Christina Bourque

From: PUBCOMMENT-OCC
Sent: Friday, April 14, 2023 8:24 AM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636

H

From: shadeafolabi@msn.com <shadeafolabi@msn.com>
Sent: Wednesday, April 12, 2023 8:22 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Folashade Afolabi

EMAIL: shadeafolabi@msn.com

COMPANY:

ADDRESS: 2320 THROCKMORTON ST
DALLAS TX 75219-3229

PHONE: 2145627585

FAX:

COMMENTS: Request for public hearing to hear community members request regarding this permit.

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Sent: Friday, April 14, 2023 8:24 AM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636

H

From: shadeafolabi@msn.com <shadeafolabi@msn.com>
Sent: Wednesday, April 12, 2023 8:13 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

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NAME: Folashade Afolabi

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COMPANY:

ADDRESS: 2320 THROCKMORTON ST
DALLAS TX 75219-3229

PHONE: 2145627585

FAX:

COMMENTS: Request for public hearing to hear community members request regarding this permit.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Thursday, March 14, 2024 11:33 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Response Supplemental Public Comments
Attachments: Joppa town ASSoc3.pdf; Joppa town ASSoc2.pdf; Joppa town ASSoc.pdf; VerLetter 2-2-2024.jpg; lib4 2-5-2024.jpg.jpeg; lib3 2-5-2024.jpg.jpeg; lib2 2-5-2024.jpg.jpeg; lib1 2-5-2024.jpg; Response Supplemental Public Comments.pdf

PM
H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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

From: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Sent: Thursday, March 14, 2024 8:24 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: Response Supplemental Public Comments

Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-1835
Cell Phone: 512-739-4582

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

From: wconcretes@gmail.com <wconcretes@gmail.com>
Sent: Friday, March 8, 2024 10:02 PM
To: Laurie Gharis <Laurie.Gharis@tceq.texas.gov>
Subject: Response Supplemental Public Comments

Subject: Response Supplemental Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a

Dear Ms. Gharis,

I hope this email finds you well. We have received and carefully reviewed the supplemental submissions from Legal Aid of NorthWest Texas (LANWT) on behalf of Joppa Freedmans Town Association (JFTA) opposing our application for the issuance of Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636. In response to the numerous allegations and concerns raised, we would like to provide comprehensive clarification and refute the claims made by JFTA.

Before addressing the substantive matters, it is crucial to outline preliminary concerns regarding the representation and motivations behind these claims. First and foremost, we object to the accusations made against TSR, as outlined in LANWT's communication.

I. Preliminary Concerns

1. False Accusations by LANWT's Counsel:

   LANWT's counsel, Mr. Michael Bates, has made several false accusations against Texas Star Ready Mix, LLC (TSR), without providing concrete evidence or verifiable details to support these claims. These unfounded allegations cast doubt on the credibility and integrity of the information presented by LANWT.

2. Lack of Documentation for JFTA Representation:

   Mr. Michael Bates claims to represent JFTA, yet there is a notable absence of a formal letter of representation in the materials provided. Without proper documentation, questions arise regarding the legitimacy of Mr. Bates' representation of JFTA and the authority to make requests on their behalf.

3. Existence of Joppa Freedmans Town Association (JFTA):

   It is imperative to establish the existence of JFTA, identify its members, and verify the authorization for legal representation. Without clear evidence of JFTA's existence and its members, the validity of Mr. Bates' actions comes into question. A search in the Texas Secretary of State (SOS) database for JFTA yielded two entities, both forfeited. The founder of the first entity (SOS File# 0803001774) is Temeckia Derrough, residing at 4701 NOME ST, Dallas, 75216. Ms. Derrough, employed as a web salesperson at Amazon, posted one of the comments. This entity, comprising one member, no longer exists. The second entity (SOS File# 0800662131) we came across has been inactive for over seven years and ceased to exist in the DFW area long ago.

4. Motivations Behind Legal Representation:

   Clarity is needed regarding who hired Mr. Michael Bates to represent JFTA. Is this representation initiated by JFTA members, or is it a self-motivated effort by Mr. Bates? Understanding the motivations behind this legal representation is essential for a comprehensive evaluation of the situation.

II. Substantive Matters

5. Public Notice Deficiencies:

   JFTA asserts that we failed to provide proper notice throughout the permit application process, citing issues such as the absence of signage, improper notice at the library, and failure to republish newspaper notice. We categorically deny these allegations. We followed all statutory and regulatory requirements, including proper signage placement, library document availability, and adherence to newspaper notice procedures.

   Contrary to the assertion in your email, we have written confirmation that our permit application documents, including the updated versions, were indeed made available at the Erik Jonsson Central Library for more than 30 days. Please find attached the confirmation letter and pictures acknowledging the submission of the documents to the library on February 2, 2024. This confirmation includes details of the documents provided, ensuring transparency and compliance with the TCEQ's public notice requirements.

6. Public Comment Period Extension:

   Concerns were raised about the re-opening and extension of the public comment period, with allegations of inadequate notification to JFTA and other interested parties. We maintain that all necessary notifications were made in accordance with TCEQ procedures, and I do ask TCQ to deny their request for any extension. This is the third time public comment opens, and mainly Mr. Michael Bates who comments to slow the process.

7. Financial Obligation and Penalty:

   Furthermore, matters related to the project's financial standing and the status of the site fall outside the purview of JFTA counsel. Their stipulations and discussions on securing funds are not within Michael Bates's business. These aspects are confidential and do not pertain to their involvement or oversight.

III. conclusion

In conclusion, we firmly assert that TSR have acted in accordance with the law and fulfilled all the requirements for the permit application process. In light of the above, we urge a thorough examination of the legitimacy of Mr. Bates' representation of JFTA and seek clarification on the association's existence and membership. Additionally, we stand firm in our objection to the release of information that is rightfully protected under applicable legal exemptions. If you require further

documentation or have specific inquiries related to these preliminary concerns, please do not hesitate to contact us directly. We appreciate your attention to these matters.

Sincerely,
Eyad Albelbaisi
Operations Manager
Texas Star Ready Mix LLC
(214) 475-5095
wconcretes@gmail.com

Date: March 8, 2024

Subject: Response Supplemental Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a

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

Dear Ms. Gharis,

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Sincerely,
Eyad Albelbaisi
Operations Manager
Texas Star Ready Mix LLC
(214) 475-5095
wconcretes@gmail.com

Taxable Entity Search Results

for the search string : 32066986616

ions about the search results, send an email to tax.help@cpa.texas.gov. or call 1-800-252-1386.

Franchise Tax Account Status

As of : 09/30/2023 01:33:53

Results

~~This page is valid for most business transactions but is not sufficient for filings with the Secretary of State~~

Name	Taxpayers ID#	Zip
JOPPA FREEDMAN TOWN ASSOCIATION	32066986616	75216

JOPPA FREEDMAN TOWN ASSOCIATION

Texas Taxpayer Number	32066986616
Mailing Address	4701 NOME ST DALLAS, TX 75216-4150
Right to Transact Business in Texas	FRANCHISE TAX INVOLUNTARILY ENDED Request tax clearance to reinstate entity
State of Formation	TX
Effective SOS Registration Date	04/23/2018
Texas SOS File Number	0803001774
Registered Agent Name	VERENIA M HATCH
Registered Office Street Address	4701 NOME ST. DALLAS, TX 75216

Franchise Tax Account Status

As of : 09/30/2023 01:33:53

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

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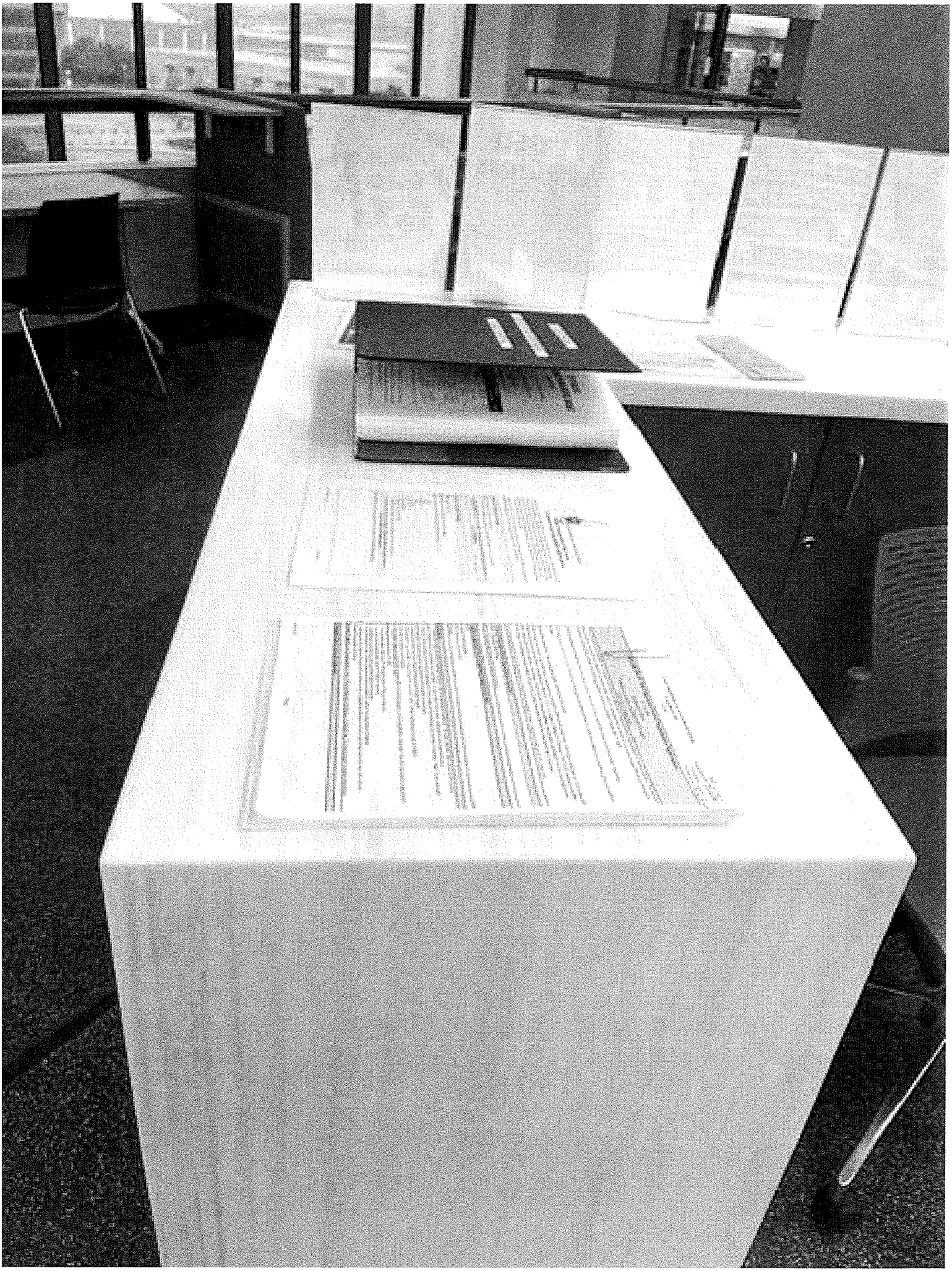
Public Information Report

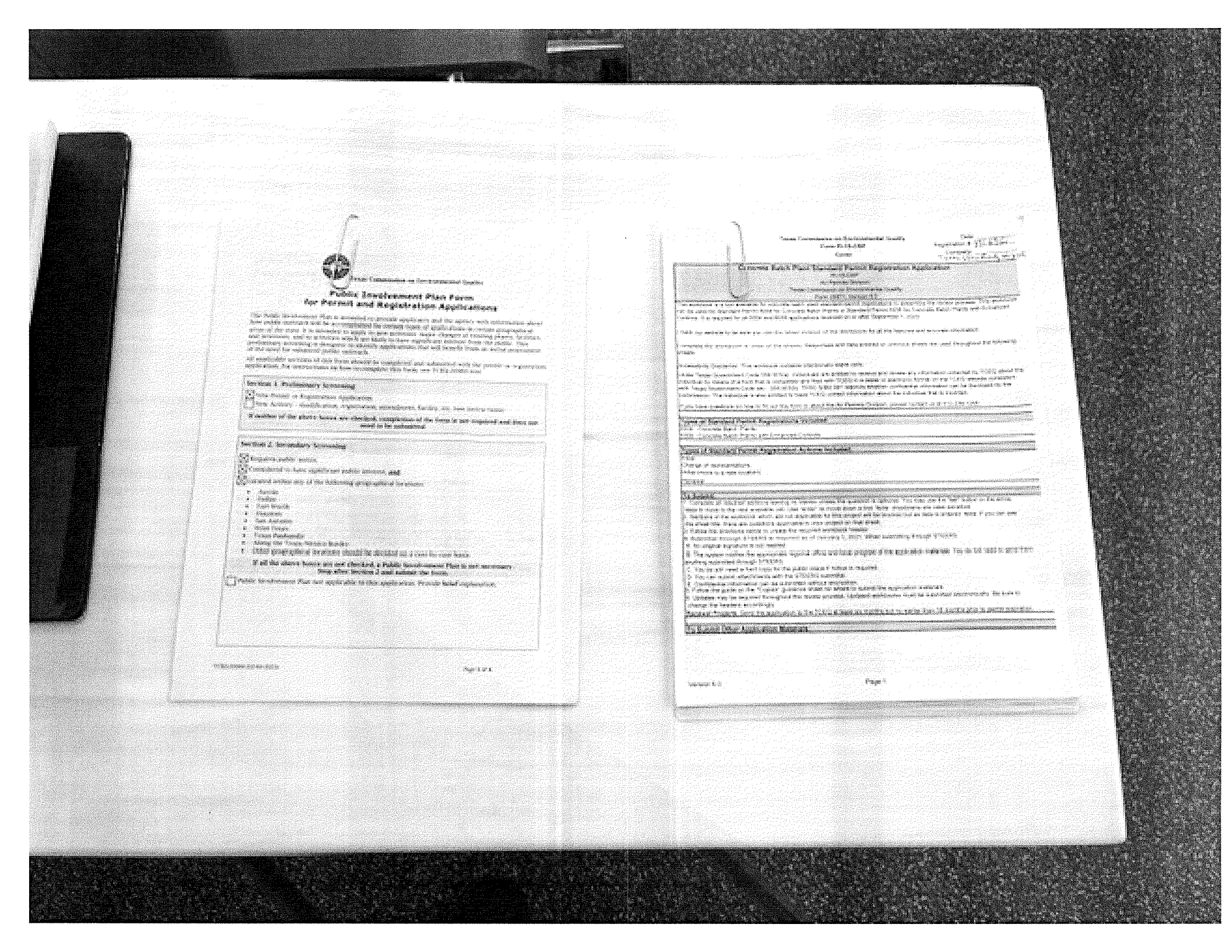
Public Information Report
JOPPA FREEDMAN TOWN ASSOCIATION
Report Year :2021

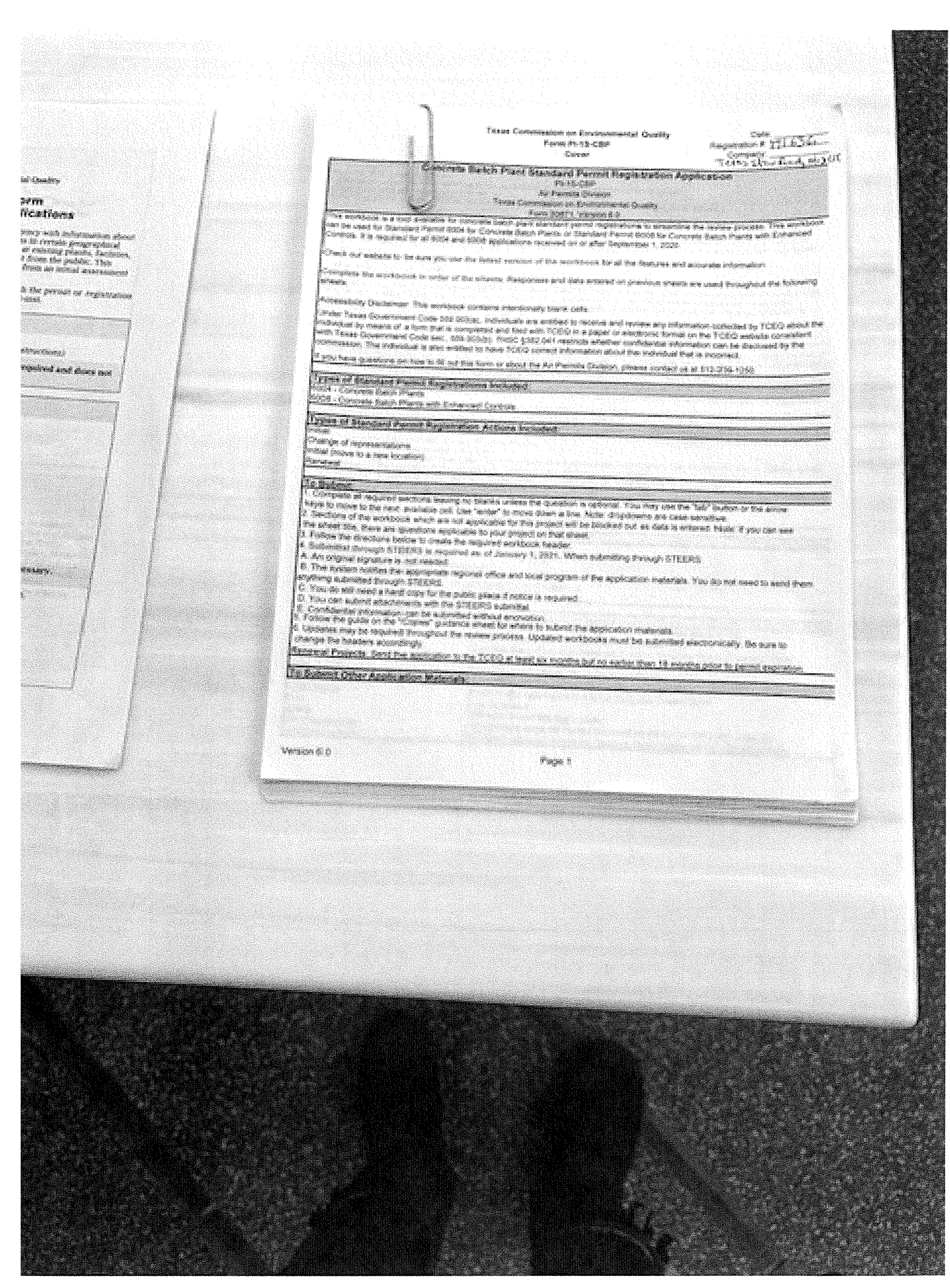
Information on this site is obtained from the most recent Public Information Report (PIR) processed by the Secretary of State (SOS). PIRs filed with annual franchise tax reports are forwarded to the SOS. After processing, the SOS sends the Comptroller an electronic copy of the information, which is displayed on this web site. The information will be updated as changes are received from the SOS.

You may order a copy of a Public Information Report from open.records@cpa.texas.gov or Comptroller of Public Accounts, Open Records Section, PO Box 13528, Austin, Texas 78711.

Title	Name and Address
DIRECTOR	**TAMEKA DOUGHROW** 4701 NOMEST. DALLAS, TX 75216







Texas Commission on Environmental Quality
Form PI-1S-CBP
Cover

Date:
Regulated Entity No.:
Company:
Customer Reference No.:

Concrete Batch Plant Standard Permit Registration Application

PI-1S-CBP
Air Permits Division
Texas Commission on Environmental Quality
Form 20271 (Version 6.0)

This workbook is a tool available for concrete batch plant standard permit registrations to streamline the review process. This workbook uses the rules for Standard Permit 6004 for Concrete Batch Plants or Standard Permit 6008 for Concrete Batch Plants with Enhanced Controls. It is required for all 6004 and 6008 applications received on or after September 1, 2020.

Check our website to be sure you use the latest version of the workbook for all the features and accurate information.

Complete the workbook in order of the sheets. Responses and data entered on previous sheets are used throughout the following sheets.

Accessibility Disclaimer: This workbook contains intentionally blank cells.

Under Texas Government Code 552.004(a), Individuals are entitled to receive and review any information collected by TCEQ about the individual by means of a form that is completed and filed with TCEQ on a paper or electronic form or on the TCEQ website (consistent with Texas Government Code sec. 559.003(b)). Chapter 552 (all) regards whether confidential information can be disclosed by the commission. The individual is also entitled to have TCEQ correct information about the individual that is incorrect.

If you have questions on how to fill out this form or about the Air Permits Division, please contact us at 512-239-1250.

Type of Standard Permit Registration Requested

6004 – Concrete Batch Plants

6008 – Concrete Batch Plants with Enhanced Controls

Type of Standard Permit Registration Action Requested

Initial

Change of representative

Initial review in a new location

Renewal

Is Each of the Following Statements True?

1. Complete all required sections/fields for this form unless the question is optional. You may use the "tab" button on the keyboard to move to the next available cell. Use "enter" to move down a row. Note: Dropdowns are case-sensitive.
2. Sections of the workbook which are not applicable for this project will be blocked but all data is retained. Note: If you can see the whole row, there are questions applicable to your project on that sheet.
3. Follow the directions below to create the required workbook header.

A. Submitted through STEERS is required as of January 1, 2021. When submitting through STEERS:
A. An original signature is not needed.
B. The system notifies the appropriate regional office and local program of the application materials. You do not need to send them anything submitted through STEERS.
C. You do still need a hard copy for the public place if notice is required.
D. You can submit attachments with the STEERS submittal.
E. Confidential information can be submitted without encryption.
F. Follow the guide on the "Claims" guidance sheet for where to submit the application materials.

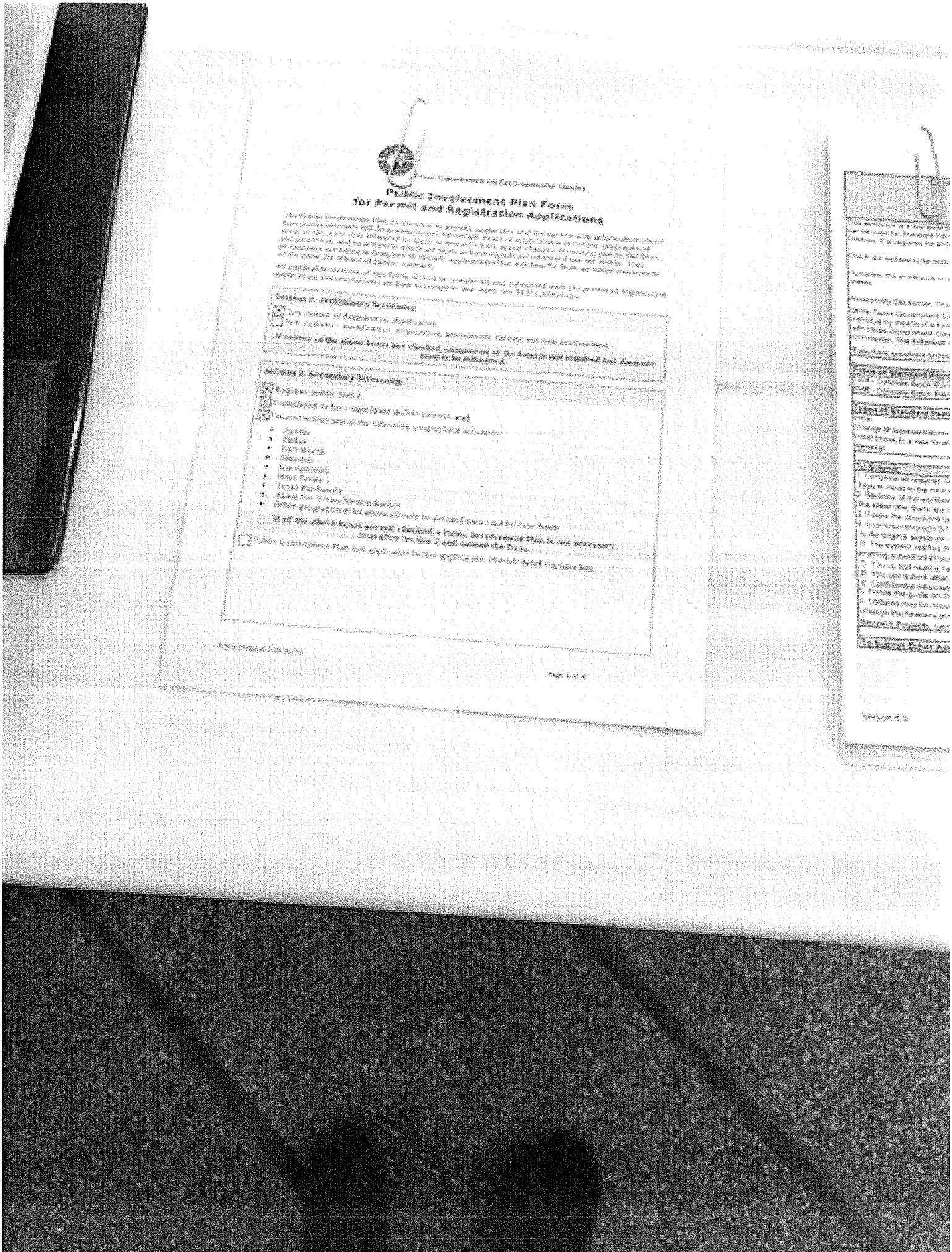
4. Updates may be required throughout the review process. Updated workbooks must be submitted electronically. Be sure to change the headers accordingly.

Timing is Priority: Send the application to the TCEQ at least six months but no earlier than 18 months prior to planned construction.

Is Federal Offset Applicable (FOA)?

Version 6.0

Page 1



Texas Commission on Environmental Quality

Public Involvement Plan Form
for Permit and Registration Applications

The Public Involvement Plan is intended to promote interaction and the exchange of information between the public and the applicant. Applicants are encouraged to communicate with the public about their projects as early as possible in the permitting process. Applicants are required to conduct the public involvement activities prior to submitting the application to the TCEQ. Additional public involvement activities may be required during the technical review of the application. The level of public involvement activities should be commensurate with the complexity of the application and the anticipated degree of public interest in the application.

All applicable sections of this form should be completed and submitted with the permit or registration application. Mail completed forms and fees to Complete Mail Room, MC 214, PO Box 13087, Austin, TX 78711-3087.

Section 1. Preliminary Screening

- [ ] New Permit or Registration Application
- [ ] New Activity - modification, amendment, renewal, facility, site, plan, permit/registration

If neither of the above boxes are checked, completion of the rest of this form is not required and does not need to be submitted.

Section 2. Secondary Screening

- [ ] Requires public notice
- [ ] Considered to have significant public interest, and
- [ ] Located within one of the following geographical locations:
  - Austin
  - Dallas
  - Fort Worth
  - Houston
  - San Antonio
  - Rural Texas
  - Texas Panhandle
  - Along the Texas/Mexico Border
  - Other geographical or jurisdictional areas as directed on a case-by-case basis

If all the above boxes are not checked, a Public Involvement Plan is not necessary. Stop after Section 2 and submit the form.

- [ ] Public Involvement Plan not applicable to this application. Provide brief explanation.

Page 1 of 6

Version 4.0

Date: 02/2/2024

Subject: Public Notice - Texas Star Ready Mix Application for Public

This is to confirm that Texas Star Ready Mix has submitted an application for Project 171363. The commission amended the Air Quality Standard Permit for Concrete Batch Plants, as authorized under Texas Health and Safety Code, Section 382.05195, and Title 30 Texas Administrative Code, Chapter 116, Subchapter F, to TCEQ. As part of the required process, the application has been placed in the J. Erik Jonsson Central Library located at 1515 Young St. Dallas, TX 75201 for public viewing.

Library Staff: Dallas Public Library

Name: Dany Pedarte

Signature: Dany Pedarte

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:09 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-ReplytoRTC-RequestForCCH_Part1.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 5:38 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 1 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

400 S. Zang Blvd., Ste. 1420
Dallas, Texas 75208
469.458.9009

Legal Aid of NorthWest Texas

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082. Part 1 of 13

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Respectfully submitted,

Haley Varnadoe
Staff Attorney
(817) 882-1001
varnadoeh@lanwt.org

2001 Beach St., Ste. 510
Fort Worth, TX 76103
Fax: (817) 882-1001

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

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

Wendi Hammond
Staff Attorney
(214) 243-2583
hammondw@lanwt.org

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 732-1602

cc: Certificate of Service

TCEQ AIR QUALITY STANDARD PERMIT FOR CONCRETE BATCH PLANT
REGISTRATION NUMBER 171636

APPLICATION BY	§	**BEFORE THE**
TEXAS STAR READY MIX, LLC	§	**TEXAS COMMISSION ON**
CONCRETE BATCH PLANT	§	
DALLAS, DALLAS COUNTY	§	**ENVIRONMENTAL QUALITY**

REQUEST FOR RECONSIDERATION, REPLY TO THE EXECUTIVE DIRECTOR'S RESPONSE TO COMMENTS, AND REQUEST FOR A CONTESTED CASE HEARING

Through its counsel at Legal Aid of NorthWest Texas, Joppa Freedmans Town Association ("JFTA") files this its Request for Reconsideration, Reply to the Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's preliminary decision to issue Permit ID 171636 to Texas Star Ready Mix LLC. The reasons are set forth below.

I. FACTUAL BACKGROUND

Texas Star Ready Mix, LLC ("Applicant") applied for an Air Quality Standard Permit for Concrete Batch Plants on January 30, 2023 under Registration No. 171636, for its facility located at 4500 Great Trinity Forest Way, Dallas, Texas 75082. Texas Commission on Environmental Quality ("TCEQ") issued a Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision on March 10, 2023. Through its legal counsel, JFTA submitted timely public comments and requests for a Public Meeting and Contested Case Hearing on Applicant's application.[1] TCEQ held a public meeting on this application on August 17, 2023.

[1] Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75085, Joppa Freedmans Town Association, electronically submitted to Ms. Laurie Gharis, Office of the Chief Clerk, Texas Commission on Env't Quality on April 14, 2023, August 17, 2023, September 28, 2023, and March 6, 2024 (hereinafter referred to as "JFTA Public Comments"). JFTA incorporates all of these documents by reference into this Request for Reconsideration.

The Executive Director issued a preliminary determination to grant the permit and provided a response to public comments on July 11, 2024. This Request for Reconsideration is timely as it is properly filed on August 9, 2024.

II. ARGUMENT

The Executive Director's preliminary determination is arbitrary and capricious, not valid, and must be reconsidered for the following reasons:

A. TCEQ's decisions concerning this facility invalidate the protectiveness of TCEQ's Standard Concrete Batch Plant permit.

TCEQ's decisions concerning this facility create an unlawful process that invalidates the protectiveness of its Standard Concrete Batch Plant permit because TCEQ's decisions to date have created a compliance loophole that would allow Applicant to operate under the standard permit unchecked by both TCEQ and the public. In summary, TCEQ's decisions creating this illegal loophole include:

- the Executive Director's permit application review process relies on Applicant's biased and false assertions while ignoring the evidence provided by the public and EPA that demonstrates Applicant's actual past, current, and potential future non-compliance because the Executive Director asserts that Applicant ***may be subject to enforcement action*** if Applicant fails to comply with the representations made in its application.

- However, TCEQ's recent enforcement action against Applicant failed to thoroughly evaluate Applicant's actual past, current and potential future compliance with all standard permit statutory and regulatory requirements because TCEQ asserted that ***TCEQ will verify Applicant's compliance during TCEQ's permit review process***.

- Meanwhile, TCEQ's recent enforcement action against Applicant clearly established that ***TCEQ refuses to thoroughly review Applicant's legally required on-site records*** that would demonstrate whether Applicant's facility is legally in compliance.

- Furthermore, ***TCEQ repeatedly denies the public access to a facility's on-stie records that the standard permit legally requires*** to demonstrate whether Applicant's facility is legally in compliance.

- Therefore, ***neither TCEQ is verifying—nor is the public able to verify—that Applicant has, is or will be in compliance*** with all of the legal requirements of TCEQ's Standard Concrete Batch Plant permit that establish the protectiveness of that standard permit.

Further elaboration demonstrating that TCEQ's decisions invalidate the protectiveness of TCEQ's Standard Concrete Batch Plant permit follows.

1. *Executive Director relies on Applicant's biased and false assertions while ignoring evidence provided by the public and EPA that demonstrates Applicant's actual past, current and potential future non-compliance with the standard permit requirements.*

The type of permit Applicant seeks authorizes construction of a new facility, despite the reality that a batch plant already exists (and has operated) on the site. Applicant's existing site currently fails to meet numerous requirements of the Standard Concrete Batch Plant permit and requires significant structural and mechanical alterations and improvements to qualify for the requested standard permit. For example, the site currently lacks paved ingress and egress routes, barriers that rise above the site's stockpiles, concrete fences taller than ten feet, proper placement of batching and trucking equipment, and necessary upgrades to batching, mixing, and production equipment.[2] Therefore, in order to comply with the permit it seeks, Applicant must make material and costly alterations and improvements to the site, including but not limited to: paving entrances to the site, constructing barriers that rise above the site's stockpiles, constructing concrete fences taller than ten feet, moving location of batching and trucking equipment, and other necessary upgrades to batching, mixing, and production equipment.[3]

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[2] *Id.*
[3] *Id.*

Because the site has already been constructed, the Applicant is needing to *modify* the existing facility. This distinction is relevant to the consideration of this application because TCEQ refused to take into consideration any evidence that the site is currently non-compliant. TCEQ has also not verified Applicant has the ability to modify the site to become compliant.

Thus, the Executive Director's decision fails to consider the site's current state of severe noncompliance and is instead functionally treating Applicant as if it was a pre-construction site.[4] By ignoring the evidence from the public, JFTA, and the federal Environmental Protection Agency, TCEQ's Executive Director fails to properly determine whether that the facility's emissions "will contravene the intent of this chapter, including protection of the public's health and physical property."[5]

For example, despite Applicant's numerous past and current failures to meet the standard permit requirements, Applicant stated at TCEQ's April 1, 2024 investigation, that they "will operate the site once they receive an authorization from TCEQ to operate the site."[6] Given the current conditions of the site, ***the Applicant will be in immediate noncompliance if it starts operating once this permit is granted*** because the site currently fails to satisfy multiple compliance requirements, including, but not limited to:

- failure to pave site entrances and exits to the site
- failure to construct barriers that rise above the site's stockpiles
- failure to construct concrete fences taller than ten feet
- failure to have proper setback distances for batching and trucking equipment

[4] Public Meeting regarding Texas Star Ready Mix LLC's proposed Permit No. 171636 (Aug. 17, 2023), 18:00 (incorporated by reference) (on file with JFTA and TCEQ) (hereinafter referred to as "Public Meeting"); Executive Director's Response to Public Comment, Texas Star Ready Mix, LLC, Standard Permit Registration No. 171636 (July 24, 2024), 23 (hereinafter referred to as "Executive Director's Response to Comment").
[5] Texas Health & Safety Code § 382.0518(b)(2).
[6] TCEQ Investigation - April 1, 2024 (Attachment 3, page 153, paragraph 7).

- failure to meet the BACT and other pollution control standards for batching, mixing, and production equipment.[7]

The Environmental Protection Agency even submitted a letter identifying Applicant's failures to meet the requirements of the permit and how this would fail to protect the health and safety of the public.[8]

Instead of actually verifying whether or not Applicant's site is currently compliant or if Applicant has the financial means to make the site compliant, TCEQ solely bases all responses to comments on the Applicant's biased and false assertions.[9]

However, TCEQ has a statutory duty to determine and ensure relevant requirements have and will be met. Applicant's own biased judgment or false assertions cannot substitute for proper and thorough evaluation of whether Applicant's statutory obligations have been met. This is especially true when TCEQ is presented with evidence that directly contradicts the Applicant's assertions, which both JFTA and EPA provided.[10] For example, throughout various TCEQ proceedings, Applicant has falsely asserted:

- this permit application did not arise from an enforcement action.[11]
- the amount of time they operated without a permit.[12]
- they had an air permit to operate.[13]

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[7] JFTA Public Comments, *supra* note 1.
[8] Letter from Cynthia Kaleri, Section Supervisor, Air Permits Section, EPA, to Cory Chism, Director, Office of Air, TCEQ (July 22, 2024) (electronically submitted as Public Comment on Permit Number 171636 on July 22, 2024) (hereinafter referred to as "EPA Letter") (Attachment 4, page 156).
[9] Executive Director's Response to Comments, *supra* note 4, at 16–17.
[10] EPA Letter, *supra* note 11; JFTA Public Comments, *supra* note 1.
[11] JFTA Public Comments, *supra* note 1 (April 14, 2023, page 7).
[12] TCEQ Commissioners Meeting, May 22, 2024 - Transcript (Attachment 5, page 160).
[13] Public Meeting, *supra* note 4, at 36:30, 42:00, 54:30, & 59:00 (Applicant could not provide information on the permit by rule it claimed to be currently operating under and TCEQ staff stated they were "aware" that Applicant withdrew its permit by rule in December 2022).
at 42:00 (Wendi Hammond: "Yes or no, has the Applicant been operating since it filed its application in this matter?"
Applicant: "Yes. We have other permits by the way.").

- the roads entering and exiting their roads were paved.[14]
- they posted permit public notice signage according to the regulations.[15]
- they provided the required February 2, 2024 permit application to the library for public review.[16]
- they conducted additional public outreach other than what was required by rule.[17]

Although Applicant made demonstrably false assertions in its application, TCEQ takes the Applicant's word as irrefutable fact. Yet TCEQ cannot continue to rely solely on Applicant's assertions and ignore the public providing evidence to the contrary, especially in light of TCEQ's recent enforcement actions against Applicant.

Yet the Executive Director's decision solely relies on Applicant's assertions[18] and refused to evaluate the abundance of evidence that Applicant ***has, is and will most likely continue to fail the requirements of the standard permit.*** The Executive Director failed to respond to any substantive site compliance failures and instead punts the site compliance problems to enforcement, stating, "[i]f Applicant deviates from the representations made in the application, on which the permit was developed, the Applicant may be subject to enforcement action."[19] By failing to determine whether the site is even capable of complying with the terms of the standard

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at 42:00 (Wendi Hammond to TCEQ: "What permit by rule are they operating under?"
TCEQ Staff: "It's authorization number 39039."
Wendi Hammond to TCEQ: "For a concrete mixer that is lesser than what they are actually using, correct?"
TCEQ Staff: "I can't speak to what they are currently doing, I don't know . . . 39039 was a previous authorization.");
at 59:00 (Michael Bates to TCEQ: "Are any of the TCEQ engineers aware that on air permit 39039 that TCEQ sent a PBR withdrawal response letter on December 27 that Applicant was certifying that they were withdrawing their PBR?"
TCEQ Staff: "Yes, I'm aware."

[14] Public Meeting, *supra* note 4; EPA Letter, *supra* note 11.
[15] Attachment 7; Attachment 8, page 189; JFTA Public Comments, *supra* note 1 (March 6, 2023, page 3).
[16] JFTA Public Comments, *supra* note 1 (March 6, 2023, page 3, paragraph 3).
[17] Texas Star Ready Mix, LLC Public Involvement Plan, Page 4, incorporated by reference.
[18] Executive Director's Response to Comments, *supra* note 4, at 23.
[19] *Id.*

permit, the Executive Director chose to ignore the many issues of concern in favor of passing the issues along to TCEQ's enforcement staff.

However, the Executive Director is not alone in punting issues to other departments because TCEQ's enforcement staff previously punted the exact same compliance issues to TCEQ's permitting staff.

2. *TCEQ's recent enforcement action against Applicant failed to thoroughly evaluate Applicant's actual past, current and potential future compliance with all standard permit requirements.*

In Applicant's enforcement case for operating the site without a permit, TCEQ's enforcement stated: "[d]uring 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."[20] TCEQ's enforcement action never verified that Applicant has, is currently or will be able to comply with the terms and conditions of a Standard Permit for Concrete Batch Plant.

Even if Applicant attempted to remedy site non-compliance, complying would require financially costly infrastructure changes. However, Applicant stated in its enforcement agreed order proceeding that it does not have financial inability to pay the assessed $35,000 fine.[21] Based on this assertion, TCEQ reduced the penalty to $3,600.[22] If Applicant is unable to pay this fine, it stands to reason that Applicant cannot afford the numerous costly facility improvements necessary to operate this site in compliance with the terms of the permit it seeks. Yet TCEQ failed to verify that Applicant will be able to afford the infrastructure changes to comply with the requirements of this permit. TCEQ also fails to take into consideration that Applicant asserts two contrary things:

[20] TCEQ Enforcement Interoffice Memorandum - page 4 (Attachment 1, page 5).
[21] Agreed Order TCEQ Case Number 63326, Docket Number: 2022-1557-AIR-E (Attachment 1, page 1 and Attachment 2, page 143).
[22] *Id.*

that it cannot afford a $31,400 fine but that it can afford to pay to fix the extensive list of current non-compliance issues at the site. Furthermore, given that Applicant will be in immediate noncompliance when it operates immediately after receiving this permit, Applicant will likely not be able to afford to pay the resulting enforcement penalties.

3. *TCEQ's recent enforcement action against Applicant clearly established that TCEQ refuses to thoroughly review Applicant's legally required on-site records that would demonstrate whether Applicant's facility is legally in compliance.*

In addition to refusing to evaluate Applicant's financial ability to bring its facility into compliance during the enforcement process, TCEQ also refused to obtain and review any of Applicant's on-site records that would conclusively demonstrate whether Applicant's facility is legally in compliance. (*See, e.g.*, the extended discussion provided below in Section C: "Executive Director failed to properly evaluate Applicant's compliance history and deny the permit").

TCEQ staff once again merely relied upon Applicant's assertions instead of reviewing actual on-site documents that would demonstrate to what extent the Applicant's failure to comply with statutory and regulatory requirements.

4. *TCEQ repeatedly denies the public access to a facility's on-site records that the standard permit legally requires to demonstrate whether Applicant's facility is legally in compliance.*

As previously provided repeatedly in our public comments for this permitting action and TCEQ's recent enforcement action against Applicant, TCEQ denies the public access to Applicant's on-site records that TCEQ's standard permit legally requires Applicant to maintain only on-site. These records are the only records that can definitively demonstrate whether Applicant's facility is legally in compliance with the standard permit. Without access to these

records, the public can never determine whether a facility is legally in compliance with the standard permit.

5. *Neither TCEQ is verifying—nor is the public able to verify—that Applicant has, is or will be in compliance with all of the legal requirements of TCEQ's Standard Concrete Batch Plant permit that establish the protectiveness of TCEQ's standard permit.*

As stated previously, TCEQ refused to review and evaluate Applicant's on-site records during TCEQ's recent enforcement action. Meanwhile, TCEQ also refuses to allow the public access to a facility's on-site records required by TCEQ's Standard Concrete Batch Plant permit. Therefore, TCEQ's decisions have created a potentially never-ending compliance loophole and invalidates the protectiveness of TCEQ's standard permit.

In effect, the Executive Director preliminary decision creates a permitting compliance loophole because Applicant can simply assert on paper that it will meet the requirements of TCEQ's standard permit even when Applicant's existing site is currently non-compliant with those standard permit requirements; circumstances indicate that Applicant will not be financially able to make necessary facility improvements to operate in compliance; Applicant would be in direct violation of the permit if it immediately starts operating again once TCEQ approves Applicant's application. Despite Applicant's history of false assertions and countless violations for operating illegally, the Executive Director would happily grant this permit as long as the Applicant knows the right things to say on paper—even when Applicant's existing site does not match Applicant's current assertions, and even if there is evidence from the public and from the Environmental Protection Agency to the contrary—merely because the Executive Director relies upon TCEQ's enforcement authority. Thus instead of following required permitting review procedures, the Executive Director's decision would require the public to wait for the industry to violate the terms of the permit and engage in an enforcement process.

However, in TCEQ's recent enforcement action against Applicant, TCEQ Commissioners accepted TCEQ's enforcement staff's refusal to review any of Applicant's actual on-site records by claiming that TCEQ's permitting review process would address the public's valid concerns about Applicant's past, current, and potential future compliance with TCEQ's standard permit requirements. JFTA understandably does not trust TCEQ's process of enforcement because TCEQ already took over a year to require Applicant to stop operating without proper authorization. Even if JFTA reports noncompliance and advocates for an enforcement action *and* TCEQ opens an enforcement action against Applicant *and* if TCEQ agrees to an enforcement order with Applicant, TCEQ has argued the general public have no rights to contest the Agreed Order outside of the public comment process.

Meanwhile, TCEQ repeatedly refuses to provide the public access to any concrete batch plant's on-site records that are required by TCEQ's standard permit and establish the protectiveness of TCEQ's Standard Concrete Batch Plant permit.

Therefore, TCEQ's overall decisions to date concerning this application would cause further harm to human health and the environment; deprive the public of their right to meaningful public participation; deprive affected persons their ability to protect their property, health, and safety; and unlawfully create a rule of general applicability that does not meet the standards of state and federal law, including the Clean Air Act.

B. The Executive Director failed to evaluate Applicant's improper public notices and deny the permit considering evidence brought by JFTA.

Applicant failed to comply with statutory and regulatory public notice requirements. 30 Texas Administrative Code § 39.604(b) states, "[t]he sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain

in place and legible throughout that public comment period. The applicant shall provide verification that the sign posting was conducted according to this section."

Applicant failed to have signage posted at site during the entire public comment period.[23] On February 14, 2024, a LANWT representative witnessed no public notice signage in place at Applicant's site.[24] Furthermore, throughout the entirety of the public comment period, JFTA provided evidence that on numerous occasions, Applicant failed to have required sign postage at its site.[25] The Executive Director's decision did not take this evidence into account. Instead, on February 2, 2024, TCEQ official Joseph Nicosia, incorrectly told Applicant "sign postings do not need to be reposted."[26] TCEQ and Applicant failed to comply with statutory public notice requirements, regulatory public notice requirements, and the application itself because Applicant failed to post signs regarding the application through March 6, 2024.

Applicant also failed to provide proper notice at the local library throughout the application process.[27] Applicant failed to comply with TCEQ's public notice requirement, which requires that the application, executive director's preliminary decision, and the standard permit be available for viewing and copying at the TCEQ central office, the TCEQ Dallas-Fort Worth regional office, and at the Erik Jonsson Central Library.[28] Applicant did not make any of these documents available at the Erik Jonsson Central Library as of February 28, 2024. Applicant failed to provide any 2024 Standard Concrete Batch Plant application documents to the library for public viewing despite

[23] *See* JFTA Public Comments, *supra* note 1 (Attachments 2–3, March 6 2024); JFTA Public Comments, *supra* note 1 (p. 8, Aug. 17, 2023); JFTA Public Comments, *supra* note 1 (Attachment 5, Sep. 29, 2023).
[24] *See* JFTA Public Comments, *supra* note 1 (Attachments 2–3, March 6, 2024).
[25] JFTA Public Comments, *supra* note 1.
[26] *See* Attachment 8, page 189.
[27] *See* JFTA Public Comments, *supra* note 1, Attachment 1 (March 6, 2024); JFTA Public Comments, *supra* note 1, at 6 (April 14, 2023); JFTA Public Comments, *supra* note 1, at 8 (Aug. 17, 2023). *See also* Texas Health & Safety Code § 382.056(d).
[28] *See* Texas Health & Safety Code § 382.056(d).

TCEQ stating Applicant was required to make the new application available.[29] The only documents available at the library were previous outdated versions of the TCEQ checklist and incomplete parts of the permit application.[30] The outdated documents were not on the public notice desk in the library. The librarian had to gather the documents from a back room since the documents had sticky notes stating, "display until April 14" and "keep until 9/30/23 rep will come for it."[31]

Applicant bears the burden of showing compliance with notice requirements. TCEQ, through the Executive Director, has the statutory responsibility to ensure that Applicant has met that burden. TCEQ and the Executive Director failed to hold Applicant to its burden. The Executive Director stated that the Applicant:

> "provided verification to the Office of the Chief Clerk in accordance with 30 TAC § 39.605 that signs were posted at the proposed site in accordance with 30 TAC § 39.604. The Applicant verified signage and application posting throughout the duration of the extended comment period. Additionally, the Applicant provided necessary application documents and verification with TCEQ during the extended comment period including photos of the documents at the library and signed affidavits by library staff of application receipt."[32]

However, TCEQ actually instructed Applicant on February 2, 2024 to not post signage through the end of the comment period on March 6, 2024.[33] Further, TCEQ's own assertion that it received affidavits affirming that Applicant's statutory notice regarding library notice had been met is

[29] *See* JFTA Public Comment, *supra* note 1 (Attachment 5, March 6 2024).
[30] *See* Attachment 1; JFTA Public Comments, *supra* note 1 (March 6, 2024).
[31] *Id.*
[32] Executive Director's Response to Comments, *supra* note 4, at 4.
[33] *See* Attachment 8, page 189.

simply false. Texas law provides that an "affidavit" is "a statement in writing of a fact or facts signed by the party making it, *sworn to before an officer authorized to administer oaths, and officially certified to by the officer under his seal of office.*"[34] TCEQ did not receive an affidavit in this matter. Instead, TCEQ received a short paragraph with a signature on a non-notarized, non-sworn piece of paper stating that the application had been made available. LANWT representatives obtained the paper via public information request and confirmed with TCEQ staff that the paper was the "affidavit" TCEQ relied upon during the permitting process.[35] The pictures Applicant provided from the library are not clear the 2024 application is present since the pictures merely show an unclear view of the first page.[36] When JFTA representatives visited the library, as stated earlier, a copy of the updated application from 2024 was not present as library staff searched and could not find anything except the outdated, incomplete applications. Notably, the Executive Director did *not* assert that TCEQ *independently verified* Applicant's representations to ensure compliance, even in light of JFTA providing contrary evidence. Clearly, TCEQ did not verify Applicant's representations.

Once again, the Executive Director relies solely on the Applicant's own conclusory statements that the statutory requirements were met, based merely on review of the assertions in the documents Applicant provided. TCEQ has a statutory duty to ensure relevant requirements have been met; ***Applicant's own judgment cannot substitute for that of TCEQ when determining whether the Applicant's own statutory obligations have been met,*** especially when JFTA rebutted the Applicant's assertions with evidence. TCEQ cannot ignore the public comments that provide

[34] Tex. Gov't Code § 312.011(1).
[35] *See* Attachment 8, page 184.
[36] *Id.*

proof of Applicant's false assertions. Instead, the Executive Director must consider the evidence provided, determine that Applicant failed to meet statutory requirements, and deny the permit.

If the Executive Director actually considered the evidence presented from JFTA and the Applicant and found that evidence conflicting, the proper avenue for resolution would have been for the matter to be referred to SOAH for a contested case hearing. JFTA previously requested a contested case hearing in public comments and reasserts that request here.

C. The Executive Director failed to properly evaluate Applicant's compliance history and deny the permit.

Applicant operated illegally between July 22, 2022 and August 9, 2023. In September 2022, TCEQ investigated Applicant's operation and found Applicant was operating without proper authorization. Despite the ongoing investigation for operating illegally, Applicant continued operating during this time. TCEQ conducted a second investigation in August 2023 and finally required the facility to shut down illegal operations. **TCEQ failed to include any evidence of Applicant's illegal operations in their permitting compliance history review, despite an assurance that the history would be included within the review**.[37] TCEQ failed to properly review and classify the recurring violations in Applicant's compliance history along with Applicant's consistent disregard for the regulatory process and failure to make timely attempts to correct the violations. By failing to consider these factors when reviewing Applicant's application, TCEQ failed to meet its statutory duty under the following codes, which will be outlined in the following paragraphs and expanded upon in the following section:

1. Texas Water Code § 5.754(i)

[37] Executive Director's Response to Comments, *supra* note 4, at 14–17; TCEQ Enforcement Interoffice memorandum, TCEQ Case Number 63326, Docket Number: 2022-1557-AIR-E (Attachment 1, page 4).

Texas Water Code 5.754(i) requires TCEQ "to consider compliance history of a regulated entity when determining whether grant the regulated entity's application for a permit . . . [and] . . . **deny** a regulated entity's application for a permit or permit amendment if the regulated entity's compliance history is unacceptable based on violations constituting a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process, including a failure to make a timely and substantial attempt to correct the violations." TCEQ must use compliance history in decisions for permits and to review whether the Applicant is a repeat violator or has major violations.[38] TCEQ failed to use Applicant's compliance history in the decision to issue this permit, and failed to make a determination of whether Applicant is a repeat violator or has major violations.

2. *Texas Health and Safety Code § 382.0518*

Texas Health and Safety Code § 382.0518 requires TCEQ to review Applicant's compliance history as well as information presented at a public meeting as a part of the permit review, especially if the meeting provides indication that the emissions from the facility will contravene the intent of the chapter, including the public's health and physical property. TCEQ failed to review Applicant's compliance history and failed to consider information presented at the August 17, 2023 public meeting that indicated Applicant's emissions and lack of protectiveness standards will harm the public's health and physical property.

3. *30 Texas Administrative Code § 60.1(b)*

Chapter 30 Texas Administrative Code 60.1(b) requires TCEQ to include the last five years (from the date of application submission) of the facility's compliance history in TCEQ's permitting review. Further, this section gives TCEQ the authority to extend compliance review beyond the

[38] Texas Water Code § 5.754(b)–(c).

date of the application's submission, extending the timeline to include compliance history ranging from the last five years to the date of completion of the application's review. Under this section, TCEQ is required to compile a compliance history that includes information such as enforcement orders, the dates of investigations, and all written notices of violation.[39] TCEQ failed to evaluate the Applicant's last five years of compliance history (which includes investigations, notice of violations, and enforcement orders) in its review of this Application. Further, TCEQ failed to exercise its authority to extend the compliance review to the completion of the application's review, which would have shown an agreed order for illegal operations entered in July 2024.

4. 30 Texas Administrative Code § 60.2

Chapter 30 Texas Administrative Code 60.2 requires TCEQ to classify the site according to compliance history. Section 60.2(d)(1)(B) requires TCEQ classify "operating without required authorization or using a facility that does not possess required authorization" as a major violation. A site that has had a major violation documented on at least three occasions in the preceding five year period is a repeat violator.[40] This level of non-compliance can result in a classification as an "unsatisfactory performer" and this classification must be reviewed as a part of the permit application as to whether it should be accepted or denied.[41] TCEQ failed to even make a determination as to whether Applicant was a major violator, repeat violator, and/or unsatisfactory performer.

5. 30 Texas Administrative Code § 60.3

Chapter 30 Texas Administrative Code 60.3 requires TCEQ to review compliance history during permitting review and to especially consider patterns of environmental compliance. Section

[39] 30 TAC § 60.1(c).
[40] 30 TAC § 60.2.
[41] *Id.*

60.3(a)(3)(E) requires the commission to "deny an application for permit . . . when the person has an unacceptable compliance history based on violations constituting a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process, including a failure to make timely and substantial attempts to correct the violation(s)." TCEQ, through the Executive Director, violated this statute by failing to deny this permit based on Applicant's recurring pattern of conduct that demonstrated a consistent disregard for the regulatory process.

6. 30 Texas Administrative Code § 55.156

Title 30 Texas Administrative Code § 55.156 requires the Executive Director to respond to all material issues raised in public comment. For the reasons enumerated in the following paragraphs, the Executive Director failed to respond to all material issues raised in public comments.

TCEQ, through the Executive Director and through legal counsel Amanda Kraynok, failed to comply with Texas Water Code § 5.754, Texas Health and Safety Code § 382.0518, and Chapter 30 Texas Administrative Codes §§ 60.1, 60.2, 60.3, and 55.156 for the following reasons:

a) The Executive Director's decision to issue this permit failed to consider any evaluation of the Applicant's extensive and negative compliance history, and the response to comments failed to respond to material issues raised on this subject.[42]

   i. Texas Star Ready Mix operated illegally from July 23, 2022 to August 9, 2023 (at minimum).[43] The City of Dallas, on behalf of TCEQ, investigated and assessed multiple violations against Applicant on September 12, 2022 for unauthorized operations, failure to meet distance and setback requirements for the stockpiles, and

[42] Executive Director's Response to Comments, *supra* note 4, at 14–17; Executive Director Preliminary Decision Letter, incorporate by reference.
[43] JFTA Public Comments, *supra* note 1; Attachments 1 – 2.

failure to meet batch plant requirements.[44] TCEQ also submitted a Notice of Enforcement against Applicant.[45] Instead of making timely and substantial attempts to correct the violations, Applicant continued to brazenly operate a standard concrete batch plant illegally until August 9, 2023 despite being under investigation and notified they had no authorization to operate.[46]

ii. Applicant admitted at the August 17, 2023 TCEQ public meeting to presently filling ten to fifteen trucks per day without proper authorization to do so.[47]

iii. Representatives of JFTA provided photographic evidence of Applicant operating without a permit on multiple occasions.[48]

TCEQ failed to include this information in the compliance history or respond to any of this compliance history information in the Response to Comments or Executive Director Decision Letter.[49] TCEQ failed to evaluate compliance history correctly and should deny the permit because Applicant's compliance history showed a recurring pattern of violations that demonstrates a consistent disregard for the regulatory process including willfully failing to make timely and substantial attempts to correct their violations (violations have not been corrected to this date) and operating despite knowledge that operating without proper authorization was and is illegal.

b) TCEQ failed to consider the September 12, 2022 investigation at Applicant's site which discovered violations for operating without authorization, failure to meet distance and

[44] JFTA Public Comments, *supra* note 1. Attachment 1.
[45] JFTA Public Comments, *supra* note 1; Attachment 1.
[46] JFTA Public Comments, *supra* note 1; Attachment 1.
[47] Public Meeting, *supra* note 4, at 36:30 & 37:30 (Applicant: "Right now, I mean recently, about 10–15 [trucks a day];" "We do about 10–15, sometimes 20 trucks a day.")
[48] JFTA Public Comments, *supra* note 1; 30 TAC § 70.4.
[49] Executive Director's Response to Comments, *supra* note 4, at 14–17.

setback requirements for the stockpiles, and failure to meet batch plant requirements.[50] TCEQ failed to even include this investigation, the Notice of Enforcement, and the violations in their first technical review.[51] TCEQ also failed to evaluate any of this investigation in their Response to Comments - compliance history section.[52]

c) TCEQ failed to consider the August 9, 2023 investigation at Applicant's site which discovered violations for continuing to operate a standard concrete batch plant without any air permit, after Applicant had previously been investigated for operating without proper authorization.

d) TCEQ failed to consider the admissions from Applicant on August 17, 2023 that Applicant was filling ten to fifteen trucks a day, without authorization, as of the date of that meeting.[53] The Response to Comments compliance history section failed to include an assessment of how this admission of daily and substantial unauthorized operations impacted their compliance history negatively whatsoever.[54] ***TCEQ chose to believe the Applicant's false representations made on its Application, but failed to consider Applicant's own assertions regarding its illegal operations and continuing violations.*** Applicant admitted to several major violations, including operating without a permit and being a repeat violator. ***Despite this admission being directly in front of officials, JFTA, and the public at the TCEQ public meeting on August 17, 2023, the Executive Director still failed to acknowledge or respond to this information in the response to comments***. These admissions should require TCEQ to deny Applicant's application based on Texas Water

[50] JFTA Public Comments, *supra* note 1 (Attachment 12, Aug. 17, 2023).
[51] Executive Director's Response to Comments, *supra* note 4, at 16–17.
[52] *Id.* at 17.
[53] Public Meeting, *supra* note 4, at 36:30 & 37:30 (Applicant: "Right now, I mean recently, about 10–15 [trucks a day];" "We do about 10–15, sometimes 20 trucks a day.")
[54] Executive Director's Response to Comments, *supra* note 4, at 16–17; Texas Health & Safety Code § 382.0518(b)(2).

Code § 5.754(i), Texas Health and Safety Code § 382.0518(c)-(d), and 30 Texas Administrative Code § 60.3(a)(3)(E).

e) Applicant resubmitted its permit application on February 2, 2024.[55] TCEQ required this updated application from Applicant due to the substantive, recent updates to the requirements for standard concrete batch plant permits. TCEQ failed to conduct a required compliance technical review for the five years preceding this February 2, 2024 application, instead basing compliance history on Applicant's first application submission.[56] This technical review must include the five year history prior to February 2, 2024 and would have revealed all of the previous information including, but not limited to, the multiple investigations, multiple violations, an active enforcement case, and a pending enforcement agreed order that may not have been present in the original application's review. Instead, TCEQ opted to "pick and choose" which regulations applied to its review and to the Applicant, making the Executive Director's review and decision to issue the permit completely arbitrary and capricious.

   i. Furthermore, considering Applicant's year-long illegal operations, TCEQ can and should exercise its statutory authority to evaluate Applicant's compliance history from the date of the re-submitted application through completion of the application review.[57]

   ii. TCEQ's new compliance history review and reclassification should result in a denial of Applicant's permit because if TCEQ followed statutory protocols for reviewing enforcement history, TCEQ would have no choice but to find that

[55] JFTA Public Comments, *supra* note 1 (Attachment 5, March 6, 2023).
[56] 30 TAC § 60.1(b).
[57] 30 TAC § 60.1(b).

Applicant "has an unacceptable compliance history based on violations constituting a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process, including a failure to make a timely and substantial attempt to correct the violation(s)."[58] This would include major violations for operating without a permit and the extent of the major violations should classify the Applicant as a repeat violator and unsatisfactory performer.[59]

f) TCEQ failed to consider findings against Applicant in TCEQ's Enforcement Agreed Order from case number 2022-1557-AIR-E. TCEQ found Applicant operated for over a year without proper authorization and continued violating state and federal laws despite numerous warnings that Applicant was in violation.[60] Furthermore, at a TCEQ Commissioners meeting on May 22, 2024, Applicant admitted to operating illegally for an additional month and a half that had not been previously considered.[61] TCEQ failed to consider the enforcement case which included evidence of Applicant's illegal operations, failure to timely disclose vital compliance information, and level of non-compliance.

g) TCEQ failed to request, and subsequently review, crucial operational and compliance documents related to Applicant's unauthorized operation, including Applicant's operational logs. TCEQ also failed to disclose these public documents when requested to do so through valid Public Information Act requests.[62] Without these documents, both the TCEQ and the public are unable to conduct a full review of the Applicant's permit and compliance history. Operational logs provide direct evidence of Applicant's failures under

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[58] 30 TAC § 60.3.
[59] *Id.*
[60] *See* 2022-1557-AIR-E Public Comment – LANWT for JFTA, incorporate by reference, see full document at: https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.itemdetail&item_id=752547392022312&addn_id=7496833920230 30&showdetail=Y - Filings – Public Comment – LANWT for JFTA. (Attachment 1, pages 8 – 124).
[61] Attachment 5, page 165.
[62] Attachments 9 – 11.

the standards of Texas Water Code § 5.754(i), Texas Health and Safety Code § 382.0518(c)-(d), 30 Texas Administrative Code § 60.3(a)(3)(E). JFTA assumes that these logs exist since Applicant is required by law to keep them; however, the possibility remains that Applicant does not have any operational logs and is thus in further violation of applicable regulations. It is unclear if TCEQ even knows that these required logs exist, since TCEQ has repeatedly refused to even ask for them.

i. TCEQ actively prevented the public from exercising their right to meaningful public participation by refusing to provide Applicant's operational logs when validly requested to do so. During both Applicant's permitting review and enforcement investigation, TCEQ failed to collect any operating records from Applicant despite multiple public information requests from JFTA representatives.[63] Without operating records, TCEQ and the public are unable to determine the extent of Applicant's illegal operations. The operating records, *if they even exist*, would provide direct evidence demonstrating the extent of Applicant's illegal operation and thus must be considered in the permitting decision. The operating records also provide evidence that would be useful in determining if Applicant further falsified data, documents, or reports in addition to the falsifications readily shown by comparing the application to the site at present.[64] If the operating records truly do not exist, this should be assessed as moderate violation and be included as a part of Applicant's compliance history.[65] However, TCEQ has refused to review or allow JFTA to review Applicant's operating logs.

[63] Attachment 1, page 4 TCEQ stated, "*at this stage of the enforcement process, operational records are not necessary*"; Attachments 9 – 11.
[64] 30 TAC § 60.2(d)(1)(D) or 30 TAC § 60.2(d)(1)(B).
[65] *See* 30 TAC § 60.2(d)(2)(B).

ii. Because major violations, moderate violations, repeat violator status, and other compliance history issues are meant 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 compliance history review and if Applicant fails the permitting standard.[66] By failing to collect required operating logs, TCEQ is unable to determine the actual extent of Applicant's compliance and thus cannot conduct a proper compliance history review as part of this application process. TCEQ actions resulted in excluding crucial information regarding Applicant's compliance history which impacts the following permitting assessments which would require TCEQ to deny the permit:

(1) unacceptable compliance history based on violations constituting a recurring pattern of conduct that demonstrates a consistent disregard for the regulatory process, including a failure to make a timely and substantial attempt to correct the violation(s)."[67]

(2) compliance history which contains violations 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.[68]

iii. These crucial documents would prove exactly how and when Applicant operated without a permit and would *directly* influence the outcome of this permitting action. TCEQ's failure to collect and review these documents during both the permitting

[66] *See* Texas Water Code § 5.754(i), Texas Health and Safety Code § 382.0518(c)-(d), 30 Texas Administrative Code § 60.1, 60.2, 60.3(2); 60.3(a)(3)(E).
[67] 30 TAC § 60.3(a)(3)(E).
[68] 30 TAC § 55.211.

and enforcement directly impacted this permitting process. By denying public access to these documents, TCEQ robbed the public of their right to meaningful public participation and failed to properly classify and determine Applicant's compliance history.

The Executive Director's preliminary decision must be reconsidered due to the Executive Director's failure to properly review or evaluate these issues presented throughout the public comment period and failure of the Agency and Applicant to meet standards in Texas Water Code § 5.754, Texas Health and Safety Code § 382.0518, and Chapter 30 Texas Administrative Code §§ 60.1, 60.2, 60.3.

D. The Executive Director failed to consider that Applicant failed to comply with requirements in the Public Involvement Plan and failed to comply with its own certified representations regarding the Public Involvement Plan

TCEQ requires a Public Involvement Plan for this application.[69] Applicant failed to meet the standards of its Public Involvement Plan. Applicant certified on Section 6(A) it intended to provide public outreach other than what is required by rule.[70] However, Applicant stated in the description that they conducted outreach on August 17, 2023, claiming that the TCEQ public meeting for this application on that day served as the Applicant's public outreach. However, that public meeting was required by rule since both a state representative requested the public meeting and there was significant public interest.[71] To the best of JFTA's knowledge, Applicant failed to conduct any other public outreach.[72] Thus, Applicant failed to comply with the required Public

[69] TCEQ February 2024 P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, incorporated by reference.
[70] Texas Star Ready Mix, LLC Public Involvement Plan, Page 4, incorporated by reference.
[71] See Public Hearing Requests on TCEQ website *available at* https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.itemdetail&item_id=874375482023069&addn_id=749683392023030&showdetail=Y.
[72] Texas Star Ready Mix, LLC Public Involvement Plan, Page 4, incorporated by reference. Applicant listed JFTA as a party who should have been notified.

Involvement Plan because it used a meeting that was required by rule as its required public outreach. Further, this implies further misrepresentations on Applicant's part given that Applicant certified in its application that it would hold at least one additional public meeting and failed to do so.

Finally, Applicant failed to meet the spirit of the Public Involvement Plan. TCEQ extended the notice period twice and Applicant failed to contact JFTA directly regarding the update or meet the public notice requirements. Therefore, Applicant failed to comply with proper Public Involvement Plan requirements regarding this application, and as a result, the application remains inadequate and/or incorrect. The Executive Director did not consider Applicant's failure to abide by the Public Involvement Plan's requirements, which render the application incomplete and requires reconsideration and denial until Applicant has met the requirements.

E. The Executive Director unlawfully rejected from the record comments made at the public meeting and failed to consider such comments

TCEQ holds public meetings on a permit application when there is a significant degree of public interest, when requested by a state legislator, or when otherwise appropriate. The purpose of public meetings is to take public comment.[73] TCEQ public meetings typically consist of two separate sessions: an informal discussion period and a formal comment period. According to TCEQ's own notice of the public meeting held for Permit No. 171636, "[d]uring the Informal Discussion Period, the public will be encouraged to ask questions of the applicant and TCEQ staff concerning the permit application."[74]

TCEQ held a public meeting for Permit No. 171636 on August 17, 2023, at the Crowne Plaza Dallas Downtown. In attendance were dozens of Joppa's residents and community members,

[73] 30 TAC § 55.253(b)(c).
[74] Notice of Public Meeting, Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636, TCEQ (July 13, 2023).

as well as the applicant and TCEQ staff. During the "informal question and answer section" of the meeting, JFTA and other community members raised valid concerns over the proposed permit, including Applicant's ability to comply with the terms of the permit it seeks, Applicant's then-current noncompliance, Applicant's history of operating illegally, Applicant's then-pending enforcement action, and TCEQ staff's failure to adequately review Applicant's application, among other material issues. At numerous times during the informal period, Applicant admitted to operating illegally and confirmed Applicant's inability to comply with the terms of the permit it seeks. TCEQ staff also admitted their failure to review the application in detail and conduct proper site visits as part of the application's review.

JFTA, through legal counsel Wendi Hammond, submitted an audio recording of the material questions and comments made during the informal portion of the meeting to the record during the formal comment period of the meeting. No TCEQ regulation or state statute forbids the submission of audio recordings to the formal record during the formal comment period of a public meeting. TCEQ is clearly able to process and understand the recording, given that the Executive Director's Response to Comments selectively address questions and comments made on the recording. However, the Executive Director unlawfully chose to deny the audio recording from the public record and refused to consider these comments for contested case hearing purposes and in consideration of the permit itself, stating that "there is no formal record of who spoke during the informal Q&A."[75] This claim is demonstrably false. On the recording, most commenters can be heard stating their names for the record. More importantly, however, JFTA properly submitted the audio recording and incorporated by reference portions of the recording that are not in support of TCEQ's permit approval; therefore, the questions and comments raised on the recording can be

[75] Executive Director's Response to Public Comment, *supra* note 4, at 3.

attributed to JFTA as part of its public comment. JFTA entered the recording as part of the formal record in this application during the formal comment period of the public meeting and the Executive Director has no legal basis for denying JFTA's submission to the formal record.

