

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP 15 PM 2: 28

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

Protecting Texas by Reducing and Preventing Pollution

September 15, 2008

LaDonna Castanuela
Chief Clerk
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Re: TCEQ DOCKET NUMBER 2008-0698-AIR

Dear Ms. Castanuela:

Enclosed you will find the original and eleven copies of the Executive Director's Response to Hearing Requests in the matter of Waco Composites I, Ltd., Permit No. 80500.

Attached to the Executive Director's Response to Hearing Requests you will find the original and eleven copies of the backup filing for this matter.

The attachments include the following documents:

Attachment A – The Technical Review Summary
Attachment B – Compliance History Report
Attachment C – Special Conditions and Maximum Allowable Emission Rates Table
Attachment D – Map showing location of the site of the proposed facility

If you have any questions about this matter, please call me at 239-1976.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Eubank".

Tim Eubank
Staff Attorney
TCEQ Office of Legal Services

Attachments

TCEQ AIR QUALITY PERMIT NO. 80500

2008 SEP 15 PM 2: 28

APPLICATION BY	§	BEFORE THE
WACO COMPOSITES I, LTD.	§	TEXAS COMMISSION ON
WACO, McLENNAN COUNTY	§	ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

The Executive Director (ED) of the Texas Commission on Environmental Quality (Commission or TCEQ) files this response (Response) to the requests for a contested case hearing submitted by persons listed herein. The Texas Clean Air Act (TCAA) §382.056(n) requires the commission to consider hearing requests in accordance with the procedures provided in Tex. Water Code § 5.556.¹ This statute is implemented through the rules in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F.

A map showing the location of the site for the proposed facility is included with this response and has been provided to all persons on the attached mailing list. In addition, a current compliance history report, technical review summary, and the draft permit have been filed with the TCEQ's Office of the Chief Clerk for the Commission's consideration. Finally, the ED's Response to Public Comments (RTC), which was mailed by the chief clerk to all persons on the mailing list, is on file with the chief clerk for the Commission's consideration.

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

I. Application Request and Background Information

Waco Composites I, Ltd., (Applicant) submitted an application to the TCEQ on December 4, 2006, requesting authorization to construct Waco Composites Plant No. 2. The facility is to be located at 302 South 27th Street, Waco, McLennan County, Texas. As of September 10, 2008, the Applicant is not delinquent on any administrative penalty payments to the TCEQ.

The application was declared administratively complete on February 28, 2007. The Notice of Receipt of Application and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published March 21, 2007 in the *Waco Tribune-Herald*. Alternative Language Notice was published March 21, 2007 in the *Tiempo*. The Notice of Application and Preliminary Decision was published December 11, 2007 in the *Waco Tribune-Herald*. Alternative Language Notice was published December 12, 2007 in the *Tiempo*. The public comment period ended on January 11, 2008. The TCEQ Consolidated Compliance and Enforcement Database was searched and no enforcement activities were found that are inconsistent with the compliance

¹ Statutes cited in this response may be viewed online at www.capitol.state.tx.us/statutes/statutes.html. Relevant statutes are found primarily in the Texas Health and Safety Code and the Texas Water Code. The rules in the Texas Administrative Code may be viewed online at www.sos.state.tx.us/tac/index.shtml, or follow the "Rules, Policy & Legislation" link on the TCEQ website at www.tceq.state.tx.us.

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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history. Because this application was declared administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted pursuant to House Bill 801.

The ED's RTC was mailed on March 31, 2008 to all interested persons, including those who asked to be placed on the mailing list for this application and those who submitted comment or requests for a contested case hearing. The cover letter attached to the RTC included information about making requests for a contested case hearing or for reconsideration of the ED's decision.² The letter also explained hearing requesters should specify any of the ED's responses to comments they dispute and the factual basis of the dispute, in addition to listing any disputed issues of law or policy.

The TCEQ received timely hearing requests during the public comment period from the following persons: Chris & Andy McSwain, Ron Henderson, Ron Henderson on behalf of R.E. Henderson and Co., Inc., Charlotte Henderson, Margie Abbott, Dr. Robert Grayson, Karina Deaver, John Lewis, Phillip Hering, Deedie Hering, Karen LiBassi, Patricia & Raymond Bailey, David Heddy, Michael LiBassi, Dr. Joyce Jones, Kate Groetzinger, Mary Darden, and Robert Darden.

The following commenters submitted letters requesting an indefinite stay: Robert Darden, Mary Darden, Andy McSwain, Phillip Hering, and Deedie Hering. Pursuant to TCEQ rules, the appropriate procedure for addressing hearing requests is to have the items set for Commission consideration at Agenda. The TCAA and 30 TAC do not provide for a request to stay the processing of an application. Therefore, the ED has continued processing the application according to the procedures set forth in 30 TAC 39, 50 and 55.

II. Applicable Law

The commission must assess the timeliness and form of the hearing requests, as discussed below. The form requirements are set forth in 30 TAC § 55.201(d):

- (d) A hearing request must substantially comply with the following:
 - (1) give the name, address, daytime telephone number, and, where possible, fax number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number, and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group;
 - (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requester's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requester believes he or she

² See TCEQ rules at Chapter 55, Subchapter F of Title 30 of the Texas Administrative Code. Procedural rules for public input to the permit process are found primarily in Chapters 39, 50, 55 and 80 of Title 30 of the Code.

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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will be adversely affected by the proposed facility or activity in a manner not common to members of the general public;

- (3) request a contested case hearing;
- (4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requester should, to the extent possible, specify any of the executive director's responses to comments the requester disputes and the factual basis of the dispute and list any disputed issues of law or policy; and
- (5) provide any other information specified in the public notice of application.

The next necessary determination is whether the requests were filed by "affected persons" as defined by Tex. Water Code § 5.115, implemented in commission rule 30 TAC § 55.203. Under 30 TAC § 55.203, 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. An interest common to members of the general public does not qualify as a personal justiciable interest. Local governments with authority under state law over issues raised by the application receive affected person status under 30 TAC § 55.203(b).

