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August 11, 2009

## BY FEDERAL EXPRESS

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ON ENVIRONMENTAL  
QUALITY  
2009 AUG 12 AM 10:04  
CHIEF CLERKS OFFICE

Re: TCEQ Docket No. 2009-0930-MIS-U  
TCEQ ID #07-11881  
Use Determination for Mont Belvieu Caverns, LLC  
Client-Matter No. 10809642

Dear Ms. Castanuela:

Enclosed are an original and eight copies of the Reply Brief of Appellant, Mont Belvieu Caverns, LLC. Please provide us a file stamped copy of the Reply Brief in the enclosed self-addressed envelope.

Thank you for your assistance in this matter.

Very truly yours,

  
Edward Kliewer III

EK/bsp  
Enclosures

cc: brief sent via U.S. Certified Mail:

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August 11, 2009  
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TCEQ Docket No. 2009-0930-MIS-U

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**In The Texas Commission on Environmental Quality**

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Appeal of the Executive Director's Negative Use Determination  
Issued to Mont Belvieu Caverns, LLC  
for the Mont Belvieu North Storage Facility  
Application No. 12969

CHIEF CLERKS OFFICE

2009 AUG 12 AM 10:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

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**REPLY BRIEF OF APPELLANT,  
MONT BELVIEU CAVERNS, LLC**

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**ORAL ARGUMENT REQUESTED**  
(30 TEX. ADMIN. CODE § 17.25(d)(1))

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## **INTRODUCTION**

Appellant, Mont Belvieu Caverns, LLC, seeks a determination that its brine pond is 100% pollution control property, as defined by the Texas Tax Code. The pond was built and operated to meet or exceed the pollution control requirements of Rules 8 and 9 of the Railroad Commission. Brine ponds provide environmental benefits by reducing the need to use fresh water to make brine and by reducing the need to inject salt water into waste wells. Consequently, the Executive Director has previously extended 100% pollution control determinations to brine ponds used by Mont Belvieu and others in the processing, transportation, and storage of liquefied petroleum gases. The Executive Director has no reasonable basis to now deny a 100% positive use determination for Mont Belvieu's identical pond.

## **ABOUT THE CITATIONS & APPENDIX**

All legal citations in this brief are Texas statutes and regulations unless otherwise stated. A separately filed appendix is cited as "App. at [page number]." Mont Belvieu does not concede that these documents, or the documents appended to the Executive Director's brief as "exhibits," are to be considered legal "evidence" because the Tax Code does not allow a contested hearing before the Commission. TAX CODE § 11.31(e).

## **FACTUAL BACKGROUND**

### **I. Description Of The Subject North Pond**

For the 2009 tax year, Mont Belvieu applied to the Executive Director for a determination that its brine pond and ancillary equipment at the Mont Belvieu North Storage Facility is 100% pollution control property. App. at 22. The brine pond was

designed and built in 2007 as part of an integrated system at the North Storage Facility to prevent land and water pollution, to decrease the use of fresh groundwater for making brine, and to decrease the quantity of brine disposed of by underground injection. App. at 5, 14. The brine pond system was permitted by the Texas Railroad Commission. App. at 14-15.

## **II. Description Of The North Storage Waste Minimization Project**

Liquefied petroleum gases are stored at the North Storage Facility in underground salt dome caverns at an adequate pressure to maintain the material in liquid form. The liquefied petroleum gases are removed from the caverns by displacement with brine. Conversely, when liquefied petroleum gases are pumped into the caverns, the brine solution is displaced from the caverns. The displaced brine must be injected into the ground through a disposal well in the absence of any brine storage ponds, which allow the brine to be reused. App. at 1 (simplified process flow diagram).

Between 1998 and 2002, Mont Belvieu disposed of several million barrels of brine per year via injection wells, and was using comparable amounts of fresh water to generate additional brine. App. at 21. To avoid this disposal and the use of precious fresh water and salt dome resources, Mont Belvieu developed a waste minimization project based on the construction of brine storage ponds, including the brine pond at issue in this appeal. App. at 2-5.

Critically, these brine storage ponds must be (and were) built in compliance with the water protection requirements of the Railroad Commission's Statewide Rule 8. 16 ADMIN. CODE § 3.8. Moreover, the ponds satisfy the Railroad Commission's

Statewide Rule 9, which governs brine injection disposal and adopts by reference the directive from the Texas Natural Resources Code to minimize oil and gas waste. *See* 16 ADMIN. CODE § 3.9; NAT. RES. CODE § 91.110.

With the approval of the Environmental Services Section of the Railroad Commission, Mont Belvieu developed a brine management system at the North Storage Facility consisting of two preexisting on-site brine ponds, the new brine pond that is the subject of this appeal, one off-site brine production well, two off-site brine disposal wells, and the associated pumps and piping to move the brine. App. at 2-3 (diagrams).

The effectiveness of the system is demonstrable. Since the brine pond that is the subject of this appeal was completed in 2007, the project has reduced disposal of brine as waste by 97%. *See* App. at 21.

## **PROCEDURAL BACKGROUND**

### **I. The Executive Director Described Other Ponds As 100% Pollution Control Property.**

The procedural history of this appeal starts years ago, when the Executive Director began granting 100% positive use determinations to waste minimization projects that reduced brine disposal at gas storage facilities through the use of brine ponds. App. at 72, 90, 93, 95. In 2007, the Executive Director gave four ponds in Mont Belvieu's overall waste minimization project a 100% positive use determination. App. at 110 (East ponds); *id.* at 118 (Hobbs ponds). These brine storage ponds are virtually identical to the North Storage pond. *See* App. at 119-36.

**II. The Executive Director Denied A 100% Use Determination For Mont Belvieu's North Pond.**

In 2008, the Executive Director completely denied a positive use determination on the second half of Mont Belvieu's project at the North Storage Facility. App. at 45. This erroneous and capricious determination was affirmed by the Commission and is now on appeal in Travis County District Court. App. at 57, 59.

In 2009, Mont Belvieu tendered a second Tier I application for the North Storage pond, again seeking a 100% use determination because the pond satisfied an item on the TCEQ's preapproved list of pollution control property, the Equipment and Categories List (ECL). Mont Belvieu specifically invoked the provision for surface impoundments and ancillary equipment (App. at 29), which provides as follows:

No.	Media	Property	Description	%
S-20	Land/Water	Surface Impoundments and Ancillary Equipment (Including Brine Disposal Ponds)	Excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, pumps, etc.	100%

Despite the explicit listing of surface impoundments on the pre-approved list or ECL, the Executive Director largely denied the use application. App. at 38. Like Mont Belvieu's East Storage pond that was approved 100%, the subject project includes the following integral parts, which the Executive Director refused to now recognize as pollution control property:

- ▶ brine vertical and transfer pumps;
- ▶ fire and safety equipment;

- ▶ brine pond piping;
- ▶ electrical substation;
- ▶ instrumentation and monitoring equipment (other than those components that are part of the leak detection and collection system);
- ▶ water supply and treating; and
- ▶ civil engineering work necessary for the construction of the pond, including earthwork and site grading, the land and pipeline right of way, permits, legal expenses, travel expenses, inspection fees, and similar items).

App. at 22-30, 103-09; *see also* App. at 111-17 (Hobbs ponds). Both East and North Storage facilities include high density polyethylene (HDPE) double liners, leak detection and collection systems, and concrete containment sump, which the Executive Director has acknowledged in 2009 is pollution control property. App. at 38.

Mont Belvieu timely appealed the Executive Director's decision to this Commission. App. at 39. The Executive Director and Office of Public Interest Counsel filed briefs in response to this appeal (cited as ED's Brief or OPIC's Brief). Significantly, the Chief Appraiser for the Chambers County Appraisal District did not respond.

### **ARGUMENT**

Typically, a reply brief such as this one would address the arguments of the Executive Director and Office of Public Interest Counsel in the order in which the Appellees presented their arguments. But Appellees' arguments put the cart before the horse. For example, the Executive Director initially defends his actions by arguing that Mont Belvieu's storage pond is not on the ECL. *See* ED's Brief at 3. A proper analysis, however, starts with the enabling legislation found in the Tax Code.

**I. The Tax Code Charges The Executive Director With Determining Whether Property Is Built To Meet Or Exceed Environmental Regulations.**

The Texas Constitution creates an ad valorem property tax exemption for pollution control property. TEX. CONST. art. VIII, § 1-1. This tax exemption is implemented by the Tax Code, which provides that a “person is entitled to an exemption from taxation of all or part of real and personal property that the person owns and that is used wholly or partly as a *facility, device or method for the control of air, water, or land pollution.*”

TAX CODE § 11.31(a) (emphasis added); *see also* 30 ADMIN. CODE § 17.4(a).

The highlighted phrase is more particularly defined as:

any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. ...

TAX CODE § 11.31(b); *see also* GOV'T CODE § 311.026 (specific provision controls).

Thus, to be considered pollution control property for purposes of the Tax Code the property must meet the following basic criteria:

1. be used, constructed, or installed to
2. wholly or partly meet or exceed rules or regulations of an environmental agency
3. for the prevention, monitoring, control, or reduction of air, water, or land pollution.

*Id.* Nothing further is required.

The property tax exemption for pollution control property is administered by the local appraisal districts, but the Executive Director determines whether property is “pollution control property” as defined by the Tax Code. TAX CODE § 11.31(i), (d). To simplify this process, the Executive Director is authorized to create and update a list of facilities, devices, or methods that pre-qualify as pollution control property. *Id.* § 11.31(k); *see also* 30 ADMIN. CODE § 17.14(a) (providing current list or ECL).

In this case, the Executive Director denied substantial portions of Mont Belvieu’s application, concluding (erroneously) that the brine pond was not pollution control property on grounds that it was production equipment. App. at 38; *see also* ED’s Brief at 3-6. The Executive Director does not contend that any statutory exceptions to the tax exemption apply here. TAX CODE § 11.31(a), (j) (not extending tax exemption to residential property, motor vehicles, etc.). Thus, if Mont Belvieu’s pond or pit can be characterized as pollution control property, then it should be given a 100% positive use determination.

**II. The Brine Pond Is Pollution Control Property Because It Meets Or Exceeds Environmental Regulations.**

**A. The Executive Director concedes the Railroad Commission is an environmental agency that regulates oil and gas pollution.**

The Executive Director concedes that Mont Belvieu’s project is regulated by the Railroad Commission under Rule 8, which ensures water protection. *See* ED’s Brief at 6 (citing 16 ADMIN. CODE § 3.8, entitled “Water Protection”). There can be no doubt that the Railroad Commission is an environmental agency for purposes of the Tax Code and its tax exemption for pollution control property.

The Texas legislature has charged the Railroad Commission with the sole responsibility to conserve oil and gas resources while preventing pollution, particularly the state's surface and subsurface water. NAT. RES. CODE § 82.501 (general charge); *id.* § 91.101(a) (water charge for all aspects of oil and gas exploration, development, production, and storage); WATER CODE § 26.131(a) (same). This responsibility is consistent with state policy encouraging water conservation and voluntary land stewardship. WATER CODE §§ 1.003-1.004. This responsibility has also been formally recognized by TCEQ in a "Memorandum of Agreement" recognizing the Railroad Commission's jurisdiction over environmental aspects of the exploration, development, and production of oil and gas resources. 16 ADMIN. CODE § 3.30; *see also id.* § 3.8(i).

The legislature has also required the Railroad Commission to adopt rules and implement programs that encourage operators to *minimize* and reduce oil and gas waste. NAT. RES. CODE § 91.110 (broad charge); *see also id.* § 91.455 (specifically saltwater). Accordingly, the legislature has authorized the Railroad Commission to adopt and enforce rules (and to issue permits) relating to the discharge, handling, transportation, reclamation, *storage, or disposal* of oil and gas waste. *Id.* §§ 85.201-85.202; *id.* § 91.101. Oil and gas waste includes, among other things, salt water or brine used in conjunction with underground storage facilities. *Id.* § 91.1011(b). Brine is in fact regulated by the Railroad Commission through Rules 8 and 9. *See, e.g.,* NAT. RES. CODE § 91.455(b)(1); 16 ADMIN. CODE § 3.8(d); *id.* § 3.9.

By statutory scheme — a scheme recognized by both TCEQ and the Executive Director — the Railroad Commission is an "environmental protection agency" for

purposes of Section 11.31 of the Tax Code, and the Railroad Commission's rules and regulations are a legitimate basis for the tax exemption provided by Section 11.31. If property is used "wholly or partly" to meet or exceed the Railroad Commission's rules, then the Executive Director must find that the property is pollution control property.

**B. The Executive Director concedes Mont Belvieu's brine pond satisfies Railroad Commission Rule 8.**

The Executive Director concedes that Mont Belvieu's brine pond was constructed to meet the requirements of Railroad Commission Statewide Rule 8. *See* ED's Brief (citing 16 ADMIN. CODE § 3.8). As required by the Tax Code, Rule 8 is an environmental agency's regulation for the prevention and control of pollution. Yet the Executive Director inexplicably denies a 100% positive use determination.

Rule 8 states "no person conducting activities subject to regulation by the commission may cause or allow pollution of surface or subsurface waters in the state." 16 ADMIN. CODE § 3.8(b). More specifically, Rule 8 requires permitting of any pond used to *dispose* of oil and gas wastes. *Id.* § 3.8(d)(1). Rule 8 likewise requires permitting of any pond used for *storage* of oil field fluids or wastes. *Id.* § 3.8(d)(2). The Railroad Commission regulates and permits these ponds and pits because they "*might* result in pollution." 9 Tex. Reg. 1550 (1984).

Mont Belvieu requested a permit for its North Storage pond, and the permit for that brine pond illustrates the environmental nature of the Railroad Commission's regulatory scheme and its mandate to reduce oil and gas waste. For example, the permit was approved by a manager in the environmental section. *See* App. at 15. During the

permit review process, the Railroad Commission inquired about water wells located near the subject pit, potential runoff, and fresh water. *See* App. at 10. By permitting Mont Belvieu's pond, the Railroad Commission realized its statutory mandate to protect fresh water resources and to control and reduce the threat of pollution from oil field brines. *See* App. at 5 (permit application indicating need to reduce deep well disposal); App. at 14 ("Authority is granted to maintain and use the pit in accordance with Statewide Rule 8 and subject to the following conditions."<sup>1</sup>).

Mont Belvieu's brine project fully satisfies Rule 8. Accordingly, the Executive Director had no discretion but to issue a 100% positive use determination.

**C. Mont Belvieu's brine pond also satisfies Railroad Commission Rule 9.**

To help fulfill its legislative mandate to conserve natural resources, reduce waste, and prevent pollution, the Railroad Commission requires permits for well disposal of saltwater or other oil and gas waste. 16 ADMIN. CODE § 3.9. Mont Belvieu has applied for and received permits to dispose of oil and gas waste, including brine, via underground injection. App. at 17-20.

In fact, Mont Belvieu has used its waste disposal wells in the past to dispose of large quantities of brine. App. at 21. Without the capacity offered by the brine pond to store brine produced from the salt caverns, Mont Belvieu had to immediately dispose of

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<sup>1</sup> Condition No. 5, for example, requires the pond's HDPE liner. App. at 14. Similarly, Condition No. 7 requires installation of a leak detection and collection system. *See* App. at 15. As the Railroad Commission noted, the pond's action leak rate is well within the maximum allowable leakage rate recommended by the U.S. Environmental Protection Agency and thus once again meets or exceeds regulations of an environmental agency. *See* App. at 7 (citing EPA 530-R-92-004 Publication PB92-128214).

brine generated from the salt caverns into its brine injection wells. *Id.* But, with the installation of the brine pond, Mont Belvieu has been able to dispose of substantially less brine as waste. *Id.*

Mont Belvieu's permits for its injection disposal wells, like all such permits from the Railroad Commission, identify a maximum disposal volumetric rate that Mont Belvieu is not allowed to exceed. For example, the wells at the North Storage Facility each have a permitted maximum injection rate of 50,000 barrels per day. App. at 17, 19. Whenever Mont Belvieu avoids injecting brine through the use of its new brine storage pond, it meets or exceeds the requirements of Rule 9 and the limitations in the permit granted to Mont Belvieu under that authority. Mont Belvieu thereby reduces pollution to both water and land, thereby qualifying the brine pond for a 100% positive use determination.

### **III. By Focusing On Waste Disposal And Production, The Executive Director Improperly Engrafts New Requirements On The Tax Code.**

The Executive Director argues that Mont Belvieu's brine pit is not pollution control property because it merely stores brine, rather than disposes of it. ED's Brief at 6. Under this theory, if brine is being stored, it must be production property and not pollution control property. Conversely, under the Executive Director's theory, stored brine has nothing to do with pollution control, but brine that is disposed has everything to do with pollution control. Such a theory turns the Railroad Commission's mandate on its head.

**A. Storage and disposal are synonymous under Rule 8.**

The Executive Director's argument starts with a myopic focus on a single definition contained in Rule 8. ED's Brief at 6. Rule 8 defines "brine pit" as a "pit used for the *storage* of brine which is used to displace hydrocarbons." ED's Brief at 6 (citing 16 ADMIN. CODE § 3.8(a)(2) (emphasis added)). There is nothing magical or controlling about the definition's choice of the word "storage" versus the Executive Director's preference for the word "disposal."<sup>2</sup>

Indeed, while the Executive Director tries to create a distinction between the two terms, they are used interchangeably in the industry when referring to pits or ponds. For example, Chapter 91 of the Texas Natural Resources Code, which is the basis of Rule 8,<sup>3</sup> defines "saltwater *disposal* pit" as "a collecting pit on the surface of the ground used to *store* or evaporate oil field brines, geothermal resource water, or other mineralized waters." NAT. RES. CODE § 91.451 (emphasis added). By definition, saltwater disposal pits (which store or dispose of brine) include brine pits (which dispose of brine). Brine pit is therefore synonymous with brine disposal pit or brine storage pit.

**B. Rule 8 applies to both storage and disposal.**

Regardless, Rule 8's various definitions cannot form the basis of any distinction between "production property" and "pollution control property," even assuming the

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<sup>2</sup> Rule 8 defines the term "to dispose" as follows: "To engage in any act of disposal subject to regulation by the commission including, but not limited to, conducting, draining, discharging, emitting, throwing, releasing, depositing, burying, landfarming, or allowing to seep, or to cause or allow any such act of disposal." 16 ADMIN. CODE § 3.8(a)(24).

<sup>3</sup> See, e.g., 25 Tex. Reg. 6487 (2000).

Executive Director's distinction between "storage" and "disposal" is viable under Rule 8. For purposes of satisfying the Tax Code's pollution control requirement, the operative language is not Rule 8's *definition* of any single term, but its *regulatory requirement* that certain saltwater and brine pits are prohibited unless permitted, regardless of whether the pits stores or disposes. 16 ADMIN. CODE § 3.8(d)(1-2).

Rule 8 could not be more clear: "[N]o person may maintain or use *any* pit for *storage* of oil field fluids, or for *storage or disposal* of oil and gas wastes, without obtaining a permit to maintain or use the pit." *Id.* § 3.8(d)(2) (emphasis added). This mandate is necessary to implement the Railroad Commission's duty to prevent and reduce pollution. *Id.* § 3.8(d)(6)(A). The Railroad Commission will only issue a permit if the pits will not result in waste of oil and gas resources "or the pollution of surface or subsurface waters." 16 ADMIN. CODE § 3.8(b). Likewise, the Railroad Commission may permit any project that qualifies as a waste "minimization" program. NAT. RES. CODE § 91.110. That is exactly what happened here. The Tax Code is fully satisfied.

**C. Production and pollution control are not mutually exclusive.**

The Executive Director attempts to bypass Rule 8's permit requirement by arguing that the subject pond's "sole function" is to store brine. ED's Brief at 7. This argument has *no* basis in fact; the pond is part of a waste minimization project the permit application itself recognizes. App. at 5, 14.

Moreover, the argument is legally flawed because it assumes that the owner of "production property" "does not control air, water, or land pollution." ED's Brief at 7. The Executive does not and cannot define "production property." The Tax Code does not

define this term or contain this limitation. Instead, it extends a tax exemption to any facility, device, or method built to meet or exceed rules or regulations of environmental agencies that prevent or control pollution — meaning Mont Belvieu’s property in this case. TAX CODE § 11.31(b).

**IV. By Requiring On Site Environmental Benefits, The Executive Director Again Improperly Engrafts A New Requirement On The Tax Code.**

The Executive Director maintains that Mont Belvieu’s brine pond provides no environmental benefit “at the site,” presumably the actual place where the pond is located. ED’s Brief at 5-6; *see also* OPIC’s Brief at 3. As authority for this narrow view of environmental benefit, the Executive Director cites his own regulations and its “decision tree” or flow chart asking whether “there is an environmental benefit at the site.” *Id.* (citing 30 ADMIN. CODE § 17.15(a)). The Tax Code, however, more broadly extends to any “facility, device or method for the control of air, water, or land pollution.” TAX CODE § 11.31(a). There is no immediate on site requirement, although Mont Belvieu’s pond certainly does protect and preserve the site on which it stands.

As Rules 8 and 9 recognize, pollution can be prevented or controlled by storing brine under the proper conditions and reusing it, rather than injecting it back into the environment, which the oil and gas industry has done in the past and certainly could do again. Mont Belvieu has the choice to build a brine storage pond or dispose of brine through its disposal wells, either of which is regulated by the Railroad Commission as part of its mandate to prevent pollution and conserve natural resources. The subject pond

in this case has reduced the need to dispose of brine as waste by 97%, while conserving comparable quantities of fresh water, as well as salt resources.

The brine storage prevents and minimizes pollution and represents a huge benefit to the site and to the State of Texas. On the other hand, the Executive Director's erroneous interpretation of the statutory scheme describes brine *disposal* as 100% pollution control property even when the disposal is *waste*, that is, pollution. The result is absurd.

Mont Belvieu's waste minimization system, of which the subject pond is a part, was designed for the "prevention, monitoring, control, or reduction of air, water, or land pollution" and meets or exceeds the requirements of Rules 8 and 9. TAX CODE § 11.31(b); *see also* 30 ADMIN. CODE 17.4(a). This is exactly what the Tax Code requires, and the Executive Director erred by denying any part of Mont Belvieu's use determination.

**V. The Brine Pond Is Pollution Control Property Because It Is Listed On The ECL.**

The Executive Director faults Mont Belvieu for filing a Tier I application based on his list of properties predetermined to qualify, either wholly or partly, as pollution control property. ED's Brief at 5; *see also* OPIC's Brief at 3. But Mont Belvieu's pond fits an item on the list.

The ECL recognizes item #S-20 as preventing or controlling land and water pollution. ADMIN. CODE § 17.14(a). Item #S-20 is "*Surface Impoundments and Ancillary Equipment (Including Brine Disposal Ponds)*." (Emphasis added). Item #S-20

describes “[e]xcavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, pumps, *etc.*” (Emphasis added).

The Executive Director focuses on the February 2008 change from the former Preapproved Equipment List, where Item #S-20 applied to “Surface Impoundments and Ancillary Equipment (Including Brine *Storage* Ponds).” (Emphasis added). The ECL Item #S-20 applies to surface impoundments “(Including Brine *Disposal* Ponds.” Because disposal and storage are functionally equivalent under Rule 8, the difference in language between the two lists is not dispositive, and the Executive Director can offer no reasonable and non-arbitrary rationale for the change in terminology. *See* TAX CODE § 11.31(D).<sup>4</sup>

Regardless, the use of the word “including” in either definition makes the preapproved list for surface impoundments *nonexclusive*. The word “including” is a term of enlargement and not of limitation or exclusive enumeration. GOV’T CODE § 311.005(13). Thus, brine disposal ponds under the current list and brine storage ponds under the prior list are both “surface impoundments” entitled to a positive use determination. Given the ECL contents, the Executive Director should have given a 100% positive use determination to Mont Belvieu’s North pond, just as he did for the East pond.

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<sup>4</sup> The Executive Director’s discussion about his advisory committee and commentary in the Texas Register is disingenuous. ED’s Brief at 4. These sources offer no explanation for the change in language between the PEL and ECL. *See* GOV’T CODE § 2002.002 (requiring adequate and proper public notice of rule changes).

## VI. The Executive Director's Use Determination Is Inconsistent With Prior Determinations.

In a final effort to justify his arbitrary decision in this case, the Executive Director argues that a negative determination is consistent with the Commission's decision on Mont Belvieu's 2008 appeal regarding the same pond at its North Storage Facility. ED's Brief at 7; *see also* OPIC's Brief at 3. The Executive Director, however, makes no effort to distinguish his prior decisions granting 100% positive use determinations to *other* brine pits, *including Mont Belvieu's virtually identical East Storage pond*. *See* App. at 53 (2008 brief from Executive Director admitting existence of such determinations).

At least four 100% positive use determinations were granted by the Executive Director for brine pits in Chambers County alone, where the subject property is located. These projects include the following, many of which involve storage of liquefied petroleum gases:

- ▶ **#97-2896**: "This project included the addition of a new brine *storage* pond as well as the upgrading of an old brine *storage* pond." App. at 71-72 (emphasis added).
- ▶ **#94-653**: "Construction of the brine pond system will accomplish two significant purposes, waste minimization and prevention of salt water intrusion into inland waters. Through *reuse* of brine, rather than fresh water which would become brine through salt dissolution, in daily operation of the cavern system, the total quality [sic] of waste generated will be significantly reduced." App. at 90 (emphasis added).
- ▶ **#94-90**: "Construction of a 2,150,000 barrel brine pond will enable produced brine to be *recycled*, and the addition of brine injection pumps will provide surplus brine disposal in an off-dome well." App. at 93 (emphasis added).

- ▶ **#06-10400**: Construction of two HDPE double-lined brine ponds to be used for “*recycling* brine, rather than using fresh water.” App. at 104-05, 110 (emphasis added).

Additionally, in Brazoria County, the Executive Director granted a 100% positive use determination for a brine pond used for *storage* in salt dome operations. App. at 95 (#03-7101). Likewise, in Gaines County, Executive Director granted a 100% positive use determination for construction of two brine ponds to be used for “*recycling* brine, rather than using fresh water.” App. at 112-13, 118 (#06-10402) (emphasis added). In sharp contrast, the Executive Director has issued a negative use application for commercial brine ponds that sell brine, unlike the subject property. *Id.* at 90-91 (#98-4093).<sup>5</sup>

The Executive Director has repeatedly acknowledged that brine ponds and their component parts are legitimate pollution control equipment when used for the storage of liquefied petroleum gases according to state regulation. There is no reasoned basis to distinguish Mont Belvieu’s pond. It is identical to prior projects that received 100% use determinations and should therefore receive a 100% use determination in this case.

### CONCLUSION

The Chief Appraiser for the Chambers County Appraisal District has not opposed Mont Belvieu’s use application, an application that fully satisfies the statutory and regulatory scheme. In denying a 100% positive use determination, the Executive Director has ignored virtually identical projects that he previously approved 100%, as well as the factual and legal basis of the subject project. For the foregoing reasons and pursuant to

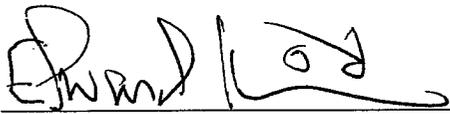
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<sup>5</sup> The applicant in that case is the largest independent brine producer in the United States. *See* <http://www.texasbrine.com/company.html> (last visited August 6, 2009).

30 ADMIN. CODE § 17.25(d)(2), Mont Belvieu respectfully requests that the Commissioners remand this matter to the Executive Director for a 100% positive use determination.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By: \_\_\_\_\_

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State Bar No. 11570500

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*Counsel for Appellant,  
Mont Belvieu Caverns, LLC*

## CERTIFICATE OF SERVICE

I certify that on August 11, 2009, a copy of the above brief was delivered by certified mail, return receipt requested, to the following:

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Austin, Texas 7811-3087

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Director, Environmental Law Division MC 173  
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Assistant Public Interest Counsel MC 103  
P.O. Box 13087  
Austin, Texas 78711-3087



Edward Kliever III

TCEQ Docket No. 2009-0930-MIS-U

---

**In The Texas Commission on Environmental Quality**

---

Appeal of the Executive Director's Negative Use Determination  
Issued to Mont Belvieu Caverns, LLC  
for the Mont Belvieu North Storage Facility  
Application No. 12969

CHIEF CLERKS OFFICE

2009 AUG 12 AM 10:05

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

---

**APPENDIX TO THE  
REPLY BRIEF OF APPELLANT,  
MONT BELVIEU CAVERNS, LLC**

---

**FULBRIGHT & JAWORSKI L.L.P.**

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*Counsel for Appellant, Mont Belvieu Caverns, LLC*

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<sup>1</sup> All TCEQ publications were taken from the TCEQ website.

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## CERTIFICATE OF SERVICE

I certify that on August 11, 2009, a copy of the above appendix was delivered by certified mail, return receipt requested, to the following:

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Edward Kliewer III

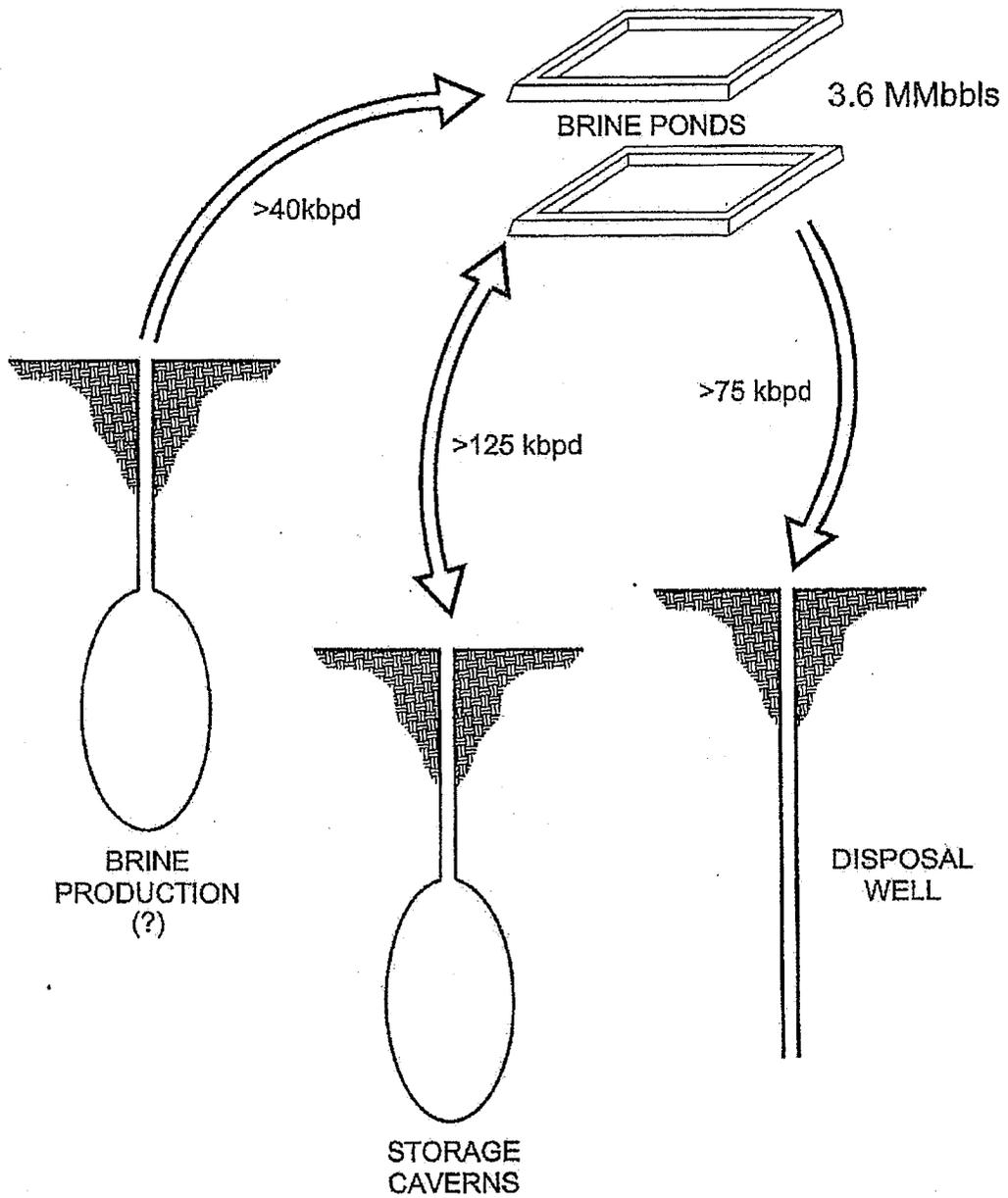
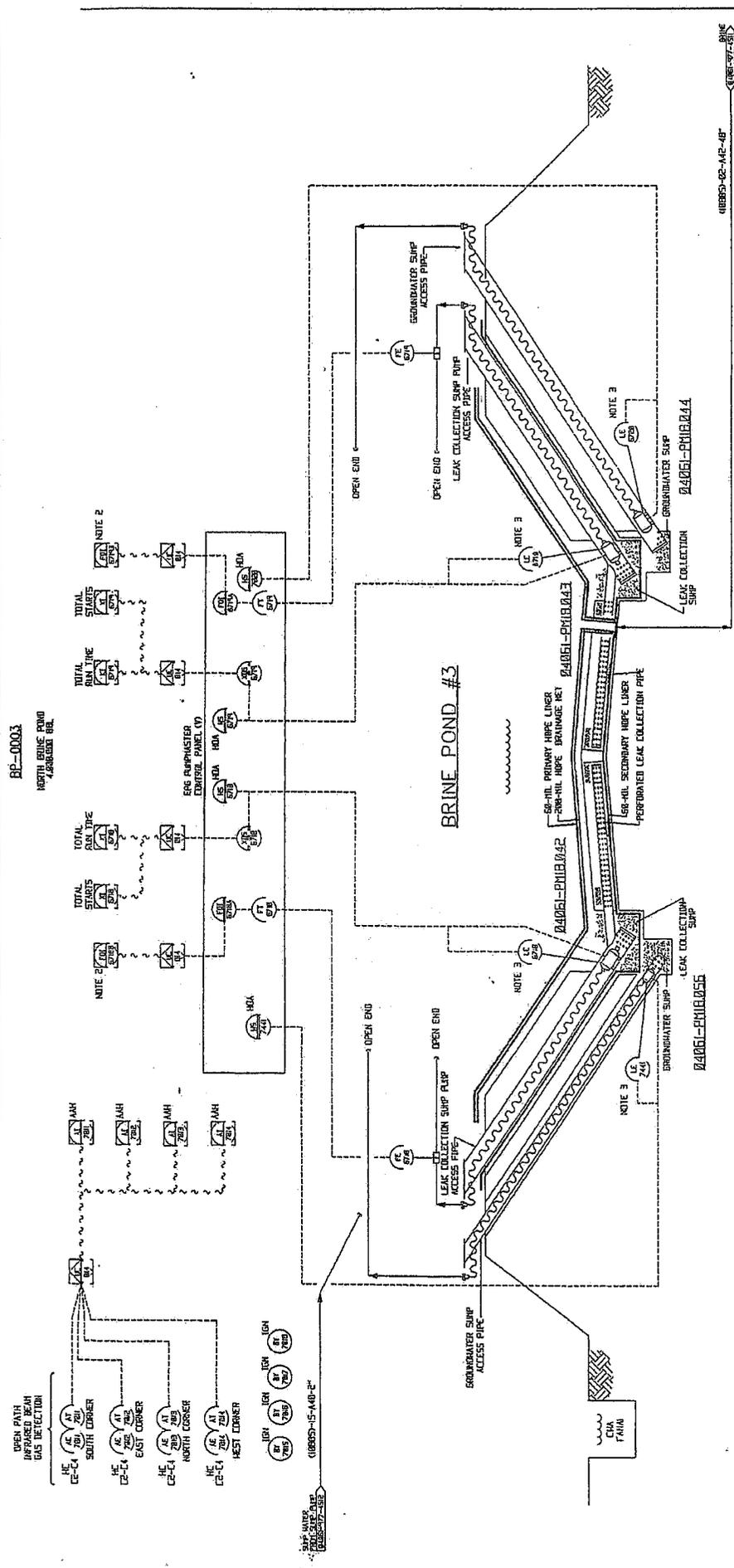


Figure 1-1. Brine System for Enterprise North Terminal.



