



RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

OIL AND GAS DOCKET NO. 09-0249853

**THE APPLICATION OF JERRY HESS OPERATING CO. FOR COMMERCIAL DISPOSAL
AUTHORITY IN THE HWY 51 DISPOSAL LEASE WELL NO. 1, COOKE COUNTY
REGULAR FIELD, COOKE COUNTY, TEXAS**

HEARD BY: Donna K. Chandler, Technical Examiner
James M. Doherty, Hearings Examiner

APPEARANCES:

APPLICANT:

Lloyd Muennink
Roland Baker
Jerry Hess
Laura Pagel

REPRESENTING:

Jerry Hess Operating Co.

PROTESTANTS:

David Frederick
Marisa Perales
H. C. Clark
Keith McIntosh
Pam McIntosh
Tim Lane
Donna Fleming
Paul Swirczynski

Keith and Pam McIntosh, Tim Lane and
Donna Fleming

Protestants Representing Themselves:

Al Smith, Cooke Co. Comm.
Gareth Barnard
Justin Lance
Nathan Metzler
Karl Metzler
Jacob Metzler
Kathy Metzler
Katie Metzler
Travis Lyons

Tanner Lyons
Marissa Lyons
Kyle Lyons
Mitzi Lyons
Tamaran Lemons
Hal Hickerson
John Kmetz
Toni Kmetz
Elmer Smith

Dolores House
Robert Davies
Lori Davies
Brandon Davies
Brock Davies
Kabra Davies
Brett Davies
Briley Davies
Anita Thayer

(Protestants, continued)

Marion Davidson
Marsha Davidson
Rita Smith
Molly McIntosh
Jeremy Thompson
Seth Taylor
G. C. Ellis
Robert Tull
Nilda Tull
Michael Brown
Billye Smith

Melissa Tull
Julie Tull
Bryan Lemons
James Poteracki
Janet Poteracki
Candice Taylor
Dan Grundy
Jamie Kindiger
Jaret Kindiger
Jinjer Kinder

Bob Moore
Richard Fox
Melanie Beard
Randy Beard
Mary Ellis
Bill Gordon
Bob Grundy
Stephanie Beard
Kevin Beard
Joe Yarbrough

EXAMINERS' REPORT AND PROPOSAL FOR DECISION

PROCEDURAL HISTORY

Application Filed:	October 3, 2006
Request for Hearing:	November 16, 2006
Notice of Hearing:	January 8, 2007
Date of Hearing:	February 9 and April 16, 2007
Transcript Received:	May 1, 2007
Record Closed:	May 15, 2007
Proposal For Decision Issued:	July 12, 2007
Conference	September 11, 2008
Re-Opened Hearing:	January 14, 2008
Amended PFD Issued:	March 26, 2008

STATEMENT OF THE CASE

Jerry Hess Operating Co. ("Hess") requests authority pursuant to Statewide Rule 9 to operate Well No. 1 on its Hwy 51 Disposal Lease in Cooke County as a commercial disposal well. This application is protested by many residents in the area of the proposed disposal well.

On July 12, 2007, the examiners issued a Proposal for Decision recommending that the application be denied. The recommendation was presented to the Commissioners at conference on September 11, 2007. At this conference, the Commissioners granted Hess' Motion to Re-Open the hearing to present evidence regarding the presence of a "mystery" well within ¼ mile of the proposed disposal well and to present evidence as to whether the well was necessary to serve the public interest. The hearing was re-opened on January 14, 2008.

DISCUSSION OF THE EVIDENCE

Applicant's Evidence

The subject well has not yet been drilled. Hess originally proposed that the well be drilled to a total depth of approximately 3,500 feet, with disposal into the non-productive Ellenburger and other formations underlying the Ellenburger between the depths of approximately 1,600 feet and 3,500 feet. At the re-opened hearing, Hess agreed to a disposal interval between 1,600 feet and 2,000 feet. The disposal will be open-hole into the Ellenburger.

The well will be completed with 1,020 feet of 9⁵/₈" surface casing with cement circulated from the casing shoe to the ground surface. Hess proposes setting a 7" long string to 1,600 feet, with cement circulated to surface. The Texas Commission on Environmental Quality recommends that usable-quality ground water be protected to a depth of 1,020 feet.

