

DOCKET NO. 2025-0753-MIS

PETITION OF PIPKIN RANCH	§	BEFORE THE
HOLDINGS, LP TO REVOKE U.S.	§	
ECOLOGY WINNIE LLC'S TCEQ	§	TEXAS COMMISSION ON
PERMIT NOS. WDW344, WDW345,	§	
WDW346, WDW347, WDW348, WDW349,	§	
AND WDW350	§	ENVIRONMENTAL QUALITY

**U.S. ECOLOGY WINNIE LLC'S RESPONSE TO PIPKIN RANCH HOLDINGS, LP'S  
PETITION TO REVOKE**

**TO THE HONORABLE COMMISSIONERS OF THE TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY:**

COMES NOW, U.S. Ecology Winnie LLC ("U.S. Ecology" or "Applicant"), applicant for renewal and amendment of seven nonhazardous commercial Class I Underground Injection Control ("UIC") Permits, Nos. WDW344, WDW345, WDW346, WDW347, WDW348, WDW349, and WDW350 (collectively, the "Permits"), by and through its attorney, and submits this, its response to the Pipkin Ranch Holdings, LP Petition to Revoke ("Response"), and respectfully shows the following:

**I. FACILITY DESCRIPTION**

U.S. Ecology operates deep waste disposal wells for the subsurface injection of industrial nonhazardous waste and municipal landfill leachate at 26400 Wilber Road, Winnie, Texas 77665, Jefferson County (the "Facility").<sup>1</sup> The Facility has been in operation for approximately twenty-five (25) years. *U.S. Ecology has a "High" Compliance History rating of 0.0 (0.0 to 0.1 being "High" or "Above Satisfactory," 0.1 to 55.00 being "Satisfactory," and greater than 55.00 being "Unsatisfactory.")*

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<sup>1</sup> Wells WDW344 through WDW346 are currently constructed and operating. WDW347 through WDW350 are currently permitted but not yet constructed. U.S. Ecology also currently owns and operates a commercial nonhazardous industrial solid waste and municipal solid waste storage and processing facility at the site pursuant to IHW Permit No. 39098.

## II. PROCEDURAL BACKGROUND

### A. U.S. Ecology's Application.

Prior to the expiration date of the Permits, U.S. Ecology applied to the Texas Commission on Environmental Quality ("TCEQ") for the basic renewal of the Permits without any amendments. During the technical review of the renewal application, the Executive Director's ("ED") technical review staff requested that the injection zone intervals be expanded and the waste injection pressures be altered, resulting in the renewal application becoming an amendment as well. These amendments, if issued, will change the base of the injection zone from 1,765 to 4,000 feet below ground level ("BGL") for all wells, lower the top of the injection zone for well WDW346 from 952 to 1,076 feet BGL, and change the Maximum Allowable Surface Injection Pressure for wells WDW346 through WDW350 to allow a range of maximum pressures based on the varying specific gravity of the injected fluid (the "Application"). *The Application does not seek an increase in waste injection volumes from what is in the current Permits.*

U.S. Ecology filed its Application on May 28, 2019, and the ED declared it administratively complete on August 15, 2019. The Notice of Receipt of Application and Intent to Obtain Permit was published on September 7, 2019 in the *Beaumont Enterprise* in Jefferson County, Texas. The ED completed the technical review of the Application and issued the Final Draft Permit on March 9, 2023. The Notice of Application and Preliminary Decision was published on April 12, 2023 in the *Beaumont Enterprise* in Jefferson County, Texas.

The comment period ended on May 12, 2023, and the ED filed a Response to Comments with the Office of the Chief Clerk ("OCC") on July 11, 2023. The hearing request period ended on August 17, 2023, and requests were received by two Pipkin family members and Pipkin

Ranch Holdings, LP (collectively, the “Pipkins”). The Commissioners considered these requests at the February 21, 2024 Open Meeting, and issued the Interim Order on February 27, 2024, finding that the Pipkins were the only affected parties and referring the following singular issue to the State Office of Administrative Hearings (“SOAH”):

“Whether any existing rights, including, but not limited to, mineral rights, will be impaired by U.S. Ecology’s injection of industrial and municipal nonhazardous waste in accordance with Texas Water Code § 27.051(a)(2).”

