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Subject: Draft Rules Informal Comment
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General Comment

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3.8, 3.57 and Chapter 4

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Comments concerning draft rulemakings

11/03/23 Rules Coordinator Railroad Commission of Texas Office of General Counsel P.O. Drawer 12967 Austin, TX 78711-2967 I am writing as a concerned Texan to give suggestions on the informal draft amendments to Statewide Rule 8 and Chapter 4. The rule changes are fairly lengthy, complex and a number of changes are indicated. I offer the following comments: Overall I support the proposed rule changes to require more definitive information by the drilling permit applicant wrt use of temporary drilling waste pits. I am aware that regulatory requirements have moved to requiring more “closed loop” systems to handle, reuse and dispose of drilling wastes to reduce or eliminate the use of temporary reserve/waste pits entirely. The closed loop system is considered a Best Management Practice (BMP) for handling drilling fluids and drilling waste. I support this and encourage the TRRC to continue in this direction, including required BMPs for regulating how all pits must be closed and the surface restored. The goal is to leave minimum drilling waste on site that will be squeezed and buried. Pit removal and restoration of the drilling site to pre-drilling conditions should be required. Landfarming as a waste disposal technique should be minimized. Paperwork and Record Keeping I support Chapter 4 emphasis on record keeping, planning documents, and other paperwork. Include new emphasis on monitoring pollution, including monitoring wells. Public Participation Require a more participatory permitting process. Consider requiring applicants to publish “notice of intent” to apply for a permit at least 30 days before applying. Set all applications for a hearing once the application is complete, regardless if a protest is received. Give at least 30 days’ notice of the hearing (same time frame applicants have to respond to

protests) Prohibit modifications or supplements to the application once it is set for hearing. Allow all interested persons the opportunity to present testimony, facts, or evidence related to the application or to ask questions (add to 4.135). Require explicit surface landowner consent before a pit can be built onsite. Landowners should get to approve what types of waste are going to be put in any pit on their property before it happens. TRRC should create an electronic mailing list for anyone to subscribe to so that we can be automatically notified of applications in our area.

Approving Projects TRRC should require separate registration for drilling pits. Make the applicant, not communities, bear the burden of showing whether a project is protective of human or environmental health and safety. Applicants should demonstrate financial responsibility to prove that their projects will be protective. Under the current and draft rules, it falls to landowners and communities to prove at their expense that projects won't protect health and safety. Prohibiting modifications of an application once it is set for a hearing should help, but the rules should say that if a complete application "does not meet the requirements of [Chapter A] or other laws, rules, or orders of the Commission" the Commission "must" deny it; not "may deny," as the current draft proposes. 4.134 and 4.206(b). See also 4.204(2), 4.262(c), 4.278(c).

Improve setbacks from sensitive sites and places. Setbacks should be measured from the fence line, not from an individual pit. 4.150(g), 4.219(b)(2), 4.256(b)(2), 4.272(b)(2). The Commission and Commissioners should not be granting exemptions without public input. 4.109 (and 4.205).

Data Access and Enforcement Full documents on pits, waste, and waste hauling data collected by operators should be sent to the RRC and made public, instead of just being available upon request. This will allow for transparency and accountability. All application files—including public comments—should be kept and made public. Improve enforcement and apply meaningful penalties. The penalty section, which is copied from 3.107, should strongly commit the Commission to vigorous, transparent, and speedy enforcement of the new rules. The remaining rules should be drafted to provide no wiggle room to

escape liability. I hope the Railroad Commission incorporates this feedback in the final SWR8 Waste Pits rule as the protection of our collective health & safety along with the protection of our environment is of utmost importance. Thank you for your consideration. Mark Friesenhahn 231 High Creek Road New Braunfels, TX 78132 281-660-5445 mark@comalpecanfarm.com

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