

## William & Penelope Horton

Here are letters protesting the Roper CBP permit previously sent to the NMED Air Quality Board.  
Please consider these in your review of the appeal of denial.

4 June 2021  
114 Legacy Lane  
Alto, NM 88312

Permit Programs Manager  
New Mexico Environmental Department  
Air Quality Bureau  
525 Camino De Los Marquez  
Santa Fe, NM 87505-1816

Hello:

This week we became aware that Roper Construction, Inc., P.O. Box 969, Alto, NM plans to construct a concrete production plant on Highway 220 in Alto, Lincoln County, NM, directly across the entrance to our subdivision, Legacy Estates (Lane). We were told of this by a neighbor who had been told by an acquaintance. There is an 8-1/2"x14" notice posted on the property 58' from the highway center-line. It is hardly noticeable from our subdivision entrance, much less for anyone driving by on the highway. This property has housing on its north and south sides, and an RV park, a residence, and a landscape business on its west side.

We are very concerned over this and raise the following issues.

1. Air Quality – While the levels Roper proposes may not violate NM air standards, it will negatively impact the levels we currently enjoy. The majority of our neighborhood residents are retired and deteriorating air quality is a major concern. There are many older/retired persons in the neighborhood north of the proposed site (Enchanted Forrest), a higher density development that Legacy, and downwind from the prevalent wind direction. This plant represents a threat to the health of nearby residents.
2. Noise – The proposed hours of operation allows them to begin at 4 AM and continues until 9 PM for 9 months of the year, and from 5 AM until 7 PM for 3 months. This is totally incompatible with the surrounding properties since most people do not rise by these times, and may need to sleep before 9 PM. The plant noise and truck traffic at these times of early morning and night are a major issue.
3. Water – This plant will certainly require a commercial level water permit for its operation. Homes in Legacy and the surrounding areas are serviced by domestic wells. A commercial draw on the water supply could/would likely be devastating, causing many wells to go dry. Neighboring subdivisions are already reporting this happening due to the unprecedented drought conditions that exist in Lincoln County. If this occurs, the plant will simply relocate and the current residents will have to hope they can obtain water to continue living on their properties.

There will be no public hearings on this matter since they are not required by Lincoln County. So we ask that these issues be addressed before issuing a permit for this business to operate given the largely residential area in which it will be located.

There will likely be more letters forthcoming on this matter once we can spread the word to neighboring property owners. A copy of this letter will be sent to the New Mexico State Engineering Office and to the Lincoln County Commissioners.

Respectfully,

*William F. Horton Jr*  
*Penelope S. Horton*

William F. Horton, Jr. (575) 336-8382  
Penelope S. Horton

1 July2021  
114 Legacy Lane  
Alto, NM 88312

Permit Programs Manager  
New Mexico Environmental Department  
Air Quality Bureau  
525 Camino De Los Marquez  
Santa Fe, NM 87505-1816

Hello:

Now that Roper Construction, Inc., P.O. Box 969, Alto, NM has filed an air quality permit application, I have some issues with the application content. Here are my objections/concerns:

1. The application acknowledges that the proposed location is within 1.25 miles of a National Class I Wilderness area (White Mountain Wilderness). This may well violate national or state setback requirements for industrial operations. In any event, it is too close to avoid impacting fragile wildlife and flora, an effect amplified by the ongoing unprecedented drought.
2. The application states that there are no "sensitive areas" near the facility. This ignores two major concerns. First, the Mountain View Christian Camp is located within a half mile (east) of the proposed plant. Children are there throughout the summer and possibly other times of the year for shorter periods. Second, there are MANY retired individuals in the surrounding neighborhoods - Enchanted Forest (to the north), Ranches of Sonterro (northeast), Legacy Estates (south), Alto Lakes/Outlaw (south and east). The risks to these individuals, particularly those with breathing issues cannot be simply ignored. In fact, many of the part-time residents are older.
3. The application doesn't seem to allow for specifying that the proposed location is on an officially designated Scenic Byway (Billy the Kid Highway - Route 220). A concrete plant in no way fits with the nature of this area past nor present, and is totally inappropriate for a scenic byway.
4. The application addresses the process of crushing stone (primary crusher) as part of the production of concrete. The list of equipment does not appear to include a crusher. Clarification is needed to specify whether a crusher will be on premises and whether this has been included in the particulate emissions. It would be a major contributor to noise as well.
5. Nowhere on the application does it seem to ask about the topography and the resulting impact on noise created by the plant. The proposed location is in a "bowl" with mountains/high hills all around. This creates an echo effect that amplifies the sound produced anywhere in that bowl. This applies to not only the plant noise, but that of the truck traffic into and out of the plant at times that will occur very early in the morning (as per the application). This will be a MAJOR problem for the surrounding homeowners

and businesses.

