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Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

November 3rd, 2023

Re: Proposed Modifications Statewide Rule 8 (16 TAC, Chapters 3 & 4)

Chairman and Commissioners,

I appreciate the opportunity to express my concerns regarding the proposed modifications to Statewide Rule 8 (16 TAC, Chapters 3 and 4) and understand the need of this agency to amend certain rules, when necessary, in order to ensure the safety of our communities and the environment while protecting the economic opportunities that this industry provides to the citizens of Texas and the country. However, I firmly believe that the proposed rules concerning the way we manage our temporary drilling and completion pits are unwarranted. **The current rules which have been in effect since the early 1980's, specifically Rule 8, 3.8 (3) (D), has worked extremely well and should not be changed.** The RRC has a history of recognizing the geological and operational differences across the state and as such successfully manages rules and regulates the industry with that in mind. I do not believe a one-size-fits-all approach is suitable for the implementation of this rule. Rather guidance for new rules should use actual data and evidence that demonstrates there is a problem, not a perceived one, and secondly, the change in rules does not have unintended consequences. It is my belief that the proposed rule change does not meet either of these qualifiers.

As a third-generation drilling contractor, I understand the necessity of regulations that promote responsible practices and environmental stewardship. I have witnessed our industry's evolution over the years with an ever-increasing emphasis on safety and environmental stewardship. With the technological advances which have helped our state increase its oil production nearly fivefold and nearly double our gas production, I appreciate your agency's efforts to update and modernize existing rules. That being said, I would like to emphasize the importance our conventional/vertical oil and gas operations continue to play in the state and how new rules will affect these regions differently than those in the Permian (Midland and Delaware), Eagle Ford and Haynesville areas. There are distinct differences with waste management issues, geological conditions and aquifer depths between these highly active basins, and other areas in Texas. One of my primary concerns is the potential cost impact on operators who focus their efforts in our many legacy oil and gas fields where conventional/vertical wells are dominant. The economics of drilling these conventional wells do not have the same robust returns that those in the shale basins bring and as such the proposed rules will exacerbate these challenges. The regulatory burdens resulting from monitoring wells, soil sampling, additional pit liners, pit registration and approval to name a few, will significantly increase drilling, completion and workover costs making it uneconomical for operators dealing with marginal wells.

Being in the oil field service side of the business that works in both West Texas and Eastern New Mexico as well as having been a small operator in Texas, I have seen the devastating effects of such proposed pit rules on small operators working conventional oil fields. The rules being proposed are almost an exact copy of those implemented in New Mexico more than 10 years ago. One of the unintended consequences, which I mentioned earlier, for imposing such extensive regulatory requirements on temporary drilling and workover pits is that it drives operators in to using a closed loop pit system on the surface to handle their drill cuttings and drilling fluids so as to avoid the regulatory hassles of using a temporary drilling pit. This type of operation requires that the drill cuttings and used drilling mud be trucked from the well site to a disposal site. The cuttings are being hauled off location 24 hours a day while the used drilling mud is hauled off the drill site at the conclusion of the drilling process. From our actual experience just across the state line in New Mexico, this process adds approximately \$250,000 to \$300,000 per well to the drilling cost. Under the new pit rules on a well that would currently cost approximately \$1,000,000 in Texas, that cost would increase 25 to 30 percent. As mentioned above, this kind of a cost increase on such a marginally economic well would probably lead an operator to not drill a well or reduce the number of new drills. It is now reported that oil and gas production in New Mexico breaks down to 90 plus percent is from major operators while less than 10 percent of production is from the small oil and gas companies. This I believe is a stark warning to an industry that provides so much health to our state economy.

I would also like to address the perceived water contamination issues, which these rules aim to address. In West Texas there is limited freshwater within the first 200 feet below the surface and in some areas it is non-existent. I cannot find any known reputable data that details the contamination of our fresh water from pits used for drilling or re-completion operations. There are some instances where contamination may have occurred from out-of-zone injection from secondary recovery, but none from temporary drilling pits. No evidence exists for a need for this type of detailed rule implementation that the proposed rule implies. The current application of Rule 8 by all measures has proven successful so why try to implement a fix where there is no problem. I like to think that our state is successful because we take a pragmatic approach to the way we do things. "If it ain't broke, don't fix it" is a saying that speaks to the many of us who work in and care deeply about the great State of Texas.

The unintended consequences for implementing this new rule are numerous. As alluded to above, the closed loop mud systems, which would be employed, lead to many other problems for operators and landowners alike. The constant truck traffic moving in and off location causing traffic and safety issues. The higher truck traffic leads to more road damage for our taxpayers to repair not to mention the added fuel consumption to move these wastes to disposal sites. As a landowner myself of nearly 300 acres with 11 existing or plugged oil wells on it (but no mineral royalties), I would not want the additional traffic for cuttings removal, not to mention the loss of revenue I would be able to receive in the way of surface damages should the cuttings be left behind and buried. These 11 oil wells drilled on my property were all drilled with temporary pits and every one of them was deep-buried and able to grow crops or pasture grasses on top of the reclaimed pits. Furthermore, I also have two large irrigation wells on the property for irrigating an annual cotton crop as well as several domestic water wells and there is no evidence that the reclaimed drilling pits have in any way tarnished my water. And finally, the Ad Valorem taxed paid by the operator on a single 120 acre lease consisting of four wells pays the local appraisal district over \$39,000 per year with severance taxes to the state of \$44,000 bringing the total taxes paid to over \$83,000 annually. If these four wells were not here, the only annual tax revenue the district or state would receive would be about \$690 a year. What a difference a healthy oil and gas industry makes in supporting our communities.

In addition to the inevitable drop in tax revenues for the local districts and state, is the actual effect these new rules would have on our small operators and oilfield service companies. My company drills both horizontal and conventional/vertical wells but rarely in the major areas currently being dominated by the large shale projects. My company pays over \$11 million in annual wages to its 130 plus employees. Economists say that wages have a multiplying effect in communities and can be as high as five times. Using this number, the impact is about \$55 million annually. The loss of these wages to the community, should we have to shut down, would definitely be felt by the local economy. We know this because we saw it happen to our neighbors in New Mexico. This is what awaits many of our communities all over the state where many of the small operators and service companies reside.

As currently written, these rules would significantly increase operating costs in both drilling and re-completions and make it very difficult for the conventional oil fields to be developed and production maintained. It is very likely you would see more inactive/abandoned wells and a dramatic drop off in production from these important oil fields. Oil and gas reserves would be abandoned, and royalty owners would not be able to receive any payment for their assets. This is in direct conflict with the RRC's statutory duty to "prevent waste of the state's natural resources." I believe the issues with this rule can be solved by better differentiating between temporary pits and permanent commercial facilities. They simply are not the same thing and should be treated differently. Real facts and data from over 90 years of industry experience should demonstrate that these temporary pits are not a danger to our underlying water table and should not be subject to an overbearing regulatory requirement.

I would hope as the RRC reviews these proposed rules that they recognize that some rules don't need to be modernized if they are working as intended. I believe this to be the case with Rule 8, 3.8 (3) (D) and (E) as our history has demonstrated. The viability of the Texas oil and gas industry is at stake with these rules and the agency should take into account the unintended economic consequences if enacted and if this new rule actually delivers safety to the citizens of Texas. I wish to see Texas continue to have that business-friendly regulatory environment and not succumb to an attitude to change things for the sake of change. I believe that the industry, the public and state regulators must constantly look for that correct balance between environmental protection and economic viability. I look forward to work together to strike that balance.

Sincerely,

Jay Norton
President