RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION

OIL AND GAS DOCKET
NO. 08-0246533

FINAL ORDER
APPROVING THE APPLICATION OF
MITCHELL COUNTY RESOURCE RECOVERY FACILITY, LLC
FOR COMMERCIAL STATIONARY WASTE RECYCLE TREATMENT FACILITY
THE MITCHELL COUNTY FACILITY, MITCHELL COUNTY, TEXAS

The Commission finds that after statutory notice in the above-numbered docket heard on June 28-29, 2006, the presiding examiners have made and filed a report and proposal for decision containing findings of fact and conclusions of law, which was served on all parties of record; 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 thereto, hereby adopts as its own the findings of fact and conclusions of law contained therein, and incorporates said findings of fact and conclusions of law as if fully set out and separately stated herein.

Therefore, it is **ORDERED** by the Railroad Commission of Texas that Mitchell County Resource Recovery Facility, LLC is hereby authorized to construct and operate a commercial stationary waste recycle treatment facility in Mitchell County, Texas subject to the following terms and conditions.

The Commission authorizes this permit to the operator to receive, store, handle and treat certain non-hazardous oil and gas wastes as specified below at the following facility**:**

Mitchell County Facility
NW/4 of Section 66, Block 27, T-1-S, T&P RR Co. Survey
Mitchell County, Texas
RRC District 08

This permit grants the operator authority to receive, store, handle, and treat certain non-hazardous oil and gas wastes in accordance with Statewide Rule 8 and subject to the following minimum conditions. The permit conditions are organized as follows: Section I – General Permit Conditions, Section II – Monitor Wells, Section III – Trial Run, Section IV – Authorized Wastes, Section V – Waste Testing and Record Keeping Requirements, Section VI – General Facility Design, Section VII – Construction, Operation and Process Control, Section VIII – Roadbase Material Final Disposition, and Section IX – Facility Closure.

I. GENERAL PERMIT CONDITIONS

A. The effective date of this permit is _____.

B. The authority granted by this permit expires five years after effective date.

C. No oil and gas waste may be received, stored, handled, or treated at the referenced facility until financial security as required by Rule 78 is provided to and approved by the Commission.

D. No oil and gas waste may be received, stored, handled, or treated at the referenced facility until monitor wells are completed and monitor well information is submitted to and approved by the Commission as required by Section II of this permit.

E. The permittee must notify Environmental Services in Austin and the Midland District Office in writing when construction of the facility is initiated.

F. The permittee must notify Environmental Services in Austin and the Midland District Office in writing upon final completion of construction of the facility. The permittee may not begin using the facility until the District Office has performed its inspection of the completed facility and has verified that the facility is constructed in accordance with the application and this permit.

G. The permittee must submit a request for administrative renewal of the permit at least 60 days prior to the permit expiration date. Environmental Services will review the renewal for administrative approval.

H. Beginning six (6) months from the effective date of the permit and every six (6) months thereafter, permittee shall submit a Semiannual Report containing applicable information as required in Conditions II.A.7, V.F., V.G.2, VII.A.7, VII.B.4, VIII.C., and VIII.D. of this permit for the previous six (6) month period.

I. This permit is not transferable without the consent of the Commission. Any request for transfer of this permit must be filed with Environmental Services in Austin at least 60 days before the permittee wishes the transfer to take place.

J. This permit does not authorize the discharge from the facility of any oil and gas waste, including contaminated storm water.

K. Material Safety Data Sheets must be submitted to the Austin Office for any chemical proposed to be used in the treatment of waste at the facility. Use of the chemical is contingent upon Commission approval.

L. Any soil, media, or other debris contaminated by a spill of waste or any other materials at the facility shall be promptly cleaned up and processed through the treatment cycle or disposed of in an authorized manner.

M. The permittee shall make all records required by this permit available for review and/or copying during normal business hours upon request of Commission personnel.

N. The permittee shall post a sign at the facility entrance, which shall show the permit number in numerals at least one inch in height.

