Gregory M. Bowser, President & CEO

Administrator Michael Matherne

Louisiana Tax Commission

1051 North Third Street

Baton Rouge, LA 70802

January 6, 2023

Administrator Matherne:

On behalf of the Louisiana Chemical Association ("LCA") and the Louisiana Chemical Industry Alliance ("LCIA"), we refer the Commission to the statement submitted August 15, 2022 by our same groups. In that statement, we indicated the **status quo should be maintained until all the issues surrounding brine mining wells and caverns can be adequately studied.** The language used to create the Chapter 10 rules and regulations under consideration in the December 2022 Emergency Rules in the *Louisiana Register* remains essentially the same as last year. The approach taken by the Commission with the institution of these rules for Chapter 10 and the maintaining of language taken directly from the former Chapter 9 rules and regulations will allow the Louisiana Tax Commission a year for further study of the issue and the chance to develop future new rules supported by both industry and the Louisiana Assessors Association.

**Hence, LCA respectfully requests the LTC maintain the valuation and assessment methodology proposed for Chapter 10 (formerly in Chapter 9) rules and regulations regarding brine solution mining wells, pending further study.**

The rewrite of Chapter 9 and contemporaneous creation of Chapter 10 for Brine Operation Properties does not in any way render moot the First Circuit opinions in the matters of *Axiall, LLC* [[1]](#footnote-1)and *Blue Cube Operations, LLC*.[[2]](#footnote-2) The language and table for Chapter 10 which was lifted directly from Chapter 9 maintains the same methodology that has been used to value brine mining wells for decades and which is further supported by multiple decisions of the Commission and affirmed by the Courts.

The Louisiana Assessors Association previously proposed utilizing Chapter 25 regulations to value all salt cavern wells, including both brine solution mining wells and storage wells. The Louisiana Tax Commission rejected those proposals. The status quo should be maintained until all the issues surrounding brine mining wells and caverns can be adequately studied. Valuing the unused void left in the salt formation as a result of brine production operations the same as caverns actually permitted by LDNR for storage and being used as hydrocarbon storage units is unfair and a false calculation under the current regulatory structure. Caverns in use are separately permitted by LDNR, and a large number of salt caverns created as a result of brine production mining could never legally be used as storage units under current regulations nor receive Department of Natural Resources permits.

Continuing the one-year extension of current language used to value brine operation properties already granted by the Commission will enable time to study and assess the proper course of action for fair market valuations. The LCA and LCIA request to be a part of the study group on the issue to be assembled for the 2024 rules and regulations.

Sincerely,

Greg Bowser

President, Louisiana Chemical Association

1. *Axiall, LLC v. Assumption Parish Board of Review*, 18-0542 (La. App. 1 Cir. 12/30/19; 302 So.3d 1136, writ denied, 20-0155 (La. 12/22/20). [↑](#footnote-ref-1)
2. *Blue Cube Operations, LLC v Assumption Parish Board of Review*, 20-0157 (La. App. 1 Cir. 11/6/20). 315 So.3d 887.. [↑](#footnote-ref-2)