

9 December 2010

The Honorable Glenn Hegar, Jr. Chair
Senator, District 18
Texas Sunset Advisory Commission
PO Box 13066
Texas, TX 78711

Dear Senator Heger:

We are writing to call the Commission's attention to information regarding TCEQ's inability to regulate the hazardous waste treatment/storage/ disposal (TSD) industry, as illustrated by the abysmal operating history of US Ecology (USET) - Texas in Robstown, near Corpus Christi.

In the past 10 years, the TECQ has performed only two full inspections at USET, the oldest, and possibly, the largest TSD facility in Texas. According to the results of both inspections, USET is classed as an "average" facility. However, it was not operating the facility in compliance with even the most basic regulations, such as following the waste analysis plan. Each inspection resulted in an Agreed Order between TCEQ and USET regarding numerous violations noted and reported during the inspection. Summary violation listings for the 2004 and 2008 inspections are provided in Attachments A and B, respectively.

These summaries are not simply our opinion of USET operations. They are based on the findings of fact in two separate Agreed Orders, signed by both TCEQ attorneys and USET authorized representatives.

Due to the 5-year long period between complete operation inspections, and because the facility management does not follow permit-required procedures, training and monitoring operations required by the permit, there is no way for TCEQ inspectors to know how many days that the facility operated out of compliance prior to the TCEQ inspection. It is also not clear from the Agreed Orders or the related TCEQ Inspection Reports how long some of the violations had been occurring when they were noted by the inspector(s). Each violation could have been occurring for up to five years or 1825 days, with each day being a violation

Sometimes, but not always, TCEQ inspectors will make a non-routine inspections when there are citizens' complaints. However, it is well known that there are few, if any, TCEQ personnel on duty in the evenings, on weekends, or during holidays. Citizens cannot know and report when staff do not follow the Waste Analysis Plan or disable monitors or fail to collect

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monitor well samples. They are only aware to the results of the operation and training omissions and failures when significant emissions leave the plant boundaries. There have been facility emissions that sent nearby residents to the hospital emergency rooms for evaluation and treatment.

Despite documented operation failures and omissions through the past 10 years, TCEQ has rated USET as an "average facility" and routinely approved every permit modification request, even when objections, based on prior violations, were raised by nearby residents.

Attachment C is an objection letter sent last year. TCEQ staff, including Mr. Venkat, ignored its contents and request as he continued through the steps to approve the request to add two additional mixers in an area near the road adjacent to residences. Mr. Venkat told me that he did not see any problem approving the modification request, because the facility was average, despite the approximately 38 known violations by the facility, several of a very serious nature.

It is shocking to see that a facility negotiating an Agreed Order for 13 moderate to serious violations such as:

- missing reports,
- open hazardous waste containers,
- disabled alarms,
- failures to inspect landfill cells after rainfall events, and
- failure to sample monitor wells and remove landfill leachate from the leak detection system,

is considered "average" and no consideration is given to the failures and omissions that violate the requirements of the permit.

Additionally, during the five years between the Agreed Orders and prior to November 2009, there were 33 written notices of violations issued to this facility, namely:

- *9 minor violations,*
- 23 moderate violations and
- **A major violation -- failure to comply with Ordering Provisions of Commission Order Docket No. 2004-1146-MLM-E, the previous Agreed Order.**

After signing an agreed order to correct 25 significant violations, the facility management fails to comply with the Order and TCEQ staff ignores requests to deny additional permit modifications until the facility is in compliance, because the facility is “average” on compliance!

USET is unable or unwilling to follow the minimal requirements of the TCEQ hazardous waste TSD permit. Nonetheless, TCEQ labels the facility “average”, a designation that might be expected for a compliant municipal water or sewage treatment plant.

The number and nature of the 38 violations covered by the Agreed Orders indicate that the owner/operator lacks familiarity with the TCEQ’s Hazardous Waste Regulations. It also indicates a lack of effective employee training and monitoring to assure that the TCEQ regulations are followed.

Moreover, it is not clear from either the Agreed Order or the related TCEQ Inspection Reports how long some of the violations had been occurring when they were noted by the inspector(s).

In consideration of all of the above listed violations of TCEQ’s Regulations regarding hazardous waste, we believe that the subject facility should be inspected by TCEQ inspector(s) to assure that it has been brought into compliance in regards to issues listed

Only after the facility is determined to be in compliance the Order that became effective 14 July 2006 and with issues listed in the more recent Order that became effective 18 October 2009 and then operates in compliance, without any moderate or **major** violations for at least 365 days, should amendment or modification be accepted for consideration. If, in it’s ironic wisdom, TCEQ decides to extend and renew the facility permit, then TCEQ should devote sufficient inspection resources to visit the facility for at least four to eight hours per month to assess the compliance with minimal permit requirements such as Inspection Plan, Training Plan, Waste Analysis Plan, Groundwater Sampling and Analysis Plan and the completion and submission or required reports

In short, the Ahlrichs and Local Residents are opposed the TCEQ’s approval of the Class 2 Permit Modification authorizing two new mixing tanks on the west side of the facility, as well as the recent proposed amendments and renewal of a hazardous waste permit for a facility owner/ operator who is unwilling and unable to operate a minimally compliant facility that is protective of human health and the environment.

If you have any questions or require additional information or documents regarding the matters described in this letter, please phone me at 512.454.8880 during business hours.

Sincerely,
for CR Solutions

Caroline C. Reynolds
CCR/ags

cc: Senator Juan Hinojosa
Senator Joan

other Senators and Reps being added

etc

Virginia and Kenneth Ahlrich
Up to 50 Local Residents

Virginia Ahlrich
Kenneth Ahlrich &
Local Residents

Presented by Caroline C. Reynolds, P.E.
on behalf of Kenneth and Virginia Ahlrich**

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Delivered by email
Original by U.S. Mail

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Presented by Caroline C. Reynolds, P.E.
on behalf of Kenneth and Virginia Ahlrich**

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Sincerely,
for CR Solutions

Caroline C. Reynolds, P. E.

CCR/ags

cc: Senator Juan "Chuy" Hinojosa
Senator Joan Huffman
Senator Robert Nichols
Senator John Whitmire
Mr. Charles McMahan, Public Member
Rep. Dennis Bonnen, Vice Chair
Rep. Rafael Anchia
Rep. Byron Cook
Rep. Linda Harper-Brown
Rep. Larry Taylor
Mr. Lamont Jefferson, Public Member
Rep. Joe Straus, Speaker of the House
Lt. Gov. David Dewhurst
Virginia and Kenneth Ahlrich
Up to 50 Local Residents