

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Erin E. Chancellor, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

February 22, 2023

TO: All interested persons.

RE: US Ecology Texas, Inc.  
IHW Permit No. 50421

### **Decision of the Executive Director.**

The executive director has made a decision that the above-referenced permit application meets the requirements of applicable law. **This decision does not authorize construction or operation of any proposed facilities.** This decision will be considered by the commissioners at a regularly scheduled public meeting before any action is taken on this application unless all requests for contested case hearing or reconsideration have been withdrawn before that meeting.

Enclosed with this letter are instructions to view the Executive Director's Response to Public Comment (RTC) on the Internet. Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov). A complete copy of the RTC (including the mailing list), complete application, draft permit and related documents, including public comments, are available for review at the TCEQ Central Office. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Nueces County Keach Family Library, 1000 Terry Shamsie Blvd., Robstown, Nueces County, Texas 78380.

If you disagree with the executive director's decision, and you believe you are an "affected person" as defined below, you may request a contested case hearing. In addition, anyone may request reconsideration of the executive director's decision. The procedures for the commission's evaluation of hearing requests/requests for reconsideration are located in 30 Texas Administrative Code Chapter 55, Subchapter F. A brief description of the procedures for these two requests follows.

### **How to Request a Contested Case Hearing.**

It is important that your request include all the information that supports your right to a contested case hearing. Your hearing request must demonstrate that you meet the applicable legal requirements to have your hearing request granted. The commission's consideration of your request will be based on the information you provide.

The request must include the following:

- (1) Your name, address, daytime telephone number, and, if possible, a fax number.
- (2) The name of the applicant, the permit number and other numbers listed above so that your request may be processed properly.
- (3) A statement clearly expressing that you are requesting a contested case hearing. For example, the following statement would be sufficient: "I request a contested case hearing."
- (4) If the request is made by a group or association, the request must identify:
  - (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
  - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
  - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.

Additionally, your request must demonstrate that you are an "**affected person.**" An affected person is one who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. Your request must describe how and why you would be adversely affected by the proposed facility or activity in a manner not common to the general public. For example, to the extent your request is based on these concerns, you should describe the likely impact on your health, safety, or uses of your property which may be adversely affected by the proposed facility or activities. To demonstrate that you have a personal justiciable interest, you must state, as specifically as you are able, your location and the distance between your location and the proposed facility or activities.

Your request must raise disputed issues of fact that are relevant and material to the commission's decision on this application that were raised **by you** during the public comment period. The request cannot be based solely on issues raised in comments that you have withdrawn.

To facilitate the commission's determination of the number and scope of issues to be referred to hearing, you should: 1) specify any of the executive director's responses to **your** comments that you dispute; 2) the factual basis of the dispute; and 3) list any disputed issues of law.

### **How to Request Reconsideration of the Executive Director's Decision.**

Unlike a request for a contested case hearing, anyone may request reconsideration of the

executive director's decision. A request for reconsideration should contain your name, address, daytime phone number, and, if possible, your fax number. The request must state that you are requesting reconsideration of the executive director's decision, and must explain why you believe the decision should be reconsidered.

### **Deadline for Submitting Requests.**

A request for a contested case hearing or reconsideration of the executive director's decision must be **received by** the Chief Clerk's office no later than **30 calendar days** after the date of this letter. You may submit your request electronically at [www.tceq.texas.gov/agency/decisions/cc/comments.html](http://www.tceq.texas.gov/agency/decisions/cc/comments.html) or by mail to the following address:

Laurie Gharis, Chief Clerk  
TCEQ, MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087


### **Processing of Requests.**

Timely requests for a contested case hearing or for reconsideration of the executive director's decision will be referred to the TCEQ's Alternative Dispute Resolution Program and set on the agenda of one of the commission's regularly scheduled meetings. Additional instructions explaining these procedures will be sent to the attached mailing list when this meeting has been scheduled.

### **How to Obtain Additional Information.**

If you have any questions or need additional information about the procedures described in this letter, please call the Public Education Program, toll free, at 1-800-687-4040.

Sincerely,



Laurie Gharis  
Chief Clerk

LG/erg

Enclosure

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**  
**for**  
**US Ecology Texas, Inc.**  
**IHW Permit No. 50421**

The Executive Director has made the Response to Public Comment (RTC) for the application by US Ecology Texas, Inc., for IHW Permit No. 50421 available for viewing on the Internet. You may view and print the document by visiting the TCEQ Commissioners' Integrated Database at the following link:

<https://www.tceq.texas.gov/goto/cid>

In order to view the RTC at the link above, enter the TCEQ ID Number for this application (50421) and click the "Search" button. The search results will display a link to the RTC.

Individuals who would prefer a mailed copy of the RTC or are having trouble accessing the RTC on the website, should contact the Office of the Chief Clerk, by phone at (512) 239-3300 or by email at [chiefclk@tceq.texas.gov](mailto:chiefclk@tceq.texas.gov).

**Additional Information**

For more information on the public participation process, you may contact the Office of the Public Interest Counsel at (512) 239-6363 or call the Public Education Program, toll free, at (800) 687-4040.

A complete copy of the RTC (including the mailing list), the complete application, the draft permit, and related documents, including comments, are available for review at the TCEQ Central Office in Austin, Texas. Additionally, a copy of the complete application, the draft permit, and executive director's preliminary decision are available for viewing and copying at the Nueces County Keach Family Library, 1000 Terry Shamsie Blvd., Robstown, Nueces County, Texas 78380.

MAILING LIST  
for  
US Ecology Texas, Inc.  
IHW Permit No. 50421

FOR THE APPLICANT:

Celina Camarena  
US Ecology Texas, Inc.  
P.O. Box 307  
Robstown, Texas 75201

Manisha Poudyal, Technical Staff  
Texas Commission on Environmental  
Quality  
Waste Permits Division  
IHW Permits Section MC-130  
P.O. Box 13087  
Austin, Texas 78711-3087

INTERESTED PERSONS:

See attached list.