Disposal will be through 5" tubing set on a packer at approximately 1,590 feet. The proposed maximum injection volume is 15,000 BWPD, with an estimated average of 7,500 BWPD. The proposed maximum injection pressure is 800 psig. Hess agreed to perform a step rate test to insure that the proposed injection pressure will not exceed the fracture pressure of the Ellenburger formation into which fluid is injected.

Hess found no wellbores within a ¼ mile radius of the proposed disposal well. The closest wellbore is about ½ mile to the northwest and was a dry hole. This well, the F. E. Fischer - J. B. Cowling No. 1 was drilled to a total depth of 1,570 feet and was plugged and abandoned. (See attached plat.)

In this area, the Ellenburger has been uplifted and the Barnett Shale is not present above the Ellenburger, as is the case in counties to the south and west. The closest Barnett Shale production is 5-6 miles to the southwest in Wise County. There are several fields in the area of the proposed disposal well which are productive from shallower horizons, but not the Ellenburger.

Hess estimates that the top of the Ellenburger will occur in the proposed disposal well at approximately 1,600 feet. This estimate is based on the log of the O. B. Anderson No. 1 which was drilled in 1951. This well is approximately ½ mile to the southeast of the proposed disposal well and encountered the Ellenburger at approximately 1,565 feet. The thickness of the Ellenburger in the O. B. Anderson No. 1 was approximately 400 feet, with the top of the Cambrian found at 1,950 feet. There are very few logs available which penetrate the Ellenburger in this area. However, the existing logs demonstrate that the Ellenburger dips generally to the west.

There are two other commercial disposal wells in Cooke County: the Nortex Energy, Inc. - Terry Hess No. 1 approximately 8 miles to the east and the Jimmy Jack Biffle - Butcher BC No. 8 approximately 6 miles to the northwest. Both are permitted for disposal into the Ellenburger. The Nortex well, operated by Jerry Hess' brother, has authority to inject a maximum of 10,000 BWPD into the interval between 1,800 and 3,900 feet at a maximum surface injection pressure of 900 psi. The permitted interval for the Nortex well includes more than the Ellenburger formation. The Biffle well has authority to inject a maximum of 5,000 BWPD into the interval between 1,638 and 1,645 feet at a maximum surface injection pressure of 600 psi. This permitted interval for the Biffle well appears to be only the Ellenburger. The Biffle facility will not accept water from Hess due to contracts with other haulers.

Hess believes there is a need for additional commercial disposal capacity in this area and the operation of the well will therefore serve the public interest. J & B Transport is the trucking company owned by Hess. Currently J & B has four trucks and hauls water to the Nortex well for Hess and other operators. J & B drivers have experienced wait times to unload at the Nortex facility of up to 3½ hours.

At the initial hearing, the evidence showed that Hess was hauling mostly his own produced water. At the re-opened hearing, Hess presented a summary of hauling by J&B for April 2007 through December 2007. During this time, J & B hauled 83% for other operators and 17% for Hess wells.

Hess presented a list of 150 producing wells in the area which would potentially use the proposed Hwy. 51 disposal well. These 150 wells are within 40 miles of the Hwy. 51 well and water is currently hauled from these wells to the Nortex disposal well. Many of the producing wells are 10 miles or less from the Hwy. 51 well. Approval of the proposed Hwy. 51 well for commercial disposal would reduce the truck traffic going to the Nortex well, which is approximately 13 miles past the Hwy. 51 location. Many of the trucks going to the Nortex well pass by the Hwy. 51 well location. Hess contends that use of the Hwy. 51 disposal well would reduce truck traffic going through the town of Era. Decreased expenses associated with hauling will extend the economic life of producing wells. Hess testified that other haulers have indicated a desire to use his facility.

The proposed well is located adjacent to Hwy. 51. This highway is almost 50 feet wide at the entrance to the facility. Hess pointed out that the original entrance location to the facility was moved to its current location for safety reasons to increase the distance from a curve in the highway. The current entrance is about ¼ mile from the curve in the highway.

Notice of the subject application was published in *The Muenster Enterprise*, a newspaper of general circulation in Cooke County, on September 29, 2006. A copy of the application was mailed on September 29, 2006 to the Cooke County Clerk's Office and offsetting surface owners. The surface of the 47 acre facility is owned by applicant.

