



**Panola County  
Groundwater Conservation District  
419 W. Sabine Street  
Carthage, TX 75633**

September 12, 2013

Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
Austin, Texas 78711-2967

**Re: Comments on proposal to amend 16 T.A.C. § 3.9 and 3.46 – “Disposal Wells”  
and “Fluid Injection into Productive Reservoirs”**

Dear Railroad Commission of Texas:

I serve as the General Manager of the Panola County Groundwater Conservation District (the “District”), and I submit this letter on the District’s behalf to provide comments on the Railroad Commission’s (the “Commission’s”) proposed changes to Rules 3.9 and 3.46 regarding “Disposal Wells” and “Fluid Injection into Productive Reservoirs.” Thank you for taking the time to review our comments and we appreciate your efforts to amend these rules.

The District is statutorily mandated to protect the groundwater resources of Panola County. As oil and gas activities continue to increase in the District, including the disposal of oil and gas waste fluids, it has become more and more challenging to ensure adequate protection of the groundwater resources within the District’s boundaries. In fact, the District has experienced multiple instances where disposal wells have contaminated groundwater resources and surrounding property due to inadequate groundwater protection requirements and the migration of waste fluid. It is also important to note that in many parts of the state water demands are or will be met by groundwater supplies with concentrations of total dissolved solids (“TDS”) levels that are higher than the 3,000 mg/l of TDS threshold in the Commission’s definition of usable- quality water. Furthermore, regional water plans project that additional brackish groundwater supplies will be essential to meet future water needs as Texas continues to grow and develop. Therefore, while we support the added protections the Commission has proposed in Rules 3.9 and 3.46, we are hopeful that the Commission will strongly consider the comments provided herein, which are derived from what is occurring across the state as well as in the District on a day-to-day basis.

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1. The District is pleased that the Commission has proposed revisions that prohibit the injection of oil and gas waste into formations that are underground sources of drinking water ("USDWs"), which are defined generally as aquifers or portions of aquifers with 10,000 mg/l of TDS or less. However, a number of other protections proposed by the Commission focus only on usable-quality water, which will only protect groundwater containing 3,000 or less mg/l of TDS. For example, Rule 3.9(c)(1) requires an impermeable strata of 250 feet between the base of usable quality water and top of injection interval, but does not require the same 250 impermeable strata separating USDWs from the injection interval. If the Commission has determined that a minimum of 250 feet of impervious strata is a necessary to ensure protection of usable quality water, which the District agrees with, then requiring similar protections for USDWs is also important. Moreover, 250 feet of impermeable strata should be required between any USDW, and not just USDWs that are located above the injection interval. As currently proposed, Rule 3.9(c)(1) appears to allow for injection of waste disposal even if there is not 250 feet of impermeable strata separating the injection interval from usable quality water or USDW that is below the injection interval.

2. The District recommends that Rule 3.9(c)(2) and Rule 3.9(d)(3)(D) be revised to require the Groundwater Advisory Unit make a Groundwater Protection Determination that supports a finding that a proposed well will not endanger not only usable-quality water, but also USDWs in the area. This comment is based on the fact that the Safe Drinking Water Act requires this type of protection for USDWs.

3. The District encourages the Commission to consider revising the proposed rules to provide for collaboration efforts between the local groundwater conservation district and the Groundwater Advisory Unit when making the Groundwater Protection Determination. Based on recent communications with the Groundwater Advisory Unit, it is clear that it could benefit from the extensive information gathered by local groundwater districts, such as well locations and water quality in the aquifers, to ensure that all of the site specific data and information are considered before approving an application. Such collaboration would not only be more cost efficient in terms of gathering relevant information, but the consideration of all relevant information could decrease the likelihood of applications later being contested due to this issue.

4. The District strongly supports the proposed change to require all applicants to give notice of an application to the local groundwater conservation district. The District currently expends its own resources to constantly monitor whether applications have been filed for disposal wells to be located within the District's jurisdiction, and groundwater conservation districts should be added to the list of parties that already receive notice of applications. The notification of all proposed disposal or injection wells within the District's boundaries is critical to ensure that the District is able to adequately protect the groundwater resources within its boundaries. However, the District would like to ensure that the rules are drafted to require the same notice to the local groundwater conservation district when an existing application or permit is later amended.

5. Additionally, the District recommends that Rule 3.9(e)(2)(c) be revised to require that notice be provided to all tracts within 1 mile of the proposed disposal well location. This 1 mile radius from the proposed well location coincides with the District's recommended 1 mile radius area of review provided in comment No. 7 below. This revision would put landowners on notice within the area of review for such a disposal well application.

6. The District strongly recommends that Rule 3.9(g)(1) be revised to require an applicant to test the integrity of all identified wells within the area of review and determine whether all wells have been cased and cemented or plugged in a manner that will prevent the movement of fluids from the disposal interval into USDWs, regardless of whether the wells penetrate the injection interval. This issue is of significant concern in the District because we have experienced multiple instances of groundwater and property contamination due to lateral migration of disposal fluids through a defective well. This revision also recognizes the essential protection of USDWs, which is federally mandated in the Safe Drinking Water Act.

7. Furthermore, Rule 3.9(g)(1) should be revised to change the area of review from ¼ mile radius of the proposed well location to 1 mile radius of the proposed well location. The rule should require the applicant to demonstrate that existing wells within 1 mile of the proposed location are cased and cemented or plugged in a manner to prevent movement of fluids into USDWs.

8. Finally, the District would like to clarify that all recommendations to the proposed language of Rule 3.9 discussed above should be equally applied to 3.46, as applicable. For example, the revisions regarding heightened protection for USDWs, groundwater conservation district collaboration efforts, notice requirements, and applicant due diligence requirements recommended by the District for Rule 3.9, should also be included in Rule 3.46.

Overall, it is very important that the Commission's rules include the same groundwater protection standards provided by federal law in the Safe Drinking Water Act and recognize local groundwater conservation districts' statutory authority to protect the groundwater resources within their boundaries. The District is happy to work with the Commission, specifically its Groundwater Advisory Unit, to effectively protect groundwater within its boundaries. Thank you again for your consideration of these comments, and we look forward to working with the Commission during this rulemaking process. Please contact me if you have any questions.

Sincerely,



Leah Adams  
General Manager