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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 4, 2008

TO: Persons on the attached mailing list.

RE: South Texas Mining Venture, L.L.P.
Permit Nos. WDW418 & WDW419

Decision of the Executive Director.

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** Unless a timely request for contested case hearing or reconsideration is received (see below), the TCEQ executive director will act on the application and issue the permit.

Enclosed with this letter is a copy of the Executive Director's Response to Comments. A copy of the complete application, draft permit and related documents, including public comments, is available for review at the TCEQ Central office. A copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at Duval County Courthouse, 400 East Gravis, San Diego, Duval County, Texas.

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

How To Request a Contested Case Hearing.

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

The request must include the following:

(1) Your name, address, daytime telephone number, and, if possible, a fax number.

(2) If the request is made by a group or association, the request must identify:
   (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group; and
   (B) one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

(3) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.

(4) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."

Your request must demonstrate that you are an **"affected person."** An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

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

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

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

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

Deadline for Submitting Requests.

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

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

Processing of Requests.

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

How to Obtain Additional Information.

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

Sincerely,

LaDonna Castañuela
Chief Clerk

LDC/lg

Enclosures

MAILING LIST
For
South Texas Mining Venture, L.L.P.
Permit Nos. WDW418 & WDW419

FOR THE APPLICANT:

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INTERESTED PERSONS:

Melinda K. Rangel
Jim Wells County Fresh
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(Jim Wells County District)
P.O. Box 428
Ben Bolt, Texas 78342-0428

Emily W. Rogers
Duval County Conservation and
Reclamation District
(Duval County District) and
Jim Wells County District
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Austin, Texas 78701-2442

FOR THE EXECUTIVE DIRECTOR:

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FOR OFFICE OF PUBLIC ASSISTANCE:

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FOR PUBLIC INTEREST COUNSEL:

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FOR THE CHIEF CLERK:

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

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 materials[1] 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 zone[6] has sufficient permeability, porosity, thickness, and areal extent to prevent migration of fluids into USDWs or freshwater aquifers; and 2.) the confining zone[7] 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 our 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 it 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

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[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

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[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 4:03
CHIEF CLERKS OFFICE