

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

**OIL AND GAS DOCKET
NO. 8A-0262915**

**FINAL ORDER
DENYING THE APPLICATION OF SOUTHWEST DISPOSAL SERVICE, INC.
TO MAINTAIN AND USE NINE COMMERCIAL DISPOSAL PITS
GAINES COUNTY SEMINOLE FACILITY
GAINES COUNTY, TEXAS**

The Commission finds that after statutory notice in the above-numbered docket heard on October 9, 2009, 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 Findings of Fact Nos. 1 and 2 and Conclusions of Law Nos. 1 and 2, and incorporates said findings of fact and conclusions of law as if fully set out and separately stated herein. The Commission further adopts the following substitute findings of fact and conclusions of law:

Substitute Findings of Fact:

3. The application was administratively denied by staff of the Commission's Technical Permitting Section because the Ogallala formation outcrops at the surface of the proposed location and because the land surface at the facility is a recharge zone for the Ogallala.
4. The Ogallala is a major aquifer which yields fresh water 51 feet below the land surface at the proposed facility. There is not an impermeable geological barrier between the bottom of the proposed pits and the groundwater 51 feet below the surface.
5. The proposed liner and leak detection system do not provide sufficient assurance that subsurface water will be adequately protected from pollution if disposal of waste into the proposed pits is permitted at the proposed facility.

Substitute Conclusion of Law:

3. Southwest Disposal Service, Inc. did not prove that the proposed disposal will not result in the pollution of surface or subsurface water as required by Statewide Rule 8 (d)(6)(A).

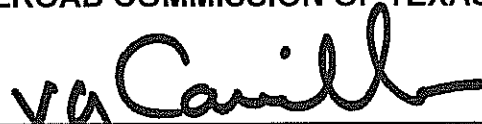
Therefore, it is ordered by the Railroad Commission of Texas that the application of Southwest Disposal Service, Inc. to maintain and use nine commercial disposal pits at its Gaines County Seminole Facility, is hereby DENIED.

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 23rd day of February, 2010


RAILROAD COMMISSION OF TEXAS



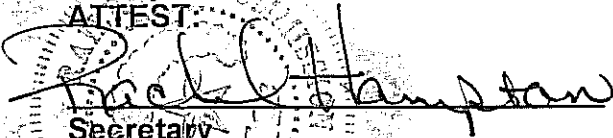
Chairman Victor G. Carrillo



Commissioner Elizabeth A. Jones



Commissioner Michael L. Williams

ATTEST:

Secretary

