Blue Ribbon Task Force on Oil Economic Recovery

Small Producer Regulatory Relief

A comprehensive approach to provide relief to small operators in the Texas oilfields and to assist the oil and natural gas industry as they continue the battle to survive these catastrophic circumstances.

A strong energy sector is vital to national security and essential to economic recovery.

The task force appreciates the opportunity to address the concerns regarding demand destruction and market impacts of the current COVID-19 pandemic and oversupply around the globe.

The Railroad Commission of Texas (RRC) has taken robust and proactive actions to assist all regulated operators and entities to address the dire conditions as effectively and quickly as possible. Specifically, deadline extensions, online processing and electronic submissions/receipts, enforcement discretion and waiver considerations have all been extremely beneficial to the entire industry during this crisis. These tools would not be at the disposal of the RRC without the Legislature supporting stable industry funding and prioritization for information technology modernization. The IT upgrades have been indispensable to managing through this crisis and continued improvements will be essential to recovery.

We believe specific relief opportunities should be considered for small operators in an effort to further assist them during these challenging times. We define a small operator as those producing 1,000bbls/day or less of crude oil.

REGULATORY PRIORITIES

OPERATIONS

Testing. The RRC should optimize maximum use of resources at the agency and for operators by eliminating or suspending the current requirements to do testing of wells for the remainder of 2020 in response to the COVID-19 Pandemic. RRC staff should identify which tests would qualify that would not compromise safety or environmental considerations. If broad consideration for all operators is impractical, targeting small producers for relief should be prioritized.

Market Access & Common Purchaser Act. The Railroad Commission is authorized to act under Sec. 111.086 and Sec. 111.087 of the Texas Natural Resources Code if a complaint is filed alleging discrimination in the marketplace. Crude oil common carriers have a duty to not discriminate "between or against shippers" pursuant to Sec. 111.016 of the Natural Resources Code and are statutorily prohibited against discrimination by "common purchasers" of crude oil.

If a crude oil producer alleges discrimination in the marketplace, the Railroad Commission complaint process is available to quickly review and determine if discrimination exists. This process has an established rule which creates a free, quick process for handling complaints and consists of filling out a short form. The process exists for mediating and enforcing discriminatory practices in both crude oil and gas transportation with a staff of trained mediators available. The RRC will allocate sufficient staffing to address any complaints filed.

Agency Funding. Industry encourages the Legislative Budget Board to ensure the Railroad Commission has ample funding to continue agency operations and the robust regulatory framework. As the agency is self-funding from fees and other expenses paid by industry, it will be necessary for the Legislature to use other revenues paid for by oil and gas, such as the Economic Stabilization Fund/Rainy Day Fund, to fund the agency as the industry recovers from these catastrophic circumstances.

Orphan Wells Program. Seek interim targeted funding for the Railroad Commission to substantially increase the number of existing orphaned wells that may be plugged in 2020 and 2021. The authorization to plug more wells will help address the urgent need to keep our trained and experienced oil field workforce employed, and, at the same time, enhance protection of our environment.

STORAGE/PIPELINE CAPACITY

Storage and Transportation Assessment. RRC should work with industry providers to determine the status of the storage and transportation availability in the state. The Commission has the authority under §85.058 to make an inquiry as to whether the actual volume of physical storage available has been reached or when it will be reached, in contrast to storage that has been contracted, but does not contain physical oil. It is essential information to know and understand for the Commission to make a fair and reasonable decision.

Identify options to increase crude oil storage capacity in Texas, including midstream waivers, investigation of potential re-purposed or unconventional storage, assignment of salt cavern storage capacity, surface storage options, use of available lease and frac tanks, and alternatives for coordination with the Federal Strategic Petroleum Reserve to optimize storage volumes of Texas crude oil. Waive or expedite requirement to obtain a permit. Waive or expedite inspections and repurposing requests to ensure all available storage capacity is maximized. Waiver review should extend to both regulations and coordinate with Office of the Governor for statute waivers, as applicable.

We recommend the RRC use operational resources to assist small producers where gaps may exist.

