whether the application meets the requirements of this standard permit. The executive director must consider all comments received during the public comment period in determining whether to approve the application. If the executive director denies the application, the executive director must state the reasons for the denial and any modifications to the application necessary for the proposed plant to qualify for the authorization.
- (K) The executive director will issue a written response to any public comments received related to the issuance of an authorization to use the standard permit at the same time as or as soon as practicable after the executive director grants or denies the application. Issuance of the response after the granting or denial of the application does not affect the validity of the executive director's decision to grant or deny the application. The executive director will:
 - (i) mail the response to each person who filed a comment; and
 - (ii) make the response available to the public.

(3) Operational Requirements:

- (A) The primary crusher throughput shall not exceed 200 tons per hour.
- (B) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 200 ft. from the nearest property line, as measured from the point on the facility nearest the property line.
- (C) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship, at the time an application was filed, as measured from the point on the facility nearest the residence, school, or place of worship to the point on the residence, school, or place of worship nearest the facility.
- (D) The crushing facilities (not including associated sources) operating under this standard permit shall be located at least 550 ft. from any other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. If this distance cannot be met, then the crusher shall not operate at the same time as the other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. Measurement shall be from the closest point on the rock crushing facility to the closest point on any other facility.
- (E) All associated sources, including but not limited to, roads (except for incidental traffic and the entrance and exit to the site), work areas, and stockpiles, shall be located at least 100 ft. from the property line.
- (F) The facilities (as defined in 30 TAC § 116.10(4)) authorized under this standard permit shall be limited to one primary crusher, one secondary crusher, one vibrating grizzly, two screens, any conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 total horsepower. Equipment that is not a source of emissions does not require authorization.
- (G) All crushers, associated facilities, and associated sources (excluding stockpiles) shall not operate for more than an aggregate of 2,640 hours at the authorized site in any rolling 12 month period. Once the operating hours (2,640 hours) for the site have been exhausted, the owner or operator shall not use a standard permit to operate another rock crusher on the site.
- (H) The rock crusher and associated facilities shall not operate from one hour after official sunset to one hour before official sunrise.
- (I) Each crusher shall be equipped with a runtime meter, which will be operating during crushing during crushing operations.
- (J) Permanently mounted spray bars shall be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all TCEQ rules and regulations.
- (K) Opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period, and according to U.S. Environmental Protection Agency (EPA) Test Method (TM) 9.

- (L) Visible emissions from the crusher, associated facilities, associated sources, and in-plant roads associated with the plant shall not leave the property for a period exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22.
- (M) Dust emissions from all in-plant roads and active work areas that are associated with the operation of the crusher, associated facilities, and associated sources shall be minimized at all times by at least one of the following methods:
 - (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);
 - (ii) treated with dust-suppressant chemicals;
 - (iii) watered; or
 - (iv) paved with a cohesive hard surface that is maintained intact and cleaned.
- (N) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (O) Raw material and product stockpile heights shall not exceed 45 ft.
- (P) The crusher shall be equipped with a weigh hopper or scale belt to accurately determine the mass of material being crushed.
- (Q) The crusher may relocate on the site for which it has been authorized without reauthorization as long as it remains at least 440 yards from any residence, school, or place of worship that was in existence at the time of the move.

EXHIBIT 5

Plaintiffs' Petition for Judicial Review



September 11, 2023

Via TCEQ E-Comments

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: Public Meeting; Texas Coastal Materials, LLC Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley St., Houston, Texas 77026.

Dear Ms. Gharis:

On July 7, 2023, the Texas Commission on Environmental Quality (TCEQ) received an application from Texas Coastal Materials, LLC (Texas Coastal) for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the Application) to construct a new concrete crusher facility at 5875 Kelley St., Texas 77026 (the Facility). The TCEQ has made a determination that the Application is technically complete. On behalf of Harris County and Harris Health, the Harris County Attorney's Office requests that TCEQ hold an in-person public meeting on the Application, re-publish notice of the Application, provide a minimum of 30 days' notice of the public meeting in English and Spanish, and that limited English Proficient (LEP) individuals be provided professional Spanish language interpretation services.

Community Concern

The TCEQ rules require a public meeting when “there is a substantial or significant degree of public interest in an application” or “if a member of the legislature who represents the general area in which the facility is . . . proposed to be located requests that a public meeting be held.” 30 Tex. Admin. Code § 55.154(c)(1) and (2). Both exist for this Application. On August 29 and 30, 2023, Senator Boris Miles and Representative Harold Dutton, respectively, filed public meeting requests with the TCEQ, satisfying 30 Tex. Admin. Code § 55.154(c)(2). Regarding public interest in the Application, community members have already filed comments with the TCEQ and have reached out to Harris Health and Harris County with their concerns. Community member concerns include impacts to health and safety, traffic, dust, emissions, decreased visibility, and nuisance conditions. Emissions will include particulate matter, further saturating an area that is already fails to meet levels set to protect human health and the environment. The nearby TCEQ Wayside monitor data indicates air quality in the area exceeds the annual National Ambient Air Quality Standard for PM_{2.5} of 12.0 µg/m³. Thus, 30 Tex. Admin. Code § 55.154(c)(1) is also satisfied.

Request to Properly Publish Notice of the Application

Texas Coastal is required to publish notice of the Application in a “newspaper of general circulation in the municipality in which the plant is proposed to be located.” 30 Tex. Admin. Code § 39.603(e), *See also* TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers at (2)(C). On August 24, 2023, Texas Coastal publish notice of the Application in the Star Courier, which serves the Highlands, Crosby, and Surrounding Communities. *See Exhibit A*. However, the Facility is located in Houston – not the Highlands, Crosby or their surrounding communities. The Star Courier is part of GrafikPress Newspapers, which has several papers that covers different areas of Harris County. See Figure 1 for GrafikPress Newspaper coverage areas for each of its publications. *Figure 2* notes the proposed location of the Facility. Accordingly, Harris County and Harris Health are concerned that the August 24, 2023 publication in the Star Courier didn’t reach community members impacted by the Application and failed to meet the TCEQ requirement of publication in a newspaper of general circulation in the municipality in which the plant is to be located. In fact, impacted communities are outside of the publication areas of any of GrafikPress Newspaper coverage areas. Harris County and Harris Health request that TCEQ require Texas Coastal to re-publish notice of the Application and that it do so in the Houston Chronicle – a newspaper of general circulation in the impacted communities.



Figure 1: GrafikPress Newspaper coverage areas



Figure 2: Location of Texas Coastal Materials

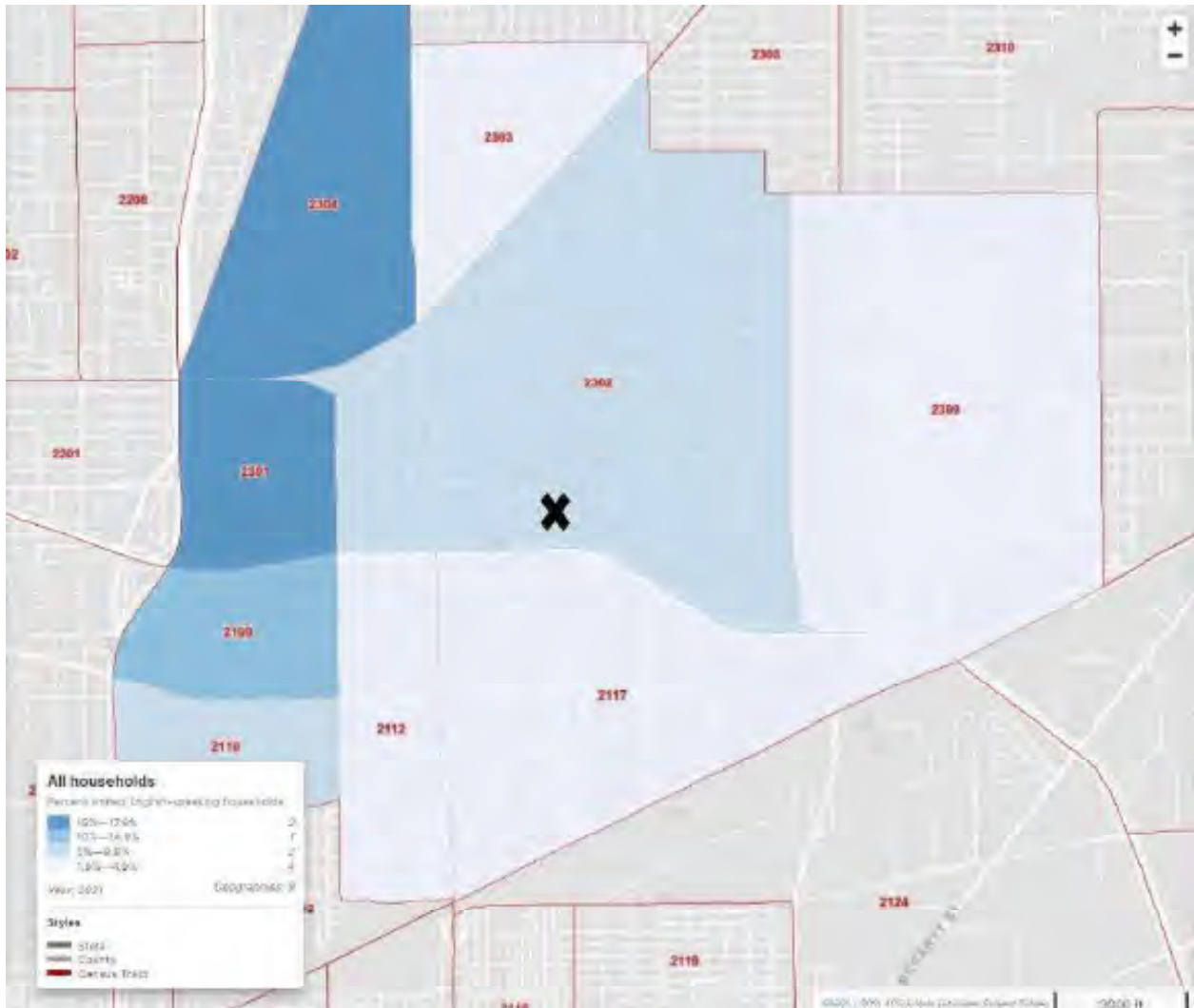
Request for Spanish Interpretation at the Public Meeting

Harris County Attorney’s Office requests that the TCEQ require the permittee to provide Spanish interpretation at the public meeting. According to the most recent 2020 U.S. Census data, the communities surrounding the Facility include linguistically isolated populations – 7.3% of the households in Census Tracts bordering the Facility, including the Facility, are considered limited English-speaking households.¹ Over ninety-eight percent of LEP households near the Facility are Spanish speaking. Spanish speaking Households comprise 29% of total households in the same census tracts. The relevant Census Tracts are:

Census tract	Total number of households	Total number of LEP households	Total number of Spanish speaking households
2109	586	59	148
2110	784	76	168
2112	1,063	20	162
2117	1,286	42	594
2301	609	101	201
2302 (Facility location)	1,744	100	383
2303	809	39	283
2304	1,098	196	542
2309	1,580	69	309
Total	9,559	702 (7.3%)	2,790 (29%)

Table 1: Total number of households, LEP populations, and Spanish speaking LEP populations by U.S. Census Tract for Census Tracts that are adjacent to the Facility, including the Census Tract for the Facility

¹ Data from the 2010–2021 American Community Survey. Limited English-Speaking Households are defined households where all members 14 years or older have some difficulty with English.



Map 1: U.S. Census Tracts showing LEP population density in and adjacent to the Facility location labeled as X.

Given that 7.3% of the households surrounding the Facility have limited English proficiency, a public meeting notice translated to Spanish and professional language interpretation services are warranted for this permit application. TCEQ routinely hosts community functions in Harris County where Spanish interpretation has been necessary as such, this request should not be out of the ordinary for TCEQ.

TCEQ rules rely on data from the nearest elementary or middle schools to a facility to trigger alternative language notice requirements. See 30 Tex. Admin. Code § 39.426. The communities surrounding the Facility are served by the Houston Independent School District and elementary aged children either attend Kashmere Gardens, McGowen, or Cook Elementary Schools. Texas Education Agency 2021-22 School Report Cards for each school is attached as **Exhibit B**. Each school has more than 10% of enrolled students categorized as English Learners. Kashmere Gardens has 10.1%, McGowen has 21.7%, and Cook has 25.1% English Learners. Each school has a very high percentage of Economically Disadvantaged students, 98.9% at Kashmere

Gardens, 99.2% at McGowen, and 98.2% at Cook. Economically Disadvantaged students experience food insecurity and the federal government ensures that they receive at least two hot meals a day either free or at a reduced cost. The Application notes that a bilingual program is required by the Texas Education Code in the school district and that children attending schools closest to the Facility are eligible to be enrolled in that bilingual program. *See* Application, Form PI-1S, Page 5 of 7.

Request for an In-Person Public Meeting

In addition to the language access challenges discussed above, households near the Facility have reduced internet access, limiting their ability to participate in a virtual public meeting. According to the 2021 American Community Survey, anywhere from 16.6% to 40.6% of households surrounding the Facility lack internet.² *See* attached for **Exhibit C**, which includes data from the 2021 American Community Survey. Unless the public meeting has in an-person attendance option, many residents will not be able to participate.

The National Environmental Justice Advisory Council (NEJAC) promulgated the Model Guidelines for Public Participation, which provides that conducting effective public participation in environmental justice communities requires an approach that is “tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation.”³ Further, according to EPA, “[m]eaningful public involvement consists of informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.”⁴ EPA has also recommended to federal funding recipients that they “[c]onsider tailoring and integrating public involvement practices that engage communities into as many stages of the process as appropriate, so that public involvement becomes more of a ‘culture’ of how agencies think and operate, as opposed to a list of measures to check off as they are completed.”⁵

Due to the low levels of internet access, the Harris County Attorney’s Office requests that the TCEQ provide an in-person public meeting on the Application. It is imperative that the residents have an opportunity to participate in the permitting process for the Facility located in their community. An in person public hearing would allow residents to ask questions and provide oral comments on the Application.

An EPA EJSCREEN report for the communities surrounding the Facility is attached as **Exhibit D**. The report demonstrates that the communities around the Facility are environmental justice communities. The communities are in the 90th to 100th percentile for indexes related to particulate matter, ozone, superfund proximity, and toxic releases to air – while being overwhelmingly people of color, low income, and linguistically isolated. Based on the EJSCREEN

² U.S. Census Bureau, <https://www.census.gov/data.html>.

³ EPA, National Environmental Justice Advisory Council Model Guidelines for Public Participation at 10, <https://www.epa.gov/environmentaljustice/model-guidelines-public-participation>.

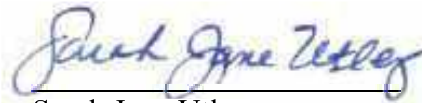
⁴ Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14,207, 14,212 (Mar. 21, 2006).

⁵ *Id.*

report and the additional data above, the Harris County Attorney's Office respectfully requests that TCEQ hold a public meeting on the Application, Coastal Materials be required to pre-publish notice of the Application, that the TCEQ issue public meeting notices in Spanish and English, that the meeting be in-person, and that professional Spanish interpretation services be provided at the public meeting. To do otherwise will deny individuals their right to participate in the TCEQ permitting process.

Sincerely,

CHRISTAN D. MENFEE
Harris County Attorney

A handwritten signature in blue ink that reads "Sarah Jane Utley". The signature is written in a cursive style and is positioned above a horizontal line.

Sarah Jane Utley
Environmental Division Director

Via Email

cc: Dr. Latrice Babin, Director, HCPCS



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Superintendent Paula Patterson explains the need for a \$85 million Bond Issue, and how the money will meet the needs of growth in the Crosby ISD. See Superintendent's Message below.

VOL. 70, NO. 32 - \$1.00 © Copyright 2017 THURSDAY, AUGUST 24, 2017 P.O. DRAWER 405, HIGHLANDS, TEXAS 77542

IN THE STARS

EVENTS
Rotary Washer
Tourney set for Sept. 9

Highlands Rotary Club will hold their annual 5-Hour Washer Tourney on Saturday, September 9, 2017 from 11:00am to 5:00pm. THE PUBLIC IS INVITED TO PARTICIPATE! The tournament starts at 1:00pm. Club members will be on hand for help. 500 N. Main Street in Highlands.
All teams must register and sign in no later than 12:30pm the day of the tournament.
TEAMS: 2 person teams. \$30 per team entry. Double Elimination. Lunch, Awards and Prize Money for the top 10 teams. 1:50, 3:00, and 5:00.
SPONSORS: 4PM. Post Tournament at 5:00 and 6:00. 1-800-833-3333.
Event includes a Raffle for a Laser Weapon.
Contact Details: (email) [redacted] or (phone) [redacted].
Proceeds benefit the Rotary Foundation and Polio Plus.

Back-2-School
First Day of
Classes:

DISTRICT	DATE
ALBANY HIGH	AUG 18TH AUG 20-21-22
CROSBY	AUG 19TH
HUFFMAN	AUG 19TH
GOOSE CREEK	AUG 14-15-16
CLARK BARK	AUG 19TH
GILDED	AUG 19TH
COMMUNITY	AUG 14-15-16
DAYTON	AUG 19TH
ROBERTS HILL	AUG 14-15-16

Chamber hears of Generational Challenges

By David Taylor
StarCourier

With more than three decades of experience in the financial and monetary industry, Bella Diaz leads the staff at Sterling-White Financial House in Highlands and discussed her joys working with multiple generations of employees—and challenges.
Diaz is the managing partner of Sterling-White. Having worked just over a year ago. She graduated from the monetary services program from College de Commerce in Montreal and continued her education at College de Crosby earning a degree in business administration and accounting. She has also completed her MBA at Texas Woman's University and serves as an advisor for the Crosby-Huffman Chamber of Commerce.
"When I talk about my team, which I'm super proud of, we are made up of



BELLA DIAZ, Manager, Sterling-White

five generations," she said. "Our staff members ages range from 18 to 66 years old."
Diaz said at times it creates challenges with different generations, but she has found ways to bring them together and make it a family.
"You give plenty of communication throughout," she said.
"My husband is a banker. He is Gen X, my oldest is a Millennial, and my youngest is a Gen Z," she laughed.
Diaz breaks down the different categories of generations she deals with daily into the traditional (68 and up), baby boomers (57

to 77), Gen X (42 to 56), millennials (26 to 41), and Gen Z (95 years and younger).
"Every generation has amazing things to bring to the table," she said.
Technology is also a divide with traditionalists having lived through the radio, television, CDs and LPs, to 8-tracks, cassette tapes, to CDs to the internet and social media.
"Through all of that, each generation has their own requirements. From the employee. Gen Z employees will want you to give an instruction and be prepared to explain why it's important or how it fits into the bigger picture. Interestingly, they will also research your company to make sure you're ethical and provide justice, inclusion, and equity," she said.
Millennials, she said, are result oriented. Having grown up with report cards with grades and stars, always seeking clarity and craving feedback.
"Gen Xers are interesting. They like to work independently. Give them the task and let them run with it," she said.
Boomers were raised in an atmosphere of you work hard, you get recognized for it, she described it.
"The silent generation respects authority and has a need to know clearly who is in charge and makes sure their roles are clearly defined for them." Diaz said.
Bringing the team together that's diverse

means talking about the different generation and other variations such as cultural background, communication style and personality, she said.
"The best advice I can share is to know your people. What motivates them? How do they prefer their communication?" she suggested.
The employees meet every morning for a short, 10-minute huddle so each person can share what they have going on and communicate what's important for them that day.
"Sometimes on Friday I cook breakfast or pick up something for them," she said. "On Mondays during our standup, I ask them to share at least one fun thing they did over the weekend."
Diaz said it doesn't have to be something grand but encourages them to communicate and build a team atmosphere with one another.

SUPERINTENDENT'S MESSAGE:
Crosby ISD plans \$85 million Bond Issue

Hill Country and Crosby ISD families,



SUPERINTENDENT PAULA PATTERSON

This fall, Crosby ISD will be asking voters to approve an \$85 million dollar bond to build new schools. On Monday, August 21st, the Board of Trustees voted the bond election for November 7th, 2017. There will be no vote returns to consider the end of the ballot. "Proposition A"

grewed bond in 2017, the District had approximately \$90 million remaining. Earlier this year, the Board of Trustees allocated approximately \$42.9 million for the new addition in Crosby High School, which is currently in the construction phase. The remainder of the 2017 funds would be paired with the \$85 million raised from the 2017 bond to build the new elementary and new middle school phase 1 and maintenance projects. Allow us to explain what "Phase 1" of a new middle school means. The campus would be built to only 8th graders initially. The building will be constructed in a way that it can be expanded later to accommodate 7th and 8th graders, and because the district's sound middle school.

The funds approved in 2017 do not have the buying power in 2017 that they did six years ago. That is why we are going to voters to ask for additional borrowing power. "Proposition A" will ask for a tax rate increase. Our bond capacity in a District is \$88 million with no tax rate increase. Why? The answer is two-fold. There are more homes and thus more taxpayers in Crosby ISD, and the appraised value of each home is also increasing. Crosby ISD's bond will

be focused on new buildings, classroom spaces, and maintenance projects. No money will be set aside for activities that do not directly impact the education of our children.
Growth is happening all over Crosby ISD. Fifteen new subdivisions are under construction or soon to be under construction on all sides of the District. These new subdivisions provide an additional 10,000 homes will be built in our communities in the next 10 years. These

Contact: See Crosby Superintendent Page 8

THEA/SJRC meeting set for August 29 in Highlands

HIGHLANDS — THEA (Texas Health and Environment Alliances) has announced an important upcoming meeting on the Superfund Cleanup at the San Jacinto River.



The San Jacinto River Coalition will meet August 29th at 8am to discuss remediation at the West 7th Superfund Site.
We will discuss three very important topics.
• When we talk to residents one-on-one, we hear about loved ones lost, illnesses and cancer, especially cases striking the very young. We need to

come together and push the state to update its study of cancer rates in the community.
• The cleanup at the Southern Pike is proceeding on schedule. We'll talk about the next steps.
• Unfortunately, the EPA is not moving quickly enough to finalize the remediation at the Northern

Pike and looks there will experience another hazardous material incident. We need your feedback on keeping the process on track.
Join us, August 29th, 6am, San Jacinto Community Center, 604 Highland Woods Drive, Highlands, TX 77562.

Heart Screening for Athletes is subject of Rotary talk

HIGHLANDS — Scott Stephens was the guest speaker at the Rotary weekly luncheon last week. He spoke about screening high school youth, especially athletes, for undetected heart disease that lead to SCA, or Sudden Cardiac Arrest, and death.



Stephens's son Cody died of SCA 11 years ago, in 2012 at their home in Crosby. A healthy looking high school senior, Cody died in his sleep while resting in a chair. As a result, his father

Scott Stephens of the Cody Foundation received a check from Highlands Rotary President Denise Scott to support heart screening.

Contact: See HEAT Screening Page 7

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Southern Cooking Buffet - Coming Soon
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GOOSE CREEK CISD NEWS

ATAT Inducts John George Sr. to the 2023 Texas Hall of Fame

August 17, 2023 - The Agriculture Teachers Association of Texas (ATAT) recently hosted its annual Professional Development Conference for teachers of agriculture, food and natural resources in person in Dallas. The week-long conference was designed specifically for the mutual enrichment of agriculture teachers and stakeholders and allows attendees to enhance teaching methods, discuss developments in curriculum, learn more about industry-based student certifications as well as interact with leaders within the agriculture education profession.

John George, Sr. was posthumously inducted, along with 57 other members from across the state, to ATAT's 2023 Texas Hall of Fame. George taught at Haggraves, Crouley and Ross S. Sterling High schools, where he chartered the Ross S. Sterling High School chapter of the Future Farmers of America in 1974 and continued to lead the program until his death in 1990.

"Educators across Texas have a heavy weight on their shoulders - developing the future generations of our state. The Hall of Fame awards shine a light on Texas FFA agriculture education teachers, including John George, Sr., that have gone the extra mile during their careers to ensure every student has an opportunity to thrive," said Ray Ptasinski, executive director of ATAT. "We are honored to recognize exceptional educators for their dedication and passion to growing students into leaders. Thank you, John, for the difference you've made in your students' lives and Texas overall!"

In December 2019 in a lively ceremony attended by former students, faculty members, family and other friends, the Goose Creek CISD Agriculture Center was dedicated to John D. George. A plaque that is now displayed in the facility was unveiled by his wife, Shirley George.

The ATAT is a professional organization for agriculture science teachers and supporters that informs members about the latest agriculture education practices, encourages higher standards of teaching and provides a unified voice in the state legislature. For more information on ATAT and Texas FFA, visit www.ataatexas.org or www.texasffa.org.



John D. George, Jr. (left) accepts the ATAT's Hall of Fame award for the George family, presented by Donald Gullory (right), Ross S. Sterling High School Ag Science on behalf of ATAT Board of Directors and former RSS FFA student.



Ag Science Teachers (back row L to R: Josh Wade, Robert Lee, David Gullory, Ross J. Sterling High School (RSS), Ashley Lee, RSS, Kelly Hill, South Career Tech High School (SCTH); and front row L to R: Nevada Jaramas, SCTH; Deborah Banks, RSS; Jennifer Gullory, CTE; Shirley George and Rex Miller, SCTH.



Alternate view of presentation (see above)



John D. George's family (from left) Justin and Jill George, Donald and Jennifer Gullory, Shirley George and John & Stephanie George attend the ATAT Professional Development Conference and receive an award in John D. George's memory.



Ken Rogers (left, GOOCD lead Ag Science teacher, Shirley George (middle, wife of John George and retired GOOCD teacher), and Jennifer Gullory, GOOCD CTE, display the award presented posthumously to John D. George, Sr.

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- JUSTIN HUTCHINSON
- MICAH CHEATHAM
- BLAKE BROWN
- HILL COUNTRY JANE

ALL DAY EVENTS

- KIDS ZONE/SPLASH PAD
- VENDOR MARKETPLACE
- FOOD TRUCKS
- CONCERTS
- SILENT AUCTION

TIMED EVENTS

- 10AM CORNHOLE TOURNY
- 10AM BAYOU CITY BAGGED
- 10AM SHOW N SHINE TRUCKS, CARS & OFFROAD VEHICLES
- 12PM MUTTON BUSTING
- 4:30PM AWARDS
- 5PM LIVE AUCTION

BBQ COOK-OFF \$15,000 cash prize

Warriors4West@gmail.com
AddisFaithFoundation.org/WarriorsForWest

6666 FOUR SIXES

Addis Faith Foundation is a 501(c)(3) non-profit organization. All proceeds go to pediatric cancer families for support and pediatric cancer research.

First Day of School at E.F. Green Jr. School



Dr. Randall O'Brien, superintendent of schools for Goose Creek CISD, and Dr. G. welcome Dr. Alicia Babin, the new E.F. Green Junior School principal.



Dr. Randall O'Brien, superintendent of schools for Goose Creek CISD, greets students from E.F. Green Junior School on the first day of school.



Taylor Green, a sixth grader at E.F. Green Junior School, hangs out with Dr. G, the GOOCD mascot.

★ OPINION PAGE ★



Building Your Pet Disaster Evacuation Kit: Kids Edition

Land Commissioner Dawn Buckingham Joins Council Kids to Unbox Disaster Evacuation Bag for Pets



ARLINGTON—Texas Land Commissioner Dawn Buckingham, M.D., is delighted by some of Texas' resilient kids to unbox items pets will need in case of an evacuation during a disaster. In this special video, a council and educational series aimed at encouraging Texas to prepare for natural disasters, children in 2023 in Texas are not to forget their furry, furred, and feathered friends.

"As you prepare your family's emergency plan, evacuation routes, and go-bag, remember to pack a separate bag with everything your pets need if you have to leave home in a hurry," Commissioner Buckingham said. "For many of us, our pets are an extension of our family so they should have a bag too. This task is a great way to include children in your disaster preparedness planning, even if that means using dog leashes as flashlights."

Watch these carefully chosen kidlike help Commissioner Buckingham unbox a pet evacuation go-bag.

WATCH UNBOXING VIDEO: The GLO messages all Texans to prepare for hurricanes season by preparing an evacuation "go bag" for their pets, including the following:

- 1. Each pet should have enough food and water to last them at least 7-14 days. Don't forget to change out their food every 2 days.
- 2. If daily maintenance is required for your animal, be sure to have enough for at least two weeks and store them in an airtight container. In case of any injury to your pet, be sure to include a first aid kit. Include the animal's health and vaccination records with other documents.

- 3. Bring copies of your animals' registration papers, adoption information, or other records for each pet. Include pictures of your pets individually with you. This will help reunite you if your pet gets lost during an evacuation.
- 4. Make sure your pet is microchipped, which provides the best chance for efficient reunification if you get separated during a disaster.

5. You can begin preparing your livestock and horses for a natural disaster by maintaining an inventory, making sure animals have some type of identification, and planning evacuation arrangements.

WATCH VIDEO FOR MORE TIPS

Whether excessive heat waves, powerful tornadoes or damaging hurricanes, it is important to be prepared to evacuate. Texas has had 372 declared disaster days since 1953. Of Texas' total declarations, more than 20% have occurred in August or later. Evacuations are more common than most may think, and few disasters come with a lot of warning time.

Download the GLO's Disaster Evacuation Checklist to more information. Texans can follow along on social media, watch the GLO's preparedness tips on YouTube, and find resources for family and pet preparedness at www.texas.gov/prepared.



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STATE CAPITAL HIGHLIGHTS

By Gary Borders

Record Sea Temps Could Spur more Hurricanes

Forecasters for the National Weather Service are anticipating a more active hurricane season this year because of record-warm sea surface temperatures, the Texas Tribune reported.

Hurricane season runs through the end of November. The Climate Prediction Center now projects an all-time warm sea surface temperature. The sea surface temperature is considerably higher than the sea released in May just before hurricane season commenced.

Bradley Brinkman, an NWS meteorologist in Galveston, said the higher prediction is the result of the higher sea surface temperature.

"The name of the game this season seems to be the heat because it has been quite exceptional," Brinkman told the Tribune.

Another NWS meteorologist, Jeff Titus, based in Corpus Christi, said the higher probability of Atlantic hurricanes increases the likelihood of a storm striking Southeast Texas.

"The big question mark is whether or not it'll get the upper air pattern to allow the storms to get that far into the Gulf of Mexico," Titus said. Some of the most damaging hurricanes hit Texas in recent years came in August or September.

FEDERAL GRAND JURY INVESTIGATING PAITON

The Austin American-Statesman reported last week that federal prosecutors have asked a grand jury in San Antonio to indict on charges close to suspended Texas Attorney General Ken Paxton to testify. Paxton's attorney has already confirmed that there is an active federal investigation of his client.

While the Justice Department has declined to comment, the latest proceedings come a few weeks before Paxton is set to stand trial for his impeachment in the Texas Senate on bribery allegations involving Austin real estate developer Nate Paul, who was indicted on unrelated federal charges in May for mortgage fraud.

HIGHLANDS CROSBY

Star ★ Courier

North Channel ★ Star

Editor & Publisher: **Robert Hoffman**

Managing Editor: **Julie Polia**

Advertising Manager: **Walter Hoffman**

Production Manager: **Gerardo Hernandez**

Star ★ Courier is a member of the Star ★ News Group, a division of Star ★ News Group, Inc. The Star ★ News Group is a family-owned and operated newspaper serving the communities of North Channel, Star ★ News, and the surrounding areas. The newspaper is published daily, except on Sundays and public holidays. The newspaper is published at 11:00 a.m. and 5:00 p.m. daily. The newspaper is published at 11:00 a.m. and 5:00 p.m. daily. The newspaper is published at 11:00 a.m. and 5:00 p.m. daily.



Hola Hour

Tricky day, whether here in Mexico or in the US, I take a walk. Walking in the morning would be nice, but that's when I write, so, in the afternoon, I head out to see what the world looks like.

I always greet a lot of people on my walk, no matter which country I am in. I talk to dogs if there are dogs involved, or I comment on the weather, or I lament what someone is wearing, or I simply say, "Hola."

I do pretty much the same thing in other countries, and my ability to converse with dogs in Spanish has improved dramatically, but there is one complication in Mexico that I do not encounter in the US, and I love taking to telling it: the "Hola Hour."

Because what you typically says in the afternoon is a stranger (unless I am completely forgetting their hat or their dog or noting the temperature of the) is simply, "Buenas tardes." (Good afternoon!)

In English, this sounds a little formal, but in Spanish, old women and shopkeepers and street workers all say it. It is the universal greeting—and it isn't.

As it turns to night, everyone naturally starts saying "Buenas noches." (Good evening?) This means pretty straightforward, but determining when to stop saying "Good afternoon" and start saying "Good evening" is far more complicated than it seems.

I used to think there was some magic line that changed conventionally as the season changed, and everyone knew they should start saying "Good evening." But I could never determine when this was. Was it completely dark? No. Perhaps a sunset in Miami? No, necessarily. Maybe it was the quality of light or when the moonlight turned on?

I would sometimes ask for clarification: "Is it still evening?" Or is it still evening? "When I asked would mean they said yes, but as an answer that would vary certain. I assumed this knowledge of when afternoon changed definitively to night was something one must be born in the culture to know, and I would never be able to make this determination on my own.

But I don't think I was wrong. Because in this twilight time with the sun either up or down, depending on your latitude, or the buildings in the way, or the number of trees, or the density of clouds, or any number of other complications in this brief time of limbo that we live—I don't think anyone knows.

And the reason I believe this is because people start saying "Hola." They simply say "Hola."

It's a simple solution. No one wants to get it wrong. No one wants to get into an argument about it, so, when it is close to fall, people start saying "Hola" in the context of "Good afternoon" before they've begun to say, "Good evening."

I shared my theory with Jorge, the owner of our hotel. It was a slightly complicated thing to explain in Spanish. But Jorge, my partner, in the past, had understood: "Is it afternoon? Or is it evening?" and Jorge, like everyone else I asked before, claimed to know exactly what it was.

But when I shared my theory about the "Hola Hour" he laughed. And he said, "It is true!"

Jorge looked just a little embarrassed, as though I'd discovered a secret. And I was pleased.

"Since 2021, we have seen an increase in COVID-related cases from a similar level as we experienced last year," said John Slevinsky, Wildlife Division Director for TWWD. "It's our hope that these emergency rules will strengthen our surveillance and reduce the number of COVID-positive detections across the state."

Twice a week, I take a walk. Walking in the morning would be nice, but that's when I write, so, in the afternoon, I head out to see what the world looks like.

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★ SPORTS PAGE ★

SEASON FOOTBALL PREVIEW

Texans fortunes looking up with new head coach; All roads lead to Houston for CFP title game in Jan.

It's not a sure thing that the Houston Texans will win the AFC South...



KENEY'S KORNER By Mike Kautsky

Looking to see how the Texans will perform in the AFC South...

With a lot of changes to the roster, the Texans will have to rely on their defense...

The Texans will have to rely on their defense to make a difference...

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★ IN THE STARS

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 Aug. 21: Carolyn Adams
 Cathy Mink
 Curtis Foster
 Gene Lynn Mosby
 How Russell Mosby
 Andrew Hunt
 Malin A. Hoff
 Aug. 23: Brenda White
 Rebecca Meyer
 Aug. 25: Tony Mathis
 Steve Myers
 Aug. 29: Alex Cline
 Myra Hodge
 Pamela Jones
 Aug. 30: Lisa Robinson
 Aug. 31: Billie Conner
 Bill Brown
 Jennifer Campbell
 Gary Lee Dot
 Lynn Ray Lee

ANNIVERSARIES

Aug. 16: Lee White & Arlene Harmon
 Aug. 20: William & Maryline Huffman
 Aug. 25: Kim & Barbara Nelson
 Aug. 30: Glenn & Edith Perry
 Aug. 31: Dennis & Linda Conard

Crosby bond issue,

CONTINUED FROM PAGE 1

10,000 homes will produce an estimated 4,500 new students to Crosby ISD.

You may wonder what is different in 2023 compared to 2011. The fact is that our bond rating has been upgraded, with Moody's Investor Services stating the district has a "national level of strong operating performance leading to ample and growing reserves." www.moody.com/news/ Moody-upgrades-Crosby-2023?ke=issuance-at-0112&sig=9a51a-7338444 says www.crosbyisd.org.

I look forward to meeting with many of you as we take our bond proposal on tour and share our vision for the next chapter of Crosby ISD. You can read more now at www.crosbyisd.org/Bond2023.

We are Moving Forward! Go Cougal!



FOOTBALL SCHEDULES

FRIDAY, AUGUST 25
 Mansfield West at Barbara Hall 7 p.m., Eagle Stadium in Mont Belvieu
 Crosby at C.E. King, 7 p.m., Panther Stadium in Houston
 Humble at Channelview 7 p.m., Ray Maclay Memorial Stadium in Channelview
 Porters at Dayton, 7 p.m., Bronco Stadium in Dayton
 Galena Park at Goose Creek Memorial, 7 p.m., Stadium Stadium in Baytown
 Legacy School of Sport Sciences at Huffman
 Hargrave, 7 p.m., Falar Stadium in Huffman
 North Shore at The Woodlands, 7 p.m., Woodland Bank Stadium in Shenandoah

Heart Screening talk,

CONTINUED FROM PAGE 1

that and mother started a foundation, the Cody Stephens Foundation, to provide ECG heart screening to other youth, to detect and avoid the problem that took Cody's life.

Although still active in his business as a commercial real estate appraiser, a cardiovascular Scott has devoted his life to raise awareness of this silent killer and help prevent other families from experiencing the loss and heartache of losing a child to SCA.

Since Cody's death in 2012, the foundation has raised over \$1,000,000 to provide screenings and education in SCA. Over 170,000 young men and

women have been screened, Scott says, and 186 lives saved.

In addition, the foundation has placed over 91 ECG machines in school districts, to help provide screening. This year checks for structural or electrical problems in the heart, and if found a referral to a physician for further help is made.

In 2019 Scott was able to get the Texas Legislature to adopt House Bill 78 (Cody's Satchel) enacted with the help of State Representative Dan Huberty and State Senator Carol Alvarado. As a result, every student now has the option of having an ECG heart screening as part of

their athletic physical exam.

SCA or Sudden Cardiac Arrest is a condition in which the heart suddenly and unexpectedly stops beating. If this happens, blood stops flowing to the brain and other vital organs. SCA usually causes death. It's not treated with medications. A simple electrocardiogram (ECG or EKG) can detect major signs of SCA.

The Highlands Rotary Club has been a supporter of the Cody Foundation for a number of years, and club President Dennis Smith presented Scott Stephens with a check as further indication of the support.

Fatal cycle/SUV crash on 1942 in Crosby

HARRIS COUNTY — A deadly crash involving a motorcycle and an SUV caused major traffic problems for a Crosby ISD school near FM 1942.

The crash happened at about 5:15 a.m. Monday morning on FM 1942, according to Harris County Sheriff Ed Gonzalez.

A Chevrolet Traverse was traveling southbound on State while the motorcycle was traveling eastbound on FM 1942, according to Major Brian Cotter.

Another vehicle, driving in front of the motorcycle, turned right onto State, but according to Cotter, the motorcycle went around that vehicle while the Traverse



Wreckers down attach a chain to the cycle which is lying on the ground. The SUV beyond was involved in the late accident.

struck across the intersection. That's when the two collided.

The motorcycle was confirmed dead at the scene.

Cotter said the driver of the Traverse had not been drinking. The crash will be presented to the district attorney's office to determine if charges will be filed.

The 74-year-old Barrett Elementary School was moving slow and being diverted to Bahama Hall Road and 5600, but according to Gonzalez, one local FM 1942 reopened by about 7:45 a.m.

Sheriff conducts successful Runaway Rescue operation

Harris County, TX — August 16, 2023 — Sheriff Ed Gonzalez and the Harris County Sheriff's Office (HCSO) completed a three-day operation aimed at locating and recovering at-risk runaway youth. From August 10-12, 2023, the collaborative efforts of the Missing Persons Unit, Human Trafficking Unit, Child Abuse Unit, and Crime Reduction Units (CRU) culminated in a comprehensive rescue operation resulting in the successful location of 31 youths.

The goal of this initial operation was to locate and rescue runaway youths ages 12-17 who were susceptible to human traffick-

ing and to ensure the safe return of runaway youth to their parents or guardians in time for the upcoming school year.

Highly trained search teams comprised of uniformed deputies, Human Trafficking and Child Abuse Investigators, were strategically deployed throughout Harris County.

On Friday, Aug. 11, Erika Salazar, 42, was arrested for Harboring a Runaway Child. In another case, through follow-up investigations, deputies were led to a young female located in the state of Louisiana who may be a potential victim of

human trafficking. The HCSO will continue to collaborate with law enforcement agencies locally and in Louisiana to ensure the safety and welfare of this young individual.

Sheriff Ed Gonzalez expressed his gratitude to all the units involved, as well as the dedication and tireless efforts of the deputies and investigators. "Our mission to protect our youth and ensure their safety remains a top priority. This operation demonstrates our commitment to serve and protect our community's most vulnerable especially as they face potential risks and challenges."

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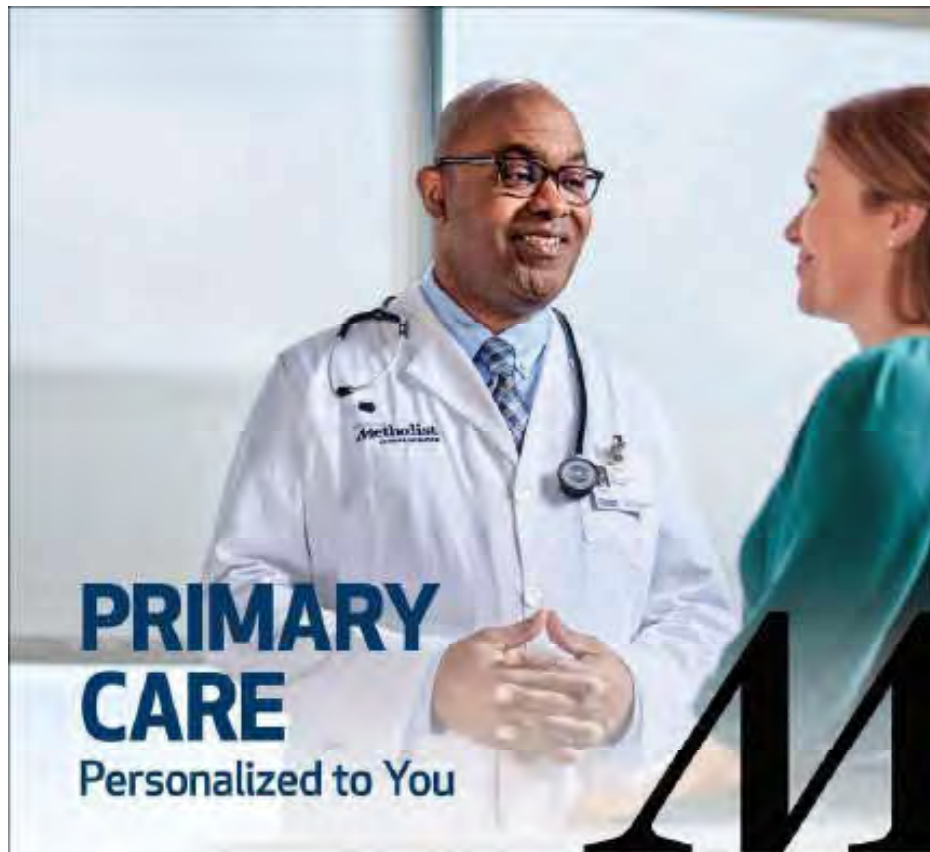
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School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	445
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



84 of 100



51 of 100



89 of 100



72 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.

Academic Achievement in English/Language Arts/Reading	Academic Achievement in Mathematics	Academic Achievement in Science	Top 25% Comparative Academic Growth	Top 25% Comparative Closing the Gaps	Postsecondary Readiness

Texas Education Agency
2022 School Report Card
 KASHMERE GARDENS EL (101912185) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about KASHMERE GARDENS EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	91.3%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	78.7%	22.1%	12.8%
Hispanic	19.1%	61.9%	52.8%
White	0.9%	9.7%	26.3%
American Indian	0.0%	0.2%	0.3%
Asian	0.0%	4.5%	4.8%
Pacific Islander	0.2%	0.1%	0.2%
Two or More Races	1.1%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	98.9%	79.2%	60.7%
Special Education	5.6%	8.4%	11.6%
Emergent Bilingual/EL	10.1%	35.1%	21.7%
Mobility Rate (2020-21)			
	17.1%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	21.3	18.2	18.7
Grade 1	14.1	15.7	18.7
Grade 2	19.0	15.4	18.6
Grade 3	14.2	14.4	18.7
Grade 4	18.4	13.7	18.8
Grade 5	15.5	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$8,479	\$10,524	\$11,106
Instruction	\$5,645	\$5,989	\$6,358
Instructional Leadership	\$87	\$185	\$186
School Leadership	\$1,181	\$749	\$654

Texas Education Agency
2022 School Report Card
 KASHMERE GARDENS EL (101912185) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	48%	48%	51%	-	-	-	-	*	48%
	2021	67%	57%	22%	20%	26%	*	-	-	-	-	22%
ELA/Reading	2022	75%	70%	50%	48%	55%	-	-	-	-	*	50%
	2021	68%	60%	30%	28%	35%	*	-	-	-	-	30%
Mathematics	2022	72%	67%	51%	51%	55%	-	-	-	-	*	51%
	2021	66%	53%	20%	18%	29%	*	-	-	-	-	20%
Science	2022	76%	68%	36%	37%	31%	-	-	-	-	-	36%
	2021	71%	59%	8%	7%	11%	-	-	-	-	-	8%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	19%	18%	24%	-	-	-	-	*	19%
	2021	41%	33%	7%	6%	9%	*	-	-	-	-	7%
ELA/Reading	2022	53%	49%	25%	24%	32%	-	-	-	-	*	25%
	2021	45%	38%	11%	12%	10%	*	-	-	-	-	11%
Mathematics	2022	42%	38%	16%	14%	26%	-	-	-	-	*	16%
	2021	37%	27%	5%	3%	10%	*	-	-	-	-	5%
Science	2022	47%	39%	9%	12%	0%	-	-	-	-	-	9%
	2021	44%	33%	3%	0%	11%	-	-	-	-	-	3%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	7%	6%	9%	-	-	-	-	*	7%
	2021	18%	15%	2%	2%	4%	*	-	-	-	-	2%
ELA/Reading	2022	25%	24%	11%	11%	13%	-	-	-	-	*	11%
	2021	18%	16%	6%	5%	10%	*	-	-	-	-	6%
Mathematics	2022	20%	19%	3%	2%	10%	-	-	-	-	*	3%
	2021	18%	13%	0%	0%	0%	*	-	-	-	-	0%
Science	2022	21%	17%	5%	7%	0%	-	-	-	-	-	5%
	2021	20%	14%	0%	0%	0%	-	-	-	-	-	0%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	86	83	93	-	-	-	-	-	86
	2019	69	68	74	75	69	-	-	-	-	-	72
ELA/Reading	2022	78	81	88	86	95	-	-	-	-	-	88
	2019	68	68	84	85	79	-	-	-	-	-	83
Mathematics	2022	69	75	83	81	90	-	-	-	-	-	83
	2019	70	68	63	64	58	-	-	-	-	-	62
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	396
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



85 of 100



56 of 100



89 of 100



75 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
MCGOWEN EL (101912179) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about MCGOWEN EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	92.4%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	60.4%	22.1%	12.8%
Hispanic	38.6%	61.9%	52.8%
White	0.5%	9.7%	26.3%
American Indian	0.0%	0.2%	0.3%
Asian	0.0%	4.5%	4.8%
Pacific Islander	0.0%	0.1%	0.2%
Two or More Races	0.5%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	99.2%	79.2%	60.7%
Special Education	7.6%	8.4%	11.6%
Emergent Bilingual/EL	21.7%	35.1%	21.7%
Mobility Rate (2020-21)			
	17.8%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	17.6	18.2	18.7
Grade 1	19.2	15.7	18.7
Grade 2	10.1	15.4	18.6
Grade 3	13.9	14.4	18.7
Grade 4	11.8	13.7	18.8
Grade 5	13.2	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$8,558	\$10,524	\$11,106
Instruction	\$6,265	\$5,989	\$6,358
Instructional Leadership	\$98	\$185	\$186
School Leadership	\$916	\$749	\$654

Texas Education Agency
2022 School Report Card
MCGOWEN EL (101912179) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	54%	54%	53%	*	-	-	-	*	54%
	2021	67%	57%	35%	35%	31%	50%	-	-	-	-	35%
ELA/Reading	2022	75%	70%	62%	63%	58%	*	-	-	-	*	62%
	2021	68%	60%	44%	47%	36%	*	-	-	-	-	45%
Mathematics	2022	72%	67%	50%	51%	50%	*	-	-	-	*	50%
	2021	66%	53%	29%	27%	31%	*	-	-	-	-	30%
Science	2022	76%	68%	42%	38%	48%	-	-	-	-	-	43%
	2021	71%	59%	26%	21%	31%	-	-	-	-	-	27%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	27%	26%	28%	*	-	-	-	*	27%
	2021	41%	33%	12%	15%	8%	0%	-	-	-	-	12%
ELA/Reading	2022	53%	49%	35%	36%	32%	*	-	-	-	*	34%
	2021	45%	38%	17%	21%	7%	*	-	-	-	-	17%
Mathematics	2022	42%	38%	25%	22%	29%	*	-	-	-	*	25%
	2021	37%	27%	11%	12%	10%	*	-	-	-	-	11%
Science	2022	47%	39%	12%	10%	14%	-	-	-	-	-	12%
	2021	44%	33%	5%	7%	0%	-	-	-	-	-	5%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	11%	9%	13%	*	-	-	-	*	11%
	2021	18%	15%	6%	7%	2%	0%	-	-	-	-	6%
ELA/Reading	2022	25%	24%	14%	14%	15%	*	-	-	-	*	14%
	2021	18%	16%	10%	12%	2%	*	-	-	-	-	10%
Mathematics	2022	20%	19%	9%	5%	13%	*	-	-	-	*	8%
	2021	18%	13%	4%	5%	3%	*	-	-	-	-	4%
Science	2022	21%	17%	8%	7%	10%	-	-	-	-	-	8%
	2021	20%	14%	0%	0%	0%	-	-	-	-	-	0%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	87	84	90	-	-	-	-	-	88
	2019	69	68	73	68	83	-	-	-	-	-	72
ELA/Reading	2022	78	81	84	83	84	-	-	-	-	-	85
	2019	68	68	72	69	78	-	-	-	-	-	71
Mathematics	2022	69	75	90	85	96	-	-	-	-	-	91
	2019	70	68	73	67	88	-	-	-	-	-	72
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	509
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



85 of 100



69 of 100



88 of 100



78 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
 COOK JR EL (101912358) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about COOK JR EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	85.6%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	52.3%	22.1%	12.8%
Hispanic	44.4%	61.9%	52.8%
White	1.8%	9.7%	26.3%
American Indian	0.4%	0.2%	0.3%
Asian	0.2%	4.5%	4.8%
Pacific Islander	0.2%	0.1%	0.2%
Two or More Races	0.8%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	98.2%	79.2%	60.7%
Special Education	6.1%	8.4%	11.6%
Emergent Bilingual/EL	25.1%	35.1%	21.7%
Mobility Rate (2020-21)			
	22.7%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	15.9	18.2	18.7
Grade 1	16.6	15.7	18.7
Grade 2	16.0	15.4	18.6
Grade 3	18.5	14.4	18.7
Grade 4	16.2	13.7	18.8
Grade 5	17.0	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$9,311	\$10,524	\$11,106
Instruction	\$6,762	\$5,989	\$6,358
Instructional Leadership	\$113	\$185	\$186
School Leadership	\$870	\$749	\$654

Texas Education Agency
2022 School Report Card
 COOK JR EL (101912358) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	64%	62%	69%	50%	-	*	-	*	64%
	2021	67%	57%	56%	48%	70%	-	-	-	-	-	55%
ELA/Reading	2022	75%	70%	72%	75%	69%	*	-	*	-	*	72%
	2021	68%	60%	56%	47%	70%	-	-	-	-	-	54%
Mathematics	2022	72%	67%	64%	58%	76%	*	-	*	-	*	64%
	2021	66%	53%	61%	54%	74%	-	-	-	-	-	59%
Science	2022	76%	68%	42%	37%	48%	*	-	-	-	-	42%
	2021	71%	59%	38%	35%	50%	-	-	-	-	-	36%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	37%	33%	42%	40%	-	*	-	*	36%
	2021	41%	33%	30%	21%	43%	-	-	-	-	-	29%
ELA/Reading	2022	53%	49%	37%	35%	39%	*	-	*	-	*	37%
	2021	45%	38%	38%	29%	54%	-	-	-	-	-	38%
Mathematics	2022	42%	38%	43%	37%	56%	*	-	*	-	*	43%
	2021	37%	27%	25%	14%	45%	-	-	-	-	-	25%
Science	2022	47%	39%	17%	18%	16%	*	-	-	-	-	17%
	2021	44%	33%	9%	12%	0%	-	-	-	-	-	9%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	19%	16%	26%	20%	-	*	-	*	19%
	2021	18%	15%	14%	10%	21%	-	-	-	-	-	14%
ELA/Reading	2022	25%	24%	20%	16%	28%	*	-	*	-	*	20%
	2021	18%	16%	15%	14%	19%	-	-	-	-	-	15%
Mathematics	2022	20%	19%	23%	18%	32%	*	-	*	-	*	22%
	2021	18%	13%	16%	9%	29%	-	-	-	-	-	16%
Science	2022	21%	17%	6%	5%	6%	*	-	-	-	-	6%
	2021	20%	14%	6%	8%	0%	-	-	-	-	-	6%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	80	83	75	-	-	-	-	-	80
	2019	69	68	72	67	80	-	-	-	-	-	72
ELA/Reading	2022	78	81	72	77	63	-	-	-	-	-	73
	2019	68	68	70	66	77	-	-	-	-	-	70
Mathematics	2022	69	75	87	89	85	-	-	-	-	-	87
	2019	70	68	74	68	82	-	-	-	-	-	74
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

Table: ACSST5Y2021.S2801

Census Tract 2109, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	454	±114	77.5%		±10.6
Dial-up with no other type of Internet subscription	0	±14	0.0%		±7.8
Broadband of any type	454	±114	77.5%		±10.6
Cellular data plan	404	±121	68.9%		±11.8
Cellular data plan with no other type of Internet subscription	87	±70	14.8%		±11.7
Broadband such as cable, fiber optic or DSL	353	±122	60.2%		±16.0
Satellite Internet service	46	±36	7.8%		±6.3
Without an Internet subscription	132	±62	22.5%		±10.6

Table: ACSST5Y2021.S2801

Census Tract 2110, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	466	±106	59.4%		±13.0
Dial-up with no other type of Internet subscription	0	±14	0.0%		±5.9
Broadband of any type	466	±106	59.4%		±13.0
Cellular data plan	446	±106	56.9%		±13.1
Cellular data plan with no other type of Internet subscription	102	±70	13.0%		±8.5
Broadband such as cable, fiber optic or DSL	351	±92	44.8%		±12.0
Satellite Internet service	57	±45	7.3%		±5.7
Without an Internet subscription	318	±126	40.6%		±13.0

Table: ACSST5Y2021.S2801

Census Tract 2112, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	657	±158	61.8%	±11.8	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±4.4	
Broadband of any type	657	±158	61.8%	±11.8	
Cellular data plan	637	±162	59.9%	±12.1	
Cellular data plan with no other type of Internet subscription	250	±132	23.5%	±11.5	
Broadband such as cable, fiber optic or DSL	407	±134	38.3%	±11.8	
Satellite Internet service	19	±23	1.8%	±2.2	
Without an Internet subscription	406	±142	38.2%	±11.8	

Table: ACSST5Y2021.S2801

Census Tract 2117, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,017	±179	79.1%	±9.4	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±3.6	
Broadband of any type	1,017	±179	79.1%	±9.4	
Cellular data plan	927	±187	72.1%	±10.2	
Cellular data plan with no other type of Internet subscription	233	±114	18.1%	±8.4	
Broadband such as cable, fiber optic or DSL	706	±184	54.9%	±12.4	
Satellite Internet service	198	±129	15.4%	±9.4	
Without an Internet subscription	269	±126	20.9%	±9.4	

Table: ACSST5Y2021.S2801

Census Tract 2301, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	463	±198	76.0%		±12.5
Dial-up with no other type of Internet subscription	0	±14	0.0%		±7.5
Broadband of any type	463	±198	76.0%		±12.5
Cellular data plan	449	±202	73.7%		±13.4
Cellular data plan with no other type of Internet subscription	232	±187	38.1%		±20.7
Broadband such as cable, fiber optic or DSL	216	±79	35.5%		±14.7
Satellite Internet service	23	±20	3.8%		±3.6
Without an Internet subscription	146	±64	24.0%		±12.5

Table: ACSST5Y2021.S2801

Census Tract 2302, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,259	±186	72.2%	±7.0	
Dial-up with no other type of Internet subscription	0	±20	0.0%	±2.7	
Broadband of any type	1,259	±186	72.2%	±7.0	
Cellular data plan	1,164	±195	66.7%	±7.7	
Cellular data plan with no other type of Internet subscription	344	±138	19.7%	±8.0	
Broadband such as cable, fiber optic or DSL	882	±194	50.6%	±8.6	
Satellite Internet service	55	±49	3.2%	±2.8	
Without an Internet subscription	485	±129	27.8%	±7.0	

Table: ACSST5Y2021.S2801

Census Tract 2303, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	675	±123	83.4%	±7.9	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±5.7	
Broadband of any type	675	±123	83.4%	±7.9	
Cellular data plan	642	±123	79.4%	±7.6	
Cellular data plan with no other type of Internet subscription	165	±85	20.4%	±10.1	
Broadband such as cable, fiber optic or DSL	504	±113	62.3%	±10.0	
Satellite Internet service	66	±53	8.2%	±6.3	
Without an Internet subscription	134	±63	16.6%	±7.9	

Table: ACSST5Y2021.S2801

Census Tract 2304, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	884	±375	80.5%	±9.9	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±4.2	
Broadband of any type	884	±375	80.5%	±9.9	
Cellular data plan	852	±378	77.6%	±11.1	
Cellular data plan with no other type of Internet subscription	305	±128	27.8%	±13.5	
Broadband such as cable, fiber optic or DSL	506	±363	46.1%	±20.3	
Satellite Internet service	73	±71	6.6%	±6.8	
Without an Internet subscription	214	±98	19.5%	±9.9	

Table: ACSST5Y2021.S2801

Census Tract 2309, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,182	±211	74.8%	±9.4	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±3.0	
Broadband of any type	1,182	±211	74.8%	±9.4	
Cellular data plan	1,110	±213	70.3%	±9.7	
Cellular data plan with no other type of Internet subscription	314	±144	19.9%	±8.5	
Broadband such as cable, fiber optic or DSL	777	±179	49.2%	±9.6	
Satellite Internet service	147	±107	9.3%	±6.5	
Without an Internet subscription	398	±151	25.2%	±9.4	



EJScreen Community Report

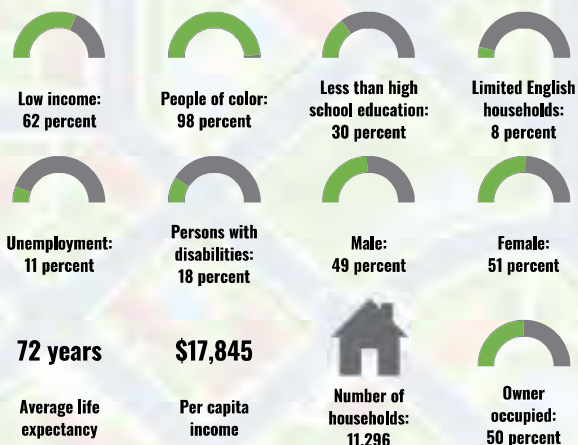
This report provides environmental and socioeconomic information for user-defined areas, and combines that data into environmental justice and supplemental indexes.

Houston, TX

2 miles Ring Centered at 29.811232,-95.306225
 Population: 32,464
 Area in square miles: 12.56



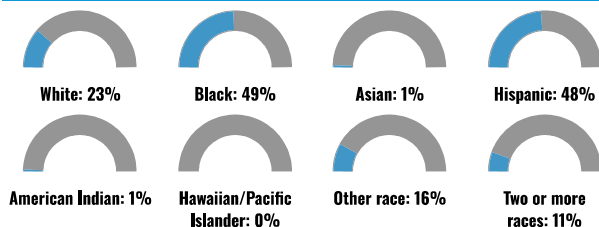
COMMUNITY INFORMATION



LANGUAGES SPOKEN AT HOME

LANGUAGE	PERCENT
English	58%
Spanish	42%
Total Non-English	42%

BREAKDOWN BY RACE



BREAKDOWN BY AGE



LIMITED ENGLISH SPEAKING BREAKDOWN



Notes: Numbers may not sum to totals due to rounding. Hispanic population can be of any race. Source: U.S. Census Bureau, American Community Survey (ACS) 2017-2021. Life expectancy data comes from the Centers for Disease Control.

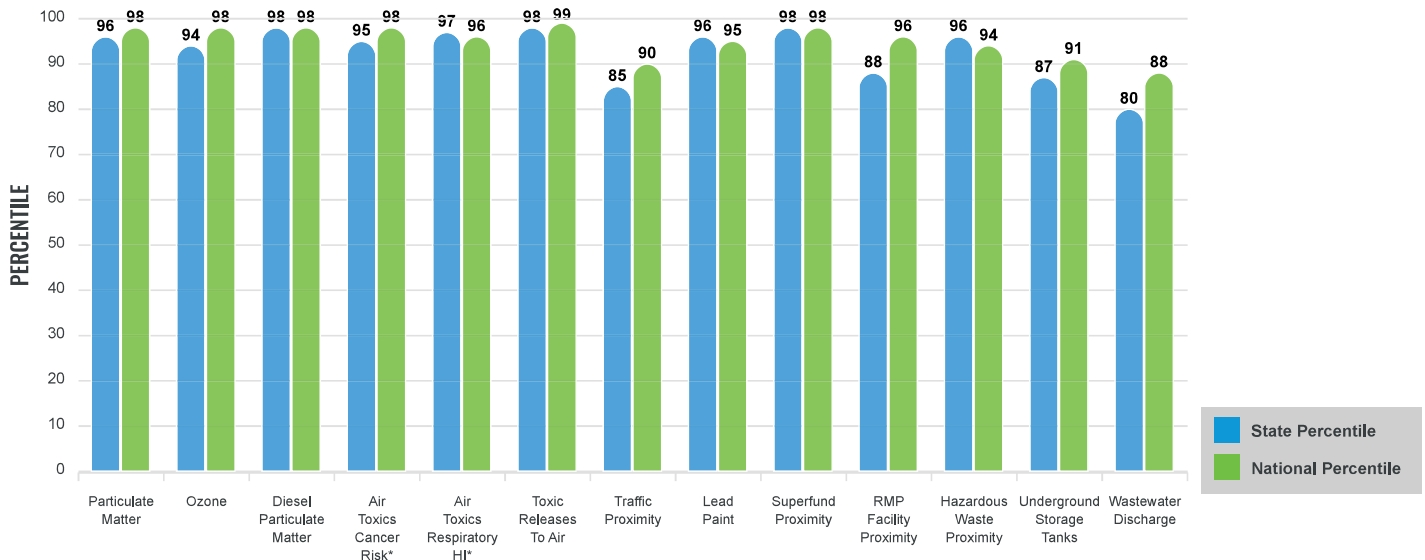
Environmental Justice & Supplemental Indexes

The environmental justice and supplemental indexes are a combination of environmental and socioeconomic information. There are thirteen EJ indexes and supplemental indexes in EJScreen reflecting the 13 environmental indicators. The indexes for a selected area are compared to those for all other locations in the state or nation. For more information and calculation details on the EJ and supplemental indexes, please visit the [EJScreen website](#).

EJ INDEXES

The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.

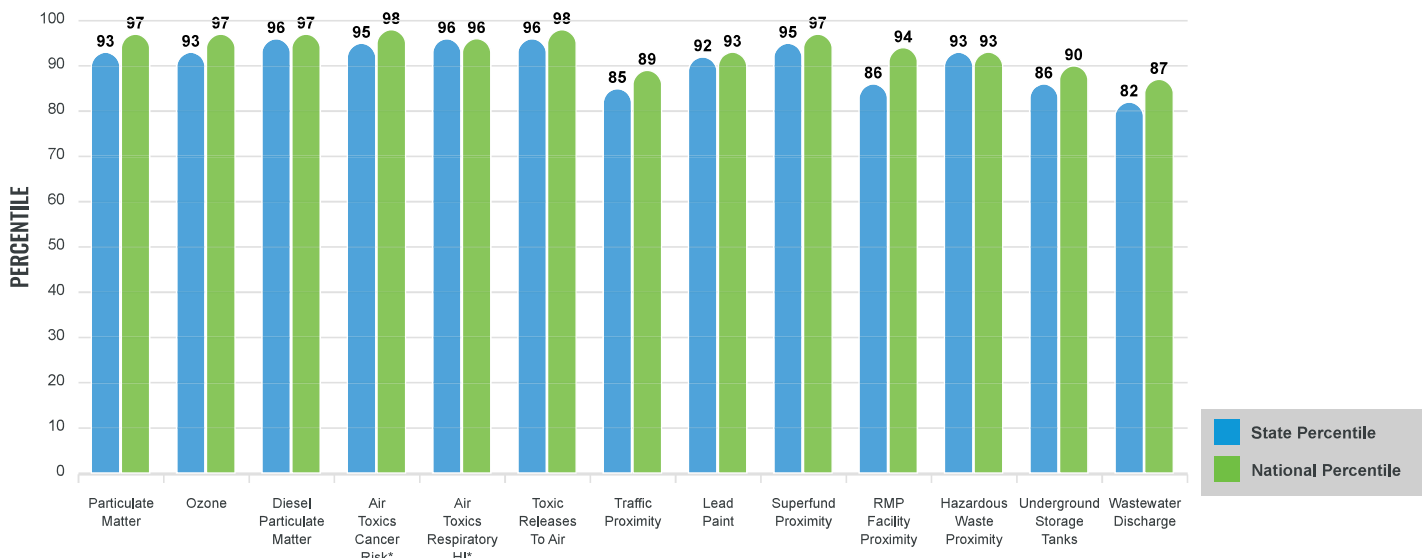
EJ INDEXES FOR THE SELECTED LOCATION



SUPPLEMENTAL INDEXES

The supplemental indexes offer a different perspective on community-level vulnerability. They combine data on percent low-income, percent linguistically isolated, percent less than high school education, percent unemployed, and low life expectancy with a single environmental indicator.

SUPPLEMENTAL INDEXES FOR THE SELECTED LOCATION



These percentiles provide perspective on how the selected block group or buffer area compares to the entire state or nation.

Report for 2 miles Ring Centered at 29.811232,-95.306225

EJScreen Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter (µg/m ³)	10.3	9.11	90	8.08	95
Ozone (ppb)	68.6	64.6	76	61.6	90
Diesel Particulate Matter (µg/m ³)	0.51	0.218	98	0.261	91
Air Toxics Cancer Risk* (lifetime risk per million)	36	28	44	25	52
Air Toxics Respiratory HI*	0.41	0.3	80	0.31	70
Toxic Releases to Air	53,000	12,000	94	4,600	98
Traffic Proximity (daily traffic count/distance to road)	210	150	81	210	76
Lead Paint (% Pre-1960 Housing)	0.52	0.17	89	0.3	74
Superfund Proximity (site count/km distance)	0.64	0.085	98	0.13	96
RMP Facility Proximity (facility count/km distance)	0.83	0.63	77	0.43	85
Hazardous Waste Proximity (facility count/km distance)	2.2	0.75	91	1.9	75
Underground Storage Tanks (count/km ²)	3.7	2.3	77	3.9	71
Wastewater Discharge (toxicity-weighted concentration/m distance)	0.01	0.91	71	22	67
SOCIOECONOMIC INDICATORS					
Demographic Index	80%	46%	91	35%	95
Supplemental Demographic Index	28%	17%	86	14%	92
People of Color	98%	58%	91	39%	95
Low Income	62%	34%	85	31%	89
Unemployment Rate	11%	5%	84	6%	83
Limited English Speaking Households	9%	8%	70	5%	83
Less Than High School Education	30%	16%	81	12%	91
Under Age 5	7%	6%	59	6%	67
Over Age 64	13%	14%	51	17%	37
Low Life Expectancy	27%	20%	97	20%	95

*Diesel particulate matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/haps/air-toxics-data-update>.

Sites reporting to EPA within defined area:

Superfund	0
Hazardous Waste, Treatment, Storage, and Disposal Facilities	3
Water Dischargers	90
Air Pollution	8
Brownfields	5
Toxic Release Inventory	16

Other community features within defined area:

Schools	8
Hospitals	2
Places of Worship	115

Other environmental data:

Air Non-attainment	Yes
Impaired Waters	Yes

Selected location contains American Indian Reservation Lands*	No
Selected location contains a "Justice40 (CEJST)" disadvantaged community	Yes
Selected location contains an EPA IRA disadvantaged community	Yes

Report for 2 miles Ring Centered at 29.811232, -95.306225

EJScreen Environmental and Socioeconomic Indicators Data

HEALTH INDICATORS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Low Life Expectancy	27%	20%	97	20%	95
Heart Disease	8.5	5.9	89	6.1	88
Asthma	11.2	9.2	95	10	81
Cancer	5.1	5.2	49	6.1	26
Persons with Disabilities	17.3%	12.3%	80	13.4%	76

CLIMATE INDICATORS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Flood Risk	10%	10%	74	12%	65
Wildfire Risk	0%	30%	0	14%	0

CRITICAL SERVICE GAPS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Broadband Internet	26%	15%	80	14%	84
Lack of Health Insurance	30%	18%	86	9%	98
Housing Burden	Yes	N/A	N/A	N/A	N/A
Transportation Access	Yes	N/A	N/A	N/A	N/A
Food Desert	Yes	N/A	N/A	N/A	N/A

Footnotes

Report for 2 miles Ring Centered at 29.811232,-95.306225

EXHIBIT 6

Plaintiffs' Petition for Judicial Review

PUBLIC COMMENT LETTER

Re: TEXAS COASTAL MATERIALS, LLC
NOTICE OF APPLICATION FOR AN AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND
CONCRETE CRUSHERS: REGISTRATION NUMBER 173296

To whom it may concern,

Harris Health System, the public safety-net healthcare provider in Harris County, Texas, stands in strong opposition and urges the application denial of Texas Coastal Materials, LLC, to construct a permanent rock and concrete crushing facility at 5875 Kelley St., Houston, Texas 77026. The proposed location is approximately 400 yards away from Harris Health Lyndon B. Johnson (LBJ) Hospital, a 215 licensed-bed acute care facility providing full medical services to more than 18,000 inpatient admissions and 80,000 emergency visits annually. Located at 5656 Kelley St., Houston, Texas 77026, the hospital directly serves the northeast quadrant of Harris County through its Level 3 trauma and emergency center, serving as one of the state's busiest Level 3 hospitals and a vital hospital partner in the emergency response system for Houston and Harris County.

If allowed to proceed, the proposed concrete crushing facility poses significant health and environmental concerns for all patients, visitors, staff, and area residents because of potential harmful pollutants emitted daily from plant operations. Allowing such a business to move forward would further exacerbate the long-standing health disparities and inequities facing the community—mostly people of color and low socio-economic status.

LBJ Hospital is part of a large safety-net system providing over \$796 million in charity care annually to uninsured patients. Located in a hospital desert area, LBJ Hospital is the only large medical provider with life-saving services in the area for miles around. Most who come to LBJ Hospital have nowhere else to go. For this reason, construction of the crusher plant so close to this essential hospital further risks the health and well-being of sick and vulnerable patients.

Crusher plants like the one proposed by Texas Coastal Materials release air pollutants including particulate matter (PM) of different sizes (coarse PM10 and fine PM2.5), which pose significant health risks to the community. For instance, exposure to PM2.5, the main driver of health-harming air pollution, is linked to ischemic heart disease, lung cancer, chronic obstructive pulmonary disease (COPD), lower-respiratory infections, stroke and premature death. In 2015, Houston witnessed 5,200 premature deaths directly attributed to particulate matter from these plants. A 2023 study estimated that 101 concrete batch plants in greater Houston collectively release approximately 111 tons of PM2.5 annually.

In addition to increasing levels of health-harming particulate matter pollution, cement production also generates crystalline silica dust, a toxic material that is directly related to the development and worsening of health conditions including silicosis, lung cancer, COPD, kidney

PUBLIC COMMENT LETTER

failure and autoimmune disease. According to research, 1,437 deaths were identified and linked to silicosis over a decade. Additionally, nitric oxide and nitrogen dioxide, byproducts of combustion in these plants have been shown to irritate the lungs and worsen a host of respiratory and cardiovascular conditions including pneumonia, influenza, chronic obstructive pulmonary disease, pleurisy, ischemic heart disease, cardiac arrhythmias, heart failure, and thrombosis.

Faced with historic discrimination, communities of color (Black and Latino) in Houston and Harris County—including those in the service area of LBJ Hospital— are exposed to a disproportionate share of air pollution and environmental hazards. In Houston, 54% of concrete facilities are located in communities of color contributing to racial inequities in respiratory health outcomes. In fact, areas near LBJ Hospital report some of the highest rates of COPD and asthma cases compared to other parts of the county, and LBJ Hospital’s Emergency Center sees significantly higher proportional volumes of patients with respiratory conditions than hospitals in other areas of Harris County.

It should also be noted that the Harris County Attorney’s Office discovered that Texas Coastal Material, LLC chose to publish its required public notice outside of the Houston area in an obvious effort to keep the community uninformed.

For these reasons, allowing a rock and concrete crushing plant near LBJ Hospital and in this part of Harris County poses a significant danger to public health and safety, particularly for vulnerable patients who depend on the hospital's emergency and acute care services daily. Given the evidence of the harmful effects of crushing plants and their added contribution to existing racial and environmental disparities, it is imperative to prioritize the well-being of this community and summarily reject the proposed permit application at this location. Environmental justice and health equity must be at the forefront of our decision-making process to protect the most vulnerable among us for years to come.

Esmail Porsa, MD, MBA, MPH, CCHP-A (He, His)
President and CEO



Administration
4800 Fournace Place | Bellaire, TX 77401
Email: esmail.porsa@harrishealth.org

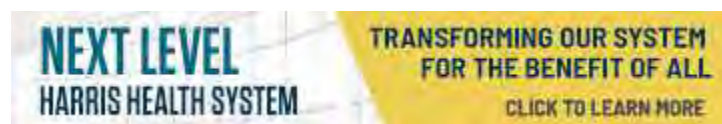


EXHIBIT 7

Plaintiffs' Petition for Judicial Review



December 6, 2023

Via TCEQ E-Comments

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: Harris County and Harris Health Comments; Texas Coastal Materials, LLC; Regulated Entity Id No. RN111769154; Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley Street, Houston, Texas 77026.

Dear Ms. Gharis:

The Harris County Hospital District d/b/a the Harris Health System (“Harris Health”) and Harris County, jointly submit these comments on Texas Coastal Materials, LLC’s (“Texas Coastal”) application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the Application”). Harris Health is a political subdivision of the State of Texas, a unit of local government and a hospital district under Texas law, it is the public safety-net healthcare provider in Harris County, Texas. Harris County is also a local subdivision of the State of Texas. On September 11, 2023, Harris Health and Harris County submitted a letter to the Texas Commission on Environmental Quality (“TCEQ”) flagging errors with Texas Coastal’s newspaper notice, requesting Texas Coastal be required to re-publish the “Notice of Application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers” and that TCEQ hold a public meeting on the Application. Harris Health and Harris County would like to thank TCEQ for agreeing that the notice was deficient,¹ requiring Texas Coastal to publish legally sufficient notice and for holding an informational meeting for the public.² However, Harris Health and Harris County have significant concerns with holding an informational only meeting, assert that the Applicant fails to qualify for the TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the “Rock Crusher Standard Permit”), and asks whether the Rock Crusher Standard Permit is adequately protective of human health and the environment. For reasons further described below, Harris County and

¹ TCEQ Notice of Deficiency, Letter from Aine Carroll to Blake Hays, September 19, 2023, attached as Exhibit A.

² Harris County and Harris Health comment letter to the TCEQ, September 11, 2023, attached as Exhibit B.

Harris Health request TCEQ deny the Application and fully evaluate the protectiveness of the Rock Crusher Standard Permit before authorizing any additional facilities under its terms. In support, Harris Health and Harris County would show the following:

A. Background

On July 7, 2023, Texas Coastal submitted the Application requesting authorization to construct and operate a new permanent rock and concrete crushing facility at 5875 Kelley Street, Houston, Texas 77026 (“Facility”) under the Rock Crusher Standard Permit. The Facility will be located northeast of a densely populated residential neighborhood, adjacent to walking/hiking trails along Hunting Bayou, and is less than 440 yards (.25 miles) from Harris Health Lyndon B. Johnson Hospital (“LBJ Hospital”), a 215 licensed-bed acute care hospital that offers a full range of medical services, spiritual care, is the State’s busiest Level III trauma center and is a major teaching hospital for the McGovern Medical School at the University of Texas Health Science Center at Houston (UT Health).³ Texas Coastal paid for expedited permitting and on August 14, 2023, TCEQ determined the Application was technically complete.



Figure 1: Map demonstrating distance of Facility from LBJ Hospital

³ UTHealth Houston – McGovern Medical School, *Lyndon B. Johnson Hospital*, MED.UTH.EDU, <https://med.uth.edu/harrishealth/> (last visited Nov. 30, 2023).



Figure 2: Map demonstrating distance of Facility from LBJ Hospital



Figure 3: Map demonstrating distance of Facility from LBJ Hospital

1. Harris Health

The Harris County Hospital District was created by voter referendum in November 1965.⁴ In 1966, the Harris County Hospital District came into being as a political subdivision with taxing authority and assumed ownership of the city-council hospitals.⁵ This political subdivision would take on the name “Harris Health.” On June 2, 1989, LBJ Hospital opened

⁴ Harris Health System, *Harris Health History*, HARRISHEALTH.ORG, <https://www.harrishealth.org/about-us-hh/who-we-are/Pages/history.aspx> (last visited Nov. 30, 2023).

⁵ *Id.*

to the public and would go on to become the first hospital in Texas to receive a Level III trauma designation.⁶ Over the years, Harris Health and LBJ Hospital continued to expand to meet the needs of the Houston community, but upgrades of additional infrastructure and an expansion of LBJ Hospital is needed to provide services to our communities. This led Harris County Commissioners Court to approve a \$2.5 billion bond proposal to build an extension onto LBJ hospital.⁷ The bond was overwhelmingly approved by the public this November.⁸ On October 19, 2023, Harris Health filed comments with the TCEQ detailing concerns with potential health impacts from Facility pollutants on community members, including those it serves at LBJ Hospital.⁹

2. Harris County Pollution Control Services

As a local government, Harris County has the authority to inspect the Facility for compliance with various state environmental statutes, and TCEQ rules and orders issued thereunder.¹⁰ In addition to these investigatory powers, Harris County, as a local government, has the authority to file civil suit in the same manner as the TCEQ for injunctive relief, civil penalties, or both.¹¹

Harris County Pollution Control Services (“Pollution Control”) is the Harris County department designated to inspect facilities in Harris County for compliance with environmental quality laws and regulations (air, water, and waste), review permit applications, and submit comments to the TCEQ on permitting actions. Pollution Control also works closely with the TCEQ’s Houston regional office that as a matter of course refers a substantial portion of environmental complaints, including nuisance complaints, from Harris County citizens to Pollution Control. As a part of its mission, Pollution Control conducts routine and complaint driven investigations, issues Violation Notices when appropriate, and refers cases to the Harris County Attorney’s Office or District Attorney’s Office for civil or criminal enforcement.

It is based on Pollution Control and Harris Health’s experience and specialized

⁶ *Id.*

⁷ Adam Zuvanich, *County commissioners vote to put \$2.5 billion bond proposal for Harris Health System on November ballot*, HOUSTON PUBLIC MEDIA (Aug. 17, 2023, 2:48 PM), <https://www.houstonpublicmedia.org/articles/news/health-science/medicine-wellness/2023/08/17/459869/county-commissioners-vote-to-put-2-5-billion-bond-proposal-for-harris-health-system-on-november-ballot/>.

⁸ Harris County Chief Clerk, *Harris County November 2023 General and Special Election, Harris County Hospital District – Proposition A*, HARRISVOTES.COM (November 7, 2023) <https://www.harrisvotes.com/Election-Results/Live-Results>.

⁹ Harris Health Comment Letter, October 19, 2023, attached as Exhibit C.

¹⁰ Tex. Health & Safety Code §§ 361.032, 382.111; and Tex. Water Code § 26.173. Harris County can investigate and/or pursue enforcement within its jurisdiction, which includes everything within the physical boundaries of Harris County. The Facility will be within the physical boundaries of Harris County and therefore within its jurisdiction.

¹¹ Tex. Water Code § 7.351.

knowledge that these comments are submitted to TCEQ for consideration.

B. Application Deficiencies

Texas Coastal’s Application seeks authorization to operate under the Rock Crusher Standard Permit, which “prohibit[s] the operation of a concrete crushing facility within 440 yards of a building in use as a single family or multifamily residence, *school*, or *place of worship* at the time the application for a permit to operate the facility . . . is filed with the commission.”¹² LBJ Hospital is within 440 yards of the proposed Facility, and while the hospital’s primary purpose is providing medical services, as further discussed below, it also operates as a place of worship and school.

1. The Application should be denied because the Facility is located within 440 yards of a place of worship.

While the Rock Crusher Standard Permit and TCEQ rules do not define “place of worship,” the Texas Civil Practice and Remedies Code defines it as “a building or grounds where religious activities are conducted.”¹³ Texas Courts have defined “place of worship” broadly. For example, Texas courts have held in other contexts that places of worship need not always be traditional churches or even be exclusively used for religious instruction. In *Kerrville Independent School District v. Southwest Texas Encampment Ass’n*, the Court of Appeals of Texas in San Antonio held that it wasn’t erroneous for the jury to have concluded that a campground run by a Methodist group constituted a place of worship and was therefore exempt from certain taxes.¹⁴ The Texas Supreme Court has held that the phrase “place of worship” in the Texas Constitution specifically means “a place where a number of persons meet together for the purpose of worshipping God.”¹⁵

Harris Health spiritual care “consists of chaplains from various faith groups” that offer “spiritual services” including “support in the use of personal resources of faith . . . comfort in times of grief . . . and [helping] to explore questions of faith and spirituality.”¹⁶ LBJ Hospital Spiritual Care provides religious support to patients, patient families and hospital staff throughout the LBJ Hospital complex building, which includes a Multi-Faith Hospital Chapel

¹² Tex. Health & Safety Code § 382.065(a) (emphasis added).

¹³ Tex. Civ. Prac. & Rem. Code § 110.001(3).

¹⁴ *Kerrville Independent School Dist. v. Southwest Texas Encampment Ass’n*, 673 S.W.2d 256 (Tex.App.—San Antonio 1984, writ ref’d n.r.e.).

¹⁵ *Davies v. Meyer*, 541 S.W.2d 827, 830 (Tex. 1976) (citing *Church v. Bullock*, 104 Tex. 1, 109 S.W. 115 (1908)).

¹⁶ Harris Health System, *Spiritual Care*, HARRISHEALTH.ORG, <https://www.harrishealth.org/services-hh/hospitality/Pages/spiritual-care.aspx> (last visited November 30, 2023).

(“LBJ Chapel”), located at the hospital’s main entrance.¹⁷ See below for pictures of LBJ Chapel. LBJ Chapel is always open “for those in need of a quiet place for prayer, meditation and personal reflection” and has dedicated times for “worship events on weekends and weekdays,” including a Catholic mass every Wednesday at Noon,¹⁸ daily morning prayer meetings, and afternoon Islamic prayer.¹⁹

In addition to regularly scheduled worship at the LBJ Chapel, Spiritual Care staff coordinate special occasion events, such as baptisms and memorial services, and provide religious support at the LBJ Chapel, patient rooms, staff offices, hospital units, or any other locations as needed by those that visit or work within the hospital walls.²⁰ LBJ Hospital Spiritual Care Chaplains are on-site 24 hours a day and during certain times of the year have multiple persons on-shift.²¹ Thus, LBJ Hospital functions as a place of worship – and does so on a 24-hour, 7 day a week basis.



Photos 1: Pictures of LBJ Chapel

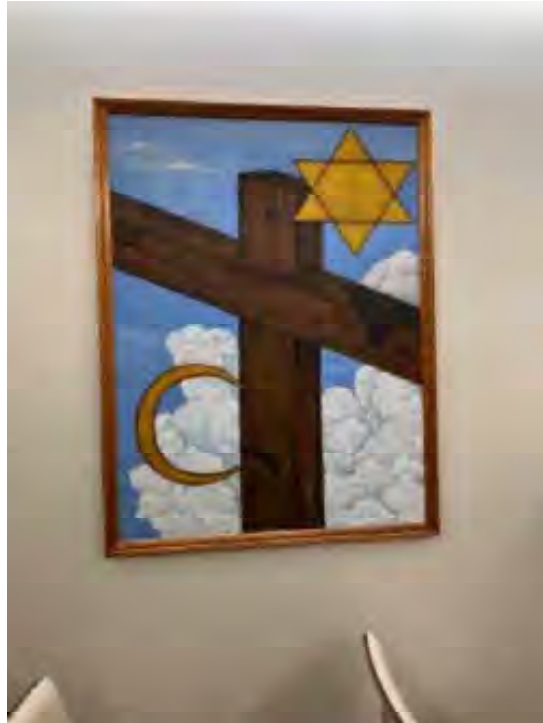
¹⁷ See Affidavit of Suzanne Knott-Jackson, Harris Health Spiritual Care Department Director, attached as Exhibit D, incorporated herein in full for all purposes.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*



Photos 1 (cont.): Pictures of LBJ Chapel

As evidenced by its chapel and spiritual care, LBJ Hospital is a place where religious activities are conducted and where people worship God. While LBJ Hospital’s primary purpose is to provide medical services, nothing in the legal definition or caselaw concerning “places of worship” requires a traditional stand-alone church. If the requirement was only to apply to churches, one would have expected the legislature to explicitly say “church” as it did in Chapter 397 of the Transportation Code.²² Thus, LBJ Hospital meets the criterion for being a place of worship and the 440-yard distance prohibition from the Facility should apply to LBJ Hospital. As such, the permit Application should be denied for violating distance limitations from places of worship placed on concrete crushers.

2. The Application should be denied because the Facility is located within 440 yards of a school.

As mentioned above, a permanent rock and concrete crushing facility cannot be located within 440 yards of a school. Here again, “school” is not a defined term within the Texas Clean Air Act. Nonetheless, LBJ Hospital should be considered a school for purposes of the distance limitation applied to permanent rock and concrete crushers because it serves the same function as a traditional school. LBJ Hospital is a major teaching hospital for the UT Health System. The University of Texas and Harris Health have an affiliation and support agreement under

²² Tex. Trans. Code Sec. 397.011.

Texas Health and Safety Code Chapter 312. Harris Health has affiliation agreements with other schools to provide clinical education as well. LBJ Hospital has multiple classrooms in which traditional classroom learning and practicum classes are taught. The UT Health system currently has 700 college students studying at LBJ Hospital. Moreover, LBJ Hospital has a program that brings local high school students to the hospital for experiential learning. Approximately 160 high school students are currently rotating through LBJ Hospital. See below for photos taken of the classrooms within LBJ Hospital. While other portions of the Texas Clean Air Act reference “elementary, junior high, or senior high school”²³ the language used in § 382.056 instead simply says “school.” Arguably, this means that the distance limitations should be understood to capture university-level education as well, much like the schooling performed by UT Health at LBJ Hospital. Accordingly, LBJ Hospital should be considered a “school”, and the 440-yard distance limitation must apply. Because LBJ Hospital is located within 440 yards of the proposed Facility, its application for a standard permit must be denied.



Photos 2: Pictures from the UT Medical School at LBJ Hospital

²³ Tex. Health & Safety Code § 382.052.



Photos 2 (cont): Pictures from the UT Medical School at LBJ Hospital

3. The Application should be denied because it fails to correctly identify the nearest place of worship.

The Application notes that the nearest place of worship is Garden Grove Christian Church.²⁴ The Application map, provided in Figure 4 fails to identify multiple places of worship closer to the Facility than Garden Grove Baptist Church: LBJ Hospital/LBJ Chapel,

²⁴ Texas Coastal Materials, Permit Application, Appendix B: Maps and Flows, Pg. B-4.

Christ Temple Apostolic Church, New Mount Calvary Baptist Church (the location TCEQ picked for the informational meeting on the permit application), Canaan Baptist Church, and St. Francis of Assisi Catholic Church. If LBJ Hospital was not considered a place of worship, St. Francis of Assisi would be the closest place of worship to the Facility. St. Francis of Assisi is located at 5102 Dabney Street, Houston, Texas and is noted below in Figure 5. The location of LBJ Hospital is noted above in Figures 1-3. Notably, St. Francis of Assisi uses the outside spaces (within 440-yards of the proposed facility) for worship at various times throughout the year. The Application is deficient unless these errors are corrected and should be denied.²⁵



Figure 4: Application Map denoting nearest church as Garden Grove Baptist Church.

²⁵ Tex. Health & Safety Code § 382.065; 30 Tex. Admin. Code §§ 116.111(a)(2)(A)(i) and 116.112(b)(2); See also TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers at Pages 17 and 22, TCEQ.GOV (July 31, 2008), https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/permcrushsp_pack.pdf, attached as Exhibit E.



Figure 5: Map noting the location of St. Francis of Assisi Catholic Church

4. The Application should be denied because it fails to correctly identify the nearest school.

The Application notes that the nearest school is McGowen Elementary School.²⁶ The Application map, provided in Figure 6 fails to identify the University of Texas Medical School at Houston campus at LBJ Hospital as a nearby school. Accordingly, the Application is deficient unless this error is corrected and should be denied.²⁷

²⁶ Texas Coastal Materials, Permit Application, Appendix B: Maps and Flows, at Page. B-5.

²⁷ Tex. Health & Safety Code § 382.065; 30 Tex. Admin. Code §§ 116.111(a)(2)(A)(i) and 116.112(b)(2); *See also* TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers, *supra* note 25, at Pages 17 and 22.



Figure 6: Application Map denoting nearest school as McGown Elementary School

C. Rock Crusher Standard Permit Deficiencies

On July 31, 2008, the TCEQ issued the Rock Crusher Standard Permit. Prior to issuing the permit, TCEQ performed a protectiveness review – evaluating emissions by dispersion modeling. During a protectiveness review, TCEQ evaluates modeled emissions from a new or modified facility and determines if the predicted highest concentration of air pollutants at or beyond the property line is less than the respective NAAQS and is presumably protective.²⁸ Whether background concentrations are added to the modeled emissions before the concentration is compared to the respective NAAQS is discussed below. Total particulate matter emissions in each permit evaluation must meet NAAQS.²⁹ In other words, modeled emissions meeting or exceeding the respective NAAQS found beyond the property line demonstrate that operations at the proposed facility would not be protective of human health, general welfare, and physical property. For this permit, two separate modeling analysis were performed – an initial January 2, 2006 modeling analysis evaluated particulate matter (PM),

²⁸ TCEQ, APDG 6232, Air Quality Modeling Guidelines, TCEQ.GOV (Nov. 2019), <https://www.tceq.texas.gov/assets/public/permitting/air/Modeling/guidance/airquality-mod-guidelines6232.pdf>.

²⁹ TCEQ, Interoffice Memorandum on Toxicology Factor Database Screening Levels (Mar. 8, 2018), attached as Exhibit F.

course particulate matter (PM₁₀), silica, nitrogen oxide (NO_x), carbon monoxide (CO), sulfur dioxide (SO₂), and nitrogen dioxide (NO₂) emissions (“January Protectiveness Review”) and a second March 27, 2006 modeling analysis assessed fine particulate matter (“PM_{2.5}”) emissions (March Protectiveness Review”).³⁰ Both protectiveness reviews were performed using the ISCT3 model.³¹

The Federal Clean Air Act (“FCAA”) requires that the United States Environmental Protection Agency (“EPA”) identify air pollutants that may reasonably be anticipated to endanger public health or welfare. These are referred to as “criteria pollutants.” For each criteria pollutant, EPA must set National Ambient Air Quality Standards (“NAAQS”) for the protection of public health and welfare.³² Criteria pollutants with established NAAQS include PM_{2.5}, PM₁₀, SO₂ and NO₂.³³ No less than every five years, EPA is required to review scientific evidence and adjust its prior NAAQS determinations as necessary to protect public health and the environment.³⁴ In the past, NAAQS for various criteria pollutants have been modified by being lowered to a more protective level, adding a standard (i.e., adding a 1-hour standard) or revoking a standard (i.e., revoking an annual standard). TCEQ standard permits, like the Rock Crusher Standard Permit, must be re-evaluated to account for those changes to ensure that facilities operate in a manner that meets NAAQS and is protective of human health and the environment.

1. Rock Crusher Standard Permit fails to protect human health and the environment from PM_{2.5} Emissions

Harris County is currently designated as “unclassifiable/attainment” for PM_{2.5} National NAAQS, but the area has long been considered “at-risk” for PM nonattainment and will likely be classified as nonattainment should the EPA adopt the newly proposed PM_{2.5} NAAQS.³⁵ A 2006 Report from the Houston Mayor’s Task Force on the Health Effects of Air Pollution identified that the nine Houston “super neighborhoods” along the Houston Ship Channel, which contain several majority Black and/or Latino neighborhoods, were “far more vulnerable to health risks than others in Greater Houston” on “the basis of location alone.”³⁶ The study

³⁰ TCEQ, MEMO from Keith Zimmermann, P.E., to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (January 2, 2006), attached as Exhibit G; TCEQ, MEMO from Keith Zimmerman, P.E. to Larry Buller, Second Modeling Report – Rock Crusher Standard permit (March 27, 2006), attached as Exhibit H.

³¹ TCEQ Response to Comments, Page 7.

³² 42 U.S.C. §§ 7408(a), 7409(a).

³³ 40 C.F.R. §§ 50.6, 50.7, 50.11, 50.13, 50.17, and 50.18.

³⁴ 42 U.S.C. §7409(d).

³⁵ Houston-Galveston Area Council, *HGB PM_{2.5} Advance Path Forward Update*, HCAG, available at <https://www.hgac.com/getmedia/ce55a7e9-6413-4817-aed4-db7cd805fe71/PM2-5-Advance-Path-Forward-2022-Final>, (last visited December 1, 2023).

³⁶ University of Texas - School of Public Health, *A Closer Look at Air Pollution in Houston: Identifying Priority Health Risks*, GREENHOUSTONTX.GOV, at 21 (2006) <http://www.greenhoustontx.gov/reports/UTreport.pdf>.

noted that, in addition to the proximity to a large concentration of industry and point sources for air pollution, four major highways intersected the area.³⁷

The PM_{2.5} NAAQS accounts for short- and long-term impacts. In 2006, EPA set the primary and secondary NAAQS for PM_{2.5} at 15.0 µg/m³ based on an annual average (“2006 PM_{2.5} Annual NAAQS”), and 35 µg/m³, based on a 24-hour average (“2006 PM_{2.5} 24-hour NAAQS”).³⁸ Effective March 18, 2013, EPA lowered the PM_{2.5} annual NAAQS from 15.0 µg/m³ to 12.0 µg/m³ (“2012 PM_{2.5} Annual NAAQS”).³⁹

The March Protectiveness Review analyzed PM_{2.5} emissions and compared worst-case modeled results to the 2006 PM_{2.5} Annual NAAQS and the 2006 PM_{2.5} 24-hour NAAQS. The GLCmax, which is the maximum modeled off-property ground concentration,⁴⁰ was determined to be 5.0 µg/m³ for 24-hours and 1.7 µg/m³ for annual averaging time.⁴¹

a. March Protectiveness Review never updated for 2012 PM_{2.5} Annual NAAQS

At the time of the March Protectiveness Review, the standard for PM_{2.5} Annual NAAQS was 15.0 µg/m³. Accordingly, the March Protectiveness Review was conducted using 15.0 µg/m³ as the standard for annual PM_{2.5}. Since that time, EPA has amended the annual PM_{2.5} NAAQS standard by lowering the level to 12.0 µg/m³ so as to “provide increased protection against health effects associated with long- and short-term exposures (including premature mortality, increased hospital admissions and emergency room visits, and development of chronic respiratory disease).⁴² In the intervening fifteen years since 2008, the Rock Crusher Standard Permit protectiveness review hasn’t been updated to evaluate emissions for compliance with the 2012 PM_{2.5} Annual NAAQS. Accordingly, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the 2012 PM_{2.5} Annual NAAQS standard of 12.0 µg/m³.

b. March Protectiveness Review failed to account for background

The March Protectiveness Review compared the GLCmax to the 2006 PM_{2.5} Annual NAAQS and the 2006 PM_{2.5} 24-hour NAAQS without accounting for background levels of PM_{2.5}. This is in direct contradiction to TCEQ policy and the January Protectiveness Review,

³⁷ *Id.*

³⁸ EPA, National Ambient Air Quality Standards for Particulate Matter, 71 Fed. Reg. 61,144 (Oct. 17, 2006).

³⁹ EPA, National Ambient Air Quality Standards for Particulate Matter, 78 Fed. Reg. 3,085 (Jan. 15, 2013).

⁴⁰ TCEQ, Air Permit Reviewer Reference Guide, APDG 5874, Modeling and Effects Review Applicability (MERA), TCEQ.GOV (March 2018),

<https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mera.pdf>.

⁴¹ March Protectiveness Review, *supra* note 30, at Page 1 ¶ 2.0.

⁴² National Ambient Air Quality Standard for Particulate Matter, 78 Fed. Reg. 3,085, 3,086-3,287 (Jan. 15, 2013, effective Mar. 18, 2013).

which did account for background when comparing modeled concentrations to the applicable NAAQS.⁴³

When determining whether to account for background, TCEQ compares the highest modeled concentration to a significant impact level (“SIL”).⁴⁴ For purposes of fine particulate matter emissions, the 24-hour PM_{2.5} SIL is 1.2 µg/m³, and the Annual PM_{2.5} SIL is 0.2 µg/m³.⁴⁵ According to TCEQ’s guidance documents, if the modeled concentration is greater than the SIL, the proposed source could make a significant impact on existing air quality.⁴⁶ In that case, the predicted concentration, plus representative monitoring background concentrations, are compared to the respective PM NAAQS.⁴⁷ In this case, the modeled concentrations for 24-hour PM_{2.5} and Annual PM_{2.5} both exceed the SIL. Therefore, TCEQ should have accounted for background when comparing modeled concentrations to the PM_{2.5} NAAQS.

Averaging Time	GLCmax (µg/m ³)	SIL (µg/m ³)
24-hour	5.0	1.2
Annual	1.7	0.2

Table 1: Comparison of GLCmax from March Protectiveness Review to TCEQ PM_{2.5} SIL

Background concentrations of PM_{2.5} in the County are significant. *See* Figure 7 and Table 2 for TCEQ data and monitor locations in Harris County. There are nine TCEQ air quality monitors in Harris County that measure PM_{2.5}. Between 2020 and 2022, on average, Annual PM_{2.5} concentrations in the ambient air in Harris County ranged from 8.2 µg/m³ to 12.3 µg/m³. Of particular note is the TCEQ North Wayside Drive (Wayside Monitor). The annual mean for the 2022 calendar year was 11.8 µg/m³. Thus far in 2023, the highest monthly means were July 2023 at 16.2 µg/m³, May 2023 at 16.0 µg/m³, and March 2023 at 15.8 µg/m³.⁴⁸ If this trend continues, the area around the Wayside Monitor will soon violate the NAAQS. The only reason that the NAAQS hasn’t already been violated is that EPA requires three years of data from a verified monitor, and the Northern Wayside monitor will not have three years of data until May 6, 2024.

⁴³ January Protectiveness Review, Page 3, *supra* note 30, at Page 3.

⁴⁴ TCEQ Air Quality Modeling Guidelines, *supra* note 28, at Pages 17 and 33-35.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Daily Mean Values for Calendar Year 2022, Houston-Galveston-Brazoria, CAMS 405 Houston North Wayside C405/C1033*, TCEQ, https://www.tceq.texas.gov/cgi-bin/compliance/monops/24hr_annual.pl (last visited Nov. 28, 2023).

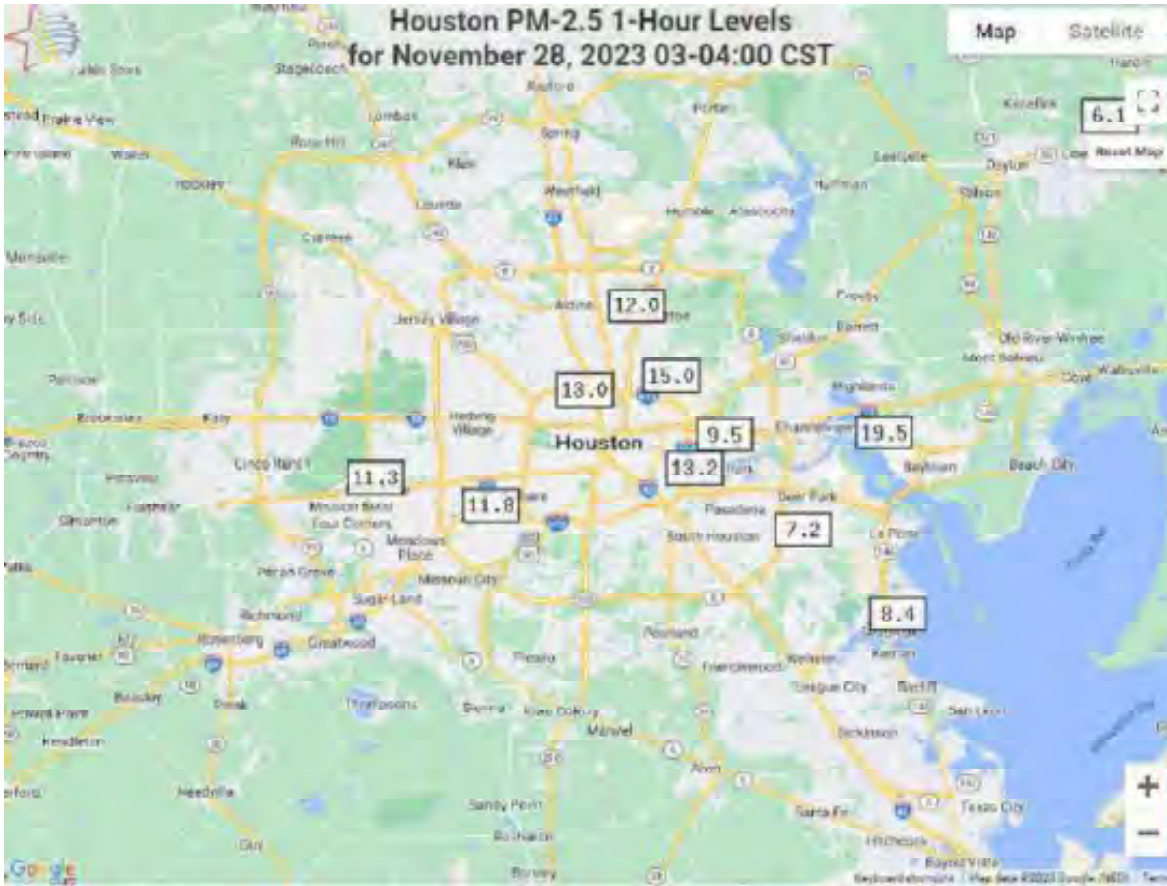


Figure 7:: TCEQ PM_{2.5} Air monitors in Harris County, Texas.

	Aldine CAMS 8	North Loop CAMS 1052	Wayside CAMS 1033	Westhollow CAMS 410	Bayland Park CAMS 53	Baytown CAMS 148	Clinton CAMs 403	Seabrook CAMS 45	Houston East CAMS 1
2020	9.9	--	--	--	--	10.0	10.2	--	10.1
2021	10.0	11.5	12.8	8.2	--	9.6	11.0	--	10.6
2022	10.2	11.2	11.8	8.1	9.4	10.5	10.5	8.5	9.8
Average	10.0	11.4	12.3	8.2	9.4	10.0	10.6	8.5	10.2

Table 2: Annual PM_{2.5} mean in µg/m³ for TCEQ air monitors in Harris County

The TCEQ is in the process of updating the Concrete Batch Plant Standard Permit, as similar TCEQ air standard permit, and posted a draft modeling report for public comment in April 2023 (2023 CBP Modeling Report).⁴⁹ The 2023 CBP Modeling Report accounted for background concentrations and to account for regional variability broke the NAAQS

⁴⁹ TCEQ, Memo from Dan Jamieson to Mechanical/Coatings Section, Concrete Batch Plant Standard Permit Protectiveness Review, (February 24, 2023) <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbbsp23-4-modelingreport.pdf>.

compliance assessment down by regions.⁵⁰ For Harris County PM_{2.5} background, TCEQ used the data obtained from the North Loop Monitor. For the 24-hr value (26 µg/m³), TCEQ used “the three-year average (2019-2021) of the 98th percentile of the annual distribution of the 24-hr concentrations” and for the annual value 11.1 µg/m³, TCEQ used “the three-year average (2019-2021) of the annual concentrations.”⁵¹

Regardless of the method of used to determine an appropriate background level, if you take background and modeled emissions together, like County residents experience, Annual PM_{2.5} levels are well above the current (12.0 µg/m³) 2012 PM_{2.5} Annual NAAQS. Accordingly, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the PM_{2.5} annual standard of 12.0 µg/m³, accounting for background.

c. March Protectiveness Review failed to account for engines

The March Protectiveness Review specifically notes that it failed to account for engines and other PM_{2.5} sources.⁵² Prior to issuance of the permit, TCEQ published notice of the draft Rock Crusher Standard Permit and accepted public comment.⁵³ Harris County Public Health and Environmental Resources, Pollution Control’s predecessor department, raised concerns during comment with the March Protectiveness Review’s failure to account for all potential emissions in the modeling.⁵⁴ Specifically, Harris County requested that TCEQ develop a methodology to address all PM_{2.5} emission sources and asserted that the protectiveness review was flawed because it failed to do so.⁵⁵ In response, TCEQ noted:

The EPA has not completed the implementation of PM_{2.5} NAAQS for the NSR program. The EPA has provided interim guidance in a memorandum that the PM₁₀ NAAQS will be the surrogate for demonstrating compliance with the PM_{2.5} NAAQS. . . The TCEQ would continue to use PM₁₀ as a surrogate for PM_{2.5} until EPA fully implements the new PM_{2.5} NAAQS for the NSR Program.⁵⁶

⁵⁰ *Id.* at page 6.

