



October 11, 2024

Railroad Commission of Texas (The "RRC")
1701 N. Congress
Austin, Texas
78701

By way of cc to: Commissioner Craddick
 Commissioner Christian
 Commissioner Wright

RE: Public Comment Letter / Waste Rule Changes

Hello everyone,

My name is Stan Ross, President and CEO of Recover USA Inc. ("Recover"), a company with a technology that can commercially recycle oil-based drilling waste. Thank you for soliciting comments to the proposed amendments to the oil and gas waste management rules. Further to the comments I offered at the virtual meeting in Austin on September 6, 2024, I would like to submit the following letter for the record.

Recover is an energy technology company that extracts and recycles hydrocarbons from oil-based drilling waste. In fact, Recover is the largest recycler of oil-based drilling waste in the world and is the only company that has a viable technology to economically recycle this waste stream. Our business assists the industry by reducing emissions, saving operators money, and lowering the amount of waste that needs to be disposed of. This technology is a game changer for oil and gas waste management.

My company was attracted to the State of Texas due to the size of its energy market, its ability to attract investment, and most importantly, the magnitude of the waste volume that is created every day during the normal course of development.

In November 2022, Recover was granted a permit by the RRC for a waste management facility in the heart of the Midland Basin. Since being granted this permit, Recover has spent considerable time and capital preparing to execute this \$75 million project and I am pleased to announce it is shovel-ready. Beyond its first Permian facility, Recover expects to deploy over \$1 billion into expansion projects throughout the state of Texas. In total, these projects will create 4,000 construction jobs, 700 high-paying permanent full-time operating jobs, and add 150 million gallons of low-carbon diesel to the local energy supply per year, all while reducing emissions.

I have invested my entire career in the North American energy industry, and I am a fierce advocate for the oil and gas industry. I promote the safe and efficient extraction of our natural resources and I have helped develop new technologies that makes our industry better. I believe the North American oil and gas industry is the best in the world.



The RRC published a draft waste disposal rule change in October 2023, followed by a revised version in August 2024. This rule, which governs the way drilling waste is managed was last updated four decades ago. Over the last forty years, technology has changed, thereby allowing operators to drill wells faster and more efficiently. For example, forty years ago, wells could only be drilled vertically whereas today, 80% of all wells in Texas are horizontal. Another technological advance has been seen in the proliferation of brine and oil-based drilling fluids. The creation of these technological advances have allowed Texas to maintain its position as a major global energy producer. Forty years ago, drilling waste produced from wells was a fraction of the volume and almost exclusively water based, a sharp contrast to the new well designs being employed today. **So not only is more waste being produced, the waste, if not properly managed and contained, is more toxic to the local environment.** When I say local environment, I mean the groundwater which is being used by citizens, farms, animals and wildlife.

On behalf of Recover, I applaud the RRC's efforts to amend Statewide Rule 8, but the rule that was published in August of this year was not a modernization, it was an affirmation that the rule was satisfactory in its current form, and it does not bring Texas up to the basic standard of any other jurisdiction in North America. In October 2023, the RRC published a draft copy of the proposed modernization of Rule 8 and invited comments from the public. The October version of the rule modernized regulations for both commercial waste facilities and how waste was managed by waste generators. At Recover, we were supportive of the changes to the commercial waste facilities and waste generators as they reflected societal expectations of improved environmental responsibility for industry operating near communities. **The new draft that was published by the RRC in August maintained the requirements for commercial waste facilities but was substantially diluted for waste generators.**

In its current form, the rule does not require drilling pits to be regulated like commercial landfills and the new proposed Statewide Rule 8 does not even have liner requirements for these pits. To be clear, small Permian pits typically exceed one acre in size and larger pits can easily exceed three to four acres. Compacted soil is not a liner. Under the draft 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 waste generator does not own. In fact, the rules allow waste generators to leave the waste on surface property without notice or consent of the landowners. **Texas is the only state in the country that allows onsite burial without the landowner's consent.**

Each of these pits contain hydrocarbons, chlorides and volumes of arsenic and heavy metals. Both the Texas Commission on Environmental Quality Joint Groundwater Contamination Report and RRC field inspection reports have recorded thousands of surface and groundwater pollution events. There are many documented cases directly linking contamination to reserve pits, and even more instances where pits have contributed to groundwater contamination without being identified as the primary source. Since 2015, the RRC has documented nearly 70,000 instances of unpermitted oil and gas waste disposal, 3,200 unpermitted uses of pits, and 715 recorded cases of surface or groundwater contamination. That is why it is uncommon and unacceptable in modern first-world jurisdictions to dispose of this waste, whether it comes from oil and gas development or any other industry, in this manner. Landfills are required to be built to an engineered standard, so they safely



manage the waste that is contained within them. So why are waste generators permitted to build unmonitored drilling pits that store the same waste? **The short answer is, drilling pits are being used as a substitute for landfills and by allowing substandard disposal practices, the RRC is jeopardizing the good work that most of the oil and gas industry is doing, over those who argue cost is more important than basic environmental protection.**