In determining whether a person is affected, 30 TAC § 55.203(c) requires that all factors be considered, including, but not limited to, the following:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

If the commission determines a hearing request is timely and fulfills the requirements for proper form, and the hearing requester is an affected person, the commission must apply a three-part test to the issues raised in the matter to determine if any of the issues should be referred to the State Office of Administrative Hearings (SOAH) for a contested case hearing. The three-part test in 30 TAC § 50.115(c) is as follows:

- (1) The issue must involve a disputed question of fact;
- (2) The issue must have been raised during the public comment period; and
- (3) The issue must be relevant and material to the decision on the application.

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The law applicable to the proposed facility may generally be summarized as follows. A person who owns or operates a facility or facilities that will emit air contaminants is required to obtain authorization from the commission prior to the construction and operation of the facility or facilities.³ Permit conditions of general applicability must be in rules adopted by the commission.⁴ Those rules are found in 30 TAC Chapter 116. In addition, a person is prohibited from emitting air contaminants or performing any activity that violates the TCAA or any commission rule or order, or that causes or contributes to air pollution.⁵ The relevant rules regarding air emissions are found in 30 TAC Chapters 101 and 111-118. In addition, the commission has the authority to establish and enforce permit conditions consistent with the TCAA.⁶ The materials accompanying this response refer to and list permit conditions, operational requirements and limitations applicable to this proposed facility.

III. Analysis of Hearing Requests

A. Were the requests for a contested case hearing in this matter timely and in proper form?

All hearing requests were submitted during the public comment period. Furthermore, the ED has determined the hearing requests of Chris & Andy McSwain, Ron Henderson, R.E. Henderson and Co., Inc., Charlotte Henderson, Margie Abbott, Dr. Robert Grayson, Karina Deaver, John Lewis, Phillip Hering, Deedie Hering, Karen LiBassi, Patricia & Raymond Bailey, David Heddy, Michael LiBassi, Dr. Joyce Jones, Kate Groetzinger, Mary Darden, and Robert Darden substantially comply with all of the requirements of form in 30 TAC § 55.201(d).

The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk that was attached to the RTC states requesters should, to the extent possible, specify any of the ED's responses in the RTC the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy.⁷ In the absence of a response from any of the hearing requestors or their representatives within the thirty-day period after the RTC was mailed, the ED cannot determine or speculate whether the hearing requesters continue to dispute issues of fact, or whether there are any outstanding issues of law or policy. The ED nevertheless has evaluated the merits of the requests before action is taken regarding this application.

B. Are those who requested a contested case hearing in this matter affected persons?

The hearing requesters listed herein submitted a letter requesting a hearing. Chris & Andy McSwain, Ron Henderson, R.E. Henderson and Co., Inc., Charlotte Henderson, Margie Abbott, Dr. Robert Grayson, Karina Deaver, John Lewis, Phillip Hering, Deedie Hering, Patricia &

³ TEX. HEALTH AND SAFETY CODE § 382.0518

⁴ TEX. HEALTH AND SAFETY CODE § 382.0513

⁵ TEX. HEALTH AND SAFETY CODE § 382.085

⁶ TEX. HEALTH AND SAFETY CODE § 382.0513

⁷ 30 TAC § 55.201(d)(4)

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Raymond Bailey, David Heddy, Dr. Joyce Jones, Kate Groetzinger, Mary Darden, and Robert Darden have demonstrated they are "affected persons" as defined in 30 TAC § 55.203. The threshold test of affected person status is whether the requestor has a personal justiciable interest affected by the application, and this interest is different from that of the general public.⁸ Chris & Andy McSwain, Ron Henderson, R.E. Henderson and Co., Inc., Charlotte Henderson, Margie Abbott, Dr. Robert Grayson, Karina Deaver, John Lewis, Phillip Hering, Deedie Hering, Patricia & Raymond Bailey, David Heddy, Dr. Joyce Jones, Kate Groetzinger, Mary Darden, and Robert Darden reside within one mile of the proposed facility, and therefore are likely to be impacted by air emissions from the proposed facility differently than other members of the general public. See attached map.

The requesters listed below have failed to demonstrate they are affected persons. Karen LiBassi and Michael LiBassi provided an address beyond one mile of the proposed facility. Because they reside more than one mile from the proposed facility, they are not likely to be impacted differently than any other member of the general public.

C. Which issues in this matter should be referred to SOAH for hearing?

If the commission determines any of the hearing requests in this matter are timely and in proper form, and some or all of the hearing requesters are affected persons, the commission must apply the three-part test discussed in Section II to the issues raised in this matter to determine if any of the issues should be referred to SOAH for a contested case hearing. The three-part test asks whether the issues involve disputed questions of fact, whether the issues were raised during the public comment period, and whether the issues are relevant and material to the decision on the permit application, in order to refer them to SOAH.

The ED addressed all public comments in this matter by providing responses in the RTC. The cover letter from the Office of the Chief Clerk transmitting the RTC cites 30 TAC §55.201(d)(4), which states requesters should, to the extent possible, specify any of the ED's responses in the RTC the requesters dispute and the factual basis of the dispute, and list any disputed issues of law or policy. In the absence of a response from any of the hearing requestors within the thirty-day period after the RTC was mailed, the ED cannot determine or speculate whether the remaining issues of fact continue to be disputed by the hearing requesters, or any alleged outstanding issues of law or policy. However, the ED acknowledges the hearing requesters have one more opportunity to identify disputed issues of fact in their replies to the positions of the ED, Office of Public Interest Counsel, and the Applicant regarding the hearing request. Therefore, to facilitate the commission's consideration of this matter, the ED has analyzed the remaining two parts of the test, assuming the issues raised in the comments in this matter remain disputed.

