

TCEQ DOCKET NO. 2008-1876-UIC

2009 MAR -2 AM 9:28

APPLICATION BY	§	BEFORE THE
	§	
SOUTH TEXAS MINING	§	TEXAS COMMISSION ON
	§	
VENTURE, L.L.P.	§	ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUEST

I. Introduction

The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this Response to Hearing Request (Response) on the applications of South Texas Mining Venture, L.L.P. (Applicant) for Permit Numbers WDW418 and WDW419. Emily W. Rogers, on behalf of the Duval County Conservation and Reclamation District (Duval County District) and the Jim Wells County Fresh Water Supply District No. 1 (Jim Wells District), timely filed a request for a contested case hearing.

Attached for Commission consideration are the following:

- Attachment A – Technical Summary and Draft Permits
- Attachment B – Executive Director's Response to Public Comment
- Attachment C – Compliance History
- Attachment D – GIS Map

II. Description of the Facility

The Applicant has applied to the TCEQ for two Class I waste disposal well permits, authorizing it to dispose of by-product materials¹ generated from in situ uranium mining operations at the La Palangana site. These permits authorize the disposal of: 1) wastes generated during the closure of the wells and associated facilities that are compatible with permitted wastes, the reservoir, and well materials; 2) lixiviant bleed stream; 3) lab waste stream; 4) resin transfer water; 5) filter press wash stream; 6) reverse osmosis brine stream; 7) restoration wastewater; and 8) other associated wastes, such as groundwater and rainfall contaminated by the above authorized wastes, and wash waters and solutions used in cleaning and servicing the waste disposal well system equipment and process pad that are compatible with the permitted wastes, the reservoir, and well materials. The

¹ For the purposes of this Response, "by-product materials" are limited to those materials described in Section 401.003(3)(B) of the Texas Health and Safety Code; namely, tailings or wastes produced by or resulting from the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes.

proposed wells will be located on the La Palangana site in Duval County, Texas, approximately six miles north of Benavides, Texas. The site is approximately 150 miles south of San Antonio, Texas, and 70 miles west of Corpus Christi, Texas. The La Palangana project site is accessible from Ranch Road 3196.

III. Procedural Background

The permit applications were received on September 6, 2007, and declared administratively complete on September 18, 2007. The Notice of Receipt of Application and Intent to Obtain New Underground Injection Control Permits (NORI) was published on October 3, 2007 in the *Freer Press*. The Notice of Application and Preliminary Decision for a Non-hazardous Waste Underground Injection Control Proposed Permit Nos. WDW418 and WDW419 (NAPD) was published on July 30, 2008 in the *Alice Echo News Journal*, the *Freer Press*, and *The Progress*; and July 31, 2008 in the *Falfurrias Facts*, the *Frio-Nueces Current*, the *Hebbronville View*, and the *Laredo Morning Times*. The public comment period closed on September 2, 2008. The Executive Director's Response to Public Comment (RTC) was filed on October 31, 2008. The Executive Director's Final Decision Letter was mailed on November 4, 2008, and the period for timely filing a Request for Reconsideration or Contested Case Hearing Request ended on December 4, 2008. This application was administratively complete on or after September 1, 1999; therefore, this application is subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

IV. The Evaluation Process for Hearing Requests

House Bill 801 established statutory procedures for public participation in certain environmental permitting proceedings. For those applications declared administratively complete on or after September 1, 1999, it established new procedures for providing public notice and public comment, and for the Commission's consideration of hearing requests. The applications were declared administratively complete on September 18, 2007; therefore, they are subject to House Bill 801 requirements. The Commission implemented House Bill 801 by adopting procedural rules in 30 Texas Administrative Code (30 TAC) Chapters 39, 50, and 55.

A. Response to Request

The Executive Director, the Public Interest Counsel, and the Applicant may each submit written responses to a hearing request. 30 TAC § 55.209(d).

Responses to hearing requests must specifically address:

- 1) whether the requestor is an affected person;
- 2) whether issues raised in the hearing request are disputed;
- 3) whether the dispute involves questions of fact or of law;
- 4) whether the issues were raised during the public comment period;

- 5) whether the hearing request is based on issues raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment;
- 6) whether the issues are relevant and material to the decision on the application; and
- 7) a maximum expected duration for the contested case hearing.

30 TAC § 55.209(e).

B. Hearing Request Requirements

In order for the Commission to consider a hearing request, the Commission must first determine whether the request meets certain requirements.

“A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided...and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.”

30 TAC § 55.201(c).

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 requestor's location and distance relative to the proposed facility or activity that is the subject of the application and how and why the requestor believes he or she will be adversely affected by the proposed facility or activity in a matter not common to members of the general public;
- 3) request a contested case hearing;
- 4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor should, to the extent possible, specify any of the executive director's response to comments that the requestor 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.

30 TAC § 55.201(d).

C. “Affected Person” Status

In order to grant a contested case hearing, the Commission must determine that a requestor is an “affected person.” Section 55.203 sets out who may be considered an affected person.

- a) For any application, 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.
- b) Governmental entities, including local governments and public agencies, with authority under state law over issues raised by the application may be considered affected persons.
- c) In determining whether a person is an affected person, all factors shall 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 the 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.

30 TAC § 50.203.

D. Referral to the State Office of Administrative Hearings (SOAH)

When the Commission grants a request for a contested case hearing, they are required to issue an order specifying the number and scope of the issues to be referred to SOAH for a hearing. 30 TAC § 50.115(b). Subsection 50.115(c) of 30 TAC sets out the test for determining whether an issue may be referred to SOAH. “The commission may not refer an issue to SOAH for a contested case hearing unless the commission determines that the issue: 1) involves a disputed question of fact; 2) was raised during the public comment period; and 3) is relevant and material to the decision on the application.” 30 TAC § 50.115(c).

V. Analysis of the Requests

A. Analysis of the Hearing Request

The Executive Director has analyzed the hearing request to determine whether it complies with Commission rules, who qualifies as an affected person, what issues may be referred for a contested case hearing, and what is the appropriate length of the hearing.

1. Whether the Requestors Complied with 30 TAC §§ 55.201(c) and (d)

The public comment period for these permit applications ended on September 2, 2008. Melinda K. Rangel, General Manager of the Jim Wells District, filed a comment letter with the TCEQ's Office of the Chief Clerk on August 26, 2008, at 4:53 p.m. Emily W. Rogers filed a letter with the TCEQ's Office of the Chief Clerk on September 2, 2008, at 3:46 p.m.; commenting on the applications, and requesting a contested case hearing. The period for timely filing a Request for Reconsideration or a Request for a Contested Case Hearing for these permit applications ended on December 4, 2008.

The Executive Director recommends that the Commission find that the hearing request substantially complied with the requirements of 30 TAC §§ 55.201(c) and (d).

2. Whether the Requestors are Affected Persons

a) Duval County District

Section 27.018 of the Texas Water Code (TWC) provides that "the commission shall hold a hearing on a permit application for an injection well to dispose of industrial and municipal waste if a hearing is requested by a local government located in the county of the proposed disposal well site or by an affected person." A "local government" is defined by Section 26.001(17) of the TWC as "an incorporated city, a county, a water district or authority acting under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution."

The Duval County District is a conservation and reclamation district that was originally created by the Legislature in 1949 as the Jim Wells-Duval Counties Conservation and Reclamation District, under the provisions of Article XVI, Section 59 of the Texas Constitution. *See* Acts 1949, 51st Leg., ch 398, at 737. In 1963, the District's boundaries were limited to Duval County. *See* Acts 1963, 58th Leg., ch. 452, at 1164. The District has all of the rights, powers, and privileges conferred upon water control and improvement districts. *See* Acts 1949, 51st Leg., ch 398, at 737. Water control and improvement districts are granted broad authority to protect the purity and sanitary condition of water within the state, and preserve and conserve all natural resources of the state. TWC §§ 51.121(b)(6)&(7).

In her letter, Ms. Rogers states that the Duval County District has five water wells that serve about 1,200 retail water connections in Duval County. Ms. Rogers also states that the proposed waste disposal wells are located within the District, and that the Duval County District's water wells are located six miles from the proposed waste disposal

wells. Ms. Rogers' letter raises concerns regarding groundwater and drinking water quality.

All Class I wells are required to be designed, constructed, and completed to prevent the movement of fluids that could result in the pollution of an underground source of drinking water (USDW). 30 TAC § 331.62. Additionally, all Class I wells must be operated to prevent the movement of fluids that could result in the pollution of an USDW and to prevent leaks from the well into unauthorized zones. 30 TAC § 331.63. Due to its broad authority to protect the purity and sanitary condition of water within the state, and preserve and conserve all natural resources of the state, the Duval County District is a local government with authority under state law over issues raised by the application.