FOR PUBLIC INTEREST COUNSEL  
via electronic mail:

FOR THE EXECUTIVE DIRECTOR  
via electronic mail:

Ryan Vise, Deputy Director  
Texas Commission on Environmental  
Quality  
External Relations Division  
Public Education Program MC-108  
P.O. Box 13087  
Austin, Texas 78711-3087

Garrett T. Arthur, Attorney  
Texas Commission on Environmental  
Quality  
Public Interest Counsel MC-103  
P.O. Box 13087  
Austin, Texas 78711-3087

FOR THE CHIEF CLERK  
via electronic mail:

Elizabeth Webb, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087

Laurie Gharis, Chief Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk MC-105  
P.O. Box 13087  
Austin, Texas 78711-3087

Diane Goss, Staff Attorney  
Texas Commission on Environmental  
Quality  
Environmental Law Division MC-173  
P.O. Box 13087  
Austin, Texas 78711-3087

ALBERT , CORY  
3610 RUSHING BLVD  
CORPUS CHRISTI TX 78410-4322

COGSDELL , WILLIAM  
PO BOX 338  
DRISCOLL TX 78351-0338

CONNER , DOROTHY  
3833 RANDALL RD  
GREEN COVE SPRINGS FL 32043-8553

CRISWELL , GARY  
5332 ALEGRE LN  
ROBSTOWN TX 78380-5231

DUGGER , BRUCE & JANIE  
4510 RIVER PARK DR  
CORPUS CHRISTI TX 78410-5671

DUGGER , NANCY & RICHARD  
126 HILER RD  
SAN ANTONIO TX 78209-2731

DUGGER , NANCY WRAY  
126 HILER RD  
SAN ANTONIO TX 78209-2731

DUGGER , RICHARD  
126 HILER RD  
SAN ANTONIO TX 78209-2731

ESKEW , RENETTA J  
14902 IRON RIVER DR  
CORPUS CHRISTI TX 78410-5820

MCNAIR , DONNY  
PO BOX 456  
DRISCOLL TX 78351-0456

MCNAIR , LARRY  
PO BOX 500  
DRISCOLL TX 78351-0500

OTAHAL , LEONITA  
3202 HARPERS FERRY ST  
CORPUS CHRISTI TX 78410-2410

PENA , DOROTHY  
2114 MEADOWPASS DR  
CORPUS CHRISTI TX 78414-2605

PHELAN , CHRISTOPHER L  
3806 KINGSTON DR  
CORPUS CHRISTI TX 78415-3324

SCHWERTNER , KYLE  
5495 SUNSET TRL  
ROBSTOWN TX 78380-9110

WILLHITE , RITA  
7806 BRAEBURN VALLEY DR  
HOUSTON TX 77074-5304

**TCEQ INDUSTRIAL HAZARDOUS WASTE PERMIT NO. 50421**

<b>APPLICATION BY</b>	<b>§</b>	<b>BEFORE THE</b>
<b>US ECOLOGY TEXAS, INC.</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>FOR IHW PERMIT NO. 50421</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT**

The Executive Director of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Response to Public Comment (Response) on the application by US Ecology Texas, Inc. (USET) for a new Industrial and Hazardous Waste (IHW) Permit No. 50421 (Application). Before an application is approved, Title 30, Texas Administrative Code (30 TAC), Section (§) 55.156 requires that the Executive Director prepare a response to all timely, relevant, and material, or significant comments received.

This Response addresses all timely public comments received during the public comment period, whether or not withdrawn.

**I. Public Comments Received**

The TCEQ Office of the Chief Clerk received timely public comments from William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, Leonita Otahal, Dorothy Pena, Christopher L. Phelan, Kyle Schwertner, and Rita Willhite.

**II. Background**

**A. Facility Description**

USET proposes to construct and operate a commercial industrial and hazardous waste management facility for the storage of hazardous and nonhazardous wastes at 4364 County Road 30, Robstown, in Nueces County, Texas. USET proposes to generate wastes on-site and receive waste from off-site sources on a commercial basis. The wastes proposed to be managed at the facility include a wide variety of hazardous, Class 1, Class 2, and Class 3 industrial solid wastes, solvents, other organic liquids, and waste oils.

The proposed facility would be located within the drainage area of Segment Petronila Creek Above Tidal of the Nueces-Rio Grande Coastal Basin (North Latitude 27°43'31.37", West Longitude 97°42'46.90").

The site of the proposed facility is not located in an area subject to the Texas Coastal Management Program.

## **B. Application Description**

USET applied to the TCEQ for a new commercial hazardous waste permit to authorize the construction and operation of 2 outdoor container storage areas and 1 container storage building for the storage of hazardous waste and Class 1, Class 2, and Class 3 nonhazardous industrial solid waste generated on-site and received from off-site on a commercial basis.

## **C. Procedural Background**

USET held a pre-application meeting on November 1, 2021. The Executive Director received the Application, dated December 22, 2021, from USET on December 30, 2021. The Executive Director declared the Application administratively complete on February 1, 2022. The Notice of Receipt of Application and Intent to Obtain Permit was published on February 9, 2022, in the *Corpus Christi Caller Times*. The Executive Director completed the technical review of the Application and issued the Final Draft Permit (FDP) on July 15, 2022. The Notice of Application and Preliminary Decision was published on August 2, 2022, in the *Corpus Christi Caller Times*. The TCEQ Office of Chief Clerk (OCC) received public comments on the Application requesting a public meeting. The OCC held an in-person public meeting on December 6, 2022, in Robstown, Texas. The public comment period for the Application closed on December 6, 2022. The technically complete Application and the Executive Director's Preliminary Decision are available for review and copying at the Nueces County Keach Family Library located at 1000 Terry Shamsie Blvd., Robstown, Nueces County, Texas 78380.

The Application was received after September 1, 2015. Therefore, it is subject to the procedural requirements of and rules implementing Senate Bill 709 (84th Legislature, 2015).

## **III. Access to Rules, Laws, and Information**

- The Texas Secretary of State website is [sos.state.tx.us](http://sos.state.tx.us).
- TCEQ rules in Title 30 of the Texas Administrative Code are available at [sos.state.tx.us/tac/](http://sos.state.tx.us/tac/) by selecting "View the current Texas Administrative Code" on the right, and then selecting "Title 30 Environmental Quality."
- Texas statutes are available at [statutes.capitol.texas.gov](http://statutes.capitol.texas.gov).
- Federal rules in Title 40 of the Code of Federal Regulations are available at the EPA's public website at [epa.gov/laws-regulations/regulations](http://epa.gov/laws-regulations/regulations).
- Federal environmental laws are available at the EPA's public website at [epa.gov/laws-regulations/laws-and-executive-orders](http://epa.gov/laws-regulations/laws-and-executive-orders).
- General information about the TCEQ and information about the hazardous and industrial solid waste permitting process is available at the Commission's public website at [tceq.texas.gov](http://tceq.texas.gov).



