

Date: April 5, 2023
To: Chairman Birdwell and the Members of the Senate Committee on Natural Resources & Economic Development
CC: Sen. Judith Zaffirini, Sen. Carol Alvarado, Sen. César Blanco, Sen. Kelly Hancock, Sen. Bryan Hughes, Sen. Lois W. Kolkhorst, Sen. Borris L. Miles, Sen. Kevin Sparks
Via hand delivery and by email.

From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155

Re: SB 1398 - Public Citizen testimony

Dear Chairman Birdwell and Members of the Committee:

Public Citizen appreciates the opportunity to testify on SB 1398 by Senator Charles Schwertner, relating to air quality permits for aggregate production operations and concrete batch plants. We are testifying neutrally on this bill because we think it could be significantly improved with additional measures related to dust monitoring and blasting.

SB 1398 could be improved with amendments drawn from SB 1209 (87R).

During the 87th legislature, Senator Schwertner introduced SB 1209 which was essentially a stronger version of this bill. SB 1209 did not get a hearing in this committee, but its companion HB 1912 (87R) did get a hearing at which we testified in support.¹

If SB 1398 were amended with some key provisions from SB 1209 (87R), we would support it. Specifically, we recommend adding in two provisions:

- (1) Monitoring for air contaminants (dust) at the perimeter of the facility.
- (2) Using computer-controlled blasting to minimize the effect to adjacent properties.

Attached to this testimony is an amendment to accomplish this. We would support SB 1398 with this amendment.

SB 1398 includes several provisions we support.

There are several provisions in SB 1398 that we do support. Specifically:

- A reclamation plan (P.1, L.18-19).
- Traffic lanes for safety (P.1, L.20-21).
- Sound monitoring and mitigation (P.1, L.22-23).
- Complaint tracking and mitigation (P.2, L.2-14).

Although we support these items individually, we cannot support the bill without additional measures as described above.

¹ See <https://www.citizen.org/wp-content/uploads/HB-1912-PCTX-testimony-for.pdf>.

Proposed dust mitigation strategy is very limited.

On the last item above, the only specific mitigation method proposed for dust complaints is spraying vehicles with water or chemical dust suppressants. There are many other options for dust suppression that could be included. We suggest incorporating these strategies into a stronger version of SB 1398 that would provide real improvements over the present situation, in which dust from aggregate operations pose a significant threat to human health.

Traffic

- Traffic optimization to limit residential exposure
- Speed limits (10 mph paved/5mph unpaved)

Roads

- Paved Roads
- Water dust suppression on roads
- Vacuum sweep paved areas
- Road sweepers
- Hand sweeping and damping of road edges and pathways

Process Areas

- Paved process areas
- Water mist dust suppression in working areas
- Chlorides or other chemical dust controls on unpaved areas

Vehicles

- Cover vehicles carrying loose material
- Wheel washing facilities
- Designated vehicle location
- Delivery and off-loading procedures
- Truck loading bay roof and enclosure

- Loading bay control equipment

Operational controls

- Loading rate limits
- Loading sequence controls
- Immediate spill cleanup to minimize waterway contamination
- Increase suppression activity during dry/windy periods
- Suppression for dry/dusty deliveries

Equipment

- Covered conveyor belts
- Drive-over hoppers
- Enclosed or covered conveyors
- Conveyor belt cleaners
- Underground or covered transfer

Stockpiles

- Underground aggregate bunkers
- Wet dust suppression
- Bin storage, bin enclosure
- Wind shields
- Hoardings and/or sheeting to reduce migration

Vegetative cover

Amend **SB 1398** as follows:

On page 1, line 21, strike "and".

On page 1, line 23, strike "and".

Insert the following subsections on page 1 after line 23:

 (D) installing equipment to monitor emissions of air contaminants from the facility:

 (i) at the point on the perimeter of the property on which the facility is located that is closest to the nearest building in use as a single or multifamily residence, school, place of worship, or commercial enterprise; and

 (ii) at two other points on the perimeter of the property on which the facility is located equidistant from the point described by Paragraph (1); and

 (E) obtaining computer-controlled blasting technology to minimize the effect of seismic forces on adjacent property caused by blasting at the facility; and