Protestants' Evidence

Dr. H. C. Clark is a geologist who testified on behalf of protestants regarding the geology in the area of the proposed disposal well. Dr. Clark believes that the proposed disposal interval between 1,600 feet and 3,500 feet is excessive because little is known about formations below the Ellenburger. The only well in the area which has been drilled to a similar depth is the Nortex disposal well to the east, which is apparently disposing into the Ellenburger and Granite Wash formations. However, a log of the Nortex well was not presented by Hess.

Dr. Clark expressed concerns about the presence of faults in the area, which may provide conduits for injected water to escape from the disposal interval. Dr. Clark believes that this area of the Muenster Arch uplift has had significant tectonic activity.

Dr. Clark suggests continuous electronic monitoring of the annulus pressure of the disposal well, as well as monitoring of the fresh water well which is located on the Hess property. Dr. Clark also supports the step-rate test that Hess has agreed to perform.

Donna Fleming, PhD, and her husband Tim Lane, PhD, own property adjacent to and due east of the Hess property. Dr. Fleming and Dr. Lane live on this property and Dr. Fleming's father also resides on property adjacent to the Hess tract. They are concerned about possible run-off from the disposal site because their property is downhill from the Hess tract and their ponds could be contaminated by run-off. They are also concerned that operation of the disposal well will endanger their fresh water well, which is 475 feet deep.

Dr. Fleming and Dr. Lane believe that the operation of the disposal well will present traffic safety hazards for several reasons. The entrance to the facility on FM 51 is very near a curve and the road is not sufficiently wide to handle the truck traffic which will be associated with the facility. There is a school bus stop near the entrance to the facility and there is a concern that trucks will not be able to safely stop for the bus.

Additionally, Dr. Fleming and Dr. Lane are also concerned about the hazardous nature of the disposal fluids and the lack of nearby emergency services. They also believe that their quality of life will be negatively affected as a result of continuous noise, traffic and lower property values.

Mr. Joe Yarbrough lives in the town of Era, several miles from the proposed disposal facility. He is a firefighter employed by the City of Grapevine, and is also a volunteer fireman for Era. He presented a resolution from the Era Volunteer Fire Dept. stating that the Fire Dept. does not have the capabilities to handle hazardous material emergencies. The resolution also states concerns about lack of information about the contents of the disposal fluids to be hauled to the facility.

Mr. Jeremy Thompson is the superintendent of the Era Independent School District. Mr. Thompson presented a resolution of the Era School Board which requests that the Commission deny the subject application. The resolution states concerns about the location of the entrance to the facility being very near a school bus stop and the risk of

injuries, should an accident occur due to the increased truck traffic on Hwy. 51. Mr. Thompson also expressed concerns about the possibility of contamination to fresh water resources as a result of operation of the proposed disposal well.

Mr. Garath Barnard owns and resides on property located basically in the curve of Hwy. 51, adjacent to the Hess property on the east. Mr. Barnard is concerned about possible run-off from the facility because the Hess property is at a high point between the Fleming/Lane property and his own property. He shares concerns of other neighbors about fresh water contamination. The water well on his property is 460 feet deep.

Mr. Keith McIntosh owns property on Hwy. 51 just to the west of the Hess property. The northern boundary of his property is the southern boundary of the Hess property. Mr. McIntosh shares the same traffic concerns as expressed by other protestants, but his driveway is only about 100 yards from the entrance to the proposed disposal facility. He believes that the location of the facility will unacceptable because the changes in elevation in Hwy. 51 result in limited sight of traffic. Mr. McIntosh submitted several photos to demonstrate the road conditions, including a photo of a school bus unloading children near the entrance to the facility.

Mr. McIntosh also submitted a photo of what he believes to be a wellbore, with cement and casing, located on property within 900 feet of the site of the proposed injection well. This unknown "well" is located on property owned by Bo Crossen, north and adjacent to the Hess property. It is not identified on any Commission maps as a wellbore. At the re-opened hearing, Mr. Robert Grundy testified that he lived about 1,000 feet from the "mystery" well and remembered seeing it when he was a child in the 1930's. Mr. Grundy also testified that there was oil and gas drilling in the area during that time.

Mr. Seth Taylor lives about five miles from the proposed facility. He is a firefighter for the City of Lewisville and has experience driving/operating very heavy equipment. Mr. Taylor testified about stopping distances required for 75,000 lb. vehicles. Traveling at 60 mph, it would take a minimum of 531 feet for such a truck to come to a stop. The tank trucks hauling disposal fluids would likely weigh more than 75,000 lbs., requiring an even longer distance to stop. There are no flashing/warning signals in place to alert vehicles of the possible presence of tank trucks entering/leaving the facility.

