



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 12, 2024

TO: All interested persons.

RE: GCC Sun City Materials, LLC
Air Quality Standard Permit for Concrete Batch Plants Registration No. 173973L002

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov. A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Abilene Regional Office and at Breckenridge Library, 209 North Breckenridge Avenue, Breckenridge, Stephens County, Texas 76424. The facility's compliance file, if any exists, is available for public review at the TCEQ Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas. Visit <https://www.tceq.texas.gov/goto/cbp> to review the standard permit.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

How to Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

How to Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at www.tceq.texas.gov/agency/decisions/cc/comments.html or by mail to the following address:

Laurie Gharis, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink that reads "Laurie Gharis". The signature is written in a cursive, flowing style.

Laurie Gharis
Chief Clerk

LG/erg

Enclosure

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT
for
GCC Sun City Materials, LLC
Air Quality Standard Permit for Concrete Batch Plants Registration No.
173973L002

The Executive Director has made the Response to Public Comment (RTC) for the application by GCC Sun City Materials, LLC for air quality standard permit for concrete batch plants registration No. 173973L002 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link: <https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (173973L002) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at chiefclk@tceq.texas.gov.

Additional Information

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the application, executive director's preliminary decision, and standard permit will be available for viewing and copying at the TCEQ Abilene Regional Office and at Breckenridge Library, 209 North Breckenridge Avenue, Breckenridge, Stephens County, Texas 76424. The facility's compliance file, if any exists, is available for public review at the TCEQ Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas. Visit <https://www.tceq.texas.gov/goto/cbp> to review the standard permit.

MAILING LIST
for
GCC Sun City Materials, LLC
Air Quality Standard Permit for Concrete Batch Plants Registration No. 173973L002

FOR THE APPLICANT:

Chad Henrich
General Manager South Dakota
GCC Sun City Materials, LLC
2800 U.S. Highway 12 West
Aberdeen, South Dakota 57401

Octavio Holguin Jr.
Environmental Engineer
GCC Sun City Materials, LLC
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INTERESTED PERSONS:

See attached list.

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

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FOR PUBLIC INTEREST COUNSEL
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FOR THE CHIEF CLERK
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Texas Commission on Environmental
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BRUNNER , EVAN
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RANGER TX 76470-4320

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TEXAS HOUSE OF REPRESENTATIVES DISTRICT 60
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**TCEQ AIR QUALITY STANDARD PERMIT NUMBER CONCRETE BATCH PLANT
REGISTRATION 173973L002**

APPLICATION BY	§	BEFORE THE
GCC SUN CITY MATERIALS, LLC	§	TEXAS COMMISSION ON
CONCRETE BATCH PLANT	§	ENVIRONMENTAL QUALITY
BRECKENRIDGE, STEPHENS COUNTY	§	

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

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

As required by Title 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of Chief Clerk received timely comments from the following persons: Representative Glenn Rogers, Bill Baker, Rex C. Baker, Judy K. Brown, Jenny Brunner, Earl E. Brunner, Evan Brunner, Cameron Brunner, Stephen Wesley Dempsey, Zola Loyd George, Melba Lebrede, Coy David Leonard, Roy Leonard, Emily Lester, Michael James Rudd, Martha Rudd, Mike Toudouze. This Response addresses all timely public comments received, whether or not withdrawn. If you need more information about this permit application or the permitting process please call the TCEQ Public Education Program at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.texas.gov.

BACKGROUND

Description of Facility

GCC Sun City Materials, LLC (Applicant) has applied to the TCEQ for a Standard Permit under Texas Clean Air Act (TCAA) §382.05195. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize the Applicant to construct a temporary Concrete Batch Plant, consisting of two portable concrete batch plants, located using the following driving directions: from the intersection of US Highway 180 East and Farm-to-Market Road 717, travel South on Farm-to-Market Road 717 for approximately 7.7 miles; stay left at the fork and travel on County Road 128 for approximately 0.62 miles to find the facility site on the left, Breckenridge, Stephens County. Contaminants authorized under this permit include particulate matter including (but not limited to) aggregate, cement, road dust, and particulate matter with diameters of 10 microns or less and 2.5 microns or less.

Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain an authorization from the commission. This permit application is for an initial issuance of Air Quality Permit Number 173973L002.