O. Failure to comply with any provision of this permit shall be cause for modification, suspension or termination of this permit. This permit may be canceled if Environmental Services determines that the facility is in violation of the conditions of this permit or if operation of the facility is causing or allowing pollution of surface or subsurface water.

P. An independent laboratory neither owned nor operated by the permittee must conduct any analysis of sampling required by this permit.

II. MONITOR WELLS

A. Monitor wells are required and must be completed as follows:

1) Five (5) Monitor wells must be installed in the locations shown on the site diagram, **Figure 10.** Monitor Well No. 4 and Monitor Well No. 5 must be positioned outside the facility perimeter and within 50 feet of the locations shown on the site diagram, **Figure 10.**

2) The wells must be completed in accordance with 16 TAC Part 4, Chapter 76 (Water Well Drillers and Water Well Pump Installers).

3) The wells must be completed in the shallowest groundwater zone and the completion must isolate that zone from any deeper groundwater zone.

4) The screened interval of the wells must be designed to intercept the top of the groundwater.

5) Provision must be made to protect the well heads from damage by vehicles and heavy equipment.

6) The following information must be submitted within 30 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 well head reference point; and
iv) A potentiometric map showing static water levels and the calculated direction of groundwater flow.

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

1.	Static water level	6.	Bromides	11.	Magnesium
2.	Benzene	7.	Sulfates	12.	Sodium
3.	TPH	8.	Nitrates	13.	Potassium
4.	TDS	9.	Carbonates		
5.	Chlorides	10.	Calcium		

Copies of the results must be submitted as part of the Semiannual Report required in Condition I.H. of this permit.

III. TRIAL RUN

The permittee must demonstrate the ability to successfully process at this facility the first one thousand cubic yard batch of waste before any additional waste may be received or processed.

A. The permittee must notify Environmental Services in Austin and the Midland District Office in writing at least 48 hours before waste processing begins.

B. The permittee must collect samples and obtain analyses for the processed waste as required by Condition VII.C.2).

C. The permittee shall collect samples from every 200 cubic yards of the first 1000 cubic yard batch and analyzed for wetting and drying durability by ASTM D 559-96, modified to provide that samples are compacted and molded from finished processed material. Total weight loss after 12 cycles may not exceed 15%.

D. The permittee must submit a written report of the Trial Run to Environmental Services in Austin within 30 days of receipt of the analyses required in Condition III.D.4). The following information must be included:

1) the actual volume of waste material processed;

2) type of waste (as described in Section IV.) and description of the waste material, including analyses required by Conditions V.B., V.C., and V.D.;

3) the volume and type of stabilization material used;

4) copies of all lab analyses required by Conditions III.C., V.B., V.C., V.D., and VII.C.2.

E. The process must begin with oil and gas waste of the type authorized in Section IV. The final processed material must meet the limitations of Conditions III.C. and VII.C.2.

F. The treated waste may not be applied to roads and no additional waste may be received or processed until Environmental Services has verified the results and determined that the waste was successfully processed.

IV. AUTHORIZED WASTES

Only nonhazardous oil and gas wastes subject to the jurisdiction of the Railroad Commission of Texas and exempt from RCRA, Subtitle C may be received at the facility. The permittee may receive, store, handle, treat and process only the following non-hazardous oil and gas wastes:

water based drilling fluids and the associated cuttings; oil based drilling fluids and the associated cuttings; and tank bottoms from gas plants, crude oil reclamation plants and crude oil production/separation facilities.

The permittee may receive, store, handle, or treat waste at the facility only if it is a waste under the jurisdiction of the Railroad Commission of Texas and is not a listed hazardous waste or exhibits one or more hazardous waste characteristics and does not fall within the oil and gas exemption of §3001(b)(2)(A) of RCRA. The Commission may consider special authorization for processing RCRA non-exempt oilfield waste. The permittee must obtain authority from Environmental Services in Austin prior to acceptance of the waste.