Due to the Executive Director's unlawful act of suppressing JFTA's public comment and consequently, the Executive Director's failure to consider the comments made on the audio recording for contested case hearing and application consideration purposes, the Executive Director's preliminary decision to issue the permit does not take into account the following material issues with the application brought up at the public meeting:

- According to TCEQ staff, Applicant is applying for a concrete batch plant preconstruction permit,[76] even though a concrete batch plant already exists on the site;
- TCEQ staff failed to review Applicant's high level air enforcement action prior to issuing a preliminary decision;[77]
- Applicant certified in its application that it provided notice of compliance, enforcement, and investigation information, but did not provide documentation of the water investigation on site;[78]
- TCEQ staff did not visit the site to confirm Applicant's sworn representations in the application, including verifying that Applicant would be able to comply with

[76] Public Meeting, *supra* note 4, at 18:00 (TCEQ Staff: "Yes, the standard permit for this concrete batch plant that was applied for is a preconstruction permit, that's correct.").
[77] *Id.* at 22:55 (Michael Bates to TCEQ Staff: "Did you review the high level enforcement action that was the high level air enforcement action on this case before you issued a preliminary decision?"
TCEQ Staff: "Correct, so I did not... I don't have any record of the enforcement action and I can't speak to that, but with the application, **noticed that the plant was not in compliance.**").
[78] *Id.* at 23:30.

the terms of the permit it seeks.[79] When asked whether TCEQ's protectiveness review took into consideration the fact that the Applicant's roads, fences, and stockpile distances, and open conveyor system do not meet the regulatory requirements for the permit it seeks, TCEQ staff stated that they only reviewed "the representations in [Applicant's] application," not the actual conditions present at the site;[80]

- TCEQ staff failed to verify that Applicant's sworn representations regarding fence height, stockpile distances, and paved roads were accurate;[81]
- Applicant stated that the site has no discharge and all water is contained within the plant. TCEQ staff stated they were not aware of excess water issues at the site.[82] As witnessed by many members of the Joppa community and EPA Region 6 investigators, the site is "routinely inundated with large amounts of standing water" and on at least one occasion noted by EPA investigators, the site was entirely "under water with multiple trucks in water to the tops of their tires."[83]
- Applicant stated at multiple points during the meeting that it was operating as of the date of the meeting, filling "about 10-15, sometimes 20 trucks a day."[84] When

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[79] *Id.* at 24:24, 25:10, & 1:00:09 (TCEQ Staff: "So there's physically being on the site to review the application before issuing the preliminary decision, no. It is part of the review process, a general satellite view, and we have been by the site since to confirm.");
(TCEQ Staff: "No, we have not gone line by line to verify every piece of the information.");
(Michael Bates to TCEQ Staff: "Did you do a site visit to check to make sure that any of the issues were addressed in the compliance investigation?"
TCEQ Staff: "Me personally, no I did not.").

[80] *Id.* at 51:20 (TCEQ Staff: "I go off the representations in [Applicant's] application, and those representations do meet the requirements and are therefore seen as protective of human health and the environment.").

[81] *Id.* at 25:10.

[82] *Id.* at 32:00.

[83] EPA Letter, *supra* note 11.

[84] Public Meeting, *supra* note 18, at 36:30, 42:00, 54:30, & 59:00 (Applicant could not provide information on the permit by rule it claimed to be currently operating under and TCEQ staff stated they were "aware" that Applicant withdrew its permit by rule in December 2022).

asked directly, Applicant affirmed that it had been operating since it filed its permit application in this matter.[85] When asked for clarification on what authorization Applicant had to continue operation as of the date of the public meeting, a TCEQ staff member stated he "can't speak to what [Applicant is] currently doing, I don't know."[86]

The Executive Director's decision must be reconsidered because it unlawfully denied JFTA's public comment from the record and did not take into consideration these material comments properly entered into the record.

F. The Executive Director failed to consider this permit's health effects and adverse air quality impacts and cumulative impacts of this permit

The Executive Director's preliminary decision to issue this permit did not take into account actual, negative air quality and health impacts in Joppa from Applicant's site and surrounding sites. The Executive Director's analysis of air quality impacts from the site are based solely on the Applicant's representations of its hourly production limits and assumes, without justification, that the Applicant will comply with all applicable regulatory requirements regarding setback distances.[87] The Executive Director's analysis is patently flawed because it relies on conditions that do not reflect the current reality at Applicant's site; the Applicant's facility does not comply with setback distances. Further, given that Applicant materially misrepresented its compliance

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[85] *Id.* at 42:00 (Wendi Hammond: "Yes or no, has the Applicant been operating since it filed its application in this matter?"
Applicant: "Yes. We have other permits by the way.").

[86] *Id* at 42:00 (Wendi Hammond to TCEQ: "What permit by rule are they operating under?"
TCEQ Staff: "It's authorization number 39039."
Wendi Hammond to TCEQ: "For a concrete mixer that is lesser than what they are actually using, correct?"
TCEQ Staff: "I can't speak to what they are currently doing, I don't know . . . 39039 was a previous authorization.");
id. at 59:00 (Michael Bates to TCEQ: "Are any of the TCEQ engineers aware that on air permit 39039 that TCEQ sent a PBR withdrawal response letter on December 27 that Applicant was certifying that they were withdrawing their PBR?"
TCEQ Staff: "Yes, I'm aware.").

[87] Executive Director's Response to Comments, *supra* note 4, at 9.

with all applicable regulations in its application, despite the widely-known truth that Applicant has not complied with all applicable regulations, the Executive Director's analysis cannot rely on the Applicant's own representations regarding production limits as a reliable source of information for the analysis. The Executive Director's analysis is significantly flawed, does not consider actual conditions at the site and actual adverse effects on health and air quality, and must be reconsidered.

Additionally, TCEQ failed to consider cumulative impacts on air quality and health in the area. 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). Highways 310 and I-35 and a landfill also border the neighborhood. Despite these significant effects on air quality, TCEQ "determined that a review of other off-site sources is not necessary."[88] TCEQ has an affirmative duty to consider the cumulative emissions from all of the industrial operators in Joppa, including Applicant's unauthorized emissions, when considering this application. Because the Executive Director failed to do so, the Executive Director's decision must be reconsidered.

G. The Executive Director failed to consider nuisance conditions

The terms of the Standard Permit Applicant seeks include the following dust control processes to minimize dust emissions and nuisance: "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."[89] The Executive Director failed to address whether Applicant is capable of complying with these terms. Instead, the Executive Director merely stated that "[n]o adverse effects are expected to occur from facilities that meet all requirements of the Standard

[88] *Id.*
[89] *Id.* at 11.

Permit for Concrete Batch Plants."[90] Again, the Executive Director's response and subsequent preliminary decision do not take into consideration the current conditions at Applicant's facility. Any individual who visits the site can readily observe that the facility is not in compliance with all of the nuisance-abatement provisions of the standard permit. The Executive Director's decision takes representations that are not grounded in fact as irrefutable; if the Executive Director's analysis is to be taken as valid, then any facility that is completely in violation of the permit it seeks can apply for that permit, make representations that are not accurate, and receive that permit based solely on the applicant's representations instead of reality. The Executive Director's preliminary decision to grant this permit, when the facility does not comply with the terms of the permit, must be reconsidered using actual conditions at the site.

H. The Executive Director failed to confirm that Applicant will adhere to BACT and 2024 amendments

The Executive Director assumes without justification that the Applicant will utilize BACT and comply with the 2024 amendment requirements.[91] The Applicant's history of noncompliance with major air quality regulations, including its inability to comply with the terms of the standard permit it seeks, demonstrate that the Applicant's representations regarding use of BACT and adhering to the 2024 amendments cannot be taken as fact. In the Executive Director's response to comment, the Executive Director states that "Applicant confirmed that they will adhere to 2024 amendment requirements."[92] The Executive Director failed to determine whether Applicant is even capable of utilizing BACT and adhering to the 2024 amendments, instead taking Applicant's representation as irrefutable fact. The Executive Director's decision must be reconsidered in light of actual conditions at the facility.

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[90] *Id.*
[91] *Id.* at 13.
[92] *Id.*

I. The Executive Director's decision fails to consider effects on flora/wildlife

Applicant's facility is located in close vicinity to the Trinity River corridor, which includes the Trinity River Audubon Center, Little Lemmon Lake, and Lemmon Lake, among other vital natural places. These natural areas are used not just for outdoor recreation, but also wildlife preservation and maintenance of natural flora and vegetation. The Executive Director failed to properly assess the proposed permit's effects on flora, wildlife, and other essential natural features of the Joppa area because the Executive Director failed to adequately gauge the facility's emissions.

In issuing the permit, the Executive Director relies solely on projections and modeling based on Applicant's representations.[93] As established numerous times throughout this Request, the Applicant's representations regarding emissions, protectiveness standards, and operation are not based in reality and should not be used as a basis for modeling air quality impacts. However, the Executive Director has taken these assertions as irrefutable fact in issuing this permit. The Executive Director once again fails to base the decision to issue this permit in reality and in doing so, fails to consider the extent of Applicant's harm on flora, wildlife, and the surrounding natural area. The Executive Director's decision must be reconsidered utilizing actual facts of the facility's compliance with NAAQs and protectiveness standards.

J. The Executive Director failed to consider environmental justice when issuing the permit in violation of Executive Order 12898

Executive Order 12898 requires any governmental recipients of federal funding to evaluate its actions for disproportionately high and adverse effects on minority or low-income populations and requires the recipient to find ways to avoid or minimize adverse impacts where possible. As a recipient of federal funding, TCEQ is subject to Executive Order 12898 and is thus required to

[93] *Id.*

evaluate this application for disproportionately high and adverse effects on the area surrounding Applicant's site, given the well-known adverse effects of particulate pollution on human health and the environment and the facility's location in a low-income, minority community.

EPA Region 6 officials conducted an Environmental Justice Screen (commonly known as "EJScreen") on the area surrounding the facility, finding that 68% of residents within a five-kilometer radius of Applicant's facility are low income.[94] EPA officials also found that the area within five-kilometers of the site ranks in the 70th percentile for twelve out of thirteen EJ Indices, nine out of thirteen above the 80th percentile, and five out of thirteen above 90th percentile.[95] The five above the 90th percentile represent Joppa's comparatively extreme exposure to ozone (93rd percentile) and superfund site proximity (98th percentile), among others. Nationally, Joppa ranks in the 95th percentile for exposure to Particulate Matter 2.5 and 90th percentile for diesel particulate matter, both pollutants that Applicant has and will emit from its facility if this permit is granted.

TCEQ fails Joppa, the public trust, and its regulatory responsibilities by recklessly choosing to ignore severe environmental justice issues in the community. The Executive Director made it abundantly clear in the response to comments that TCEQ is not at all concerned with environmental justice, and went as far as to blatantly admit noncompliance with Executive Order 12898: "***Air permits evaluated by the TCEQ are reviewed without reference to the socioeconomic or racial status of the surrounding community.***"[96] This is not the first time the Executive Director has stated word-for-word the TCEQ's disregard of federal orders and more importantly, disregard for the health and safety of low-income and minority residents. EPA has taken note of TCEQ's

[94] EPA Letter, *supra* note 11.
[95] *Id.*
[96] Executive Director's Response to Comments, *supra* note 4, at 18.

failures throughout this permitting process.[97] The Executive Director's refusal to comply with the federal mandate subjects TCEQ's federal funding to heightened scrutiny which may at the very least, potentially jeopardize the financial ability of TCEQ to carry out its federally delegated air permit programs. The decision to issue this permit does not just further erode public trust in the agency charged with protecting people and the environment in Texas, but also places TCEQ's funding and ability to regulate at all in jeopardy.

Putting aside the Executive Director's refusal to comply with Executive Order 12898, the Executive Director's meager response did not address the environmental justice concerns raised in public comment. Even if the Executive Director refuses to abide by Executive Order 12898, the Executive Director has a statutory duty under Texas law to respond to public comments on the issue. Merely stating that TCEQ does not comply with Executive Order 12898 does not assuage the Executive Director's responsibility to respond to public comment on the issue. The Executive Director failed to respond to whether the area surrounding the facility qualifies as an environmental justice facility, whether the proposed facility would subject the area to disproportionate health effects of particulate pollution, and whether the Executive Director even considered these issues when making the preliminary determination to grant this permit. For these reasons, the Executive Director's decision and response to comment did not comply with 30 TAC § 55.156 and Executive Order 12898; the decision to issue this permit must be reconsidered and the permit must be denied.

K. The Executive Director failed to consider nuisance conditions related to trucking at the facility

The Executive Director failed to consider real and immediate impacts of this facility's trucking operations on the surrounding community. Instead of listening and acting upon the community's numerous, legitimate concerns regarding the facility's traffic pattern and proven

[97] EPA Letter, *supra* note 11.

nuisance conditions at the site due to improper roadways and lack of paving, the Executive Director merely stated that TCEQ does not have jurisdiction to consider traffic concerns.[98] In the response to comments, the Executive Director continues TCEQ's pattern of ignoring critical problems and passing them onto another department or another agency by referring community members with legitimate concerns to the Texas Department of Transportation and Texas Department of Public Safety.[99]

The Executive Director also continues the nefarious pattern of ignoring actual conditions at the site, claiming instead that the terms of the Applicant's permit prohibit nuisance conditions and thus, nuisance conditions will not exist. Once again, the Executive Director's decision is not based in reality. As stated throughout these filings, any member of the public (including TCEQ staff and the Executive Director) can drive by the Applicant's site and easily note the lack of paved roads and improper ingress/egress routes.

M. The Executive Director failed to adequately and appropriately review the application and the decision to issue the permit is arbitrary and capricious

The Executive Director failed to conduct a proper review of this application and the decision to issue this permit must be reconsidered utilizing an adequate review of the application. In the Executive Director's response to comment, the Executive Director states that "TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met."[100] The Executive Director failed to cite any statute, regulation, or even policy to substantiate this statement.

Under the Executive Director's process of review, any statement made on an application must be taken as true even if there is ample evidence to the contrary. While this process of review

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[98] Executive Director's Response to Comments, *supra* note 4, at 19.
[99] *Id.*
[100] Executive Director's Response to Comments, *supra* note 4, at 26.

certainly expedites TCEQ permitting, it fails TCEQ's charge of protecting human health and the environment. Taking an applicant's assertions as irrefutable fact does not adequately protect human health and the environment, especially when ample evidence to the contrary has been provided. The Executive Director's position of rubberstamping any application, like this one, in which the applicant claims compliance with all applicable rules and regulations sets a dangerous precedent for environmental quality and human health. This is especially true in this case, where Applicant is demonstrably incapable of complying with the terms of its permit (as TCEQ staff have noted on many occasions, including during the public meeting for this application). Instead of denying this permit until the Applicant *actually* demonstrates the facility can comply with the terms of the permit it seeks on more than just paper, the Executive Director's decision to grant this permit places the Joppa community at risk of additional health and air quality impacts and nuisance conditions. The Executive Director's decision to issue this permit based solely on assertions made by the Applicant that are unequivocally false and do not represent actual conditions at the facility is arbitrary and must be reconsidered.

Further, the Executive Director's justification that TCEQ must grant permits whose applications demonstrate compliance with all applicable rules is blatantly false. TCEQ has authority to deny permits for many reasons, including compliance history. Under 30 TAC 60.3, TCEQ has full authority to deny, suspend, or revoke permits based on compliance history. Further, TCEQ can impose "any additional oversight necessary to improve environmental compliance" in light of an applicant's compliance history.[101] The Executive Director's decision to grant this permit without adequate review is arbitrary, but to grant this permit without any additional oversight or compliance mechanism and to pretend that TCEQ lacks authority to deny the permit or impose

[101] 30 TAC § 60.3(a)(2).

additional oversight conditions is incomprehensible. For these reasons, the Executive Director's decision must be reconsidered.

L. Based on the numerous identified failures by both Applicant and TCEQ, JFTA reasserts its request for a contested case hearing.

JFTA requests this matter be referred to the State Office of Administrative Hearings as the Commission should determine that the hearing would be in the public interest and/or because the matter involves a facility for which the compliance history contains violations 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.[102] Alternatively, this disputed issue surrounding compliance with statutory and regulatory requirements for Applicant's compliance history should be referred to SOAH for a contested case hearing as JFTA previously requested with its public comments and again, reasserts the request again in the next section below. Further, there are numerous material factual disputes that must be resolved prior to the issuance of this permit, including Applicant's blatant misrepresentations, failure to comply with statutory notice requirements, and JFTA's plethora of factual evidence disputing both Applicant's and TCEQ's assertions regarding this application. For these reasons, JFTA reiterates and reinstates its request for a contested case hearing on this matter.

M. Commissioners Should Grant a Contested Case Hearing

Although the Executive Director failed to address this issue within the response to comment, JFTA's public comments included a request for a contested case hearing. JFTA again reasserts its request for a contested case hearing, and the Commission should grant the request.

JFTA's previously filed request included the following relevant and material disputed issues that should be referred to the State Office of Administrative Hearings for a contested case hearing:

[102] 30 TAC § 55.211.

- Whether the Applicant's public notice failed to comply with applicable federal and state laws and regulations.

- Whether the application and proposed standard permit registration fail to protect the public health, welfare, property and the environment.

- Whether the emissions from the proposed facility will have adverse impacts on the public's health, welfare, property and the environment.

- Whether the application fails to include the requisite information necessary to determine compliance with applicable federal and state air control statutes, regulations, and policies.

- Whether Executive Director's preliminary decision fails to include the requisite information necessary to determine compliance with applicable federal and state air control statutes, regulations and policies.

- Whether the standard permit fails to include the requisite information necessary to determine compliance with applicable federal and state air control statutes, regulations and policies.

- Whether the proposed emissions are reasonable in light of the degree of injury and interference with the public's health and physical property.

- Whether the proposed emissions are reasonable in light of the source's lack of social and economic value.

- Whether the proposed emissions are reasonable in light of the non-priority of location of the area involved.

- Whether the proposed emissions are reasonable in light of the technical practicability and economic reasonableness of further reducing or eliminating the proposed emissions.

- Whether the proposed activity will cause nuisance conditions in violation of 30 TAC § 101.4.

- Whether the permit conditions are adequate to protect against nuisance conditions.

- Whether the proposed activity will create visible emissions at the property line.

- Whether the facility fails to provide paved roads or maintenance at entry and exit road.

- Whether the permit conditions are adequate to protect against visible emissions at the property line.

- Whether the proposed activity will cause or contribute to any exceedance of NAAQS for PM_{10} and $PM_{2.5}$.
- Whether the permit conditions are adequate to protect against causing or contributing to exceedances of NAAQS for PM_{10} and $PM_{2.5}$.
- Whether the proposed activity will utilize Best Available Control Technology (BACT).
- Whether the modeling conducted to support the application, including the proposed activity air dispersion modeling, is inadequate or flawed.
- Whether there are insufficient air monitoring requirements in the draft permit.
- Whether the proposed activity will threaten the health and safety of nearby residents.
- Whether the draft permit fails to account for other potential air contaminants resulting from the proposed activity.

Examples of the deficiencies and problems with Applicant's proposed concrete batch plant were provided in the public comments; however, these examples were in addition to, and in no way should be construed to limit in any way the above identified relevant and material disputed issues to be addressed during a contested case hearing.

Although the Chief Clerk's instructions to the public about how to request a contested case hearing states that a person residing within 440 yards of a concrete batch plant is automatically considered to qualify as an affected person, JFTA demonstrates that it qualifies as an affected person because JFTA may be adversely affected by the proposed concrete batch plant in a way not common to the general public.

JFTA's request and participation in a contested case hearing qualifies as an organizational interest that is germane to the organization's purpose. One of JFTA's organizational purposes includes "performing all activities and engaging in any lawful activity" to enhance the livability of its membership and others located in the Joppa area. This includes, but is not limited to, protecting its membership from the adverse effects of industrial pollution sources impacting the

area. Furthermore, neither the claim asserted nor the relief requested requires the participation of the organization's individual members in the case; and one or more member(s) would otherwise have standing to request a hearing in their own right.

JFTA member Temeckia Derrough has property interests and utilizes the area around and downwind of Applicant's facility. Temeckia Derrough and her family are members of JFTA. The family resides at 7931 Kiska St., Dallas, Texas, 75216 approximately .7 miles from Applicant's property. The family is concerned that their health may be adversely affected. This includes, but is not limited to, concerns about the adverse effects from the proposed facility's pollutants. The family is also concerned that their aesthetic enjoyment of their property and surrounding recreation areas will be adversely affected. This includes adverse effects to the family's general enjoyment of the outdoors, such as running/walking/hiking around the neighborhood and on the park trail located within 440 yards from Applicant's facility.

Her specific interests may be adversely impacted by an increase of air pollutants from Applicant's proposed emissions which include, 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 of less (PM2.5). 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.[103]

Furthermore, any additional pollutants from this application will only compound the existing problems already faced by Ms. Derrough and the Joppa community. For example, the area is already adversely impacted by the constant stream of air pollution from the other

[103] *Particulate Matter (PM) Basics,* U.S. EPA, https://www.epa.gov/pm-pollution/particulate-matter-pm-basics#:~:text=PM%20stands%20for%20particulate%20matter,seen%20with%20the%20naked%20eye (last updated June 24, 2024).

surrounding industrial sources (as described above). All of these sources cause and/or contribute to the degradation of air quality, public health, welfare, property and the environment in the Joppa community.

Again, Joppa is an historic Freedmen's town. It is a low-income, majority African-American community. Historically, this community has been disproportionately impacted by environmental injustices. As such, the Joppa community, JFTA, and Ms. Derrough have an acute and urgent interest in reducing harmful air pollutants in the surrounding area that adversely impact public health, welfare, property and the environment.

Applicant's facility will increase the concentration of air pollutants within this area, and therefore, will only further endanger the public health, welfare, safety, and properties of JFTA, Ms. Derrough, other residents of Joppa and the surrounding environment. This increase in air pollution emissions will also impact Ms. Derrough's enjoyment and use of not only her personal property interests, but also may adversely impact her and others' enjoyment of the local recreational areas. Therefore, JFTA requests that if TCEQ fails to deny this permit application, then TCEQ should grant JFTA a contested case hearing.

III. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, JFTA respectfully requests that the Commission grant this Request for Reconsideration, Reply to the Executive Director's Response to Comments and Request for a Contested Case Hearing regrading the Executive Director's preliminary decision to issue Permit No. 171636.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the forgoing Request for Reconsideration was sent by US Mail, fax, or electronic filing to the parties below on August 9, 2024.

FOR THE APPLICANT:
Eyad Albelbaisi, Operations Manager
Texas Star Ready Mix, LLC
4500 Great Trinity Forest Way
Dallas, Texas 75216

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

FOR THE EXECUTIVE DIRECTOR
Ryan Vise, Deputy Director
TCEQ
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FOR THE CHIEF CLERK
Laurie Gharis, Chief Clerk
TCEQ
Office of the Chief Clerk MC-105
PO Box 13087
Austin, Texas 78711-3087

Michael Bates

Michael Bates, Counsel for JFTA

Attachment 1:

TCEQ Enforcement TCEQ Case Number 63326, Docket Number: 2022-1557-AIR-E - TCEQ Commissioners Agenda Information Document

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

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

To: Commissioners

Thru: MBC 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.

- 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.

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

400 S. Zang Blvd., Ste. 1420
Dallas, Texas 75208

Legal Aid of NorthWest Texas

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
Fort Worth, Texas 76118

RECEIVED
JAN 11 2024
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
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Wendi Hammond, Staff Attorney
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phone: (817) 882-1001 Ex. 8921
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Legal Aid of NorthWest Texas
400 S. Zang Blvd., Ste. 1420
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Fax: (817) 736-1602

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

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[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 statues 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.

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:09 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part21.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 5:51 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142432582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 2 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 2 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
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varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

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, LAWNT 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]

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[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 statues 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 statues 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

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[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 (PM_{10}), and particulate matter of 2.5 microns of 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

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[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.

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[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.

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[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.

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[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/.

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:08 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part3.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 5:56 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 3 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 3 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

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.

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[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

Michael Bates

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(e) 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).

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 Settemeyer
To:	Erich Birch; [redacted]
Cc:	Michael Delacruz; Yuliya Dunaway; Craig Fritzlaff
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 [redacted] 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: RN111648234

Investigation # 1924559
Investigator: ADAM MASON
Conducted: 08/29/2023 -- 08/29/2023
Program(s): AIR NEW SOURCE PERMITS
Investigation Type: Compliance Investigation
Additional ID(s): 171636

Incident Numbers
Site Classification MINOR SOURCE
SIC Code: 3273
Location:

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

RECEIVED
OCT 05 2023
TCEQ CENTRAL FILE ROOM

Principal(s):

Role	Name
RESPONDENT	TEXAS STAR READY MIX LLC

Contact(s):

Role	Title	Name	Phone	
REGULATED ENTITY CONTACT	OWNER	EYAD ALBELBAISI	Cell Phone	[redacted] (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

(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 offsite 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 NameTEXAS 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.

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 **Date** 9/1/2023
Environmental Investigator

Signed **Date** 9/1/2023
Supervisor

Attachments: (in order of final report submittal)

___Enforcement Action Request (EAR)
/ Letter to Facility (specify type) : NOE
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			TCEQ Add. ID No. RN No. (optional)	RN102790051	
Investigation Type	Contact Made In-House (Y/N)		Purpose of Investigation	1, New UP	
Regulated Entity Contact			Telephone No.		Date Contacted: 8-29-2023
Title			Fax No.		Date Faxed

NOTICE: The information provided on 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* [illegible]. 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
			Unauthorized Operation

[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?	☐ Yes	☐ No
Did the investigator advise the regulated entity representative that continued operation is a violation?	☐ Yes	☐ 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 contact, signature not required.

Investigator Name (Signed & Printed)	Date	Regulated Entity Representative Name (Signed & Printed)	Date
[illegible]	8-29-23	[illegible]	8-29-23

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 Yellow Copy: TCEQ
TCEQ-20265 (Rev 06/07)

Attach 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 NOVs?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 Start	End	Investigation/ File Review	Date of... NOV	NOE	CAT
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	Adam M. Mason	E-Mail	Adam.Mason@tceq.texas.gov	
Phone	(817)588-5889			
Name	Kimberli Fowler	Date	9/1/23	
Signature	Kimberli Fowler	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.

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,

Kimberly 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

[redacted]

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
(O) 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

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 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 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 Enviromental 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) Title
Authorized Representative of
Texas Star Ready Mix, LLC

☐ *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]; 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 Setterneyer 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
[redacted]
(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.

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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

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.

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,

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 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 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 Enviromental 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.

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
Docket No. 2022-1557-AIR-E
Media Program(s) Air
Multi-Media

No. of Violations 2
Order Type 1660
Government/Non-Profit No
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*** **$30,000**

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**

Notes: No adjustment for Compliance History.

Culpability No 0.0% Enhancement ***Subtotal 4*** **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments ***Subtotal 5*** **$0**

Economic Benefit ***Subtotal 6*** **$0**

Total EB Amounts $334
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 0.0% ***Adjustment*** **$0**

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 20.0% Reduction ***Adjustment*** **-$6,000**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$24,000**

Screening Date 3-Nov-2022 **Docket No.** 2022-1557-AIR-E **PCW**

Respondent Texas Star Ready Mix, LLC

Case ID No. 63326

Reg. Ent. Reference No. RN111648234

Media Air

Enf. Coordinator Yuliya Dunaway

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 **Docket No.** 2022-1557-AIR-E **PCW**
Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

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 September 12, 2022 through November 3, 2022.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	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%

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 $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	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	$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 **Docket No.** 2022-1557-AIR-E **PCW**
Respondent Texas Star Ready Mix, LLC *Policy Revision 5 (January 29, 2021)*
Case ID No. 63326 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN111648234
Media Air
Enf. Coordinator Yuliya 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
OR	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	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	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 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

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 NorthWest 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 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.

ATTACHMENT 11
City of Dallas Notice of Enforcement for Compliance Investigation

City of Dallas

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

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

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: 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. 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?

Enforcement Action Referral Rev. 3/18/2002				
	Inv. #	1846525	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 NOVs?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

Viol Num	Requirements Cited / Violation Description	Violation Dates Start	End	Investigation/ File Review	Date of... NOV	NOE	CAT
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 116.110(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 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.						

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

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. 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.

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
Regulated Entity Number: RN102390051

Investigation # 1846525
Investigator: JOSEPH VU
Conducted: 09/12/2022 – 09/12/2022
Program(s): AIR NEW SOURCE PERMITS
Investigation Type: Compliance Investigation
Additional ID(s): 39039

Incident Numbers
Site Classification MINOR SOURCE
NAIC Code: 32732
NAIC Code: 327320
SIC Code: 3273
SIC Code: 3271
Location:

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

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.

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. Albelsaisi 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

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)

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 Joseph V **Date** 10/12/2022

Environmental Investigator

Signed [signature] **Date** 10/12/2022

Supervisor

Attachments: (in order of final report submittal)

X Enforcement Action Request (EAR)

X Letter to Facility (specify type) : NOE Letter

Investigation Report

___Sample Analysis Results

___Manifests

___Notice of Registration

___Maps, Plans, Sketches

___Photographs

___Correspondence from the facility

X 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

Distance
83 ft
Start new
Google Earth
50 m
Camera: 513 m 32°42'12"N 96°44'34"W 123 m

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:08 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part4.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 5:58 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 4 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

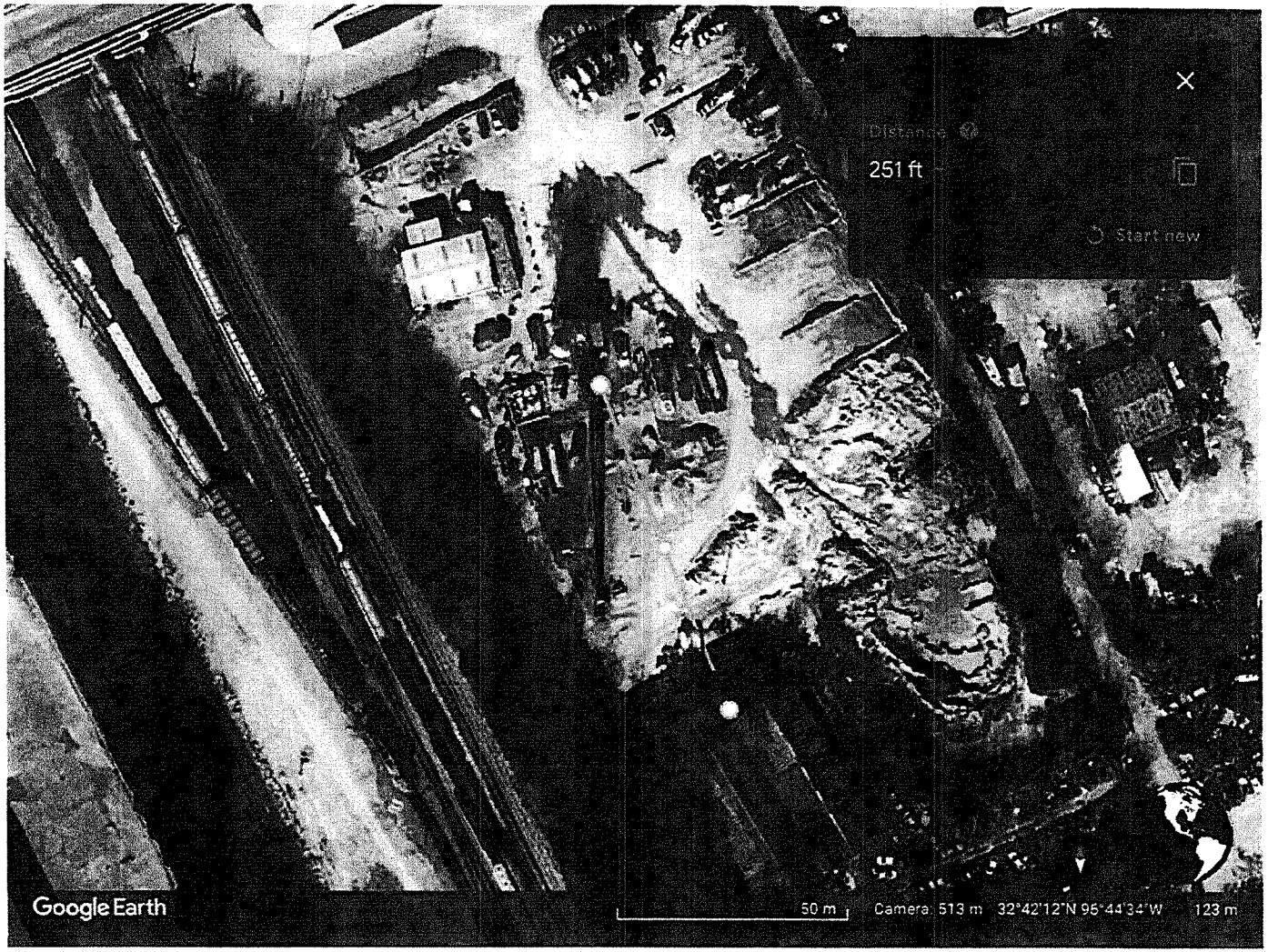
RE: Part 4 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602


Distance
251 ft
Start new
Google Earth
50 m
Camera: 513 m 32°42'12"N 96°44'34"W 123 m

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	**Date Contacted**	09/15/2022
Title	Owner			**FAX #/Email address**	wconcretes@gmail.com	**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?	☐ Yes	☒ No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	☐ Yes	☒ 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

TCEQ 20085 (01/2019)

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

99

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**

TCEQ 20085 (01/2019)

From:	Vu, Joseph
To:	[redacted]
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 Date: 6/13/2023 1:29:06 PM

Redaction Log

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) 239-1462 | 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: 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

Point Source Emissions Inventory Home Page
Air Emissions and Air Inspection Fees Home Page

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

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 Jonnson 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

LYNELLE WELLS
Notary Public, State of Texas
Notary ID#: 13145541-4
My Commission Expires 02-16-2026

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

LEILANI BAILEY
Notary Public, State of Texas
Comm. Expires 12-16-2026
Notary ID 124781012

ATTACHMENT 15

RESPONDENT'S COUNCIL - CORRESPONDENCE WITH TCEQ

BIRCH, BECKER & MOORMAN, LLP
1000 HERITAGE CENTER CIRCLE, SUITE 146, ROUND ROCK, TEXAS 78664 ■ (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"

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 ENFORCMENT 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.

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

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/eo

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

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

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.

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) Title
Authorized Representative of
Pro-Crete Ready Mix, LLC

☐ *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**

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
EC's Team Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 **Maximum** $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $12,500

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

Notes: No adjustment for Compliance History.

Culpability No 0.0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* $0

Economic Benefit *Subtotal 6* $0
Total EB Amounts $396
Estimated Cost of Compliance $2,000
0.0% Enhancement*
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $11,250

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* $0
Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $11,250

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $11,250

DEFERRAL 20.0% Reduction *Adjustment* -$2,250
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 (*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)

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 **Docket No.** 2021-1518-WQ-E **PCW**
Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 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

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

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

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: 3 — 92 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $7,500

Three single events are recommended, one for each missed report.

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 $7,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount $396 **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
Req. 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

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:08 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part51.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:08 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 5 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 5 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe
Staff Attorney
(817) 882-1001
varnadoeh@lanwt.org

2001 Beach St., Ste. 510
Fort Worth, TX 76103
Fax: (817) 882-1001

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

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

Wendi Hammond
Staff Attorney
(214) 243-2583
hammondw@lanwt.org

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 732-1602

Screening Date 23-Nov-2021 **Docket No.** 2021-1518-WQ-E **PCW**
Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 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 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

	Release	Harm: Major	Moderate	Minor
OR	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: 1 — 237 Number of violation days

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

	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 $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. 2

	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	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**

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 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 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	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: 1 — 237 Number of violation days

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

	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 $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. 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	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

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
STORMWATER PERMIT TXR1549KU
AIR EMISSIONS INVENTORY ACCOUNT NUMBER DB0415O
AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB0415O
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 1239
WASTEWATER PERMIT TXG113001

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

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 **PCW** 29-May-2024 **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

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$35,000**

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**

Notes: No adjustment for Compliance History.

Culpability No **0.0%** Enhancement — ***Subtotal 4*** **$0**

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**

**Capped at the Total EB $ Amount*

Total EB Amounts $341
Estimated Cost of Compliance $5,900

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$35,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$35,000**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$35,000**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$7,000**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$28,000**

Screening Date 3-Nov-2022 **Docket No.** 2022-1557-AIR-E **PCW**

Respondent Texas Star Ready Mix, LLC *Policy Revision 5 (January 28, 2021)*

Case ID No. 63326 *PCW Revision February 11, 2021*

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 (*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 **Docket No.** 2022-1557-AIR-E **PCW**

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

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: 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%

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 $10,000

Economic Benefit (EB) for this violation

Estimated EB Amount $99

Statutory Limit Test

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
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
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 date the concrete batch plant began operations 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** $99

Screening Date 3-Nov-2022 **Docket No.** 2022-1557-AIR-E **PCW**

Respondent Texas Star Ready Mix, LLC *Policy Revision 5 (January 29, 2021)*

Case ID No. 63326 *PCW Revision February 11, 2021*

Reg. Ent. Reference No. RN111648234

Media Air

Enf. Coordinator Yuliya 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

OR

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%

	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 $25,000

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

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	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	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 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

IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
TEXAS STAR READY MIX, LLC	§	
RN111648234	§	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 Enviromental 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.

Attachment 2:

Signed Final Enforcement Order

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 JUL 17 2024, 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 Enviromental 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

Patricia Guzman — July 23, 2024
For the Commission — Date

[signature] — 6/6/2024
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] — 06/05/2024
Signature — Date

Eyad Albelbaisi — Manager
Name (Printed or typed) — Title
Authorized Representative of
Texas Star Ready Mix, LLC

☐ *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.

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

July 25, 2024

FIRST CLASS MAIL

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

RE: Texas Star Ready Mix, LLC
TCEQ Docket No. 2022-1557-AIR-E; Registration No. 171636
Agreed Order Assessing Administrative Penalties and Requiring Certain Actions

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Amy Davis of the Office of the Chief Clerk at (512) 239-3300.

Sincerely,

Laurie Gharis

Laurie Gharis
Chief Clerk

LG/ad

Enclosure

cc: Yuliya Dunaway, Enforcement Coordinator, TCEQ Enforcement Division

Attachment 3:

April 1, 2024, Texas Star Ready Mix Investigation

AIR CP_1[redacted]8234_CP_20240401_Investigation_1[redacted]760_

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: RN111648234

Investigation # 1974760
Investigator: DEVARAJ MAINALI
Conducted: 04/01/2024 -- 04/01/2024
Program(s): AIR QUALITY NON PERMITTED

Investigation Type: Compliance Investigation
Additional ID(s)

Incident Numbers
Site Classification
SIC Code: 3273

Location:

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

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

Principal(s):

Role	Name
RESPONDENT	TEXAS STAR READY MIX LLC

Contact(s):

Role	Title	Name	Phone	
PARTICIPATED IN	SITE MANAGER	MR Luis Rivera	Phone	(214) 206-5959
REGULATED ENTITY CONTACT	OWNER	EYAD ALBELBAISI	Phone Cell	(214) 475-5095 (214) 475-5095

Other Staff Member(s):

Role	Name
Supervisor	ARCHER TATE

Associated Check List

Checklist Name	Unit Name
COMPLIANCE WITH RESOLUTION RECORD REVIEW	2022-1557-AIR-E

Investigation Comments:

INTRODUCTION
On April 1, 2024, Mr. Devaraj Mainali, Environmental Investigator of the Texas Commission of Environmental Quality (TCEQ), Dallas/Fort Worth (DFW) Region Office Air Section, Compliance Team, conducted an Onsite Enforcement Follow-up Investigation (ENFFION) at Texas Star Ready Mix CBP SN

78043 ('site' or 'facility'), located at 4500 Great Trinity Forest Way, Dallas, Dallas County, Texas. The site is owned and operated by Texas Star Ready Mix LLC (Texas Star).

The investigation was conducted to determine if the site was operating the concrete mixing activities. The site was operating without authorization which was determined by a previous investigation conducted on August 29, 2023. Detailed information can be found in investigation No. 1924559. A Notice of Enforcement (NOE) was sent to Texas Star on September 1, 2023, for Failure to obtain authorization prior to the construction and operation of a concrete batch plant facility. Specifically, during the investigation conducted on August 29, 2023, the investigator (Mr. Adam Mason) observed that the facility was operating a Concrete Batch Plant without Authorization. Agreed Order Docket No. 2022-1557-Air E became effective on September 1, 2023.

Mr. Luis Rivera, Site Manager, and Mr. Eyad Albelbaisi, Owner, both with Texas Star participated in this investigation. Mr. Rivera is the regulated Entity contact for this investigation.

Daily Narrative
On April 1, 2024, the investigator arrived at the site at approximately 11:10 AM and took weather readings. The temperature was approximately 75 degrees Fahrenheit with 80% humidity. The wind was approximately 12 Miles per Hour (MPH) from the south and sky was observed as cloudy. The investigator met with Mr. Rivera, presented his credentials, and stated the purpose of the investigation. The investigator asked Mr. Rivera if they were operating any concrete batch plants at the site. Mr. Revera stated that they were not operating any activities at the site. The investigator asked Mr. Rivera what the last date of the operation was. Mr. Rivera stated it was August of 2023, but he said he did not know the exact date. Mr. Lous stated that activities were ongoing onsite such as truck maintenance, changing tires but the concrete batch plant was not operating.

A walkthrough of the site was conducted accompanied with Mr. Rivera. During the walkthrough investigator observed 15 concrete trucks and two piles (1 fine and 1 coarse) of aggregates in three sided walled bunkers.

The investigator observed the batch plant for approximately 35 minutes and did not note any equipment in operation.

Mr. Rivera provided the investigator with Mr. Albelbaisi's contact information and advised to contact him if the investigator needs more information. During the investigation the investigator contacted Mr. Albelbaisi and asked him if they were operating any concrete batch plants at the site. Mr. Albelbaisi stated that the site was investigated previously in August 2023, and after that they had not operated the site. The investigator asked Mr. Albelbaisi when they were planning to operate the site again. Mr. Albelbaisi stated they had applied for a permit and will operate the site once they receive an authorization from TCEQ to operate the site.

The investigator left the site at approximately 12:05 PM.

Exit Interview
No exit interview was conducted during this investigation.

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 CBP SN 78043 RN: 111648234
Classification: Unclassified Rating: 0 Publication Date: Nov 15, 2023
Customer Name: Texas Star Ready Mix LLC CN: 605903574
Classification: Unclassified Rating: 0 Publication Date: Nov 15, 2023

Agreed Orders, Court Orders, and Other Compliance Agreements
Agreed Order Docket No. 2022-1557-Air E became effective on September 1, 2023, and remains active.

Prior Enforcement Issues
An NOE dated September 1, 2023 (Investigation No. 1924559) was sent to Texas Star resulting in the above reference Agreed Order. Texas Star failed to obtain authorization prior to the construction and operation of a concrete batch plant.

Complaints
There have been no air quality related complaints for this regulated entity in the last two years prior to this investigation.

ADDITIONAL INFORMATION
Conclusions, Recommendations, and Current Enforcement Actions.
No Concrete Batch Plant was observed operating onsite. No letter will be sent.

Additional Issues:
None.

OUTSTANDING ALLEGED VIOLATION(S)

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: 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.

Investigation: 1974760 Comment Date: 04/05/2024
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 [signature] Date 5/29/24
Environmental Investigator

Signed [signature] Date 5/29/24
Supervisor

Attachments: (in order of final report submittal)

____Enforcement Action Request (EAR)
____Letter to Facility (specify type) : _____
Investigation Report
____Sample Analysis Results
____Manifests
____Notice of Registration
____Maps, Plans, Sketches
____Photographs
____Correspondence from the facility
____Other (specify) :

Attachment 4:

EPA Letter Regarding Applicant's Permit Application

REGION 6
DALLAS, TX 75270

July 22, 2024

Mr. Cory Chism, Director
Office of Air
Texas Commission on Environmental Quality (MC 122)
Post Office Box 13087
Austin, Texas 78711-3087

Re: Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 for Texas Star Ready Mix, LLC in Dallas County, Texas.

Dear Mr. Chism:

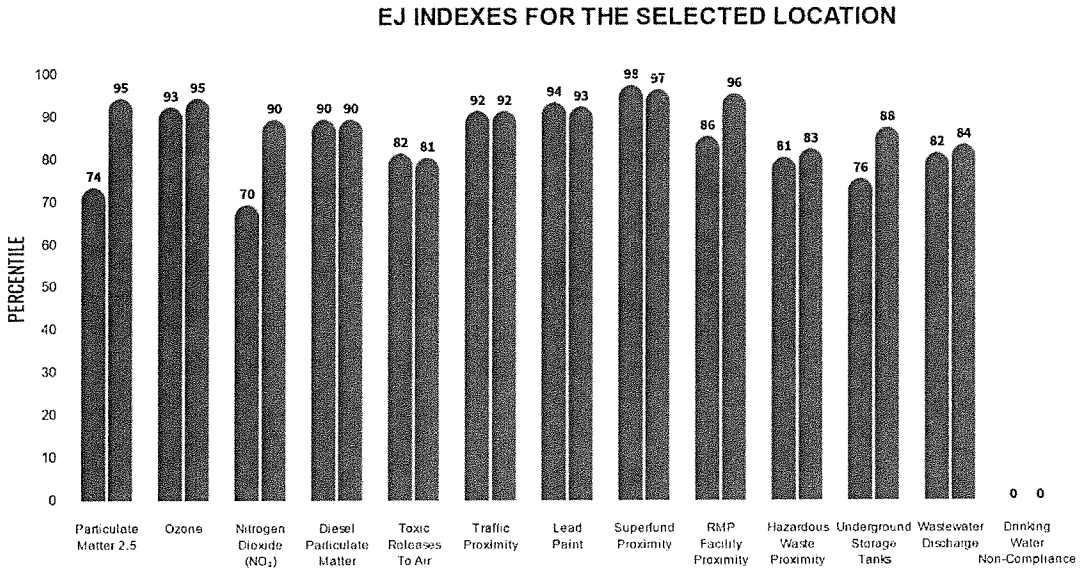
As part of the U.S. Environmental Protection Agency (EPA) Region 6's oversight responsibilities, I am writing to express concerns with the above-referenced permitting application currently before the Texas Commission on Environmental Quality (TCEQ). As discussed more fully below, EPA Region 6's concerns primarily relate to Texas Star Ready Mix, LLC Concrete Batch Plant's (CBP) ability to meet or satisfy the siting and setback requirements for the air quality standard permit authorization sought by this permitting action.

It is our understanding that the Texas Star Ready Mix facility has been operating at its current location since July 27, 1980, and has changed ownership multiple times. The facility was operating as a concrete batch plant improperly under a Permit by Rule (PBR) for Bulk Mineral Handling (30 TAC 106.144). On September 12, 2022, the City of Dallas Local Air Program conducted an investigation and found Texas Star Ready Mix to be in non-compliance and a notice of violation was forwarded to TCEQ. TCEQ conducted an investigation on August 29, 2023, and found that Texas Star Ready Mix was still operating after being told to cease operations. An Agreed Order was issued on July 17, 2024, resulting in penalties to Texas Star Ready Mix. Texas Star Ready Mix applied for authorization under the Concrete Batch Plant Standard Permit (CBPSP) on January 30, 2023, and the notice of that application was published on March 17, 2023.

EPA Region 6 has been conducting a Cumulative Impact Assessment (CIA) on concrete batch plants in Dallas County. The Texas Star Ready Mix facility was included in the CIA and we conducted air modeling for the facility as part of our evaluation. The project lead for the CIA drove to the Texas Star Ready Mix facility to observe it from the road on multiple occasions. These drive-by observations were made while conducting other sampling, testing, and community outreach in the Joppa community where the facility is located. These drive-by observations were also conducted to verify the information obtained through google earth images and our review of the Texas Star Ready Mix permit application files.

EPA Region 6 has some fundamental issues with the potential issuance of the concrete batch plant standard permit to Texas Star Ready Mix. As it currently stands, the facility does not appear to meet all the requirements of the standard permit. For example, aggregate loading, which may involve the utilization of vehicles for the operation of the concrete batch plant (as contemplated in 2024 CBPSP condition 8.H), appears to occur within 50 feet of the properly line.[1] In lieu of the applicable 50-foot setback requirement, the facility does not appear to utilize dust suppressing fencing or other equivalent barriers at a height of at least 12 feet as identified in 2024 CBPSP condition 8.I. In addition, the suction shroud fabric/cartridge filter exhaust and storage silos appear to be located less than 100 feet from the property line. From the west property line to east property line, the site is approximately 300 ft wide. Theoretically, equipment could be moved within the existing property to meet the 100ft setback distance requirement. However, it appears that Texas Star Ready Mix would need to do a considerable amount of work at the site in order to move the equipment to a location in compliance with the 2024 CBPSP. The property appears to be routinely inundated with large amounts of standing water, as documented during each visit by the CIA project lead. In one instance the entire site was under water with multiple trucks in water to the tops of their tires.

EPA Region 6 has conducted an analysis using EPA's EJScreen to assess key demographic and environmental indicators within a five-kilometer radius of the Texas Star Ready Mix CBP. This analysis shows a total population of approximately 55,266 residents within a five-kilometer radius of the facility, 32% have less than a high school education, 68% are low income (per capita income is $17,269), and 21% are persons with disabilities. Upon review of the EJScreen EJ Indices, which combine certain demographic indicators with 13 environmental indicators, the results show that twelve of the 13 EJ Indices in this three-kilometer area exceed the 70th percentile in the state of Texas, nine exceed the 80th percentile, and five of the 13 EJ Indices exceed the 90th percentile in the State of Texas.



The Region 6 cumulative impact assessment team found that the Trinity River corridor near the Texas Star Ready Mix facility is a popular recreation destination for the community of Joppa. Many community members use the extensive walking trails (which connect to the Trinity River Audubon

[1] *See* Permit No. 171636 (Project 353038), Initial Application, WCC Content ID Number 7140070 (December 31, 2000).

Center) and fish in Little Lemmon Lake and Lemmon Lake that are part of the Joppa Preserve. We understand that there is only one individual that lives within the 440-yard distance of Texas Star Ready Mix that is used to determine affected person status in concrete batch plant contested case hearing requests. We would strongly encourage the TCEQ to take into consideration the fact that although many may not live within 440 yards of the facility, many community members may routinely be impacted by recreating in the green spaces that are within that distance of the Texas Star Ready Mix facility.

EPA Region 6 requests that, prior to issuance, TCEQ ensure via an inspection of the facility that the existing equipment, stockpiles, and vehicle operating areas satisfy the setback and/or barrier requirements as stipulated in the CBPSP. In addition, EPA requests that TCEQ disclose whether the applicant is seeking coverage under the 2021 or 2024 version of the CBPSP. TCEQ may need to consider possible denial of this permit application and request that the applicant reapply once they can meet the requirements of the concrete batch plant standard permit or obtain a case-by-case NSR permit. If TCEQ decides to issue the concrete batch plant standard permit to Texas Star Ready Mix, then we strongly encourage TCEQ to consider all requests it received from the community for a contested case hearing. EPA welcomes TCEQ's partnership in this important effort because of the environmental conditions already facing this community, and the potential for disproportionate impacts are of concern.

We remain committed to working with the TCEQ to ensure that the final permit is consistent with applicable new source review requirements, the EPA-approved Texas air permitting program, and all requirements of federal law. This includes raising concerns about public comment opportunities that don't appear to reach the actual community where the facility will be located or those residing in close proximity to the facility. If you have questions or wish to discuss this further, please feel free to contact me or your staff may reach out to Aimee Wilson, Texas Permit Coordinator at (214) 665-7596. Thank you for your cooperation.

Sincerely,

Cynthia Kaleri
Section Supervisor, Air Permits Section

Attachment 5:

TCEQ Commissioners' Agenda
Transcript Excerpt From Agenda Item 9
(May 22, 2024)

Texas Commission on Environmental Quality

COMMISSIONERS' AGENDA TRANSCRIPT

May 22, 2024

People in Attendance: Chairman (C) Jon Niermann, Commissioner (Cmr) Catarina Gonzales, Commissioner (Cmr) Bobby Janecka, General Counsel (GC) Mary Smith, Melissa Cordell–Enforcement Division (ED), Amy Settemeyer–Enforcement Division (ED), Gitanjali Yadav–Litigation Division (LD), Michael Bates, Wendi Hammond, Hana Alsarabi–Respondent (R), Garrett Arthur–Public Interest Counsel (PIC)

1:04:41	GC Mary Smith	That takes us to the enforcement docket which are items 8 through 28. And the Executive Director's staff is here to present these matters.
1:04:49	C Jon Niermann	Good morning.
1:04:51	Melissa Cordell–ED	Good morning, Chairman, Commissioners, General Council and Public Interest Council. For the record my name is Melissa Cordell of the Enforcement Division and with me today are Amy Settemeyer also of the Enforcement Division and Gitanjali Yadav of the litigation division representing the Executive Director. Pending before you are items 8 through 28. The total assessed administrative penalties are $471,323 with $102,221 deferred, $146,345 applied towards supplemental environmental projects, and $222,757 to the general revenue. We respectfully request approval of these items and are available to answer any questions you may have.
1:05:35	C Jon Niermann	Thank you, Ms. Cordell. Colleagues any questions for Miss Cordell? All right, seeing none, Ms. Smith, has anybody signed in to speak on this item?
1:05:42	GC Mary Smith	So, on items 17 and 18 we have individuals who have signed in and indicated that they're available for questions, if the commission has questions. And then on item nine we have some people signed in that would like to address the commission. And I would just like to remind everyone to allow enough time for all who wish to be heard during this meeting, the commission limits initial comments from each speaker to three minutes and extends that time if the commission has . . . would like further discussion with that speaker. So, we'll begin with Michael Bates for Joppa Freedman's Town Association.
1:06:21	C Jon Niermann	Good morning, Mr. Bates. Are you there?
1:06:23	Michael Bates	Yes. Are you able to hear me?
1:06:25	C Jon Niermann	Not quite. Try it again.
1:06:28	Michael Bates	Are you able to hear me now?
1:06:30	C Jon Niermann	Now we do, loud and clear. Go ahead when you're ready Mr. Bates.

1:06:38	Michael Bates	Fantastic. Are you . . . are we limited to having one party speak or will both myself and my co-counsel Wendi Hammond have time to speak?
1:06:50	C Jon Niermann	I'll let our general counsel take that. You may both take three minutes.
1:07:00	Michael Bates	Wonderful. We . . . I would like to request that Wendi Hammond, since she's in person, that she's able to speak first, if feasible.
1:07:09	C Jon Niermann	Absolutely.
1:07:09	Michael Bates	Fantastic.
1:07:10	C Jon Niermann	Ms. Hammond? Good morning. Podium is there and when you when you get up there I'll ask you to check your mic and make sure that the light is on.
1:07:21	Wendi Hammond	The light is on can you hear me?
1:07:21	C Jon Niermann	Great. I can and go ahead when you're ready.
1:07:25	Wendi Hammond	All right. Hello. Thank you. My name is Wendi Hammond. I am a staff attorney with Legal Aid of Northwest Texas representing the Joppa Freeman's Town Association which the Joppa is a historical Freeman's town that is inundated and surrounded by industry on all sides of the small community. They're basically landlocked by facilities. They are located just north of this facility and Joppa has been active in this actual proceeding as well as the permitting that is supposed to be going forward. Rather than going directly and reiterating what we've already submitted to the Commissioner, I just wanted to point out a few things regarding the Executive Committee's . . . the executive summary just to clarify some points and to ask some questions because we are very concerned about the penalty assessment in this case because it's very low considering this facility is operated for years. The penalty assessment is apparently only assessed from September 12th, 2022, but the executive summary even acknowledges elsewhere that they are aware the Texas Star Ready Mix took over the lease on January 14th, 2021. And yet, TCEQ staff refused to obtain the operational logs from the facility to determine exactly just how long they truly have been operating without proper authorization. They also refused to provide those documents in response to a public information act so that the Joppa Freeman's Town Association could meaningly participate in not only this enforcement action but also within the subsequent standard permit authorization they were trying to obtain. The other issue is culpability. Basically, Texas Star Ready Mix knew or should have known that after the first facility investigation that it was improperly operating. Yet it continued to operate even after being investigated by both the city of Dallas and TCEQ, and repeated public outrage and outcry. They continue to operate and even admitted to operating 10 to 15 trucks per day during the public meeting on their standard permit authorization. Joppa has provided these types of facts and other new facts that allow the commission to withhold the authorization of this agreed order to go back to find out what is the proper penalty that should be for this egregious behavior. This community is looking towards this agency to be able to

		solve the problems that it faces. The thing is, is that we all know environmental laws are set up like a three three-legged stool. You have your federal, you have your state, and you have your public and if one of them fails, the laws don't work, and they don't protect the public. Joppa understands that the state's resources are limited. Staff's time is limited. That is why they are actively participating and requesting that you deny this agreed order.
1:10:30	GC Mary Smith	That's three minutes.
1:10:31	C Jon Niermann	I'll ask you to finish your thought, Miss Hammond.
1:10:34	Wendi Hammond	To deny this agreed order and I will allow my co-counsel to complete his three minutes. Thank you.
1:10:38	C Jon Niermann	Okay, thank you, Ms. Hammond. Mr. Bates go ahead when you're ready sir.
1:19:45	Michael Bates	Wonderful. Thank you. Yes. So, my name is Michael Bates. I'm also a staff attorney with Legal Aid of Northwest Texas and I also represent Joppa Freedman's Town Association. To expound on what my co-counsel was discussing, it's our belief that without TCEQ gathering these operational records and refusing to do so and then also refusing to share them, that this failure to include this type of evidence means that there was an improper assessment of this penalty. Under Texas Water Code 7.053, the factors need to be assessed in order to create a proper enforcement penalty. Just to highlight a few of these, these include the hazards created for health and safety of the public, the impact of continuing violations on the air quality of the region, respondents' history and extent of previous violations, respondents economic benefit gained through violations, and the penalty's ability to deter future violations. Without this type of information and the agency's refusal to gather it, it's our understanding that Joppa cannot be protected through this type of enforcement record and the commission has the ability to look at these type of new facts. The new facts include that the representatives of JFTA witnessed on multiple occasions respondent operating during this period of time. Those types of evaluations were not included in this penalty assessment. If you look specifically at the penalty assessment, it was a mere guess as to when they were operating, and a low number of operations were included per week or per month compared to what respondent admitted to of operating 10 to 15 trucks a day. Furthermore, respondent claimed a financial inability to pay regarding their fine. However, Joppa was not given the right to review these financial inability to pay documents. Failure to provide these documents has a significant and detrimental impact on Joppa and the public. Without documentation of respondents inability to pay assessed penalties for imposed . . . penalties imposed on the facilities of legal operation, the public is unable to offer a meaningful and informed comment on the appropriateness of TCEQ's proposed agreed order. It also has an impact that this group is applying for a permit and is stating that they don't have the ability to pay the assessed fine, however, there are numerous non-compliance issues on site and they're stating that they would have the ability to pay for those. The community would like to address these concerns and believes you have the jurisdiction because of the new facts and considerations given. That this process was done

		improperly, inadequately, and inconsistently with the requirements of the statutes and rules within the commission's jurisdiction. Thank you for your time.
1:13:53	C Jon Niermann	Thank you, Mr. Bates. Just for clarification, the period that you're referring to is that January 14, 2021, up to September 12, 2022. Is that correct? Or Miss Hammond might take that one.
1:14:12	Wendi Hammond	That is what we understand from the executive summary that TCEQ staff acknowledged that Texas Star Ready Mix took over the lease for this facility. There is no new authorization during that time frame so they must have been operating in this exact same way. But again, that's conjecture because we were not able to obtain the operational logs from them through TCEQ and TCEQ didn't obtain them either.
1:4:36	C Jon Niermann	All right, thank you. I understand the point. Colleagues, any other questions for Ms. Hammond or Mr. Bates. I'm seeing none.
1:14:46	GC Mary Smith	We also have Hana Alsarabi for the respondent who would like to address the commission.
1:144:54	C Jon Niermann	Okay.
1:144:54	GC Mary Smith	Virtual, I believe.
1:14:56	C Jon Niermann	Ms. Alsarabi, go ahead please.
1:15:00	Hana Alsarabi–R	Yeah, hi. Good morning, everyone. I would like to speak on behalf of Texas Star Ready Max. I wanted to kind of confirm what Mike Bates and his Wendi was speaking about the Texas Star. They present a lot of false accusation, lies, and inaccurate information. The first part is the company took over lease in January. We had a few different permit and we were inspected by TCEQ and the City of Dallas and we were given the green light to work. We never been instructed by TCEQ or the city of Dallas to halt with the first time of the visit of they saying our permit by rule does not satisfy everything. The organiz . . . the company has existed since 1955 and had standard exemption. The company had . . . we took over in January of 22, but we would not . . . we were not operating at that time. And the m . . . and the . . . in September . . . in August 9, 2023, the company halted batching and never batch it again. So there was no truth about anything operating after we advised TCEQ we voluntarily halted this . . . the operation. The other thing I want to refer to that both Wendi and Mike Bates keep referring to GFT Town Home Association. We never know which associations that . . . how many member . . . there's only one member for it. Who they are referring to? Who's this person who's referring this information with no proof? They making false accusation over and over and over and I don't understand even the only entity with that name. It does not even active. It's illegal. It does not even pay the franchise tax for the city for the state. So, I'm not sure who they are representing to be honest. I feel they falsify this information with no basis. And I disagree, yes. When the business is closed, how we supposed to pay this high fine? And the only fine Texas Star had is this fine. There's no other fine. So, they cannot come up and say there's

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:07 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part6.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:10 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 6 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 6 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

		multiple fines and multiple violation where there is none exist. Beside in their own imagination. I do thank you for giving me the chance to speak and if you have any question I'd be glad to answer.
1:17:29	C Jon Niermann	Thank you, Ms. Alsarabi. Just so I'm clear, I thought I understood that you said that you have not operated at all since August 9th, 2023. Is that correct?
1:17:45	Hana Alsarabi–R	Correct, yes.
1:17:47	C Jon Niermann	Okay and when did you begin operating?
1:17:55	Hana Alsarabi–R	We started the operation of July 2022 and we actually had talk to TCEQ–to your small business. We have permit by rule, we have wastewater permit to batch concrete, we had the storm water permit, we had the for the gas tank, and we were told with . . . since we have the wastewater permit, it's a general permit that allow us to operate and batch concrete under permit by rule. And we had another permit by rule for handling material. So we had different permission and we were inspected by the air division in August and we never . . . at that year and we were told we are good and our permit by rule was working. It's in force.
1:18:40	C Jon Niermann	Okay, I understand.
1:18:41	Hana Alsarabi–R	I don't know somebody made the accusation that we had change of use. We never had a change of use and this was what it started and we are in compliance. The moment TCEQ said start applying for your permit, for your standard permit we started that. We did the process and we followed all the rule and we followed everything. So, we always trying to be in compliance with the state . . . with TCEQ.
1:19:06	C Jon Niermann	Okay. Do you recall what day in July of 2022 you began operating?
1:19:13	Hana Alsarabi–R	If we started, we started July 2023. July, I'm sorry, 23rd.
1:19:21	C Jon Niermann	July 23rd.
1:19:22	Hana Alsarabi–R	That's an approximate.
1:19:25	C Jon Niermann	Approximately, July 23rd, 2022, you began operating at that site, correct?
1:19:30	Hana Alsarabi–R	Yeah.
1:19:32	C Jon Niermann	Okay, I don't have any other questions. Colleagues any questions for Ms. Alsarabi? Seeing none. All right, thank you ma'am. We appreciate your comments. Is there anybody else signed in to address the commission?

1:19:50	GC Mary Smith	We have another representative from the facility who is available for questions but didn't ask to address.
1:19:55	C Jon Niermann	Okay. Why don't we do this? Why don't we offer Executive Director staff an opportunity to respond to anything that they have heard and then we'll get to the Public Interest Council for their thoughts.
1:20:19	Melissa Cordell–ED	Good morning. This is Melissa Cordell. To address a couple of the items, there's . . . going back to providing information, we did fulfill our obligation for the public information . . . in providing public information so we . . . any documentation that was considered to be confidential such as that financial inability to pay information, that was not provided but that was what was determined to be appropriate. In terms of operational logs, as indicated, they have ceased operating since August 2023. We do not have operational logs for that and since we were also in an agreed order, we were working with this entity, they were providing us information that was required. We did not have this operational logs.
1:21:13	C Jon Niermann	Okay, just to . . . let me pause there just to summarize. The a. . . we produced the documents that were in our possession that were not confidential.
1:21:26	Melissa Cordell–ED	Correct.
1:21:26	C Jon Niermann	This did not include operational logs because they are not in the agency's possession. Is that correct?
1:21:32	Melissa Cordell–ED	Correct.
1:21:33	C Jon Niermann	Okay. This did not include certain information or maybe the entirety of the financial inability to pay analysis because we consider those confidential and moreover, we requested the Attorney General to offer that office's opinion about whether they are indeed confidential or not.
1:21:56	Melissa Cordell–ED	Correct.
1:21:56	C Jon Niermann	Okay, and if the Attorney General says they're confidential, we'll treat them as confidential and if the Attorney General says they're not, then we'll produce them. Okay, so that addresses the public information act piece. And go ahead.
1:22:11	Melissa Cordell–ED	In terms of assessing the penalty we did . . . we did follow our penalty policy and we reviewed the criteria as was mentioned before. You know, in terms of culpability. We did review that. We did not determine that culpability was appropriate in this situation. We reviewed uh the time periods in which we assessed the violation. We were consistent with how we would typically determine the time frames and in this case it was investigation was our start date and that was in September of 2022.
1:22:49	C Jon Niermann	All right, thank you for that. Colleagues, why don't we gather public interest council's thoughts and then we'll come back to discuss or actually . . .
1:23:00	Cmr Bobby Janecka	I have a question.

1:23:01	C Jon Niermann	Janecka, you have a question on the tip of your tongue. Go ahead sir.
1:23:04	Cmr Bobby Janecka	The investigation in September, to make sure I understand correctly, was the beginning of the date for this particular matter, was the period of time from January 2023, that Ms. Alsarabi mentioned earlier in her remarks, was that period that precede the window of time that enforcement staff considered in this window? Or is that new information that enforcement staff maybe weren't aware of? Or can you speak to that period of time where it's . . . the September investigation marks the beginning of the time period in this order. What can you speak to that earlier stretch and time?
1:53:58	C Jon Niermann	And I'm sorry Commissioner Janecka. Help me out. You're talking about what dates? What time period?
1:24:05	Cmr Bobby Janecka	I see in the screen for this item the September 12th, 2022, through November 3rd, 2022, time period described by our enforcement staff. And I hear from Ms. Cordell that there was an investigation in September that may have kicked off this matter. What do we think about the period of time from January through September? Is that going to be considered in compliance and enforcement ever? Do we consider that a closed matter? I'm hearing of allegations today and a date and time that precedes the date in this screen/worksheet.
1:24:41	C Jon Niermann	I understand that. Thank you. Ms. Cordell, do you understand? I'll ask . . . I'll give you a moment to organize your thoughts on that.
1:25:14	Amy Settemeyer– ED	Good morning. For the record, my name is Amy Settemeyer with the Enforcement Division. If I'm understanding correctly, the question, I think we did address the time period from January to September of 2023, in that there was a subsequent investigation done by our regional office in August of 2023 and so both of those investigations are rolled into the penalty considerations for this order. It was the whole period from 2022 to 2023.
1:24:46	C Jon Niermann	Commissioner Janecka, did you understand that?
1:24:49	Amy Settemeyer– ED	Does that . . .
1:25:51	Cmr Bobby Janecka	I believe I follow and there's a lengthy document associated with this Order . . . this filing . . . so perhaps you might be able to direct me later to where that earlier period of time may be discussed in a compliance screening worksheet in this . . . in the set of records. But do I understand then that we did include the period of time that incorporates and includes the date from July 2023 through the September 2023 window of their alleged operation in this order before us today?
1:26:27	C Jon Niermann	Hold on a second. Let me try to clear some things up because I think some of the rate . . . some of the dates are being miscited. This enforcement order pertains to the period September 12, 2022, until August 9, 2023, correct?

1:26:47	Amy Settemeyer–ED	That's correct, Chairman.
1:26:48	C Jon Niermann	Okay and we heard the respondent testify that all operations ceased and have not resumed since August 9th, 2023?
1:27:02	Amy Settemeyer–ED	That is correct.
1:27:03	C Jon Niermann	Okay. So that is . . . that was her testimony so that evidence suggests that there is not a continuing violation for operating without a permit. Draw that conclusion from that evidence. If different evidence arises you know we'll consider that, when it arise but that would not be part of the matter that's before us today. I think the question is what about the time before September 12, 2022, not part of the matter before us. Should it be? Commenters pointed to a January 2022 lease date. I think I've got that correct, and the respondent admitted to beginning operation in July of 2022. So based on the respondents own admission, this item, and I understand it's consistent with our practice to focus on the dates that we can prove up by our own investigation, that's what we have evidence for, we have new evidence this morning from the respondent herself, that the violation actually began in July of 2022. So, Commissioner Janecka, I don't want to put words in your mouth but was your question about that time . . . that time period before . . . the time period that's subject of this enforcement matter September 2022?
1:28:39	Cmr Bobby Janecka	Thank you, very well translated.
1:28:41	C Jon Niermann	Okay. I'm glad it was well translated. I wasn't sure that it was but back to executive director staff. Ms. Settemeyer or Ms. Cordell, what do we do about those about those days before September 12, 2022.
1:29:05	Amy Settemeyer–ED	I'll take an initial stab and then I'll let Ms. Cordell fill in if I missed anything. So, you're right. Our standard practice is to base it on the date that our investigators went into the field and documented the violation. This particular case did have discussions on the permitting aspect and what was required and what was not required based on the timeline and so that was cleared up through that investigation. And so that was part of what we went through, the investigation, the the region and the local area program, trying to determine what permits were required and it wasn't until that investigation that it became clear that they were operating without that . . . the proper authorization. Anything else on the actual lease?

1:30:04	Melissa Cordell–ED	Well, okay. So, and apologies for potentially restating a little bit also. You know, it is our practice to begin the penalty assessment from the date of the investigation. We could have assessed it from the date of the operations began. However, we don't believe that we actually had that information at the time. There were two violations in the case from September to November and from November to August. We may not have had the documentation demonstrating that they were operating without authorization prior to that September 12, 2022. And even if we do assess a penalty for that. . . acknowledging to that there is a FIP analysis that was underway, so just in in in consideration of that as well. So okay.
1:30:49	C Jon Niermann	Okay. So la . . . your last comment was, practically speaking, if we accept the financial inability to pay demonstration there would be no or maybe no difference in the ultimate amount of the penalty.
1:31:09	Amy Settemeyer–ED	I would say maybe no. I can't . . . I don't know that we could know with certainty that there wouldn't be a difference but because of the financial inability . . .
1:31;19	C Jon Niermann	I appreciate that, Ms. Settemeyer, Ms. Cordell. All right. I don't see . . . I don't see questions on the lips of my colleagues so why don't we have you, Mr. Arthur, share Public Interest Council's fees on the entirety of the docket but specifically on nine as well.
1:31:39	Garrett Arthur – PIC	Thank you, Chairman. We did consider each of these enforcement items and I'll take this moment to comment on item nine regarding Texas Star Ready Mix. To start, we reviewed and appreciate the public comments on behalf of the Joppa Freedman's Town Association. OPIC notes that respondent applied for the required authorization on January 30th, 2023, but continued to operate without authorization until August 9th, 2023. Given the intervening time, we question whether there should have been at least some culpability for the delayed shutdown. However, OPIC also recognizes respondents' financial inability to pay a larger penalty and further we acknowledge the greater importance of bringing respondent into compliance. We therefore support adoption of all the enforcement orders presented by ED staff, including item nine.
1:32:36	C Jon Niermann	Thank you, Mr. Arthur. And colleagues, Ms. Alsarabi has requested to address this again. So, Ms. Alsarabi, we'll give you some more time for that now. Are you there?
1:32:50	Hana Alsarabi–R	Yes. Thank you. I want to just to clarify, we were told we have different permit to patch concrete. There was no intention or bad intention to operate without a permit. When we told we have all the proper permitting when we started operation in July 23rd 22 and when the staff came and talked to us about the violation, nobody instructed us, in the exit form, to close or told us we cannot operate any further. We would have respected that as well. And the moment they thought we followed . . . we tried to comply every way with TCEQ worked closely with it to make sure we are doing everything correctly and within the law. Thank you.
1:33:35	C Jon Niermann	All right, thank you ma'am. Bear with me colleagues. All right, we've heard from the parties, we've heard from interested persons. What are your thoughts? Commissioner Janecka?