The permit application was received on April 18, 2024, and declared administratively complete on April 22, 2024. The Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (public notice) for this permit application was published in English on May 22, 2024, in the *Breckenridge American*. A public meeting was held on September 17, 2024, at 7:00 P.M. at the Breckenridge Woman's Forum, 1804 West Walker Street, Breckenridge, Texas 76424. The notice of public meeting was mailed on August 13, 2024. The public comment period ended on September 19, 2024. Because this application was received after September 1, 2015, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

COMMENTS AND RESPONSES

COMMENT 1: Air Quality / Health and Cumulative Effects

Commenters are concerned about the effect of the emissions from the proposed project on the air quality and the environment, including cumulative effects. Commenters expressed concern regarding the potential adverse health effects of people in close proximity to the project, particularly sensitive populations such as the elderly, children, and people with existing medical conditions. Commenters expressed concern regarding potential health effects and symptoms such as asthma, respiratory illness, pneumonia, bronchitis, chronic obstructive pulmonary disorder (COPD), silicosis, preterm delivery, psychasthenia, endocrine disruption, cancer, infertility issues, allergies, and issues with the central nervous system. In addition, commenters are concerned that children will be exposed to contaminants during outdoor activities and will not be able to go outside. Commenters expressed concern about health effects on workers and their safety. Commenters expressed concern regarding emissions of hazardous air pollutants (HAPs), volatile organic compounds (VOC), carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), heavy metals, and crystalline silica. One commenter asks what contaminants are anticipated to be emitted from the plant and at what concentrations.

(Representative Glenn Rogers, Bill Baker, Cameron Brunner, Earl E. Brunner, Evan Brunner, Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Coy David Leonard, Roy Leonard, Emily Lester, Martha Rudd, Michael James Rudd, Mike Toudouze)

RESPONSE 1: During the development of the Standard Permit, the Executive Director conducted an extensive protectiveness review to ensure protectiveness of human health and the environment.¹ The protectiveness review determined potential impacts to human health and welfare or the environment by comparing emissions allowed by the standard permit to appropriate state and federal standards and guidelines. These standards and guidelines include the National Ambient Air Quality Standards (NAAQS)

¹ Issuance of a standard permit considers the standards in effect at the time of issuance. Individual registrations for authorization under a standard permit must demonstrate compliance with the standard permit. Updates to the Air Quality Standard Permit for Concrete Batch Plants (standard permit) were adopted on January 24, 2024. All pending and new applications to register for authorization under the standard permits are required to meet the recently adopted amendment. Due to the changes in the annual NAAQS standard for PM_{2.5} becoming effective on May 6, 2024, the TCEQ will evaluate whether updates are necessary to the current standard permit technical requirements.

and TCEQ rules. As described in detail below, the Executive Director determined that the emissions authorized by the standard permit are protective of both human health and welfare and the environment.

The U.S. Environmental Protection Agency (EPA) created and continues to evaluate the NAAQS, which include both primary and secondary standards, for pollutants considered harmful to public health and the environment. Primary standards protect public health, including sensitive members of the population such as children, the elderly, and those individuals with preexisting health conditions. Secondary NAAQS protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects from air contaminants. The EPA has set NAAQS for criteria pollutants, which include carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO₂), ozone (O₃), sulfur dioxide (SO₂), particulate matter less than or equal to 10 microns in aerodynamic diameter (PM₁₀), and PM less than or equal to 2.5 microns in aerodynamic diameter (PM_{2.5}).

Applicants seeking to obtain authorization to operate under the Standard Permit for Concrete Batch Plants are not required to submit site-specific emission calculations or air dispersion modeling. During the protectiveness review for the 2024 amendment to the Standard Permit for Concrete Batch Plants, the TCEQ performed an Air Quality Analysis (AQA), which included air dispersion modeling that was inherently conservative and tended to over-predict ground-level concentrations of emissions. The emission generating facilities or activities included in the AQA were material handling operations, truck loading, stockpiles, cement silos, and an internal combustion engine to generate power for equipment at the site. The TCEQ calculated emission rates using conservative emission factors and methodology from the EPA in the Compilation of Air Pollution emission Factors, AP-42 manual. The TCEQ ensures the conservative nature of these calculations by evaluating each emission point at the maximum material throughput on both an hourly and an annual basis. The analysis also conservatively assumed the operating schedule of facilities or activities at the site as 24 hours per day. The air contaminants evaluated were carbon monoxide, nitrogen dioxide, sulfur dioxide, PM₁₀ and PM_{2.5}, nickel particulate, and formaldehyde.

The TCEQ applied the model in a screening mode to ensure predictions were conservative (higher than expected concentrations) and applicable for any location in the state. For example, the protectiveness review evaluated both rural and urban dispersion coefficients and the higher of the two was used as the maximum predicted concentration for developing the conditions of the Air Quality Standard Permit for Concrete Batch Plants. The model also incorporated five years of meteorological data, including wind directions, which would include worst-case, short-term meteorological conditions that could occur anywhere in the state. In addition, all emissions sources were co-located in order to minimize bias due to source configuration and wind direction. This technique also provided conservative results since the impact from all sources was maximized.

