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Larry R. Soward, *Commissioner*  
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Mark R. Vickery, P.G., *Executive Director*



TEXAS  
COMMISSION  
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QUALITY

2008 OCT 10 PM 4:42

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHIEF CLERKS OFFICE

*Protecting Texas by Reducing and Preventing Pollution*

October 10, 2008

Ms. LaDonna Castañuela  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
Post Office Box 13087, MC-105  
Austin, Texas 78711-3087

Re: Executive Director's Response to the Hearing Requests regarding Wheatcraft, Inc  
Permit No 76508; Docket No Docket No 2008-0870-AIR

Dear Ms. Castañuela:

Enclosed for filing is the original and eleven copies of the Executive Director's Response to Hearing Request and Request for Reconsideration the above styled action.

If you have any questions or comments, please call me at (512)239-6033.

Sincerely,

A handwritten signature in cursive script that reads "Erin Selvera".

Erin Selvera  
Staff Attorney  
Environmental Law Division

Enclosures

TCEQ AIR QUALITY PERMIT NO. 76508  
TCEQ DOCKET NO 2008-0870-AIR

2008 OCT 10 PM 4: 42

CHIEF CLERKS OFFICE

APPLICATION BY	§	BEFORE THE
WHEATCRAFT, INC.	§	
RHODES PIT, ROCK CRUSHER	§	TEXAS COMMISSION ON
CENTER POINT, KERR COUNTY	§	
	§	ENVIRONMENTAL QUALITY

**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.<sup>1</sup> 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, modeling audit, toxicology report, and draft permit prepared by the ED's staff have been filed with the TCEQ's Office of 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.

**I. Application Request and Background Information**

Wheatcraft, Inc. (Applicant) has applied to the TCEQ for an Air Quality Permit No. 76508, which would authorize the construction of a Rock Crushing Facility at the Rhodes Pit Rock Quarry located at 6133 Highway 27, Center Point, Kerr County, Texas. The facility will emit the following air contaminant: particulate matter (PM), including particulate matter having diameter of 10 microns or less (PM<sub>10</sub>). It appears the Applicant is not delinquent on any administrative penalty payments to the TCEQ. The TCEQ Enforcement Database was searched and no enforcement activities were found that are inconsistent with the compliance history.

The application for a new permit was received August 1, 2005. The application was declared

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<sup>1</sup> Statutes cited in this response may be viewed online at [www.capitol.state.tx.us/statutes/statutes.html](http://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](http://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](http://www.tceq.state.tx.us).

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administratively complete August 12, 2005. The Notice of Receipt and Intent to Obtain (NORI) an Air Quality Permit was published September 6, 2005 in *Kerrville Daily Times*. More than eighty-five letters were received during the first comment period. These included eighty hearing requests, and public meeting requests from Senator Troy Fraser and Representative Harvey Hilderbran. A public meeting held in Center Point on January 24, 2006, was attended by one hundred sixty-eight persons, including Representative Hilderbran. Upon resolution of all technical deficiencies, the technical review was completed in August 2006. The Notice of Application and Preliminary Decision (NAPD) was published August 8, 2006 in *Kerrville Daily Times*. A second public meeting was requested by Representative Hilderbran. The public meeting was held in Center Point on November 9, 2006. The comment period that started on September 7, 2005 closed at the end of the second public meeting on November 9, 2006 (428 days). This application received hearing requests from a total of two hundred and one individuals and nine groups or companies. In addition, one hundred eighteen public meeting requests were received. Comments were received from two hundred and twenty-five persons and/or groups. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted in accordance with House Bill 801, 76<sup>th</sup> Legislature, 1999.

Processing time for this application has been approximately thirty-eight months. This includes one month of administrative review, and a fourteen month comment and technical review period. The protracted processing of the RTC was the result of the extensive nature and sheer volume of comments and hearing requests received on this application, the level of which is not common for air permit applications. Specifically, the agency received a petition with 107 names, 252 individual letters providing comment and/or requesting a contested case hearing, oral comments from two public meetings requiring transcription, 187 public meeting requests, and hearing requests from nine groups or associations, all requiring organization and analysis. The compilation and organization of the comments, as well as the review, development and drafting of the responses, required detailed and time consuming coordination between Air Permits Division and Environmental Law Division to ensure each of the comments received an appropriate response. Furthermore, since the inception of the permit time frame reduction (PTR) project in March 2002, Office of Permitting, Remediation, and Registration (OPRR) has significantly reduced its permitting backlogs and increased permit efficiencies. In 2002, the Air Permits Division (APD) had a backlog of 1150 permits; APD has decreased that backlog to less than 270 projects currently. This represents a 76 percent reduction over this time period. Part of PTR is to identify older projects (greater than 2 years) and place the needed resources to resolve the issues and to ultimately process the application. Prior to eliminating the division's backlog this was very difficult to do on a consistent basis. Since the reduction of the backlog, all of the projects that are greater than 2 years old are being processed. Currently there are approximately 56 projects within the division that are greater than 24 months old. Over that same time period this represents less than 0.4 percent of all applications completed by the division. Additionally, control measures have been put in place to identify problem projects early on in the review, highlight them, and focus on their completion within the expected backlog timeframes for the air permits division.

The ED's RTC was filed with the chief clerk on April 21, 2008 and mailed on April 28, 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 contested case hearing. The cover letter attached to the RTC included information about making requests for contested case hearing or for reconsideration of the ED's decision.<sup>2</sup> 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.

Hearing requests were filed by two hundred and one individuals and nine groups. The hearing requests of Mr. and Mrs. Andrew Bowser were withdrawn by letter dated May 5, 2008.

## **II. Applicable Law**

The commission must assess the timeliness and form of the hearing requests, as discussed above. 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 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 that 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, and implemented in commission rule 30 TAC § 55.203. Under 30

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<sup>2</sup> See TCEQ rules at 30 TAC Chapter 55, Subchapter F. Procedural rules for public input to the permit process are found primarily in 30 TAC Chapters 39, 50, 55 and 80.

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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 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.

In addition to the requirements noted above regarding affected person status, in accordance with 30 TAC § 55.205(a), a group or association may request a contested case hearing only if the group or association meets all of the following requirements:

- (1) one or more members of the group or association would otherwise have standing to request a hearing in their own right;
- (2) the interests the group or association seeks to protect are germane to the organization's purpose; and
- (3) neither the claim asserted nor the relief requested requires the participation of the individual members in the case.<sup>3</sup>

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;

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<sup>3</sup> 30 TAC § 55.205(a)

- (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.

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.<sup>4</sup> Thus, the location and operation of the proposed facility requires authorization under the TCAA. Permit conditions of general applicability must be in rules adopted by the commission.<sup>5</sup> 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.<sup>6</sup> 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 this chapter.<sup>7</sup> The materials accompanying this response list and reference permit conditions and 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?

