



# RAILROAD COMMISSION OF TEXAS

## HEARINGS DIVISION

**OIL AND GAS DOCKET NO. 02-0281527**

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**THE APPLICATION OF B & G ENVIRONMENTAL, LLC FOR A COMMERCIAL STATIONARY OIL & GAS WASTE TREATMENT FACILITY AND ASSOCIATED PITS PURSUANT TO STATEWIDE RULE 8, FOR THE BEE COUNTY FACILITY, BEE COUNTY, TEXAS**

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**HEARD BY:** Richard D. Atkins, P.E. - Technical Examiner  
Marshall F. Enquist - Legal Examiner

**APPEARANCES:**

**REPRESENTING:**

**APPLICANT:**

Paul Tough  
Bart A. Huffman  
H. K. Garner

B & G Environmental, LLC

**PROTESTANTS:**

Peter Avots

Mark O'Brien

Dennis and Gwen DeWitt

Themselves and  
Art and Sherry Schneider

Gerald W. Berzowski

Himself

Mark F. Workowitz

Himself

Frank and Mary Vazquez

Themselves



**PROCEDURAL HISTORY**

Application Filed:	February 11, 2013
Request for Hearing:	March 18, 2013
Notice of Hearing:	April 29, 2013
Protest Received:	May 10, 2013
Hearing Held:	June 5, 2013
Transcript Received:	June 18, 2013
Record Closed:	October 21, 2013
Proposal for Decision Issued:	March 3, 2014

**EXAMINERS' REPORT AND PROPOSAL FOR DECISION**  
**STATEMENT OF THE CASE**

This is the application of B & G Environmental, LLC ("B & G") to construct and operate a commercial stationary oil and gas waste treatment facility and associated pits pursuant to Statewide Rule 8 at the Bee County Facility, Bee County, Texas. The facility will accept only Commission authorized non-hazardous oil and gas field waste material that will be combined with inert earthen material to produce a "cold" type asphalt road construction pavement product.

Notice of the application was published in the *Bee-Picayune*, a newspaper of general circulation in Bee County, on February 22, 25, 29 and March 3, 2012. Notice of the application was sent to the Bee County Clerk and to the surface owners of the waste treatment facility tract and each tract which adjoins the proposed facility on February 22, 2012.

The application was determined to be administratively complete by Commission staff, but is protested by surface owners nearby and adjacent to the tract on which the proposed facility is located.

**DISCUSSION OF THE EVIDENCE****Applicant's Evidence**

The proposed facility site is in an old abandoned caliche pit quarry which covers 28 acres and is excavated to a depth of about 20 feet below the ground surface. The subject facility site will encompass 8 acres inside the caliche pit. The site and surrounding property is undeveloped ranch land, which is located approximately 3.5 miles west of the town of Pettus, Texas. Operations will be conducted on the floor of the quarry with no potential for runoff of any materials, as the quarry floor is located about 20 feet below the ground surface. Access to the proposed facility will be off of County Road 119 which runs along the northern boundary of the proposed facility tract and intersects County Road 113 which

runs along the western boundary of the proposed facility tract (See attached B & E Exhibits 2-Road Map and 6-Aerial Photo). The site location was chosen, in part, because it is near the Eagle Ford trend development area and is easily accessible off of County Road 119 .

The surface soil consists of caliche on top of a thick impervious clay layer of 25 feet to 35 feet, as was observed and recorded during the drilling of four soil borings. Soil Boring 1 was done down to a depth of 100 feet and, after a 24 hour monitoring period, no groundwater was encountered. The location of the facility does not have any wetlands or surface water present. In addition, the average annual rainfall in the area is 35.7 inches with an average evaporation loss of 53.4 inches, which greatly exceeds the rainfall.