The Executive Director recommends that the Commission grant the Duval County District's hearing request pursuant to TWC § 27.018, and find that the Duval County District is an affected person under 30 TAC § 50.203.

b) Jim Wells District

Fresh water supply districts are created by county commissioners courts pursuant to the authority provided by Article XVI, Section 59 of the Texas Constitution. TWC §§ 53.061 & 53.102. Fresh water supply districts are considered governmental agencies, bodies politic and corporate, and defined districts within the meaning of Article XVI, Section 59 of the Texas Constitution. TWC § 53.088. Fresh water supply districts may be created to conserve, transport, and distribute fresh water from any sources for domestic and commercial purposes; and have all powers of government and rights, privileges, and functions given to it by Chapter 53 of the TWC or by any other state law. TWC §§ 53.101 & 53.103.

In her letter, Ms. Rogers states that the Jim Wells District has one water well, which serves about 600 retail connections (1,900 people) in Jim Wells County. Ms. Rogers' letter raises concerns regarding groundwater and drinking water quality.

Information obtained by the Executive Director's staff indicates that the boundaries of the Jim Wells District are entirely contained within Jim Wells County. Also, the Jim Wells District water well is located more than 21 miles from the proposed injection well. Finally, the proposed Class I waste disposal wells would inject into a brine saturated aquifer approximately 4,874 feet below the aquifer that the Jim Wells District currently relies on to produce drinking water.

All Class I wells are required to be designed, constructed, and completed to prevent the movement of fluids that could result in the pollution of an underground source of drinking water (USDW). 30 TAC § 331.62. Additionally, all Class I wells must be operated to prevent the movement of fluids that could result in the pollution of an USDW and to prevent leaks from the well into unauthorized zones. 30 TAC § 331.63. While the Jim Wells District has statutory authority over an issue relevant to the application—namely, the conservation, transportation, and distribution of fresh water—due to the

distance of the Jim Wells District's water well from the proposed waste disposal wells, it is unlikely that the proposed waste disposal wells will impact the District's water well.

The Executive Director recommends that the Commission find that the Jim Wells District is not an affected person under 30 TAC § 50.203.

B. Whether the Issues Are Referable to SOAH

Should the Commission find that any of the requestors are affected persons, the Executive Director analyzes the following issues in accordance with the applicable regulatory criteria.

Issue 1: Whether the application is adequately protective of groundwater quality.

This issue is within the TCEQ's jurisdiction and is relevant and material to the TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the public comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 2: Whether the application is adequately protective of drinking water resources.

This issue is within the TCEQ's jurisdiction and is relevant and material to the TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the public comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 3: Whether the use and installation of the injection wells is in the public interest under Sections 27.051(a)(1) and (d) of the Texas Water Code.

This issue is within the TCEQ's jurisdiction and is relevant and material to the TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the public comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 4: Whether the applicant is financially responsible under the applicable requirements of Chapters 37, 305, and 331 of Title 30 of the Texas Administrative Code and Chapter 27 of the Texas Water Code.

This issue is within the TCEQ's jurisdiction and is relevant and material to the TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the public comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

Issue 5: Whether the applicant has provided for the proper operation of the injection wells under the applicable requirements of Chapter 331 of Title 30 of the Texas Administrative Code and Chapter 27 of the Texas Water Code.

This issue is within the TCEQ's jurisdiction and is relevant and material to the TCEQ's decision on the permit application. The issue involves a question of fact, is disputed, was raised during the public comment period, and was not withdrawn.

The Executive Director recommends that the Commission refer this issue to SOAH.

VI. Duration of the Contested Case Hearing

The Executive Director recommends that a contested case hearing, should the Commission decide to refer the case, last approximately nine months. This time period begins with the preliminary hearing and concludes with presentation of a proposal for decision before the Commission.

VII. Executive Director's Recommendations

The Executive Director recommends the following actions by the Commission:

- A. Grant the Duval County Conservation and Reclamation District's hearing request pursuant to Section 27.018 of the Texas Water Code.
- B. Find that the Duval County Conservation and Reclamation District is an affected person under Section 50.203 of Title 30 of the Texas Administrative Code.
- C. Find that the Jim Wells County Fresh Water Supply District No. 1 is not an affected person under Section 50.203 of Title 30 of the Texas Administrative Code.
- D. Should the Commission find that any of the requestors are affected persons, refer the following issues to SOAH for a Contested Case Hearing of nine months in duration:

Issue 1: Whether the application is adequately protective of groundwater quality.

Issue 2: Whether the application is adequately protective of drinking water resources.

- Issue 3: Whether the use and installation of the injection wells is in the public interest under Sections 27.051(a)(1) and (d) of the Texas Water Code.
- Issue 4: Whether the applicant is financially responsible under the applicable requirements of Chapters 37, 305, and 331 of Title 30 of the Texas Administrative Code and Chapter 27 of the Texas Water Code.
- Issue 5: Whether the applicant has provided for the proper operation of the injection wells under the applicable requirements of Chapter 331 of Title 30 of the Texas Administrative Code and Chapter 27 of the Texas Water Code.

Respectfully submitted,
Texas Commission on Environmental
Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
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By 

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REPRESENTING THE EXECUTIVE
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CERTIFICATE OF SERVICE

I certify that on March 2, 2009, an original and seven copies of the "Executive Director's Response to Hearing Request" relating to the applications of South Texas Mining Venture, L.L.P. for Permit Nos. WDW418 & WDW419 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was mailed or sent electronically to all persons on the attached mailing list.



Timothy J. Reidy, Staff Attorney
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TEXAS
COMMISSION
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MAILING LIST
For
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TCEQ DOCKET NO. 2008-1876-UIC
PERMIT NOS. WDW418 & WDW419

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Attachment A – Technical Summary & Draft Permits

TECHNICAL SUMMARY AND EXECUTIVE DIRECTOR'S PRELIMINARY DECISION

July 11, 2008

Description of Applications

Applicant: South Texas Mining Venture, LLP (STMV)

Underground Injection Control (UIC) Permit Nos. WDW418 and WDW419

Location: STMV's proposed Palangana uranium mining project is in Duval County, Texas. Two injection wells are proposed for permitting, construction, and operation at the site for wastewater management. Well WDW418 is proposed to be 660 feet from the south line and 660 feet from the west line of the SK&K Survey, A-548 (North Latitude 27°40'15", West Longitude 98°26'07"); well WDW419 is proposed to be 1750 feet from the south line and 660 feet from the west line of the SK&K Survey, A-548 (North Latitude 27°40'30" and West Longitude 98°26'07").

General: The applicant will conduct in situ uranium mining at the proposed site.

Request: STMV applied to the Texas Commission on Environmental Quality (TCEQ) on September 6, 2007 for permits to construct underground injection wells for disposal of waste water from the mining operation which is classified as by-product material as defined in §11.e(2) of the Atomic Energy Act and §401.003(3)(B) of the Texas Health & Safety Code.

Authority: The proposed permits are required by the Texas Water Code §27.011. Draft permits have been prepared in accordance with applicable requirements of 30 Texas Administrative Code (TAC) Chapters 281, 305 and 331, which have been adopted under the authority of Texas Water Code, Chapters 5 and 27.

Technical Information

The permit applications have been evaluated in accordance with 30 TAC Chapters 305, 331, and 335. The review of the permit applications included the evaluation of regional and local geology including the depths of underground sources of drinking water, siting criteria, plans for well construction, operation, and monitoring, assessment of artificial penetrations within the area of review for necessary corrective action, characterization of waste, and waste compatibility with well materials and the injection zone.

The permittee shall set and cement surface casing to a minimum subsurface depth of 1,100 feet and long string casing into or through the injection zone in order to properly protect each underground source of drinking water (USDW) or freshwater aquifer. The injection of wastes is limited to the Yegua Formation within the injection zone between 5,470 to 6,900 feet below ground level (BGL). The authorized injection interval is in the Yegua Formation at approximate depths from 5,960 to 6,900 feet BGL. The pH of injected waste streams shall be greater than 5.0 and less than 12.0. The operating surface injection pressure shall not exceed 1,350 psig. The maximum injection rate for each well shall not exceed 200 gallons per minute. The volume of waste water injected in each well shall not exceed 105,120,000 gallons per year.

The proposed permits include the following:

- A. standard provisions for construction, operation, monitoring, testing, reporting, and closure of the subject injection wells; and
- B. standard provisions to establish and maintain financial assurance to provide for proper facility closure.