The following groups or companies submitted timely hearing requests: Jonathan Delmer<sup>8</sup> on behalf of Fairview Farm Exotics; Ilse Bailey, Michael Van Winkle<sup>9</sup>, and Paula and Tom Goynes<sup>10</sup> for the Texas Rivers Protection Association (TRPA); Cayce Kovacs, Jerry Trice, and Suzanne Trice, on behalf of Guadalupe River Environmental Action Team (GREAT)<sup>11,12</sup>; Mary Ellen Summerlin<sup>13</sup> for the Headwaters Groundwater Conservation District; Pat Tinley, Kerr County Judge; H.A. "Buster" Baldwin, Kerr County Commissioner, Precinct 1; Jonathan Letz, Kerr County Commissioner,

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<sup>4</sup> TEXAS HEALTH & SAFETY CODE § 382.0518

<sup>5</sup> TEXAS HEALTH & SAFETY CODE § 382.0513

<sup>6</sup> TEXAS HEALTH & SAFETY CODE § 382.085 (a) and (b).

<sup>7</sup> TEXAS HEALTH & SAFETY CODE § 382.0513

<sup>8</sup> Mr. Delmer provided a Comfort, Texas address and thus his address does not appear on the map.

<sup>9</sup> Although they did not file hearing requests themselves, Ilse Bailey and Michael Van Winkle were named as members of TRPA in the hearing request filed on the group's behalf by their counsel, David Frederick of the law firm Lowerre & Frederick. Therefore, their names appear on the list of hearing requesters. These two individuals do not appear on the map because their addresses are in Kerrville, Texas, beyond the bounds of the map at its current scale.

<sup>10</sup> Tom Goynes identifies himself as the President of TRPA. His and Paula Goynes' address does not appear on the map because they list San Marcos as their home city which is well beyond the area of the proposed site.

<sup>11</sup> Cayce Kovacs submitted detailed comments on the application and some oral comments at the public meeting. Ms Kovacs did not request a hearing directly but identified herself as a member of GREAT on the public meeting sign-up sheet and is identified as the current President of GREAT in the request filed on the group's behalf by their counsel, David Frederick of the law firm Lowerre & Frederick. Therefore, her name appears on the list of hearing requesters.

<sup>12</sup> Ms. Marcey Downey is identified as a member of GREAT who owns and occupies land adjacent to the proposed facility, however, with current mapping information, TCEQ mapping staff were not able to locate her specific address.

<sup>13</sup> Ms. Summerlin provides two Kerrville, Texas addresses and thus these addresses do not appear on the map.

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Precinct 3; Dave Nicholson, Kerr County Commissioner, Precinct 4; William H. "Bill" Williams, Kerr County Commissioner, Precinct 2;<sup>14</sup> Kay Woodward<sup>15</sup>, Steward, for the Texas Archeological Stewardship Network; Glenda Lackey<sup>16</sup> on behalf of Center Point Alliance for Progress; Edwin Stearns and Lee Ann Ray<sup>17</sup>, for Center Point Independent School District (CPISD); and Kenneth H. Wardlaw<sup>18</sup> for the Rockin River Inn.

The following persons submitted a timely hearing request and provided an address that is at or within one mile from the proposed facility: Mark Abbott, Anne Alaniz, David Anderson, Amy K. Barger, Thomas A. Barger, Thomas Bayer, Dennis Brown, Neal Coldwell, CB Douglas, OA Douglas, JB Douglas, Marcy Downey, Natalie J. Dunlap, William Dunlap, Sharon Forster, Steve and Ann Galland, Jim Grand, Logan Green, Marion L. Stiles Hacker, Jerilyn Keith, Cayce Kovacs, John C. Kovacs, Juliana M. Leonard, Edgar R. Ligon (Robert), Edgar R. Ligon, Jr., Sam McLarty, John Mosty, Gerald Nunnery, Karen Nunnery, George and Daryn Oliver, Carolyn Osborn, Lisa Skidmore, Michael R. Skidmore, Brian and Suzanne Smith, Jeffrey C. and Sheila Stiles, Marion Stiles, Jerry Trice, Suzanne Trice, Mr. and Mrs. M.A. Whitworth, Patricia Whitworth, Kimberly Williams, Stephen Wray, C. Jean Young, and Eldo Young. (Herein after referred to as Group A.)

The following persons submitted a timely hearing request and provided an address that is beyond one mile from the facility: Betty Aycock, William T. Aycock III, John and Jennifer Barnett, Amber Blackledge, Christina Blackledge, Jeff Blackledge, Joel Blackledge, Karen Blackledge Barbara Boehme, Donald Boehme, Mr. and Mrs. Andrew Bowser, Robert L. Brown, Dorthy Bursch, George Bursch, Jo Anne Cagle, Sherry Collins, Thomas Collins, Clara Conner, Julia C. Dewey, Trinidad Dominguez, Don and Janet Drinkard, Don Esbjornson, Marcia Esbjornson, Freda Eskew, Joanne Fenninger, Ann Fritz, Julie A. Griffith, Jackie Hamlyn, Alice Hammond, David L. John, Charlie Kaiser, Nina Kinney, Henry Knocke, Kay and Bill Kyle, T.H. Lackey, Danny and Kelly Lena, JoAnn Lynch, John Lynch, WR "Dub" Lynch, Dorthy Pierce, James Pierce, Dub Martin, Susan Sander, Clarence Schmidt, Mary Schmidt, Nell Sevey, Donald Shirkey, Phillip W. and Sarah M. Sneed, Jimmie Swofford, Pat Swofford, Rene and Audrey Verhelst, Mr. and Mrs. E.W. Walker, Hugh Weaver, David R. Weekley, Mary and Mark E. Weekley, Marilyn Wiles; Greg and Debbie Williams and Joanne M. and John Wilson, (Herein after referred to as Group B.)

The following persons submitted a timely hearing request and provided a Center Point address however, TCEQ mapping staff could not locate the address and thus they do not appear on the attached map: Guy and Lorna Bason, Mary Pattie Butters, Donna Cardner, Hannah Cardner, Don Eichler, Rickie Eichler, Shirley Eller, David Gray, Susan Gray, Donald H. and Mary B. Greer, Arlene Johnson, Judy Jordan, Bill and June Lowrance, Bill Lowrance, Linda Lowrance, Neva

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14 Judge Tinley, and Commissioners Baldwin, Letz, Nicholson, and Williams provide their Kerrville, Texas business address and thus do not appear on the map.

