

**In the Matter Of:**

*Department of Natural Resources & Environmental Control*

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*ATLANTIC CONCRETE COMPANY, INC. HEARING*

*May 12, 2021*

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
OF THE STATE OF DELAWARE

RE: Atlantic Concrete Company, Inc. )  
Natural Minor Construction Permit )  
Application )  
Docket #2021-P-A-0005 )

.. . . .

Virtual Public Hearing  
Dial-In Number: 1-408-418-9388  
Event Number: 129 074 6970

Wednesday, May 12, 2021  
6:00 p.m.

.. . . .

BEFORE: Theresa Newman, Hearing Officer  
FOR THE DIVISION: Phaniel Bediako,  
DNREC Division of Air Quality

-- Transcript of Proceedings --

WILCOX & FETZER  
Registered Professional Reporters  
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1 MS. NEWMAN: Good evening. I  
2 believe that everyone is now connected and  
3 ready, so we will begin the virtual public  
4 hearing.

5 Thank you for taking the time out  
6 of your busy schedules to connect with us  
7 today. The date is Wednesday, May 12, 2021,  
8 and the time is now 6:00 p.m.

9 We are here this evening to provide  
10 a virtual platform for the State of  
11 Delaware's Department of Natural Resources  
12 and Environmental Control to conduct its  
13 virtual public hearing on the application  
14 submitted by an Atlantic Concrete Company  
15 Inc. for a Natural Minor Construction Permit.

16 My name is Theresa Newman, and  
17 Secretary Garvin has appointed me to serve as  
18 the hearing officer for tonight's proceeding.

19 There have been changes made to  
20 DNREC's standard protocol, necessitated by  
21 Delaware's ongoing state of emergency due to  
22 COVID-19 pandemic.

23 First and foremost, this hearing is  
24 being conducted virtually. No one is

1 together in the same room.

2 Everyone is participating  
3 independently at their own respective  
4 locations. While we are not physically  
5 gathered together tonight, WebEx does  
6 generate a list of those that are virtually  
7 present for this proceeding so that the  
8 Department will have a record of those who  
9 have electronically joined this event.

10 And again I want to thank everyone  
11 for their interest in this matter.

12 At the conclusion of the  
13 introductory remarks, I will be turning the  
14 hearing over to the Department staff and the  
15 applicant to provide the presentations for  
16 the record being generated in this matter.

17 At the conclusion of the -- I'm  
18 sorry. There is a court reporter virtually  
19 present who will prepare a verbatim  
20 transcript of this hearing pursuant to the  
21 statutory requirement for DNREC to have the  
22 same prepared. And as always, that  
23 transcript will be posted on the hearing  
24 webpage dedicated to this matter as soon as

1 it is received.

2 In addition, I would encourage  
3 those who are attending tonight's hearing to  
4 also visit the hearing webpage dedicated to  
5 this matter for additional details concerning  
6 the proposed application submitted by  
7 Atlantic Concrete Company Inc..

8 The hearing webpage can be found  
9 online under the Administrative Law Section  
10 of DNREC's website that will be listed at the  
11 conclusion of tonight's hearing.

12 Before we begin the presentations  
13 tonight, please be advised of the following  
14 protocols that remain in place for all DNREC  
15 public hearings.

16 All comment received must be  
17 limited solely to the subject matter of  
18 tonight's hearing.

19 All comments pertinent to the  
20 subject matter of this virtual hearing will  
21 be incorporated into the record being  
22 generated in this matter.

23 In order to ensure that everyone  
24 who wishes to offer a comment for the

1 Secretary's consideration is accommodated,  
2 the record in this matter shall remain open  
3 following tonight's proceeding through  
4 Thursday, May 28, 2021.

5 There is only one authentic record  
6 of this formal proceeding tonight, and it is  
7 the official court reporter's verbatim  
8 transcript.

9 The statutory purpose of tonight's  
10 hearing is to build a record with regard to  
11 the proposed application before us tonight, a  
12 record consisting of tonight's hearing  
13 transcript, all written comments, all  
14 exhibits. And eventually the Hearing  
15 Officer's Report will be reviewed by  
16 Secretary Garvin.

17 The secretary will ultimately issue  
18 an order following that review process  
19 containing his decision on this matter and  
20 the reasons therefor.

21 Per DNREC's standard hearing  
22 protocols, there will be no Q and A or chat  
23 session permitted during the hearing.

24 Lastly, it is important to note

1 that no decision has already been made by the  
2 Department, nor will a decision be made  
3 tonight with regard to the proposed  
4 application.

