



REVIEWED

APR 25 2023 PM

By GOW

MARK SPARKS

Ownership Partner

Board Certified Personal Injury Trial Lawyer
Texas Board of Legal Specialization

Licensed in Texas, California & Pennsylvania

April 16, 2023

Office of the Chief Clerk, MC 105 *Via Regular Mail, Facsimile 512+239-3311, and Portal Upload*
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

TCEQ 000

20APR '23 9:36

Re: Public Comments of Grayson Pipkin, Bruce Pipkin, and Pipkin Ranch Holdings, LP of Applications for Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

PUBLIC COMMENT OF GRAYSON PIPKIN, BRUCE PIPKIN, AND PIPKIN RANCH HOLDINGS, LP

Dear Mrs. Chancellor (Interim Director of Texas Commission on Environmental Quality ("TCEQ")) or to Whom It May Concern at the TCEQ:

Please allow this letter to serve as notice that my clients, Grayson Eden Pipkin, Bruce Fletcher Pipkin, individually, and as owners of Pipkin Ranch Holdings, LP (collectively referred to as the "Pipkins") contest the approval of Applications for Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350 (the "Permits") filed by US Ecology Winnie LLC, 26400 Wilber Road, Winnie, Texas 77665-8745 (the "Applicant"), and do so by filing these public comments and request for both a public meeting and a contested hearing.

The Pipkin's address is 237779 Big Hill Road, Beaumont, Texas 77705, and their phone number is 409-284-3647 or 409-781-7508. I am one their attorneys, and my phone number is 409-832-9700.

The Pipkins are owners of approximately 18,000 acres of real property in Jefferson County, Texas immediately adjacent to the property owned by Applicant for which the Applicant is seeking to deepen its pore space for their injection wells to 4,000 feet. Combined, the Applicant's property is less than 200 acres. The parcels owned by the Applicant, according to the Jefferson County Appraisal District are 244084, 129117, 129118, 129120, and 129116. The parcels belonging to the Pipkins that are immediately adjacent to the Applicants property are, according to the Jefferson County Appraisal District: 140445, 140461, 140444, 386511, and 140460.

On October 21, 2022, the Pipkins entered into carbon sequestration agreements with Chevron USA, Inc. to inject carbon dioxide into a sequestration zone (i.e., subsurface pore space below their property) and included in these agreements, the Pipkins established a per tonnage value for the carbon dioxide to be injected in the pore space. Chevron agreed to pay consideration for use of this space. Applicant did not.

If the Permits requested by the Applicant are approved, the permits will cause a loss of the use and enjoyment of their property because the value of the injections by Chevron will be reduced

thefergusonlawfirm.com

3155 Executive Boulevard
Beaumont, Texas 77705

Phone 409-832-9700 • Fax 409-832-9708

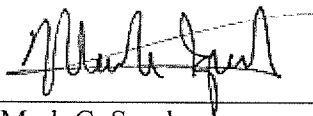
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Meanwhile, given the size of the Applicants' property and the volume of waste that has been disposed of over the years by Applicant, as well as the waste to be disposed, there can be little doubt that the Applicant's waste is migrating through the subsurface and trespassing on the Pipkin's property. As a result of the agreements with Chevron for use of the same subsurface pore space and after receiving the notice for the Permits, the Pipkins may engage a geologist to perform studies on the impacted pore space to verify that the waste being injected by their neighbors (i.e., Applicants) has in fact migrated onto their property.

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Respectfully submitted,

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Mark C. Sparks
THE FERGUSON LAW FIRM

cc: Hubert Oxford, IV

FERGUSON
LAW FIRM
3155 Executive Boulevard
Beaumont, Texas 77705

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P.O. Box 13087
Austin, Texas 78711-3087Via Regular Mail, Facsimile 512+239-3311, and ~~Post Office~~**REVIEWED****APR 18 2023**By Re: **Public Comments of Grayson Pipkin, Bruce Pipkin, and Pipkin Ranch Holdings, LP of Applications for Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350****PUBLIC COMMENT OF GRAYSON PIPKIN, BRUCE PIPKIN, AND PIPKIN RANCH HOLDINGS, LP**

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Facsimile Transmittal Letter

DATE: 02/21/2023

TO:

FAX:

FROM: Sarah Blankenship

FAX: (409) 832-9708

Message:

If there are any problems receiving this fax, please notify: Sarah Blankenship
Tel: (409) 832-9700

CONFIDENTIALITY NOTICE:

The information contained in this fax message is intended only for the personal and confidential use of the designated recipients named above. This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail.

Thank you.

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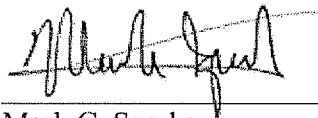
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Respectfully submitted,



Mark C. Sparks
THE FERGUSON LAW FIRM

cc: Hubert Oxford, IV

Laurie Gharis

From: eFax Corporate <message@inbound.efax.com>
Sent: Sunday, April 16, 2023 4:58 PM
To: Fax3311
Subject: Corporate eFax message from "unknown" - 3 page(s)
Attachments: FAX_20230416_1681682255_616.pdf

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Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 1:01 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW350
Attachments: Public Comment to HO4.pdf

PM
H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 5:07 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW350

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW350

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

FROM

NAME: Mark Sparks

EMAIL: mark@thefergusonlawfirm.com

COMPANY:

ADDRESS: 3155 EXECUTIVE BLVD
BEAUMONT TX 77705-1050

PHONE: 4098329700

FAX: 4098329708

COMMENTS: Please see attached letter.



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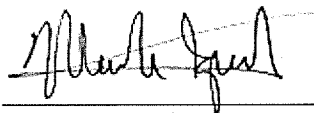
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cc: Hubert Oxford, IV

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 1:01 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW349
Attachments: Public Comment to HO4.pdf

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H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 5:06 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW349

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW349

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

FROM

NAME: Mark Sparks

EMAIL: mark@thefergusonlawfirm.com

COMPANY:

ADDRESS: 3155 EXECUTIVE BLVD
BEAUMONT TX 77705-1050

PHONE: 4098329700

FAX: 4098329708

COMMENTS: Please see attached letter.



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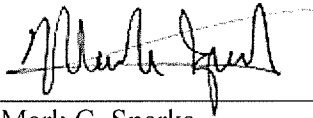
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Sent: Monday, April 17, 2023 1:01 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW348
Attachments: Public Comment to HO4.pdf

PM
H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 5:05 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW348

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW348

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

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Phone 409-832-9700 • Fax 409-832-9708

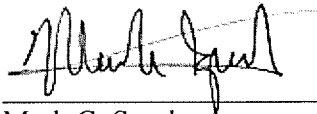
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Mark C. Sparks
THE FERGUSON LAW FIRM

cc: Hubert Oxford, IV

Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 1:00 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW347
Attachments: Public Comment to HO4.pdf

PM
H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 5:04 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW347

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW347

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

FROM

NAME: Mark Sparks

EMAIL: mark@thefergusonlawfirm.com

COMPANY:

ADDRESS: 3155 EXECUTIVE BLVD
BEAUMONT TX 77705-1050

PHONE: 4098329700

FAX: 4098329708

COMMENTS: Please see attached letter.



MARK SPARKS

Ownership Partner

Board Certified Personal Injury Trial Lawyer
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Licensed in Texas, California & Pennsylvania

April 16, 2023

Office of the Chief Clerk, MC 105 *Via Regular Mail, Facsimile 512+239-3311, and Portal Upload*
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

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WDW346, WDW347, WDW348, WDW349 and WDW350**

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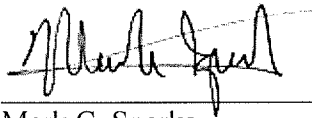
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Ellie Guerra

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Sent: Monday, April 17, 2023 1:00 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW346
Attachments: Public Comment to HO4.pdf

PM
H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 5:04 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW346

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW346

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

FROM

NAME: Mark Sparks

EMAIL: mark@thefergusonlawfirm.com

COMPANY:

ADDRESS: 3155 EXECUTIVE BLVD
BEAUMONT TX 77705-1050

PHONE: 4098329700

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COMMENTS: Please see attached letter.



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TCEQ
P.O. Box 13087
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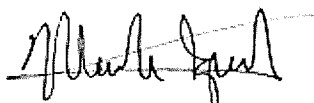
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Mark C. Sparks
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Ellie Guerra

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Sent: Monday, April 17, 2023 1:00 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW345
Attachments: Public Comment to HO4.pdf

PM
H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 5:00 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW345

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW345

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

FROM

NAME: Mark Sparks

EMAIL: mark@thefergusonlawfirm.com

COMPANY:

ADDRESS: 3155 EXECUTIVE BLVD
BEAUMONT TX 77705-1050

PHONE: 4098329700

FAX: 4098329708

COMMENTS: Please see attached letter.



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April 16, 2023

Office of the Chief Clerk, MC 105 *Via Regular Mail, Facsimile 512+239-3311, and Portal Upload*
TCEQ
P.O. Box 13087
Austin, Texas 78711-3087

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WDW346, WDW347, WDW348, WDW349 and WDW350**

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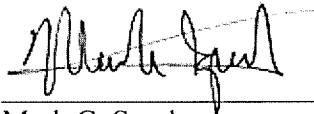
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Ellie Guerra

From: PUBCOMMENT-OCC
Sent: Monday, April 17, 2023 12:59 PM
To: PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; PUBCOMMENT-WPD
Subject: FW: Public comment on Permit Number WDW344
Attachments: Public Comment to HO4.pdf

PM
H

From: mark@thefergusonlawfirm.com <mark@thefergusonlawfirm.com>
Sent: Sunday, April 16, 2023 4:59 PM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW344

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW344

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

FROM

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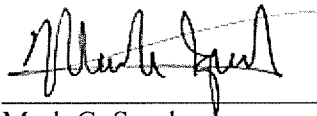
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Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:05 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW350
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:09 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW350

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW350

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

EMAIL: david@allawgp.com

COMPANY: The AL Law Group, PLLC

ADDRESS: 12400 W HIGHWAY 71 Suite 350-150
BEE CAVE TX 78738-6517

PHONE: 5125762481

FAX:

COMMENTS: Request for a Contested Case Hearing submitted on behalf of Pipkin Ranch Holdings, LP (attached).



THE AL LAW GROUP

David J. Tuckfield
12400 W. Highway 71, Suite 350-150
Austin, Texas 78738

Partner
(512) 576-2481
Fax: (512) 366-9949

August 17, 2023

Via electronic delivery

<https://www.tceq.texas.gov/agency/decisions/cc/comments.html>

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

Re: **REQUEST FOR A CONTESTED CASE HEARING**
Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347,
WDW348, WDW349 and WDW350

Dear Ms. Gharis:

On behalf of our client, Pipkin Ranch Holdings, LP ("Pipkin"), we **hereby request a contested case hearing** on the above-referenced proposed permit applications. Specifically, we **hereby request a contested case hearing** on the application by US Ecology Winnie, LLC (Applicant or US Ecology) for renewal and major amendment of seven nonhazardous commercial Class I Underground Injection Control (UIC) Permits Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350, for the disposal by injection of nonhazardous industrial and municipal wastes received from off-site sources on a commercial basis and generated on-site (the Application).

Information regarding this request should be sent to the following (attorneys for the requester):

David Tuckfield
Eric Storm
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Mark Sparks
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Benckenstein & Oxford, L.L.P.
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(409) 951-4721 Direct
(409) 833-8819 Fax
hoxfordiv@benoxford.com

Pipkin adopts and incorporates by reference its previously filed comments in this docket (specifically the letter from Mark Sparks of the Ferguson Law Firm dated April 16, 2023).

Pipkin disputes the following responses of the executive director's ("ED's") responses to comments and explain the factual and legal bases for our disputes as follows:

RTC 1: The ED asserts that the Application does not seek to increase the pore space. The practical result of the Application, however, will be to increase the pore space that US Ecology is allowed to use. See **Exhibit 1**.

Moreover, the ED states

"An 'injection interval' is the portion of the injection zone into which injected waste is authorized to be directly emplaced. (30 TAC § 331.2(57)(Definitions). An application for a Class I Injection well must establish the approximate top and the approximate base of injection zone and identify the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121."

The problem with the ED's response is that he does not address the question of whether this Applicant can be authorized to emplace injected waste into pore space on property that is not owned by the Applicant. At least part of the injected waste is likely already occupying pore space on the Pipkin property, and with the addition injected wastes, if approved by TCEQ will result in a significant increase in the Pipkin property pore space that is occupied by US Ecology's waste. See **Exhibit 1**. The Applicant, who is identified as the Owner in the Application, does not own at least part of the facility (as defined by 30 TAC § 335.1(69)). Paragraph 30 TAC §

335.1(69) states that a Facility includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous or industrial solid waste....” Since portions of the wastes from the US Ecology operation, have been and will be disposed of in the pore space on the Pipkin property, the entire current and anticipated extent of the waste plume defines the Facility. In other words, not all Owners are applicants. A portion of the Facility is, in fact, owned by Pipkin. See **Exhibit 1**. Because the waste plume likely has extended and definitely will extend to the Pipkin property, the application has not properly identified the “Facility.” Further. The Applicant does not have the authority to utilize the “Facility” that it is proposing to use.

Moreover, the Applicant has not properly identified the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121.

Finally, with respect to RTC 1, the ED states “an application for a Class I UIC permit must include a review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” As a landowner adjacent to the well bore property, and as a landowner of property that will be occupied by wastes from the US Ecology operation, Pipkin is rightfully concerned about both the horizontal and vertical waste migration. Pipkin therefore requests that the contested case hearing address the question of whether the application contains an adequate review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” Further, this should consider artificial penetrations that may be constructed in the future by Pipkin to access their pore space. Pipkin is also concerned and seeks review of the question of whether the Applicant demonstrated that the injection zone and interval are isolated from base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).

RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
- (3) A reasonable relationship exists between the interest claimed and the activity regulated. The injection of waste is what gives rise to Pipkin's concerns regarding its rights to use its own property, including the pore space, and to protect its property from contamination. 30 TAC §55.203(c)(3).
- (4) **Exhibit 1** demonstrates that the regulated activity will affect the Pipkin's use of its property. 30 TAC §55.203(c)(4).
- (5) As described in this letter and **Exhibit 1**, the regulated activity will very likely have an impact on the use of the Pipkin property. 30 TAC §55.203(c)(5).
- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481
david@allawgp.com
eric@allawgp.com

EXHIBIT 1



SQ Environmental, LLC

P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

Figure 2 provides information regarding the calculated extent of the waste plume based on the waste that has already been injected for wells WDW344 and WDW345. This distances are shown with dashed white circles around each of the wells. The calculated extent of the plume for wells WDW344, WDW345 and WDW346 are shown with dashed orange circles. The distances used for the "Calculated Current Waste Plume" and the "Calculated 30-Year Waste Plume" are based on the Executive Director's Response to Public Comment No. 3 (dated 7 July 2023).

Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.

