

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 23, 2010

TO: Persons on the attached mailing list.

RE: Midway Industrial Park, L.L.C.
Permit No. 76962

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the TCEQ Central office, the TCEQ Tyler Regional Office, and at the Texarkana Public Library, 600 West 3rd Street, Texarkana, Bowie County, Texas. The facility's compliance file, if any exists, is available for public review at the Texas Commission on Environmental Quality Tyler Regional Office, 2916 Teague Drive, Tyler, Texas.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. A brief description of the procedures for these two requests follows.

How To Request a Contested Case Hearing.

It is important that your request include all the information that supports your right to a contested case hearing. You must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) If the request is made by a group or association, the request must identify:
 - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
 - (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** 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. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities. A person who may be affected by emissions of air contaminants from the facility is entitled to request a contested case hearing.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application. The request must be based on issues that were raised during the comment period. The request cannot be based solely on issues raised in comments that have been withdrawn. The enclosed Response to Comments will allow you to determine the issues that were raised during the comment period and whether all comments raising an issue have been withdrawn. The public comments filed for this application are available for review and copying at the Chief Clerk's office at the address below.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to comments that you dispute; and 2) the factual basis of the dispute. In addition, you should list, to the extent possible, any disputed issues of law or policy.

How To Request Reconsideration of the Executive Director's Decision.

Unlike a request for a contested case hearing, anyone may request reconsideration of the executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

Deadline for Submitting Requests.

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at <http://www.tceq.state.tx.us/about/comments.html> or by mail to the following address:

LaDonna Castañuela, Chief Clerk
TCEQ, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Processing of Requests.

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the alternative dispute resolution director and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

How to Obtain Additional Information.

If you have any questions or need additional information about the procedures described in this letter, please call the Office of Public Assistance, Toll Free, at 1-800-687-4040.

Sincerely,



LaDonna Castañuela
Chief Clerk

LDC/er

Enclosures

MAILING LIST
for
Midway Industrial Park, L.L.C.
Permit No. 76962

FOR THE APPLICANT:

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INTERESTED PERSONS:

See attached list.

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via electronic mail:

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130 BEAVER LAKE DR
TEXARKANA TX 75501-0970

BRADFORD , MARK
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TEXARKANA TX 75501-0970

BROOKS , BRANDON
1219 BEAVER LAKE DR
TEXARKANA TX 75501-0959

BROOKS , JOHN P
96 BEAVER CREEK RUN
TEXARKANA TX 75501-0957

BROOKS , NANCY R
96 BEAVER CREEK RUN
TEXARKANA TX 75501-0957

BROOKS , TONI
1219 BEAVER LAKE DR
TEXARKANA TX 75501-0959

BROWN , BLAKE
8504 W NEW BOSTON RD
TEXARKANA TX 75501-2308

BROWN , JONATHAN
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CANNON , PAT
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TEXARKANA TX 75501-2310

CANNON , ROBERT
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CARROLL , SUZY
82 BEAVER LAKE DR
TEXARKANA TX 75501-1939