**B. The Pipkins’ Petition to Revoke.**

During the balance of 2024 and the beginning of 2025, settlement negotiations were sporadically but continuously being undertaken by the parties to the contested case hearing. The TCEQ Legal Division, OCC, and Alternative Dispute Resolution (“ADR”) office were kept apprised of those ongoing settlement discussions between the parties. At no point during this time interval did the Pipkins communicate to U.S. Ecology, the TCEQ Legal Division, OCC, nor the ADR office, that they were no longer interested, or wished to discontinue, settlement discussions, or request that OCC proceed with the SOAH docketing process. During that time interval, OCC also did not request that U.S. Ecology file the technically complete, bates-stamped copy of the Application.

On April 16, 2025, the Pipkins provided U.S. Ecology with a courtesy email copy of a “Notice of Filing of Petition to Revoke” pursuant to 30 Tex. Admin. Code § 305.66(e). U.S. Ecology received the required certified mail notice on April 21, 2025.

The same day that U.S. Ecology received the courtesy email copy of such notice (April 16, 2025), U.S. Ecology called the Pipkins’ attorney to inquire about the sudden and unexpected email stating that they intended to file a Petition to Revoke (the “Petition”). That is the point in

time at which the Pipkins first asserted they wished to cease settlement discussions and proceed to a contested case hearing. Following that conversation, U.S. Ecology promptly assembled and provided OCC the required administrative documentation (consisting of sixteen digital files and 5,415-pages, representing the totality of the technically complete and bates-stamped application) and requested that it be docketed for hearing. In fact, OCC received the technically complete and bates-stamped Application from U.S. Ecology on April 28, 2025, *nine (9) days before the official filing of the Petition with TCEQ*. The next day (April 29, 2025), the Pipkins were informed by U.S. Ecology that the technically complete, bates-stamped Application had been filed with OCC (letter attached as Exhibit A). Despite U.S. Ecology's prompt action, the Pipkins mailed their Petition to the ED on May 7, 2025. OCC then provided SOAH with the Interim Order and docket request form on May 9, 2025.

### **III. RESPONSE**

#### **A. The Alleged Delay was Due to U. S. Ecology's Good Faith Effort to Settle.**

In conjunction with the Pipkins' administrative protest of the Application and the Petition, they are also pursuing civil litigation against U.S. Ecology in Jefferson County District Court. After initial settlement discussions began shortly after the signing of the Interim Order, the Pipkins asserted that they would only entertain a "global" settlement offer which would cover both the administrative and civil disputes, with the civil claims being the primary driving point of the combined negotiations. Understandably so, as civil lawsuits of this ilk are a much lengthier process than administrative disputes, the global settlement discussions were therefore more drawn out than a typical administrative settlement discussion. The entire time, U.S. Ecology was in communication with TCEQ's ADR and OCC offices providing updates intermittently. An example of email communications includes the following:

- June 20, 2024 – U.S. Ecology informs TCEQ mediator Kyle Lucas that settlement is possible, Kyle Lucas states that docketing efforts are paused, and OCC indicates support;
- August 13 and 19, 2024 – U.S. Ecology follows up on the possibility of settlement and the Pipkins state that settlement will be driven by the civil matter but don't oppose negotiations;
- March 6 and 10, 2025 – Kyle Lucas checks in on the status and informs U.S. Ecology that everything is okay and that OCC will continue to hold back the contested case hearing if the parties are in communication;
- April 16, 2025 – the Pipkins provide U.S. Ecology with notice of intent to file the Petition;
- April 25, 2025 – U.S. Ecology initiates filing the technically complete, bates stamped Application; and
- May 7, 2025 – the Pipkins file the Petition.

