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

2009 JAN 16 PM 2:31

CHIEF CLERKS OFFICE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 16, 2009

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

Re: TCEQ DOCKET NUMBER 2008-1764-AIR

Dear Ms.Castanuela:

Enclosed you will find the original and seven copies of the Executive Director's Response to Hearing Requests in the matter of Caviness Beef Packers, Ltd., Permit No. 81570.

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

The attachments include the following documents:

Attachment A – Compliance History Report
Attachment B – The Technical Review Summary
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,

Tim Eubank
Staff Attorney
TCEQ Office of Legal Services

Attachments

printed on recycled paper using soy-based ink

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 JAN 16 PM 2:31

CHIEF CLERKS OFFICE

TCEQ AIR QUALITY PERMIT NO. 81570

APPLICATION BY	§	**BEFORE THE**
	§	
CAVINESS BEEF PACKERS, LTD.	§	**TEXAS COMMISSION ON**
	§	
HEREFORD, DEAF SMITH 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.[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

Caviness Beef Packers, Ltd., (The Applicant) has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA) §382.0518. This permit will authorize the Applicant to construct a beef rendering facility. The facility will be located at 3255 West US Highway 60, Hereford, Deaf Smith County, Texas. Contaminants to be authorized under this permit include: volatile organic compounds, sulfur dioxide, carbon monoxide, nitrogen oxides, particulate matter including particulate matter less than 10 microns in diameter, hydrogen sulfide, and ammonium. As of January 15, 2009, the Applicant is not delinquent on any administrative penalty payments to the TCEQ.

The permit application to construct a new facility was received on April 9, 2007 and declared administratively complete on April 27, 2007. The Notice of Receipt and Intent to Obtain an Air Quality Permit (public notice) for this permit application was published on May 8, 2007 in the *Hereford Brand*. The Notice of Application and Preliminary Decision was published on June 13, 2008 in the *Hereford Brand*. Although not required, the Applicant voluntarily published

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[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.

Alternative Language Notices on May 8, 2007 and June 13, 2008 in the *Hereford Brand.* The public comment period ended on July 14, 2008. The TCEQ Consolidated Compliance and Enforcement Database was searched and no enforcement activities were found that are inconsistent with the compliance 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 October 9, 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: Kevin Sanders and Mike & Evelyn Morrison.

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 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

[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.

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.

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.

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

[3] TEX. HEALTH AND SAFETY CODE § 382.0518
[4] TEX. HEALTH AND SAFETY CODE § 382.0513

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 Kevin Sanders and Mike & Evelyn Morrison 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] Kevin Sanders submitted a letter dated January 6, 2009. This letter, submitted after the close of the comment period, reiterated concerns expressed in Kevin Sanders' initial hearing request regarding impact to health, nuisance odors, and compliance history.

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. Kevin Sanders has demonstrated he is an "affected person" 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] Kevin Sanders resides within one mile of the proposed facility, and therefore is likely to be impacted by air emissions from the proposed facility differently than other members of the general public. *See* attached map.

Mike & Evelyn Morrison have failed to demonstrate they are affected persons. Mike & Evelyn Morrison 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 other members of the general public.

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

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[5] TEX. HEALTH AND SAFETY CODE § 382.085
[6] TEX. HEALTH AND SAFETY CODE § 382.0513
[7] 30 TAC § 55.201(d)(4)
[8] *United Copper Industries and TNRCC v. Joe Grissom*, 17 S.W.3d 797 (Tex. App.-Austin, 2000)

If the commission determines Kevin Sanders' hearing request in this matter is timely and in proper form, and that Kevin Sanders is an affected person, 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. As noted above, Kevin Sanders submitted a letter dated January 6, 2009. This letter, submitted after the close of the comment period, reiterated concerns expressed in Kevin Sanders' initial hearing request regarding effects on health, nuisance odors, and compliance history. Therefore, to facilitate the commission's consideration of this matter, the ED has analyzed the remaining two parts of the test as applied to those issues.

1. Three issues involving questions of fact.

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

1. Whether air emissions from the proposed facility will adversely affect health, welfare, and the environment.
2. Whether air emissions from the proposed facility will adversely affect the normal use and enjoyment of nearby property.
3. Whether the Applicant's compliance history justifies denial of the application.

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 May 8, 2007 and ended on July 14, 2008. Issues 1-3 listed above upon which the hearing request in this matter is 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.

1. Whether air emissions from the proposed facility will adversely affect health, welfare, and the environment.

The requester identified the issue of impact to health, welfare, and the environment.[9] Whether the proposed facility will adversely affect health, welfare, and the environment 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 health, welfare, and the environment is a referable issue.

2. Whether the air emissions from the proposed facility will adversely affect the normal use and enjoyment of nearby property.

The requester identified the issue of impact upon use and enjoyment of property.[10] Whether the proposed facility will adversely affect the normal use and enjoyment of nearby property is a factual issue that is relevant and material to the commission's decision on this application. The ED concludes impact upon use and enjoyment of property is a referable issue.

3. Whether the Applicant's compliance history justifies denial of the application.

The requester identified the issue of adequacy of the Applicant's compliance history.[11] Whether the Applicant's compliance history justifies denial of the application is a factual issue that is relevant and material to the commission's decision on the application. The ED concludes adequacy of the Applicant's compliance history is a referable issue.

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:

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[9] This issue was addressed in the ED's RTC in Responses 1 and 4.
[10] This issue was addressed in the ED's RTC in Responses 3 and 7.
[11] This issue was addressed in the ED's RTC in Response 5.

A. Find all hearing requests in this matter were timely filed;

B. Find the hearing requests of Kevin Sanders and Mike & Evelyn Morrison satisfy the requirements of form under 30 TAC § 55.201(d);

C. Find Kevin Sanders is an affected person. Find Mike & Evelyn Morrison are not affected persons in this matter;

D. If the commission finds Kevin Sanders is an affected person, refer the following issues to the State Office of Administrative Hearings:

1. Whether air emissions from the proposed facility will adversely affect health, welfare, and the environment.
2. Whether air emissions from the proposed facility will adversely affect the normal use and enjoyment of nearby property.
3. Whether the Applicant's compliance history justifies denial of the application.