The TCEQ also evaluated the potential for cumulative or additive emissions. The maximum modeled concentration typically occurs at a relatively short distance from the source, so that the peak modeled concentrations represent the source's impact at only a relatively few receptors within the modeled area. The commission included site-wide production limits to avoid the potential for cumulative emissions that would be higher than what is authorized by the standard permit. The applicant represented

hourly production limit of 300 cubic yards per hour, and an annual production limit of 650,000 cubic yards per year in any rolling 12-month period. For permit registrations operating a truck mix plant consisting of multiple truck mix batching lines in Stephens County, the maximum production is limited at 300 cubic yards per hour and a setback distance of 100 feet. In addition, distance requirements to the nearest rock crusher, concrete crusher, or hot mix asphalt plant were also added to avoid potential cumulative emission higher than the permit limit. Therefore, the commission determined that a review of other off-site sources is not necessary when determining approval of any particular standard permit application. In addition, based on the results of the protectiveness review, no adverse impacts are expected as a result of operations of multiple similar facilities, such as concrete batch plants, rock crushing plants, or hot-mix asphalt plants.

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to enforce employee safety regulations promulgated by the Occupational Safety and Health Association (OSHA) or to consider employee health when determining whether to approve or deny an application for an air authorization.

Emissions of HAPs, VOC, NOx, CO, and SO₂ are not authorized by this permit.

The review of nickel particulate, and formaldehyde are products of diesel fuel combustion. The most recent amendment of the Air Quality Standard Permit for Concrete Batch Plants (standard permit) adopted on January 24, 2024 made changes to the requirement that owners or operators of concrete batch plants that include a stationary compression ignition internal combustion engines shall comply with additional applicable engine requirements in 40 CFR 60 Subpart IIII, Standards of Performance for Stationary Compression Ignition, 40 CFR 63, Subpart ZZZZ, National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 30 TAC Chapter 117, Control of Air Pollution from Nitrogen Compounds, and any other applicable state or federal regulation. Adopted subsection (G) of the amended standard permit is based on public comment to improve best management practices, reduce the potential generation of nuisance dust, and prevent the tracking of sediment onto adjacent roadways. The adopted language includes requirements to prevent tracking of sediment onto roadways and reduce the generation of dusts by using one or more of the listed methods. However, the applicant did not represent an engine being used for concrete production. Further, the amendment includes increased setback distances for some areas of the state and options for additional controls. Additionally, TCEQ has reviewed ambient air crystalline silica levels measured near aggregate production operations (APOs). Similar to this proposed facility, APOs in various locations throughout the United States provided data. These data indicate that the contribution of crystalline silica from these facilities to ambient levels of particulate matter and respirable crystalline silica is negligible or minimal and that the levels generally are below the health-based air monitoring comparison values for crystalline silica developed by the TCEQ.

You can read TCEQ Toxicology Division's publication on silica at APOs at the following site:

<https://www.tceq.texas.gov/downloads/toxicology/publications/community-health-impacts-as-202.pdf>

COMMENT 2: Dust Control / Nuisance / Winds

Commenters expressed concern that the proposed site would create nuisance dust conditions near the facility, which could be exacerbated by winds. Commenters expressed concern about the standard permit and local wind patterns.

(Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Melba Lebrede, Coy David Leonard, Roy Leonard, Emily Lester, Michael James Rudd)

RESPONSE 2: Vehicle traffic and material handling are the primary activities that have the potential to emit particulate matter (i.e. dust) resulting from the proposed plant. All of the potential dust concentrations from the permitted sources have been evaluated based on operating parameters represented in the application and compared to the impacts criteria described in Response 1. The Standard Permit for Concrete Batch Plants requires substantial dust control processes to minimize dust emissions, which include paving in-plant roads and work areas, using water sprays on stockpiles, and using a suction shroud with a three-sided curtain to prevent flyaway dust at the product loading point. When a company operates in compliance with the Standard Permit, they should not cause or contribute to a violation of the NAAQS and are protective of human health and the environment.

Concrete is made up of four main ingredients: water, Portland cement, fly ash, and aggregates.

- Portland cement is the most common cement used and is composed of alumina, silica, lime, iron, and gypsum.
- Aggregates are sand, gravel, and crushed stone.

These ingredients are considered non-hazardous dust under normal conditions. Certain types of silica (e.g., crystalline silica), when inhaled over a long period, have been shown to cause adverse health effects. However, concrete production facilities operating under standard permits have been determined to not make a significant contribution of these types of air contaminants to the atmosphere. The commission performed an updated air quality analysis (AQA) in support of the 2024 concrete batch plant standard permit amendment to address public concern about potential health impacts from concrete batch plants registered under the standard permit. The adopted revisions to the standard permit are a result of the updated AQA. No adverse effects are expected to occur from facilities that meet all requirements of the Air Quality Standard Permit for Concrete Batch Plants.