Process for Reaching a Final Decision and Opportunities for Public Participation

Once the proposed permit renewals are drafted, they are sent to the Texas Commission on Environmental Quality (TCEQ) Office of the Chief Clerk for public notice. Mailed and newspaper notice of the applications and executive director's preliminary decision are provided in accordance with 30 TAC §39.651(d) with instructions for submitting public comments and requesting a public meeting. Written public comments and requests for a public meeting must be submitted to the Office of the Chief Clerk within 30 days from the date of publication of the newspaper notice.

The executive director will consider public comments in making a final decision on these applications. The TCEQ will hold a public meeting if the executive director determines that there is a significant degree of public interest in the applications or if requested by a local legislator. After the deadline for public comments, the executive director will consider the comments and prepare a response to all relevant and material or significant public comments. The response to comments will include the executive director's decision on the applications and will provide instructions for requesting a contested case hearing or reconsideration of the executive director's decision.

A contested case hearing will only be granted based on disputed issues of fact that are relevant and material to the commission's decision on the application on issues that were raised during the public comment period and not withdrawn. The executive director may issue final approval of the applications unless a timely contested case hearing request or request for reconsideration is filed. If a timely hearing request or request for reconsideration is filed, the executive director will not issue final approval of the permits and will forward the applications and request to the TCEQ Commissioners for their consideration at a scheduled commission meeting. If hearing requests are granted, the hearings will be conducted by the State Office of Administrative Hearings. Decisions regarding the permit may be reconsidered in response to a Motion for Rehearing or a Motion for Reconsideration and by appeal to a District Court in Travis County.

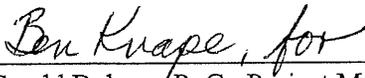
Preliminary Decision

The executive director has made a preliminary decision that the proposed permits, if issued, meet all statutory and regulatory requirements.

The proposed permits do not authorize variances or alternatives to required standards.

Prepared by:

Reviewed by:



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Permit No. WDW418

Texas Commission on
Environmental Quality
Austin, Texas

Permit To Conduct
Class I Underground Injection
under provisions of Texas Water Code,
Chapters 26 & 27, and Texas Health
and Safety Code, Chapter 361

I. Permittee

South Texas Mining Venture, LLP
500 N. Shoreline Blvd.
Suite 800N
Corpus Christi, TX 78471

II. Type of Permit

Initial Renewal Amended
Commercial Noncommercial
Hazardous Nonhazardous
Onsite Offsite
Authorizing Disposal of Waste from Captured Facility
Authorizing Disposal of Waste from Off-site Facilities Owned by Owner/Operator

III. Nature of Business

In Situ Uranium Mining

IV. General Description and Location of Injection Activity

The disposal well is to be used to dispose of by-product materials as defined in §11.e(2) of the Atomic Energy Act and §401.003(3)(B) of the Texas Health & Safety Code, generated by the permittee's in situ uranium mining activities. The well will be located 660 feet from the south line and 660 feet from the west line of the SK&K Survey, A-548, Texas, Latitude 27°40'15" North, Longitude 98°26'07" West, Duval County, Texas. The authorized injection zone is within the Jackson Group and Yegua Formations at the approximate depths of 5,470 to 6,900 feet below ground level (BGL). The authorized injection interval is in the Yegua Formation at approximate depths from 5,960 feet to 6,900 feet BGL.

CONTINUED on Pages 2 through 8

The permittee is authorized to conduct injection in accordance with limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and orders of the Commission, and the laws of the State of Texas. The permit will be in effect for ten years from the date of approval or until amended or revoked by the Commission. If this permit is appealed and the permittee does not commence any action authorized by this permit during judicial review, the term will not begin until judicial review is concluded.

ISSUED:

For The Commission

V. Drilling and Completion Requirements

- A. The drilling and completion of the well shall be done in accordance with 30 Texas Administrative Code (TAC) Section (§) 331.62, the plans and specifications of the permit application, and the following conditions.
- B. The permittee shall set and cement surface casing to a minimum subsurface depth of 1100 feet and long string casing into or through the injection zone in order to properly protect each underground source of drinking water (USDW) or freshwater aquifer.
- C. To protect the ground surface from spills and releases, the base of the wellhead shall be enclosed by a diked, impermeable pad with sump. Any liquid collected shall be disposed of in an appropriate manner.
- D. Mechanical integrity shall be demonstrated prior to authorization by the Executive Director to conduct injection operations.
- E. Any changes to the plans and specifications in the original application shall be approved in writing by the Executive Director that said changes provide protection standards equivalent to or greater than the original design criteria.

VI. Character of the Waste Streams

- A. Waste authorized to be injected by this permit shall consist solely of the following:
 - 1. Wastes generated during closure of the well and associated facilities that are compatible with permitted wastes, the reservoir, and well materials;
 - 2. Lixiviant bleed stream;
 - 3. Lab waste stream;
 - 4. Resin transfer water;
 - 5. Filter press wash stream;
 - 6. Reverse osmosis brine stream;
 - 7. Restoration wastewater; and
 - 8. Other associated wastes such as groundwater and rainfall contaminated by the above authorized wastes, spills of the above authorized wastes, and wash waters and solutions used in cleaning and servicing the waste disposal well system equipment and process pad that are compatible with the permitted wastes, the reservoir, and well materials.
- B. The pH of injected waste streams shall be greater than 5.0 and less than 12.0.
- C. Except when authorized by the Executive Director, the specific gravity of injected fluids shall be less than or equal to 1.10 as measured at 60°F/60°F.

- D. No discharge of wastes is authorized by this permit from this facility into waters of the State other than those waste streams authorized above in Paragraph VI.A. which may be injected into the Jackson Group and Yegua Formations within the injection zone between depths of approximately 5,470 to 6,900 feet BGL.

VII. Waste Streams Prohibited From Injection

Wastes prohibited from injection into WDW418 include but are not limited to the following list. The permittee is also required to comply with all other laws or regulations that are applicable to the activities authorized by this permit.

- A. Hazardous wastes as defined under 40 CFR §261.3(a) through (d), issued pursuant to the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments, which are regulated by the Commission as authorized by the Environmental Protection Agency (EPA), including but not limited to any listed hazardous waste or a waste derived from the treatment, storage or disposal of a listed hazardous waste;
- B. Any by-product material as defined by Texas Health & Safety Code §401.003(3)(A);
- C. Any low level radioactive wastes as defined by Texas Health & Safety Code §401.004;
- D. Any naturally occurring radioactive material (NORM) waste as defined by Texas Health & Safety Code §401.003(26); or
- E. Any oil and gas NORM waste as defined by Texas Health & Safety Code §401.003(27).

VIII. Operating Parameters

- A. The well shall be operated in compliance with the requirements of 30 TAC Chapters 305, and 331, the plans and specifications of the permit application, and the following conditions.
- B. Surface injection pressure shall not cause pressure in the injection zone to:
 - 1. initiate any new fractures or propagate existing fractures in the injection zone;
 - 2. initiate new fractures or propagate existing fractures in the confining zone; or
 - 3. cause movement of fluid out of the injection zone that may contaminate USDW and fresh water.
- C. The operating surface injection pressure shall not exceed 1,350 psig.
- D. The maximum injection rate shall not exceed 200 gallons per minute.
- E. The volume of waste water injected shall not exceed 105,120,000 gallons per year.
- F. A positive pressure of at least 100 psig over tubing injection pressures shall be maintained in the tubing-casing annulus for the purpose of leak detection. Temporary

deviations from this requirement which are a part of normal well operations are authorized but may not exceed 15 minutes in duration. For 15 minutes after the pressure differential drops below 100 psig, the permittee shall conduct troubleshooting and proceed to restore a minimum 100 psig pressure differential. If a minimum 100-psig pressure differential cannot be achieved within 15 minutes, the permittee shall notify the Texas Commission on Environmental Quality (TCEQ) and commence shut-in procedures on the well. The permittee may continue to operate the well under flow conditions that maintain a minimum 100-psig pressure differential.