Mr. Al Smith is the Cooke County Commissioner from Precinct 3 which includes the area of the proposed disposal well. He expressed concerns of the County regarding increased truck traffic and safety due to the limited visibility from the entrance of the facility to the curve in Hwy. 51. The County also has concerns about possible contamination of ground water which residents rely on with personal water wells. There is one disposal well in Precinct 3 currently, and three active disposal wells in the County. In his opinion, another disposal well would be more appropriately located in another area.

Protestants also raised concerns about the notice of this application. Hess published notice in the *Muenster Enterprise*. The Publisher's Notice Certificate states that the paper is "...a newspaper of general circulation, published in the City of Muenster, in Cooke County, Texas, ..." None of the protestants knew that such paper existed.

Protestants argue that notice should have rightfully been published in either the *Gainesville Daily Register*, or the *Cooke County Weekly News*, both of which are more readily available in Era.

Protestants raised concerns about Hess' history in operating wells. Apparently a well operated by Hess in Denton County experienced a casing leak during fracture stimulation and control of the well was lost for several weeks. In another incident in Wise County, a well operated by Hess was being worked-over and the blow-out preventer failed, resulting in loss of control of that well for about 8 hours. Mr. Hess paid a \$1,500 fine to the Commission for failing to report the latter incident immediately.

Re-Opened Hearing - "Mystery" well

At the re-opened hearing, Hess submitted a Commission District Office inspection report concerning the presence of what has previously been referred to as the "mystery" well on the Crossen property.¹ The Commission inspection report, dated September 12, 2007, reported that upon inspection of the "mystery" well, soil on one side of the well was excavated to a depth of approximately 36 inches and the base of concrete was found at a depth of approximately 30 inches. The inspection report reported further that while excavating, no evidence of any oil stained soil, odor or drilling mud was observed. The inspection report also reported that 4" steel casing extended below the base of the concrete to an unknown depth and the casing was not cemented in the hole. In the report, the inspector stated that the well appeared to him to be an old domestic water well. No Commission records have been found by Hess to indicate that the "mystery" well is oil/gas related. Protestants' position is that the "mystery" well could be an oil/gas well even though there are no Commission records about the well.

EXAMINERS' OPINION

The examiners recommend the application be approved pursuant to §27.051 of the Texas Water Code and Commission Statewide Rule 9. Hess established:

1. The proposed injection well will not endanger or injure any oil, gas, or mineral formations;
2. The water resources (surface and subsurface) are adequately protected from pollution;
3. A satisfactory showing of financial responsibility as required under Commission statutes and Commission regulatory requirements; and

¹ Protestants objected to the admissibility of this report as an exhibit on the ground that it was hearsay but stated also that they had no objection to the fact that the report was not certified by the Commission's Secretary. The examiners have taken official notice that this report is an official public record of the Railroad Commission prepared by a Commission District Office inspector having the duty to perform inspections and report matters observed during such inspections in inspection reports.

4. The proposed injection is in the public interest;

The well will be completed in a manner which will confine injected fluids to the permitted Ellenburger disposal interval between 1,600 and 2,000 feet. The well will be completed with 1,020 feet of 9⁵/₈" surface casing with cement circulated from the casing shoe to the ground surface. A 7" long string will be set at 1,600 feet, with cement circulated to surface. The Texas Commission on Environmental Quality recommends that usable-quality ground water be protected to a depth of 1,020 feet. Disposal will be through tubing set on a packer set at approximately 1,590 feet.

Because there is limited data regarding the geology of the area regarding the Ellenburger, Hess agreed to limiting its disposal interval to the depths between 1,600 feet and 2,000 feet. Evidence in the record is sufficient to conclude that this interval is the Ellenburger formation.

The examiners recommend that Hess be required to run a step rate test to insure that the proposed injection pressure of 800 psi does not exceed the fracture pressure of the Ellenburger. Hess agreed to this test.

The presence of a "mystery" well was a concern, based on evidence presented at the original hearing. The examiners believe that this concern has now adequately been addressed by Hess. Research of Commission records disclosed no record of the "mystery" well ever having been permitted as an oil or gas well. This well has now been inspected by a Commission District Office inspector and the characteristics of the well reported in his inspection report are more those of an old water well than an oil or gas well. Water wells in the area described by protestants are less than 500 feet in depth, and according to TCEQ, usable quality water is to be protected to a depth of 1,020 feet. Therefore, the examiners conclude that there is no danger that the "mystery" well will be a conduit for fluid migration from the disposal interval at 1,600 feet to usable quality water.

