HB 2771: Authorizing Wastewater discharge permits from Oil and Gas Operations into State Waters

Too Soon, Too Many Questions, Needs Study

The Lone Star Chapter of the Sierra Club appreciates the discussion that is occurring around whether or not the State of Texas should seek to open up the potential for issuing wastewater discharge permits for oil and gas operations into our state surface waters, including produced water, effluent, and hydrostatic test water. We are opposed to passing this legislation today until:

1. EPA completes its study on Effluent Guidelines Program;
2. The state of Texas has an honest review and study of whether or not our current water quality standards, including both primary and secondary standards, are sufficient to allow for the discharge of highly saline wastewater that can also contain radionuclides and other toxic substances that have yet to be fully studied;
3. The state of Texas formally asks for primacy for these types of discharge permits.

Thus, we would ask that Chairman Lozano not proceed with this bill, but consider a committee sub that creates a task force and study on the issue of the use of oil and gas wastewater as discharge into state waters, or simply makes it an interim study.

Authorizing TCEQ to do what is contemplated in HB 2771 is too soon, too complicated and too unknown to pass into State law at this time. In particular, HB 2771 authorizes TCEQ to issue permits even though EPA is still considering changes to such permits. Please find attached a PDF from a recent study by EPA public meeting that shows widespread disagreement about how to proceed forward on the issue. Again, we are still waiting for EPA to look at its current standards and come up with rule-making on any potential changes.

*Current standards generally prohibit discharge of pollutants in wastewaters from both conventional and unconventional wells directly to surface waters (zero discharge), except in the case of stripper wells and coal bed methane.*

Discharge to Publicly-owned Treatment Facilities are also prohibited under current standards.
While EPA can allow discharges from a Centralized Waste Treatment facility, a May 2018 CWT study found that the technology basis and effluent limitations may not adequately control these wastewaters, in part because of the concerns about fracked chemicals.

Thus, EPA is still looking closely at all of these issues before making changes.

What Oil and Gas Facilities can do right now in Texas and that with proper controls and oversight Sierra Club generally supports:

1. Reuse oil and gas wastewater within the oil field
2. Dispose of wastewater through injection wells
3. Discharge oil and gas wastewater to land
4. Evaporation and seepage ponds
5. Use for certain crops when properly treated

**Pennsylvania and Arkansas: A cautionary tale**

Proponents of the bill point to recent activities in Arkansas and Pennsylvania as evidence that oil and gas wastewater discharge permits can work but both cases should be read as a cautionary tale.

First, Pennsylvania began issuing wastewater discharge permits nearly a decade ago, including allowing oil and gas wastewater to flow into public wastewater treatment plants. Why? Pennsylvania lacks the proper soils and geology for many injection wells.

The result? The EPA stepped in in 2015 and passed new standards that prohibit public wastewater treatment plants from accepting oil and gas waste. In fact, following EPA intervention, Pennsylvania passed much more wide-ranging legislation establishing very specific effluent standards, including specific TDS standards, and did not authorize discharges of produced wastewater from fracked waste sites.

A recent study by Duke found that six years after the authorization of discharge permits to Pennsylvania streams and rivers, radionuclides were found at very unsafe level. There are just so many unknowns in even traditional oil and gas wastewater that allowing such discharges into state waters before further study is a bad idea.

Pennsylvania has very different rain patterns making it “easier” to discharge wastewater into streams and rivers because there is significantly more dilution of saline waters.

**Arkansas**
Arkansas is also a lesson in caution. Back in 2013, then Governor Andy Davis pushed the legislature to relax standards to allow wastewater discharge permits into state waters from oil and gas facilities. The result? The EPA stepped in disallowed the program and the Governor had to call a special session to repeal the program since the state was clearly unprepared to deal with these discharges. See article.

The Sierra Club has serious concerns that opening up this process too soon without first waiting for EPA, first examining our current water quality standards, and first studying all the implications would be a serious mistake and is opposed to passing this bill today. Previous experience with making major changes to our state law on environmental matters has taught us studying and getting input from multiple stakeholders is far superior than opening up a process before we know what we are getting ourselves into. From DDT to Dioxins to Round-up, history teaches us that allowing new uses before we know what we are getting ourselves into is problematic.

Sincerely,

Cyrus Reed
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