CARROLL , TERRE
781 BEAVER LAKE DR
TEXARKANA TX 75501-0901

CARROLL , TODD
82 BEAVER LAKE DR
TEXARKANA TX 75501-1939

CLEM , JAN
2506 OLD RED LICK RD
TEXARKANA TX 75501-9629

CLEMENTS , BILLY
8524 W NEW BOSTON RD
TEXARKANA TX 75501-2308

CLEMENTS , LORIE
8524 W NEW BOSTON RD
TEXARKANA TX 75501-2308

COOK , ALBERT B
185 BEAVER LAKE DR
TEXARKANA TX 75501-0969

COOK , MARJORIE
185 BEAVER LAKE DR
TEXARKANA TX 75501-0969

CRISP JR , CLYDE
6426 PRESTIGE LN
TEXARKANA TX 75503-0439

DANIELS , DAN
633 BEAVER LAKE DR
TEXARKANA TX 75501-1000

DANIELS , SHIRLEY
633 BEAVER LAKE DR
TEXARKANA TX 75501-1000

DEL TORO , ERICK
544 TRI STATE RD
TEXARKANA TX 75501-0947

DOOLIN , DEBBRA
385 BEAVER LAKE CIR
TEXARKANA TX 75501-0961

DOOLIN , JAY
385 BEAVER LAKE CIR
TEXARKANA TX 75501-0961

EARNEST , GAIL
1067 BEAVER LAKE DR
TEXARKANA TX 75501-0996

EARNEST , MARGARET & ROBERT
2510 OLD RED LICK RD
TEXARKANA TX 75501-9629

EARNEST , NORMAN
1067 BEAVER LAKE DR
TEXARKANA TX 75501-0996

ELLIOTT , CHARLENE & JOSEPH
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TEXARKANA TX 75501-9629

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TEXARKANA TX 75501-1010

FREEMAN , KELLY
1173 BEAVER LAKE DR
TEXARKANA TX 75501-0977

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TEXARKANA TX 75501-1001

HATRIDGE , RODNEY
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TEXARKANA TX 75501-1001

HOPKINS , JEREMY
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TEXARKANA TX 75501-0960

JACOB , GARY
570 BEAVER LAKE DR
TEXARKANA TX 75501-0990

JACOB , SYLVIA
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TEXARKANA TX 75501-0990

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TEXARKANA TX 75501-2309

JOHNSTON , WALTER B
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TEXARKANA TX 75501-2309

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4 WOODMONT XING
TEXARKANA TX 75503-2100

KIMBLE , RANDY
241 BEAVER LAKE DR
TEXARKANA TX 75501-0985

KRAUSE , BETH
256 BEAVER LAKE DR
TEXARKANA TX 75501-0986

KRAUSE , CHRIS
256 BEAVER LAKE DR
TEXARKANA TX 75501-0986

LINDSAY , JANA
353 BEAVER LAKE DR
TEXARKANA TX 75501-0991

LINDSAY , JIMMY
353 BEAVER LAKE DR
TEXARKANA TX 75501-0991

LOWING , SCOTT
280 TRI STATE RD
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MCCOY , BOBBY E
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TEXARKANA TX 75501-2309

MCCOY , JACOB
8616 W NEW BOSTON RD
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MCLAUGHLIN , SONYA
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TEXARKANA TX 75501-0996

MCLAUGHLIN , VICTOR
1027 BEAVER LAKE DR
TEXARKANA TX 75501-0996

MISSILDINE , MARK
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TEXARKANA TX 75501-1000

MISSILDINE , SHERRY
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PIZZALATO , MICHAEL
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RICH , BETTY & DON
2024 N FM 2148
TEXARKANA TX 75501-0355

RICH , BETTY
2024 N FM 2148
TEXARKANA TX 75501-0355

SABA , EARL & EMILY
2025 N FM 2148
TEXARKANA TX 75501-0354

SABO , EMILY
2025 N FM 2148
TEXARKANA TX 75501-0354

SCOGIN , JAMES
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SHANKS JR , LEE D
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SHANKS , NORMA
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SHIRK , DENNIS
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TEXARKANA TX 75501-0982

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SIMPSON , CALVERT
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SINYARD , MICHAEL
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SINYARD , SANDRA
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SPENCER , CODY
368 BEAVER LAKE DR
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SPENCER , KRISTIN
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STRAND , BRYAN
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STRAND , KIM
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STROUPE , ANDY
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TYREE , JAMES
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TEXARKANA TX 75501-0991

VANTILE , TRACY
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TEXARKANA TX 75501-0991

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TEXARKANA TX 75501-0960

WALLS , JANIE
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TEXARKANA TX 75501-0960

WEST , KENNETH
1125 BEAVER LAKE DR
TEXARKANA TX 75501-0977

WILBUR , CHRIS T
821 BEAVER LAKE DR
TEXARKANA TX 75501-0913

WILBUR , SHAY
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TEXARKANA TX 75501-0913