The proposed facility will be a recycling facility and not a disposal facility. The facility is authorized to receive solid oil and gas non-hazardous waste and to recycle the waste into road base material. The final product is required to meet the 2004 Texas Department of Transportation ("TXDOT") Standard 3146 for cold-processed recycled paving material. The raw materials and product will not remain on site for long periods of time. The non-hazardous oil field wastes that are accepted are the raw materials to be used as an ingredient in a process to produce a nonhazardous, commercially viable asphalt-stabilized paving product. Waste materials are tested and stabilized at the point of generation before arriving and being accepted at the proposed facility. Upon arriving at the subject facility, a load check program is made that includes a visual inspection, moisture content test, NORM testing and chloride testing.

The materials authorized for a recycling facility are water-based drilling fluids and associated cuttings, oil-based drilling fluids and associated cuttings, tank bottoms from gas plants and crude oil reclamation plants, materials from produced water collecting pits, produced formation sand and soil affected by produced saltwater. The materials that will be mixed to form the road base material are the aggregates of native rock, caliche and gravel which provide for the pozzolanic<sup>1</sup> process and give extra strength. TXDOT has an aggressive program to utilize recycled materials. A product production sample will be obtained from the pug mill's product discharge conveyor belt at 200-ton intervals that will be composited into a sample for each 800-ton lot. The proposed waste material recycling plant must also comply with the rules and regulations of the Texas Commission on Environmental Quality ("TCEQ") for air emissions.

The untreated and treated holding pits will be 12 inch cement stabilized pads with four inch high curbs (See attached B & G Exhibit No. 9 - Site Diagram). The cold-mix asphalt production area is the pug mill which is located between the untreated and treated holding pits and is the mechanical device which mixes and blends the materials. The stabilized non-hazardous waste materials will be conveyed from the delivery trucks into the untreated pit area to be mixed in the pug mill with the aggregates and the water based

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<sup>1</sup> Lime cement, cement kiln dust, fly ash or other cementitious type material.

asphalt emulsion. The product material is discharged into the treated holding pit, and as per terms of the permit, 75% of the materials brought to the facility must be recycled and moved off of the property within one year. The production area and holding pits will be surrounded by a primary containment berm which will be four feet high and have a 12 foot base. In addition, the perimeter of the site will be surrounded by a secondary containment berm which will be two feet high and have a six foot base of compacted earthen materials.

The applicant must conduct a trial run and demonstrate a successful process on the first 1,000 cubic yard batch before continuation. The Commission must be notified and will witness. Samples required by the Commission will be collected and analyzed and a report filed with the Commission. No other material shall be accepted or the final product removed until Environmental Services verifies the results and confirms that the applicant has successfully processed the first 1,000 cubic yard batch.

The Commission Form P-5 (Organization Report) for B & G is current. B & G agrees to all Technical Permitting's recommendations for permit approval and will install all physical requirements subject to Commission inspection and approval prior to commencement of operations and the Trial Run probation time to demonstrate that approval of the facility operation is warranted and appropriate. The Waste Treatment Facility, including the untreated and treated holding pits, will be closed by processing and removing the remaining waste, removing the remaining equipment, excavating and disposing of any affected material and performing confirmation sampling. The total cost to close the Treatment Facility and untreated and treated holding pits is estimated to be \$710,000. The total cost to close the Treatment Facility and untreated and treated holding pits is estimated to be \$710,000. Financial assurance for the facility closure costs shall be filed by the applicant and approved by the Commission prior to beginning any construction.

### **Protestants' Evidence**

The application is protested by surface owners adjacent and nearby to the tract on which the proposed facility and pits are located. The Protestants' evidence fell into several general categories of concern; 1) contamination of groundwater and a surface spill could run-off and pollute their property; 2) noise, dust and odor nuisances which would result from the operation of the facility; 3) adverse effects on property values; and 4) increased heavy truck traffic on County Road 119, causing road deterioration and public safety issues. Collectively, the testimony and statements in opposition assert that the proposed facility and pits will have adverse effects on traffic safety, property values and the quality of life in and around the area. They believe that there are more remote areas in Bee County in which this facility could be located.