1. Seven issues involving questions of fact.

⁸ *United Copper Industries and TNRCC v. Joe Grissom*, 17 S.W.3d 797 (Tex. App.-Austin, 2000)

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The requesters raise the following issues involving questions of fact regarding the proposed operation of the Applicant's facility:

1. Whether the air emissions from the proposed facility will adversely affect the health of those in the area.
2. Whether the air emissions from the proposed facility will adversely affect air quality in the area.
3. Whether the air emissions from the proposed facility will adversely affect residents' quality of life.
4. Whether the proposed facility will be located in an inappropriate area, in that it is too close to a residential area.
5. Whether the Applicant will use Best Available Control Technology at the proposed facility.
6. Whether the air emissions from the proposed facility will create nuisance conditions.
7. Whether the permit will be approved through an accelerated approval process.

2. Were the issues raised during the public comment period?

The public comment period is defined in 30 TAC § 55.152. The public comment period begins with the publication of the Notice of Receipt of Application and Intent to Obtain an Air Quality Permit. The end date of the public comment period depends on the type of permit. In this case, the public comment period began on March 21, 2007 and ended on January 11, 2008. Issues 1-7 listed above upon which the hearing requests in this matter are based were raised in comments received during the public comment period. These issues may be considered by the commission.

4. Whether the issues are relevant and material to the decision on the application.

In this case, the permit would be issued under the commission's authority in Tex. Water Code § 5.013(11) (assigning the responsibilities in Chapter 382 of the Tex. Health & Safety Code) and the TCAA. The relevant sections of the TCAA are found in Subchapter C, Permits. Subchapter C requires the commission to grant a permit to construct or modify a facility if the commission finds the proposed facility will use at least BACT and the emissions from the facility will not contravene the intent of the TCAA, including the protection of the public's health and physical property. In making this permitting decision, the commission may consider the applicant's compliance history. The commission by rule has also specified certain requirements for permitting. Therefore, in making the determination of relevance in this case, the commission should review each issue to see if it is relevant to these statutory and regulatory requirements that must be satisfied by this permit application.

In the absence of identification by the hearing requesters of disputed issues in the RTC, the ED cannot determine which issues remain disputed. However, if the assumption is made the issues raised in the public comments continue to be disputed, the following is the ED's position on those issues.

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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1. Whether the air emissions from the proposed facility will adversely affect the health of those in the area.

The requesters identified the issue of health impacts to humans in their hearing requests.⁹ Whether the proposed facility will use BACT and will be protective of human health is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes impact of the air emissions to human health is a referable issue.

2. Whether the air emissions from the proposed facility will adversely affect air quality in the area.

The requesters identified the issue of air quality in their hearing requests.¹⁰ Whether the proposed facility will be protective of ambient air quality is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes impact of air emissions to ambient air quality is a referable issue.

3. Whether the air emissions from the proposed facility will adversely affect residents' quality of life.

The issue of impacts to quality of life was raised during the comment period.¹¹ Whether the proposed facility will be protective of the quality of life of persons living in the area is a factual issue that is relevant and material to the commission's decision on the application. The ED concludes impact of air emissions to the quality of life of persons living in the area is a referable issue.

4. Whether the proposed facility will be located in an inappropriate area, in that it is too close to a residential area.

The requesters identified the issue of site location in their hearing requests.¹² The TCEQ does not have zoning authority, and it is therefore beyond the agency's power to regulate the effect of an applicant's site selection. Further, the TCEQ cannot require an Applicant to relocate, or prohibit an applicant from locating at a particular site, if they meet any specific distance limitations that are enforceable by the TCEQ. So long as the Applicant meets the applicable distance limitations, adverse impacts to human health and the environment are not expected. Whether the proposed facility will be located in an inappropriate area, in that it is too close to a residential area, is not relevant and material to the commission's decision on this application. This issue should not be referred to SOAH.

5. Whether the Applicant will use Best Available Control Technology at the proposed facility.

⁹ This issue was addressed in the ED's RTC in Response 1.

¹⁰ This issue was addressed in the ED's RTC in Response 1.

¹¹ This issue was addressed in the ED's RTC in Response 3.

¹² This issue was addressed in the ED's RTC in Response 2.

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS

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The requesters identified the issue of Best Available Control Technology (BACT) in their hearing requests.¹³ Whether the proposed facility will use BACT is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes use of BACT is a referable issue.

6. Whether the air emissions from the proposed facility will create nuisance conditions.

The requesters identified the issue of nuisance in their hearing requests.¹⁴ Whether the air emissions from the proposed facility will create nuisance conditions is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes causing or contributing to nuisance conditions is a referable issue.

7. Whether the permit will be approved through an accelerated approval process.

The requesters identified the issue of an accelerated permit approval process in their hearing requests¹⁵. There is no accelerated review and approval process for this type of air permit application. At the time the ED's Response to Comments was mailed, the application had been pending with the TCEQ for more than 14 months whereas the normal permit processing time for a permit application of this type would be from six to nine months. Whether the permit will be approved through an accelerated approval process is not relevant and material to the commission's decision on this application. This issue should not be referred to SOAH.

IV. Maximum Expected Duration of the Contested Case Hearing

The ED recommends the contested case hearing, if held, should last no longer than nine months from the preliminary hearing to the proposal for decision.

V. Executive Director's Recommendation

The Executive Director respectfully recommends the commission:

- A. Find all hearing requests in this matter were timely filed;
- B. Find the hearing requests of Chris & Andy McSwain, Ron Henderson, R.E. Henderson and Co., Inc., Charlotte Henderson, Margie Abbott, Dr. Robert Grayson, Karina Deaver, John Lewis, Phillip Hering, Deedie Hering, Karen LiBassi, Patricia & Raymond Bailey, David Heddy, Michael LiBassi, Dr. Joyce Jones, Kate Groetzinger, Mary Darden, and Robert Darden satisfy the requirements of form under 30 TAC § 55.201(d);

¹³ This issue was addressed in the ED's RTC in Response 5.

¹⁴ This issue was addressed in the ED's RTC in Response 6.