- G. The permittee shall notify the Executive Director at least 24 hours prior to commencing any workover which involves taking the injection well out of service. Approval by the Executive Director shall be obtained before the permittee may begin work. Notification shall be in writing and shall include plans for the proposed work. The Executive Director may grant an exception to the prior written notification and approval when immediate action is required to prevent pollution according to 30 TAC §331.5. Completion of the well outside the approved injection interval, by perforation of casing, setting of screen, or establishment of open hole section, requires that the permitted injection interval be changed according to 30 TAC §331.62(3)(B) to include the depths of all well completions. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

IX. Monitoring and Testing Requirements

- A. Monitoring and testing shall be in compliance with the requirements of 30 TAC §305.125, §331.64, the plans and specifications of the permit application, and the following conditions.
- B. The integrity of the long string casing, injection tubing, and annular seal shall be tested by means of an approved pressure test with a liquid or gas annually and whenever there has been a well workover. The integrity of the cement within the injection zone shall be tested by means of an approved radioactive tracer survey annually. A radioactive tracer survey may be required after workovers that have the potential to damage the cement within the injection zone.
- C. The pressure buildup in the injection zone shall be monitored annually, including at a minimum, a shutdown of the well for a sufficient time to conduct a valid observation of the pressure fall-off curve.
- D. A temperature log, noise log, oxygen activation log or other approved log is required at least once every five years to test for fluid movement along the entire borehole.
- E. A casing inspection, casing evaluation, or other approved log shall be run whenever the owner or operator conducts a workover in which the injection string is pulled, unless the Executive Director waives this requirement due to well construction or other factors which limit the test's reliability, or based upon the satisfactory results of a casing inspection log run within the previous five years. The Executive Director may require that a casing inspection log be run every five years if there is sufficient reason to believe the integrity of the long string casing of the well may be adversely affected by naturally occurring or man-made events.

- F. Injection fluids shall be tested in accordance with 30 TAC §331.64(a) and the approved waste analysis plan.
- G. The pH and specific gravity of the injected waste shall be monitored continuously at a minimum frequency of at least once every 24 hours and whenever the waste stream changes.
- H. Corrosion monitoring of well materials shall be conducted quarterly and in accordance with 30 TAC §331.64(f). Test materials shall be the same as those used in the wellhead, injection tubing, packer, and long string casing, and shall be continuously exposed to the waste fluids except when the well is taken out of service.
- I. The permittee shall ensure that all waste analyses used for waste identification or verification and other analyses for environmental monitoring have been performed in accordance with methods specified in the current editions of EPA SW-846, ASTM or other methods accepted by the TCEQ. The permittee shall have a Quality Assurance/Quality Control program that is consistent with EPA SW-846 and the TCEQ Quality Assurance Project Plan.

X. Record Keeping Requirements

The permittee shall keep complete and accurate records as required by 30 TAC Chapters 305 and 331.

XI. Financial Assurance for Well Closure.

In accordance with 30 TAC Chapter 37, 30 TAC Section 305.154(a)(9), and Sections 331.142-144, the permittee shall secure and maintain in full force financial assurance, in a form approved by the Executive Director, in the amount of \$164,900 (in 2007 dollars) for WDW418. The amount of the financial assurance may, at the discretion of the Executive Director, be altered at a future date to provide for adequate closure. Financial assurance shall be obtained at least 60 days prior to the commencement of drilling of the well. The injection of fluids is not authorized until the permittee has received approval of the above financial assurance from the Executive Director.

XII. Additional Requirements

- A. Acceptance of this permit by the permittee constitutes an acknowledgment and agreement that the permittee will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
- B. This permit is subject to further orders and rules of the Commission. In accordance with the procedures for amendments and orders, the Commission may incorporate into permits already granted, any condition, restriction, limitation, or provision reasonably necessary for the administration and enforcement of Texas Water Code, Chapters 26 and 27, and Texas Health and Safety Code, Chapter 361 and 401.
- C. This permit does not convey any property rights of any sort, nor any exclusive privilege, and does not become a vested right in the permittee.

- D. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations.
- E. The following rules are incorporated as terms and conditions of this permit by reference:
 - 1. Financial Assurance, 30 TAC Chapter 37;
 - 2. Consolidated Permits, 30 TAC Chapter 305; and
 - 3. Underground Injection Control, 30 TAC Chapter 331.
- F. The express incorporation of the above rules as terms and conditions of this permit does not relieve the permittee of an obligation to comply with all other laws or regulations which are applicable to the activities authorized by this permit.
- G. Incorporated Application Materials. This permit is based on, and the permittee shall follow the plans and specifications contained in the Class I Underground Injection Control Application dated September 6, 2007 as revised on November 26, 2007 and January 3, 2008, which is hereby approved subject to the terms of this permit and any other orders of the TCEQ. These materials are incorporated into this permit by reference as if fully set out herein. Any and all revisions to these elements shall become conditions of this permit upon the date of approval by the Commission.
- H. The express incorporation of the above-cited permit application as terms and conditions of this permit does not relieve the permittee of an obligation to comply with all laws or regulations which are applicable to the activities authorized by this permit.

XIII. Pre-injection Units

- A. All pre-injection units servicing this well must be authorized by permit.
- B. All pre-injection units (including loading and unloading) shall be diked to completely contain all spillage and rainfall. The areas within the dike of the pre-injection units shall be lined with an impervious material or reinforced concrete and drained for collection and routing to wastewater holding units.
- C. Pre-injection units associated with the injection well shall be designed, operated and closed in compliance with the plans and specifications of the permit application, and this permit.
- D. Pre-injection units shall consist of:
 - 1. Brine Storage Tank (12,000 gallons)
 - 2. Storm Surge Storage Tanks (2 x 12,000 gallons each)
 - 3. Waste Water Storage Tank (12,000 gallons)
 - 4. Sand Filtration System (including filters, backwash pump and holding tank)
 - 5. Sock Filters (6)

6. Cartridge Filters (4)
 7. Ancillary Piping and Pumps
 8. Corrosion Inhibitor Unit (2, one per well)
 9. High Pressure Disposal Well Pumps (4, two per well)
- E. All wastewater tanks shall be above ground and have adequate design strength, and be compatible with the wastewater. Any tank leak shall be repaired immediately and a report filed shall be with the Executive Director within ten (10) days after the leak is detected describing the cause of the problem and the corrective action taken.
- F. Transmission lines shall be constructed of a material that is compatible with the wastewater, with a thickness and design strength adequate to prevent rupture and shall be protected from freezing and accidental damage. Transmission lines shall be inspected daily. Any transmission line leak shall be repaired immediately and a report filed with the Executive Director within ten (10) days after the leak is detected describing the cause of the problem and the action taken.
- G. Authorized pre-injection units are limited to those listed in Paragraph D of this section and as described in the application's plans and specifications. Prior to constructing or operating any such units in a way that differs from the related plans and specifications, or which will expand facility capacity within the terms of this permit, the permittee is required to:
1. Notify the Executive Director and submit plans and specifications for the proposed modifications or expansion;
 2. Receive written approval under 30 TAC §305.62 or §305.72 from the Executive Director prior to beginning the work (the Executive Director may grant an exception to prior written notification when immediate action is required to prevent uncontained wastewater spills); and
 3. Have facility modifications supervised by a person knowledgeable and experienced in the design and construction of industrial waste handling facilities, who is familiar with the special conditions and requirements of injection well operations.
- H. As built data on all pre-injection units must be submitted for Executive Director approval with the construction and completion report for the well in compliance with 30 TAC §331.45.
- I. Prior to using new surface facilities and newly modified or expanded surface facilities authorized by this permit, the permittee shall obtain written certification from the Executive Director that the permittee has complied with the applicable provisions of this permit. To obtain certification, the permittee shall submit the following to the Executive Director:

1. Final construction, "as-built" plans prepared and sealed by a professional engineer with current registration pursuant to the rules of the Texas Board of Professional Engineers, 22 TAC Chapter 13 and;
2. A certification prepared and sealed by a professional engineer with current registration pursuant to the Texas Engineering Practice Act certifying that construction of the pertinent facility components has been performed in accordance with and in compliance with the provisions of this permit and with the design and construction specifications of the permittee's application or authorized modifications. The certification should include a description of the pertinent facility components with reference to applicable permit provisions.



Permit No. WDW419

Texas Commission on
Environmental Quality
Austin, Texas

Permit To Conduct
Class I Underground Injection
under provisions of Texas Water Code,
Chapters 26 & 27, and Texas Health
and Safety Code, Chapter 361

I. Permittee

South Texas Mining Venture, LLP
500 N. Shoreline Blvd.
Suite 800N
Corpus Christi, TX 78471

II. Type of Permit

Initial Renewal Amended
Commercial Noncommercial
Hazardous Nonhazardous
Onsite Offsite
Authorizing Disposal of Waste from Captured Facility
Authorizing Disposal of Waste from Off-site Facilities Owned by Owner/Operator

III. Nature of Business

In Situ Uranium Mining

IV. General Description and Location of Injection Activity

The disposal well is to be used to dispose of by-product materials as defined in §11.e(2) of the Atomic Energy Act and §401.003(3)(B) of the Texas Health & Safety Code, generated by the permittee's in situ uranium mining activities. The well will be located 1,750 feet from the south line and 660 feet from the west line of the SK&K Survey, A-548, Texas, Latitude 27°40'30" North, Longitude 98°26'07" West, Duval County, Texas. The authorized injection zone is within the Jackson Group and Yegua Formations at the approximate depths of 5,470 to 6,900 feet below ground level (BGL). The authorized injection interval is in the Yegua Formation at approximate depths from 5,960 feet to 6,900 feet BGL.