In addition to these documented communications, several phone calls with both the Pipkins and TCEQ occurred.

As TCEQ's general policy is to support mediation and settlement, it is common for OCC to hold off docketing a matter while settlement discussions are actively ongoing. This helps lighten the workload of two agencies which have a large number of matters and cases at any given time. This is not only an internal policy but is written into TCEQ's rules. Specifically, 30 Tex. Admin. Code § 40.1 states that "[i]t is the commission's policy to encourage the resolution and early settlement of all contested matters through voluntary settlement procedures. It is the affirmative responsibility of each commission employee to effectuate this policy." As such,

during the above-referenced discussions and updates to TCEQ, OCC held off initiating the docketing process for this matter. ***This was due to U.S. Ecology's good faith effort and interest in settlement which would benefit both parties; there was no delay tactic.***

The Pipkins appeared on board with settlement negotiations, thus essentially abating the process of starting a contested case hearing, during the entire time that U.S. Ecology allegedly failed to follow the process required to docket the proceeding with SOAH. In a seemingly bad faith effort to circumvent the administrative process, the Pipkins chose to resort to filing the Petition and pursuing this extreme and generally unheard-of method of not only denying but revoking a permit. Rather, an appropriate action would be to simply inform U.S. Ecology that they were no longer interested in settling and request that U.S. Ecology proceed with commencing the contested case hearing process. U.S. Ecology would have promptly complied with (and ultimately did comply with) such a request. However, the Pipkins never informed U.S. Ecology that they were done discussing settlement and that they wished to proceed with the contested case hearing.

It wasn't until U.S. Ecology received advance notification via email of the Pipkins' intent to file the Petition that U.S. Ecology became aware of the fact that settlement discussions were no longer viable, which the Pipkin attorney expressed after U.S. Ecology called to discuss the Petition the same day that notice was received. Furthermore, after receiving notice of intent to file the Petition, U.S. Ecology filed the required administrative documents with OCC prior to the actual filing of the Petition, and provided the Pipkins with the letter included as Exhibit A. Even though U.S. Ecology promptly complied with the Pipkins' request to set the matter for a contested case hearing, the Pipkins still chose to file the Petition, creating additional, unnecessary work for TCEQ.

For this reason alone, the Commission should deny the Petition and allow the matter to proceed with the natural order of process – by continuing with the contested case hearing, *which has already been set for a preliminary hearing on September 23, 2025.*

**B. The Relief Requested is Not Supported by Rule or Statute.**

Even if the Commission finds that the Pipkins are correct in their assertion that U.S. Ecology should have provided OCC with the technically complete, bates stamped Application within ten (10) days of signing the Interim Order, the remedy is not the revocation of U.S. Ecology's Permits. While the rules are silent on the remedy, the most logical response is to request the filing of the Application and docket the matter with SOAH. This is particularly true when U.S. Ecology believed it was engaged in good faith settlement discussions and promptly completed both actions of filing the technically complete, bates stamped Application and requesting it be docketed at SOAH.

There are, however, rules on revocations generally. Tex. Water Code § 7.302, which applies to permits under Chapter 27 (injection wells), provides ten situations in which the Commission may revoke a permit:

- (1) violation of a permit condition and revocation “is necessary in order to maintain the quality of water or ... air... or to otherwise protect human health and the environment...”;
- (2) “having a record of environmental violations in the preceding five years...”; and
- (3) “causing a discharge, release, or emission contravening a pollution control standard set by the commission or ... the intent of a statute or rule...”;

- (4) “including a material mistake in a ... permit issued under Chapter 382 ... or making an inaccurate statement in establishing an emission standard or other term...”;
- (5) “misrepresenting or failing to disclose fully all relevant facts in obtaining a permit...”;
- (6) “...being indebted to the state...”;
- (7) “...failing to ensure that the management of the permitted facility conforms or will conform to the statutes and rules...”;
- (8) “the permit is subject to cancellation or suspension under Section 26.084” (relating to water quality control);
- (9) “abandoning the permit or operations under the permit”; or
- (10) “the commission finds that a change in conditions requires elimination of the discharge authorized.”