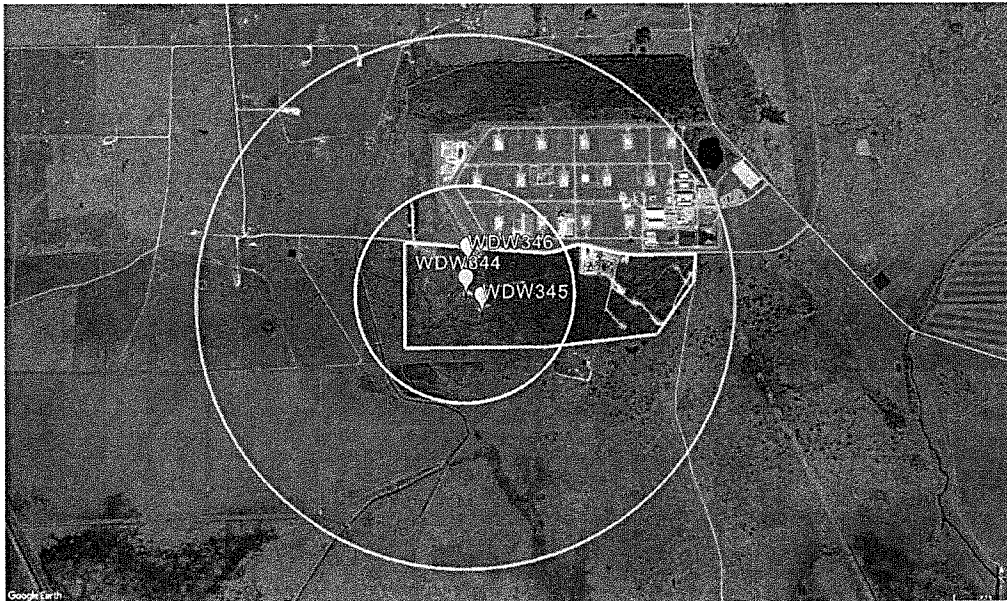


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

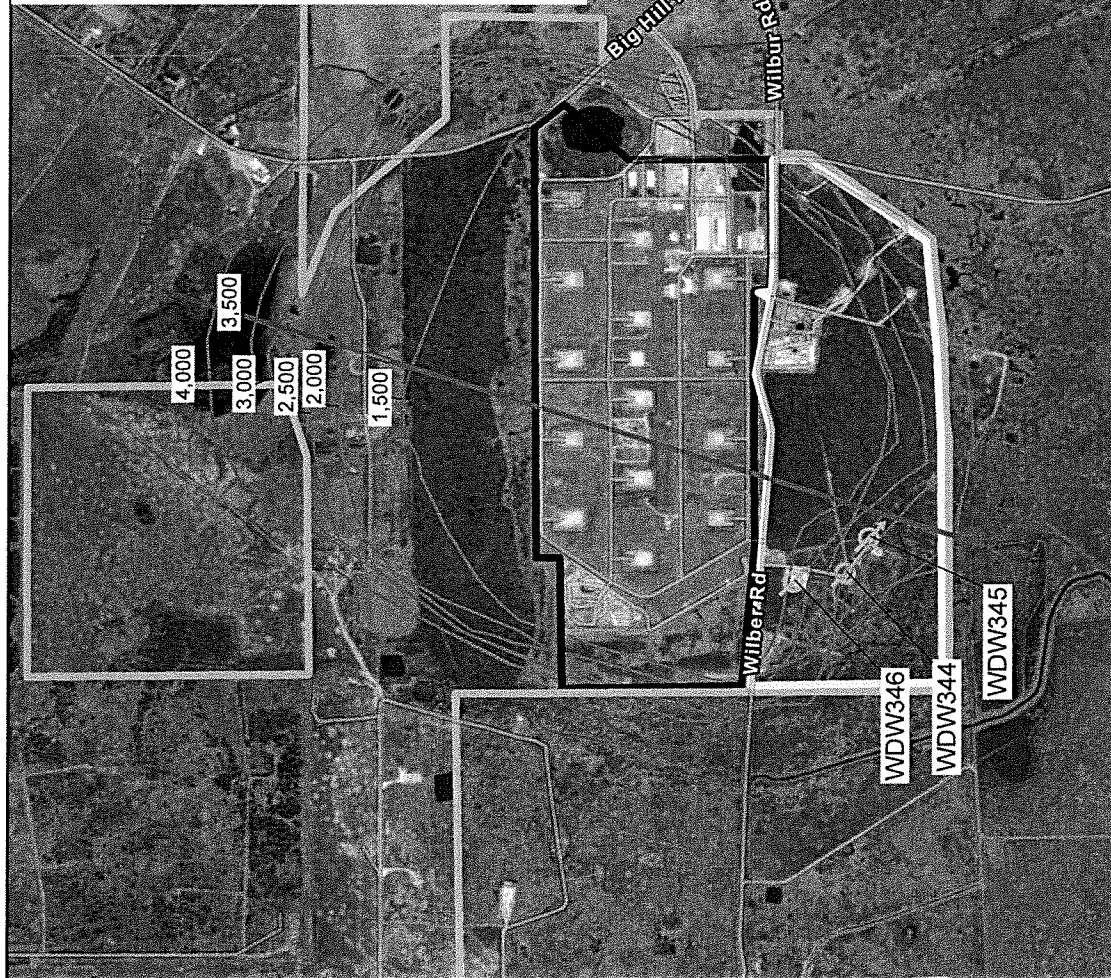
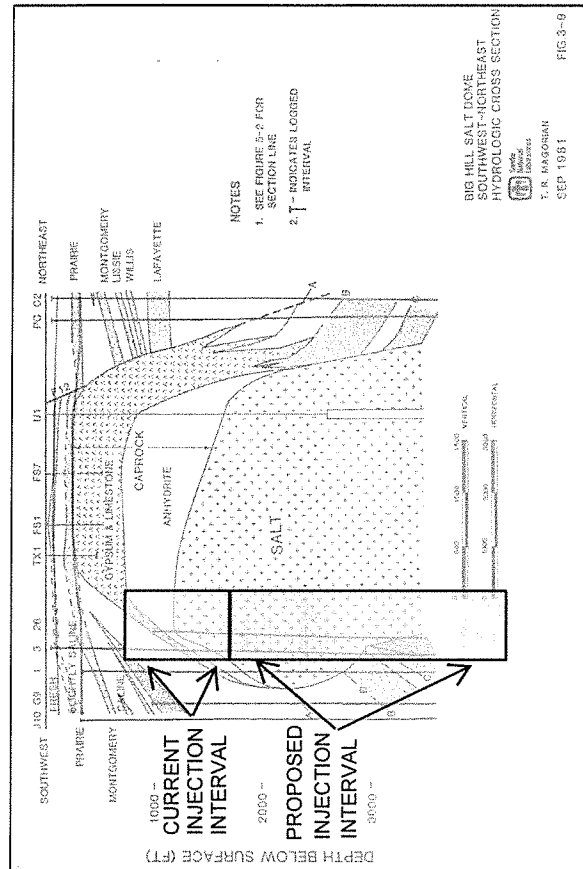
My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

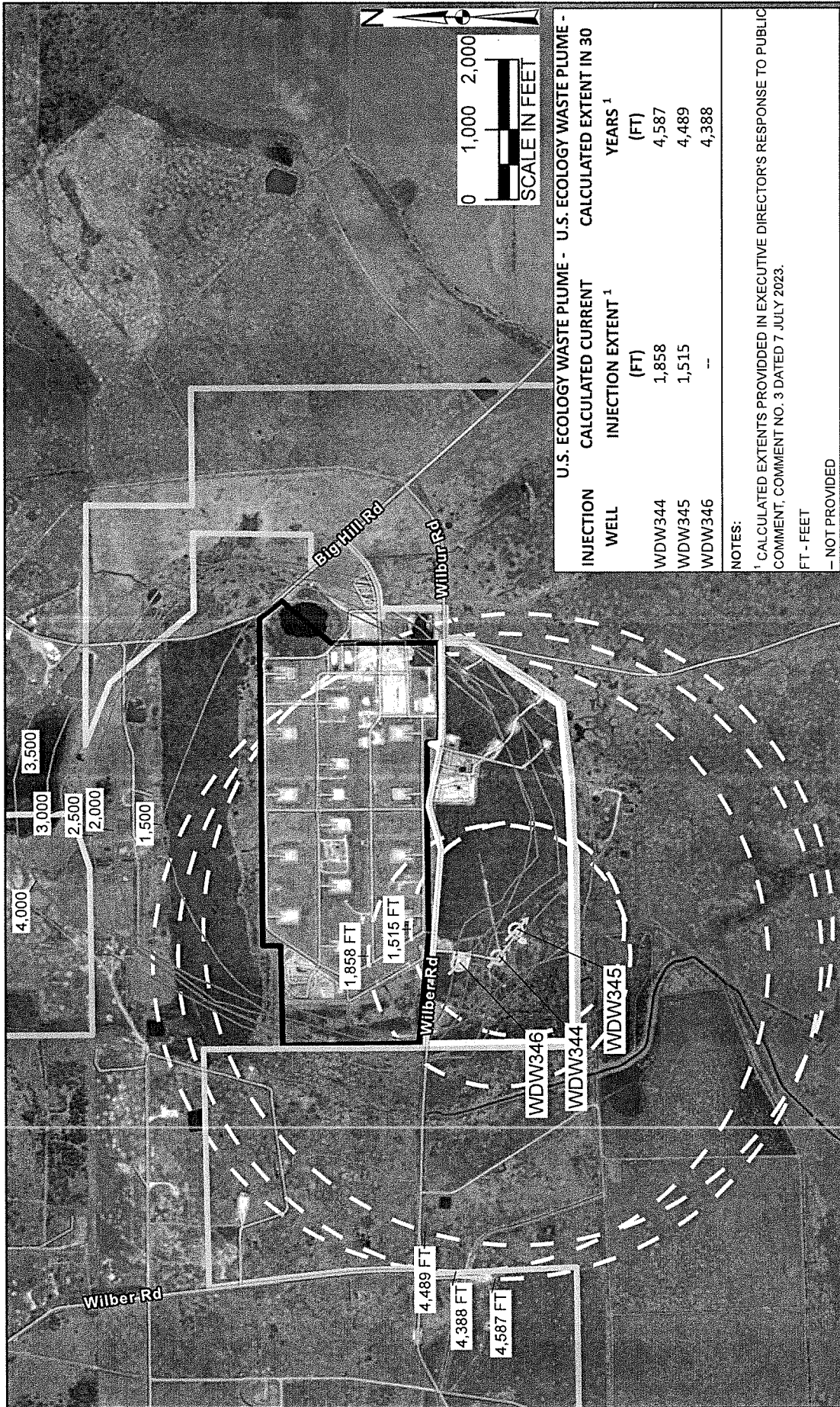
The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sgenv.com.

Sincerely,
SQ Environmental, LLC

Susan T. Litherland, P.E.
Principal





U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -	
INJECTION WELL	U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -
WDW344	CALCULATED CURRENT INJECTION EXTENT ¹
WDW345	CALCULATED EXTENT IN 30 YEARS ¹
WDW346	(FT)
	4,587
	4,489
	4,388

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
 FT - FEET
 - NOT PROVIDED

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

DATE: AUGUST 2023

PN: 1220.001.001

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

LEGEND

PIPKN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.

Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:06 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW349
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:08 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW349

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW349

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

EMAIL: david@allawgp.com

COMPANY: The AL Law Group, PLLC

ADDRESS: 12400 W HIGHWAY 71 Suite 350-150
BEE CAVE TX 78738-6517

PHONE: 5125762481

FAX:

COMMENTS: Request for a Contested Case Hearing submitted on behalf of Pipkin Ranch Holdings, LP (attached).



THE AL LAW GROUP

David J. Tuckfield
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Austin, Texas 78738

Partner
(512) 576-2481
Fax: (512) 366-9949

August 17, 2023

Via electronic delivery

<https://www.tceq.texas.gov/agency/decisions/cc/comments.html>

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

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RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
- (3) A reasonable relationship exists between the interest claimed and the activity regulated. The injection of waste is what gives rise to Pipkin's concerns regarding its rights to use its own property, including the pore space, and to protect its property from contamination. 30 TAC §55.203(c)(3).
- (4) **Exhibit 1** demonstrates that the regulated activity will affect the Pipkin's use of its property. 30 TAC §55.203(c)(4).
- (5) As described in this letter and **Exhibit 1**, the regulated activity will very likely have an impact on the use of the Pipkin property. 30 TAC §55.203(c)(5).
- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

David Tuckfield

Eric Storm

The AL Law Group, PLLC

12400 West Highway 71

Suite 350-150

Austin, TX 78738

(512) 576-2481

david@allawgp.com

eric@allawgp.com

EXHIBIT 1



SQ Environmental, LLC

P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgrp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

Figure 2 provides information regarding the calculated extent of the waste plume based on the waste that has already been injected for wells WDW344 and WDW345. These distances are shown with dashed white circles around each of the wells. The calculated extent of the plume for wells WDW344, WDW345 and WDW346 are shown with dashed orange circles. The distances used for the "Calculated Current Waste Plume" and the "Calculated 30-Year Waste Plume" are based on the Executive Director's Response to Public Comment No. 3 (dated 7 July 2023).

Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.

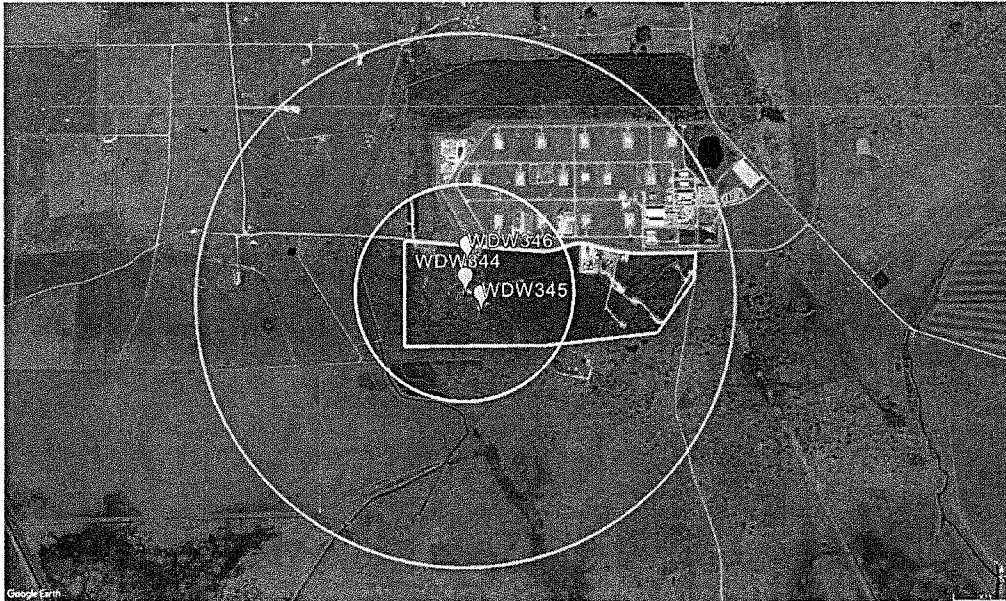


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

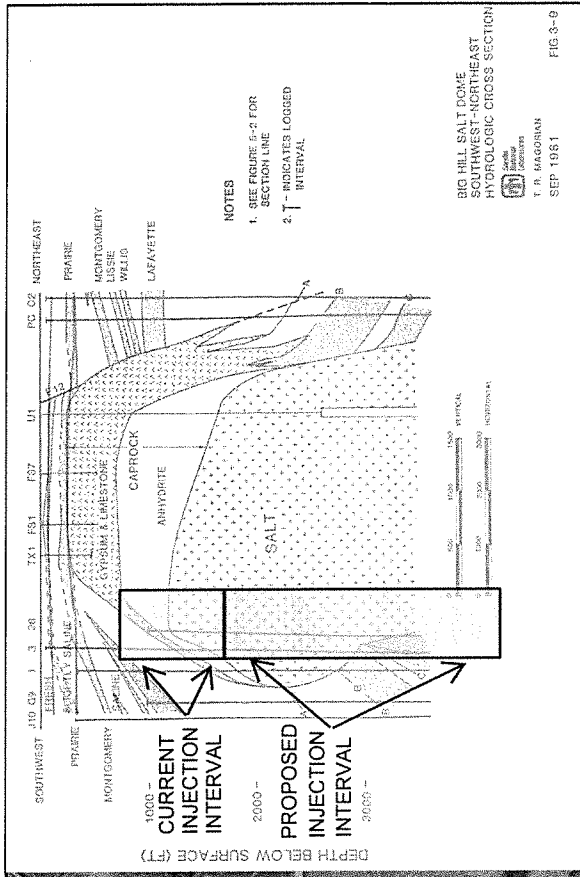
My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sqenv.com.

