

Ashley Watt, Texas

-Most "requests for inspection" should more accurately be categorized as "complaints"

-RRC is not doing enough to investigate contamination to groundwater resources. This onus currently falls on landowners. RRC is failing the citizens of the State of Texas in favor of oil and gas companies. -
When groundwater is contaminated, RRC needs to require full groundwater remediation.

-RRC currently does not issue high enough fine amounts. Only \$3.7 million of fines across the entirety of the Texas oil and gas industry is not a large enough number to deter anyone from breaking RRC rules.

Bruce Bodson, Lower Brazos Riverwatch, Texas

April 29, 2022 Annual Oil and Gas Division Monitoring and Enforcement Plan Railroad Commission of Texas P.O. Box 12967 Austin, Texas 78711-2967 Re: Comments on the 2023 Annual Oil and Gas Monitoring and Enforcement Plan

Dear Commissioners: Lower Brazos Riverwatch appreciates the opportunity to provide the following comments on the 2023 Annual Oil and Gas Monitoring and Enforcement Plan. Introduction These comments are being submitted on behalf of Lower Brazos Riverwatch. Lower Brazos Riverwatch is 501 (c) (3) river protection organization formed to protect water quality, riparian habitats and river access on the Brazos River, from Waco to the Gulf of Mexico.

In our capacity as river stewards we regularly see the entire 425 river miles below Waco. In doing so, we frequently encounter impacts to the river from active and inactive oil and gas facilities. These impacts include overturned and leaking tanks, exposed and seeping well casings, abandoned drilling pits eroding into the river, exposed and leaking field lines, and general oilfield debris dumped into the river. These impacts result in direct discharge of hydrocarbon material, heavy metals, and other oilfield chemistry to the surface waters of the state. The dumping of large debris also frequently poses a hazard to recreational users of the river.

Our experience with reporting observed problems to the Commission staff is uneven at best. Usually, there is some initial interest and response, typically contacting the operator, and then very little follow up. We have situations under observation where dangerous wells have been brought to the attention of the commission and over two years later they remain unaddressed. Seeing enforcement actions through to a final conclusion should be an enforcement priority. While most operators are responsible, to far too great a degree, out of sight is out of out of mind. The less accessible portions of our Texas Rivers are used by the industry as a convenient disposal location for anything they find no longer useful. It is, frankly, a disgrace to the State of Texas.

General Comments

Lower Brazos Riverwatch formally requests that a public hearing be held specifically on this Monitoring and Enforcement Plan. While we appreciate the opportunity to provide comments in writing, many affected parties, particularly impacted land owners are not going to be heard. This is too important to limit participation. Lower Brazos Riverwatch again requests that the Commission rerelease the public notice and the Monitoring and Enforcement Plan in Spanish. We made a similar request last year and it does not appear to have done as of yet. Many of the impacted landowners and other affected parties speak primarily Spanish in the home and should be accommodated. Clear instructions for those requiring access in other languages should also be provided.

Specific Comments

Lower Brazos Riverwatch is limiting its specific comments to those aspects of the plan relevant to our interests in the rivers of Texas. We have observed that impacts to the river and floodplain occur at least as frequently from inactive or abandoned facilities as from active facilities. The Railroad Commission should give equal priority to inspecting inactive and abandoned facilities, particularly in the floodplains and floodways of rivers. In discussions with landowners along the river we have observed a repeated pattern in the transfer of producing properties from one operator to another. As the property's

production diminishes, the producing assets are transferred to ever smaller operators. The majority of the wells that are not producing economically are considered to be inactive rather than closed and are not plugged and abandoned, but rather continue to transfer until ultimately, the last operator simply turns off the equipment and disappears, leaving the wells as orphans. The Railroad Commission needs to set a time for which a well can be considered inactive. We would propose ten years. After that the operator needs to either demonstrate that the well is in fact capable of producing or move immediately to plug and abandon. This should be an enforcement priority. While this is primarily a policy issue, the transfer of environmental liability in the oil field without remediation, should not be allowed. Operators should be required to post a surface damage bond as well as a well plugging bond. The current manner of doing business is a fraud on the surface rights owner, contrary to basic principles of environmental law and leaves us all holding the bag.

We reiterate that all oil and gas facilities situated in the floodway or hundred-year flood plain of any Navigable Water of the State of Texas, need to be inspected annually. Any required remediation needs to be on an accelerated schedule to prevent contamination from entering the waters. Having experienced several 100 year floods in the last few years on the river, it is apparent that every five years is not sufficiently frequent for facilities in these areas. Having watched the results of flooded facilities, our preferred position is that oil and gas facilities should not be permitted in the floodways of Navigable Waters of the State of Texas, and those in the 100 year floodplain should be bermed against inundation.

In the event of a flood event, all oil and gas facilities in the affected floodway and floodplain should be inspected by air, as soon as weather conditions permit and by field inspectors as soon as the flood flows subside. In many cases, the released material has left the releasing facility before any inspection can occur, and is contaminating downstream properties. Lower Brazos Riverwatch believes that the floodplains and floodways of the Navigable Waters of the State of Texas and the rivers themselves meet the definition of a Sensitive Area as defined in 16 TAC § 3.91 (a) (2).

Since our observation is that impacts to these Sensitive Areas are occurring constantly, we disagree with the Commission's determination that as a risk factor proximity to a Sensitive Area has only medium possibility of occurrence. We believe a more accurate characterization would be that the both the impact and possibility should be considered high. We also believe that given the other factors, such as erosion and flooding that impact facilities in these areas that Proximity to Public or Sensitive Areas should move up on the priority order, replacing Length of Time Since Last Inspection as the number two priority.

In regard to Appendix F of this plan, Well Plugging Prioritization Methodology, we believe that Section 3 of the ranking matrix, Well location with respect to sensitive areas, should be revised. We believe that item 3 C, wells located within 100 feet of a river, creek, lake, or domestic use freshwater well should be given a weighting factor of 10. We base this on the frequency with which we observe wells within 100 feet of a river being captured by erosion and becoming free-standing casings in the stream bed and appurtenant facilities also falling into the rivers.

Since we commented on this plan last year, we have observed several wells in the Thompsons and Raccoon Bend fields, along with abandoned pits and flow lines-some of which are still leaking oil to the river, to be eroded free of all surrounding substrate. These wells and other infrastructure become both contamination sources and hazards to the public. In addition we believe that item 3 D, wells located between 100 feet and ¼ mile of a river, creek, lake, or domestic use freshwater well should be changed

Public Comment Received as of April 29, 2022

to "wells located within the 100 year flood plain of a river or creek or 100 feet to ¼ of a mile of any lake or domestic use freshwater well". It makes little sense on rivers to set arbitrary distances since once the flood plain elevation is exceeded, all area of that elevation will be inundated.

While we recognize that the Commission's authority over pipelines is limited, it is our understanding that they do have authority over pipeline safety on those oil and gas pipelines not regulated by the USDOT Office of Pipeline Safety. Safety inspection of field lines, gathering lines and intrastate pipelines used to transport oil and gas needs to be a Monitoring and Enforcement priority.

On our river alone there are hundreds of exposed and damaged pipelines associated with oil and gas fields. An exposed pipeline in a lotic system is a safety issue. These lines are frequently broken during flood events releasing material and are often left exposed in the rivers creating potentially life threatening hazards to recreational users, livestock and wildlife. We continue to see exposed and leaking lines and improperly abandoned pipelines in the rivers. No pipelines should ever be abandoned in place in a lotic system.

Closing

We appreciate the opportunity to submit these comments on the 2023 Annual Oil and Gas Division Monitoring and Enforcement Plan. We will provide a hard copy by mail to the address provided.
Sincerely, Lower Brazos Riverwatch Bruce R. Bodson, J.D. President/Executive Director

Cyrus Reed, Sierra Club, Texas

April 29, 2022 Oil and Gas Strategic Plan Comments Oil and Gas Division Railroad Commission of Texas
P.O. Box 12967 Austin, Texas 78711-2967 Submitted via online portal and also sent through mail

Dear Commissioners:

The Lone Star Chapter of the Sierra Club is pleased to offer these brief comments on the Texas Railroad Commission's draft Annual Oil and Gas Division Monitoring and Enforcement Plan for the 2023 Fiscal Year. We would note as we have in previous years, that this enforcement plan is limited to oil and gas activities, but the Commission should consider also publishing an annual monitoring and enforcement plan for pipelines and pipeline safety, even though there does not appear to be a statutory requirement to do so.

We are in agreement with the two basic goals of this plan, "to accurately demonstrate the Commission's oil and gas monitoring and enforcement activities;" and "to strategically use the oil and gas monitoring and enforcement resources of the Commission to ensure public safety and environmental protection," and appreciate the new action items related to documenting an inspector's responsibilities, disseminating study data related to revenue fees and flaring data, and especially the attention to orphan wells including federal funding.

While we are in agreement with these goals and actions, we are concerned that the current draft plan may not effectively ensure that these goals are met. We offer the following comments to identify areas in which the monitoring and enforcement goals could be better met.

I. The Railroad Commission should set more aggressive goals for the number of inspections conducted during the year. The Railroad Commission ("RRC") reports in the draft Annual Oil and Gas Division Monitoring and Enforcement Plan for the 2023 Fiscal Year ("draft plan") that, "[t]he Commission will inspect at least 88,000 wells during fiscal year 2023 to meet the performance target for inspection frequency. With all the oil and gas wells in Texas inspected within the previous five years by the conclusion of fiscal year 2021, in fiscal year 2023 the Commission will return to those wells inspected earlier in the five year cycle.

[1] While there have been improvements made over the last decade to increase the number of inspectors and inspections, that growth is not shown in the inspection goals in the FY 2023 Plan. In the Fiscal Year 2021 Annual Oil and Gas Division Monitoring and Enforcement Plan, the RRC's annual well inspection goal was 100,000 wells, twelve percent more than the number planned for Fiscal Year 2023, and also less than the 90,000 goal set in Fiscal Year 2022.

[2] While the RRC has exceeded the well inspection goals in previous years, lowering the baseline goal is counter to the goal of inspecting each well and facility regularly. Additionally, inspecting onshore wells and facilities only once every five years is too low of a goal for the Commission, even if the Commission anticipates exceeding this goal. The RRC should commit to conducting a more robust inspection regime, such as inspecting wells at least once every four years.