⁵¹ *Id.* at page 9.

⁵² March Protectiveness Review, ¶ 2.0, *supra* note 30.

⁵³ TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers, attached as Exhibit E, *supra* note 28, at Pages 8-16.

⁵⁴ *Id.* at Page 12.

⁵⁵ *Id.*

⁵⁶ *Id.*

TCEQ has considered emissions from engines for other air quality standard permits – including the Standard Permit for Concrete Batch Plants,⁵⁷ Polyphosphate Blenders,⁵⁸ and Marine Loading Operations⁵⁹ as they are a known source of particulate matter. If TCEQ’s reasoning to not consider engine sources was lack of EPA guidance, TCEQ should have re-evaluated the Rock Crusher Standard Permit once guidance was issued.

Notably, TCEQ would state in its 2012 amendments to the Standard Permit for Concrete Batch Plants, that “[o]n February 11, 2010, the EPA no longer allowed use of the 1997 policy that granted sources and permitting authorities to use a demonstration of compliance with the [NAAQS] requirements for PM₁₀ as a surrogate for meeting the NAAQS requirements for PM_{2.5}.”⁶⁰ The purpose of the 2012 amendments to the concrete batch plant standard permit was to “meet the requirements for PM_{2.5}.”⁶¹ Yet, the Rock Crusher Standard Permit was not similarly amended to consider the effects of PM_{2.5} in the way that the standard permit for concrete batch plants was. Even in 2012, when the attainment threshold for annual Primary PM 2.5 was dropped from 15 µg/m³ to 12 µg/m³,⁶² TCEQ did not re-evaluate the Rock Crusher Standard Permit or the requirements for registering under it. Again, Harris Health and Harris County request that TCEQ update the protectiveness review and account for all emission sources.

d. Communities around the Facility are already inundated with PM_{2.5}

The Facility is less than two miles from the Wayside Monitor, which as mentioned above regularly records levels of PM_{2.5} in violation of the Annual NAAQS. The area within a 5-mile radius of the North Wayside Monitor is 96% people of color, 60% low income, and is in the 98th Percentile of the U.S. for the PM_{2.5} EJ Index. There are two Superfund sites from the National Priority List and 15 Hazardous Waste Treatment, Storage, and Disposal Facilities in the area.

⁵⁷ TCEQ, Amendments to the Concrete Batch Plants Air Quality Standard Permit (Dec. 12, 2012) at Page 1, <https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/cbpsp-finalpreamble.pdf>.

⁵⁸ TCEQ, Summary Document for Air Quality Standard Permit for Temporary and Permanent Polyphosphate Blenders, (Apr. 7, 2010), Pages 3 and 32, https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/ag/poly_techsum.pdf.

⁵⁹ TCEQ, Air Quality Standard Permit for Marine Loading Operations, (Jun. 2021) Page 13, <https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/chemical/mlosp-techsum.pdf>.

⁶⁰ TCEQ, Amendments to the Concrete Batch Plants Air Quality Standard Permit, *supra* note 57.



⁶¹ *Id.*

⁶² 78 FR 3085, January 15, 2013.

EJScreen Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter (µg/m ³)	103	911	88	8.08	94
Ozone (ppb)	685	64.6	75	61.6	90
Diesel Particulate Matter (µg/m ³)	0.438	0.208	96	0.261	82
Air Toxics Cancer Risk* (lifetime risk per million)	34	28	44	25	52
Air Toxics Respiratory HI*	0.41	0.3	80	0.31	70
Toxic Releases to Air	64,000	12,000	95	4,600	98
Traffic Proximity (daily traffic count/100 distance to road)	270	150	86	210	81
Lead Paint (% Pre-1960 Housing)	0.42	0.17	85	0.3	68
Superfund Proximity (site count/100 distance)	0.48	0.085	97	0.13	94
RMP Facility Proximity (facility count/100 distance)	0.61	0.63	68	0.43	80
Hazardous Waste Proximity (facility count/100 distance)	1.9	0.75	88	1.9	71
Underground Storage Tanks (count/100 distance)	4.1	2.3	80	3.9	73
Wastewater Discharge (toxicity-weighted concentration/100 distance)	0.063	0.91	87	22	79
SOCIOECONOMIC INDICATORS					
Demographic Index	78%	46%	89	35%	94
Supplemental Demographic Index	20%	17%	90	14%	94
People of Color	56%	58%	87	39%	85
Low Income	60%	34%	84	31%	88
Unemployment Rate	10%	5%	80	6%	82
Limited English Speaking Households	21%	8%	86	5%	92
Less Than High School Education	35%	16%	86	12%	94
Under Age 5	7%	6%	60	6%	68
Over Age 64	13%	14%	52	17%	38
Low Life Expectancy	24%	20%	89	20%	88

Figure 8: EJScreen Chart showing the exposure and demographic information in a 5-mile radius of the North Wayside Monitor.

EJScreen Report (Version 2.11)
 5 miles Ring Centered at 29.828284, -95.284038
 TEXAS, EPA Region 6
 Approximate Population: 107,785
 Input Area (sq. miles): 78.53
 5 Mile Radius from Wayside Monitor

Selected Variables	Percentile in State	Percentile in USA
Environmental Justice Indexes		
Particulate Matter 2.5 EJ Index	80	88
Ozone EJ Index	83	84
Diesel Particulate Matter EJ Index*	97	95
Air Toxics Cancer Risk EJ Index*	56	58
Air Toxics Respiratory HI EJ Index*	85	97
Traffic Proximity EJ Index	84	88
Lead Paint EJ Index	91	91
Superfund Proximity EJ Index	95	97
RMP Facility Proximity EJ Index	81	80
Hazardous Waste Proximity EJ Index	93	89
Underground Storage Tanks EJ Index	86	92
Wastewater Discharge EJ Index	89	92

EJ Indexes - The EJ Indexes help users assess for potential EJ problems. To do this, the EJ Indexes combine data on low income and people of color populations with a single environmental indicator.

Figure 9: Environmental Justice Indexes for the area within a five-mile ring of Wayside Monitor

The table below contains hourly averages for all the pollutants and meteorological conditions measured at Houston North Wayside C405/C1033 for Monday, October 2, 2023. All times shown are in CST.

Parameter Measured	Morning											Afternoon												
	Mid	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	Noon	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00
Ozone	0	7	10	16	15	9	4	13	20	30	44	55	55	51	55	54	47	43	41	34	29	32	28	26
Wind Speed	1.5	1.3	1.8	2.3	2.2	2.2	2.5	3.2	3.3	4.0	6.6	5.8	5.3	4.8	5.6	7.8	7.9	7.0	5.4	3.0	1.9	3.2	3.5	2.9
Wind Direction	27	51	50	56	54	54	55	57	87	100	121	117	104	07	112	170	145	146	145	144	128	120	124	118
Resultant Wind Speed	1.4	1.2	1.7	2.2	2.1	2.1	2.4	2.9	2.8	3.4	6.2	5.4	4.7	4.2	4.8	7.5	7.5	6.8	3.2	2.9	1.8	3.1	3.4	2.8
Resultant Wind Direction	24	48	47	56	53	54	54	55	85	100	123	118	108	00	117	131	146	147	145	144	130	120	125	118
Maximum Wind Gust	3.3	3.8	5.3	5.9	5.6	5.5	5.9	9.8	10.7	12.9	16.1	14.0	15.2	13.4	14.8	18.7	19.8	15.9	14.8	6.1	5.0	7.6	9.8	7.3
Std. Dev. Wind Direction	20	21	17	18	17	19	15	24	31	31	21	21	28	31	30	16	18	16	14	12	21	15	14	15
Outdoor Temperature	75.7	74.6	74.2	73.8	73.0	72.3	72.0	74.0	79.5	84.0	87.1	89.2	90.9	91.5	91.5	89.9	86.3	84.1	82.4	81.0	80.1	80.1	80.2	80.1
PM ₁₀ (Standard Conditions)	38.0	25.3	35.2	33.4	43.3	65.8	111.9	88.7	58.4	75.4	102.8	95.6	86.5	67.6	84.4	98.4	65.0	30.7	23.6	22.6	27.1	27.1	19.6	21.1
PM _{2.5} (Local Conditions)	15.0	9.5	13.5	13.0	21.2	20.1	20.0	9.9	14.5	15.0	25.0	15.0	17.6	14.3	28.6	27.2	7.7	6.9	3.3	4.8	12.3	5.6	8.6	6.2
Parameter Measured	Mid	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	Noon	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00
	Morning											Afternoon												

Figure 10: A typical day of measurements at the North Wayside monitor.

Closer to the Facility there are other sources of pollution such as the Union Pacific Railroad, concrete batch plants, chemical manufacturing, coating and paint manufacturing, other light industry, dry cleaners, and a freight company. The City of Houston Health Department Bureau of Pollution Control and Prevention (BPCP) conducted air monitoring in the area to assess if there were any spikes in PM_{2.5} (BPCP Texas Coastal Report).⁶³ Of note, monitoring results in proximity to a nearby concrete batch plant, a similar particular matter producing facility, recorded elevated PM_{2.5} levels at or near the 2012 PM_{2.5} Annual NAAQS of 12 µg/m³. A map identifying nearby community spaces and a nearby already existing PM producing facility is provided at Figure 11. If the Application is approved, the Facility will become another PM polluting source within the radius and further harm nearby impacted communities.

⁶³ BPCP Texas Coastal Report at Page 6, attached as Exhibit I.



Figure 11: Map of community spaces and City of Houston PM_{2.5} readings

In sum, the Rock Crusher Standard Permit is not sufficiently protective for PM_{2.5} emissions and must be revised. Texas Coastal’s attempts to register under the Rock Crusher Standard Permit should be either denied until the TCEQ can ensure the permit is protective of human health and the environment as required by the state and federal law.

2. Rock Crusher Standard Permit fails to protect human health and the environment from PM₁₀ Emissions

The January Protectiveness Review evaluated PM₁₀ emissions and compared worst-case modeled results to the PM₁₀ 24-hour NAAQS (150 µg/m³) and the now revoked PM₁₀ Annual NAAQS (50 µg/m³).⁶⁴ The maximum modeled off-property ground concentration for 24-hour PM₁₀ was 86 µg/m³.⁶⁵ TCEQ considered background concentrations in the modeling analysis using a September 4, 1998 memorandum “Screening Background Concentrations,”

⁶⁴ 71 FR 61144 (October 17, 2006).

⁶⁵ January Protectiveness Review, Page 3, *supra* note 30.

which set PM₁₀ background at 60 µg/m³.⁶⁶ At the time, the total Annual modeled concentration plus background was 146 µg/m³, just shy of the NAAQS standard of 150 µg/m³.

In the intervening 17 years, TCEQ policies have changed and our knowledge of particulate matter in Harris County has expanded. The referenced September 4, 1998 memorandum “Screening Background Concentrations,” is no longer an active TCEQ Policy and Guidance Memo for Modeling.⁶⁷ Current TCEQ Air Quality Modeling Guidelines focus on utilizing existing air quality monitors, when available, to provide representative background concentrations.⁶⁸

Since this is a permit of general applicability, the recently re-evaluated Concrete Batch Plant Standard Permit protectiveness review can be instructive. As discussed above, the 2023 CBP Modeling Report broke the NAAQS compliance assessment down by regions.⁶⁹ For Harris County PM₁₀ background, TCEQ used the data obtained from the Clinton Drive Monitor (EPA AIRS Monitor 284011035). For the 24-hr background value (101 µg/m³), TCEQ used “the H4H 24-hr concentration from 2019-2021,” which “represents the highest, H4H 24-hr concentration in TCEQ Region 12.”⁷⁰ If the 101 µg/m³ background value is added to the highest modeled concentration of 60 µg/m³, levels are well above the PM₁₀ 24-hour NAAQS of 150 µg/m³. Therefore, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the PM₁₀ NAAQS, accounting for current background particulate matter levels and deny any application to operate under the Rock Crusher Standard Permit until it is proven to be protective for PM₁₀ in Harris County.

3. TCEQ has failed to demonstrate that the Rock Crusher Standard Permit is protective of human health and the environment from SO₂ and NO₂ Emissions

The January Protectiveness Review evaluated SO₂ and NO₂ emissions for compliance with NAAQS.⁷¹ Similar to PM_{2.5}, after the January and March Protectiveness Reviews, EPA re-evaluated SO₂ and NO₂ NAAQS and made revisions to the applicable standards. Regarding SO₂, in 2010, EPA issued a new 1-hour standard (75 ppb) and revoked the annual and 24-hour standard.⁷² Regarding NO₂, in 2010, EPA issued a new 1-hour standard (100 ppb).⁷³ As with the 2012 PM_{2.5} Annual NAAQS, the Rock Crusher Standard Permit protectiveness review

⁶⁶ *Id.*

⁶⁷ TCEQ, *Policy and Guidance Memos for Modeling*, TCEQ.TEXAS.GOV, https://www.tceq.texas.gov/permitting/air/memos/modeling_memos.html (last updated February 24, 2023).

⁶⁸ TCEQ, APDG 6232, Air Quality Modeling Guidelines, *supra* note 28, at Page 43.

⁶⁹ *Id.* at page 6.

⁷⁰ 2023 CBP Modeling Report, *supra* note 49, at Page 6.

⁷¹ January Protectiveness Review, *supra* note 30, at Page 3.

⁷² 75 FR 33520 (June 22, 2010).

⁷³ 75 FR 6474 (Feb. 9, 2010).

hasn't been updated to assess for the 2010 SO₂ 1-hour NAAQS or the 2010 NO₂ 1-hour NAAQS. Accordingly, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the SO₂ and NO₂ 1-hour standards.

4. The Standard Permit for Rock and Concrete Crushers is not protective of human health and the environment because it does not consider cumulative impacts

The Texas Water Code requires the TCEQ to “develop and implement policies, by specified environmental media, to protect the public from cumulative risks in areas of concentrate operations.”⁷⁴ Particulate matter producing facilities, including rock and concrete crushing facilities and concrete batch plants, tend to proliferate in certain areas, *See Figure 12*. It is unclear what policies the TCEQ has in place that are designed to protect the public from cumulative risks associated with rock and concrete crushers and similar PM producing facilities when they operate in areas of concentrated operations. Neither the January Protectiveness Review nor the March Protectiveness Review appear to have considered cumulative impacts. How has TCEQ complied with Texas Water Code § 5.130 by continuing to register new facilities under the Rock Crusher Standard Permit? Because nothing in TCEQ's protectiveness review would suggest that policies were implemented to protect the public from the cumulative risks of concentrated industry, the TCEQ must deny any application to operate under the Rock Crusher Standard Permit until such policies are implemented.



Figure 12: Map of concrete batch plants in Harris County, Texas

5. Rock Crusher Standard Permit Protectiveness Review used a modeling method that is not the EPA preferred modeling method.

⁷⁴ Tex. Water Code § 5.130

As mentioned above, the January Protectiveness Review and the March Protectiveness Review were performed using the ISCT3 model.⁷⁵ However, beginning in 2005, the EPA established AERMOD as the preferred dispersion model in the EPA's "Guideline in Air Quality Models."⁷⁶ Harris County and Harris Health request that TCEQ update its protectiveness review to address all the deficiencies discussed above, and that it use AERMOD to do so.

6. Rock Crusher Standard Permit may not account for BACT.

30 Texas Admin Code § 116.602(c) mandates that standard permits issued by the TCEQ require best available control technology ("BACT"). Given that 15 years have lapsed since the issuance of the Rock Crusher Standard Permit, Harris County and Harris Health requests TCEQ assess whether the permit accounts for BACT. In specific, Pollution Control recommends TCEQ consider adding the following controls to the Rock Crusher Standard Permit:

- (1) Pave each road, parking lot, or other area at the site that is used by vehicles with a cohesive hard surface and properly maintained, cleaned and watered so as to minimize dust emissions;
- (2) Keep stationary equipment, stockpiles, and vehicles used at the plant, except for incidental traffic and vehicles as they enter and exit the site, located or operated more than 100 feet from any property line;
- (3) Install a 12-foot high, dust suppressing barrier as a border around roads, traffic areas and work areas;
- (4) Place three-walled bunkers around all stockpiles that are at least two feet above the top of the stockpile;
- (5) Install an enclosed structure routed to a capture system that meets the emission limits of NSPS OOO; to cover each transfer point, crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station to prevent potential particulate nuisance;
- (6) Ensure that the fabric/cartridge filter systems and suction shroud are operated properly with no tears or leaks;
- (7) Cover stockpiles when not in use so as to minimize dust emissions;
- (8) Maintain a vegetative barrier (trees and other foliage) around as much of the perimeter of the facility as possible;
- (9) Install a wheel wash and rumble strips at the exit of the facility to prevent tracking concrete on the roadway;

⁷⁵ TCEQ Response to Comments, Page 7.

⁷⁶ 70 FR 68,217-68, 261 (November 9, 2005, effective Dec 9, 2005).

- (10) Consider whether proximity to a church, school, medical facility, residential or other sensitive populations should result in an increased buffer distance; and
- (11) Only operate between official sunrise and sunset, in lieu of the current requirement that the facility operate from one hour before official sunrise to one hour after official sunset.

7. Anticipated lowering of the PM_{2.5} Annual NAAQS

On January 6, 2023, EPA proposed to revise the primary annual PM_{2.5} standard from its current level of 12.0 µg/m³ to within the range of 9.0 to 10.0 µg/m³, and accepted comments on further lowering the standard to 8 µg/m³. Harris County submitted a comment on the proposal in support of the EPA's reconsideration to lower the standard to a range of 9.0 to 10.0 µg/m³. As noted above, the County is currently designated as "unclassifiable/attainment" for PM_{2.5}, is "at-risk" for PM_{2.5} nonattainment, and will likely be classified as nonattainment should EPA adopt the newly proposed PM_{2.5} NAAQS.

The protectiveness review would be materially impacted by a more protective NAAQS, likely resulting in increased buffer distances, lower production rates, and more stringent controls. Harris County and Harris Health request that TCEQ plan on reopening the Rock Crusher Standard Permit should the PM_{2.5} NAAQS be changed. This would ensure that the public is kept safe, especially when science dictates that a health standard should be more stringent.

D. Public Meeting

As mentioned above, Harris Health and Harris County previously called on TCEQ to hold a public meeting on the Application because of the level of community interest, high percentage of surrounding community members that are limited English Proficient (LEP), and the reduced internet access for many households near the Facility. Our September 11, 2023 comment letter included supporting data regarding LEP population density and internet access near the Facility, which is attached as Exhibit B and incorporated herein in full. While Harris Health and Harris County appreciate TCEQ agreeing to hold a meeting, we urge TCEQ to hold a formal meeting – not an informational one. Substantial public interest in the Application remains; as of December 6, 2023, 133 comments have been filed with the TCEQ on the Application and additional community comment is anticipated.

As noted in our September 11, 2023 comment letter, the National Environmental Justice Advisory Council (NEJAC) promulgated the Model Guidelines for Public Participation, which provides that conducting effective public participation in environmental

justice communities requires an approach that is “tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation.”⁷⁷ Further, according to EPA, “[m]eaningful public involvement consists of informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.”⁷⁸ EPA has also recommended to federal funding recipients that they “[c]onsider tailoring and integrating public involvement practices that engage communities into as many stages of the process as appropriate, so that public involvement becomes more of a ‘culture’ of how agencies think and operate, as opposed to a list of measures to check off as they are completed.”⁷⁹ For these communities, failure to hold a formal meeting – allowing public comment – will surely impact their ability to participate in the TCEQ permitting process.

Concrete Crushing facilities, like the proposed Texas Coastal Facility, are known to contribute to degraded air quality. This degraded air quality can cause a litany of health impacts including respiratory and heart complications. LBJ Hospital is where some of our most vulnerable community members receive medical attention. It simply defies common logic to allow a polluting entity such as Texas Coastal to operate such a short distance from a hospital, walking/running trails along the bayous and a neighborhood. Given the deficiencies in Texas Coastal’s Application and the concerns about the protectiveness of the Rock Crushing Standard Permit, Harris Health and Harris County respectfully request that TCEQ deny the Application and fully evaluate the protectiveness of the Rock Crusher Standard Permit before authorizing any additional facilities under its terms.

Thank you for the opportunity to comment on the Application. If you have any questions, please feel free to contact Sarah Utley at sarah.utley@harriscountytexas.gov.

Respectfully submitted,

CHRISTIAN D. MENEFFEE
Harris County Attorney

⁷⁷ EPA, National Environmental Justice Advisory Council Model Guidelines for Public Participation, EPA.GOV, January 25, 2013, at 10, <https://www.epa.gov/environmentaljustice/model-guidelines-public-participation>.

⁷⁸ Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14,207, 14,212 (Mar. 21, 2006).

⁷⁹ *Id.*

JONATHAN G. C. FOMBONNE
First Assistant County Attorney

TIFFANY S. BINGHAM
Managing Counsel, Environmental

By: /s/ Sarah Jane Utley
Sarah Jane Utley
Environmental Division Director
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Ryan Cooper
Assistant County Attorney
Environmental Division
Ryan.Cooper@harriscountytexas.gov
Harris County Attorney's Office
1019 Congress Avenue, 15th Floor
Houston, Texas 77002
Telephone: (713) 274-5124
Facsimile: (713) 437-4211

Via Email

cc: Dr. Latrice Babin, Director, Harris County Pollution Control Executive Director
Dr. Esmaeil Porsa, Harris Health President and CEO
Barbie Robinson, Harris County Public Health Executive Director

EXHIBIT A

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 19, 2023

MR. BLAKE HAYS
DIRECTOR OF OPERATIONS
TEXAS COASTAL MATERIALS LLC
9026 LAMBRIGHT RD
HOUSTON TX 77075-3208

Re: Permit Application
Permit Number: 173296
Rock Crushing Plant
Houston, Harris County
Regulated Entity Number: RN111769154
Customer Reference Number: CN606158293

Dear Mr. Hays:

Upon evaluation of the above-referenced application, we have determined that your application is deficient and Texas Coastal Materials, LLC must provide additional information to ensure that the requirements for obtaining a permit are met. Please furnish the following information within 15 days:

- The English Public Notice will need to be published in a different publication than previously submitted. The *Star Courier* indicates that the circulation area includes portions of Houston, but does not distribute in the zip code which the site is located. This notice will be the same notice in a newspaper that meets the requirements listed in <https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/permcrushsp.pdf>

2 (C) "The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. If the elementary or middle school nearest to the proposed plant provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice."

After receipt of all the additional information, we will continue the review of your application. If the information furnished in response to this notice results in the need for further clarification or additional information, we will notify you. Please note that the applicant Texas Coastal Materials, LLC is required to furnish all information to demonstrate that the facility or source will comply with all applicable federal and state rules and statutes.

Failure to submit all of the requested information within 15 days of the date of this notification may result in a voidance of your application.

Mr. Blake Hays
Page 2
September 19, 2023

Re: Permit Number: 173296

In addition, please ensure that a copy of the submitted information is also sent to the applicable Texas Commission on Environmental Quality (TCEQ) regional office and any local air pollution control program(s) with jurisdiction. Please note that the cover letter for your submission should indicate that a copy has been sent to the regional office [and local air pollution control program(s), if applicable]. Lists of the TCEQ regional offices and local air pollution control programs are available at:

<https://www.tceq.texas.gov/agency/directory/region/reglist.html>
and
www.tceq.texas.gov/permitting/air/local_programs.html, respectively.

If a new application is not submitted within 180 days from the date of the voidance, you will forfeit the original permit fee.

Thank you for your cooperation in this matter. If you have any questions, please contact me at (512) 239-1362, or write to the TCEQ, Office of Air, Air Permits Division, MC-163, P.O. Box 13087, Austin, Texas 78711-3087.

Sincerely,



Aine Carroll
Air Permits Division
Texas Commission on Environmental Quality

Enclosure

cc: Mr. Jay Lindholm, Trinity Consultants, Dallas
Senior Project Manager, Houston Department of Health and Human Services, Bureau of Pollution
Control & Prevention, Houston
Director, Harris County, Pollution Control Services, Pasadena
Air Section Manager, Region 12 - Houston

Project Number: 360066

EXHIBIT B



OFFICE OF THE
HARRIS COUNTY ATTORNEY
CHRISTIAN D. MENEFFEE

September 11, 2023

Via TCEQ E-Comments

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: Public Meeting; Texas Coastal Materials, LLC Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley St., Houston, Texas 77026.

Dear Ms. Gharis:

On July 7, 2023, the Texas Commission on Environmental Quality (TCEQ) received an application from Texas Coastal Materials, LLC (Texas Coastal) for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the Application) to construct a new concrete crusher facility at 5875 Kelley St., Texas 77026 (the Facility). The TCEQ has made a determination that the Application is technically complete. On behalf of Harris County and Harris Health, the Harris County Attorney's Office requests that TCEQ hold an in-person public meeting on the Application, re-publish notice of the Application, provide a minimum of 30 days' notice of the public meeting in English and Spanish, and that limited English Proficient (LEP) individuals be provided professional Spanish language interpretation services.

Community Concern

The TCEQ rules require a public meeting when “there is a substantial or significant degree of public interest in an application” or “if a member of the legislature who represents the general area in which the facility is . . . proposed to be located requests that a public meeting be held.” 30 Tex. Admin. Code § 55.154(c)(1) and (2). Both exist for this Application. On August 29 and 30, 2023, Senator Boris Miles and Representative Harold Dutton, respectively, filed public meeting requests with the TCEQ, satisfying 30 Tex. Admin. Code § 55.154(c)(2). Regarding public interest in the Application, community members have already filed comments with the TCEQ and have reached out to Harris Health and Harris County with their concerns. Community member concerns include impacts to health and safety, traffic, dust, emissions, decreased visibility, and nuisance conditions. Emissions will include particulate matter, further saturating an area that is already fails to meet levels set to protect human health and the environment. The nearby TCEQ Wayside monitor data indicates air quality in the area exceeds the annual National Ambient Air Quality Standard for PM_{2.5} of 12.0 µg/m³. Thus, 30 Tex. Admin. Code § 55.154(c)(1) is also satisfied.

Request to Properly Publish Notice of the Application

Texas Coastal is required to publish notice of the Application in a “newspaper of general circulation in the municipality in which the plant is proposed to be located.” 30 Tex. Admin. Code § 39.603(e), *See also* TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers at (2)(C). On August 24, 2023, Texas Coastal publish notice of the Application in the Star Courier, which serves the Highlands, Crosby, and Surrounding Communities. *See Exhibit A*. However, the Facility is located in Houston – not the Highlands, Crosby or their surrounding communities. The Star Courier is part of GrafikPress Newspapers, which has several papers that covers different areas of Harris County. See Figure 1 for GrafikPress Newspaper coverage areas for each of its publications. *Figure 2* notes the proposed location of the Facility. Accordingly, Harris County and Harris Health are concerned that the August 24, 2023 publication in the Star Courier didn’t reach community members impacted by the Application and failed to meet the TCEQ requirement of publication in a newspaper of general circulation in the municipality in which the plant is to be located. In fact, impacted communities are outside of the publication areas of any of GrafikPress Newspaper coverage areas. Harris County and Harris Health request that TCEQ require Texas Coastal to re-publish notice of the Application and that it do so in the Houston Chronicle – a newspaper of general circulation in the impacted communities.



Figure 1: GrafikPress Newspaper coverage areas



Figure 2: Location of Texas Coastal Materials

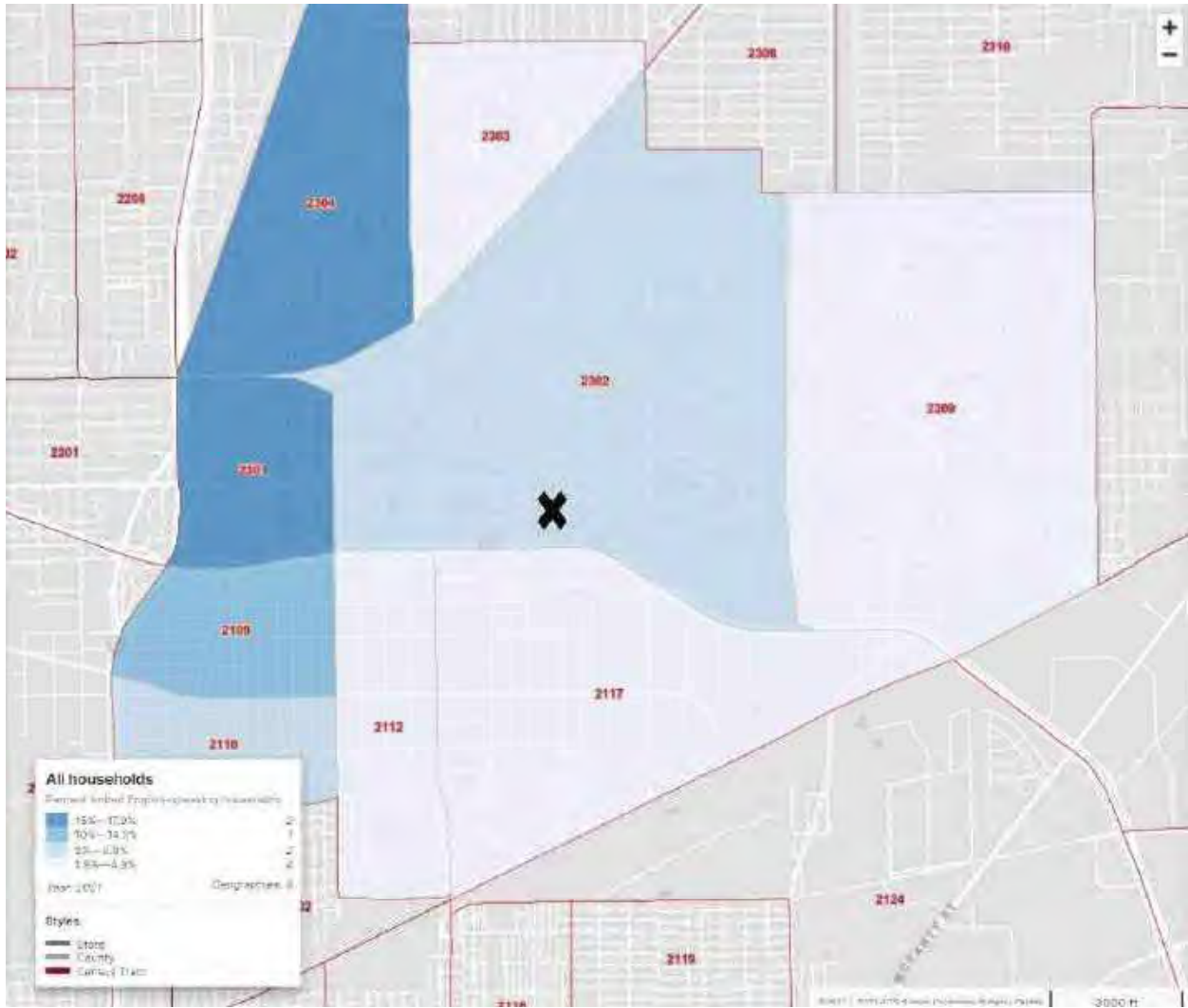
Request for Spanish Interpretation at the Public Meeting

Harris County Attorney’s Office requests that the TCEQ require the permittee to provide Spanish interpretation at the public meeting. According to the most recent 2020 U.S. Census data, the communities surrounding the Facility include linguistically isolated populations – 7.3% of the households in Census Tracts bordering the Facility, including the Facility, are considered limited English-speaking households.¹ Over ninety-eight percent of LEP households near the Facility are Spanish speaking. Spanish speaking Households comprise 29% of total households in the same census tracts. The relevant Census Tracts are:

Census tract	Total number of households	Total number of LEP households	Total number of Spanish speaking households
2109	586	59	148
2110	784	76	168
2112	1,063	20	162
2117	1,286	42	594
2301	609	101	201
2302 (Facility location)	1,744	100	383
2303	809	39	283
2304	1,098	196	542
2309	1,580	69	309
Total	9,559	702 (7.3%)	2,790 (29%)

Table 1: Total number of households, LEP populations, and Spanish speaking LEP populations by U.S. Census Tract for Census Tracts that are adjacent to the Facility, including the Census Tract for the Facility

¹ Data from the 2010–2021 American Community Survey. Limited English-Speaking Households are defined households where all members 14 years or older have some difficulty with English.



Map 1: U.S. Census Tracts showing LEP population density in and adjacent to the Facility location labeled as X.

Given that 7.3% of the households surrounding the Facility have limited English proficiency, a public meeting notice translated to Spanish and professional language interpretation services are warranted for this permit application. TCEQ routinely hosts community functions in Harris County where Spanish interpretation has been necessary as such, this request should not be out of the ordinary for TCEQ.

TCEQ rules rely on data from the nearest elementary or middle schools to a facility to trigger alternative language notice requirements. See 30 Tex. Admin. Code § 39.426. The communities surrounding the Facility are served by the Houston Independent School District and elementary aged children either attend Kashmere Gardens, McGowen, or Cook Elementary Schools. Texas Education Agency 2021-22 School Report Cards for each school is attached as **Exhibit B**. Each school has more than 10% of enrolled students categorized as English Learners. Kashmere Gardens has 10.1%, McGowen has 21.7%, and Cook has 25.1% English Learners. Each school has a very high percentage of Economically Disadvantaged students, 98.9% at Kashmere

Gardens, 99.2% at McGowen, and 98.2% at Cook. Economically Disadvantaged students experience food insecurity and the federal government ensures that they receive at least two hot meals a day either free or at a reduced cost. The Application notes that a bilingual program is required by the Texas Education Code in the school district and that children attending schools closest to the Facility are eligible to be enrolled in that bilingual program. *See* Application, Form PI-1S, Page 5 of 7.

Request for an In-Person Public Meeting

In addition to the language access challenges discussed above, households near the Facility have reduced internet access, limiting their ability to participate in a virtual public meeting. According to the 2021 American Community Survey, anywhere from 16.6% to 40.6% of households surrounding the Facility lack internet.² *See* attached for **Exhibit C**, which includes data from the 2021 American Community Survey. Unless the public meeting has in an-person attendance option, many residents will not be able to participate.

The National Environmental Justice Advisory Council (NEJAC) promulgated the Model Guidelines for Public Participation, which provides that conducting effective public participation in environmental justice communities requires an approach that is “tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation.”³ Further, according to EPA, “[m]eaningful public involvement consists of informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.”⁴ EPA has also recommended to federal funding recipients that they “[c]onsider tailoring and integrating public involvement practices that engage communities into as many stages of the process as appropriate, so that public involvement becomes more of a ‘culture’ of how agencies think and operate, as opposed to a list of measures to check off as they are completed.”⁵

Due to the low levels of internet access, the Harris County Attorney’s Office requests that the TCEQ provide an in-person public meeting on the Application. It is imperative that the residents have an opportunity to participate in the permitting process for the Facility located in their community. An in person public hearing would allow residents to ask questions and provide oral comments on the Application.

An EPA EJSCREEN report for the communities surrounding the Facility is attached as **Exhibit D**. The report demonstrates that the communities around the Facility are environmental justice communities. The communities are in the 90th to 100th percentile for indexes related to particulate matter, ozone, superfund proximity, and toxic releases to air – while being overwhelmingly people of color, low income, and linguistically isolated. Based on the EJSCREEN

² U.S. Census Bureau, <https://www.census.gov/data.html>.

³ EPA, National Environmental Justice Advisory Council Model Guidelines for Public Participation at 10, <https://www.epa.gov/environmentaljustice/model-guidelines-public-participation>.

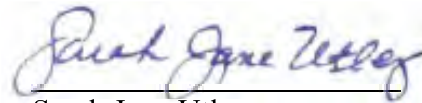
⁴ Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14,207, 14,212 (Mar. 21, 2006).

⁵ *Id.*

report and the additional data above, the Harris County Attorney's Office respectfully requests that TCEQ hold a public meeting on the Application, Coastal Materials be required to pre-publish notice of the Application, that the TCEQ issue public meeting notices in Spanish and English, that the meeting be in-person, and that professional Spanish interpretation services be provided at the public meeting. To do otherwise will deny individuals their right to participate in the TCEQ permitting process.

Sincerely,

CHRISTAN D. MENFEE
Harris County Attorney

A handwritten signature in blue ink that reads "Sarah Jane Utley". The signature is written in a cursive style and is positioned above a horizontal line.

Sarah Jane Utley
Environmental Division Director

Via Email

cc: Dr. Latrice Babin, Director, HCPCS

HIGHLANDS CROSBY Star Courier

Serving Highlands, Crosby, Huffman and Surrounding Communities since 1955 • www.starcouriernews.com



Superintendent Paula Patterson explains the need for a \$85 million Bond Issue, and how the money will meet the needs of growth in the Crosby ISD. See Superintendent's Message below.

VOL. 70, NO. 32 - \$1.00 Thursday, August 24, 2023 P.O. DRAWER 405, HIGHLANDS, TEXAS 77562

IN THE STARS

EVENTS Rotary Washer Journey set for Sept. 9

Highlands Rotary Club will hold their annual 5-Hour Washer Journey... The tournament starts at 1:00pm... All teams must register and sign in no later than 12:30pm...

Chamber hears of Generational Challenges

With more than three decades of experience in the financial and monetary industry, Bella Diaz leads the staff at Sterling-White Financial House in Highlands and discussed her joys working with multiple generations of employees—and challenges.



Bella Diaz, Manager, Sterling-White

Five generations," she said. "Our staff members ages range from 18 to 66 years old." Diaz said it doesn't create challenges with different generations, but she has found ways to learn together and make it a family.

"Through all of that, each generation has their own requirements. From the employee Gen Z employees will want you to give an instruction and be prepared to explain why it's important or how it fits into the bigger picture. Interestingly, they will also research your company to make sure you're ethical and provide justice, inclusion, and equity," she said.

Superintendent Paula Patterson explains the need for a \$85 million Bond Issue, and how the money will meet the needs of growth in the Crosby ISD. See Superintendent's Message below.

SUPERINTENDENT'S MESSAGE:

Crosby ISD plans \$85 million Bond Issue

The Board of Trustees of Crosby ISD will be asking voters to approve an \$85 million dollar bond to build new schools.



SUPERINTENDENT PAULA PATTERSON

Heating, Ventilation, and Air Conditioning (HVAC) equipment and recessed luminaires. Some of our air conditioners are more than 21 years old on some campuses.

grew bond in 2017, the District has approximately \$89.6 million remaining. Earlier this year, the Board of Trustees allocated approximately \$42.9 million for the new addition to Crosby High School, which is currently in the construction phase.

can be expended later to maintain 7th and 8th grades, and because the District's annual mid-field school.

to focused on new buildings, classroom spaces, and maintenance projects. No money will be set aside for activities not within the money to be used for extracurricular activities that do not directly impact the education of our children.

Back-2-School First Day of Classes:

Table with 2 columns: DISTRICT and DATE. Rows include HIGHLANDS, CROSBY, HUFFMAN, COOPER, GLENN, DAYTON, and BAYVIEW.

THEA/SJRC meeting set for August 29 in Highlands

HIGHLANDS - THEA (Texas Health and Environment Action) has announced an important Upcoming Meeting On the Superfund Cleanup at the San Jacinto River.



PH and I look forward to experiencing another harvest season with you! We need your feedback on keeping the process on track.

Heart Screening for Athletes is subject of Rotary talk

HIGHLANDS - Scott Stephens was the guest speaker at the Rotary weekly luncheon last week. He spoke about screening high school youth, especially athletes, for undetected heart disease that lead to SCA, or Sudden Cardiac Arrest and death.



Scott Stephens of the Coby Foundation received a check from Highlands Rotary President Dennis Scott to support heart screening.

RACHEL'S DINER Southern Cooking Buffet - Coming Soon! 14280 FM 2100 (Across from Walmart) 281-462-7349

AUTO & HOME INSURANCE Jeremy Rosenkrantz State Farm Agent 281-462-5112 jrosenkrantz@statefarm.com

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GOOSE CREEK CISD NEWS

ATAT Inducts John George Sr. to the 2023 Texas Hall of Fame

August 17, 2023 - The Agriculture Teachers Association of Texas (ATAT) recently hosted its annual Professional Development Conference for teachers of agriculture, food and natural resources in person in Dallas. The week-long conference was designed specifically for the educational enrichment of agriculture teachers and stakeholders and allows attendees to enhance teaching methods, discuss developments in curriculum, learn more about industry-based student certifications as well as network with leaders within the agriculture education profession.

John George, Sr. was posthumously inducted, along with 57 other members from across the state, to ATAT's 2023 Texas Hall of Fame. George taught at Haggraves, Crosby and Ross S. Sterling High schools, where he chartered the Ross S. Sterling High School chapter of the Future Farmers of America in 1974 and continued to lead the program until his death in 1990.

"Educators across Texas have a heavy weight on their shoulders - developing the future generations of our state. The Hall of Fame awards shine a light on Texas FFA agriculture education teachers, including John George, Sr., that have gone the extra mile during their careers to ensure every student has an opportunity to thrive," said Ray Ptasinski, executive director of ATAT. "We are honored to recognize non-retired educators for their dedication and passion to growing students into leaders. Thank you, John, for the difference you've made in your students' lives and Texas overall!"

In December 2019 a lively ceremony attended by former students, faculty members, family and other friends, the Goose Creek CISD Agriculture Center was dedicated to John D. George. A plaque that is now displayed in the facility was unveiled by his wife, Shirley George.

The ATAT is a professional organization for agriculture science teachers and supporters that informs members about the latest agriculture education practices, encourages higher standards of teaching and provides a unified voice in the state legislature. For more information on ATAT and Texas FFA, visit www.aggteachers.org or www.texasffa.org.



John D. George, Jr. (left) accepts the ATAT's Hall of Fame award for the George family, presented by Donald Gailley (right), Ross S. Sterling High School Ag Science on behalf of ATAT Board of Directors and former RSS FFA student.



Ag Science Teachers (back row l to r) Josh Wade, Robert C. Lee High School (RS), Donald Gailley, Ross J. Sterling High School (RS), Ashley Lee, RSS, Kelly Miller, South Career Tech High School (SCTH), and front row l to r) Nevada Jimenez, SCTH, Deborah Banks, RSS, Jennifer Gailley, CTE, Shirley George and Rex Miller, SCTH.



Alternate view of presentation (see above)



John D. George's family (from left) Justin and Jill George, Donald and Jennifer Gailley, Shirley George and John & Stephanie George attend the ATAT Professional Development Conference and receive an award in John D. George's memory.



Ken Rogers (left, GOOCD lead Ag Science teacher, Shirley George (middle, wife of John George and widow GOOCD teacher), and Jennifer Gailley, GOOCD CTE, display the award presented posthumously to John D. George, Sr.

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- HILL COUNTRY JANE

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- KIDS ZONE/SPLASH PAD
- VENDOR MARKETPLACE
- FOOD TRUCKS
- CONCERTS
- SILENT AUCTION

TIMED EVENTS

- 10AM CORN-HOLE TOURNY
- BAYOU CITY BAGGER2
- 10AM SHOW N SHINE TRUCKS, CARS & OFFROAD VEHICLES
- 12PM MUTTON BUSTING
- 4:30PM AWARDS
- 5PM LIVE AUCTION

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Addis Faith Foundation is a 501(c)(3) non-profit organization. All proceeds go to pediatric cancer families for support and pediatric cancer research.

First Day of School at E.F. Green Jr. School



Dr. Randall O'Brien, superintendent of schools for Goose Creek CISD, and Dr. G. welcome Dr. Alicia Babin, the new E.F. Green Junior School principal.



Dr. Randall O'Brien, superintendent of schools for Goose Creek CISD, greets students from E.F. Green Junior School on the first day of school.



Taylor Green, a sixth grader at E.F. Green Junior School, hangs out with Dr. G, the GOOCD mascot.

★ OPINION PAGE ★



Building Your Pet Disaster Evacuation Kit: Kids Edition

Land Commissioner Dawn Buckingham Joins Council Kids to Unbox Disaster Evacuation Bag for Pets



KIDS HELP COMMISSIONER DAWN BUCKINGHAM, M.D., UNPACK A PET DISASTER EVACUATION BAG.

AUSTIN — Texas Land Commissioner Dawn Buckingham, M.D., is delighted by some of Texas' effient kids to unbox items pets will need in case of an evacuation during a disaster. In this special video of a council and educational series aimed at encouraging Texans to prepare for natural disasters, children explain Texas and to forget their furry, furred, and feathered friends.

"As you prepare your family's emergency plan, evacuation routes, and go-bag, remember to pack a separate bag with everything your pets need if you have to leave home in a hurry," Commissioner Buckingham said. "For many of us, our pets are an extension of our family so they should have a bag too. This task is a great way to include children in your disaster preparedness planning, even if that means using dog leashes as flashlights."

Watch these carefully chosen kiddos help Commissioner Buckingham unbox a pet evacuation go-bag.

WATCH UNBOXING VIDEO: The GLO messages all Texans to prepare for hurricanes season by preparing an evacuation "go bag" for their pets, including the following:

1. Each pet should have enough food and water to last them at least 72 days. Don't forget to change out their food every 2 days.

2. If daily medication is required for your animal, be sure to have enough for at least two weeks and store them in an airtight container. In case of any injury to your pet, be sure to include a first-aid kit. Include the animal's health and vaccination records with other documents.

3. Bring copies of your animals' registration papers, adoption information, or other records for each pet. Include pictures of your pets individually with you. This will help reunite you if your pet gets lost during an evacuation.

4. Make sure your pet is microchipped, which provides the best chance for efficient reunification if you get separated during a disaster.

5. You can begin preparing your livestock and horses for a natural disaster by maintaining an inventory, making sure animals have some type of identification, and planning evacuation arrangements.

WATCH VIDEO FOR MORE TIPS: Whether massive heat waves, powerful tornadoes or damaging hurricanes, it is important to be prepared to evacuate. Texas has had 372 declared disaster days since 1953. Of Texas' total declarations, more than 20% have occurred in August or later. Evacuations are more common than most may think, and few disasters come with a lot of warning time.

Download the GLO's Disaster Evacuation Checklist for more information. Texans can follow along on social media, watch the GLO's preparedness tips on YouTube, and find resources for family and pet preparedness at www.texas.gov/prepared.



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STATE CAPITAL HIGHLIGHTS

By Gary Borders

Record Sea Temps Could Spur more Hurricanes

Forecasters for the National Weather Service are anticipating a more active hurricane season this year because of record-warm sea surface temperatures, the Texas Tribune reported.

Hurricane season runs through the end of November. The Climate Prediction Center now projects an all-time warm season in the Atlantic Ocean, with as many as five of those being major hurricanes. The new projection is considerably higher than the one released in May just before hurricane season commenced.

Bradley Braskey, an NWS meteorologist in Galveston, said the higher prediction is the result of the higher sea surface temperatures.

"The name of the game this season seems to be the heat because it has been quite exceptional," Braskey told the Tribune.

Another NWS meteorologist, Jeff Titus, based in Corpus Christi, said the higher probability of Atlantic hurricanes increases the likelihood of a storm striking Southeast Texas.

"The big question mark is whether or not we'll get the upper air pattern to allow the storms to get that far into the Gulf of Mexico," Titus said. Some of the most damaging hurricanes hit Texas in recent years came in August or September.

FEDERAL GRAND JURY INVESTIGATING PAUTION

The Austin American-Statesman reported last week that federal prosecutors have asked a grand jury in San Antonio and called witnesses close to suspected Texas Attorney General Ken Paxton to testify. Paxton's attorney has already confirmed that there is an active federal investigation of his client.

While the Justice Department has declined to comment, the source proceedings some a few weeks before Paxton is set to stand trial for his impeachment in the Texas Senate on bribery allegations involving Austin real estate developer Nate Paul, who was indicted on unrelated federal charges in May for mortgage fraud.

WILDFIRE DANGER CONTINUES TO INCREASE

Continued hot, dry weather has increased the number of wildfires, prompting the Texas A&M Forest Service to raise the state wildfire preparedness level to the second-highest level, in order to ensure resources are available in high fire-breaking and areas.

"Areas with high potential for wildfire include the Cross Timbers, Rolling Plains, Eastern Western Hill Country where wildflower fuel is present and for the Western Highlands, as well as Central and Southern Texas where grass fuel is present," the service said.

As of Sunday, there were more active fires, the largest being the Howley Fire in Wichita County, consisting of 4,132 acres, which was 20% contained, and the Rowles Fire in Wichita County, consisting of 2,128 acres, which was 15% contained.

Gov. Greg Abbott last Friday declared a wildfire disaster declaration in nearly 200 Texas counties, which have been areas now in place in 181 counties.

July was hotter and drier than this time for most of the state, according to Mark Winters, a hydrologist with the Texas Water Development Board, with 40% of the state now in drought, so 25 percentage points since the year.

CINCHON MALARIA DISEASE PROMPTS NEW DRUG RULES

The Texas Parks and Wildlife Department issued new rule-making measures and testing restrictions to white-tailed deer in deer hunting facilities after receiving confirmation of Chronic Wasting Disease (CWD) in one deer hunting facility in seven counties this year.

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Hola Hour

Tricky day, whether here in Mexico or in the US, I take a walk. Walking in the morning would be nice, but that's when I write, so, in the afternoon, I head out to see what the world looks like.

I always greet a lot of people on my walk, no matter which country I am in. I talk to dogs if there are dogs involved, or I comment on the weather, or I lament what someone is wearing, or I simply say, "Hola."

I do pretty much the same thing in other countries, and my ability to converse with dogs in Spanish has improved dramatically, but there is one complication in Mexico that I do not encounter in the US, and I have taken to calling it the "Hola Hour."

Because what you typically say in the afternoon is a stranger (unless I am completely certain that a stranger dog is not at their dog or eating the tomatoes of a dog) is simply, "¿Cómo estás?" (Good afternoon!)

In English, this sounds a little formal, but in Spanish, old women and shopkeepers and street workers all say it. It is the universal greeting—and it isn't.

As it turns to night, everyone naturally starts saying "Buenas noches." (Good evening?) This means pretty straightforward, but determining when to stop saying "Good afternoon" and start saying "Good evening" is far more complicated than it seems.

I used to think there was some magic line that changed conventionally as the season changed, and everyone knew they should start saying "Good evening." But I could never determine when this was. Was it completely dark? No. Perhaps a sunset in Miami? No, necessarily. Maybe it was the quality of light or when the moonlight turned on?

I would sometimes ask for clarification: "Is it still evening?" Or in a more direct way: "When I asked would mean the sky will get an answer that would vary certain. I assumed this knowledge of when afternoon changed inflexibly to night was something one must be born in the culture to know, and I would never be able to make this determination on my own. But I don't think I was wrong.

Because in this twilight time with the sun either up or down, depending on your latitude, or the buildings in the way, or the number of trees, or the density of clouds, or any number of other complications in this brief time of limbo that we have—I don't think anyone knows.

And the reason I believe this is because people start saying "Hola." They simply say "Hola."

It's a simple solution. No one wants to get it wrong. No one wants to get into an argument about it, so when it's too close to call, people start saying "Hola" in the context of "Good afternoon" before they've begun to say, "Good evening."

I shared my theory with Jorge, the owner of our hotel. It was a slightly complicated thing to explain in Spanish. But Jorge, my partner, in the past, had understood: "Is it afternoon? Or is evening?" and Jorge, like everyone else I asked before, claimed to know exactly what it was.

But when I shared my theory about the "Hola Hour" he laughed. And he said, "It is true!"

Jorge looked just a little embarrassed, so though I'd discovered a secret. And I was pleased.

It takes a very long time to understand another culture, and there are more things I will never know. But I feel much better prepared for the "Hola Hour" tomorrow. Till next time, Carrie

LEGAL NOTICE

NOTICE OF PUBLIC HEARING REGARDING THE

PROPOSED AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE CRUSHERS

Application for a permit for the proposed permanent rock and concrete crusher is being processed in an expedited manner, as allowed by the commission's rules in 30 Texas Administrative Code, Chapter 101, Subchapter J. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application: <https://www.tceq.texas.gov/permitting/permits/23-20266-22-0110220200001-1>. This application was submitted to the TCEQ on July 7, 2023. The executive director has determined the application was technically complete on July 31, 2023.

PUBLIC COMMENT. Written public comments about this application may be submitted at any time during the public comment period. You may submit public comments either in writing to the Texas Commission on Environmental Quality, Office of the Chief Clerk, MAC-105, P.O. Box 13667, Austin, Texas 78711-3667, or electronically at www.tceq.texas.gov/permitting/permits/23-20266-22-0110220200001-1. Please be aware that any contact information you provide, including your name, phone number, email address and physical address, will become part of the agency's public record. The deadline to submit public comments is 30 days after message notice is published.

RESPONSE TO COMMENTS. A written response to all relevant comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and requested to be added to the mailing list. The response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 30 days after the end of the public comment period, considering all comments received within the comment period, and based on his decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Houston Regional Office, located at 5425 Holl St Ste H, Houston, Texas 77025-3432, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice.

INFORMATION: For more information about this permit application or the permitting process, please call the Public Education Program toll free at 1-800-687-4063. Or access information on Equalizer, public forum at 1-800-687-4040.

Further information may also be obtained from Texas Coastal Materials, LLC, 9035 Lambright Rd, Houston, TX 77075-3205, or by calling Mr. Jay Lockhart, Project Manager at (281) 567-8250.

Notice Issuance Date: August 14, 2023

Authorities capture fugitive that shot Sheriff's Deputy on Homestead Road traffic stop

By Sheriff Ed Gonzalez

On Wednesday, August 16, 2023, Harris County Sheriff's Office Deputy Joseph Anderson was shot during a traffic stop at the 11650 block of Homestead Road in north Harris County. He was transported via life flight to a hospital, where he underwent surgery and remains in critical but stable condition.

Deputy Anderson is 39 years old and started his law enforcement career with Brookhaven Police Department in 2017 and joined the Harris County Sheriff's Office in June 2022. He is currently assigned to patrol District 2 in north Harris County. His twin brother, Jacob Anderson, also works in patrol with HCSO.

"Deputy Anderson will be good relationships through open and friendly communication. He's easy to work with and is well-liked by his peers," said his supervisor.

The suspect, Terran Green, was taken into custody Thursday evening at a SWAT stand-off in the 11650 block of Silhouette Ridge in northeast Harris County. During the stand-off, Green injured two U.S. Marshal deputies and a Harris County Sheriff's Office deputy. The injured officers are in good condition and have been released from a local hospital. Green has been charged with three counts of Attempted Capital Murder.

"Excellent work by HCSO SWAT and our partners. We appreciate the assistance from the Houston Police SWAT, FBI Houston, and all our public safety partners."



Fugitive Terran Green clings to the side of a "Boat" SUV brought out of the house where he was hiding.



Authorities run the house in Humble apart with a "Boat" SUV brought out of the house in the attempt to get fugitive Green in custody.



Law Enforcement Conference Wednesday night by Sheriff Ed Gonzalez brings the public open-door on the numbers. Also present were Comptroller Rodney Ellis, Houston Police Chief Troy Finner, FBI ST Marshall, and other law enforcement authorities.



Sheriff's Deputy Joseph Anderson

DA files charges against Green; may get 25 years to life

The Harris County District Attorney's Office has filed four charges of attempted capital murder of a peace officer against 34-year-old Terran Green for shooting at law enforcement officers in two separate incidents this week, District Attorney Ken Ogg announced.

"Anyone who would shoot at uniformed police officers presents the greatest level of threat to our community," Ogg said. "That kind of person will stop at nothing and our prosecutors are already working on the case."

Green is accused of shooting a Harris County Sheriff's Office deputy during a traffic stop on Wednesday. The deputy was injured in a Humble neighborhood on Thursday night. Green also shot at three other officers, two with the U.S. Marshal Service officers with the Harris County Sheriff's Office.

Assistant District Attorney Warren A. Division Chief is the DA's Office, and Rebecca Marshall, a Chief in the trial division, associated with both crime centers in Humble to aid law enforcement.

"We are very grateful right now that we are not planning for the funeral for law enforcement officers," said Warren. "Attempted capital murder of a peace officer means that there was an intent to commit the murder of a peace officer in the line of duty, so these are the most appropriate charges."

Green is expected to be arraigned in a Harris County District Court early next week. Prosecutors for the Harris County District Attorney's Office will ask that Green be held without bond because he is charged with those charges while he was free on bond for two months. However, aggravated assault of a family member and false information of a firearm.

"The defendant is a highly intelligent man so we will be filing motions requesting or bond and asking to deny his bail until we can bring him to trial," said Rebecca Marshall.

Because he is a habitual offender, Green faces a minimum of 25 years in prison and with both crime centers in Humble to aid law enforcement.

Green had history of assaults; was out on bond

Green has five prior felony convictions and has been in prison three times.

He was sentenced to two years for Aggravated Assault with Deadly Weapon but did not serve the full two years.

Green bonded out on April 1 on two other charges. One charge of Aggravated Assault of a Family Member on a \$40,000 bond and a second charge of Felony Possession of a Weapon on a \$5,000 bond. The total bond was \$45,000.

In the Aggravated Assault of a Family Member charge, he pulled a gun on his girlfriend and said "I'm going to



Fugitive Terran Green

was supposed to appear in Judge Judd's court but didn't show up.

He fulfilled the bond in May, so he was released by authorities.

SPORTS PAGE

SEASON FOOTBALL PREVIEW

Texans fortunes looking up with new head coach: All roads lead to Houston for CFP title game in Jan.

It's been a very difficult season for the Houston Texans...



Kenny's Korner By Mike Kensley

During the week, we will continue to bring you the latest news...

Texans fortunes looking up with new head coach: All roads lead to Houston for CFP title game in Jan.

The Houston Texans have a new head coach...

With a solid defense and a strong offense...

The Texans are looking to make a statement...

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School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	445
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



84 of 100



51 of 100



89 of 100



72 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
 KASHMERE GARDENS EL (101912185) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about KASHMERE GARDENS EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	91.3%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	78.7%	22.1%	12.8%
Hispanic	19.1%	61.9%	52.8%
White	0.9%	9.7%	26.3%
American Indian	0.0%	0.2%	0.3%
Asian	0.0%	4.5%	4.8%
Pacific Islander	0.2%	0.1%	0.2%
Two or More Races	1.1%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	98.9%	79.2%	60.7%
Special Education	5.6%	8.4%	11.6%
Emergent Bilingual/EL	10.1%	35.1%	21.7%
Mobility Rate (2020-21)			
	17.1%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	21.3	18.2	18.7
Grade 1	14.1	15.7	18.7
Grade 2	19.0	15.4	18.6
Grade 3	14.2	14.4	18.7
Grade 4	18.4	13.7	18.8
Grade 5	15.5	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$8,479	\$10,524	\$11,106
Instruction	\$5,645	\$5,989	\$6,358
Instructional Leadership	\$87	\$185	\$186
School Leadership	\$1,181	\$749	\$654

Texas Education Agency
2022 School Report Card
 KASHMERE GARDENS EL (101912185) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	48%	48%	51%	-	-	-	-	*	48%
	2021	67%	57%	22%	20%	26%	*	-	-	-	-	22%
ELA/Reading	2022	75%	70%	50%	48%	55%	-	-	-	-	*	50%
	2021	68%	60%	30%	28%	35%	*	-	-	-	-	30%
Mathematics	2022	72%	67%	51%	51%	55%	-	-	-	-	*	51%
	2021	66%	53%	20%	18%	29%	*	-	-	-	-	20%
Science	2022	76%	68%	36%	37%	31%	-	-	-	-	-	36%
	2021	71%	59%	8%	7%	11%	-	-	-	-	-	8%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	19%	18%	24%	-	-	-	-	*	19%
	2021	41%	33%	7%	6%	9%	*	-	-	-	-	7%
ELA/Reading	2022	53%	49%	25%	24%	32%	-	-	-	-	*	25%
	2021	45%	38%	11%	12%	10%	*	-	-	-	-	11%
Mathematics	2022	42%	38%	16%	14%	26%	-	-	-	-	*	16%
	2021	37%	27%	5%	3%	10%	*	-	-	-	-	5%
Science	2022	47%	39%	9%	12%	0%	-	-	-	-	-	9%
	2021	44%	33%	3%	0%	11%	-	-	-	-	-	3%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	7%	6%	9%	-	-	-	-	*	7%
	2021	18%	15%	2%	2%	4%	*	-	-	-	-	2%
ELA/Reading	2022	25%	24%	11%	11%	13%	-	-	-	-	*	11%
	2021	18%	16%	6%	5%	10%	*	-	-	-	-	6%
Mathematics	2022	20%	19%	3%	2%	10%	-	-	-	-	*	3%
	2021	18%	13%	0%	0%	0%	*	-	-	-	-	0%
Science	2022	21%	17%	5%	7%	0%	-	-	-	-	-	5%
	2021	20%	14%	0%	0%	0%	-	-	-	-	-	0%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	86	83	93	-	-	-	-	-	86
	2019	69	68	74	75	69	-	-	-	-	-	72
ELA/Reading	2022	78	81	88	86	95	-	-	-	-	-	88
	2019	68	68	84	85	79	-	-	-	-	-	83
Mathematics	2022	69	75	83	81	90	-	-	-	-	-	83
	2019	70	68	63	64	58	-	-	-	-	-	62
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	396
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



85 of 100



56 of 100



89 of 100



75 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
MCGOWEN EL (101912179) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about MCGOWEN EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	92.4%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	60.4%	22.1%	12.8%
Hispanic	38.6%	61.9%	52.8%
White	0.5%	9.7%	26.3%
American Indian	0.0%	0.2%	0.3%
Asian	0.0%	4.5%	4.8%
Pacific Islander	0.0%	0.1%	0.2%
Two or More Races	0.5%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	99.2%	79.2%	60.7%
Special Education	7.6%	8.4%	11.6%
Emergent Bilingual/EL	21.7%	35.1%	21.7%
Mobility Rate (2020-21)			
	17.8%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	17.6	18.2	18.7
Grade 1	19.2	15.7	18.7
Grade 2	10.1	15.4	18.6
Grade 3	13.9	14.4	18.7
Grade 4	11.8	13.7	18.8
Grade 5	13.2	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$8,558	\$10,524	\$11,106
Instruction	\$6,265	\$5,989	\$6,358
Instructional Leadership	\$98	\$185	\$186
School Leadership	\$916	\$749	\$654

Texas Education Agency
2022 School Report Card
MCGOWEN EL (101912179) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	54%	54%	53%	*	-	-	-	*	54%
	2021	67%	57%	35%	35%	31%	50%	-	-	-	-	35%
ELA/Reading	2022	75%	70%	62%	63%	58%	*	-	-	-	*	62%
	2021	68%	60%	44%	47%	36%	*	-	-	-	-	45%
Mathematics	2022	72%	67%	50%	51%	50%	*	-	-	-	*	50%
	2021	66%	53%	29%	27%	31%	*	-	-	-	-	30%
Science	2022	76%	68%	42%	38%	48%	-	-	-	-	-	43%
	2021	71%	59%	26%	21%	31%	-	-	-	-	-	27%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	27%	26%	28%	*	-	-	-	*	27%
	2021	41%	33%	12%	15%	8%	0%	-	-	-	-	12%
ELA/Reading	2022	53%	49%	35%	36%	32%	*	-	-	-	*	34%
	2021	45%	38%	17%	21%	7%	*	-	-	-	-	17%
Mathematics	2022	42%	38%	25%	22%	29%	*	-	-	-	*	25%
	2021	37%	27%	11%	12%	10%	*	-	-	-	-	11%
Science	2022	47%	39%	12%	10%	14%	-	-	-	-	-	12%
	2021	44%	33%	5%	7%	0%	-	-	-	-	-	5%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	11%	9%	13%	*	-	-	-	*	11%
	2021	18%	15%	6%	7%	2%	0%	-	-	-	-	6%
ELA/Reading	2022	25%	24%	14%	14%	15%	*	-	-	-	*	14%
	2021	18%	16%	10%	12%	2%	*	-	-	-	-	10%
Mathematics	2022	20%	19%	9%	5%	13%	*	-	-	-	*	8%
	2021	18%	13%	4%	5%	3%	*	-	-	-	-	4%
Science	2022	21%	17%	8%	7%	10%	-	-	-	-	-	8%
	2021	20%	14%	0%	0%	0%	-	-	-	-	-	0%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	87	84	90	-	-	-	-	-	88
	2019	69	68	73	68	83	-	-	-	-	-	72
ELA/Reading	2022	78	81	84	83	84	-	-	-	-	-	85
	2019	68	68	72	69	78	-	-	-	-	-	71
Mathematics	2022	69	75	90	85	96	-	-	-	-	-	91
	2019	70	68	73	67	88	-	-	-	-	-	72
<p style="text-align: center;">- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.</p>												

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	509
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



85 of 100



69 of 100



88 of 100



78 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
 COOK JR EL (101912358) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about COOK JR EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	85.6%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	52.3%	22.1%	12.8%
Hispanic	44.4%	61.9%	52.8%
White	1.8%	9.7%	26.3%
American Indian	0.4%	0.2%	0.3%
Asian	0.2%	4.5%	4.8%
Pacific Islander	0.2%	0.1%	0.2%
Two or More Races	0.8%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	98.2%	79.2%	60.7%
Special Education	6.1%	8.4%	11.6%
Emergent Bilingual/EL	25.1%	35.1%	21.7%
Mobility Rate (2020-21)			
	22.7%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	15.9	18.2	18.7
Grade 1	16.6	15.7	18.7
Grade 2	16.0	15.4	18.6
Grade 3	18.5	14.4	18.7
Grade 4	16.2	13.7	18.8
Grade 5	17.0	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$9,311	\$10,524	\$11,106
Instruction	\$6,762	\$5,989	\$6,358
Instructional Leadership	\$113	\$185	\$186
School Leadership	\$870	\$749	\$654

Texas Education Agency
2022 School Report Card
 COOK JR EL (101912358) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	64%	62%	69%	50%	-	*	-	*	64%
	2021	67%	57%	56%	48%	70%	-	-	-	-	-	55%
ELA/Reading	2022	75%	70%	72%	75%	69%	*	-	*	-	*	72%
	2021	68%	60%	56%	47%	70%	-	-	-	-	-	54%
Mathematics	2022	72%	67%	64%	58%	76%	*	-	*	-	*	64%
	2021	66%	53%	61%	54%	74%	-	-	-	-	-	59%
Science	2022	76%	68%	42%	37%	48%	*	-	-	-	-	42%
	2021	71%	59%	38%	35%	50%	-	-	-	-	-	36%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	37%	33%	42%	40%	-	*	-	*	36%
	2021	41%	33%	30%	21%	43%	-	-	-	-	-	29%
ELA/Reading	2022	53%	49%	37%	35%	39%	*	-	*	-	*	37%
	2021	45%	38%	38%	29%	54%	-	-	-	-	-	38%
Mathematics	2022	42%	38%	43%	37%	56%	*	-	*	-	*	43%
	2021	37%	27%	25%	14%	45%	-	-	-	-	-	25%
Science	2022	47%	39%	17%	18%	16%	*	-	-	-	-	17%
	2021	44%	33%	9%	12%	0%	-	-	-	-	-	9%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	19%	16%	26%	20%	-	*	-	*	19%
	2021	18%	15%	14%	10%	21%	-	-	-	-	-	14%
ELA/Reading	2022	25%	24%	20%	16%	28%	*	-	*	-	*	20%
	2021	18%	16%	15%	14%	19%	-	-	-	-	-	15%
Mathematics	2022	20%	19%	23%	18%	32%	*	-	*	-	*	22%
	2021	18%	13%	16%	9%	29%	-	-	-	-	-	16%
Science	2022	21%	17%	6%	5%	6%	*	-	-	-	-	6%
	2021	20%	14%	6%	8%	0%	-	-	-	-	-	6%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	80	83	75	-	-	-	-	-	80
	2019	69	68	72	67	80	-	-	-	-	-	72
ELA/Reading	2022	78	81	72	77	63	-	-	-	-	-	73
	2019	68	68	70	66	77	-	-	-	-	-	70
Mathematics	2022	69	75	87	89	85	-	-	-	-	-	87
	2019	70	68	74	68	82	-	-	-	-	-	74
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

Table: ACSST5Y2021.S2801

Census Tract 2109, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	454	±114	77.5%		±10.6
Dial-up with no other type of Internet subscription	0	±14	0.0%		±7.8
Broadband of any type	454	±114	77.5%		±10.6
Cellular data plan	404	±121	68.9%		±11.8
Cellular data plan with no other type of Internet subscription	87	±70	14.8%		±11.7
Broadband such as cable, fiber optic or DSL	353	±122	60.2%		±16.0
Satellite Internet service	46	±36	7.8%		±6.3
Without an Internet subscription	132	±62	22.5%		±10.6

Table: ACSST5Y2021.S2801

Census Tract 2110, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	466	±106	59.4%		±13.0
Dial-up with no other type of Internet subscription	0	±14	0.0%		±5.9
Broadband of any type	466	±106	59.4%		±13.0
Cellular data plan	446	±106	56.9%		±13.1
Cellular data plan with no other type of Internet subscription	102	±70	13.0%		±8.5
Broadband such as cable, fiber optic or DSL	351	±92	44.8%		±12.0
Satellite Internet service	57	±45	7.3%		±5.7
Without an Internet subscription	318	±126	40.6%		±13.0

Table: ACSST5Y2021.S2801

Census Tract 2112, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	657	±158	61.8%		±11.8
Dial-up with no other type of Internet subscription	0	±14	0.0%		±4.4
Broadband of any type	657	±158	61.8%		±11.8
Cellular data plan	637	±162	59.9%		±12.1
Cellular data plan with no other type of Internet subscription	250	±132	23.5%		±11.5
Broadband such as cable, fiber optic or DSL	407	±134	38.3%		±11.8
Satellite Internet service	19	±23	1.8%		±2.2
Without an Internet subscription	406	±142	38.2%		±11.8

Table: ACSST5Y2021.S2801

Census Tract 2117, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,017	±179	79.1%	±9.4	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±3.6	
Broadband of any type	1,017	±179	79.1%	±9.4	
Cellular data plan	927	±187	72.1%	±10.2	
Cellular data plan with no other type of Internet subscription	233	±114	18.1%	±8.4	
Broadband such as cable, fiber optic or DSL	706	±184	54.9%	±12.4	
Satellite Internet service	198	±129	15.4%	±9.4	
Without an Internet subscription	269	±126	20.9%	±9.4	

Table: ACSST5Y2021.S2801

Census Tract 2301, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	463	±198	76.0%		±12.5
Dial-up with no other type of Internet subscription	0	±14	0.0%		±7.5
Broadband of any type	463	±198	76.0%		±12.5
Cellular data plan	449	±202	73.7%		±13.4
Cellular data plan with no other type of Internet subscription	232	±187	38.1%		±20.7
Broadband such as cable, fiber optic or DSL	216	±79	35.5%		±14.7
Satellite Internet service	23	±20	3.8%		±3.6
Without an Internet subscription	146	±64	24.0%		±12.5

Table: ACSST5Y2021.S2801

Census Tract 2302, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,259	±186	72.2%	±7.0	
Dial-up with no other type of Internet subscription	0	±20	0.0%	±2.7	
Broadband of any type	1,259	±186	72.2%	±7.0	
Cellular data plan	1,164	±195	66.7%	±7.7	
Cellular data plan with no other type of Internet subscription	344	±138	19.7%	±8.0	
Broadband such as cable, fiber optic or DSL	882	±194	50.6%	±8.6	
Satellite Internet service	55	±49	3.2%	±2.8	
Without an Internet subscription	485	±129	27.8%	±7.0	

Table: ACSST5Y2021.S2801

Census Tract 2303, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	675	±123	83.4%		±7.9
Dial-up with no other type of Internet subscription	0	±14	0.0%		±5.7
Broadband of any type	675	±123	83.4%		±7.9
Cellular data plan	642	±123	79.4%		±7.6
Cellular data plan with no other type of Internet subscription	165	±85	20.4%		±10.1
Broadband such as cable, fiber optic or DSL	504	±113	62.3%		±10.0
Satellite Internet service	66	±53	8.2%		±6.3
Without an Internet subscription	134	±63	16.6%		±7.9

Table: ACSST5Y2021.S2801

Census Tract 2304, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	884	±375	80.5%	±9.9	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±4.2	
Broadband of any type	884	±375	80.5%	±9.9	
Cellular data plan	852	±378	77.6%	±11.1	
Cellular data plan with no other type of Internet subscription	305	±128	27.8%	±13.5	
Broadband such as cable, fiber optic or DSL	506	±363	46.1%	±20.3	
Satellite Internet service	73	±71	6.6%	±6.8	
Without an Internet subscription	214	±98	19.5%	±9.9	

Table: ACSST5Y2021.S2801

Census Tract 2309, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,182	±211	74.8%	±9.4	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±3.0	
Broadband of any type	1,182	±211	74.8%	±9.4	
Cellular data plan	1,110	±213	70.3%	±9.7	
Cellular data plan with no other type of Internet subscription	314	±144	19.9%	±8.5	
Broadband such as cable, fiber optic or DSL	777	±179	49.2%	±9.6	
Satellite Internet service	147	±107	9.3%	±6.5	
Without an Internet subscription	398	±151	25.2%	±9.4	



EJScreen Community Report

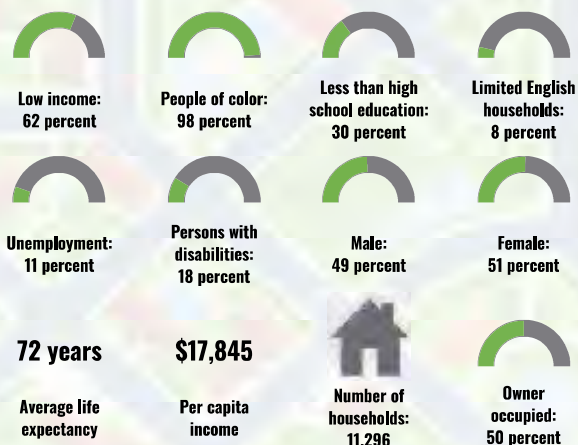
This report provides environmental and socioeconomic information for user-defined areas, and combines that data into environmental justice and supplemental indexes.

Houston, TX

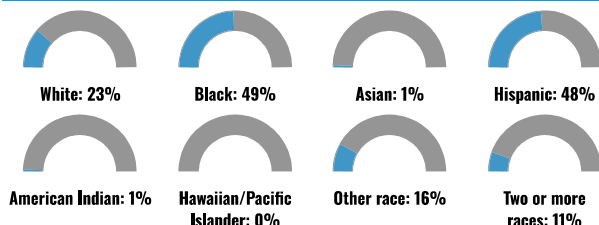
2 miles Ring Centered at 29.811232,-95.306225
 Population: 32,464
 Area in square miles: 12.56



COMMUNITY INFORMATION



BREAKDOWN BY RACE



BREAKDOWN BY AGE



LIMITED ENGLISH SPEAKING BREAKDOWN



LANGUAGES SPOKEN AT HOME

LANGUAGE	PERCENT
English	58%
Spanish	42%
Total Non-English	42%

Notes: Numbers may not sum to totals due to rounding. Hispanic population can be of any race. Source: U.S. Census Bureau, American Community Survey (ACS) 2017-2021. Life expectancy data comes from the Centers for Disease Control.

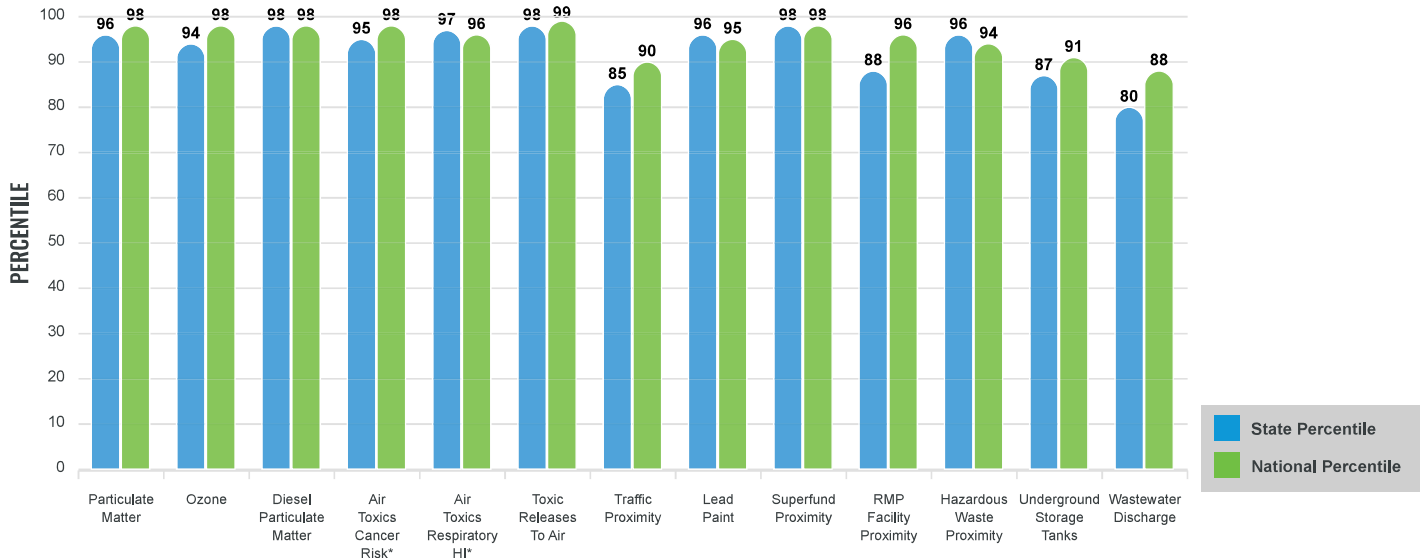
Environmental Justice & Supplemental Indexes

The environmental justice and supplemental indexes are a combination of environmental and socioeconomic information. There are thirteen EJ indexes and supplemental indexes in EJScreen reflecting the 13 environmental indicators. The indexes for a selected area are compared to those for all other locations in the state or nation. For more information and calculation details on the EJ and supplemental indexes, please visit the [EJScreen website](#).

EJ INDEXES

The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.

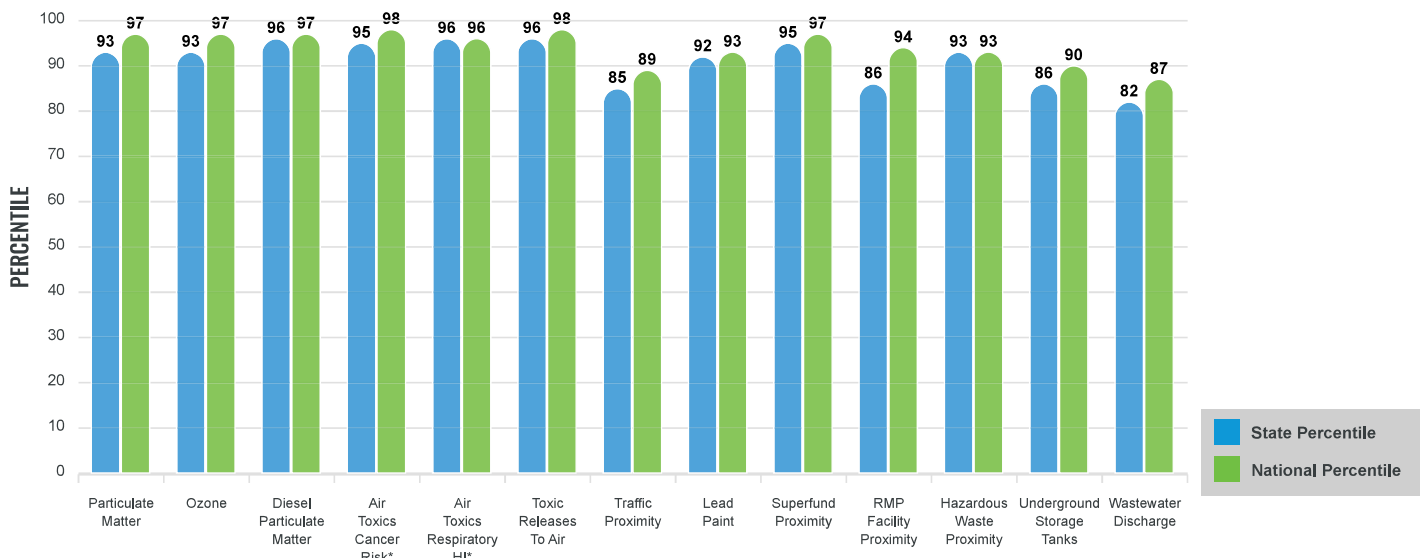
EJ INDEXES FOR THE SELECTED LOCATION



SUPPLEMENTAL INDEXES

The supplemental indexes offer a different perspective on community-level vulnerability. They combine data on percent low-income, percent linguistically isolated, percent less than high school education, percent unemployed, and low life expectancy with a single environmental indicator.

SUPPLEMENTAL INDEXES FOR THE SELECTED LOCATION



These percentiles provide perspective on how the selected block group or buffer area compares to the entire state or nation.

Report for 2 miles Ring Centered at 29.811232,-95.306225

EJScreen Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter (µg/m ³)	10.3	9.11	90	8.08	95
Ozone (ppb)	68.6	64.6	76	61.6	90
Diesel Particulate Matter (µg/m ³)	0.51	0.218	98	0.261	91
Air Toxics Cancer Risk* (lifetime risk per million)	36	28	44	25	52
Air Toxics Respiratory HI*	0.41	0.3	80	0.31	70
Toxic Releases to Air	53,000	12,000	94	4,600	98
Traffic Proximity (daily traffic count/distance to road)	210	150	81	210	76
Lead Paint (% Pre-1960 Housing)	0.52	0.17	89	0.3	74
Superfund Proximity (site count/km distance)	0.64	0.085	98	0.13	96
RMP Facility Proximity (facility count/km distance)	0.83	0.63	77	0.43	85
Hazardous Waste Proximity (facility count/km distance)	2.2	0.75	91	1.9	75
Underground Storage Tanks (count/km ²)	3.7	2.3	77	3.9	71
Wastewater Discharge (toxicity-weighted concentration/m distance)	0.01	0.91	71	22	67
SOCIOECONOMIC INDICATORS					
Demographic Index	80%	46%	91	35%	95
Supplemental Demographic Index	28%	17%	86	14%	92
People of Color	98%	58%	91	39%	95
Low Income	62%	34%	85	31%	89
Unemployment Rate	11%	5%	84	6%	83
Limited English Speaking Households	9%	8%	70	5%	83
Less Than High School Education	30%	16%	81	12%	91
Under Age 5	7%	6%	59	6%	67
Over Age 64	13%	14%	51	17%	37
Low Life Expectancy	27%	20%	97	20%	95

*Diesel particulate matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/haps/air-toxics-data-update>.

Sites reporting to EPA within defined area:

Superfund	0
Hazardous Waste, Treatment, Storage, and Disposal Facilities	3
Water Dischargers	90
Air Pollution	8
Brownfields	5
Toxic Release Inventory	16

Other community features within defined area:

Schools	8
Hospitals	2
Places of Worship	115

Other environmental data:

Air Non-attainment	Yes
Impaired Waters	Yes

Selected location contains American Indian Reservation Lands*	No
Selected location contains a "Justice40 (CEJST)" disadvantaged community	Yes
Selected location contains an EPA IRA disadvantaged community	Yes

Report for 2 miles Ring Centered at 29.811232, -95.306225

EJScreen Environmental and Socioeconomic Indicators Data

HEALTH INDICATORS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Low Life Expectancy	27%	20%	97	20%	95
Heart Disease	8.5	5.9	89	6.1	88
Asthma	11.2	9.2	95	10	81
Cancer	5.1	5.2	49	6.1	26
Persons with Disabilities	17.3%	12.3%	80	13.4%	76

CLIMATE INDICATORS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Flood Risk	10%	10%	74	12%	65
Wildfire Risk	0%	30%	0	14%	0

CRITICAL SERVICE GAPS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Broadband Internet	26%	15%	80	14%	84
Lack of Health Insurance	30%	18%	86	9%	98
Housing Burden	Yes	N/A	N/A	N/A	N/A
Transportation Access	Yes	N/A	N/A	N/A	N/A
Food Desert	Yes	N/A	N/A	N/A	N/A

Footnotes

Report for 2 miles Ring Centered at 29.811232,-95.306225

PUBLIC COMMENT LETTER

Re: TEXAS COASTAL MATERIALS, LLC
NOTICE OF APPLICATION FOR AN AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND
CONCRETE CRUSHERS: REGISTRATION NUMBER 173296

To whom it may concern,

Harris Health System, the public safety-net healthcare provider in Harris County, Texas, stands in strong opposition and urges the application denial of Texas Coastal Materials, LLC, to construct a permanent rock and concrete crushing facility at 5875 Kelley St., Houston, Texas 77026. The proposed location is approximately 400 yards away from Harris Health Lyndon B. Johnson (LBJ) Hospital, a 215 licensed-bed acute care facility providing full medical services to more than 18,000 inpatient admissions and 80,000 emergency visits annually. Located at 5656 Kelley St., Houston, Texas 77026, the hospital directly serves the northeast quadrant of Harris County through its Level 3 trauma and emergency center, serving as one of the state's busiest Level 3 hospitals and a vital hospital partner in the emergency response system for Houston and Harris County.

If allowed to proceed, the proposed concrete crushing facility poses significant health and environmental concerns for all patients, visitors, staff, and area residents because of potential harmful pollutants emitted daily from plant operations. Allowing such a business to move forward would further exacerbate the long-standing health disparities and inequities facing the community—mostly people of color and low socio-economic status.

LBJ Hospital is part of a large safety-net system providing over \$796 million in charity care annually to uninsured patients. Located in a hospital desert area, LBJ Hospital is the only large medical provider with life-saving services in the area for miles around. Most who come to LBJ Hospital have nowhere else to go. For this reason, construction of the crusher plant so close to this essential hospital further risks the health and well-being of sick and vulnerable patients.

Crusher plants like the one proposed by Texas Coastal Materials release air pollutants including particulate matter (PM) of different sizes (coarse PM10 and fine PM2.5), which pose significant health risks to the community. For instance, exposure to PM2.5, the main driver of health-harming air pollution, is linked to ischemic heart disease, lung cancer, chronic obstructive pulmonary disease (COPD), lower-respiratory infections, stroke and premature death. In 2015, Houston witnessed 5,200 premature deaths directly attributed to particulate matter from these plants. A 2023 study estimated that 101 concrete batch plants in greater Houston collectively release approximately 111 tons of PM2.5 annually.

In addition to increasing levels of health-harming particulate matter pollution, cement production also generates crystalline silica dust, a toxic material that is directly related to the development and worsening of health conditions including silicosis, lung cancer, COPD, kidney

PUBLIC COMMENT LETTER

failure and autoimmune disease. According to research, 1,437 deaths were identified and linked to silicosis over a decade. Additionally, nitric oxide and nitrogen dioxide, byproducts of combustion in these plants have been shown to irritate the lungs and worsen a host of respiratory and cardiovascular conditions including pneumonia, influenza, chronic obstructive pulmonary disease, pleurisy, ischemic heart disease, cardiac arrhythmias, heart failure, and thrombosis.

Faced with historic discrimination, communities of color (Black and Latino) in Houston and Harris County—including those in the service area of LBJ Hospital— are exposed to a disproportionate share of air pollution and environmental hazards. In Houston, 54% of concrete facilities are located in communities of color contributing to racial inequities in respiratory health outcomes. In fact, areas near LBJ Hospital report some of the highest rates of COPD and asthma cases compared to other parts of the county, and LBJ Hospital's Emergency Center sees significantly higher proportional volumes of patients with respiratory conditions than hospitals in other areas of Harris County.

It should also be noted that the Harris County Attorney's Office discovered that Texas Coastal Material, LLC chose to publish its required public notice outside of the Houston area in an obvious effort to keep the community uninformed.

For these reasons, allowing a rock and concrete crushing plant near LBJ Hospital and in this part of Harris County poses a significant danger to public health and safety, particularly for vulnerable patients who depend on the hospital's emergency and acute care services daily. Given the evidence of the harmful effects of crushing plants and their added contribution to existing racial and environmental disparities, it is imperative to prioritize the well-being of this community and summarily reject the proposed permit application at this location. Environmental justice and health equity must be at the forefront of our decision-making process to protect the most vulnerable among us for years to come.

Esmail Porsa, MD, MBA, MPH, CCHP-A (He, His)
President and CEO



Administration
4800 Fournace Place | Bellaire, TX 77401
Email: esmail.porsa@harrishealth.org



My name is Suzanne Knott-Jackson, and I am the Senior Chaplain for Harris Health's Spiritual Care Department at Lyndon B. Johnson Hospital. I oversee the religious staff and services provided at LBJ Hospital.

LBJ Hospital is a 215 licensed-bed acute care hospital that offers a full range of medical services and spiritual care. LBJ Hospital maintains a chapel located near the hospital's main entrance and provides spiritual care services throughout the hospital to assist patients, their families, and staff wherever and whenever help is needed. LBJ Hospital currently employs seven chaplains. At any time of day at least one chaplain is available, and as many as three are available during peak hours and seasons. Chaplains working at LBJ's spiritual care center are available at any time of day, every day, to meet the needs of the patients, patient families, and staff at LBJ. Chaplains work a rotating schedule so that there is constant coverage of the hospital to meet the spiritual needs of the community. LBJ Hospital's spiritual services take many forms including end of life care, infant baptism, comfort in times of grief, spiritual counseling, small-group meetings, and leading organized prayer. In this role, chaplains at LBJ Hospital provide religious support to all who find themselves in need. Generally, chaplains perform family meetings five to seven times per week and private spiritual counseling sessions once or twice per week. Below are the estimated monthly visits made by chaplains to patients for each month so far in 2023:

Month	January	February	March	April	May	June	July	August	September	October
Patients	953	712	1057	763	963	1371	1506	1156	1251	1283

LBJ chaplains also perform special events such as memorial services for staff members, baptism of patients, and extra services for holidays such as National Day of Prayer, Ramadan, and Ash Wednesday.

The LBJ Chapel is always available for those in need of a quiet place for prayer, meditation, and personal reflection. Additionally, the LBJ Chapel holds organized services for many different religious groups and denominations. Chaplains at LBJ provide services and literature in both English and Spanish to meet the needs of the community. The LBJ Chapel has set aside time for worship events on weekends and weekdays. These worship events include morning prayers Monday through Friday, afternoon Islamic prayer, and a Catholic mass every Wednesday at Noon.

Thus, religious activities are conducted both in the LBJ Chapel and throughout the entirety of LBJ Hospital daily. While the Chapel is the primary location for organized services, chaplains lead patients, family, and staff in prayer, sacraments, special services, and other religious activities throughout the hospital.

Sincerely,

Suzanne Knott-Jackson

Suzanne Knott-Jackson

Harris Health Spiritual Care

Senior Chaplain

AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

Before me, the undersigned notary, on this day personally appeared Suzanne Knott-Jackson, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

My name is Suzanne Knott-Jackson. I am over the age of eighteen (18) years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein.

I am employed by Harris Health as a Senior Chaplain.

I have read the foregoing Affidavit, the facts stated therein are within my personal knowledge and are true and correct.

Suzanne Knott-Jackson
Suzanne Knott-Jackson

SWORN AND SUBSCRIBED TO before me on Dec 6, 2023, to certify which witness may hand and official seal.

Lorena P Sandoval

Notary Public in and for the State of Texas

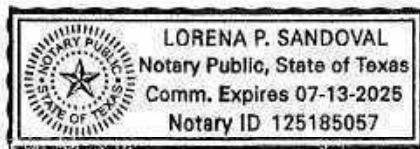


EXHIBIT E

SUMMARY DOCUMENT FOR AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE CRUSHERS

I. EXECUTIVE SUMMARY

The Texas Commission on Environmental Quality (TCEQ or commission) issues an air quality standard permit for rock crushing and concrete crushers. This standard permit is applicable to all rock crushers that process nonmetallic minerals or a combination of nonmetallic minerals at quarries, mines, aggregate handling facilities, concrete recycling sites, etc., on a permanent basis and meet the conditions of this standard permit.

II. EXPLANATION AND BACKGROUND OF AIR QUALITY STANDARD PERMIT

This standard permit will replace the permit by rule (PBR) for rock crushers (Title 30 Texas Administrative Code (30 TAC) §106.142, Rock Crushers). This PBR has potential issues with enforceability and it can be difficult to determine compliance for facilities that are authorized by the PBR. This standard permit was developed to update technical requirements, provide clearer, more enforceable conditions, require recordkeeping that facilitates the determination of compliance, and update the authorization for these facilities to include statutory requirements for certain concrete crushers. Owners or operators of crushing facilities authorized by the PBR may continue to operate under the PBR unless the crusher is moved or modified. This standard permit provides a streamlined preconstruction authorization process to be used by any owner or operator of a crusher that can comply with the standard permit requirements and all other state or federal permitting statutes or regulations.

III. OVERVIEW OF AIR QUALITY STANDARD PERMIT

The commission issues this standard permit for permanent rock crushers under 30 TAC Chapter 116, Subchapter F, Standard Permits. The commission previously authorized rock crushers under the conditions of 30 TAC Chapter 106, Permits by Rule, the Air Quality Standard Permit for Temporary Rock Crushers and Temporary Concrete Crushers, or under 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification. The issuance of this standard permit is consistent with the desire of the commission to simplify its regulatory structure and provide standard permits as an alternative to authorization by a case-specific New Source Review (NSR) permit. The general public often expresses concerns with crushing sites and operations that include, but are not limited to, traffic safety, noise, appearance, and property values. These types of concerns are not addressed under the Texas Clean Air Act and are beyond the commission's jurisdiction. Those concerns of the general public regarding nuisance dust, ambient air quality, and potential adverse health impacts are the focus of the protectiveness review and the resulting conditions of the standard permit.

The commission is including requirements to minimize dust emissions, establish property line distance limitations, and establish opacity and visible emission limitations. These requirements are based on air dispersion modeling, an impacts analysis, and plant observations performed to

verify the protectiveness of the standard permit. The commission has concluded research which shows that the standard permit for a permanent rock crusher or a permanent concrete crusher is protective of the public health and welfare, and that facilities operating under the conditions specified will comply with commission regulations.

The standard permit is designed to authorize a rock crusher that will be permanently located. It is not intended to provide an authorization mechanism for all possible unit configurations or for unusual operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC §116.111, General Application, or the Air Quality Standard Permit for Temporary Rock and Concrete Crushers.

IV. PERMIT CONDITION ANALYSIS AND JUSTIFICATION

The general conditions for standard permits, located in 30 TAC Chapter 116, Subchapter F, apply to all owners or operators of crushers seeking authorization under this standard permit. With the exception of 30 TAC §116.610(a)(1), Applicability, all crushers are required to meet 30 TAC Chapter 116, Subchapter F rule requirements as well as the specific conditions of this standard permit. Any changes that are made to this standard permit by the commission shall apply to all existing and future facilities that are authorized by this standard permit. As specified by 30 TAC Chapter 116, Subchapter F, to remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed (however, compliance with an amended standard permit is not required within 24 months of the amendment unless it is necessary to protect public health). The standard permit authorization is location specific, and relocation to a new site requires the owner or operator to apply for a new authorization. Vacating a site voids the authorization at that site.

General Requirements

Section (1), General Requirements, outlines the administrative requirements that all crushers must meet.

Similar to the Air Quality Standard Permit for Temporary Rock Crushers and Temporary Concrete Crushers, subsection (1)(A) provides definitions for the terms site and associated sources. The definition for the term site is consistent with the definition that is given in 30 TAC Chapter 122, Federal Operating Permits Program. The definition for the term associated sources is based on the term facilities defined in 30 TAC Chapter 116. These definitions are included to ensure clarity when these terms are used in the conditions of the standard permit.

This standard permit includes a definition for the term residence. The term residence is used throughout various statutes and rules of the TCEQ and other state agencies. However, the term is not defined under the Texas Clean Air Act or by air quality-related agency rules. Webster's defines "reside" as "to live in a place for a permanent or extended time." It further defines "residence" as "the place in which one lives." (Webster's II New College Dictionary, 1995) Texas courts have generally accepted that "residence" means "the place where one actually lives or has his or her home; a person's dwelling place or place of habitation; a dwelling house." (*Owens Corning v. Carter*, 997 S.W.2d 560 (Tex. 1999); *Malnar v. Mechell*, 91 S.W.3d 924 (Tex. App. Amarillo 2002); *Dickey v. McComb Development Co., Inc.* 115 S.W. 3d 42 (Tex. App. San Antonio 2003))

In most situations, whether or not a structure is a residence is generally self-evident. In some cases, however, questions may arise as to the character of a structure located near a facility in determining its

compliance with applicable distance requirements. When necessary, a case-by-case determination shall be made by the TCEQ executive director regarding whether or not a structure is in fact a residence. The executive director may consider factors and circumstances specific to the situation in making the determination. Potential factors that may be considered include, but are not limited to:

- Local tax rolls showing the property as a residence
- Utility bills showing a residential rate
- Location of structure in a neighborhood with any deed restrictions or zoning ordinances on use as a business or other non-residential activity
- Frequency of use of structure as a residence

Subsection (1)(B) provides distance limitations for concrete crushers with subsection (1)(C) specifying that the distance requirements in (1)(B) are established at the time the standard permit application is filed with the commission. However, subsection (1)(D) provides exceptions to the distance requirements in (1)(B) for demolition projects.

Subsection (1)(E) states that the commission will not accept an application for a crushing facility for authorization under Texas Health and Safety Code (THSC), §382.0518, Preconstruction Permit, for a period of one year from registration of a crushing facility under this standard permit. This is to prevent the use of this standard permit as an immediate precursor to a larger crushing operation. Subsection (1)(F) prevents an applicant that has submitted an application for a crushing facility under THSC, §382.0518, from being authorized by this standard permit at the same site until 12 months after the application for authorization under THSC, §382.0518, is withdrawn. This is to prevent an applicant that has contested case hearing requests for a permit under THSC, §382.0518, from withdrawing that application and immediately using this standard permit.

Subsection (1)(G) states that an applicant must file for the standard permit using Form PI-1S, checklist, and Table 17. It also specifies that a compliance history review will be accomplished. An applicant classified as a poor performer will not be granted authorization under this standard permit.

Subsection (1)(H) states that the crushing facility shall not be constructed or operated without written authorization from the executive director. Start of construction shall be no later than 18 months from the date of authorization. Construction progress and startup notification shall be in accordance with the general conditions of the standard permit. As stated in subsection (1)(I), permit fees will be remitted in accordance with 30 TAC §116.614, Standard Permit Fees.

Subsection (1)(J) states that New Source Performance Standards identified in Title 40 Code of Federal Regulations Part 60 (40 CFR Part 60), Subpart A, General Provisions, and Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants, are applicable to sources authorized by this permit, and, as stated in subsection (1)(K), crushing facilities authorized by this permit will be authorized to process only those materials identified as nonmetallic minerals as defined in 40 CFR Part 60, Subpart OOO. Subsection (1)(L) identifies other commission rules that may be applicable and states that this standard permit does not supersede those rules.

Subsection (1)(M) identifies recordkeeping requirements. Records are to be kept at the site for daily hours of operation and total throughput per hour to demonstrate compliance with the conditions of the standard permit. Additionally, as the result of comments received during public notice, the commission is changing this condition to include records of watering, road cleaning logs, and dust suppression activities at stockpiles. Subsection (1)(N) specifies the requirement to comply with 30 TAC Chapter 101, Subchapter F, Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities. Subsection (1)(O) states that the facilities authorized by this permit will not be required to meet the emission and distance requirements established in 30 TAC §116.610(a)(1), since modeling has indicated

that the permit is protective without this restriction. Subsection (1)(P) states that maintenance activities are not authorized by this standard permit and that startup and shutdown emissions must be approved by separate authorization if expected to exceed emissions from production operations.

Subsection (1)(Q) states that an applicant authorized by this standard permit would not be eligible for any other authorization in 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement, or 30 TAC §106.512, Stationary Engines and Turbines, at the same site as the crusher authorized by this standard permit in order to ensure that cumulative emissions do not result in adverse off-property impacts. It should be noted that subsection (1)(R) states that registrations for the PBR for rock crushers will no longer be approved by the TCEQ after issuance of this standard permit.

Public Notice Requirements

Section (2) of this standard permit requires that owners and operators of rock crushers authorized by this standard permit provide public notice. The standard permit public notice allows for local communities to be informed of proposed rock or concrete crusher projects. The public will have the opportunity to submit comments to the agency and to be informed on the outcome of the standard permit review. The public notice will not, however, allow for the public to request a contested case hearing, as rock and concrete crushers meeting the requirements of this standard permit have been demonstrated to meet all air permitting requirements, including passing a health effects review.

Subsection (2)(A) states that the public notice requirements in 30 TAC Chapter 39, Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications, do not apply. Facilities authorized by this standard permit will be subject to the public notice requirements as set forth in section (2) of this standard permit, which are based on the public notice requirements established for the Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls.

Subsection (2)(B) requires the applicant to publish notice of intent to construct a crusher no later than the 30th day after the date the applicant receives written notice from the executive director that the application is technically complete or the 75th day after the date that the executive director receives the application. The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the crusher is proposed to be located or in the municipality nearest to the proposed location of the crusher, as required by subsection (2)(C). If the elementary or middle school nearest to the proposed crusher provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the crusher is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice. Subsection (2)(D) requires that the notice include: 1) a brief description of the proposed location and nature of the proposed crusher; 2) a description, including a telephone number, of the manner in which the executive director may be contacted for further information; 3) a description, including a telephone number, of the manner in which the applicant may be contacted for further information; 4) the location and hours of

operation of the commission's regional office at which a copy of the application is available for review and copying; and 5) a brief description of the public comment process and the mailing address and deadline for filing written comments.

Subsection (2)(E) requires that the applicant post signs on the site of the proposed facility. Requirements for these signs, including size and specific information to be made available, are provided in paragraphs (2)(E)(i)-(vi). Subsection (2)(F) requires that the signs be in place by the date of the newspaper publication and remain in place and legible throughout the public comment period. Subsection (2)(G) provides direction regarding the placement of signs. Subsection (2)(H) requires that alternate language signs be included for those crushers in close proximity to schools having a bilingual program required by Chapter 29 of the Texas Education Code or schools that have waived out of such a required bilingual education program under the provisions of 19 TAC §89.1205(g). Additional requirements for the alternate language signs are in paragraphs (2)(H)(i)-(iv).

As stated in subsection (2)(I), the public comment period begins on the first date notice is published under subsection (2)(B) and extends to 30 days after the publication date. As required by subsection (2)(J), the executive director will approve or deny the standard permit registration not later than the 30th day after the end of the public comment period. The executive director will base the decision on whether the representations made in the application meet the requirements of this standard permit. The executive director will consider all comments received during the public comment period in determining whether to approve the registration. If the executive director denies the registration, the executive director will state the reasons for the denial and any modifications necessary for the proposed crusher to qualify for the authorization. Subsection (2)(K) specifies that the executive director will issue a written response to any public comments received related to the standard permit at the same time as or as soon as practicable after the executive director grants or denies the application. Issuance of the response after the granting or denial of the registration does not affect the validity of the executive director's decision to grant or deny the registration. The executive director will mail the response to each person who filed a comment and make the response available to the public.

Operational Requirements

Section (3), Operational Requirements, outlines technical requirements that all crushers must meet.

In order to ensure that there are no adverse off-property impacts, subsection (3)(A) limits throughput at the primary crusher to a maximum of 200 tons per hour (tph), and subsection (3)(B) requires a minimum distance of 200 feet (ft.) from any property line. To help prevent nuisance conditions, condition (3)(C) specifies a minimum distance from the facility to a single or multi-family residence, school, or place of worship. Based on a comment received during public notice, the commission is changing this distance from 1,000 feet to 440 yards to be consistent with the statutory requirement for concrete crushers. The distance is to be measured between the closest points of the facility and the residence, school, or place of worship. This subsection also specifies that the distance requirements are established at the time the standard permit application is filed with the commission.

Subsection (3)(D) establishes a separation distance between any crushing facility authorized under this standard permit and either another additional operating crushing facility, concrete batch plant (CBP), or hot mix asphalt plant (HMAP) to help ensure that cumulative emissions do not result in adverse off-property impacts. If this distance cannot be met, then the crushing facility authorized under this standard permit shall not operate at the same time as the additional crushing facility, CBP, or HMAP. The distance is to be measured between the closest points of the facilities of concern. Distance requirements for all associated sources, as defined in subsection (1)(A), will be required by subsection (3)(E) to be at least 100 feet from the property line as measured from the closest points between the stockpile or road and the

nearest property line.

In order to limit the amount of emissions, subsection (3)(F) restricts the facilities authorized by this standard permit to one primary crusher, one secondary crusher, one vibrating grizzly, two screens, associated conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 horsepower. As stated in subsection (3)(G), the crusher, associated facilities, and associated sources (excluding stockpiles) may not operate for more than an aggregate of 2,640 hours in any rolling 12-month period. When the operating hours (2,640) for the site have been exhausted, the owner or operator shall not use a standard permit to operate another rock crusher on the site. Subsection (3)(H) designates the time of operation to be between one hour before official sunrise and one hour after official sunset.

Subsection (3)(I) designates that the rock crushers shall be equipped with a runtime meter to ensure compliance with the requirement concerning operating hours. Also, based on a comment received during public notice, the commission is changing this condition to require the runtime meter to be operating during crushing operations. Criteria for emission controls are defined in subsection (3)(J), which requires all crushing facilities to have properly mounted spray bar equipment on the inlet and outlet of all crushers, all shaker screens, and at all material transfer points. These devices are to be used as necessary to maintain compliance with all TCEQ regulations.

Subsections (3)(K) and (L) address performance demonstrations for the facility. All crushing facilities authorized under this standard permit will be limited to no visible emissions at the property line that exceed a cumulative 30 seconds over a six-minute period as determined by the U.S. Environmental Protection Agency (EPA) Test Method (TM) 22 from all crushers, associated facilities, associated sources, and in-plant roads and work areas associated with the plant. Additionally, according to EPA TM 9, opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period. The performance expectations are listed for compliance demonstrations with the conditions of the standard permit and prevention of nuisance conditions. Visible emission limitations and opacity requirements ensure that both the operators and TCEQ field investigators can clearly understand how to demonstrate compliance with the rules and regulations of the commission.