- Information about the industrial solid waste and municipal hazardous waste permitting process is available from the TCEQ Public Education Program at 1-800-687-4040.
- Certain records including Part A of the Application, the Executive Director's Preliminary Decision, the Final Draft Permit, the public notices, and public comments received, are available for viewing and copying at 12100 Park 35 Circle, in Austin Texas, in the Office of the Chief Clerk, on the first floor of Building F. Certain documents located in the Office of the Chief Clerk may also be accessed on the Commissioner's Integrated Database at [www14.tceq.texas.gov/epic/eCID/](http://www14.tceq.texas.gov/epic/eCID/).
- You may receive a paper copy of this Response by contacting the TCEQ Office of the Chief Clerk, at 512-239-3300.

#### **IV. Comments and Responses**

##### **Comment No. 1:**

Nancy Wray Dugger commented that TCEQ should carefully consider approval of the Application and that others in the area share her concern that consideration of the Application should be taken seriously.

##### **Response No. 1:**

The Executive Director conducts an administrative review and a technical review of the Application for a new commercial hazardous waste management facility to determine whether the Application satisfies the regulatory requirements of 30 TAC Chapters 37, 39, 60, 281, 305 and 335.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

##### **Comment No. 2:**

Christopher L. Phelan commented that the bulk handling of materials at the proposed facility should be covered, so as not to allow the materials to blow off-site. He raised concerns that USET is handling bulk goods in an unenclosed area, that materials are blowing all over the area at the existing facility and raised concerns that unenclosed bulk loading and unloading will not adequately prevent air emissions or air dispersion of wind-blown waste. He also raised concerns that there would be a lack of adequate controls on the facility to prevent air emissions and air dispersion of wind-blown waste.

Richard Dugger asked how the air quality around the proposed facility and in the area will be protected from releases of hazardous waste and other materials handled at the proposed facility. Richard Dugger also commented that he understands that bins and buildings would be covered and expressed concern regarding releases and air dispersion of wind-blown waste and asked how air quality will be affected.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner commented there is a possibility of air contamination that can be inhaled or deposited on the crops and soil.

**Response No. 2:**

An application for a new hazardous storage and processing permit must comply with the general application requirements in Title 40 Code of Federal Regulations (40 CFR) § 270.10 as adopted in 30 TAC § 305.43 and 40 CFR § 270.14 as adopted in 30 TAC § 305.45 and § 305.50(a)(4)(A). Container storage areas must be designed, constructed, operated, and maintained in accordance with 40 CFR § 270.15 as adopted in 30 TAC § 305.50(a)(4)(A), and 40 CFR 264 Subpart I as adopted in 30 TAC § 335.152(a)(7). In addition, an application must depict container management practices that address the conditions of containers, compatibility of waste with containers, management of containers, inspection of containers, containment requirements, requirements for ignitable and/or reactive waste, requirements for incompatible waste, closure, and air emission standards in accordance with 40 CFR §§ 264.171 through 264.179 which are adopted by reference in 30 TAC § 335.152(a)(7). Further, a facility operator is required to keep containers containing waste closed except when adding or removing waste from the container in compliance with 40 CFR § 264.173 which is adopted by reference in 30 TAC § 335.152(a)(7). Further, an application must demonstrate compliance with the Air emission standards of 40 CFR § 264.179. (30 TAC § 335.152(a)(7)). Finally, if any on-site activities contribute to air emissions, the operator may be required to obtain air authorization and/or permits from the TCEQ Air Permits Division to satisfy air quality requirements.

The Application contains general facility requirements and an Engineering Report that describes waste containment, and procedures and operations to prevent wind-blown waste. (Part B Application, Appendix III - General Facility Standards, and Appendix V - Engineering Reports). The Application Engineering Report states that containers containing waste will be kept closed except when adding or removing waste from a container or while conducting sampling. (*Id.*). The Application addresses air emission requirements for the facility. (Part B Application, Appendix X - Air Emission Standards).

FDP 50421, Section III would require USET to comply with the general facility standards. FDP 50421, Section V.B would require USET to comply with the container management standards. Further, FDP 50421, Section X.A. would prohibit USET from contributing to a condition of air pollution and require USET to comply with the air emission requirements of 40 CFR Part 264 Subparts AA, BB, and CC. Finally, FDP 50421, Section X.C. would require USET to comply with 40 CFR 264 Subpart CC if managing wastes containing organics.

Additionally, a person is prohibited from allowing the processing or disposal of industrial solid waste in such a manner as to cause the creation or maintenance of a

nuisance. (30 TAC § 335.4). Further, the issuance of a permit by the Commission does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of state or local law or regulation in accordance with 30 TAC § 305.122(c).

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 3:**

Leonita Otahal raised concerns regarding how the proposed facility would be used.

**Response No. 3:**

USET proposes to construct and operate a commercial industrial and hazardous waste management facility for the storage of hazardous and nonhazardous wastes. USET proposes to generate wastes on-site and receive waste from off-site sources on a commercial basis. The wastes proposed to be managed at the facility include a wide variety of hazardous, Class 1, Class 2, and Class 3 industrial solid wastes, solvents, other organic liquids, and waste oils.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 4:**

Christopher L. Phelan commented that 10-day storage prior to moving waste off-site makes sense but that he is opposed to long-term storage at the proposed facility.

**Response No. 4:**

USET presently operates a so-called ten-day transfer facility at the location of the proposed new facility in its capacity as a registered transporter. (30 TAC §§ 335.1(177) (relating to Definitions - Transporter), 335.6(d) (relating to Transporter Registration), and 335.94 (relating to Transfer Facility Requirements)). USET is authorized to temporarily hold waste, at the ten-day transfer facility, for ten days or less during the course of transportation from the generator site to a designated facility in compliance with 30 TAC § 335.94.