With the addition of new technologies, like the drone usage discussed in previous reports, and the potential for more federal money from the Bipartisan Infrastructure Bill, more inspections should be able to occur annually. If, in addition to these new resources, the current appropriated FTE level of

approximately 281.9 for the oil and gas monitoring and inspection strategy is too low to meet this goal, the RRC should request an increase in its annual budget to hire more inspectors to meet this schedule. It would be useful in the report to detail how many inspectors are actually currently in employment at the agency in addition to providing information on how many could be employed by the agency.

II. The Railroad Commission should provide more disaggregated data available to the public, including data on major violations, comments, and flaring.

More detailed enforcement data is available and should be made available both in the Annual Monitoring and Enforcement Plan and available online to the public. Basic aggregated data on enforcement has disappeared from the RRC website, and the agency has insufficient disaggregated data in the FY 2023 Annual Oil and Gas Division Monitoring and Enforcement Plan. The draft plan does not provide sufficient information on violations that occurred the previous year nor in the preceding years. For example, the draft plan states that the Commission did not identify any repeat major violations during fiscal year 2021.[4] However, no information on repeat major violations prior to 2021 is included.

Appendix B of the draft plan defines a Major Violation to be one in which there is "a safety or pollution related violation that causes a significant impact to public safety and/or the environment, is accompanied by conditions that indicate a significant impact to public safety and/or the environment is imminent, or is the result of deliberate disregard of Commission rules and regulations related to public safety or environmental protection." [5] Given the severity of what is considered a major violation (e.g., drilling a well without a permit, surface management of waste without a permit, operation of a disposal or fluid injection well without a permit, etc.), more comprehensive data should be provided to the public on repeated major violations within the past seven years, rather than just the preceding year.

As required by the Texas Natural Resources Code, the Commission is required to show the oil and gas monitoring and enforcement activities over time.[6] However, the draft plan, as well as the plans from previous years, only shows monitoring and enforcement data for the previous fiscal year, making comparisons difficult. Having a chart showing year to year enforcement data would be useful for the public and the Legislature. We would also note the report does not have any information on severance actions taken.

We appreciate that the plan this year does include more detailed information on complaints and the complaint resolution process than in previous versions. Still, in addition to the new complaint data, the report should state total penalties levied per violation and violation type, and repeat violations going back seven years. The draft plan only includes the number of oil and gas complaints received and the number of oil and gas complaints resolved within the last year, which in 2021 was between 400 and 500.[7] The RRC Complaint webpage is also similarly lacking in information. Unlike the TCEQ, which logs complaints and publishes them anonymously, the RRC handles complaints at the field office level. The appendix does outline the complaint procedures, but little actual information or data within the draft plan is focused on complaints.

With twelve oil & gas office locations throughout the state and no online database of complaints available to the public, the complaint process lacks transparency. The RRC needs to include more detailed complaint data within the draft plan at a minimum, including complaint totals per district, number of formal and informal complaints, and information on complaint resolution.

Finally, the RRC should consider updating and improving inspections and policy around flaring and providing more information in the enforcement report itself. Again, we recognize that the report does state that the Commission will be sharing more data in the future on its new flaring data efforts. Still, a trillion cubic feet of natural gas in the Texas Permian Basin has been flared since 2013 according to a recent study.[8] A recent report commissioned by the Environmental Defense Fund indicates that it is likely that flaring will return to pre-pandemic levels by 2025 as drilling and production resumes.[9]

While the RRC has taken steps over the last two years to better regulate flaring and measure the amount of flaring, those steps are very recent with no data available on impacts to flaring levels in the state as a result of these changes.[10] The RRC should include data outlining monitoring and enforcement strategy for flaring within Texas, as well as further goals and actions that the Commission will undertake to regulate flaring.

III. The Railroad Commission should include plans to update the minimum penalties for violations.

In addition to more comprehensive data, the draft plan should encourage the Commission to review and update the RRC's penalty matrix, and other aspects of the RRC's Statewide Rule 107, Penalty Guidelines for Oil and Gas Violations.[11]

With regards to penalties, the RRC should increase its penalty matrix so that fines and penalties incentivize polluters to update and maintain their facilities.

The draft plan outlines the number of violations during the 2021 Fiscal Year, per rule by subsection.[12] From reviewing the high number of violations related to prohibited disposal methods into watercourses and drainage ways, failure to plug, and to report the location and existence of infrastructure, it seems obvious that penalties are too low to deter violations.

Simply put, the Commission's penalties for pollution violations are far too small to ensure compliance and deterrence of future lawbreakers. Small fines for operating without a permit, for example, means it becomes part of the cost of business for oil and gas companies, and it is time to revise the level of fines both at the Commission, and at the Texas Legislature, which should raise the maximum penalties last adjusted in 1983 from \$10,000 to \$25,000.

Legislation filed in 2021 in both the Texas Senate (SB 1516) and House (HB 1043) has sought to address this issue. We call on the RRC to take similar steps to those outlined in the legislation to increase the minimum level of administrative penalties that may be imposed by the RRC for various permit violations. The Commission should address this as part of this annual report, and set a goal to review its penalty matrix and consider updates through a public process.

IV. The Railroad Commission should provide more comprehensive outreach to Limited English Proficiency populations. The draft plan and outreach by the Texas Railroad Commission needs to address the existence and needs of Limited English Proficiency (LEP) populations within Texas. A Limited English Proficient (LEP) individual is someone who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.[13] Other agencies within Texas, like the Texas Commission on Environmental Quality, include alternate language resources for LEP individuals including translated regulatory guidance publications, translated webpages, and guidance on how to submit complaints, problems, and participate in the environmental permitting process.[14] This is particularly important because Texas has an LEP population of 14 percent.[15] Some regions of the

state directly impacted by oil and natural gas extraction, such as the counties in the Eagle Ford shale region of South Texas, have significantly higher LEP populations, with percentages as high as 36 percent.[16] Providing this plan in an accessible format, such as offering the plan and other RRC data in Spanish, would enable LEP individuals an opportunity to stay informed of RRC enforcement and monitoring strategy, as well as create an opportunity for more meaningful engagement.

V. The Sierra Club appreciates the new proposed actions on orphan wells, but believes there should be an opportunity to suggest changes to the prioritization scheme for federal funding. The draft plan rightly emphasizes the need to take action on orphan wells, both under the state-managed program, but also under new federal funds created at the Department of the Interior as part of the Bipartisan Infrastructure Bill. However, the Commission is proposing to use the exact same prioritization scheme for the federal program as the state-managed program, even though federal guidance is forthcoming. Based on initial comments provided by DOI, we know that the federal money may well require an analysis and prioritization of wells that impact certain disadvantaged communities, and yet the RRC rules related to well plugging prioritization fail to consider this aspect. An example could be the use of the EPA EJ Screening tool as an additional measure to prioritize the clean-up of wells located near overburdened populations. In addition, the plan fails to address how the Commission may consider the measurement of methane pollution or groundwater or surface water impacts, which may be important to accessing future federal funds under the Infrastructure Investment and Jobs Act (IIJA) of 2021. The commission should add some language to the plan about how it may amend its prioritization based on federal guidance and stakeholder input. That being said, we do appreciate the publication of the Commission's plan and prioritization scheme.

VI. The Railroad Commission should provide more stakeholder outreach opportunities. More opportunities for stakeholder engagement, both with regard to this plan as well as for general matters, should be provided by the RRC. While the draft plan outlines educational opportunities for industry operators about Commission rules and processes, including presentations at industry events and regulatory forums, the stakeholder participation process is almost entirely digital and only focused on publication of this draft plan, as required by the 85th Legislature House Bill 1818. Additional forums and meetings should be directed towards stakeholders impacted by the oil and gas industry, including educational opportunities on how to file complaints, the role of the Railroad Commission as a regulatory authority in Texas, and further opportunities for stakeholder engagement.

Furthermore, the RRC should provide information on how the draft plan is created and public comments considered and implemented into the annual plan. As required by HB 1818, the Oil and Gas Division Monitoring and Enforcement Strategic Plan requires the RRC to "seek input from stakeholders when developing each annual plan." [17] However, there is no publicly available information that outlines how the RRC incorporates stakeholder comments, suggestions, and critiques from the draft plan into the final plan. Given that the window between the deadline for comments, April 29th, and the date that the RRC must publish the final plan, July 1st, is approximately three months, the RRC should outline how comments from stakeholders will be incorporated into the final plan. Additionally, the RRC should make available the comments submitted on the draft plan or outline the content of submitted comments, rather than simply listing the number of comments received within the final plan.

VII. The Railroad Commission should further implement new technology when monitoring wells and facilities. The Sierra Club is supportive of the action items that implement new technology, such as

Public Comment Received as of April 29, 2022

drones, to assess leaks and spills. However, this plan fails to mention that strategy, even though it was part of an important effort in 2021 that led to some initial efforts to use drone technology to find leaking infrastructure. Given that this plan was created due to a directive by the Texas Legislature "to assess the most effective use of [the Railroad Commission's] limited resources," this technology is an ideal method of increasing effective monitoring at large or hard to reach locations. The use of drones for visual inspections of leaks and spills, as well as evaluating emergency situations, should be further implemented within the RRC monitoring program. However, more data should be collected and provided to the public in the annual draft plan on this type of inspection method, including number and type of site inspected by drone, percent of drone inspections resulting in violations, and data collected via drone versus on-site inspector collection. If the Commission failed to conduct such inspections in 2022, then it should state so, and what plans it has in 2023 to use this technology.

VIII. Conclusion We thank you for the opportunity to submit comments on the Railroad Commission draft Annual Oil and Gas Division Monitoring and Enforcement Plan for Fiscal Year 2023, and welcome the opportunity to discuss these comments, as well as participate in public engagement opportunities, such as public hearings focused on this plan. Please feel free to contact the Sierra Club with any questions.

Respectfully submitted April 29, 2022.

Cyrus Reed Conservation Director, Lone Star Chapter, Sierra Club cyrus.reed@sierraclub.org 5406 North I-35, Suite 1806 Austin, Texas 78752 (512) 888-9411

Dr. Kathryn Masten

I used to live in San Patricio County, but moved out of state because of all the oil & gas industries moving in.

1) The Railroad Commission needs to change its name to align with what it is/does; e.g., Oil & Gas Well Inspection Commission.

