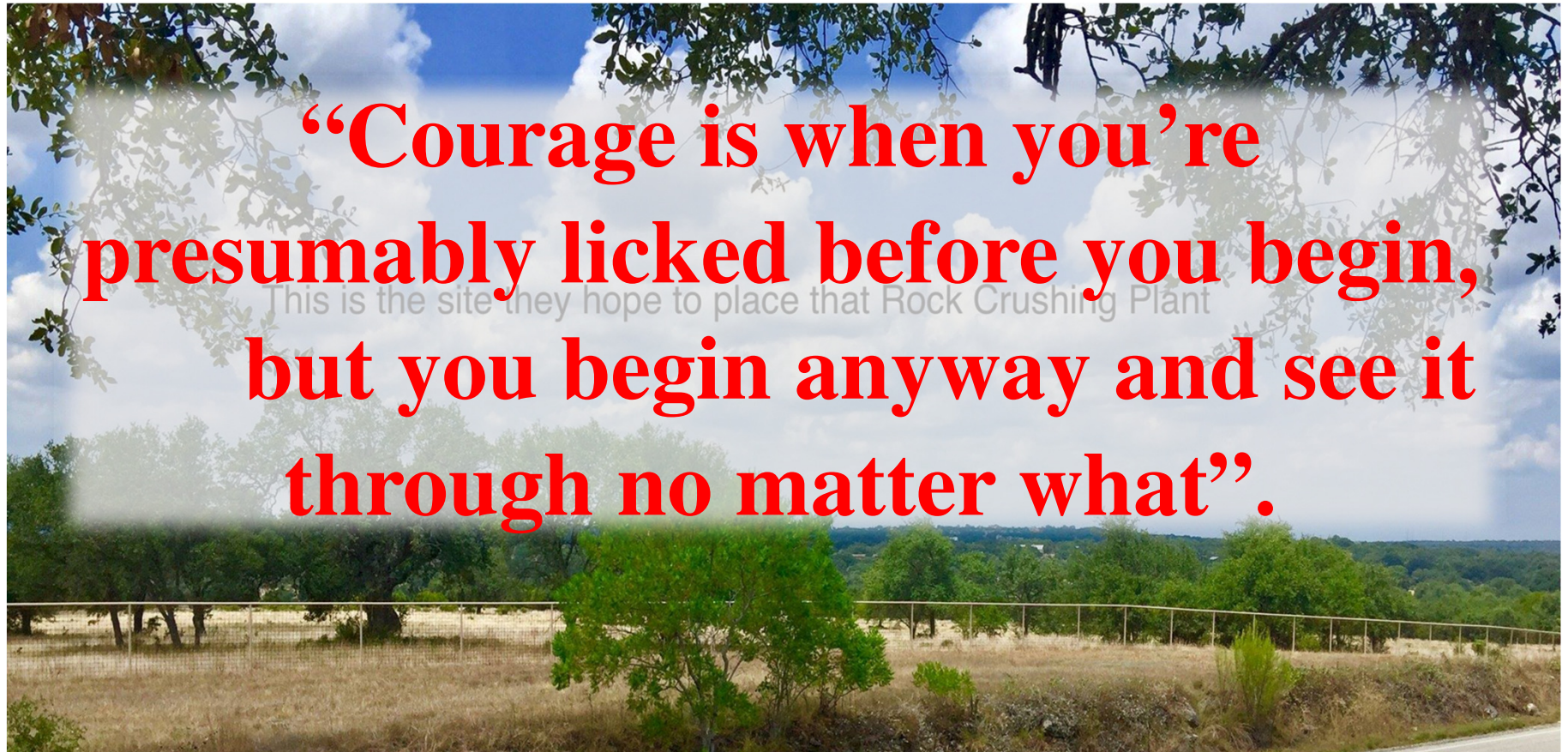


An “affected party” is
MORE than just a
1-mile radius &
MORE than 1% of
12,000 residents

The Quarry is an **IMMINENT THREAT!**



**“Courage is when you’re
presumably licked before you begin,
but you begin anyway and see it
through no matter what”.**

Where Are We Now?

- **On December 12th, the TCEQ Commissioner's referred the 3009 Vulcan Air Quality Permit to the State Office of Administrative Hearings (SOAH).**
- **The Commissioner's referred a stunning 19 issues to be re-reviewed.**

Where Are We Now?

- **TCEQ Commissioners failed to consider anyone outside an arbitrary 1-mile radius as an "affected party", thus leaving most residents who will be "affected" as non-participants in the protestant process.**
- **Only 11 unique persons were granted AP status which is only a total 7 households!**
- **This is less than 1% of all the persons within 5 miles to be named as affected parties!**

Where Are We Now?

- **Two groups named as ‘affected party’**
 - **Friends of DCC/Stop 3009 Vulcan Quarry**
 - **Groups represented by environmental attorney for all persons who align themselves with these groups with a “contributor’s” fee.**
 - **Heritage Oaks POA (~8 households)**
 - **Have decided to ‘align’ with Friends of DCC**

Who is Eligible to Speak at SOAH?

EVERYONE!

- **Except if you've already been named!**
 - If you were denied because your homestead > 1 mile radius of the crusher.
 - The primary reason portrayed by all parties is the application of “arbitrary” radius limits of the person’s homestead to the crusher which is the only permitted facility. There is no law, code or scientific data for such decisions, but rather they are a “matter of custom”. Each parties’ arbitrary radius’ selected are:
 - TCEQ – arbitrary 1-mile radius
 - The Applicant – arbitrary 1-mile radius
 - OPIC – arbitrary 2 – mile radius

Who is Eligible to Speak at SOAH?

- If you failed to meet the public commenting (2/27/18) deadline - especially appealable if you moved to 'area' after this deadline
- If you didn't file for a Contested Case Hear/Affected Party status by 10/15/18 deadline – especially appealable if you moved to the area after the deadline.
- If you didn't file a 'Reply Brief' by the 12/3/18 deadline - especially appealable if you moved to 'area' after this deadline.
- None of the reasons above but TCEQ cites that you did not provide sufficient evidence and/or address any of the issues germane to the permit (specifically 'issues' that TCEQ has referred to SOAH)

Don't Bother With These Issues?

- **Examples of issues that TCEQ nor ALJ will consider:**

- Issue 4: Whether the location of the proposed plant is **suitable for a rock crusher**.
- Issue 8: Whether the proposed plant will **negatively impact the water supply**, including concerns regarding availability.
- Issue 12: Whether **trucks** associated with the plant will negatively **impact road infrastructure**.
- Issue 15: Whether **noise and light** from the proposed plant will **negatively impact surrounding areas and nearby residents**.
- Issue 16: Whether **the proposed plant will negatively impact local property values and taxes**.
- Issue 17: Whether **the quarry will create a nuisance**.

