



November 2nd, 2023

Via email

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
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RE: Comments on Proposed Changes to 16 TAC Chapter 4, Subchapter "A" - Oil and Gas Waste Management

About Mewbourne Oil Company

Established in 1965, Mewbourne Oil Company (Mewbourne) has steadily evolved into one of the nation's most prominent, privately held exploration and production companies in the country. Mewbourne's operational portfolio, with its 700+ devoted employees, provides stable, environmentally responsible production from the Anadarko and Permian Basins of Oklahoma, Texas, and New Mexico. The company's success over the years may be attributed to our reputation as an operator and employer of choice based on our dedication to lasting relationships and community engagement, in addition to our safe, responsible, and innovative operations.

Headquartered in Tyler, Texas, with offices distributed throughout our operational footprint, Mewbourne has a long-standing and deep commitment spanning multiple decades in the communities in which we work. Focusing our efforts on two of this country's most prolific producing regions, Mewbourne currently operates over 3,500 wells and is one of the most active drillers and producers in both the Anadarko and Permian Basins.

Summary of Comments

Mewbourne Oil Company appreciates the opportunity to comment on the Texas Railroad Commission's proposed draft of the new 16 TAC Chapter 4 Subchapter "A" rule. The Commission's intention to clarify and improve the safety and prevention of pollution associated with pits and affiliated wastes is commendable. We recognize the importance of modernizing certain provisions of the rule as well as complying with legislative mandates in order to establish efficient, consistent, and orderly permitting for commercial facilities. However, we're concerned with the significant implications of this "one size fits all" proposal, specifically as it pertains to the Subchapter "A" aspects affiliated with authorized, non-commercial, temporary (active life of less than eighteen months) reserve, completion/workover and fresh makeup water pits for which groundwater is not likely to be present within 100 feet of the surface.

The Commission should take into consideration the vast and dynamic geological and ecological differences throughout the state and work with operators to develop a risk-based approach to this proposal that takes these pronounced differences into consideration. The industry has made great strides and realized significant efficiencies in water and waste management throughout the years. Our adherence to the existing rules has effectively protected public health, safety and the environment for the five plus decades for which we've operated in these regions.

A Focus on the TX Panhandle Region (RRC District #10) and Affiliated Production Operations

Given the unique geology and current moderation in natural gas pricing coupled with increased service costs and inflationary pressures throughout the region, production economics and affiliated returns on capital invested within the Texas Panhandle are currently challenged in comparison to more prolific plays such as the Permian Basin. Furthermore, a vast majority of the communities in this region rely on a resilient oil and gas sector as the economic engine of the community. The revenues, both direct and indirect, for which this industry generates in the form of royalties, taxes, sales and wages allow these communities to prevail and grow. Already struggling, these communities will further suffer if the economics of oil and gas production activities within the region continue to be adversely impacted with layers of new regulation. Additionally, the exodus won't be limited to the oil and gas companies and their employees, as the reduced activity and affiliated revenues threaten to bleed into the communities at large, as people will be forced to look for opportunities elsewhere.

These communities are also driven by farming and ranching as a way of life, with many multi-generational family run operations of significant scale benefitting from the royalties and private surface use agreements they've negotiated over time with varying members of the oil and gas sector. To this end, the Commission's original Rule 8 guidelines for temporary pits have proven to be highly effective in preventing groundwater contamination, as evidenced by a sound environmental track record spanning multiple decades. In the event these rules were not protective, you can be certain that those farmers and ranchers who depend on the groundwater aquifers for their drinking water, crop irrigation, and ranching needs, would have most certainly cried foul and alerted the Railroad Commission to any impacts long ago. One important difference that uniquely separates the Panhandle region from other areas throughout Texas, is that average depth to groundwater is traditionally 200'-500'. One slight exception to this norm, is when producers are operating near a river or river channel, and in these instances, operators such as Mewbourne construct an off-location reserve pit where the depth to groundwater exceeds 100'.

When building reserve pits in the Panhandle Region, it's Mewbourne's standard operating process to remove and store approximately two feet of quality topsoil. Below this mark we're typically met with a caliche-like substrate. This zone is hard, lacking in organic matter and forms a semi-impermeable crust below the topsoil. We continue to dig through this layer as we encounter additional clay substrate(s) until we've met the desired depth necessary to support our drilling activities. These layers, particularly when compacted, are sufficiently impervious to vertical drainage and result in a highly suitable earthen base for our reserve pits to mitigate against fluid migration and serve to quickly evaporate remaining muds and fluids at the end of our drilling and completion operations. Following active operations and evaporation, our pits generally contain approximately a foot or less of remaining solids which are made up of natural occurring clays, sands, and limestones. Once dried, the pit is filled-in where it is covered by the caliche-like material and the topsoil that was previously stored aside is ultimately filled and reclaimed to its original grade. With the semi-impermeable nature of the caliche, the dried mud and cuttings are soundly encapsulated within the pit in an unobtrusive and protective manner.

Unique Impacts and Analysis of this Rule as it pertains to the TX Panhandle Region (RRC District #10)

What differentiates the Panhandle Region from those of our other operating areas, including the Permian Basin in New Mexico and the Anadarko Basin within Western Oklahoma, is that in New Mexico, we're more often pad-drilling multiple wells from the same surface location and the economics of 4-6 wells at ~\$12-14M each on a location can economically justify the additional expenditure for sampling along with a 20 – 30 mil synthetic liner at \$50K - \$70K, in addition to a closed-loop drilling rig at an additional \$120-150K in expense.

