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General Comment

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Comment

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Amend §3.8 and new/amended Chapter 4, waste management

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Comments concerning proposed rulemakings

Chairman Christi Craddick Commissioner Wayne Christian
Commissioner Jim Wright Dear Commissioners: As a Texas landowner, I have been following with great interest the proposed updates to Statewide Rule 8. The final draft, issued on August 15, 2024, raises some important concerns about landowner rights, as well as the environmental protection of Texas lands, groundwater, and community health. The newly proposed regulations leave landowners unprotected and the standards to protect groundwater and the environment have been significantly lowered since the previous draft of the rule issued in October 2023. The previous draft included standards for authorized pits on construction, operation, and closure. Alarming, those were removed in the most recent draft, as were requirements for groundwater monitoring, sampling, and liners. To quote the Commission's Assistant Director of Technical Permitting during the September 5th public hearing, "Most rules for most authorized (schedule A) pits are unchanged." This means the rules for oil & gas companies' use of reserve pits and mud circulation pits at well sites will remain unchanged since 1984 and will likely remain unchanged for decades to come given the cadence on rule change. With the latest version of the rule, the RRC is allowing oil and gas operators to continue burying oilfield waste in the ground, without the express permission of landowners, and with no safeguards or consideration for the effects on groundwater, soil, or air pollution. As you are aware, although RCRA-exempt, this waste typically contains salts, hydrocarbons, heavy metals, and carcinogens—all of which need to be managed responsibly with minimal impact to human health, agriculture, and the broader environment. Simply put, this archaic practice does not satisfy

reasonable modern-day expectations of the public, landowners, the state legislature, water conservation districts, and other stakeholders. It holds Texas down as a national and global laggard in terms of environmental standards pertaining to oil and gas waste management, with lower standards than found in many developing economies or “third world” oil nations. Moreover, it threatens future investment in our state’s energy industry, jeopardizing access to capital and/or raising the cost of capital—issues which already plague E&P operators. My understanding is that the exemption of authorized (schedule A) pits is in response to concerns that the previous draft of the rule would unduly harm small businesses. I would argue that raising barriers to future investment unduly harms the entire industry in Texas. While the RRC should hear the voice of small business and consider limited exemptions to stricter rules around reserve pits; the rule should not be fundamentally reversed from its October 2023 position to serve the interests of operators who represent a tiny fraction of the state’s activity and production. Rather, I would urge the Commission to act in the best interests of mainstream operators, the industry at large, and in the long-term interests of the state, by taking this issue off the table. I would request the Commission revisit its proposed updates regarding the use of authorized pits and strengthen regulations in the following two areas: 1. Require landowner notification and consent. Operators should be required to notify and obtain a landowner’s permission before permanently burying waste on their land. For the uninformed, it is believed that these pits contain only cuttings and mud; but, in reality, they contain trace amounts of benzene, arsenic, metals, diesel, and high levels of chlorides. When buried in place, these substances inhibit the regrowth of vegetation, risk groundwater contamination, and harm livestock and wildlife. Furthermore, landowner permission has long been required for landfarming so it stands to reason that the same standard should apply to permanent burial. 2. Establish uniform requirements for construction, operation, and closure standards of all authorized pits. As I read it, the updated rule imposes no construction, operation, or closure requirements on these pits. While the new pit registration

requirement may be helpful in identifying pit locations, it will not eliminate the inherent hazards reserve pits pose to groundwater or land. Reasonable construction standards, liner requirements, groundwater monitoring, pre-closure testing of waste, and closure standards are the best ways to protect our groundwater and preserve our land. Reserve pits may be smaller than commercial disposal pits, but they contain the same waste and pose a similar risk to groundwater yet are almost entirely unregulated. As a Texas landowner, it is my belief that reasonable regulations for authorized reserve pits will protect our groundwater and the environment while still allowing Texas' thriving energy industry to lead from the front. I kindly urge you to consider strengthening the regulations as outlined above. Respectfully, Richard Leaper

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