CONTINUED on Pages 2 through 6

The permittee is authorized to conduct injection in accordance with limitations, requirements, and other conditions set forth herein. This permit is granted subject to the rules and orders of the Commission, and the laws of the State of Texas. The permit will be in effect for ten years from the date of approval or until amended or revoked by the Commission. If this permit is appealed and the permittee does not commence any action authorized by this permit during judicial review, the term will not begin until judicial review is concluded.

ISSUED:

For The Commission

V. Drilling and Completion Requirements

- A. The drilling and completion of the well shall be done in accordance with 30 Texas Administrative Code (TAC) Section (§) 331.62, the plans and specifications of the permit application, and the following conditions.
- B. The permittee shall set and cement surface casing to a minimum subsurface depth of 1100 feet and long string casing into or through the injection zone in order to properly protect each underground source of drinking water (USDW) or freshwater aquifer.
- C. To protect the ground surface from spills and releases, the base of the wellhead shall be enclosed by a diked, impermeable pad with sump. Any liquid collected shall be disposed of in an appropriate manner.
- D. Mechanical integrity shall be demonstrated prior to authorization by the Executive Director to conduct injection operations.
- E. Any changes to the plans and specifications in the original application shall be approved in writing by the Executive Director that said changes provide protection standards equivalent to or greater than the original design criteria.

VI. Character of the Waste Streams

- A. Waste authorized to be injected by this permit shall consist solely of the following:
 - 1. Wastes generated during closure of the well and associated facilities that are compatible with permitted wastes, the reservoir, and well materials;
 - 2. Lixiviant bleed stream;
 - 3. Lab waste stream;
 - 4. Resin transfer water;
 - 5. Filter press wash stream;
 - 6. Reverse osmosis brine stream;
 - 7. Restoration wastewater; and
 - 8. Other associated wastes such as groundwater and rainfall contaminated by the above authorized wastes, spills of the above authorized wastes, and wash waters and solutions used in cleaning and servicing the waste disposal well system equipment and process pad that are compatible with the permitted wastes, the reservoir, and well materials.
- B. The pH of injected waste streams shall be greater than 5.0 and less than 12.0.
- C. Except when authorized by the Executive Director, the specific gravity of injected fluids shall be less than or equal to 1.10 as measured at 60°F/60°F.

- D. No discharge of wastes is authorized by this permit from this facility into waters of the State other than those waste streams authorized above in Paragraph VI.A. which may be injected into the Jackson Group and Yegua Formations within the injection zone between depths of approximately 5,470 to 6,900 feet BGL.

VII. Waste Streams Prohibited From Injection

Wastes prohibited from injection into WDW419 include but are not limited to the following list. The permittee is also required to comply with all other laws or regulations that are applicable to the activities authorized by this permit.

- A. Hazardous wastes as defined under 40 CFR §261.3(a) through (d), issued pursuant to the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments, which are regulated by the Commission as authorized by the Environmental Protection Agency (EPA), including but not limited to any listed hazardous waste or a waste derived from the treatment, storage or disposal of a listed hazardous waste;
- B. Any by-product material as defined by Texas Health & Safety Code §401.003(3)(A);
- C. Any low level radioactive wastes as defined by Texas Health & Safety Code §401.004;
- D. Any naturally occurring radioactive material (NORM) waste as defined by Texas Health & Safety Code §401.003(26); or
- E. Any oil and gas NORM waste as defined by Texas Health & Safety Code §401.003(27).

VIII. Operating Parameters

- A. The well shall be operated in compliance with the requirements of 30 TAC Chapters 305, and 331, the plans and specifications of the permit application, and the following conditions.
- B. Surface injection pressure shall not cause pressure in the injection zone to:
 - 1. initiate any new fractures or propagate existing fractures in the injection zone;
 - 2. initiate new fractures or propagate existing fractures in the confining zone; or
 - 3. cause movement of fluid out of the injection zone that may contaminate USDW and fresh water.
- C. The operating surface injection pressure shall not exceed 1,350 psig.
- D. The maximum injection rate shall not exceed 200 gallons per minute.
- E. The volume of waste water injected shall not exceed 105,120,000 gallons per year.
- F. A positive pressure of at least 100 psig over tubing injection pressures shall be maintained in the tubing-casing annulus for the purpose of leak detection. Temporary

deviations from this requirement which are a part of normal well operations are authorized but may not exceed 15 minutes in duration. For 15 minutes after the pressure differential drops below 100 psig, the permittee shall conduct troubleshooting and proceed to restore a minimum 100 psig pressure differential. If a minimum 100-psig pressure differential cannot be achieved within 15 minutes, the permittee shall notify the Texas Commission on Environmental Quality (TCEQ) and commence shut-in procedures on the well. The permittee may continue to operate the well under flow conditions that maintain a minimum 100-psig pressure differential.

- G. The permittee shall notify the Executive Director at least 24 hours prior to commencing any workover which involves taking the injection well out of service. Approval by the Executive Director shall be obtained before the permittee may begin work. Notification shall be in writing and shall include plans for the proposed work. The Executive Director may grant an exception to the prior written notification and approval when immediate action is required to prevent pollution according to 30 TAC §331.5. Completion of the well outside the approved injection interval, by perforation of casing, setting of screen, or establishment of open hole section, requires that the permitted injection interval be changed according to 30 TAC §331.62(3)(B) to include the depths of all well completions. Pressure control equipment shall be installed and maintained during workovers which involve the removal of tubing.

IX. Monitoring and Testing Requirements

- A. Monitoring and testing shall be in compliance with the requirements of 30 TAC §305.125, §331.64, the plans and specifications of the permit application, and the following conditions.
- B. The integrity of the long string casing, injection tubing, and annular seal shall be tested by means of an approved pressure test with a liquid or gas annually and whenever there has been a well workover. The integrity of the cement within the injection zone shall be tested by means of an approved radioactive tracer survey annually. A radioactive tracer survey may be required after workovers that have the potential to damage the cement within the injection zone.
- C. The pressure buildup in the injection zone shall be monitored annually, including at a minimum, a shutdown of the well for a sufficient time to conduct a valid observation of the pressure fall-off curve.
- D. A temperature log, noise log, oxygen activation log or other approved log is required at least once every five years to test for fluid movement along the entire borehole.
- E. A casing inspection, casing evaluation, or other approved log shall be run whenever the owner or operator conducts a workover in which the injection string is pulled, unless the Executive Director waives this requirement due to well construction or other factors which limit the test's reliability, or based upon the satisfactory results of a casing inspection log run within the previous five years. The Executive Director may require that a casing inspection log be run every five years if there is sufficient reason to believe the integrity of the long string casing of the well may be adversely affected by naturally occurring or man-made events.

- F. Injection fluids shall be tested in accordance with 30 TAC §331.64(a) and the approved waste analysis plan.
 - G. The pH and specific gravity of the injected waste shall be monitored continuously at a minimum frequency of at least once every 24 hours and whenever the waste stream changes.
 - H. Corrosion monitoring of well materials shall be conducted quarterly and in accordance with 30 TAC §331.64(f). Test materials shall be the same as those used in the wellhead, injection tubing, packer, and long string casing, and shall be continuously exposed to the waste fluids except when the well is taken out of service.
 - I. The permittee shall ensure that all waste analyses used for waste identification or verification and other analyses for environmental monitoring have been performed in accordance with methods specified in the current editions of EPA SW-846, ASTM or other methods accepted by the TCEQ. The permittee shall have a Quality Assurance/Quality Control program that is consistent with EPA SW-846 and the TCEQ Quality Assurance Project Plan.
- X. Record Keeping Requirements
- The permittee shall keep complete and accurate records as required by 30 TAC Chapters 305 and 331.
- XI. Financial Assurance for Well Closure
- In accordance with 30 TAC Chapter 37, 30 TAC Section 305.154(a)(9), and Sections 331.142-144, the permittee shall secure and maintain in full force financial assurance, in a form approved by the Executive Director, in the amount of \$167,000 (in 2007 dollars) for WDW419. The amount of the financial assurance may, at the discretion of the Executive Director, be altered at a future date to provide for adequate closure. Financial assurance shall be obtained at least 60 days prior to the commencement of drilling of the well. The injection of fluids is not authorized until the permittee has received approval of the above financial assurance from the Executive Director.
- XII. Additional Requirements
- A. Acceptance of this permit by the permittee constitutes an acknowledgment and agreement that the permittee will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
 - B. This permit is subject to further orders and rules of the Commission. In accordance with the procedures for amendments and orders, the Commission may incorporate into permits already granted, any condition, restriction, limitation, or provision reasonably necessary for the administration and enforcement of Texas Water Code, Chapters 26 and 27, and Texas Health and Safety Code, Chapter 361 and 401.
 - C. This permit does not convey any property rights of any sort, nor any exclusive privilege, and does not become a vested right in the permittee.

