GOLIAD COUNTY GROUNDWATER CONSERVATION DISTRICT
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July 9, 2012

Mr. William K. Honker, P. E.
Acting Director
Water Quality Protection Division
U. S. Environmental Protection Agency, Region 6
1445 Ross Ave., Ste. 1200
Dallas, TX 75202-2733

Re: AQUIFER EXEMPTION POSITION STATEMENT FOR GCGCD

Dear Mr. Honker,

The Goliad County Groundwater Conservation District (GCGCD) is dedicated to assure long-term availability of adequate good quality drinking water for the users in the District (Goliad County). Groundwater is the only drinking water supply in the District. This groundwater is critical to maintain the health and economic viability of residents, livestock, and wildlife in the District. The protection of the drinking water supply aquifers is also the responsibility of landowners, the Texas Commission on Environmental Quality (TCEQ) and the Environmental Protection Agency (EPA). The statutes for this requirement are very clear. The GCGCD has reviewed a copy of the letter dated May 16, 2012 that the EPA sent to TCEQ standing firm behind its request that TCEQ demonstrate that the wells adjacent to the requested aquifer exemption are not currently using the portion of the aquifer as a source of drinking water. The GCGCD supports this request and wishes to again document our concern for the safety of our water supply.

This letter is addressing the potential contamination of the Gulf Coast Aquifer underlying the District by the uranium in-situ mining process. This proposed uranium in-situ mining and associated aquifer exemption is located in north Goliad County and is surrounded by numerous residents. These residences all have a groundwater supply well for domestic, livestock, and wildlife use. For this reason, the District has been monitoring the events associated with mining permit application UR-03075 since 2006 which included exploration.

Since the beginning of uranium exploration in 2006 at the north Goliad County site, GCGCD has been testing water quality and monitoring water levels around the perimeter of the proposed mining/aquifer exemption area. GCGCD has compiled a substantial data base that is available to anyone upon request. This activity is to fulfill the purpose of the District and is not driven by unsubstantiated allegations and fears of uranium mining.

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The proposed uranium mining is in all four of the sands of the Evangeline component of the Gulf Coast Aquifer. All domestic and livestock wells directly adjacent to the proposed aquifer exemption are completed in these four sands. GCGCD has repeatedly addressed the protection of this drinking water supply. Why? Because this groundwater migrates and the statutory and regulatory framework does not provide for any long term monitoring and, therefore, no long term protection for our water users. During the 2007 Legislative session, GCGCD, working with then State Representative Toureilles, testified that the monitoring period after restoration needed to be increased from the current 6 months to at least 10 years. This was in recognition that monitor wells placed 400 feet outside of the mining area would very unlikely see a movement of contaminated drinking water in that short period. The Legislature changed the 6 months to one year which logically was insignificant.

It is important to note that, on November 6, 2008, the Executive Director of TCEQ issued a decision letter which included a copy of the Executive Director's Response to comments. This document shows 188 TCEQ responses to approximately 400 comments made by concerned citizens commenting on the uranium mining permit application. Many of these comments and responses dealt with groundwater protection for the users outside of the permit boundary. TCEQ's responses acknowledged the migration of groundwater, yet never address protection for nearby water wells over time.

Response 19: *Under Texas Water Code # 27.003, it is the policy of this state and the purpose of the Injection Well Act to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare and the operation of existing industries, taking into consideration the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy. The purpose of the rules adopted by the TCEQ enabled by Chapter 27 of the Water Code is to protect groundwater quality, and thus protect both human health and safety and the environment.*

Response 44: During mining, mining activities will affect the quality of water within the area of the aquifer for which the aquifer exemption is requested. This water is not currently being used for human consumption, nor will it be during mining. After mining, UEC will be required to return the aquifer's water quality to pre-mining conditions. Historically, mining projects in South Texas have not restored the aquifer to pre-mining conditions. Restoration table values have been amended pursuant to an application to amend the production area authorization through the process established in 30TAC #331.107(f) (1) and (2).

There is no historical evidence that the quality of water outside the production area will be degraded at any time. The permit prohibits the permittee from allowing mining fluids to leave the production zone; therefore, no off-site wells or portions of the aquifer used for drinking water may be contaminated. The Executive Director is not aware of any documented off-site contamination of groundwater in over 30 years of in situ mining.

Response 71 last paragraph: *The executive director agrees that groundwater within the Gulf Coast Aquifer is moving and that groundwater from an exempted portion of this aquifer will eventually migrate down-gradient and out of the exempted portion of the aquifer. This fact does not preclude the exemption of an aquifer or a portion of one. Under 30 TAC #331.13(b), the commission may require a permit for injection into an exempted aquifer to protect fresh water outside the exempted aquifer from pollution caused by injection into the exempted aquifer. The permit requirements ensure that while water in the aquifer will eventually migrate down-gradient, nonetheless, mining fluids will not leave the exempted portion of the aquifer. Containment of mining solutions within the mining zone is required in the injection well permit. If UEC obtains all authorizations required for in situ mining at this site, it will be required to restore the aquifer in accordance with the requirements of30 TAC #331.107.*

The Administrative Law Judge ruled that the mining permit should not be granted due to a concern that the permit application lacked information that demonstrated that the drinking water supply was adequately protected. This recommendation was overruled by the TCEQ Commissioners. Now, the EPA has requested that modeling be done to demonstrate that the portion of the aquifer proposed for exemption does not in fact currently serve as a source of drinking water for those wells in the vicinity of the area proposed for exemption. The EPA recognizes its' responsibility to protect a drinking water supply as being a high priority.

On June 6, 2012, Dr. Bryan W. Shaw, Chairman of TCEQ, addressed the U.S. House of Representatives Committee on Energy and Commerce. Dr. Shaw took exception to the above noted modeling request. Groundwater migration has been acknowledged by all parties; yet, Dr. Shaw's position as reflected in the TCEQ response to the EPA request, is that this modeling is not required. Dr. Shaw's comments focused on the term current and completely ignored the EPA's charge to ensure protection for a buffer area outside the proposed aquifer exemption boundary.

Neither the TCEQ nor Dr. Shaw has provided a groundwater protection plan that ensures that Goliad County citizens will not suffer contamination of their drinking water supply. These rural residents who rely on the groundwater must be provided protection. The average resident does not have the financial means to deal with this type of situation and it is especially demoralizing when they are not responsible for their problem. We are pleased that the EPA has stood up for County and its citizens.

As stated previously, GCGCD has done extensive groundwater testing and monitoring across the District. In a continuing effort to ensure the protection of groundwater supplies in the District, GCGCD will consider providing a hydraulic analysis of the source of drinking water to wells down-gradient of the UEC proposed uranium mine site if the agencies will use the data. This analysis will address the commentary outlined in the EPA letter to TCEQ dated May 16, 2012. Please advise GCGCD if this hydraulic analysis is desired.

GCGCD request the opportunity to have an update meeting with the Region 6 administrator and staff. This meeting could be held in Goliad or Dallas at your choice.

Thank you for your continued support.

Sincerely,

Art Dohmann, President, GCGCD
On behalf of the Board of Directors

cc: Mr. Zak Covar, Executive Director, TCEQ
Senator Kay Bailey Hutchison
Senator John Cornyn
Representative Rueben Hinojosa
State Senator Glen Hegar
State Representative Geanie Morrison