Subsections (3)(M) and (N) help ensure compliance with subsection (3)(L). Subsection (3)(M) requires that dust emissions from road and traffic areas directly associated with the operation of the rock crusher be minimized by covering or treating them with dust-suppressant materials, dust-suppressant chemicals, watering, or paving. Similarly, subsection (3)(N) requires that dust from stockpiles be controlled by watering, dust-suppressant chemicals, or covered as necessary to minimize emission from these sources. Subsection (3)(O) limits raw material and product stockpiles to a maximum height of 45 feet.

Subsection (3)(P) states that a weigh hopper or scale belt is to be used to determine the mass of material to be processed by the crushing facility to ensure compliance with throughput requirements. Subsection (3)(Q) states that the crushing facility may relocate on the same site without reauthorization as long as the required distance from any residence, school, or place of worship in existence at the time of the move is maintained. Based on a comment received during public notice the commission is changing this distance from 1,000 feet to 440 yards to be consistent with the statutory requirement for concrete crushers.

V. PROTECTIVENESS REVIEW

Dispersion Modeling and Distance Limits

The rock and concrete crushing standard permit team developed representative worst-case operating scenarios to be evaluated by dispersion modeling. Pollutants evaluated were particulate matter (PM), particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀), PM_{2.5}, silica, and products of combustion from the engines, including sulfur dioxide (SO₂), carbon monoxide (CO), nitrogen dioxide (NO₂), and PM₁₀. Impacts were obtained using the EPA Industrial Source Complex (ISC) model. The model's output was used as the basis to develop the distance limits for the standard permit.

The operating scenarios consisted of a generic configuration of a 200 tph rock crushing operation. All rock crushing equipment emissions, including drop points, screens, crushers, conveyers, and stockpiles, were characterized as three circular area sources with heights of 1 meter, 3 meters, and 6 meters. The radius of the circular area sources was based on the areal coverage of the stockpiles.

The emissions of the sources were based on the maximum plant throughput of 200 tph operating for 2,640 hours per year. Stockpile emissions were evaluated as being active over the entire year (8,760 hours per year) with emissions controlled in accordance with the operational requirements stated in subsections (3)(L) and (3)(N). Thus, the emissions used in the air dispersion model reflect emission reductions for the use of water sprays and watering stockpiles. Because the sources are all low-level fugitives, the emissions modeled were adjusted by 40 percent to account for increased dispersion due to plume meander and spreading found to exist in conditions of stable atmosphere and low wind speeds. A study of monitoring data collected throughout the state indicates that this factor provides a good correlation between the collected data and the ISC model for the low-level fugitive emissions indicative of this type of facility.

Because there is no set "property line" for this standard permit, the receptor grid started at the edge of a circle encompassing all sources and continued out in 25 meter increments along 10 degree radial profiles sufficiently far to determine that the emissions would be below the National Ambient Air Quality Standard (NAAQS) protectiveness requirements in any, and every, direction.

The TCEQ staff used five years of meteorological data for a single location in lieu of evaluating multiple regional meteorological data sets. The rationale that the staff considered in making this decision was that the source releases are low-level fugitives and that the sources would be evaluated in multiple orientations; therefore, five years of data would provide representative worst-case meteorological parameters for fugitive impacts (low wind speed and stable atmospheric conditions). The meteorological data for this analysis consisted of surface data from Austin and upper-air data from Victoria for the years 1983, 1984, 1986, 1987, and 1988. Thus, since this analysis is primarily for short-term concentrations, this five-year set would include worst-case short-term meteorological conditions that could occur anywhere in the state.

Because all the emission sources were characterized as low-level fugitives, the emissions would be terrain following. Therefore, a reasonable worst-case evaluation was to address only flat terrain. The staff used both urban and rural dispersion coefficients with the worst-case result for each case evaluated used as the defining condition. Staff did not consider building downwash for this analysis because typically there are no downwash structures involved and this is not applicable for area source modeling.

The point source representation of engines is a minor source at rock crushing sites. No downwash was assumed for this emission point since the stack exit velocity and the stack exit temperature generally results in a plume that escapes downwash effects.

Results from the air dispersion modeling described above show that the maximum ground level emission concentrations for SO₂, PM₁₀, PM_{2.5}, NO₂, and CO are below the required limits established by the NAAQS. Thus, the rock and concrete crushing facility established by this standard permit should be protective with regard to the NAAQS requirements.

The potential health effect of the possibility of silica within the crushed material was evaluated assuming a conservatively high 20 percent silica content within the material to be crushed. The results were compared to the current effects screening level (ESL). The ESL is a conservative guideline concentration that is meant to serve as a screening tool and, as such, has multiple built-in safety factors. Because of the safety factors, the conservative guideline concentration is considered to be protective of the general population, which includes the very young, the elderly, and people with preexisting health conditions.

Using the same modeling techniques and assumptions as described previously, the maximum one-hour ground level concentration of respirable quartz silica (PM₄) was found to be 4.5 micrograms per cubic meter (µg/m³), which is below the current ESL value of 10 µg/m³. The maximum annual ground level concentration of respirable quartz silica was found to be 0.3 µg/m³, which, again, is below the current ESL value of 1 µg/m³. Thus, there should be no health-based effects of the rock or concrete crushing facility defined by this standard permit.

VI. PUBLIC NOTICE AND COMMENT PERIOD

In accordance with 30 TAC §116.603, Public Participation in Issuance of Standard Permits, the TCEQ published notice of this proposed standard permit in the *Texas Register* and newspapers of the largest general circulation in Austin, Houston, and Dallas. The date for these publications was February 15, 2008. The public comment period ran from the date of publication until March 21, 2008. Written comments were received by Hill Country Environmental, Inc. (HCE); CSA Materials, Inc. (CSA); Fred M. Bosse representing Southern Crushed Concrete, LLC (SCC); Associated General Contractors (AGC); Harris County Public Health & Environmental Resources (HCPHES); Westward Environmental, Inc. (WE); City of Houston Department of Health and Human Services, Bureau of Air Quality Control (BAQC); Jobe Materials, L.P. (Jobe); and the Texas Aggregate and Concrete Association (TACA).

VII. PUBLIC MEETING

A public meeting on the proposed standard permit was held on March 18, 2008, at 1:30 p.m., at the TCEQ, Building E, Room 254S, 12100 Park 35 Circle, Austin, Texas. Oral comments were provided by AGC and Jobe.

VIII. ANALYSIS OF COMMENTS

HCE commented that the definition of associated sources in condition (1)(A)(ii) includes activities that are not facilities as defined by the Texas Clean Air Act (TCAA) and 30 TAC Chapter 116 and are thus, not required to be authorized.

Associated sources, while not requiring authorization, may be regulated by permit conditions when co-located with an authorized facility in order to ensure that cumulative emissions from the

associated sources and the facility do not result in adverse off-property impacts.

HCE requested the term dwelling be defined to include the conditions listed in the technical summary document that will be used to determine whether a structure is a dwelling.

The list of factors that may be used in determining whether a structure is a residence included in the technical summary document is meant to illustrate the types of considerations the executive director might use in making such a determination. The ultimate determination of whether a structure constitutes a dwelling will be made on a case-by-case basis considering above noted factors and the information specific to the particular structure and circumstances.

HCE commented that conditions (1)(E) and (1)(F) of the standard permit were too restrictive and requested that staff include language that would allow an owner or operator to continue to produce aggregate during a contested case hearing and retain the option to continue authorization under the standard permit if an NSR permit application was denied or strongly opposed. Jobe also commented that condition (1)(E) was excessively restrictive.

As noted in the Permit Condition Analysis and Justification section of this document, conditions (1)(E) and (1)(F) were established to prevent the use of this standard permit as an immediate precursor to a larger crushing operation and to prevent an applicant that has contested case hearing requests for a permit under THSC, §382.0518, from withdrawing that application and immediately using this standard permit.

HCE commented that there is a typo in condition (3)(E).

The commission appreciates the comment and has corrected the error.

HCE requested the inclusion of additional language authorizing the removal of overburden.

With regard to the removal of overburden, unless the overburden material is processed by equipment meeting the definition of a facility, this activity does not require authorization. Additional and separate authorization is required if the owner or operator intends to process overburden material with a facility.

CSA commented that the combination of hours of operation and throughput limitations resulted in operating inefficiencies and suggested that higher production rates, more crushers, and more screens should be allowed.

The commission disagrees with this comment. This standard permit is being proposed to replace the current PBR for rock crushers and the intent is to provide authorization for a similar type and size operation. This standard permit is not meant to provide authorization for all unit configurations or operating scenarios for rock crushers. For facilities that cannot meet the conditions of this standard permit, applicants may seek authorization by a case-by-case NSR permit.

SCC commented that modeling does not support the stockpile height limitation in condition (3)(O) and that this restriction should be removed.

The commission does not agree with this comment. A 45-foot stockpile height was the design criteria that was evaluated in the protectiveness review and the review indicated that there would be no adverse off-property impacts. The conditions in PBRs and standard permits are often more restrictive than those in a case-by-case NSR permit. This standard permit is not meant to provide

authorization for all unit configurations or operating scenarios for rock crushers. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

BAQC commented that city of Houston personnel have repeatedly observed that few of the crushing operations consistently practice the full set of regulatory requirements necessary to reduce air emissions under the TCEQ permits program. This can result in nuisance conditions beyond the 440-yard setback requirement and BAQC requested that the setback be increased to 1,500 feet.

The commission disagrees with this comment. If a facility complies with all conditions of this standard permit, then the 440-yard setback required by condition (1)(B) is adequate to prevent nuisance and is the distance specified by the Texas Health and Safety Code, §382.065. It is expected that owners or operators of facilities authorized under this standard permit comply with all of the conditions of the permit or be subject to potential enforcement action.

BAQC and HCPHES requested that watering and road cleaning logs be included in the recordkeeping required by the permit. HCPHES also requested the inclusion of stockpile dust suppression activities and abatement systems maintenance in the recordkeeping requirements.

The commission agrees with the request to keep records of watering, road cleaning logs, and dust suppression activities at stockpiles. This standard permit gives considerable latitude to owners and operators regarding the frequency of these tasks due to the influence of weather conditions on the potential for emissions. It is reasonable to expect the owner or operator to supply evidence that these tasks are being performed with adequate frequency, particularly in the case of a nuisance complaint investigation.

The commission does not agree with the request to include records of abatement system maintenance because the required abatement equipment, spraybars, requires little if any maintenance. Additionally, 30 TAC §116.615, General Conditions, requires that abatement equipment be in good condition and working properly at all times during normal facility operations.

BAQC requested the inclusion of a requirement that trucks entering or leaving the facility be required to cover their load to prevent particulate emissions from the trucks.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have statutory authority over the emissions from mobile sources. However, the Texas Department of Transportation has regulations regarding the covering of open truck beds and trailers.

BAQC commented that compliance history should be a consideration in authorization of these facilities and should be considered grounds for revoking an authorization.

Condition (1)(G) specifies that a registration for this standard permit is subject to a compliance history review and an applicant classified as a poor performer will not be granted authorization under this standard permit. In addition, if after authorization is granted, the facility is found to be out of compliance with the terms and conditions of the standard permit, it will be subject to possible enforcement action.

Jobe commented that the introductory paragraph states that the permit authorizes crushing operations and should be changed to crushing facilities in order to be consistent with the requirements of the TCAA and Chapter 116.

The commission agrees with the comment and has changed the language in the opening paragraph.

Jobe commented that it appeared that the standard permit could be used to authorize multiple crushers on a single site as long as the distance requirements in (1)(B), (3)(B), (3)(C), and (3)(D) were all met.

The commission agrees with this comment with some exceptions. Multiple crushers on a single site may be authorized by the standard permit as long as all of the conditions of the standard permit are met, including condition (3)(G), which requires that all crushers on the site (not including secondary crushers used as part of a single crushing operation) not exceed an aggregate of 2,640 hours. No changes were made to the standard permit.

Jobe, TACA, and WE commented that the 200 tph limit was too low and should be increased to between 270 tph and 350 tph, possibly using a tiered system similar to that used in the Air Quality Standard Permit for Hot Mix Asphalt Plants. AGC suggested a tiered approach with a maximum throughput of 1,000 tph. Additionally, AGC and Jobe provided information demonstrating the increased economic efficiency of higher throughput rates.

No changes were made to the standard permit. This standard permit is intended to replace the current PBR for rock crushers and the intent is to provide authorization for a similar type and size operation. This standard permit is not meant to provide authorization for all unit configurations or operating scenarios for rock crushers. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

AGC suggested that condition (3)(F) include a tertiary crusher in addition to the primary and secondary crushers this standard permit authorizes.

This standard permit is intended to replace the current PBR for rock crushers and the intent is to provide authorization for a similar type and size operation. This standard permit is not meant to provide authorization for all unit configurations or operating scenarios for rock crushers. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

Jobe requested clarification on the requirements in condition (1)(F). Specifically, Jobe asked, for a site that has a facility authorized by a case-by-case NSR permit, assuming all conditions of the standard permit were met, if the standard permit could be used to authorize an additional crusher on that site.

No change was made to the standard permit. If a facility, currently authorized under a case-by-case NSR permit, exists at the site prior to the application for this standard permit, an additional crusher may be allowed under this standard permit if all conditions of the standard permit can be met, i.e. distance limitations.

TACA and WE requested that the standard permit allow an exemption from the setback requirement of 550 feet from any other rock crusher, CBP, or HMAP in condition (3)(D) for any facility demonstrating, through air dispersion modeling, that there would be no adverse off-property impacts.

This standard permit is not subject to the level of review necessary to make a determination of protectiveness based on modeling of individual facilities. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

HCPHES also requested that the TCEQ take speciated $PM_{2.5}$ studies conducted by the TCEQ at the Clinton monitor in Harris County and other studies of this kind into account for this standard permit. Additionally, HCPHES commented that the modeling report also states that, since there is no guidance from EPA concerning how to globally address $PM_{2.5}$ from on-site engines, off-site on-road engines, off-site off-road engines, and other $PM_{2.5}$ sources, the commission has directed staff to not include potential $PM_{2.5}$ emissions from the engines for this analysis. HCPHES disagrees with this assessment and believes that the TCEQ can develop its methodology to address these emissions from $PM_{2.5}$. HCPHES stated that without including all potential emissions in the modeling, the protectiveness review is flawed and whether the standard permit is protective of the applicable PM_{10} and $PM_{2.5}$ NAAQS is questionable.

The EPA has not completed the implementation of the $PM_{2.5}$ NAAQS for the NSR program. The EPA has provided interim guidance in a memorandum that the PM_{10} NAAQS will be the surrogate for demonstrating compliance with the $PM_{2.5}$ NAAQS, EPA memorandum from John S. Seitz, Director of the Office of Air Quality Planning & Standards, dated October 23, 1997.

The commission reaffirmed on November 15, 2006, in the case of KBDJ L.P. for Permit No. 55480, the TCEQ would continue to use PM_{10} as a surrogate for $PM_{2.5}$ until EPA fully implements the new $PM_{2.5}$ NAAQS for the NSR program.

HCPHES also commented that the modeling report states that a low-level fugitive scaling factor of 0.6 was applied to the modeled emission rates for the area sources and the rationale is that it is consistent with TCEQ guidance for these types of sources. HCPHES asked for a reasoned technical and scientific basis for using a multiplier factor of 0.6 for fugitive emissions, which in essence reduces emissions by 40% in the emission rate calculations.

In a March 6, 2002, memorandum available at

www.tceq.state.tx.us/assets/public/permitting/air/memos/modadjfact.pdf, the TCEQ documented and provided supporting references that explain the motivation, development, and rationale related to the adjustment of predicted concentrations from low-level sources with little vertical momentum or buoyancy flux. The procedure on how to apply the adjustment factor, background documentation, explanation of the technical justifications used, derivation of the adjustment factor, and a listing of supporting documentation are included in the ten-page March 6, 2002, memorandum.

HCPHES noted that the TCEQ's compliance history does not include violations documented by a local government that is not under contract with the TCEQ as a local program and requested that TCEQ include HCPHES violation notices as part of the compliance history when determining the issuance of this standard permit.

The input for determining the compliance history follows a complex formula that includes data determined by agency policy and rules. More specifically, TCEQ rules at 30 TAC § 60.1(6) limit compliance histories to the components specified in this chapter. The components include, among other things, any final enforcement orders, court judgments, consent decrees, and criminal convictions of this state and the federal government relating to compliance with applicable legal requirements under the jurisdiction of the commission or the EPA and to the extent readily available to the executive director, final enforcement orders, court judgments, and criminal convictions relating to violations of environmental laws of other states. The components do not include violations documented by a local government that is not under contract with the TCEQ as a local program. Therefore, this information will not be considered in the review process for this standard permit.

HCPHES commented that, due to population density and incompatible land use issues, the residents of Harris County are particularly negatively impacted from the operation of rock and concrete crushers in close proximity to residences and businesses. Also, HCPHES requested that written site approval from local air programs having jurisdiction be granted before crushing operations are authorized to begin at a site. Additionally, HCPHES requested 21 calendar days to respond to requests for comments from the TCEQ.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning, land use, and population density are therefore beyond the authority of the TCEQ for consideration when reviewing air quality standard permit registrations. The applicant must meet all distance requirements for protectiveness and state law (statutory distance limits) regardless of type and nature of receptors. In addition, the air quality standard permit does not negate or affect the responsibility of the applicant to comply with any additional local requirements.

The form and concept of the standard permit results in a standardized set of requirements and conditions for use such that a case-by-case site evaluation is unnecessary provided that the applicant qualifies under the terms of the permit. The standard permit requires that a copy of the registration application form be provided to the regional office and local program with jurisdiction. Thus, a local program will be provided notice of the pending standard permit use, and can make any reviews deemed necessary. However, as the standard permit contains all the necessary site conditions for approval, any further written site approvals are unnecessary.

HCPHES requested that the TCEQ require permanent rock and concrete crushers be subject to the contested case hearing requirements of 30 TAC Chapter 39, Subchapter H.

Under TCEQ rules regarding public notice and applicability of contested case hearings, there is no opportunity for a contested case hearing for standard permits issued under Chapter 116. Specifically, the public notice applicability and general provisions found at 30 TAC §39.403(c)(5) states "Notwithstanding subsection (b) of this section, Subchapters H - M of this chapter (referring to applicability, public notice requirements and contested case hearings for different types of applications) do not apply to the following actions and other applications where notice or opportunity for contested case hearings are otherwise not required by law: (5) applications under Chapter 116, Subchapter F of this title (relating to Standard Permits) " In addition, TCEQ rules at 30 TAC §55.101(g)(9) state: " Subchapters D - G of this chapter (referring to public comment, requests for reconsideration and requests for contested case hearings) do not apply to air quality standard permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification)." Therefore, facilities to be authorized under this standard permit will not be subject to contested case hearing requirements.

HCPHES requested that the TCEQ require a consistent distance limitation of 440 yards throughout the entire standard permit rather than 440 yards for concrete crushing and 1,000 feet for rock crushing. It is the position of the HCPHES that the consistent distance limitation of 440 yards for all crushing activities (rock and concrete) will provide for more straightforward compliance and improve environmental public health.

The commission agrees with this comment. The set back required by condition (3)(C) has been changed from 1,000 feet to 440 yards.

HCPHES suggested the inclusion of concrete crushers in the list of facilities subject to the 550-foot distance requirement in condition (3)(D).

The commission agrees with this comment and is including the term concrete crusher in condition (3)(D).

HCPHES commented that, since the proposed standard permit contains requirements to meet EPA TMs 9 and 22 as contained in 40 CFR Part 60 and both test methods require adequate illumination to perform the tests correctly, the restriction on operating hour requirement in condition (3)(H) should be changed to one hour before official sunset to one hour after official sunrise.

Although EPA TMs 9 and 22 are appropriate tools for evaluating PM emissions and making a determination of compliance, it is unreasonable to expect all facilities that may emit PM or be subject to a PM standard to operate only during those periods when TMs 9 and 22 may be made. It is reasonable to expect that facilities complying with the conditions of the standard permit during periods when TMs 9 and 22 observations are appropriate to continue to do so during those short periods when there is not sufficient illumination to perform an observation.

HCPHES requested that the TCEQ require that all in-plant roads and operating areas be paved with a cohesive, hard surface that is capable of being vacuumed.

Observations and technical evaluation of available documentation show that, if properly maintained, the best management practices (BMPs) proposed in this standard permit adequately control dust from traffic areas. These BMPs include covering, watering, application of dust-suppressant chemicals, or paving and cleaning. Requiring all facilities to pave would be an unnecessary financial burden on crusher owners.

TACA commented that it appreciates the TCEQ's recognition of the problems created by the ability of unscrupulous operators to stack permits in an effort to continue operating at a fixed site. The operational requirements as stated in condition (3)(G) of the proposed standard permit perceivably close the loophole and prohibit operators from applying for additional standard permits to operate another rock crusher on the site once the 2,640 operational hours have been exhausted.

The commission appreciates the support from TACA on this issue.

AGC commented that the definition of residence in condition (1)(A)(iii) refers to a permanent dwelling.

The commission agrees with the comment and is making the change to condition (1)(A)(iii) of this standard permit.

HCPHES requested that condition (3)(I) (requirement for a runtime meter) also require that the runtime meter be operating during crushing operations.

The commission agrees with this comment and is including a requirement that the runtime meter be operating in condition (3)(I).

HCPHES requested that staff provide calculated emissions rates for each source and the methodologies used in calculating emission rates along with technical bases for assumptions. Additionally, HCPHES would like specific information on the methodology, assumptions, and calculations used for road emissions.

Methodologies used in calculating the emission rates are based on the information supplied by the EPA in its Compilation of Air Pollutant Emissions Factors (AP-42), Chapter 11.19.2, Crushed Stone Processing and Pulverized Mineral Processing, which was last updated in August 2004. The methodology and assumptions used for the evaluation were the same as is currently used for all NSR permits and were documented in the Rock Crushing Plants guidance document and as a spreadsheet on the TCEQ Web site.

An initial assessment of road emissions was completed using EPA AP-42, Chapter 13.2.2, Unpaved Roads, which was updated in October 2001. To evaluate emissions, a number of variables need to be defined, including average weight of vehicles on the roads, distance traveled on the roads, average vehicle capacity, etc. For a standard permit that could be used in various locations and situations, it was difficult to determine what value to place on each of the variables available that would satisfy the majority of interested parties. Thus, for this standard permit, the decision was made to control the road emissions in the same manner as all NSR permits that require BMPs. As in all NSR permits, additional stipulations were included to ensure that visible emissions from all in-plant roads did not leave the property for a period exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22.

Calculated emission rates for each source are given in the table below.

EMISSION SOURCES AND EMISSION RATES

Permanent Rock and Concrete Crushing Standard Permit

AIR CONTAMINANTS DATA

Emission Point No.	Source Name	Air Contaminant Name	Emission Rates	
			lb/hr	TPY
2	Primary Crusher	PM	0.24	0.32
		PM ₁₀	0.11	0.14
4	Secondary Crusher	PM	0.24	0.32
		PM ₁₀	0.11	0.14
3	Screen No. 1	PM	0.44	0.58
		PM ₁₀	0.15	0.20
5	Screen No. 2	PM	0.44	0.58

AIR CONTAMINANTS DATA

Emission Point No.	Source Name	Air Contaminant Name	Emission Rates	
			lb/hr	TPY
		PM ₁₀	0.15	0.20
1, 10	Loading/Unloading Operations	PM	0.03	0.04
		PM ₁₀	0.01	0.02
MHFUG	Material Handling	PM	0.07	0.10
		PM ₁₀	0.02	0.03
SPFUG	Stockpiles	PM	---	0.52
		PM ₁₀	---	0.26
GEN 1	250hp Engine/Generator 1	NO _x	7.75	10.23
		CO	1.67	2.20
		SO ₂	0.51	0.68
		PM ₁₀	0.55	0.73
		VOC	0.63	0.83
GEN 2	250hp Engine/Generator 2	NO _x	7.75	10.23
		CO	1.67	2.20
		SO ₂	0.51	0.68
		PM ₁₀	0.55	0.73
		VOC	0.63	0.83
GEN 3	500hp Engine/Generator	NO _x	15.50	20.46
		CO	3.34	4.41
		SO ₂	1.03	1.35
		PM ₁₀	1.10	1.45
		VOC	1.26	1.66

IX. STATUTORY AUTHORITY

This standard permit is issued under THSC, § 382.05195, which authorizes the commission to issue and amend standard permits according to the procedures set out in that section; §382.065, which prohibits operation of a concrete crushing facility in certain locations; § 382.011, which authorizes the commission to control the quality of the state's air; and § 382.051, which authorizes the commission to issue permits, including standard permits for numerous similar sources.

Proposed Air Quality Standard Permit for Permanent Rock and Concrete Crushers
Effective Date July 31, 2008

This air quality standard permit authorizes rock and concrete crushing facilities that meet all of the conditions listed in sections (1), (2), and (3) of this standard permit. It is the permit holder's responsibility to demonstrate compliance with all conditions of this permit upon request by the executive director or any air pollution control agency having jurisdiction.

(1) General Requirements:

(A) For the purposes of this standard permit, the following definitions apply.

- (i) A site is one or more contiguous or adjacent properties which are under common control of the same person (or persons under common control).
- (ii) Associated sources are sources of air emissions that are related to the rock or concrete crushing operation, that are not "facilities" as defined under Title 30 Texas Administrative Code (30 TAC) § 116.10, General Definitions. Associated sources include, but are not limited to, stockpiles and outdoor work areas. Screens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities and are not associated sources.
- (iii) A residence is a structure primarily used as a permanent dwelling.

(B) Except as provided in subsections (C) and (D) of this section, when crushing concrete, the concrete crushing facility shall be operated at least 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship at the time an application was filed. The measurement of distance shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that is nearest the concrete crushing facility.

(C) Subsection (B) does not apply to:

- (i) a concrete crushing facility at a location for which the distance requirements of subsection (B) were satisfied at the time an application was filed with the commission, provided that the authorization was granted and maintained, regardless of whether a single or multi-family residence, school, or place of worship is subsequently built or put to use within 440 yards of the facility; or
- (ii) structures occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located.

(D) Subsection (B) does not apply to a concrete crushing facility that:

- (i) is engaged in crushing concrete and other materials resulting from the demolition of a structure on that site and the concrete and other materials are being crushed primarily for use at that site;
 - (ii) operates at that site during one period of no more than 180 calendar days;
 - (iii) complies with all applicable conditions stated in commission rules, including operating conditions; and
 - (iv) is not located in a county with a population of 2.4 million or more persons, or in a county adjacent to such a county.
- (E) For any owner or operator with a facility authorized by this standard permit, the TCEQ will not accept an application for authorization of a crushing facility under Texas Health and Safety Code (THSC) § 382.0518, Preconstruction Permit, located at the same site for a period of 12 months from the date of authorization.
- (F) An applicant for authorization of a rock crusher under THSC § 382.0518, is not eligible for this standard permit at the same site until 12 months after the application for authorization under § 382.0518 is withdrawn. Facilities already authorized by a permit under § 382.0518 are not eligible for this standard permit.
- (G) Applications for this standard permit shall be registered in accordance with 30 TAC § 116.611, Registration to Use a Standard Permit (including a current Form PI-1S, Crushing Plant Standard Permit Checklist and Table 17). A compliance history review shall be performed by the executive director in accordance with 30 TAC Chapter 60, Compliance History. If a facility is determined to be a poor performer, as defined in 30 TAC Chapter 60, a standard permit registration shall not be issued.
- (H) No owner or operator of a crushing facility shall begin construction and/or operation without obtaining written approval from the executive director (except for crushers in non operational storage for which construction has not commenced as considered under the Texas Clean Air Act). Start of construction of any facility registered under this standard permit shall be no later than 18 months from the date of authorization. Construction progress and startup notification shall be made in accordance with 30 TAC § 116.115(b)(2), General and Special Conditions.
- (I) Applications for registration under this standard permit shall comply with 30 TAC § 116.614, Standard Permit Fees.
- (J) All affected facilities authorized by this standard permit must meet all applicable conditions of Title 40 Code of Federal Regulations (40 CFR) Part 60, Subpart A, General Provisions, and OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (K) Only crushing facilities that are processing nonmetallic minerals or a combination of nonmetallic minerals that are described in 40 (CFR) Part 60, Subpart OOO, shall be authorized by this standard permit.
- (L) This standard permit does not supersede the requirements of any other commission rule, including 30 TAC Chapter 101, Subchapter H, Division 3, Mass Emissions Cap and Trade Program; and 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds.

- (M) Written records shall be kept for a rolling 24-month period and shall always remain on site. These records shall be made available at the request of any personnel from the TCEQ or any air pollution control program having jurisdiction. These written records shall contain the following:
 - (i) daily hours of operation;
 - (ii) the throughput per hour;
 - (iii) road and work area cleaning and dust suppression logs; and
 - (iv) stockpile dust suppression logs.
 - (N) Crushing operations and related activities shall comply with applicable requirements of 30 TAC Chapter 101, Subchapter F, Emission Events and Scheduled Maintenance, Startup, and Shutdown Activities.
 - (O) Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC § 116.610(a)(1), Applicability.
 - (P) Maintenance emissions are not included in this permit and must be approved under separate authorization. Startup and shutdown emissions that exceed those expected during production operations must be approved under separate authorization.
 - (Q) Owners or operators of facilities authorized by this standard permit are not eligible for any authorization in 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement or 30 TAC § 106.512, Stationary Engines and Turbines, for a facility located at the same site as a rock crusher authorized by this standard permit.
 - (R) Upon issuance of this standard permit, the TCEQ will no longer accept a registration for § 106.142, Rock Crushers.
- (2) Public Notice Requirements:
- (A) An application for authorization to construct and operate a rock crusher under this standard permit is not subject to the public notice requirements in 30 TAC Chapter 39 Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications.
 - (B) For authorization to use this standard permit, an applicant must publish notice under this section not later than the earlier of:
 - (i) the 30th day after the date the applicant receives written notice from the executive director that the application is technically complete; or
 - (ii) the 75th day after the date the executive director receives the application.
 - (C) The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. If the elementary or middle school nearest to the proposed plant provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional

publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice.

- (D) The notice must include:
- (i) a brief description of the proposed location and nature of the proposed crusher;
 - (ii) a description, including a telephone number, of the manner in which the executive director may be contacted for further information;
 - (iii) a description, including a telephone number, of the manner in which the applicant may be contacted for further information;
 - (iv) the location and hours of operation of the commission's regional office at which a copy of the application is available for review and copying; and
 - (v) a brief description of the public comment process, including the mailing address and deadline for filing written comments.
- (E) At the applicant's expense, a sign or signs shall be placed at the site of the proposed facility declaring the filing of an application for a permit and stating the manner in which the commission may be contacted for further information. Such signs shall be provided by the applicant and shall meet the following requirements:
- (i) signs shall consist of dark lettering on a white background and shall be no smaller than 18 inches by 28 inches;
 - (ii) signs shall be headed by the words "PROPOSED AIR QUALITY PERMIT" in no less than two-inch boldface block-printed capital lettering;
 - (iii) signs shall include the words "APPLICATION NO." and the number of the permit application in no less than one-inch boldface block-printed capital lettering (more than one number may be included on the signs if the respective public comment periods coincide);
 - (iv) signs shall include the words "for further information contact" in no less than 1/2-inch lettering;
 - (v) signs shall include the words "Texas Commission on Environmental Quality," and the address of the appropriate commission regional office in no less than one-inch boldface capital lettering and 3/4-inch boldface lower case lettering; and
 - (vi) signs shall include the phone number of the appropriate commission office in no less than two-inch boldface numbers.
- (F) The sign or signs must be in place by the date of publication of the newspaper notice required by subsection (2)(C) of this section and must remain in place and legible throughout the period of public comment provided for in subsection (2)(I) of this section.
- (G) Each sign placed at the site must be located within ten feet (ft.) of each (every) property line paralleling a street or other public thoroughfare. Signs must be completely visible from the

street and spaced at not more than 1,500-ft. intervals. A minimum of one sign, but no more than three signs shall be required along any property line paralleling a public thoroughfare. The commission may approve variations from these requirements if it is determined that alternative sign posting plans proposed by the applicant are more effective in providing notice to the public.

- (H) The alternate language sign posting requirements of this subsection are applicable whenever either the elementary school or the middle school located nearest to the facility or proposed facility provides a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B, and 19 TAC § 89.1205(a) or if either school has waived out of such a required bilingual education program under the provisions of 19 TAC § 89.1205(g). Schools not governed by the provisions of 19 TAC § 89.1205(a) shall not be considered in determining applicability of the requirements of this subsection. Each affected facility shall meet the following requirements.
 - (i) The applicant shall post an additional sign in each alternate language in which the bilingual education program is taught. If the nearest elementary or middle school has waived out of the requirements of 19 TAC § 89.1205(a) under 19 TAC § 89.1205(g), the alternate language signs shall be published in the alternate languages in which the bilingual education program would have been taught had the school not waived out of the bilingual education program.
 - (ii) The alternate language signs shall be posted adjacent to each English language sign required in this section.
 - (iii) The alternate language sign posting requirements of this subsection shall be satisfied without regard to whether alternate language notice is required under subsection (C) of this section.
 - (iv) The alternate language signs shall meet all other requirements of this section.
- (I) The public comment period begins on the first date notice is published under subsection (2)(B) and extends no less than 30 days from the publication date.
- (J) Not later than the 30th day after the end of the public comment period, the executive director will approve or deny the application for authorization to use the standard permit. The executive director must base the decision on whether the application meets the requirements of this standard permit. The executive director must consider all comments received during the public comment period in determining whether to approve the application. If the executive director denies the application, the executive director must state the reasons for the denial and any modifications to the application necessary for the proposed plant to qualify for the authorization.
- (K) The executive director will issue a written response to any public comments received related to the issuance of an authorization to use the standard permit at the same time as or as soon as practicable after the executive director grants or denies the application. Issuance of the response after the granting or denial of the application does not affect the validity of the executive director's decision to grant or deny the application. The executive director will:
 - (i) mail the response to each person who filed a comment; and
 - (ii) make the response available to the public.

(3) Operational Requirements:

- (A) The primary crusher throughput shall not exceed 200 tons per hour.
- (B) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 200 ft. from the nearest property line, as measured from the point on the facility nearest the property line.
- (C) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship, at the time an application was filed, as measured from the point on the facility nearest the residence, school, or place of worship to the point on the residence, school, or place of worship nearest the facility.
- (D) The crushing facilities (not including associated sources) operating under this standard permit shall be located at least 550 ft. from any other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. If this distance cannot be met, then the crusher shall not operate at the same time as the other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. Measurement shall be from the closest point on the rock crushing facility to the closest point on any other facility.
- (E) All associated sources, including but not limited to, roads (except for incidental traffic and the entrance and exit to the site), work areas, and stockpiles, shall be located at least 100 ft. from the property line.
- (F) The facilities (as defined in 30 TAC § 116.10(4)) authorized under this standard permit shall be limited to one primary crusher, one secondary crusher, one vibrating grizzly, two screens, any conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 total horsepower. Equipment that is not a source of emissions does not require authorization.
- (G) All crushers, associated facilities, and associated sources (excluding stockpiles) shall not operate for more than an aggregate of 2,640 hours at the authorized site in any rolling 12 month period. Once the operating hours (2,640 hours) for the site have been exhausted, the owner or operator shall not use a standard permit to operate another rock crusher on the site.
- (H) The rock crusher and associated facilities shall not operate from one hour after official sunset to one hour before official sunrise.
- (I) Each crusher shall be equipped with a runtime meter, which will be operating during crushing during crushing operations.
- (J) Permanently mounted spray bars shall be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all TCEQ rules and regulations.
- (K) Opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a

six-minute period, and according to U.S. Environmental Protection Agency (EPA) Test Method (TM) 9.

- (L) Visible emissions from the crusher, associated facilities, associated sources, and in-plant roads associated with the plant shall not leave the property for a period exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22.
- (M) Dust emissions from all in-plant roads and active work areas that are associated with the operation of the crusher, associated facilities, and associated sources shall be minimized at all times by at least one of the following methods:
 - (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);
 - (ii) treated with dust-suppressant chemicals;
 - (iii) watered; or
 - (iv) paved with a cohesive hard surface that is maintained intact and cleaned.
- (N) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (O) Raw material and product stockpile heights shall not exceed 45 ft.
- (P) The crusher shall be equipped with a weigh hopper or scale belt to accurately determine the mass of material being crushed.
- (Q) The crusher may relocate on the site for which it has been authorized without reauthorization as long as it remains at least 440 yards from any residence, school, or place of worship that was in existence at the time of the move.

TCEQ Interoffice Memorandum

To: Interested Parties

From: Toxicology Division, Office of Executive Director

Date: March 8, 2018

Subject: Toxicity Factor Database Effects Screening Levels

A list of the (near-real time) Effects Screening Levels (ESLs) currently used by the TCEQ Toxicology Division for air permitting may be obtained from the Toxicity Factor Database that has been integrated into the Texas Air Monitoring Information System (TAMIS) database.

ESLs, expressed in terms of microgram per cubic meter ($\mu\text{g}/\text{m}^3$) or parts per billion by volume (ppbv) in air, are used to evaluate potential for effects to occur as a result of exposure to concentrations of constituents in the air. ESLs are based on data concerning health effects, odor/nuisance potential, and effects on vegetation. They are not ambient air standards. If predicted or measured airborne levels of a constituent do not exceed the screening level, adverse health or welfare effects would not be expected to result. If ambient levels of constituents in air exceed the screening level, it does not necessarily indicate a problem, but a more in-depth review is conducted.

IMPORTANT: For any compound that is designated as particulate matter (PM), the compound will be evaluated on an individual basis as PM10, *except for long-term crystalline silica and coal dust, which will be evaluated as PM4*. The total particulate matter represented in each permit evaluation must meet the National Ambient Air Quality Standard. For any constituent composed of at least 5% of benzene, benzene emissions will have to be modeled and evaluated separately.

Some notations used on the list that are of note include:

- **Short-term** – generally indicates a 1-hour averaging period, see below for exceptions.

Permitting Condition	Exceptions
<i>Short-term = 24 hours</i>	
Agricultural Areas	<i>Hydrogen Fluoride Soluble Inorganic Fluorides</i>

- **Long-term** – indicates an annual averaging period, see below for exceptions.

Permitting Condition	Exceptions
<i>Long-term = 30 days</i>	
Agricultural Areas with Cattle	<i>Hydrogen Fluoride Soluble Inorganic Fluorides</i>

- **Final** – indicates that the ESL was updated using the ESL development guidelines (RG-442).
- **Under review** – indicates that the ESL is currently being reviewed by the Toxicology Division.
- **Interim** – indicates that the ESL is current and will be reviewed by the Toxicology Division at a later date. Also, interim ESLs may be updated pending the release of updated toxicity information or odor data.
- **Must Meet NAAQS** – indicates that, for species of limited concern, the determination of the individual species impacts are not required if a National Ambient Air Quality Standards (NAAQS) analysis is completed for particulate matter of 2.5 and 10 microns or less (PM2.5 and PM10).

The database is dynamic; changes are not indicated in the report output, but the list can be sorted by derived date for each ESL.

If you cannot find a listing for a particular constituent, a health effects review is not required, though these chemicals must satisfy the Best Available Control Technology (BACT) and other permitting requirements. Additionally, the permit reviewer and Air Permits Division management have the discretion to perform a health effects review. In this case, a default short-term ESL of 2 µg/m³ can be used, or you may contact the Toxicology Division to determine if a screening level has been established for a constituent that is not in this list. To request an interim ESL, please fill out the Interim ESL Request Form (found on the Toxicology website). **In the interest of time and resources, the Toxicology Division requests that you please conduct a thorough search of the Toxicity Factor Database with CAS numbers and synonyms of the constituent of interest prior to contacting the Toxicology Division. If a request has been received with constituents that are listed in the Toxicity Factor Database, it will be returned.**

For any technical questions, please feel free to contact Ross Jones at 512-239-1804 or email at ross.jones@tceq.texas.gov or Jong-Song Lee at 512-239-1790 or email at jong-song.lee@tceq.texas.gov.

Table 2. Sitewide Modeling Results for Health Effects			
Pollutant & CAS#	Averaging Time	GLCmax ($\Phi\text{g}/\text{m}^3$)	ESL ($\Phi\text{g}/\text{m}^3$)
silica-crystalline: quartz, respirable (14808-60-7)	1-hr	4.5	1
	Annual	0.3	0.1

Table 3. Hours of Exceedance for Health Effects		
Pollutant & CAS#	Averaging Time	4 x ESL @ GLCmax (Expected hrs/yr)
silica-crystalline: quartz, respirable (14808-60-7)	1-hr	5

The expected hours of exceedance of the silica-crystalline: quartz, respirable ESL per year are calculated based on modeling 8760 hr/yr for 5 years and then adjusting the hours per year greater than 4xESL given an actual operating schedule of 2,640 hours per year.

The impacts related to potential emissions of silica are the most restrictive with respect to the protectiveness review. Table 4 provides the maximum predicted silica impacts for various stockpile areas and the resulting site area.

Table 4. Silica Maximum Predicted Impacts for Various Stockpile/Site Areas			
Stockpile Area (acres)	Equipment Area (acres)	Total Site Area (acres)	Max. short-term predicted impacts for Silica ($\Phi\text{g}/\text{m}^3$)
0.6	0.25	1.6	4.5
1	0.25	2.2	4.0
1.5	0.25	3.0	3.7
3	0.25	5.0	3.4
4	0.25	6.2	3.4
5	0.25	7.5	3.4

Table 5. Total Concentrations for State NAAQS (Concentrations > De Minimis)					
Pollutant	Averaging Time	GLCmax ($\Phi\text{g}/\text{m}^3$)	Background ($\Phi\text{g}/\text{m}^3$)	Total Conc. = [Background + GLCmax] ($\Phi\text{g}/\text{m}^3$)	Standard ($\Phi\text{g}/\text{m}^3$)
SO ₂	3-hr	123	130	253	1,300
	24-hr	75	36	111	365
	Annual	4	8	12	80
PM ₁₀	24-hr	86	60	146	150
	Annual	23	20	43	50
NO ₂	Annual	65	20	85	100
CO	1-hr	556	4000	4,556	40,000
	8-hr	302	1000	1,302	10,000

The background concentrations from the September 4, 1998, memorandum “Screening Background Concentrations” were used in this modeling analysis. These concentrations are meant to be conservative since they were developed for use primarily in the screening model process. They represent the highest generic background concentrations expected in any county in Texas. Although the referenced memorandum lists some specific counties with greater screening background concentrations, these generally occur in limited areas that are highly urbanized or near certain major sources.

- 3.0 Land Use. Rural and urban dispersion coefficients and flat terrain were used in the modeling analysis. The worst-case results for each case were reported.
- 4.0 Modeling Emissions Inventory. The three engines were co-located and modeled as a single point source at the center of the rock crusher site with parameters as given in Table 6. Emissions from the site representing the two crushers, two screens, associated conveyors, roads, and stockpiles were modeled as three circular area sources with heights of 1 meter, 3 meters, and 6 meters. The radius of the circular area sources was based on the areal coverage of the stockpiles. A stockpile area of 0.6 acres was related to a 150 foot radius area source, an area of 1 acre was related to a 177 foot radius, an area of 1.5 acres was related to a 203 foot radius, an area of 3 acres was related to a 263 foot radius, an area of 4 acres was related to a 294 foot radius, and an area of 5 acres was related to a 322 foot radius.

A low-level fugitive scaling factor of 0.6 was applied to the modeled emission rates for the area sources which is consistent with TCEQ guidance for these types of sources. Maximum allowable hourly emission rates are used for the short-term averaging time analyses and annual average emission rates are used for the annual averaging time analyses. The conversion of NO_x to NO₂ was assumed to be 100%.

Table 6. On-Property Point Source Parameter Information					
Modeled Source	Modeled ID	Stack Height (feet)	Stack Temp (°F)	Stack Exit Velocity (feet/sec)	Stack Diameter (feet)
Three engines	ENGINES	10	983	209	0.5

Table 7. Emission Rates for Rock Crusher				
Scenario: Stockpile Area (Acres)	Pollutant	Modeled ID	Modeled Emission Rate for each Source	
			Short-term (lb/hr)	Long-term (lb/hr)
0.6	Silica (PM4)	AREA1,2,3	0.0135	0.00504
	PM	AREA1,2,3	0.5426	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.213	0.356
ENGINES		2.2	0.66	
1.0	Silica (PM4)	AREA1,2,3	0.0145	0.00596
	PM	AREA1,2,3	0.579	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.232	0.374
ENGINES		2.2	0.66	
1.5	Silica (PM4)	AREA1,2,3	0.0156	0.0071
	PM	AREA1,2,3	0.625	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.254	0.397
ENGINES		2.2	0.66	

Table 7. Emission Rates for Rock Crusher				
Scenario: Stockpile Area (Acres)	Pollutant	Modeled ID	Modeled Emission Rate for each Source	
			Short-term (lb/hr)	Long-term (lb/hr)
3	Silica (PM4)	AREA1,2,3	0.0190	0.0105
	PM	AREA1,2,3	0.763	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.326	0.466
		ENGINES	2.2	0.66
4	Silica (PM4)	AREA1,2,3	0.0213	0.0128
	PM	AREA1,2,3	0.854	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.369	0.512
		ENGINES	2.2	0.66
5	Silica (PM4)	AREA1,2,3	0.0236	0.0151
	PM	AREA1,2,3	0.946	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.415	0.558
		ENGINES	2.2	0.66
ALL	CO	ENGINES	6.68	N/A
	NOx		N/A	15.5
	SO2		2.05	1.02
	VOC		2.52	N/A

- 5.0 Building Wake Effects (Downwash). Area sources were used to represent the material stockpiles and the rock crushing equipment. Building downwash is not applicable for area source modeling. The point source representing the engines is a minor source at rock crushing sites. It was not downwashed because the stack exit velocity and the stack exit temperature generally results in a plume that escapes downwash effects.
- 6.0 Meteorological Data. The analysis used surface meteorology from Austin and upper air data from Victoria for the years 1983, 1984, 1986, 1987, and 1988. Since this analysis is primarily for short-term concentrations, this five-year set would include worst-case short-term meteorological conditions that could occur anywhere in the state. The wind directions were set at 10 degree

intervals, so the wind direction would be coincident with the receptor radials. This provided predictions along the plume centerline which is a conservative result. A default anemometer height of 10 meters was used.

- 7.0 Receptor Grid. A polar receptor grid extending from the center of the property to 550 meters with 25 meter spacing along each 10 degree radial was used in the modeling demonstration. This was done to determine the plume centerline concentration, as indicated in Section 6.0.
- 8.0 Model Used and Modeling Techniques. Air dispersion modeling was performed using ISCST3 (version 02035).

3.0 Modeling Emissions Inventory.

Table 2. Emission Rates for Rock Crusher			
Pollutant	Modeled ID	Scenario: Stockpile Area (Acres)	Modeled Emission Rate for each Source (lb/hr)
PM2.5	AREA 1,2, 3	0.6	0.0256
		1.0	0.0277
		1.5	0.0302
		3.0	0.0379
		4.0	0.0431
		5.0	0.0482

EXHIBIT I

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)
BUREAU OF POLLUTION CONTROL AND
PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087**



SUMMARY REPORT

Texas Coastal Materials, LLC - 5875 Kelley St, Houston, Texas 77026 - TCEQ Air Quality Registration
Number: 173296

Prepared by: Jorge Gonzalez 09/19/2023
Jorge Gonzalez, P.E. Date

Approved by: [Signature] 9/19/23
Nguyen Ly Date

Introduction

Texas Coastal Materials, LLC, 9026 Lambright Rd, Houston, TX 77075-3208 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 173296, which would authorize construction of a permanent rock and concrete crusher. The facility is proposed to be located at 5875 Kelley St, Houston, Harris County, Texas 77026.

Purpose and Scope. The purposes of this investigation were to: 1) evaluate the location of the future facility relative to existing residences, churches, schools, and public outdoor spaces, and 2) evaluate any other facilities in the near vicinity that are performing similar functions. The scope of the investigation to achieve these purposes included the following:

- Reviewing applying company information and history
- Perform desktop study of surrounding area to gather information on existing points of interest along with other facilities performing a similar function in the area.
- Review historical performance of these types of facilities.
- Attain and review any existing air monitoring data that was performed in the area.
- Deploy our Mobile Ambient Air Monitoring Laboratory Unit (MAAML)
- Provide a summary of findings.

Facility Information

The Kelley Street Plant is located at 5875 Kelley Street, Houston, Harris County, Texas. The permit application lists the site with The Standard Industrial Classification (SIC) code for crushed concrete 1422 and The North American Industrial Classification System (NAICS) code is 212312.

The facility is currently in use by Womble, Inc as a pipe storage and coating facility with some existing metal structures and limited access road paving within the facility. The property is located west of Homestead Rd, North of Kelley St. and Hunting bayou, South of an existing railroad and east of an existing Truck and trailer repair facility (see Figure 1).

Process Description. Texas Coastal is constructing a new crushed concrete plant that will produce a bull rock, inch and one-half aggregate, and other construction products. Broken concrete will be delivered to the site by truck and placed in a storage pile. From the pile, materials will be loaded into the crusher hopper by front end loader or excavator. From the feeder hopper, materials are gravity fed into the crusher where the materials are ground into smaller sizes (C-1). Crushed materials are delivered to a deck screen via conveyors (BC-1 and BC-2). The crusher is controlled by water sprays on the inlet and outlet. The screen separates materials into different sizes. These include oversize materials, bull rock, fines, and small aggregates. The small aggregates pass through the screen and drop to conveyor belt BC-3 to be delivered to the aggregate product pile. Bull rock is passed from the screen onto BC-5a and BC-5 for delivery to the bull rock pile. Oversize materials are sent to the secondary crusher (C-2) via belt conveyor (BC-6) for further size reduction or diverted to BC-7 for delivery to an oversize pile. Materials passing into the secondary crusher are returned to the deck screen by use of BC-4. All material transfers, the screen deck, and the inlet and outlet of each crusher

are controlled by water spray. Stockpiled products are loaded into trucks via front end loader (T-009) for delivery to customers off-site.

Based on correspondence with Blake Hays of Coastal materials, the company will be sourcing their materials from demolition projects in the greater Houston area. The Materials will consist of road construction products, and some will contain metal rebar that will need to be separated.

Facility Authorization. This will be a new facility therefore there isn't any previous permit information on this facility. The application was deemed technically complete on July 31, 2023, by TCEQ and details of the facility are provided below.

- TCEQ Air Quality Registration Number: 173296 - Permanent Rock and Concrete Crusher
- Customer Reference Number: CN606158293
- Regulated Entity Number: RN111769154

Based on correspondence with Blake Hays of Coastal Materials, the company has no other facilities outside of the Houston area.

Complaints and Enforcement Issues. Facility will be new to the location therefore there are no previous complaints or enforcement issues related to this entity.

Investigation

Desktop Study. A desktop study was performed in order to gather any available information related to the facility and the surrounding area.

Air Monitoring. We deployed our air monitoring unit to gather ambient air data near the existing concrete batch plant (6001 Homestead Rd, Houston, TX 77028) on September 6th and 7th, 2023. We also deployed our unit near the LBJ hospital (5656 Kelley St, Houston, TX 77026) on August 31, 2023, and September 1, 2023, respectively. In addition, the Air monitoring laboratory had previously been deployed to 6001 Homestead Rd, Houston, TX 77028 on three separate occasions in 2022 (April 28th, June 7th, and October 21st).

April 28, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that the 5-min average PM_{2.5} concentrations ranged from 8.3 to 95.9 $\mu\text{g m}^{-3}$ (average – 26.0 $\mu\text{g m}^{-3}$) and PM₁₀ concentrations ranged from 20.4 to 452.9 $\mu\text{g m}^{-3}$ (average – 114.1 $\mu\text{g m}^{-3}$). There were many spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively. The 5-min average O₃ concentrations ranged from 22.2 to 57.8 ppb (average – 42.2 ppb) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

June 7, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that 5-min average PM_{2.5} concentrations ranged from 5.8 to 38.8 $\mu\text{g m}^{-3}$ (average – 11.2 $\mu\text{g m}^{-3}$) and PM₁₀ concentrations ranged from 10.0 to 257.7 $\mu\text{g m}^{-3}$ (average – 34.0 $\mu\text{g m}^{-3}$). Two spike PM concentrations exceeded EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 9.3 to 35.7 ppb (average – 24.1 ppb) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

October 21, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that 5-min average PM_{2.5} concentrations ranged from 5.6 to 11.8 $\mu\text{g m}^{-3}$ (average – 8.1 $\mu\text{g m}^{-3}$)

and PM_{10} concentrations ranged from 10.9 to 45.8 $\mu\text{g m}^{-3}$ (average – 24.1 $\mu\text{g m}^{-3}$). No $PM_{2.5}$ and PM_{10} concentrations exceeded EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} , respectively.

August 31, 2023, and September 1, 2023, Ambient Air Results (5656 Kelley St. – LBJ Hospital). Results for monitoring on August 31st revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 5.9 to 10.9 $\mu\text{g m}^{-3}$ (average – 7.8 $\mu\text{g m}^{-3}$) while PM_{10} concentrations ranged from 9.6 to 43.3 $\mu\text{g m}^{-3}$ (average – 18.9 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

Results for monitoring on September 1st revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 5.2 to 9.7 $\mu\text{g m}^{-3}$ (average – 6.8 $\mu\text{g m}^{-3}$) while PM_{10} concentrations ranged from 8.3 to 25.2 $\mu\text{g m}^{-3}$ (average – 18.2 $\mu\text{g m}^{-3}$), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

September 6th and 7th, 2023, Ambient Air Results (6001 Homestead Rd). Results for monitoring on September 6th revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 3.2 to 18.9 $\mu\text{g m}^{-3}$ (average – 7.0 $\mu\text{g m}^{-3}$) while PM_{10} concentration ranged from 6.8 to 77.0 $\mu\text{g m}^{-3}$ (average – 26.7 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

Results for monitoring on September 7th revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 3.7 to 25.1 $\mu\text{g m}^{-3}$ (average – 6.7 $\mu\text{g m}^{-3}$) while PM_{10} concentrations ranged from 8.6 to 151.7 $\mu\text{g m}^{-3}$ (average – 18.9 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

See Appendix A for full air monitoring reports for the above referenced dates.

Site Visit and Field Reconnaissance. Site visit was performed on August 29, 2023. Figure 4 thru Figure 10 should detailed photos of site visit and field reconnaissance. Previous to the site visit, a call was held on August 28, 2023, with Mr. Blake Hays of Texas Coastal Materials LLC to better understand the project and to request any supporting documentation that they may have. Jay Lindholm with Trinity Consultants provided us with a copy of their permit application.

Points of Interest in Surrounding Area. Main Findings from desktop study and site visit (Future facility to be located at 5875 Kelley St. See (see **Figure 1** site layout).

Residence. Closest residence is located at 5903 Minden St, Houston, TX 77026 approximately 1800 ft from the future facility.

Church. St Francis Catholic church (5102 Dabney St, Houston, TX 77026) is located approximately 1500 ft to the future site.

Hospital. Lyndon B. Johnson Hospital is located at 5656 Kelley St, Houston, TX 77026 and is approximately 1000 ft from the future site.

Schools. No schools or daycare facilities located within 3000 ft radius of the future facility at 5875 Kelley Street.

Parks. Hutchenson park is located approximately 1000 ft from future facility and a new proposed park for 2024 (Curtis M. Graves Park) will be located approximately 2000 ft from the future facility.

Texan Concrete Ready Mix. An existing concrete batch plant is located at 6001 Homestead Rd, Houston, TX 77028 approximately 1200 ft from 5875 Kelley Street.

Texan Concrete is a regulated entity with TCEQ:

- Customer Reference Number: CN604045617
- Regulated Entity Number: RN 109666016
- Active Permit: Wastewater TXG113211 (two TCEQ complaints in 2017 and 2022 related to wastewater permit and notice of violations in 2023)

A review of air pollution complaints for this facility reveals a total of 11 complaints in the Customer Request and Information System (CRIS) between 04/25/2018 and 11/21/2022.

Vulcan Materials. A construction materials storage yard is located at 7070-A Bennington St, Houston, TX 77028 approximately 1500 ft from 5875 Kelley Street.

Vulcan Materials (CN600355465) is a regulated entity with TCEQ. This specific facility does not appear in TCEQ records.

No previous air pollution complaints appear in the Customer Request and Information System (CRIS) related to this address.

Historical Issues/Complaints for Similar Facilities. Based on past experience from inspections and complaints for similar types of facilities. We have listed the most common issues encountered below:

- Stockpiles not sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- Raw materials and product stockpiles exceed permit height limit creating dust.
- Dust suppression methods (water trucks, paving, sweeping...etc.) not being used on a regular basis to control dust.
- Dust above acceptable limit coming from screening, crushing, and transfer of materials process.
- Improper maintenance of baghouses.
- Exceeding permitted operating hours.
- Visible emissions leaving the property.

Summary of Findings

Based on desk study and field reconnaissance, the site does meet the distance requirements set forth by TCEQ (440 yards from any residence, school, or place of worship and 550 feet from any other rock crusher, concrete batch plant, or hot mix asphalt plant). The future site is approximately ~1100 ft from a heavily used public hospital (Lyndon B. Johnson Hospital). There are also plans to add another park (Curtis M. Graves Park) adjacent to the existing batch plant and approximately ~2000 ft from the future site.

Air monitoring data collected during daylight hours (between 8am and 1pm) at Lyndon B Johnson Hospital (5656 Kelley St, Houston, TX 77026) indicated that the average value for all data collected of

7.4 $\mu\text{g m}^{-3}$ with no spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for $\text{PM}_{2.5}$.

Air monitoring data collected during daylight hours (between 8am and 3pm) at the nearby concrete batch plant (6001 Homestead Rd.) indicated that the average value for all data collected was at or near the EPA average annual standard for $\text{PM}_{2.5}$ of 12.0 $\mu\text{g m}^{-3}$. There were some spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for $\text{PM}_{2.5}$. Based on the air monitoring data conducted nearby, the background concentrations at the new facility may be close to EPA annual standard of $\text{PM}_{2.5}$.



The following illustrations are attached:

	<u>Figure</u>
Future Site and Surrounding Area.....	1
Process Layout and Details	2 and 3
Site Visit Photos.....	4 thru 10
Appendix A – Air Monitoring Reports	

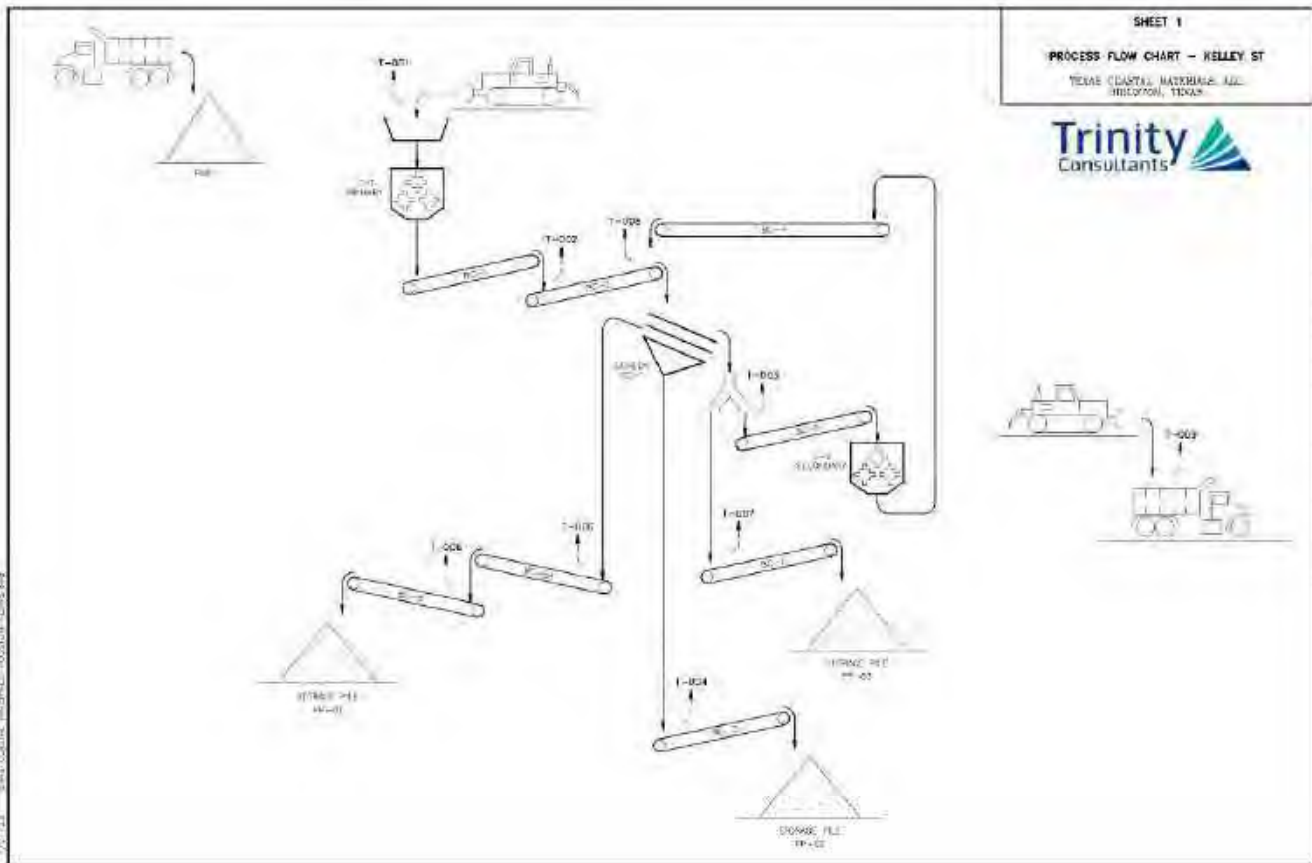


Figure 3 – Process Layout (From Permit Submittal – Trinity Consultants July 2023)



Figure 4 – Future Site Current Entrance – Facing NE from Kelley St.



Figure 5 – LBJ Hospital – Facing S from Kelley St.



Figure 6 – St. Francis Catholic Church – Facing SE on Dabney St.



Figure 7 – Nearest Residence at corner of Dabney St. and Minden St. – Facing SW Dabney St.



Figure 8 – Hutchenson Park – Facing S towards park.



Figure 9 –Future Park and Current Retention Pond – Facing NE from Homestead Rd.



Figure 10 – Hunting Bayou and Bike Trail – Facing W parallel to property.

Appendix A

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on April 28, 2022)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Nguyen Ly Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

HCHO - formaldehyde

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppbV – part(s) per billion by volume

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southeasterly winds would prevail on April 28, 2022. MLP Chemists deployed the MAAML at Texas Concrete (Figure 1) to monitor for VOCs by GC/MS, PM using a GRIMM Technologies PM monitor and O₃ using a gas specific analyzer.

Outcome:

Monitoring ran from 800 to 1500 CST on April 28, 2022 using MAAML instrumentation to monitor VOCs, PM and O₃ with prevailing southeasterly winds at speeds from 4.5 to 8.3 mph. During the run, the chemists noted no odors and emission plumes in the area. 1,3-Butadiene was not detected. Benzene (0.1 ~ 0.2 ppb, TCEQ's ESL long term: 1.4 ppb) was measured. Concentrations for other confirmed VOCs ranged low.

5-min average PM_{2.5} and PM₁₀ concentrations ranged from 8.3 to 95.9 µg m⁻³ (average – 26.0 µg m⁻³) and 20.4 to 452.9 µg m⁻³ (average – 114.1 µg m⁻³) respectively (Figure 2) with many spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 22.2 to 57.8 ppb (average – 42.2 ppb) (Figure 3) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

Figure 4 depicts the time series graph for wind speed and direction measured at Texas Concrete on April 28, 2022 while figure 5 depicts MAAML deployment.



Figure 1: MAAML deployment site (29.817028°, -95.305909°) and prevailing wind – Texas Concrete (04/28/22)

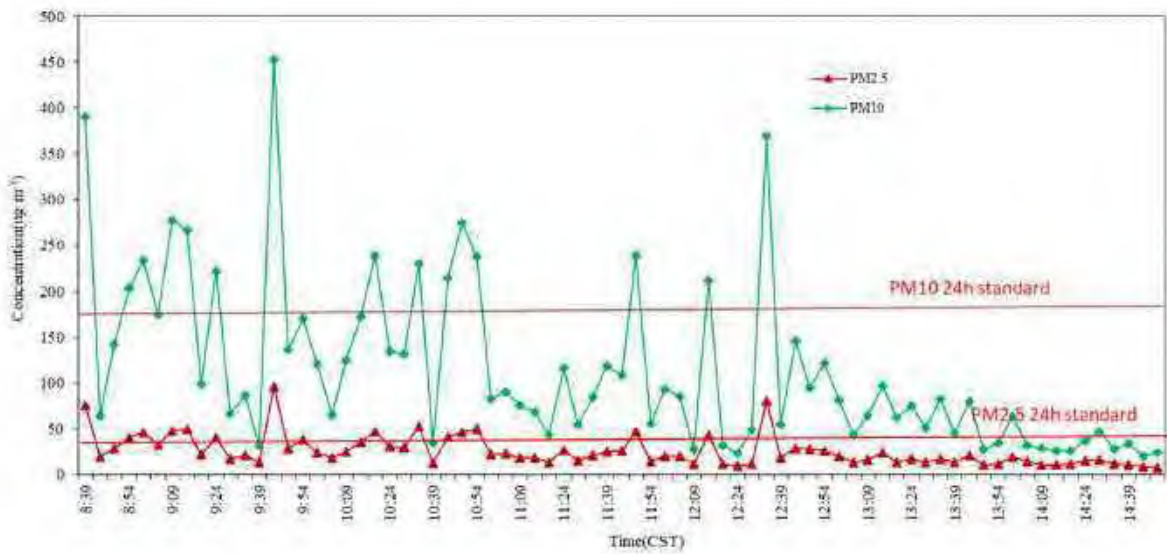


Figure 2: Time series graph of PM concentrations – Texas Concrete (04/28/22)

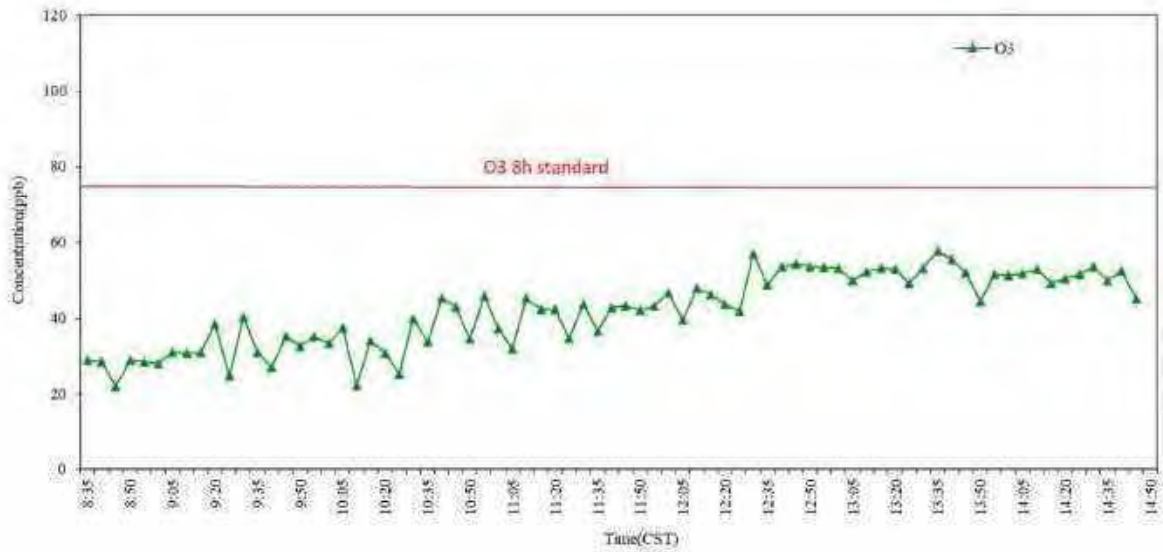


Figure 3: Time series graph of O₃ concentrations – Texas Concrete (04/28/22)

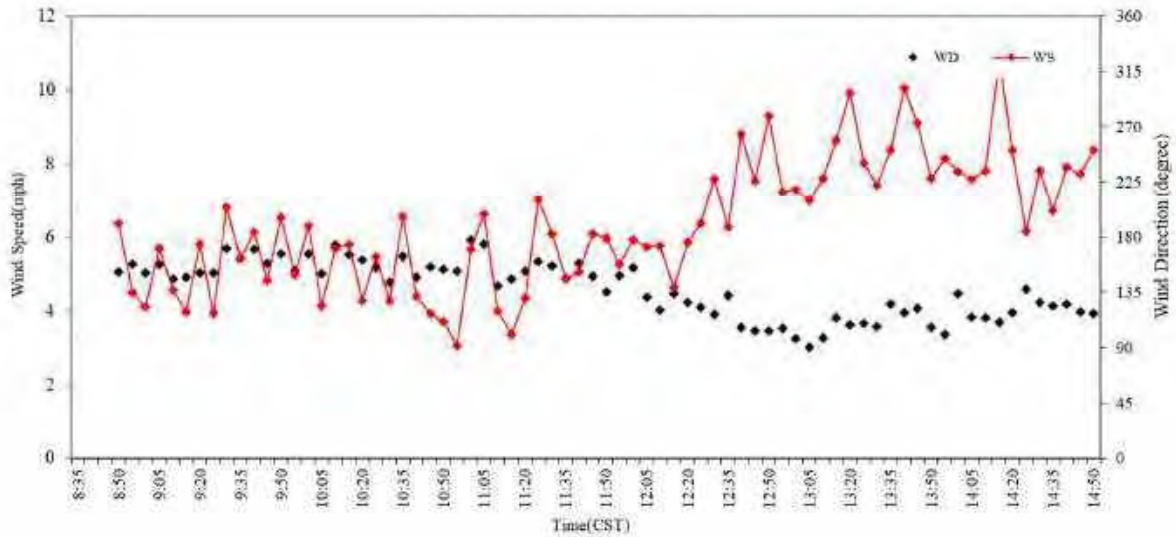


Figure 4: Time series graph of wind speed and direction – Texas Concrete (04/28/22)



Figure 5: MAAML deployment – Texas Concrete (04/28/22)

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(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on June 7, 2022)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Nguyen Ly Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

HCHO - formaldehyde

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppbV – part(s) per billion by volume

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southeasterly winds would prevail on June 7, 2022. MLP Chemists deployed the MAAML at Texas Concrete (Figure 1) to monitor for VOCs by GC/MS, PM using a GRIMM Technologies PM monitor and O₃ using a gas specific analyzer.

Outcome:

Monitoring ran from 800 to 1500 CST on June 7, 2022 using MAAML instrumentation to monitor VOCs, PM and O₃ with prevailing SSE winds at speeds from 8.3 to 10.0 mph. During the run, the chemists noted no odors and emission plumes in the area. 1,3-Butadiene (ND, TCEQ's ESL long term: 4.5 ppb) was not detected. Concentrations for Benzene (NO~0.1 ppb, TCEQ's ESL long term: 1.4 ppb) and other confirmed VOCs ranged low.

5-min average PM_{2.5} and PM₁₀ concentrations ranged from 5.8 to 38.8 µg m⁻³ (average – 11.2 µg m⁻³) and 10.0 to 257.7 µg m⁻³ (average – 34.0 µg m⁻³), respectively (Figure 2), with two spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 9.3 to 35.7 ppb (average – 24.1 ppb) (Figure 3) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

Figure 4 depicts the time series graph for wind speed and direction measured at Texas Concrete on June 7, 2022 while figure 5 depicts MAAML deployment.



Figure 1: MAAML deployment site (29.817028°, -95.305909°) and prevailing wind – Texas Concrete (06/07/22)

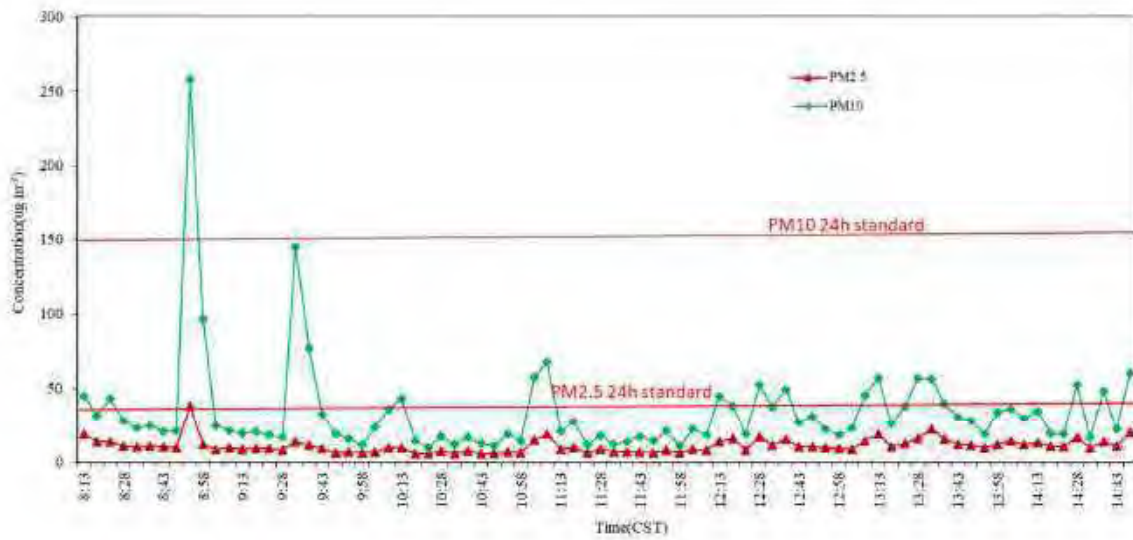


Figure 2: Time series graph of PM concentrations – Texas Concrete (06/07/22)



Figure 3: Time series graph of O₃ concentrations – Texas Concrete (06/07/22)

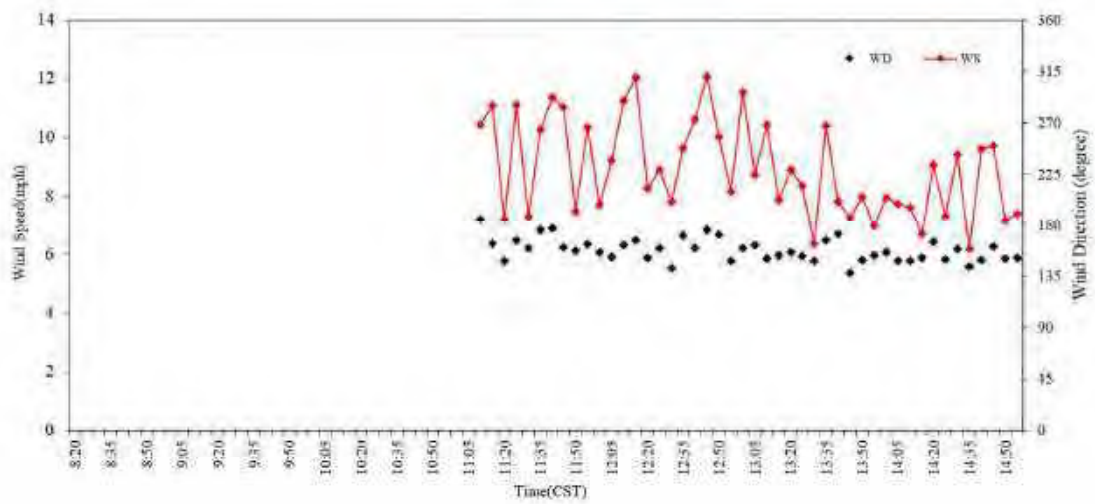


Figure 4: Time series graph of wind speed and direction – Texas Concrete (06/07/22)



Figure 5: MAAML deployment – Texas Concrete (06/07/22)

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(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on October 21, 2022)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Nguyen Ly Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

HCHO - formaldehyde

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppbV – part(s) per billion by volume

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southwesterly winds would prevail on October 21, 2022. MLP Chemists deployed the MAAML at Texas Concrete (Figure 1) to monitor for PM using a GRIMM Technologies PM monitor. GC/MS and O₃ monitor were out of order.

Outcome:

Monitoring ran from 800 to 1400 CST on October 21, 2022 using MAAML instrumentation to monitor PM with prevailing SW winds at speeds from 6.2 to 11.1 mph. During the run, the chemists noted no odors and emission plumes in the area.

5-min average PM_{2.5} and PM₁₀ concentrations ranged from 5.6 to 11.8 µg m⁻³ (average – 8.1 µg m⁻³) and 10.9 to 45.8 µg m⁻³ (average – 24.1 µg m⁻³), respectively (Figure 2), with no PM_{2.5} and PM₁₀ concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, respectively.

Figure 3 depicts the time series graph for wind speed and direction measured at Texas Concrete on October 21, 2022 while figure 4 depicts MAAML deployment.



Figure 1: MAAML deployment site (29.817219°, -95.300992°) and prevailing wind – Texas Concrete (10/21/22)

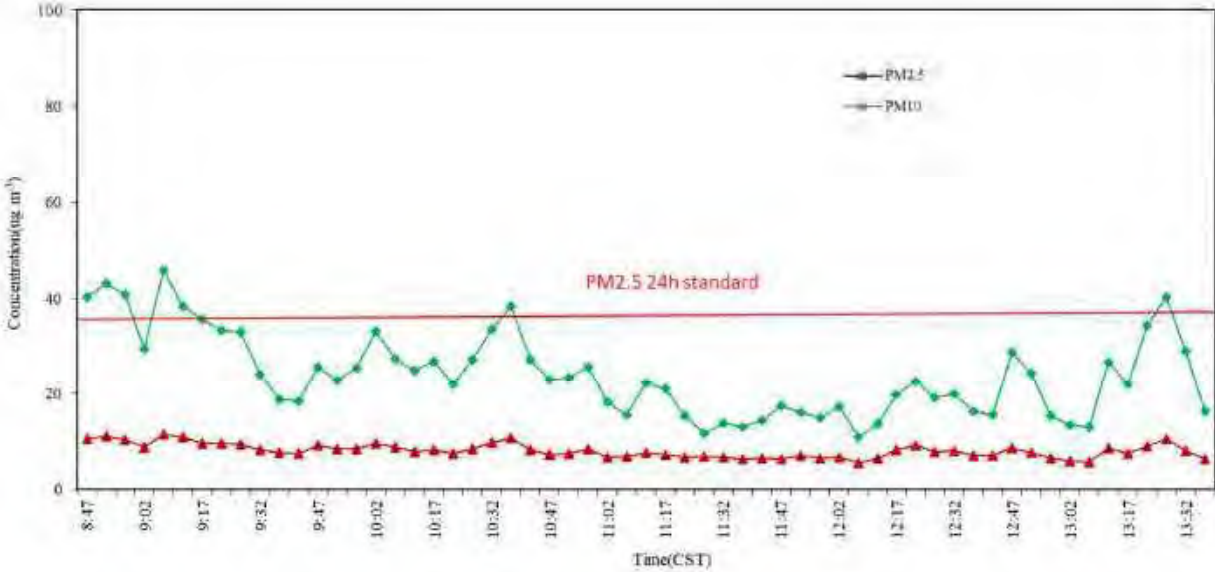


Figure 2: Time series graph of PM concentrations – Texas Concrete (10/21/22)

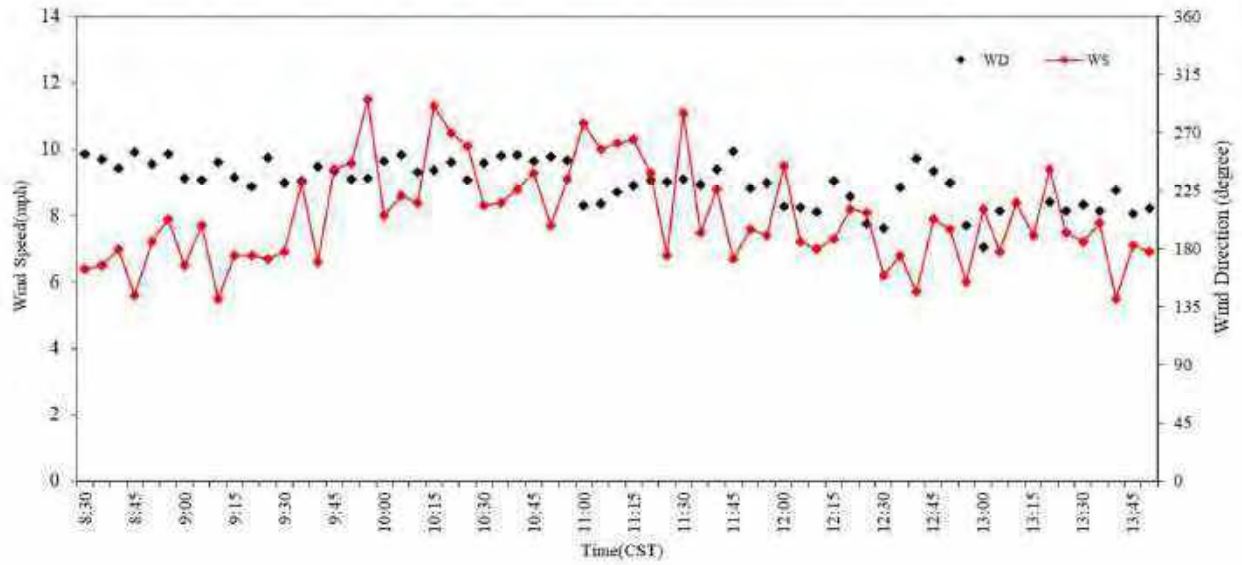


Figure 3: Time series graph of wind speed and direction – Texas Concrete (10/21/22)



Figure 4: MAAML deployment – Texas Concrete (10/21/22)

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**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Lyndon B Johnson Hospital (5656 Kelley St, Houston, TX 77026) on August 31, 2023

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Olariche Diala - Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a follow-up MAAML deployment to collect additional ambient air data from a potential air pollution source stemming from past emission events at the facility.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated that northeasterly winds would prevail on August 31, 2023. MLP Chemist deployed the MAAML at Lyndon B Johnson Hospital to monitor for VOCs by GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 0900 to 1300 CST on August 31, 2023 using MAAML instrumentation to monitor VOCs and PM with NE winds at speed of 2.1 to 4.1 mph. Wind sensor in MAAML was out of order. Hourly average weather data measured at Park Place was used. The readings for ozone monitor were low and unstable. During the run, the chemist noted no odor and emission plumes in the area. Concentrations for I,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected and benzene (0.2~0.4 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 5.9 to 10.9 µg m⁻³ (average – 7.8 µg m⁻³) while PM₁₀ concentrations ranged from 9.6 to 43.3 µg m⁻³ (average – 18.9 µg m⁻³), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀ (Figure 2).

Figure 3 depicts MAAML deployment at Lyndon B Johnson Hospital on August 31, 2023.



Figure 1: MAAML deployment site (29.809861° -95.313904°) and prevailing wind – Lyndon B Johnson Hospital (08/31/23)



Figure 2: Time series graph of PM₁₀ and PM_{2.5} concentrations – Lyndon B Johnson Hospital (08/31/23)



Figure 3: MAAML deployment - Lyndon B Johnson Hospital (08/31/23)

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**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Lyndon B Johnson Hospital (5656 Kelley St, Houston, TX 77026) on Sep 01, 2023

Prepared by: _____
Peter Chen – Chemist IV Date

Approved by: _____
Olariche Diala - Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a follow-up MAAML deployment to collect additional ambient air data from a potential air pollution source stemming from past emission events at the facility.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

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EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated that northeasterly winds would prevail on September 1, 2023. MLP Chemist deployed the MAAML at Lyndon B Johnson Hospital to monitor for VOCs by GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 0800 to 1200 CST on September 1, 2023 using MAAML instrumentation to monitor VOCs and PM with NE winds at speed of 3.1 to 4.2 mph. Wind sensor in MAAML was out of order. Hourly average weather data measured at Park Place was used. The readings for ozone monitor were low and unstable. During the run, the chemist noted no odor and emission plumes in the area. Concentrations for I,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected and benzene (0.2~0.5 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 5.2 to 9.7 µg m⁻³ (average – 6.8 µg m⁻³) while PM₁₀ concentrations ranged from 8.3 to 25.2 µg m⁻³ (average – 18.2 µg m⁻³), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀ (Figure 2).

Figure 3 depicts MAAML deployment at Lyndon B Johnson Hospital on September 1, 2023.

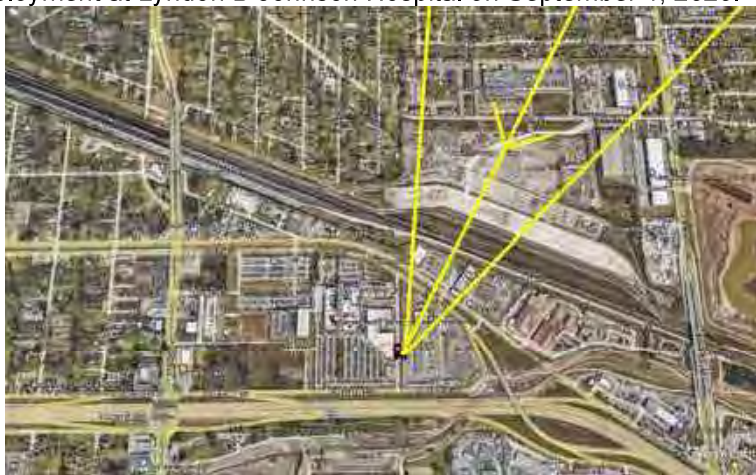


Figure 1: MAAML deployment site (29.809861° -95.313904°) and prevailing wind – Lyndon B Johnson Hospital (09/01/23)

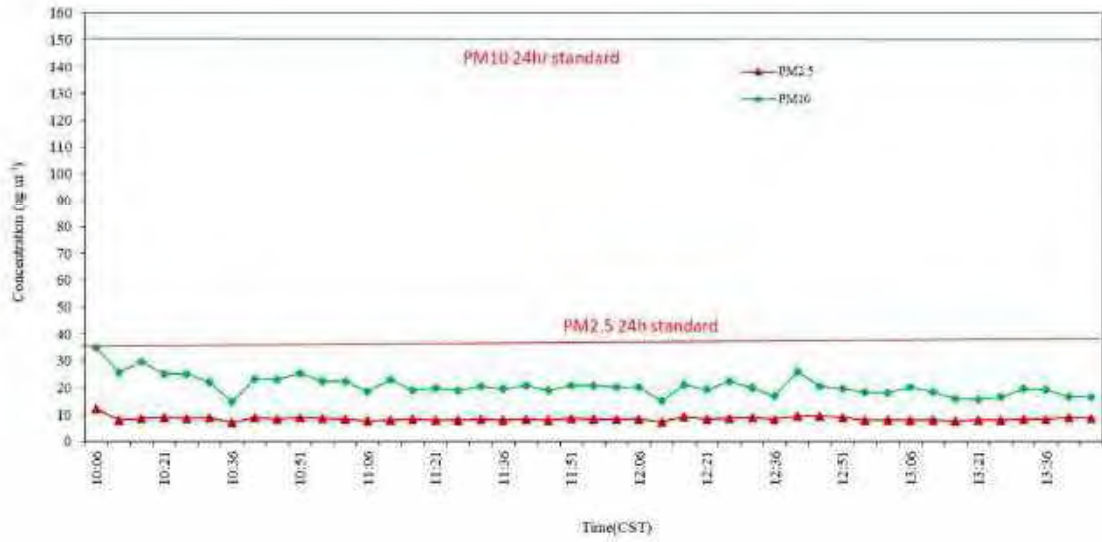


Figure 2: Time series graph of PM₁₀ and PM_{2.5} concentrations – Lyndon B Johnson Hospital (09/01/23)



Figure 3: MAAML deployment - Lyndon B Johnson Hospital (09/01/23)

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**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on September 6, 2023)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Olariche Diala- Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southerly winds would prevail on September 6, 2023. MLP Chemist deployed the MAAML at Texas Concrete to monitor for VOCs using GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 800 to 1200 CST on September 6, 2023 using MAAML instrumentation to monitor VOCs and PM with prevailing SSW wind at speed of 1.8 to 3.4 mph. During the run, the chemist noted no odors and emission plumes in the area. Wind sensor in MAAML and Ozone monitor were out of order. Hourly average weather data measured at Park Place was used. 1,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected. Concentrations for Benzene (0.1~0.2 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 3.2 to 18.9 µg m⁻³(average – 7.0 µg m⁻³) while PM₁₀ concentration ranged from 6.8 to 77.0 µg m⁻³ (average – 26.7 µg m⁻³), with no PM concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, (Figure 2),.

Figure 3 depicts MAAML deployment. at Texas Concrete on September 6, 2023



Figure 1: MAAML deployment site (29.815107°, -95.301783°) and prevailing wind – Texas Concrete (09/06/23)



Figure 2: Time series graph of PM concentrations – Texas Concrete (09/06/23)



Figure 3: MAAML deployment – Texas Concrete (09/06/23)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on September 7, 2023)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Olariche Diala - Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

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µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated westerly winds would prevail on September 7, 2023. MLP Chemists deployed the MAAML at Texas Concrete to monitor for VOCs using GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 800 to 1200 CST on September 7, 2023 using MAAML instrumentation to monitor VOCs and PM with prevailing west winds at speeds from 2.3 to 5.4 mph. During the run, the chemists noted no odors and emission plumes in the area. Wind sensor in MAAML and Ozone monitor were out of order. Hourly average weather data measured at Park Place was used. 1,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected. Concentrations for Benzene (0.2 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 3.7 to 25.1 µg m⁻³ (average – 6.7 µg m⁻³) while PM₁₀ concentrations ranged from 8.6 to 151.7 µg m⁻³ (average – 18.9 µg m⁻³), with onw spike PM concentration exceeding EPA NAAQS 24h standards of 150 µg m⁻³ for PM₁₀ (Figure 2).

Figure 3 depicts MAAML deployment. at Texas Concrete on September 7, 2023



Figure 1: MAAML deployment site (29.815107°, -95.301783°) and prevailing wind – Texas Concrete (09/07/23)

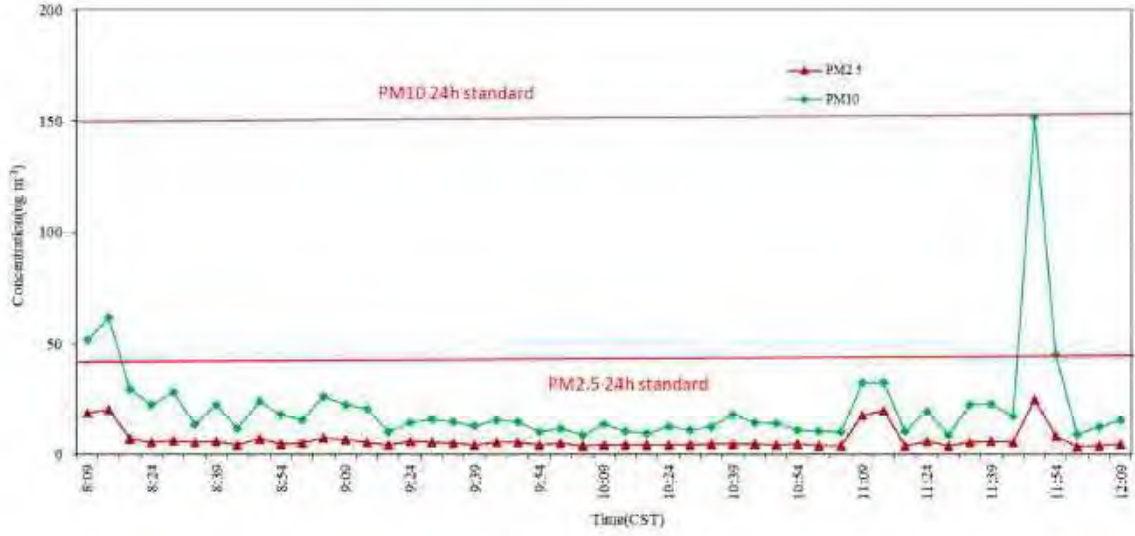


Figure 2: Time series graph of PM concentrations – Texas Concrete (09/07/23)



Figure 3: MAAML deployment – Texas Concrete (09/07/23)

EXHIBIT 8

Plaintiffs' Petition for Judicial Review

KASHMERE GARDENS SUPER NEIGHBORHOOD COUNCIL #52

SUPER NEIGHBORHOOD 48 TRINITY/ HOUSTON GARDENS

December 4, 2023

VIA OVERNIGHT MAIL

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: Texas Coastal Materials, LLC Application for an Air Quality Standard Permit;
Registration No. 173296 located at 5875 Kelley St., Houston, Texas 77026

On behalf of the Kashmere Gardens Super Neighborhood Council #52 and Super Neighborhood 48 Trinity/ Houston Gardens, the following comment cards are submitted on behalf of individuals concerned about the above-referenced application (Registration No. 173296):

Identified SN52 Members and Residents of Houston, Texas 77016: Ida Baptiste (4526 Woolworth), Johnnie R. Baptiste (4526 Woolworth), Helen Benjamin (5411 Makeig), Kimberly Benjamin (5411 Makeig), Dolomtria Bryant (4802 Lockwood Dr.), Evelyn Cartwright (3609 Legion St), Barbara Edmonds (3305 Vintage Street), James Harris (4012 Lockwood Dr.), Loretha Johnson (4014 Lockwood Dr.), Mildred L. Johnson (4014 Lockwood Dr.), Andrea Price (5310 Pickfair), Maxwell L. Price (5310 Pickfair St), Robert Rosemond (5902 Kashmere), Sr., Diane Stephens (6006 Wipprecht), Jarrett D. Stephens St. (6006 Wipprecht), Ernestine Tizeno (4114 Woolworth), Phillip Washington (4615 Woolworth)

Identified SN48 Member and Residents of Houston, Texas 77026: Gwen Johnson (8521 Allwood St), Dr. Roberta A. Whitfield (6932 Finch),

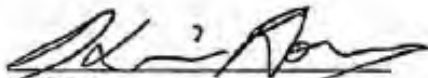
Church Congregant of New Mount Calvary Baptist Church (4711 Kelley St., Houston Texas, 77026): Ramona Simon works at the church every day and attends church regularly.

Other Concerned Commenters (Varied Addresses – see specific comment cards): Cece Scott, Yarixza Becerra, Keyshawn Strawder, Rose and Leo Brimmer, Andrea Smith, Sheri DeWalt, Linda Lindsey, Kourtney Revels, Millie M. Johnson,

Seniors Utilizing Kashmere Gardens Multi-Service Center (Kashmere Gardens MSC, 4802 Lockwood, Houston, Texas 77026) Weekly: Josephine Ashford, Robert Baines, Emily Barriere, Jo Ethel Campbell, Georgia Charles, Valerie Cooper, Rita Ellis, Teresa R. Harris, Donald Johnson, Frankie Johnson, Annie Jones, Carolyn Jones, Anthony King, Turner Lewis, Doris Morgan, Bettie Richardson, Reda Richardson, Sylvester Tanner, and Carol Ann Thomas.

These comment cards on Registration No. 173296 were collected at multiple community meetings in Super Neighborhood 48 and/or Super Neighborhood 52 during October and November 2023 or provided to the undersigned leaders of these Super Neighborhoods based on the community concerns about the proposed application.

Sincerely,



Keith Downey

President
Kashmere Gardens Super Neighborhood
Council #52



Huey German Wilson

President
Super Neighborhood 48 - Trinity/ Houston
Gardens

**MEMBERS / RESIDENTS IN
SUPER NEIGHBORHOOD 52**

PUBLIC COMMENT on REGISTRATION No. 173296

Name: IDA Baptiste
Mailing Address: 4526 Woolworth St Houston TX 77026
Email Address: ida9561@att.net
Phone #: 713-673-1909

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I AM A Resident In Kashmere; I ^{oppose} ^{against} to
having A Rock CRUSH PLANT in our
Community, and any other community
Because of Health Reason.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Ida Dalibog Baptiste Date: 11-14-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Johnnie R. Baptiste

Mailing Address: 4526 WOOLWORTH ST Houston TX 77026

Email Address: ida9561@att.net

Phone #: 713 673-1909

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I AM A Resident In Kashmere; I ^{Against} oppose to have A Rock CRUSH Plant in Our Community

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Johnnie R. Baptiste Date: 11-14-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: HELEN BENJAMIN

Mailing Address: 5411 MAKEIG HOUSTON TX 77026

Email Address: _____

Phone #: 713-6745332

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I disagree, I am against having a rock and concrete crusher plant at 5875 Kelley St. Houston, Texas 77026

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Helen Benjamin Date: 11-15-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Kimberly Benjamin
Mailing Address: 5411 Makeig St. Houston, Tx 77026
Email Address: kimleeben@yahoo.com
Phone #: _____

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I'm against having a Rock and Concrete Crusher Plant at 5875 Kelley St. because the process noise at this level could possibly cause deafness and adequate hearing protection is required. And breathing silica dust can cause serious respiratory diseases.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Kimberly Benjamin Date: 11/15/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Dolouiteia Bryant
Mailing
Address: 4802 Lockwood Dr. Houston, TX 77026
Email
Address: dolouiteia.bryant@houston.tx.gov
Phone #: 832-393-4076

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

The Proposed Kelly Street Plant would be detrimental to the well being of residents & citizens working in the Kashmere Gardens area. It is a negative determination on the over all public health outcomes for all in the area.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:  Date: 11/14/2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: EVELYN CARTWRIGHT

Mailing Address: 3609 Legion St. HOUSTON TX 77026

Email Address: evelyncartwright@gmail.com

Phone #: ^{Home} 713 6727 331 or 713 858 5858 - CELL

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

- 1 Air quality pollution for residents with breathing problems at hospital, or across the streets.
- 2 Breathing problems for patients with C.O.P.D., Asthma or respiratory ailments
- 3 Not a safe environment to breath and close to a hospital
- 4 Dust & Noise
- 5 Traffic in area
- 6 near schools, homes, parks, hospital.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Evelyn Cartwright Date: 11/14/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: BARBARA Edmonds

Mailing Address: 3305 VINTAGE ST. HOUSTON TX 77026

Email Address: BARBARA-WILLIE-EDMONDS@YAHOO.COM

Phone #: 713-679-4014 CELL. 432-322-9159

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I oppose the Kelley Street Plant Rock and Concrete crushing
They make lots of dust and noise, and it also causes
asthma and allergies.

Truck traffic and engines make emissions that can harm
people

Stone crushers can cause soil erosion and pollution of waterways.

It is a health hazard to everyone.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Barbara Edmonds Date: 11/14/2003

PUBLIC COMMENT on REGISTRATION No. 173296

Name: James Harris

Mailing Address: 4012 Lockwood Dr. Houston, Texas 77026

Email Address: _____

Phone #: _____

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I AM AGAINST TEXAS COASTAL MATERIALS BEING ISSUED A PERMIT TO OPERATE A ROCK AND CONCRETE PLANT IN MY NEIGHBORHOOD OF KASHMERE GARDENS

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: James Harris Date: 11/29/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Lanetha Johnson

Mailing Address: 4014 Lockwood Dr, Houston TX 77026

Email Address: _____

Phone #: 713-674-1826

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I am against Texas Coastal Materials being given a permit to operate a Rock and Concrete Crusher Plant in Kashmere Gardens and in the area by ~~W~~J. L.B.J. Hospital.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Lanetha Johnson Date: Nov. 15, 2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Mildred L. Johnson
Mailing Address: 4014 LOCKWOOD DR HOUSTON TX 77026
Email Address: amethyst.15@sbcglobal.net
Phone #: 713.854.5259

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I am strongly opposed to Texas Coastal Materials obtaining a permit to place a rock & concrete crushing plant in our community nor in the vicinity of LBS Hospital. Totally against this company coming into the community, contaminating the area.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Mildred L. Johnson Date: 11/14/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Aandra Price
Mailing Address: 5310 Puckfair St Houston TX 77026
Email Address: sprice258@yahoo.com
Phone #: (281) 898-1395

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

Against

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Aandra Price Date: 11/29/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Maxwell L. Price, SR.
Mailing Address: 5310 Pickfair ST. HOUSTON TX 77026
Email Address: MPRICE275@YOHOO.COM (COM)
Phone #: 832 347 0987

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I, Maxwell L. Price have lived in KASHMERE GARDENS FOR 68 YEARS. A ROCK PLANT IS NOT WANTED BY THE COMMUNITY. THE PLANT WILL CAUSE A HAZARD TO PEOPLES' HEATH. THE TRUCKS WILL DAMAZGE THE STREETS AND ROADS

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Maxwell L. Price Date: 11/14/2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Robert Rosemond

Mailing Address: 5902 Kashmere Houston TX 77026

Email Address: _____

Phone #: 832-512-2558

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I Approve

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Robert Rosemond Date: 11-29-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: PIANNE STEPHENS
Mailing Address: 6006 WIPPRECHT HOUSTON TX 77026
Email Address: DSTEP31461@AOL.COM
Phone #: 713-829-1500

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

As a resident of KASHMERE GARDENS —
I AM VERY CONCERNED ABOUT WHATS BEING PROPOSED FOR MY AREA.
OUR HEALTH IS ALREADY COMPROMISED, THIS IS ADDING TO IT.
THIS SHOULD NOT HAPPEN.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Pianne Stephens Date: Nov 14, 2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Farret D. Stephens Jr.
Mailing Address: 6006 Wyprecht Houston Tex 77026
Email Address: _____
Phone #: 713-206-3432

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

Stop try to kill us.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Farret D. Stephens Date: 11-29-2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Ernestine Tizen
Mailing Address: 4114 Woolworth St Houston TX 77026
Email Address: tizenotiney@gmail.com
Phone #: 832-721-7621

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

This is not wanted in our community because of concerns of health reasons. Unwanted heavy truck traffic and dust. We have schools, hospitals, grocery stores in the area. This might in the long haul maybe risky to our community health. Could possible harm our water system.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Ernest Tizen Date: 11/14/2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Phillip Washington
Mailing Address: 4615 Lockwood Houston TX 77026
Email Address: washinph@yahoo.com
Phone #: 832 643 0682

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

No more pollution

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:  Date: 11.14.23

Garth Jackson
Lecturer

**MEMBERS / RESIDENTS IN
SUPER NEIGHBORHOOD 48**

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Gwen Johnson
Mailing Address: 8521 Allwood ST. HOUSTON, TX 77016
Email Address: gwenjohnson11@yahoo.com
Phone #: 713-633-7506

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Super Neighborhood 48 Trinity/Houston Gardens.

COMMENTS:

I am AGAINST Texas Coastal Materials getting Air Quality Standard Permit. (Kelley Street Plant)
Too close to LBJ Hospital, School, Parks & Home
Trucks Traffic too loud

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Gwen Johnson Date: 10-24-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name:

Dr. Roberta A. Whitfield

Mailing
Address:

6932 Finch St Houston TX 77028

Email
Address:

rawhitfield2014@gmail.com

Phone #:

(713) 822-2126

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 5

COMMENTS:

I am opposed to this cement/concrete company residing in our neighbor due to health reasons it will impose upon it's residents + tax paying citizens, Take your business elsewhere + not bring it into our neighborhoods!

Dr. Whitfield

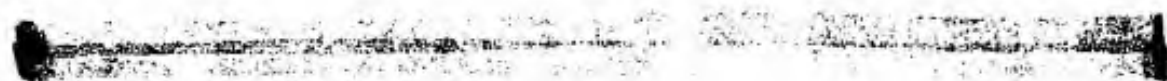
By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:

Dr. Roberta A. Whitfield

Date:

Nov. 15, 2023



**CONGREGANT OF
NEW MOUNT CALVARY BAPTIST CHURCH,
4711 KELLEY STREET, HOUSTON TEXAS
77026**

PUBLIC COMMENT on REGISTRATION No. 173296

Name: RAMONA SIMON
Mailing Address: 11734 GREEN CORAL DR, HOUSTON, TX 77044
Email Address: _____
Phone #: 713-202-5688

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I work at my church EVERY day and attend church regularly.

NEW MT CALVARY Baptist Church
4711 KELLEY ST.
HOUSTON TX 77026

Right down the street from LBJ Hospital.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: _____

Date: 11/29/2023

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**ADDITIONAL
COMMENTERS**

PUBLIC COMMENT on REGISTRATION No. 173296

Name: CECE SCOTT
Mailing Address: 900 BAGBY #1ST FLOOR OFFICE of Councilmember
LETITIA PLUMMER
Email Address: CECE.SCOTT@HOUSTONTX.GOV
Phone #: 832.393-3012

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

AGAINST!

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: _____

Date: _____

11/14/2023

THE UNIVERSITY OF CHICAGO PRESS

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Yarixza Becerra

Mailing Address: 900 Bagby St. 77002

Email Address: yarixza.becerra@houstontx.gov

Phone #: (281) 868-0115

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

The community is very against this rock crushing plant. It would be incredibly detrimental to the health of the residents in the area and even more so to the patients at LBJ Hospital. This facility does not belong in this community.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:  Date: 11/14/23

山陰縣志卷之四 風俗志 四

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Keyshawn Strawder
Mailing Address: 14123 Sparks Valley Dr. Houston Tx, 77084
Email Address: Keyshawn.Strawder@gmail.com
Phone #: 832-265-4986


Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I hate the idea of a rock crushing facility being placed in this community. They wouldn't put this in another community so why this one?

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: 

Date: 11/14/23

Fw: Rock and Concrete Crusher

From: Dianne Stephens (dstep31461@aol.com)

To: kgsnc52@yahoo.com

Date: Wednesday, November 29, 2023 at 03:39 PM CST

This is her response.

Sent from the all new AOL app for iOS

Begin forwarded message:

On Wednesday, November 29, 2023, 9:28 AM, Rose Brimmer <rosebrimmer@aol.com> wrote:

Sent from my iPhone Rose and Leo Brimmer
3814 Abalone Cove
Missouri City, Texas 77459
rosebrimmer@gmail.com
lbube55@yahoo.com
5127055131
2813891677
November 29, 2023

Texas Commission on Environmental Quality
Air Permits Division
P.O. Box 13087
Austin, TX 78711-3087

Subject: Opposition to Texas Coastal Material's Application for an Air Quality Standard Permit for Rock and Concrete Crusher Plant
Public comment on registration No. 1732860

Dear Sir/Madam,

I am writing to express my strong opposition to the proposed application by Texas Coastal Material for an Air Quality Standard Permit for a rock and concrete crusher plant in our neighborhood. This location is not suitable for such an operation, particularly considering its proximity to a neighborhood comprised predominantly of elderly and minority families.