With the additional evidence presented at the re-opened hearing, the examiners believe that Hess met his burden of proof in showing that the well is in the public interest. Hess provided evidence demonstrating that wait times to unload trucks at the Nortex well are substantial, over 3 hours in some instances. Also, Hess' hauling company is currently traveling past the proposed Hwy. 51 well to get to the Nortex well. Use of the proposed Hwy. 51 well would reduce mileage and reduce traffic traveling through the town of Era. Hess further demonstrated that between April and December 2007, over 80% of the water hauled by his trucking company is from other operators. This is substantially different that the circumstances at the original hearing when evidence showed that Hess was primarily hauling his own produced water.

The examiners have considered the protestants' concerns about road safety, possible pollution of surface and subsurface water, and quality of life issues such as

possible noise and light pollution.² The examiners are of the opinion that to the extent practical, the road safety issue has been adequately addressed by Hess. The proposed disposal well will be located in an area that is largely rural in nature. The entrance from Hwy 51 to the Hess disposal tract was moved from its original location to the present location to provide additional sight distance from a curve in the highway. The new entrance is wide enough to provide for the turning of trucks, and has been approved by TXDOT which has the primary responsibility for approval of driveways accessing State roadways and considering the sight distance issue. TXDOT also has the responsibility for warning signs, such as "Truck Entrance" signs, on State roadways, and such signs may be posted as deemed necessary and appropriate by TXDOT. The Hess disposal tract has 47 acres and adequate room for staging trucks waiting to unload, so that there should be no occasion for the backing up of trucks on the roadway. Operation of the Hess disposal facility may cause an increase in truck traffic in the immediate area of the facility, but the evidence shows that truck traffic already exists in this area, including many saltwater trucks that now pass the proposed location of the Hess disposal facility on their way to the Nortex disposal facility. There is some evidence that use of the Hess disposal facility will decrease total mileage presently being traveled by saltwater haulers and may actually decrease the number of trucks now traveling through the Era community on their way to the Nortex facility.

The examiners have considered whether the protestants' road safety concerns might be addressed by any special conditions on the permit requested by Hess, such as conditions limiting the number of trucks accessing the proposed disposal well, limiting the hours of operation of the Hess disposal facility, or requiring alternate access to the Hess disposal facility. Assuming that the Railroad Commission has the authority to impose such conditions, the examiners do not believe these conditions are warranted here. Limiting the number of trucks accessing the Hess facility would diminish the usefulness of the facility to oil and gas operators having a need to dispose of produced water in order to produce oil and gas, could affect the economic viability of the facility and place the Hess facility at a competitive disadvantage, and would not necessarily decrease the number of trucks now traveling along Hwy 51 past the Hess facility on their way to the Nortex facility. Limiting the hours of operation of the Hess facility is not practical because the need of oil and gas operators to dispose of produced water does not occur during any regular set of business hours, and limiting hours of operation of the Hess facility could actually have the effect of increasing truck congestion along Hwy 51 in the area of the facility as more saltwater trucks attempt to crowd in to unload during the limited hours the facility is open. There is no evidence to suggest that there is any access to the Hess disposal tract other than from Hwy 51 or that any alternative access point from Hwy 51 would be an improvement over the proposed access point.

²In a recent opinion in No. 03-07-00025-CV, *Texas Citizens for A Safe Future and Clean Water et al. v. Railroad Commission of Texas et al.*, the Austin Court of Appeals held that the Commission is required to consider such issues as part of the "public interest" inquiry under §27.051 of the Texas Water Code. The examiners are advised that this opinion is pending on a motion for rehearing *en banc* filed by the Attorney General on behalf of the Railroad Commission. For the purposes of this proposal for decision, the examiners have assumed, consistent with the opinion of the Austin Court of Appeals, that these issues are required to be considered, and the examiners' discussion of these issues is not to be taken as a position of the examiners or the Railroad Commission on the legal issues still pending before the court.