15 Ms. Woodward provided a Kerrville, Texas address and thus does not appear on the map.

16 Ms. Lackey provides a post office box address and thus does not appear on the map.

17 Mr. Stearns and Ms. Ray provide two post office box addresses and thus these addresses do not appear on the map.

18 Mr. Wardlaw's address appears on the map as point 172 which is more than a mile from the proposed facility.

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Martin, Jon Maxwell, Jan Menna, Raul V. Pěna, Sandra Pěna, H. Pomalea, Peggy Schlottman, Ronnie Schlottman, Rola J. Seyler, Luke Sheets, Sarah Sheets, Douglas Smith, Frances Smith, Guy Smith, Kay Steadham, Richard Steadham, Lesley Swope, Frank Thomason, Becky Valenzuela, Charles E. Young. (Herein after referred to as Group C.)

The following individuals submitted a timely hearing request and provided addresses in cities other than Center Point, Texas which is beyond the boundary of the attached map: Ben Lucas, Ellen Lucas, John R. Mosty, Robert L and Darlene Mosty, Phil Spain, Belinda Stanush, Mary Ellen Summerlin, and Pam White. (Herein after referred to as Group D.)

The following persons submitted a timely hearing request and provided a post office box address and thus are not represented on the attached map: M. Cody Bishop, Joyce Chase, Don Davis, Linda Davis, J. Nelson Happy, Georgiana Haught, William E. Haught, Glenda Lackey, Earl and Pat Long, Mary J. Matthews, Alma McLendon, Laurie Milton, Phillip Milton, Jean Mosty, Lee Ann Ray, Brent Sayer, Theresa M. Sayer, George Schroeder, Linnette Shine, Gladys Simpson, Edwin Stearns, Bernice Willis, and Bonnie Willis. (Herein after referred to as Group E.)

The following persons submitted a timely hearing request and but failed to provide a complete address and thus could not be mapped: Steve and Gale Augustino, Maria E. Boroaer, Guy Burney, Rose and Roy Elizondo, William Kyle, Ben Lucas, James Perlitz, Eugene Pittman, James R Pulity, Theresa and Bret Sayers, and Phillip and Sally Sneed. (Herein after referred to as Group F.)

The hearing requests were submitted during the public comment period or during the period for requesting a contested case hearing after the filing of the ED's RTC. Furthermore, the ED has determined the hearing requests of Fairview Farm Exotics; TRPA; GREAT; Headwaters Groundwater Conservation District; Pat Tinley, Kerr County Judge; H.A. "Buster" Baldwin, Kerr County Commissioner, Precinct 1; Jonathan Letz, Kerr County Commissioner, Precinct 3; Dave Nicholson, Kerr County Commissioner, Precinct 4; William H. "Bill" Williams, Kerr County Commissioner, Precinct 2; Texas Archeological Stewardship Network; Kenneth H. Wardlaw for the Rockin River Inn, and Groups A, B and D substantially comply with all of the requirements for form in 30 TAC § 55.201(d).

The ED has determined the hearing requests identified as groups E and F did not provide a residential address or a complete residential address. Therefore, with available information, it is impossible for the ED to determine the proximity of the requesters relative to the proposed facility and it is difficult to determine whether air emissions from the proposed facility will impact the requester in way not common to the general public.

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 attached to the RTC states that requesters should, to the extent possible, specify any of the ED's responses in the RTC that the requesters dispute and the

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**

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factual basis of the dispute, and list any disputed issues of law or policy.<sup>19</sup> TRPA and GREAT each filed a response to the ED's RTC which reiterated issues raised during the comment period. In the absence of a response from any of the other hearing requesters 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 included all of the issues raised by hearing requesters and commenters regarding this application as listed below.

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

Many of the requesters have demonstrated that 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.<sup>20</sup> All of the hearing requesters who submitted requests on this application listed at least one personal justiciable interest affected by the application. However, many did not indicate how their interest is different from the general public. Because only particulate matter emissions are expected from this facility, which disperses in the air as the distance from the emission point increases, distance from the proposed facility is key to the issue whether or not there is a likely impact of the regulated activity on a person's interests such as the health and safety of the person, and on the use of property of the person. The ED has identified requesters who reside at or within 1 mile of the proposed facility and thus may be affected in a manner different from the general public (Group A). See attached map and legend for individual requesters. The ED has identified hearing requesters who provided addresses beyond one mile from the facility. As they reside more than 1 mile from the proposed facility, they are not likely to be impacted differently than any other member of the general public. Due to their distance from the proposed facility, the requesters identified as group D are not shown on the attached map and thus are also not likely to be impacted differently than any other member of the general public.

Additionally, the hearing requesters identified in groups E and F who did not provide a residential address, do not appear on the attached map and thus the ED is unable to determine whether it is likely that these requesters will be impacted differently than any other member of the general public or if there is a likely impact of the regulated activity on a person's interests such as on the health and safety of the person, or on the use of property of the person. Of the persons who provided a post office box, the following persons indicated that they live or own property more than a mile from the proposed facility: Joyce Chase at 3 miles, Don and Linda Davis at 1.4 miles, Georgianna and William E. Haught at 1.5 miles, George Schroeder at 2 miles, and Linnette Shine at 3 miles. Earl and Pat long indicated that their church is approximately one mile from the proposed facility but did not name the church or indicate how often they frequent the church. Laurie and Phillip Milton provided a post office box but indicated they owned property one mile south of the proposed facility. In

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<sup>19</sup> See 30 TAC § 55.201(d)(4).

<sup>20</sup> *United Copper Industries and TNRC v. Joe Grissom*, 17 S.W.3d 797 (Tex. App.-Austin, 2000)

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addition, Brent and Theresa Sayer provided a post office box but indicated they owned property one mile from the proposed facility.

Finally, the requesters identified as group C provided addresses; however TCEQ mapping staff could not pinpoint their specific location using mapping software available to the ED's staff. The addresses do not appear on the map and thus the ED is unable to determine whether it is likely that these requesters will be impacted differently than any other member of the general public. Notwithstanding the inability to locate these hearing requesters on the attached map, the following persons in Group C, indicated that they live more than a mile from the proposed facility: Mary Pattie Butters at 3 miles; Shirley Eller at 2 miles; Donald H. and Mary B; Greer at 3 miles northwest; Neva Martin at 2 miles, and Jon Maxwell at 5 miles north.

The following persons provided a post office box but indicated in their request that they reside or own property at or within a mile from the proposed facility: Don and Rickie Eichler at about 2000 feet; David and Susan Gray at 1/2 mile down river; Nina Kinney at one mile north; Bill and June Lowrance at 1 mile; Linda Lowrance at 1 mile; Peggy and Ronnie Schlottman at 1/4 mile; Luke Sheets at less than one mile down river; and Sarah Sheets at 1/2 mile downstream. The following persons provided an address on Redbird Loop which is outside the one mile radius on the attached map: Amber Blackledge; Christina Blackledge; Jeff Blackledge; Joel Blackledge; Karen Blackledge; Dorothy and George Bursch; Sherry and Thomas Collins; Freda Eskew; Joanne Fenninger; Henry Knocke, Danny and Kelly Lena, Dorothy and James Pierce, Clarence and Mary Schmidt; Pat and Jimmie Swofford; and Joanne and John M. Wilson.