My primary concerns revolve around the potential health and environmental impacts that this facility would impose on our community. Rock and concrete crushing plants are notorious for generating excessive dust and noise, which can significantly affect the quality of life for residents. The continuous truck traffic and emissions from these vehicles pose a serious risk to our health and the well-being of our animals.

Moreover, the process of stone crushing can lead to soil erosion and the pollution of nearby waterways. This has far-reaching consequences for the environment, as well as for the health of our community members who rely on these resources. The proposed plant's proximity to our church, schools, LBJ hospital, park, and homes in SN48 and SN52 further exacerbates these concerns.

It is disheartening to witness the potential placement of such a facility in our neighborhood, while it would likely not be considered acceptable in more privileged areas. It is crucial to prioritize environmental justice and ensure that all communities, regardless of their demographics, are protected from harmful industrial activities.

I respectfully urge the Texas Commission on Environmental Quality to reject the application submitted by Texas Coastal Material for the rock and concrete crusher plant in our neighborhood. Instead, I implore you to consider alternative locations that do not compromise the health, well-being, and environmental integrity of our community.

Thank you for your attention to this matter. I trust that the Texas Commission on Environmental Quality will take our concerns into serious consideration and make the right decision in the best interest of our community.

Sincerely,

Leo and Rose Brimmer
Members of the New
Mount Calvary Missionary Baptist Church 4711 Kelly Street

PUBLIC COMMENT on REGISTRATION No. 173296

Name:

Andrea Smith

Mailing

Address:

6654 Wandering Trace Dr 77086

Email

Address:

Andrea.911.Smith@gmail.com

Phone #:

281-258-9755

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

Please Reconsider your decision
on Clean Air.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:

Andrea Smith

Date:

11-18-2023

THE UNIVERSITY OF CHICAGO PRESS

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Sheeri DeWalt

Mailing Address: _____

Email Address: sheeri.dewalt@gmail.com

Phone #: 817-576-2797

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

My PARENTS ARE OLDER AND this ~~is~~ threat to their health is not needed in this Area where they live.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Sheeri DeWalt Date: 11/24/23

1875

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Linda Oel Lindsey
Mailing Address: 180 Rainbow Dr # 8056 Livingston, Tx. 770
Email Address: FLAD60@gmail.com
Phone #: 281 635-7891

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52

COMMENTS:

I'm a product of this community. Don't want this plant contaminating the air my former friends & neighbors breathe.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Linda Oel Lindsey Date: Nov. 23, 2023

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LIBRARY

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1954



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LIBRARY

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LIBRARY

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Kourtney Revels
Mailing Address: 9926 Valley Mill Ct Houston, TX, 77078
Email Address: revelsk9@gmail.com
Phone #: 281-745-8707

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Super Neighborhood ~~48 Trinity/Houston Gardens~~ **49+50.**

COMMENTS:

As a member of SN 49/50 which is too impacted by this Rock and concrete Batch because it will be so close to our only neighborhood Hospital. ~~As we~~ We should be able to present formal complaints on the record of the detrimental impacts of these types of businesses in our communities. TCEQ & our State Reps should consider the cumulative impact of the different ~~permits~~ emissions & environmental injustices that we experience. Please do not approve this newest permit for a Rock crushing plant because our air quality & quality of life are at risk.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:  Date: 11/28/23

1912

PUBLIC COMMENT on REGISTRATION No. 173296

Name:

Millie M Johnson

Mailing

Address:

7413 Bigwood Houston, TX 77016

Email

Address:

Millie Jay 1949 @G-mail.com

Phone #:

346-350-3828

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Super Neighborhood 48 Trinity/Houston Gardens

COMMENTS:

Dowe need more air poluting in this area.
Is it easier to put ~~these~~ them in low income
areas.
These plants should be equally distributed throu Rich &
poor communities.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:

Millie Johnson

Date:

11-28-2023

1875

**SENIOR RESIDENTS OF HOUSTON, TEXAS
UTILIZING KASHMERE GARDENS
MULTI-SERVICE CENTER,
4802 LOCKWOOD, HOUSTON, TX 77023
WEEKLY**

PUBLIC COMMENT on REGISTRATION No. 173296

Name: JOSEPHINE ASHFORD

Mailing
Address: 4802 LOCKWOOD DRIVE

Email
Address: _____

Phone #: 832-623-5947

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

BECAUSE TOO MANY PEOPLE HAVE RESPIRATORY & IT IS BRING
TO MUCH DUST WE NEED TO GET A BETTER SYSTEM FOR
OUR COMMUNITY.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Josephine Ashford Date: 11/21/2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Emily Barrera
Mailing Address: 4802 Hookwood, Dr.
Email Address: e-barrera@yahoo.com
Phone #: 281-650-0110

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I don't think that its Ok, because, it only in the rural community, you'll come build, put, things that, heave be explained to us the right way. They also asure to us ahead I do what you'll want then, come to us like it brain new. no no, no, we don't except it at all. keep this stuff from happening in our communities please

no to the TCEQ
" project "
5875 Kelley St.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Emily Barrera Date: 11-21-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: ROBERT P. BAINES

Mailing Address: 4802 Lockwood Dr.

Email Address: ROBERTBAINES.DOG@GMAIL.COM

Phone #: 832-242-8265

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

THERE ARE TO MANY SUNK YARDS + OTHER CEMENT PLANTS
IN KASHMERE AS IS

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Robert P. Baines Date: 11-21-2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Jo Ethel Campbell
Mailing Address: 7223 Haverton Dr ⁴⁸⁰² Lickwood Dr
Email Address: jellenCampbell@gmail.com
Phone #: 281-802-9683

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I said NO to TCEQ Project on
5875 Kelley St 77026
Project

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Jo Ethel Campbell Date: 11-21-2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Georgia Charles

Mailing Address: 12433 Tidwell Rd.

Email Address: _____

Phone #: 832-545-0430

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Georgia Charles Date: 11-21-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name:

Valerie Cooper

Mailing
Address:

7209 BANYAN ST

Email
Address:

cgarl2336@gmail.com

Phone #:

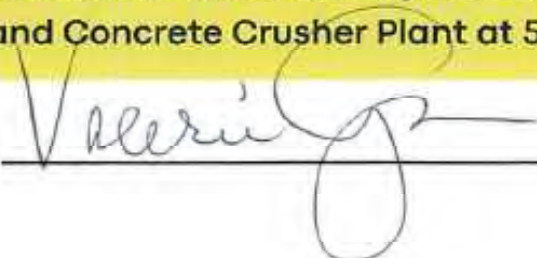
Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:



Date:

11/21/2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Rita ELLIS

Mailing Address: ~~7346 Sande~~ 4802 Lakewood Dr

Email Address: _____

Phone #: 832-537-2044

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Rita Ellis Date: 11-21-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name:

Theresa R Harris

Mailing

Address:

4802 Lockwood Ln

Email

Address:

Phone #:

713-402-8504

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

NO to the TCEQ Project
5875 Kelly St

We are tired of them making decisions for us

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature:

Theresa R Harris

Date:

11-21-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: FRANKIE JOHNSON

Mailing
Address: 4522 KASHMERE ST. - 77026

Email
Address: —

Phone #: 832-757-9640

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Frankie Johnson Date: 11-21-2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Annie Jones
Mailing Address: 4802 Lockwood Dr 77026
Email Address: candim.jones1961@gmail.com
Phone #: 832 390-9405

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Annie Jones Date: 11 21 23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Donald V. Johnson
Mailing Address: 4802 Lockwood Drive
Email Address: ~~Johnson~~ johnson donald 203@gmail.com
Phone #: 346-321-0768

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

Not in favor of a crushing concrete yard be built near "L.B.J. hospital."

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Donald V. Johnson

Date: 11-21-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Carolyn Jones 4802 Lockwood Ave TX 77026
Mailing Address: PO Box 96183 Houston, Texas 77213
Email Address: ccjones1306@gmail.com
Phone #: 832 245 4530

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

The air pollution from a facility like a
Rock/Concrete crusher is a health hazard

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Carolyn Jones

Date: 21 Nov 23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Anthony King

Mailing Address: Kashmere Gardens Center

Email Address: — — —

Phone #: _____

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

NO: To Rock & Concrete plant at
Kelley St.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Anthony King

Date: 11-20, 23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Furner Lewis

Mailing Address: 4802 Lockwood

Email Address: 7136762564

Phone #: _____

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

no concrete close
to BT

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Furner Lewis Date: 11/21/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Doris Morgan
Mailing
Address: 4802 Lockwood Dr
Email
Address: doris.morgan582@gmail.com
Phone #: 832-883-1596

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

I do not want this rock crushing company put across from LBJ hospital. It is not safe for the patients at the hospital or for people that have breathing problems or other health problems.

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Doris Morgan Date: 11/21/23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Bettey Richardson
Mailing Address: _____
Email Address: _____
Phone #: 713-678-4842

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Bettey Richardson Date: 11-21-22

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Reda Richardson
Mailing Address: 6414 1/2 Peachtree
Email Address: _____
Phone #: 832 3935454

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Reda Richardson Date: November 21, 2023

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Sylvester Tanner

Mailing Address: 4502 Lockwood

Email Address: _____

Phone #: 346-649-0644

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Sylvester Tanner Date: 11-21-23

PUBLIC COMMENT on REGISTRATION No. 173296

Name: Carol Ann Thomas
Mailing Address: 4802 Lackwood Houston TX 77026
Email Address: Ø
Phone #: Ø

Any contact information you provide above will become part of the agency's public record.

I am a resident/member of Kashmere Gardens Super Neighborhood 52.

COMMENTS:

Unhealthy

By signing this document you are agreeing to submit this public comment to the Texas Commission on Environmental Quality (TCEQ) on Texas Coastal Materials, LLC's application for an Air Quality Standard Permit (Registration No. 173296) for a Rock and Concrete Crusher Plant at 5875 Kelley St., Houston, Texas 77026.

Signature: Carol Ann Thomas Date: Nov 21, 2023

23-1004392
~~23-1004392~~

23-1004603



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Credit Card Remit \$11.65

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Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

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Cause No. D-1-GN-24-002894

HARRIS COUNTY HOSPITAL
DISTRICT d/b/a HARRIS HEALTH
SYSTEM, SUPER NEIGHBORHOOD
48 TRINITY / HOUSTON GARDENS,
and KASHMERE GARDENS SUPER
NEIGHBORHOOD #52 COUNCIL
Plaintiffs,

v.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY,
KELLY KEEL IN HER OFFICIAL
CAPACITY AS TCEQ
EXECUTIVE DIRECTOR, AND
JON NIERMANN IN HIS
OFFICIAL CAPACITY AS TCEQ
CHAIRMAN,

Defendants.

§ IN THE DISTRICT COURT OF

§ TRAVIS COUNTY, TEXAS

§ 345th JUDICIAL DISTRICT

EXHIBITS 9-16
to
PLAINTIFFS' PETITION FOR JUDICIAL REVIEW

EXHIBIT 9

Plaintiffs' Petition for Judicial Review

PAUL FURRH, JR.
Attorney at Law
Chief Executive Officer

ERNEST W. BROWN, JR.
Attorney at Law
Deputy Director

SAPNA AIYER
Directing Attorney



Lone Star Legal Aid
Equitable Development Initiative

AMY DINN
KIMBERLY BROWN MYLES
Litigation Directors

NOOR MOZAFFAR
CHASE PORTER
AMANDA POWELL
Staff Attorneys

Mailing Address:
P.O. Box 398
Houston, Texas 77001-0398

713-652-0077 x 8108
800-733-8394 Toll-free

December 6, 2023

VIA TCEQ E-Comment

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: Texas Coastal Materials, LLC Application for an Air Quality Standard Permit;
Registration No. 173296 for Permanent Rock and Concrete Crushers located at
5875 Kelley St., Houston, Texas 77026 (“Proposed Facility”)**

Dear Ms. Gharis,

On behalf of our clients, Commenters Super Neighborhood 48 Trinity/ Houston Gardens (“SN48”) and Kashmere Gardens Super Neighborhood Council #52 (“SN52”) (collectively, “Commenters”), Lone Star Legal Aid files these written comments to the Texas Commission on Environmental Quality (“TCEQ”) regarding the Application for an Air Quality Standard Permit; Registration No. 173296 by Texas Coastal Materials, LLC (CN 606158293) for a Permanent Rock and Concrete Crusher (“Application”) at 5875 Kelley St., Houston, Texas 77026 (RN 11769154).

Commenters seek the denial of the Application for the above-referenced permit, and they oppose the Draft Permit for that the TCEQ has prepared to date for the Proposed Facility (“Draft Permit”). Specifically, the Application, Permit, and the Standard Permit for a Permanent Rock and Concrete Crusher (the “Standard Permit”) itself are not protective of public health and property of the public as required under Chapter 382 of the Texas Health and Safety Code or the Texas Clean Air Act.

I. INTRODUCTION

LSLA’s mission is to protect and advance the civil legal rights of the millions of Texans living in poverty by providing free advocacy, legal representation, and community education so to ensure equal access to justice. LSLA’s service area encompasses one-third of the State of Texas, including 72 counties in the eastern and Gulf Coast regions of the state. LSLA’s Environmental

Justice team focuses on the right to the fair distribution of environmental benefits and burdens and the right to equal protection from environmental hazards. LSLA advocates for these rights on behalf of impacted individuals and communities in LSLA's service area. These comments are submitted on behalf of the following low-income individuals and the environmental justice communities and residents represented by these and organizational clients: Super Neighborhood 48 Trinity / Houston Gardens and Kashmere Gardens Super Neighborhood Council #52.

A. THE GARDENS IN HOUSTON, TEXAS, NORTHEAST HARRIS COUNTY

Commenters Super Neighborhood 48 "Trinity / Houston Gardens" and Kashmere Gardens Super Neighborhood Council #52 take their name from three communities: Trinity Gardens, Houston Gardens, and Kashmere Gardens, collectively known as the "Gardens."

Within the City of Houston, a super neighborhood is a geographically designated area where residents, civic organizations, institutions and businesses work together to identify, plan, and set priorities to address the needs and concerns of their community. The boundaries of each super neighborhood rely on major physical features, such as bayous or freeways, to group together contiguous communities that share common physical characteristics, identity or infrastructure. As designated by the City, Super Neighborhood 48 represents Trinity/ Houston Gardens and Super Neighborhood 52 represents the Kashmere Gardens area.

In Houston, each Super Neighborhood elects a council comprised of area residents and stakeholders that serves as a forum to discuss issues and identify and implement priority projects for the area. Both Super Neighborhoods 48 and 52 are comprised of leaders and community activists who have continually battled with the City to improve the existing living conditions of their community. Many of these residents were born and raised in the Gardens communities and have lived in the Gardens their entire life, showing their commitment to investment in their community. These residents are property owners with both personal and financial interest at stake as a result of the continuous disinvestment in their community.

Commenters both represent communities predominately of African American heritage. The group is comprised of parents, grandparents, community members, retirees, church leaders, community organizations, and the like. Deeply rooted in their neighborhood, these residents are committed to improving the quality of life of their community. One of the threats to the quality of life posed by citizens is the proliferation of industrial facilities within their Super Neighborhood borders, such as concrete batch plants.

As a result of years of disinvestment in the Gardens community, the land values in the Gardens have become relatively inexpensive compared to other areas of Houston, creating the perfect opportunity for developers and industrial projects. Today, much of the east end of the Gardens has been converted to industrial use, changing the nature of the once single-family neighborhood for families, children, and seniors in the neighborhood. As explained in more detail below, because of the lack of zoning in Houston, Super Neighborhood 48 and 52 both have several industrial sites that contribute to the cumulative air quality risks in the area because of industrial encroachment into residential neighborhoods. The communities are concerned that this proposed permanent rock and concrete crusher will create one more environmental nuisance contributing to documented poor health outcomes in these communities.

B. COMMENTER SUPER NEIGHBORHOOD 48 – TRINITY / HOUSTON GARDENS

The City of Houston defines the area known as Super Neighborhood 48 by the geographic boundary shown below in Figure 1, which is within City Council District B and comprises 4,395 acres (6.87 sq. miles) in the Northeastern part of the City of Houston, Texas:



Figure 1: Relative Location of SN48 in Northeast Houston, Harris County, Texas

As shown on the detailed Figure 2 below, Kelley Street, which is the same street as the Proposed Facility, provides the southern boundary of SN48, North of IH-610.



Figure 2: Detailed boundary of SN48 - Trinity / Houston Gardens

At 5875 Kelley Street, the Proposed Facility is within the boundaries of Super Neighborhood 48 as shown in Figure 3 below:



Figure 3: Location of Proposed Facility on Kelley Street in SN48

Among the individual members of SN48 commenting on this Application who are residents of SN48 in Houston, Texas 77016 include: Gwen Johnson (8521 Allwood St) and Dr. Roberta A. Whitfield (6932 Finch). Comments from these individual members of SN48 were submitted to TCEQ by SN48 on December 4, 2023 (USPS Tracking No. 7020 1810 0000 5247 2465) and copies of their comments are attached as Exhibit 1 to these comments. Additional commenters within the defined SN48 borders are also members and residents of SN48; they separately submitted comments to TCEQ and include Huey German Wilson, Ken Williams, John Sloan, and others. The affidavit of Huey German Wilson, attached as Exhibit 2, further supports SN48's concerns about this Application and identifies its members and residents impacted by this Application.

C. COMMENTER KASHMERE GARDENS SUPER NEIGHBORHOOD COUNCIL #52

The City of Houston defines the area known as Super Neighborhood 52 by the geographic boundary shown below in Figure 4, which is within City Council District B and comprises 2,582 acres (4.03 sq. miles) in the Northeastern part of the City of Houston, Texas:

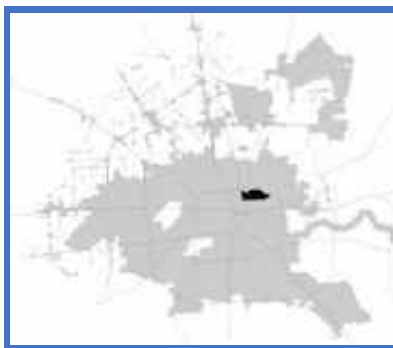


Figure 4: Relative Location of SN52 in Northeast Houston, Harris County, Texas

As shown in Figure 5 below, Kelley Street, which is the same street as the proposed Facility, provides the northern boundary of Super Neighborhood 52:



Figure 5: Detailed boundary of Kashmere Gardens

While the Proposed Facility is technically within SN48’s boundaries, the Proposed Facility is directly across Kelley street from SN52’s boundaries, which includes the southern side of Kelley Street, both north and south of I-610. Figure 6 illustrates the relative locations of the boundaries of SN48 and SN52 along Kelley Street (shown with a thick blue line) and the Proposed Facility.



Figure 6: Location of Proposed Facility on Kelley Street relative to Boundaries of SN52 and SN48

Among the individual members of SN52 commenting on this Application who are residents of SN52 in Houston, Texas 77026, include: Ida Baptiste (4526 Woolworth), Johnnie R. Baptiste (4526 Woolworth), Helen Benjamin (5411 Makeig), Kimberly Benjamin (5411 Makeig), Dolomtria Bryant (4802 Lockwood Dr.), Evelyn Cartwright (3609 Legion St), Barbara Edmonds (3305 Vintage Street), James Harris (4012 Lockwood Dr.), Loretha Johnson (4014 Lockwood Dr.), Mildred L. Johnson (4014 Lockwood Dr.), Andrea Price (5310 Pickfair), Maxwell L Price (5310 Pickfair), Robert Rosemond (5902 Kashmere), Diane Stephens (6006 Wipprecht), Jarrett D. Stephens, Sr. (6006 Wipprecht), Ernestine Tizeno (4114 Woolworth), Phillip Washington (4615 Woolworth). Comments from these individual members of SN52 were submitted to TCEQ by SN52 on December 4, 2023 (USPS Tracking No. 7020 1810 0000 5247 2465) and copies are attached as Exhibit 1 to these comments. Additional commenters within the defined SN52 borders are also members and residents of SN52; they separately submitted comments to TCEQ and include Angela Miller (5424 Minden St.), Keith Downey (President of SN52), and others.

In addition, at the Kashmere Gardens Multi-Service Center at 4802 Lockwood, Houston, Texas (Kashmere Gardens MSC), a group of seniors meets weekly for different events. Nineteen of these seniors meeting weekly at the Kashmere Gardens MSC include Josephine Ashford, Robert Baines, Emily Barriere, Jo Ethel Campbell, Georgia Charles, Valerie Cooper, Rita Ellis, Teresa R. Harris, Donald Johnson, Frankie Johnson, Annie Jones, Carolyn Jones, Anthony King, Turner Lewis, Doris Morgan, Bettie Richardson, Reda Richardson, Sylvester Tanner, and Carol Ann Thomas. These seniors prepared written comments which were also submitted to TCEQ on December 4, 2023 (USPS Tracking No. 7020 1810 0000 5247 2465) and copies are attached as Exhibit 1 to these comments. The affidavit of Keith Downey, attached as Exhibit 3, further supports SN52's concerns about this Application and identifies its members and residents impacted by this Application.

II. COMMENTS REGARDING PROPOSED PERMIT APPLICATION BY TEXAS COASTAL MATERIALS

The Proposed Facility must comply with the Texas Clean Air Act and all the rules and regulations of the Texas Commission on Environmental Quality. TEX. ADMIN CODE § 116.615(10). Moreover, the permit must be protective of public health and public property under Chapter 382 of the Texas Health and Safety Code. TEX. ADMIN CODE § 116.615(1). Commenters Super Neighborhoods 48 and 52 provide the following comments regarding the Application for the Proposed Facility for TCEQ’s consideration and ask that the Draft Permit be denied because it does not meet these statutory requirements.

A. LOCATION OF PROPOSED FACILITY NEAR SENSITIVE USERS IN SN 48 AND SN 52

As mentioned above and illustrated in Figure 6, the Proposed Facility is within the boundaries of SN48 and immediately across the street from SN52’s boundaries as defined by the City of Houston. Both Commenting Super Neighborhoods have residents, businesses, nonprofits, churches, public parks, and schools that will be directly impacted by this Proposed Facility in their borders. Under the Standard Permit, the Proposed Facility cannot be less than 440 yds (1,320 ft) from a residence, school, or place of worship.¹ TEX. HEALTH AND SAFETY CODE § 382.065. A listing of these sensitive uses in SN52 and SN48 that could be particularly impacted by this Proposed Facility include:

Table 1: Existing Sensitive Uses in SN48 and SN52 Near Proposed Facility

Description	Address	Sensitive Use	SN
Kashmere Multi-Service Center	4802 Lockwood	Community Center/ Houston Health Facility (serving elderly, WIC, and community residents)	SN52
Baylor Teen Health Clinic	3815 Cavalcade	Health Facility	SN52
Complete Plus Health Care/ One Stop Medical Clinic	8300 Homestead	Health Facility	SN48
Kashmere Gardens HCC Medical Clinic	4310 Lockwood	Health Facility	SN52
The Harris Center Northeast Service Center	7200 N. Loop E. Fwy	Health Facility	SN52
Harris Health Lyndon B. Johnson (LBJ) Hospital	5656 Kelley St.	Health Facility (Hospital)	SN52
Huntington Bayou	Huntington Bayou	Hike & Bike Trail	SN52
McCrane-Kashmere Gardens Neighborhood Library	5411 Pardee	Library	SN52
Apache-Elbert Triangle	7000 Elbert	Park	SN48
Atwell Henry Triangle	4000 Hirsch/	Park	SN52

¹ Draft Permit, General Requirements (1)(B), at 1.

Description	Address	Sensitive Use	SN
	4200 Crane		
Banyan-Camway Triangle	7200 Camway	Park	SN48
Busby Park	6700 Hirsch	Park	SN48
Darien Park	7100 Darien	Park	SN48
Elbert Park	7400 Banyan	Park	SN48
Henderson (Earl) Park	4250 Elysian	Park	SN52
Hogg Park	2211 South	Park	SN52
Houston Gardens Park	6901 Apache	Park	SN48
Hutcheson Park	5400 Lockwood	Park	SN52
Rosewood Park	8200 Darien	Park	SN48
Trinity Gardens Park	4903 Bennington	Park	SN48
Bibleway Church of Holmes	6201 Hirsch	Place of Worship	SN48
Canaan Baptist	5117 Lockwood	Place of Worship	SN52
Christ Temple Apostolic Church	6202 Lockwood	Place of Worship	SN52
Church of God 7 th Day	5805 Pickfair	Place of Worship	SN52
Emmanuel Missionary Baptist Church	3904 Corto	Place of Worship	SN48
First Mount Olive Baptist Church	5201 Pardee	Place of Worship	SN52
Free Indeed Church International	7111 Homestead	Place of Worship	SN48
Friendship Missionary	4812 Bennington	Place of Worship	SN48
Garden Grove Church	4802 Pardee	Place of Worship	SN52
God's Holy Church	7200 Hirsch	Place of Worship	SN48
Greater Christian Fellowship	4717 Kashmere	Place of Worship	SN52
Greater Emanuel Family Worship	3915 Kelley St.	Place of Worship	SN48
Harris Health Chapel	5656 Kelley St.	Place of Worship	SN52
Kingdom Life International	5201 Kelley St.	Place of Worship	SN48
LBJ Hospital Chapel	5656 Kelley St.	Place of Worship	SN52
MT Rose Missionary Baptist Church	5009 N. Loop E. Fwy	Place of Worship	SN52
New Living Word Church and International Ministries	5717 Wipprecht	Place of Worship	SN52
New Mount Calvary Baptist Church	4711 Kelley St.	Place of Worship	SN48
New Rising Star Baptist Church	6301 Hirsch	Place of Worship	SN48
St. Francis of Assisi Catholic Church	5102 Dabney St.	Place of Worship	SN52
Trinity Gardens Church of Christ	7725 Sandra	Place of Worship	SN48
Trinity Gardens First Baptist	6610 Wileyvale	Place of Worship	SN48
True Faith Baptist	5806 Hirsch	Place of Worship	SN52
Word of Life Faith Temple	6615 Shotwell	Place of Worship	SN48
Englewood Acres / Englewood Place	Streets: Collingsworth, Engleford, Dabney, Englewood, Octavia, Granton, Salina	Residential Subdivision	SN52

Description	Address	Sensitive Use	SN
Houston Gardens	Streets: Kirkpatrick, Elbert, Darien, Homestead, Banyan, Apache, Camway	Residential Subdivision	SN48
Standard Place	Streets: Minden, Lufkin, Dabney	Residential Subdivision	SN52
Kashmere Gardens	Streets: Cavalcade, Pardee, Rand, Pickfair, Hoffman, Lavender, Otis, Wipprecht, Crane	Residential Subdivision	SN52
Trinity Gardens	Streets: Hoffman, Shotwell, Sandra, Peachtree, Bonita, Glass, Wileyvale	Residential Subdivision	SN48
Wesley Place	Streets: Jay, Payton, Malesa, and Mariola	Residential Subdivision	SN48
Barbara Jordan Career Center	5800 Eastex Freeway	School	SN52
Betsy Ross Elementary School	2819 Bay St.	School	SN52
Cook Elementary	7115 Lockwood	School	SN48
Francis Scott Key Middle School	4000 Kelley	School	SN52
Houston Independent School District Office Building	5426 Cavalcade	School	SN52
Isaacs Elementary School	3830 Pickfair	School	SN52
JB Adams Infant, Toddler & Preschool	4601 Hirsch	School	SN52
Kashmere Gardens Elementary	4901 Lockwood	School	SN52
Kashmere High School	6900 Wileyvale	School	SN48
McGowen Elementary School	6820 Homestead	School	SN48
YES Prep Northside Secondary	5215 Jensen	School	SN52
Baylor College of Medicine Teen Health Clinic	5656 Kelley Street	Teaching Hospital	SN52
The University of Texas Health Science Center at Houston Teaching Clinic	5656 Kelley Street	Teaching Hospital	SN52
The University of Texas M. D. Anderson Cancer Center Oncology Program	5656 Kelley Street	Teaching Hospital	SN52

The map shown below in Figure 7 illustrates the location of the Proposed Facility in relation to these sensitive uses identified above:



Figure 7: Proposed Facility in Relationship to Sensitive Users

In the nearby residential subdivisions like Kashmere Gardens and Houston/ Trinity Gardens identified above, there are over 2,000 households within 1 mile of the Proposed Facility. Kashmere Gardens (SN52), which is directly south of the Proposed Facility, and SN48 Trinity/ Houston Gardens, which is directly north of the Proposed Facility, are environmental justice communities as defined by the US EPA with the following demographics.

Table 2: Demographics of Environmental Justice Communities: SN48 and SN52

Statistics (2020) ²	SN 48	SN52
Total Population	18,054	11,286
Under 18	28%	28%
18-64 Years	58%	56%
Over 65 Years	14%	16%
Black	81%	85%
Hispanic	16%	13%
Under \$25,000	59%	64%
Median Household Income	\$20,044	\$20,360

² City of Houston Super Neighborhood Resource Assessment for Super Neighborhood 48 and 52 prepared by the City of Houston's Planning & Development Department.

Statistics (2020)²	SN 48	SN52
Unemployment Rate	14%	9%
Language Spoken at Home Other Than English	32% Spanish	32% Spanish
Owner / Renter	84% / 16%	61% / 39%

As stated in the City’s Summary Report, attached as Exhibit 4, the closest residence at 5903 Minden Street, Houston, Texas 77026 is approximately 1800 feet from the Proposed Facility.

The Proposed Facility is approximately 1100 feet from and directly across the street from LBJ Hospital (5656 Kelley Street) operated by Harris Health. LBJ Hospital is a full-service general hospital with a level-3 trauma center, which opened in mid-1989. In 2023, the voters approved a Harris County bond election to provide for a \$2.5 billion redevelopment and expansion of LBJ Hospital and other health facilities in the Harris Health System. LBJ Hospital handles patient care for the northern half of the county, which has over 300,000 residents registered for services. The current hospital has 430,800 square feet on four floors, with 330 beds, a joint medical-surgical intensive care unit, six operating rooms, laboratories, a heart station for non-invasive cardiac tests, and a suite for gastroenterology and pulmonary procedures. In addition to the general service hospital, an outpatient center opened in 2013 next to LBJ Hospital.

Three major medical centers have teaching clinics at LBJ hospital. The University of Texas Health Science Center at Houston and The University of Texas M.D. Anderson Cancer Center both have teaching clinics at LBJ. Baylor College of Medicine operates a Teen Health Clinic at the same location. These schools located in LBJ Hospital would be less than the statutory distance from the Proposed Facility.

Moreover, LBJ Hospital has a multi-faith chapel on the first floor of each hospital. It is open at all times for those needing a place of quiet for prayer, meditation and personal reflection. It is also used for various worship events on weekends and weekdays. There is a catholic mass held in the chapel every Wednesday at noon. This place of worship is approximately within 1000 feet of the Proposed Facility. Moreover, the St. Francis Catholic Church at 5102 Dabney St., Houston, Texas 77026 is approximately 1500 feet from the Proposed Facility.

As included in the list above, existing hike and bike trails and other neighborhood parks and green spaces are close to the Proposed Facility and provide recreational opportunities for residents in the area. Hutcheson Park is located approximately 1000 feet from the Proposed Facility. It is important that these recreational areas are not polluted or present a concern for those with compromised health conditions, such as asthma or other respiratory issues. Based on the representation in the Application that the Proposed Facility plans to operate 10 hours a day, five days a week, 52 weeks a year, but not at night, it is very likely that these operational hours will interfere with recreational activities at the nearby hike and bike trail. Based on information and belief, the City has proposed a new park to open in 2024 called Curtis M. Graves Park, which will be approximately 2000 feet from the Proposed Facility as shown on the eastern edge of Figure 7 above.

B. EXISTING AIR QUALITY CONCERNS

In May 2021, TCEQ installed a state-run air monitor at the edge of SN48 to measure certain constituents—like coarse and fine particulate matter.³ The monitor is located at 7330 ½ N. Wayside Drive, Houston, TX 77028 (“North Wayside Monitor”).⁴ The North Wayside Monitor began measuring PM_{2.5} using Federally Equivalent Methods (“FEM”) beginning on May 4, 2021.⁵ Since this monitor was installed, the PM_{2.5} readings have consistently exceeded the National Ambient Air Quality Standards (“NAAQS”).⁶ According to TCEQ, after less than 1-year of operations, the readings from the North Wayside Monitor exceeded the NAAQS for PM_{2.5}, averaging at 12.5.⁷ The yearly average for PM_{2.5} for the North Wayside Monitor for 2023 is 13.0.⁸ To date in 2023, here are the current four highest PM_{2.5} readings, according to the TCEQ:⁹

- March 15, 2023: 43.8
- October 4, 2023: 36.2
- January 1, 2023: 33.7
- November 23, 2023: 32.0¹⁰

Based on the data from the North Wayside Monitor, TCEQ has begun to identify individual members of industry in hopes of resolving the current NAAQS violations that are significantly burdening the Northeast Houston Neighborhoods’ air quality and throwing the region out of compliance. TCEQ identified several industrial users responsible for the problem, including the following sources located within 2 miles of the North Wayside Monitor:¹¹

- Gold Star Metals (0.12 miles E)
- Invictus Transport (0.13 miles NE)
- XLR8 Truck Lines (0.20 miles NE)

³ TCEQ Annual Air Monitoring Network Plan (Jul. 1, 2021) at 17.

⁴ *Id.*

⁵ *Id.*

⁶ “2012 PM_{2.5} NAAQS: Primary Annual Standard: 12.0 micrograms per cubic meter (µg/m³); Secondary Annual Standard: 15.0 µg/m³; Primary and Secondary 24-Hour Standard: 35 µg/m³; 2012 PM₁₀ NAAQS: Primary and Secondary Standard 15.0 µg/m³; On December 18, 2020, the United States Environmental Protection Agency (EPA) published a final rule retaining the primary and secondary standards for both PM_{2.5} and PM₁₀.” TCEQ Presentation to Houston-Galveston Area Council Houston PM Advance Committee, “Houston North Wayside Particulate Matter” (Feb. 7, 2022). (hereinafter, “TCEQ HGAC PM_{2.5} Presentation”).

⁷ TCEQ Presentation, North Wayside Monitor Update May 2021-January 2022 (Feb. 8, 2022) at 3.

⁸ TCEQ TAMIS Database, CAMS 405 PM-2.5 (Local Conditions) Summary for 2023 (Annual Report) as of December 5, 2023.

⁹ TCEQ TAMIS Database, Monthly data available for the North Wayside Monitor had a daily maximum reading on December 4, 2023 of 46.0.

¹⁰ TCEQ TAMIS Database, Four Highest 24-Hour PM-2.5 Concentrations in 2023 as of December 5, 2023, available at: https://www.tceq.texas.gov/cgi-bin/compliance/monops/pm25_24hr_4highest.pl

¹¹ *Id.* at 13.

- Five Star Ready Mix (0.37 miles NE)
- Texas Concrete Ready Mix (1.4 miles SW)
- Texas Concrete Ready Mix (1.4 miles SW)
- Queen Ready Mix (1.75 miles SE)
- Union Pacific Rail Yard (0.40 miles SW-W)

Notably, the Proposed Facility is also within 2 miles of the North Wayside Monitor (1.74 miles SW).

After over two years of action by TCEQ on this issue, the air quality issues in Northeast Houston have not improved, and it also has not slowed TCEQ's issuance of permits to concrete batch plants or other polluting facilities, like the Proposed Facility. The NAAQS exceedances at the North Wayside Monitor demonstrate poor air quality and the potential for negative health impacts on SN48 and SN52 residents from these types of facilities. This poor air quality impacts the health of residents, interferes with their quality of life, and potentially poses negative health consequences for sensitive populations. These are existing air quality concerns at the North Wayside Monitor within 1.75 miles of the Proposed Facility.

Further burdening the air quality in these environmental justice communities are the easily permitted aggregate and concrete facilities, like the permanent rock and concrete crushers at the Proposed Facility. Four of the sources identified by TCEQ in the list above are concrete batch plants in the immediate area of the North Wayside Monitor. This Proposed Facility will add one more aggregate facility to this list.

Because the current standard permit for concrete batch plants specifically exempts CBPs from emissions limitations and the batch plants cluster in communities of color, it is significantly deteriorating air quality in these overburdened areas—as evidenced by the NAAQS exceedances. According to the TCEQ's February 2022 presentation to the Houston Galveston Area Council PM Advance Committee, there are 24 *registered* aggregate production operations in Harris County¹²—not to mention all the potentially unregistered aggregate facilities. In addition to these 24 aggregate operations, the number of concrete batch plants has grown from approximately 135 permitted concrete batch plant operations in 2019 to approximately 180 batch plants in 2023.¹³ Like this Proposed Facility, these batch plants are disproportionately located in Northeast Houston.¹⁴ Ensuring that there is adequate monitoring in the Northeast Houston Neighborhoods is important to determine not only whether these facilities are in compliance with the permits but also to monitor the impacts on human health in this area resulting from the number of facilities already permitted in the Northeast Houston Neighborhoods. Finally, as explained more in Section II-D below, addressing cumulative impacts, the Application and Draft Permit do not

¹² TCEQ Air Quality Division Presentation to Houston-Galveston Area Council PM Advance Committee (Feb. 7, 2022) at 14.

¹³ Houston-Galveston-Brazoria (HGB) PM_{2.5} Advance Path Forward Update (2021) at 31.

¹⁴ Houston-Galveston-Brazoria (HGB) PM_{2.5} Advance Path Forward Update (2019) at 36-37.

evaluate these existing sources or how they contribute to background levels in this area of Northeast Houston.

C. MOBILE MONITORING IN THE AREA DEMONSTRATES THE CONCERNS OVER THE INABILITY TO COMPLY WITH THE NAAQS ARE WELL-FOUNDED

The City of Houston prepared a Summary Report related to the pending application for this Proposed Facility, which is attached as Exhibit 4 to these comments. The Summary Report included a review of mobile air monitoring conducted by the City to evaluate the performance of similar, existing concrete batch plants in the area, including Texas Concrete Ready Mix at 6001 Homestead Road, Houston, Texas 77026 located within SN48. The Proposed Facility is approximately 1206 feet from Texas Concrete Ready Mix. Although the existing buffer zone required for a rock and concrete crusher facility from a concrete batch plant facility is a minimum of 550 feet,¹⁵ under these circumstances, this existing facility, Texas Concrete Ready Mix, at 1200 feet away from the Proposed Facility, is already creating cumulative impacts that are detrimental to human health of the adjacent community.



Figure 8: City of Houston’s Mobile Monitoring Results Around Proposed Facility in Relationship to Sensitive Users

¹⁵ TCEQ 20463; Standard Draft Permit, Operational Requirements (3)(D), at 6.

As illustrated in Figure 8, the Summary Report details observed NAAQS exceedances at 6001 Homestead based on the City’s mobile air monitoring reports. Air monitoring data collected at the existing concrete batch plant (6001 Homestead Rd, Houston, TX 77028) indicates average readings for Particulate Matter (PM) which were either at, or in exceedance of the EPA average annual standard for PM_{2.5} of 12.0 µg m³. These recorded exceedances at 6001 Homestead Rd. are already in excess of the current limit for PM_{2.5}. The chart below reflects the current facility is regularly out of compliance with current PM standards based on the readings recorded by the City and reflected in the Summary Report:

Table 3: Recent Readings Texas Concrete Ready Mix, 6001 Homestead Road

Date(s) of Reading	PM _{2.5} Standard 12.0 µg m ³ for Annual Standard 35 µg/m ³ for 24-hour		PM ₁₀ Standard 150 µg/m ³ for 24-hour	
	Readings	Average	Readings	Average
04/28/2022	8.3 to 95.9 µg m ³	26.0 µg m ³	20.4 to 452.9 µg m ³	114.1 µg m ³
06/07/2022	5.8 to 38.8 µg m ³	11.2 µg m ³	10.0 to 257.7 µg m ³	34 µg m ³
10/21/2022	5.6 to 11.8 µg m ³	8.1 µg m ³	10.9 to 45.8 µg m ³	24.1 µg m ³
09/06/2023	3.2 to 18.9 µg m ³	7.0 µg m ³	6.8 to 77.00 µg m ³	26.7 µg m ³
09/07/2023	3.7 to 25.1 µg m ³	6.7 µg m ³	8.6 to 151.7 µg m ³	18.9 µg m ³

D. EPA’S PROPOSED REVISIONS TO PM_{2.5} NAAQS WILL INCREASE THE LIKELIHOOD OF THIS PROPOSED FACILITY’S NON-COMPLIANCE.

In January 2023, based on scientific evidence showing that the current standard for Particulate Matter is not protective to human health, the U.S. Environmental Protection Agency (“EPA”) announced a Proposed Decision for the Reconsideration of the PM NAAQS.¹⁶ The Proposed Decision would lower the limit of PM_{2.5} to a level within the range of 9.0 to 10.0 µg m⁻³. If EPA adopts the Proposed Decision, the existing North Wayside Monitor would be in even greater violation of this PM limit in the near future. In response to the request for public comments on the Proposed Decision earlier this year, SN48 submitted comments to EPA expressing its concerns over these types of existing facilities in SN48 (e.g., rock crushers or concrete batch plants) which already generate significant amounts of PM and degrade the air quality in Northeast Houston and advocated for increased air monitoring in these areas. The Summary Report further validates Commenters concerns around the Proposed Facility.

Present conditions for air monitoring data collected at the near the Proposed Facility site (5878 Kelley St., Houston, Texas 77026) and existing County-run LBJ Hospital (5656 Kelley Street, Houston, Texas) also indicate high background levels of PM_{2.5}. The Summary Report details PM_{2.5} averages of 6.8 and 7.8 µg m³ on the two monitored days selected in the last two months. These levels are already close to the proposed new limit range of 9.0 to 10.0 µg m³. If the facility is approved, it is possible that the average PM_{2.5} would increase and potentially exceed both the

¹⁶ See <https://www.epa.gov/pm-pollution/proposed-decision-reconsideration-national-ambient-air-quality-standards-particulate>. If necessary, Lone Star Legal Aid can provide your team a copy of its comments to EPA in response to this Proposed Decision on behalf of SN48 and other community groups.

proposed and exiting limits – before the Proposed Facility even begins operating. This permitting application raises concerns not only for the general public’s health, but also for the patient population of the very nearby LBJ Hospital, congregants of nearby places of worship, school children, and residents of SN48 and SN52.

This Proposed Facility for a permanent concrete and rock crushing plant so close to an existing concrete batch plant continues to demonstrate the concerns raised in the Civil Rights Administrative Complaint filed by Super Neighborhood 48 and other impacted communities against TCEQ in 2022 (EPA Complaint No. 06RNO-22-R6) that there is an ongoing, unfair burden to police inappropriate permit applications placed on communities like SN48 and SN52. In addition to the data from the North Wayside Monitor profiled in Section II-C immediately above, the City’s Summary Report demonstrates SN48 residents living near 6001 Homestead Road are already experiencing NAAQS exceedances.

E. CUMULATIVE IMPACTS

The Texas Clean Air Act allows a business to cause or contribute to air pollution, but only if that business holds an authorization from TCEQ. That authorization requires a TCEQ finding of “no indication” that the facility emissions will contravene the intent of the Texas Clean Air Act, e.g., will contribute to air pollution that harms public health, general welfare (including esthetic enjoyment of air resources by the public and the maintenance of adequate visibility), or physical property. The Applicant has not provided the cumulative impacts data on which TCEQ might make a “no indication” finding. TEX. HEALTH AND SAFETY CODE § 382.051

As evidenced by the reports from the North Wayside Monitor and the Summary Report from the City of Houston’s mobile monitoring efforts, the location for the Proposed Facility already has substantial background pollution from other industrial facilities in the area already contributing to degraded air quality for the residents, employees, school children, parishioners, and patients in the area. This data is not reflected or addressed in the Application or Draft Permit.

As a further example of cumulative impacts unaccounted for in the Draft Permit or the Application, the railroad tracks parallel to Kelley Street generate significant levels of dust with its normal operations. Figure 9 below is a photograph taken on December 5, 2023, in the LBJ Hospital parking lot at 5656 Kelley Street. The photograph faces the adjacent railroad tracks across Kelley Street that run parallel to Kelley Street and immediately north of the Proposed Facility. Figure 9 shows the dust generated from normal railroad operations. There is no indication that this dust-generating activity which goes right by LBJ Hospital is accounted for in the Draft Permit or the Application as background levels associated with this area.



Figure 9: Photo Taken in LBJ Hospital Parking Lot on Kelley Street of Adjacent Railroad Tracks Showing Dust Generated from Normal Railroad Operations

Moreover, the Union Pacific Rail Yard at 6100 Kirkpatrick Blvd, Houston, TX 77028 is less than 2 miles from the Proposed Facility. None of these impacts associated with railroad operations in the immediate area of the Proposed Facility are accounted for in the Draft Permit or evaluated in the Application.

As mentioned in more detail above, SN48 currently has one permitted CBP, Texas Concrete Ready Mix (CN604045617, RN 109666016, CBPSP No. 150603), which used to be permitted as two-collocated CBPs on Homestead Road operated by the same owner. This existing facility at 6001 Homestead Road, Houston, Texas 77028 is less than 1206 feet from the Proposed Facility and already generates PM_{2.5} readings in excess of the NAAQS on a regular basis as evidenced by the TCEQ's own data collected from the North Wayside Monitor (within 2 miles of this facility) and the City's mobile monitoring efforts documented in their Summary Report. *See Exhibit 4.*

In Super Neighborhood 48, other sites contributing cumulative impacts to air pollution in the area include Vulcan Materials Company (CN600355465), which operates a large aggregate storage area in the community where tall piles of various materials stretch for almost half a mile and sometimes generate large clouds of dust that pollute the neighboring residential area. Vulcan Materials has existing facilities located at 6505 Homestead Rd Unit A, Houston, TX 77028 and 7070-A Bennington St., Houston, Texas 77028, next to Texas Concrete Ready Mix and within approximately 1,500 to 1,800 feet from the Proposed Facility. There is also a large sand pit operation on Homestead Road which provides an additional source of particulate pollution in the area. Further, the Northeast Houston Solid Waste Depository is located at 5565 Kirkpatrick Blvd, Houston, Texas 77028. The impacts from these neighboring facilities in SN48 are unaccounted for in the Draft Permit or Application.

In Super Neighborhood 52's boundaries, additional sites contributing to cumulative impacts in the area include the following facilities that are also less than 2 miles from the Proposed Facility:

- Century Asphalt, 7501 Liberty Rd, Houston, Texas 77028; and
- Murphy Paving, 7183 Liberty Rd, Houston Texas 77028;

All of these identified facilities, which typically generate higher levels of particulate matter, disproportionately expose the Gardens Communities to environmental hazards such as air pollution which can lead to significant health issues. Out-of-hospital cardiac arrest is a health effect associated with short-term exposure to air pollutants, including ozone and particulate matter, which have been among the triggers associated with cardiac arrest. The health statistics for SN52 and SN48 reveal concerns for public health that would come with additional cumulative impacts being added to the area, like the Proposed Facility.

Table 4: Comparison of Key Environmental Justice Indices from EPA’s EJScreen for The Gardens (SN48 and SN52)

Environmental Justice Index from EJ Screen	The Gardens (SN48/ SN52)	State Average	Percentile in State	USA Average	Percentile in USA
Particulate Matter ($\mu\text{g}/\text{m}^3$)	10.3 / 10.4	9.11	90-91%	8.08	95%
Ozone (ppb)	68.6/ 68.6	64.6	78%	61.6	90%
Diesel Particulate Matter ($\mu\text{g}/\text{m}^3$)	0.453/ 0.582	0.218	96-99%	0.261	88-94%
Air Toxics Cancer Risk	34 / 36	28	44%	25	52%
Air Toxics Respiratory HI	0.40 / 0.43	0.3	80%	0.31	70%
Toxic Releases to Air	51,000/ 52,000	12,000	94%	4,600	98%

As summarized in Table 4, EJScreen data reveals that residents of the Gardens communities, as represented by SN52 and SN48, consistently are facing exposures to Particulate Matter, Ozone, and Diesel Particulate Matter and risks of Toxic Release to Air that are higher than where over 88% of the US population lives. At the state level, these residents face exposure to Particulate Matter and Diesel Particulate Matter and risks of Toxic Air Releases that are higher than where over 90% of the population lives in the State of Texas.

F. ADDITIONAL CONCERNS ABOUT THE APPLICATION

1. Address for Proposed Facility

Commenters also identify the following inconsistency regarding the address of the Proposed Facility. In different locations in the Application, the Application states two different addresses for the proposed facility, 5875 Kelley St. and 5873 Kelley St., Houston, Texas 77026. The address, 5875 Kelley Street, appears in Section 1.1, page 1-1, and on page 2 of the TCEQ Core Data Form. However, the Application also states the plant is located at 5873 Kelley Street. See Application at 1-1 under Facility Information (Section 1.4). The exact location of the Proposed Facility is important for determining statutory distances to ensure compliance with the buffer zones set by the State Legislature and reflected in the Standard Permit. To the extent that the Application improperly identifies the address of the Proposed Facility in the Application under

review, there is a question of whether these distances were correctly calculated.¹⁷ Moreover, the Application did not list or map all the schools, places of worship or residences in the area. Given the multitude of sensitive uses listed in Table 1 above, Commenters ask the TCEQ to confirm the address and exact location of the rock and concrete crushing equipment for the Proposed Facility. Commenters assume the existing improvements on the property (i.e., 10 industrial warehouses) will be at least partially razed if the Permit is approved to make it possible for Applicant to reconfigure the property. In such a circumstance, the exact location of the rock crusher and concrete crushers will be important.

2. Three Acres of the Proposed Facility are in a Floodway, and All 15 Acres are in Special Flood Hazard Area

Based on publicly available information through the Harris County appraisal district, the Proposed Facility at 5875 Kelley Street has a total land area of 652,946 square feet (est. 15 acres) only 147,294 square feet of which is improved with 10 existing industrial warehouses. The entire 15-acre property, however, is located in a 100-year flood plain. Moreover, 124,580 square feet (est. 2.98 acres) of the property is located in the floodway. The Application states that the entire Proposed Facility will not have stockpiles larger than 5 acres.¹⁸

FEMA defines a regulatory floodway as the channel of a river or other watercourse and the adjacent land area that is reserved from encroachment in order to discharge the base flood without cumulatively increasing the water-surface elevation by more than a designated height. Under FEMA regulations, the community is responsible for maintaining the floodway to mitigate flood hazards; the community must not allow any activities causing a rise in the Base Flood Elevation (BFE) in the regulatory floodway. Once a community has adopted a floodway, it must prohibit development in the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed using standard engineering practice that the development will not result in any increase in flood levels during the base flood. FEMA defines “any” as meaning a zero increase (greater than 0.00 feet). This analysis is usually called a “no-rise” or “zero-rise” analysis and results in a “no-rise” or “zero-rise” certification by a qualified registered professional engineer. Remember that considerable encroachment into the floodplain was already allowed when the floodway was designated by the community. Although some communities or states perform the hydrologic and hydraulic analyses themselves, most require the permit applicant to obtain the services of a qualified registered professional engineer to perform the analysis and provide the certification. Unless the engineering analysis demonstrates that there will not be an increase in the base flood elevation as a result of the development, the permit must be denied. The TCEQ needs to review the Application and make sure that the footprint of the facility and any associated development will not take place in the regulated floodway associated with this address. Further, the Permit should restrict any development or placement of materials, equipment or other improvements in the 3-acre area designated as a floodway. 44 CFR § 60.3(d)(3).

Further, the proposed operation of a permanent rock and concrete crushing facility in a 100-year flood plain is ill-advised in a flood-prone area like Harris County, Texas. Here, the entire

¹⁷ Application, B-1 (Distance to Schools, Distance to Churches and Distances to Residences)

¹⁸ Application, APDG-10185, Table 17 at 1.

property associated with the Proposed Facility – all 15 acres – is in the 100-year floodplain. In addition to being immediately adjacent to a floodway, this entire property will continue to be subject to flooding. A 100-year floodplain also known as Special Flood Hazard Area (“SFHA”) by FEMA is an area having special flood, mudflow or flood-related erosion hazards and shown on a Flood Hazard Boundary Map (“FHBM”) or a Flood Insurance Rate Map (“FIRM”) Zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE or V. The SFHA is the area where the National Flood Insurance Program’s (“NFIP’s”) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. Because the Proposed Facility lies within the SFHA, a permit and compliance with Floodplain Management Regulations published by Harris County¹⁹ is required for any work, including:

- Grading
- Filling
- Paving
- Construction of new structures including additions
- Miscellaneous (retaining walls, fences, etc.).

Based on our review of the FEMA flood maps copied below in Figure 10, the Proposed Facility is either in the Floodway or in Zone AE. A larger copy of this Flood Map shown in Figure 10 as generated by FEMA is attached as Exhibit 5 to these Comments.

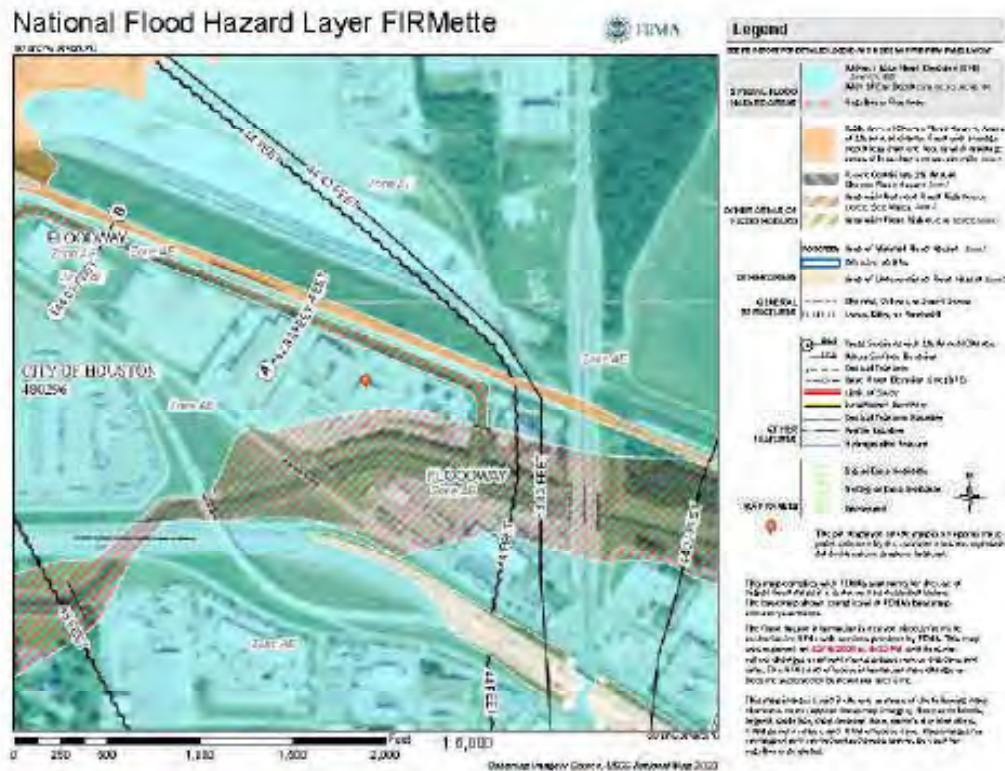


Figure 10: Visualizing the Special Flood Hazard Area at 5875 Kelley Street

¹⁹ Harris County Floodplain Management Regulations, available at https://www.eng.hctx.net/Portals/33/Publications/floodplain/FP_floodplain_regs.pdf

Because of these applicable restrictions on development and the potential for flooding in this area, the proposed location is highly unsuitable for a rock and concrete crushing plant that will generate “bull rock, inch and one-half aggregate, and other construction projects” and store them onsite at the Proposed Facility.²⁰ Further, the Application also mentions the storage of broken concrete at the Proposed Facility in storage piles before these materials are loaded into the crusher hopper.²¹ The Application contemplates multiple stock piles at the facility either of things to be crushed or things that have been crushed by the rock crusher or concrete crusher.²² When there is a flooding event, it is highly likely that these stock piles will be impacted and could potentially end up in the floodway.

For many years, Harris County Flood Control District has been working on Project Hunting, the Hunting Bayou Federal Flood Risk Management Project, which is a \$100 million flood damage reduction project under construction along Hunting Bayou from U.S. 59 to downstream of North Wayside Drive. Project Hunting plans call for increasing the size of Hunting Bayou, with the ultimate, improved channel generally remaining in its earthen, grass-lined state. There are isolated circumstances where concrete lining will be used to ensure stability of existing structures and bridges. Project elements include:

- Excavating a stormwater detention basin on a 75-acre site near the northeast corner of Homestead Road and Loop 610;
- Widening and deepening about 4 miles of Hunting Bayou; and
- Replacing 9 bridges and modifying 8 existing bridges – including channel conveyance improvements under those bridges.

Figure 11 below shows that Project Hunting’s project area includes the floodway, which includes the Proposed Facility.²³ This area is less than ideal for the development of a facility with multiple stockpiles of aggregate that could leave the property and get into the floodway and obstruct water flow.



Figure 11: Project Hunting Floodway Detail

²⁰ Application, Process Description, at 2-3.

²¹ Application, Process Description, at 2-3.

²² Application, Process Description, at 2-3.

²³ HCFCD, Project Hunting website, available at <https://www.hcfcd.org/Activity/Active-Projects/Hunting-Bayou/C-18-Project-Hunting>

III. COMMENTS ON THE PERMANENT ROCK AND CONCRETE CRUSHER STANDARD PERMIT

In addition to the concerns listed above on the Application, Commenters raise the following concerns about whether the Standard Permit itself is protective of human health and public property as required by the Texas Clean Air Act, Chapter 382 of the Texas Health and Safety Code.

A. TCEQ HAS NOT CONDUCTED A PROTECTIVENESS REVIEW SINCE 2008.

Any protectiveness review underlying the Rock and Concrete Crusher Standard Permit on which Applicant seeks a permit may be outdated and inapplicable. The TCEQ has not conducted a protectiveness review under this permit since at least July 2008 when the permit was adopted by the Commission. This Standard Permit has not been updated since its adoption despite significant changes to PM_{2.5} and PM₁₀ levels for the NAAQS and Harris County's nonattainment status in the last 15 years.

Since it has not been updated since at least 2008, any protectiveness review that the Standard Permit is based on violates National Ambient Air Quality Standards (NAAQS) for PM_{2.5} because the emission limits on the Standard Permit do not comply with NAAQS. For example, any protectiveness review performed before 2008 likely does not account for the EPA's amended NAAQS standards from 15.0 µg/m³ to 12.0 µg/m³ in 2012.

Further, any protectiveness review associated with the Standard Permit did not competently evaluate crystalline silica emissions from the rock and concrete crushing facility. There is no health effects analysis for the silica component of PM emissions from the emission points directly associated with this Proposed Facility accounted for in the Application or the Draft Permit.²⁴

It is also likely that any protectiveness review from 2008 or earlier did not incorporate background air emissions. For example, the TCEQ recently conducted air modeling analysis in connection with the 2023 Amendment of the Concrete Batch Plant Standard Permit which suggested that the background concentrations of criteria pollutants in Harris County are higher than in other areas of the state.²⁵ In conducting that analysis for Region 12 for Harris County and the adjacent counties of Brazoria, Chambers, Fort Bend, Galveston, Liberty, Montgomery, and Waller,

- Background concentrations for PM 10 were obtained from the EPA AIRS monitor 482011035 located at 9525 1/2 Clinton Dr., Houston, Harris County. The H4H 24-hr concentration from 2019-2021 was used for the 24-hr value (101 µg/m³). This value represents the highest H4H 24-hr concentration in TCEQ Region 12 and it was selected for a conservative analysis.

²⁴ Application, Appendix C: Calculations, C-1.

²⁵ TCEQ Interoffice Memorandum, Modeling Report for Concrete Batch Plant Standard Permit Protectiveness Review, available at <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbbsp23-4-modelingreport.pdf>

- Background concentrations for PM 2.5 were obtained from the EPA AIRS monitor 482011052 located at 822 North Loop, Houston, Harris County. The three-year average (2019-2021) of the 98th percentile of the annual distribution of the 24-hr concentrations was used for the 24-hr value (26 µg/m³). The three-year average (2019-2021) of the annual concentrations was used for the annual value (11.1 µg/m³). These values represent the highest three-year average of the 98th percentile of the annual distribution of the 24-hr concentrations and the highest three-year average of the annual concentrations, respectively, in TCEQ Region 12 and were selected for a conservative analysis.

The problem with the current protectiveness review underlying this Standard Permit is that it likely assumes, as did the Standard Permit for Concrete Batch Plants, that the background concentrations for each pollutant are likely to be the same across the state, when the TCEQ's own recent amendment process and protectiveness review related to its standard permit for concrete batch plants demonstrates that they are not. While these background concentrations are not as high as those reflected and currently measured at the North Wayside Monitor since its installation in 2021, Commenters expect these background concentrations reflected in the Modeling Report issued by TCEQ in February 2023 for the concrete batch plant standard permit are much higher than those utilized by TCEQ in the current protectiveness review underlying this Standard Permit which governs statewide. TCEQ needs to update its prior modeling with updated background concentrations specific to Harris County (or that the TCEQ has utilized in its 2023 analysis for NO₂ for statewide levels) to ensure that this Standard Permit is still protective of these communities adjacent to the Proposed Facility before granting this permit.

B. TCEQ CANNOT ESTABLISH THAT THE CURRENT STANDARD PERMIT IS PROTECTIVE OF HUMAN HEALTH IN HARRIS COUNTY

The Commission is charged with “safeguard[ing] the state’s air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and maintenance of adequate visibility.” TEX. HEALTH & SAFETY CODE § 382.002(a). TCEQ must oversee and administer provisions of the Texas Clean Air Act to establish the level of quality to be maintained in the State’s air, and to control the quality of the State’s air. TEX. HEALTH & SAFETY CODE § 382.011. The Texas Clean Air Act provides that, unless authorized by TCEQ, no person may “cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that causes or contributes to, or that will cause or contribute to, air pollution.” TEX. HEALTH & SAFETY CODE § 382.085(a).

Further, “[a] person may not cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity in violation of the Texas Clean Air Act or of any TCEQ rule or order. TEX. HEALTH & SAFETY CODE § 382.085(b). “Air Contaminant” include all of the following “particulate matter radioactive material, dust, fumes, gas, mist, smoke, vapor, or odor, including any combination of those items, produced by processes other than natural.” TEX. HEALTH & SAFETY CODE § 382.003(2). “Air pollution” means “the presence in the atmosphere of one or more air contaminants or combination of air contaminants in such concentration and of such duration that: (A) are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property; or (B) interfere with the normal use or enjoyment of animal life, vegetation, or property.” TEX. HEALTH & SAFETY CODE § 382.003(3). These

delegations of power and responsibility to the TCEQ are integral to safeguarding the state's air quality and the resulting health and safety of all Texas residents.

Additionally, the Texas Clean Air Act confers jurisdiction on TCEQ to adopt rules regulating the management of atmospheric emissions of air contaminants. TEX. HEALTH & SAFETY CODE § 382.017. The Texas Clean Air Act also confers jurisdiction on TCEQ to issue permits to facilities that emit air contaminants and to establish and enforce permit conditions within each permit. TEX. HEALTH & SAFETY CODE §§ 382.051, 382.0513; 30 TEX. ADMIN. CODE § 116.115. The TCEQ is the authority designated regulatory and statutory power to issue standard permits, in certain cases. The standard permit must be enforceable, and the Commission's promulgation of the rules governing the standard permit must align with the Commission's grants of authority. Further the standard permit must not violate the Commission's own regulations.

Here, Commenters raise questions about whether this Standard Permit, last adopted in July 2008, remains protective of communities like those SN48 and SN52 represent in Northeast Houston based on the (1) Summary Report of mobile monitoring in the area (Exhibit 4), the high backgrounds levels observed in Harris County identified in the TCEQ's Modeling Report related to its proposed amendment to the concrete batch plant standard permit,²⁶ the exceedances at the North Wayside Monitor (TCEQ TAMIS Data for CAMS 405), and the disparate health impacts observed in these environmental justice communities like SN48 and SN52. The Application, Draft Permit, and Standard Permit do not account for or analyze this information.

IV. CONCLUSION

For these reasons, Super Neighborhood 48 Trinity/ Houston Gardens and Kashmere Gardens Super Neighborhood Council #52 respectfully request that the TCEQ deny the Application and Draft Permit for the Proposed Facility as submitted by Applicant.

²⁶ <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbbsp23-4-modelingreport.pdf>

Respectfully submitted,

LONE STAR LEGAL AID



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Equitable Development Initiative
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**ATTORNEYS FOR COMMENTERS
SUPER NEIGHBORHOOD 48 TRINITY /
HOUSTON GARDENS AND KASHMERE
GARDENS SUPER NEIGHBORHOOD
COUNCIL #52**

Attachments:

Exhibit 1 – December 4, 2023 Submission to TCEQ of Comments from Concerned Residents and Members of SN48, SN52, and Community Members (The entire exhibit was separately mailed to TCEQ with attachments on December 4, 2023)

Exhibit 2 – Affidavit of Huey German-Wilson, President of Super Neighborhood 48

Exhibit 3 – Affidavit of Keith Downey, President of Super Neighborhood 52

Exhibit 4 – Summary Report by City of Houston on Air Monitoring Concerns on Proposed Facility

Exhibit 5 - National Flood Hazard Layer FIRMette for 5875 Kelley St, Houston, Texas 77026

Exhibit 1

KASHMERE GARDENS SUPER NEIGHBORHOOD COUNCIL #52
SUPER NEIGHBORHOOD 48 TRINITY/ HOUSTON GARDENS

December 4, 2023

VIA OVERNIGHT MAIL

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: Texas Coastal Materials, LLC Application for an Air Quality Standard Permit;
Registration No. 173296 located at 5875 Kelley St., Houston, Texas 77026

On behalf of the Kashmere Gardens Super Neighborhood Council #52 and Super Neighborhood 48 Trinity/ Houston Gardens, the following comment cards are submitted on behalf of individuals concerned about the above-referenced application (Registration No. 173296):

Identified SN52 Members and Residents of Houston, Texas 77016: Ida Baptiste (4526 Woolworth), Johnnie R. Baptiste (4526 Woolworth), Helen Benjamin (5411 Makeig), Kimberly Benjamin (5411 Makeig), Dolomtria Bryant (4802 Lockwood Dr.), Evelyn Cartwright (3609 Legion St), Barbara Edmonds (3305 Vintage Street), James Harris (4012 Lockwood Dr.), Loretha Johnson (4014 Lockwood Dr.), Mildred L. Johnson (4014 Lockwood Dr.), Andrea Price (5310 Pickfair), Maxwell L. Price (5310 Pickfair St), Robert Rosemond (5902 Kashmere), Sr., Diane Stephens (6006 Wipprecht), Jarrett D. Stephens St. (6006 Wipprecht), Ernestine Tizeno (4114 Woolworth), Phillip Washington (4615 Woolworth)

Identified SN48 Member and Residents of Houston, Texas 77026: Gwen Johnson (8521 Allwood St), Dr. Roberta A. Whitfield (6932 Finch),

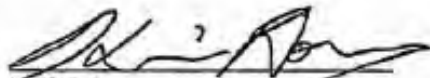
Church Congregant of New Mount Calvary Baptist Church (4711 Kelley St., Houston Texas, 77026): Ramona Simon works at the church every day and attends church regularly.

Other Concerned Commenters (Varied Addresses – see specific comment cards): Cece Scott, Yarixza Becerra, Keyshawn Strawder, Rose and Leo Brimmer, Andrea Smith, Sheri DeWalt, Linda Lindsey, Kourtney Revels, Millie M. Johnson,

Seniors Utilizing Kashmere Gardens Multi-Service Center (Kashmere Gardens MSC, 4802 Lockwood, Houston, Texas 77026) Weekly: Josephine Ashford, Robert Baines, Emily Barriere, Jo Ethel Campbell, Georgia Charles, Valerie Cooper, Rita Ellis, Teresa R. Harris, Donald Johnson, Frankie Johnson, Annie Jones, Carolyn Jones, Anthony King, Turner Lewis, Doris Morgan, Bettie Richardson, Reda Richardson, Sylvester Tanner, and Carol Ann Thomas.

These comment cards on Registration No. 173296 were collected at multiple community meetings in Super Neighborhood 48 and/or Super Neighborhood 52 during October and November 2023 or provided to the undersigned leaders of these Super Neighborhoods based on the community concerns about the proposed application.

Sincerely,



Keith Downey

President
Kashmere Gardens Super Neighborhood
Council #52



Huey German Wilson

President
Super Neighborhood 48 - Trinity/ Houston
Gardens

ATTACHMENTS OMITTED FOR
SIZE CONSTRAINTS
(SEPARATELY MAILED TO
TCEQ ON DECEMBER 4, 2023)

Exhibit 2

APPLICATION BY	§	BEFORE THE TEXAS
TEXAS COASTAL MATERIALS, LLC	§	COMMISSION ON
FOR AN AIR QUALITY STANDARD	§	ENVIRONMENTAL
PERMIT REFERENCE NO. 173926	§	QUALITY

AFFIDAVIT OF HUEY GERMAN-WILSON

I, Huey German-Wilson, declare as follows:

1. I currently live at 8710 Peachtree Street, Houston, TX 77016, Harris County, Texas. I am over 18 years of age and competent to make this affidavit.

2. I am currently the President and authorized representative of Super Neighborhood 48 Trinity / Houston Gardens, and in such capacity, I have personal knowledge of the facts set forth herein. I am duly authorized to make this Affidavit and make the following statements in good faith.

3. Super Neighborhood 48 was created under the City of Houston's Super Neighborhood program, and officially recognized as a Super Neighborhood by the City of Houston on March 22, 2001.

4. Super Neighborhood 48 is a geographically designated area that includes the neighborhoods known as Houston Gardens and Trinity Gardens. Super Neighborhood 48's boundaries are Tidwell Road to the north, the railroad tracks adjacent to Wayside Drive to the east, Highway 610 and Kelley Street to the South, and Highway 59 and Hirsch Road to the West. The figure below shows the boundaries of this designated area.



5. Super Neighborhood 48 was created to encourage residents of multiple neighboring communities within the area to work together to identify, prioritize and address the needs and concerns of the broader community and to create a manageable framework for community action.

6. Super Neighborhood 48's membership includes the entirety of the above- mentioned geographically designated area. Super Neighborhood 48 advocates

residents within its boundaries.

7. Super Neighborhood 48's boundaries includes 5875 Kelley St., Houston, Texas 77026, the location for the permanent rock and concrete crushers proposed by Texas Coastal Materials, LLC and a number of residences, health facilities, parks, churches and near that facility.

8. Specifically, the following individuals, who have submitted comments to TCEQ, are members of Super Neighborhood 48:

- Gwen Johnson, 8521 Allwood St., Houston, Texas 77016; and
- Dr. Roberta Whitfield, 6932 Finch St., Houston, Texas 77028.

9. Super Neighborhood 48 hosted two community meetings on October 24, and November 28, 2023 to discuss the Proposed Facility and related application to TCEQ. At these meetings and from other outreach that we did to Super Neighborhood 48 members, Super Neighborhood 48 received comments from above-listed community members regarding the Proposed Facility's Application which were submitted to TCEQ before December 7, 2023. A true and correct copy of these comments are attached as Exhibit 1 to the comments submitted by Super Neighborhood 48 to TCEQ on the application (Registration No. 173296).

10. Other members of Super Neighborhood 48 like John Sloan, who resides at 6928 Apache St., Houston, Texas 77028, and myself also submitted comments electronically and separately from these submissions through the TCEQ's E-Comment portal.

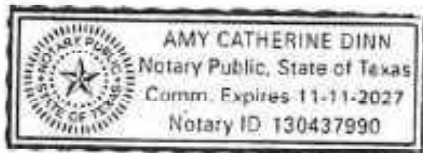
I declare under the penalty of perjury this 4th day of December, 2023, that the foregoing is true and correct.


Huey German Wilson

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned notary public, on this day personally appeared Huey German-Wilson, who being by me duly sworn on this oath, deposed and said that she is a duly authorized representative of Super Neighborhood 48, that she has read the foregoing Affidavit, and that the statements contained therein are within her personal knowledge and true and correct.

Signed and sworn to before me, the undersigned notary public, on December 4th, 2023 to certify which witness my signature and seal of office.




Notary Public

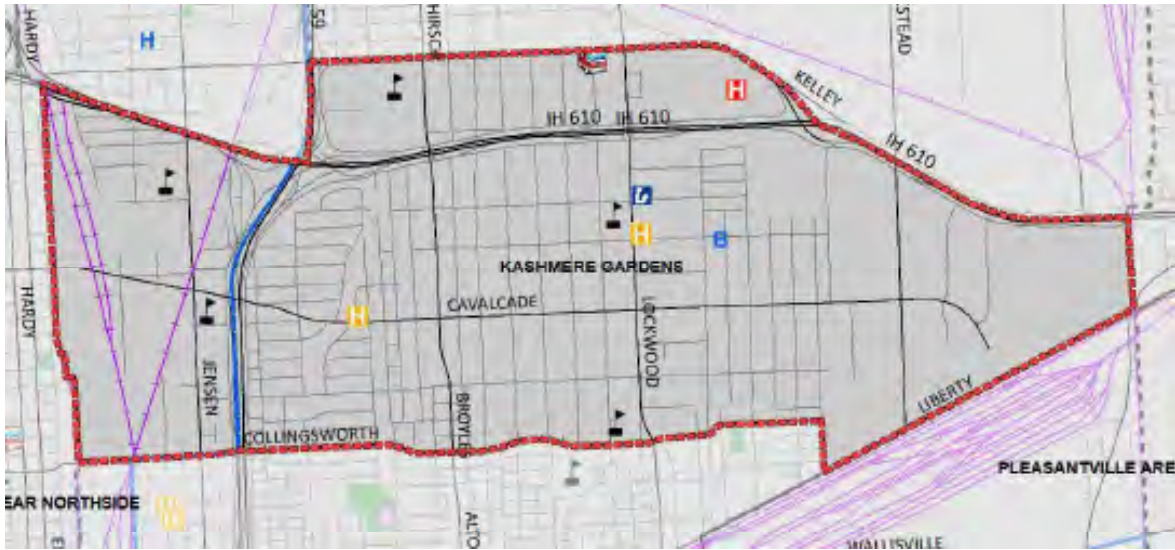
Exhibit 3

APPLICATION BY § **BEFORE THE TEXAS**
TEXAS COASTAL MATERIALS, LLC § **COMMISSION ON**
FOR AN AIR QUALITY STANDARD § **ENVIRONMENTAL**
PERMIT REFERENCE NO. 173926 § **QUALITY**

AFFIDAVIT OF KEITH DOWNEY

I, Keith Downey, declare as follows:

1. I am a resident of Houston, Harris County, Texas. I am over 18 years of age and competent to make this affidavit.
2. I am currently the President and authorized representative of Kashmere Gardens Super Neighborhood Council 52 (“Super Neighborhood 52” or “SN52”), and in such capacity I have personal knowledge of the facts set forth herein. SN52’s mailing address is P.O. Box 15592, Houston, TX 77220 am duly authorized to make this Affidavit and make the following statements in good faith.
3. Super Neighborhood 52 was created under the City of Houston's Super Neighborhood program, and officially recognized as a Super Neighborhood by the City of Houston on March 22, 2001. SN52 is incorporated with the State of Texas and designated tax exempt under Section 501(c)(3) of the Internal Revenue Code.
4. Super Neighborhood 52 was created to encourage residents of multiple neighboring communities within the area to work together to identify, prioritize and address the needs and concerns of the broader community and to create a manageable framework for community action.
5. SN52 is a geographically designated area that includes the neighborhood known as Kashmere Gardens. Its boundaries are Hardy Toll Road along Kelley Street to IH-610 the north, Liberty Road to the South then along Collingsworth as the southern boundary to Hardy/ Elysian Streets. The figure below shows the boundaries of this designated area.



6. Super Neighborhood 52's membership includes the entirety of the above- mentioned geographically designated area. SN52 advocates on behalf all residents within its boundaries.

7. SN52's boundaries are directly across the street from 5875 Kelley St., Houston, Texas 77026, the location for the permanent rock and concrete crushers proposed by Texas Coastal Materials, LLC and also include number of residences, health facilities, parks, churches and near the the Proposed Facility.

8. Specifically, the following individuals, who have submitted comments to TCEQ, are members of Super Neighborhood 52:

- Ida Baptiste, who resides at 4526 Woolworth, Houston, Texas 77026;
- Johnnie R. Baptiste, who resides at 4526 Woolworth, Houston, Texas 77026;
- Helen Benjamin, who resides at 5411 Makeig, Houston, Texas 77026;
- Kimberly Benjamin, who resides at 5411 Makeig, Houston, Texas 77026;
- Dolomtria Bryant, who resides at 4802 Lockwood Dr., Houston, Texas 77026;
- Evelyn Cartwright, who resides at 3609 Legion St, Houston, Texas 77026;
- Barbara Edmonds, who resides at 3305 Vintage St., Houston, Texas 77026;
- James Harris, who resides at 4012 Lockwood Dr., Houston, Texas 77026;
- Loretha Johnson, who resides at 4014 Lockwood Dr., Houston, Texas 77026;
- Mildred L. Johnson, who resides at 4014 Lockwood Dr., Houston, Texas 77026;

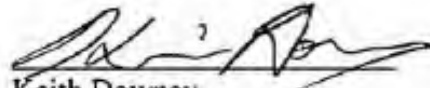
- Angela Price, who resides at 5310 Pickfair St. Houston, Texas 77026;
- Maxwell L Price, Sr., who resides at 5310 Pickfair St. Houston, Texas 77026;
- Robert Rosemond, who resides at 5902 Kashmere, Houston, Texas 77026;
- Diane Stephens, who resides at 6006 Wipprecht, Houston, Texas 77026;
- Jarrett D. Stephens Sr., who resides at 6006 Wipprecht, Houston, Texas 77026;
- Ernestine Tizeno, who resides at 4114 Woolworth, Houston, Texas 77026;
- Phillip Washington (4615 Woolworth, Houston, Texas 77026).

9. Super Neighborhood 52 hosted a community meeting on November 14, 2023 to discuss the Proposed Facility and related application to TCEQ. At this meeting and from other outreach that we did to SN52 members, we received comments from above-listed community members regarding the Proposed Facility’s Application.

10. On November 21, 2023, nineteen additional comments were received from seniors who utilize the Kashmere Gardens Multi-Service Center (“Kashmere Gardens MSC”) at 4802 Lockwood, Houston, Texas 77026: Josephine Ashford, Robert Baines, Emily Barriere, Jo Ethel Campbell, Georgia Charles, Valerie Cooper, Rita Ellis, Teresa R. Harris, Donald Johnson, Frankie Johnson, Annie Jones, Carolyn Jones, Anthony King, Turner Lewis, Doris Morgan, Bettie Richardson, Reda Richardson, Sylvester Tanner, and Carol Ann Thomas. These seniors meet weekly at the Kashmere Gardens MSC for various senior events.

11. Other members of SN52 like Angela Miller, who resides at 5424 Minden, Houston, Texas 77026, and myself also submitted comments electronically and separately from these submissions through the TCEQ’s E-Comment portal. A true and correct copy of these comments are attached as Exhibit 1 to the comments submitted by SN52 to TCEQ.

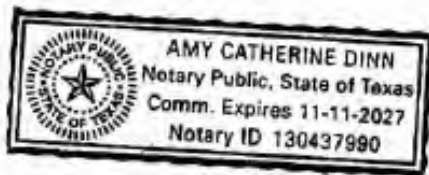
I declare under the penalty of perjury this 4th day of December, 2023, that the foregoing is true and correct.


Keith Downey

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned notary public, on this day personally appeared Keith Downey, who being by me duly sworn on his oath, deposed and said that he is a duly authorized representative of Super Neighborhood 52, that he has read the foregoing Affidavit, and that the statements contained therein are within his personal knowledge and true and correct.

Signed and sworn to before me, the undersigned notary public, on December 4, 2023 to certify which witness my signature and seal of office.



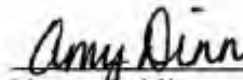

Notary Public

Exhibit 4

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)
BUREAU OF POLLUTION CONTROL AND
PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087**



SUMMARY REPORT

Texas Coastal Materials, LLC - 5875 Kelley St, Houston, Texas 77026 - TCEQ Air Quality Registration
Number: 173296

Prepared by: _____
Jorge Gonzalez, P.E. Date

Approved by: _____
Nguyen Ly Date

Introduction

Texas Coastal Materials, LLC, 9026 Lambright Rd, Houston, TX 77075-3208 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 173296, which would authorize construction of a permanent rock and concrete crusher. The facility is proposed to be located at 5875 Kelley St, Houston, Harris County, Texas 77026.

Purpose and Scope. The purposes of this investigation were to: 1) evaluate the location of the future facility relative to existing residences, churches, schools, and public outdoor spaces, and 2) evaluate any other facilities in the near vicinity that are performing similar functions. The scope of the investigation to achieve these purposes included the following:

- Reviewing applying company information and history
- Perform desktop study of surrounding area to gather information on existing points of interest along with other facilities performing a similar function in the area.
- Review historical performance of these types of facilities.
- Attain and review any existing air monitoring data that was performed in the area.
- Deploy our Mobile Ambient Air Monitoring Laboratory Unit (MAAML)
- Provide a summary of findings.

Facility Information

The Kelley Street Plant is located at 5875 Kelley Street, Houston, Harris County, Texas. The permit application lists the site with The Standard Industrial Classification (SIC) code for crushed concrete 1422 and The North American Industrial Classification System (NAICS) code is 212312.

The facility is currently in use by Womble, Inc as a pipe storage and coating facility with some existing metal structures and limited access road paving within the facility. The property is located west of Homestead Rd, North of Kelley St. and Hunting bayou, South of an existing railroad and east of an existing Truck and trailer repair facility (see Figure 1).

Process Description. Texas Coastal is constructing a new crushed concrete plant that will produce a bull rock, inch and one-half aggregate, and other construction products. Broken concrete will be delivered to the site by truck and placed in a storage pile. From the pile, materials will be loaded into the crusher hopper by front end loader or excavator. From the feeder hopper, materials are gravity fed into the crusher where the materials are ground into smaller sizes (C-1). Crushed materials are delivered to a deck screen via conveyors (BC-1 and BC-2). The crusher is controlled by water sprays on the inlet and outlet. The screen separates materials into different sizes. These include oversize materials, bull rock, fines, and small aggregates. The small aggregates pass through the screen and drop to conveyor belt BC-3 to be delivered to the aggregate product pile. Bull rock is passed from the screen onto BC-5a and BC-5 for delivery to the bull rock pile. Oversize materials are sent to the secondary crusher (C-2) via belt conveyor (BC-6) for further size reduction or diverted to BC-7 for delivery to an oversize pile. Materials passing into the secondary crusher are returned to the deck screen by use of BC-4. All material transfers, the screen deck, and the inlet and outlet of each crusher

are controlled by water spray. Stockpiled products are loaded into trucks via front end loader (T-009) for delivery to customers off-site.

Based on correspondence with Blake Hays of Coastal materials, the company will be sourcing their materials from demolition projects in the greater Houston area. The Materials will consist of road construction products, and some will contain metal rebar that will need to be separated.

Facility Authorization. This will be a new facility therefore there isn't any previous permit information on this facility. The application was deemed technically complete on July 31, 2023, by TCEQ and details of the facility are provided below.

- TCEQ Air Quality Registration Number: 173296 - Permanent Rock and Concrete Crusher
- Customer Reference Number: CN606158293
- Regulated Entity Number: RN111769154

Based on correspondence with Blake Hays of Coastal Materials, the company has no other facilities outside of the Houston area.

Complaints and Enforcement Issues. Facility will be new to the location therefore there are no previous complaints or enforcement issues related to this entity.

Investigation

Desktop Study. A desktop study was performed in order to gather any available information related to the facility and the surrounding area.

Air Monitoring. We deployed our air monitoring unit to gather ambient air data near the existing concrete batch plant (6001 Homestead Rd, Houston, TX 77028) on September 6th and 7th, 2023. We also deployed our unit near the LBJ hospital (5656 Kelley St, Houston, TX 77026) on August 31, 2023, and September 1, 2023, respectively. In addition, the Air monitoring laboratory had previously been deployed to 6001 Homestead Rd, Houston, TX 77028 on three separate occasions in 2022 (April 28th, June 7th, and October 21st).

April 28, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that the 5-min average PM_{2.5} concentrations ranged from 8.3 to 95.9 $\mu\text{g m}^{-3}$ (average – 26.0 $\mu\text{g m}^{-3}$) and PM₁₀ concentrations ranged from 20.4 to 452.9 $\mu\text{g m}^{-3}$ (average – 114.1 $\mu\text{g m}^{-3}$). There were many spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively. The 5-min average O₃ concentrations ranged from 22.2 to 57.8 ppb (average – 42.2 ppb) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

June 7, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that 5-min average PM_{2.5} concentrations ranged from 5.8 to 38.8 $\mu\text{g m}^{-3}$ (average – 11.2 $\mu\text{g m}^{-3}$) and PM₁₀ concentrations ranged from 10.0 to 257.7 $\mu\text{g m}^{-3}$ (average – 34.0 $\mu\text{g m}^{-3}$). Two spike PM concentrations exceeded EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 9.3 to 35.7 ppb (average – 24.1 ppb) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

October 21, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that 5-min average PM_{2.5} concentrations ranged from 5.6 to 11.8 $\mu\text{g m}^{-3}$ (average – 8.1 $\mu\text{g m}^{-3}$)

and PM_{10} concentrations ranged from 10.9 to 45.8 $\mu\text{g m}^{-3}$ (average – 24.1 $\mu\text{g m}^{-3}$). No $PM_{2.5}$ and PM_{10} concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} , respectively.

August 31, 2023, and September 1, 2023, Ambient Air Results (5656 Kelley St.). Results for monitoring on August 31st revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 5.9 to 10.9 $\mu\text{g m}^{-3}$ (average – 7.8 $\mu\text{g m}^{-3}$) while PM_{10} concentrations ranged from 9.6 to 43.3 $\mu\text{g m}^{-3}$ (average – 18.9 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

Results for monitoring on September 1st revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 5.2 to 9.7 $\mu\text{g m}^{-3}$ (average – 6.8 $\mu\text{g m}^{-3}$) while PM_{10} concentrations ranged from 8.3 to 25.2 $\mu\text{g m}^{-3}$ (average – 18.2 $\mu\text{g m}^{-3}$), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

September 6th and 7th, 2023, Ambient Air Results (6001 Homestead Rd). Results for monitoring on September 6th revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 3.2 to 18.9 $\mu\text{g m}^{-3}$ (average – 7.0 $\mu\text{g m}^{-3}$) while PM_{10} concentration ranged from 6.8 to 77.0 $\mu\text{g m}^{-3}$ (average – 26.7 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

Results for monitoring on September 7th revealed that 5-min average $PM_{2.5}$ (GRIMM) concentrations ranged from 3.7 to 25.1 $\mu\text{g m}^{-3}$ (average – 6.7 $\mu\text{g m}^{-3}$) while PM_{10} concentrations ranged from 8.6 to 151.7 $\mu\text{g m}^{-3}$ (average – 18.9 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for $PM_{2.5}$ and 150 $\mu\text{g m}^{-3}$ for PM_{10} .

See Appendix A for full air monitoring reports for the above referenced dates.

Site Visit and Field Reconnaissance. Site visit was performed on August 29, 2023. Figure 4 thru Figure 10 should detailed photos of site visit and field reconnaissance. Previous to the site visit, a call was held on August 28, 2023, with Mr. Blake Hays of Texas Coastal Materials LLC to better understand the project and to request any supporting documentation that they may have. Jay Lindholm with Trinity Consultants provided us with a copy of their permit application.

Points of Interest in Surrounding Area. Main Findings from desktop study and site visit (Future facility to be located at 5875 Kelley St. See (see **Figure 1** site layout).

Residence. Closest residence is located at 5903 Minden St, Houston, TX 77026 approximately 1800 ft from the future facility.

Church. St Francis Catholic church (5102 Dabney St, Houston, TX 77026) is located approximately 1500 ft to the future site.

Hospital. Lyndon B. Johnson Hospital is located at 5656 Kelley St, Houston, TX 77026 and is approximately 1000 ft from the future site.

Schools. No schools or daycare facilities located within 3000 ft radius of the future facility at 5875 Kelley Street.

Parks. Hutchenson park is located approximately 1000 ft from future facility and a new proposed park for 2024 (Curtis M. Graves Park) will be located approximately 2000 ft from the future facility.

Texan Concrete Ready Mix. An existing concrete batch plant is located at 6001 Homestead Rd, Houston, TX 77028 approximately 1200 ft from 5875 Kelley Street.

Texan Concrete is a regulated entity with TCEQ:

- Customer Reference Number: CN604045617
- Regulated Entity Number: RN 109666016
- Active Permit: Wastewater TXG113211 (two TCEQ complaints in 2017 and 2022 related to wastewater permit and notice of violations in 2023)

A review of air pollution complaints for this facility reveals a total of 11 complaints in the Customer Request and Information System (CRIS) between 04/25/2018 and 11/21/2022.

Vulcan Materials. A construction materials storage yard is located at 7070-A Bennington St, Houston, TX 77028 approximately 1500 ft from 5875 Kelley Street.

Vulcan Materials (CN600355465) is a regulated entity with TCEQ. This specific facility does not appear in TCEQ records.

No previous air pollution complaints appear in the Customer Request and Information System (CRIS) related to this address.

Historical Issues/Complaints for Similar Facilities. Based on past experience from inspections and complaints for similar types of facilities. We have listed the most common issues encountered below:

- Stockpiles not sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- Raw materials and product stockpiles exceed permit height limit creating dust.
- Dust suppression methods (water trucks, paving, sweeping...etc.) not being used on a regular basis to control dust.
- Dust above acceptable limit coming from screening, crushing, and transfer of materials process.
- Improper maintenance of baghouses.
- Exceeding permitted operating hours.
- Visible emissions leaving the property.

Summary of Findings

Based on desk study and field reconnaissance, the site does meet the distance requirements set forth by TCEQ (440 yards from any residence, school, or place of worship and 550 feet from any other rock crusher, concrete batch plant, or hot mix asphalt plant). The future site is approximately ~1100 ft from a heavily used public hospital (Lyndon B. Johnson Hospital). There are also plans to add another park (Curtis M. Graves Park) adjacent to the existing batch plant and approximately ~2000 ft from the future site.

Air monitoring data collected at the nearby concrete batch plant (6001 Homestead Rd.) indicated that we are at or near the EPA average annual standard for $PM_{2.5}$ of $12.0 \mu g m^{-3}$. Based on the air monitoring data conducted nearby, the background concentration at the new facility may be near the

EPA annual standard of $PM_{2.5}$. Adding an additional $PM_{2.5}$ source to the area may take the number above the yearly threshold.

The following illustrations are attached:

	<u>Figure</u>
Future Site and Surrounding Area.....	1
Process Layout and Details	2 and 3
Site Visit Photos.....	4 thru 10
Appendix A – Air Monitoring Reports	

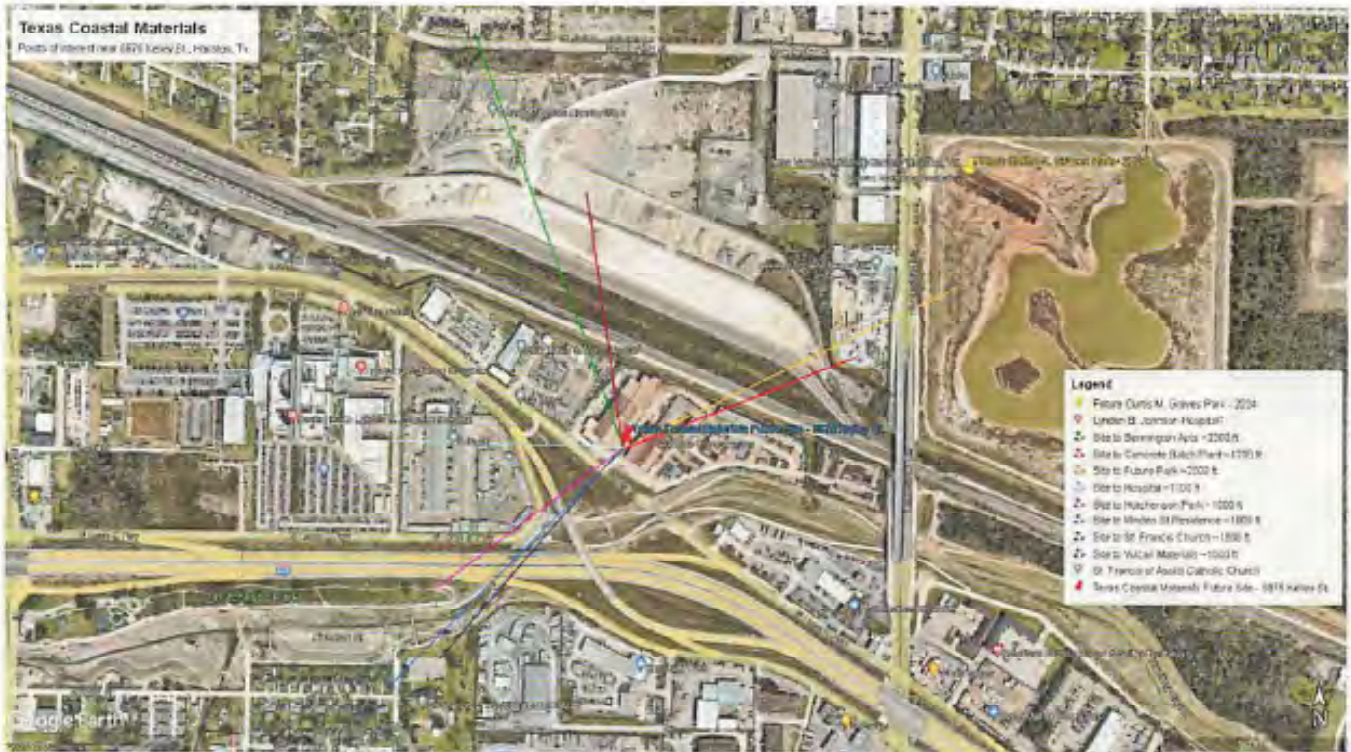


Figure 1 – Texas Coastal Materials – 5875 Kelley St.

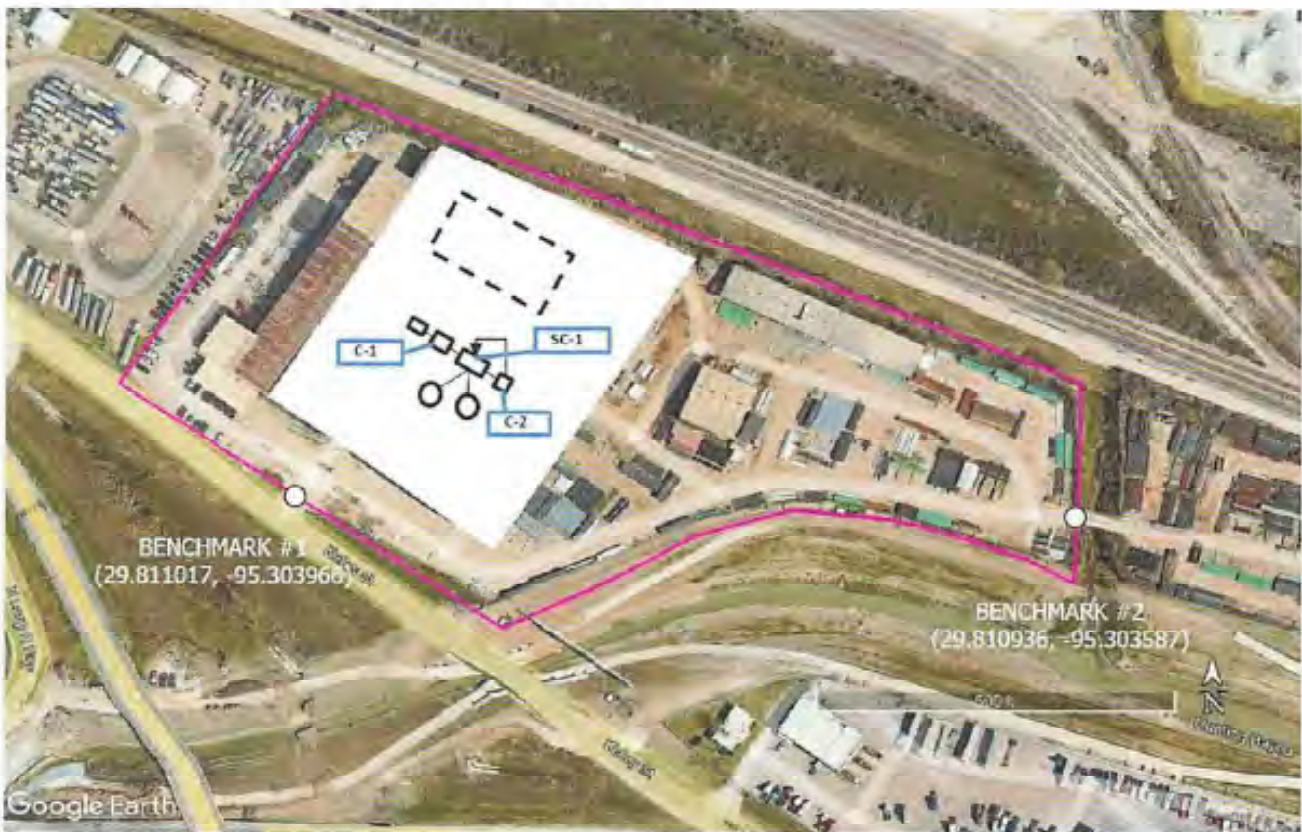


Figure 2 – Site Layout (From Permit Submittal – Trinity Consultants July 2023)

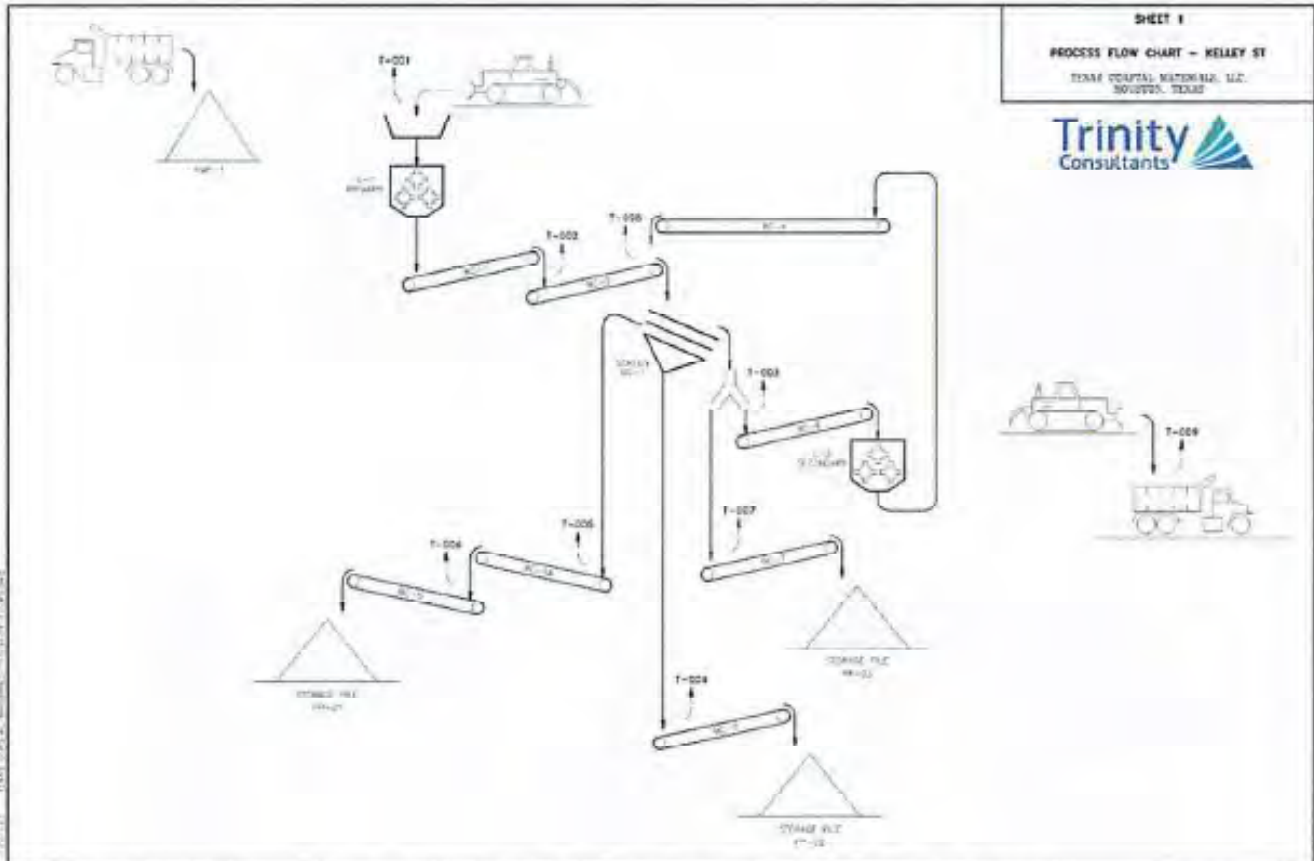


Figure 3 – Process Layout (From Permit Submittal – Trinity Consultants July 2023)



Figure 4 – Future Site Current Entrance – Facing NE from Kelley St.



Figure 5 – LBJ Hospital – Facing S from Kelley St.



Figure 6 – St. Francis Catholic Church – Facing SE on Dabney St.



Figure 7 – Nearest Residence at corner of Dabney St. and Minden St. – Facing SW Dabney St.



Figure 8 – Hutchenson Park – Facing S towards park.



Figure 9 – Future Park and Current Retention Pond – Facing NE from Homestead Rd.



Figure 10 – Hunting Bayou and Bike Trail – Facing W parallel to property.

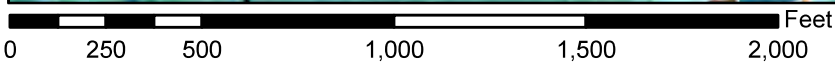
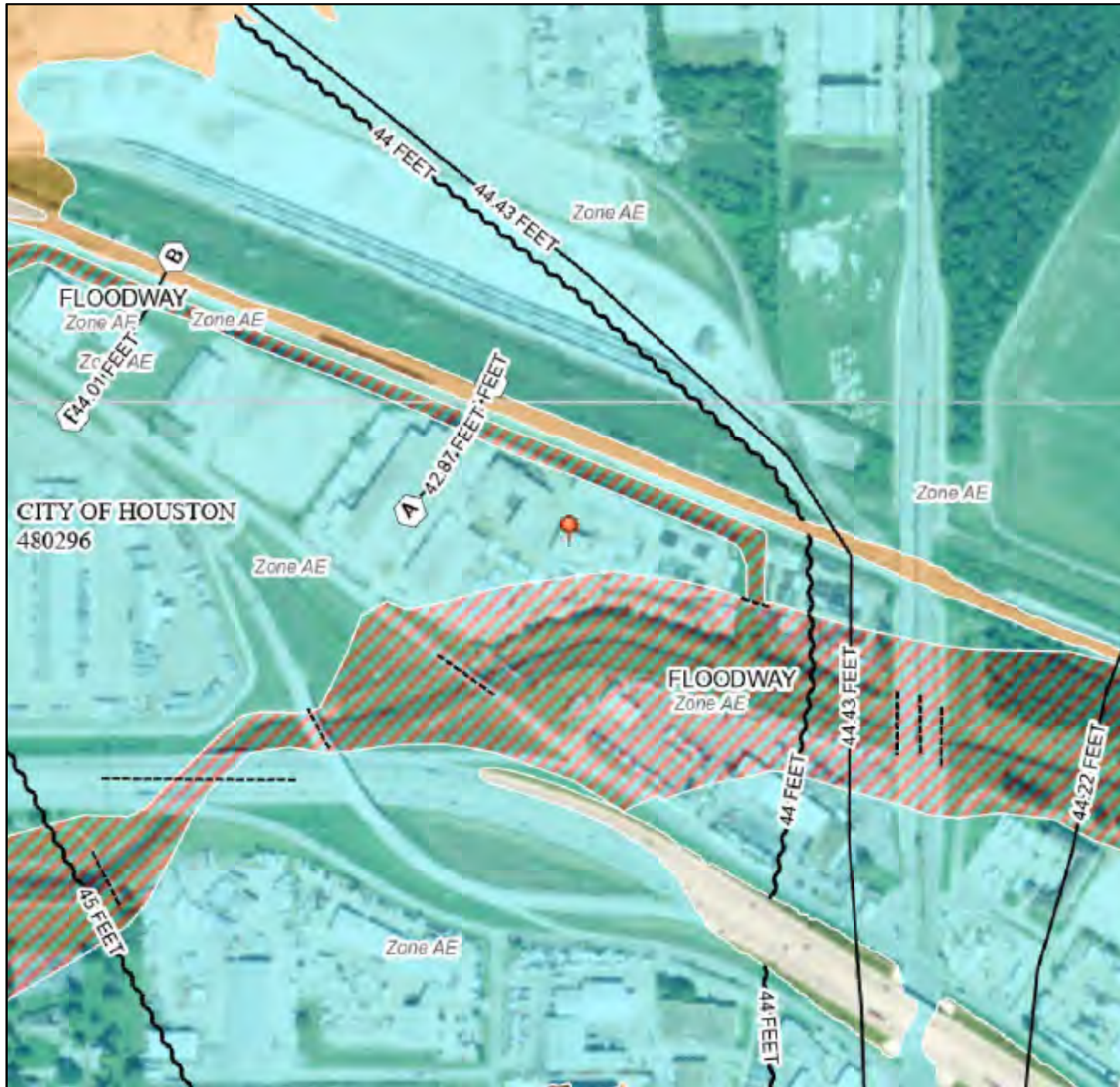
Appendix A

Exhibit 5

National Flood Hazard Layer FIRMMette



95°18'37"W 29°48'57"N



1:6,000

95°18'W 29°48'25"N

Basemap Imagery Source: USGS National Map 2023

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway

OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes, Zone X
		Area with Flood Risk due to Levee Zone D

OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
		Area of Undetermined Flood Hazard Zone D

GENERAL STRUCTURES		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall

OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance
		17.5 Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Profile Baseline
OTHER FEATURES		Hydrographic Feature

MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **12/5/2023 at 4:42 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

EXHIBIT 10

Plaintiffs' Petition for Judicial Review

APPLICATION BY TEXAS	§	BEFORE THE TEXAS
COASTAL MATERIALS, LLC FOR	§	
AIR QUALITY STANDARD	§	COMMISSION ON
PERMIT, REGISTRATION NO.	§	
173296	§	ENVIRONMENTAL QUALITY

HARRIS HEALTH AND HARRIS COUNTY’S MOTION TO OVERTURN

The Harris County Hospital District d/b/a the Harris Health System (“Harris Health”) and Harris County, Texas (“Harris County”), jointly file this Motion to Overturn and respectfully request that the Texas Commission on Environmental (“TCEQ”) overturn the December 11, 2023 decision of the Executive Director (“ED”) to approve Texas Coastal Materials, LLC’s (“Texas Coastal”) application to operate a rock crushing plant (TCEQ Permit No. 173296).

