



# Meandering Through RRC & TCEQ's Current MOU

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## **Nat. Res. Code Sec. 81.051**

- Oil and Gas Wells in Texas
- Common Carrier Pipelines
- Persons Owning or Operating Pipelines in Texas
- Persons Owning or Engaged in Drilling or Operating Oil or Gas Wells in Texas

# The Great Debate of 1964



## **Superior Oil Co. v. Texas Water Pollution Control Board**, 53<sup>rd</sup> District Court Travis County,

TWPCB's asserted authority over disposal of oilfield brines and wastes.

Superior sued, asserting Railroad Commission was proper authority.

District Court finds for Superior, and TWPCB appeals.

# And the Winner Is . . .



September 1, 1965, **Superior v. Texas Water Pollution Control Board...**

...MOOT!!

Leg gives the Railroad Commission exclusive *jurisdiction over waste, and abatement and prevention of water pollution* from activities associated with the exploration, development or production of oil or gas. Art. 7621d Sec.10(c)(4).

# Statutory Intervention



1965 Tex. Gen. Laws, ch.382, amends Article 7621d, which is now the core language now in Water Code Sec. 26.131, and says the Railroad Commission is . . .

“ . . . solely responsible . . . ”

# Waste and Pollution



“ . . . for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from . . . ”



“ . . . activities associated with the exploration, development or production of oil or gas . . . . ”

Such as . . .



In 1981, the legislature ordered (i.e. said “shall”) the then Dept. of Water Resources, the Dept. of Health and the RRC to sort it out.





The 67<sup>th</sup> Legislature amended the Solid Waste Disposal Act and ordered the three agencies to execute an MOU . . .



. . . that specifies in detail these agencies' *interpretation* of the division of jurisdiction over waste materials related to O&G exploration, development, production, and refining.



Requires agencies to amend the MOU “at anytime that the agencies find it necessary.”



Acknowledges that jurisdictional lines will not always be clear.

Implications from legislative command that the agencies interpret the division of jurisdiction.

# Several MOUs Down the Road



We're on our third significant iteration of the MOU, which became effective 8/30/10, and replaced the 5/31/98 version, which had replaced the 12/1/87 version.



RRC rules: 16 TAC Sec. 3.30

TCEQ does not have a rule: 30

TAC Sec. 7.117 refers to RRC rule

once again, RRC rules!



## Seven Major Headings

- (a) Need for Agreement
- (b) General Agency Jurisdiction
- (c) Hazardous Waste
- (d) Waste From Specific Activities
- (e) Interagency Activities
- (f) Radioactive Material
- (g) Effective Date



## **General Principle:**

Agency with jurisdiction over the *activity* that generates the waste is the agency with jurisdiction over management of the waste.

## **Supplemental Principle:**

Where the waste is generated may be a factor.





## General Agency Jurisdiction - TCEQ

- “Solid Waste”
- Water Quality
  - Discharges
  - Stormwater
  - Water Quality Certification
  - Commercial Brine Extraction
- Injection Wells

## General Agency Jurisdiction - RRC

- “Oil and Gas Waste”
- Water Quality
  - Discharges (Current Event: HB 2771)
  - Stormwater (when required by Federal law)
  - Water Quality Certification
- Injection Wells
  - Disposal, EOR, Brine Mining, Geologic Storage of CO<sub>2</sub>, Hydrocarbon Storage, Geothermal Energy, In- Situ Tar Sands.



## Waste From Specific Activities

- Drilling, operation and plugging oil and gas wells - RRC, and examples of waste include domestic sewage.
- Storage of oil - “before it enters the refinery” – RRC.
- Oil storage tanks that are “part of a refinery” and wastes from marketing refined product - TCEQ.
- Underground Natural Gas Storage – RRC



## Waste From Specific Activities (cont.)

- Refiners must report crude streams in and out to RRC for accounting, but refiners' waste is TCEQ.
- Natural Gas Liquids and NGL Processing Plants – RRC, including injection of such wastes, EXCEPT
- non RCRA exempt “hazardous waste” per federal rules are TCEQ. See Nat Res. Code Sec. 91.101.
- use of crude or NG used manufacturing processes, such as producing petrochemicals or plastics – TCEQ.