An owner or operator of a facility that seeks to store hazardous and industrial solid waste generated and received from off-site must apply for and obtain a hazardous waste permit to authorize the storage of industrial or hazardous waste in accordance with 30 TAC § 335.2. No person may commence physical construction of a new hazardous waste management facility without first having submitted Part A and Part B of the permit application and receiving a finally effective permit.

FDP 50421, Section II.B. would authorize the storage of waste in permitted units for a maximum of 365 days.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 5:**

Christopher L. Phelan opposes the expansion of the facility's operating permit due to the lack of emergency first responders and the lack of adequate firefighting protection in the area.

**Response No. 5:**

An application for a new commercial hazardous waste management facility is required to demonstrate that emergency response capabilities are available in the area in which the facility is proposed to be located. An application must demonstrate "the ability to manage a reasonable worst-case emergency condition associated with the operation of the facility" in accordance with 30 TAC § 305.50(a)(12)(C)(i). An application must also satisfy the requirements of 40 CFR Part 264 Subpart C (relating to Preparedness and Prevention) which is adopted by reference in 30 TAC § 335.152(a)(2). An application for a hazardous waste permit must also include a Contingency Plan depicting how the facility operator will respond to emergencies in accordance with 40 CFR Part 264 Subpart D (Contingency Plan and Emergency Procedures) which is adopted by reference in 30 TAC § 335.152(a)(3). Finally, an application must depict procedures with which facility personnel will document attempts to coordinate with local emergency responders and officials in accordance with 40 CFR §§ 264.37 and 264.52(c), which is adopted by reference in 30 TAC § 335.152(a)(3).

The Application Contingency Plan describes measures facility personnel would follow when emergency situations occur at the facility, including assessment of incidents and hazards, incident containment, response actions, incident reporting, facility evacuation, and remedial actions. (Part B Application, Appendix III.E - Contingency Plan). The Emergency Response Plan included in the Application describes the emergency response capabilities that will be available should there be an emergency at the facility in accordance with 30 TAC § 305.50(a)(12)(C)(i). (Part B Application, Appendix III.F - Emergency Response Plan). The Emergency Response Plan includes procedures and response actions USET would implement for emergency events such as fire, severe storms, and spills. The Emergency Response Plan and Contingency Plan include response actions USET would implement in response to emergency events such as securing containers, maintaining safety equipment, providing timely response, managing stormwater, and halting incoming waste shipments. Additionally, the Application includes coordination agreements and describes arrangements USET has made with local authorities. (Part B Application, Table III.E.1). The Application represents that USET has provided copies of the emergency response plan and contingency plan to local authorities. (Part B Application, Appendix III.F - Emergency Response Plan). The Application further represents that during an emergency, if the designated Emergency Coordinator determines that

outside assistance is necessary to bring the incident under control, or that local areas must be evacuated, the designated Emergency Coordinator will immediately establish communications with the appropriate response agencies and local government authorities listed in the Contingency Plan (Part B Application, Appendix III.E - Contingency Plan).

FDP 50421, Section III.E. would require USET to implement the facility Contingency Plan in response to an emergency.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 6:**

Christopher L. Phelan commented that there is no wastewater retention or treatment onsite at the proposed facility.

**Response No. 6:**

An application for a new hazardous waste storage permit must demonstrate that the proposed facility and the waste management units are designed, constructed, operated, and maintained to prevent contamination of drainage creeks and stormwater conveyances due to stormwater run-on and run-off due to rainfall and storms, and washout of hazardous wastes from a 100-year flood event in accordance with 40 CFR § 270.14 (b)(8) and (11) which is adopted by reference in 30 TAC § 305.50 (a)(4)(A). An application must also address the prevention of hazards in unloading operations, prevention of runoff from waste handling areas, prevention of contamination of water supplies and prevent run-on and run-off, and flooding in accordance with 40 CFR § 270.14 (b)(8) and (11) which is adopted by reference in 30 TAC § 305.50 (a)(4)(A).

The Application addresses facility location criteria requirements in Appendix II.A. and in the Emergency Response Plan, Appendix III.F. The Application General and Unit Specific Engineering Report depicts how the facility is designed and would be constructed, operated, and maintained to prevent stormwater contamination due washout of hazardous wastes. (Part B Application, Appendix V - Engineering Reports). The Application represents that the container storage building would be enclosed and would have a reinforced concrete foundation coated with non-reactive sealant. (*Id.*). The Application also states that the container storage area would have a containment structure to contain and manage any run-on and run-off. (*Id.*). The Application represents that to minimize any potential run-on or run-off, the entrance areas to the building would be sloped to keep water away from the building. (*Id.*). The application further represents that the outdoor container storage areas units would be constructed of crushed concrete 6 inches thick overlain by 6 inches of compacted caliche road base and sloped to promote drainage. (*Id.*). Finally, the Application represents that USET would only manage wastes that do not contain free liquids in containers stored in the outdoor container storage areas. (Part B Application, Appendix V.A. - General Engineering Report).

As the operator of a hazardous waste management facility, USET would be prohibited from discharging hazardous waste, hazardous constituents, contaminated stormwater, or leachate into or adjacent to waters of the state in accordance with Texas Water Code § 26.121. Additionally, storm water that has come into contact with waste is classified as solid waste and must be collected and managed as solid waste. FDP 50421, Section III.E.3 would require USET to initiate prompt removal of spills, leaks, and clean-up residues, and to prevent the runoff of any contaminated stormwater. Additionally, FDP 50421, Section V.A.3. would require USET to construct and operate the proposed permitted units in a manner to prevent inundation of the units and to prevent discharges of any contaminated stormwater. Finally, FDP 50421, Section V.A.4. would require USET to operate the facility to prevent washout of any hazardous waste by flooding.

If USET's construction activities or facility operations would result in a discharge of stormwater or wastewater, an authorization, or a permit under Texas' Pollutant Discharge Elimination System (TPDES) program may be required. USET would be required to obtain any TPDES authorization from the TCEQ Water Quality Permits Division.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

#### **Comment No. 7**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner commented that the proposed facility is surrounded by some of the most productive farmland in Texas, that is producing primarily grain, sorghum, corn, and cotton. These commenters raised concerns that land, farmed for over 100 years, is very productive, producing crops eaten by both humans and animals, including livestock and native game and that cotton raised in the area is made into fabrics and textiles. These commenters also expressed concerns that cotton, grain, and corn grown in the vicinity of the proposed facility.