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

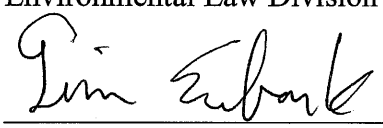
Respectfully submitted,

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 January 16, 2009 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
2009 JAN 16 PM 2: 31
CHIEF CLERKS OFFICE

MAILING LIST
CAVINESS BEEF PACKERS, LTD.
DOCKET NO. 2008-1764-AIR; PERMIT NO. 81570

FOR THE APPLICANT:
Terry Caviness, CEO
Caviness Beef Packers, Ltd.
P.O. Box 790
Hereford, Texas 79045-0790

Anissa Purswell, Consultant
Enviro-Ag Engineering, Inc.
3404 Airway Boulevard
Amarillo, Texas 79118

FOR THE EXECUTIVE DIRECTOR:
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Environmental Law Division, MC-173
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FOR PUBLIC INTEREST COUNSEL:
Mr. Blas J. Coy, Jr., Attorney
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FOR OFFICE OF PUBLIC ASSISTANCE:
Ms. Bridget Bohac, Director
Texas Comm. on Environmental Quality
Office of Public Assistance, MC-108
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FOR ALTERNATIVE DISPUTE RESOLUTION:
Mr. Kyle Lucas
Texas Comm. on Environmental Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
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Fax: (512) 239-4015

FOR THE CHIEF CLERK:
Ms. LaDonna Castañuela
Texas Comm. on Environmental Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087
Tel: (512) 239-3311

REQUESTERS:
Kevin Sanders
3331 Tierra Blanca Road
Hereford, Texas 79045

Mike & Evelyn Morrison
3380 County Road H. H.
Hereford, Texas 79045

Attachment A
Compliance History Report

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602751455	Caviness Beef Packers, Ltd.	Classification: AVERAGE	Rating: 2.75
Regulated Entity:	RN104609029	CAVINESS PACKING	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01

ID Number(s):			
	ON SITE SEWAGE FACILITY	PERMIT	0590252
	ON SITE SEWAGE FACILITY	PERMIT	0590248
	AIR NEW SOURCE PERMITS	REGISTRATION	81570
	AIR NEW SOURCE PERMITS	REGISTRATION	85398

Location: 3255 US HIGHWAY 60, HEREFORD, TX, 79045

TCEQ Region: REGION 01 - AMARILLO

Date Compliance History Prepared: January 08, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 09, 2002 to October 12, 2007

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

Name: Staff Name Phone: 239 - 1000

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? N/A
4. if Yes, who was/were the prior owner(s)?
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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 07/14/2005 (397325)
2 07/27/2005 (400636)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

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 B
Technical Review Summary

Construction Permit
Review Analysis & Technical Review

Company:	Caviness Beef Packers Ltd	Permit No.:	81570
City:	Hereford	Record No.:	128535
County:	Deaf Smith	Regulated Entity No.:	RN104609029
Project Type:	Initial Issuance	Customer Reference No.:	CN602751455
Project Reviewer:	Ms. Natasha John		
Facility Name:	Rendering Plant		

Authorization Checklist

Will a new policy/precedent be established? ..... **No**
Is a state or local official opposed to the permit? ..... **No**
Is waste or tire derived fuel involved? ..... **No**
Are waste management facilities involved? ..... **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**

Project Overview

Caviness Beef Packers, Ltd. (Caviness) submitted an application to construct a rendering facility in Hereford. The applicant proposes to authorize receiving, cooking, meal handling, loadout and wastewater treatment operations. The existing wastewater treatment system is authorized under Permit No. 85398, and is proposed to be incorporated into Permit No. 81570 upon approval. Total annual site-wide emissions will be:

Emissions Summary

Contaminant	Proposed Emissions (TPY)
PM/PM_{10}	3.12
SO_2	36.99
NO_x	20.50
CO	23.46
VOC	2.57
H_2S	0.03
NH_3	0.01

Compliance History

In compliance with 30 TAC Chapter 60, a compliance history report was prepared on: ..... **January 8, 2009**
Was an evaluation for Federal Orders conducted on this company? ..... **N/A**
Was the application received after September 1, 2002? ..... **Yes**
If yes, what was the site rating? **3.01 (Average by Default)** Company rating? **2.75 (Average)**
Is the permit recommended to be denied or has the permit changed on the basis of compliance history or rating? ..... **No**

Public Notice Information

§39.403 Public notification required? ..... **Yes**
A. Date application received: **April 09, 2007** Date Administrative Complete: ..... **April 27, 2007**
B. Small Business source? ..... **No**
§39.418 C. Date 1st Public Notice /Admin Complete/Legislators letters mailed: ..... **April 27, 2007**
§39.603 D. Pollutants: **particulate matter less than 10 microns in diameter, organic compounds, nitrogen oxides, sulfur dioxide, carbon monoxide, hydrogen sulfide, ammonium and odors.**
E. Date Published: **May 8, 2007** in ***Hereford Brand***
Date Affidavits/Copies received: **May 17, 2007**
F. Bilingual notice required? ..... **No**
Language: **Spanish**
Date Published: **May 8, 2007** in ***Hereford Brand***

NOTE: The Hereford School District is required to provide a Spanish bilingual education program, but after a diligent search Caviness was unable to locate an alternative language publication of general circulation. Therefore, Caviness was not required to publish an alternative language notice per 30 TAC 39.405 (h)(8). Although not required, Caviness voluntarily published an alternative language notice in the *Hereford Brand.*

Date Affidavits/Copies received: **May 17, 2007**

§39.604 G. Certification of Sign Posting / Application availability ..... **June 14, 2007**

H. Public Comments Received? **Yes**

Meeting requested? **No** Meeting held? **N/A**

Hearing requested? **Yes** Hearing held?