**NOTES**

- 1) ALL INSTRUMENT TAG NUMBERS ARE PRECEDED BY THE NUMBER BASE UNLESS OTHERWISE NOTED AND CONSIST OF ALPHA & 4 NUMERICAL CHARACTERS.
- 2) FLOW TOTALIZER SHOWING RUNNING TOTAL OF GALLONS PUMPED.
- 3) LEVEL DEVICE TURNS PUMP ON/OFF.
- 4) UNLESS NOTED OTHERWISE, ALL ITEMS THIS DRAWING ARE BY CFA. INSTRUMENTATION AND ELECTRICAL ITEMS ARE TO BE TERMINATED AT A CONDUIT POINT BY CFA. S&B TO PROVIDE CONNECTION FROM LOCAL TERMINATION POINT TO FINAL DESTINATION.
- 5) SUCTION LINE TO BE INSTALLED UNDER CFA CHALK AND A BLINDED CONNECTION PROVIDED FOR FUTURE INSTALLATION OF BRINE POND 4.

REV	BY	CHK	DATE	DESCRIPTION
1	MS	MS	12-19-06	ISSUED FOR CONSTRUCTION
0	MS	MS	05-24-06	ISSUED FOR CONSTRUCTION

NO.	REV.	DATE	DESCRIPTION
1	1	12/19/06	ISSUED FOR CONSTRUCTION
0	0	05/24/06	ISSUED FOR CONSTRUCTION

APP.	SCALE	DATE	LOCATION
MS	AS SHOWN	12-19-06	NORTH STORAGE FACILITY
MS	AS SHOWN	05-24-06	MONT BELMUEU, TEXAS

TITLE	PROJECT NO.	DATE
MECHANICAL FLOW DIAGRAM	04061-977-4510	12/19/06
BRINE SYSTEM		
BRINE POND #3		

BRINEWATER SUMP	04061-PH1B042	LEAK DETECTOR PUMP	04061-PH1B042
LEAK COLLECTION SUMP	04061-PH1B042	LEAK DETECTOR PUMP	04061-PH1B042
BRINEWATER SUMP	04061-PH1B043	LEAK DETECTOR PUMP	04061-PH1B043
LEAK COLLECTION SUMP	04061-PH1B043	LEAK DETECTOR PUMP	04061-PH1B043
BRINEWATER SUMP	04061-PH1B044	LEAK DETECTOR PUMP	04061-PH1B044
LEAK COLLECTION SUMP	04061-PH1B044	LEAK DETECTOR PUMP	04061-PH1B044

North

(Future Pit 4)

48" Suction line

48" Suction line

Brine Pit 3

30" HDPE to North Storage

- 061PM18046 Sump Pump back to Pit # 3
- 061PM18040 Brine Transfer Pump 7000 GPM 600 HP
- 061PM18041 Brine Transfer Pump 7000 GPM 600 HP
- 061PM18047 Utility Water Booster Pump
- 061PM18048 Utility Water Booster Pump

Utility Water Supply  
Mov. P.V. 6838  
6837  
5" Xcv 6802  
Future to from EPC West

West PM18.039

East PM18.038

SDV-1449

PV-1447

FV-6370

FV-6373

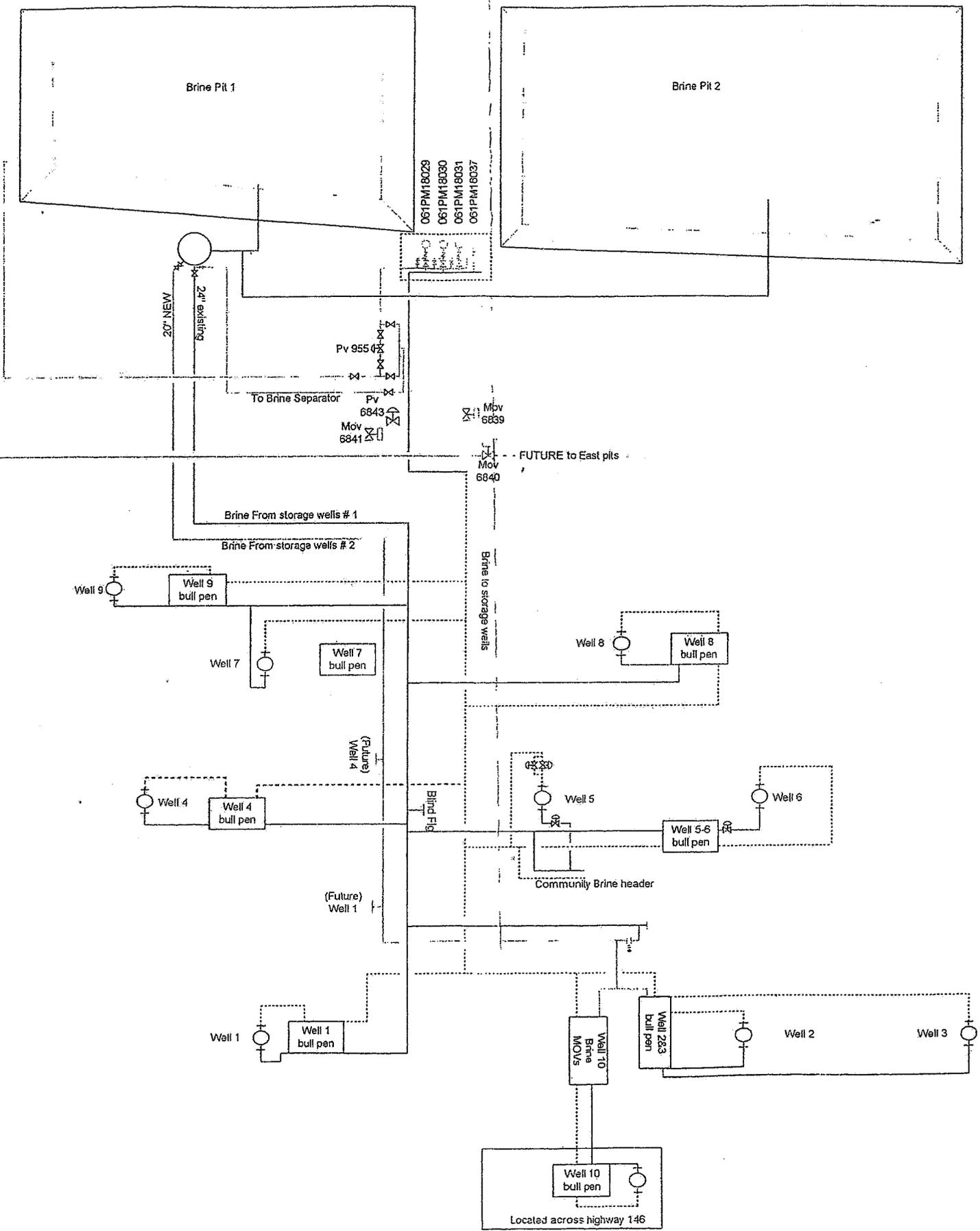
8" To/From Storage North

To/From Storage North

Disposal Well #4

Disposal Well #3

To/From EPC West



For information only  
02/21/2007

POND 3

RAILROAD COMMISSION OF TEXAS  
Oil and Gas Division

CAI-011287

Form H-11  
May 1984

- New Application
- Application for Renewal

Application for Permit to Maintain and Use a Pit

Comply with Instructions on Reverse Side

P5  
Active  
OK  
TAX  
"NA"  
OK  
SB639  
OK  
2/23/05  
CJM

Brine  
(02)  
(Lined)

rwb  
see  
2/3/04  
letter

1. Operator's Name (As shown on Form P-5, Organization Report) Enterprise Products Operating L.P.		2. RRC Operator No. 253161	3. RRC Dist. No. 03	4. County of pit site Chambers
5. Operator's Address (Street, City, State and Zip Code) P.O. Box 4324 10207 FM 1942 Mont Belvieu, TX 77580 Houston TX 77210-4324				
6. Name of Lease, Project or Facility of Pit Location Enterprise Products Operating, LP North Storage			7. RRC Oil Lease No. or 8. RRC Gas ID No. 11102 NA	
9. Pit Location Section <u>NA</u> Block <u>NA</u> Survey <u>Hannah Nash &amp; Dan Jergins Survey</u> Abstract No. <u>A-208-A 599</u> Location is <u>Hatcherville Rd</u> (direction) from <u>in Mont Belvieu, TX</u> (nearest town)				
10. a. Is pit bottom below ground level? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No b. Artificial liner? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No c. If lined, equipped with a leak detection system? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		11. Name and Address of Surface Owner Enterprise Products Operating L.P. 2727 North Loop West Houston, TX 77008		
12. Are wastes or fluids from operations other than your own? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		13. Type of pit (refer to Item F of instructions) Brine Pit		
14. a. Describe land use surrounding pit location: Underground NGL storage & pipeline easements b. Is land surrounding pit location productive agricultural land? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		15. a. Briefly explain the need for this pit: Increased production and storage of NGL's has established the need for more brine storage to facilitate NGL movements in and out of storage caverns. This increased brine storage will also have the benefit of reducing brine deep well disposal during periods of high volume NGL movements out of the storage caverns.		
16. Pit is <input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Existing If existing, date constructed _____		15. b. Type of waste or fluid: Brine		
18. Pit capacity (barrels) 3,911,600 bbls		15. c. Chloride concentration: Saturated mg/l		
19. Inside pit dimensions two feet below top of dike Length 1011 Max. feet Width 681 MAX feet Depth: from ground level in deepest point 15.5 feet		17. Dikes a. Height above ground level 18 feet Width at base 126 feet b. Are dikes designed to keep wastes or fluids in the pit? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No c. Are dikes designed to keep stormwater runoff out of the pit? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No d. Source of Dike Material: <input checked="" type="checkbox"/> Excavated from pit <input type="checkbox"/> Adjacent borrow pit <input type="checkbox"/> Off-site excavation (describe material):		
20. Wastes or fluids are transported to pit by (check all that apply) <input type="checkbox"/> Contract Hauler <input type="checkbox"/> Applicant's truck <input checked="" type="checkbox"/> Pipe <input type="checkbox"/> Other _____				
21. a. Distance to nearest water well within one-mile of pit NA feet		21. b. Depth of this water well NA feet		22. Depth to shallowest fresh water 25 feet Source of information: <input checked="" type="checkbox"/> measured/observed <input type="checkbox"/> well owner <input type="checkbox"/> electric log <input type="checkbox"/> TDWR
23. Have you included all attachments required by the instructions on the reverse side of this form? Yes				
<p>CERTIFICATE</p> <p>I declare under penalties prescribed in Sec. 91.143, Texas Natural Resources Code, that I am authorized to make this report, that this report was prepared by me or under my supervision and direction, and that data and facts stated therein are true, correct, and complete, to the best of my knowledge.</p>				
<p>Signature: <u>Kyle L. Webster</u>        Name of Person (type or print): <u>Kyle L. Webster, Agent &amp; Attorney-in-Fact</u>        Title: _____        Telephone: <u>713-803-8206</u> Date: <u>12-19-05</u>        Area Code: _____ Number: _____</p>				
<p>* RRC DISTRICT USE ONLY *</p> <p>Application Information Review</p> <p>Date received _____        Date inspected _____        Inspector _____        Comments: _____</p> <p><input type="checkbox"/> Location <input type="checkbox"/> Liner <input type="checkbox"/> Agricultural Land <input type="checkbox"/> Dimensions  <input type="checkbox"/> Grade Construction <input type="checkbox"/> Type Pit <input type="checkbox"/> Capacity <input type="checkbox"/> Dikes <input type="checkbox"/> Waste Transport</p>				
<p>* RRC AUSTIN USE ONLY *</p> <p>Date received _____ Pit code _____ Pit type _____ Permit no _____ Permit date _____</p>				

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RRC OF TEXAS  
DEC 20 2007  
O&G - ENV & AUSTIN

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MICHAEL L. WILLIAMS, COMMISSIONER  
VICTOR G. CARRILLO, COMMISSIONER



RICHARD A. VARELA  
DIRECTOR, OIL AND GAS DIVISION  
STEVEN J. SENI  
ASSISTANT DIRECTOR FOR ENVIRONMENTAL SERVICES

# RAILROAD COMMISSION OF TEXAS

## OIL AND GAS DIVISION

March 8, 2005

ENTERPRISE PRODUCTS OPERATING LP  
ATTN LEGAL DEPT - KYLE L WEBSTER  
P O BOX 4324  
HOUSTON TX 77210 4324

Re: Application for a Permit to Maintain and Use a Pit  
(Forms H-11)  
LP North Storage Ponds Nos. 3 & 4  
Enterprise East (11102) Lease  
Chambers County, Texas  
Application Control Nos. 011287 & 011288

Your applications (Forms H-11) dated December 19, 2005, and additional information received on February 6, 2006, has been reviewed. This letter is to advise you that the applications are complete. The applications contain information addressing each permit requirement and all information necessary to initiate the final review.

Commission staff will perform the final review and advise you whether the permit applications are administratively granted or denied.

You may contact me at (512) 463-6799, should you have any questions.

Sincerely yours,

A handwritten signature in cursive script that reads "Richard Behal".

Richard Behal  
Environmental Services

RWB

cc: RRC - Houston / 03

CN011287

Enterprise Products Operating L.P.  
Mont Belview North Storage Facility  
Enterprise East (11102) Lease, Pond 3  
Chambers County

1. Pit capacity: 3,911,600 bbls;
2. Pit area: 23 acres;
3. Leak collection and return system capacity (LCRS): drainage net capacity - 166,997 gpd; collection pipe capacity - 407,763 gpd; pump and return capacity - 204,480 gpd;
4. Leak Rate: 23,000 gallons per day (= 1,000 gallon per acre per day (gpac) and is 13% of LCRS capacity of 166,997 gpd); and,
5. Liners/drainage material: 60-mil HDPE primary liner, 40-mil HDPE secondary liner, and 200-mil HDPE drainage net.

Proposed Leakage Rate:

Action leakage rate is defined as the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom (secondary) liner exceeding 1 foot. The maximum allowable leak rate recommended by the EPA is 1,000 gallon per acre per day. Therefore, based on the capacity of the LCRS and the size (acres) of the pit, the proposed action leakage rate of 23,000 gpac for 011287 is within the maximum allowable leakage rate recommended by the EPA.

Source: Action Leakage Rates For Leak Detection Systems.  
EPA 530-R-92-004 Publication PB92-128214

RWB  
3/7/06



# Enterprise Products

P.O. Box 4324 Houston, Texas 77210-4324 713.880.6500  
2727 North Loop West Houston, Texas 77008-1044 www.epplp.com

December 19, 2005

Ms. Jill Hybner  
Program Manager, Surface Waste Management  
Oil and Gas Division  
Railroad Commission of Texas  
P.O. Box 12967  
Austin, Texas 78711-2957

RECEIVED  
RRC OF TEXAS  
DEC 20 2005  
O&G - ENV SVCS  
AUSTIN TX

Re: Enterprise Products Operating, L.P.  
Mont Belvieu storage Facility, North Field, Chambers County  
Proposed Brine Storage Pits No. 3 and No. 4 North  
TRRC Pit Permit Nos. (Pending) North

Dear Ms. Hybner:

Enterprise Products Operation L.P. (EPOLP) proposes to construct two (2) new brine storage pits at its North Storage Facility in Mont Belvieu Texas, Chambers County.

EPOLP hereby request that permits be granted to construct and operate these two proposed pits. In support of this request, please find enclosed a form H-11 for each proposed pit with geotechnical information and detailed site and construction plans attached.

Please note that each pit is designed as a double-lined pit including a 60-mil HDPE primary liner, a 40-mil HDPE secondary liner and a 200-mil HDPE drainage net between the liners. Each pit is also designed with an inter-liner leak collection system to automatically collect and return to the respective pit any leakage from the primary liner.

The leak collection and return system for each pit has a capacity of 102,200 gallons per day, as limited by the sump pump capacity. The pit plan areas are 23 acres for proposed Pit No. 3 North and 12.5 acres for proposed Pit No. 4 North. EPOLP additionally requests that the permit issued for each pit include a maximum allowable leak rate to the secondary liner of 23,000 gallons per day for Pit No. 3 North and 12,500 gallons per day for Pit No. 4 North.

We appreciate your attention to this matter. If you have any question or need additional information, please contact Kyle Webster at (713) 803-8206.

Sincerely,

Enterprise Products Operating L.P.

Kyle Webster

Enclosures

cc: Mr. Guy M. Grossman, District Director  
Railroad Commission of Texas  
Oil and Gas Division, District 3  
1706 Seamist Drive, Suite 501  
Houston, TX 77008-3135

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DEC 20 2005  
O&G - ENV SVCS  
AUSTIN TX

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MICHAEL L. WILLIAMS, COMMISSIONER  
VICTOR G. CARRILLO, COMMISSIONER



RICHARD A. VARELA  
DIRECTOR, OIL AND GAS DIVISION  
STEVEN J. SENI  
ASSISTANT DIRECTOR FOR ENVIRONMENTAL SERVICES

# RAILROAD COMMISSION OF TEXAS

## OIL AND GAS DIVISION

January 18, 2006

ENTERPRISE PRODUCTS OPERATING LP  
ATTN LEGAL DEPT - KYLE L WEBSTER  
P O BOX 4324  
HOUSTON TX 77210 4324

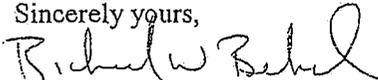
Re: Application for a Permit to Maintain and Use a Pit  
(Forms H-11)  
North Storage Facility/Lease, Ponds Nos. 3 & 4  
Chambers County, Texas  
Application Control Nos. 011287 & 011288

We are in receipt of your applications (Form H-11) dated December 19, 2005, for permits to maintain and use a brine pit at the above reference facility. The following information/clarification will be necessary to complete your applications:

1. According to Items Nos. 6 and 7 the application (Form H-11), the proposed pits are located on the Enterprise North Storage Lease or Facility of the Enterprise East (11102) Lease. Clarify if the proposed pits will be located on Enterprise North Storage Facility of the Enterprise East (11102) Lease or on the Enterprise North (number yet to be assigned) Lease.
2. According to Item 9 of the applications (Forms H-11), the proposed pits are located on the Hannah Nash Survey, Abstract A-20, and the Dan Jergins Survey, Abstract A-599, but the plats submitted with the applications indicate the proposed pits are located entirely within the Dan Jergins Survey, Abstract A-599. Please clarify.
3. According to the applications the pits will be equipped with a leak detection system with a drainage net between the liners and a collection system to automatically collect and return any leakage from the primary liner to the pit. Please provide procedures and frequency for monitoring the leakage rate.
4. Provide the distance to nearest water well within one-mile of the proposed pits and the depth of this water well (Refer to Items 21a and b of the Forms H-11).

Please provide the requested information to this office within 30 days of the date of this letter. You may contact me at (512) 463-6799 should you have any questions.

Sincerely yours,

  
Richard Behal  
Environmental Services

RWB

cc: RRC - Houston / 03



# Enterprise Products

P.O. Box 4324 Houston, Texas 77210-4324 713.880.6500  
2727 North Loop West Houston, Texas 77008-1044 www.epplp.com

February 3, 2006

Mr. Richard Behal  
— **Railroad Commission of Texas**  
**Oil and Gas Division**  
P.O. Box 12967  
Austin, Texas 78711-2957

RECEIVED  
RRC OF TEXAS  
FEB 06 2006  
O&G - ENV SVCS  
AUSTIN, TX

Re: Enterprise Products Operating L.P.  
Enterprise North Storage Facility, Ponds 3 & 4  
Chambers County, Texas  
Application for a Permit to Maintain & Use a Pit (Forms H-11)  
Application Control Nos. 011287 & 011288

Dear Mr. Behal:

In response to your letter dated January 18, 2006, we offer the following responses and additional information per your questions and comments:

- Q. According to Items 6 and 7 of the application (Form H-11), the proposed pits are located on the Enterprise North Storage Lease or Facility of the Enterprise East (11102) Lease. Clarify if the proposed pits will be located on Enterprise North Storage Facility of the Enterprise East (11102) Lease or on the Enterprise North (number yet to be assigned) Lease.
- A. The pits will be located on the Enterprise North Storage Facility of the Enterprise East (11102) Lease.
- Q. According to Item 9 of the applications (Forms H-11), the proposed pits are located on the Hannah Nash survey, Abstract A-20, and the Dan Jergins Survey, Abstract A-599, but the plats submitted with the applications indicate the proposed pits are located entirely within the Dan Jergins Survey, Abstract A-599. Please clarify.

- A. The proposed pits are located entirely within the Dan Jergins Survey, Abstract A-599.
- Q. According to the applications the pits will be equipped with a leak detection system with a drainage net between the liners and a collection system to automatically collect and return any leakage from the primary liner to the pit. Please provide procedures and frequency for monitoring the leakage rate.
- A. The leak collection rate for each pit will be monitored and logged/recorded on a daily basis.
- Q. Provide the distance to nearest water well within one-mile of the proposed pits and the depth of this water well (Refer to Items 21a and b of the Forms-11).
- A. There are no water wells located within the one-mile reporting distance of the pits.

Again we appreciate your attention to this matter. If you have any additional questions or comments, please contact me at (713) 803-8206.

Sincerely,

**Enterprise Products Operating L.P.**



Kyle Webster

RECEIVED  
RRC OF TEXAS  
FEB 06 2008  
O&G - ENV SVCS  
AUSTIN TX

cc: Mr. Guy M. Grossman, District Director  
Railroad Commission of Texas  
Oil & Gas Division, District 3  
1706 Seamist Drive, Suite 501  
Houston, Texas 77008-3135

**RAILROAD COMMISSION OF TEXAS**  
 Oil and Gas Division  
 Field Operations

DISTRICT OFFICE  
**INSPECTION REPORT**

**D-O**  
 rev. 3/03

2006  
 JOB NO. 1969

DISTRICT 03

OPERATOR ENTERPRISE PRODUCTS OPERATING LEASE/ID 11102  
 LEASE/FACILITY ENTERPRISE PRODUCTS CILICIN STORAGE DRILL PMT. NO. \_\_\_\_\_  
 WELL No.(s) (BRINK P.T.S) PLANT NO. \_\_\_\_\_  
 FIELD BARBERS HILL PIT PMT. NO. \_\_\_\_\_  
 COUNTY CHAMBERS  COASTAL MGT. AREA OTHER CONTRACT/PERMIT NO.  
 COMPLAINT NO. \_\_\_\_\_ LE DOCKET CN-011287  
 COMPLAINANT NAME \_\_\_\_\_ SFP CODE \_\_\_\_\_  
 DIRECTIONS \_\_\_\_\_ SFCU CODE \_\_\_\_\_

MUST WITNESS  
 FIELD INITIATED  
 TAKEN BY  
 AUSTIN  DISTRICT  
 BACKCHECK  
 COINSPECTION  
 SWEEP  
 TOTAL:  
 UIC WELLS INSP \_\_\_\_\_  
 WELLS INSP \_\_\_\_\_  
 SITES INSP 2

% TIME UIC _____	ENV _____	SITE REM _____
LEGAL ENF _____	PRO/PROD _____	TERRA _____
SFP _____	OTHER _____	

GPS COORDINATES:  NO  YES: LOG # \_\_\_\_\_  
 LAT \_\_\_\_\_ LONG \_\_\_\_\_

**ACTIVITY (check appropriate boxes)**

A <input type="checkbox"/> BLOWOUT	F <input type="checkbox"/> OIL SPILL (NON-SENS.)
B <input type="checkbox"/> COM. SURFACE DISP. FACILITY	Q <input type="checkbox"/> OIL SPILL (SENS. AREA)
C <input type="checkbox"/> COM. DISPOSAL WELL	R <input checked="" type="checkbox"/> PIT INSPECTION
D <input type="checkbox"/> FLARE/VENT	S <input type="checkbox"/> PLANT INS
E <input type="checkbox"/> DISPOSAL/INJECTION	T <input type="checkbox"/> PLUGGING (OPER.)
F <input type="checkbox"/> DRILLING RIG	U <input type="checkbox"/> PLUGGING (SFP)
G <input type="checkbox"/> FIRE	V <input type="checkbox"/> PROD. WATER SPILL
H <input type="checkbox"/> H2S COMPLIANCE INSP.	W <input type="checkbox"/> PROD. TEST
I <input type="checkbox"/> H2S INCIDENT	X <input type="checkbox"/> PROD./INT. CASING
J <input type="checkbox"/> HYDROCARBON STRG.	Y <input type="checkbox"/> SEAL WELL
K <input checked="" type="checkbox"/> LEASE INSPECTION	Z <input type="checkbox"/> SITE ASSMT (SFCU)
L <input type="checkbox"/> MIT	AA <input type="checkbox"/> SITE CLEAN-UP (SFCU)
M <input type="checkbox"/> MINOR PERMIT	BB <input type="checkbox"/> SURFACE CASING
N <input type="checkbox"/> OFFICE	CC <input type="checkbox"/> WASTE HAULER
O <input type="checkbox"/> OTHER	

FIELD INSPECTION STATUS	COMPLIANCE		Prev. viols.	New viols.	Total viols.
	yes	no			
SWR 2 Access to Property	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
SWR 3 Signs	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 8 Water Protection	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 9 Disposal Wells	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 13 Casing/Cementing	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 14(b)(2) Inactive Wells	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 17 Pressure on Bradenhead	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 21 Firewalls	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 22 Protection of Birds	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 27 Gas Metering	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 32 Flaring/Venting	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 36 Hydrogen Sulfide	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 46 Injection Wells	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 91 Oil Spill Clean-up	<input type="checkbox"/>	<input type="checkbox"/>			
OTHER	<input type="checkbox"/>	<input type="checkbox"/>			
OTHER	<input type="checkbox"/>	<input type="checkbox"/>			

RECEIVED  
 RRC OF TEXAS  
 MAR 14 2006  
 O&G - ENV SVCS  
 AUSTIN

COMMENTS:

AT TIME OF INSPECTION, P.T.S. IN INITIAL CONSTRUCTION FOR APPROX. 3 TO 4 WEEKS -  
 ZACHRY, INC, SAN ANTONIO, TX - DIGGING AND MOVING DIET FOR P.T.S. SITES.

PHOTO TAKEN: 2 EA 10(5) 424, 425

I CERTIFY THIS DATA IS TRUE AND COMPLETE:		MILEAGE	TIME	LUNCH	OFFICE REVIEW
<u>C.W. [Signature]</u>	START: <u>93,395</u>	<u>1030</u>	(MIN)	BY <u>GB</u>	
TECH NO. <u>342</u>	DATE <u>02/27/06</u>	END: <u>93,413</u>	<u>1200</u>	<input type="checkbox"/> JOB INTERRUPT	DATE <u>3/13/06</u>



# RAILROAD COMMISSION OF TEXAS

## OIL AND GAS DIVISION PERMIT TO MAINTAIN AND USE A PIT

Pit Permit No. P011287

ENTERPRISE PRODUCTS OPERATING LP  
ATTN LEGAL DEPT  
P O BOX 4324  
HOUSTON TX 77210 4324

Based on information contained in your application (Form H-11) dated December 19, 2005 and subsequent information received to date, you are hereby authorized to maintain and use the pit designated herein:

Type of Pit: Brine Pit  
North Storage Facility, Pond #3  
Enterprise East (11102) Lease  
1775 feet FSL and 1535 feet FWL of Dan Jergins Survey, A-599  
Chambers County, RRC District 03

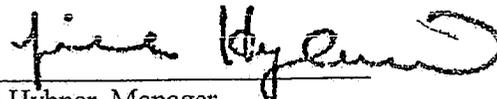
Authority is granted to maintain and use the pit in accordance with Statewide Rule 8 and subject to the following conditions:

1. The Houston District Office must be notified upon completion of construction. The permittee may not begin using the pit until the District Office has inspected the pit and verified that the pit is constructed in accordance with the application and permit.
2. Use of the pit is limited to storage of brine used to displace hydrocarbons from the Enterprise East underground storage facility. No other oil field fluids or oil and gas wastes may be stored or disposed of in the pit.
3. The capacity of the pit may not exceed 3,911,600 barrels.
4. At least 2 feet of freeboard must be maintained between the fluid level in the pit and the top of the pit dikes.
5. The pit must be lined with a high density polyethylene primary liner with a thickness of at least 60 mils and a high density polyethylene secondary liner with a thickness of at least 40 mils.
6. The liner must be installed in accordance with the liner manufacturer's specifications and sound engineering practices.

7. The pit must be equipped with a leak detection system including a 200 mil high density polyethylene drainage net between the liners and a collection system to collect and return any leakage from the primary liner to the pit. The leak detection system must be monitored at least monthly.
8. If the leak detection system indicates liner failure, the District Office must be notified of that fact within 24 hours of detection of liner failure. Liner system failure is defined as any of the following:
  - A leak rate from the primary liner greater than 23,000 gallons per day.
  - Any failure in the leak detection and return system or any component thereof.
  - Any detected damage to or leakage from the secondary liner.
9. If a liner system failure is detected, the affected component must be inspected for deterioration and leaks within 10 days of detection of liner failure. After inspection, the affected component must be replaced or repaired before use of the pit is resumed.
10. The permittee must maintain a record of when the leak detection system and the liner is inspected and the results of each inspection. This record must be maintained by the permittee for the life of the liner, and, upon request of the Commission, the record shall be filed with the Commission.
11. Unless otherwise required by conditions of this permit, construction, use, and maintenance of the pit shall be in accordance with the information represented on the application (Form H-11) and attachments thereto.
12. A sign shall be posted at the pit which shall show the pit permit number in numerals at least one inch in height.
13. The pit must be dewatered, emptied, backfilled, and compacted within 120 days of final cessation of use of the pit. Final closure of the pit must be accomplished in such a manner that rainfall will not collect at the pit location after pit closure. Upon final closure, the District Office shall be notified in writing.
14. This permit will automatically transfer to a new operator when the P-4 is filed and approved by the Commission.
15. This permit does not authorize the discharge of any oil and gas wastes from the pit.

This authorization is granted subject to review and cancellation should investigation show that such authorization is being abused.

APPROVED AND ISSUED ON: March 21, 2006.



Jill Hybner, Manager  
Surface Waste Management Section  
Environmental Services

RAILROAD COMMISSION OF TEXAS

Oil and Gas Division  
Field Operations

DISTRICT OFFICE

INSPECTION REPORT

EW 1-10-00 D-O  
rev. 3/03  
JOB NO. 07-3621  
DISTRICT 03

OPERATOR ENTERPRISE Products Oper. LP  
LEASE/FACILITY N. STORAGE Facility  
WELL No.(s) POND #3  
FIELD BARBERS HILL  
COUNTY Chambers  COASTAL MGT. AREA  
 COMPLAINT NO. \_\_\_\_\_  
COMPLAINANT NAME \_\_\_\_\_  
DIRECTIONS \_\_\_\_\_

LEASE/ID 11102  
DRILL PMT. NO. \_\_\_\_\_  
PLANT NO. \_\_\_\_\_  
PIT PMT. NO. PO11287  
PIPELINE PMT. NO. \_\_\_\_\_  
OTHER \_\_\_\_\_  
LE DOCKET \_\_\_\_\_  
SFP CODE \_\_\_\_\_  
SFCU CODE \_\_\_\_\_

MUST WITNESS  
 FIELD INITIATED  
 TAKEN BY Ron  
 AUSTIN  DISTRICT  
 BACKCHECK  
 COINSPECTION  
 SWEEP  
TOTAL:  
UIC WELLS INSP \_\_\_\_\_  
WELLS INSP \_\_\_\_\_  
SITES INSP 1

RECEIVED  
RRC OF TEXAS  
DEC 27 2007  
O&G  
AUSTIN TX

ENVIRONMENTAL	ENVIRONMENTAL	SUBRENT
LOCAL USE	PROPOSED	OTHER
STATE	OTHER	

GPS COORDINATES:  NO  YES: LOG # \_\_\_\_\_  
LAT \_\_\_\_\_ LONG \_\_\_\_\_

ACTIVITY (check appropriate boxes)

A <input type="checkbox"/> BLOWOUT	P <input type="checkbox"/> OIL SPILL (NON-SENS)
B <input type="checkbox"/> COM. SURFACE DISP. FACILITY	Q <input type="checkbox"/> OIL SPILL (SENS. AREA)
C <input type="checkbox"/> COM. DISPOS. W/ WELL	R <input checked="" type="checkbox"/> PIT INSPECTION
D <input type="checkbox"/> FLARE/VENT	S <input type="checkbox"/> PLANT INS
E <input type="checkbox"/> DISPOSAL INJECTION	T <input type="checkbox"/> PLUGGING (OPERS)
F <input type="checkbox"/> DRILLING RIG	U <input type="checkbox"/> PLUGGING (SFP)
G <input type="checkbox"/> FIRE	V <input type="checkbox"/> PROD. WATER SPILL
H <input type="checkbox"/> H2S COMPLIANCE INSP	W <input type="checkbox"/> PROD. TEST
I <input type="checkbox"/> H2S INCIDENT	X <input type="checkbox"/> PROD. INT. CASING
J <input type="checkbox"/> HYDROCARBON STRG.	Y <input type="checkbox"/> SEAL WELL
K <input type="checkbox"/> LEASE INSPECTION	Z <input type="checkbox"/> SITE ASSMT (SECUR)
L <input type="checkbox"/> MIT	AA <input type="checkbox"/> SITE CLEAN-UP (SFCU)
M <input type="checkbox"/> MINOR PERMIT	BB <input type="checkbox"/> SURFACE CASING
N <input type="checkbox"/> OFFICE	CC <input type="checkbox"/> WASTE HAULER
O <input type="checkbox"/> OTHER	

FIELD INSPECTION STATUS	COMPLIANCE		Prev. viols.	New viols.	Tot
	yes	no			
SWR 2 Access to Property	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
SWR 3 Signs	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
SWR 8 Water Protection	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 9 Disposal Wells	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 13 Casing/Cementing	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 14(b)(2) Inactive Wells	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 17 Pressure on Blindhead	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 21 Firewalls	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 22 Protection of Birds	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 27 Gas Metering	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 32 Flaring/Venting	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 36 Hydrogen Sulfide	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 46 Injection Wells	<input type="checkbox"/>	<input type="checkbox"/>			
SWR 91 Oil Spill Clean-up	<input type="checkbox"/>	<input type="checkbox"/>			
OTHER	<input type="checkbox"/>	<input type="checkbox"/>			
OTHER	<input type="checkbox"/>	<input type="checkbox"/>			

COMMENTS: Pit lined as required on permit. Leak detection system installed as permit. Auto monitoring system on leak detection not completed at this time. Manual monitoring until fully installed. Just finish pump out ground water. Signs posted.