Don't Bother With These Issues!

- Issue 30: Whether an **Environmental Impact Study (EIS)** or independent study regarding human health and welfare should have been conducted as part of the review of the application.
- Issue 87: Whether **blasting** at the quarry will negatively impact surrounding property and natural resources.
- Issue 88: Whether the quarry will **negatively impact water quality and availability**
- Issue 90: Whether **trucks** associated with the plant will negatively impact public safety on surrounding roads.

BOTTOM LINE: You must FOCUS on the issues 'approved' by the TCEQ commissioners as highlighted.

What Issues Were Referred?

- **Issue 2:** Whether the [proposed plant](#) will [negatively affect human health](#), including sensitive subgroups, and physical [property](#).
- **Issue 3:** Whether the conditions in proposed permit will adequately protect against dust emissions from the proposed plant, including during periods of high winds.
- **Issue 6:** Whether cumulative impacts of nearby operations were adequately considered.
- **Issue 9:** Whether the controls in the proposed permit constitute Best Available Control Technology (BACT).
- **Issue 11:** Whether the proposed plant will negatively affect welfare, including [plants, animals](#), and the environment.
- **Issue 18:** Whether the proposed operating hours of the rock crusher ensure that there will be no adverse impacts to human health, welfare, and the environment.

What Issues Were Referred?

- **Issue 19:** Whether the air quality modeling conducted as part of this application adequately incorporated the local prevailing winds.
- **Issue 21:** Whether the [applicant's compliance history](#) was properly evaluated (NOTE: not originally recommended by the TCEQ but added to the issues list by the TCEQ commissioners)
- **Issue 22:** Whether the Applicant complied with TCEQ's public notice requirements related to sign-posting and newspaper notice.
- **Issue 31:** Whether the proposed permit contains adequate monitoring and record keeping requirements to ensure compliance with all applicable rules and requirements.
- **Issue 47:** Whether emissions from on-site diesel engines are adequately calculated and adequately controlled.
- **Issue 49:** Whether an adequate site review was conducted for this application.
- **Issue 50:** Whether the background concentrations used in the air dispersion modeling are representative of the proposed location of the plant.

What Issues Were Referred?

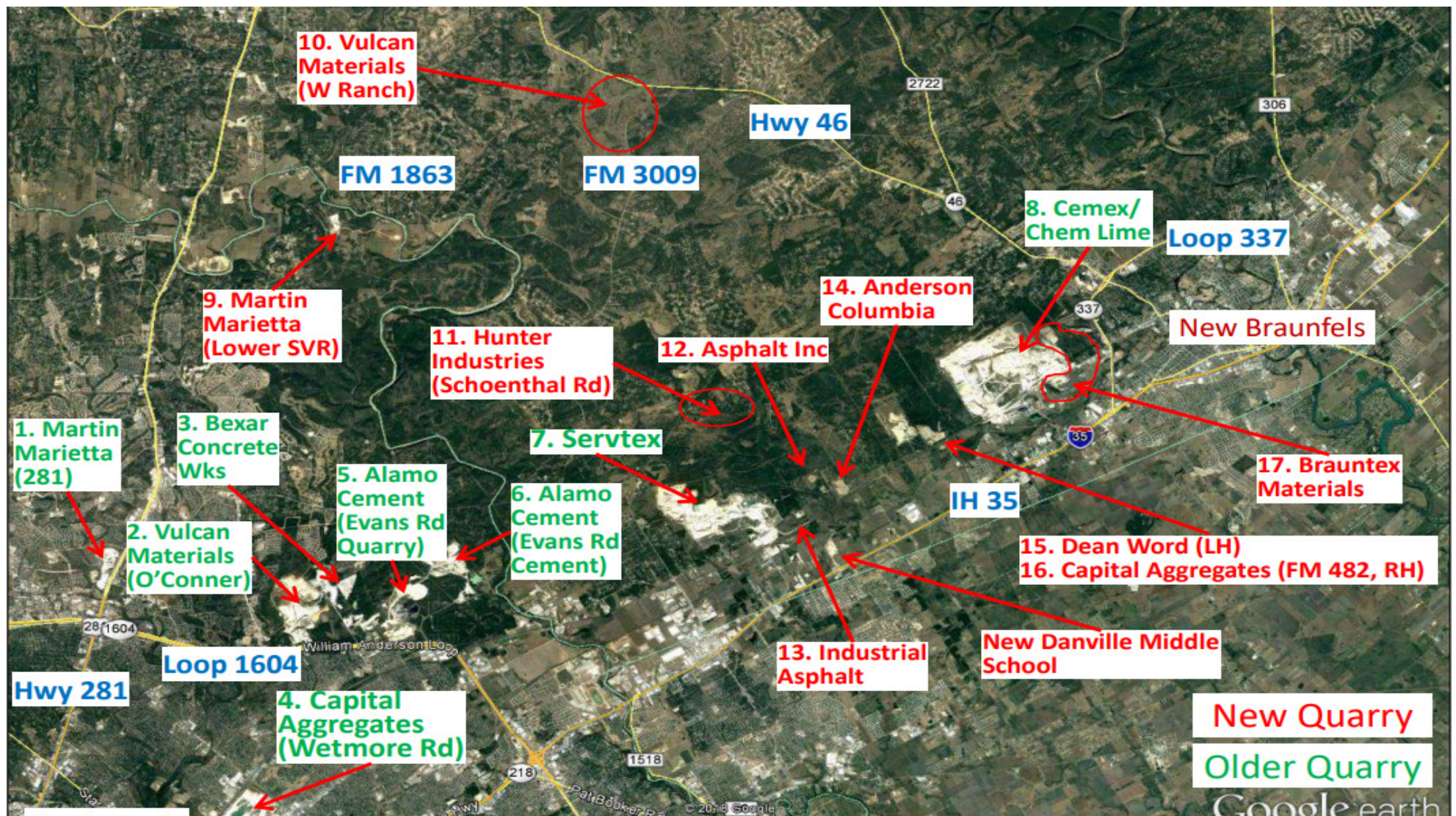
- **Issue 51:** Whether emissions from maintenance, start-up, and shutdown activities are adequately addressed in the proposed permit.
- **Issue 55:** Whether chemical dust suppressant is safe to use as a control for emissions from the proposed plant.
- **Issue 57:** Whether emissions of silica from the proposed plant will negatively impact human health and welfare.
- **Issue 58:** Whether the proposed permit conditions, including emissions limitations, are enforceable.
- **Issue 61:** Whether the permit application, and associated air dispersion modeling, included and properly evaluated all applicable emissions.
- **Issue 69:** Whether site specific monitoring data should have been used in the air dispersion modeling conducted for this application.