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

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Abilene Regional Office at 325-698-9674 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

COMMENT 3: Environmental Impacts

Commenters expressed concern that emissions from the proposed project would negatively impact the surrounding environment, ecosystems, and wildlife, including agricultural land, game hunting, cattle, livestock, deer, dove, quail, turkeys, pets, the golden cheeked warbler, bald eagles, Texas horned toads, and other endangered species.

(Judy K. Brown, Cameron Brunner, Earl E. Brunner, Jenny Brunner, Stephen Wesley Dempsey, Coy David Leonard, Martha Rudd, Michael James Rudd, Mike Toudouze,)

RESPONSE 3: The secondary NAAQS are those the EPA Administrator determines are necessary to protect public welfare and the environment, including animals, crops, vegetation, visibility, and buildings, from any known or anticipated adverse effects associated with the presence of a contaminant in the ambient air. Because the emissions from this facility should not cause an exceedance of the NAAQS, air emissions from this facility are not expected to adversely impact land, livestock, wildlife, crops, or visibility, nor should emissions interfere with the use and enjoyment of surrounding land or water. Please see Response 1 for an evaluation of the Standard Permit's impacts in relation to the NAAQS. In addition, 30 TAC § 101.4 prohibits the discharge of contaminants which may be injurious to, or adversely affect, animal life. Compliance with rules and regulations regarding endangered species is handled at the state level by the Texas Parks and Wildlife Department and at the federal level by the United States Fish and Wildlife Service. It is incumbent upon an applicant to request and acquire any additional authorizations that may be required under state or federal law. However, if operated in accordance with the requirements of the permit, adverse impacts from the proposed plant are not expected.

COMMENT 4: Water Quality and Other Authorizations

Commenters expressed concern that the proposed project would negatively impact water resources in the area, including surface water runoff, groundwater, water wells, and general water contamination. Commenters ask about general water availability to support the proposed project.

(Rex C. Baker, Cameron Brunner, Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Martha Rudd, Michael James Rudd, Mike Toudouze)

RESPONSE 4: Although the TCEQ is responsible for the environmental protection of all media, including water, the TCAA specifically addresses air-related issues. This registration, if issued, will regulate the control and abatement of air emissions only; therefore, issues regarding water quality or discharge and the handling of hazardous waste are not within the scope of this review. Additionally, should the nature of the facility's operation require, the Applicant may be required to apply for separate authorizations that regulate water quality, water usage, or the handling of hazardous waste. The issuance of an air quality registration does not negate the

responsibility of an applicant to apply for any additional required authorizations prior to operating a facility.

COMMENT 5: Monitors

Commenters asked about additional air quality monitors in the area. Commenters asked if the Applicant will be setting up a continuous air monitoring and detection system that shows publicly available data in real time so that the public can monitor the air quality around the plant.

(Cameron Brunner and Stephen Wesley Dempsey)

RESPONSE 5: Due to cost and logistical constraints, the placement of air monitors is prioritized to provide data on regional air quality in areas frequented by the public. The existing air monitoring network is the result of a strategic balance of matching federal monitoring requirements with state and local needs. Consistent with federal air monitoring requirements, the TCEQ evaluates the placement of air quality monitors within the air monitoring network using trends in population, reported emissions inventory data, and existing air monitoring data for a given area. In addition, the TCEQ may prioritize monitor placement in areas with potential regional air quality issues, such as those related to increased oil and gas activity in the Barnett Shale and Eagle Ford Shale areas.

The TCEQ annually evaluates the number and location of air monitors within its network to assess compliance with federal monitoring requirements and the adequacy of monitoring coverage for identified monitoring objectives as a part of the Annual Monitoring Network Plan provided to EPA on July 1 of each year. This plan is made available on the TCEQ's website for public review and comment for 30 days beginning in mid-May. Requests for additional monitoring or the identification of additional monitoring needs may be made during this public comment period and will be considered along with other monitoring priorities across the state. To receive email announcements related to the ambient air monitoring network, including the availability of the Annual Monitoring Network Plan for public review and comment, please visit the following link

<https://service.govdelivery.com/accounts/TXTCEQ/subscriber/new> and select "Air Monitoring Network Announcements."

Since stationary air monitors are sited to measure air quality that is representative of a broader area or region, monitors are not typically placed to measure the impacts from specific industrial facilities. In addition, the TCEQ does not have a routine monitoring plan for this type of industry.