¹⁵ This issue was addressed in the ED's RTC in Response 7.

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C. Find Chris & Andy McSwain, Ron Henderson, R.E. Henderson and Co., Inc., Charlotte Henderson, Margie Abbott, Dr. Robert Grayson, Karina Deaver, John Lewis, Phillip Hering, Deedie Hering, Patricia & Raymond Bailey, David Heddy, Dr. Joyce Jones, Kate Groetzinger, Mary Darden, and Robert Darden are affected persons. Find Karen LiBassi and Michael LiBassi are not affected persons in this matter;

D. If the commission finds some or all of the requesters are affected persons, refer the following issues to the State Office of Administrative Hearings:

1. Whether the air emissions from the proposed facility will adversely affect the health of those in the area.
2. Whether the air emissions from the proposed facility will adversely affect air quality in the area.
3. Whether the air emissions from the proposed facility will adversely affect residents' quality of life.
5. Whether the Applicant will use Best Available Control Technology at the proposed facility.
6. Whether the air emissions from the proposed facility will create nuisance conditions.

E. Find the maximum expected duration of the contested case hearing, if held, would be nine months.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Robert Martinez, Division Director
Environmental Law Division



Timothy Eubank, Staff Attorney
Environmental Law Division
State Bar No. 24048458

Representing the Executive Director of the Texas
Commission on Environmental Quality

CERTIFICATE OF SERVICE

On September 15, 2008, a true and correct copy of the foregoing instrument was served on all persons on the attached mailing list by the undersigned via deposit into the U.S. Mail, inter-agency mail, facsimile, or hand delivery.



Timothy Eubank

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP 15 PM 2:28

CHIEF CLERKS OFFICE

MAILING LIST
WACO COMPOSITES I, LTD.
DOCKET NO. 2008-0698-AIR; PERMIT NO. 80500

FOR THE APPLICANT:

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FOR PUBLIC INTEREST COUNSEL:

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Ms. Bridget Bohac, Director
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FOR ALTERNATIVE DISPUTE RESOLUTION:

Mr. Kyle Lucas
Texas Commission on Environmental Quality
Alternative Dispute Resolution, MC-222
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FOR THE CHIEF CLERK:

Ms. LaDonna Castanuela
Texas Commission on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3311

REQUESTERS:

Mary Landon Darden
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Waco, TX 76710

Chris & Andy McSwain
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Waco, TX 76710

Ron Henderson, President
R.E. Henderson and Co., Inc.
2003 Washington
Waco, TX 76701

Ron Henderson
3824 Chateau
Waco, TX 76710

Charlotte Henderson
3824 Chateau
Waco, TX 76710

Kate Groetzinger
3723 Herwol
Waco, TX 76710

Margie M. Abbott
3411 Chateau
Waco, TX 76710

Robert Darden
118 North 30th Street
Waco, TX 76710

Robert W. Grayson, M.D.
3413 Chateau
Waco, TX 76710

John L. Lewis
3207 Austin Avenue
Waco, TX 76710

Karina Deaver
208 Castle Avenue
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Philip L. Hering
3501 Carondolet Blvd
Waco, TX 76710

Deedie Hering
3501 Carondolet Blvd
Waco, TX 76710

Karen LiBassi
3121 Maple Avenue
Waco, TX 76707

Patricia & Raymond Bailey
2920 Washington Avenue
Waco, TX 76710

David Heddy
2015 Gorman Avenue
Waco, TX 76707

Michael LiBassi
3121 Maple
Waco, TX 76707

Dr. Joyce Jones
3525 Carondolet
Waco, TX 76710

Attachment A
The Technical Review Summary

Construction Permit Review Analysis & Technical Review

Company:	Waco Composites I Ltd	Permit No.:	80500
City:	Waco	Record No.:	126129
County:	McLennan	Account No.:	
Project Type:	CRVW	Regulated Entity No.:	RN104363924
Project Reviewer:	Mr. Stephen Akers	Customer Reference No.:	CN602681595
Facility Name:	Waco Composites Plant No 2		

Authorization Checklist

Will a new policy/precedent be established? (ED signature required if yes) **No**

Is a state or local official opposed to the permit?(ED signature required if yes) **No**

If yes, please provide name and title of official:

Is waste or tire derived fuel involved? (ED signature required if yes) **No**

Are waste management facilities involved?(ED signature required if yes) **No**

Will action on this application be posted on the Executive Director's agenda? **No**

Have any changes to the application or subsequent proposals been required to increase protection of public health and the environment during the review? **No**

If yes, please identify any permit conditions or permit limits in the Project Overview.

Project Overview

Waco Composites I, LTD (Waco Composites) has applied for a permit to authorize their fiberglass reinforced plastic (FRP) armor plate manufacturing operations which are located in Waco, McLennan County. The facility fabricates FRP armor plates using various processes such as glass fabric panel dipping, lamination pressing, and water jet cutting. The total annual allowable emission rates for the permit are as follows:

Air Contaminant	Allowable Emission Rate (tpy)
Volatile Organic Compounds (VOCs)	11.23
Hazardous Air Pollutants (HAPs)	<10 (individual) / <11.5 (total)*

* Includes total HAP emissions from production operations and resin storage tank which is authorized via PBR.

In addition, the following facilities at the site will be authorized via PBR under 30 TAC Chapter 106.