Additionally, Tex. Admin. Code § 305.66(f) provides the following reasons why the Commission may revoke a permit:

- (1) “the permit holder has a record of environmental violations in the preceding five years at the permitted site;
- (2) the applicant has a record of environmental violations in the preceding five years at any site owned, operated, or controlled by the applicant;
- (3) the permit holder or applicant made a false or misleading statement in connection with an original or renewal application, either in the formal application or in any other written instrument relating to the application submitted to the commission, its officers, or its employees;



- permit holder or applicant made a false or misleading statement in connection with an original or renewal application, either in the formal application or in any other written instrument relating to the application submitted to the commission, its officers, or its employees;
- (4) the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by Title 5, Sanitation and Environmental Quality, of the Texas Health and Safety Code (Vernon 1991) or by a rule of the commission; [or]
- (5) the permit holder or applicant is unable to ensure that the management of the hazardous waste management facility conforms or will conform to this title and the rules of the commission.”

Tex. Admin. Code § 305.66(g) further states that the Commission must first find that one of the following has occurred before revoking a permit:

- (1) “that a violation or violations are significant and that the permit holder or applicant has not made a substantial attempt to correct the violations; or
- (2) that the permit holder or applicant is indebted to the state for fees, payment of penalties, or taxes imposed by Title 5, Sanitation and Environmental Quality, of the Texas Health and Safety Code (Vernon 1991) or by rule of the commission” before revoking a permit.”

***Notably, none of these statutory or rule-based prerequisites exist in this proceeding.***

If the Commission was intended to have blanket discretion to revoke permits for any minor, non-environmental rule misstep, the reasons for which the Commission can revoke a

permit would not be so clearly delineated, and none of these bases are even remotely related to the Pipkins' alleged justification.

Typically, if a facility is out of compliance with the rules, regulations, or its permit, TCEQ will issue Notices of Violations, Notices of Enforcements, and Enforcement Orders to achieve compliance before resorting to revoking a permit.<sup>2</sup> Thus, even facilities that may be out of environmental compliance are given opportunities to correct the violation. A mere administrative misstep should be given no less opportunity. In this case, U.S. Ecology has already resolved the alleged violation. Furthermore, and as previously discussed above herein, U.S. Ecology has a stellar "High" compliance history and is an ongoing business which provides a much-needed service to various industries in Southeast Texas.

For these additional reasons, the Commission should deny the Petition and allow the matter to proceed with the contested case hearing, *which has already been set for a preliminary hearing on September 23, 2025.*

**C. The Cited Rule that is the Basis of the Petition Applies Only to Hazardous Waste Facilities. The U.S. Ecology Facility is Not a Hazardous Waste Facility.**

As support for revocation of U.S. Ecology's permits, the Pipkins state that the Permits should be revoked under Tex. Admin. Code § 305.66(f)(5), claiming that U.S. Ecology is "unable to ensure that the management of the hazardous waste management facility conforms or will conform to this title and the rules of the commission." *The U.S. Ecology Facility is not a hazardous waste facility, and its renewal and amendment Application does not propose any change to that classification. As the Petition itself states, this subsection of the rules is only*

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<sup>2</sup> See TCEQ's webpage titled "The Enforcement Process: From Violations to Actions" for "...a brief overview of the typical phases of action that can occur when environmental violations are found."  
<https://www.tceq.texas.gov/compliance/enforcement/process.html>.

*applicable to hazardous waste facilities.* The fact is that the Pipkins have no legal basis to support the relief requested. Revocation is simply not an appropriate remedy for their claim.