Richard Dugger commented that he and his wife just want to make sure that the proposed facility doesn't have any negative impact on farming.

Rita Willhite and raised concerns that the proposed facility would be located near her farming interests.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner expressed concerns about the development potential of land, including the commercial development of land, in the general area of the storage facility.

## **Response No. 7:**

An application for a new commercial hazardous waste permit is required to demonstrate that the location of the proposed facility complies with the siting requirements of 30 TAC Chapter 335, Subchapter G (relating to Location Standards for Hazardous Waste Storage, Processing, or Disposal), and 40 CFR § 264.18. In addition, the operator of a hazardous waste facility is required to operate the facility in a manner that does not cause or contribute to environmental degradation or contaminate adjacent property including soil and groundwater in accordance with 40 CFR Part 264 Subparts C and F which are adopted by reference in 30 TAC §§ 335.152(a) (2), and (3), and 335.156 through 335.166. Additionally, an application must address inspections, emergency response, and contingency planning to minimize the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health, or the environment. (40 CFR Part 264 Subparts C and D).

The Application represents that the proposed facility is not located in wetlands, in the critical habitat of an endangered species, or in a 100-year flood plain and is not adjacent to a surface water body. (Part B Application, Appendix II, Site Selection Report). The Application provides a narrative description addressing location criteria requirements specified in 30 TAC Chapter 335, Subchapter G in the Site Selection Report. The Application addresses inspections, emergency response, and contingency planning to minimize the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health, or the environment. (Part B Application, Appendix III - Facility Management). The Engineering Reports address engineering design, operation, and maintenance of the facility and the container storage areas to prevent surface water and groundwater contamination. (Part B Application, Appendix V, Engineering Reports). The Application addresses closure requirements for the facility and container storage areas. (Part B Application, Appendix VII, Closure and Post-closure Plan).

USET would be required to construct and operate the facility in a manner that does not cause or contribute to environmental degradation or contaminate adjacent property in accordance with FDP No. 5042, Sections III.A. and V.A.3. and as required in 40 CFR § 270.14(b)(8) which is adopted by reference in 30 TAC § 305.50(a)(4)(A). In addition, FDP 50421, Section X addresses requirements to minimize air pollution.

The U.S. Environmental Protection Agency (EPA) considered the risks associated with management of hazardous wastes when it promulgated the federal hazardous waste rules in accordance with the Resource Conservation and Recovery Act (RCRA), and the Administrative Procedures Act. The Commission implements RCRA under Texas' approved hazardous waste program in accordance with Chapter 361 of the Texas Solid Waste Disposal Act and RCRA delegation from EPA. As the State agency with delegated RCRA authority, the Commission is required to promulgate rules that are at least as stringent as the EPA's hazardous waste regulations. The Commission's

Industrial Solid Waste and Municipal Hazardous Waste Rules reflect the stated purpose of Texas Health and Safety Code, Chapter 361, “to safeguard the health, welfare, and physical property of the people and to protect the environment by controlling the management of solid waste.” The Executive Director reviews an application to determine whether it includes the requisite submittals, representations, and demonstrations required by regulations. If a hazardous waste facility is constructed and operated in accordance with an issued permit and regulations, operation of the facility should be protective of human health, safety, and the environment.

Additional information responsive to these comments is available under Response Nos. 6, 8 and 9.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 8:**

Nancy Wray Dugger expressed concern that the permit includes an exhaustive list of contaminants some of which are poisonous.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner expressed concerns about the cotton, grain, and corn grown in the vicinity of the proposed facility, that people are eating the farm products, and because some of the hazardous wastes proposed to be stored at the proposed facility include chemicals that are poisonous to humans and animals.

**Response No. 8:**

An application for a hazardous waste permit is required to include a Waste Analysis Plan (WAP) in accordance with 40 CFR § 264.13 and 30 TAC § 335.152(a)(1). The WAP must contain a detailed chemical and physical analysis of a representative sample of the wastes. The analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with 40 CFR § 264.13 and 40 CFR 268 of this chapter. The Application for the proposed facility is for the management of wastes in containers and the Application does not request any processing and/or disposal of the wastes. The WAP included in the Application includes list of wastes managed at the proposed facility. The WAP provides information on waste prohibited from acceptance at the facility, waste authorized to be accepted by the facility, waste generated and managed at the facility, waste analytical and testing requirements, and waste storage requirements (Part B Application, Appendix IV.D. - Waste Analysis Plan). Further, USET is required to comply with the waste management requirements as described in Response No. 2 to make sure that the storage and management of all hazardous wastes comply with the applicable rules.

FDP 50421, Section IV would require USET to comply with the WAP which sets out Authorized and Prohibited Wastes and Sampling and Analysis requirements.



Additional information responsive to this comment is available under Response No. 7.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 9:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner expressed concerns that some of the hazardous wastes proposed to be stored at the facility could contaminate the soil.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner commented there is a risk of ground water contamination reaching water wells located in the area.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner expressed concerns that some of the hazardous wastes proposed to be stored at the facility could contaminate the water table.

Richard Dugger expressed that he hopes nothing will be allowed to leak into the soil and raised concern regarding water wells. Richard Dugger also commented that Southwest Texas Community Water System is the local water provider and raised concerns regarding potential rupture of the water distribution line.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner asked what physical protections the proposed facility will put in place to ensure chemicals will not leach into the air, soil, water, or water table.

Mr. Donny McNair asked whether US Ecology would respond to repair a leak and remediate contamination from any leaks from the proposed facility.

