



May 13, 2016

Ken Levine, Director
Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711-3066

Dear Mr. Levine,

On behalf of Environment Texas, I am pleased to submit this response to the Sunset Advisory Commission's Staff Report on the Railroad Commission. As your report notes, the passage of HB 40 to limit municipal authority over oil and gas regulation increases the responsibility of the Railroad Commission to protect public health, safety and the environment from oil spills, blowouts, freshwater contamination, and other threats to public safety. Unfortunately, as your staff have once again determined, the Commission is, in many ways, failing in its duties.

As you know, the stakes are high for the successful regulation of the oil and gas industry:

- According to data self-reported by industry to the website FracFocus, 10 billion pounds of chemicals, including hydrochloric acid, benzene, and methanol, have been used for fracking in Texas. Fracking uses vast quantities of chemicals known to harm human health. People living or working nearby can be exposed to these chemicals if they enter drinking water after a spill or if they become airborne. Recent analysis of 550 groundwater samples drawn from aquifers overlying the Barnett Shale formation found elevated levels of 10 different metals as well as 19 different chemical compounds associated with hydraulic fracturing, including, benzene, toluene, ethylbenzene and xylene. Another study found higher concentrations of arsenic, selenium and strontium in drinking water wells in the region.
- At least 120 billion gallons of water have been used in fracking since 2005, an average of 3.2 million gallons per well. Fracking requires huge volumes of water for each well - water that is often needed for other uses or to maintain healthy aquatic ecosystems. The Eagle Ford Shale oil play used nearly 18 billion gallons of water in 2013, roughly 16

percent of the area's total water consumption." In 2013 the municipal water supply for Barnhart went dry after excessive water withdrawals for fracking.

- At least 2.5 billion pounds of methane were released in 2014, the pollution equivalent of 8,184,404 cars. Methane, a global warming pollutant 86 times more potent than carbon dioxide over the course of 20 years, is released at multiple steps during fracking, including during hydraulic fracturing and well completion, and in the processing and transport of gas to end users.

Unfortunately, as your staff determined, public trust in the Railroad Commission is at risk given a chronic lack of transparency, lax enforcement efforts, and insufficient bonding requirements that leave taxpayers, rather than polluters, on the hook to clean up the mess left by abandoned wells.

We support many of your recommendations, but urge the Sunset Commission to recommend additional steps to boost the agency's effectiveness, including renewing suggestions you made in past reviews of the Sunset Commission to address conflicts of interest among the Commissioners. For example, in your 2013 report, you recommended:

"Limit the solicitation and receipt of campaign contributions by a Commissioner or any candidates seeking the office to a year and a half timeframe around the election, rather than throughout the full six-year term. Commissioners and any candidates seeking office as a Commissioner would be limited to soliciting and receiving campaign contributions in an 18 month period, starting 17 months before the election and ending one month after the election. This structure would provide adequate time for fund raising before the primary and general elections, while not allowing fundraising throughout the person's full six-year term. This timeframe also complies with existing prohibitions against accepting contributions during the time around a regular legislative session."

and

"Prohibit a Commissioner from knowingly accepting contributions from a party with a contested case before the Commission. This prohibition would apply to political committees affiliated with parties with a contested case before the Commission. This timeframe would extend from the date the hearing is set until the 30th day after the hearing ends. Commission staff would keep a running list of active contested cases, along with the parties to the case, to facilitate compliance with this requirement. Any contribution accepted by mistake must be returned."

We urge to include these 2013 recommendations again in your final report for the 2017 review. Our full recommendations follow this letter.

We look forward to working with you and your staff as the Sunset process continues with the Sunset Commission's meetings, and as the Legislature addresses these important issues during the 85th Legislative Session. Please let me know if we can provide any additional information.

Sincerely,

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