COMMENT 6: Permit Review Process / Application Representations

Zola Loyd George expressed concern regarding the application representations for the proposed project, and whether the Applicant should have been required to obtain an 'Enhanced Controls' standard permit. Stephen Wesley Dempsey expressed concern that the map provided in the application lacked sufficient detail, requesting that the Applicant provide a site map to scale showing the locations of all facilities at the plant, including staging areas, storage areas/trailers, parking areas, erosion control features, light poles and standards, office buildings/trailers, shop buildings, restroom facilities, perimeter fencing, dust control fencing, fuel and oil storage and dispensing facilities,

pesticide/herbicide storage facilities, battery storage facilities, traffic flow diagrams and controls, material storage silos, aggregate storage bins, auxiliary storage tanks, conveyors, weigh hoppers, and mixers, so that the citizens can review.

(Stephen Wesley Dempsey, Zola Loyd George)

RESPONSE 6: The TCEQ conducted a review and verified the representations in the application meet the standard permit requirements. This review included both an administrative and technical review. During the administrative review, TCEQ verified the following:

- The correct application was submitted;
- The application form and TCEQ Core Data Form have been signed by the Responsible Official;
- The company is an entity legally entitled to do business in Texas;
- The information is accurately recorded in the TCEQ's Central Registry;
- The appropriate application fee was received;
- The mailing addresses for the company and site are USPS validated; and
- There are no delinquent fees owed by the company.

The application then undergoes a technical review. During the technical review, the permit reviewer evaluates the following:

- All sources of air contaminants at the proposed facility have been properly identified;
- Appropriate controls have been proposed for each emission source;
- Proposed operations meet all applicable Standard Permit requirements;
- Compliance history for the site and the operator; and
- Public notice requirements were fulfilled.

An area map must be submitted with a Standard Permit application. The area map must include a true north arrow, accurate scale, the entire plant property, and the location of the property relative to prominent geographical features. The documents submitted with the application and the supplemental use of software-based mapping tools was sufficient to allow the permit reviewer to confirm that the representations provided met the requirements of the Standard Permit. Based on the administrative and technical review, the TCEQ determined the application meets the requirements of the standard permit.

The Applicant submits the registration for the desired process. Concrete Batch plants can be authorized by a Standard Permit for Concrete Batch Plant, a Standard Permit for Concrete Batch Plant with Enhanced Controls, or a Case-by-Case New Source Review Permit. Each application has specific requirements included to ensure that the permitted authorizations will be protective of human health and the environment according to state and federal standards.

It is the responsibility of the Applicant to receive appropriate authorization for the air contaminants proposed to be emitted by the Applicant's process. The TCEQ will review whether the Applicant can meet the requirements for that authorization; and if the Applicant meets all requirements of the authorization, then the Executive Director must issue the authorization.

Application Representations

If errors or omissions are found in the application, the permit reviewer will send the applicant a deficiency letter which provides a date by which corrections must be received. If supplemental information is not received, the ED may suspend or void the application. The review does not start over but rather continues until all information is verified.

The TCEQ is unaware of any misrepresentations in the application. The Air Permits Division and other applicable TCEQ staff have conducted a thorough review of this permit application to ensure it meets the requirements of all applicable state and federal standards. An applicant is bound by its representations in the application and those representations become an enforceable part of the permit, including production rates, authorized emission rates, and equipment. If the Applicant deviates from the representations made in the application, on which the registration authorization was based, the Applicant may be subject to enforcement action.

COMMENT 7: Public Notice

Stephen Wesley Dempsey expressed concern that the public notice was not published in Spanish. Mr. Dempsey asks that a minimum of a thirty-day period be granted to review the responses to all comments so that the public can go back to the TCEQ for clarification prior to any approval of the permit. Roy Brunner asks for the date that a decision will be made on the application and if the decision will be made public.

(Roy Brunner, Stephen Wesley Dempsey)

RESPONSE 7: The TCAA § 382.056 requires that the applicant for this Standard Permit publish notice. Notice must be published in a newspaper of general circulation in the municipality in which the proposed facility is located or proposed to be located. The notice must include a description of the facility, information on how an affected person may request a public hearing, pollutants the facility will emit, and any other information the TCEQ requires by rule. The commission also requires that notice be published in an alternative language if the elementary or middle school nearest the proposed facility offers a bilingual education program as required by Texas Education Code Chapter 29, Subchapter B. In this case, the Applicant verified that the elementary or middle school nearest to the proposed facility does not offer a bilingual education program as required by Texas Education Code Chapter 29 Subchapter B; therefore, alternative language notice was not required to be published. The TCEQ adopted rules for these public notice requirements in 30 TAC § 39.603, Public Notice of Air Quality Applications, Newspaper Notice.

