

Executive Summary – Enforcement Matter – Case No. 63326

Texas Star Ready Mix, LLC

RN111648234

Docket No. 2022-1557-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Texas Star Ready Mix, 4500 Great Trinity Forest Way, Dallas, Dallas County

Type of Operation:

Concrete batch plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The commenter has expressed an interest in this matter.

Texas Register Publication Date: December 8, 2023

Comments Received: Yes, a public comment was received by Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association

Penalty Information

Total Penalty Assessed: \$35,000

Amount Deferred for Financial Inability to Pay: \$31,400

Confidential information, which may include financial or medical information, has been provided to the Commission for their consideration.

Total Paid to General Revenue: \$100

Total Due to General Revenue: \$3,500

Payment Plan: 35 payments of \$100 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 12, 2022 and August 29, 2023

Date(s) of NOE(s): September 1, 2023

Executive Summary – Enforcement Matter – Case No. 63326
Texas Star Ready Mix, LLC
RN111648234
Docket No. 2022-1557-AIR-E

Violation Information

Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from July 23, 2022 until temporarily ceasing operation on August 9, 2023 [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On January 30, 2023, submitted a registration for Standard Permit Registration No. 171636 to authorize the concrete batch plant and the associated emissions at the Plant; and
- b. On August 9, 2023, temporarily ceased operating the concrete batch plant.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease operating until the proper authorization for the concrete batch plant has been obtained;
- b. Within 15 days, submit written certification demonstrating compliance with a.;
- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration for Standard Permit Registration No. 171636 within any deadlines specified in writing; and
- d. Within 180 days, submit written certification that either the authorization has been obtained or that operations of the concrete batch plant have permanently ceased to demonstrate compliance.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Eyad Albelbaisi, Operations Manager, Texas Star Ready Mix, LLC, 25 Lochleven, Richardson, Texas 75082

Respondent's Attorney: N/A

TCEQ Interoffice Memorandum

To: Commissioners

Thru: *MSC* Amy Settemeyer, Deputy Director, Enforcement Division

From: Michael De La Cruz, Manager, Enforcement Division

Date: April 22, 2024

Subject: Response to Comment Received Concerning Proposed Agreed Enforcement Order
Texas Star Ready Mix, LLC
Dallas County; RN111648234; Enforcement Case No. 63326
Docket No. 2022-1557-AIR-E

In response to a publication in the *Texas Register* on December 8, 2023, five comments have been received regarding a proposed agreed enforcement order requiring certain actions of Texas Star Ready Mix, LLC. The comments were received within the comment period.

The proposed agreed order includes two violations documented during on-site investigations conducted on September 12, 2022 and August 29, 2023. For both of these violations, the Executive Director alleges that Texas Star Ready Mix, LLC failed to obtain authorization prior to constructing or modifying a source of air contaminants. The proposed order recognizes that Texas Star Ready Mix LLC temporarily ceased operating the concrete batch plant on August 9, 2023 and have not operated the concrete batch plant since that date. The proposed order recognizes that Texas Star Ready Mix LLC temporarily ceased operating the concrete batch plant on August 9, 2023 and have not operated the concrete batch plant since that date. The technical requirements in the proposed agreed order require Texas Star Ready Mix, LLC to cease operating until the proper authorization for the concrete batch plant has been obtained.

Some of the comments received are not limited to the provisions of the proposed order addressing the violations. Additionally, while 30 TEX. ADMIN. CODE § 70.10(c) allows for public comment on agreed orders, it does not grant the public standing to seek the relief that are requested in the comments. No changes to the proposed agreed order were made in response to the comments. Our responses to the comments are provided below:

- Comment - The TCEQ denied JFTA and the public their right to meaningfully participate in the enforcement agreement by failing to collect and make Texas Star Ready Mix, LLC's operational logs publicly available and by failing to make Texas Star Ready Mix, LLC's Financial Inability to Pay assessment and related documents publicly available for review.

Response - During the investigations conducted on September 12, 2022 and on August 29, 2023, the investigators did not obtain any operational logs from Texas Star Ready Mix, LLC. TCEQ previously provided a copy of the September 12, 2022 investigation report. At this stage of the enforcement process, operational records are not necessary. Should this matter go to litigation, TCEQ would seek to obtain necessary records through that process.

Regarding the request to make Texas Star Ready Mix, LLC's Financial Inability to Pay documentation publicly available for review; because these documents contain Personal Identifiable Information, they are confidential under the Texas Public Information Act and not available to the general public.

TCEQ Interoffice Memorandum

- Comment – Texas Star Ready Mix, LLC's will require significant structural and mechanical alterations and improvements in order to qualify for the requested standard permit including paving entrances to the site, constructing barriers that rise above the site's stockpiles, constructing concrete fences taller than ten feet, and other upgrades to batching, mixing, and production equipment.

Response – In the registration application for Standard Permit Registration No. 171636, Texas Star Ready Mix, LLC demonstrated how they plan to comply with the conditions for the Air Quality Standard Permit for Concrete Batch Plants. During the review process for Standard Permit Registration No. 171636, TCEQ staff will verify that Texas Star Ready Mix, LLC can comply with the terms and conditions with the Air Quality Standard Permit for Concrete Batch Plants.

- Comment – The TCEQ failed to correctly assess Texas Star Ready Mix, LLC's penalty by not requiring a fine of \$10,000 per day for operating a concrete batch plant without an air operating permit and by not considering the hazards created for health and safety of the public; the impacts of continuing violations on air quality in the region; Texas Star Ready Mix, LLC's history and extent of previous violations, degree of culpability and anticipation of the violation, or lack of good faith in rectifying the unauthorized action; Texas Star Ready Mix, LLC's economic benefit gained through its violations; and the penalty's ability to deter future violations.

Response – The penalty assessed in the order was calculated in accordance with the Texas Water Code and TCEQ's Penalty Policy. The TCEQ staff did not assess a penalty of \$10,000 each day that Texas Star Ready Mix, LLC continued to operate the concrete batch plant because during the development of the enforcement case, the TCEQ staff determined that Texas Star Ready Mix, LLC held another TCEQ permit; therefore, the TCEQ staff assessed a penalty in accordance with TEX. WATER CODE § 7.052(b-3) and in accordance with the TCEQ's Penalty Policy that allows the Commission to exercise discretion whether to assess a penalty of \$10,000 per day per violation if the facility holds another type of permit. Since there were no documented human health or environmental impacts, the TCEQ staff assessed the penalty using the Programmatic Penalty Matrix in accordance with the TCEQ's Penalty Policy. The TCEQ staff assessed the penalty as monthly events because Texas Star Ready Mix, LLC continued to operate the concrete batch plant from September 12, 2022, through August 9, 2023. Based on Texas Star Ready Mix, LLC's compliance history, Texas Star Ready Mix, LLC did not have any previous violations in the past five years; therefore, the TCEQ staff did not apply a Compliance History enhancement in accordance with the TCEQ's Penalty Policy. The TCEQ staff determined there was no documentation indicating that culpability existed; therefore, the TCEQ staff did not apply a Culpability enhancement in accordance with the TCEQ's Penalty Policy. The TCEQ staff determined that Texas Star Ready Mix, LLC did not resolve the violation; therefore, the TCEQ staff did not recognize compliance and did not apply a Good Faith Efforts to Comply reduction to the assessed penalty in accordance with the TCEQ's Penalty Policy. The TCEQ staff considered Texas Star Ready Mix, LLC's economic benefit; however, the Economic Benefit enhancement was evaluated, and no adjustment was made in accordance with the TCEQ's Penalty Policy. The TCEQ staff assessed a penalty in accordance with the TCEQ's Penalty Policy and the amount was determined to be necessary to deter future violations.

- Comment – Texas Star Ready Mix, LLC's site is still under review for a water quality enforcement action, Order Docket No. 2021-1518-WQ-E.

TCEQ Interoffice Memorandum

Response - The water quality violations addressed by Order Docket No. 2021-1518-WQ-E are associated only to Pro-Crete Ready Mix, LLC and were referred to the TCEQ Litigation Division because settlement was not achieved. Pro-Crete Ready Mix, LLC is no longer operating at this location and does not have a permit to operate. This enforcement action is on-going, and an Executive Director Preliminary Report and Petition was filed on April 8, 2024.

Texas Star Ready Mix, LLC assumed the lease from Pro-Crete Ready Mix, LLC on January 14, 2021. Since Texas Star Ready Mix, LLC is not associated to the water quality violations addressed by Order Docket No. 2021-1518-WQ-E, the only pending enforcement action regarding Texas Star Ready Mix, LLC is for the air violations that were documented in the investigations conducted on September 12, 2022 and on August 29, 2023 and are associated to this proposed order.

- Comment - The TCEQ failed to take into account the impact on the community from cumulative risks of other industrial activity in the area.

Response - A concrete batch plant has been operated at this location since July 27, 1980 and has experienced seven ownership changes over the last 40 years. The proposed order addresses the violations that were documented at Texas Star Ready Mix, LLC's concrete batch plant which Texas Star Ready Mix, LLC are liable for. Since there were no documented human health or environmental impacts, the TCEQ staff assessed the penalty using the Programmatic Penalty Matrix in accordance with the TCEQ's Penalty Policy. TCEQ staff also took into account all appropriate factors to be considered in determining the administrative penalty, and the required technical requirements in the order are consistent with TCEQ's rules and regulations. During the review of the registration for Standard Permit Registration No. 171636, TCEQ staff will ensure that there are no air quality impacts to human health or the environment; otherwise, Standard Permit Registration No. 171636 may not be issued to Texas Star Ready Mix, LLC.

- Comment - The TCEQ failed to consider the adverse impacts of the unpermitted operations to the surrounding environmental justice community in violation of Executive Order 12898.

Response - During the investigations conducted on September 12, 2022, and August 29, 2023, there were no documented impacts to human health or the environment. However, TCEQ staff confirmed that Texas Star Ready Mix LLC temporarily ceased operating the concrete batch plant on August 9, 2023 and has not operated the concrete batch plant since that date. Also, Federal Executive Orders are not binding on states

- Comment - The community should receive compensation for Texas Star Ready Mix, LLC's unauthorized operations through the form of a supplemental environmental project.

Response - A supplemental environmental project allows a respondent under enforcement to voluntarily participate in a project that enhances, protects, and improves the Texas environment. Since supplemental environmental projects are not mandatory, Texas Star Ready Mix, LLC did not volunteer to participate in a supplemental environmental project.

TCEQ Interoffice Memorandum

In summary, the commenter expresses concerns that the TCEQ failed to properly regulate Texas Star Ready Mix, LLC, enforce required penalties, and facilitate meaningful public participation. Staff's position, as reflected in the response, is that the Penalty Policy was used to assess the penalty fairly. Accordingly, the Enforcement Division recommends that you adopt this proposed order.

Attachments

cc: Manager, Air Section, Dallas/Fort Worth Regional Office, TCEQ
Yuliya Dunaway, Coordinator, Enforcement Division
Central Records, MC 213, Building E, 1st Floor
AIR CP_111648234_CP_20240422_Enforcement



January 11, 2024

Via Facsimile

Yuliya Dunaway
Enforcement Division
512-239-2550
Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118

Via Hand Delivery

Maggie Dennis
Air Section - Enforcement Division
Regional Office
2309 Gravel Drive
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DFW Region-4

**Re: Part 1 of 2, Public Comments, Pending Agreed Order and Enforcement Action
– TCEQ Case Number 63326, Docket Number: 2022-1557-AIR-E, Texas Star
Ready Mix, LLC located at 4500 Great Trinity Forest Way, Dallas, Texas
75082 regarding Proposed Agreed Order.**

Dear Ms. Dunaway:

On behalf of its client, Joppa Freedmans Town Association ("JFTA"), Legal Aid of NorthWest Texas ("LANWT") submits in the above named and numbered matter the following public comment.

All contact with JFTA and its members regarding this matter should be through its legal counsel:

Michael Bates, Staff Attorney
phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

Wendi Hammond, Staff Attorney
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I. The public's review of TCEQ's proposed Agreed Order demonstrates that TCEQ failed to properly regulate Texas Star Ready Mix, enforce required penalties, and facilitate meaningful public participation.

The proposed Agreed Order fails to adequately protect the public due to Texas Star Ready Mix's ("Respondent") failure to follow—and TCEQ's repeated failure to enforce—federal and state environmental permitting laws. Respondent operates a concrete batch facility located at 4500 Great Trinity Forest Way, Dallas, Texas 75082 (the "facility" or "site"). TCEQ investigated Respondent in September 2022 and found Respondent's facility lacked a proper air permit.¹ Instead of requiring the facility to immediately cease unpermitted concrete batch plant operations, TCEQ ignored the facility. Texas Star Ready Mix even admitted to operating without a permit and filling ten to fifteen trucks a day on site during a TCEQ public meeting.² Despite continuous public outcry, Respondent continued to operate in bad faith, and TCEQ continued to ignore Respondent's illegal operation, until August 29, 2023.³

State law allows, and in certain cases requires, TCEQ to fine concrete batch plants that operate without proper permits \$10,000 per day of illegal operation.⁴ As part of TCEQ's attempt at enforcement against Respondent, TCEQ has promulgated a proposed agreed enforcement order that would require Respondent to pay a total fine of just \$3,600 for the *months* Respondent illegally operated.⁵ TCEQ's proposed decision to fine Respondent just a quarter of a fraction of the proper amount sends a bad message to the Joppa community: profitability from an industry's illegal operations matters more than community safety and well-being. TCEQ failed to properly, consistently, and adequately conduct oversight and enforcement actions within the requirements of federal and state clean air act statutes, regulations and policies. Unfortunately, TCEQ's reluctance to enforce the laws it is trusted to enforce is no surprise to the Joppa community and other minority, industry-ridden communities like it.

To add insult to the injuries the Joppa community already faces from TCEQ's stunning lack of regulatory oversight, TCEQ is also playing an active role in preventing the public from exercising their right to meaningful public participation. For example, TCEQ refuses to provide public information necessary for reviewing and evaluating its proposed Agreed Order. TCEQ failed to collect any operating records from Respondent, and thereby, blocked the public's right of access to review any operating records.⁶ Without operating records, the public is unable to determine the sufficiency of TCEQ's proposed penalty. The operating records, if they exist, would provide information on exactly how long Respondent illegally operated. Because the penalties are meant

¹ See Attachment 11.

² See, TCEQ Public Meeting – Permit No. 171636- Air NSR, August 17, 2023, Texas Star Ready Mix, Oral Comments, at 36:30 available at <https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.MoreIPResults&StartRow=11&EndRow=15&Step=5&requesttimeout=5000>.

³ See Attachment 3.

⁴ Tex. Water Code § 7.052(b).

⁵ See Attachments 6 and 9.

⁶ See Attachments 1, 8, 12, and 13.

to be established based on days of operation, the exact number of days of Respondent's illegal operation is critical to determining the sufficiency of TCEQ's penalty.⁷

These crucial documents would prove exactly how Respondent operated without a permit and *directly* influence the outcome of this enforcement action. In a distinct pattern, TCEQ also denied access to several other key documents including: 1) how TCEQ assessed the minimal penalty, and 2) whether or not Respondent signed the document confirming they no longer operate.⁸

By blocking the public from accessing several key public documents in this case, TCEQ denies public oversight and hinders Joppa citizens from protecting their community from bad faith industries like Respondent. TCEQ has intentionally withheld public information undermining meaningful public participation and thwarting oversight of both TCEQ's and industry's action. This violates federal and state clean air act statutes, regulations, and policies.

The following sections of this public comment will provide further information regarding how TCEQ improperly conducted this investigation and enforcement penalty assessment. These comments will disclose new facts and considerations that indicate this proposed agreement is improper, inadequate, and inconsistent with the requirements of the statutes and rules within the Commission's jurisdiction.⁹ Joppa Freedmans Town Association requests the Commission to withdraw or withhold approval of the proposed Agreed Order.

II. Summary of Public Concerns

JFTA asserts that due to TCEQ's patterned failure to regulate Respondent and properly enforce the law, *the Commissioners should reject, or at the very least withhold, the proposed Agreed Order until a more stringent enforcement penalty has been assessed and an opportunity for meaningful public participation has been provided.*¹⁰

Reasons for rejecting or withholding the proposed Agreed Order include the following:

- TCEQ has denied JFTA and the public their right to meaningfully participate in the enforcement agreement by failing to disclose critical public documents directly related to this case. Therefore, the public cannot fully comment on the legitimacy of the proposed minimal fine and agreed order. Examples of this failure include:
 - TCEQ failing to collect and make public Respondent's operational logs;¹¹ and
 - TCEQ failing to make Respondent's Financial Inability to Pay assessment and related documents publicly available for review.¹²

⁷ Tex. Water Code § 7.052(b).

⁸ See Attachments 1, 8, 12, and 13.

⁹ Tex. Water Code § 7.075(b).

¹⁰ Tex. Water Code § 7.075(b).

¹¹ See Attachments 1, 8, 12, and 13.

¹² See Attachments 1 and 8.

Without access to the necessary public information, the public is unable to fully evaluate whether Respondent properly demonstrated its financial inability to pay, and whether TCEQ properly allowed an exemption which further lowered the already excessively low assessed fine of \$30,000 to a mere \$3,600.¹³

- TCEQ failed to correctly assess Respondent's penalty and the required \$10,000 fine for each day Respondent operated a concrete batch plant without an air operating permit.¹⁴ Examples of this failure include TCEQ not properly assessing the excessively low proposed penalty in relation to:
 - The hazards created for health of safety of the public;
 - The impacts of the continuing violations on air quality in the region;
 - Respondent's history and extent of previous violations, degree of culpability and anticipation of the violation, or lack of good faith in rectifying the unauthorized action;
 - Respondent's economic benefit gained through its violations; and
 - The penalty's ability to deter future violations.¹⁵
- Applicant's site is still under review for a water quality enforcement action, 2021-1518-WQ-E.¹⁶ TCEQ should consider this additional high-level enforcement action in Respondent's penalty calculation. TCEQ cannot assess the penalty in the proposed Agreed Order correctly until TCEQ reviews this action, determines the entity responsible for the enforcement action, and determines if the site is currently in compliance.
- TCEQ failed to take into account the impact on the community from cumulative risks of other industrial activity in the area.¹⁷
- TCEQ failed to consider the adverse impacts of the unpermitted operations to the surrounding environmental justice community in violation of Executive Order 12898.¹⁸

Respondent's activities threatened the health and safety of nearby residents. Respondent knowingly operated without legal authority, proper oversight, and accountability. TCEQ allowed Respondent to operate without legal authority, proper oversight, and accountability.

The proposed Agreed Order fails to protect the public health, welfare, property and the environment in compliance with applicable federal and state laws and regulations. Since it is TCEQ's failure to timely provide necessary public information, the Commission should reject, or

¹³ 30 Texas Administrative Code § 70.8, Attachments 1, 2, 6, and 8.

¹⁴ Tex. Water Code § 7.052(b).

¹⁵ Tex. Water Code § 7.053.

¹⁶ See Attachment 16.

¹⁷ See Attachment 9.

¹⁸ *Id.*

at the very least withhold, the proposed Agreed Order until a more stringent enforcement penalty has been assessed and an opportunity for meaningful public participation has been provided.

III. Public Comments

JFTA is a small nonprofit membership organization dedicated to enhancing the livability of its members and others located in the Joppa area. Since April 2023, JFTA has advocated against Respondent's application for a standard concrete batch plant air permit ("Standard Permit") due to Respondent's history and practice of non-compliance. JFTA representatives and members have submitted public comments regarding Respondent's unauthorized operations and bad faith actions.

JFTA is based directly north of Respondent's site in South Dallas. Joppa is a historic Freedman's Town. It is a low income, majority African-American community. Founded in 1872 by freed slaves, Joppa is one of Dallas' oldest neighborhoods. There are only two roads leading in and out of Joppa from Interstate 45. Surrounding the community is a railroad, Highway 310, and I-45 to the west, industry like Respondent to the north, the Trinity River to the east, and Joppa Preserve and McCommas Bluff Landfill to the south.

JFTA members are already adversely impacted not only by the constant stream of air pollution from the surrounding heavily trafficked highways, but also by the other surrounding industrial sources. For example, within a 1.5 mile radius of Respondent's site, the following existing industries currently emit harmful air pollutants: Martin Marietta/Miller Yard, Union Pacific Railroad/Miller Yard, and TAMKO Building Products, Inc. (a roofing company). All of these sources cause and/or contribute to the degradation of air quality, human health, and safety in the Joppa community. Respondent's unauthorized and unregulated operation adds to the existing adverse health impacts in Joppa.

JFTA requests the Commission reject or withhold the proposed Agreed Order and assess a more stringent penalty for the following reasons:

A. TCEQ has denied JFTA and the public their right to meaningfully participate in the enforcement agreement by failing to disclose critical public documents directly related to this case. The public cannot fully comment on the legitimacy of the minimal fine and agreed order.

a. TCEQ failed to collect and make public Respondent's operational logs.

The public has no access to the operational logs or substantial information concerning this matter because the TCEQ permit records online database do not contain these documents and TCEQ only requires permit-by-rule facilities to keep operational logs on site.¹⁹

¹⁹ Counsel conducted search records.tceq.texas.gov.