Sincerely,
SQ Environmental, LLC

Susan T. Litherland, P.E.
Principal



INJECTION WELL	CURRENT INJECTION DEPTH ¹ (FT BGS)	PROPOSED INJECTION DEPTH ¹ (FT BGS)
WDW344	940 - 1,780	940 - 4,000
WDW345	880 - 1,750	880 - 4,000
WDW346	952 - 1,551	1,076 - 4,000

NOTES:

¹ CURRENT AND PROPOSED INJECTION DEPTHS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 1 DATED 7 JULY 2023.

FT BGS - FEET BELOW GROUND SURFACE.

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

FIGURE 1

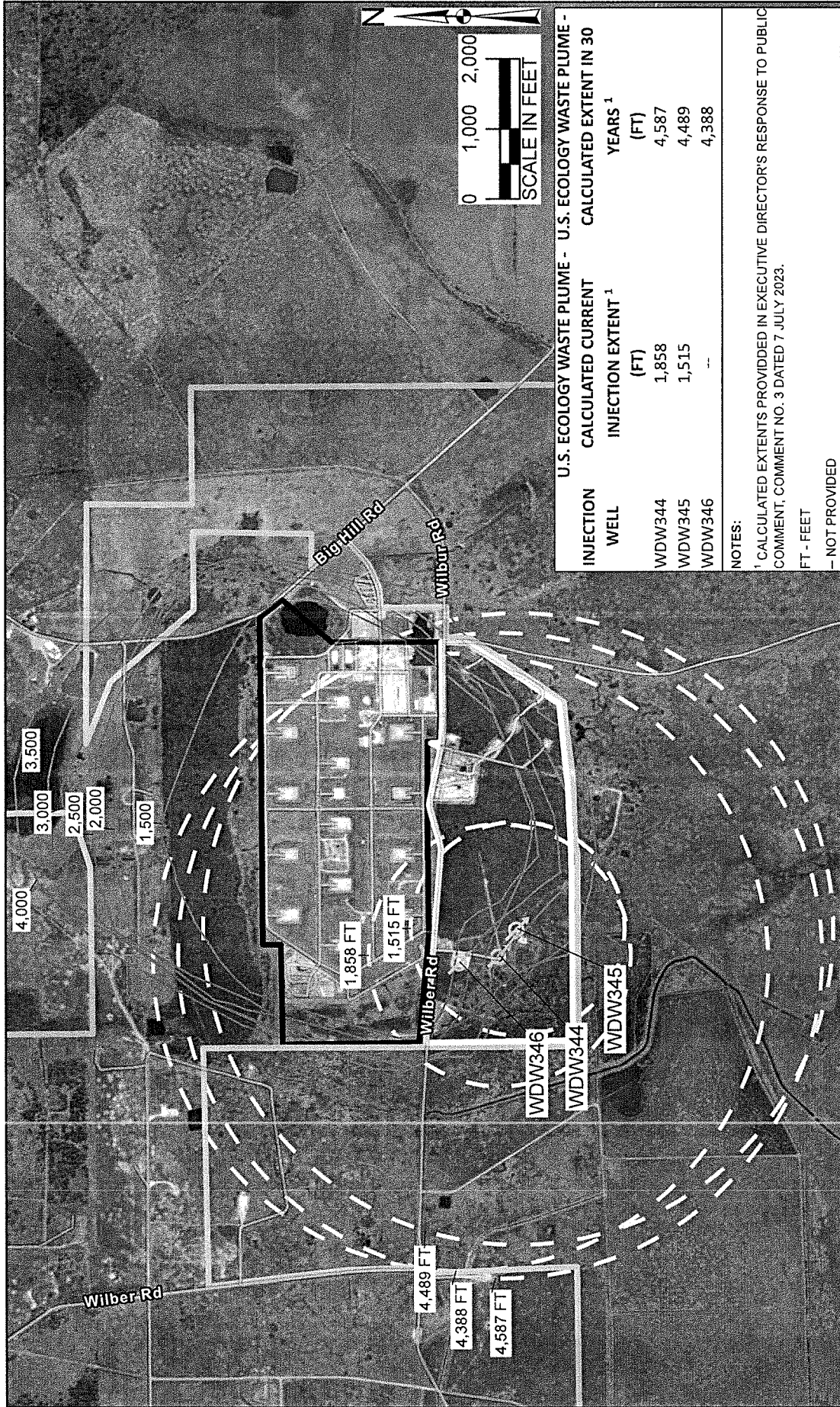
PROPERTY LAYOUT MAP

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

DATE: AUGUST 2023

PN: 1220.001.001

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.



U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -			
INJECTION WELL	CALCULATED CURRENT INJECTION EXTENT ¹ (FT)	CALCULATED EXTENT IN 30 YEARS ¹ (FT)	
WDW344	1,858	4,587	
WDW345	1,515	4,489	
WDW346	--	4,388	

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
 FT - FEET
 - NOT PROVIDED

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

DATE: AUGUST 2023

PN: 1220.001.001

LEGEND

PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.

Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:12 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW348
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:08 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW348

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW348

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

EMAIL: david@allawgp.com

COMPANY: The AL Law Group, PLLC

ADDRESS: 12400 W HIGHWAY 71 Suite 350-150
BEE CAVE TX 78738-6517

PHONE: 5125762481

FAX:

COMMENTS: Request for a Contested Case Hearing submitted on behalf of Pipkin Ranch Holdings, LP (attached).



THE AL LAW GROUP

David J. Tuckfield
12400 W. Highway 71, Suite 350-150
Austin, Texas 78738

Partner
(512) 576-2481
Fax: (512) 366-9949

August 17, 2023

Via electronic delivery

<https://www.tceq.texas.gov/agency/decisions/cc/comments.html>

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

Re: **REQUEST FOR A CONTESTED CASE HEARING**
Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347,
WDW348, WDW349 and WDW350

Dear Ms. Gharis:

On behalf of our client, Pipkin Ranch Holdings, LP ("Pipkin"), we **hereby request a contested case hearing** on the above-referenced proposed permit applications. Specifically, we **hereby request a contested case hearing** on the application by US Ecology Winnie, LLC (Applicant or US Ecology) for renewal and major amendment of seven nonhazardous commercial Class I Underground Injection Control (UIC) Permits Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350, for the disposal by injection of nonhazardous industrial and municipal wastes received from off-site sources on a commercial basis and generated on-site (the Application).

Information regarding this request should be sent to the following (attorneys for the requester):

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481 (phone)
(512) 366-9949 (fax)
david@allawgp.com
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Mark Sparks
The Ferguson Law Firm, L.L.P.
3155 Executive Blvd.
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(409) 832-9708 (fax)
mark@thefergusonlawfirm.com

Hubert Oxford, IV
Benckenstein & Oxford, L.L.P.
3535 Calder Avenue, Suite 300
Beaumont, Texas 77706
(409) 951-4721 Direct
(409) 833-8819 Fax
hoxfordiv@benoxford.com

Pipkin adopts and incorporates by reference its previously filed comments in this docket (specifically the letter from Mark Sparks of the Ferguson Law Firm dated April 16, 2023).

Pipkin disputes the following responses of the executive director's ("ED's") responses to comments and explain the factual and legal bases for our disputes as follows:

RTC 1: The ED asserts that the Application does not seek to increase the pore space. The practical result of the Application, however, will be to increase the pore space that US Ecology is allowed to use. See **Exhibit 1**.

Moreover, the ED states

"An 'injection interval' is the portion of the injection zone into which injected waste is authorized to be directly emplaced. (30 TAC § 331.2(57)(Definitions). An application for a Class I Injection well must establish the approximate top and the approximate base of injection zone and identify the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121."

The problem with the ED's response is that he does not address the question of whether this Applicant can be authorized to emplace injected waste into pore space on property that is not owned by the Applicant. At least part of the injected waste is likely already occupying pore space on the Pipkin property, and with the addition injected wastes, if approved by TCEQ will result in a significant increase in the Pipkin property pore space that is occupied by US Ecology's waste. See **Exhibit 1**. The Applicant, who is identified as the Owner in the Application, does not own at least part of the facility (as defined by 30 TAC § 335.1(69)). Paragraph 30 TAC §

335.1(69) states that a Facility includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous or industrial solid waste....” Since portions of the wastes from the US Ecology operation, have been and will be disposed of in the pore space on the Pipkin property, the entire current and anticipated extent of the waste plume defines the Facility. In other words, not all Owners are applicants. A portion of the Facility is, in fact, owned by Pipkin. See **Exhibit 1**. Because the waste plume likely has extended and definitely will extend to the Pipkin property, the application has not properly identified the “Facility.” Further. The Applicant does not have the authority to utilize the “Facility” that it is proposing to use.

Moreover, the Applicant has not properly identified the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121.

Finally, with respect to RTC 1, the ED states “an application for a Class I UIC permit must include a review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” As a landowner adjacent to the well bore property, and as a landowner of property that will be occupied by wastes from the US Ecology operation, Pipkin is rightfully concerned about both the horizontal and vertical waste migration. Pipkin therefore requests that the contested case hearing address the question of whether the application contains an adequate review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” Further, this should consider artificial penetrations that may be constructed in the future by Pipkin to access their pore space. Pipkin is also concerned and seeks review of the question of whether the Applicant demonstrated that the injection zone and interval are isolated from base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).

RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
- (3) A reasonable relationship exists between the interest claimed and the activity regulated. The injection of waste is what gives rise to Pipkin's concerns regarding its rights to use its own property, including the pore space, and to protect its property from contamination. 30 TAC §55.203(c)(3).
- (4) **Exhibit 1** demonstrates that the regulated activity will affect the Pipkin's use of its property. 30 TAC §55.203(c)(4).
- (5) As described in this letter and **Exhibit 1**, the regulated activity will very likely have an impact on the use of the Pipkin property. 30 TAC §55.203(c)(5).
- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481
david@allawgp.com
eric@allawgp.com

EXHIBIT 1



SQ Environmental, LLC

P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

Figure 2 provides information regarding the calculated extent of the waste plume based on the waste that has already been injected for wells WDW344 and WDW345. This distances are shown with dashed white circles around each of the wells. The calculated extent of the plume for wells WDW344, WDW345 and WDW346 are shown with dashed orange circles. The distances used for the "Calculated Current Waste Plume" and the "Calculated 30-Year Waste Plume" are based on the Executive Director's Response to Public Comment No. 3 (dated 7 July 2023).

Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.

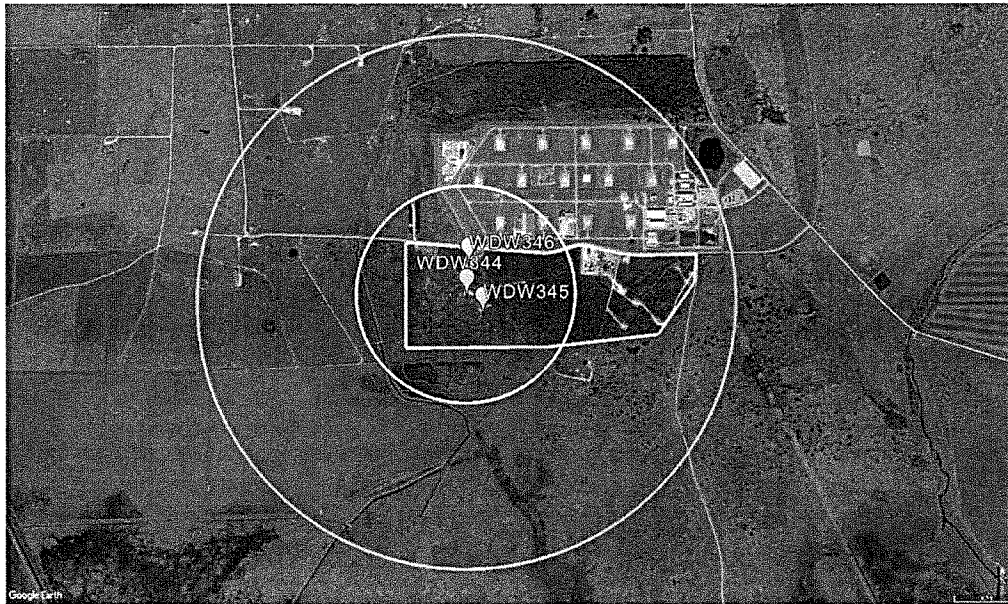


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

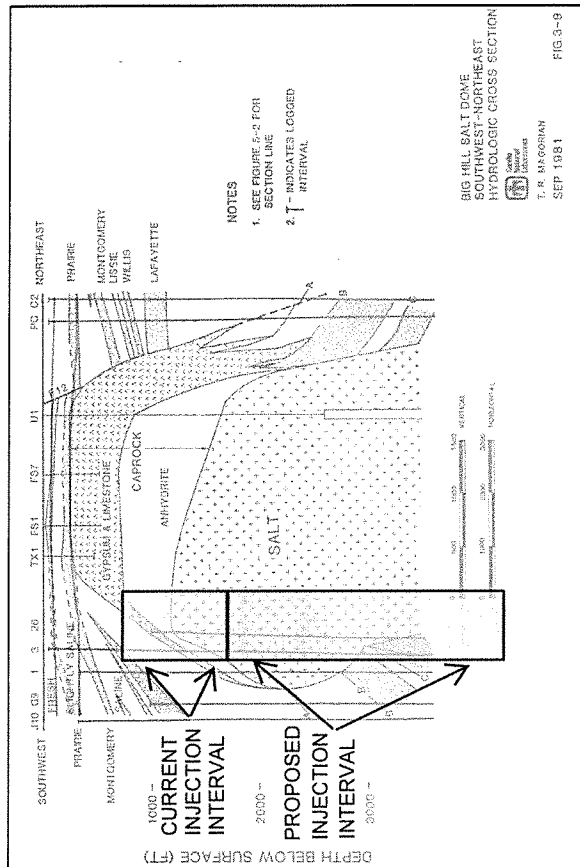
My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sqenv.com.