2) The RRC OIL needs to have a map interface that shows wells, pipelines, and other regulated infrastructure & operators in relation to geography.

3) The plan almost exclusively focuses on wells instead of pipelines. The word "pipeline" appears only 5 times in the plan. What is being done to ensure pipelines are safe? The plan needs to show what industries these pipelines connect to. It is those industries that are better known to the public, but how they get their oil (and other substances, like potentially hydrogen in the future) is also important.

4) Why are taxpayers footing the bill for plugging "the increase of orphaned wells" (p. 15)? Shouldn't this cost be borne by the companies?

5) I do not see any training events targeted for environmental groups and average citizens. How do these groups get notice of things like this Plan? I only heard about it the day comments were due.

6) The \$3.7 million in fines levied against 24 major violations comes up to \$154k per violation. This seems like a slap on the wrist.

This report should include more detail on the fines levied - naming the companies, their location, and the type, extent, and duration of the violations.

Dr Sarah Bishop Merrill, M.S., Ph.D., Texas

The RR Commission's 2023 Monitoring and Enforcement Plan must now include considerations of cumulative effects of oil and gas projects, -not only those proposed for a dubious future, but those under review currently, e.g., the RGLNG and TXLNG, and Jupiter Pipeline, and all other pipelines small and large, like the one recently found to be leaking huge amounts of Methane, to which the European Space Agency called our collective attention. This industry is NOT a good transition to renewables. Renewables are more profitable, cleaner, more job-rich, and beautiful, in a region like ours which depends so heavily on Eco-tourism and fishing/shrimping industries.

Note that the NEPA has now been revised to include cumulative harms, which are more than evident in all the current fossil fuel projects envisioned for our fragile Bahia Grande area, the Ship Channel (Brownsville), along Rtes. 4 and 48, past popular fishing grounds, and the sacred site of the Garcia Pasture location for the Carrizo Comecrudo tribe. Our region has treasures unique in the world!

The Upland Lomas (about which Richard Moore recently made a film to be shown May 7 at the STEC in Laguna Vista (10 AM), Endangered Species like Ocelot and Aplomado Falcon, sea grasses, oyster beds, shrimp breeding wetlands with unique and valuable plants for protection, and various listed birds and seabirds. It is your role not to approve or monitor projects only, but to protect the common good and the public from the serious safety and transport risks. (Re: the recent massive Methane leak, worst in more than a year, and worse than 16,000 non-hybrid, non-electric cars' YEARLY exhaust, in only one hour of leakage, see both Aaron Clark and N. Malick's piece in the Bloomberg News, and similar coverage of the infamous leak in the NYTimes).

The era of fossil fools is over: oil and gas are obsolete and will only worsen the conservative estimates of the IPCC Report just issued: we have only 3 years to convert to renewables and end fossil fuel pollution. Our children deserve a livable Earth. Your role is to provide for a future which is not constantly and continuously threatened by extreme storms, heat waves (India this week was OVER 44 degrees C.! -in April!) and floods alternating with droughts, crop failures and wildfires. Fossil fuels do IRREPARABLE DAMAGE, and the vicious feedback loop of global warming will not spare even the wealthiest for long. Please do your duty and regulate, ban, and transform our risky Texas energy and atmospheric picture.

April 28, 2022

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RRC OF TEXAS
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O&G
AUSTIN TX

To: Oil and Gas Strategic Plan Comments/Oil and Gas Division
Railroad Commission of Texas (RRC)
P.O. Box 12967
Austin, Texas 78711-2967

From: Earthworks
1612 K Street, NW
Suite 904
Washington, D.C. 20006

Subject: RRC Draft Annual Oil and Gas Division Monitoring and Enforcement Plan for
Fiscal Year (FY) 2023

Dear RRC Oil and Natural Gas Division:

Thank you for the opportunity to comment on the RRC's draft Annual Oil and Gas Division Monitoring and Enforcement Plan for FY23 (RRC Plan). As stated on rrc.state.tx.us, "the Texas Legislature in 2017 directed the RRC to develop an annual plan to assess the most effective use of its limited resources to protect public safety and minimize damage to the environment. The RRC will always strive to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program. The purpose of the plan is to define and communicate the Oil and Gas Division's strategic priorities for its monitoring and enforcement efforts. The plan confirms many of the division's current priorities as well as establishing direction for data collection, stakeholder input, and new priorities for FY23."

Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions. We promote clean air, water and land, healthy communities, and corporate accountability. We work for solutions that protect both the Earth's resources and our communities. We fulfill our mission by working with communities and grassroots groups to reform government policies and improve corporate practices. We expose the health, environmental, economic, social, and cultural impacts of mining and energy extraction through work based on sound science.

Summary

The relevant technical comments that follow are organized by the chronology of the details described by the draft RRC Plan that is dated March 29, 2022. After given the opportunity to review the document, there are significant areas of improvement that are needed in the RRC Plan before it is finalized. Many of the document's current details are scant and the presentation of the narratives are clunky. Earthworks used two of its own technical reports based on actual field documentation and RRC's own records for comparison to comments and statements made in this draft RRC Plan. In reality, the RRC systemically fails to regulate flaring and its recordkeeping

and tracking mechanisms are lacking thus, there is an inability to ensure public safety and environmental protection.

Relevant Technical Comments

As described in the RRC Plan's preface on page 2 (presumably because there is no page number on the first three pages and the fourth is labeled as page 5), "The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program." With that in mind, these relevant technical comments are being provided to identify shortcomings and places for improvement in the RRC's current program and in more thoroughly developing, strategizing, and improving the RRC Plan and thus, monitoring and enforcement for Texas' citizens and the surrounding environment in FY23. In a ground-truth reality check of recent observations and findings, Earthworks' report titled *Flaring in Texas – A Comprehensive Government Failure*, August 2021, will be referenced in the following technical comments where relevant.

In the Strategic Priorities for FY2023 narrative on page 5, it states that the "... Plan includes two goals: to accurately demonstrate the Commission's oil and gas monitoring and enforcement priorities; and to strategically use the Commission's oil and gas monitoring and enforcement resources to ensure public safety and environmental protection." Though these comments are listed in an introductory paragraph, there is no specificity to the statements just generalizations. Though the narrative indicates that the concepts are further developed later in the document, further review of the RRC Plan reveals few details.

The Plan states on page 8 under the Inspections header that "The Commission continues to strengthen recruitment efforts to maintain a staff of approximately 185 oil and gas inspectors," and "in fiscal year 2021, the Commission conducted 308,922 inspections." This is a bit curious as the RRC Plan declares on page 9 that the "..... 308,922 oil and gas well and facility inspections for the fiscal year comprised of 177,455 well level inspections of 122,824 unique wells and 131,677 inspections of other oil and natural gas facilities." The numbers do not add up, and there is an inconsistency here as there is a 210-site difference. Is this a mistake or is there a RRC tracking problem? And how does RRC define "..... other oil and gas facilities"? Clarification on this matter would be helpful considering there can be significant differences when comparing single wellheads with complex infrastructure.

In making reasonable assumptions and given the benefit of the doubt, 185 inspectors (with full RRC staffing) making 309,000 inspections over a 335-day period (accounting for 27 days off involving state holidays, annual leave, sick leave, and perhaps compensatory time) calculated to an average of five oil and gas inspections per day not counting other assigned work duties and travel time. In using these assumptions for an average 7-hour workday (minus an hour for logistics, driving time, communications, etc.), RRC inspectors spend an average of 1.5 hours at each site regardless of whether the Inspection, Compliance, and Enforcement (ICE) system that is used to document real-time inspections of oil and gas facilities electronically is available in the field via laptop computer or tablet or not. Moreover, although page 14 of the RRC Plan mentions

that “The General Appropriations Act appropriated \$25,548,454 and 281.9 FTEs for the oil and gas monitoring and inspection strategy and \$56,151,742 and 139.6 FTEs for the oil and gas plugging and remediation strategy for fiscal year 2023,” there is no mention of hiring more field inspectors to conduct more thorough inspections.

This lack of transparency is troubling especially considering that the RRC Plan includes “.... a target to inspect 345,000 wells and other facilities in fiscal year 2023,” as stated on page 8. One might wonder whether the RRC plans to use the same 185 field inspectors to survey 36,000 additional sites with the same resources or whether additional field staff will be hired. It would help to add this detail because if not, 185 inspectors would on average be required to conduct some 5.5 inspections per each workday. Inspection speed and daily quantity does not equal quality, as documented by the abundance of oil and gas field emissions documented by Earthworks and other non-governmental organizations by traditional monitoring, optical gas imaging (OGI), and other remote sensing technologies.

As described on page 11 of the RRC Plan, “the Office of the General Counsel administers, and tracks voluntarily self-audits conducted by oil and gas operators under the Texas Health and Safety Code.....” and “..... The Commission encourages all operators to take advantage of the Audit Privilege Act to ensure that their regulated facilities are safe and in compliance with Commission rules.” There is little detail in the paragraph other than the website and email addresses. Realizing the specific details on individual companies/sites is considered confidential, it would be useful to provide more detail on this subject matter since the RRC is strongly promoting its use. How many sites took advantage of the Audit Privilege Act by year and what are some examples of the declarations made? Did the RRC follow up on facility repairs, and if so, what were the general findings on these inspections? In addition, does the RRC actively coordinate with the Texas Commission on Environmental Quality (TCEQ) on these relevant declarations/findings, and if so, what are the coordination details in these matters since oil and gas emissions and maintenance activities are relevant to both regulatory agencies?

As continuously demonstrated throughout the RRC’s Plan, there is a lack of transparent information within the document. Under the complaints narrative on page 11, the RRC states that “The Oil and Gas Division Operations receives between 500 and 600 complaints each year,” including some 478 for FY21. Though it states that 450 of the 478 were resolved in the same FY, there is no specificity on the topic. It would be useful to share what type of complaints were received, if the RRC holds workshops to promote the opportunity, and how many of the complaints had merit to better understand the overall success to the RRC’s implemented program. Again, though confidential company information cannot be shared, additional details would shore up this narrative with the RRC Plan.