1:33:54	Cmr Bobby Janecka	I appreciate OPIC's position on this and I think I'm generally in agreement. Today, I was prepared to move forward with the order before us . . . generally in all the items before us but specifically speaking specifically on item nine, I think I . . . frankly I'm a little concerned from the comments I heard from Ms. Alsarabi where she's questioning who her neighbors are. I appreciate that having the comments that are critical of your site and operations coming in under the title of a group gives you room to question who are the members of the group but these are your neighbors. And I have serious concerns when I feel that that's the posture that you're going to take with responding to concerns of your neighbors because we're being asked to move forward with this order today which significantly reduces the amount of the penalty you will owe the state and that penalty is then due if you do not continue to follow our agency's requirements and obligations and get back, return to compliance. But that said, I think the fact that you did voluntarily cease operations, the fact that you . . . I believe that you did operate under the understanding that you were able to operate . . . I don't think that I had the impression today that you were . . . that there was a culpability issue, but I do have real concerns where I hear one of our regulated entities responding with such defensiveness to one of their neighbors. That said, I'm comfortable moving forward today and don't have any other particular outstanding question.
1:35:29	C Jon Niermann	Thank you, Commissioner. Commissioner Gonzales, your thoughts?
1:35:33	Cmr Catarina Gonzales	I'm prepared to move forward with the orders.
1:35:36	C Jon Niermann	Okay. All right, well I'm prepared to move forward with the entirety of the docket except this item nine. I think I'm inclined to remand this to the Executive Director so that the Executive Director can determine what affect the additional period of non-compliance that was admitted to this morning may have on the penalty. You know, I think it's likely that it will be trivial or no effect at all but let's find out what that is. I would also say that would give us an opportunity to double check our work on the culpability question and that would be my recommendation but I heard both of you suggest a different result. So, can I pull either of you over to my side to remand this matter for the reasons I just expressed.
1:36:31	Cmr Catarina Gonzales	I could support you on that. I agree with you, I don't think it's going to change anything. I think the financial inability to pay is what it is.
1:36:39	Cmr Bobby Janecka	Yeah.
1:36:40	C Jon Niermann	All right. That's two. That's all I need Commissioner Janeka but . . .
1:36:43	Cmr Bobby Janecka	Let's make it unanimous. Thank you. I'm agree you.

1:36:47	C Jon Niermann	Okay. So, I'll offer a motion in just a . . . in just a moment to go ahead and adopt the entirety docket except for this item nine which we'll remand and . . . I do want to say that with respect to the pending permit application, that matter is not before us this morning but certainly all of the compliance activity at this facility informs that decision and that analysis. I think I'll just leave it at that and go ahead and offer a motion. Colleagues, I move that we adopt item 8 and items 10 through 28 as recommended by the Executive Director and that we remand item nine to the Executive Director for further case development.
1:37:47	Cmr Catarina Gonzales	I second it.
1:37:48	C Jon Niermann	The motion has been made and seconded. All those in favor say, "I."
1:37:51		I
1:37:54	C Jon Niermann	Motion carries. Ms. Smith, please call the next item.

Attachment 6:

TCEQ Commissioners' Agenda Transcript Excerpt From Agenda Item 7 (July 17, 2024)

Texas Commission on Environmental Quality

COMMISSIONERS' AGENDA TRANSCRIPT

July 17, 2024

People in Attendance: Chairman (C) Jon Niermann, Commissioner (Cmr) Catarina Gonzales, General Counsel (GC) Mary Smith, Garrett Arthur–Public Interest Counsel (PIC), Michael Parrish–Enforcement Division (ED), Melissa Cordell–Enforcement Division (ED), Gitanjali Yadav–Litigation Division (LD), Michael Bates, Wendi Hammond, Eric Birch–Respondent's Attorney (RA)

57:06	GC Mary Smith	That brings us to our enforcement docket which are items 7 through 54 and the executive director's staff is here to present these matters.
57:15	C Jon Niermann	Good morning.
57:18	Michael Parrish–ED	Good morning, Chairman, Commissioners, General Counsel and Public Interest Council. For the record my name is Michael Parrish of the Enforcement Division and with me today are Melissa Cordell also of the Enforcement Division and Gitanjali Yadav of the Litigation Division representing the executive director. Pending before you are items 7 through 54. The total assessed administrative penalties are $1,159,559 with $212,701 deferred. $336,205 applied toward supplemental environmental projects and $610,653 to the general revenue. We respectfully request approval of these items and are available to answer any questions you may have.
58:08	C Jon Niermann	Thank you, Mr. Parrish. I do not have any at the moment. Commissioner your thoughts? Say none. Ms. Smith is anybody signed in to speak?
58:15	GC Mary Smith	Yes, on number seven we have Michael Bates.
58:22	C Jon Niermann	I am not seeing a Michael Bates in the room. Mr. Bates, are you online? Can you hear me? Are you there?
58:27	Michael Bates	Yes, sir. Are you able to hear me?
58:29	C Jon Niermann	Loud and clear. Go ahead when you're ready sir.
58:32	Michael Bates	Are we limited to one party speaking or were both myself and my co-counsel, Wendi Hammond, have three minutes?
58:38	C Jon Niermann	The regist . . . the folks who have . . . Let me have our General Counsel answer this.
58:44	GC Mary Smith	I believe in the past we've had one . . . one person per party, but it's at the Commission's discretion.
58:56	C Jon Niermann	Well, we'll listen to both of you. Yeah, who . . . and it's you, Mr. Bates, and who is the other person?

59:02	Michael Bates	My co-counsel Wendi Hammond. Would she be able to speak first since she's currently present at the meeting?
59:08	C Jon Niermann	Of course.
59:09	Michael Bates	Thank you.
59:10	C Jon Niermann	I see her. I see her smiling at me, Mr. Bates. So, good morning, Ms. Hammond. Is your . . . Is the light on on your microphone?
59:24	Wendi Hammond	Now it's on. Can you hear?
59:26	C Jon Niermann	Yeah, I think we've got you. Yeah. Thank you. Good morning, again.
59:29	Wendi Hammond	Good morning. My name is Wendi Hammond. I am a staff attorney with Legal Aid of Northwest Texas here representing the Joppa Freeman Towns Association. You may recall this came before the commission before in the May 2020 . . . May 22nd 2023. . . 2024 commission's agenda and this is a follow up because it was remanded. So, what we are asking now is we hope that the commissioners would ask the staff if they have finally obtained and reviewed the Texas Star Ready Mix's operational logs because the public would like to verify the applicant's claims. And the reason why it's important is because we need to make some clarification. The last time there was an issue regarding the public information act that is still to the case there are two things that we requested: confidential business information that was went to the Attorney General's Office and that was decided. We also asked for operational logs that was . . . the agency's opinion is that it's not in the agency's possession therefore the staff didn't even bring it to the Attorney General's Office so there's . . .there's never been an opinion on that. The commissioners need to understand that the implications of the staff's current position is because a standard permit–a permit by rule standard exemption–all of it requires the applicant to obtain and produce operational logs and that TCEQ has a right of access. Therefore, the government code section 552.002–the definition of public information–is that if it's maintained or required produced by law by government body, with a right of access to it, then it's a public document. These requirements are met but TCEQ staff is refusing to provide the public these documents. If these documents are never reviewed by the agency in an investigation, in an enforcement, or even in the permanent application that is part of this agreed order and the public doesn't get access to it, then when are these legally required documents ever reviewed for legal compliance? This undermines the protectiveness of the standard permit itself because nobody is checking to see if there's legal compliance is actually happening. It jeopardizes TCEQ's delegated authority under the Federal Clean Air Act and under the Texas State Implementation Plan. Right now it is only a staff . . . staff interpretation but once a final decision by the commissioners occurs it becomes a rule of general applicability because this has happened not only in this case but in other facilities in Dallas, Fort Worth, and the Lubbock area. And as that, this rule of general application would have occurred without following the administrative procedures acts rule making requirements. Therefore, we request that you ask them whether or not they've obtained the documents, and if not, remand them for to that they have to obtain the documents

		and to clarify to agency staff that these documents are actually public information that the public should have a right of access to. Thank you.
1:02:29	C Jon Niermann	Thank you, Ms. Hammond. Mr. Bates, you can go ahead when you're ready. Mr. Bates, we can't hear you. You might double check your mic.
1:02:50	Michael Bates	Good morning, my name is Michael Bates. I'm a Staff attorney with Legal Aid of Northwest Texas representing Joppa Freedman's Town Association. We are requesting the commissioners deny and remand this proposed agreed order because the facts and considerations we will present indicate that this agreed order is improper, inadequate, and inconsistent with the requirements of the statutes and rules within the commission's jurisdiction. TCEQ improperly assessed the penalty according to the requirements of Texas Water Code 7.053 and TCEQ's corresponding penalty policy document. First, TCEQ failed to assess a culpability penalty. According to TCEQ's penalty policy, in assessing culpability, personnel will determine whether or not the respondent could have reasonably anticipated and avoided each violation. Respondent knew they were operating without proper authorization since September 2022. Despite withdrawing a PBR permit and applying for a new permit, respondent knowingly operated for . . . without authorization for months. Additionally, respondent failed to disclose a month and a half of unauthorized operations and this was only found at the recent commissioner's meeting. Even the Office of Public Interest Council asked why culpability was not assessed. TCEQ cannot assess a 20% deferral of the penalty when respondent was considered culpable and cannot assess a 10% decrease for being a high Performer. Second, TCEQ failed to assess the economic benefit gained by operating without proper authorization, which according to the penalty policy, must be based on respondent avoiding or delaying maintenance or operating cost, receiving increased revenue during non-compliance, and avoiding or delaying capital outlay for any item required by the permit. TCEQ fails to penalize respondent for the numerous other avoided costs for complying with a standard concrete batch plant permit. This would at least include the high cost of paving the entry and exit ways with concrete, building mandatory compliant fencing, building stockpile walls, and making the batch plant itself compliant. Proof of this is in the JFTA written comments. Third, TCEQ failed to accurately assess a penalty regarding the extent and duration of the prohibited operations. TCEQ seemed to estimate the number of monthly events and does not know the exact number of violations because they refuse to collect respondents operating locks. They state, at this stage of the enforcement process, operational records are not necessary. Should this matter go to litigation, TCEQ would obtain necessary records through that process. On the contrary, these records are crucial for finding the extent and duration of the prohibited operations. For example, by failing to collect these records the agency did not know that respondent had operated for nearly two additional months without authorization and failed to assess a penalty for the daily operations respondent admitted to at a TCEQ meeting. If respondent failed to keep the operational logs this additional non-compliance must be assessed against them. Fourth, TCEQ fails to determine future . . . deter future violations by deferring the entire $5,000 fine for a month and a half of previously undisclosed illegal operations. Finally, JFTA requests a supplemental environmental project in this case. Thank you.
1:05:57	C Jon Niermann	Thank you, Mr. Bates. Let's stay with this item for a moment. I understand that there's counsel for the respondent available for questions. Mr. Birch are you with us?

1:06:11	Mr. Birch–RA	Yes, good morning commissioners. Can you hear me?
1:06:13	C Jon Niermann	We can. I just wanted to give you an opportunity to respond to . . . to the argument that that you've heard.
1:06:22	Mr. Birch–RA	Sure. First off, good morning, Commissioners and Miss Smith. I'm sorry I can't be there with you in person this morning. The respondent in this case has . . . I don't understand the somewhat of a vendetta that has been alleged against . . . with this corpor . . . with this company by Lonestar . . . by Legal Aid of Northwest Texas. I've been involved in many, many, many, enforcement actions over my 25 years and I don't think I've ever seen such attention paid to a facility. The concrete batch plant involved here is nothing unusual. It's been operating in compliance for years before there was a discovery that apparently the permit had been voided years before the current respondent ever owned the facility. So, this was a surprise to everyone. The respondent has been totally respondent to . . . responsive to TCEQ. It has worked with the . . . with the enforcement division. There were real questions back in that early time period about whether . . . about the status of its permit. So, I know that Legal Aid of Northwest Texas categorizes this as a blatant oper . . . continuing to operate after its permit expired but I've seen some of the records and there were real questions about that. So, it's a fact issue about whether they were even told or whether . . . the ED even thought at the time that the permit had expired. It had been voided by TCEQ. So, what I asked you here is the respondent has paid an enormous cost in this matter. It actually had absolutely no culpability in what happened. All of the events that resulted in this permit being voided occurred before it ever even purchased the facility and began operation. So, they've paid an enormous penalty. I urge you at this point . . . the TCEQ enforcement staff has thoroughly reviewed this several times now and ask you to adopt the proposed agreed order.
1:08:32	C Jon Niermann	Thank you, Mr. Birch. I want to give executive director staff an opportunity to respond to anything that you've heard.
1:08:52	Melissa Cordell–ED	Thank you commiss . . . or Chairman. My name is Melissa Cordell. Hi, I'm Melissa Cordell. Okay, so several points that were raised earlier, I'd like to address. In regards to operational documents from the facility they've continued to not operate since August of 2023. Yes, August 9th, 2023. We have fulfilled the terms of the public information request and if there . . . I'm not aware of another public information request in which there's been any ask for any additional documentation. So, we provided what it is that we have. In terms of culpability, we did review again whether or not this would meet with the criteria that we have within our division on assessing culpability. This does not rise to that level . . . we have. . . we did not apply it in this case and that is consistent with the other cases that we handle that are very similar. In terms . . . there was a mention of a giving them a reduction due to high performer. I do not see that in this order they are not a high performer so they did not get a 10% reduction there. We did, based on discussion at the May 22nd 2024 commission agenda . . . there was an indication about operating earlier than what was previously in the order. We did back up that date and assessed additional monthly events and did . . . which did result in the penalty increasing. We also did do that financial inability to pay review again and that came out with the same result as before. And so that amount, that payable amount did not change. And . . . in as in . . . into the comment about being a deterrent, as they've continued to . . . Texas Star has continued

		to not operate, this order has had the effect of being a deterrent. They are not in operation.
1:10:55	C Jon Niermann	Thank you, Ms. Cordell. And we're confident that they are not operating . . . have not operated since August 9th of last year.
1:11:04	Melissa Cordell–ED	Correct.
1:11:05	C Jon Niermann	Okay. Appreciate that. Ms. Smith, is there anybody else who has signed in to speak?
1:11:12	GC Mary Smith	No, we have numerous people signed in and available to answer questions on items 9, 10, 11, 13, 14 through 17, 19, 23, and 32. And so they've all indicated that they're simply available for questions and we'll note that they're signed in for the record.
1:11:33	C Jon Niermann	Okay. Thank you. Mr. Arthur, I'd like to give you an opportunity to speak to this item seven specifically if you have any thoughts on it and as well as to the entirety of the docket.
1:11:42	Garrett Arthur – PIC	Thank you, Chairman. As expressed in May, we did have concerns regarding the Texas Star Ready Mix item, and we thought remand at that time was appropriate. Since that time, we . . . you know we've reviewed the backup documentation this time around including the financial inability to pay documentation and we're satisfied at this point on that particular item. So with that being said, we support adoption of these enforcement orders as presented by ED staff.
1:12:16	C Jon Niermann	Thank you, Mr. Arthur. Commissioner Gonzales, I think I come down in the same place. You know for me, the financial inability . . . the pay aspect of this . . . of this item seven analysis . . . it gives me some pause about the state of an operator but I think . . . you know and their ability to actually meet the requirements of operating but I think that's really a question for future permitting and not for the enforcement action in front of us so that's a long way of saying that I'm ready to move forward with this enforcement docket.
1:13:00	Cmr Catarina Gonzales	I agree and you know we asked the staff to go back and look at that and remanded that and they did that and came back with the . . . still the financial inability to pay. So, I move that we adopt items 7 through 54 as recommended today by the executive director.
1:13:17	C Jon Niermann	I'll second that motion and call the vote all those in favor say "I."
1:13:21		"I."
1:13:22	C Jon Niermann	Motion carries.
1:13:23	C Jon Niermann	Miss Smith when you're ready please call the next item.

Attachment 7:

Public Notice Verification Form

(March 11, 2024)

Texas Commission on Environmental Quality
Public Notice Verification Form
Air Permit

Applicant Name: Texas Star Ready Mix LLC		
Site or Facility Name: Texas Star Ready Mix LLC		
Application Received Date: 1/30/2023		
TCEQ Account Number (if applicable):	Permit Number: 171636	
Regulated Entity Number (RN): 11648234	Customer Number (CN): 605903574	
All applicants must **complete all applicable** portions of this form. Send this completed form to the TCEQ to the attention of the Office of the Chief Clerk **within 10 business days after the end of the designated comment period.** For more information regarding public notice, refer to the instructions in the public notice package.		
Alternative Language Checklist		
I have contacted the appropriate school district.		☒ Yes ☐ No
School District: Dallas ISD	Phone Number: (972) 925-3700	
Person Contacted: Jesse	Date: 03/23	
Is a bilingual education program (BEP) required by the Texas Education Code in the district?		☒ Yes ☐ No
If answer is "NO," skip to first question in verification box on next page. *(Note: A BEP is different from "English as a Second Language" (ESL) program; and Elementary/Middle schools that only offer ESL will not trigger notice in an alternative language.)*		
Notice in an alternative language is required if a BEP **is required** in the District, and **one** of the following conditions is met:		
1. students in the elementary or middle school nearest the facility are enrolled in a program at that school;		☒ Yes ☐ No
2. students from the elementary or middle school nearest the facility attend a BEP at another location; or		☐ Yes ☒ No
3. the school district that otherwise would be required to provide a BEP has been granted an exception from the requirements to provide the program, as provided for in 19 Texas Administrative Code 89.1207(a).		☐ Yes ☒ No
If the answer is "NO" to **1, 2, and 3 above**, then alternative language notice **is not required.**		
The name of the elementary school nearest to the proposed or existing facility is:		
Elisha M. Pease Elementary School		
The name of the middle school nearest to the proposed or existing facility is:		
DR. Frederick Douglass Todd SR. Middle School		
The following language(s) is/are utilized in the bilingual program:		
Spanish		
If notice in an alternative language is required, then applicants must publish alternative language notice(s) and post alternative language sign(s), as outlined in the *Instructions for Public Notice* and certify compliance with those requirements on this form.		

Texas Commission on Environmental Quality
Public Notice Verification Form
Air Permit

Applicant Name: Texas Star Ready Mix LLC		
Site or Facility Name: Texas Star Ready Mix LLC		
Application Received Date: 1/30/2023		
TCEQ Account Number (if applicable):	Permit Number: 171636	
Regulated Entity Number (RN): 11648234	Customer Number (CN): 605903574	
For more information regarding public notice, refer to the instructions in the public notice package.		
Alternative Language Verification		
1. A BEP is required by the Texas Education Code in the area addressed by this permit application and is subject to alternative language public notice requirements. **If "NO," skip 2 through 6 and complete signature, title, date, and name of applicant.**		☒ Yes ☐ No
2. The applicant has conducted a diligent search for a newspaper or publication of general circulation in both the municipality and county in which the facility is located (or proposed to be located).		☒ Yes ☐ No
3. A newspaper or publication **could not be found** in any of the alternative language(s) in which notice is required.		☐ Yes ☒ No
4. The publishers of the **newspaper listed below refused to publish the notice** as requested, **and** another newspaper or publication in the same language and of general circulation **could not be found** in the municipality or county in which the facility is located (or proposed to be located).		☐ Yes ☒ No ☐ N/A
Newspaper: buena suerte Newspaper	Language: spanish	
5. Proof of publication of the newspaper **alternative language** notice(s) and the requested affidavits have been sent to the TCEQ.		☒ Yes ☐ No
6. Alternative language signs were posted as required by the TCEQ.		☒ Yes ☐ No
This form must be signed and dated by a designated representative acting on behalf of the applicant after the end of the designated comment period. Send this completed form to the TCEQ to the attention of the Office of the Chief Clerk **within 10 business days after the end of the designated comment period.** The TCEQ will not accept this form if submitted prior to that date.		
Verified by *(signature)*: Eyad Albelbaisi		
Applicant: Texas Star Ready Mix LLC by Eyad Albelbaisi		
Title: Operation Manager	Date: 03/11/2023	

Texas Commission on Environmental Quality
Public Notice Verification Form
Air Permit

Applicant Name: Texas Star Ready Mix LLC		
Site or Facility Name: Texas Star Ready Mix LLC		
Application Received Date: 01/30/2023		
TCEQ Account Number (if applicable):	Permit Number: 171636	
Regulated Entity Number (RN): 11648234	Customer Number (CN): 605903574	
For more information regarding public notice, refer to the instructions in the public notice package.		
New Source Review Permit Notice Verification *(Complete this section, if applicable)*		
Proof of publication of the newspaper notices and the requested affidavits have been furnished in accordance with the regulations and instructions of the TCEQ.	☒ Yes ☐ No	
Notice of Receipt of Application and Intent to Obtain Permit (1st Notice):		
Required signs (for 1st notice) were posted in accordance with the regulations and instructions of the TCEQ.	☒ Yes ☐ No	
A copy of the administratively complete air quality application, and any revisions, were available for review and copying at the public place indicated below throughout the duration of the public comment period.	☒ Yes ☐ No	
The public place indicated below provides public access to the internet (for PSD, nonattainment, or FCAA 112(g) Permit).	☒ Yes ☐ No ☐ N/A	
Notice of Application and Preliminary Decision (2nd Notice, if applicable):		
A copy of the complete air quality application (including any subsequent revisions to the application), executive director's preliminary decision (which includes the draft permit), the preliminary determination summary and air quality analysis (if applicable), are available for review and copying at the public place indicated below from the first day after newspaper publication, and will remain available until either: (1) the TCEQ acts on the application; or (2) the application is referred to the State Office of Administrative Hearings (SOAH) for hearing	☐ Yes ☐ No	
Name of Public Place: Erik Jonsson Central Library		
Address of Public Place: 1515 Young Street		
City: Dallas	State: TX	ZIP Code: 75201
This form must be signed and dated by a designated representative acting on behalf of the applicant after the end of the designated comment period. Send this completed form to the TCEQ to the attention of the Office of the Chief Clerk **within 10 business days after the end of the designated comment period.** The TCEQ will not accept this form if submitted prior to that date.		
Verified by *(signature)*:		
Applicant: Texas Star Ready Mix LLC by Eyad Albelbaisi		
Title: Operation Manager	Date: 03/11/2023	

Texas Commission on Environmental Quality
Public Notice Verification Form
Air Permit

Applicant Name: Texas Star Ready Mix LLC		
Site or Facility Name: Texas Star Ready Mix LLC		
Application Received Date: 1/30/2023		
TCEQ Account Number (if applicable):	Permit Number: 171636	
Regulated Entity Number (RN): 11648234	Customer Number (CN): 605903574	
For more information regarding public notice, refer to the instructions in the public notice package.		
Federal Operating Permit (Title V) Notice Verification *(Complete this section, if applicable)*		
I verify that the required signs were posted in accordance with the regulations and instructions of the TCEQ.	☐ Yes ☐ No	
I verify that proof of publication of the newspaper notices and the requested affidavits have been furnished in accordance with the regulations and instruction of the TCEQ.	☐ Yes ☐ No	
I verify that a copy of the complete air quality application (including any subsequent revisions to the application) and draft permit were available for review and copying at the public place indicated below throughout the duration of the public comment period.	☐ Yes ☐ No	
Name of Public Place:		
Address of Public Place:		
City:	State:	ZIP Code:
This form must be signed and dated by a designated representative acting on behalf of the applicant after the end of the designated comment period. Send this completed form to the TCEQ to the attention of the Office of the Chief Clerk **within 10 business days after the end of the designated comment period.** The TCEQ will not accept this form if submitted prior to that date.		
Verified by *(signature)*:		
Applicant: Texas Star Ready Mix LLC by Eyad Albelbaisi		
Title: Operation Manager	Date: 03/11/2023	

PRINT FORM

RESET FORM

Attachment 8:

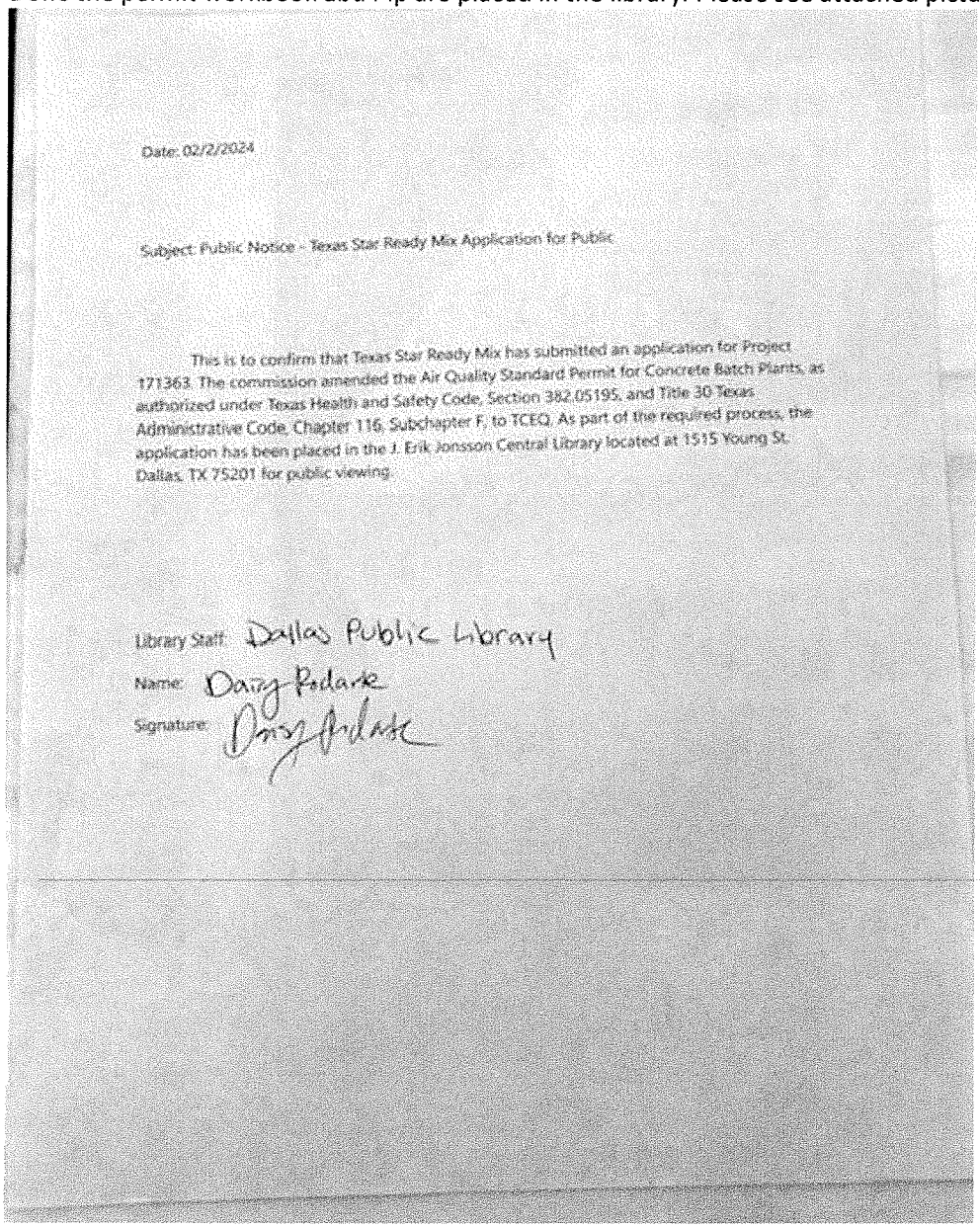
TCEQ and Applicant Emails

Re: Sign Posting and Library Documentation

From: wconcretes@gmail.com
Sent: Friday, February 2, 2024 5:07 PM
To: Joe Nicosia
Cc: Alexander Hilla
Subject: Re: TEXAS STAR READY MIX LLC 171636

Follow Up Flag: Follow up
Flag Status: Flagged

Done the permit workbook abd Pip are placed in the library. Please see attached pictures.

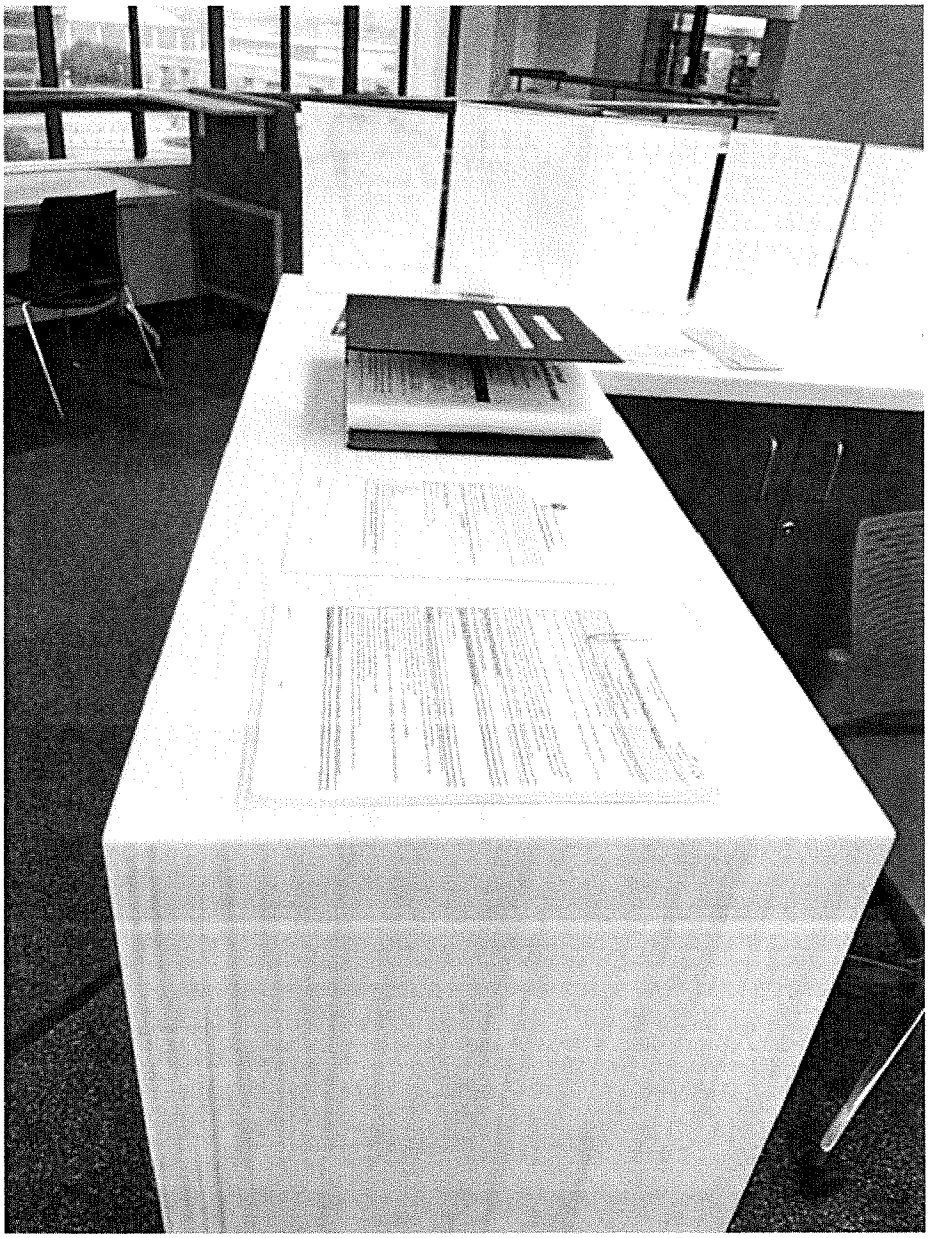


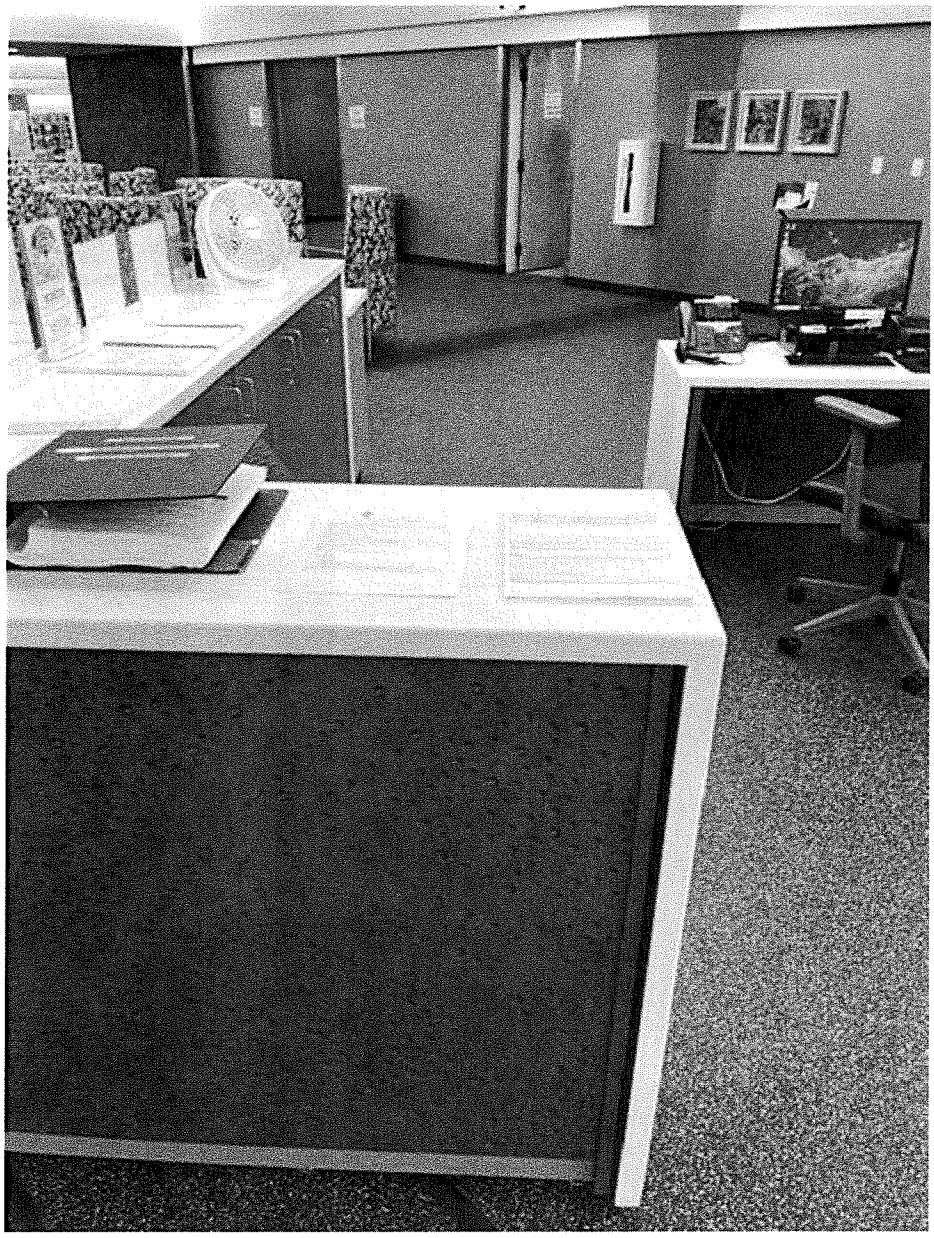
Date: 02/2/2024

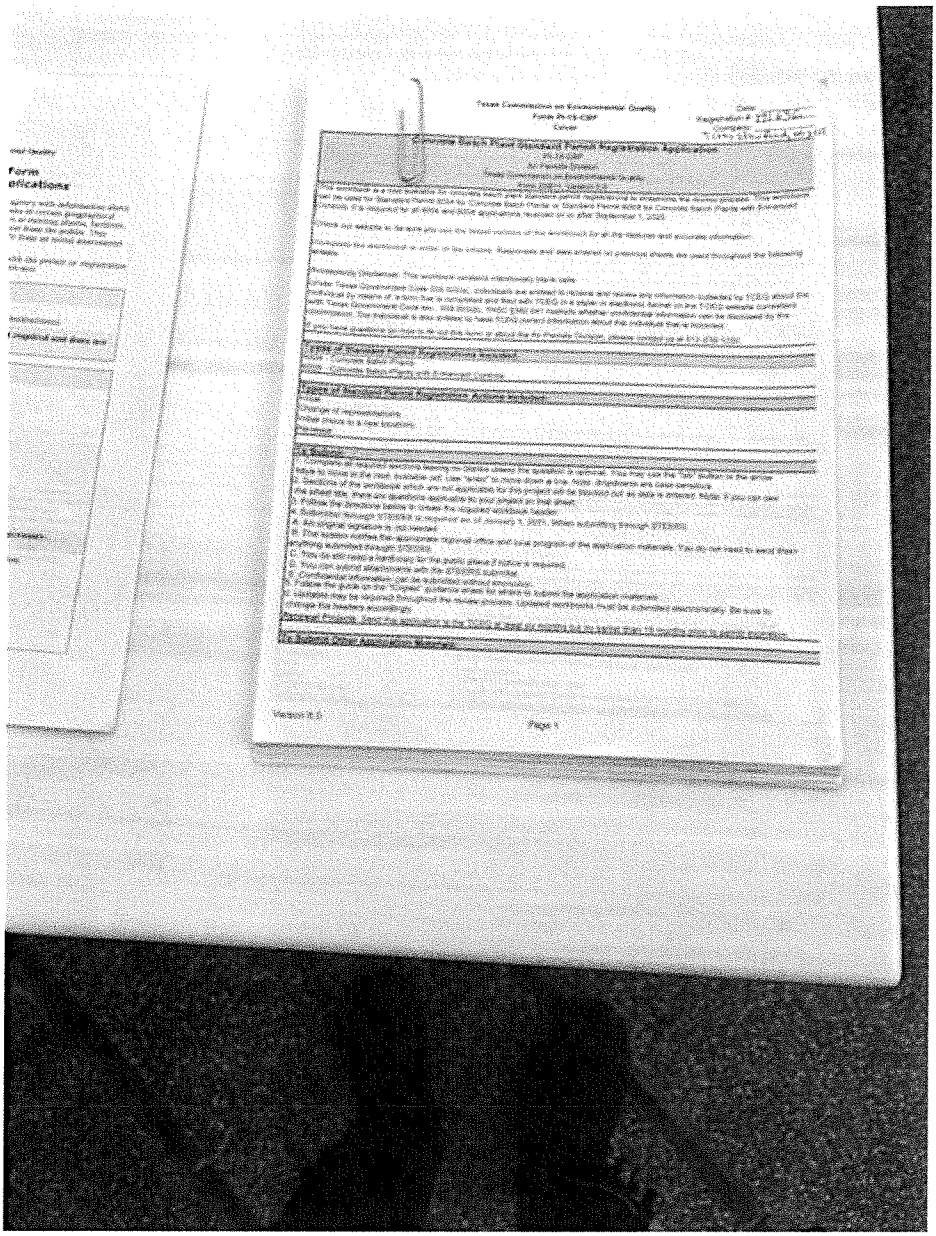
Subject: Public Notice - Texas Star Ready Mix Application for Public

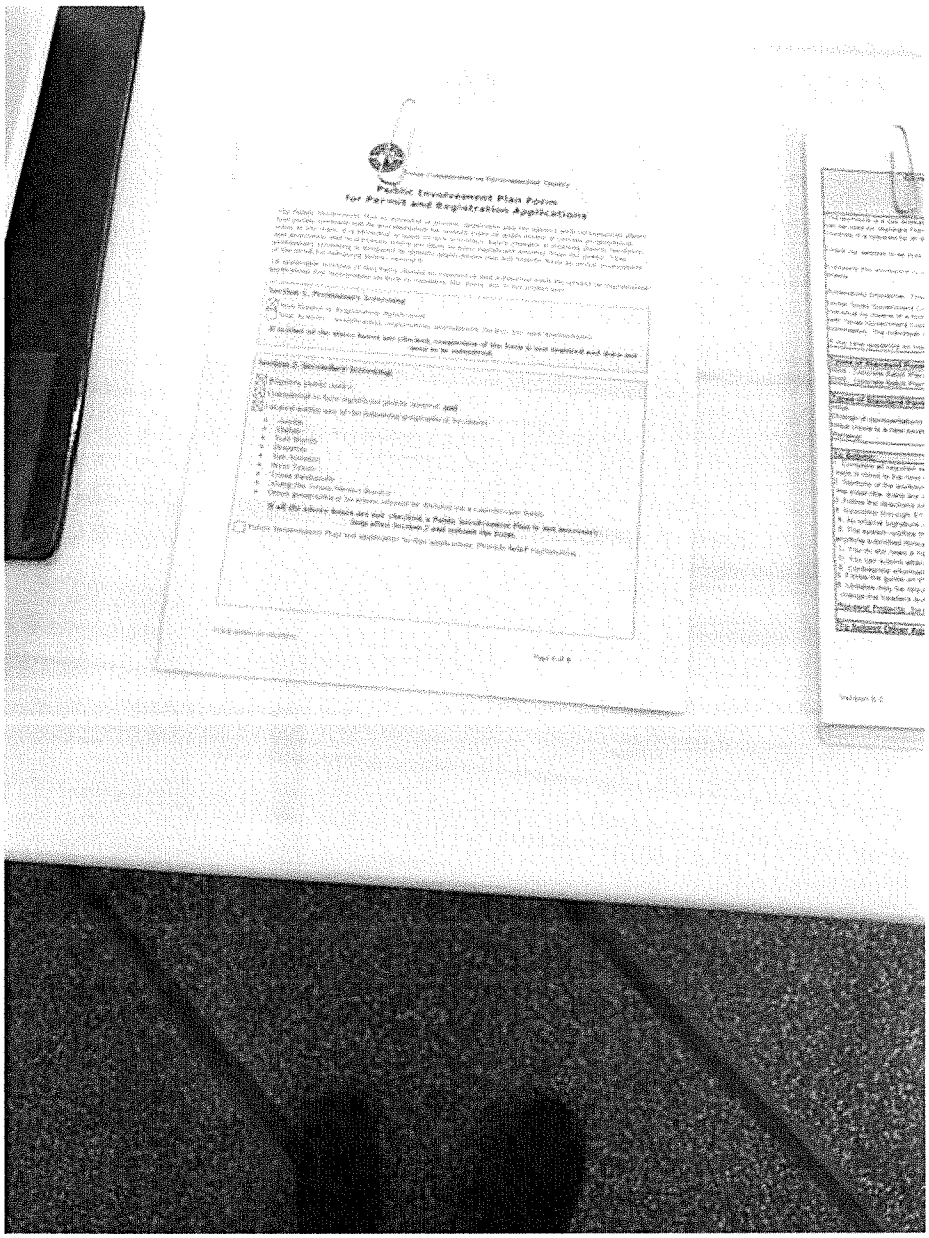
This is to confirm that Texas Star Ready Mix has submitted an application for Project 171363. The commission amended the Air Quality Standard Permit for Concrete Batch Plants, as authorized under Texas Health and Safety Code, Section 382.05195, and Title 30 Texas Administrative Code, Chapter 116, Subchapter F, to TCEQ. As part of the required process, the application has been placed in the J. Erik Jonsson Central Library located at 1515 Young St. Dallas, TX 75201 for public viewing.

Library Staff: Dallas Public Library
Name: Daisy Polanco
Signature: Daisy Polanco









Sent from my iPhone

On Feb 2, 2024, at 3:13 PM, Joe Nicosia <Joe.Nicosia@tceq.texas.gov> wrote:

Thank you Hana. Sign postings do not need to be reposted.

Sincerely,

R. Joseph Nicosia

Mechanical New Source Review Team Leader
Air Permits Division
Texas Commission on Environmental Quality
Mail Code: MC-163, PO Box 13087
Austin, Texas 78711-3087
Direct Line: (512) 239-1644

How are we doing? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey

From: wconcretes@gmail.com <wconcretes@gmail.com>
Sent: Friday, February 2, 2024 3:08 PM
To: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

I am going to place it in the library right now. I will send you the pictures.
Finally, do we need to place any sign on the site?
Thank You!
Hana

From: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Sent: Friday, February 2, 2024 3:05 PM
To: wconcretes@gmail.com
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Thank you Hanna.

Once this workbook and PIP form are added to the application the public viewing place, please let me know.

Havea pleasant weekend.

Sincerely,

R. Joseph Nicosia
Mechanical New Source Review Team Leader
Air Permits Division
Texas Commission on Environmental Quality
Mail Code: MC-163, PO Box 13087
Austin, Texas 78711-3087
Direct Line: (512) 239-1644

<image001.png>
<image002.png>
<image003.png>
How are we doing? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey

From: wconcretes@gmail.com <wconcretes@gmail.com>
Sent: Friday, February 2, 2024 2:16 PM
To: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Done.

Thanks,
Hana

From: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Sent: Friday, February 2, 2024 1:57 PM
To: wconcretes@gmail.com
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Hanna,

On the workbook you need to update in the tab "PI-1S-CBP" , rows 186 and 187 regarding the PIP form.

Thanks,

Joe Nicosia
Mechanical Permitting Team
(512) 239-1644 office

From: wconcretes@gmail.com <wconcretes@gmail.com>
Sent: Friday, February 2, 2024 1:35 PM
To: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Please see attached final updated workbook.

Thank you so much for your assistant!
Hana

From: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Sent: Friday, February 2, 2024 9:31 AM
To: wconcretes@gmail.com
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Hanna,

Yes. Forms can be found at this link.
https://www.tceq.texas.gov/downloads/agency/decisions/hearings/environmental-equity/pip-form-tceq-20960.pdf

Sincerely,
R. Joseph Nicosia
Mechanical New Source Review Team Leader
Air Permits Division
Texas Commission on Environmental Quality
Mail Code: MC-163, PO Box 13087
Austin, Texas 78711-3087
Direct Line: (512) 239-1644

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<image002.png>
<image003.png>
How are we doing? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey

From: wconcretes@gmail.com <wconcretes@gmail.com>
Sent: Friday, February 2, 2024 9:27 AM
To: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Joe,
Are we required for the following:
H. Is a Public Involvement Plan (PIP) form required for this project?

From: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Sent: Friday, February 2, 2024 8:52 AM
To: wconcretes@gmail.com
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Hanna,

Thank you for speaking with me this morning. As requested attached is a copy of the previously submitted batch plant workbook. Also the images below are examples of the hanging shroud curtain and wheel wash station/ rumble strips we discussed.
<image004.png>
<image005.jpg>

(iv)the use of a tire-wash system (or equivalent) to remove sediment from the wheels and undercarriage of trucks that haul aggregate, cement, and/or concrete. It shall be (1) located in front of some type of traffic restriction such as a scale, plant gate or a stop sign to encourage its proper use, and (2) shall be setback at least 50 feet from the public road. This permit does not authorize the construction and/or use of a truck washing system under Texas Water Code Chapter 26.

<image006.png>

Please let me know if you have any additional questions. As we discussed once the new workbook has been submitted and reviewed we will continue with the public comment process and Comment review process.

Sincerely,

R. Joseph Nicosia
Mechanical New Source Review Team Leader
Air Permits Division
Texas Commission on Environmental Quality
Mail Code: MC-163, PO Box 13087
Austin, Texas 78711-3087
Direct Line: (512) 239-1644

<image001.png>
<image002.png>
<image003.png>
How are we doing? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey

From: Joe Nicosia
Sent: Friday, February 2, 2024 6:36 AM
To: wconcretes@gmail.com
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Hi Hana,

I'll give you a call after 8am.

Sincerely,

R. Joseph Nicosia
Mechanical New Source Review Team Leader
Air Permits Division
Texas Commission on Environmental Quality
Mail Code: MC-163, PO Box 13087
Austin, Texas 78711-3087
Direct Line: (512) 239-1644

<image001.png>
<image002.png>
<image003.png>
How are we doing? Fill out our online customer satisfaction survey at www.tceq.texas.gov/customersurvey

From: wconcretes@gmail.com <wconcretes@gmail.com>
Sent: Thursday, February 1, 2024 11:10 PM
To: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: RE: TEXAS STAR READY MIX LLC 171636

Good Evening,
I am confused about this email. Does that mean we have to start the entire process? This doesn't seem fair. Could you please inform me of a suitable time for a discussion

Regards,
Hana

From: Joe Nicosia <Joe.Nicosia@tceq.texas.gov>
Sent: Thursday, February 1, 2024 9:06 PM
To: William Concretes <wconcretes@gmail.com>
Cc: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: TEXAS STAR READY MIX LLC 171636

Good evening,

On January 24, 2024, the commission amended the Air Quality Standard Permit for Concrete Batch Plants authorized under Texas Health and Safety Code, Section 382.05195, and Title 30 Texas Administrative Code Chapter 116, Subchapter F.

The amendments incorporate the results of an updated air quality analysis that was conducted to address public concern about potential health impacts of concrete batch plants registered under the standard permit. These amendments include the addition of

definitions, revisions to operational and setback requirements, improved best management practices, additional recordkeeping, and other minor corrections or edits. In addition, the commission adopted new and revised definitions of certain terms to prevent confusion and to improve the readability and enforceability of the standard permit.

The amendments to the standard permit are effective for standard permits issued on or after January 24, 2024. Since your application is pending after the adoption of the amendments, you will be required to meet the updated requirements. The updated PI-1S-CBP form (attached) is required for all concrete batch plant standard permit registration applications. This form must be completed and submitted to the TCEQ to ensure that the updated requirements for obtaining this standard permit are met. Please complete the attached form and submit the information for review within 30 days. The amended rule language is attached for your reference.

Additionally once the updated PI-1S-CBP is submitted to TCEQ please send confirmation that the application located at the public place has been updated. The public comment period will be extended 30 days to allow for public viewing and involvement given the new requirements.

After receipt of the updated PI-1S-CBP form, we will continue the review of your application. If the information furnished in response to this notice results in the need for further clarification or additional information, we will notify you.

Sincerely,
R. Joseph Nicosia
Mechanical New Source Review Team Leader
Air Permits Division
Texas Commission on Environmental Quality
Mail Code: MC-163, PO Box 13087
Austin, Texas 78711-3087
Direct Line: (512) 239-1644

How are we doing? Fill out our online customer satisfaction survey at
www.tceq.texas.gov/customersurvey

Attachment 9:
TCEQ 15 Day OAG Request

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 10, 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, and the fifteenth business day after receipt of the request is January 10, 2024. On January 3, 2024, TCEQ submitted its request for a formal opinion regarding this matter. TCEQ now submits its formal arguments and representative samples of the documents in question for review.

TCEQ has provided the requestor with the 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. Pursuant to Texas Government Code § 552.301(d), the requestor was notified on January 3, 2024, 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. In accordance with Tex. Gov't Code §§ 552.301 and 552.305, TCEQ requests a formal opinion on this matter.

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 Tex. Gov't Code § 552.305(c), TCEQ has declined to submit written comments explaining why that information should be withheld or released. In accordance with Tex. Gov't Code §§ 552.301(e) and 552.305(d), TCEQ submits the following information: (1) this signed statement evidencing the date the request was received; (2) a copy of the request for information (Attachment A); (3) a copy of TCEQ's notice to the third party (Attachment B); and (5) the specific third party information at issue under § 552.305 (Attachment C).

Texas Government Code Section 552.305, Information Involving Privacy or Property Interests of Third Party

Texas Government Code § 552.305 states that:

(a) In a case in which information is requested under this chapter and a person's privacy or property interests may be involved, including a case under section 552.101, 552.110,

552.1101, 552.114, 552.131. or 552.143, a governmental body may decline to release the information for the purpose of requesting an attorney general decision.

The documents in Attachment C contain Texas Star Ready Mix, LLC's financial records, submission of which were necessary for TCEQ to conduct an analysis regarding its ability to pay administrative penalties. Pursuant to Tex. Gov't Code § 552.305(a), TCEQ has not taken a position on whether the information should be withheld or released and has declined to release the information for the purpose of requesting an attorney general decision.

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

Conclusion

Because the information in Attachment C involves a third party's privacy or property interests, TCEQ has declined to release the information. In accordance with Tex. Gov't Code §§ 552.301 and 552.305, I request a formal opinion on this matter.

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,

Gitanjali Yadav, Deputy Director
Litigation Division, Office of Legal Services
Texas Commission on Environmental Quality

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this referral was sent, via the Office of the Attorney General's Public Information Act Electronic Filing System, on January 10, 2024, to:

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

Attention: Tamara Smith, Division Chief, Open Records Division

Collin Lawrence, Legal Assistant
General Law Division

Attachment 10:

JFTA OAG Comment

400 S. Zang Blvd., Ste. 1420
Dallas, Texas 75208

Legal Aid of NorthWest Texas

March 1, 2024

Via EFile
The Honorable Ken Paxton
Office of Attorney General
Open Records Division
Price Daniel Sr. Building, 6th Floor
209 W. 14th Steet
Austin, TX 78701
Reference Number 24-000254
Submitted via: https://apps.portal.texas.gov/OAGPIAeFiling/

Via Mail
The Honorable Ken Paxton
Office of Attorney General
Open Records Division
PO Box 12548
Austin, Texas 78711

Re: Joppa Freedmans Town Association's Response to Texas Commission on Environmental Quality's Request for Attorney General Decision
Public Information Act Request regarding Texas Star Ready Mix, LLC
TCEQ PIR No. 24-89784
OAG Reference Number 24-000254

Dear Attorney General Paxton:

On January 3, 2024, the Texas Commission on Environmental Quality (TCEQ) requested an Open Records Decision, referenced above, from your office regarding a public information request Legal Aid of NorthWest Texas ("LANWT') filed on December 15, 2023 pursuant to the Texas Public Information Act ("the TPIA") on behalf of our client, the Joppa Freedmans Town Association ("JFTA").[1]

We write now to respond to the TCEQ's request for a decision and urge you to order the TCEQ to make public and release all public records it either has in its possession or to which it has a right of access.

Specifically, we ask you to order the release of the following items:

- Documents related to TCEQ case number 63326, especially all documents related to Texas Star Ready Mix's Financial Inability to Pay requests for TCEQ Enforcement Case Number 63326.

[1] Our December 15, 2023 request is attached as Attachment 2, and the TCEQ's request for a decision is attached as Attachment 1.

- Operational logs, and any additional written records of production or operation, for Texas Star Ready Mix LLC (TSR) from December 28, 2022 through December 15, 2023, and which TCEQ has a right of access to and TSR is required to maintain under state law and regulations.

The following letter will address why the records we request are public information and not subject to exceptions under the TPIA.

Please direct any contact or questions to JFTA and its members regarding this matter through its legal counsel. Our contact information is in our signature blocks below. If you need clarification regarding this matter, please reach out.

I. Factual Background and Procedural History

Joppa Freedmans Town Assocation ("JFTA") is a small nonprofit membership organization dedicated to enhancing the livability of its members and others located in the Joppa area. Texas Star Ready Mix, LLC ("TSR") operates a concrete batch facility in the Joppa neighborhood located at 4500 Great Trinity Forest Way, Dallas, Texas 75082 (the "facility" or "site"). TCEQ investigated TSRM in September 2022 and found TSR's facility lacked a proper air permit.[2] Since April 2023, JFTA has advocated against Texas Star Ready Mix's application for a standard concrete batch plant air permit ("Standard Permit") due to TSR's proximity to the Joppa neighborhood and its continued non-compliance with pollution prevention laws.[3] JFTA retained LANWT to provide legal assistance in this matter.

On July 14, 2023, LANWT attorney Michael Bates submitted a TPIA request to TCEQ for records related to TSR including its "operational logs, or any additional written records of production or operation."[4] In response to this request, TCEQ did not attempt to collect any operating records from TSR and did not attempt to provide them to LANWT in violation of the TPIA.[5] TCEQ did not request a decision from the Attorney General to determine whether the operational logs and related information were public information under the TPIA. When Michael Bates wrote to TCEQ to ask why this information was not included in response to his request, TCEQ employee Patrick Yantis responded that even though TCEQ had 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..." We will show later why TCEQ is obligated under the TPIA to disclose public information written, produced, collected, assembled, or maintained by law and to which TCEQ has a right of access.

---

[2] *See* Attachment 9.

[3] *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 (TSR's admitting to continuous operation even after TCEQ's investigation and initiation of an enforcement action).

[4] *See* Attachment 8.

[5] *See* Attachments 1, 2, 4, and 5.

400 S. Zang Blvd., Ste. 1420
Dallas, Texas 75208

Legal Aid of NorthWest Texas

On December 15, 2023, LANWT attorney Michael Bates submitted a second TPIA request for records related to TSR. LANWT requested:

> 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: ... 3) Any and all documents related to Texas Star Ready Mix's Financial Inability to Pay Requests....[6]

In response to the December 15 request, TCEQ did not provide all public information related to the operational logs nor the TSR's financial inability to pay request. On January 3, 2023, TCEQ provided LANWT with a copy of its Request for Attorney General Decision.[7] In that request, TCEQ stated that it has declined to release all responsive information and will later submit to the OAG a packet of information. On the same day, TCEQ also provided LANWT with a copy of TCEQ's notice to the identified third party, Texas Star Ready Mix, LLC (TSR), regarding its right to object to the release of its records.

As a result, TSR provided a copy of its January 9, 2024, submittal of its objection to the OAG requesting "that any financial information not limited to taxes, credit applications, person emails and bank statements be prohibited from public disclosure pursuant to the Texas Government code, Section 552.101, Section 552.110(c), Section 552.102, Section 552.131, Section 552.136, and Section 552.130."[8]

Subsequently on January 10, 2024, TCEQ provided a copy of its submitted request for an Attorney General Decision, TCEQ PIR No. 24-89784. In that request, the only claim raised by TCEQ is that it has not released information that "TCEQ believes to be excepted from disclosure under the PIA" because it has "identified responsive information that involves the privacy or property interests of a third party." Furthermore, TCEQ identified TEX. GOV'T CODE § 552.305(c) as its only reason and support for declining to submit written comments that would explain why this responsive information should be withheld or released. TCEQ made no mention of operational logs or related records.

Therefore, we now submit this our response to both the TCEQ's request for an Attorney General Decision and TSR's objections. We urge you to order the TCEQ to release all responsive public records it either has in its possession or to which it has a right of access.

[6] *See* Attachment 2.
[7] *See* Attachment 1.
[8] *See* Attachment 7.

400 S. Zang Blvd., Ste. 1420
Dallas, Texas 75208

Legal Aid of NorthWest Texas

II. Legal Arguments

A. Public records regarding TSR's financial inability to pay must be released.

In this section, we will explain why documents related to TSR's financial inability to pay are public information under the TPIA.

As previously stated, TCEQ investigated TSR in September 2022 and found TSR lacked a proper air permit. Instead of immediately ceasing unpermitted concrete batch plant operations, TSR admitted during a TCEQ public meeting held on August 17, 2023, that it continued to operate without a proper air permit.[9] These illegal operations continued until on or around August 29, 2023.

As part of the enforcement action against TSR, TCEQ's staff conducted a penalty calculation to determine an appropriate fine to be assessed against TSR for its illegal operations. For example, state law allows, and in certain cases requires, TCEQ to fine $10,000 *per day* of illegal operation against concrete batch plants that operate without proper permits.[10] However, as part of TCEQ's enforcement action against TSR, TCEQ's proposed agreed order would only require TSR to pay a total fine of merely $3,600 for the *months* TSR illegally operated. As reasoning for reducing TSR's total penalty amount to be paid, TCEQ indicated that its proposal was based either in part or wholly on TSR's claim of its financial inability to pay.[11]

In accordance with state law, TCEQ published notice in the Texas Register informing the public of its right to provide comments on TCEQ's proposed agreed order in its enforcement action against TSR. [12] Therefore, on behalf of its client, LANWT filed a PIA request with TCEQ to obtain public information necessary for reviewing and evaluating TCEQ's proposed agreed order, especially TSR's claims of its financial inability to pay.

The requested public information is crucial for allowing the public to exercise its legal rights to meaningful public participation. Without this information, the public is unable to completely review, analyze, and evaluate the sufficiency and reasonableness of TCEQ's proposed penalty within the proposed Agreed Order.

Since TCEQ has declined to submit written comments that would explain why the responsive public information should be withheld or released, we can only address TSR's filed objections.

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[9] *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.

[10] Tex. Water Code § 7.052(b).

[11] *See*, Attachment 11.

[12] *See*, 48 Tex. Reg. 7188, 7190 (December 8, 2023); *See also*, TEX. WATER CODE § 7.075.

1. If TSR failed to properly file its objections with the Office of the Attorney General, then the documents must be released.

It is currently unclear whether TSR properly submitted its objections with the Office of the Attorney General.

TCEQ provided TSR with the following instructions:

- Objections must be filed no later than the 10th business day after the date notice was received.
- Objections filed electronically must be filed via the OAG's eFiling System.

The copy of TSR's submittal only states that its objections were filed "VIA Email" on January 9, 2024. Therefore, it is unclear whether TSR properly submitted its objections with the required timeframe and OAG's eFiling System. If TSR's response was not properly and timely submitted, then the requested public information must be released.

2. The scope of TSR's objection is overly broad; therefore, the Attorney General must review and apply TSR's objections narrowly.

TSR's objection requests "that any financial information not limited to taxes, credit applications, personal emails and bank statements be prohibited from public disclosure pursuant to the Texas Government code, Section 552.101, Section 552.110(c), Section 552.102, Section 552.131, Section 552.136, and Section 552.130."

If TSR's intent is to withhold *any* financial information *including, but not limited to,* taxes, credit applications, personal emails, and bank statements, then TSR's objection is overly broad and contrary to federal and state laws, Attorney General Opinions, and Open Records Decisions.

Additionally, throughout its submittal, TSR references all or portions of specific pages 7-107. Since these pages were not provided to us, it is currently unclear whether TSR is requesting that the OAG withhold everything contained within those pages or merely redacting portions of particular pages. If TSR's intent is to withhold everything contained within those pages, then again, TSR's intent is overly broad and contrary to federal and state laws, Attorney General Opinions, and Open Records Decisions.

Therefore, the OAG must review and apply TSR's objections narrowly in accordance with established precedence.

a) TSR's objections pursuant to Texas Government Code, Section Sections 552.101 and 552.102 must be narrowly construed.

TSR broadly objects pursuant to Texas Government Code, Section s 552.101 and 552.102 in conjunction with section 6103 of title 26 of the United States Code (federal tax returns); Attorney General Opinion H-1274 (tax returns); Open Records Decision Nos. 600 (1992)(W-4 forms) and

226 (1979)(W-2 forms); and Utility Code, Section 182.052 (certain information contained on utility bills).

The OAG must review and apply TSR's objections narrowly in accordance with established precedence. For example, Attorney General Opinion H-1274 explains that the criteria for determining whether information is excepted from disclosure as confidential by judicial decisions concerning privacy are "whether publication of the information would be highly objectionable to a reasonable person, and whether the information is of legitimate public concern."

In this situation, the information concerning TSR's financial inability to pay is clearly of legitimate public concern. It specifically relates to understanding the government's action in assessing penalties against a company that has unlawfully operated and the extent of harm imposed upon the public for which TSR must pay a penalty. Moreover, the Texas Legislature recognized this legitimate public concern by requiring TCEQ to publish notice and provide an opportunity for meaningful public comments.[13]

While some redaction of responsive documents may be necessary to protect narrowly limited, legitimate private citizen information (i.e., addresses, phone numbers, social security numbers, etc.), it would be completely *unreasonable* to wholesale object to "*any* financial information" merely because that information happens to be contained within a tax return or other similar document.

Similar to the review contained within Open Records Decision No. 600 (1992),[14] the penalty assessment underlying TCEQ's proposed enforcement action agreed order also establishes a "legitimate public interest in the essential facts about a financial transaction" between TSR and TCEQ. Therefore, the OAG should review the responsive documents with a discerning eye towards a narrow interpretation of TSR's objections.

b) TSR's objections pursuant to Texas Government Code, 552.110(c) must be narrowly construed.

TSR broadly objects pursuant to Texas Government Code, Section 552.110(c) confidentiality of trade secrets, certain commercial or financial information because it claims that disclosure of its financial information would cause substantial harm to TSR and their officers.

The OAG must review and apply TSR's objections narrowly in accordance with established precedence. For example, Section 552.110(c) requires that TSR demonstrate "based on specific factual evidence" that that disclosure would cause substantial harm; however, TSR has failed to meet this burden.

Instead of providing specific factual evidence, TSR merely makes a conclusory statement that "release of a portion of its information would reveal the financial health of Texas Star Ready Mix

[13] *See,* 48 Tex. Reg. 7188, 7190 (December 8, 2023); *See also,* TEX. WATER CODE § 7.075.
[14] *See,* the section titled "Financial Information" starting on page 9.

LLC, its business model, costs, pricing structures and details of TSR's financing of the disposal project at issue…which could be used by its competitors" and other similar conclusory statements.

Ironically, TSR has already revealed that its financial health is in jeopardy by the mere fact it has requested a reduced penalty for its illegal actions due to its publicly unsubstantiated claim of a financial inability to pay. Again, the Texas Legislature has already determined that a legitimate public interest in access to this information exists and must be protected. [15]

c) TSR's objections pursuant to Texas Government Code, 552.131 does not apply, or in the alternative, must be narrowly construed.

TSR broadly objects pursuant to Texas Government Code, Section 552.131 – Exception: Confidentiality of Certain Economic Development Information. However, TSR completely fails to provide any explanation of why this exception applies. On this basis alone, the OAG should order the release of the responsive public information.

Additionally, it is unclear if TSR is incorrectly arguing that TCEQ's proposed agreed order for its enforcement action against TSR qualifies for this exemption or whether TSR has provided to TCEQ qualifying economic development negotiations with another governmental body. The only indication of what TSR may possibly be referring to is the following parenthetical phrase: "**(Government official explaining our hardship. Please see pages 69-70) & (Please see pages 7-107)**". Regardless, this type of information does not qualify for an exemption under 552.131, or in the alternative, the OAG must narrowly construe this objection, especially considering the statutorily protected legitimate public interest.[16]

d) TSR's miscellaneous objections should be narrowly construed.

TSR claims miscellaneous objections pursuant to Texas Government Code, Sections 552.136 and 552.130. Without seeing whether TSR has provided limited redactions or complete document withholdings, we again urge the OAG to review TSR's miscellaneous objections with narrow construction and a discerning eye for proper applicability, especially considering the statutorily protected legitimate public interest at stake.[17]

B. <u>TSR's operational logs and related records are public information and must be released.</u>

Both TCEQ and TSR limited the request for an attorney general opinion to only the withholding of responsive PIA documents regarding TSR's financial ability to pay. However, the PIA request at issue also included a request for:

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[15] *See,* 48 Tex. Reg. 7188, 7190 (December 8, 2023); *See also*, TEX. WATER CODE § 7.075.
[16] *Id.*
[17] *Id.*

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:06 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part7.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:12 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 7 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 7 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

operational logs, and any additional written records of production or operation, for Texas Star Ready Mix LLC (TSR) from December 28, 2022 through December 15, 2023, and which TCEQ has a right of access to and TSR is required to maintain under state law and regulations.[18]

Although TCEQ claims in both its January 3rd and 10th letters that "TCEQ has provided the requestor with the information TCEQ believes to be public," TCEQ completely failed to release any operational logs and any additional written records of production or operation to which TCEQ has a right of access and that TSR is required to maintain under state law and regulations.

In this section, we will explain why TSR's operational logs and records related to TSR's inability to pay requests are public information under the TPIA. JFTA respectfully requests that the Attorney General order TCEQ to release TSR's operational records that are subject to required public release and disclosure for the following reasons.

1. Both TCEQ and TSR failed to timely request an attorney general opinion regarding the withholding of TSR's operational records.

The statute provides strict requirements that must be followed when wishing to withhold from public disclosure qualifying public information that it considers to be within one of the statutory exemptions or a previous determination about whether the specific information falls within one of the exceptions.[19] Since both TCEQ and TSR failed to timely follow these statutory requirements related to the release of responsive operational records, these responsive documents must be released.

a) Texas Star Ready Mix's operational logs meet the definition of public information because TCEQ, a government body, has a "right of access" to them.

Texas Star Ready Mix's operational logs meet the definition of "public information" in the Texas Government Code because TCEQ, a governmental body, has a right of access to this information. Texas Star Ready Mix maintains the records as a requirement under law for TCEQ. Therefore TCEQ must produce them in response to a request under the TPIA.

According to the TPIA, public information is defined to include:

- "information that is written, produced, collected, assembled, or maintained under a law"
- for a "governmental body" that
- "has a right of access to the information."[20]

All of the elements of this definition are satisfied here. First, state law requires TSR to write, produce, collect, assemble or maintain operational records for TCEQ. Specifically in this matter,

[18] *See*, Attachment 2.
[19] *See*, Tex. Gov't Code § 552.301.
[20] Tex. Gov't Code § 552.002(a)(2)(B).

TSR previously claimed to be operating under Title 30 of the Texas Administrative Code, section 106.141, which is a permit by rule. This permit by rule requires compliance with the record keeping requirements of 30 TAC § 106.8. These requirements include TSR maintaining operational records that contain sufficient information to demonstrate compliance and making the records available in a reviewable format at TCEQ's request.[21]

Second, TCEQ is indisputably a governmental body and has the obligation to ensure compliance with and enforce these regulations.

Third, TCEQ has a right of access to the records and can inspect them upon request pursuant to 30 TAC § 106.8(c)(4). TSR claims it has historically operated under a permit by rule ("PBR").[22] This specific PBR, 30 TAC § 106.141, requires TSR to maintain records in accordance with 30 TAC § 106.8. As mentioned above, § 106.8 requires the facility to keep operational logs and other records onsite to demonstrate compliance with relevant laws for the most recent consecutive 12-month period.[23] According to § 106.8(c)(4), the facility must make the records available for review at the request of personnel from the commission or any air pollution control program having jurisdiction.[24] In this case, that commission is the TCEQ.