As described above, the Consolidated Notice of Receipt of Application and Intent to Obtain Permit and Notice of Application and Preliminary Decision (public notice) for this permit application was published in English on May 22, 2024, in the *Breckenridge American*. To demonstrate compliance with public notice requirements, applicants are

required to provide the Office of the Chief Clerk with copies of the published notice and a publisher's affidavit verifying facts related to the publication, including that the newspaper is a paper of general circulation in the municipality in which the proposed facility is located or proposed to be located.

TCEQ rules also require that a public meeting be held if a member of the legislature who represents the general area in which the facility is located requests a public meeting or if the Executive Director determines that there is a substantial or significant degree of public interest. See 30 TAC § 55.154(c)(2). A public meeting was held on September 17, 2024, at 7:00 P.M. at the Breckenridge Woman's Forum, 1804 West Walker Street, Breckenridge, Texas 76424. The notice of public meeting was mailed on August 13, 2024.

Any member of the public may submit comments on the application. This Response is the written response to all formal comments received during the comment period for the application. A copy of this Response will be mailed to each person who submitted a formal comment or who requested to be on the mailing list for this permit application and provided a mailing address. A letter will be mailed with the RTC with instructions for filing a contested case hearing or a request for reconsideration. This request period will last for 30 days. If a hearing request is timely filed, following the close of all applicable comment and request periods, the Executive Director will forward any timely requests for contested case hearing to the Commissioners for their consideration at a scheduled Commission meeting. The Commission may only grant a request for a contested case hearing on issues the requestor submitted in their timely comments that were not subsequently withdrawn. All timely formal comments received are included in this Response and are considered before a final decision is reached on the permit application. The public comment period ended on September 19, 2024.

COMMENT 8: Jurisdictional Issues

Location / Zoning

Commenters expressed concern regarding the location of the facility as it relates to current zoning ordinances and the proximity to public areas, including residences, churches (specifically New Hope Baptist Church), ranches, and schools. Commenters also commented that the proposed plant should be located somewhere else. Mr. Dempsey asks if the Applicant investigated the option of mixing concrete at another location at a plant currently in operation.

(Bill Baker, Judy K. Brown, Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Coy David Leonard, Roy Leonard, Martha Rudd, Michael James Rudd, Mike Toudouze)

Truck Traffic / Roads / Infrastructure / Local Economy

Commenters expressed concern regarding truck traffic, diesel emissions, spillage of debris from the truck traffic, and damage to roads. Commenters expressed safety concerns from truck traffic as well as the impact on the existing infrastructure and local utilities.

(Representative Glenn Rogers, Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Melba Lebrede, Coy David Leonard)

Noise / Light / Quality of Life / Property Values / Aesthetics

Commenters expressed concern regarding noise and light pollution from the proposed project. Commenters are concerned about the effect of the proposed project on their quality of life, on the aesthetics of the area, and on their property value.

(Representative Glenn Rogers, Coy David Leonard, Stephen Wesley Dempsey, Zola Loyd George, Michael James Rudd)

RESPONSE 8:

Location / Zoning

The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider plant location choices made by an applicant when determining whether to approve or deny a permit application, unless a statute or rule imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials. The issuance of an air quality authorization does not override any local zoning requirements that may be in effect and does not authorize an applicant to operate outside of local zoning requirements.

Truck Traffic / Roads / Infrastructure / Local Economy

The TCEQ also does not have jurisdiction to consider traffic, road safety, or road repair costs when determining whether to approve or deny a permit application. In addition, trucks are considered mobile sources, which are not regulated by the TCEQ. Moreover, the TCEQ is prohibited from regulating roads per the TCAA § 382.003(6) which excludes roads from the definition of "facility." Although the TCEQ is prohibited from regulating trucks, TCEQ rules prohibit anyone from causing a traffic hazard. Specifically, 30 TAC § 101.5 states: "No person shall discharge from any source whatsoever such quantities of air contaminants, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal road use." Accordingly, the Applicant is prohibited from creating a traffic hazard with emissions from its facility. Jurisdiction over traffic on public roads, including any load-bearing restrictions and public safety, including access, speed limits, and public roadway issues, are typically the responsibility of local, county, or other state agencies, such as the Texas Department of Transportation (TxDot) and the Texas Department of Public Safety (DPS). An air quality permit does not authorize a violation of any road safety or load-bearing restrictions. Concerns regarding roads should be addressed to appropriate state or local officials.

Issues related to the local economy and local utilities are outside the scope of review of an air quality permit. The Executive Director has reviewed the permit application in accordance with the applicable law, policy, and procedures, in accordance with the agency's mission to protect our state's human and natural resources consistent with sustainable economic development. If an applicant meets the requirements for an air quality permit, the TCEQ must grant the permit.