Facility	PBR
Comfort Heating	§106.102
Air Conditioning and Ventilation Systems	§106.103
Natural Gas Heaters	§106.183
Brazing, Soldering, and Welding Equipment	§106.227
Hand-Held and Manually Operated Machines	§106.265
Resin Storage Tank	§106.473

Compliance History

In accordance with 30 TAC Chapter 60, a compliance history report was reviewed on: **6/21/07**

The compliance period was from **12/4/01 to 12/3/06**

Was the application received after September 1, 2002? **Yes**

If yes, what was the site rating & classification? **Average by Default (3.01)** Company rating & classification? **Average by Default (3.01)**

Review Analysis & Technical Review

Permit No. 80500
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Regulated Entity No. RN104363924

- If no, provide a description of the compliance history. N/A
- If site was Poor, what action(s) occurred as a result? (i.e. changes to permit, reduced renewal period, etc.) N/A
- If the rating is 40 < RATING <45, what was the outcome, if any, based on the findings in the formal report? N/A
- Is the permit recommended to be denied on the basis of compliance history or rating? No
- Has the permit changed on the basis of the compliance history or rating? No

Public Notice Information

- §39.403 Public notification required? Yes
 - If no, give reason:
 - A. Date application received: **December 04, 2006** Date Administrative Complete: 2/28/07
 - B. Small Business source? Yes
- §39.418 C. Date 1st Public Notice /Admin Complete/Legislators letters mailed: 2/28/07, 3/7/07
- §39.603 D. Pollutants: **organic compounds including but not limited to styrene and hazardous air pollutants**
- E. Date Published: **3/21/07 in the Waco Tribune Herald**
Date Affidavits/Copies received: **3/28/07**
- F. Bilingual notice required? Yes
Language: **Spanish**
Date Published: **3/21/07 in the Tiempo**
Date Affidavits/Copies received: **3/28/07**
- §39.604 G. Certification of Sign Posting / Application availability 4/9/07
- H. Public Comments Received? **Yes**
Meeting requested? **No** Meeting held? **No**
Hearing requested? **Yes** Hearing held? **No**
Was/were the request(s) withdrawn? **No** Date: **N/A**
Replies to Comments sent to OCC:
Consideration of Comments:
- §39.419 2nd Public Notification required? Yes
If no, give reason:
- A. Date 2nd Public Notice mailed: 10/23/07
- B. Preliminary determination Issue
- §39.603 C. Pollutants: **organic compounds including but not limited to styrene and hazardous air pollutants**
- D. Date Published: **12/11/07 in the Waco Tribune Herald**
Date Affidavits/Copies received: **1/10/08**
- E. Bilingual notice required? Yes
Language: **Spanish**
Date Published: **12/12/07 in the Tiempo**
Date Affidavits/Copies received: **1/10/08**
- F. Public Comments Received? **No**
Meeting requested? **No** Meeting held? **No**
Hearing requested? **No** Hearing held? **No**
Was/were the request(s) withdrawn? **N/A** Date:
- §39.420 G. Consideration of Comments:
RTC, Technical Review & Draft Permit Conditions sent to OCC:
Request for Reconsideration Received?
- H. Final action: Letters enclosed?

Emission Controls

- §116.111(a)(2)(G) Is the facility expected to perform as represented in the application? Yes
- §116.140 Permit Fee: **\$900.00** Fee certification provided? Yes

Sampling and Testing

- §116.111(a)(2)(A)(i) Are the emissions expected to comply with all TCEQ air quality rules and regulations, and the intent of the Texas Clean Air Act? Yes

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Regulated Entity No. RN104363924

§116.111(a)(2)(B) Will emissions be measured? Yes
Method: **Detailed record keeping will be performed to demonstrate compliance with MAERT.**
Comments:

Federal Program Applicability

§116.111(a)(2)(D) Compliance with applicable NSPS expected? N/A
§116.111(a)(2)(E) Compliance with applicable NESHAP expected? N/A
§116.111(a)(2)(F) Compliance with applicable MACT expected? N/A

Waco Composites is not a major source of hazardous air pollutants (HAPs); therefore, 40 CFR Part 63, Subpart WWWW (National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production) is not applicable. The MAERT will limit emissions of HAPs to <10 tpy for individual HAPs and <25 tpy for all HAPs.

§116.111(a)(2)(H) Is nonattainment review required? No
A. Is the site located in a nonattainment area? No
 If no, skip to 116.111(2)(I). If yes, continue.
B. Is the site a federal major source for a nonattainment pollutant? N/A
C. Is the project a federal major source for a nonattainment pollutant by itself? N/A
D. Is the project a federal major modification for a nonattainment pollutant? N/A
 1. Did the project emission increases for nonattainment pollutant minus the two-year average actual emissions trigger netting? N/A
 If yes, attach Table 1N & 9N. If no, explain:
 2. Is the contemporaneous increase significant? N/A
 If yes, nonattainment review is required.

116.111(a)(2)(I) Is PSD applicable? No
A. Is the site a federal major source (100/250 tons/yr)? No
B. Is the project a federal major source by itself? No
C. Is the project a federal major modification? No
 1. Did project emission increases, without decreases, for pollutant of concern, minus the two-year average actual emissions trigger netting? N/A
 2. Was contemporaneous increase significant? N/A
 3. Change excluded by 40 CFR 52.21(b)(2)(iii)? N/A
 If yes to B.2 or B.3 above, explain:

Mass Cap and Trade Applicability

§116.111(a)(2)(L) Is Mass Cap and Trade applicable? No
Did the proposed facility, group of facilities, or account obtain allowances to operate? N/A

Title V Applicability

§122.10(13)(A) Is the site a major source under FCAA Section 112(b)? No
 (i). The site emits 10 tons or more of any single HAP? N/A
 (ii). The site emits 25 tons or more of a combination N/A

§122.10(13)(C) Does the site emit 100 tons or more of any air pollutant? No

§122.10(13)(D) Is the site a non-attainment major source? No

Note: Fugitive emissions are not included in total emissions unless the site is named in 30 TAC 122.10(13)(C).

Request for Comments

Region:	9	Reviewed by:	Christina French
City:	Waco	Reviewed by:	No Local Program
County:	McLennan	Reviewed by:	No Local Program
TARA:	N/A	Reviewed by:	
Legal:	N/A	Reviewed by:	

Review Analysis & Technical Review

Permit No. 80500

Regulated Entity No. RN104363924

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Process Description

Waco Composites has requested their process description be held confidential; therefore, a general process description for manufacturing the FRP armor plates will be provided. Resin is brought to the site and stored in a 5,550 gallon storage tank. The resin and catalyst are mixed and placed into a wet-out bath. Rolls of fiberglass are run through the wet-out bath, cut into sheets of a specified length, and then placed onto caul sheets. The number of FRP sheets placed onto each caul sheet depends on product specifications. Multiple caul sheets are then transferred to a lamination press for laminating and curing the FRP sheets together to form the armor plates. The caul sheets are then removed from the presses and the FRP armor plates are removed from the caul sheets. The armor plates are then cut to size using a water-jet cutter.