The Pipkins also cite to Tex. Admin. Code § 305.63(a)(4), claiming that U.S. Ecology is “... using the Renewal Rule to continue operating without being subject to the required contested case hearing.” This rule is also inapplicable. It only applies to a permit renewal application that was declared administratively complete before September 1, 1999 and is thus a similarly misguided allegation.

For these additional reasons, the Commission should deny the Petition and allow the matter to proceed with the contested case hearing, *which has already been set for a preliminary hearing on September 23, 2025.*

#### **D. The Petition Argues a Moot Point.**

As stated at the outset of this Response, U.S. Ecology filed the technically complete, bates stamped Application with OCC twelve (12) days after receiving notice of intent to file the Petition (which is the same time that U.S. Ecology was told that settlement negotiations had ended) and nine (9) days before the filing of the Petition. OCC submitted the Interim Order and the docket request form to SOAH on May 9, 2025, and a preliminary hearing was set for September 23, 2025. Thus, this matter is progressing quickly to be heard at a contested case hearing, and the Pipkins’ arguments for revoking U.S. Ecology’s Permits, however flawed, are moot points.

For this additional and final reason, the Commission should deny the Petition and allow the matter to proceed with the contested case hearing, *which has already been set for a preliminary hearing on September 23, 2025.*

### **III. CONCLUSION AND PRAYER**

WHEREFORE, PREMISES CONSIDERED, U.S. Ecology respectfully requests that the Commission deny the Pipkins' Petition to Revoke and allow the Permits to continue on with the contested case hearing currently set for a preliminary hearing on September 23, 2025.

Respectfully submitted,

**LLOYD GOSSELINK**  
**ROCHELLE & TOWNSEND, P.C.**  
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(512) 322-5800

BY:   
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**ATTORNEYS FOR APPLICANT**  
**U.S. ECOLOGY WINNIE LLC**

**DOCKET NO. 2025-0753-MIS**  
**CERTIFICATE OF SERVICE**

I hereby certify that on this the 20th day of June, 2025, a true and correct copy of the foregoing Applicants' Response to Petition to Revoke was served on the following individuals by electronic mail, certified mail (return receipt requested), and/or hand delivery.



---

DUNCAN C. NORTON

**FOR THE EXECUTIVE DIRECTOR:**

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**Attorney for the Pipkin Family and Pipkin  
Ranch Holdings, LP**

**Courtesy Copy to the ALTERNATIVE  
DISPUTE RESOLUTION:**

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Texas Commission on Environmental Quality  
Alternative Dispute Resolution (MC-222)  
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Tel: (512) 239-0687  
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# EXHIBIT A

Mr. Norton's Direct Line: (512) 322-5884  
Email: [dnorton@lglawfirm.com](mailto:dnorton@lglawfirm.com)

April 29, 2025

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

**VIA ELECTRONIC TRANSMISSION**

Dear Mr. Tuckfield:

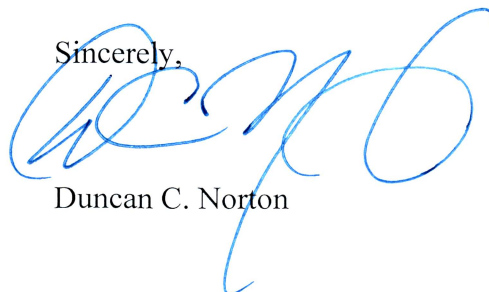
We have received your April 16, 2025 letter providing notice of the Pipkin Family's intention to file a Petition to Revoke US Ecology Winnie, LLC's ("US Ecology") Texas Commission on Environmental Quality ("TCEQ") Permit Nos. WDW344 through WDW450. For your information, US Ecology has submitted the sixteen file, 5415 page, technically complete, and bates-stamped version of its Application for Renewal of and Amendment to Permit Numbers WDW344 through WDW450 to the TCEQ. Two copies plus a flash drive of the same are on file with the Office of the Chief Clerk ("OCC").