**Response No. 9:**

A permitted hazardous waste management facility is required to have a contingency plan which the facility operator must immediately implement whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment. (40 CFR § 264.31 adopted by reference 30 TAC § 335.152(a)(2) and (3)). In addition, a hazardous waste management facility is required to have a stand-alone Spill Prevention Control and Countermeasure (SPCC) Plan or incorporate SPCC requirements in the facility's contingency plan in accordance with 40 CFR § 264.52(b) which is adopted by reference in 30 TAC § 335.152(a)(3). Further, a facility operator is required to take actions to address any spills, releases, leaks, or other emergencies in accordance with 40 CFR § 264.56 which is incorporated by reference in 30 TAC § 335.152(a)(3). A facility

operator is responsible for abating, reporting, and remediating any spill or contamination that results from facility operations in accordance with 30 TAC Chapters 327 (relating to Spill Prevention and Control), and 350 (relating to Texas Risk Reduction Program). Finally, if facility operations result in soil and/or groundwater contamination that cannot be addressed with emergency action, a facility operator is required to address the soil and/or groundwater contamination under the Texas Risk Reduction Program of 30 TAC Chapter 350 in accordance with the requirements of 40 CFR 264 Subpart F.

As discussed in Response No. 5, the Application includes a contingency plan which describes actions USET would take during leak, spills, releases, and other emergencies. The Application also states that spills and releases would be addressed in accordance with the facility SPCC Plan. (Part B Application, Appendix III - Facility Management). Additionally, USET would be responsible for abating, reporting, and remediating any spill or contamination that results from facility operations in accordance with 30 TAC Chapters 327 (relating to Spill Prevention and Control), and 350 (relating to Texas Risk Reduction Program). If facility operations result in soil or groundwater contamination that cannot be addressed with emergency action, USET would be required to address any soil or groundwater contamination under 30 TAC Chapter 350 in accordance with the requirements of 40 CFR 264 Subpart F.

FDP 50421, Section III.E would require USET to maintain and follow the facility contingency plan which is designed to minimize hazards to human health or the environment from any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to environment. Additionally, FDP 50421, Sections II. B.4 and II.B.5 would require USET to verbally report to the executive director within 24 hours any noncompliance with the permit that may endanger human health or the environment and to submit a written report and documentation of any such incident within five days. Finally, FDP 50421, Section IX of the would require USET to remediate and conduct corrective action of soil and/or groundwater contamination resulting from facility operations.

Individuals are encouraged to report suspected noncompliance with the terms of any TCEQ permit or environmental regulation by calling the TCEQ's 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186, by sending an email to [cmplaint@tceq.gov](mailto:cmplaint@tceq.gov), or by contacting the local TCEQ Region Office. The proposed facility would be located in TCEQ Region 14. TCEQ Region 14 may be contacted by calling 361-881-6900. TCEQ investigates all complaints. If a person, regulated entity, or facility is found to be out of compliance it may be subject to enforcement action.

Additional information responsive to these comments is available under Responses Nos. 6, 7 and 8.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 10:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner commented that there are numerous water, oil, and gas underground pipelines around the facility and in the immediate area and raised concerns of corrosion of the water, oil, and gas pipelines by contaminants.

Richard Dugger commented that Southwest Texas Community Water System is the local water provider and raised concerns regarding potential rupture of the water distribution line. Donny McNair commented that if a leak occurs from beneath the proposed facility, the public water supply to several towns in the area could be contaminated from the water pipeline that runs beside the tracts under the facility property.

**Response No. 10:**

An application for a hazardous waste facility must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health, or the environment as required in 40 CFR § 264.31 as adopted in 30 TAC § 335.152(a)(2). 40 CFR § 264.51 as adopted in 30 TAC § 335.152(a)(3) requires that an application contain a contingency plan that must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

The Application represents that no underground water utility or oil and gas pipelines are located below the proposed waste management units. (Part A Application, Appendix II, Facility Legal Description). The Application also represents that the proposed container storage areas units would be separated from the uppermost groundwater bearing unit by a layer of high plasticity clay or silty clay having a thickness of 17 feet to greater than 30 feet that serves as an impermeable barrier. (Part B Application, Appendix V.A. – General Engineering Report). In addition, the proposed outdoor container storage area would have a caliche base and the proposed container storage building would be constructed on a concrete foundation. (Part B Application, Appendix V.B. – Container Storage Areas Engineering Reports).

FDP 50421, Sections III.E. 2 and 3 would require USET to initiate prompt removal of spills, leaks, clean-up residues, and to prevent the runoff of any contaminated stormwater and contamination of soil and groundwater. FDP 50421, Section V.A.3. would require USET to construct and operate the permitted units to prevent inundation of the units and discharges of any contaminated stormwater. Additionally, FDP 50421, Section V.A.3 would require each loading or unloading area, associated with a permitted hazardous or nonhazardous waste management unit to have a drainage control system which would collect spills and precipitation in a manner that would: preclude the release from the system of any collected spills, leaks or

precipitation; minimize the amount of rainfall that is collected by the system; and prevent run-on into the system from other portions of the facility. FDP 50421, Section V.A.4. would require USET to operate the facility to prevent washout of any hazardous waste by a 100-year flood.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 11:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner asked how US Ecology will ensure that spills will not occur when transporting chemicals by rail, or otherwise.

**Response No. 11:**

Prior to and during transportation of hazardous waste and industrial solid waste by truck, rail and other modes a person must comply with federal and state hazardous waste transportation requirements in 30 TAC §§ 335.11, 335.14, 335.52 through 335.54, 335.91 through 335.94 and 40 CFR Part 263 Subpart C. The Standards Applicable to Transporters of Hazardous Waste in 40 CFR Part 263 Subpart C adopt the US Department of Transportation requirements of 49 CFR Subtitle B, Chapter I, Subchapter C by reference. The industrial and hazardous waste transportation requirements include manifesting, registration, record keeping and reporting. The hazardous waste transportation requirements also include placarding, labelling, container standards and visual inspection.

“In the event of a discharge of hazardous waste during transportation” a registered transporter is required to notify TCEQ as soon as possible within 24 hours after the occurrence and “take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge)” in accordance with 40 CFR § 263.30 as adopted in 30 TAC § 335.93. The transporter must clean up any hazardous waste discharges and take any actions as approved by the by Federal, State, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment in accordance with 40 CFR § 263.31 as adopted in 30 TAC § 335.94.

The Application states that USET would address spills and releases in accordance with the Spill Prevention Control and Countermeasure (SPCC) Plan and the facility contingency plan. (Part B Application, Appendix III, Facility Management and Appendix III.E, Contingency Plan).

