

VICTOR G. CARRILLO, CHAIRMAN
ELIZABETH A. JONES, COMMISSIONER
IAEL L. WILLIAMS, COMMISSIONER



LINDIL C. FOWLER, JR., GENERAL COUNSEL
COLIN K. LINEBERRY, DIRECTOR
HEARINGS SECTION

RAILROAD COMMISSION OF TEXAS

OFFICE OF GENERAL COUNSEL

November 25, 2009

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Stephen Fenoglio, Attorney
Representing WT Construction
508 W 12th St
Austin TX 78701

Re: **OIL & GAS DOCKET NO. 04-0262193; THE APPLICATION OF WT CONSTRUCTION, INC. TO MAINTAIN AND USE A PIT FOR THE DISPOSAL OF WATER BASED DRILLING FLUIDS IN ITS HOFFMAN #1 DRILLING FLUID DISPOSAL PIT, DUVAL COUNTY, TEXAS; FINAL ORDER**

To the Parties:

The Railroad Commission of Texas has acted upon the above-referenced case. Please refer to the attached Final Order for the terms and date of such action.

This order will not be final and effective until at least 23 days after the date of this letter. If a Motion for Rehearing is timely filed, this order will not be final and effective until such Motion is overruled. A Motion for Rehearing should state the reasons you believe a rehearing should be granted, including any errors that you believe exist in the Commission's order. If the Motion is granted, the order will be set aside and the case will be subject to further action by the Commission at that time or at a later date.

To be timely, a Motion for Rehearing must be received by the Commission's Docket Services (see letterhead address) no later than 5:00 p.m. on the 20th day after you are notified of the entry of this order. You will be presumed to have been notified of this order three days after the date of this letter. This deadline cannot be extended by the Examiners. Fax transmissions will not be accepted without prior approval from the hearings examiner. **ORIGINAL PLUS THIRTEEN** copies of the Motion for Rehearing shall be submitted to the hearings examiner. **PLEASE DO NOT STAPLE COPIES.** One copy must be sent to each party. **In addition, if practical, parties are requested to provide the examiners with a copy of the Motion for Rehearing on a diskette in Word or WordPerfect format. The diskette should be labeled with the docket number, the title of the document, and the format of the document.**

Sincerely,

Handwritten signature of Richard D. Atkins in black ink.

Richard D. Atkins
Technical Examiner
Office of General Counsel

RDA/kvj

Enclosures

cc: Tommie Seitz - RRC, Austin
Jill Hybner - RRC, Austin
Charlie Ross - RRC, Austin
Gil Bujano - RRC, Austin
Fermin Munoz - RRC, Corpus Christi

Corpus Christi District Office - 04
Compliance Analyst - 04
Doug Johnson - RRC, Austin

Grant A Jackson, Engineer
4501 Gollihar Rd
Corpus Christi TX 78417

Linda Weeks, VPRES/Sec
PO Box 1169
Premont TX 78375

Estella P. Cantu/
Estella P. Garcia
PO Box 48
Concepcion TX 78349

Ines Cruz
252 Meadow View
Killeen TX 76549

Rene M Perez, Duval County Commissioner
PO Box 283
San Diego TX 78384

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**RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION**

**OIL AND GAS DOCKET
NO. 04-0262193**

**FINAL ORDER
APPROVING THE APPLICATION OF WT CONSTRUCTION, INC.
TO MAINTAIN AND USE A PIT
HOFFMAN #1 DRILLING FLUID DISPOSAL PIT
DUVAL COUNTY, TEXAS**

The Commission finds that after statutory notice in the above-numbered docket heard on September 15, 2009 the presiding examiners have made and filed a report and proposal for decision containing findings of fact and conclusions of law, for which service was not required; that the proposed application is in compliance with all statutory requirements; and that this proceeding was duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas.

The Commission, after review and due consideration of the examiners' report and proposal for decision, the findings of fact and conclusions of law contained therein, and any exceptions and replies filed thereto, hereby adopts as its own Findings of Fact Nos. 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, and Conclusions of Law Nos. 1, 2, and 3, and incorporates said findings of fact and conclusions of law as if fully set out and separately stated herein. The Commission adopts the following substitute Findings of Fact:

Substitute Finding of Fact No. 3:

The proposed Hoffman #1 Drilling Fluid Disposal Pit on the WT Construction, Inc. 631 acre tract is an abandoned caliche pit which covers an area of slightly more than 10 acres.

