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To: The Honorable Kevin Sparks, Committee Chair, Senate Committee on Natural Resources  
The Honorable Judith Zaffirini, Vice-Chair, Senate Committee on Natural Resources  
The Honorable Members, Senate Committee on Natural Resources

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**Re: Sierra Club's Comments Regarding Monitoring the Implementation of SB 1145  
and HB 49 Related to Reuse of Produced Water**

Sierra Club Lone Star Chapter, representing more than 21,000 members across Texas, submits the following comments to the Senate Committee on Natural Resources regarding its interim review of SB 1145 and HB 49. We appreciate the Committee's continued attention to produced water and the opportunity to contribute our expertise.

As a member of the Texas Produced Water Consortium (TxPWC), Sierra Club has been closely following research into treatment and beneficial reuse of produced water and continues to see promise in this work. We support ongoing research and development of appropriate uses of produced water where supported by science, but we caution the Legislature to be careful not to rush ahead of that science. While the TxPWC is making progress in their research, more work is needed to better understand treatment standards, monitoring requirements, and long-term impacts on the environment and public health.

We have also been actively engaged in the SB 1145 rulemaking. Earlier this year, we submitted our comments to the Texas Commission on Environmental Quality (TCEQ) on the proposed rules and participated in the public meeting on this issue.

Below, we outline several concerns that we have observed as SB 1145 and HB 49 are being implemented, along with recommendations for additional legislative action.

## Implementation of SB 1145 Feels Rushed and Has Exposed Several Issues That the Legislature Needs to Address

During the 89th Legislative Session, Sierra Club cautiously supported the intent of SB 1145. We were also encouraged to see the final version of SB 1145 direct TCEQ to adopt specific standards that protect surface water and groundwater resources from pollution. As an organization, we supported the bill because we believed it made sense for TCEQ to be the regulatory agency for disposal of treated wastewater outside the oil and gas field, but we made clear that getting those standards correct was a key aspect of our support.

Unfortunately, the rules proposed by TCEQ fall short of what we believe SB 1145 was intended for. Instead of developing clear standards for land application of treated produced water, TCEQ proposed adding produced water to an existing regulatory framework (30 TAC Chapter 309) that wasn't originally developed for this type of wastewater. As a result, many of the questions that we had hoped this rulemaking would clarify remain unresolved, which is why we asked TCEQ to pause the rulemaking, take more time to develop more protective rules for land application, and reopen the public comment period once those changes are made.

Moreover, this rulemaking process has highlighted several areas where we believe additional legislative direction is needed.

1. ***The Legislature should provide more direction to TCEQ on what standards for land application of treated produced water must address, including treatment requirements, water quality criteria, and monitoring and reporting requirements.***

A clarification from the Legislature is needed about what standards TCEQ is expected to develop for treated produced water. SB 1145 specifically directed TCEQ to “adopt standards for the land application” of treated produced water, including “standards that prevent pollution of surface and subsurface water”.<sup>1</sup> This expectation was also reflected in the bill author's statement of intent.<sup>2</sup> Yet, in the draft rulemaking published earlier this year, TCEQ proposed to rely on case-by-case permit conditions and professional judgment rather than establishing clear requirements for treated produced water.<sup>3</sup>

We raised this concern with TCEQ because produced water is different from the wastewater streams already regulated under 30 TAC Chapter 309. The proposed rule requires baseline groundwater monitoring for constituents such as total dissolved solids, chloride, sulfate, nitrate, pH, and *E. coli*, but doesn't establish specific monitoring requirements for many of the

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<sup>1</sup> [SB 1145 Enrolled Version, 89th Leg., R.S. \(2025\)](#)

<sup>2</sup> [SB 1145 Bill Analysis, 89th Leg., R.S. \(2025\)](#)

<sup>3</sup> [Proposal Preamble Chapter 309 - \[Domestic\] Wastewater Effluent Limitations and Plant Siting](#), Rule Project No. 2026-006-309-OW. Texas Commission on Environmental Quality (May 2026).

contaminants that make produced water different, including naturally occurring radioactive materials (NORMs), PFAS, hydrocarbons, heavy metals, and other organic and inorganic compounds. We believe that if Texas is going to allow this wastewater to be applied to land, monitoring requirements should reflect what is actually found in produced water.

The proposed rule also leaves basic terminology very unclear. It repeatedly refers to “produced water that is treated for beneficial use” and the “land application of produced water,” but doesn’t define what *treated produced water* or *land application* actually mean. What level of treatment is enough for water to be considered “treated”? Removing salts is very different from removing metals, hydrocarbons, or other contaminants. These definitions are important to be included in the rules because they determine what can be permitted, what must be monitored, and ultimately what TCEQ considers safe for land application.