I CERTIFY THIS DATA IS TRUE AND COMPLETE:		MILEAGE	TIME	LUNCH	OFFICE REVIEW BY: <u>RES</u>
<u>RD, Mays</u>		START: <u>59102</u>	<u>0430</u>	(MIN)	
TECH NO. <u>195</u>	DATE <u>5-15-07</u>	END: <u>59131</u>	<u>1130</u>	<input type="checkbox"/> JOB INTERRUPT	DATE <u>05/23/07</u>

OFFICE OF

# RAILROAD COMMISSION

OF TEXAS



LENA GUERRERO, Chairman  
JAMES E. (JIM) NUGENT, Commissioner  
ROBERT KRUEGER, Commissioner

OIL & GAS DIVISION

DAVID M. GARLICK  
Director  
JERRY W. MULLICAN  
Director of Underground  
Injection Control  
512 493 6791  
FAX 512 493 6786

1701 N. CONGRESS

CAPITOL STATION - P. O. BOX 11907

AUSTIN, TEXAS 78711-1907

## PERMIT TO DISPOSE OF NON-HAZARDOUS OIL AND GAS WASTE BY INJECTION INTO A POROUS FORMATION NOT PRODUCTIVE OF OIL AND GAS

RECEIVED  
MAY 1 1992

PERMIT NO. 09522

Enterprise Products Co.  
P. O. Box 19672  
Houston, TX 77224

PB-KBB, INC.

Based on information contained in your application (Form W-14) dated November 7, 1991, you are hereby authorized to dispose of oil and gas waste into your well designated as follows:

Enterprise SWD Lease, Well No. 3, Barbers Hill Field, Chambers County, RRC  
District 03

Authority is granted to inject in accordance with Statewide Rule 9 of the Railroad Commission of Texas and subject to the following special and standard conditions:

### SPECIAL CONDITIONS:

1. Oil and gas waste shall only be injected into strata in the subsurface depth interval from 5400 feet to 8700 feet.
2. The injection volume shall not exceed 50,000 barrels per day.
3. The maximum operating surface injection pressure shall not exceed 2700 psig.
4. The authority to dispose of oil and gas waste is limited to the disposal of produced salt water and hydrocarbon storage cavern leach brine.

### STANDARD CONDITIONS:

1. Injection must be through tubing set on a packer. The packer must be set no higher than 100 feet above the top of the permitted interval.
2. The District Office must be notified 48 hours prior to:
  - a. running tubing and setting packer;
  - b. beginning any workover or remedial operation;
  - c. conducting any required pressure tests or surveys.

3. The wellhead must be equipped with a pressure observation valve on the tubing and for each annulus.
4. Prior to beginning injection and subsequently after any workover, an annulus pressure test must be performed. The test pressure must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig. The test must be performed and the results submitted in accordance with the instructions of Form H-5.
5. The injection pressure and injection volume must be monitored at least monthly and reported annually on Form H-10 to the Commission's Austin office.
6. Within 30 days after completion, conversion to disposal, or any workover which results in a change in well completion, a new Form W-2 or G-1 must be filed in duplicate with the District Office to show the current completion status of the well. The date of the disposal well permit and the permit number must be included on the new Form W-2 or G-1.
7. Written notice of intent to transfer the permit to another operator must be submitted to the Commission at least 15 days prior to the date the transfer will occur by filing Form P-4.
8. Unless otherwise required by conditions of the permit, completion and operation of the well shall be in accordance with the information represented on the application (Form W-14).

Provided further that, should it be determined that such injection fluid is not confined to the approved strata, then the permission given herein is suspended and the disposal operation must be stopped until the fluid migration from such strata is eliminated.

APPROVED AND ISSUED ON May 7, 1992.

  
\_\_\_\_\_  
Jerry W. Mullican  
Director of Underground Injection Control

RAILROAD COMMISSION OF TEXAS  
OIL AND GAS DIVISION

JAMES E. (JIM) NUGENT, Chairman  
MARY SCOTT NABERS, Commissioner  
BARRY WILLIAMSON, Commissioner



DAVID M. GARLICK  
Director  
LORI WROTENBERY  
Director of  
Environmental Services  
(512) 463-6790  
Fax (512) 463-6780

1701 N. CONGRESS

P. O. BOX 12967

AUSTIN, TEXAS 78711-2967

PERMIT TO INJECT FLUID INTO A RESERVOIR  
PRODUCTIVE OF OIL AND GAS

PROJECT NO. F 14001

Enterprise Products Co.  
c/o PB-KBB Inc.  
P. O. Box 19672  
Houston, TX 77224

Based on information contained in your application (Forms H-1 and H-1A) dated August 11, 1993, you are hereby authorized to use the following well to inject fluid into the Miocene-Frio Formations:

Enterprise Fee Lease, Well No. 4, Barbers Hill Field, Chambers County, RRC District 03

Authority is granted to inject in accordance with Statewide Rule 46 of the Railroad Commission of Texas and subject to the following special and standard conditions:

SPECIAL CONDITIONS:

1. Fluid shall only be injected into strata in the subsurface depth interval from 5300 feet to 8600 feet.
2. The injection volume of brine shall not exceed 50,000 barrels per day.
3. The maximum operating surface injection pressure shall not exceed 2600 psig.
4. The authority to inject fluid is limited to the injection of brine.

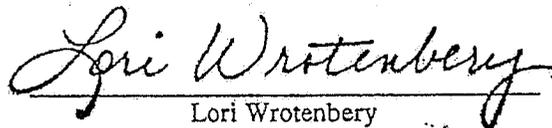
STANDARD CONDITIONS:

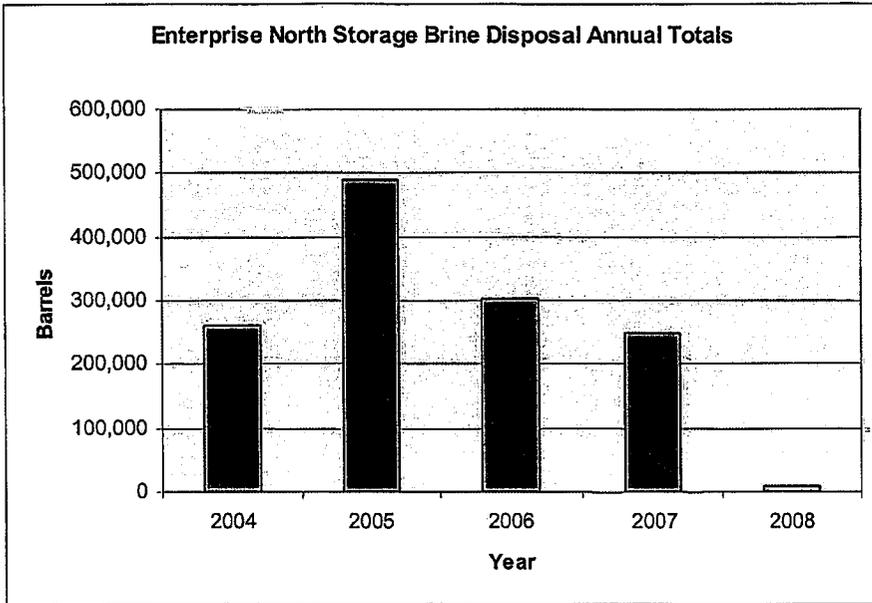
1. Injection must be through tubing set on a packer.
2. The District Office must be notified 48 hours prior to:
  - a. running tubing and setting packer;
  - b. beginning any workover or remedial operation;
  - c. conducting any required pressure tests or surveys.
3. The wellhead must be equipped with a pressure observation valve on the tubing and for each annulus.

4. Prior to beginning injection and subsequently after any workover, an annulus pressure test must be performed. The test pressure must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig. The test must be performed and the results submitted in accordance with the instructions of Form H-5.
5. The injection pressure and injection volume must be monitored at least monthly and reported annually on Form H-10 to the Commission's Austin office.
6. Within 30 days after completion, conversion to fluid injection, or any workover which results in a change in well completion, a new Form W-2 or G-1 must be filed in duplicate with the District Office to show the current completion status of the well and to show the current production test allowable to be transferred from converted wells to producing wells on the same lease. The date of the injection permit and the project number must be included on the new Form W-2 or G-1.
7. Written notice of intent to transfer the permit to another operator must be submitted to the Commission at least 15 days prior to the date the transfer will occur by filing Form P-4.
8. A well herein authorized cannot be converted to a producing well and have an allowable assigned without filing an amended Form W-1 and receiving Commission approval.
9. Unless other wise required by conditions of the permit, completion and operation of the well shall be in accordance with the information represented on the application (Forms H-1 and H-1A).

Provided further that, should it be determined that such injection fluid is not confined to the approved strata, then the permission given herein is suspended and the fluid injection must be stopped until the fluid migration from such strata is eliminated.

APPROVED AND ISSUED ON November 5, 1993.

  
Lori Wrotenberg  
Director of Environmental Services





Enterprise Products™

ENTERPRISE PRODUCTS PARTNERS L.P.  
ENTERPRISE PRODUCTS OPERATING L.P.

ENTERPRISE PRODUCTS GP, LLC, GENERAL PARTNER  
ENTERPRISE PRODUCTS OLPGP, INC., GENERAL PARTNER

February 2, 2009

TCEQ – Cashiers Office MC-214  
Tax Relief for Pollution Control Property Program  
P.O. Box 13088  
Austin, Texas 78711-3088

COPY

Dear Mr. Hatlett:

Enclosed is Mont Belvieu Cavems LLC Pollution Control Exemption Application. The property and equipment described in our application are eligible for full exemption (Tier I – 100%). Please note we paid \$150 Tier I application fee through the TCEQ's epay website.

Should you have any questions regarding this application please feel free to contact me at (713) 803-8253 or by e-mail at [anoor@epco.com](mailto:anoor@epco.com).

Sincerely,

Al Noor  
Tax Manager

P. O. BOX 4018  
HOUSTON, TX 77210-4018  
713.381.6500



# **Tax Relief for Pollution Control Property**

**Application Form – Effective January 2008**

DRAFT

TCEQ-00611 (Revised January 2008)

### TCEQ ePay Receipt

Transaction Information	
Trace Number:	582EA(000)49709
Date:	02/02/2009 03:13 PM
Payment Method:	CC - Authorization 0000069418
Amount:	\$150.00
ePay Actor:	Al Noor

Payor Information	
Payor Name:	Al Noor
Company:	Epcor
Address:	2727 North Loop West, Houston, TX 77210
Phone:	713-803-8253

Cart Items			
Voucher	Fee Description	AR Number	Amount
67222	TIER I POLLUTION CONTROL EQUIPMENT EXEMPTION		\$150.00

### TCEQ ePay Voucher Receipt

Transaction Information	
Voucher Number:	67222
Trace Number:	582EA000049709
Date:	02/02/2009 03:13 PM
Payment Method:	CC - Authorization 0000069418
Amount:	\$150.00
Fee Type:	TIER I POLLUTION CONTROL EQUIPMENT EXEMPTION
ePay Actor:	Al Noor

Payor Information	
Payor Name:	Al Noor
Company:	Epcor
Address:	2727 North Loop West, Houston, TX 77210
Phone:	713-803-8253

Site Information	
Site Name:	MONT BELVIEU NORTH STORAGE
Site Address:	1027 FM 1492, MONT BELVIEU, TX 77580
Site Location:	TIER I POLLUTION CONTROL EXEMPTION APPLICATION FEE

Customer Information	
Customer Name:	MONT BELVIEU CAVERNS LLC
Customer Address:	PO BOX 4018, HOUSTON, TX 77210 4018

**DISCLAIMER**

This document is intended to assist persons in applying for a use determination, pursuant to Title 30 Texas Administrative Code Chapter 17 (30 TAC 17). Conformance with these guidelines is expected to result in applications that meet the regulatory standards required by the Texas Commission on Environmental Quality (TCEQ). However, the TCEQ will not in all cases limit its approval of applications to those that correspond with the guidelines in this document. These guidelines are not regulation and should not be used as such. Personnel should exercise discretion in using this guidelines document. It should be used along with other relevant information when developing an application.

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
APPLICATION FOR USE DETERMINATION  
FOR POLLUTION CONTROL PROPERTY**

The TCEQ has the responsibility to determine whether a property is a pollution control property. A person seeking a use determination must complete the attached application or a copy or similar reproduction. For assistance in completing this form refer to the TCEQ guidelines document, *Property Tax Exemptions for Pollution Control Property*, as well as 30 TAC §17, rules governing this program. For additional assistance please contact the Tax Relief for Pollution Control Property Program at (512) 239-3100. The application should be completed and mailed, along with a complete copy and the appropriate fee, to: TCEQ MC-214, Cashiers Office, PO Box 13088, Austin, Texas 78711-3088.

**Information must be provided for each field unless otherwise noted.**

**1. GENERAL INFORMATION**

A. What is the type of ownership of this facility?

- |   |  |
|---|--|
| <input type="checkbox"/> Corporation                    | <input type="checkbox"/> Sole Proprietor |
| <input type="checkbox"/> Partnership                    | <input type="checkbox"/> Utility         |
| <input checked="" type="checkbox"/> Limited Partnership | <input type="checkbox"/> Other:          |

B. Size of company: Number of Employees

- |                                     |  |
|-------------------------------------|--|
| <input type="checkbox"/> 1 to 99    | <input checked="" type="checkbox"/> 1,000 to 1,999 |
| <input type="checkbox"/> 100 to 499 | <input type="checkbox"/> 2,000 to 4,999            |
| <input type="checkbox"/> 500 to 999 | <input type="checkbox"/> 5,000 or more             |

C. Business Description: (Provide a brief description of the type of business or activity at the facility)

Natural Gas Liquids Transportation and Storage

**2. TYPE OF APPLICATION**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Tier I \$150 Fee | <input type="checkbox"/> Tier III \$2,500 Fee |
| <input type="checkbox"/> Tier II \$1,000 Fee         | <input type="checkbox"/> Tier IV \$500 Fee    |

*NOTE: Enclose a check, money order to the TCEQ, or a copy of the ePay receipt along with the application to cover the required fee.*

**3. NAME OF APPLICANT**

A. Company Name: Mont Belvieu Caverns, LLC  
 B. Mailing Address (Street or P.O. Box): P.O. Box 4018  
 C. City, State, and Zip: Houston, Texas 77210-4018

**4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION**

A. Name of Facility or Unit: Mont Belvieu North Storage  
 B. Type of Mfg. Process or Service: Product Pipeline and Storage Service  
 C. Street Address: 1027 FM 1492  
 D. City, State, and Zip: Mont Belvieu, Texas 77580  
 E. Tracking Number (Optional): \_\_\_\_\_  
 F. Company or Registration Number (Optional): \_\_\_\_\_

**5. APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY**

A. Name of Appraisal District: Chambers County Appraisal District  
 B. Appraisal District Account Number: 036-2-005293-000260

**6. CONTACT NAME**

A. Company/Organization Name Mont Belvieu Caverns, LLC  
 B. Name of Individual to Contact: Al Noor  
 C. Mailing Address (Street or P.O. Box): P.O. Box 4018  
 D. City, State, and Zip: Houston, Texas 77210-4018  
 E. Telephone number and fax number: (713) 803-8253  
 F. E-Mail address (if available): anoor@eprod.com

**7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION**

For each media, please list the specific environmental rule or regulation that is met or exceeded by the installation of this property.

MEDIUM	Rule/Regulation/Law
Air	
Water	16 TEX. ADMIN. CODE § 3.8
Waste	16 TEX. ADMIN. CODE § 3.9; TEX. NAT. RES. CODE §§ 91.110, 91.452

**8. DESCRIPTION OF PROPERTY (Complete for all applications)**

Describe the property and how it will be used at your facility. Do not simply repeat the description from the Equipment & Categories List. Include sketches of the equipment and flow diagrams of the processes where appropriate. Use additional sheets, if necessary.

Project Description:

The Mont Belvieu North Storage project consists of one 4.0 million barrel High-Density PolyEthylene ("HDPE") double-lined brine disposal pond, instrumentation, pond piping, electrical substation, and associated equipment built in compliance with the water protection requirements of the Texas Railroad Commission's Statewide Rule 8 (16 Tex. Admin. Code § 3.8). The brine disposal pond accomplishes two significant purposes directly related to the prevention, monitoring, control, and reduction of land and water pollution: (1) prevention of salt water intrusion into surface and subsurface inland waters and upon the land; and (2) waste minimization. The current scope of the project includes an HDPE double-lined pond (which prevents brine from leaching into the groundwater by means of an impermeable barrier); a leak detection and collection system (which protects groundwater by identifying brine leakage and then returning leakage to the primary pit); and a 35ft X 70ft secondary confinement concrete sump pit with transfer pumps and 3,500ft of 30" piping and related instrumentation (which prevents brine from leaching into the groundwater).

Furthermore, by recycling brine, rather than using fresh water that would become brine through dissolution in daily operation of the cavern system, the total quantity of waste generated is significantly reduced by the North Storage brine disposal pond. The Mont Belvieu North Storage Facility operates underground injection disposal wells permitted under and must comply with the Railroad Commission's Statewide Rule 9 (16 Tex. Admin Code § 3.9) and Section 91.452 of the Texas Natural Resources Code. An obvious benefit from the recycling process that exists because of the brine disposal pond is the conservation of the State's natural resources, as millions of gallons of fresh water per year are protected from contamination with salt and thereafter disposed of in deep underground injection disposal wells. This minimization of oil and gas waste meets express directives in the State's Natural Resources Code and Administrative Code. Tex. Nat. Res. Code Ann. § 91.110; 16 Tex. Admin. Code § 3.9.

Land: If a use determination is being requested for land, provide a legal description and an accurate drawing of the property in question.

**9. PARTIAL PERCENTAGE CALCULATION**

This section is to be completed for Tier III and IV applications. For information on how to conduct the partial percentage calculation, see the application instructions document. Attach calculation documents to completed application.

**10. PROPERTY CATEGORIES AND COSTS**

List each control device or system for which a use determination is being sought. Provide additional attachments for more than 3 properties.

Property	Taxable on 1/01/94?	DFC Box	ECL #	Estimated Cost	Use %
Land					
Property <u>Construction of brine disposal pond</u>	<u>No</u>	<u>12</u>	<u>S-20</u>	<u>23,000,000</u>	<u>100%</u>
_____	_____	_____	_____	_____	_____
Totals					

**11. EMISSION REDUCTION INCENTIVE GRANT**

*(For more information about these grants, see the Application Instruction document).*

Will an application for an Emission Reduction Incentive Grant be filed for this property/project?

Yes       No

**12. APPLICATION DEFICIENCIES**

After an initial review of the application, the TCEQ may determine that the information provided with the application is not sufficient to make a use determination. The TCEQ may send a notice of deficiency, requesting additional information that must be provided within 30 days of the written notice.

**13. FORMAL REQUEST FOR SIGNATURE**

By signing this application, you certify that this information is true to the best of your knowledge and belief.

Name: Al Noor  Date: 2-2-09  
Title: Tax Manager  
Company: Mont Belvieu Caverns, LLC

Under Texas Penal Code, Section 37.10, if you make a false statement on this application, you could receive a jail term of up to one year and a fine up to \$2,000, or a prison term of two to 10 years and a fine of up to \$5,000.

**14. DELINQUENT FEE/PENALTY PROTOCOL**

This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol. (Effective September 1, 2006)

**FULBRIGHT & JAWORSKI L.L.P.**

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
300 CONVENT STREET, SUITE 2200  
SAN ANTONIO, TEXAS 78205-3792  
WWW.FULBRIGHT.COM

EKLIEWER@FULBRIGHT.COM  
DIRECT DIAL: (210) 270-7144

TELEPHONE: (210) 224-5575  
FACSIMILE: (210) 270-7205

March 26, 2009

**VIA CERTIFIED MAIL AND  
TELECOPY - 512-239-5678**

Mr. Ronald Hatlett  
Tax Relief for Pollution MC110  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Mont Belvieu North Storage  
Use Determination Application 12969

Dear Mr. Hatlett:

We received a copy of your letter dated February 27, 2009, a copy of which is enclosed as **Exhibit A**, providing that information for Use Determination Application 12969 for Mont Belvieu Caverns LLC was missing and/or incomplete. This letter responds to your request for additional information.

You provide that the Equipment and Categories List number S-20 applies only to disposal ponds. The "Property" that qualifies for exemption under 30 T.A.C. § 17.14 is "Surface Impoundments and Ancillary Equipment (Including Brine Disposal Ponds)". We do not view the parenthetical "(Including Brine Disposal Ponds)" to limit this category to only disposal ponds. Rather, it merely includes brine disposal ponds in this category. Further, the description of the property in Equipment and Categories List number S-20, "excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, pumps, etc.", is much broader to include other types of surface impoundments, other than brine disposal ponds.

Further, Part A of the Equipment and Categories List of 30 T.A.C. § 17.14 is the former Predetermined Equipment List. Under the former rules, TCEQ granted positive use determination for brine ponds. We see no authority for the TCEQ's change in policy with respect to brine ponds.

In response to your request, enclosed as **Exhibit B** is a list of items for which the property owner seeks a positive use determination for pollution control equipment, the ECL number for each item, and a dollar value for each item. The property owners reiterate its request for a positive use determination under Tier 1 for all of the items listed on the enclosed Exhibit B.

80507421.1

AUSTIN • BEIJING • DALLAS • DENVER • DUBAI • HONG KONG • HOUSTON • LONDON • LOS ANGELES • MINNEAPOLIS  
MUNICH • NEW YORK • RIYADH • SAN ANTONIO • ST. LOUIS • WASHINGTON DC

Mr. Ronald Hatlett  
March 26, 2009  
Page 2

Please let us know if you have any questions or need any further information. Thank you for your consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edward Kliever III". The signature is written in a cursive style with a large initial "E" and a long horizontal stroke at the end.

Edward Kliever III

Enclosures

EXHIBIT A

TCEQ CORRESPONDENCE DATED FEBRUARY 27, 2009

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*

February 27, 2009

MONT BELVIEU CAVERNS LLC  
AL NOOR  
PO BOX 4018  
HOUSTON TX 77210 4018

This letter is to inform you that during the technical review of Use Determination Application, 12969, for:

MONT BELVIEU NORTH STORAGE  
1027 FM 1942  
MONT BELVIEU TX 77580

the reviewer has determined that the following information is missing and/or incomplete:

This first paragraph of the description states that the pond is a disposal pond. The second paragraph states that the brine is recycled. This is not a disposal pond it is a storage pond. The Equipment and Categories List number listed on the application is S-20 which applies only to disposal ponds. There are certain items described in this application which might qualify for a positive use determination. To receive a determination for these items they must be listed individually on the Table contained in section 10 of the application. Each item must be identified by name, an ECL number must be provided and a dollar value must be listed. These items are the HDPE liner and the leak detection/collection system. Additional information is needed about the sump pit. The concrete appears to be the primary containment for leaks. Is there any secondary containment? The pumps and piping are not considered to be pollution control property and are not eligible for a positive use determination.

Please provide this additional information as soon as possible. As per 30 TAC 17.12(2) the applicant must respond to a notice of deficiency (NOD) by providing the additional information required within 30 days of receipt of the NOD or the application will be returned. Once the additional information has been received the technical review of this application will resume. If you have any questions or require assistance in developing the additional required information please contact the Tax Relief for Pollution Control Property Program at (512) 239-6348. Your response may be faxed to 512/239-5678, electronically mailed to [rhatlett@tceq.state.tx.us](mailto:rhatlett@tceq.state.tx.us), or sent by U.S. Mail to:

Tax Relief for Pollution MC110  
PO Box 13087  
Austin TX 78711-3087

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Hatlett".

Ronald Hatlett

Tax Relief for Pollution Control Property

EXHIBIT B

LIST OF ITEMS FOR POSITIVE USE DETERMINATION

**Mont Belvieu Caverns, LLC  
Brine Disposal Pond Construction Cost**

Asset Code	Asset Description	Cost	ECL Number*	Exemption %
<b>Brine Pond Equipment</b>				
934	HDPE liner	1,280,641	S-7; S-20	100%
912	Brine Vertical and Transfer Pumps	850,297	S-4; S-20	100%
921	Fire & Safety Equipment	4,283	S-9; S-20	100%
935	Brine pond piping	1,309,050	S-4; S-20	100%
930	Electric substation	547,496	S-4; S-20	100%
932	Instrumentation & Monitoring Equipment	342,958	S-4; S-20	100%
924	Water Supply & Treating	27,904	S-20	100%
	<b>Sub Total</b>	<b>\$4,362,629</b>		
<b>Brine Pond Civic Work (General Contract)</b>				
987	Brine Pond Construction	15,343,639	S-6;S-20	100%
951	Land & Pipeline Right of Way	1,572,682	S-20	100%
942	Earthwork & Site Grading	73,160	S-20	100%
	<b>Sub Total</b>	<b>\$16,989,481</b>		
<b>None Taxable Brine Pond Cost</b>				
985	Soft cost ( permits, Legal,travel,Inspection Etc	1,287,156	S-20	100%
<b>Total Project Cost:</b>		<b>\$22,639,266</b>		

\* While ECL Number S-20 "wraps up" all of the individual components of a brine pond and its ancillary equipment and provide a 100% positive use determination for the entire project, each individual component of the brine pond system independently satisfies an item listed in the ECL.

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*

May 22, 2009

MONT BELVIEU CAVERNS LLC  
AL NOOR  
PO BOX 4018  
HOUSTON, TX 77210 4018

This letter is to inform you that on May 22, 2009, the technical review of Use Determination Application 12969 was completed. This application is for:

MONT BELVIEU CAVERNS LLC  
MONT BELVIEU NORTH STORAGE  
1027 FM 1942  
MONT BELVIEU, TX 77580

The use determination is included with this letter. In order to request an exemption, a copy of this Use Determination, along with a completed exemption request form #50-248 (can be found at [www.cpa.state.tx.us](http://www.cpa.state.tx.us)), must be provided to the Chief Appraiser of the appropriate appraisal district by April 30 of the appropriate tax year.

House Bill 3121, enacted during the 77th Legislative Session, established a process for appealing a use determination. The Texas Commission on Environmental Quality (TCEQ) rules that implement the appeals process are at 30 TAC 17.25. Pursuant to 17.25(a)(1), an appeal must be filed within 20 days of receipt of the use determination. Should you choose to appeal the use determination, please submit a copy of your appeal to the TCEQ Tax Relief for Pollution Control Property program at the time of filing the appeal with the Chief Clerk of the commission.

If you have any questions or require any additional information, please contact the Tax Relief for Pollution Control Property Program at (512) 239-6348.

Sincerely,

A handwritten signature in cursive script that reads "D.C. Schanbacher".

David C. Schanbacher, P. E.  
Chief Engineer

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*

### USE DETERMINATION

The Texas Commission on Environmental Quality has reviewed Use Determination Application, 12969, filed by:

MONT BELVIEU CAVERNS LLC  
MONT BELVIEU NORTH STORAGE  
1027 FM 1942  
MONT BELVIEU, TX 77580

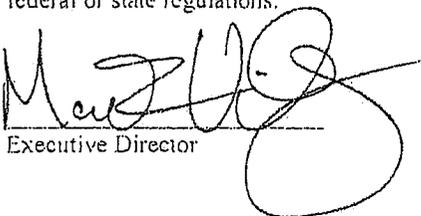
The pollution control property/project listed in the Use Determination Application is:

North Storage Project: one four million barrel High Density Polyethylene (HDPE) double-lined brine disposal pond, instrumentation, pond piping, electrical substation, and associated equipment. The current scope of the project includes the HDPE double-lined pond, a leak detection and collection system, and a 35ft X 70ft secondary containment concrete sump pit with transfer pumps, 3,500ft of 30" piping, and related instrumentation. Property listing provided on March 26: HDPE Liner, Fire & Safety Equipment, Brine Pond Piping, Electric Substation, Instrumentation & Monitoring Equipment, Water Supply & Treating, Brine Pond Construction, Land & Pipeline Right of Way, Earthwork & Site Grading, and Soft Cost (permits, Legal, travel, inspection, etc.).

The outcome of the review is:

A positive use determination for the High Density Polyethylene double liner, the leak detection and collection system, including the associated instrumentation and monitoring system, and the 35ft x 70ft concrete containment sump. A negative determination for the other items listed as part of the Brine Storage Pond: the brine transfer pumps; the fire and safety equipment; the brine pond piping; the electrical substation; the instrumentation and monitoring equipment that is not part of the leak detection and collection system; the water supply and treating; the brine pond construction; the land and pipeline right of way; the earthwork and site grading; and the soft costs.

This equipment is considered to be pollution control equipment and was installed to meet or exceed federal or state regulations.

  
Executive Director

5-22-09  
Date

# FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

FULBRIGHT TOWER  
1301 MCKINNEY, SUITE 5100  
HOUSTON, TEXAS 77010-3095  
WWW.FULBRIGHT.COM

JCHADHA@FULBRIGHT.COM  
DIRECT DIAL: (713) 651-3770

TELEPHONE: (713) 651-5151  
FACSIMILE: (713) 651-5246

June 12, 2009

## VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

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

Re: Use Determination Application 12969  
Mont Belvieu North Storage  
Appeal of Negative Use Determination

Dear Ms. Castanuela:

We represent Mont Belvieu Caverns LLC, the applicant for the above-referenced Use Determination Application. Our client is in receipt of the May 22, 2009 letter (a copy of which is attached as **Exhibit A**), in which the reviewer issued "a negative determination for the other items listed as part of the Brine Storage Pond: the brine transfer pumps; the fire and safety equipment; the brine pond piping; the electrical substation; the instrumentation and monitoring equipment that is not part of the leak detection and collection system; the water supply and treating; the bring pond construction; the land and pipeline right of way; the earthwork and site grading; and the soft costs."

Pursuant to 30 T.A.C. § 17.25(a)(2)(A), Mont Belvieu Caverns LLC files this appeal of the Executive Director's negative use determination. The information required under 30 T.A.C. § 17.25(b) is as follows:

- (1) **provide the name, address, and daytime telephone number of the person who files the appeal:**

The undersigned and others are filing this appeal on behalf of Mont Belvieu Caverns LLC. All correspondence for this appeal should be sent to the following:

80573234.1/10809642

AUSTIN • BEIJING • DALLAS • DENVER • DUBAI • HONG KONG • HOUSTON • LONDON • LOS ANGELES • MINNEAPOLIS  
MUNICH • NEW YORK • RIYADH • SAN ANTONIO • ST. LOUIS • WASHINGTON DC

LaDonna Castanuela, Chief Clerk  
Texas Commission on Environmental Quality  
June 12, 2009  
Page 2

Edward Kliewer  
Fulbright & Jaworski L.L.P.  
300 Convent Street, Suite 2200  
San Antonio TX 78205-3792  
Telephone: (210) 270 7144

- (2) **give the name and address of the entity to which the use determination was issued;**

Mont Belvieu Caverns LLC  
P. O. Box 4018  
Houston, Texas 77210-4018

- (3) **provide the use determination application number for the application for which the use determination was issued;**

Use Determination Application 12969

- (4) **request commission consideration of the use determination; and**

This is a request to the Commission for consideration of the use determination.

- (5) **explain the basis for the appeal.**

The request for the Commission's consideration of the use determination is a result of the failure of the Executive Director to correctly interpret the regulations relating to the category S-20, as it pertains to the qualification of brine ponds for Tier 1 pollution control exemption.

Very truly yours,



Jay M. Chadha

Attachment



A. Company/Organization Name	<u>Mont Belvieu Caverns, LLC</u>
B. Name of Individual to Contact:	<u>Al Noor</u>
C. Mailing Address (Street or P.O. Box):	<u>PO Box 4018</u>
D. City, State, and Zip:	<u>Houston, Texas 77210-4018</u>
E. Telephone number and fax number:	<u>(713)803-88253</u>
F. E-Mail address (if available):	<u>anoor@eprod.com</u>

7. **RELEVANT RULE, REGULATION, OR STATUTORY PROVISION**

For each media, please list the specific environmental rule or regulation that is met or exceeded by the installation of this property.

MEDIUM	Rule/Regulation/Law
Air	
Water	30 TAC 305
Waste	

8. **DESCRIPTION OF PROPERTY (Complete for all applications)**

Describe the property and how it will be used at your facility. **Do not simply repeat the description from the Equipment & Categories List.** Include sketches of the equipment and flow diagrams of the processes where appropriate. Use additional sheets, if necessary.

**Project Description :** This Project consist of one 4.0 million barrel HDPE double lined brine pond, instrumentation, pond piping, electrical substation and associated equipment. The brine pond will accomplish two significant purposes, waste minimization and prevention of salt water intrusion into inland waters. Also by recycling brine, rather than using fresh water which would become brine through salt dissolution in daily operation of the cavern system, the total quantity of waste generated will be significantly reduced by constructing this brine pond. The current scope of this project includes the construction of one 35ft X 70ft concrete pump pit, and the installation of one 600 HP transfer pump. Also included is 3,500 of 30" HDPE piping from the new pond to North Strobe.

Land: If a use determination is being requested for land, provide a legal description and an accurate drawing of the property in question.

9. **PARTIAL PERCENTAGE CALCULATION**

This section is to be completed for Tier III and IV applications. For information on how to conduct the partial percentage calculation, see the application instructions document. Attach calculation documents to completed application.

10. **PROPERTY CATEGORIES AND COSTS**

List each control device or system for which a use determination is being sought. Provide additional attachments for more than 3 properties.