In the Goal 1: Accurately demonstrate the Commission’s oil and gas monitoring and enforcement activities narrative starting on page 14, the Action Item 1: Improve Data Transparency section describes that “In fiscal year 2023, the Commission’s progress towards transforming all applications out of its legacy mainframe environment will continue” statement

provide few details beyond pursuing “..... cloud-based software to provide improved data access and reporting options for staff, operators, and the public.” It also states that “.... new systems allow for online filings and tracking of regulatory Oil and Gas Division information, including filings for Form P-5 Organization Reports....” Though the paragraph uses the word “transparency,” there is little of it in the narrative, as there are no details on recent accomplishments or what a full transition of technologies would look like and with what affects.

Though there is little detailed information in the Action Item 3: Disseminate study findings section on page 15, it does state “The General Appropriations Act directed the Commission to develop a strategic plan on flaring data.....” so that the “..... Commission will disseminate the findings to the legislature and interested stakeholders, evaluate potential solutions to clarify any discrepancies identified by the flaring study.....” It is curious to see that although the 87th Legislature in 2021 directed a flaring study, the RRC has yet to pursue this important directive that will result in incomplete/unfinished/not started yet conclusions for the 88th Legislative session in 2023.

This is even more troubling considering key findings on Earthworks’ report titled *Flaring in Texas – A Comprehensive Government Failure* in August 2021 where 227 flares were directed observed and recorded during helicopter flyovers with OGI cameras. This scientific study documented that 84% observed flares were illegal – i.e., did not have required flaring permits (Rule 32 exception). The study design - removed sites from the flyovers that never documented flaring (i.e., the flare was not operating; flares that were active but unlit were still included), removed sites from the flyovers not in the state of Texas (the Permian crosses into Mexico), and removed any flare not within 200m of a well site. After the data was cleaned, every site within 200m of every flare was cross referenced with the RRC Master Flaring and Venting Document to determine which sites ever had a permit to flare and for what time period they were permitted. These dates were then cross referenced with the dates of the flyovers.

When prompted with these facts, the RRC was able to identify an additional 36 flare exceptions applicable to those 227 locations. Thus, if the RRC correctly identified that its real-time recordkeeping is insufficient, then 69% of the 227 directly monitored flares were not compliant with permitting requirements. This Earthworks’ report documented both poor recordkeeping and regulation compliance for actions that are designed to control emissions to ensure safety and minimizations of emissions.

Despite being a critically important topic to minimize the effects of harmful emissions that negatively affect the public and air quality in Texas, flaring has little mention within the RRC Plan. Venting/flaring is mentioned as a common complaint on page 34, though it does not seem to be an important topic for the RRC’s Oil and Gas Division as there is practically no mention of the work “flaring” within the draft document. Beyond the troubling flare data issues that were uncovered and described within the Earthworks’ report, there seems to be no focus on emphasizing proper flaring operations, representations, and maintenance activities for oil and gas sites in Texas.

Technologies to assess and minimize flare operations and emissions have developed over the last few years, though companies still need encouragement to use them to minimize emissions and damage to the environment. The RRC owns multiple Teledyne FLIR GF320 OGI cameras that could be used to assist industries in assessing its flares during RRC inspections, special projects, and/or audits. Earthworks has no ties to the company, but Providence Photonics' Mantis™ Flare Monitor can be used to measure combustion efficiency, smoke index, flame stability, flame footprint, and heat release. It would be extremely helpful for safety and the environment if folks in the oil and gas field used the technology and/or if its use was encouraged by the RRC for regulatory benefits.

Moreover, drones equipped with OGI cameras and/or chemical sensors could add companies and/or the RRC to quickly assess oil and gas sites. As stated, the RRC could use the tools as described, though benefits to companies for the use of technologies would achieve the same goals. And finally, the TCEQ conducted a steam-assisted flare study back in 2010 that led to the creation of a flare operator training course by a partnership between the TCEQ, the University of Texas, and a technical stakeholder group that included energy representatives. The RRC is certainly capable of leading an effort to help develop an on-line oil and site training course on flare operations and maintenance activities that would include both lit and unlit flares as the TCEQ did. A proactive concept like this is relevant to the Educational Opportunities section on page 16, also.

On page 15, it states, "As of August 31, 2021, the Commission's schedule of wells contained 440, 874 wells" and "the Commission will inspect at least 88,000 wells during fiscal year 2023 to meet the performance target for inspection frequency." This number of wells and the inspection goals do not seem consistent with the references to "..... 308,922 oil and gas well and facility inspections for the fiscal year comprised of 177,455 well level inspections of 122,824 unique wells and 131,677 inspections of other oil and gas facilities" on page 9. The numbers may be accurate (or not) but outwardly the numbers are either incorrect or need further clarification as the thoughts are muddled.

The Action Item 2: Orphaned Well Site Plugging, Remediation, and Restoration Federal Funding section on page 15 states that "In fiscal year 2023, the Commission will begin to implement a new federally funded orphaned well plugging program" and that "during Phase One, Texas anticipates funding of nearly \$83 million of formula funds and \$25 million of initial grant funds." Despite this narrative, there is no estimation the number of Texas wells that may be plugged with these funds. This stands in contrast to the Action Item 3: State-Managed Well Plugging Program section on page 16 that states "With revenue from assessments on the state's oil and gas industry deposited in the Oil and Gas Regulation and Cleanup Account, the Commission anticipates plugging 1,000 wells during fiscal year 2023." The wording in Action Items 2 and 3 is not clear on how they relate to each other (or not). How are Texas' monies to be spent both in the Cleanup Account and from the Texas Legislature in relation to the new federal funded orphaned well plugging program?

In the Data section information listed on pages 17 – 21, multiple tables compare statistics from Fiscal Year 2020 (actual as of March 16, 2021) and Fiscal Year 2021 (actual as of February 16, 2022). On page 18, the RRC Plan states “The data presented below for fiscal year 2020 was current as of March 16, 2021, and for fiscal year 2021 as of February 23, 2022.” The time period comparisons are ineffective as presented. It would be more helpful to have 12-months of data for FY20 rather than a shortened timeframe. And as currently presented, +7 months of data is being compared with +6 months of data so that does not make sense as it is not a one-to-one comparison. Moreover, since the draft RRC Plan was released on March 29, 2022, there appears there was time to calculate a one-to-one comparison if there was a robust tracking program.

In this same Data section on page 17, it states “The Commission collects data that accurately shows the Commission’s oil and gas monitoring and enforcement activities. This edition of the annual *Oil and Gas Monitoring and Enforcement Strategic Plan* includes data from fiscal year 2021, alongside comparative data from fiscal year 2020.” Well, the first obvious thing is the title just mentioned is not the same title of the RRC Plan that is being reviewed. Secondly, though it states the number of alleged oil and gas violations sent to the Office of General Counsel Legal Enforcement, it gives no information of how many of the violations were referred to the Texas Attorney General’s Office. And finally, the word “monitoring” implies that environmental samples are collected when nothing is further from the truth as the data and narratives are currently presented. This is confirmed in Appendix A: Standard Operating Guidelines: Inspection Priorities section on page 22 where inspections are emphasized, as opposed to monitoring activities.

The RRC Plan states on page 23 that known compliance issues include “Spills and/or releases that impact or pose an imminent threat to sensitive areas.” This phrasing and its meaning are very unclear as worded, as this can be applicable to the TCEQ, also. The word “releases” could include typical permitted emissions from a storage tank battery, flare, leak detection and repair components and fittings, et cetera that are in the field near or upwind of populated areas with downwind receptors. This narrative needs to be clarified, reworded, or needs to describe how the RRC’s regulatory responsibilities are different than the TCEQ.

It is interesting to note that Appendix B: Definition of a Major Violation section on pages 26 – 27 says nothing about unlit flares. In addition to the tremendous emissions that are released by unlit flares that are many times unpermitted, the emissions have potential to dip down over downwind properties including the very same oil and gas site where from where the plumes originate. This scenario is prevalent during Earthworks OGI field activities in the Eagle Ford and the Permian Basin and needs to be resolved through regulatory efforts and/or voluntarily company assessments and improvement.

With regards to receiving complaints as referenced at the top of page 32, the RRC Plan states that “The staff member may refer the complainant to another entity such as the Sheriff’s Department, the TCEQ, the legal system, or another resource.” There is little doubt that the RRC

receives complaints from parties unsure of regulatory responsibilities, but it would be helpful to better describe the types of citizen complaints that the RRC receives so that these situations could be better resolved by RRC communications. Because of potential crossover between the regulatory responsibilities of the RRC and the TCEQ, it would be appropriate to understand the number of complaints that the RRC forwards to the TCEQ by FY.

The need to clarify complaint language and expectations runs deep within this RRC Plan, as exemplified by the Subsequent Action section on pages 32 – 33 where it states that in cases of issued Notice of Violations (NOVs), “..... the operator is given a specified time in the NOV to bring the lease into compliance.” This non-specificity is consistent with wording in a Notice of Intent (NOI) where a site is given “..... an additional period to bring the lease into compliance,” and with the wording in possible lease severance where it states, “If the operator has made significant ongoing progress resolving the violations, an extension for enforcement action may be granted at the discretion of the District Director.”

It is not at all clear in the RRC Plan if the Agency has full time discretion in enforcement timeframe matters or follows a set written protocols that establishes time limits for specific problems/issues. Without providing this technical information within this document and/or established time limits for repairs and modifications, it gives the impression that compliance issues have potential for unlevel play depending on company relationships. Moreover, per the wording in the RRC Plan, does the Agency coordinate with the TCEQ in matters of extended periods of significant emissions that are actively released under known circumstances to minimize impacts to the environment so that natural resources can be protected with minimal safety impacts to downwind/downstream receptors and so that issued permits and emission inventories can be updated? If this cross-agency coordination happens, it would be appropriate to clarify these matters in this document, and if not, the RRC and TCEQ have a glaring area for relationship and coordination improvement.

Though there is a description of the RRC’s regulatory jurisdiction on page 5, there is scant complaint details regarding jurisdiction in the RRC Plan, as referenced in the Types of Complaints section narrative on the bottom of page 33 when it states that “The Commission has jurisdiction over activities associated with the exploration, development, or production of oil or gas or geothermal resources, including storage, handling, reclamation, gathering, transportation, or distribution of crude oil or by pipeline, prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel.” There is a reference to a state code immediately afterwards, but the RRC Plan is not clear in describing how the jurisdiction of the RRC and TCEQ relate and diverge from one another. It would certainly be helpful if this were further clarified for outside parties.