Inert materials including caliche, gravel, non-hazardous concrete rubble, brick, cinder block, rock, recycled road materials and recycled asphalt may be stored at the facility as necessary for the manufacturing of stabilized roadbase at the facility.

No asbestos-containing material regulated under the Clean Air Act or PCB (polychlorinated biphenyls) material regulated under the Toxic Substances Control Act may be accepted for processing at the facility.

No oil and gas NORM (naturally occurring radioactive material) waste as defined in 16 TAC §4.603 or waste from a facility that is licensed by the Texas Department of State Health Services to process or treat oil and gas NORM waste may be received at this facility.

V. WASTE TESTING AND RECORD KEEPING REQUIREMENTS

A. For the purposes of this permit, other than TOX analyses, a representative sample of incoming waste is defined as a four-part composite sample comprising one grab sample from each 50 cubic yard of waste material from each 200 cubic yard lot (e.g., from each pit, spill location, tank bottom, or facility.) For TOX analyses, a representative sample is defined as one grab sample from each 50 cubic yards of waste material from each job.

B. Prior to receipt at the site, representative samples of waste from commercial oil and gas facilities must be analyzed and may not exceed the limit for the following parameter:

PARAMETER	LIMITATION
TOX (Total Organic Halides)	100 mg/kg

Special authorization for processing of waste with a TOX >100 mg/kg may be considered. Authority must be obtained from Environmental Services in Austin prior to acceptance of the waste.

C. Prior to or upon receipt at the site, representative samples of all incoming waste must be analyzed for the following parameters:

PARAMETER
TPH
Chlorides
pH

D. Each load of incoming waste, other than water based drilling fluids and the associated cuttings or oil base drilling fluid and the associated cuttings, must be scanned for the presence of naturally occurring radioactive material (NORM) using a scintillation meter with a sodium iodide detector. Any load with a maximum reading of 50 microroentgens per hour or more may not be unloaded or processed at the facility unless further analysis of the waste demonstrates that the waste does

not exceed 30 picocuries per gram Radium-226 or Radium-228 or 150 picocuries per gram of any other radionuclide.

E. The permittee shall maintain the following records on each load of waste received at the facility for a period of ten (10) years from the date of receipt:

1) description of the site where the waste was generated, including:
i) generator name;
ii) lease name, lease number and well number or gas ID number or API well number;
iii) county; and
iv) carrier name.

2) amount of waste material received (specify units);

3) type of waste and description of the waste material, including any analyses required by Section V; and

4) copies of all lab analyses for each sample required to be analyzed by Conditions V.B., V.C., and V.D.

F. A report of the records required by Conditions V.E.1), 2), 3) and 4) shall be submitted to Environmental Services in Austin as part of the Semiannual Report required in Condition I.H. of this permit. If no waste was received within a reporting period, a written statement indicating that no waste was received must be submitted to Environmental Services in Austin as part of the Semiannual Report required in Condition I.H. of this permit.

G. STABILIZATION MATERIAL TESTING REQUIREMENTS

1) Prior to receipt at the facility, representative samples of incoming fly ash must be analyzed by the supplier for the following parameters and may not exceed the following levels:

PARAMETER	LIMITATION
Metals:	TCLP
Arsenic	< 5.0 mg/l
Barium	< 100.0 mg/l
Cadmium	< 1.0 mg/l
Chromium	< 5.0 mg/l
Lead	< 5.0 mg/l
Mercury	< 0.2 mg/l
Selenium	< 1.0 mg/l
Silver	< 5.0 mg/l

2) The permittee shall maintain records documenting the source of each shipment of stabilizing material received at the facility for a period of three (3) years from the date of receipt. These records shall include copies of lab analyses demonstrating compliance with Condition II.C.1. Copies of these records shall be submitted to Environmental

Services in Austin as part of the Semiannual Report required in Condition I.H. of this permit.

VI. GENERAL FACILITY DESIGN

1. The general layout and arrangement of the facility shall be consistent with the facility diagram as presented in the hearing as **Figure 10**.

