

November 3, 2023

Commissioner Christi Craddick
Commissioner Wayne Christian
Commissioner Jim Wright

Dear Commissioners:

We are writing to you regarding the proposed changes and updates to Rule 8. As landowners in a significant basin for oil and gas extraction, we are grateful the Commission is finally making substantial changes to this rule, which are long overdue. However, we do not believe the changes are enough to adequately protect landowners and the State of Texas for the following reasons:

First, as you know, since you are landowners yourselves, land ownership in Texas is a source of great pride and value for many Texans. Most of us have owned our land for many generations, and we are working hard to preserve its integrity and pass it on to future generations. As good and faithful stewards, we, and all other landowners, have the right to know what is in the oil and gas waste that operators want to dump on our land and we should have the right to decide whether we want to allow it.

Landowner notification and consent are glaring omissions in the draft rule: oil and gas operators are not required to disclose to us what is in the waste nor are they required to get our approval. When landowners inquire about the ingredients in oil and gas waste, operators routinely tell us, misleadingly, that it's "nonhazardous" waste consisting of drilling mud and cuttings. But this isn't mud as we normally think of it, right? It's not just dirt and water but mud created in a laboratory containing toxic chemicals and diesel fuel.

Second, water is a precious and increasingly scarce commodity in Texas. Protection of our groundwater is critical to preserving the health of our families, crops, livestock and communities. And, protecting groundwater is the Railroad Commission's stated mission. Therefore, groundwater monitoring should be required when waste is disposed of on-site, not just in certain circumstances. The price we will pay for polluted groundwater is too high to move forward without proper monitoring requirements.



Third, the new rule should include clean-up/remediation standards in the case of pit failure. An obvious and appropriate starting point would be to use TCEQ's TRRP standards. Land is not a renewable resource. We must all ensure it is managed responsibly and we must do what we can to ensure pollutants don't remain once a drilling rig goes away.

Lastly, the provisions of the rule governing water recycling are encouraging. Whatever can be done to reduce or even eliminate the use of fresh water in drilling is welcomed. Our aquifers are being depleted at an alarming rate, and with persistent drought in parts of our region, our aquifers are not being recharged fast enough to meet the demands of our communities for safe drinking water.

Furthermore, we'd like to express concern regarding the disposal of recycled frac water in lined pits, this waste needs to be hauled to authorized disposal facilities for injection to avoid groundwater contamination.

Thank you for your efforts. We need to take this further before the rule is enacted.

DocuSigned by:

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Dean Davenport, on behalf of:

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Greg Angel
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RE: Proposed Changes to 16 TAC §3.8 and §3.57, and 16 TAC Chapter 4

On behalf of a dozen Texas ranching families, I am writing to provide our comments on the proposed rule changes.

First, under current rules there are zero protections for landowners. Oil and gas companies are under no obligation to notify a landowner about what is being temporarily dumped and/or buried on their property, and what is worse landowners don't have the opportunity to agree, or consent, to this waste being buried on their family's land. It is our surface and our groundwater at risk so we absolutely should be consulted and given the opportunity to say yes or no. This should be at the very beginning of this rule. And, these pits are referred to as "temporary". In our opinion, if it is dumped on your land or buried on your land, no matter for one day or one hundred years, then it is permanent not temporary.

Second, we are very much pro-oil and gas. We recognize it is the number one economic driver for Texas and we support continued development throughout the state. As cattlemen and livestock raisers, our businesses are highly dependent on oil and gas to fuel our trucks, tractors, provide electricity to our homes and water wells, and to benefit from the medicines derived from oil and gas for our animals.

We need oil and gas, but landowners need protection as well. In reading some of the online comments, oil and gas companies are complaining that modernization of these rules is too expensive and just like those in Colorado and New Mexico and it will impact exploration. That is simply not true. In states such as Colorado, New Mexico and Wyoming, ranchers and oil companies coexist with minimal issues, and we've seen increased production in those states, especially New Mexico.