Clean up of all tools and equipment used in the process consists of cleaning the wet-out bath using Simple Green and the other pieces of equipment using Diabasic Ester.

Sources, Controls, Source Reduction and BACT [§116.111(a)(2)(C)]

Emission sources include VOC emissions (styrene) from the FRP armor plate manufacturing process and VOC emissions from cleanup operations. Since the manufacturing process and the cleanup operations occur within a totally enclosed building, all emissions collected and exhausted out emission point number (EPN) 1.

VOC emissions from the FRP manufacturing processes including cleanup operations, are reduced through a combination of process controls that are as follows:

1. Use of low styrene content resins;
2. Use of a resin bath;
3. All spills will be cleaned up immediately. Any towels, rags, or other absorbent materials used for cleanup shall be placed into closed containers immediately after use and shall be kept in storage until properly removed from the site; and
4. All waste resin and solvents and any other materials are stored in closed containers.

These process controls are considered BACT for FRP manufacturing facilities with VOC emissions less than 80 tpy.

Impacts Evaluation

1. Was modeling done? **Yes** Type? **Screen Modeling (Screen3)**
2. Will GLC of any air contaminant cause violation of NAAQS? **No**
3. Is this a sensitive location with respect to nuisance? **No**
4. Is the site within 3000 feet of any school? **Yes**
5. **Toxics Evaluation: Screen modeling (i.e., Screen3) was performed to determine site-wide impacts. Emissions (e.g., styrene) from EPN 1 were modeled using a stack height of 56 feet. All emissions were modeled using day and night time conditions; however, the facility currently only operates during the day. Since the resin storage tank (authorized via PBR) will only be filled when production operations are not occurring, the impacts due to tank filling are not additive with the impacts from the FRP production operations. As such, the maximum impacts for styrene are attributed to FRP production operations. The maximum off-site impacts (GLCmax) was 109.7 µg/m³ for styrene. The impacts for all other constituents were significantly below their corresponding ESL. Since the impacts for all constituents were below their corresponding ESL, no adverse impacts to human health and the environment is anticipated.**

Miscellaneous

1. Is applicant in agreement with special conditions? **Yes**
Company representative? **Robert A. Haberlein, PhD, QEP, Engineering Environmental Consulting Services**
2. Other permit(s) affected by this action? **Yes**
If YES, list permit number(s) and actions required or taken. **Permit No. 72960 will be voided upon issuance of Permit No. 80500.**

Review Analysis & Technical Review

Permit No. 80500
Page 5

Regulated Entity No. RN104363924

Steph A. An 9/15/08 *Mike Celch* 15 SEPT 08
Project Reviewer Date Team Leader/Section Manager/Backup Date

Attachment B
Compliance History Report

Compliance History

Customer/Respondent/Owner-Operator:	CN602681595 Waco Composites I, Ltd.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN104363924 WACO COMPOSITES PLANT NUMBER TWO	Classification: HIGH	Site Rating: 0.00
ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	72960
	AIR NEW SOURCE PERMITS	PERMIT	80500
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000065250
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87752
Location:	302 S 27TH ST, WACO, TX, 76710	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	September 15, 2008		
Agency Decision Requiring Compliance History:	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.		
Compliance Period:	September 01, 2002 to September 15, 2008		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Timothy Eubank Phone: 512-239-1976

Site Compliance History Components

- | | |
|--|------------|
| 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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 03/27/2007 (543986)
 - 2 08/01/2007 (570102)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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 C
Special Conditions and Maximum
Allowable Emission Rates Table

SPECIAL CONDITIONS

Permit Number 80500

1. This permit authorizes the construction and operation of fiberglass reinforced plastic (FRP) armor plate manufacturing operations which are located at 302 South 27th Street, Waco, McLennan County.
2. A copy of this permit shall be kept at the facility and made available at the request of personnel from the Texas Commission on Environmental Quality (TCEQ) or any other air pollution control agency with jurisdiction.
3. The following facilities are authorized by permits-by-rule (PBR) under Title 30 Texas Administrative Code (30 TAC) Chapter 106.

Facility	Authorization
Comfort Heating	30 TAC § 106.102
Air Conditioning and Ventilation Systems	30 TAC § 106.103
Natural Gas Heaters	30 TAC § 106.183
Soldering, Brazing, and Welding Equipment	30 TAC § 106.227
Hand-Held and Manually Operated Machines	30 TAC § 106.265
Resin Storage Tank	30 TAC § 106.473

EMISSION LIMITS

4. Emissions from the facility shall comply with 30 TAC § 101.4 regarding nuisances. Complaints from affected persons of nuisance odors from the facility verified by the TCEQ or any air pollution control agency with appropriate jurisdiction shall be the basis for requiring prompt remedial action to eliminate such odors.
5. The opacity of particulate matter emissions shall not exceed 5 percent at Emission Point No. (EPN) 1. This determination shall be made first by observing for visible emissions while the facility is in operation. Observations shall be made at least 15 feet and no more than 0.25 mile from each emission point. If no visible emissions are observed from an emission point, then opacity measurements are not required. If visible emissions are observed from the emission point, then opacity shall be determined by Title 40 Code of Federal Regulations Part 60 (40 CFR Part 60), Appendix A, Test Method 9. Contributions from uncombined water shall not be included in determining compliance with this condition. Observations shall be performed and recorded quarterly.