Noise / Light / Quality of Life/ Property Values / Aesthetics

The TCEQ also does not have jurisdiction to consider noise or light from a plant when determining whether to approve or deny a permit application. As such, the TCEQ does not have authority under the TCAA to require or enforce any noise abatement measures. Noise ordinances are normally enacted by cities or counties and enforced by local law enforcement authorities. Commenters should contact their local authorities with questions or complaints about noise. Additionally, the TCEQ does not have authority under the TCAA to consider light pollution when determining whether to approve or deny a permit application.

Accordingly, the TCEQ does not have jurisdiction to consider potential effects from plant location, aesthetics, zoning and land use issues, or effects on property values when determining whether to approve or deny a permit. Except under limited circumstances, which do not exist under this particular permit application, the issuance of a permit cannot be denied on the basis of plant location.

COMMENT 9: Operating Hours

Stephen Wesley Dempsy asks how many months the plant will be in operation and asks what the operating hours are for the facility.

RESPONSE 9: The TCEQ has not been delegated the authority to regulate the hours of operations of a facility or site if the permit review demonstrates all applicable federal and state regulations are met. Accordingly, TCEQ cannot limit the hours of operation unless an emission rate is dependent on a limit on operational hours or there are issues associated with the air quality analysis that require the limitation. The Applicant represented operations up to 2,016 hours per year. Additionally, this applicant represented that this is a temporary authorization for a concrete batch plant standard permit that would provide material for the La Casa Wind Farm Project and remain on site for less than 180 days.

COMMENT 10: Demonstrate Compliance with Permit

Commenters asked how the Applicant will demonstrate compliance with the terms of their permit on a continuous basis. Emily Lester asks how often the baghouses will be emptied and maintained and what the schedule and protocol is for baghouse maintenance.

(Cameron Brunner, Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Emily Lester)

Response 10: Monitoring requirements are included in the Standard Permit. Owners or operators are required to keep written records on-site for a rolling 24-month period. Emissions will be monitored and demonstrate compliance by including records of road cleaning, application of road dust control, stockpile dust suppression, monthly silo warning devices or system shut-off tests, quarterly visible emissions observations, and repairs/maintenance of dust suppression controls. Records must be made available upon request to representatives of the TCEQ, EPA, or any local air pollution control program having jurisdiction. The Regional Office may perform investigations of the plant as required. The investigation may include an inspection of the site including all equipment, control devices, monitors, and a review of all required recordkeeping.

The TCEQ evaluates all complaints received. If a facility is found to be out of compliance with the terms and conditions of its permit, it will be subject to investigation and possible enforcement action. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Abilene Regional Office at 325-698-9674 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186.

COMMENT 11: Complaints / Violations / Enforcement

Commenters asked about frequency of inspections at the site and asked about the consequences of violating the terms of the permit. Stephen Wesley Dempsey asks if site visits will be performed and if the information will be available for public to view. Mr. Dempsey further asks how to file a complaint if there are concerns with activities at the plant.

(Cameron Brunner, Jenny Brunner, Stephen Wesley Dempsey, Zola Loyd George, Emily Lester, Martha Rudd)

RESPONSE 11: The TCEQ regional offices prioritize their responses to complaints based on the potential for adverse health effects associated with the alleged violation. For example, a "priority one" case means serious health concerns exist, and the case will be investigated immediately. A "priority four" case, on the other hand, means no immediate health concerns exist; therefore, it will be investigated within 30 days. Staff from the TCEQ regional office reviews all complaints, and regional investigations are not limited by media. Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the TCEQ Abilene Regional Office at 325-698-9674 or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If a facility is found to be out of compliance with the terms and conditions of its registration, it may be subject to investigation and possible enforcement action.

Citizen-collected evidence may be used in such an enforcement action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. Under the citizen-collected evidence program, individuals are providing information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Make an Environmental Complaint? Do You Have Information or Evidence"? This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028 and may be downloaded from the agency website at www.tceq.texas.gov (under Publications, search for Publication Number 278).

There are a number of mechanisms by which the TCEQ monitors compliance with permit conditions and state and federal regulations. Operations authorized under the Standard Permit for Concrete Batch Plants are not on a set schedule for compliance investigations. Instead, investigations are generally conducted in response to complaints. The investigation schedule may be increased if violations are found, repeated, or if a regulated entity is classified as an unsatisfactory performer. Notices of Violation (NOVs) are public information. Additionally, the public is able to track

complaints on the TCEQ website by complaint tracking number, date, county, TCEQ region, or regulated entity/customer name or number (<http://www2.tceq.texas.gov/oce/waci/index.cfm>).

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

COMMENT 12: Corporate Profits

Commenters ask that the TCEQ to put the health of people above the profits of the company.