Third, we have been made aware of commitments made by more than 25 large oil and gas operators in the Marcellus Shale, more than 10 years ago, to utilize alternative methods of getting rid of the waste generated when drilling for oil and gas. These methods include taking the waste to licensed facilities rather than burying it on landowners, taking great strides to drill groundwater monitoring wells to ensure the drinking water isn't being impacted, and to be open and transparent with landowners. If it's good enough for Pennsylvania and Ohio, isn't it good enough for Texas? It is puzzling for the same operators who put forth these rules in other states to now oppose them in Texas, in their very own backyard.

To put it more simply, current practices would be like me renting a house from you and me burying my household garbage in the backyard without telling you even when I know there is a better way to dispose of my garbage.

The Truth About Texas Oilfield Waste

During the drilling process, oil and gas waste is buried or spread on private, state, and public lands often without the landowner's consent.

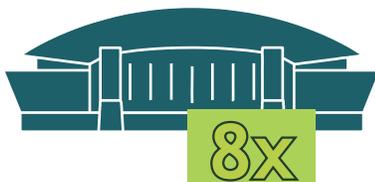
There are better ways to handle this waste so it doesn't harm our water, communities and families.



That's high enough to reach the chest of the average male or the average depth of a neighborhood swimming pool.

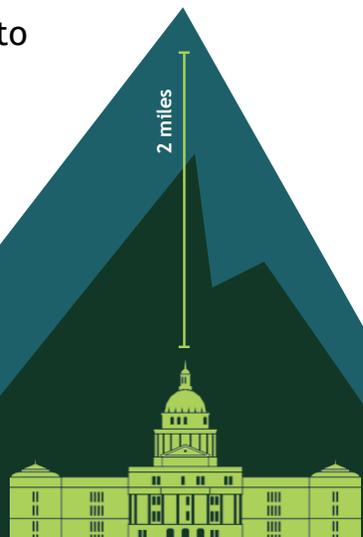


Texas' largest indoor stadium can hold 778 million gallons (or 4.47 million tons).



If you were to fill it with the state's solid oilfield waste from onsite disposal methods, it would fill up every 2.5 months; that's eight stadiums a year.

That would be enough to cover the Texas State Capitol two miles deep in waste.



Source information provided by Enverus, TRRC.

If you combined all the Texas acreage used for onsite oilfield waste disposal since 2014, it would add up to over 252,000 acre-feet of waste, enough to cover the inner loop of Houston four feet deep.



Outlined in dark shaded area.

Texas oil and gas waste will devour over 575 square miles of public and private land by 2057.



Setting the Record Straight: Texas Oilfield Waste Disposal

In 2009, various national and state oil and gas associations, along with major independent and supermajor exploration and production (E&P) companies, collaborated to establish best management practices for oil and gas development in the United States and globally. Below are the industry's objections to rules proposed to modernize oil and gas regulations in Texas compared to their previous advocacy for best management practices for other communities.

Industry Objections

To Modernize Oilfield Waste Disposal in Texas



Currently, we operate within the regulations set forth by the Railroad Commission of Texas and have done so for decades with minimal issues.



The use of reserve pits in the state of Texas is allowed and there is no reason to change.



The proposed rules are financially burdensome for operators.



Closed-loop drilling systems add additional cost to drilling activities.



We don't want to inform or get consent from landowners to dispose of waste on-site.

Previous Industry Advocacy

For Proposed Best Management Practices in Other Communities



Operators should choose to conduct their operations using standards and practices that exceed regulatory requirements, recognizing that regulations and standards are not static but evolve and improve as new information and technologies become available.

In 2012, E&P members of the Appalachian Shale Recommended Practices Group advocated for standards and practices that exceed regulatory requirements. Why is the industry's position different in Texas?



Operators seek to follow industry standards and practices in all aspects of oil and natural gas operations. These standards are based upon generally accepted scientific and engineering principles, as well as historical and local operating experience, and should be applied with consideration for site-specific conditions, consistent with an operator's primary objective, which is to conduct its operations in a safe and environmentally sound, and socially responsible manner.



Operators strive to be ethical, open, and transparent about how they operate and the impacts of their activities.

E&P members of the Appalachian Shale Recommended Practices Group in 2012 noted that operators should always strive to be open and transparent about the impacts of their activities.

Industry Objections

To Modernize Oilfield Waste Disposal in Texas



We oppose testing the waste prior to burial on-site.