- Assist operators in identifying ways to access possible future access to the Strategic Petroleum Reserve by outreach to the DOE.
- Establish a Storage and Capacity assistance Hotline to help identify strategic areas of need and identify resources available.

Waive TCEQ Permits to Enhance Storage. TCEQ should explore ways to enhance capacity needs and identify opportunities to improve storage capacity and address impediments. Identify all relevant permits such as PBR permits and other requirements to assist in ensuring adequate storage.

State Leases and Royalty Payments. We are grateful for the significant actions already taken by the General Land Office to assist operators, including waiving penalties and interest for late royalty payments, extensions on drilling commitments, and tolling terminations for cessation of production and failure to produce in paying quantities. GLO should continue to ensure that all measures are explored to ensure leases are maintained and operators have relief during this crisis, including lease obligation extensions and royalty relief.

Similarly, we appreciate the University Lands' statement of its expectation that new drilling activity would be delayed and encourage further action similar to that taken or under consideration by the GLO as well.

EXTENSIONS/TIMELINES

RRC should consider extensions or waiving of deadlines to assist operators to focus on maintaining operations, for example:

Drilling Permits & MIPA Permits. Extension of permit timeframes and additional time for renewals, especially for permits sought/granted since January 1, 2020.

Statewide Rule 8 and 15. Additional time for closure deadlines for pits associated with drilling operations and additional time to meet inactive well surface equipment removal requirements; perform the work in the field.

Inactive wells. Relax enforcement of requirement that wells not producing for 12 consecutive months be rendered “inactive.” The 12-month requirement is statutory; however, there may be flexibility in enforcement.

Extensions. Further extensions of licenses, registrations and rule exceptions through the remainder of 2020. Convert any discretionary to a waiver where possible, with the exception of any financial responsibility requirements. Currently extended through September 30, 2020 and could continue extensions through December 31, 2020 or beyond depending on the market status.

Compliance Times. Relax enforcement and extend compliance times for field operations for all non-environmentally hazardous violations.

H15s and H5s. Six-month deferral from current due date. Accept submissions via email.

P5. Flexibility for operators on timing/criteria for renewing their P-5s and having filing fees waived during the crisis. Temporarily waive requirements pertaining to Form W-3X of the P-5 renewal process. Current options are to:

- Plug or restore to production 10% of the inactive wells an operator had at the time of their last P-5 renewal.
- Submit financial security covering the cost calculation of plugging all inactive wells or $2 million, whichever is less.

7000-1 Incident Reports. Extend the time period allotted for an incident investigator to “close” a 30-day 7000-1 report. This would grant an RRC investigator more time to review an incident and ask pertinent questions of the operator, without placing a burden on the operator to rush to complete and provide investigation results. Additionally, it would assist with:

- Fully completing an investigation into an incident before providing supplemental information not requested on the RRC 7000-1 form;
- Providing appropriate documentation to RRC per company policy; and
- Ensuring that all information presented to the State is accurate and complete with applicable stakeholder sign-off.

Relief regarding when supplemental information must be provided would be helpful for the safe operation of our pipelines - especially if the supplemental information requested is solely so an RRC investigator can close their report. Ultimately, we would like to ensure that operators have adequate time to fully investigate an incident, identify and provide material documentation, and gather stakeholder approval, while continuing safe operation on a day-to-day basis.

Original documents and signatures. Allow waivers expanding the acceptance of scanned and signed documents for administrative purposes.

TAX/FEE POLICY

Fee Reduction/Elimination. The RRC should reduce or eliminate fees, penalties, and interest for small operators to provide regulatory fee relief including the 150% surcharge imposed on the original fee as detailed on the "Oil and Gas Fee Payments and Surcharges." Recommended duration: 6 months or remainder of the year.

Extend/Revise the Production Tax Credit. Consider legislation on a temporary basis to extend and/or revise the Production Tax Credit described below to benefit more wells during extreme market conditions.

Existing Production Tax Credit For Low Producing Oil Leases.
Existing Resource Reference: Tax Code Sec. 202.058. CREDITS FOR QUALIFYING LOW-PRODUCING OIL LEASES.