On July 14, 2023, LANWT submitted Public Information Requests to TCEQ for Respondent's operational logs covering the following dates upon which Respondent was observed illegally operating: June 15, July 6, July 12, and July 14, 2023.²⁰ On July 19, 2023, TCEQ declined to release information pursuant to LANWT's request, stating that the agency was "unable to locate any responsive information in the possession of the TCEQ concerning the above referenced request."²¹ TCEQ refused to provide the requested operational logs on the basis that TCEQ did not have the operational logs in its possession and was thus not required under the Texas Public Information Act to provide the requested logs. If TCEQ's statement that it did not have the operational logs in its possession is to be believed, **then the agency admitted that it did not review Respondent's operational logs when assessing the severity of Respondent's illegal operation.**

After LANWT requested TCEQ obtain the documents from Respondent and share them with the public through a public information request,²² TCEQ employee Patrick Yantis responded: "TCEQ does not have a process for members of the public to request third party documents that are not already within TCEQ's possession. If you are interested in accessing a company's records, you may try contacting the facility directly."²³ For good measure, LANWT contacted Respondent on August 16, 2023 to request these operational logs. To date, Respondent has not provided any documentation or correspondence containing these logs or stating their intention to provide these logs.

On December 15, 2023, LANWT submitted Public Information Requests to TCEQ for Respondent's operational logs covering from December 28, 2022 to December 15, 2023.²⁴ TCEQ again denied LANWT's request and requested an opinion from the Office of Attorney General. TCEQ's position on this matter violates the Texas State Implementation Plan (SIP) and Texas Public Information Act.²⁵ On January 9, 2023 LANWT representatives contacted Respondent's counsel to obtain the logs and has not received a reply.

Under statute, the appropriate number of Respondent's violations is equivalent to the number of days of Respondent's illegal operation.²⁶ TCEQ is authorized by statute to request operational logs from regulated entities like Respondent.²⁷ Therefore, to determine an appropriate penalty, it would be critical for TCEQ to know exactly how many days Respondent illegally operated. However, based on TCEQ's statement that the agency did not have those logs in its possession, TCEQ did not review those logs and thus did not actually determine how many violations occurred at Respondent's facility. Instead, according to the penalty calculation worksheet for Respondent's enforcement action, it is our understanding TCEQ merely **guessed** how many days Respondent

²⁰ See Attachment 12 and 13.

²¹ See Attachment 13.

²² See Attachment 12 and 13.

²³ *Id.*

²⁴ See Attachment 8.

²⁵ See e.g., TEX. GOV'T CODE § 552.002 (definition of public information).

²⁶ Tex. Water Code § 7.052(b).

²⁷ 30 Tex. Administrative Code § 106.8(b)-(c). It is important to note that since Respondent incorrectly claimed that its past operations were conducted under a permit by rule, Respondent should have (at the very least) maintained the necessary documents required under the incorrectly claimed PBR.

operated despite having authority to request logs that would provide the exact number of days.²⁸ TCEQ's failure to obtain the operational logs that would provide exact information on how many times Respondent violated the law by operating without proper permitting is yet another abject failure of the agency to regulate industry in Joppa and the state of Texas.

- b. *TCEQ failed to make Respondent's Financial Inability to Pay assessment and related documents publicly available.*

TCEQ also failed to provide documentation of Respondent's purported financial inability to pay assessed penalties.²⁹ In a letter dated October 23, 2023, counsel for Texas Star Ready Mix stated that the facility submitted information to TCEQ supporting the facility's claim of financial hardship after Texas Star Ready Mix representatives met with TCEQ staff on September 28, 2023.³⁰ LANWT submitted a public information request for these documents on December 15, 2023.³¹ TCEQ refused to provide the requested information.³²

TCEQ's failure to provide documentation of Respondent's financial hardship has two significant and detrimental impacts on Joppa and the public. First, without documentation of Respondent's inability to pay assessed penalties imposed for the facility's illegal operation, the public is unable to offer meaningful and informed comment on the appropriateness of TCEQ's proposed agreed enforcement order. As stated above, TCEQ must include public comments in consideration of enforcement related agreed orders. TCEQ's refusal to provide information upon which those comments may be made undercuts the public's ability to meaningfully comment.

Further, Texas Star Ready Mix's financial inability to pay the penalties assessed for the facility's own bad behavior and noncompliance is indicative of the facility's ability or inability to comply with the terms of the Standard Permit it seeks. At this time, the facility does not meet the requirements of the Standard Permit it seeks.³³ As has been established by the factual record in this matter, Respondent has not only been operating without proper permits, but the facility will require significant structural and mechanical alterations and improvements in order to qualify for the requested Standard Permit. In order to comply with the terms of the Standard Permit, the facility will need to ensure the following improvements to the site, though this list likely does not cover all necessary improvements:

- Paving entrances to the site;
- Constructing concrete barriers that rise above the site's stockpiles;
- Constructing concrete fences taller than ten feet; and
- Other upgrades to batching, mixing, and production equipment.³⁴

²⁸ See Attachment 9, page 44.

²⁹ See Attachments 1 and 8.

³⁰ See Attachment 15, Letter from Erich Birch, counsel for Texas Star Ready Mix, to Craig Pritzlaff, TCEQ Director of Office of Compliance and Enforcement at 2 (October 23, 2023).

³¹ See Attachment 8.

³² See Attachment 1.

³³ See Attachments 3 and 14.

³⁴ *Id.*

There is no doubt that the necessary upgrades to the facility will impose costs on Respondent. To date, TCEQ and Respondent have not offered any information indicating that Respondent is financially able to upgrade the facility to meet operational standards required under applicable state and federal laws and regulations. Instead, the only information available from Respondent is its own assertion that it cannot afford to pay the penalties it accrued from its own illegal operation.³⁵

The cost to ensure that Texas Star Ready Mix's facility complies with all applicable laws and regulations requires the facility to spend money that it claims it does not have.

If Respondent does not have the financial ability to pay its penalties, then it also likely does not have the funds to upgrade its facility to comply with the Standard Permit it seeks. If Respondent does have funds to upgrade the facility, then it likely has the funds to pay the penalties it has accrued. However, without the requested financial documentation, there is no way for the Joppa community to know which conclusion holds true.

Given the facility's historical inability to comply with applicable laws and regulations and the TCEQ's reluctance to enforce such laws and regulations, the Joppa community and the public have legitimate concerns and doubts as to whether Texas Star Ready Mix will be capable of complying with the terms of the Standard Permit (if it is granted) and whether TCEQ will actually enforce the terms of the Standard Permit should or when Texas Star Ready Mix fail to meet them.

c. Synopsis

TCEQ's combined failures are new facts and considerations that indicate the consent to this agreement is improper, inadequate, and inconsistent with the requirements of the statutes and rules within the Commission's jurisdiction.³⁶ In failing to provide the operating logs and financial inability to pay documents, TCEQ also impedes, without legal justification, the public's right to meaningfully comment on the proposed enforcement action.³⁷ The public cannot exercise its right to comment on proposed agreed orders without proper information to do so, let alone without information that by statute should be public information. TCEQ's failure to release these documents is not surprising given the agency's complicity in Respondent's continuous illegal operation, however, TCEQ has taken that complicity one step further by attempting to shield itself from public accountability for its failure to regulate Texas Star Ready Mix. The agency's attempt at hiding public information is just another illustration of the agency's unwillingness to properly regulate industry in the state of Texas, and it is communities like Joppa that face the consequences.

Failing to make these documents public shields the agency from any oversight regarding how the agency calculated the penalty of the proposed Agreed Order. TCEQ's lack of disclosure also makes it impossible for the public to review if the Proposed Agreed Order meets the standards of the Texas Water Code.³⁸ TCEQ must include public comments in consideration of enforcement related

³⁵ See Attachment 6.

³⁶ Tex. Water Code § 7.075.

³⁷ *Id.*

³⁸ Tex. Water Code § 7.053.

agreed orders and these actions functionally deny the public of their right to comment on this agreement.³⁹ TCEQ's combined failures are new facts and considerations that indicate the consent to this agreement is improper, inadequate, and inconsistent with the requirements of the statutes and rules within the Commission's jurisdiction.⁴⁰

B. TCEQ failed to correctly assess Respondent's penalty and fine.

TCEQ can and should fine Respondent \$10,000 each day they operated an unauthorized concrete batch plant.⁴¹ In TCEQ's penalty calculation worksheet violations events section, they determined 278 violation days. However, TCEQ stated "ten monthly events are recommended from November 4, 2022 non-compliance date to the August 9, 2023 date the concrete batch plant temporarily ceased operations."⁴² TCEQ only assessing ten days of violations over a total 278 days timeframe without verifiable documentation being provided to the public for review is absurd.⁴³ TCEQ still should at the very least use this calculation to penalize Respondent \$100,000 at minimum.⁴⁴ Also, TCEQ has shielded Respondent from further penalties by failing to utilize Respondent's operational logs in determining the number of violations.⁴⁵ These logs would provide evidence of Respondent's unauthorized operations.

Respondent's abject history of non-compliance requires a higher fine.⁴⁶ At a public meeting held on August 17, 2023, Respondent admitted, in front of TCEQ staff and the Joppa community, that it operates ten to fifteen trucks per day from the unauthorized standard concrete batch plant.⁴⁷ Respondent's counsel admitted this site has potentially been in non-compliance for years, stating that Respondent "operated under the same apparent authorization as the previous owners[.]" JFTA representatives witnessed Respondent operating without a permit several times.⁴⁸ Respondent and TCEQ are withholding from the public operational logs which would reveal the exact number of days Respondent operated without authorization and regulatory oversight.⁴⁹ TCEQ's penalty of \$3,600 fails to meet the requisite penalty of \$10,000 per day for this type of violation. The minimal penalty does not deter operators like Respondent from illegally operating and harming the health and safety of residents in communities like Joppa.

Additionally, TCEQ failed to follow the factors to be considered in determination of penalty amount. As described previously, TCEQ limited JFTA and the public from evaluating all pertinent

³⁹ Tex. Water Code § 7.075.

⁴⁰ *Id.*

⁴¹ Tex. Water Code § 7.053. The Texas Water Code specifically contains a provision where the fine for illegally operating a standard concrete batch plant is \$10,000 per day, not up to \$10,000 per day.

⁴² See Attachment 9, page 42.

⁴³ See Attachments 1 and 8.

⁴⁴ See Attachment 9; Tex. Water Code § 7.053.

⁴⁵ See Attachments 1, 8, 12, and 13.

⁴⁶ See Attachments 3, 9, 11, 14, and 16; Tex. Water Code § 7.053; Tex. Water Code § 7.072.

⁴⁷ TCEQ Public Meeting – Permit No. 171636- Air NSR, August 17, 2023, Texas Star Ready Mix, Oral Comments, at 36:30 available at <https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.MoreIPResults&StartRow=11&EndRow=15&Step=5&requesttimeout=5000>.

⁴⁸ See Attachment 14.

⁴⁹ See Attachments 1, 8, 12, and 13.

public information by denying access to Respondent's operational logs and TCEQ's financial inability to pay assessment. However, even with limited available documentation, JFTA still asserts that TCEQ still failed to correctly assess Respondent's penalty.

- a. *TCEQ did not properly assess the penalty in relation to the hazard created for health of safety of the public.*

TCEQ failed to disclose any assessment of this factor.⁵⁰ Respondent adversely impacted Joppa community members through their unauthorized operations and increase of air pollutants from emissions which likely included, but may not be limited to: particulate matter (PM), particulate matter with diameters of 10 microns or less (PM₁₀), and particulate matter of 2.5 microns or less (PM_{2.5}). Particulate matter is a dangerous pollutant made up of microscopic solids or liquid droplets so small they can be inhaled and penetrate the lungs and even enter the bloodstream, causing serious and long-lasting health problems.⁵¹ The increase in unauthorized air pollution emissions endangered the health and safety of Joppa community members and impacted their use and enjoyment of their property and residential areas like Joppa Preserve trails.

- b. *TCEQ did not properly assess the penalty in relation to the impact of the continuing violations on air quality in the region.*

TCEQ failed to disclose any assessment of this factor.⁵² Respondent continually violated air quality regulations in the region and even requested to continue operating without a permit. The Environmental Protection Agency's ("EPA") concerns for air quality in this community led them to conduct a study related to concrete batching in Joppa.⁵³ However, without proper permit authorization, it is currently unclear whether facilities, like Respondent's, will be accurately analyzed within the study. By failing to regulate and deter illegally operating industries like Respondent through enforcement penalties, TCEQ harms communities like Joppa.

- c. *TCEQ did not properly assess the penalty in relation to Respondent's history and extent of previous violations, degree of culpability and anticipation of the violation, or lack of good faith in rectifying the unauthorized action.*

TCEQ failed to adjust any penalty calculation under the culpability criteria.⁵⁴ Instead, despite Respondent's patterned non-compliance, TCEQ incorrectly provided an additional settlement deferral option of \$6,000.⁵⁵ Respondent continued to operate without a permit for months despite knowing they had no permit authorization.⁵⁶ Respondent admitted to filling ten to fifteen trucks a

⁵⁰ See Attachment 9.

⁵¹ U.S. EPA, Particulate Matter (PM) Basics, available at: <https://www.epa.gov/pm-pollution/particulate-matter-pm-basics#:~:text=PM%20stands%20for%20particulate%20matter,seen%20with%20the%20naked%20eye>.

⁵² See Attachment 9.

⁵³ U.S. EPA, Fact Sheet Dallas Cumulative Impacts Assessment, available at: <https://www.dallascitynews.net/wp-content/uploads/2023/11/Fact-Sheet-Dallas-CIA.pdf>.

⁵⁴ See Attachment 9.

⁵⁵ *Id.* at page 40.

⁵⁶ See Attachments 3, 9, 11, and 14.

day on site without a permit during a TCEQ public meeting in August 2023.⁵⁷ Even during the negotiations for this order, Respondent continued to request to operate without a permit while the application is pending.⁵⁸ Respondent's legal counsel stated that this site has operated this way far before Respondent's ownership, potentially into the previous decade.⁵⁹ The site also is under another high-level enforcement action for failing to disclose documents related to water quality.⁶⁰ TCEQ should have considered these levels of violations, culpability, and bad faith actions of Respondent.⁶¹ These examples should prove Respondent's high level of culpability and history of patterned non-compliance and TCEQ failed to include this in the penalty calculation.⁶²

Finally, JFTA is not aware of any Respondent actions to rectify or compensate the community for these unauthorized operations. TCEQ also failed to provide any documentation for efforts to create a supplemental environmental project. The community should receive compensation for these unauthorized operations through the form of a supplemental environmental project.

d. TCEQ did not properly assess the penalty in relation to Respondent's economic benefit gained through violation.

TCEQ incorrectly assessed that Respondent's non-compliance resulted in a mere \$334 of economic benefit.⁶³ The previous sections highlight Respondent's unauthorized operations and TCEQ failed to assess how much financially Respondent made from these operations. Texas Star Ready Mix even admitted to operating without a permit and filling ten to fifteen trucks a day on site during a TCEQ public meeting.⁶⁴ Despite extensive public health and environmental justice concerns in the Joppa area, the Respondent continually gained an immense economic benefit each day they knowingly operated without proper authorization and oversight. TCEQ's \$3,600 fine fails to correctly weigh the enormous economic gain of Respondent's unauthorized actions at the public's expense.

e. TCEQ did not properly assess the penalty in relation to the amount necessary to deter future violations.

TCEQ's \$3,600 fine paid at \$100 a month does not deter future violations. In fact, this type of fine enables non-compliance by making it more financially beneficial to operate illegally. This fine assessment is a failure of TCEQ's requirement to assess a penalty that deters future violations.

⁵⁷ TCEQ Public Meeting – Permit No. 171636- Air NSR, August 17, 2023, Texas Star Ready Mix, Oral Comments, at 36:30 available at <https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.MoreIPResults&StartRow=11&EndRow=15&Step=5&requesttimeout=5000>.

⁵⁸ See Attachment 15.

⁵⁹ *Id.*

⁶⁰ See Attachment 16.

⁶¹ See Attachment 3, 9 and 11; 30 Tex. Water Code § 7.053; Tex. Health and Safety Code § 382.0518.

⁶² *Id.*

⁶³ See Attachment 9 at page 40.

⁶⁴ See, TCEQ Public Meeting – Permit No. 171636- Air NSR, August 17, 2023, Texas Star Ready Mix, Oral Comments, at 36:30 available at <https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.MoreIPResults&StartRow=11&EndRow=15&Step=5&requesttimeout=5000>.

Considering Respondent's numerous examples of non-compliance, TCEQ should assess the \$10,000 penalty per day of illegal operations to deter future violations.⁶⁵

B. Applicant's site is still under review for a water quality enforcement action, 2021-1518-WQ-E. TCEQ should consider this additional high-level enforcement action in Respondent's penalty calculation. TCEQ cannot assess the penalty in Proposed Agreed Order correctly until TCEQ reviews this action, determines the entity responsible for the enforcement action, and determines if the site is currently in compliance.

TCEQ failed to provide 2021-1518-WQ-E current enforcement case regarding RN 102390051 as an additional issue in the Proposed Agreed Order.⁶⁶ TCEQ should take additional high-level enforcement actions into consideration at Respondent's site in the Proposed Agreed Order.

On August 13, 2021, Texas Star Ready Mix began as owner operator for RN102390051 and CN 605903574.⁶⁷ Over three weeks later on September 7, 2021, TCEQ investigated and found violations against previous owner, Pro-Crete, for several Texas Water Code issues.⁶⁸

On November 5, 2021, TCEQ submitted a letter to Pro-Crete regarding violations of Texas Water Code and Commission Rules and assessed an administrative penalty of \$11,250.⁶⁹ On January 27, 2023, TCEQ submitted a proposed agreed order to Pro-Crete.⁷⁰

On July 7, 2023, Harley Hobson, the TCEQ Water Quality enforcement official reviewing 2021-1518-WQ-E, stated that the owner/operator did not sign the proposed agreed order. She also stated that she is still researching if Pro-Crete and Applicant are the same entity.

Since the proposed agreed order is not signed and the enforcement case is still active, the public cannot be sure that Applicant or Pro-Crete have conducted any required, corrective action from 2021-1518-WQ-E.

⁶⁵ See Attachments 3, 11, and 14; Tex. Water Code § 7.052(b).

⁶⁶ See TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 8, Section V. Project Information B. Enforcement Projects.

⁶⁷ Counsel conducted search

https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=affil.showSingleAffil&affil_id=100558352021173.

⁶⁸ See Attachment 16 - Proposed Agreed Order "During a record review conducted for the Plant on September 7, 2021, an investigator documented that the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112472, Part III, Section A, Permit Requirements Nos. 1, 2, and 5; and Part IV, Standard Permit Conditions No. 7.f. Specifically, the monthly conventional pollutants discharge monitoring reports ("DMRs") were not submitted, for the monthly monitoring periods of April 2019, December 2020, and January 2021 by the 20th day of the following month. Additionally, the annual hazardous metals DMRs and whole effluent toxicity ("WET") testing for water flea and fathead minnow DMRs were not submitted for the annual monitoring period of 2020 by March 31st of the following year."

⁶⁹ See Attachment 16 - Proposed Agreed Order "An administrative penalty in the amount of \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,000 of the penalty and \$2,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order."

⁷⁰ See Attachment 16.

Furthermore, the actual owner/operator responsible for this enforcement action remains unclear. TCEQ listed Applicant, Texas Star Ready Mix, as owner/operator about three weeks before the 2021-1518-WQ-E site investigation. Texas Star Ready Mix also has matching names of three previous operator names on site of RN 102390051 at 4500 Great Trinity Forest Way, Dallas, TX including: Beall Concrete Enterprises, C-N-T Redi Mix, and Redi-Mix Dallas.⁷¹

JFTA requests an investigation into the owner/operator at the time of the 2021-1518-WQ-E and whether or not Applicant should be the responsible party. JFTA also requests TCEQ to investigate if the site is currently in compliance from the violations found in 2021-1518-WQ-E. Until these investigations are complete and made available for public review as part of this Proposed Agreed Order and public participation process, JFTA requests the Commission withdraw or withhold the Proposed Agreed Order.

C. In the Proposed Agreed Order, TCEQ fails to take into account the impact on the community from cumulative risks of other industrial activity in the area.⁷²

In Joppa, numerous industrial sites contribute to the cumulative air quality risks in the area including Martin Marietta/Miller Yard, Union Pacific Railroad/Miller Yard, and TAMKO Building Products, Inc. (a roofing company). The community recently dealt with the adverse impacts from a train derailment with delayed clean up.⁷³ Highways 310 and I-35 and a landfill also border the neighborhood. Joppa shouldn't have to also bear the additional heavy burden caused by willful industrial non-compliance like Respondent's.

TCEQ has an affirmative duty to consider the cumulative emissions from all of the industrial operators in Joppa when considering the Proposed Agreed Order and how Respondent's unpermitted operations negatively impacted human health and the environment.