SPECIAL CONDITIONS

Permit Number 80500

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OPERATIONAL LIMITATIONS

6. All operations where resin based materials are used shall be performed in a building which is equipped with an appropriate ventilation system that is vented to EPN 1. The ventilation system that exhausts to EPN 1 shall have an exhaust flow rate of at least 28,500 cubic feet per minute.
7. The exhaust fan for the building shall be turned on prior to beginning any manufacturing and cleanup operations. The exhaust fan shall remain operating during these operations and shall be turned off no earlier than 30 minutes after their completion.
8. No FRP production operations including making up a resin bath, shall occur during filling operations of the on-site resin storage tank which is authorized via PBR.
9. The emissions from the building shall discharge vertically from an Exhaust Stack (EPN 1) which is at least 56 feet high as measured from ground level. Rain caps or other stack heads that restrict or obstruct the vertical discharge of air contaminants from the exhaust stack shall not be allowed.
10. An exhaust stack at a height not less than 56 feet, as measured from ground level for EPN 1, shall be in place no later than 60 days after the permit issuance date.
11. The plastic strip curtains used in the loading dock and the shipping dock doorways shall be in place and in good working order.

MATERIAL USAGE FLEXIBILITY

12. In addition to the materials represented in the permit application submitted and received on December 4, 2006, other materials/air contaminants that meet the following sub-conditions are allowed.
 - A. The new materials shall serve the same basic function and the emissions shall be from the same location as the emissions from the current materials.
 - B. All the ingredients of the new material are known, i.e., the weight percentages of the ingredients add to 100 percent or more.
 - C. Any air contaminant ingredient in the new material is exempt from Special Condition No. 12D if:

SPECIAL CONDITIONS

Permit Number 80500

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- (1) it is emitted at a rate of less than 0.04 pound per hour (lb/hr) and whose short-term (30-minute) Effects Screening Level (ESL) is equal to or greater than $2 \mu\text{g}/\text{m}^3$; or
 - (2) it has a true vapor pressure at 68°F of less than 0.01 mm Hg and it is not sprayed.
- D. For all other new or increased air contaminants, the following procedure shall be completed.
- (1) Determine the emission rate of each air contaminant ingredient including emissions of the same air contaminant from currently authorized materials that may be emitted at the same time from each emission point.
 - (2) Multiply the emission rate of the air contaminant by the unit impact multiplier for each emission point from the following table to determine the off-property impact (Ground Level Concentration [GLC]) for each emission point.

Emission Point	Unit Impacts ($\mu\text{g}/\text{m}^3$ per lb/hr)
EPN 1	13.18

- (3) Sum the impacts from each emission point/emission point group to determine a total off-property impact (Total GLC_{MAX}) for the new or increased air contaminant.
- (4) Compare the total off-property impact to the ESL for the air contaminant as follows:

$$\text{Total GLC}_{\text{MAX}} \leq \text{ESL}_{\text{NEW}}$$

Where:

$\text{Total GLC}_{\text{MAX}}$ = the sum of the GLCs from each emission point.

SPECIAL CONDITIONS

Permit Number 80500

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ESL_{NEW} = short-term ESL of new ingredient air contaminant from the most current ESL list published by the TCEQ or as specifically derived by TCEQ Toxicology Section. The ESL shall be obtained in writing prior to the use of the new or increased air contaminant.

- E. Short-term emission rates from new or increased air contaminants shall not cause any increases in air contaminant category annual emission rates as listed on the MAERT.

RECORDKEEPING

13. General Condition No. 7 regarding information and data to be maintained on file is supplemented as follows and shall be used to demonstrate compliance with the maximum allowable emission rates table:
- A. Environmental Data Sheet (EDS) or similar documentation (including material safety data sheets) for all FRP materials and cleanup solvents. The EDS or similar documentation for all materials shall indicate the maximum composition of all constituents.
- B. Data shall be recorded as follows:
- (1) Daily usage of resin and cleaning solvents.
 - (2) Daily hours of operation.
- C. The data recorded in Special Condition No. 13B shall be used to produce a monthly report that reflects:
- (1) Volatile organic compound (VOC) emissions in lbs/hr as a daily average.
 - (2) VOC emissions in tons per year (tpy) over the previous 12-months.
 - (3) Hazardous Air Pollutant (HAP) emissions in tpy over the previous 12 months for each individual HAP and total HAPs.
- D. Records and calculations demonstrating compliance with Special Condition No. 12 for the introduction of any new materials.

SPECIAL CONDITIONS

Permit Number 80500

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- E. Field records of quarterly visible emissions observations and opacity observations (if applicable) as prescribed in 40 CFR Part 60, Appendix A, Test Method 9.
- F. The records required by this special condition may be maintained in hard copy or electronic format. The report in Special Condition No. 13C shall contain examples of the calculations performed (including units, conversion factors, transfer efficiency, and emission factors), any assumptions made in the calculations, and the basis for those assumptions.

POLLUTION PREVENTION

- 14. All waste FRP resin and solvents shall be stored in closed containers until removed from the plant site in accordance with applicable waste regulations.
- 15. All spills shall be cleaned up immediately using appropriate procedures, and the associated waste materials shall be stored in closed containers until properly removed from the plant site.
- 16. Towels, rags, sponges, or other materials used for cleanup operations shall be placed into closed containers immediately after use and shall be kept in storage until removed from the plant site in accordance with applicable waste regulations.

Dated

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

Permit Number 80500

This table lists the maximum allowable emission rates and all sources of air contaminants on the applicant's property covered by this permit. The annual rates (TPY) are based on a consecutive 12-month period.

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates	
			lb/hr	TPY (4)
1	Stack 1	VOC	15.16	11.23
All (Sitewide)	Various	Single HAP		<10.00
		All HAPS		<11.50

- (1) Emission point identification.
- (2) Specific source name.
- (3) VOC - volatile organic compounds as defined in Title 30 Texas Administrative Code § 101.1
HAP - any air contaminant (pollutant) listed in § 112(b) of the Federal Clean Air Act or Title 40 Code of Federal Regulations Part 63, Subpart C
- (4) Compliance with annual emission limits is based on a rolling 12-month period.