Who Is Affected?

**ALL OF US
FOR THE NEXT
80 YEARS!**

VULCAN/TCEQ CLAIMS THAT THE PUBLIC WILL NOT BE HARMED

- Larger dust particles (PM 10) settle within 40 yards of the crusher and that fugitive dust (PM 2.5) doesn't exceed 400 feet, therefore, fence line monitoring is not necessary.
- There are no 'cumulative' effects measurements of carcinogenic fugitive dust (Comal County alone has 20+ quarries and cement batch plants. The cumulative size of these is over 40 square miles.)
- Applicant's poor compliance history, and TCEQs complicity in allowing them to operate with impunity, offers no credible 'protection' to the citizens





Dust Presentation Inside a Home Near a Quarry



EFFECTS ON PROPERTY AND HABITAT

Accumulation



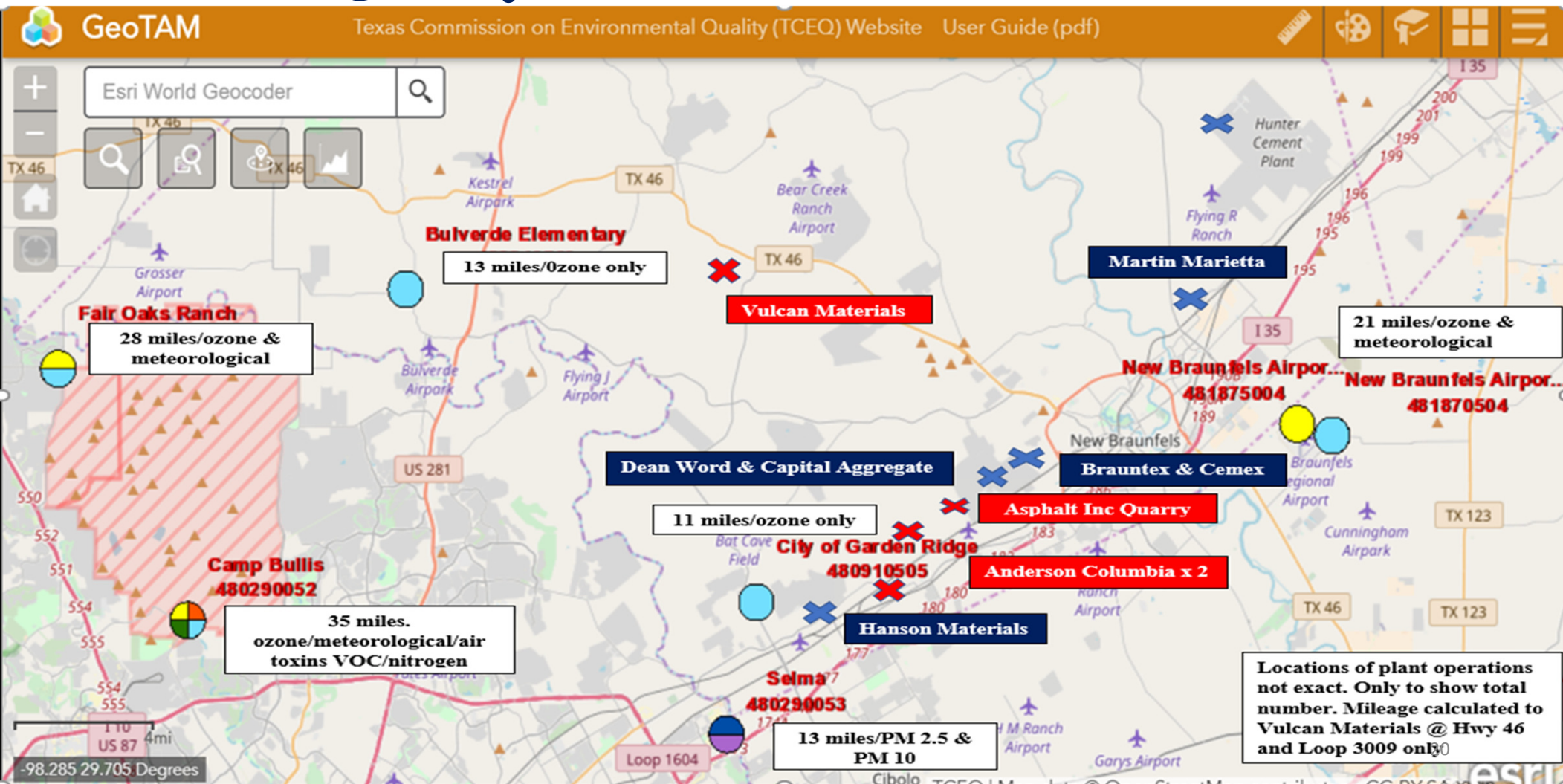
Chemical Burns



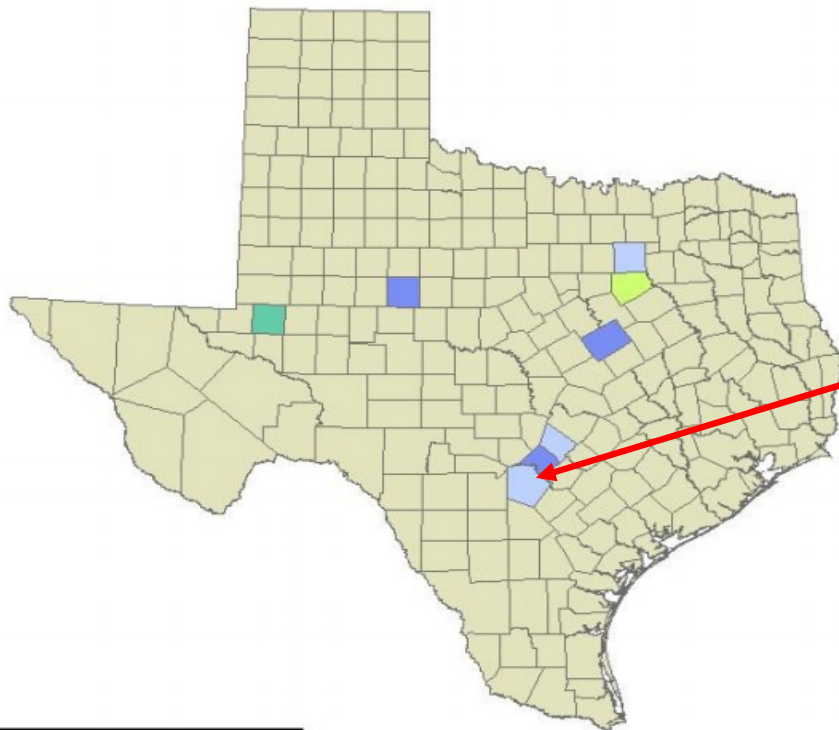
VULCAN/TCEQ CLAIMS THAT THE PUBLIC WILL NOT BE HARMED