WILLIAMS , DONNA
742 BEAVER LAKE DR
TEXARKANA TX 75501-0984

WILLIAMS , ERICA
418 BEAVER LAKE DR
TEXARKANA TX 75501-1010

WILLIAMS , GREG
418 BEAVER LAKE DR
TEXARKANA TX 75501-1010

WILLIAMS , TERRY
742 BEAVER LAKE DR
TEXARKANA TX 75501-0984

WILLIAMSON , JERRY W
537 BEAVER LAKE DR
TEXARKANA TX 75501-0989

WILLIAMSON , SARAH
537 BEAVER LAKE DR
TEXARKANA TX 75501-0989

YELDELL , AMY
CONCERNED CITIZENS OF BEAVER LAKE ESTA
152 BEAVER CREEK RUN
TEXARKANA TX 75501-0909

YELDELL , BUTCH
152 BEAVER CREEK RUN
TEXARKANA TX 75501-0909

YOUNGBLOOD , BRENDA
994 BEAVER LAKE DR
TEXARKANA TX 75501-0980

YOUNGBLOOD , LARRY
994 BEAVER LAKE DR
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ZIMMERMAN , EUGENE
1173 BBAVER LAKE DR
TEXARKANA TX 75501-0977

TCEQ AIR PERMIT NO. 76962

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|--------------------------------|---|-----------------------|----------------------|
| APPLICATION BY | § | BEFORE THE | 2010 NOV 18 PM 2: 32 |
| MIDWAY INDUSTRIAL PARK, L.L.C. | § | TEXAS COMMISSION ON | CHIEF CLERKS OFFICE |
| TEXARKANA, BOWIE COUNTY | § | ENVIRONMENTAL QUALITY | |

EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the Air Quality Permit Application from Midway Industrial Park, L.L.C. As required by 30 Texas Administrative Code (TAC) § 55.156, before an application is approved, the Executive Director (ED) shall prepare a response to all timely, relevant and material, or significant comments. If you need more information about this permit application or the permitting process please call the TCEQ Office of Public Assistance at 1-800-687-4040. General information about the TCEQ can be found at our website at www.tceq.state.tx.us.

The Office of Chief Clerk timely received comment letters from the following persons: Andrew Barrett, Shirley Daniels (formal comment at Public Meeting), Margaret Earnest, Robert Earnest, Charlene Elliott, Joseph Elliott, Betty Rich, Don Rich, Earl Sabo, Emily Sabo, Jerry Williamson, Amy Yeldell and David Christian on behalf of Concerned Citizens of Beaver Lake Estates (CC of BLE), Residents of Beaver Lake Estates (petition letter, hereinafter "Group A"), Congressman Ralph M. Hall on behalf of area residents (includes petition letter, hereinafter "Group B"), Bowie County Judge James M. Carlow, Bowie County Commissioner Kelly Blackburn of Precinct 3, and Bowie County Commissioner Carl Teel of Precinct 4. This Response addresses all timely public comments received, whether or not withdrawn.

BACKGROUND

Description of Facility

Midway Industrial Park, LLC (Applicant or Midway) has applied to the TCEQ for a New Source Review Authorization under Texas Clean Air Act (TCAA), §382.0518. This will authorize the construction of a new facility that may emit air contaminants.

This permit will authorize Applicant to construct a railcar cleaning facility. The facility is located approximately 2.5 miles west of Nash, Bowie, County Texas on U.S. Highway 82 at intersection of F.M. 2148 and then south on F.M. 2148 across the railroad tracks. Contaminants authorized under this permit include volatile organic compounds (VOCs), nitrogen oxides (NOx), sulfur dioxide (SO₂), carbon monoxide (CO), hydrogen chloride (HCl), ammonia (NH₃), and particulate matter (PM).