Was/were the request(s) withdrawn? **No**

Replies to Comments sent to OCC: ..... **October 8, 2008**

Consideration of Comments: **Modification of the permit was not necessary after consideration of comments received.**

§39.419 2nd Public Notification required? ..... **Yes**

A. Date 2nd Public Notice mailed: ..... **June 4, 2008**

B. Preliminary determination ..... **Issue**

§39.603 C. Pollutants: **particulate matter less than 10 microns in diameter, organic compounds, nitrogen oxides, sulfur dioxide, carbon monoxide, hydrogen sulfide, ammonium and odors.**

D. Date Published: **June 13, 2008** in ***Hereford Brand***

Date Affidavits/Copies received: **July 22, 2008**

E. Bilingual notice required? ..... **No**

Language: **Spanish**

Date Published: **June 13, 2008** in ***Hereford Brand***

Date Affidavits/Copies received: **July 22, 2008**

F. Public Comments Received? **No**

Meeting requested? **No** Meeting held? **N/A**

Hearing requested? **No** Hearing held? **N/A**

Was/were the request(s) withdrawn? **N/A** Date: **N/A**

§39.420 G. Consideration of Comments: **Modification of the permit was not necessary after consideration of comments received.**

RTC, Technical Review & Draft Permit Conditions sent to OCC: ..... **October 8, 2008**

Request for Reconsideration Received? **No**

H. Final action: **Issue** Letters enclosed? ..... **Yes**

Emission Controls

§116.111(a)(2)(G) Is the facility expected to perform as represented in the application? ..... **Yes**

§116.140 Permit Fee: **$23,886.00** 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**

§116.111(a)(2)(B) Will emissions be measured? ..... **Yes**

Method: **Stack testing and recordkeeping**

Federal Program Applicability

§116.111(a)(2)(D) Compliance with applicable NSPS expected? ..... **Yes**

Subpart A (General control device requirements)

§116.111(a)(2)(E) Compliance with applicable NESHAP expected? ..... **N/A**

§116.111(a)(2)(F) Compliance with applicable MACT expected? ..... **N/A**

§116.111(a)(2)(H) Is nonattainment review required? ..... **No**

A. Is the site located in a nonattainment area? ..... **No**

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**

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?	**No**

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?	**No**
	(ii). The site emits 25 tons or more of a combination	**No**
§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:	1	Reviewed by:	**Joseph Campa (February 6, 2008) Proceed with issuance, see project file for details**
Legal:	**TCEQ Environmental Law Division**	Reviewed by:	**Tim Eubank (September 17, 2008)**

Process Description

The proposed facility will receive raw meat, bone and blood from the on-site beef packing plant. Raw material is placed in receiving bins and conveyed via a screw auger to the cookers. Raw material enters the cookers and any remaining water and some animal fats are removed from the feed. Dry feed is ground to meet specific size requirements, quality inspected on-site, and loaded into trucks for delivery to customers.

Any waste material from the rendering and packing operations is sent to the on-site wastewater treatment lagoons for disposal.

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

Emissions from rendering operations at this site are particulate matter, including particulate matter less than 10 microns in diameter, sulfur dioxide, nitrogen oxide, carbon monoxide, volatile organic compounds, ammonia, hydrogen sulfide and odor. The exhaust stream from the cooking processes will be routed through a heat exchanger and vented to a Venturi Scrubber to remove fine particulate. Exhaust from the scrubber will vent into the boiler fireboxes for incineration while the burner is on full fire; while the firebox is on low fire, the exhaust stream will be directed to a two-stage Venturi Scrubber and Packed Bed Scrubber System. All remaining plant air will be controlled by a two-stage Venturi Scrubber and Packed Bed Scrubber System. The Packed Bed Scrubbers will use sodium hypochlorite or sodium hydroxide as oxidizing agents to neutralize odors.

In order to minimize nuisance odors all rendering raw materials are placed in the process within 24 hours of receipt from the on-site slaughter operations, the facility will have enclosed receiving and loadout areas, animal by-products will only travel on paved roads and the rendering process building will remain under negative pressure during operational hours. Fugitive emissions are expected from truck loading operations.

The on-site wastewater treatment system consists of a series of anaerobic, facultative, aerobic and storage lagoons. The two anaerobic lagoons receive effluent from both rendering and slaughter operations and will be enclosed. Air emissions from the anaerobic lagoons will be controlled by a flare, or routed to a boiler for destruction. The two facultative lagoons immediately following the anaerobic lagoons will use in-situ biological inoculation to degrade odor-causing solids in wastewater. Mechanical aeration will be utilized in the two aerobic lagoons for increased oxygen transfer to promote nitrification for odor control.

For the above-mentioned sources and pollutants, BACT is being applied as consistent with technical feasibility and economical reasonableness.

Impacts Evaluation

1. Was modeling done? **Yes** Type? **Screen 3 and ISC-PRIME**
2. Will GLC of any air contaminant cause violation of NAAQS? ..... **No**
3. Is this a sensitive location with respect to nuisance? ..... **Yes (Moderate)**
4. Is the site within 3000 feet of any school? ..... **No**
5. Toxics Evaluation:

A modeling audit was conducted and the modeling was deemed acceptable on a report dated December 2007. Refined modeling predicted the emissions resulting from the operations at the proposed facility would not cause an exceedence of any Effects Screening Levels (ESLs) or National Ambient Air Quality Standards (NAAQS). No adverse impacts are expected to occur if the facility is operated in accordance with the permit. Below is a summary of the pollutants modeled and their maximum concentrations:

Pollutant	Averaging Period	Maximum Conc. ($\mu g/m^3$)	NAAQS Standard ($\mu g/m^3$)
NO_x	annual	45	100
PM_{10}	24-hour	101	150
	annual	8	50
SO_2	1-hour	632	1021
	3-hour	256	1300
	24-hour	330	365
	annual	45	80
CO	1-hour	5925	40,000
	8-hour	2347	10,000

Pollutant	Averaging Period	Maximum Conc. ($\mu g/m^3$)	ESL ($\mu g/m^3$)
H_2S	30-minute	5	109

The nuisance and hazard potential of this rendering plant is considered moderate. The regional investigator's site review describes the land surrounding the operation as residential and agricultural property. The nearest off-property receptor, a residence, is located approximately 0.75 miles from the facility, and the regional investigator does not express concerns regarding the proximity of receptors and the surrounding land use.

