

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*

December 8, 2023

Laurie Gharis, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105 Austin, Texas 78711-3087

**RE: Application by West Gin, LLC, AIR Permit No. 21589; TCEQ Docket No. 2023-0545-AIR**

Dear Laurie Gharis:

Enclosed for filing with the Texas Commission on Environmental Quality (Commission) is the Executive Director's Response to Hearing Requests and Requests for Reconsideration.

Please do not hesitate to contact me at [Contessa.Gay@tceq.texas.gov](mailto:Contessa.Gay@tceq.texas.gov) or (512) 239-5938 if you have any questions. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in blue ink that reads "Contessa N. Gay".

Contessa Gay  
Staff Attorney  
Environmental Law Division

Division Enclosure

cc: Mailing List

**TCEQ AIR QUALITY PERMIT NO. 21589  
TCEQ DOCKET NO. 2023-0545-AIR**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>WEST GIN, LLC</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>COTTON GIN</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>BROWNFIELD, TERRY COUNTY</b>	<b>§</b>	

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST**

The Executive Director of the Texas Commission on Environmental Quality (commission or TCEQ) files this response (Response) to the request for a contested case hearing submitted by persons listed herein. The Texas Clean Air Act (TCAA) § 382.056(n) requires the Commission to consider hearing requests in accordance with the procedures provided in Texas Water Code § 5.556.<sup>1</sup> This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

The final draft of the permit special conditions, the Emission Sources - Maximum Allowable Emission Rates, the compliance history summary, and the permit renewal source analysis and technical review prepared by the Executive Director's staff are being filed concurrently with the TCEQ's Office of the Chief Clerk for the Commission's consideration. In addition, the Executive Director's Response to Public Comments (RTC), which was mailed by the Chief Clerk to all persons on the mailing list, is on file with the Chief Clerk for the Commission's consideration.

**I. Application Request and Background Information**

West Gin, LLC (Applicant) has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA) § 382.0518. This will authorize the continued operation of an existing facility that may emit air contaminants.

This permit will authorize the Applicant to continue operation of a Cotton Gin. The facility is located at 1000 West Hill Street, Brownfield, Terry County, Texas 79316. Contaminants authorized under this permit include carbon monoxide (CO), nitrogen oxides (NO<sub>x</sub>), organic compounds, particulate matter including particulate matter with diameters of 10 microns or less and 2.5 microns or less (PM<sub>10</sub> and PM<sub>2.5</sub>, respectively) and sulfur dioxide (SO<sub>2</sub>).

To continue operating an existing permitted facility that may emit air contaminants, the person planning the continued operation must obtain a permit renewal from the commission. This permit application is for a permit renewal of Air Quality Permit Number 21589.

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<sup>1</sup> Statutes cited in this response may be viewed online at [www.statutes.legis.state.tx.us](http://www.statutes.legis.state.tx.us). Relevant statutes are found primarily in the Texas Health and Safety Code and the Texas Water Code. The rules in the Texas Administrative Code may be viewed online at [www.sos.state.tx.us/tac/index.shtml](http://www.sos.state.tx.us/tac/index.shtml), or follow the "Rules, Policy & Legislation" link on the TCEQ website at [www.tceq.texas.gov](http://www.tceq.texas.gov).

The permit application was received on May 3, 2022 and declared administratively complete on May 12, 2022. The Notice of Receipt and Intent to Obtain an Air Quality Permit (first public notice) for this permit application was published in English on June 02, 2022, in the *Brownfield News*. The public comment period ended on June 17, 2022. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).<sup>2</sup>

The Executive Director's RTC was filed on November 2, 2022 and mailed out November 8, 2022, along with the letter setting the matter on the Commissioner's Agenda, to all interested persons, including those who asked to be placed on the mailing list for this application and those who submitted comments or requests for a contested case hearing. The Applicant is not delinquent on any administrative penalty payments or fees to the TCEQ. The TCEQ Enforcement Database was searched, and no pending enforcement activities were found.

TCEQ received a single timely hearing request during the public comment period from Suzy Davis on behalf of the Brownfield Cooperative Station.

## **II. Analysis of Hearing Requests**

The Applicant is seeking a renewal that would not result in an increase in allowable emissions and would not result in an emission of an air contaminant not previously emitted. The TCAA, § 382.056(g) states: "The commission may not seek further comment or hold a public hearing...in response to a request for a public hearing on an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted."<sup>3</sup> Therefore, the commission should deny the hearing request as a matter of law and approve the renewal of Applicant's Permit No. 21589.

