MEMORANDUM OF AGREEMENT

ADDENDUM 3

Between

The Railroad Commission of Texas

and

The United States Environmental Protection Agency Region 6

For the Class V UIC Program

I. General

This Memorandum of Agreement (MOA) establishes policies, responsibilities, and procedures for the Railroad Commission of Texas' (the Commission's) Class V Underground Injection Control (UIC) Program as authorized by Part C of the Safe Drinking Water Act (SDWA) (42 U.S.C. 300h-300h-7, as amended).

The State of Texas received primacy for the Underground Injection Control (UIC) Program under the Safe Drinking Water Act for Classes I, II, III, IV, and V in 1982. Notice of EPA's original approval of primacy for the State of Texas for underground injection into Class I, III, IV, and V wells, to be implemented by the Texas Water Commission (a predecessor agency to the Texas Commission on Environmental Quality), was published on January 6, 1982 (47 FR 618), and became effective on February 7, 1982. Notice of the original approval for Class I, III, IV, and V wells was published in the Federal Register on January 6, 1982, and became effective February 7, 1982.

The Texas Commission on Environmental Quality (TCEQ) administers the UIC program for Class I, Class III (except for Brine Mining), Class IV and Class V (except geothermal return, *in situ* combustion of coal) injection well activities, except for those wells on Indian land, pursuant to section 1422 of the Safe Drinking Water Act (SDWA).

On January 26, 1982, the Governor of the State of Texas requested approval of a complimentary program for Class II (oil and gas related) wells, under Section 1425 of SDWA, to be

implemented by the Texas Railroad Commission (RRC). In addition to wells commonly classified as Class II in the UIC program, the request included two well types considered Class V wells: geothermal return and *in situ* combustion of coal wells. The UIC program implemented by the RRC, including Class V geothermal return and *in situ* combustion of coal wells, was approved by EPA on April 23, 1982 (47 FR 17488) and became effective 30 days later.

In 1985, the 69th Texas Legislature enacted legislation that transferred jurisdiction over Class III brine mining wells from the Texas Water Commission, now TCEQ, to the RRC. Therefore, two types of Class V wells, geothermal return and *in situ* combustion of coal, as well as Class III brine mining wells, are not included in the UIC program implemented by the TCEQ. The elements of the State's primacy application, originally approved by EPA and published in the Federal Register on January 6, 1982, submitted through the Texas Department of Water Resources, a predecessor to the TCEQ, [1] were codified in Title 40 of the Code of Federal Regulations, at 40 CFR 147.2200. These regulations were last updated on March 6, 1991 (56 FR 9408).

The RRC regulates Class V geothermal wells and injection wells for the *in situ* combustion of coal under a separate UIC program approved by EPA and published in the Federal Register on April 23, 1982. The initial Memorandum of Agreement (MOA) between the Railroad Commission of Texas (RRC) and EPA Region 6 for the Underground Injection Control (UIC) Program was signed March 24, 1982.

The RRC administers the 1422 UIC program regulating Class III Brine Mining injection well activities in the State of Texas, except for those wells on Indian lands. A program revision application for Class III brine mining wells was submitted by Texas and approved by EPA, effective March 29, 2004. The Memorandum of Agreement between EPA Region 6 and the Railroad Commission of Texas regarding the Class III Brine Mining program was signed by the EPA Regional Administrator on October 23, 2001 (Addendum 1).

The RRC administers the 1422 UIC program regulating Class VI injection wells in the State of Texas, except for those wells on Indian lands. A program revision application for Class VI injection wells was submitted by Texas and approved by EPA. The Memorandum of Agreement between EPA Region 6 and the Railroad Commission of Texas regarding the Class VI program was signed by the EPA Regional Administrator on April 29, 2025 (Addendum 2).

The Texas Legislature adopted Senate Bill 1186 (88th Legislature, RS, 2023), relating to the regulation by RRC of brine mining. Senate Bill 1186 added a definition of "brine mining" to Texas Water Code §27.036, to clarify the RRC's jurisdiction over brine mining under state law to include both Class III Brine Mining Injection Wells and Class V Spent Brine Return Injection wells and instructed the RRC to seek primacy from EPA for Class V injection wells designed to inject spent brine into the same formation from which it was withdrawn after the extraction of

minerals. Additionally, the bill clarified that the RRC's jurisdiction over brine mining includes the authority to regulate brine production wells and brine injection wells. RRC adopted 16 Texas Administrative Code §3.82 to create a regulatory scheme for these projects and wells. This rule becomes effective upon EPA granting primacy.