Procedural Background

Before work is begun on the construction of a new facility that may emit air contaminants, the person planning the construction must obtain a permit from the commission. This permit application is for an initial issuance of Air Quality Permit Number 76962.

The permit application was received on September 22, 2005, and was assigned to Project No. 118307. The permit application was declared administratively complete on September 27, 2005. The Notice of Receipt and Intent (NORI) to Obtain an Air Quality Permit (public notice) for a flexible permit application was published on October 18, 2005, in the *Texarkana Gazette*. This permit went through two deficiency cycles: the first on December 5, 2005 and the second on February 8, 2006. A meeting with the company was held on May 11, 2006 to discuss the proper steps and appropriate modeling that TCEQ required for authorization of chemical flexibility. Conversations with our agency modelers, the permit reviewer, and the company occurred, and the company finalized the modeling exercise on July 31, 2006. TCEQ's modeling section finished auditing the company's modeling on August 23, 2006. A meeting was held once more with the company on October 6, 2006, and the company was asked to re-run some of its previous modeling and the effort was finalized on November 30, 2006. Various meetings were held with the company, and seven deficiency cycles transpired prior to a public meeting. These deficiency dates were November 30, 2006, February 20, 2007, May 13, 2007, July 6, 2007, July 13, 2007, and September 7, 2007. A public meeting was held on November 1, 2007 in Texarkana. The notice of public meeting was published on October 10, 2007 in the *Texarkana Gazette*. After the meeting a deficiency cycle was started on November 14, 2007. Additional meetings were held with the company on February 8 and 25, 2008, where the company stated that the initial scope of the construction permit was changing. This in turn resulted in eight additional deficiency cycles, February 25, 2008, July 31, 2008, September 15, 2008, November 8, 2008 March 7, 2009, April 22, 2009, and May 20, 2009, and an additional modeling cycle that was completed on January 6, 2009. Midway's final representations in the application, as confirmed with their vendors, resulted in removal of initially proposed equipment and lowered the overall emissions. Additionally, the final representations demonstrate that the facility will conduct a more efficient operation, and reduce the potential for public health and welfare effects.

The Notice of Application and Preliminary Decision (NAPD) of this Air Quality Permit was published on June 16, 2009. The application was originally noticed as a flexible permit pursuant to Title 30 of the Texas Administrative Code Chapter 116, Subchapter G. However, Applicant later determined the 116 Subchapter G authorization was unnecessary and inappropriate for its proposed facility. Therefore, Applicant re-noticed its permit on July 27, 2010 to clarify that it was seeking a routine New Source Review permit rather than a Subchapter G flexible permit. The public comment period ended on August 26, 2010. 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, 76th Legislature, 1999.

COMMENTS AND RESPONSES

COMMENT 1: Most commenters express concern regarding potential health effects that emissions from this facility may have on area residents, including small children (Andrew Barrett, Margaret Earnest, Robert Earnest, Charlene Elliott, Joseph Elliott, Betty Rich, Don Rich, Earl Sabo, Emily Sabo, Jerry Williamson, Amy Yeldell and David Christian on behalf of CC for BLE, Group A, and Group B). Most commenters also express concern regarding potential negative impacts from the plant's emissions on area pets and wildlife, including various species of migratory birds that inhabit the area during certain parts of the year (Jerry W. Williamson, Amy Yeldell and David Christian on behalf of CC for BLE, Group A, and Group B). Some commenters also want to know who to contact about their health after the permit is issued (Emily and Earl Sabo).

