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September 12, 2013

Veronica Larson
Oil and Gas Division
Railroad Commission of Texas
Post Office Box 12967
Austin, Texas 78701

RE: Draft amendments to 16 TAC §3.9, relating to Disposal Wells; §3.36, relating to Oil, Gas, or Geothermal Resource Operation in Hydrogen Sulfide Areas; and §3.46, relating to Fluid Injection into Productive Reservoirs, and request input from the public regarding these potential rule changes.

Submitted electronically to: veronica.larson@rrc.state.tx.us

Dear Ms. Larson:

I write on behalf of the Texas Oil & Gas Association ("TXOGA") to comment on the Railroad Commission of Texas' draft proposed revisions to its rules regulating saltwater disposal wells and injection wells, at Section 3.9 and 3.46 of Title 16 of the Texas Administrative Code, and its rule regarding operations in hydrogen sulfide areas, at Section 3.36 of Title 16 of the Texas Administrative Code.

TXOGA is a general, multipurpose trade association representing the Texas oil and gas industry. Founded in 1919, it is the oldest and largest organization in the state representing petroleum interests, and continues to serve as the only organization in the state that embraces all segments of this industry. TXOGA's approximately 5,000 members produce more than 90% of Texas' crude oil and natural gas, are responsible for the greater part of the state's refining capacity, and operate the vast majority of the state's pipeline mileage. The proper disposal of saltwater is, of course, an industry concern: the industry could not continue to operate without adequate, sufficient and safe disposal. Similarly, injection wells and operations in hydrogen sulfide areas are important to the industry.

TXOGA's members have reviewed the Commission's draft proposed revisions to the rules and commented extensively on them. Our member's primary concerns are summarized below. Because their attached comments are extensive, we encourage the Commission to hold one or more stakeholder workshops before finalizing a proposed rule for publication.

Definition of “affected person.” The proposed definition of “affected person” greatly expands the universe of affected persons and includes persons who have no justiciable interest in the issuance of a disposal or injection well permit. Further, defining unleased mineral interest owners as affected, and requiring notice to them, would raise costs exponentially. *See* Comments on §§3.9(a)(2)(A);3.46(a)(2).

Notice requirements. The proposed notice requirements are also over-inclusive and require that notice be sent to persons who have no justiciable interest in the issuance of a disposal or injection permit, such as groundwater conservation districts. Further, the various notice requirements do not adequately advise the reader that it must show standing to be entitled to a contested case hearing on a permit application. *See* Comments on Rule §§ 3.9(e)(1)(C), (e)(2)(F), (e)(2)(H), (e)(3), and the analogous provisions in Rule 3.46.

Definition of “commercial disposal well.” The proposed definition is over-inclusive. Operators often operate with an affiliate and their arrangement is not commercial. Additionally, field disposal systems that operate for the mutual benefit of a number of operators in field, but that are not open to the public or outside operators, may be inappropriately included in the definition. *See* Comments on 3.9(a)(2)(B); 3.46(a)(2)(B).

Definition of “orphaned well.” The proposed definition is problematic because, under it, the status of a well as orphaned or not may change quickly over a relatively short amount of time. Adding a requirement that the well have been orphaned for a given number of years eliminates some of the confusion that could arise. *See* Comments on 3.46(g)(1), among others.

Geological requirements. The proposed rules add a number of requirements, including a set requirement of (i) at least 250’ of impermeable strata between the injection interval and usable quality water, 100’ of which must be continuous, and (ii) at least 100’ of continuous impermeable strata between the injection interval and the underground source of drinking water. The 250’ and 100’ requirements appear both arbitrary and difficult to quantify – and, in some parts of the state, could be difficult or impossible to achieve. Additionally, the proposal adds requirements with regard the underground source of drinking water, which is already protected by the Commission’s existing rules. *See, e.g.,* Comments on Rules 3.9(c) and 3.46(c) (incorporating § 3.46(a)(1)(B)(iv), among others.

Required logs. The proposed requirements greatly increase the number and type of logs required. As a result, not only would drilling be much more expensive, but water quality may be adversely affected because open hole logging decreases wellbore stability, which can adversely affect the quality of the cementing. *See, e.g.* Comments on §§ 3.9(d)(3)(C); 3.46(d)(3)(B)(ii), 3.46(j)(1)(D), among others.

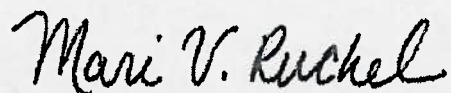
Area of review. There are inconsistent standards in the area of review, particularly in proposed Rule 3.9(g)(1) and Rule 3.9(d)(3)(F). Further, the proposed language raises the possibility that an operator would have to re-case, re-cement or re-plug wells that were cased, cemented and plugged in compliance with regulations that existed at the time.

TXOGA comment submission to the Railroad Commission of Texas
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TXOGA appreciates the opportunity to comment on the proposed revisions. As stated, we encourage the Commission to hold at least one more stakeholder workshop before finalizing a proposed rule.

Should you have additional questions or need further clarification, please contact me by email at mruckel@txoga.org or by phone at (512)478-6631.

Sincerely,

A handwritten signature in cursive script that reads "Mari V. Ruckel".

Mari Ruckel
Vice President for Government and Regulatory Affairs
Texas Oil and Gas Association