



McMULLEN COUNTY

TILDEN, TEXAS 78072

JAMES E. TEAL

COUNTY JUDGE

April 16, 2014

P.O. Box 237
Tilden, Texas 78072
361-274-3341

Via Federal Express and Hand Delivery

Technical Permits Section
Oil and Gas Division
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711

Re: Letter of Protest regarding the March 21, 2014 application of Petro Waste Environmental, L.P. to operate a commercial disposal facility in McMullen County, Texas on that certain 1,500 acre tract located approximately four miles north of Tilden, Texas, and which may also be described as the Second Tract, M.C.D.R. in Volume 103, Page 295 of the McMullen County real property records.

To Whom It May Concern:

On behalf of the McMullen County Commissioners Court, I protest the above-referenced application for operation of a commercial oil and gas waste disposal facility filed by Petro Waste Environmental, L.P. ("PWE"), and request a public hearing.

By its application, PWE seeks authorization to dump and dispose of a broad variety of oil and gas related operational waste¹ on a 1,500 acre tract of property that is located no more than four miles north of Tilden, Texas.

McMullen County, Texas ("McMullen County") is a county of the State of Texas, having been duly created and organized under the Constitution and laws of Texas. Tilden is an unincorporated community, and there are no incorporated cities in the County. Thus, the McMullen County Commissioners Court is perhaps the only local governmental body (located solely within McMullen County) that has regulatory authority over the site proposed by PWE.

¹ Specifically, PWE's "Public Notice of Application for a Commercial Disposal Facility" states that it seeks to dispose of the following forms of oil and gas waste: water-based drilling fluid and associated cuttings, oil-based drilling fluids and associated cuttings, tank bottoms of various kinds, waste materials from produced water collecting pits, produced formation sand, non-injectable waste waters, soil contaminated with produced water, crude oil or condensate, solid waste from gas dehydration and sweetening, iron sulfide, spent activated carbon and other filtering and separation media, and inert waste as defined by Statewide Rule 8 such as contaminated concrete or wood.

McMullen County is generally concerned about the public health and safety of its citizens and desires to ensure that any facility that seeks to dispose of potentially hazardous waste within the County is carefully evaluated before its permitting is approved. McMullen County also seeks to ensure that the owners of any such facility take all precautions to avoid risks of environmental contamination.

McMullen County believes that the construction of PWE's disposal facility and the disposal of the above-described oil and gas waste at the proposed site will present the following risks to public safety, the local environment, the local and regional water supply, and to local bodies of surface water²:

1. PWE's proposed site for its disposal facility sits in close proximity to Tilden and certain creeks and tributaries that eventually drain into the Choke Canyon Reservoir. The County notes that any runoff contaminated by oil and gas waste that reaches these creeks or tributaries could also potentially reach the Frio River Basin, causing damage to local ecology, wildlife, livestock, consumers and recreational activities.
2. There are at least two dry creeks (Cottonwood Creek and Salt Branch Creek) that traverse PWE's proposed site. In an event of heavy rain, runoff from these creeks could lead directly to the Frio River.
3. PWE's proposed site sits at an elevation approximately 300' above sea level, while the Frio River bed elevation sits approximately 220' above sea level. Thus, the elevation of the proposed site potentially lends itself to runoff to the Frio River and other local properties.
4. McMullen County has been informed that neighboring counties, including Jim Wells County, have had significant complaints about similar disposal sites in their counties.
5. The operation of the disposal facility in close proximity to Tilden could cause nuisances in the form of noise and odor.
6. The increase in vehicle and truck traffic could present safety hazards on roadways in McMullen County.

The County is a local governmental entity, maintains an interest in promoting health and safety in the County, and maintains an interest in preventing damage to the local water supply and environment. Additionally, in the interest of promoting local commerce, tourism and public enjoyment of local outdoor activities the County maintains a direct economic interest in ensuring

² Texas Railroad Commission Rule 3.8(d)(1) states that "[a] permit to dispose of oil and gas wastes by any method, including disposal into a pit, **may only be issued if the commission determines that the disposal will not result in the waste of oil, gas, or geothermal resources or the pollution of surface or subsurface water.**" (emphasis added).

that local waterways are not contaminated. As recognized in Texas Railroad Commission Rule 3.8 “[t]he alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any surface or subsurface water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.” Therefore, the County is entitled to request a hearing under the Texas Railroad Commission rules and is an affected person within the meaning of Texas Railroad Commission Rule 3.8(a)(22) and 3.8(d)(6)(c), and/or under Rule 3.57(c)(4). McMullen therefore requests that a public hearing be conducted as to this application in order to protect the interests of the County and its citizens.


The Nueces River Authority maintains oversight over the Frio River and other local waterways, and is charged with the mission of preserving, protecting and developing water resources within its jurisdiction. Therefore, the Nueces River Authority is “an appropriate river authority” as defined in Railroad Commission Rule 3.8 (d)(6)(c).³ Given the potential risks of introduction of commercial waste into the Frio River as described above, McMullen County would also respectfully suggest that the Railroad Commission require PWE to properly advise the Nueces River Authority of the nature and location of its proposed disposal site, and offer the Nueces River Authority an opportunity to comment upon PWE’s application.

The McMullen County Commissioners Court also has reason to believe that the owners of several properties adjacent to PWE’s proposed disposal site did not receive notice of PWE’s permit application. Texas Railroad Commission Rule 3.8(d)(6)(c).

McMullen County will continue to evaluate PWE’s permit application in order to determine if the above-noted risks may somehow be addressed or ameliorated if the facility was proposed at a different location.

Thank you for your attention to this matter. Please feel free to contact me if additional information is required or if I may be of assistance.

Sincerely,


The Honorable Judge James E. Teal
County Judge, McMullen County, Texas

³ If, in connection with a particular application, the director determines that another class of persons, such as offset operators, adjacent surface owners, or an appropriate river authority, should receive notice of the application, the director may require the applicant to mail or deliver notice to members of that class.