2. ***The Legislature should make clear that monitoring requirements must be sufficient to identify changes in soil and groundwater over the life of a project, not just whether the water meets requirements at the point of application.***

The rules need to account for what happens over time. A permit may lead to repeated application of treated produced water to the same land for years. Even when individual applications meet permit requirements, some constituents may accumulate in soil or percolate into aquifers over time. SB 1145 doesn’t give TCEQ much direction on how these long-term impacts associated with accumulation should be addressed.

3. ***The Legislature should direct TCEQ to account for the different risks associated with different types of land application.***

Not all land applications are the same. In fact, the TxPWC’s research recognizes that different types of reuse may require different treatment approaches and water quality targets.<sup>4</sup> For example, land application on disturbed or damaged land poses different risks than applying it to crops that could be consumed by livestock or people, or to areas that support native habitats and wildlife. We’re concerned that the proposed rule doesn’t appear to reflect these distinctions and instead treats all land application scenarios as though they present the same level of risk to water resources, drinking water wells, agricultural lands, sensitive habitats, and public health.

4. ***The Legislature should require setback distances for land application of treated produced water to be based on science and the risks to nearby water resources and drinking water wells.***

The proposed SB 1145 rule would allow treated produced water to be applied as close as 100 feet from waters of the state and 150 feet from private water wells, but there’s no clear

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<sup>4</sup> [Beneficial Use of Produced Water in Texas](#). Texas Produced Water Consortium Report to Texas Legislature, 2024.

explanation regarding how these distances were determined by TCEQ or why they were deemed sufficient to protect nearby water resources and drinking water supplies specifically from the risks associated with land application of treated produced water. The Legislature should make clear that setback requirements must be based on the best available science and be sufficient to protect nearby surface water, groundwater, and drinking water supplies. TCEQ should also be required to provide the technical basis for the setback distances it adopts and explain why those distances are protective for land application of treated produced water. If the science does not support the distances currently proposed, TCEQ should require larger setbacks.

**5. *The Legislature should provide clearer direction on public notice and participation for land application permits.***

Texas has spent several years studying the reuse of treated produced water outside the oil and gas field; however, most Texans are still unfamiliar with the issue. As land application moves forward and TCEQ starts considering permit applications, communities that may be affected need a clear way to learn about proposed projects and participate in the permitting process. The current proposed rules don't spell out how nearby landowners and others who may be affected will be notified or given an opportunity to provide input. Either TCEQ should reform its proposed rulemaking to address proper notice and comment opportunities, or the Legislature should direct TCEQ to establish these requirements before permits are issued. Nearby communities, adjacent landowners and groundwater conservation districts and river authorities all deserve some opportunity for notice and comment.

## **The Legislature Should Make Sure the Regulatory Requirements Are Strong Enough Given the Liability Protections in HB 49.**

Sierra Club opposed HB 49 during the 89th Legislative Session because we were concerned about expanding liability protections while there're still too many unknowns around the treatment and reuse of produced water. Under HB 49, parties involved in the treatment and beneficial use of produced water may be protected from liability for certain damages as long as they comply with applicable rules and permits. For that reason, the requirements in those rules and permits are especially important.

As outlined above, TCEQ's proposed rules for land application under SB 1145 are insufficient in terms of lacking standards, monitoring, reporting, public participation, and other requirements intended to protect landowners, communities, surface water, and groundwater. If liability protections depend in part on compliance with applicable rules and permits, those requirements need to be strong enough to protect people and water resources. We raised this concern with TCEQ in our comments in June. As the Committee reviews the implementation of HB 49, we ask



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that it look at these two laws together (SB 1145 and HB 49) and consider whether additional direction to TCEQ and the RRC is needed.

### **The Legislature Should Consider Allowing State Funded Researcher From the TxPWC Have Access to the Chemical Information Currently Protected by Trade Secrets**

The Texas Natural Resource Code Chapter 91 allows oil and gas companies to withhold certain information about chemicals used in hydraulic fracturing as “trade secrets,” including the identity and concentration of chemical ingredients.<sup>5</sup> As Texas continues to invest in research on treatment and beneficial reuse of produced water, the Committee should consider allowing researchers from the TxPWC to have access to complete information needed to inform their work.

In conclusion, we also look forward to providing additional comments in the future on some of the basic functions of both TCEQ and the RRC, and the need for updating standards and statutes to better protect Texans from new on-the-ground realities. With the unprecedented growth of data centers and other industrial activities and the waste and emissions that result, Texans are looking for real safeguards going forward. We look forward to working with the committee to address these important issues.

Thank you for the opportunity to provide these comments.

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<sup>5</sup> [Texas Natural Resources Code, Sec. 91.851\(a\)\(3\)](#), Disclosure of Composition of Hydraulic Fracturing Fluids.