December 2, 2024

Rules Coordinator
Office of General Counsel
Railroad Commission of Texas

Submitted electronically to rulescoordinator@rrc.texas.gov

RE: RRC Proposed Rule §3.82 on Brine Production Projects and Associated Brine Production Wells and Class V Spent Brine Return Injection Wells

The Texas Oil & Gas Association (TXOGA) is in support of the Railroad Commission of Texas (RRC) obtaining primacy for Class V UIC program for spent brine return injection wells. This will help enable investments from the brine mining industry and expedite permits for potential future projects in Texas.

TXOGA is a statewide trade association representing every facet of the Texas oil and gas industry including small independents and major producers. Collectively, the membership of TXOGA produces approximately 90 percent of Texas' crude oil and natural gas and operates the vast majority of the state's refineries and pipelines. In fiscal year 2023, the Texas oil and natural gas industry supported over 480,000 direct jobs and paid $26.3 billion in state and local taxes and state royalties, funding our state's schools, roads and first responders.

Preamble

We recommend that there is clarification given regarding general operations and associated wastes such as those generated during drilling, completions, workovers, and spills/leaks, which are characteristically the same as those created at E&P sites, be regulated under existing RRC Chapter 3 and/or proposed Chapter 4 regulations including construction, operation, and closure of pits.

General Comments

- **Addition of "minerals" throughout rules**
  Add "minerals" to list of "extraction of minerals, elements, salts, or other useful substances" throughout the entire document.
- **Incidental production of oil and gas**
  Recommend clarifying whether a brine production permit would allow for incidental production of oil and gas, or if a separate oil and gas permit would be required.
- **References to owners**
  Recommend clarifying whether notices, consent, etc. are needed from surface owners,

mineral owners or both when the term "owners" is used.

- **Well spacing requirements**
  The spacing limits of "no less than one-half mile from the boundary of the brine production project and one-half mile from any unpooled interest within the project area" appear to be larger than the requirement for oil and gas wells. We recommend using the same spacing limits as oil and gas wells.
- **Decommissioning timelines**
  We recommend RRC use the same timelines for facility and well decommissioning that are used for oil and gas wells and facilities.
- **Reinjection of spent brine**
  We recommend that there is flexibility in the rules to allow for injection of spent brine outside of the original formation if needed.
- **Bonding requirements**
  We recommend allowing blanket bonds to align with the bonding framework currently in place.

<u>3.7 Strata to be Sealed Off (Page 18)</u>

Page 18, Line 26 Strata to be sealed off "when encountered" and Page 19, line 16. SWR 13, definition of productive zone.

- Both of these proposals would require that new oil and gas wells be cased and cemented to isolate brine resources penetrated by the wellbore. This could potentially add significant costs to new oil and gas wells drilling through formations containing brine.
- Clarification is needed on how and when the RRC will communicate and implement these requirements. Will RRC maintain a list of these zones, similar to current SWR 13 (a)(2)(N) and (M) as it relates to potential flow zones and corrosive formation fluid zones, so that E&P operators will know these zones requiring protection exist at the time of permitting new drills or filing for a plugging approval? Will the provisions only apply when drilling new wells in close proximity to an established brine production project?

<u>Definitions</u>

Several of the proposed definitions do not match proposed definitions under the current RRC Chapter 4 rulemaking. We suggest the RRC take this opportunity to achieve consistency where possible in the definitions across various rules under the jurisdiction of the Commission.

The definitions that differ from Chapter 4 to SWR 3.82 proposals include: Commission (16), Director (20).

- **Casing (12), Cementing (13), Surface Casing (46)** – Since these wells must comply with SWR 3.13 (Casing and Cementing), propose removing definitions from this section.
- **Plugging (40) & Plugging Record (41)** – Since these wells must comply with SWR 3.14 (Plugging) propose removing definitions from this section.
- **Pressure (43)** - Specify units of psig.
- **Spent Brine (45)** - We recommend expanding the definition to include all entrained

gases and chemicals in injection fluid, including, but not limited to, hydrogen sulfide (H_2S). This will ensure all contents of produced brine, present in a formation under natural conditions, will be authorized for re-injection under Class V UIC program. RRC should also recognize in the rules that the spent, naturally occurring brine is brine that has been produced by a project, including any processing or treatment required in connection with such production. Spent brine may contain other non-hazardous substances that area added during processing, such as acid/base and hydrogen peroxide.

- **New Definition "Unleased Lands"** – Unleased lands are not defined in the rules. It is unclear what is meant by unleased lands and if requirements for unleased lands would apply to unleased surface, unleased mineral, or both.
- **New Definition "Facility"** - Propose that "Facility" means the brine production well, the Class V spent brine return injection well, and any other discrete or identifiable structure or enclosure used in conjunction with such wells that constitutes or contains a stationary source. Stationary sources lasting less than 72 hours are not considered facilities.

3.82(d)(2) Acreage and density. (Pag 31)

The prohibition on double assignments of acreage applies only to acreage assigned to a well, not acreage assigned to project area. As a result, it is possible under the proposed language for RRC to issue permits to two different brine projects operated by different companies that include undivided interests in the same acreage. Assignment of acreage to wells is optional (because many will be drilled closely together, meaning a requirement to assign acreage would result in odd gerrymanders). The result is ambiguity about what happens in an overlapping acreage situation. Let's say the first project operator to drill a well assigns the overlapped acreage to it. Could the operator of the second brine project drill its own well in the overlapped area and not assign acreage to it? That would avoid the letter prohibition against double assignment of acreage, but not the spirit of the prohibition, which is to ensure proper pressure management in each project area. Similarly, if there were an existing well in an overlapped area whose operator had not assigned any acreage to it, could assignment of that acreage to a second well drilled nearby by a different operator have the effect of transferring operatorship of the first well? We recommend addressing this by providing that, once acreage is assigned to a well in one project, it must be drawn out of all overlapping projects.