### **EXAMINERS' OPINION**

The examiners recommend the application be approved pursuant to Commission Statewide Rule 8 to receive, store, handle, and treat certain non-hazardous oil and gas wastes subject to the conditions, as proposed by the Commission's Environmental

Services staff. The proposed commercial stationary waste recycle treatment facility will be constructed and completed in such a manner as to prevent the migration of the nonhazardous waste material or final product that would result in the pollution of any subsurface waters. The safe and proper disposal of non-hazardous oil field wastes serves the public interest. Indeed, the recycling treatment of such material into a viable product that can benefit the general public such as road paving material is a win-win formula. The waste materials listed in the proposed permit are restricted to only non-hazardous wastes.

The proposed permit thoroughly addresses the issues of protecting any surface or subsurface water. Section III of the permit addresses the wastes that may be accepted and Section IV addresses the waste testing and record keeping requirements. Sections V and VI address the facility design, construction, operations and process control. Section VII addresses final deposition of the roadbase material. If TXDOT believed there was a potential environmental problem with the roadbase product, it would not have written a specification for a cold-mix product that would leach out and pollute surface and subsurface waters along the road ways. Indeed, hot-mix does use a hydrocarbon base solvent emulsion and is commonly used on road ways. Section VIII addresses the facility closure.

The proposed permit requires that a trial run must be made and all permit conditions be met prior to full implementation for the facility to receive full Commission authority. This trial run will require a substantial capital expenditure. All conditions and requirements must meet with Commission District Office approval. The proposed permit is restrictive, detailed and specific in what can and cannot be done, how it will be done, the testing that will be performed and the required record keeping.

There is no persuasive evidence to indicate that the operation of the subject facility will adversely impact the water quality of any surface water or subsurface usable-quality groundwater. The geology is ideal in protecting any aquifer in the area that may occur below 100 feet. A thick, dry, impervious clay layer forms a natural containment layer that separates waste management activities in the proposed facility from the aquifer. The site was selected, in part, due to the existence of the thick clay layer. With the existing geology and ground water identified at the site and the design of the facility, the examiners believe that the proposed Bee County facility and associated pits can be operated without adversely affecting surface and subsurface waters.

#### **FINDINGS OF FACT**

1. Notice of the application was published in the *Bee-Picayune*, a newspaper of general circulation in Bee County, on February 22, 25, 29 and March 3, 2012. Notice of the application was sent to the Bee County Clerk and to the surface owners of the waste treatment facility tract and each tract which adjoins the proposed facility on February 22, 2012.

2. B & G Environmental, LLC ("B & G") has applied for a permit to construct and operate a commercial stationary waste recycle treatment facility in Bee County. The facility will accept only Commission authorized non-hazardous oil and gas field waste material that will be combined with inert earthen material and a water base emulsion to produce a "cold" type asphalt road construction pavement product.
3. The proposed facility site is in an old abandoned caliche pit quarry which covers 28 acres and is excavated to a depth of about 20 feet below the ground surface. The subject facility site will encompass 8 acres inside the caliche pit. Operations will be conducted on the floor of the quarry with no potential for runoff of any materials.
4. The surface soil consists of caliche on top of a thick impervious clay layer of 25 feet to 35 feet, as was observed and recorded during the drilling of four soil borings. Soil Boring 1 was done down to a depth of 100 feet and, after a 24 hour monitoring period, no groundwater was encountered.
5. Only Commission approved non-hazardous oil field waste material will be accepted to be used as an ingredient in a process to produce a nonhazardous, commercially viable asphalt-stabilized paving product.
  - a. Waste materials are tested and stabilized at the point of generation before arriving and being accepted at the proposed facility.
  - b. The materials authorized for a recycling facility are water-based drilling fluids and associated cuttings, oil-based drilling fluids and associated cuttings, tank bottoms from gas plants and crude oil reclamation plants, materials from produced water collecting pits, produced formation sand and soil affected by produced saltwater.
  - c. The inert materials that will be mixed to form the cold-processed asphalt are the aggregates of native rock, caliche, gravel, cement, brick, recycled road materials and recycled asphalt which will be blended with the pazzolans (lime cement, cement kiln dust, fly ash or other cementitious type material).
  - d. The proposed facility is not a disposal facility but a recycling facility.
6. The cold-processed asphalt is not a solvent-based emulsion but is a water-based emulsion with no volatile organic compounds inherent within the materials.