Since TCEQ requires TSR to keep operational logs as a condition of its PBR and because TCEQ has a right of access to request and inspect these records at any time, these operational records fit the explicit definition of public information under the TPIA. We request the Attorney General to order that this public information be immediately released.

b) **JFTA submitted a written request for TSR's operational logs and TCEQ failed to request an Attorney General decision, present any exclusions, or provide a compelling reason to withhold the information. The information is presumed to be subject to required public disclosure and must be released.**

On December 15, 2023, counsel for Joppa Freedmans Town Association ("JFTA") requested a copy of TSR's operating logs from December 22, 2022 to December 15, 2023.[25] TCEQ's request for an attorney general decision failed to address any matter related to the operating logs.[26]

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[21] *See*, 30 TAC § 106.8(c).

[22] *See* Attachment 10.

[23] *See* Attachment 10; 30 Tex. Admin. Code 106.8; 30 Tex. Admin. Code 106.4; *See*, TCEQ Public Meeting – Permit No. 171636- Air NSR, August 17, 2023, Texas Star Ready Mix, Oral Comments available at https://www14.tceq.texas.gov/epic/eCID/index.cfm?fuseaction=main.MoreIPResults&StartRow=11&EndRow=15&Step=5&requesttimeout=5000. It is important to note that since TSR incorrectly claimed that its past operations were conducted under a permit by rule, TSR should have (at the very least) maintained the necessary documents required under the incorrectly claimed PBR.

[24] 30 Tex. Admin. Code § 106.8 (c). TCEQ and any air pollution control program with jurisdiction has right of access to these documents. "Upon request from the commission or any air pollution control program having jurisdiction, claimants must provide information that would demonstrate compliance with § 106.4 of this title (relating to Requirements for Permitting by Rule), or the general requirements, if any, in effect at the time of the claim, and the PBR under which the facility is authorized."

[25] *See* Attachment 2.

[26] *See* Attachments 1 and 6.

Therefore, TCEQ failed to timely request an attorney general decision, claim an exemption related to the operational logs, or provide a compelling reason to withhold the information.[27]

The Attorney General should narrowly evaluate this decision based solely on TCEQ's failure to timely request an attorney general decision, provide any exemption from its duty to release public information, or state a compelling reason to withhold the information. TCEQ waived the opportunity to provide this information and therefore must collect and disclose the requested operating logs.[28]

2. TCEQ violated the Public Information Act by repeatedly refusing to release TSR's operational records that are required to be written, produced, collected, assembled and maintained by law at TSR's industrial site and to which TCEQ has a right of access.

Although statutory law and TCEQ regulations require concrete batch plants operating under a permit by rule or standard permit to write, produce, collect, assemble and maintain operational records to which TCEQ has a right of access, TCEQ simply refuses to release the qualifying public information in response to a PIA request. Rather TCEQ disingenuously claims it does not have the responsive documents in its direct possession merely because these documents are maintained at TSR's industrial site.

For example, on July 14, 2023, LANWT submitted Public Information Requests to TCEQ for TSR's operational logs covering the following dates upon which TSR was observed illegally operating: June 15, July 6, July 12, and July 14, 2023.[29] 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."[30] TCEQ again failed to release TSR's operational records in response to LANWT's request submitted on December 15, 2023.[31]

Patrick Yantis, a TCEQ official, admitted that "TCEQ has a right of access to the requested information in accordance with 30 Tex. Admin. Code § 106.8(c)[.]" However, he went on to provide several underlying reasons for why TCEQ is not releasing this public information, including:[32]

- The public should not request this public information through a PIA request, but instead should directly request this information directly from TSR.[33]

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[27] Tex. Gov't Code § 552.302 and Attachments 1 and 6.

[28] Tex. Gov't Code § 552.302 and Attachments 1 and 6.

[29] *See* Attachment 4 - 5 and 8.

[30] *See* Attachment 5.

[31] *See* Attachment 2. Also, on January 9, 2023, LANWT representatives again contacted TSR's counsel to obtain the operational records and still has not received a reply. *See* Attachment 3.

[32] *See* Attachment 4.

[33] *Id.* "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

- Attorney General - Open Records Decision No. 462 (1987).[34]

However, none of these stated reasons overcome TCEQ's requirements under the Public Information Act.

For example, one of the purposes of a permit by rule's requirements which authorize air pollution emissions previously claimed by TSR is agency simplification by allowing governmental agencies like TCEQ to not have to store all documents in governmental facilities.[35] And yet, the location of the documents, either at the industrial facility or TCEQ, cannot not serve as a barrier to public information. Government agencies cannot close off access to public information simply because they refuse to collect the document. It would allow state agencies to shield themselves or third parties by simply refusing to collect documents considered public information through right of access and would be completely contrary to the purpose of the Public Information Act.[36]

Furthermore, if the Attorney General allowed this type of TCEQ inaction, then TCEQ would be allowed to completely undermine the public's ability to meaningfully participate in permitting or enforcement processes.[37] For example, reviewing exactly how many days a facility operated without proper authorization and the quantity of production is crucial to assessing violations or whether the violations should result in a permit denial.[38]

As previously established, the Texas Legislature has already determined that a legitimate public interest in access to this information exists and must be protected.[39] Information maintained under law for a governmental body is public information when the governmental body has a right of access to that information.[40] TCEQ admits it has a right of access to the requested operational records. Therefore, when requested, TCEQ must fulfill its requirements under law and collect and

---

the facility directly." For good measure, LANWT contacted TSR on August 16, 2023, to request these operational logs. To date, TSR has not provided any documentation or correspondence containing these logs or stating their intention to provide these logs.

[34] *See* Attachment 4; Mr. Yantis quoted the decision, stating "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)." However, the type of third party record discussed in this decision is still public information and the public information requests in our PIA request is a different category than transactional or agency-based third party records.

[35] *See* 30 TEX. ADMIN. CODE § 106.8(c).

[36] Tex. Gov't Code § 552.001 (stating that the "people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.... This chapter shall be liberally construed in favor of granting a request for information."

[37] Arguably, such actions on TCEQ's part would constitute not only a violation of the Administrative Procedure Act (i.e., creating a rule of general applicability without adhering to the public rulemaking process), but also a violation of the Texas State Implementation Plan under which EPA delegated its federal Clean Air Act authority to TCEQ.

[38] Currently, without access to TSR's operational records, the public can only assume that TCEQ merely guessed how many days TSR illegally operated while calculating the appropriate penalty amount contained within TCEQ's proposed agreed order in the enforcement action against TSR.

[39] *See,* 48 Tex. Reg. 7188, 7190 (December 8, 2023); *See also,* TEX. WATER CODE § 7.075.

[40] Tex. Gov't Code § 552.002(a)(2)(B).

disclose third-party, public information documents because the public has a right to request and review these crucial documents.

Therefore, JFTA requests the Attorney General require TCEQ to release TSR's operational records as they are considered public information and crucial for exercising the public's legal rights concerning TCEQ's proposed agreed order in the enforcement action against TSR.

III. Conclusion

Based on the above reasons provided, JFTA respectfully requests that the Attorney General order TCEQ to release the following items:

- Documents related to TCEQ case number 63326, especially all documents related to Texas Star Ready Mix's Financial Inability to Pay requests for TCEQ Enforcement Case Number 63326.

- Operational logs, and any additional written records of production or operation, for Texas Star Ready Mix LLC (TSR) from December 28, 2022 through December 15, 2023, and which TCEQ has a right of access to and TSR is required to maintain under state law and regulations.

Respectfully submitted,

Michael Bates
Michael Bates
Phone: (469) 917-5970 Ext. 8902
Email: batesm@lanwt.org

Wendi Hammond
Phone: (469) 917-5970 Ext. 8903
Email: hammondw@lanwt.org

Counsel for JFTA – Joppa Freedmans Town Association (JFTA)
Legal Aid of NorthWest Texas
400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

cc:

Casey Kurnath
Staff Attorney
Litigation Division, Office of Legal Services
Texas Commission on Environmental Quality
casey.kurnath@tceq.texas.gov

Erich Birch
Counsel, Texas Star Ready Mix, LLC
ebirch@birchbecker.com

ATTACHMENT 1
24-89784 10 DAY REQUESTOR COPY

Re: Public Comments – regarding Request for Attorney General Decision, Public Information Act Request regarding Texas Star Ready Mix, LLC, TCEQ PIR No. 24-89784, Reference Number 24-000254

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 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

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

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(e) 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).

ATTACHMENT 2
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 3
DOCUMENT REQUEST TO 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 NorthWest 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 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.

ATTACHMENT 4

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

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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) 239-1462 🖷 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: 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

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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

Point Source Emissions Inventory Home Page
Air Emissions and Air Inspection Fees Home Page

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

ATTACHMENT 5
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

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:06 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part8.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:14 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 8 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 8 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe
Staff Attorney
(817) 882-1001
varnadoeh@lanwt.org

2001 Beach St., Ste. 510
Fort Worth, TX 76103
Fax: (817) 882-1001

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

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

Wendi Hammond
Staff Attorney
(214) 243-2583
hammondw@lanwt.org

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 732-1602

ATTACHMENT 6
TCEQ 15 DAY RESPONSE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this referral was sent, via the Office of the Attorney General's Public Information Act Electronic Filing System, on January 10, 2024, to:

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

Attention: Tamara Smith, Division Chief, Open Records Division

Collin Lawrence, Legal Assistant
General Law Division

ATTACHMENT 7
OBJECTION – TEXAS STAR READY MIX, LLC

January 9th 2024
VIA Email

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

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

Dear Attorney, General:

Texas Star Ready Mix LLC ("TSR") is in receipt of a letter dated January 3rd, 2024, from TCEQ regarding a request for information from the Attorney General under the Texas Public Information Act (the "Act"). The request is for a copy of TSR's PIR No. 24-89784. TSR's PIR has financial information. TSR respectfully requests that any financial information not limited to taxes, credit applications, personal emails and bank statements be prohibited from public disclosure pursuant to the Texas Government Code, Section 552.101, Section 552.110(c), Section 552.102, Section 552.131, Section 552.136 and Section 552.130.

Analysis

I. **Pursuant to exception Section 552.101 Information Considered to be Confidential by Law, TSR's financial information, not limited to taxes, credit applications, bank statements should be withheld from disclosure because if released, such information is considered confidential by law.**

Pursuant to exception Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," Gov't Code § 552.101, and encompasses information other statutes make confidential.

We raise the objection under section 552.101 in conjunction with section 6103 of title 26 of the United States Code, which makes federal tax return information confidential. See Attorney General OpinionH-1274 (1978) (tax returns); Open Records Decision Nos. 600 (1992) (W-4 forms), 226 (1979) (W-2 forms). Tax return information is defined as data furnished to or collected by the IRS with respect to the determination of possible existence of liability of any person under title 26 of the United States Code for any tax. See 26 U.S.C. § 6103(b). 552.101 Certain information contained on utility bills, Section 182.052 Utility Code. Section 552.101 excepts from disclosure information deemed confidential by constitutional, statutory or judicial decision. 3. Common-law privacy C. Protects from disclosure certain financial information pertaining to an individual. "Background" financial information of an individual is generally protected from disclosure. Protects from disclosure taxation information - W-2 and W-4 form information and FICA taxes and wages. ORD 226 (1979). ***(Please see pages 7-107)***

II. **Pursuant to exception Section 552.110(c) Confidentiality of Trade Secrets; Confidentiality of Certain Commercial or Financial Information, TSR's financial**

information not limited to taxes, credit applications, bank statements should be withheld from disclosure because the release of such information would cause substantial harm to TSR and their officers.

Section 552.110(c) excepts from disclosure "[c]commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial harm to the person from whom the information was obtained..." The detailed financial information requested s are highly confidential as they contain insight into a person's personal finances as well as personal identifiable information, releasing such documents would cause substantial harm to TSR as individuals would be able to steal TSR' personal information. Furthermore, release of a portion of its information would reveal the financial health of Texas Star Ready Mix LLC, its business model, costs, pricing structures, and details of TSR's financing of the disposal project at issue. It claims this information could be used by its competitors to obtain unfair negotiating positions and to enhance relationships with their current clients, thereby limiting TRSs market share in a highly competitive and limited market common-law privacy protects the interests of individuals personal financial information involving individuals in the information pertaining to TFR's officer that is highly intimate or embarrassing and not a matter of legitimate public interest. (***Please see pages 7-107***)

III. **Pursuant to exception Section 552.102 Confidentiality of Certain Personnel Information, portions of the proposal containing personally identifiable information should be withheld as such disclosure would constitute a clearly unwarranted invasion of personal privacy.**

Section 552.102 excepts from disclosure information personnel information that "disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The documents requested contain several pieces of data and information derived from TSR's personnel files. The documents include personally identifiable information including name, addresses, social security and personal contact information. This information if disclosed, is clearly an unwarranted invasion of personal privacy, and accordingly, should be exempted from disclosure under Section 552.102 (***Please see pages 7-107***)

IV. **Additional exceptions that apply to many of the documents requested.**

Section 552.102 excepts from disclosure information in personnel files if the disclosure of the information would constitute a clearly unwarranted invasion of personal privacy
5). The name, position, salary, age, education, experience, licenses, certificates, professional awards and recognition generally cannot be withheld under this section. (***Please see pages 75-81***)

Section 552.131 - Exception: Confidentiality of Certain Economic Development Information**(a)** Information is excepted from the requirements of Section 552.021 if the information relates to economic development negotiations involving a governmental body and a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and the information relates to:**(1)** a trade secret of the business prospect; or**(2)** commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.**(b)** Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to the business prospect by the governmental body or by another person is excepted from the requirements of Section 552.021.**(b-1)** An economic development entity whose mission or purpose is to

develop and promote the economic growth of a state agency or political subdivision with which the entity contracts may assert the exceptions under this section in the manner described by Section 552.305(b) with respect to information that is in the economic development entity's custody or control.**(c)** After an agreement is made with the business prospect, this section does not except from the requirements of Section 552.021 information about a financial or other incentive being offered to the business prospect:**(1)** by the governmental body; or**(2)** by another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a governmental body or a reduction in revenue received by a governmental body from any source. ***(Government official explaining our hardship. Please see pages 69-70)*** ***&(Please see pages 7-107)***

Section 552.136 - Credit card, debit card, charge card, and access device numbers ***(Please see pages 101-107)***

TRS to release motor vehicle information under Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. 5 See Gov't Code § 552.130(a) (2). We have marked the motor vehicle information the governor's office must withhold under section 552.130 of the Government Code. ***(Please see pages 7, 30-35)***

V. Conclusion

We respectfully request that the Texas Attorney General's Office decline to release the proposed redactions. We thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions related to this request. I can be reached at 214-475-5095

Kind Regards,

Hana Alsarabi
Manager
Texas Star Ready Mix, LLC

ATTACHMENT 8
PREVIOUS PIR - JFTA

PIR Request submitted on 07/14/2023 11:47 AM

PIR Code: 23-85613-PIR
Due Date: 07/28/2023

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	CN605903574	TEXAS STAR READY MIX LLC	Air Operating Permits	RN102390051

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

Page Three

Date Range:
Agency Programs: Air - Emissions Inventory (OA) and Air - Operating Permits (OA)
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 June 15, 2022; July 6, 2023; and July 12-14, 2023. If TCEQ determines that certain information to be confidential, please send me any information that TCEQ deems to not be confidential as soon as possible. Please feel free to call me with questions or concerns at 214-243-2582.
Data Only: No
Confidential Information: No
Certified Information: No
Request Documents: No data found

a

ATTACHMENT 9
City of Dallas Notice of Enforcement for Compliance Investigation

City of Dallas

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

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

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

PWW / JHV

Enclosure: Summary of Investigation Findings

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

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. 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.

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:06 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTA-RequestForReconsideration-Part9.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:15 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 9 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 9 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

See note: Who Fills out the EAR? u

Enforcement Action Referral Rev. 3/18/2002				
	Inv. #	1846525	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 NOVs?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: Inclustion of Resolved or Verbal Violations u

Viol Num	Requirements Cited / Violation Description	Violation Dates Start	Violation Dates End	Investigation/ File Review	Date of... NOV	Date of... NOE	CAT
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 116.110(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 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.						

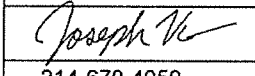
Section 4: Additional Discussion

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

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. Albeibaisi 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 oce@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
Investigator: JOSEPH VU
Conducted: 09/12/2022 -- 09/12/2022
Program(s): AIR NEW SOURCE PERMITS
Investigation Type: Compliance Investigation
Additional ID(s): 39039

Incident Numbers
Site Classification MINOR SOURCE
NAIC Code: 32732
NAIC Code: 327320
SIC Code: 3273
SIC Code: 3271
Location:

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

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.

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. Albelsaisi 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

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)

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

Attachments: (in order of final report submittal)

X Enforcement Action Request (EAR)

X Letter to Facility (specify type) : NOE Letter

Investigation Report

___Sample Analysis Results

___Manifests

___Notice of Registration

___Maps, Plans, Sketches

___Photographs

___Correspondence from the facility

X 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

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:06 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTARequestForReconsideration-Part10.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:17 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 10 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

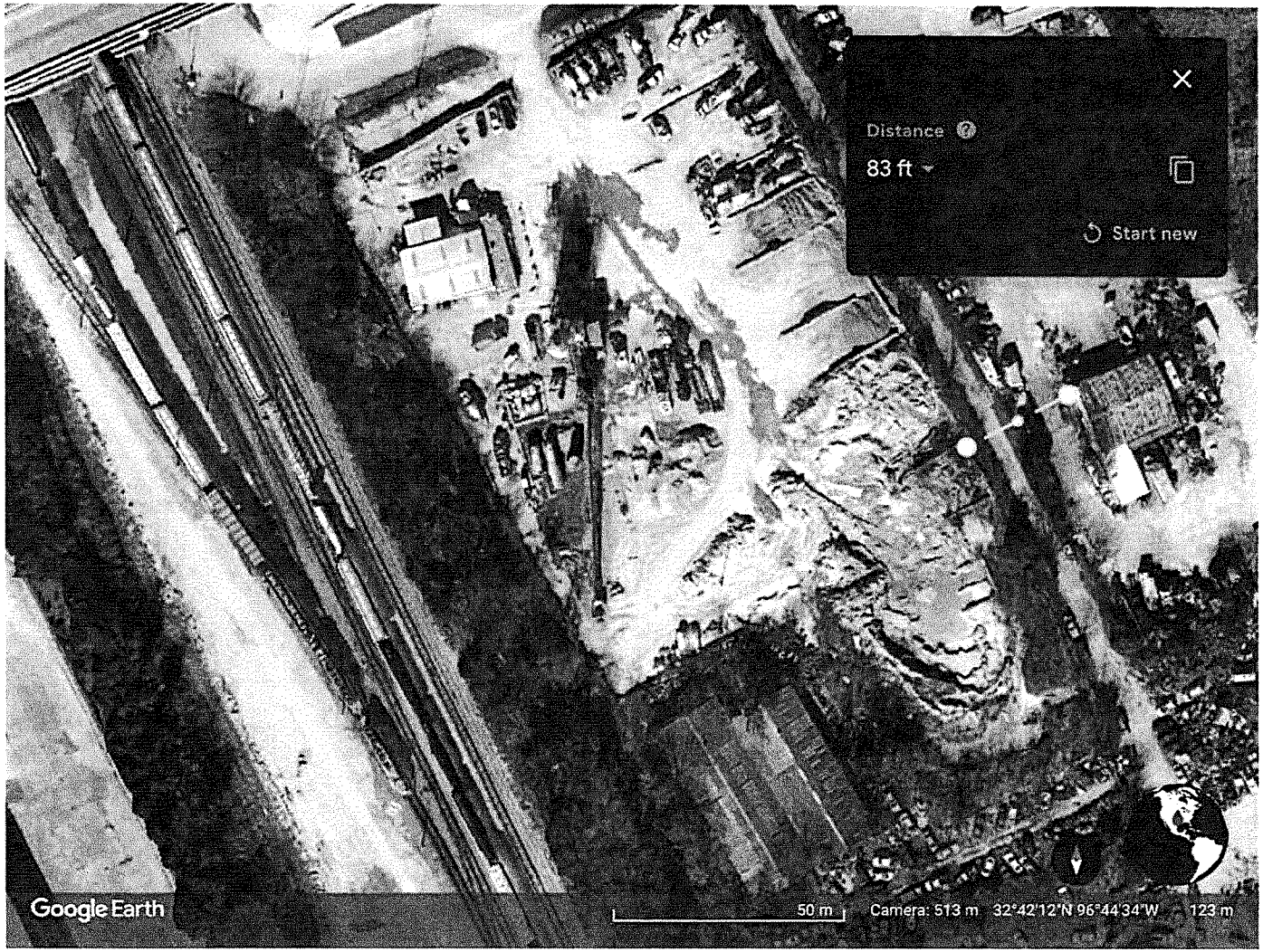
RE: Part 10 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602


Distance
83 ft
Start new
Google Earth
50 m
Camera: 513 m 32°42'12"N 96°44'34"W 123 m

Distance
251 ft
Start new
Google Earth
50 m
Camera: 513 m 32°42'12"N 96°44'34"W 123 m

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	**Date Contacted**	09/15/2022
Title	Owner			**FAX #/Email address**	wconcretes@gmail.com	**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?	☐ **Yes**	☒ **No**
Did the investigator advise the regulated entity representative that continued operation is not authorized?	☐ **Yes**	☒ **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

Mr. Joseph Vu	9/15/2022	Mr. Eyad (Ed) Albelbaisi (emailed)	09/15/2022
Investigator Name (Signed &Printed) Joseph Vu	**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

From: Vu, Joseph
To: [redacted]
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 Vũ 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!****

ATTACHMENT 10
TCEQ INVESTIGATION FINDINGS

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: RN111648234

Investigation # 1924559
Investigator: ADAM MASON
Conducted: 08/29/2023 -- 08/29/2023
Program(s): AIR NEW SOURCE PERMITS
Investigation Type: Compliance Investigation
Additional ID(s): 171636

Incident Numbers
Site Classification MINOR SOURCE
SIC Code: 3273
Location:

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

RECEIVED
OCT 05 2023
TCEQ CENTRAL FILE ROOM

Principal(s):

Role	Name
RESPONDENT	TEXAS STAR READY MIX LLC

Contact(s):

Role	Title	Name	Phone	
REGULATED ENTITY CONTACT	OWNER	EYAD ALBELBAISI	Cell Phone	[redacted] (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

(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 offsite 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 NameTEXAS 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.

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 **Date** 9/1/2023
Environmental Investigator

Signed **Date** 9/1/2023
Supervisor

Attachments: (in order of final report submittal)

___Enforcement Action Request (EAR)
/ Letter to Facility (specify type) : NOE
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

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:05 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTARequestForReconsideration-Part11.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:19 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 11 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 11 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested

Regulated Entity/Site Name			TCEQ Add. ID No. RN No. (optional)		
Investigation Type	Contact Made In-House (Y/N)		Purpose of Investigation		
Regulated Entity Contact			Telephone No.	Date Contacted	8-29-2023
Title			Fax No.	Date Faxed	

NOTICE: The information provided on 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* enforcement actions or conclusions. 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
			Unauthorized Operation

[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?	☐ Yes	☐ No
Did the investigator advise the regulated entity representative that continued operation is not authorized?	☐ Yes	☐ 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.

	8/29/23		8-29-23
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 Yellow Copy: TCEQ (Note: Use additional pages as necessary) Page ____ of ____
TCEQ-20085 (Rev. 6/07)

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 NOVs?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: Inclustion of Resolved or Verbal Violations u

Viol Num	Requirements Cited / Violation Description	Violation Dates Start	Violation Dates End	Investigation/ File Review	Date of... NOV	Date of... NOE	CAT
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	Adam M. Mason	E-Mail	Adam.Mason@tceq.texas.gov
	Phone	(817)588-5889		

	Name	Kimberli Fowler	Date	9/1/23
	Signature	Kim Fowler	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.

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,

Kimberly 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

Additional ID(s): 171636

Investigation # 1924559
Investigation Date: 08/29/2023

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

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 11
REVISED 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

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 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 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 Enviromental 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

Jennifer Cox

From: PUBCOMMENT-OCC
Sent: Monday, August 12, 2024 4:05 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0809-JFTARequestForReconsideration-Part12.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:20 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 12 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 12 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe	Michael Bates	Wendi Hammond
Staff Attorney	Staff Attorney	Staff Attorney
(817) 882-1001	(469) 917-5970 Ext. 8902	(214) 243-2583
varnadoeh@lanwt.org	batesm@lanwt.org	hammondw@lanwt.org
2001 Beach St., Ste. 510	400 S. Zang Blvd., Ste. 1420	400 S. Zang Blvd., Ste. 1420
Fort Worth, TX 76103	Dallas, TX 75208	Dallas, TX 75208
Fax: (817) 882-1001	Fax: (817) 736-1602	Fax: (817) 732-1602

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.

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.

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,

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 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 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 Enviromental 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.

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

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: $30,000

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

Notes: No adjustment for Compliance History.

Culpability No — 0.0% Enhancement — *Subtotal 4*: $0

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
Estimated Cost of Compliance: $5,900
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $30,000

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment*: $0

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 20.0% Reduction — *Adjustment*: -$6,000

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: $24,000

Screening Date 3-Nov-2022 **Docket No.** 2022-1557-AIR-E **PCW**

Respondent Texas Star Ready Mix, LLC

Case ID No. 63326

Reg. Ent. Reference No. RN111648234

Media Air

Enf. Coordinator Yuliya Dunaway

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 **Docket No.** 2022-1557-AIR-E **PCW**

Policy Revision 5 (January 28, 2021)

Respondent Texas Star Ready Mix, LLC

PCW Revision February 11, 2021

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 September 12, 2022 through November 3, 2022.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

	Release	Harm Major	Moderate	Minor
OR	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%

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 $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

Jennifer Cox

From:	PUBCOMMENT-OCC
Sent:	Monday, August 12, 2024 4:05 PM
To:	PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject:	FW: Public comment on Permit Number 171636
Attachments:	2024_0809-JFTA-RequestForReconsiderationPart13.pdf

RFR
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, August 9, 2024 6:22 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: Legal Aid of NorthWest Texas on behalf of Joppa Freedmans Town Association, Part 13 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard

Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

August 9, 2024

Via eFile: www.tceq.texas.gov/agency/decisions/cc/comments.html
Texas Commission on Environmental Quality
Ms. Laurie Gharis, Chief Clerk
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, TX 78711-3087

RE: Part 13 of 13: Request for Reconsideration, Reply to the TCEQ's Executive Director's Response to Comments and Request for a Contested Case Hearing regarding the Executive Director's decision to issue Standard Permit Registration No. 171636 to Applicant Texas Star Ready Mix, LLC, authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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 Request for Reconsideration, Reply to the Executive Director's Response to Comments, and Request for a Contested Case Hearing.

All contact to JFTA on this matter should be directed to their counsel at LANWT, listed below.

Haley Varnadoe
Staff Attorney
(817) 882-1001
varnadoeh@lanwt.org

2001 Beach St., Ste. 510
Fort Worth, TX 76103
Fax: (817) 882-1001

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

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

Wendi Hammond
Staff Attorney
(214) 243-2583
hammondw@lanwt.org

400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 732-1602

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
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 **Docket No.** 2022-1557-AIR-E **PCW**

Policy Revision 5 (January 13, 2021)

Respondent Texas Star Ready Mix, LLC *PCW Revision February 11, 2021*

Case ID No. 63326

Reg. Ent. Reference No. RN111648234

Media Air

Enf. Coordinator Yuliya 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

	Harm			
Release	Major	Moderate	Minor	
OR 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

Estimated EB Amount $0

Statutory Limit Test

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	Years of Depreciation
5.0	15

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

Attachment 11:

OAG Response to TCEQ

March 11, 2024

Ms. Elizabeth Cater
Public Information Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

OR2024-008778

Dear Ms. Cater:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 24-000254 (Ref. No. 24-89784).

The Texas Commission on Environmental Quality (the "commission") received a request for five categories of information pertaining to a specified organization. Although you take no position as to whether the submitted information is excepted under the Act, you state release of the submitted information may implicate the proprietary interests of Texas Star Ready Mix, LLC ("Ready Mix"). Accordingly, you state, and provide documentation showing, you notified Ready Mix of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received correspondence from Ready Mix. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, the requestor asserts the commission failed to comply with section 552.301 of the Government Code. Section 552.301 of the Government Code prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See id.* § 552.301. Pursuant to section

552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See id.* § 552.301(b). Pursuant to section 552.301(e), a governmental body is required to submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the claimed exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See id.* § 552.301(e). In this instance, the commission states, and provides documentation showing, it received the request for information on December 15, 2023. This office only counts business days as provided by section 552.0031 of the Government Code. *Id.* §§ 552.0031 (defining "business day" for purposes of the Act). Consequently, the commission's ten and fifteen-business-day deadlines were January 3, 2024, and January 10, 2024, respectively. The commission provided the information required by sections 552.301(b) and 552.301(e) by electronic submission on January 3, 2024, and January 10, 2024, respectively. *See id.* § 552.309(a) (requirement to submit information within specified time period under the Act is met in timely fashion if it is submitted through attorney general's designated electronic filing system within that period). Accordingly, we find the commission complied with section 552.301 of the Government Code in requesting a decision from this office.

Section 552.110(c) of the Government Code excepts from disclosure "commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained[.]" *Id.* § 552.110(c). Ready Mix argues its information consists of commercial or financial information subject to section 552.110(c). Upon review, we find Ready Mix has demonstrated the information at issue constitutes commercial or financial information, the release of which would cause substantial competitive harm. Accordingly, the commission must withhold the submitted information under section 552.110(c) of the Government Code.[1]

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

[1] As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Justin H. Miller
Assistant Attorney General
Open Records Division

JHM/pt

Ref: ID# 24-000254

Enc. Submitted documents

c: Requestor

c: Third-Party

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Wednesday, March 6, 2024 6:03 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2024_0306_SupplementalPublicCommentsMeeting&HearingRequestOfJFTA4.pdf

PM
H

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Wednesday, March 6, 2024 9:10 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD Suite 1420
DALLAS TX 75208-6600

PHONE: 2142482582

FAX:

COMMENTS: March 6, 2024 Supplemental Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

400 S. Zang Blvd.,
Ste. 1420 Dallas, Texas
75208

Legal Aid of NorthWest Texas

March 6, 2024

Via Electronic submission: www14.tceq.texas.gov/epic/eComment/

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

Re: Supplemental Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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

- Request for public meeting,
- Request for a contested case hearing, and
- Supplemental public comments.

JFTA opposes the application of Texas Star Ready Mix (Applicant) for the issuance of Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636. The Commission should deny Applicant's registration for the reasons set forth below.

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

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

I. Supplemental Public Comments

This section expands upon the previously submitted request for a public meeting and contested case hearing including the list of relevant and material disputed issues for a public meeting, contested case hearing, public comments, and supplemental public comments.

For clarity, JFTA's public comments include and incorporate by reference all current and previously submitted relevant and material disputed issues for a contested case hearing. Moreover, the examples being provided within the public comments sections are often applicable to several of the separately listed "relevant and material disputed issues for a contested case hearing," and therefore, unable to be attributed to a single identified and bulleted "relevant and material disputed issue."

As such, the previous "public comments," "supplemental public comments" and current "supplemental public comments" sections are in addition to, and in no way should be construed to limit in any way, the separately identified bulleted issues provided within the "relevant and material disputed issues for a contested case hearing" section(s). Rather all bulleted issues should be addressed at a public meeting, in the Executive Director's Response to Comments, and referred for a contested case hearing.

Examples of Problems with the Draft Permit includes, but is not limited to:

Applicant failed to provide proper notice by failing to properly provide current permit application documents at the library for public viewing, failing to post signage throughout the entire public comment period, and failing to republish Spanish or English newspaper notice.

Throughout the entirety of the permit application process, Applicant failed to provide proper public notice.[1]

Despite TCEQ stating multiple times during the public meeting that the public comment period will be closed at the end of the public meeting, TCEQ re-opened and extended the public comment period for a second time. Again, both Applicant and TCEQ failed to properly notify JFTA, other interested parties or the general public at large. LANWT only discovered TCEQ's improper extension by happenstance.[2] To our knowledge, TCEQ and Applicant gave no further notice regarding the extension of the public comment period.

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[1] See Attachments 1-4, JFTA Public Comments, Page 6 submitted on April 14, 2023, JFTA Supplemental Comments, Page 8 submitted on August 17, 2023, JFTA Supplemental Comments Attachment 5 submitted on September 29, 2023.

[2] Counsel conducted search at https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.itemdetail&item_id=874375482023069&addn_id=749683392023030&showdetail=Y. However, TCEQ failed to provide consistent information on the Project Record search which states the comment period remained closed on September 29, 2023 at https://www2.tceq.texas.gov/airperm/index.cfm?fuseaction=airpermits.project_report&proj_id=353038&addn_num_txt=171636.

TCEQ official Joseph Nicosia stated that the reason TCEQ reopened the public comment period was that "the TCEQ Commissioners approved the amendment to the Concrete Batch Plant Standard Permit."[3] He claimed that if Applicant submitted and placed the new application in the public viewing place it would meet the updated requirements. This assertion is false according to statutory and regulatory public notice requirements.[4]

Applicant still fails to comply with statutory and regulatory public notice requirements. For example, 30 TAC §39.604(b) states, "[t]he sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible throughout that public comment period. The applicant shall provide verification that the sign posting was conducted according to this section." Applicant failed to have signage posted at site during the entire period of the public comment period.[5] On February 14, 2024, a LANWT representative witnessed no public notice signage in place at Applicant's site.[6]

Applicant also failed to provide proper notice at the library throughout the application process.[7] Applicant failed to comply with TCEQ's public notice requirement, which states that the "application, executive director's preliminary decision and the standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas-Fort Worth regional office, and at the Erik Jonsson Central Library." Applicant did not make any of these documents available at the Erik Jonsson Central Library as of February 28, 2024. Applicant failed to provide any new documents to the library for public viewing. The only documents available at the library were previous outdated versions of the TCEQ checklist and incomplete parts of the permit application.[8] The outdated documents were not on the public notice desk in the library. The librarian had to gather the documents from a back room since the documents had sticky notes stating, "display until April 14" and "keep until 9/30/23 rep will come for it."[9]

Additionally, Applicant failed to republish newspaper notice.[10] Applicant submitted a substantive update to the application with an entirely new permit workbook. A TCEQ official stated the comment period reopened because of the recent rule changes impacting this application. Therefore, TCEQ should require Applicant to republish newspaper notice to properly notify the public of this substantively changed application.

TCEQ's and Applicant's actions after the close of the public meeting *again* fail to remedy the numerous public notice requirement deficiencies for this application. TCEQ's unilateral decision to only post an extension of the public comment deadline on TCEQ's convoluted and non-user friendly website fails to comply with not only the "spirit of the law" but also with the clear statutory

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[3] See Attachment 5.
[4] 30 Texas Administrative Code §39.604(b).
[5] See Attachments 2-3, JFTA Supplemental Comments, page 8 submitted on August 17, 2023 and JFTA Supplemental Comments Attachment 5 submitted on September 29, 2023.
[6] See Attachments 2-3.
[7] See Attachment 1, JFTA Public Comments, Page 6 submitted on April 14, 2023 and JFTA Supplemental Comments, Page 8 submitted on August 17, 2023. See also Texas Health and Safety Code 382.056(d).
[8] See Attachment 1.
[9] *Id.*
[10] See Attachment 4.

and regulatory language put in place to protect the public's right to meaningful participation in TCEQ's permitting processes.[11]

Therefore, Applicant failed to comply with proper public notice requirements regarding this application, and as a result, the application remains inadequate and/or incorrect.

The regulations do not give the Executive Director the regulatory authority in this context to provide an ad hoc extension of the public comment period in an attempt to satisfy the clear statutory and regulatory public participation mandates applicable to Applicant's registration process.

According to TCEQ's repetitive statements during the public meeting, the public comment period for this application ended at the conclusion of the public meeting on August 17, 2023.[12] TCEQ's blatant attempt to ignore the "spirit of the law" and twist its clear statutory and regulatory public participation mandates applicable to Applicant's registration process simply fails to protect JFTA's and the public's legal rights. Moreover, despite the public comment extension and the multiple opportunities for the Applicant to comply with the law, Applicant still repeatedly failed to remedy any substantive site non-compliance with the permit application (as explained below).

Therefore, TCEQ must deny Applicant's request.

Applicant fails to demonstrate they will not violate the conditions of the Standard Permit for Concrete Batch Plants. Additional information concerning this issue includes, but is not limited to the following:

At the public meeting on August 17, 2023, Applicant admitted the permit application contains substantially incorrect information regarding site compliance.[13] For example:

- Applicant stated its stockpiles on site are directly on the fence line and do not have compliant wall height or structure surrounding the stockpiles.
- Applicant stated it continued to operate ten to fifteen trucks a day without an active air permit.
- Applicant stated its fence line wall height surrounding the facility was not twelve feet as stated in the application, but instead maybe eight feet. When LANWT representatives visited Applicant's site on February 14, 2024, the walls on the east side of the facility were under six feet and made partially of only chain link.[14]

During the public meeting, TCEQ representatives shockingly stated that although they conducted a site visit at Texas Star Ready Mix, they "did not conduct a line by line review of the permit

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[11] 30 Texas Administrative Code §39.604(b) "The sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible throughout that public comment period. The applicant shall provide verification that the sign posting was conducted according to this section."

[12] 30 Texas Administrative Code §55.152(b).

[13] See Wendi Hammond Public Comments at Public Meeting – August 17, 2023, MP3 Format, "recording is the full public meeting at which oral comment was made." Comments made during informal comment and question period of the public meeting and incorporated into the record by Wendi Hammond.

[14] See Attachments 2-3 and JFTA Supplemental Comments, Page 9 submitted on August 17, 2023.

application after the site visit."[15] On February 14, 2024, LANWT representatives conducted another site visit and found the site still failed to have paved entry and exit roads, required buffer zones, twelve foot constructed borders, three-sided walls extending two feet above the stockpiles, and vehicles parked 150 feet from the property line. [16]

Therefore, Applicant continues to fail in setting forth operational and design measures that are sufficient to ensure that the operation of the proposed plant will comply with the following:

- Requirement (8)(K), related to the design and maintenance of entry and exit roads. Texas Star Ready Mix's unpaved entry and exit roads do not meet the permit standards. The facility also does not have paved surfaces for the batch trucks and material delivery trucks when entering, conducting primary functions, and leaving the property.[17]
- Requirement (8)(H), (8)(I)(ii), (8)(J) of the Standard Permit, related to required buffer zones, vehicle distances from the property line, three-sided walls extending two feet above stock piles, and twelve foot constructed borders.[18]
- TCEQ should require Applicant to meet the full standards of (8)(H) and (8)(I)(ii) since Applicant's stockpiles are located less than 50 feet from the property line.[19]

Despite TCEQ's improper attempts to allow Applicant more time to cure its deficiencies, Applicant not only fails to comply with the procedural aspects of the application, but also fails to remedy the substantive aspects of the application required to protect the public's safety and welfare. To date, information regarding this application remains inadequate, incorrect and/or outright false.

Finally, TCEQ must consider findings against Applicant in TCEQ's Enforcement Proposed Agreed Order from case number 2022-1557-AIR-E. TCEQ found Applicant operated for months without proper authorization and then during the open enforcement period proceeded to unlawfully operate without any air permit for nearly a year.[20] TCEQ also failed to collect any operational logs from Applicant to investigate exactly how many days and what type of unauthorized operations Applicant conducted during this period.[21] Applicant also stated they have financial inability to pay the assessed $30,000 fine and based off this assertion, TCEQ reduced the penalty to $3,600.[22] However, Applicant's site requires significant infrastructure changes in order to comply with the requirements of this application. If Applicant is unable to pay the fine, Applicant will also not be able to afford the infrastructure changes to comply with the requirements of this permit application.

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[15] See Wendi Hammond Public Comments at Public Meeting – August 17, 2023, MP3 Format, "recording is the full public meeting at which oral comment was made." Comments made during informal comment and question period of the public meeting and incorporated into the record by Wendi Hammond.

[16] See Attachments 2 and 3.

[17] See Attachments 2-3 and TCEQ February 2024 P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC. Applicant's full standard permit application reviewed by TCEQ is incorporated by reference.

[18] See Attachments 2-3, TCEQ February 2024 P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, and JFTA Supplemental Comments, page 9 submitted on August 17, 2023.

[19] *Id.*

[20] See 2022-1557-AIR-E Public Comment – LANWT for JFTA, incorporate by reference, see full document at: https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.itemdetail&item_id=752547392022312&addn_id=749683392023030&showdetail=Y - Filings – Public Comment – LANWT for JFTA.

[21] *Id.*

[22] *Id.*

TCEQ must consider their enforcement findings of Applicant's bad faith operations and non-compliance in determining whether or not to grant the application.

TCEQ must deny Applicant's request, and any TCEQ action other than denial would rob the public of its lawful opportunity to review a complete application and provide meaningful and informed comments.

Applicant failed to meet the standards set out in their Public Involvement Plan.

TCEQ requires a Public Involvement Plan for this application.[23] Applicant failed to meet the standards of their Public Involvement Plan. Applicant certified on Section 6(A) they intend to provide public outreach other than what is required by rule.[24] However, they stated in the description that they conducted outreach on August 17, 2023. The TCEQ public meeting on August 17, 2023 was public outreach required by rule since both a state representative requested the public meeting and there was significant public interest.[25] To JFTA's knowledge, Applicant failed to conduct any other public outreach.[26] Finally, Applicant failed to meet the spirit of the Public Involvement Plan. TCEQ extended the notice period twice and Applicant failed to contacted JFTA directly regarding the update or meet the public notice requirements.

Therefore, Applicant failed to comply with proper Public Involvement Plan requirements regarding this application, and as a result, the application remains inadequate and/or incorrect.

II. Conclusion

JFTA reiterates its request for to TCEQ deny the application and believes that denial is warranted based on the information already available. If TCEQ does not deny the application, then JFTA requests a public meeting and a contested case hearing with regard to each issue raised during the public comment period.

Respectfully submitted,

Michael Bates

Michael Bates

Wendi Hammond

Wendi Hammond

Counsel for JFTA – Joppa Freedmans Town Association (JFTA)

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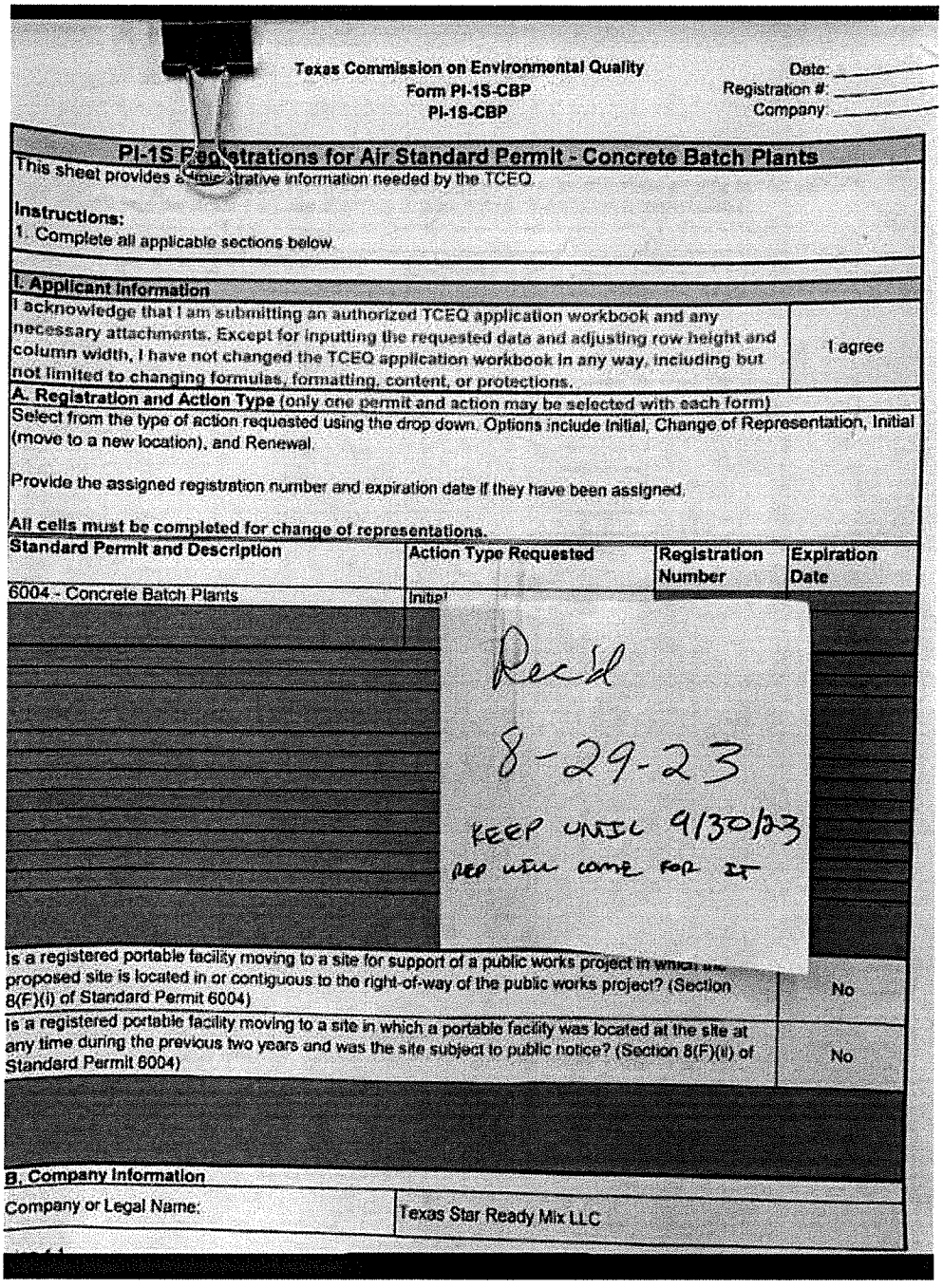
[23] TCEQ February 2024 P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC.
[24] Texas Star Ready Mix, LLC Public Involvement Plan, Page 4, incorporated by reference.
[25] See Public Hearing Requests on TCEQ website *available at* https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=iwr.itemdetail&item_id=874375482023069&addn_id=749683392023030&showdetail=Y.
[26] Texas Star Ready Mix, LLC Public Involvement Plan, Page 4, incorporated by reference. Applicant listed JFTA as a party who should have been notified.

ATTACHMENT 1
PHOTOS AT PUBLIC LIBRARY – OUTDATED APPLICANT APPLICATIONS



Texas Commission on Environmental Quality
Form PI-1S-CBP
PI-1S-CBP

Date:
Registration #:
Company:

PI-1S Registrations for Air Standard Permit - Concrete Batch Plants

This sheet provides administrative information needed by the TCEQ.

Instructions:
1. Complete all applicable sections below.

I. Applicant Information

I acknowledge that I am submitting an authorized TCEQ application workbook and any necessary attachments. Except for inputting the requested date and adjusting row height and column width, I have not changed the TCEQ application workbook in any way, including but not limited to changing formulas, formatting, content, or protections.	I agree

A. Registration and Action Type (only one permit and action may be selected with each form)

Select from the type of action requested using the drop down. Options include Initial, Change of Representation, Initial (move to a new location), and Renewal.

Provide the assigned registration number and expiration date if they have been assigned.

All cells must be completed for change of representations.

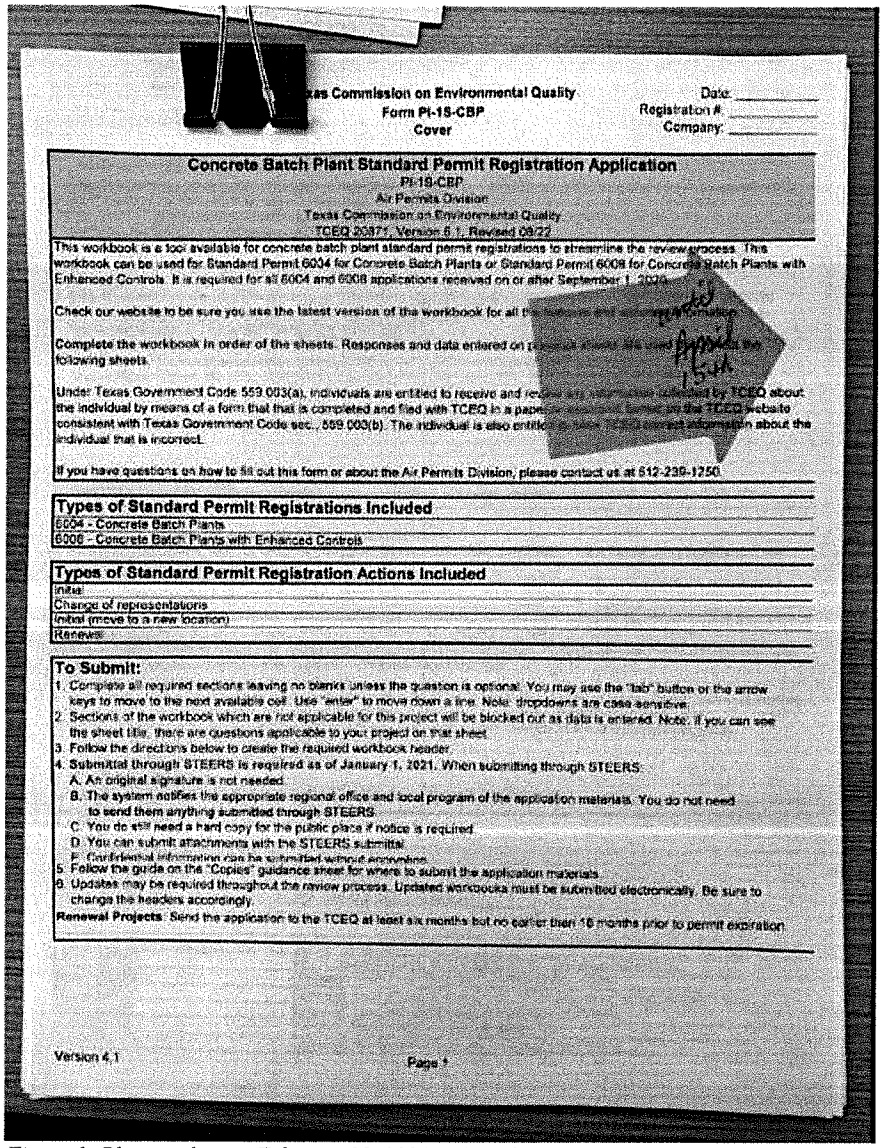
Standard Permit and Description	Action Type Requested	Registration Number	Expiration Date
6004 - Concrete Batch Plants	Initial		

Rec'd
8-29-23
KEEP UNTIL 9/30/23
KEEP UNTIL COMPLETE FOR 2F

Is a registered portable facility moving to a site for support of a public works project in which the proposed site is located in or contiguous to the right-of-way of the public works project? (Section 8(F)(i) of Standard Permit 6004)	No
Is a registered portable facility moving to a site in which a portable facility was located at the site at any time during the previous two years and was the site subject to public notice? (Section 8(F)(ii) of Standard Permit 6004)	No

B. Company Information

Company or Legal Name:	Texas Star Ready Mix LLC



...xas Commission on Environmental Quality
Form PI-1S-CBP
Cover

Date: _____
Registration #: _____
Company: _____

Concrete Batch Plant Standard Permit Registration Application
PI-1S-CBP
Air Permits Division
Texas Commission on Environmental Quality
TCEQ 20877, Version 6.1, Revised 09/22

This workbook is a tool available for concrete batch plant standard permit registrations to streamline the review process. This workbook can be used for Standard Permit 6004 for Concrete Batch Plants or Standard Permit 6008 for Concrete Batch Plants with Enhanced Controls. It is required for all 6004 and 6008 applications received on or after September 1, 2020.

Check our website to be sure you use the latest version of the workbook for all the ...

Complete the workbook in order of the sheets. Responses and data entered on ... the following sheets.

Under Texas Government Code 559.003(a), individuals are entitled to receive and ... the individual by means of a form that that is completed and filed with TCEQ in a pape... consistent with Texas Government Code sec., 559.003(b). The individual is also entitl... individual that is incorrect.

If you have questions on how to fill out this form or about the Air Permits Division, please contact us at 512-239-1250.

Types of Standard Permit Registrations Included

6004 - Concrete Batch Plants
6008 - Concrete Batch Plants with Enhanced Controls

Types of Standard Permit Registration Actions Included

Initial
Change of representations
Initial (move to a new location)
Renewal

To Submit:

1. Complete all required sections leaving no blanks unless the question is optional. You may use the "tab" button or the arrow keys to move to the next available cell. Use "enter" to move down a line. Note: dropdowns are case sensitive.
2. Sections of the workbook which are not applicable for this project will be blocked out as data is entered. Note: if you can see the sheet title, there are questions applicable to your project on that sheet.
3. Follow the directions below to create the required workbook header.
4. Submittal through STEERS is required as of January 1, 2021. When submitting through STEERS:
   A. An original signature is not needed.
   B. The system notifies the appropriate regional office and local program of the application materials. You do not need to send them anything submitted through STEERS.
   C. You do still need a hard copy for the public place if notice is required.
   D. You can submit attachments with the STEERS submittal.
   E. Confidential information can be submitted without enrollment.
5. Follow the guide on the "Copies" guidance sheet for where to submit the application materials.
6. Updates may be required throughout the review process. Updated workbooks must be submitted electronically. Be sure to change the headers accordingly.

Renewal Projects: Send the application to the TCEQ at least six months but no earlier than 18 months prior to permit expiration.

Version 4.1 Page 1

Figure 1- Photos taken on February 28, 2024 at J. Erik Jonnson Public Library.

ATTACHMENT 2
PHOTOS OF APPLICANT'S SITE – TEXAS STAR READY MIX

Figure 2- East side of main entrance, photo taken by Franklin Ortega on February 14, 2024. I witnessed no signage posted and trucks parked within 150 feet of the property line. I witnessed the wall height remaining the same as last visit, under six feet tall, and part of the wall was made only of chain link.

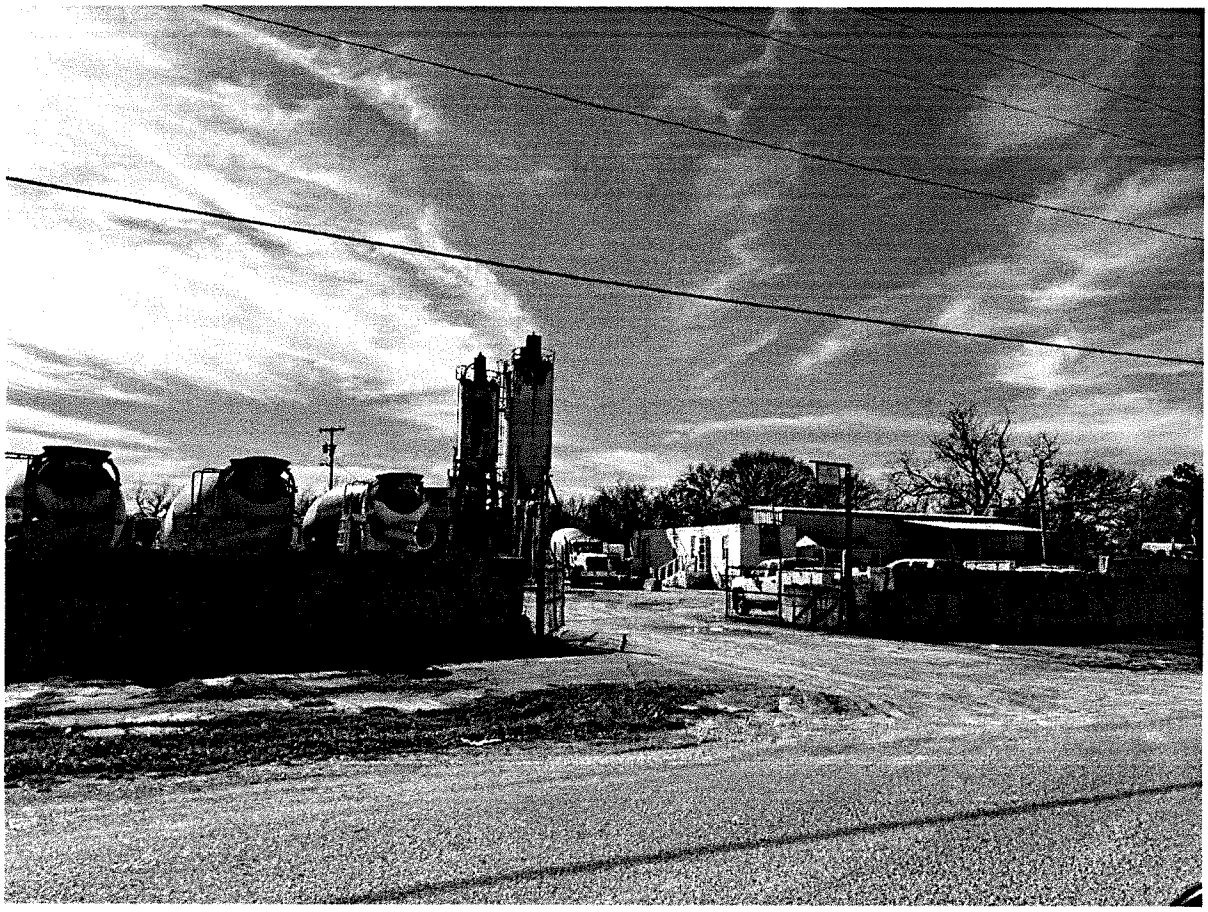


Figure 3- East side of main entrance, photo taken by Franklin Ortega on February 14, 2024. I witnessed no signage posted and trucks parked within 150 feet of the property line. I witnessed the wall height remaining the same as last visit and part of the wall was made only of chain link.

Vincent Redondo

From: PUBCOMMENT-OCC
Sent: Monday, February 26, 2024 4:41 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Permit 171636 -- Texas Star; Updated Comment Period; Enforcement Action Update

Jesús Bárcena
Office of the Chief Clerk
Texas Commission on Environmental Quality
Office Phone: 512-239-3319

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

From: Brad Patterson <Brad.Patterson@tceq.texas.gov>
Sent: Monday, February 26, 2024 9:42 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: FW: Permit 171636 -- Texas Star; Updated Comment Period; Enforcement Action Update

From: Michael Bates <batesm@lanwt.org>
Sent: Monday, February 19, 2024 2:35 PM
To: Bonnie Evridge <bonnie.evridge@tceq.texas.gov>
Subject: Permit 171636 -- Texas Star; Updated Comment Period; Enforcement Action Update

Bonnie Evridge,

My name is Michael Bates, I am a Staff Attorney with Legal Aid of NorthWest Texas. I have spoken on a few occasions with Alex Hilla regarding Texas Star Ready Mix's proposed permit 171636. His email let me know that he is out on leave and to contact you with questions. I had a few questions regarding this permit application. I saw on the TCEQ website that the notice period was extended to 03/06/2024.

I wanted to ask why this comment period was extended and what the notice requirements are considering the reopening of the comment period?

Also, I wanted to see if you were aware that TCEQ's enforcement division publicized findings and a proposed agreed order regarding the air enforcement issues at Texas Star Ready Mix related to operating without a permit. Will you and TCEQ take this into consideration during the review of the permit application?

Feel free to call me at the number listed below. Thank you!

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.

Renee Lyle

From: PUBCOMMENT-OCC
Sent: Tuesday, October 3, 2023 10:44 AM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0929_SupplementalPublicCommentsMeeting&HearingRequestOfJFTA.pdf

PM
H

From: batesm@lanwt.org <batesm@lanwt.org>
Sent: Friday, September 29, 2023 3:29 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Michael Bates

EMAIL: batesm@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432582

FAX: 8177361602

COMMENTS: Joppa Freedmans Town Association - Supplemental Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Legal Aid of NorthWest Texas

COMMUNITY REVITALIZATION PROJECT
400 S. Zang Blvd., Ste. 1420, Dallas, Texas 75208
469-458-9009
CRP offices in Amarillo, Dallas, Fort Worth, and Lubbock

September 29, 2023

Via Electronic submission: www14.tceq.texas.gov/epic/eComment/

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

Re: Supplemental Public Comments, Request for Public Meeting, and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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

- Request for public meeting,
- Request for a contested case hearing, and
- supplemental public comments.

JFTA opposes the application of Texas Star Ready Mix (Applicant) for the issuance of Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636. The Commission should deny Applicant's registration for the reasons set forth below.

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

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

I. Supplemental Public Comments

This section expands upon the previously submitted request for a public meeting and contested case hearing including the list of relevant and material disputed issues for a public meeting, contested case hearing, and public comments.

For clarity, JFTA's public comments include and incorporate by reference all current and previously submitted relevant and material disputed issues for a contested case hearing. Moreover, the examples being provided within the public comments sections are often applicable to several of the separately listed "relevant and material disputed issues for a contested case hearing," and therefore, unable to be attributed to a single identified and bulleted "relevant and material disputed issue."

As such, the previous "public comments" and current "supplemental public comments" sections are in addition to, and in no way should be construed to limit in any way, the separately identified bulleted issues provided within the "relevant and material disputed issues for a contested case hearing" section(s). Rather all bulleted issues should be addressed at a public meeting, in the Executive Director's Response to Comments, and referred for a contested case hearing.

Examples of Problems with the Draft Permit includes, but is not limited to:

Applicant did not remedy improper notice by posting site signage and the permit application at the library after the public meeting closed. TCEQ officials explicitly stated multiple times that the public comment period closed at the end of the public meeting on August 17, 2023.

Throughout the entirety of the permit application process, Applicant failed to provide proper public notice.[1] For example, Applicant failed to comply with TCEQ's public meeting notice requirement. TCEQ's Notice of Public Meeting for Applicant's permit public hearing required Applicant to make the "application, executive director's preliminary decision and the standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas-Fort Worth regional office, and at the Erik Jonsson Central Library ... beginning the first day of publication of this notice."[2] As addressed in JFTA's initial public comment and supplemental comments, Applicant did not provide all of the proper and requisite documents at the library.[3] TCEQ requires Applicant to meet this notice requirement during the period prior to the public meeting and Applicant failed to do so.[4] Alexander Hilla, the TCEQ official reviewing this permit, also stated, "Applicant did not have signs up until the close of the public meeting."[5] Therefore, Applicant did not comply with proper public notice requirements, and as a result, this application remains inadequate and/or incorrect.

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[1] See Attachment 5, JFTA Public Comments, Page 6 submitted on April 14, 2023, and JFTA Supplemental Comments, Page 8 submitted on August 17, 2023.
[2] See TCEQ Air Permit 171636, Notice of Public Meeting.
[3] See JFTA Public Comments, Page 6 submitted on April 14, 2023 and JFTA Supplemental Comments, Page 8 submitted on August 17, 2023.
[4] *Id.*
[5] See Attachment 5.

Despite TCEQ stating multiple times during the public meeting that the public comment period will be closed at the end of the public meeting, TCEQ re-opened and extended the public comment period. Both Applicant and TCEQ failed to properly notify JFTA, other interested parties or the general public at large. LANWT only discovered TCEQ's improper extension by happenstance, and called TCEQ Chief Clerk Laurie Gharis for clarification. She stated that on September 13, 2023 the TCEQ website was the only location of the new public notice deadline and it was her understanding that TCEQ gave no further notice regarding the extension of the public comment period.

Later, Alexander Hilla stated that the reason TCEQ reopened the public comment period was that Applicant failed to provide proper notice before the public meeting.[6] He confirmed that Applicant did not republish either English or Spanish newspaper notices,[7] and that Applicant only reposted signage at the facility site location and provided supplemental application documents at the library. He claimed that "TCEQ considers this a remedy to comply with notice requirements."[8]

TCEQ's and Applicant's actions after the close of the public meeting fail to remedy the numerous public notice requirement deficiencies for this application. TCEQ's unilateral decision to only post an extension of the public comment deadline on TCEQ's convoluted and non-user friendly website fails to comply with not only the "spirit of the law" but also with the clear statutory and regulatory language put in place to protect the public's right to meaningful participation in TCEQ's permitting processes.[9]

Despite TCEQ's and Applicant's late actions, the application still fails to comply with statutory and regulatory public notice requirements. For example, 30 TAC §39.604(b) states, "[t]he sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible throughout that public comment period. The applicant shall provide verification that the sign posting was conducted according to this section." Applicant failed to have signage posted at site during the entire period of the public comment period.[10] At the TCEQ public meeting, Applicant specifically admitted they did not post signage during the entire public comment period.[11] Applicant also failed to provide proper notice at the library throughout the application process.[12]

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[6] *Id.*
[7] See Attachment 4 and 5.
[8] See Attachment 5.
[9] 30 TAC §39.604(b) "The sign or signs must be in place by the date of publication of the Notice of Receipt of Application and Intent to Obtain Permit and must remain in place and legible throughout that public comment period. The applicant shall provide verification that the sign posting was conducted according to this section."
[10] See JFTA Supplemental Comments, page 8 submitted on August 17, 2023 and Attachment 5.
[11] See Wendi Hammond Public Comments at Public Meeting – August 17, 2023, MP3 Format, "recording is the full public meeting at which oral comment was made." Comments made during informal comment and question period of the public meeting and incorporated into the record by Wendi Hammond.
[12] See JFTA Public Comments, Page 6 submitted on April 14, 2023 and JFTA Supplemental Comments, Page 8 submitted on August 17, 2023.

Therefore, Applicant failed to comply with proper public notice requirements regarding this application, and as a result, the application remains inadequate and/or incorrect.

The regulations do not give the Executive Director the regulatory authority in this context to provide an ad hoc extension of the public comment period in an attempt to satisfy the clear statutory and regulatory public participation mandates applicable to Applicant's registration process.

According to TCEQ's repetitive statements during the public meeting, the public comment period for this application ended at the conclusion of the public meeting on August 17, 2023.[13] TCEQ's blatant attempt to ignore the "spirit of the law" and twist its clear statutory and regulatory public participation mandates applicable to Applicant's registration process simply fails to protect JFTA's and the public's legal rights. Despite the unlawful public comment extension, Applicant still failed to remedy any substantive site non-compliance with the permit application.

Therefore, TCEQ must deny Applicant's request.

Applicant fails to demonstrate they will not violate the conditions of the Standard Permit for Concrete Batch Plants. Additional information concerning this issue includes, but is not limited to the following:

At the public meeting on August 17, 2023, Applicant admitted the permit application contains substantially incorrect information regarding site compliance.[14] For example:

- Applicant stated its stockpiles on site are directly on the fence line and do not have compliant wall height or structure surrounding the stockpiles.
- Applicant stated it continued to operate ten to fifteen trucks a day without an active air permit.
- Applicant stated its fence line wall height surrounding the facility was not twelve feet as stated in the application, but instead maybe eight feet. When LANWT representatives visited Applicant's site, the walls on the east side of the facility were under six feet and made partially of only chain link.[15]

During the public meeting, TCEQ representatives shockingly stated that although they conducted a site visit at Texas Star Ready Mix, they "did not conduct a line by line review of the permit application after the site visit."[16] On September 14, 2023, LANWT representatives conducted another site visit and discovered that the issues addressed in this section remained non-compliant for the concrete batch plant standard permit. [17]

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[13] 30 TAC §55.152(b).

[14] See Wendi Hammond Public Comments at Public Meeting – August 17, 2023, MP3 Format, "recording is the full public meeting at which oral comment was made." Comments made during informal comment and question period of the public meeting and incorporated into the record by Wendi Hammond.

[15] See JFTA Supplemental Comments, Page 9 submitted on August 17, 2023.

[16] See Wendi Hammond Public Comments at Public Meeting – August 17, 2023, MP3 Format, "recording is the full public meeting at which oral comment was made." Comments made during informal comment and question period of the public meeting and incorporated into the record by Wendi Hammond.

[17] See Attachments 2 and 3.

Therefore, Applicant continues to fail in setting forth operational and design measures that are sufficient to ensure that the operation of the proposed plant will comply with the following:

- Requirement (9)(F), related to the design and maintenance of entry and exit roads. Texas Star Ready Mix's unpaved entry and exit roads do not meet the permit standards. The facility also does not have paved surfaces for the batch trucks and material delivery trucks when entering, conducting primary functions, and leaving the property.[18]
- Requirement (9)(D) and (9)(E) of the Standard Permit, related to required buffer zones, three-sided walls extending two feet above stock piles, and twelve foot constructed borders.[19]
- TCEQ should require Applicant to meet the full standards of (9)(D) and (9)(E) since Applicant's stockpiles are located less than 50 feet from the property line.[20]

Despite TCEQ's improper attempts to allow Applicant more time to cure its deficiencies, Applicant not only fails to comply with the procedural aspects of the application, but also fails to remedy the substantive aspects of the application required to protect the public's safety and welfare. To date, information regarding this application remains inadequate, incorrect and/or outright false. Therefore, TCEQ must deny Applicant's request, and any TCEQ action other than denial would rob the public of its lawful opportunity to review a complete application and provide meaningful and informed comments.

II. Conclusion

JFTA reiterates its request for to TCEQ deny the application and believes that denial is warranted based on the information already available. If TCEQ does not deny the application, then JFTA requests a contested case hearing with regard to each issue raised during the public comment period.

Respectfully submitted,

Michael Bates

Michael Bates

Wendi Hammond

Wendi Hammond

Counsel for JFTA – Joppa Freedmans Town Association (JFTA)

[18] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 12. Applicant's full standard permit application reviewed by TCEQ is incorporated by reference; See Attachments 2 and 3.
[19] See JFTA Supplemental Comments, page 9 submitted on August 17, 2023.
[20] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Pages 27-28. Applicant's full standard permit application reviewed by TCEQ is incorporated by reference; See Attachments 2 and 3.

