



## EXCO Resources, Inc.

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September 12, 2013

Ms. Leslie Savage, Chief Geologist  
Oil and Gas Division  
Railroad Commission of Texas  
PO Box 12967  
Austin TX 78711

Re: EXCO Resources, Inc.  
Informal Comments  
Proposed Revisions to 16 TAC §3.9, 3.36, and 3.46

Dear Ms. Savage

EXCO Resources, Inc. is pleased to offer comments to the Commission's proposed revisions of Statewide Rules 9, 36, and 46.

EXCO is also filing this letter in support of the comments filed by TIPRO.

The following EXCO comments reference the specific page and line of the draft as presented by the Commission.

### **§3.9 Disposal Wells.**

Page 1, Line 19: Recommend keeping old definition of "has suffered or will".

Page 1, Lines 25-29 Modify definition to allow for "shared/community" disposal wells. Recommend changes as follows: Line 25 - A well that is primarily operated to provide disposal services *for a fee or other consideration* to operators...Add the following at end of definition: "*Commercial does not include a disposal well within an oil or gas field which is operated by one operator of record for disposal of E&P waste fluids and is used by other operators of record in the same field or adjacent fields for non-commercial disposal of their E&P waste. Such operators share in the costs of operating the well/system.*"

Page 3, Line 21: EXCO has concern about the definitions of separation requirements. There is no definition of impermeable strata, and the "continuous" requirement is nebulous. In many areas it is hard, if not impossible, to identify a complete 100 ft

continuous impermeable zone. There are no technical standards to judge what constitutes impermeable strata. Further, no exception process is given.

Page 4, Lines 30-31: There is no apparent risk to the environment, public safety, or the RRC if a disposal permit is issued without an operator first obtaining a drilling permit so long as the application meets all criteria required to obtain a permit, and the well is ultimately cased and cemented as represented in the application and in accordance with SWR 13. The disposal permit will expire in three years if the well is not drilled and the DP is only good for two years. EXCO recommend this requirement be deleted as it serves no purpose related to the intent of the rule. If the Commission is requiring a drilling permit for the purpose of tracking an application and permit, EXCO suggests the Commission utilize the UIC number that is currently assigned to each application and permit.

Page 5, Line 2: The requirement of an open-hole log from TD to ground surface is not needed from a technical standpoint. Obtaining open-hole logs in surface holes can be problematic for several reasons, including hole size and logging tool incompatibility, mud program issues, hole instability, etc. All formation information necessary can be obtained by a cased-hole log with gamma ray information. It is recommended that this requirement be changed to allow cased-hole logs. This requirement also has language allowing exceptions, see comments below for Page 5, Line 10.

Page 5, Line 8: See comment concerning open-hole logs above.

Page 5, Line 10: This section is intended to allow an exception to the log requirements of Page 5, Line 2. Rather than require an applicant to request an exception, it is suggested the opposite approach is made: allow the RRC to request additional logs, including open hole logs, in the permitting process for new wells in situations where the lack of geological or groundwater information makes such steps necessary or prudent. This eliminates the burden of an exception request.

Page 5, Line 31: EXCO requests clarification and guidance on Section (F) regarding well classifications and criteria for determining if wells are adequately cased/cemented or plugged. What is classified as an unplugged well? Does this include inactive wells in compliance with SWR 14b2, or a well shut-in less than 12 months? Regarding determination of improperly cased/cemented wells, or plugged wells, is the criteria based on the rules effective at the time the well was drilled/completed, or plugged? What if data does not exist at the RRC? Will the RRC maintain a current list of Orphaned Wells and what is the purpose of requiring the applicant to make this determination? The list currently available on the RRC web site is for inactive wells with a P-5 delinquent over 12 months.

Page 6, Figure 3.9(d)(4), Amendment Requirements for packer depth exception: Recommend that the requirement be limited to an exception request letter/form and appropriate fee. It does not seem necessary to file an amended application and application fee for this purpose. Would the amendment as proposed require both the application fee (\$200) and exception fee (\$150)?

Page 7, Line 10: Notice requirements as written will require both a certified, return receipt notice and a regular, first-class mailed notice. This is excessive. Even for the Commission's own notices, a certified mailing is considered sufficient, whether it is delivered, received, or not. It is the responsibility of the recipient to sign for and pick up their mail. This should be revised to allow only certified mail, properly addressed and postage affixed, to be sufficient notice. Additionally EXCO suggests the notice period be changed to 60 days.

Page 9, Line 17: Requiring GWCD notification may be required by statute, as they are a subdivision of government. Disposal activities are, by definition, not affecting underground water resources and requiring notice to GWCD serves only to provide opportunity for the GWCD to protest on grounds which, if a case were to go to hearing, would be ruled inappropriate and disallowed. This section should be rewritten in such a manner to require notice to the local GWCD while protecting the applicant from protests from parties with no standing.

Page 10, Line 1: The 30 day limit on publication dates is not sufficient. Obtaining the complete publisher's affidavit and tear sheet is often time consuming, and 60 days would be a more appropriate limit to publication.