- a. The cold-processed asphalt is stabilized and will not allow any oil field waste material to leave the product.
  - b. The raw materials and the manufactured cold-processed asphalt will be tested per the requirements as stated in the proposed permit. The final product will be analyzed to determine the degree of fixation, stabilization and encapsulation of the constituents.
  - c. The facility is authorized to receive solid oil and gas non-hazardous waste and to recycle the waste into road base material. The final product is required to meet the 2004 Texas Department of Transportation ("TXDOT") Standard 3146 for cold-processed recycled paving material.
7. All materials will be confined to designated holding areas that shall so be constructed to insure no fluid migration of oil field waste material or final product material.
  - a. The untreated and treated holding pits will be 12 inch cement stabilized pads with four inch high curbs.
  - b. The cold-mix asphalt production area is the pug mill which is located between the untreated and treated holding pits and is the mechanical device which mixes and blends the materials.
  - c. The product material is discharged into the treated holding pit, and as per terms of the permit, 75% of the materials brought to the facility must be recycled and moved off of the property within one year.
  - d. The production area and holding pits will be surrounded by a primary containment berm which will be four feet high and have a 12 foot base.
  - e. The perimeter of the site will be surrounded by a secondary containment berm which will be two feet high and have a six foot base of compacted earthen materials.
8. The applicant must conduct a trial run and demonstrate a successful process on the first 1,000 cubic yard batch before continuation. The Commission must be notified and will witness. Samples required by the Commission will be collected and analyzed and a report filed with the Commission. No other material shall be accepted or the final product removed until Environmental Services verifies the results and confirms that the applicant has successfully processed the first 1,000 cubic yard batch.

9. B & G Environmental, LLC has a current approved Form P-5 and shall maintain adequate financial assurance as required by the Commission.
10. The total cost to close the Treatment Facility and untreated and treated holding pits is estimated to be \$710,000. Financial assurance for the facility closure costs shall be filed by the applicant and approved by the Commission prior to beginning any construction.
11. The safe and proper disposal of non-hazardous oil field wastes and the recycling treatment of such material into a viable product that can benefit the general public such as road paving material serves the public interest.

**CONCLUSIONS OF LAW**

1. Proper notice was timely given to all parties entitled to notice pursuant to applicable statutes and rules.
2. All things have occurred and have been accomplished to give the Commission jurisdiction in this case.
3. B & G Environmental, LLC's application to operate a commercial stationary oil and gas waste treatment facility and associated pits at the Bee County Facility will comply with Statewide Rule 8 and will not cause pollution of surface water, useable quality water or result in waste of oil, gas or geothermal resources, if operated as applied for and in accordance with the proposed permit.

**EXAMINERS' RECOMMENDATION**

Based on the above findings of fact and conclusions of law, the examiners recommend that the Commission approve the application of B & G Environmental, LLC to construct and operate a commercial stationary waste recycle treatment facility for the Bee County Facility, with the specific conditions and requirements shown in the attached permit.