In addition, at the top of page 34, it states that “Some complaints may involve the complainant’s lack of understanding of oil and gas operations or may be made with malicious intent. However, all complaints must be considered valid and pursued until resolution is achieved.” Without knowing if it is a wide-spread problem, the “malicious intent” wording seems inappropriate for

the document and could be more effectively communicated with alternative phrasing such as “All complaints must be considered valid unless it is determined that they do not have merit. Regardless, all complaints are pursued until resolution is achieved.”

In the Common Complaints section on page 34, the document states “Dust, noise, odors, and air contaminants, traffic – complaints of this nature may be under the jurisdiction of the TCEQ in the case of air quality or local authorities including law enforcement. Although the Commission does not regulate odors, it does regulate crude oil spills and releases of H₂S, which may cause odors.” First, the TCEQ does not regulate noise and traffic, therefore the RRC Plan wording is at best incorrect and at worst deceiving. Secondly, the RRC and TCEQ do have crossover responsibilities for H₂S emissions, thus the phrasing of “releases of H₂S” does not clarify things. Sour oil and gas sites release H₂S emissions almost continuously from flares, separators, storage tanks, et cetera so what does the term “releases” mean?

Per details in the recent Earthworks’ report titled *Fatal Vapors – How Texas Oil and Gas Regulators Cause Avoidable Deaths* in January 2022, the RRC does a poor job in tracking and regulating H₂S emissions in general. With the implementation of State Rule 36, the RRC is responsible to ensure the proper tracking of H₂S in well gas. A study of self-reported company data publicly available revealed that of the approximate 19,000 wells in RRC District 8 over 10,000 wells did not file the required H9 form. After filing a public information request to the RRC for its H9 tracking mechanism, the RRC reported that “After consulting with various staff members, the RRC does not generate a list of H9 request letters that are sent to operators. This indicates that the RRC has no system to make sure operators file required H9 forms.

Moreover, if the RRC regulates “H₂S releases,” why does the Agency not enforce 30 Texas Administrative Code, Chapter 112 regulations for H₂S emissions? And finally, if the RRC regulates “H₂S releases,” why does the RRC not feel a need to help establish/enforce/promote regulations/voluntary actions to minimize and prevent continuous emissions, that often include H₂S content, from unlit flares that negatively affect air quality in geographic areas like Luling, Texas and the Permian Basin?

The Closure of Complaints Referred to Enforcement section at the bottom of page 35 states that “A complaint can be closed provided there is no active pollution occurring” This phrasing seems very unclear as control equipment no matter how well it is working (or not) is designed to release emissions, thus this is why companies are required to obtain permits. If emissions are being actively released whether permitted or not, they are adding pollution to the airshed or on ground cover, so the phrasing is inappropriate and misguided, thus clarification is merited.

At the bottom of page 36, it states that “Complaints can be closed and referred to State-Managed Plugging (SMP) when there is no active pollution occurring, there is no current active operator available to bring the well into compliance with the plugging requirements, or the well is not being referred to Legal Enforcement” and “.... will be eligible for plugging consideration in accordance with the established priority system and budgetary complaints.” The RRC Plan is

unclear as currently worded on how this information correlates with the Action Item 3: State-Managed Well Plugging Program narrative on page 16. The acronym SMP is not used on page 16, and there is no detailed discussion on the “budgetary constraints” mentioned on page 36. And moreover, since the narrative on page 36 refers to “.... no active pollution is occurring,” how is the RRC determining that no active pollution is taking place?

Is the RRC using its OGI cameras to determine that there is no pollution and/or is it conducting downwind monitoring for volatile organic compounds including but not limited to methane and H₂S? A well-meaning regulatory agency would purchase QL320 tablets for its current fleet of OGI cameras to quantitate emissions so that findings and observations can be shared with the regulated community. By doing so, pollution can be minimized to better ensure the safety of the site and minimize the negative impacts to our natural resources. This would be consistent with the RRC Plan’s preface on page 2 that states “The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program.”

This technical assessment has been reviewed, approved and is being submitted on behalf of Earthworks.

Sincerely,



Tim Doty
TCHD Consulting LLC – President
Certified Level III Thermographer
tchdconsultingllc@gmail.com
512.644.4830

Commission Accepting Comments on Draft Oil and Gas Division Monitoring and Enforcement Plan

April 23, 2019

In 2017 the Texas Legislature (H.B. 1818, 85th Legislature, Regular Session, 2017) directed the Railroad Commission of Texas to develop an annual plan to assess the most effective use of its limited resources to ensure public safety and minimize damage to the environment. The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program.

The purpose of this plan is to define and communicate the Oil and Gas Division's strategic priorities for its monitoring and enforcement efforts. The plan confirms many of the Division's current priorities—to ensure public safety and protect the environment—as well as establishing direction for data collection, stakeholder input, and new priorities for fiscal year 2020.

House Bill 1818 directed the Commission to seek input from stakeholders in the development of this plan. We look forward to hearing from you as this planning process moves forward.

To view the draft plan, visit the Commission website (</oil-and-gas/compliance-enforcement/enforcement-activities/>).

To submit comments online by 5 p.m. on May 23, 2019, complete the survey at *(N/A)*

Alternatively, please send written comments to:

Oil and Gas Strategic Plan Comments/Oil and Gas Division

Railroad Commission of Texas

P.O. Box 12967

Austin, Texas 78711-2967

Comments received by mail after May 23, 2019 may not be incorporated into the fiscal year 2020 iteration of the plan but will be reviewed.

Public Comment Received as of April 29, 2022

Elida Castillo, Texas

The RRC need to enforce regulations and laws instead of skirting the issue. The Oil & Gas industry has gotten away with polluting the area long enough.

Geoffrey Reeder

The RRC regulates disposal of O&G exploration waste in landfills. The existing guidance is not protective of human health and the environment. It is embarrassing that Texas' little sister, Louisiana, has much better regulations governing oilfield waste disposal. The RRC needs to have properly trained, competent staff to review waste permit applications. During a recent, contentious permit hearing it was revealed that the technical staff missed basic errors in the permit application.

The RRC should revise the permit application process. During that contentious hearing mentioned previously, the applicant was allowed to submit one hundred changes to the application. While some might argue those changes only made the application better others would say those improvements should have been included from the beginning.

Once an application is submitted and the RRC's questions are answered no further changes should be allowed. In school, once you turn in your test, you can't go back to your seat and say "I thought of a better answer, let me change my paper." You certainly couldn't do that 100 times.

Public Comment Received as of April 29, 2022

Gerard Simon, Texas

The current RRC has not developed an annual plan that protects public safety and minimizes damage to the environment. Why would this new plan be any different. I disagree that the RRC strives to do anything but line the members' pockets with money from the large corporations they protect. Pathetic!

John Conner, Texas

There are legacy Wells on the Pecos River with existing wellheads not in the RRC GIS records (i.e. no API #, or posted in RRC GIS)

60% of known Legacy wells are miss represented in the RRC GIS by 50' and greater

Wells are continually being plugged and abandoned but their digital location is still miss represented in the RRC GIS, making them miss represented wellbores of the future with no surface evidence to identify their location.

Many legacy wells have been plugged and abandoned and their records do not appear in the RRC GIS (RRC does state that their online records only go back to 1964 but it is not clear how far back their RRC GIS goes). Often these legacy wells appear on a topo map or in old libraries hard copy records (i.e. Midland Energy Library for the Permian) but are not in the RRC

The RRC digital records continue to grow and unless a sound "gatekeeping" process is put in place, the issue of miss represented or unknown well locations is going to continue to exist and as wells are plugged and abandoned or orphaned, the problem continues to grow accordingly.

The public sector, industry, landowners, even the RRC itself depend on the RRC GIS and supporting records. Everyone depends on the "digital" data and assume it to be correct because it is digital but it cannot be depended on to be correct.

In our G-Forensic white paper, previously provided to the RRC, we identify solutions to the well location issues. It is a tremendous task to correct the RRC surface hole well locations (SHL) but we have to start somewhere as all the bottom hole location of wells (BHL) are dependent on the SHL location so accuracy is important at the surface and the subsurface.

We should start with putting a reliable and verifiable "gatekeeping and governance" process in place for orphan well locations and P/A locations. For orphans wells, go back year by year and resolve miss representation errors and update the RRC records accordingly. Same should be done for wells as they are plugged and abandoned, ensure their location values are correct/corrected and updated in the RRC as well and start going back year by year and correct. In an example of the plugged wells on the Rocker B Ranch it shows wells P/A'd and yet still miss represented. This is total lack of governance.

We also believe that a team of experts needs to be put together and work with RRC and industry and build a more reliable digital well data set that is made available via the RRC GIS which in turns benefits everyone. A lot of operators have better and more reliable location data than the RRC that currently they don't want to share with the RRC.

Collaboration between the RRC, industry, and suppliers should be considered for building a common and reliable land survey grid as everyone is using something different with the RRC land grid being the most unreliable. Again, the public only has access to the RRC land grid for their use.

In general, the RRC needs to have a "governance and gatekeeping" process in place for the verification of their digital well data location (surface and subsurface) and adhere to the old saying "measure twice, cut once", in other words double check the data before putting in the database.

Julian Martin, Texas

Historically, mechanical pressure tests have been used to evaluate integrity breaches anywhere along the well system, whether they occur in operational wells, temporarily abandoned wells, or plugged and abandoned wells. This strategy has been demonstrated to be partially successful because to a lack of prior knowledge on the real hydraulic sealing of the completion elements: casing shoes, casing-cement-formation bonding, overcharge formations, and aquifers, for example. Because the source of effluents are frequently unknown, many of the operations conducted in such wells are blindfolded and must be repeated over time, resulting in inefficiencies and increased costs. Technological improvements have provided new methods for diagnosing wells thru tubing, allowing for more accurate evaluations of the mechanical and sealing condition of such wells. These technologies can be used in a variety of completion configurations to determine the isolation and sealing capabilities between formations, casing-cement-formation, current or potential effluent sources, and so on, which are critical variables when designing a proper repair or well abandonment operation. This the above in mind and following recently released Norsok standard D-10:2021 last January 2021, I would like to suggest the addition of passive acoustic technologies to verify: 1. Active sources of reservoir fluid movements such as cement hydraulic isolation (having cement bonding doesn't mean you have hydraulic seal, casing/completion leaks, formation x-flows, fluid flows towards aquifers, etc which goes beyond the simple pressure test performed currently.