Miscellaneous

1. Is applicant in agreement with special conditions? ..... **Yes (May 2, 2008)**
   Company representative? ..... **Anissa Purswell, Consultant**
2. Other permit(s) affected by this action? ..... **Yes**
   If YES, list permit number(s) and actions required or taken
   Permit No. 85398 **Incorporate into Permit No. 81570**

Natasha [signature] 1/15/09 Stephanie P. Howell 1/15/09

Project Reviewer Date Team Leader/Section Manager/BackupDate

Attachment C
Special Conditions and Maximum Allowable Emission Rates Table

SPECIAL CONDITIONS

Permit Number 81570

EMISSION STANDARDS

1. This permit covers only those sources of emissions listed in the attached table entitled "Emission Sources - Maximum Allowable Emission Rates," and those sources are limited to the emission limits and other conditions specified in that attached table.

FUEL SPECIFICATIONS

2. Fuel for Boiler Nos. 1 and 2 (Emission Point Numbers [EPNs] 1and 2) shall be pipeline-quality sweet natural gas, diesel, or biodiesel. Use of natural gas, diesel and biodiesel combined shall not exceed 6,240 hours per year. Diesel shall be used no more than 1,248 hours per year. Biodiesel shall be used no more than 1,248 hours per year. Use of any other fuel or processed fat shall require prior written approval of the Executive Director of the Texas Commission on Environmental Quality (TCEQ).

3. Fuel for Boiler No. 3 (EPN 7) shall be pipeline-quality sweet natural gas or biogas recovered from the on-site covered anaerobic lagoons. Use of natural gas and biogas combined shall not exceed 6,240 hours per year. Biogas shall be used for no more than 5,616 hours per year. Use of any other fuel or processed fat shall require prior written approval of the Executive Director of the TCEQ.

4. Fuel for blood dryer and the Lagoon Flare (EPN 8) shall be pipeline-quality sweet natural gas. Natural gas shall be used no more than 6,240 hours per year.

5. Upon request by the Executive Director of the TCEQ or the TCEQ Regional Director or any local air pollution program having jurisdiction, the holder of this permit shall provide a sample and/or analysis of the boiler and/or dryer fuels used in these facilities or shall allow air pollution representatives to obtain a sample for analysis.

FEDERAL APPLICABILITY

6. The Lagoon Flare shall be designed and operated to meet the requirements of U.S. Environmental Protection Agency (EPA) regulations on Standards of Performance for New Stationary Sources in Title 40, Code of Federal Regulations (CFR) § 60.18.

OPACITY/VISIBLE EMISSIONS LIMITATIONS

7. In accordance with the EPA Test Method (TM) 9 or equivalent, and except for those periods described in Title 30 Texas Administrative Code §§ 101.201 and 101.211, (30 TAC §§ 101.201 and 101.211) when adjusted for uncombined water vapor, opacity from Boiler Nos. 1, 2 and 3 and Packed Bed Scrubber Nos. 1 and 2 (EPNs 3 and 4) when firing natural gas shall not exceed 5 percent averaged over a six-minute period.

8. In accordance with the EPA TM 9 or equivalent, and except for those periods described in Title 30 TAC §§ 101.201 and 101.211, when adjusted for uncombined water vapor, opacity from Boiler Nos. 1, 2 and 3 when firing other approved fuels shall not exceed 10 percent averaged over a six-minute period.

9. There shall be no visible emissions associated with meal handling and loadout. Visible emissions shall be determined by a standard of no visible emissions exceeding 30 seconds in duration in any six-minute period as determined using EPA TM 22 or equivalent. If this condition is violated, additional controls or process changes may be required to limit visible particulate matter emissions.

OPERATIONAL LIMITATIONS AND WORK PRACTICE REPRESENTATIONS

10. Operations of this facility shall not exceed 120 hours per week or 6,240 hours per year.

11. This facility shall not process more than the following raw material throughputs:

Meat and Bone:	27.0 tons/hr	540 tons/day	168,480 tons/yr
Blood:	1.80 tons/hr	36 tons/day	11,232 tons/yr

12. All areas of the rendering building where odors can be produced shall be under negative pressure during all rendering operations including the receiving and storage of raw materials, cooker operations, and during any rendering equipment maintenance period associated with the receiving and storage of raw material and with cooker operations. All plant air discharged during the above conditions shall be treated by one of two packed bed scrubbers before being exhausted into the atmosphere. In addition, high intensity odors from the blood dryer shall be directed to one cyclone separator followed by a venturi scrubber and packed bed scrubber before being exhausted to the atmosphere. All other high intensity odors shall be directed to a venturi scrubber followed by two packed bed scrubbers.

13. The packed tower stage of Venturi Scrubber Nos. 2 and 4 and Packed Bed Scrubber Nos. 1 and 2 shall utilize sodium hypochlorite (NaOCl) or sodium hydroxide (NaOH) as oxidizing agents. When NaOCl or NaOH are used in the scrubbers for odor control, the following conditions shall apply:

    A. The NaOCl and fresh makeup water shall be automatically added to the scrubber solution at such intervals and quantities to maintain a residual chlorine concentration of 10 parts per million (ppm) or greater in the scrubber recycle tank during the operation of the scrubber.

    B. The NaOH shall be automatically added to the scrubber solution at such intervals and quantities to continuously maintain a minimum pH value of 10 in the scrubber recycle tank during the operation of the scrubbers.