Closed-loop drilling systems add additional cost to drilling activities.



Reserve pits don't negatively impact the surface or take up much space.



Groundwater monitoring wells are expensive.



Source Information: API, IPIECA, Marcellus Shale Coalition and other industry and trade organizations.

Previous Industry Advocacy

For Proposed Best Management Practices in Other Communities



The potential environmental impacts associated with the accidental discharge of drilling waste include:

- Reduction in surface water quality
- Soil contamination
- Groundwater contamination
- Harm or loss of native wildlife and vegetation

Operators should encourage the development and use of more environmentally benign ingredients in drilling fluids.



Consider the use of closed-loop drilling fluids management systems, where practicable, to reduce: the risk of pit liner leakage, the risk of surface spills, waste volumes, and pad sizes.



In an effort to minimize surface impacts, Operators should consider the use of closed-loop drilling fluids management systems.



Surface and Ground Water Performance Standards:

- Maximizing Water Recycling
- Development of Groundwater Protection Plan
- Closed-Loop Drilling
- Groundwater Monitoring
- Wastewater Disposal
- Reduced Toxicity Fracturing Fluid

Texas oil and gas waste will devour over 575 square miles of public and private land by 2057.

Reserve Pits

The Silent Threat to Texas Wildlife

What is a reserve pit?

Reserve pits are open waste pits dug next to drilling rigs. Reserve pits are commonly used to dispose of drilling muds and other chemical fluids generated during the drilling of an oil or gas well.

What happens to reserve pits when wells are completed?

Following well completion, reserve pits are often left in place after the drilling rig and other equipment are removed from the site. Reserve pit fluids are allowed to dry and then any remaining solids are covered and buried in place. Operators have up to one year after well completion to close a reserve pit.

How big are these pits?

Reserve pit size depends on well depth. The deeper the well, the bigger the pit. An average reserve pit can hold 3,600 barrels (1 barrel = 42 gallons), while a larger reserve pit can be 15 feet or more in depth and hold more than 15,000 barrels.

What are these pits filled with?

Drilling fluids or muds consist of a base fluid or carrier:

- Water, Diesel, Mineral Oil, Synthetic Compound

Weighting agents:

- Barium Sulfate or Barite and Bentonite Clay

Drilling fluid also contains:

- Lignosulfonates and Lignites

How harmful is the oilfield waste in these reserve pits?

- Reserve pits can contaminate soil, groundwater, and surface water with metals and hydrocarbons if not managed and closed properly. As reserve pit fluids evaporate, water-soluble metals, salts, and other chemicals become concentrated.
- Liners often do not adequately seal the waste, especially if they are torn.
- Improper reserve pit management practices have created sources of benzene, lead, arsenic, and fluoride, even when these contaminants were not detected or were not present in the drilling mud system.
- Oftentimes, items and fluids that are not allowed to be disposed of in a pit inadvertently end up there.

How do these reserve pits affect birds and other wildlife?



Reserve pits containing oil or oil-based products (i.e., oil-based drilling fluids) can entrap and kill migratory birds and other wildlife.



Birds, including hawks, owls, waterfowl, and songbirds, are attracted to reserve pits by mistaking them for bodies of water.



Reserve pits also attract other wildlife such as insects, bats, small mammals, amphibians, and big game. Wildlife can fall into oil-covered reserve pits while attempting to drink along the pits' steep sideslopes.



The steep, synthetically-lined pit walls make it almost impossible for entrapped wildlife to escape. Insects entrapped in the oil can also attract songbirds, bats, amphibians, and small mammals. The struggling birds or small mammals in turn attract hawks and owls to the oil-covered pit.



The sticky nature of oil entraps birds in the reserve pits and they die from exposure and exhaustion. Birds that do manage to escape die from starvation, exposure or the toxic effects of oil ingested during preening.