Laura Briggs, Texas

My name is Laura Briggs. I live on my rural property (farm/ranch) in Pecos County, Texas. We have had and are continuing to experience terrible oil and gas operations on our land. I found this public comment opportunity just today, and the deadline for submitting comments is in just a few hours, so I will respond to the enforcement plan quickly here.

The Enforcement Plan is a summary of the RRC soft paperwork enforcement already in place, and my experience shows what is in place is realistically useless, time consuming, a costly hurdle for landowners, and nothing more than a feel good plan to accept federal funding to try to plug some old wells.

While big reputable operators may be persuaded by the rubber teeth of the RRC and it's so called limited resources of inspectors, lawyers, commissioners, and as Wayne Christian stated in the April RRC meeting something like 480 professionals in the RRC, landowners watching their property being destroyed have themselves and whatever attorney power they can pay for against the RRC paperwork and legal machine.

My experience is with small shotty operators, taking old leases for short stints to scrap metal and oil; and then the oil and gas scam operators. The scrappers just take everything of value off the property, but the scammers are the ones that profit and make the RRC look very powerless and stupid. My experience with this started with Aegis Oil and Gas. They obtain old leases like the ones here, and sell investments, and drill useless wells as fast as they can get permits. Then they file bankruptcy, leave their mess behind for the RRC, the State of Texas on the GLO lands, and the landowners.

But, Aegis did not just file bankruptcy and go away, 7S Oil & Gas bought him out and did the scam again, then Arch Oil & Gas bought the scam, and then Beach Oil & Gas, AVP McCamey and now according to press releases Maverick and Hard Rock have purchased the 7S Oil & Gas offices and leases.

So, even with SEC indictments, Texas SSB indictments, liens, and scores of complains, like using pits to dump produced water for years, setting up fake drilling rigs, stealing oil, producing without a P5/P4, and not plugging wells, as long as the "operator" changes and their paperwork gets filed the RRC lets it. Nothing in this draft will help stop the mess left by fraud.

The RRC has insisted that stopping fraud is not their job, that has to be the Sheriff, Oil & Gas task Forces, SSB and SEC. These agencies do not work together. What is left on my ranch is pump jacks not connected, one tipping, wells that need to be plugged, power lines down that Oncor says I should not touch but are hanging low enough you can not ride a horse or drive a truck/tractor under them, an open tank of oil/water and miles of abandoned fast line.

My best hope is a scrapper operator to come clean up the mess and pray the scammers find another property to use. What is the RRC plan to control fraud operators that pacify the paperwork and fee requirements? Why does it take years of persistent complaints to get the RRC to shut these non-complaint operators down? Then when they trespass and produce oil by leaving the pump jacks open and taking the free flow oil nothing happens to them for the theft? This is the equivalent of an open border for scammers, and they know it.

Laura Briggs 432-448-4532, laurabriggs308@gmail.com

Lucas C. Jasso, Texas

Query: Has any employee or state representative ever asked an ordinary person what is RRC. If they do not know when provide your definition as Rail Road Commission, then what do we think the response would be? I would be willing to bet they would guess it has to do with the railroad. the RRC. This is from the enforcement activities" (The RRC will always strive to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program.) With all due respect, I will cite one activity I am constantly seeing. If black smoke should not be flowing from a flare, then why am I constantly seeing black smoke in the north side of FM 792 toward Panna Maria?

The 21st of May 2015, an explosion took place directly in front of my home on FM 792 in Karnes County. I was out of town at a doctor's appointment, when I received a call from my neighbor asking me not to come back due to the explosion. I was out 42 days from the house. My animals were exposed for 14 days after exposure. My grown bull died while in their custody. I can go on and on to cite examples of that above underline statement has not always complied with it. Below are some sites you can see for yourself. I am providing a chart of what was spewed. Please note the amounts. I am not chemical savvy; however, I do know how toxic benzene the carcinogen producer is, and the chart did leave me with concerns.

Well Explosion Douses Texas Neighborhood Already Weary of Fracking - Inside Climate News Weeks After Texas Oil Well Explosion, Families Still Can't Go Home - Inside Climate News.. Encana Corp. reported that the accident released over 760,000 pounds of crude oil and possibly tens of thousands of pounds of gas and into the air. The company estimates that the crude was worth more than \$197,000. The county sheriff called the May 19th accident the 'worst environmental disaster in more than 20 years', leaving trees, fields, roads and houses covered in oil and displacing numerous families.

Encana well blowout leaves oily mess of spewing natural gas, propane, butane, benzene and toluene and forces nearly 2 dozen families from their homes in Karnes County, Evacuees anxious to see the damage to their homes | Ernst v. EnCana Corporation (ernstversusencana.ca) Landowner Jessica Ernst sues EnCana (Ovintiv) and Alberta government regulators over water contamination.

Lastly, check out how many name-changes the Canadian oil and gas giant has gone applied to its operations. google this for the chart....Encana well blowout leaves oily mess of spewing natural gas, propane, butane, benzene and toluene and forces nearly 2 dozen families from their homes in Karnes County, Evacuees anxious to see the damage to their homes

Neta Rhyne, Texas

After reviewing the Railroad Commission of Texas' (RRC) Plan on oil & gas monitoring and enforcement, and in consideration of my personal experiences protesting permitting of SWDs in a "historic" seismic active area, it is evident that seismicity is not a priority for the RRC.

A seismic response plan it's not highlighted nor included in your goals. The RRC's has clear authority to regulate saltwater disposal well activity and can address seismic activity according to Title 16 of the Administrative Code Rule 3.9 (6)(A)(vi) and 3.46 (d)(1)(f).

Numerous studies suggest a direct connection to the increase of seismic activity to injection wells yet the RRC has greatly limited its response to classified small or limited areas as Seismic Response Area (SRA) in which then the RRC will act by either stopping permits, injection or reducing it. In view of the fact seismic activity is expanding in the Northern Culberson-Reeves Area, Stanton, and Gardendale and the earthquakes are increasing in frequency and intensity I ask the for the commissions to expand the SRAs and for your plan to be clear and concise.

In addition, it is important to point out that there is a conflict of interest in having the operators produce the data that will guide the RRC's decision on establishing SRAs, specially without a clear channel of public input on the issue. The RRC's monitoring and enforcement plan denotes the number of complaints you have received and the attempt to follow through with House Bill 1818 (85th Legislature) to seek input from stakeholders but did not include a plan of action. Your plan does not include any actual attempt to develop a better process for public input on public matters of your mission "to serve Texas by our stewardship of natural resources and the environment, our concern for personal and community safety, and our support of enhanced development and economic vitality for the benefit of Texans." The protection of the environment and concern for personal and community safety are above and before support and development of economic vitality. When will the RRC make sure this priority is part of the efficiency which should highlight serving Texans and not the industry of oil and gas alone?

Goal number 2 makes an attempt to bring attention to public safety and protection of the environment but while addressing well inspection it emphasizes "visual." Can we not really include seismic tools around the state (monitored by the state), and or tools of emission measures on the drones?

My family and I live and operate tourist-based businesses in Toyahvale, Texas located in Reeves County. With the onslaught of the oil and gas activity in this area and the increase in earthquakes, the seismic activity has become an area of concern. On March 26, 2020 our home was damaged by a 5.0 Earthquake which was reported to have "shook" the Big Bend area of western Texas. The quake epicenter was approximately 60 miles northwest of Toyahvale, about 27 miles west of Mentone, Texas, and was located 3 miles below the surface. Residents of El Paso, about 175 miles west of the reported epicenter, felt the quake, which was originally rated at 4.7 magnitude.

The March 26, 2020 5.0 earthquake caused damaged to my home and as a result my family and I suffered economic harm. Those in the disposal well business claim this earthquake was caused by "fracking" yet the "experts" claim that the earthquakes in this active seismic zone have a direct link to disposal well activity.

Public Comment Received as of April 29, 2022

Per RRC's own admission the increase in seismic activity in west Texas is a direct result of disposal well activity.

The RRC can and should do better, you are obligated to protect Texans and our land and Texans like myself and my family are suffering the consequences of your failure to properly monitor and enforce the oil and gas industry.

Randall Mohammed Florida

I would like to see specific inspections to contingency or disaster preparedness plans to deal with well blow outs, oil spills, gas leakage, explosion and fire, cyber attacks, pipeline failure and adverse weather. Each company should develop and maintain contingency plans to address the above scenarios. Furthermore those plans must be updated each year ensuring call out numbers, personnel and contractors are current. It also means first response ie fire, ambulance and police are aware of such plans and have the required training and resources to respond. In addition each company should conduct mock drills annually to ensure each person understands their roles and responsibilities. Shortcoming documented and corrected. A mutual aid scheme model could be developed by members for members.

Measures to reduce the use of fresh water in frac fluid. All attempts should be made to reuse flow back water, having treated it to industry standards. Using grey water either via pipeline or trucked in should be assessed and considered as an option to minimize fresh water usage. A fund should be established to do R&D on how to conserve fresh water.

Flare gas mitigation and measuring methane emissions should be priority 1) reduction 2) inspection 3) correction 4) reporting and data

Schuyler Wight, Texas

The RRC's orphan well plugging program is woefully inadequate to stay ahead of the liability and damage to the environment and ecosystem. My ranch has over 100 orphan wells on it. The RRC does not plug one until it starts to flow to surface. By that time, the damage is done. When they go into the well, there is pipe in the hole, wellbore problems, casing parted, and a host of other issues that turn what should have been a \$20,000 plug job into a \$200,000 plugging operation.

There are 3 wells on the ranch that are in the Pecos riverbed. According to the RRC's ranking system, they will not become a high priority until they actively leak into the river. This is really a shame that the regulatory agency can't put a priority on wells that are in a sensitive area. There are a number of P-13 wells that are actively flowing to surface. I don't have the means to plug them.

Years ago, they were given to the landowners who did not and will never have the means to plug them. In what universe does it make sense to turn an environmental problem that pollutes the water that we all depend upon to someone who does not have the wherewithall to handle and fix the liability? There are several operators on the ranch who are financially suspect who are allowed to keep operating.