Respectfully submitted,

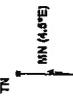
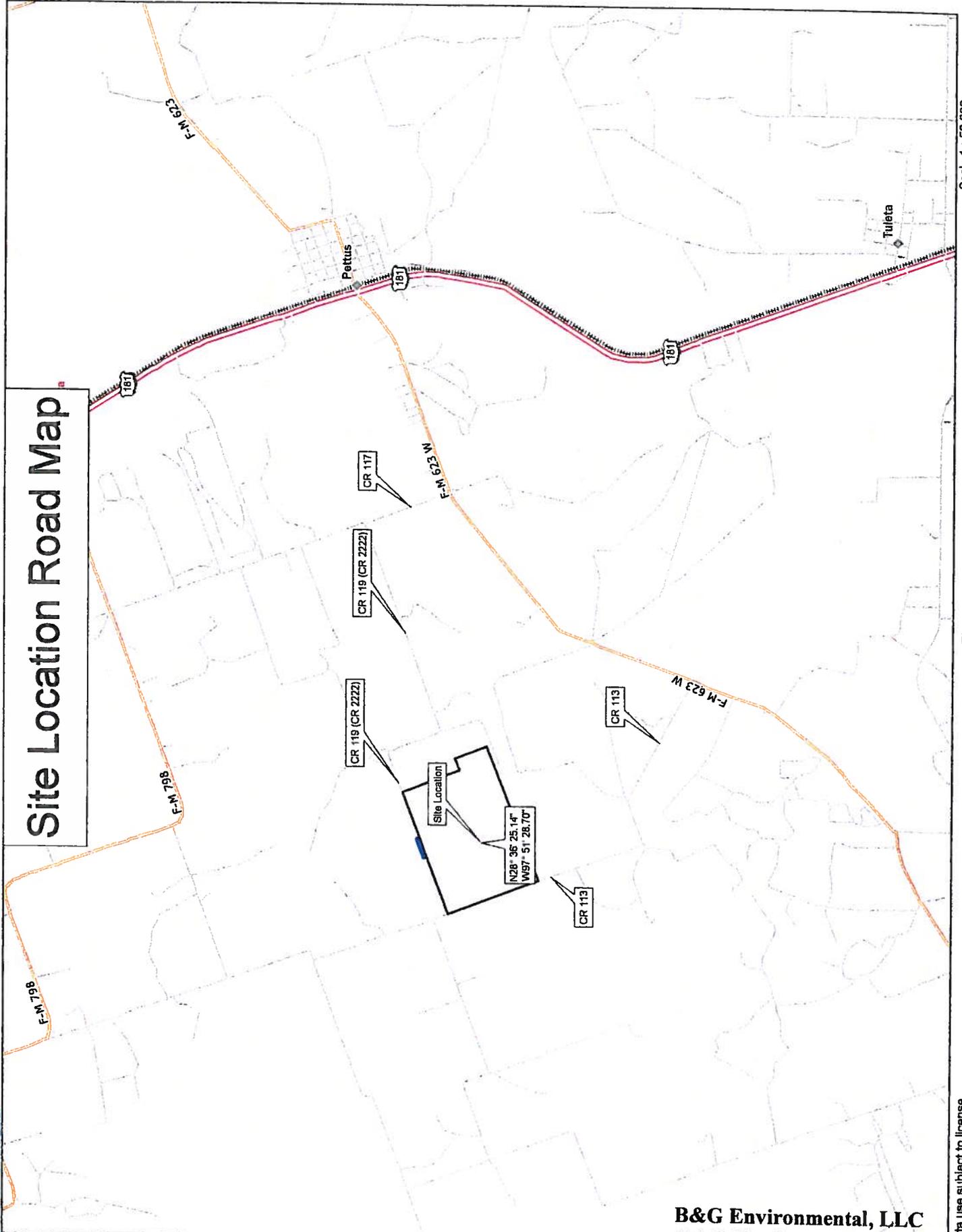


Richard D. Atkins, P.E.  
Technical Hearings Examiner



Marshall F. Enquist  
Legal Hearings Examiner

# Site Location Road Map



**B&G Environmental, LLC**  
**Oil & Gas Docket No. 02-0281529**  
**June 5, 2013 Hearing**  
**Exhibit No. 2**



Scale: 1 inch = ± 1600 ft

± 8 Acre Outline of Site



General Outline of Site Property

Aerial Photo showing General Area of Property Site Outlined in Yellow.  
Area of 8 acre Commercial Recycling Facility located  
inside of Caliche Pit outlined in Blue