Property	Taxable on 1/01/94?	DFC Box	ECL #	Estimated Cost	Use %
Land					
<b>Property</b> Construction of brine pond with total capacity of 4 million barrels	NO _____ _____	12 _____ _____	S-20 _____ _____	23,000,000 _____ _____	100% _____ _____
Totals					

11. **EMISSION REDUCTION INCENTIVE GRANT**

*(For more information about these grants, see the Application Instruction document).*

Will an application for an Emission Reduction Incentive Grant be filed for this property/project?

Yes       No

12. **APPLICATION DEFICIENCIES**

After an initial review of the application, the TCEQ may determine that the information provided with the application is not sufficient to make a use determination. The TCEQ may send a notice of deficiency, requesting additional information that must be provided within 30 days of the written notice.

13. **FORMAL REQUEST FOR SIGNATURE**

By signing this application, you certify that this information is true to the best of your knowledge and belief.

Name: Al Noor *Al Noor* Date: 02/12/2008  
Title: Tax Manager  
Company: Mont Belvieu Carvers LLC

Under Texas Penal Code, Section 37.10, if you make a false statement on this application, you could receive a jail term of up to one year and a fine up to \$2,000, or a prison term of two to 10 years and a fine of up to \$5,000.

14. **DELINQUENT FEE/PENALTY PROTOCOL**

This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol. (Effective September 1, 2006)

Buddy Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryan W. Shaw, Ph.D., *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

May 20, 2008

MONT BELVIEU CAVERNS LLC  
AL NOOR  
PO BOX 4018  
HOUSTON TX 77210 4018

This letter is to inform you that the technical review of Use Determination Application 07-11881 has been completed. This application is for:

MONT BELVIEU NORTH STORAGE  
1027 FM 1942  
MONT BELVIEU TX 77580

The outcome of this review is as follows:

A negative determination for the equipment and installation costs of the Brine Storage Pond Project. This equipment is considered to be production equipment and not pollution control property.

House Bill 3121, enacted during the 77th Legislature Session, established a process for appealing a use determination. The Texas Commission on Environmental Quality (TCEQ) rules that implement the appeals process are at 30 TAC 17.25. Pursuant to 17.25(a)(1), an appeal must be filed within 20 days of receipt of the use determination. Should you choose to appeal the use determination, please submit a copy of your appeal to the TCEQ Tax Relief for Pollution Control Property program at the time of filing the appeal with the Chief Clerk of the commission.

If you have any questions or require any additional information please contact the TCEQ Tax Relief for Pollution Control Property program at (512) 239-3100.

Sincerely,

A handwritten signature in black ink, appearing to read "David Greer".

David Greer  
Team Leader, Pollution Prevention



Protecting Texas  
by Reducing and  
Preventing Pollution

# FAX TRANSMITTAL

DATE: July 28, 2008 NUMBER OF PAGES (including this cover sheet): 11

TO: Name Mailing list  
 Organization \_\_\_\_\_  
 FAX Number \_\_\_\_\_

FROM: **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**  
 Name Chris Ekoh  
 Division/Region Environmental Law  
 Telephone Number (512) 239-0600  
 FAX Number (512) 239-0606

NOTES:

Mont Belvieu Caverns, LLC  
 TCEQ Docket No. 2008-0940-MIS-E  
 Executive Director's Response to Mont Belvieu Caverns, LLC's Appeal of the  
 Executive Director's Negative Use Determination Issued for Mont Belvieu North  
 Storage

- Chris G. Cisneros (713) 803-1412
- Michael L. Fregia (409) 267-6192
- Bridget Bohac (512) 239-4007
- LaDonna Castenuela (512) 239-3311
- Blas Coy (512) 239-6377
- Ronald Hatlett (512) 239-3165
- Kyle Lucas (512) 239-4015

Bud ly Garcia, *Chairman*  
Larry R. Soward, *Commissioner*  
Bryen W. Shaw, Ph.D., *Commissioner*  
Mar t R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 28, 2008

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

Re: Mont Belvieu Caverns, LLC  
TCEQ Docket No. 2008-0940-MIS-U (07-11881/Chambers County Appraisal District)  
Executive Director's Response to Mont Belvieu Caverns, LLC's Appeal of the Executive  
Director's Negative Use Determination Issued for Mont Belvieu North Storage

Dear Ms. Castañuela:

Enclosed for filing, please find an original and 11 copies of the *"Executive Director's Response to Mont Belvieu Caverns, LLC's Appeal of the Executive Director's Negative Use Determination Issued for Mont Belvieu North Storage."*

Please file-stamp these documents and return one copy to D. A. Chris Ekoh, Staff Attorney, Environmental Law Division, MC 173. If you have any question please do not hesitate to contact me at (512) 239-5487.

Sincerely,

FAX

D. A. Chris Ekoh, Staff Attorney  
Environmental Law Division

TCEQ DOCKET NO. 2008-0940-MIS-U  
TCEQ ID NO. 07-11881

<p>APPEAL OF THE EXECUTIVE DIRECTOR'S NEGATIVE USE DETERMINATION ISSUED TO MONT BELVIEU CAVERNS, LLC APPLICATION NUMBER: 07-11881</p>	<p>§ § § § §</p>	<p>BEFORE THE  TEXAS COMMISSION ON  ENVIRONMENTAL QUALITY</p>
---	----------------------------------	---

**EXECUTIVE DIRECTOR'S RESPONSE TO MONT BELVIEU CAVERNS, LLC'S  
APPEAL OF THE EXECUTIVE DIRECTOR'S NEGATIVE USE DETERMINATION  
ISSUED FOR MONT BELVIEU NORTH STORAGE**

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this response to the appeal of the Executive Director's Use Determination issued to Mont Belvieu Caverns, LLC for its Mont Belvieu North Storage (MBNR) facility. The appeal was submitted by Chris G. Cisneros, property tax representative with Enterprise Products.

For the reasons described below, the Executive Director respectfully requests that the Commission deny the appeal and affirm the Executive Director's Tier I negative use determination for (1) a concrete pump pit, (2) a transfer pump, and (3) piping associated with the installation of a brine storage pond.

**PROGRAM BACKGROUND**

This appeal of the Executive Director's negative use determination is filed pursuant to H.B. 3121 (77<sup>th</sup> Tex. Legislature, 2001) establishing an appeals process for use determinations and the Commission rules implementing the legislation. See TEX. TAX CODE § 11.31 and 30 TEX. ADMIN. CODE § 17.25.

In 1993, the citizens of Texas voted to adopt a tax measure called Proposition 2. Proposition 2 was implemented when Article VIII, § 1-1 was added to the Texas Constitution on November 2, 1993. The amendment allowed the legislature to "exempt from ad valorem taxation all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution."

The Texas Legislature codified the constitutional amendment in 1993 as TEX TAX CODE § 11.31 (effective January 1, 1994). The statutory language in the codified version mirrored the language of Article VIII, § 1-1. In 2001, the legislature amended Section 11.31 when it passed H.B. 3121 (effective September 1, 2001). This bill added several new procedural requirements to § 11.31, including a provision requiring the establishment and implementation of a process to appeal use determinations. See TEX. TAX CODE § 11.31(e) and 30 TEX. ADMIN. CODE § 17.25. The amendment also required the Commission to adopt new rules establishing specific standards for the Executive Director to follow in making use determinations for property that qualified for

either full or partial pollution control use determinations. See TEX. TAX CODE § 11.31(g).

Appeals under Section 17.25 of the Commission rules may be filed by either the applicant seeking the determination, or by the chief appraiser of the tax appraisal district affected by the determination. TEX. TAX CODE § 11.31(e) and 30 TEX. ADMIN. CODE § 17.25(a)(2). Appellant is required to explain the basis for the appeal. 30 TEX. ADMIN. CODE § 17.25(c)(5) Under Section 11.31(j) of the Tax Code, "the chief appraiser shall accept a final determination by the Executive Director as conclusive evidence that the facility, device, or method is used wholly or partly as pollution control property."

### PROCEDURAL BACKGROUND

On or about February 12, 2008, Mont Belvieu Caverns, LLC (Mont Belvieu or Appellant) filed a Tier I application with the Executive Director seeking a use determination under Section 11.31 of the Tax Code for certain devices associated with the installation of a brine storage pond in Chambers County.

On February 26, 2008, the application was declared to be administratively complete. On March 4, 2008, the Executive Director completed a technical review of the application, and issued a negative Tier I use determination for the installations associated with the brine storage pond listed in the application.

On May 20, 2008, the Executive Director mailed notice of the negative use determination to Mont Belvieu. On June 6, 2008, Mont Belvieu filed a timely appeal with the Office of the Chief Clerk appealing the negative use determination.

### DESCRIPTION OF THE POLLUTION CONTROL PROPERTY

The equipment listed in the Tier I application for this project are: (1) construction of one 35' x 70' concrete pump pit, (2) installation of 600 HP transfer pump, and (3) 3,500' of 30" HDPE piping from the new pond to the North Storage. Mont Belvieu described the entire project as follows:

This project consist of one 4.0 million barrel HDPE double lined brine pond, instrumentation, pond piping, electrical substation, and associated equipment. The brine pond will accomplish two significant purposes, waste minimization and prevention of salt water intrusion into inland waters. Also, by recycling brine rather than using fresh water, which would become brine through salt dissolution in daily operation of the cavern system, the total quantity of waste generated will be significantly reduced by constructing this brine pond. *The current scope of this project includes the construction of one 35' x 70' concrete pump pit and the installation of one 600 HP transfer pump. Also included is 3,500 of 30" HDPE piping from the new pond to North Storage.*

(Emphasis added).

### APPELLANT'S CLAIMS

Mont Belvieu contends that the "project deserves a positive use determination because it employs many features that prevent the brine (salt water) from contaminating surrounding water. Belvieu contends further that the Executive Director should have granted a positive use determination in this case because the Commission has in the past granted positive use determinations for similar facilities.

### LEGAL ANALYSIS

1. **The Executive Director's negative use determination should be affirmed because brine storage pond or the equipment listed in the Appellant's use determination application are not listed in Part A of the Equipment and Categories List (ECL).**

Belvieu filed a Tier I application and cited item number S-20 in Part A of the ECL as the qualifying basis for the Tier I application. *See* 30 TEX. ADMIN. CODE § 17.14(a). The pollution control properties listed under item S-20 in Part A of the ECL includes "surface impoundments and ancillary equipment (including brine disposal ponds)." The description of the S-20 pollution control properties include "excavation, ponds, clay and synthetic liners, leak detection systems, leachate collection and treatment equipment, monitor wells, pumps, etc." While brine disposal ponds are eligible for a Tier I positive use determination because they are used primarily to dispose oil and gas waste, brine storage ponds are not eligible because they are primarily installed for production purposes to displace and thereby move displaced gas from underground gas storage cavern.

2. **The Executive Director's negative use determination should be affirmed because the concrete pump pit, transfer pump, and piping involved in this case are not installed to "meet or exceed rules and regulations adopted by any environmental protection agency . . . of this state for the prevention, monitoring, control or reduction of air, water, or land pollution."**

To be eligible for a positive use determination, the property must be installed to "meet or exceed rules and regulations adopted by any environmental protection agency . . . of this state for the prevention, monitoring, control or reduction of air, water or land pollution." Belvieu initially cited 30 TEX. ADMIN. CODE § 305 as the rule it was meeting or exceeding as a result of the installation of the concrete pump pit, transfer pump, and piping. Belvieu did not specify the section or sections of Chapter 305 that the installation of the devices were intended to meet or exceed. Chapter 305 of the Commission rules establishes "the standards and requirements for applications, permits, and actions by the commission to carry out the responsibilities for management of waste disposal activities under" certain sections of the Texas Water Code and the Texas Health and Safety Code. *See* 30 TEX. ADMIN. CODE § 305.1(a). Chapter 305 deals with consolidated permit processing and actions by the commission to carry out its responsibilities for

waste disposal activities. The installations involved in this case are not used for waste disposal, therefore, Chapter 305 is not applicable to the installations.

Pursuant to a notice of deficiency issued by the Executive Director, Belvieu cited 16 TEX. ADMIN. CODE § 3.8 as the rule it was meeting or exceeding. Section 3.8 of the Railroad Commission rules deals with water protection. The equipment listed in the application, concrete pump pit, transfer pump, and piping are not used for the control of water or land pollution. To the extent that Appellant claims the brine pond is eligible for pollution tax exemption, Section 3.8(a)(2) of the Railroad Commission rules defines "brine pit" as a "pit used for the storage of brine which is used to displace hydrocarbons from underground hydrocarbon storage facility." The pond project at issue in this case meets the definition of a "brine pit" under the Railroad Commission rules. The brine storage project and the associated pump and piping are production devices used in oil and gas production operations.

Section 3.8(a)(2) of the Railroad Commission rules is not a rule promulgated primarily "for the prevention, monitoring, control or reduction of air, water or land pollution." However, Section 3.8(d) of the Railroad Commission rules prohibits the disposal of oil and gas wastes "by any method without obtaining a permit to dispose of such wastes. The disposal methods prohibited by this paragraph include, but are not limited to, the unpermitted discharge of oil field brines, geothermal resource waters, or other mineralized waters, or drilling fluids into any watercourse or drainageway, including any drainage ditch, dry creek, flowing creek, river, or any other body of surface water." A brine storage pit as contemplated under Section 3.8(a)(2) of the Railroad Commission rules does not involve the disposal of waste, therefore, it is not eligible for pollution tax exemption under Section 11.31 of the Texas Tax Code and the TCEQ rules implementing it.

Finally, Section 3.8(b) of the Railroad Commission rules prohibits anyone involved in the exploration or production of oil and gas from polluting the surface or subsurface water in the state. The mere storage of brine in a brine pit does not qualify as pollution control. However, the devices installed to prevent contamination of surface or subsurface water in the state, such as synthetic liner, leak detection systems, and monitoring equipment may qualify for pollution tax exemption.

3. **The Executive Director's negative use determination should be affirmed because the brine storage pit and the associated equipment listed in the instant application (concrete pump pit, transfer pump, and piping) are not used primarily for the control of air, water, or land pollution. They are production properties used to displace and move gas from underground gas storage caverns.**

The pre-requisite for obtaining a tax exemption for pollution control property is that the equipment must be installed to control air, water, or land pollution. Article 8 § 1-(a) of the Texas Constitution states that "the legislature may exempt from ad valorem taxation all or part of real and personal property used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States,

this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.”

Section 11.31(a) of the Texas Tax Code mirrors this constitutional pledge by stating that a “person is entitled to an exemption from taxation of all or part of real and personal property that the person owns and that is used wholly or partly as a facility, device, or method for the control of air, water, or land pollution.” Section 11.31(b) defines facility, device, or method for the control of air, water, or land pollution as “. . . any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution.”

Section 17.4(a) of the Commission rules states that for an applicant to “obtain a positive use determination, the pollution control property must be used, constructed, acquired, or installed wholly or partly to meet or exceed laws, rules, or regulations adopted by any environmental protection agency of the United States, Texas, or a political subdivision of Texas, for the prevention, monitoring, control, or reduction of air, water, or land pollution.”

Section 11.31(d) authorizes the Executive Director to determine whether a piece of equipment is used wholly or partly to control air, water, or land pollution. Under Section 17.17(a), a “partial determination must be requested for all property that is either not on Part A of the Equipment and Categories List . . . or does not fully satisfy the requirements for a 100% positive use determination . . .” A “property that serves both a production and a pollution-reducing purpose, is not entitled to a tax exemption on the total value of the property.” See Texas Attorney General Opinion No. JC-0372.

The owner of a production property that does not control air, water, or land pollution is not entitled to receive pollution tax exemption. Brine storage pond is a production storage property not listed in Part A of the ECL. A brine storage pond must be distinguished from a brine disposal pond which is listed in Part A of the ECL under item S-20. While the latter is permitted and used as a pollution control device to dispose brine, the former is used to facilitate gas production by displacing gas in an underground gas storage facility or cavern. The Railroad Commission rules define a brine pit as a pit “used for storage of brine which is used to displace hydrocarbons from an underground hydrocarbon storage facility” while a “salt disposal well” is defined as a “pit used for disposal of produced saltwater.” See 16 TEX. ADMIN. CODE § 3.8(a)(2) and (13). Since brine storage pond and associated pump and piping are not listed in Part A of the ECL, the instant application should have been submitted as a Tier II or Tier III application in order to adequately account for the production purposes for which the properties were installed. See 30 TEX. ADMIN. CODE § 17.2(14) for the definition of a Tier II application, and 30 TEX. ADMIN. CODE § 17.2(15) for the definition of a Tier III application. The concrete pump pit, transfer pump, and piping associated with a brine storage pond are production properties which are not eligible for pollution tax exemption under Section 11.31 of the Texas Tax Code. At a

minimum, the application should have been submitted as a Tier II or Tier III application. Accordingly, the instant appeal should be dismissed.

4. **The Executive Director's Tier I negative use determination should be affirmed because the properties, devices, and installations involved in this appeal do not provide environmental benefit at the site as required by 30 TEX. ADMIN. CODE § 17.15.**

A piece of pollution control equipment must provide environmental benefit at the site to be eligible for a pollution tax exemption under the Prop 2 program. See 30 TEX. ADMIN. CODE § 17.15. The properties, devices, and installations involved in this appeal do not provide environmental benefits at their sites. The oil and gas operation requiring the installation of a brine storage pond generates pollution at the site. Produced saltwater or brine is an oil and gas waste regulated as a pollutant under the Railroad Commission rules. See 16 TEX. ADMIN. CODE § 3.8(a)(26) and 3.8(d). The mere generation and storage of a pollutant does not provide environmental benefit at the site. However, instrumentalities installed to control or prevent the pollutant from contaminating surface or subsurface water may be eligible for pollution tax exemption. In this case, the installation of a synthetic liner, leak detection, and monitoring devices in the brine storage pond may be eligible for pollution tax exemption if they are installed to prevent the intrusion of brine into water in the state.

5. **The contention that the application involved in this appeal should have been granted because the Executive Director has granted positive use determinations for similar facilities in the past is not dispositive of this appeal.**

Admittedly, the Executive Director has granted positive use determinations for brine storage pits and pieces of equipment installed in the pit to control air, water, or land pollution. The Executive Director is aware of five use determination applications involving brine storage pits. One of the applications (UD-98-4093) received a negative use determination on grounds that a brine storage pit is a product storage device. The other four applications listed devices such as synthetic liners, leak detection systems, vapor detection systems, and a flare unit, installed specifically for pollution control. The Executive Director is not aware of a situation where a positive use determination was granted for the installation of a concrete pump pit, transfer pump, and piping associated with a brine storage pond. These items do not control pollution and were not installed to control pollution. They are production devices used for the operation of an underground gas storage facility or cavern. As such they are not eligible for tax exemption under Section 11.31 of the Texas Tax Code.

### CONCLUSION

After careful consideration of the Appeal filed by Mont Belvieu on Use Determination application number 07-11881, the Executive Director concludes that the original Tier I negative use determination issued to Mont Belvieu Caverns, LLC was not issued in error. The Appellant

failed to provide any legal basis upon which the Commission should reverse the Executive Director's use determination in this case. The Executive Director's use determination in this case is consistent with the terms and mandates set forth in the relevant laws and rules. The averred assertions of the Appellant do not alter the findings and the final negative use determination issued by the Executive Director in this case.

Accordingly, the Executive Director respectfully requests that the Commission deny the instant appeal filed by Mont Belvieu Caverns, LLC and affirm the Executive Director's Tier I negative use determination.

Respectfully submitted,

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

Mark Vickery, Executive Director

Robert Martinez, Director  
Environmental Law Division

Guy Henry, Senior Attorney  
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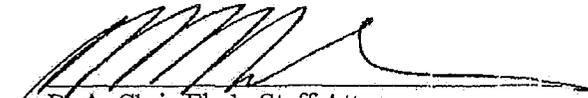
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REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY

CERTIFICATE OF SERVICE

I certify that on July 28, 2008, the original and 11 copies of the Executive Director's Response to Mont Belvieu Caverns, LLC's Appeal of the Executive Director's Use Determination Issued to Mont Belvieu North Storage was filed with the Office of the Chief Clerk, Texas Commission on Environmental Quality and was served by first-class mail, agency mail, or facsimile to all persons on the attached mailing list.



D. A. Chris Ekoh, Staff Attorney  
Environmental Law Division  
Texas Commission on Environmental Quality

## MAILING LIST

## Mont Belvieu North Storage

TCEQ Docket No. 2008-0940-MIS-U(UD-07-11881)

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a  
Texas Commission on Environmental Quality document,  
which is filed in the permanent records of the Commission.  
Given under my hand and the seal of office on

*LaCenne Capriucola* DEC 16 2008

LaCenne Capriucola, Chief Clerk  
Texas Commission on Environmental Quality

**AN ORDER** concerning the Appeal filed by Mont Belvieu Caverns, LLC with regard to the Executive Director's Negative Use Determination for application No. 07-11881; TCEQ Docket No. 2008-0940-MIS-U.

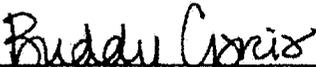
On December, 10, 2008, the Texas Commission on Environmental Quality (Commission) considered the appeal filed by Mont Belvieu Caverns, LLC (Appellant) with regard to the Executive Director's Negative Use Determination for the application assigned No. 07-11881. The Commission also considered the Executive Director's Response to the Appeal, the Office of Public Interest Counsel's Response to the Appeal, the Appellant's Reply to the Responses, and oral arguments made by the parties. The appeal was evaluated under applicable statutes and Commission rules, including Texas Tax Code § 11.31 and 30 Texas Administrative Code Chapter 17.

After considering the written filings and arguments made by the Appellant, the Executive Director, and the Office of Public Interest Counsel, the Commission determined to deny the appeal and affirm the Executive Director's Negative Use Determination having concluded that the Executive Director's Determination was in accordance with the applicable statutes and rules.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the Appeal is hereby DENIED and the Executive Director's Negative Use Determination on the Mont Belvieu Caverns, LLP's application assigned No. 07-11881 is AFFIRMED.

Issue date: DEC 12 2008

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

  
Buddy Garcia, Chairman



3. Defendant, Texas Commission on Environmental Quality ("TCEQ") is an agency duly organized and acting pursuant to the laws of the State of Texas, and upon whom service can be made by serving Mark R. Vickery, Executive Director, 12100 Park 35 Circle, Building F, 4th Floor, Austin, Texas 78753.

4. Defendant Mark R. Vickery, Executive Director of the Commission (the "Executive Director"), is sued in his official capacity and service upon him can be made at his office at 12100 Park 35 Circle, Building F, 4th Floor, Austin, Texas 78753.

#### **Jurisdiction and Venue**

5. Plaintiff brings this action to appeal the order of, and the determination made by, the TCEQ. Jurisdiction of this action is conferred on this Court by TEX. WATER CODE § 5.351. In accordance with TEX. WATER CODE § 5.354, venue for this action is in Travis County, Texas.

#### **Facts**

6. In 2007, Plaintiff built a double-lined brine disposal pond in compliance with the environmental regulations of the Railroad Commission of Texas. The brine pond was designed and built as part of an integrated system at the North Storage Facility to prevent land and water pollution, to decrease the use of fresh groundwater for making brine, and to decrease the quantity of brine disposed of by underground injection.

7. On or about February 12, 2008, Plaintiff applied for a use determination from the Executive Director on a brine pond and ancillary equipment at the Mont Belvieu North Storage Facility as qualifying pollution control equipment under TEX. TAX CODE §

11.31. The Executive Director assigned application no. 07-11881 to Plaintiff's application.

8. In a letter dated May 20, 2008, the Executive Director issued a negative use determination for the equipment and installation costs of the brine pond at the North Storage Facility in application no. 07-11881. The Executive Director stated that the equipment is considered to be production equipment and not pollution control property.

9. On June 3, 2008, Plaintiff filed an appeal with the TCEQ to appeal the negative use determination by the Executive Director. A copy of Plaintiff's appeal of the Executive Director's determination is attached as Exhibit A and incorporated herein by reference.

10. On December 17, 2008, Plaintiff received the TCEQ's Order dated December 12, 2008 (the "Order"), denying Plaintiff's appeal with regard to the Executive Director's Negative Use Determination. A copy of the TCEQ's Order is attached as Exhibit B and incorporated herein by reference.

11. This appeal to district court is timely filed within thirty days of the date of the Order.

#### **Causes of Action**

12. Plaintiff sues the TCEQ and the Executive Director and will show that the brine pond and ancillary equipment qualifies for exemption under TEX. TAX CODE § 11.31.

13. The brine pond and ancillary equipment qualify for exemption because they are used as a facility, device or method for the control of air, water or land pollution.

Section 11.31 of the Texas Tax Code allows for an exemption from taxation of all or part of real and personal property that the person owns and that is used wholly or partly as a facility, device or method for the control of air, water, or land pollution. *See also* 17 TEX. ADMIN. CODE § 17.4(a).

14. The brine pond and equipment qualify for the exemption because they fall within the definition of “pollution control property.” The exemption in TEX. TAX CODE § 11.31 and 17 TEX. ADMIN. CODE § 17.4(a) applies to “pollution control property,” which is described as:

. . . any structure, building, installation, excavation, machinery, equipment, or device, and any attachment or addition to or reconstruction, replacement, or improvement of that property, that is used, constructed, acquired, or installed wholly or partly to meet or exceed rules or regulations adopted by any environmental protection agency of the United States, this state, or a political subdivision of this state for the prevention, monitoring, control, or reduction of air, water, or land pollution. . . .

TEX. TAX CODE ANN. § 11.31(b); *see also* TEX. CONST. ART. VIII, § 1-1.

15. The brine pond and ancillary equipment meet the definition of pollution control property under TEX. TAX CODE § 11.31(b) and meet or exceed the pollution control requirements of the Railroad Commission of Texas by reducing the amount of brine that must be disposed and by protecting fresh groundwater supplies. *See, e.g.*, 30 TEX. ADMIN. CODE §§. 3.8, 3.9. Plaintiff requests that the Court find that the brine pond and ancillary equipment meet the statutory definition of pollution control equipment.

16. Moreover, the Defendants’ decision is inconsistent with and directly contradicts use determinations of other brine pits – including those owned by the Plaintiff

-- that the Defendants made under TEX. TAX CODE Sec. 11.31 and is, therefore, in violation of TEX. TAX CODE Sec 11.31(g)(2) which requires that determinations are equal and uniform.

17. Plaintiff also brings this action as a request for declaratory judgment pursuant to TEX. GOV'T CODE § 2001.038 challenging the validity and/or applicability of an administrative rule adopted by the TCEQ and applied to Plaintiff in this proceeding. The TCEQ's application of 30 TEX. ADMIN. CODE §17.14 in this case interferes with or impairs a legal right or privilege of Plaintiff. The unlawful determinations made by the TCEQ and the Executive Director have caused or will cause, by operation of law, each taxing unit that is otherwise permitted to assess taxes on Plaintiff to assess amounts of taxes that exceed the lawful amount, thus causing injury to Plaintiff. The property taxes assessed, or to be assessed, with respect to the brine pond and ancillary equipment are, therefore, excessive and unlawful.

**Prayer for Relief**

WHEREFORE, Plaintiff prays that the TCEQ and the Executive Director be cited to appear, that the Court set this case for final trial on the merits, and, after a trial on the merits, the Court enter a final judgment:

- (a) ordering that the order of the TCEQ affirming the Executive Director's negative use determination on Plaintiff's application no. 07-11881 is set aside as it is arbitrary and capricious, unreasonable and clearly erroneous;
- (b) ordering that one hundred percent of the value of Plaintiff's brine pond and ancillary equipment qualifies for the exemption under TEX. TAX CODE § 11.31;

- (c) declaring that the TCEQ's application of 30 TEX. ADMIN. CODE §17.14 in the case is invalid;
- (d) awarding reasonable and necessary attorney's fees to Plaintiff as are equitable and just, pursuant to TEX. CIV. & PRAC. CODE § 37.009; and
- (e) ordering that Plaintiff is entitled to such other and further relief, both legal and equitable, general and special, to which Plaintiff may show itself justly entitled.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By: 

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ATTORNEYS FOR PLAINTIFF  
MONT BELVIEU CAVERNS, LLC

Tax Relief For Pollution Control Property  
Applications Filed for Chambers County  
11/1994 & 5/2006

Line 1: Year, App. Number, Company Name  
Line 2: Tier Level, Status, Facility Name, Dollar Value  
Line 3: Facility Type, Appraisal District  
Status: A = Approved, D = Denied, W = Withdrawn, R = Under Review

97 3386 BAYER CORPORATION  
I A BAYER BAYTOWN PLANT \$28,516,066  
CHEMICAL MANF CHAMBERS

The following projects: Spill and Contaminated Firewater Containment (8054), Upgrade Plant Water Facilities (0033), Various (0090), Trimer Flexibility Phase (0161), Coatings Area Reliability Improvements (0180), Maleic Anhydride (0203), DNT Wastewater Treatment (0387), TDI Safety Project (0413), Infrastructure for Maleic Anhydride Plant and Electric Power Distribution System Upgrade (0435), Quality Improvements - Phase I (0444), Makrolon Quality Improvements - Phase II (0451), TDA Capacity Increase (0594), Baytown Dryside Expansion (0537), Makrolon Capacity Increase (0594), Isocyanate Expansion MDA-III (0612), DNT/TDA Improvements (5008), MRI Capacity Increase (5011), PU Support Facilities (5190), Baytown Expansion Program Infrastructure - Phase I (6014), and Chlor-Alkali Infrastructure Phase IV (6035).

A positive use determination of 100% for the projects listed in the description above.

98 4084 BAYER CORPORATION  
I A BAYER BAYTOWN PLANT \$39,891,568  
CHEMICAL MANF CHAMBERS

Pollution Control Property included on the following projects (see attached): P0550, P0932, P5190, P5232, P6014, P6029, P6030, P6035, P7006 and P7031.

A positive use determination of 100% for the pollution control property included in the following projects: P0550, P0932, P5190, P5232, P6014, P6029, P6030, P6035, P7006, and P7031.

99 4809 BAYER CORPORATION  
I A BAYER BAYTOWN CHEMICAL MANF \$13,934,150  
CHAMBERS

Installed the following pollution control property: 1. Sulfuric Acid Concentrate Recovery System - used to recover and reutilize weak sulfuric acid. 2. LFA Organics Tank & TDA Waste Transfer Tank - used to separate and transfer organics from water. 3. Chlorine blower for the absorber. 4. Wastewater treatment system for brine. 5. Spent acid stripper. 6. Wastewater regeneration effluent

tank. 7. Spent H<sub>2</sub>SO<sub>4</sub> tank. 8. H<sub>2</sub> vent stack. 9. Chlorine absorber. 10. Waste gas ventilators 1 & 2. 11. Separator, mixer/settler - decanter for wastewater treatment. 12. Pumps, feeds, (2) sump pumps, (3) circulation and receiver pumps, wastewater column stripper, wastewater tanks, wastewater exchangers, stripper and columns, and MIBK Vacuum 1 & 2 pumps for wastewater treatment system. 13. Waste gas absorber column. 14. Phenol recovery column. 15. Acetone distillation column. 16. Emergency flare. 17. (2) flame arresters. 18. Wastewater de-nitrification system.

A positive use determination of 100% for the LFA Organics Tank & TDA Waste Transfer Tank; the Chlorine blower for the absorber; the wastewater treatment system for brine; the spent acid stripper; the wastewater regeneration effluent tank; the Spent H<sub>2</sub>SO<sub>4</sub> tank; the H<sub>2</sub> vent stack; the Chlorine absorber; waste gas ventilators 1 & 2; the separator, mixer/settler; the pumps, feeds, (2) sump pumps, (3) circulation and receiver pumps, wastewater column stripper, wastewater tanks, wastewater exchangers, stripper and columns, and MIBK Vacuum 1 & 2 pumps; the waste gas absorber column; the phenol recovery column; the Acetone distillation column; the emergency flare; the 2 flame arresters; and the wastewater de-nitrification system.

00 5476 BAYER CORPORATION  
I A BAYER CORP - BAYTOWN PLANT \$44,594,005  
RUBBER CHAMBERS

Numerous pieces of pollution control property: 1. Waste water filtration system. 2. Vent gas scrubber for Makrolon Unit. 3. TDI Phosgene Decomposition Tower Project. 4. Modification/retrofit of central thermal oxidizing system. 5. Replacement of CFC based refrigeration system with ammonia based system. 6. TDI-II Unit - vent gas blower/scrubber unit. 7. DNT-II Unit waste water holding tank and pumps. 8. MR-1 Unit vent gas separator and demister. 9. Replacement of bag house filters. 10. Upgrade to cooling towers. 11. Project to re-route plant outfall seven miles. 12. Installation of pumps, pipes, conveyances, and tanks used to segregate and control storm water. 13. Project to relocate solid waste storage tanks. 14. Project to renovate Outfall 001. 15. Installation of a spectrometer. 16. Env. paving installed to control dust and particulate matter. 17. Modification of existing vapor-only combustor to a vapor-liquid combustor.

A positive use determination of 100% for the Waste water filtration system, the Vent gas scrubber the TDI Phosgene Decomposition Tower Project, the modification/retrofit of central thermal oxidizing system, the replacement of CFC based refrigeration system, the TDI-II Unit - vent gas blower/scrubber unit, the DNT-II Unit waste water holding tank and pumps, the MR-1 Unit vent gas separator and demister, the replacement bag house filters, the upgrade to the cooling towers, the project to re-route plant outfall seven miles, the installation of pumps, pipes, conveyances, and tanks used to segregate and control storm water, the project to relocate solid waste storage tanks, the project to renovate Outfall 001, the installation of a spectrometer, the env. paving installed to control dust and particulate matter, and the modification of existing vapor-only combustor to a vapor-liquid combustor.

01 6011 BAYER CORPORATION

I A BAYER BAYTOWN PLANT \$3,304,200  
CHEMICAL MANF CHAMBERS

1. VOC monitoring & detection system upgrades & expansion. Includes field analyzers, instrumentation, distributive control system, alarms, and annunciators. 2. Pump replacement with magnetic drive comparable unit. 3. Three leak detection monitors & a continuous gas monitor in cell room area of the Chlor-Alkali Unit. 4. Upgrade & modifications to noncontinuous emission monitoring and release suppression system in the MR-1 unit. 5. Carbon monoxide analyzers & perimeter lower explosive limit monitor. 6. Infrared offgas analyzer for the detection of VOCs in the HDI-1 Unit.

A positive use determination of 100% for the field analyzers, instrumentation, distributive control system, alarms, annunciators, pump replacement with magnetic drive comparable unit; 3 leak detection monitors & a continuous gas annunciators, pump replacement with magnetic drive comparable unit; 3 leak detection monitors & a continuous gas monitor; upgrade & modifications to noncontinuous emission monitoring and release suppression system; carbon monoxide analyzers & perimeter lower explosive limit monitor; and infrared off-gas analyzer.