RESPONSE 1: For many permits, potential impacts to human health and welfare or the environment are determined by comparing air dispersion modeling predicted emission concentrations from the proposed facility to appropriate state and federal standards and effects screening levels.^{1,2} The specific health-based standards or guidance levels employed in evaluating the potential emissions include the National Ambient Air Quality Standards (NAAQS); TCEQ standards contained in 30 TAC § 112.3; and TCEQ Effect Screening Levels (ESLs).³

NAAQS are created by the United States Environmental Protection Agency (EPA) and, as defined in the federal regulations (40 Code of Federal Regulations § 50.2), include both primary and secondary standards. The primary standards are those that the Administrator of the EPA determines are necessary, with an adequate margin of safety, to protect the public health, including sensitive members of the population such as children, the elderly, and individuals with existing lung or cardiovascular conditions. Secondary NAAQS are those that the Administrator determines are necessary to protect the public welfare and the environment, including animals, crops, vegetation, and buildings, from any known or anticipated adverse effects associated with the presence of an air contaminant in the ambient air. The standards are set for criteria pollutants: ozone, lead, carbon monoxide, sulfur dioxide, nitrogen dioxide, and respirable particulate matter (PM). "Criteria pollutants" are those pollutants for which a NAAQS has been established.

¹ See the document "Air Quality Modeling Guidelines" for details on air modeling at the TCEQ website at <http://www.tceq.state.tx.us/assets/public/permitting/air/Guidance/NewSourceReview/rg25.pdf>. Also visit the agency air modeling page at http://www.tceq.state.tx.us/permitting/air/nav/modeling_index.html.

² Documents referenced in this response that are available on the TCEQ website are also available in printed form at a small cost from the TCEQ Publications office at 512-239-0028.

³ To view the ESL list or obtain more information on ESLs, visit the TCEQ website at http://www.tceq.state.tx.us/implementation/tox/esl/list_main.html.

For most permit applications, air quality analysis, which may include air dispersion modeling, is performed. After a permit application's modeling review is complete, when necessary, the modeling results are then sent to the TCEQ's Toxicology Section to evaluate whether emissions from the proposed facility are expected to cause health or nuisance problems. The Toxicology Section reviews the results from air dispersion modeling by comparing those results to the TCEQ Effects Screening Levels (ESLs). ESLs are constituent-specific guideline concentrations used in TCEQ's effects evaluation of constituent concentrations in air. These guidelines are derived by the Toxicology Section and are based on a constituent's potential to cause adverse health effects, odor nuisances, and effects on vegetation. Health-based screening levels are set at levels lower than levels reported to produce adverse health effects, and as such are set to protect the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions. Adverse health or welfare effects are not expected to occur if the air concentration of a constituent is below its ESL. If an air concentration of a constituent is above the screening level, it is not necessarily indicative that an adverse effect will occur, but rather that further evaluation is warranted. Generally, maximum concentrations predicted to occur at a sensitive receptor which are at or below the ESL would not be expected to cause adverse effects.

For this permit application, air dispersion modeling was conducted to determine off-property concentrations of sulfur dioxide, carbon monoxide, nitrogen oxides, particulate matter, volatile organic compounds, hydrogen chloride, and ammonia. The likelihood of whether adverse health effects caused by emissions from Applicant's facility could occur in members of the general public, including sensitive subgroups such as children, the elderly, or people with existing respiratory conditions, was determined by comparing the facility's predicted air dispersion computer modeling concentrations to the relevant state and federal standards and ESLs. The permit reviewer used modeling results to verify that predicted ground level concentrations from the proposed facility are not likely to adversely impact off-property receptors. Screening background concentrations from the geographic area surrounding the site or other appropriate background are added to the modeled concentrations⁴ when applicable. The overall evaluation process provides a conservative prediction that is protective of the public. The modeling predictions were reviewed by the TCEQ Air Dispersion Modeling Team, and the modeling analysis was determined to be acceptable. The model predicted the emissions resulting from the proposed operations at this facility would not cause an exceedence of the NAAQS or any state standards for the above-mentioned pollutants. Based on TCEQ review, it was determined that when the proposed facility operates in compliance with the permit, no adverse health impacts are expected from emissions of the rail cleaning operations.