Sincerely,
SQ Environmental, LLC

Susan T. Litherland, P.E.
Principal



LEGEND

- PIPKN PROPERTY (IES) BOUNDARY, APPROXIMATE
- U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE
- ACTIVE INJECTION WELL
- STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE
- BIG HILL SALT CONTOUR (FT BGS)
- NORTHEAST TO SOUTHWEST CROSS-SECTION



FIGURE 1

PROPERTY LAYOUT MAP

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET
DATE: AUGUST 2023
PN: 1220.001.001

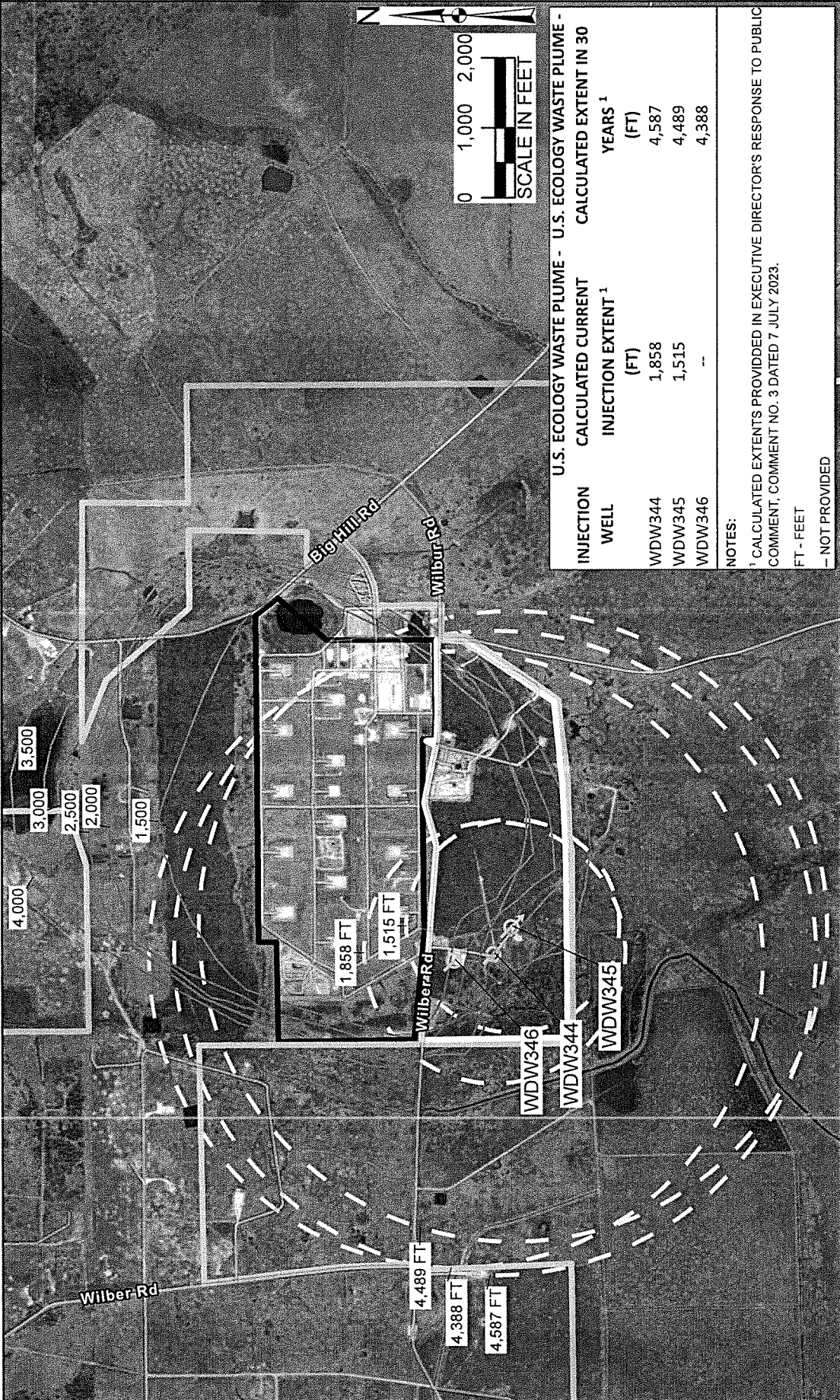
INJECTION WELL	CURRENT INJECTION DEPTH ¹ (FT BGS)	PROPOSED INJECTION DEPTH ¹ (FT BGS)
WDW344	940 - 1,780	940 - 4,000
WDW345	880 - 1,750	880 - 4,000
WDW346	952 - 1,551	1,076 - 4,000

NOTES:

¹ CURRENT AND PROPOSED INJECTION DEPTHS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 1 DATED 7 JULY 2023.

FT BGS - FEET BELOW GROUND SURFACE.

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.



U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -				
INJECTION	WELL	CALCULATED CURRENT INJECTION EXTENT ¹	CALCULATED EXTENT IN 30 YEARS ¹	
	WDW344	(FT)	(FT)	
	WDW345	1,858	4,587	
	WDW346	1,515	4,489	
	WDW346	--	4,388	

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
 FT - FEET
 -- NOT PROVIDED

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

DATE: AUGUST 2023

IPN: 1220.001.001

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

LEGEND

PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.

Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:13 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW346
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:06 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW346

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW346

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

EMAIL: david@allawgp.com

COMPANY: The AL Law Group, PLLC

ADDRESS: 12400 W HIGHWAY 71 Suite 350-150
BEE CAVE TX 78738-6517

PHONE: 5125762481

FAX:

COMMENTS: Request for a Contested Case Hearing submitted on behalf of Pipkin Ranch Holdings, LP (attached).



THE AL LAW GROUP

David J. Tuckfield
12400 W. Highway 71, Suite 350-150
Austin, Texas 78738

Partner
(512) 576-2481
Fax: (512) 366-9949

August 17, 2023

Via electronic delivery

<https://www.tceq.texas.gov/agency/decisions/cc/comments.html>

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

Re: **REQUEST FOR A CONTESTED CASE HEARING**
Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347,
WDW348, WDW349 and WDW350

Dear Ms. Gharis:

On behalf of our client, Pipkin Ranch Holdings, LP ("Pipkin"), we **hereby request a contested case hearing** on the above-referenced proposed permit applications. Specifically, we **hereby request a contested case hearing** on the application by US Ecology Winnie, LLC (Applicant or US Ecology) for renewal and major amendment of seven nonhazardous commercial Class I Underground Injection Control (UIC) Permits Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350, for the disposal by injection of nonhazardous industrial and municipal wastes received from off-site sources on a commercial basis and generated on-site (the Application).

Information regarding this request should be sent to the following (attorneys for the requester):

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481 (phone)
(512) 366-9949 (fax)
david@allawgp.com
eric@allawgp.com

Mark Sparks
The Ferguson Law Firm, L.L.P.
3155 Executive Blvd.
Beaumont, Texas 77705
(409) 832-9700 (phone)
(409) 832-9708 (fax)
mark@thefergusonlawfirm.com

Hubert Oxford, IV
Benckenstein & Oxford, L.L.P.
3535 Calder Avenue, Suite 300
Beaumont, Texas 77706
(409) 951-4721 Direct
(409) 833-8819 Fax
hoxfordiv@benoxford.com

Pipkin adopts and incorporates by reference its previously filed comments in this docket (specifically the letter from Mark Sparks of the Ferguson Law Firm dated April 16, 2023).

Pipkin disputes the following responses of the executive director's ("ED's") responses to comments and explain the factual and legal bases for our disputes as follows:

RTC 1: The ED asserts that the Application does not seek to increase the pore space. The practical result of the Application, however, will be to increase the pore space that US Ecology is allowed to use. See **Exhibit 1**.

Moreover, the ED states

"An 'injection interval' is the portion of the injection zone into which injected waste is authorized to be directly emplaced. (30 TAC § 331.2(57)(Definitions). An application for a Class I Injection well must establish the approximate top and the approximate base of injection zone and identify the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121."

The problem with the ED's response is that he does not address the question of whether this Applicant can be authorized to emplace injected waste into pore space on property that is not owned by the Applicant. At least part of the injected waste is likely already occupying pore space on the Pipkin property, and with the addition injected wastes, if approved by TCEQ will result in a significant increase in the Pipkin property pore space that is occupied by US Ecology's waste. See **Exhibit 1**. The Applicant, who is identified as the Owner in the Application, does not own at least part of the facility (as defined by 30 TAC § 335.1(69)). Paragraph 30 TAC §

335.1(69) states that a Facility includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous or industrial solid waste....” Since portions of the wastes from the US Ecology operation, have been and will be disposed of in the pore space on the Pipkin property, the entire current and anticipated extent of the waste plume defines the Facility. In other words, not all Owners are applicants. A portion of the Facility is, in fact, owned by Pipkin. See **Exhibit 1**. Because the waste plume likely has extended and definitely will extend to the Pipkin property, the application has not properly identified the “Facility.” Further. The Applicant does not have the authority to utilize the “Facility” that it is proposing to use.

Moreover, the Applicant has not properly identified the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121.

Finally, with respect to RTC 1, the ED states “an application for a Class I UIC permit must include a review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” As a landowner adjacent to the well bore property, and as a landowner of property that will be occupied by wastes from the US Ecology operation, Pipkin is rightfully concerned about both the horizontal and vertical waste migration. Pipkin therefore requests that the contested case hearing address the question of whether the application contains an adequate review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” Further, this should consider artificial penetrations that may be constructed in the future by Pipkin to access their pore space. Pipkin is also concerned and seeks review of the question of whether the Applicant demonstrated that the injection zone and interval are isolated from base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).

RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
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- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481
david@allawgp.com
eric@allawgp.com

EXHIBIT 1



SQ Environmental, LLC

P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

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Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.

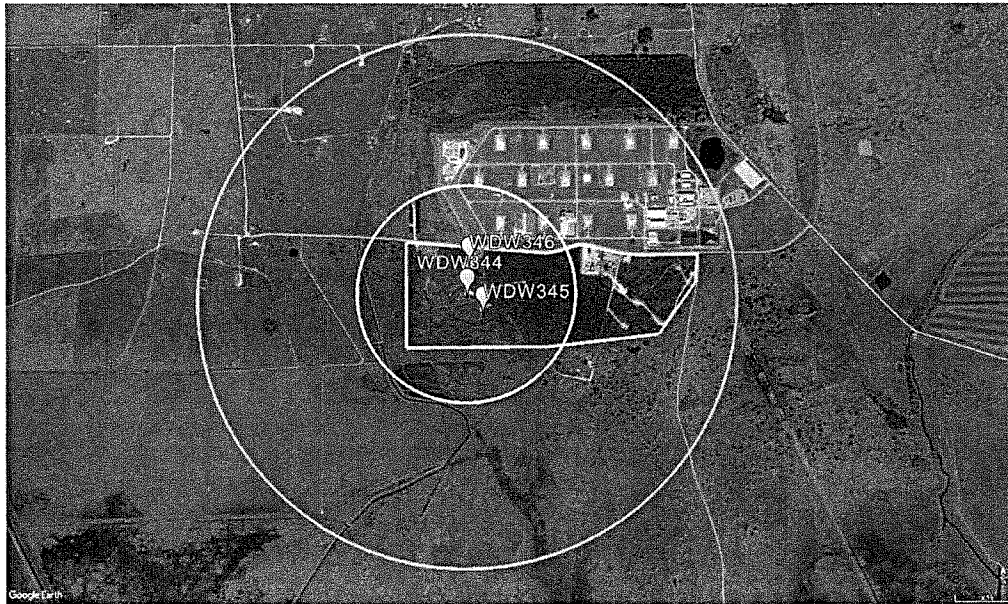


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

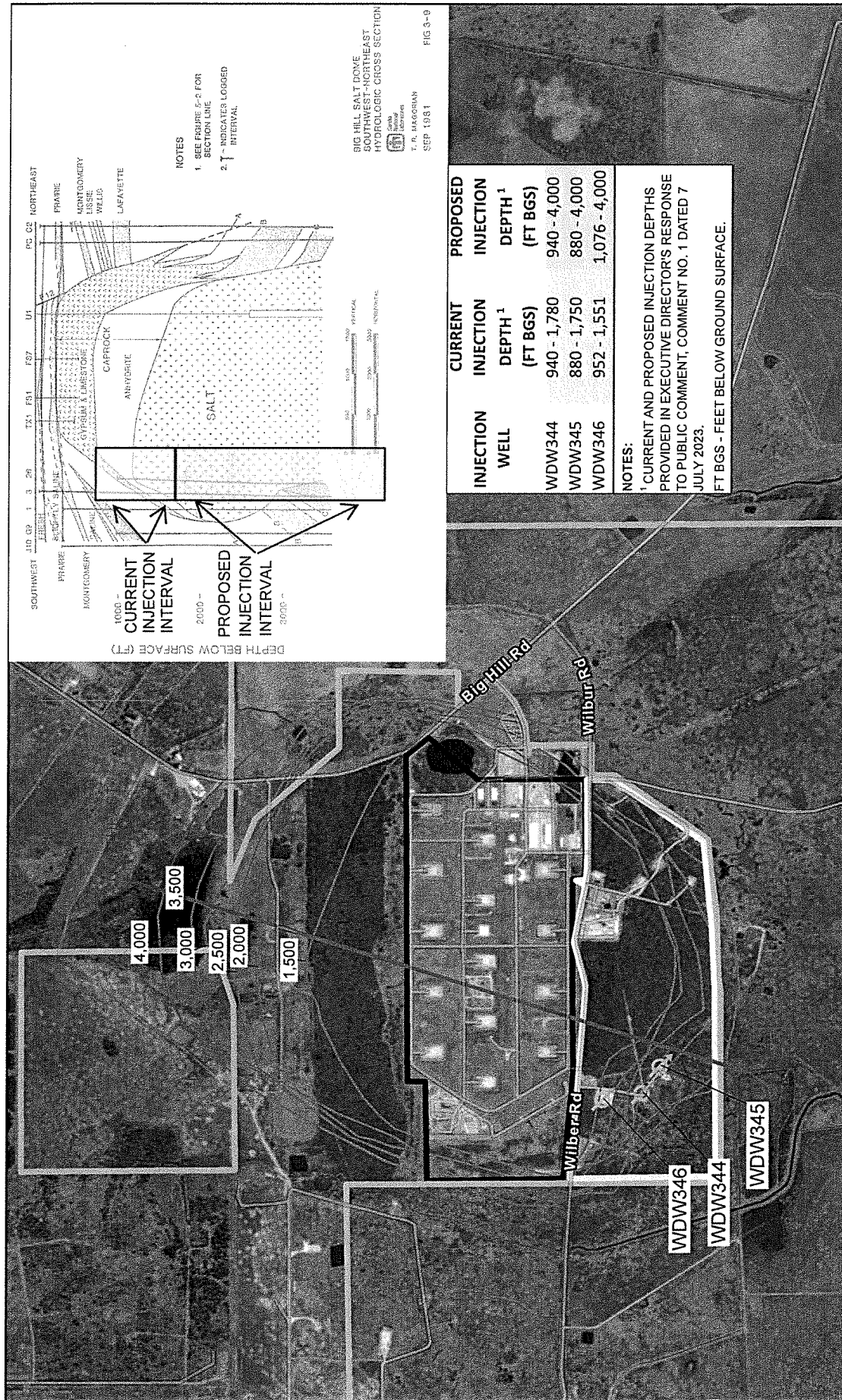
My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sqenv.com.

