

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

August 16, 2024

TO: Persons on the Attached Mailing List

**RE: Docket No. 2024-0678-AIR
Thomas Howard Watson, II (Applicant)
Request(s) filed on Air Quality Permit No. 106325**

A letter regarding the above-referenced application was mailed from the Office of the Chief Clerk on August 16, 2024. **The Executive Director's Response to Public Comment was inadvertently omitted.** Please find enclosed.

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will still be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on September 25, 2024. The meeting will begin at 9:30 a.m. Due to an ongoing construction project, the agenda meeting will be held in Room 244 of the Texas Workforce Commission located at 101 East 15th Street in Austin, Texas. The agenda meeting may be held in person, virtually, or both in person and virtually. To confirm how the meeting will be held, please visit the Commissioners' Agenda webpage at <https://www.tceq.texas.gov/goto/agendas> eight days before the Agenda.

If you have any questions about this matter, please contact Georgia Carroll-Warren, at (512) 239-3300.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

Enclosures: Executive Director's Response to Public Comment, Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution.

**TCEQ AIR QUALITY CONCRETE BATCH PLANT STANDARD PERMIT REGISTRATION
NUMBER 106325**

APPLICATION BY § **BEFORE THE**
THOMAS HOWARD WATSON, II § **TEXAS COMMISSION ON**
CONCRETE BATCH PLANT § **ENVIRONMENTAL QUALITY**
CUERO, DEWITT COUNTY §

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the commission or TCEQ) files this Response to Public Comment (Response) on the Standard Permit application and Executive Director's preliminary decision.

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received timely comments from the following person: Thelma Lucas Rogers. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process, please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND

Description of Facility

Thomas Howard Watson, II (Applicant) has applied to the TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) § 382.05195. 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 Concrete Batch Plant. The plant is located at 31 Rainbow Road, Cuero, Dewitt County. Contaminants authorized under this permit include particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

Procedural Background

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 106325.

The permit application was received on June 2, 2023 and declared administratively complete on June 23, 2023. The Notice of Receipt and Intent to Obtain an Air Quality Standard Permit Registration Renewal (first public notice) for this permit application was published in English on July 19, 2023, in the *Cuero Record*. 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).

COMMENTS AND RESPONSES

COMMENT 1: DUST CONTROL

Commenter voiced concern about dust generated by the facility.

(Thelma Lucas Rogers)

RESPONSE 1: The Standard Permit for Concrete Batch Plants requires substantial dust control processes to minimize dust emissions, which include paving in-plant roads and work areas, using water sprays on stockpiles, and using a suction shroud with a three-sided curtain to prevent flyaway dust at the product loading point. When a company operates in compliance with the Standard Permit, the emissions should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.

Concrete is made up of four main ingredients: water, Portland cement, fly ash, and aggregates. Portland cement is the most common cement used and is composed of alumina, silica, lime, iron, and gypsum. Aggregates are sand, gravel, and crushed stone. These ingredients are considered non-hazardous dust under normal conditions. Certain types of silica (e.g., crystalline silica), when inhaled over a long period, have been shown to cause adverse health effects. However, concrete production facilities operating under standard permits have been determined to not make a significant contribution of these types of air contaminants to the atmosphere. Emissions from these facilities have already undergone a comprehensive TCEQ internal modeling of impacts and a health effects review. No adverse effects are expected to occur from facilities that meet all requirements of the Standard Permit for Concrete Batch Plants.

The primary contaminants that have the potential to be emitted from the facility are dust particles, also known as Particulate Matter, having particle sizes of less than or equal to 10 and 2.5 micrometers in aerodynamic diameter (PM₁₀ and PM_{2.5}, respectively). The primary activities that have the potential to emit particulate matter (i.e., dust) resulting from this project are vehicle traffic and material handling. All of the potential dust concentrations have been evaluated using reasonable worst-case operating parameters and compared to the federal criteria.