C. Do those groups who requested a hearing meet the group or associational standing requirements?

Guadalupe River Environmental Action Team (GREAT): The hearing requests filed on behalf of GREAT identify Marcey Downey, John and Cayce Kovacs and Jerry and Suzanne Trice as members of the group who live within a mile or less from the proposed facility. Although Ms. Downey's address was not located by TCEQ mapping staff based on the address provided, the description provided in her filing sufficiently identifies her property and thus her property is marked by point 45. Cayce and John Kovacs appear on the map as points 79 and 80 respectively and Jerry and Suzanne Trice appear on the map as points 166 and 167 respectively. Each of these persons lives within a mile from the facility and their requests otherwise meet the requirements for form and affected person status. Therefore, these persons may be affected in a manner different from the general public. Additionally, the hearing requests raise issues pertinent to the application and the group's purpose of protecting the environment and maintenance of the quality of life around Center Point is germane to the relief it seeks. For these reasons, GREAT qualifies as an affected group.

Texas Rivers Protection Association (TRPA): TRPA claims that the permit, if granted would interfere with TRPA's members' use and enjoyment of the Guadalupe River, with the aesthetics of their views and tranquil rural settings and, potentially, would cause adverse effects to their health. As

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noted above, TRPA names Ilse Bailey, Michael Van Winkle<sup>21</sup>, and Paula and Tom Goynes<sup>22</sup> as members of the group stating that Ms. Bailey and Mr. Van Winkle regularly paddle the river. None of the persons named as members of TRPA live within a mile of the proposed facility. However, the proximity of the activities conducted by TRPA's members and the relationship of the groups' purpose to the potential affects of the proposed facility qualifies this group for associational standing.

Jonathan Delmer on behalf of Fairview Farm Exotics: Mr. Delmer claims he is a landowner four miles away from the proposed facility, however, he doesn't indicate whether he resides there. His request is focused on the effects on the river and how that may endanger livestock that use the river for water on his property. Because his requests are the focus of issues that are beyond the scope of an air permit review and he does not indicate how he will be affected in a manner not common to the general public, his hearing request does not meet the requirements of 30 TAC § 55.201 (d)(2).

Mary Ellen Summerlin for the Headwaters Groundwater Conservation District: The hearing request is based on the concern of the possible need for groundwater now or in future which is outside scope of this permit and thus does not specify a personal justiciable interest affected by the application as required by 30 TAC § 55.201 (d)(2). Although, the interest the group seeks to protect is germane to the group's purpose, the issue raised is beyond the scope of this air permit application.

Kerr County Judge and Commissioner's Request: Although request raises issues that fall within the scope of the air permit review, the requesters fail to identify the authority under state law that the Commissioner's Court has over issues raised by the application and thus does not meet the requirements of 30 TAC § 55.203(b). Additionally, none of the hearing requesters submit a hearing request in their personal capacity that meet the requirements of 30 TAC § 55.201(d).

Kay Woodward, Steward, for the Texas Archeological Stewardship Network: The requester raises issues that are beyond the scope of the air permit and thus the organization's purpose does not comport with issues under TCEQ jurisdiction.

Glenda Lackey on behalf of Center Point Alliance for Progress: The address provided for this request is a post office box and thus, could not be mapped and does not comply with 30 TAC § 55.201(d)(2) identifying a location and distance relative to the proposed facility. Although the request states that the group believes that the application is deficient in many areas, it does not provide any explanation how this group would be affected in a manner different from the general public. In fact, the stated organizational purpose is to work for the betterment of the community.

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21 Although they did not file hearing requests themselves, Ilse Bailey and Michael Van Winkle were named as members of TRPA in the hearing request filed on the group's behalf by their counsel, David Frederick of the law firm Lowerre & Frederick therefore, their names appear on the list of hearing requesters. These two individuals do not appear on the map because their addresses are in Kerrville, Texas, beyond the bounds of the map at its current scale.

22 Tom Goynes identifies himself as the President of TRPA. He and Paula Goynes address does not appear on the map because they list San Marcos as their home city which is well beyond the area of the proposed site.

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Edwin Stearns and Lee Ann Ray<sup>23</sup>, for Center Point Independent School District (CPISD): Although the request raises pertinent issues, the only address provided is a post office box which does not meet the requirements for form. Regardless, out of an abundance of caution and because of the number of requesters raising issues regarding the proximity of the proposed facility to the schools in Center Point, the ED's staff has reconfirmed prior distance measurements used in the processing of the application and as noted in ED's Response to Comments. Specifically, on October 9, 2008, Mr. Lynn Lindsay of the San Antonio Region Office of the Texas Commission on Environmental Quality (TCEQ), GPS certification number 08011603, collected Global Positioning System (GPS) data at 4 locations in Center Point, Kerr County, Texas. Three of these locations represent the off site receptors where the final location was that of the rock crusher on the Wheatcraft property. Please refer to the attached map. This information reconfirms TCEQ's prior findings that the schools in question are beyond 3000 feet from the proposed facility. With regard to CPISD's standing to request a hearing, the schools in question are within one mile from the proposed facility.

**Kenneth H. Wardlaw for the Rockin River Inn:** Although Mr. Wardlaw's request was submitted on Rockin River Inn letterhead, he does not identify himself as representing any specific group or other persons. The requests lists twelve questions that he believes should be answered but does not identify a personal justiciable interest affected by the proposed facility. In addition, the address provided is beyond one mile from the proposed facility. Therefore, Mr. Wardlaw's request does not meet the requirements of either 30 TAC § 55.201(d) or 30 TAC § 55.205.

D. 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 that 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.

The ED received additional filings from TRPA and GREAT reiterating prior concerns after the RTC was mailed and these concerns are included in the list of issues below. However, the ED

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<sup>23</sup> As of October 10, 2008, the Superintendent for CPISD is Donna Smith and the CPISD Board President is Michael Butler. The ED acknowledges that the names listed above represented the Superintendent and Board President at the time the hearing requests were filed.

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**

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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 that the issues raised in the comments in this matter remain disputed.