In Joppa, there are numerous additional sources of particulate and other pollution in close proximity to Respondent's site; therefore, the TCEQ must consider the cumulative risks from those nearby industrial sources of air pollution in determining whether Respondent's unpermitted additional emissions had an even more negative impact on human health and the environment.

⁷¹ Counsel conducted search

https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=priorNames.priorNameList&denormalized_id=543676892002150&name_typ=REG_ENT (last visited January 11, 2024).

⁷² See Attachment 9; "The commission shall: (1) develop and implement policies, by specific environmental media, to protect the public from cumulative risks in areas of concentrated operations; and (2) give priority to monitoring and enforcement in areas in which regulated facilities are concentrated." Tex. Water Code § 5.130.

⁷³ Dallas Morning News, July 25, 2022. <https://www.dallasnews.com/news/environment/2022/07/25/union-pacific-begins-cleanup-11-days-after-train-derailment-in-joppa/>.

D. In the Proposed Agreed Order, TCEQ fails to consider the adverse impacts of the unpermitted operations to the surrounding environmental justice community in violation of Executive Order 12898.

Executive Order 12898 requires each federal agency to conduct its programs, policies and activities that substantially affect human health and the environment, in a manner that ensures that those programs, policies and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, national origin or income level.⁷⁴

With respect to the approval of enforcement agreements, Executive Order 12898 requires federal agencies (or any local government or governmental agency in receipt of federal funding from source such as the EPA) to evaluate its actions for disproportionately high and adverse effects on minority or low-income populations and to find ways to avoid or minimize these adverse impacts where possible.

To trigger Executive Order 12898, the effects of the project must be both adverse, and affect a low-income minority population more so than it would the general public. Adverse effects that appreciably put a minority or low-income population at an increase health risk or appreciably affect their physical or economic wellbeing will trigger Executive Order 12898.

This proposed Agreed Order and Respondent's pending permit decision triggers Executive Order 12898 because of the well-known adverse effects of particulate pollution on human health and safety and the siting of the facility in a predominately low-income and minority neighborhood. The Joppa community, especially the area immediately adjacent to and surrounding the Respondent's site, is comprised of mostly low-income, minority households. The population within a 1-mile radius of the site is 96% people of color, 95% low-income and 59% linguistically isolated.⁷⁵ The community has been historically disproportionately impacted by environmental injustices. As such, they have an acute and urgent interest in reducing harmful air pollutants in their neighborhoods that adversely impact respiratory health.

The Joppa neighborhood to the north of Respondent's site is a predominantly low income, minority neighborhood compared to other neighborhoods in the City of Dallas and State of Texas. This status, combined with the concentration and proliferation of industrial sources of pollution, easily meets the definition of an environmental justice community. This is exactly the kind of community that Executive Order 12898 was designed to address. A decision to approve this Proposed Agreed Order furthers the TCEQ pattern of allowing companies to pollute in predominantly minority communities with minimal oversight, enforcement or penalty. Pollution in this neighborhood has adverse impacts on the health of the people living there, and further solidifies a broader history of environmental inequity that continues to threaten the environment and public health in low-income and minority communities across Texas. The TCEQ must, at the very least, examine those effects before making this decision.

⁷⁴ Exec. Order No. 12898, 59 Fed. Reg. 7629 (1994).

⁷⁵ U.S. EPA, EJSCREEN Demographic Indicators, available at: <https://ejscreen.epa.gov>.

III. Conclusion

JFTA's comment discloses facts and considerations that indicate that consent to this Proposed Agreed Order is inappropriate, improper, inadequate, and inconsistent with the requirements of the statutes and rules within the Commission's jurisdiction or the Commission's orders and permits issued in accordance with the Commission's regulatory authority. Therefore, JFTA urges the Commission to reject or withhold the approval of the Proposed Agreed Order and believes this is warranted based on the information already available.

Respectfully submitted,

Michael Bates



Wendi Hammond



Haley Varnadoe



Counsel for JFTA – Joppa Freedmans Town Association (JFTA)

ATTACHMENT 1
24-89784 10 DAY REQUESTOR COPY

**Re: Part 2 of 2, Public Comments, Pending Agreed Order and Enforcement Action
– TCEQ Case Number 63326, Docket Number: 2022-1557-AIR-E, Texas Star
Ready Mix, LLC located at 4500 Great Trinity Forest Way, Dallas, Texas
75082 regarding Proposed Agreed Order.**

On behalf of its client, Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) submits in the above named and numbered matter the following:

- public comments.

All contact with JFTA and its members regarding this matter should be through its legal counsel:

Michael Bates, Staff Attorney
phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

Wendi Hammond, Staff Attorney
phone: (469) 917-5970 Ext. 8903
email: hammondw@lanwt.org

Haley Varnadoe, Staff Attorney
phone: (817) 882-1001 Ex. 8921
email: varnadoeh@lanwt.org

Legal Aid of NorthWest Texas
400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

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JAN 11 2024

DFW Region-4

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 3, 2024

The Honorable Ken Paxton
Office of the Attorney General
Open Records Division
Price Daniel Sr. Building, 6th Floor
209 W. 14th Street
Austin, Texas 78701

Attention: Tamara Smith, Division Chief, Open Records Division

Re: Request for Attorney General Decision
Public Information Act Request Regarding Texas Star Ready Mix, LLC
TCEQ PIR No. 24-89784

Dear Attorney General Paxton:

The Texas Commission on Environmental Quality (TCEQ) received a Public Information Act (PIA) request for information regarding Texas Star Ready Mix, LLC (Attachment A). This PIA request (PIR) was made by Michael Bates on December 15, 2023, and was received by TCEQ the same day. TCEQ was closed on December 25, 2023, and December 26, 2023, in observance of the Christmas holiday. TCEQ was closed on January 1, 2024, in observance of New Year's Day. Therefore, the tenth business day after receipt of the request is January 3, 2024.

TCEQ has provided the requestor with information TCEQ believes to be public. Other information, which TCEQ believes to be excepted from disclosure under the PIA, has not been released to the requestor. TCEQ has identified responsive information that involves the privacy or property interests of a third party, which TCEQ has declined to release for the purpose of requesting an attorney general decision. Pursuant to Texas Government Code § 552.301(d)(1), the requestor was notified on this day by copy of this letter that TCEQ has withheld a portion of the requested information and requested an attorney general decision about whether the information is excepted from public disclosure (see courtesy copies listed in closing). In accordance with Tex. Gov't Code §§ 552.301 and 552.305, TCEQ requests a formal opinion on this matter.

TCEQ claims the following exceptions to disclosure: Tex. Gov't Code §§ 552.101-552.162.

The fifteenth business day from the date of receipt of the request is January 10, 2024. In accordance with Tex. Gov't Code §§ 552.301(c) and 552.305(d), TCEQ will submit to the Office of the Attorney General by January 10, 2024, a packet of information containing the following: (1) written comments stating the reasons why the exceptions stated in this letter apply; (2) a copy of the written request for information; and (3) copies or representative samples of the specific information requested, labeled to indicate which exceptions apply to which parts of the copy.

In accordance with Tex. Gov't Code § 552.305(d), on January 3, 2024, TCEQ notified Texas Star Ready Mix, LLC of this request for an attorney general decision and made available the third party documents that TCEQ will submit to the Office of the Attorney General (See Attachment B).

The Honorable Ken Paxton
Request of Michael Bates
TCEQ PIR No. 24-89784
January 3, 2024
page 2

I appreciate your response to this request. If you have any questions about this matter, please contact Casey Kurnath, Staff Attorney, Litigation Division, Office of Legal Services, at Casey.Kurnath@tceq.texas.gov.

Sincerely,



Elizabeth Cater, Public Information Counsel
General Law Division, Office of Legal Services
Texas Commission on Environmental Quality
Elizabeth.Cater@tceq.texas.gov

Enclosures

cc: Michael Bates, *via e-mail* (without attachments)
Erich Burch, *via email* (without attachments)
Hana Alsarabi, *via email* (without attachments)

ATTACHMENT 2
FOLLOW-UP: TEXAS STAR READY MIX, LLC; CASE NO. 63326; DOCKET NO.
2022-1557-AIR-E 9.29.2023 REDACTED

From: Amy Settemayer
To: Erich Birch; [REDACTED]
Cc: Michael Delacruz; Yuliva Dunaway; Craig Pritzdoff
Subject: Follow-up: Texas Star Ready Mix, LLC; Case No. 63326; Docket No. 2022-1557-AIR-E
Date: Friday, September 29, 2023 1:29:43 PM
Attachments: IRS Form 8821.pdf
Instructions for IRS form 8821.pdf
IRS Form 4506.pdf
TCEQ Instructions for IRS Forms 8821 and 4506.pdf
Schedule of Indebtedness.pdf
Disclosure Form.pdf
image001.png
Importance: High

Good afternoon Mr. Albelbaisi,

During our meeting yesterday, the financial inability to pay process was discussed and I committed to providing you the information necessary for the TCEQ to conduct an analysis regarding your ability to pay the administrative penalties. If you choose to do so, please provide the following information so that TCEQ staff can perform the analysis.

By October 13, 2023, please provide directly to this office the information for the corporation:

1. Completed disclosure forms, IRS Forms 8821 and 4506 (enclosed). The tax form numbers and tax periods requested on Form 4506 must correspond with the returns submitted in Item 2 below. A cover page is attached with instructions on how to complete for TCEQ purposes;
2. Completed and signed federal corporate income tax returns, including all schedules, forms, and attachments, for the last three (3) filing years. If the returns are copies without signature(s), please sign them;
3. Financial statements prepared in accordance with generally accepted accounting principles for the last three (3) years and most current monthly or quarterly period. The financial statements should include balance sheets, income statements, cash flow statements, and notes to the financial statements. Provide audited statements if they have been prepared;
4. Completed copies of quarterly reports filed with the Texas Workforce Commission for the four (4) quarters of the most recently completed fiscal year and the completed quarters-to-date for the current year;
5. Completed Schedule of Indebtedness (enclosed) for all presently outstanding loans;
6. Copies of the note agreements for each outstanding loan;
7. Completed "Disclosure Form - Corporate/Partnership" (enclosed) for each financial institution with which the company has a loan(s) or deposit account(s);
8. Copies of the most recent three (3) months bank statements for each account;
9. A written schedule identifying corporate officers and each officer's total annual remuneration for the last three (3) years. Remuneration includes, but is not limited to, salary, wages, dividends, loans, vehicle allowances, bonuses, deferred compensation, stock options, life insurance, profit-sharing, and retirement account contributions;
10. A written schedule identifying shareholders of the company's voting stock. List the number of shares held, by shareholder, and the dollar value;
11. A written schedule identifying corporate affiliates that the company has an ownership interest in or that have an ownership interest in the company;
12. Copies of all signed lease agreements to which the company is a party as lessor or lessee;

13. A list of company vehicles, including make, model, year, purchase date, purchase price, vehicle use, and primary driver; and
14. A written statement explaining the financial reasons for the corporation's claim of inability to pay the full amount of the penalty, and an explanation of the amount that can be paid. The statement should consider but is not limited to the following: cash flow ability, short-term deferral of capital expenditures, ability to reduce expenses, borrowing capacity, existing liquid assets, and liquidation of or borrowing against non-essential assets.

This request may not represent an all-inclusive document request as review of the information above may necessitate a request for additional documents.

Failure to submit the requested documents by October 13, 2023 will forfeit your opportunity for financial review. Consequently, financial impairment will not be considered for settlement purposes. Partial or incomplete submissions of information will be treated as nonresponsive.

The documentation specified above should be submitted to:

Ms. Yuliya Dunaway, Enforcement Coordinator
Air Enforcement Section, MC R13
Enforcement Division
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

Additionally, you inquired whether **payment plans** were available should you choose to settle the case. We do have payment plans available. The overall length of the payment plan can vary but pursuant to 30 Texas Administrative Code §70.9, they can be no more than 36 months. If you were to decide to settle with a 36-month payment plan, your initial payment would be \$690 and the payment for the remaining 35-months would be \$666.

Although it is our desire to resolve this matter sooner, the official settlement deadline is November 7, 2023. If we do not receive settlement, or you do not timely submit your financial inability to pay documentation, we may forward your case to the TCEQ's Litigation Division and the original settlement offer, including the penalty deferral, will no longer be available.

If you have any other questions or concerns regarding the information in this email, please do not hesitate to call me at (512) 239-2588 or send me an email at

██████████ Thank you for your prompt attention to this matter.

Sincerely,

Amy Settemeyer
(512) 239-2588
Deputy Director
Enforcement Division

ATTACHMENT 3
PIR1 R4 89784

AIR CP_111648234_CP_20230829_Investigation_1924559_

**Texas Commission on Environmental Quality
Investigation Report**

The TCEQ is committed to accessibility. If you need assistance in accessing this document, please contact oce@tceq.texas.gov

**Customer: Texas Star Ready Mix, LLC
Customer Number: CN605903574**

Regulated Entity Name: TEXAS STAR READY MIX CBP SN 78043

Regulated Entity Number: RN11648234

Investigation # 1924559 **Incident Numbers**
Investigator: ADAM MASON **Site Classification** MINOR SOURCE
Conducted: 08/29/2023 -- 08/29/2023 **SIC Code:** 3273
Program(s): AIR NEW SOURCE PERMITS
Investigation Type: Compliance Investigation **Location:**
Additional ID(s): 171636

Address: 4500 GREAT TRINITY FOREST
WAY,
DALLAS, TX , 75216

Local Unit: REGION 04 - DFW METROPLEX
Activity Type(s): AIRFIOS - AIR AIRFIOS - ONSITE
FOLLOW UP INV

Principal(s):

Role	Name
RESPONDENT	TEXAS STAR READY MIX LLC

RECEIVED

OCT 05 2023

Contact(s):

REG. CENTRAL FILE ROOM

Role	Title	Name	Phone
REGULATED ENTITY CONTACT	OWNER	EYAD ALBELBAISI	Cell [REDACTED] Phone (214) 475-5095
NOE CONTACT	MANAGER	MS Hana Alsarabi	Cell [REDACTED]

Other Staff Member(s):

Role	Name
QA Reviewer	ELIZABETH SMITH
Investigator	ANSLEY HAMID
Supervisor	KIMBERLI FOWLER
Investigator	ASHLEIGH HADDOCK

Associated Check List

Checklist Name	Unit Name
AIR GENERIC INVESTIGATION (10 ITEMS)	AIRFI

Investigation Comments:

Introduction:

On August 29, 2023, Mr. Adam Mason, Ms. Ansley Hamid, and Ms. Ashleigh Haddock, Environmental Investigators (Investigators) of the Texas Commission on Environmental Quality (TCEQ), Dallas/Fort Worth

TEXAS STAR READY MIX CBP SN 78043 - DALLAS

8/29/2023 Inv. # - 1924559

Page 2 of 4

(DFW) Region Office, Air Section, Compliance Team conducted an Air Quality Onsite Follow Up Investigation (AIRFIOS) at Texas Star Ready Mix (Facility) located at 4500 Great Trinity Forest Way, Dallas, Dallas County, Texas.

This investigation reviewed current activities at the facility following an investigation conducted by the Dallas Local Air Program (LAP) on August 9, 2023, Investigation Number 1924451, and statements made by company representatives during a Public Meeting held on August 17, 2023, where representatives stated that the facility was still operating without authorization. The facility operates under Registration number 39039 which is for Permit by Rule (PBR) 30 Texas Administration Code (TAC) 106.144 for Bulk Mineral Handling. The current registration for bulk mineral handling does not authorize a concrete batch plant. A Notice of Enforcement Letter was sent to the facility on October 12, 2022, and the order is pending.

Mr. Eyad Albelbaisi is the Regulated Entity (RE) mail contact and participated in this investigation.

Daily Narrative

On August 29, 2023, the investigators arrived near the site at approximately 11:44 AM and took weather readings. The temperature was approximately 83.6 degrees Fahrenheit with 51.8% humidity. The wind was approximately 0.9 to 2 Miles per Hour (MPH) from the west southwest and a partly cloudy sky. While onsite the investigators noted that the facility appeared to be shut down. The investigators observed the batch plant for approximately 20 minutes and did not note any equipment in operation. Activities were ongoing onsite such as truck maintenance, but the concrete batch plant was not operating.

After arriving on site, the investigators spoke to Mr. Albelbaisi about the scope and purpose of the investigation. The investigator asked when the last time the concrete batch plant was in operation. Mr. Albelbaisi stated that he stopped operating the facility approximately two weeks ago on August 9, 2023, following the investigation by the Dallas LAP.

The investigator provided an exit interview form documenting an alleged ongoing violation for unauthorized operation up to August 9, 2023. Mr. Mason also explained that this continuing violation will be referred to enforcement. This violation is considered Category A2.d in accordance with the EIC, Revision 17, and classified as major. The investigators left the site at approximately 12:55 PM.

Exit Interview:

Mr. Mason informed Mr. Albelbaisi of the results of the investigation on August 29, 2023, and provided him an exit interview form while onsite.

GENERAL FACILITY AND PROCESS INFORMATION:

Process Description

The facility operates as a concrete batch plant and performs batch mixing. Concrete trucks are loaded onsite and mixes onsite prior to leaving the facility property line.

BACKGROUND:

Compliance History:

RE Name: TEXAS STAR READY MIX RN: 111648234
Classification: UNCLASSIFIED Rating: 0 Publication Date: Aug 29, 2023
Customer Name TEXAS STAR READY MIX LLC CN: 605903574
Classification: UNCLASSIFIED Rating: 0 Publication Date: Aug 29, 2023

Agreed Orders, Court Orders, and Other Compliance Agreements:

A Notice of Enforcement dated October 12, 2022, was sent to the facility for failure to obtain authorization prior to the operation of the concrete batch plant. Order 2022-1557-AIR-E is pending.

Prior Enforcement Issues:

A Notice of Enforcement dated October 12, 2022, was sent to the facility for failure to obtain authorization prior to the operation of the concrete batch plant.

Complaints:

None in the last two years.

TEXAS STAR READY MIX CBP SN 78043 - DALLAS

8/29/2023 Inv. # - 1924559

Page 3 of 4

Conclusions, Recommendations and Current Enforcement Actions:

One violation was noted during this investigation for continued operation without authorization. A Notice of Enforcement Letter will be sent.

Additional Issues:

None.

NOE Date: 9/1/2023

**OUTSTANDING ALLEGED VIOLATION(S)
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

Track Number: 856144

Compliance Due Date: To Be Determined

Violation Start Date: 11/4/2022

30 TAC Chapter 116.110(a)

5C THSC Chapter 382.0518(a)

5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1924559

Comment Date: 08/31/2023

Failure to obtain authorization prior to the construction and operation of a concrete batch plant. Specifically, during an investigation conducted on August 29, 2023, it was noted that the facility constructed and operated a concrete batch plant without authorization up to August 9, 2023.

Recommended Corrective Action: Obtain authorization prior to the construction and operation of a concrete batch plant.

Signed Adam M. Mason
Environmental Investigator

Date 9/1/2023

Signed David K. C.
Supervisor

Date 9/1/2023

TEXAS STAR READY MIX CBP SN 78043 - DALLAS

8/29/2023 Inv. # - 1924559

Page 4 of 4

Attachments: (in order of final report submittal)

☐ Enforcement Action Request (EAR)

☒ Letter to Facility (specify type): ME

☐ Investigation Report

☐ Sample Analysis Results

☐ Manifests

☐ Notice of Registration

☐ Maps, Plans, Sketches

☐ Photographs

☐ Correspondence from the facility

☒ Other (specify):

Exit Interview

TCEQ

DFW Region



Attachment 1 Exit Interview

**TEXAS STAR READY MIX CBP SN 78043 – RN111648234
Texas Star Ready Mix, LLC – CN605903574**

**Investigation No.: 1924559
Investigation Date: August 29, 2023
Investigator: Adam Mason
Pages: 2**

TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested					
Regulated Entity/Site Name <i>Texas Star Ready Mix</i>			TCEQ Add. ID No. RN No. (optional) <i>RN110290051</i>		
Investigation Type		Contact Made In-House (Y/N)	Purpose of Investigation <i>Follow up</i>		
Regulated Entity Contact		Telephone No.	Date Contacted <i>8-29-2023</i>		
Title		Fax No.	Date Faxed		

NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated by telephone to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request: Identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation Issues: include the rule in question with the clearly described potential problem. Other type of issues: fully describe.			
No.	Type ¹	Rule Citation (if known)	Description of Issue		
1	PV		<i>Unauthorized operation</i>		

¹Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (company) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, document will be faxed to regulated entity; therefore, signature not required.

<i>[Signature]</i>	<i>8-29-23</i>	<i>[Signature]</i>	<i>8-29-23</i>
Investigator Name (Signed & Printed)	Date	Regulated Entity Representative Name (Signed & Printed)	Date

If you have questions about any information on this form, please contact your local TCEQ Regional Office. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, call 512-239-3282.