Sincerely,
SQ Environmental, LLC

Susan T. Litherland, P.E.
Principal



LEGEND

- PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE
- U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE
- ACTIVE INJECTION WELL
- STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE
- BIG HILL SALT DOME CONTOUR (FT BGS)
- NORTHEAST TO SOUTHWEST CROSS-SECTION



FIGURE 1

PROPERTY LAYOUT MAP

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET
DATE: AUGUST 2023
PN: 1220.001.001

INJECTION WELL	CURRENT INJECTION DEPTH ¹ (FT BGS)	PROPOSED INJECTION DEPTH ¹ (FT BGS)
WDW344	940 - 1,780	940 - 4,000
WDW345	880 - 1,750	880 - 4,000
WDW346	952 - 1,551	1,076 - 4,000

NOTES:

¹ CURRENT AND PROPOSED INJECTION DEPTHS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 1 DATED 7 JULY 2023.

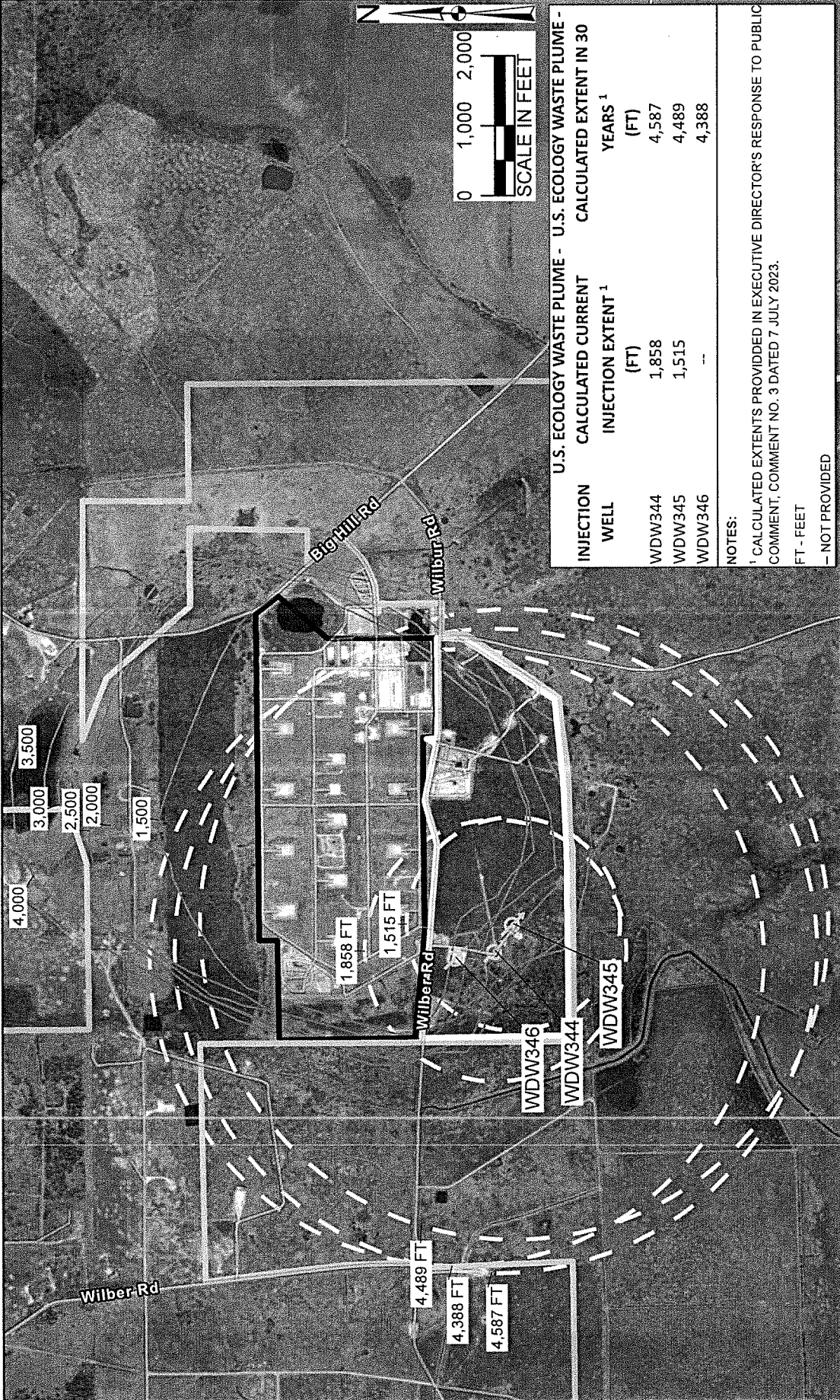
FT BGS - FEET BELOW GROUND SURFACE.

- NOTES**
- SEE FIGURE 5-2 FOR SECTION LINE
 - 7" INDICATES LOGGED INTERVAL

BIG HILL SALT DOME
SOUTHWEST-NORTHEAST
HYDROLOGIC CROSS SECTION


T. R. MARGOLAN
SEP 1981
FIG. 5-9

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.



U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -				
INJECTION	CALCULATED CURRENT	INJECTION EXTENT ¹	CALCULATED EXTENT IN 30	YEARS ¹
WELL	(FT)			(FT)
WDW344	1,858			4,587
WDW345	1,515			4,489
WDW346	--			4,388

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
FT - FEET
-- NOT PROVIDED



SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

DATE: AUGUST 2023

PN: 1220.001.001

LEGEND

PIPKN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.

Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:12 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW347
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:07 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW347

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW347

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

EMAIL: david@allawgp.com

COMPANY: The AL Law Group, PLLC

ADDRESS: 12400 W HIGHWAY 71 Suite 350-150
BEE CAVE TX 78738-6517

PHONE: 5125762481

FAX:

COMMENTS: Request for a Contested Case Hearing submitted on behalf of Pipkin Ranch Holdings, LP (attached).



THE AL LAW GROUP

David J. Tuckfield
12400 W. Highway 71, Suite 350-150
Austin, Texas 78738

Partner
(512) 576-2481
Fax: (512) 366-9949

August 17, 2023

Via electronic delivery

<https://www.tceq.texas.gov/agency/decisions/cc/comments.html>

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

Re: **REQUEST FOR A CONTESTED CASE HEARING**
Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347,
WDW348, WDW349 and WDW350

Dear Ms. Gharis:

On behalf of our client, Pipkin Ranch Holdings, LP ("Pipkin"), we **hereby request a contested case hearing** on the above-referenced proposed permit applications. Specifically, we **hereby request a contested case hearing** on the application by US Ecology Winnie, LLC (Applicant or US Ecology) for renewal and major amendment of seven nonhazardous commercial Class I Underground Injection Control (UIC) Permits Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350, for the disposal by injection of nonhazardous industrial and municipal wastes received from off-site sources on a commercial basis and generated on-site (the Application).

Information regarding this request should be sent to the following (attorneys for the requester):

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481 (phone)
(512) 366-9949 (fax)
david@allawgp.com
eric@allawgp.com

Mark Sparks
The Ferguson Law Firm, L.L.P.
3155 Executive Blvd.
Beaumont, Texas 77705
(409) 832-9700 (phone)
(409) 832-9708 (fax)
mark@thefergusonlawfirm.com

Hubert Oxford, IV
Benckenstein & Oxford, L.L.P.
3535 Calder Avenue, Suite 300
Beaumont, Texas 77706
(409) 951-4721 Direct
(409) 833-8819 Fax
hoxfordiv@benoxford.com

Pipkin adopts and incorporates by reference its previously filed comments in this docket (specifically the letter from Mark Sparks of the Ferguson Law Firm dated April 16, 2023).

Pipkin disputes the following responses of the executive director's ("ED's") responses to comments and explain the factual and legal bases for our disputes as follows:

RTC 1: The ED asserts that the Application does not seek to increase the pore space. The practical result of the Application, however, will be to increase the pore space that US Ecology is allowed to use. See **Exhibit 1**.

Moreover, the ED states

"An 'injection interval' is the portion of the injection zone into which injected waste is authorized to be directly emplaced. (30 TAC § 331.2(57)(Definitions). An application for a Class I Injection well must establish the approximate top and the approximate base of injection zone and identify the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121."

The problem with the ED's response is that he does not address the question of whether this Applicant can be authorized to emplace injected waste into pore space on property that is not owned by the Applicant. At least part of the injected waste is likely already occupying pore space on the Pipkin property, and with the addition injected wastes, if approved by TCEQ will result in a significant increase in the Pipkin property pore space that is occupied by US Ecology's waste. See **Exhibit 1**. The Applicant, who is identified as the Owner in the Application, does not own at least part of the facility (as defined by 30 TAC § 335.1(69)). Paragraph 30 TAC §

335.1(69) states that a Facility includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous or industrial solid waste....” Since portions of the wastes from the US Ecology operation, have been and will be disposed of in the pore space on the Pipkin property, the entire current and anticipated extent of the waste plume defines the Facility. In other words, not all Owners are applicants. A portion of the Facility is, in fact, owned by Pipkin. See **Exhibit 1**. Because the waste plume likely has extended and definitely will extend to the Pipkin property, the application has not properly identified the “Facility.” Further. The Applicant does not have the authority to utilize the “Facility” that it is proposing to use.

Moreover, the Applicant has not properly identified the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121.

Finally, with respect to RTC 1, the ED states “an application for a Class I UIC permit must include a review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” As a landowner adjacent to the well bore property, and as a landowner of property that will be occupied by wastes from the US Ecology operation, Pipkin is rightfully concerned about both the horizontal and vertical waste migration. Pipkin therefore requests that the contested case hearing address the question of whether the application contains an adequate review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” Further, this should consider artificial penetrations that may be constructed in the future by Pipkin to access their pore space. Pipkin is also concerned and seeks review of the question of whether the Applicant demonstrated that the injection zone and interval are isolated from base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).

RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
- (3) A reasonable relationship exists between the interest claimed and the activity regulated. The injection of waste is what gives rise to Pipkin's concerns regarding its rights to use its own property, including the pore space, and to protect its property from contamination. 30 TAC §55.203(c)(3).
- (4) **Exhibit 1** demonstrates that the regulated activity will affect the Pipkin's use of its property. 30 TAC §55.203(c)(4).
- (5) As described in this letter and **Exhibit 1**, the regulated activity will very likely have an impact on the use of the Pipkin property. 30 TAC §55.203(c)(5).
- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481
david@allawgp.com
eric@allawgp.com

EXHIBIT 1



SQ Environmental, LLC

P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

Figure 2 provides information regarding the calculated extent of the waste plume based on the waste that has already been injected for wells WDW344 and WDW345. These distances are shown with dashed white circles around each of the wells. The calculated extent of the plume for wells WDW344, WDW345 and WDW346 are shown with dashed orange circles. The distances used for the "Calculated Current Waste Plume" and the "Calculated 30-Year Waste Plume" are based on the Executive Director's Response to Public Comment No. 3 (dated 7 July 2023).

Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.

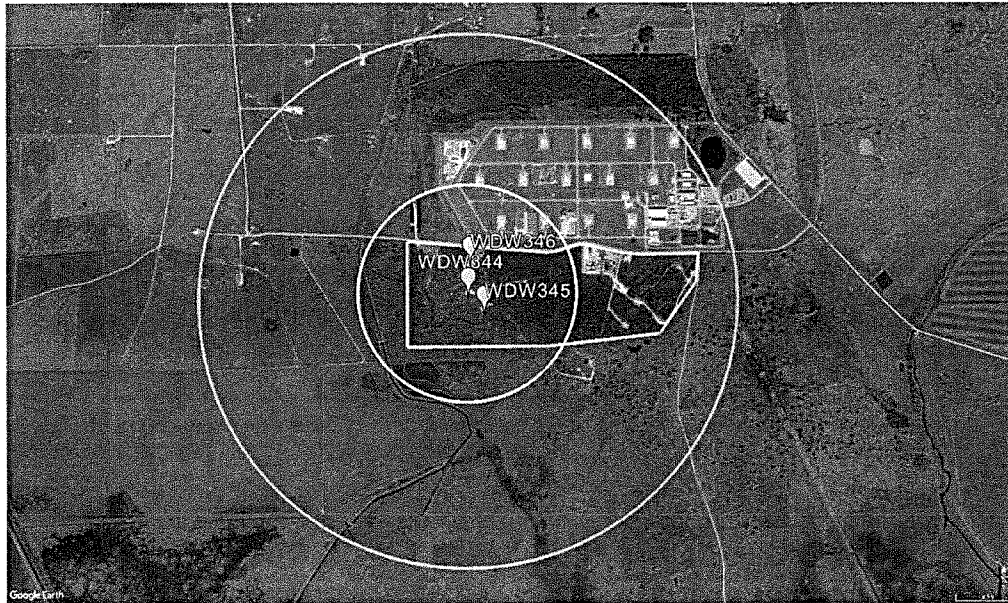


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

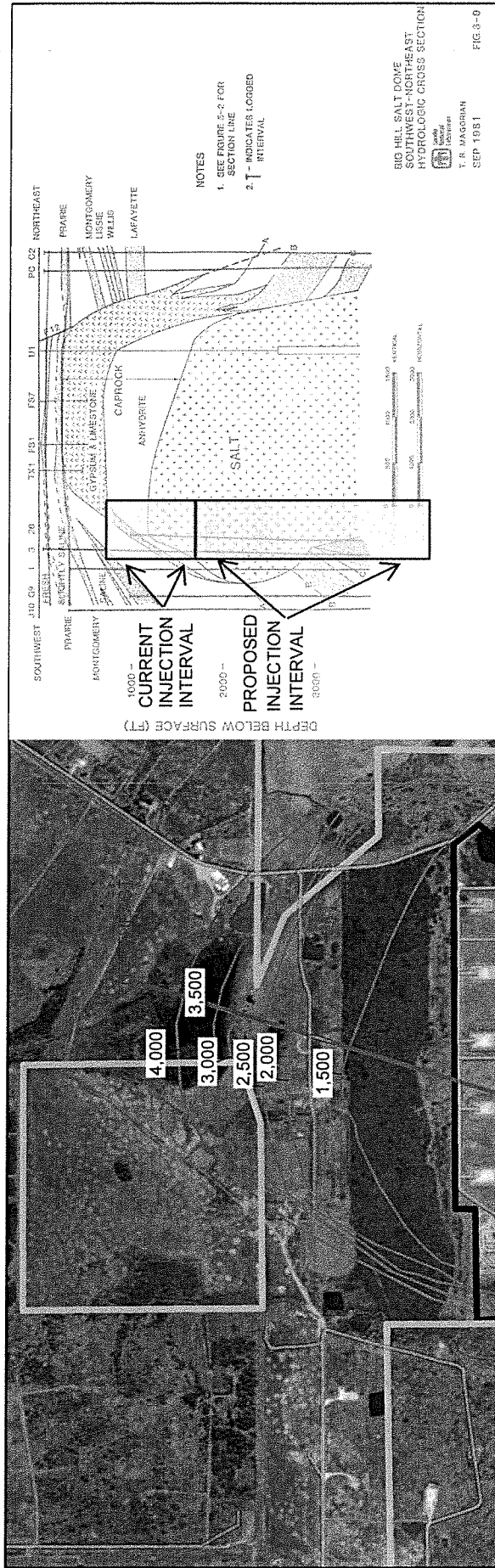
The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sqenv.com.