5 As previously stated, DNREC wishes  
6 to ensure that everyone is enabled to offer  
7 their comments for inclusion into the record  
8 being generated in this matter. Therefore,  
9 the record will remain open through Thursday,  
10 May 28, 2021 so that the public may offer  
11 written comment should they wish to do so.

12 Comments may be submitted through a  
13 comment form link on the hearing webpage, via  
14 DNRECHearingComments@delaware.gov, or via the  
15 U.S. Postal Services at the physical address  
16 for DNREC indicated on the hearing webpage  
17 and/or the public notices previously issued  
18 in this matter.

19 Written comments to DNREC may not  
20 be submitted using social media platforms  
21 such as Twitter, Facebook, YouTube or text  
22 messaging.

23 Please remember all comment  
24 received through USPS or via the electronic



1 mechanisms noted just now, as long as  
2 received on or before May 28th, will bear the  
3 exact same weight and will be all considered  
4 equally by the secretary prior to his final  
5 decision in this matter.

6 Lastly, the ultimate decision  
7 regarding this matter is made by DNREC  
8 Secretary Garvin. This formal proceeding  
9 acts as a mechanism to enable the Department  
10 to thoroughly vet the application and matter  
11 to the public and to let the public know the  
12 various ways which comment may be submitted  
13 for the secretary's consideration, if so  
14 desired.

15 I will now hand it over to  
16 Mr. Phaniel with Division of Air Quality to  
17 provide the Department's presentation. Mr.  
18 Phaniel, you may begin: You are unmuted now.  
19 Go ahead.

20 MR. BEDIAKO: Okay.

21 MS. NEWMAN: Sorry.

22 MR. BEDIAKO: Phaniel Bediako, the  
23 Department's engineer assigned to Atlantic  
24 Concrete Company facility.

1                   The first slide shows application  
2                   timeline.

3                   The construction permit application  
4                   was received on July 29, 2020.

5                   And the application for the Coastal  
6                   Zone Act status decision was submitted on  
7                   September 22, 2020.

8                   The revised CZA decision  
9                   application was received by the Department on  
10                  December 1, 2020.

11                  We received a revised construction  
12                  permit application on January 22, 2021.

13                  Next slide, please.

14                  The Secretary's CZA status decision  
15                  was issued on January 29, 2021.

16                  And we advertised the application  
17                  on March 21, 2021.

18                  After that, we received a request  
19                  for public hearing on April 5, 2021.

20                  And the legal notice for public  
21                  hearing was published on April 18, 2021.

22                  And then we are having the public  
23                  hearing today.

24                  Next slide, please.

1                   This is a project summary. The  
2                   facility currently has two concrete plants.  
3                   One is 150 tons per hour, and the other is  
4                   200 tons per hour.

5                   The company proposes to construct a  
6                   new 350 tons per hour concrete plant, after  
7                   which they will decommission old concrete  
8                   plants.

9                   Also, the Secretary's CZ status  
10                  decision limits the facility's production  
11                  capacity to 200,000 cubic yards of concrete  
12                  per twelve-month rolling period.

13                  The facility is considered a  
14                  natural minor source because its potential to  
15                  emit is below the Major Source Threshold for  
16                  Sussex County.

17                  The next slide shows Major Source  
18                  Thresholds in Delaware. And for Sussex  
19                  County listed here is VOC, NOx, carbon  
20                  monoxide, and sulfur dioxide.

21                  And the next screen shows the Major  
22                  Source Thresholds for particulate matter,  
23                  hazardous air pollutants, and other air  
24                  pollutants.

1                   So if the company's potential to  
2                   emit is at or above these thresholds, then  
3                   the facility is considered a major source.

4                   Next slide, please.

5                   So these are the emission  
6                   potentials for Atlantic Concrete Company.  
7                   The restricted potential to emit for the  
8                   concrete plant was based on 200,000 cubic  
9                   yards of concrete per rolling twelve-month  
10                  period.

11                  And the potential to emit based on  
12                  uncontrolled emissions at inlet to baghouses,  
13                  for particulate matter, is 7.05 pounds per  
14                  year.

15                  Then the facility is also proposing  
16                  to have a small boiler, 8 million BTU per  
17                  hour, fired on natural gas.

18                  Because of the boiler size, it  
19                  doesn't need a permit to operate for the  
20                  facility's potential to emit, those emissions  
21                  from the boiler were also included.

22                  Now, the requested permittee  
23                  emission limit is based on emissions at  
24                  outlet of the baghouse, .40 pounds per year.