This third addendum to the Memorandum of Agreement addresses the Texas Class V UIC program under Section 1422 of the SDWA, implemented by the Railroad Commission of Texas. This Addendum comprises only part of the Texas 1422 UIC program MOA with EPA and does not alter or amend other portions of the Texas-EPA UIC MOA. This Addendum does not change the lead agency program administration status, nor the original intent of the Texas UIC program. This Addendum is solely intended to add certain Class V injection wells to the current Texas Section 1422 UIC program. All terms defined in the program MOA shall have the same meaning for purposes of this Addendum 3.

This Addendum is entered into by the Railroad Commission of Texas and signed by Danny Sorrells, Deputy Executive Director of the Railroad Commission and Director of the Oil and Gas Division of the Railroad Commission of Texas (hereafter, "the State" or "RRC") with the United States Environmental Protection Agency, Region 6, and signed by J. Scott Mason IV, Regional Administrator (hereafter, "EPA" or "Regional Administrator"). This Addendum shall become effective when approved by the Regional Administrator.

A. State Agency Responsibilities

With respect to Texas state law, ~~t~~he Railroad Commission has statutory authority to regulate Class V injection well activities under the Texas Water Code, Chapter 27.

The RRC implements and coordinates the state programs for which it has primacy to facilitate communication between the EPA and any other state agencies having program responsibilities for other injection well classes. These responsibilities include, but are not limited to, the submission of grant applications, reporting and monitoring results, and annual report requirements.

B. Review and Modifications

This Addendum shall be reviewed annually as part of the annual program grant and the State/EPA Agreement ("SEA") process. The annual program grant and the SEA shall be consistent with this Addendum and may not override this Addendum.

This Addendum may be modified upon the initiative of the RRC or EPA. Modifications must be in writing and must be signed by RRC and the Regional Administrator. Modifications become effective when signed by both parties. Modifications may be made by revision prior to the

effective date of this Addendum or subsequently by addenda attached to this Addendum and consecutively numbered, signed, and dated.

C. Conformance with Laws and Regulations

The RRC shall administer the Class V UIC program consistent with the State's submission for program approval, the program MOA, this Addendum, the Safe Drinking Water Act (SDWA), current federal policies and regulations, promulgated minimum requirements, priorities established as part of the annually approved state UIC grant, state and federal law, and any separate working agreements which shall be entered into with the Regional Administrator as necessary for the full administration of the Class V UIC program. The approved Texas Class V program is codified at 40 C.F.R. Part 147.

Pursuant to 40 CFR §145.1(g) nothing in this Addendum precludes the RRC from adopting or enforcing requirements which are more stringent or more extensive than those required under federal regulations, and if the state program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the federally approved program.

D. Responsibilities of Parties

The parties agree to maintain a high level of cooperation and coordination between the RRC and EPA staffs to assure successful and efficient administration of the Class V UIC program. In this partnership, the Regional Administrator will provide the RRC any necessary technical and policy assistance on program matters.

The Regional Administrator is responsible for keeping the RRC apprised, in a timely manner, of the meaning and content of the federal guidelines, technical standards, regulations, policy decisions, directives, and any other factors which affect the Class V UIC program.

The RRC will carry out the Class V UIC Program as outlined in the Class V primacy application and subsequent revisions approved by EPA pursuant to 40 CFR 145.32 and subsequently codified at 40 CFR 147.

It will be the policy of the EPA and the RRC to minimize paperwork and interagency decision-making procedures and to make the best use of available manpower and funds so as to prevent duplication of effort and unnecessary delays in program administration to the extent allowable by law.

The strategies and priorities for issuance, compliance, monitoring and enforcement of Class V permits, and implementation of technical requirements shall be established in the State's

Program Description, the annual SEA, or in subsequent working agreements. If requested by either party, meetings will be scheduled at reasonable intervals between the State and the EPA to review specific operating procedures, resolve problems, or discuss mutual concerns involving the administration of the Class V UIC program.