While nuisance conditions are not expected if the facility is operated in compliance with the terms of the permit, operators must also comply with 30 TAC § 101.4, which prohibits a person from creating or maintaining a condition of nuisance that interferes with a landowner's use and enjoyment of a property. Specifically, the rule states that "no person shall discharge from any source" air contaminants which are or may "tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." When a company operates in compliance with the Standard Permit requirements, such as those listed above, there should be no deterioration of air quality or the generation of dust such that it impacts visibility or contributes to a nuisance.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by

contacting the TCEQ Corpus Christi Regional Office at 361-881-6900 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit it may be subject to possible enforcement action.

COMMENT 2: COMPLIANCE HISTORY

Commenter expressed concern about the compliance history of the applicant and site.
(Thelma Lucas Rogers)

RESPONSE 2: During the technical review of the permit application, a compliance history review of both the company and the site is conducted based on the criteria in 30 TAC Chapter 60. These rules may be found at the following website:
<https://www.tceq.texas.gov/rules/index.html>.

The compliance history is reviewed for the five-year period prior to the date the permit application was received and includes multimedia compliance-related components about the site under review. These components include: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance. However, the TCEQ does not have jurisdiction to consider violations outside of the State of Texas.

A company and site may have one of the following classifications and ratings:

- High: rating below 0.10 - complies with environmental regulations extremely well;
- Satisfactory: rating 0.10 - 55.00 - generally complies with environmental regulations;
- Unsatisfactory: rating greater than 55.00 - fails to comply with a significant portion of the relevant environmental regulations.

This site has a rating of 73.75, and a classification of Unsatisfactory. The company rating has a rating of 82.87, and a classification of Unsatisfactory. The company rating reflects the average of the ratings for all sites the company owns in Texas. Please note, the plant did undergo a change in ownership from Lucky's Redi-Mix Co. LLC (10/10/2012 - 7/21/2019) to Watson, Thomas Howard.

As a result of the unsatisfactory compliance history, the authorization is placed on a shorter renewal cycle to allow for more frequent agency review of on-site operations and continual compliance.

Additionally, individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Corpus Christi Regional Office at 361-881-6900 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit it may be subject to possible enforcement action.

COMMENT 3: VIOLATIONS

Commenter asked about the consequences of violating the terms of the permit.
(Thelma Lucas Rogers)

RESPONSE 3: Violations are usually addressed through a notice of violation letter that allows the operator a specified period of time within which to correct the problem. The violation is considered resolved upon timely corrective action. A formal enforcement referral will be made if the cited problem is not timely corrected, if the violation is repeated, or if a violation is causing substantial impact to the environment or neighbors. In most cases, formal enforcement results in an agreed enforcement order including penalties and technical requirements for corrective action. Penalties are based upon the severity and duration of the violation(s). Violations are maintained on file and are included in the calculation of a facility and a person's compliance history. Compliance history ratings are considered during permit application reviews.

COMMENT 4: REQUIRED AUTHORIZATIONS

Commenter asked why the TCEQ allows the facility to operate without proper wastewater authorizations.
(Thelma Lucas Rogers)

RESPONSE 4: Although the TCEQ is responsible for the environmental protection of air and water as well as the safe management of waste, this registration will regulate the control and abatement of air emissions only. Therefore, issues regarding water quality or discharge and the handling of waste are not within the scope of this review. However, the Applicant may be required to apply for separate authorizations for water quality, water usage, or the handling of waste. The issuance of an air quality registration does not negate the responsibility of an applicant to apply for any additional required authorizations.

CHANGES MADE IN RESPONSE TO COMMENT

No changes have been made to the Executive Director's preliminary determination that the application meets the requirements for permit issuance.

Respectfully submitted,

Texas Commission on Environmental Quality

Kelly Keel, Executive Director

Erin E. Chancellor, Director
Office of Legal Services

Charmaine Backens, Deputy Director
Environmental Law Division



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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

MAILING LIST
Thomas Howard Watson, II
TCEQ Docket No. 2024-0678-AIR; Permit No. 106325

FOR THE APPLICANT

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REQUESTER(S)

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FOR THE EXECUTIVE DIRECTOR

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