ATTACHMENT 1
PHOTOS OF LIBRARY COUNTER WHERE
PUBLIC NOTICE IS POSTED AFTER PUBLIC MEETING

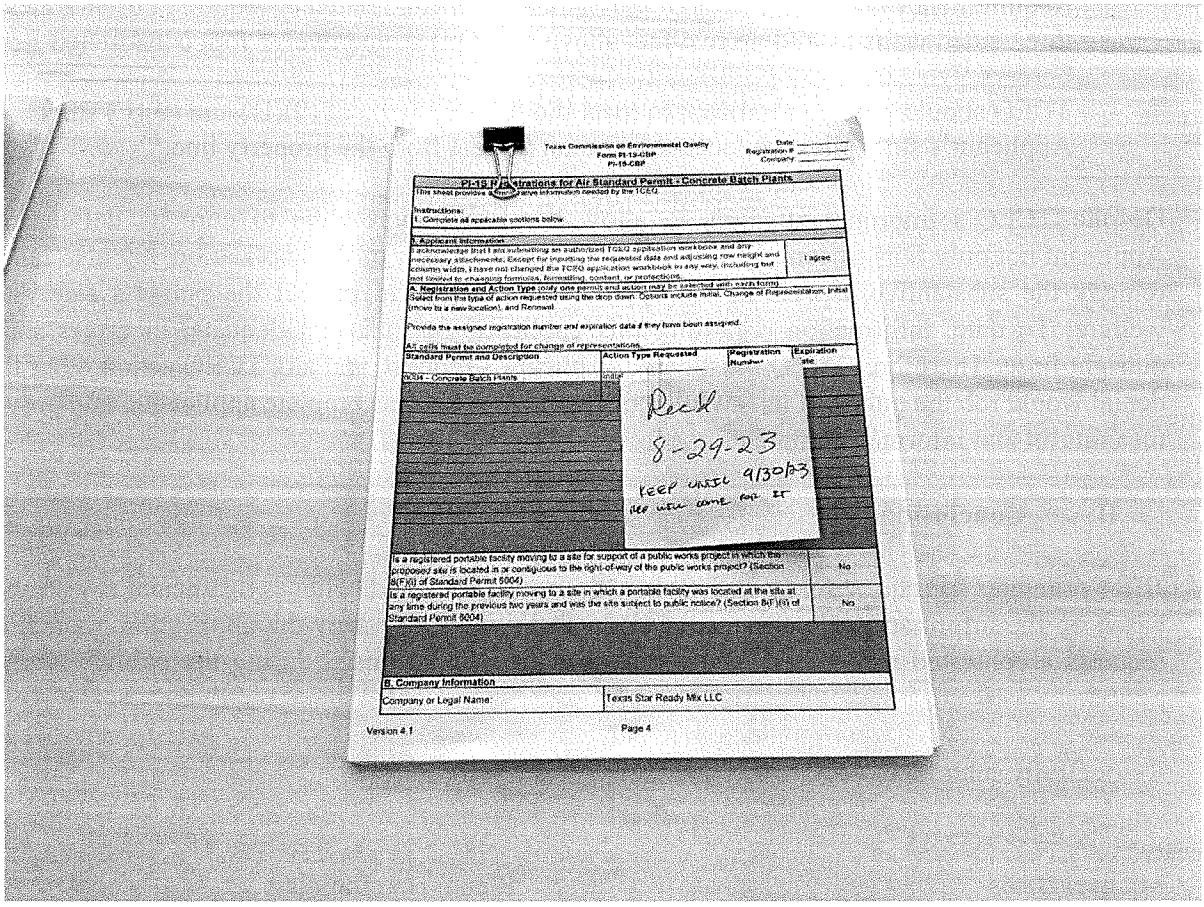

Figure 1- Photo taken on September 14, 2023 by Franklin Ortega at J. Erik Jonnson Public Library.

ATTACHMENT 2
PHOTOS OF APPLICANT'S SITE – TEXAS STAR READY MIX

Figure 2- East side of main entrance, photo taken by Franklin Ortega on September 14, 2023. I witnessed the signage posted and the unpaved main entrance. I witnessed the wall height remaining the same as last visit, under six feet tall, and part of the wall was made only of chain link.

Figure 3- East side of main entrance, photo taken by Franklin Ortega on September 14, 2023. I witnessed the signage posted and the unpaved main entrance. I witnessed the wall height remaining the same as last visit, under six feet tall, and part of the wall was made only of chain link.

Figure 4 - West side entrance taken by Franklin Ortega on September 14, 2023 by Franklin Ortega. I witnessed the unpaved entrance.

ATTACHMENT 3
AFFIDAVIT – 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 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

LEILANI BAILEY
Notary Public, State of Texas
Comm. Expires 12-16-2026
Notary ID 124781012

ATTACHMENT 4

NO REPUBLISHED NEWPAPER NOTICE AT SAME SITE

From: barbra@dailycommercialrecord.com <barbra@dailycommercialrecord.com>
Sent: Tuesday, September 26, 2023 9:46 AM
To: Michael Bates <batesm@lanwt.org>
Cc: notices@dailycommercialrecord.com
Subject: RE: Texas Star Ready Mix TCEQ Public Notice

Due to cost, we do not offer archival PDF issues on our website. But Texas Star Ready Mix did publish a TCEQ notice on March 15, 2023. The special affidavit and proof of publication was mailed to Hana Alsarabi on March 15.

Truly,
Barbra

Barbra DeCapua | Business Manager
| Daily Commercial Record |
|706 Main Street | Dallas, Texas| 75202
Office (214) 741-6366 | Fax (214) 741-6373 |
barbra@dailycommercialrecord.com | www.dailycommercialrecord.com
Monday - Thursday 8:30 am to 4:00 pm & Fridays 8:30 am to 2:00pm
Quotes: 24-48 hour turnaround for all quotes
DAILY COMMERCIAL RECORD
Your newspaper of record since 1888

From: Michael Bates <batesm@lanwt.org>
Sent: Friday, September 22, 2023 3:29 PM
To: Barbra@dailycommercialrecord.com
Cc: notices@dailycommercialrecord.com
Subject: Texas Star Ready Mix TCEQ Public Notice

Hi,

My name is Michael Bates. Texas Star Ready Mix, LLC posted previously a public notice for a TCEQ Air Permit with your newspaper. I am not able to see any archived posts from your paper outside of this previous week. Did Texas Star Ready Mix post any public notice in your paper since August 17, 2023?

Please let me know if you need any other information to clarify my question. I look forward to hearing from you.

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

ATTACHMENT 5

CORRESPONDENCE WITH TCEQ ENGINEER ALEXANDER HILLA

Michael,

It's quite alright.

I was mistaken in my previous email. TCEQ did not require that they republish notice, but the other items (publicly available application, reposting of signs, and extended comment period) were completed.

And yes, it is my understanding that the TCEQ considers this a remedy to comply with public notice requirements.

Best Regards,

Alexander Hilla
Air Permits Division, Mechanical
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78753
Work: (512)-239-0157
Mobile: (512)-659-7478
Email: alexander.hilla@tceq.texas.gov

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

From: Michael Bates <batesm@lanwt.org>
Sent: Thursday, September 28, 2023 11:45 AM
To: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: Re: Recent Inquiry -- Permit 171636 -- Texas Star

Excuse my mistake, on misspelling your last name, Mr. Hilla. Thank you for reaching out to me today. I look forward to hearing from you.

From: Michael Bates <batesm@lanwt.org>
Sent: Thursday, September 28, 2023 11:43 AM
To: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Subject: Re: Recent Inquiry -- Permit 171636 -- Texas Star

Alexander Hill,

Thank you for reaching out. We searched the newspaper that Applicant originally published notice in and the Applicant did not republish at the same newspaper. Also, we searched all legal notices and could not find that Applicant republished any newspaper notice since March 2023. Do you have information regarding both the English and Spanish newspaper notices?

Also, is TCEQ considering this as a remedy of Texas Star Ready Mix's failure to provide notice throughout the entire public comment period?

Sincerely,

Michael Bates

From: Alexander Hilla <Alexander.Hilla@tceq.texas.gov>
Sent: Thursday, September 28, 2023 11:29 AM
To: Michael Bates <batesm@lanwt.org>
Subject: Recent Inquiry -- Permit 171636 -- Texas Star

Hello Mr. Michael Bates,

I was handed a question today regarding the extended comment period for Texas Star Ready Mix and the proposed permit 171636. I wanted to reach out to help address that if possible. It was determined that the applicant did not have signs up until the close of the public meeting. As a result, we have extended the comment period including a new publication of notice, application for viewing at the Dallas public library and sign postings along the property to allow for greater public participation in this permitting action. The comment period closes tomorrow 09/29/2023.
Let me know if you have any further questions. Thank you!

Best Regards,

Alexander Hilla
Air Permits Division, Mechanical
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, TX 78753

Work: (512)-239-0157
Mobile: (512)-659-7478
Email: alexander.hilla@tceq.texas.gov

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

7

TCEQ Registration Form

August 17, 2023

Texas Star Ready Mix, LLC
Proposed Registration No. 171636

PLEASE PRINT

Name: Michael Bates

Mailing Address: 400 S. Zang Blvd., Ste 1420

Physical Address (if different): _____

City/State: Dallas, TX **Zip:** 75208

This information is subject to public disclosure under the Texas Public Information Act

Email: batesm@vanwt.org

Phone Number: (214) 343-3582

- Are you here today representing a municipality, legislator, agency, or group? ☑ Yes ☐ No

  If yes, which one? Joppa Freedmans Town Association

☑ **Please add me to the mailing list.**

☑ **I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.**

☐ **I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.**

(Written comments may be submitted at any time during the meeting)

- See Manilla Packet for written comments

Please give this form to the person at the information table. Thank you.

TCEQ Registration Form

August 17, 2023

Texas Star Ready Mix, LLC
Proposed Registration No. 171636

PLEASE PRINT

Name: Michael Bates

Mailing Address: 400 S Zang, Dallas, TX Suite 1420

Physical Address (if different): _____

City/State: Dallas TX **Zip:** 75208

This information is subject to public disclosure under the Texas Public Information Act

Email: bates.m@lanwt.org

Phone Number: (214) 243-2582 Ext 8902

- Are you here today representing a municipality, legislator, agency, or group? ☒ Yes ☐ No

  If yes, which one? JFTA

☒ **Please add me to the mailing list.**

☒ **I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.**

☒ **I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.**

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Legal Aid of NorthWest Texas

COMMUNITY REVITALIZATION PROJECT
400 S. Zang Blvd., Ste. 1420, Dallas, Texas 75208
469-458-9009
CRP offices in Amarillo, Dallas, Fort Worth, and Lubbock

August 17, 2023

RECEIVED
AUG 17 2023
AT PUBLIC MEETING

Via Hand Delivery At Public Meeting
Ms. Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
MC-105
P.O. Box 13087
Austin, TX 78711-3087

Re: Supplemental Public Comments, Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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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

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

I. Supplemental Public Comments

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As such, the previous "public comments" and current "supplemental public comments" sections are in addition to, and in no way should be construed to limit in any way, the separately identified bulleted issues provided within the "relevant and material disputed issues for a contested case hearing" section(s). Rather all bulleted issues should be addressed at a public meeting, in the Executive Director's Response to Comments, and referred for a contested case hearing.

Additional examples of failure to establish compliance with all applicable federal and state statutes, but is not limited to:

Applicant appears to have been unlawfully operating without an active air permit or registration.

Applicant filed this application in response to, or related to an agency investigation, notice of violation, or enforcement action.[1] Texas Star Ready Mix previously (*and appears to still be unlawfully operating*) under a 106.144 Batch Mixer Permit By Rule ("PBR") registration at this location, even though Applicant's operations do not meet the requirements of this PBR. In a December 2022 PBR revision request, Applicant withdrew its request for this permit revision because of a site visit where it was determined that Applicant does not meet the standards for this PBR.[2] TCEQ submitted a letter to Applicant on December 22, 2022 confirming Texas Star Ready Mix withdrew its PBR registration.[3] LANWT has not been able to locate an active Texas Star

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[1] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 8, Section V. Project Information B. Enforcement Projects. Applicant's full standard permit application reviewed by TCEQ is incorporated by reference.

[2] See, Texas Star Ready Mix Air NSR 39039 - Permit by Rule Registration, Technical Review, Withdrawal "Texas star Ready Mix LLC is a small business batch plant owner/operator. Texas Star Ready Mix LLC Operates the facility at 4500 Great Trinity Forest way Dallas, TX 75216. This Batch plant facility existed since 1970s on over 5 Acres land and still operate in the same site, same layout but at reduced capacity. Upon site visit from the region, it was determined that distance and operations do not meet the qualifications for PBR 106.144 at this time. Company has requested withdrawal of the application while they evaluate operations and appropriate authorization."; TCEQ Response to PBR Withdrawal, December 27, 2022. See Attachment 11.

[3] See Attachment 10.

Ready Mix TCEQ Air permit or registration at this site for the period of December 27, 2022 to August 17, 2023.[4]

LANWT representatives witnessed Applicant operating on June 15, 2023,[5] July 6, 2023,[6] and July 12, 2023,[7] and July 14, 2023.[8] If Applicant operated at any time without an air permit or registration, this would be in direct violation of Tex. Health & Safety Code § 382.0518 and 30 Texas Administrative Code §116.110 for failing to obtain a permit and engaging in emitting air contaminants into the air.[9]

The Director of City of Dallas Office of Environmental Quality, Carlos Evans determined "Texas Star Ready Mix was found by the City of Dallas to be unlawfully operating without the proper permit in September 2022, and the City conducted a site reconnaissance on August 9, 2023 and found that the facility was still operating without the proper permit."[10]

TCEQ does not have crucial operational or compliance documents related to the current operations of Applicant and will not request them from Applicant. Instead, TCEQ asked LANWT to request the documents directly from Applicant. TCEQ is failing to disclose these public documents. Without these documents, both the TCEQ and the public are unable to conduct a full review of the Applicant's permit and compliance history.

The public has no access to the operational logs or any substantial information concerning this matter because the TCEQ permit records online database do not contain these documents and TCEQ only requires PBR facilities to keep operational logs on site.[11] On July 14, 2023, LANWT submitted Public Information Requests to TCEQ for Applicant's operational logs on June 15, July 6, and July 12 and 14, 2023.[12]

On July 19, 2023, TCEQ responded by sharing no information, stating, "we were unable to locate any responsive information in the possession of the TCEQ concerning the above referenced request."[13] After LANWT requested TCEQ obtain the documents from Applicant and share them with the public through a public information request,[14] Patrick Yantis from TCEQ 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,

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[4] See Attachments 10-11; On July 7, 2023 a TCEQ official responsible for Region 4 Local Air Permitting, Megan Horton, stated Applicant has no active TCEQ air permit.
[5] See Attachment 6 and Attachment 14.
[6] *Id*
[7] See Attachment 7, Attachment 13, and Attachment 14.
[8] *Id*
[9] Tex. Health & Safety Code § 382.0518 and 30 Texas Administrative Code §116.110.
[10] See Attachment 12.
[11] *Counsel conducted search* records.tceq.texas.gov. (last visited August 17, 2023)
[12] See Attachment 4.
[13] *Id.*
[14] See Attachment 5.

you may try contacting the facility directly."[15] TCEQ's position on this matter violates the Texas State Implementation Plan (SIP) and Texas Public Information Act.[16]

LANWT spoke with Applicant on August 16, 2023 to request these operational logs. Applicant failed to provide any information about its legal counsel and has not provided any documents or contacted LANWT back confirming their intention to submit these documents.

The public and TCEQ are unable to complete a full permit application review without these operational logs and compliance documents. This lack of TCEQ and public review is especially concerning considering Applicant's site is under two pending high-level enforcement actions.

Therefore, JFTA requests TCEQ gather the operational logs and compliance documents requested in Attachments 4 - 5 and delay and/or deny the permit application until TCEQ conducts a full review.

Applicant's failure to provide documents related to the site's enforcement actions has led public to spend months attempting to find documents and information related to the enforcement actions and attempt to communicate this information with TCEQ Air Permitting. Because Applicant did not provide these documents in their permit application, the TCEQ's compliance history review for the Applicant's permit is incomplete. TCEQ should deny Applicant's incomplete permit application.

As stated in previous public comments, during the initial public comment period, the public had no access to documents or any substantial information concerning enforcement and investigation matters related to Applicant's site. On March 30, 2023, the TCEQ engineer reviewing the permit, Alex Herra, stated he had not received enforcement action information from the applicant and did not know this was required.

On April 4, 2023, LANWT submitted an open records request for documentation of this compliance or enforcement review; however, TCEQ responded that there were no responsive documents.[17] On April 5, 2023, Alexander Herra also stated that he did not have a compliance summary or rating from the site. He also indicated that he does not have access to the compliance information and could contact TCEQ Compliance Division, but had not done so yet. LANWT received no compliance or enforcement review information from the April 4, 2023 public information request to TCEQ.

LAWNT later discovered two pending "high level" administrative order enforcement actions against Applicant's site including 2022-1557-AIR-E and 2021-1518-WQ-E. Because Applicant failed to provide these documents in the permit application, LANWT filed public information requests with TCEQ regarding these enforcement actions.

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[15] See Attachment 5.
[16] See e.g., TEX. GOV'T CODE § 552.002 (definition of public information).
[17] See JFTA Public Comments submitted on April 14, 2023 - Attachment 5.

Applicant is still under review for enforcement action 2022-1557-AIR-E. Until TCEQ enforcement reviews this action with TCEQ permitting, this permit should be denied.

TCEQ's 2022-1557-AIR-E investigation found violations requiring an enforcement action against Applicant, including:

- "The facility failed to comply with requirements under Permit by Rule 30 TAC 106.144 regarding bulk mineral handling requirements."[18] "Specifically condition (1), the sand and aggregate are transported on an open conveyor system which is not vented through a fabric filter."[19]
- "[T]he 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"[20]
    - Applicant has not corrected the violation regarding the location of the equipment and aggregate stockpiles.[21]
- Finally, "[t]he facility failed to comply with 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. ... [T]he facility operates as a concrete batch plant and requires authorization under the 6004 concrete batch plant standard permit."
    - Applicant still has no authorization under a 6004 concrete batch plant standard permit and violates 30 Texas Administrative Code §116.110 if Applicant operates without an active TCEQ air permit or registration.[22]

LANWT attempted to contact City of Dallas and TCEQ regarding the enforcement actions and received no substantive information regarding how Applicant's site enforcement actions and PBR withdrawal would influence this permit review.

On July 7, 2023, the City of Dallas official responsible for the initial investigation, Joseph Vu, stated that he did not contact the TCEQ engineers reviewing Applicant's current permit application. Mr. Vu also stated that he could not initiate another investigation regarding Applicant's current operations based on the information we provided including the site's potential lack of an active air permit or registration. Mr. Vu stated TCEQ would be responsible for initiating an air permit or registration investigation and Dallas Planning and Urban Design is responsible for investigating the Applicant's zoning and City permits.

On July 7, 2023 the TCEQ Region 4 Local Air Program Coordinator, Megan Horton, stated Applicant has no active TCEQ air permit. When asked what the options are regarding Applicant's noncompliance, Ms. Horton stated she has not seen a facility shut down for operating without a permit and the only tools in the toolbox for TCEQ are related to compliance and fines. TCEQ's policy of allowing a facility to continually operate without proper authorization violates the Texas

[18] See Attachment 8.
[19] *Id.*
[20] *Id.*
[21] See Attachment 7 and Attachment 13.
[22] See Attachments 6, 7, 12, 13, and 14.

State Implementation Plan, Tex. Health & Safety Code § 382.0518 and the Texas Administrative Procedure Act by creating a generally applicable agency rule without following proper APA rulemaking requirements.

JFTA requests that TCEQ provide additional clarification regarding TCEQ's official process for conducting a compliance review and the official process for halting facility operations that result in the emission of pollutants without any lawful authorization to do so and in violation of the Texas State Implementation Plan and Tex. Health & Safety Code § 382.0518.

On July 10, 2023, the TCEQ official responsible for 2022-1557-AIR-E, Yuliya Dunaway, stated that she did not contact the TCEQ engineers reviewing Applicant's current permit application. Ms. Dunaway stated she submitted a proposed agreed order ("Order") to her supervisor and once TCEQ finalizes the Order, they will submit the Order to Applicant. Applicant will have 60 days to respond to the Order.

- 60 days after July 10, 2023 is after the public comment period closes for Applicant's permit. Currently, TCEQ indicates that the public comment period should close on August 17, 2023.[23]
- Therefore, the public will have no access to the proposed agreed order before the public comment period closes, thus limiting the public's ability to review each part of Applicant's permit application.
- Ms. Dunaway also stated that she could not initiate another investigation regarding Applicant's current operations and 2022-1557-AIR-E was limited to the investigation from September 22, 2022. She stated if there was an issue with the current air operations at Applicant's site, to contact the TCEQ Local Air Program.

To date, Applicant has failed to provide enforcement information to TCEQ and the permit application, therefore this application remains inadequate and/or incorrect. Therefore, TCEQ must deny Applicant's request, and/or in the alternative, TCEQ must require Applicant to fully comply with all enforcement notice requirements and republish notices thereby providing the public its lawful opportunity to review a complete application and provide meaningful and informed comments. TCEQ should deny the Applicant's permit due to the pending high-level enforcement actions.

Applicant's site is still under review for a water enforcement action, 2021-1518-WQ-E. TCEQ should deny this permit application until enforcement reviews this action with TCEQ permitting, determines the entity responsible for the enforcement action, and determines if the site is currently in compliance.

Applicant failed to provide 2021-1518-WQ-E current enforcement case regarding RN 102390051 in their application, as required.[24] Although TCEQ lists Pro-Crete as the responsible entity for the

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[23] However, due to the ongoing public notice violations (as discussed in more detail elsewhere within the supplemental public comments), the public comment period should be extended until Applicant and TCEQ fully complies with all public notice requirements

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

enforcement action, the actual owner/operator in operation of the site during the enforcement investigation in this case remains unclear.

On August 13, 2021, Texas Star Ready Mix began as owner operator for RN102390051 and CN 605903574.[25] Over three weeks later on September 7, 2021, TCEQ investigated and found violations against previous owner, Pro-Crete, for several Texas Water Code issues.[26]

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.[27] On January 27, 2023, TCEQ submitted a proposed agreed order to Pro-Crete.[28]

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. Finally, she stated she did not contact the TCEQ engineers reviewing Applicant's current permit application regarding Proposed Registration No. 171636.

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.

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.[29]

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

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[25] *Counsel conducted search* https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=affil.showSingleAffil&affil_id=100558352021173.

[26] See Attachment 9 - 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."

[27] See Attachment 9 - 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."

[28] See Attachment 9.

[29] *Counsel conducted search* https://www15.tceq.texas.gov/crpub/index.cfm?fuseaction=priornames.priorNameList&denormalized_id=543676892002150&name_typ=REG_ENT (last visited August 17, 2023).

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 application and public participation process, JFTA requests that TCEQ deny this permit.

Additional examples of Problems with the Draft Permit includes, but is not limited to:

Applicant Continues to Fail to Provide Proper Public Notice

Applicant again failed to comply with TCEQ's public meeting notice requirement, which states that the "application, executive director's preliminary decision and the standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas-Fort Worth regional office, and at the Erik Jonsson Central Library ... beginning the first day of publication of this notice." Applicant did not make complete copies of any of these documents available at the Erik Jonsson Central Library as of July 19, 2023. The only document available at the Erik Johnson Library was a TCEQ checklist and incomplete parts of the permit application and the document was not on the public notice desk in the library.[30] The documents had a sticky note stating, "display until April 14."[31]

Applicant also again failed to provide sufficient notice by failing to post signage outside the site.[32] As of July 19, 2023 and August 16, 2023, Applicant failed to place any signage in front of the property.[33]

To date, public notice regarding this application remains inadequate and/or incorrect. Therefore, TCEQ must deny Applicant's request, and/or in the alternative, TCEQ must require Applicant to fully comply with all public notice requirements and republish notices thereby providing the public its lawful opportunity to review a complete application and provide meaningful and informed comments.

Applicant fails to demonstrate they will not violate the conditions of the Standard Permit for Concrete Batch Plants. Additional information concerning this issue includes, but is not limited to the following:

Applicant failed to set forth operational and design measures that are sufficient to ensure that the operation of the proposed plant will comply with the following:

- Requirement (9)(F), related to the design and maintenance of entry and exit roads. Texas Star Ready Mix's unpaved entry and exit roads do not meet the permit standards. The facility also does not have paved surfaces for the batch trucks and material delivery trucks when entering, conducting primary functions, and leaving the property.[34]

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[30] See Attachment 1 (photos) and Attachment 2 - scanned copy of library document.
[31] See Attachment 2.
[32] 30 Texas Administrative Code 39.604(b) and (c).
[33] See Attachment 3.
[34] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 12. Applicant's full standard permit application reviewed by TCEQ is incorporated by reference. See Attachment 7, Attachment 13, and Attachment 14.

- Requirement (9)(D) and (9)(E) of the Standard Permit, related to required buffer zones, three-sided walls extending two feet above stock piles, and twelve foot constructed borders.[35]
- TCEQ should require Applicant to meet the full standards of (9)(D) and (9)(E) since Applicant's stockpiles are located less than 50 feet from the property line.[36]
- A LANWT representative visited Applicant's site on August 16, 2023 and documented 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.[37] Also on this date, 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.[38]
- The Applicant also incorrectly certified in the Standard Permit Application that the stockpiles are located 200 feet from the property line.[39]

To date, information in this application remains inadequate and/or incorrect. Therefore, TCEQ must deny Applicant's request, and/or in the alternative, TCEQ must require Applicant to fully comply with all Standard Batch Plant application requirements then republish the application and notices thereby providing the public its lawful opportunity to review a complete application and provide meaningful and informed comments.

Additional examples of Applicant's Failure to Demonstrate that the Proposed Plant Would Protect the Health, Safety and Welfare of Nearby Residents and Their Properties includes, but is not limited to:

Applicant's record of non-compliance and potential current non-compliance should demonstrate to TCEQ that the Applicant's operations under a new permit would be a threat to the health, safety, and welfare of residents of Joppa. JFTA is extremely concerned that if TCEQ does not address these numerous compliance issues by denying this permit application and conducting a separate investigation, TCEQ sends a message to industries that it "pays to pollute" in their community.

Representatives of JFTA have attempted to find information about these numerous compliance issues through various phone calls and public information requests.[40] Many of these crucial requests are outstanding.[41] JFTA cannot fully understand the impacts of this facility on the health, safety, and welfare of the community without these documents. Therefore, the public also cannot contest or comment on the permit without the applicant or TCEQ sharing these required documents with the public. Therefore, TCEQ should deny this permit application.

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[35] See Attachment 7, Attachment 13, and Attachment 14

[36] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Pages 27-28. Applicant's full standard permit application reviewed by TCEQ is incorporated by reference; See Attachment 7, Attachment 13, and Attachment 14

[37] See Attachment 7, Attachment 13, and Attachment 14

[38] *Id.*

[39] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 12; See Attachment 7, Attachment 13, and Attachment 14

[40] See above.

[41] Texas Star Ready Mix has not provided operational logs regarding recent compliance issues.

In addition, TCEQ should investigate and consider if Applicant is currently in direct violation of 30 Texas Administrative Code §116.110 for failing to obtain a permit and engaging in emitting air contaminants into the air.

II. Conclusion

JFTA reiterates its request for to TCEQ deny the application and believes that denial is warranted based on the information already available. If TCEQ does not deny the application, then JFTA requests a contested case hearing with regard to each issue raised in this hearing request.

Respectfully submitted,

Michael Bates Wendi Hammond

Michael Bates

Counsel for JFTA – Joppa Freedmans Town Association (JFTA)

ATTACHMENT 1
PHOTOS OF LIBRARY COUNTER WHERE
PUBLICLY AVAILABLE DOUCMENT USED TO BE ACCESSIBLE

Re: Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Supplemental Public Comments and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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:

- request for a contested case hearing and
- supplemental 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

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

Figure 1- Library on July 19, 2023, taken by Franklin Ortega

ATTACHMENT 2
SCANNED COPY PUBLICLY AVAILABLE DOCUMENT AT LIBRARY

Texas Commission on Environmental Quality
Form PI-1S-CBP
6004Checklist

Date: _____
Registration #: _____
Company: _____

Concrete Batch Plant Standard Permit Checklist - 6004

This sheet provides information needed by the TCEQ to determine if the proposed project meets all of the requirements of the Standard Permit for Concrete Batch Plants.

Instructions:
1. Review the standard permit requirements available at the end of this workbook, accessible through with the link below:
Air Quality Standard Permit for Concrete Batch Plants
2. Complete all applicable sections below.

Type of plant	Permanent
Type of operation	Ready Mix

Condition Number	Description	Response	Notes
Section 3: Administrative Requirements			
(3)(A)-(K)	Will you meet all of the requirements of Section 3 of the Standard Permit regarding administrative requirements?	Yes	
Section 4: Public Notice			
(4)	Will you meet all of the requirements of Section 4 of the Standard Permit regarding public notice?	Yes	
	Is this a portable facility moving to a site for support of a public works project in which the proposed site is located in or contiguous to the right-of-way of the public works project?	No	
	Is this a portable facility moving to a site in which a portable facility was located at the site at any time during the previous two years and was the site subject to public notice?	No	
Section 5: General Requirements			
(5)(A)	Are the storage silos and auxiliary storage tanks controlled by a cartridge or filter system?	Yes	
	How will the weigh hopper be vented? More than one may be selected using the following rows.	Vented to fabric/cartridge filter	
	Select second method, if applicable.	Vented to central fabric/cartridge filter system	
(5)(B)(i)	Will fabric/cartridge filters and collection systems be operated properly with no tears or leaks?	Yes	
(5)(B)(ii)	What is the control efficiency of the filter system (including any central filter systems) for particle sizes of 2.5 microns and smaller (%)?	99.9	
(5)(B)(iii)	Will all filter systems meet visible emissions performance standards?	Yes	
(5)(B)(iv)	Will cement and/or fly ash silo filter exhausts be equipped with sufficient illumination to observe visible emissions performance if filled during non-daylight hours?	Yes	
(5)(C)(i)	Will conveying systems to and from the storage silos be properly operated, remain totally enclosed, and maintained with no tears or leaks?	Yes	
(5)(C)(ii)	During cement/fly ash storage silo filling, except for connecting or disconnecting, will you keep a standard of having no visible emissions for more than 30 seconds in any six-minute period from the conveying system?	Yes	
(5)(D)	What type of device is utilized onsite to warn when silos are reaching capacity?	Automatic shut-off device and warning device	
(5)(D)(i)	If an automatic shut-off device is installed, will it shut down the loading operations on each bulk storage silo or auxiliary storage tank prior to reaching capacity?	Yes	
(5)(D)(ii)	If a warning device is used, will it alert operators in sufficient time to prevent an adverse impact on the pollution abatement equipment or other parts of the loading operation?	Yes	

Version 4.1

Page 1

Texas Commission on Environmental Quality
Form PI-1S-CBP
6004Checklist

Date: _____
Registration #: _____
Company: _____

	Do you regularly prevent particle build-up on visible warning devices?	Yes	
(5)(D)(iii)	Will warning devices or shut-off systems be tested at least monthly during operations and records kept indicating test and repair results in accordance with Section (3)(J) of this standard permit?	Yes	
(5)(E)(i)-(iv)	Select which method(s) will be used to control emissions from in-plant roads and traffic areas. More than one may be selected using the following rows.	Watering	
	Select the second control method, if applicable.	Watering	
	Select the third control method, if applicable.		
	Select the fourth control method, if applicable.		
(5)(F)	How will dust emissions from all stockpiles be minimized at all times? More than one may be selected using the following rows.	sprinkling with water	
	Select the second control method, if applicable.		
	Select the third control method, if applicable.		
(5)(G)	Confirm that all material spills will be immediately cleaned up and contained or dampened so dust emissions are minimized.	I agree	
(5)(H)	Will visible emissions leave the property for more than 30 seconds in duration in any six-minute period during normal plant operations as determined using EPA Test Method 22?	No	
	Will quarterly visible emission observations be performed and recorded in accordance with Section (3)(J) of this standard permit?	Yes	
	If visible emissions exceed Test Method 22 criteria, will immediate corrective action be taken and documented?	Yes	
(5)(I)	What is the distance from the concrete batch plant to any crushing plant or hot mix asphalt plant? (feet)	there is no Asphalt plant within 13000 Feets	
(5)(J)	Are multiple concrete batch plants being operated on the same site?	No	
(5)(K)	Confirm that none of the concrete additives will emit volatile organic compounds (VOC)?	I agree	

Section 6: Engine Requirements

(6)(A)	How many engines are being authorized with this standard permit registration?	0	

Section 7: Planned Maintenance, Startup, and Shutdown (MSS) Activities

(7)	Will planned maintenance activities receive separate authorization, unless the activity can meet the conditions of 30 TAC § 116.119, De Minimis Facilities or Sources?	Yes	

Texas Commission on Environmental Quality
Form PI-1S-CBP
6004Checklist

Date: _____
Registration #: _____
Company: _____

Section 9: Additional Requirements for Permanent Concrete Batch Plants			
(9)(A)	How many cubic yards per hour will be produced by this plant?	60	
	How many cubic yards per day will be produced by this plant?	400	
(9)(B)	Will the suction shroud or other pickup device be installed at the batch drop point (drum feed for central mix plants)?	Yes	
	What is the average filtering velocity of the fabric or cartridge filter system for the suction shroud or other pickup device (acfm)?		
(9)(C)	Will the truck drop point for the ready-mix plant be sheltered by an intact three-sided curtain or equivalent dust control technology that extends below the mixer truck-receiving funnel?	Yes	
(9)(D)(i)	What is the distance from the property line to the suction shroud baghouse exhaust (feet)?	300	
(9)(D)(ii)	What is the distance from the property line to the nearest piece of stationary equipment? (feet)	300	
	What is the distance from the property line to the nearest stockpile? (feet)	200	
	What is the distance from the property line to the nearest area where vehicles will be used for the operation of the concrete batch plant (except for incidental traffic and the entrance and exit to the site)? (feet)	200	
(9)(E)(ii)	What will be the height of the constructed borders? (feet)	12	
(9)(E)(iii)	Will stockpiles be contained within a three-walled bunker that extends at least two feet above the top of the stockpile?	Yes	
(9)(F)	Will all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant (including batch truck and material delivery truck roads) be paved with a cohesive hard surface that can be maintained intact and cleaned?	Yes	
	Will all batch trucks and material delivery trucks remain on the paved surface when entering, conducting primary function, and leaving the property?	Yes	
	Will all other traffic areas, except entry and exit roads and main traffic routes, be maintained using the control requirements of subsection (6)(E) of this standard permit	Yes	

Date: _____
Registration #: _____
Company: _____

Table 11: Fabric Filters - Concrete Batch Plant Standard Permits

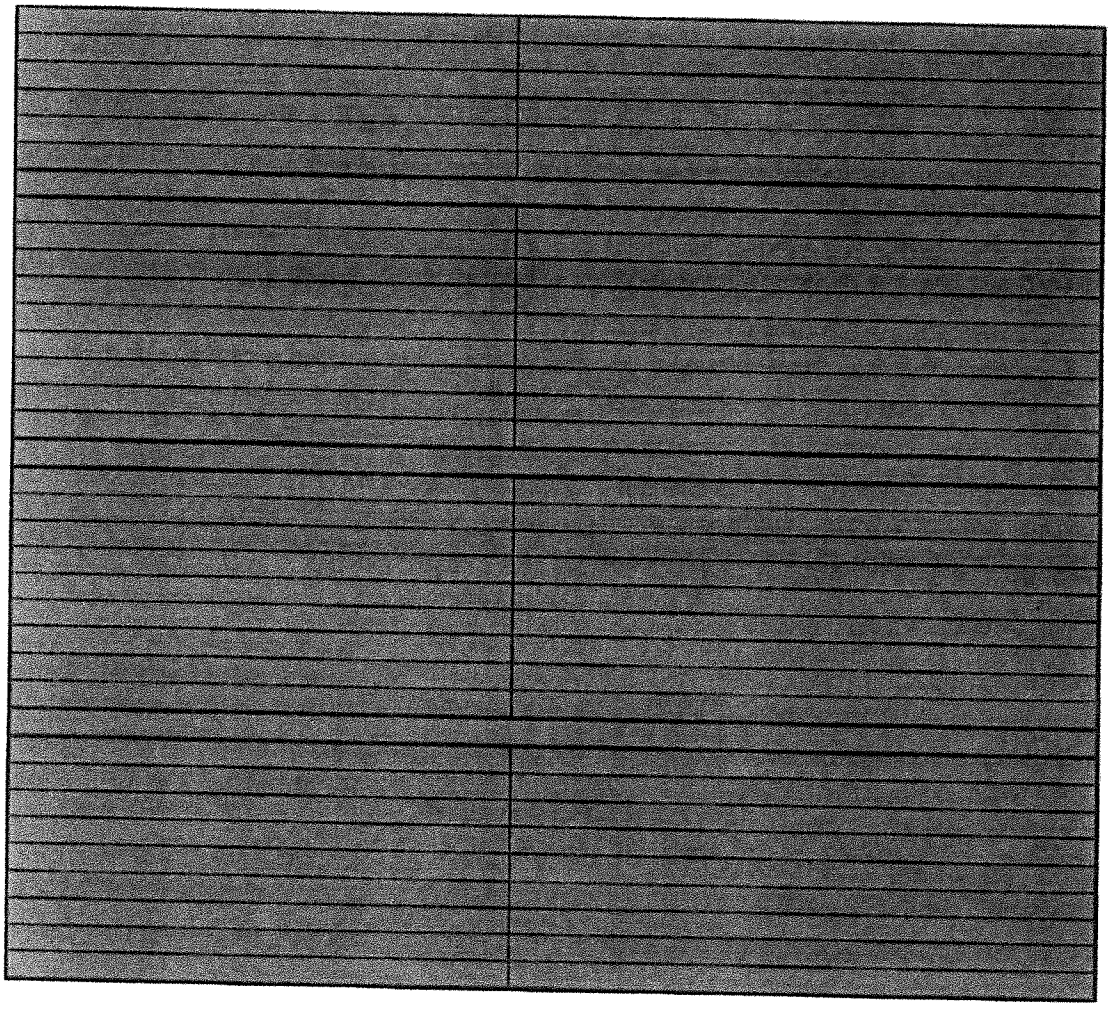
This sheet provides information needed by the TCEQ to determine if the proposed project meets all of the requirements of the Standard Permit for Concrete Batch Plants.

Instructions:
1. Complete all applicable questions below.

All Filter Systems	
EPN	7
Manufacturer	C&W
Model Number	RA-120
List the sources being controlled	Cement
Type of particulate controlled	PM/PM10/PM2.5, cement dust
Design maximum flow rate (acfm)	5000
Average expected flow rate (acfm)	5000
Particulate grain loading (grain/scf) - inlet	
Particulate grain loading (grain/scf) - outlet	

Texas Commission on Environmental Quality
Form PI-1S-CBP
Table11-CBP

Date: _____
Registration #: _____
Company: _____



Date: _____
Registration #: _____
Company: _____

Table 20: Concrete Batch Plants - Concrete Batch Plant Standard Permits

This sheet provides information needed by the TCEQ to determine if the proposed project meets all of the requirements of the Standard Permit for Concrete Batch Plants.

Instructions:
1. Complete all applicable questions below.

Type of batching that will be accomplished	Dry
Section 1: Maximum operating schedule	
What is the maximum hours per day?	8
What is the maximum days per week?	6
What is the maximum weeks per year?	52
What is the maximum hours per year?	2496
Does the facility operate at night?	No
Section 2: Aggregate Information	
Will sand and aggregate be washed prior to delivery at your facility?	Yes
What is the size of the area which will be covered be aggregate stockpiles? (acres)	.25 Acres
Indicate where water sprays will be used, if applicable	Stockpiles
Additional location for water sprays, if applicable	Aggregate bin outlets
Additional location for water sprays, if applicable	
Additional location for water sprays, if applicable	
Section 3: Filter System Information	
How many filter systems will this plant have?	4
Will all filter systems be operated the same way?	Yes

Texas Commission on Environmental Quality
Form PI-1S-CBP
Public Notice

Date: _____
Registration #: _____
Company: _____

Public Notice Information and Small Business Classification

This sheet is intended to assist in this determination of public notice requirements and is not a replacement for 30 TAC Chapter 39 (Public Notice). **If you can see the page header, there are questions applicable to your project on this sheet.**

The THSC §382.056 and corresponding rules in 30 TAC Chapter 39 (Public Notice) require that you publish a notice of intent to obtain a permit and notice of preliminary decision (consolidated into a single notice). Notices must be published in a newspaper of general circulation in the municipality where the proposed facility is or will be located (not applicable to alternative language notices). Signs must also be posted at the site in compliance with 30 TAC § 39.604(c). Additional information regarding public notice such as an overview of requirements, an applicability table, and a list of some common errors that may cause renotice and delays in processing your application can be found at the link below:
https://www.tceq.texas.gov/permitting/air/pilingual/now1_2_pn.html

Instructions:
1. Complete all questions below.

I. Public Notice Information

A. Contact Information

Enter the contact information for the **person responsible for publishing.** This is a designated representative who is responsible for ensuring public notice is properly published in the appropriate newspaper and signs are posted at the facility site. This person will be contacted directly when the TCEQ is ready to authorize public notice for the application.

Prefix (Mr., Ms., Dr., etc.):	MR
First Name:	Eyad
Last Name:	Albelbaisi
Title:	Operation Manager
Company Name:	Texas Star Ready Mix LLC
Mailing Address:	4500 Great Trinity Forest Way
Address Line 2:	
City:	Dallas
State:	TX
ZIP Code:	75082
Telephone Number:	214-475-5095
Fax Number:	972-783-4643
Email Address:	wconcretes@gmail.com

Enter the contact information for the **Technical Contact.** This is the designated representative who will be listed in the public notice as a contact for additional information.

Prefix (Mr., Ms., Dr., etc.):	MR
First Name:	Eyad
Last Name:	Albelbaisi
Title:	Operation Manager
Company Name:	Texas Star Ready Mix LLC
Mailing Address:	4500 Great Trinity Forest Way
Address Line 2:	
City:	Dallas
State:	TX
ZIP Code:	75082
Telephone Number:	214-475-5095
Fax Number:	972-783-4643
Email Address:	wconcretes@gmail.com

B. Public place

Place a copy of the full application (including all of this workbook and all attachments) at a public place in the county where the facilities are or will be located. You must state where in the county the application will be available for public review and comment. The location must be a public place and described in the notice. A public place is a location which is owned and operated by public funds (such as libraries, county courthouses, city halls) and cannot be a commercial enterprise. You are required to pre-arrange this availability with the public place indicated below. The application must remain available from the first day of publication through the designated comment period.

If the application is submitted to the agency with information marked as Confidential, you are required to indicate which specific portions of the application are not being made available to the public. These portions of the application must be accompanied with the following statement: ***Any request for portions of this application that are marked as confidential must be submitted in writing, pursuant to the Public Information Act, to the TCEQ Public Information Coordinator, MC 197, P.O. Box 13087, Austin, Texas 78711-3087***

Name of Public Place:	Erik Jonsson Central Library
Physical Address:	1515 Young Street
Address Line 2:	
City:	Dallas
ZIP Code:	75201
County:	Dallas
Has the public place granted authorization to place the application for public viewing and copying?	Yes

C. Alternate Language Publication

In some cases, public notice in an alternate language is required. If an elementary or middle school nearest to the facility is in a school district required by the Texas Education Code to have a bilingual program, a bilingual notice will be required. If there is no bilingual program required in the school nearest the facility, but children who would normally attend those schools are eligible to attend bilingual programs elsewhere in the school district, the bilingual notice will also be required. If it is determined that alternate language notice is required, you are responsible for ensuring that the publication in the alternate language is complete and accurate in that language.

Is a bilingual program required by the Texas Education Code in the School District?	Yes
Are the children who attend either the elementary school or the middle school closest to your facility eligible to be enrolled in a bilingual program provided by the district?	Yes
If yes to either question above, list which language(s) are required by the bilingual program?	
List second required language.	spanish
List third required language.	na
List fourth required language.	na

III. Small Business Classification	
Complete this section to determine small business classification. If a small business requests a permit, agency rules (30 TAC § 39.603(f)(1)(A)) allow for alternative public notification requirements if all of the following criteria are met. If these requirements are met, public notice does not have to include publication of the prominent (12 square inch) newspaper notice.	
Does the company (including parent companies and subsidiary companies) have fewer than 100 employees or less than $6 million in annual gross receipts?	Yes
Is the site a major source under 30 TAC Chapter 122, Federal Operating Permit Program?	No
Are the site emissions of any individual air contaminant greater than or equal to 50 tpy?	No
Are the site emissions of all air contaminants combined greater than or equal to 75 tpy?	No
Small business classification:	Yes

Date: _____
Registration #: _____
Company: _____

Fee Verification

This sheet is for requesting expedited permitting and determines application fee requirements for projects which require a fee. **If you can see the page header, there are questions applicable to your project on this sheet.**

Fees are due and payable at the time an application is filed. Required fees must be received before the agency will consider an application to be complete.

As of January 1, 2021, fees must be paid through ePay during the STEERS submitall process. Instructions for online payment through the ePay system can be found at the link below:
https://www3.tceq.texas.gov/epay/

Instructions:
1. Enter information related to the expedited permitting option.
2. If visible, enter payment information.
3. If applicable, submit the application under the seal of a Texas Licensed P.E.

I. Expedited Permitting Request	
Are you requesting to expedite this project?	No

II. Application Fee	
All standard permit types and actions (unless the facility meets the requirements of being in or adjacent to the right of way of a public works project)	$900.00

III. Payment Information	
Was the fee paid online?	Yes
Enter the fee amount	$ 900.00
Enter the check, money order, ePay Voucher, or other transaction number. Enter "STEERS" if submitting and paying through	STEERS
Enter the company name as it appears on the check	na

IV. Professional Engineer Seal Requirement	
Is the estimated capital cost of the project above $2 million?	No
Is the application required to be submitted under the seal of a Texas licensed P.E.? Note: an electronic PE seal is acceptable.	No

Texas Commission on Environmental Quality
Form PI-1S-CBP
Copies

Date: _____
Registration #: _____
Company: _____

Where to Submit this Application

This worksheet is for informational purposes only. No data is required and you do not need to print this sheet.
This worksheet provides guidance on where to send copies of the application materials.

Submittal Instructions:
1. Submit application materials as indicated below. Processing delays will occur if copies are not sent as noted.
2. Retain a copy for your records.
3. Indicate to whom copies have been sent on the cover letter of any subsequent correspondence.

Subsequent Submittal Instructions:
4. All subsequent correspondence should be copied to the TCEQ regional office and local air pollution control program(s), as appropriate.
5. Indicate the assigned registration number(s), RN, CN, and permit reviewer, if known, on all subsequent correspondence.
6. A copy of all application materials must be maintained on-site. For sites that normally operate unattended, a copy must be maintained at an office within Texas that has operational control of the site.

Notes:
- **Submittal through STEERS is required as of January 1, 2021.**
- All application and application attachments for APD must be submitted electronically.

Who	Where	When	What
Air Permits Division Air Permits Initial Review Team (APIRT)	Submit the application through STEERS following the instructions on the Cover sheet.	All applications	Application (including this PI-1S-CBP application workbook and required attachments)
Financial Administrative Division, Revenue Operations Section	ePay	All applications	Permit fee and expedited processing surcharge, if expedited processing is requested
Region 4	2309 Gravel Dr., Fort Worth, TX 76118-6951	All applications with updates since original submittal	Copies of updated application materials (such as updated workbook or attachments) -- Note, original materials are automatically sent by STEERS
Local Air Pollution Control Program(s)	To find your local air pollution control programs go to the link below.	All applications with updates since original submittal in an area having jurisdiction	Copies of updated application materials (such as updated workbook or attachments) -- Note, original materials are automatically sent by STEERS

Links

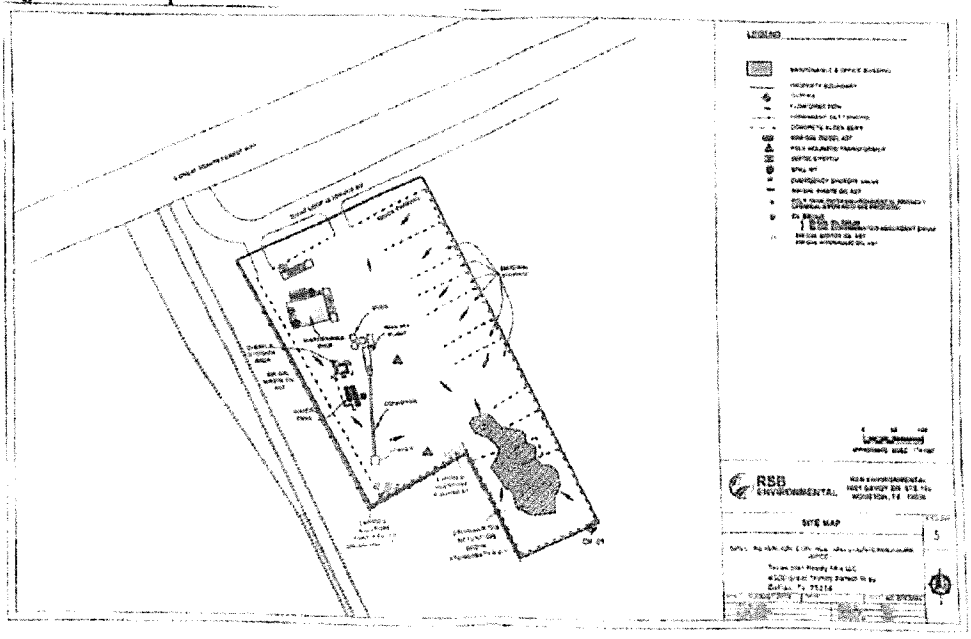
Destination	Link
TCEQ Regional Offices	https://www.tceq.texas.gov/agency/directory/region
Local Air Pollution Control Programs	https://www.tceq.texas.gov/permitting/air/local_programs.html

Air Permits Registration
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: Air Permits Registration
Permit Number: 39039
Customer Number CN605903574
Regulated Entity Number RN102390051

Texas star Ready Mix LLC is a small business batch plant owner/operator. Texas Star Ready Mix LLC Operates the facility at 4500 Great Trinity Forest way Dallas, TX 75216. This Batch plant facility existed since 1970s on over 5 Acres land and still operate in the same site, same layout but at reduced capacity. The batch plant operates under the permit by Rule. The facility is permitted to produce ready Mix concrete and Concrete products. The facility is voluntary is registering the batch plant concrete.

Figures List:
Figure 1: Site Location Map
Figure 2: Aerial Map showing Texas Star Ready Mix Facility
Figure 3: USGS Topographic Map showing Texas Star Ready Mix Facility
Figure 1: Overall Site Map showing Texas Star Ready Mix Facility
Figure 1: Site Map

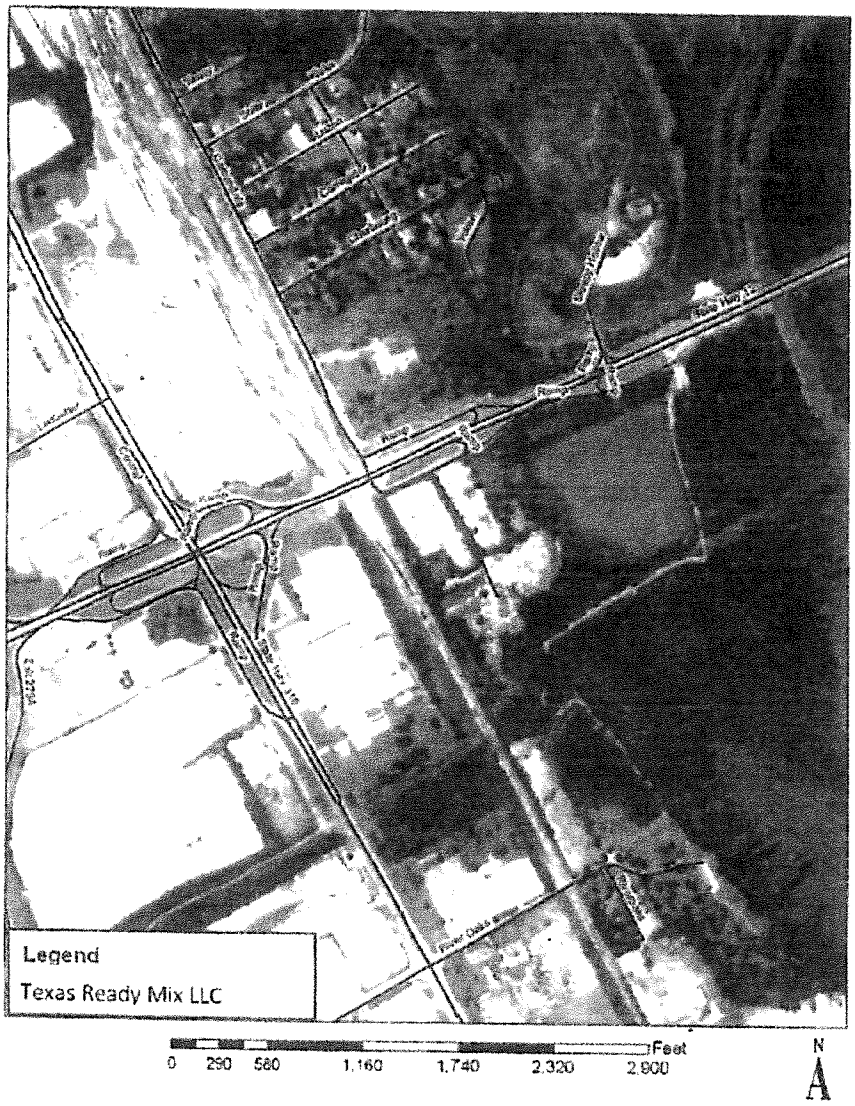


Texas Star Ready Mix LLC
Project 16.028.01F

Prepared by J. Schwartz

KBA EnviroScience, Ltd.

Figure 4. Overall Site Layout of the Texas Star Ready Mix LLC Facility, 4500 Great Trinity Forest Way in Dallas, Texas.

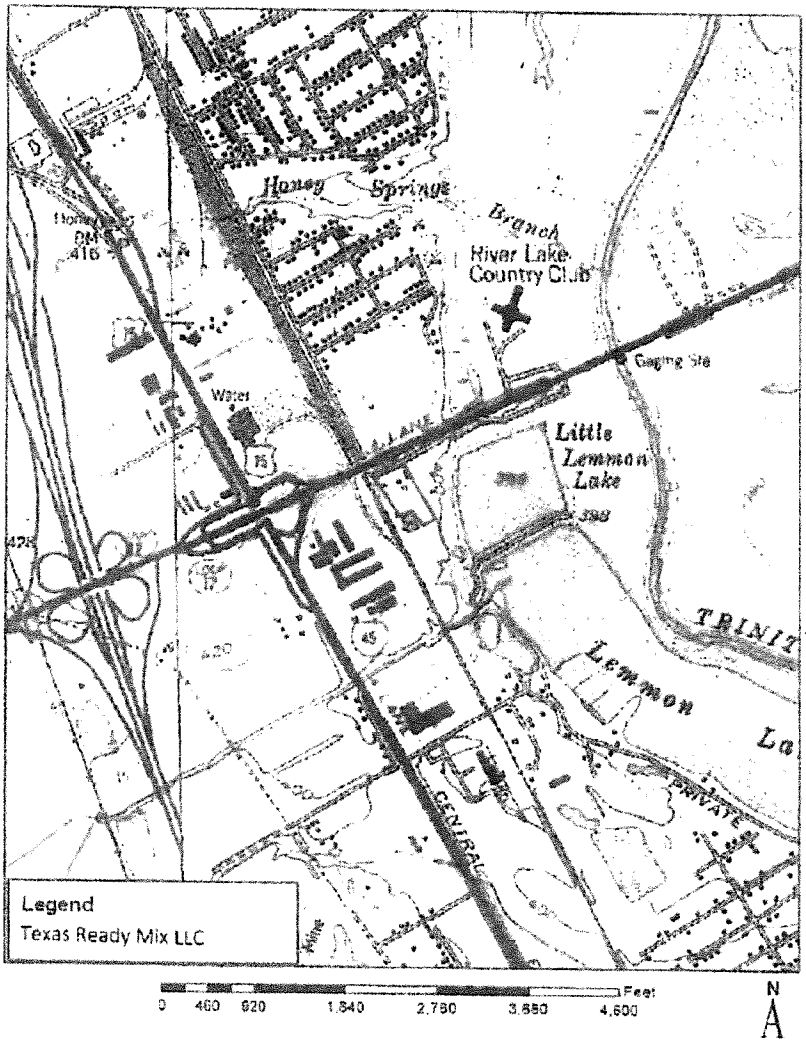


Texas Star Ready Mix LLC
Project 16.028.01.F

Prepared by J. Schwartz

KBA EnviroScience, Ltd.

Figure 2. Aerial Map Showing the Texas Star Ready Mix Facility, 4500 Great Trinity Forest Way in Dallas, Texas.

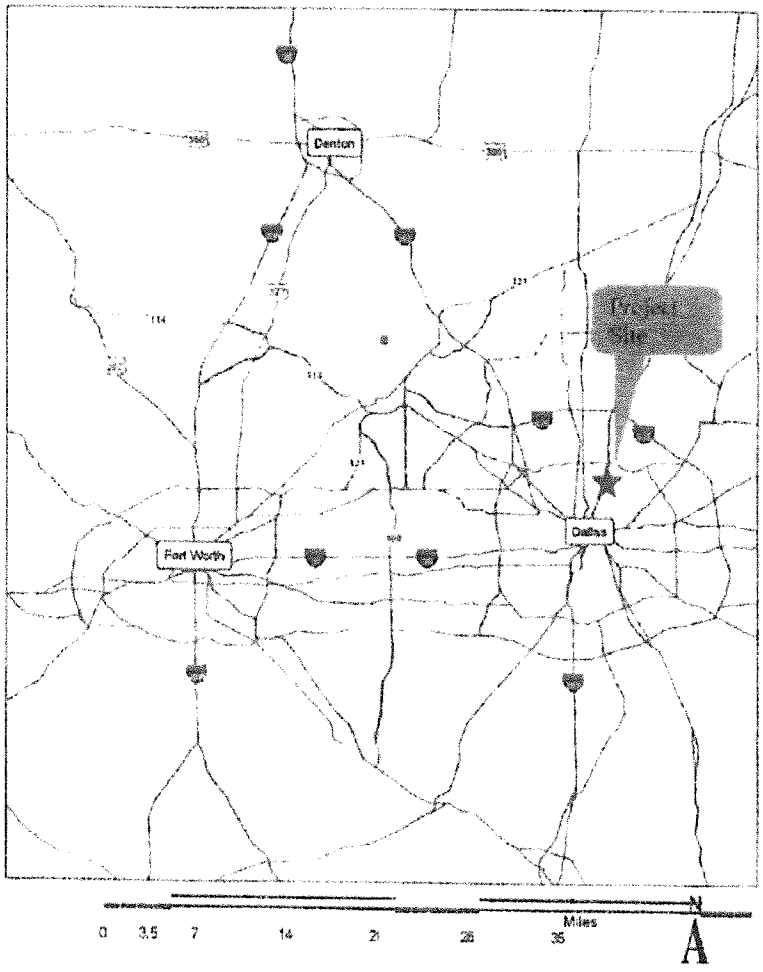


Texas Star Ready Mix LLC
Project 16.028.01.F

Prepared by J. Schwartz
April 18, 2016

KBA EnviroScience, Ltd.

Figure 3. USGS Topographic Map Showing the Texas Star Ready Mix LLC., 4500 Great Trinity Forest Way in Dallas, Texas.

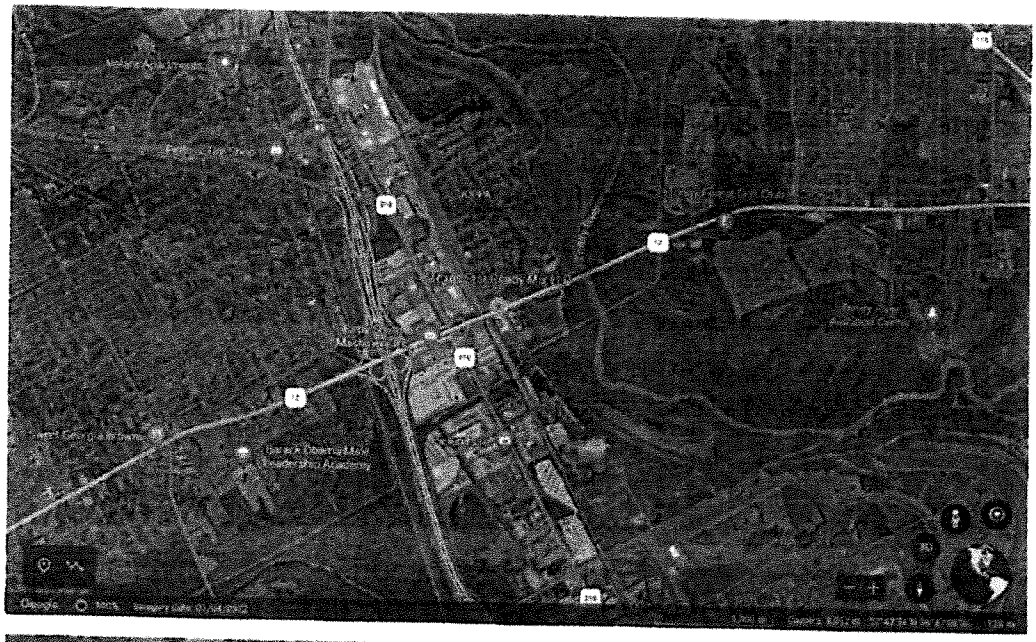


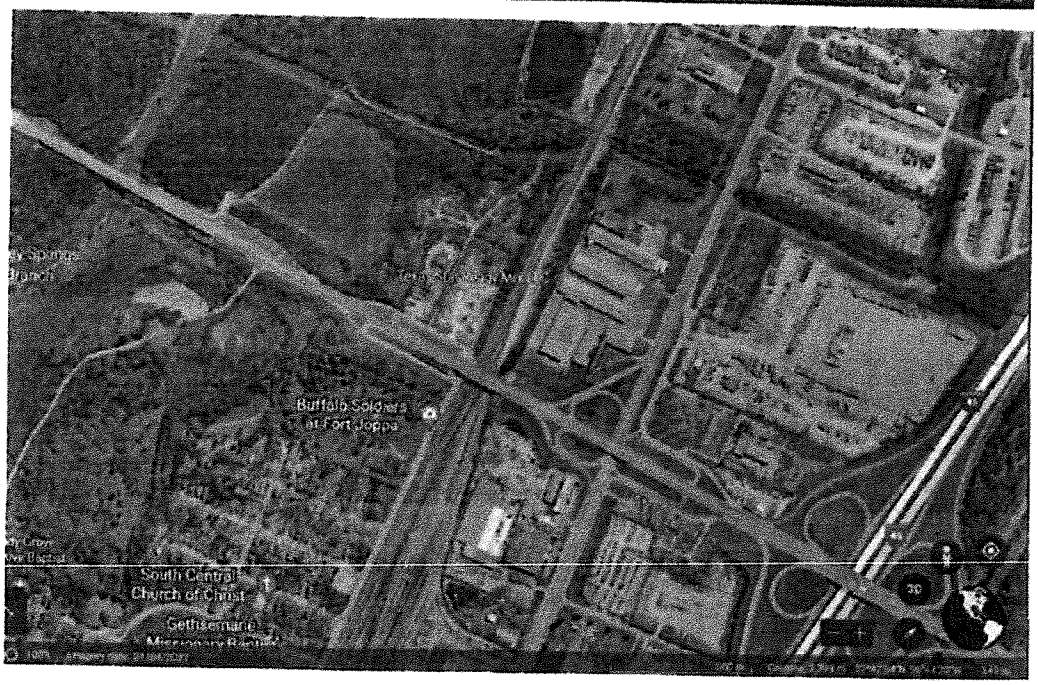
Texas Star Ready Mix LLC
Project 16.028.01.F

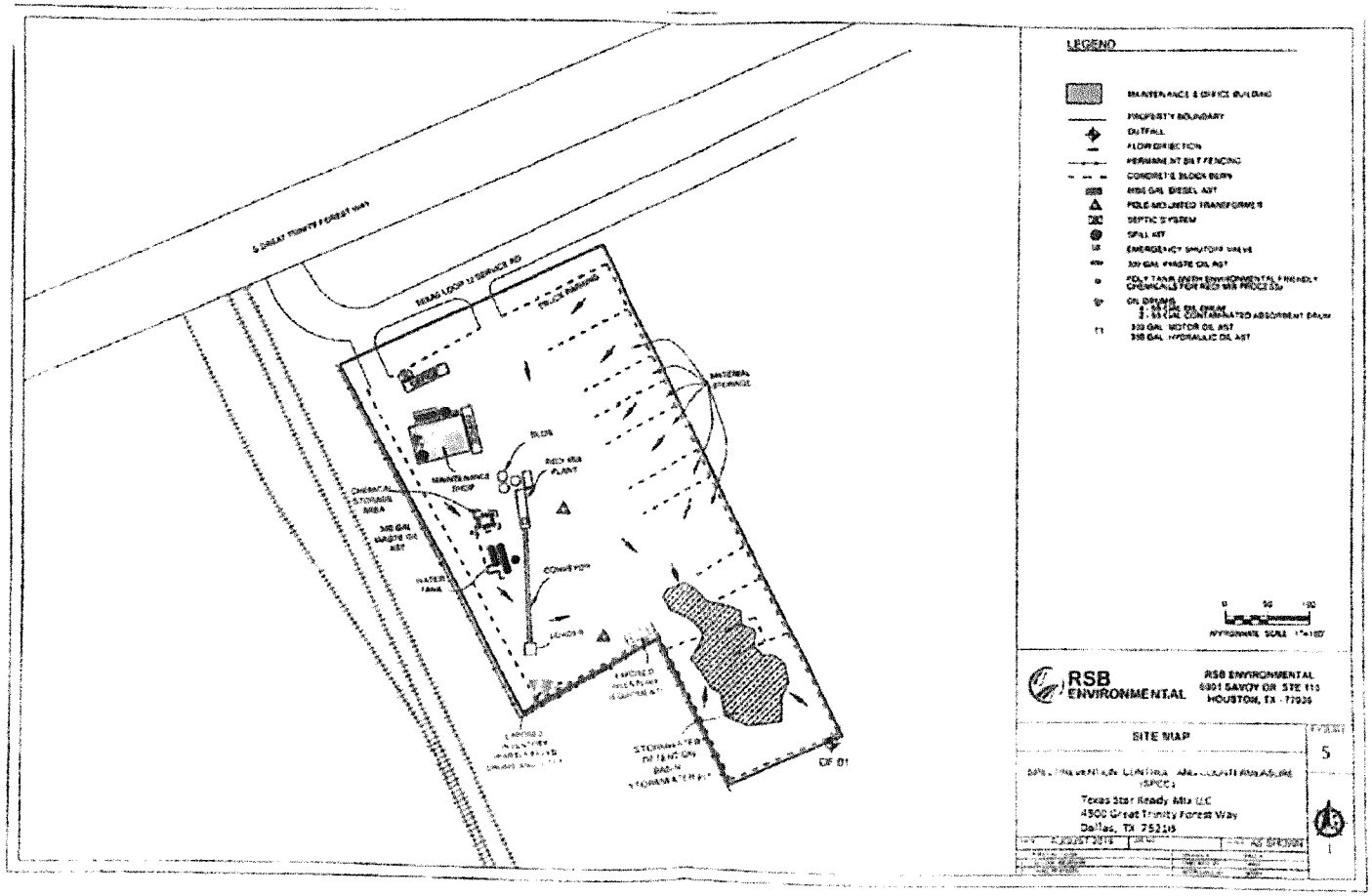
Prepared by J. Schwartz

KBA EnviroScience, Ltd.

Figure 1. Site Location of the Texas Star Ready Mix LLC Facility, 4500 Great Trinity Forest Way in Dallas, Texas.



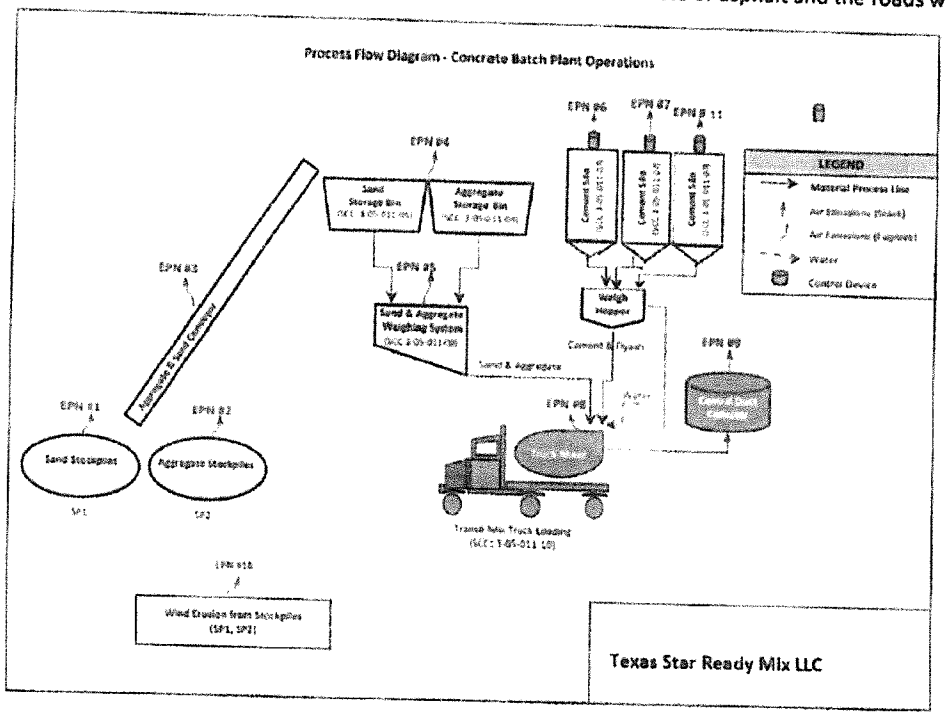

Buffalo Soldiers at Fort Jesup
South Central Church of Christ
Gethsemane


LEGEND
MAINTENANCE & OFFICE BUILDING
PROPERTY BOUNDARY
OUTFALL
FLOW DIRECTION
PERMANENT SILT FENCING
CONCRETE BLOCK BERM
8000 GAL DIESEL AST
POLE MOUNTED TRANSFORMER
SEPTIC SYSTEM
SPILL KIT
EMERGENCY SHUTOFF VALVE
330 GAL WASTE OIL AST
POLY TANK WITH ENVIRONMENTAL FRIENDLY CHEMICALS FOR RECYCLE PROCESS
OIL DRUMS
1 - 55 GAL OIL DRUM
1 - 55 GAL CONTAMINATED ABSORBENT DRUM
330 GAL MOTOR OIL AST
330 GAL HYDRAULIC OIL AST
0 50 100
APPROXIMATE SCALE 1" = 100'
RSB ENVIRONMENTAL
RSB ENVIRONMENTAL
6901 SAVOY DR STE 115
HOUSTON, TX - 77036
SITE MAP
5
Texas Star Ready Mix LLC
4500 Great Trumity Forest Way
Dallas, TX 75216
A3
1
GREAT TRINITY FOREST WAY
SOUND LOOP 12 SERVICE RD
DRIVE PARKING
MATERIAL STORAGE
SILOS
READY MIX PLANT
MAINTENANCE SHOP
CHEMICAL STORAGE AREA
550 GAL WASTE OIL AST
WATER TANK
CONVEYOR
LOADER
LANDSCAPED AREA
STORMWATER DETENTION BASIN
STORMWATER RETENTION POND
OF 01

Texas Star Ready Mix, LLC

PROCESS DESCRIPTION

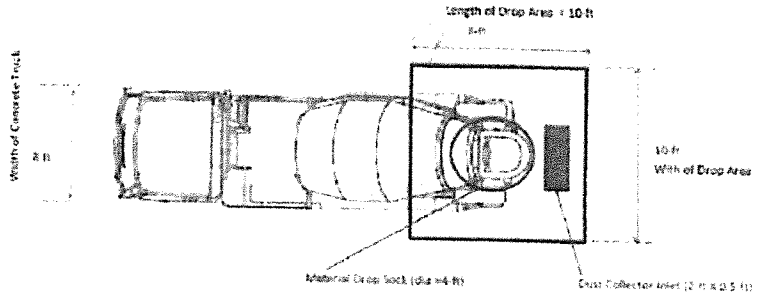
Texas Star Ready Mix LLC is proposing to construct and operate one permanent concrete batch plant to be located at 4500 Great Trinity Forest way Dallas, Texas. The facility intends to register the concrete batch plant as standard permit under 30 TAC 116, Subchapter F. The facility will have one concrete batch plant: CBP-1. The maximum production capacity of the plant is 120 cubic yards per hour. The maximum operating schedule of the plant will be 24 hours per day, 7 days per week and 52 weeks per year. PROPOSED CONCRETE BATCH PLANT-1 (EPN #1 - #9) The concrete will be composed of water, sand, aggregate and cement. Sand and aggregate will be brought into the facility via truck and unloaded onto the aggregate & sand stockpiles (SP1 & SP2) (EPN #1 & #2). The sand and aggregate will be loaded to conveyor (EPN #3) to be transported to the elevated storage bins (EPN #4). Sand and aggregate from storage bins will be dropped onto the weighing system (EPN #5) and transferred to the truck mixer (EPN #8). Sand and aggregate materials will be prewashed, sprinkled, and handled wet. All sand and aggregate handling at the facility will be considered as material handling operations (EPN #1 thru EPN #5). Emissions from material handling will be fugitives. Cement will be brought into the facility via trucks and loaded pneumatically into cement silo. Cement will be transferred from the silos to the weigh hopper and transferred to the truck mixer (EPN #8). Particulate emissions from the silos loading will be vented to the respective baghouses (EPN #6 & #7 &#11). Raw materials: cement from the weigh hopper and sand & aggregate from weighing system are loaded to the truck mixer (EPN #8). Water will be added to the raw material in the truck mixer along with sand, aggregate and cement. Emissions from the truck mixer will be captured using atleast 5,000 cfm central dust collector (EPN #9) with a filter efficiency of atleast 99.9%. Uncaptured emissions from truck mixer will be fugitives. The truck mixer will deliver the concrete to customers off-site. STOCKPILES (EPN #10) Additional emissions from stockpiles at the facility (SP1 & SP2) operations due to wind are addressed as one source of fugitives under stockpile wind erosions from the facility (EPN #10). Water will be sprinkled to suppress the dust emissions from the stockpiles and roads as necessary. The in-plant roads will be paved with concrete or asphalt and the roads will be



cleaned

Schematic Diagram of EPN #8

Top View

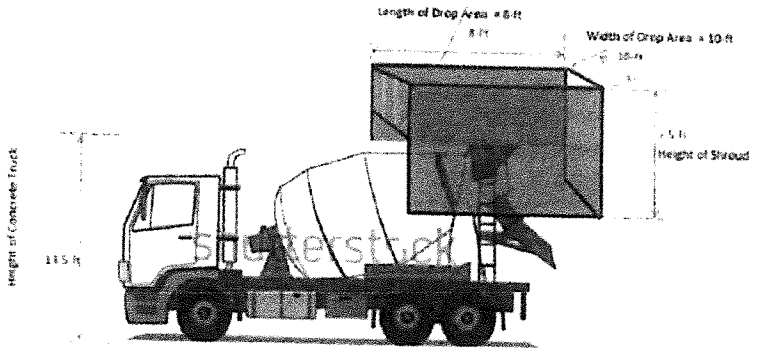


Texas Star Ready Mix LLC

Schematic Diagram of EPN #8

Side View

EPN #8 will be covered on three sides with shroud (fixed metal sheet) and 4th side (front side - end where truck backs) with flexible plastic curtains



Texas Star Ready Mix LLC

C&W • DustTech
CLEAN AIR TECHNOLOGIES

DUST SETTLES. WE DON'T.