14. Due to high mineral content in the water, sulfuric acid shall be used for cleaning of Venturi Scrubber Nos. 1 - 4 and Packed Bed Scrubber Nos. 1 and 2. A water softener shall be used in the scrubber system to achieve the manufacturer's recommended water hardness for optimal scrubber operation.

15. If odor treatment chemicals other than those designated in the application are proposed to be used in the scrubber system, written approval shall be received from the Executive Director of the TCEQ.

16. If it is determined that the minimum residual chlorine concentration, or the pH level of the scrubber recycle tanks are below the levels specified in Special Condition No.13, the holder of this permit shall take immediate action to correct the deficient value. For the purpose of this special condition, immediate action shall be defined as a time period not to exceed 30 minutes from the time of initial determination of the deficient residual concentration or pH level.

17. For each scrubber which exhausts to the atmosphere, an odor detection tube shall be installed in the exhaust stack and vented to near ground level so that samples of the scrubber exhaust may be evaluated by olfactory means.

18. All air pollution abatement equipment shall be properly maintained, operated and cleaned as recommended by the manufacturer. The tubes in all condensers shall be inspected and cleaned annually.

19. The temperature of the vapors entering Packed Bed Scrubbers Nos. 1 and 2 (from the venturi scrubbers) shall not exceed 130° F. A gauge or thermometer shall be placed in each duct following Venturi Scrubbers Nos. 1 - 4 and prior to the entry of Packed Bed Scrubber Nos. 1 and 2 to determine compliance with this condition.

20. All rendering raw materials to be processed shall be received from on-site slaughter operations.

21. In the event that rendering raw material may not be processed within 24 hours of receipt from on-site slaughter operations, the rendering raw material shall be relocated off-site for disposal or processing.

22. The exhaust stream from the cooking processes shall be routed through a heat exchanger. Non-condensable gases from the heat exchanger shall be vented to Venturi Scrubber No. 1 to remove fine particulate. Exhaust from Venturi Scrubber No. 1 shall then vent into the boiler fireboxes for incineration while the burner is on full fire; while the firebox is on low fire, the exhaust stream shall be directed to a two-stage scrubber system consisting of a venturi scrubber and a packed bed scrubber.

23. The exhaust stream from the drainer, presses and centrifuge shall be routed through a two-stage Venturi Scrubber and Packed Bed Scrubber System.

24. The premises of this permitted facility shall be kept clean and free from any collection of raw and/or finished products, refuse, waste materials, and standing pools of water to prevent the occurrence of a nuisance condition.

25. Plant roads, truck loading and unloading areas, and parking areas shall be paved and cleaned, as necessary, to prevent the occurrence of nuisance conditions. No animal by-product raw materials may be transported on unpaved roads. Vessels used for transporting raw materials and/or finished products shall be washed and kept free of odors while stored on the property.

26. The first stage anaerobic lagoons shall be enclosed and second stage facultative lagoons shall utilize biological inoculation to prevent the occurrence of a nuisance condition.

27. The aerobic lagoons shall utilize mechanical aeration with recirculation from 50 percent to 100 percent of the design flow from the storage ponds back to the aerobic lagoons. This method of oxygen transfer shall promote nitrification for odor control in the aerobic lagoons.

28. The Lagoon Flare shall be installed as a backup to Boiler No. 3 to dispose of any biogas not combusted in the boiler.

29. The wastewater treatment system shall be loaded with no more than 600,000 gallons of process/wash water per week.

CONTINUOUS DETERMINATION OF COMPLIANCE

30. Upon request by the TCEQ Executive Director or the TCEQ Regional Director having jurisdiction, the holder of this permit shall perform stack sampling and other testing as required to establish the actual pattern and quantities of air contaminants being emitted into the atmosphere from the boilers, scrubbers and lagoon flare to demonstrate compliance with the permitted emission rates and special conditions. Sampling must be conducted in accordance with appropriate procedures of the TCEQ Sampling Procedures Manual or in accordance with applicable procedures stated by the EPA Code of Federal Regulations. Any deviations from those procedures must be approved by the TCEQ Executive Director or the appropriate TCEQ Regional Director prior to conducting sampling.

RECORDKEEPING REQUIREMENTS

31. The following records shall be maintained at this facility and made available at the request of personnel from the TCEQ or any other air pollution control program having jurisdiction. These records shall be totaled for each calendar month, retained for a rolling 24-month period, and include the following:

    A. Daily operating hours shall be maintained and totaled on a weekly basis. Annual operating hours shall be maintained and totaled on a rolling 12-month basis;

    B. Date and time raw materials were generated at the on-site slaughter facility;

    C. Daily records of all raw material throughputs processed (in tons) shall be maintained and totaled for each calendar month to determine compliance with daily and annual production rate limitations;

    D. Number of hours each fuel type was utilized in each boiler and blood dryer, totaled on an annual basis;

E. The type of scrubber solution utilized for each scrubber system for odor control shall be maintained and depending upon the scrubbing solution(s), the following condition shall apply:

Recordkeeping for each NaOCl and NaOH system shall include minimum residual chlorine concentrations and pH levels in the recycle tank, sniff tube observations, vapor temperatures entering the plant air scrubber (from the venturi scrubbers). These readings and levels shall be monitored and recorded at least once every four hours when the scrubber is operating. When corrective measures are required, more frequent records shall be taken to determine if immediate action was taken to correct the deficient values;

F. Records of scheduled and unscheduled cleaning and maintenance of all air pollution control equipment and condenser tubes shall be maintained. Such records shall include a listing of what equipment was worked on and when that work began, what maintenance was performed and whether it was preventative or corrective, and when maintenance work was completed;

G. The temperature of the vapors entering Packed Bed Scrubbers Nos. 1 and 2 (from the venturi scrubbers) shall be recorded every four hours when the scrubber is operating; and,

H. Daily records of process/wash water from on-site slaughter and rendering operations loaded to the wastewater treatment system (in gallons).

