

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: 20

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY CHIEF CLERKS OFFICE

*Protecting Texas by Reducing and Preventing Pollution*

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. 582-07-2674  
TCEQ Docket No. 2007-0362-IHW

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CHIEF CLERKS OFFICE

APPLICATION BY  
TEXCOM GULF DISPOSAL, L.L.C.,  
FOR TCEQ INDUSTRIAL SOLID  
WASTE PERMIT NO. 87758

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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 (TCEQ) 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 application for Non Hazardous Industrial Solid Waste Permit No. 87758. The Executive Director supports and recommends issuance of the PFD with the changes presented herein. The Executive Director recommends the changes to a finding of fact to make a correction and recommend addition of a conclusion of law.

I. EXCEPTIONS TO FINDINGS OF FACT

**Finding of Fact No. 37:** The Executive Director recommends changing Finding of Fact No. 1 to provide specificity about the hearing location.

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

II. EXCEPTIONS TO CONCLUSIONS OF LAW

**Conclusion of Law No. 14 A:** The Executive Director recommends adding a Conclusion of Law to require a special permit provision be added to the permit requiring the

permittee to apply for a permit modification or amendment prior to relocating the truck entrance of the facility.

14 A. A special provision should be added to Permit No. 87758 requiring the permittee to apply for and receive a permit modification or amendment prior to relocating the truck entrance of the facility from Creighton Road to FM3083.

Permit applications WDW410, WDW411, WDW412, and WDW413 for four non-hazardous industrial underground waste disposal wells were consolidated with this permit application for the purposes of hearing. The proposal for decision on the four injection well permits recommends a special permit provision requiring relocation of the truck entrance. The Executive Director recommends adding this requirement to permit No. 87758 because the solid waste permit governs the design and construction of the surface facility and the truck entrance and driveway are considered a part of the surface facility. The Executive Director recommends adding a requirement that the permittee apply for a modification or amendment to the solid waste permit to reflect the changes in design and construction resulting from relocation of the truck entrance.

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  
TCEQ

P.O. Box 13087, MC-173  
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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

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