Substitute Finding of Fact No. 4:

Four other disposal pit permits have already been granted by the Commission on the WT Construction, Inc. property, Rancho Nuevo Pits #1, #2, #3 and BES Pit #1.

- a. These permits were issued in 1997 and 2002.
- b. All of the pits were permitted to dispose of water based drilling fluids, except Rancho Nuevo Pit #2 which was permitted to dispose of treated oil and gas waste from a nearby land treatment facility.

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- c. Rancho Nuevo Pits #1 and #2 have already been backfilled and closed, BES Pit #1 is undergoing closure and Rancho Nuevo Pit #3 is currently active.

Therefore, it is **ORDERED** by the Railroad Commission of Texas that the application of WT Construction, Inc. to maintain and use a water based drilling fluid disposal pit at its Hoffman #1 Drilling Fluid Disposal Pit, Duval County, Texas, is hereby **GRANTED** in accordance with the attached permit.

Each exception to the examiners' proposal for decision not expressly granted herein is overruled. All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

This order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the parties are notified of the order.

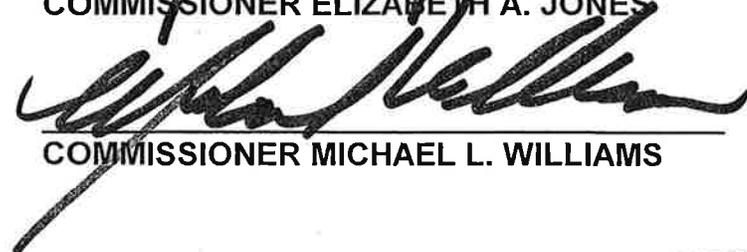
Done this 24th day of November, 2009.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN VICTOR G. CARRILLO



COMMISSIONER ELIZABETH A. JONES



COMMISSIONER MICHAEL L. WILLIAMS

ATTEST:


Secretary

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PERMIT TO MAINTAIN AND USE A PIT

Pit Permit No. P011507

WT CONSTRUCTION INC
P O BOX 1169
PREMONT TX 78375

Based on information contained in your application (Form H-11) received October 9, 2008, and subsequent information received to date, you are hereby authorized to maintain and use the pit designated herein:

Type of Pit: Drilling Fluid Disposal Pit [UNLINED]
Hoffman #1 Drilling Fluid Disposal Pit
1,250 feet FNL and 1,350 feet FEL of "San Francisco" Juan Jose Manuel De La Garza Falcon Survey, A-216
Duval County, RRC District 04

Authority is granted to maintain and use the pit in accordance with Statewide Rule 8 and subject to the following conditions:

1. No waste may be received at the referenced facility until the restrictive covenant, approved by the Commission on April 4, 2009, is filed in the real property records of Duval County and a copy provided to and approved by Technical Permitting.
2. No waste may be received at the referenced facility until financial security in the amount of \$31,983 is provided to and approved by the Commission.
3. The Corpus Christi District Office must be notified upon final completion of each disposal cell. The permittee may not begin using any cell until the District Office has performed its inspection of the completed cell and has verified that the cell is constructed in accordance with the application and this permit.
4. The general layout and arrangement of the facility shall be consistent with the Site Layout received January 15, 2009, which is attached to and incorporated as part of this permit as **Permit Appendix-A**.
5. The total capacity of the pit may not exceed 573,218 barrels. The pit shall be divided into three (3) cells consistent with the plat, which is attached to and incorporated as part of this permit as **Appendix-A**.