In addition to complying with the federal and state standards and guidelines mentioned above, Applicant must also comply with 30 TAC § 101.4, which prohibits nuisance conditions. Specifically the rule states, "No person shall discharge from any source whatsoever one or more air contaminants or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is

⁴ Background concentrations are concentrations of constituents present in the ambient air that are not attributed to the source or site being evaluated.

operated in compliance with the terms of the permit, nuisance conditions or conditions of air pollution are not expected.

In summary, based on the potential concentrations reviewed by the Executive Director's staff, it is not expected that existing health conditions will worsen, or that there will be adverse health effects in the general public, sensitive subgroups, or animal life as a result of exposure to the expected levels of PM, SO₂, NO_x, CO, NH₃, HCl, or VOC.

Individuals are encouraged to report any concerns about nuisance issues or suspected noncompliance with terms of any permit or other environmental regulation by contacting the Tyler TCEQ Regional Office at 903-535-5100, or by calling the 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186. If the facility is found to be out of compliance with the terms and conditions of the permit, it could be subject to possible enforcement action. Citizen-collected evidence may be used in such an action. See 30 TAC § 70.4, Enforcement Action Using Information Provided by Private Individual, for details on gathering and reporting such evidence. The TCEQ has long had procedures in place for accepting environmental complaints from the general public but now has a new tool for bringing potential environmental problems to light. Under the citizen-collected evidence program, individuals can provide information on possible violations of environmental law and the information can be used by the TCEQ to pursue enforcement. In this program, citizens can become involved and may eventually testify at a hearing or trial concerning the violation. For additional information, see the TCEQ publication, "Do You Want to Report an Environmental Problem? Do You Have Information or Evidence?" This booklet is available in English and Spanish from the TCEQ Publications office at 512-239-0028, and may be downloaded from the agency website at www.tceq.state.tx.us (under Publications, search for document no. 278).

COMMENT 2: Some commenters express concern that the approval of this air permit will adversely affect the surrounding fishing lakes (Jerry W. Williamson, Amy Yeldell and David Christian on behalf of CC for BLE, Group A, and Group B).

RESPONSE 2: The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider issues related to water quality when determining whether to approve or deny an air permit application. Should the nature of the facility's operations require it, Applicant may be required to apply for separate authorizations pertaining to water quality.

COMMENT 3: Many commenters express concern that there are no plans to fence or secure the plant site, which will service contaminated railcars located near residential areas for days or possibly weeks before the cleaning process begins. Commenters express concern about the safety of children who live in the area since there are no plans to fence the plant site. Commenters note concern about children and others having access to the railroad cars that may have chemical residue. They also worry that plans have not been developed for emergency notification, evacuation, or containment in the event of a chemical spill. Many commenters express also worry that plans have not been developed to check cars as they enter the facility to determine the amount of chemicals left in the tank cars. Commenters state that chemicals may leak from the containers and pollute the air and water in the area. Commenters also asks whether an arrangement has been made

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with the local fire department about how to respond to an emergency (Shirley Daniels, Group A, Group B).

RESPONSE 3: The review of an air quality permit such as Midway's includes the identification of emission sources and pollutants, the evaluation of best available control technology and applicable abatement equipment, and the impacts of emissions from the facility operations. Plant features that are not related to these categories are beyond the scope of an air quality permit review.

For more information on the control equipment that would be used at the proposed facility, see **RESPONSE 9**.

COMMENT 4: Commenters express concern regarding large amounts of chemicals being dumped into the sewer system and the effect that would have on the groundwater and air in the event of a sewer leak. Commenters also cite to an article from the Texarkana Gazette on Monday, October 29, 2007, about a railroad tank car cleaning center believed to be contributing to contamination of groundwater supplies in Nash, Texas (Shirley Daniels, Group A, and Group B).

RESPONSE 4: The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider issues related to water quality or groundwater contamination when determining whether to approve or deny an air quality permit application. Should the nature of the proposed facility's operations require it, Applicant may be required to apply for separate authorizations pertaining to water quality.