- D. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulations.
- E. The following rules are incorporated as terms and conditions of this permit by reference:
 - 1. Financial Assurance, 30 TAC Chapter 37;
 - 2. Consolidated Permits, 30 TAC Chapter 305; and
 - 3. Underground Injection Control, 30 TAC Chapter 331.
- F. The express incorporation of the above rules as terms and conditions of this permit does not relieve the permittee of an obligation to comply with all other laws or regulations which are applicable to the activities authorized by this permit.
- G. Incorporated Application Materials. This permit is based on, and the permittee shall follow the plans and specifications contained in the Class I Underground Injection Control Application dated September 6, 2007 as revised on November 26, 2007 and January 3, 2008, which is hereby approved subject to the terms of this permit and any other orders of the TCEQ. These materials are incorporated into this permit by reference as if fully set out herein. Any and all revisions to these elements shall become conditions of this permit upon the date of approval by the Commission.
- H. The express incorporation of the above-cited permit application as terms and conditions of this permit does not relieve the permittee of an obligation to comply with all laws or regulations which are applicable to the activities authorized by this permit.

XIII. Pre-injection Units

- A. All pre-injection units servicing this well must be authorized by permit.
- B. All pre-injection units identified in Provision XIII.D of Permit No. WDW418 may be used for servicing this well provided the requirements of Provisions XIII.A through XIII.I of Permit No. WDW418 are met.

**Attachment B – Executive
Director’s Response to
Public Comment**

2008 OCT 31 PM 4:02

CHIEF CLERK'S OFFICE

TCEQ PROPOSED PERMIT NOS. WDW418 & WDW419

APPLICATIONS BY	§	BEFORE THE
SOUTH TEXAS MINING	§	TEXAS COMMISSION ON
VENTURE, L.L.P.	§	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 South Texas Mining Venture, L.L.P.'s (Applicant) applications and on the Executive Director's Preliminary Decision. As required by Title 30 of the Texas Administrative Code (30 TAC) Section (§) 55.156, before a permit is issued, the Executive Director prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters from the following persons: Melida K. Rangel, on behalf of Jim Wells County Fresh Water Supply District No. 1 (Jim Wells County District), and Emily Rogers, on behalf of Duval County Conservation and Reclamation District (Duval County District) and Jim Wells County District. This response addresses all such timely public comments received, whether or not withdrawn. If you need more information about these permit applications 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.

BACKGROUND

Description of the Facility

The Applicant has applied to the TCEQ for two Class I waste disposal well permits, authorizing it to dispose of by-product materials¹ generated from in situ uranium mining operations at the La Palangana site. These permits authorize the disposal of: 1.) wastes generated during the closure of the wells and associated facilities that are compatible with permitted wastes, the reservoir, and well materials; 2.) lixiviant bleed stream; 3.) lab waste stream; 4.) resin transfer water; 5.) filter press wash stream; 6.) reverse osmosis brine stream; 7.) restoration wastewater; and 8.) other associated wastes, such as groundwater and rainfall contaminated by the above authorized wastes, and wash waters and solutions used in cleaning and servicing the waste disposal well system

¹ For the purposes of this Response, "by-product materials" are limited to those materials described in Texas Health and Safety Code (THSC) § 401.003(3)(B); namely, tailings or wastes produced by or resulting from the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes.

equipment and process pad that are compatible with the permitted wastes, the reservoir, and well materials.

The proposed wells will be located on the La Palangana site in Duval County, Texas, approximately six miles north of Benavides, Texas. The site is approximately 150 miles south of San Antonio, Texas and 70 miles west of Corpus Christi, Texas. The La Palangana project site is accessible from Ranch Road 3196.

Union Carbide Corporation (UCC) conducted exploration and mining activities at the La Palangana site from the late 1950s through the late 1970s. In 1980, Chevron Resources USA, Inc. (Chevron) acquired the property from UCC, and continued mining and exploratory activities. In 1991, General Atomics Corporation (GAC) acquired all of Chevron's uranium assets, including La Palangana, but did not conduct further exploration or production activities. Everest Exploration, Inc. (EEI) acquired the leases from GAC in January 2005, and sold them to the Applicant under a partnership agreement.

In addition to its applications for the waste disposal well permits, the Applicant has applied to the TCEQ for a Radioactive Materials License, a Class III injection well area permit, and a Production Area Authorization.²

Procedural History

The permit applications were received on September 6, 2007, and declared administratively complete on September 18, 2007. The Notice of Receipt of Application and Intent to Obtain New Underground Injection Control Permits (NORI) was published on October 3, 2007 in the *Freer Press*. The Notice of Application and Preliminary Decision for a Non-hazardous Waste Underground Injection Control Proposed Permit Nos. WDW418 and WDW419 (NAPD) was published on July 30, 2008 in the *Alice Echo News Journal*, the *Freer Press*, and *The Progress*; and July 31, 2008 in the *Falfurrias Facts*, the *Frio-Nueces Current*, the *Hebbronville View*, and the *Laredo Morning Times*. The public comment period ended on August 2, 2008. The applications were administratively complete on or after September 1, 1999; therefore, these applications are subject to the procedural requirements adopted pursuant to House Bill 801 (76th Legislature, 1999).

Access to Rules, Laws, and Records

The Commission's rules may be accessed online by using the Texas Administrative Code (TAC) viewer feature on the Texas Secretary of State website at: www.sos.state.tx.us (Select "State Rules & Open Meetings," then "Texas Administrative Code," and then "TAC Viewer").

² See Proposed License No. R06062, Proposed Permit No. UR03070, and Proposed Permit No. UR03070PAA1.

Texas statutes may be accessed through the Texas Legislative Council's website at: <http://www.tlc.state.tx.us> (Select "Internet Resources," then "Texas Statutes").

General information about the TCEQ can be found at our website at: www.tceq.state.tx.us (For downloadable rules in Adobe PDF format, select "Rules," then "Current TCEQ Rules," then "Download TCEQ Rules")

Federal statutes and regulations may be accessed through the Environmental Protection Agency (EPA) website at: www.epa.gov (Select "Laws & Regulations").

The draft permits, any comment letters received, along with this Response, and any other communications made during the review of these applications are/will be contained in the public file located in the TCEQ Office of the Chief Clerk, and may be reviewed or copied during regular business hours at the Office of the Chief Clerk, Building F, 12100 Park 35 Circle, Austin, TX. 78753. A copy of the applications and draft permits are currently available for review and copying at the Duval County Courthouse, 400 E. Gravis, San Diego, TX.; and will remain there until either the TCEQ acts on the applications, or the applications are referred to the State Office of Administrative Hearings (SOAH) for hearing.

COMMENTS

COMMENT 1: (Groundwater & Drinking Water Protection)

Emily Rogers commented that the proposed draft permits do not adequately protect the water quality of groundwater in Duval County, and could pollute Jim Wells County District's and Duval County District's sole drinking water source.

RESPONSE 1:

The main goal of the TCEQ's Underground Injection Control (UIC) Program is to prevent pollution of underground sources of drinking water (USDWs).³ 30 TAC, Chapter 331 requires Class I waste disposal wells to be designed, constructed, operated, and closed in a manner that will not allow the movement of fluids that could result in the pollution of an USDW. In order to fulfill this mandate, the owner or operator of a Class I waste disposal well must comply with the following regulations:

1. 30 TAC § 331.4, Mechanical Integrity Required
2. 30 TAC § 331.5, Prevention of Pollution
3. 30 TAC § 331.7, Permit Required
4. 30 TAC § 331.43, Mechanical Integrity Standards
5. 30 TAC § 331.44, Corrective Action Standards

³ An underground source of drinking water (USDW) is defined as "[a]n "aquifer" or its portions: (A) which supplies drinking water for human consumption; or (B) in which the groundwater contains fewer than 10,000 milligrams per liter of total dissolved solids; and (C) which is not an exempted aquifer." 30 TAC § 331.2(97).