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6. The depth of the pit shall not exceed more than 12 feet below ground surface.
7. The closure cost estimate submitted to and approved by the Commission currently covers the closure of one of the three cells. Only one cell, with a surface area not to exceed 3.48 acres, may be active at any given time. An active cell is defined as any cell that has received waste and has not been closed in accordance with this permit and the application.
8. Technical Permitting in Austin and the Corpus Christi District Office must be notified in writing upon closure of each disposal cell.
9. Use of the pit is limited to disposal of water base drilling fluid and associated cuttings with a chloride concentration of 3,000 mg/l or less. No other oil field fluids or oil and gas wastes may be stored or disposed of in the pit.
10. Dikes must be constructed to completely surround the pit to a height of two feet and width at the base of six feet.
11. At least 2 feet of freeboard must be maintained between the waste level in the pit and ground level at all times.
12. The pit must be equipped with a level alarm or visual device to alert waste haulers using the pit that the fluid level in the pit has reached the maximum level allowed by this permit.
13. The facility shall have a fence and lockable gate to prevent unauthorized access. Fencing is required around the entire approved disposal site except to the extent that terrain or vegetation prevents truck access to the site.
14. Records must be kept of each load of waste received at the facility. Records must include:
 - i. name of generator;
 - ii. source of the waste (Lease Name and Lease Number and Well Number or Gas I.D. Number or API Well Number);
 - iii. the name of the carrier;
 - iv. the date the waste is received;
 - v. the volume of the waste received; and
 - vi. the chloride content (mg/l) of each load.

A copy of the records must be filed quarterly with Technical Permitting in Austin and the Corpus Christi District Office. Quarterly reporting periods shall consist of the following months: January to March, April to June, July to September, and October to December. If no waste was received within a quarterly reporting period, a written statement indicating that no waste was received during that quarter must be filed in place of the quarterly report. Quarterly reports shall be

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submitted to Technical Permitting in Austin and the Corpus Christi Office no later than the 30th or 31st day of the month following each reporting period, or each April 30, July 31, October 31, and January 31, respectively.

15. Monitor wells are required and must be in place prior to the receipt of any waste. The locations of the monitoring wells must be consistent with the locations represented in **Permit Appendix A**.

- i. The monitor wells must be completed as follows:
 - a. The Corpus Christi District Office must be notified at least 48 hours prior to the commencement of drilling any monitor wells.
 - b. The wells must be completed in accordance with 16 TAC Part 4, Chapter 76 (Water Well Drillers and Water Well Pump Installers).
 - c. The wells must be completed in the shallowest groundwater zone and the completion must isolate that zone from any deeper groundwater zone.
 - d. The screened interval of the wells must be designed to intercept the top of the groundwater.
 - e. Provision must be made to protect the well heads from damage by vehicles and heavy equipment.
 - f. The following information must be submitted within 45 days after the wells are completed:
 - i. A soil boring log for each well, with the soils described using the Unified Soil Classification System (equivalent to ASTM D 2487 and 2488). The log must also include the method of drilling, total depth, and the top of the first encountered water or saturated soils.
 - ii. A well installation diagram for each well.
 - iii. A survey elevation for each wellhead reference point.
 - iv. A potentiometric map showing static water levels and the calculated direction of groundwater flow.

B. The monitor wells must be monitored for the following parameters after installation and quarterly thereafter:

- | | |
|-----------------------|---------------|
| a. Static water level | h. Nitrates |
| b. Benzene | i. Carbonates |
| c. TPH | j. Calcium |
| d. TDS | k. Magnesium |
| e. Chlorides | l. Sodium |
| f. Bromides | m. Potassium |
| g. Sulfates | n. Arsenic |

C. A copy of all groundwater analytical results and measurements shall be submitted quarterly to Technical Permitting in Austin. Quarterly reporting periods shall consist of the following months: January to March, April to Jun

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July to September, and October to December. Quarterly reports shall be submitted to Technical Permitting in Austin and the Corpus Christi Office no later than the 30th or 31st day of the month following each reporting period, or each April 30, July 31, October 31, and January 31, respectively.