I. Background

On July 7, 2023, Texas Coastal applied for authorization to construct and operate a new permanent rock and concrete crushing facility (the “Application”) under the standard permit for permanent rock and concrete crushers (the “Rock Crusher Standard Permit”) at 5875 Kelley St., Houston, Texas 77026 (“Facility”). Notice of the Application was published in English on August 24, 2023 in the *Highlands Star/Crosby Courier* and in Spanish on August 24, 2023 in the *El Perico Spanish Newspaper*. Unfortunately, the *Highlands Star/Crosby Courier* has no circulation in the impacted community, so the TCEQ ordered that notice be published in another paper of general circulation. On October 4, 2023, the notice was re-published in *The Houston Chronicle*.

An informational meeting on the Application was held on December 7, 2023. The meeting was contentious. Texas Coastal and the TCEQ were confronted by community members that were concerned about locating the Facility in their community. Numerous local elected officials including Harris County Attorney Christian Menefee, Congresswoman Sheila Jackson Lee, Texas

State Senator Boris Miles, and Houston City Council Members Sallie Alcorn, Tarsha Jackson, and Letitia Plummer, gave speeches and filed formal comments in opposition to the Application.

The public comment period on the Application ended on December 11, 2023. At the close of comments, 658 formal comments filed were filed on the Application, including those by Harris Health and Harris County. Comments raised a wide range of issues, including concerns that the Facility will be located within 440 yards of LBJ Hospital, which is both a place of worship and a school, thereby preventing the Facility from being permitted under the Texas Clean Air Act (TCAA) and that the Rock Crusher Permit is not protective of human health and the environment.

Despite considerable community pushback and concern regarding the Application and Rock Crusher Standard Permit, the Executive Director (“ED”) of TCEQ issued a response to comments (“RTC”) and approved the Application on January 11, 2024.

II. **Movants**

Harris Health is a political subdivision of the State of Texas, a unit of local government and a hospital district under Texas law and is the public safety-net healthcare provider in Harris County, Texas. Harris Health operates Health Lyndon B. Johnson Hospital (“LBJ Hospital”), a 215 licensed-bed acute care hospital that offers a full range of medical services, spiritual care, is the State’s busiest Level III trauma center and is a major teaching hospital for the McGovern Medical School at the University of Texas Health Science Center at Houston (UT Health).¹ JBL Hospital is less than 440 yards from the Facility.

Harris County is also a local subdivision of the State of Texas. As a local government, Harris County has the authority to inspect the Facility for compliance with various state

¹ UTHealth Houston – McGovern Medical School, *Lyndon B. Johnson Hospital*, MED.UTH.EDU, <https://med.uth.edu/harrishealth/> (last visited Feb. 1, 2024).

environmental statutes, and TCEQ rules and orders issued thereunder.² In addition to these investigatory powers, Harris County, as a local government, has the authority to file civil suit in the same manner as the TCEQ for injunctive relief, civil penalties, or both.³

Movants actively participated in the TCEQ permitting process and timely submitted comments.⁴ On September 11, 2023, Movants submitted a letter to TCEQ flagging errors with Texas Coastal's newspaper notice, requesting Texas Coastal be required to re-publish the "Notice of Application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers" and requesting TCEQ hold a public meeting on the Application. On October 19, 2023, Harris Health filed comments with the TCEQ detailing concerns with potential health impacts from Facility pollutants on community members, including those it serves at LBJ Hospital.⁵ Finally, on December 6, 2023, Movants filed joint comments raising deficiencies in Texas Coastal's Application, concerns about the protectiveness of the Rock Crushing Standard Permit, and requested that TCEQ deny the Application and fully evaluate the protectiveness of the Rock Crusher Standard Permit before authorizing any additional facilities under its terms. A copy of the December 6, 2023 comment letter is attached as Exhibit A and incorporated herein for all purposes ("December Comments").

² Tex. Health & Safety Code §§ 361.032, 382.111; and Tex. Water Code § 26.173. Harris County can investigate and/or pursue enforcement within its jurisdiction, which includes everything within the physical boundaries of Harris County. The Facility will be within the physical boundaries of Harris County and therefore within its jurisdiction.

³ Tex. Water Code § 7.351.

⁴ Public comment period on the Application ended on December 11, 2023. *See* TCEQ Commissioner Integrated Database report for Permit No. 173296.

⁵ Harris Health Comment Letter, October 19, 2023, attached as Exhibit B.

III. Application Deficiencies

A. TCEQ must overturn the ED’s decision because TCAA and Rock Crusher Standard Permit prevent the Facility from locating within 440-yards of a place of worship or a school, and LBJ Hospital meets both criteria.

The TCAA and Rock Crusher Standard Permit prohibit the operation of certain concrete crushing facilities “within 440 yards of a building in use as a single family or multifamily residence, *school*, or *place of worship* at the time the application for a permit to operate the facility . . . is filed with the commission.”⁶ Importantly, the law stipulates that the “measurement of distance . . . shall be taken from the point on the concrete crushing facility that is nearest to the . . . school or place of worship toward the point on the . . . school or place or place of worship that is nearest the concrete crushing facility.”⁷ A “facility” is defined as “a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment,”⁸ and the Rock Crusher Standard Permit clarifies that “[s]creens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities.”⁹ As Movants explained in their comment, LBJ Hospital is both a place of worship and a school.

LBJ Hospital is a place of worship.

While the Rock Crusher Standard Permit and TCEQ rules do not define “place of worship,” the Texas Civil Practice and Remedies Code defines it as “a building or grounds where religious activities are conducted.”¹⁰ Texas Courts have defined “place of worship” broadly. For example,

⁶ Tex. Health & Safety Code § 382.065(a) (emphasis added); Air Quality Standard Permit for Permanent Rock and Concrete Crushers, General Requirement (1)(B).

⁷ Tex. Health & Safety Code § 382.065(a).

⁸ 30 Tex. Admin. Code § 116.10(4).

⁹ Air Quality Standard Permit for Permanent Rock and Concrete Crushers, General Requirement (1)(A)(ii).

¹⁰ Tex. Civ. Prac. & Rem. Code § 110.001(3).

Texas courts have held in other contexts that places of worship need not always be traditional churches or even be exclusively used for religious instruction. In *Kerrville Independent School District v. Southwest Texas Encampment Ass’n*, the Court of Appeals of Texas in San Antonio held that it wasn’t erroneous for the jury to have concluded that a campground run by a Methodist group constituted a place of worship and was therefore exempt from certain taxes.¹¹ The Texas Supreme Court has held that the phrase “place of worship” in the Texas Constitution specifically means “a place where a number of persons meet together for the purpose of worshipping God.”¹²

Harris Health spiritual care “consists of chaplains from various faith groups” that offer “spiritual services” including “support in the use of personal resources of faith . . . comfort in times of grief . . . and [helping] to explore questions of faith and spirituality.”¹³ LBJ Hospital Spiritual Care provides religious support to patients, patient families and hospital staff throughout the LBJ Hospital complex building, which includes a Multi-Faith Hospital Chapel (“LBJ Chapel”), located at the hospital’s main entrance.¹⁴ See below for pictures of LBJ Chapel. LBJ Chapel is always open “for those in need of a quiet place for prayer, meditation and personal reflection” and has dedicated times for “worship events on weekends and weekdays,” including a Catholic mass every Wednesday at Noon,¹⁵ daily morning prayer meetings, and afternoon Islamic prayer.¹⁶

In addition to regularly scheduled worship at the LBJ Chapel, Spiritual Care staff coordinate special occasion events, such as baptisms and memorial services, and provide religious support at the LBJ Chapel, patient rooms, staff offices, hospital units, or any other locations as

¹¹ *Kerrville Independent School Dist. v. Southwest Texas Encampment Ass’n*, 673 S.W.2d 256 (Tex.App.—San Antonio 1984, writ ref’d n.r.e.).

¹² *Davies v. Meyer*, 541 S.W.2d 827, 830 (Tex. 1976) (citing *Church v. Bullock*, 104 Tex. 1, 109 S.W. 115 (1908)).

¹³ Harris Health System, *Spiritual Care*, HARRISHEALTH.ORG, <https://www.harrishealth.org/services-hh/hospitality/Pages/spiritual-care.aspx> (last visited February 1, 2024).

¹⁴ See Affidavit of Suzanne Knott-Jackson, Harris Health Spiritual Care Senior Chaplain, attached as Exhibit C, incorporated herein in full for all purposes.

¹⁵ *Id.*

¹⁶ *Id.*

needed by those that visit or work within the hospital walls.¹⁷ LBJ Hospital Spiritual Care Chaplains are on-site 24 hours a day and during certain times of the year have multiple persons on-shift.¹⁸ Thus, LBJ Hospital functions as a place of worship – and does so on a 24-hour, seven day a week basis.

As evidenced by its chapel and spiritual care, LBJ Hospital is a place where religious activities are conducted and where people worship God. While LBJ Hospital’s primary purpose is to provide medical services, nothing in the legal definition or caselaw concerning “places of worship” requires a traditional stand-alone church. If the requirement was only to apply to churches, the legislature would have explicitly used “church” as it did in Chapter 397 of the Transportation Code.¹⁹ Thus, LBJ Hospital meets the criterion for being a place of worship and the 440-yard distance prohibition from the Facility should apply to LBJ Hospital.

LBJ Hospital is a School.

A permanent rock and concrete crushing facility cannot be located within 440 yards of a school. “School” is not a defined term within the Texas Clean Air Act. Nonetheless, LBJ Hospital should be considered a school for purposes of the distance limitation applied to permanent rock and concrete crushers because it serves the same function as a traditional school. LBJ Hospital is a major teaching hospital for the UT Health System. The University of Texas and Harris Health have an affiliation and support agreement under Texas Health and Safety Code Chapter 312. Harris Health has affiliation agreements with other schools to provide clinical education as well. LBJ Hospital has multiple classrooms in which traditional classroom learning and practicum classes are taught. The UT Health system currently has 700 college students studying at LBJ Hospital.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Tex. Trans. Code Sec. 397.011.

Moreover, LBJ Hospital has a program that brings local high school students to the hospital for experiential learning. Approximately 160 high school students are currently rotating through LBJ Hospital. While other portions of the Texas Clean Air Act reference “elementary, junior high, or senior high school”²⁰ the language used in § 382.056 simply says “school.” The distance limitations should be understood to capture university-level education as well, much like the schooling performed by UT Health at LBJ Hospital. Accordingly, LBJ Hospital should be considered a “school”, and the 440-yard distance limitation must apply.

LBJ is within 440-yards of the Facility.

As demonstrated above, the 440-yard distance requirement applies to LBJ Hospital as it is both a place of worship and a school. The RTC does not dispute this point, but instead summarily states that “[t]he plant is located greater than 1,320 feet (440 yards) away from any point on the noted nearby hospital.”²¹ The RTC further notes Texas Coastal “represented that it would meet with appropriate distance requirements” listed in the Rock Crusher Standard Permit.²² However, the Application and the RTC lacks any supporting information regarding how that measurement was taken or determination is derived.

TCEQ rules require an applicant to demonstrate that any required distance limitations, setbacks or buffer zones be satisfied at the earlier of two dates, either the date new construction of a facility begins or the date any application or notice of intent is filed with the Commission to obtain approval to operate.²³ Indeed, Texas Coastal’s Application goes to great lengths demonstrate that operations meet all distance limitations and attaches maps with distance markers

²⁰ Tex. Health & Safety Code § 382.052.

²¹ RTC, Page 14.

²² *Id.*

²³ 30 Tex. Admin. Code § 16.611(a); 116.615(11).

from nearby places of worship, schools and residences.²⁴ Unfortunately, LBJ Hospital is not referenced in the Application, therefore Texas Coastal has not demonstrated how it will comply with distance limitations between the Facility and LBJ Hospital. As noted in the RTC, Movants raised a concern “that the nearby LBJ Hospital meets the criterion for being considered a place of worship as well as a school with respect to the 440-yard distance limitation.”²⁵ The ED’s response that “[t]he Applicant represented that it would meet the appropriate distance requirements listed in the Standard permit”²⁶ implies the ED is merely relying on the representations of the Applicant, without further inquiry or analysis. If such further inquiry was conducted, the information has not been provided or made available for public review and comment. Without more, movants dispute that the Facility is further than 440-yards (.25 miles) from LBJ Hospital.

Of further concern, is the ability of Harris County Pollution Control Services Department (“Pollution Control”) to enforce compliance with the distance limitation under its investigative powers in the TCAA. Even if Texas Coastal could generally prove that placement all its facilities in accordance with the TCAA and Rock Crusher Standard Permit is possible, the proximity is so close that enforcing the distance limitation would be impracticable or impossible as slight operational changes could easily run afoul of the distance limitations. To properly demonstrate compliance with the distance limits, Texas Coastal should be required to provide lat/long coordinates for each and every portion of the facility and demonstrate its distance from LBJ Hospital.

²⁴ See Application, Pages 40-42.

²⁵ RTC, Page 14.

²⁶ *Id.*

Because Texas Coastal's Application violates the TCAA as well as provisions of the Rock Crusher Standard Permit, the Movants request the Commission overturn the ED's decision to approve the Application.

B. TCEQ must overturn the ED's decision because the Rock Crusher Standard Permit is outdated and no longer protective of human health and the environment.

The Federal Clean Air Act (FCAA) requires that the Environmental Protection Agency (EPA) identify air pollutants that may reasonably be anticipated to endanger public health and welfare. These pollutants are referred to as "criteria pollutants." For each criteria pollutant, EPA must set National Ambient Air Quality Standards for the protection of public health and welfare.²⁷ Criteria pollutants with established NAAQS include PM_{2.5}, PM₁₀, SO₂, CO, O₃, and NO₂.²⁸ No less than every five years, EPA is required to review scientific evidence and adjust the NAAQS as necessary to protect public health and the environment.²⁹

While the EPA sets the standards for criteria pollutants, the states determine how those standards are to be met. To implement the NAAQS, states create State Implementation Plans (SIPs) that demonstrate to the EPA how federal standards will be achieved. As long as federal standards are met, the state may select any mix of control devices that it desires.

An important part of how Texas' SIP satisfies (or attempts to satisfy) the NAAQS is by the implementation of their standard permit program. A standard permit is industry specific and allows businesses within that industry to register under the permit so long as they adhere to the general and specific conditions required by the permit.

²⁷ 42 U.S.C. §§ 7408(a), 7409(a).

²⁸ 40 C.F.R. §§ 50.4 - 50.19.

²⁹ 42 U.S.C. § 7409(d).

When a standard permit is promulgated, the TCEQ performs a protectiveness review. The purpose of the protectiveness review is to analyze different emissions control measures to determine what controls can be uniformly applied to an industry such that all registrants under the standard permit will not contribute to an exceedance of the NAAQS. These control measures can take various forms such as distance limitations placed on the facility (for example, the facility cannot operate within a certain distance of a school or place of worship), emissions control technologies (such as requiring all emissions to be funneled through a special filter), and mandatory best practices (like paving all the main traffic areas of a facility as a way of controlling dust).

Movants allege multiple issues with the underlying protectiveness review that was performed for the Rock Crusher Standard Permit almost two decades ago. Specifically, Movants assert that the protectiveness review has not kept up with subsequent changes in the NAAQS, utilized outdated background considerations for PM₁₀ that no longer reflect conditions in Harris County, failed to consider background considerations for PM_{2.5}, did not consider engines in its emission calculations, and did not address cumulative impacts.

TCEQ has not updated the Rock Crusher Standard Permit Protectiveness Review since NAAQS standards were lowered.

Information procured through a Public Information Act Request detail that protectiveness reviews for the Rock Crusher Standard Permit were performed in January and March of 2006.³⁰ TCEQ stated during the community meeting on December 7, 2023, that the protectiveness review was performed in 2008, but the PIR only provided the aforementioned 2006 protectiveness reviews. Considering new scientific evidence about the harms associated with PM_{2.5} EPA has since

³⁰ TCEQ, MEMO from Keith Zimmermann, P.E., to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (January 2, 2006); TCEQ, MEMO from Keith Zimmermann, P.E., to Larry Buller, P.E., Second Modeling Report – Rock Crusher Standard Permit (March 27, 2006).

lowered the NAAQS twice and a further reduction is anticipated early this year.³¹ In October 2006 EPA lowered the PM_{2.5} 24-hour NAAQS from 65 µg/m³ to 35 µg/m³ (“2006 PM_{2.5} 24-hour NAAQS”) and in 2012 EPA lowered the PM_{2.5} Annual NAAQS from 15.0 µg/m³ to 12.0 µg/m³ (“2012 PM_{2.5} Annual NAAQS”).³² Thus, the PM_{2.5} Annual NAAQS and the PM_{2.5} 24-hour NAAQS has been amended since the last protectiveness reviews were performed. Accordingly, there is nothing to suggest that the Rock Crusher Permit is protective of human health and the environment for PM_{2.5} Annual NAAQS or PM_{2.5} 24-hour NAAQS – standards adopted more than a decade ago. In fact, as discussed further below, the March 2006 Protectiveness Review suggests modelled emissions from the Rock Crusher Standard Permit exceed the 2012 PM_{2.5} Annual NAAQS.

Movants raised this specific concern in the December Comments. The RTC identified their comment when it stated that “[c]ommentors also expressed concern regarding the Standard Permit requirements themselves, stating that they have not been updated since 2008 . . . [Harris County] expressed concern that the protectiveness review was never updated for 2012 PM_{2.5} NAAQS.”³³ The ED’s response completely failed to address why the TCEQ has not updated its standard permit since the NAAQS for PM_{2.5} was lowered. The ED’s response simply described the requirements of the standard permit and opined that the “impacts analysis found that when plants operate within the parameters listed within this Standard Permit, should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.”³⁴

³¹ EPA, *National Ambient Air Quality Standards (NAAQS) for PM*, EPA.GOV (March 29, 2023) <https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm#:~:text=Currently%2C%20EPA%20has%20primary%20and,150%20%C2%B5g%2Fm3> (Participate matter pollution updates, including recent proposal to lower PM_{2.5} within a range of 9-10 µg/m³).

³² EPA, *National Ambient Air Quality Standards for Particulate Matter*, 71 Fed. Reg. 61,144 (Oct. 17, 2006); EPA, *National Ambient Air Quality Standards for Particulate Matter*, 78 Fed. Reg. 3,085 (Jan. 15, 2013).

³³ RTC, Page 5.

³⁴ RTC, Page 7.

But the TCEQ has been clear that an impact analysis has not been performed since (at least) 2008. How can TCEQ affirmatively represent compliance with PM_{2.5} NAAQS without conducting the analysis? It is inconceivable to rely on a 15-year-old protectiveness review when NAAQS has been progressively lowered in the intervening years to protect human health. Because the ED failed to perceive that the Rock Crusher Standard Permit under which Texas Coastal seeks to register as impermissibly flawed, the TCEQ must overturn their decision and deny Texas Coastal's Application until the standard permit is protective.

The protectiveness review for the Rock Crusher Standard Permit was not protective because it does not account for current PM_{2.5} background in Harris County.

The March 2006 PM_{2.5} protectiveness review performed for the Rock Crusher Standard Permit compared the GLCmax,³⁵ which is the maximum modeled off-property ground concentration, to the then PM_{2.5} Annual and 24-hour NAAQS without accounting for background levels of PM_{2.5}, contrary to TCEQ Policy. *See* Table 1. When determining whether to account for background, TCEQ compares the highest modeled concentration to a significant impact level ("SIL").³⁶ For purposes of fine particulate matter emissions, the 24-hour PM_{2.5} SIL is 1.2 µg/m³, and the Annual PM_{2.5} SIL is 0.2 µg/m³.³⁷ According to TCEQ's guidance documents, if the modeled concentration is greater than the SIL, the proposed source could make a significant impact on existing air quality.³⁸ In that case, the predicted concentration, plus representative monitoring background concentrations, are compared to the respective PM NAAQS.³⁹ In this case, the

³⁵ TCEQ, Air Permit Reviewer Reference Guide, APDG 5874, Modeling and Effects Review Applicability (MERA), TCEQ.GOV (March 2018), <https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mera.pdf>.

³⁶ TCEQ, APDG 6232, Air Quality Modeling Guidelines, TCEQ.GOV (Nov. 2019), <https://www.tceq.texas.gov/assets/public/permitting/air/Modeling/guidance/airquality-mod-guidelines6232.pdf>, at Pages 17 and 33-35.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

modeled concentrations for 24-hour PM_{2.5} and Annual PM_{2.5} both exceed the SIL. Therefore, TCEQ should have accounted for background when comparing modeled concentrations to the PM_{2.5} NAAQS.

Averaging Time	GLCmax (µg/m ³)	SIL (µg/m ³)
24-hour	5.0	1.2
Annual	1.7	0.2

Table 1: Comparison of GLCmax from March Protectiveness Review to TCEQ PM_{2.5} SIL

Movants discussed this shortcoming in their December Comments. The ED identified Movant’s comment in the RTC – “[Harris County] expressed concern that the . . . [2008 protectiveness review] failed to account for background levels of PM_{2.5}.”⁴⁰ The ED’s response made no attempt to address this point at all. Instead, the ED opted to answer other questions and speak about the protectiveness review at a high level of generality. This is problematic because Movants’ were attempting to show that the protectiveness review was flawed and that the Rock Crusher Standard Permit Texas Coastal sought to register under is not protective.

This is a significant issue in Harris County because PM_{2.5} background concentrations are significant. There are nine TCEQ air quality monitors in Harris County that measure PM_{2.5}. Between 2020 and 2022, on average, Annual PM_{2.5} concentrations in the ambient air in Harris County ranged from 8.2 µg/m³ to 12.3 µg/m³. Of particular note is the TCEQ North Wayside Drive (Wayside Monitor). The annual mean for the 2023 calendar year was 13.1 µg/m³. In 2023, the highest monthly means were July 2023 at 16.2 µg/m³, May 2023 at 16.0 µg/m³, and March 2023 at 15.8 µg/m³.⁴¹ If this trend continues, the area around the Wayside Monitor will

⁴⁰ RTC, Page 6.

⁴¹ TCEQ, *Daily Mean Values for Calendar Year 2022, Houston-Galveston-Brazoria, CAMS 405 Houston North Wayside C405/C1033*, TCEQ.GOV, https://www.tceq.texas.gov/cgi-bin/compliance/monops/24hr_annual.pl (last visited February 1, 2024).

soon violate the NAAQS. The only reason that the NAAQS hasn't already been violated is that EPA requires three years of data from a verified monitor, and the Northern Wayside monitor will not have three years of data until May 6, 2024.

The TCEQ just updated the Concrete Batch Plant Standard Permit, a similar TCEQ air standard permit, after updated its protectiveness review (2023 CBP Modeling Report).⁴² The 2023 CBP Modeling Report accounted for background concentrations and to account for regional variability broke the NAAQS compliance assessment down by regions.⁴³ For Harris County PM_{2.5} background, TCEQ used the data obtained from the North Loop Monitor. For the 24-hr value (26 µg/m³), TCEQ used “the three-year average (2019-2021) of the 98th percentile of the annual distribution of the 24-hr concentrations” and for the annual value 11.1 µg/m³, TCEQ used “the three-year average (2019-2021) of the annual concentrations.”⁴⁴

Regardless of the method of used to determine an appropriate background level, if you take background and modeled emissions (the above referenced GLCmax) together, like County residents experience, Annual PM_{2.5} levels are well above the current (12.0 µg/m³) 2012 PM_{2.5} Annual NAAQS. As such, the TCEQ must overturn the ED's granting of the Application because the underlying standard permit is no longer protective of human health and the environment.

⁴² TCEQ, Memo from Dan Jamieson to Mechanical/Coatings Section, Concrete Batch Plant Standard Permit Protectiveness Review, (February 24, 2023) <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbpsp23-4-modelingreport.pdf>.

⁴³ *Id.* at page 6.

⁴⁴ *Id.* at page 9.

The protectiveness review for the Rock Crusher Standard Permit was not protective because it did not account for engine emissions.

TCEQ's protectiveness review for the Rock Crusher Standard Permit specifically notes that it did not account for on-site engines.⁴⁵ This is problematic because engines can contribute significant emissions at a permanent rock and concrete crusher. Movants raise concerns about this issue when the Rock Crusher Standard Permit first accepted public comment.

Movants commented that the Application should be denied because the standard permit's protectiveness review failed to consider emissions from engines. The ED again failed to meaningfully address this comment. Accordingly, the TCEQ must overturn the ED's granting of the Application because the underlying standard permit is not protective of human health and the environment.

Rock Crusher Standard Permit fails to protect human health and the environment from PM₁₀ Emissions

Movants raised concerns in December Comment with regard to the Rock Crusher Standard Permit PM₁₀ emissions. The Rock Crusher Standard Permit January 2006 protectiveness review evaluated PM₁₀ emissions and compared worst-case modeled results to the PM₁₀ 24-hour NAAQS (150 µg/m³).⁴⁶ The maximum modeled off-property ground concentration for 24-hour PM₁₀ was 86 µg/m³.⁴⁷ TCEQ considered background concentrations in the modeling analysis using a September 4, 1998 memorandum "Screening Background Concentrations," which set PM₁₀ background at 60 µg/m³.⁴⁸ At the time, the total Annual

⁴⁵ TCEQ, MEMO from Keith Zimmermann, P.E., to Larry Buller, P.E., Second Modeling Report – Rock Crusher Standard Permit (March 27, 2006), ¶ 2.0.

⁴⁶ 71 FR 61144 (October 17, 2006).

⁴⁷ January Protectiveness Review, Page 3, *supra* note 30.

⁴⁸ *Id.*

modeled concentration plus background was 146 $\mu\text{g}/\text{m}^3$, just shy of the NAAQS standard of 150 $\mu\text{g}/\text{m}^3$.

In the intervening 17 years, TCEQ policies have changed and the approach to quantifying background particulate matter has modernized. The referenced September 4, 1998 memorandum “Screening Background Concentrations,” is no longer an active TCEQ Policy and Guidance Memo for Modeling.⁴⁹ Current TCEQ Air Quality Modeling Guidelines focus on utilizing existing air quality monitors, when available, to provide representative background concentrations.⁵⁰

Since this is a permit of general applicability, the recently re-evaluated Concrete Batch Plant Standard Permit protectiveness review can be instructive. The 2023 CBP Modeling Report broke the NAAQS compliance assessment down by regions.⁵¹ For Harris County PM₁₀ background, TCEQ used the data obtained from the Clinton Drive Monitor (EPA AIRS Monitor 284011035). For the 24-hr background value (101 $\mu\text{g}/\text{m}^3$), TCEQ used “the H4H 24-hr concentration from 2019-2021,” which “represents the highest, H4H 24-hr concentration in TCEQ Region 12.”⁵² If the 101 $\mu\text{g}/\text{m}^3$ background value is added to the highest modeled concentration of 60 $\mu\text{g}/\text{m}^3$, levels are well above the PM₁₀ 24-hour NAAQS of 150 $\mu\text{g}/\text{m}^3$. Curiously, the RTC did not respond to these specific concerns. Movants are once again raising these concerns here and request that the Commission overturn the ED’s request the

⁴⁹ TCEQ, *Policy and Guidance Memos for Modeling*, TCEQ.TEXAS.GOV, https://www.tceq.texas.gov/permitting/air/memos/modeling_memos.html (last updated February 24, 2023).

⁵⁰ TCEQ, APDG 6232, Air Quality Modeling Guidelines, *supra* note 36, at Page 43.

⁵¹ TCEQ, Memo from Dan Jamieson to Mechanical/Coatings Section, Concrete Batch Plant Standard Permit Protectiveness Review, (February 24, 2023) <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbpsp23-4-modelingreport.pdf>.

⁵² 2023 CBP Modeling Report, *supra* note 49, at Page 6.

Commission overturn ED's granting of the Application because the underlying standard permit is not protective of human health and the environment.

The protectiveness review for the Rock Crusher Standard Permit was not protective because it did not account for cumulative impact.

The Texas Water Code states “[t]he [TCEQ] shall: (1) develop and implement policies, by specific environmental media, to protect the public from cumulative risks in areas of concentrated operations.”⁵³ The statutory definition isn't limited to operations of the same type of industry, it captures all operations.

Movants commented that the Application should be denied because the Rock Crusher Standard Permit's protectiveness review failed to account for the cumulative impact of concentrated industry. The ED identified Harris County's comment when it stated in the RTC that “[c]ommenters expressed concern about the cumulative effects of this project . . . and that cumulative impacts should be taken into consideration.”⁵⁴ In response to this, the ED merely points to the fact that the Rock Crusher Standard Permit requires there to be at least 550 feet between a crushing facility and other concrete-related industries such as other concrete crushers, concrete batch plants, and hot mix asphalt plants. Harris County's comment (and Texas law) is broader than the ED's circumscribed view of cumulative impacts. Thus, the ED's response was inadequate to address Movant's concerns about cumulative impact. The TCEQ should deny Texas Coastal's Application and suspend the Rock Crusher Standard Permit until the standard permit can comply with Texas law.

⁵³ Tex. Water Code § 5.130.

⁵⁴ RTC, Page 2.

IV. PRAYER

For the deficiencies in Texas Coastal's Application and the Rock Crushing Standard Permit, Movants respectfully request that the TCEQ to overturn the Executive Director's grant of Texas Coastal Materials, LLC's Application.

Respectfully submitted,

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**ATTORNEYS FOR HARRIS HEALTH
AND HARRIS COUNTY, TEXAS**

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2024, the original and seven true and correct copies of Harris Health and Harris County’s Motion to Overturn was filed with the Chief Clerk of the TCEQ and a copy was served on the following via the manner indicated.

FOR THE CLERK:

VIA CERTIFIED MAIL NO. 9214 8901 9137 2500 3467 76

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

FOR THE APPLICANT:

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FOR THE EXECUTIVE DIRECTOR:

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/s/ Sarah Jane Utley
Sarah Jane Utley

EXHIBIT

A

EXHIBIT A



OFFICE OF THE
HARRIS COUNTY ATTORNEY
CHRISTIAN D. MENEFFEE

December 6, 2023

Via TCEQ E-Comments

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: Harris County and Harris Health Comments; Texas Coastal Materials, LLC; Regulated Entity Id No. RN111769154; Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley Street, Houston, Texas 77026.

Dear Ms. Gharis:

The Harris County Hospital District d/b/a the Harris Health System (“Harris Health”) and Harris County, jointly submit these comments on Texas Coastal Materials, LLC’s (“Texas Coastal”) application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the Application”). Harris Health is a political subdivision of the State of Texas, a unit of local government and a hospital district under Texas law, it is the public safety-net healthcare provider in Harris County, Texas. Harris County is also a local subdivision of the State of Texas. On September 11, 2023, Harris Health and Harris County submitted a letter to the Texas Commission on Environmental Quality (“TCEQ”) flagging errors with Texas Coastal’s newspaper notice, requesting Texas Coastal be required to re-publish the “Notice of Application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers” and that TCEQ hold a public meeting on the Application. Harris Health and Harris County would like to thank TCEQ for agreeing that the notice was deficient,¹ requiring Texas Coastal to publish legally sufficient notice and for holding an informational meeting for the public.² However, Harris Health and Harris County have significant concerns with holding an informational only meeting, assert that the Applicant fails to qualify for the TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the “Rock Crusher Standard Permit”), and asks whether the Rock Crusher Standard Permit is adequately protective of human health and the environment. For reasons further described below, Harris County and

¹ TCEQ Notice of Deficiency, Letter from Aine Carroll to Blake Hays, September 19, 2023, attached as Exhibit A.

² Harris County and Harris Health comment letter to the TCEQ, September 11, 2023, attached as Exhibit B.

Harris Health request TCEQ deny the Application and fully evaluate the protectiveness of the Rock Crusher Standard Permit before authorizing any additional facilities under its terms. In support, Harris Health and Harris County would show the following:

A. Background

On July 7, 2023, Texas Coastal submitted the Application requesting authorization to construct and operate a new permanent rock and concrete crushing facility at 5875 Kelley Street, Houston, Texas 77026 (“Facility”) under the Rock Crusher Standard Permit. The Facility will be located northeast of a densely populated residential neighborhood, adjacent to walking/hiking trails along Hunting Bayou, and is less than 440 yards (.25 miles) from Harris Health Lyndon B. Johnson Hospital (“LBJ Hospital”), a 215 licensed-bed acute care hospital that offers a full range of medical services, spiritual care, is the State’s busiest Level III trauma center and is a major teaching hospital for the McGovern Medical School at the University of Texas Health Science Center at Houston (UT Health).³ Texas Coastal paid for expedited permitting and on August 14, 2023, TCEQ determined the Application was technically complete.



Figure 1: Map demonstrating distance of Facility from LBJ Hospital

³ UTHealth Houston – McGovern Medical School, *Lyndon B. Johnson Hospital*, MED.UTH.EDU, <https://med.uth.edu/harrishealth/> (last visited Nov. 30, 2023).



Figure 2: Map demonstrating distance of Facility from LBJ Hospital



Figure 3: Map demonstrating distance of Facility from LBJ Hospital

1. Harris Health

The Harris County Hospital District was created by voter referendum in November 1965.⁴ In 1966, the Harris County Hospital District came into being as a political subdivision with taxing authority and assumed ownership of the city-council hospitals.⁵ This political subdivision would take on the name “Harris Health.” On June 2, 1989, LBJ Hospital opened

⁴ Harris Health System, *Harris Health History*, HARRISHEALTH.ORG, <https://www.harrishealth.org/about-us-hh/who-we-are/Pages/history.aspx> (last visited Nov. 30, 2023).

⁵ *Id.*

to the public and would go on to become the first hospital in Texas to receive a Level III trauma designation.⁶ Over the years, Harris Health and LBJ Hospital continued to expand to meet the needs of the Houston community, but upgrades of additional infrastructure and an expansion of LBJ Hospital is needed to provide services to our communities. This led Harris County Commissioners Court to approve a \$2.5 billion bond proposal to build an extension onto LBJ hospital.⁷ The bond was overwhelmingly approved by the public this November.⁸ On October 19, 2023, Harris Health filed comments with the TCEQ detailing concerns with potential health impacts from Facility pollutants on community members, including those it serves at LBJ Hospital.⁹

2. Harris County Pollution Control Services

As a local government, Harris County has the authority to inspect the Facility for compliance with various state environmental statutes, and TCEQ rules and orders issued thereunder.¹⁰ In addition to these investigatory powers, Harris County, as a local government, has the authority to file civil suit in the same manner as the TCEQ for injunctive relief, civil penalties, or both.¹¹

Harris County Pollution Control Services (“Pollution Control”) is the Harris County department designated to inspect facilities in Harris County for compliance with environmental quality laws and regulations (air, water, and waste), review permit applications, and submit comments to the TCEQ on permitting actions. Pollution Control also works closely with the TCEQ’s Houston regional office that as a matter of course refers a substantial portion of environmental complaints, including nuisance complaints, from Harris County citizens to Pollution Control. As a part of its mission, Pollution Control conducts routine and complaint driven investigations, issues Violation Notices when appropriate, and refers cases to the Harris County Attorney’s Office or District Attorney’s Office for civil or criminal enforcement.

It is based on Pollution Control and Harris Health’s experience and specialized

⁶ *Id.*

⁷ Adam Zuvanich, *County commissioners vote to put \$2.5 billion bond proposal for Harris Health System on November ballot*, HOUSTON PUBLIC MEDIA (Aug. 17, 2023, 2:48 PM), <https://www.houstonpublicmedia.org/articles/news/health-science/medicine-wellness/2023/08/17/459869/county-commissioners-vote-to-put-2-5-billion-bond-proposal-for-harris-health-system-on-november-ballot/>.

⁸ Harris County Chief Clerk, *Harris County November 2023 General and Special Election, Harris County Hospital District – Proposition A*, HARRISVOTES.COM (November 7, 2023) <https://www.harrisvotes.com/Election-Results/Live-Results>.

⁹ Harris Health Comment Letter, October 19, 2023, attached as Exhibit C.

¹⁰ Tex. Health & Safety Code §§ 361.032, 382.111; and Tex. Water Code § 26.173. Harris County can investigate and/or pursue enforcement within its jurisdiction, which includes everything within the physical boundaries of Harris County. The Facility will be within the physical boundaries of Harris County and therefore within its jurisdiction.

¹¹ Tex. Water Code § 7.351.

knowledge that these comments are submitted to TCEQ for consideration.

B. Application Deficiencies

Texas Coastal’s Application seeks authorization to operate under the Rock Crusher Standard Permit, which “prohibit[s] the operation of a concrete crushing facility within 440 yards of a building in use as a single family or multifamily residence, *school*, or *place of worship* at the time the application for a permit to operate the facility . . . is filed with the commission.”¹² LBJ Hospital is within 440 yards of the proposed Facility, and while the hospital’s primary purpose is providing medical services, as further discussed below, it also operates as a place of worship and school.

1. The Application should be denied because the Facility is located within 440 yards of a place of worship.

While the Rock Crusher Standard Permit and TCEQ rules do not define “place of worship,” the Texas Civil Practice and Remedies Code defines it as “a building or grounds where religious activities are conducted.”¹³ Texas Courts have defined “place of worship” broadly. For example, Texas courts have held in other contexts that places of worship need not always be traditional churches or even be exclusively used for religious instruction. In *Kerrville Independent School District v. Southwest Texas Encampment Ass’n*, the Court of Appeals of Texas in San Antonio held that it wasn’t erroneous for the jury to have concluded that a campground run by a Methodist group constituted a place of worship and was therefore exempt from certain taxes.¹⁴ The Texas Supreme Court has held that the phrase “place of worship” in the Texas Constitution specifically means “a place where a number of persons meet together for the purpose of worshipping God.”¹⁵

Harris Health spiritual care “consists of chaplains from various faith groups” that offer “spiritual services” including “support in the use of personal resources of faith . . . comfort in times of grief . . . and [helping] to explore questions of faith and spirituality.”¹⁶ LBJ Hospital Spiritual Care provides religious support to patients, patient families and hospital staff throughout the LBJ Hospital complex building, which includes a Multi-Faith Hospital Chapel

¹² Tex. Health & Safety Code § 382.065(a) (emphasis added).

¹³ Tex. Civ. Prac. & Rem. Code § 110.001(3).

¹⁴ *Kerrville Independent School Dist. v. Southwest Texas Encampment Ass’n*, 673 S.W.2d 256 (Tex.App.—San Antonio 1984, writ ref’d n.r.e.).

¹⁵ *Davies v. Meyer*, 541 S.W.2d 827, 830 (Tex. 1976) (citing *Church v. Bullock*, 104 Tex. 1, 109 S.W. 115 (1908)).

¹⁶ Harris Health System, *Spiritual Care*, HARRISHEALTH.ORG, <https://www.harrishealth.org/services-hh/hospitality/Pages/spiritual-care.aspx> (last visited November 30, 2023).

(“LBJ Chapel”), located at the hospital’s main entrance.¹⁷ See below for pictures of LBJ Chapel. LBJ Chapel is always open “for those in need of a quiet place for prayer, meditation and personal reflection” and has dedicated times for “worship events on weekends and weekdays,” including a Catholic mass every Wednesday at Noon,¹⁸ daily morning prayer meetings, and afternoon Islamic prayer.¹⁹

In addition to regularly scheduled worship at the LBJ Chapel, Spiritual Care staff coordinate special occasion events, such as baptisms and memorial services, and provide religious support at the LBJ Chapel, patient rooms, staff offices, hospital units, or any other locations as needed by those that visit or work within the hospital walls.²⁰ LBJ Hospital Spiritual Care Chaplains are on-site 24 hours a day and during certain times of the year have multiple persons on-shift.²¹ Thus, LBJ Hospital functions as a place of worship – and does so on a 24-hour, 7 day a week basis.



Photos 1: Pictures of LBJ Chapel

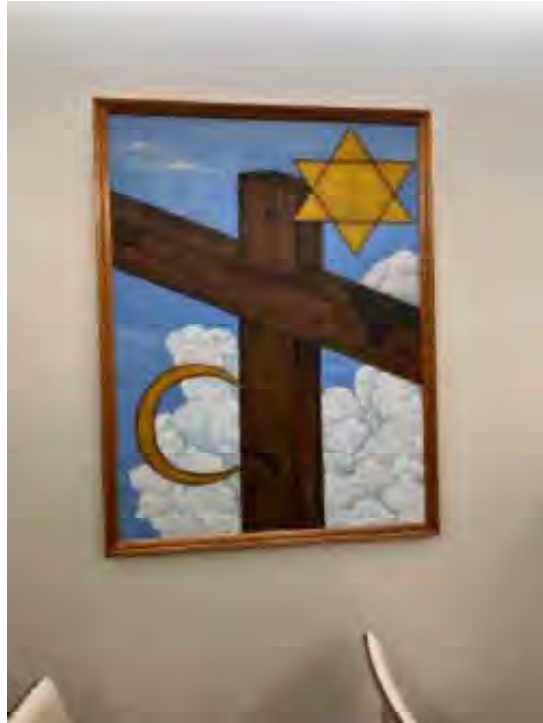
¹⁷ See Affidavit of Suzanne Knott-Jackson, Harris Health Spiritual Care Department Director, attached as Exhibit D, incorporated herein in full for all purposes.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*



Photos 1 (cont.): Pictures of LBJ Chapel

As evidenced by its chapel and spiritual care, LBJ Hospital is a place where religious activities are conducted and where people worship God. While LBJ Hospital’s primary purpose is to provide medical services, nothing in the legal definition or caselaw concerning “places of worship” requires a traditional stand-alone church. If the requirement was only to apply to churches, one would have expected the legislature to explicitly say “church” as it did in Chapter 397 of the Transportation Code.²² Thus, LBJ Hospital meets the criterion for being a place of worship and the 440-yard distance prohibition from the Facility should apply to LBJ Hospital. As such, the permit Application should be denied for violating distance limitations from places of worship placed on concrete crushers.

2. The Application should be denied because the Facility is located within 440 yards of a school.

As mentioned above, a permanent rock and concrete crushing facility cannot be located within 440 yards of a school. Here again, “school” is not a defined term within the Texas Clean Air Act. Nonetheless, LBJ Hospital should be considered a school for purposes of the distance limitation applied to permanent rock and concrete crushers because it serves the same function as a traditional school. LBJ Hospital is a major teaching hospital for the UT Health System. The University of Texas and Harris Health have an affiliation and support agreement under

²² Tex. Trans. Code Sec. 397.011.

Texas Health and Safety Code Chapter 312. Harris Health has affiliation agreements with other schools to provide clinical education as well. LBJ Hospital has multiple classrooms in which traditional classroom learning and practicum classes are taught. The UT Health system currently has 700 college students studying at LBJ Hospital. Moreover, LBJ Hospital has a program that brings local high school students to the hospital for experiential learning. Approximately 160 high school students are currently rotating through LBJ Hospital. See below for photos taken of the classrooms within LBJ Hospital. While other portions of the Texas Clean Air Act reference “elementary, junior high, or senior high school”²³ the language used in § 382.056 instead simply says “school.” Arguably, this means that the distance limitations should be understood to capture university-level education as well, much like the schooling performed by UT Health at LBJ Hospital. Accordingly, LBJ Hospital should be considered a “school”, and the 440-yard distance limitation must apply. Because LBJ Hospital is located within 440 yards of the proposed Facility, its application for a standard permit must be denied.



Photos 2: Pictures from the UT Medical School at LBJ Hospital

²³ Tex. Health & Safety Code § 382.052.



Photos 2 (cont): Pictures from the UT Medical School at LBJ Hospital

3. The Application should be denied because it fails to correctly identify the nearest place of worship.

The Application notes that the nearest place of worship is Garden Grove Christian Church.²⁴ The Application map, provided in Figure 4 fails to identify multiple places of worship closer to the Facility than Garden Grove Baptist Church: LBJ Hospital/LBJ Chapel,

²⁴ Texas Coastal Materials, Permit Application, Appendix B: Maps and Flows, Pg. B-4.

Christ Temple Apostolic Church, New Mount Calvary Baptist Church (the location TCEQ picked for the informational meeting on the permit application), Canaan Baptist Church, and St. Francis of Assisi Catholic Church. If LBJ Hospital was not considered a place of worship, St. Francis of Assisi would be the closest place of worship to the Facility. St. Francis of Assisi is located at 5102 Dabney Street, Houston, Texas and is noted below in Figure 5. The location of LBJ Hospital is noted above in Figures 1-3. Notably, St. Francis of Assisi uses the outside spaces (within 440-yards of the proposed facility) for worship at various times throughout the year. The Application is deficient unless these errors are corrected and should be denied.²⁵



Figure 4: Application Map denoting nearest church as Garden Grove Baptist Church.

²⁵ Tex. Health & Safety Code § 382.065; 30 Tex. Admin. Code §§ 116.111(a)(2)(A)(i) and 116.112(b)(2); See also TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers at Pages 17 and 22, TCEQ.GOV (July 31, 2008), https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/permcrushsp_pack.pdf, attached as Exhibit E.



Figure 5: Map noting the location of St. Francis of Assisi Catholic Church

4. The Application should be denied because it fails to correctly identify the nearest school.

The Application notes that the nearest school is McGowen Elementary School.²⁶ The Application map, provided in Figure 6 fails to identify the University of Texas Medical School at Houston campus at LBJ Hospital as a nearby school. Accordingly, the Application is deficient unless this error is corrected and should be denied.²⁷

²⁶ Texas Coastal Materials, Permit Application, Appendix B: Maps and Flows, at Page. B-5.

²⁷ Tex. Health & Safety Code § 382.065; 30 Tex. Admin. Code §§ 116.111(a)(2)(A)(i) and 116.112(b)(2); *See also* TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers, *supra* note 25, at Pages 17 and 22.



Figure 6: Application Map denoting nearest school as McGown Elementary School

C. Rock Crusher Standard Permit Deficiencies

On July 31, 2008, the TCEQ issued the Rock Crusher Standard Permit. Prior to issuing the permit, TCEQ performed a protectiveness review – evaluating emissions by dispersion modeling. During a protectiveness review, TCEQ evaluates modeled emissions from a new or modified facility and determines if the predicted highest concentration of air pollutants at or beyond the property line is less than the respective NAAQS and is presumably protective.²⁸ Whether background concentrations are added to the modeled emissions before the concentration is compared to the respective NAAQS is discussed below. Total particulate matter emissions in each permit evaluation must meet NAAQS.²⁹ In other words, modeled emissions meeting or exceeding the respective NAAQS found beyond the property line demonstrate that operations at the proposed facility would not be protective of human health, general welfare, and physical property. For this permit, two separate modeling analysis were performed – an initial January 2, 2006 modeling analysis evaluated particulate matter (PM),

²⁸ TCEQ, APDG 6232, Air Quality Modeling Guidelines, TCEQ.GOV (Nov. 2019), <https://www.tceq.texas.gov/assets/public/permitting/air/Modeling/guidance/airquality-mod-guidelines6232.pdf>.

²⁹ TCEQ, Interoffice Memorandum on Toxicology Factor Database Screening Levels (Mar. 8, 2018), attached as Exhibit F.

course particulate matter (PM₁₀), silica, nitrogen oxide (NO_x), carbon monoxide (CO), sulfur dioxide (SO₂), and nitrogen dioxide (NO₂) emissions (“January Protectiveness Review”) and a second March 27, 2006 modeling analysis assessed fine particulate matter (“PM_{2.5}”) emissions (March Protectiveness Review”).³⁰ Both protectiveness reviews were performed using the ISCT3 model.³¹

The Federal Clean Air Act (“FCAA”) requires that the United States Environmental Protection Agency (“EPA”) identify air pollutants that may reasonably be anticipated to endanger public health or welfare. These are referred to as “criteria pollutants.” For each criteria pollutant, EPA must set National Ambient Air Quality Standards (“NAAQS”) for the protection of public health and welfare.³² Criteria pollutants with established NAAQS include PM_{2.5}, PM₁₀, SO₂ and NO₂.³³ No less than every five years, EPA is required to review scientific evidence and adjust its prior NAAQS determinations as necessary to protect public health and the environment.³⁴ In the past, NAAQS for various criteria pollutants have been modified by being lowered to a more protective level, adding a standard (i.e., adding a 1-hour standard) or revoking a standard (i.e., revoking an annual standard). TCEQ standard permits, like the Rock Crusher Standard Permit, must be re-evaluated to account for those changes to ensure that facilities operate in a manner that meets NAAQS and is protective of human health and the environment.

1. Rock Crusher Standard Permit fails to protect human health and the environment from PM_{2.5} Emissions

Harris County is currently designated as “unclassifiable/attainment” for PM_{2.5} National NAAQS, but the area has long been considered “at-risk” for PM nonattainment and will likely be classified as nonattainment should the EPA adopt the newly proposed PM_{2.5} NAAQS.³⁵ A 2006 Report from the Houston Mayor’s Task Force on the Health Effects of Air Pollution identified that the nine Houston “super neighborhoods” along the Houston Ship Channel, which contain several majority Black and/or Latino neighborhoods, were “far more vulnerable to health risks than others in Greater Houston” on “the basis of location alone.”³⁶ The study

³⁰ TCEQ, MEMO from Keith Zimmermann, P.E., to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (January 2, 2006), attached as Exhibit G; TCEQ, MEMO from Keith Zimmerman, P.E. to Larry Buller, Second Modeling Report – Rock Crusher Standard permit (March 27, 2006), attached as Exhibit H.

³¹ TCEQ Response to Comments, Page 7.

³² 42 U.S.C. §§ 7408(a), 7409(a).

³³ 40 C.F.R. §§ 50.6, 50.7, 50.11, 50.13, 50.17, and 50.18.

³⁴ 42 U.S.C. §7409(d).

³⁵ Houston-Galveston Area Council, *HGB PM_{2.5} Advance Path Forward Update*, HCAG, available at <https://www.hgac.com/getmedia/ce55a7e9-6413-4817-aed4-db7cd805fe71/PM2-5-Advance-Path-Forward-2022-Final>, (last visited December 1, 2023).

³⁶ University of Texas - School of Public Health, *A Closer Look at Air Pollution in Houston: Identifying Priority Health Risks*, GREENHOUSTONTX.GOV, at 21 (2006) <http://www.greenhoustontx.gov/reports/UTreport.pdf>.

noted that, in addition to the proximity to a large concentration of industry and point sources for air pollution, four major highways intersected the area.³⁷

The PM_{2.5} NAAQS accounts for short- and long-term impacts. In 2006, EPA set the primary and secondary NAAQS for PM_{2.5} at 15.0 µg/m³ based on an annual average (“2006 PM_{2.5} Annual NAAQS”), and 35 µg/m³, based on a 24-hour average (“2006 PM_{2.5} 24-hour NAAQS”).³⁸ Effective March 18, 2013, EPA lowered the PM_{2.5} annual NAAQS from 15.0 µg/m³ to 12.0 µg/m³ (“2012 PM_{2.5} Annual NAAQS”).³⁹

The March Protectiveness Review analyzed PM_{2.5} emissions and compared worst-case modeled results to the 2006 PM_{2.5} Annual NAAQS and the 2006 PM_{2.5} 24-hour NAAQS. The GLCmax, which is the maximum modeled off-property ground concentration,⁴⁰ was determined to be 5.0 µg/m³ for 24-hours and 1.7 µg/m³ for annual averaging time.⁴¹

a. March Protectiveness Review never updated for 2012 PM_{2.5} Annual NAAQS

At the time of the March Protectiveness Review, the standard for PM_{2.5} Annual NAAQS was 15.0 µg/m³. Accordingly, the March Protectiveness Review was conducted using 15.0 µg/m³ as the standard for annual PM_{2.5}. Since that time, EPA has amended the annual PM_{2.5} NAAQS standard by lowering the level to 12.0 µg/m³ so as to “provide increased protection against health effects associated with long- and short-term exposures (including premature mortality, increased hospital admissions and emergency room visits, and development of chronic respiratory disease).⁴² In the intervening fifteen years since 2008, the Rock Crusher Standard Permit protectiveness review hasn’t been updated to evaluate emissions for compliance with the 2012 PM_{2.5} Annual NAAQS. Accordingly, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the 2012 PM_{2.5} Annual NAAQS standard of 12.0 µg/m³.

b. March Protectiveness Review failed to account for background

The March Protectiveness Review compared the GLCmax to the 2006 PM_{2.5} Annual NAAQS and the 2006 PM_{2.5} 24-hour NAAQS without accounting for background levels of PM_{2.5}. This is in direct contradiction to TCEQ policy and the January Protectiveness Review,

³⁷ *Id.*

³⁸ EPA, National Ambient Air Quality Standards for Particulate Matter, 71 Fed. Reg. 61,144 (Oct. 17, 2006).

³⁹ EPA, National Ambient Air Quality Standards for Particulate Matter, 78 Fed. Reg. 3,085 (Jan. 15, 2013).

⁴⁰ TCEQ, Air Permit Reviewer Reference Guide, APDG 5874, Modeling and Effects Review Applicability (MERA), TCEQ.GOV (March 2018),

<https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/mera.pdf>.

⁴¹ March Protectiveness Review, *supra* note 30, at Page 1 ¶ 2.0.

⁴² National Ambient Air Quality Standard for Particulate Matter, 78 Fed. Reg. 3,085, 3,086-3,287 (Jan. 15, 2013, effective Mar. 18, 2013).

which did account for background when comparing modeled concentrations to the applicable NAAQS.⁴³

When determining whether to account for background, TCEQ compares the highest modeled concentration to a significant impact level (“SIL”).⁴⁴ For purposes of fine particulate matter emissions, the 24-hour PM_{2.5} SIL is 1.2 µg/m³, and the Annual PM_{2.5} SIL is 0.2 µg/m³.⁴⁵ According to TCEQ’s guidance documents, if the modeled concentration is greater than the SIL, the proposed source could make a significant impact on existing air quality.⁴⁶ In that case, the predicted concentration, plus representative monitoring background concentrations, are compared to the respective PM NAAQS.⁴⁷ In this case, the modeled concentrations for 24-hour PM_{2.5} and Annual PM_{2.5} both exceed the SIL. Therefore, TCEQ should have accounted for background when comparing modeled concentrations to the PM_{2.5} NAAQS.

Averaging Time	GLCmax (µg/m ³)	SIL (µg/m ³)
24-hour	5.0	1.2
Annual	1.7	0.2

Table 1: Comparison of GLCmax from March Protectiveness Review to TCEQ PM_{2.5} SIL

Background concentrations of PM_{2.5} in the County are significant. *See* Figure 7 and Table 2 for TCEQ data and monitor locations in Harris County. There are nine TCEQ air quality monitors in Harris County that measure PM_{2.5}. Between 2020 and 2022, on average, Annual PM_{2.5} concentrations in the ambient air in Harris County ranged from 8.2 µg/m³ to 12.3 µg/m³. Of particular note is the TCEQ North Wayside Drive (Wayside Monitor). The annual mean for the 2022 calendar year was 11.8 µg/m³. Thus far in 2023, the highest monthly means were July 2023 at 16.2 µg/m³, May 2023 at 16.0 µg/m³, and March 2023 at 15.8 µg/m³.⁴⁸ If this trend continues, the area around the Wayside Monitor will soon violate the NAAQS. The only reason that the NAAQS hasn’t already been violated is that EPA requires three years of data from a verified monitor, and the Northern Wayside monitor will not have three years of data until May 6, 2024.

⁴³ January Protectiveness Review, Page 3, *supra* note 30, at Page 3.

⁴⁴ TCEQ Air Quality Modeling Guidelines, *supra* note 28, at Pages 17 and 33-35.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Daily Mean Values for Calendar Year 2022, Houston-Galveston-Brazoria, CAMS 405 Houston North Wayside C405/C1033*, TCEQ, https://www.tceq.texas.gov/cgi-bin/compliance/monops/24hr_annual.pl (last visited Nov. 28, 2023).

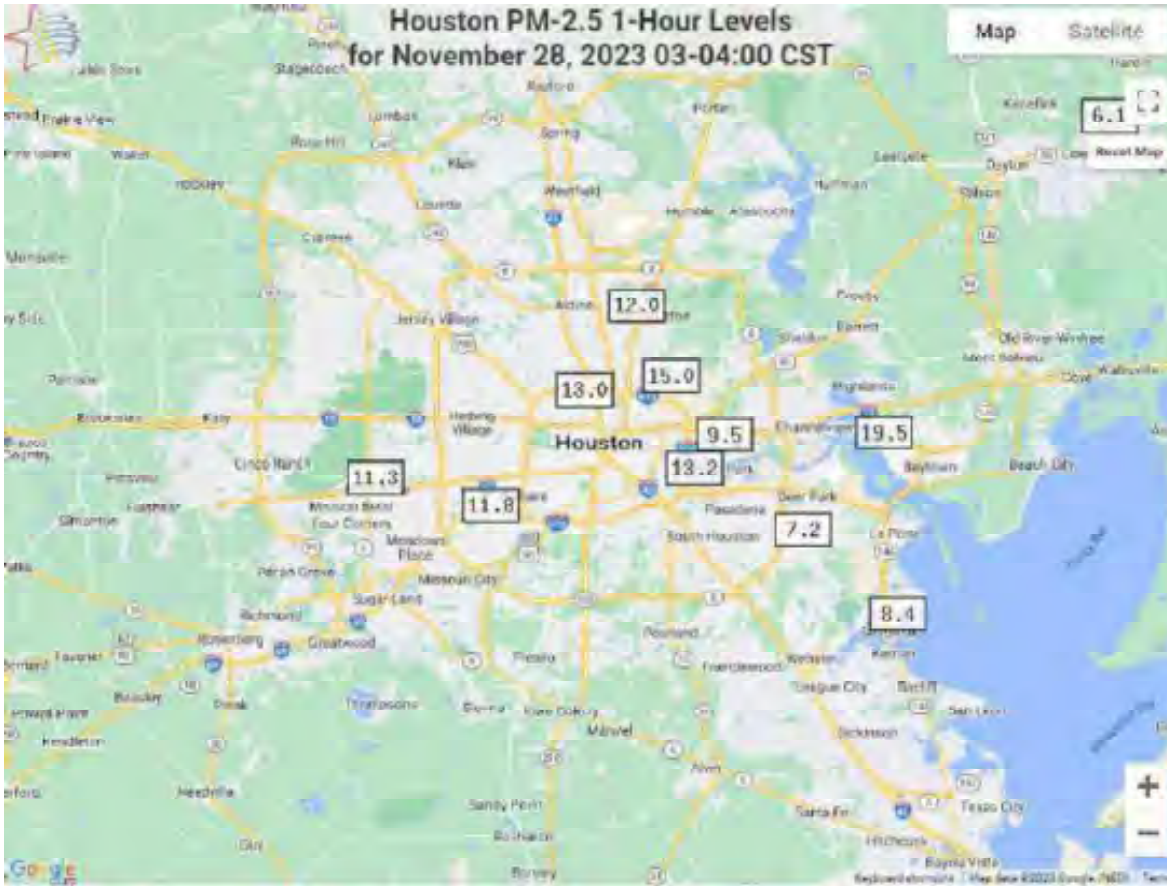


Figure 7:: TCEQ PM_{2.5} Air monitors in Harris County, Texas.

	Aldine CAMS 8	North Loop CAMS 1052	Wayside CAMS 1033	Westhollow CAMS 410	Bayland Park CAMS 53	Baytown CAMS 148	Clinton CAMS 403	Seabrook CAMS 45	Houston East CAMS 1
2020	9.9	--	--	--	--	10.0	10.2	--	10.1
2021	10.0	11.5	12.8	8.2	--	9.6	11.0	--	10.6
2022	10.2	11.2	11.8	8.1	9.4	10.5	10.5	8.5	9.8
Average	10.0	11.4	12.3	8.2	9.4	10.0	10.6	8.5	10.2

Table 2: Annual PM_{2.5} mean in $\mu\text{g}/\text{m}^3$ for TCEQ air monitors in Harris County

The TCEQ is in the process of updating the Concrete Batch Plant Standard Permit, as similar TCEQ air standard permit, and posted a draft modeling report for public comment in April 2023 (2023 CBP Modeling Report).⁴⁹ The 2023 CBP Modeling Report accounted for background concentrations and to account for regional variability broke the NAAQS

⁴⁹ TCEQ, Memo from Dan Jamieson to Mechanical/Coatings Section, Concrete Batch Plant Standard Permit Protectiveness Review, (February 24, 2023) <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbpcsp23-4-modelingreport.pdf>.

compliance assessment down by regions.⁵⁰ For Harris County PM_{2.5} background, TCEQ used the data obtained from the North Loop Monitor. For the 24-hr value (26 µg/m³), TCEQ used “the three-year average (2019-2021) of the 98th percentile of the annual distribution of the 24-hr concentrations” and for the annual value 11.1 µg/m³, TCEQ used “the three-year average (2019-2021) of the annual concentrations.”⁵¹

Regardless of the method of used to determine an appropriate background level, if you take background and modeled emissions together, like County residents experience, Annual PM_{2.5} levels are well above the current (12.0 µg/m³) 2012 PM_{2.5} Annual NAAQS. Accordingly, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the PM_{2.5} annual standard of 12.0 µg/m³, accounting for background.

c. March Protectiveness Review failed to account for engines

The March Protectiveness Review specifically notes that it failed to account for engines and other PM_{2.5} sources.⁵² Prior to issuance of the permit, TCEQ published notice of the draft Rock Crusher Standard Permit and accepted public comment.⁵³ Harris County Public Health and Environmental Resources, Pollution Control’s predecessor department, raised concerns during comment with the March Protectiveness Review’s failure to account for all potential emissions in the modeling.⁵⁴ Specifically, Harris County requested that TCEQ develop a methodology to address all PM_{2.5} emission sources and asserted that the protectiveness review was flawed because it failed to do so.⁵⁵ In response, TCEQ noted:

The EPA has not completed the implementation of PM_{2.5} NAAQS for the NSR program. The EPA has provided interim guidance in a memorandum that the PM₁₀ NAAQS will be the surrogate for demonstrating compliance with the PM_{2.5} NAAQS. . . The TCEQ would continue to use PM₁₀ as a surrogate for PM_{2.5} until EPA fully implements the new PM_{2.5} NAAQS for the NSR Program.⁵⁶

⁵⁰ *Id.* at page 6.

⁵¹ *Id.* at page 9.

⁵² March Protectiveness Review, ¶ 2.0, *supra* note 30.

⁵³ TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers, attached as Exhibit E, *supra* note 28, at Pages 8-16.

⁵⁴ *Id.* at Page 12.

⁵⁵ *Id.*

⁵⁶ *Id.*

TCEQ has considered emissions from engines for other air quality standard permits – including the Standard Permit for Concrete Batch Plants,⁵⁷ Polyphosphate Blenders,⁵⁸ and Marine Loading Operations⁵⁹ as they are a known source of particulate matter. If TCEQ’s reasoning to not consider engine sources was lack of EPA guidance, TCEQ should have re-evaluated the Rock Crusher Standard Permit once guidance was issued.

Notably, TCEQ would state in its 2012 amendments to the Standard Permit for Concrete Batch Plants, that “[o]n February 11, 2010, the EPA no longer allowed use of the 1997 policy that granted sources and permitting authorities to use a demonstration of compliance with the [NAAQS] requirements for PM₁₀ as a surrogate for meeting the NAAQS requirements for PM_{2.5}.”⁶⁰ The purpose of the 2012 amendments to the concrete batch plant standard permit was to “meet the requirements for PM_{2.5}.”⁶¹ Yet, the Rock Crusher Standard Permit was not similarly amended to consider the effects of PM_{2.5} in the way that the standard permit for concrete batch plants was. Even in 2012, when the attainment threshold for annual Primary PM 2.5 was dropped from 15 µg/m³ to 12 µg/m³,⁶² TCEQ did not re-evaluate the Rock Crusher Standard Permit or the requirements for registering under it. Again, Harris Health and Harris County request that TCEQ update the protectiveness review and account for all emission sources.

d. Communities around the Facility are already inundated with PM_{2.5}

The Facility is less than two miles from the Wayside Monitor, which as mentioned above regularly records levels of PM_{2.5} in violation of the Annual NAAQS. The area within a 5-mile radius of the North Wayside Monitor is 96% people of color, 60% low income, and is in the 98th Percentile of the U.S. for the PM_{2.5} EJ Index. There are two Superfund sites from the National Priority List and 15 Hazardous Waste Treatment, Storage, and Disposal Facilities in the area.

⁵⁷ TCEQ, Amendments to the Concrete Batch Plants Air Quality Standard Permit (Dec. 12, 2012) at Page 1, <https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/cbpsp-finalpreamble.pdf>.

⁵⁸ TCEQ, Summary Document for Air Quality Standard Permit for Temporary and Permanent Polyphosphate Blenders, (Apr. 7, 2010), Pages 3 and 32, https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/ag/poly_techsum.pdf.

⁵⁹ TCEQ, Air Quality Standard Permit for Marine Loading Operations, (Jun. 2021) Page 13, <https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/chemical/mlosp-techsum.pdf>.

⁶⁰ TCEQ, Amendments to the Concrete Batch Plants Air Quality Standard Permit, *supra* note 57.


⁶¹ *Id.*

⁶² 78 FR 3085, January 15, 2013.

EJScreen Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter (µg/m ³)	103	911	88	8.08	94
Ozone (ppb)	685	64.6	75	61.6	90
Diesel Particulate Matter (µg/m ³)	0.438	0.208	96	0.261	82
Air Toxics Cancer Risk* (lifetime risk per million)	34	28	44	25	52
Air Toxics Respiratory IR*	0.41	0.3	80	0.31	70
Toxic Releases to Air	64,000	12,000	95	4,600	98
Traffic Proximity (daily traffic count/100 distance to road)	270	150	86	210	81
Lead Paint (% Pre-1960 Housing)	0.42	0.17	85	0.3	68
Superfund Proximity (site count/100 distance)	0.48	0.085	97	0.13	94
RMP Facility Proximity (facility count/100 distance)	0.61	0.63	68	0.43	80
Hazardous Waste Proximity (facility count/100 distance)	1.9	0.75	88	1.9	71
Underground Storage Tanks (count/100 distance)	4.1	2.3	80	3.9	73
Wastewater Discharge (toxicity-weighted concentration/100 distance)	0.063	0.91	87	22	79
SOCIOECONOMIC INDICATORS					
Demographic Index	78%	46%	89	35%	94
Supplemental Demographic Index	20%	17%	90	14%	94
People of Color	56%	58%	87	39%	85
Low Income	60%	34%	84	31%	88
Unemployment Rate	10%	5%	80	6%	82
Limited English Speaking Households	21%	8%	86	5%	92
Less Than High School Education	35%	16%	86	12%	94
Under Age 5	7%	6%	60	6%	68
Over Age 64	13%	14%	52	17%	38
Low Life Expectancy	24%	20%	89	20%	88

Figure 8: EJScreen Chart showing the exposure and demographic information in a 5-mile radius of the North Wayside Monitor.



EJScreen Report (Version 2.11)
 5 miles Ring Centered at 29.828284, -95.284038
 TEXAS, EPA Region 6
 Approximate Population: 107,785
 Input Area (sq. miles): 78.53
 5 Mile Radius from Wayside Monitor

Selected Variables	Percentile in State	Percentile in USA
Environmental Justice Indexes		
Particulate Matter 2.5 EJ Index	30	88
Ozone EJ Index	83	64
Diesel Particulate Matter EJ Index*	97	95
Air Toxics Cancer Risk EJ Index*	56	58
Air Toxics Respiratory HI EJ Index*	95	97
Traffic Proximity EJ Index	84	88
Lead Paint EJ Index	91	81
Superfund Proximity EJ Index	95	97
RMP Facility Proximity EJ Index	81	80
Hazardous Waste Proximity EJ Index	93	89
Underground Storage Tanks EJ Index	86	82
Wastewater Discharge EJ Index	89	92

EJ Indexes - The EJ Indexes help users assess for potential EJ problems. To do this, the EJ Indexes combine data on low income and people of color populations with a single environmental indicator.

Figure 9: Environmental Justice Indexes for the area within a five-mile ring of Wayside Monitor

The table below contains hourly averages for all the pollutants and meteorological conditions measured at Houston North Wayside C405/C1033 for Monday, October 2, 2023. All times shown are in CST.

Parameter Measured	Morning											Afternoon												
	Mid 1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	Noon 1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00		
Ozone	0	7	10	16	15	9	4	13	20	30	44	55	55	51	55	54	47	43	41	34	29	22	28	26
Wind Speed	1.5	1.3	1.8	2.3	2.2	2.2	2.5	3.2	3.3	4.0	6.6	5.8	5.2	4.8	5.6	7.8	7.9	7.0	5.4	3.0	1.9	3.2	3.5	2.9
Wind Direction	27	51	50	56	54	54	55	57	87	100	121	117	106	07	112	130	145	146	145	144	128	120	124	118
Resultant Wind Speed	1.4	1.2	1.7	2.2	2.1	2.1	2.4	2.9	2.8	3.4	6.2	5.4	4.7	4.2	4.8	7.5	7.5	6.8	5.2	2.9	1.8	3.1	3.4	2.8
Resultant Wind Direction	24	48	47	56	53	58	54	55	85	100	123	118	108	00	117	131	146	147	145	144	130	120	125	118
Maximum Wind Gust	3.3	3.8	5.3	5.9	5.6	5.5	5.9	9.8	10.7	12.9	16.1	14.0	15.2	13.4	14.8	18.7	19.8	15.9	14.8	6.1	5.0	7.6	9.8	7.3
Std. Dev. Wind Direction	20	21	17	18	17	19	15	24	31	31	21	21	28	31	30	16	18	16	14	12	21	15	14	15
Outdoor Temperature	73.7	74.6	74.2	73.8	73.0	72.3	72.0	74.6	79.5	84.0	87.1	89.2	90.9	91.5	91.5	89.9	86.3	84.1	82.4	81.0	80.1	80.1	80.2	80.1
PM ₁₀ (Standard Conditions)	38.0	25.3	35.2	33.4	43.3	65.8	111.9	88.7	58.4	75.4	102.8	95.6	86.5	67.6	84.4	98.4	65.0	30.7	23.6	22.6	27.1	27.1	19.6	21.1
PM _{2.5} (Local Conditions)	15.0	9.5	13.5	13.0	21.2	20.1	20.0	9.9	14.5	15.0	25.0	15.0	17.6	14.3	28.6	27.2	7.7	6.9	3.3	4.8	12.3	5.6	8.6	6.2
Parameter Measured	Mid 1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	Noon 1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00		
	Morning											Afternoon												

Figure 10: A typical day of measurements at the North Wayside monitor.

Closer to the Facility there are other sources of pollution such as the Union Pacific Railroad, concrete batch plants, chemical manufacturing, coating and paint manufacturing, other light industry, dry cleaners, and a freight company. The City of Houston Health Department Bureau of Pollution Control and Prevention (BPCP) conducted air monitoring in the area to assess if there were any spikes in PM_{2.5} (BPCP Texas Coastal Report).⁶³ Of note, monitoring results in proximity to a nearby concrete batch plant, a similar particular matter producing facility, recorded elevated PM_{2.5} levels at or near the 2012 PM_{2.5} Annual NAAQS of 12 µg/m³. A map identifying nearby community spaces and a nearby already existing PM producing facility is provided at Figure 11. If the Application is approved, the Facility will become another PM polluting source within the radius and further harm nearby impacted communities.

⁶³ BPCP Texas Coastal Report at Page 6, attached as Exhibit I.



Figure 11: Map of community spaces and City of Houston PM_{2.5} readings

In sum, the Rock Crusher Standard Permit is not sufficiently protective for PM_{2.5} emissions and must be revised. Texas Coastal’s attempts to register under the Rock Crusher Standard Permit should be either denied until the TCEQ can ensure the permit is protective of human health and the environment as required by the state and federal law.

2. Rock Crusher Standard Permit fails to protect human health and the environment from PM₁₀ Emissions

The January Protectiveness Review evaluated PM₁₀ emissions and compared worst-case modeled results to the PM₁₀ 24-hour NAAQS (150 µg/m³) and the now revoked PM₁₀ Annual NAAQS (50 µg/m³).⁶⁴ The maximum modeled off-property ground concentration for 24-hour PM₁₀ was 86 µg/m³.⁶⁵ TCEQ considered background concentrations in the modeling analysis using a September 4, 1998 memorandum “Screening Background Concentrations,”

⁶⁴ 71 FR 61144 (October 17, 2006).

⁶⁵ January Protectiveness Review, Page 3, *supra* note 30.

which set PM₁₀ background at 60 µg/m³.⁶⁶ At the time, the total Annual modeled concentration plus background was 146 µg/m³, just shy of the NAAQS standard of 150 µg/m³.

In the intervening 17 years, TCEQ policies have changed and our knowledge of particulate matter in Harris County has expanded. The referenced September 4, 1998 memorandum “Screening Background Concentrations,” is no longer an active TCEQ Policy and Guidance Memo for Modeling.⁶⁷ Current TCEQ Air Quality Modeling Guidelines focus on utilizing existing air quality monitors, when available, to provide representative background concentrations.⁶⁸

Since this is a permit of general applicability, the recently re-evaluated Concrete Batch Plant Standard Permit protectiveness review can be instructive. As discussed above, the 2023 CBP Modeling Report broke the NAAQS compliance assessment down by regions.⁶⁹ For Harris County PM₁₀ background, TCEQ used the data obtained from the Clinton Drive Monitor (EPA AIRS Monitor 284011035). For the 24-hr background value (101 µg/m³), TCEQ used “the H4H 24-hr concentration from 2019-2021,” which “represents the highest, H4H 24-hr concentration in TCEQ Region 12.”⁷⁰ If the 101 µg/m³ background value is added to the highest modeled concentration of 60 µg/m³, levels are well above the PM₁₀ 24-hour NAAQS of 150 µg/m³. Therefore, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the PM₁₀ NAAQS, accounting for current background particulate matter levels and deny any application to operate under the Rock Crusher Standard Permit until it is proven to be protective for PM₁₀ in Harris County.

3. TCEQ has failed to demonstrate that the Rock Crusher Standard Permit is protective of human health and the environment from SO₂ and NO₂ Emissions

The January Protectiveness Review evaluated SO₂ and NO₂ emissions for compliance with NAAQS.⁷¹ Similar to PM_{2.5}, after the January and March Protectiveness Reviews, EPA re-evaluated SO₂ and NO₂ NAAQS and made revisions to the applicable standards. Regarding SO₂, in 2010, EPA issued a new 1-hour standard (75 ppb) and revoked the annual and 24-hour standard.⁷² Regarding NO₂, in 2010, EPA issued a new 1-hour standard (100 ppb).⁷³ As with the 2012 PM_{2.5} Annual NAAQS, the Rock Crusher Standard Permit protectiveness review

⁶⁶ *Id.*

⁶⁷ TCEQ, *Policy and Guidance Memos for Modeling*, TCEQ.TEXAS.GOV, https://www.tceq.texas.gov/permitting/air/memos/modeling_memos.html (last updated February 24, 2023).

⁶⁸ TCEQ, APDG 6232, Air Quality Modeling Guidelines, *supra* note 28, at Page 43.

⁶⁹ *Id.* at page 6.

⁷⁰ 2023 CBP Modeling Report, *supra* note 49, at Page 6.

⁷¹ January Protectiveness Review, *supra* note 30, at Page 3.

⁷² 75 FR 33520 (June 22, 2010).

⁷³ 75 FR 6474 (Feb. 9, 2010).

hasn't been updated to assess for the 2010 SO₂ 1-hour NAAQS or the 2010 NO₂ 1-hour NAAQS. Accordingly, Harris County and Harris Health request that TCEQ update the protectiveness review and assess for compliance with the SO₂ and NO₂ 1-hour standards.

4. The Standard Permit for Rock and Concrete Crushers is not protective of human health and the environment because it does not consider cumulative impacts

The Texas Water Code requires the TCEQ to “develop and implement policies, by specified environmental media, to protect the public from cumulative risks in areas of concentrate operations.”⁷⁴ Particulate matter producing facilities, including rock and concrete crushing facilities and concrete batch plants, tend to proliferate in certain areas, *See Figure 12*. It is unclear what policies the TCEQ has in place that are designed to protect the public from cumulative risks associated with rock and concrete crushers and similar PM producing facilities when they operate in areas of concentrated operations. Neither the January Protectiveness Review nor the March Protectiveness Review appear to have considered cumulative impacts. How has TCEQ complied with Texas Water Code § 5.130 by continuing to register new facilities under the Rock Crusher Standard Permit? Because nothing in TCEQ's protectiveness review would suggest that policies were implemented to protect the public from the cumulative risks of concentrated industry, the TCEQ must deny any application to operate under the Rock Crusher Standard Permit until such policies are implemented.



Figure 12: Map of concrete batch plants in Harris County, Texas

5. Rock Crusher Standard Permit Protectiveness Review used a modeling method that is not the EPA preferred modeling method.

⁷⁴ Tex. Water Code § 5.130

As mentioned above, the January Protectiveness Review and the March Protectiveness Review were performed using the ISCT3 model.⁷⁵ However, beginning in 2005, the EPA established AERMOD as the preferred dispersion model in the EPA's "Guideline in Air Quality Models."⁷⁶ Harris County and Harris Health request that TCEQ update its protectiveness review to address all the deficiencies discussed above, and that it use AERMOD to do so.

6. Rock Crusher Standard Permit may not account for BACT.

30 Texas Admin Code § 116.602(c) mandates that standard permits issued by the TCEQ require best available control technology ("BACT"). Given that 15 years have lapsed since the issuance of the Rock Crusher Standard Permit, Harris County and Harris Health requests TCEQ assess whether the permit accounts for BACT. In specific, Pollution Control recommends TCEQ consider adding the following controls to the Rock Crusher Standard Permit:

- (1) Pave each road, parking lot, or other area at the site that is used by vehicles with a cohesive hard surface and properly maintained, cleaned and watered so as to minimize dust emissions;
- (2) Keep stationary equipment, stockpiles, and vehicles used at the plant, except for incidental traffic and vehicles as they enter and exit the site, located or operated more than 100 feet from any property line;
- (3) Install a 12-foot high, dust suppressing barrier as a border around roads, traffic areas and work areas;
- (4) Place three-walled bunkers around all stockpiles that are at least two feet above the top of the stockpile;
- (5) Install an enclosed structure routed to a capture system that meets the emission limits of NSPS OOO; to cover each transfer point, crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station to prevent potential particulate nuisance;
- (6) Ensure that the fabric/cartridge filter systems and suction shroud are operated properly with no tears or leaks;
- (7) Cover stockpiles when not in use so as to minimize dust emissions;
- (8) Maintain a vegetative barrier (trees and other foliage) around as much of the perimeter of the facility as possible;
- (9) Install a wheel wash and rumble strips at the exit of the facility to prevent tracking concrete on the roadway;

⁷⁵ TCEQ Response to Comments, Page 7.

⁷⁶ 70 FR 68,217-68, 261 (November 9, 2005, effective Dec 9, 2005).

- (10) Consider whether proximity to a church, school, medical facility, residential or other sensitive populations should result in an increased buffer distance; and
- (11) Only operate between official sunrise and sunset, in lieu of the current requirement that the facility operate from one hour before official sunrise to one hour after official sunset.

7. Anticipated lowering of the PM_{2.5} Annual NAAQS

On January 6, 2023, EPA proposed to revise the primary annual PM_{2.5} standard from its current level of 12.0 µg/m³ to within the range of 9.0 to 10.0 µg/m³, and accepted comments on further lowering the standard to 8 µg/m³. Harris County submitted a comment on the proposal in support of the EPA's reconsideration to lower the standard to a range of 9.0 to 10.0 µg/m³. As noted above, the County is currently designated as "unclassifiable/attainment" for PM_{2.5}, is "at-risk" for PM_{2.5} nonattainment, and will likely be classified as nonattainment should EPA adopt the newly proposed PM_{2.5} NAAQS.

The protectiveness review would be materially impacted by a more protective NAAQS, likely resulting in increased buffer distances, lower production rates, and more stringent controls. Harris County and Harris Health request that TCEQ plan on reopening the Rock Crusher Standard Permit should the PM_{2.5} NAAQS be changed. This would ensure that the public is kept safe, especially when science dictates that a health standard should be more stringent.

D. Public Meeting

As mentioned above, Harris Health and Harris County previously called on TCEQ to hold a public meeting on the Application because of the level of community interest, high percentage of surrounding community members that are limited English Proficient (LEP), and the reduced internet access for many households near the Facility. Our September 11, 2023 comment letter included supporting data regarding LEP population density and internet access near the Facility, which is attached as Exhibit B and incorporated herein in full. While Harris Health and Harris County appreciate TCEQ agreeing to hold a meeting, we urge TCEQ to hold a formal meeting – not an informational one. Substantial public interest in the Application remains; as of December 6, 2023, 133 comments have been filed with the TCEQ on the Application and additional community comment is anticipated.

As noted in our September 11, 2023 comment letter, the National Environmental Justice Advisory Council (NEJAC) promulgated the Model Guidelines for Public Participation, which provides that conducting effective public participation in environmental

justice communities requires an approach that is “tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation.”⁷⁷ Further, according to EPA, “[m]eaningful public involvement consists of informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.”⁷⁸ EPA has also recommended to federal funding recipients that they “[c]onsider tailoring and integrating public involvement practices that engage communities into as many stages of the process as appropriate, so that public involvement becomes more of a ‘culture’ of how agencies think and operate, as opposed to a list of measures to check off as they are completed.”⁷⁹ For these communities, failure to hold a formal meeting – allowing public comment – will surely impact their ability to participate in the TCEQ permitting process.

Concrete Crushing facilities, like the proposed Texas Coastal Facility, are known to contribute to degraded air quality. This degraded air quality can cause a litany of health impacts including respiratory and heart complications. LBJ Hospital is where some of our most vulnerable community members receive medical attention. It simply defies common logic to allow a polluting entity such as Texas Coastal to operate such a short distance from a hospital, walking/running trails along the bayous and a neighborhood. Given the deficiencies in Texas Coastal’s Application and the concerns about the protectiveness of the Rock Crushing Standard Permit, Harris Health and Harris County respectfully request that TCEQ deny the Application and fully evaluate the protectiveness of the Rock Crusher Standard Permit before authorizing any additional facilities under its terms.

Thank you for the opportunity to comment on the Application. If you have any questions, please feel free to contact Sarah Utley at sarah.utley@harriscountytexas.gov.

Respectfully submitted,

CHRISTIAN D. MENEFEE
Harris County Attorney

⁷⁷ EPA, National Environmental Justice Advisory Council Model Guidelines for Public Participation, EPA.GOV, January 25, 2013, at 10, <https://www.epa.gov/environmentaljustice/model-guidelines-public-participation>.

⁷⁸ Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14,207, 14,212 (Mar. 21, 2006).

⁷⁹ *Id.*

JONATHAN G. C. FOMBONNE
First Assistant County Attorney

TIFFANY S. BINGHAM
Managing Counsel, Environmental

By: /s/ Sarah Jane Utley
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Harris County Attorney's Office
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Houston, Texas 77002
Telephone: (713) 274-5124
Facsimile: (713) 437-4211

Via Email

cc: Dr. Latrice Babin, Director, Harris County Pollution Control Executive Director
Dr. Esmaeil Porsa, Harris Health President and CEO
Barbie Robinson, Harris County Public Health Executive Director

EXHIBIT A

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 19, 2023

MR. BLAKE HAYS
DIRECTOR OF OPERATIONS
TEXAS COASTAL MATERIALS LLC
9026 LAMBRIGHT RD
HOUSTON TX 77075-3208

Re: Permit Application
Permit Number: 173296
Rock Crushing Plant
Houston, Harris County
Regulated Entity Number: RN111769154
Customer Reference Number: CN606158293

Dear Mr. Hays:

Upon evaluation of the above-referenced application, we have determined that your application is deficient and Texas Coastal Materials, LLC must provide additional information to ensure that the requirements for obtaining a permit are met. Please furnish the following information within 15 days:

- The English Public Notice will need to be published in a different publication than previously submitted. The *Star Courier* indicates that the circulation area includes portions of Houston, but does not distribute in the zip code which the site is located. This notice will be the same notice in a newspaper that meets the requirements listed in <https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/permcrushsp.pdf>

2 (C) "The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. If the elementary or middle school nearest to the proposed plant provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice."

After receipt of all the additional information, we will continue the review of your application. If the information furnished in response to this notice results in the need for further clarification or additional information, we will notify you. Please note that the applicant Texas Coastal Materials, LLC is required to furnish all information to demonstrate that the facility or source will comply with all applicable federal and state rules and statutes.

Failure to submit all of the requested information within 15 days of the date of this notification may result in a voidance of your application.

Mr. Blake Hays
Page 2
September 19, 2023

Re: Permit Number: 173296

In addition, please ensure that a copy of the submitted information is also sent to the applicable Texas Commission on Environmental Quality (TCEQ) regional office and any local air pollution control program(s) with jurisdiction. Please note that the cover letter for your submission should indicate that a copy has been sent to the regional office [and local air pollution control program(s), if applicable]. Lists of the TCEQ regional offices and local air pollution control programs are available at:

<https://www.tceq.texas.gov/agency/directory/region/reglist.html>
and
www.tceq.texas.gov/permitting/air/local_programs.html, respectively.

If a new application is not submitted within 180 days from the date of the voidance, you will forfeit the original permit fee.

Thank you for your cooperation in this matter. If you have any questions, please contact me at (512) 239-1362, or write to the TCEQ, Office of Air, Air Permits Division, MC-163, P.O. Box 13087, Austin, Texas 78711-3087.

Sincerely,



Aine Carroll
Air Permits Division
Texas Commission on Environmental Quality

Enclosure

cc: Mr. Jay Lindholm, Trinity Consultants, Dallas
Senior Project Manager, Houston Department of Health and Human Services, Bureau of Pollution
Control & Prevention, Houston
Director, Harris County, Pollution Control Services, Pasadena
Air Section Manager, Region 12 - Houston

Project Number: 360066

EXHIBIT B



OFFICE OF THE
HARRIS COUNTY ATTORNEY
CHRISTIAN D. MENEFFEE

September 11, 2023

Via TCEQ E-Comments

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: Public Meeting; Texas Coastal Materials, LLC Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley St., Houston, Texas 77026.

Dear Ms. Gharis:

On July 7, 2023, the Texas Commission on Environmental Quality (TCEQ) received an application from Texas Coastal Materials, LLC (Texas Coastal) for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (the Application) to construct a new concrete crusher facility at 5875 Kelley St., Texas 77026 (the Facility). The TCEQ has made a determination that the Application is technically complete. On behalf of Harris County and Harris Health, the Harris County Attorney's Office requests that TCEQ hold an in-person public meeting on the Application, re-publish notice of the Application, provide a minimum of 30 days' notice of the public meeting in English and Spanish, and that limited English Proficient (LEP) individuals be provided professional Spanish language interpretation services.

Community Concern

The TCEQ rules require a public meeting when “there is a substantial or significant degree of public interest in an application” or “if a member of the legislature who represents the general area in which the facility is . . . proposed to be located requests that a public meeting be held.” 30 Tex. Admin. Code § 55.154(c)(1) and (2). Both exist for this Application. On August 29 and 30, 2023, Senator Boris Miles and Representative Harold Dutton, respectively, filed public meeting requests with the TCEQ, satisfying 30 Tex. Admin. Code § 55.154(c)(2). Regarding public interest in the Application, community members have already filed comments with the TCEQ and have reached out to Harris Health and Harris County with their concerns. Community member concerns include impacts to health and safety, traffic, dust, emissions, decreased visibility, and nuisance conditions. Emissions will include particulate matter, further saturating an area that is already fails to meet levels set to protect human health and the environment. The nearby TCEQ Wayside monitor data indicates air quality in the area exceeds the annual National Ambient Air Quality Standard for PM_{2.5} of 12.0 µg/m³. Thus, 30 Tex. Admin. Code § 55.154(c)(1) is also satisfied.

Request to Properly Publish Notice of the Application

Texas Coastal is required to publish notice of the Application in a “newspaper of general circulation in the municipality in which the plant is proposed to be located.” 30 Tex. Admin. Code § 39.603(e), *See also* TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers at (2)(C). On August 24, 2023, Texas Coastal publish notice of the Application in the Star Courier, which serves the Highlands, Crosby, and Surrounding Communities. *See Exhibit A*. However, the Facility is located in Houston – not the Highlands, Crosby or their surrounding communities. The Star Courier is part of GrafikPress Newspapers, which has several papers that covers different areas of Harris County. See Figure 1 for GrafikPress Newspaper coverage areas for each of its publications. *Figure 2* notes the proposed location of the Facility. Accordingly, Harris County and Harris Health are concerned that the August 24, 2023 publication in the Star Courier didn’t reach community members impacted by the Application and failed to meet the TCEQ requirement of publication in a newspaper of general circulation in the municipality in which the plant is to be located. In fact, impacted communities are outside of the publication areas of any of GrafikPress Newspaper coverage areas. Harris County and Harris Health request that TCEQ require Texas Coastal to re-publish notice of the Application and that it do so in the Houston Chronicle – a newspaper of general circulation in the impacted communities.



Figure 1: GrafikPress Newspaper coverage areas



Figure 2: Location of Texas Coastal Materials

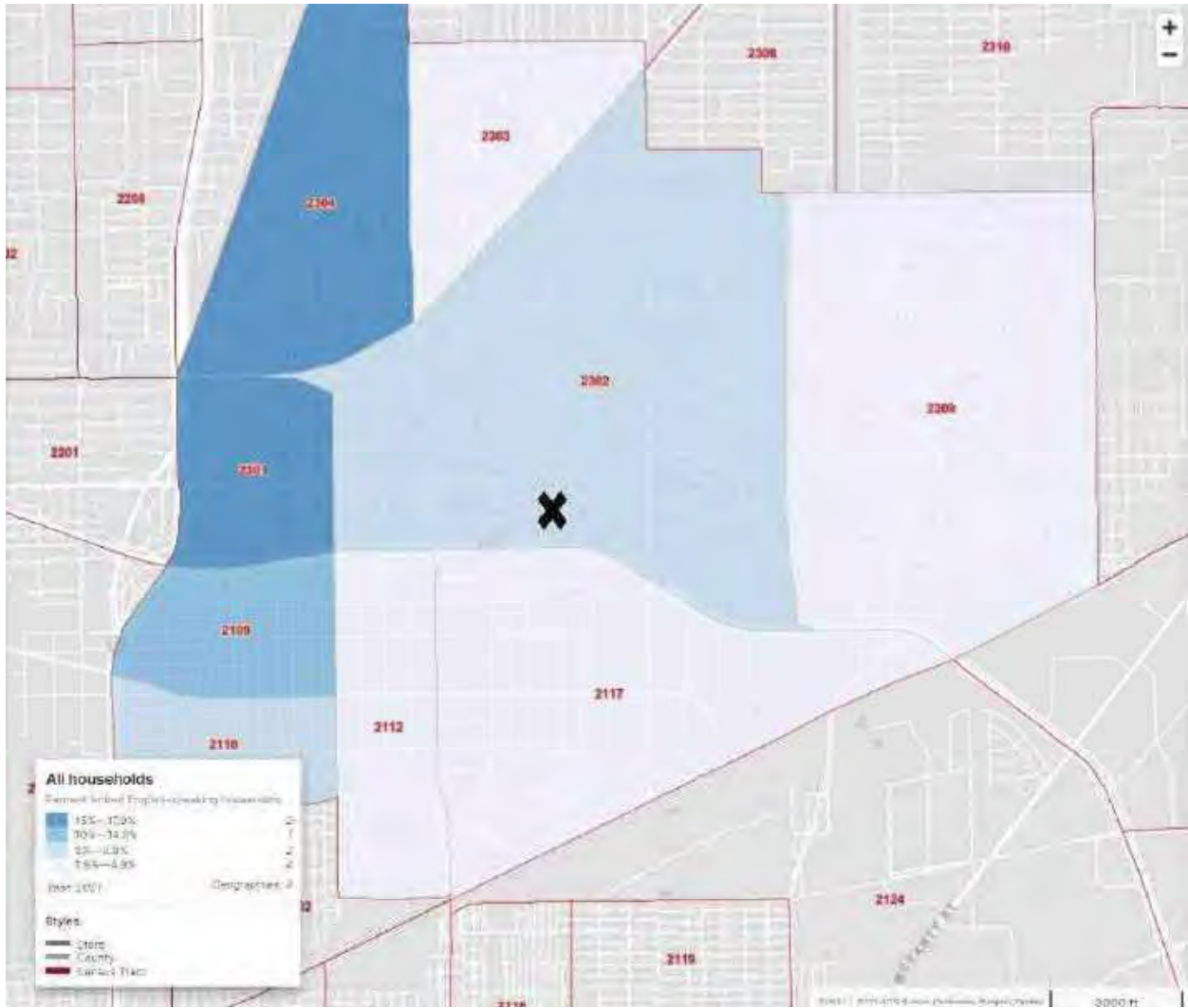
Request for Spanish Interpretation at the Public Meeting

Harris County Attorney’s Office requests that the TCEQ require the permittee to provide Spanish interpretation at the public meeting. According to the most recent 2020 U.S. Census data, the communities surrounding the Facility include linguistically isolated populations – 7.3% of the households in Census Tracts bordering the Facility, including the Facility, are considered limited English-speaking households.¹ Over ninety-eight percent of LEP households near the Facility are Spanish speaking. Spanish speaking Households comprise 29% of total households in the same census tracts. The relevant Census Tracts are:

Census tract	Total number of households	Total number of LEP households	Total number of Spanish speaking households
2109	586	59	148
2110	784	76	168
2112	1,063	20	162
2117	1,286	42	594
2301	609	101	201
2302 (Facility location)	1,744	100	383
2303	809	39	283
2304	1,098	196	542
2309	1,580	69	309
Total	9,559	702 (7.3%)	2,790 (29%)

Table 1: Total number of households, LEP populations, and Spanish speaking LEP populations by U.S. Census Tract for Census Tracts that are adjacent to the Facility, including the Census Tract for the Facility

¹ Data from the 2010–2021 American Community Survey. Limited English-Speaking Households are defined households where all members 14 years or older have some difficulty with English.



Map 1: U.S. Census Tracts showing LEP population density in and adjacent to the Facility location labeled as X.

Given that 7.3% of the households surrounding the Facility have limited English proficiency, a public meeting notice translated to Spanish and professional language interpretation services are warranted for this permit application. TCEQ routinely hosts community functions in Harris County where Spanish interpretation has been necessary as such, this request should not be out of the ordinary for TCEQ.

TCEQ rules rely on data from the nearest elementary or middle schools to a facility to trigger alternative language notice requirements. See 30 Tex. Admin. Code § 39.426. The communities surrounding the Facility are served by the Houston Independent School District and elementary aged children either attend Kashmere Gardens, McGowen, or Cook Elementary Schools. Texas Education Agency 2021-22 School Report Cards for each school is attached as **Exhibit B**. Each school has more than 10% of enrolled students categorized as English Learners. Kashmere Gardens has 10.1%, McGowen has 21.7%, and Cook has 25.1% English Learners. Each school has a very high percentage of Economically Disadvantaged students, 98.9% at Kashmere

Gardens, 99.2% at McGowen, and 98.2% at Cook. Economically Disadvantaged students experience food insecurity and the federal government ensures that they receive at least two hot meals a day either free or at a reduced cost. The Application notes that a bilingual program is required by the Texas Education Code in the school district and that children attending schools closest to the Facility are eligible to be enrolled in that bilingual program. *See* Application, Form PI-1S, Page 5 of 7.

Request for an In-Person Public Meeting

In addition to the language access challenges discussed above, households near the Facility have reduced internet access, limiting their ability to participate in a virtual public meeting. According to the 2021 American Community Survey, anywhere from 16.6% to 40.6% of households surrounding the Facility lack internet.² *See* attached for **Exhibit C**, which includes data from the 2021 American Community Survey. Unless the public meeting has in an-person attendance option, many residents will not be able to participate.

The National Environmental Justice Advisory Council (NEJAC) promulgated the Model Guidelines for Public Participation, which provides that conducting effective public participation in environmental justice communities requires an approach that is “tailored to the specific, unique needs of the particular community where activities are currently in the process of implementation.”³ Further, according to EPA, “[m]eaningful public involvement consists of informing, consulting, and working with potentially affected and affected communities at various stages of the permitting process to address their concerns.”⁴ EPA has also recommended to federal funding recipients that they “[c]onsider tailoring and integrating public involvement practices that engage communities into as many stages of the process as appropriate, so that public involvement becomes more of a ‘culture’ of how agencies think and operate, as opposed to a list of measures to check off as they are completed.”⁵

Due to the low levels of internet access, the Harris County Attorney’s Office requests that the TCEQ provide an in-person public meeting on the Application. It is imperative that the residents have an opportunity to participate in the permitting process for the Facility located in their community. An in person public hearing would allow residents to ask questions and provide oral comments on the Application.

An EPA EJSCREEN report for the communities surrounding the Facility is attached as **Exhibit D**. The report demonstrates that the communities around the Facility are environmental justice communities. The communities are in the 90th to 100th percentile for indexes related to particulate matter, ozone, superfund proximity, and toxic releases to air – while being overwhelmingly people of color, low income, and linguistically isolated. Based on the EJSCREEN

² U.S. Census Bureau, <https://www.census.gov/data.html>.

³ EPA, National Environmental Justice Advisory Council Model Guidelines for Public Participation at 10, <https://www.epa.gov/environmentaljustice/model-guidelines-public-participation>.

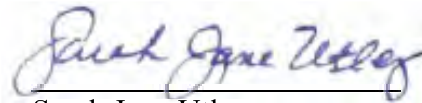
⁴ Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14,207, 14,212 (Mar. 21, 2006).

⁵ *Id.*

report and the additional data above, the Harris County Attorney's Office respectfully requests that TCEQ hold a public meeting on the Application, Coastal Materials be required to pre-publish notice of the Application, that the TCEQ issue public meeting notices in Spanish and English, that the meeting be in-person, and that professional Spanish interpretation services be provided at the public meeting. To do otherwise will deny individuals their right to participate in the TCEQ permitting process.

Sincerely,

CHRISTAN D. MENFEE
Harris County Attorney

A handwritten signature in blue ink that reads "Sarah Jane Utley". The signature is written in a cursive style and is positioned above a horizontal line.

Sarah Jane Utley
Environmental Division Director

Via Email

cc: Dr. Latrice Babin, Director, HCPCS

HIGHLANDS CROSBY Star Courier

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VOL. 70, NO. 32 - \$1.00 THURSDAY, AUGUST 24, 2017 P.O. DRAWER 405, HIGHLANDS, TEXAS 77562

IN THE STARS

EVENTS Rotary Washer Tourney set for Sept. 9

Highlands Rotary Club will hold their annual 5-Hour Washer Tourney on Saturday, September 9, 2017 from 11:00am to 5:00pm. THE PUBLIC IS INVITED TO PARTICIPATE. The Tournament starts at 1:00pm. ...

Chamber hears of Generational Challenges

With more than three decades of experience in the financial and monetary industry, Bella Diaz leads the staff at Sterling-White Financial House in Highlands and discussed her joys working with multiple generations of employees—and challenges.



BELLA DIAZ, Manager, Sterling-White

“Through all of that, each generation has their own requirements. From the employee ‘Gen X’ employees will want you to give an instruction and be prepared to explain why it’s important or how it fits into the bigger picture. Interestingly, they will also research your company to make sure you’re ethical and provide justice, inclusion, and equity,” she said.

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SUPERINTENDENT'S MESSAGE:

Crosby ISD plans \$85 million Bond Issue

The Board of Trustees of Crosby ISD will be asking voters to approve an \$85 million dollar bond to build new schools. On Monday, August 21st, the Board of Trustees voted the bond election for November 7th, 2017. There will be no vote returns to consider to amend the end of the ballot. “Proposition A”



SUPERINTENDENT PAULA PATTERSON

Heating, Ventilation, and Air Conditioning (HVAC) equipment and recessed insulation. Some of our air conditioners are more than 21 years old on some campuses.

grew bond in 2017, the District has approximately \$89.6 million remaining. Earlier this year, the Board of Trustees allocated approximately \$42.9 million for the new addition in Crosby High School, which is currently in the construction phase. The remainder of the 2017 funds would be paired with the \$85 million raised from the 2020 bond to build the new elementary and new middle school phase 1 and maintenance projects. Allow me to explain what “Phase 1” of a new middle school means. The campus would be built to only 6th graders initially. The building will be constructed in a way that it

can be expanded later to accommodate 7th and 8th graders, and because the district’s sound middle school.

The funds approved in 2017 do not have the buying power in 2020 that they did six years ago. That is why we are going to voters to ask for additional borrowing power. “Proposition A” will ask for a tax rate increase. Our bond capacity in a District is \$85 million with no tax rate increase. Why? The answer is two-fold. There are more homes and thus more taxpayers in Crosby ISD, and the appraised value of each home is also increasing. Crosby ISD’s bond will

Back-2-School First Day of Classes:

Table with 2 columns: DISTRICT and DATE. Rows include HIGHLANDS, CROSBY, HUFFMAN, COOPER, GLENN, DAYTON, and BAYVIEW.

THEA/SJRC meeting set for August 29 in Highlands

HIGHLANDS – THEA (Texas Health and Environment Action) has announced an important Upcoming Meeting On the Superfund Cleanup at the San Jacinto River. The San Jacinto River Coalition will meet August 29th at 8pm to discuss remediation at the West 7th Superfund Site. We will discuss three very important topics. When we talk to residents one-on-one, we hear about loved ones lost, illnesses and cancer, especially cancer striking the very young. We need to



come together and push the state to update its study of cancer rates in the community. The cleanup at the Southern Pl is proceeding on schedule. We’ll talk about the next steps. Unfortunately, the EPA is not moving quickly enough to finalize the remediation at the Northern

Heart Screening for Athletes is subject of Rotary talk

HIGHLANDS – Scott Stephens was the guest speaker at the Rotary weekly luncheon last week. He spoke about screening high school youth, especially athletes, for undetected heart disease that lead to SCA, or Sudden Cardiac Arrest, and death. Stephens’s son Cody died of SCA 11 years ago, in 2002 at their home in Crosby. A healthy looking high school senior, Cody died in his sleep while resting in a chair. As a result, his fa-



Scott Stephens of the Cody Foundation received a check from Highlands Rotary-People’s Center. Scott is supporting heart screening.

RACHEL'S DINER Southern Cooking Buffet - Coming Soon! 14280 FM 2100 (Across from Walmart) 281-462-7349

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GOOSE CREEK CISD NEWS

ATAT Inducts John George Sr. to the 2023 Texas Hall of Fame

August 17, 2023 - The Agriculture Teachers Association of Texas (ATAT) recently hosted its annual Professional Development Conference for teachers of agriculture, food and natural resources in person in Dallas. The week-long conference was designed specifically for the educational enrichment of agriculture teachers and stakeholders and allows attendees to enhance teaching methods, discuss developments in curriculum, learn more about industry-based student certifications as well as network with leaders within the agriculture education profession.

John George, Sr. was posthumously inducted, along with 57 other members from across the state, to ATAT's 2023 Texas Hall of Fame. George taught at Haggraves, Crouley and Ross S. Sterling High schools, where he chartered the Ross S. Sterling High School chapter of the Future Farmers of America in 1974 and continued to lead the program until his death in 1990.

"Educators across Texas have a heavy weight on their shoulders - developing the future generations of our state. The Hall of Fame awards shine a light on Texas FFA agriculture education teachers, including John George, Sr., that have gone the extra mile during their careers to ensure every student has an opportunity to thrive," said Ray Pustianik, executive director of ATAT. "We are honored to recognize non-retired educators for their dedication and passion to growing students into leaders. Thank you, John, for the difference you've made in your students' lives and Texas overall!"

In December 2019 a lively ceremony attended by former students, faculty members, family and other friends, the Goose Creek CISD Agriculture Center was dedicated to John D. George. A plaque that is now displayed in the facility was unveiled by his wife, Shirley George.

The ATAT is a professional organization for agriculture science teachers and supporters that informs members about the latest agriculture education practices, encourages higher standards of teaching and provides a unified voice in the state legislature. For more information on ATAT and Texas FFA, visit www.ataatexas.org or www.texasffa.org.



John D. George, Jr. (left) accepts the ATAT's Hall of Fame award for the George family, presented by Donald Gailley (right), Ross S. Sterling High School Ag Science on behalf of ATAT Board of Directors and former RSS FFA student.



Ag Science Teachers (back row l to r: Josh Wade, Robert C. Lee High School (RS), Donald Gailley, Ross J. Sterling High School (RS), Ashley Lee, RSS, Kelly Hill, South Career Tech High School (SCTC), and front row l to r: Nivola Jaramas, SCTC), Deborah Banks, RSS, Jennifer Gailley, CTE, Shirley George and Rex Miller, SCTC.



Alternate view of presentation (see above)



John D. George's family (from left: Justin and Jill George, Donald and Jennifer Gailley, Shirley George and John & Stephanie George) attend the ATAT Professional Development Conference and receive an award in John D. George's memory.



Ken Rogers (left, GOOCD head Ag Science teacher, Shirley George (middle, wife of John George and widow GOOCD teacher), and Jennifer Gailley, GOOCD CTE, display the award presented posthumously to John D. George, Sr.

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- KIDS ZONE/SPLASH PAD
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- 10AM CORNHOLE TOURNAMENT
- BAYOU CITY BAGGER
- 10AM SHOW N SHINE TRUCKS, CARS & OFFROAD VEHICLES
- 12PM MUTTON BUSTING
- 4-30PM AWARDS
- 5PM LIVE AUCTION

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Addie's Faith Foundation is a 501(c)(3) non-profit organization. All proceeds go to pediatric cancer families for support and pediatric cancer research.

First Day of School at E.F. Green Jr. School



Dr. Randall O'Brien, superintendent of schools for Goose Creek CISD, and Dr. G. welcome Dr. Alicia Babin, the new E.F. Green Junior School principal.