- There are NO active air monitors in Comal County measuring PM 10 or PM 2.5.
 - The closest - Selma location is shut down
 - Current application does not take into consideration the prevailing winds and meteorological data suited to measure actual impacts near the quarries.
- Comal County in 2002, was already ‘hot’ for excessive tons/year for PM 2.5 emissions for stone quarrying
 - Current research shows that particulate matter emissions from the aggregate industry sources have increased between 2002 – 2014 in Comal County from 600 tons/year to 900 tons/year.

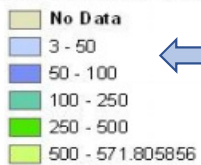
The Quarry is an **IMMINENT DANGER!**



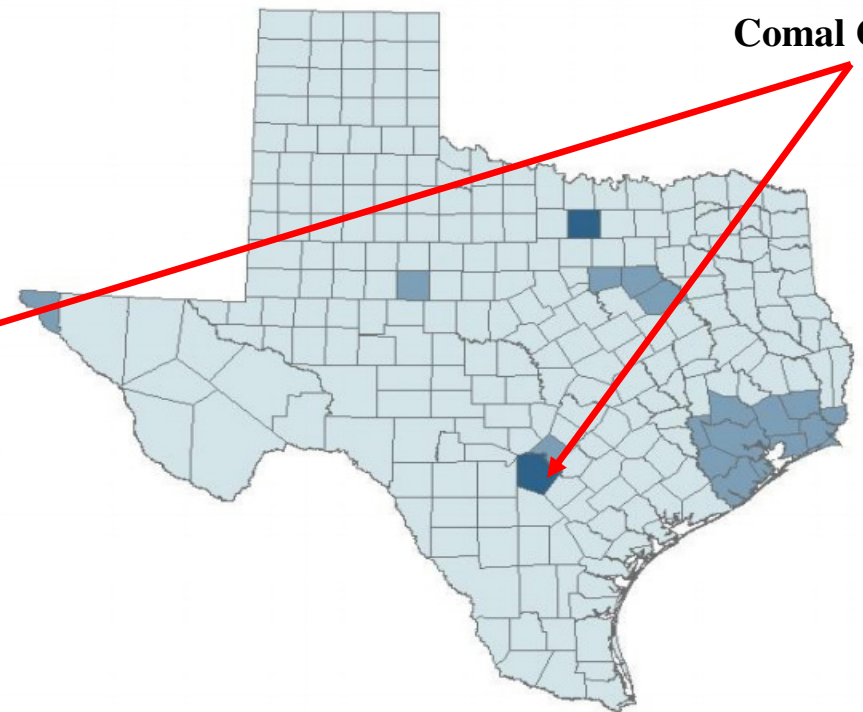
PM2.5 Mass Emission Rate by County for Mineral Products: Cement Manufacturing



County Emissions (tons/yr)

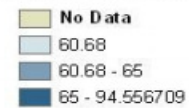


PM2.5 Mass Emission Rate by County for Mineral Products: Stone Quarrying



Comal Co.

County Emissions (tons/yr)



HEALTH EFFECTS

- Particulate matter (PM) is considered pollution by the World Health Organization (WHO) and the US Environmental Protection Agency (EPA) because exposure is associated with a range of serious negative health effects
- Easily carried in wind currents, can remain airborne for long periods of time
- Invisible to the naked eye but inhalable

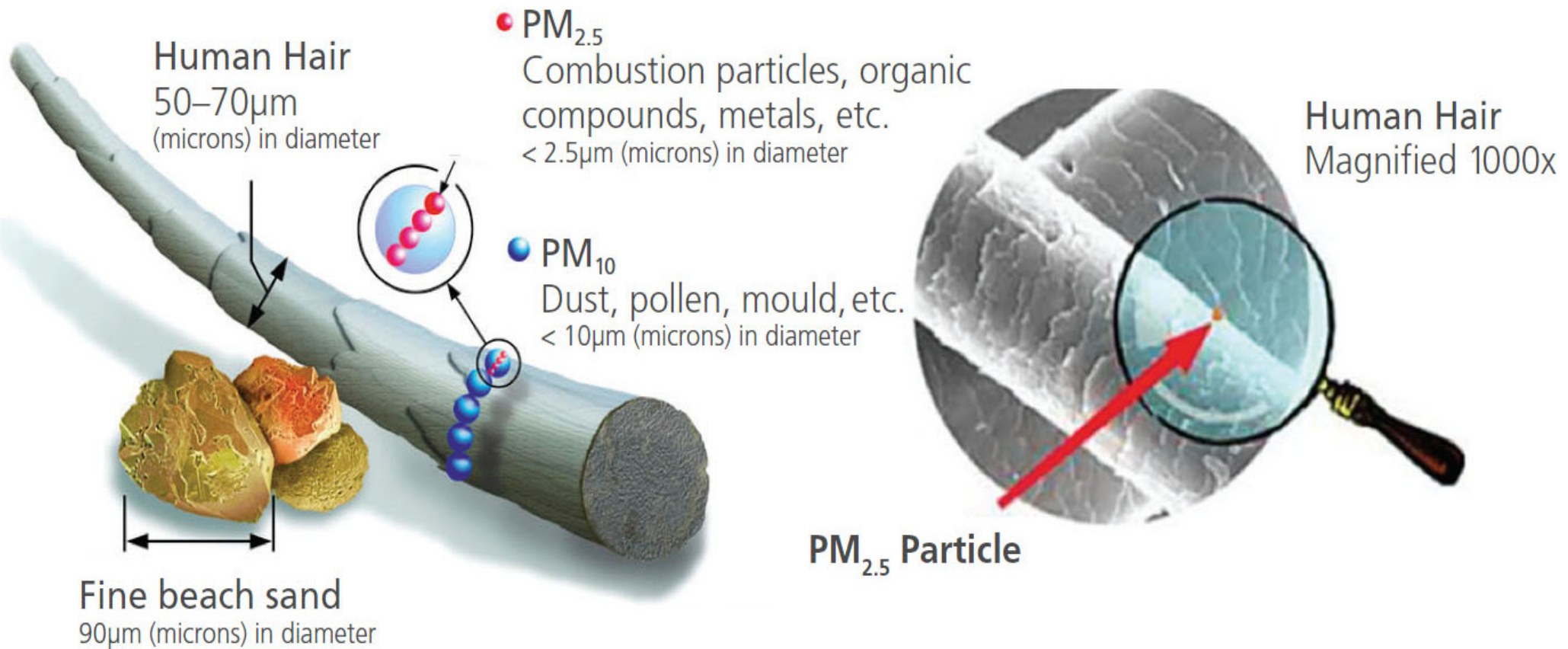
PARTICULATE MATTER (PM 10)