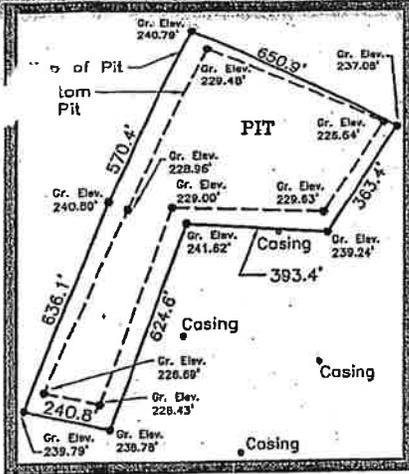
16. Unless otherwise required by conditions of this permit, construction, use, and maintenance of the pit shall be in accordance with the information represented on the application (Form H-11) and attachments thereto.
17. A sign shall be posted at the pit, which shall show the pit permit number in numerals at least one inch in height.
18. Upon final cessation of use of the pit, the pit must be closed in accordance with the Commission approved closure plan, which is on file with the Commission at the time of the pit closure. Any request to modify the closure plan should be filed with Technical Permitting. Upon final closure, the District Office shall be notified in writing.
19. This permit is nontransferable without the consent of the Commission. Any request for permit transfer should be filed with Technical Permitting in Austin.
20. This permit does not authorize the discharge of any oil and gas wastes from the pit.
21. Authority to use the pit expires on 11-24-2014, or upon reaching the maximum disposal capacity authorized by this permit.

This authorization is granted subject to review and cancellation should investigation show that such authorization is being abused.

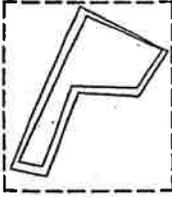
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DETAIL - A
NOT TO SCALE



SEE DETAIL-A

"SAN FRANCISCO"
JUAN JOSE MANUEL
DE LA GARZA FALCON
A - 216

1000 Ac.
Ann Hoffman Bayless
Vol. 194, Pg. 190
D. R., D. C., Tx.

Share 3
Vol. "F", Pg. 138
D. R., D. C., Tx.

Share 1 - 3002 Ac.
Charles Stillman
Vol. "F", Pg. 138
D. R., D. C., Tx.

CB: S 05° 30' 07" W
CD: 282.16'
L: 282.44'
R: 1959.86'

SARAH CORKILL
A - 1190

E. C. LASATER
A - 2100

NANCY IRVIN
A - 1350

- ⊙ - Denotes a found 5/8" iron rod
- - Denotes a set 5/8" iron rod with surveyor's cap stamped "RPLS 1907"

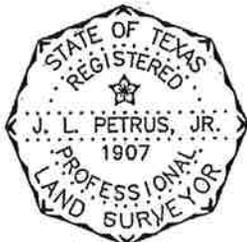
- FLOOD ZONE A, Elevations were Determined from VERA TRIG. STA. Elev. of 256.00'

NOTES:

- 1) Bearings are GPS, Texas Coordinate System of NAD 27, Texas South Zone.
- 2) The FEMA flood maps show that the property described herein is located in Flood Zone A & C. Community-Panel No. 480202 0018 A. May 5, 1987.
- 3) There was a metes and bounds description prepared in conjunction with this plat.
- 4) There may be existing pipelines not shown on this plat. Use the Texas One Call System to locate pipelines before performing any excavation on this property.

I, Julius L. Petrus Jr., Registered Professional Land Surveyor of Texas, do hereby state that this plat represents an actual survey made on the ground, under my direction, to the best of my knowledge and ability, this 27th day of August, 2008.

ig & Petrus, Inc.
P. O. Box 606
Sinton, Texas 78387
Phone 361-364-2622
Fax 361-364-2641
C:\RAR\19500\19540



Julius L. Petrus Jr.
Registered Prof. Land Surveyor
Texas Registration No. 1907

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MAR 13 2009

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630.776 ACRES

208-Ac.
W. M. Laughlin
Vol. 239, Pg. 264
D. R., D. C., Tx.

F. M. HIGHWAY 1329

FLOOD ZONE C

SW Cor.
1000 Ac. Tr.

SE Cor.
1000 Ac. Tr.

N 79° 42' 44" W

NANCY IRVIN
A - 1350

PLAT SHOWING SURVEY OF A
630.776 ACRE TRACT OF LAND
BEING OUT OF THE
"SAN FRANCISCO"
JUAN JOSE MANUEL
DE LA GARZA FALCON SURVEY
ABSTRACT - 216
DUVAL COUNTY, TEXAS
SCALE 1" = 1000'