

ORIGINAL

SOAH DOCKET NO. 582-07-2674  
TCEQ DOCKET NO. 2007-0362-IHW

APPLICATION OF TEXCOM GULF § BEFORE THE STATE OFFICE  
DISPOSAL, L.L.C. FOR TEXAS §  
COMMISSION ON ENVIRONMENTAL § OF  
QUALITY INDUSTRIAL SOLID §  
WASTE PERMIT NO. 87758 § ADMINISTRATIVE HEARINGS

**APPLICANT TEXCOM GULF DISPOSAL, LLC'S EXCEPTIONS  
TO THE ADMINISTRATIVE LAW JUDGES' PROPOSAL FOR DECISION**

TO: THE HONORABLE ADMINISTRATIVE LAW JUDGES

In accordance with 30 TEX. ADMIN. CODE § 80.257(a), TexCom offers for the Administrative Law Judges' ("ALJs") consideration the following proposed revisions. Each of the ALJs' 97 Findings of Fact and 20 Conclusions of Law are supported by the record, but for the sake of consistency and clarity, Applicant respectfully recommends revisions to a small number.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

CHIEF CLERKS OFFICE

2008 MAY 15 PM 4:32

**Finding of Fact No. 37:**

*The hearing on the merits was held from December 12-18, 2007. The first three days of the hearing were conducted at the Montgomery County Commissioner's Court in Conroe, and the last two days were conducted at the State Office of Administrative Hearings in Austin.*

**Finding of Fact No. 40:**

*TexCom's compliance history rating is ~~3~~ 2 and compliance history classification score is AVERAGE.*

Dr. Louis Ross testified that TexCom's compliance history score was "2, AVERAGE."<sup>1</sup>

**Finding of Fact No. 59:**

*A high-level visual and audible alarm will be installed on all Waste Storage/Mixing and Reaction Tanks and ~~that~~ fill-level indicators will also be attached to tanks.*

**Finding of Fact No. 97:**

*The costs for recording and transcribing the prehearing conference and the consolidated hearing on the merits held on both this Application and TexCom's UIC Application ~~is~~ are addressed in the Order issued in the other proceeding for TexCom's UIC permit applications, SOAH Docket No. 582-07-2673, TCEQ Docket No. 2007-0204-WDW.*

---

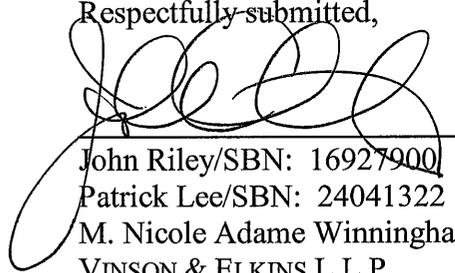
<sup>1</sup> TexCom Ex. 1 (Ross pre-filed), 23:18-24.

**Finding of Fact No. 98 (NEW):**

TexCom proposes that this Finding be added for completeness and consistency with Finding of Fact No. 227 from the PFD for the UIC Application:

*With respect to all other contested issues and all unrefuted issues, the Application and the remainder of the evidentiary record contain sufficient factual information regarding the surface facility's design and operation to satisfy all applicable statutory and regulatory requirements.*

Respectfully submitted,



John Riley/SBN: 16927900

Patrick Lee/SBN: 24041322

M. Nicole Adame Winningham/SBN: 24045370

VINSON & ELKINS L.L.P.

The Terrace 7

2801 Via Fortuna, Suite 100

Austin, Texas 78746

Telephone: (512) 542-8520

Facsimile: (512) 236-3329

COUNSEL FOR APPLICANT,  
TEXCOM GULF DISPOSAL, LLC

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this document has been served on the following via electronic mail, facsimile, and/or overnight or first class mail on this the **15th** day of May, 2008:

Emily Collins  
Texas Commission on Environmental Quality  
P. O. Box 13087 MC-103  
Austin, Texas 78711  
PH: 512.239.6823  
FAX: 512.239.6377  
[ECollins@tceq.state.tx.us](mailto:ECollins@tceq.state.tx.us)

*Representing the Texas Commission on  
Environmental Quality Office of Public Interest  
Counsel*

John Williams  
Texas Commission on Environmental Quality  
P. O. Box 13087 MC-173  
Austin, Texas 78711  
PH: 512.239.0455  
FAX: 512.239.0606

*Representing the Executive Director of the Texas  
Commission on Environmental Quality*

[JWilliams@tceq.state.tx.us](mailto:JWilliams@tceq.state.tx.us)

J. Diane Goss, Staff Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division  
P. O. Box 13087  
Austin, Texas 78711  
PH: 512.239.5731  
FAX: 512.239.0606  
[DGoss@tceq.state.tx.us](mailto:DGoss@tceq.state.tx.us)

*Representing the Executive Director of the Texas  
Commission on Environmental Quality*

Michael A. Gershon  
Lloyd Gosselink Blevins Rochelle &  
Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
PH: 512.322.5800  
FAX: 512.472.0532  
[mgershon@lglawfirm.com](mailto:mgershon@lglawfirm.com)

*Representing Lone Star Groundwater  
Conservation District*

Brian L. Sledge  
Lloyd Gosselink Blevins Rochelle &  
Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
PH: 512.322.5800  
FAX: 512.472.0532  
[bsledge@lglawfirm.com](mailto:bsledge@lglawfirm.com)

*Representing Lone Star Groundwater  
Conservation District*

Jason Hill  
Lloyd Gosselink Blevins Rochelle &  
Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701  
PH: 512.322.5800  
FAX: 512.472.0532  
[jhill@lglawfirm.com](mailto:jhill@lglawfirm.com)

*Representing Lone Star Groundwater  
Conservation District*

Kevin A. Forsberg  
The Forsberg Law Firm, P.C.  
15949 Highway 105 W. Suite 59  
Montgomery, Texas 77316  
PH: 936.588.6226  
FAX: 936.588.6229  
[Kevin@forsberglaw.net](mailto:Kevin@forsberglaw.net)

*Representing the Aligned Individual  
Protestants*

Richard Ward  
16015 Creighton  
Conroe, Texas 77302  
FAX: 936.756.8102  
[Mike.ward@nov.com](mailto:Mike.ward@nov.com)

*Representing the Aligned Individual  
Protestants*

David K. Walker  
Montgomery County Attorney  
207 W. Phillips  
Conroe, Texas 77301  
PH: 936.539.7828  
FAX: 936.539.7957  
[dwalker@co.montgomery.tx.us](mailto:dwalker@co.montgomery.tx.us)

*Representing the City of Conroe and  
Montgomery County*

Julie B. Stewart  
Assistant Montgomery County Attorney  
207 West Phillips, First Floor  
Conroe, Texas 77301  
PH: 936.539.7957  
FAX: 936.539.7997  
[jstewart@co.montgomery.tx.us](mailto:jstewart@co.montgomery.tx.us)

*Representing the City of Conroe and  
Montgomery County*

/s/  
Patrick Lee