02 6955 BAYER CORPORATION  
I A BAYER BAYTOWN PLANT \$12,520,000  
CHEMICAL MANF CHAMBERS

The following items: Temperature control equipment & CMS parts for facility's central thermal oxidizer. VOC monitoring and detection system upgrade & expansion - includes vent/decomposition tower & associated piping, blowers, neutralization equipment, field analyzers, instrumentation, distributive control system, alarms & annunciators. Multiple pump replacement projects. Vent gas condenser replacement project. Improvements to solid waste, onsite repository system. Makrolon infrastructure & plant treated waste water outfall relocation projects. Process storm water conveyance ad site drainage improvements. Installation of new APACS data access & control system in the WWTP.

A positive use determination of 100% for the temperature control equipment & CMS parts for facility's central thermal oxidizer.; VOC monitoring and detection system upgrade & expansion; multiple pump replacement projects; vent gas condenser replacement project; improvements to solid waste, onsite repository system; Makrolon infrastructure & plant treated waste water outfall relocation projects; process storm water conveyance ad site drainage improvements; and installation of new APACS data access & control system in the WWTP.

99 4843 BAYER CORPORATION  
III A BAYER BAYTOWN \$30,985,427  
CHEMICAL MANF CHAMBERS

Installed the following pollution control property: 1, Sulfuric Acid Concentrate Recovery System

- used to recover and reutilize weak sulfuric acid.

A positive use determination of 59% for the Sulfuric Acid Concentrate Recovery System.

03 7795 BAYER CORPORATION  
I A BAYER BAYTOWN PLANT \$4,607,800.00  
CHEMICAL MANF CHAMBERS

1. Makrolon Line 4 baghouse. 2. Replace demister in 2nd stage SAC column. 3. Central thermal oxidizer stack gas analyzer. 4. VOC monitoring and detection system upgrade. 5. Replacement of relief valves & rupture discs vented to control device. 6. Replace pumps with magnetic drive units. 7. Plant sand filter replacement. 8. Upgrade power and chilled water systems in WWTP. 9. Effluent water gas chromatograph analyzer project. 10. WWTP Effluent filtration project.

A positive use determination for 100% of the 10 projects listed above.

04 8452 BAYER MATERIAL SCIENCE LLC  
I A BAYER - BAYTOWN \$2,647,100.00  
CHEMICAL MANF CHAMBERS

The following projects: 1. Waste water treating. 2. Upgrade containment walls @ decon pad areas. 3. Waste Water filtration system expansion. 4. Pump Replacement. 5. VOC Monitoring & Detection System Expansion. 6. Central Thermal Oxidizer Stack Gas Analyzer (CEMS 68).

A positive use determination of 100% for the above listed projects.

05 9668 BAYER MATERIAL SCIENCE LLC  
I A BAYER - BAYTOWN \$3,219,938.00  
CHEMICAL MANF CHAMBERS

Effluent filtration project. Paving. Replacement pumps. Storm drain, trench, paving, and spill containment improvements. VOC monitoring and detection system.

A positive use determination of 100% for the effluent filtration project, the new paving and the paving repairs, the replacement pumps, the stormwater control project, and the organic vaporizers and hydrocarbon emission analyzers.

00 5046 BAYTOWN ENERGY CENTER LP  
II A BAYTOWN ENERGY CENTER \$17,478,069  
ELEC UTILITY CHAMBERS

The following property: Demisters A, B, & C. Selective Catalytic Reduction Systems A, B, & C.

Water/Steam injection for turbines A, B, & C. Secondary containment. CPI separator. Cooling Tower. Combustor bypass vales A, B, & C. Combustion turbine inlet guide vanes A, B, & C.

A positive use determination of 100% for the Demisters A, B, & C. Selective Catalytic Reduction Systems A, B, & C. Water/Steam injection for turbines A, B, & C. Secondary containment. CPI separator. Cooling Tower. Combustor bypass vales A, B, & C. Combustion turbine inlet guide vanes A, B, & C.

02 6416 BAYTOWN ENERGY CENTER LP  
II A BAYTOWN ENERGY CENTER LP \$873,731  
ELEC UTILITY CHAMBERS

Partial Determinations are Requested on the following three items: Inlet Guide Vanes - used to control airflow through the combustors. Distributive Control System - used to control and operate the plant. Gas Scrubbers - high-pressure fuel gas scrubbers and low-pressure fuel gas scrubbers.

A positive use determination of 12.5% for the Gas Scrubber, a positive use determination of 20% for the Distributed Control System, and a positive use determination of 33% for the Inlet Guide Vanes. Control System, and a positive use determination of 33% for the Inlet Guide Vanes.

99 4850 BORDEN CHEMICAL INC  
IA BORDEN BAYTOWN \$463,130  
CHEMICAL MANF CHAMBERS

Installed a catalytic incinerator and a cooling tower.

A positive use determination of 100% for the catalytic incinerator and the cooling tower.

02 6351 CAYUSE PIPELINE  
IA CAYUSE PIPELINE MT BELVIEU PUMP ST \$60,000  
PUMP STATION CHAMBERS

Installed gas detectors.

A positive use determination of 100% for the Gas Detectors.

04 8201 CONOCOPHILLIPS COMPANY  
IA GULF COAST FRACTIONATORS \$324,600.00  
CHEMICAL MANF CHAMBERS

Installed a continuous emissions monitoring system.

A positive use determination of 100% for the continuous emissions monitoring system.

97 3394 DIAMOND SHAMROCK REFINING & MARKETING CO  
I A UDS MONT BELVIEU OPERATIONS \$913,485  
REFINERY CHAMBERS

Seven projects. RRC Rule 95 Compliance (54410) & RRC Rule 95 Compliance (54901) - purchase and install emergency shutdown valves, gas detectors, overfill detection, and automatic shut-in devices. Tandem Seals East Pump (54412) - Install two John Crane tandem seals as replacement seals. Emergency Response Trailer (74403) - trailer with response equipment and serve as a command center. West Diesel Fuel Tank Containment Area (74403) and East Concrete Containment Areas (74405) - These two projects consist of constructing five separate concrete foundations and containment areas. Relief Piping for East Pump Station (74419) - Installed a relief header extension to the north of the East Pump Station.

A positive use determination of 100% for the following projects: RRC Rule 95 Compliance (54410), Tandem Seals East Pump (54412), RRC Rule 95 Compliance (54901), Emergency Response Trailer (74403), West Diesel Fuel Tank Containment Area (74403), East Concrete Containment Areas (74405), and Relief piping for East Pump Station (74419).

05 9137 EAST SIDE HONDA  
I D EAST SIDE HONDA \$183,536.00  
MOTORCYCLE DEALER CHAMBERS

Required to construct a detention pond for rain fall. Expanded existing lake to comply. Approximately 75% of the 40.032 acres tract is the lake.

A negative determination. This property is specifically excluded from receiving a positive use determination under section 11.31(a) of the Texas Tax Code.

94 567 EGP FUELS COMPANY  
I A EGP FUELS - MT. BELVIEU STORAGE PLANT \$1,166,500  
GAS/OIL PROCESSING CHAMBERS

Constructed a salt water disposal well.

A positive use determination of 100% for the salt water disposal well.

98 3684 EGP FUELS COMPANY  
I A EGP MONT BELVIEU STORAGE \$593,518  
GAS PLANT CHAMBERS

Flare piping and related equipment including knock out pot.

A positive use determination of 100% for the flare piping and related equipment including

knock-out pot.

98 4058 EL DORADO NITROGEN  
I A EL DORADO NITROGEN \$4,360,000  
CHEMICAL MANF CHAMBERS

Installed the following pollution control property: Scrubber; selective catalytic system to remove NOx from vent gas streams, includes piping; continuous emission monitors to measure NOx and NH3; monitoring equipment on the final control device to measure NOx and ammonia for control of SCR unit; cooling towers to recirculate and reuse cooling water; neutralization equipment to adjust pH of water discharge; diversion equipment to collect first 1" of rainfall; secondary containment dike around storage tanks, start-up tank, and curbs around acid pumps; liners to acid proff dike areas; and environmental paving - paving of process areas..

A positive use determination of 100% for the scrubber, the selective catalytic system, the continuous emission monitors, the monitoring equipment on the final control device, the cooling towers, the neutralization equipment, the diversion equipment, the secondary containment, the liners, and the environmental paving.

01 6196 ENTERPRISE PRODUCTS OPERATING LP  
I A ENTERPRISE PRODUCTS MONT BELVIEU \$1,200,000  
GAS PROCESSING CHAMBERS

Hazardous Waste Containment Project: Replaced waste caustic screwed piping with welded piping through out 100 Isom, 200 Isom, Merichem Skids, WT Fracs, WT Storage, and WT Caustic Handling; replaced underground waste caustic piping and aboveground screwed piping with above ground welded piping in the P/P Splitter I and Dixie Dehydrator areas; repair concrete and apply sealing material to the waste caustic storage containment areas in P/P Splitters I & II, and West Texas caustic handling area; and increased the height of the containment wall and coat the containment area for the process water tank at Oil Tanking, and modify the compressor area and the lube oil storage tank area to resolve containment issues.

A positive determination of 100% for the Hazardous Waste Containment Project.

04 8202 ENTERPRISE PRODUCTS OPERATING LP  
I A ENTERPRISE PRODUCTS MONT BELVIEU \$28,408,733.00  
GAS PROCESSING/TRANS CHAMBERS

See application.

A positive use determination of 100% for the items on the attached list.

97 2896 ENTPRO LIMITED

I A        ENTPRO MTBU BRINE PIT \$10,143,000  
              LOADING FACILITY CHAMBERS

This project included the addition a of a new brine storage pond as well as the upgrading of an old brine storage pond. Both pits will have new HDPE liners, leak detection systems, and vapor detection systems with igniters. All brine lines have been installed on overhead racks to assist in leak detection.

A positive use determination of 100% for the project to add the new brine storage pond and update the existing brine storage pond.

97 2895 ENTPRO LIMITED

III A        ENTPRO RAIL LOADING FACILITY \$6,950,000  
              LOADING FACILITY CHAMBERS

Refurbishment of old loading dock: Including replacement or addition of pumps, blowers, and associated piping used to eliminate emissions. The lines were moved above ground. The project includes all necessary leak detection devices and connection to an existing flare.

A positive use determination of 64% for the pumps, blowers, leak detection devices, and associated piping installed as part of the project to refurbish the old loading rack.

98 3982 EQUISTAR CHEMICALS LP

I D        EQUISTAR MONT BELVIEU \$85,000  
              CHEMICAL MANF CHAMBERS

Replaces wiring to product injection and other pumps, relocating them from underground cable banks to above-ground cable trays to eliminate insect damage.

A negative determination. The property listed in this application does not qualify as pollution control property.

95 1152 EXXON CORPORATION

I A        EXXON - WC TYRRELL TRUST 23 \$119,000  
              GAS/OIL PROCESSING CHAMBERS

Covert well to saltwater disposal including additional block squeeze packers and run injection string.

A positive use determination of 100% for the conversion of the well into a salt water disposal well.

96 2088 EXXON CORPORATION

I A EXXON MONT BELVIEU \$195,000  
CHEMICAL MANF CHAMBERS

Catalyst Vent Collection System: includes several pneumatic transfer systems, associated process safety devices and a weigh scale.

A positive use determination of 100% for the Catalyst Vent Collection System.

96 2089 EXXON CORPORATION  
I A EXXON - MONT BELVIEU \$5,107,500  
CHEMICAL MANF CHAMBERS

The IPDS/Phase 1 project: Equipment included vapor compressors, product purging vessels, ancillary vapor compressor vessels, numerous process control system.

A positive use determination of 50% for the IPDS/Phase 1 project. Equipment includes vapor compressors, product purging vessels, ancillary vapor compressor vessels, numerous process control systems, valves and piping.

97 3018 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$91,735  
PLASTICS MANF CHAMBERS

The following equipment: 1.) Various equipment to outfit a portion of an Incident Command Vehicle. 2.) An emergency response trailer containing emergency equipment. and 3.) A communications package to support emergency response activities.

A positive use determination of 100% for the three tools provided for Emergency Response personnel

97 3019 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$322,000  
PLASTICS MANF CHAMBERS

Concrete paving was added to two areas of the plant.

A positive use determination of 100% for the concrete paving added to two areas of the plant.

97 3020 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$6,251  
PLASTICS MANF CHAMBERS

A containment structure was placed around the foundation of a pump on the LLDPE Unit.

A positive use determination of 100% for the containment structure placed around the foundation of an existing pump on the Low Density Polyethylene Unit.

97 3021 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$12,488  
PLASTICS MANF CHAMBERS

A containment structure was placed around the foundation of the LLDPE flare knockout drum..

A positive use determination of 100% for the containment structure placed around the foundation of the LLDPE flare knockout drum.

97 3022 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$1,376,062  
PLASTICS MANF CHAMBERS

A catalytic oxidizer was installed to abate air emission from the Finishing area of HDPE.

A positive use determination of 100% for the catalytic converter.

97 3023 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$25,293  
PLASTICS MANF CHAMBERS

Two upgrades were installed (Flare Seal Level Alarm and Flare Header Control Valve) on the LLDPE flare.

A positive use determination of 100% for the flare seal level alarm and the flare header control valve.

97 3024 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$61,500  
PLASTICS MANF CHAMBERS

Ground water wells were installed to assess ground water quality.

A positive use determination of 100% for the groundwater monitoring well.

97 3025 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$331,025  
PLASTICS MANF CHAMBERS

Installation of a new chemical truck unloading facility.

A positive use determination of 100% for the closed loop sampling stations on each unloading line and the connection of the truck unloading vapor lines to the LLDPE flare.

98 3663 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$419,611  
CHEMICAL MANF CHAMBERS

Installed four upgrades on the flare header system.

A positive use determination of 100% for the four upgrades on the flare header system.

98 3664 EXXON CORPORATION  
I A MONT BELVIEU PLASTICS PLANT \$150,000  
CHEMICAL MANF CHAMBERS

A containment device was installed in one of the site ditches to catch potential in advertent spills.

A positive use determination of 100% for the containment device.

99 4271 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$106,000  
CHEMICAL MANF CHAMBERS

HDPE In-Process VOC Reduction Facilities - Installed facilities to route VOCs from 2 locations to a process vessel. 1. Reconfiguration of Blower BR-44  
01 A/B piping. 2. Oligomer Removal Project.

A positive use determination of 50% for the vapor recovery equipment installed in the high density polyethylene unit.

99 4272 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$168,000  
CHEMICAL MANF CHAMBERS

HDPE Powder VOCs Reduction Facilities: installed facilities to route a vapor stream containing VOCs to a catalytic oxidizer. Facilities consist of piping, headers, and ductwork.

A positive use determination of 100% for the facilities installed to route a vapor stream containing VOCs to a catalytic oxidizer.

99 4273 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$26,000  
CHEMICAL MANF CHAMBERS

Closed Loop Chemical Samplers: installed facilities to route VOCs vented from chemical samplers to a control device. Property consists of piping, headers and ductwork.

A positive use determination of 100% for the piping, headers, and duct work installed to route a vapor stream from the THF dryer sampling system to a control device.

99 4274 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$766,100  
CHEMICAL MANF CHAMBERS

HDPE & LLDPE Manufacturing Unit Paving Improvements: concrete paving added to process areas to control dust and provide containment.

A positive use determination of 100% for the concrete paving installed in the operating areas of the polyethylene manufacturing units.

99 4275 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$800,220  
CHEMICAL MANF CHAMBERS

LLDPE Recovered Fuel Project: piping, headers, and ductwork installed to capture VOCs from existing process vents and route to a boiler. A low NOX burner was installed on the boiler and additional modifications were made to the boiler.

A positive use determination of 100% for the LLDPE Recovered Fuel Project.

99 4276 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$681,000  
CHEMICAL MANF CHAMBERS

LLDPE Finishing Section Modifications: installed 8 baghouses and three blower systems for use in capturing particulate emissions from the Finishing Section.

A positive use determination of 100% for the 8 baghouses and 3 blower systems in the LLDPE unit.

99 4283 EXXON MOBIL CORPORATION  
I A EXXON MOBIL MONT BELVIEU \$35,000  
CHEMICAL MANF CHAMBERS

HDPE Catalytic Oxidizer Upgrade Project: addition of catalyst and appropriate modifications to properly install the catalyst.

A positive use determination of 100% for the upgrades to the catalytic oxidizer in the HDPE unit.

00 4930 EXXON MOBIL CORPORATION  
I A EXXON MOBIL CHEMICAL COMPANY \$12,061  
CHEMICAL MANF CHAMBERS

Facilities installed to route VOCs from a number of process pumps within the HDPE process to a process vessel.

A positive use determination of 50% for the facilities installed to route VOCs from a number of process pumps within the HDPE process to a process vessel.

00 4931 EXXON MOBIL CORPORATION  
I A EXXON MOBIL CHEMICAL COMPANY \$22,000  
CHEMICAL MANF CHAMBERS

Installed an upgrade to the LLDPE flare header system.

A positive use determination of 100% for the upgrade to the LLDPE flare header system.

00 4932 EXXON MOBIL CORPORATION  
I A EXXON MOBIL CHEMICAL COMPANY \$100,000  
CHEMICAL MANF CHAMBERS

Concrete paving (for spill containment) was added to operating areas of the HDPE and LLDPE units.

A positive use determination of 100% for the concrete paving (for spill containment) which was added to operating areas of the HDPE and LLDPE units.

00 4933 EXXON MOBIL CORPORATION  
I A EXXON MOBIL CHEMICAL COMPANY \$187,931  
CHEMICAL MANF CHAMBERS

Installed facilities, consisting of piping, headers, and ductwork, to route vapors containing VOCs vented from chemical samplers to a control device in the LLDPE unit.

A positive use determination of 100% for the piping, headers, and ductwork.

01 6167 EXXON MOBIL CORPORATION  
I A EXXONMOBIL CHEMICAL MONT BELVIEU \$332,196  
CHEMICAL MANF CHAMBERS

Project to upgrade the Low Density Polyethylene Unit's flare monitoring system, improve the gas

flow, and install an analyzer capable of identifying and quantifying the constituents in the flare gas.

A positive use determination of 100% for the upgrade the Low Density Polyethylene Unit's flare monitoring system.

01 6168 EXXON MOBIL CORPORATION  
I A EXXONMOBIL CHEMICAL MONT BELVIEU \$260,850  
CHEMICAL MANF CHAMBERS

Project to remove two underground storage tanks and replace them with double-walled aboveground tanks. Env. Property: double-walled tanks, overfill protection, leak detection, submerged filling, gas tank provided with pressure/vacuum system, thermal insulation, concrete slab, and camera for 24 hour monitoring.

A positive determination of 100% for the overfill protection, leak detection, submerged filling equipment, pressure/vacuum system, security camera, removal of tanks, soil analysis, and the tank removal. A positive use determination of 50% for the double-walled tanks.

04 8280 EXXON MOBIL CORPORATION  
I A EXXONMOBIL - MONT BELVIEU \$3,134,989.00  
WASTE HANDLING/DISP CHAMBERS

Flare to replace 3 existing flares.

A positive use determination for 100% of the new flare.

97 3295 FIRST CHEMICAL TEXAS LP  
I A FIRST CHEMICAL TEXAS LP \$5,849,500  
CHEMICAL MANF CHAMBERS

Installed the following pollution control equipment: demister, liquid flame arrester, NOx scrubber, Xomox severe service valves, benzene and nitrobenzene IFR, nitration and aniline strippers, welded piping, sumps, piping for recycle to nitration, cooling towers, pH meters, TOC analyzer, secondary containment, waste storage tanks, sloop tank, stripped water tank, strong effluent tank, vacuum vessel, and potable water system.

A positive use determination of 100% for the pollution control property which was installed. Property includes: demister, liquid flame arrester, NOx scrubber, Xomox severe service valves, benzene and nitrobenzene IFR, nitration and aniline strippers, welded piping, sumps, recycle piping for nitration, cooling towers, pH meter, TOC analyzer, secondary containment, waste storage tanks, sloop tanks, stripped water tank, strong effluent tank, vacuum vessel, and potable water system.

00 5524 FIRST CHEMICAL TEXAS LP

I A FIRST CHEMICAL BAYTOWN PLANT \$1,610,870  
CHEMICAL MANF CHAMBERS

Pollution control property installed to extract aniline from waste water prior to disposal. Property includes: waste water day tanks, aniline water extraction system and laboratory equipment.

A positive use determination of 100% for the waste water day tanks, aniline water extraction system and laboratory equipment.

05 9283 GREY WOLF INC  
I A GREY WOLF INC RIG: #042 \$2,801,000.00  
OIL & GAS WELL DRILL CHAMBERS

Drilling Mud Recycling System: that includes only the following components: 1) Shaker Tank, 2) Shale Shaker, 3) De-Silter, 4) De-Sander, and 5) De-Gasser. The Mud Pumps are not included in the request. Drilling Rig Spill Response Equipment that includes only the following components: 1) Ram Type Blowout Preventor, 2) Closing Unit, and 3) Choke Manifold System. Not included in the request is the Annular Blowout Preventor.

A positive use determination of 100% for the Drilling Mud Recycling System: that includes only the following components: 1) Shaker Tank, 2) Shale Shaker, 3) De-Silter, 4) De-Sander, and 5) De-Gasser. The Mud Pumps are not included in the request. A positive use determination of 100% for the Drilling Rig Spill Response Equipment that includes only the following components: 1) Ram Type Blowout Preventor, 2) Closing Unit, and 3) Choke Manifold System. Not included in the request is the Annular Blowout Preventor.

98 3553 HOUSTON INDUSTRIES INC  
I A CEDAR BAYOU \$125,948  
ELECTRIC UTILITY CHAMBERS

Replacement of floor drains and piping system for polishing demineralizer.

A positive use determination of 100% for the replacement floor drains and piping system for the Polishing Demineralizer.

98 3569 HOUSTON INDUSTRIES INC.  
I A CEDAR BAYOU ELECTRIC GENERATING \$11,087  
ELECTRIC UTILITY CHAMBERS

Asbestos Abatement: Associated costs include asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, disposal, etc.

A positive use determination of 100% for the asbestos abatement project.

98 3586 HOUSTON INDUSTRIES INC.  
I A CEDAR BAYOU ELECTRIC GENERATING \$10,000  
ELECTRIC UTILITY CHAMBERS

Purchase of steel and plastic 55-gallon drums to be used for the temporary storage of waste.

A positive use determination of 100% for the waste storage containers.

98 3587 HOUSTON INDUSTRIES INC  
I A CEDAR BAYOU ELECTRIC GENERATING \$2,400  
ELECTRIC UTILITY CHAMBERS

Purchased booms for use for spill response.

A positive use determination of 100% for the spill response/clean-up booms.

98 3588 HOUSTON INDUSTRIES INC.  
I A CEDAR BAYOU ELECTRIC GENERATING \$39,808  
ELECTRIC UTILITY CHAMBERS

Cleanup and remediation of a diesel/acid release.

A positive use determination of 100% for the groundwater remediation project.

94 143 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$1,018,475  
ELECTRIC UTILITY CHAMBERS

Compliance with US EPA Acid Rain Program for Cedar Bayou Units 1-3 requires the installation of CEMS for NOx and CO2.

A positive use determination of 100% for the following equipment: three continuous emission monitoring systems installed at Cedar Bayou Generating Station.

94 146 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$8,650  
ELECTRIC UTILITY CHAMBERS

Lube Oil Mist Eliminator: The lube oil mist eliminator extracts vapor from lube oil reservoir.

A positive use determination of 100% for the lube oil mist eliminator.

94 156 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU GENERATING STATION \$41,722  
ELECTRIC UTILITY CHAMBERS

Repair RCRA Pond Liner: One half of the pond was re-lined with a new fiberglass liner in 1994. The other half will be relined in 1995.

A positive use determination of 100% for the new fiberglass liner installed at the RCRA pond.

95 1047 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$5,600  
ELECTRIC UTILITY CHAMBERS

HL&P owns and operates an industrial site which is registered as a generator of hazardous wastes. A fence was constructed around the bin storage area. constructed around the bin storage area.

A positive use determination of 100% for the fence constructed around the bin storage unit.

95 1048 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$36,000  
ELECTRIC UTILITY CHAMBERS

Constructed a concrete containment berm around the fuel storage facility.

A positive use determination of 100% for the expansion of the hazardous waste storage area.

95 1049 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$22,000  
ELECTRIC UTILITY CHAMBERS

Expansion of waste storage area to allow for adequate aisle space.

A positive use determination of 100% for the expansion of the hazardous waste storage area.

95 1050 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$95,779  
ELECTRIC UTILITY CHAMBERS

The foam suppression system was replaced. The system consists of a series of nozzles, pilings, a spray header, and piping used to spray water on surface foam.

A positive use determination of 100% for the foam suppression system.

95 1051 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$5,500  
ELECTRIC UTILITY CHAMBERS

Drum racks used to contain drums of waste were built at satellite locations around the site.

A positive use determination of 100% for the drum racks.

95 1052 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$15,000  
ELECTRIC UTILITY CHAMBERS

A lube oil mist eliminator was installed on Cedar Bayou Unit 2. The mist eliminator consists of a filter which removes lube oil mist from the steam turbine lube oil reservoir exhaust and returns it to the reservoir.

A positive use determination of 100% for the lube oil mist eliminator.

95 1053 HOUSTON LIGHTING & POWER COMPANY  
A I CEDAR BAYOU ELECTRIC GENERATING STATION \$254,900  
ELECTRIC UTILITY CHAMBERS

Cedar Bayou Units 1-3 are required to control NOx emissions. This NOx reduction project involves implementation of NOx control technology known as burners out of service (BOOS). Implementation includes the adjustment, or tuning, of burners into certain patterns (and testing these patterns) to reduce NOx emissions. Installation of equipment such as burner gas valves is also required.

A positive use determination of 100% for the burners out of service program put into place at the Cedar Bayou facility.

95 1054 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$1,200  
ELECTRIC UTILITY CHAMBERS

A Freon recovery unit is required in the lab to recover Freon for reuse from testing equipment used to conduct oil and grease tests on wastewater.

A positive use determination of 60% for the CFR recovery unit.

95 1421 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$4,562  
ELECTRIC UTILITY CHAMBERS

A new surface coating was applied to the inside of the potable water pressure tank.

A positive use determination of 100% for the new surface coating applied to the potable water pressure tank.

95 1483 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING STATION \$136,030  
ELECTRIC UTILITY CHAMBERS

Asbestos Abatement Project - Property includes HEPA vacuum equipment, negative air pressure enclosures, glove bags, personnel protective equipment, decontamination facilities and testing.

A positive use determination of 100% for the asbestos abatement project.

96 2225 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING \$271,524  
ELECTRIC UTILITY CHAMBERS

Installed CEMS for NO<sub>x</sub> and CO<sub>2</sub> on Units 1, 2 and 3.  
Property includes monitoring system and associated data acquisition and handling equipment.

A positive use determination of 100% for the Continuous Emission Monitors installed for Units 1-3.

96 2226 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING \$5,500  
ELECTRIC UTILITY CHAMBERS

Asbestos containing building and insulating material was removed. Property includes asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, etc.

A positive use determination of 100% for the Asbestos Abatement project.

96 2227 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING \$18,000  
ELECTRIC UTILITY CHAMBERS

A lube oil mist eliminator was installed on Unit 3.

A positive use determination of 100% for the Lube Oil Mist Eliminator installed on Unit 3.

96 2228 HOUSTON LIGHTING & POWER COMPANY

I A CEDAR BAYOU ELECTRIC GENERATING \$15,000  
ELECTRIC UTILITY CHAMBERS

A collection/storage tank was added to the Oily Waste Treatment System.

A positive use determination of 100% for the collection/storage tank which was added to the Oily Waste Treatment System.

96 2229 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU ELECTRIC GENERATING \$10,000  
ELECTRIC UTILITY CHAMBERS

Purchase of steel and plastic 55-gallon drums for use as waste storage containers.

A positive use determination of 100% for the steel and plastic 55-gallon drums purchased for use as temporary on-site waste storage.

97 3053 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU GENERATING STATION \$48,570  
ELECTRIC UTILITY CHAMBERS

Costs associated with asbestos abatement: asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, etc.

A positive use determination of 100% for the Asbestos Abatement Project.

97 3054 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU GENERATING STATION \$14,278  
ELECTRIC UTILITY CHAMBERS

A diesel/acid release resulted in a cleanup and remediation of ground water contamination.

A positive use determination of 100% for the ground water remediation project.

97 3055 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU GENERATING STATION \$10,000  
ELECTRIC UTILITY CHAMBERS

Steel and plastic 5 gallon drums used for the temporary storage of wastes.

A positive use determination of 100% for the steel and plastic 55 gallon drums used for the temporary storage of industrial wastes.

97 3056 HOUSTON LIGHTING & POWER COMPANY  
I D CEDAR BAYOU GENERATING STATION \$52,000  
ELECTRIC UTILITY CHAMBERS

Conversion from gaseous chlorine to liquid bleach for disinfection treatment: bleach tank, pumps, and piping.

A negative determination. This chlorination system was placed into service to pre-treat plant make-up water. This equipment is process equipment and not pollution control devices.

97 3057 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU GENERATING STATION \$50,000  
ELECTRIC UTILITY CHAMBERS

Segregate contaminated from uncontaminated wastewater: Condenser water box drain pumps were diverted from API Separator to Outfall 001.

A positive use determination of 100% for the piping installed to divert the condenser water box drain pump from the API Separator to Outfall 001.

97 3058 HOUSTON LIGHTING & POWER COMPANY  
I A CEDAR BAYOU GENERATING STATION \$10,400  
ELECTRIC UTILITY CHAMBERS

Replacement of oily waste process pump.

A positive use determination of 100% for the replacement of the oily waste process recycle pump.

94 211 HOUSTON LIGHTING & POWER COMPANY  
II A CEDAR BAYOU ELECTRIC GENERATING STATION \$626,464  
ELECTRIC UTILITY CHAMBERS

Implementation of NOx control technology known as burners out of services (BOOS) for Cedar Bayou Units 1-3. Implementation of BOOS involves the adjustment, or tuning, of burners into certain patterns and these patterns yield a desired reduction in NOx emissions.

A positive use determination of 100% for the implementation of burners out of service for Cedar Bayou Units 1-3.

94 212 HOUSTON LIGHTING & POWER COMPANY  
II A CEDAR BAYOU ELECTRIC GENERATING STATION \$373,300  
ELECTRIC UTILITY CHAMBERS

Asbestos Abatement: Asbestos containing building and insulating material are present throughout HL&P's system. Costs associated with asbestos abatement include those for HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, etc.

A positive use determination of 100% for the costs related to asbestos abatement including the HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, etc. The positive use determination does not include any costs related to remodeling or rebuilding of the structure or facility.

05 9656 LANXESS CORPORATION  
I A LANXESS - BAYTOWN PLANT \$194,061.00  
RUBBER CHAMBERS

Installed equipment for the waste water treatment plants filtration system.

A positive use determination of 100% for the equipment installed for the waste water treatment plants filtration system.

94 400 LYONDELL PETROCHEMICAL COMPANY  
I A LYONDELL - MONT BELVIEU TERMINAL \$1,325,000  
BULK STORAGE CHAMBERS

Replaced and upgraded existing site flare system.

A positive use determination of 100% for the replacement and upgrade of the existing flare system.

05 9457 NABORS DRILLING USA LP  
I A NABORS DRILLING RIG #196 \$1,217,000.00  
OIL AND GAS DRILLING CHAMBERS

Drilling Mud Recycling System: includes the Shaker Tank, Shale Shaker, Degasser, Desander, and Desilter. Drilling Rig Response System: includes: Ram-Type Blowout Preventer, Choke Manifold Unit, and Closing Unit.

A positive use determination of 100% for the Drilling Mud Recycling System and the Drilling Rig Spill Response System as defined in the property description.

94 812 NEWPARK ENVIRONMENTAL SERVICES INC  
I A NEWPARK ENVIRONMENTAL SERVICES, INC. \$4,401,560  
WASTE DISPOSAL CHAMBERS

The following projects: injection well improvements, secondary containment systems installed, earthen levees added.

A positive use determination of 100% for the pollution control property which was installed at this facility during 1994. Pollution control property includes: the cement containment wall around the holding pit; the injection control wells; the earthen levee around the injection wells, the sumps located around the wellhead; the pumps used to convey stormwater; the surface impoundment used to control stormwater; the oil sorbant pads and peat sorb used for spill cleanup; the drip pans placed under hose fittings, the pH meter and the liners installed.

99 4335 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$5,000  
ELECTRIC UTILITY CHAMBERS

Windbox oxygen analyzers were installed.

A positive use determination of 100% for the windbox oxygen analyzers.

99 4336 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$15,000  
ELECTRIC UTILITY CHAMBERS

Remediated a site where diesel/acid had been released.

A positive use determination of 100% for the project to remediate the diesel/acid release.

99 4337 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$10,000  
ELECTRIC UTILITY CHAMBERS

Waste Storage Containers: steel and plastic 55 gallon drums used for temporary storage of wastes.

A positive use determination of 100% for the waste storage containers.

99 4338 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$208,451  
ELECTRIC UTILITY CHAMBERS

Stabilized the existing shoreline of the cooling pond and purchased additional cooling shoreline for stabilization.

A positive use determination of 100% for the shoreline stabilization project, including the land which was purchased.

99 4339 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$29,538  
ELECTRIC UTILITY CHAMBERS

Replaced two fish pumps.

A positive use determination of 100% for the two replacement fish pumps.

99 4340 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$120,896  
ELECTRIC UTILITY CHAMBERS

Installed condenser waterbox drain pump to divert circulating water from 'A' floor drain system to circulating water system.

A positive use determination of 100% for the condenser wastebox drain pump.

99 4341 RELIANT ENERGY INC  
I A CEDAR BAYOU GENERATING STATION \$34,607  
ELECTRIC UTILITY CHAMBERS

Installed CO monitors on units 1-3.

A positive use determination of 100% for the CO monitors,

00 5182 RELIANT ENERGY INC  
I A CEDAR BAYOU ELECTRIC GEN STATION \$6,321  
ELECTRIC UTIL CHAMBERS

BOOMS, PADS, AND ABSORBENT FOR SPILL RESPONSE/CLEANUP

A positive use determination of 100% for the booms, pads, and absorbents purchased for spill response/cleanup.

00 5183 RELIANT ENERGY INC  
I A CEDAR BAYOU ELECTRIC GEN STATION \$19,398  
ELECTRIC UTIL CHAMBERS

Asbestos Abatement: Associated costs include asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, disposal, etc.

A positive use determination of 100% for the asbestos abatement project.

00 5231 RELIANT ENERGY INC  
I A BAYTOWN SERVICE CENTER \$500  
ELECTRIC UTIL CHAMBERS

During construction/expansion activities contaminated soil was remediated under TSCA regulations.

A positive use determination of 100% for the remediation of the contaminated soil.

