

**RAILROAD COMMISSION OF TEXAS
HEARINGS DIVISION**

OIL & GAS DOCKET NO. 01-0301648

APPLICATION OF DSD-FRIO ENVIRONMENTAL, INC. TO PROVIDE DSD-FRIO ENVIRONMENTAL, INC. (OPERATOR NO. 229360) AN OPPORTUNITY TO SHOW CAUSE WHY ITS P4 CERTIFICATE OF COMPLIANCE SHOULD NOT BE CANCELLED AND THE PIPELINE OR OTHER CARRIER CONNECTION SEVERED ON THE FRIO COUNTY SCHOOL LAND LEASE (RRC LEASE NO. 16058), PEARSALL (AUSTIN CHALK) FIELD, FRIO COUNTY, TEXAS

FINAL ORDER

The Commission finds that, after statutory notice, the captioned proceeding was heard by the Administrative Law Judge and Technical Examiner (collectively referred to "Examiners") on November 28, 2016. The Examiners have circulated a Proposal for Decision containing findings of fact and conclusions of law. Having been duly submitted to the Railroad Commission of Texas at a conference held in its offices in Austin, Texas, those findings of fact and conclusions of law are hereby adopted and made a part hereof by reference.

IT IS ORDERED that the application by DSD-Frio Environmental, Inc. ("DSD"), Operator No. 229360, for a determination—contrary to Railroad Commission ("Commission" or "RRC's") staff's ("Staff's") prior determination—that it is not in violation of Commission rules and its Commission Form P-4 Certificate of Compliance ("P-4") for the Frio County School Land Lease (the "Lease") should be cancelled and pipeline or other carrier connections severed is hereby **DENIED**.

IT IS FURTHER ORDERED that:

1. The cancelation and severance of DSDs' P-4 for the Lease was properly cancelled and severed on August 17, 2016.
2. Before DSD's P-4 can be reissued, DSD is required to pay for any reconnection fees.
3. Before DSD's P-4 can be reissued, DSD is required to bring the Lease into compliance with Statewide Rules 8(d)(1), 8(d)(2), 57(c)(1) and 91(d)(1), including completing the following corrective actions designed to achieve compliance:
 - a. To address the reclamation plant violation—the violation of Statewide Rule 57(c)(1)— DSD should be required to complete the following to achieve compliance:
 - 1) Conduct a Naturally Occurring Radioactive Material (NORM) survey on all facility storage tanks and equipment located in the reclamation and storage area. Sampling points must include the ground surface surrounding the perimeter of the reclamation area. Submit the NORM survey results to the Technical Permitting Section that includes a site diagram identifying sample locations, a table of results with location identifiers, and the calibration sheets for the instrument used to conduct the survey.

- 2) Remove all waste materials from the processing and storage tanks as well as from any other equipment, and dispose of it at an authorized disposal facility.
- 3) Clean all tanks and equipment and remove it from the area in an authorized manner.
- 4) After all tanks and equipment have been disconnected and re-moved, take four representative composite soil samples to a depth of one foot around and underneath the former reclamation area. Soil samples must be analyzed for the parameters listed in Table 1 and must not exceed the specified limitations. Any soil sample that exceeds the parameter limitations specified in Table 1 is considered waste and must be disposed of at an authorized disposal facility.

Table 1: Soil Testing Parameters & Limitations

PARAMETER	LIMITATION
pH <i>EPA Method 9045C or equivalent</i>	6 to 10 standard units
Electrical Conductivity (EC) <i>Louisiana Dept. of Natural Resources Lab Procedures for Analysis of Exploration and Production Waste or equivalent</i>	≤ 4.0 mmhos/cm
Total Petroleum Hydrocarbon (TPH) <i>EPA Method 5035A / TX1005</i>	≤ 10,000 mg/kg
Total Benzene, Toluene, Ethylbenzene, Xylenes (BTEX) <i>EPA Method 5035A / 8021 / 8260B</i>	≤ 30 mg/kg
Metal (Total) <i>EPA Method 6010 / 6020 / 7471A</i>	
Arsenic	≤ 10 mg/kg
Barium	≤ 10,000 mg/kg
Cadmium	≤ 10 mg/kg
Chromium	≤ 100 mg/kg
Lead	≤ 200 mg/kg
Mercury	≤ 10 mg/kg
Selenium	≤ 10 mg/kg
Silver	≤ 200 mg/kg

- 5) Remove and dispose of any additional, visually contaminated soils surrounding the reclamation and storage areas.
- 6) Obtain prior written approval from the San Antonio District Office Staff and Technical Permitting Staff regarding the sample locations, sampling methodology, and the entity to perform the analysis for the soil samples required by step 4 above.
- 7) Notify San Antonio District Office Staff and Technical Permitting Staff upon completion of steps 1, 2 and 4 above.

- 8) Complete all actions required above within 90 days from the date the final order in this case is effective.
- b. To address pit violations—the violations of Statewide Rules 8(d)(1), 8(d)(2) and 91(d)(1)—DSD should be required to complete the following to achieve compliance:
- 1) Conduct a NORM survey on the concrete pit and adjacent pads as well as any storage tanks associated with the pit or disposal wells. Sampling points must include the ground surface surrounding the perimeter of the pit area. Submit the NORM survey results to Technical Permitting that includes a site diagram identifying sample locations, a table of results with location identifiers, and the calibration sheets for the instrument used to conduct the survey.
 - 2) Remove all waste materials from the concrete pit, pads and associated storage tanks, and disposed at an authorized disposal facility. After all waste materials have been properly disposed, the pit must be cleaned, demolished and the concrete rubble and wash water must be disposed of in an authorized manner.
 - 3) Clean all tanks and equipment and remove them from the area in an authorized manner.
 - 4) After removal of the pit, take four representative soil samples to a depth of one foot around and underneath the pit area. Soil samples must be analyzed for the parameters listed in Table 1 above and must not exceed the specified limitations. Any soil sample that exceeds the parameter limitations specified in Table 1 is considered waste and must be disposed of at an authorized disposal facility.
 - 5) Remove and dispose of any additional, visually contaminated soils surrounding the pit area.
 - 6) Backfill and compact the pit area, and the final surface grading of the pit must be accomplished in such a manner that rainfall will not collect at the former pit location.

IT IS FURTHER ORDERED by the Commission that this order shall not be final and effective until 25 days after the Commission's order is signed, unless the time for filing a motion for rehearing has been extended under TEX. GOV'T CODE § 2001.142, by agreement under TEX. GOV'T CODE § 2001.147, or by written Commission Order issued pursuant to TEX. GOV'T CODE § 2001.146(e). 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 this order in accordance with TEX. GOV'T CODE § 2001.144.

Each exception to the 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.

Done this 21st day of March, 2017, in Austin, Texas.

RAILROAD COMMISSION OF TEXAS

Christi Craddick

CHAIRMAN CHRISTI CRADDICK

Ryan Sitton

COMMISSIONER RYAN SITTON

Wayne Christian

COMMISSIONER WAYNE CHRISTIAN

ATTEST:

Kathy Way

SECRETARY

