

Brooke T. Paup, *Chairwoman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



Garrett T. Arthur, *Public Interest Counsel*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 11, 2025

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

RE: **IN THE MATTER OF THE PETITION TO REVOKE U.S. ECOLOGY
WINNIE LLC'S TCEQ PERMIT NOS. WDW344, WDW345,
WDW346, WDW347, WDW348, WDW349, AND WDW350
TCEQ DOCKET NO. 2025-0753-MIS**

Dear Ms. Gharis:

Enclosed for filing is the Office of Public Interest Counsel's Response to the Petition to Revoke in the above-entitled matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheldon P. Wayne".

Sheldon P. Wayne, Attorney
Assistant Public Interest Counsel

cc: Mailing List

TCEQ DOCKET NO. 2025-0753-MIS

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

**OFFICE OF PUBLIC INTEREST COUNSEL'S
RESPONSE TO PETITION TO REVOKE**

COMES NOW, The Office of Public Interest Counsel (OPIC) at the Texas Commission on Environmental Quality (TCEQ) and files this Response to Petition to Revoke in the above-referenced matter and respectfully submits the following.

I. INTRODUCTION

US Ecology Winnie, LLC (US Ecology or Applicant) operates an existing commercial nonhazardous underground injection control (UIC) facility in Jefferson County located at 26400 Wilber Road, Winnie, 77665. US Ecology disposes of nonhazardous industrial solid waste and nonhazardous municipal solid waste by injection in three constructed UIC wells, WDW344, WDW345 and WDW346.

On May 28, 2019, US Ecology applied for renewal and major amendment of seven nonhazardous commercial Class I UIC Permits (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. If granted, the application, would authorize the continued operation of Class I injection wells WDW344,

WDW345, and WDW346 which are installed, and the construction and operation of Class I injection wells WDW347, WDW348, WDW349, and WDW350.

The application was declared administratively complete on August 15, 2019. The ED completed technical review of the application on March 9, 2023. The public comment period ended on May 12, 2023. The deadline for filing requests for a contested case hearing and requests for reconsideration of the ED's decision was August 17, 2023. At its February 21, 2024 Agenda Meeting, TCEQ considered the hearing requests filed concerning this application and by interim order dated February 27, 2024, found Grayson Eden Pipkin, Bruce Fletcher Pipkin, and Pipkin Ranch Holdings, LP qualified as affected persons and granted their hearing requests. As a result, the Commission ordered that a contested case hearing be held on the issue of "Whether any existing rights, including, but not limited to, mineral rights, will be impaired by US Ecology's injection of industrial and municipal nonhazardous waste in accordance with Texas Water Code (TWC) § 27.051(a)(2)."

II. SUMMARY OF PETITION TO REVOKE

On May 7, 2025, Pipkin Ranch Holdings, LLC's (Petitioner) transmitted to the ED the instant Petition, seeking Commission revocation of US Ecology's Permit Nos. WDW344 through WDW350, and it was filed with the Office of Chief Clerk on May 15, 2025.

Petitioner brings this Petition pursuant to 30 TAC § 305.66(f)(5), which provides:

the Commission may deny, suspend for not more than 90 days, or revoke an original or renewal permit if the commission finds after notice and hearing, that: 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.

The specific rule that Petitioner alleges US Ecology has violated is 30 TAC § 80.118(d)(1), which states that “the applicant shall provide two duplicates of the original application, including all revisions to the application, to the Chief Clerk for inclusion in the administrative record in the format and time required by the procedures of the commission, no later than...10 days after the Chief Clerk mails the commission order.”

Petitioner observes that according to this rule, the Applicant was required to forward the application materials to the Chief Clerk by March 11, 2024, but did not forward them until April 29, 2025. According to Petitioner, this has allowed US Ecology to take advantage of 30 TAC § 305.65(4),¹ which provides that “if renewal procedures have been initiated before the permit expiration date, the existing permit will remain in full force and effect and will not expire until commission action on the application for renewal is final.”

Petitioner argues that US Ecology is taking advantage of this rule to continue operations while its permit application is pending. Petitioner further contends that US Ecology has deliberately delayed filing the Application

¹ OPIC notes that Petitioner inadvertently cited to 30 TAC § 305.63(a)(4), which only applies to applications declared administratively complete on or before September 1, 1999. However, 30 TAC § 305.65(4) contains identical language, and applies to applications declared administratively complete on or after September 1, 1999. As such, OPIC includes citations to Section 305.65(4) in this Response.

materials with the Chief Clerk in order to delay the SOAH contested case hearing process, and, as a result, its permits should be revoked.

III. OPIC ANALYSIS

As a preliminary matter, and relevant here, a petition must be brought by a person affected by the issuance of a permit or other order of the commission.² OPIC finds that Petitioner qualifies as an affected person for purposes of this Petition. Petitioner owns property immediately adjacent to US Ecology. Furthermore, at the February 21, 2024 TCEQ Agenda meeting, the Commission previously considered Petitioner's hearing requests and found they qualified as affected persons by Commission order dated February 27, 2024.