Dr. Randall O'Brien, superintendent of schools for Goose Creek CISD, greets students from E.F. Green Junior School on the first day of school.



Taylor Green, a sixth grader at E.F. Green Junior School, hangs out with Dr. G, the GOOCD mascot.

★ OPINION PAGE ★



Building Your Pet Disaster Evacuation Kit: Kids Edition

Land Commissioner Dawn Buckingham Joins Council Kids to Unbox Disaster Evacuation Bag for Pets



AUSTIN – Texas Land Commissioner Dawn Buckingham, M.D., is delighted by some of Texas’ resilient kids to unbox items pets will need in case of an evacuation during a disaster. In this special video of a council and educational series aimed at encouraging Texas to prepare for natural disasters, children **TELL** us how not to forget their furry, furred, and feathered friends.

“As you prepare your family’s emergency plan, evacuation routes, and go-bag, remember to pack a separate bag with everything your pets need if you have to leave home in a hurry,” Commissioner Buckingham said. “For many of us, our pets are an extension of our family so they should have a bag too. This task is a great way to include children in your disaster preparedness planning, even if that means using dog leashes as flashlights!”

Watch these carefully chosen kiddos help Commissioner Buckingham unbox a pet evacuation go-bag.

WATCH UNBOXING VIDEO:

The GLO messages all Texans to prepare for hurricanes season by preparing an evacuation “go bag” for their pets, including the following:

- 1. Each pet should have enough food and water to last them at least 72 days. Don’t forget to change out their food every 2 days.
- 2. If daily medication is required for your animal, be sure to have enough for at least two weeks and store them in an airtight container. In case of any injury to your pet, be sure to include a first-aid kit. Include the animal’s health and vaccination records both with other documents.

3. Bring copies of your animals’ registration papers, adoption information, or other records for each pet. Include pictures of your pets individually with you. This will help reunite you if your pet gets lost during an evacuation.

4. Make sure your pet is microchipped, which provides the best chance for efficient reunification if you get separated during a disaster.

5. You can begin preparing your livestock and horses for a natural disaster by maintaining an inventory, making sure animals have some type of identification, and planning evacuation arrangements.

WATCH VIDEO FOR MORE TIPS!

Whether massive heat waves, powerful tornadoes or damaging hurricanes, it is important to be prepared to evacuate. Texas has had 372 declared disaster days since 1953. Of Texas’ total declarations, more than 20% happened in August or later. Evacuations are more common than most may think, and few disasters come without a lot of warning time.

Download the GLO’s Disaster Evacuation Checklist for more information. Texans can follow along on social media, watch the GLO’s preparedness tips on YouTube, and find resources for family and pet preparedness at www.texas.gov/get-prepared.



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SPORTS PAGE

SEASON FOOTBALL PREVIEW

Texans fortunes looking up with new head coach: All roads lead to Houston for CFP title game in Jan

The 2023 season is about to get underway for the Houston Texans...



KIRNER'S KORNER By Mike Kirsner

During the week, the competition...

Texans of the 2023 season...

With a solid defense...

The Red Bull and Super Bowl...

But the Texans in College...

This will be the first season...

As the season begins...

and that will be the...

While the season...

It's hard to make...

We will also be...

The Texans have...

As the season...

will be looking for...

and that will be...

While the season...

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★ IN THE STARS

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 Corey Marks
 Curtis Foster
 Gene Lynn Mosby
 Rex Russell Mosby
 Andrew Hunt
 Malin O'Brien
 Aug. 23: Brenda White
 Rebecca Meyer
 Aug. 25: Tony Miller
 Steve Myers
 Aug. 29: Alex Cline
 Myra Hodge
 Pamela Lewis
 Aug. 31: Lisa Robinson
 Aug. 11: Brian Conrad
 Jeff Brinson
 Jennifer Campbell
 Gary Lee Dot
 Lynn Ray Lee

ANNIVERSARIES
 Aug. 26: Lee White & Arlene Harmon
 Aug. 28: William A. Moore & Judith Ann
 Aug. 29: Kim & Barbara Nelson
 Aug. 30: Glenn & Edith Perry
 Aug. 31: Deborah & Lewis Conrad

Crosby bond issue,

CONTINUED FROM PAGE 1

10,000 homes will produce an estimated 4,500 new students to Crosby ISD.

You may wonder what is different in 2023 compared to 2011. The fact is that our bond rating has been upgraded, with Moody's Investor Services stating the district has a "national level of strong operating performance leading to ample and growing reserves." <http://www.moody.com/news/2023/08/24/crosby-isd-upgraded>

I look forward to meeting with many of you as we take our bond proposal on tour and share our vision for the next chapter of Crosby ISD. You can read more now at www.crosbyisd.org/Bond2023.

We are Moving Forward! Go Cougal!



FOOTBALL SCHEDULES

FRIDAY, AUGUST 25
 Mansfield West at Barbara Hall 7 p.m., Eagle Stadium in Mont Belvieu
 Crosby at C.E. King, 7 p.m., Panther Stadium in Houston
 Humble at Channelview 7 p.m., Ray Maclay Memorial Stadium in Channelview
 Porter at Dayton, 7 p.m., Bronco Stadium in Dayton
 Galena Park at Goose Creek Memorial, 7 p.m., Steinhorn Stadium in Baytown
 Legacy School of Sport Sciences at Huffman Highgate, 7 p.m., Frazier Stadium in Huffman
 North Shore at The Woodlands, 7 p.m., Woodland Bank Stadium in Shenandoah

Heart Screening talk,

CONTINUED FROM PAGE 1

that and mother started a foundation, the Cody Stephens Foundation, to provide ECG heart screening to other youth, to detect and avoid the problem that took Cody's life.

Although still active in his business as a commercial real estate appraiser, a cardiovascular health specialist said he devoted his life to raise awareness of this silent killer and help prevent other families from experiencing the loss and heartache of losing a child to SCA.

Since Cody's death in 2012, the foundation has raised over \$1,000,000 to provide screenings and education in SCA. Over 170,000 young men and

women have been screened, Scott says, and 186 lives saved.

In addition, the foundation has placed over 91 ECG machines in school districts, to help provide screening. The unit checks for structural or electrical problems in the heart, and if found a referral to a physician for further help is made.

In 2019 Scott was able to get the Texas Legislature to adopt House Bill 78 (Cody's Satchel number) with the help of State Representative Dan Huberty and State Senator Carol Alvarado. As a result, every student now has the option of having an ECG heart screening as part of

their athletic physical exam.

SCA or Sudden Cardiac Arrest is a condition in which the heart suddenly and unexpectedly stops beating. If this happens, blood stops flowing to the brain and other vital organs. SCA usually causes death. It's not treated with a stent. A simple electrocardiogram (ECG or EKG) can detect major signs of SCA. The Highlands Rotary Club has been a supporter of the Cody Foundation for a number of years, and club President Dennis Smith presented Scott Stephens with a check as further indication of the support.

Sheriff conducts successful Runaway Rescue operation

Harris County, TX — August 16, 2023 — Sheriff Ed Gonzalez and the Harris County Sheriff's Office (HCSO) completed a three-day operation aimed at locating and recovering at-risk runaway youth. From August 10-12, 2023, the collaborative efforts of the Missing Persons Unit, Human Trafficking Unit, Child Abuse Unit, and Crime Reduction Units (CRU) culminated in a comprehensive rescue operation resulting in the successful location of 31 youths.

The goal of this initial operation was to locate and rescue runaway youths ages 12-17 who were susceptible to human traffick-

ing and to ensure the safe return of runaway youth to their parents or guardians in time for the upcoming school year.

Highly trained search teams comprised of uniformed deputies, Human Trafficking and Child Abuse Investigators, were strategically deployed throughout Harris County.

On Friday, Aug. 11, Erika Salazar, 42, was arrested for Harboring a Runaway Child. In another case, through follow-up investigations, deputies were led to a young female located in the state of Louisiana who may be a potential victim of

human trafficking. The HCSO will continue to collaborate with law enforcement agencies locally and in Louisiana to ensure the safety and welfare of this young individual.

Sheriff Ed Gonzalez expressed his gratitude to all the units involved, as well as the dedication and tireless efforts of the deputies and investigators. "Our mission to protect our youth and ensure their safety remains a top priority. This operation demonstrates our commitment to serve and protect our community's most vulnerable especially as they face potential risks and challenges."

Fatal cycle/SUV crash on 1942 in Crosby

HARRIS COUNTY — A deadly crash involving a motorcycle and an SUV caused major traffic problems for a Crosby ISD school near FM 1942.

The crash happened at about 5:15 a.m. Monday morning on FM 1942, according to Harris County Sheriff Ed Gonzalez.

A Chevrolet Traverse was traveling northbound on FM 1942, according to Major Brian Cotter.



Wrecked down attach a chain to the cycle which is lying on the ground. The SUV beyond was involved in the fatal accident.

struck across the intersection. That's when the two collided.

The motorcycle was seriously damaged at the scene. Cotter said the driver of the Traverse had not been drinking. The crash will be presented to the district attorney's office to determine

if charges will be filed. The 74-year-old Barrett Elementary School was closing slow and being diverted to Bahama Hall Road and Seawings, but according to Gonzalez, no school FM 1942 reopened by about 7:45 a.m.

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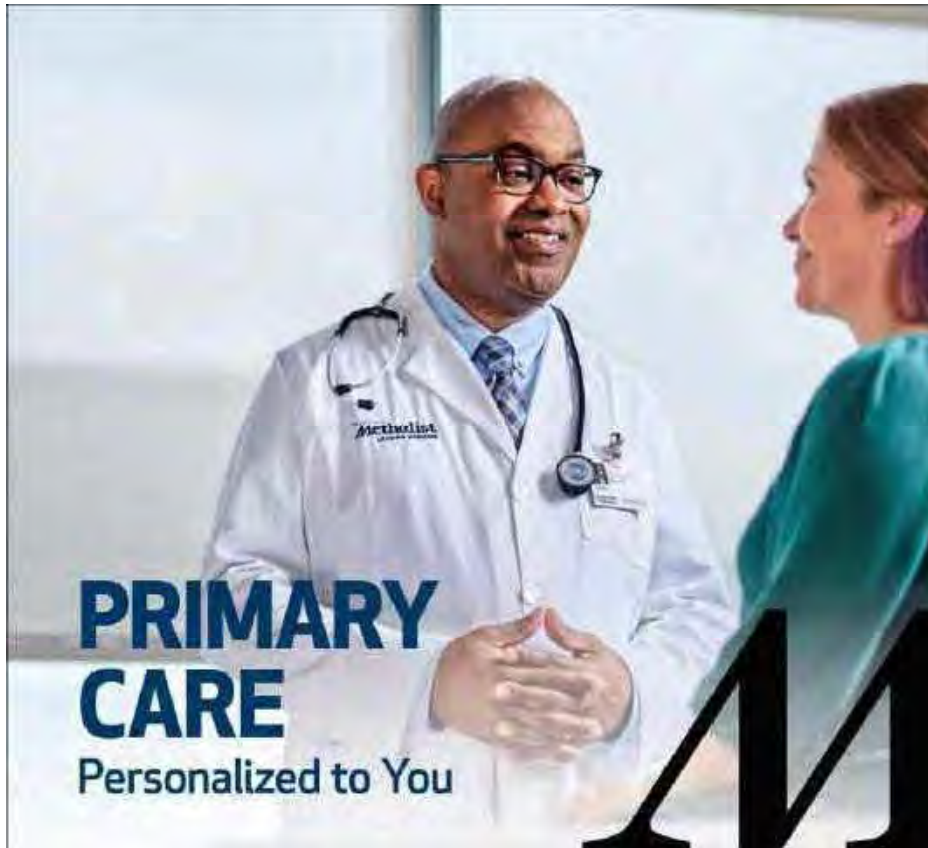
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houstonmethodist.org/pcg/east
281.428.2273

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	445
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsrv1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



84 of 100



51 of 100



89 of 100



72 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
 KASHMERE GARDENS EL (101912185) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about KASHMERE GARDENS EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	91.3%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	78.7%	22.1%	12.8%
Hispanic	19.1%	61.9%	52.8%
White	0.9%	9.7%	26.3%
American Indian	0.0%	0.2%	0.3%
Asian	0.0%	4.5%	4.8%
Pacific Islander	0.2%	0.1%	0.2%
Two or More Races	1.1%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	98.9%	79.2%	60.7%
Special Education	5.6%	8.4%	11.6%
Emergent Bilingual/EL	10.1%	35.1%	21.7%
Mobility Rate (2020-21)			
	17.1%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	21.3	18.2	18.7
Grade 1	14.1	15.7	18.7
Grade 2	19.0	15.4	18.6
Grade 3	14.2	14.4	18.7
Grade 4	18.4	13.7	18.8
Grade 5	15.5	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$8,479	\$10,524	\$11,106
Instruction	\$5,645	\$5,989	\$6,358
Instructional Leadership	\$87	\$185	\$186
School Leadership	\$1,181	\$749	\$654

Texas Education Agency
2022 School Report Card
 KASHMERE GARDENS EL (101912185) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	48%	48%	51%	-	-	-	-	*	48%
	2021	67%	57%	22%	20%	26%	*	-	-	-	-	22%
ELA/Reading	2022	75%	70%	50%	48%	55%	-	-	-	-	*	50%
	2021	68%	60%	30%	28%	35%	*	-	-	-	-	30%
Mathematics	2022	72%	67%	51%	51%	55%	-	-	-	-	*	51%
	2021	66%	53%	20%	18%	29%	*	-	-	-	-	20%
Science	2022	76%	68%	36%	37%	31%	-	-	-	-	-	36%
	2021	71%	59%	8%	7%	11%	-	-	-	-	-	8%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	19%	18%	24%	-	-	-	-	*	19%
	2021	41%	33%	7%	6%	9%	*	-	-	-	-	7%
ELA/Reading	2022	53%	49%	25%	24%	32%	-	-	-	-	*	25%
	2021	45%	38%	11%	12%	10%	*	-	-	-	-	11%
Mathematics	2022	42%	38%	16%	14%	26%	-	-	-	-	*	16%
	2021	37%	27%	5%	3%	10%	*	-	-	-	-	5%
Science	2022	47%	39%	9%	12%	0%	-	-	-	-	-	9%
	2021	44%	33%	3%	0%	11%	-	-	-	-	-	3%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	7%	6%	9%	-	-	-	-	*	7%
	2021	18%	15%	2%	2%	4%	*	-	-	-	-	2%
ELA/Reading	2022	25%	24%	11%	11%	13%	-	-	-	-	*	11%
	2021	18%	16%	6%	5%	10%	*	-	-	-	-	6%
Mathematics	2022	20%	19%	3%	2%	10%	-	-	-	-	*	3%
	2021	18%	13%	0%	0%	0%	*	-	-	-	-	0%
Science	2022	21%	17%	5%	7%	0%	-	-	-	-	-	5%
	2021	20%	14%	0%	0%	0%	-	-	-	-	-	0%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	86	83	93	-	-	-	-	-	86
	2019	69	68	74	75	69	-	-	-	-	-	72
ELA/Reading	2022	78	81	88	86	95	-	-	-	-	-	88
	2019	68	68	84	85	79	-	-	-	-	-	83
Mathematics	2022	69	75	83	81	90	-	-	-	-	-	83
	2019	70	68	63	64	58	-	-	-	-	-	62
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	396
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsrv1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



85 of 100



56 of 100



89 of 100



75 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
MCGOWEN EL (101912179) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about MCGOWEN EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	92.4%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	60.4%	22.1%	12.8%
Hispanic	38.6%	61.9%	52.8%
White	0.5%	9.7%	26.3%
American Indian	0.0%	0.2%	0.3%
Asian	0.0%	4.5%	4.8%
Pacific Islander	0.0%	0.1%	0.2%
Two or More Races	0.5%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	99.2%	79.2%	60.7%
Special Education	7.6%	8.4%	11.6%
Emergent Bilingual/EL	21.7%	35.1%	21.7%
Mobility Rate (2020-21)			
	17.8%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	17.6	18.2	18.7
Grade 1	19.2	15.7	18.7
Grade 2	10.1	15.4	18.6
Grade 3	13.9	14.4	18.7
Grade 4	11.8	13.7	18.8
Grade 5	13.2	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$8,558	\$10,524	\$11,106
Instruction	\$6,265	\$5,989	\$6,358
Instructional Leadership	\$98	\$185	\$186
School Leadership	\$916	\$749	\$654

Texas Education Agency
2022 School Report Card
MCGOWEN EL (101912179) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	54%	54%	53%	*	-	-	-	*	54%
	2021	67%	57%	35%	35%	31%	50%	-	-	-	-	35%
ELA/Reading	2022	75%	70%	62%	63%	58%	*	-	-	-	*	62%
	2021	68%	60%	44%	47%	36%	*	-	-	-	-	45%
Mathematics	2022	72%	67%	50%	51%	50%	*	-	-	-	*	50%
	2021	66%	53%	29%	27%	31%	*	-	-	-	-	30%
Science	2022	76%	68%	42%	38%	48%	-	-	-	-	-	43%
	2021	71%	59%	26%	21%	31%	-	-	-	-	-	27%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	27%	26%	28%	*	-	-	-	*	27%
	2021	41%	33%	12%	15%	8%	0%	-	-	-	-	12%
ELA/Reading	2022	53%	49%	35%	36%	32%	*	-	-	-	*	34%
	2021	45%	38%	17%	21%	7%	*	-	-	-	-	17%
Mathematics	2022	42%	38%	25%	22%	29%	*	-	-	-	*	25%
	2021	37%	27%	11%	12%	10%	*	-	-	-	-	11%
Science	2022	47%	39%	12%	10%	14%	-	-	-	-	-	12%
	2021	44%	33%	5%	7%	0%	-	-	-	-	-	5%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	11%	9%	13%	*	-	-	-	*	11%
	2021	18%	15%	6%	7%	2%	0%	-	-	-	-	6%
ELA/Reading	2022	25%	24%	14%	14%	15%	*	-	-	-	*	14%
	2021	18%	16%	10%	12%	2%	*	-	-	-	-	10%
Mathematics	2022	20%	19%	9%	5%	13%	*	-	-	-	*	8%
	2021	18%	13%	4%	5%	3%	*	-	-	-	-	4%
Science	2022	21%	17%	8%	7%	10%	-	-	-	-	-	8%
	2021	20%	14%	0%	0%	0%	-	-	-	-	-	0%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	87	84	90	-	-	-	-	-	88
	2019	69	68	73	68	83	-	-	-	-	-	72
ELA/Reading	2022	78	81	84	83	84	-	-	-	-	-	85
	2019	68	68	72	69	78	-	-	-	-	-	71
Mathematics	2022	69	75	90	85	96	-	-	-	-	-	91
	2019	70	68	73	67	88	-	-	-	-	-	72
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

School Information

District Name:	HOUSTON ISD
Campus Type:	Elementary
Total Students:	509
Grade Span:	PK - 05

For more information about this campus, see:

<https://TXschools.gov>

or the Texas Academic Performance Report at:

<https://rptsvr1.tea.texas.gov/perfreport/tapr/2022/index.html>

Accountability Ratings

This measures how much students are learning in each grade and whether or not they are ready for the next grade. It also shows how well a school or district prepares their students for success after high school in college, the workforce, or the military. State accountability ratings are based on three domains: Student Achievement, School Progress, and Closing the Gaps. Scores are scaled from 0 to 100 to align with letter grades.

Overall Rating

Student Achievement

School Progress

Closing the Gaps



85 of 100



69 of 100



88 of 100



78 of 100

Distinction Designations

Campuses that earn a rating of A-C are eligible for as many as seven distinction designations that are awarded when a school or district shows exceptional achievement in certain areas.



Texas Education Agency
2022 School Report Card
 COOK JR EL (101912358) - HOUSTON ISD - HARRIS COUNTY

Student Information

This section provides demographic information about COOK JR EL, including attendance rates, enrollment percentages for various student groups, student mobility rates, and class size averages at the campus, district, and state level, where applicable.

	Campus	District	State
Attendance Rate (2020-21)			
	85.6%	93.7%	95.0%
Enrollment by Race/Ethnicity			
African American	52.3%	22.1%	12.8%
Hispanic	44.4%	61.9%	52.8%
White	1.8%	9.7%	26.3%
American Indian	0.4%	0.2%	0.3%
Asian	0.2%	4.5%	4.8%
Pacific Islander	0.2%	0.1%	0.2%
Two or More Races	0.8%	1.6%	2.9%
Enrollment by Student Group			
Economically Disadvantaged	98.2%	79.2%	60.7%
Special Education	6.1%	8.4%	11.6%
Emergent Bilingual/EL	25.1%	35.1%	21.7%
Mobility Rate (2020-21)			
	22.7%	14.0%	13.6%

	Campus	District	State
Class Size Averages by Grade or Subject			
Elementary			
Kindergarten	15.9	18.2	18.7
Grade 1	16.6	15.7	18.7
Grade 2	16.0	15.4	18.6
Grade 3	18.5	14.4	18.7
Grade 4	16.2	13.7	18.8
Grade 5	17.0	14.0	20.2
Grade 6	-	19.1	19.2
Secondary			
English/Language Arts	-	17.6	16.3
Foreign Languages	-	22.7	18.4
Mathematics	-	21.2	17.5
Science	-	21.5	18.5
Social Studies	-	22.8	19.1

School Financial Information (2020-21)

Various financial indicators based on actual data from the prior year are reported for the campus, district, and state. For more information, see: <http://tea.texas.gov/financialstandardreports/>

	Campus	District	State
Instructional Expenditure Ratio	n/a	63.8%	64.2%
Instructional Staff Percent	n/a	58.1%	64.9%

	Campus	District	State
Expenditures per Student			
Total Operating Expenditures	\$9,311	\$10,524	\$11,106
Instruction	\$6,762	\$5,989	\$6,358
Instructional Leadership	\$113	\$185	\$186
School Leadership	\$870	\$749	\$654

Texas Education Agency
2022 School Report Card
 COOK JR EL (101912358) - HOUSTON ISD - HARRIS COUNTY

STAAR Outcomes

This section provides STAAR performance and Academic Growth outcomes. Academic Growth measures whether students are maintaining performance or improving from year to year

		State	District	Campus	African American	Hispanic	White	American Indian	Asian	Pacific Islander	Two or More Races	Econ Disadv
STAAR Performance Rates at Approaches Grade Level or Above (All Grades Tested)												
All Subjects	2022	74%	69%	64%	62%	69%	50%	-	*	-	*	64%
	2021	67%	57%	56%	48%	70%	-	-	-	-	-	55%
ELA/Reading	2022	75%	70%	72%	75%	69%	*	-	*	-	*	72%
	2021	68%	60%	56%	47%	70%	-	-	-	-	-	54%
Mathematics	2022	72%	67%	64%	58%	76%	*	-	*	-	*	64%
	2021	66%	53%	61%	54%	74%	-	-	-	-	-	59%
Science	2022	76%	68%	42%	37%	48%	*	-	-	-	-	42%
	2021	71%	59%	38%	35%	50%	-	-	-	-	-	36%
STAAR Performance Rates at Meets Grade Level or Above (All Grades Tested)												
All Subjects	2022	48%	43%	37%	33%	42%	40%	-	*	-	*	36%
	2021	41%	33%	30%	21%	43%	-	-	-	-	-	29%
ELA/Reading	2022	53%	49%	37%	35%	39%	*	-	*	-	*	37%
	2021	45%	38%	38%	29%	54%	-	-	-	-	-	38%
Mathematics	2022	42%	38%	43%	37%	56%	*	-	*	-	*	43%
	2021	37%	27%	25%	14%	45%	-	-	-	-	-	25%
Science	2022	47%	39%	17%	18%	16%	*	-	-	-	-	17%
	2021	44%	33%	9%	12%	0%	-	-	-	-	-	9%
STAAR Performance Rates at Masters Grade Level (All Grades Tested)												
All Subjects	2022	23%	21%	19%	16%	26%	20%	-	*	-	*	19%
	2021	18%	15%	14%	10%	21%	-	-	-	-	-	14%
ELA/Reading	2022	25%	24%	20%	16%	28%	*	-	*	-	*	20%
	2021	18%	16%	15%	14%	19%	-	-	-	-	-	15%
Mathematics	2022	20%	19%	23%	18%	32%	*	-	*	-	*	22%
	2021	18%	13%	16%	9%	29%	-	-	-	-	-	16%
Science	2022	21%	17%	6%	5%	6%	*	-	-	-	-	6%
	2021	20%	14%	6%	8%	0%	-	-	-	-	-	6%
Academic Growth Score (All Grades Tested)												
Both Subjects	2022	74	78	80	83	75	-	-	-	-	-	80
	2019	69	68	72	67	80	-	-	-	-	-	72
ELA/Reading	2022	78	81	72	77	63	-	-	-	-	-	73
	2019	68	68	70	66	77	-	-	-	-	-	70
Mathematics	2022	69	75	87	89	85	-	-	-	-	-	87
	2019	70	68	74	68	82	-	-	-	-	-	74
- Indicates there are no students in the group. * Indicates results are masked due to small numbers to protect student confidentiality. n/a Indicates data reporting is not applicable for this group.												

Table: ACSST5Y2021.S2801

Census Tract 2109, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	454	±114	77.5%	±10.6	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±7.8	
Broadband of any type	454	±114	77.5%	±10.6	
Cellular data plan	404	±121	68.9%	±11.8	
Cellular data plan with no other type of Internet subscription	87	±70	14.8%	±11.7	
Broadband such as cable, fiber optic or DSL	353	±122	60.2%	±16.0	
Satellite Internet service	46	±36	7.8%	±6.3	
Without an Internet subscription	132	±62	22.5%	±10.6	

Table: ACSST5Y2021.S2801

Census Tract 2110, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	466	±106	59.4%		±13.0
Dial-up with no other type of Internet subscription	0	±14	0.0%		±5.9
Broadband of any type	466	±106	59.4%		±13.0
Cellular data plan	446	±106	56.9%		±13.1
Cellular data plan with no other type of Internet subscription	102	±70	13.0%		±8.5
Broadband such as cable, fiber optic or DSL	351	±92	44.8%		±12.0
Satellite Internet service	57	±45	7.3%		±5.7
Without an Internet subscription	318	±126	40.6%		±13.0

Table: ACSST5Y2021.S2801

Census Tract 2112, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	657	±158	61.8%		±11.8
Dial-up with no other type of Internet subscription	0	±14	0.0%		±4.4
Broadband of any type	657	±158	61.8%		±11.8
Cellular data plan	637	±162	59.9%		±12.1
Cellular data plan with no other type of Internet subscription	250	±132	23.5%		±11.5
Broadband such as cable, fiber optic or DSL	407	±134	38.3%		±11.8
Satellite Internet service	19	±23	1.8%		±2.2
Without an Internet subscription	406	±142	38.2%		±11.8

Table: ACSST5Y2021.S2801

Census Tract 2117, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,017	±179	79.1%	±9.4	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±3.6	
Broadband of any type	1,017	±179	79.1%	±9.4	
Cellular data plan	927	±187	72.1%	±10.2	
Cellular data plan with no other type of Internet subscription	233	±114	18.1%	±8.4	
Broadband such as cable, fiber optic or DSL	706	±184	54.9%	±12.4	
Satellite Internet service	198	±129	15.4%	±9.4	
Without an Internet subscription	269	±126	20.9%	±9.4	

Table: ACSST5Y2021.S2801

Census Tract 2301, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	463	±198	76.0%		±12.5
Dial-up with no other type of Internet subscription	0	±14	0.0%		±7.5
Broadband of any type	463	±198	76.0%		±12.5
Cellular data plan	449	±202	73.7%		±13.4
Cellular data plan with no other type of Internet subscription	232	±187	38.1%		±20.7
Broadband such as cable, fiber optic or DSL	216	±79	35.5%		±14.7
Satellite Internet service	23	±20	3.8%		±3.6
Without an Internet subscription	146	±64	24.0%		±12.5

Table: ACSST5Y2021.S2801

Census Tract 2302, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,259	±186	72.2%	±7.0	
Dial-up with no other type of Internet subscription	0	±20	0.0%	±2.7	
Broadband of any type	1,259	±186	72.2%	±7.0	
Cellular data plan	1,164	±195	66.7%	±7.7	
Cellular data plan with no other type of Internet subscription	344	±138	19.7%	±8.0	
Broadband such as cable, fiber optic or DSL	882	±194	50.6%	±8.6	
Satellite Internet service	55	±49	3.2%	±2.8	
Without an Internet subscription	485	±129	27.8%	±7.0	

Table: ACSST5Y2021.S2801

Census Tract 2303, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	675	±123	83.4%	±7.9	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±5.7	
Broadband of any type	675	±123	83.4%	±7.9	
Cellular data plan	642	±123	79.4%	±7.6	
Cellular data plan with no other type of Internet subscription	165	±85	20.4%	±10.1	
Broadband such as cable, fiber optic or DSL	504	±113	62.3%	±10.0	
Satellite Internet service	66	±53	8.2%	±6.3	
Without an Internet subscription	134	±63	16.6%	±7.9	

Table: ACSST5Y2021.S2801

Census Tract 2304, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	Margin of Error
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	884	±375	80.5%		±9.9
Dial-up with no other type of Internet subscription	0	±14	0.0%		±4.2
Broadband of any type	884	±375	80.5%		±9.9
Cellular data plan	852	±378	77.6%		±11.1
Cellular data plan with no other type of Internet subscription	305	±128	27.8%		±13.5
Broadband such as cable, fiber optic or DSL	506	±363	46.1%		±20.3
Satellite Internet service	73	±71	6.6%		±6.8
Without an Internet subscription	214	±98	19.5%		±9.9

Table: ACSST5Y2021.S2801

Census Tract 2309, Harris County, Texas					
Total			Percent		
Label	Estimate	Margin of Error	Estimate	Margin of Error	
TYPE OF INTERNET SUBSCRIPTIONS					
With an Internet subscription:	1,182	±211	74.8%	±9.4	
Dial-up with no other type of Internet subscription	0	±14	0.0%	±3.0	
Broadband of any type	1,182	±211	74.8%	±9.4	
Cellular data plan	1,110	±213	70.3%	±9.7	
Cellular data plan with no other type of Internet subscription	314	±144	19.9%	±8.5	
Broadband such as cable, fiber optic or DSL	777	±179	49.2%	±9.6	
Satellite Internet service	147	±107	9.3%	±6.5	
Without an Internet subscription	398	±151	25.2%	±9.4	



EJScreen Community Report

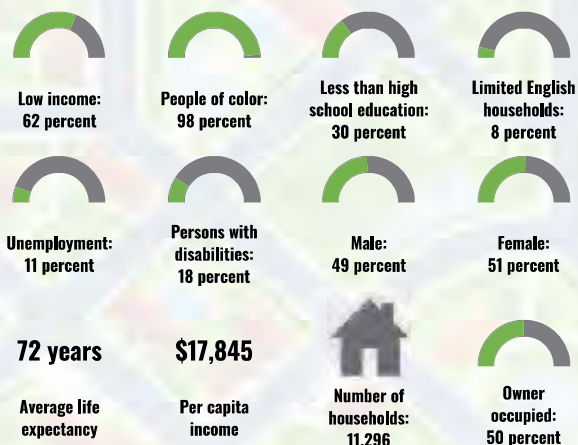
This report provides environmental and socioeconomic information for user-defined areas, and combines that data into environmental justice and supplemental indexes.

Houston, TX

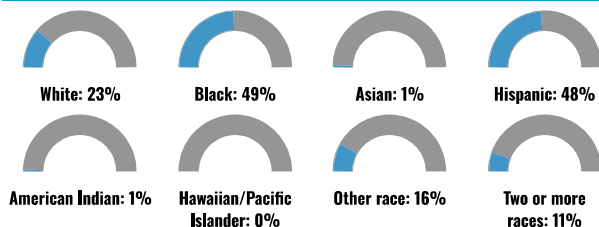
2 miles Ring Centered at 29.811232,-95.306225
 Population: 32,464
 Area in square miles: 12.56



COMMUNITY INFORMATION



BREAKDOWN BY RACE



BREAKDOWN BY AGE



LIMITED ENGLISH SPEAKING BREAKDOWN



LANGUAGES SPOKEN AT HOME

LANGUAGE	PERCENT
English	58%
Spanish	42%
Total Non-English	42%

Notes: Numbers may not sum to totals due to rounding. Hispanic population can be of any race. Source: U.S. Census Bureau, American Community Survey (ACS) 2017-2021. Life expectancy data comes from the Centers for Disease Control.

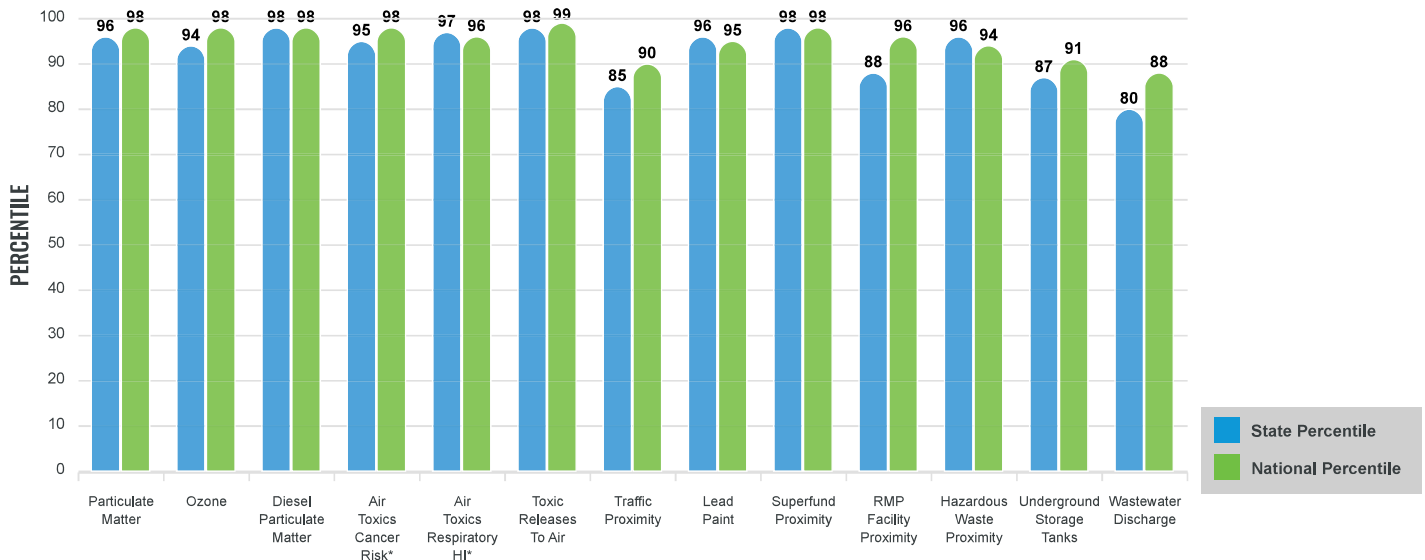
Environmental Justice & Supplemental Indexes

The environmental justice and supplemental indexes are a combination of environmental and socioeconomic information. There are thirteen EJ indexes and supplemental indexes in EJScreen reflecting the 13 environmental indicators. The indexes for a selected area are compared to those for all other locations in the state or nation. For more information and calculation details on the EJ and supplemental indexes, please visit the [EJScreen website](#).

EJ INDEXES

The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.

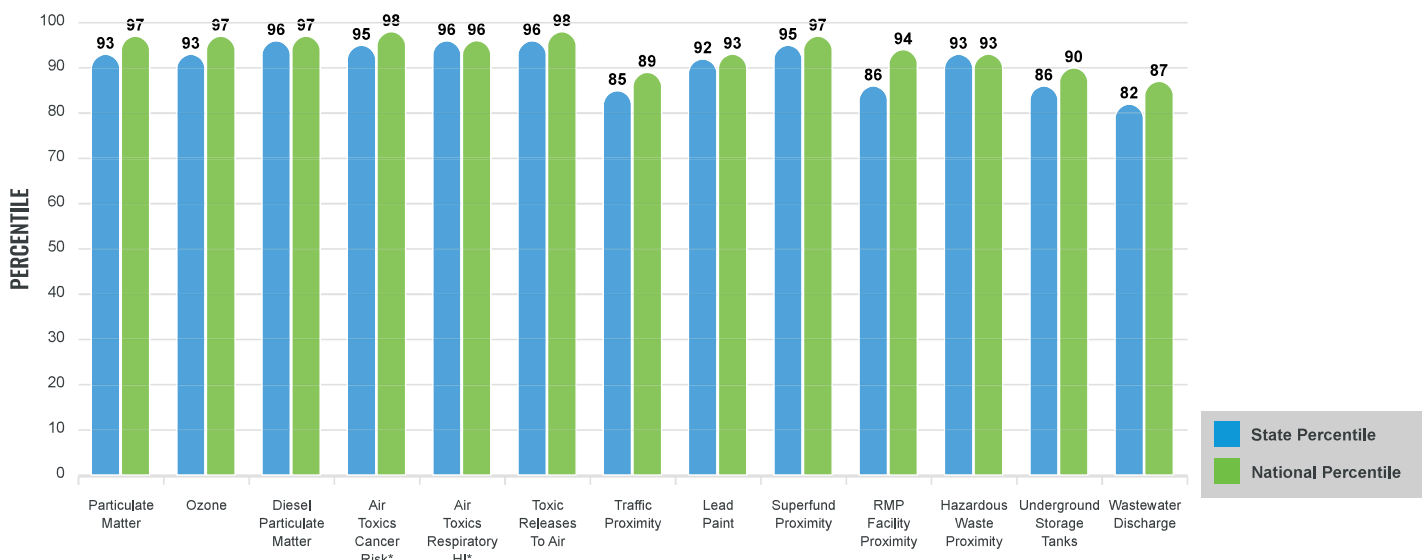
EJ INDEXES FOR THE SELECTED LOCATION



SUPPLEMENTAL INDEXES

The supplemental indexes offer a different perspective on community-level vulnerability. They combine data on percent low-income, percent linguistically isolated, percent less than high school education, percent unemployed, and low life expectancy with a single environmental indicator.

SUPPLEMENTAL INDEXES FOR THE SELECTED LOCATION



These percentiles provide perspective on how the selected block group or buffer area compares to the entire state or nation.

Report for 2 miles Ring Centered at 29.811232,-95.306225

EJScreen Environmental and Socioeconomic Indicators Data

SELECTED VARIABLES	VALUE	STATE AVERAGE	PERCENTILE IN STATE	USA AVERAGE	PERCENTILE IN USA
POLLUTION AND SOURCES					
Particulate Matter (µg/m ³)	10.3	9.11	90	8.08	95
Ozone (ppb)	68.6	64.6	76	61.6	90
Diesel Particulate Matter (µg/m ³)	0.51	0.218	98	0.261	91
Air Toxics Cancer Risk* (lifetime risk per million)	36	28	44	25	52
Air Toxics Respiratory HI*	0.41	0.3	80	0.31	70
Toxic Releases to Air	53,000	12,000	94	4,600	98
Traffic Proximity (daily traffic count/distance to road)	210	150	81	210	76
Lead Paint (% Pre-1960 Housing)	0.52	0.17	89	0.3	74
Superfund Proximity (site count/km distance)	0.64	0.085	98	0.13	96
RMP Facility Proximity (facility count/km distance)	0.83	0.63	77	0.43	85
Hazardous Waste Proximity (facility count/km distance)	2.2	0.75	91	1.9	75
Underground Storage Tanks (count/km ²)	3.7	2.3	77	3.9	71
Wastewater Discharge (toxicity-weighted concentration/m distance)	0.01	0.91	71	22	67
SOCIOECONOMIC INDICATORS					
Demographic Index	80%	46%	91	35%	95
Supplemental Demographic Index	28%	17%	86	14%	92
People of Color	98%	58%	91	39%	95
Low Income	62%	34%	85	31%	89
Unemployment Rate	11%	5%	84	6%	83
Limited English Speaking Households	9%	8%	70	5%	83
Less Than High School Education	30%	16%	81	12%	91
Under Age 5	7%	6%	59	6%	67
Over Age 64	13%	14%	51	17%	37
Low Life Expectancy	27%	20%	97	20%	95

*Diesel particulate matter, air toxics cancer risk, and air toxics respiratory hazard index are from the EPA's Air Toxics Data Update, which is the Agency's ongoing, comprehensive evaluation of air toxics in the United States. This effort aims to prioritize air toxics, emission sources, and locations of interest for further study. It is important to remember that the air toxics data presented here provide broad estimates of health risks over geographic areas of the country, not definitive risks to specific individuals or locations. Cancer risks and hazard indices from the Air Toxics Data Update are reported to one significant figure and any additional significant figures here are due to rounding. More information on the Air Toxics Data Update can be found at: <https://www.epa.gov/haps/air-toxics-data-update>.

Sites reporting to EPA within defined area:

Superfund	0
Hazardous Waste, Treatment, Storage, and Disposal Facilities	3
Water Dischargers	90
Air Pollution	8
Brownfields	5
Toxic Release Inventory	16

Other community features within defined area:

Schools	8
Hospitals	2
Places of Worship	115

Other environmental data:

Air Non-attainment	Yes
Impaired Waters	Yes

Selected location contains American Indian Reservation Lands*	No
Selected location contains a "Justice40 (CEJST)" disadvantaged community	Yes
Selected location contains an EPA IRA disadvantaged community	Yes

Report for 2 miles Ring Centered at 29.811232, -95.306225

EJScreen Environmental and Socioeconomic Indicators Data

HEALTH INDICATORS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Low Life Expectancy	27%	20%	97	20%	95
Heart Disease	8.5	5.9	89	6.1	88
Asthma	11.2	9.2	95	10	81
Cancer	5.1	5.2	49	6.1	26
Persons with Disabilities	17.3%	12.3%	80	13.4%	76

CLIMATE INDICATORS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Flood Risk	10%	10%	74	12%	65
Wildfire Risk	0%	30%	0	14%	0

CRITICAL SERVICE GAPS

INDICATOR	HEALTH VALUE	STATE AVERAGE	STATE PERCENTILE	US AVERAGE	US PERCENTILE
Broadband Internet	26%	15%	80	14%	84
Lack of Health Insurance	30%	18%	86	9%	98
Housing Burden	Yes	N/A	N/A	N/A	N/A
Transportation Access	Yes	N/A	N/A	N/A	N/A
Food Desert	Yes	N/A	N/A	N/A	N/A

Footnotes

Report for 2 miles Ring Centered at 29.811232,-95.306225

PUBLIC COMMENT LETTER

Re: TEXAS COASTAL MATERIALS, LLC
NOTICE OF APPLICATION FOR AN AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND
CONCRETE CRUSHERS: REGISTRATION NUMBER 173296

To whom it may concern,

Harris Health System, the public safety-net healthcare provider in Harris County, Texas, stands in strong opposition and urges the application denial of Texas Coastal Materials, LLC, to construct a permanent rock and concrete crushing facility at 5875 Kelley St., Houston, Texas 77026. The proposed location is approximately 400 yards away from Harris Health Lyndon B. Johnson (LBJ) Hospital, a 215 licensed-bed acute care facility providing full medical services to more than 18,000 inpatient admissions and 80,000 emergency visits annually. Located at 5656 Kelley St., Houston, Texas 77026, the hospital directly serves the northeast quadrant of Harris County through its Level 3 trauma and emergency center, serving as one of the state's busiest Level 3 hospitals and a vital hospital partner in the emergency response system for Houston and Harris County.

If allowed to proceed, the proposed concrete crushing facility poses significant health and environmental concerns for all patients, visitors, staff, and area residents because of potential harmful pollutants emitted daily from plant operations. Allowing such a business to move forward would further exacerbate the long-standing health disparities and inequities facing the community—mostly people of color and low socio-economic status.

LBJ Hospital is part of a large safety-net system providing over \$796 million in charity care annually to uninsured patients. Located in a hospital desert area, LBJ Hospital is the only large medical provider with life-saving services in the area for miles around. Most who come to LBJ Hospital have nowhere else to go. For this reason, construction of the crusher plant so close to this essential hospital further risks the health and well-being of sick and vulnerable patients.

Crusher plants like the one proposed by Texas Coastal Materials release air pollutants including particulate matter (PM) of different sizes (coarse PM10 and fine PM2.5), which pose significant health risks to the community. For instance, exposure to PM2.5, the main driver of health-harming air pollution, is linked to ischemic heart disease, lung cancer, chronic obstructive pulmonary disease (COPD), lower-respiratory infections, stroke and premature death. In 2015, Houston witnessed 5,200 premature deaths directly attributed to particulate matter from these plants. A 2023 study estimated that 101 concrete batch plants in greater Houston collectively release approximately 111 tons of PM2.5 annually.

In addition to increasing levels of health-harming particulate matter pollution, cement production also generates crystalline silica dust, a toxic material that is directly related to the development and worsening of health conditions including silicosis, lung cancer, COPD, kidney

PUBLIC COMMENT LETTER

failure and autoimmune disease. According to research, 1,437 deaths were identified and linked to silicosis over a decade. Additionally, nitric oxide and nitrogen dioxide, byproducts of combustion in these plants have been shown to irritate the lungs and worsen a host of respiratory and cardiovascular conditions including pneumonia, influenza, chronic obstructive pulmonary disease, pleurisy, ischemic heart disease, cardiac arrhythmias, heart failure, and thrombosis.

Faced with historic discrimination, communities of color (Black and Latino) in Houston and Harris County—including those in the service area of LBJ Hospital— are exposed to a disproportionate share of air pollution and environmental hazards. In Houston, 54% of concrete facilities are located in communities of color contributing to racial inequities in respiratory health outcomes. In fact, areas near LBJ Hospital report some of the highest rates of COPD and asthma cases compared to other parts of the county, and LBJ Hospital’s Emergency Center sees significantly higher proportional volumes of patients with respiratory conditions than hospitals in other areas of Harris County.

It should also be noted that the Harris County Attorney’s Office discovered that Texas Coastal Material, LLC chose to publish its required public notice outside of the Houston area in an obvious effort to keep the community uninformed.

For these reasons, allowing a rock and concrete crushing plant near LBJ Hospital and in this part of Harris County poses a significant danger to public health and safety, particularly for vulnerable patients who depend on the hospital's emergency and acute care services daily. Given the evidence of the harmful effects of crushing plants and their added contribution to existing racial and environmental disparities, it is imperative to prioritize the well-being of this community and summarily reject the proposed permit application at this location. Environmental justice and health equity must be at the forefront of our decision-making process to protect the most vulnerable among us for years to come.

Esmail Porsa, MD, MBA, MPH, CCHP-A (He, His)
President and CEO



Administration
4800 Fournace Place | Bellaire, TX 77401
Email: esmail.porsa@harrishealth.org



My name is Suzanne Knott-Jackson, and I am the Senior Chaplain for Harris Health's Spiritual Care Department at Lyndon B. Johnson Hospital. I oversee the religious staff and services provided at LBJ Hospital.

LBJ Hospital is a 215 licensed-bed acute care hospital that offers a full range of medical services and spiritual care. LBJ Hospital maintains a chapel located near the hospital's main entrance and provides spiritual care services throughout the hospital to assist patients, their families, and staff wherever and whenever help is needed. LBJ Hospital currently employs seven chaplains. At any time of day at least one chaplain is available, and as many as three are available during peak hours and seasons. Chaplains working at LBJ's spiritual care center are available at any time of day, every day, to meet the needs of the patients, patient families, and staff at LBJ. Chaplains work a rotating schedule so that there is constant coverage of the hospital to meet the spiritual needs of the community. LBJ Hospital's spiritual services take many forms including end of life care, infant baptism, comfort in times of grief, spiritual counseling, small-group meetings, and leading organized prayer. In this role, chaplains at LBJ Hospital provide religious support to all who find themselves in need. Generally, chaplains perform family meetings five to seven times per week and private spiritual counseling sessions once or twice per week. Below are the estimated monthly visits made by chaplains to patients for each month so far in 2023:

Month	January	February	March	April	May	June	July	August	September	October
Patients	953	712	1057	763	963	1371	1506	1156	1251	1283

LBJ chaplains also perform special events such as memorial services for staff members, baptism of patients, and extra services for holidays such as National Day of Prayer, Ramadan, and Ash Wednesday.

The LBJ Chapel is always available for those in need of a quiet place for prayer, meditation, and personal reflection. Additionally, the LBJ Chapel holds organized services for many different religious groups and denominations. Chaplains at LBJ provide services and literature in both English and Spanish to meet the needs of the community. The LBJ Chapel has set aside time for worship events on weekends and weekdays. These worship events include morning prayers Monday through Friday, afternoon Islamic prayer, and a Catholic mass every Wednesday at Noon.

Thus, religious activities are conducted both in the LBJ Chapel and throughout the entirety of LBJ Hospital daily. While the Chapel is the primary location for organized services, chaplains lead patients, family, and staff in prayer, sacraments, special services, and other religious activities throughout the hospital.

Sincerely,

Suzanne Knott-Jackson

Suzanne Knott-Jackson

Harris Health Spiritual Care

Senior Chaplain

AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

Before me, the undersigned notary, on this day personally appeared Suzanne Knott-Jackson, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

My name is Suzanne Knott-Jackson. I am over the age of eighteen (18) years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein.

I am employed by Harris Health as a Senior Chaplain.

I have read the foregoing Affidavit, the facts stated therein are within my personal knowledge and are true and correct.

Suzanne Knott-Jackson
Suzanne Knott-Jackson

SWORN AND SUBSCRIBED TO before me on Dec 6, 2023, to certify which witness may hand and official seal.

Lorena P Sandoval

Notary Public in and for the State of Texas

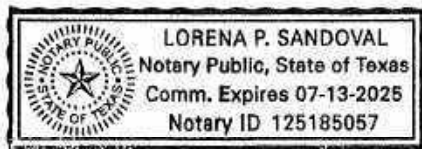


EXHIBIT E

SUMMARY DOCUMENT FOR AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE CRUSHERS

I. EXECUTIVE SUMMARY

The Texas Commission on Environmental Quality (TCEQ or commission) issues an air quality standard permit for rock crushing and concrete crushers. This standard permit is applicable to all rock crushers that process nonmetallic minerals or a combination of nonmetallic minerals at quarries, mines, aggregate handling facilities, concrete recycling sites, etc., on a permanent basis and meet the conditions of this standard permit.

II. EXPLANATION AND BACKGROUND OF AIR QUALITY STANDARD PERMIT

This standard permit will replace the permit by rule (PBR) for rock crushers (Title 30 Texas Administrative Code (30 TAC) §106.142, Rock Crushers). This PBR has potential issues with enforceability and it can be difficult to determine compliance for facilities that are authorized by the PBR. This standard permit was developed to update technical requirements, provide clearer, more enforceable conditions, require recordkeeping that facilitates the determination of compliance, and update the authorization for these facilities to include statutory requirements for certain concrete crushers. Owners or operators of crushing facilities authorized by the PBR may continue to operate under the PBR unless the crusher is moved or modified. This standard permit provides a streamlined preconstruction authorization process to be used by any owner or operator of a crusher that can comply with the standard permit requirements and all other state or federal permitting statutes or regulations.

III. OVERVIEW OF AIR QUALITY STANDARD PERMIT

The commission issues this standard permit for permanent rock crushers under 30 TAC Chapter 116, Subchapter F, Standard Permits. The commission previously authorized rock crushers under the conditions of 30 TAC Chapter 106, Permits by Rule, the Air Quality Standard Permit for Temporary Rock Crushers and Temporary Concrete Crushers, or under 30 TAC Chapter 116, Control of Air Pollution by Permits for New Construction or Modification. The issuance of this standard permit is consistent with the desire of the commission to simplify its regulatory structure and provide standard permits as an alternative to authorization by a case-specific New Source Review (NSR) permit. The general public often expresses concerns with crushing sites and operations that include, but are not limited to, traffic safety, noise, appearance, and property values. These types of concerns are not addressed under the Texas Clean Air Act and are beyond the commission's jurisdiction. Those concerns of the general public regarding nuisance dust, ambient air quality, and potential adverse health impacts are the focus of the protectiveness review and the resulting conditions of the standard permit.

The commission is including requirements to minimize dust emissions, establish property line distance limitations, and establish opacity and visible emission limitations. These requirements are based on air dispersion modeling, an impacts analysis, and plant observations performed to

verify the protectiveness of the standard permit. The commission has concluded research which shows that the standard permit for a permanent rock crusher or a permanent concrete crusher is protective of the public health and welfare, and that facilities operating under the conditions specified will comply with commission regulations.

The standard permit is designed to authorize a rock crusher that will be permanently located. It is not intended to provide an authorization mechanism for all possible unit configurations or for unusual operating scenarios. Those facilities which cannot meet the standard permit conditions may apply for an air quality permit under 30 TAC §116.111, General Application, or the Air Quality Standard Permit for Temporary Rock and Concrete Crushers.

IV. PERMIT CONDITION ANALYSIS AND JUSTIFICATION

The general conditions for standard permits, located in 30 TAC Chapter 116, Subchapter F, apply to all owners or operators of crushers seeking authorization under this standard permit. With the exception of 30 TAC §116.610(a)(1), Applicability, all crushers are required to meet 30 TAC Chapter 116, Subchapter F rule requirements as well as the specific conditions of this standard permit. Any changes that are made to this standard permit by the commission shall apply to all existing and future facilities that are authorized by this standard permit. As specified by 30 TAC Chapter 116, Subchapter F, to remain authorized under the standard permit, a facility shall comply with an amendment to the standard permit on the later of either the deadline the commission provides in the amendment or the date the facility's registration to use the standard permit is required to be renewed (however, compliance with an amended standard permit is not required within 24 months of the amendment unless it is necessary to protect public health). The standard permit authorization is location specific, and relocation to a new site requires the owner or operator to apply for a new authorization. Vacating a site voids the authorization at that site.

General Requirements

Section (1), General Requirements, outlines the administrative requirements that all crushers must meet.

Similar to the Air Quality Standard Permit for Temporary Rock Crushers and Temporary Concrete Crushers, subsection (1)(A) provides definitions for the terms site and associated sources. The definition for the term site is consistent with the definition that is given in 30 TAC Chapter 122, Federal Operating Permits Program. The definition for the term associated sources is based on the term facilities defined in 30 TAC Chapter 116. These definitions are included to ensure clarity when these terms are used in the conditions of the standard permit.

This standard permit includes a definition for the term residence. The term residence is used throughout various statutes and rules of the TCEQ and other state agencies. However, the term is not defined under the Texas Clean Air Act or by air quality-related agency rules. Webster's defines "reside" as "to live in a place for a permanent or extended time." It further defines "residence" as "the place in which one lives." (Webster's II New College Dictionary, 1995) Texas courts have generally accepted that "residence" means "the place where one actually lives or has his or her home; a person's dwelling place or place of habitation; a dwelling house." (*Owens Corning v. Carter*, 997 S.W.2d 560 (Tex. 1999); *Malnar v. Mechell*, 91 S.W.3d 924 (Tex. App. Amarillo 2002); *Dickey v. McComb Development Co., Inc.* 115 S.W. 3d 42 (Tex. App. San Antonio 2003))

In most situations, whether or not a structure is a residence is generally self-evident. In some cases, however, questions may arise as to the character of a structure located near a facility in determining its

compliance with applicable distance requirements. When necessary, a case-by-case determination shall be made by the TCEQ executive director regarding whether or not a structure is in fact a residence. The executive director may consider factors and circumstances specific to the situation in making the determination. Potential factors that may be considered include, but are not limited to:

- Local tax rolls showing the property as a residence
- Utility bills showing a residential rate
- Location of structure in a neighborhood with any deed restrictions or zoning ordinances on use as a business or other non-residential activity
- Frequency of use of structure as a residence

Subsection (1)(B) provides distance limitations for concrete crushers with subsection (1)(C) specifying that the distance requirements in (1)(B) are established at the time the standard permit application is filed with the commission. However, subsection (1)(D) provides exceptions to the distance requirements in (1)(B) for demolition projects.

Subsection (1)(E) states that the commission will not accept an application for a crushing facility for authorization under Texas Health and Safety Code (THSC), §382.0518, Preconstruction Permit, for a period of one year from registration of a crushing facility under this standard permit. This is to prevent the use of this standard permit as an immediate precursor to a larger crushing operation. Subsection (1)(F) prevents an applicant that has submitted an application for a crushing facility under THSC, §382.0518, from being authorized by this standard permit at the same site until 12 months after the application for authorization under THSC, §382.0518, is withdrawn. This is to prevent an applicant that has contested case hearing requests for a permit under THSC, §382.0518, from withdrawing that application and immediately using this standard permit.

Subsection (1)(G) states that an applicant must file for the standard permit using Form PI-1S, checklist, and Table 17. It also specifies that a compliance history review will be accomplished. An applicant classified as a poor performer will not be granted authorization under this standard permit.

Subsection (1)(H) states that the crushing facility shall not be constructed or operated without written authorization from the executive director. Start of construction shall be no later than 18 months from the date of authorization. Construction progress and startup notification shall be in accordance with the general conditions of the standard permit. As stated in subsection (1)(I), permit fees will be remitted in accordance with 30 TAC §116.614, Standard Permit Fees.

Subsection (1)(J) states that New Source Performance Standards identified in Title 40 Code of Federal Regulations Part 60 (40 CFR Part 60), Subpart A, General Provisions, and Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants, are applicable to sources authorized by this permit, and, as stated in subsection (1)(K), crushing facilities authorized by this permit will be authorized to process only those materials identified as nonmetallic minerals as defined in 40 CFR Part 60, Subpart OOO. Subsection (1)(L) identifies other commission rules that may be applicable and states that this standard permit does not supersede those rules.

Subsection (1)(M) identifies recordkeeping requirements. Records are to be kept at the site for daily hours of operation and total throughput per hour to demonstrate compliance with the conditions of the standard permit. Additionally, as the result of comments received during public notice, the commission is changing this condition to include records of watering, road cleaning logs, and dust suppression activities at stockpiles. Subsection (1)(N) specifies the requirement to comply with 30 TAC Chapter 101, Subchapter F, Emissions Events and Scheduled Maintenance, Startup, and Shutdown Activities. Subsection (1)(O) states that the facilities authorized by this permit will not be required to meet the emission and distance requirements established in 30 TAC §116.610(a)(1), since modeling has indicated

that the permit is protective without this restriction. Subsection (1)(P) states that maintenance activities are not authorized by this standard permit and that startup and shutdown emissions must be approved by separate authorization if expected to exceed emissions from production operations.

Subsection (1)(Q) states that an applicant authorized by this standard permit would not be eligible for any other authorization in 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement, or 30 TAC §106.512, Stationary Engines and Turbines, at the same site as the crusher authorized by this standard permit in order to ensure that cumulative emissions do not result in adverse off-property impacts. It should be noted that subsection (1)(R) states that registrations for the PBR for rock crushers will no longer be approved by the TCEQ after issuance of this standard permit.

Public Notice Requirements

Section (2) of this standard permit requires that owners and operators of rock crushers authorized by this standard permit provide public notice. The standard permit public notice allows for local communities to be informed of proposed rock or concrete crusher projects. The public will have the opportunity to submit comments to the agency and to be informed on the outcome of the standard permit review. The public notice will not, however, allow for the public to request a contested case hearing, as rock and concrete crushers meeting the requirements of this standard permit have been demonstrated to meet all air permitting requirements, including passing a health effects review.

Subsection (2)(A) states that the public notice requirements in 30 TAC Chapter 39, Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications, do not apply. Facilities authorized by this standard permit will be subject to the public notice requirements as set forth in section (2) of this standard permit, which are based on the public notice requirements established for the Air Quality Standard Permit for Concrete Batch Plants with Enhanced Controls.

Subsection (2)(B) requires the applicant to publish notice of intent to construct a crusher no later than the 30th day after the date the applicant receives written notice from the executive director that the application is technically complete or the 75th day after the date that the executive director receives the application. The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the crusher is proposed to be located or in the municipality nearest to the proposed location of the crusher, as required by subsection (2)(C). If the elementary or middle school nearest to the proposed crusher provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the crusher is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice. Subsection (2)(D) requires that the notice include: 1) a brief description of the proposed location and nature of the proposed crusher; 2) a description, including a telephone number, of the manner in which the executive director may be contacted for further information; 3) a description, including a telephone number, of the manner in which the applicant may be contacted for further information; 4) the location and hours of

operation of the commission's regional office at which a copy of the application is available for review and copying; and 5) a brief description of the public comment process and the mailing address and deadline for filing written comments.

Subsection (2)(E) requires that the applicant post signs on the site of the proposed facility. Requirements for these signs, including size and specific information to be made available, are provided in paragraphs (2)(E)(i)-(vi). Subsection (2)(F) requires that the signs be in place by the date of the newspaper publication and remain in place and legible throughout the public comment period. Subsection (2)(G) provides direction regarding the placement of signs. Subsection (2)(H) requires that alternate language signs be included for those crushers in close proximity to schools having a bilingual program required by Chapter 29 of the Texas Education Code or schools that have waived out of such a required bilingual education program under the provisions of 19 TAC §89.1205(g). Additional requirements for the alternate language signs are in paragraphs (2)(H)(i)-(iv).

As stated in subsection (2)(I), the public comment period begins on the first date notice is published under subsection (2)(B) and extends to 30 days after the publication date. As required by subsection (2)(J), the executive director will approve or deny the standard permit registration not later than the 30th day after the end of the public comment period. The executive director will base the decision on whether the representations made in the application meet the requirements of this standard permit. The executive director will consider all comments received during the public comment period in determining whether to approve the registration. If the executive director denies the registration, the executive director will state the reasons for the denial and any modifications necessary for the proposed crusher to qualify for the authorization. Subsection (2)(K) specifies that the executive director will issue a written response to any public comments received related to the standard permit at the same time as or as soon as practicable after the executive director grants or denies the application. Issuance of the response after the granting or denial of the registration does not affect the validity of the executive director's decision to grant or deny the registration. The executive director will mail the response to each person who filed a comment and make the response available to the public.

Operational Requirements

Section (3), Operational Requirements, outlines technical requirements that all crushers must meet.

In order to ensure that there are no adverse off-property impacts, subsection (3)(A) limits throughput at the primary crusher to a maximum of 200 tons per hour (tph), and subsection (3)(B) requires a minimum distance of 200 feet (ft.) from any property line. To help prevent nuisance conditions, condition (3)(C) specifies a minimum distance from the facility to a single or multi-family residence, school, or place of worship. Based on a comment received during public notice, the commission is changing this distance from 1,000 feet to 440 yards to be consistent with the statutory requirement for concrete crushers. The distance is to be measured between the closest points of the facility and the residence, school, or place of worship. This subsection also specifies that the distance requirements are established at the time the standard permit application is filed with the commission.

Subsection (3)(D) establishes a separation distance between any crushing facility authorized under this standard permit and either another additional operating crushing facility, concrete batch plant (CBP), or hot mix asphalt plant (HMAP) to help ensure that cumulative emissions do not result in adverse off-property impacts. If this distance cannot be met, then the crushing facility authorized under this standard permit shall not operate at the same time as the additional crushing facility, CBP, or HMAP. The distance is to be measured between the closest points of the facilities of concern. Distance requirements for all associated sources, as defined in subsection (1)(A), will be required by subsection (3)(E) to be at least 100 feet from the property line as measured from the closest points between the stockpile or road and the

nearest property line.

In order to limit the amount of emissions, subsection (3)(F) restricts the facilities authorized by this standard permit to one primary crusher, one secondary crusher, one vibrating grizzly, two screens, associated conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 horsepower. As stated in subsection (3)(G), the crusher, associated facilities, and associated sources (excluding stockpiles) may not operate for more than an aggregate of 2,640 hours in any rolling 12-month period. When the operating hours (2,640) for the site have been exhausted, the owner or operator shall not use a standard permit to operate another rock crusher on the site. Subsection (3)(H) designates the time of operation to be between one hour before official sunrise and one hour after official sunset.

Subsection (3)(I) designates that the rock crushers shall be equipped with a runtime meter to ensure compliance with the requirement concerning operating hours. Also, based on a comment received during public notice, the commission is changing this condition to require the runtime meter to be operating during crushing operations. Criteria for emission controls are defined in subsection (3)(J), which requires all crushing facilities to have properly mounted spray bar equipment on the inlet and outlet of all crushers, all shaker screens, and at all material transfer points. These devices are to be used as necessary to maintain compliance with all TCEQ regulations.

Subsections (3)(K) and (L) address performance demonstrations for the facility. All crushing facilities authorized under this standard permit will be limited to no visible emissions at the property line that exceed a cumulative 30 seconds over a six-minute period as determined by the U.S. Environmental Protection Agency (EPA) Test Method (TM) 22 from all crushers, associated facilities, associated sources, and in-plant roads and work areas associated with the plant. Additionally, according to EPA TM 9, opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a six-minute period. The performance expectations are listed for compliance demonstrations with the conditions of the standard permit and prevention of nuisance conditions. Visible emission limitations and opacity requirements ensure that both the operators and TCEQ field investigators can clearly understand how to demonstrate compliance with the rules and regulations of the commission.

Subsections (3)(M) and (N) help ensure compliance with subsection (3)(L). Subsection (3)(M) requires that dust emissions from road and traffic areas directly associated with the operation of the rock crusher be minimized by covering or treating them with dust-suppressant materials, dust-suppressant chemicals, watering, or paving. Similarly, subsection (3)(N) requires that dust from stockpiles be controlled by watering, dust-suppressant chemicals, or covered as necessary to minimize emission from these sources. Subsection (3)(O) limits raw material and product stockpiles to a maximum height of 45 feet.

Subsection (3)(P) states that a weigh hopper or scale belt is to be used to determine the mass of material to be processed by the crushing facility to ensure compliance with throughput requirements. Subsection (3)(Q) states that the crushing facility may relocate on the same site without reauthorization as long as the required distance from any residence, school, or place of worship in existence at the time of the move is maintained. Based on a comment received during public notice the commission is changing this distance from 1,000 feet to 440 yards to be consistent with the statutory requirement for concrete crushers.

V. PROTECTIVENESS REVIEW

Dispersion Modeling and Distance Limits

The rock and concrete crushing standard permit team developed representative worst-case operating scenarios to be evaluated by dispersion modeling. Pollutants evaluated were particulate matter (PM), particulate matter with an aerodynamic diameter of 10 microns or less (PM₁₀), PM_{2.5}, silica, and products of combustion from the engines, including sulfur dioxide (SO₂), carbon monoxide (CO), nitrogen dioxide (NO₂), and PM₁₀. Impacts were obtained using the EPA Industrial Source Complex (ISC) model. The model's output was used as the basis to develop the distance limits for the standard permit.

The operating scenarios consisted of a generic configuration of a 200 tph rock crushing operation. All rock crushing equipment emissions, including drop points, screens, crushers, conveyers, and stockpiles, were characterized as three circular area sources with heights of 1 meter, 3 meters, and 6 meters. The radius of the circular area sources was based on the areal coverage of the stockpiles.

The emissions of the sources were based on the maximum plant throughput of 200 tph operating for 2,640 hours per year. Stockpile emissions were evaluated as being active over the entire year (8,760 hours per year) with emissions controlled in accordance with the operational requirements stated in subsections (3)(L) and (3)(N). Thus, the emissions used in the air dispersion model reflect emission reductions for the use of water sprays and watering stockpiles. Because the sources are all low-level fugitives, the emissions modeled were adjusted by 40 percent to account for increased dispersion due to plume meander and spreading found to exist in conditions of stable atmosphere and low wind speeds. A study of monitoring data collected throughout the state indicates that this factor provides a good correlation between the collected data and the ISC model for the low-level fugitive emissions indicative of this type of facility.

Because there is no set "property line" for this standard permit, the receptor grid started at the edge of a circle encompassing all sources and continued out in 25 meter increments along 10 degree radial profiles sufficiently far to determine that the emissions would be below the National Ambient Air Quality Standard (NAAQS) protectiveness requirements in any, and every, direction.

The TCEQ staff used five years of meteorological data for a single location in lieu of evaluating multiple regional meteorological data sets. The rationale that the staff considered in making this decision was that the source releases are low-level fugitives and that the sources would be evaluated in multiple orientations; therefore, five years of data would provide representative worst-case meteorological parameters for fugitive impacts (low wind speed and stable atmospheric conditions). The meteorological data for this analysis consisted of surface data from Austin and upper-air data from Victoria for the years 1983, 1984, 1986, 1987, and 1988. Thus, since this analysis is primarily for short-term concentrations, this five-year set would include worst-case short-term meteorological conditions that could occur anywhere in the state.

Because all the emission sources were characterized as low-level fugitives, the emissions would be terrain following. Therefore, a reasonable worst-case evaluation was to address only flat terrain. The staff used both urban and rural dispersion coefficients with the worst-case result for each case evaluated used as the defining condition. Staff did not consider building downwash for this analysis because typically there are no downwash structures involved and this is not applicable for area source modeling.

The point source representation of engines is a minor source at rock crushing sites. No downwash was assumed for this emission point since the stack exit velocity and the stack exit temperature generally results in a plume that escapes downwash effects.

Results from the air dispersion modeling described above show that the maximum ground level emission concentrations for SO₂, PM₁₀, PM_{2.5}, NO₂, and CO are below the required limits established by the NAAQS. Thus, the rock and concrete crushing facility established by this standard permit should be protective with regard to the NAAQS requirements.

The potential health effect of the possibility of silica within the crushed material was evaluated assuming a conservatively high 20 percent silica content within the material to be crushed. The results were compared to the current effects screening level (ESL). The ESL is a conservative guideline concentration that is meant to serve as a screening tool and, as such, has multiple built-in safety factors. Because of the safety factors, the conservative guideline concentration is considered to be protective of the general population, which includes the very young, the elderly, and people with preexisting health conditions.

Using the same modeling techniques and assumptions as described previously, the maximum one-hour ground level concentration of respirable quartz silica (PM₄) was found to be 4.5 micrograms per cubic meter (µg/m³), which is below the current ESL value of 10 µg/m³. The maximum annual ground level concentration of respirable quartz silica was found to be 0.3 µg/m³, which, again, is below the current ESL value of 1 µg/m³. Thus, there should be no health-based effects of the rock or concrete crushing facility defined by this standard permit.

VI. PUBLIC NOTICE AND COMMENT PERIOD

In accordance with 30 TAC §116.603, Public Participation in Issuance of Standard Permits, the TCEQ published notice of this proposed standard permit in the *Texas Register* and newspapers of the largest general circulation in Austin, Houston, and Dallas. The date for these publications was February 15, 2008. The public comment period ran from the date of publication until March 21, 2008. Written comments were received by Hill Country Environmental, Inc. (HCE); CSA Materials, Inc. (CSA); Fred M. Bosse representing Southern Crushed Concrete, LLC (SCC); Associated General Contractors (AGC); Harris County Public Health & Environmental Resources (HCPHES); Westward Environmental, Inc. (WE); City of Houston Department of Health and Human Services, Bureau of Air Quality Control (BAQC); Jobe Materials, L.P. (Jobe); and the Texas Aggregate and Concrete Association (TACA).

VII. PUBLIC MEETING

A public meeting on the proposed standard permit was held on March 18, 2008, at 1:30 p.m., at the TCEQ, Building E, Room 254S, 12100 Park 35 Circle, Austin, Texas. Oral comments were provided by AGC and Jobe.

VIII. ANALYSIS OF COMMENTS

HCE commented that the definition of associated sources in condition (1)(A)(ii) includes activities that are not facilities as defined by the Texas Clean Air Act (TCAA) and 30 TAC Chapter 116 and are thus, not required to be authorized.

Associated sources, while not requiring authorization, may be regulated by permit conditions when co-located with an authorized facility in order to ensure that cumulative emissions from the

associated sources and the facility do not result in adverse off-property impacts.

HCE requested the term dwelling be defined to include the conditions listed in the technical summary document that will be used to determine whether a structure is a dwelling.

The list of factors that may be used in determining whether a structure is a residence included in the technical summary document is meant to illustrate the types of considerations the executive director might use in making such a determination. The ultimate determination of whether a structure constitutes a dwelling will be made on a case-by-case basis considering above noted factors and the information specific to the particular structure and circumstances.

HCE commented that conditions (1)(E) and (1)(F) of the standard permit were too restrictive and requested that staff include language that would allow an owner or operator to continue to produce aggregate during a contested case hearing and retain the option to continue authorization under the standard permit if an NSR permit application was denied or strongly opposed. Jobe also commented that condition (1)(E) was excessively restrictive.

As noted in the Permit Condition Analysis and Justification section of this document, conditions (1)(E) and (1)(F) were established to prevent the use of this standard permit as an immediate precursor to a larger crushing operation and to prevent an applicant that has contested case hearing requests for a permit under THSC, §382.0518, from withdrawing that application and immediately using this standard permit.

HCE commented that there is a typo in condition (3)(E).

The commission appreciates the comment and has corrected the error.

HCE requested the inclusion of additional language authorizing the removal of overburden.

With regard to the removal of overburden, unless the overburden material is processed by equipment meeting the definition of a facility, this activity does not require authorization. Additional and separate authorization is required if the owner or operator intends to process overburden material with a facility.

CSA commented that the combination of hours of operation and throughput limitations resulted in operating inefficiencies and suggested that higher production rates, more crushers, and more screens should be allowed.

The commission disagrees with this comment. This standard permit is being proposed to replace the current PBR for rock crushers and the intent is to provide authorization for a similar type and size operation. This standard permit is not meant to provide authorization for all unit configurations or operating scenarios for rock crushers. For facilities that cannot meet the conditions of this standard permit, applicants may seek authorization by a case-by-case NSR permit.

SCC commented that modeling does not support the stockpile height limitation in condition (3)(O) and that this restriction should be removed.

The commission does not agree with this comment. A 45-foot stockpile height was the design criteria that was evaluated in the protectiveness review and the review indicated that there would be no adverse off-property impacts. The conditions in PBRs and standard permits are often more restrictive than those in a case-by-case NSR permit. This standard permit is not meant to provide

authorization for all unit configurations or operating scenarios for rock crushers. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

BAQC commented that city of Houston personnel have repeatedly observed that few of the crushing operations consistently practice the full set of regulatory requirements necessary to reduce air emissions under the TCEQ permits program. This can result in nuisance conditions beyond the 440-yard setback requirement and BAQC requested that the setback be increased to 1,500 feet.

The commission disagrees with this comment. If a facility complies with all conditions of this standard permit, then the 440-yard setback required by condition (1)(B) is adequate to prevent nuisance and is the distance specified by the Texas Health and Safety Code, §382.065. It is expected that owners or operators of facilities authorized under this standard permit comply with all of the conditions of the permit or be subject to potential enforcement action.

BAQC and HCPHES requested that watering and road cleaning logs be included in the recordkeeping required by the permit. HCPHES also requested the inclusion of stockpile dust suppression activities and abatement systems maintenance in the recordkeeping requirements.

The commission agrees with the request to keep records of watering, road cleaning logs, and dust suppression activities at stockpiles. This standard permit gives considerable latitude to owners and operators regarding the frequency of these tasks due to the influence of weather conditions on the potential for emissions. It is reasonable to expect the owner or operator to supply evidence that these tasks are being performed with adequate frequency, particularly in the case of a nuisance complaint investigation.

The commission does not agree with the request to include records of abatement system maintenance because the required abatement equipment, spraybars, requires little if any maintenance. Additionally, 30 TAC §116.615, General Conditions, requires that abatement equipment be in good condition and working properly at all times during normal facility operations.

BAQC requested the inclusion of a requirement that trucks entering or leaving the facility be required to cover their load to prevent particulate emissions from the trucks.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have statutory authority over the emissions from mobile sources. However, the Texas Department of Transportation has regulations regarding the covering of open truck beds and trailers.

BAQC commented that compliance history should be a consideration in authorization of these facilities and should be considered grounds for revoking an authorization.

Condition (1)(G) specifies that a registration for this standard permit is subject to a compliance history review and an applicant classified as a poor performer will not be granted authorization under this standard permit. In addition, if after authorization is granted, the facility is found to be out of compliance with the terms and conditions of the standard permit, it will be subject to possible enforcement action.

Jobe commented that the introductory paragraph states that the permit authorizes crushing operations and should be changed to crushing facilities in order to be consistent with the requirements of the TCAA and Chapter 116.

The commission agrees with the comment and has changed the language in the opening paragraph.

Jobe commented that it appeared that the standard permit could be used to authorize multiple crushers on a single site as long as the distance requirements in (1)(B), (3)(B), (3)(C), and (3)(D) were all met.

The commission agrees with this comment with some exceptions. Multiple crushers on a single site may be authorized by the standard permit as long as all of the conditions of the standard permit are met, including condition (3)(G), which requires that all crushers on the site (not including secondary crushers used as part of a single crushing operation) not exceed an aggregate of 2,640 hours. No changes were made to the standard permit.

Jobe, TACA, and WE commented that the 200 tph limit was too low and should be increased to between 270 tph and 350 tph, possibly using a tiered system similar to that used in the Air Quality Standard Permit for Hot Mix Asphalt Plants. AGC suggested a tiered approach with a maximum throughput of 1,000 tph. Additionally, AGC and Jobe provided information demonstrating the increased economic efficiency of higher throughput rates.

No changes were made to the standard permit. This standard permit is intended to replace the current PBR for rock crushers and the intent is to provide authorization for a similar type and size operation. This standard permit is not meant to provide authorization for all unit configurations or operating scenarios for rock crushers. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

AGC suggested that condition (3)(F) include a tertiary crusher in addition to the primary and secondary crushers this standard permit authorizes.

This standard permit is intended to replace the current PBR for rock crushers and the intent is to provide authorization for a similar type and size operation. This standard permit is not meant to provide authorization for all unit configurations or operating scenarios for rock crushers. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

Jobe requested clarification on the requirements in condition (1)(F). Specifically, Jobe asked, for a site that has a facility authorized by a case-by-case NSR permit, assuming all conditions of the standard permit were met, if the standard permit could be used to authorize an additional crusher on that site.

No change was made to the standard permit. If a facility, currently authorized under a case-by-case NSR permit, exists at the site prior to the application for this standard permit, an additional crusher may be allowed under this standard permit if all conditions of the standard permit can be met, i.e. distance limitations.

TACA and WE requested that the standard permit allow an exemption from the setback requirement of 550 feet from any other rock crusher, CBP, or HMAP in condition (3)(D) for any facility demonstrating, through air dispersion modeling, that there would be no adverse off-property impacts.

This standard permit is not subject to the level of review necessary to make a determination of protectiveness based on modeling of individual facilities. Facilities that cannot meet the conditions of this standard permit may be authorized by a case-by-case NSR permit.

HCPHES also requested that the TCEQ take speciated PM_{2.5} studies conducted by the TCEQ at the Clinton monitor in Harris County and other studies of this kind into account for this standard permit. Additionally, HCPHES commented that the modeling report also states that, since there is no guidance from EPA concerning how to globally address PM_{2.5} from on-site engines, off-site on-road engines, off-site off-road engines, and other PM_{2.5} sources, the commission has directed staff to not include potential PM_{2.5} emissions from the engines for this analysis. HCPHES disagrees with this assessment and believes that the TCEQ can develop its methodology to address these emissions from PM_{2.5}. HCPHES stated that without including all potential emissions in the modeling, the protectiveness review is flawed and whether the standard permit is protective of the applicable PM₁₀ and PM_{2.5} NAAQS is questionable.

The EPA has not completed the implementation of the PM_{2.5} NAAQS for the NSR program. The EPA has provided interim guidance in a memorandum that the PM₁₀ NAAQS will be the surrogate for demonstrating compliance with the PM_{2.5} NAAQS, EPA memorandum from John S. Seitz, Director of the Office of Air Quality Planning & Standards, dated October 23, 1997.

The commission reaffirmed on November 15, 2006, in the case of KBDJ L.P. for Permit No. 55480, the TCEQ would continue to use PM₁₀ as a surrogate for PM_{2.5} until EPA fully implements the new PM_{2.5} NAAQS for the NSR program.

HCPHES also commented that the modeling report states that a low-level fugitive scaling factor of 0.6 was applied to the modeled emission rates for the area sources and the rationale is that it is consistent with TCEQ guidance for these types of sources. HCPHES asked for a reasoned technical and scientific basis for using a multiplier factor of 0.6 for fugitive emissions, which in essence reduces emissions by 40% in the emission rate calculations.

In a March 6, 2002, memorandum available at

www.tceq.state.tx.us/assets/public/permitting/air/memos/modadjfact.pdf, the TCEQ documented and provided supporting references that explain the motivation, development, and rationale related to the adjustment of predicted concentrations from low-level sources with little vertical momentum or buoyancy flux. The procedure on how to apply the adjustment factor, background documentation, explanation of the technical justifications used, derivation of the adjustment factor, and a listing of supporting documentation are included in the ten-page March 6, 2002, memorandum.

HCPHES noted that the TCEQ's compliance history does not include violations documented by a local government that is not under contract with the TCEQ as a local program and requested that TCEQ include HCPHES violation notices as part of the compliance history when determining the issuance of this standard permit.

The input for determining the compliance history follows a complex formula that includes data determined by agency policy and rules. More specifically, TCEQ rules at 30 TAC § 60.1(6) limit compliance histories to the components specified in this chapter. The components include, among other things, any final enforcement orders, court judgments, consent decrees, and criminal convictions of this state and the federal government relating to compliance with applicable legal requirements under the jurisdiction of the commission or the EPA and to the extent readily available to the executive director, final enforcement orders, court judgments, and criminal convictions relating to violations of environmental laws of other states. The components do not include violations documented by a local government that is not under contract with the TCEQ as a local program. Therefore, this information will not be considered in the review process for this standard permit.

HCPHES commented that, due to population density and incompatible land use issues, the residents of Harris County are particularly negatively impacted from the operation of rock and concrete crushers in close proximity to residences and businesses. Also, HCPHES requested that written site approval from local air programs having jurisdiction be granted before crushing operations are authorized to begin at a site. Additionally, HCPHES requested 21 calendar days to respond to requests for comments from the TCEQ.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider facility location choices made by an applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning, land use, and population density are therefore beyond the authority of the TCEQ for consideration when reviewing air quality standard permit registrations. The applicant must meet all distance requirements for protectiveness and state law (statutory distance limits) regardless of type and nature of receptors. In addition, the air quality standard permit does not negate or affect the responsibility of the applicant to comply with any additional local requirements.

The form and concept of the standard permit results in a standardized set of requirements and conditions for use such that a case-by-case site evaluation is unnecessary provided that the applicant qualifies under the terms of the permit. The standard permit requires that a copy of the registration application form be provided to the regional office and local program with jurisdiction. Thus, a local program will be provided notice of the pending standard permit use, and can make any reviews deemed necessary. However, as the standard permit contains all the necessary site conditions for approval, any further written site approvals are unnecessary.

HCPHES requested that the TCEQ require permanent rock and concrete crushers be subject to the contested case hearing requirements of 30 TAC Chapter 39, Subchapter H.

Under TCEQ rules regarding public notice and applicability of contested case hearings, there is no opportunity for a contested case hearing for standard permits issued under Chapter 116. Specifically, the public notice applicability and general provisions found at 30 TAC §39.403(c)(5) states "Notwithstanding subsection (b) of this section, Subchapters H - M of this chapter (referring to applicability, public notice requirements and contested case hearings for different types of applications) do not apply to the following actions and other applications where notice or opportunity for contested case hearings are otherwise not required by law: (5) applications under Chapter 116, Subchapter F of this title (relating to Standard Permits) " In addition, TCEQ rules at 30 TAC §55.101(g)(9) state: " Subchapters D - G of this chapter (referring to public comment, requests for reconsideration and requests for contested case hearings) do not apply to air quality standard permits under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification)." Therefore, facilities to be authorized under this standard permit will not be subject to contested case hearing requirements.

HCPHES requested that the TCEQ require a consistent distance limitation of 440 yards throughout the entire standard permit rather than 440 yards for concrete crushing and 1,000 feet for rock crushing. It is the position of the HCPHES that the consistent distance limitation of 440 yards for all crushing activities (rock and concrete) will provide for more straightforward compliance and improve environmental public health.

The commission agrees with this comment. The set back required by condition (3)(C) has been changed from 1,000 feet to 440 yards.

HCPHES suggested the inclusion of concrete crushers in the list of facilities subject to the 550-foot distance requirement in condition (3)(D).

The commission agrees with this comment and is including the term concrete crusher in condition (3)(D).

HCPHES commented that, since the proposed standard permit contains requirements to meet EPA TMs 9 and 22 as contained in 40 CFR Part 60 and both test methods require adequate illumination to perform the tests correctly, the restriction on operating hour requirement in condition (3)(H) should be changed to one hour before official sunset to one hour after official sunrise.

Although EPA TMs 9 and 22 are appropriate tools for evaluating PM emissions and making a determination of compliance, it is unreasonable to expect all facilities that may emit PM or be subject to a PM standard to operate only during those periods when TMs 9 and 22 may be made. It is reasonable to expect that facilities complying with the conditions of the standard permit during periods when TMs 9 and 22 observations are appropriate to continue to do so during those short periods when there is not sufficient illumination to perform an observation.

HCPHES requested that the TCEQ require that all in-plant roads and operating areas be paved with a cohesive, hard surface that is capable of being vacuumed.

Observations and technical evaluation of available documentation show that, if properly maintained, the best management practices (BMPs) proposed in this standard permit adequately control dust from traffic areas. These BMPs include covering, watering, application of dust-suppressant chemicals, or paving and cleaning. Requiring all facilities to pave would be an unnecessary financial burden on crusher owners.

TACA commented that it appreciates the TCEQ's recognition of the problems created by the ability of unscrupulous operators to stack permits in an effort to continue operating at a fixed site. The operational requirements as stated in condition (3)(G) of the proposed standard permit perceivably close the loophole and prohibit operators from applying for additional standard permits to operate another rock crusher on the site once the 2,640 operational hours have been exhausted.

The commission appreciates the support from TACA on this issue.

AGC commented that the definition of residence in condition (1)(A)(iii) refers to a permanent dwelling.

The commission agrees with the comment and is making the change to condition (1)(A)(iii) of this standard permit.

HCPHES requested that condition (3)(I) (requirement for a runtime meter) also require that the runtime meter be operating during crushing operations.

The commission agrees with this comment and is including a requirement that the runtime meter be operating in condition (3)(I).

HCPHES requested that staff provide calculated emissions rates for each source and the methodologies used in calculating emission rates along with technical bases for assumptions. Additionally, HCPHES would like specific information on the methodology, assumptions, and calculations used for road emissions.

Methodologies used in calculating the emission rates are based on the information supplied by the EPA in its Compilation of Air Pollutant Emissions Factors (AP-42), Chapter 11.19.2, Crushed Stone Processing and Pulverized Mineral Processing, which was last updated in August 2004. The methodology and assumptions used for the evaluation were the same as is currently used for all NSR permits and were documented in the Rock Crushing Plants guidance document and as a spreadsheet on the TCEQ Web site.

An initial assessment of road emissions was completed using EPA AP-42, Chapter 13.2.2, Unpaved Roads, which was updated in October 2001. To evaluate emissions, a number of variables need to be defined, including average weight of vehicles on the roads, distance traveled on the roads, average vehicle capacity, etc. For a standard permit that could be used in various locations and situations, it was difficult to determine what value to place on each of the variables available that would satisfy the majority of interested parties. Thus, for this standard permit, the decision was made to control the road emissions in the same manner as all NSR permits that require BMPs. As in all NSR permits, additional stipulations were included to ensure that visible emissions from all in-plant roads did not leave the property for a period exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22.

Calculated emission rates for each source are given in the table below.

EMISSION SOURCES AND EMISSION RATES

Permanent Rock and Concrete Crushing Standard Permit

AIR CONTAMINANTS DATA

Emission Point No.	Source Name	Air Contaminant Name	Emission Rates	
			lb/hr	TPY
2	Primary Crusher	PM	0.24	0.32
		PM ₁₀	0.11	0.14
4	Secondary Crusher	PM	0.24	0.32
		PM ₁₀	0.11	0.14
3	Screen No. 1	PM	0.44	0.58
		PM ₁₀	0.15	0.20
5	Screen No. 2	PM	0.44	0.58

AIR CONTAMINANTS DATA

Emission Point No.	Source Name	Air Contaminant Name	Emission Rates	
			lb/hr	TPY
		PM ₁₀	0.15	0.20
1, 10	Loading/Unloading Operations	PM	0.03	0.04
		PM ₁₀	0.01	0.02
MHFUG	Material Handling	PM	0.07	0.10
		PM ₁₀	0.02	0.03
SPFUG	Stockpiles	PM	---	0.52
		PM ₁₀	---	0.26
GEN 1	250hp Engine/Generator 1	NO _x	7.75	10.23
		CO	1.67	2.20
		SO ₂	0.51	0.68
		PM ₁₀	0.55	0.73
		VOC	0.63	0.83
GEN 2	250hp Engine/Generator 2	NO _x	7.75	10.23
		CO	1.67	2.20
		SO ₂	0.51	0.68
		PM ₁₀	0.55	0.73
		VOC	0.63	0.83
GEN 3	500hp Engine/Generator	NO _x	15.50	20.46
		CO	3.34	4.41
		SO ₂	1.03	1.35
		PM ₁₀	1.10	1.45
		VOC	1.26	1.66

IX. STATUTORY AUTHORITY

This standard permit is issued under THSC, § 382.05195, which authorizes the commission to issue and amend standard permits according to the procedures set out in that section; §382.065, which prohibits operation of a concrete crushing facility in certain locations; § 382.011, which authorizes the commission to control the quality of the state's air; and § 382.051, which authorizes the commission to issue permits, including standard permits for numerous similar sources.

Proposed Air Quality Standard Permit for Permanent Rock and Concrete Crushers
Effective Date July 31, 2008

This air quality standard permit authorizes rock and concrete crushing facilities that meet all of the conditions listed in sections (1), (2), and (3) of this standard permit. It is the permit holder's responsibility to demonstrate compliance with all conditions of this permit upon request by the executive director or any air pollution control agency having jurisdiction.

(1) General Requirements:

(A) For the purposes of this standard permit, the following definitions apply.

- (i) A site is one or more contiguous or adjacent properties which are under common control of the same person (or persons under common control).
- (ii) Associated sources are sources of air emissions that are related to the rock or concrete crushing operation, that are not "facilities" as defined under Title 30 Texas Administrative Code (30 TAC) § 116.10, General Definitions. Associated sources include, but are not limited to, stockpiles and outdoor work areas. Screens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities and are not associated sources.
- (iii) A residence is a structure primarily used as a permanent dwelling.

(B) Except as provided in subsections (C) and (D) of this section, when crushing concrete, the concrete crushing facility shall be operated at least 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship at the time an application was filed. The measurement of distance shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that is nearest the concrete crushing facility.

(C) Subsection (B) does not apply to:

- (i) a concrete crushing facility at a location for which the distance requirements of subsection (B) were satisfied at the time an application was filed with the commission, provided that the authorization was granted and maintained, regardless of whether a single or multi-family residence, school, or place of worship is subsequently built or put to use within 440 yards of the facility; or
- (ii) structures occupied or used solely by the owner of the facility or the owner of the property upon which the facility is located.

(D) Subsection (B) does not apply to a concrete crushing facility that:

- (i) is engaged in crushing concrete and other materials resulting from the demolition of a structure on that site and the concrete and other materials are being crushed primarily for use at that site;
 - (ii) operates at that site during one period of no more than 180 calendar days;
 - (iii) complies with all applicable conditions stated in commission rules, including operating conditions; and
 - (iv) is not located in a county with a population of 2.4 million or more persons, or in a county adjacent to such a county.
- (E) For any owner or operator with a facility authorized by this standard permit, the TCEQ will not accept an application for authorization of a crushing facility under Texas Health and Safety Code (THSC) § 382.0518, Preconstruction Permit, located at the same site for a period of 12 months from the date of authorization.
- (F) An applicant for authorization of a rock crusher under THSC § 382.0518, is not eligible for this standard permit at the same site until 12 months after the application for authorization under § 382.0518 is withdrawn. Facilities already authorized by a permit under § 382.0518 are not eligible for this standard permit.
- (G) Applications for this standard permit shall be registered in accordance with 30 TAC § 116.611, Registration to Use a Standard Permit (including a current Form PI-1S, Crushing Plant Standard Permit Checklist and Table 17). A compliance history review shall be performed by the executive director in accordance with 30 TAC Chapter 60, Compliance History. If a facility is determined to be a poor performer, as defined in 30 TAC Chapter 60, a standard permit registration shall not be issued.
- (H) No owner or operator of a crushing facility shall begin construction and/or operation without obtaining written approval from the executive director (except for crushers in non operational storage for which construction has not commenced as considered under the Texas Clean Air Act). Start of construction of any facility registered under this standard permit shall be no later than 18 months from the date of authorization. Construction progress and startup notification shall be made in accordance with 30 TAC § 116.115(b)(2), General and Special Conditions.
- (I) Applications for registration under this standard permit shall comply with 30 TAC § 116.614, Standard Permit Fees.
- (J) All affected facilities authorized by this standard permit must meet all applicable conditions of Title 40 Code of Federal Regulations (40 CFR) Part 60, Subpart A, General Provisions, and OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.
- (K) Only crushing facilities that are processing nonmetallic minerals or a combination of nonmetallic minerals that are described in 40 (CFR) Part 60, Subpart OOO, shall be authorized by this standard permit.
- (L) This standard permit does not supersede the requirements of any other commission rule, including 30 TAC Chapter 101, Subchapter H, Division 3, Mass Emissions Cap and Trade Program; and 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds.

- (M) Written records shall be kept for a rolling 24-month period and shall always remain on site. These records shall be made available at the request of any personnel from the TCEQ or any air pollution control program having jurisdiction. These written records shall contain the following:
 - (i) daily hours of operation;
 - (ii) the throughput per hour;
 - (iii) road and work area cleaning and dust suppression logs; and
 - (iv) stockpile dust suppression logs.
 - (N) Crushing operations and related activities shall comply with applicable requirements of 30 TAC Chapter 101, Subchapter F, Emission Events and Scheduled Maintenance, Startup, and Shutdown Activities.
 - (O) Facilities which meet the conditions of this standard permit do not have to meet the emissions and distance limitations listed in 30 TAC § 116.610(a)(1), Applicability.
 - (P) Maintenance emissions are not included in this permit and must be approved under separate authorization. Startup and shutdown emissions that exceed those expected during production operations must be approved under separate authorization.
 - (Q) Owners or operators of facilities authorized by this standard permit are not eligible for any authorization in 30 TAC Chapter 106, Subchapter E, Aggregate and Pavement or 30 TAC § 106.512, Stationary Engines and Turbines, for a facility located at the same site as a rock crusher authorized by this standard permit.
 - (R) Upon issuance of this standard permit, the TCEQ will no longer accept a registration for § 106.142, Rock Crushers.
- (2) Public Notice Requirements:
- (A) An application for authorization to construct and operate a rock crusher under this standard permit is not subject to the public notice requirements in 30 TAC Chapter 39 Subchapter H, Applicability and General Provisions, and Subchapter K, Public Notice of Air Quality Applications.
 - (B) For authorization to use this standard permit, an applicant must publish notice under this section not later than the earlier of:
 - (i) the 30th day after the date the applicant receives written notice from the executive director that the application is technically complete; or
 - (ii) the 75th day after the date the executive director receives the application.
 - (C) The applicant must publish notice at least once in a newspaper of general circulation in the municipality in which the plant is proposed to be located or in the municipality nearest to the proposed location of the crusher. If the elementary or middle school nearest to the proposed plant provides a bilingual education program as required by Subchapter B, Chapter 29, Texas Education Code, the applicant must also publish the notice at least once in an additional

publication of general circulation in the municipality or county in which the plant is proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice.

- (D) The notice must include:
- (i) a brief description of the proposed location and nature of the proposed crusher;
 - (ii) a description, including a telephone number, of the manner in which the executive director may be contacted for further information;
 - (iii) a description, including a telephone number, of the manner in which the applicant may be contacted for further information;
 - (iv) the location and hours of operation of the commission's regional office at which a copy of the application is available for review and copying; and
 - (v) a brief description of the public comment process, including the mailing address and deadline for filing written comments.
- (E) At the applicant's expense, a sign or signs shall be placed at the site of the proposed facility declaring the filing of an application for a permit and stating the manner in which the commission may be contacted for further information. Such signs shall be provided by the applicant and shall meet the following requirements:
- (i) signs shall consist of dark lettering on a white background and shall be no smaller than 18 inches by 28 inches;
 - (ii) signs shall be headed by the words "PROPOSED AIR QUALITY PERMIT" in no less than two-inch boldface block-printed capital lettering;
 - (iii) signs shall include the words "APPLICATION NO." and the number of the permit application in no less than one-inch boldface block-printed capital lettering (more than one number may be included on the signs if the respective public comment periods coincide);
 - (iv) signs shall include the words "for further information contact" in no less than 1/2-inch lettering;
 - (v) signs shall include the words "Texas Commission on Environmental Quality," and the address of the appropriate commission regional office in no less than one-inch boldface capital lettering and 3/4-inch boldface lower case lettering; and
 - (vi) signs shall include the phone number of the appropriate commission office in no less than two-inch boldface numbers.
- (F) The sign or signs must be in place by the date of publication of the newspaper notice required by subsection (2)(C) of this section and must remain in place and legible throughout the period of public comment provided for in subsection (2)(I) of this section.
- (G) Each sign placed at the site must be located within ten feet (ft.) of each (every) property line paralleling a street or other public thoroughfare. Signs must be completely visible from the

street and spaced at not more than 1,500-ft. intervals. A minimum of one sign, but no more than three signs shall be required along any property line paralleling a public thoroughfare. The commission may approve variations from these requirements if it is determined that alternative sign posting plans proposed by the applicant are more effective in providing notice to the public.

- (H) The alternate language sign posting requirements of this subsection are applicable whenever either the elementary school or the middle school located nearest to the facility or proposed facility provides a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B, and 19 TAC § 89.1205(a) or if either school has waived out of such a required bilingual education program under the provisions of 19 TAC § 89.1205(g). Schools not governed by the provisions of 19 TAC § 89.1205(a) shall not be considered in determining applicability of the requirements of this subsection. Each affected facility shall meet the following requirements.
 - (i) The applicant shall post an additional sign in each alternate language in which the bilingual education program is taught. If the nearest elementary or middle school has waived out of the requirements of 19 TAC § 89.1205(a) under 19 TAC § 89.1205(g), the alternate language signs shall be published in the alternate languages in which the bilingual education program would have been taught had the school not waived out of the bilingual education program.
 - (ii) The alternate language signs shall be posted adjacent to each English language sign required in this section.
 - (iii) The alternate language sign posting requirements of this subsection shall be satisfied without regard to whether alternate language notice is required under subsection (C) of this section.
 - (iv) The alternate language signs shall meet all other requirements of this section.
- (I) The public comment period begins on the first date notice is published under subsection (2)(B) and extends no less than 30 days from the publication date.
- (J) Not later than the 30th day after the end of the public comment period, the executive director will approve or deny the application for authorization to use the standard permit. The executive director must base the decision on whether the application meets the requirements of this standard permit. The executive director must consider all comments received during the public comment period in determining whether to approve the application. If the executive director denies the application, the executive director must state the reasons for the denial and any modifications to the application necessary for the proposed plant to qualify for the authorization.
- (K) The executive director will issue a written response to any public comments received related to the issuance of an authorization to use the standard permit at the same time as or as soon as practicable after the executive director grants or denies the application. Issuance of the response after the granting or denial of the application does not affect the validity of the executive director's decision to grant or deny the application. The executive director will:
 - (i) mail the response to each person who filed a comment; and
 - (ii) make the response available to the public.

(3) Operational Requirements:

- (A) The primary crusher throughput shall not exceed 200 tons per hour.
- (B) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 200 ft. from the nearest property line, as measured from the point on the facility nearest the property line.
- (C) The crusher and all associated facilities, including engines and/or generator sets, but not including associated sources, shall be located no less than 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship, at the time an application was filed, as measured from the point on the facility nearest the residence, school, or place of worship to the point on the residence, school, or place of worship nearest the facility.
- (D) The crushing facilities (not including associated sources) operating under this standard permit shall be located at least 550 ft. from any other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. If this distance cannot be met, then the crusher shall not operate at the same time as the other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant. Measurement shall be from the closest point on the rock crushing facility to the closest point on any other facility.
- (E) All associated sources, including but not limited to, roads (except for incidental traffic and the entrance and exit to the site), work areas, and stockpiles, shall be located at least 100 ft. from the property line.
- (F) The facilities (as defined in 30 TAC § 116.10(4)) authorized under this standard permit shall be limited to one primary crusher, one secondary crusher, one vibrating grizzly, two screens, any conveyors, and one internal combustion engine (or combination of engines) of no more than 1,000 total horsepower. Equipment that is not a source of emissions does not require authorization.
- (G) All crushers, associated facilities, and associated sources (excluding stockpiles) shall not operate for more than an aggregate of 2,640 hours at the authorized site in any rolling 12 month period. Once the operating hours (2,640 hours) for the site have been exhausted, the owner or operator shall not use a standard permit to operate another rock crusher on the site.
- (H) The rock crusher and associated facilities shall not operate from one hour after official sunset to one hour before official sunrise.
- (I) Each crusher shall be equipped with a runtime meter, which will be operating during crushing during crushing operations.
- (J) Permanently mounted spray bars shall be installed at the inlet and outlet of all crushers, at all shaker screens, and at all material transfer points and used as necessary to maintain compliance with all TCEQ rules and regulations.
- (K) Opacity of emissions from any transfer point on belt conveyors or any screen shall not exceed 10 percent and from any crusher shall not exceed 15 percent, averaged over a

six-minute period, and according to U.S. Environmental Protection Agency (EPA) Test Method (TM) 9.

- (L) Visible emissions from the crusher, associated facilities, associated sources, and in-plant roads associated with the plant shall not leave the property for a period exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22.
- (M) Dust emissions from all in-plant roads and active work areas that are associated with the operation of the crusher, associated facilities, and associated sources shall be minimized at all times by at least one of the following methods:
 - (i) covered with a material such as, but not limited to, roofing shingles or tire chips (when used in combination with (ii) or (iii) of this subsection);
 - (ii) treated with dust-suppressant chemicals;
 - (iii) watered; or
 - (iv) paved with a cohesive hard surface that is maintained intact and cleaned.
- (N) All stockpiles shall be sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- (O) Raw material and product stockpile heights shall not exceed 45 ft.
- (P) The crusher shall be equipped with a weigh hopper or scale belt to accurately determine the mass of material being crushed.
- (Q) The crusher may relocate on the site for which it has been authorized without reauthorization as long as it remains at least 440 yards from any residence, school, or place of worship that was in existence at the time of the move.

TCEQ Interoffice Memorandum

To: Interested Parties

From: Toxicology Division, Office of Executive Director

Date: March 8, 2018

Subject: Toxicity Factor Database Effects Screening Levels

A list of the (near-real time) Effects Screening Levels (ESLs) currently used by the TCEQ Toxicology Division for air permitting may be obtained from the Toxicity Factor Database that has been integrated into the Texas Air Monitoring Information System (TAMIS) database.

ESLs, expressed in terms of microgram per cubic meter ($\mu\text{g}/\text{m}^3$) or parts per billion by volume (ppbv) in air, are used to evaluate potential for effects to occur as a result of exposure to concentrations of constituents in the air. ESLs are based on data concerning health effects, odor/nuisance potential, and effects on vegetation. They are not ambient air standards. If predicted or measured airborne levels of a constituent do not exceed the screening level, adverse health or welfare effects would not be expected to result. If ambient levels of constituents in air exceed the screening level, it does not necessarily indicate a problem, but a more in-depth review is conducted.

IMPORTANT: For any compound that is designated as particulate matter (PM), the compound will be evaluated on an individual basis as PM10, *except for long-term crystalline silica and coal dust, which will be evaluated as PM4.* The total particulate matter represented in each permit evaluation must meet the National Ambient Air Quality Standard. For any constituent composed of at least 5% of benzene, benzene emissions will have to be modeled and evaluated separately.

Some notations used on the list that are of note include:

- **Short-term** – generally indicates a 1-hour averaging period, see below for exceptions.

Permitting Condition	Exceptions
	Short-term = 24 hours
Agricultural Areas	<i>Hydrogen Fluoride</i> <i>Soluble Inorganic Fluorides</i>

- **Long-term** – indicates an annual averaging period, see below for exceptions.

Permitting Condition	Exceptions
	Long-term = 30 days
Agricultural Areas with Cattle	<i>Hydrogen Fluoride</i> <i>Soluble Inorganic Fluorides</i>

- **Final** – indicates that the ESL was updated using the ESL development guidelines (RG-442).
- **Under review** – indicates that the ESL is currently being reviewed by the Toxicology Division.
- **Interim** – indicates that the ESL is current and will be reviewed by the Toxicology Division at a later date. Also, interim ESLs may be updated pending the release of updated toxicity information or odor data.
- **Must Meet NAAQS** – indicates that, for species of limited concern, the determination of the individual species impacts are not required if a National Ambient Air Quality Standards (NAAQS) analysis is completed for particulate matter of 2.5 and 10 microns or less (PM2.5 and PM10).

The database is dynamic; changes are not indicated in the report output, but the list can be sorted by derived date for each ESL.

If you cannot find a listing for a particular constituent, a health effects review is not required, though these chemicals must satisfy the Best Available Control Technology (BACT) and other permitting requirements. Additionally, the permit reviewer and Air Permits Division management have the discretion to perform a health effects review. In this case, a default short-term ESL of 2 µg/m³ can be used, or you may contact the Toxicology Division to determine if a screening level has been established for a constituent that is not in this list. To request an interim ESL, please fill out the Interim ESL Request Form (found on the Toxicology website). **In the interest of time and resources, the Toxicology Division requests that you please conduct a thorough search of the Toxicity Factor Database with CAS numbers and synonyms of the constituent of interest prior to contacting the Toxicology Division. If a request has been received with constituents that are listed in the Toxicity Factor Database, it will be returned.**

For any technical questions, please feel free to contact Ross Jones at 512-239-1804 or email at ross.jones@tceq.texas.gov or Jong-Song Lee at 512-239-1790 or email at jong-song.lee@tceq.texas.gov.

Table 2. Sitewide Modeling Results for Health Effects			
Pollutant & CAS#	Averaging Time	GLCmax ($\Phi\text{g}/\text{m}^3$)	ESL ($\Phi\text{g}/\text{m}^3$)
silica-crystalline: quartz, respirable (14808-60-7)	1-hr	4.5	1
	Annual	0.3	0.1

Table 3. Hours of Exceedance for Health Effects		
Pollutant & CAS#	Averaging Time	4 x ESL @ GLCmax (Expected hrs/yr)
silica-crystalline: quartz, respirable (14808-60-7)	1-hr	5

The expected hours of exceedance of the silica-crystalline: quartz, respirable ESL per year are calculated based on modeling 8760 hr/yr for 5 years and then adjusting the hours per year greater than 4xESL given an actual operating schedule of 2,640 hours per year.

