MIDDLE PECOS GROUNDWATER CONSERVATION DISTRICT

P.O. Box 1644 Fort Stockton, Texas 79735 432-336-0698 Fax-432-336-3407
e-mail – mpgcd@sbcglobal.net website – www.middlepecosgcd.org

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September 12, 2013

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

Re: Comments on proposal to amend 16 T.A.C. § 3.9 and 3.46

To The Honorable Railroad Commission of Texas and Staff:

The Middle Pecos Groundwater Conservation District ("District") is concerned about the possible impacts to groundwater resources in Texas resulting from increased underground oil and gas waste disposal. The District is pleased to see that the Commission is taking steps to better protect our aquifers, but is hopeful that the Railroad Commission of Texas ("Commission") will consider our comments for additional changes that better ensure groundwater is adequately protected. The District believes it can offer helpful insight in light of our day-to-day involvement with groundwater management and also because our District covers an area with significant oil and gas activity.

The District is charged with managing and protecting the groundwater resources of Pecos County. As noted in Report 382 created by the Texas Water Development Board, titled *Pecos Valley Aquifer, West Texas: Structure and Brackish Groundwater*, a large amount of groundwater in the Pecos Valley Aquifer throughout Groundwater Management Area 3 (including Pecos County) is between 1,000 milligrams per liter ("mg/l") total dissolved solids ("TDS") and 10,000 mg/l of TDS. The Texas Water Development Board estimated that the Pecos Valley Aquifer contains 15 million acre-feet of water with 1,000 or less mg/l TDS and 85 million acre-feet of water with 1,000 to 10,000 mg/l TDS. Water suppliers within the District

currently utilize groundwater with TDS levels greater than 1,000 mg/l, and, in some areas, even greater than 3,000 mg/l, to meet current water demands. Furthermore, the 2011 Region F Water Plan identifies the use of brackish water as a water management strategy developed to meet water needs in the region. For this reason, the District seeks better protection of water that not only is currently being relied upon for drinking water, but also for that water that will undoubtedly be relied on for drinking water purposes in the future. The proposed changes to Commission Rules 3.9 and 3.46 do not provide adequate protection in this regard.

The District strongly supports the proposed change to prohibit waste disposal into an injection interval if the interval contains a formation that contains a Underground Source of Drinking Water ("USDW") for injection (10,000 mg/l TDS or less). However, the District remains concerned that the proposed rule changes do not adequately protect USDW from migration of formation fluids once the waste is injected. For example, the area of review, which sets that geographic range that the applicant must assess for wells that may serve as pathways for migration of contaminants, only extends to a ¼-mile radius from the proposed location of the disposal well. Migration of contaminants can exceed ¼ mile, and if existing wells that are not cased or cemented exist outside this distance, there is a possibility for vertical migration that is going undetected by the applicant and Commission. Accordingly, the District recommends:

- the area of review require assessment of all wells within at least 1 mile of the proposed well;
- that Rule 3.9(g)(1) require that all wells located within the area of review are cased/cemented in a manner to protect USDW (not just "usable quality water"); and
- a variance should not be granted pursuant to Rule 3.9(g)(2) unless the applicant provides sufficient proof that the variance will not result in a material increase in the risk of fluid movement into USDW (not just usable quality water).

The District further recommends that the Commission amend Rule 3.9 in a manner to ensure that all permitted disposal wells are properly pressure tested prior to commencement of waste injection. As currently proposed, Rule 3.9 allows for an applicant to conduct a pressure test at only 500 psig even if the maximum authorized injection pressure is greater than 500 psig. The District comments that it is more appropriate to test the integrity of the disposal well at the maximum legally authorized injection pressure before a permittee may begin injecting at that level of pressure. Specifically, the District recommends:

- that 3.9(m)(4)(A)(i) require the disposal well equipped to dispose through tubing and packer be tested with the maximum authorized injection pressure, but shall be at least 200 psig; and
- that 3.9(m)(4)(G)(i) state the director shall reject a pressure test that demonstrates a 5% or more change over a one-hour period.

Furthermore, the District recommends that Rule 3.9(m)(4)(G)(x) be added to authorize the director to reject a pressure test after the consideration of the following factor: "the integrity of the casing prior to installation and whether the casing meets applicable manufacturing standards." The District proposes this revision due to various casing issues experienced in the

District where the casing used was secondhand, and while it was sustainable for the duration of one hour for the pressure test, it was defective for purposes of continued use of the well.

The District thanks you for your attention to our comments and looks forward to working with the Commission throughout this rulemaking process. Please do not hesitate to contact me with any questions or for further discussion.

Sincerely,

Paul Weatherby

Paul Weatherby
General Manager