White Copy: Regulated Entity Representative TCEQ-2005 (Rev. 6/07) Yellow Copy: TCEQ (Note: Use additional pages as necessary) Page ____ of ____

See note: Who Fills out the EAR? u

Enforcement Action Referral Rev. 3/18/2002	Inv. #	1924559	Initiated by: Region, LP, Central:	Region
	Enf Case		Name of Initiating Office:	REGION 04 - DFW METROPLEX
	Media Code:	AQ		

Section 1: Respondent

ID	CN605903574		Role	RESP PARTY
Name	TEXAS STAR READY MIX LLC			
Mailing Address	Street/PO Box	4500 GREAT TRINITY FOREST WAY		
	City/State/Zip	DALLAS, TX 75216-5019		
	Phone	(214) 475-5095	Fax	
Primary Contact (NOE Contact)				
Name	HANA ALSARABI		Organization	TEXAS STAR READY MIX LLC
Title	MANAGER		Phone	(214) 475-5095
			Fax	

Section 2: Respondent's Facility/Operation (F/O)

F/O ID	RN111648234		
F/O Name	TEXAS STAR READY MIX CBP SN 78043		
F/O Physical Address	4500 GREAT TRINITY FOREST WAY		
Location City	DALLAS	Location Zip	75216
Location County	DALLAS	Operational Status	Active
Primary Business Activity	Concrete Batch Plant	Type of Small Entity	Small Business
SNC or HPV?	N/A	SIC Code	3273
Potentially Affected Area	N/A	Complaints Closed	0
List any NOV's? Orders for same or similar violations at this F/O in the past 5 years.	VTN 825200 - ORDER 2022-1557-AIR-E		
Additional IDs	171636		

Section 3: Summary of Violations

See note: Inclusion of Resolved or Verbal Violations u

Viol Num	Requirements Cited Violation Description	Violation Dates		Investigation/ File Review	Date of...		CAT
		Start	End		NOV	NOE	
856144	30 TAC Chapter 116.110(a)	11/4/2022	8/9/2023	08/29/2023		09/01/2023	A
	5C THSC Chapter 382.0518(a)	11/4/2022	8/9/2023	08/29/2023		09/01/2023	A
	5C THSC Chapter 382.085(b)	11/4/2022	8/9/2023	08/29/2023		09/01/2023	A
Failure to obtain authorization prior to the construction and operation of a concrete batch plant.							

Section 4: Additional Discussion

VTN 856144: Failure to obtain authorization prior to the construction and operation of a concrete batch plant, in violation of 30 TAC §116.110(a). The facility constructed and operated a concrete batch plant without authorization as documented during the investigation conducted on August 29, 2023. The concrete batch plant was in operation up to August 9, 2023. This violation is considered Category A2.d in accordance with the EIC, Revision 17, and classified as major. The violation warrants formal enforcement.

Section 5: Additional Issues

N/A

Section 6: Information About Initiating Office

	Name	Adam Mason	Date	September 1, 2023
	Signature	<i>Adam M. Mason</i>	E-Mail	Adam.Mason@tceq.texas.gov
	Phone	(817)588-5889		
	Name	Kimberli Fowler	Date	9/1/23
	Signature	<i>Kimberli Fowler</i>	E-Mail	Kimberli.Fowler@tceq.texas.gov
	Phone	(817)588-5823		

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 1, 2023

E-CERTIFIED CONFIRMATION #9171 9690 0935 0298 5387 01

Ms. Hana Alsarabi, Manager
Texas Star Ready Mix, LLC
4500 Great Trinity Forest Way
Dallas, TX 75216-5019

Re: Notice of Enforcement for Compliance Evaluation Investigation at:
Texas Star Ready Mix CBP SN78043, 4500 Great Trinity Forest Way, Dallas, Dallas County,
Texas
RN111648234, CN605903574

Dear Ms. Alsarabi:

On August 29, 2023, Mr. Adam Mason of the Texas Commission on Environmental Quality (TCEQ) DFW Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for air quality. During this investigation, certain outstanding alleged violations were documented. Enclosed is a summary which lists the investigation findings.

In the listing of the alleged violations, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI 032) are located on our agency website at <http://www.tceq.state.tx.us> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either the DFW Region Office at 817/588-5800 or the Central Office Publications Ordering Team at 512/239-0028.

Also, please be advised that the Legislature has granted enforcement powers to the TCEQ to carry out its mission to protect human health and the environment. Due to the apparent seriousness of the alleged violations, formal enforcement action has been initiated, and additional violations may be cited upon further review. We encourage you to immediately begin taking actions to address the outstanding alleged violations.

In responding with prompt corrective action, the administrative penalty to be assessed may be limited.

The Commission recognizes that the great majority of the regulated community wants to prevent pollution and to comply with environmental laws. We dedicate considerable resources toward making voluntary compliance achievable. But where compliance has not been met it is our duty to protect the public and the environment by enforcing the state's environmental laws, regulations, and permits.

TCEQ Region 4-Dallas/Fort Worth • 2309 Gravel Dr. • Fort Worth, Texas 76118-6951 • 817-588-5800 • Fax 817-588-5700

Austin Headquarters: 512-239-1000 • tceq.texas.gov • How is our customer service? tceq.texas.gov/customersurvey

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Ms. Hana Alsarabi, Manager
Page 2
September 1, 2023

Also, if you believe the violations documented in this notice have been cited in error, and you have additional information that we are unaware of, you may request a meeting to discuss this enforcement matter. To request meeting, send a letter describing the additional information to the address shown below.

Manager, Air Section
Enforcement Division, MC 219
Re: Enforcement Meeting Request
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

If you or members of your staff have any questions, please feel free to contact Mr. Mason in the Air Section in the DFW Region Office at (817) 588-5889.

Sincerely,



Kimbelle Fowler, Air Section Manager
Dallas-Fort Worth Region Office
Texas Commission on Environmental Quality

KSF/amm

Enclosures: Summary of Investigation Findings

Summary of Investigation Findings

TEXAS STAR READY MIX CBP SN 78043

**4500 GREAT TRINITY FOREST WAY
DALLAS, DALLAS COUNTY, TX 75216**

Investigation #

**1924559
Investigation Date: 08/29/2023**

Additional ID(s): 171636

Summary of Investigation Findings

Track No: 856144 Compliance Due Date: To Be Determined

**30 TAC Chapter 116.110(a)
5C THSC Chapter 382.0518(a)
5C THSC Chapter 382.085(b)**

Alleged Violation:

Investigation: 1924559

Comment Date: 09/01/2023

Failure to obtain authorization prior to the construction and operation of a concrete batch plant. Specifically, during an investigation conducted on August 29, 2023, it was noted that the facility constructed and operated a concrete batch plant without authorization up to August 9, 2023.

Recommended Corrective Action: Obtain authorization prior to the construction and operation of a concrete batch plant.

ATTACHMENT 4
RE: PROPOSED ORDER DOCKET 2022-1557-AIR-E

From: Craig Pritzlaff
To: [REDACTED]
Cc: Amy Settemeyer; David Bower; Jessica Ramirez
Subject: RE: Proposed order Docket 2022-1557-AIR-E
Date: Thursday, September 14, 2023 4:18:00 PM
Attachments: Texas Star Ready Mix, LLC.pdf
image001.png

Mr. Albelbaisi,

I am the Director of the Office of Compliance and Enforcement at the Texas Commission on Environmental Quality (TCEQ). I understand you received the attached proposed offer of settlement to resolve this enforcement matter. A proposed agreed order was included for your signature. This matter concerns operation of a facility without a proper authorization (from September 12, 2022-August 9, 2023). I also understand you are the representative of and are authorized to act on behalf of Texas Ready Mix, LLC.

Your below correspondence appears to indicate a general denial of all the TCEQ's allegations, which could be construed as an outright rejection of our settlement offer and an unwillingness to settle. As noted in the letter, such an outright rejection would terminate settlement discussions, and immediately move this matter into either administrative or civil litigation to resolve the State's claims. However, before I refer this matter to litigation, I want to offer you an opportunity to reconsider your current posture. Therefore, I request your attendance at a meeting with me and the Deputy Director for the Enforcement Division, Amy Settemeyer, at my office in TCEQ's headquarters in Austin, Texas. Days/times available for this meeting include:

- Thursday, September 21 at 10:30;
- Wednesday, September 27, at 1:30; or
- Thursday, September 28, at 1:30.

Please let us know which day/time works for you, and we will send you location instructions. If you are represented by counsel, please let me know so that your counsel may be properly included.

Sincerely,

Craig Pritzlaff
Director | Office of Compliance and Enforcement
Texas Commission on Environmental Quality
(C) 512.239.5160 | (C) 512.695.3719
craig.pritzlaff@tceq.texas.gov

From: [REDACTED]
Sent: Tuesday, September 12, 2023 12:55 PM
To: Yuliya Dunaway <yuliya.dunaway@tceq.texas.gov>
Subject: RE: Proposed order Docket 2022-1557-AIR-E

Hello Yuliya,

I will be sharing files with you showing proper authorization prior to construction and information about standard exemptions. Please forward them to the department who issued the proposed order. Further we never received a proper notice and the cited violation does not apply to us.

Ed

From: Yuliya Dunaway <yuliya.dunaway@tceq.texas.gov>

Sent: Friday, September 8, 2023 7:54 AM

To: [REDACTED]

Subject: Proposed order Docket 2022-1557-AIR-E

Good morning Mr. Albelbaisi,

The proposed order we were discussing earlier, was approved and mailed out from Austin.

I am including a copy of the proposed order for your convenience.

Please let me know if you have any questions/concerns.

Thank you,

Yuliya Dunaway, P.G.

Enforcement Coordinator

Enforcement Division

Office: 210-490-3096

Direct: 210-403-4077

Fax: 210-403-4069



ATTACHMENT 5
RE: TCEQ ENFORCEMENT INVESTIGATION 1846525

From: [REDACTED]
To: Yuliya Dunaway
Subject: RE: TCEQ Enforcement Investigation 1846525
Date: Monday, December 12, 2022 6:33:32 PM
Attachments: Image001.png

Good Afternoon Yuliya,
As we spoke, the current permit should be sufficient.

- Aine Carroll
Office of Air | Air Permits Division | NSR Mechanical Section
(512) 239-1362
- Steven Stump
Ext 6107
STEVEN.STUMP@TCEQ.TEXAS.GOV

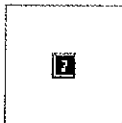
Thanks,
Ed
(214) 475-5095

From: Yuliya Dunaway <yuliya.dunaway@tceq.texas.gov>
Sent: Friday, November 18, 2022 10:33 AM
To: [REDACTED]
Subject: TCEQ Enforcement Investigation 1846525

Good afternoon Mr. Albelbaisi,
This is a courtesy email notifying you that I am the TCEQ Enforcement Coordinator assigned to the Texas Star Ready Mix case relating to Investigation No. 1846525.
If you have any questions, would like to submit any documents, or need any additional information, please let me know.

Thank you,

Yuliya Dunaway, G.I.T.
Enforcement Coordinator
Enforcement Division
Office: 210-490-3096
Direct: 210-403-4077
Fax: 210-403-4069



ATTACHMENT 6
REVISE D PAO 11-10-23 TEXAS STAR READY MIX 2022-1557-AIR-E

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

November 10, 2023

Mr. Eyad Albelbaisi, Owner
Texas Star Ready Mix, LLC
25 Lochleven
Richardson, Texas 75082

Re: Revised Proposed Agreed Order
Texas Star Ready Mix, LLC
RN111648234; Docket No. 2022-1557-AIR-E; Enforcement Case No. 63326
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Albelbaisi:

This letter is to inform you that the TCEQ's Financial Administration Division completed its review of Texas Star Ready Mix, LLC's financial documents. Based on this, the following revision has been made: Section I (Jurisdiction and Stipulations): Paragraph No. 4 has been modified to incorporate a revised penalty amount of \$3,600 and penalty payment schedule. Please note that the first payment is for \$100. The remaining amount of \$3,500 of the undeferred penalty shall be paid in 35 monthly payments of \$100 each.

Although this revised order replaces the proposed order enclosed in the Texas Commission on Environmental Quality ("TCEQ") letter dated September 7, 2023, the terms and conditions noted in the September 7, 2023 letter still apply. If you agree with the revised order as proposed, please sign and return this order with an original signature and the first penalty payment of \$100 no later than Friday, November 17, 2023, (check payable to "TCEQ" and referencing Texas Star Ready Mix, LLC, Docket No. 2022-1557-AIR-E) to:

Financial Administration Division, Revenue Operations Section
Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

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Mr. Eyad Albelbaisi
Page 2
November 10, 2023

Enclosed for your convenience is a return envelope. Please note that any agreements we reach are subject to final approval by the Commission. For any questions or comments about this matter, please contact Ms. Yuliya Dunaway of my staff at (210) 403-4077 or at yuliya.dunaway@tceq.texas.gov.

Sincerely,



Michael De La Cruz, Manager
Enforcement Division
Texas Commission on Environmental Quality

MD/yd

Enclosures: Revised Proposed Agreed Order, Return Envelope

cc: Mr. Joseph Vu, P.G., Manager, City of Dallas, Office of Environmental Quality & Sustainability, 1500 Marilla Street, 7AN, Dallas, Texas 75201

Mr. Erich Birch, Attorney at Law, Birch Becker & Moorman LLP, via e-mail

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS STAR READY MIX, LLC
RN111648234

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2022-1557-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Star Ready Mix, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concrete batch plant located at 4500 Great Trinity Forest Way in Dallas, Dallas County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$30,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of TCEQ's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay all or part of the penalty. Therefore, \$26,400 of the penalty is deferred contingent upon the Respondent's compliance with all the terms of this Order and shall be waived only upon full compliance with this Order. If the Respondent fails to comply with any requirement of this Order, including any payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent paid \$100 of the und deferred penalty. The remaining amount of \$3,500 of the und deferred penalty shall be paid in 35 monthly payments of \$100 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the

Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On January 30, 2023, submitted a registration for Standard Permit Registration No. 171636 to authorize the concrete batch plant and the associated emissions at the Plant; and
 - b. On August 9, 2023, temporarily ceased operating the concrete batch plant.

II. ALLEGATIONS

During investigations at the Plant conducted on September 12, 2022 and August 29, 2023, investigators documented that the Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from September 12, 2022 until temporarily ceasing operation on August 9, 2023.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Star Ready Mix, LLC, Docket No. 2022-1557-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements at the Plant:
 - a. Immediately upon the effective date of this Order, cease operating until the proper authorization for the concrete batch plant has been obtained in accordance with 30 TEX. ADMIN. CODE § 116.110(a).
 - b. Within 15 days after the effective date of this Order, submit written certification demonstrating compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d.
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration for Standard Permit Registration No. 171636 within any deadlines specified in writing.
 - d. Within 180 days after the effective date of this Order, submit written certification that either the authorization has been obtained or that operations of the concrete batch plant have permanently ceased, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and a copy to:

Air Program Manager
City of Dallas
Office of Environmental Quality & Sustainability
1500 Marilla Street, 7AN
Dallas, Texas 75201

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate

reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under Tex. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)
Authorized Representative of
Texas Star Ready Mix, LLC

Title

☐ *If mailing address has changed, please check this box and provide the new address below:*

Instructions: Send the original, signed Order with penalty payment to the Financial Administration
Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

ATTACHMENT 7
TEXAS STAR 10.30.2023 REDACTED

From: Amy Settemeyer
To: Erich Birch; Craig Pritzlaff
Cc: Casey Kurnath; Crystal Bolden; Michael Delacruz
Subject: RE: Texas Star
Date: Monday, October 30, 2023 1:13:14 PM
Attachments: image001.png

Good afternoon Erich –

We have reviewed your requested language revisions to the draft proposed order. At this time, we are unable to make the requested changes. We cannot grant permission for the facility to continue operating an unauthorized concrete batch plant in our agreed orders. At this time, the Financial Inability to Pay (FIP) review is still ongoing; however, Texas Star Ready Mix, LLC should respond to the TCEQ no later than the original 60-day deadline of November 7, 2023 with a decision on whether a settlement can be reached on the terms of the order as written with the stipulation that the payable penalty amount could be adjusted based on the completion of the FIP review. If the Respondent does not provide a response by November 7, 2023, or indicates an unwillingness to settle with the current terms of the order, the case will be forwarded to the Litigation Division and this settlement offer will no longer be available.

We appreciate your prompt attention to this matter.

Thank you.

Amy Settemeyer
(512) 239-2588
Deputy Director
Enforcement Division



How is our customer service? Fill out our online customer service survey here:
www.tceq.texas.gov/customersurvey

From: Erich Birch [REDACTED]
Sent: Monday, October 23, 2023 10:44 AM
To: Craig Pritzlaff [REDACTED]
Cc: Amy Settemeyer [REDACTED]; Casey Kurnath [REDACTED]
[REDACTED]; Crystal Bolden [REDACTED]
Subject: Texas Star

Good morning Craig,

Please see the attached request concerning Texas Star Ready Mix, LLC. Also, thank

you for asking Amy Settemeyer to reply to the messages I left for you, and I spoke to her this morning.

Erich

Birch, Becker & Moorman, LLP
1000 Heritage Center Circle, Suite 146
Round Rock, Texas 78664

(512) 349-9300
(512) 349-9303 - fax
www.birchbecker.com

E-MAIL CONFIDENTIALITY NOTICE:

This transmission may be: (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential. If you are not the intended recipient of this message, you may not disclose, print, copy or disseminate this information. If you have received this in error, please reply and notify the sender (only) and delete the message. Unauthorized interception of this e-mail is a violation of a federal criminal law.

ATTACHMENT 8
24-89784 PIR

PIR Request submitted on 12/15/2023 12:25 PM

PIR Code: 24-89784-PIR
Due Date: 01/03/2024

Page One

Name Prefix:
Name: Michael Bates
Company/Organization: Legal Aid Of NorthWest Texas
Requestor Type: Attorney
Mailing Address 1:
Mailing Address 2:
City:
State/Province/Region:
Zip/Postal Code:
Country:
E-mail Address: batesm@lanwt.org
Phone Number:
FAX Number:

Page Two

Sites/Facilities :

RN	Facility	CN	Customer	Program	Additional ID
RN111648234	TEXAS STAR READY MIX CBP SN 78043				

Area Description: TEXAS STAR READY MIX LLC 4500 GREAT TRINITY FOREST WAY
DALLAS, TX 75216-5019

Page Three

Date Range:

Agency Programs: Air - Operating Permits (OA), Air - Complaints (OCE), Air - Investigations (OCE) and Enforcement (OCE)

Addition Record Search: I hereby request the operational logs, or any additional written records of production or operation, for Texas Star Ready Mix LLC from December 28, 2022 through December 15, 2023. This request is to include everything and is not limited to documents created since our previous request on July 14, 2023. I also request the following documents related to TCEQ case number 63326: 1) Proposed Agreed Order, 2) Penalty Calculation Worksheet, 3) Any and all documents related to Texas Star Ready Mix's Financial Inability to Pay requests 4) Texas Star Ready Mix's written certification demonstrating compliance, and 5) all correspondence from TCEQ to Texas Star Ready Mix. The Texas Public Information Act requires that you "promptly produce" the requested records. If you believe any information requested herein is subject to a disclosure exemption and wish to deny, redact, or otherwise withhold the information, you must request an opinion from the Attorney General's office within 10 days of the date of this letter. Any

information for which an Attorney General opinion is not sought must be promptly produced. Please be advised that pursuant to Section 552.302 of the Texas Government Code, if you do not seek an Attorney General opinion within 10 days of the date of this letter, the information requested herein is presumed to be subject to disclosure and must be released. Legal Aid of NorthWest Texas is a nonprofit Texas corporation representing low-income Texans free of charge for the public interest. Any information received from this request will be shared without charge. Therefore, I ask that all fees for producing this material be waived pursuant to Section 552.267 of the Texas Government Code. Please contact me at 214-243-2582 or by email at batesm@lanwt.org should you have any questions. Thank you for your time and attention to this matter.

Data Only: No

Confidential Information: Yes

Certified Information: No

Request Documents: No data found

ATTACHMENT 9
IPAO 9-7-2023 TEXAS STAR READY MIX

Mr. Eyad Albelbaisi
Page 2
September 7, 2023

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. In order to qualify for financial inability to pay, the penalty must exceed \$3,600 and be greater than 1% of annual gross revenues. If this is the case, please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. If you are interested in performing an SEP, you must agree to the penalty amount and submit an SEP proposal within 30 days of receipt of this proposed order.

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <https://www.tceq.texas.gov/compliance/enforcement/sep> or contact the Enforcement Coordinator listed below.

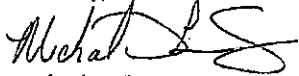
Please note that any agreements we reach are subject to final approval in accordance with 30 Tex. ADMIN. CODE § 70.10(a).

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 Tex. Admin. Code ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer, including the penalty deferral, will no longer be available. The enforcement process described in 30 Tex. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 Tex. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

Mr. Eyad Albelbaisi
Page 3
September 7, 2023

For any questions or comments about this matter or to arrange a meeting, please contact Ms. Yuliya Dunaway of my staff at (210) 403-4077 or at yuliya.dunaway@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael De La Cruz".