2. Except as otherwise specified by this permit, compacted earthen berms shall be constructed to surround each stabilization area, production area, and staging area. Each berm shall be keyed into the underlying soil and shall be constructed to a minimum height of two (2) feet, with the base at least three (3) times the height.

3. Any chemical used in the treatment process shall be stored in vessels designed for the safe storage of the particular chemical and these vessels shall be maintained in a leak free condition.

4. Prior to beginning operations the facility shall have security to prevent unauthorized access. A wire fence shall surround the entire property. Access shall be secured by a locked gate when the facility is unattended and by a security guard when attended. Only employees of the permittee may have a key to the lock.

VII. CONSTRUCTION, OPERATION, AND PROCESS CONTROL

A. CONSTRUCTION

1) Untreated waste staging and production areas shall be constructed and arranged as shown on the facility diagram, **Figure 10.** The untreated waste staging and production areas shall consist of the following:

   i) **Area A, Tank Bottoms Stabilization Area.** Area A shall have a maximum total area of 225 ft x 250 ft. Area A shall have a concrete pad with minimum dimensions of 75 ft x 200 ft x 4 in thick. All waste shall be kept on top of the concrete pads in accordance with Condition VII.B.1.

   ii) **Area B, Water Based Drilling Fluids Stabilization Area.** Area B shall have a maximum total area of 150 ft x 50 ft. Area B shall have a concrete pad with minimum dimensions of 150 ft x 50 ft x 4 in thick. All waste shall be kept on top of the concrete pads in accordance with Condition VII.B.1.

   iii) **Area C, Oil Based Drill Cuttings Stabilization Area.** Area C shall have a maximum total area of 75 ft x 50 ft. Area C shall have a concrete pad with minimum dimensions of 75 ft x 50 ft x 4 in thick. All waste shall be kept on top of the concrete pads in accordance with Condition VII.B.1.

   iv) **Area 2, Cold Mix Asphalt Production Area.** Area 2 shall have a maximum total area of 250 ft x 250 ft. Area 2 shall have a concrete pad with minimum dimensions of 100 ft x 100 ft x 4 in thick. All waste shall be kept on top of the concrete pads in accordance with Condition VII.B.7.

2) A final product staging area shall be constructed and arranged as shown on the facility diagram, **Figure 10.** The final product staging area shall consist of the following:

i) **Area 3, Final Product Staging Area.** Area 3 shall have a maximum total area of 200 ft x 200 ft. Area 3 shall have a concrete pad with minimum dimensions of 100 ft x 100 ft x 4 in thick. All waste shall be kept on top of the concrete pads in accordance with Condition VII.B.9.

3) An inert material staging area shall be constructed and arranged as shown on the facility diagram, **Figure 10.** The inert material staging area shall consist of the following:

i) **Area 1, Inert Aggregate Staging Area.** Area 1 shall have a maximum total area of 250 ft x 150 ft.

4) The pug mill and all ancillary processing equipment shall be positioned on the Area 2 concrete pad at all times.

5) Earthen berms and walls shall be constructed as shown on the facility diagram, **Figure 10.** The berms and walls shall conform to the following minimum dimensions:

i) **Area A, the Tank Bottoms Stabilization Area** shall have a 2-foot berm on all sides.

ii) **Area B, the Water Based Drilling Fluids Stabilization Area** shall have a 12-foot wall on the NW side, a 6-foot wall on the SE side, a 2-foot berm on the inside, and a 12-foot wall on the outside.

iii) **Area C, the Oil Based Drill Cuttings Stabilization Area** shall have a 6-foot wall on the NW and SE sides, a 2-foot berm on the inside, and a 12-foot wall on the outside.

iv) **Area 2, the Cold Mix Asphalt Production Area** shall have a 2-foot berm on all sides.

v) **Area 3, the Final Product Staging Area** shall have a 2-foot berm on all sides.

vi) The facility shall be bordered on the SW side by a 12-foot wall from the existing quarry. The facility shall be bordered on the NE side by a 20-foot wall from the existing quarry. The facility shall be bordered on the NW and SE sides by a wall that slopes from 20 feet in height to 12 feet in height (NE to SW).