E. Sharing of Information

The RRC shall promptly inform the EPA of any proposed, pending, or enacted modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions, which might affect the RRC's program and the RRC's authority to administer the Class V UIC program. The RRC shall promptly inform the EPA of any resource allocation changes (for example, personnel budget, equipment, etc.) which might affect the RRC's ability to administer the program.

Any information obtained or used by the RRC under its Class V UIC program shall be available to the EPA upon request without restriction. If the information has been submitted to the RRC under a claim of confidentiality, the RRC must submit that claim to the EPA when providing the EPA such information. Any information obtained from the RRC and subject to a claim of confidentiality will be treated in accordance with 40 CFR Part 2 and 40 CFR § 144.5. If the EPA obtains information from the RRC that is not claimed to be confidential, EPA may make that information available to the public without further notice.

The EPA shall furnish to the RRC the information in its files not submitted under a claim of confidentiality which the RRC needs to implement its approved Class V UIC program. The EPA shall furnish to the RRC information submitted to the EPA under a claim of confidentiality which the RRC needs to implement its approved program subject to conditions in 40 CFR Part 2. As required by 40 CFR §2.209(f), the EPA will require permittees and applicants to provide express consent for disclosure to the RRC upon submission of confidential business information. Permittees and applicants may request confidentiality of any submittals or information provided to the RRC pursuant to Texas Government Code, Chapter 552, Subchapter C. If permittees or applicants do not request confidentiality of information at the time of submittal to the RRC, the information shall be available to the public pursuant to Texas Government Code, Chapter 552.

The RRC will provide the EPA any information or data necessary to assist in the development of the State/EPA SEA process. In order to assure both the RRC, as the primacy authority, and the EPA, as the oversight authority, have consistent data throughout program implementation, the RRC agrees to submit to the EPA or allow the EPA viewing access to all Class V reports, submittals, and notifications submitted to the RRC.

F. Duty to Revise Program
As stated in 40 CFR §145.32(e), within 270 days of any amendment to any regulation promulgated at 40 CFR §§124, 144, 145 or 146 revising or adding any requirement respecting state UIC programs, the RRC shall submit notice to the EPA showing that the state Class V UIC program meets the revised or added requirements.

G. Duration of MOA
This Addendum will remain in effect until such time as state primacy enforcement responsibility is returned to the EPA by the RRC, or withdrawn by the EPA, according to the provisions of 40 CFR §§145.33 and 145.34.

H. General Provisions
Nothing in this Addendum is intended to alter any Class V UIC program requirement established by state or federal law, state or federal Class V UIC regulations, or other requirements or prohibitions established under the SDWA or applicable regulations.

Nothing in this Addendum shall be construed to limit the authority of the EPA to take action pursuant to §§1421, 1422, 1423, 1424, 1425, 1431 or other sections of SDWA.
This Addendum does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the RRC or the EPA, their officers or employees, or any other person. This Addendum does not direct or apply to any person outside of the RRC or the EPA.

II. Permitting

A. General
The RRC is responsible for expeditiously drafting, circulating, issuing, reissuing, and terminating Class V permits as detailed in the approved Class V UIC Program Description, and pursuant to state and federal laws, rules, and regulations. The Director shall review and issue permits under the authority of Texas' Class V Injection Wells Rule 16 TAC §3.82. Permits issued by the RRC shall be in compliance with applicable federal and State requirements.

All Class V permits shall meet the public participation requirements and permitting procedures at 16 TAC §3.82 [40 CFR 25 and 124] for Class V wells.

B. Plugging
The RRC will require plugging of all Class V spent brine return injection wells in a manner that meets the requirements of 16 TAC §3.14 (relating to Plugging) and 16 TAC §3.82. The RRC

will require that a plug be set across the base of the deepest zone containing a USDW when a Class V spent brine return injection well is plugged.

C. Transfer of Responsibility from EPA
The Regional Administrator shall transfer to the RRC any pending permits, applications, and any other information relevant to Class V UIC program operation not already in the possession of the RRC when the RRC assumes primacy for the Class V UIC program for spent brine injection wells.