- Can be carried up to 30 miles (PM10) from source

PARTICULATE MATTER (PM 2.5)

- Can be carried hundreds of miles (PM2.5) from the source.

Quarrying Operations Produce Invisible Pollutants



Statement of Facts: Health Effects

Inhaled air pollutants seriously affect health:

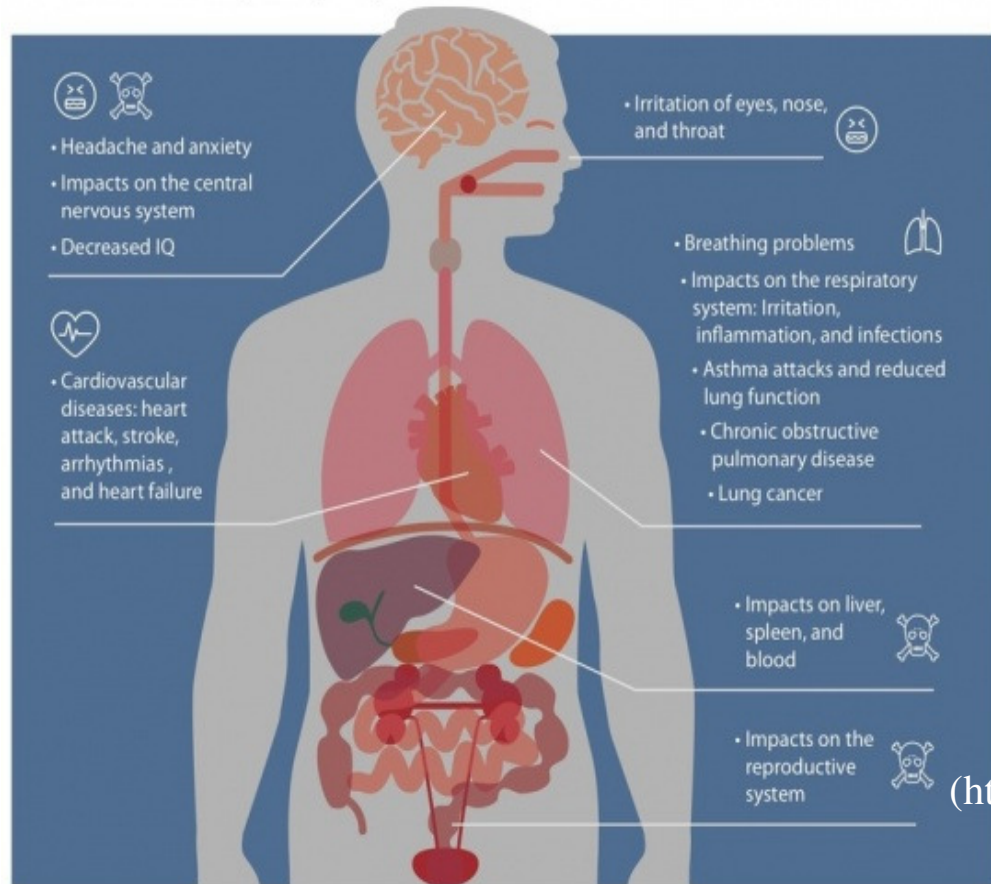
- Damage lungs & respiratory system
- Absorbed directly into bloodstream
- Deposited on soil, plants, and in the water, further contributing to human exposure

Common atmospheric pollution sources and their pollutants		
Category	Source	Emitting pollutants
Mining and quarrying	Coal mining; crude oil and gas production; stone quarrying	Suspended particulate matter, Sulphur dioxide, oxides of nitrogen, volatile organic compounds
Transport	Combustion engines	Suspended particulate matter, Sulphur dioxide, oxides of nitrogen, carbon monoxide, volatile organic compounds, lead

Health Effects: Air Pollution

Health impacts of air pollution

Air pollutants can have a serious impact on human health. Children and the elderly are especially vulnerable.



For everyone, PM 2.5 and PM 10 increases the risk of respiratory infections, heart disease, stroke, and cancer, and more severely affects people who are already ill.

We have provided two ‘white papers’ specifically addressing medical impacts. You can find them on our website:

- [Health Risks of Quarrying](#)
- [Comal Country Residents at Risk for Air Pollution from Aggregate Industry](#)

What's NEXT?

Tentatively, on March 6, 2019, the TCEQ will hold a SOAH Preliminary Hearing* in Comal County. (location and time TBD)

**Everyone on the mailing list will receive the notice and Stop 3009 Vulcan Quarry will send out an email, and post on Facebook and Next Door)*

WHAT HAPPENS AT A SOAH HEARING?

At this hearing, the Administrative Law Judge (ALJ) has the authority to designate ‘affected parties’ to those whose hearing requests were initially denied by the TCEQ.

****To be designated as a party, you or your representative MUST appear at the preliminary hearing.**

****You will be expected to attend so you can explain how you are affected by the application in a way that is different from the general public**

WHAT HAPPENS AT A SOAH HEARING?

Questions TCEQ Asks in Determining if Requestor is an “Affected Person”

Is the claimed interest protected by law? What are the distance restrictions or other limitations in the law on the affected interest?

Is there a relationship between the claimed interest and proposed activity of the permit applicant?

Is there a likely impact on the health, safety, and use of property of the person claiming an interest by the proposed activity of the permit applicant?

Is there is a likely impact on the affected person’s use of a natural resource by the proposed activity of the permit applicant?

HOW DO I PREPARE FOR SOAH?