The impacts related to potential emissions of silica are the most restrictive with respect to the protectiveness review. Table 4 provides the maximum predicted silica impacts for various stockpile areas and the resulting site area.

Table 4. Silica Maximum Predicted Impacts for Various Stockpile/Site Areas			
Stockpile Area (acres)	Equipment Area (acres)	Total Site Area (acres)	Max. short-term predicted impacts for Silica ($\Phi\text{g}/\text{m}^3$)
0.6	0.25	1.6	4.5
1	0.25	2.2	4.0
1.5	0.25	3.0	3.7
3	0.25	5.0	3.4
4	0.25	6.2	3.4
5	0.25	7.5	3.4

Table 5. Total Concentrations for State NAAQS (Concentrations > De Minimis)					
Pollutant	Averaging Time	GLCmax ($\Phi\text{g}/\text{m}^3$)	Background ($\Phi\text{g}/\text{m}^3$)	Total Conc. = [Background + GLCmax] ($\Phi\text{g}/\text{m}^3$)	Standard ($\Phi\text{g}/\text{m}^3$)
SO ₂	3-hr	123	130	253	1,300
	24-hr	75	36	111	365
	Annual	4	8	12	80
PM ₁₀	24-hr	86	60	146	150
	Annual	23	20	43	50
NO ₂	Annual	65	20	85	100
CO	1-hr	556	4000	4,556	40,000
	8-hr	302	1000	1,302	10,000

The background concentrations from the September 4, 1998, memorandum “Screening Background Concentrations” were used in this modeling analysis. These concentrations are meant to be conservative since they were developed for use primarily in the screening model process. They represent the highest generic background concentrations expected in any county in Texas. Although the referenced memorandum lists some specific counties with greater screening background concentrations, these generally occur in limited areas that are highly urbanized or near certain major sources.

- 3.0 Land Use. Rural and urban dispersion coefficients and flat terrain were used in the modeling analysis. The worst-case results for each case were reported.
- 4.0 Modeling Emissions Inventory. The three engines were co-located and modeled as a single point source at the center of the rock crusher site with parameters as given in Table 6. Emissions from the site representing the two crushers, two screens, associated conveyors, roads, and stockpiles were modeled as three circular area sources with heights of 1 meter, 3 meters, and 6 meters. The radius of the circular area sources was based on the areal coverage of the stockpiles. A stockpile area of 0.6 acres was related to a 150 foot radius area source, an area of 1 acre was related to a 177 foot radius, an area of 1.5 acres was related to a 203 foot radius, an area of 3 acres was related to a 263 foot radius, an area of 4 acres was related to a 294 foot radius, and an area of 5 acres was related to a 322 foot radius.

A low-level fugitive scaling factor of 0.6 was applied to the modeled emission rates for the area sources which is consistent with TCEQ guidance for these types of sources. Maximum allowable hourly emission rates are used for the short-term averaging time analyses and annual average emission rates are used for the annual averaging time analyses. The conversion of NO_x to NO₂ was assumed to be 100%.

Table 6. On-Property Point Source Parameter Information					
Modeled Source	Modeled ID	Stack Height (feet)	Stack Temp (°F)	Stack Exit Velocity (feet/sec)	Stack Diameter (feet)
Three engines	ENGINES	10	983	209	0.5

Table 7. Emission Rates for Rock Crusher				
Scenario: Stockpile Area (Acres)	Pollutant	Modeled ID	Modeled Emission Rate for each Source	
			Short-term (lb/hr)	Long-term (lb/hr)
0.6	Silica (PM4)	AREA1,2,3	0.0135	0.00504
	PM	AREA1,2,3	0.5426	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.213	0.356
ENGINES		2.2	0.66	
1.0	Silica (PM4)	AREA1,2,3	0.0145	0.00596
	PM	AREA1,2,3	0.579	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.232	0.374
ENGINES		2.2	0.66	
1.5	Silica (PM4)	AREA1,2,3	0.0156	0.0071
	PM	AREA1,2,3	0.625	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.254	0.397
ENGINES		2.2	0.66	

Table 7. Emission Rates for Rock Crusher				
Scenario: Stockpile Area (Acres)	Pollutant	Modeled ID	Modeled Emission Rate for each Source	
			Short-term (lb/hr)	Long-term (lb/hr)
3	Silica (PM4)	AREA1,2,3	0.0190	0.0105
	PM	AREA1,2,3	0.763	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.326	0.466
		ENGINES	2.2	0.66
4	Silica (PM4)	AREA1,2,3	0.0213	0.0128
	PM	AREA1,2,3	0.854	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.369	0.512
		ENGINES	2.2	0.66
5	Silica (PM4)	AREA1,2,3	0.0236	0.0151
	PM	AREA1,2,3	0.946	N/A
		ENGINES	2.2	N/A
	PM10	AREA1,2,3	0.415	0.558
		ENGINES	2.2	0.66
ALL	CO	ENGINES	6.68	N/A
	NOx		N/A	15.5
	SO2		2.05	1.02
	VOC		2.52	N/A

- 5.0 Building Wake Effects (Downwash). Area sources were used to represent the material stockpiles and the rock crushing equipment. Building downwash is not applicable for area source modeling. The point source representing the engines is a minor source at rock crushing sites. It was not downwashed because the stack exit velocity and the stack exit temperature generally results in a plume that escapes downwash effects.
- 6.0 Meteorological Data. The analysis used surface meteorology from Austin and upper air data from Victoria for the years 1983, 1984, 1986, 1987, and 1988. Since this analysis is primarily for short-term concentrations, this five-year set would include worst-case short-term meteorological conditions that could occur anywhere in the state. The wind directions were set at 10 degree

intervals, so the wind direction would be coincident with the receptor radials. This provided predictions along the plume centerline which is a conservative result. A default anemometer height of 10 meters was used.

- 7.0 Receptor Grid. A polar receptor grid extending from the center of the property to 550 meters with 25 meter spacing along each 10 degree radial was used in the modeling demonstration. This was done to determine the plume centerline concentration, as indicated in Section 6.0.
- 8.0 Model Used and Modeling Techniques. Air dispersion modeling was performed using ISCST3 (version 02035).

3.0 Modeling Emissions Inventory.

Table 2. Emission Rates for Rock Crusher			
Pollutant	Modeled ID	Scenario: Stockpile Area (Acres)	Modeled Emission Rate for each Source (lb/hr)
PM2.5	AREA 1,2, 3	0.6	0.0256
		1.0	0.0277
		1.5	0.0302
		3.0	0.0379
		4.0	0.0431
		5.0	0.0482

EXHIBIT I

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)
BUREAU OF POLLUTION CONTROL AND
PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087**



SUMMARY REPORT

Texas Coastal Materials, LLC - 5875 Kelley St, Houston, Texas 77026 - TCEQ Air Quality Registration
Number: 173296

Prepared by: Jorge Gonzalez 09/19/2023
Jorge Gonzalez, P.E. Date

Approved by: [Signature] 9/19/23
Nguyen Ly Date

Introduction

Texas Coastal Materials, LLC, 9026 Lambright Rd, Houston, TX 77075-3208 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 173296, which would authorize construction of a permanent rock and concrete crusher. The facility is proposed to be located at 5875 Kelley St, Houston, Harris County, Texas 77026.

Purpose and Scope. The purposes of this investigation were to: 1) evaluate the location of the future facility relative to existing residences, churches, schools, and public outdoor spaces, and 2) evaluate any other facilities in the near vicinity that are performing similar functions. The scope of the investigation to achieve these purposes included the following:

- Reviewing applying company information and history
- Perform desktop study of surrounding area to gather information on existing points of interest along with other facilities performing a similar function in the area.
- Review historical performance of these types of facilities.
- Attain and review any existing air monitoring data that was performed in the area.
- Deploy our Mobile Ambient Air Monitoring Laboratory Unit (MAAML)
- Provide a summary of findings.

Facility Information

The Kelley Street Plant is located at 5875 Kelley Street, Houston, Harris County, Texas. The permit application lists the site with The Standard Industrial Classification (SIC) code for crushed concrete 1422 and The North American Industrial Classification System (NAICS) code is 212312.

The facility is currently in use by Womble, Inc as a pipe storage and coating facility with some existing metal structures and limited access road paving within the facility. The property is located west of Homestead Rd, North of Kelley St. and Hunting bayou, South of an existing railroad and east of an existing Truck and trailer repair facility (see Figure 1).

Process Description. Texas Coastal is constructing a new crushed concrete plant that will produce a bull rock, inch and one-half aggregate, and other construction products. Broken concrete will be delivered to the site by truck and placed in a storage pile. From the pile, materials will be loaded into the crusher hopper by front end loader or excavator. From the feeder hopper, materials are gravity fed into the crusher where the materials are ground into smaller sizes (C-1). Crushed materials are delivered to a deck screen via conveyors (BC-1 and BC-2). The crusher is controlled by water sprays on the inlet and outlet. The screen separates materials into different sizes. These include oversize materials, bull rock, fines, and small aggregates. The small aggregates pass through the screen and drop to conveyor belt BC-3 to be delivered to the aggregate product pile. Bull rock is passed from the screen onto BC-5a and BC-5 for delivery to the bull rock pile. Oversize materials are sent to the secondary crusher (C-2) via belt conveyor (BC-6) for further size reduction or diverted to BC-7 for delivery to an oversize pile. Materials passing into the secondary crusher are returned to the deck screen by use of BC-4. All material transfers, the screen deck, and the inlet and outlet of each crusher

are controlled by water spray. Stockpiled products are loaded into trucks via front end loader (T-009) for delivery to customers off-site.

Based on correspondence with Blake Hays of Coastal materials, the company will be sourcing their materials from demolition projects in the greater Houston area. The Materials will consist of road construction products, and some will contain metal rebar that will need to be separated.

Facility Authorization. This will be a new facility therefore there isn't any previous permit information on this facility. The application was deemed technically complete on July 31, 2023, by TCEQ and details of the facility are provided below.

- TCEQ Air Quality Registration Number: 173296 - Permanent Rock and Concrete Crusher
- Customer Reference Number: CN606158293
- Regulated Entity Number: RN111769154

Based on correspondence with Blake Hays of Coastal Materials, the company has no other facilities outside of the Houston area.

Complaints and Enforcement Issues. Facility will be new to the location therefore there are no previous complaints or enforcement issues related to this entity.

Investigation

Desktop Study. A desktop study was performed in order to gather any available information related to the facility and the surrounding area.

Air Monitoring. We deployed our air monitoring unit to gather ambient air data near the existing concrete batch plant (6001 Homestead Rd, Houston, TX 77028) on September 6th and 7th, 2023. We also deployed our unit near the LBJ hospital (5656 Kelley St, Houston, TX 77026) on August 31, 2023, and September 1, 2023, respectively. In addition, the Air monitoring laboratory had previously been deployed to 6001 Homestead Rd, Houston, TX 77028 on three separate occasions in 2022 (April 28th, June 7th, and October 21st).

April 28, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that the 5-min average PM_{2.5} concentrations ranged from 8.3 to 95.9 $\mu\text{g m}^{-3}$ (average – 26.0 $\mu\text{g m}^{-3}$) and PM₁₀ concentrations ranged from 20.4 to 452.9 $\mu\text{g m}^{-3}$ (average – 114.1 $\mu\text{g m}^{-3}$). There were many spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively. The 5-min average O₃ concentrations ranged from 22.2 to 57.8 ppb (average – 42.2 ppb) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

June 7, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that 5-min average PM_{2.5} concentrations ranged from 5.8 to 38.8 $\mu\text{g m}^{-3}$ (average – 11.2 $\mu\text{g m}^{-3}$) and PM₁₀ concentrations ranged from 10.0 to 257.7 $\mu\text{g m}^{-3}$ (average – 34.0 $\mu\text{g m}^{-3}$). Two spike PM concentrations exceeded EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 9.3 to 35.7 ppb (average – 24.1 ppb) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

October 21, 2022, Ambient Air Results (6001 Homestead Rd). Results for monitoring on this day revealed that 5-min average PM_{2.5} concentrations ranged from 5.6 to 11.8 $\mu\text{g m}^{-3}$ (average – 8.1 $\mu\text{g m}^{-3}$)

and PM₁₀ concentrations ranged from 10.9 to 45.8 $\mu\text{g m}^{-3}$ (average – 24.1 $\mu\text{g m}^{-3}$). No PM_{2.5} and PM₁₀ concentrations exceeded EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀, respectively.

August 31, 2023, and September 1, 2023, Ambient Air Results (5656 Kelley St. – LBJ Hospital). Results for monitoring on August 31st revealed that 5-min average PM_{2.5} (GRIMM) concentrations ranged from 5.9 to 10.9 $\mu\text{g m}^{-3}$ (average – 7.8 $\mu\text{g m}^{-3}$) while PM₁₀ concentrations ranged from 9.6 to 43.3 $\mu\text{g m}^{-3}$ (average – 18.9 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀.

Results for monitoring on September 1st revealed that 5-min average PM_{2.5} (GRIMM) concentrations ranged from 5.2 to 9.7 $\mu\text{g m}^{-3}$ (average – 6.8 $\mu\text{g m}^{-3}$) while PM₁₀ concentrations ranged from 8.3 to 25.2 $\mu\text{g m}^{-3}$ (average – 18.2 $\mu\text{g m}^{-3}$), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀.

September 6th and 7th, 2023, Ambient Air Results (6001 Homestead Rd). Results for monitoring on September 6th revealed that 5-min average PM_{2.5} (GRIMM) concentrations ranged from 3.2 to 18.9 $\mu\text{g m}^{-3}$ (average – 7.0 $\mu\text{g m}^{-3}$) while PM₁₀ concentration ranged from 6.8 to 77.0 $\mu\text{g m}^{-3}$ (average – 26.7 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀.

Results for monitoring on September 7th revealed that 5-min average PM_{2.5} (GRIMM) concentrations ranged from 3.7 to 25.1 $\mu\text{g m}^{-3}$ (average – 6.7 $\mu\text{g m}^{-3}$) while PM₁₀ concentrations ranged from 8.6 to 151.7 $\mu\text{g m}^{-3}$ (average – 18.9 $\mu\text{g m}^{-3}$). No PM concentrations exceeded EPA NAAQS 24h standards of 35 $\mu\text{g m}^{-3}$ for PM_{2.5} and 150 $\mu\text{g m}^{-3}$ for PM₁₀.

See Appendix A for full air monitoring reports for the above referenced dates.

Site Visit and Field Reconnaissance. Site visit was performed on August 29, 2023. Figure 4 thru Figure 10 should detailed photos of site visit and field reconnaissance. Previous to the site visit, a call was held on August 28, 2023, with Mr. Blake Hays of Texas Coastal Materials LLC to better understand the project and to request any supporting documentation that they may have. Jay Lindholm with Trinity Consultants provided us with a copy of their permit application.

Points of Interest in Surrounding Area. Main Findings from desktop study and site visit (Future facility to be located at 5875 Kelley St. See (see **Figure 1** site layout).

Residence. Closest residence is located at 5903 Minden St, Houston, TX 77026 approximately 1800 ft from the future facility.

Church. St Francis Catholic church (5102 Dabney St, Houston, TX 77026) is located approximately 1500 ft to the future site.

Hospital. Lyndon B. Johnson Hospital is located at 5656 Kelley St, Houston, TX 77026 and is approximately 1000 ft from the future site.

Schools. No schools or daycare facilities located within 3000 ft radius of the future facility at 5875 Kelley Street.

Parks. Hutchenson park is located approximately 1000 ft from future facility and a new proposed park for 2024 (Curtis M. Graves Park) will be located approximately 2000 ft from the future facility.

Texan Concrete Ready Mix. An existing concrete batch plant is located at 6001 Homestead Rd, Houston, TX 77028 approximately 1200 ft from 5875 Kelley Street.

Texan Concrete is a regulated entity with TCEQ:

- Customer Reference Number: CN604045617
- Regulated Entity Number: RN 109666016
- Active Permit: Wastewater TXG113211 (two TCEQ complaints in 2017 and 2022 related to wastewater permit and notice of violations in 2023)

A review of air pollution complaints for this facility reveals a total of 11 complaints in the Customer Request and Information System (CRIS) between 04/25/2018 and 11/21/2022.

Vulcan Materials. A construction materials storage yard is located at 7070-A Bennington St, Houston, TX 77028 approximately 1500 ft from 5875 Kelley Street.

Vulcan Materials (CN600355465) is a regulated entity with TCEQ. This specific facility does not appear in TCEQ records.

No previous air pollution complaints appear in the Customer Request and Information System (CRIS) related to this address.

Historical Issues/Complaints for Similar Facilities. Based on past experience from inspections and complaints for similar types of facilities. We have listed the most common issues encountered below:

- Stockpiles not sprinkled with water, dust-suppressant chemicals, or covered, as necessary, to minimize dust emissions.
- Raw materials and product stockpiles exceed permit height limit creating dust.
- Dust suppression methods (water trucks, paving, sweeping...etc.) not being used on a regular basis to control dust.
- Dust above acceptable limit coming from screening, crushing, and transfer of materials process.
- Improper maintenance of baghouses.
- Exceeding permitted operating hours.
- Visible emissions leaving the property.

Summary of Findings

Based on desk study and field reconnaissance, the site does meet the distance requirements set forth by TCEQ (440 yards from any residence, school, or place of worship and 550 feet from any other rock crusher, concrete batch plant, or hot mix asphalt plant). The future site is approximately ~1100 ft from a heavily used public hospital (Lyndon B. Johnson Hospital). There are also plans to add another park (Curtis M. Graves Park) adjacent to the existing batch plant and approximately ~2000 ft from the future site.

Air monitoring data collected during daylight hours (between 8am and 1pm) at Lyndon B Johnson Hospital (5656 Kelley St, Houston, TX 77026) indicated that the average value for all data collected of

7.4 $\mu\text{g m}^{-3}$ with no spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for $\text{PM}_{2.5}$.

Air monitoring data collected during daylight hours (between 8am and 3pm) at the nearby concrete batch plant (6001 Homestead Rd.) indicated that the average value for all data collected was at or near the EPA average annual standard for $\text{PM}_{2.5}$ of 12.0 $\mu\text{g m}^{-3}$. There were some spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 $\mu\text{g m}^{-3}$ for $\text{PM}_{2.5}$. Based on the air monitoring data conducted nearby, the background concentrations at the new facility may be close to EPA annual standard of $\text{PM}_{2.5}$.



The following illustrations are attached:

	<u>Figure</u>
Future Site and Surrounding Area.....	1
Process Layout and Details	2 and 3
Site Visit Photos.....	4 thru 10
Appendix A – Air Monitoring Reports	



Figure 1 – Texas Coastal Materials – 5875 Kelley St.

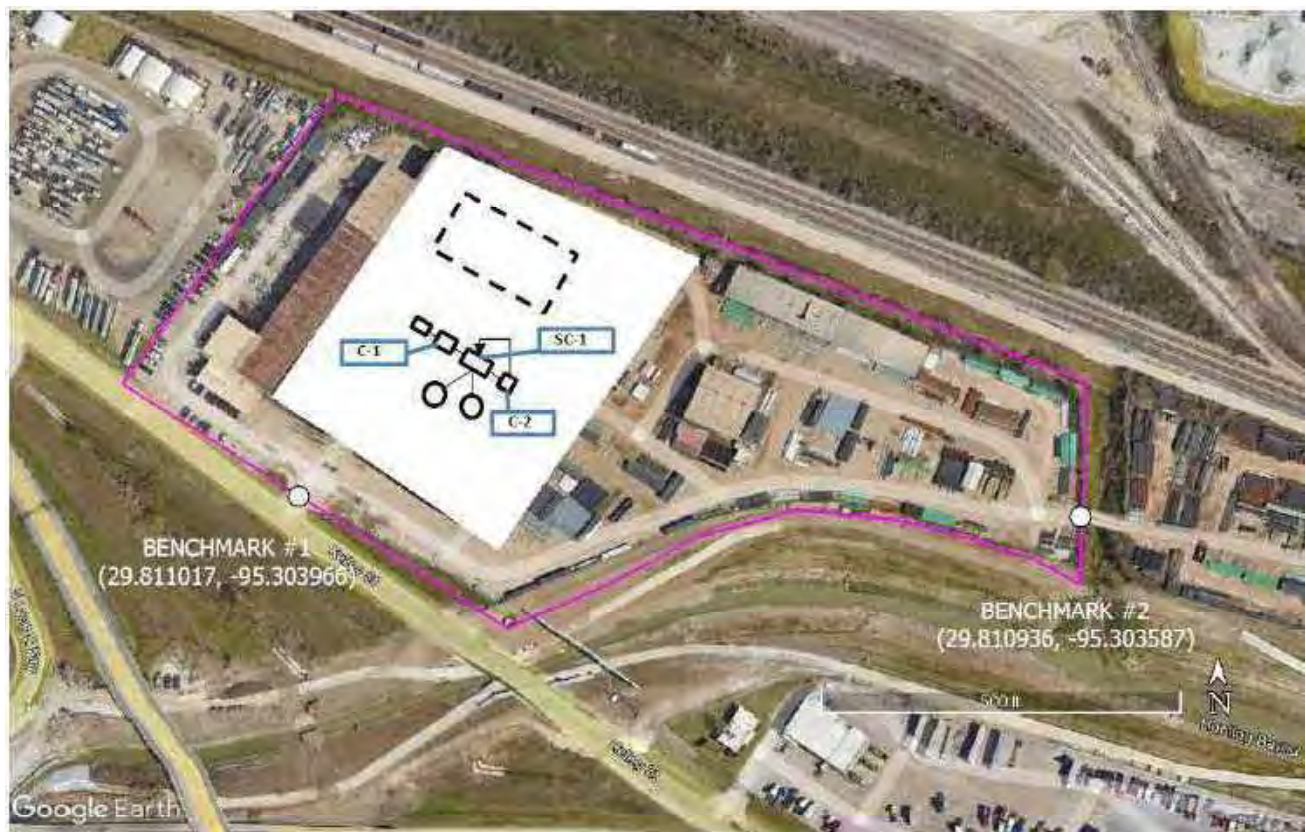


Figure 2 – Site Layout (From Permit Submittal – Trinity Consultants July 2023)

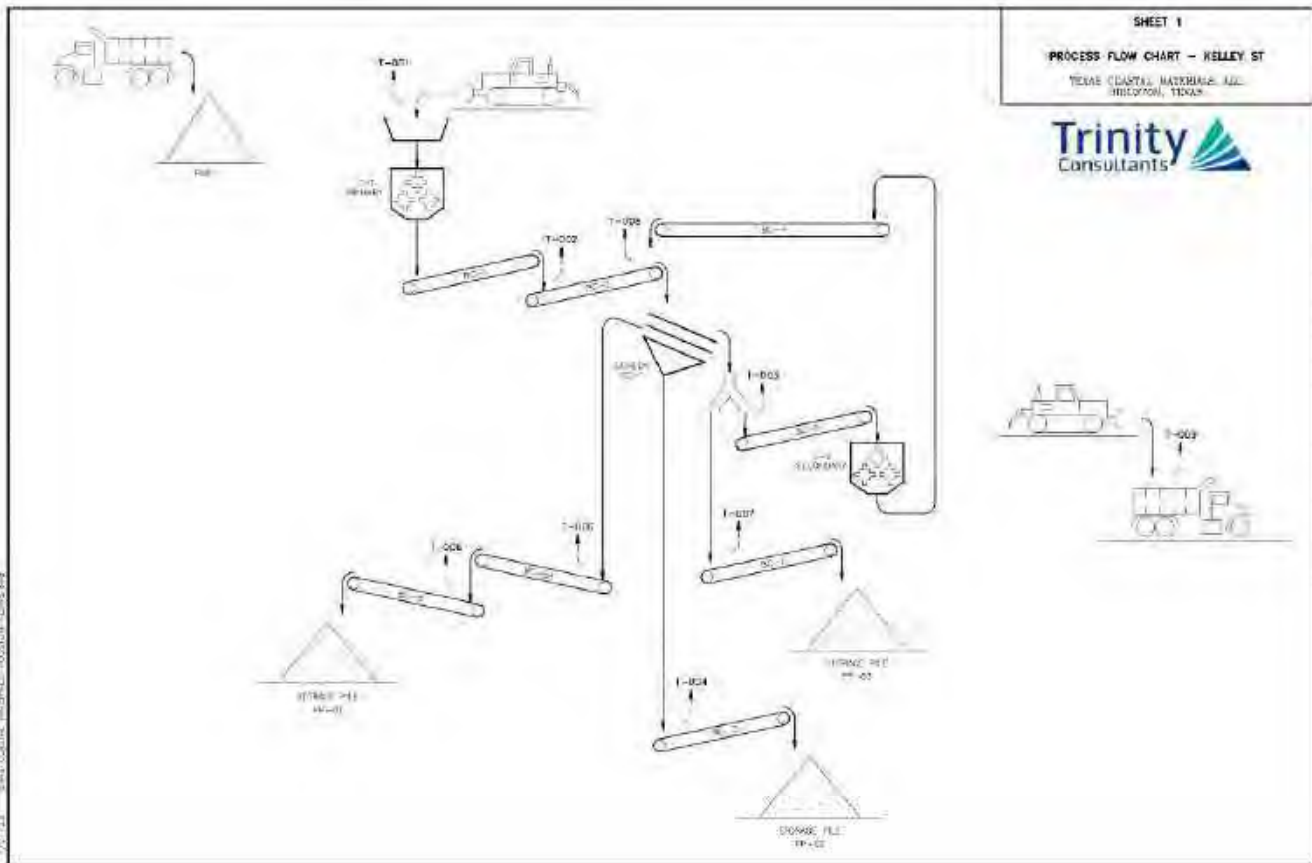


Figure 3 – Process Layout (From Permit Submittal – Trinity Consultants July 2023)



Figure 4 – Future Site Current Entrance – Facing NE from Kelley St.



Figure 5 – LBJ Hospital – Facing S from Kelley St.



Figure 6 – St. Francis Catholic Church – Facing SE on Dabney St.



Figure 7 – Nearest Residence at corner of Dabney St. and Minden St. – Facing SW Dabney St.



Figure 8 – Hutchenson Park – Facing S towards park.



Figure 9 –Future Park and Current Retention Pond – Facing NE from Homestead Rd.



Figure 10 – Hunting Bayou and Bike Trail – Facing W parallel to property.



Appendix A

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on April 28, 2022)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Nguyen Ly Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

HCHO - formaldehyde

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppbV – part(s) per billion by volume

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southeasterly winds would prevail on April 28, 2022. MLP Chemists deployed the MAAML at Texas Concrete (Figure 1) to monitor for VOCs by GC/MS, PM using a GRIMM Technologies PM monitor and O₃ using a gas specific analyzer.

Outcome:

Monitoring ran from 800 to 1500 CST on April 28, 2022 using MAAML instrumentation to monitor VOCs, PM and O₃ with prevailing southeasterly winds at speeds from 4.5 to 8.3 mph. During the run, the chemists noted no odors and emission plumes in the area. 1,3-Butadiene was not detected. Benzene (0.1 ~ 0.2 ppb, TCEQ's ESL long term: 1.4 ppb) was measured. Concentrations for other confirmed VOCs ranged low.

5-min average PM_{2.5} and PM₁₀ concentrations ranged from 8.3 to 95.9 µg m⁻³ (average – 26.0 µg m⁻³) and 20.4 to 452.9 µg m⁻³ (average – 114.1 µg m⁻³) respectively (Figure 2) with many spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 22.2 to 57.8 ppb (average – 42.2 ppb) (Figure 3) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

Figure 4 depicts the time series graph for wind speed and direction measured at Texas Concrete on April 28, 2022 while figure 5 depicts MAAML deployment.



Figure 1: MAAML deployment site (29.817028°, -95.305909°) and prevailing wind – Texas Concrete (04/28/22)

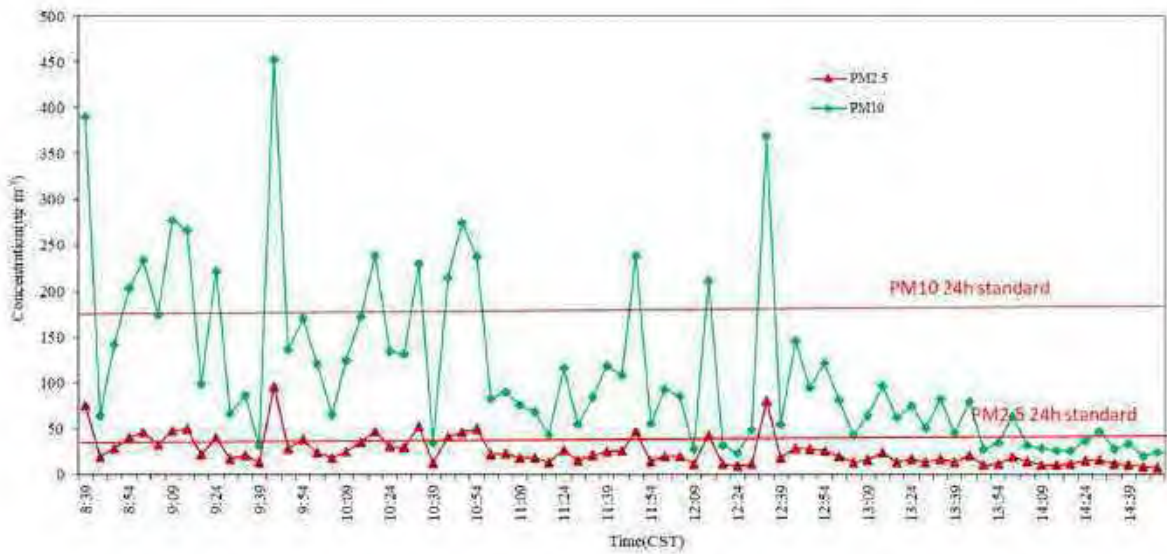


Figure 2: Time series graph of PM concentrations – Texas Concrete (04/28/22)

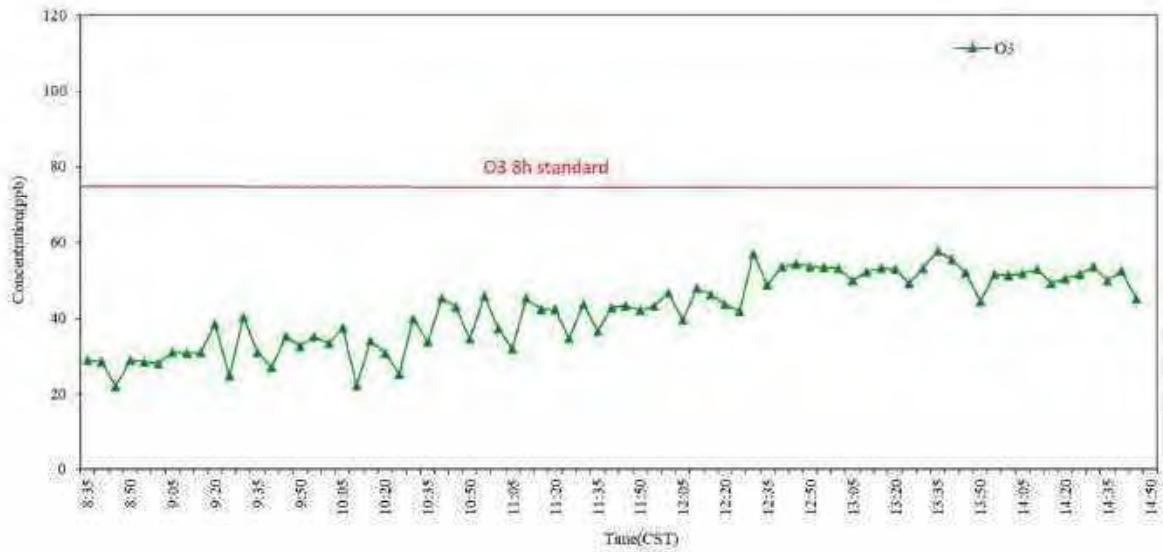


Figure 3: Time series graph of O₃ concentrations – Texas Concrete (04/28/22)

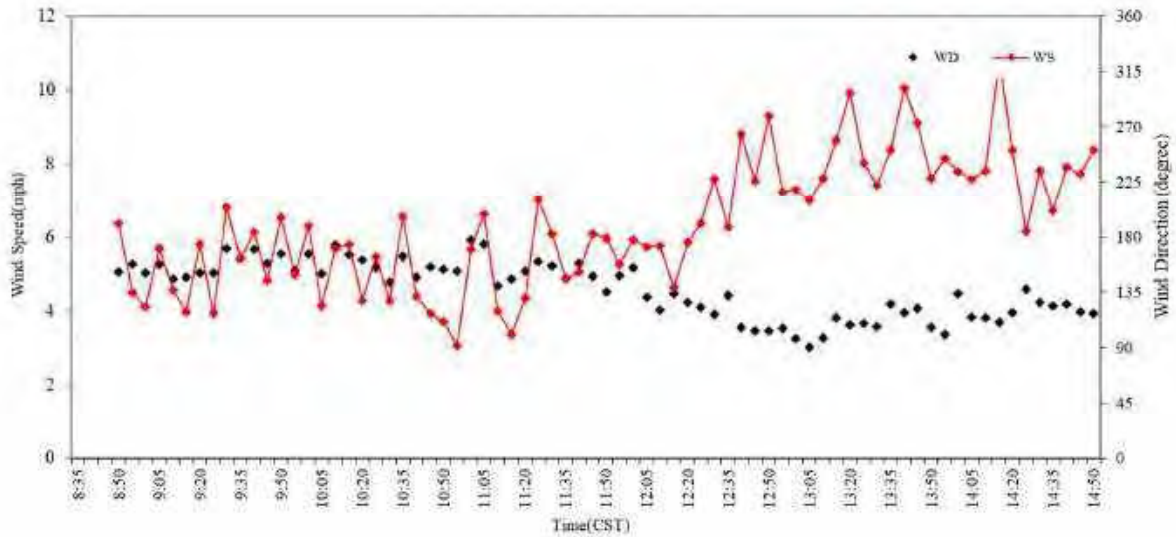


Figure 4: Time series graph of wind speed and direction – Texas Concrete (04/28/22)



Figure 5: MAAML deployment – Texas Concrete (04/28/22)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
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7411 PARK PLACE BOULEVARD
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**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on June 7, 2022)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Nguyen Ly Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

HCHO - formaldehyde

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TCEQ – Texas Commission on Environmental Quality

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Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southeasterly winds would prevail on June 7, 2022. MLP Chemists deployed the MAAML at Texas Concrete (Figure 1) to monitor for VOCs by GC/MS, PM using a GRIMM Technologies PM monitor and O₃ using a gas specific analyzer.

Outcome:

Monitoring ran from 800 to 1500 CST on June 7, 2022 using MAAML instrumentation to monitor VOCs, PM and O₃ with prevailing SSE winds at speeds from 8.3 to 10.0 mph. During the run, the chemists noted no odors and emission plumes in the area. 1,3-Butadiene (ND, TCEQ's ESL long term: 4.5 ppb) was not detected. Concentrations for Benzene (NO~0.1 ppb, TCEQ's ESL long term: 1.4 ppb) and other confirmed VOCs ranged low.

5-min average PM_{2.5} and PM₁₀ concentrations ranged from 5.8 to 38.8 µg m⁻³ (average – 11.2 µg m⁻³) and 10.0 to 257.7 µg m⁻³ (average – 34.0 µg m⁻³), respectively (Figure 2), with two spike PM concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, respectively. 5-min average O₃ concentrations ranged from 9.3 to 35.7 ppb (average – 24.1 ppb) (Figure 3) with no O₃ concentration exceeding EPA NAAQS' 8h standard of 75 ppb.

Figure 4 depicts the time series graph for wind speed and direction measured at Texas Concrete on June 7, 2022 while figure 5 depicts MAAML deployment.



Figure 1: MAAML deployment site (29.817028°, -95.305909°) and prevailing wind – Texas Concrete (06/07/22)

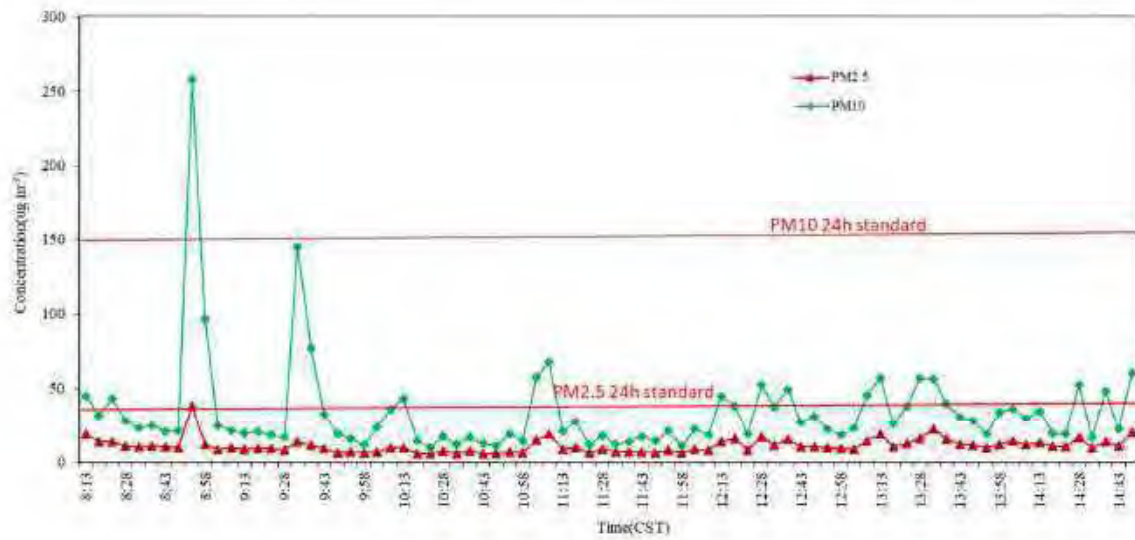


Figure 2: Time series graph of PM concentrations – Texas Concrete (06/07/22)



Figure 3: Time series graph of O₃ concentrations – Texas Concrete (06/07/22)

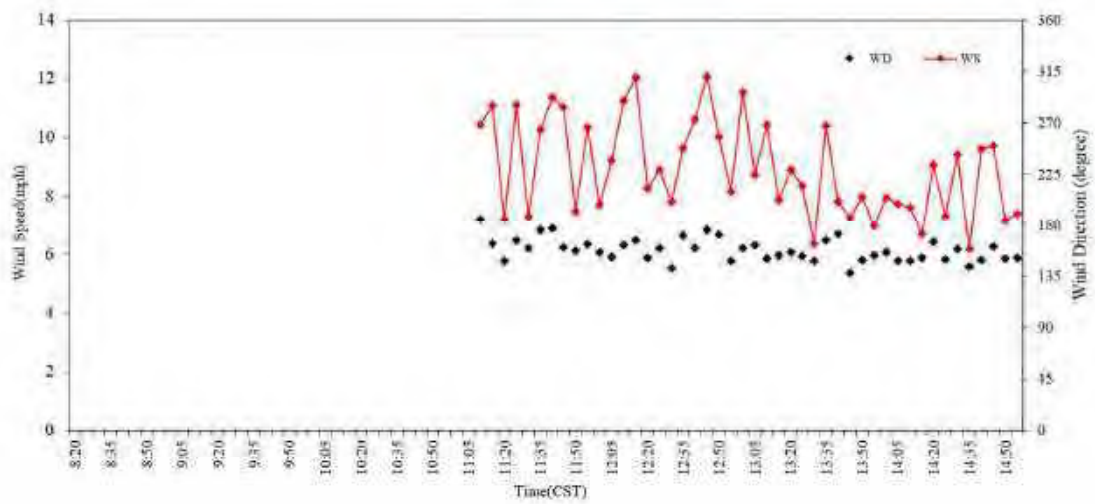


Figure 4: Time series graph of wind speed and direction – Texas Concrete (06/07/22)



Figure 5: MAAML deployment – Texas Concrete (06/07/22)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on October 21, 2022)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Nguyen Ly Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

HCHO - formaldehyde

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppbV – part(s) per billion by volume

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southwesterly winds would prevail on October 21, 2022. MLP Chemists deployed the MAAML at Texas Concrete (Figure 1) to monitor for PM using a GRIMM Technologies PM monitor. GC/MS and O₃ monitor were out of order.

Outcome:

Monitoring ran from 800 to 1400 CST on October 21, 2022 using MAAML instrumentation to monitor PM with prevailing SW winds at speeds from 6.2 to 11.1 mph. During the run, the chemists noted no odors and emission plumes in the area.

5-min average PM_{2.5} and PM₁₀ concentrations ranged from 5.6 to 11.8 µg m⁻³ (average – 8.1 µg m⁻³) and 10.9 to 45.8 µg m⁻³ (average – 24.1 µg m⁻³), respectively (Figure 2), with no PM_{2.5} and PM₁₀ concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, respectively.

Figure 3 depicts the time series graph for wind speed and direction measured at Texas Concrete on October 21, 2022 while figure 4 depicts MAAML deployment.



Figure 1: MAAML deployment site (29.817219°, -95.300992°) and prevailing wind – Texas Concrete (10/21/22)

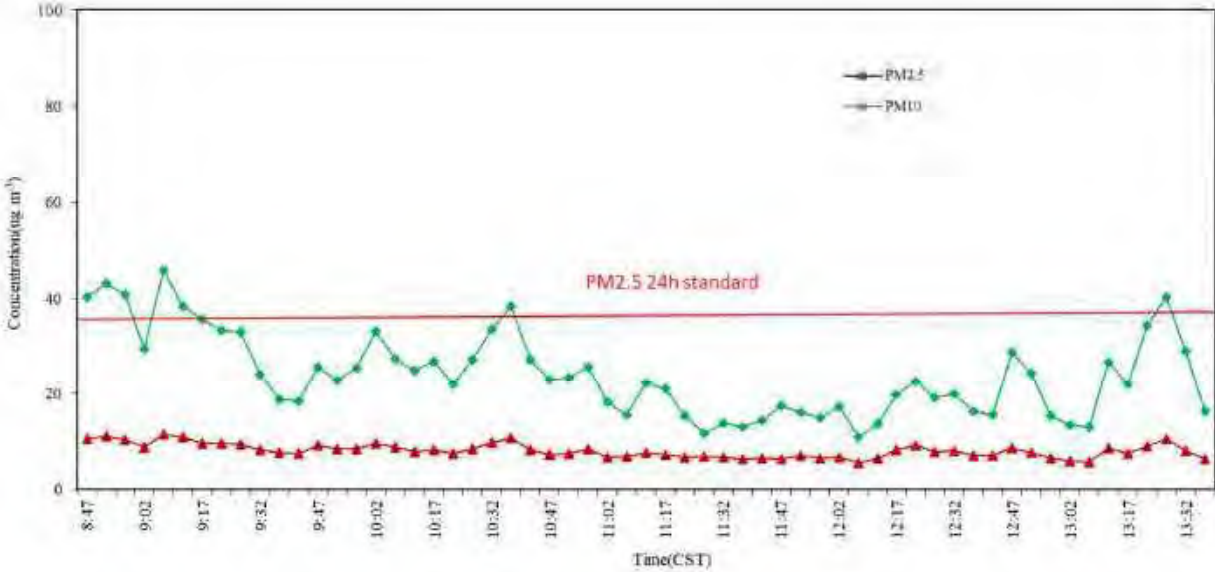


Figure 2: Time series graph of PM concentrations – Texas Concrete (10/21/22)

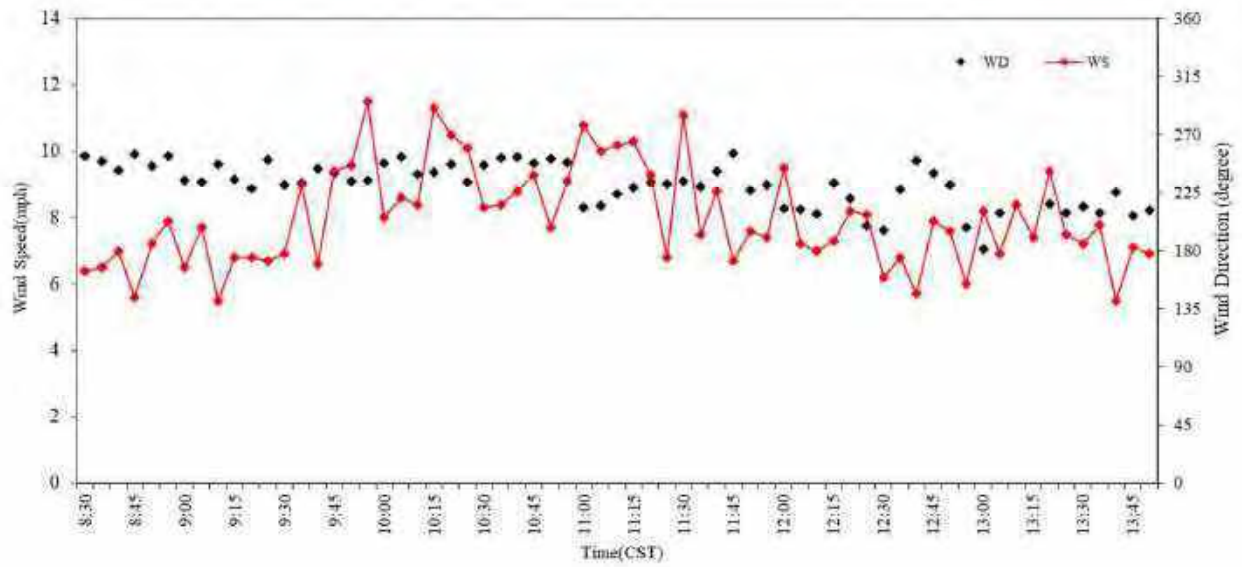


Figure 3: Time series graph of wind speed and direction – Texas Concrete (10/21/22)



Figure 4: MAAML deployment – Texas Concrete (10/21/22)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Lyndon B Johnson Hospital (5656 Kelley St, Houston, TX 77026) on August 31, 2023

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Olariche Diala - Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a follow-up MAAML deployment to collect additional ambient air data from a potential air pollution source stemming from past emission events at the facility.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated that northeasterly winds would prevail on August 31, 2023. MLP Chemist deployed the MAAML at Lyndon B Johnson Hospital to monitor for VOCs by GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 0900 to 1300 CST on August 31, 2023 using MAAML instrumentation to monitor VOCs and PM with NE winds at speed of 2.1 to 4.1 mph. Wind sensor in MAAML was out of order. Hourly average weather data measured at Park Place was used. The readings for ozone monitor were low and unstable. During the run, the chemist noted no odor and emission plumes in the area. Concentrations for I,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected and benzene (0.2~0.4 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 5.9 to 10.9 µg m⁻³ (average – 7.8 µg m⁻³) while PM₁₀ concentrations ranged from 9.6 to 43.3 µg m⁻³ (average – 18.9 µg m⁻³), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀ (Figure 2).

Figure 3 depicts MAAML deployment at Lyndon B Johnson Hospital on August 31, 2023.



Figure 1: MAAML deployment site (29.809861° -95.313904°) and prevailing wind – Lyndon B Johnson Hospital (08/31/23)



Figure 2: Time series graph of PM₁₀ and PM_{2.5} concentrations – Lyndon B Johnson Hospital (08/31/23)



Figure 3: MAAML deployment - Lyndon B Johnson Hospital (08/31/23)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Lyndon B Johnson Hospital (5656 Kelley St, Houston, TX 77026) on Sep 01, 2023

Prepared by: _____
Peter Chen – Chemist IV Date

Approved by: _____
Olariche Diala - Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a follow-up MAAML deployment to collect additional ambient air data from a potential air pollution source stemming from past emission events at the facility.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated that northeasterly winds would prevail on September 1, 2023. MLP Chemist deployed the MAAML at Lyndon B Johnson Hospital to monitor for VOCs by GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 0800 to 1200 CST on September 1, 2023 using MAAML instrumentation to monitor VOCs and PM with NE winds at speed of 3.1 to 4.2 mph. Wind sensor in MAAML was out of order. Hourly average weather data measured at Park Place was used. The readings for ozone monitor were low and unstable. During the run, the chemist noted no odor and emission plumes in the area. Concentrations for I,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected and benzene (0.2~0.5 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 5.2 to 9.7 µg m⁻³ (average – 6.8 µg m⁻³) while PM₁₀ concentrations ranged from 8.3 to 25.2 µg m⁻³ (average – 18.2 µg m⁻³), with no PM concentrations exceeding EPA NAAQS 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀ (Figure 2).

Figure 3 depicts MAAML deployment at Lyndon B Johnson Hospital on September 1, 2023.

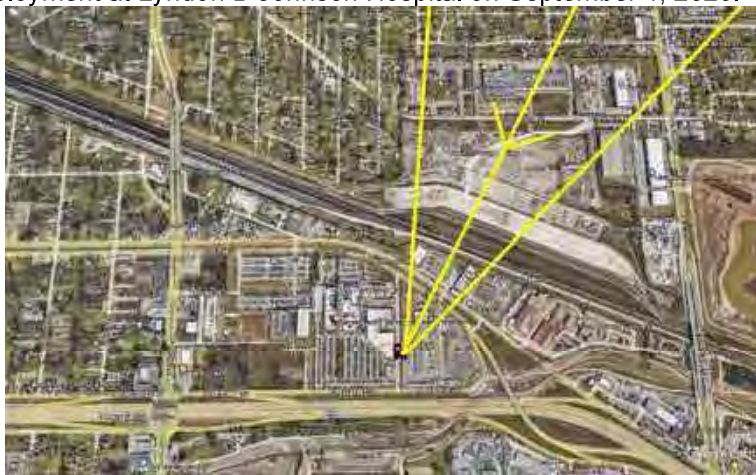


Figure 1: MAAML deployment site (29.809861° -95.313904°) and prevailing wind – Lyndon B Johnson Hospital (09/01/23)



Figure 2: Time series graph of PM₁₀ and PM_{2.5} concentrations – Lyndon B Johnson Hospital (09/01/23)



Figure 3: MAAML deployment - Lyndon B Johnson Hospital (09/01/23)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on September 6, 2023)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Olariche Diala- Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated southerly winds would prevail on September 6, 2023. MLP Chemist deployed the MAAML at Texas Concrete to monitor for VOCs using GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 800 to 1200 CST on September 6, 2023 using MAAML instrumentation to monitor VOCs and PM with prevailing SSW wind at speed of 1.8 to 3.4 mph. During the run, the chemist noted no odors and emission plumes in the area. Wind sensor in MAAML and Ozone monitor were out of order. Hourly average weather data measured at Park Place was used. 1,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected. Concentrations for Benzene (0.1~0.2 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 3.2 to 18.9 µg m⁻³ (average – 7.0 µg m⁻³) while PM₁₀ concentration ranged from 6.8 to 77.0 µg m⁻³ (average – 26.7 µg m⁻³), with no PM concentrations exceeding EPA NAAQS' 24h standards of 35 µg m⁻³ for PM_{2.5} and 150 µg m⁻³ for PM₁₀, (Figure 2),.

Figure 3 depicts MAAML deployment. at Texas Concrete on September 6, 2023



Figure 1: MAAML deployment site (29.815107°, -95.301783°) and prevailing wind – Texas Concrete (09/06/23)

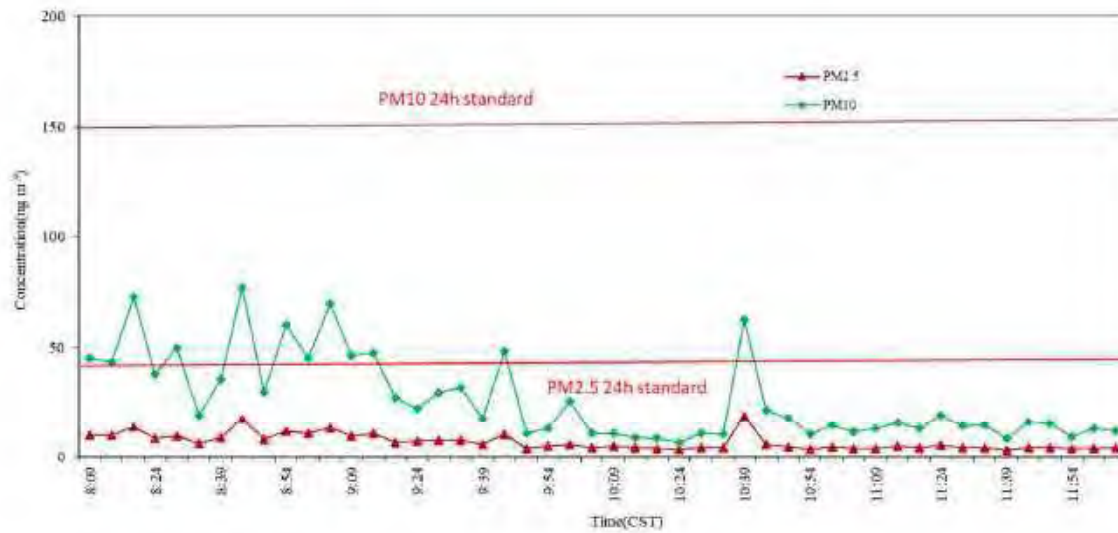


Figure 2: Time series graph of PM concentrations – Texas Concrete (09/06/23)



Figure 3: MAAML deployment – Texas Concrete (09/06/23)

**CITY OF HOUSTON
HOUSTON HEALTH DEPARTMENT (HHD)12
BUREAU OF POLLUTION CONTROL AND PREVENTION
(BPCP)
7411 PARK PLACE BOULEVARD
HOUSTON, TEXAS 77087
(832-393-5730)**



**MOBILE AMBIENT AIR MONITORING LABORATORY
(MAAML)
AFTER ACTION REPORT
AMBIENT AIR ANALYSIS**

Ambient Air Sample Collected at Texas Concrete (6001 Homestead Rd, Houston, TX 77028) on September 7, 2023)

Prepared by: _____
Youjun Qin – Chemist IV Date

Approved by: _____
Olariche Diala - Supervisor Date

Purpose of Deployment:

Bureau management and staff chose this site for a routine MAAML deployment to collect ambient air data from a major pollution source location to generate a more complete model of the City's airshed.

Definitions:

MAAML – Mobile Ambient Air Monitoring Laboratory

VOCs - volatile organic compounds

GC/MS - gas chromatograph/mass spectrometer

PM - particulate matter

O₃ - ozone

NO₂ - nitrogen dioxide

MLP – Mobile Laboratory Project

µg m⁻³ – microgram(s) per cubic meter

EPA – Environmental Protection Agency

NAAQS - National Ambient Air Quality Standards

ppb – part(s) per billion

TCEQ – Texas Commission on Environmental Quality

ESL – Effective Screening Level

Preparation/Set-up:

According to weather reports reviewed, forecasts indicated westerly winds would prevail on September 7, 2023. MLP Chemists deployed the MAAML at Texas Concrete to monitor for VOCs using GC/MS and PM using a GRIMM Technologies PM monitor (Figure 1).

Outcome:

Monitoring ran from 800 to 1200 CST on September 7, 2023 using MAAML instrumentation to monitor VOCs and PM with prevailing west winds at speeds from 2.3 to 5.4 mph. During the run, the chemists noted no odors and emission plumes in the area. Wind sensor in MAAML and Ozone monitor were out of order. Hourly average weather data measured at Park Place was used. 1,3-Butadiene (N.D.; TCEQ ESL long-term: 4.5 ppb) was not detected. Concentrations for Benzene (0.2 ppb; TCEQ ESL long-term: 1.4 ppb) ranged low. Concentrations for other confirmed VOCs ranged lower than TCEQ ESL long-term values.

5-min average PM_{2.5} (GRIMM) concentrations ranged from 3.7 to 25.1 µg m⁻³ (average – 6.7 µg m⁻³) while PM₁₀ concentrations ranged from 8.6 to 151.7 µg m⁻³ (average – 18.9 µg m⁻³), with onw spike PM concentration exceeding EPA NAAQS 24h standards of 150 µg m⁻³ for PM₁₀ (Figure 2).

Figure 3 depicts MAAML deployment. at Texas Concrete on September 7, 2023



Figure 1: MAAML deployment site (29.815107°, -95.301783°) and prevailing wind – Texas Concrete (09/07/23)

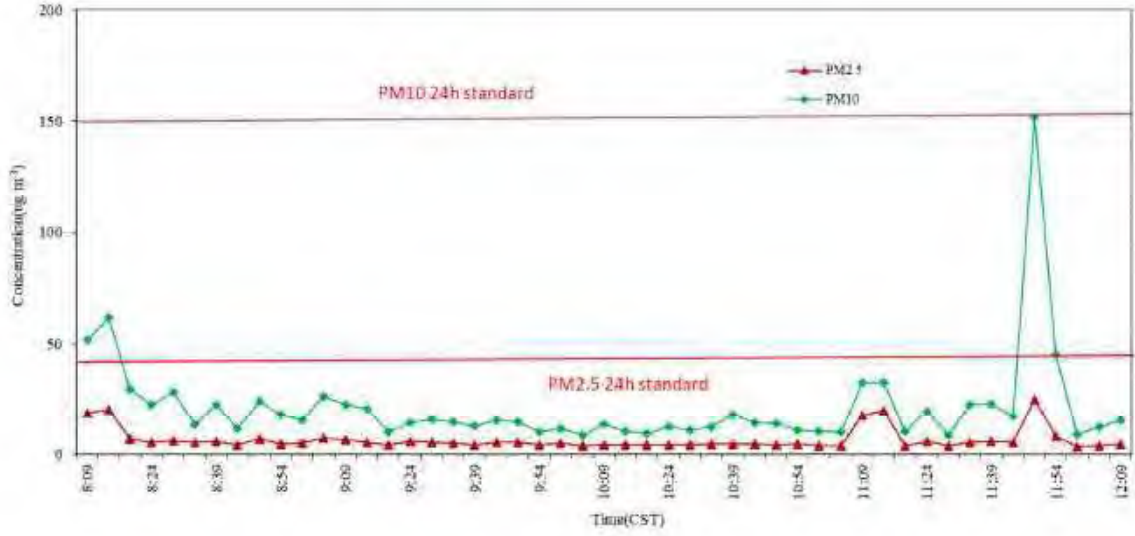


Figure 2: Time series graph of PM concentrations – Texas Concrete (09/07/23)



Figure 3: MAAML deployment – Texas Concrete (09/07/23)

EXHIBIT

B

EXHIBIT B



PUBLIC COMMENT LETTER

Re: TEXAS COASTAL MATERIALS, LLC
NOTICE OF APPLICATION FOR AN AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND
CONCRETE CRUSHERS: REGISTRATION NUMBER 173296

To whom it may concern,

Harris Health System, the public safety-net healthcare provider in Harris County, Texas, stands in strong opposition and urges the application denial of Texas Coastal Materials, LLC, to construct a permanent rock and concrete crushing facility at 5875 Kelley St., Houston, Texas 77026. The proposed location is approximately 400 yards away from Harris Health Lyndon B. Johnson (LBJ) Hospital, a 215 licensed-bed acute care facility providing full medical services to more than 18,000 inpatient admissions and 80,000 emergency visits annually. Located at 5656 Kelley St., Houston, Texas 77026, the hospital directly serves the northeast quadrant of Harris County through its Level 3 trauma and emergency center, serving as one of the state's busiest Level 3 hospitals and a vital hospital partner in the emergency response system for Houston and Harris County.

If allowed to proceed, the proposed concrete crushing facility poses significant health and environmental concerns for all patients, visitors, staff, and area residents because of potential harmful pollutants emitted daily from plant operations. Allowing such a business to move forward would further exacerbate the long-standing health disparities and inequities facing the community—mostly people of color and low socio-economic status.

LBJ Hospital is part of a large safety-net system providing over \$796 million in charity care annually to uninsured patients. Located in a hospital desert area, LBJ Hospital is the only large medical provider with life-saving services in the area for miles around. Most who come to LBJ Hospital have nowhere else to go. For this reason, construction of the crusher plant so close to this essential hospital further risks the health and well-being of sick and vulnerable patients.

Crusher plants like the one proposed by Texas Coastal Materials release air pollutants including particulate matter (PM) of different sizes (coarse PM10 and fine PM2.5), which pose significant health risks to the community. For instance, exposure to PM2.5, the main driver of health-harming air pollution, is linked to ischemic heart disease, lung cancer, chronic obstructive pulmonary disease (COPD), lower-respiratory infections, stroke and premature death. In 2015, Houston witnessed 5,200 premature deaths directly attributed to particulate matter from these plants. A 2023 study estimated that 101 concrete batch plants in greater Houston collectively release approximately 111 tons of PM2.5 annually.

In addition to increasing levels of health-harming particulate matter pollution, cement production also generates crystalline silica dust, a toxic material that is directly related to the development and worsening of health conditions including silicosis, lung cancer, COPD, kidney

PUBLIC COMMENT LETTER

failure and autoimmune disease. According to research, 1,437 deaths were identified and linked to silicosis over a decade. Additionally, nitric oxide and nitrogen dioxide, byproducts of combustion in these plants have been shown to irritate the lungs and worsen a host of respiratory and cardiovascular conditions including pneumonia, influenza, chronic obstructive pulmonary disease, pleurisy, ischemic heart disease, cardiac arrhythmias, heart failure, and thrombosis.

Faced with historic discrimination, communities of color (Black and Latino) in Houston and Harris County—including those in the service area of LBJ Hospital— are exposed to a disproportionate share of air pollution and environmental hazards. In Houston, 54% of concrete facilities are located in communities of color contributing to racial inequities in respiratory health outcomes. In fact, areas near LBJ Hospital report some of the highest rates of COPD and asthma cases compared to other parts of the county, and LBJ Hospital’s Emergency Center sees significantly higher proportional volumes of patients with respiratory conditions than hospitals in other areas of Harris County.

It should also be noted that the Harris County Attorney’s Office discovered that Texas Coastal Material, LLC chose to publish its required public notice outside of the Houston area in an obvious effort to keep the community uninformed.

For these reasons, allowing a rock and concrete crushing plant near LBJ Hospital and in this part of Harris County poses a significant danger to public health and safety, particularly for vulnerable patients who depend on the hospital's emergency and acute care services daily. Given the evidence of the harmful effects of crushing plants and their added contribution to existing racial and environmental disparities, it is imperative to prioritize the well-being of this community and summarily reject the proposed permit application at this location. Environmental justice and health equity must be at the forefront of our decision-making process to protect the most vulnerable among us for years to come.

Esmail Porsa, MD, MBA, MPH, CCHP-A (He, His)
President and CEO



Administration
4800 Fournace Place | Bellaire, TX 77401
Email: esmail.porsa@harrishealth.org



EXHIBIT

C

EXHIBIT C

My name is Suzanne Knott-Jackson, and I am the Senior Chaplain for Harris Health's Spiritual Care Department at Lyndon B. Johnson Hospital. I oversee the religious staff and services provided at LBJ Hospital.

LBJ Hospital is a 215 licensed-bed acute care hospital that offers a full range of medical services and spiritual care. LBJ Hospital maintains a chapel located near the hospital's main entrance and provides spiritual care services throughout the hospital to assist patients, their families, and staff wherever and whenever help is needed. LBJ Hospital currently employs seven chaplains. At any time of day at least one chaplain is available, and as many as three are available during peak hours and seasons. Chaplains working at LBJ's spiritual care center are available at any time of day, every day, to meet the needs of the patients, patient families, and staff at LBJ. Chaplains work a rotating schedule so that there is constant coverage of the hospital to meet the spiritual needs of the community. LBJ Hospital's spiritual services take many forms including end of life care, infant baptism, comfort in times of grief, spiritual counseling, small-group meetings, and leading organized prayer. In this role, chaplains at LBJ Hospital provide religious support to all who find themselves in need. Generally, chaplains perform family meetings five to seven times per week and private spiritual counseling sessions once or twice per week. Below are the estimated monthly visits made by chaplains to patients for each month so far in 2023:

Month	January	February	March	April	May	June	July	August	September	October
Patients	953	712	1057	763	963	1371	1506	1156	1251	1283

LBJ chaplains also perform special events such as memorial services for staff members, baptism of patients, and extra services for holidays such as National Day of Prayer, Ramadan, and Ash Wednesday.

The LBJ Chapel is always available for those in need of a quiet place for prayer, meditation, and personal reflection. Additionally, the LBJ Chapel holds organized services for many different religious groups and denominations. Chaplains at LBJ provide services and literature in both English and Spanish to meet the needs of the community. The LBJ Chapel has set aside time for worship events on weekends and weekdays. These worship events include morning prayers Monday through Friday, afternoon Islamic prayer, and a Catholic mass every Wednesday at Noon.

Thus, religious activities are conducted both in the LBJ Chapel and throughout the entirety of LBJ Hospital daily. While the Chapel is the primary location for organized services, chaplains lead patients, family, and staff in prayer, sacraments, special services, and other religious activities throughout the hospital.

Sincerely,

Suzanne Knott-Jackson

Suzanne Knott-Jackson

Harris Health Spiritual Care

Senior Chaplain

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned notary, on this day personally appeared Suzanne Knott-Jackson, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

My name is Suzanne Knott-Jackson. I am over the age of eighteen (18) years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein.

I am employed by Harris Health as a Senior Chaplain.

I have read the foregoing Affidavit, the facts stated therein are within my personal knowledge and are true and correct.

Suzanne Knott-Jackson
Suzanne Knott-Jackson

SWORN AND SUBSCRIBED TO before me on Dec 6, 2023, to certify which witness may hand and official seal.

Lorena P Sandoval
Notary Public in and for the State of Texas

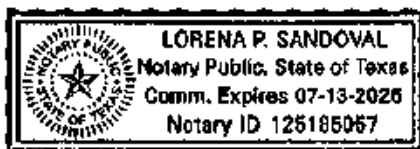


EXHIBIT 11

Plaintiffs' Petition for Judicial Review

RE: TEXAS COASTAL MATERIALS,
LLC RN11769154; APPLICATION FOR
AN AIR QUALITY STANDARD PERMIT

AIR QUALITY STANDARD PERMIT
REGISTRATION NO. 173296

COMMISSION APPROVAL FOR AIR
QUALITY STANDARD PERMIT

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**MOTION TO OVERTURN TEXAS COASTAL MATERIALS AIR QUALITY
STANDARD PERMIT NO. 173296**

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

Super Neighborhood 48 Trinity / Houston Gardens (“SN48”) and Kashmere Gardens Super Neighborhood #52 Council (“SN52”) (collectively “Local Communities”) respectfully request, pursuant to 30 TEX. ADMIN. CODE § 50.139, that the Texas Commission on Environmental Quality (“TCEQ” or “Commission”) overturn the Executive Director’s (“ED”) decision to approve the Texas Coastal Materials (“TCM”) Application and issue Standard Permit No. 173296 for a permanent concrete crusher to be located at 5875 Kelley Street, Houston, Texas 77026 (“TCM’s Permit” or “Permit”).

Lone Star Legal Aid (“LSLA”) represents the Local Communities and files this Motion to Overturn Air Quality Standard Permit No. 173296 (the “Motion”) on their behalf. The Local Communities previously submitted comments on December 4, 2023, December 6, 2023, and December 11, 2023 (collectively, the “Local Communities’ Comments”) and these comments are incorporated by reference herein.

INTRODUCTION AND SUMMARY OF ARGUMENT

TCM’s Permit threatens two vulnerable, underserved communities in Northeast Harris County, Houston / Trinity Gardens and Kashmere Gardens. Meaningful public participation is integral to issuing adequately protective permits in at-risk communities, and the Commission passed a resolution stating as much: “public input is essential to quality decision making at the agency.”¹ Here, however, public comments identified many regulatory deficiencies including: adversely affected local sensitive users, adverse health impacts, distance discrepancies between the Permit and important community buildings—and, places of worship and a school within the prohibitive 440 yard regulatory distance. While TCEQ received over 600 comments highlighting these and more permitting deficiencies, the ED made no changes to TCM’s deficient Permit and approved it without fully analyzing issues raised in the public comments.

¹ Resolution Concerning Public Participation (Apr. 22, 1996) available at: https://www.tceq.texas.gov/agency/decisions/participation/permitting-participation/particip_res.html

TCEQ only has authority to approve an application that satisfies all the requirements of its Standard Permit for a permanent rock or concrete crusher. But the ED failed to ensure that TCM's Permit complies with its own regulations, and the Agency's record also does not support the ED's decision to issue this Permit for the following reasons:

- (a) The Applicant failed to map and identify all relevant places of worship and schools. TCEQ received many public comments identifying TCM's deficient mapping—so the ED was well aware of this Application deficiency but failed to correct the mapping or complete its own mapping to ensure compliance with the statutory requirements, prior to approving this Permit.
- (b) The Standard Permit issued fails because it no longer complies with the Texas Clean Air Act. The Standard Permit has (1) never been updated responsive to changes in National Ambient Air Quality Standards (“NAAQS”) for PM_{2.5}—including the year-long pending proposal for a more stringent PM_{2.5} standard; (2) does not employ current Best Available Control Technology (“BACT”) that is statutorily required; and (3) because of these, and other failures, TCM's issued Permit threatens public health.
- (c) The Permit fails to comply with TCEQ's responsibilities under the Federal Clean Air Act (“FCAA”) and Texas Clean Air Act (“TCAA”).

In approving TCM's Permit, TCEQ failed to follow its own unambiguous regulations or create a record to support the Permit's issuance, therefore, TCM's Permit must be overturned.

ARGUMENTS & AUTHORITIES

I. TCM's Permit fails to comply with applicable regulatory distance limitations.

Because concrete crushers utilize minimal permitting processes under the Standard Permit, the primary way TCEQ ensures these facilities comply with TCEQ's statutory charge to protect public health is to ensure they are sited appropriately. Specifically, TCEQ must enforce regulatory distance limitations. The ED failed to enforce distance limitations when it issued TCM's Permit. TCEQ must now overturn this unlawfully issued permit.

Commission regulations “prohibit the operation of a concrete crushing facility within 440 yards of a building in use as a single or multifamily residence, school, or place of worship.”² This distance “is to be measured between the closest points of the facility and the residence, school, or place of worship.”³

Despite TCM's regulatory obligation to identify and measure the distances between its proposed concrete crushing facility and important community buildings, TCM's application fails to identify the Facility's⁴ relationship to these buildings accurately. And if TCM *had* identified all

² TEX. HEALTH AND SAFETY CODE § 382.065.

³ TCEQ Summary Document for Air Quality Standard Permit for Permanent Rock Crusher and Concrete Crushers at 5.

⁴ Facility means a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment as defined by TEX. HEALTH & SAFETY CODE § 382.003(6) and includes other emission sources defined by the Standard Permit for Permanent Rock and Concrete Crushers General Requirements (1)(A)(ii).

the required community buildings, TCEQ’s regulations would prohibit TCM from placing its facility at the chosen location.

A. TCM’s Application omits important community buildings that would prohibit the Crusher’s construction at the chosen location.

Many public comments raised distance concerns, but the ED’s Response to Comments (“RTC”) characterized these concerns—not as a TCEQ regulatory compliance issue—but instead as a jurisdictional problem.⁵ Specifically, that, “TCEQ does not have jurisdiction to consider plant location choices made by applicant when determining whether to approve or deny a permit application, unless a statute or rule imposes specific distance limitations that are enforceable by TCEQ.”⁶ Here, we have just that. TCEQ regulations prohibit a concrete crushing facility at the location proposed by the Applicant.⁷ Section 382.065 of the Texas Health & Safety Code flatly prohibits “the operation of a concrete crushing facility within 440 yards of a building in use as a single or multifamily residence, school, or place of worship at the time the application for a permit to operate the facility at a site near the residence, school, or place of worship is filed with the commission.”

When an agency fails to follow its own unambiguous regulations, that decision must be reversed. *Pub. Util. Comm’n of Texas v. Gulf States Utilities Co.*, 809 S.W.2d 201, 207 (Tex. 1991) citing to *Sam Houston Elec. Coop., Inc. v. Public Util. Comm’n*, 733 S.W.2d 905, 913 (Tex. App.—Austin 1987, writ den’d); see also *Lewis v. Jacksonville Bldg. & Loan Ass’n*, 540 S.W.2d 307, 310 (Tex. 1976); *Ex parte Roloff*, 510 S.W.2d 913, 915 (Tex. 1974). The Permit issued to TCM fails to comply with strict distance regulations which would prohibit the concrete crushing facility at 5875 Kelley Street. Accordingly, this permit must be overturned.

* * *

TCM is proposing a concrete crusher approximately 1,100 feet (333 yards) from LBJ Hospital located at 5656 Kelly Steet, Houston, Texas 77026. LBJ Hospital is operated by Harris Health and includes both a place of worship and a school.⁸

LBJ Hospital provides healthcare to the underserved communities of Northeast Houston—treating disadvantaged and vulnerable community members. The Hospital is located in what would otherwise be a medical desert providing “more than \$796 million in charity care *annually* to *uninsured* patients.”⁹ This Hospital is the first hospital in Texas designated as a Level III trauma

⁵ See Executive Director’s Response to Comments on Texas Coastal Materials Permit No. 173296 (Jan. 11, 2024) at 12. (hereinafter “RTC”).

⁶ RTC at 12.

⁷ TEX. HEALTH AND SAFETY CODE § 382.065

⁸ See Local Communities’ Comments (Dec. 6, 2023) at 1-6, 10-11 and Harris County Comments (Dec. 6, 2023) at 5-11 (“Harris County Comments”).

⁹ Harris Health System Public Comment Letter (Oct. 19, 2023); see also Houston Chronicle, “Harris Health Prioritizes the Health of All Harris County Residents. Allowing a Hazardous Concrete Crushing Plan Next to Harris Health LBJ Hospital would be Harmful.” (Dec. 3, 2023), available at: <https://storystudio.chron.com/2023/12/harris-health-prioritizes-the-health-of-all-harris-county-residents-allowing-a-hazardous-concrete-crushing-plant-next-to-harris-health-lbj-hospital-would-be-harmful/>

center—it is also the busiest Level III trauma center in the State of Texas.¹⁰ And in November 2023, voters approved a \$2.5 billion bond to renovate and expand this Hospital so it can continue to provide healthcare to the local community. This planned renovation will include both updated and new facilities. When citing a new hospital, the Texas Administrative Code categorizes locations such as the one proposed by TCM as an “undesirable location.” 25 TEX. ADMIN CODE § 133.162(b). The same rule prohibits new hospitals from being sited there. *Id.* (prohibiting new hospitals “near nuisance producing sites, feed lots, sanitary landfills, or manufacturing plants producing excessive noise or air pollution”).¹¹

Like many hospitals, LBJ Hospital includes a multi-faith chapel, or place of worship, to provide spiritual care.¹² Spiritual care is also listed among Harris Health’s patients’ rights and responsibilities: “[t]hinking about the psychosocial, spiritual, and cultural needs, wishes or beliefs that guide how you view your illness.”¹³ LBJ Hospital is also a major teaching hospital with affiliation agreements to provide clinical education.¹⁴ As noted in the public comments, the Hospital includes classrooms where the University of Texas hosts students.¹⁵

Both this place of worship and the school located within LBJ Hospital were well-documented in comments to the Commission, but the RTC states: “[t]he plant is located greater than 1,320 feet (440 yards) away from any point of the noted nearby hospital.”¹⁶ Neither TCM’s Application nor the RTC offer competing maps or alternative measurements to verify that TCM’s chosen location complies with the regulatory distance limitations. As shown below, the Hospital’s place of worship and the Hospital’s school are within the 440 yard distance—making the Permit unlawful and in violation of TCEQ’s regulations.

¹⁰ Harris Health System, Lyndon B. Johnson Hospital, available at: <https://www.harrishealth.org/locations-hh/Pages/lbj.aspx>

¹¹ EPA recently emphasized the similar prohibitions regarding nuisance conditions under 30 TAC 101.4 over its concerns about the track record for CBP complaints which indicate that these facilities routinely allow potentially offensive levels of PM emissions to migrate beyond the property line of the facility.” See EPA Comments on Non Rule Project Number 2022-033-OTH-NR (June 14, 2023) at 6.

¹² <https://www.harrishealth.org/services-hh/hospitality/Pages/spiritual-care.aspx>; Texas Coastal Materials, LLC; Regulated Entity ID No. RN 173296 located at 5875 Kelly Street, Houston, Texas 77026.

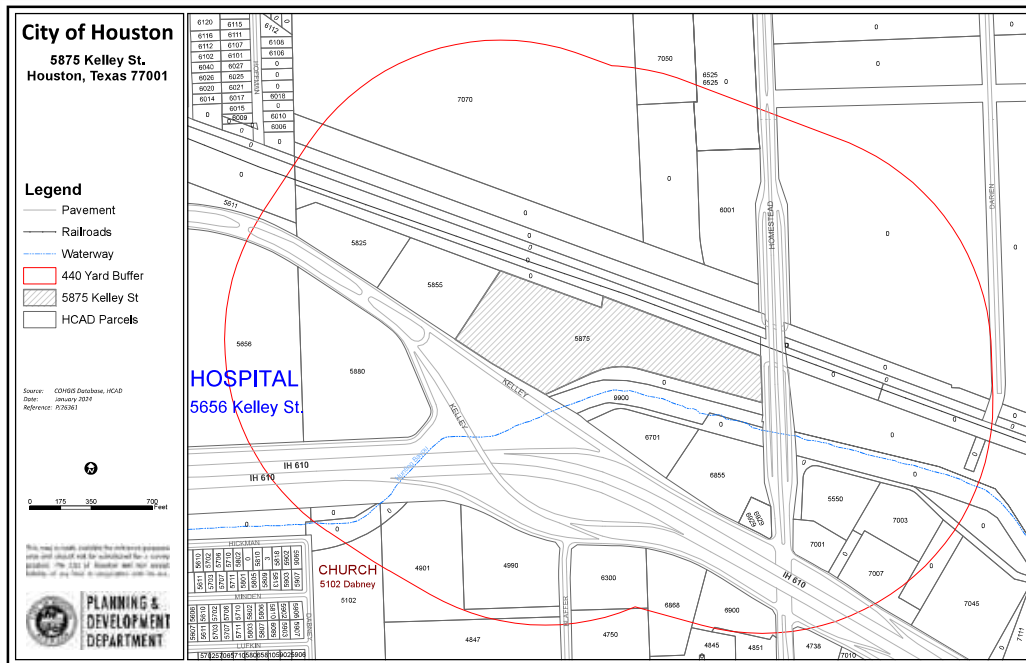
¹³ <https://www.harrishealth.org/patients/rights-responsibilities>

¹⁴ See Local Communities’ Comments (Dec. 6, 2023) at 11; Harris County Comments (Dec. 6, 2023) at 5-9.

¹⁵ Harris County Comments, Photos, at 6-9.

¹⁶ RTC, Response 11 at 14.

Figure 1: Depicting 440 yard radius around TCM’s Crusher



In addition to the Permit’s failure to comply with distance limitations, TCEQ’s published philosophy includes making decisions based on “law, common sense, sound science, and fiscal responsibility.”¹⁷ The decision to issue this permit to TCM fails to comport with the agency’s mission because it: (a) violates regulatory distance requirements, (b) is opposed in over 600 documented public comments, and (c) jeopardizes the investment in a vital community resource, LBJ Hospital.

When the ED issued this Permit, it failed to comply with its distance regulations and its philosophy, so the Permit must be overturned.

B. TCM’s Application fails to identify the nearest places of worship.

Not only were the LBJ multi-faith chapel and school excluded from the proper distance calculations, but, St. Francis of Assisi Catholic Church located at 5102 Dabney Street—a place of worship squarely within the 440 yard distance limitation—was omitted altogether from the Application. As shown in **Figure 1** above and in **Table 1** below, when measuring from the two closest points, St. Francis of Assisi Catholic Church is only 402 yards from the permitted location. Given this violation of the Commission’s regulations, TCEQ must overturn this unlawful permit.

Moreover, TCM’s Application fails to map the distances to the closest places of worship, choosing instead to map places of worship which are much further away. The distances are compared in **Table 1** and **Table 2** below.

¹⁷ TCEQ Mission Statement and Agency Philosophy available at: <https://www.tceq.texas.gov/agency/mission.html>

Table 1: Places of Worship Excluded from TCM’s Application

Place of Worship	Address	Approximate Distance
LBJ Multi-Faith Chapel	5656 Kelley Street	366 yards
St. Francis of Assisi Catholic Church	5102 Dabney Street	402 yards
Canaan Baptist Church	5117 Lockwood	1,170 yards
Christ Temple Apostolic Church	6202 Lockwood	1,221 yards
New Mount Calvary Baptist Church ¹⁸	4711 Kelley Street	1,631 yards

Table 2: Places of Worship Included in TCM’s Application

Place of Worship	Address	Approximate Distance ¹⁹
Garden Grove Christian Church	4802 Pardee St.	1,833 yards ²⁰
New Light Baptist	3906 Lumber Ln.	2,815 yards
Gospel Hill Baptist Church	7904 Hirsch Rd.	3,259 yards
Creston Baptist Church	3201 Creston Dr.	3,497 yards
Mission Baptist Church	3105 Chickering St.	3,556 yards
The Phileo Church	8104 Arkansas St.	4,173 yards
North Houston Church of Christ	8203 Jensen	4,614 yards

TCM’s Application omits these nearby places of worship and fails to accurately map the crusher and its emission sources to the locations required in the regulations. The Application’s failure to depict places of worship is a deficiency that should have been corrected prior to issuing the Permit.

C. TCM’s Application fails to accurately identify distances to residences, places of worship and schools.

TCM’s Application failed to identify important community buildings, and the Application also includes distance discrepancies.²¹ Similar discrepancies in these important and prohibitive distance measurements have pushed the Commission to pause and remand permits back to the Executive Director.²² These distance discrepancies were not reconciled in the RTC or in the approved Permit.

¹⁸ The informational public meeting on the TCM Permit was held at New Mount Calvary Baptist Church. See Notice of Informational Meeting for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers Proposed Air Quality Registration Number 173296 (Nov. 2, 2023).

¹⁹ Distances calculated using Harris County Appraisal District Mapping Tool available at: <https://arcweb.hcad.org/parcel-viewer-v2.0/>

²⁰ TCM Application at Appendix B: Maps and Flows.

²¹ Harris County Comments (Dec. 6, 2023) at 11.

²² See Rhino Ready Mix LLC Concrete Batch Plant Standard Permit Registration 162413, TCEQ Docket No. 2021-1465-AIR, Interim Order (Dec. 21, 2021).

Table 3: Distance Discrepancies in TCM’s Application

Nearest Residence	Distance in TCM’s Application	Distance²³
5903 Minden Street	633 yards	600 yards
Nearest Place of Worship	Distance in TCM’s Application	Distance²⁴
LBJ Multi-Faith Chapel	OMITTED	366 yards
St. Francis of Assisi	OMITTED	402 yards
Garden Grove Christian Church	1,833 yards	1,626 yards
Nearest School	Distance in TCM’s Application	Distance²⁵
LBJ / UT Health System	OMITTED	366 yards
McGowen Elementary	1,223 yards	1,026 yards

Additionally, the maps in TCM’s Application measure from an unidentified point within the proposed location and then to a residence, place of worship, or school. That chosen point, however, does not accurately depict the Facility²⁶ as defined by TCEQ regulations and the Standard Permit.²⁷ When the nearest school, home or place of worship may easily fall within the prohibitive distance—it’s critical that TCEQ conduct due diligence to ensure it is not permitting a Facility²⁸ within prohibited distances.²⁹ Because of the narrow margins in the distances related to this application, if TCM adjusts the location of its equipment, the Facility may fail to comply with the regulatory distance limitations from Day 1 of its operations.³⁰ However, after TCM has its Permit, it would be up to the Local Communities to complain about the nuisance operations created by TCM’s deviations from the permit terms, and then, for TCEQ, the City, or Harris County to

²³ Summary Report by City of Houston on Air Monitoring Concerns on Proposed Facility attached as Exhibit 4 to Local Communities’ Comments (Dec. 6, 2023).

²⁴ Distances calculated using Harris County Appraisal District Mapping Tool available at: <https://arcweb.hcad.org/parcel-viewer-v2.0/>

²⁵ Distances calculated using Harris County Appraisal District Mapping Tool available at: <https://arcweb.hcad.org/parcel-viewer-v2.0/>

²⁶ Facility means a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment as defined by TEX. HEALTH & SAFETY CODE § 382.003(6) and includes other emission sources defined by the Standard Permit for Permanent Rock and Concrete Crushers General Requirements (1)(A)(ii).

²⁷ Importantly, “for concrete crushers, the agency specifies in rule that it will measure distance from the points closest to each other on the concrete crushing facility and the neighboring building, demonstrating the agency could provide similar clarity and transparency for concrete batch plants and other permit limitations based on distance.” TCEQ Sunset Review Commission Staff Report (2021-2022) at 17-18. But without the Facility and its attendant features included in TCM’s Application, how can the TCEQ confirm that TCM is complying with the regulatory distance limitations.

²⁸ *Id.* at Footnote 26.

²⁹ The commission by rule **shall prohibit the operation of a concrete crushing facility within 440 yards of a building in use as a single or multifamily residence, school, or place of worship** at the time the application for a permit to operate the facility at a site near the residence, school, or place of worship is filed with the commission. The measurement of distance for purposes of this subsection shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the residence, school, or place of worship that is nearest the concrete crushing facility. TEX. HEALTH & SAFETY CODE 382.065(a)(emphasis added).

³⁰ 30 TEX. ADMIN. CODE §§ 116.115(c), 116.615(2), Standard Permit Registration No. 159907, Air Quality Standard Permit for Permanent Rock and Concrete Crushers, General Conditions No. 2 and General Requirements No. (1)(B); TEX. HEALTH & SAFETY CODE § 382.085(b).

enforce. The ED’s failure to check and document its confirmation of these distances simply sets this Permit up for immediate failure and enforcement issues.

Furthermore, TCEQ’s published philosophy includes applying regulations “clearly and consistently.”³¹ But a review of applications for rock and concrete crusher Standard Permits show that the regulatory distance limitations are applied inconsistently—depicting measurements to feign compliance instead of measurements showing accurate distances from the aggregate operation to the nearest community building.³²

These Application deficiencies are sufficient to overturn the Permit.

D. TCM’s Application fails to measure from all defined Facility features to the nearest residence, places of worship or school.

Moreover, for purposes of calculating the proper distances, all applicable defined terms and emissions sources must be identified accurately to determine whether the concrete crushing facility is being located a prohibited distance from community buildings. In very close calls, such as this one, accurate distance measurements can mean the difference between a lawful and unlawful permit.

Facility is defined in the Texas Health and Safety Code and is further explained in the Standard Permit to include the following parts of a concrete crushing plant:

- “Facility” means a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not considered to be a facility.³³
- “Source” is defined to be a point of origin of air contaminants.³⁴
- “Associated Sources” are sources of air emission that are related to the rock or concrete crushing operation, that are not “facilities” as defined under Title 30 TEX. ADMIN. CODE § 116.10³⁵, General Definitions. Associated sources include, but are not limited to, stockpiles, and outdoor work wares. **Screens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities** and are not associated sources.³⁶

Accordingly, TCM was required to locate and measure from the closest location on any of the following equipment: crusher, screens, belt conveyors, generator sets, and material storage or

³¹ TCEQ Mission Statement and Agency Philosophy available at: <https://www.tceq.texas.gov/agency/mission.html>

³² TCM Application, Appendix B Maps *compare with* HOUSTON CRUSHED CONCRETE, LLC Application for Rock Crusher Standard Permit No. 170817; RN111594339, Appendix VI. F Maps at 34 (Apr. 14, 2022).

³³ TEX. HEALTH & SAFETY CODE § 382.003(6).

³⁴ TEX. HEALTH & SAFETY CODE § 382.002(12).

³⁵ “Facility” means [a] discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not a facility. 30 TEX. ADMIN. CODE § 116.10(4); *see also* TEX. HEALTH & SAFETY CODE § 382.003(6) (stating identical definition).

³⁶ Standard Permit General Requirements (1)(A)(ii) (emphasis added).

feed bins to the nearest school, residence or place of worship. The Kelley Street Facility diagram,³⁷ shows where the Applicant plans to situate the Facility but only identifies 3 parts of the Facility: (1) Primary Jaw Crusher, (2) Secondary Cone Crusher, and (3) Deck Screen—failing to identify the other equipment defined in regulations as part of the Facility. The Process Flow Chart³⁸ for the Kelley Street Facility and the Process Description³⁹ both include the use of belt conveyors and material storage/feed bins. The maps, however, only measure distances from a chosen unidentified point and fail to identify any parts of the Facility at all.

Without identifying the Facility itself, including all the emission sources defined in regulations, when measuring distance, it is impossible for the Commission to ensure that the Facility’s location complies with the applicable distance requirements. Moreover, according to TCEQ, the “critical characteristic of a facility is that it creates emissions of an air contaminant.”⁴⁰ If that is true, then it is even more important that the emission sources be accurately mapped to calculate distances and adverse impacts. And, if the Facility cannot comply with the distance requirements, it cannot be permitted at that location. Considering both TCM’s Application and the ED’s RTC—it is unclear whether: (1) the distance was ever calculated accurately, or (2) the ED reviewed the distances offered by TCM to ensure the Permit was lawful and in compliance with applicable distance regulations.

In other contexts, but still related to standard permits, when residences, places of worship, and schools were very close to the prohibitive distance from a property, the Executive Director has offered its own mapping to justify its permitting decision.⁴¹ In this case, however, the ED is relying on the Applicant’s inaccurate representations where community buildings, when accurately measured, appear to be too near to the site and would prohibit the Facility at the chosen location. Moreover, as pointed out in Sections I-A and I-B *supra*, TCM omitted distances to certain places of worship and schools identified in public comments. The RTC did not include any maps demonstrating the proposed location complies with TCEQ regulatory distance limitations which include these locations that are not part of TCM’s application.⁴²

II. TCM’s Standard Permit fails to meet Federal and State Clean Air Act Requirements.

The FCAA requires the U.S. Environmental Protection Agency (“EPA”) to set National Ambient Air Quality Standards or NAAQS.⁴³ The purpose of these standards is to “protect the public health” with “an adequate margin of safety.”⁴⁴ Consistent with this, the purpose of the Texas

³⁷ TCM Application at Appendix B: Maps and Flows.

³⁸ TCM Application at Appendix B: Maps and Flows.

³⁹ TCM Application at 2-3.

⁴⁰ TCEQ Air Permit Reviewer Reference Guide APDG 6161, Qualified Changes Under Senate Bill 1126 §116.116(e), (July 2019) at 5.

⁴¹ See TCEQ Docket No. 2021-1465-AIR; Rhino Ready Mix Hearing Requesters - Rhino Ready Mix, LLC #162413 Map requested by TCEQ Office of Legal Services for Commissioner’s Agenda; see also TCEQ Docket No. 2021-0056-AIR; Ameritex Pipe and Products, LLC Map requested by TCEQ Office of Legal Services for Commissioner’s Agenda; see also TCEQ Sunset Commission Staff Report at 18 (“2021 Concrete Batch Example” illustrating distance limitations and TCEQ’s practice of reviewing and checking distance calculations in Applicant’s submitted materials.)

⁴² See RTC generally.

⁴³ 42 U.S.C. §§ 7408, 7409.

⁴⁴ 42 U.S.C. § 7409(b)(1).

Clean Air Act is “to safeguard the state's air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and the maintenance of adequate visibility.”⁴⁵

The FCAA includes a New Source Review (“NSR”) Program. The purpose is to track new sources of pollution and ensure that newly constructed facilities are not contributing to violations of applicable air quality standards—like the NAAQS.⁴⁶ And, logically, to accomplish this, new sources of pollution would be subject to new and more stringent controls.⁴⁷

Texas implements its NSR Program via its State Implementation Plan (“SIP”).⁴⁸ The Texas legislature added standard permits under a 1999 amendment to the TCAA.⁴⁹ The amendment authorized TCEQ's predecessor agency, Texas Natural Resource Conservation Commission, to identify similar categories of air-contaminant emitting facilities and issue a standard permit for the entire category of facilities.⁵⁰

The authority to issue standard permits, such as this rock crusher permit, are included in Texas’ SIP and approved by the EPA.⁵¹ As such, standard permits should contain uniform terms and emissions control technologies that have proven to be compliant with NAAQS, BACT, and state public health standards.⁵² However, the Standard Permit in this case fails to satisfy those elements. And EPA recently expressed concern about whether another standard permit, the concrete batch plant standard permit, complied with permit terms and emission limitations—directing TCEQ to “reevaluate the protectiveness review for rule and non-rule actions especially when these actions occur at irregular intervals and there are changes in either attainment or in the National Ambient Air Quality Standards.”⁵³

This statutory and regulatory framework is important because it highlights several deficiencies with the TCM Permit. First, a failure to comply with NAAQS. Second, a failure to comply with BACT. And, third, a failure to meet public health standards.

⁴⁵ TEX. HEALTH & SAFETY CODE § 382.002(A).

⁴⁶ TEX. HEALTH & SAFETY CODE § 382.0518(b)(2).

⁴⁷ TEX. HEALTH & SAFETY CODE § 382.0518(b)(1).

⁴⁸ 42 U.S.C. § 7407(a).

⁴⁹ Approval and Promulgation of Implementation Plans, Texas, 68 Fed. Reg. 64543 (Nov. 14, 2003).

⁵⁰ TEX. HEALTH & SAFETY CODE § 382.05195(a).

⁵¹ TEX. HEALTH & SAFETY CODE § 382.05195(a)(3).

⁵² Approval and Promulgation of Implementation Plans, Texas, 68 Fed. Reg. 64543 (Nov. 14, 2003); TEX. HEALTH & SAFETY CODE § 382.0518(b)(1), (b)(2).

⁵³ EPA Comments on Non Rule Project Number 2022-033-OTH-NR (June 14, 2023) at 1.

A. TCM’s Crusher threatens NAAQS Compliance.

The EPA must review NAAQS standards every 5 years—incorporating the latest scientific studies on health effects—and update those standards accordingly.⁵⁴ Importantly, in each permit evaluation, total particulate matter emissions must meet NAAQS.⁵⁵

The RTC incorrectly asserts that TCM’s Application to “construct a concrete crushing plant [was] evaluated using the current [NAAQS] requirements.”⁵⁶ But, since 2006, NAAQS for public health have consistently been lowered. And the Standard Permit for rock crushers has not been amended since 2008. As evidence that the Standard Permit itself is protective of public health, the Standard Permit relies on a Protectiveness Review supported by modeling which is even older—dated March 2006.⁵⁷ Because the Protectiveness Review that the Standard Permit relies on has not been updated in 17 years, but NAAQS standards for PM_{2.5} continue to be lowered, there is significant concern that the Standard Permit issued to TCM no longer complies with the FCAA and NAAQS.

Below is a timeline of the changes to the Annual NAAQS for PM_{2.5} and the lack of corresponding changes to the Protectiveness Review that the Standard Permit relies on.⁵⁸

PM_{2.5} NAAQS REVISIONS	PROTECTIVENESS REVIEW REVISIONS
2006: EPA set the primary and secondary Annual NAAQS for PM _{2.5} at 15 µg/m ³ .	<i>Updated March 2006.</i>
2012: EPA dropped the Annual NAAQS for PM _{2.5} from 15 µg/m ³ to 12 µg/m ³ .	
2020: EPA maintained the Annual NAAQS for PM _{2.5} at 12 µg/m ³ .	
2023: EPA reconsiders its 2020 decision to revise the Annual NAAQS for PM _{2.5} from 12 µg/m ³ to 9-10 µg/m ³ and taking comments on the 8.0 µg/m ³ and up to 11.0 µg/m ³ range.	

While the NAAQS standard has been consistently lowered, the Standard Permit has remained unchanged. As previously stated, the modeling that the Standard Permit’s Protectiveness Review relies on was last updated in 2006.⁵⁹ So, while the RTC explains that the Standard Permit “is designed to be in compliance with the NAAQS”—including PM_{2.5}—the current Standard Permit relies on an outdated Protectiveness Review. And the Protectiveness Review admittedly,

⁵⁴ 42 U.S.C. § 7409(d).

⁵⁵ TCEQ, Interoffice Memorandum on Toxicology Factor Database Screening Levels (Mar. 8, 2018); *see also* Harris County Comments (Dec. 6, 2023) at Exhibit F.

⁵⁶ RTC at 3-5.

⁵⁷ TCEQ, Memo from Keith Zimmerman, P.E. to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (Jan. 2, 2006); TCEQ, Memo from Keith Zimmerman, P.E. to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (Mar. 27, 2006); *see also* Harris County Comments (Dec. 6, 2023) at Exhibit F, Exhibit G, & Exhibit H.

⁵⁸ Annual standards are based on an annual mean averaged over 3 years. EPA NAAQS Table, available at: <https://www.epa.gov/criteria-air-pollutants/NAAQS-table>

⁵⁹ *See* Local Communities’ Comments (Dec. 6, 2023) at 22-23 and Harris County Comments (Dec. 6, 2023) at 14.

failed to account for engines and other PM_{2.5} sources. This failure means the Standard Permit relies on a deficient Protectiveness Review that does not even account for all sources of PM_{2.5} at a concrete crushing plant.

Aggregate Operations are increasing near TCM's Crusher.

Over this same time that NAAQS for PM_{2.5} has become more stringent, aggregate facilities (including concrete batch plants and rock crushers) have grown in numbers, further degrading the air quality, as follows:

- 2019: 135 concrete batch plants⁶⁰
- 2022: 24 *registered* aggregate production operations in Harris County⁶¹
- 2023: 180 concrete batch plants⁶²

These aggregate facilities are clustered in Northeast Houston.⁶³ As these facilities multiply, the air quality and health of communities in Northeast Houston is further degraded. The communities near and around the Facility's location are at-risk communities. As explained below, scientific studies show that TCM's chosen location will put these at-risk communities in danger by further contributing to their already increased exposure to PM_{2.5}.

The North Wayside Monitor shows TCM's Crusher will contribute to NAAQS violations for PM_{2.5}.

The North Wayside monitor is within 2 miles of TCM's Crusher and demonstrates how the Local Communities exposure to PM_{2.5} continues to increase, while NAAQS for PM_{2.5} continues to decrease—becoming more stringent over time. Since the North Wayside monitor became operational it has consistently shown alarming levels of PM_{2.5}.⁶⁴ The North Wayside monitor became operational in May 2021, and, in May 2024, this monitor will have collected the 3 years of data necessary to support a NAAQS violation for PM_{2.5}.⁶⁵ Attainment or nonattainment designations, under NAAQS, are made primarily on the basis of three years of federally referenced monitoring data.⁶⁶

⁶⁰ Houston Galveston Area Council PM_{2.5} Advance Path Forward Update (2019) at 36-37.

⁶¹ Houston-Galveston-Brazoria (HGB) PM_{2.5} Advance Path Forward Update (2021) at 31.

⁶² TCEQ Air Quality Division Presentation to Houston-Galveston Area Council PM Advance Committee (Feb. 7, 2022) at 14.

⁶³ Houston-Galveston-Brazoria (HGB) PM_{2.5} Advance Path Forward Update (2019) at 36-37; *see also* Harris County Comments (Dec. 6, 2023) at 23.

⁶⁴ Noting that the Clean Air Act requires the Administrator to set a standard that “reduces risks sufficiently so as to protect public health, including the health of at-risk populations, with an adequate margin of safety.”; *see also* Local Communities' Comments (Dec. 6, 2023) at 12-13.

⁶⁵ 2021 TCEQ Air Monitoring Network Plan at 17-18.

⁶⁶ Congressional Research Service, 2006 National Ambient Air Quality Standards (NAAQS) for Fine Particulate Matter (PM_{2.5}): Designating Nonattainment Areas (updated Feb. 20, 2013). A federally referenced monitor is one that has been accepted for use by EPA for comparison of the NAAQS by meeting the design specifications and certain precision and bias (performance) specifications (40 C.F.R. Part 58).

Figure 2: Four Highest 24-hour PM_{2.5} Concentrations in 2024 as of January 24, 2024⁶⁷

Houston North Wayside C405/C1033	1	01/01/2024	103.1	01/18/2024	20.3	01/13/2024	17.9	01/06/2024	14.0
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Figure 3: EPA EJ Screen for PM_{2.5} in the area surrounding 5875 Kelley Street, Houston, TX 77026



The above map illustrates the cumulative impacts problem showing the area surrounding TCM’s location is in the 90th percentile against the national average for PM_{2.5}. And, as noted in public comments, there are multiple industrial sources of air pollution near TCM’s chosen location already contributing to the NAAQS exceedances documented at the North Wayside monitor.⁶⁸ These sources include:

- Gold Star Metals (.12 miles E)
- Invictus Transport (.13 miles NE)
- XLR8 Truck Lines (.20 miles NE)
- Five Star Ready Mix (.37 miles NE)
- Texas Concrete Ready Mix (1.4 miles SW)
- Queen Ready Mix (1.75 miles SE)
- Union Pacific Railyard (.40 miles SW-W)

The Texas Clean Air Act only allows a business to cause or contribute to air pollution with an authorization from TCEQ, and that authorization depends on TCEQ establishing that there is

⁶⁷ TCEQ Four Highest 24-Hour PM-2.5 Concentrations in 2024 as of January 24, 2024 available: https://www.tceq.texas.gov/cgi-bin/compliance/monops/pm25_24hr_4highest.pl; see also Harris County Comments (Dec. 6, 2023) at 20.

⁶⁸ See Local Communities’ Comments (Dec. 6, 2023) at 12-13.

“no indication” that the facility’s emissions will contribute to air pollution that harms public health, general welfare, (including esthetic enjoyment of air resources by the public and maintenance of adequate visibility), or physical property.⁶⁹ Given the submitted public comments, and the evidence above—TCEQ cannot find “no indication” that TCM’s Permit will not further contribute to local air pollution. Further, the RTC does not assess the emissions or associated health impacts from the facilities listed above when combined with the newly issued TCM Permit.⁷⁰ This is exactly the situation where the EPA believes the “TCEQ should exercise its discretion to deny [standard permits] . . . if TCEQ has significant concerns about an area being overburdened or disproportionately impacted with air emission sources.”⁷¹ Because TCM’s Permit will contribute to air pollution that harms public health in an already overburdened community, it must be overturned.

B. TCM’s Permit fails to comply with Best Available Control Technology.

The RTC incorrectly asserts that the “Standard Permit does not require individual BACT review because the protectiveness review and impacts analysis were performed with a worst-case operating scenario when it was developed. The impacts analysis found that when plants operate within the parameters listed within this Standard Permit, the plants should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.”⁷² But the Protectiveness Review omits sources of PM_{2.5} including engines and “other sources of PM” and the “Commission has directed staff to *not* include potential PM_{2.5} emission from engines in the analysis at this time.”⁷³ And the Protectiveness Review has not been updated to react to changes in NAAQS for PM_{2.5}.⁷⁴

30 TEX. ADMIN. CODE § 116.602 requires that “all standard permits issued by the commission under this chapter shall require *best available control technology*.”⁷⁵ The last documented BACT applicable to Rock Crushing Facilities was memorialized by TCEQ in 2008 and is excerpted below. According to TCEQ, however, “BACT for any particular industry is not static and is subject to change over time. BACT progresses as technology progresses or as process developments occur.”⁷⁶ Thus, the BACT applicable to this Permit must be updated to be lawful.

⁶⁹ TEX. HEALTH & SAFETY CODE § 382.002.

⁷⁰ RTC at 3-5.

⁷¹ EPA Comments on Non Rule Project Number 2022-033-OTH-NR (June 14, 2023) at 5-6.

⁷² RTC at 7.

⁷³ TCEQ, Memo from Keith Zimmerman, P.E. to Larry Buller, P.E., Modeling Report – Rock Crusher Standard Permit (Mar. 27, 2006) (emphasis added).

⁷⁴ *Contra* RTC at 7.

⁷⁵ See also TEX. HEALTH & SAFETY CODE § 382.05195(a)(3) (emphasis added).

⁷⁶ Air Permit Division, Texas Commission on Environmental Quality, “Air Permit Reviewer Reference Guide APDG 6110 Air Pollution Control How to Conduct a Pollution Control Evaluation” at 11.

Figure 4: 2008 BACT⁷⁷

TCEQ Mechanical Sources
 Historical Best Available Control Technology (BACT) Requirements
 Rock Crushing Facilities (NSPS – Subpart 000)

Year	Source Type	Pollutant	Minimum Acceptable Control	Control Efficiency or Details
2008	Rock Crushers	Particulate Matter (PM)	70% reduction required on inlet and outlet of all crushers, screens, and transfer points.	Typically, water spray
			0.05 g/dscm or 7% opacity	Any stack emissions unless using a wet scrubber. Wet scrubber establishes pressure of gas stream and scrubbing liquid flow rate during initial performance test. (NSPS)
			10% opacity	Transfer points or screen fugitive emissions (NSPS)
			15% opacity	Any crusher with no capture system (NSPS)

Because the Protectiveness Review is incomplete with respect to sources of PM_{2.5}—it follows that the Best Available Control Technology for these sources is also lacking. Since the Protectiveness Review is *so* outdated and the Standard Permit is a type of NSR Permit with its own independent regulatory requirements to comply with BACT,⁷⁸ TCM’s Permit cannot avoid complying with individual BACT requirements.⁷⁹ For example, until the Protectiveness Review includes engines, TCEQ must review engine emissions at rock crusher facilities to determine compliance with BACT. This is also true for other omitted sources, like unpaved roads.

Public comments additionally made BACT recommendations,⁸⁰ but the ED made no changes to the Permit and failed to require BACT.

C. TCM’s Permit does not meet public health standards.

Because TCEQ is responsible for implementing the FCAA, including complying with NAAQS—TCEQ must also ensure that it is protecting public health with an “adequate margin of safety” when issuing permits that could threaten NAAQS. The “worst case” projections that the 2006 Protectiveness Review relies on are insufficient to support this permit approval for several reasons.⁸¹ First, the Local Communities represent a particularly vulnerable demographic—one that is categorically “at-risk” according to the EPA. And vulnerable demographics and at-risk communities were never considered as part of the Protectiveness Review. Second, the Protectiveness Review omits sources of PM_{2.5} related to the permitted concrete crusher. Third, the Protectiveness Review has not been updated to comply with the changes in NAAQS standards for PM_{2.5}.