6) No permanent tanks shall be kept at this facility. Leased tanks may be used for fresh water and asphalt emulsion. These tanks shall remain on the facility premises for no more than 24 hours per delivery, except during events of equipment malfunction. All such equipment malfunction events must be recorded in a log and kept on site.

7) This facility shall not exceed a combined oil and gas waste limit of 6000 tons at any given time. This limit includes both untreated waste and processed asphalt paving material pending compliant test results.

Records shall be maintained on site showing the tons and cubic yards of waste kept in each stabilization, staging, and processing area and on a facility-wide basis. The records shall be updated at least once per week, and shall include documentation for density conversion (ton to cubic yard) for each waste type.

Copies of the records must be submitted as part of the Semiannual Report required in Condition I.H. of this permit.

B. OPERATION

1) Incoming waste must be unloaded directly from the transport truck or trailer onto a concrete pad designated for the staging or stabilization of untreated waste. Waste may not be unloaded onto the ground or subsequently placed onto the ground. All waste must be kept on top of the concrete pads at all times. Waste shall be maintained at a maximum height of 2 feet below the quarry wall bordering the outside of each staging or stabilization area. No waste shall migrate beyond the perimeter of its designated concrete pad within its respective staging or stabilization area.

2) Any leased tanks entering the facility must be free of leaks and must be maintained in a leak-free condition while on the premises.

3) All concrete pads, including those within permitted Areas A, B, C, 2, and 3, shall be cleared and inspected annually for deterioration. If inspection reveals deterioration, the pads must be repaired before resuming use of the pad.

4) The permittee must maintain a record of when the concrete pads are inspected and the results of each inspection. A copy of the records shall be submitted to Environmental Services in Austin as part of the Semiannual Report required in Condition I.H. of this permit.

5) Excess rainwater collected within the bermed areas shall be removed and disposed of in an authorized manner.

6) Waste shall be mixed and stabilized in Areas A, B, or C with appropriate amounts of caliche, cement, lime or non-hazardous fly ash. Mixing shall be accomplished by mechanical means. Mixed waste must pass the Paint Filter Test (EPA Method 9095A) prior to removal from Areas A, B, or C for further processing.

7) Stabilized waste shall be processed through the pug mill system in Area 2 with appropriate amounts of fresh water, non-VOC asphalt emulsion, inert aggregate, and additional lime or cement as needed, so that final material meets the limitations in Condition VII.C.2. All waste transferred to Area 2 shall be kept on top of the Area 2 concrete pad. Waste shall be maintained at a maximum height of 2 feet below the quarry wall bordering Area 2. No waste being processed or staged in Area 2 shall migrate beyond the perimeter of the concrete pad within Area 2.

8) To maintain adequate segregation of the final treated material until laboratory results are received and demonstrate that the material meets permit specifications for use as road base, the material shall be stored in Area 3 as follows:

   Treated material shall be placed in lots of 800 tons each atop the concrete pad in Area 3, the Final Product Staging Area, as shown on the facility diagram, **Figure 10.** Each 800-ton lot of the final treated material must be stored in one of two rows, generally running from southwest to northeast.

   Each 800-ton lot shall be labeled with a sign showing its unique lot identification number and corresponding laboratory analysis number.

   As compliant test data is received, the words “OK FOR USE” shall be placed on the

appropriate lot number sign for the compliant lot.

9) The final treated material shall be stockpiled on the Area 3 concrete pad until laboratory analysis results are received and demonstrate that the material meets permit specifications for use as road base.

10) Appropriate measures shall be taken to control dust at all times.

C. PROCESS CONTROL

1) Bench scale tests shall be performed as needed to determine optimum mixing design.