COMMENT 5: Most commenters think the approval of this air permit will negatively affect area home and property values, and that Applicant's proposed operations may harm existing properties and stunt future growth in the area. (Andrew Barrett, Margaret Earnest, Robert Earnest, Charlene Elliott, Joseph Elliott, Betty Rich, Don Rich, Earl Sabo, Emily Sabo, Jerry Williamson, Amy Yeldell and David Christian on behalf of CC for BLE, Group A, and Group B).

RESPONSE 5: The TCEQ's jurisdiction is established by the Legislature and is limited to the issues set forth in statute. Accordingly, the TCEQ does not have jurisdiction to consider facility location choices made by the Applicant when determining whether to approve or deny a permit application, unless state law imposes specific distance limitations that are enforceable by the TCEQ. Zoning and land use are beyond the authority of the TCEQ for consideration when reviewing air quality permit applications and such issues should be directed to local officials.

Furthermore, in accordance with §382.052 of the Texas Clean Air Act (TCAA), the TCEQ shall consider possible adverse health effects on individuals attending schools which are located within 3,000 feet of a facility or proposed facility. A protectiveness review must be conducted for all contaminants emitted. The maximum concentrations are evaluated at the property line, at the nearest off-property receptor, and at any schools located within 3,000 feet of the facilities. The site review by the Tyler Regional Office indicated that there was no school within 3,000 feet. Therefore, the recommendation of

the Tyler Regional Office was to proceed with the permit review, and the site review indicated no reasons to deny the permit application.

COMMENT 6: Some commenters believe Applicant has been negligent in preparing an environmental impact study for this permit, which they feel is required by the United States Clean Air Act (Margaret Earnest, Robert Earnest, Charlene Elliott, and Joseph Elliott).

RESPONSE 6: TCEQ's evaluation of this permit application is limited to Applicant's proposed facility. An environmental impact study is not required for issuance of this permit. However for more information on the protectiveness review and the Effects Screening Levels, please see **Response 1**.

COMMENT 7: Some commenters express concern that Applicant's existing plant has produced nuisance odors, property damage, and chemical leaks from the plant's operations (Andrew Barrett, Betty Rich, Don Rich, Earl Sabo, Emily Sabo, Group A). Additionally, one commenter seeks clarification regarding differences between the proposed facility and current emissions. Commenter requests a comparison of geographic and emission changes and a copy of the proposed site map (John P. Brooks).

RESPONSE 7: TCEQ's evaluation is for Applicant's proposed rail cleaning facility. All the proposed permit representations and emissions have been evaluated and determined to be acceptable pursuant to all the appropriate rules and regulations under the TCAA. There are no emission changes since this is a permit for the issuance of new construction. A copy of the proposed site map is being provided as Attachment 1.

TCEQ's evaluation of this permit application is limited to the proposed facility, and not any items associated with plants already in existence. Existing facilities operate under other authorizations not related to this permit application. However, every facility that emits air contaminants on Applicant's plant must be authorized.

For more information on the health effects review, nuisance conditions, and reporting noncompliance with a permit, see **RESPONSE 1**.

COMMENT 8: Many commenters note concerns that the application is misleading as to the plant's location and ask for information about alternative locations (Andrew Barrett, Margaret Earnest, Robert Earnest, Charlene Elliott, Joseph Elliott, Betty Rich, Don Rich, Earl Sabo, Emily Sabo, Jerry Williamson, Amy Yeldell and David Christian on behalf of CC for BLE, Group A, and Group B).

RESPONSE 8: Applicant's proposed facility is represented by Applicant to be located approximately 2.5 miles west of Nash Texas on U.S. Highway 82 to the intersection of FM 2148, then head south on FM 2148 across the railroad tracks to the proposed facility site. TCEQ will hold Applicant to construct at this location and will ensure that the facility is constructed in a timely manner.

For more information on site location choice, see **RESPONSE 5**.

COMMENT 9: Some commenters ask what emission controls the plant will have (Amy Yeldell and David Christian on behalf of CC for BLE).