(Coy David Leonard, Martha Rudd)

RESPONSE 12: The TCEQ does not have jurisdiction to prohibit owners and operators from seeking authorization to emit air contaminants; nor can the TCEQ prohibit owners and operators from receiving authorization to emit air contaminants if they comply with all statutory and regulatory requirements. Further, the TCEQ does not have jurisdiction to consider a company's financial status or profit issues, including tax abatements, in determining whether a permit should be issued. As explained in previous responses, the decision by the Executive Director to issue the permit is based upon the authority and direction of the TCCA. Specifically, TCAA § 382.0518 provides that the TCEQ shall issue the permit if an application demonstrates that the proposed facility will use at least the BACT and there is no indication that the emissions from the facility will contravene the intent of the TCAA. The TCEQ is not authorized to consider an applicant's experience with a particular facility type. Although, as described in Response 6, the TCEQ does consider an applicant's compliance history.

COMMENT 13: TCEQs Responsibility to the Community

Commenters asked that the TCEQ consider residents and their wishes and choose not to approve the permit registration for the proposed plant. Commenters expressed general opposition to the proposed project. Emily Lester asks if the TCEQ has ever denied an application for air quality.

(Bill Baker, Cameron Brunner, Stephen Wesley Dempsey, Zola Loyd George, Coy David Leonard, Roy Leonard, Martha Rudd, Michael James Rudd, Emily Lester)

RESPONSE 13: The TCEQ appreciates the comments and interest from the public in environmental matters before the agency and acknowledges the comments in opposition of the project. As stated previously, the TCEQ reviews all applications consistent with applicable law and the TCEQ's regulatory authority. The Executive Director's staff has reviewed the Standard Permit registration in accordance with the applicable state and federal law, policy and procedures, and the agency's mission to

protect the state's human and natural resources consistent with sustainable economic development. As stated in previous responses, the TCEQ cannot deny authorization of a facility if a permit application contains a demonstration that all applicable statutes, rules, and regulations will be met.

During the Administrative and Technical Review of the application if deficiencies are identified, the applicant is made aware of the deficiencies and given an appropriate amount of time to remedy the deficiency. If the deficiency cannot be remedied the application is either withdrawn by the applicant or voided due to not meeting the requirements of the authorization.

COMMENT 14: Comments and Questions for Applicant / Miscellaneous

Multiple commenters ask the Applicant why they chose the specific location of the proposed plant. Multiple commenters expressed concern regarding another company building a wind farm in the area, further expressing concern about wind turbines in general. Emily Lester asks the Applicant what safety precautions they have in place for people in case of machinery failure and if notifications of failures will be made public. Ms. Lester further asks if there are recommended personal testing devices that individuals can purchase for air quality within their homes.

Stephen Wesley Dempsey asks the Applicant whether they have obtained input and approval from the Texas Department of Transportation (TxDOT), Stephens County, local church officials, Texas Water Development Board, Texas Railroad Commission, Staff Water Supply Corporation, Stephens County Water Co-op, United States Fish and Wildlife Service, the Environmental Protection Agency, the Occupational Safety and Health Administration (OSHA), Texas Historical Commission, and any other applicable Federal and State agencies. Mr. Dempsey asks the Applicant if they have conducted and submitted the following additional studies and tests, including a traffic control plan, stormwater pollution prevention plan, erosion control plan, industrial and hazardous waste management plan, firefighting and fire suppression plan, wildfire plan, spill prevention control and countermeasure plan, dust control plan, cultural resources survey, visual effects analysis, road use agreement, decommissioning bond and plan, environmental impact statement, archaeological and historical resources plan, a sieve analysis, specific gravity test, soundness test, abrasion test, density and strength test, hardness test, water absorption test, and if tests have been performed on materials to ensure they are of sufficient quality to make high quality concrete. Mr. Dempsey asks the Applicant for the sources of their aggregate materials. Mr. Dempsey asks the Applicant for specifics as to where they will be obtaining their water. Mr. Wesley asks the Applicant what kind of lighting system they intend to install at the facility.

(Bill Baker, Zola Loyd George, Coy David Leonard, James Rudd, Stephen Wesley Dempsey, Roy Leonard, Emily Lester)

RESPONSE 14: These specific questions or concerns were either addressed to the Applicant or are outside the scope of the air permit review and are therefore included for completeness, but not addressed by the Executive Director

Additionally, it is incumbent upon an applicant to request and acquire any additional authorizations that may be required under state or federal law. Coordination with other agencies, state or federal, is outside the scope of the review of this air permit application.

CHANGES MADE IN RESPONSE TO COMMENT

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

Respectfully submitted,

Texas Commission on Environmental Quality

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