Michael De La Cruz, Manager
Enforcement Division
Texas Commission on Environmental Quality

MD/yd

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheet, Site Compliance History

cc: Mr. Joseph Vu, P.G., Manager, City of Dallas, Office of Environmental Quality & Sustainability, 1500 Marilla Street, 7AN, Dallas, Texas 75201

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS STAR READY MIX, LLC
RNI11648234

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1557-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Star Ready Mix, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concrete batch plant located at 4500 Great Trinity Forest Way in Dallas, Dallas County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$30,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$24,000 of the penalty and \$6,000 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On January 30, 2023, submitted a registration for Standard Permit Registration No. 171636 to authorize the concrete batch plant and the associated emissions at the Plant; and
 - b. On August 9, 2023, temporarily ceased operating the concrete batch plant.

II. ALLEGATIONS

During investigations at the Plant conducted on September 12, 2022 and August 29, 2023, investigators documented that the Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from September 12, 2022 until temporarily ceasing operation on August 9, 2023.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Star Ready Mix, LLC, Docket No. 2022-1557-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements at the Plant:
- a. Immediately upon the effective date of this Order, cease operating until the proper authorization for the concrete batch plant has been obtained in accordance with 30 TEX. ADMIN. CODE § 116.110(a).
 - b. Within 15 days after the effective date of this Order, submit written certification demonstrating compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d.
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration for Standard Permit Registration No. 171636 within any deadlines specified in writing.
 - d. Within 180 days after the effective date of this Order, submit written certification that either the authorization has been obtained or that operations of the concrete batch plant have permanently ceased, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and a copy to:

Air Program Manager
City of Dallas
Office of Environmental Quality & Sustainability
1500 Marilla Street, 7AN
Dallas, Texas 75201

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

Texas Star Ready Mix, LLC
DOCKET NO. 2022-1557-AIR-E
Page 5

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)
Authorized Representative of
Texas Star Ready Mix, LLC

Title

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	28-Oct-2022		
	PCW	6-Sep-2023	Screening	3-Nov-2022
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Star Ready Mix, LLC
Reg. Ent. Ref. No.	RN111648234
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	63326	No. of Violations	2
Docket No.	2022-1557-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2

Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000
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Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$30,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes No adjustment for Compliance History.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	------------

Economic Benefit		0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$334	*Capped at the Total EB \$ Amount		
Estimated Cost of Compliance	\$5,900			

0.0% Enhancement*
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$30,000
-----------------------------	-----------------------	-----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$30,000
-----------------------------	-----------------

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty	\$30,000
-------------------------------	-----------------

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage.

20.0%	Reduction	Adjustment	-\$6,000
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Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$24,000
------------------------	-----------------

Screening Date 3-Nov-2022 **Docket No.** 2022-1557-AIR-E
Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234
Media Air
Enf. Coordinator Yuliya Dunaway

PCW
Policy Program 5 (January 20, 2021)
PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 3-Nov-2022
Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234
Media Air
Enf. Coordinator Yuliya Dunaway

Docket No. 2022-1557-AIR-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from September 12, 2022 through November 3, 2022.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 2

52 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the September 12, 2022 investigation date to the November 3, 2022 screening date.

Good Faith Efforts to Comply

0.0%

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes The Respondent does not meet the good faith criteria for this violation.

Reduction \$0

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$92 Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234
Media Air
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15
EB Amount

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$900	12-Sep-2022	1-Oct-2024	2.05	\$92	n/a	\$92
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to obtain Standard Permit Registration No. 171636 to authorize the concrete batch plant and the associated emissions at the Plant. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$900

TOTAL

\$92

Screening Date 3-Nov-2022
Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234

Docket No. 2022-1557-AIR-E

PCW

Policy Revision 5 (January 29, 2021)
PCW Revision February 11, 2021

Media Air
Enf. Coordinator Yuliy Dunaway

Violation Number

2

Rule Cite(s)

30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from November 4, 2022 until temporarily ceasing operation on August 9, 2023.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	X		

Percent 10.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 10

278 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$25,000

Ten monthly events are recommended from the November 4, 2022 non-compliance date to the August 9, 2023 date the concrete batch plant temporarily ceased operating.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$25,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$25,000

This violation Final Assessed Penalty (adjusted for limits) \$25,000

Economic Benefit Worksheet

Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234
Media Air
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15
EB Amount

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See the Economic Benefit in Violation No. 1.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN605903574, RN111648234, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN605903574, Texas Star Ready Mix, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111648234, TEXAS STAR READY MIX **Classification:** UNCLASSIFIED **Rating:** -----
CBP SN 78043

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 4500 GREAT TRINITY FOREST WAY, DALLAS, DALLAS COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
AIR NEW SOURCE PERMITS REGISTRATION 39039 **AIR NEW SOURCE PERMITS REGISTRATION** 171636

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: August 28, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 28, 2018 to August 28, 2023

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Yuliya Dunaway **Phone:** (210) 403-4077

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? Texas Star Ready Mix, LLC OWNER OPERATOR since 6/22/2021
- 4) Who was/were the prior owner(s)/operator(s)? Pro-Crete Ready Mix, LLC, OWNER OPERATOR, 3/4/2019 to 6/21/2021
C-N-T REDI MIX, LLC, OWNER, 4/1/2015 to 3/3/2019

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**
N/A
- E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

ATTACHMENT 10
TEXAS STAR READY MIX, LLC

From: Michael Bates
Sent: Tuesday, January 9, 2024 4:41 PM
To: ebirch@birchbecker.com
Subject: Texas Star Ready Mix, LLC

Erich Birch,

My name is Michael Bates and I am a staff attorney for Legal Aid of North West Texas. We represent Joppa Freedmans Town Association in the matters regarding Texas Star Ready Mix's standard concrete batch plant permit application and proposed agreed order with TCEQ. On behalf of our client, we are requesting Texas Star Ready Mix's operational logs, and/or any additional written records of production or operation from December 28, 2022 to December 15, 2023. Please let me know if you questions regarding this matter.

Sincerely,

Michael Bates
Staff Attorney
Community Revitalization Project
Legal Aid of North West Texas
400 S. Zang Blvd., Suite 1420
Dallas, Texas 75208
Office: 214-243-2582 Ext. 8902
Fax: 817-736-1602

THE INFORMATION CONTAINED IN THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND PROTECTED FROM DISCLOSURE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REPRODUCTION, DISSEMINATION OR DISTRIBUTION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY REPLYING TO THE MESSAGE AND DELETING IT FROM YOUR COMPUTER.

ATTACHMENT 11
City of Dallas Notice of Enforcement for Compliance Investigation



October 13, 2022

CERTIFIED MAIL# 7021 0950 0000 5480 0272

Mr. Eyad Albelbaisi, Owner/Manager
Texas Star Ready Mix, LLC
25 Lochleven
Richardson, Texas 75082

Re: Notice of Enforcement for Compliance Investigation at:
TEXAS STAR READY MIX
4500 Great Trinity Forest Way, Dallas, Dallas County, Texas
Regulated Entity No.: RN102390051, TCEQ ID No.: 39039

Dear Mr. Albelbaisi,

On September 12, 2022, Mr. Joseph Vu with the City of Dallas Local Air Program acting on behalf of the Texas Commission on Environmental Quality (TCEQ) conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for *air quality*. Certain outstanding alleged violations were documented. Enclosed is a summary which lists the investigation findings and recommended corrective actions. Additional recommended corrective actions may be provided by the Enforcement Division.

In the listing of the alleged violations, we have cited applicable requirements, including TCEQ rules. Please note that both the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI 032) are located on our agency website at <https://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from either City of Dallas Local Air Program at 214-948-4435 or the Central Office Publications Ordering Team at 512-239-0028.

Also, please be advised that the Legislature has granted enforcement powers to the TCEQ to carry out its mission to protect human health and the environment. Due to the apparent seriousness of the alleged violations, formal enforcement action has been initiated, and additional violations may be cited upon further review. We encourage you to immediately begin taking actions to address the outstanding alleged violations.

City of Dallas Office of Environmental Quality & Sustainability
1500 Marilla Street 7AN | Dallas, TX 75201 | 214-670-1200



City of Dallas

In responding with prompt corrective action, the administrative penalty to be assessed may be limited.

The Commission recognizes that the great majority of the regulated community wants to prevent pollution and to comply with environmental laws. We dedicate considerable resources toward making voluntary compliance achievable. But where compliance has not been met it is our duty to protect the public and the environment by enforcing the state's environmental laws, regulations, and permits.

Also, if you believe the violations documented in this notice have been cited in error, and you have additional information that we are unaware of, you may request a meeting to discuss this enforcement matter. To request a meeting, send a letter describing the additional information to the address shown below.

Manager, Air Section
Enforcement Division, MC 219
Re: Enforcement Meeting Request
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

If you or members of your staff have any questions, please feel free to contact Mr. Vu with the City of Dallas Local Air Program at Phone # 214-670-4059.

Sincerely,

Joseph Vu, P.G. Manager
City of Dallas Local Air Program
Acting on behalf of TCEQ

PWW / JHV

Enclosure: Summary of Investigation Findings

City of Dallas Office of Environmental Quality & Sustainability
|1500 Marilla Street 7AN | Dallas, TX 75201 | 214-670-1200

Summary of Investigation Findings

TEXAS STAR READY MIX 4500 GREAT TRINITY FOREST WAY DALLAS, DALLAS COUNTY, TX 75216	Investigation # 1846525 Investigation Date: 09/12/2022
Additional ID(s): 39039	

OUTSTANDING ALLEGED VIOLATION(S)

Track No: 825185 Compliance Due Date: To Be Determined
30 TAC Chapter 106.144(1)
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (1), the sand and aggregate are transported on an open conveyor system which is not vented through a fabric filter. During the tour and interview, Mr. Albelbaisi stated the conveyor system is open and not enclosed and does not transport cement/flyash but sand and aggregate. Because this investigation includes alleged violations being referred to the TCEQ Enforcement Division, this alleged violation will also be referred to the TCEQ Enforcement Division.

Track No: 825197 Compliance Due Date: To Be Determined
30 TAC Chapter 106.144(3)
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (3), the facility's stationary equipment and aggregate stockpiles are not located at least 300 feet from a structure not used solely by the owner of the property upon the facility is located. The stationary equipment and aggregate stockpiles on the southern portion of the facility are also located within 300 feet of another structure not owned or operated by the facility per a Google Earth distance review. Because this investigation contains alleged violations that will be referred to the TCEQ Enforcement Division, this alleged violation will also be referred.

Track No: 825200 Compliance Due Date: To Be Determined
30 TAC Chapter 116.110(a)
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with the requirements under 30 TAC 116.110 which requires a facility to obtain authorization prior to construction or operations. Specifically, the facility failed to obtain the correct authorization for concrete batching operations. The facility is currently registered under Permit by Rule 30 TAC 106.144 for bulk mineral handling but does not meet the conditions of the Permit by Rule; and in addition, the facility operates as a concrete batch plant and requires authorization under the 6004 concrete batch plant standard permit. This alleged violation to be referred to the TCEQ Enforcement Division.

See note: Who Fills out the EAR? u

Enforcement Action Referral Rev. 3/18/2002	Inv. #	1946525	Initiated by: Region, LP, Central:	Region
	Enf Case		Name of Initiating Office:	REGION 04 - DFW METROPLEX
	Media Code:	AQ		

Section 1: Respondent

ID	CN605903574		Role	RESP PARTY
Name	TEXAS STAR READY MIX LLC			
Mailing Address	Street/PO Box	4500 GREAT TRINITY FOREST WAY		
	City/State/Zip	DALLAS, TX 75216		
	Phone		Fax	

Primary Contact (NOE Contact)			
Name	Hana Alsarabi	Organization	Texas Star Ready Mix LLC
Title	Manager	Phone	(214) 475-5095
		Fax	

Section 2: Respondent's Facility/Operation (F/O)

F/O ID	RN102390051		
F/O Name	TEXAS STAR READY MIX		
F/O Physical Address	4500 GREAT TRINITY FOREST WAY		
Location City	DALLAS	Location Zip	75216
Location County	DALLAS	Operational Status	Active
Primary Business Activity	Concrete Batch Plant	Type of Small Entity	Small Business
SNC or HPV?	N/A	SIC Code	3271
Potentially Affected Area	Air Quality	Complaints Closed	0
List any NOV's? Orders for same or similar violations at this F/O in the past 5 years.	825195 825197 825200		
Additional IDs	39039		

Section 3: Summary of Violations

See note: Inclusion of Resolved or Verbal Violations u

Viol Num	Requirements Cited Violation Description	Violation Dates		Investigation/ File Review	Date of...		CAT
		Start	End		NOV	NOE	
825195	30 TAC Chapter 106.144(1)	9/12/2022	Unknown	09/12/2022		10/12/2022	B
	5C THSC Chapter 382.085(b)	9/12/2022	Unknown	09/12/2022		10/12/2022	B
	The facility utilizes an open conveyor system which is not enclosed nor vented through a fabric filter. During the tour of the facility, the investigators observed the conveyor system and noted it was not enclosed. Mr. Albelbaisi confirmed it was not enclosed and is used to transport sand and aggregate to the bulk storage silos. This non-compliance results in an alleged Notice of Violation. The facility failed to comply with requirements under Permit by Rule 30 TAC 106.14						
825197	30 TAC Chapter 106.144(3)	9/12/2022	Unknown	09/12/2022		10/12/2022	B
	5C THSC Chapter 382.085(b)	9/12/2022	Unknown	09/12/2022		10/12/2022	B
	The facility's stationary equipment and aggregate piles were observed to be located well within 300 feet from the adjacent property's building. During the interview portion, the investigators questioned if the neighboring properties were owned or operated by the facility. Mr. Albelbaisi stated the adjacent parcels of land are owned by an individual and the tracts of land are leased out to separate businesses. This confirms the adjacent properties are not owned or operated by the facility.						
825200	30 TAC Chapter 118.110(a)	9/12/2022	Unknown	09/12/2022		10/12/2022	A
	5C THSC Chapter 382.085(b)	9/12/2022	Unknown	09/12/2022		10/12/2022	A
	The facility failed to comply with the requirements under 30 TAC 118.110 which requires a facility to obtain authorization prior to construction or operations. Specifically, the facility failed to obtain the correct authorization for concrete batching operations.						

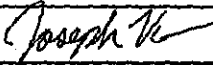
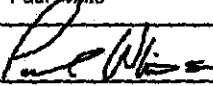
Section 4: Additional Discussion

The facility failed to comply with conditions for their registration as well as failing to comply with obtaining the appropriate permit authorization for their activities. More information can be found in Investigation 1846525

Section 5: Additional Issues

N/A

Section 6: Information About Initiating Office

	Name	Joseph Vu	Date	10/12/2022
	Signature		E-Mail	Joseph.Vu@tceq.texas.gov
	Phone	214-670-4059		
	Name	Paul White	Date	10/12/2022
	Signature		E-Mail	Paul.White@tceq.texas.gov
	Phone			

Summary of Investigation Findings

TEXAS STAR READY MIX 4500 GREAT TRINITY FOREST WAY DALLAS, DALLAS COUNTY, TX 75216 Additional ID(s): 39039	Investigation # 1846525 Investigation Date: 09/12/2022
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OUTSTANDING ALLEGED VIOLATION(S)

Track No: 825195 Compliance Due Date: To Be Determined
30 TAC Chapter 106.144(1)
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (1), the sand and aggregate are transported on an open conveyor system which is not vented through a fabric filter. During the tour and interview, Mr. Albelbalsi stated the conveyor system is open and not enclosed and does not transport cement/flyash but sand and aggregate. Because this investigation includes alleged violations being referred to the TCEQ Enforcement Division, this alleged violation will also be referred to the TCEQ Enforcement Division.

Track No: 825197 Compliance Due Date: To Be Determined
30 TAC Chapter 106.144(3)
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (3), the facility's stationary equipment and aggregate stockpiles are not located at least 300 feet from a structure not used solely by the owner of the property upon the facility is located. The stationary equipment and aggregate stockpiles on the southern portion of the facility are also located within 300 feet of another structure not owned or operated by the facility per a Google Earth distance review. Because this investigation contains alleged violations that will be referred to the TCEQ Enforcement Division, this alleged violation will also be referred.

Track No: 825200 Compliance Due Date: To Be Determined
30 TAC Chapter 116.110(a)
5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with the requirements under 30 TAC 116.110 which requires a facility to obtain authorization prior to construction or operations. Specifically, the facility failed to obtain the correct authorization for concrete batching operations. The facility is currently registered under Permit by Rule 30 TAC 106.144 for bulk mineral handling but does not meet the conditions of the Permit by Rule; and in addition, the facility operates as a concrete batch plant and requires authorization under the 6004 concrete batch plant standard permit. This alleged violation to be referred to the TCEQ Enforcement Division.

**Texas Commission on Environmental Quality
Investigation Report**

The TCEQ is committed to accessibility. If you need assistance in accessing this document, please contact oee@tceq.texas.gov

Customer: Texas Star Ready Mix, LLC

Customer Number: CN605903574

Regulated Entity Name: TEXAS STAR READY MIX

Regulated Entity Number: RN102390051

Investigation # 1846525

Incident Numbers

Investigator: JOSEPH VU

Site Classification MINOR SOURCE

Conducted: 09/12/2022 – 09/12/2022

NAIC Code: 32732

NAIC Code: 327320

SIC Code: 3273

SIC Code: 3271

Program(s): AIR NEW SOURCE PERMITS

Investigation Type: Compliance Investigation

Location:

Additional ID(s): 39039

Address: 4500 GREAT TRINITY FOREST
WAY,
DALLAS, TX, 75216

Local Unit: CITY OF DALLAS LOCAL PROGRAM

Activity Type(s): NMNC - AIR NMNC - NON-MAJOR
NON-CHECKLISTED

Principal(s):

Role

Name

RESPONDENT

TEXAS STAR READY MIX LLC

Contact(s):

Role

Title

Name

Phone

REGULATED
ENTITY MAIL
CONTACT

OWNER/MANAGER

EYAD ALBELBAISI

Cell (214) 475-5095

Other Staff Member(s):

Role

Name

Supervisor

PAUL WHITE

QA Reviewer

ADRIANNE JOHNSON

Investigator

MICHAEL LEWIS

Investigator

CANDICE TESCHNER

Associated Check List

Checklist Name

Unit Name

AIR GENERIC INVESTIGATION (10 ITEMS)

39039

Investigation Comments:

Introduction:

On September 12, 2022 Mr. Joseph Vu (investigator), Ms. Candice Teschner, and Mr. Michael Lewis, environmental investigators with the City of Dallas Local Air Program (LAP), conducted a Non-Major

TEXAS STAR READY MIX - DALLAS

9/12/2022 Inv. # - 1846525

Page 2 of 6

Non-checklisted (NMNC) Investigation at Texas Star Ready Mix which is owned by Texas Star Ready Mix LLC (CN605903574). Texas Star Ready Mix is located at 4500 Great Trinity Forest Way Dallas, Dallas County, Texas 75216 (the facility).

The purpose of this investigation was to determine the compliance status of the facility with all the applicable State and Federal air quality rules. Mr. Eyad Albelbaisi, owner, was contacted by phone on September 7, 2022 to schedule the investigation. At that time, the environmental investigator conveyed to the facility representative the reason for the investigation. The operates under Registration #39039 which is for Permit by Rule (PBR) 30 Texas Administration Code (TAC) 106.144 for Bulk Mineral Handling. The registration was last altered on June 22, 2021 for an ownership change. The registration was initially registered on August 31, 1998. Mr. Albelbaisi is the Regulated Entity (RE) mail contact and the contact on site.

Daily Narrative:

The investigators arrived at the facility on September 12, 2022 at approximately 8:55AM. The weather conditions upon arrival were as follows: 71 degrees Fahrenheit, 73% relative humidity, scattered clouds with three mile per hour winds from the north.

A perimeter evaluation to determine if there were any significant odors, dust, or visible emissions leaving the property line was conducted prior to entry. Visible emissions in the form of dust were observed for approximately seven seconds originating from a vehicle traveling on plant roads at the facility. The visible emissions did not leave the property line. No odors were detected by the investigators. At the time of the investigation, the facility appeared to be in of operation. The investigators observed one concrete mixing truck being loaded with aggregate from the bulk storage silo and then water was added. During the entire process, the concrete mixing truck was in operation and appeared to be mixing as the truck received materials.