They can't even afford to pay their royalties to the mineral owners. When the next downturn in the oilfield happens, these operators will bankrupt their company and turn the liability over to the taxpayers. Also on my ranch, there are approximately 30 wells that the RRC does not have in their GIS database. One of them has been leaking salt water to surface for over a decade. This well was drilled as a sulphur test well in 1969.

The RRC refuses to plug this well because it ain't in their database. Part of the RRC's mission statement is to protect the environment. I'm no expert in bureaucracy, but it is clear that their system of managing their liability is broken. Letting this continue is not a good plan. Leaving this looming problem for our children is not the right thing to do. Thank you, Schuyler Wight

Tara Jones, Texas

Railroad Commission of Texas, Thank you for once again giving the public the opportunity to provide comment on the Annual Oil & Gas Division Monitoring and Enforcement Plan for 2023. The importance of protecting the health and safety of the public and the environment is the driving factor behind this plan's existence. These vary issues are also of utmost importance to members of the public as well as employees of the state of Texas that have experienced adverse health effects caused by operators that are bad actors in the industry in which you over see. The priorities highlighted in this plan need to be instilled in every RRC employee, including the three elected commissioners and emphasized by every manager to all of their subordinate's agency wide. This plan needs to be read by ALL agency employees annually and expectations set by managers on the procedures and protocols that are very clearly defined. Unless this document is fully understood and followed by every employee in the agency, this plan is useless. Please see my comments below.

Pg. 8-9 Inspections

The focus of inspections should be on full all-inclusive quality inspections instead of an increase in the quantity of inspections completed on a year over year comparison basis. Performance targets and the ""aggressive approach"" should be weighted less than it appears to be emphasized in this plan.

Inspectors doing inspections and staff reviewing reports and required documents need to be educated and adequately trained in ALL aspects of permit/law compliance to be able to accurately determine full compliance, not just a few chosen obvious/easy requirements

Checklists for onsite inspections need to be permit specific and contain EVERY permit condition.

Data Reviewers/Technical Permitters reviewing information contained in reports need to be properly trained and know all permit requirements so assure non-compliance issues are discovered, addressed, and remedied immediately.

When a member of the general public reports an emergency, just as this plan states, it needs to be responded to immediately.

Compromised inspectors will also never help achieve the goals outlined in this plan.

Pg. 11 Complaints

The plan states, ""the public is encouraged to report problems or concerns" yet when contact is made with the district office they act as if they are doing you a favor by even accepting your phone call, this behavior/attitude discourages communication with the public not encourage it as stated above. Also, all complaints especially emergency complaints need to be taken seriously. The plan states ""Complaints involving an imminent threat to public health and safety or the environment are investigated immediately."" Deviation from this claim is evident in my personal historical experience and should never happen.

Complainants should be informed of formal versus informal complaint options upfront.

After-hour complaints made by complainants, should at the very least, receive an immediate return phone call by RRC staff, not just communication with an uninformed answering service employee.

The oil and gas industry operates 24 hours a day, 7 days a week, 365 days a year, so should this vital regulatory agency.

Complainants should always receive written updates.

I made a formal complaint 4-13-2021 and 7-8-2021 and did not receive a formal response until 2-2022 after me using this plan's own words to push staff into responding to my complaints.

Pg. 14 Procedures This section should also include monitoring violations by staff in Austin in conjunction with district offices. Active participation and communication between district offices as Austin staff is pertinent to effectively work together to remedy violation issues.

Pg. 31 Appendix D: Receiving Complaints

Every complaint made to the RRC should be assigned a complaint ID number and investigated accordingly, not just complaints that result in violations. If an inspection is conducted as a result of a complaint, a complaint number needs to be assigned. All complaints with complaint numbers should be visible to the general public via the RRC website

Complaints should never be ""inadvertently neglected.""

Pg. 32 Appendix D: Complaint Procedures

Subsequent Action

The procedures laid out in this section should be followed to a ""T"" with little to no deviations, especially #2 at the bottom of the page. ""Following the inspection, the District Office staff member should write a brief complaint letter, including all information received from the complainant, violations found during the inspection and initial action taken. The complaint letter should be mailed to the complainant and filed under the assigned complaint letter.""

Pg. 34 Common Complaints

Jurisdiction- RRC staff needs to listen to complaints and look at the bigger picture when a complaint contains verbiage, such as ""odor"" that would toss it to a different agency for enforcement. In my case because we used the word ""odor"", the RRC automatically took a hands-off approach. It is agreed that odors are within the jurisdiction of TCEQ, however, the waste itself that causes noxious odors are supposed to be under the complete jurisdiction of the RRC. We asked numerous times for the RRC to look into the waste being accepted at a facility because we felt the waste was not under the jurisdiction of the RRC. RRC staff continuously turned a blind eye and refused to look into what waste was actually being received and never looked at it to assure full compliance. If a big picture approach would have taken place instead of deflection, non-compliance would have been discovered in a timely matter and members of the general public as well as employees of the state of Texas would not have experience adverse health effects.

In conclusion, all employees including those with tenure need continuous training. This agency needs to be working for the safety of the general public and not covering up the facts to ensure the success of an out of compliance operator. Inspectors and over-sight staff need the proper training and tools to do their job with high expectations set and enforced with consequences just like you set for operators. I look forward to being able to openly communicate with the RRC to help make this agency and the oil

and gas industry in Texas the best globally. I appreciate your time and for allowing the public to submit these comments. Thanks, Tara Jones "

April 28, 2022

RECEIVED
RRC OF TEXAS
APR 28 2022
O&G
AUSTIN TX

To: Oil and Gas Strategic Plan Comments/Oil and Gas Division
Railroad Commission of Texas (RRC)
P.O. Box 12967
Austin, Texas 78711-2967

From: Earthworks
1612 K Street, NW
Suite 904
Washington, D.C. 20006

Subject: RRC Draft Annual Oil and Gas Division Monitoring and Enforcement Plan for
Fiscal Year (FY) 2023

Dear RRC Oil and Natural Gas Division:

Thank you for the opportunity to comment on the RRC's draft Annual Oil and Gas Division Monitoring and Enforcement Plan for FY23 (RRC Plan). As stated on rrc.state.tx.us, "the Texas Legislature in 2017 directed the RRC to develop an annual plan to assess the most effective use of its limited resources to protect public safety and minimize damage to the environment. The RRC will always strive to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program. The purpose of the plan is to define and communicate the Oil and Gas Division's strategic priorities for its monitoring and enforcement efforts. The plan confirms many of the division's current priorities as well as establishing direction for data collection, stakeholder input, and new priorities for FY23."

Earthworks is a nonprofit organization dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions. We promote clean air, water and land, healthy communities, and corporate accountability. We work for solutions that protect both the Earth's resources and our communities. We fulfill our mission by working with communities and grassroots groups to reform government policies and improve corporate practices. We expose the health, environmental, economic, social, and cultural impacts of mining and energy extraction through work based on sound science.

Summary

The relevant technical comments that follow are organized by the chronology of the details described by the draft RRC Plan that is dated March 29, 2022. After given the opportunity to review the document, there are significant areas of improvement that are needed in the RRC Plan before it is finalized. Many of the document's current details are scant and the presentation of the narratives are clunky. Earthworks used two of its own technical reports based on actual field documentation and RRC's own records for comparison to comments and statements made in this draft RRC Plan. In reality, the RRC systemically fails to regulate flaring and its recordkeeping

and tracking mechanisms are lacking thus, there is an inability to ensure public safety and environmental protection.

Relevant Technical Comments

As described in the RRC Plan's preface on page 2 (presumably because there is no page number on the first three pages and the fourth is labeled as page 5), "The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program." With that in mind, these relevant technical comments are being provided to identify shortcomings and places for improvement in the RRC's current program and in more thoroughly developing, strategizing, and improving the RRC Plan and thus, monitoring and enforcement for Texas' citizens and the surrounding environment in FY23. In a ground-truth reality check of recent observations and findings, Earthworks' report titled *Flaring in Texas – A Comprehensive Government Failure*, August 2021, will be referenced in the following technical comments where relevant.

In the Strategic Priorities for FY2023 narrative on page 5, it states that the "... Plan includes two goals: to accurately demonstrate the Commission's oil and gas monitoring and enforcement priorities; and to strategically use the Commission's oil and gas monitoring and enforcement resources to ensure public safety and environmental protection." Though these comments are listed in an introductory paragraph, there is no specificity to the statements just generalizations. Though the narrative indicates that the concepts are further developed later in the document, further review of the RRC Plan reveals few details.

The Plan states on page 8 under the Inspections header that "The Commission continues to strengthen recruitment efforts to maintain a staff of approximately 185 oil and gas inspectors," and "in fiscal year 2021, the Commission conducted 308,922 inspections." This is a bit curious as the RRC Plan declares on page 9 that the "..... 308,922 oil and gas well and facility inspections for the fiscal year comprised of 177,455 well level inspections of 122,824 unique wells and 131,677 inspections of other oil and natural gas facilities." The numbers do not add up, and there is an inconsistency here as there is a 210-site difference. Is this a mistake or is there a RRC tracking problem? And how does RRC define "..... other oil and gas facilities"? Clarification on this matter would be helpful considering there can be significant differences when comparing single wellheads with complex infrastructure.

In making reasonable assumptions and given the benefit of the doubt, 185 inspectors (with full RRC staffing) making 309,000 inspections over a 335-day period (accounting for 27 days off involving state holidays, annual leave, sick leave, and perhaps compensatory time) calculated to an average of five oil and gas inspections per day not counting other assigned work duties and travel time. In using these assumptions for an average 7-hour workday (minus an hour for logistics, driving time, communications, etc.), RRC inspectors spend an average of 1.5 hours at each site regardless of whether the Inspection, Compliance, and Enforcement (ICE) system that is used to document real-time inspections of oil and gas facilities electronically is available in the field via laptop computer or tablet or not. Moreover, although page 14 of the RRC Plan mentions

that “The General Appropriations Act appropriated \$25,548,454 and 281.9 FTEs for the oil and gas monitoring and inspection strategy and \$56,151,742 and 139.6 FTEs for the oil and gas plugging and remediation strategy for fiscal year 2023,” there is no mention of hiring more field inspectors to conduct more thorough inspections.