More importantly, however, is that there are several well-established commercial recycling/disposal facilities nearby that efficiently haul our drill cuttings due to a high-level of activity and strong base demand throughout the region.

Within Oklahoma, while the commercial facilities aren't readily available and the economics may not justify the additional expense affiliated with closed-loop drilling, the state's land farming regulations present an alternative approach to the management of cuttings that is economically tenable and compatible with the native soil types and land disposition in comparison to that of Texas'. The difference is a result of more robust agricultural pursuits using center-pivot irrigation within the Panhandle region in addition to more restrictive soil farming standards (low chloride and electrical conductivity requirements) to accommodate the "background" or native soil conditions and characteristics in the region.

With this, based on the new Subchapter "A" proposal within Chapter 4, when drilling with oil-based muds in the region, Mewbourne Oil Company would be required to conduct pre-and-post sampling analyses at a cost of approximately \$4K per location. We would also be required to register temporary reserve, completion/workover and makeup water pits which may constitute additional costs should wait times ensue for "down-time" rig expenditures while waiting on permit approvals (particularly true for workover needs, should an event occur on a Friday afternoon or the weekend necessitating immediate action from a safety or environmental standpoint). Additionally, each reserve pit would be required to have a 30 mil synthetic liner and/or to meet the earthen compaction standard of 2' of material, for which we estimate the following costs:

- 30 mil (The rule should specifically allow for 20 Mil, but currently due to the referenced puncture standards, 30 mil is the minimum thickness capable of achieving the ratings) liner: \$65,000 - \$70,000
- Earthen liner w/ 2' of compacted material (hauled in): \$60,000 - \$80,000
- Earthen liner w/ 2' of compacted material (on site): \$40,000 - \$50,000

Our most significant expenditure to adhere to the proposed regulations, would be to identify a location to dispose of our drill cuttings (even if we made the costly decision to pursue closed-loop drilling practices). We could consider hauling our cuttings to a commercial facility; however, there are no readily available facilities within the region and the cost would be exorbitant given the hauling distance. We could evaluate hauling the cuttings back across state lines to Oklahoma and soil farming them, but this approach would also cause us to incur significant transfer fees and may not present itself as the best environmental management approach from a regulator's purview. Lastly, we could pursue burial in place requiring a synthetic liner (assuming the landowner for whom we've negotiated a surface use agreement would be willing to allow us to bury a liner, for which is usually not their preference – not to mention that they now will have significant concerns about public "pit registrations" negatively impacting their property values) but there's additional problems with burying in place via a synthetic liner. In addition to leaving the liner itself behind, when mixing the remaining contents at a ratio not to exceed 3:1 with native soils, there's a likelihood that you may puncture the liner with any auger apparatus utilized for the mixing process.

All of these direct expenditures don't account for the increased costs and liabilities created from the sampling analyses, the excessive costs and migration pathways created from monitoring wells in the event groundwater is less than 100', or the prospects of an extensive expenditure from a dig and haul remediation project should your "background" sampling concentration analyses be altered through the process (particularly as a liner may be susceptible to puncture in comparison to the previously utilized alternative – the approach of utilizing the compacted native substrates coupled with the oilfield mud itself, which is by its very nature, designed to hold fluids and create an impervious base material).

While we're also appreciative of the Commission's consideration of beneficial reuse of drill cuttings to be used as road base material within the Subchapter "B" recycling proposal, we have concerns about the treated product's viability to meet the low chlorides threshold in this region in addition to receiving approval from private landowners and/or county commissioners permitting their use.

Specific "Risk-Based" Considerations for the 16 TAC Chapter 4 Subchapter "A" Proposal

Mewbourne Oil Company's specific request for this proposal is for the technical staff to develop a risk-based approach that recognizes the multi-decade track record of temporary pits within those region(s) in which depth to groundwater is on average, much greater than 100', such as the case throughout the Railroad Commission's District 10.

Specifically, we request that the staff craft a risk-based, blanket exception criteria by compatible Districts, for a newly defined "temporary pit" eliminating certain criteria attributable to "authorized pits" within the proposed Chapter 4, Subchapter "A" §4.113 (Authorized Pits) & §4.114 (Requirements Applicable to All Authorized Pits) by inserting the following within § 4.109:

- Temporary pits that are designated as either reserve, completion/workover, condensate and /or fresh makeup water pits, that are temporary in nature (as defined by possessing either an active life of eighteen (18) months or remain left in an "inactive state of evaporation and reclamation" not to exceed 12 months following continuous operations (drilling, completing and/or workover)).

We believe this exception criteria as drafted ensures an equivalent level of desired protection of public health, safety, and the environment for compatible Districts, while recognizing a significant reduction in costs and affiliated operational and landowner-related burdens. This proposal would also alleviate disproportionate impacts to smaller producers in comparison to the rule as proposed.

We believe this temporary designation should provide an exception to the requirements for pit registration, sampling, synthetic liner application and groundwater monitoring aspects of the proposal. We're happy to discuss additional provisions, such as the inclusion of a requirement of >100' depth to groundwater along with an earthen, clay, one foot (1') compaction standard inclusive of a caliche cap, etc. should the Technical Staff working in conjunction with the District Director believe these may be necessary for establishing environmental equivalency to achieve a blanket exception waiver.

Conclusion

We appreciate the opportunity to comment on this proposal and would like to thank the technical staff and the Commissioners in advance for your efforts over the past year and a half in preparing this proposal in addition to your consideration of our comments. Should you wish to follow-up with any questions or concerns, please don't hesitate to contact the undersigned.

Respectfully,



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