Recommend using template

- First and foremost site your location in relationship to crusher
- Cite how the air traverses your property and that particulate matter, especially PM 2.5 will “adversely affect you, your family member’s health, health of livestock”
- **PERSONALIZE!** Provide a detailed description of how you and your family would be adversely affected by the proposed facility or activity in a manner not common to the public. Be sure to describe the impact(s) of this regulated activity and its nuisance factors* will have on the health and safety of the Requestor(s), quality of life, potential economic impact (if applicable), and how the use of property will be affected. *(list 2, 3 or as many personal and individualized issues that are not germane to the public from the SOAH referred issues list). Also see this study: <https://pubs.usgs.gov/of/2001/ofr-01-0484/ofr-01-0484so.pdf>)*

HOW DO I PREPARE FOR SOAH?

Request for Affected Person Status

Requestor's Name: *(recommend that each adult in household complete their own request and cite different issues)*

Address, City, State, Zip of property:

Daytime phone number:

Applicant's Name and Permit Number:

Vulcan Construction Materials LLC

Permit Number 147392L001

Docket #: 2018-3013-AIR



I, _____ *<insert name>* _____, hereby request a contested case hearing regarding the Vulcan Construction Materials LLC air permit No. 147392L001 and henceforth offer a 'reply brief' to be recommended as an Affected Person by those parties for which I was not recommended for Affected Party status. (e.g. TCEQ, the Applicant and/or OPIC. Henceforth named 'parties').

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

Issues of which deem me an 'affected party':

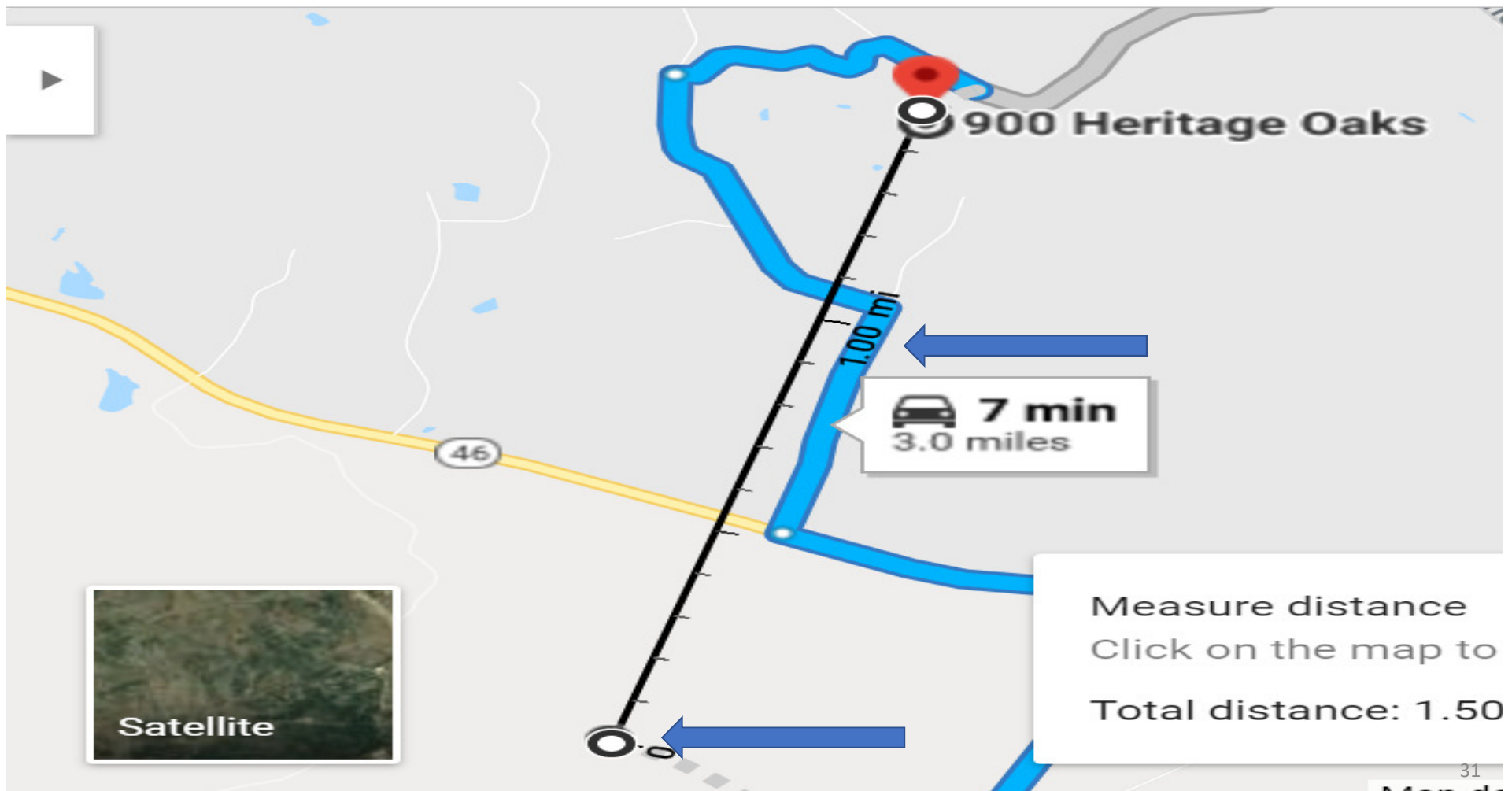
- 1. Proximity: Location of the Requestor's Affected Property (i.e. home, business, or property)** *(Use the map below and be sure to address the distance of your property from the crusher and nearest fence line.)*

<Insert Map, if you wish>

Show your location, via distance markers, to the crusher and fence line. See attached instructions <https://www.stop3009vulcanquarry.com/wp-content/uploads/2018/08/measuring-distance.pdf>



HOW DO I PREPARE FOR SOAH?



HOW DO I PREPARE FOR SOAH?

Statement 2:

The parties have failed to provide scientific data and assurances that is 'site specific' that fugitive dust coming from the crusher will NOT exceed the permitted limits for respirable, non-visible crystalline silica of PM 2.5 or smaller, nor that this fugitive dust will NOT transcend the 1 or 2-mile radius.