The investigator then entered the facility and made contact with Mr. Albelbaisi. Prior to the facility tour, a pre-tour interview was performed and the conditions of registration # 39039 were discussed. The investigator evaluated the facility based on each condition of the PBR, and the compliance status of each condition is detailed as follows;

- 1) Non-Compliance (NC): The facility utilizes an open conveyor system which is not enclosed nor vented through a fabric filter. During the tour of the facility, the investigators observed the conveyor system and noted it was not enclosed. Mr. Albelbaisi confirmed it was not enclosed and is used to transport sand and aggregate to the bulk storage silos. This non-compliance results in an alleged Notice of Violation. The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (1), the sand and aggregate are transported on an open conveyor system which is not vented through a fabric filter. During the tour and interview, Mr. Albelbaisi stated the conveyor system is open and not enclosed and does not transport cement/flyash but sand and aggregate. According to the Enforcement Initiation Criteria (EIC) version 17, this violation is categorized Category B(18)(g)(1) non-clerical violation.
- 2) In-Compliance (IC): At the time of the investigation, a water truck was located onsite but not in use due to mechanical issues. The facility currently utilizes water hoses and a street sweeper to maintain in-plant roads to control dust emissions.
- 3) NC: The facility's stationary equipment and aggregate piles were observed to be located well within 300 feet from the adjacent property's building. During the interview portion, the investigators questioned if the neighboring properties were owned or operated by the facility. Mr. Albelbaisi stated the adjacent parcels of land are owned by an individual and the tracts of land are leased out to separate businesses. This confirms the adjacent properties are not owned or operated by the facility. The investigator had performed desktop research utilizing Google Earth prior to the onsite portion of the investigation to determine an approximate distance from the aggregate piles and stationary equipment. The figures depicting the failed distance limitations is attached. (Attachment 1 - Distance Limits). This non-compliance results in an alleged Notice of Violation. The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (3), the facility's stationary equipment and aggregate stockpiles are not located at least 300 feet from a structure not used solely by the owner of the property upon the facility is located. The stationary equipment and aggregate stockpiles on the southern portion of the facility are also located within 300 feet of another structure not owned or operated by the facility per a Google Earth distance review. According to the EIC version 17, this violation is categorized Category B(18)(g)(1) non-clerical violation.

TEXAS STAR READY MIX - DALLAS

9/12/2022 Inv. # - 1846525

Page 3 of 6

- 4) IC: The facility was registered with the TCEQ using a PI-7 form in August of 1998.

After the conditions of the PBR were discussed, the investigators continued the interview and inquired what activities were conducted at the facility. Mr. Albelbaisi stated the facility stores aggregate for the eventual batching and mixing of concrete. No chemical additives containing volatile organic compounds are used during the process. Mr. Albelbaisi did not deny the facility batches and mixes concrete onsite. The investigators informed Mr. Albelbaisi at that point in the investigation the registration for the facility was in the incorrect authorization and that the facility would be required to obtain a New Source Review Concrete Batch Plant Standard Permit 6004. Mr. Albelbaisi stated the facility was purchased from the prior owners in June of 2021 and all the appropriate transferred permits and registrations were completed and transferred. Mr. Albelbaisi claimed to not know or understand why the PBR was not the same authorization as the standard permit. The investigators explained to Mr. Albelbaisi why the PBR could not be claimed to operate a concrete batch plant and recommended Mr. Albelbaisi contact the TCEQ's Small Business and Local Government Assistance Program. Based on the statements from Mr. Albelbaisi and what the investigators had observed prior to making entry onto the facility, the facility performs concrete batching and mixing operations and requires authorization under the New Source Review Concrete Batch Plant Standard Permit 6004. The facility is operating without a permit/authorization as a concrete batch plant that performs wet batching, dry batching, or central mixing. This non-compliance results in an alleged Notice of Violation. The facility failed to comply with the requirements under 30 TAC 116.110 (a) which requires a facility to obtain authorization prior to construction or operations. Specifically, the facility failed to obtain the correct authorization for concrete batching operations. The facility is currently registered under Permit by Rule 30 TAC 106.144 for bulk mineral handling but does not meet the conditions of the Permit by Rule; and in addition, the facility operates as a concrete batch plant and requires authorization under the 6004 concrete batch plant standard permit. According to the EIC Version 17, this violation is categorized as a Category A2.d for operating without a permit/authorization. Specifically, a concrete batch plant that performs wet batching, dry batching or central mixing.

On September 15, 2022, the investigator contacted the TCEQ Air Permits Division (APD) to discuss the 30 TAC 106.144 and the concrete batch plant standard permit. The conversation with TCEQ APD led the investigator to determine the facility has an incorrect/improper authorization to operate as a concrete batch plant.

The violations identified and issued as a result of this investigation will be referred to the TCEQ Enforcement Division.

Exit interview:

On September 12, 2022, the investigators informed Mr. Albelbaisi that alleged violations were identified and a TCEQ Exit Interview Form will be emailed to his attention. The investigator also informed Mr. Albelbaisi that a Notice of Enforcement Letter will be mailed to his attention as well. On September 15, 2022, the investigator emailed a copy of the TCEQ Exit Interview Form with three alleged violations. (Attachment 2). The Notice of Violations will be referred to the TCEQ Enforcement division for assessment.

GENERAL FACILITY AND PROCESS INFORMATION:

Process Description

The facility operates as a concrete batch plant and performs batch mixing. Concrete trucks are loaded onsite and mixes onsite prior to leaving the facility property line.

BACKGROUND:

Compliance History:

Texas Star Ready Mix

RN102390051

Classification - Unclassified and Rating - Not Available (N/A)

Texas Star Ready Mix LLC

CN605903574

Classification - Unclassified and Rating - N/A

TEXAS STAR READY MIX - DALLAS

9/12/2022 Inv. # - 1846525

Page 4 of 6

Agreed Orders, Court Orders, and Other Compliance Agreements:

This investigation resulted in three violations; two for failing to meet PBR conditions 1 and 3 of 30 TAC 106.144, and for failing to obtain the proper permit/authorization to operate a concrete batch plant prior to construction or operations under 30 TAC 116.110(a). These violations will be referred to the TCEQ Enforcement Division.

Prior Enforcement Issues:

There are no known prior enforcement issues in the last two years.

Complaints:

None in the last two years.

ADDITIONAL INFORMATION:

Conclusions, Recommendations and Current Enforcement Actions:

On September 15, 2022, the investigator emailed Mr. Albelbaisi the TCEQ EIF documenting three alleged violations. The facility is currently operating as a concrete batch plant which performs concrete batching onsite. The current registration for bulk mineral handling is not the correct authorization and the facility should have obtained a concrete batch plant standard permit. The facility will be mailed a Notice of Enforcement Letter.

Additional Issues:

None.

Attachments:

- 1) Distance Limits
- 2) TCEQ Exit Interview - Notice of Violations

NOE Date: 10/12/2022

**OUTSTANDING ALLEGED VIOLATION(S)
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

Track Number: 825195

Compliance Due Date: To Be Determined

Violation Start Date: 9/12/2022

**30 TAC Chapter 106.144(1)
5C THSC Chapter 382.085(b)**

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (1), the sand and aggregate are transported on an open conveyor system which is not vented through a fabric filter. During the tour and interview, Mr. Albelbaisi stated the conveyor system is open and not enclosed and does not transport cement/flyash but sand and aggregate. Because this investigation includes alleged violations being referred to the TCEQ Enforcement Division, this alleged violation will also be referred to the TCEQ Enforcement Division.

Track Number: 825197

Compliance Due Date: To Be Determined

Violation Start Date: 9/12/2022

30 TAC Chapter 106.144(3)

TEXAS STAR READY MIX - DALLAS

9/12/2022 Inv. # - 1846525

Page 5 of 6

5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically condition (3), the facility's stationary equipment and aggregate stockpiles are not located at least 300 feet from a structure not used solely by the owner of the property upon the facility is located. The stationary equipment and aggregate stockpiles on the southern portion of the facility are also located within 300 feet of another structure not owned or operated by the facility per a Google Earth distance review. Because this investigation contains alleged violations that will be referred to the TCEQ Enforcement Division, this alleged violation will also be referred.

Track Number: 825200

Compliance Due Date: To Be Determined

Violation Start Date: 9/12/2022

30 TAC Chapter 116.110(a)

5C THSC Chapter 382.085(b)

Alleged Violation:

Investigation: 1846525

Comment Date: 09/22/2022

The facility failed to comply with the requirements under 30 TAC 116.110 which requires a facility to obtain authorization prior to construction or operations. Specifically, the facility failed to obtain the correct authorization for concrete batching operations. The facility is currently registered under Permit by Rule 30 TAC 106.144 for bulk mineral handling but does not meet the conditions of the Permit by Rule; and in addition, the facility operates as a concrete batch plant and requires authorization under the 6004 concrete batch plant standard permit. This alleged violation to be referred to the TCEQ Enforcement Division.

Signed

Date 10/12/2022

Environmental Investigator

Signed

Date 10/12/2022

Supervisor

TEXAS STAR READY MIX - DALLAS

9/12/2022 Inv. # - 1846525

Page 6 of 6

Attachments: (in order of final report submittal)

☒ Enforcement Action Request (EAR)

☒ Letter to Facility (specify type) : NOE Letter

Investigation Report

☐ Sample Analysis Results

☐ Manifests

☐ Notice of Registration

☐ Maps, Plans, Sketches

☐ Photographs

☐ Correspondence from the facility

☒ Other (specify) :

1) Distance Limits Figures

2) TCEQ Exit Interview - Notice of Enforcement

Inv 1846525
Attachment 1
Distance Limit Figures
Total Pages 2
CN605903574
RN102390051
Texas Star Ready Mix LLC
Texas Star Ready Mix
9/12/2022

9/15/22, 1:23 PM

Google Earth



<https://earth.google.com/web/search/4500+South+Great+Trinity+Forest+Way,+Dallas,+TX/@32.70340363,-96.74286803,123.05084796a,390.16484705d,35y,-0h,0t,0r/data=CigiJgokCbU8n-jmWUBAE...> 1/1

9/15/22, 1:23 PM

Google Earth



Distance ⓘ

251 ft ▾

Start new

Google Earth

50 m

Camera: 513 m 32°42'12"N 96°44'34"W 123 m

<https://earth.google.com/web/search/4500+South+Great+Trinity+Forest+Way,+Dallas,+TX/@32.70340363,-96.74286803,123.05084796a,390.16484705d,35y,-0h,0t,0r/data=CigiJgokCbU8n-jmWUBAE...> 1/1

Inv 1846525
Attachment 2
TCEQ Exit Interview Form
Total Pages 4
CN605903574
RN102390051
Texas Star Ready Mix LLC
Texas Star Ready Mix
9/12/2022

TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Request					
Regulated Entity/Site Name	Texas Star Ready Mix			TCEQ Add. ID No. RN No (optional)	RN102390051
Investigation Type	Comp	Contact Made In-House (Y/N)	Y	Purpose of Investigation	Compliance Investigation
Regulated Entity Contact	Mr. Eyad Albelbaisi			Telephone No.	214 475 5095
Title	Owner			FAX #/Email address	wconcretes@gmail.com
				Date Contacted	09/15/2022
				FAX/Email date	09/15/2022

NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request, identify the necessary records, the company contact and date due to the agency. For Alleged and Potential Violation issues, include the rule in question with the clearly described potential problem. Other type of issues: fully describe.	
No.	Type ¹	Rule Citation (if known)	Description of Issue
1	AV	30 TAC 106.144(1)	The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically, the sand and aggregate are transported on an open conveyor system which is not vented through a fabric filter. During the tour and interview, Mr. Albelbaisi stated the conveyor system is open and not enclosed and does not transport cement/flyash but sand and aggregate.
2	AV	30 TAC 106.144(3)	The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements. Specifically, the facility's aggregate stockpiles are not located at least 300 feet from a structure not used solely by the owner of the property upon the facility is located. The stockpiles on the southern portion are located within 300 feet of another structure not owned or operated by the facility per a Google Earth distance review.
3	AV	30 TAC 116.110(a)	The facility failed to comply with the requirements under 30 TAC 116.110 which requires a facility to obtain authorization prior to construction or operations. Specifically, the facility failed to obtain the correct authorization for concrete batching operations. The facility is currently registered under Permit by Rule 106.144 for bulk mineral handling but does not meet the conditions of the Permit by Rule; and in addition, the facility activities as a concrete batch plant requires authorization under the 6004 standard permit.

Note 1: Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (RE) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, the document will be sent via FAX or Email to RE; therefore, the RE signature is not required.

If you have questions about any information on this form, please contact your local TCEQ Regional Office.
Please contact the agency's public information officer with any requests, questions, or comments on access to records or information at 512-239-0800.

White Copy: Regulated Entity Representative Yellow Copy: TCEQ

(Note: use additional pages as necessary) Page 1 of 2

Mr. Joseph Vu	9/15/2022	Mr. Eyad (Ed) Albelbaisi (emailed)	09/15/2022
Investigator Name (Signed & Printed) <i>Joseph Vu</i>	Date	Regulated Entity Representative Name (Signed & Printed)	Date

If you have questions about any information on this form, please contact your local TCEQ Regional Office.

Please contact the agency's public information officer with any requests, questions, or comments on access to records or information at 512-239-0800.

White Copy: Regulated Entity Representative Yellow Copy: TCEQ

(Note: use additional pages as necessary) Page 2 of 2

From: Vu, Joseph
To: [REDACTED] Email
Bcc: Candice Teschner; Lewis, Michael
Subject: RN102390051 Texas Star Ready Mix - Exit Interview Form
Date: Monday, September 12, 2022 12:22:31 PM
Attachments: RN102390051 Texas Star Ready Mix EIF_NOE.pdf
image001.png
image002.png
image003.png
image004.png
Concrete Batch Plant-92221.pdf

Good morning Mr. Albelbaisi,

Thank you again for allowing us to visit your facility this morning at 4500 Great Trinity Forest Way. To document our discussion and issuance of Notice of Violation/Notice of Enforcement. Please see the attached Exit Interview form with the allegations.

As discussed onsite, there are two violations being issued, one for the failing to meet the PBR distance requirements of 300 feet from near structure not owned or operated by your facility, and the second being failing to register your concrete batch plant operations with the correct air permit. I've attached the 6004 standard concrete batch plant permit for your reference.

I received a phone call from Small Business assistance Ms. Kayla this morning and discussed your situation. She should be contacting you regarding your next steps. I will continue with my investigation and report writing unless otherwise notified there is some other documentation needed to review for your case.

The Exit Interview Form: Potential Violations is being provided as an attachment to this email to ensure that the issues were communicated clearly during our in person meeting on 09/12/2022. If there are questions about the information contained in the form, or if a meeting at the TCEQ regional office is requested to discuss the contents of the Exit Interview Form, contact me as soon as possible. Please reply to this email, with the attachment, to indicate your receipt.

Kind regards,



Joseph Vu MS, P.G.
*Manager – Environmental Quality,
Air Compliance Program*
City of Dallas | DallasCityNews.net
Environmental Quality & Sustainability
1500 Marilla Street, 7AN
Dallas, TX 75201
O: 214 670-4059 |
joseph.vu@dallascityhall.com



****OPEN RECORDS NOTICE:** This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly. ******

*******For your information, my email address will be changing to joseph.vu@dallas.gov on Thursday 05/19/2022 @ 8pm. You may continue directing you remails to joseph.vu@dallascityhall.com for the time being. In the future please begin using the @dallas.gov address. Thank you!*******

Redaction Log

Redaction Date: 6/13/2023 1:29:06 PM

Total Number of Redactions in Document: 1

Redaction Reasons by Page

Page	Reason	Description	Occurrences
19	Email	552.137 - Confidentiality of Certain E-mail Addresses	1

Redaction Date: 6/13/2023 1:29:06 PM

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
Email	552.137 - Confidentiality of Certain E-mail Addresses	19(1)

ATTACHMENT 12
TCEQ PIR 85613 OFFICIAL RESPONSE CORRESPONDENCE

Michael Bates

From: Patrick Yantis <Patrick.Yantis@tceq.texas.gov>
Sent: Friday, July 28, 2023 4:04 PM
To: Michael Bates
Cc: Savannah Sembera; Jill Dickey; Elizabeth Cater
Subject: RE: PIR 85613 Official Response Letter

Hi Michael

TCEQ does not have a process for members of the public to request third party documents that are not already within TCEQ's possession. If you are interested in accessing a company's records, you may try contacting the facility directly.

If you have any other questions, please let me know

Thanks
Patrick

Patrick Yantis | Emissions Assessment Section | Air Quality Division | TCEQ

☎ (512) 239-1462 📠 Fax: (512) 239-1515 | 📧 patrick.yantis@tceq.texas.gov

[Point Source Emissions Inventory Home Page](#)

How is our customer service? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey.

From: Michael Bates <batesm@lanwt.org>
Sent: Thursday, July 27, 2023 12:54 PM
To: Patrick Yantis <Patrick.Yantis@tceq.texas.gov>
Cc: Savannah Sembera <Savannah.Sembera@tceq.texas.gov>; Jill Dickey <jill.dickey@tceq.texas.gov>; Elizabeth Cater <Elizabeth.Cater@tceq.texas.gov>
Subject: RE: PIR 85613 Official Response Letter

Good Afternoon Patrick,

Thank you for your response regarding PIR 23-85613. It is our understanding that Texas Star Ready Mix is required to keep operational logs on site that and must "make records available in a reviewable format at the request of personnel from the commission or any air pollution control program having jurisdiction." 30 Tex. Admin. Code § 106.8(c)(2).

Your email indicates that TCEQ's position is that these operational logs are not subject to public information request. If that is TCEQ's position, what is the process for the public to request that TCEQ gather these compliance records and make them publicly available?

Sincerely,

Michael Bates

Staff Attorney
Community Revitalization Project
Legal Aid of NorthWest Texas
400 S. Zang Blvd., Suite 1420
Dallas, Texas 75208
Office: 214-243-2582 Ext. 8902
Fax: 817-736-1602

THE INFORMATION CONTAINED IN THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND PROTECTED FROM DISCLOSURE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REPRODUCTION, DISSEMINATION OR DISTRIBUTION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY REPLYING TO THE MESSAGE AND DELETING IT FROM YOUR COMPUTER.

From: Patrick Yantis <Patrick.Yantis@tceq.texas.gov>
Sent: Thursday, July 27, 2023 9:28 AM
To: Michael Bates <batesm@lanwt.org>
Cc: Savannah Sembera <Savannah.Sembera@tceq.texas.gov>; Jill Dickey <jill.dickey@tceq.texas.gov>; Elizabeth Cater <Elizabeth.Cater@tceq.texas.gov>
Subject: RE: PIR 85613 Official Response Letter

Good Morning Michael,

While TCEQ has a right of access to the requested information in accordance with 30 Tex. Admin. Code § 106.8(c), TCEQ was not in possession of the information at the time PIR 23-85613 was received. A Public Information Act request can only encompass public information in existence at the time the request was made, and governmental bodies are not obligated to prepare new information in response to a request. Private third-party records are only considered public information if they are "created by, transmitted to, received by, or maintained by . . . a person or entity performing official business or a governmental function on behalf of a governmental body. . . ." Tex. Gov't Code § 552.002(a-1). Regulated entities that are required to maintain certain records to demonstrate permitting compliance are not performing TCEQ business or governmental functions when doing so. See Open Records Decision No. 462 (1987).

As Texas Star Ready Mix does not maintain the requested information in the role of an agent acting on behalf of TCEQ, and TCEQ has not requested that Texas Star Ready Mix provide the information to TCEQ in accordance with 30 Tex. Admin. Code § 106.8(c), TCEQ has no information to provide that is responsive to your request.

If you have any questions, please let me know

Thanks
Patrick

Patrick Yantis | Emissions Assessment Section | Air Quality Division | TCEQ

☎ (512) 239-1482 | 📠 Fax: (512) 239-1515 | ✉ patrick.yantis@tceq.texas.gov

[Point Source Emissions Inventory Home Page](#)

How is our customer service? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey.

From: Michael Bates <batesm@lanwt.org>
Sent: Monday, July 24, 2023 4:50 PM
To: Patrick Yantis <Patrick.Yantis@tceq.texas.gov>
Cc: Savannah Sembera <Savannah.Sembera@tceq.texas.gov>; Jill Dickey <jill.dickey@tceq.texas.gov>
Subject: RE: PIR 85613 Official Response Letter

Good afternoon,

We would like to clarify whether or not TCEQ requested the documents in PIR 85613 directly from Texas Star Ready Mix, LLC. Texas Star Ready Mix is required to keep the documents requested in PIR 85613 on site.

The requested information entails records maintained by Texas Star Ready Mix under the order of TCEQ and for review by TCEQ. TCEQ requires facilities operating under a permit by rule ("PBR") to maintain records containing sufficient information to demonstrate compliance with all applicable general requirements and all applicable PBR requirements. 30 Tex. Admin. Code § 106.8 (b). TCEQ requires a PBR facility to keep the record at the facility site and make the records available for review at the request of personnel from the commission or any air pollution control program having jurisdiction. 30 Tex. Admin. Code § 106.8 (c).

We understand that TCEQ may not directly possess the requested information. Nonetheless, under the Texas Public Information Act (TPIA), the characterization of certain requested information as "public information" does not depend on whether the requested information is in the actual possession of the governmental body. See Tex. Gov't Code § 552.002(a); see Open Records Decision No. 462 (1987).

The requested information is "public information" under the TPIA because (1) it is written, produced, collected, assembled, and maintained pursuant to TCEQ requirements to demonstrate that the facility does not make a significant contribution of air contaminants to the atmosphere (2) for review by TCEQ, and (3) TCEQ has a right of access to the records. See Tex. Gov't Code § 552.002.