Page 13, Line 25. In transferring a commercial disposal well permit, EXCO agrees approval by the Director is appropriate. We would suggest making this review within 15 days, otherwise the permit will transfer by default.

Page 14, Line 27: The prohibition of permit issuance in cases where an orphan well is identified it too restrictive. The RRC web page lists "orphaned wells" as those that have been orphaned for over 12 months. P-5's delinquent less than this period of time often become active. More importantly, an orphaned well may likely not pose a risk based on confinement review (casing/cement). If it can be shown the well does not present a threat to groundwater resources, a permit should be issued. EXCO recommends that this provision be stricken from the proposed rule, and that the RRC Regulatory Fund continue to be used for plugging high risk orphaned wells

Page 18, Line 20: The absolute prohibition of a disposal well permit in cases of insufficient surface casing should be reconsidered. EXCO suggests this section be revised to allow permitting of wells that were properly cased and cemented at the time of the original completion. They should not be held to modern standards. Wells with a RRC

issued 13b2 exception may arguably provide for more protection than a well with surface casing set to the BUQW; e.g. a well with a 13b2 exception for surface casing through shallow protection zones, and intermediate casing cemented through the remaining UQW zones, particularly in areas with deep usable-quality water where circulation of cement may be problematic. Such cases should be handled much as the variance to the area of review.

Page 18, Line 23: If SWR 13 in effect at the time the well was drilled did not require cement across this zone, an application should not be automatically denied. EXCO recommends this be applicable to new drills only.

Page 21, Line 25: Though the intent is not clear in the proposed language, EXCO suggests that the liner requirement not be retroactive, and suggest existing facilities be grandfathered until such time that the battery is replaced.

Page 23, Line 33: Test frequency. EXCO suggests that every commercial disposal well, regardless of wellbore construction, be required to be tested at least annually. Commercial Disposal is a “high visibility” operation that warrants additional precautions to ensure wellbore integrity.

### **§3.36. Hydrogen Sulfide Operations**

EXCO supports proposed changes to allow the director to approve other methods of H<sub>2</sub>S testing (Page 29, Line 32) and other methods for determining ROE (Page 30, Line 3), and to clarify notice provisions to align with the intent of SWR’s 9 and 46.

Page 30, Line 21-22: EXCO recommends replacing “the public may be exposed to the contents of the storage tank” with “*the location of the storage tanks are in an area where there is a risk of public access to the site*”. In addition, EXCO requests that the RRC provide guidance on when this provision is applicable.

Page 33, Line 16: EXCO agrees with the intent of this amendment based on the fact that SWR 36 is one of the Commission’s primary rules related to protection of the general public. We recommend the following changes to better define the annual review requirement (this is similar to annual review requirements for O&M Plans under 49 CFR Part 192 for Pipeline Safety): *The plan must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year, upon public infringement, or at any time an element addressed in the plan materially changes.*

Multiple Pages: There is inconsistency in the use of the terms “area of influence” and “area of exposure”. “Area of Exposure” has been replaced by “Area of Influence” in various places, but not throughout the rule. Area of Influence is identified in SWR 106 and is related to the ROE extending along the length of a pipeline. SWR 36 uses and

identifies the term “Area of Exposure” which is based on a point of escape. EXCO recommends retaining the definition and use of “Area of Exposure” throughout the rule.

### **§3.46. Fluid Injection into Productive Reservoirs.**

**NOTE: For SWR 46, EXCO reiterates all of its corresponding informal comments submitted under SWR 9.**

Page 38, Line 30: EXCO requests clarification on the intent for the permit expirations to only apply to disposal into productive formations, and not injection (secondary, tertiary recovery).

Page 54, Line 11: EXCO requests clarification on the intent of this provision regarding applicability only to applications for disposal into productive formations. Either way, EXCO has the same concerns as expressed above under Page 18, Line 20 comments.

Page 57, Line 18: EXCO requests clarification on this requiring being retroactive. Existing facilities should be grandfathered in until such time that the battery is replaced.

Page 59, Line 26: Test frequency. EXCO suggests that every commercial disposal well, regardless of wellbore construction, be required to be tested at least annually. Commercial Disposal is a “high visibility” operation that warrants additional precautions to ensure wellbore integrity.

Page 62, Line 28: Area permits are so onerous that rarely, if ever, has one been approved in Texas. A complete review of the requirements for issuance of an area permit is in order so that they may be a realistic option in high-density waterflood areas. EXCO suggests that the RRC evaluate and provide a guidance document for this process.

I appreciate the opportunity to make comments regarding this rulemaking proposal, and thank the Commission staff for their efforts to modernize and streamline the regulatory process in this regard.

If you have any questions, please don’t hesitate to contact me at 214-210-6958 or via email at [crosss@excoresources.com](mailto:crosss@excoresources.com).

Sincerely,



Charles C. Ross, P.E.  
Regulatory Affairs Director