Dated _____

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

Permit Number 81570

This table lists the maximum allowable emission rates and all sources of air contaminants on the applicant's property covered by this permit. The emission rates shown are those derived from information submitted as part of the application for permit and are the maximum rates allowed for these facilities. Any proposed increase in emission rates may require an application for a modification of the facilities covered by this permit.

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates lb/hr	Emission Rates TPY
1	Boiler No. 1 Stack (Combined Natural Gas, Diesel and Biodiesel)	PM/PM_{10}	0.65	1.15
		VOC	0.13	0.41
		NO_x	3.94	7.12
		SO_2	1.38	1.06
		CO	2.02	6.29
2	Boiler No. 2 Stack (Combined Natural Gas, Diesel and Biodiesel)	PM/PM_{10}	0.65	1.15
		VOC	0.13	0.41
		NO_x	3.94	7.12
		SO_2	1.38	1.06
		CO	2.02	6.29
3	Packed Bed Scrubber No. 1 Stack (Venturi Scrubbers Nos. 1, 2 and 3)	PM/PM_{10}	0.02	0.02
		Odor (5)	--	--
4	Packed Bed Scrubber No. 2 Stack (Venturi Scrubber No. 4 and Blood Dryer)	PM/PM_{10}	<0.01	0.01
		VOC	<0.01	<0.01
		NO_x	<0.01	<0.01
		SO_2	<0.01	<0.01
		CO	<0.01	<0.01
		H_2S	<0.01	<0.01
		NH_4	<0.01	<0.01
		Odor (5)	--	--
5	Blood Meal Bin Vent	PM/PM_{10}	<0.01	<0.01

EMISSION SOURCES - MAXIMUM ALLOWABLE EMISSION RATES

AIR CONTAMINANTS DATA

Emission Point No. (1)	Source Name (2)	Air Contaminant Name (3)	Emission Rates lb/hr	TPY
6	Truck Loadout (4)	PM/PM_{10}	<0.01	<0.01
7	Boiler No. 3 Stack (Combined Natural Gas and Biogas)	PM/PM_{10}	0.26	0.77
		VOC	0.19	0.56
		NO_x	1.68	5.09
		SO_2	11.77	33.05
		CO	2.82	8.55
8	Lagoon Flare	VOC	3.78	1.18
		NO_x	3.73	1.16
		SO_2	7.17	1.81
		CO	7.44	2.32
		H_2S	0.08	0.02

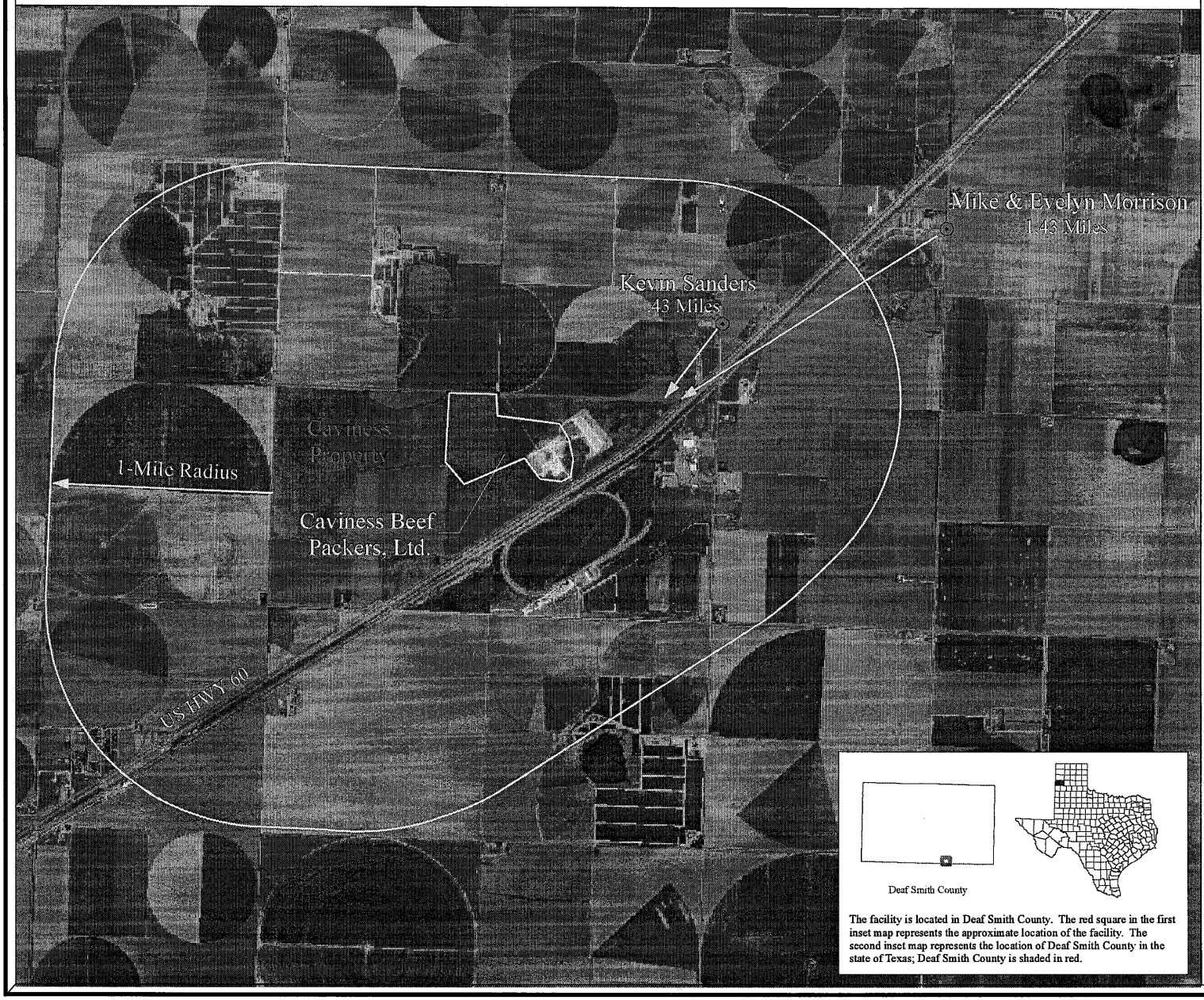
(1) Emission point identification - either specific equipment designation or emission point number from a plot plan.
(2) Specific point source names. For fugitive sources, use an area name or fugitive source name.
(3) PM - particulate matter, suspended in the atmosphere, including PM_{10} and $PM_{2.5}$
PM_{10} - particulate matter equal to or less than 10 microns in diameter
VOC - volatile organic compounds as defined in Title 30 Texas Administrative Code § 101.1
NO_x - total oxides of nitrogen
SO_2 - sulfur dioxide
CO - carbon monoxide
NH_4 - ammonium
H_2S - hydrogen sulfide
(4) Fugitive emissions are an estimate only.
(5) Odors shall be maintained at a minimum level.

