

Texas Alliance of Energy Producers Response to Texas Sunset Advisory Commission Issues and Recommendations

Issue 1

Continue the Railroad Commission of Texas for 12 Years with a Name That Reflects the Agency's Important Functions.

Key recommendation: Change the name to the Texas Energy Resources Commission and continue agency for 12 years.

*The Alliance **concur**s with the recommendation that the agency should be continued for 12 years, while the Alliance is **neutral** to any change to the agency's name without a constitutional amendment codifying such a change.*

Issue 2

Contested Hearings and Gas Utility Oversight Are Not Core Commission Functions and Should Be Transferred to Other Agencies

*The Alliance **disagrees** with this recommendation and believes that the Commission should maintain jurisdiction over all current functions. The Alliance **does agree** with the Sunset Report and the Railroad Commission that development of a case management system will allow the agency to improve transparency and track performance, provided appropriations are provided to offset the cost of implementation.*

The Alliance believes that the special expertise to understand, regulate and adjudicate contested matters relating to the oil and gas industry lies within the Railroad Commission. The Commission has a long history performing its in-house hearings function and its history in gas utility regulation dates back to the 1920's. The Sunset Report does not cite documented concerns of systematic failure as opposed to "perception" issues to justify disruption of these activities at the agency. Indeed the Report acknowledges the Commission has taken positive steps to restructure its in-house hearings function and the ratemaking function is working. Policy makers should be hesitant in these difficult times in the oil field, to weaken the state regulator and re-assign duties to less experienced entities. Stability in the regulator remains essential for industry to produce energy at the lowest cost possible.

The Alliance recommends all current Railroad Commission jurisdiction be retained and that the Railroad Commission continue to provide "one-stop" shopping for the oil and gas industry regarding all industry related activities including permitting, reporting, and inspections, including adjudication of contested matters.

Issue 3

Oil and Gas Monitoring and Enforcement Need Improvements to effectively ensure Public Safety and Environmental Protection.

*The Alliance **supports** efforts to ensure increased public safety and environmental protection and supports the Commission's efforts at increasing transparency efforts provided the changes are not onerous or punitive to small and independent producers, in effect or cost.*

Key Recommendations

- Develop a strategic plan to track and measure the effectiveness of monitoring and enforcement.

*The Alliance **agrees** with this recommendation.*

- Develop in rule a process for issuing expedited penalties for minor violations.

*The Alliance **disagrees** with any effort to abrogate due process for the violator particularly for minor violations where the emphasis should be on compliance and many violations are currently resolved with a phone call or email. The Alliance disagrees with any effort to expedite or increase penalties*

- Direct the Railroad Commission to accurately track and report the number of oil and gas violations annually

No Comment. This is already being accomplished

- Develop a definition of repeat violations in rule and report results on its website.

*The Alliance **agrees** with developing a definition of repeat violations but urges extreme caution when setting those standards. Oil and gas producers often operate hundreds of wells, locations and/or facilities and must comply with hundreds of regulations. Even the best and most prudent operators will sometimes be out of compliance. However, the Alliance **disagrees** with publishing lists which could lead to premature judgment and enforcement. Public reporting is already available for those in the industry and in the general public through freedom of information and open records request.*

- Direct an audit of a sample of production and transportation reports

*The Alliance **agrees** with the RRC and believe that the agency in moving toward that goal, but any additional costs and FTE's must be funded by the legislature.*

- Require all production reports be filed electronically.

*The Alliance **agrees** with this recommendation, provided a hardship clause is included.*

- Direct the RRC to expand its risk matrix for oil and gas inspections.

The Alliance believes that the priority inspection procedures already in place are adequate and functioning.

Issue 4

Insufficient and Inequitable Statutory Bonding Requirements Contribute to the Large Backlog of Abandoned Wells

Key Recommendation

- *Amend blanket bond requirements in statute to better reflect risk and increase equitability.*

The Alliance disagrees with the recommendation. We believe the analysis is incomplete and does not adequately reflect the Legislatures and Industries historic and current actions which will resolve any short term increase in orphaned wells during an economic crisis in the oil field.