**1. Issues involving questions of fact.**

Protestants raised the following issues in comments and hearing requests filed on this application:

1. Adverse effects on air quality claiming the project will cause or contribute to air pollution;
2. Potential health impacts on the elderly, children, students in nearby schools, those working close to the facility, members of TRPA, and the public;
3. Impact on the environment, livestock, plant life, crops, wildlife/animals, fish/aquatic life, and river vegetation;
4. Adverse effects on recreation and use and enjoyment of the Guadalupe river;
5. Whether the draft permit achieves BACT for particulate matter;
6. Whether the rock crusher will cause or contribute to the following nuisance conditions: dust, silica dust, mold, noise, odor, and light pollution;
7. Whether the settlement ponds will be an attractive nuisance for children;
8. Deficiencies in the applicant's modeling;
9. Monitoring: who will monitor and why no particulate monitoring has been proposed or will occur;
10. Deficiencies in the application such as cost information, accurate representation of emission sources, emission rates, stockpile levels, air quality study to establish baseline;
11. Response time by Regional Office Staff;
12. Location and proximity to schools, homes, roads, churches, and the flood plain;
13. Violations for starting construction prior to receiving authorization;
14. Sufficiency of the recordkeeping requirements;
15. Enforceability of the permit conditions;
16. Compliance with all state rules and regulations;
17. Applicant's compliance history warrants denial of the permit;
18. Cumulative effects due to other rock quarries in the area;
19. Effects on the Guadalupe river, ground water, water quality;
20. Water usage and usage violations;
21. Effects on roads and traffic;
22. Pollution caused by trucks used in the process;
23. Effects on property values and property rights and economic impacts;
24. Pollution cause by the quarry
25. Compliance with OSHA and material handling;
26. Whether the Applicant has complied with its current operating schedule;
27. How will equipment be maintained;

**EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS**

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28. Whether a bond should be required to ensure compliance;
29. The permit has already been issued;
30. Other necessary water related approvals;
31. Other uses for the site;
32. Whether there are any land reclamation provisions in the permit;
33. Nature of new jobs in the application;
34. An archaeological study should be required;
35. Dust emissions caused by other crushers in the area; and
36. Whether the permit can be issued without a contested case hearing.

**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 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 September 7, 2005, and ended on November 9, 2006. All of the issues listed above upon which the hearing requests in this matter are based were raised in comments received during the public comment period.

**3. 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 and 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 the best available control technology (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.

The ED received additional filings from TRPA and GREAT reiterating prior concerns after the RTC was mailed these concerns are included in the list of issues below. The remaining hearing requesters did not file any additional responses. In the absence of identification by the other hearing requesters of disputed issues in the RTC, the ED cannot determine which issues remain disputed. However, if the assumption is made that the issues raised in the public comments continue to be disputed, the following is the ED's position on those issues.

The ED finds the following issues relevant and material to the decision on the application:

1. Whether the facility will have in adverse effects on air quality;

*EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS*

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2. Whether adverse health impacts are expected on the elderly, children, students in nearby schools, those working close to the facility, members of TRPA, and the public;
3. Whether there will be an adverse impact on the animal life or vegetation;
4. Whether the rock crusher will cause or contribute to the following nuisance conditions: dust, silica dust, and odor;
5. Whether the applicant's modeling was sufficient;
6. Whether there is a school within 3000 feet of the proposed facility;
7. Whether the applicant's compliance history warrants denial of the permit;
8. Whether the permit complies with the following applicable rules and regulations:
  - a. Whether the draft permit achieves BACT for particulate matter ;
  - b. Whether the permit demonstrates compliance with the NAAQS for PM 2.5;
  - c. Whether monitoring is required and if so, whether the permit provisions are sufficient;
  - d. Whether the application/permit is deficient with regard to representation and consideration of emission sources, emission rates, stockpile levels;
  - e. Whether the permit is based on correct usage of emission factors;
  - f. Whether the permit conditions as written are enforceable; and
  - g. Whether the permit's recordkeeping provisions are adequate to ensure compliance.

The ED finds the following issues are beyond the jurisdiction of TCEQ and thus not material to the decision on the application:

1. Whether the rock crusher will cause or contribute to noise, and light pollution;
2. Whether the settlement ponds will be an attractive nuisance for children;
3. Cumulative effects due to other rock quarries in the area;
4. Effects on roads and traffic;
5. Pollution caused by trucks used in the process;
6. Effects on property values and property rights and economic impacts;
7. Other uses for the site;
8. Whether there are any land reclamation provisions in the permit;
9. Nature of new jobs in the application;
10. An archaeological study should be required; and
11. Compliance with OSHA and material handling.

The ED finds the following issues, although within the TCEQ's jurisdiction, not within the scope of this air permit review and thus not material to the decision on the application:

1. Response time by Regional Office Staff;
2. Effects on the Guadalupe river, ground water, water quality;
3. Water usage and usage violations;
4. Pollution caused by the quarry;
5. Dust emissions caused by other crushers in the area;
6. Other necessary water related approvals; and
7. Whether a bond should be required to ensure compliance.

The ED finds that the following issues are all related to the Applicant's compliance history, which is a component of the air permit application process and thus would be covered under the compliance history issue indicated above as an issue appropriate for referral to SOAH.

1. Violations for starting construction prior to receiving authorization; and
2. Whether the applicant has complied with its current operating schedule.

The ED asserts that the following two issues should be resolved.

1. Whether the permit has already been issued - This issue should be resolved through the ED's response to comments, and by letters indicating that the commission will consider this issue at an open commission meeting;
2. Whether the permit can be issued without a contested case hearing. This issue should be resolved via the ED's response to comments.

#### **IV. Maximum Expected Duration of the Contested Case Hearing**

The ED recommends the contested case hearing, if held, should last no longer than six 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 that the requests of the following groups or persons satisfy the requirements for form under 30 TAC§ 55.201(d) and are affected under 30 TAC § 55.203:
  1. TRPA;
  2. GREAT; and
  3. Group A, as identified above;
- C. Find that the following groups or persons do not meet the requirements for form under 30 TAC§ 55.201(d).
  1. Glenda Lackey on behalf of Center Point Alliance for Progress;
  2. Edwin Stearns and Lee Ann Ray, for Center Point Independent School District (CPISD); and
  3. Groups E and F as identified above.
- D. Find all other hearing requesters are not affected persons in this matter;

*EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS*

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E. If the commission determines any requester is an affected person, refer the following issues to SOAH:

1. Whether the facility will have in adverse effects on air quality;
2. Whether adverse health impacts are expected on the elderly, children, students in nearby schools, those working close to the facility, members of TRPA, and the public;
3. Whether there will be an adverse impact on the animal life or vegetation;
4. Whether the rock crusher will cause or contribute to the following nuisance conditions: dust, silica dust, and odor;
5. Whether the applicant's modeling was sufficient;
6. Whether there is a school within 3000 feet of the proposed facility;
7. Whether the applicant's compliance history warrants denial of the permit;
8. Whether the permit complies with the following applicable rules and regulations:
  - h. Whether the draft permit achieves BACT for particulate matter ;
  - i. Whether the permit demonstrates compliance with the NAAQS for PM 2.5;
  - j. Whether monitoring is required and if so, whether the permit provisions are sufficient;
  - k. Whether the application/permit is deficient with regard to representation and consideration of emission sources, emission rates, stockpile levels;
  - l. Whether the permit is based on correct usage of emission factors;
  - m. Whether the permit conditions as written are enforceable; and
  - n. Whether the permit's recordkeeping provisions are adequate to ensure compliance.