6. 30 TAC § 331.45, Executive Director Approval of Construction and Completion
7. 30 TAC § 331.46, Closure Standards
8. 30 TAC § 331.62, Construction Standards
9. 30 TAC § 331.63, Operating Requirements
10. 30 TAC § 331.64, Monitoring and Testing Requirements
11. 30 TAC § 331.65, Reporting Requirements
12. 30 TAC § 331.66, Additional Requirements and Conditions
13. 30 TAC § 331.68, Post-Closure Care
14. 30 TAC § 331.121, Class I Wells

These rules were adopted to protect USDWs. There have been no documented cases of contamination of water wells used for human drinking water supply or of strata which meet the criteria of USDWs from the operation of more than 100 Class I injection wells in Texas in the 26 years since the establishment of this class of injection well in the federal UIC Program.

Pursuant to 30 TAC § 331.121, before issuing a Class I waste disposal well permit, the Commission must consider the location of the proposed well. All Class I waste disposal wells must be sited such that they inject into a formation that is beneath the lowermost formation containing, within 1/4 mile of the wellbore, a USDW or freshwater aquifer.⁴ Class I waste disposal wells must be located in areas that the Executive Director determines are geologically suitable.⁵

A Class I waste disposal well must be sited such that: 1.) the injection zone⁶ has sufficient permeability, porosity, thickness, and areal extent to prevent migration of fluids into USDWs or freshwater aquifers; and 2.) the confining zone⁷ is laterally continuous and free of transecting, transmissive faults or fractures over an area sufficient to prevent the movement of fluids into a USDW or freshwater aquifer; and contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of preventing initiation and/or propagation of fractures.⁸ A review of the local geology in the area of the proposed disposal wells did not reveal any transmissive faults or inadequately plugged abandoned wells which could provide pathways for fluid movement from the injection zones to the overlying USDW.

The Applicant has demonstrated to the satisfaction of the Executive Director that the confining zone is separated from the base of the lowermost USDW or freshwater aquifer by at least one sequence of permeable and less permeable strata that will provide an added layer of protection for the USDW or freshwater aquifer in the event of fluid

⁴ 30 TAC § 331.121(c)(1).

⁵ 30 TAC § 331.121(c)(2).

⁶ The injection zone is defined as "[a] formation, a group of formations, or part of a formation that receives fluid through a well." 30 TAC § 331.2(48).

⁷ The confining zone is defined as "[a] part of a formation, a formation, or group of formations between the injection zone and the lowermost underground source of drinking water or freshwater aquifer that acts as a barrier to the movement of fluids out of the injection zone." 30 TAC § 331.2(26).

⁸ 30 TAC § 331.121(c)(3).

movement in an unlocated borehole or transmissive fault.⁹ The net thickness, number, and character of these strata in the subsurface between the confining zone and the base of the USDW provide additional safeguards against upward movement of fluid from the injection zones reaching the overlying USDW.

Finally, as part of its applications, the Applicant calculated a 2,134 foot expected maximum radius of the injected wastewater plume from the proposed wells.¹⁰ To reach a conservative estimate of the composite wastewater plume size after the projected thirty-year life of the wells, the Applicant's calculation assumed continuous operation of the wells at the maximum proposed injection rates, and placed the total volume injected for both wells into a single composite injection well.¹¹ The edge of the estimated plume is approximately 4.9 miles from Duval County District's water wells, and approximately 21.3 miles from Jim Wells County District's water wells. The proposed Class I waste disposal wells are also injecting into a brine saturated formation approximately 5,321 feet below Duval County District's deepest water well, and approximately 4,874 feet below the aquifer that the Jim Wells County District currently relies on to produce drinking water.

COMMENT 2: (Uranium in Jim Wells County District's Water Supply)

Melida K. Rangel and Emily Rogers stated that the Jim Wells County District has uranium in its water supply, which it believes came from mining activities in the area. Ms. Rogers commented that the Jim Wells County District believes that the proposed injection wells will exacerbate the existing problem.

RESPONSE 2:

According to TCEQ records, Chevron Resources USA, Inc. (Chevron) was the last permitted entity to conduct mining and exploratory activities at the La Palangana site.¹² After mining activities ended, groundwater restoration was conducted pursuant to 30 TAC § 331.107. TCEQ records show no instances of mining solutions bearing uranium migrating beyond the permitted area at the La Palangana site. Other historic in situ uranium mining activities in Duval County were located twenty miles or more northwest or southwest of the Jim Wells County District's water wells. TCEQ is not aware of any migration of injected mining solutions bearing uranium outside of the permitted areas for these operations.

With regard to possible sources of the uranium found in Jim Wells County District's water wells, TCEQ records identify approximately thirteen public water systems in Texas with radionuclides in the drinking water at concentrations that require

⁹ See p. V-22, Section V(B)(9) of the Applicant's applications for Proposed TCEQ Permit Nos. WDW418 & WDW419; 30 TAC § 331.121(c)(4)(A).

¹⁰ See p. VII-10 – VII-11, Section VII(A)(11) of the Applicant's applications for Proposed TCEQ Permit Nos. WDW418 & WDW419.

¹¹ See *Id.*

¹² See TCEQ Permit No. UR02051 and Production Area Authorization 1 (PAA 1).

treatment in order to meet the federal primary drinking water standard for uranium. These public water supply systems provide examples of uranium in groundwater presumably from natural depositional and geochemical processes.

Finally, as previously mentioned, 30 TAC, Chapter 331 requires Class I waste disposal wells to be designed, constructed, operated, and closed in a manner that will not allow the movement of fluids that could result in the pollution of a USDW. The proposed waste disposal wells inject into a formation that is approximately 4,874 feet below the formation from which the district withdraws its water, and the proposed injection is below the confining zone to prevent upward movement of injected wastewater. The Executive Director does not believe that the proposed permitted activity will negatively impact Jim Wells County District's water supply.

COMMENT 3: (Public Interest)

Emily Rogers stated that the Duval County District and the Jim Wells County District believe that the Applicant has not demonstrated that the installation of the injection wells is in the public interest. Ms. Rogers also commented that the Duval County District and the Jim Wells County District do not believe that the Applicant has adequately determined that there are no other practical, economic, and feasible alternatives for the injection wells.

RESPONSE 3:

Section 27.051 of the Texas Water Code (TWC) states that the Commission may issue a UIC permit if it finds that the use or installation of the injection well is in the public interest.¹³ In determining whether the installation of an injection well that will not dispose of hazardous waste is in the public interest, the Commission considers: 1.) the compliance history of the applicant and related entities, and 2.) whether there is a practical, economic, and feasible alternative to an injection well reasonably available.¹⁴

The Applicant addresses its compliance history in Attachment C of the permit applications.¹⁵ Attachment C states, "The applicant, STMV, has not previously operated this facility and does not yet have a compliance history."¹⁶ During the technical review, staff conducts a compliance history review of the company and the site based on the criteria in 30 TAC, Chapter 60. Staff reviewed the compliance history for the company and site for the five-year period prior to the date the permit application was received by the Executive Director. The compliance history includes multimedia compliance-related components about the site under review. These components include the following: enforcement orders, consent decrees, court judgments, criminal convictions, chronic excessive emissions events, investigations, notices of violations, audits and violations

¹³ TWC § 27.051(a)(1).

¹⁴ TWC § 27.051(d)(1)&(2).

¹⁵ See p. C-1, Attachment C of the Applicant's applications for Proposed TCEQ Permit Nos. WDW418 & WDW419.

¹⁶ Id.

disclosed under the Audit Act, environmental management systems, voluntary on-site compliance assessments, voluntary pollution reduction programs, and early compliance. These permit applications were received on September 6, 2007; the company and site have been rated and classified pursuant to 30 TAC, Chapter 60. A company and site may only have one of the following classifications and ratings: High: rating < 0.10 (above-average compliance record); Average by Default: rating = 3.01 (these are for sites which have never been investigated); Average: rating = 0.10 < 45 (generally complies with environmental regulations); Poor: rating = 45 < (performs below average). This site has a rating of 3.01 and a classification of average by default. The company rating and classification, which is the average of the ratings for all sites the company owns, is 3.01 and a classification of average.

Attachment C of the applications discusses whether there is a practical, economic, and feasible alternative to an injection well reasonably available.¹⁷ Other disposal methods considered by the Applicant include solar evaporation ponds, land application, thermal evaporation, and surface discharge under a National Pollutant Discharge Elimination System (NPDES) permit.¹⁸ In Attachment C of the applications, the Applicant states, "Of the alternate treating schemes investigated, all but deep well disposal yield a concentrated slurry of low level radioactive material which must be indefinitely stored...Considering the safety and reliability associated with the different ultimate disposal methods available, the preferred method of disposal is by deep well injection into saline aquifers."¹⁹ After analyzing the Applicant's compliance history and evaluating alternative methods of waste disposal, the Executive Director has preliminarily determined that the installation of the injection wells is in the public interest.