00 5245 RELIANT ENERGY INC  
I A CEDAR BAYOU STATION \$2,000  
ELECTRIC UTIL CHAMBERS

Waste Storage Containers: steel and plastic 55 gallon drums used for temporary storage of wastes.  
Remediation: During construction/expansion activities contaminated soil was remediated.

A positive use determination of 100% for the waste storage containers.

00 5246 RELIANT ENERGY INC  
I A BAYTOWN SERVICE CENTER \$500  
ELECTRIC UTIL CHAMBERS

Waste Storage Containers: steel and plastic 55 gallon drums used for temporary storage of wastes.  
Remediation: During construction/expansion activities contaminated soil was remediated.

A positive use determination of 100% for the waste storage containers.

01 5762 RELIANT ENERGY INC  
I A CEDAR BAYOU ELECTRIC STATION \$77,584  
ELEC UTILITY CHAMBERS

Asbestos Abatement: Asbestos containing building and insulating material was abated. Property includes: asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, disposal, etc.

A positive use determination of 100% for the Asbestos Abatement project.

01 5763 RELIANT ENERGY INC  
I A CEDAR BAYOU ELECTRIC STATION \$37,392,404  
ELEC UTILITY CHAMBERS

Installed selective catalytic reduction reactors on Units 1, 2, & 3.

A positive use determination of 100% for the selective catalytic reduction reactors installed on Units 1, 2, & 3.

97 3146 TE PRODUCTS PIPELINE COMPANY LP  
I A TEPPCO MOUNT BELVIEU SOUTH TERMINAL \$21,864  
BULK STORAGE CHAMBERS

Constructed hazardous waste storage shelter.

A positive use determination of 100% for the Hazardous Waste Storage Shelter.

97 3147 TE PRODUCTS PIPELINE COMPANY LP  
I A TEPPCO MOUNT BELVIEU NORTH TERMINAL \$79,922  
BULK STORAGE CHAMBERS

Purchased environmental response trailer. Improvements to smokeless flare. Constructed garage for storage of emergency response equipment.

A positive use determination of 100% for the environmental spill response garage and trailer; and the improvements made to the smokeless flare.

02 7021 TE PRODUCTS PIPELINE COMPANY LP  
I A TEPPCO MOUNT BELVIEU SOUTH TERMINAL \$4,799,900  
BULK STORAGE CHAMBERS

Constructed the Mont Belvieu Brine Pond No. 5 system, which includes a flare.

A positive use determination of 100% for the Mont Belvieu Brine Pond No. 5 system.

94 653 TE PRODUCTS PIPELINE COMPANY LP  
II A MT. BELVIEU SOUTH TERMINAL \$2,651,000  
BULK STORAGE CHAMBERS

Construction of the brine pond system will accomplish two significant purposes, waste minimization and prevention of salt water intrusion into inland waters. Through reuse of brine, rather than fresh water which would become brine through salt dissolution, in daily operation of the cavern system, the total quality of waste generated will be significantly reduced.

A positive use determination of 100% for the Brine Storage Pond.

98 4093 TEXAS BRINE COMPANY LLC  
I D TEXAS BRINE MT BELVIEU \$288,089  
BRINE MINING CHAMBERS

Construction of brine pits: foundation, under-liner(geotextile), liner (fiberliner), 2 pump bases for 112,000 SF pond, and ancillary equipment.

A negative determination. The item listed in this application - brine storage pit - is a product storage device and not pollution control equipment.

05 9368 TEXAS BRINE COMPANY LLC  
I A TEXAS BRINE MT BELVIEU \$201,120.00  
MINING CHAMBERS

Project MTB 1: Brine Pond Liner (Fiber-line). Synthetic liner for brine storage pond.

A positive use determination for 100% of the brine storage pond liner.

01 6180 TEXAS EASTERN TRANSMISSION CO LP  
I A TETCO MONT BELVIEU \$3,221,469  
COMPRESSOR STATION CHAMBERS

Installation of high pressure fuel gas injection system, one on each of three lean-burn natural gas-fired reciprocating engines to reduce NOx emissions.

A positive determination of 100% for the three high pressure fuel gas injection systems.

02 6460 TEXAS GENCO LP  
I A CEDAR BAYOU \$282,737  
ELECTRIC UTILITY CHAMBERS

Asbestos Abatement Project

A positive use determination of 100% for the Asbestos Abatement project.

02 6461 TEXAS GENCO LP  
I A CEDAR BAYOU \$9,217  
ELECTRIC UTILITY CHAMBERS

NOx Cap Project: Installed a PI-Enterprise Server system to be used in tracking and monitoring NOx emissions. And additional required instrumentation to monitor fuel flow and unit operating time.

A positive use determination of 100% for the PI-Enterprise Server system and the additional instrumentation.

03 7197 TEXAS GENCO LP  
I A CEDAR BAYOU ELECTRIC GENERATING \$403,647.00  
ELECTRIC UTILITY CHAMBERS

Installed low NOx burner packages in new auxiliary boilers. Installed flue gas recirculation ductwork.

A positive use determination of 100% for the low NOx burner packages and flue gas recirculation ductwork.

03 7190 TEXAS GENCO LP  
I A CEDAR BAYOU GENERATING STATION \$106,551.00  
ELECTRIC UTILITY CHAMBERS

Asbestos Abatement: asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, disposal, etc.

A positive use determination of 100% for the Asbestos Abatement Project

04 8109 TEXAS GENCO II LP  
I A CEDAR BAYOU \$92,968.00  
ELECTRIC UTILITY CHAMBERS

Asbestos abatement and associated equipment for removal of asbestos throughout the facility. Includes asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, and disposal.

A positive use determination for 100% of the asbestos abatement and associated equipment.

05 8844 TEXAS GENCO II LP  
I A CEDAR BAYOU \$181,982.00  
ELECTRIC UTILITY CHAMBERS

Unit 2 CEMS ammonia compliance monitoring system: project costs included materials and labor to install the new analyzer systems and perform software modifications to the CEMS equipment to calculate the new ammonia slip parameter. Installed were two certifiable extractive API Teledyne analyzer systems.

A positive use determination of 100% for the Unit 2 Continuous Emission Monitoring Systems.

05 8845 TEXAS GENCO II LP  
I A CEDAR BAYOU \$74,415.00  
ELECTRIC UTILITY CHAMBERS

Asbestos Abatement: Asbestos containing building and insulating materials were removed. Associated costs include asbestos removal, HEPA vacuum equipment, negative air pressure enclosures, glove bags, personal protective equipment, decontamination facilities, testing, disposal, etc.

A positive use determination of 100% for the Asbestos Abatement Project.

99 4853 UNITED SALT CORPORATION  
IA UNITED SALT CORP - BAYTOWN \$256,931  
MANUFACTURER CHAMBERS

Installed 3 wet scrubbers.

A positive use determination of 100% for the scrubbers

94 90 WARREN PETROLEUM COMPANY  
IA MONT BELVIEU TERMINAL \$3,000,000  
GAS/OIL PROCESSING CHAMBERS

Construction of a 2,150,000 barrel brine pond will enable produced brine to be recycled, and the addition of brine injection pumps will provide surplus brine disposal in an off-dome well. Description of equipment: Brine Water Pump - 2 Fresh Water Seal Pump - 2 Leak Detection Sump Pump - 1 Brine Injection Pump - 3

A positive use determination of 100% for the land used for the brine disposal pond and the equipment installed to manage and dispose of brine.

95 1217 WARREN PETROLEUM COMPANY  
IA WARREN PETROLEUM COMPANY \$465,000  
GAS/OIL PROCESSING CHAMBERS

Upgrade of the brine flare stack.

A positive use determination of 100% for the project to upgrade the brine flare.

Tax Relief For Pollution Control Property  
Applications Filed for Brazoria (Dow Chemical) County  
11/1994 & 5/2006

Line 1: Year, App. Number, Company Name  
Line 2: Tier Level, Status, Facility Name, Dollar Value  
Line 3: Facility Type  
Status: A = Approved, D = Denied, W = Withdrawn, R = Under Review

94 229 DOW CHEMICAL COMPANY THE  
I A DOW CHEMICAL COMPANY THE \$30,000  
CHEMICAL MANF

The equipment includes a mobile laboratory which is a trailer, cabinets, sample ports, and analytical instrumentation for stack and vent sampling.

A positive use determination of 100% for the following equipment: Data logging equipment, trailer and analytical equipment.

94 230 DOW CHEMICAL COMPANY THE  
I A DOW CHEMICAL COMPANY THE \$1,000,000  
CHEMICAL MANF

Constructed concrete floors, walls, sumps, and trenches in tank farm areas to prevent infiltration of contaminants into soil and groundwater. Installed recovery wells, tanks, and associated equipment to recover and treat contaminated groundwater.

A positive use determination of 100% for the concrete floor, walls, sumps, and trenches in the chlorinated methane products storage tank area, as well as the recovery wells, tanks, and ancillary equipment to treat contaminated groundwater.

94 231 DOW CHEMICAL COMPANY THE  
I A DOW CHEMICAL COMPANY THE \$103,000  
CHEMICAL MANF

The property installed included three small buildings to house instruments and composite samplers to meet provisions of the water permit. Buildings installed included plant A Sea Water, Plant B Sea Water, and one at the DSN 102 permitted outfall. Installation included electric and other services to the buildings as needed, I.E., Air conditioning, Etc.

Final Determination: A positive use determination of 100% for the Property installed to house instruments and composite samplers.

19 Infrared Gas Detectors installed on wells BW-12, BW-20, and BW-27.

A positive use determination for 100% of the 19 Infrared Gas Detectors.

03 7101 DOW CHEMICAL COMPANY THE  
I A SALT DOME OPERATIONS \$15,000,000.00  
MINING AND STORAGE

HDPE liners in 2 million barrel brine pond. Includes 2 pumps and a leachate collection system.

A positive use determination of 100% for the two million barrel brine pond.

03 7079 DOW CHEMICAL COMPANY THE  
I A SITE SERVICES GARAGE B-203 \$38,000.00  
VEHICLE MAINT.

Automotive Dynamometer at the B-203 Services Garage.

A positive use determination for 100% of an automotive dynamometer.

03 7083 DOW CHEMICAL COMPANY THE  
I A STRATTON RIDGE SDO \$150,000.00  
SALT DOME OPERATIONS

Construct a RCRA Waste Storage Facility for the Salt Dome Operations.

A positive use determination for 100% of a RCRA waste storage facility.

03 7124 DOW CHEMICAL COMPANY THE  
I A STYRENE 1, 2, EBA \$2,400,000.00  
AROMATIC DERIVATIVES

Property installed: Styrene 1 - analyzer building and analyzer to monitor the flare. Styrene 2 - calorimeter to monitor flare flow. EBA - analyzer building and analyzer to monitor flare.

A positive use determination of 100% for the monitoring equipment.

03 7074 DOW CHEMICAL COMPANY THE  
I A STYRENE 2 @B-7101 \$66,000.00  
STYRENE VENTS

Flare Pilots, Thermocouples, & Auto-ignition System at Styrene 2.



## Tax Relief for Pollution Control Property

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### Gas Processing/Bulk Storage

The TCEQ has previously issued positive use determinations for the pollution control property listed below.

#### General Information

Number of Applications Received	757
Dollar Value of Property	
Total Dollar Value	\$889,572,749
Median	\$90,138
Minimum	\$500
Maximum	\$66,552,778

#### Air Pollution Control

- Acid Gas Flare Header
- Acid Scrubber
- Air Modeling Computer
- Air/Fuel Ratio
- Amine Contractors
- Amine Regeneration
- Area Paving
- Automated Controls
- Automatic Tank Gauging
- Bag Dust Collector
- Baghouse Systems
- Catalytic Converter
- Catalytic Oxidizers
- Catalytic Reduction Equipment
- Cold Bed Absorption Unit
- Compression Turbine Package
- Condensate Stabilization
- Continuous Emissions Monitor
- Control Systems
- Controls
- Data Acquisition System
- Deluge System
- Detonation Arrestors
- Double hull tank barges
- Dry Low NOx Engine
- Electric Compressor
- Electrical
- Electrical
- Fixed Roofs
- Flame Arrestors
- Flame Ionization Detection Device
- Flare Blower
- Flare Pilots
- Flare Tip
- Flare: Piping
- Flow Meters
- Freon Recovery Unit
- Fuel Sampling Equipment
- Fugitive Emission Monitors
- Gas Detector
- Glycol Dehydration
- H2S analyzer
- High-Pressure Fuel Injection Technology
- Hoods & Collection Systems
- HRVOC Control Systems
- Injection Skids
- Installation
- Internal Floating Roof
- Isolation Valves
- Knife Gate Valve
- Leak Tracker System
- Lean Burn Engines
- Liquid Knock-Out Pot
- Low Emission Valves
- Nonselective Catalytic Converters
- NOX/CO Analyzer
- O2 Sensors
- Organic Vapor Analyzer
- Paint Booths
- Painting of the Tanks
- Paving
- Piping
- Plant Flare
- Portable Emission Monitor
- Relief Valves
- Rim-Mounted Secondary Seal System
- Solar Solo-NOx Emission Control Technology
- Solid Waste Incinerator
- Spray Wash Booth
- SRU Condenser



## Tax Relief for Pollution Control Property

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- Stage II Vapor Recovery Equipment
- Storage Tank Vent
- Structural
- Sulfur Recovery
- Tailgas Incineration
- Tandem Seals
- Tank Blanketing System
- Tank Pressurization System
- Temperature Sensors
- Thermal Oxidizer
- Utility and Control Building
- Vacuum Cleaning System
- Valves
- Vapor Balancing Lines
- Vapor Combustor: Combustor Stack
- Vapor Recovery Equipment
- Vapor Recovery Unit
- Welded Pipe Joint

### Land Pollution Prevention

- Acid Gas Injection Well
- Alarm Control Panels
- Alarms
- Area Paving
- Automated Controls
- Ball Float Valves
- Berms
- Bioremediation Pit
- Boat/Boom Trailer
- Bottom Loading Truck Rack: Meters
- Brine Pond
- Cathodic Protection Ground Bed Station
- Containment Pans
- Control Valves
- Couplings
- Curbing
- Deluge System
- Dielectric Coating
- Dikes
- Double Wall Storage Tanks
- Drip Pans
- Dump Tank
- Dust Suppression
- Electrical
- Emergency Spillover Tanks
- External Steel Bottom
- Fire Truck
- Ground Water Recovery Wells
- Groundwater Interception System
- Hazardous Waste Storage Shelter
- HDPE Liner
- HDPE Liners Under-Tanks
- Impressed Current Anodes
- Injection Pumps
- Injection Wells
- Interstitial Probes
- Leak Detectors
- Level Switch
- Liners
- Liquid Level Gauges
- Loading Arms
- Mobile Pollution Control Trailer
- Observation Monitoring Wells
- Oil/Water Separator
- Overfill Sensors
- Parking Lot Sweeper
- Pig Launcher
- Piping
- Pressure Gauges
- Railroad Track Pans
- Retaining Walls
- Retention Pond
- RGF system
- Rupture Disks
- Safety Equipment
- Salt Water Disposal Well
- Secondary Containment
- Secondary Containment System
- Sight Glasses
- Soil Excavation
- Soil Vapor Extraction System
- Soil Vapor Extraction System
- Spill Abatement Equipment
- Spill Boom
- Spill Rails



## Tax Relief for Pollution Control Property

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- Spill Response Boat
- Spill Response Equipment
- Spill Response Storage Building
- Spill Valves
- Stainless Steel Chemical Storage Tanks
- Stick Gauges,
- Storage Tank Secondary Seals
- Structural
- Tank Pressurization Systems
- Tank Probes
- Tank Top Sumps
- Tank Venting Systems
- Under Dispenser Sumps
- Valves
- Water Well
- Witness Wells
- Zinc Tank Coatings

### Recycling/Waste Handling

- Brine Pond
- RCRA Storage Building
- Roll-Off Waste Bins
- Storm Resistant Shelters
- Waste Storage Building

### Storm Water Control

- Drain System
- Paving
- Storm Resistant Shelters
- Storm Water Collection
- Storm Water Drainage System
- Storm Water Drainage System

### Wastewater Treatment System

- Belt Press
- Car Washer
- Carbon Steel Wastewater Storage Tank
- Chemical Drainage System
- Chemical Sewer
- CPI Separator Tank
- Drain System
- Emulsion Break Tank
- Floor Drain Recovery System
- Level Switch
- Lift Pumps
- Oil Skimmer
- Oil/Water Separator
- Slop Oil System
- Temperature Gauge
- Wastewater Collection System
- Wastewater Fans
- Wastewater Pretreatment System
- Wastewater Pump
- Wastewater Treatment Facility Equipment



## Tax Relief for Pollution Control Property

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### Mining Equipment

The TCEQ has previously issued positive use determinations for the pollution control property listed below.

#### General Information

Number of Applications Received	54
Dollar Value of Property	
Total Dollar Value	\$71,416,986
Median	\$320,718
Minimum	\$4,667
Maximum	\$14,302,400

#### Air Pollution Control

- Air/Fuel Ratio Controllers
- Baghouse Ductwork
- Bin Vent
- Bughouse
- Covered Conveyor Systems
- Dust Collectors
- Dust Silos
- Plant Air Compressor
- Silo Bin Vents
- Spray Bars for Particulate Control

#### Land Pollution Prevention

- Parking Lots & Roads
- Paving
- Sweeper Trucks
- Water Trucks
- Wheel Washers

#### Recycling/Waste Handling

- Anti-Freeze Recycling System
- Asphalt Recycle Crusher System
- Fuel Containment Areas
- Spill Kit
- Truck Tarp Installation Stations
- Truck Wash System

#### Storm Water Control

- Analyzer Equipment
- Biological Treatment Tanks for Sludge
- Brine Pond Liner
- Dam/Water Storage
- Dredge for Pond Maintenance
- Filter Basins



## Tax Relief for Pollution Control Property

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### Waste Disposal/Handling Facilities

The TCEQ has previously issued positive use determinations for the pollution control property listed below.

#### General Information

Number of Applications Received	47
Dollar Value of Property	
Total Dollar Value	\$124,646,239
Median	\$1,272,000
Minimum	\$40,000
Maximum	\$27,970,321

#### Air Pollution Control

- Ambient Air Monitoring Facilities
- Baghouse
- Dust Collector
- Emission Monitoring Equipment
- Exhaust Stacks
- Flare
- Flare Tip
- Flow Monitor
- Fugitive Emission Containment Structure
- Fugitive Emission Monitors
- Meteorological Station
- Particulate Suppression Equipment
- Post Combustion Chamber
- Pressure Transmitter
- Regenerative Absorber
- Tank Level Instrumentation
- Thermal Oxidizer
- Tight-Fill Fittings
- Vacuum Drum Filter
- Vapor Recovery System

#### Land Pollution Prevention

- Dielectric Coatings
- Environmental Paving

#### Recycling/Waste Handling

- Balers
- Barrel Crushers
- Barrier Wall
- Chippers
- Container Storage Area
- Cryogenic Converters
- Decontamination Area
- Decontamination Area
- Decontamination Equipment
- Drum Crushing Area
- Drum Storage Areas
- Drum Storage Building
- Earthen Levees
- Emergency Overflow Tanks
- Environmental Paving
- Final Cover System
- Grinders
- Groundwater Recovery System



## Tax Relief for Pollution Control Property

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### Recycling/Waste Handling (continued)

- Hazardous Waste Incinerator
- Leachate Collection
- Leachate Treatment Unit
- Leak Detection System
- Level Alarms
- Monitoring Wells
- Monitoring Wells
- Non-Hazardous Waste Segregation System
- Radiation Detectors
- RCRA Containment Buildings
- RCRA Storage Tanks
- Recovery Wells
- Salt Water Disposal Well
- Secondary Containment
- Secured Fence
- Shredders
- Slop Oil Tank
- Slurry Wall
- Spill Response Equipment
- Vacuum Truck
- Waste Process Pit
- Water Storage Tank
- Yard Dump Bins

### Storm Water Control

- Drains
- Ponds
- Storm Water Sump
- Sump Pump
- Tanks

### Wastewater Treatment System

- Activated Sludge Plant
- Aeration
- Aeration Plant
- API Separator
- Basins
- Carbon Beds
- Centrifuges
- Chart Recorder
- Containment Pad
- Containment Pad
- De-foaming System
- Digester
- Dissolved Oxygen Meter
- Equalization
- Filter Press
- Gravel Filter
- Laboratory Analyzers
- Lamella Clarifier
- Lift Station
- Microbial Filter
- Neutralization
- Oil/Water Separator
- pH Meter
- Potable Water System
- Pumps
- Recycled Water Cleaning System
- Sand Filters
- Scrubber
- Skimmer
- Sludge Dewatering Facility



## Tax Relief for Pollution Control Property

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### Wastewater Treatment System (continued)

- Sock Filters
- Sour Water System
- Submersible Pump Station
- Sumps
- Tanks
- Total Organic Carbon Instrument
- Tricking Filter
- Ultraviolet Oxidation Treatment
- Vapor Balance Systems
- Wastewater Treatment
- Water Collection Pumps
- Water Conservation Systems
- Water Transfer Pumps

mailed original on  
01/31/07  
RR

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
APPLICATION FOR USE DETERMINATION  
FOR POLLUTION CONTROL PROPERTY  
12/18/2006

The Texas Commission on Environmental Quality (TCEQ) has the responsibility to determine whether a property is a pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction. For assistance in completing this form refer to the TCEQ guidelines document, *Property Tax Exemptions for Pollution Control Property*, as well as 30 TAC §17. rules governing this program. For additional assistance please contact the TCEQ Tax Relief for Pollution Control Property Program at (512) 239-6348 or (512)239-1917. The application should be completed and mailed, with the appropriate fee, to: TCEQ MC-214, Cashiers Office, P.O. Box 13088, Austin, Texas 78711-3088.

1. GENERAL INFORMATION

- A. What is the type of ownership of this facility:
  - Corporation
  - Sole Proprietor
  - Partnership
  - Utility
  - Limited Partnership
  - Other

- B. Size of company: Number of Employees
  - 1 to 99
  - 1,000 to 1,999
  - 100 to 499
  - 2,000 or more
  - 500 to 999

C. Business Description: (Provide a brief description of the type of business or activity at the facility) Natural Gas Liquids Processing and Storage

2. TYPE OF APPLICATION

- A.  Tier I \$150 Application Fee.
- B.  Tier II \$1,000 Application Fee.
- C.  Tier III \$2,500 Application Fee.

NOTE: Enclose a check or money order to the TCEQ along with the application to cover the required fee.

3. NAME OF APPLICANT

- A. Company Name: ENTERPRISE TEXAS OPERATING LP
- B. Mailing Address (Street or PO Box): P.O BOX 4018
- C. City, State, ZIP: HOUSTON, TEXAS 77210-4018

4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION

- A. Name of Facility or Unit: Mont Belvieu Storage
- B. Type of Mfg. Process or Service: Natural Gas Liquids Processing & Storage
- C. Street Address: 10207 F. M 1942
- D. City, State, ZIP: Mont Belieu, Texas 77580
- E. Tracking Number Assigned by Applicant: \_\_\_\_\_
- F. Customer Number or Regulated Entity Number: \_\_\_\_\_

5. **APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY**

- A. Name of Appraisal District: Chambers County Appraisal District
- B. Appraisal District Account Number: \_\_\_\_\_

6. **CONTACT NAME (must be provided)**

- A. Company/Organization Name: Enterprise Texas Operating LP
- B. Name of Individual to Contact: Al Noor- Ad Valorem Tax Department
- C. Mailing Address: P. O. Box 4018
- D. City, State, ZIP: Houston, Texas 77210-4018
- E. Telephone number and fax number: (713)803-8253 Fax (713)880-6605
- F. E-Mail address (if available): anoor@eprod.com

7. **RELEVANT RULE, REGULATION, OR STATUTORY PROVISION**

For each of the pollution control properties listed on this application, select the type of medium or media (air, water, waste) for which the property or device is required. Use the second column to cite the **specific** environmental rule, regulation, and/or law that is being met or exceeded by the installation of this property. The citation should be specific and should include the section and/or subsection of the rule, regulation, and/or law. **Do not list permit numbers or registration numbers in this table.** If the property or equipment was installed or constructed in response to an agreed order, **do not** list the order — list the rule, regulation, or law that requires the installation or construction of the property.

MEDIUM	RULE/REGULATION/LAW
Air	
Water	30 TAC 305
Waste	

8. **DESCRIPTION OF PROPERTY (Complete for all applications)**

Provide a description and purpose of the property for which this application is being filed. This description **must include** the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. **Do not simply repeat the description from the predetermined equipment list.** Instead describe the property and how it will be used at your facility. Include sketches of the equipment and flow diagrams of the processes where appropriate.

**Project Description:** This project consist of two HDPE double lined brine ponds. Each pond is designed to store 3MM barrel, for a total storage capacity of 6MM barrels. The brine ponds will accomplish two significant purposes, waste minimization and prevention of salt water intrusion into inland waters. By recycling brine, rather than using fresh

water which would become brine through salt dissolution in daily operation of the cavern system, the total quantity of waste generated will be significantly reduced by constructing the two brine ponds. The scope of this project includes installation of two- 3 Million barrel HDPE lined brine pits, leak detection system, vapor detection system with igniters, one brine transfer pump, three 900HP injection pumps 4160V power connections to the pumps, controls, degas system, (separator, knock-out drum, flare) and approximately 11,600 LF of 24" brine injection and return piping to and from the storage wells. The well injection and return lines are to be installed on concrete columns and structural steel rack above ground to assist in leak detection.

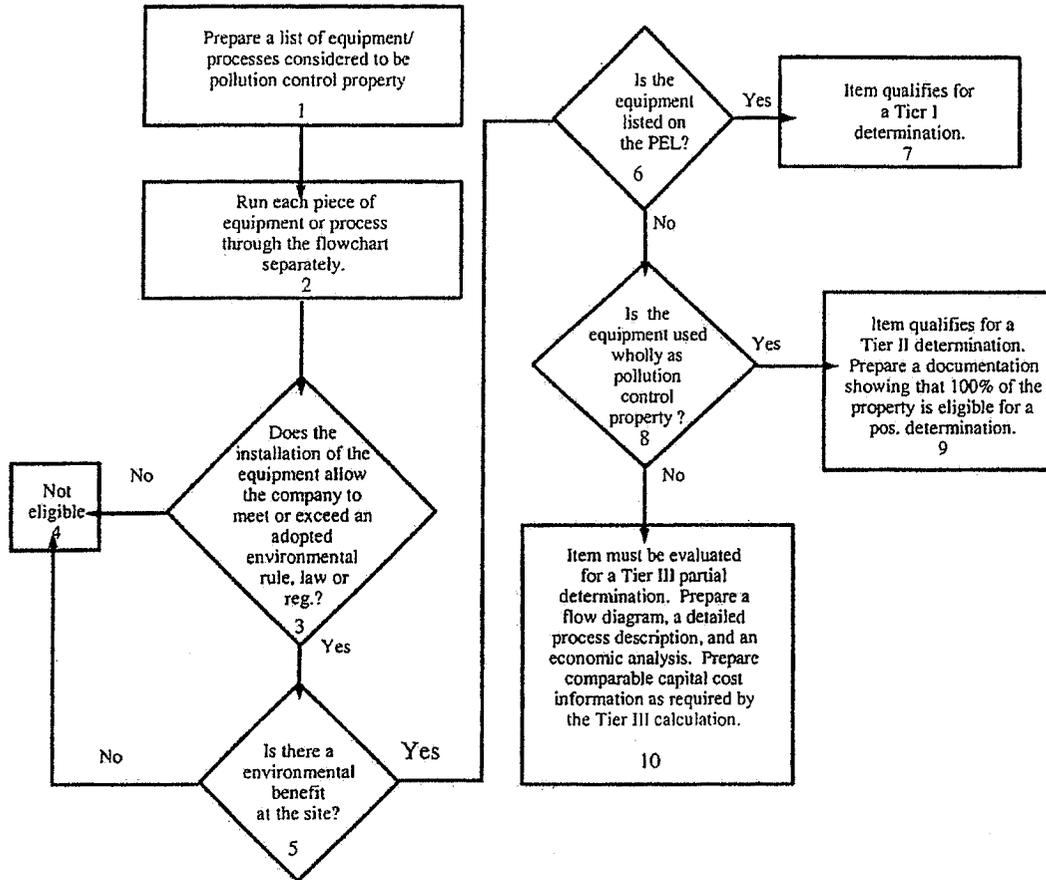
Land: If a use determination is being requested for land, provide a legal description and an accurate drawing of the property in question. Only that land which was purchased after January 1, 1994, and which is actually used for pollution control purposes or that houses pollution control property is eligible for a positive use determination.

**9. DECISION FLOWCHART**

Each piece of equipment or process change must be processed through the Decision Flow Chart. Each item of property listed on the application must result in a yes answer to boxes 3 and 5. Use the table in section 11 to document which box (7, 9 or 10) was the final destination of each piece of equipment. Instructions for completing this section are located in the instruction section of this document.

### Tax Relief Decision Flow Chart

Applicants must use this flowchart for each piece of equipment or process. In order for a piece of equipment or process to be eligible for a positive use determination the item must generate "yes" answers to the questions asked in boxes 3 and 5.



This project was processed through the Decision Flow Chart resulting "YES" in boxes 3 and 5. The final destination for the Brine Pit project was box 7.

### 10. PARTIAL PERCENTAGE CALCULATION

This section is to be completed only for Tier III applications. Process changes or construction of new process equipment that results in pollution control may result in a partial determination. On one or more separate sheets of paper, explain how the partial percentage was determined using the Cost Analysis Procedure that is described in the attached *Instructions for Completing Application Form*. Include financial data that

demonstrates how this percentage was calculated. Provide as detailed information as possible, since the information provided will be used by the TCEQ to evaluate the use percentage requested in the application. Attach sketches and/or flow diagrams showing the property and its function. Examples of partial determinations are shown in Appendix C of the technical guidelines document.

**11. PROPERTY CATEGORIES AND COSTS**

Identify the category and the estimated purchase cost of the property listed in Section 8. List each control device or system for which a use determination is being sought. If the application is for property that is listed on the predetermined equipment list, list the appropriate item number(s) in the PEL column. Place an "N" in the second column to certify that the property was not taxable on or before January 1, 1994. Failure to answer this question for each piece of property will result in the issuance of a notice of deficiency letter and the possible rejection of the application. List the which box, (7, 9, or 10), was the final destination of each piece of property. List the estimated or actual purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control calculated using the Partial Determination Cost Analysis Procedure.

Property	Property Taxable on or before 1/01/94	Decision Flow Chart Box 7, 9, or 10	PEL Number	Estimated Purchase Cost	Partial Percentage
Land					
Property Construction of brine ponds #3 and #4 With total capacity of 6MM barrels of brine	No	7	S-20	36,000,000	100%
Totals					

**12. EMISSION REDUCTION INCENTIVE GRANT**

Will an application for an Emission Reduction Incentive Grant be filed for this property/project:

Yes       No

**13. APPLICATION DEFICIENCIES**

After an initial review of the application, the TCEQ may determine that the information provided with the application is not sufficient to make a use determination. The TCEQ may send a notice of deficiency, requesting additional information that must be provided within 30 days of the written notice.

**14. FORMAL REQUEST FOR SIGNATURE**

By signing this application, you certify that this information is true to the best of your knowledge and belief.

NAME: *[Signature]* HOOR DATE: 1-29-07

TITLE: Tax Manager

COMPANY:

Under Texas Penal Code, Section 37.10, if you make a false statement on this application, you could receive a jail term of up to one year and a fine up to \$2,000, or a prison term of two to 10 years and a fine of up to \$5,000.

**15. DELINQUENT FEE/PENALTY PROTOCOL**

This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol.(Effective September 1, 2006)

TAX RELIEF FOR POLLUTION CONTROL PROPERTY: TECHNICAL REVIEW DOCUMENT

Reviewed By: RLH App. No.: 06 - 10400 Review Start Date: 3/27/2007  
Company Name: ENTERPRISE TEXAS OPERATING LP  
Facility Name: ENTERPRISE TEXAS MONT BELVIEU STORAGE

TIER LEVEL

What Tier is this application? The application was filed as a Tier I application.

The property listed on this application, construction of two HDPE double lined brine ponds, are on the predetermined equipment list as item S-20. This is a Tier I application by definition.

RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

The rule listed in the application is:  
30 TAC 305

30 TAC 305 are general water quality rules which apply but 16 TAC 3.8 is the best rule for this equipment.

DESCRIPTION OF PROPERTY

Description: Is an adequate description and purpose of the property provided? Does it list the anticipated environmental benefits? Are sketches and flow diagrams provided if needed?

The property is described as:

Constructed two HDPE double lined brine ponds.

The description is adequate

DECISION FLOWCHART

Mark the appropriate boxes: Box 3 Y Box 5 Y Box 6 Y Box 8 Box 10

Reason this box was chosen:

This property proceeds through the DFC with yes answers for boxes 3 & 5. The property leaves the DFC at box 7.

TIER III APPLICATIONS

Did the applicant use the CAP? Recalculate the CAP. Does your calculation agree with the applicants?

This is not a Tier III application.

PROPERTY CATEGORIES AND COSTS

Is the table completed correctly? Has the applicant certified that all listed property became taxable for the first time after January 1, 1994? Is all information necessary for conducting the technical review included.

The table is completed correctly.

TECHNICAL REVIEW

Is the application technically complete? If the answer is no, what is missing? Provide the language used in the NOD letter. If yes then develop the use determination language.

Technically complete when received: Y

NOD RESPONSE

Full Property Description:

Constructed two HDPE double lined brine ponds. Each pond will store 3MM barrels. This projects provides waste

Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
H. S. Buddy Garcia, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

# USE DETERMINATION

The Texas Commission on Environmental Quality has reviewed Use Determination Application, 06-10400, filed by:

ENTERPRISE TEXAS OPERATING LP  
ENTERPRISE TEXAS MONT BELVIEU STORAGE  
10207 FM 1942  
MONT BELVIEU TX 77580

The pollution control property/project listed in the Use Determination Application is:

Constructed two HDPE double lined brine ponds.

The outcome of the review is:

A positive use determination of 100% for the two HDPE double lined brine ponds.

This equipment is considered to be pollution control equipment and was installed to meet or exceed federal or state regulations.

A handwritten signature in black ink, appearing to read "G. Shankle", written over a horizontal line.

Executive Director

3/27/2007  
Date

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
APPLICATION FOR USE DETERMINATION  
FOR POLLUTION CONTROL PROPERTY**

1/30/2007

The Texas Commission on Environmental Quality (TCEQ) has the responsibility to determine whether a property is a pollution control property. A person or political subdivision seeking a use determination for pollution control property must complete the attached application or use a copy or similar reproduction. For assistance in completing this form refer to the TCEQ guidelines document, *Property Tax Exemptions for Pollution Control Property*, as well as 30 TAC §17, rules governing this program. For additional assistance please contact the TCEQ Tax Relief for Pollution Control Property Program at (512) 239-6348 or (512)239-1917. The application should be completed and mailed, with the appropriate fee, to: TCEQ MC-214, Cashiers Office, P.O. Box 13088, Austin, Texas 78711-3088.