Protestants concerns about possible run-off from the Hess disposal tract and its effect on surface water will be addressed by a standard condition in the permit for the Hess facility designed to prevent such run-off. The evidence shows that the proposed disposal well will be cased and cemented in a way sufficient to prevent pollution of subsurface water and that there is no nearby well that could serve as a conduit for the migration of injected fluid from the injection interval to usable quality water zones. TCEQ has concluded that the proposed injection will have no effect on usable quality water. The protestants' quality of life concerns are understood, but the examiners are of the opinion that these concerns are outweighed by the public benefit to be derived from the safe and effective disposal of produced water and the conservation of natural resources.

FINDINGS OF FACT

1. Notice of this hearing was given to all persons entitled to notice at least ten (10) days prior to the hearing. Notice of the application was published in *The Muenster Enterprise* on September 29, 2006.
2. The subject Hwy. 51 No. 1 well has not yet been drilled.
3. The subject well will be completed in a manner to protect usable quality water.
 - a. The Texas Commission on Environmental Quality recommends that usable-quality water be protected to 1,020 feet in the area of the proposed well.
 - b. The subject well will have 1,020 feet of 9 $\frac{5}{8}$ " surface casing cemented to surface.
4. Fluids injected into the subject well will be confined to the injection interval.
 - a. The subject well will have 1,600 feet of 7" casing cemented to surface.
 - b. Injection will be through tubing set on a packer no higher than 100 feet above the top of the injection interval.
 - c. There are no wellbores within $\frac{1}{4}$ mile which penetrate the disposal interval that could serve as a conduit for migration of injected fluid from the injection interval to usable quality water above.
5. A step rate test will is necessary to demonstrate that injection with a surface pressure of 800 psi will not fracture the Ellenburger formation.

6. Use of the proposed disposal well is in the public interest to provide a means of disposal of produced water from the Barnett Shale in the area.
 - a. Use of the well will provide a safe, economic means of disposal of the fluids associated with drilling and production of oil and gas wells and extend the economic life of producing wells in the area, thereby conserving natural resources.
 - b. J & B Trucking, the hauling company owned by Hess, currently hauls water to the Nortex disposal well approximately 10 miles away. Drivers have experienced waits of up to 3 hours at the Nortex facility.
 - c. There are approximately 150 wells within 40 miles of the proposed disposal well. Produced water from many of these wells is hauled to the Nortex well by traveling past the proposed disposal well.
 - d. Besides the Nortex well, there is only one other commercial disposal well in Cooke County. This facility has contracts with other haulers and will not accept water from Hess trucks.

7. Concerns about road safety issues, while considered, do not warrant denial of the application for the proposed disposal well.
 - a. The proposed disposal well is located in an area that is largely rural in nature.
 - b. The entrance off Hwy 51 to the proposed disposal facility was moved by Hess from a previous location to its present location in order to be further away from, and to provide additional sight distance, from a curve in Hwy 51.
 - c. The entrance to the proposed disposal facility is wide enough to accommodate the turning of trucks entering and exiting the facility.
 - d. There is no access to the proposed disposal facility other than access off Hwy. 51, and no access off Hwy 51 that would be an improvement over the proposed access point from a road safety perspective.
 - e. The driveway access to the proposed disposal facility off Hwy 51 has received the approval of the Texas Department of Transportation.
 - f. The proposed disposal facility has 47 acres and adequate room will be provided for the staging of any trucks waiting to unload. Backup of trucks on Hwy 51 waiting to enter the disposal facility should not be necessary.

- g. The Texas Department of Transportation has jurisdiction to post warning signs along Hwy 51 relating to the entrance to the proposed disposal facility in the event such signs are deemed necessary and appropriate.
 - h. There is existing truck traffic along Hwy 51 in the area of the proposed disposal facility, including saltwater trucks traveling past the proposed disposal facility on their way to the Nortex Energy, Inc., disposal facility.
 - i. Some saltwater trucks presently traveling along Hwy 51 to reach the Nortex facility will opt to use the proposed Hess disposal facility instead in order save mileage, and this may result in a decrease in the number of trucks traveling through the Era community.
 - j. Alternatives such as special conditions limiting the number of trucks that can access the proposed disposal facility or limiting the hours of operation of the proposed disposal facility would not necessarily promote road safety and would diminish the usefulness of the proposed disposal facility for the safe and efficient disposal of produced water and conservation of natural resources.
8. With proper safeguards, as provided by terms and conditions in the attached final order which are incorporated herein by reference, both ground and surface fresh water will be adequately protected from pollution.
9. Jerry Hess Operating Co. is an active operator with financial assurance in the amount of \$50,000.³

CONCLUSIONS OF LAW

- 1. Proper notice was timely given to all parties entitled to notice pursuant to applicable statutes and rules.
- 2. All things have occurred and have been accomplished to give the Commission jurisdiction in this case.
- 3. The use of the proposed disposal well will not endanger oil, gas, or geothermal resources or cause the pollution of surface water or fresh water strata.
- 4. The applicant has complied with the requirements for approval set forth in Statewide Rule 9 and the provisions of Sec. 27.051 of the Texas Water Code.