RESPONSE 9: Midway Industrial Park LLC will control the emissions from their facility by using the following control equipment:

Two-Stage Water Scrubber: For rail car cleaning, control of ammonia has been represented to have destruction/removal efficiency of 99% for NH₃ vented to this scrubber. An NH₃ continuous emissions monitoring system (CEMS) is required off the second stage with a 10 ppmv hourly average limit, which is assumed to meet the 99% requirement.

Dust Filter: For hopper car cleaning, procedures include rinsing of the interior with water to remove any visible residue. All the blown dust emissions are directed through a particulate filter with a 0.01 grains per standard cubic foot concentration. The filtered gas proceeds to the control system where the acid scrubber is used to ensure that particulates do not reach the oxidizer. Calculations were based on the maximum of one hopper car opened per hour, since the hopper car cleaning system is limited to a single cleaning station.

Sulfuric Acid Scrubber: The waste gas flows once through the acid scrubber to the thermal oxidizer. The sulfuric acid scrubber has been represented to have a destruction/removal efficiency of 99% for all amines vented to this scrubber. The scrubber liquid circulation rate must be maintained above 30 gallons per minute with a pH below 4 until operating parameters are established during stack testing.

Thermal Oxidizer (TO): Destruction efficiency of the TO is 99.9% or 10 ppmv dry at 3% oxygen for VOC. The oxidizer needs to be maintained at 1800°F and 3% oxygen until six minute average operating standards are established during stack testing. The proposed thermal oxidizer will be fired with a low NO_x burner rated at 1.5 MMBtu/hr. The remaining combustion fuel is directly injected with natural gas to achieve a total burner rate of 8.8 MMBtu/hr. The exhaust of the thermal oxidizer will be passed through a waste heat recovery boiler and then be quenched with a water spray prior entering the caustic scrubber. Control of the firing rate of the thermal oxidizer will be varied by monitoring the lower explosive limit in the inlet header, steam demand and quench exhaust temperature. This will ensure a high efficiency system with emissions limited by the high degree of turn down designed into the burner system.

Caustic Scrubber: This scrubber takes the flow from the oxidizer quench spray at approximately 130°F, from the thermal oxidizer heat recovery and exhausts to the plant stack. It has been represented to have a destruction removal efficiency of 99% for all halogenated compounds vented to this scrubber. The scrubber liquid circulation rate must be maintained above 35 gallons per minute with a pH over 9 until operating parameters are established during stack testing.

The plant exhaust is blown out of the caustic scrubber through a twenty-inch stack that is 60 feet high, which is located towards the center of this site to reduce potential of off-site impacts.

Fugitives: All fugitive components are controlled using a 28M leak detection and repair program. The fugitive components in the cleaning and de-heeling buildings exhaust through building stacks since they are too dilute to be controlled. All valves and pumps in light liquid service in the cleaning and de-heeling buildings must be seal-less.

Rail Car Opening Emissions: Midway has represented 100 percent capture for these emissions, and routing to the control system. Capture is to be assured by achieving a surface velocity of 200 fpm at the rail car opening, per U.S. EPA Method 204.

COMMENT 10: Many commenters say they are opposed to the approval of the air quality flexible permit, and ask the TCEQ to deny the flexible permit (Robert & Margaret Earnest, Jerry W. Williamson, Group A, and Group B).

RESPONSE 10: Applicant re-noticed its permit on July 27, 2010, to clarify that it is not seeking a flexible permit pursuant to Title 30 of the Texas Administrative Code Chapter 116, Subchapter G. The ED has reviewed the permit application in accordance with the applicable law, policy and procedures, and the Agency's mission to protect the State's human and natural resources consistent with sustainable economic development. The TCAA mandates the TCEQ must issue the permit if all criteria are met.

Changes Made in Response to Public Comments

No changes to the permit have been made in response to public comment.

Respectfully submitted,
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