We request that TCEQ obtain the above-mentioned documents from Texas Star Ready Mix as part of our public information request. If you will not seek these documents from Texas Star Ready Mix or will not share these documents, please let us know what exception to the Public Information Act you believe is operable, and if you will seek an Attorney General's opinion. Thank you for your time and attention to this matter. Please reach out if you need further clarification about our request.

Sincerely,

Michael Bates
Staff Attorney
Community Revitalization Project
Legal Aid of NorthWest Texas
400 S. Zang Blvd., Suite 1420
Dallas, Texas 75208
Office: 214-243-2582 Ext. 8902
Fax: 817-736-1602

THE INFORMATION CONTAINED IN THIS MESSAGE MAY BE PRIVILEGED AND CONFIDENTIAL AND PROTECTED FROM DISCLOSURE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR AN EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY REPRODUCTION, DISSEMINATION OR DISTRIBUTION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY REPLYING TO THE MESSAGE AND DELETING IT FROM YOUR COMPUTER.

From: Patrick Yantis <Patrick.Yantis@tceq.texas.gov>
Sent: Wednesday, July 19, 2023 10:35 AM
To: Michael Bates <batesm@lanwt.org>
Cc: Savannah Sembera <Savannah.Sembera@tceq.texas.gov>; Jill Dickey <jill.dickey@tceq.texas.gov>
Subject: PIR 85613 Official Response Letter

Good Morning,

Please see the attached official response letter.

The Texas Commission on Environmental Quality (TCEQ) received your request for information under the Texas Public Information Act. After reviewing the appropriate resources of the TCEQ, we were unable to locate any responsive information in the possession of the TCEQ concerning Public Information Request number 85613.

If you have any questions, please let me know

Thanks,

Patrick

Patrick Yantis, | TCEQ | Emissions Assessment Section

☎ (512) 239-1462 Fax: (512) 239-1515

✉ Patrick.Yantis@tceq.texas.gov

12100 Park 35 Circle, Bldg. E | Austin, Texas 78753 | Mail: MC-164, P.O. Box 13087, Austin TX 78711-3087

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[Air Emissions and Air Inspection Fees Home Page](#)

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ATTACHMENT 13
TCEQ RESPONSE TO OPEN RECORDS REQUEST

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

July 19, 2023

Via E-Mail

Michael Bates
Legal Aid Of NorthWest Texas

Re: TCEQ Public Information Request number 85613

Dear Michael Bates:

The Texas Commission on Environmental Quality (TCEQ) received your request for information under the Texas Public Information Act. After reviewing the appropriate resources of the TCEQ, we were unable to locate any responsive information in the possession of the TCEQ concerning the above referenced request.

If you have any questions concerning this matter, you may contact me at 512-239-1462 or by e-mail at Patrick.Yantis@tceq.texas.gov.

Sincerely,

Patrick Yantis
Natural Resources Spec
Air Quality Division

ATTACHMENT 14
AFFIDAVITS – FRANKLIN ORTEGA

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned authority, on this day personally appeared FRANKLIN ORTEGA, who swore or affirmed to tell the truth, and stated as follows:

1. My name is FRANKLIN ORTEGA. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I am over the age of twenty-one years old and am competent to testify to the matters set forth in this Affidavit. I swear that the testimony and evidence as follows is true and correct to the best of my knowledge.

2. I am a paralegal for Legal Aid of NorthWest Texas at the address 400 S Zang Blvd Suite 1420, Dallas, Texas 75208.

3. I hereby certify I took the attached photos and videos appearing within the submitted USB drive for July 12, 2023, July 14, 2023, and August 15, 2023 (referred to as Attachment 14 in Joppa Freedman's Town Association's Supplemental Public Comment for Air Permit No. 171636 submitted on August 17, 2023). I hereby certify I also took the attached photos and videos from Joppa Freedman's Town Association's Supplemental Public Comment - Attachments 1, 3, and 7 for Air Permit No. 171636.

4. I hereby certify that I took the attached photos and videos on July 12, 2023 at or around the property operated by Texas Star Ready Mix, LLC at 4500 Great Trinity Forest Way, Dallas, Texas. I witnessed site operations including a concrete

mixer truck under the facility's drop point and multiple concrete mixing trucks operating on site.

5. I hereby certify that I took the attached photos and videos on July 14, 2023 at or around the property operated by Texas Star Ready Mix, LLC at 4500 Great Trinity Forest Way, Dallas, Texas. At the site on this date, I witnessed and documented through photos and video site operations including a wheel loader moving what I understood to be gravel to the back of the site and a concrete mixer driving on an unpaved area.

6. I hereby certify that I took the attached photos and videos on July 19, 2023 at or around the property operated by Texas Star Ready Mix, LLC at 4500 Great Trinity Forest Way, Dallas, Texas. At the site on this date, I witnessed and documented through photos and video no public notice signs at or around the site's main entrance.

7. I hereby certify that I took the attached photo on July 19, 2023 at the J. Erik Jonsson Public Library at 1515 Young Street, Dallas, Texas 75201. At the library, I witnessed and documented no public notice or permit application from Texas Star Ready Mix, LLC at the library's table that holds public notices and public information.

8. I hereby certify that I took the attached photos and videos on August 15, 2023. At the site on this date, I witnessed and documented through photos and video no public notice signs at or around the site's main entrance. At the site on this date, I witnessed and documented through photos and video the wall height surrounding

the site at one location on the east side of the main entrance measured under six feet tall and part of this wall/fence was made only of chain link. At the site on this date, I witnessed and documented through photos and video the walls of the three-walled bunker surrounding the stockpiles were either chain link or concrete that did not extend two feet above the top of the stockpile and the stockpiles were adjacent to the fence line.

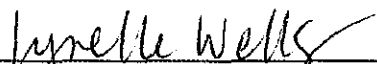
9. The affidavit and evidence submitted with it may be used for a hearing or any court proceeding.

Signed,


FRANKLIN ORTEGA

State of Texas
County of Dallas

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 17th day of August, 2023, by FRANKLIN ORTEGA.


Notary Public,
State of Texas



AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me, the undersigned authority, on this day personally appeared FRANKLIN ORTEGA, who swore or affirmed to tell the truth, and stated as follows:

1. My name is FRANKLIN ORTEGA. I am of sound mind and capable of making this sworn statement. I have personal knowledge of the facts written in this statement. I am over the age of twenty-one years old and am competent to testify to the matters set forth in this Affidavit. I swear that the testimony and evidence as follows is true and correct to the best of my knowledge.

2. I am a paralegal for Legal Aid of NorthWest Texas at the address 400 S Zang Blvd Suite 1420, Dallas, Texas 75208.

3. I hereby certify I also took the attached photos from Joppa Freedman's Town Association's Supplemental Public Comment Dated September 29, 2023 - Attachments 1 and 2 for Air Permit No. 171636.

4. I hereby certify that I took the attached photo on September 14, 2023 at the J. Erik Jonnson Public Library at 1515 Young Street, Dallas, Texas 75201.

5. I hereby certify that I took the attached photos on September 14, 2023 of Applicant's site at 4500 Great Trinity Forest Way, Dallas, Texas 75216. At the site on this date, I witnessed and documented through photos the wall height surrounding the site on the east side of the main entrance remained the same height as a previous visit, under six feet tall, and part of this wall/fence was made only of chain link. At

the site on this date, I witnessed and documented through photos, the site did not have a paved main entrance or second entrance.

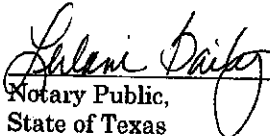
6. The affidavit and evidence submitted with it may be used for a hearing or any court proceeding.

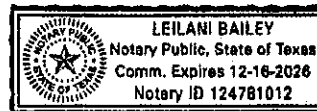
Signed,


FRANKLIN ORTEGA

State of Texas
County of Dallas

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 28th day of September, 2023, by FRANKLIN ORTEGA.


Notary Public,
State of Texas



ATTACHMENT 15

RESPONDENT'S COUNCIL - CORRESPONDENCE WITH TCEQ

BIRCH, BECKER & MOORMAN, LLP

1000 HERITAGE CENTER CIRCLE, SUITE 146, ROUND ROCK, TEXAS 76664 ■ (512) 349-9300 ■ FAX (512) 349-9303

b|b|m

Email: [REDACTED]

October 23, 2023

VIA E-MAIL AND CERTIFIED MAIL NO. 9589 0710 5270 0434 8456 32
RETURN RECEIPT REQUESTED

Craig Pritzlaff
Director, MC-172
Office of Compliance and Enforcement
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Re: Proposed Revisions to Agreed Order – Texas Star Ready Mix, LLC; RN111648234;
Docket No. 2022-1557-AIR-E; Enforcement Case No. 63326
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Pritzlaff:

This letter is provided on behalf of Texas Star Ready Mix, LLC (Texas Star) concerning the pending proposed agreed order involving its facility located at 4500 Great Trinity Forest Way, Dallas, Texas. The Texas Commission on Environmental Quality (TCEQ) provided the agreed order to Mr. Eyad Albelbaisi, owner of Texas Star by letter dated September 7, 2023. Texas Star proposes revisions to the agreed order, and if accepted by TCEQ, Texas Star is prepared to sign the agreed order and settle this matter.

The proposed revisions to the agreed order are as follows:

Ordering Provision 2.a:

~~“Immediately upon the effective date of this Order, cease operating until the seek proper authorization for the concrete batch plant has been obtained in accordance with 30 TEX. ADMIN. CODE § 116.110(a). Operation of the concrete batch plant may continue while the permit application is pending.”~~

Ordering Provision 2.d:

“Within 180 days after the effective date of this Order, submit written certification that either the authorization has been obtained or that operations of the concrete batch plant have permanently ceased, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language”

Craig Pritzlaff
October 23, 2023
Page 2 of 2

The revision in Ordering Provision 2.d simply recognizes that the pending Standard Permit is not the only form of authorization for the facility. The word "permanently" has been deleted to clarify the nature of any required shutdown of the facility.

As we discussed in the meeting on Thursday, September 28, 2023, with Texas Star's owners, Ed and Hana Albelbaisi, you, and other members of the TCEQ staff, this situation has created a serious financial hardship on Mr. and Mrs. Albelbaisi. This facility has been operated by a variety of different owners for nearly 70 years and was acquired only two years ago by Mr. and Mrs. Albelbaisi. TCEQ alleges violations concerning this facility based on an event that occurred thirteen years ago by a fourth-generation predecessor owner of the facility. The Albelbaisi's operated under the same apparent authorization as the previous owners, and they have done absolutely nothing to cause this situation.

Texas Star has ten employees and the Albelbaisi's have attempted to retain and pay these employees, but they desperately need to get the plant back into operation to pay their employees and obviously to pay the proposed TCEQ penalty. There is a Standard Permit application pending for the facility, and my discussions with the TCEQ Air Permits Division indicate that the application meets all requirements and the permit could be issued except for the pending public comment and hearing requests. There are no residences within the statutory 440-yard distance required for standing for a contested hearing, and so the Standard Permit should be issued. Texas Star has conducted research on an organization behind much of the opposition to the facility and it does appear to have a valid Texas charter. None of the hearing requests or comments or within 440 yards of the facility, and many of the comments and hearing requests identify addresses located far away from the facility, some 20 miles or more. It will take time for TCEQ to respond to these requests, which will further delay issuance of the permit causing likely irreparable harm to Texas Star unless it can operate its facility.

It has been some time since our meeting with you, and this has been in part due to my efforts to reach you and various other members of the TCEQ staff to discuss approaches to getting Texas Star back into operation, as I'd hoped to discuss the proposed language prior to submitting this request. Part of the delay was also due to my personal travel plans. As discussed in the meeting, the proposed penalty will create a financial hardship for Texas Star and information supporting this claim was submitted to TCEQ shortly after our meeting.

Please contact me by email or phone (512-413-0813) if you have questions or otherwise wish to discuss this request. On behalf of Texas Star, I urge TCEQ to incorporate the above revisions to the proposed Agreed Order and to allow Texas Star to continue operation so that it can save the company and the jobs of its employees.

Sincerely,



Erich M. Birch

cc: Mr. Eyad Albelbaisi, Owner, Texas Star Ready Mix, LLC
Ms. Amy Settemeyer, Deputy Director, Office of Compliance and Enforcement, TCEQ
Ms. Casey Kurnath, Staff Attorney, Litigation Division, TCEQ

ATTACHMENT 16

WATER QUALITY ENFORCEMENT ACTION - PROPOSED AGREED ORDER

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 27, 2023

Mr. Terry Daniel, Manager
Pro-Crete Ready Mix, LLC
4500 Great Trinity Forest Way
Dallas, Texas 75216

Re: Proposed Agreed Order
Pro-Crete Ready Mix, LLC; RN102390051
Cancelled TPDES Permit No. TXG112472
Docket No. 2021-1518-WQ-E; Enforcement Case No. 61597
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. Daniel:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against Pro-Crete Ready Mix, LLC for violations of the Texas Water Code and Commission Rules. These violations were discovered during a record review conducted on September 7, 2021, and documented in a letter dated November 5, 2021, from the TCEQ Division Support and Monitoring Section.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of \$11,250. We are proposing a one-time offer to defer \$2,250 of the administrative penalty if you satisfactorily comply with all the ordering provisions within the time frames listed. Therefore, the administrative penalty to be paid is \$9,000. The order also identifies the violations that we are addressing and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register* and scheduling the matter for approval by the Commission. We believe that handling this matter expeditiously could save Pro-Crete Ready Mix, LLC and the TCEQ a significant amount of time, as well as the expense associated with litigation.

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • tceq.texas.gov

How is our customer service? tceq.texas.gov/customersurvey

printed on recycled paper

Mr. Terry Daniel
Page 2
January 27, 2023

Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order and the penalty payment (check payable to "TCEQ" and referencing Pro-Crete Ready Mix, LLC, Docket No. 2021-1518-WQ-E) to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. In order to qualify for financial inability to pay, the penalty must exceed \$3,600 and be greater than 1% of annual gross revenues. If this is the case, please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing an SEP, you must agree to the penalty amount and submit an SEP proposal within 30 days of receipt of this proposed order.**

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <https://www.tceq.texas.gov/compliance/enforcement/sep> or contact the Enforcement Coordinator listed below.

Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer, including the penalty deferral, will no longer be available. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to

Mr. Terry Daniel
Page 3
January 27, 2023

prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

For any questions or comments about this matter or to arrange a meeting, please contact Ms. Ellen Ojeda of my staff at (512) 239-2581 or ellen.ojeda@tceq.texas.gov.

Sincerely,

Kristy Deaver, Manager
Enforcement Division
Texas Commission on Environmental Quality

KD/co

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheet,
Site Compliance History

Mr. Terry Daniel
Page 4
January 27, 2023

bcc: Manager, Water Section, Dallas/Fort Worth Regional Office
Ms. Ellen Ojeda, Coordinator, Enforcement Division, MC 219
Central Records, MC 213, Building E, 1st Floor
WQ_TXG112472_CP_20230125_Proposed Agreed Order
Enforcement Division Electronic Reader File

app-15 DAO Cover Letter/7-2-2020

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PRO-CRETE READY MIX, LLC
RN102390051

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1518-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pro-Crete Ready Mix, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owned and operated a concrete batch plant located at 4500 Great Trinity Forest Way in Dallas, Dallas County, Texas (the "Plant"). The Plant is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,000 of the penalty and \$2,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review conducted for the Plant on September 7, 2021, an investigator documented that the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112472, Part III, Section A, Permit Requirements Nos. 1, 2, and 5; and Part IV, Standard Permit Conditions No. 7.f. Specifically, the monthly conventional pollutants discharge monitoring reports ("DMRs") were not submitted, for the monthly monitoring periods of April 2019, December 2020, and January 2021 by the 20th day of the following month. Additionally, the annual hazardous metals DMRs and whole effluent toxicity ("WET") testing for water flea and fathead minnow DMRs were not submitted for the annual monitoring period of 2020 by March 31st of the following year.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Pro-Crete Ready Mix, LLC, Docket No. 2021-1518-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, update the Plant's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs, in accordance with TPDES Permit No. TXG112472, Part III, Section A, Permit Requirements Nos. 1, 2, and 5; and Part IV, Standard Permit Conditions No. 7.f.
- b. Within 30 days after the effective date of this Order, submit the required monthly conventional pollutants, annual hazardous metals testing, and WET testing DMRs for all monitoring periods from April 2019 and December 2020 through June 2021 to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

- c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

Pro-Crete Ready Mix, LLC
DOCKET NO. 2021-1518-WQ-E
Page 5

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)
Authorized Representative of
Pro-Crete Ready Mix, LLC

Title

☐ *If mailing address has changed, please check this box and provide the new address below:*

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	23-Nov-2021	PCW	24-Nov-2021	Screening	23-Nov-2021	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Pro-Crete Ready Mix, LLC		
Reg. Ent. Ref. No.	RN102390051		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	61597	No. of Violations	3
Docket No.	2021-1518-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ellen Ojeda
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000
		EC's Team	Enforcement Team 1

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$1,250
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Notes: No adjustment for Compliance History.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$396
Estimated Cost of Compliance: \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

Final Penalty Amount	\$11,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,250
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Reduces the Final Assessed Penalty by the Indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$9,000
------------------------	---------

Screening Date 23-Nov-2021	Docket No. 2021-1518-WQ-E	PCW
Respondent Pro-Crete Ready Mix, LLC		Policy Revision 5 (January 28, 2021)
Case ID No. 61597		PCW Revision February 11, 2021
Reg. Ent. Reference No. RN102390051		
Media Water Quality		
Enf. Coordinator Ellen Ojeda		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes	No adjustment for Compliance History.
---------------------------------	---------------------------------------

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 23-Nov-2021 Respondent Pro-Crete Ready Mix, LLC Case ID No. 61597 Reg. Ent. Reference No. RN102390051 Media Water Quality Enf. Coordinator Ellen Ojeda Violation Number 1	Docket No. 2021-1518-WQ-E	PCW <small>Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021</small>																
Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 1; and Part IV, Standard Permit Conditions No. 7.f																		
Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, the monthly conventional pollutants discharge monitoring reports ("DMRs") were not submitted for the monthly monitoring periods of April 2019, December 2020, and January 2021 by the 20th day of the following month.																		
Base Penalty		\$25,000																
>> Environmental, Property and Human Health Matrix																		
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Major	Moderate	Minor	Release				Actual				Potential				Percent 0.0%
	Major	Moderate	Minor															
Release																		
Actual																		
Potential																		
>> Programmatic Matrix																		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">Falsification</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> </tr> </thead> <tbody> <tr> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </tbody> </table>	Falsification	Major	Moderate	Minor		x			Percent 10.0%								
Falsification	Major	Moderate	Minor															
	x																	
Matrix Notes	100% of the rule requirements were not met.																	
Adjustment		\$22,500																
		\$2,500																
Violation Events																		
Number of Violation Events 3		Number of violation days 92																
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </tbody> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty \$7,500		
daily																		
weekly																		
monthly																		
quarterly																		
semiannual																		
annual																		
single event	x																	
Three single events are recommended, one for each missed report.																		
Good Faith Efforts to Comply																		
0.0%		Reduction \$0																
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;"></th> <th style="width: 20%;">Before NOE/NOV</th> <th style="width: 20%;">NOE/NOV to EDPRP/Settlement Offer</th> </tr> </thead> <tbody> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td></td> </tr> </tbody> </table>		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x						
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer																
Extraordinary																		
Ordinary																		
N/A	x																	
Notes	The Respondent does not meet the good faith criteria for this violation.																	
Violation Subtotal		\$7,500																
Economic Benefit (EB) for this violation																		
Estimated EB Amount		\$396																
Statutory Limit Test																		
Violation Final Penalty Total		\$6,750																
This violation Final Assessed Penalty (adjusted for limits)		\$6,750																

Economic Benefit Worksheet

Respondent Pro-Crete Ready Mix, LLC
Case ID No. 61597
Reg. Ent. Reference No. RN102390051
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	20-May-2019	3-May-2023	3.96	\$396	n/a	\$396

Notes for DELAYED costs

Estimated cost to submit the DMRs for the missed monitoring periods, update the Plant's operational guidance, and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly and annual DMRs. The Date Required is the earliest DMR due date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,000	TOTAL	\$396
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Screening Date	23-Nov-2021	Docket No.	2021-1518-WQ-E	PCW
Respondent	Pro-Crete Ready Mix, LLC	Policy Revision 5 (January 28, 2021)		
Case ID No.	61597	PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN102390051			
Media	Water Quality			
Enf. Coordinator	Ellen Ojeda			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 2; and Part IV, Standard Permit Conditions No. 7.f			
Violation Description	Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual hazardous metals DMRs were not submitted for the annual monitoring period of 2020 by March 31st of the following year.			
		Base Penalty	\$25,000	
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	Potential	Potential	Potential
				Percent
				0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
				Percent
				10.0%
Matrix Notes	100% of the rule requirements were not met.			
		Adjustment	\$22,500	
			\$2,500	
Violation Events				
Number of Violation Events		1	Number of violation days	
		237		
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
		Violation Base Penalty		
		\$2,500		
One single event is recommended.				
Good Faith Efforts to Comply		0.0%	Reduction	
			\$0	
	Extraordinary	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
	Ordinary			
	N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal	\$2,500	
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount	\$0	Violation Final Penalty Total	\$2,250	
This violation Final Assessed Penalty (adjusted for limits)		\$2,250		