Although this renewal application will not result in an increase in allowable emissions and will not result in an emission of an air contaminant not previously emitted, TCAA § 382.056(o) states: "Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission determines that the application involves a facility for which the applicant's compliance history is in the lowest classification under §§ 5.753 and 5.754, Water Code, and rules adopted and procedures developed under those sections."<sup>4</sup> The

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<sup>2</sup> Tex. S.B. 709, 84th Leg., R.S. (2015).

<sup>3</sup> See also 30 TAC § 55.201(i)(3)(D) (Renewals of air applications that "would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted" are applications for which there is no right to a contested case hearing).

<sup>4</sup> See also 30 TAC § 55.201(i)(3)(D) (stating the commission may hold a hearing if the application "involves a facility for which the applicant's compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations").

Commission adopted 30 TAC, Chapter 60 to evaluate compliance history. The lowest classification under the Texas Water Code §§ 5.753 and 5.754 and 30 TAC § 60.2 is an “unsatisfactory performer.” Under 30 TAC § 60.3(a)(3)(B), the TCEQ may hold a hearing on an air permit renewal if the site is classified as an unsatisfactory performer. The compliance history for the company and the site is typically reviewed for the five-year period prior to the date the permit application was received by the Executive Director. When the compliance history summary report was rated, the site had a rating of N/A, and was classified as N/A, and the company had a rating of N/A, and was classified as a N/A as well. Therefore, a hearing should not be granted under TCAA § 382.056(o) based on the compliance history of the Applicant.

### **III. Executive Director's Recommendation**

The renewal of this permit would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted. Under these circumstances, TCAA § 382.056(g) directs the Commission to “not seek further comment or hold a public hearing.” Because consideration of hearing requests on a “no increase” renewal application is governed by TCAA § 382.056(g) and (o), this Response does not include an analysis of the individual hearing requests. Accordingly, the Executive Director respectfully recommends the Commission deny the hearing request as a matter of law and approve the renewal of Applicant's Permit No. 21589.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Interim Executive Director

Erin Chancellor, Director  
Office of Legal Services

Charmaine Backens, Deputy Director  
Environmental Law Division



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Contessa N. Gay, Staff Attorney  
Environmental Law Division  
State Bar Number 24107318  
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Austin, Texas 78711-3087

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**CERTIFICATE OF SERVICE**

On December 8, 2023, a true and correct copy of the foregoing instrument was served on all persons on the attached mailing list by the undersigned via deposit into the U.S. Mail, inter-agency mail, facsimile, electronic transmission, or hand delivery.

A handwritten signature in blue ink that reads "Contessa N. Gay". The signature is written in a cursive style with a large, looped "G" at the end.

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Contessa N. Gay, Staff Attorney  
Environmental Law Division

MAILING LIST/LISTA DE CORREO  
WEST GIN, LLC  
TCEQ DOCKET NO./TCEQ EXPEDIENTE  
NO. 2023-0545-AIR  
PERMIT NO./PERMISO NO. 21589

**FOR THE APPLICANT/PARA EL  
SOLICITANTE:**

*Via first class mail/ vía correo de  
primera clase*

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100 Congress Avenue, Suite 1100  
Austin, Texas 78701

Peter Brannman, Manager  
West Gin, LLC  
P.O. Box 907  
Brownfield, Texas 79316

Duncan McCook, Manager of  
Regulatory Affairs  
Texas Cotton Ginners Association  
211 West Bagdad Avenue  
Round Rock, Texas 78664

**FOR THE  
REQUESTER(S)/SOLICITANTE(S):**

*Via first class mail/ vía correo de  
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Mrs. Mary Suzanne Davis  
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**FOR THE INTERESTED  
PERSON(S)/PERSONA(S)  
INTERESADA(S):**

*Via first class mail/ vía correo de  
primera clase*

Tiffany S. O'Briant  
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Mr. Joshua Wayne O'Briant  
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**FOR THE EXECUTIVE DIRECTOR/PARA EL  
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**FOR PUBLIC INTEREST  
COUNSEL/PARA ABOGADOS DE  
INTERÉS PÚBLICO:**

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**FOR ALTERNATIVE DISPUTE  
RESOLUTION/PARA LA  
RESOLUCIÓN ALTERNATIVA DE  
DISPUTAS:**

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**FOR THE CHIEF CLERK/PARA EL  
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*Via eFiling/vía eFiling:*

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