1 Again, is based on a maximum of 200,000 cubic  
2 yards of concrete.

3 So the last column shows the  
4 facility-wide potential to emit in tons, and  
5 this is below the Major Source Threshold.  
6 That's why the facility is considered a  
7 natural minor source.

8 Next slide, please.

9 So let's look at the Division of  
10 Air Quality's permitting process. The first  
11 step that we go through upon receipt of the  
12 application is to review the application for  
13 administrative and technical completeness.

14 Then we determine if the source is  
15 in the Coastal Zone and if a Coastal Zone  
16 permit is required.

17 And then we verify proof of local  
18 zoning approval.

19 The next steps are on this screen.  
20 We review the technical information and  
21 confirm emissions calculations; and then  
22 conduct air dispersion modeling to estimate  
23 concentration of air pollutants at the  
24 plant's property boundary line; to ensure

1 that the public health, welfare, and safety  
2 will not be adversely affected by emissions  
3 from the facility.

4 After that, we draft the technical  
5 memorandum.

6 In drafting the technical  
7 memorandum, we determine applicable federal,  
8 that's EPA, and State requirements.

9 So the technical memorandum is the  
10 basis for the emission limits, operating  
11 limits, monitoring, testing, recordkeeping  
12 and reporting requirements included in the  
13 permit.

14 After the public hearing, if the  
15 secretary approves the permit, then the  
16 Division of Air Quality will issue a  
17 construction permit.

18 Normal permit conditions include  
19 the following: Recordkeeping and record  
20 retention for a minimum of five years;  
21 reporting of excess emissions or emissions  
22 which create a condition of air pollution to  
23 the 800 number; submission of written excess  
24 emissions report; and we also include

1 conditions that may address concerns raised  
2 during the public hearing.

3 Then if the construction permit is  
4 issued, the Division of Air Quality will  
5 conduct a construction-to-operation  
6 inspection following the completion of  
7 construction.

8 Then, following a successful C to O  
9 inspection, the company will be issued an  
10 operating permit.

11 These are the public hearing  
12 exhibits:

13 We have the original application;  
14 the revised permit application and revised  
15 emissions calculations; the legal notices for  
16 application from the News Journal; legal  
17 notices for application for Delaware State  
18 News; then the request for public hearing,  
19 there are two letters; then the public  
20 hearing legal notices from the News Journal;  
21 and Delaware State News.

22 Then we sent notifications of the  
23 public hearing to the first and second  
24 requestors. And then the notification of

1 public hearing was sent to the applicant.

2 Then we have the Coastal Zone Act  
3 status decision request.

4 And then a Coastal Zone Act notice  
5 of decision.

6 And we also have the Department's  
7 presentation.

8 Exhibit 15, it was not a request  
9 for public hearing. It is a comment on the  
10 application which was received a few days  
11 ago.

12 MS. NEWMAN: Thank you, Phaniel.  
13 Does that conclude the Division's  
14 presentation?

15 MR. BEDIAKO: Yes, it does.

16 MS. NEWMAN: Okay. Thank you. We  
17 have received the Department's Exhibits 1  
18 through 13, and those have been posted  
19 electronically.

20 Once the hearing concludes, we will  
21 be posting -- you will be submitting Exhibit  
22 Number 14, the DNREC presentation that was  
23 just provided.

24 And then we currently have Exhibit



1 Number 15 listed as under public comments  
2 from Rick and Marlene Luzietti, so those will  
3 then be incorporated into the Department's  
4 exhibit numbers as Exhibit Number 15.

5 So I hereby mark those exhibits, as  
6 you propose, as the Department's Exhibits 1  
7 through 15.

8 Now that that concludes the  
9 Division's presentation, we will move forward  
10 to the applicant's presentation.

11 I will then unmute Ms. Moore.

12 And thank you, Phaniel. I'm going  
13 to place you back on mute now.

14 MR. BEDIAKO: Okay.

15 MS. NEWMAN: Thank you. I'm trying  
16 to share my screen at this moment. Okay.  
17 You should have the ability to share your  
18 screen.

19 MS. MOORE: Fingers crossed. There  
20 we go.

21 MS. NEWMAN: All right. You may  
22 begin, Ms. Moore.

23 MS. MOORE: Thank you. Good  
24 evening, everyone. My name is Amber Moore,

1 and I work for a company called RainWise  
2 Environmental Solutions. And I was asked to  
3 prepare the air permit application as well as  
4 the Coastal Zone Act status decision  
5 application on behalf of Atlantic Concrete,  
6 which is why I will be representing Atlantic  
7 Concrete tonight for the public hearing.

