Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

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CERTIFIED MAIL

Mr. Miguel Flores
United States Environmental Protection Agency
Region 6 (6WQ)
1445 Ross Avenue
Dallas, Texas 75202-2733

Re: Request for Approval of Non-substantial Underground Injection Control (UIC) Program Revision to Establish an Aquifer Exemption in the Goliad Formation, Goliad County

Dear Mr. Flores:

On April 29, 2011, the Texas Commission on Environmental Quality (TCEQ) issued Class III area permit number UR03075. The permit authorizes Uranium Energy Corp to conduct *in situ* uranium mining in the Pliocene Goliad Formation at their Goliad Project in Goliad County. Additionally, on April 29, 2011, the TCEQ issued an order designating a portion of the Goliad Formation as an exempt aquifer in accordance with 30 Tex. Admin. Code §331.13. The TCEQ's consideration of the designation of this exempt aquifer was subject to mailed and newspaper published notice, public meetings held in Goliad County, and an evidentiary contested case hearing. The TCEQ's approval of the designation of the exempt aquifer is consistent with the state's authorized underground injection control program in 30 Tex. Admin. Code §331.13, the Environmental Protection Agency's (EPA's) criteria for exempted aquifers in 40 CFR §146.4, and *Western Nebraska Resources Council v. United States Environmental Protection Agency*, 943 F.2d 867.

In accordance with 40 CFR §§144.7, 145.32, and 146.4, the TCEQ requests EPA's approval of the revision of TCEQ's UIC Program to reflect the designation of this exempted aquifer. The 423.8-acre aquifer exemption area is described in the enclosed TCEQ aquifer exemption order and discussed in Section 14 of the enclosed permit application. The part of the aquifer to be exempted extends from a depth of 40 feet to a depth of 404 feet below ground level, and includes Sand A, Sand B, Sand C, and Sand D of the Goliad Formation.

The total dissolved solids (TDS) concentration of water sampled from the Goliad Formation in the exempted aquifer ranges from 260 to 2,350 milligrams per liter (mg/l). Historically, the EPA has approved aquifer exemption requests in Texas as non-substantial program revisions when the request is related to *in situ* uranium mining operations involving aquifers that contain water with less than 3,000 mg/l TDS.

The TCEQ appreciates EPA's prompt consideration of this non-substantial program revision request in accordance with 40 CFR §§145.31 and 145.32. The TCEQ respectfully requests a projected schedule for EPA's review to ensure that staff resources are available to assist accordingly and facilitate necessary responses. If EPA determines additional information is required in order for EPA to process and approve this program revision please furnish any such request to the TCEQ in writing. To assist TCEQ in providing a timely response to any such request for additional information, please identify the specific guidance, rule(s) and/or statute(s) EPA relies on in requesting the additional information.

Should you have any questions or need additional information on this exemption, please contact me at (512) 239-6731 or Mr. Ben Knape, P.G., Team Leader of the TCEQ UIC Program, at (512) 239-6688, or send correspondence to mail code MC 233.

Sincerely,

Susan Jablonski, P.E.
Director, Radioactive Materials Division
Texas Commission on Environmental Quality

SJ/DHM/nlc

Attachments (3)

cc: Mr. Jose Torres, EPA Region 6, 6WQ-S