Sincerely,
SQ Environmental, LLC

A handwritten signature in cursive script, appearing to read 'Susan T. Litherland'.

Susan T. Litherland, P.E.
Principal



INJECTION WELL	CURRENT INJECTION DEPTH ¹ (FT BGS)	PROPOSED INJECTION DEPTH ¹ (FT BGS)
WDW344	940 - 1,780	940 - 4,000
WDW345	880 - 1,750	880 - 4,000
WDW346	952 - 1,551	1,076 - 4,000

NOTES:
¹ CURRENT AND PROPOSED INJECTION DEPTHS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 1 DATED 7 JULY 2023.
FT BGS - FEET BELOW GROUND SURFACE.

LEGEND

- PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE
- U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE
- ACTIVE INJECTION WELL
- STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE
- BIG HILL SALT CONTOUR (FT BGS)
- NORTHEAST TO SOUTHWEST CROSS-SECTION



FIGURE 1

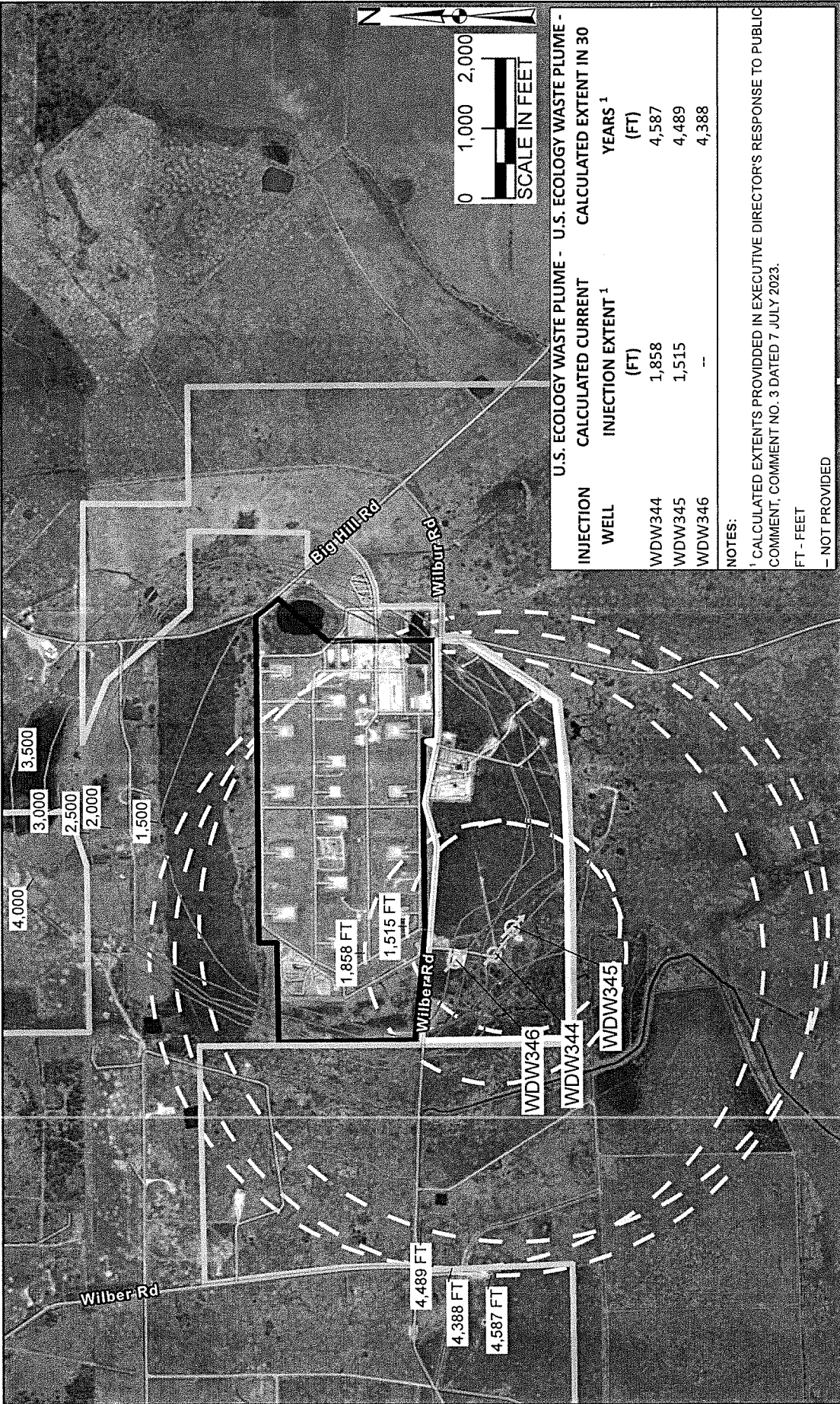
PROPERTY LAYOUT MAP

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

SO Environmental, LLC

SCALE: 1" = 2,000 FEET
DATE: AUGUST 2023
PN: 1220.001.001

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.



U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -			
INJECTION WELL	CALCULATED CURRENT INJECTION EXTENT ¹ (FT)	CALCULATED EXTENT IN 30 YEARS ¹ (FT)	
WDW344	1,858	4,587	
WDW345	1,515	4,489	
WDW346	--	4,388	

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
 FT - FEET
 -- NOT PROVIDED

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

DATE: AUGUST 2023

IPN: 1220.001.001

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

LEGEND

PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.

Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:02 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW345
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:05 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW345

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW345

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

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BEE CAVE TX 78738-6517

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FAX:

COMMENTS: Request for a Contested Case Hearing submitted on behalf of Pipkin Ranch Holdings, LP (attached).



THE AL LAW GROUP

David J. Tuckfield
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Partner
(512) 576-2481
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August 17, 2023

Via electronic delivery

<https://www.tceq.texas.gov/agency/decisions/cc/comments.html>

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

Re: **REQUEST FOR A CONTESTED CASE HEARING**

Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347,
WDW348, WDW349 and WDW350

Dear Ms. Gharis:

On behalf of our client, Pipkin Ranch Holdings, LP ("Pipkin"), we **hereby request a contested case hearing** on the above-referenced proposed permit applications. Specifically, we **hereby request a contested case hearing** on the application by US Ecology Winnie, LLC (Applicant or US Ecology) for renewal and major amendment of seven nonhazardous commercial Class I Underground Injection Control (UIC) Permits Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350, for the disposal by injection of nonhazardous industrial and municipal wastes received from off-site sources on a commercial basis and generated on-site (the Application).

Information regarding this request should be sent to the following (attorneys for the requester):

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Eric Storm
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Mark Sparks
The Ferguson Law Firm, L.L.P.
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Benckenstein & Oxford, L.L.P.
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(409) 951-4721 Direct
(409) 833-8819 Fax
hoxfordiv@benoxford.com

Pipkin adopts and incorporates by reference its previously filed comments in this docket (specifically the letter from Mark Sparks of the Ferguson Law Firm dated April 16, 2023).

Pipkin disputes the following responses of the executive director's ("ED's") responses to comments and explain the factual and legal bases for our disputes as follows:

RTC 1: The ED asserts that the Application does not seek to increase the pore space. The practical result of the Application, however, will be to increase the pore space that US Ecology is allowed to use. See **Exhibit 1**.

Moreover, the ED states

"An 'injection interval' is the portion of the injection zone into which injected waste is authorized to be directly emplaced. (30 TAC § 331.2(57)(Definitions). An application for a Class I Injection well must establish the approximate top and the approximate base of injection zone and identify the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121."

The problem with the ED's response is that he does not address the question of whether this Applicant can be authorized to emplace injected waste into pore space on property that is not owned by the Applicant. At least part of the injected waste is likely already occupying pore space on the Pipkin property, and with the addition injected wastes, if approved by TCEQ will result in a significant increase in the Pipkin property pore space that is occupied by US Ecology's waste. See **Exhibit 1**. The Applicant, who is identified as the Owner in the Application, does not own at least part of the facility (as defined by 30 TAC § 335.1(69)). Paragraph 30 TAC §

335.1(69) states that a Facility includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of municipal hazardous or industrial solid waste....” Since portions of the wastes from the US Ecology operation, have been and will be disposed of in the pore space on the Pipkin property, the entire current and anticipated extent of the waste plume defines the Facility. In other words, not all Owners are applicants. A portion of the Facility is, in fact, owned by Pipkin. See **Exhibit 1**. Because the waste plume likely has extended and definitely will extend to the Pipkin property, the application has not properly identified the “Facility.” Further. The Applicant does not have the authority to utilize the “Facility” that it is proposing to use.

Moreover, the Applicant has not properly identified the injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121.

Finally, with respect to RTC 1, the ED states “an application for a Class I UIC permit must include a review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” As a landowner adjacent to the well bore property, and as a landowner of property that will be occupied by wastes from the US Ecology operation, Pipkin is rightfully concerned about both the horizontal and vertical waste migration. Pipkin therefore requests that the contested case hearing address the question of whether the application contains an adequate review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” Further, this should consider artificial penetrations that may be constructed in the future by Pipkin to access their pore space. Pipkin is also concerned and seeks review of the question of whether the Applicant demonstrated that the injection zone and interval are isolated from base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).

RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
- (3) A reasonable relationship exists between the interest claimed and the activity regulated. The injection of waste is what gives rise to Pipkin's concerns regarding its rights to use its own property, including the pore space, and to protect its property from contamination. 30 TAC §55.203(c)(3).
- (4) **Exhibit 1** demonstrates that the regulated activity will affect the Pipkin's use of its property. 30 TAC §55.203(c)(4).
- (5) As described in this letter and **Exhibit 1**, the regulated activity will very likely have an impact on the use of the Pipkin property. 30 TAC §55.203(c)(5).
- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

David Tuckfield
Eric Storm
The AL Law Group, PLLC
12400 West Highway 71
Suite 350-150
Austin, TX 78738
(512) 576-2481
david@allawgp.com
eric@allawgp.com

EXHIBIT 1



SQ Environmental, LLC

P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

Figure 2 provides information regarding the calculated extent of the waste plume based on the waste that has already been injected for wells WDW344 and WDW345. This distances are shown with dashed white circles around each of the wells. The calculated extent of the plume for wells WDW344, WDW345 and WDW346 are shown with dashed orange circles. The distances used for the "Calculated Current Waste Plume" and the "Calculated 30-Year Waste Plume" are based on the Executive Director's Response to Public Comment No. 3 (dated 7 July 2023).

Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.



Waste Disposal Well Evaluation

17 August 2023

Page 2

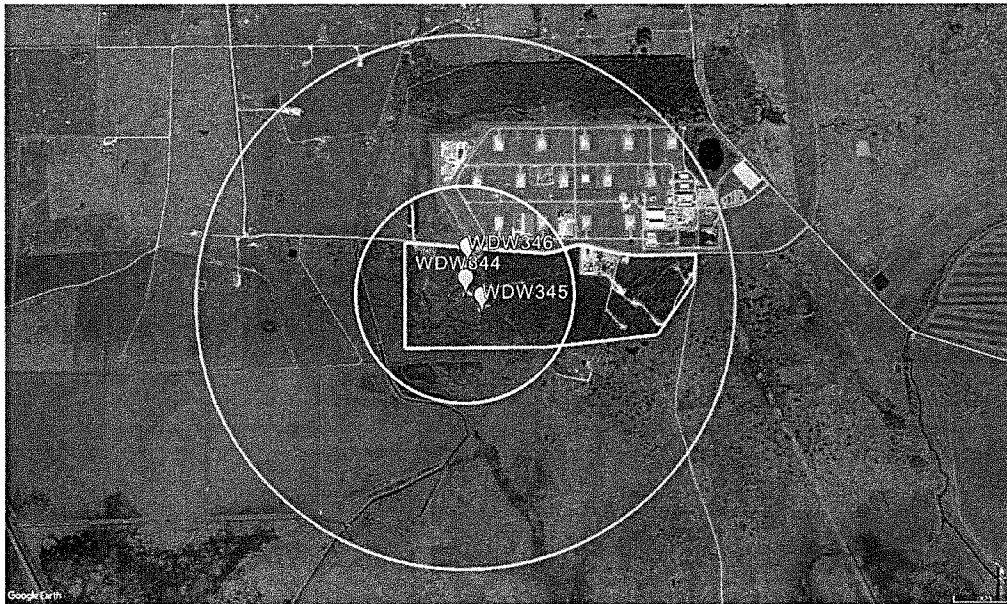


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

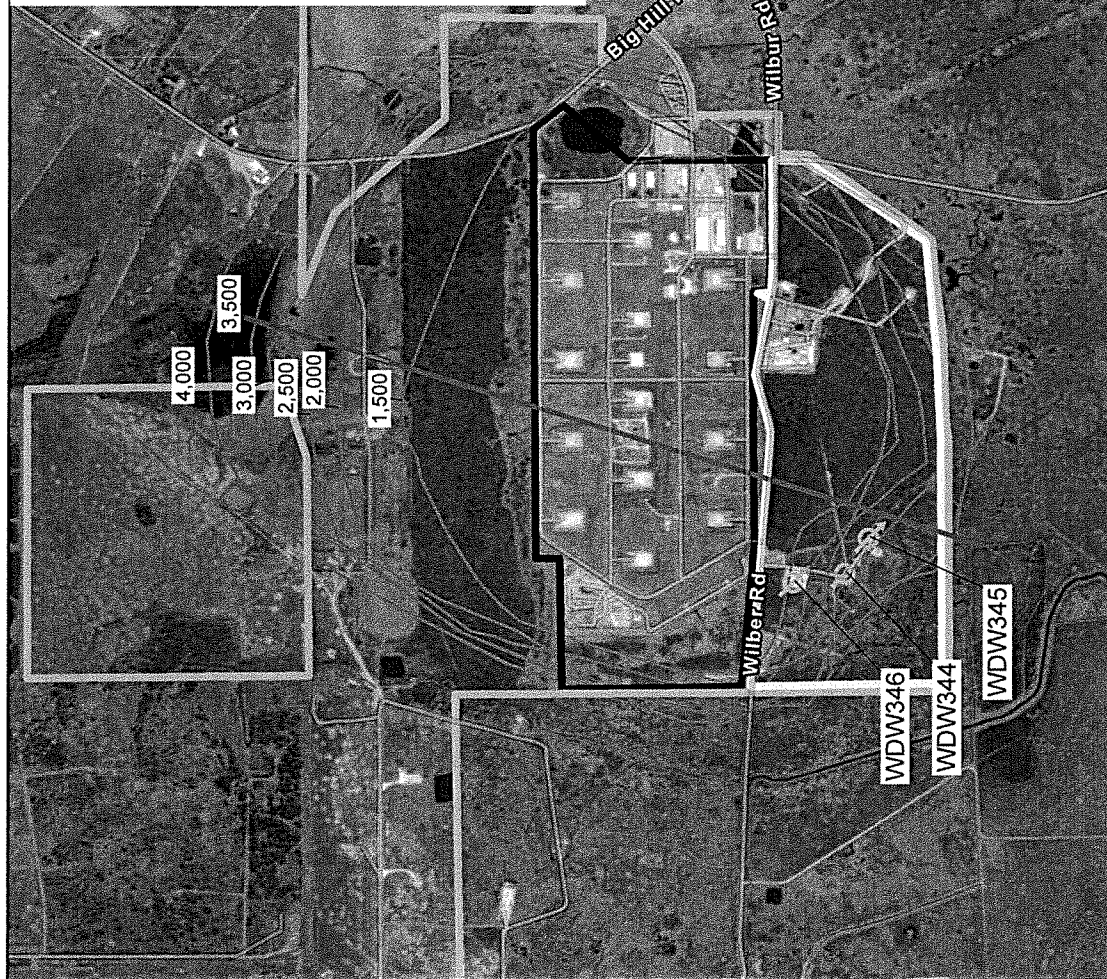
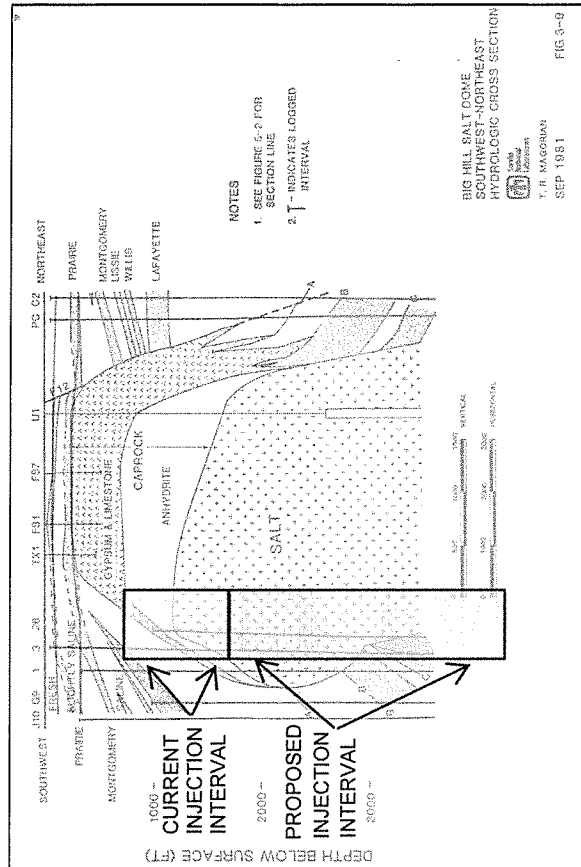
My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sqenv.com.