8 I would like to mention that Jon  
9 Jones is also participating in the public  
10 hearing, and he is the general manager for  
11 Atlantic Concrete.

12 Many of you folks are not aware  
13 Atlantic Concrete is actually a family owned  
14 and operated business, and they have been  
15 operating at their Lewes, Delaware location  
16 since the early 1960s. And as such, Atlantic  
17 Concrete is currently authorized to operate  
18 two concrete manufacturing plants at this  
19 location.

20 As Phaniel indicated, the facility  
21 is authorized to operate a 200-ton per hour  
22 concrete manufacturing plant as well as a  
23 150-ton per hour production plant.

24 So now, as I stated, this is a

1 family-owned business, and they have been  
2 operating at this location since the early  
3 sixties; so they are a staple in this  
4 community, and they understand the importance  
5 or significance in clear communication.

6 So Atlantic Concrete does make  
7 every effort to actively engage the  
8 neighboring communities in an effort to  
9 maintain transparent operations as well as  
10 take responsive actions to any questions and  
11 concerns that are raised by those neighboring  
12 communities.

13 So why we are here, Atlantic  
14 Concrete, as previously indicated, they are  
15 authorized to operate two concrete production  
16 facilities.

17 But what we would like to do is  
18 replace those facilities with one concrete  
19 production plant.

20 So currently the facility, again,  
21 is authorized to operate a 200-ton per hour  
22 plant as well as a 150-ton per hour plant,  
23 and we would like the ability or approval to  
24 construct one 350-ton per hour plant and,

1 once that plant is fully operational, to  
2 decommission and dismantle the two existing  
3 permitted plants.

4 Now, the new plant will be erected  
5 on the same footprint. So Atlantic Concrete  
6 actually performs activities now on a  
7 five-acre footprint at their Lewes, Delaware  
8 location. The new proposed plant will be  
9 constructed on that same footprint.

10 And a question was previously  
11 raised, or one of the comments for the public  
12 hearing was regarding zoning. And Atlantic  
13 Concrete has obtained the proper zoning and  
14 approvals and authorizations from Sussex  
15 County determining the adequate zoning is  
16 provided to allow the construction of the  
17 concrete operation as well as perform  
18 concrete manufacturing activities.

19 And they have also received  
20 approval from appropriate agencies allowing  
21 for the construction activity to occur.

22 So why the new plant? The facility  
23 has been in operation for quite sometime.  
24 They have two existing permitted plants. And

1 what we would like to do is basically replace  
2 that plant with a new, more efficient,  
3 environmentally friendly plant.

4 So we would like to decommission  
5 the two plants and dismantle them and replace  
6 it with one plant which is environmentally  
7 friendly and more efficient in operations.

8 So the new plant does offer a host  
9 of efficiencies which include, for starters,  
10 by replacing the two existing plants with one  
11 plant, the one plant will actually have less  
12 emission points associated with concrete  
13 production, which is a benefit.

14 In addition, emissions from  
15 loading, transfer, and mixing activities will  
16 all be controlled by new, highly efficient  
17 baghouses.

18 So the operational controls that  
19 are provided for the baghouses will ensure  
20 that this pollution abatement equipment is  
21 operating at all times to reduce dust  
22 emissions to that of air quality standards.

23 In addition, a new feature that the  
24 plant will have that the current two plants

1 do not is that the conveyer will be covered,  
2 so the new plant will offer a covered  
3 conveyer which will enhance pollution  
4 abatement by essentially limiting dust  
5 emissions.

6 And the facility has also developed  
7 a dust control plan for its operations.

8 Now, as Phaniel indicated, we did  
9 proceed with submitting a Coastal Zone status  
10 decision application, and we submitted the  
11 revised application, I believe on December  
12 1st.

13 And we did receive notification  
14 from DNREC's Secretary Garvin on January 26,  
15 2021 in which Secretary Garvin determined  
16 that the proposed activities, so the  
17 construction and operation of the new 350-ton  
18 per hour plant, does not require a Coastal  
19 Zone Act permit, because this activity is  
20 actually considered a replacement in kind.

21 And, again, that's because we will  
22 be replacing the two existing plants with the  
23 one plant.

24 And, in addition, we have

1 voluntarily requested, as part of the  
2 operation of the new plant, a restriction in  
3 concrete production on an annual basis,  
4 as well as a restriction in hours of  
5 operation.