<Insert distance map with rosebud overlay, to show via distance markers to the crusher the wind patterns which will affect your homestead. See attached instructions and sample language. >



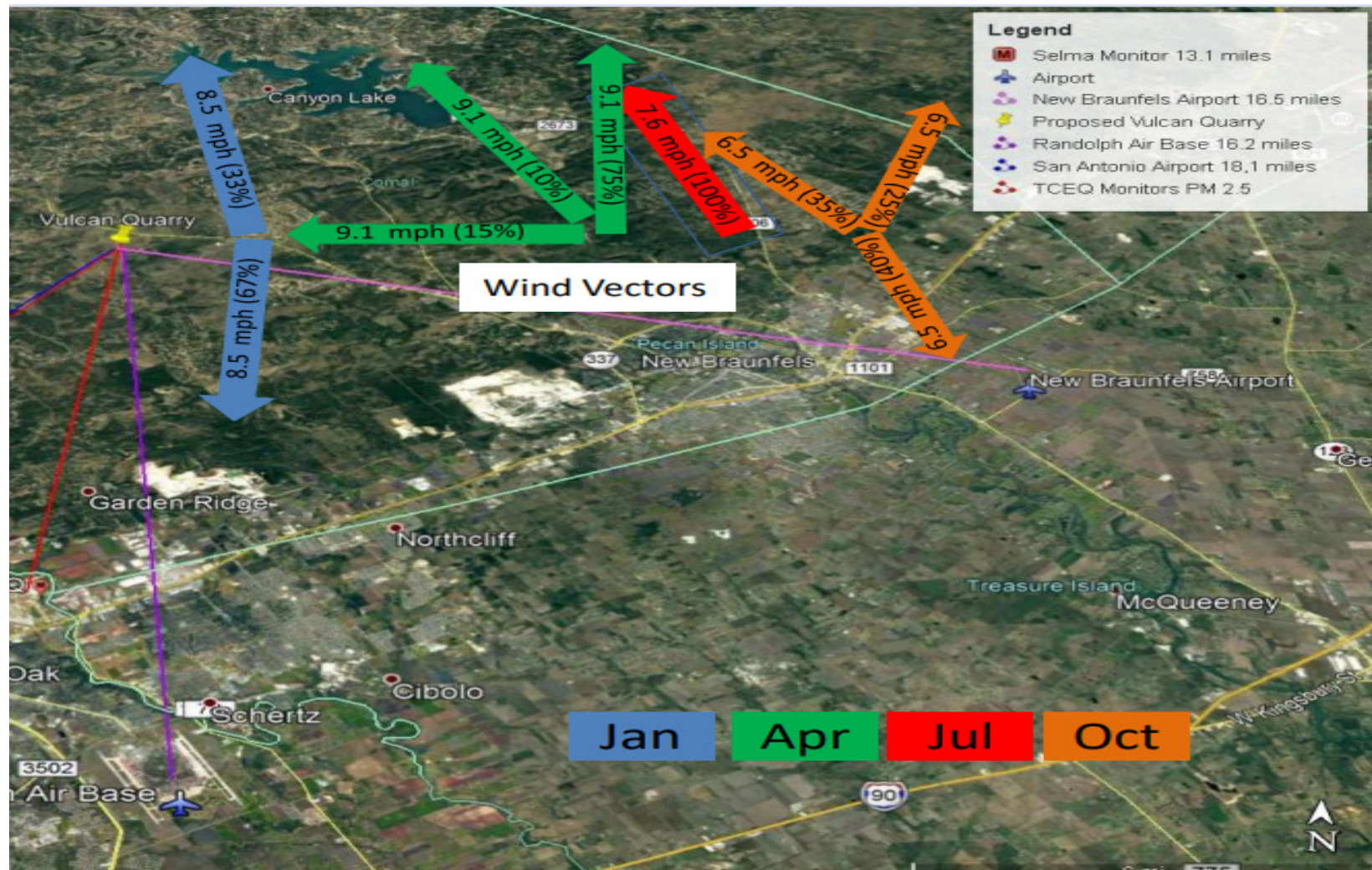
It is NOT enough that the Applicant promises to abide by permitting rules, as they have been shown over and over and documented, the Applicant intentionally fails to abide by current requirements at their :

- 1604 plant* (41 TCEQ permit violations – air quality, stormwater & hazardous materials; 1 Mine Safety & Health Administration Violation for Waste Water Spill; 1 SAWS violation for expired sewage permit & numerous EAA violations)

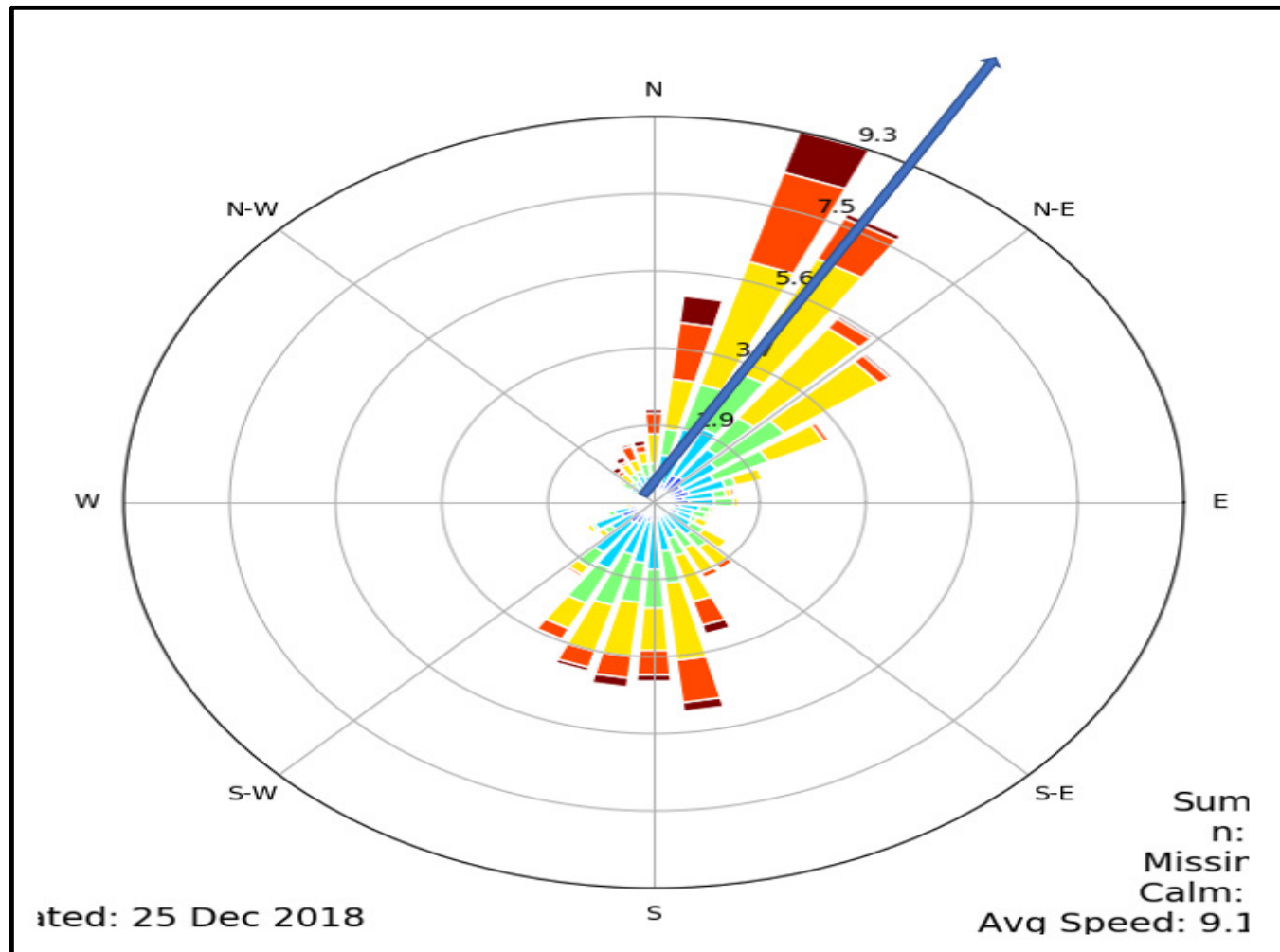
*NOTE: this is the quarry site by which the applicant used to 'model' their air dispersion and supposedly correlate it to the 3009 site.