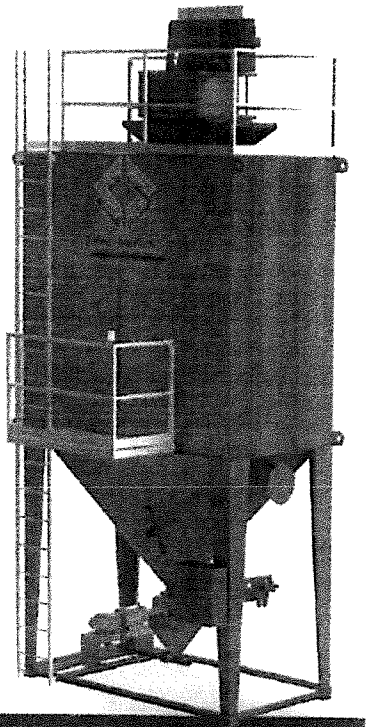
Central Dust Collectors Designed to Meet Your Needs

Standard Components:

- Dirty Air Chamber
- Hopper (To Contain Collected Material)
- Hopper Discharge Valve
- Filtration Media
- Negative Pressure Fan/Motor Assembly
- Filtration Cleaning Mechanism
- Clean-Air Chamber
- Clean Fan Exhaust
- Factory Wired and Tested Motor Controls

Our Central Dust Collectors are custom engineered to ensure contaminated air is captured and filtered efficiently through the unit. This allows clean air to be cycled back into your manufacturing process or disposed of properly to protect your people, processes and the environment.

Our singular focus on dust gives our team the ability to deliver customized dust collection solutions that are built to outperform in the most demanding, harsh environments and built to last. Whether it's a Cartridge Pulse, Bag Pulse or Reverse Air Central Dust Collector, our team will specify the most effective dust collector for your unique needs.



Central Dust Collector Features and Benefits:

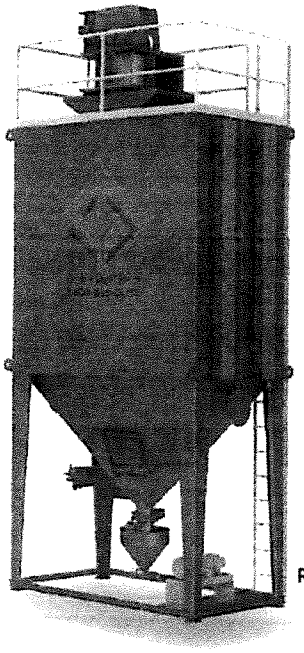
- **Easy to Maintain:** Toolless exchange of filter media and clean side filter exchange.
- **Safety, OSHA-Compliant:** Ladders, platforms and handrails.
- **Customizable:** Custom options and packages are available upon request.
- **Filtration Efficiency:** Approximately 99.99%.
- **Pre-Assembled & Pre-Tested:** Minimal installation and start up time.
- **Supports High and Low Temperature Applications.**

800.880.DUST (3878) | cwdusttech.com | 6933 Shelmor Road Alvarado, TX 76009

Reverse Air (RA-Series)

Reverse Air (RA) Central Dust Collectors are designed to collect dust from multiple points, such as mixer truck charging points or central mixers. The RA Series provides an effective way to filter out harmful dust pollution effects with its multi-compartment design.

As heavy dust particles settle out of the air stream and into the hopper, dust-laden air flows up through the inside of the polyester felt bags where the particles are trapped. Filter bags allow clean air to pass through the air chamber and back into the environment. The cleaning cycle rotates between compartments to ensure each is cleaned in rotation.



RA – 140

Additional Features and Benefits:

- **Reliable, Easy to Operate:** Solid state adjustable timers with LED display.
- **Performance:** Magnehelic gauge and hopper vibrator.
- **Long lasting, durable:** 10-gauge, cambered steel construction.
- **Greater Temperature Range:** Including cold climate applications.

Additional Services & Support

We support our customers with a range of specialized services to deliver a solution that exceeds expectations, including:

- Customized Layouts
- Startup, Maintenance and Training
- Professional Consultation
- Ongoing Aftermarket Part Support
- Air Permit Calculations
- Airflow Design Engineering and Performance Software

Need a Full Central Dust Collection System?

Depending on your operation, needs and regulatory environment, utilizing a complete dust collection system can help you maximize production efficiencies. Our systems include:

- Ducting
- Dust Collector
- Cleaning System
- Recycle Systems
- Additional accessories include: hoods, shrouds, slump masters, anti-overfill systems, etc.

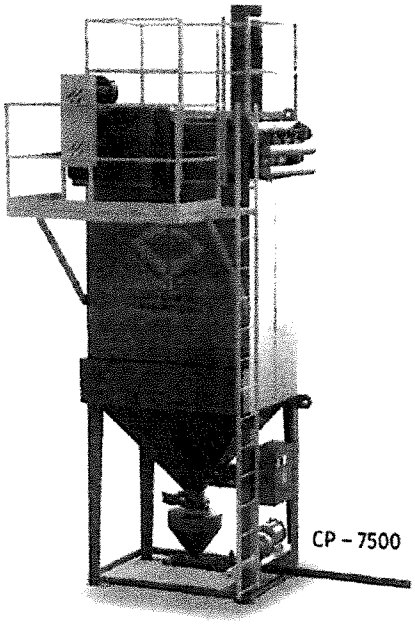
Contact us at sales@cwdusttech.com to learn about our customized dust collection system options and package offerings.

Cartridge Pulse (CP-Series)

Cartridge Pulse (CP) Central Dust Collectors efficiently collect dust from multiple points, such as loaders, mixers, weigh batchers and silos. The CP Series offers high-efficiency and top entry with the latest cartridge technologies.

These collectors process dust at an increased Cubic Feet per Minute (CFM), requiring cartridges to be regularly cleaned of any build up. Each unit is constructed with blowpipes and timer-controlled system that automatically cleans the cartridges with compressed, clean and dry air at 90-100 psi.

Our Cartridge Pulse technology is also offered in small central housings starting at 1440 CFM. The Small CP Series provides a high-performing, cost effective solution for your exact dust control needs.



CP – 7500

Additional Features and Benefits:

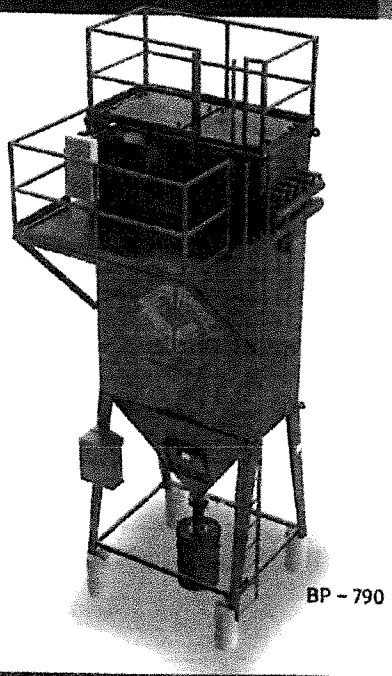
- **Performance:** Magnehelic gauge and laser aligned cleaning system.
- **Compact Design:** Pleated Filter Media.
- **Reliable, Easy to Operate:** Electrical control panel and solid-state adjustable timers with LED display.

Bag Pulse Jet (BP-Series)

Bag Pulse (BP) Central Dust Collectors collect dust from multiple points, such as loaders, mixers and silos especially in elevated temperature applications. Advanced pulse jet technology and a large selection of filtration media creating a high-performing system that eliminates confined space issues.

Dust entering the collector is automatically funneled to a high-level expansion chamber that slows air flow and allows the majority of dust to fall to the hopper without reaching the bags. Clean air then comes up through the bags and out the collector exhaust.

The BP Collector is constructed with blowpipes that clean bag buildup with compressed, clean and dry air at 90-100 psi.



BP – 790

Additional Features and Benefits:

- **Performance:** Magnehelic gauge and laser aligned cleaning system.
- **Greater Temperature Range:** Supports low temperature applications.
- **Reliable, Easy to Operate:** Electrical control panel and solid-state adjustable timers with LED display.

BP Series

	BP-790	BP-1100	BP-1300	BP-1500	BP-1800	BP-2000
Total Filtration Area	790	1100	1256	1507	1810	2072
Number of Bags	50	70	80	96	96	132
Bag Length	120"	120"	120"	120"	144"	120"
Overall Height	23'	24'7"	25'1"	26'2"	28'2"	23'5"
Overall Width	10'5"	10'10"	11'5"	11'7"	11'11"	19'5"
Overall Length	8'6"	12'2"	12'2"	14'	13'11"	10'3"
Blower HP	10	15	15	20	25	25
Air to Cloth Ratio (ACFM/ft2)	6.3	5.91	6.37	5.97	6.08	6.12
# of Compartments	1	1	1	1	1	1
Cleaning Mechanism	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer
Min. Design Efficiency*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%

*At standard test conditions

RA Series

	RA-120	RA-140	RA-170	RA-200	RA-280	RA-340
Total Filtration Area	955	1433	1734	2148	2865	3468
Number of Bags	48	72	72	108	144	144
Bag Length	114"	114"	138"	114"	114"	138"
Overall Height	21'6"	23'8"	25'8"	23'8"	25'4"	27'4"
Overall Width	8'	10'4"	10'4"	10'4"	10'7"	10'7"
Overall Length	9'2"	9'2"	9'2"	11'	17'5"	17'5"
Approx. Weight (lbs.)	5,600	7,200	8,200	9,200	10,500	12,400
Air to Cloth Ratio (ACFM/ft2)	5.2	4.54	4.61	4.66	4.54	4.33
Blower Horsepower (optional)	10	10	15	20	25	25
Blower CFM	5,000	6,500	8,000	10,000	13,000	15,000
# of Compartments	2	2	2	2	4	4
Cleaning Mechanism	Reverse Air	Reverse Air	Reverse Air	Reverse Air	Reverse Air	Reverse Air
Min. Design Efficiency*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%

*At standard test conditions

CP Series

	CP-5250	CP-7500	CP-10000	CP-12500	CP-14000
Total Filtration Area	787	1654	2068	2585	3102
Number of Cartridges	15	16	20	25	30
Type of Media	8" x 39"	8" x 78"	8" x 78"	8" x 78"	8" x 78"
Normal Air Capacity (CFM)	5250	7500	10000	12500	14000
Static Pressure Drop	8" W.C.	8" W.C.	8" W.C.	8" W.C.	8" W.C.
Air to Cloth Ratio (ACFM/ft.2)	6.67	4.53	4.83	4.83	4.51
Blower Horsepower (Optional)	15	20	20	25	30
Blower CFM	5,250	7,500	10,000	12,500	14,000
Min. Design Efficiency	99.99%*	99.99%*	99.99%*	99.99%*	99.99%*
Cleaning Mechanism	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer
*At standard test conditions					

Small CP Series

	CP1440C	CP2150C	CP2880C	CP3240C	CP3600C	CP4320C
Total Filtration Area	210	315	420	472.5	525	630
Number of Cartridges	4	6	8	9	10	12
Normal Air Capacity (CFM)	1440	2160	2880	3240	3600	4320
Static Pressure Drop	8" W.C.	8" W.C.	8" W.C.	8" W.C.	8" W.C.	8" W.C.
Air to Cloth Ratio (ACFM/ft.2)	6.86	6.86	6.86	6.86	6.86	6.86
Blower Horsepower (Optional)	3	5	7.5	7.5	7.5	10
# of Solenoids	2	2	2	3	2	3
Outlet Moisture Content (Ideally)	0	0	0	0	0	0
Min. Design Efficiency	99.99%*	99.99%*	99.99%*	99.99%*	99.99%*	99.99%*
Cleaning Mechanism	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer
Compressed Air Requirement (cfm)	2	2	3	4	4	5
*At standard test conditions						

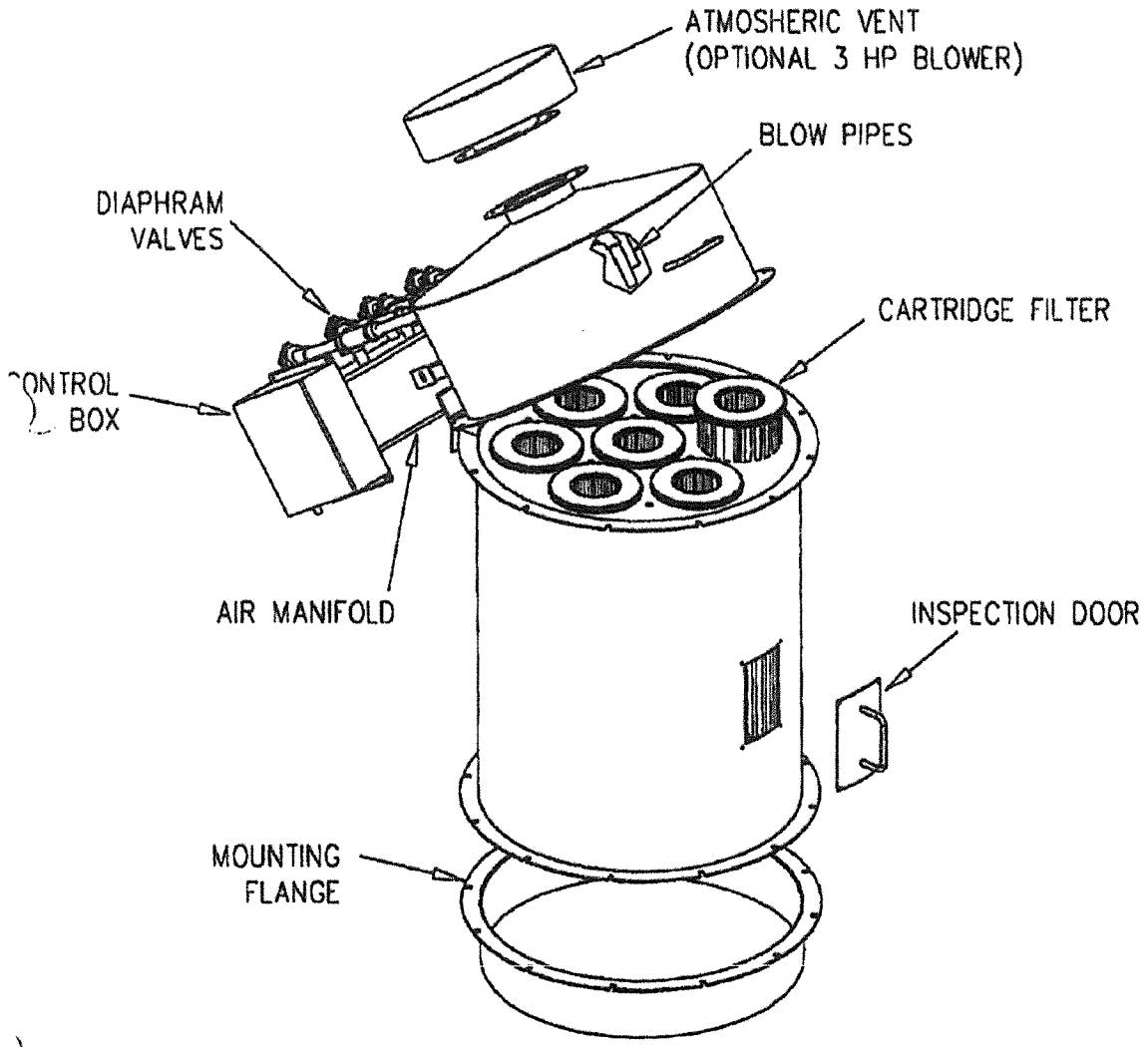
VINCE HAGAN MODEL VH245JP
SILO TOP "JET PULSE" DUST COLLECTOR

SPECIFICATIONS

CLOTH FILTERING AREA.....245 SQ. FT.
NUMBER OF CARTRIDGES.....7
CARTRIDGE DIAMETER.....8.00" O.D.
CARTRIDGE LENGTH.....36"
CLOTH TYPE.....SPUN-BOUND POLYESTER
CLOTH WEIGHT.....8.1 OZ./ SQ.YD.
PERMEABILITY.....28-33 CFM/ SQ. FT. @ 0.5" WATER
TEMPERATURE LIMIT.....200 DEG. F
AIR VOLUME INTAKE.....600 CFM @ 0.5" WATER
EXHAUST OPENING SIZE..... 0.226 SQ. FT.
EFFICIENCY.....99.995 @ .2-2 MICRONS

Unit is complete with silo flange and top access hinged door. External air piping and wiring is not included. Equipment is painted standard HAGAN yellow unleaded machinery enamel. Electrical for 115V/1PH/60HZ power input.

F:\SALES\PRICE\245JP.PRL3/18/98


ATMOSHERIC VENT
(OPTIONAL 3 HP BLOWER)
BLOW PIPES
DIAPHRAM
VALVES
CARTRIDGE FILTER
CONTROL
BOX
AIR MANIFOLD
INSPECTION DOOR
MOUNTING
FLANGE

ATTACHMENT 3
PHOTOS OF APPLICANT'S LACK OF POSTED SIGNS FOR PUBLIC NOTICE

July 19th, 2023

Figure 1- East side of main entrance, photo taken on July 19, 2023, taken by Franklin Ortega.

July 19th, 2023

Figure 2- Main entrance, photo taken on July 19, 2023, taken by Franklin Ortega

July 19th, 2023

Figure 3 - West side entrance taken on July 19, 2023, taken by Franklin Ortega

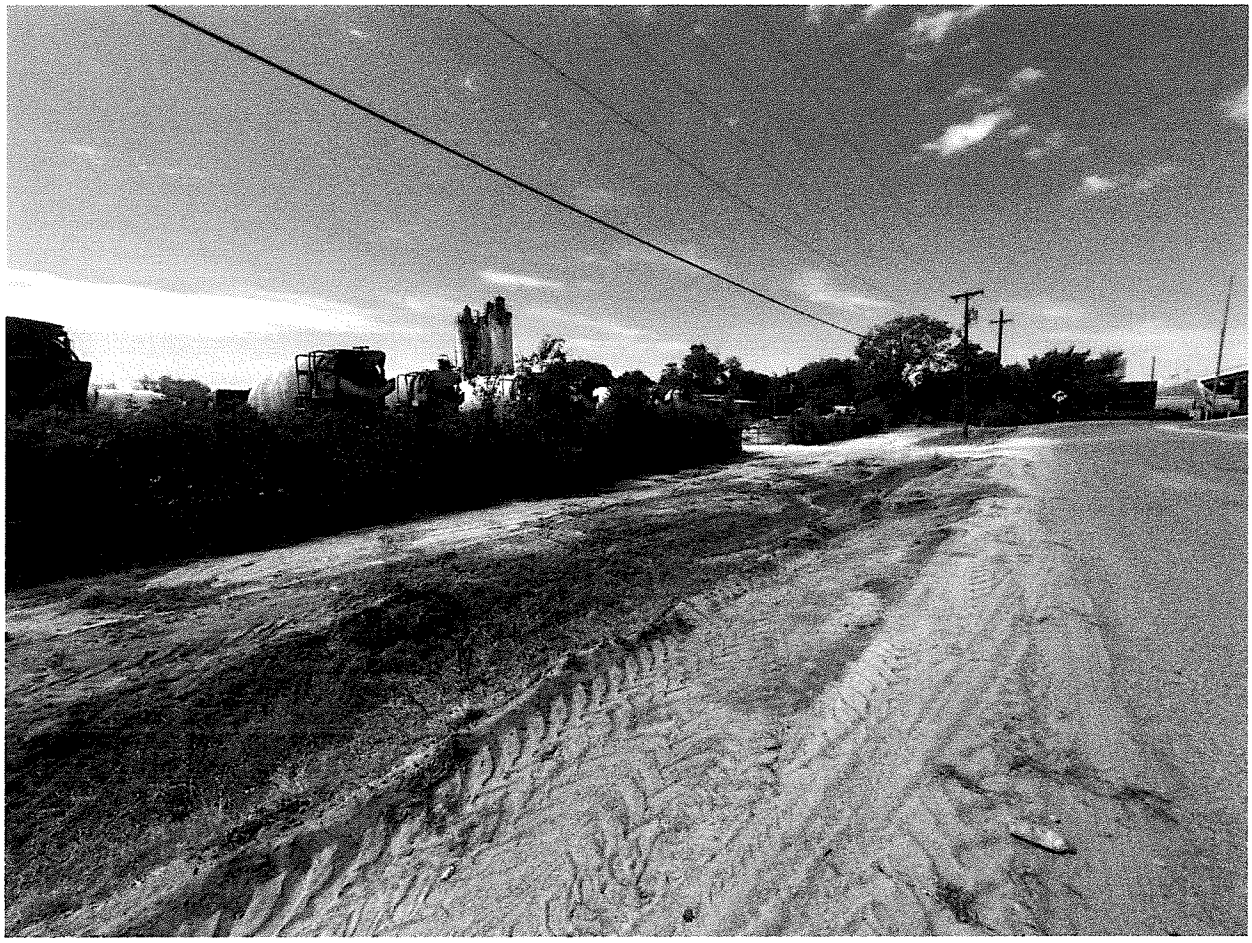


Figure 4- East side of main entrance, photo taken on August 15, 2023 at 11 am, taken by Franklin Ortega.

Figure 5- West side of main entrance, photo taken on August 15, 2023 at 11 am, taken by Franklin Ortega.

ATTACHMENT 4
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 5
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) 239-1462 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: 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

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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

Point Source Emissions Inventory Home Page
Air Emissions and Air Inspection Fees Home Page

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

ATTACHMENT 6
PHOTOS OF SITE AND SITE ACTIVITY ON JUNE 15TH AND JULY 6TH

Figure 2 Concrete mixer moving around the parking lot. Photo taken on June 15, at 11:40 am by Michael Bates.

June 15th, 2023

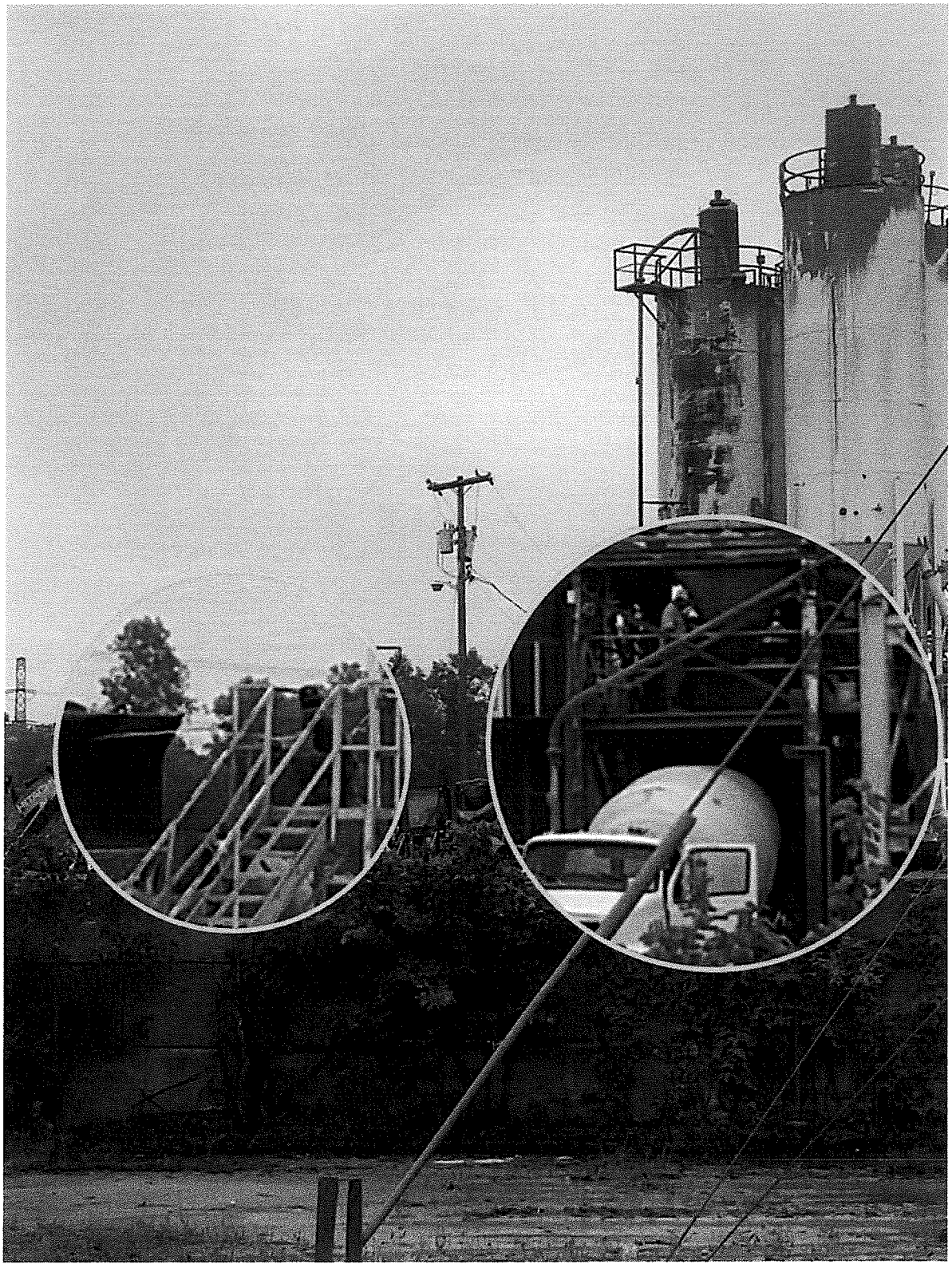

Figure 3 On the left, person is washing off the bucket from the wheel loader. On the right, person is standing at the top looking at silo where concrete dumps. Photo taken on June 15, 2023 at 11:40 am by Michael Bates.

June 15th, 2023

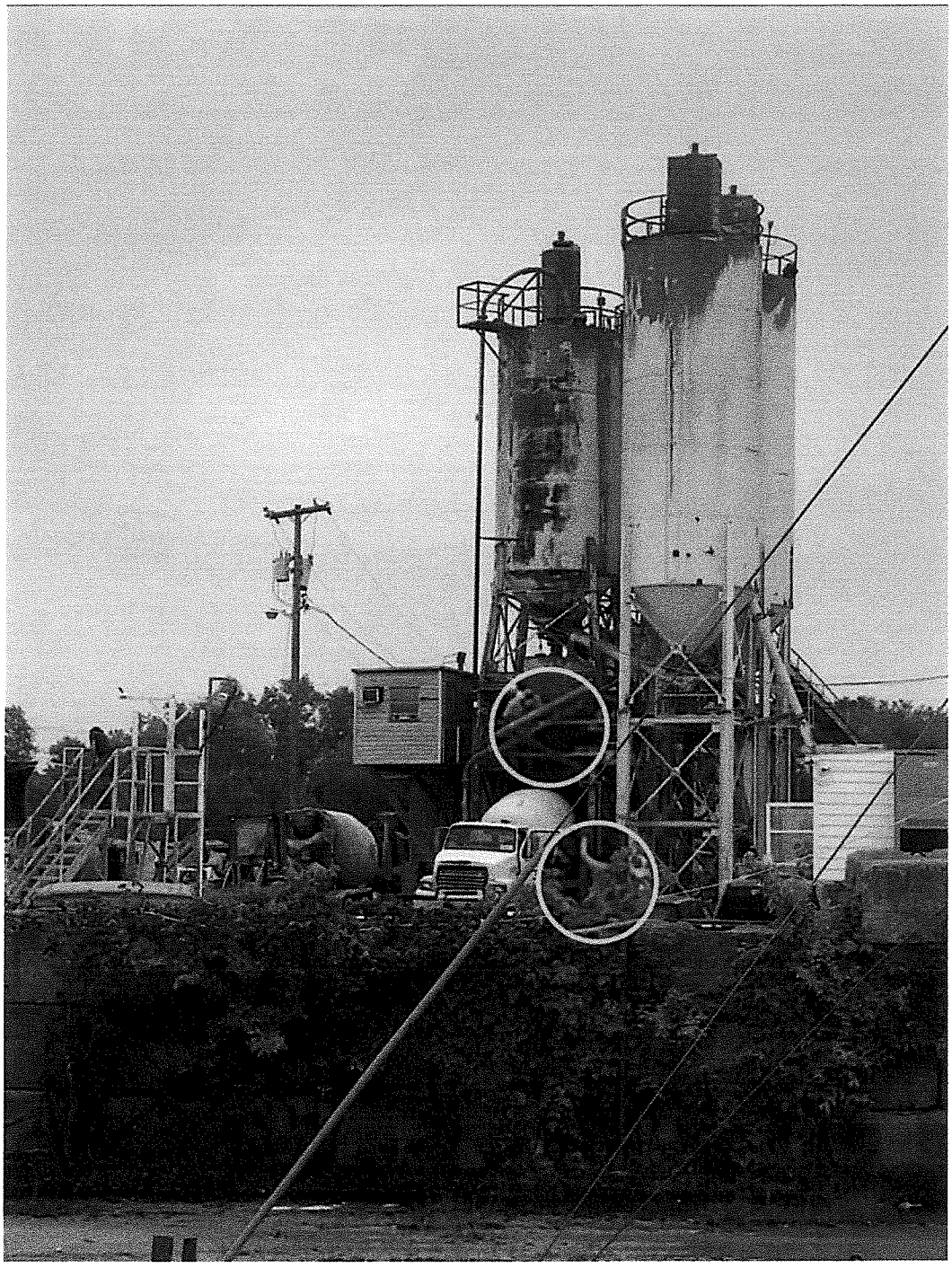

Figure 4 At the top the person is looking down towards the person at the bottom as the concrete mixer is being loaded. Person at bottom has the concrete mixer's door open. Photo taken on June 15, 2023 at 11:40am by Michael Bates.

July 6th, 2023

Figure 5 Driver waits in concrete mixer. Photo taken on July 6, 2023 at 9:30 am, by Michael Bates.

July 6th, 2023

Figure 6 Concrete mixer parked near concrete dispenser. Photo taken on July 6, 2023 at 9:30 am, by Michael Bates

July 6th, 2023

Figure 7 Driver sits waiting in concrete mixer. Photo taken on July 6, 2023 at 9:30 am by Michael Bates.

ATTACHMENT 7
PHOTOS OF SITE AND SITE ACTIVITY ON JULY 12TH AND 14TH, AND AUGUST 15TH, 2023

July 12th, 2023

Figure 8 - Concrete Mixer is under drop point. Photo taken on July 12, 2023 at 7:00 am by Franklin Ortega

Figure 9 - Concrete mixer is under drop point, and second concrete mixer waiting its turn to go under drop point. Photo taken on July 12, 2023 at 7:00 am by Franklin Ortega

July 12th, 2023

Figure 10 - Cement mixer pulls as another awaits its turn to receive load. Photo taken on July 12, 2023 at 7:00 am by Franklin Ortega.

Figure 11 - Wheel loader is loading gravel to move to the back. Photo taken July 14, 2023 at 8:30 am, by Franklin Ortega

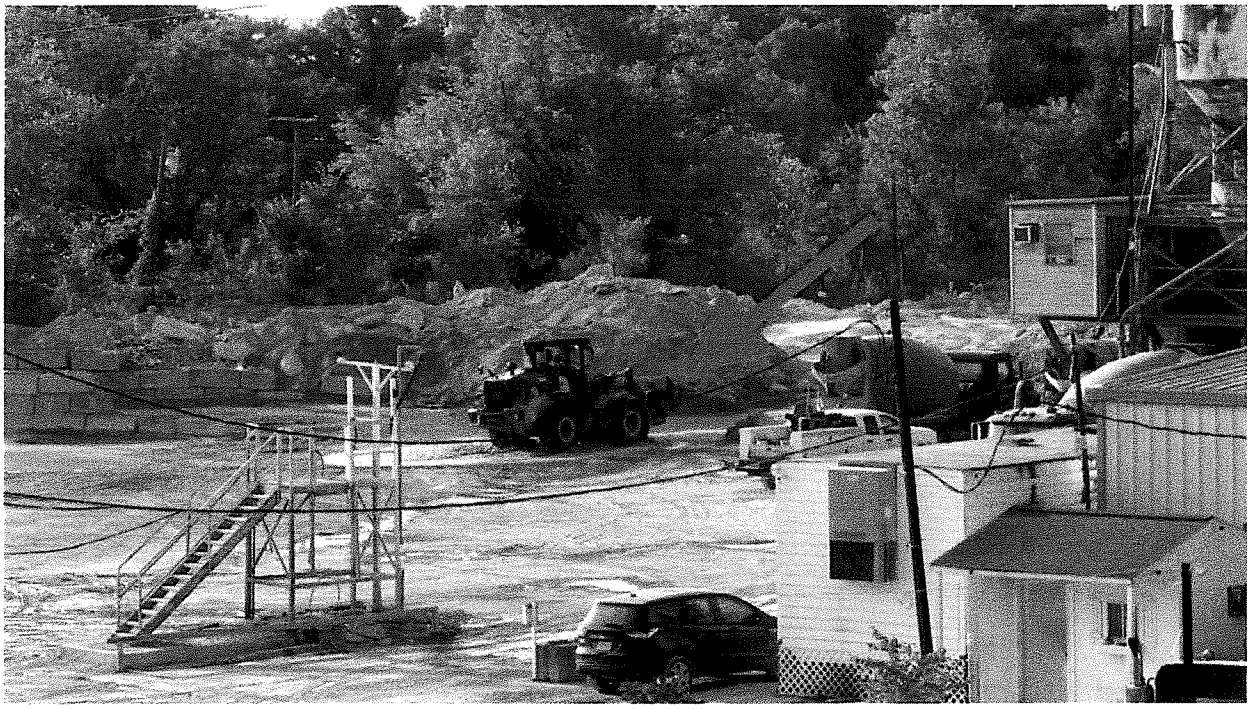

Figure 12 - Wheel loader is moving gravel to the back. Photo taken July 14, 2023 at 8:30 am

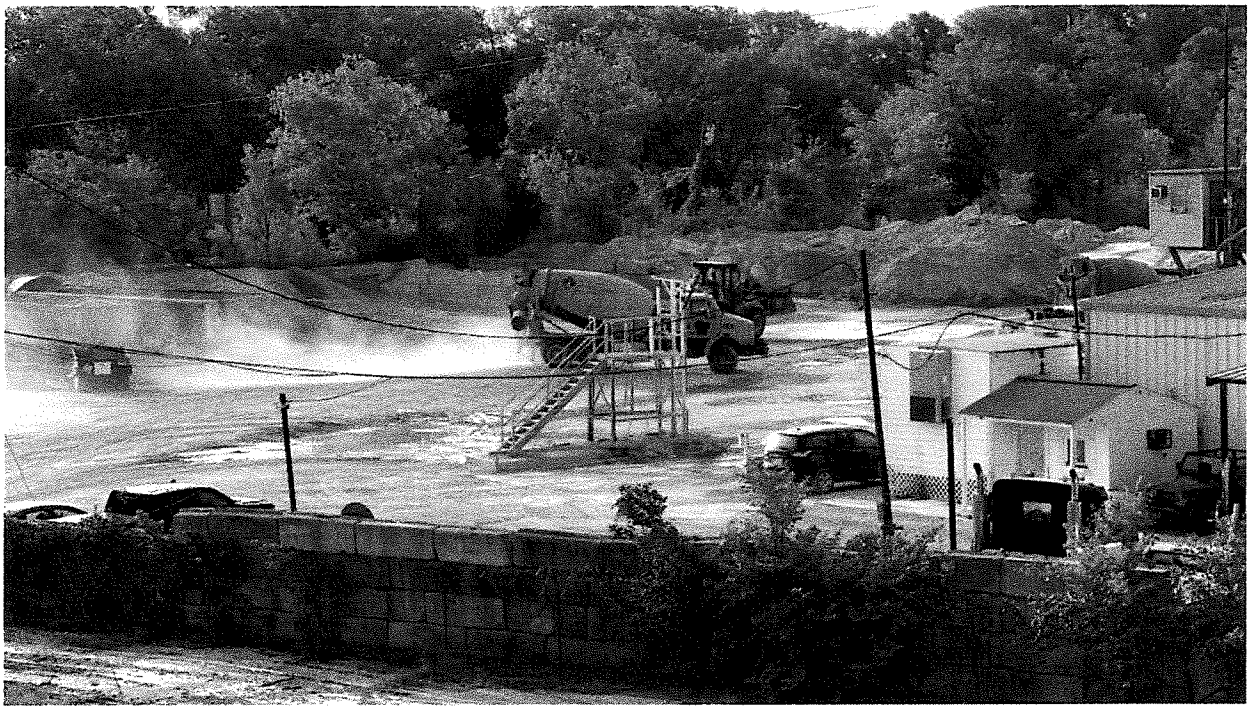

Figure 13 - Cement Mix Loader drives in to unpaved area, and is getting ready to back in, to load mixer. Photo taken on July 14, 2023 at 8:30 am by Franklin Ortega.

Figure 14- Wide field view of fence on the left side of main entrance. Photo taken on August 15, 2023 at 11 am by Franklin Ortega

August 15th, 2023

Figure 15- Height of chain link fence is under 77 inches. Photo taken on August 15, 2023 at 11 am by Franklin Ortega.

August 15th, 2023

Figure 16- Height measured 77 inches. Chain link fence is under 77 inches. Photo taken on August 15, 2023 at 11 am by Franklin Ortega.

Figure 17- Wide field view of fence on right side of the main entrance sign. Height measured at 87 inches.. Chain link fence is at 76 inches. Photo taken on August 15, 2023 at 11 am by Franklin Ortega.

August 15th, 2023

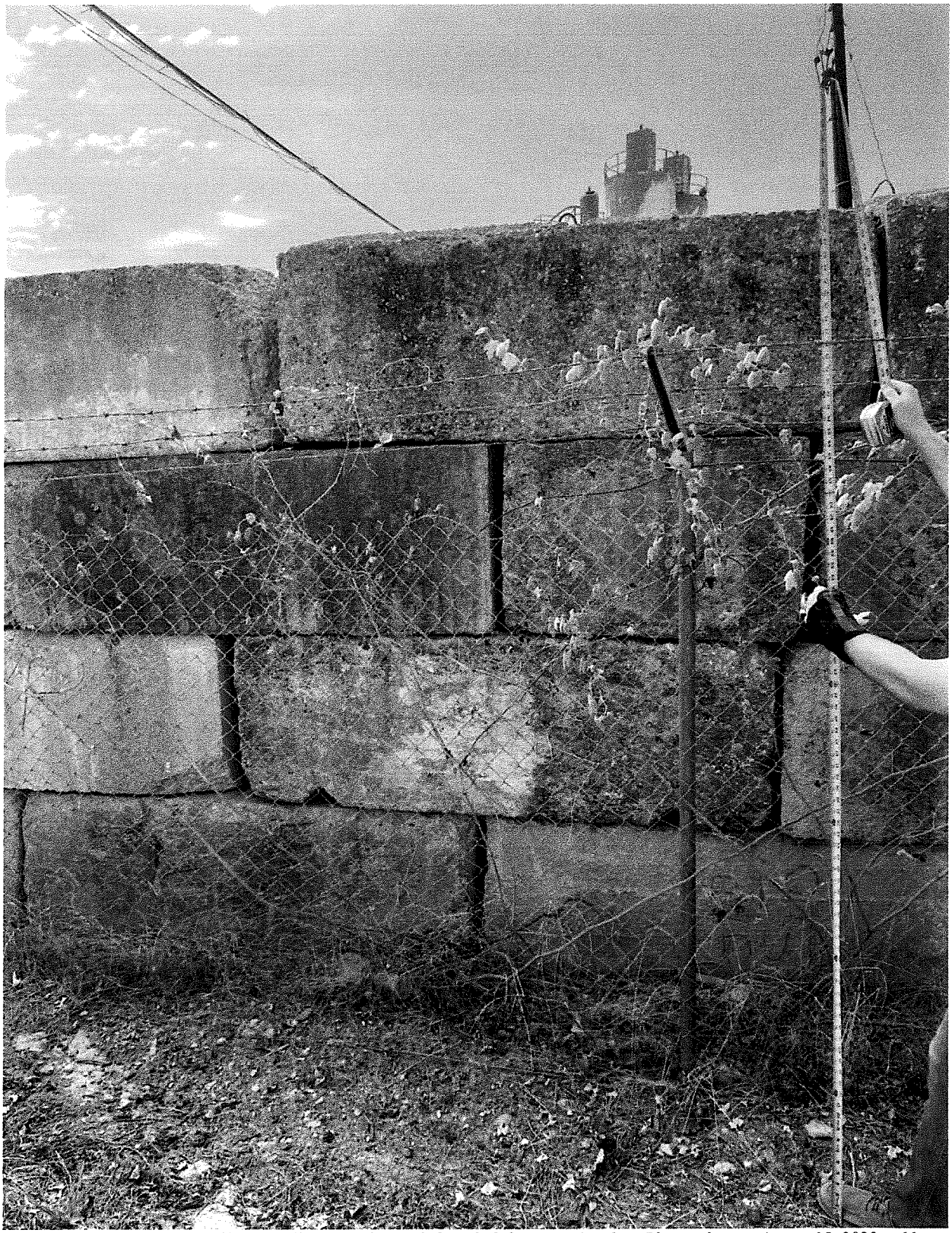

Figure 18-Height of block wall is 87 inches and chain link fence is 76 inches. Photo taken on August 15, 2023 at 11 am by Franklin Ortega.

August 15th, 2023

Figure 19- Height measured 87 inches. Chain link fence is 76 inches. Photo taken on August 15, 2023 at 11 am by Franklin Ortega.

August 15th, 2023

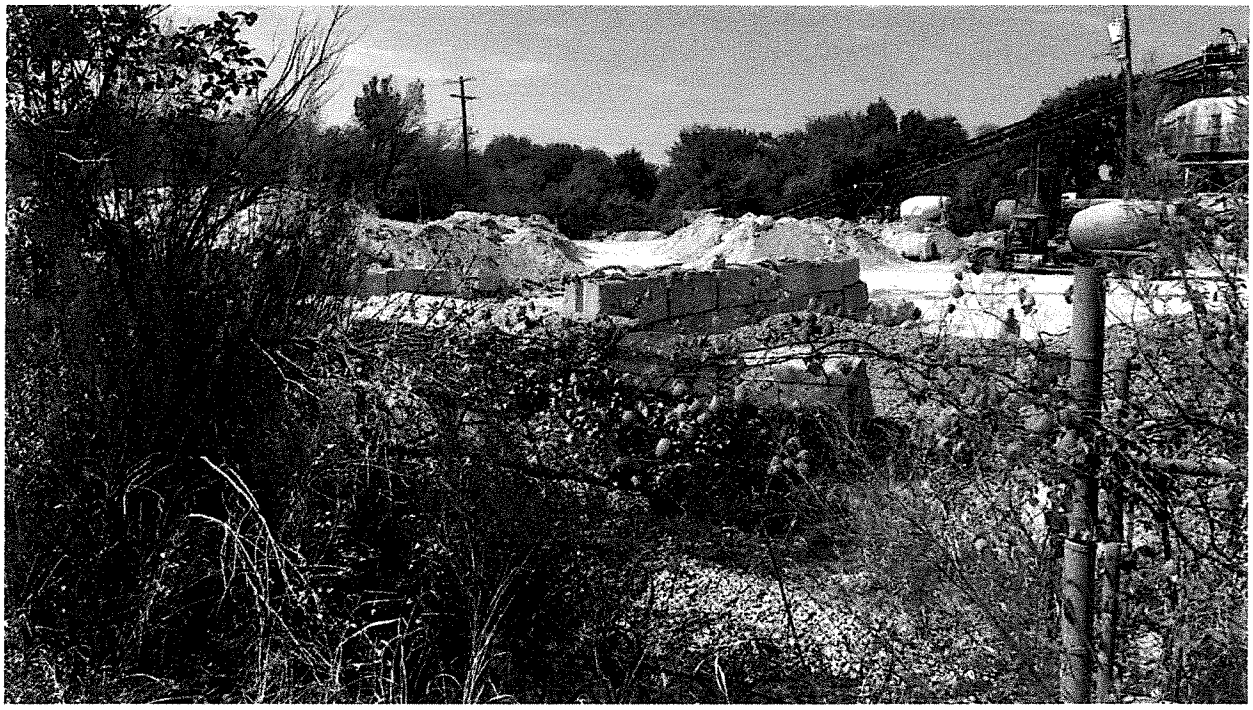

Figure 20- Aggregate barriers not fully contained. Photo taken on August 15, 2023 at 11 am, by Franklin Ortega.

August 15th, 2023

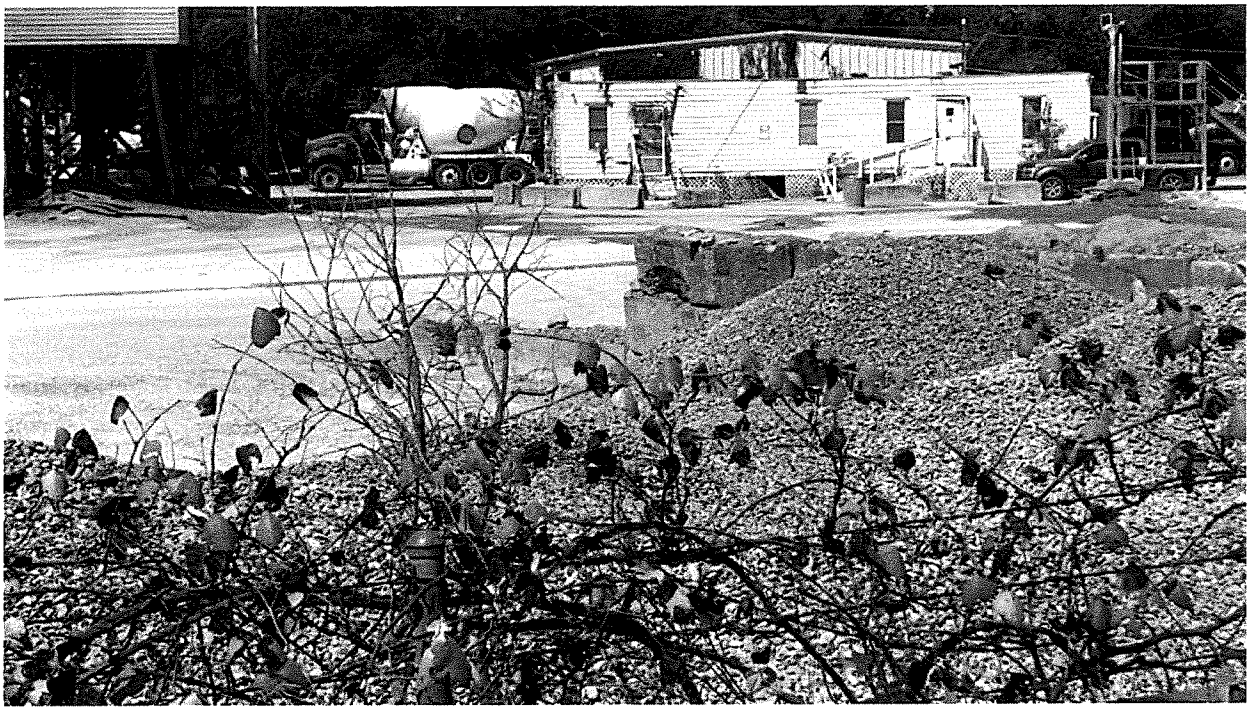

Figure 21- Aggregates sit above barriers. Photo taken on August 15, 2023 at 11 am, by Franklin Ortega.

ATTACHMENT 8
City of Dallas Notice of Enforcement for Compliance Investigation

City of Dallas

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

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

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

PWW / JHV

Enclosure: Summary of Investigation Findings

Summary of Investigation Findings

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

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. 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. #	1846525	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 NOVs?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: Inclustion of Resolved or Verbal Violations u

Viol Num	Requirements Cited / Violation Description	Violation Dates Start	End	Investigation/ File Review	Date of... NOV	NOE	CAT
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 116.110(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 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.						

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	Joseph Vu	E-Mail	Joseph.Vu@tceq.texas.gov
	Phone	214-670-4059		

	Name	Paul White	Date	10/12/2022
	Signature	Paul White	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

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. 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.

AIR CP_102390051_CP_20220912_Investigation_1846525_

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
Regulated Entity Number: RN102390051

Investigation # 1846525
Investigator: JOSEPH VU
Conducted: 09/12/2022 -- 09/12/2022
Program(s): AIR NEW SOURCE PERMITS
Investigation Type: Compliance Investigation
Additional ID(s): 39039

Incident Numbers
Site Classification MINOR SOURCE
NAIC Code: 32732
NAIC Code: 327320
SIC Code: 3273
SIC Code: 3271
Location:

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

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.

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. Albelsaisi 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

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)

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

Attachments: (in order of final report submittal)

X Enforcement Action Request (EAR)

X Letter to Facility (specify type) : NOE Letter

Investigation Report

___Sample Analysis Results

___Manifests

___Notice of Registration

___Maps, Plans, Sketches

___Photographs

___Correspondence from the facility

X 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

Distance
83 ft
Start new
Google Earth
50 m
Camera: 513 m 32°42'12"N 96°44'34"W 123 m

Distance
251 ft
Start new
Google Earth
50 m
Camera: 513 m 32°42'12"N 96°44'34"W 123 m

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	**Date Contacted**	09/15/2022
Title	Owner			**FAX #/Email address**	wconcretes@gmail.com	**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?	☐ **Yes**	☒ **No**
Did the investigator advise the regulated entity representative that continued operation is not authorized?	☐ **Yes**	☒ **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

Mr. Joseph Vu	9/15/2022	Mr. Eyad (Ed) Albelbaisi (emailed)	09/15/2022
Investigator Name (Signed & Printed) Joseph Vu	**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.

From: Vu, Joseph
To: [redacted]
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 Date: 6/13/2023 1:29:06 PM

Redaction Log

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 9
TCEQ 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.

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

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/eo

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

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

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.

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) Title
Authorized Representative of
Pro-Crete Ready Mix, LLC

☐ *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**

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
Docket No. 2021-1518-WQ-E
Media Program(s) Water Quality
Multi-Media
No. of Violations 3
Order Type 1660
Government/Non-Profit No
Enf. Coordinator Ellen Ojeda
EC's Team Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 **Maximum** $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) ***Subtotal 1*** **$12,500**

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**

Notes: No adjustment for Compliance History.

Culpability No **0.0%** Enhancement ***Subtotal 4*** **$0**

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 $396
Estimated Cost of Compliance $2,000
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 ***Final Subtotal*** **$11,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$11,250**

STATUTORY LIMIT ADJUSTMENT ***Final Assessed Penalty*** **$11,250**

DEFERRAL **20.0%** Reduction ***Adjustment*** **-$2,250**

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 (*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)

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 **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 1

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

	Release	Harm: Major	Moderate	Minor
OR	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: 3 — 92 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $7,500

Three single events are recommended, one for each missed report.

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 $7,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount $396 **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

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

		Harm		
	Release	Major	Moderate	Minor
OR	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: 1 — 237 Number of violation days

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

	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 $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
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)*

Case ID No. 61597 *PCW Revision February 11, 2021*

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

	Release	Harm: Major	Moderate	Minor
OR	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: 1 — 237 Number of violation days

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

	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 $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. 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	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

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
STORMWATER PERMIT TXR1549KU
AIR EMISSIONS INVENTORY ACCOUNT NUMBER DB0415O
AIR NEW SOURCE PERMITS ACCOUNT NUMBER DB0415O
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 1239
WASTEWATER PERMIT TXG113001

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

ATTACHMENT 10
TCEQ PERMIT BY RULE REGISTRATION WITHDRAWAL

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 27, 2022

Mr. Eyad Albelbaisi
Operation Manager
Texas Star Ready Mix, LLC
4500 Great Trinity Forest Way
Dallas, TX 75216

Re: Permits by Rule Registration Number: **39039**
TEXAS STAR READY MIX
Dallas, Dallas County
Regulated Entity Number: RN102390051
Customer Reference Number: CN605903574

Dear Eyad Albelbaisi:

As you requested in our conversation on December 22, 2022, you are withdrawing the active Permits by Rule (PBR) registration received December 13, 2022. We understand that you do not wish to proceed with this registration. The fee used for this project can be applied to a future submittal received within six months of the date of this letter by referencing the Receipt Number(s) 605383.

All records regarding this application will be retained in case you wish to reactivate the project in the future; however, any future reactivation will require that you reregister under the requirements of Title 30 Texas Administrative Code Chapter 106 and the PBR(s) in effect at that time.

Thank you for informing us of the changed status of this project.

This action is taken under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

Sincerely,
Kristyn Campbell

Kristyn Campbell, Manager
Rule Registrations Section
Air Permits Division
Texas Commission on Environmental Quality

[Project Number: 351404]

ATTACHMENT 11
TCEQ PERMIT BY RULE REGISTRATION TECHNICAL REVIEW

Permit by Rule (PBR) Registration
Technical Review
WITHDRAWAL

Company:	Texas Star Ready Mix, LLC	**Registration No.:**	39039
Nearest City:	Dallas	**Project No.:**	351404
County:	Dallas	**Project Type:**	Revision
Project Reviewer:	Joshua Wheatley	**Regulated Entity No.:**	RN102390051
Unit Name:	Redi-mix Dallas Loop 12	**Customer Reference No.:**	CN605903574
PBR No(s).:	106.141, 106.144	**Project Received Date:**	December 13, 2022
Physical Location:	4500 Great Trinity Forest Way		

Project Overview / Process Description
Texas star Ready Mix LLC is a small business batch plant owner/operator. Texas Star Ready Mix LLC Operates the facility at 4500 Great Trinity Forest way Dallas, TX 75216. This Batch plant facility existed since 1970s on over 5 Acres land and still operate in the same site, same layout but at reduced capacity. Upon site visit from the region, it was determined that distance and operations do not meet the qualifications for PBR 106.144 at this time. Company has requested withdrawal of the application while they evaluate operations and appropriate authorization.

Permit by Rule Requirements - 30 TAC Chapter 106

General Requirements

Registration Fee Reference No.:	**Application fee: 605383 / 582EA000516803**
Is this registration certified?	**Yes**
Is planned MSS included in the registration?	**No**
Are there affected NSR or Title V authorizations for the project?	**No**

Emission Summary

EPN / Emission Source	VOC		NOx		CO		PM_{10}		$PM_{2.5}$		SO_2		Other	
	lb/hr	tpy	lb/hr	tpy	lb/hr	tpy	lb/hr	tpy	lb/hr	tpy	lb/hr	tpy	lb/hr	tpy
Project is being withdrawn. No emissions authorized.														
TOTAL EMISSIONS (TPY):	--	--	--	--	--	--	--	--	--	--	--	--	--	--
MAXIMUM OPERATING SCHEDULE:												**Hours/Year**		8,760

Joshua Wheatley — 12/22/2023
Mr. Joshua Wheatley — Date
Permit Reviewer
Rule Registration Section

Britany Gilman — 12/22/2023
Ms. Britany Gilman — Date
Peer Reviewer
Rule Registration Section

ATTACHMENT 12
CITY OF DALLAS – CARLOS EVANS OEQ EMAIL

Michael Bates

From:	Kathryn Guerra Bazan <kathryn.bazan@gmail.com>
Sent:	Wednesday, August 16, 2023 12:28 PM
To:	Michael Bates
Subject:	Fwd: Fw: Please Review: Draft Flyers for Texas Star
Attachments:	EVC Flyers - Texas Star Ready Mix.pdf

---------- Forwarded message ---------
From: **Bazan, Kathryn** <kathryn.bazan@dallas.gov>
Date: Wed, Aug 16, 2023 at 12:27 PM
Subject: Fw: Please Review: Draft Flyers for Texas Star
To: Kathryn Bazan <kathryn.bazan@gmail.com>

Kathryn Bazan
Chairwoman
City of Dallas | Environmental Commission
m. 214.709.1309
e. kathryn.bazan@dallas.gov
w. dallasclimateaction.com

From: Bazan, Kathryn <kathryn.bazan@dallas.gov>
Sent: Friday, August 11, 2023 4:39 PM
To: Evans, Carlos <carlos.evans@dallas.gov>; Diehl, Erin <erin.diehl@dallas.gov>
Subject: Re: Please Review: Draft Flyers for Texas Star

Changed reconnaissance to site visit for simplicity and updated - it's good to go Erin!

Kindly,

Kathryn Bazan
Chairwoman
City of Dallas | Environmental Commission
m. 214.709.1309
e. kathryn.bazan@dallas.gov
w. dallasclimateaction.com

From: Evans, Carlos <carlos.evans@dallas.gov>
Sent: Friday, August 11, 2023 4:23 PM
To: Bazan, Kathryn <kathryn.bazan@dallas.gov>; Diehl, Erin <erin.diehl@dallas.gov>
Subject: RE: Please Review: Draft Flyers for Texas Star

Under Key Issues, this is how I would revise the first bullet.

1

"Texas Star Ready Mix was found by the City of Dallas to be unlawfully operating without the proper permit in September 2022, and the City conducted a site reconnaissance on August 9, 2023 and found that the facility was still operating without the proper permit."

Carlos Evans
Director
City of Dallas | DallasCityNews.net
Environmental Quality &
Sustainability

1500 Marilla St., Room 7AN

Dallas, TX 75201

C: 469-617-1925
carlos.evans@dallas.gov

From: Bazan, Kathryn <kathryn.bazan@dallas.gov>
Sent: Friday, August 11, 2023 2:29 PM
To: Diehl, Erin <erin.diehl@dallas.gov>; Evans, Carlos <carlos.evans@dallas.gov>
Subject: Please Review: Draft Flyers for Texas Star

Hi Erin & Carlos -

Can you please review the attached flyers and let me know if you see any necessary edits before sharing?

Kindly,

Kathryn Bazan

Chairwoman

City of Dallas | Environmental Commission

m. 214.709.1309

e. kathryn.bazan@dallas.gov

w. dallasclimateaction.com

ATTACHMENT 13
AFFIDAVIT

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

– FRANKLIN ORTEGA

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 Jonnson 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

LYNELLE WELLS
Notary Public, State of Texas
Notary ID#: 13145541-4
My Commission Expires 02-16-2026

ATTACHMENT 14
FLASH DRIVE SUBMITTED WITH JFTA'S SUPPLAMENTAL COMMENTS ON AUGUST 17, 2023

Guidance: Organization of Flash Drive Attachment

Folder Labeled: Air Permit 171636 - JFTA Supplemental Public Comments - Attachment 14

Each folder is organized by date of the videos and photos taken at Applicant, Texas Star Ready Mix's site. Each picture and video organized in the folder by date is labeled numerically for reference.

These dates include June 15, 2023, July 6, 2023, July 12, 2023, July 14, 2023, and August 15, 2023.

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.

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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 Jonnson 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.

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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

LYNELLE WELLS
Notary Public, State of Texas
Notary ID#: 13145541-4
My Commission Expires 02-16-2026

Michael Bates submitted a USB containing videos and pictures at the August 17, 2023, Public Meeting.

To view the videos and pictures submitted:

Please contact the
Office of the Chief Clerk at:
(512) 239-3300 or chiefclk@tceq.texas.gov

or

Please visit the
Office of the Chief Clerk at:
12100 Park 35 Circle,
Building F, Suite 1101
Austin, Texas 78753

5

TCEQ Registration Form

August 17, 2023

Texas Star Ready Mix, LLC
Proposed Registration No. 171636

PLEASE PRINT

Name: Wendi Hammond

Mailing Address: 400 S. Zang Blvd., Ste. 1420, Dallas, TX 75208

Physical Address (if different): _____

City/State: Dallas, TX **Zip:** 75208

This information is subject to public disclosure under the Texas Public Information Act

Email: hammondw@lanwt.org

Phone Number: (469) 917-5970 ext. 8903

- Are you here today representing a municipality, legislator, agency, or group? ☑ Yes ☐ No

  If yes, which one? Joppa Freedmans Town Association

☑ **Please add me to the mailing list.**

☑ **I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.**

☑ **I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.**

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Wendi Hammond submitted a MicroSD Card containing a recording of the Public Meeting at the August 17, 2023, Public Meeting.

To hear a copy of recording submitted:

Please contact the
Office of the Chief Clerk at:
(512) 239-3300 or chiefclk@tceq.texas.gov

or

Please visit the
Office of the Chief Clerk at:
12100 Park 35 Circle,
Building F, Suite 1101
Austin, Texas 78753

RECEIVED
AUG 17 2023
AT PUBLIC MEETING

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:47 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA4.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:47 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

COMMENTS: Entire document is too large and will be uploaded in separate parts. The complete set of uploads will include the following separate documents: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf 2023-

0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf

Legal Aid of NorthWest Texas

COMMUNITY REVITALIZATION PROJECT
400 S. Zang Blvd., Ste. 1420, Dallas, Texas 75208
469-458-9009
CRP offices in Amarillo, Dallas, Fort Worth, and Lubbock

April 10, 2023

Via Electronic submission: www14.tceq.texas.gov/epic/eComment/
Ms. Laurie Gharis
Office of the Chief Clerk
Texas Commission on Environmental Quality
MC-105
P.O. Box 13087
Austin, TX 78711-3087

Re: Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

Dear Ms. Gharis:

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:

- request for a public meeting,
- request for a contested case hearing, and
- public comments.

JFTA opposes the application of Texas Star Ready Mix (Applicant) for the issuance of Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636. The Commission should deny Applicant's registration for the reasons set forth below.

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

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

I. Requests for Public Meeting

Joppa Freedman's Town Association (JFTA) requests a public meeting. Substantial public interest in this proposed facility exists, and therefore, a public meeting is necessary.

JFTA is a small nonprofit membership organization dedicated to enhancing the livability of its members and others located in the Joppa area. Located in South Dallas and directly north of Applicant's proposed concrete batch plant (CBP), 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. The neighborhood is landlocked, with only two roads leading in and out from Interstate 45. Joppa is bordered to the West by the railroad, Highway 310 and I-45, to the north by industry, to the east by the Trinity River, and to the South by Joppa Preserve and McCommas Bluff Landfill.

JFTA has received feedback from its members and the community-at-large about concerns with Applicant's proposed concrete batch plant (CBP). In response to these concerns, JFTA has collected for submittal into the record 13 individual community member requests for a public meeting. (See Attachment 1). Considering the small and enclosed nature of the community and the public comments provided below, JFTA establishes a substantial public interest that warrants a public meeting.

II. Request for a Contested Case Hearing

Joppa Freedman's Town Association (JFTA) requests a contested case hearing on behalf of its members.

The interests the organization seeks to protect are germane to the organization's purpose. As previously stated, JFTA is a small nonprofit membership organization dedicated to enhancing the livability of its members and others located in the Joppa area.

Located in South Dallas and directly north of Applicant's proposed concrete batch plant (CBP), Joppa is an 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. The neighborhood is landlocked, with only two roads leading in and out from Interstate 45. Joppa is bordered to the West by the railroad, Highway 310 and I-45, to the north by industry, to the east by the Trinity River, and to the South by Joppa Preserve and McCommas Bluff Landfill.

JFTA's request and participation in a contested case hearing qualifies as an organizational interest that is germane to the organization's purpose. One of JFTA's organizational purposes includes "performing all activities and engaging in any lawful activity" to enhance the livability of its membership and others located in the Joppa area. This includes, but is not limited to, protecting its membership from the adverse effects of industrial pollution sources impacting the area.

Additionally, JFTA's members may be adversely affected by the proposed concrete batch plant in a way not common to the general public because JFT's members live, work and/or recreate in the immediate area around and downwind of Applicant's proposed CBP. JFTA's members will be adversely impacted by an increase of air pollutants from Applicant's proposed emissions which include, but may not be limited to: particulate matter (PM), particulate matter with diameters of 10 microns or less (PM_{10}), and particulate matter of 2.5 microns of 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.[1]

Furthermore, 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 Applicant's proposed CBP, 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. These air pollution sources also impact JFTA members' enjoyment and use of their property and the local recreational areas like the Joppa Preserve trails.

Applicant's proposed CBP will only increase the concentration of air pollutants within this small area, and therefore, would will only further endanger the health and safety of JFTA's members and other residents of Joppa. This increase in air pollution emissions would also impact JFTA members' enjoyment and use of their property as well as the local recreational areas like the Joppa Preserve trails.

Furthermore, neither the claim asserted nor the relief requested requires the participation of the organization's individual members in the case; and one or more member(s) would otherwise have standing to request a hearing in their own right.

For example:

- Temeckia Derrough and her family are members of JFTA. The family resides at 7931 Kiska St., approximately .7 miles from Applicant's proposed CBP. The family is concerned that their health may be adversely affected. This includes, but is not limited to, concerns about the adverse effects from the proposed CBP's pollutants. The family is also concerned that their aesthetic enjoyment of their property and surrounding recreation areas will be adversely affected. This includes adverse effects to the family's general enjoyment of the outdoors, such as running/walking/hiking around the neighborhood and on the park trail located within 440 yards from the proposed CBP.

[1] 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.

III. Relevant and Material Disputed Issues for a Contested Case Hearing Raised During the Public Comment Period

The following relevant and material disputed issues should be referred to the State Office of Administrative Hearings for a contested case hearing:

- Whether the public notice failed to comply with applicable federal and state laws and regulations.
- Whether the application and proposed standard permit registration fail to protect the public health, welfare, property and the environment.
- Whether the emissions from the proposed facility will have adverse impacts on the public's health, welfare, property and the environment.
- Whether the application fails to include the requisite information necessary to determine compliance with applicable federal and state air control statutes, regulations and policies.
- Whether Executive Director's preliminary decision fails to include the requisite information necessary to determine compliance with applicable federal and state air control statutes, regulations and policies.
- Whether the standard permit fails to include the requisite information necessary to determine compliance with applicable federal and state air control statutes, regulations and policies.
- Whether the proposed emissions are reasonable in light of the degree of injury and interference with the public's health and physical property.
- Whether the proposed emissions are reasonable in light of the source's lack of social and economic value.
- Whether the proposed emissions are reasonable in light of the non-priority of location of the area involved.
- Whether the proposed emissions are reasonable in light of the technical practicability and economic reasonableness of further reducing or eliminating the proposed emissions.
- Whether the proposed activity will cause nuisance conditions in violation of 30 TAC § 101.4
- Whether the permit conditions are adequate to protect against nuisance conditions
- Whether the proposed activity will create visible emissions at the property line

- Whether the facility fails to provide paved roads or maintenance at entry and exit road
- Whether the permit conditions are adequate to protect against visible emissions at the property line
- Whether the proposed activity will cause or contribute to any exceedance of NAAQS for PM_{10} and $PM_{2.5}$
- Whether the permit conditions are adequate to protect against causing or contributing to exceedances of NAAQS for PM_{10} and $PM_{2.5}$
- Whether the proposed activity will utilize Best Available Control Technology (BACT)
- Whether the modeling conducted to support the application, including the proposed activity air dispersion modeling, is inadequate or flawed
- Whether there are insufficient air monitoring requirements in the draft permit
- Whether the proposed activity will threaten the health and safety of nearby residents
- Whether the draft permit fails to account for other potential air contaminants resulting from the proposed activity

Examples of the deficiencies and problems with Applicant's proposed concrete batch plant is provided below in the Public Comment section. These examples are in addition to, and in no way should be construed to limit in any way the above identified relevant and material disputed issues to be addressed at a public meeting and contested case hearing.

Ultimately, the Commission should deny Applicant's application to operate a proposed concrete batch plant under a standard permit registration.

IV. Public Comments

This section expands upon the previously discussed "relevant and material disputed issues for a contested case hearing raised during the public comment period" by providing additional details and examples.