Dated

Attachment D
Map showing location of the site of the
proposed facility

Waco Composites Plant No. 2

Map Requested by TCEQ Office of Legal Services for Commissioners Agenda



Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087
March 27, 2008

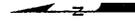


Projection: Texas Statewide Mapping System (TSMS)
Scale 1:21,337

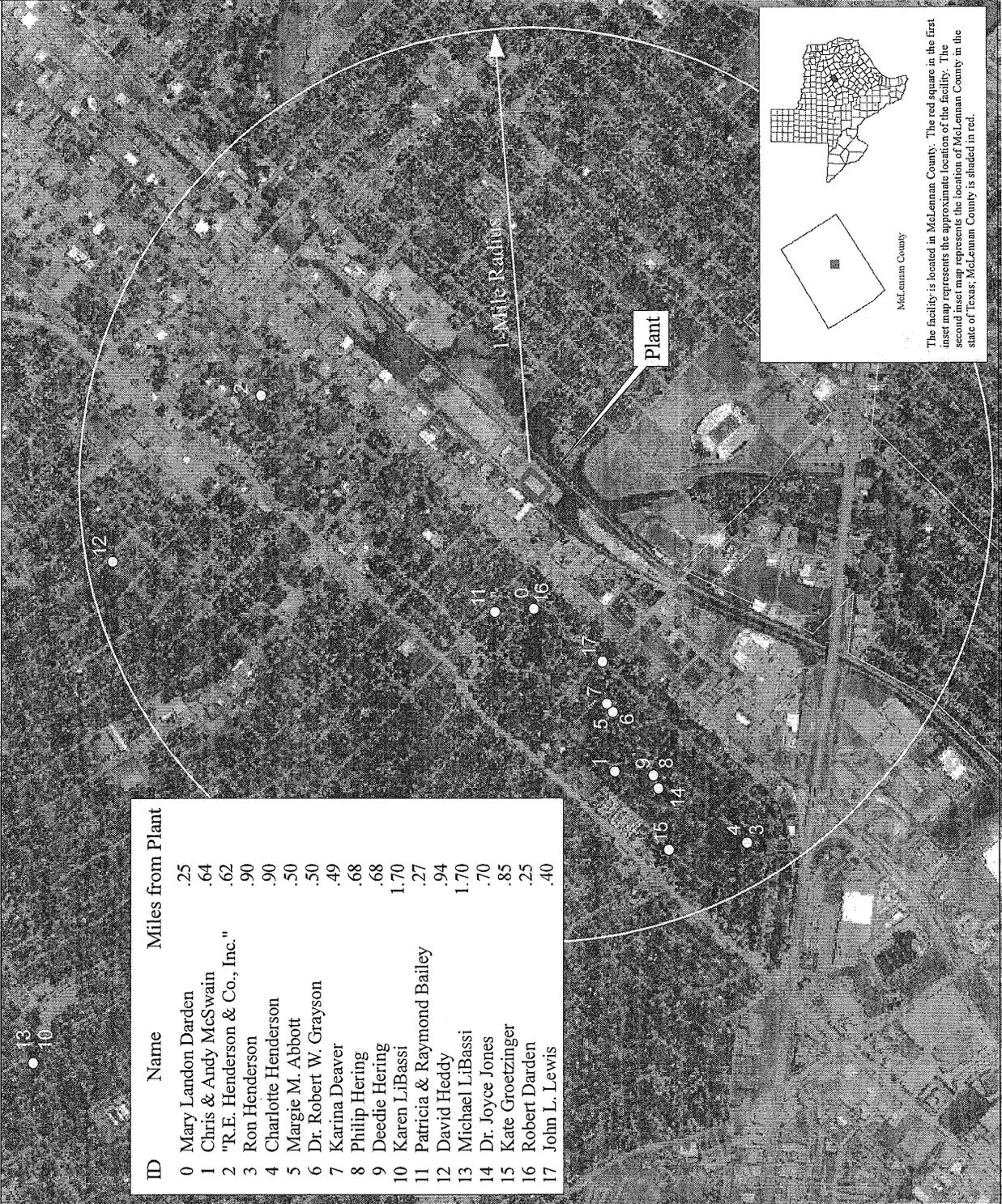
- Legend**
- Requestor
 - Plant

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the requestor information from the applicant. The counties are U.S. Census Bureau 1992 TIGER/Line Data (1:100,000). The background of this map is a source photograph from the 2004 U.S. Department of Agriculture Imagery Program. The imagery is one-meter Color-Infrared (CIR). The image classification number is tx061_1-1.

This map depicts the following:
 (1) The approximate location of the plant. This is labeled "Plant".
 (2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
 (3) Requestor locations. These are labeled with a number corresponding to the list.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This map was not generated by a licensed surveyor, and is intended for illustrative purposes only. No claims are made to the accuracy or completeness of the data or its suitability for a particular use. For more information concerning this map, contact the Information Resources Division at (512) 239-0800.



ID	Name	Miles from Plant
0	Mary Landon Darden	.25
1	Chris & Andy McSwain	.64
2	"R.E. Henderson & Co., Inc."	.62
3	Ron Henderson	.90
4	Charlotte Henderson	.90
5	Margie M. Abbott	.50
6	Dr. Robert W. Grayson	.50
7	Karina Deaver	.49
8	Philip Hering	.68
9	Deedie Hering	.68
10	Karen LiBassi	1.70
11	Patricia & Raymond Bailey	.27
12	David Heddy	.94
13	Michael LiBassi	1.70
14	Dr. Joyce Jones	.70
15	Kate Groetzinger	.85
16	Robert Darden	.25
17	John L. Lewis	.40

McLennan County

The facility is located in McLennan County. The red square in the first inset map represents the approximate location of the facility. The second inset map represents the location of McLennan County in the state of Texas; McLennan County is shaded in red.