Examples of Open Reserve Pits and Oilfield Waste



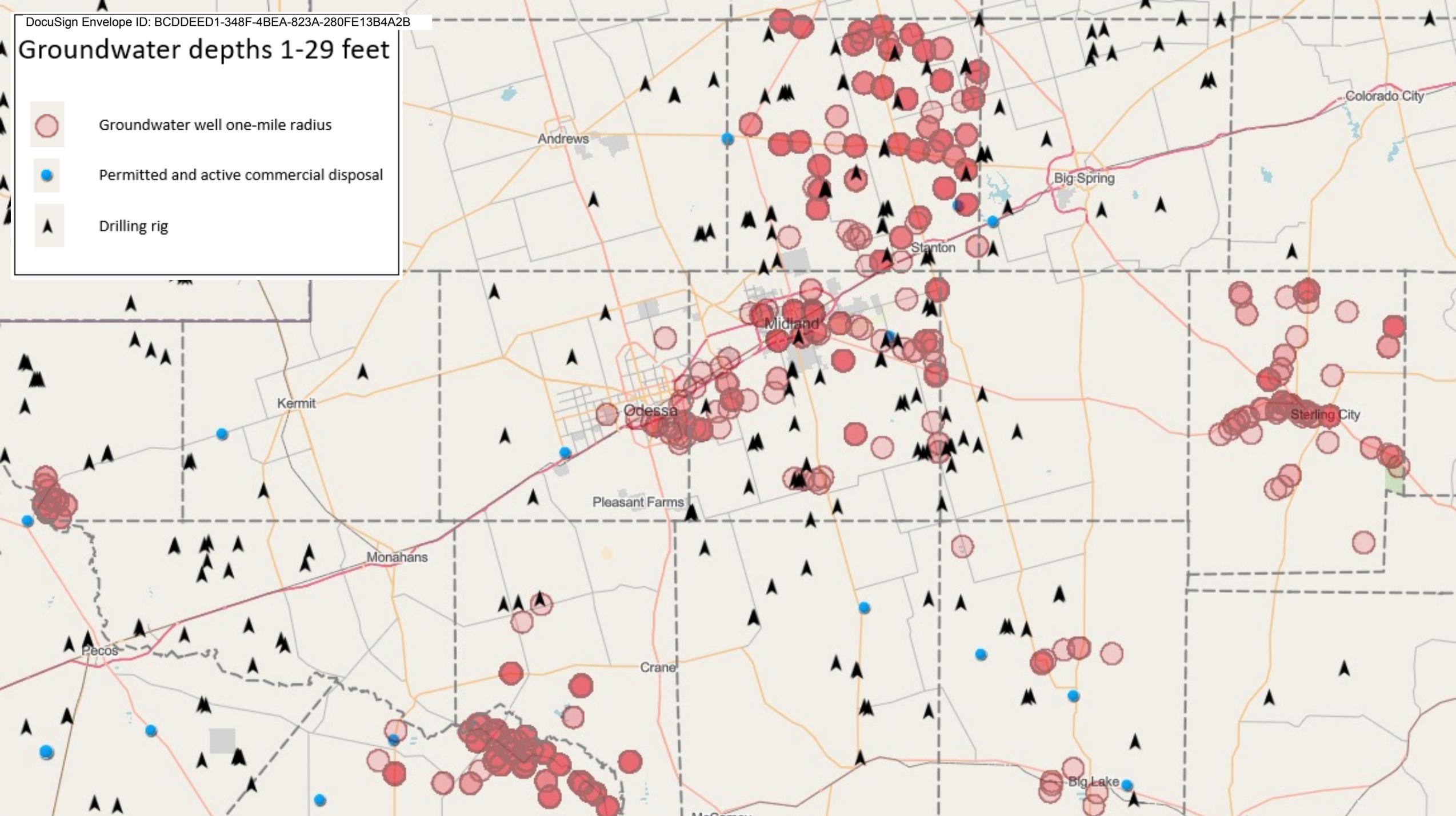
Currently in Texas nearly 80% of oilfield waste is disposed in reserve pits.



Source Information: U.S. FISH & WILDLIFE SERVICE REGION 6 ENVIRONMENTAL CONTAMINANTS PROGRAM, Reserve Pit Management: Risks to Migratory Birds

Groundwater depths 1-29 feet

-  Groundwater well one-mile radius
-  Permitted and active commercial disposal
-  Drilling rig



Groundwater depths 30-50 feet

-  Groundwater well one-mile radius
-  Permitted and active commercial disposal
-  Drilling rig