These examples are in addition to, and in no way should be construed to limit in any way the previously identified "relevant and material disputed issues" that should be addressed at a public meeting, in the Executive Director's Response to Comments, and at the contested case hearing.

A. Applicant Failed to Provide Proper Public Notice

Applicant failed to comply with all public notice requirements under federal and state statutes, regulations and policies. Examples include, but are not limited to:

- Applicant failed to comply with TCEQ's notice, which states that the "application, executive director's preliminary decision and the standard permit will be available for viewing and copying at the TCEQ central office, the TCEQ Dallas-Fort Worth regional office, and at the Erik Jonsson Central Library ... beginning the first day of publication of this notice."
    - Applicant did not make complete copies of any of these documents available at the Erik Jonsson Central Library beginning on the first day of the notice or as of April 4, 2023.
    - The only document available at the Erik Johnson Library was a TCEQ checklist and incomplete parts of the permit application and the document was not on the public notice desk in the library.[2]

- Applicant failed to provide sufficient notice in their signage posted outside the site.[3]
    - Applicant placed the signs further than ten feet from the property line and in a ditch making the signs not fully visible from the road.[4]

- Applicant incorrectly certified they provided the public proper notice.[5]

To date, public notice regarding this application remain inadequate and/or incorrect. Therefore, TCEQ must deny Applicant's request, and/or in the alternative, TCEQ must require Applicant to fully comply with all public notice requirements and republish notices thereby providing the public its lawful opportunity to review a complete application and provide meaningful and informed comments.

B. Applicant Failed to Establish Compliance with All Applicable Federal and State Statutes, Regulations and Policies.

The application is incomplete and inconsistent, and therefore, fails to comply with all applicable federal and state statutes, regulations and policies. Examples include, but are not limited to:

- Failure to include the 10400 Core Data form in their application although they stated they provided the document.[6]

---

[2] See Attachment 2 (photos) and Attachment 3 - scanned copy of library document.
[3] 30 Texas Administrative Code 39.604(c)
[4] *See* Attachment 4
[5] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 10, Section 4A
[6] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 8, Section 4A

- Failure to include correspondence or documentation of the current investigation, notice of violation or enforcement action related to the site. Additional information concerning this issue includes, but is not limited to the following:
    - Applicant filed this application in response to, or related to an agency investigation, notice of violation, or enforcement action.[7] Texas Star Ready Mix previously (and may still be operating) under a 106.144 Batch Mixer Permit By Rule ("PBR") registration at this location, even though Applicant's operations do not meet the requirements of this PBR. In a December 2022 PBR revision request, Applicant withdrew its request for this permit revision because of a site visit where it was determined that Applicant does not meet the standards for this PBR.[8]
    - Although the application states that it includes attached copies of correspondence and the RN associated to the action,[9] nothing was provided with the application.
    - The public has no access to the documents or any substantial information concerning this matter because the TCEQ permit records online database does not allow access to any documents related to the investigation.[10]
    - On March 30, 2023, the TCEQ engineer reviewing the permit, Alex Herra, stated that he had not received enforcement action information from the applicant and did not know that this was required from the applicant. Mr. Herra also stated that he could not submit any documentation of the enforcement/compliance review and we would have to submit an open records request.
    - On April 4, 2023, LANWT submitted an open records request for documentation of this compliance or enforcement review; however, TCEQ responded that there were no responsive documents.[11]
    - LANWT also contacted TCEQ enforcement on March 30 and April 3, 2023 and left messages each time. TCEQ has not returned these calls.
    - On April 5, 2023, Alexander Herra also stated that he does not have a compliance summary or rating from the site. He also indicated that he does not have access to the compliance information and could contact TCEQ Compliance Division, but has not done so yet.

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

[8] See, Texas Star Ready Mix Air NSR 39039 - Permit by Rule Registration, Technical Review, Withdrawal "Texas star Ready Mix LLC is a small business batch plant owner/operator. Texas Star Ready Mix LLC Operates the facility at 4500 Great Trinity Forest way Dallas, TX 75216. This Batch plant facility existed since 1970s on over 5 Acres land and still operate in the same site, same layout but at reduced capacity. Upon site visit from the region, it was determined that distance and operations do not meet the qualifications for PBR 106.144 at this time. Company has requested withdrawal of the application while they evaluate operations and appropriate authorization."; TCEQ Response to PBR Withdrawal, December 27, 2022

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

[10] *Counsel conducted search* records.tceq.texas.gov

[11] See Attachment 5.

- Failure to provide consistent production and hours of operation in the permit application and the process description.
    - Applicant states that the facility will produce 60 cubic yards per hour and 400 cubic yards per day while operating 8 hours per day, 6 days per week, and 52 weeks a year for a maximum 2,496 hours.[12]
    - However, the Applicant's attached process description doubles the production amount to 120 cubic yards produced per hour and states they will operate 24 hours a day, 7 days a week, 52 weeks a year. These hours of operation total 8,736 hours.
    - These discrepancies between hours of operation and production on the application and process description are significantly inconsistent and deprives the public of a meaningful opportunity to assess the facilities ability to lawfully operate under a standard permit.

- Failure to demonstrate that the proposed plant's emissions will not violate the applicable regulatory requirements, including but not limited to: the National Ambient Air Quality Standards for particulate matter; 30 TAC § 116.610 – including § 116.610(a)(1),(3), and (5); 30 TAC § 116.615(1); 30 TAC § 116.602(c); and 30 TAC § 101.4.

- Failure to demonstrate will not violate the conditions of the Standard Permit for Concrete Batch Plants. Additional information concerning this issue includes, but is not limited to the following:
    - Applicant failed to provided adequate information to show that the proposed plant will be designed and operated in a manner to ensure that its components will be properly vented as required by Requirement (5)(A) of the Standard Permit.
    - Applicant has not provided adequate information to show that the fabric or cartridge filters will be maintained in compliance with Requirement (5)(B) of the Standard Permit.
    - Applicant has not shown that the facility will be designed and operated to ensure that cement and fly ash will be transferred in a manner complying with Requirement (5)(C) of the Standard Permit.
    - Applicant has not provided adequate design information to show that the automatic shutoff and warning devices will be installed in compliance with Requirement (5)(D) of the Standard Permit.
    - Applicant has not provided adequate information on proposed operations and controls to prove that emissions from plant roads will be controlled in compliance with Requirement (5)(E) of the Standard Permit.
    - Applicant has not demonstrated operational plans that would ensure compliance with Requirement (5)(F) of the Standard Permit regarding stockpile emissions.
    - Applicant has not provided sufficient information to demonstrate that operations of the proposed plant will comply with Requirement (5)(G) of the Standard Permit regarding cleanup of material spills.

[12] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Pages 12, 15

- Applicant has not shown that the proposed plant will be designed and operated to ensure compliance with Requirement (5)(H) of the Standard Permit regarding fugitive emissions.
- Applicant failed to establish operational and design parameters to ensure compliance with Requirement (5)(K) of the Standard Permit related to the emission of volatile organic compounds.
- Applicant failed to demonstrate that engines at the proposed plant will comply with Requirement (6) of the Standard Permit.[13]
- Applicant failed to demonstrate adequate design and operational parameters to ensure that maintenance, startup and shutdown activities will comply with Requirement (7) of the Standard Permit.
- Applicant failed to set forth operational and design measures that are sufficient to ensure that the operation of the proposed plant will comply with the following:
  - Requirement (9)(A), related to production limitations;
  - Requirement (9)(B), related to the installation and operation of a suction shroud of other pickup device. The applicant also failed to provide the average filtering velocity of the fabric or cartridge filter system for the suction shroud or other pickup device;
  - Requirement (9)(C), related to shelter of the drop point; [14]
  - Requirement (9)(D) and (9)(E), related to required buffer zones and twelve foot constructed borders[15]; and
  - Requirement (9)(F), related to the design and maintenance of entry and exit roads. Texas Star Ready Mix's unpaved entry and exit roads do not meet the permit standards. The facility also does not have paved surfaces for the batch trucks and material delivery trucks when entering, conducting primary functions, and leaving the property.[16]

- Failure to demonstrate that Applicant will operate in such a manner as to comply with 30 TAC § 101.4 which prohibits any person or entity from discharging air pollutants in such concentration and of such duration as are or may tend to be injurious to or to 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. 30 TAC § 101.4.
  - The Standard Permit for concrete batch plants does not supersede other TCEQ regulatory requirements or requirements of the Texas or Federal Clean Air Act. As such, the holder of an authorization to operate under the TCEQ standard permit may not do so in such a manner as to create or cause a nuisance or nuisance conditions.

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[13] The application states Applicant will utilize no registered engines at all. See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 11, Section 6A – Applicant states zero engines will be authorized with this standard permit registration. Considering this type of concrete batch plant, this will make the operation impossible and the applicant states in other parts of the application that they will utilize an engine that requires registration.

[14] *See* Attachment 6

[15] See, TCEQ P1-S1 Standard Concrete Batch Plant Application, Texas Ready Mix, LLC, Page 12; See also, Attachment 7 (pictures of distance with buffers and height of fences)

[16] *See* Attachment 8

- Concrete batch plants are notorious for creating such conditions and should not be allowed to operate anywhere near residential communities, churches or recreational areas without concrete assurances that they will not threaten the health and safety of nearby residents or interfere with the use and enjoyment of their properties. Applicant has not made those assurances in its application and must do so before TCEQ approves this application.

Since the application is incomplete and/or inconsistent, Applicant has failed to demonstrate that it will comply with all applicable federal and state laws, regulations and policies. Therefore, the Commission should deny Applicant's request.

C. Applicant Failed to Demonstrate that the Proposed Plant Would Protect the Health, Safety and Welfare of Nearby Residents and Their Properties.

Contaminants from the proposed plant will potentially result in harm to the health, safety and welfare of nearby residents as well as the use and enjoyment of their properties. These emissions will be produced by the storage of materials at the site, the transfer and processing of those materials within the site and the additional traffic entering and exiting the facility. Potential emissions will include dust from the raw materials, emissions from diesel engines, and chemicals used to clean the facility and suppress dust emissions. These pollutants will not only be harmful to human health, but they will also produce nuisance conditions – including visible pollution and offensive odors – in the area around the proposed plant. The public is also aware of a compliance/enforcement review and there could be further issues with the proposed plant. The public does not have access to these documents and cannot fully contest or comment on the permit without the applicant or TCEQ sharing these required documents with the public.

The authorization of the proposed plant is alarming given the site's proximity to residences, parks, and churches, as shown on the permit application. Within 3,000 feet of the site there are over a hundred homes, at least two churches, Trinity Forest Trail, and Joppa Nature Preserve. Subjecting these community members to an additional source of air pollution will only serve to exacerbate their conditions, limit the uses of their property and community parks, and do further harm.

D. Applicant Failed to Show that It Will Utilize Adequate Monitoring and Reporting Measures

The draft permit specifies that visible emissions shall not leave the property for more than 30 seconds in any consecutive 6-minute period, determined using U.S. Environmental Protection Agency (EPA) Test Method 22. EPA Test Method 22 requires someone to stand a certain distance and angle from the operations and observe those operations for visible pollution. The standard permit requires that this be done 4 times each year, for thirty minutes each time. This monitoring method and frequency have proven both inadequate to ensure compliance with the emissions limits in the standard permit and inadequate to protect the community from particulate pollution associated with batch plant operations.

The terms of the draft permit ensure that the facility emissions will only be monitored for two hours in an entire year. TCEQ has previously stated that it relies on communities to police facilities through the complaint and investigation process. Unfortunately, in practice this approach is not functional as most residents are not even aware that such a complaint process exists nor is it suited to the types of violations that cause the most problems. TCEQ should require a more protective monitoring system that continuously monitors for particulates and other pollutants at the fence line. Furthermore, TCEQ has had issue with this site in the past considering that the facility is currently under a compliance review or in enforcement.

TCEQ does have the authority to require additional monitoring under the Texas Clean Air Act: "The commission may prescribe reasonable requirements for: (1) measuring and monitoring the emissions of air contaminants from a source or from an activity causing or resulting in the emission of air contaminants subject to the commission's jurisdiction under this chapter." TEX. HEALTH & SAFETY CODE ANN. § 382.016. TCEQ should exercise its authority here and require air monitoring that will effectively protect local residents especially considering the site's non-compliance still in review by TCEQ.

E. Applicant's Proposed Emissions Are Unreasonable

Applicant's proposed emissions are unreasonable in light of the degree of injury and interference with the public's health and physical property; the source's lack of social and economic value; the non-priority of location of the area involved; and the technical practicability and economic reasonableness of further reducing or eliminating the proposed emissions.

In addition to all of the previously discussed examples provided throughout the public comment section, other examples include, but are not limited:

- The application, draft permit and Executive Directors preliminary decision fails to protect the community from cumulative risks of other industrial activity in the area.[17]
    - 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 a train derailment with delayed clean up.[18] Highways 310 and I-35 and a landfill also border the neighborhood.
    - TCEQ has an affirmative duty to consider the cumulative emissions from all of the industrial operators in Joppa when considering the impact that the proposed plant will have on human health and the environment.
    - TCEQ fails to consider the cumulative risks created by the existing sources of air pollution in Joppa. While TCEQ may deem Texas Star Ready Mix's production

[17] "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.

[18] 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/

numbers safe in isolation, the standard permit's protectiveness review does not contemplate any other emission sources.

- In Joppa, there are numerous additional sources of particulate and other pollution in close proximity to the proposed site; therefore, the TCEQ must consider the cumulative risks from those nearby industrial sources of air pollution in order to determine whether the additional emissions from the proposed batch plant will have a negative impact on human health and the environment.

- The application, draft permit and Executive Director's preliminary decision fails to consider the adverse impacts of the proposed project 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.[19]
  - With respect to the approval of industrial facilities, 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 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 that immediately adjacent and surrounding the proposed site, is comprised of mostly low-income, minority households. The population within a 1-mile radius of the proposed site is 96% people of color, 95% low-income and 59% linguistically isolated.[20] These communities 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 the proposed permit 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 permit further

[19] Exec. Order No. 12898, 59 Fed. Reg. 7629 (1994)
[20] U.S. EPA, EJSCREEN Demographic Indicators, available at: https://ejscreen.epa.gov

pollution in this neighborhood will have adverse impacts on the health of the people living there, and will further solidify 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.

V. Conclusion

JFTA urges the TCEQ to deny the application and believes that denial is warranted based on the information already available. If TCEQ does not deny the application, then JFTA requests a contested case hearing with regard to each issue raised in this hearing request.

Respectfully submitted,

Michael Bates

Michael Bates

Wendi Hammond

Counsel for Joppa Freedman's Town Association

Jennifer Cox

From: Brad Patterson
Sent: Tuesday, May 21, 2024 9:11 AM
To: PUBCOMMENT-OCC2
Subject: CORRECTION: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part11.pdf

PM & H for LANWT
PM for each individual that signed an attached form letter

From: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Sent: Monday, April 17, 2023 12:47 PM
To: PUBCOMMENT-OCC2 <PUBCOMMENT-OCC2@tceq.texas.gov>; PUBCOMMENT-OPIC <PUBCOMMENT-OPIC@tceq.texas.gov>; PUBCOMMENT-ELD <PUBCOMMENT-ELD@tceq.texas.gov>; PUBCOMMENT-APD <PUBCOMMENT-APD@tceq.texas.gov>
Subject: FW: Public comment on Permit Number 171636

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:50 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

COMMENTS: Entire document is too large and will be uploaded in separate parts. The complete set of uploads will include the following separate documents: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf

ATTACHMENT 1 – PART 1
PUBLIC MEETING REQUESTS FROM COMMUNITY MEMBERS

Re: Part 2 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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:

- request for a public meeting,
- request for a contested case hearing, and
- 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

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

Date: 4/12/2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

My comments are on the back of this page.

Name: LaDeidra Green

Address: 7937 Kiska St
Dallas, TX 75216

These are my additional comments about Proposed Permit No. 171636.

The batch plant will have a negative effect on our health

Date: 4-11-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

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YES **NO**

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Sincerely,

Samantha Serrano

My comments are on the back of this page.

9

TCEQ Registration Form

August 17, 2023

Texas Star Ready Mix, LLC
Proposed Registration No. 171636

PLEASE PRINT

Name: Temeckia Derrough

Mailing Address: 7931 Kiska St

Physical Address (if different): _____

City/State: Dallas **Zip:** 75216

This information is subject to public disclosure under the Texas Public Information Act

Email: tederrough@gmail.com

Phone Number: (214) 694-3230

- Are you here today representing a municipality, legislator, agency, or group? ☑ Yes ☐ No

  If yes, which one? Joppa Freedmans Town Ass.

☑ **Please add me to the mailing list.**

☑ **I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.**

☐ **I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.**

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Name: Temeckia Derrough

Address: 7931 Kiska St
Dallas, TX 75216

These are my additional comments about Proposed Permit No. 171636.

The community is in danger living around this company.

Our health is in danger living around this company.

Date: 4/11/23

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YES **NO**

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Sincerely,

Scott Cuttle-Coll

My comments are on the back of this page.

Name: Scott Crittle-Collier

Address: 7919 Kiska St.
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 04/11/23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

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Sincerely,

My comments are on the back of this page.

Name: Chan Chan Chan

Address: 7919 Kiska St
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

N/A

Date: 4-10-2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

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YES **NO**

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Sincerely,

Willie Faye Ragland

My comments are on the back of this page.

Name: Willie Faye Ragland

Address: 4724 Nome St
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:47 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part11.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:50 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

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RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

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- request for a contested case hearing, and
- public comments.

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

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phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

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

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

Date: 4/12/2023

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Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

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My comments are on the back of this page.

Name: LaDeidra Green

Address: 7937 Kiska St
Dallas, Tx 75216

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Sincerely,

Jamesha Demps

My comments are on the back of this page.

Name: Temeckia Derrough

Address: 7931 Kiska St
Dallas, TX 75216

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Sincerely,

Scott Cristle-Cole

My comments are on the back of this page.

Name: Scott Crittle-Collier

Address: 7919 Kiska St.
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 04/11/23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

My comments are on the back of this page.

Name: Chan Chan Chan

Address: 7919 Kiska St
Dallas Tx 75216

These are my additional comments about Proposed Permit No. 171636.

N/A

Date: 4-10-2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Willie Faye Raglan

My comments are on the back of this page.

Name: Willie Faye Rayland

Address: 4724 Nome St
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:47 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:52 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

COMMENTS: Entire document is too large and will be uploaded in separate parts. The complete set of uploads will include the following separate documents: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf 2023-

0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf

ATTACHMENT 2
PHOTOS OF LIBRARY COUNTER WHERE
PUBLICLY AVAILABLE DOUCMENT USED TO BE ACCESSIBLE

Re: Part 4 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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:

- request for a public meeting,
- request for a contested case hearing, and
- public comments.

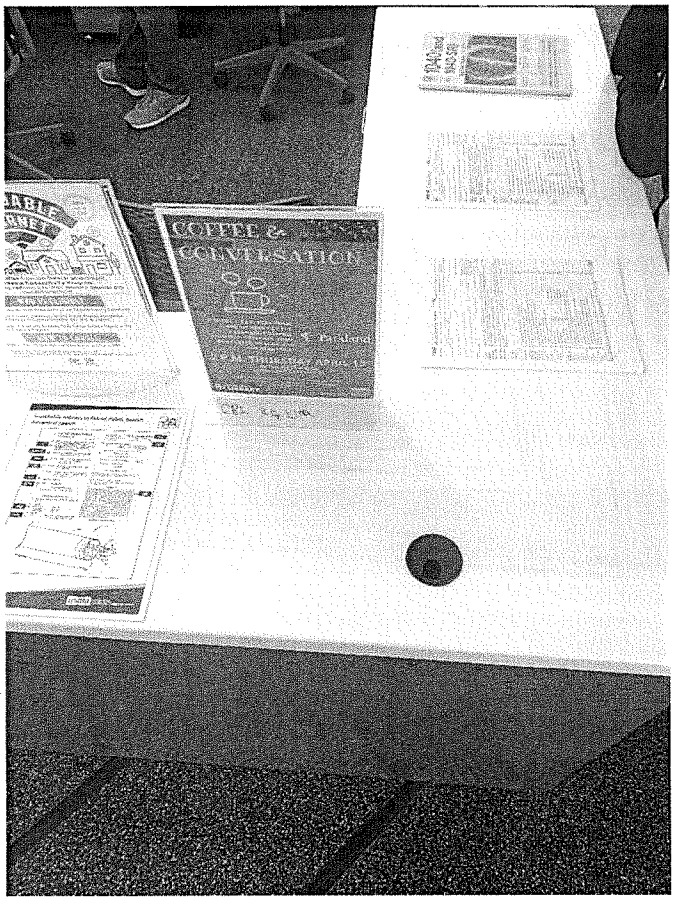
All contact with JFTA and its members regarding this matter should be through its legal counsel:

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

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

CAREER
LAUNCH
PRO
INTERNET


COFFEE &
CONVERSATION

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf

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H

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Sent: Friday, April 14, 2023 4:53 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

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ATTACHMENT 3 – PART 1
SCANNED COPY OF PUBLICLY AVAILABLE DOCUMENT AT LIBRARY

Re: Part 5 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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

Texas Commission on Environmental Quality
Form PI-1S-CBP
6004Checklist

Date: _____
Registration #: _____
Company: _____

Concrete Batch Plant Standard Permit Checklist - 6004

This sheet provides information needed by the TCEQ to determine if the proposed project meets all of the requirements of the Standard Permit for Concrete Batch Plants.

Instructions:
1. Review the standard permit requirements available at the end of this workbook, accessible through with the link below:
Air Quality Standard Permit for Concrete Batch Plants
2. Complete all applicable sections below.

Type of plant	Permanent
Type of operation	Ready Mix

Condition Number	Description	Response	Notes
Section 3: Administrative Requirements			
(3)(A)-(K)	Will you meet all of the requirements of Section 3 of the Standard Permit regarding administrative requirements?	Yes	
Section 4: Public Notice			
(4)	Will you meet all of the requirements of Section 4 of the Standard Permit regarding public notice?	Yes	
	Is this a portable facility moving to a site for support of a public works project in which the proposed site is located in or contiguous to the right-of-way of the public works project?	No	
	Is this a portable facility moving to a site in which a portable facility was located at the site at any time during the previous two years and was the site subject to public notice?	No	
Section 5: General Requirements			
(5)(A)	Are the storage silos and auxiliary storage tanks controlled by a cartridge or filter system?	Yes	
	How will the weigh hopper be vented? More than one may be selected using the following rows.	Vented to fabric/cartridge filter	
	Select second method, if applicable.	Vented to central fabric/cartridge filter system	
(5)(B)(i)	Will fabric/cartridge filters and collection systems be operated properly with no tears or leaks?	Yes	
(5)(B)(ii)	What is the control efficiency of the filter system (including any central filter systems) for particle sizes of 2.5 microns and smaller (%)?	99.9	
(5)(B)(iii)	Will all filter systems meet visible emissions performance standards?	Yes	
(5)(B)(iv)	Will cement and/or fly ash silo filter exhausts be equipped with sufficient illumination to observe visible emissions performance if filled during non-daylight hours?	Yes	
(5)(C)(i)	Will conveying systems to and from the storage silos be properly operated, remain totally enclosed, and maintained with no tears or leaks?	Yes	
(5)(C)(ii)	During cement/fly ash storage silo filling, except for connecting or disconnecting, will you keep a standard of having no visible emissions for more than 30 seconds in any six-minute period from the conveying system?	Yes	
(5)(D)	What type of device is utilized onsite to warn when silos are reaching capacity?	Automatic shut-off device and warning device	
(5)(D)(i)	If an automatic shut-off device is installed, will it shut down the loading operations on each bulk storage silo or auxiliary storage tank prior to reaching capacity?	Yes	
(5)(D)(ii)	If a warning device is used, will it alert operators in sufficient time to prevent an adverse impact on the pollution abatement equipment or other parts of the loading operation?	Yes	

Texas Commission on Environmental Quality
Form PI-1S-CBP
6004Checklist

Date: _____
Registration #: _____
Company: _____

	Do you regularly prevent particle build-up on visible warning devices?	Yes	
(5)(D)(iii)	Will warning devices or shut-off systems be tested at least monthly during operations and records kept indicating test and repair results in accordance with Section (3)(J) of this standard permit?	Yes	
(5)(E)(i)-(iv)	Select which method(s) will be used to control emissions from in-plant roads and traffic areas. More than one may be selected using the following rows.	Watering	
	Select the second control method, if applicable.	Watering	
	Select the third control method, if applicable.		
	Select the fourth control method, if applicable.		
(5)(F)	How will dust emissions from all stockpiles be minimized at all times? More than one may be selected using the following rows.	sprinkling with water	
	Select the second control method, if applicable.		
	Select the third control method, if applicable.		
(5)(G)	Confirm that all material spills will be immediately cleaned up and contained or dampened so dust emissions are minimized.	I agree	
(5)(H)	Will visible emissions leave the property for more than 30 seconds in duration in any six-minute period during normal plant operations as determined using EPA Test Method 22?	No	
	Will quarterly visible emission observations be performed and recorded in accordance with Section (3)(J) of this standard permit?	Yes	
	If visible emissions exceed Test Method 22 criteria, will immediate corrective action be taken and documented?	Yes	
(5)(I)	What is the distance from the concrete batch plant to any crushing plant or hot mix asphalt plant? (feet)	there is no Asphalt plant within 13000 Feets	
(5)(J)	Are multiple concrete batch plants being operated on the same site?	No	
(5)(K)	Confirm that none of the concrete additives will emit volatile organic compounds (VOC)?	I agree	

Section 6: Engine Requirements

(6)(A)	How many engines are being authorized with this standard permit registration?	0	

Section 7: Planned Maintenance, Startup, and Shutdown (MSS) Activities

(7)	Will planned maintenance activities receive separate authorization, unless the activity can meet the conditions of 30 TAC § 116.119, De Minimis Facilities or Sources?	Yes	

Texas Commission on Environmental Quality
Form PI-1S-CBP
6004Checklist

Date: _____
Registration #: _____
Company: _____

Section 9: Additional Requirements for Permanent Concrete Batch Plants			
(9)(A)	How many cubic yards per hour will be produced by this plant?	60	
	How many cubic yards per day will be produced by this plant?	400	
(9)(B)	Will the suction shroud or other pickup device be installed at the batch drop point (drum feed for central mix plants)?	Yes	
	What is the average filtering velocity of the fabric or cartridge filter system for the suction shroud or other pickup device (acfm)?		
(9)(C)	Will the truck drop point for the ready-mix plant be sheltered by an intact three-sided curtain or equivalent dust control technology that extends below the mixer truck-receiving funnel?	Yes	
(9)(D)(i)	What is the distance from the property line to the suction shroud baghouse exhaust (feet)?	300	
(9)(D)(ii)	What is the distance from the property line to the nearest piece of stationary equipment? (feet)	300	
	What is the distance from the property line to the nearest stockpile? (feet)	200	
	What is the distance from the property line to the nearest area where vehicles will be used for the operation of the concrete batch plant (except for incidental traffic and the entrance and exit to the site)? (feet)	200	
(9)(E)(ii)	What will be the height of the constructed borders? (feet)	12	
(9)(E)(iii)	Will stockpiles be contained within a three-walled bunker that extends at least two feet above the top of the stockpile?	Yes	
(9)(F)	Will all entry and exit roads and main traffic routes associated with the operation of the concrete batch plant (including batch truck and material delivery truck roads) be paved with a cohesive hard surface that can be maintained intact and cleaned?	Yes	
	Will all batch trucks and material delivery trucks remain on the paved surface when entering, conducting primary function, and leaving the property?	Yes	
	Will all other traffic areas, except entry and exit roads and main traffic routes, be maintained using the control requirements of subsection (5)(E) of this standard permit	Yes	

Date: _____
Registration #: _____
Company: _____

Table 11: Fabric Filters - Concrete Batch Plant Standard Permits

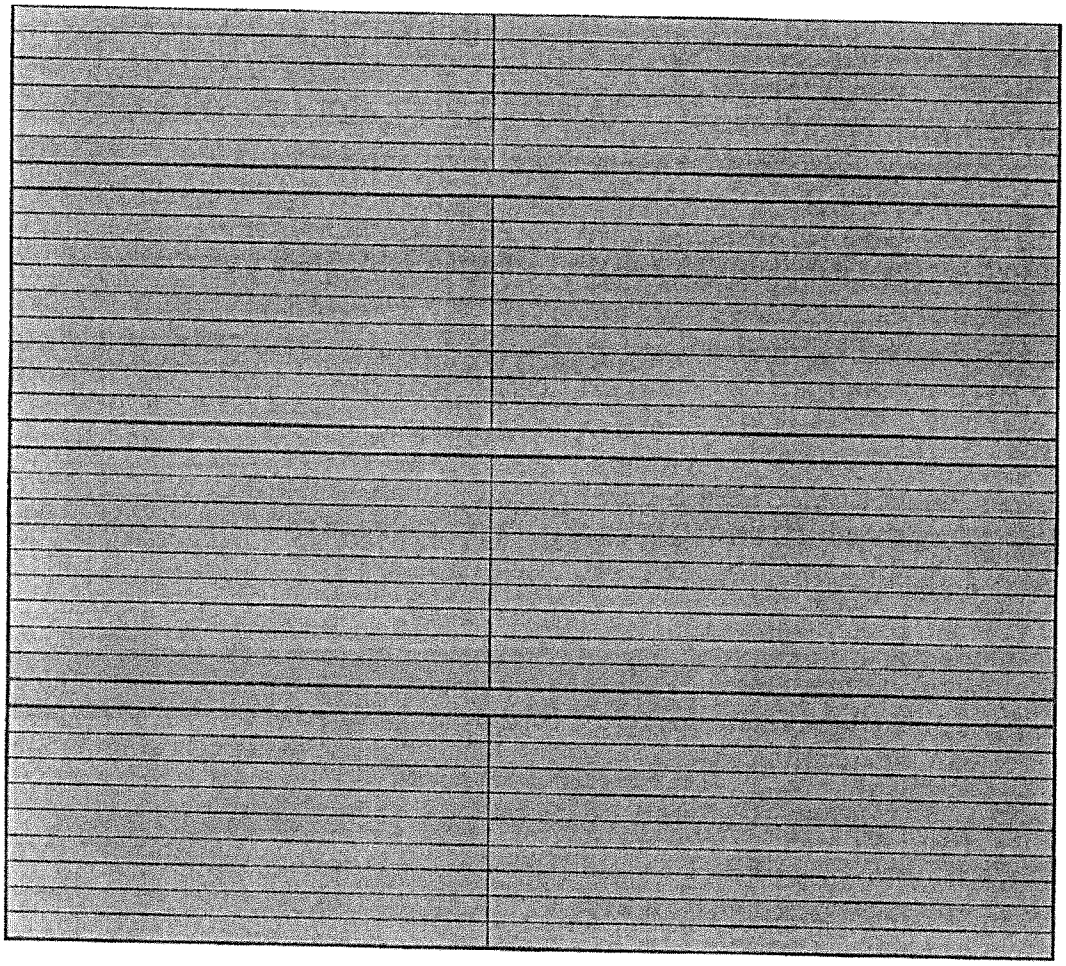
This sheet provides information needed by the TCEQ to determine if the proposed project meets all of the requirements of the Standard Permit for Concrete Batch Plants.

Instructions:
1. Complete all applicable questions below.

All Filter Systems	
EPN	7
Manufacturer	C&W
Model Number	RA-120
List the sources being controlled	Cement
Type of particulate controlled	PM/PM10/PM2.5, cement dust
Design maximum flow rate (acfm)	5000
Average expected flow rate (acfm)	5000
Particulate grain loading (grain/scf) - inlet	
Particulate grain loading (grain/scf) - outlet	

Texas Commission on Environmental Quality
Form PI-1S-CBP
Table11-CBP

Date: _____
Registration #: _____
Company: _____



Date: _____
Registration #: _____
Company: _____

Table 20: Concrete Batch Plants - Concrete Batch Plant Standard Permits

This sheet provides information needed by the TCEQ to determine if the proposed project meets all of the requirements of the Standard Permit for Concrete Batch Plants.

Instructions:
1. Complete all applicable questions below.

Type of batching that will be accomplished	Dry
Section 1: Maximum operating schedule	
What is the maximum hours per day?	8
What is the maximum days per week?	6
What is the maximum weeks per year?	52
What is the maximum hours per year?	2496
Does the facility operate at night?	No
Section 2: Aggregate Information	
Will sand and aggregate be washed prior to delivery at your facility?	Yes
What is the size of the area which will be covered be aggregate stockpiles? (acres)	.25 Acres
Indicate where water sprays will be used, if applicable	Stockpiles
Additional location for water sprays, if applicable	Aggregate bin outlets
Additional location for water sprays, if applicable	
Additional location for water sprays, if applicable	
Section 3: Filter System Information	
How many filter systems will this plant have?	4
Will all filter systems be operated the same way?	Yes

Texas Commission on Environmental Quality
Form PI-1S-CBP
Public Notice

Date: _____
Registration #: _____
Company: _____

Public Notice Information and Small Business Classification

This sheet is intended to assist in this determination of public notice requirements and is not a replacement for 30 TAC Chapter 39 (Public Notice). **If you can see the page header, there are questions applicable to your project on this sheet.**

The THSC §382.056 and corresponding rules in 30 TAC Chapter 39 (Public Notice) require that you publish a notice of intent to obtain a permit and notice of preliminary decision (consolidated into a single notice). Notices must be published in a newspaper of general circulation in the municipality where the proposed facility is or will be located (not applicable to alternative language notices). Signs must also be posted at the site in compliance with 30 TAC § 39.604(c). Additional information regarding public notice such as an overview of requirements, an applicability table, and a list of some common errors that may cause renotice and delays in processing your application can be found at the link below:
https://www.tceq.texas.gov/permitting/air/bilingual/now1_2_pn.html

Instructions:
1. Complete all questions below.

I. Public Notice Information

A. Contact Information

Enter the contact information for the **person responsible for publishing.** This is a designated representative who is responsible for ensuring public notice is properly published in the appropriate newspaper and signs are posted at the facility site. This person will be contacted directly when the TCEQ is ready to authorize public notice for the application.

Prefix (Mr., Ms., Dr., etc.):	MR
First Name:	Eyad
Last Name:	Albelbaisi
Title:	Operation Manager
Company Name:	Texas Star Ready Mix LLC
Mailing Address:	4500 Great Trinity Forest Way
Address Line 2:	
City:	Dallas
State:	TX
ZIP Code:	75082
Telephone Number:	214-475-5095
Fax Number:	972-783-4643
Email Address:	wconcretes@gmail.com

Enter the contact information for the **Technical Contact.** This is the designated representative who will be listed in the public notice as a contact for additional information.

Prefix (Mr., Ms., Dr., etc.):	MR
First Name:	Eyad
Last Name:	Albelbaisi
Title:	Operation Manager
Company Name:	Texas Star Ready Mix LLC
Mailing Address:	4500 Great Trinity Forest Way
Address Line 2:	
City:	Dallas
State:	TX
ZIP Code:	75082
Telephone Number:	214-475-5095
Fax Number:	972-783-4643
Email Address:	wconcretes@gmail.com

Texas Commission on Environmental Quality
Form PI-1S-CBP
Public Notice

Date: _____
Registration #: _____
Company: _____

B. Public place

Place a copy of the full application (including all of this workbook and all attachments) at a public place in the county where the facilities are or will be located. You must state where in the county the application will be available for public review and comment. The location must be a public place and described in the notice. A public place is a location which is owned and operated by public funds (such as libraries, county courthouses, city halls) and cannot be a commercial enterprise. You are required to pre-arrange this availability with the public place indicated below. The application must remain available from the first day of publication through the designated comment period.

If the application is submitted to the agency with information marked as Confidential, you are required to indicate which specific portions of the application are not being made available to the public. These portions of the application must be accompanied with the following statement: ***Any request for portions of this application that are marked as confidential must be submitted in writing, pursuant to the Public Information Act, to the TCEQ Public Information Coordinator, MC 197, P.O. Box 13087, Austin, Texas 78711-3087***

Name of Public Place:	Erik Jonsson Central Library
Physical Address:	1515 Young Street
Address Line 2:	
City:	Dallas
ZIP Code:	75201
County:	Dallas
Has the public place granted authorization to place the application for public viewing and copying?	Yes

C. Alternate Language Publication

In some cases, public notice in an alternate language is required. If an elementary or middle school nearest to the facility is in a school district required by the Texas Education Code to have a bilingual program, a bilingual notice will be required. If there is no bilingual program required in the school nearest the facility, but children who would normally attend those schools are eligible to attend bilingual programs elsewhere in the school district, the bilingual notice will also be required. If it is determined that alternate language notice is required, you are responsible for ensuring that the publication in the alternate language is complete and accurate in that language.

Is a bilingual program required by the Texas Education Code in the School District?	Yes
Are the children who attend either the elementary school or the middle school closest to your facility eligible to be enrolled in a bilingual program provided by the district?	Yes
If yes to either question above, list which language(s) are required by the bilingual program?	
List second required language.	spanish
List third required language.	na
List fourth required language.	na

Texas Commission on Environmental Quality
Form PI-1S-CBP
Public Notice

Date: _____
Registration #: _____
Company: _____

III. Small Business Classification	
Complete this section to determine small business classification. If a small business requests a permit, agency rules (30 TAC § 39.603(f)(1)(A)) allow for alternative public notification requirements if all of the following criteria are met. If these requirements are met, public notice does not have to include publication of the prominent (12 square inch) newspaper notice.	
Does the company (including parent companies and subsidiary companies) have fewer than 100 employees or less than $6 million in annual gross receipts?	Yes
Is the site a major source under 30 TAC Chapter 122, Federal Operating Permit Program?	No
Are the site emissions of any individual air contaminant greater than or equal to 50 tpy?	No
Are the site emissions of all air contaminants combined greater than or equal to 75 tpy?	No
Small business classification:	Yes

Texas Commission on Environmental Quality
Form PI-1S-CBP
Fees

Date: _____
Registration #: _____
Company: _____

Fee Verification

This sheet is for requesting expedited permitting and determines application fee requirements for projects which require a fee. **If you can see the page header, there are questions applicable to your project on this sheet.**

Fees are due and payable at the time an application is filed. Required fees must be received before the agency will consider an application to be complete.

As of January 1, 2021, fees must be paid through ePay during the STEERS submitall process. Instructions for online payment through the ePay system can be found at the link below:
https://www3.tceq.texas.gov/epay/

Instructions:
1. Enter information related to the expedited permitting option.
2. If visible, enter payment information.
3. If applicable, submit the application under the seal of a Texas Licensed P.E.

I. Expedited Permitting Request	
Are you requesting to expedite this project?	No

II. Application Fee	
All standard permit types and actions (unless the facility meets the requirements of being in or adjacent to the right of way of a public works project)	$900.00

III. Payment Information		
Was the fee paid online?		Yes
Enter the fee amount		$ 900.00
Enter the check, money order, ePay Voucher, or other transaction number. Enter "STEERS" if submitting and paying through	STEERS	
Enter the company name as it appears on the check	na	

IV. Professional Engineer Seal Requirement	
Is the estimated capital cost of the project above $2 million?	No
Is the application required to be submitted under the seal of a Texas licensed P.E.? Note: an electronic PE seal is acceptable.	No

Ellie Guerra

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REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
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PHONE: 2142432583

FAX:

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ATTACHMENT 3 – PART 2
SCANNED COPY OF PUBLICLY AVAILABLE DOCUMENT AT LIBRARY

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email: hammondw@lanwt.org

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

Texas Commission on Environmental Quality
Form PI-1S-CBP
Copies

Date: _____
Registration #: _____
Company: _____

Where to Submit this Application

This worksheet is for informational purposes only. No data is required and you do not need to print this sheet.
This worksheet provides guidance on where to send copies of the application materials.

Submittal Instructions:
1. Submit application materials as indicated below. Processing delays will occur if copies are not sent as noted.
2. Retain a copy for your records.
3. Indicate to whom copies have been sent on the cover letter of any subsequent correspondence.

Subsequent Submittal Instructions:
4. All subsequent correspondence should be copied to the TCEQ regional office and local air pollution control program(s), as appropriate.
5. Indicate the assigned registration number(s), RN, CN, and permit reviewer, if known, on all subsequent correspondence.
6. A copy of all application materials must be maintained on-site. For sites that normally operate unattended, a copy must be maintained at an office within Texas that has operational control of the site.

Notes:
- **Submittal through STEERS is required as of January 1, 2021.**
- All application and application attachments for APD must be submitted electronically.

Who	Where	When	What
Air Permits Division Air Permits Initial Review Team (APIRT)	Submit the application through STEERS following the instructions on the Cover sheet.	All applications	Application (including this PI-1S-CBP application workbook and required attachments)
Financial Administrative Division, Revenue Operations Section	ePay	All applications	Permit fee and expedited processing surcharge, if expedited processing is requested
Region 4	2309 Gravel Dr., Fort Worth, TX 76118-6951	All applications with updates since original submittal	Copies of updated application materials (such as updated workbook or attachments) -- Note, original materials are automatically sent by STEERS
Local Air Pollution Control Program(s)	To find your local air pollution control programs go to the link below.	All applications with updates since original submittal in an area having jurisdiction	Copies of updated application materials (such as updated workbook or attachments) -- Note, original materials are automatically sent by STEERS

Links

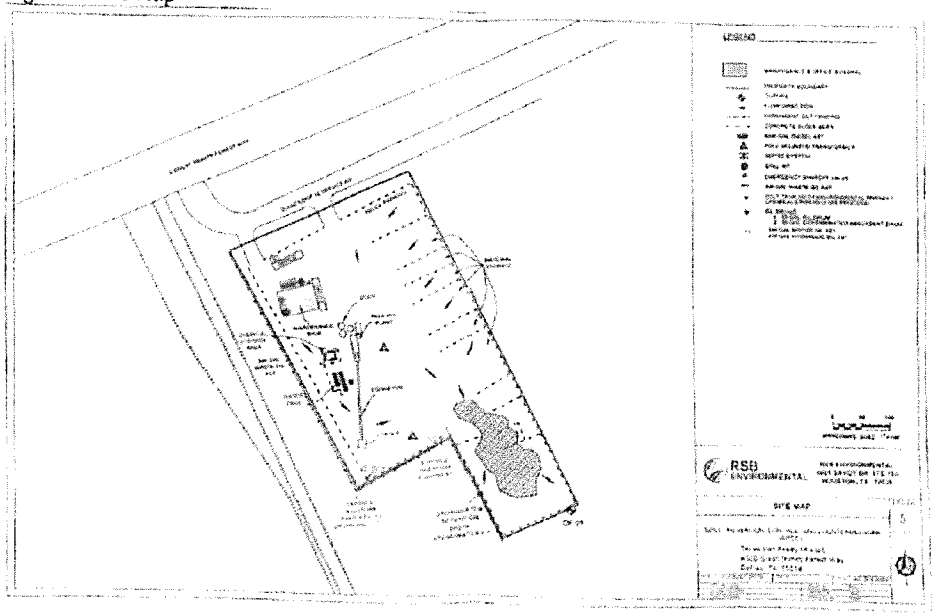
Destination	Link
TCEQ Regional Offices	https://www.tceq.texas.gov/agency/directory/region
Local Air Pollution Control Programs	https://www.tceq.texas.gov/permitting/air/local_programs.html

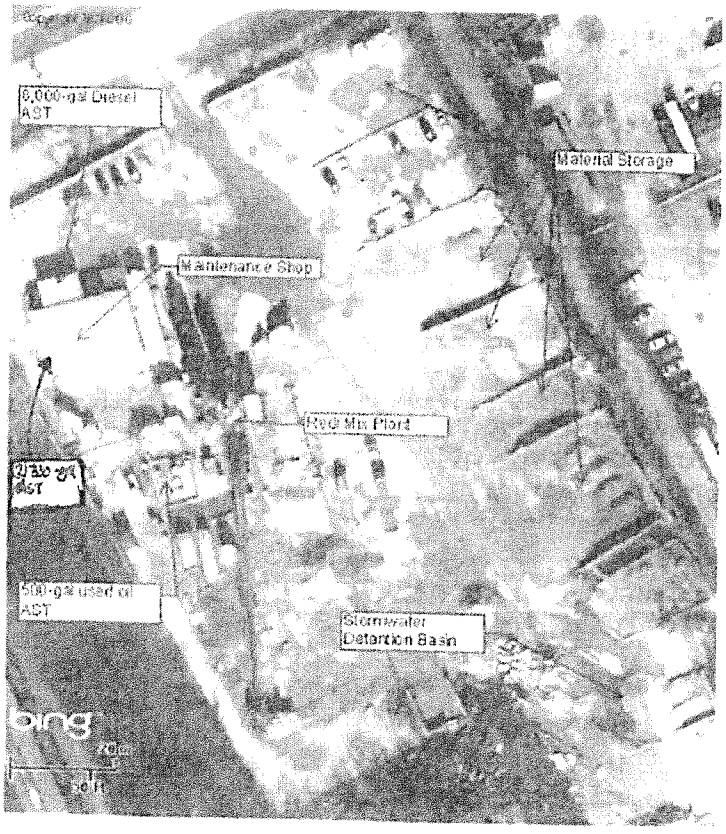
Air Permits Registration
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: Air Permits Registration
Permit Number: 39039
Customer Number CN605903574
Regulated Entity Number RN102390051

Texas star Ready Mix LLC is a small business batch plant owner/operator. Texas Star Ready Mix LLC Operates the facility at 4500 Great Trinity Forest way Dallas, TX 75216. This Batch plant facility existed since 1970s on over 5 Acres land and still operate in the same site, same layout but at reduced capacity. The batch plant operates under the permit by Rule. The facility is permitted to produce ready Mix concrete and Concrete products. The facility is voluntary is registering the batch plant concrete.

Figures List:
Figure 1: Site Location Map
Figure 2: Aerial Map showing Texas Star Ready Mix Facility
Figure 3: USGS Topographic Map showing Texas Star Ready Mix Facility
Figure 1: Overall Site Map showing Texas Star Ready Mix Facility
Figure 1: Site Map





MI/Map
DFWMaps.com

North Central Texas Council of Governments

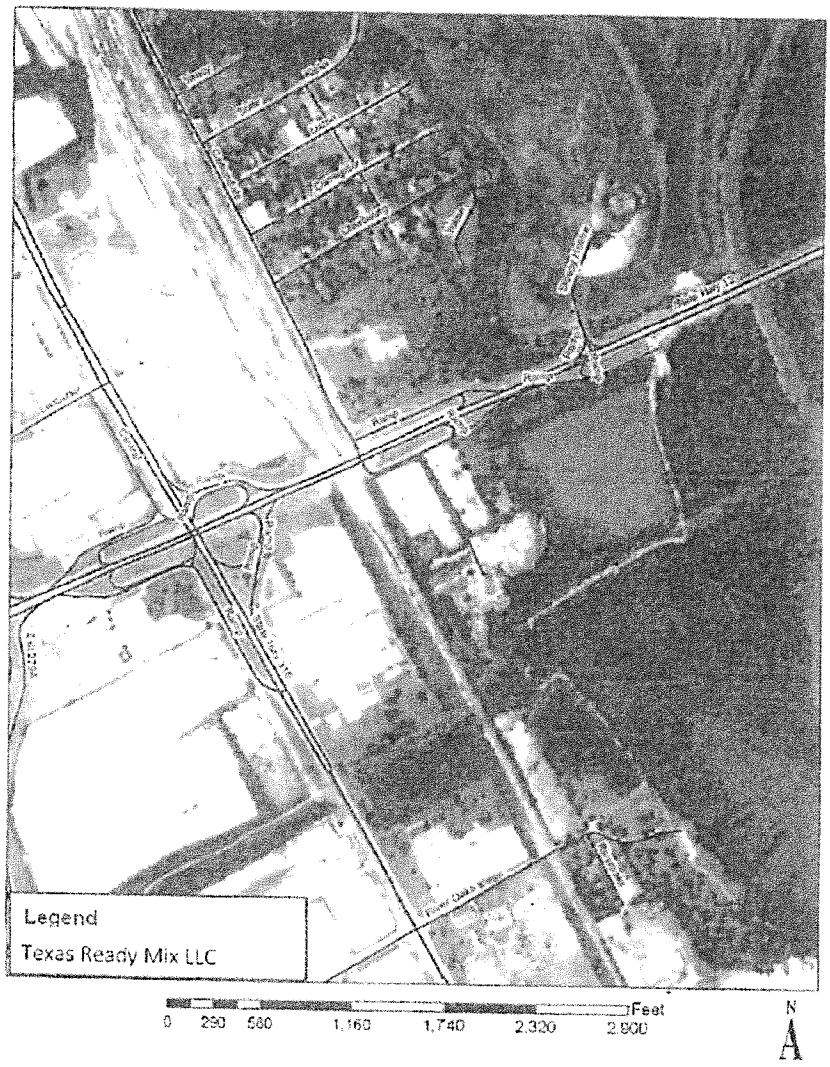
N

Texas Star Ready Mix LLC
Project 16.028.01F

Prepared by J. Schwartz

KBA EnviroScience, Ltd.

Figure 4. Overall Site Layout of the Texas Star Ready Mix LLC Facility, 4500 Great Trinity Forest Way in Dallas, Texas.

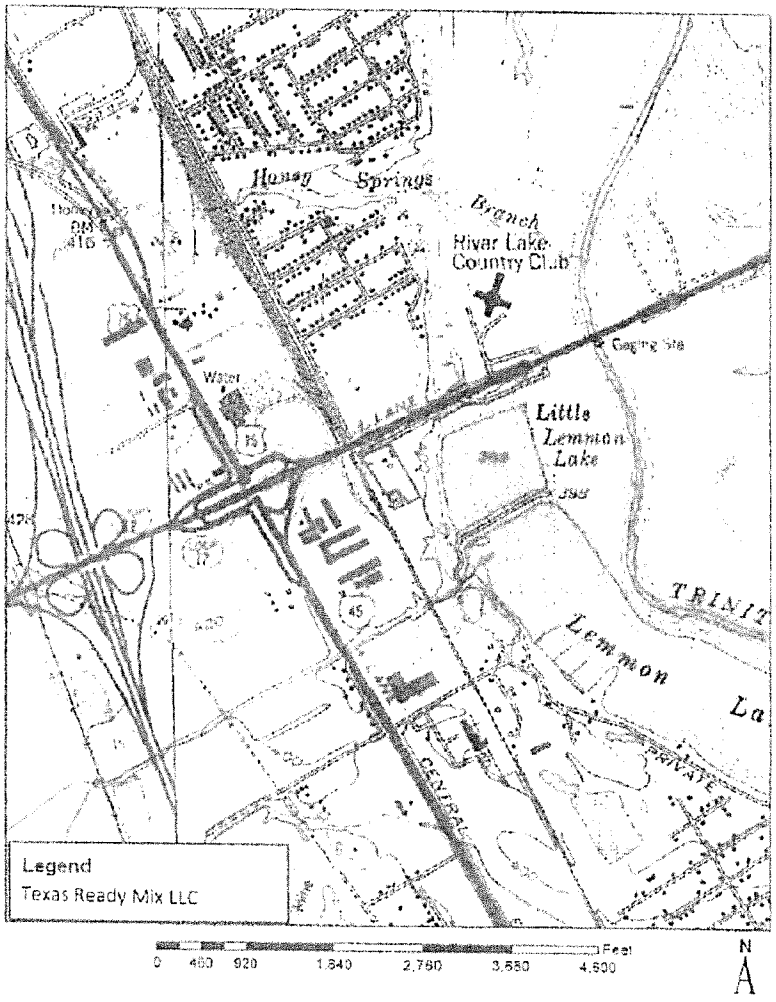


Texas Star Ready Mix LLC
Project 16.028.01.F

Prepared by J. Schwartz

KBA EnviroScience, Ltd.

Figure 2. Aerial Map Showing the Texas Star Ready Mix Facility, 4500 Great Trinity Forest Way in Dallas, Texas.

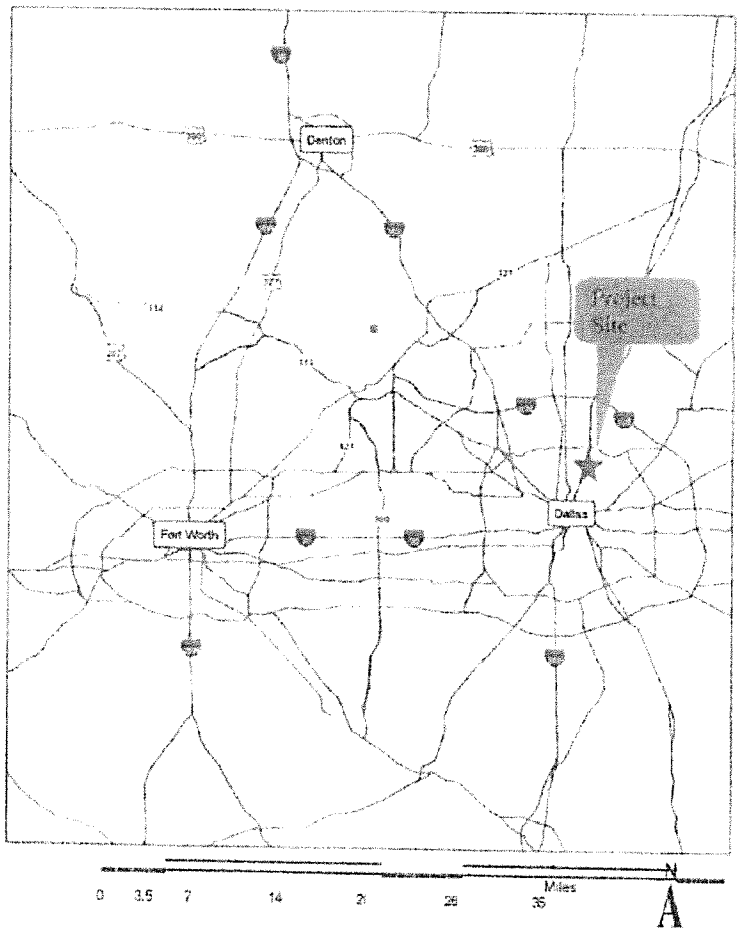


Texas Star Ready Mix LLC
Project 16.028.01.F

Prepared by J. Schwartz
April 18, 2016

KBA EnviroScience, Ltd.

Figure 3. USGS Topographic Map Showing the Texas Star Ready Mix LLC, 4500 Great Trinity Forest Way in Dallas, Texas.

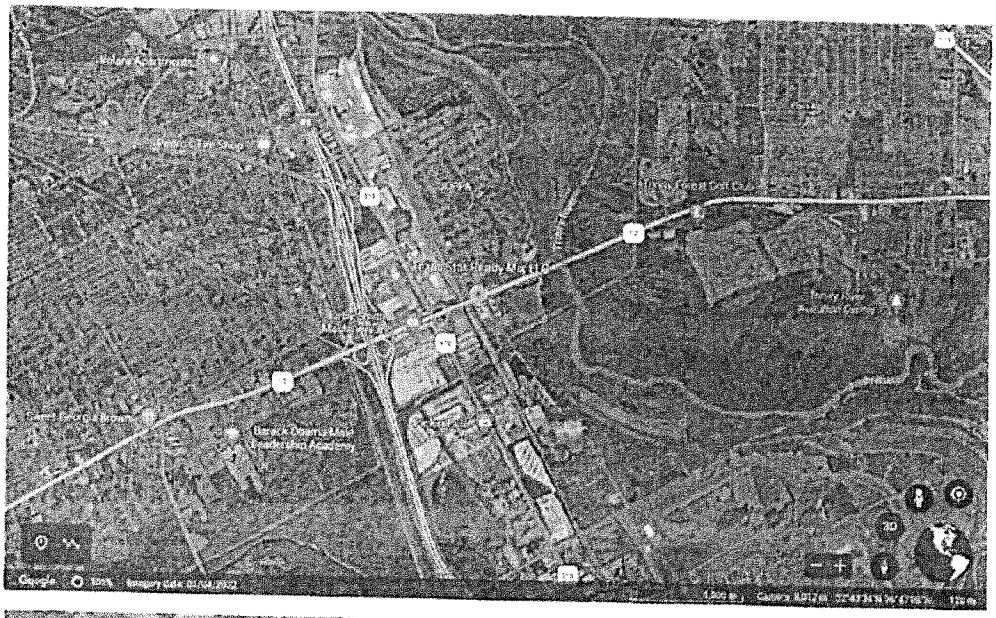


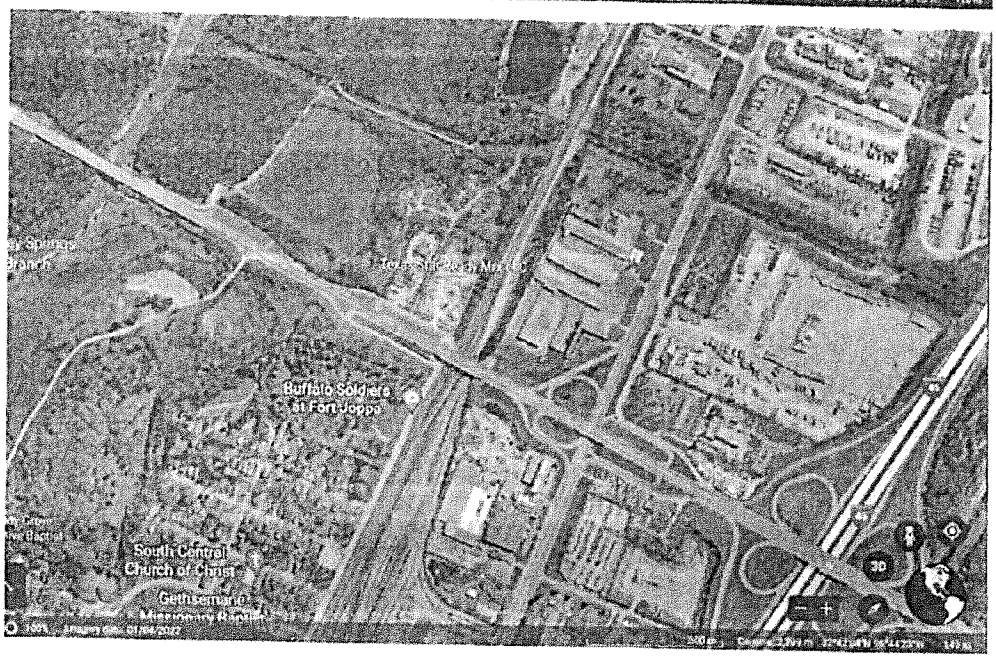
Texas Star Ready Mix LLC
Project 16.028.01.F

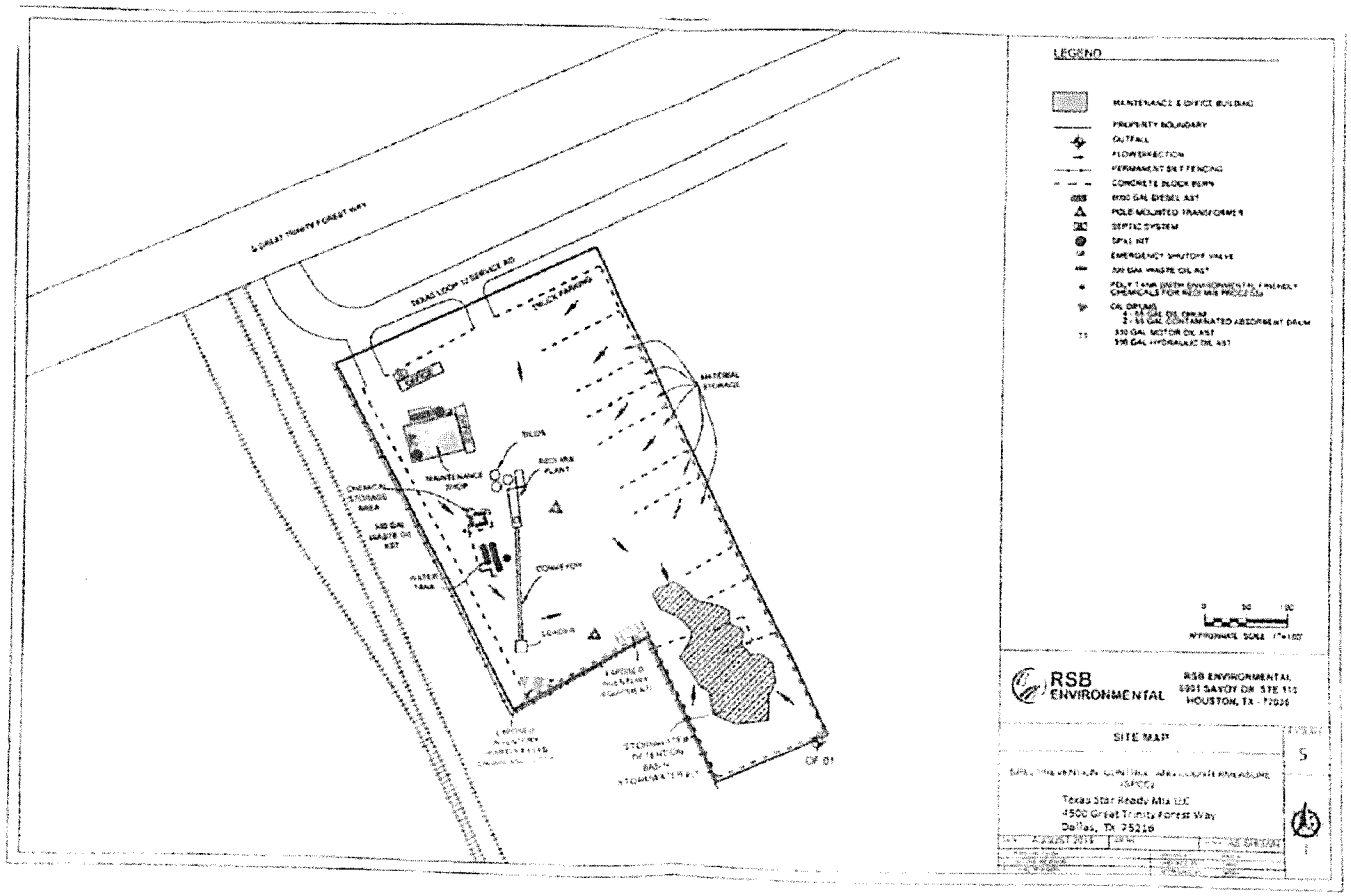
Prepared by J. Schwartz

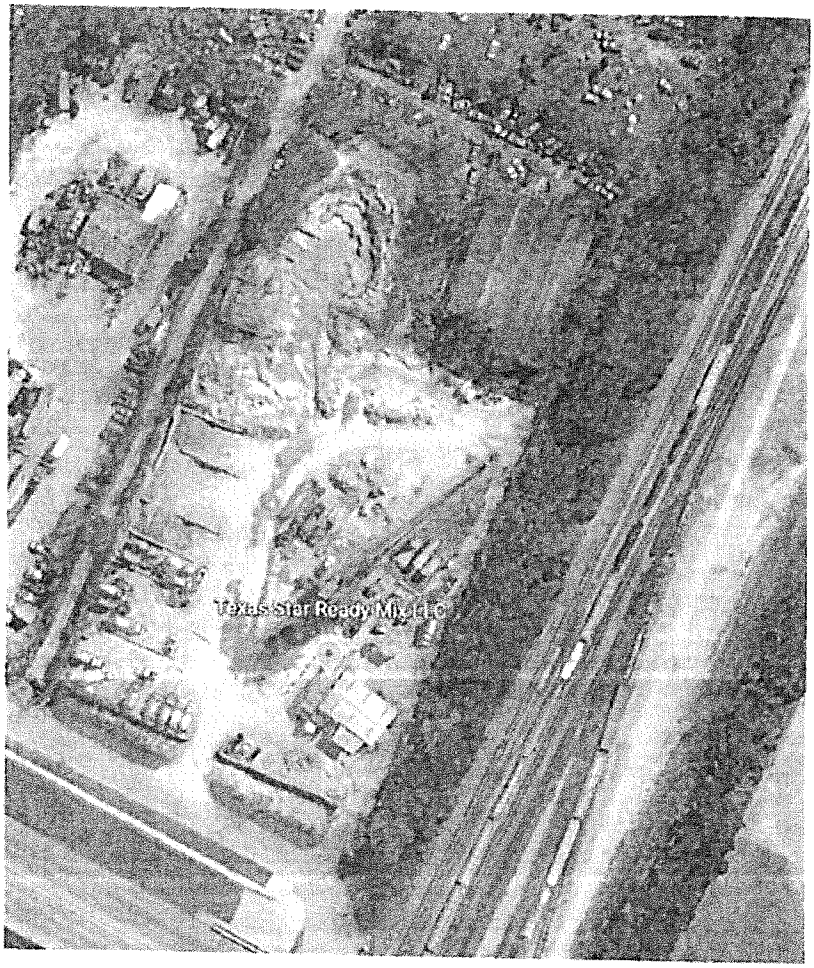
KBA EnviroScience, Ltd.

Figure 1. Site Location of the Texas Star Ready Mix LLC Facility, 4500 Great Trinity Forest Way in Dallas, Texas.




Buffalo Soldiers
at Fort Joppa
South Central
Church of Christ


LEGEND
MAINTENANCE & OFFICE BUILDING
PROPERTY BOUNDARY
OUTFALL
FLOW DIRECTION
PERMANENT BARB FENCING
CONCRETE BLOCK WALL
8000 GAL DIESEL AST
POLE MOUNTED TRANSFORMER
SEPTIC SYSTEM
SPILL KIT
EMERGENCY SHUTOFF VALVE
500 GAL WASTE OIL AST
POLY TANK WITH ENVIRONMENTAL FRIENDLY CHEMICALS FOR MUD MIX PRODUCTION
OIL DRUMS
4 - 55 GAL OIL DRUM
2 - 55 GAL CONTAMINATED ABSORBENT DRUM
330 GAL MOTOR OIL AST
330 GAL HYDRAULIC OIL AST
0 30 60
APPROXIMATE SCALE 1"=60'
RSB ENVIRONMENTAL
RSB ENVIRONMENTAL
5301 SAVOY DR. STE 110
HOUSTON, TX - 77036
SITE MAP
5
Texas Star Ready Mix LLC
4500 Great Trinity Forest Way
Dallas, TX 75216
GREAT TRINITY FOREST WAY
TEXAS LOOP 12 SERVICE RD
TRUCK PARKING
SILOS
MATERIAL STORAGE
MAINTENANCE SHOP
RED MIX PLANT
CHEMICAL STORAGE AREA
500 GAL WASTE OIL AST
WATER TANK
CONVEYOR
LOADER
STORMWATER DETENTION BASIN
OF 01


Texas Star Ready Mix LLC

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:55 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

COMMENTS: Entire document is too large and will be uploaded in separate parts. The complete set of uploads will include the following separate documents: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf 2023-

0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf 2023-
0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-
0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-
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0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-
0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-
0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-
0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-
0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf

ATTACHMENT 3 – PART 3
SCANNED COPY OF PUBLICLY AVAILABLE DOCUMENT AT LIBRARY

Re: Part 5 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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:

- request for a public meeting,
- request for a contested case hearing, and
- public comments.

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

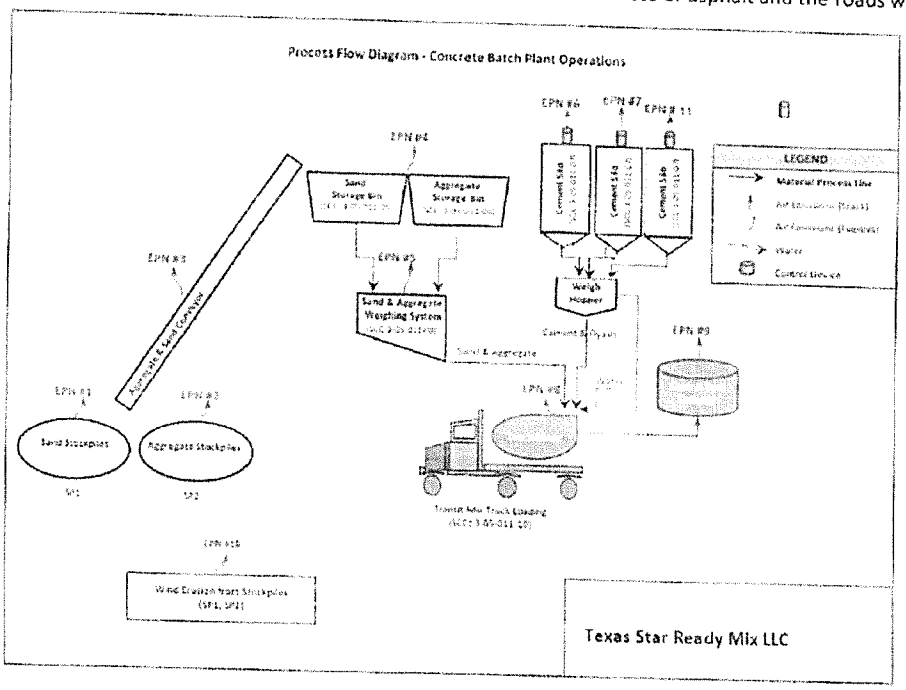
Michael Bates, Staff Attorney
phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

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

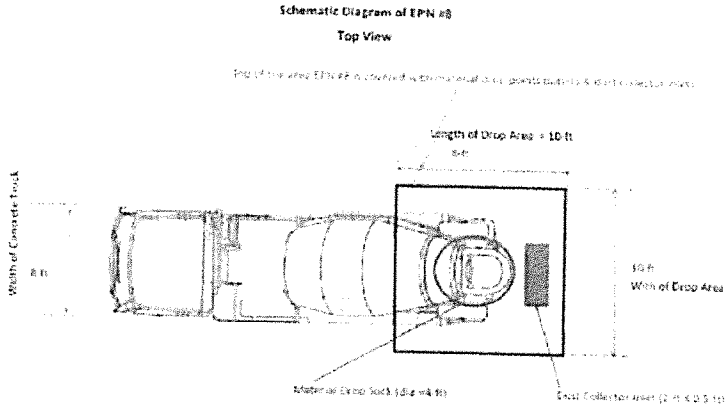
Legal Aid of NorthWest Texas
400 S. Zang Blvd., Ste. 1420
Dallas, TX 75208
Fax: (817) 736-1602

PROCESS DESCRIPTION

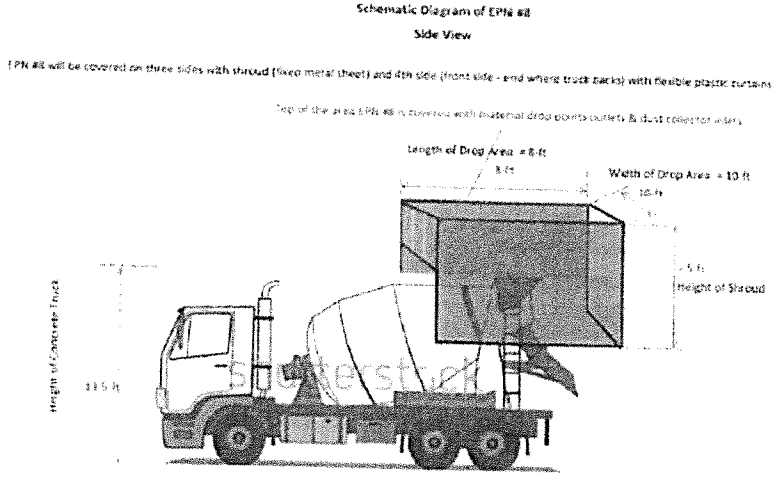
Texas Star Ready Mix LLC is proposing to construct and operate one permanent concrete batch plant to be located at 4500 Great Trinity Forest way Dallas, Texas. The facility intends to register the concrete batch plant as standard permit under 30 TAC 116, Subchapter F. The facility will have one concrete batch plant: CBP-1. The maximum production capacity of the plant is 120 cubic yards per hour. The maximum operating schedule of the plant will be 24 hours per day, 7 days per week and 52 weeks per year. PROPOSED CONCRETE BATCH PLANT-1 (EPN #1 - #9) The concrete will be composed of water, sand, aggregate and cement. Sand and aggregate will be brought into the facility via truck and unloaded onto the aggregate & sand stockpiles (SP1 & SP2) (EPN #1 & #2). The sand and aggregate will be loaded to conveyor (EPN #3) to be transported to the elevated storage bins (EPN #4). Sand and aggregate from storage bins will be dropped onto the weighing system (EPN #5) and transferred to the truck mixer (EPN #8). Sand and aggregate materials will be prewashed, sprinkled, and handled wet. All sand and aggregate handling at the facility will be considered as material handling operations (EPN #1 thru EPN #5). Emissions from material handling will be fugitives. Cement will be brought into the facility via trucks and loaded pneumatically into cement silo. Cement will be transferred from the silos to the weigh hopper and transferred to the truck mixer (EPN #8). Particulate emissions from the silos loading will be vented to the respective baghouses (EPN #6 & #7 &#11). Raw materials: cement from the weigh hopper and sand & aggregate from weighing system are loaded to the truck mixer (EPN #8). Water will be added to the raw material in the truck mixer along with sand, aggregate and cement. Emissions from the truck mixer will be captured using atleast 5,000 cfm central dust collector (EPN #9) with a filter efficiency of atleast 99.9%. Uncaptured emissions from truck mixer will be fugitives. The truck mixer will deliver the concrete to customers off-site. STOCKPILES (EPN #10) Additional emissions from stockpiles at the facility (SP1 & SP2) operations due to wind are addressed as one source of fugitives under stockpile wind erosions from the facility (EPN #10). Water will be sprinkled to suppress the dust emissions from the stockpiles and roads as necessary. The in-plant roads will be paved with concrete or asphalt and the roads will be



cleaned



Texas Star Ready Mix LLC



Texas Star Ready Mix LLC

C&W • DustTech
CLEAN AIR TECHNOLOGIES

DUST SETTLES. WE DON'T.