6 And I would like to point out that  
7 the concrete production restriction, as well  
8 as the hours per operation restriction mimics  
9 that which is currently identified in the  
10 permit issued authorizing the operation of  
11 the 200-ton per hour plant.

12 So we are basically taking the same  
13 permit restrictions currently provided for  
14 the 200-ton per hour plant and requesting  
15 that for the new plant that will be  
16 constructed. So we really won't be  
17 increasing our environmental impact.

18 And that's essentially what the  
19 Coastal Zone Act status decision  
20 determination did. It was issued, and it  
21 basically informed Atlantic Concrete that it  
22 had successfully demonstrated that operation  
23 of the new plant would not have an increased  
24 impact on the environment, the economy,

1 neighboring land uses, or other factors  
2 deemed significant of interest to the  
3 Department.

4 So once we received the Coastal  
5 Zone Act status decision from Secretary  
6 Garvin, we were able to proceed with  
7 submitting our air permit application.

8 As Phaniel indicated, our air  
9 permit application, the revised application,  
10 was submitted in January of 2021.

11 Now, the original application was  
12 submitted in July of 2020. We rescinded that  
13 application in order to go through the  
14 Coastal Zone Act status decision process.

15 So once we submitted the air  
16 quality application, DNREC's Department of  
17 Air Quality reviewed the air permit  
18 application and confirmed our emission  
19 calculations, which were provided, and  
20 determined that the emissions did fall within  
21 the National Ambient Air Quality Standards  
22 as well as that of DNREC regulations.

23 In addition, as Phaniel pointed  
24 out, DNREC's Department of Air Quality also



1 performed air dispersion modeling and  
2 confirmed that air emissions at the plant's  
3 property line would not adversely affect the  
4 public's health, welfare, or safety. And so  
5 we just wanted to point those key point outs.

6 In addition, I believe a comment  
7 was received prior to the hearing regarding  
8 crushing activities, in particular if the  
9 permit application requested authorization to  
10 do so.

11 I would like to point out that the  
12 air permit application package submitted on  
13 behalf of Atlantic Concrete did not request  
14 the authorization to construct or operate a  
15 crusher unit at this location, so Atlantic  
16 Concrete did not request that as part of the  
17 application process.

18 So, in summary, Atlantic Concrete  
19 believes that it has supplied all of the  
20 information requested by the Department and  
21 reaffirms its commitment to implementing the  
22 latest technology and practices for  
23 continuous improvement of all its processes  
24 and conducting its operations in an

1 environmentally sound manner.

2 And we believe we have done this by  
3 upgrading our plant, essentially, and  
4 replacing two older plants with a more  
5 efficient operating plant that is more  
6 environmentally friendly.

7 And Atlantic Concrete believes that  
8 the air permit application package complies  
9 with the objectives and the requirements of  
10 the applicable provisions of the Delaware  
11 Code and the applicable regulations,  
12 standards, and guidance set forth thereunder.

13 Therefore, Atlantic Concrete  
14 requests that the Department issue the permit  
15 as set forth in the application as well as  
16 approved by the Secretary's Coastal Zone Act  
17 status decision.

18 And that concludes our  
19 presentation.

20 MS. NEWMAN: Thank you, Ms. Moore.  
21 We did receive the presentation  
22 electronically. Would you like to mark the  
23 presentation as provided just now as an  
24 exhibit for the applicant?

1 MS. MOORE: Yes, please.

2 MS. NEWMAN: Okay. Thank you. I  
3 do hereby mark the presentation submitted by  
4 Ms. Moore on behalf of the applicant as  
5 Applicant's Exhibit Number 1.

6 Thank you for your presentation.

7 MS. MOORE: Thank you.

8 MS. NEWMAN: I now open the public  
9 comment portion of the hearing. DNREC has  
10 received no registrations by 12:00 p.m.  
11 today, which was the deadline to register to  
12 provide a verbal comment at tonight's  
13 hearing.

14 That will now conclude the public  
15 portion -- that will now conclude the hearing  
16 tonight. I want to thank you all for joining  
17 in.

18 And, again, for any of those who  
19 would like to submit a written comment, you  
20 may do so by May 28, 2021, to which the  
21 hearing record will remain open through.

22 The hearing has now concluded at  
23 6:27 p.m. Thank you.

24 (Concluded at 6:27 p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 14th day of May 2021.



---

Lorena J. Hartnett  
Registered Professional Reporter

Atlantic Concrete Company, Inc. Hearing - May 12, 2021

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