By continuing to regulate these drilling pits as “Schedule A Authorized Pits”, the Commission chooses to give waste generators blanket license to literally lay waste to the state of Texas. Under the proposed rule, this is done without permits, without liner standards, without construction standards, without real consideration given to groundwater, and without notice or consent of the landowners. As such, I strongly recommend the RRC take a more holistic approach to the new waste rule by incorporating this approach:

Any operator using a drilling fluid which contains $\geq 1.0\%$ (volume) hydrocarbons (commonly known as oil-based drilling fluid), or chlorides in a concentration $\geq 3,000$ ppm (commonly known as brine or salt water drilling fluid) may not utilize a pit, including reserve pits and mud circulation pits, unless the pit is built to a standard described in §4.115 “Schedule B Authorized Pits”. Additionally, landowner consent must be obtained when the land use agreement includes the disposal of waste.

I appreciate there are concerns about the added costs of the new regulations for industry, but it appears that the RRC is taking a one size fits all approach. When I look at the increased regulations borne on commercial waste facilities, it does not appear that there were any considerations on how that would impact waste management and recycling businesses. **Pollution is pollution, regardless of whether the polluter is a small business, a multi-billion-dollar enterprise or a “commercial facility”.** Related to this, it is interesting to note:

- Operators regularly tout the Permian as the lowest cost resource region in North America. This has led to over \$110 billion of M&A activity over the past two years alone. Each of these acquiring companies have extensive experience operating in other jurisdictions, in particular New Mexico, that have long banned drilling pits. I would point out that New Mexico has not seen any reduction in drilling activity despite the increased waste disposal requirements.
- According to the Texas Railroad Commission’s own website, a case study for a small independent operator that went closed loop realized a savings of about \$10,000 per well from reduced drill site construction and closure costs, waste management costs, and surface damage payments. Beyond these upfront cost savings, the operator also reduced the potential for environmental impact and associated potential liability concerns.

Above, I stated, *“Pollution is pollution, no matter whether the polluter is a small business, a multi-billion-dollar enterprise or a “commercial facility”.* I would like to draw comparison to dumping any volume of used motor oil on the ground. This act is a felony offense in Texas and punishable by a \$10,000 fine and/or up to two years in jail. Drilling reserve pits contain substantially more waste volume and toxicity and yet, they are currently permitted as a substitute to landfilling. **As**



currently proposed, the ‘modernization’ of these rules will affirm such practice continues to be legal. How is this possible in the year 2024?

The RRC must modernize waste disposal rules to include environmental protection. In my 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.

In closing, I would like to address concerns related to increased truck traffic, given the potential impact on traffic safety.

Traffic safety, like environmental protection, is important and there are three primary drivers for improvement – technology created and used by industry, government investments in infrastructure and non-governmental organizations.

- Technology: Similar to the drilling advances mentioned above, the transportation industry has also experienced technological improvements. For example, GPS technology allows dispatchers to manage their fleet in real time allowing them to avoid traffic congestion, better manage logistics and identify which drivers are safely operating their equipment. Additionally, in-vehicle dash-cams allow for trucking companies to properly investigate incidents or accidents and implement new procedures, or training, to help prevent similar circumstances from occurring in the future.
- Government: There has been a concerted effort by both State and local governments to improve the road infrastructure in West Texas. Additionally, Texas Department of Transportation has created other programs (like “Mission Zero” for example), to help achieve zero employee incidents, injuries, and fatalities.
- Non-governmental organizations: While there are others, the Permian Road Safety Coalition (“PRSC”) is an excellent example of collaboration between industry, involved citizens and government to improve road safety. PRSC is a not-for-profit organization focused on making roads safer and improving road infrastructure in West Texas and Southeast New Mexico. Across twenty-seven counties within the Permian Basin, they help the transportation industry, citizens and local government with education, training, advocacy and improvement grants.

Respectfully, to summarize, due to a combination of technological advances in the transport industry, the capital investments in road infrastructure made by governments and community led initiatives by non-governmental organizations, we believe that this rule will have a muted impact on traffic safety.

Notwithstanding these comments, to be clear, Recover is not asking for waste generators to exclusively transport their drilling waste to landfills. Recover acknowledges that waste generators may decide that traffic safety outweighs the risk of using drilling pits. In that circumstance, the waste generator must not sacrifice the local environment and build a drilling pit to the same standards as Commercial Landfills. It is ironic, however, that if traffic safety was used as an argument against quicker resource development (for example, trucking oil production until



pipelining oil production infrastructure can be installed), these same waste generators would likely, universally dismiss this concern, citing materiality.

Thank you for your attention to this matter. I greatly appreciate the work that the RRC staff has put into this matter. I also appreciate the RRC's extension of the public comment period to October 15, 2024.

Thank you for your time,

Recover USA Inc.

A handwritten signature in blue ink, appearing to read 'Stan Ross'.

Stan Ross, President and CEO