³The examiners have taken official notice of the Railroad Commission's P-5 Financial Assurance Inquiry for Jerry Hess Operating Co.

5. The use of the proposed disposal well is in the public interest pursuant to Sec 27.051 of the Texas Water Code.

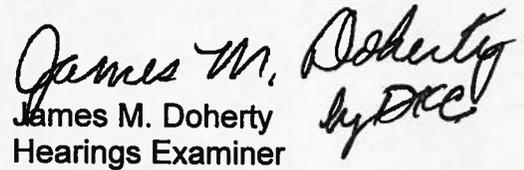
EXAMINERS' RECOMMENDATION

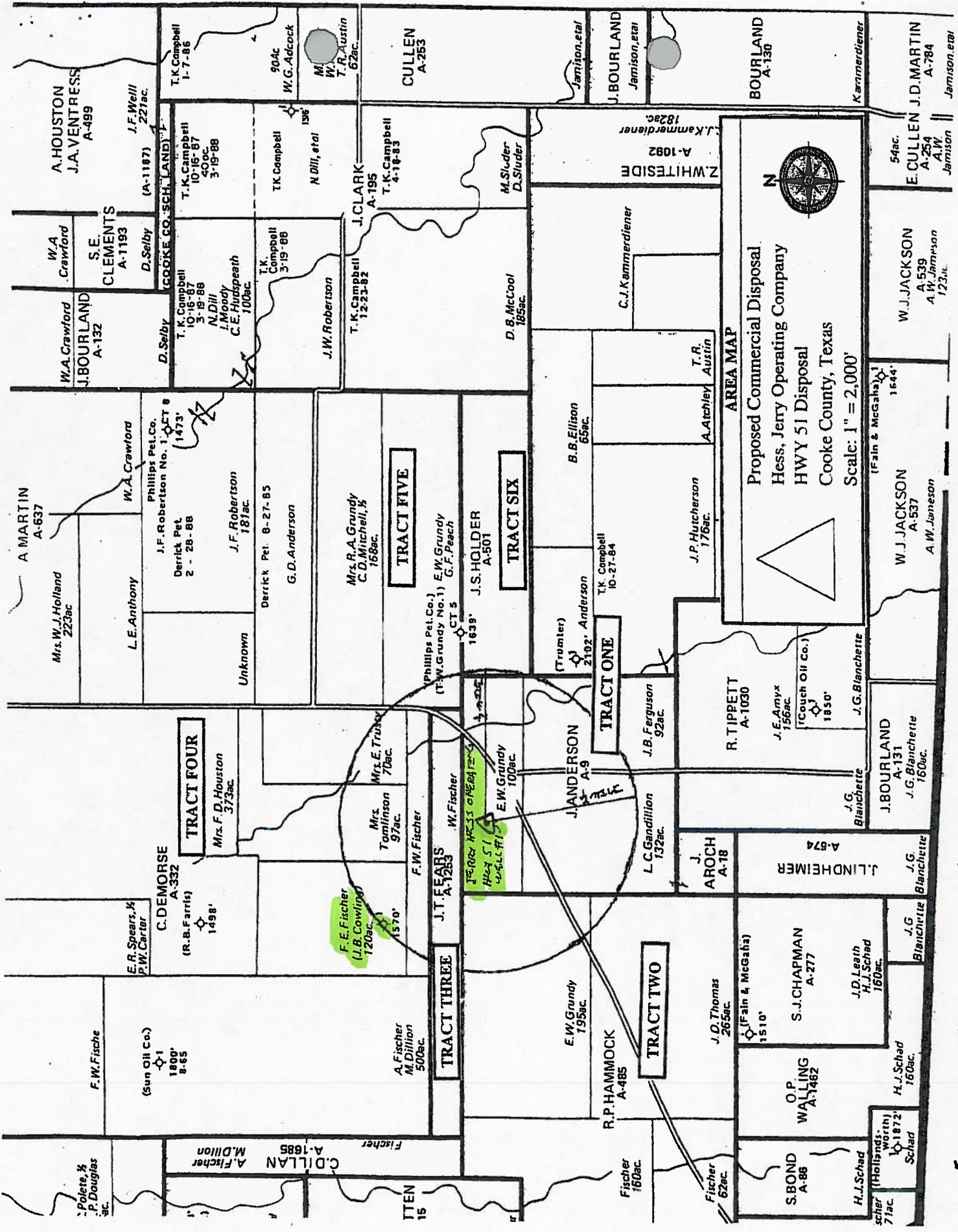
Based on the above findings and conclusions, the examiners recommend that the application be approved.