As to Petitioner's allegation that US Ecology's permit should be revoked because it has deliberately delayed the contested case hearing process, OPIC cannot find that this contention can serve as the basis for permit revocation under the circumstances present here.

First, OPIC must observe that the rule under which the Petition has been brought appears to be inapplicable to the permits at issue here. Among other things, Section 305.66(f) allows the Commission to revoke an original or renewal permit. However, the subsection cited by Petitioner—Section 305.66(f)(5)—specifically applies only to a “hazardous waste management facility.” This term has been defined by rule to be “all contiguous land, including structures, appurtenances, and other improvements on the land, used for processing,

² 30 TAC § 305.64(i)

storing, or disposing of hazardous waste. The term includes...injection wells.”³

The US Ecology Facility is not a hazardous waste facility. The active permits held by US Ecology and their renewal applications are for nonhazardous industrial and municipal wastes and do not seek to authorize the injection of any hazardous waste. Therefore, OPIC is unable to find that the Petition states valid grounds upon which relief may be granted.

Second, assuming for the sake of argument that Section 305.66(f)(5) does apply to US Ecology’s Facility, OPIC cannot agree with Petitioner that Applicant’s delay in providing copies of its application to the Chief Clerk should result in revocation of its existing permits. Applicant has arguably violated 30 TAC § 80.118(d)(1), which requires an applicant to act no later than 10 days after the Chief Clerk mails the Commission order. The harm that Petitioner claims to have suffered by this violation is the delay in having its claims promptly heard by SOAH in a contested case hearing. However, OPIC is unpersuaded that the Applicant’s delay here demonstrates that US Ecology will be “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.”⁴

In its Response Brief, US Ecology points out that it has been operating the Facility for approximately 25 years and has a “High” compliance history rating of 0.0. Also, US Ecology explains that it was engaged in settlement negotiations with the Petitioner (the Pipkins) and was in communication with TCEQ’s Alternative

³ See 30 TAC § 305.2 (incorporating by reference definitions from Texas and Health Safety Code (THSC), Chapter 361); Definition found at: THSC § 361.003(13).

⁴ See 30 TAC § 305.66(f)(5).

Dispute Resolution program during this time. Its brief further states that it is common to postpone initiation of the docketing process to allow adequate time for settlement discussions at the Commission level. OPIC finds that the Facility's high compliance history rating demonstrates that it has a long record of operating in compliance with TCEQ rules and regulations. Additionally, the Applicant's delay in filing the required application materials by the deadline appears to be reasonably explained by its engagement in ongoing settlement negotiations. Finally, the rule is silent as to the effect of noncompliance with the ten-day deadline it imposes. Therefore, in OPIC's view, the Petition has not demonstrated that US Ecology's Facility is or will be unable to conform to TCEQ rules.

Further, Commission rules require that before revoking a permit, the Commission must find that: (1) violation(s) are significant and that the permit holder has not made a substantial attempt to correct the violations; or (2) the permit holder is indebted to the State for fees, payment of penalties, or taxes.⁵ The Petition does not allege that either of these conditions applies here, and OPIC cannot agree with Petitioner that the violation of 30 TAC § 80.118(d)(1) is significant enough to warrant permit revocation. The revocation rules appear to be more intended to apply to substantive environmental violations rather than non-conformity with procedural or administrative requirements. Additionally, US Ecology has made a substantial attempt to correct the violation—Applicant states in its Response Brief that on April 28, 2025 it filed the required application

⁵ See 30 TAC § 305.66(g)(1), (2).

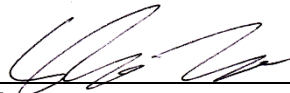
materials with TCEQ's Chief Clerk. At this time the SOAH docketing process has been completed, and after the Administrative Law Judge granted an agreed continuance, a preliminary hearing has now been set for September 23, 2025. Finally, the second basis for revocation is not applicable as US Ecology does not owe fees, penalties, or taxes to the State.

IV. CONCLUSION

In conclusion, OPIC finds that the rule cited by Petitioner as the basis for the instant Petition appears to be inapplicable to the permits at issue here. Further, even if the Petition's allegations are taken as true, they are not sufficient to warrant revocation of US Ecology's permits. Therefore, OPIC respectfully recommends that the Commission deny this Petition to Revoke.

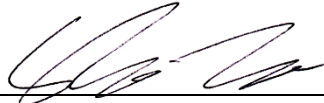
Respectfully submitted,

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By: 
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CERTIFICATE OF SERVICE

I hereby certify that July 11, 2025, the Office of Public Interest Counsel's Response to Petition to Revoke was filed with the Chief Clerk of the TCEQ and a copy was served on all persons listed on the attached service list via electronic mail, and/or by deposit in the U.S. Mail.

A handwritten signature in black ink, appearing to read 'Sheldon P. Wayne', is written over a horizontal line.

Sheldon P. Wayne

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