Sincerely,
SQ Environmental, LLC

Susan T. Litherland, P.E.
Principal



SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

FIGURE 1

PROPERTY LAYOUT MAP

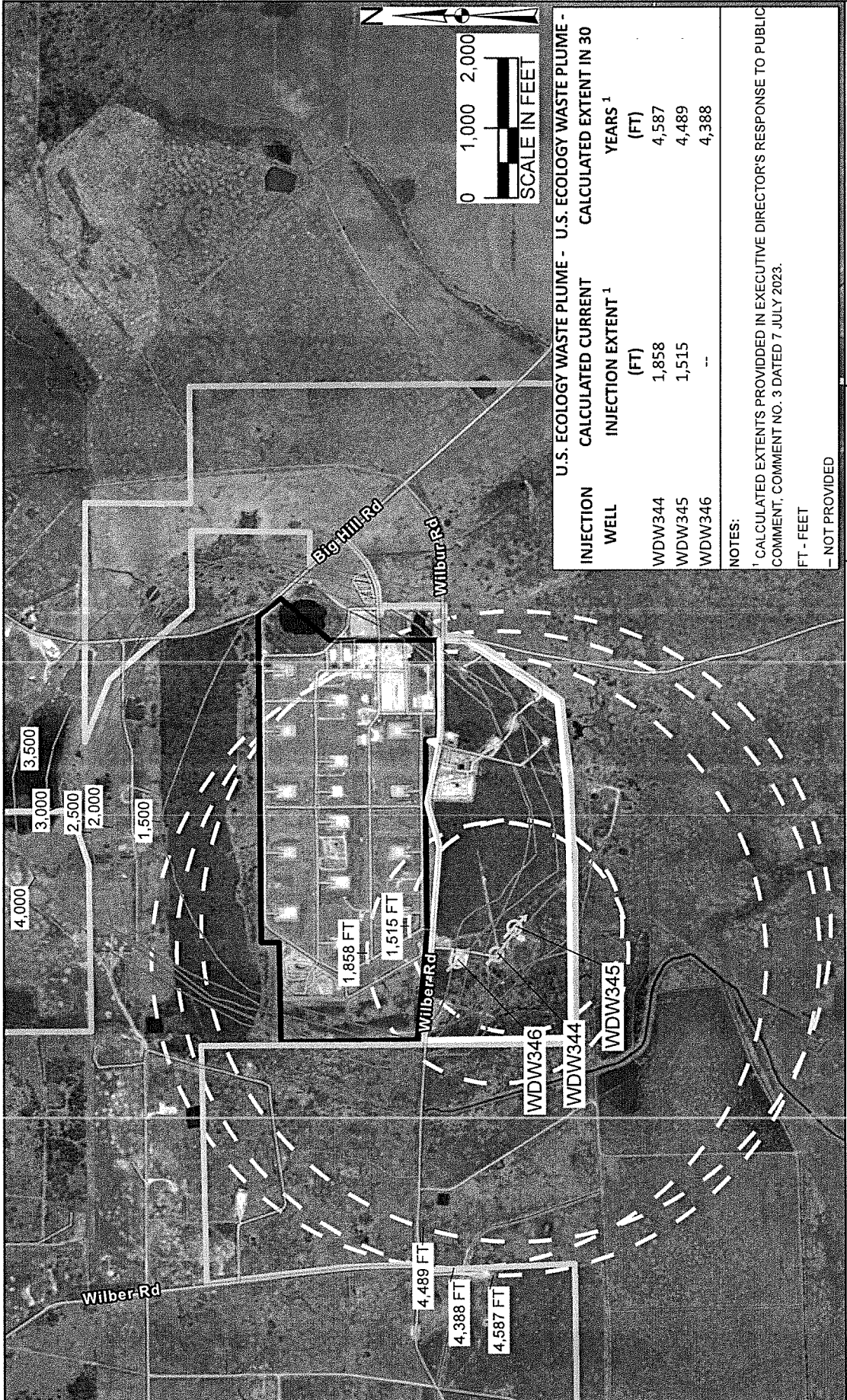
THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

DATE: AUGUST 2023 PN: 1220.001.001

LEGEND

- PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE
- U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE
- ACTIVE INJECTION WELL
- STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE
- BIG HILL SALT DOME CONTOUR (FT BGS)
- NORTHEAST TO SOUTHWEST CROSS-SECTION

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.



U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -			
INJECTION WELL	CALCULATED CURRENT INJECTION EXTENT ¹ (FT)	CALCULATED EXTENT IN 30 YEARS ¹ (FT)	
WDW344	1,858	4,587	
WDW345	1,515	4,489	
WDW346	--	4,388	

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
FT - FEET
-- NOT PROVIDED

SQ Environmental, LLC

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE - U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SCALE: 1" = 2,000 FEET

DATE: AUGUST 2023

PN: 1220.001.001

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Kimberly Muth

From: PUBCOMMENT-OCC
Sent: Thursday, August 17, 2023 1:02 PM
To: PUBCOMMENT-RAD; PUBCOMMENT-ELD; PUBCOMMENT-OCC2; PUBCOMMENT-OPIC
Subject: FW: Public comment on Permit Number WDW344
Attachments: 20230817 Req for Hearing.pdf

H

From: david@allawgp.com <david@allawgp.com>
Sent: Thursday, August 17, 2023 10:04 AM
To: PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>
Subject: Public comment on Permit Number WDW344

REGULATED ENTY NAME US ECOLOGY WINNIE

RN NUMBER: RN100610468

PERMIT NUMBER: WDW344

DOCKET NUMBER:

COUNTY: JEFFERSON

PRINCIPAL NAME: US ECOLOGY WINNIE LLC

CN NUMBER: CN605576347

NAME: David J Tuckfield

EMAIL: david@allawgp.com

COMPANY: The AL Law Group, PLLC

ADDRESS: 12400 W HIGHWAY 71 Suite 350-150
BEE CAVE TX 78738-6517

PHONE: 5125762481

FAX:

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THE AL LAW GROUP

David J. Tuckfield
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Austin, Texas 78738

Partner
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Fax: (512) 366-9949

August 17, 2023

Via electronic delivery

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Laurie Gharis, Chief Clerk
TCEQ, MC-105
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(409) 833-8819 Fax
hoxfordiv@benoxford.com

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Finally, with respect to RTC 1, the ED states “an application for a Class I UIC permit must include a review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” As a landowner adjacent to the well bore property, and as a landowner of property that will be occupied by wastes from the US Ecology operation, Pipkin is rightfully concerned about both the horizontal and vertical waste migration. Pipkin therefore requests that the contested case hearing address the question of whether the application contains an adequate review of all artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).” Further, this should consider artificial penetrations that may be constructed in the future by Pipkin to access their pore space. Pipkin is also concerned and seeks review of the question of whether the Applicant demonstrated that the injection zone and interval are isolated from base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).

RTC 2: The ED stated “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” Tex. Water Code § 27.051(a)(2) states “that no existing rights, including, but not limited to, mineral rights, will be impaired.” This is the fundamental problem with the ED’s response and with the issuance of this permit. This application, if granted, impairs the Pipkin’s rights to use their property. Because waste has likely already migrated onto and will continue to migrate onto the Pipkin property, occupying pore space that Pipkin owns and has a right to use as they see fit, this statutory provision will be violated. The ED also completely fails to address the question of whether Tex. Water Code § 27.051(a)(7) is being violated (*i.e.* whether Applicant “owns or has made a

good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

The ED asserts that an application for a Class I UIC permit must (a) identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) depict the boundary(s) of the tract(s) of land upon which the facility is located, identify the areal size in acres, and locate and identify each injection well. (30 TAC §§ 305.45 and 331.121); and (c) provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).

Facility is a defined term that includes all contiguous land, and structures, other appurtenances, and improvements on the land, used for storing, processing, or disposing of waste including pre-injection units used for storage and processing waste to be injected into the injection well (30 TAC § 335.1(69)). Both the horizontal and vertical extent of the area where the liquid wastes are currently located and the areas where the waste will migrate are part of the Facility, yet Applicant has not correctly identified the entire area that will be occupied by the injected wastes as being part of the Pipkin property. This fundamental issue results in the following deficiencies: (a) The applicant did not properly identify the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45; (b) Applicant also did not adequately depict the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121); (c) Applicant did not adequately provide a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087); (d) Applicant did not include a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to a map that depicts the parcels of land that constitute the Facility and that are adjacent to the Facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

RTC 3: The ED states that “An application for a Class I UIC permit must confidently predict the waste fate and transport through the use of analytical and numerical models in accordance with 30 TAC § 331.42.” The ED completely fails to recognize in this response, however, that “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2),” since the right to use the pore space on the Pipkin property is being impaired. The ED also fails to address the question

of whether Tex. Water Code § 27.051(a)(7) is being violated (whether Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”).

RTC 4: The ED states that the Commission does not have jurisdiction to adjudicate civil causes of action. Pipkin does not disagree, but “an application for a Class I UIC permit must demonstrate that no existing rights will be impaired by use or installation of the injection well in accordance with Tex. Water Code § 27.051(a)(2).” As presented in this document, injection of waste by US Ecology has likely already impaired the Pipkin rights to the use of the pore space on their property, and additional injection of wastes, if permitted by TCEQ will further impair the Pipkin rights. Furthermore, Tex. Water Code § 27.051(a)(7) requires that Applicant “owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property or portions of the property where the waste injection well will be constructed”.

Issues to be addressed at the contested case hearing:

- 1) Whether any existing rights will be impaired by use or installation of the injection wells in accordance with Tex. Water Code § 27.051(a)(2) as a result of the issuance of these permits.
- 2) Whether the Applicant correctly identified the proposed injection interval in accordance with 30 TAC §§ 331.62, 331.63, and 331.121?
- 3) Whether the Applicant correctly identified the facility as defined by 30 TAC § 335.1(69).
- 4) Whether the Applicant has a legal right to inject liquids that will occupy pore space that they do not own.
- 5) Whether the Applicant has a legal right to use the facility.
- 6) Whether the application contains an adequate review of all current and potential future artificial penetrations within the area of review that could provide a conduit for upward fluid migration. (30 TAC §§ 331.62, 331.63 and 331.121(c)(4)).
- 7) Whether the applicant demonstrated that the injection zone and interval are isolated from the base of the USDW by impermeable strata in accordance with 30 TAC § 331.121(a)(4)(A)-(C).
- 8) Whether Applicant properly identified the owner(s) of the real property where the UIC facility is located or is proposed to be located in accordance with 30 TAC § 305.45.
- 9) Whether Applicant adequately depicted the boundary(s) of the tract(s) of land upon which the facility is located (30 TAC §§ 305.45 and 331.121).
- 10) Whether the Applicant owns or has made a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through

eminent domain, the property or portions of the property where the waste injection well will be constructed in accordance with Tex. Water Code § 27.051(a)(7).

- 11) Whether Applicant adequately provided a legal description of the tract or tracts of land upon which the facility is or will be located. (30 TAC § 305.45 and Tex. Health & Safety Code § 361.087).
- 12) Whether Applicant included a complete and accurate mailing list of the facility owner(s), facility mineral interest owner(s), adjacent landowners, and adjacent mineral interest owners cross-referenced to map depicts the parcels of land that constitute the facility and that are adjacent to the facility. (30 TAC §§ 39.413(1), 39.651(c) and (d), 281.5(6), and 305.45(a)(6)).

Pipkin is an affected person for the following reasons:

- (1) Pipkin's interest is one that is protected by the law under which the application will be considered. Specifically, as a landowner whose land is adjacent to the land containing the well bores and as an owner of the land that will contain a portion of the injection interval, Pipkin has rights (to use its land without interference) that will be impaired in violation of Tex. Water Code § 27.051(a)(2). Pipkin's rights are also protected by Tex. Water Code § 27.051(a)(7), which requires Applicant to own or have a good faith claim to, or has the consent of the owner to utilize, or has an option to acquire, or has the authority to acquire through eminent domain, the property, or portions of the property where the waste injection well will be constructed. 30 TAC §55.203(c)(1).
- (2) Pipkin owns property that is adjacent to the land containing the injection wells and is an owner of the pore space that already likely contains and will definitely contain a larger portion of the injected waste. 30 TAC §55.203(c)(2).
- (3) A reasonable relationship exists between the interest claimed and the activity regulated. The injection of waste is what gives rise to Pipkin's concerns regarding its rights to use its own property, including the pore space, and to protect its property from contamination. 30 TAC §55.203(c)(3).
- (4) **Exhibit 1** demonstrates that the regulated activity will affect the Pipkin's use of its property. 30 TAC §55.203(c)(4).
- (5) As described in this letter and **Exhibit 1**, the regulated activity will very likely have an impact on the use of the Pipkin property. 30 TAC §55.203(c)(5).
- (6) Pipkin has timely submitted comments on the application that were not withdrawn. 30 TAC §55.203(c)(6).

