

**RAILROAD COMMISSION OF TEXAS  
HEARINGS DIVISION**

**OIL & GAS DOCKET NO. 01-0317052 / TRACKING NO. 48339**

**APPLICATION OF NOW ENVIRONMENTAL SOLUTIONS, LLC (615795) PURSUANT TO STATEWIDE RULE 9 FOR A COMMERCIAL PERMIT TO DISPOSE OF OIL AND GAS WASTE BY INJECTION INTO A POROUS FORMATION NOT PRODUCTIVE OF OIL AND GAS FOR THE BRISCOE CATRINA RANCH LEASE, WELL NO. 1, BRISCOE RANCH (EAGLEFORD) FIELD, DIMMIT COUNTY, TEXAS**

**ORDER OF DISMISSAL**

The Railroad Commission of Texas ("Commission") finds that NOW Environmental Solutions, LLC's motion to dismiss the protest of NGL Water Solutions Eagle Ford, LLC, should be granted and the above-referenced application should be remanded for administrative processing. The Commission adopts the following findings of fact and conclusions of law.

**Findings of Facts**

1. On or about June 11, 2018, NOW Environmental Solutions, LLC ("Applicant") submitted to the Commission an application pursuant to Statewide Rule 9 for a commercial permit to dispose of oil and gas waste by injection into a porous formation not productive of oil or gas for the Briscoe Catrina Ranch Lease, Well No. 1, Briscoe Ranch (Eagleford) Field, in Dimmit County, Texas ("Application").
2. On May 30, 2018, notice of the Application was published in the *Carrizo Springs Javelin*, a newspaper of general circulation in Dimmit County, Texas.
3. On or about June 8, 2018, Applicant mailed the Application to the owner of record of the surface tract on which the well is located; each commission-designated operator of any well located within one-half mile of the proposed disposal well; the county clerk of the county in which the well is located; the city clerk or other appropriate city official of any city where the well is located within the municipal boundaries of the city; and owners of record of each surface tract that adjoins the proposed disposal tract.
4. On a date thereafter, Wintergarden Groundwater Conservation District ("Wintergarden") filed a protest of the Application.
5. On October 18, 2019, NGL Water Solutions Eagleford, LLC ("NGL") filed a protest of the Application.
6. On March 5, 2019, Wintergarden withdrew its protest of the Application
7. On March 14, 2019, Applicant filed a motion to dismiss NGL's protest for lack of standing and as untimely ("Motion"). In the Motion, Applicant argues that NGL is not an affected person and requests that the Application be remanded for administrative consideration.

8. NGL did not file a response to the Motion within ten days of the filing of the Motion as required by 16 Tex. Admin. Code § 1.35(a).

9. An affected person is defined as:

a person who has suffered or will suffer actual injury or economic damage other than as a member of the general public or as a competitor, and includes surface owners of property on which the well is located and commission-designated operators of wells located within one-half mile of the proposed disposal well.<sup>1</sup>

Further, in the preamble to Statewide Rule 9 it states:

[T]he rule has also been changed to make it clear that only "affected persons," as now defined in the adopted rule, or local governments, are entitled to a hearing on the application unless the director of the underground injection control determines that a hearing is in the public interest.<sup>2</sup>

- 10. NGL failed to provide evidence that it is an affected person.
- 11. NGL's protest was not filed within 15 days of publication of the Application as required by 16 Tex. Admin. Code § 3.9(5)(E)(i).
- 12. NGL is not an affected person.
- 13. NGL's protest was not timely.

### Conclusions of Law

- 1. Proper notice of hearing was timely issued to persons entitled to notice. *See, e.g.*, Tex. Gov't Code § 2001.051; 16 Tex. Admin. Code §§ 1.41, 1.42, 1.45, 3.9.
- 2. The Commission has jurisdiction in this case. *See, e.g.*, Tex. Nat. Res. Code § 81.051.
- 3. Dismissal of NGL for lack of standing is just and reasonable. *See* 16 Tex. Admin. Code §§ 1.35, 1.101, 1.107, 3.9.
- 4. Applicant's request to have this Hearings Division case dismissed and the Application remanded to the permitting program for administrative processing should be granted.

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<sup>1</sup> 16 Tex. Admin. Code § 3.9(E)(ii); *see also* 16 Tex. Admin. Code § 3.46(c)(5)(B).

<sup>2</sup> *See* 7 Tex. Reg. 651, 653 (1982) (adopting amendment to Statewide Rule 9); 7 Tex. Reg. 655, 656 (1982) (adopting amendment to Statewide Rule 46).

### Ordering Provisions

The protest of NGL is **DISMISSED**.

The above captioned and docketed case in the Hearings Division is **DISMISSED WITHOUT PREJUDICE** and the above-referenced Application is **REMANDED** for administrative consideration.

The prehearing conference scheduled for **June 3, 2019**, and the hearing scheduled for **July 1, 2019**, are **CANCELED**.

It is **ORDERED** that the Application is not to be remanded until this Order of Dismissal is final and effective.

It is further **ORDERED** by the Commission that this order shall not be final and effective until 25 days after the 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 100 days from the date the parties are notified of this order in accordance with Tex. Gov't Code § 2001.144.

Signed on April 8, 2019.

A handwritten signature in black ink, appearing to read 'Dana L', is written over a horizontal line.

Dana Avant Lewis, Director  
Hearings Division