D. Coordination with EPA
The EPA and the RRC may coordinate when appropriate the processing of permits for facilities or activities that require permits from both the EPA and the RRC under different programs.

E. Compliance Schedule and Reports
The RRC agrees to establish compliance schedules in permits where appropriate and to require periodic reporting on compliance with compliance schedules and other permit conditions.

F. Public Outreach and Community Engagement
The RRC will work within its legal authority to support communities through a variety of approaches through public outreach and community engagement.

The RRC will fully incorporate robust and ongoing opportunities for public participation as described in the Program Description. For example, the RRC will provide notice of proposed Class V wells and tailor public participation to specific community needs and interests.

III. Compliance Monitoring

A. General
As described in the Program Description, the RRC shall operate a timely and effective compliance monitoring system to track compliance with permit conditions and program requirements. For purposes of this Addendum the terms “compliance monitoring” or “compliance evaluation” shall refer to all efforts associated with determining compliance with Class V UIC program requirements.

B. Compliance Schedule
The RRC agrees to maintain procedures to receive, evaluate, retain and investigate all notices and reports that are required by permit compliance schedules and program regulations. These

procedures shall also include the necessary elements to investigate the failure of persons required to submit such notices and reports. The RRC shall initiate appropriate compliance actions when required information is not received or when the reports are not submitted.

C. Review of Compliance Reports

The RRC shall conduct a timely and substantive review of all such reports to determine compliance status. The RRC shall operate a tracking system to determine if: (1) the reports required by program regulations are submitted; (2) the submitted reports are complete and accurate; and (3) the permit conditions and program requirements are met. The reports and notices shall be evaluated for compliance status in accordance with the state compliance program and the program requirements.

D. Inspection and Surveillance

The RRC agrees to have inspection and surveillance procedures to determine compliance or noncompliance with the applicable requirements of the Class V UIC program. Surveys or other methods of surveillance shall be utilized to identify persons who have not complied with permit applications and program requirements. Any compilations, index, or inventory obtained for such facilities or activities shall be made available to the Regional Administrator and the public upon request.

The RRC shall conduct periodic inspections of the facilities and activities subject to regulatory requirements. These compliance monitoring inspections shall be performed to assess compliance with all Class V UIC program requirements and include selecting and evaluating a facility's monitoring and reporting program. These inspections shall be conducted to determine compliance or noncompliance with issued permits, to verify the accuracy of information submitted by operators in reporting forms and monitoring data, and to verify the adequacy of sampling, monitoring, and other methods to provide the information. Inspections will be both announced and unannounced.

E. Information from the Public

The RRC shall provide the opportunity for the public to submit information on violations and shall have procedures for receiving, investigating, and ensuring proper consideration of the information and reporting back to the public how information was used.

F. Authority to Enter

The RRC (and other state designees) engaged in compliance monitoring and evaluation shall have the authority to enter any site or premises subject to regulation or to review and copy the records of relevant program operations where such records are kept.

G. Admissibility
Any investigatory inspections shall be conducted, and samples and other information collected in a manner to provide evidence admissible in an enforcement proceeding or in court.

IV. Enforcement

A. General
The RRC is responsible for taking timely and appropriate enforcement action against persons in violation of Class V program requirements, permit conditions, compliance schedules, technical and other Class V program requirements. This includes violations detected by state or federal inspections.

The EPA shall be notified of enforcement actions taken by the RRC. Failure by the RRC to initiate appropriate enforcement action against a violator may result in the EPA filing an action to enforce the requirement of the applicable program consistent with Section 1423 of the SDWA.

B. Enforcement Mechanisms
The RRC shall have the mechanism to restrain immediately and effectively any person engaging in any unauthorized activity or operation, which is endangering or causing damage to public health or the environment as applicable to the program requirements. The RRC shall also have the means to sue in courts of competent jurisdiction to prohibit any threatened or continuing violation of any UIC program requirement. Additionally, the RRC shall have the mechanism to access or sue to recover in court civil penalties and criminal remedies as established in 40 CFR §145.13 and Texas Water Code, Chapter 27, Subchapter F.