**1. GENERAL INFORMATION**

A. What is the type of ownership of this facility:

- |   |  |
|---|--|
| <input type="checkbox"/> Corporation                    | <input type="checkbox"/> Sole Proprietor |
| <input type="checkbox"/> Partnership                    | <input type="checkbox"/> Utility         |
| <input checked="" type="checkbox"/> Limited Partnership | <input type="checkbox"/> Other           |

B. Size of company: Number of Employees

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/> 1 to 99    | <input type="checkbox"/> 1,000 to 1,999           |
| <input type="checkbox"/> 100 to 499 | <input checked="" type="checkbox"/> 2,000 or more |
| <input type="checkbox"/> 500 to 999 |   |

C. Business Description: (Provide a brief description of the type of business or activity at the facility) Natural Gas Liquids Processing and Storage

**2. TYPE OF APPLICATION**

A.  **Tier I \$150 Application Fee.**

B.  **Tier II \$1,000 Application Fee.**

C.  **Tier III \$2,500 Application Fee.**

*NOTE: Enclose a check or money order to the TCEQ along with the application to cover the required fee.*

**3. NAME OF APPLICANT**

A. Company Name: ENTERPRISE TERMINALS & STORAGE LLC

B. Mailing Address (Street or PO Box): P.O BOX 4018

C. City, State, ZIP: HOUSTON, TEXAS 77210-4018

**4. PHYSICAL LOCATION OF PROPERTY REQUESTING A TAX EXEMPTION**

A. Name of Facility or Unit: Hobbs Fractionation Facility

B. Type of Mfg. Process or Service: Natural Gas Liquids Processing & Storage

C. Street Address: 17 Mi. West on Highway 62/180, 3.5 Mi. North on 237

D. City, State, ZIP: Seminole, Texas 79360

E. Tracking Number Assigned by Applicant: \_\_\_\_\_

F. Customer Number or Regulated Entity Number: \_\_\_\_\_

5. APPRAISAL DISTRICT WITH TAXING AUTHORITY OVER PROPERTY

- A. Name of Appraisal District: Gaines County Appraisal District
- B. Appraisal District Account Number: \_\_\_\_\_

6. CONTACT NAME (must be provided)

- A. Company/Organization Name: Enterprise Terminals & Storage LLC
- B. Name of Individual to Contact: Chris G. Cisneros-Ad Valorem Tax Department
- C. Mailing Address: P. O. Box 4018
- D. City, State, ZIP: Houston, Texas 77210-4018
- E. Telephone number and fax number: (713)803-2895 Fax (713)880-6605
- F. E-Mail address (if available): ccisneros@eprod.com

7. RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

For each of the pollution control properties listed on this application, select the type of medium or media (air, water, waste) for which the property or device is required. Use the second column to cite the **specific** environmental rule, regulation, and/or law that is being met or exceeded by the installation of this property. The citation should be specific and should include the section and/or subsection of the rule, regulation, and/or law. Do not list permit numbers or registration numbers in this table. If the property or equipment was installed or constructed in response to an agreed order, **do not** list the order — list the rule, regulation, or law that requires the installation or construction of the property.

MEDIUM	RULE/REGULATION/LAW
Air	
Water	30 TAC 305
Waste	

8. DESCRIPTION OF PROPERTY (Complete for all applications)

Provide a description and purpose of the property for which this application is being filed. This description **must include** the anticipated environmental benefits for the prevention, monitoring, control, or reduction of air, water, or land pollution that will be realized by the installation of the property. **Do not simply repeat the description from the predetermined equipment list.** Instead describe the property and how it will be used at your facility. Include sketches of the equipment and flow diagrams of the processes where appropriate.

**Project Description:** This project consist of two HDPE double lined brine ponds. Each pond is designed to store 1MM barrel, for a total storage capacity of 2MM barrels. The brine ponds will accomplish two significant purposes, waste minimization and prevention of salt water intrusion into inland waters. By recycling brine, rather than using fresh

water which would become brine through salt dissolution in daily operation of the cavern system, the total quantity of waste generated will be significantly reduced by constructing the two brine ponds. The scope of this project includes installation of two - 1 Million barrel HDPE lined brine pits, leak detection system, pumps, controls, piping, and degas system.

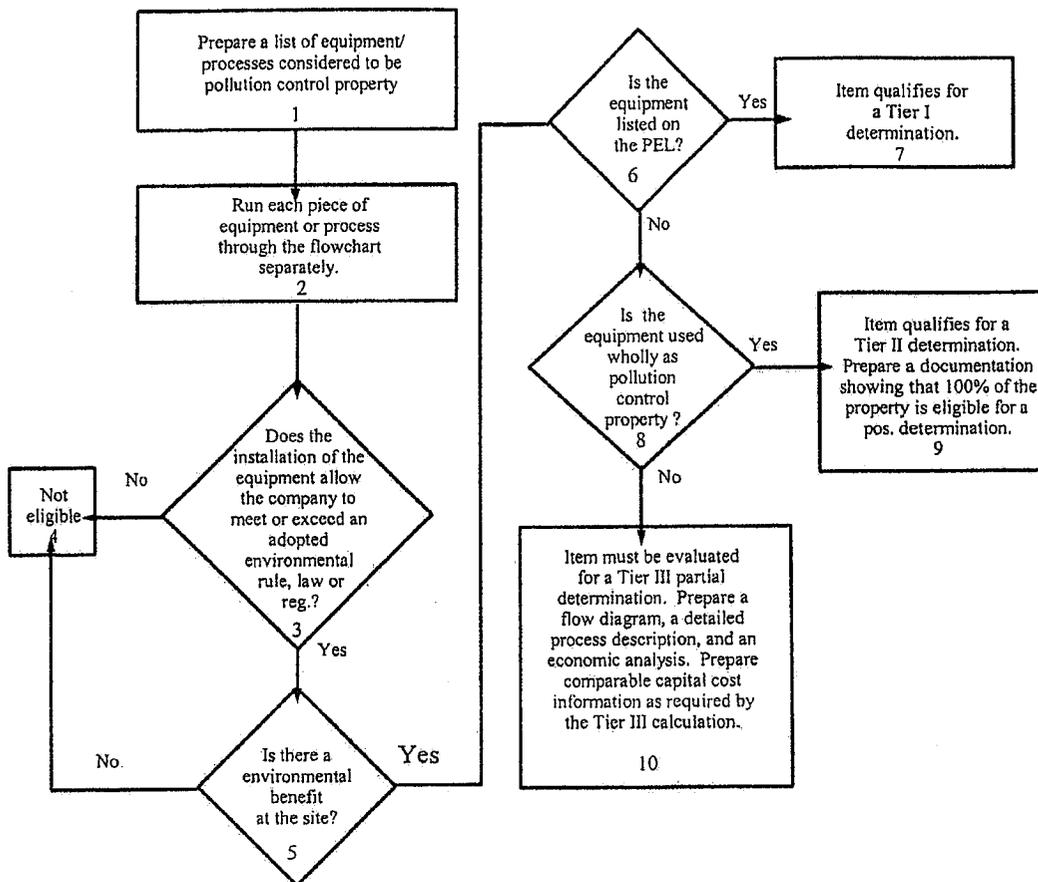
Land: If a use determination is being requested for land, provide a legal description and an accurate drawing of the property in question. Only that land which was purchased after January 1, 1994, and which is actually used for pollution control purposes or that houses pollution control property is eligible for a positive use determination.

## 9. DECISION FLOWCHART

Each piece of equipment or process change must be processed through the Decision Flow Chart. Each item of property listed on the application must result in a yes answer to boxes 3 and 5. Use the table in section 11 to document which box (7, 9 or 10) was the final destination of each piece of equipment. Instructions for completing this section are located in the instruction section of this document.

### Tax Relief Decision Flow Chart

Applicants must use this flowchart for each piece of equipment or process. In order for a piece of equipment or process to be eligible for a positive use determination the item must generate  yes answers to the questions asked in boxes 3 and 5.



This project was processed through the Decision Flow Chart resulting “YES” in boxes 3 and 5. The final destination for the Brine Pit project was box 7.

#### 10. PARTIAL PERCENTAGE CALCULATION

This section is to be completed only for Tier III applications. Process changes or construction of new process equipment that results in pollution control may result in a partial determination. On one or more separate sheets of paper, explain how the partial percentage was determined using the Cost Analysis Procedure that is described in the attached *Instructions for Completing Application Form*. Include financial data that

demonstrates how this percentage was calculated. Provide as detailed information as possible, since the information provided will be used by the TCEQ to evaluate the use percentage requested in the application. Attach sketches and/or flow diagrams showing the property and its function. Examples of partial determinations are shown in Appendix C of the technical guidelines document.

**11. PROPERTY CATEGORIES AND COSTS**

Identify the category and the estimated purchase cost of the property listed in Section 8. List each control device or system for which a use determination is being sought. If the application is for property that is listed on the predetermined equipment list, list the appropriate item number(s) in the PEL column. Place an "N" in the second column to certify that the property was not taxable on or before January 1, 1994. Failure to answer this question for each piece of property will result in the issuance of a notice of deficiency letter and the possible rejection of the application. List the which box, (7, 9, or 10), was the final destination of each piece of property. List the estimated or actual purchase cost of the property. If the property is not wholly used for the purpose of pollution control, list the estimated percentage of pollution control calculated using the Partial Determination Cost Analysis Procedure.

Property	Property Taxable on or before 1/01/94	Decision Flow Chart Box 7, 9, or 10	PEL Number	Estimated Purchase Cost	Partial Percentage
Land					
Property Construction of brine ponds #3 and #4 With total capacity of 2MM barrels of brine	No	7	S-20	14,200,000	100%
Totals					

**12. EMISSION REDUCTION INCENTIVE GRANT**

Will an application for an Emission Reduction Incentive Grant be filed for this property/project:

Yes       No

**13. APPLICATION DEFICIENCIES**

After an initial review of the application, the TCEQ may determine that the information provided with the application is not sufficient to make a use determination. The TCEQ may send a notice of deficiency, requesting additional information that must be provided within 30 days of the written notice.

**14. FORMAL REQUEST FOR SIGNATURE**

By signing this application, you certify that this information is true to the best of your knowledge and belief.

NAME: CHRIS G. CUNY DATE: JANUARY 30, 2007

TITLE: Senior Property Tax Rep.

COMPANY:

Under Texas Penal Code, Section 37.10, if you make a false statement on this application, you could receive a jail term of up to one year and a fine up to \$2,000, or a prison term of two to 10 years and a fine of up to \$5,000.

**15. DELINQUENT FEE/PENALTY PROTOCOL**

This form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol.(Effective September 1, 2006)

TAX RELIEF FOR POLLUTION CONTROL PROPERTY: TECHNICAL REVIEW DOCUMENT

Reviewed By: RLH App. No.: 06 - 10402 Review Start Date: 3/27/2006  
Company Name: ENTERPRISE TERMINALS & STORAGE LLC  
Facility Name: HOBBS FRACTIONATION FACILITY

TIER LEVEL

What Tier is this application? The application was filed as a Tier I application.

The property listed on this application, construction of two HDPE double lined brine ponds, are on the predetermined equipment list as item S-20. This is a Tier I application by definition.

RELEVANT RULE, REGULATION, OR STATUTORY PROVISION

The rule listed in the application is.

30 TAC 305

30 TAC 305 are general water quality rules which apply but 16 TAC 3.8 is the best rule for this equipment.

DESCRIPTION OF PROPERTY

Description: Is an adequate description and purpose of the property provided? Does it list the anticipated environmental benefits? Are sketches and flow diagrams provided if needed?

The property is described as:

Project to construct two HDPE double lined brine ponds.

The description is adequate

DECISION FLOWCHART

Mark the appropriate boxes: Box 3 Y Box 5 Y Box 6 Y Box 8 Box 10

Reason this box was chosen:

This property proceeds through the DFC with yes answers for boxes 3 & 5. The property leaves the DFC at box 7.

TIER III APPLICATIONS

Did the applicant use the CAP? Recalculate the CAP. Does your calculation agree with the applicants?

This is not a Tier III application.

PROPERTY CATEGORIES AND COSTS

Is the table completed correctly? Has the applicant certified that all listed property became taxable for the first time after January 1, 1994? Is all information necessary for conducting the technical review included.

The table is completed correctly.

TECHNICAL REVIEW

Is the application technically complete? If the answer is no, what is missing? Provide the language used in the NOD letter. If yes then develop the use determination language.

Technically complete when received: Y

NOD RESPONSE

Full Property Description:

Project to construct two HDPE double lined brine ponds.

- =  
=

Kathleen Hartnett White, *Chairman*  
Larry R. Soward, *Commissioner*  
H. S. Buddy Garcia, *Commissioner*  
Glenn Shankle, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

### USE DETERMINATION

The Texas Commission on Environmental Quality has reviewed Use Determination Application, 06-10402, filed by:

ENTERPRISE TERMINALS & STORAGE LLC  
HOBBS FRACTIONATION FACILITY  
17 MI W ON HWY 62  
SEMINOLE TX 79360

The pollution control property/project listed in the Use Determination Application is:

Project to construct two HDPE double lined brine ponds.

The outcome of the review is:

A positive use determination of 100% for the two HDPE double lined brine ponds.

This equipment is considered to be pollution control equipment and was installed to meet or exceed federal or state regulations.

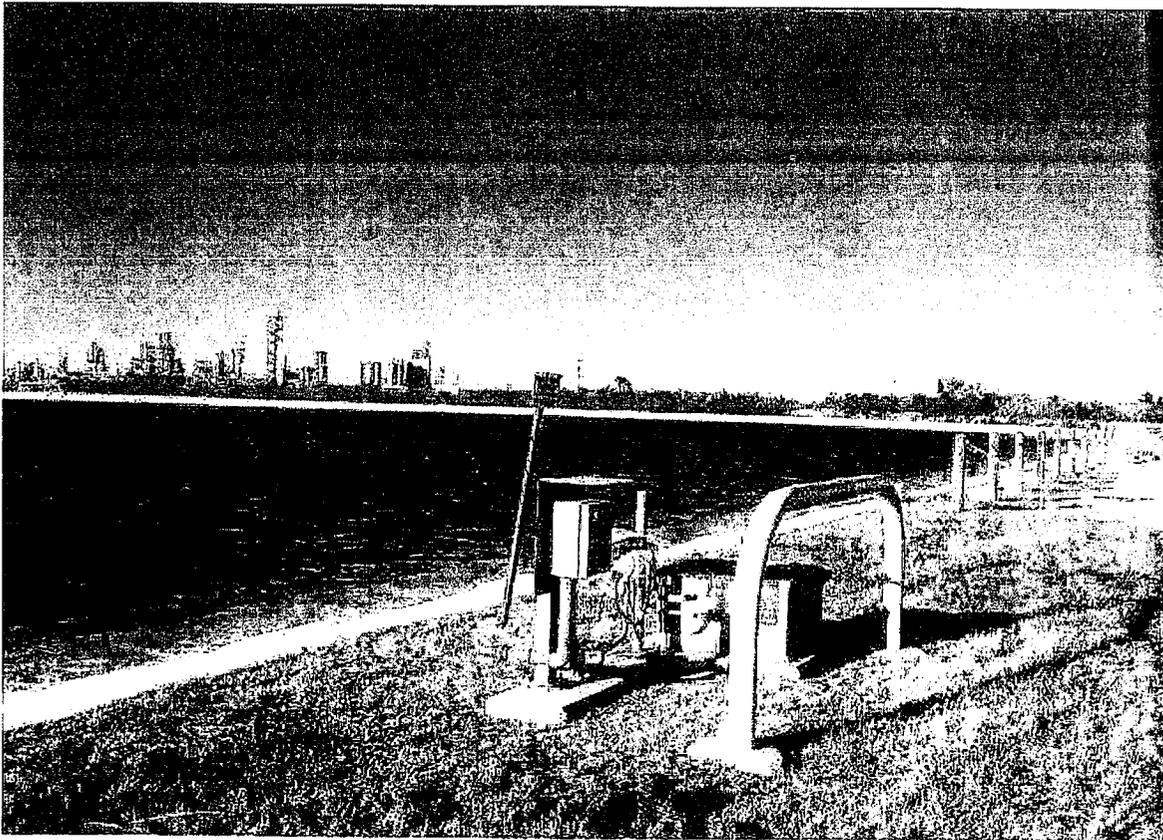
A handwritten signature in black ink, appearing to read "Glenn Shankle".

Executive Director

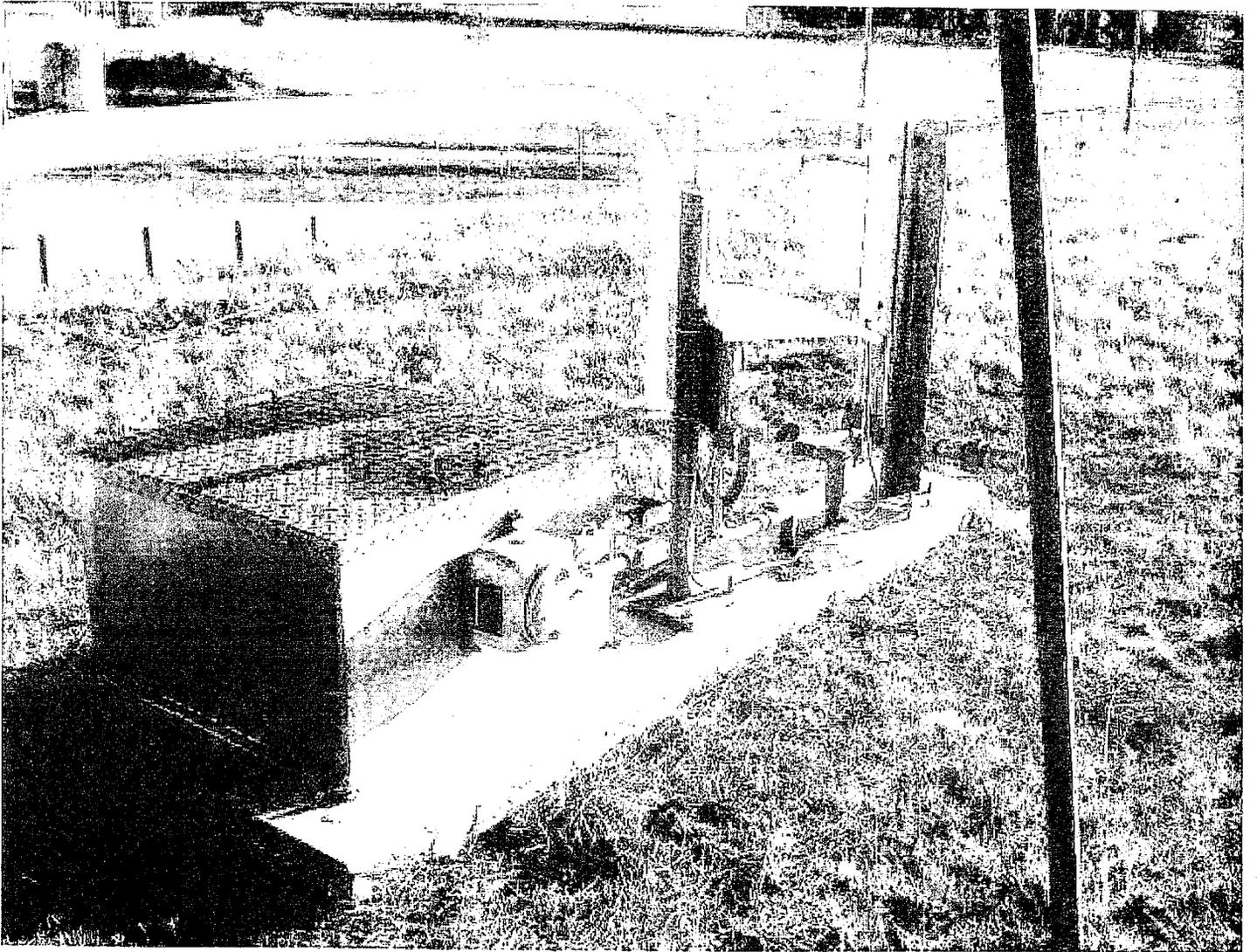
3/27/2007  
Date



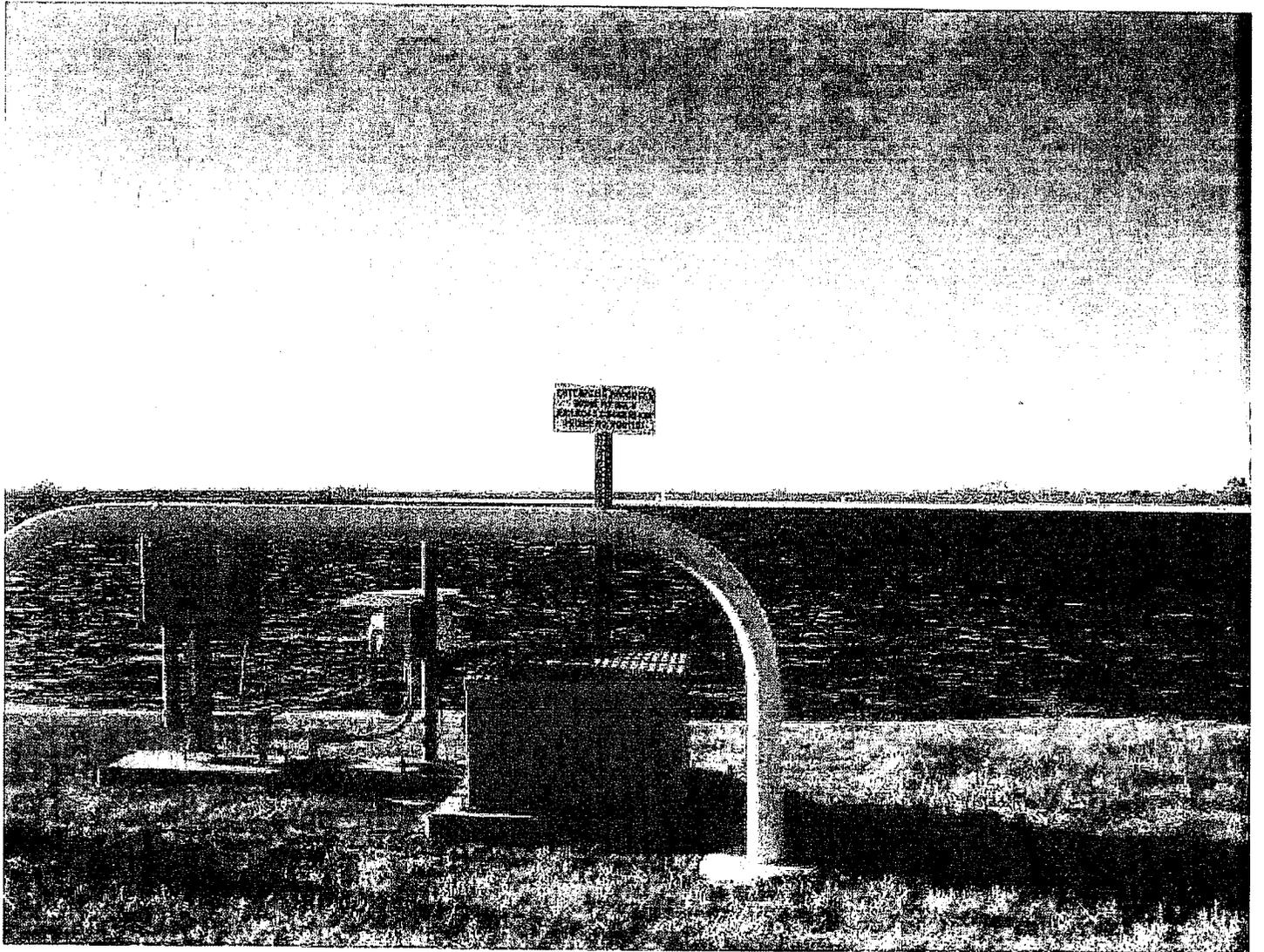
**East  
Storage  
Brine  
Pond**

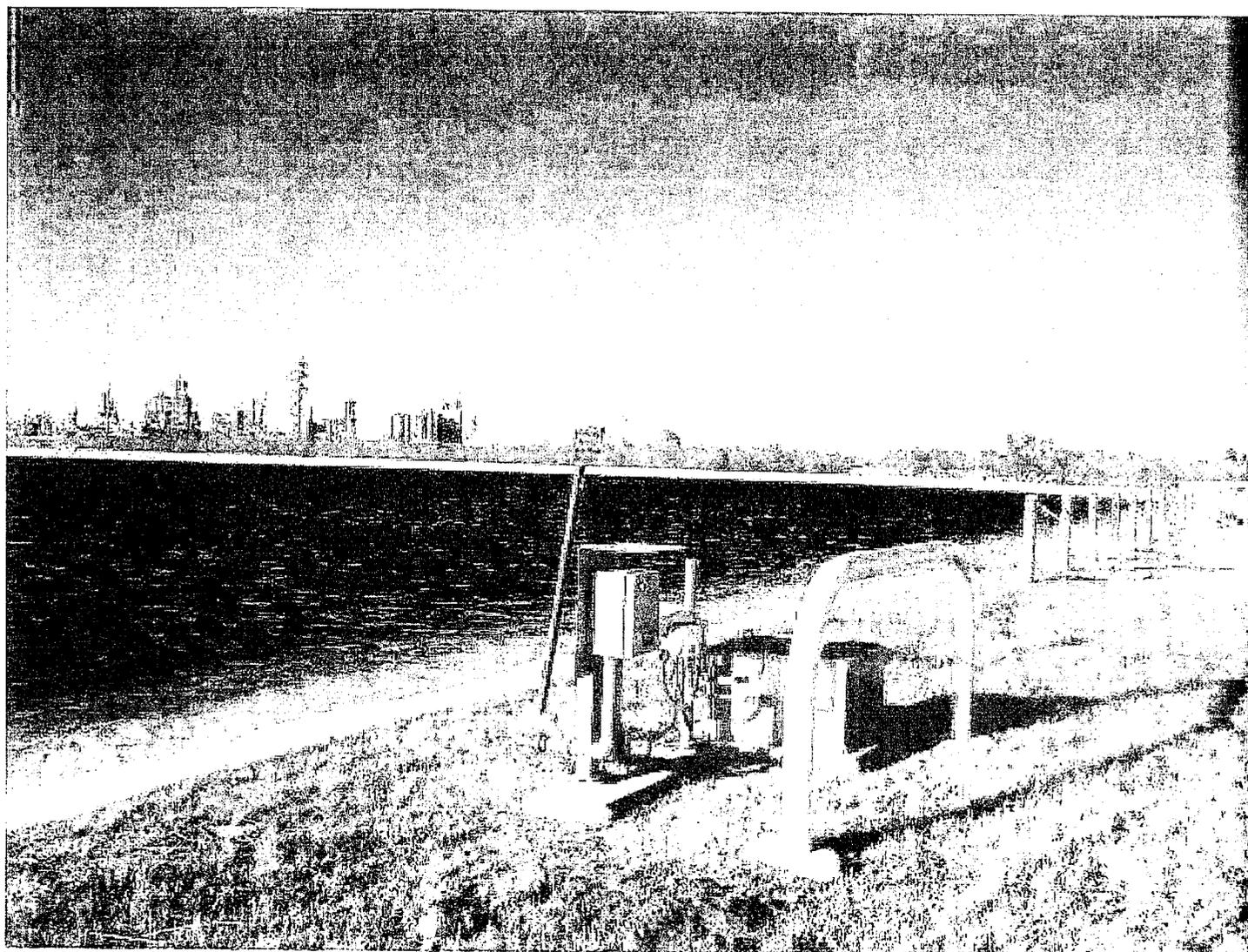


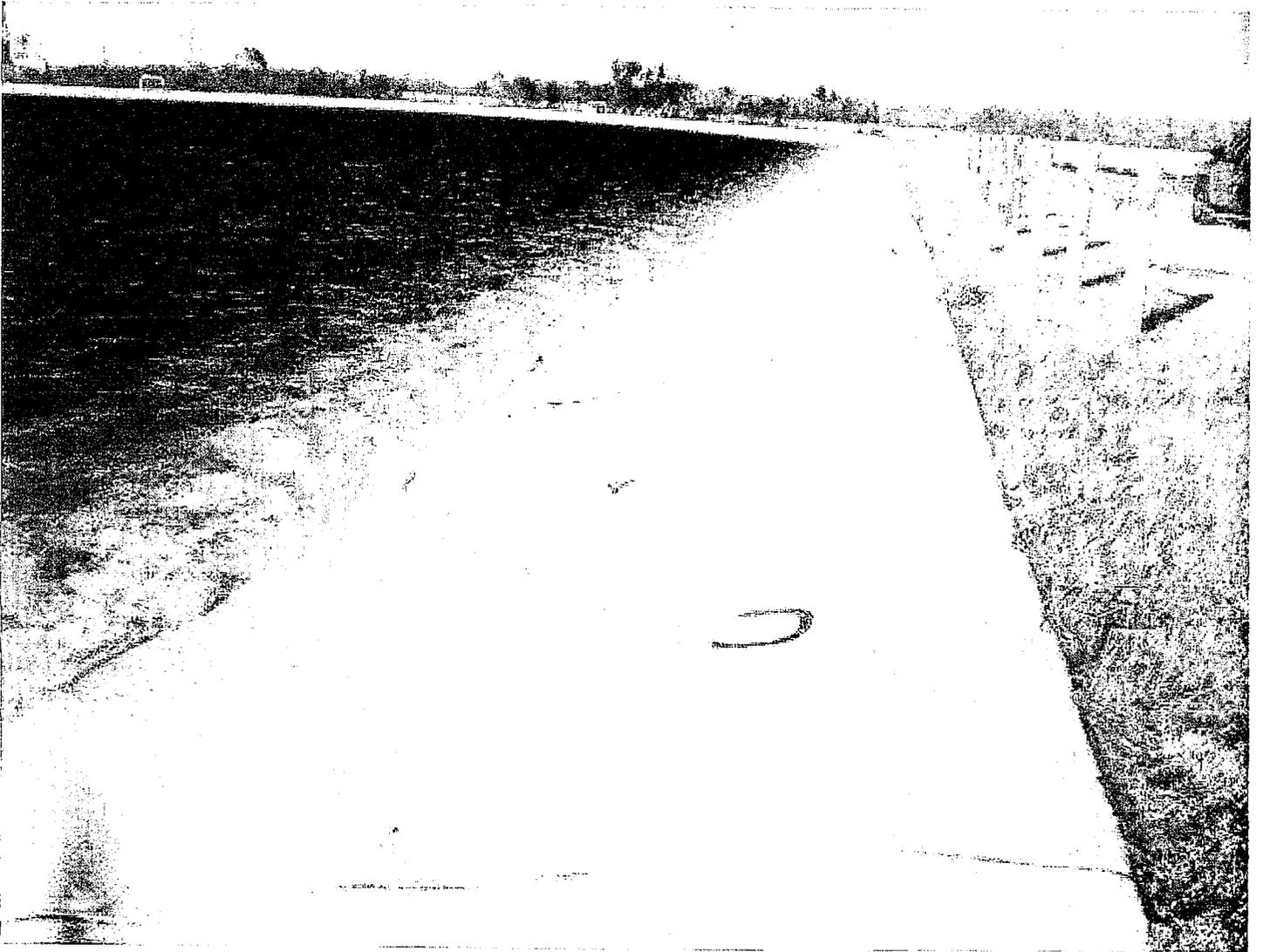
**North  
Storage  
Brine  
Pond**



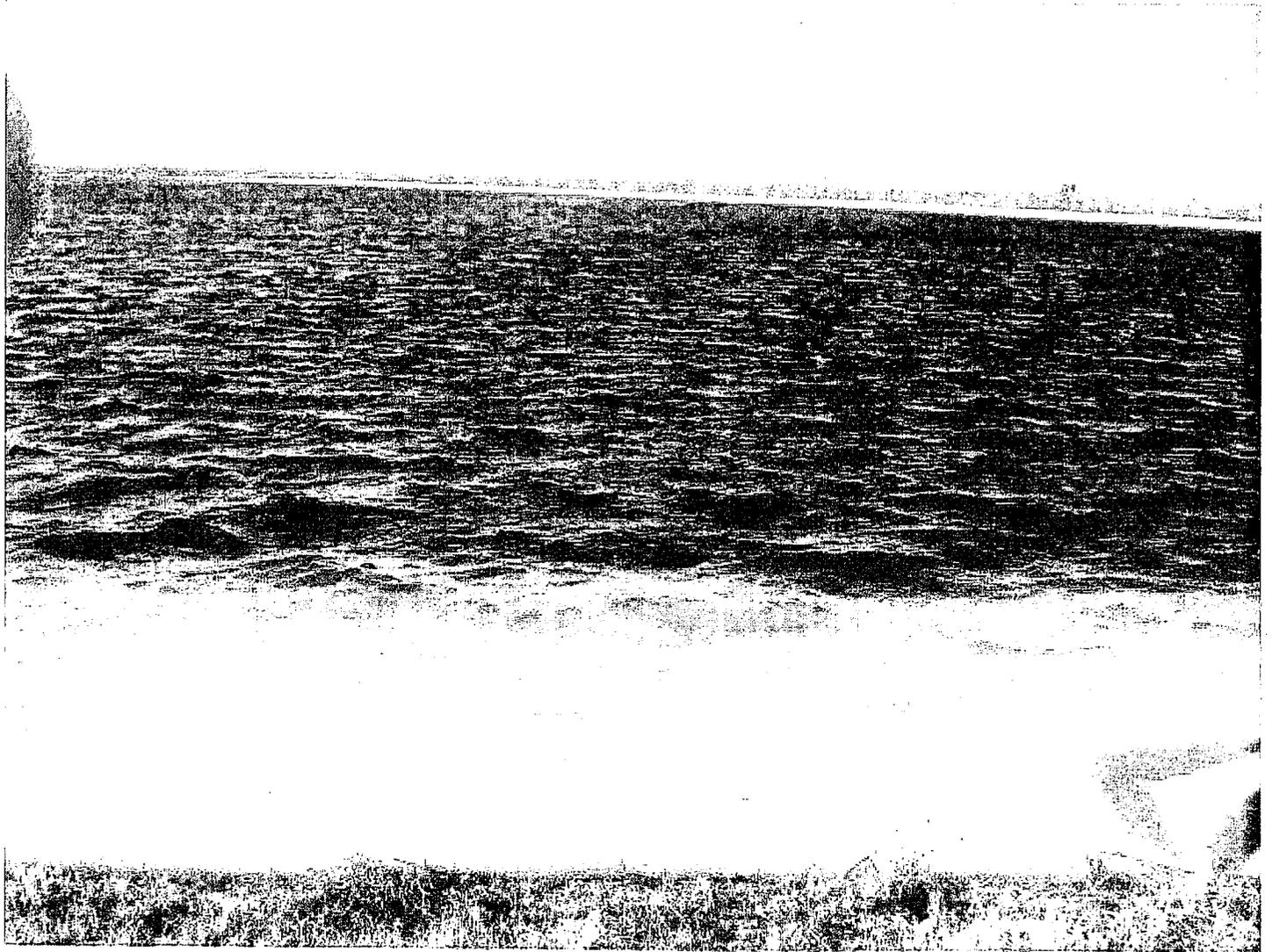
**ENTERPRISE PRODUCTS  
BRINE PIT NO. 3  
RAILROAD COMMISSION  
PERMIT NO. P011287**