I am pleased to learn that the Air Quality Department is planning to hold a public hearing regarding this matter. This is needed. It appears that there is a very large opposition to this plant and it continues to grow. The threats to the environment – air, water, wildlife, etc. - are too great to simply treat this as an emissions problem for a plant located in a sparsely populated, low water demand area. It is simply the WRONG location for this type of business.

Respectfully,

*William F. Horton, Jr.*  
*Penelope S. Horton*

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12 August 2021  
114 Legacy Lane  
Alto, NM 88312

Permit Programs Manager  
New Mexico Environmental Department  
Air Quality Bureau  
Permits Section  
525 Camino De Los Marquez Suite 1  
Santa Fe, NM 87505-1816

Hello:

Now that the Roper Construction, Inc., P.O. Box 969, Alto, NM air quality permit application has been reviewed for completion, I have some issues with the initial determination that the plant will likely comply with air standards. Here are my objections/concerns:

1. The proposed location is within 1.25 miles of a National Class I Wilderness area (White Mountain Wilderness). This is much too close to avoid impacting fragile wildlife and flora, an effect amplified by the ongoing unprecedented drought. This area of the wilderness is also trying to recover from a devastating wild fire that occurred in June 2012. Such a plant should be at least 3 miles away.
2. The location for this plant is incompatible with the "sensitive areas" nearby. First, the Mountain View Christian Camp is located within a half mile (east) of the proposed plant. Children are there throughout the summer and possibly other times of the year for shorter periods. Second, there are MANY retired individuals in the surrounding neighborhoods - Enchanted Forest (to the north), Ranches of Sonterro (northeast), Legacy Estates (south), Alto Lakes/Outlaw (south and east). The risks to these individuals, particularly those with breathing issues cannot be simply ignored. In fact, many of the part-time residents are older as well. Levels of air pollutants that might be acceptable for a more general population are NOT suitable for an older and more vulnerable population that is basically collocated with the proposed plant. This is in stark contrast to the concrete plant location Roper owns and operates in nearby Carrizozo, NM (30 miles away).
3. The topography of the area around the plant location is not compatible with proper dispersal of the pollutants, especially when there is little to no wind. This is very common in the summer and fall, which are the peak times for planned production. The proposed location is in a "bowl" with mountains/high hills all around. Without clearing wind, this will cause the pollutants in the air to simply concentrate in this bowl, expanding outward. And, the resulting impact on people living nearby will be magnified.

I hope the Air Quality Department will seriously consider these factors in deciding whether to approve this application. I believe a public hearing is needed to address the many concerns of the public regarding this matter. The proposed hours of operation are excessive, and would mean pollutants will be released during the calmest times of the day – early morning and

early evening. This is simply NOT the proper location for such a plant.

Respectfully,

*William F. Horton Jr.*

*Penelope S. Horton*

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7 February 2022  
114 Legacy Lane  
Alto, NM 88312

New Mexico Environmental Department  
Air Quality Bureau  
Madai Corral, Hearing Clerk

Hello:

Today we are providing our comments regarding the application by Roper Construction for a permit to operate a concrete batch plant (CBP) near the intersection of Highways 48 and 220 in Alto, NM. These relate to the public hearing scheduled for 9-11 February 2022.

The proposed location of the CBP is about 660 feet from our home, which is directly across Highway 220 from the site. We are essentially at a "ground zero" location. My wife, Penelope, was diagnosed with Reactive Airway Disease prior to us moving to our home in August 2007. Within 2 years living here, her breathing issues basically disappeared due to the clean air the area has afforded. The inevitable fugitive dust from a CBP will be very detrimental to her health, almost certainly making our home unlivable for us. Any chance of selling the home will be virtually nil. NO ONE will want to live so close to the pollution, noise, and heavy traffic that the CBP will cause. The resulting health, emotional, and financial stress will be severe.