FDP 50421, Section III.E would require USET to maintain and follow a Contingency Plan designed to minimize hazards to human health or the environment from any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents to environment. Additionally, FDP 50421, Section II. B.4 and 5 would require USET to verbally report to the Executive Director within 24 hours any

noncompliance that may endanger human health or the environment and to submit a written report and documentation of any such incident within five days. Finally, USET would be responsible for abating, reporting, and remediating any spill or contamination that results from facility operation in compliance with 30 TAC Chapters 327 (relating to Spill Prevention and Control) and 350 (relating to Texas Risk Reduction Program).

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 12:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner asked how far away from the site will the water and soil be tested to monitor for possible soil and water contamination due to rainwater runoff.

**Response No. 12:**

In accordance with 30 TAC § 335.4, the owner or operator of a hazardous waste management facility is prohibited from discharging hazardous waste, hazardous constituents, contaminated stormwater, or leachate into or adjacent to waters of the state. If any stormwater or wastewater discharges from the facility is necessary, then the facility is required to seek and obtain necessary discharge authorization and/or permit meeting the water quality objectives from the TCEQ Water Quality Permits Division. If contamination or evidence of contamination is detected in the groundwater, soil or air, the Applicant is required to immediately notify TCEQ in accordance with 40 CFR § 270.30(a)(6) which is incorporated in 30 TAC § 305.125(9). The facility is required treat, store, or dispose any recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility in accordance with 40 CFR § 264.56 (g) which is incorporated in 30 TAC § 335.152 (a)(3). Any potential contamination of soil and groundwater as indicated by sampling and monitoring may require facility to subject to corrective action requirements of 40 CFR 264 Subpart F which is adopted in 30 TAC § 335.156 through § 335.166.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 13:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner asked how often the site will be monitored and inspected by TCEQ.

Richard Dugger asked how many people will monitor and inspect the site, and whether monitoring and inspections would be constant, monthly or annually. Richard

Dugger also asked whether the site, soils in the area, surface water, groundwater, and air will be monitored, sampled and tested on a regular basis and how often.

Chris Phelan commented that TCEQ should monitor USET's activities.

**Response No. 13:**

40 CFR § 264.15 as adopted in 30 TAC § 335.152(a)(1), requires a hazardous waste facility operator to develop and follow an approved inspection schedule for the inspection of waste management units as well as monitoring equipment, safety and emergency equipment, security devices, operating equipment, and structural equipment all of which are integral in preventing, detecting, and responding to environmental and human health hazards. Container storage areas are required to be inspected in accordance with 40 CFR § 264.174 as adopted in 30 TAC § 335.152(a)(7). The inspection schedule must identify the types of problems e.g., malfunctions or deterioration, areas subject to spills e.g., loading and unloading areas, and waste management units e.g., container storage areas, and must depict the frequency of inspections to identify problems as well as necessary corrective actions that may be performed during inspections. In addition, a hazardous waste facility operator is required to report any noncompliance issues which may endanger human health or the environment to the Executive Director in accordance with 40 CFR § 270.30(l)(6) as adopted in 30 TAC § 305.125(9). A hazardous waste facility operator also must document and maintain inspection records, noncompliance records, and other required reporting in the facility's operating records in accordance with 40 CFR § 264.73 which is adopted by reference in 30 TAC § 335.152(a)(4). Finally, state and federal authorities are authorized to enter, inspect, take samples, monitor, and have access to and copy records of waste management activities in accordance with 40 CFR § 270.30(i) as incorporated in 30 TAC § 305.125(10).

The Application includes an Inspection Plan and Schedule which address inspection requirements for the facility and waste management units. (Part B Application, Appendix III, Facility Management). In addition, the Application states that all the records will be maintained in the facility's operating record.

FDP 50421, Section II.B.1 and 2 would require USET to maintain monitoring and operating records and make them available to TCEQ upon request. FDP 50421, Section III.D would require USET to follow the inspection schedule and to maintain inspection and operating records in accordance with 40 CFR § 264.15(d) which is incorporated by reference in 30 TAC § 335.152(a)(1). FDP 50421, Section II.B.4 would require USET to report any noncompliance which may endanger human health or the environment to the Executive Director in accordance with 30 TAC § 305.125(9).

TCEQ conducts compliance evaluation inspections of permitted hazardous waste management facilities on a periodic basis as the administrator of Texas' approved hazardous waste program in accordance with 40 CFR § 271.8 and Texas Health & Safety Code § 361.033. Additionally, the TCEQ conducts complaint investigations, and addresses upset conditions and emergency situations that occur at

a hazardous waste management facility when notified. Records of TCEQ compliance evaluation inspections, compliant investigations, notices of violation, and enforcement orders are available to the public.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 14:**

Richard Dugger commented that the current transfer facility is, and the proposed facility would be, located in an area subject to hurricanes. He stated that he has observed water accumulated a foot deep on multiple occasions. He also commented that he has observed that the existing transfer facility site is not elevated above the level of the adjacent farmland and asserted that the fact that the facility is not elevated above adjacent farmland is a problem during a big hurricane. Richard Dugger also commented that 33 inches of rain fall has been recorded in the area. Richard Dugger also raised concerns that while the materials at the facility would be containerized, that several times during his lifetime the area of the facility site has been inundated with huge volumes of water.

Nancy Wray Dugger commented that this area is subject to weather events such as hurricanes, flooding, wind issues, and extreme temperatures.

**Response No. 14:**

An application for a permit to authorize a commercial hazardous waste facility must include an Engineering Report in accordance with 30 TAC § 305.45 (relating to Contents of an Application for Permit). Additionally, an application for a hazardous waste management facility is required to address how the facility operator will prevent flooding and runoff of contaminated stormwater and waste from operational areas of the facility in accordance with 40 CFR §270.14(b)(8)(ii) which is adopted by reference in 30 TAC § 335.50(a)(4)(A).

The Application represents that the proposed facility is not located within a 100-year flood plain. (Part B Application Appendix II.F. - Flooding). The Emergency Response Plan in the application includes procedures USET would follow in the event of severe weather such as a hurricane, tornado, flood and an earthquake. (Appendix III.F, Attachment 2, Health and Safety Plan). The Application provides information regarding weather pattern and temperature data for the Robstown area. (Part B Application, Attachment 1, Historical Weather Patterns). In addition, the Application Contingency Plan provides procedures and actions that would be taken to minimize hazards to human health or the environment from fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility. (Part B Application, Appendix III.E, Contingency Plan).