3.82(d)(3) (Page 32)

The brine field designation rules state that "[a] new brine field designation may be made by the Commission after a hearing after notice to all operators . . . ." In other words, a hearing would be required before any new brine field were recognized. To help avoid unnecessary hearings, we recommend that this should be changed to a process that allows approval of new fields to be done administratively, like SWR 41, with an opportunity for hearing only in the event of denial.

3.82(d)(4)(A) (Page 34)

Our understanding on the way this provision is drafted that every exception to a spacing, density, or contiguity requirement must go to a hearing. Given the large size of these units and the difficulty of leasing up all undivided interests in them, this could result in potentially hundreds of unnecessary hearings. We recommend that the language be changed to be more aligned with SWR 37, where notice is given, and the exception is automatically granted if no protest is received within some time period.

3.82 (e) Brine production project permit application (Page 35)

- The rules do not define the percentage of ownership needed to acquire a permit.
- The draft rules state "the proposed designation and assignment of acreage within the applicable field, which shall equal not less than 1280 acres per brine production well unless special field rules provide otherwise". Is the "acreage" surface acreage or mineral acreage?
- How many acres of the 1280 acre minimum per brine production well does the operator have to have leased prior to submitting a permit to the Commission? Will this requirement be satisfied so long as the operator has partial undivided interests in the mineral estate corresponding to each surface tract within the 1280 acres?
- Can the operator have unleased interest prior to submitting a permit to the Commission to certify that the applicant has a good faith claim to produce the brine resources?
- We recommend clarifying these requirements to enable production if there is no forced pooling or unitization.

3.82(e)(3)(N)(v) (Page 39)

Because the "area of review" includes a quarter-mile halo around the project area, this provision will require the plat to identify surface owners not included in the project. Given that statewide spacing rule requires a ½ mile setback from the outer project boundary, it is recommended that notice to surface owners be limited to those within the project area.

(g) Commission action on permit applications (Page 43)

Proposed 3.82(g) outlines the process for review of brine production project permit applications, including procedures for determining whether the application is complete and notifying the applicant of any deficiencies in the application. We support the 30-day notification of permit applications to minimize cost growth and project delays.

(15) Reporting and record retention (C) (page 48)

Balancing volumes and dispositions is a complex process. We recommend changing to "the report shall be filed on or before the last day of the month following the month covered by the report. This is in line with current monthly reporting requirements for producing oil and gas wells (see Form PR).

Page 50, Line 32. Setting of surface casing is based on base of usable quality water (defined by the RRC GAU as ≤ 3,000 mg/l TDS). The rule (page 28) defines USDW as <10,000 mg/l TDS. We recommend clarifying if the determination of USDW will be used to require deeper setting of surface casing.

<u>Page 51, Line 1 – cement long string to surface</u>

For deeper formations, circulation of cement to surface may not be technically feasible, even with stage tools. We recommend changing Section (j)(4)(B)(iii) as follows:

> (iii) set and cement long string casing in compliance with SWR 3.13, with a minimum casing setting depth at the top of the brine field. The Director may approve an alternate casing program for good cause.

<u>Page 51, Line 4 – 15-day notice requirement</u>

Current RRC notice requirements under Chapter 3 range from 8 hour (prior to running and cementing surface casing) to 72 hour prior to running an H-15 (fluid level test). Given uncertainty in exact timing for reaching casing depth, getting service crews to location, etc., we recommend a shorter notice period in line with current E&P requirements. The notice requirement for workovers (page 52 line 12) is 48 hours. We recommend a 48-hour notice.

<u>Page 51, line 18 – (G) Injection operations</u> may not begin until completion report submitted, reviewed, and found to be in compliance.

This may result in significant delays once a well is ready for operations. The completion report review process at the RRC currently can take months to finalize.

> We suggest changing to operations may begin after submittal of reports, unless otherwise instructed by the Director. Alternatively, establish a maximum number of days for RRC review; suggest 30 – 45 days.

<u>Page 51, line24</u> - (A)All Class V spent brine return injection shall be into the same brine field from which the brine was extracted by the brine production wells.

If the spent brine includes H2S, will injection approval be subject to the permitting requirements under SWR 3.36 Oil, Gas, or Geothermal Resource Operations in Hydrogen Sulfide Areas, Section (c)(10) – Injection Provision? Clarification is needed.

<u>Page 52, line 4 - Maintaining positive annulus pressure</u>

Maintaining a positive annulus pressure can be technically difficult. A 10% change could easily be related to thermal impacts. We propose the RRC allow options such as monitoring all pressures (tubing, production casing, and each casing annuli) via SCADA, with a reporting requirement (from SWR 3.9) such as

> "The operator shall report to the appropriate District Office within 24 hours any significant pressure changes or other monitoring data indicating the presence of leaks in the well".

Thank you for the opportunity to provide comments. If you have any questions, please reach out to Tulsi Oberbeck at toberbeck@txoga.org.

Sincerely,

Tulsi Oberbeck
Vice President of Government and Regulatory Affairs
Texas Oil and Gas Association