Sincerely,

/s/ David Tuckfield

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EXHIBIT 1



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P.O. Box 1991
Austin, TX 78767-1991
(512) 656-9445
www.SQEnv.com

17 August 2023

Mr. David J. Tuckfield
The AL Law Group, PLLC
12400 Highway 71 West, Suite 350-150
Austin, TX 78738

Via Email: david@allawgrp.com

Re: Waste Disposal Well Evaluation Regarding Proposed TCEQ Permit Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349 and WDW350

Dear Mr. Tuckfield:

We have had a chance to look at some of the information available regarding the modifications of injection wells and additional injection wells being proposed by US Ecology Winnie, LLC approximately 9.7 miles southeast of Winnie, Texas and just south of the Big Hill Strategic Petroleum Reserve. We have been asked to evaluate what impact, if any, these wells would have on the adjacent Pipkin Ranch property.

Figure 1 shows the locations of the three existing disposal wells in relationship to the Big Hill Strategic Petroleum Reserve, the property owned by Pipkin entities, and the Big Hill Salt Dome. The approximate boundaries of the U.S. Ecology property are shown in yellow, the approximate boundaries of the Big Hill Strategic Petroleum Reserve are shown in black and the approximate Pipkin property boundaries are shown in green. Also shown on the figure is a red line showing the location of a cross section and the Big Hill Salt Dome contours shown in purple. In the upper right-hand corner of Figure 1, we have provided a cross section through the salt dome and have projected the three existing wells onto the cross section. The "Current Injection Interval" is illustrated on the cross section for wells WDW344 and WDW345 (gray highlighting) and the "Proposed Injection Interval" is illustrated on the cross section in light orange.

Figure 2 provides information regarding the calculated extent of the waste plume based on the waste that has already been injected for wells WDW344 and WDW345. These distances are shown with dashed white circles around each of the wells. The calculated extent of the plume for wells WDW344, WDW345 and WDW346 are shown with dashed orange circles. The distances used for the "Calculated Current Waste Plume" and the "Calculated 30-Year Waste Plume" are based on the Executive Director's Response to Public Comment No. 3 (dated 7 July 2023).

Figure 3 below shows these distances for WDW344. The white circle has a radius of 1,858 ft, which is the calculated distance that the waste plume from that well has already travelled, and the orange circle has a radius of 4,587 ft which is what the applicant has calculated as the plume distance after 30 years of waste injection. Well WDW345 is only approximately 640 ft from the Pipkin property on the south side of the US Ecology property, and wells WDW344 and WDW 346 are only approximately 950 ft from the Pipkin property on the west side of the US Ecology property.

While a specific direction that the waste has traveled (and will travel) was not provided in the response, we have shown the waste plume distances with circles. For the current waste plume around WDW344, unless all of the fluids migrated directly east (which is highly unlikely due to the presence of the salt dome northeast of the well), the wastes have already left the US Ecology property from this well. Based on the projected distance after 30 years, the wastes will have migrated well beyond the boundary of the US Ecology property and extending up to around 3,640 feet (approximately 0.7 miles) beneath the Pipkin property. We have requested additional information from the Texas Commission on Environmental Quality (TCEQ) regarding the distance calculations for the waste plume, which we are assuming will be in the application.

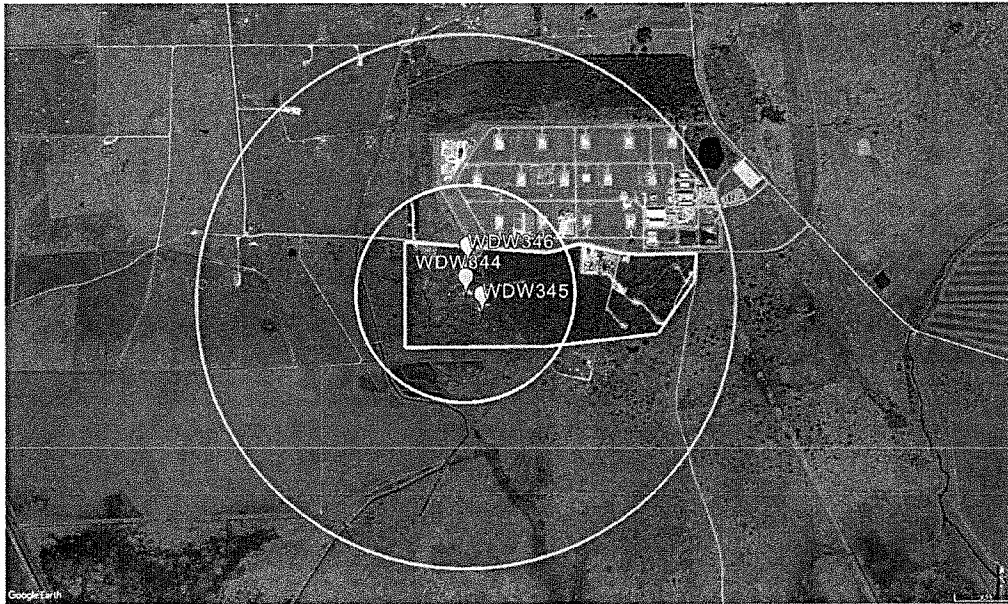


Figure 3 – Waste Plume Distances for Waste Disposal Well WDW344.

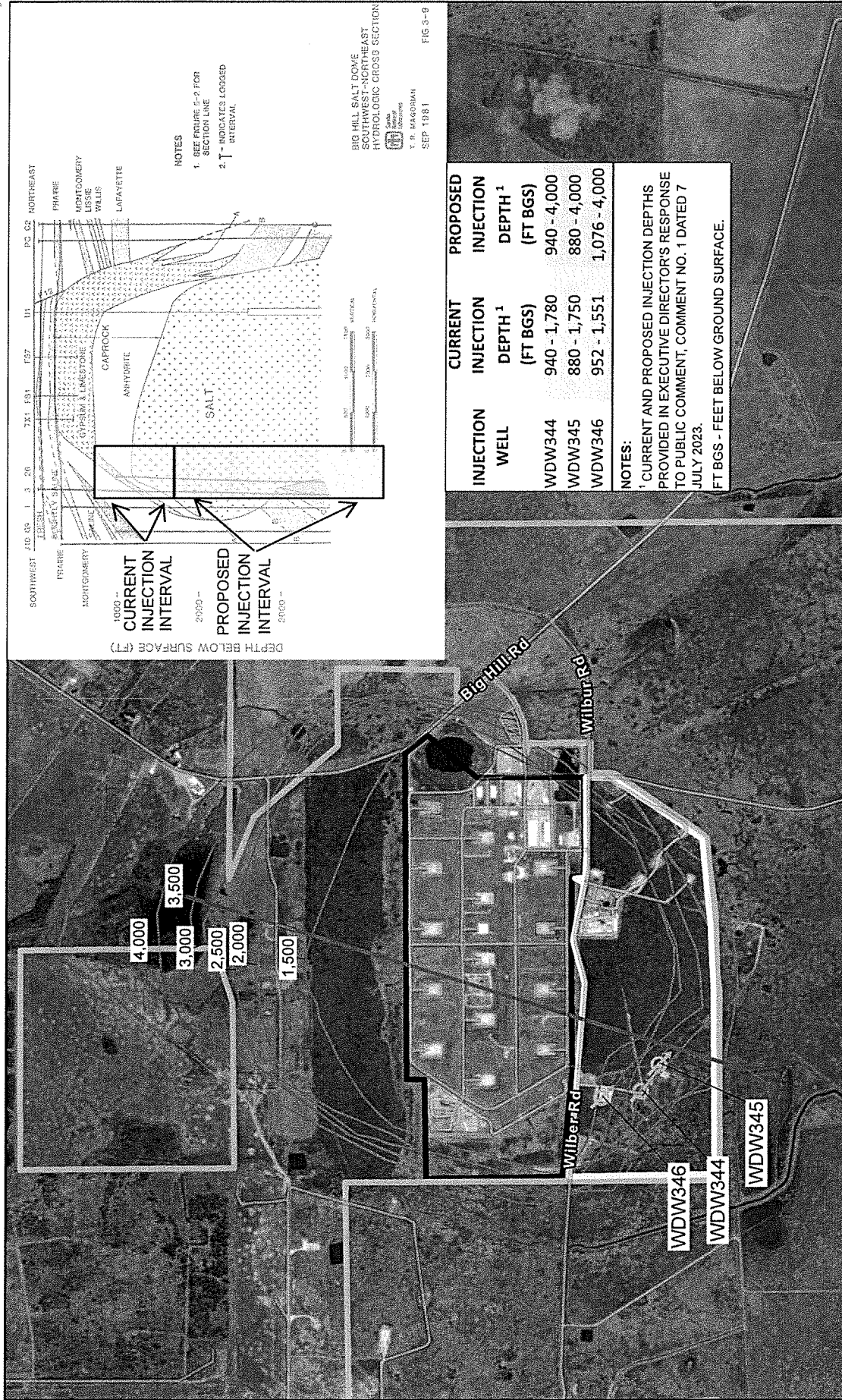
My understanding is that the Pipkin entities own the surface, water rights and mineral rights for the properties surrounding the US Ecology and Big Hill Strategic Petroleum Reserve properties. Based on the available information and as illustrated on Figures 2 and 3, the fluids from injection wells WDW344 and WDW345 have most likely already migrated beyond the US Ecology boundary to the south, west and/or north and additional injections will result in further incursions onto property not owned by US Ecology.

The issue that was attempting to be raised in Public Comment No. 1 was that by authorizing the additional injection, TCEQ is essentially giving Pipkin-owned pore space to US Ecology for their use. By allowing continued injection of fluids which will occupy pore space on the Pipkin property, this pore space is then not available to the Pipkin entities for their use. The pore space beneath the Pipkin property has value and does not belong to US Ecology.

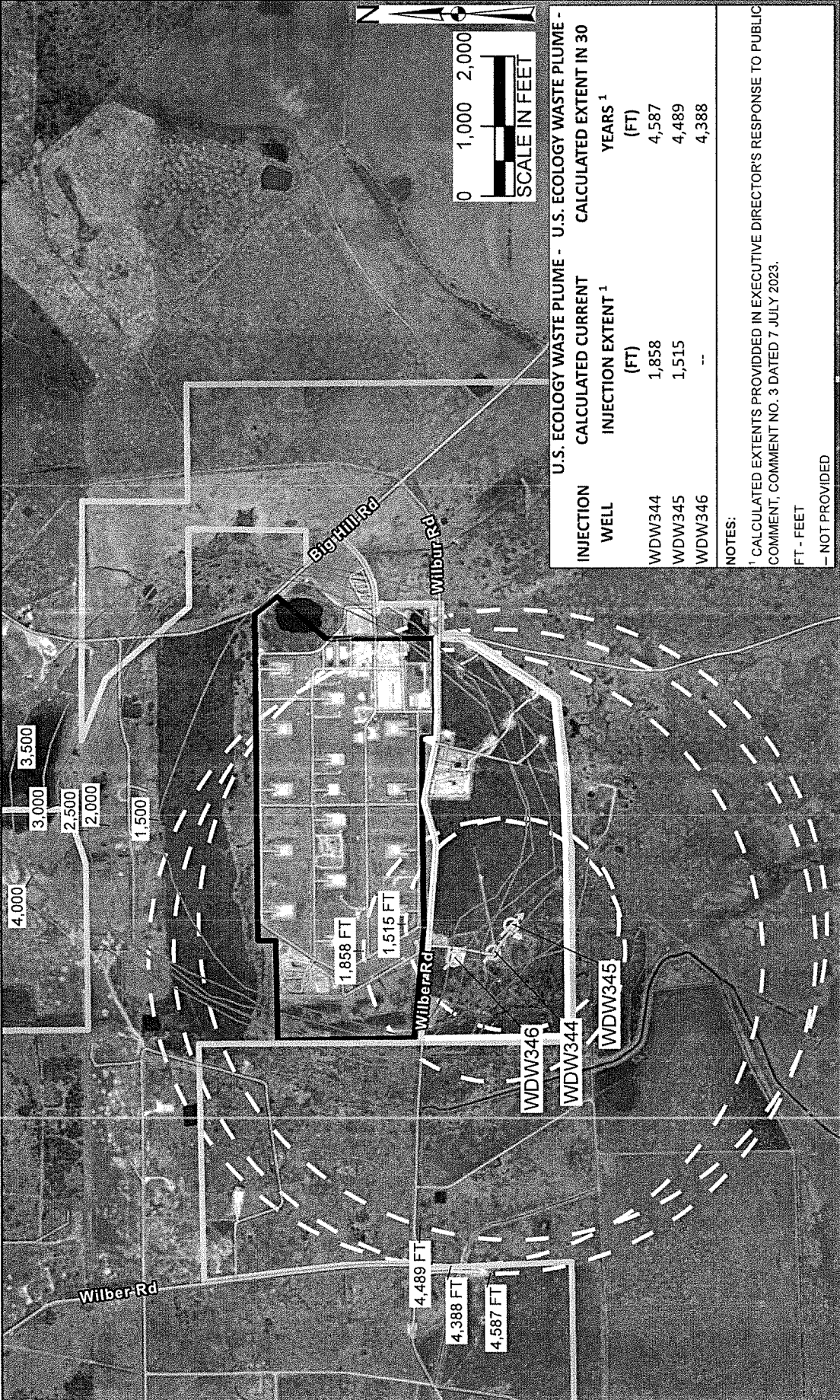
Please let me know if you have any questions or comments regarding this information. I can be reached at: 512-656-9445, or S.Litherland@sqenv.com.

Sincerely,
SQ Environmental, LLC

Susan T. Litherland, P.E.
Principal



SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.



U.S. ECOLOGY WASTE PLUME - U.S. ECOLOGY WASTE PLUME -				
INJECTION WELL	CALCULATED CURRENT INJECTION EXTENT ¹ (FT)	CALCULATED EXTENT IN 30 YEARS ¹ (FT)		
WDW344	1,858	4,587		
WDW345	1,515	4,489		
WDW346	--	4,388		

NOTES:
¹ CALCULATED EXTENTS PROVIDED IN EXECUTIVE DIRECTOR'S RESPONSE TO PUBLIC COMMENT, COMMENT NO. 3 DATED 7 JULY 2023.
 FT - FEET
 -- NOT PROVIDED

SQ Environmental, LLC

SCALE: 1" = 2,000 FEET

FIGURE 2

WASTE PLUME INJECTION EXTENT

THE PIPKIN RANCH
WINNIE, TX JEFFERSON CO

DATE: AUGUST 2023

PN: 1220.001.001

LEGEND

PIPKIN PROPERTY (IES) BOUNDARY, APPROXIMATE

U.S. ECOLOGY PROPERTY BOUNDARY, APPROXIMATE

STRATEGIC PETROLEUM RESERVE

- U.S. DEPARTMENT OF ENERGY BOUNDARY, APPROXIMATE

BIG HILL SALT CONTOUR (FT BGS)

ACTIVE INJECTION WELL

U.S. ECOLOGY WASTE PLUME - CALCULATED CURRENT EXTENT

U.S. ECOLOGY WASTE PLUME - CALCULATED EXTENT IN 30 YEARS

SOURCE: IMAGE COURTESY OF MAXAR DATED 20 APRIL 2021. BIG HILL SALT DOME CONTOURS AND GEOLOGIC CROSS-SECTION SOURCED FROM STRATEGIC PETROLEUM RESERVE GEOLOGICAL SITE CHARACTERIZATION REPORT BIG HILL SALT DOME DATED SEPTEMBER 1981.