Both the FCAA and the TCAA have statutory charges to protect public health, this responsibility is particularly important here where the issued permit will adversely affect an at-

⁷⁷ “TCEQ-(APDG 6468v2, revised 10/18) available at: https://www.tceq.texas.gov/assets/public/permitting/air/Guidance/NewSourceReview/bact/bact10yo_rock.pdf

⁷⁸ TEX. ADMIN. CODE § 116.602(C); TEX. HEALTH & SAFETY CODE § 382.05195(a)(3).

⁷⁹ TEX. HEALTH & SAFETY CODE § 382.05195(a)(3).

⁸⁰ Harris County Comments (Dec. 6, 2023 at 24-25).

⁸¹ RTC at 4, 7.

risk and underserved population.⁸² The purpose of NAAQS is to “protect the public health” with “an adequate margin of safety.”⁸³ In formulating NAAQS for PM_{2.5}, the EPA has consistently recognized that populations with demographics similar to Super Neighborhoods 48 and 52⁸⁴ are the most at-risk.

- EPA acknowledged that, “the highest concentrations in an area tend to be measured at monitors located in areas where the surrounding population is more likely to have lower education and income levels, and higher percentages of minority populations...the intended purposes of the form of the annual standard . . . may not be adequate to avoid substantially greater exposures in some areas, potentially resulting in disproportioned impacts on these potentially vulnerable subpopulations.”⁸⁵
- Noting that the FCAA requires the Administrator to set a standard that “reduces risks sufficiently so as to protect public health, including the health of at-risk populations, with an adequate margin of safety.”⁸⁶
- And, the EPA again acknowledged, “[t]here is strong evidence demonstrating that black and Hispanic populations, in particular, have higher PM_{2.5} exposures than non-Hispanic white populations’ and that ‘there is consistent evidence across multiple studies demonstrating an increase in risk for nonwhite populations.’”⁸⁷
- EPA again, noted that “[t]he scientific evidence evaluated . . . indicates that sub-populations at potentially greater risk from PM_{2.5} exposures include: children, lower socioeconomic status . . . populations, minority populations (particularly Black populations), and people with certain preexisting diseases (particularly cardiovascular disease and asthma).”⁸⁸

And it’s been well documented and publicly recognized that Local Communities are already contending with enormous amounts of PM_{2.5} from the aggregate industry—contributing anywhere between 38-111 tons of PM_{2.5} emission/year.⁸⁹ Public Comments identified sensitive users and many adverse health effects from PM_{2.5} including: premature deaths in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and other respiratory illnesses.⁹⁰

The RTC recognizes that the Standard Permit is “designed to be in compliance with the NAAQS”, but it fails to acknowledge the deficiencies in the Protectiveness Review the Standard

⁸² See Local Communities’ Comments (Dec. 6, 2023) at 77-81.

⁸³ 42 U.S.C. § 7409(b)(1).

⁸⁴ Local Communities’ Comments (Dec. 6, 2023) at 10-11.

⁸⁵ 71 FR 61, 29 (Oct. 17, 2006).

⁸⁶ 78 FR 3086, 3161 (Jan. 15, 2013).

⁸⁷ 85 FR 82884, 82703 (Dec. 18, 2020).

⁸⁸ 88 FR 5558, 5673 (Jan. 27, 2023).

⁸⁹ Nikolaos Ziropiannis, Env’t Sci. & Technol, “Polluting Under the Radar: Emissions, Inequality, and Concrete Batch Plants in Houston.” (2023) at 11412.

⁹⁰ See Local Communities’ Comments (Dec. 4, 2023).

Permit relies on.⁹¹ This failure is not just rhetorical—it means there is no current data to defend the issuance of TCM’s Permit in an at-risk community.

Moreover, the EPA has recently recommended that TCEQ conduct environmental justice analyses using EPA EJScreen tools early in the permitting process for another similar standard permit, the concrete batch plant standard permit. EPA said “[t]his screening will indicate whether a permitting decision has the potential to contribute to significant public health or environmental impacts, if the community may be particularly vulnerable to impacts from the proposed permit, and whether the community is already disproportionately impacted either by public health or by environmental burdens.”⁹² Here, the RTC does not include any environmental justice analysis, and the decision to issue TCM’s Permit will adversely affect the public health of an already overburdened community.⁹³

Because the Permit’s issuance is unsupported by the record, it must be overturned.

III. The Texas Clean Air Act requires TCEQ to evaluate a Facility’s location.

TCEQ justifies permitting public health threats in un-zoned Houston and Harris County by framing permitting location evaluations as jurisdictional decisions related to zoning and land use that are “beyond” TCEQ’s authority.⁹⁴ This justification fails.

The Commission is charged with “safeguard[ing] the state’s air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and maintenance of adequate visibility.”⁹⁵ TCEQ must oversee and administer provisions of the TCAA to establish the level of quality to be maintained in the State’s air, and to control the quality of the State’s air.⁹⁶ The TCAA provides that, unless authorized by TCEQ, no person may “cause, suffer, allow, or permit the emission of any air contaminant or the performance of any activity that causes or contributes to, or that will cause or contribute to, air pollution.”⁹⁷

TCEQ implements the FCAA through the TCAA and the SIP. Air permitting decisions must comply with federally set standards for criteria pollutants, or NAAQS. Compliance with NAAQS is determined by geographic region—thus the location of a facility controls the permitting process.⁹⁸ The entire architecture of permitting process under the TCAA is emission source and location dependent.⁹⁹ This is especially true for the Standard Permit for rock and concrete crushers.

⁹¹ RTC at 3.

⁹² EPA Comments on Non Rule Project Number 2022-033-OTH-NR (June 14, 2023) at 8.

⁹³ RTC Response 14 at 17.

⁹⁴ RTC Response No. 8 at 12.

⁹⁵ TEX. HEALTH & SAFETY CODE § 382.002(a).

⁹⁶ TEX. HEALTH & SAFETY CODE § 382.011.

⁹⁷ TEX. HEALTH & SAFETY CODE § 382.085(a).

⁹⁸ This is true for permits issued in geographic regions of Texas designated attainment vs. non-attainment. *See* Texas Nonattainment / Maintenance Status for Each County by Year for All Criteria Pollutants available at https://www3.epa.gov/airquality/greenbook/anayo_tx.html

⁹⁹ *See* Texas Nonattainment / Maintenance Status for Each County by Year for All Criteria Pollutants available at https://www3.epa.gov/airquality/greenbook/anayo_tx.html

These facilities can only be permitted if they comply with statutory distance limitations. And these distance limitations are intended to ensure compliance with NAAQS. Further, as evidenced by the recent amendment to the standard permit for concrete batch plants, a proper protectiveness review includes different background levels for Harris County than other Texas counties.¹⁰⁰

The Standard Permit TCEQ issued to TCM fails to comply with TCEQ's responsibilities under the Texas Clean Air Act because it endangers the Local Communities' health and air quality. This Permit must be overturned.

CONCLUSION

Because TCEQ failed to follow its own regulations, TCM's Permit must be overturned. TCM's Application has noted deficiencies that the public identified during the public participation process. Rather than correct these Application deficiencies and issue a permit that complies with its regulations, TCEQ approved an unlawful permit. The Permit:

- (a) ignores strict regulatory distance limitations,
- (b) fails to comply with federal and state air quality standards,
- (c) omits best available control technologies to mitigate pollution, and
- (d) endangers public health.

Accordingly, the Local Communities respectfully request that this Permit be overturned.

Dated: February 5, 2024.

Respectfully submitted,

LONE STAR LEGAL AID
EQUITABLE DEVELOPMENT INITIATIVE
ENVIRONMENTAL JUSTICE TEAM

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¹⁰⁰ See TCEQ Interoffice Memorandum, Concrete Batch Plant Standard Permit Protectiveness Review (February 24, 2023), available at <https://www.tceq.texas.gov/downloads/permitting/air/nsr/nsr-stakeholders/22033-oth-nr-cbpsp23-4-modelingreport.pdf>

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2024, **MOTION TO OVERTURN TEXAS COASTAL MATERIALS AIR QUALITY STANDARD PERMIT NO. 173296** was filed with the Chief Clerk of the TCEQ, and a copy was served on all persons listed on the attached mailing list via electronic mail and the U.S. Mail.

/s/Caroline Crow
Caroline Crow

FOR THE EXECUTIVE DIRECTOR

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EXHIBIT 12

Plaintiffs' Petition for Judicial Review

Email: ebirch@birchbecker.com

March 8, 2024

VIA TCEQ's e-FILING SYSTEM

Ms. Laurie Gharis
Office of the Chief Clerk (MC-105)
Texas Commission on Environmental Quality
12100 Park 35 Circle, Building F
Austin, Texas 78753

Re: Texas Coastal Materials LLC's Response to Motions to Overturn, *In Re: The Executive Director's Approval of Texas Coastal Materials LLC's Air Quality Standard Permit, Registration No. 173296*; TCEQ Docket No. 2024-0138-AIR

Dear Ms. Gharis:

Enclosed for filing in the above-referenced matter is *Texas Coastal Materials LLC's Response to Motions to Overturn*. Please file this document on behalf of Texas Coastal Materials LLC. If you have any questions, please telephone me at the above number.

Sincerely,



Erich M. Birch
Attorney for Texas Coastal Materials LLC

ENCLOSURE

cc: Service List

TCEQ DOCKET NO. 2024-0138-AIR

**IN RE: THE EXECUTIVE
DIRECTOR'S APPROVAL OF TEXAS
COASTAL MATERIALS LLC'S AIR
QUALITY STANDARD PERMIT,
REGISTRATION NO. 173296**

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**BEFORE THE
TEXAS COMMISSION
ON
ENVIRONMENTAL QUALITY**

TEXAS COASTAL MATERIALS LLC'S RESPONSE TO MOTIONS TO OVERTURN

**TO THE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY:**

COMES NOW Texas Coastal Materials LLC ("TCM") and presents this its *Response to Motions to Overturn* that were filed regarding issuance of Registration No. 173296 (the "Registration") to TCM by the Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "the Commission") pursuant to the Air Quality Standard Permit for Rock and Concrete Crushers, arguing that the Motions to Overturn fail to identify legally justified reasons for overturning the Executive Director's issuance of the Registration to TCM. For the reasons stated below, TCM respectfully requests the Commissioners of the TCEQ deny the Motions to Overturn, and thus, not overturn the Executive Director's approval of TCM's Application pursuant to the Standard Permit for its Kelley Street Plant and the resulting issuance of Registration No. 173296. TCM respectfully shows the Honorable Commissioners as follows:

I. BACKGROUND

A. *History of the Application*

TCM applied to TCEQ for Air Quality Standard Permit, Registration No. 173296 under the Texas Clean Air Act, Texas Health and Safety Code Section 382.05195 on July 7, 2023, which would authorize the construction of a permanent rock and concrete crusher at 5875 Kelley Street

in Houston.¹ TCM's application was deemed technically complete on July 31, 2023.² A public meeting regarding the application was held on December 7, 2023 at the New Mount Cavalry Missionary Baptist Church in Houston.³ The application was approved and Registration No. 173296 was issued on January 11, 2024, and on the same day, the Executive Director's Response to Comments was mailed to all interested persons.⁴ Motions to Overturn were received by TCEQ prior to the February 5, 2024 deadline.

B. Texas Coastal Materials LLC and the Kelley Street Site

TCM is a newly formed company, but the principles and key staff each have a minimum of fifteen years of experience and combined experience of sixty-five years in the concrete crushing and aggregate business. TCM spent nearly a year diligently searching for a site location that would meet all of TCEQ's permitting requirements, that would be located appropriately to serve construction sites and the growth of the City of Houston, and that would have no impact on residential areas. TCM selected the Kelley Street location because it met all of TCM's goals, and most importantly, because it complied with all applicable distance restrictions: there are no residences, schools, or churches within one-fourth of a mile (440 yards) of the site. And, importantly, the Kelley Street site is located adjacent to and with immediate access to the Northeast I-610 Loop, so there is no need for trucks to travel on residential streets.

¹ See Executive Director's Response to Public Comment, Application by Texas Coastal Materials, LLC Rock Crushing Plant, Houston, Harris County, TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crusher Registration No. 173296 at 1 (Jan. 11, 2024).

² See *id.*

³ See *id.* at 1-2.

⁴ See *id.*; see also Correspondence from Laurie Gharis, Chief Clerk, TCEQ, to Persons on Mailing List (Jan. 11, 2024).

II. ARGUMENT AND AUTHORITIES

The Commission's rules describe that a Motion to Overturn can be filed by any person regarding an action on an application taken by the Executive Director of TCEQ.⁵ Here, the Executive Director's technical staff reviewed TCM's application and issued the Registration, thus taking an action as contemplated by Texas Administrative Code Title 30, Section 50.139, relating to Motion to Overturn Executive Director's Decision. Section 50.139 does not define the standard by which Motions to Overturn should be evaluated. As such, the Commissioners should evaluate the Motions to Overturn to determine whether the movants have demonstrated that the Registration, as issued to TCM, is in violation of state law. As will be addressed in detail below, a review of the Motions to Overturn makes clear that no issues have been raised demonstrating that the Registration is in violation of Texas statute or TCEQ rules. Because the Registration, as issued, fully complies with state law, the Motions to Overturn must be denied.

A. *TCM's Proposed Facility Complies with All Applicable Distance Limitations*

TCM's application for Registration was submitted to TCEQ pursuant to the Air Quality Standard Permit for Permanent Rock and Concrete Crushers, Effective Date July 31, 2008 (the "Standard Permit"). With regard to the location of the facility in relation to neighboring properties, the Standard Permit provides:

Except as provided in subsections (C) and (D) of this section, when crushing concrete, the concrete crushing facility shall be operated at least 440 yards from any building which was in use as a single or multi-family residence, school, or place of worship at the time an application was filed. *The measurement of distance shall be taken from the point on the concrete crushing facility that is nearest to the*

⁵ See 30 TEX. ADMIN. CODE § 50.139(a).

*residence, school, or place of worship toward the point on the building in use as a residence, school, or place of worship that is nearest the concrete crushing facility.*⁶

With regard to this type of distance limitation, TCEQ's rule identifying the General Conditions for Standard Permits, Section 116.615, provides, in relevant part:

(11) Distance limitations, setbacks, and buffer zones. Notwithstanding any requirement in any standard permit, if a standard permit for a facility requires a distance setback, or buffer from other property or structures as a condition of the permit, the determination of whether the distance, setback, or buffer is satisfied shall be made on the basis of conditions existing at the earlier of:

(A) the date new construction, expansion, or modification of a facility begins; or

(B) the date any application or notice of intent is first filed with the commission to obtain approval for the construction or operation of the facility.⁷

Thus, any determination regarding whether the distance limitation set out in the Standard Permit is to be made as of the date the application is first filed with TCEQ.

Texas Health and Safety Code Section 382.065 is the basis for the distance limitation identified in the Standard Permit. Section 382.065 provides, in relevant part:

(a) The commission by rule shall prohibit the operation of a concrete crushing facility within 440 yards of a building in use as a single family or multifamily residence, school, or a place of worship at the time the application for a permit to operate the facility at a site near the residence, school, or place of worship is filed with the commission. *The measurement of distance for purposes of this subsection shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the residence, school, or place of worship that is nearest the concrete crushing facility.*⁸

⁶ Air Quality Standard Permit for Permanent Rock and Concrete Crushers, Effective Date July 31, 2008 at § (1)(B) (emphasis added) [hereinafter Standard Permit].

⁷ 30 TEX. ADMIN. CODE § 116.615(11).

⁸ TEX. HEALTH & SAFETY CODE § 382.065(a) (emphasis added).

While movants reference these same requirements, their arguments, and especially the drawings provided, make clear that they are failing to measure the distance between TCM's proposed facility and the church and school they identify in the manner proscribed by state law and the Standard Permit. The distances measured by Movants appear to be from property boundary to property boundary, although in some instances it appears the distances are measured from a random point on the properties, but TCEQ's rules never reference the property boundaries in questions. In fact, the Standard Permit and the applicable statutes, specifically reference measuring the shortest distance between the actual location of the facility and the actual location of the residence, school, or church: "The measurement of distance for purposes of this subsection shall be taken *from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the residence, school, or place of worship that is nearest the concrete crushing facility.*"⁹

Most of the movants cite concerns with the distances to the Lyndon Baines Johnson Hospital ("LBJ Hospital") and to the St. Francis of Assisi Catholic Church. However, as shown on the sealed professional survey attached hereto as Attachment A, the distance between the point on the facility nearest to the point on the LBJ Hospital that is nearest to the facility is 454.39 yards and the distance between the corresponding nearest points associated with St. Francis of Assisi Catholic Church is 589.19 yards.¹⁰ Although not shown on Attachment A, the "closest point" on

⁹ *Id.* § 382.065(a) (emphasis added); *see also* Standard Permit at § (1)(B).

¹⁰ The longitude and latitude coordinates of the crusher as shown on Attachment A are different by approximately 10 yards from the coordinates in previous submittals. The Standard Permit in section (3)(Q) allows a crusher to relocate on a site provided it continues to meet the distant requirements. Typically, at the time of submittal of a Standard Permit application the specific crusher to be used at a site has not been determined and the application depicts the general planned equipment location and configuration. TCM has now ordered the exact crusher that will be used at the site, and Attachment A therefore shows the distances based on the location and configuration of the actual crusher.

the facility to the nearest residence is over 590 yards, and the “closest point” on the facility to the nearest school is over 1,200 yards. All structures relevant to the issuance of the Registration are over 440 yards from the facility, and this is true even if one considers, *arguendo*, LBJ Hospital to be the location of the nearest church and school.

B. Hospitals Were Excluded from the Applicable Distance Limitations by the Texas Legislature

LBJ Hospital, and the chapel and educational facilities located therein, are not located within 440 yards of the TCM facility. But, because movants focus on the existence of the hospital and the chapel and educational facilities contained within, it is important to note that hospitals are not included on the list of facilities subject to the 440-yard distance limitation in Texas Health & Safety Code Section 382.065(a).

First, the Legislature and/or the Commission could have, but did not, include hospitals in the distance limitations applicable to rock and concrete crushers. Numerous environmental rules and statutes in Texas address the proximity of a regulated facility to certain types of “receptor” facilities. Many of these rules and statutes require the permittee to identify the distance to hospitals, unlike the provisions applicable to concrete and rock crushers.¹¹ Here, though, as shown in Attachment A, LBJ Hospital is 454.39 yards—more than 440 yards—from the TCM facility.

Second, the “school” and “chapel” located inside LBJ Hospital, as identified by movants, do not share the characteristics of typical schools, churches, and residences. The structures

¹¹ See, e.g., 30 TEX. ADMIN. CODE § 335.443(1)(6) (“proximity to schools, hospitals, and residential areas”); *id.* § 330.61(c)(4) (“schools, licensed day-care facilities, churches, hospitals, cemeteries, ponds, lakes, and residential, commercial, and recreational areas”); *id.* § 106.352(b)(2) (“single or multi-family residence, school, day-care, hospital, business, or place of worship”); TEX. HEALTH & SAFETY CODE § 382.0519 (“school, child day-care facility, hospital, or nursing home”). Section 382.065(a) and the Standard Permit are silent as to hospitals, and thus, the distance to hospitals is not required to be identified by the applicant.

enumerated in Texas Health and Safety Code Section 382.065 typically have occupants who are often outdoors and often present all day, year, and perhaps for a lifetime. By contrast, hospitals, especially a large hospital like LBJ Hospital, are similar to commercial and business structures that are also excluded from the statutory distance requirements in Section 382.065. Although some hospital patients might be present for extended durations, patients are always transient. In addition, the hospital and its occupants, including those using the chapel and resident teaching facility, do not have windows open to outdoor air, and instead use air conditioning or central heat throughout the year.

A second reason that hospitals would be excluded from the statutory setback requirement is because the air quality of a hospital is superior to most other buildings. Heating, ventilation, and air condition (HVAC) requirements for medical care facilities are more stringent than for most residential and commercial buildings. Hospitals must meet federal and state regulatory standards and also adhere to industry standards intended to address the unique air quality needs of health care structures. These facilities must not only address the health of the patients, but there are also requirements for the delicate health care equipment (*e.g.*, MRIs, lab equipment, *et cetera*) that have strict temperature, humidity, and other air purity controls. As such hospital facilities are typically served by HVAC equipment designed to effectively filter all types of outdoor contaminants and then to further treat the air to provide superior air quality inside the building, *e.g.*, through the use of high-efficiency particulate air (HEPA) filters, positive air pressure, isolation in certain areas, *et cetera*.

In short, LBJ Hospital is more than 440 yards from the TCM facility and, although not required for issuance of the Standard Permit, it satisfies the distance requirement established for a

school, residence, or place of worship. Further, the air quality inside the hospital itself should be of superior quality, like any other properly designed and operated health care facility.

C. The Standard Permit Was Developed to Ensure Protection of the Most Sensitive Members of Society

TCEQ, as its basis for issuing the Standard Permit, conducted research which showed the Standard Permit is “protective of public health and welfare, and that facilities operating under the conditions specified will comply with commission regulations.”¹² TCEQ’s permitting staff developed representative worst-case operating scenarios to be evaluated through dispersion modeling to develop the distance limits established in the Standard Permit.¹³ The air dispersion modeling helped ensure the Standard Permit is protective of the most sensitive members of society, including children, the elderly, and people with breathing difficulties.

Based on the conservative dispersion modeling, TCEQ determined that rock and concrete crushing facilities authorized pursuant to the Standard Permit would be protective of human health and the environment, as required by applicable law.¹⁴ The conservative assumptions built into the protectiveness modeling considered the effects of a permanent rock or concrete crusher qualifying for the Standard Permit on receptors like a school, residence, or place of worship.

III. CONCLUSION AND PRAYER

¹² TCEQ, Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers § III at 2, *available at* chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.tceq.texas.gov/assets/public/permitting/air/NewSourceReview/Mechanical/permcrushsp_pack.pdf.

¹³ *See id.* § V at 7.

¹⁴ *See id.* § V at 8.

For all of the above reasons, Texas Coastal Materials LLC respectfully requests that the Commissioners of the Texas Commission on Environmental Quality deny the Motions to Overturn, and thus, not overturn the Executive Director's approval of TCM's Application for Standard Permit for a Rock and Concrete Crusher for TCM's Kelley Street Plant and the resulting issuance of Registration No. 173296.

Respectfully submitted,

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ANGELA K MOORMAN

State Bar No. 24007700

**ATTORNEYS FOR TEXAS COASTAL
MATERIALS LLC**

CERTIFICATE OF SERVICE

I certify that the foregoing document has been filed with the Office of the Chief Clerk of the Texas Commission on Environmental Quality using the Chief Clerk’s designated electronic filing system. I also certify that a true and correct copy of the foregoing document has been served upon all counsel of record and parties identified by the Executive Director in his letter dated February 9, 2024, via facsimile, e-mail transmission, first class mail, Federal Express overnight delivery, or hand-delivery addressed to:

<p>Docket Clerk Office of the Chief Clerk (MC-105) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Fax: (512) 239-3311 https://www.14.tceq.texas.gov/epic/efiling/</p>	<p>Contessa Gay Environmental Law Division (MC-173) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 Fax : (512) 239-0606 Contessa.Gay@tceq.texas.gov</p>
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<p>Audrey VonBorstel PAVE 12434 Piping Rock Drive Houston, Texas 77077 audreyvonb@gmail.com</p>	<p>Jim Elmore Social Justice Committee St. Thomas PCUSA jdelmo47@gmail.com</p>
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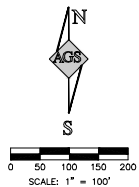
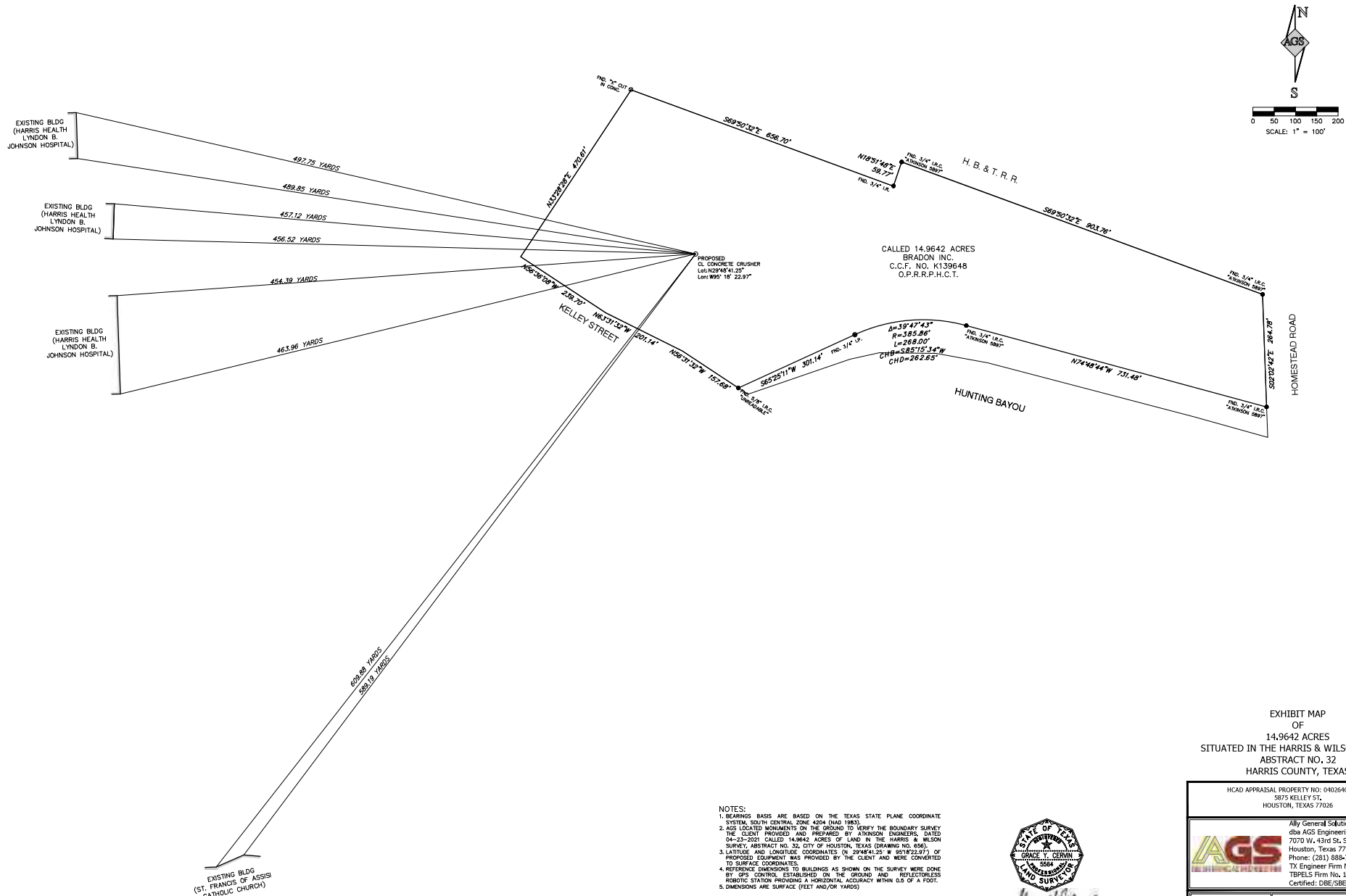
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Brittney Stredic bestredic.swctx@gmail.com	Lindsay Lanagan Vice President, Public Affairs LLanagan@legacycommunityhealth.org

On this the 8th day of March, 2024,



ERICH M. BIRCH

Attachment A



NOTES:
 1. BEARINGS BASIS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE 4204 (MAD 1983).
 2. ALL LOCATED MONUMENTS ON THE GROUND TO VERIFY THE BOUNDARY SURVEY THE CLIENT PROVIDED AND PREPARED BY ATANSON ENGINEERS, DATED 04-25-2021 CALLED 14.9642 ACRES OF LAND IN THE HARRIS & WILSON SURVEY, ABSTRACT NO. 32, CITY OF HOUSTON, TEXAS (DRAWING NO. 836).
 3. LATITUDE AND LONGITUDE COORDINATES (U. ZONE 1421.25 W 891825.97) OF PROPOSED EQUIPMENT WAS PROVIDED BY THE CLIENT AND WERE CONVERTED TO SURFACE COORDINATES.
 4. REFERENCE DIMENSIONS TO BUILDINGS AS SHOWN ON THE SURVEY WERE DONE BY GPS CONTROL ESTABLISHED ON THE GROUND AND REFLECTORLESS ROBOTIC STATION PROVIDING A HORIZONTAL ACCURACY WITHIN 0.5 OF A FOOT. DIMENSIONS ARE SURFACE FEET AND/OR YARDS.



EXHIBIT MAP
 OF
 14,9642 ACRES
 SITUATED IN THE HARRIS & WILSON SURVEY
 ABSTRACT NO. 32
 HARRIS COUNTY, TEXAS

HCAD APPRAISAL PROPERTY NO: 0402640010008
 5873 KELLEY ST.
 HOUSTON, TEXAS 77026

Aly General Solutions, LLC
 dba AGS Engineering & Construction
 7070 W. 43rd St. Ste. 203
 Houston, Texas 77092
 Phone: (281) 888-7652
 TX Engineer Firm No. 13574
 TBPELS Firm No. 10194392
 Certified: DBE/SBE/MBE/HUB/8(A)

Drawing By: JMJ	Date: 03/05/2024	Scale: 1"=100'
Checked By: GYC	F.B.:	Sheet No. 1 of 1
Project No: 0212-001-24	Drawing Name: 0212-001-24 Hospital	

EXHIBIT 13

Plaintiffs' Petition for Judicial Review

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 8, 2024

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

Re: Texas Coastal Materials, LLC
Air Quality Standard Permit Registration No. 173296
TCEQ Docket No. 2024-0138-AIR
Executive Director's Response to the Motions to Overturn

Dear Ms. Gharis:

Enclosed please find a copy of the Executive Director's Response to the Motions to Overturn for the matter listed above.

If you have any questions, please do not hesitate to call me at (512) 239-5938, or email at contessa.gay@tceq.texas.gov.

Sincerely,

A handwritten signature in blue ink that reads "Contessa N. Gay".

Contessa N. Gay
Staff Attorney Environmental Law Division

Cc: Mailing list

**TCEQ AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND CONCRETE
CRUSHER REGISTRATION NUMBER 173296**

APPLICATION BY	§	BEFORE THE
TEXAS COASTAL MATERIALS, LLC	§	TEXAS COMMISSION ON
ROCK CRUSHING PLANT	§	ENVIRONMENTAL QUALITY
HOUSTON, HARRIS COUNTY	§	

EXECUTIVE DIRECTOR'S RESPONSE TO THE MOTIONS TO OVERTURN

**TO THE HONORABLE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHAIRMAN
NIERMANN, AND COMMISSIONERS JANECKA AND GONZALES**

COMES NOW the Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) and files this Brief in Response to the Motions to Overturn (MTO) the decision by the Executive Director to approve Texas Coastal Materials, LLC's initial issuance of Air Quality Standard Permit Registration No. 173296 for a Permanent Rock and Concrete Crusher and in support thereof shows the following:

I. Introduction

Texas Coastal Materials, LLC (Applicant or Texas Coastal) has applied to TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) § 382.05195. This will authorize the construction of a new facility that may emit air contaminants. This permit will authorize the Applicant to construct a Concrete Crushing Plant. The plant is proposed to be located at 5875 Kelley Street, Houston, Harris County, Texas 77026. Contaminants authorized under this permit include particulate matter (PM), including particulate matter with diameters of 10 microns or less (PM₁₀) and 2.5 microns or less (PM_{2.5}), carbon monoxide (CO), nitrogen oxides (NO_x), organic compounds, and sulfur dioxide (SO₂).

The permit application was received on July 7, 2023, and declared administratively complete on July 31, 2023. The Notice of Application for an Air Quality Standard Permit for Permanent Rock and Concrete Crushers (public notice) for this permit application was published in English on August 24, 2023 in the *Highlands Star/Crosby Courier*, and in Spanish on August 24, 2023, in the *El Perico Spanish Newspaper*. The public notice was later re-published in English on October 4, 2023 in *The Houston Chronicle*. A public meeting was held on Thursday, December 7, 2023 at 6:00 P.M. at the New Mount Calvary Missionary Baptist Church (gymnasium), 4711 Kelley Street, Houston, Texas 77026. The notice of public meeting was mailed on November 2, 2023. The public comment period ended on December 11, 2023 at 5:00 P.M. The Executive Director's Response to Comments (RTC) in English was filed on January 10, 2024, and mailed on January 11, 2024. The Executive Director's RTC in Spanish was filed and mailed on February 21, 2024. The permit was issued on January 11, 2024.

II. Reply to Motion to Overturn

An MTO is a remedy provided by 30 TAC § 50.139. There were numerous timely filed MTOs regarding the Executive Director's decision to issue the authorization to Texas Coastal for a Concrete Crushing Plant, Registration No. 173296.

a. Location in relation to LBJ Hospital

The MTOs contend that LBJ Hospital is both a school and a place of worship and the proposed location for the concrete crusher is within 440 yards of the Hospital.

As explained in the Executive Director's Response to Comments (RTC), Texas Health and Safety Code (THSC) § 382.065 prohibits the operation of certain concrete crushing facilities within 440-yards of a building in use as a single or multifamily residence, school, or place of worship at the time the application for a permit is filed with the commission. The plant is proposed to be located greater than 440 yards away from any point of the noted nearby hospital. Texas Coastal represented that it would meet the appropriate distance requirements listed in the Standard Permit. The map that Texas Coastal represented as part of the permit application indicates that the hospital will be outside 440 yards. The permit reviewer reviewed the map submitted during the permit application process and verified the distance through a Google Earth measurement to confirm the proposed plant location was more than 440 yards away from the hospital. As this plant is not constructed yet, if Texas Coastal were to intend to move the plant from the location indicated in the permit application, a modification of representations would need to be made.

b. The Standard Permit for Permanent Rock and Concrete Crusher is protective of Human Health.

The MTOs also contend that the development of the Air Quality Standard Permit for Rock and Concrete Crushers is not protective of human health. The MTOs further argue that construction, and related dust in or near hospitals have been conclusively associated with increases in invasive mold infections in immunocompromised patients.

As discussed in the RTC, during the development of the Standard Permit, the Executive Director conducted an extensive protectiveness review to ensure protectiveness of human health and the environment. The protectiveness review determined potential impacts to human health and welfare or the environment by comparing emissions allowed by the Standard Permit to appropriate state and federal

standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS) and TCEQ rules. The Executive Director determined that the emissions authorized by the Standard Permit are protective of both human health and welfare and the environment.

The Executive Director acknowledges that the United States (U.S.) Environmental Protection Agency (EPA) recently updated the PM_{2.5} NAAQS. The standard was signed on February 7, 2024, published in the *Federal Register* on March 6, 2024, and will become effective on May 7, 2024. As required by TCEQ Rules¹, the Executive Director will be reviewing the Standard Permit to ensure that it is in compliance with the new PM_{2.5} standard.

One of the most common health concerns expressed about crushing operations relates to the potential exposure to silica. As also discussed in the RTC, TCEQ has reviewed ambient air crystalline silica levels measured near aggregate production operations (APOs) similar to this proposed plant in various locations throughout the United States where data are available. These data indicate that the contribution of crystalline silica from these plants to ambient levels of PM and respirable crystalline silica is negligible or minimal and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by TCEQ. Although visible PM can create a nuisance if not properly managed, most of the particles emitted during the crushing process are too large to be inhaled and are not, therefore, directly toxic. Due to their size, these large particles fall to the ground close to the source, limiting off-property impacts. The Standard Permit development also evaluated the impact on air quality if the crushed material had up to twenty-percent silica, which is a

¹ See 30 TAC Chapter 116, Subchapter F.

very conservative assumption. The model predicted the maximum one-hour and maximum annual concentrations of silica would be half of TCEQ's health-based screening values. Based on TCEQ's conservative modeling analysis, TCEQ is confident that when a company operates in compliance with the Standard Permit, there should be no deterioration of air quality that would cause health effects to the surrounding community, including the patients and staff at the nearby hospital. In summary, adverse impacts to human health or welfare as a result of silica emissions from the proposed plant are not expected.

c. Contested Case Hearing

An MTO submitted contended that a contested case hearing on this permit application should have been granted. However, the requirements of the Standard Permit for Permanent Rock and Concrete Crushers are based on TCAA § 382.05195, which does not provide the opportunity for a contested case hearing.

Therefore, the Executive Director was correct in issuing the permit, without recommending a contested case hearing on this permit matter.

IV. Conclusion

For the foregoing reasons, the Executive Director respectfully requests that the commission deny all Motions to Overturn the Executive Director's Decision on Texas Coastal Materials, LLC, Concrete Crushing Plant, Registration No. 173296.

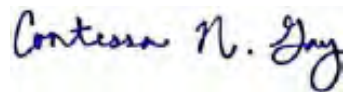
Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Erin E. Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



Contessa N. Gay, Staff Attorney
Environmental Law Division
State Bar Number 24107318
PO Box 13087, MC 173
Austin, Texas 78711-3087
REPRESENTING THE

EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Executive Director's Response to the Motions to Overturn the Executive Director's Decision on Texas Coastal Materials, LLC Air Quality Standard Permit Registration No. 173296 have been served on the following service list via electronic mail or electronic filing on this 8th day of March 2024.

Contessa N. Gay

Contessa N. Gay

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TEXAS COASTAL MATERIALS, LLC
TCEQ DOCKET NO. 2024-0138-AIR

FOR THE CHIEF CLERK:

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FOR PUBLIC INTEREST COUNSEL:

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EXHIBIT 14

Plaintiffs' Petition for Judicial Review

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



Garrett T. Arthur, *Public Interest Counsel*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 8, 2024

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 MOTION TO OVERTURN THE EXECUTIVE DIRECTOR'S APPROVAL OF TEXAS COASTAL MATERIALS, LLC'S AIR QUALITY STANDARD PERMIT, REGISTRATION NO. 173296 TCEQ DOCKET NO. 2024-0138-AIR**

Dear Ms. Gharis:

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

Sincerely,

A handwritten signature in cursive script that reads "Eli Martinez".

Eli Martinez, Senior Attorney
Assistant Public Interest Counsel

cc: Service List

TCEQ DOCKET NO. 2024-0138-AIR

IN THE MATTER OF THE MOTION	§	BEFORE THE TEXAS
TO OVERTURN THE EXECUTIVE	§	
DIRECTOR'S APPROVAL OF	§	COMMISSION ON
TEXAS COASTAL MATERIALS, LLC'S	§	
AIR QUALITY STANDARD PERMIT	§	ENVIRONMENTAL QUALITY
REGISTRATION NUMBER 173296	§	

OFFICE OF PUBLIC INTEREST COUNSEL'S RESPONSE TO
MOTIONS TO OVERTURN

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY:

The Office of Public Interest Counsel (OPIC) of the Texas Commission on Environmental Quality (TCEQ or the Commission) responds to the above-captioned Motions to Overturn as follows:

I. Introduction

A. Background

On July 7, 2023, Texas Coastal Materials, LLC (Texas Coastal or Applicant) applied to the TCEQ for Standard Permit Registration Number 173296 under the Texas Clean Air Act (TCAA) § 382.05195, authorizing the construction of a concrete crushing plant at 5875 Kelley Street in Houston. Contaminants authorized under the permit are particulate matter—including particulate matter with diameters of 10 microns or less (PM 10) and 2.5 microns or less (PM2.5)—carbon monoxide, nitrogen oxides, organic compounds, and sulfur dioxide. The Executive Director (ED) received 667 comments from the public

regarding this application and filed a Response to Comments (RTC) on January 10, 2024. On January 11, 2024, the ED approved Permit Registration Number 173296. The deadline to file a motion to overturn the ED's decision was February 5, 2024.

B. Procedural Issues

Title 30, TAC, Chapter 50, addresses authority delegated to the ED and specifies applications for which the ED may take action on behalf of the Commission. Section 50.131(c)(1) provides that air quality standard permits under Chapter 116 that require a decision by the Executive Director are subject to Chapter 50, including the motion to overturn process.¹ Where a registration under an air quality standard permit has not been formally contested, or is ineligible for formal challenge, Subchapter G contains a provision allowing the applicant, public interest counsel or other person the opportunity to file a motion to overturn (MTO) the ED's action on an application.²

An MTO must be filed within 23 days after notice of approval of the application has been mailed³ unless general counsel, by written order, extends the period of time for filing motions.⁴ Because the TCEQ mailed the order on January 11, 2024, the period to file a motion to overturn closed on February 5, 2024. All Movants timely submitted their motions before the deadline, and

¹ Additional authority is provided by Tex. Health & Safety Code § 382.061(b), which states that "An applicant or a person affected by a decision of the executive director may appeal to the commission any decision made by the executive director..."

² 30 TAC § 50.139.

³ 30 TAC § 50.139(b).

⁴ 30 TAC § 50.139(e).

OPIC therefore finds that all Movants have the right to seek Commission review of the ED's approval, in addition to any rights of judicial review.

In order for the Commission to grant a motion to overturn, the Movant must present “substantial evidence in the record” upon which the Commission can rely to overturn the decision of the ED.⁵ Conclusory legal assertions are inadequate because the Commission must consider evidence that “a reasonable mind might accept as adequate to support a conclusion of fact.”⁶

II. Motions to Overturn

Timely motions to overturn were filed by: Senator Borris L. Miles; City of Houston Mayor John Whitmire; Sallie Alcorn, Houston City Council, At-Large Position 5; Letitia Plummer, DDS., Houston City Council, At-large Position 4; Lindsay Lanagan and Daniella Flanagan, on behalf of New Liberty Road Community Development Corporation; Tien C. Ko, MD, FACS; Calista Herbert, Shawna Callaghan, Susan McKinley, Audrey VonBorstel, Jim Elmore, Kathryn Earle, and Denise Stasio, on behalf of PAVE Community Group; Marilyn Rayon, on behalf of Southwest Crossing Community Initiative; Cecile Roeger, on behalf of the Dominican Sisters of Houston; Huey German Wilson; Katherine G. Dotsey; Keith Downey, on behalf of Kashmere Gardens Super Neighborhood Council #52; Donna Ganther and Rev. James L. Caldwell, on behalf of the Coalition of

⁵ *TXI Operations LP v. Texas Comm'n on Env't Quality*, 665 S.W.3d 203, 212 (Tex. App.—Austin 2023, pet. filed).

⁶ *Slay v. Texas Comm'n on Env't. Quality*, 351 S.W.3d 532, 549 (Tex. App.—Austin 2011, pet. denied)

Community Organization; Rev. Katherine Noel Denison; Father Martin Eke, MSP on behalf of St. Francis of Assisi; Pearlie Wright; Frank B. Rynd, Sr. Maureen O'Connell. OP, and Albany Ashiru, on behalf of the Archdiocese of Galveston-Houston; Joseph W. Higgs; Rev. Diane McGehee, on behalf of Bering Memorial United Church of Christ; Rosa M. Estrada-Y-Martin MD, MSc, FCCP; Britney Stredic; Denaë King, PhD, on behalf of Bullard Center for Environmental and Climate Justice at Texas Southern University; Amy Catherine Dinn and Caroline Crow, on behalf of Lone Star Legal Aid; Jennifer M. Hadayia, MPA, on behalf of Air Alliance Houston; the Northeast Action Collective; and Sarah Jane Utley, on behalf of Harris Health and Harris County (collectively, Movants).

Movants alleged multiple defects in the ED's analysis of Permit Registration Number 173296 as support for their motion to overturn the ED's approval:

1. The Proposed Facility will be Located within 440 yards of a School and Place of Worship in Violation of the Texas Clean Air Act

Movants argue that Permit Registration Number 173296 improperly allows the proposed facility to be located within 440 yards of LBJ Hospital, which contains both a school and a place of worship. Movants argue LBJ Hospital contains a school because it is a teaching hospital with affiliation agreements to provide clinical education, includes classrooms where the University of Texas hosts students, and is a site of both the UT McGovern

Medical School and the Harris Healthy System School of Diagnostic Imaging.⁷ LBJ Hospital contains a place of worship because it includes a multi-faith chapel to provide spiritual care where mass is held three times a week.⁸ A map created by the City of Houston Planning and Development Department demonstrates the alleged proximity of the Applicant's facility to the hospital, which appears to lie within a 440-yard radius,⁹ as does the satellite imagery provided by Harris County.¹⁰

Additionally, Movants assert St. Francis of Assisi Catholic Church is likewise within 440 yards of the proposed facility.¹¹ Movants state that the church was omitted from the application and therefore not appropriately mapped; however, the distance is alleged to be approximately 402 yards¹²

In her Response to Comments, the ED states that "the plant is located greater than 1320 feet (440 yards) away from any point of the noted nearby hospital, and from the noted Saint Francis of Assisi Catholic Church."¹³ The

⁷ *Exempli gratia* Motion to Overturn submitted by Senator Borris L. Miles, "Motion to Overturn Executive Director's Decision to Grant Standard Air Quality Permit 173296 to Texas Coastal Materials LLC" at 2.

⁸ *Id.*

⁹ *Exempli gratia* Motion to Overturn submitted by Lone Star Legal Aid, "Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296" at p. 5.

¹⁰ "Harris County and Harris Health Comments; Texas Coastal Materials, LLC; Regulated Entity Id No. RN111769154; Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley Street, Houston, Texas 77026" at Figures 1-3.

¹¹ See "Harris County and Harris Health Comments; Texas Coastal Materials, LLC; Regulated Entity Id No. RN111769154; Application for an Air Quality Standard Permit, Registration Number 173296, located at 5875 Kelley Street, Houston, Texas 77026" at Figure 5.

¹² See Motion to Overturn submitted by Lone Star Legal Aid, "Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296" at p. 6.

¹³ Executive Director's Response to Public Comment, at Response 11.

exact points of reference used to determine the distance from the proposed facility to LBJ Hospital and Saint Francis of Assisi are not specified.

2. The Application does not Contain Accurate Distances between the Facility and Community Buildings

Movants assert that, in addition to the above school and places of worship, the application contains multiple distance discrepancies and failures to identify important community buildings, such as the nearest residence.¹⁴

Movants assert that a potential culprit for these inaccuracies lies in the fact that the maps in the Application measure from an unidentified point within the proposed location that does not accurately depict the entire “facility,” as that term is defined by TCEQ regulations and the Standard Permit.¹⁵ The Kelley Street Facility diagram, for instance, fails to identify equipment that constitutes part of the facility such as the crusher, screens, belt conveyors, generator sets, and material storage or feed bins.¹⁶ Movants assert this failure makes it impossible to determine whether the nearest point between the facility and locations of concern was accurately determined by either the Applicant or the ED.¹⁷

¹⁴ See Motion to Overturn submitted by Lone Star Legal Aid, “Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296” at p. 6. See also “Summary Report by City of Houston on Air Monitoring Concerns on Proposed Facility” (Dec. 6, 2023).

¹⁵ Motion to Overturn submitted by Lone Star Legal Aid, “Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296” at p. 7.

¹⁶ *Id.* at 8.

¹⁷ *Ibid.* at 9.

While the ED has represented that the facility is not located within the statutorily prohibited proximity to the nearest school or place of worship, it is not clear from either the Application or the Response to Public Comment where the nearest point of the facility was determined to lie, nor what equipment was included in their analysis.

3. A Public Interest Hearing Should have been Granted for Permit Registration Number 173296

State Senator for Texas State Senate District 13, Borris L. Miles, contends on behalf of Movants that the ED's decision should be overturned because Texas Water Code §5.556(d) authorizes a contested case hearing be held where the Commission determines a hearing is in the public interest.¹⁸ Senator Miles submitted a hearing request on December 15, 2023, and asserts that this request should have been granted because the proposed facility will endanger public health and the facility will be located within 440 yards of a school and place of worship inside LBJ Hospital in violation of Texas Health and Safety Code (THSC) § 382.065(a).¹⁹ Senator Miles further articulates that a disinterested party would be better equipped to handle questions of the magnitude implicated in this permitting action, and that a contested case hearing is necessary to effectuate meaningful public involvement.²⁰

¹⁸ See Motion to Overturn submitted by Senator Borris L. Miles, "Motion to Overturn Executive Director's Decision to Grant Standard Air Quality Permit 173296 to Texas Coastal Materials LLC" at 4.

¹⁹ *Id.*

²⁰ *Ibid.*

In her Response to Comments, the ED states that THSC § 382.05195(g) excludes standard permits from consideration under the Texas Administrative Procedure Act (Texas Government Code chapter 2001), and thus a contested case hearing on a registration for authorization under the Standard Permit is not available.²¹ Further, the provision in the Standard Permit that the crusher and all associated facilities be located no less than 440-yards from any building in use as a single or multi-family residence, school, or place of worship is an operational requirement not related to whether there is an opportunity for a contested case hearing.²² The ED therefore asserts that, read in concert, these provisions do not give the ED authority to refer the matter for a contested case hearing.²³

4. Permit Registration Number 173296 Disproportionately Impacts Low-Income Communities of Color

Movants raise the concern that Permit Registration Number 173296 will disproportionately impact vulnerable communities of color who are in historically low-income households and suffer greater health effects from industries that have clustered in their area. Movants contend that data reveals zip codes surrounding the proposed facility experience elevated rates of heart disease, stroke, asthma, and chronic obstructive pulmonary disease (COPD) compared to county, state, and national averages, resulting in lower life

²¹ Executive Director's Response to Public Comment, at Response 15.

²² *Id.*

²³ *Ibid.*

expectancy levels overall.²⁴ Further, vulnerable demographics and at-risk communities were never considered as part of the Protectiveness Review.²⁵

In her Response to Comments, the ED states that air permits evaluated by TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community. However, discrimination on the basis of race, color, national origin, sex, or disability in the administration of Commission programs or activities, is not allowed as required by federal and state laws and regulations.²⁶ The ED further contends that the Commission works to help citizens and neighborhood groups participate in the regulatory process to ensure that agency programs that may affect human health or the environment operate without discrimination and to make sure that citizens' concerns are considered thoroughly and are handled in a way that is fair to all.²⁷

5. The Proposed Facility is not Protective of Human Health

Movants express concern about the effect of the emissions from the proposed project on air quality and public health, including patients and visitors of LBJ Hospital. Movants contend emissions may be especially harmful to sensitive populations such as the elderly, children, and immunocompromised patients, as well as those with respiratory diseases,

²⁴ See Motion to Overturn submitted by Air Alliance Houston, “Urgent Motion to Overturn Air Quality Permit 173296 to Texas Coastal Materials LLC.”

²⁵ *Exempli gratia*, Motion to Overturn submitted by Lone Star Legal Aid, “Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296” at p. 15.

²⁶ Executive Director’s Response to Public Comment, at Response 14.

²⁷ *Id.*

cancer, lower-respiratory infections, kidney failure, silicosis, pneumonia, influenza, autoimmune disease, bronchitis, and other cardiovascular illness.

In her Response to Comments, the ED states that, during the development of the Standard Permit, the ED conducted a protectiveness review to ensure the safety of human health and the environment by comparing emissions allowed by the Standard Permit to appropriate state and federal standards and guidelines.²⁸ These standards include the Environmental Protection Agency's (EPA) National Ambient Air Quality Standards (NAAQS), which address both primary and secondary standards for pollutants considered harmful to public health and the environment. Primary standards protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects from air contaminants. Based on this review and modeling analysis, the ED concluded that a company operating in compliance with the Standard Permit should not effectuate deterioration of air quality that would cause health effects to the surrounding community, including the patients and staff at LBJ Hospital.²⁹ The ED therefore determined that the emissions authorized by the

²⁸ Executive Director's Response to Public Comment, at Response 1.

²⁹ *Id.*

Standard Permit are protective of both human health and welfare and the environment.³⁰

6. Permit Registration Number 173296 does not Apply the Correct NAAQS Limits of PM, does not Consider Background Concentrations, and does not Consider Emissions from Engines

Movants argue that the Standard Permit does not comply with the PM2.5 and PM10 NAAQS. They point out that the Standard Permit was most recently issued in 2008, its protectiveness review was performed in 2006, and it has not been updated in response to changes in the PM2.5 standards, including revisions—proposed at the time of application and approval but recently adopted—lowering the PM2.5 annual standard to 9 ug/m³.³¹

Movants emphasize that the NAAQS are meant to provide an adequate margin of safety necessary to protect public health and that since 2006, the annual PM2.5 standard has been lowered from 15 ug/m³ to 12 ug/m³, and now will be 9 ug/m³. The PM2.5 24-hour standard has also been lowered from 65 ug/m³ to 35 ug/m³. They point out that the Protectiveness Review did not account for engines and other sources of PM2.5. Movants state that the 2006 PM2.5 and PM10 reviews are outdated and do not reflect current background

³⁰ *Ibid.*

³¹ *Exempli gratia* Motion to Overturn submitted by Lone Star Legal Aid, “Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296” at p. 10. *See also* Motion to Overturn submitted by Senator Borris L. Miles, “Motion to Overturn Executive Director’s Decision to Grant Standard Air Quality Permit 173296 to Texas Coastal Materials LLC” at 5. *See also* Harris County, and Harris County Hospital District at pp. 9-16.

concentrations of PM in Harris County near the Facility. Additionally, they assert that the PM10 review utilized an inaccurate background concentration of 60 ug/m³, which was based on an outdated guidance document.

As evidence, the Movants highlight that the North Wayside air quality monitor, located approximately two miles from the Facility, shows that the annual mean concentration of PM2.5 in 2023 was 13.1 ug/m³ and that in 2024 the 24-hr PM2.5 standard of 35 ug/m³ was exceeded on January 1, 2024. They also note that in the 2023 amendment to the Standard Permit for Concrete Batch Plants, TCEQ used PM2.5 background concentrations of 26 ug/m³ (24-hour) and 11 ug/m³ (annual) for Harris County. Combining these background concentrations with the rock crusher's modeled emissions from its 2006 Protectiveness Review results in exceedance of the 2012 PM2.5 annual NAAQS of 12 ug/m³.

As previously stated, the ED contends that during the development of the Standard Permit, the ED conducted a protectiveness review to ensure the safety of human health and the environment by comparing emissions allowed by the Standard Permit to appropriate state and federal standards and guidelines, including the EPA's NAAQS.³² Further, in her Response to Comments, the ED confirms that the application was evaluated using the NAAQS that were applicable at the time of the application.³³

³² Executive Director's Response to Public Comment, at Response 1.

³³ *Id.* at Response 2.

7. Permit Registration Number 173296 does Not Consider Cumulative Impacts

Movants expressed concern about the cumulative effects of this project with pending or existing facilities in the area and contend that cumulative impacts should have been taken into consideration.³⁴

In her Response to Comments, the ED states the maximum modeled emission concentrations typically occur at a relatively short distance from the source, so that peak modeled concentrations represent the source's impact at a few receptors within the modeled area—rendering review of other off-site sources unnecessary.³⁵ Further, Commission rules establish a separation distance of 550 feet between any crushing facility authorized under the standard permit and either an additional operating crushing facility, concrete batch plant, or hot mix asphalt plant to help ensure that cumulative emissions do not result in adverse off-property impacts. If this distance cannot be met, the crushing facility authorized under the Standard Permit cannot operate at the same time as the additional crushing facility, concrete batch plant, or hot

³⁴ *Exempli gratia*, “Characteristics of the Neighborhood Surrounding LBJ Hospital and Texas Coastal Material’s Proposed Concrete Crushing Facility,” (December 10, 2023), Attachment to Motion to Overturn by Tien C. Ko, MD, FACS, “Motion to Overturn Executive Director’s Decision to Grant Standard Air Quality Permit 173296 to Coastal Materials.” *See also* “Harris Health and Harris County’s Motion to Overturn” at 17. *See also* Motion to Overturn by Bullard Center for Environmental & Climate Justice, “Motion to Overturn Executive Director’s Decision to Grant Standard Air Quality Permit # AIRNSR-173296/Docket #2024-0138-AIR to Texas Coastal Materials LLC CN606158293.

³⁵ Executive Director’s Response to Public Comment, at Response 1.

mix asphalt plant when determining approval of any particular Standard Permit application.³⁶

8. Permit Registration Number 173296 does Not Utilize Best Available Control Technology

Movants contend that BACT should have been utilized in the evaluation of Permit Registration Number 173296 because § 116.602 of the Commission rules require that “all standard permits issued by the commission under this chapter shall require best available control technology.”³⁷

In her Response to Comments, the ED states that a Standard Permit registration does not require individual BACT review because the protectiveness review and impacts analysis were performed with a worst-case operating scenario when it was developed.³⁸ The impacts analysis found that when plants operate within the parameters listed within this Standard Permit, they should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.³⁹

III. DISCUSSION

1. Distance Requirements from Schools and Places of Worship, Accurate Distance Representations to Other Buildings

³⁶ Id.

³⁷ *Exempli gratia*, Motion to Overturn submitted by Lone Star Legal Aid, “Motion to Overturn Texas Coastal Materials Air Quality Standard Permit No. 173296” at p. 14. *See also* “Harris Health and Harris County’s Motion to Overturn” at Exhibit A.

³⁸ Executive Director’s Response to Public Comment, at Response 3.

³⁹ Id.

Concrete crushing facilities are statutorily prohibited from being sited within 440 yards of a school or place of worship. Specifically, THSC § 382.065(a) states:

The commission by rule shall prohibit the operation of a concrete crushing facility within 440 yards of a building in use as a single or multifamily residence, school, or place of worship at the time the application for a permit to operate the facility at a site near the residence, school, or place of worship is filed with the commission. The measurement of distance for purposes of this subsection shall be taken from the point on the concrete crushing facility that is nearest to the residence, school, or place of worship toward the point on the residence, school, or place of worship that is nearest the concrete crushing facility.

OPIC is persuaded from the record provided by Movants that LBJ Hospital contains both a school and place of worship. As neither of these terms are defined in THSC Chapter 382 (Texas Clean Air Act), it is reasonable to interpret them in ordinary parlance as a place for education or connecting with God, respectively. If the legislature had desired to narrow the siting prohibition of THSC § 382.065(a) to refer to only stand-alone churches or educational facilities used to educate students of a particular age, they could have easily drafted their legislation to so indicate. Because LBJ Hospital provides clinical education, includes classrooms where the University of Texas hosts students, and is a site of both the UT McGovern Medical School and the Harris Healthy System School of Diagnostic Imaging, OPIC finds that it contains a school. Because LBJ Hospital contains a place of worship where spiritual care is provided and active

religious services are routinely held several times per week, OPIC finds that it contains a place of worship.

While the ED generally represents that “the plant is located greater than 1320 feet (440 yards) away from any point of the noted nearby hospital,”⁴⁰ it is not clear from the record which exact points of reference were used to determine the distance from the proposed facility to LBJ Hospital. Further, Movants have raised credible evidence that the ED’s measurements failed to identify equipment that should have been considered points of the facility, such as the crusher, screens, belt conveyors, generator sets, and material storage or feed bins. Maps provided by Movants, including those found in Attachment A of Harris County’s motion and Figure 1 of Lone Star Legal Aid’s motion (generated by the City of Houston Planning and Development Department), reach the conclusion that the proposed facility may indeed lie within 440 yards of LBJ Hospital. The same may be said of Saint Francis of Assisi Catholic Church, depending on how the facility is configured. As Movants have indicated, complying with statutorily-required spacing requirements is especially crucial where particulate matter concentrations are already high and some students and worshippers may be in vulnerable subpopulations.

For these reasons, OPIC finds that good cause to overturn the ED’s decision exists, based on substantial evidence provided by the Movants that the entirety of the facility will not be located further than 440 yards from a school

⁴⁰ Executive Director’s Response to Public Comment, at Response 11.

or place of worship as required by THSC § 382.065(a). Accurate distances to other relevant structures, such as the nearest residence, should have also been properly established.

2. Contested Case Hearing

OPIC recognizes the active advocacy represented by Senator Miles in his request for the Commission to grant a contested case hearing based on the public interest, per Texas Water Code §5.556(d). However, OPIC concurs with the ED in her contention that THSC § 382.05195(g) excludes standard permits from consideration under the Texas Administrative Procedure Act (Texas Government Code chapter 2001), and thus a contested case hearing on a registration for authorization under the Standard Permit is not available. Further, the ED does not have the authority to grant a public interest hearing, and therefore did not err on this basis in the processing of the registration application and approval.

3. Disproportionate Impacts on Low-Income Communities of Color

Because the TCEQ receives federal funding, it must comply with a suite of federal guidance and laws ensuring its actions are not intentionally discriminatory and will not have discriminatory effects.⁴¹ For instance, Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin.⁴² Executive Order 12898 addresses the environmental

⁴¹ See 40 CFR §7.35(b). <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-A/part-7>

⁴² <https://www.justice.gov/crt/fcs/TitleVI>

and human health conditions of minority communities and low-income communities and calls on agencies to identify and address any disproportionately high and adverse human health or environmental effects of their programs.⁴³ Executive Order 13166 requires federal agencies—and recipients of federal financial assistance—to examine the services they provide, identify any need for services to those with limited English proficiency, and develop and implement a system to provide those services so limited English proficiency persons can have meaningful access to them.⁴⁴

TCEQ has made a commitment to preventing discriminatory actions or effects through its Title VI compliance efforts, which are intended to ensure reasonable access to its decision-making processes. Towards this end, efforts have been made to develop and implement a Disability Nondiscrimination Plan, Public Participation Plan, and Language Access Plan.⁴⁵ Together, these efforts are intended to provide equal access to Commission programs and activities.

However, the specific concerns raised by the Movants involving the location of the proposed facility in an area with minority and low-income populations, disparate exposure to pollutants of minority and low-income populations, and disparate economic, environmental, and health effects on minority and low-income populations are not specifically addressed by legislation or permitting

⁴³ <https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

⁴⁴ <https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20938.pdf>

⁴⁵ More information on TCEQ's Title VI Compliance efforts can be found at: <https://www.tceq.texas.gov/agency/decisions/participation/title-vi-compliance>

rules. Without specific requirements relating to these concerns, these issues do not provide a basis for overturning the ED's decision on this registration.

4. Protection of Public Health, NAAQS Limits, Cumulative Impacts, Background Concentrations, BACT

The remainder of the issues principally concern the protectiveness review employed in the approved and adopted Standard Permit itself—its limits, scope, and requirements, rather than the ED's application of those requirements to Registration Number 173296. OPIC cannot find that such objections are appropriate as a basis for a motion to overturn because protection of health, analysis of cumulative impacts for concrete crushing operations of the type and throughput authorized under this type of registration, analysis of background concentrations, and BACT requirements were analyzed and approved by the Commission in the development and approval of the Standard Permit applicable to Texas Coastal's registration. The ED is charged with applying those requirements to applicants and cannot be said to have erred by doing so in the absence of a change to the Standard Permit itself.

A potential exception lies in the application of the proper NAAQS standards for PM_{2.5} and PM₁₀, if they had been improperly applied. However, OPIC finds that Movants have not demonstrated that issuance of this registration under the Standard Permit for Rock and Concrete Crushers will violate the PM_{2.5} or PM₁₀ NAAQS. Although the North Wayside air monitor does show that the annual mean of PM_{2.5} was greater than the 12 ug/m³ annual

standard, this alone does not show noncompliance with the NAAQS, because the PM_{2.5} annual standard is averaged over three years.⁴⁶ Similarly, the January 2024 exceedance does not necessarily equate to noncompliance because the 24-hour standard is also averaged over three years.⁴⁷

OPIC recognizes that the modeling recently performed for the Standard Permit for Concrete Batch Plants used annual PM_{2.5} background concentrations of 11 ug/m³ for Harris County and, while the annual PM_{2.5} standard is currently 12 ug/m³, the EPA has just taken final action on a rule which takes effect on May 6, 2024 lowering the standard to 9 ug/m³.⁴⁸ Taking this into consideration, OPIC is of the opinion that the Standard Permit may benefit from Commission reevaluation and reexamination to ensure that it is protective and in compliance with the recently updated NAAQS. However, OPIC agrees that the ED evaluated the application using the PM NAAQS that was applicable at the time of the application.⁴⁹ Therefore, OPIC does not find that the ED erred in her evaluation of these issues and cannot recommend overturn on these grounds.

IV. CONCLUSION

Movants have raised credible evidence that the proposed facility will lie within 440 yards of a school or church in violation of THSC § 382.065(a), and

⁴⁶ 89 FR 16203. Accessible at: <https://www.federalregister.gov/documents/2024/03/06/2024-02637/reconsideration-of-the-national-ambient-air-quality-standards-for-particulate-matter> (last visited March 7, 2024).

⁴⁷ *Id.*

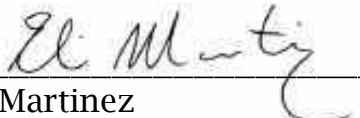
⁴⁸ 89 FR 16202.

⁴⁹ *Id.* at Response 2.

OPIC therefore recommends that the Commission grant the motions to overturn.


Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2024, the Office of Public Interest Counsel's Response to Motions to Overturn was filed with the Chief Clerk of the TCEQ and a copy was served to all persons listed on the attached mailing list via hand delivery, electronic mail, Inter-Agency Mail or by deposit in the U.S. Mail.


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EXHIBIT 15

Plaintiffs' Petition for Judicial Review



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March 21, 2024

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

RE: Texas Coastal Materials, LLC
Air Quality Standard Permit Registration No. 173296
TCEQ Docket No. 2024-0138-AIR
Harris Health and Harris County's Reply in Support of Motion to Overturn

Dear Ms. Gharis:

Enclosed please find a copy of *Harris Health and Harris County's Reply in Support of Motion to Overturn*. Please file this document on behalf of Harris Health and Harris County. If you have any questions, please contact us at the number listed in the above letterhead.

Sincerely,

/s/ Adam Friedman
Adam M. Friedman
***Attorney for Harris Health
and Harris County***

ENCLOSURE

cc: Service List

**TCEQ AIR QUALITY STANDARD PERMIT FOR PERMANENT ROCK AND
CONCRETE CRUSHER REGISTRATION NUMBER 173296**

APPLICATION BY TEXAS	§	BEFORE THE TEXAS
COASTAL MATERIALS, LLC FOR	§	
AIR QUALITY STANDARD	§	COMMISSION ON
PERMIT, REGISTRATION NO.	§	
173296	§	ENVIRONMENTAL QUALITY

**HARRIS HEALTH AND HARRIS COUNTY’S
REPLY IN SUPPORT OF MOTION TO OVERTURN**

Harris County Hospital District d/b/a the Harris Health System and Harris County, Texas (collectively “Harris County”) jointly file this Reply in Support of Motion to Overturn and request that the Commissioners of the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) overturn the December 11, 2023 decision of the Executive Director (“ED”) approving Texas Coastal Materials, LLC’s (“Texas Coastal”) application to operate a rock crushing facility (TCEQ Permit No. 173296) under the Standard Permit for Permanent Rock and Concrete Crushers (“Rock Crusher Standard Permit” or “Standard Permit”).

ARGUMENT

I. There is little dispute that Texas Coastal’s application to operate under the Rock Crusher Standard Permit fails to comply with the NAAQS and the TCEQ Long-Term Effects Screening Levels.

In their responses to the motions to overturn, the ED and Texas Coastal failed to address Harris County’s specific arguments that Texas Coastal failed to comply with the NAAQS. Their silence is telling. The ED and Texas Coastal also failed to demonstrate that the proposed crusher complied with the TCEQ Long-Term Effects Screening Levels. The Commission should overturn the ED’s approval of the application and prevent construction and operation of a potentially dangerous facility so close to a hospital, school, and place of worship.

A. Texas Coastal failed to comply with the NAAQS for PM_{2.5}.

TCEQ's rules provide that the ED, with authority delegated by the Commission, "will consider . . . the applicability of other state or federal standards that apply or will apply to the types of facilities covered by the standard permit."¹ Recognizing this obligation, the ED correctly acknowledges in her Response that TCEQ rules require the ED to review the Standard Permit when the EPA updates the NAAQS.² The ED must also review the Standard Permit when TCEQ updates Long-Term Effects Screening Levels.

TCEQ issued the Standard Permit effective on July 31, 2008. In support of the Standard Permit, TCEQ conducted a protectiveness review ("2008 Protectiveness Review") premised on air dispersion modeling conducted in 2006. In 2012—four years after TCEQ deemed the Standard Permit protective—the EPA formally adopted 12.0 µg/m³ as the NAAQS for PM_{2.5}. Yet, the ED has never revisited the 2008 Protectiveness Review for the Standard Permit for compliance with the updated PM_{2.5} NAAQS. Texas Coastal, therefore, has not demonstrated its proposed crusher is protective of human health and, if permitted, the proposed crusher will potentially emit dangerous levels of PM_{2.5}.

The EPA recently further reduced the annual PM_{2.5} NAAQS to 9.0 µg/m³. Despite twelve years to conduct the necessary review to prevent authorizing dangerous crushers, the ED has never scientifically determined whether the Standard Permit complies with the applicable PM_{2.5} NAAQS.

Neither Texas Coastal nor the ED even attempt to address the Standard Permit's failure to comply with current NAAQS. Instead, both Texas Coastal and the ED simply stand behind the outdated 2008 Protectiveness Review claiming that the Rock Crusher Standard Permit was

¹ 30 TEX. ADMIN. CODE §§ 116.605(d)(3)(B), .606.

² ED Resp. at 4 (citing "30 TAC Chapter 116, Subchapter F").

deemed protective of human health and the environment.³ The ED's and Texas Coastal's responses to the motions to overturn *never mention* the 2012 NAAQS for PM_{2.5}.⁴ Until Texas Coastal and the ED demonstrate that the proposed crusher will comply with applicable NAAQS, the application cannot be approved. Doing so would put nearby citizens at extreme risk of exposure to unsafe levels of PM_{2.5}.

B. The ED and Texas Coastal did not address that the proposed crusher will exceed the 2012 and 2024 NAAQS for PM_{2.5}.

Harris County's Motion to Overturn demonstrated that projected air emissions from the proposed crusher combined with Harris County background concentrations of PM_{2.5} will exceed the 2012 NAAQS for PM_{2.5} of 12.0 µg/m³. The ground level maximum concentration ("GLCmax") for Annual PM_{2.5} modeled as part of the 2008 Protectiveness Review was 1.7 µg/m³. In TCEQ's very recent 2023 protectiveness review for the Concrete Batch Plant Standard Permit, the ED adopted an annual background concentration of 11.1 µg/m³ for PM_{2.5} in Harris County.⁵ Adding the 1.7 µg/m³ GLCmax to the ED's background concentration of 11.1 µg/m³ results in 12.8 µg/m³ of PM_{2.5}. The proposed crusher's PM_{2.5} emissions, therefore, exceed the 2012 NAAQS of 12.0 µg/m³ and significantly exceed the reduced PM_{2.5} NAAQS of 9.0 µg/m³ that will be effective in about six weeks.

Neither Texas Coastal nor the ED address the proposed crusher's non-compliance with the current NAAQS, instead simply standing behind the out-of-date analysis from over 15 years ago.⁶ OPIC correctly recognizes that TCEQ recently adopted 11.1 µg/m³ of PM_{2.5} as the background concentration in Harris County.⁷ OPIC also correctly notes EPA's recent

³ Resp. to Cmets. at 7; ED Resp. at 3-4; Tex. Coastal Resp. at 8.

⁴ ED Resp. at 3-4; Tex. Coastal Resp. at 8.

⁵ Monitoring data from nine air quality monitors in Harris County for the three years from 2020 through 2022 showed an average annual concentration of PM_{2.5} ranging from 8.2 µg/m³ to 12.3 µg/m³, supporting the ED's choice of 11.1 µg/m³ as representative of the background concentration for Harris County.

⁶ ED Resp. at 3-4; Tex. Coastal Resp. at 8.

⁷ OPIC Resp. at 20.

reduction in the PM_{2.5} NAAQS to 9.0 µg/m³.⁸ Based on these findings, OPIC opines that “the Standard Permit may benefit from Commission reevaluation and reexamination to ensure that it is protective in compliance with the recently updated NAAQS.”⁹

Although OPIC’s analysis of the NAAQS for PM_{2.5} ultimately falls short of protecting citizens nearby Texas Coastal’s proposed crusher, at least OPIC, unlike the ED and Texas Coastal, recognizes the risk. Reexamination of the Standard Permit is certainly prudent but doing so after authorizing Texas Coastal’s crusher does not protect the health of nearby citizens that will be exposed to Texas Coastal’s potentially dangerous levels of air emissions. Reexamination of the Standard Permit is a statutory and regulatory requirement that must be satisfied *before* Texas Coastal’s application can be approved.

C. The ED and Texas Coastal do not directly dispute that the proposed crusher will exceed the NAAQS for PM₁₀.

In the 18 years since TCEQ conducted its air dispersion modeling for the 2008 Protectiveness Review, Harris County background concentrations of PM₁₀ have increased. Harris County demonstrated in its comments and Motion to Overturn that Texas Coastal’s proposed crusher exceeds the PM₁₀ NAAQS once the outdated background concentrations from 2006 are replaced with current, accurate background concentrations.¹⁰ Texas Coastal’s proposed crusher is, therefore, not protective of human health and the environment and will potentially emit dangerous levels of PM_{2.5} and PM₁₀. The ED’s and Texas Coastal’s only response to the application’s failure to comply with PM₁₀ NAAQS was the circular and incorrect statement that the ED considered the NAAQS in its 2008 Protectiveness Review.¹¹

⁸ *Id.*

⁹ *Id.*

¹⁰ Harris County MTO at 15–17.

¹¹ ED Resp. at 3–4; Tex. Coastal Resp. at 8.

D. Texas Coastal's proposed crusher does not comply with the TCEQ Long-Term Effects Screening Level for quartz silica.

Texas Coastal's crushing facility will also be a source of quartz silica emissions. The ED's 2008 Protectiveness Review modeled a GLCmax for quartz silica of $0.3 \mu\text{g}/\text{m}^3$.¹² The ED deemed silica impacts at that level to be protective because that modeled concentration was below the TCEQ Long-Term Effects Screening Level, which *at the time* was $1.0 \mu\text{g}/\text{m}^3$.¹³

TCEQ, however, has since lowered that standard. The TCEQ Long-Term Effects Screening Level is now $0.27 \mu\text{g}/\text{m}^3$. The ED's 2008 Protectiveness Review GLCmax of $0.3 \mu\text{g}/\text{m}^3$ for quartz silica shows that the proposed crusher *exceeds* TCEQ's Long-Term Effects Screening Level by 10%. TCEQ has done no analysis to determine whether the exceedance of the ESL poses a significant health threat to citizens nearby the proposed crusher.

In response, the ED refers to empirical data of quartz silica emissions from monitoring stations, but the ED has not provided information about those stations or the data.¹⁴ Without that information, Harris County cannot evaluate the applicability of that data as to whether it is more representative than the TCEQ's own modeling that establishes the proposed crusher will exceed the quartz silica ESL. Texas Coastal did not address quartz silica in its response.

The ED and Texas Coastal have not demonstrated that the proposed crusher is protective of human health with respect to quartz silica, which is arguably the most dangerous pollutant emitted from these crushing facilities. It is critical that Texas Coastal's application be denied until Texas Coastal demonstrates that its quartz silica emissions are below TCEQ's standard for a crusher to be deemed protective of human health.

¹² Summary Document for Air Quality Standard Permit for Permanent Rock and Concrete Crushers at 8.

¹³ *Id.*

¹⁴ ED Resp. at 4-5.

II. LBJ Hospital is a hospital, a school, and a place of worship.

The ED appears to agree that LBJ Hospital is a school and that both LBJ Hospital and St. Francis of Assisi Catholic Church are places of worship.¹⁵ Texas Coastal, however, disputes that LBJ Hospital is a school or a place of worship.¹⁶ Texas Coastal argues that hospitals are not included in the list of structures considered under the Standard Permit.¹⁷ LBJ Hospital, however, is a teaching hospital and contains both classrooms and a chapel. It is not the hospital's status as a hospital that merits its consideration under the Standard Permit: it is the hospital's multiple functions as a school and a place of worship.

III. Texas Coastal has still not demonstrated that the proposed crusher is further than 440 yards from the nearest school or place of worship.

Texas Coastal's Response to the Motions to Overturn included a new map that was not part of its application.¹⁸ The distances represented on the map do not establish how far the school and place of worship are from the closest emission point. The crusher is represented as a single point on the map and does not break out other emission points associated with the crusher such as screens, belt conveyors, generator sets, and feed bins. Each emission point is part of the facility and needs to be identified on the map to measure the shortest distance between the closest emission point of the facility to the closest point of the nearby school and place of worship.¹⁹

Texas Coastal's latest attempt to demonstrate that its crusher satisfies the distance requirements is based on a map that Harris County (and others) have never seen, and still does not prove the closest emission point of the crusher is more than 440 yards from the closest

¹⁵ See ED Resp. at 2-3.

¹⁶ Tex. Coastal Resp. at 6-8.

¹⁷ *Id.*

¹⁸ *Id.* at 14 (Attach. A).

¹⁹ 30 TEX. ADMIN. CODE § 116.10(4); Air Quality Standard Permit for Permanent Rock and Concrete Crushers, General Requirement (1)(A)(ii).

point of any school or place of worship. The proposed crusher poses far too great of a health risk to accept an unsubstantiated claim that the distance requirements have been met.

IV. CONCLUSION

The crusher, if authorized, poses substantial risk to nearby citizens who frequent the hospital, school and place of worship by exposing them to potentially dangerous levels of PM and quartz silica. Until Texas Coastal proves otherwise, the ED's approval of the registration under the Standard Permit should be overturned.

Respectfully submitted,

MC ELROY, SULLIVAN, MILLER & WEBER, L.L.P.

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Harris Health and Harris County’s Reply in Support of Motion to Overturn the Executive Director’s Decision on Texas Coastal Materials, LLC Air Quality Standard Permit Registration No. 173296 have been served on the following service list via electronic mail or electronic filing on this, the 21st day of March, 2024

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/s/ Adam Friedman

Adam M. Friedman

EXHIBIT 16

Plaintiffs' Petition for Judicial Review

TCEQ DOCKET NO. 2024-0138-AIR

RE: TEXAS COASTAL MATERIALS,	§	
LLC RN11769154; APPLICATION FOR	§	BEFORE THE
AN AIR QUALITY STANDARD PERMIT	§	
	§	TEXAS COMMISSION ON
AIR QUALITY STANDARD PERMIT	§	
REGISTRATION NO. 173296	§	ENVIRONMENTAL QUALITY
	§	
COMMISSION APPROVAL FOR AIR	§	
QUALITY STANDARD PERMIT	§	

REPLY IN SUPPORT OF THEIR MOTION TO OVERTURN TEXAS COASTAL MATERIALS AIR QUALITY STANDARD PERMIT NO. 173296 BY SUPER NEIGHBORHOODS 48 AND 52

TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Under Rule 50.139, Super Neighborhood 48 Trinity / Houston Gardens (“SN48”) and Kashmere Gardens Super Neighborhood #52 Council (“SN52”) (collectively “Movants”) file this reply in further support of their public comments¹ and subsequent motion to overturn the Executive Director’s (“ED”) decision to approve the issuance of Standard Permit No. 173296 to Texas Coastal Materials (“TCM”) for a permanent rock or concrete crusher at 5875 Kelley Street, Houston, Texas 77026 (“TCM’s Permit” or “Permit”).

SUMMARY OF ARGUMENT

An avalanche of public opposition and an insufficient record to support this Permit’s approval require a hard look from the Commission at this decision. Community members, local governments, public officials, churches, a county hospital, and other advocates stated cogent reasons to support their opposition and provided maps, measurements, air quality data, affidavits, and other evidence to show the Permit does not comply with TCEQ regulations. Not only is the chosen spot for this concrete crusher not appropriate, but the location also fails to comply with

¹ The Local Communities submitted public comments on December 4, 2023, December 6, 2023, and December 11, 2023 (collectively, “Comments” or “Movant’s Comments”). These Comments are incorporated by reference herein.

strict distance limitations that were designed to protect important community assets. Applicable regulations require placement of any new concrete crushing facility a safe distance—440 yards—from homes, school, and places of worship. TEX. HEALTH & SAFETY CODE § 382.065. These distance requirements are even more important because the nearby socially vulnerable communities of SN48 and SN52 also include an overwhelming number of sensitive users. And TCEQ knows that closest state-run air monitor under 2 miles from this facility on North Wayside—even without this additional source of particulate matter—already reveals that the current local air quality threatens public health.² For these reasons, Movants respectfully ask the Commission to follow its regulations based on the lack of evidentiary support in the record for the distance requirements and overturn this permit.

ARGUMENTS & AUTHORITIES

I. Standard of Review

To prevail on their Motion to Overturn, Movants must present “substantial evidence in the record” upon which the Commission can rely to overturn the decision by the ED. *TXI Operations LP v. Texas Comm’n on Env’t Quality*, 665 S.W.3d 203, 212 (Tex. App.—Austin 2023, pet. denied); TEX. GOV’T CODE § 2001.174(2)(E). Reliable evidence can include sworn affidavits and statements at a public hearing. *TXI Operations*, 665 S.W.3d at 212. If the Applicant fails to present evidence in response, TCEQ can use the existing record evidence to determine the contested issue. *Id.* at 214. TCEQ further can rely on guidance from existing case law to determine factual disputes regarding the meaning of statutory terms. *Id.* at 213-14. Urging the same methodology the TCEQ relied on in *TXI Operations*, Movants argue there is insufficient evidence to support the ED’s

² On March 5, 2024, TCEQ hosted a meeting specifically about the N. Wayside Monitor monitoring results.

approval of TCM's Permit because of: (1) missing record evidence, (2) contradictory record evidence, and (3) credible supporting record evidence.

1. Missing Record Evidence

a. Maps Showing the Facility and Distances to the Nearest Community Building.

TCM's Application failure to identify its Facility is fatal to this permit. "Facility"³ means [a] discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. 30 TEX. ADMIN. CODE § 116.10(4); *see also* TEX. HEALTH & SAFETY CODE § 382.003(6) (same). The statute requires definition of the Facility "at the time the application for a permit is filed with the Commission." TEX. HEALTH & SAFETY CODE § 382.065. To support the ED's decision, there must be some evidence that TCM's Application complied with express regulatory distance limitations. *TXI Operations*, 665 S.W.3d at 206, 212. However, in contradiction to the express requirements in Section 382.065 of the Texas Health & Safety Code, it is not clear from either the Application or the ED's Response to Public Comment where the nearest point on the Facility was determined to lie, nor what equipment was included in TCM's or the ED's analysis.

Even after Commenters, and others, identified these definitions and the Application's related deficiencies in failing to depict the Facility, neither TCEQ nor the Applicant corrected or

³ The standard permit also states that the following parts of a concrete crushing plant are part of its Facility:

- **"Facility"** means a discrete or identifiable structure, device, item, equipment, or enclosure that constitutes **or contains a stationary source**, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not considered to be a facility.
- **"Source"** is defined to be a point of origin of air contaminants.
- **"Associated Sources"** are sources of air emission that are related to the rock or concrete crushing operation, that are not "facilities" as defined under Title 30 Texas Administrative Code § 116.10, General Definitions. Associated sources include, but are not limited to, stockpiles, and outdoor work wares. **Screens, belt conveyors, generator sets, and material storage or feed bins are considered to be facilities** and are not associated sources.

See Air Quality Standard Permit for Permanent Rock and Concrete Crushers (Effective Date July 2008) ("Standard Crusher Permit")(emphasis added).

supplemented this information. The record is still void of any accurate mapping showing that the Application, as approved, complies with the strict regulatory distance limitations. While TCM has now introduced a “sealed professional survey”⁴ (“Sealed Survey”) into the record, this new document, which was not part of the Application, still fails to identify and measure from the Facility.⁵ The Sealed Survey shows only the concrete crusher—excluding the structures and sources required, by definition, to calculate accurate and safe distances from community assets.

Moreover, the Sealed Survey is direct evidence that TCM moved the Facility since its Application. **Specifically, TCM states: “[t]he longitude and latitude coordinates of the rock crusher as shown on [the Sealed Survey] are different by approximately 10 yards from the coordinates in previous submittals.”**⁶ While this may seem a benign 30 feet, reviewing the Sealed Survey shows that the previous submittals—which support TCEQ’s decision to approve the Permit—may have failed to comply with the strict regulatory distance limitations. For example, the Sealed Survey represents that *now* the closest point from the concrete crusher to LBJ Hospital is 454.39 yards.⁷ To the extent that the Sealed Survey reflects differences from what it is in the Application, the statute’s language is express that these distances are determined “at the time the application for a permit is filed with the Commission.” TEX. HEALTH & SAFETY CODE § 382.065. Moving them after the Permit is approved, is not allowed if the applicant is only doing so to cure a defect in its application. While TCM claims that the Permit allows TCM to move its equipment after the Permit’s approval, TCM only has that privilege if the initial approval was

⁴ TCM’s Response, Docket No. 2024-0138-AIR (March 8, 2024) at 5, FN 10; *see also* Attachment A (depicting only the crusher.)

⁵ “Facility” means [a] discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not a facility. 30 TEX. ADMIN. CODE § 116.10(4); *see also* TEX. HEALTH & SAFETY CODE § 382.003(6) (stating identical definition); and *see* Rock and Concrete Crusher Standard Permit (Facility includes: screens, belt conveyors, generator sets, and material storage or feed bins.)

⁶ TCM’s Response at 5, n10.

⁷ TCM’s Response at Attachment A.

valid. TCM’s Response indicates that its original application did not comply with the statutory distances if it had to move the crusher—after the approval as reflected in the Sealed Survey—to comply with the distance limitations. TEX. HEALTH & SAFETY CODE § 382.065.

Finally, TCM’s Application referenced a primary and secondary crusher, but the Sealed Survey submitted now only depicts one crusher. No documents submitted by TCM, or reviewed by TCEQ, show the required Facility including all the defined structures and sources. No documents show measurements from the nearest Facility point to the nearest residence, school, or place of worship. Again, the Applicant has simply failed to identify the exact points of reference used to determine the distance from the Facility to LBJ Hospital and Saint Francis of Assisi.⁸ Thus, no determination can be made as to where the nearest point on the Facility was determined to lie, nor what equipment was included in their analysis.”⁹ As summarized in Table 1, the Applicant’s and ED’s Responses offered nothing to bolster the record supporting the approval.

Table 1: TCM’s Mapping Information in the Record

Document Description	Record Location	Facility including all structures and sources shown? (Y/N)
Google Earth Map depicting C1: Primary Jaw Crusher C2: Secondary Cone Crusher SC1: Deck Screen	TCM Application, Appendix B, at B-2 ¹⁰	N
Sealed Survey	Attachment A to TCM’s Response to Motions to Overturn	N

⁸ OPIC Response at 6.

⁹ *Id.* at 7.

¹⁰ TCM’s Standard Permit for Rock and Concrete Crushing Application prepared by Trinity Consultants (July 2023) at Appendix B: Maps and Flows, B-2.

To the contrary, Applicant’s newly submitted Sealed Survey only belies the fact that its original application did not comply with the statutory distances.

b. Maps Showing the Facility to the Nearest Places of Worship

Neither TCM’s Application nor the recently submitted Sealed Survey (relocating part of the Facility) measure to the nearest places of worship,¹¹ which Movants and others maintain includes (1) LBJ Multi-faith Chapel, 5656 Kelley St., Houston, Texas 77026, and (2) St. Francis of Assisi, 5102 Dabney Street, Houston, Texas 77026. As explained in Texas statutes, Texas case law, and the record, a place of worship is not limited to a physical building and can include:

- “[B]uilding *or grounds* where religious activities are conducted”;¹²
- “[A] place where a number of persons meet together for the purpose of worshipping God”;¹³
- A portion of 64-acre campground of Mount Wesley in Kerrville;¹⁴
- One-acre tract of land around an open-air chapel;¹⁵ and
- Vacant lot used as church yard used to enhance aesthetics of church building, provide light and open air to the church building, serve as a barrier to noise and confusion resulting from downtown traffic, and used for church activities constituted a place of worship.¹⁶

As summarized below, the record reflects credible comments identifying these two places of worship in detail, describing how each was used:

***Record Evidence Relating to LBJ Multi-Faith Chapel
located at the Hospital’s Main Entrance¹⁷***

- Google Maps indicate the nearest LBJ Hospital building is fewer than 440 yards from the property of the proposed rock crushing facility.

¹¹ TCM’s Standard Permit for Rock and Concrete Crushing Application prepared by Trinity Consultants (July 2023) at Appendix B: Maps and Flows, B-2; TCM’s Responses to Motions to Overturn at 5, Attachment A.

¹² TEX. CIV. PRAC. & REM. CODE § 110.001(3)(emphasis added).

¹³ *Church v. Bullock*, 109 S.W. 115, 118 (Tex. 1908).

¹⁴ *Kerrville Indep. Sch. Dist. v. Southwest Tex. Encampment Ass’n*, 673 S.W.2d 256, 261 (Tex. App.—San Antonio 1984, writ ref’d n.r.e.).

¹⁵ *Davies v. Meyer*, 541 S.W.2d 827, 830 (Tex. 1976).

¹⁶ *City of Houston v. Cohen*, 204 S.W.2d 671, 674 (Tex. App.—Galveston 1947, writ ref’d n.r.e.).

¹⁷ Harris County & Harris County Health Comments (Dec. 6, 2023) at 6.

- LBJ Hospital has a multi-faith chapel on the first floor of the hospital. It is open at all times for those needing a place of quiet for prayer, meditation and personal reflection. It is also used for various worship events on weekends and weekdays.¹⁸
- LBJ Chapel is always open “for those in need of a quiet place for prayer, meditation and personal reflection” and has dedicated times for “worship events on weekends and weekdays,” including a Catholic mass every Wednesday at Noon, daily morning prayer meetings, and afternoon Islamic prayer... As evidenced by its chapel and spiritual care, LBJ Hospital is a place where religious activities are conducted and where people worship God.¹⁹
- Affiant Suzanne Knott-Jackson stated:²⁰
 - “My name is Suzanne Knott-Jackson, and I am the Senior Chaplain for Harris Health's Spiritual Care Department at Lyndon B. Johnson Hospital. I oversee the religious staff and services provided at LBJ Hospital . . . LBJ Hospital maintains a chapel located near the hospital's main entrance and provides spiritual care services throughout the hospital to assist patients, their families, and staff wherever and whenever help is needed. LBJ Hospital currently employs seven chaplains.”
 - “LBJ Chapel is always available for those in need of a quiet place for prayer, meditation, and personal reflection...religious activities are conducted both in the LBJ Chapel and throughout the entirety of LBJ Hospital daily. While the Chapel is the primary location for organized services, chaplains lead patients, family and staff in prayer, sacraments, special services, and other religious activities throughout the hospital.”
- Photos of LBJ Chapel.²¹

St. Francis of Assisi

- TCM’s concrete crushing plant is in “close proximity” to the parish grounds.²² St. Francis of Assisi is approximately 1500 feet from the Proposed Facility.²³ A rock and concrete crusher plant will be a health hazard to residents and worshippers.²⁴
- The parish worships in many locations on our site. We regard the entirety of the parish property, including parking lots and undeveloped grassy areas as religious grounds; particularly in the north/northeast portion of the property. Our parking lots are used for

¹⁸ Movants’ Comments (Dec. 6, 2023) at 11.

¹⁹ See Harris County and Harris County Health Comments at 6-7; Environmental Defense Fund Comments (Dec. 7, 2023) at 5.

²⁰ Harris County and Harris County Health Comments at Exhibit D.

²¹ Harris County and Harris County Health Comments at 6-7.

²² Comment of Albany Ashiru (Dec. 11, 2023).

²³ Movants’ Comments (Dec. 6, 2023) at 11; City of Houston Health Department Summary Report (Sept. 19, 2023) at 4.

²⁴ Martin Eke Comment (Dec. 5, 2023).

prayers and prayer services and hence are used for worship. The parish has conducted religious procession in the parking and "undeveloped" portions of its property. In addition, the parking lot is used regularly by parishioners to attend religious services on the campus. The church also has a prayer garden that is open to the public for individuals seeking a peaceful place to pray, meditate and reflect.²⁵

- St. Francis of Assisi uses the outside spaces (within 440-yards of the proposed facility) for worship at various times throughout the year.²⁶

Under the regulations, TCM's responsibility was to measure from the Facility to the nearest place of worship, and TCEQ's responsibility was to ensure these measurements: (1) measured from the nearest place of worship as defined by Texas statute and case law, (2) calculated distances accurately, and (3) that the Facility's location met regulatory distance limitations. The record does not show any of this analysis and compliance with the same is questionable. The Application did not identify or measure the distance to either of these identified locations as places of worship.

c. LBJ Hospital also includes a School.

The Facility cannot be located within 440 yards of a school. TEXAS HEALTH & SAFETY CODE § 382.065(a). The record also includes uncontroverted evidence that LBJ Hospital, 5656 Kelley St., Houston, Texas 77026, includes a school:

- The proposed location is near LBJ, a major teaching facility for The University of Texas Health Science Center at Houston (UTHealth Houston) with 18,000 inpatient admissions and 80,000 emergency visits annually. UTHealth Houston sends 671 physicians, 181 midlevel providers, 1210 fellows and residents to LBJ Hospital and Harris Health clinics throughout Harris County. In addition, 70 medical students from McGovern Medical School spend time daily at LBJ Hospital. There are other healthcare profession students training at LBJ Hospital making it a major education center for healthcare professionals.²⁷
- LBJ Hospital should be considered a school for purposes of the distance limitation applied to permanent rock and concrete crushers because it serves the same function as a traditional school. LBJ Hospital is a major teaching hospital for the UT Health System. The University of Texas and Harris Health have an affiliation and support agreement under Texas Health

²⁵ Comment of Frank Rynd (Dec. 6, 2023).

²⁶ Harris County and Harris County Health Comments (Dec. 6, 2023) at 10.

²⁷ Tien C. Ko, MD, FACS, Associate Dean for Harris Health Programs at McGovern Medical School, Chief of Staff and Chief of Surgery of Lyndon B. Johnson Hospital and Jack H. Mayfield, MD Distinguished Professor in Surgery Comments (Dec. 11, 2023).

and Safety Code Chapter 312. Harris Health has affiliation agreements with other schools to provide clinical education as well. LBJ Hospital has multiple classrooms in which traditional classroom learning and practicum classes are taught. The UT Health system currently has 700 college students studying at LBJ Hospital. Moreover, LBJ Hospital has a program that brings local high school students to the hospital for experiential learning. Approximately 160 high school students are currently rotating through LBJ Hospital. See below for photos taken of the classrooms within LBJ Hospital. While other portions of the Texas Clean Air Act reference “elementary, junior high, or senior high school” the language used in § 382.056 instead simply says “school.” Arguably, this means that the distance limitations should be understood to capture university-level education as well, much like the schooling performed by UT Health at LBJ Hospital. Accordingly, LBJ Hospital should be considered a “school”, and the 440-yard distance limitation must apply.²⁸

- LBJ Hospital which is a teaching hospital (school).²⁹
- Three major medical centers have teaching clinics at LBJ hospital. The University of Texas Health Science Center at Houston and The University of Texas M.D. Anderson Cancer Center both have teaching clinics at LBJ. Baylor College of Medicine operates a Teen Health Clinic at the same location. These schools located in LBJ Hospital would be less than the statutory distance from the Proposed Facility.³⁰
- Photos of the school at LBJ Hospital.³¹

TCEQ’s decision to approve TCM’s Concrete Crusher Standard Permit includes no evidence that Applicant or TCEQ analyzed LBJ Hospital as a school or that the crusher is located the appropriate distance away from the school facilities described above. Based on the record, it appears the crusher is too close to this school to comply with applicable regulations.

2. Determinative Existing Record Evidence

The Standard Crusher Permit requires a crushing Facility not be placed within 550 feet from “any other rock crusher, concrete crusher, concrete batch plant, or hot mix asphalt plant.” Standard Crusher Permit, Operational Requirements (3)(D).

²⁸ Harris County and Harris County Health Comments (Dec. 6, 2023) at 7-8.

²⁹ Comment of Lynne Anderson (Dec. 11, 2023).

³⁰ Movants’ Comments (Dec. 6, 2023) at 11.

³¹ Harris County and Harris County Health Comments at 8-9.

Several commenters noted concerns with TCM’s Application and its proximity to other concrete Facilities—questioning whether this colocation requirement was satisfied. While comments produced maps with distances measurements, showing these Facilities were located too close to one another, no changes to the Permit or Application were made. Additionally, no evidence to rebut these prohibitive distances is currently in the record. Accordingly, TCEQ approved this Permit, but the record includes at least one uncontroverted map with distances showing that TCM’s Crusher is permitted a prohibited distance from an existing concrete facility, Texan Concrete Ready Mix, 6001 Homestead Rd Houston, TX 77028 RN108799628, Permit 150603.³²

3. Contradictory Record Evidence

The record further includes distance discrepancies from places of worship and schools. These discrepancies, without clarification and definitive mapping, yield a Permit that is unsupported by substantial evidence. Table 2 below summarizes and compares the discrepancies and evidence before the Commission.

Table 2: Distance Discrepancies in the Record Concerning Places of Worship and Schools

Facility	Tex. Health & Safety Code § 382.065(a) Prohibited Receptor	Evidence of Distance to Facility to Prohibited Receptor	Application
LBJ Multifaith Chapel	Place of Worship	366 yards ³³ 370-407 yards ³⁴ 1,195.55 feet ³⁵ 1,100 feet ³⁶	TCM Application (July 2023): Location not mapped.

³² Environmental Defense Fund Comments (Dec. 7, 2023) at 5 (claiming distance to 508 feet); *see also* City of Houston Health Department Summary Report (Dec. 8, 2023) at 4 (measuring 1,200 feet); Movants’ Comments (measuring less than 1,206 feet).

³³ Movants’ Motion to Overturn (Feb. 5, 2025), at Figure 1 & Table 3.

³⁴ Harris County and Harris County Health Comments (Dec. 6, 2023) at Figures 1-3

³⁵ Environmental Defense Fund Comments (Dec. 7, 2023) at 5.

³⁶ City of Houston Health Department Summary Report (Sept. 19, 2023) at 4 & Figure 1.

Facility	Tex. Health & Safety Code § 382.065(a) Prohibited Receptor	Evidence of Distance to Facility to Prohibited Receptor	Application
St. Francis of Assisi	Place of Worship	402 yards ³⁷ Within 440 yards ³⁸ 1,500 feet ³⁹ to 500 yards ⁴⁰	TCM Application (July 2023): Location not mapped. TCM Sealed Survey* (March 8, 2024): 589.88 yards 609.88 yards
LBJ Teaching Hospital	School	333-440 yards ⁴¹ 370-401 yards ⁴² 1,000 feet ⁴³	TCM Application (July 2023): Location not mapped. TCM Sealed Survey* (March 8, 2024): 497.75 yards 489.85 yards 457.12 yards 456.52 yards 454.39 yards 463.96 yards

As stated above, the Sealed Survey was (1) submitted after TCM’s Permit was approved, (2) changed the location of the Facility structures and sources, and (3) disregards the definition of place of worship as defined by Texas statute and Texas case law and only measures to the physical building. For these reasons, TCM’s Crusher Permit must be overturned without any record evidence controverting these stated distance limitations for these statutorily-identified sensitive receptors as determined “at the time the application for a permit is filed with the Commission.”

TEX. HEALTH & SAFETY CODE § 382.065(a).

³⁷ Movants’ Motion to Overturn (Feb. 5, 2025), at Figure 1 & Table 3.

³⁸ Harris County and Harris County Health Comments (Dec. 6, 2023), Maps at Figures 4 and 5, see also 10-11.

³⁹ City of Houston Health Department Summary Report (Sept. 19, 2023) at 4.

⁴⁰ City of Houston Health Department Summary Report (Sept. 19, 2023) at Figure 1.

⁴¹ Movants’ Motion to Overturn (Feb. 5, 2025), at Figure 1 & Table 3.

⁴² Harris County and Harris County Health Comments (Dec. 6, 2023), Maps at Figures 1-3.

⁴³ City of Houston Health Department Summary Report (Sept. 19, 2023) at 3 & Figure 1.

II. TCM's Permit fails to protect public health.

1. TCM's Response makes guesses at Legislative intent to rationalize its unlawful Permit.

Theorizing at the purpose of regulations (without support), TCM's Response overlooks that the aim of the regulations and the Permit to protect outdoor air quality and corresponding public health—including sensitive users.⁴⁴ And TCEQ also fails to offer any definitive interpretation, legislative history, or other explanation into the record here.

Considering the purpose of the Texas Clean Air Act and related regulations, the legislature did not intend to endanger sensitive populations or important community assets that the local community relies on with these types of facilities. TCM's Response offers no authority for its contention that the legislature intended to exclude “certain types of receptor facilities.”⁴⁵ To the contrary, when siting a new hospital, the Texas Administrative Code classifies locations such as the one proposed by TCM as an “undesirable location.” 25 TEX. ADMIN. CODE § 133.162(a)(2). That is, a new hospital could not be sited where LBJ is now after this Permit's approval. *Id.* (prohibiting new hospitals “near nuisance producing sites, feed lots, sanitary landfills, or manufacturing plants producing excessive noise or air pollution”).⁴⁶ It's nonsensical that the legislature really intends the converse to be true: that is okay to site nuisance facilities near *existing* hospitals when it has prohibited *new* hospitals from being sited next to nuisance facilities, like TCM's proposed concrete crusher.

The primary federal applicable regulatory scheme, the Federal Clean Air Act, requires compliance with National Ambient Air Quality Standards (“NAAQS”).⁴⁷ The explicit purpose

⁴⁴ TCM's Response at 6-7.

⁴⁵ *Id.*

⁴⁶ EPA recently emphasized similar prohibitions regarding nuisance conditions under 30 TAC 101.4 over its concerns about the track record for CBP complaints which indicate that these facilities routinely allow potentially offensive levels of PM emissions to migrate beyond the property line of the facility.” See EPA Comments on Non Rule Project Number 2022-033-OTH-NR (June 14, 2023) at 6.

⁴⁷ 42 U.S.C. §§ 7408, 7409.

being to “protect the public health” with “an adequate margin of safety.”⁴⁸ Similarly, the Texas Clean Air Act’s purpose is “to safeguard the state's air resources from pollution by controlling or abating air pollution and emissions of air contaminants, consistent with the protection of public health, general welfare, and physical property, including the esthetic enjoyment of air resources by the public and the maintenance of adequate visibility.”⁴⁹ The Commission issues permits to regulate facilities that emit air contaminants.⁵⁰ Accordingly, an indoor air quality purification system, indoor HVAC system, etc. is inconsequential when determining whether an issued air permit is protective of public health and overall air quality of a region.

2. *The Wayside Monitor shows persistent PM_{2.5} NAAQS violations.*

On February 7, 2024, the EPA approved a change to the NAAQS for PM_{2.5}—creating a more stringent annual standard of 9 µg/m³ for small inhalable particulate matter pollution—in an effort to better protect public health, specifically in “at-risk communities.” The EPA supported its change with scientific studies. And on March 5, 2024, TCEQ hosted a community meeting in Settegast at the Hobart Taylor Community Center to discuss its “special air pollution study” related to the North Wayside Air Monitor. The Wayside monitor is notably out of compliance with the prior NAAQS standard of 12 µg/m³ and the new, even lower standard. TCEQ’s presentation included a list of local industrial sources of air pollution contributing to the monitor’s regular NAAQS violations. Among the facilities on TCEQ’s list are several existing concrete facilities.

⁴⁸ 42 U.S.C. § 7409(b)(1).

⁴⁹ TEX. HEALTH & SAFETY CODE § 382.002(A).

⁵⁰ TEX. HEALTH & SAFETY CODE § 382.0518(a).

Figure 1: Potential Sources Near North Wayside Monitor Contributing to NAAQS violations for PM_{2.5}



These sources were also previously highlighted for the Commission during the public comment process and are included in the record.⁵¹ The second slide, referenced below as Figure 2, from the TCEQ’s March 5, 2024 presentation shows that the North Wayside Monitor was out of compliance with the 2012 NAAQS for 56% of the days of its study, July 2022 to June 2023, and the monitor was out of compliance for 68% of the days under the 2024 NAAQS.

Figure 2: Histogram of 24-Hour PM_{2.5} Averages



⁵¹ Movants’ Comments (Dec. 6, 2023) at 12-13.

TCEQ cannot disclaim knowledge or continue to ignore this situation in Northeast Houston and Harris County. TCEQ's issuance of this permit to TCM further endangers the local air quality and increases local PM_{2.5} pollution, which is already above both the 2012 and 2024 Annual NAAQS. This record is replete with concerns about these ongoing air quality violations—both the current and projected from this facility:

- City of Houston Summary Report (Sept. 19, 2023) at 2-3 (Mobile Air Monitoring results) and Appendix A: Air Monitoring Reports.
- Harris County and Harris County Health Comments (Dec. 6, 2023) at 15-17, including Tables and Figure 7 (Air Monitors in Harris County showing NAAQs violations).
- Local Communities' Comments (Dec. 6, 2023) at 12-18 (TCEQ Air Monitor Readings, Sources of Air Pollution, Table 3: Recent TCEQ Air Monitor readings at North Wayside monitor violating NAAQS, and photo of dust from local concrete facility).
- Local Communities' Motion to Overturn (Feb. 5, 2025) at 12-13 (TCEQ Monitoring Data and EJScreen for PM_{2.5} concentrations in the local community).
- Environmental Defense Fund Comments (Dec. 7, 2023) at 2-5, Figure 2 (Time series data from Houston North Wayside Monitor, obtained from EDF Air Tracker at: <https://globalcleanaire.org/air-tracker/map/>).
- Progressive Fifth Ward Community Association (Dec. 7, 2023) at 1-4 (EPA EJScreen and Purple Air Monitoring Data).

In response to these comments and data, there is no record evidence supporting the issuance of TCM's Crusher Permit as adequately safe or protective of public health. In this case, the record shows that the Permit will further endanger the health and well-being of the local community, and that TCEQ is already aware of the degraded air quality in the local community. Based on these record failures, Movants respectfully request that the Commission overturn this permit.

CONCLUSION

Because TCEQ failed to follow its own regulations and the record lacks necessary evidence to support TCM's Permit issuance, the Permit must be overturned. The Permit, as issued:

- (a) ignores strict regulatory distance limitations,
- (b) fails to comply with federal and state air quality standards, and
- (c) endangers public health.

Accordingly, the Commission should overturn TCM's Permit.

Dated: March 21, 2024.

Respectfully submitted,

LONE STAR LEGAL AID
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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2024, **REPLY IN SUPPORT OF MOTION TO OVERTURN TEXAS COASTAL MATERIALS AIR QUALITY STANDARD PERMIT NO. 173296** was filed with the Chief Clerk of the TCEQ, and a copy was served on all persons listed on the attached mailing list via electronic mail and the U.S. Mail.

/s/Caroline Crow
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