The inappropriateness of the proposed location is not merely an issue for us. It is situated in the midst of a largely residential area with a high concentration of retirees. The emissions from the CBP will pose a greater than typical health hazard to the populace due to advanced age and attendant health issues related to cardio/pulmonary function. Additionally, a year-round church camp is located about .4 mile from the proposed site. Their numbers peak during the summer, which coincides with the proposed peak hours of operation for the CBP.

The CBP site is within 1.25 miles of a National Class I Wilderness area (White Mountain Wilderness). This is much too close to avoid impacting fragile wildlife and flora, including threatened and endangered species - an effect amplified by our ongoing unprecedented drought. This area of the wilderness is also trying to recover from a devastating wild fire that occurred in June 2012.

NMED should be concerned about ground water contamination resulting from the CBP operation. Water sources such as Little Creek are as close as 1/3rd mile away. Little Creek and the Rio Bonito, located to the north of the CBP proposed location, seems to be the major source of water for the Fort Stanton/Snowy River cave system. Both sources stand to be imperiled by contamination and runoff from the CBP.

It is unknown at present exactly how close the CBP location will be to the Fort Stanton/Snowy River cave system. Thus, it is unknown what impact the plant will have on the already severely distressed bat population as they fly through the dust plume and return to the cave. It is also unknown the impact water discharge and runoff from the plant will have on the



cave system itself. There is speculation that the cave system runs all the way out to the Legacy Estates where we live. Can we risk irreparable damage to this important natural treasure without knowing the consequences?

It is discouraging and most egregious that only the particle emissions from the CBP seem to matter to the New Mexico Environmental Department (NMED) when considering the impact of a CBP on the local environment. The water that will be required to attempt mitigation of particle emissions on top of that required to produce 125 cubic yards of concrete per hour simply cannot be supported by available ground water. The entire Hondo Basin is presently undergoing severe drought related stress to the point of wells in the area experiencing no to reduced flows and must be drilled deeper or replaced.

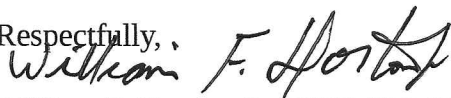
More specifically, it is highly doubtful that spraying material on the ground at the plant will mitigate fugitive emissions. I witnessed first hand the dust mitigation efforts on the dirt road leading to the Bonito Lake reservoir over the past many months. While traveling the road to the area where reclamation work was being done to the lake, I saw trucks watering the road for dust control. I also saw dump trucks coming toward me behind the water truck. On clear, dry, and breezy to windy days, it was only a few minutes before the oncoming trucks were raising enough dust to make visibility risky. Is Mr. Roper prepared to apply water to his materials and road ways continuously during such periods? Such conditions are common events during our extended spring season (late February into early June). This is also typically our critical period of fire danger, placing additional stress on available water.

Much attention during the approval process and the expected testimony at the public hearing will focus on modeling the CBP air emissions. One of the factors that has not been considered is the topography of the land around the plant location. It is essentially a large bowl surrounded on all sides by high mountains/hills. The bowl is roughly 2-3 miles north to south, and 5 miles east-west. When the wind isn't blowing (most common in the summer and early fall), the fugitive dust will simply billow out to fill this bowl, then begin to spill over the edges of the bowl. This will produce concentrated levels of visible and breathable dust that will persist until clearing winds return. During such periods, the risk our older population will be untenable.

The topography also will exacerbate another pollution that results from CBP operations – noise. The proposed hours of operation included starting at 3 AM and operating until 9 PM. The effect of the “bowl” on the noise associated with plant operation and the truck traffic that will result is to magnify the sound as it bounces off the surrounding mountains/hills. This will negatively impact neighbors within a mile or two, and especially at night when such noise will be even more disruptive due to the absence of background noise.

I hope the Air Quality Department will seriously consider these factors in deciding whether to approve this application. This is simply NOT the proper location for such a plant.

Respectfully,



William F. Horton, Jr. (575) 336-8382 (wbillhorton@yahoo.com)

Penelope S. Horton



9 February 2022  
114 Legacy Lane  
Alto, NM 88312

New Mexico Environmental Department  
Air Quality Bureau  
Madai Corral, Hearing Clerk

Hello:

We are providing additional comments regarding the application by Roper Construction for a permit to operate a concrete batch plant (CBP) near the intersection of Highways 48 and 220 in Alto, NM. We appreciated the opportunity to participate in the hearing held 9 February 2022 and present our views. These comments relate to the topics addressed at that hearing.