- The production tax credit for low-producing oil leases allows credits of 25% to 100% on the production tax as a result of a sustained drop in oil prices below $30 a barrel. A low-producing well is a well that produces less than 15 barrels a day or five percent recoverable oil per barrel of produced water over a 90-day period.
- The credit applies when the previous three-month period drops below $30 and the amount of credit is increases as the price decreases.
- Credit: 25% ($25 - $30/bbls); 50% ($22 - $25/bbls); 100% ($22 or less/bbls)

Status: Anticipate the threshold will activate beginning in May.

Extend Deadline for Severance Tax. The Comptroller of Public Accounts (CPA) should extend the deadlines for severance tax payments for the maximum allowance of 90 Days. Provides short term liquidity access.

Severance Tax Relief. The legislature should consider a Tax Relief Credit toward future severance taxes by providing an equivalent tax credit based on the 2019 taxes paid for operators producing 1,000 b/d or less from the oil production tax of 4.6%.

Expedite Property Value Study Analysis. Encourage the Comptroller to expedite their analysis for the forthcoming property value study and provide the specific discount rates or values to appropriately adjust the appraisal models to reflect the Jan. 1 market risks in the discount rate and apply an appropriate cutoff date for the data considered in an appraisal retroactive to Jan. 1.

Payment Plans for Property Taxes. Encourage local jurisdictions to adopt payment plans for property taxes without penalty and interest.

Payroll Tax Relief.

Sales Tax Holiday. The legislature should consider a temporary sales tax holiday for any "downhole" oil and gas equipment/materials purchased for inventory purposes. These items are not subject to the "manufacturing exemption" so are otherwise taxed. Would lower procurement costs and help suppliers in a tough sales environment. This recommendation would require legislation.

We recognize that the implementation of these relief measures in whole or in part will reduce revenue both to the State of Texas, and to the Railroad Commission. Our recommendation is that these shortfalls be reconciled by accessing the state's Economic Stabilization Fund (the "Rainy Day" fund).

OTHER

Infrastructure. Maintain planned funding from TXDOT and other sources through the biennium to ensure infrastructure development is continued.

Road Maintenance/Upgrade Fees. Reduce TXDOT and local jurisdiction fees for road bores and road crossings, accelerate permitting timing.

FEDERAL PRIORITIES

Diplomacy. Continue federal diplomatic efforts by President Trump to address the challenges created through Russian and Saudi Arabian production manipulation. Russia's rejection of OPEC supply cuts combined with Saudi Arabia dumping uneconomic crude on the market remains a serious threat to the U.S. oil and gas industry. Even with new OPEC+ announcements, adherence to any agreements should be closely monitored and enforced. The United States does not need to begin its own cartel but rather focus on diplomatic negotiations to ensure fair trade practices, as has been the custom of our country.

Liquidity. We encourage continued efforts to provide fiscal and monetary relief for all U.S. businesses, and encourage the Administration to ensure fair access to operators in all sectors of the oil and natural gas industry to various stimulus packages considered by Congress. We are not asking for specific measures for our industry but rather the industry not be excluded from participation, as this would be a discriminatory practice.

Permits. Environmental Protection Agency (EPA) should consider for low production wells additional regulatory relief efforts and complete work on pending regulatory items under Subpart OOOO (Quad-O), which would provide clarity and fairness.

Strategic Petroleum Reserve (SPR). Continue pursuing utilization of the SPR and funding by Congress. Continue allowing private operators access to store product in the SPR.

PHMSA Waivers. Waivers in order to convert/manage storage needs.

Renewable Volume Obligation. EPA should issue an expedited waiver of the renewable volume obligation (RVO)* under the Renewable Fuel Standard RFS consistent with Section 211(o)(7) of CAA in order to address severe economic harm compounded by the current national emergency.

Royalty Rate Relief on Federal Lands. Many producers are considering suspension of drilling programs. Suspensions will not only harm those individuals who work directly for the companies, but also the oilfield services workers who depend on energy exploration and production activities. *Recommendation:* The Secretary of the Interior has existing authority to provide royalty relief to producers, and we support the Secretary's use of this authority as soon as possible.

Tax Policy. As Congress continues to consider legislation to stimulate economic growth, broad tax policy addressing credits, losses and interest treatment should be reviewed.