Dated _____

Attachment D
Map

Caviness Beef Packers, Ltd.

Map Requested by TCEQ Office of Legal Services for Commissioners Agenda



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

Protecting Texas by Reducing and Preventing Pollution

TCEQ

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

October 21, 2008

0 0.1 0.2 0.4 0.6 0.8 Miles

Projection: Texas Statewide Mapping System (TSMS)

Scale 1:41,789

Legend

- Facility
- Requestors

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 tx117_1-1.

This map depicts the following:

(1) The approximate location of the facility. This is labeled "Caviness Beef Packers, Ltd".
(2) Circle and arrow depicting 1-mile radius. This is labeled "1-Mile Radius".
(3) Property boundary. This is labeled "Caviness Property".

N

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 to its suitability for a particular use. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

M McDonough CRF-081017098

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AIR QUALITY PERMIT

A PERMIT IS HEREBY ISSUED TO
Caviness Beef Packers, Ltd.
AUTHORIZING THE CONSTRUCTION AND OPERATION OF
Rendering Plant
LOCATED AT **Hereford, Deaf Smith County, Texas**
LATITUDE 34° 45′ 36″ LONGITUDE 102° 25′ 23″

1. **Facilities** covered by this permit shall be constructed and operated as specified in the application for the permit. All representations regarding construction plans and operation procedures contained in the permit application shall be conditions upon which the permit is issued. Variations from these representations shall be unlawful unless the permit holder first makes application to the Texas Commission on Environmental Quality (commission) Executive Director to amend this permit in that regard and such amendment is approved. [Title 30 Texas Administrative Code § 116.116 (30 TAC § 116.116)]

2. **Voiding of Permit.** A permit or permit amendment is automatically void if the holder fails to begin construction within 18 months of the date of issuance, discontinues construction for more than 18 months prior to completion, or fails to complete construction within a reasonable time. Upon request, the executive director may grant an 18-month extension. Before the extension is granted the permit may be subject to revision based on best available control technology, lowest achievable emission rate, and netting or offsets as applicable. One additional extension of up to 18 months may be granted if the permit holder demonstrates that emissions from the facility will comply with all rules and regulations of the commission, the intent of the Texas Clean Air Act (TCAA), including protection of the public's health and physical property; and (b)(1)the permit holder is a party to litigation not of the permit holder's initiation regarding the issuance of the permit; or (b)(2) the permit holder has spent, or committed to spend, at least10 percent of the estimated total cost of the project up to a maximum of $5 million. A permit holder granted an extension under subsection (b)(1) of this section may receive one subsequent extension if the permit holder meets the conditions of subsection (b)(2) of this section. [30 TAC § 116.120(a), (b) and (c)]

3. **Construction Progress.** Start of construction, construction interruptions exceeding 45 days, and completion of construction shall be reported to the appropriate regional office of the commission not later than 15 working days after occurrence of the event. [30 TAC § 116.115(b)(2)(A)]

4. **Start-up Notification.** The appropriate air program regional office shall be notified prior to the commencement of operations of the facilities authorized by the permit in such a manner that a representative of the commission may be present. The permit holder shall provide a separate notification for the commencement of operations for each unit of phased construction, which may involve a series of units commencing operations at different times. Prior to operation of the facilities authorized by the permit, the permit holder shall identify to the Office of Permitting, Remediation, and Registration the source or sources of allowances to be utilized for compliance with Chapter 101, Subchapter H, Division 3 of this title (relating to Mass Emissions Cap and Trade Program). [30 TAC § 116.115(b)(2)(B)]

5. **Sampling Requirements.** If sampling is required, the permit holder shall contact the commission's Office of Compliance and Enforcement prior to sampling to obtain the proper data forms and procedures. All sampling and testing procedures must be approved by the executive director and coordinated with the regional representatives of the commission. The permit holder is also responsible for providing sampling facilities and conducting the sampling operations or contracting with an independent sampling consultant. [30 TAC § 116.115(b)(2)(C)]

6. **Equivalency of Methods.** The permit holder must demonstrate or otherwise justify the equivalency of emission control methods, sampling or other emission testing methods, and monitoring methods proposed as alternatives to methods indicated in the conditions of the permit. Alternative methods shall be applied for in writing and must be reviewed and approved by the executive director prior to their use in fulfilling any requirements of the permit. [30 TAC § 116.115(b)(2)(D)]

7. **Recordkeeping.** The permit holder shall maintain a copy of the permit along with records containing the information and data sufficient to demonstrate compliance with the permit, including production records and operating hours; keep all required records in a file at the plant site. If, however, the facility normally operates unattended, records shall be maintained at the nearest staffed location within Texas specified in the application; make the records available at the request of personnel from the commission or any air pollution control program having jurisdiction; comply with any additional recordkeeping requirements specified in special conditions attached to the permit; and retain information in the file for at least two years following the date that the information or data is obtained. [30 TAC § 116.115(b)(2)(E)]