Without on-site real-time monitoring by a third-party there are no assurances that Vulcan will be the 'good neighbor' as they claim they are going to be. (i.e. fence line monitoring, site visit by 3rd party PRIOR to start up promises made

HOW DO I PREPARE FOR SOAH?



HOW DO I PREPARE FOR SOAH?



HOW DO I PREPARE FOR SOAH?

EXAMPLE 2:

Issue 2: Whether the proposed plant will negatively affect human health, including sensitive subgroups, and physical property.

I am a 100% medically disabled (retired) army officer, and I moved my family to the Texas Hill Country in 1998, seeking solace from air pollutants which were exacerbating my symptoms related to desert-lung disease. Within several years of my return from the Gulf War in 1991 (after 2, 9 -month long deployments), I began having shortness of breath and a cough. It wasn't until I couldn't pass my running physical, that I knew that something was wrong. I went thru a cadre of VA doctors, including a psychiatrist to determine if I was 'milking' the system by feigning symptoms because there was no 'obvious' medical reasons that I should be having these problems, especially having successfully passed running physicals to date.

I was diagnosed with desert lunch disease which is a form of silicosis caused by long-term exposure to silica sand dust in desert areas. Without going into the details of the variety of treatments past and present, all of it is only temporary abatement of the symptoms, and my long prognosis is that I will need to be on oxygen as my lungs are becoming calcified, may be even a lung transplant.

There is no way that being within 1.5 miles of this quarry is NOT going to exacerbate my physical symptoms. I find solace in gardening, playing with my grandkids outside, taking walks around my property, going deer hunting, etc.

For Vulcan and TECQ to make claims that the dust will not exceed the fence line is a LUDICROUS if not down right stupid claim.

For TCEQ to claim that they are protective of citizens health as their primary mission, yet are able to hide by TAC rules which:

- Preclude open pit air monitoring using Best Management Practices vs opacity testing.
- Preclude fence line monitoring
- Preclude pre-start up audit of all processes and machinery to ensure compliance with operational rules
- Preclude random audits of all processes and machinery to ensure compliance with operational rules
- Allows permittees to terminally hide behind the Audit Act

WHAT HAPPENS AT A SOAH HEARING?

- Must be present “in person” to make your case
- Sign up to speak
- You will be ‘sworn in’
- You will have opportunity to tell your story. Use your write up to tell your story.
- The ALJ may ask you some questions
- You can speak with passion to make it ‘personalized’ but speak professionally
- Please DO NOT take out your ‘frustrations’ about TCEQ and Vulcan on the ALJ

WHAT HAPPENS AT A SOAH HEARING?

- The ALJ will make a decision as to whether you will be considered an ‘affected party’. If yes, then....
- The ALJ will then ask you with whom do you wish to be ‘aligned’
- Alignment has to do with ‘the person’ or ‘group’ you wish ‘represent’ YOU as an ‘affected party’ during the SOAH process

WHAT HAPPENS AT A SOAH HEARING?

- You can ALIGN...
 - As an individual with or without your own legal counsel
 - As a unique, loosely formed ‘group’ with or without legal counsel (e.g. Copper Ridge resident group)
 - As a ‘member’ of Stop 3009 Vulcan Quarry/Friends of Dry Comal Creek which has already been named an ‘affected party’, AND has retained an environmental attorney

WHAT HAPPENS AT A SOAH HEARING?

Once ‘affected parties’ are determined, the ALJ, TCEQ, Vulcan, and our attorney will negotiate timeframes for:

- Discovery
- Requests for Disclosure & Requests for Admission
- Interrogatories
- Request for Production & Inspection
- Depositions
- Request for Entry on Land Report
- Pre-filled Testimony
- Hearings on the Merits
- Closing Arguments
- Proposal for Decision & Exceptions

ALL THE ABOVE HAVE TO OCCUR WITHIN 180 DAYS OF PRELIMINARY HEARING

- Commissioner’s Action on Application

HOW DO WE MOVE FORWARD LEGALLY?

- **Fundraising - all contributions are TAX DEDUCTIBLE!**
 - **Legal & Expert Representation costs are imminent for Stop 3009 Vulcan Quarry/Friends of Dry Comal Creek**
 - **Contribute two ways:**
 - **Check directly made to GEAA*** (make sure you write on memo line Vulcan Quarry)
 - **Online <https://www.gofundme.com/stop3009vulcanquarry>**
- **Fundraising Event:**
- **[Love Your Honey, Love Your Hill Country](#)**
 - **Friday, March 29, 2019 @ 6 p.m. @ Castle Avalon**
 - **Dinner and Silent/Live Auction**

**GEAA is our fiscal agent. Greater Edwards Aquifer Alliance (GEAA), a 501(c)3 organization, (P.O. Box 15618 San Antonio, TX 78212) Phone (210)320-6294, Tax ID: 25-1907558) serves as the fiscal agent for Preserve Our Hill Country Environment DBA Stop3009VulcanQuarry and Friends of Dry Comal Creek. Your donation is tax deductible to the extent allowed by law.*

Questions?