The first issue related to the concept of “enforcement” as stated by representatives of NMED. Repeatedly we heard this term used regarding requirements stated in the draft approval affecting daily operations of the CBP. For instance, round trip truck traffic being limited to 305 daily, requirements to water aggregate piles for dust suppression, etc. However, there was **never** any mention of how the operator would be held accountable to comply with these directives. Maintaining daily logs of truck traffic were mentioned, but to whom they would be sent and how they could confirm the authenticity of these logs was **not**. Regarding the use of water for emission suppression, absolutely **nothing** regarding a check for compliance was addressed. So, the way NMED seems to define “compliance” is actually a reference to statutory requirements that the CBP operator must meet. But there is no means to enforce these requirements.

There is **no** measurement of emissions planned for this site (certainly none were mentioned). Clearly NMED will not station their personnel outside the CBP to check compliance with the truck limits per day. So, exactly how is actual compliance to be enforced? This is much akin to the situation we see in many of our larger cities across the country today, including Albuquerque. We have laws on the books specifying what can and can't be done (what NMED calls “enforcement”). However unless violators are apprehended, the prosecutors prosecute, and the courts convict, there is no enforcement! Where are the police, district attorney, and court equivalents for air quality violations?

We have tried, as have others in our community, to determine the record for Mr. Roper's CBP in nearby Carrizozo, NM. I personally have asked for copies of past violations from NMED – there are none. But this does not mean he has a clean record since we cannot find any evidence his Carrizozo site has ever been monitored or inspected! No surprise that there's no record of past violations.

The bottom line seems to be a gigantic, and totally unacceptable, “trust me”. Are we not allowing the fox to guard the hen house? This might be laughable were it not for the fact that people's lives, quality of life, and property values are at stake, not to mention irreparable harm to wildlife, a cave system, ground water, etc. If a few years down the road an unexplained increase in deaths, lung disease, etc. is noted, and the only plausible explanation is the CBP? Does NMED simply say “Oops”?

The second issue relates to the vast amount of testimony regarding modeling to determine compliance of the alto CBP with air standards. Much time and energy was devoted to use of terrain and meteorologic data. No clear answers emerged other than the fact that data specific to our high altitude, mountainous area were **not** used. This simply doesn't pass the "giggle test".

A fifth grader would know that modeling our terrain (7,000+ feet AGL, located in a basin surrounded by high hills/mountains) can't be adequately modeled using data for flat terrain and at roughly 3,000 feet lower. Temperature, wind, and relative humidity will be greatly different. But perhaps most of all, it fails to address the impact of micro-climates in our area.

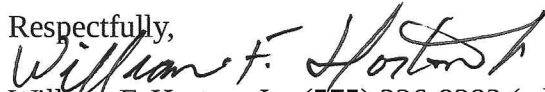
I have had a weather station on our property most of the 14.5 years we have lived here (660 feet from the CBP proposed location). I routinely see wind speed, direction, and barometric pressure readings here that are very different from the local airport. I also check other on-line reporting stations in the area and see the same. This is a phenomena not generally seen in open, flat terrain, such as in Alamogordo/Holloman Air Force Base, NM.

NMED needs a model that can account for these factors, and usable meteorological data from a comparable area for any modeling results to be even considered. Does NMED have such data? Can the model they require be used handle the impacts of elevation, micro-climates, etc.? If so, no one speaking on behalf of NMED or the applicant mentioned it.

I (William) know something about modeling since I was called on in my profession as a systems engineer to develop and perform modeling. Having a model is **useless** unless it can be properly calibrated. Otherwise, it's "garbage in, garbage out". Has NMED ever collected air quality data from a CBP plant operating at a similar elevation and topology as ours and compared it to the model results, and if so, did they agree? If not, I submit your model is **worse than worthless**. No meaningful results are possible. We do not wish to risk our health – indeed our lives – to such a tool, nor should we be required to do so.

As a result, we have no confidence that the measures that NMED will require for operating this CBP will actually be **enforced**. Nor do we believe NMED has a model and appropriate data to have any realistic clue what the actual air emissions will be, The only viable option we see is for NMED to **reject this permit**.

Respectfully,



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