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

*EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS*

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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, Director  
Environmental Law Division



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Erin Selvera, Staff Attorney  
Environmental Law Division  
State Bar No. 24043385  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
(512) 239-6033

Representing the Executive Director of the  
Texas Commission on Environmental Quality

**CERTIFICATE OF SERVICE**

On the 10<sup>th</sup> day of October, 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.



Erin Selvera

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 OCT 10 PM 4: 42

CHIEF CLERKS OFFICE

WHEATCRAFT, INC  
TCEQ DOCKET NO 2008-0870-AIR  
TCEQ AIR QUALITY PERMIT NO 76508  
Hearing Requester Physical Address List for Map

- |                                 |  |                                  |   |
|---------------------------------|--|----------------------------------|---|
| 1. Mark Abbott                  |  | 37. Don Davis                    |   |
| 2. Anne Alaniz                  |  | 38. Linda Davis                  |   |
| 3. David Anderson               |  | 39. Jonathan Delmer              | Fairview Farm<br>Exotics                  |
| 4. Steve & Gale<br>Augustino    |  | 40. Julia C. Dewey               |   |
| 5. Betty Aycock                 |  | 41. Trinidad Dominguez           |   |
| 6. William T. Aycock III        |  | 42. CB Douglas                   |   |
| 7. Ilse Bailey                  | TRPA                                     | 43. OA Douglas                   |   |
| 8. Amy K. Barger                |  | 44. JB Douglas                   |   |
| 9. Thomas A. Barger             |  | 45. Marcy Downey                 | GREAT                                     |
| 10. John & Jennifer<br>Barnett  |  | 46. Don and Janet<br>Drinkard    |   |
| 11. Guy & Lorna Bason           |  | 47. Natalie J. Dunlap            |   |
| 12. Thomas A. Bayer             |  | 48. William Dunlap               |   |
| 13. M. Cody Bishop              |  | 49. Don Eichler                  |   |
| 14. Amber Blackledge            |  | 50. Rickie Eichler               |   |
| 15. Christina Blackledge        |  | 51. Rose & Roy Elizondo          |   |
| 16. Jeff Blackledge             |  | 52. Shirley Eller                |   |
| 17. Joel Blackledge             |  | 53. Don Esbjornson               |   |
| 18. Karen Blackledge            |  | 54. Marcia Esbjornson            |   |
| 19. Barbara Boehme              |  | 55. Freda Eskew                  |   |
| 20. Donald Boehme               |  | 56. Joanne Fenninger             |   |
| 21. Maria E. Boroaer            |  | 57. Sharon Forster               |   |
| 22. Mr. & Mrs. Andrew<br>Bowser | <b>Withdrew<br/>objections on 5/5/08</b> | 58. Ann Fritz                    |   |
| 23. Dennis Brown                |  | 59. Steve & Ann Galland          |   |
| 24. Robert L. Brown             |  | 60. Paula & Tom Goynes           | Texas Rivers<br>Protection<br>Association |
| 25. Guy Burney                  |  | 61. Jim Grand                    |   |
| 26. Dorothy Bursch              |  | 62. David Gray                   |   |
| 27. George Bursch               |  | 63. Susan Gray                   |   |
| 28. Mary Pattie Butters         |  | 64. Donald H. & Mary B.<br>Greer |   |
| 29. Jo Anne Cagle               |  | 65. Julie A. Griffith            |   |
| 30. Donna Cardner               |  | 66. Marion L. Stiles<br>Hacker   |   |
| 31. Hannah Cardner              |  | 67. Jackie Hamlyn                |   |
| 32. Joyce Chase                 |  | 68. Alice Hammond                |   |
| 33. Neal Coldwell               |  | 69. J. Nelson Happy              |   |
| 34. Sherry Collins              |  | 70. Georgianna Haight            |   |
| 35. Thomas Collins              |  |                                  |   |
| 36. Clara Conner                |  |                                  |   |

- |                             |                                      |                                    |                                      |
|-----------------------------|--------------------------------------|------------------------------------|--------------------------------------|
| 71. William E. Haught       |                                      | 108. Phillip Milton                |                                      |
| 72. David L. John           |                                      | 109. John Mosty                    |                                      |
| 73. Arlene Johnson          |                                      | 110. Jean Mosty                    |                                      |
| 74. Judy Jordan             |                                      | 111. John R. Mosty                 |                                      |
| 75. Charlie Kaiser          |                                      | 112. Robert L. & Darlene Mosty Jr. |                                      |
| 76. Jerilyn Keith           |                                      | 113. Dave Nicholson                | Kerr County Commissioner, Precinct 4 |
| 77. Nina Kinney             |                                      |                                    |                                      |
| 78. Henry Knocke            |                                      | 114. Gerald Nunnery                |                                      |
| 79. Cayce Kovacs            | GREAT                                | 115. Karen Nunnery                 |                                      |
| 80. John C. Kovacs          | GREAT                                | 116. George & Daryn Oliver         |                                      |
| 81. Kay & Bill Kyle         |                                      | 117. Carolyn Osborn                |                                      |
| 82. William Kyle            |                                      | 118. Raul V. Peña                  |                                      |
| 83. Glenda Lackey           | Center Point Alliance for Progress   | 119. Sandra Peña                   |                                      |
| 84. TH Lackey               |                                      | 120. James Perlitz                 |                                      |
| 85. Danny & Kelly Lena      |                                      | 121. Dorothy Pierce                |                                      |
| 86. Juliana M. Leonard      |                                      | 122. James Pierce                  |                                      |
| 87. Jonathan Letz           | Kerr County Commissioner, Precinct 3 | 123. Eugene Pittman                |                                      |
| 88. Edgar R. Ligon (Robert) |                                      | 124. H. Pomalea                    |                                      |
| 89. Edgar R. Ligon, Jr.     |                                      | 125. James R. Pulity               |                                      |
| 90. Earl & Pat Long         |                                      | 126. Lee Ann Ray                   | CPISD                                |
| 91. Bill and June Lowrance  |                                      | 127. Susan Sander                  |                                      |
| 92. Bill Lowrance           |                                      | 128. Brent Sayer                   |                                      |
| 93. Linda Lowrance          |                                      | 129. Theresa M. Sayer              |                                      |
| 94. Ben Lucas               |                                      | 130. Theresa & Bret Sayers         |                                      |
| 95. Ben Lucas               |                                      | 131. Peggy Schlottman              |                                      |
| 96. Ellen Lucas             |                                      | 132. Ronnie Schlottman             |                                      |
| 97. JoAnn Lynch             |                                      | 133. Clarence Schmidt              |                                      |
| 98. John Lynch              |                                      | 134. Mary Schmidt                  |                                      |
| 99. WR "Dub" Lynch          |                                      | 135. George H. Schroeder           |                                      |
| 100. Dub Martin             |                                      | 136. Nell Sevey                    |                                      |
| 101. Neva Martin            |                                      | 137. Rola J. Seyler                |                                      |
| 102. Mary J. Matthews       |                                      | 138. Luke Sheets                   |                                      |
| 103. Jon Maxwell            |                                      | 139. Sarah Sheets                  |                                      |
| 104. Sam McLarty            |                                      | 140. Linnette Shine                |                                      |
| 105. Alma McLendon          |                                      | 141. Donald Shirkey                |                                      |
| 106. Jan Menna              |                                      | 142. Gladys Simpson                |                                      |
| 107. Laurie Milton          |                                      | 143. Lisa Skidmore                 |                                      |
|                             |                                      | 144. Michael R. Skidmore           |                                      |
|                             |                                      | 145. Brian & Suzanne Smith         |                                      |
|                             |                                      | 146. Douglas Smith                 |                                      |
|                             |                                      | 147. Frances Smith                 |                                      |