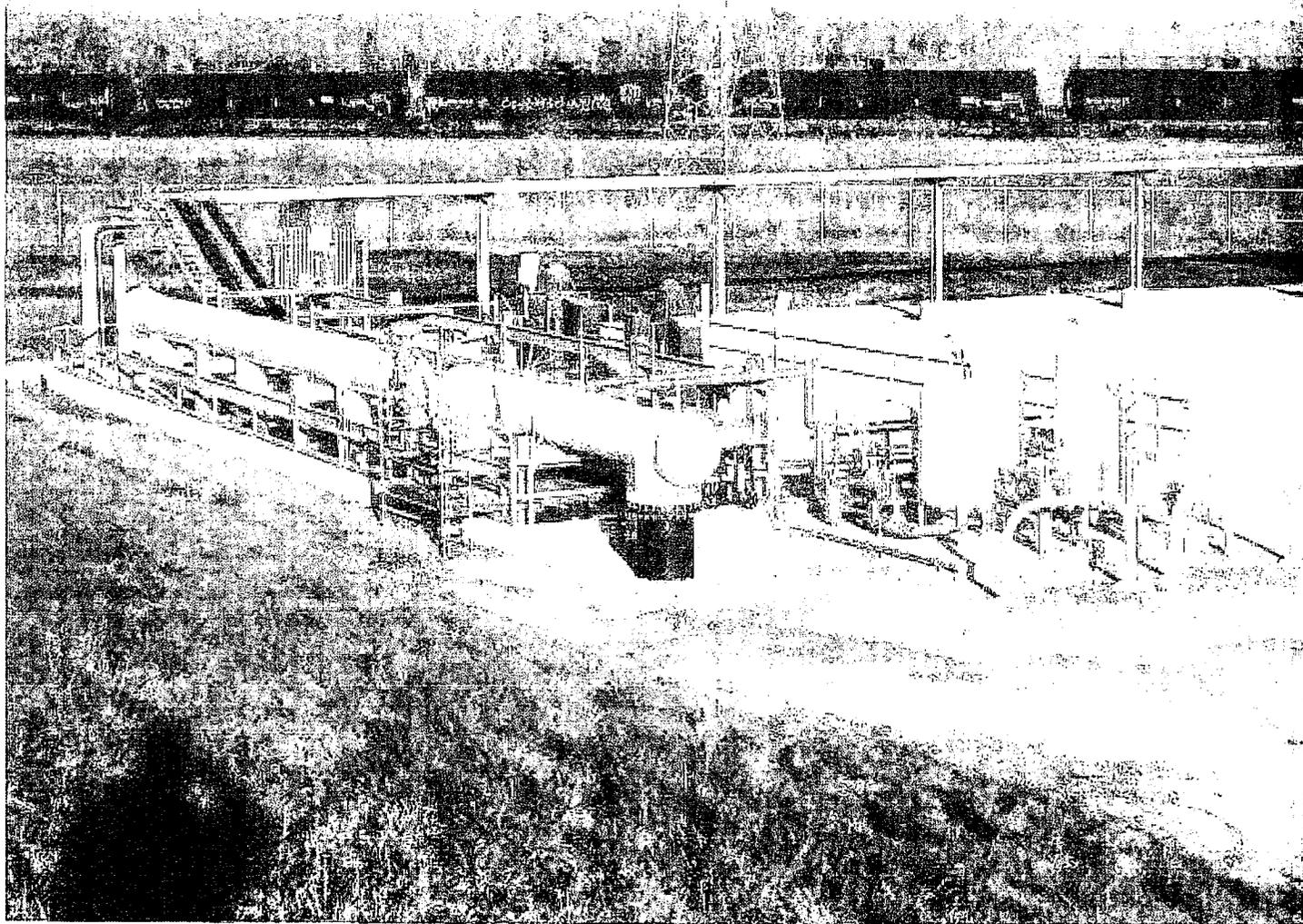


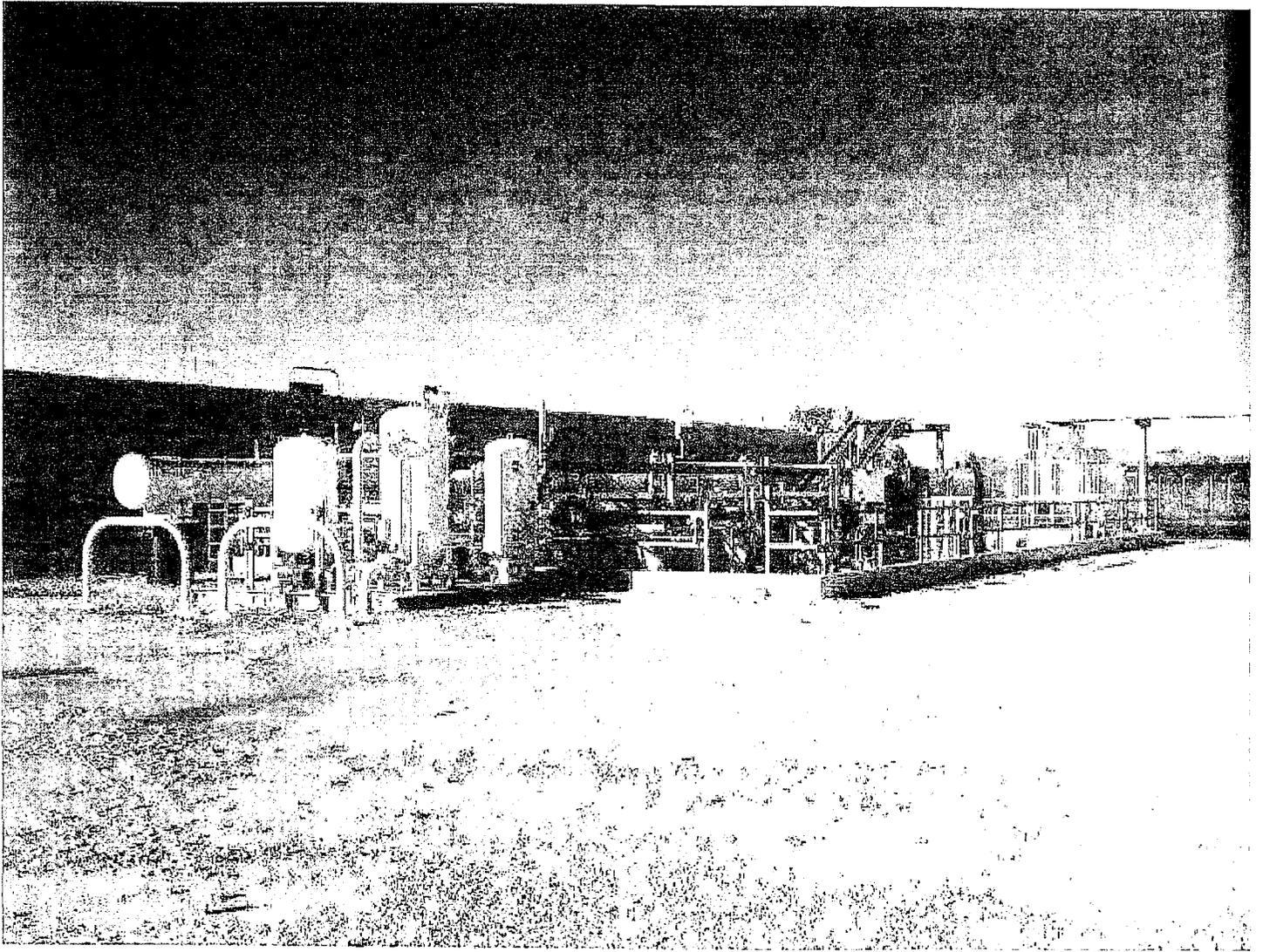


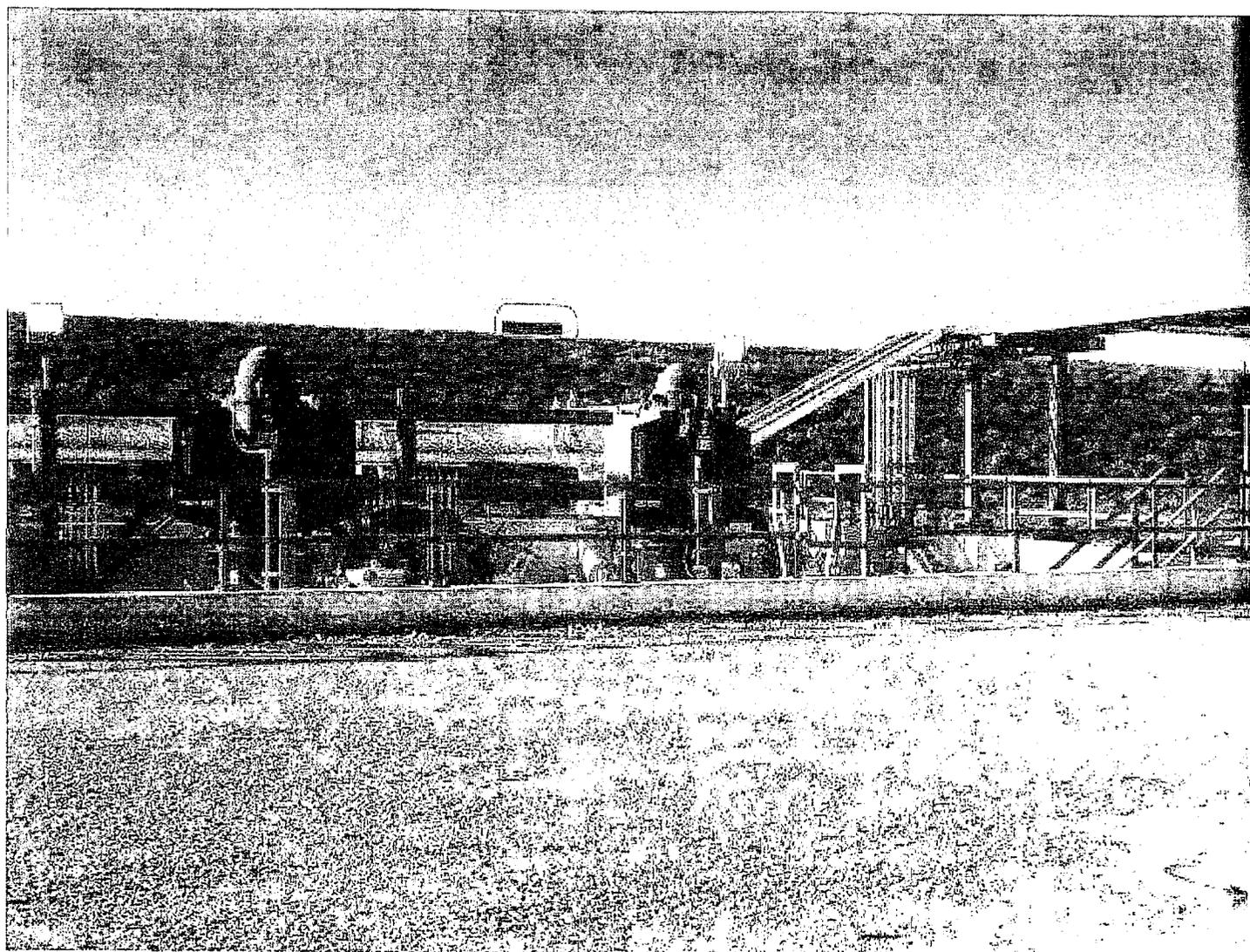


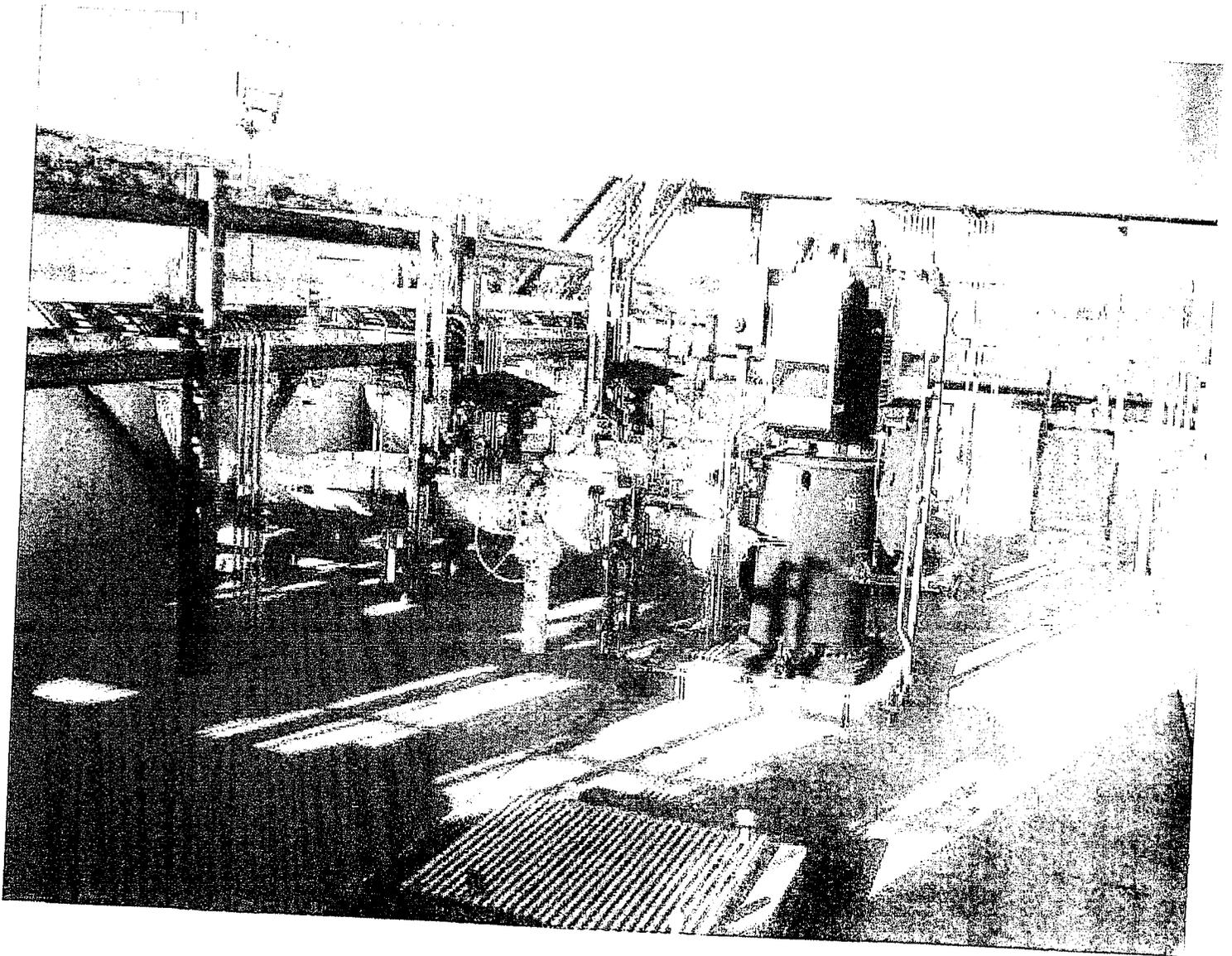


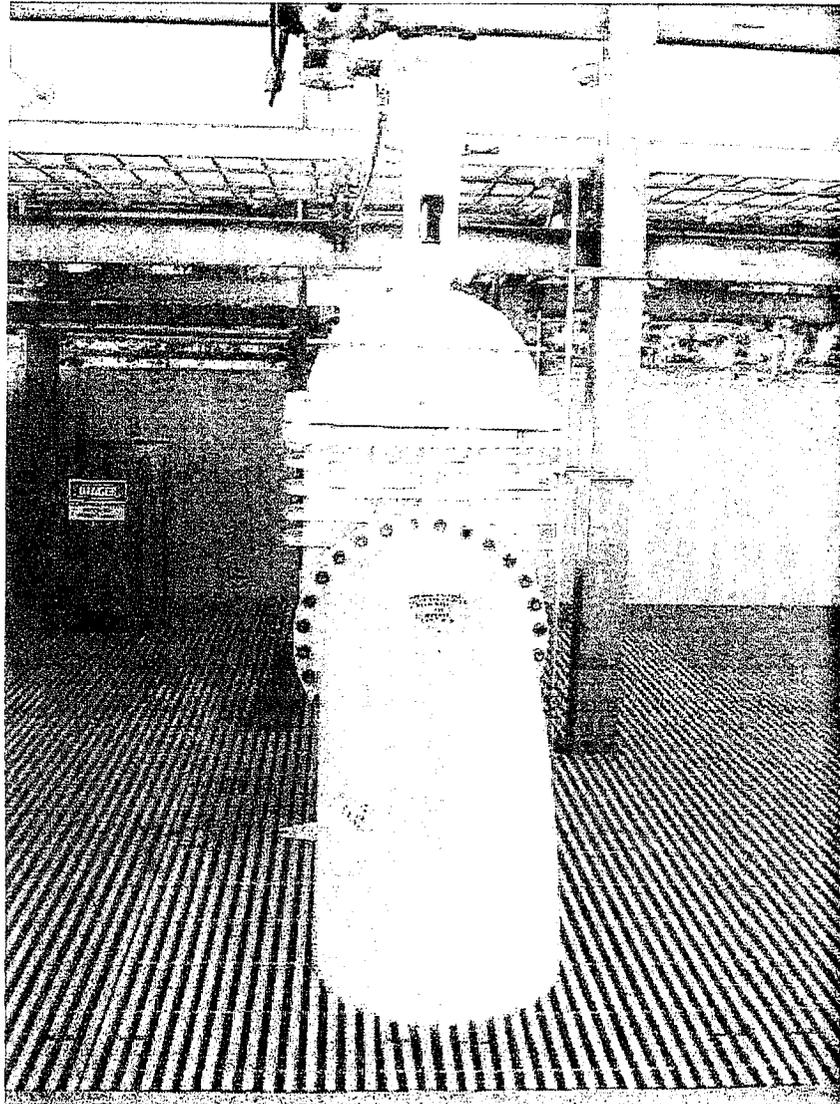




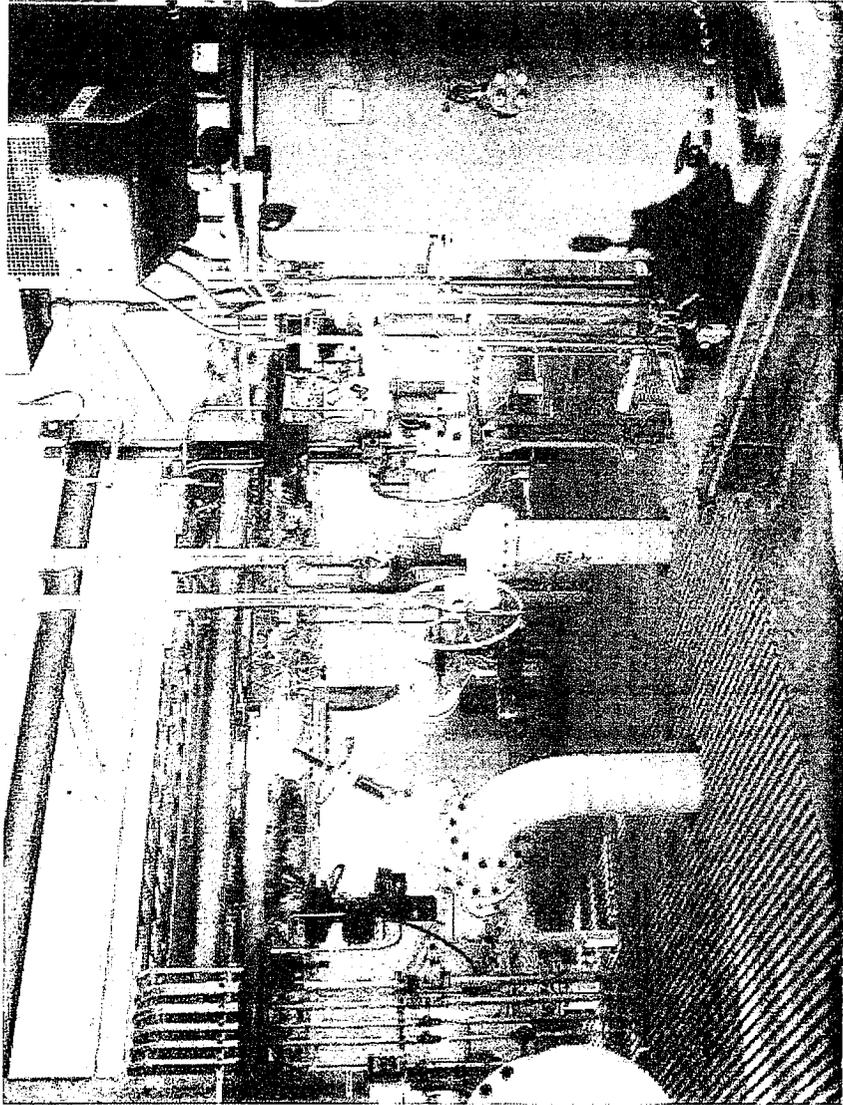


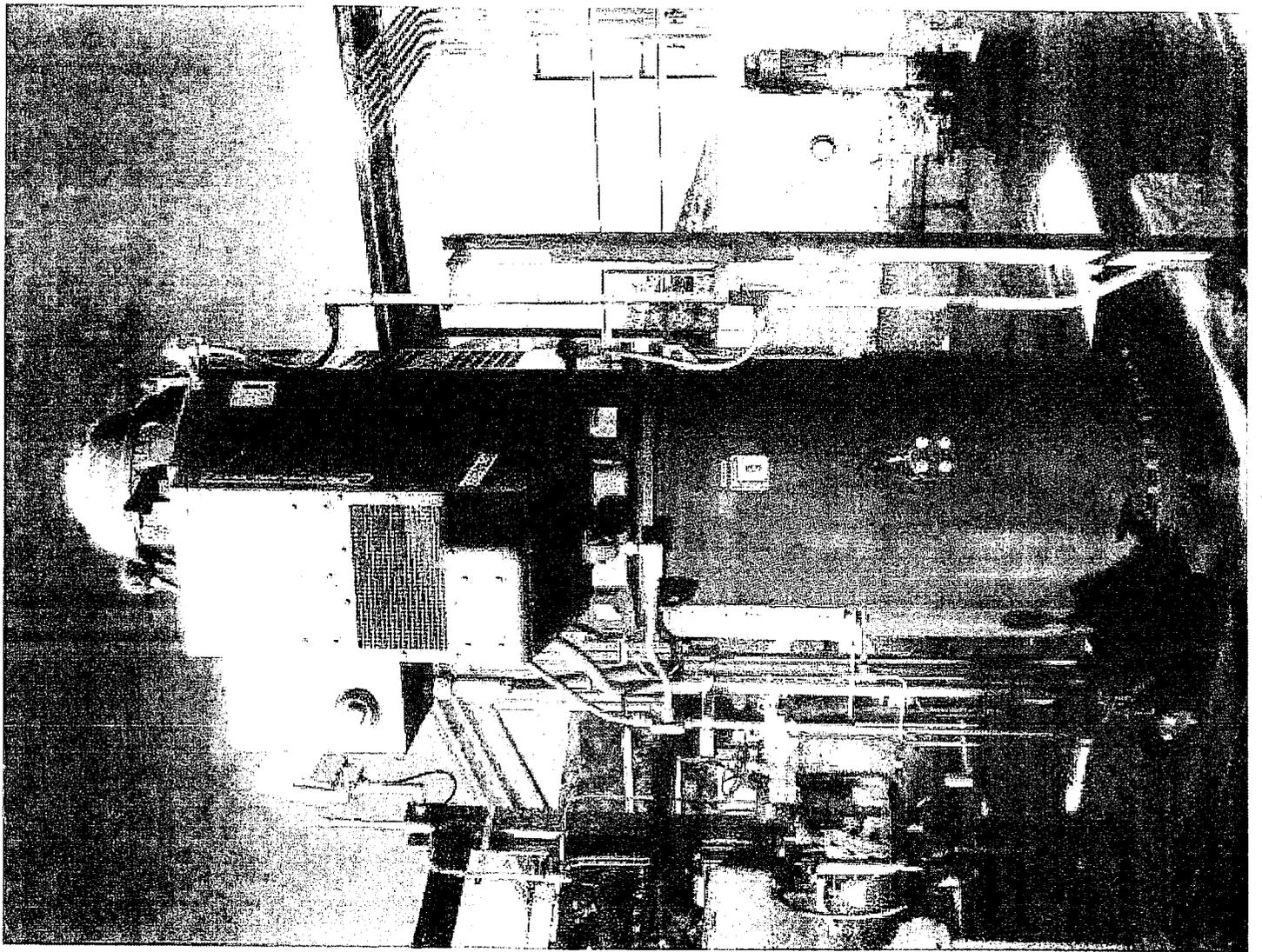


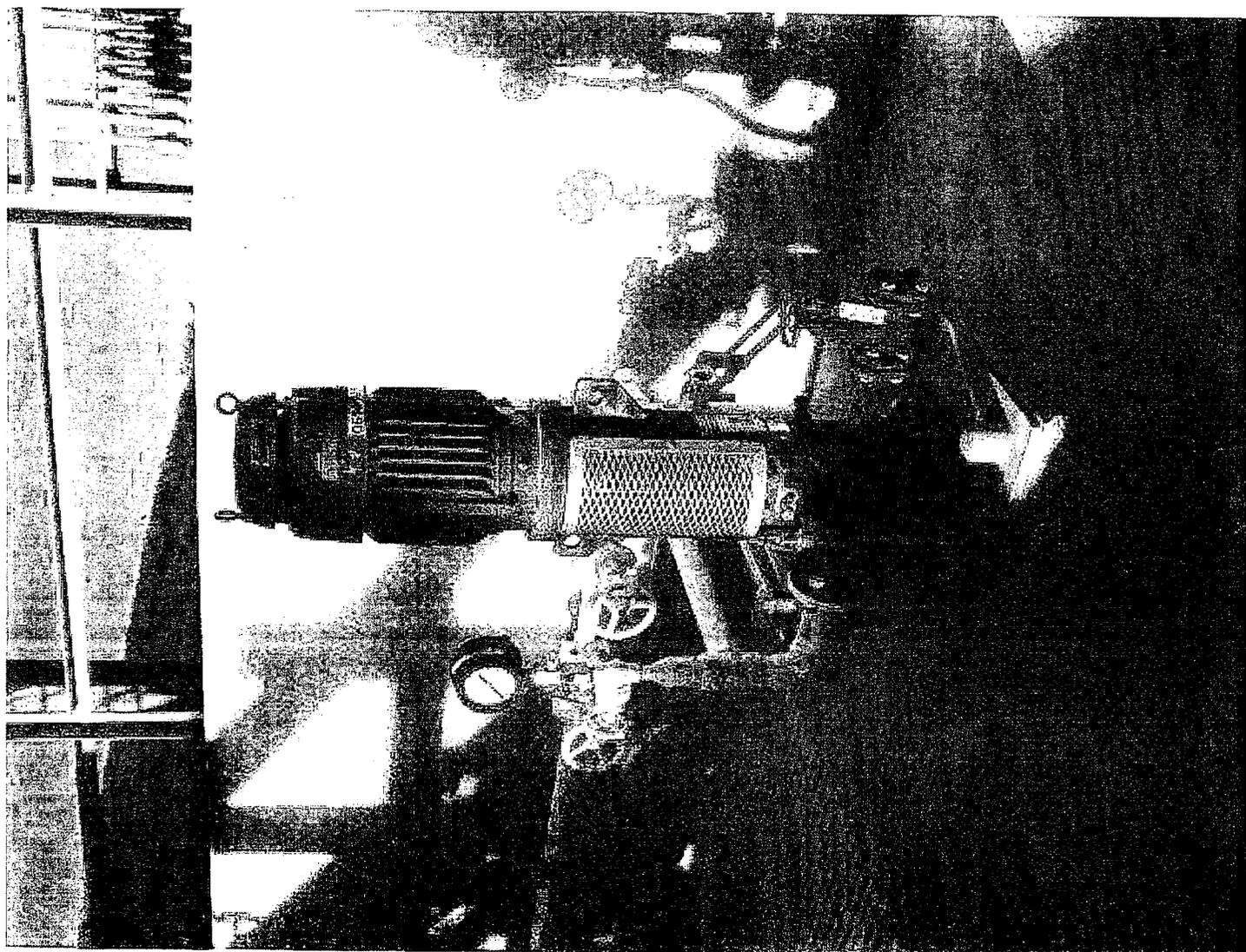










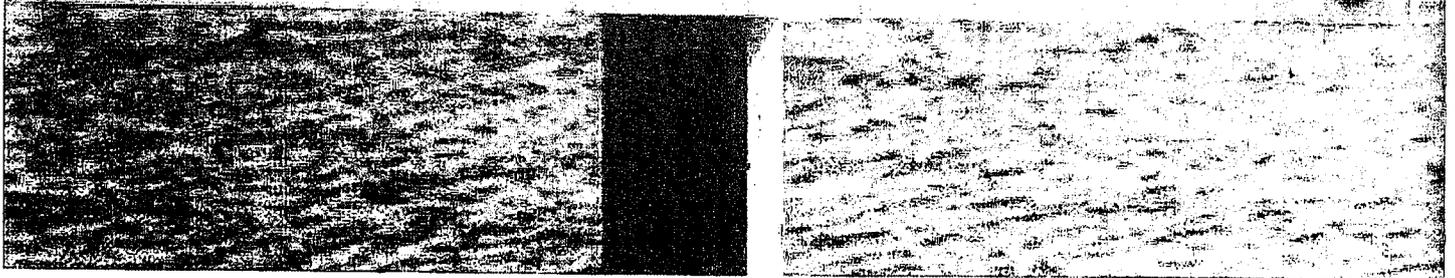


**ENTERPRISE PRODUCTS**

**BRINE PIT NO. 3**

**RAILROAD COMMISSION**

**PERMIT NO. P011278**



**ENTERPRISE PRODUCTS**

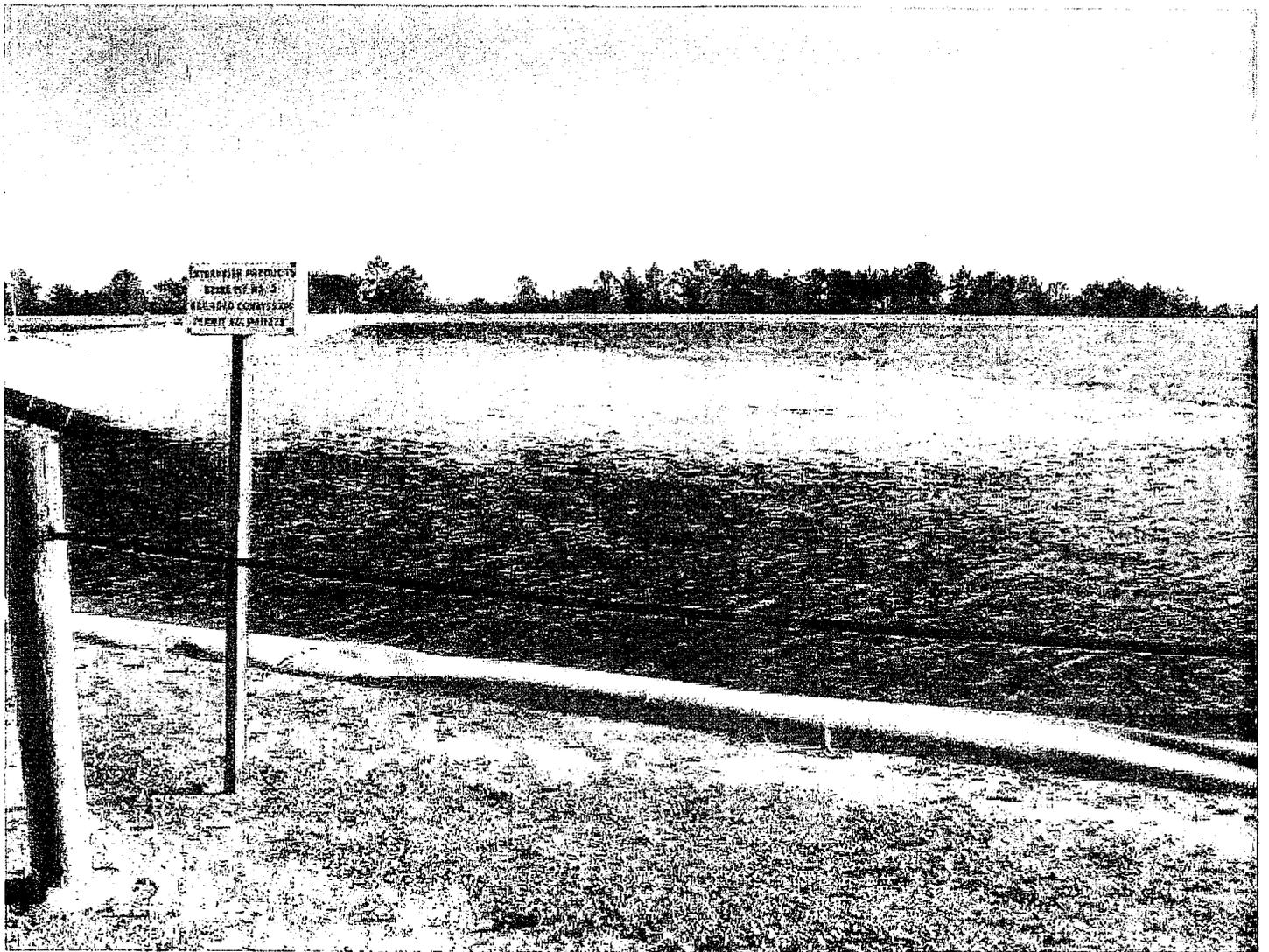
**BRINE PIT NO. 4**

**RAILROAD COMMISSION**

**PERMIT NO. P011279**



ENTERPRISE PRODUCTS  
BRINE PIT NO. 3  
RAILROAD COMMISSION  
PERMIT NO. P011270



EXTERMINER PRODUCTS  
REGISTERED TRADE MARK  
MICHIGAN COUNTY  
PERMIT NO. 1011272