## Pipeline - Related Activities - RRC

- Pipeline Safety
- Spill Response and Remediation of releases from *crude oil, natural gas, and condensate pipelines from E & P facilities to refinery gate.*
- Waste Generated by Construction and Operation of RRC pipelines.
- Water Quality Certification for construction and operation of RRC pipelines.



## **Pipeline - Related Activities - TCEQ**

- Spill Response and Remediation of releases from transportation of refined products, and crude oil, natural gas, and condensate pipelines WITHIN refinery gate.
- Waste Generated by Construction and Operation of TCEQ pipelines.
- Water Quality Certification for construction and operation of TCEQ pipelines.



## **Pipeline - Related Activities – The “Prior To” Principle**

- Prior to arrival at a refinery.
- Prior to the use of the natural gas in any manufacturing process.
- Prior to the use of the natural gas as a residential or industrial fuel.



## Other Transportation Modes

- Wastes associated with transportation of crude oil and natural gas, including natural gas liquids, by railcar, tank truck, barge, or tanker - TCEQ





## **Commercial Service Company Facilities**

- research and development facilities, except those in field, and service company facilities not part of the E&P organization – TCEQ
- Service centers owned by E&P organization, O&G waste & O&G NORM waste generated in field but managed at service co., and truck rinsate from facility operated by RRC permitted waste hauler - RRC



## Mobile Offshore Drilling Units

- When in use for E&P -- RRC and, where applicable, the EPA, the U.S. Coast Guard, or the Texas General Land Office (GLO)
- When underway or in the yard -- EPA, the U.S. Coast Guard, or the GLO when underway; in the yard -- TCEQ



## **Interagency Activities**

- Recycling and Pollution Prevention
- Treatment of wastes under RRC Jurisdiction at facilities authorized by TCEQ
- Processing, treatment, and disposal of wastes under RRC jurisdiction at facilities authorized by the TCEQ.
- Management of nonhazardous wastes under TCEQ jurisdiction at facilities regulated by the RRC.

# Holding Hands



- Drilling in Landfills
- Coordination of Actions and Cooperative Sharing of Information
- Groundwater
- Emergency and Spill Response
- Anthropogenic Carbon Dioxide Storage



## Radioactive Substances - TCEQ

- Disposal
- Processing and storage of low level NORM except oil and gas NORM waste
- Recovery or processing of source material
- Processing by product material
- Sites for disposal of low level radio active waste, byproduct material or NORM waste.



## **NORM Waste**

- RRC jurisdiction over *disposal* of NORM waste that constitutes, is contained in or has contaminated oil and gas waste.
- TCEQ over non O&G NORM waste.
- Texas Department of State Health Services over receipt, possession, use, processing, transfer, transport, storage, or commercial distribution of radioactive materials, including NORM.



## Drinking Water Residuals

- A person licensed for the commercial disposal of NORM waste from public water systems may dispose of NORM waste only by injection into a Class I injection well permitted under 30 TAC Chapter 331 (relating to Underground Injection Control) that is specifically permitted for the disposal of NORM waste.



## Radioactive Tracer Material

- subject to the definition of low-level radioactive waste; handled and disposed of per TCEQ and the Department of State Health Services rules.
- TCEQ may grant an exemption by rule from a licensing requirement if the TCEQ finds that the exemption will not constitute a significant risk to the public health and safety and the environment.





## Texas Radiation Advisory Board

- RRC and the TCEQ will consider recommendations and advice provided by the Texas Radiation Advisory Board
- RRC and TCEQ will provide written response to the recommendations or advice provided by the advisory board.



## Uranium Exploration and Mining

- RRC - uranium exploration activities and uranium mining, except for *in situ* recovery processes.
- TCEQ - injection wells used for uranium mining.
- TCEQ - licensing of source material recovery and processing or for storage, processing, or disposal of by-product material.

# Home Sweet Home



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# Contact Information



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