

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



TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 MAY 15 PM 4: 21

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

CHIEF CLERKS OFFICE

May 15, 2008

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

Re: Applications of TexCom Gulf Disposal, L.L.C.,  
Industrial Solid Waste Permit No. 87758  
SOAH Docket No. 582-07-2674; TCEQ Docket No. 2007-0362-IHW  
and  
UIC Permit Nos. WDW410, WDW411, WDW412, and WDW413  
SOAH Docket No. 582-07-2673; TCEQ Docket No. 2007-0204-WDW

Dear Ms. Castañuela:

On behalf of the Executive Director of the Texas Commission on Environmental Quality, please find enclosed the "Executive Director's Exceptions" regarding the above referenced case. Please contact me at 512/ 239-5731 if you have questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Diane Goss".

J. Diane Goss, Staff Attorney  
Environmental Law Division  
Representing the Executive Director of the  
Texas Commission on Environmental Quality

cc: attached service list  
Enclosure

SOAH Docket No. 582-07-2673  
TCEQ Docket No. 2007-0204-WDW

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CHIEF CLERKS OFFICE

APPLICATION BY  
TEXCOM GULF DISPOSAL, L.L.C.,  
FOR TCEQ UNDERGROUND  
INJECTION CONTROL PERMIT  
NOS. WDW410, WDW411, WDW412,  
AND WDW413

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TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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**EXECUTIVE DIRECTOR'S EXCEPTIONS**

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TO THE HONORABLE COMMISSIONERS AND ADMINISTRATIVE LAW  
JUDGES OF THE STATE OFFICE OF ADMINISTRATIVE HEARINGS:

The Executive Director of the Texas Commission on Environmental Quality files his  
Exceptions in response to the Proposal for Decision (PFD) prepared by the  
Administrative Law Judges in the above-referenced matter.

The Executive Director contends that TexCom Gulf Disposal, L.L.C., has met its burden  
of proof on all issues. The Executive Director recommends granting the applications for  
Underground Injection Well Permit Nos. WDW410, WDW411, WDW412, and WDW413.  
The Executive Director supports and recommends issuance of the PFD, with the changes  
presented herein. The Executive Director recommends the changes to make  
clarifications.

I. EXCEPTIONS TO CONCLUSIONS OF LAW

**Conclusion of Law (COL) No. 51:** The PFD recommends adding COL No. 51 (a)  
through (h) to the final permit as special provisions. The Executive Director recommends  
changing COL No. 51 as indicated below. The Executive Director recommends making  
nonsubstantive stylistic changes to render style and language of the special provisions  
consistent with that of the final permit. In provisions (a), (b), (c), (g), and (h) the  
Executive Director recommends spelling out and providing an acronym for the included  
rule citations and eliminating the term "UIC" to be consistent with the style of the final  
permit. In provisions (c), (d), and (f) the Executive Director recommends adding the  
descriptive term "pressure" to "fall-off test" to more accurately define the required  
action. In provisions (d), (g), and (h) the Executive Director recommends substituting the  
applicant's name with the phrase "the permittee" to be consistent with the language in the  
final permit and for enforceability if the permit is ever transferred to a different owner.

Executive Director's Exceptions

TexCom Gulf Disposal, LLC, Permit Nos. WDW410, WDW411, WDW412, & WDW413

TCEQ Docket No. 2007-0204-WDW, SOAH Docket No. 582-07-2673

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In provision (e) the Executive Director recommends spelling out "cone of influence" and defining "cone of influence" with the addition of a rule citation to clarify this requirement. In provision (e) the Executive Director recommends spelling out "underground source of drinking water" to clarify this reference in the special provisions. In provision (e) the Executive Director recommends adding the term "or other appropriate corrective action" to indicate that corrective action may be required by the results of the new pressure fall-off test.

Conclusion of Law No. 51: 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) Section (§) 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 pressure 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.
- f. 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.
- 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.

Executive Director's Exceptions

TexCom Gulf Disposal, LLC, Permit Nos. WDW410, WDW411, WDW412, & WDW413

TCEQ Docket No. 2007-0204-WDW, SOAH Docket No. 582-07-2673

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- h. 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.

The Executive Director recommends the foregoing stylistic changes and additions to the proposed special permit provisions to clarify the special provisions and to make the special provisions consistent with the language in the draft permit.

The Executive Director respectfully requests that the Honorable Commissioners adopt the Proposed PFD and Order, as modified by the above Exceptions.

Respectfully submitted,

Texas Commission on  
Environmental Quality

Glenn Shankle  
Executive Director

Robert Martinez, Director  
Environmental Law Division



Diane Goss, Staff Attorney  
State Bar No. 24050678  
Environmental Law Division  
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**CERTIFICATE OF SERVICE**

I certify that on May 15, 2008, the original "Executive Director's Exceptions" was filed with the Chief Clerk and served according to the method below to the parties and judges identified on the attached mailing list.



J. Diane Goss, Staff Attorney  
Environmental Law Division  
State Bar No. 24050678

CHIEF CLERKS OFFICE

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QUALITY

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