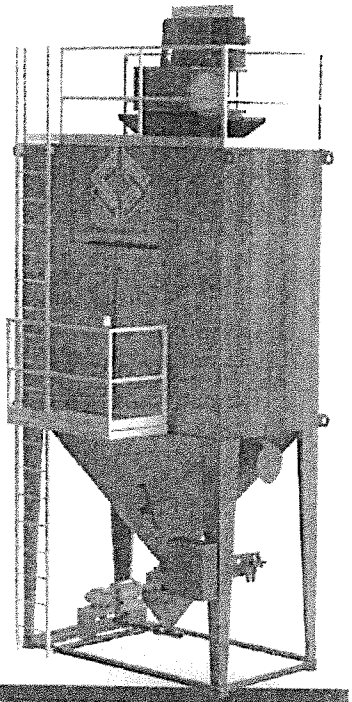
Central Dust Collectors Designed to Meet Your Needs

Standard Components:

- Dirty Air Chamber
- Hopper (To Contain Collected Material)
- Hopper Discharge Valve
- Filtration Media
- Negative Pressure Fan/Motor Assembly
- Filtration Cleaning Mechanism
- Clean-Air Chamber
- Clean Fan Exhaust
- Factory Wired and Tested Motor Controls

Our Central Dust Collectors are custom engineered to ensure contaminated air is captured and filtered efficiently through the unit. This allows clean air to be cycled back into your manufacturing process or disposed of properly to protect your people, processes and the environment.

Our singular focus on dust gives our team the ability to deliver customized dust collection solutions that are built to outperform in the most demanding, harsh environments and built to last. Whether it's a Cartridge Pulse, Bag Pulse or Reverse Air Central Dust Collector, our team will specify the most effective dust collector for your unique needs.



Central Dust Collector Features and Benefits:

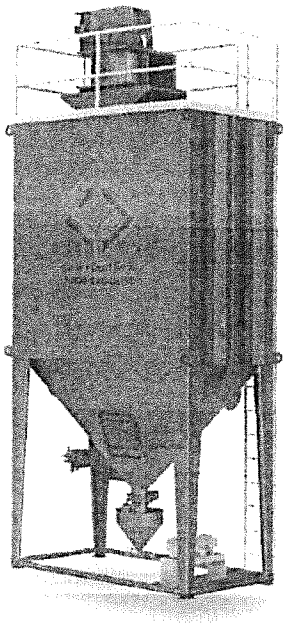
- **Easy to Maintain:** Toolless exchange of filter media and clean side filter exchange.
- **Safety, OSHA-Compliant:** Ladders, platforms and handrails.
- **Customizable:** Custom options and packages are available upon request.
- **Filtration Efficiency:** Approximately 99.99%.
- **Pre-Assembled & Pre-Tested:** Minimal installation and start up time.
- **Supports High and Low Temperature Applications.**

800.880.DUST (3878) | cwdusttech.com | 6933 Shelmor Road Alvarado, TX 76009

Reverse Air (RA-Series)

Reverse Air (RA) Central Dust Collectors are designed to collect dust from multiple points, such as mixer truck charging points or central mixers. The RA Series provides an effective way to filter out harmful dust pollution effects with its multi-compartment design.

As heavy dust particles settle out of the air stream and into the hopper, dust-laden air flows up through the inside of the polyester felt bags where the particles are trapped. Filter bags allow clean air to pass through the air chamber and back into the environment. The cleaning cycle rotates between compartments to ensure each is cleaned in rotation.



RA – 140

Additional Features and Benefits:

- **Reliable, Easy to Operate:** Solid state adjustable timers with LED display.
- **Performance:** Magnehelic gauge and hopper vibrator.
- **Long lasting, durable:** 10-gauge, cambered steel construction.
- **Greater Temperature Range:** Including cold climate applications.

Additional Services & Support

We support our customers with a range of specialized services to deliver a solution that exceeds expectations, including:

- Customized Layouts
- Startup, Maintenance and Training
- Professional Consultation
- Ongoing Aftermarket Part Support
- Air Permit Calculations
- Airflow Design Engineering and Performance Software

Need a Full Central Dust Collection System?

Depending on your operation, needs and regulatory environment, utilizing a complete dust collection system can help you maximize production efficiencies. Our systems include:

- Ducting
- Dust Collector
- Cleaning System
- Recycle Systems
- Additional accessories include: hoods, shrouds, slump masters, anti-overfill systems, etc.

Contact us at sales@cwdusttech.com to learn about our customized dust collection system options and package offerings.

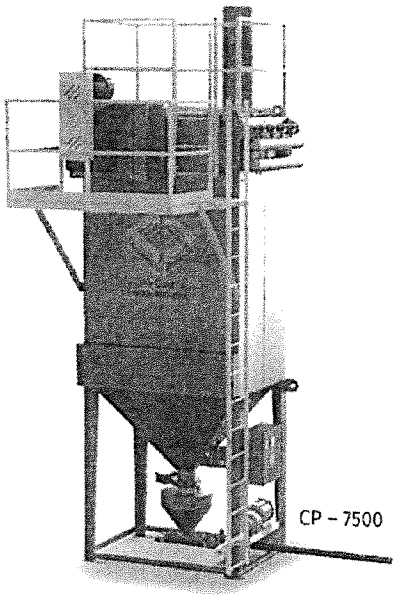
800.880.DUST (3878) | cwdusttech.com | 6933 Shelmor Road Alvarado, TX 76009

Cartridge Pulse (CP-Series)

Cartridge Pulse (CP) Central Dust Collectors efficiently collect dust from multiple points, such as loaders, mixers, weigh batchers and silos. The CP Series offers high-efficiency and top entry with the latest cartridge technologies.

These collectors process dust at an increased Cubic Feet per Minute (CFM), requiring cartridges to be regularly cleaned of any build up. Each unit is constructed with blowpipes and timer-controlled system that automatically cleans the cartridges with compressed, clean and dry air at 90-100 psi.

Our Cartridge Pulse technology is also offered in small central housings starting at 1440 CFM. The Small CP Series provides a high-performing, cost effective solution for your exact dust control needs.



CP – 7500

Additional Features and Benefits:

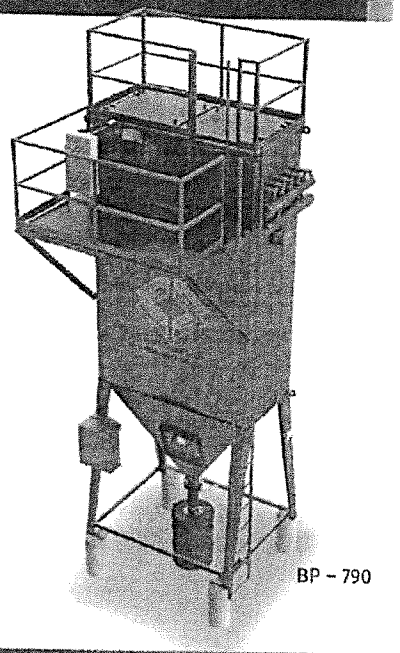
- **Performance:** Magnehelic gauge and laser aligned cleaning system.
- **Compact Design:** Pleated Filter Media.
- **Reliable, Easy to Operate:** Electrical control panel and solid-state adjustable timers with LED display.

Bag Pulse Jet (BP-Series)

Bag Pulse (BP) Central Dust Collectors collect dust from multiple points, such as loaders, mixers and silos especially in elevated temperature applications. Advanced pulse jet technology and a large selection of filtration media creating a high-performing system that eliminates confined space issues.

Dust entering the collector is automatically funneled to a high-level expansion chamber that slows air flow and allows the majority of dust to fall to the hopper without reaching the bags. Clean air then comes up through the bags and out the collector exhaust.

The BP Collector is constructed with blowpipes that clean bag buildup with compressed, clean and dry air at 90-100 psi.



BP – 790

Additional Features and Benefits:

- **Performance:** Magnehelic gauge and laser aligned cleaning system.
- **Greater Temperature Range:** Supports low temperature applications.
- **Reliable, Easy to Operate:** Electrical control panel and solid-state adjustable timers with LED display.

BP Series

	BP-790	BP-1100	BP-1300	BP-1500	BP-1800	BP-2000
Total Filtration Area	790	1100	1255	1507	1810	2072
Number of Bags	50	70	80	96	96	132
Bag Length	120"	120"	120"	120"	144"	120"
Overall Height	23'	24'7"	25'1"	26'2"	28'2"	23'5"
Overall Width	10'5"	10'10"	11'5"	11'7"	11'11"	19'5"
Overall Length	8'6"	12'2"	12'2"	14'	13'11"	10'3"
Blower HP	10	15	15	20	25	25
Air to Cloth Ratio (ACFM/ft2)	6.3	5.91	6.37	5.97	6.08	6.12
# of Compartments	1	1	1	1	1	1
Cleaning Mechanism	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer
Min. Design Efficiency*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%

*At standard test conditions

RA Series

	RA-120	RA-140	RA-170	RA-200	RA-280	RA-340
Total Filtration Area	955	1433	1734	2148	2865	3468
Number of Bags	48	72	72	108	144	144
Bag Length	114"	114"	138"	114"	114"	138"
Overall Height	21'6"	23'8"	25'8"	23'8"	25'4"	27'4"
Overall Width	8'	10'4"	10'4"	10'4"	10'7"	10'7"
Overall Length	9'2"	9'2"	9'2"	11'	17'5"	17'5"
Approx. Weight (lbs.)	5,600	7,200	8,200	9,200	10,500	12,400
Air to Cloth Ratio (ACFM/ft2)	5.2	4.54	4.51	4.66	4.54	4.33
Blower Horsepower (optional)	10	10	15	20	25	25
Blower CFM	5,000	6,500	8,000	10,000	13,000	15,000
# of Compartments	2	2	2	2	4	4
Cleaning Mechanism	Reverse Air	Reverse Air	Reverse Air	Reverse Air	Reverse Air	Reverse Air
Min. Design Efficiency*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%*	99.9%

*At standard test conditions

CP Series

	CP-5250	CP-7500	CP-10000	CP-12500	CP-14000
Total Filtration Area	787	1654	2068	2585	3102
Number of Cartridges	15	16	20	25	30
Type of Media	8" x 39"	8" x 78"	8" x 78"	8" x 78"	8" x 78"
Normal Air Capacity (CFM)	5250	7500	10000	12500	14000
Static Pressure Drop	8" W.C.	8" W.C.	8" W.C.	8" W.C.	8" W.C.
Air to Cloth Ratio (ACFM/ft.2)	6.67	4.53	4.83	4.83	4.51
Blower Horsepower (Optional)	15	20	20	25	30
Blower CFM	5,250	7,500	10,000	12,500	14,000
Min. Design Efficiency	99.99%*	99.99%*	99.99%*	99.99%*	99.99%*
Cleaning Mechanism	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer
*At standard test conditions					

Small CP Series

	CP1440C	CP2150C	CP2880C	CP3240C	CP3600C	CP4320C
Total Filtration Area	210	315	420	472.5	525	630
Number of Cartridges	4	6	8	9	10	12
Normal Air Capacity (CFM)	1440	2160	2880	3240	3600	4320
Static Pressure Drop	8" W.C.	8" W.C.	8" W.C.	8" W.C.	8" W.C.	8" W.C.
Air to Cloth Ratio (ACFM/ft.2)	6.86	6.86	6.86	6.86	6.86	6.86
Blower Horsepower (Optional)	3	5	7.5	7.5	7.5	10
# of Solenoids	2	2	2	3	2	3
Outlet Moisture Content (Ideally)	0	0	0	0	0	0
Min. Design Efficiency	99.99%*	99.99%*	99.99%*	99.99%*	99.99%*	99.99%*
Cleaning Mechanism	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer	Pulse Jet w/ Timer
Compressed Air Requirement (cfm)	2	2	3	4	4	5
*At standard test conditions						

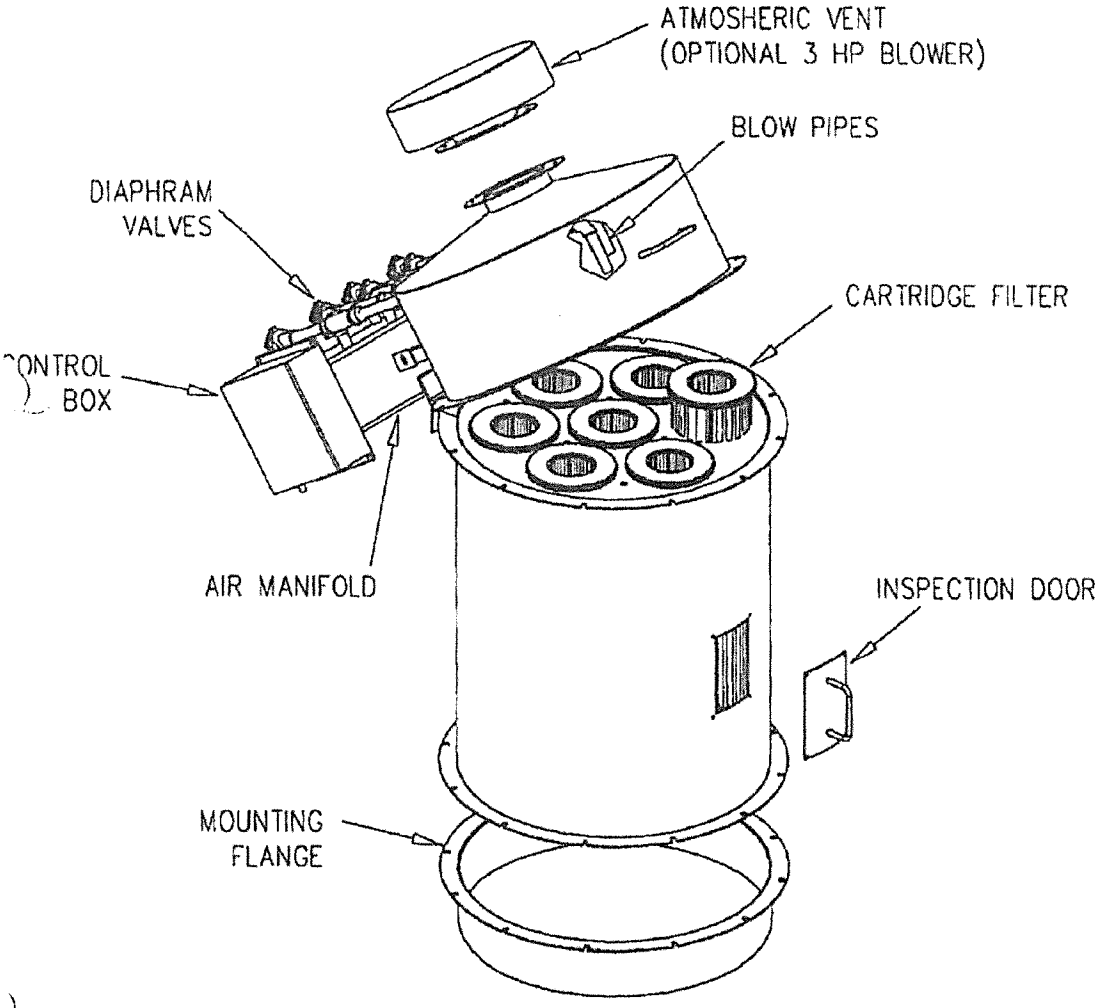
VINCE HAGAN MODEL VH245JP
SILO TOP "JET PULSE" DUST COLLECTOR

SPECIFICATIONS

CLOTH FILTERING AREA.....245 SQ. FT.
NUMBER OF CARTRIDGES.....7
CARTRIDGE DIAMETER.....8.00" O.D.
CARTRIDGE LENGTH.....36"
CLOTH TYPE.....SPUN-BOUND POLYESTER
CLOTH WEIGHT.....8.1 OZ./ SQ.YD.
PERMEABILITY.....28-33 CFM/ SQ. FT. @ 0.5" WATER
TEMPERATURE LIMIT.....200 DEG. F
AIR VOLUME INTAKE.....600 CFM @ 0.5" WATER
EXHAUST OPENING SIZE..... 0.226 SQ. FT.
EFFICIENCY.....99.995 @ .2-2 MICRONS

Unit is complete with silo flange and top access hinged door. External air piping and wiring is not included. Equipment is painted standard HAGAN yellow unleaded machinery enamel. Electrical for 115V/1PH/60HZ power input.

F:\SALES\PRICE\245JP.PRL3/18/98


ATMOSHERIC VENT
(OPTIONAL 3 HP BLOWER)
BLOW PIPES
DIAPHRAM
VALVES
CARTRIDGE FILTER
CONTROL
BOX
AIR MANIFOLD
INSPECTION DOOR
MOUNTING
FLANGE

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:56 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

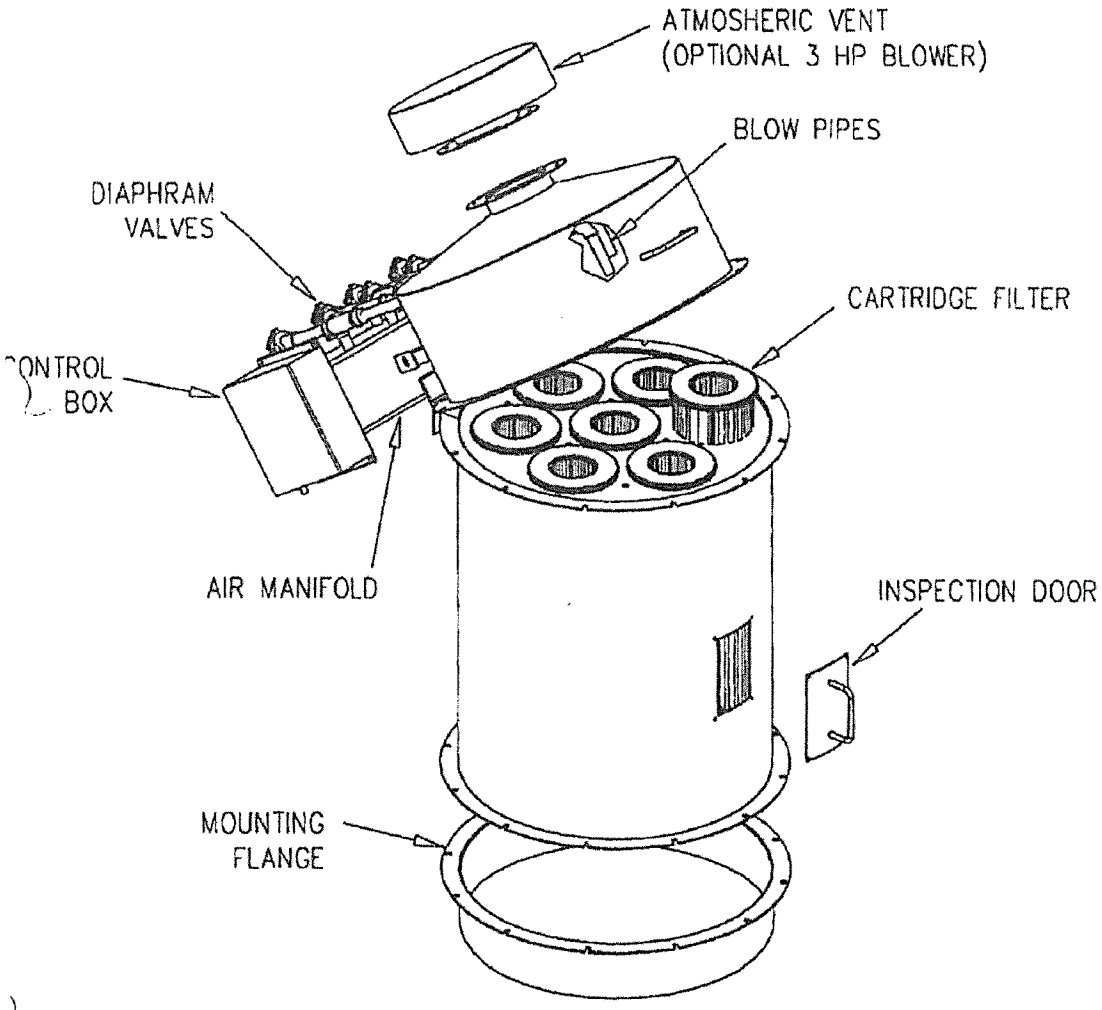
ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

COMMENTS: Entire document is too large and will be uploaded in separate parts. The complete set of uploads will include the following separate documents: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf 2023-

0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf


ATMOSHERIC VENT
(OPTIONAL 3 HP BLOWER)
BLOW PIPES
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CARTRIDGE FILTER
CONTROL
BOX
AIR MANIFOLD
INSPECTION DOOR
MOUNTING
FLANGE

ATTACHMENT 4
PHOTOS OF APPLICANT'S PUBLIC NOTICE POSTED SIGNS

Re: Part 6 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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:

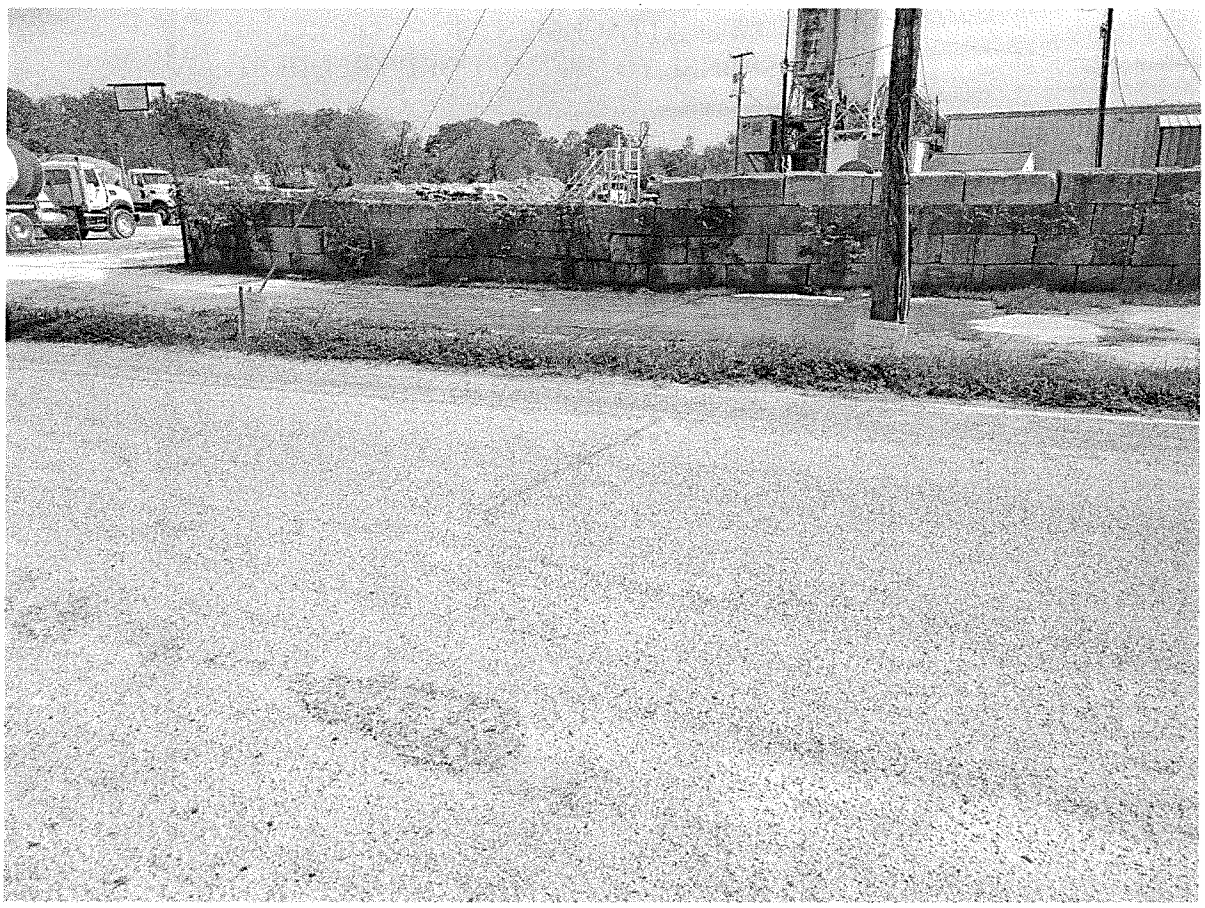
- request for a public meeting,
- request for a contested case hearing, and
- public comments.

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

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



ATTACHMENT 5
TCEQ RESPONSE TO OPEN RECORDS REQUEST

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

Texas Commission on Environmental Quality

Protecting Texas by Reducing and Preventing Pollution

April 12, 2023

Via E-Mail

Michael Bates
Legal Aid Of NorthWest Texas
400 S Zang Blvd Ste 1420
Dallas, TX 75208

Re: TCEQ Public Information Request number 82955

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.

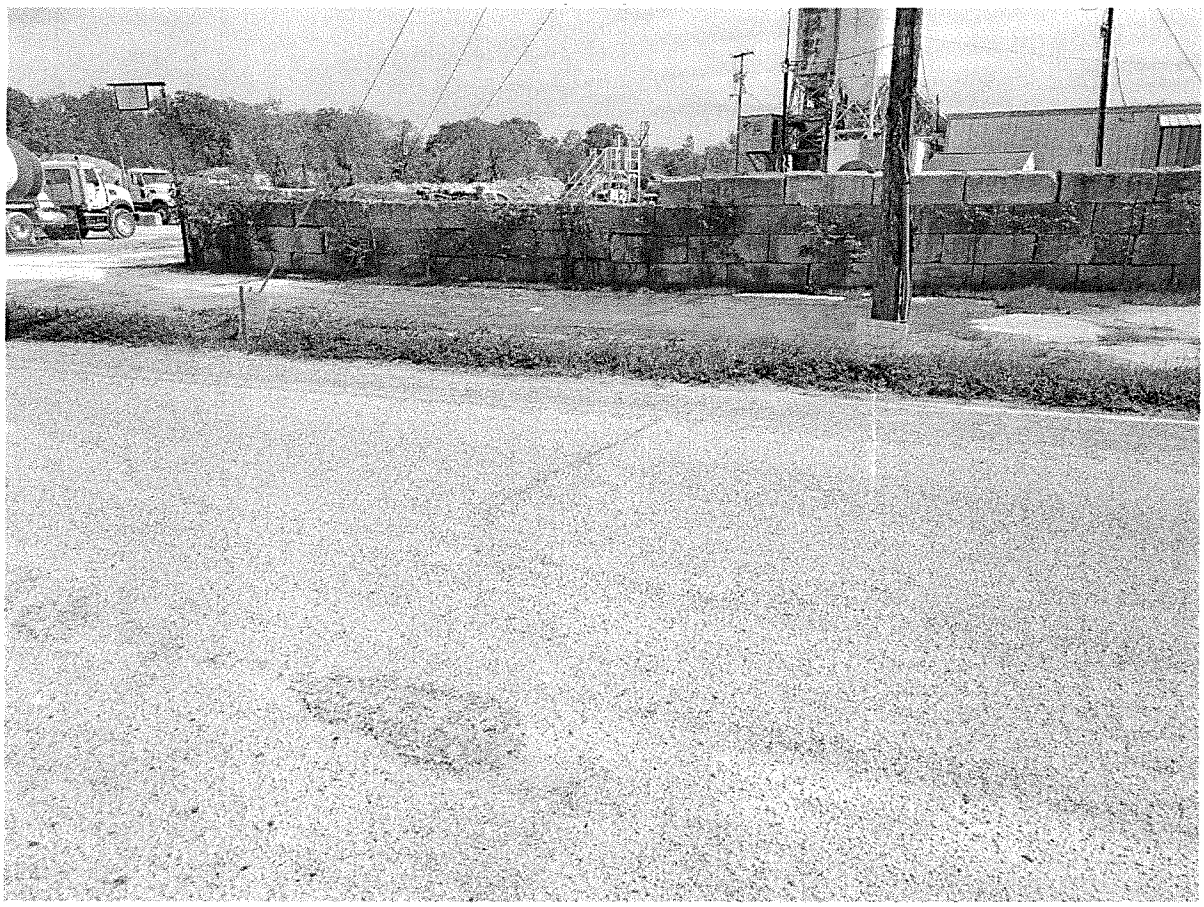
If you have any questions concerning this matter, you may contact me at 512-239-3282 or by e-mail at openrecs@tceq.texas.gov.

Sincerely,

Valarie Botello
Information Resources Division

ATTACHMENT 6
PHOTO OF DROP POINT

ATTACHMENT 7
PHOTOS OF FACILITY FENCES



Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:57 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

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0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf

ATTACHMENT 8
PHOTOS OF UNPAVED FACILITY ENTRY/EXITS AND INSIDE FACILITY

Re: Part 7 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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:

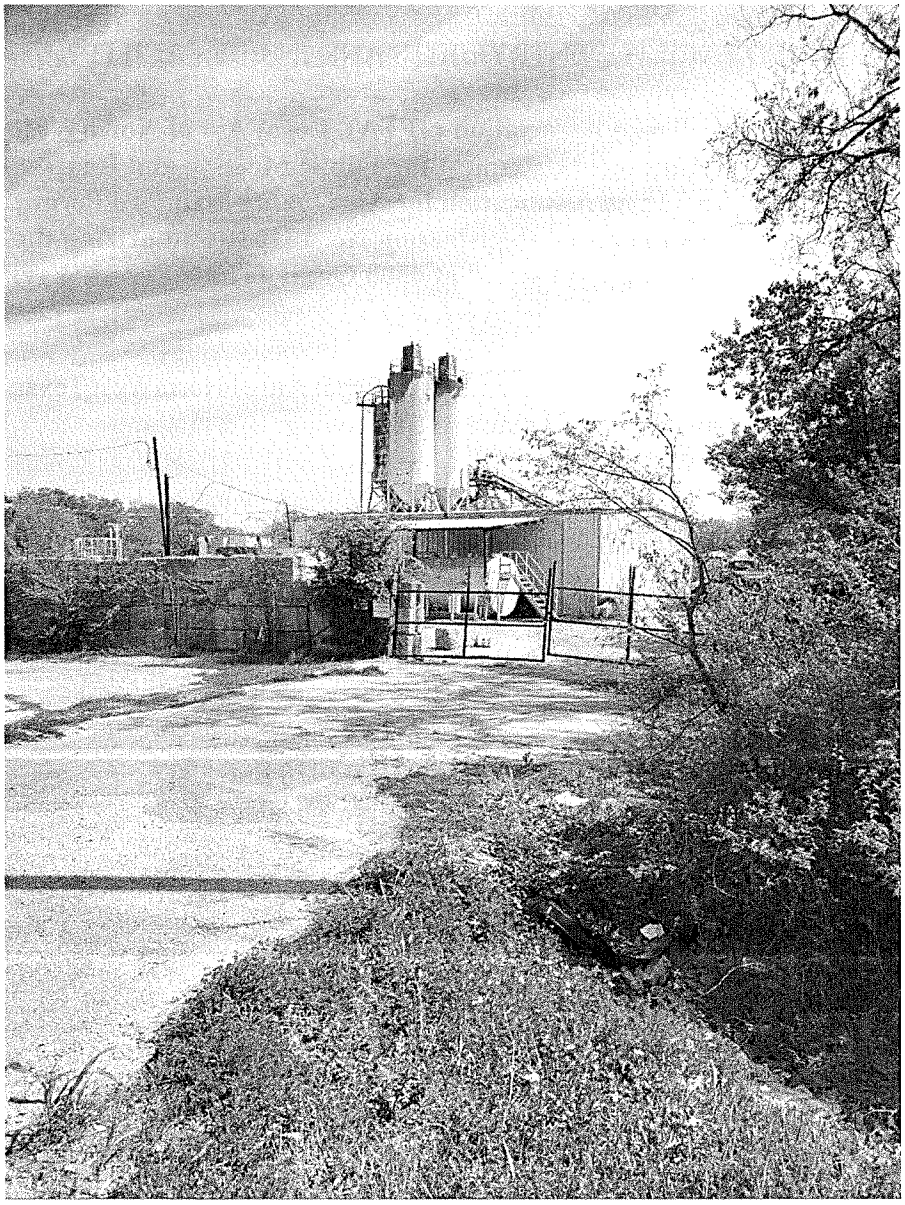
- request for a public meeting,
- request for a contested case hearing, and
- public comments.

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

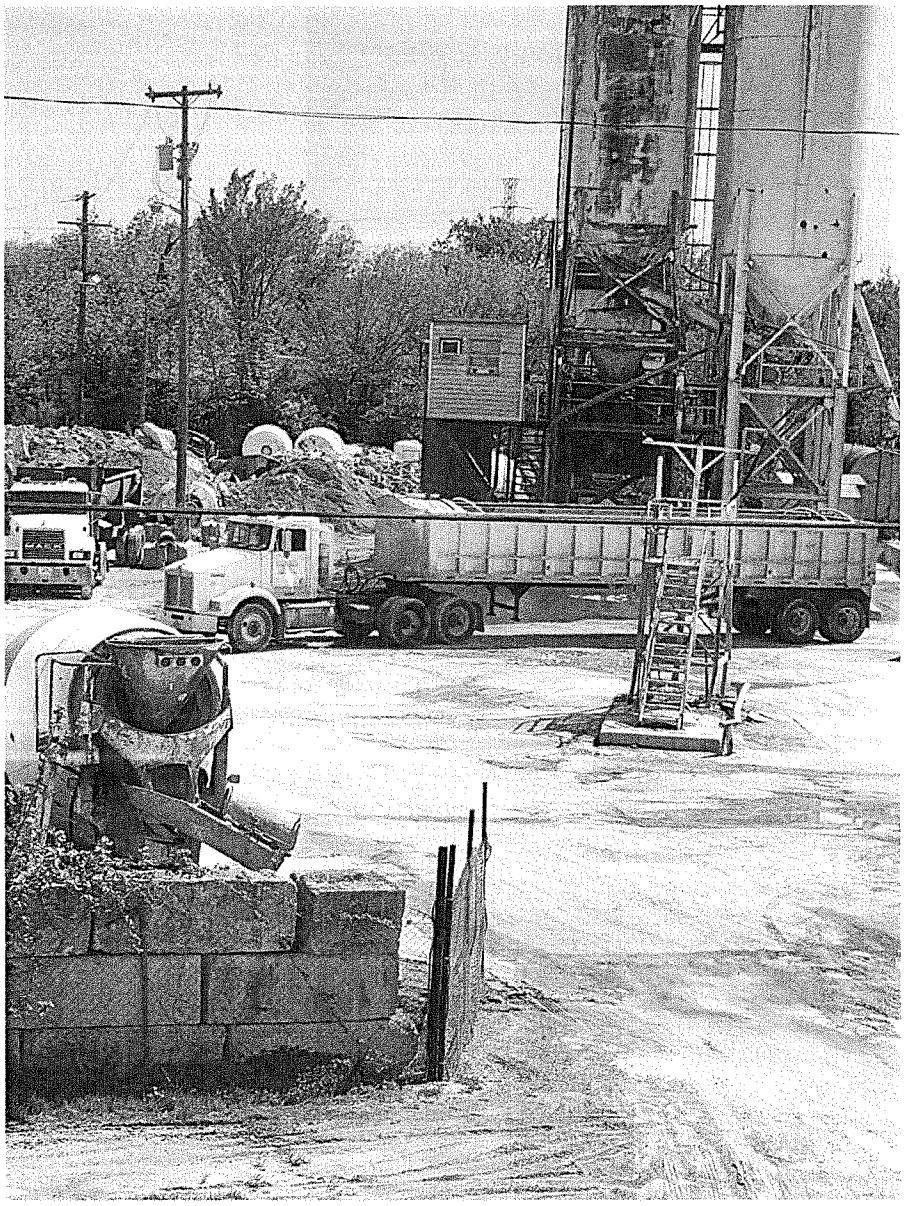
Michael Bates, Staff Attorney
phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

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

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



MACK
101
MACK



Jennifer Cox

From: Brad Patterson
Sent: Tuesday, May 21, 2024 9:11 AM
To: PUBCOMMENT-OCC2
Subject: CORRECTION: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf

PM & H for LANWT
PM for each individual that signed an attached form letter

From: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Sent: Monday, April 17, 2023 12:48 PM
To: PUBCOMMENT-OCC2 <PUBCOMMENT-OCC2@tceq.texas.gov>; PUBCOMMENT-OPIC <PUBCOMMENT-OPIC@tceq.texas.gov>; PUBCOMMENT-ELD <PUBCOMMENT-ELD@tceq.texas.gov>; PUBCOMMENT-APD <PUBCOMMENT-APD@tceq.texas.gov>
Subject: FW: Public comment on Permit Number 171636

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:59 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

COMMENTS: Entire document is too large and will be uploaded in separate parts. The complete set of uploads will include the following separate documents: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part2-Attachment1Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part4-Attachment2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part1.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part2.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part5-Attachment3-Part3.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part6-Attachment4-7.pdf 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part7-Attachment8.pdf This upload contains only: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf

ATTACHMENT 1 – PART 2
PUBLIC MEETING REQUESTS FROM COMMUNITY MEMBERS

Re: Part 3 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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- request for a public meeting,
- request for a contested case hearing, and
- public comments.

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phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

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

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

Date: 4/10/25

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Joyce H. McKenzie

My comments are on the back of this page.

Name: Joyce H. McKenzie

Address: 4719 Nome St.
Dallas, Tx 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4/10/23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Jessica Scott

My comments are on the back of this page.

Name: Zella Scott

Address: 4719 Rome St.
Dallas TX
75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-10-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Julius Hull

My comments are on the back of this page.

Name: Julius Hall

Address: 4719 Nome St.
Dallas, Tx. 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-10-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Larry Ragland

My comments are on the back of this page.

Name: LARRY RAGLAND

Address: 4724 NOME ST
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-10-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

My comments are on the back of this page.

Name: Eric Douglas

Address: 4808 Nome ST

These are my additional comments about Proposed Permit No. 171636.

Date: April 10 - 23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Ruby Hull

My comments are on the back of this page.

Name: Ruby Hull

Address: 4719 Normandy ST
Dallas Tx 75214

These are my additional comments about Proposed Permit No. 171636.

Date: 4-11-2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Kimberly Cardenas

My comments are on the back of this page.

Name: Kimberly Clendenen

Address: 7923 Kiska St
Dallas, TX 75216

These are my additional comments about Proposed Permit No. 171636.

Hopefully, this company will require safety for the immediate residents including healthy air standards. However, if particals could/would restrict breathing or have an adverse affect on a healthy person it SHOULD NOT be permitted to operate or hold a license. Therefore, this company should be liable for any complications that come about. So far I haven't tested positive for sarcidosis or meso-the neoma but will have annual tests. This company has been in operation for years and hopefully will keep up with the quality of air control.

Sincerely,
K. Clendenen

Date: 4-11-2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

My comments are on the back of this page.

Name: Shaquita Spencer

Address: 7939 Kiska St
Dallas TX 75214

These are my additional comments about Proposed Permit No. 171636.

N/A

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:48 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636
Attachments: 2023-0414_PublicCommentsMeeting&HearingRequestOfJFTA-Part3-Attachment1Part2.pdf

PM
H

From: hammondw@lanwt.org <hammondw@lanwt.org>
Sent: Friday, April 14, 2023 4:59 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Wendi Hammond

EMAIL: hammondw@lanwt.org

COMPANY: Legal Aid of NorthWest Texas

ADDRESS: 400 S ZANG BLVD 1420
DALLAS TX 75208-6600

PHONE: 2142432583

FAX:

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ATTACHMENT 1 – PART 2
PUBLIC MEETING REQUESTS FROM COMMUNITY MEMBERS

Re: Part 3 Joppa Freedmans Town Association (JFTA), Legal Aid of NorthWest Texas (LANWT) Public Comments, Request for Public Meeting and Request for a Contested Case Hearing on Application for Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636 authorizing the operation of a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75082.

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phone: (469) 917-5970 Ext. 8902
email: batesm@lanwt.org

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

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

Date: 4/10/25

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Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Joyce H. McKenzie

My comments are on the back of this page.

Name: Joyce H. McKenzie

Address: 4719 Nome St.
Dallas, Tx 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4/10/23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Erica Scott

My comments are on the back of this page.

Name: Zella Scott

Address: 4719 Home St.
Dallas TX
75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-10-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Julius Hull

My comments are on the back of this page.

Name: Julius Hull

Address: 4719 Nome St.
Dallas, Tx. 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-10-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Larry Ragland

My comments are on the back of this page.

Name: LARRY RAGLAND

Address: 4724 NOME ST
Dallas TX 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-10-23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
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I request a public meeting regarding this permit application (please circle).

YES **NO**

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Sincerely,

E. Daly

My comments are on the back of this page.

Name: Fay Douglas

Address: 4808 Nome ST

These are my additional comments about Proposed Permit No. 171636.

Date: April 10 - 23

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Ruby Hull

My comments are on the back of this page.

Name: Ruby Hull

Address: 4719 Normandy ST
Dallas Tx 75216

These are my additional comments about Proposed Permit No. 171636.

Date: 4-11-2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

RE: **Request for Public Meeting Regarding Air Quality Standard Permit for Concrete Batch Plants Proposed Registration No. 171636; Texas Star Ready Mix, LLC.**

Dear Chief Clerk:

These are my comments regarding Texas Star Ready Mix, LLC's application to the Texas Commission on Environmental Quality for an Air Quality Standard Permit, Registration No. 171636, which would authorize a concrete batch plant located at 4500 Great Trinity Forest Way, Dallas, Texas 75216.

I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

Kimberly Cardenas

My comments are on the back of this page.

Name: Kimberly Clendenen

Address: 7923 Kiska St
Dallas, TX 75216

These are my additional comments about Proposed Permit No. 171636.

Hopefully, this company ~~should require~~ will require safety for the immediate residents including healthy air standards. However, if particals could/would restrict breathing or have an adverse affect on a healthy person it SHOULD NOT be permitted to operate or hold a license. Therefore, this company should be liable for any complications that come about. So far I haven't tested positive for sarcidosis or mesothelioma but will have annual tests. This company has been in operation for years and hopefully will keep up with the quality of air control.

Sincerely,
K. Clendenen

Date: 4-11-2023

Office of the Chief Clerk
Texas Commission on Environmental Quality
PO Box 13087
Austin, TX 78711-3087
Sent by Mail

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I request a public meeting regarding this permit application (please circle).

YES **NO**

My information and additional comments regarding this permit application are on the back of this letter.

Sincerely,

My comments are on the back of this page.

Name: Shaquita Spencer

Address: 7939 Kiska St
Dallas TX 75214

These are my additional comments about Proposed Permit No. 171636.

N/A

Christina Bourque

From: PUBCOMMENT-OCC
Sent: Friday, April 14, 2023 8:30 AM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636

PM

From: tederrough@gmail.com <tederrough@gmail.com>
Sent: Wednesday, April 12, 2023 2:38 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: Temeckia Rochell Derrough

EMAIL: tederrough@gmail.com

COMPANY:

ADDRESS: 7931 KISKA ST
DALLAS TX 75216-4143

PHONE: 2146943730

FAX:

COMMENTS: I'm requesting a public meeting for this permit for the community. The Joppa community has been suppressed with industry companies and our health is endangered long term. I oppose this permit. This company will effect our air quality around the Joppa community and trails around this company.

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Friday, March 24, 2023 2:41 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-APD
Subject: FW: Public comment on Permit Number 171636

H

From: kathryn.bazan@dallas.gov <kathryn.bazan@dallas.gov>
Sent: Friday, March 24, 2023 2:20 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

FROM

NAME: MRS Kathryn Bazan

EMAIL: kathryn.bazan@dallas.gov

COMPANY: City of Dallas Environmental Commission

ADDRESS: 10456 VINEMONT ST
DALLAS TX 75218-2230

PHONE: 2147091309

FAX:

COMMENTS: I object to the authorization of this facility and request a public hearing.

TCEQ Registration Form

August 17, 2023

Texas Star Ready Mix, LLC
Proposed Registration No. 171636

PLEASE PRINT

Name: Kathryn Bazan

Mailing Address: 10454 Vinemont St

Physical Address (if different): —

City/State: Dallas, TX **Zip:** 75218

This information is subject to public disclosure under the Texas Public Information Act

Email: Kathryn.bazan@dallas.gov

Phone Number: (214) 709-1301

- Are you here today representing a municipality, legislator, agency, or group? ☑ Yes ☐ No

  If yes, which one? Dallas Environmental Commission

☑ **Please add me to the mailing list.**

☑ **I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.**

☐ **I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.**

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 4:00 PM
To: PUBCOMMENT-APD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number 171636
Attachments: Texas Star Hearing Request 1.pdf

H

From: downwindersatrisk@gmail.com <downwindersatrisk@gmail.com>
Sent: Thursday, August 17, 2023 1:54 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number 171636

REGULATED ENTY NAME TEXAS STAR READY MIX CBP SN 78043

RN NUMBER: RN111648234

PERMIT NUMBER: 171636

DOCKET NUMBER:

COUNTY: DALLAS

PRINCIPAL NAME: TEXAS STAR READY MIX LLC

CN NUMBER: CN605903574

NAME: Jim Schermbeck

EMAIL: downwindersatrisk@gmail.com

COMPANY: Downwinders at Risk

ADDRESS: 1808 S GOOD LATIMER EXPY
DALLAS TX 75226-2202

PHONE: 4696081972

FAX:

COMMENTS: Please see attached comments and request.

Downwinders at risk

1808 South Good Latimer Expy Dallas 75226 469-608-1972 www.downwindersatisk.org

Texas Commission on Environmental Quality August 17th, 2023

RE: Air Quality Permit Number 171636

Texas Star Ready Mix

4500 Great Trinity Forest Way, Dallas, Texas 7508

Downwinders at Risk is a 29-year-old non-profit clean air group based in Dallas-Fort Worth. We have a long history of intervening in state and federal air quality permitting matters with the goal of reducing pollution and its harms in North Texas.

We're writing on behalf of our supporters to object to the issuance of Air Quality Permit Number 171636 being sought for a facility owned and operated by Texas Star Ready Mix in the Freedman's community of Joppa in Dallas.

Specifically, we represent the interests of individuals currently affected by the emissions from the Texas Star concrete batch plant and we're requesting a contested case hearing for this permit.

Alicia Kendrick is a resident of the Joppa neighborhood, residing at 4741 Joppa Circle, Dallas, Texas 75216 (469-337-3657). Her home is located approximately 4500 feet directly north of the facility.

Pauline Logan is also a resident of Joppa, residing at 4823 Nome Street, Dallas Texas 75216 (214-372-6789). Her home is located approximately 4500 feet northeast from the facility.

Emmanuel Davis is also a resident of Joppa, residing at 4751 Nome, Dallas Texas 75216 (469-334-7955). His home is located approximately 4500 feet northeast from the facility.

Particulate Matter pollution (PM) from the Texas Star batch plant is a genuine public health concern to Ms. Kendrick, Ms. Logan, Mr. Davis, and our organization. Sources of PM pollution at the plant site include piles of raw materials, on-site combustion and processing, and fleets of diesel trucks coming and going.

Diesel emissions from heavy-duty trucks doing business at the Texas Star batch plant generates a specific kind of PM pollution called Black Carbon pollution which has been shown to be a potent carcinogen. Fugitive emissions at the Texas Star concrete batch plant from raw material piles are the source of nuisance conditions and additional pollution burdens. Noxious fumes and smells from the facility also adversely affect Ms. Kendrick, Ms. Logan, and Mr. Davis' health and quality of life.

Both long-term and short-term exposure to PM pollution can harm the lungs, hearts, brains, and other body systems of those exposed; both long-term and short-term exposure can cause premature death, hospitalizations, and emergency room visits for respiratory and cardiovascular illness.

Short-term exposure can result in acute health impacts during or soon after a day of poor air quality, such as asthma attacks and hospitalization for respiratory and cardiovascular disease. Ms. Kendrick, Ms. Logan, Mr. Davis, and Downwinders at Risk are concerned about the entirety of these adverse health effects being exacerbated for themselves and their families by emissions of PM pollution from the Texas Star concrete batch plant.

According to the most recent census data, approximately 70% of Joppa residents are Black while 30% are Hispanic. The median household income is among the lowest in Texas. Almost 40% of Joppa residents live below the federal poverty line.

It's well-documented that neighborhoods populated primarily by People of Color are disproportionately affected by PM air pollution. A 2023 analysis published by Industrial Economics, Incorporated found that *"across the nation,* ***Black Americans have the highest risk of dying from PM2.5 exposure on a per-person basis, with a rate more than triple that of white Americans.***

A 2019 Union of Concerned Scientists study concluded that the "***average concentrations Of PM2.5 exposures for latino residents was 75% higher than white residents,*** *and for* ***Asian American residents they are 73 percent higher,*** *than they are for white residents.* ***Exposures for African American residents are 61 percent higher than for white residents."*** [Union of Concerned Scientists, 6/27/19]

A 2022 peer reviewed, journal-published study concluded that ***"areas with higher-than-average Black, Asian and Hispanic Or Latino populations were consistently exposed to higher average PM2.5 levels than areas with higher-than-average White And Native American populations."*** [Jbaily, A., Zhou, X., Liu, J. et al. Air pollution exposure disparities across US population and income groups. Nature 601, 228–233, January 2022]

A study published in 2019 found that Black and Hispanic populations bear a 'pollution burden.' ***"On average, Blacks are exposed to about 56 percent more PM2.5 pollution than is caused by their consumption. For Hispanics, it is slightly higher -- 63 percent."*** Proceedings of the National Academy of Sciences (PNAS). [Science Daily, 3/11/19]

*Moreover, **we found no evidence of a threshold value** — the concentration at which PM2.5 exposure does not affect mortality — at concentrations as low as approximately 5 μg per cubic meter - this finding is similar to those of other studies. **The estimate of effect size for PM2.5 exposure was greatest among male, black, and Medicaid-eligible persons.** It is critical to estimate the health effects of low levels of air pollution — below the current NAAQS — to determine whether these levels are adequate to minimize the risk of death."*

2. "Autism Spectrum Disorder and Particulate Matter Air Pollution before, during, and after Pregnancy: A Nested Case–Control Analysis within the Nurses' Health Study II Cohort" Raz, Roberts, Lyall ,Hart , Just, Laden, Weisskopf Environmental Health Perspectives Vol. 123, No. 3 March 2015 https://doi.org/10.1289/ehp.1408133

"In our nested case–control study of nurses from across the continental United States, ***ambient PM2.5 concentrations during pregnancy were significantly associated with having a child diagnosed with ASD.*** The average (± SD) levels of PM2.5 and PM10–2.5 during pregnancy were 14.6 ± 3.3 and 9.9 ± 4.9 μg/m3, respectively."

3. "Ambient air pollution and clinical dementia: systematic review and meta-analysis," Elissa H. Wilker, Marwa Osman, Marc G. Weisskopf, The BMJ, online April 5, 2023, doi: 10.1136/bmj-2022-071620

*"A Harvard Chan School of Public Health study published in April of this year in the British Medical Journal concluded that chronic exposure to air containing high levels of fine particles was consistently associated with dementia – **even when the average annual levels of particles were below the US EPA standard – the relationship with dementia persisted**."*

4. "Effects of ambient fine particulates, nitrogen dioxide, and ozone on maturation of functional brain networks across early adolescence," Environmental International, July 2023. L. Cotter , ClaireE. Campbell, Kirthana Sukumaran,= Rob McConnell , Kiros Berhane , Joel Schwartz , Daniel A. Hackman , Hedyeh Ahmadi , Jiu-Chiuan Chen, Megan M. Herting

*"Research published this summer from the Keck School of Medicine at the University of Southern California concludes that **even levels of certain pollutants considered sage by the EPA are linked to changes in brain functions over time.** Children exposed to mare pollutants showed changes in connectivity between various brain functions and regions."*

*"Taken together, $PM_{2.5}$, O_3, and NO_2 exposure in childhood relate to distinct changes in patterns of network maturation over time. **This is the first study to show outdoor ambient air pollution during childhood is linked to longitudinal changes in brain network connectivity development."***

Despite asserting ESL's are health-based, TCEQ has no evidence that its ESL for PM 2.5 is protective of human health considering scientific research showing otherwise. To be awarded this permit, the Texas Star batch plant or TCEQ must show the PM 2.5 emissions

A 2022 study found that Hispanic Americans are consistently exposed to higher concentrations of PM 2.5 than Non-Hispanic Populations. *"Exhibit ES-1 is clear:* ***Hispanic Americans are consistently exposed to higher concentrations of PM2.5 than non-Hispanic populations.*** *These patterns are similarly present by race (not depicted); with the exception of Native Americans (45%), a greater fraction of non- white Americans (67 to 74%) is exposed to PM2.5 concentrations above 8 µg/m3, compared to 59% of the white population. Additionally, low-ES-3 income populations currently have 49% higher likelihood of living in areas that exceed 12 µg/m3 in comparison to wealthier populations. This difference drops to low-income populations having 5% higher likelihood of living in areas that exceed 8 µg/m3."* [IEC, Analysis of PM 2 . 5 - Related Health Burdens Under Current and Alternative NAAQS, 4/15/22]

There's no doubt this pattern of discrimination holds true for Joppa. EPA's Environmental Justice scorecard, a national database comparing pollution burdens for American communities, places Joppa in the top 11% most impacted for PM air pollution exposure, and the top 12% most impacted for both toxic respiratory risk and toxic cancer risk. Joppa residents are already overburdened with dirty air. Additional sources of air pollution should not be permitted in the neighborhood by any entity.

Given these facts, Ms. Kendrick, Ms. Logan, Mr. Davis, and Downwinders at Risk don't believe TCEQ's ESL and EPA's NAAQS for Particulate Matter (PM) 2.5 air pollution are protective of human health, as required by TCEQ.

Almost every peer-reviewed, journal published study in the last ten years examining the health effects of Particulate Matter has concluded harms to human health can occur at levels of exposure to PM 2.5 well below the NAAQS for PM 2.5, or even a fraction of the NAAQS as reflected in the TCEQ's ESL. These include:

1. 2017's "Air Pollution and Mortality in the Medicare Population"(Qian Di, M.S., Yan Wang, M.S., Antonella Zanobetti, Ph.D., Yun Wang, Ph.D., Petros Koutrakis, Ph.D., Christine Choirat, Ph.D., Francesca Dominici, Ph.D., and Joel D. Schwartz, Ph.D.N Engl J Med 2017; 376:2513-2522 June 29, 2017 DOI: 10.1056/NEJMoa1702747).

   This was the largest study to date on the effects of Particulate Matter pollution on US public health examining all Medicare beneficiaries from 2000 through 2012, a population of 61 million, with 460 million person-years of follow-up. According to the authors *"The enormous sample size in this study, which includes the entire Medicare cohort, allowed for unprecedented accuracy in the estimation of risks among racial minorities and disadvantaged subgroups."*

   This study concluded: *"There was a significant association between PM2.5 exposure and mortality when the analysis was restricted to concentrations below 12 µg per cubic meter,* ***with a steeper slope below that level.*** *This association indicated that the* ***health-benefit-per-unit decrease in the concentration of PM2.5 is larger for PM2.5 concentrations that are below the current annual NAAQS*** *than the health benefit of decreases in PM2.5 concentrations that are above that level.*

from the facility are protective of human health. That hasn't been done and requires a contested case hearing to establish.

Moreover, on January 27, 2023, the U.S. Environmental Protection Agency (EPA) published an updated PM 2.5 air pollution standard. The EPA has proposed reducing it to ***a level between 9 µg/m3 and 10 µg/m3,*** although it will also take public comments on reducing it to between 8 µg/m3 and 11 µg/m3. **Most of the EPA's Clean Air Scientific Advisory Committee members agree that the EPA should strengthen the standard to a range of 8 µg/m3 to 10 µg/m3 for the annual standard and tighten the 24-hour standard to a range of 25 µg/m3 to 30 µg/m3.**

Even the EPA now agrees that current PM standards that TCEQ relies on to base its own Effects Screen Levels are outdated and should be revised downward. Ms. Kendrick, Ms. Logan, Mr. Davis, and Downwinders at Risk don't believe TCEQ is correctly estimating the public health harms of Texas Star's PM air pollution. We request a contested case hearing to prove our point.

There are no official EPA or TCEQ air monitors or TCEQ in Joppa. However, air monitoring data recorded by EPA-calibrated University of Texas at Dallas monitors in 2022 shows that Joppa residents are being exposed to significantly more PM 2.5 air pollution than most of the rest of Dallas County.

Specifically, a UTD monitor deployed 2500 feet directly north and predominantly downwind of Texas Star on South Carbondale Street had an average PM level of a little over 18 u/m3. **This is twice the average of Dallas County as a whole.**

From May 2022 to September 2022, UTD monitors recorded daily PM2.5 averages that exceeded the EPA 24-hour standard 24 times, and monthly averages were near the EPA-annual standard 7 times.

This data proves Joppa is already among the most overburdened neighborhoods in Dallas. Continuing to site industrial polluters like Texas Star in Joppa perpetuates the environmental racism that created this burden. The practical effects of permitting the Texas Star concrete batch plant are harmful to Ms. Kendrick, Ms. Logan, and Mr. Davis' health and quality of life, and disproportionately impacts Joppa's residents.

In the interests of Ms. Kendrick, Ms. Logan, Mr. Davis, and public health, Downwinders at Risk is requesting a contested case hearing for the Texas Star concrete batch plant with the ability to examine the latest science regarding PM Pollution and including ALL sources of PM pollution generated by the operation of the facility.

Jim Schermbeck
Director,
Downwinders at Risk

20

TCEQ Registration Form

August 17, 2023

Texas Star Ready Mix, LLC
Proposed Registration No. 171636

PLEASE PRINT

Name: Jim Schermbeck

Mailing Address: 1809 S Good-Latimer Expy

Physical Address (if different):

City/State: Dallas **Zip:** 75226

This information is subject to public disclosure under the Texas Public Information Act

Email: Schermbeck@201.com

Phone Number: (806) 787 - 6567

- Are you here today representing a municipality, legislator, agency, or group? ☑ Yes ☐ No

  If yes, which one? Downwinders At Risk

☐ **Please add me to the mailing list.**

☑ **I wish to provide formal *ORAL COMMENTS* at tonight's public meeting.**

☐ **I wish to provide formal *WRITTEN COMMENTS* at tonight's public meeting.**

(Written comments may be submitted at any time during the meeting)

Please give this form to the person at the information table. Thank you.

Downwinders at risk

1808 South Good Latimer Expy Dallas 75226 469-608-1972 www.downwindersatisk.org

Texas Commission on Environmental Quality
RE: Air Quality Permit Number 171636
Texas Star Ready Mix
4500 Great Trinity Forest Way, Dallas, Texas 7508

RECEIVED August 17th, 2023
AUG 17 2023
AT PUBLIC MEETING

Downwinders at Risk is a 29-year-old non-profit clean air group based in Dallas-Fort Worth. We have a long history of intervening in state and federal air quality permitting matters with the goal of reducing pollution and its harms in North Texas.

We're writing on behalf of our supporters to object to the issuance of Air Quality Permit Number 171636 being sought for a facility owned and operated by Texas Star Ready Mix in the Freedman's community of Joppa in Dallas.

Specifically, we represent the interests of individuals currently affected by the emissions from the Texas Star concrete batch plant and we're requesting a contested case hearing for this permit.

Alicia Kendrick is a resident of the Joppa neighborhood, residing at 4741 Joppa Circle, Dallas, Texas 75216 (469-337-3657). Her home is located approximately 4500 feet directly north of the facility.

Pauline Logan is also a resident of Joppa, residing at 4823 Nome Street, Dallas Texas 75216 (214-372-6789). Her home is located approximately 4500 feet northeast from the facility.

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Diesel emissions from heavy-duty trucks doing business at the Texas Star batch plant generates a specific kind of PM pollution called Black Carbon pollution which has been shown to be a potent carcinogen. Fugitive emissions at the Texas Star concrete batch plant from raw material piles are the source of nuisance conditions and additional pollution burdens. Noxious fumes and smells from the facility also adversely affect Ms. Kendrick, Ms. Logan, and Mr. Davis' health and quality of life.

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According to the most recent census data, approximately 70% of Joppa residents are Black while 30% are Hispanic. The median household income is among the lowest in Texas. Almost 40% of Joppa residents live below the federal poverty line.

It's well-documented that neighborhoods populated primarily by People of Color are disproportionately affected by PM air pollution. A 2023 analysis published by Industrial Economics, Incorporated found that *"across the nation,* ***Black Americans have the highest risk of dying from PM2.5 exposure on a per-person basis, with a rate more than triple that of white Americans.***

A 2019 Union of Concerned Scientists study concluded that the "***average concentrations Of PM2.5 exposures for latino residents was 75% higher than white residents,*** *and for* ***Asian American residents they are 73 percent higher,*** *than they are for white residents.* ***Exposures for African American residents are 61 percent higher than for white residents."*** [Union of Concerned Scientists, 6/27/19]

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A study published in 2019 found that Black and Hispanic populations bear a 'pollution burden.' ***"On average, Blacks are exposed to about 56 percent more PM2.5 pollution than is caused by their consumption. For Hispanics, it is slightly higher -- 63 percent."*** Proceedings of the National Academy of Sciences (PNAS). [Science Daily, 3/11/19]

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There's no doubt this pattern of discrimination holds true for Joppa. EPA's Environmental Justice scorecard, a national database comparing pollution burdens for American communities, places Joppa in the top 11% most impacted for PM air pollution exposure, and the top 12% most impacted for both toxic respiratory risk and toxic cancer risk. Joppa residents are already overburdened with dirty air. Additional sources of air pollution should not be permitted in the neighborhood by any entity.

Given these facts, Ms. Kendrick, Ms. Logan, Mr. Davis, and Downwinders at Risk don't believe TCEQ's ESL and EPA's NAAQS for Particulate Matter (PM) 2.5 air pollution are protective of human health, as required by TCEQ.

Almost every peer-reviewed, journal published study in the last ten years examining the health effects of Particulate Matter has concluded harms to human health can occur at levels of exposure to PM 2.5 well below the NAAQS for PM 2.5, or even a fraction of the NAAQS as reflected in the TCEQ's ESL. These include:

1. 2017's "Air Pollution and Mortality in the Medicare Population"(Qian Di, M.S., Yan Wang, M.S., Antonella Zanobetti, Ph.D., Yun Wang, Ph.D., Petros Koutrakis, Ph.D., Christine Choirat, Ph.D., Francesca Dominici, Ph.D., and Joel D. Schwartz, Ph.D.N Engl J Med 2017; 376:2513-2522 June 29, 2017 DOI: 10.1056/NEJMoa1702747).

   This was the largest study to date on the effects of Particulate Matter pollution on US public health examining all Medicare beneficiaries from 2000 through 2012, a population of 61 million, with 460 million person-years of follow-up. According to the authors *"The enormous sample size in this study, which includes the entire Medicare cohort, allowed for unprecedented accuracy in the estimation of risks among racial minorities and disadvantaged subgroups."*

   This study concluded: *"There was a significant association between PM2.5 exposure and mortality when the analysis was restricted to concentrations below 12 µg per cubic meter,* ***with a steeper slope below that level.*** *This association indicated that the* ***health-benefit-per-unit decrease in the concentration of PM2.5 is larger for PM2.5 concentrations that are below the current annual NAAQS*** *than the health benefit of decreases in PM2.5 concentrations that are above that level.*

*Moreover, **we found no evidence of a threshold value** — the concentration at which PM2.5 exposure does not affect mortality — at concentrations as low as approximately 5 μg per cubic meter - this finding is similar to those of other studies. **The estimate of effect size for PM2.5 exposure was greatest among male, black, and Medicaid-eligible persons.** It is critical to estimate the health effects of low levels of air pollution — below the current NAAQS — to determine whether these levels are adequate to minimize the risk of death."*

2. "Autism Spectrum Disorder and Particulate Matter Air Pollution before, during, and after Pregnancy: A Nested Case–Control Analysis within the Nurses' Health Study II Cohort" Raz, Roberts, Lyall ,Hart , Just, Laden, Weisskopf Environmental Health Perspectives Vol. 123, No. 3 March 2015 https://doi.org/10.1289/ehp.1408133

"In our nested case–control study of nurses from across the continental United States, ***ambient PM2.5 concentrations during pregnancy were significantly associated with having a child diagnosed with ASD.*** The average (± SD) levels of PM2.5 and PM10–2.5 during pregnancy were 14.6 ± 3.3 and 9.9 ± 4.9 μg/m3, respectively."

3. "Ambient air pollution and clinical dementia: systematic review and meta-analysis," Elissa H. Wilker, Marwa Osman, Marc G. Weisskopf, The BMJ, online April 5, 2023, doi: 10.1136/bmj-2022-071620

*"A Harvard Chan School of Public Health study published in April of this year in the British Medical Journal concluded that chronic exposure to air containing high levels of fine particles was consistently associated with dementia – **even when the average annual levels of particles were below the US EPA standard – the relationship with dementia persisted**."*

4. "Effects of ambient fine particulates, nitrogen dioxide, and ozone on maturation of functional brain networks across early adolescence," Environmental International, July 2023. L. Cotter , ClaireE. Campbell, Kirthana Sukumaran,= Rob McConnell , Kiros Berhane , Joel Schwartz , Daniel A. Hackman , Hedyeh Ahmadi , Jiu-Chiuan Chen, Megan M. Herting

*"Research published this summer from the Keck School of Medicine at the University of Southern California concludes that **even levels of certain pollutants considered sage by the EPA are linked to changes in brain functions over time.** Children exposed to mare pollutants showed changes in connectivity between various brain functions and regions."*

*"Taken together, $PM_{2.5}$, O_3, and NO_2 exposure in childhood relate to distinct changes in patterns of network maturation over time. **This is the first study to show outdoor ambient air pollution during childhood is linked to longitudinal changes in brain network connectivity development."***

Despite asserting ESL's are health-based, TCEQ has no evidence that its ESL for PM 2.5 is protective of human health considering scientific research showing otherwise. To be awarded this permit, the Texas Star batch plant or TCEQ must show the PM 2.5 emissions

from the facility are protective of human health. That hasn't been done and requires a contested case hearing to establish.

Moreover, on January 27, 2023, the U.S. Environmental Protection Agency (EPA) published an updated PM 2.5 air pollution standard. The EPA has proposed reducing it to ***a level between 9 µg/m3 and 10 µg/m3,*** although it will also take public comments on reducing it to between 8 µg/m3 and 11 µg/m3. **Most of the EPA's Clean Air Scientific Advisory Committee members agree that the EPA should strengthen the standard to a range of 8 µg/m3 to 10 µg/m3 for the annual standard and tighten the 24-hour standard to a range of 25 µg/m3 to 30 µg/m3.**

Even the EPA now agrees that current PM standards that TCEQ relies on to base its own Effects Screen Levels are outdated and should be revised downward. Ms. Kendrick, Ms. Logan, Mr. Davis, and Downwinders at Risk don't believe TCEQ is correctly estimating the public health harms of Texas Star's PM air pollution. We request a contested case hearing to prove our point.

There are no official EPA or TCEQ air monitors or TCEQ in Joppa. However, air monitoring data recorded by EPA-calibrated University of Texas at Dallas monitors in 2022 shows that Joppa residents are being exposed to significantly more PM 2.5 air pollution than most of the rest of Dallas County.

Specifically, a UTD monitor deployed 2500 feet directly north and predominantly downwind of Texas Star on South Carbondale Street had an average PM level of a little over 18 u/m3. **This is twice the average of Dallas County as a whole.**

From May 2022 to September 2022, UTD monitors recorded daily PM2.5 averages that exceeded the EPA 24-hour standard 24 times, and monthly averages were near the EPA-annual standard 7 times.

This data proves Joppa is already among the most overburdened neighborhoods in Dallas. Continuing to site industrial polluters like Texas Star in Joppa perpetuates the environmental racism that created this burden. The practical effects of permitting the Texas Star concrete batch plant are harmful to Ms. Kendrick, Ms. Logan, and Mr. Davis' health and quality of life, and disproportionately impacts Joppa's residents.

In the interests of Ms. Kendrick, Ms. Logan, Mr. Davis, and public health, Downwinders at Risk is requesting a contested case hearing for the Texas Star concrete batch plant with the ability to examine the latest science regarding PM Pollution and including ALL sources of PM pollution generated by the operation of the facility.

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Downwinders at Risk