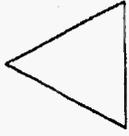
Respectfully submitted,



Donna K. Chandler
Technical Examiner


James M. Doherty
Hearings Examiner




AREA MAP
 Proposed Commercial Disposal
 Hess, Jerry Operating Company
 HWY 51 Disposal
 Cooke County, Texas
 Scale: 1" = 2,000'


Doc # 09-0249853
 Hess Ex. 7

P. Poite, 1/2
 P. Douglas
 9ac.

F.W.Fische

E.R. Spears, 1/2
P.W. Carter

C. DEMORSE
A-332
(R.B. Farris)
1498'

TRACT FOUR
Mrs. F.D. Houston
373ac.

Mrs. E. Truisky
70ac.

Mrs. Tomlinson
97ac.

F.W.Fischer
1570'

F.E. Fischer
(J.B. Cowling)
120ac.

A. Fischer
M. Dillon
500ac.

TRACT THREE
J.T. EARS
A-1285

W. Fischer

E.W. Grundy
195ac.

R.P. HAMMOCK
A-485

J.D. Thomas
265ac.

(Fain & McGaha)
1510'

S.J. CHAPMAN
A-277

J.D. Leath
H.J. Schad
160ac.

H.J. Schad
160ac.

J.G. Blanchette

J. AROCH
A-18

J. LINDHEIMER
A-674

J.G. Blanchette

J. BOURLAND
A-131
J.G. Blanchette
160ac.

J.E. Army
156ac.

(Couch Oil Co.)
1850'

J.G. Blanchette

W.J. JACKSON
A-537
A.W. Jamison

Mrs. W.J. Holland
223ac.

L.E. Anthony

W.A. Crawford
Phillips Pet. Co.
No. 1 - DIST 8
1473'

Derrick Pet.
2 - 28-88

J.F. Robertson
181ac.

Unknown

Derrick Pet. B-27-85

G.D. Anderson

Mrs. R.A. Grundy
C.D. Michell, 1/2
168ac.

TRACT FIVE

Phillips Pet. Co.
(T.W. Grundy No. 1)
DIST 5
1639'

E.W. Grundy
G.F. Peach

J.S. HOLDER
A-501

TRACT SIX

(Trumter)
2102' Anderson

T.K. Campbell
10-27-84

J.P. Hucherson
176ac.

A. Atchley
Austin

T.R. Austin

B.B. Ellison
65ac.

C.J. Kammerdiener

D.B. McCool
185ac.

M.S. Sluder
D. Sluder

J.W. Robertson

T.K. Campbell
12-23-82

J. CLARK
A-195

T.K. Campbell
4-14-83

M. McCool
185ac.

J. BOURLAND
A-130

Kammerdiener

W.A. Crawford
A-132

S.E. CLEMENTS
A-1193

D. Selby
A-1197

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
5-19-88

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

T.K. Campbell
10-16-87

N. Dill, et al

J.W. Robertson

A. HOUSTON
J.A. VENTRESS
A-499

J.F. Well
221ac.

T.K. Campbell
1-7-86

90ac
W.G. Adcock

M.W. Austin
62ac.

CULLEN
A-253

J. BOURLAND
Jamison, et al

BOURLAND
A-130

E. CULLEN
J.D. MARTIN
A-784

Jamison

Z. WHITESIDE
A-1092

J. Kammerdiener
182ac.

W.J. JACKSON
A-539
A.W. Jamison
123ac.

54ac.
E. CULLEN
A-254
A.W. Jamison

Jamison