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January 19, 2011

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

Via TCEQ eFiling

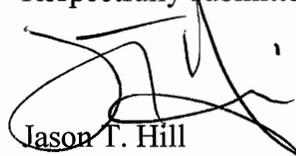
RE: SOAH DOCKET NO. 582-07-2673; TCEQ DOCKET NO. 2007-0204-WDW;
Applications of TexCom Gulf Disposal, LLC for TCEQ Underground Injection
Control Permit Nos. WDW410, WDW411, WDW412 and WDW413

SUBJECT: Protestants' Joint Motion to Include Final Order of the Railroad Commission of
Texas in the Administrative Record

Dear Ms. Castañuela:

Please find enclosed the *Protestants' Joint Motion to Include Final Order of the Railroad Commission of Texas in the Administrative Record* in the above-captioned matter. By copy hereof, I certify that I have served the persons listed on the attached service list by hand delivery, first class mail, facsimile, or e-mail.

Respectfully submitted,



Jason T. Hill

Enclosures

cc:
Service List

SERVICE LIST

**SOAH Docket Nos. 582-07-2673 and 582-07-2674;
TCEQ Docket Nos. 2007-0204-WDW and 2007-0362-IHW**

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Representing Denbury Onshore, LLC

**SOAH DOCKET NO. 582-07-2673
TCEQ DOCKET NO. 2007-0204-WDW**

APPLICATIONS OF TEXCOM GULF DISPOSAL, L.L.C. FOR TEXAS COMMISSION ON ENVIRONMENTAL QUALITY COMMISSION UNDERGROUND INJECTION CONTROL PERMIT NOS. WDW410, WDW411, WDW412, AND WDW413	§ § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**PROTESTANTS' JOINT MOTION TO INCLUDE FINAL ORDER
OF THE RAILROAD COMMISSION OF TEXAS IN THE ADMINISTRATIVE RECORD**

TO THE HONORABLE COMMISSIONERS:

The Aligned Protestants Montgomery County and the City of Conroe (the "Aligned Protestants"), the Aligned Individual Protestants Nicky Dyer, Flora Harrell, Edgar and Shirley Hogland, James Langston III, James Langston, Lois Nelson, Brian Rodel, Richard Ward, and Edwin Wilson (the "Aligned Individual Protestants"), and Protestant Lone Star Groundwater Conservation District (the "District"), submit this joint motion to include a Final Order of the Railroad Commission of Texas in the administrative record of the above-styled and numbered contested case, and would respectfully show the Commissioners of the Texas Commission on Environmental Quality (the "TCEQ Commissioners") the following:

1. On June 15, 2010, Denbury Onshore, LLC ("Denbury") made a motion to the Administrative Law Judges in this contested case requesting that the remand hearing on the merits be continued until such time as the Railroad Commission of Texas (the "RRC") had sufficient opportunity to conduct its own evidentiary hearing regarding the validity of the September 16, 2005 letter from RRC staff that concluded TexCom Gulf Disposal, LLC's (the "Applicant's") proposed injection operations would not endanger known oil and gas reservoirs

(the “No-Harm Letter”).¹ The No-Harm Letter had been previously admitted into the administrative record in this case as TexCom Exhibit 18. The Aligned Protestants, the Aligned Individual Protestants, and the District each joined in Denbury’s request for continuance. After considering the arguments of all parties, the Administrative Law Judges denied the request and proceeded with the evidentiary hearing of the merits on remand.²

2. On January 13, 2011, the RRC Commissioners took up and considered a proposal for decision issued by RRC hearings examiners that recommended rescinding the No-Harm Letter. Following their deliberation on the proposal for decision, the RRC Commissioners voted unanimously to adopt the findings and conclusions made by the RRC hearings examiners, which concluded that the Applicant’s proposed injection operations would likely endanger known oil and gas reservoirs. As a result, the RRC Commissioners ordered that the No-Harm Letter be rescinded (the “RRC Final Order”).

