



RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

February 18, 2020

PORT OF CORPUS CHRISTI AUTHORITY
222 POWER STREET
CORPUS CHRISTI, TX 78401

Re: **ADMINISTRATIVELY DENIED**

Application for Permit for Private Landtreatment Facility
Harbor Island Station, Highway 361
Nueces County, Texas
RRC District 04, Corpus Christi
Application Control No.: CN-0403

Technical Permitting has reviewed the request, received on January 23, 2020, for a permit to landtreat soils contaminated with petroleum hydrocarbons excavated from a former Port of Corpus Christi Authority (PCCA) remediation site. The location of the proposed facility is in an area unsuitable for the processing and permanent interment of oil and gas waste; therefore, the application is hereby **administratively denied**.

Evaluating factors such as the location within a coastal natural resource area, the proximity to wetlands, the shallow groundwater, and the soil composition, indicates the proposed facility location is not a viable option for the landspreading of oil and gas waste. Technical Permitting has determined that permit issuance may cause or allow pollution to surface or subsurface waters of the state.

According to Texas Administrative Code Title 16, Part 1, Chapter 3.8 (Statewide Rule 8) (b): *"No Pollution. No person conducting activities subject to regulation by the commission may cause or allow pollution of surface or subsurface water in the state."*

According to Statewide Rule 8 (a)(28), "pollution" is defined as:

"Pollution of surface or subsurface water – The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface or subsurface water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose."

According to Statewide Rule 8 (a)(29), "surface or subsurface water" is defined as:

"Groundwater, percolating or otherwise, and lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state."

Statewide Rule 8 (d)(6)(D) states that if an application is denied administratively, the applicant has the right to a hearing upon request. Please advise, if the applicant wishes to continue the permitting process, a response must be sent to Technical Permitting with an original signature and a statement requesting a hearing within **30 days**. Should the applicant decide to request a hearing, the application must be administratively complete before a hearing can be scheduled. The following information is necessary to administratively complete the application:

1. Identify the former Operator Cleanup Program (OCP) number associated with the facility.
2. Provide latitude and longitude coordinates of the proposed landtreatment area. The location of the landtreatment area must be determined prior to a permit being approved. The landtreatment area proposed in your January 23, 2020 application is located on or near a mapped wetland area. The facility must include a 150-foot buffer between the outside toe of the perimeter berm and any wetland. Alternatively, submit an official document from the U.S. Army Corps of Engineers with a jurisdictional determination that "*waters of the United States*," or "*navigable waters of the United States*," or both, are either present or absent within the facility boundary.
3. Provide a site plan showing the locations and dimensions of the landtreatment area.
4. Clarify the dimensions of the perimeter berm around the landtreatment area. Berms should be constructed to a height of at least two feet and should have a minimum slope on each side of three to one (horizontal to vertical).
5. Clarify that excavation of the soils must be limited to approximately one foot above the water table. The RRC does not have jurisdiction to authorize the excavation or disposal of saturated soils.
6. Provide an estimated total volume of soils that will be moved to the landtreatment area, based on expected conditions.
7. Clarify the expected duration of the landtreatment activity, including how long material will be added to the treatment area and how long it is expected to remain before it meets closure limitations.
8. Provide clarification on whether the remediation and excavation of the soils will meet the requirements of the previously ordered restrictive covenants, or whether any additional documentation will be required.

In addition, please notify Technical Permitting once the PCCA has received its P-5 Organization Report identification number.

Once an application package has been submitted, only minor modifications or staff recommended amendments will be accepted during the review process. If the original application is fundamentally revised, the application must be withdrawn, and a new application may be filed. All changes made to the application or facility design must be clearly stated at the beginning of all supplemental filings. Applicant responses must be limited to addressing the specific items listed in the RAD letter.

The applicant has two supplemental filings to satisfy the application deficiencies identified in the written correspondences provided by Technical Permitting. According to Texas Administrative Code (TAC) Title 16, Part 1, Chapter 1.201 (c) (4):

"An applicant may make no more than two supplemental filings to complete an application. {...} After the second supplemental submission, if the application is complete, the division or section shall administratively rule on the application; if the application is still incomplete, the division or section shall administratively deny the application. The division or section specifically does not have the authority to accept or review any other additional supplemental submissions."

Please provide the requested information to this office within 30 days of the date of this letter. Should you have any questions, you can contact Arden Harbert at 512-463-6274, or at arden.harbert@rrc.texas.gov.

Sincerely,



Tiffany Humberson, Manager
Environmental Permits & Support
Technical Permitting

cc: RRC District 04, Corpus Christi

Sam Enis, P.G., SQ Environmental, LLC *via email*