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Regulatory and Government Affairs

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Rules Coordinator  
Railroad Commission of Texas  
Office of General Counsel  
P.O. Drawer 12967  
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Gentlemen,

RE: Comments on the Railroad Commission of Texas  
Proposed Changes to 16 TAC §3.8 and §3.57, and 16 TAC Chapter 4

Fasken Oil and Ranch, Ltd. (Fasken) appreciates the opportunity to submit the following comments to the Railroad Commission of Texas (RRC) on the proposed informal rules to 16 TAC §3.8 and §3.57, and 16 TAC Chapter 4. We appreciate the willingness of the RRC and its staff to work with all stakeholders on the proposed informal rules concerning groundwater protection and oil and gas waste management.

As an independent oil and gas operator and also one of the largest landowners in the state of Texas, Fasken fully supports the prevention of pollution in oil and gas operations and specifically in this rule proposal, the protection of all groundwater resources. We place stewardship of our land and groundwater at the top of our priorities.

The exploration and production industry has always been driven by science and fact as we make decisions concerning capital investments that will produce the greatest return on those investments. But in all our decisions, safety and protecting the environment is key. We live and raise our families in the midst of the oil fields of West Texas. And in no case would we ever make a decision knowing that our land and the environment in which we live will be harmed.

To that end, Fasken has never identified a groundwater contamination issue associated with the use of temporary pits, i.e. reserve pits for drilling or workover pits. In my conversations with RRC staff on multiple occasions during this process I have asked for examples of such groundwater contamination. Each response has been the same: "we don't have any examples". This response begs the question

“what are we trying to achieve with these proposed rule changes?” Section 4.101 (a) specifically states “No person conducting activities subject to regulation by the Railroad Commission of Texas may cause or allow pollution of surface or subsurface water in the state”. If indeed the purpose of this rule is to protect surface and groundwater, the stated primary focus of this rule, then activities associated with temporary reserve pits and workover pits should be removed from these proposed rules and left under existing Statewide Rule 8 as there is no evidence of any contamination from these types of temporary pits.

This is a significant rulemaking as the cost to operators will be significant. The vast majority of operators in Texas currently use earthen reserve pits for drilling. These pits are in use while drilling and completing a well bore(s) on a pad. In most cases these pits are closed out within a year of first usage. Due to financial and ESG policies, this rule will push many operators into discontinuing earthen pits and move to closed loop drilling systems. The cost of closed loop systems is a significant burden. Every operator will have its own cost structure to contend with based off existing practices and procedures, so these estimated costs will vary from operator to operator. For Fasken, we estimate using a closed loop system will add a minimum net cost of \$442,000 for four 20,000' lateral wellbores on the same pad. For a 72 well package with 18 well pads and closed loop systems in place, the estimated cost is just short of \$8,000,000. This is a major increase in drilling costs and would be a huge burden for operators, especially those running many more rigs than Fasken. And as cited in the above paragraph, where is the science and fact to prove this is necessary? There simply is none.

And with closed loop systems an operator will have a limited volume of fluid on hand to handle any wellbore incident that takes place, such as a strong water flow from a pressurized zone. In closed loop systems you simply do not have the necessary capacity for these type incidents. Closed loop systems in areas of high pressure and waterflows are simply not the safest drilling practice. Yet this proposed rule will encourage many operators to switch to closed loop operations.

Perhaps of equal importance is the unintended consequence of this proposed rule. And this is an issue that the Permian Basin has been battling since the shale revolution began. If all oil and gas operators switch to closed loop drilling practices due to the burdens of the proposed rule requirements for water well drilling, monitoring, sampling and pit closure requirements, then there will be a dramatic increase in heavy truck traffic hauling drill cuttings to RRC permitted disposal sites. Our roadways are incredibly busy with the current activity levels we operator under. For example, Baker Hughes rig count showed 308 drilling rigs operating in Texas (October 20<sup>th</sup>). If all rigs drilled 2 wellbores per month there would be 616 new wellbores drilled, 7,392 new wellbores per year. For a 20,000' lateral wellbore there will be an estimated 131 truckloads of drill cuttings that would have to be trucked off location and taken to a commercial disposal site. Based on these numbers, there would be an estimated 968,352 truckloads of drill cuttings per year on the highways of Texas, the vast majority of which are currently not on the road. The safety issue of this heavy truck traffic is not considered in this rule. The deterioration of roadways that would most certainly occur is not considered in this rule. The shortage of trucks and qualified drivers available to haul drill cuttings is not considered in this rule. The lack of drill cuttings disposal facilities and therefore, capacity is not considered in this rule. And lastly, the certain increase in the cost of trucking and disposal of drill cuttings is not considered in this rule. These unintended consequences are more than significant and must be considered.

In conclusion, Fasken has always and continues to fully support sound regulation based on science and fact. As far as the changes in this proposed rule for temporary drilling reserve pits and workover pits, this proposed rule falls terribly short of either. These type pits should continue to be regulated as they have been under Statewide Rule 8. There is no evidence that any groundwater pollution has occurred from these temporary pits. It is our opinion that adding these unnecessary costs and potential safety issues to the industry, along with the heavy truck traffic on our roads, comes from a very arbitrary proposal. We believe all regulation should be based on science and fact.

Yours truly,

A handwritten signature in purple ink that reads "Jimmy D. Carfile". The signature is written in a cursive, flowing style.

Jimmy D. Carfile  
Regulatory and Government Affairs