Economic Benefit Worksheet

Respondent Pro-Crete Ready Mix, LLC
Case ID No. 61597
Reg. Ent. Reference No. RN102390051
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit Worksheet for Violation No. 1.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date	23-Nov-2021	Docket No.	2021-1518-WQ-E	PCW	
Respondent	Pro-Crete Ready Mix, LLC	Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021			
Case ID No.	61597				
Reg. Ent. Reference No.	RN102390051				
Media	Water Quality				
Enf. Coordinator	Ellen Ojeda				
Violation Number	3				
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d) and TPDES General Permit No. TXG112472, Part III, Section A, Permit Requirements No. 5; and Part IV, Standard Permit Conditions No. 7.f				
Violation Description	Failed to submit monitoring results at the intervals specified in the permit. Specifically, the annual whole effluent toxicity DMRs for the water flea and fathead minnow were not submitted for the annual monitoring period of 2020 by March 31st of the following year.				
		Base Penalty	\$25,000		
>> Environmental, Property and Human Health Matrix					
OR	Release	Major	Harm Moderate	Minor	Percent
	Actual Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text"/>	<input type="text"/>	<input type="text"/>	10.0%
Matrix Notes	100% of the rule requirements were not met.				
		Adjustment	\$22,500		
		\$2,500			
Violation Events					
Number of Violation Events		1	Number of violation days		237
	daily	<input type="text"/>	Violation Base Penalty		
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text"/>	\$2,500		
One single event is recommended.					
Good Faith Efforts to Comply		0.0%	Reduction		\$0
	Extraordinary	<input type="text"/>	Violation Subtotal		
	Ordinary	<input type="text"/>			
	N/A	<input checked="" type="text"/>			
Notes	The Respondent does not meet the good faith criteria for this violation.				
		\$2,500			
Economic Benefit (EB) for this violation					
Estimated EB Amount		\$0		Statutory Limit Test	
		Violation Final Penalty Total		\$2,250	
		This violation Final Assessed Penalty (adjusted for limits)			
		\$2,250			

Economic Benefit Worksheet

Respondent Pro-Crete Ready Mix, LLC
Case ID No. 61597
Reg. Ent. Reference No. RN102390051
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount	
Delayed Costs								
Equipment				0.00	\$0	\$0	\$0	
Buildings				0.00	\$0	\$0	\$0	
Other (as needed)				0.00	\$0	\$0	\$0	
Engineering/Construction				0.00	\$0	\$0	\$0	
Land				0.00	\$0	n/a	\$0	
Record Keeping System				0.00	\$0	n/a	\$0	
Training/Sampling				0.00	\$0	n/a	\$0	
Remediation/Disposal				0.00	\$0	n/a	\$0	
Permit Costs				0.00	\$0	n/a	\$0	
Other (as needed)				0.00	\$0	n/a	\$0	
Notes for DELAYED costs <div style="border: 1px solid black; padding: 5px; margin-top: 5px; text-align: center;"> See Economic Benefit Worksheet for Violation No. 1. </div>								
Avoided Costs								
ANNUALIZE avoided costs before entering item (except for one-time avoided costs)								
Disposal				0.00	\$0	\$0	\$0	
Personnel				0.00	\$0	\$0	\$0	
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0	
Supplies/Equipment				0.00	\$0	\$0	\$0	
Financial Assurance				0.00	\$0	\$0	\$0	
ONE-TIME avoided costs				0.00	\$0	\$0	\$0	
Other (as needed)				0.00	\$0	\$0	\$0	
Notes for AVOIDED costs <div style="border: 1px solid black; height: 30px; margin-top: 5px;"></div>								
Approx. Cost of Compliance		\$0			TOTAL			\$0

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN605640861, RN102390051, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN605640861, Pro-Crete Ready Mix, LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102390051, TEXAS STAR READY MIX **Classification:** HIGH **Rating:** 0.00

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 4500 Great Trinity Forest Way, in Dallas, Dallas County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

AIR NEW SOURCE PERMITS REGISTRATION 39039

AIR NEW SOURCE PERMITS AFS NUM 4811300957

AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB04150

PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 1239

WASTEWATER PERMIT TXG113001

STORMWATER PERMIT TXR1549KU

AIR EMISSIONS INVENTORY ACCOUNT NUMBER DB04150

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: November 18, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 18, 2017 to November 18, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name:

Ellen Ojeda **Phone:** (512) 239-2581

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	August 26, 2019	(1596307)
Item 2	September 03, 2019	(1609467)
Item 3	October 14, 2019	(1616318)
Item 4	November 07, 2019	(1622098)
Item 5	December 17, 2019	(1629434)
Item 6	January 16, 2020	(1637086)
Item 7	February 19, 2020	(1643649)
Item 8	March 28, 2020	(1650265)
Item 9	April 18, 2020	(1656617)

Item 10	May 15, 2020	(1663095)
Item 11	June 11, 2020	(1669658)
Item 12	July 09, 2020	(1676649)
Item 13	August 17, 2020	(1683406)
Item 14	September 02, 2020	(1689982)
Item 15	October 05, 2020	(1696290)
Item 16	November 03, 2020	(1721533)
Item 17	December 01, 2020	(1721534)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSS):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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

April 22, 2024

Mr. Michael Bates, Staff Attorney
Legal Aid of NorthWest Texas
400 South Zang Boulevard, Suite 1420
Dallas, Texas 75208

Re: Comment Received, Proposed Agreed Enforcement Order – Texas Star Ready Mix, LLC
RN111648234; Enforcement Case No. 63326; Docket No. 2022-1557-AIR-E

Dear Mr. Bates:

On January 11, 2024, we received your comments on behalf of the Joppa Freedmans Town Associated (JFTA) concerning the proposed agreed order for Texas Star Ready Mix, LLC. I have forwarded your comments to our Dallas/Fort Worth Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

The proposed agreed order includes two violations documented during on-site investigations conducted on September 12, 2022 and August 29, 2023. For both of these violations, the Executive Director alleges that Texas Star Ready Mix, LLC failed to obtain authorization prior to constructing or modifying a source of air contaminants. The proposed order recognizes that Texas Star Ready Mix LLC temporarily ceased operating the concrete batch plant on August 9, 2023 and have not operated the concrete batch plant since that date. The technical requirements in the proposed agreed order require Texas Star Ready Mix, LLC to cease operating until the proper authorization for the concrete batch plant has been obtained.

Texas Commission on Environmental Quality (TCEQ) staff and Texas Star Ready Mix, LLC agreed to the terms of the proposed order on November 13, 2023. These terms include payment of an administrative penalty, the amount for which was calculated consistent with the TCEQ's Penalty Policy.

Some of the comments received from you are not limited to the provisions of the proposed order addressing the violations. Additionally, while 30 TEX. ADMIN. CODE § 70.10(c) allows for public comment on agreed orders, it does not grant the public standing to seek the relief you requested in your comments. No changes to the proposed agreed order were made in response to your comments. Our responses to your comments are provided below:

- Comment – The TCEQ denied JFTA and the public their right to meaningfully participate in the enforcement agreement by failing to collect and make Texas Star Ready Mix, LLC's operational logs publicly available and by failing to make Texas Star Ready Mix, LLC's Financial Inability to Pay assessment and related documents publicly available for review.

Response - During the investigations conducted on September 12, 2022 and on August 29, 2023, the investigators did not obtain any operational logs from Texas Star Ready Mix, LLC. TCEQ previously provided you with a copy of the September 12, 2022 investigation report. At this stage of the enforcement process, operational records are not necessary. Should this matter go to litigation, TCEQ would seek to obtain necessary records through that process.

Regarding your request to make Texas Star Ready Mix, LLC's Financial Inability to Pay documentation publicly available for review; because these documents contain Personal Identifiable Information, they are confidential under the Texas Public Information Act and not available to the general public.

- Comment - Texas Star Ready Mix, LLC's will require significant structural and mechanical alterations and improvements in order to qualify for the requested standard permit including paving entrances to the site, constructing barriers that rise above the site's stockpiles, constructing concrete fences taller than ten feet, and other upgrades to batching, mixing, and production equipment.

Response - In the registration application for Standard Permit Registration No. 171636, Texas Star Ready Mix, LLC demonstrated how they plan to comply with the conditions for the Air Quality Standard Permit for Concrete Batch Plants. During the review process for Standard Permit Registration No. 171636, TCEQ staff will verify that Texas Star Ready Mix, LLC can comply with the terms and conditions with the Air Quality Standard Permit for Concrete Batch Plants.

- Comment - The TCEQ failed to correctly assess Texas Star Ready Mix, LLC's penalty by not requiring a fine of \$10,000 per day for operating a concrete batch plant without an air operating permit and by not considering the hazards created for health and safety of the public; the impacts of continuing violations on air quality in the region; Texas Star Ready Mix, LLC's history and extent of previous violations, degree of culpability and anticipation of the violation, or lack of good faith in rectifying the unauthorized action; Texas Star Ready Mix, LLC's economic benefit gained through its violations; and the penalty's ability to deter future violations.

Response - The penalty assessed in the order was calculated in accordance with the Texas Water Code and TCEQ's Penalty Policy. The TCEQ staff did not assess a penalty of \$10,000 each day that Texas Star Ready Mix, LLC continued to operate the concrete batch plant because during the development of the enforcement case, the TCEQ staff determined that Texas Star Ready Mix, LLC held another TCEQ permit; therefore, the TCEQ staff assessed a penalty in accordance with TEX. WATER CODE § 7.052(b-3) and in accordance with the TCEQ's Penalty Policy that allows the Commission to exercise discretion whether to assess a penalty of \$10,000 per day per violation if the facility holds another type of permit. Since there were no documented human health or environmental impacts, the TCEQ staff assessed the penalty using the Programmatic Penalty Matrix in accordance with the TCEQ's Penalty Policy. The TCEQ staff assessed the penalty as monthly events because Texas Star Ready Mix, LLC continued to operate the concrete batch plant from September 12, 2022, through August 9, 2023. Based on Texas Star Ready Mix, LLC's compliance history, Texas Star Ready Mix, LLC did not have any previous violations in the past five years; therefore, the TCEQ staff did not apply a Compliance History enhancement in accordance with the TCEQ's Penalty Policy.

The TCEQ staff determined there was no documentation indicating that culpability existed; therefore, the TCEQ staff did not apply a Culpability enhancement in accordance with the TCEQ's Penalty Policy. The TCEQ staff determined that Texas Star Ready Mix, LLC did not resolve the violation; therefore, the TCEQ staff did not recognize compliance and did not apply a Good Faith Efforts to Comply reduction to the assessed penalty in accordance with the TCEQ's Penalty Policy. The TCEQ staff considered Texas Star Ready Mix, LLC's economic benefit; however, the Economic Benefit enhancement was evaluated, and no adjustment was made in accordance with the TCEQ's Penalty Policy. The TCEQ staff assessed a penalty in accordance with the TCEQ's Penalty Policy and the amount was determined to be necessary to deter future violations.

- Comment - Texas Star Ready Mix, LLC's site is still under review for a water quality enforcement action, Order Docket No. 2021-1518-WQ-E.

Response - The water quality violations addressed by Order Docket No. 2021-1518-WQ-E are associated only to Pro-Crete Ready Mix, LLC and were referred to the TCEQ Litigation Division because settlement was not achieved. Pro-Crete Ready Mix, LLC is no longer operating at this location and does not have a permit to operate. This enforcement action is on-going, and an Executive Director Preliminary Report and Petition was filed on April 8, 2024.

Texas Star Ready Mix, LLC assumed the lease from Pro-Crete Ready Mix, LLC on January 14, 2021. Since Texas Star Ready Mix, LLC is not associated to the water quality violations addressed by Order Docket No. 2021-1518-WQ-E, the only pending enforcement action regarding Texas Star Ready Mix, LLC is for the air violations that were documented in the investigations conducted on September 12, 2022 and on August 29, 2023 and are associated to this proposed order.

- Comment - The TCEQ failed to take into account the impact on the community from cumulative risks of other industrial activity in the area.

Response - A concrete batch plant has been operated at this location since July 27, 1980 and has experienced seven ownership changes over the last 40 years. The proposed order addresses the violations that were documented at Texas Star Ready Mix, LLC's concrete batch plant which Texas Star Ready Mix, LLC are liable for. Since there were no documented human health or environmental impacts, the TCEQ staff assessed the penalty using the Programmatic Penalty Matrix in accordance with the TCEQ's Penalty Policy. TCEQ staff also took into account all appropriate factors to be considered in determining the administrative penalty, and the required technical requirements in the order are consistent with TCEQ's rules and regulations. During the review of the registration for Standard Permit Registration No. 171636, TCEQ staff will ensure that there are no air quality impacts to human health or the environment; otherwise, Standard Permit Registration No. 171636 may not be issued to Texas Star Ready Mix, LLC.

- Comment - The TCEQ failed to consider the adverse impacts of the unpermitted operations to the surrounding environmental justice community in violation of Executive Order 12898.

Response - During the investigations conducted on September 12, 2022, and August 29, 2023, there were no documented impacts to human health or the

environment. However, TCEQ staff confirmed that Texas Star Ready Mix LLC temporarily ceased operating the concrete batch plant on August 9, 2023 and has not operated the concrete batch plant since that date. Also, Federal Executive Orders are not binding on states.

- Comment - The community should receive compensation for Texas Star Ready Mix, LLC's unauthorized operations through the form of a supplemental environmental project.

Response - A supplemental environmental project allows a respondent under enforcement to voluntarily participate in a project that enhances, protects, and improves the Texas environment. Since supplemental environmental projects are not mandatory, Texas Star Ready Mix, LLC did not volunteer to participate in a supplemental environmental project.

We appreciate your input into the enforcement action currently pending against Texas Star Ready Mix, LLC. The proposed agreed order will be considered at an upcoming Commission Agenda meeting. If you have further concerns or comments related to this order, please do not hesitate to call Ms. Yuliya Dunaway at (210) 403-4077 or at yuliya.dunaway@tceq.texas.gov. For environmental complaints related to the current operating conditions at Texas Star Ready Mix, LLC, please contact our Dallas/Fort Worth Regional Office at (817) 588-5800.

Thank you,

Melissa Cordell

Amy Settemeyer, Deputy Director
Enforcement Division
Texas Commission on Environmental Quality

AM/yd

cc: Ms. Wendi Hammond, Staff Attorney, Legal Aid of NorthWest Texas, via e-mail
Ms. Haley Varnadoe, Staff Attorney, Legal Aid of NorthWest Texas, via e-mail
Manager, Air Section, Dallas/Fort Worth Regional Office, TCEQ



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	28-Oct-2022	Screening	3-Nov-2022	EPA Due	
	PCW	29-May-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Star Ready Mix, LLC				
Reg. Ent. Ref. No.	RN111648234				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	63326	No. of Violations	2
Docket No.	2022-1557-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$35,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes No adjustment for Compliance History.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$341
Estimated Cost of Compliance \$5,900
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$35,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$35,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$35,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$7,000
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$28,000
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Screening Date	3-Nov-2022	Docket No.	2022-1557-AIR-E	PCW
Respondent	Texas Star Ready Mix, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	63326			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111648234			
Media	Air			
Enf. Coordinator	Yuliya Dunaway			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 3-Nov-2022 Respondent Texas Star Ready Mix, LLC Case ID No. 63326 Reg. Ent. Reference No. RN111648234 Media Air Enf. Coordinator Yuliya Dunaway Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b) Violation Description Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from July 23, 2022 through November 3, 2022.	Docket No. 2022-1557-AIR-E PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor	
Actual				Percent 0.0%
Potential				

>> Programmatic Matrix

Matrix Notes

Falsification	Major	Moderate	Minor	
	x			Percent 10.0%

100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events 4

103 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Four monthly events are recommended from the July 23, 2022 non-compliance date to the November 3, 2022 screening date.

Good Faith Efforts to Comply

0.0%
 Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer
 Extraordinary
 Ordinary
 N/A x
 Notes The Respondent does not meet the good faith criteria for this violation.

Reduction \$0

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation
Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$900	23-Jul-2022	1-Oct-2024	2.19	\$99	n/a	\$99
Other (as needed)				0.00	\$0	n/a	\$0
Actual cost to obtain Standard Permit Registration No. 171636 to authorize the concrete batch plant and the associated emissions at the Plant. The Date Required is the date the concrete batch plant began operations and the Final Date is the estimated date of compliance.							
Notes for DELAYED costs							

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance \$900

TOTAL \$99

Screening Date 3-Nov-2022 Respondent Texas Star Ready Mix, LLC Case ID No. 63326 Reg. Ent. Reference No. RN111648234 Media Air Enf. Coordinator Yuliya Dunaway	Docket No. 2022-1557-AIR-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2	Rule Cite(s)	
		30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)	
Violation Description		Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from November 4, 2022 until temporarily ceasing operation on August 9, 2023.	

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Percent 0.0%					

>> Programmatic Matrix

OR	Falsification	Major	Moderate	Minor	Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Percent 10.0%					

Matrix Notes	100% of the rule requirements were not met.
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Adjustment	\$22,500
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	\$2,500
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Violation Events

Number of Violation Events	10	278	Number of violation days
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	daily	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	
	monthly	x	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Ten monthly events are recommended from the November 4, 2022 non-compliance date to the August 9, 2023 date the concrete batch plant temporarily ceased operating.	
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Good Faith Efforts to Comply

	0.0%	Reduction	\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	x	<input type="text"/>	
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal	\$25,000
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$0	Statutory Limit Test
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Violation Final Penalty Total	\$25,000
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This violation Final Assessed Penalty (adjusted for limits)	\$25,000
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Economic Benefit Worksheet

Respondent Texas Star Ready Mix, LLC
Case ID No. 63326
Reg. Ent. Reference No. RN111648234
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	See the Economic Benefit in Violation No. 1.						

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance \$0

TOTAL \$0



Compliance History Report

Compliance History Report for CN605903574, RN111648234, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN605903574, Texas Star Ready Mix, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN111648234, TEXAS STAR READY MIX CBP SN 78043 **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 10 - Cement and Concrete Product Manufacturing

Location: 4500 GREAT TRINITY FOREST WAY, DALLAS, DALLAS COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
AIR NEW SOURCE PERMITS REGISTRATION 39039 **AIR NEW SOURCE PERMITS** REGISTRATION 171636

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: August 28, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 28, 2018 to August 28, 2023

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Yuliya Dunaway **Phone:** (210) 403-4077

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? Texas Star Ready Mix, LLC OWNER OPERATOR since 6/22/2021
- 4) Who was/were the prior owner(s)/operator(s)? Pro-Crete Ready Mix, LLC, OWNER OPERATOR, 3/4/2019 to 6/21/2021
C-N-T REDI MIX, LLC, OWNER, 4/1/2015 to 3/3/2019

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS STAR READY MIX, LLC
RN111648234

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1557-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Star Ready Mix, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a concrete batch plant located at 4500 Great Trinity Forest Way in Dallas, Dallas County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$35,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Revenue Operations Section of TCEQ's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay all or part of the penalty. Therefore, \$31,400 of the penalty is deferred contingent upon the Respondent's compliance with all the terms of this Order and shall be waived only upon full compliance with this Order. If the Respondent fails to comply with any requirement of this Order, including any payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent paid \$100 of the undeferred penalty. The remaining amount of \$3,500 of the undeferred penalty shall be paid in 35 monthly payments of \$100 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the

Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order and the Executive Director may demand payment of all or part of the deferred penalty.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On January 30, 2023, submitted a registration for Standard Permit Registration No. 171636 to authorize the concrete batch plant and the associated emissions at the Plant; and
 - b. On August 9, 2023, temporarily ceased operating the concrete batch plant.

II. ALLEGATIONS

During investigations at the Plant conducted on September 12, 2022 and August 29, 2023, investigators documented that the Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b). Specifically, the Respondent operated a concrete batch plant prior to obtaining the proper authorization from July 23, 2022 until temporarily ceasing operation on August 9, 2023.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Star Ready Mix, LLC, Docket No. 2022-1557-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements at the Plant:
 - a. Immediately upon the effective date of this Order, cease operating until the proper authorization for the concrete batch plant has been obtained in accordance with 30 TEX. ADMIN. CODE § 116.110(a).
 - b. Within 15 days after the effective date of this Order, submit written certification demonstrating compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d.
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the registration for Standard Permit Registration No. 171636 within any deadlines specified in writing.
 - d. Within 180 days after the effective date of this Order, submit written certification that either the authorization has been obtained or that operations of the concrete batch plant have permanently ceased, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and a copy to:

Air Program Manager
City of Dallas
Office of Environmental Quality & Sustainability
1500 Marilla Street, Room 7AN
Dallas, Texas 75201

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized

by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

6/6/2024


Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

06/05/2024

Date

Eyad Albelbaisi

Name (Printed or typed)
Authorized Representative of
Texas Star Ready Mix, LLC

Manager

Title

☐ *If mailing address has changed, please check this box and provide the new address below:*

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.