

NTG NORTH TEXAS
CD GROUNDWATER
CONSERVATION
DISTRICT

COLLIN COUNTY - COOKE COUNTY - DENTON COUNTY

September 12, 2013

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
P.O. Drawer 12967
Austin, Texas 78711-2967

Re: Comments Pursuant to Rulemaking for 16 TAC § 3.9 and 3.46

Dear Rules Coordinator:

The North Texas Groundwater Conservation District ("District") would like to thank the Railroad Commission of Texas ("RRC") and its staff for considering these informal comments to RRC Rules 3.9 and Rule 3.46, regarding "Disposal Wells" and "Fluid Injection into Productive Reservoirs." I am the General Manager of the District, and I offer this letter on the District's behalf to provide informal comments to the RRC's proposed changes to its rules.

Generally, the District supports the RRC's efforts to heighten groundwater protection from underground waste disposal and injection in its proposed changes to Rules 3.9 and 3.46. First, and most importantly, we are very pleased with the proposed requirement that an applicant for a disposal well must provide notice of the application to the local groundwater district. The District is unable to monitor all applications filed for disposal wells within its boundaries on a daily basis; thus, notification of the applications for wells proposed to be located in the District will help in our efforts to monitor disposal well applications. We would, however, appreciate being given more than 15 days' notice, and request that this period be extended to a more reasonable time frame, such as 30 or 45 days. Second, the District also supports the proposed changes also seek to protect groundwater from migration of displaced formation fluids and contaminants through orphaned wells. According to the proposed changes, the RRC will be able to review and consider existing wells located near the proposed injection well that may serve as potential pathways for contamination before determining whether to issue a disposal well permit.

Although the District is generally in favor of the RRC's proposed amendments to Rules 3.4 and 3.46, the District recommends that the rules be further revised in a manner that affords adequate protection to Underground Sources of Drinking Water ("USDWs"), which the RRC has defined, pursuant to federal law, as aquifers or portions of aquifers containing up to 10,000 mg/L of total dissolved solids ("TDS"). Unfortunately, a number of protections proposed by the RRC focus only on usable quality water, which, by the RRC's definition, only protects groundwater containing 3,000 or less mg/l of TDS. The potential use in our region (and across the State) of groundwater with TDS levels in excess of 3,000 mg/l stresses the importance for the RRC's rules to fully protect USDWs in the same manner that usable quality water is protected in the rules. For instance, in Rule 3.9(c)(1) the RRC requires an impermeable strata of 250 feet between the base of usable quality water and top of injection interval; however, the rules do not require the same 250 impermeable strata separating USDWs from the injection interval. If the

North Texas Groundwater Conservation District

PO Box 508 Gainesville, Texas 76241

(855) 426-4433

www.northtexasgcd.org

RRC has determined that a minimum of 250 feet of impervious strata is necessary to ensure protection of usable quality water, which the District is supportive of, then requiring similar protections for USDWs is also necessary based on the fact that Regional Water Plans throughout the state indicate future reliance on sources of groundwater in excess of the usable quality water TDS level. Additionally, 250 feet of impermeable strata should be required between any USDW and not just USDWs that are located above the injection interval.

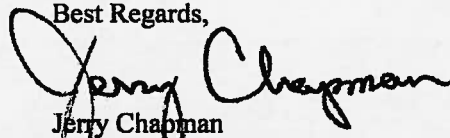
Proposed Rule 3.9(g)(1) further demonstrates how USDWs are treated differently as compared to usable quality water. Proposed Rule 3.9(g)(1) currently states that the applicant shall review the public record for wells that penetrate the top of the proposed disposal interval within a ¼ mile radius of the proposed disposal well to determine if all wells have been cased and cemented or plugged in a manner that will prevent the movement of fluids from the disposal interval into usable quality water. This rule should be revised to require the applicant to ensure that all wells have been properly cased and cemented or plugged to prevent migration of fluids into USDWs, rather than just usable quality water. Furthermore, the ¼ mile radius area of review set forth in the proposed rule has been determined by our consultants to be inadequate because migration of formation fluids can exceed the ¼ mile RRC threshold. For this reason, the District recommends that the RRC change the area of review to consist of at least a one-mile radius.

The District is also concerned with the rule provisions relative to the Groundwater Advisory Unit's groundwater protection determination. Rule 3.9(c)(2) and Rule 3.9(d)(3)(D) require that the Groundwater Advisory Unit make a groundwater protection determination that takes in to account only usable quality water, as opposed to USDWS, in the area. This standard of protection is not sufficient for a number of reasons, but especially given the fact that federal law requires protection of USDWs as part of the state's underground injection control program. As a result, the District requests that these rules be revised to provide that a groundwater protection determination require a finding that USDWs, rather than just usable quality water, are not endangered.

Furthermore, the District requests that Rule 3.9 and Rule 3.46 be revised to include a process for the Groundwater Advisory Unit to obtain relevant information from the local groundwater conservation district when making its groundwater protection determination. The consolidation of information relevant to a groundwater protection determination is not only cost effective, but it also ensures that RRC groundwater protection determinations are made based on the best available data.

Thank you again for the opportunity to provide these comments and to take part in the rulemaking process. We look forward to continue working with the RRC and its Staff on this very important matter. Groundwater protection will help ensure a sustainable water supply that is the lifeblood of continued growth and economic activity in this state.

Best Regards,



Jerry Chapman
General Manager

North Texas Groundwater Conservation District