



TEXAS HOUSE *of* REPRESENTATIVES

Jill Dutton

State Representative, District 2

VIA EMAIL
May 6, 2024

Chairman Jon Niermann
Texas Commission on Environmental Quality
TCEQ MC 100
PO Box 13087
Austin, TX 78711-3087

RE: Permit Application 174388 – Dry Creek Materials LLC concrete crushing plant

Dear Chairman Niermann,

I am in receipt of TCEQ's Response to Comments and TCEQ's authorization letter to Dry Creek Materials LLC for a concrete crushing plant located at 4310 Hwy. 276 W., Quinlan, TX in Hunt County. Having listened to all affected parties and having viewed the situation personally on the ground earlier this year, I strongly opposed the granting of this permit at the applicant's proposed site in a letter to TCEQ dated February 9, 2024.

Private property rights are one of the pillars of Texas' strong economy, legal system, and moral obligations. I am a strong advocate for those rights and Texans' ability to accumulate, hold, delegate, rent, transfer, and sell their property. However, no property exists in isolation. This simple fact has led to thousands of ordinances and statutory law outlining the rights and obligations of property owners whose properties abut and potentially affect a community's ability to grow and flourish. We all share a basic understanding of the underlying right of a property owner to enjoy and use their property within certain "reasonable" limits. The balancing of the reasonable use of property, taking into consideration the rights of their neighbors and overarching community to reasonably use their own property, creates the underlying tension in Texas law, or in this case, the granting of a permit.

Via this letter, I am requesting TCEQ Commissioners immediately pause this permit and the applicant's authorization to construct and operate under this permit based on the following additional information, which TCEQ's Executive Director was unable to consider prior to authorizing the above referenced permit application (documents referenced can be provided upon request):

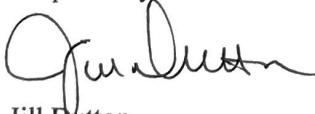
- Lt. Governor Dan Patrick's letter dated April 16, 2024 calling for an immediate pause to the permitting process for all permanent cement production plants until the Texas Legislature meets in the 89th Regular Session to provide guidance on the permitting processes and location of new plants. While his call is for production plants, the Lt. Governor clearly finds cause for concern of human

and economic health of our communities as it relates to the concrete industry and the permitting process.

- Senator Angela Paxton's letter dated April 22, 2024 calling for an immediate pause in the permitting processes for permanent rock and concrete crusher standard permit 174388 in Hunt County until the Texas Legislature can provide guidance on the permitting processes and location of new plants.
- Public opposition has been documented by well over 1,200 residents who have individually submitted comments to TCEQ opposing the granting of this permit. In my 25 years in the public arena, I have rarely seen this degree of active citizen opposition.
- A public meeting held on March 21, 2024 drew approximately 600 attendees with almost 80 citizens signed up to speak against the permit approval. Senator Paxton and I both attended this meeting in its entirety, which lasted over 4 hours in length. Citizens spoke respectfully and articulately with thought-provoking as well as heartfelt information and documented reasons for serious concern. It is my hope you take the time to review the public comments and the RTC of record.
- An Approved Investigation with multiple violations (Investigation No. 1974645; Incident No. 418888) regarding Dry Creek Pit 2 (responsible party of Dry Creek Materials LLC; Tony McLarry), which substantiates alleged permit violations that mine dewatering was occurring without controls at the facility and required monitoring had not occurred dating back to December 27, 2022.
- An Approved Investigation with multiple violations (Investigation No. 1974017; Incident No. 417954) regarding Dry Creek Pit 1 (responsible of Dry Creek Materials LLC; Tony McLarry), which substantiates alleged permit violations regarding sediment tracking onto the roadway for violations on March 20, 2024.
- Per a letter dated April 9, 2024, the EPA has requested TCEQ conduct a review of both the air quality standard permit for **concrete crushers AND concrete batch plants** and letter dated April 23, 2024, TCEQ committed to conduct this review. This is not only substantively, materially, and procedurally significant for our request to pause this permit for a concrete crusher in Hunt County, but also clearly indicates that there is a need to pause until the Legislature can weigh in on BOTH concrete crusher permits as well as permanent cement production plants' processes as referenced in the Lt. Governor's and Senator Paxton's requests for pause.

I respectfully ask TCEQ to pause the authorization of the concrete crushing permit until the 89th Texas Legislature can meet and discuss during Regular Session.

Respectfully,



Jill Dutton
State Representative, HD2

cc: Lt. Governor Dan Patrick
Senator Angela Paxton
Hunt County Judge Bobby Stovall
Hunt County Commissioner Pct. 2 David Monroe
Mayor of Quinlan Jackey Goleman
Executive Director Kelly Keel, TCEQ, MC 109
Chief Clerk Laurie Gharis, TCEQ, MC 105
Commissioner Bobby Janecka, TCEQ, MC 100
Commissioner Catarina Gonzales, TCEQ, MC 100
Director of Intergovernmental Relations Clay Kelley, TCEQ