3. On January 14, 2011, Denbury Onshore, LLC, protestant in the above-styled and numbered contested case, submitted a motion to the TCEQ Commissioners to supplement the evidentiary record in this matter with the RRC Final Order so the record would appropriately and accurately reflect the invalidity of the No-Harm Letter (the “Denbury Motion”).

4. For the same reasons articulated in the Denbury Motion, and based on the foregoing, the Aligned Protestants, the Aligned Individual Protestants, and the District hereby move that the TCEQ Commissioners, pursuant to Title 30, Section 80.265 of the Texas Administrative Code, order that the evidentiary record in the above-styled matter be supplemented with the RRC Final Order, a true and correct copy of which is attached hereto as Attachment No. 1 and included herein for all purposes.

¹ Remand Hearing Transcript Vol. I, page 10, line 19 (10:19) – 12:13.
² *Id.* at 58:19 – 59:1.

Respectfully submitted,

By: David Walker, with permission

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PROTESTANTS MONTGOMERY
COUNTY AND CITY OF CONROE**

**ATTORNEY FOR ALIGNED
INDIVIDUAL PROTESTANTS**

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**ATTORNEYS FOR THE LONE STAR
GROUNDWATER CONSERVATION DISTRICT**

CERTIFICATE OF SERVICE

SOAH DOCKET NO. 582-07-2673
TCEQ DOCKET NO. 2007-0204-WDW

I hereby certify that on this the 19th day of January, 2011, a true and correct copy of the foregoing document was provided by hand delivery, first class mail, facsimile, or email to the persons listed below.

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Representing Denbury Onshore, LLC



JASON HILL

Attachment No. 1

**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL**

**OIL AND GAS DOCKET
NO. 03-0266270**

**FINAL ORDER
RESCINDING THE "NO HARM" LETTER
DATED SEPTEMBER 16, 2005
ISSUED TO TEXCOM GULF DISPOSAL, LLC.
TEXCOM GULF DISPOSAL FACILITY
MONTGOMERY COUNTY, TEXAS**

The Commission finds that after statutory notice in the above-numbered docket heard on August 16-17, 2010, the presiding examiners have made and filed a report and proposal for decision containing findings of fact and conclusions of law, which was served on all parties of record; that the proposed application is in compliance with all statutory requirements; and that this proceeding was duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas.

The Commission, after review and due consideration of the examiners' report and proposal for decision, the findings of fact and conclusions of law contained therein, and any exceptions and replies thereto, hereby adopts as its own the findings of fact and conclusions of law contained therein

Therefore it is **ORDERED** by the Railroad Commission of Texas that the "no harm" letter issued by the Railroad Commission of Texas on September 16, 2005 to TexCom Gulf Disposal, LLC, regarding Class I Nonhazardous Waste Disposal Well Nos. 1, 2, 3 and 4 at the TexCom Gulf Disposal Facility, Montgomery County, Texas is hereby **RESCINDED**.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

This order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being

overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

Done this 13th day of January, 2011.

RAILROAD COMMISSION OF TEXAS



CHAIRMAN MICHAEL L. WILLIAMS

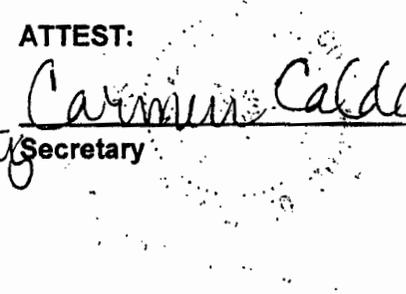


COMMISSIONER ELIZABETH A. JONES



COMMISSIONER DAVID PORTER

ATTEST:


Carmen Calderon
Deputy Secretary

RAILROAD COMMISSION OF TEXAS



CERTIFICATION NO.
096217 JAN 13 11
RAILROAD COMMISSION
OF TEXAS

RAILROAD COMMISSION OF TEXAS
STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that the information on the reverse side hereof, and on the securely attached additional 1 pages identified by certification # 096217 are true and correct copies of documents on file with Railroad Commission of Texas, and I further certify that I am the legal custodian of the records, files and seal of the Railroad Commission of Texas.

Date: 01/13/11

Carmu Cadena
Deputy SECRETARY