COMMENT 4: (Financial Responsibility)

Emily Rogers commented that the Duval County District and the Jim Wells County District do not believe that the Applicant has demonstrated that it is financially responsible.

RESPONSE 4:

Section 27.051 of the TWC states that the Commission may issue a UIC permit if it finds that the applicant has made a satisfactory showing of financial responsibility.²⁰ Before issuing a Class I UIC permit, Section 331.121 requires the Commission to consider whether the applicant has provided financial assurance in accordance with 30 TAC, Chapter 37 for the closure, plugging, abandonment, and, if necessary, post-closure care of the well.²¹ Additional financial assurance requirements for injection wells are found in 30 TAC, Chapter 331, Subchapter I.²² The owner or operator of the well must

¹⁷ Attachment C of the Applicant's applications for Proposed TCEQ Permit Nos. WDW418 & WDW419.

¹⁸ *Id.* at C-2 – C-3.

¹⁹ *Id.* at C-3.

²⁰ TWC § 27.051(a)(4).

²¹ 30 TAC § 331.121(a)(3).

²² 30 TAC §§ 331.142 – 331.144.

prepare a written estimate, in current dollars, of the cost of plugging the well in accordance with its plugging and abandonment plan.²³ The plugging and abandonment cost estimate must equal the cost of plugging and abandonment at the point in the facility's operating life when the extent and manner of its operation would make plugging and abandonment the most expensive, as indicated by its plugging and abandonment plan.²⁴ An owner or operator may use any of the following mechanisms to demonstrate financial assurance for plugging and abandonment: 1.) a trust fund (fully funded or pay-in trust); 2.) a surety bond guaranteeing payment; 3.) a surety bond guaranteeing performance; 4.) an irrevocable standby letter of credit; 5.) insurance; 6.) a financial test; or 7.) a corporate guarantee.²⁵ Financial assurance must be in place 60 days prior to commencement of drilling operations, and remain in place until the Executive Director provides written approval of the plugging and abandonment.²⁶ Finally, the owner or operator of the well is required to annually update the closure cost estimate to account for prevailing general economic conditions.²⁷

In its applications, the Applicant provided a well closure plan and a plugging cost estimate for the proposed wells.²⁸ The applications also state that the Applicant will submit evidence of financial assurance for the plugging and abandonment of the proposed wells at least 60 days prior to commencement of drilling operations.²⁹ Finally, the applications state that the Applicant will revise, update, and maintain its plugging and abandonment cost estimates in accordance with 30 TAC § 331.143.³⁰ Should the draft permits be issued, the Applicant would be required to secure and maintain financial assurance in the amount of \$164,900 (in 2007 dollars) for Waste Disposal Well 418 and \$167,000 (in 2007 dollars) for Waste Disposal Well 419. Based on the information provided in its applications, the Executive Director has preliminarily determined that the Applicant has made a satisfactory showing of financial responsibility.

COMMENT 5: (Operating Requirements)

Emily Rogers commented that the Duval County District and the Jim Wells County District believe that the Applicant has not provided for proper operations of the proposed injection wells.

RESPONSE 5:

The operating requirements for Class I injection wells are contained in 30 TAC § 331.63. Section 331.63 provides that, "All Class I wells shall be operated to prevent the

²³ 30 TAC § 331.143(a), Cost Estimate for Plugging and Abandonment.

²⁴ *Id.*

²⁵ 30 TAC § 37.7021(b).

²⁶ 30 TAC § 37.7021(c) and 30 TAC § 331.144.

²⁷ 30 TAC § 37.131.

²⁸ See p. VI-47 – VI-51, Section VI(E)(1) and Table VI-2 & Table VI-3 of the Applicant's applications for Proposed TCEQ Permit Nos. WDW418 & WDW419.

²⁹ See Attachment F of the Applicant's applications for Proposed TCEQ Permit Nos. WDW418 & WDW419.

³⁰ *Id.*

movement of fluids that could result in the pollution of an underground source of drinking water (USDW) and to prevent leaks from the well into unauthorized zones.³¹ Additionally, 30 TAC § 331.121 states that before issuing a Class I UIC permit, the Commission is required to consider the proposed operating data and the proposed operation and injection procedures provided in the Technical Report submitted with the applications.³²

The Applicant provided plans for the proposed injection well operations as part of its applications.³³ The plans included proposed operating data and procedures, such as maximum and average injection rates and volumes, maximum surface injection pressure, ranges of injection rate and surface injection pressure, well maintenance, mechanical integrity testing, the waste analysis plan, access to the well site, and the maintenance of operations records.³⁴ Should the draft permits be issued, the maximum injection rate for the wells shall not exceed 200 gallons per minute, and the operating surface injection pressure for the wells shall not exceed 1,350 pound-force per square inch gauge (psig).³⁵ Based on the information provided in the applications, the Executive Director has preliminarily determined that the proposed operating data and proposed operation and injection procedures meet the applicable regulatory requirements.

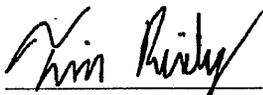
CHANGES MADE TO THE DRAFT PERMITS IN RESPONSE TO COMMENT

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

Respectfully submitted,
Texas Commission on Environmental
Quality

Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division

By 
Timothy J. Reidy, Staff Attorney
Environmental Law Division
State Bar No. 24058069
P.O. Box 13087, MC 173

³¹ 30 TAC § 331.63(b).

³² 30 TAC §§ 331.121(a)(2)(G)&(a)(2)(J).

³³ See p. VI-41 – VI-45, Section VI(C) of the Applicant's applications for TCEQ Proposed Permit Nos. WDW418& WDW419.

³⁴ *Id.*

³⁵ See p. 3 of the draft permit for WDW418, Section VII(C)&(D) and p. 3 of the draft permit for WDW419, Section VII(C)&(D); *Also see* p. VI-43, Section VI(C) of the Applicant's applications for TCEQ Proposed Permit Nos. WDW418& WDW419.

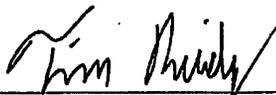
Austin, Texas 78711-3087

(512) 239-0969

REPRESENTING THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON ENVIRONMENTAL
QUALITY

CERTIFICATE OF SERVICE

I certify that on October 31, 2008 the "Executive Director's Response to Public Comment" for Permit Nos. WDW418 & WDW419 was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk.



Timothy J. Reidy, Staff Attorney
Environmental Law Division
State Bar No. 24058069

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2008 OCT 31 PM 4:02
CHIEF CLERK'S OFFICE

**Attachment C –
Compliance History**

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603194168 South Texas Mining Venture L.L.P.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN105231872 LA PALANGANA URANIUM IN-SITU RECOVERY PROJECT	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	AIR NEW SOURCE PERMITS	REGISTRATION	85564
	UNDERGROUND INJECTION CONTROL	PERMIT	UR03070
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW419
	UNDERGROUND INJECTION CONTROL	PERMIT	UR03070PAA1
	UNDERGROUND INJECTION CONTROL	PERMIT	WDW418
	URANIUM	LICENSE	R06062
Location:	5716 FM 3196, BENAVIDES, TX, 78341		
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	February 17, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 17, 2009 to September 06, 2002		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Tim Reidy	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.)
N/A
- 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 D – GIS Map

**South Texas Mining Venture, L.L.P.
 UIC Permit Nos. WDW418 & WDW419
 Map Requested by TCEQ Office of Legal Services
 for Commissioners Agenda**



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

February 17, 2009

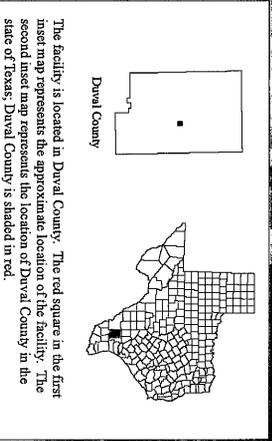
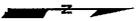


Projection: Texas Statewide Mapping System (TSMS)
 Scale: 1:235,000

- Legend**
- Public Water Supply Well
 - New Waste Disposal Well
 - ⊙ Waste Disposal Well
 - △ Property Boundary

Source: The location of the facility was provided by the TCEQ Office of Legal Services (OLS). OLS obtained the site location information and the regulator 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 8x06_1-1.

- This map depicts the following:
- (1) The approximate location of the property. This is labeled "Property Boundary".
 - (2) Circle depicting 2134' radius. This is labeled "2134' Radius".
 - (3) Public water supply wells. These are labeled with their id number.
 - (4) Waste disposal well. This is labeled with an id number.
 - (5) Proposed waste disposal wells. These are labeled with id numbers.



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

