

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge
November 7, 2008

Les Trobman, General Counsel
Texas Commission on Environmental Quality
PO Box 13087
Austin Texas 78711-3087

2008 NOV 10 AM 11:13
CHIEF CLERKS OFFICE
TEXAS COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: SOAH Docket No. 582-07-2673; TCEQ Docket No. 2007-0204-WDW; Re: Application of TexCom Gulf Disposal, L.L.C. for Texas Commission Environmental Quality Commission Underground Injection Control Permit Nos. WDW410, WDW411, WDW412, and WDW413

Dear Mr. Trobman:

This case is scheduled for consideration at the Commissioner's Open Meeting on November 19, 2008. Each party filed exceptions to the Proposal for Decision (PFD) issued in this case. After carefully considering these exceptions and the responses, we continue to recommend that the Commission grant the application of TexCom Gulf Disposal, L.L.C. for Underground Injection Control Permit Nos. WDW410, WDW411, WDW412, and WDW413. If an exception is not specifically addressed below, the Administrative Law Judges (ALJs) did not find the exception persuasive.

The ALJs recommend that the following Findings of Fact (FF) and Conclusions of Law (CL), and the Ordering Paragraph be modified as indicated below to correct any typographical errors or to clarify the record.

Exceptions filed by TexCom Gulf Disposal, L.L.C. (TexCom)

FF No. 87: TexCom requests that the abbreviation "COI" be defined as it was only defined in the discussion, not in any finding. The amended Finding of Fact will read:

The cone of influence (COI) is the area within which the reservoir pressure build-up over the lifetime of the facility is sufficient to, theoretically, displace a drilling mud plug in an abandoned well exposed to that pressure build-up.¹

FF No. 118: TexCom requests that the reference to the disposal of oilfield wastes in the Catahoula Aquifer be clarified to indicate that the waste disposal was through Class II wells. The ALJs agree. The amended Finding of Fact will read:

¹ The change is underlined.

As recently as 2002, the ~~Lower~~ lower part of the Catahoula Aquifer was being used for permitted disposal of produced oilfield brine and other ~~Class II~~ wastes via Class II wells.

FF Nos. 138, 139, 140, 141, 146, 158 and 159: TexCom requests that these Findings be revised to use the scientific abbreviation for millidarcy, "mD." The ALJs do not find that this correction is necessary, but they are not opposed to the change.

FF No. 200: TexCom referred to the notice of violation marked as Lone Star Ex. 16, and asked for modification of this Finding. The ALJs are agreeable to the following changes:

TexCom received a notice of violation from TCEQ at this facility for failing to submit an injection zone annual report ~~respond to non-report notices~~, failing to post signs, and failing to paint the wellhead of the existing well.

CL No. 25: TexCom noted a typographical error, the word "prevent" should read "preventing."

In accordance with 30 TEX. ADMIN. CODE § 331.121(c)(3)(B)(ii), TexCom's wells will be sited such that the confining zone contains at least one formation of sufficient thickness and with lithologic and stress characteristics capable of ~~prevent~~ preventing initiation and/or propagation of fractures.

CL Nos. 26-27: TexCom requests that the extra commas at the end of the sentences be removed to correct typographical errors. The ALJs agree.

CL No. 47: TexCom requested the addition of the word "compliance" to this conclusion. The ALJs find this change will clarify the Finding of Fact.

In accordance with Tex. Water Code § 27.051(a)(3), both ground and surface fresh water can be adequately protected from pollution if TexCom's proposed wells are operated in compliance with the specifications listed in the UIC Application and the requirements of the Draft Permits.

CL No. 51, subsections g, h, i: TexCom requested that these subsections be re-labeled as subsections f, g, & h to correct a typographical error. The ALJs agree.

CL No. 52: TexCom requested a change due to a typographical error. The ALJs agree.

A special condition should be added to Permit Nos. WDW410, WDW411, WDW312 412, and WDW413 requiring relocation of the truck entrance of the Facility from Creighton Road to FM3083.

Ordering Paragraph Provision No. 3: TexCom asked that a typographical error be corrected.

