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Colleen Forrest
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Railroad Commission of Texas
P.O. Box 12967
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Dear Ms. Forrest,

Enclosed are Commission Shift's suggestions for the 2025 Oil and Gas Monitoring and Enforcement Plan. We appreciate that you are accepting suggestions in advance of drafting the plan this year. We hope to see our suggestions included in the plan.

Please reach out to me for any clarifying questions or feedback.

Thank you for your consideration,

Virginia E. Palacios
Executive Director

Goal 1: to accurately demonstrate the Commission's oil and gas monitoring and enforcement activities.

Rebuild trust with the public through meaningful public engagement

The commission needs to rebuild trust with the public. Meaningful public engagement requires two-way dialogue. The commission should educate, listen, clarify, and ultimately incorporate the feedback it gets from the public into its rules, internal procedures, and decision-making. American Petroleum Institute recently published Recommended Practice 1185 Pipeline Public Engagement (RP 1185). This RP contains many useful frameworks for public engagement that are applicable to all kinds of oil and gas infrastructure. Appendix C, in particular, offers a variety of engagement methods for consideration. Commission Shift recommends that RRC consider ways that these tools and principles can be incorporated at the commission to rebuild trust with the public.

Deploy the Office of Public Engagement to hold public hearings throughout the state

Make use of the Office of Public Engagement to support public engagement for commission activities including public hearings for permit applications, rulemakings, and the Monitoring and Enforcement Plan rollout. The webpage for the Monitoring and Enforcement Plan, for example, doesn't have enough context or information to show the public how the budget structure works or what kinds of items they should suggest. A workshop would have been helpful for this process.

The 2024 Plan promised that the Office would "engage with the public through direct outreach and education to facilitate greater understanding of commission processes and solicit broader participation in matters before the Commission." Commission Shift and members of the public asked for in-district public hearings in the carbon dioxide rulemakings, and the informal draft comment period for the waste pits rule. But the commission has not deployed the Office of Public Engagement to provide those hearings. Additionally, the neither staff members' names nor a contact number are listed on the RRC webpage for the Office of Public Engagement (we checked the following pages: Communications, Enforcement Activities, Complaints, Contact Us) even though they are supposed to "act as liaisons to members of the public affected by and interested in Commission proceedings." We hope to see changes implemented as soon as possible to empower commission staff to engage the public.

Improve access to Railroad Commission Open Meetings

Offer a virtual option for members of the public to comment on an agenda item or give public input. For example, a person in West Texas who earns minimum wage should be able to participate in your meetings without having to miss multiple days of work traveling to and from Austin, and risking not being able to put food on the table or pay

rent that month. Additionally, the commission should establish an email list for people to receive announcements about the open meetings. This could be used to inform the public when open meetings are canceled or rescheduled.

Develop a plan to incorporate language access throughout the commission

Offer language access for Open Meetings, rulemakings, comment periods, and permit proceedings. Publish open meeting and public hearing notices in Spanish, and offer language interpretation at the meetings. Other state agencies provide language access, and the commission could start by modeling its program based on those other agencies' programs.

Demonstrate compliance activities related to surface waste facility reports

Explain how surface waste facility quarterly reports are reviewed to ensure compliance. Report the number of enforcement staff in the environmental permitting section, the number of new permits proposed per year, and the number of existing permitted facilities.

Report comprehensive data on Statewide Rule 32 venting and flaring rule exceptions

Report the number of SWR 32 exceptions granted in the fiscal year, by number of days granted for the exception (90 days; 180 days; 180 days but limited to 5 days/mo; or permanent). Report the number of exceptions that were renewed. Report the number of exception denials, and the reasons why the exceptions were eventually approved, if applicable. Explain how the commission uses available data to determine noncompliance with SWR 32 on a routine basis. Demonstrate progress in reducing the total volume of casinghead gas flared and vented over time.

Goal 2: to strategically use the oil and gas monitoring and enforcement resources of the Commission to ensure public safety and protect the environment.

Develop a plan to eliminate orphaned wells and sites that are older than 20 years.

The first step to eliminating orphaned wells is to prevent lingering inactive wells that still have active operators. The commission must use all of its powers to compel operators to plug inactive wells aged over 20 years before they degrade so much that a viable plug becomes impossible. Aging inactive wells are more likely to be potential conduits for

pollution than they are to have a potential future economic use. Less than two percent of the inactive well population is reactivated each year. Waiting for these wells to become orphaned wells pushes ever-greater costs onto the broader population of oil and gas operators who will eventually be responsible for paying for the increasing costs of orphaned well plugging. More importantly, delaying well plugging increases risks of pollution, which can harm drinking water supplies and infringe on private property rights by preventing landowners from enjoying their property in perpetuity.

The plan should include an analysis of the rate of change in the number of inactive wells each year over a period of ten years, and projections of the number of wells that can be plugged by operators each year with specific interventions by the commission. One action the commission can take is to more carefully scrutinize inactive well transfers, and prevent transfer of wells that are noncompliant with statewide rule 15. Along these lines, the commission should use its resources to hire more staff to enforce inactive well plugging requirements. The number of inactive unplugged wells peaked at 167,000 in Nov. 2022 and then came down to 149,000 in March 2023, where it essentially stayed all year. The number of inactive wells operators plugged per month was surprisingly consistent (600 - 800 per month), which could indicate that the number of operator-plugged wells are a function of enforcement staff capacity at the commission.

Finally, the commission should evaluate its current rate of well orphaning, and report total well-plugging expenditures necessary over the next 10 years in order to reduce the orphaned well count to 1,000, while considering projected rates of new orphaned wells and ensuring that no orphaned well has been inactive longer than 20 years.

Update Class II permitting standards to prevent risks to public safety and groundwater resources

This biennium (2024 - 2025), the legislature appropriated funds to the Railroad Commission for Underground Injection Control Modeling. These funds also allow for the commission to “quickly implement statutory and regulatory requirements associated with seismic events.” The commission should open a rulemaking to update its Class II injection well permitting standards. It is clear that the many incidents across Texas related to Class II wells are occurring because the Class II rules are not rigorous and do not consider the intensity of dynamic subsurface activities in Texas including hydraulic fracturing and multiple types of underground injection wells.

With the recent IRS 45Q tax credits, the federal government is unleashing widespread commercial development of carbon capture, utilization, and sequestration (CCUS) in Texas. Most of that new development will take place in Class II wells used for enhanced oil recovery (EOR), because it is more profitable than potential Class VI injection. Because of these federal incentives, we are expecting major growth in Class II injection, beyond the limited carbon dioxide injection that has already been taking place in Texas. The combination of unplugged wells and increased carbon dioxide (CO₂) injection poses

increased threats to groundwater supplies in Texas. When carbon dioxide mixes with water, it creates a strong acid called carbonic acid. The commission should consider these new risks and consider planning for a potential rulemaking on Class II injection in 2025.

Prepare the public and first responders for carbon dioxide pipeline incidents

Carbon dioxide has different properties than natural gas (methane), and sinks when it is released. CO₂ leaks can cause standing plumes that displace oxygen. A Texas-based pipeline operator was responsible for a CO₂ pipeline rupture in Mississippi that caused dozens of people to go to the hospital with symptoms of hypoxia. Some of those people have chronic short-term memory loss. With the proposed construction and expansion of CCUS projects, including CO₂ pipelines, the people of Texas have a right to know the risks associated with this infrastructure, and be invited to participate in a coordinated emergency response strategy to help prevent unnecessary fatalities or injuries. The commission should plan to deliver in-district training and public education sessions throughout the state.