- |                                  |  |                              |   |
|----------------------------------|--|------------------------------|---|
| 148. Guy Smith                   |  | Williams                     |   |
| 149. Phillip W. & Sarah M. Sneed |  | 182. Kimberly Williams       |   |
| 150. Phillip and Sally Sneed     |  | 183. Bernice Willis          |   |
| 151. Phil Spain                  |  | 184. Bonnie Willis           |   |
| 152. Belinda Stanush             |  | 185. Joanne M. & John Wilson |   |
| 153. Kay Steadham                |  | 186. Kay Woodward, Steward   | Texas Archeological Stewardship Network |
| 154. Richard Steadham            |  | 187. Stephen Wray            |   |
| 155. Edwin Stearns               | Center Point Independent School District (CPISD) | 188. Charles E. Young        |   |
| 156. Edwin Stearns               |  | 189. C. Jean Young           |   |
| 157. Jeffery C. & Sheila Stiles  |  | 190. Eldo W. Young           |   |
| 158. Marion Stiles               |  | 191. H.A. "Buster" Baldwin   | Kerr County Commissioner, Precinct 1    |
| 159. Mary Ellen Summerlin        | Headwaters Groundwater Conservation District     | 192. Logan Green             |   |
| 160. Mary Ellen Summerlin        |  |                              |   |
| 161. Jimmie Swofford             |  |                              |   |
| 162. Pat Swofford                |  |                              |   |
| 163. Lesley Swope                |  |                              |   |
| 164. Frank Thomason              |  |                              |   |
| 165. Pat Tinley                  | Kerr County Judge                                |                              |   |
| 166. Jerry Trice                 | GREAT  |                              |   |
| 167. Suzanne Trice               | GREAT  |                              |   |
| 168. Becky Valenzuela            |  |                              |   |
| 169. Michael R. Van Winkle       | TRPA   |                              |   |
| 170. Rene & Audrey Verhelst      |  |                              |   |
| 171. Mr. & Mrs. EW Walker        |  |                              |   |
| 172. Kenneth H. Wardlaw          | Rockin River Inn                                 |                              |   |
| 173. Hugh Weaver                 |  |                              |   |
| 174. David R. Weekley            |  |                              |   |
| 175. Mary & Mark E. Weekley      |  |                              |   |
| 176. Pam White                   |  |                              |   |
| 177. Mr. & Mrs. MA Whitworth     |  |                              |   |
| 178. Patricia Whitworth          |  |                              |   |
| 179. Marilyn Wiles               |  |                              |   |
| 180. William H. "Bill" Williams  | Kerr County Commissioner, Precinct 2             |                              |   |
| 181. Greg & Debbie               |  |                              |   |