Permit Nos. WDW410, WDW411, WDW312 412, and WDW413 shall contain the additional condition described in Conclusion of Law No. 52.

Exceptions filed by the Executive Director (ED)

CL No. 51: Staff recommended several nonsubstantive stylistic changes. The ALJs agrees that such changes will render the style and language of the special provisions consistent with that of the final permit. The revised Conclusion of Law will read:

Pursuant to the authority of, and in accordance with, applicable laws and regulations, Permit Nos. WDW410, WDW411, WDW412, and WDW413 should be granted with the addition of the following "Recompletion and Other Requirements" to Draft Permit WDW410:

- a. *Prior to commencement of waste injection, the well shall be recompleted in the injection interval at the well log depths of approximately 6,045 to 6,390 feet in accordance with 30 ~~TEX. ADMIN. CODE~~ Texas Administrative Code (TAC) § 331.62 and the plans and specifications of the UIC Application permit application.*
- b. *Any changes to the plans and specifications in the UIC Application shall be performed in accordance with 30 ~~TEX. ADMIN. CODE~~ TAC § 331.62(3).*
- c. *Following recompletion and prior to commencement of waste injection, the reservoir characteristics and pressure response in the injection zone shall be monitored by means of a shutdown of the well for a sufficient time to conduct a valid observation of the pressure fall-off curve (a pressure fall-off test). The radius of investigation of this fall-off test shall be at least 5,400 feet.*
- d. *Following completion of the pressure fall-off test, and prior to commencement of waste injection, ~~TexCom~~ the permittee shall use the pressure fall-off test results to determine the permeability of the injection interval and to determine whether fault EW-4400-S is laterally transmissive.*

- e. ~~TexCom~~ *The permittee shall remodel and recalculate the ~~COI~~ cone of influence [as defined in 30 TAC § 331.2(25)] using the new information and determine whether any artificial penetrations extend into the injection interval of the recalculated ~~COI~~ cone of influence that would endanger any USDW Underground Source of Drinking Water (USDW) or adjust operating parameters to limit the area of the ~~COI~~ cone of influence or other appropriate corrective action as necessary to protect USDWs and freshwater resources.*
- ef. *Results of the pressure fall-off test and of the new reservoir modeling shall be provided to the ED and PIC, and counsel for Lone Star, the Aligned Protestants, and the Individual Protestants.*
- h g. *Within 90 days of recompletion of the well, ~~Applicant~~ the permittee shall submit a Completion Report to the Executive Director in accordance with 30 ~~TEX. ADMIN. CODE~~ TAC §§ 331.45 and 331.65.*
- i. *In compliance with 30 ~~TEX. ADMIN. CODE~~ TAC § 331.65(a)(4), prior to beginning operations, ~~Applicant~~ the permittee must obtain written approval from the Executive Director.*

Exceptions from Montgomery County and the City of Conroe

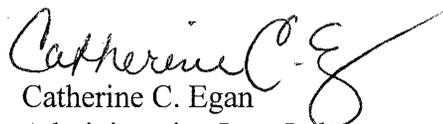
FF No. 82: The Aligned Parties objected to the finding the all wells were drilled by the same company. The ALJs recommend that the finding be revised to include the word "primarily" to clarify the finding.

During the 1930s, the oil and gas wells in the area were primarily drilled by the same company, and all were completed in the Upper Cockfield, except for a few that were drilled to the Wilcox sands (12,000 feet depth) that were dry and plugged.

Sincerely,



Thomas H. Walston
Administrative Law Judge



Catherine C. Egan
Administrative Law Judge

/nl

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STYLE/CASE: TEXCOM GULF DISPOSAL LLC

SOAH DOCKET NUMBER: 582-07-2673

REFERRING AGENCY CASE: 2007-0204-WDW

STATE OFFICE OF ADMINISTRATIVE
HEARINGS

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Note: PLEASE NOTE: THIS CASE IS CONSOLIDATED WITH 582-07-2674.

xc: Docket Clerk, State Office of Administrative Hearings