2) A sample of the final treated material shall be tested for the parameters listed below for every 800 tons of material produced. The 800-ton lot sample shall be composed of a composite of four (4) sub-samples obtained at 200-ton intervals. Each 800 ton lot sample shall be analyzed for the following parameters:

PARAMETER	LIMITATION
Compressive Strength by Method Tex 126-E	35-psi minimum
Hveem Stability by Method Tex –208-F	35
SPLP by EPA Method 1312	
Metals	
Arsenic	<5.00 mg/l
Barium	<100.00
Cadmium	<1.00
Chromium	<5.00
Lead	<5.00
Mercury	<0.20
Selenium	<1.00
Silver	<5.00
Benzene	<0.50
1:4 Solid: Solution 7 Day Leachate Test (LA 29-B Method)	
Chlorides	<500.0
TPH	<100.0
pH (Standard Units)	6 – 12

3) Any material not meeting the limitations in Condition VII.C.2. shall be returned to the mixing cycle and reprocessed.

VIII. ROADBASE MATERIAL FINAL DISPOSITION

A. Processed material meeting or exceeding process control parameters listed in Condition VII.C.2. is suitable for use as roadbase material and may be used as roadbase off-site.

B. The following records shall be kept at the facility for a period of three (3) years from the date of removal for each load of processed material:

1) the date the processed material is removed from the facility;

2) the volume of processed material removed from the facility;

3) the identification of the recipient;

4) documentation that the landowner of the receiving location has approved the use of the processed material on the landowner's property if used on private roads;

5) documentation that the processed material has met the specifications required by the final user; and

6) documentation indicating the approximate location where processed material is used.

C. Copies of analyses demonstrating that processed material has met the limitations in Condition No. VII.C.2. shall be submitted to Environmental Services in Austin as part of the Semiannual Report required in Condition No. I.H.

D. Oil and gas waste may not be accumulated speculatively. Beginning with the effective date of the permit, and annually thereafter, the amount of waste that is recycled must equal at least 75% by volume of the amount of waste accumulated on the anniversary of the effective date of the permit. Mitchell County Resource Recovery Facility, LLC must keep records showing the volume of waste on hand as of the effective date of the permit, the amount of waste received during each year from the effective date of the permit, and the amount of waste remaining on each anniversary of the effective date of the permit. A copy of the records shall be submitted to Environmental Services in Austin as part of the Semiannual Report required in Condition I.H. and submitted on the anniversary date of the permit.

IX. FACILITY CLOSURE

A. All waste must be processed through the facility or disposed of at a permitted facility.

B. The contents of all stabilization, staging, and production areas, vessels, or other containers shall be disposed of in an authorized manner.

C. The pug mill, stabilization, staging, and production area walls, concrete pads, vessels, or other containers and production equipment shall be removed from the facility.

D. Representative soil samples shall be taken from around the location of the stabilization, staging, and production area pads. These composite samples shall be analyzed and the following constituent levels shall not be exceeded:

PARAMETER	PRE-CLOSURE LIMIT
pH (Standard Units)	6 to 10
Electrical Conductivity (EC) (mmhos/cm)	4
TPH (weight %)	< 1

Metals (mg/kg):		
	Arsenic	10.00
	Barium	20000.00
	Cadmium	3.00
	Chromium	100.00
	Lead	200.00
	Mercury	10.00
	Selenium	5.00
	Silver	200.00
BTEX (mg/kg)		30.00

E. A map showing the sampling locations and copies of the analyses required by Condition IX.D. shall be submitted to the Austin Office. When acceptable soil constituent levels have been verified by the Austin Office, the earthen berms shall be leveled to grade. The topsoil shall then be contoured and seeded with appropriate vegetation.

F. Provisions shall be taken to prevent erosion both during and following closure.

G. Environmental Services in Austin and the Midland District Office must be notified in writing 45 days prior to commencement of closure activities.

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 order is served on the parties.

Done this the 14th day of November, 2006.

RAILROAD COMMISSION OF TEXAS

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CHAIRMAN ELIZABETH A. JONES

COMMISSIONER MICHAEL L. WILLIAMS

COMMISSIONER VICTOR G. CARRILLO

ATTEST:

Secretary