# Wheatcraft Rock Crusher

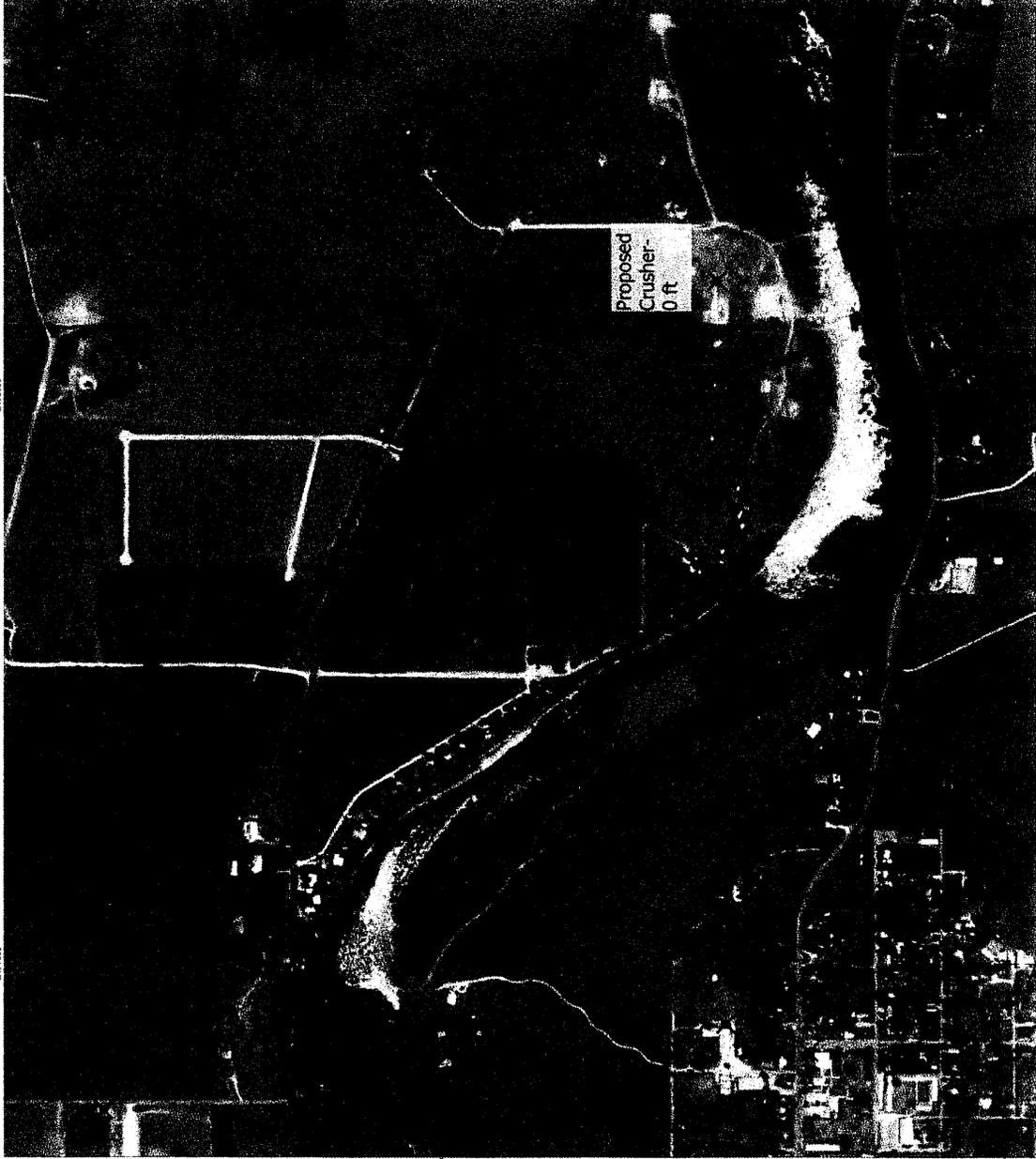


Scale  
15/16" = 1000'

UTM  
14 North  
NAD 1983 (Contus)

Multiple Files  
10/10/2008

GPS Pathfinder<sup>®</sup> Office  
**Trimble**<sup>™</sup>



E:00000

E:00000

Center Point  
ISD Stadium-  
5982.281 ft

SEH:000

Center Point  
ISD Agriculture  
Building-  
4288.309 ft

Center Point  
ISD Gym-  
4482.558 ft

SEH:000

**Hearing Requestor Map  
Wheatcraft, Inc. Air Quality Permit No. 76508  
TCEQ Docket No. 2008-0870-AIR  
for Commissioner's Agenda on November 5, 2008**



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

October 10, 2008



Projection: Texas Statewide Mapping System  
(TSM5)  
Scale: 1:24,152

**Legend**

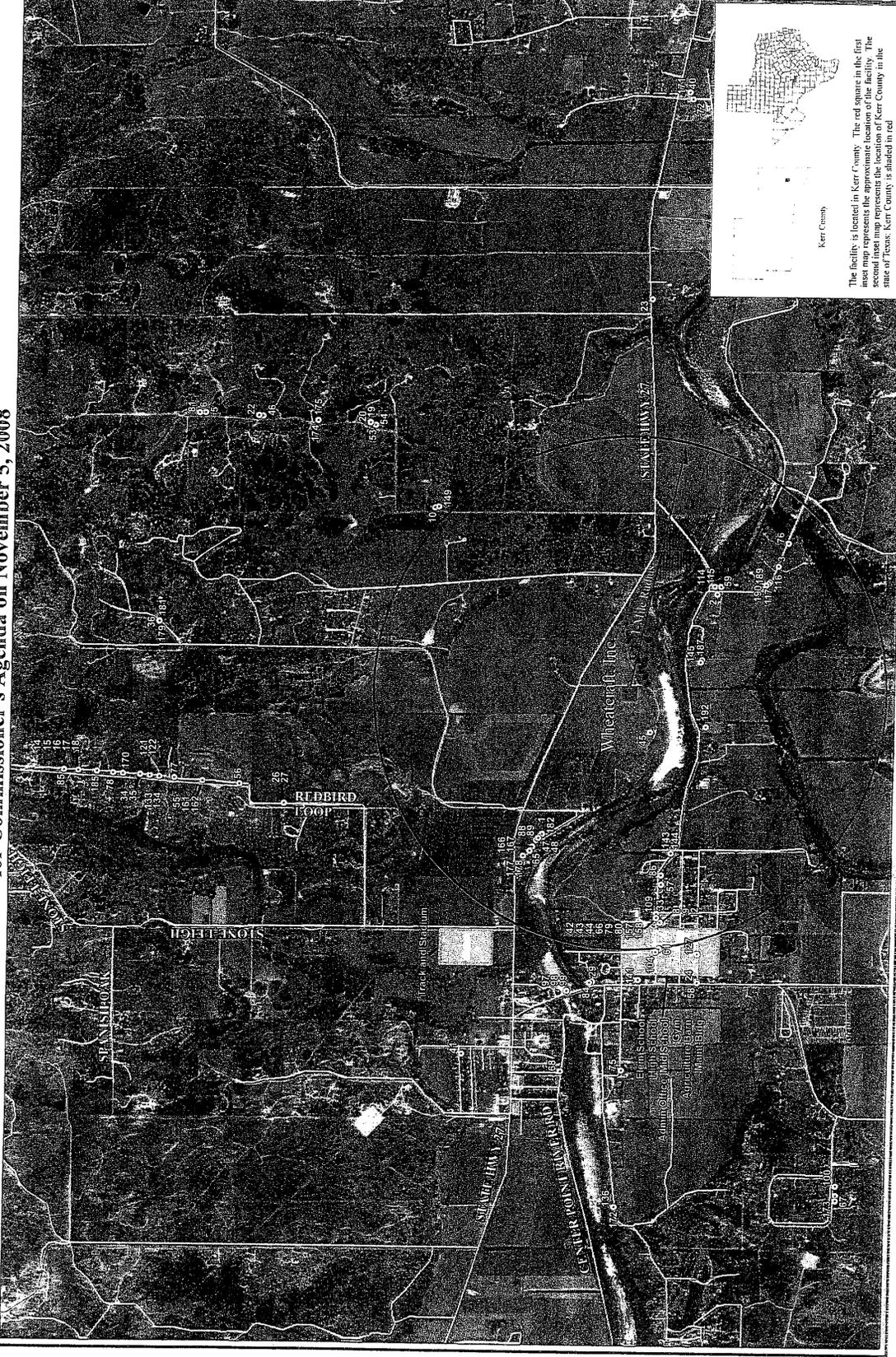
- Requestor
- Facility

Source: The location of the facility was provided by the TCEQ office of Legal Services (OLS). OLS obtained the location information and the requestor information from the 2004 U.S. Census 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 1806\_L\_1-1.

This map depicts the following:  
(1) The approximate location of the plant. This is labeled "Wheatcraft, Inc."  
(2) Circle representing 1-mile radius. This is labeled "1-Mile Radius".  
(3) The approximate location of the track and stadium. This is labeled "Track and Stadium".  
(4) The approximate location of Center Point School buildings. This is labeled in orange with six unique building names.

This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. The 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 to its suitability for a particular use. For more information concerning this map, contact the Information Resources Division at (512) 239-0800.

MAP/Jmmwsp/LRI-0806/10079



The facility is located in Kerr County. The red circle in the inset map represents the approximate location of the facility. The second inset map represents the location of Kerr County in the state of Texas. Kerr County is situated in red.