Photo Obtained from TNRIS  
Photo dated December 2007



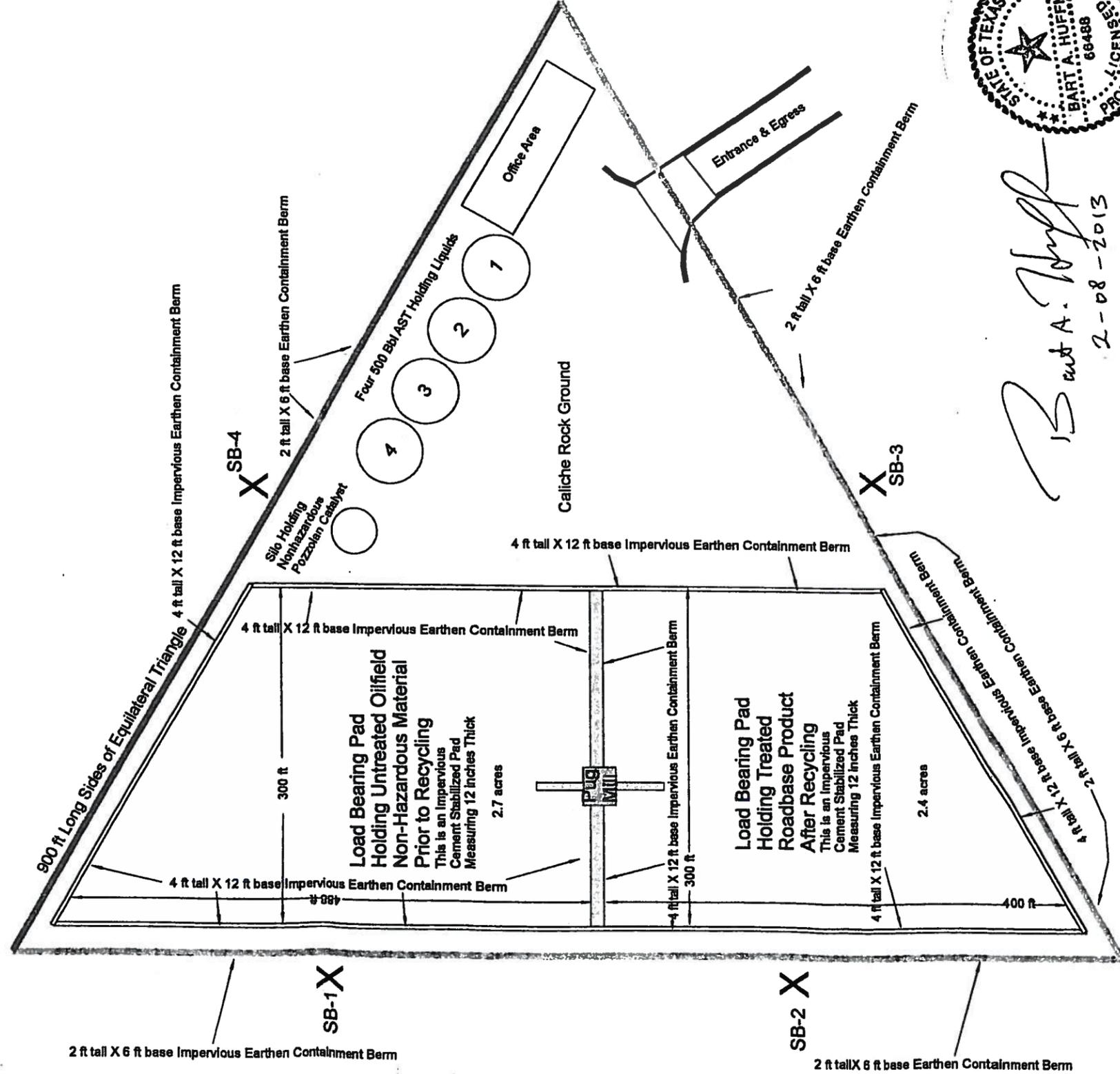
Scale: 1 inch = ±100 feet

# B & G Environmental, L.L.C.

## Site Diagram

Drawn by: Bart A. Huffman, P.E.  
February 8, 2013

Page 1 of 3



*Bart A. Huffman*  
2-08-2013

B&G Environmental, LLC  
Oil & Gas Docket No. 02-0281527

Huffman Hydrocarbon Engineering, LLC  
Texas Registered Engineering Firm No. F-004243

June 5, 2013 Hearing  
Exhibit No. 9

Huffman Hydrocarbon Engineering, L.L.C.