C. EPA Enforcement
Nothing in this Addendum shall affect the EPA's authority or responsibility to take enforcement actions under Sections 1423 and 1431 of SDWA.

When the RRC has a fully approved Class V UIC program, the EPA will not take enforcement actions under SDWA section 1423 without providing prior notice to the RRC and otherwise complying with sections 1423 and 1431 of SDWA.

D. Assessment of Fines
The RRC shall agree to assess civil penalties in amounts appropriate to the violation as required in 40 CFR §145.13(c) and Texas Water Code, Chapter 27, Subchapter F.

V. EPA Oversight

A. General

The EPA shall oversee the RRC's administration of the Class V UIC program on a continuing basis to assure that such administration is consistent with this Addendum, the program MOA, the State UIC grant application, and all applicable requirements embodied in current regulations, policies, and federal law.

In addition to the specific oversight activities listed in this section, the EPA may from time-to-time request specific information including permits and the accompanying environmental justice reviews, and the RRC shall submit and provide access to files necessary for evaluating the RRC's administration of the Class V UIC program.

B. Immediate Reporting on Noncompliance

The RRC shall immediately notify the Regional Administrator by telephone, or otherwise, of any major, imminent hazard to public health resulting from the endangerment of a USDW of the RRC by Class V injection well activities.

C. Program Reports

The RRC shall submit annual noncompliance reports according to the format specified in 40 CFR §144.8(b)(1), including the current status and/or outcome of any actions taken by the RRC against those permittees who are not in compliance. The RRC shall continue using the OMB Form Series 7520 to report program activities on a quarterly basis.

The RRC shall submit an annual program report as specified by 40 CFR § 144.8(b)(2)(i) to the Regional Administrator sixty (60) days after the end of the federal fiscal year. The report is for the period of October 1 through September 30 (federal fiscal year) and will include a detailed description of the RRC's implementation of its program, suggested Program Description changes, and an updated inventory of active Class V spent brine return injection wells.

D. Major Facilities

Class V injection wells are not considered as major facilities.

E. Aquifer Exemptions

Other than EPA approved aquifer exemption expansions that meet the criteria for exempted aquifers, new aquifer exemptions shall not be issued for Class V injection well activities. Even if an aquifer has not been specifically identified by the RRC, it is an underground source of drinking water if it meets the definition at 40 CFR § 144.3.

F. Mechanical Integrity

The RRC may allow the use of a test to demonstrate mechanical integrity other than those listed in the Class V UIC Program Description. Any alternative mechanical integrity test must receive written approval from the EPA Administrator prior to implementation and be consistent with the requirements of 40 CFR § 146.89(e).

G. Inspection and Surveillance by EPA

The Regional Administrator may select facilities and activities within the State for EPA inspection. EPA may endeavor to conduct such inspections jointly with the State. The Regional Administrator may also choose to conduct inspections independently of the State's schedule. The Regional Administrator will normally notify the State at least seven (7) days before any such inspection in order to allow coordination of scheduling and allow joint inspection. The State understands not to inform the person whose property is to be entered of the pending inspection.

The EPA will be responsible for attaining their own access to collect resource data, to inspect and photograph the facility, collect samples for analysis, review records, and perform any other function authorized by law.

H. Annual Performance Evaluation

The EPA shall conduct, at least annually, performance evaluations of the RRC program using program reports and other requested information to determine RRC program consistency with the program submission, SDWA applicable regulations, and applicable guidance and policies. The review will not only include a review of financial expenditures but reviews on progress towards program implementation, changes in the Program Description, and efforts towards progress on program elements.

The EPA shall submit a summary of the evaluation findings to the RRC outlining any deficiencies in program performance and recommendations for improving RRC operations. The report also might provide guidance for the development of an upcoming grant application. The RRC shall have 15 working days from the date of receipt to concur with or comment on the findings and recommendations.

VI. Signatures

IN WITNESS WHEREOF, the parties have executed this Addendum.

Railroad Commission of Texas

_____ _____
Danny Sorrells Date
Deputy Executive Director of the Railroad Commission of Texas
Director of the Oil and Gas Division

United States Environmental Protection Agency, Region 6

_____ _____
W. Scott Mason IV Date
Regional Administrator, Region 6