FDP 50421, Section V.A. and B would require USET to design, construct, maintain, and operate the proposed facility and waste management units in a manner

that would minimize threats to human health and the environment. FDP 50421, Section II.B.4 and 5 of would require USET to notify any noncompliance issues which may endanger human health and environment. FDP 50421, Section III.A. would require UEST to construct, maintain, and operate the facility to minimize the possibility of a fire, explosion, or any unplanned, sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. FDP 50421, Section III.E.1 through 5 would require USET to implement and follow the facility Contingency Plan for preparing and preventing an emergency, initiating cleanup procedures and to collect and manage cleanup residues, spills, and contaminated stormwater in an on-site authorized unit or transport such cleanup residues, spills, and contaminated stormwater to an authorized off-site facility. FDP 50421, Section V.A.3 would require USET: to provide a proper drainage control system for each waste management unit and for loading and unloading areas; to prevent inundation of any waste management units; to preclude release of collected spills, leaks, and contaminated stormwater; to minimize the amount of rainfall collected in the drainage system; and to prevent the discharge of waste and contaminated stormwater. FDP 50421, Section V.A.4. would require USET to construct, operate, and maintain the facility to prevent washout of any hazardous waste by a 100-year flood.

Additional information responsive to these comments is available under Responses No. 5 and 6.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**Comment No. 15:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner asked how the public will access inspection reports.

**Response No. 15:**

TCEQ maintains public information about the status of complaints and enforcement actions on the TCEQ public website. Members of the public may track the status of a TCEQ complaint investigation by visiting the WACI Tracker on TCEQ's public website at the following URL. Track Status of Complaints (WACI Tracker) - Texas Commission on Environmental Quality - [www.tceq.texas.gov](http://www.tceq.texas.gov). A member of the public may also file an open records request to obtain copies of any investigation report, (regardless of the findings, general compliance or violations) and information about a pending enforcement case. The TCEQ website also provides additional resources and information regarding environmental complaints.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.



**Comment No. 16:**

Christopher L. Phelan requested that the Commission hold a contested case hearing.

**Response No. 16:**

A hearing request must meet the requirement of 30 TAC § 55.201. The Commission will consider all timely hearing requests received by the Office of the Chief Clerk in accordance with 30 TAC §§ 50.113 (relating to Applicability and Action on Application) and 50.209 (relating to Processing Requests for Consideration and Contested Case Hearing).

Additional information about how Affected Persons may request a contested case hearing is available in the cover letter transmitting this RTC.

**Comment No. 17:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, Christopher Phelan, Kyle Schwertner, and Dorothy Peña, on behalf of Indigenous Peoples of the Coastal Bend, comment in opposition to or recommend denial of the Application. Christopher L. Phelan also commented that he is opposed to the expansion of the facility's operating permit.

**Response No. 17:**

The Executive Director acknowledges these comments.

**Comment No. 18:**

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner expressed concerns about the decreasing property value of the land.

Richard Dugger asked if the proposed facility will affect property values. He also asked if any impact studies would be prepared to determine if the proposed facility will negatively or positively affect local values of land. Richard Dugger noted that land values have increased in the area partially because of industry and asserted that because farmland has increased in value that the price of products has also increased.

William Cogsdell, Dorothy Conner, Gary Criswell, Bruce Dugger, Janie Dugger, Nancy Wray Dugger, Richard Dugger, Renetta J. Eskew, Donny McNair, Larry McNair, and Kyle Schwertner expressed concerns about the development potential of land, including the commercial development of land, in the general area of the storage facility.

**Response No. 18:**

TCEQ’s jurisdiction is established by the Texas Legislature in state statute and is limited to the issues set forth in statute. TCEQ is tasked with controlling “all aspects of industrial solid waste and hazardous municipal waste management by all practical and economically feasible methods consistent with its powers and duties” under the law and must consider aspects of public health, ambient air quality, and air pollution control. (Tex. Health & Safety Code § 361.017(b) and (d)(1)). In accordance with 30 TAC § 305.45 (a)(6)(B) (relating to Contents of Application for Permit), each application for permit must include a map showing the land use adjacent to the facility, including the development nature of adjacent lands such as residential, commercial, recreational, agricultural, or undeveloped.

The Application includes a map depicting land uses adjacent to the proposed facility which are residential, commercial, and agricultural. (Part B Application, Appendix V.A, Figure V.A-2). Further, the Application Site Selection Report includes a detailed discussion of the adjacent land uses. (Part B Application, Section II – Facility Siting Criteria) and how the application complies with the requirements.

TCEQ does not have jurisdiction to consider property values, local economic impacts, or community improvements in the surrounding areas when determining whether to approve or deny a permit Application.

The Executive Director has reviewed the Application and determined that it meets the regulatory requirements.

**V. Changes Made to the Draft Permit in Response to Comments**

No changes have been made in response to public comment.

**VI. Conclusion**

The Executive Director has reviewed the Application and determined that it meets the regulatory and statutory requirements.

Respectfully submitted,

Texas Commission on Environmental Quality

Erin E. Chancellor,  
Interim Executive Director

Charmaine Backens, Acting Director,  
Office of Legal Services

Guy Henry, Acting Deputy Director,  
Environmental Law Division



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Elizabeth Webb, Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 16447800  
MC-173, P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-1283



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Diane Goss, Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 24050678  
MC-173, P.O. Box 13087  
Austin, Texas 78711-3087  
Phone: (512) 239-5731

REPRESENTING THE EXECUTIVE  
DIRECTOR OF THE TEXAS COMMISSION  
ON ENVIRONMENTAL QUALITY

**VII. CERTIFICATE OF SERVICE**

I certify that on February 17, 2023, the “Executive Director’s Response to Public Comment” on the application by US Ecology Texas, Inc, for Industrial Hazardous Waste Permit No. 50421 was filed with the Texas Commission on Environmental Quality’s Office of the Chief Clerk.



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Elizabeth Webb, Staff Attorney  
Environmental Law Division  
State Bar of Texas No. 16447800