



SALLIE ALCORN
Houston City Council Member
At-Large, Position 5

March 19, 2024

Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711

RE: Motion to Overturn Executive Director's Decision to Grant Standard Air Quality Permit 173296 to Texas Coastal Materials LLC

To the Honorable Members of the Texas Commission on Environmental Quality:

I, Council Member Sallie Alcorn, representing the City of Houston, At-Large Position 5, file this Reply to Texas Coastal Materials' Response to my Motion to Overturn in the above-referenced matter and respectfully show the following:

On January 11, 2024, the Executive Director of the Texas Commission on Environmental Quality (TCEQ) granted Texas Coastal Materials LLC's (TCM) Application for a Standard Air Permit (Permit). The Executive Director issued the permit over the objection of a diverse coalition of neighborhood interests, political leaders, city-wide religious entities, non-profits devoted to community welfare, and regular citizens who will be affected by this operation. In total, TCEQ received over 630 comments against the proposed permit. The Executive Director issued the permit over the objection of all these stakeholders because their office implied that the application checked all the boxes of the standard permit for which it applied. I, on behalf of the organization I represent, filed a timely Motion to Overturn. Texas Coastal Materials filed a response on March 8, 2024.

I believe that my Motion to Overturn should be granted because Texas Coastal Materials: (1) still has not proven that the full facility will not be operating within 440 yards of the LBJ hospital building; and (2) cannot affirmatively prove that this permit is protective of human health.

I. Texas Coastal Materials Still Has Not Proven that the Full Facility Will Not be Operating Within 440 Yards of the LBJ Hospital Building.

The issue discussed in the original motion to overturn still stands- TCM has not and cannot prove that it will be operating outside of the statutory 440 yards from LBJ Hospital. As TCM has emphasized within their brief, the statute takes its measurement 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. The statute is black and white. If a facility is 439 yards 11 inches away from the School or Place of Worship, it is operating illegally.

While TCM relies upon the affirmations provided to TCEQ during the permit process, it cannot affirmatively state that it will stay within the bounds of the law. The Office of Public Interest Counsel in their brief stated that “While the [Executive Director] generally represents that “the plant is located greater than 1320 feet (440 yards) away from any point of the noted nearby hospital,” 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.” See Office of Public Interest Counsel Response to Motions to overturn at 16. In its original permit application, TCM submitted a photoshopped box on a satellite image of the property from Google Maps. It has now followed up with a drafting map that measures distance to LBJ Hospital from a single point on the property which does not display the location of a single piece of machinery and an affirmation that the facility will be 454 yards away from LBJ. Even if the spotting is perfect, it leaves a leeway of just 14 yards - just 42 feet.

TCM cannot logically affirm what it is saying. A rock crusher does not inhabit a single point in space. It is a major operation that encompasses dozens of square yards. Any number of problems could occur during construction of the facility including soil problems, utility problems, siting problems, etc. The difference between a legal and illegal permit in this situation is the placement of a single errant screen or bin. With a weak ability to enforce this permit once the facility is set, it is right to err on the side of caution and deny this permit entirely.

II. Texas Coastal Materials Cannot Affirmatively Prove That This Permit Is Protective of Human Health.

The Air Quality Standard Permit for Permanent Rock and Concrete Crushers state that the 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. See TCEQ Air Quality Standard Permit for Permanent Rock and Concrete Crushers at 1.

TCM did not even attempt to justify why their facility was protective of public health and deserved to continue. They proffered an empty argument that equates the act of receiving a standard permit to the reality that their facility very well may be protective of health. Beyond the rigid adherence to administrative procedure, they cannot offer one reason as to why their rock crusher will not contribute to a decline in health in the community.

Further, TCM takes time in their Response to flippantly disregard the health of patients within LBJ hospital that will be forced to continuously breath in concrete dust even while being treated. TCM seemingly splits patients in to one of two categories: (1) “transient patients”; and (2) “patients that might be present for extended durations.” See Texas Coastal Response at 2. This totally denies all responsibility that these patients are people and deserve to be treated with respect.

Dr. Tien C. Ko, the Chief of Surgery at LBJ Hospital and Associate Dean for Harris Health Programs with UTHealth stated in his formal comments that construction, in or near hospitals, and related dust, have been conclusively associated with increases in invasive mold infections in immunocompromised patients, such as leukemia and lymphoma patients. LBJ Hospital routinely treats patients in this highly vulnerable population and these infections have an incredibly high mortality, even with treatment. Combining these two facts show that even “transient” patients can still have a higher risk of contracting a life-threatening fungal infection if this permit were granted. For someone immunocompromised, operation of this facility may actually be the contributing factor to whether or not they can stay healthy.

If even a single question is raised as to whether or not this permit will have a quantifiable negative effect on human health, then the permit is not protective and should be denied.

For the reasons outlined above, I respectfully request that the Commission grant my Motion to Overturn and deny the application.

Warm regards,

A handwritten signature in blue ink that reads "Sallie Alcorn". The signature is fluid and cursive, with the first name being more prominent.

Council Member Sallie Alcorn