8. **Maximum Allowable Emission Rates.** The total emissions of air contaminants from any of the sources of emissions must not exceed the values stated on the table attached to the permit entitled "Emission Sources--Maximum Allowable Emission Rates." [30 TAC § 116.115(b)(2)(F)]

9. **Maintenance of Emission Control.** The permitted facilities shall not be operated unless all air pollution emission capture and abatement equipment is maintained in good working order and operating properly during normal facility operations. The permit holder shall provide notification for upsets and maintenance in accordance with §§ 101.201, 101.211, and 101.221 of this title (relating to Emissions Event Reporting and Recordkeeping Requirements; Scheduled Maintenance, Startup, and Shutdown Reporting and Recordkeeping Requirements; and Operational Requirements). [30 TAC § 116.115(b)(2)(G)]

10. **Compliance with Rules.** Acceptance of a permit by an applicant constitutes an acknowledgment and agreement that the permit holder will comply with all rules, regulations, and orders of the commission issued in conformity with the TCAA and the conditions precedent to the granting of the permit. If more than one state or federal rule or regulation or permit condition is applicable, the most stringent limit or condition shall govern and be the standard by which compliance shall be demonstrated. Acceptance includes consent to the entrance of commission employees and agents into the permitted premises at reasonable times to investigate conditions relating to the emission or concentration of air contaminants, including compliance with the permit. [30 TAC § 116.115(b)(2)(H)]

11. This permit may be appealed pursuant to 30 TAC § 50.139.

12. This permit may not be transferred, assigned, or conveyed by the holder except as provided by rule. [30 TAC § 116.110(e)]

13. There may be additional special conditions attached to a permit upon issuance or modification of the permit. Such conditions in a permit may be more restrictive than the requirements of Title 30 of the Texas Administrative Code. [30 TAC § 116.115(c)]

14. **Emissions** from this facility must not cause or contribute to a condition of "air pollution" as defined in TCAA § 382.003(3) or violate TCAA § 382.085, as codified in the Texas Health and Safety Code. If the executive director determines that such a condition or violation occurs, the holder shall implement additional abatement measures as necessary to control or prevent the condition or violation.

PERMIT 81570

Date _____

_____
For the Commission

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

Protecting Texas by Reducing and Preventing Pollution

TO: Persons on the attached mailing list

Re: Permit Number: 81570
Caviness Beef Packers, Ltd.
Rendering Plant
Hereford, Deaf Smith County
Regulated Entity Number: RN104609029
Customer Reference Number: CN602751455

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) Executive Director has issued final approval of the above-referenced application. According to Title 30 Texas Administrative Code § 50.135 (30 TAC § 50.135) the approval became effective on February 11, 2009, the date the Executive Director signed the permit. Enclosed is a copy of the Executive Director's response to comments.

You may file a **motion to overturn** with the Office of the Chief Clerk. A motion to overturn is a request for the Commission to review the TCEQ Executive Director's decision. Any motion must explain why the Commission should review the TCEQ Executive Director's decision. According to 30 TAC § 50.139, an action by the TCEQ Executive Director is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

A motion to overturn must be received by the Chief Clerk within 23 days after the date of this letter. An original and 11 copies of a motion must be filed with the chief clerk in person, or by mail to the chief clerk's address on the attached mailing list. On the same day the motion is transmitted to the chief clerk, please provide copies to the applicant, the TCEQ Executive Director's attorney and the Public Interest Counsel at the addresses listed on the attached mailing list. If a motion to overturn is not acted on by the Commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the TCEQ Executive Director's approval. According to Texas Health and Safety Code § 382.032, a person affected by the TCEQ Executive Director's approval must file a petition appealing the TCEQ Executive Director's approval in Travis County district court within 30 days after the effective date of the approval. Even if you request judicial review, you still must exhaust your administrative remedies, which includes filing a motion to overturn in accordance with the previous paragraphs.

Re: Permit Number 81570

Individual members of the public may seek further information by calling the TCEQ Office of Public Assistance, toll free, at 1-800-687-4040.

Sincerely,

LaDonna Castañuela

LaDonna Castañuela
Office of the Chief Clerk

LDC/NJ/pg

Enclosure

cc: Ms. Anissa Purswell, P.E., Consultant, Enviro-Ag Engineering, Inc., Amarillo
Air Section Manager, Region 1 - Amarillo

Project Number: 128535

MAILING LIST FOR PERMIT NUMBER: 81570
Deaf Smith County

FOR THE APPLICANT:

Terry Caviness
Chief Executive Officer
Caviness Beef Packers, Ltd.
P.O. Box 790
Hereford, Texas 79045

PROTESTANTS/INTERESTED PERSONS:

See Attached List

FOR THE EXECUTIVE DIRECTOR:

Mr. Tim Eubank
Texas Commission on Environmental Quality
Environmental Law Division (MC-173)
P.O. Box 13087
Austin, Texas 78711-3087

Ms. Natasha John
Texas Commission on Environmental Quality
Office of Permitting, Remediation, and Registration
Air Permits Division (MC-163)
P.O. Box 13087
Austin, Texas 78711-3087

FOR OFFICE OF PUBLIC ASSISTANCE:

Ms. Bridget Bohac
Texas Commission on Environmental Quality
Office of Public Assistance (MC-108)
P.O. Box 13087
Austin, Texas 78711-3087

FOR PUBLIC INTEREST COUNSEL:

Mr. Blas J. Coy, Jr., Attorney
Texas Commission on Environmental Quality
Public Interest Counsel (MC-103)
P.O. Box 13087
Austin, Texas 78711-3087

FOR THE CHIEF CLERK:

Ms. LaDonna Castañuela
Texas Commission on Environmental Quality
Office of Chief Clerk (MC-105)
P.O. Box 13087
Austin, Texas 78711-3087