

September 9, 2024

Chairman Christi Craddick
Commissioner Wayne Christian
Commissioner Jim Wright
Rules Coordinator

Re: Proposed rules Section 3.8 and Chapter 4, Waste Management Procedures

Dear Madam and Sirs:

Thank you for soliciting comment to the proposed amendments to the oil and gas waste management rules. Further to the comments I offered at the open hearing in Austin on September 5th, I would like to submit the following for the record.

I am a lifelong Texan. I earned a degree in Chemical Engineering from the University of Texas at Austin, where I'm proud to say my daughter has just enrolled. I have spent my career working for and with the oil and gas industry in the state of Texas and around the United States.

I am the founder, president and chief executive officer of Milestone Environmental Services, a Texas-based business that manages waste for the oil and gas industry. I serve on the Board of Directors for the Texas Oil & Gas Association, which represents E&P operators, large and small, in the State. I also serve on the Board of Directors of the Energy Workforce and Technology Council, an association that represents over 650,000 oilfield service workers worldwide. I spend as much time outdoors in the oilfields of Texas as I do in boardrooms, and I understand the local environmental impacts of the industry very well. I consider myself, and believe myself to be considered by others, to be a fierce advocate for the oil and gas industry, and an advocate for responsible practices that maintain our license to operate around the world.

While I don't believe any of the organizations I just mentioned would take issue with my comments, today I do not speak directly on their behalf, or on behalf of the 309 Texans that I employ, but in my personal capacity as an expert in the field and a lifelong Texan that enjoys the Texas landscape, drinks Texas water, breathes Texas air, and relies on a strong Texas economy fueled by oil and gas. Milestone, TXOGA, and the EWTC are formulating their comments, and I expect they will submit their official comments under separate cover.

I have been a supporter of amending the old Statewide Rule 8 for many years. For the past two years, I have supported the work of Commission staff and of the Commissioners themselves to advocate for a stronger set of rules that properly reflect the operating realities of the 21st century oilfield. I was not part of the original working group that devised the proposed rules starting in 2021, and neither was my company. We have offered data and comments at industry workshops along the way and have been a supporter of the amended rule.

In October of last year, the Commissioners published a draft of the new rule for informal comment from the public. That rule both tightened the regulations around commercial facilities like the ones I operate, as well as increased construction and maintenance standards for the way waste is managed on-lease by oil and gas operators. While no rule is perfect, my colleagues and I viewed the October draft as a significant step in the right direction.

However, the new draft that was published by the Commission in August was had significantly changed compared to the rule that was published last fall, and I can no longer support or defend the rule as it is proposed today.

To be clear, I do not take issue with tightening and clarifying the rules around commercial facilities. In my view, regulations in this area have been lax and outdated, and needed to be updated. I support tighter rules there.

The glaring issue with the current 275-page draft rule is that it exempts pits that operators use in the drilling process, reserve pits and mud circulation pits, from any significant standard or regulation. The proposed rules around these pits were taken all the way back to 1984, when the oil and gas industry was an entirely different. Shale had not been economically tapped. Wells were all vertical and much shallower than they are today. The use of oil-based drilling fluids was very rare, the waste generated in drilling was a small fraction of what we see today, and there was no infrastructure in place to deal with it.

Today, reserve pits and mud circulation pits are not small. In fact, small Permian mud circulation pits (or horseshoe pits) exceed 1 acre in size, which is twice the size of the footprint of the William B Travis building that houses the Commission. Larger pits can easily exceed 3-4 acres and hold tens of thousands of barrels of waste containing spent drilling fluids, cuttings, hydrocarbons, and drilling chemicals.

These pits, under proposed rules, have no liner requirements. No credible engineer could tell you that an un-engineered “soil liner” is protective of anything. Under the proposed rule, it will remain permissible, potentially for decades to come, to simply cover these waste-laden pits with soil and leave them for all time on surface property that the E&P operator does not own. In fact, the rules allow operators to leave the waste on surface property without notice to the landowners and without notice or consent.

The Railroad Commission faces a choice. By continuing to regulate these drilling pits as “Schedule A Authorized Pits”, the Commission chooses to give oil and gas operators blanket license to literally lay waste to the state of Texas. Without permits, without liner standards, without construction standards, without real consideration given to groundwater, without notice or consent of the landowners.

As such, I propose the following change to partially address this issue:

Large pits used in drilling operations, which include reserve pits and mud circulation pits, should be regulated as “Schedule B Authorized Pits” under the proposed rule, and thus should be required to meet the construction, monitoring closure and maintenance standards outlined for Schedule B Authorized Pits.

The Commission has noted that, in their view, the cost of better standards for these pits would unduly harm small businesses. We are Texans - we can do both. Minor changes are being proposed to the published rule that can fix this oversight. We can simultaneously ensure that Texas land and water is protected, while protecting small operators from undue regulation. Pollution is pollution, not matter whether the polluter is a “commercial facility” or not, a small business or a multi-billion dollar enterprise. But allowing operators to install un-lined or poorly lined pits larger than Olympic swimming pools without standards, consent, or oversight is not what the industry wants or needs. Operators that I speak to regularly agree with this statement, and bristle at their irresponsible counterparts that give the industry a bad name. We need to think carefully about how far we are willing to go to protect any business that relies on its ability to knowingly pollute the waters and land of the State.

The Commission has a choice. In my educated and informed view, continuing to authorize reserve pits and mud circulation pits as Schedule A authorized pits does a disservice to the citizens of the State of Texas and to the oil and gas industry upon which we all rely.

Thank you for your attention to this matter. I greatly appreciate the work that the Railroad Commission staff has poured into this effort. I also appreciate the Commissions extension of the public comment period to October 15th.

Sincerely,



Gabriel J. Rio