First and foremost, we respectfully ask the Texas Legislature and Sunset Commission to take into consideration the following two facts:

- 1) *That the current economic distress in the Texas oilfields is due solely to the premeditated and intentional attack on the Texas O&G Industry by foreign governments who are flooding the international markets with their own oil, and*
- 2) *The O&G Industry has been dealing with intense and repeated federal overreach in the regulatory arena, including false claims of hydrofracturing causing groundwater contamination, questionable endangered species determinations, expansion of the Waters of the United States definitions, and a calculated effort to blame all climate change concerns on fossil fuels.*

In light of this geopolitical and economic landscape, the foresight of the Texas Legislature to craft and fund the existing orphaned well program, the financial support of the O&G Industry for this outstanding program, and the performance of the RRC who is entrusted to carry out the effort, should be commended and the RRC and Industry allowed to continue to work within the existing framework.

Please consider the following specific points:

- a) *The Legislature and Industry has addressed this issue previously, most recently with HB 2249 which phased in stringent regulatory requirements for the management of inactive wells. We view this legislation as a success and believe it will address any increases in orphaned wells.*
- b) *The RRC has in place a world class program for plugging orphaned wells that has been copied by other states, which includes a complete safety and environmental review of each abandoned well. This review includes field*

inspection, completion data, freshwater protection, and fluid levels in wellbore. Emergencies, wells that are immediate hazards to the environment, are plugged immediately. Over 35,000 orphaned wells have been plugged and more than 4000 pollution sites cleaned up using special funds.

- c) It must be highlighted that all orphaned wells are plugged using a special fund, not general revenue, that is fully paid for by the O&G Industry. No general revenue tax payer dollars are ever used to plug an orphaned well.
- d) Due to budget constraints and the agencies focus on plugging more expensive wells, the RRC has been plugging fewer orphaned wells than in previous years. This budgeting of plugging dollars is an issue, and adequately funding the RRC should resolve any short term increase in orphaned well numbers.
- e) Bonds in the oil field are no longer readily available. Increasing bonding for any segment of oil operators in Texas will cause an unnecessary and additional expense that will raise the cost of doing business for compliant operators that have a license to operate. This recommendation will slow the recovery of our lost jobs and dropping rig count.
- f) The RRC and Legislature has already crafted many layers of regulatory requirements to address this issue. Bonding is only one of several operator requirements. The program in place should be allowed to work. For example, the RRC has refused to renew the license to operate in Texas for hundreds of O&G operators, called a P-5. Operators that fail to plug wells are not allowed to renew their annually required P-5 license.

Issue 5

Improved Oversight of Texas' (Interstate) Pipeline Infrastructure Would Help Further Ensure Public Safety.

The Alliance agrees with the recommendations which would grant the Railroad Commission statutory authority to enforce damage prevention requirements for interstate pipelines and authorizes the Railroad Commission to create a pipeline permit fee.

Issue 6

The Railroad Commission's Contracting Procedures Are Improving, but Continued Attention Is Needed.

Key Recommendations

- Centralize all contract administration functions by September 1, 2016.
- Implement contracting best practices as outlined by recent legislation and the Comptroller.

The Alliance **agrees** with the recommendations to centralize contract administration and implement best practices but needs to ascertain the impact on service provider members involved in well plugging, site remediation and other contracted activities for the Railroad Commission.

Issue 7

The Railroad Commission's Statute Does Not Reflect Standard Elements of Sunset Reviews.

The Alliance is neutral with regard to some of the recommendations at this time and is looking into the issue regarding the impact of providing the alternative dispute resolution procedure option. However, the Alliance believes that the Oil and Gas Regulatory and Cleanup Fund Advisory Committee served a useful function and could continue to do so if reauthorized.