As you are aware, for the previous several months, US Ecology has been in periodic settlement discussions with your client in an attempt to settle both the TCEQ matter and the related lawsuit filed against US Ecology in Jefferson Co. Dist. Ct. as one combined negotiation. We take your April 16, 2025 letter as a clear indication that your client no longer wishes to pursue such a settlement. Therefore, in light of the protestant/plaintiff Pipkin Family's decision to forgo any further settlement negotiations, US Ecology is planning on moving forward with preparations for the contested case hearing. It is our understanding that the TCEQ OCC is proceeding with the SOAH docketing step. As such, a filing of the proposed Petition to Revoke would argue a moot point and would present TCEQ with unnecessary additional paperwork and effort on a matter that should be resolved at SOAH.

Please note that I have cc'd Don Redmond, the attorney representing the TCEQ Executive Director in this matter, and Kyle Lucas, the attorney who conducts TCEQ mediations, on this letter as the former is a necessary party to any potential settlement agreement, and the latter has been in contact with the parties in this matter in an effort to support settlement. We are also cc'ing the OCC.

Should you have any questions, my contact information is provided in the header of this letter.

Sincerely,



Duncan C. Norton

DCN/ldp  
9013804.4

April 29, 2025

Page 2

cc: Don Redmond, TCEQ Environmental Law Division  
Kyle Lucas, TCEQ Advanced Dispute Resolution Division  
Laurie Gharis, TCEQ Chief Clerk



**From:** [Laura DiPasquale](#)  
**To:** [david@allawgp.com](mailto:david@allawgp.com)  
**Cc:** [Don Redmond](#); [Kyle Lucas](#); [Laurie Gharis](#); [Duncan Norton](#); [Mattie Neira](#); [Joe Jimenez](#)  
**Subject:** Response to D. Tuckfield Notice of Intention to File Petition to Revoke 2025.04.28(9013804.5)  
**Date:** Tuesday, April 29, 2025 11:00:14 AM  
**Attachments:** [image522101.png](#)  
[image849990.png](#)  
[image306493.png](#)  
[image950473.png](#)  
[image878971.png](#)  
[Response to D. Tuckfield Notice of Intention to File Petition to Revoke 2025.04.28\(9013804.5\).pdf](#)

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Please see attached letter from Duncan Norton.

Thank you, Laura



**LAURA DIPASQUALE**

Secretary

512-322-5862 Direct

Lloyd Gosselink Rochelle & Townsend, P.C.

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\*\*\*\*ATTENTION TO PUBLIC OFFICIALS AND OFFICIALS WITH OTHER INSTITUTIONS SUBJECT TO THE OPEN MEETINGS ACT \*\*\*\*

A "REPLY TO ALL" OF THIS EMAIL COULD LEAD TO VIOLATIONS OF THE TEXAS OPEN MEETINGS ACT. PLEASE REPLY ONLY TO LEGAL COUNSEL.

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Mr. Norton's Direct Line: (512) 322-5884  
Email: [dnorton@lglawfirm.com](mailto:dnorton@lglawfirm.com)

April 29, 2025

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

**VIA ELECTRONIC TRANSMISSION**

Dear Mr. Tuckfield:

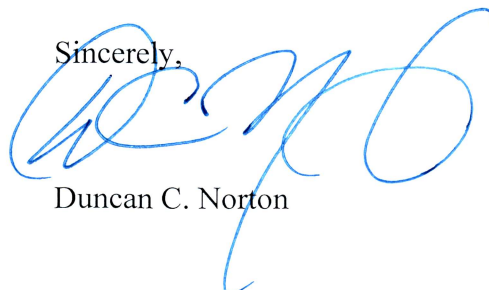
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Should you have any questions, my contact information is provided in the header of this letter.

Sincerely,



Duncan C. Norton

DCN/ldp  
9013804.4

April 29, 2025

Page 2

cc: Don Redmond, TCEQ Environmental Law Division  
Kyle Lucas, TCEQ Advanced Dispute Resolution Division  
Laurie Gharis, TCEQ Chief Clerk