This lack of transparency is troubling especially considering that the RRC Plan includes “.... a target to inspect 345,000 wells and other facilities in fiscal year 2023,” as stated on page 8. One might wonder whether the RRC plans to use the same 185 field inspectors to survey 36,000 additional sites with the same resources or whether additional field staff will be hired. It would help to add this detail because if not, 185 inspectors would on average be required to conduct some 5.5 inspections per each workday. Inspection speed and daily quantity does not equal quality, as documented by the abundance of oil and gas field emissions documented by Earthworks and other non-governmental organizations by traditional monitoring, optical gas imaging (OGI), and other remote sensing technologies.

As described on page 11 of the RRC Plan, “the Office of the General Counsel administers, and tracks voluntarily self-audits conducted by oil and gas operators under the Texas Health and Safety Code.....” and “..... The Commission encourages all operators to take advantage of the Audit Privilege Act to ensure that their regulated facilities are safe and in compliance with Commission rules.” There is little detail in the paragraph other than the website and email addresses. Realizing the specific details on individual companies/sites is considered confidential, it would be useful to provide more detail on this subject matter since the RRC is strongly promoting its use. How many sites took advantage of the Audit Privilege Act by year and what are some examples of the declarations made? Did the RRC follow up on facility repairs, and if so, what were the general findings on these inspections? In addition, does the RRC actively coordinate with the Texas Commission on Environmental Quality (TCEQ) on these relevant declarations/findings, and if so, what are the coordination details in these matters since oil and gas emissions and maintenance activities are relevant to both regulatory agencies?

As continuously demonstrated throughout the RRC’s Plan, there is a lack of transparent information within the document. Under the complaints narrative on page 11, the RRC states that “The Oil and Gas Division Operations receives between 500 and 600 complaints each year,” including some 478 for FY21. Though it states that 450 of the 478 were resolved in the same FY, there is no specificity on the topic. It would be useful to share what type of complaints were received, if the RRC holds workshops to promote the opportunity, and how many of the complaints had merit to better understand the overall success to the RRC’s implemented program. Again, though confidential company information cannot be shared, additional details would shore up this narrative with the RRC Plan.

In the Goal 1: Accurately demonstrate the Commission’s oil and gas monitoring and enforcement activities narrative starting on page 14, the Action Item 1: Improve Data Transparency section describes that “In fiscal year 2023, the Commission’s progress towards transforming all applications out of its legacy mainframe environment will continue” statement

provide few details beyond pursuing “..... cloud-based software to provide improved data access and reporting options for staff, operators, and the public.” It also states that “.... new systems allow for online filings and tracking of regulatory Oil and Gas Division information, including filings for Form P-5 Organization Reports....” Though the paragraph uses the word “transparency,” there is little of it in the narrative, as there are no details on recent accomplishments or what a full transition of technologies would look like and with what affects.

Though there is little detailed information in the Action Item 3: Disseminate study findings section on page 15, it does state “The General Appropriations Act directed the Commission to develop a strategic plan on flaring data.....” so that the “..... Commission will disseminate the findings to the legislature and interested stakeholders, evaluate potential solutions to clarify any discrepancies identified by the flaring study.....” It is curious to see that although the 87th Legislature in 2021 directed a flaring study, the RRC has yet to pursue this important directive that will result in incomplete/unfinished/not started yet conclusions for the 88th Legislative session in 2023.

This is even more troubling considering key findings on Earthworks’ report titled *Flaring in Texas – A Comprehensive Government Failure* in August 2021 where 227 flares were directed observed and recorded during helicopter flyovers with OGI cameras. This scientific study documented that 84% observed flares were illegal – i.e., did not have required flaring permits (Rule 32 exception). The study design - removed sites from the flyovers that never documented flaring (i.e., the flare was not operating; flares that were active but unlit were still included), removed sites from the flyovers not in the state of Texas (the Permian crosses into Mexico), and removed any flare not within 200m of a well site. After the data was cleaned, every site within 200m of every flare was cross referenced with the RRC Master Flaring and Venting Document to determine which sites ever had a permit to flare and for what time period they were permitted. These dates were then cross referenced with the dates of the flyovers.

When prompted with these facts, the RRC was able to identify an additional 36 flare exceptions applicable to those 227 locations. Thus, if the RRC correctly identified that its real-time recordkeeping is insufficient, then 69% of the 227 directly monitored flares were not compliant with permitting requirements. This Earthworks’ report documented both poor recordkeeping and regulation compliance for actions that are designed to control emissions to ensure safety and minimizations of emissions.

Despite being a critically important topic to minimize the effects of harmful emissions that negatively affect the public and air quality in Texas, flaring has little mention within the RRC Plan. Venting/flaring is mentioned as a common complaint on page 34, though it does not seem to be an important topic for the RRC’s Oil and Gas Division as there is practically no mention of the work “flaring” within the draft document. Beyond the troubling flare data issues that were uncovered and described within the Earthworks’ report, there seems to be no focus on emphasizing proper flaring operations, representations, and maintenance activities for oil and gas sites in Texas.

Technologies to assess and minimize flare operations and emissions have developed over the last few years, though companies still need encouragement to use them to minimize emissions and damage to the environment. The RRC owns multiple Teledyne FLIR GF320 OGI cameras that could be used to assist industries in assessing its flares during RRC inspections, special projects, and/or audits. Earthworks has no ties to the company, but Providence Photonics' Mantis™ Flare Monitor can be used to measure combustion efficiency, smoke index, flame stability, flame footprint, and heat release. It would be extremely helpful for safety and the environment if folks in the oil and gas field used the technology and/or if its use was encouraged by the RRC for regulatory benefits.

Moreover, drones equipped with OGI cameras and/or chemical sensors could add companies and/or the RRC to quickly assess oil and gas sites. As stated, the RRC could use the tools as described, though benefits to companies for the use of technologies would achieve the same goals. And finally, the TCEQ conducted a steam-assisted flare study back in 2010 that led to the creation of a flare operator training course by a partnership between the TCEQ, the University of Texas, and a technical stakeholder group that included energy representatives. The RRC is certainly capable of leading an effort to help develop an on-line oil and site training course on flare operations and maintenance activities that would include both lit and unlit flares as the TCEQ did. A proactive concept like this is relevant to the Educational Opportunities section on page 16, also.

On page 15, it states, "As of August 31, 2021, the Commission's schedule of wells contained 440, 874 wells" and "the Commission will inspect at least 88,000 wells during fiscal year 2023 to meet the performance target for inspection frequency." This number of wells and the inspection goals do not seem consistent with the references to "..... 308,922 oil and gas well and facility inspections for the fiscal year comprised of 177,455 well level inspections of 122,824 unique wells and 131,677 inspections of other oil and gas facilities" on page 9. The numbers may be accurate (or not) but outwardly the numbers are either incorrect or need further clarification as the thoughts are muddled.

The Action Item 2: Orphaned Well Site Plugging, Remediation, and Restoration Federal Funding section on page 15 states that "In fiscal year 2023, the Commission will begin to implement a new federally funded orphaned well plugging program" and that "during Phase One, Texas anticipates funding of nearly \$83 million of formula funds and \$25 million of initial grant funds." Despite this narrative, there is no estimation the number of Texas wells that may be plugged with these funds. This stands in contrast to the Action Item 3: State-Managed Well Plugging Program section on page 16 that states "With revenue from assessments on the state's oil and gas industry deposited in the Oil and Gas Regulation and Cleanup Account, the Commission anticipates plugging 1,000 wells during fiscal year 2023." The wording in Action Items 2 and 3 is not clear on how they relate to each other (or not). How are Texas' monies to be spent both in the Cleanup Account and from the Texas Legislature in relation to the new federal funded orphaned well plugging program?

In the Data section information listed on pages 17 – 21, multiple tables compare statistics from Fiscal Year 2020 (actual as of March 16, 2021) and Fiscal Year 2021 (actual as of February 16, 2022). On page 18, the RRC Plan states “The data presented below for fiscal year 2020 was current as of March 16, 2021, and for fiscal year 2021 as of February 23, 2022.” The time period comparisons are ineffective as presented. It would be more helpful to have 12-months of data for FY20 rather than a shortened timeframe. And as currently presented, +7 months of data is being compared with +6 months of data so that does not make sense as it is not a one-to-one comparison. Moreover, since the draft RRC Plan was released on March 29, 2022, there appears there was time to calculate a one-to-one comparison if there was a robust tracking program.

In this same Data section on page 17, it states “The Commission collects data that accurately shows the Commission’s oil and gas monitoring and enforcement activities. This edition of the annual *Oil and Gas Monitoring and Enforcement Strategic Plan* includes data from fiscal year 2021, alongside comparative data from fiscal year 2020.” Well, the first obvious thing is the title just mentioned is not the same title of the RRC Plan that is being reviewed. Secondly, though it states the number of alleged oil and gas violations sent to the Office of General Counsel Legal Enforcement, it gives no information of how many of the violations were referred to the Texas Attorney General’s Office. And finally, the word “monitoring” implies that environmental samples are collected when nothing is further from the truth as the data and narratives are currently presented. This is confirmed in Appendix A: Standard Operating Guidelines: Inspection Priorities section on page 22 where inspections are emphasized, as opposed to monitoring activities.

The RRC Plan states on page 23 that known compliance issues include “Spills and/or releases that impact or pose an imminent threat to sensitive areas.” This phrasing and its meaning are very unclear as worded, as this can be applicable to the TCEQ, also. The word “releases” could include typical permitted emissions from a storage tank battery, flare, leak detection and repair components and fittings, et cetera that are in the field near or upwind of populated areas with downwind receptors. This narrative needs to be clarified, reworded, or needs to describe how the RRC’s regulatory responsibilities are different than the TCEQ.

It is interesting to note that Appendix B: Definition of a Major Violation section on pages 26 – 27 says nothing about unlit flares. In addition to the tremendous emissions that are released by unlit flares that are many times unpermitted, the emissions have potential to dip down over downwind properties including the very same oil and gas site where from where the plumes originate. This scenario is prevalent during Earthworks OGI field activities in the Eagle Ford and the Permian Basin and needs to be resolved through regulatory efforts and/or voluntarily company assessments and improvement.

With regards to receiving complaints as referenced at the top of page 32, the RRC Plan states that “The staff member may refer the complainant to another entity such as the Sheriff’s Department, the TCEQ, the legal system, or another resource.” There is little doubt that the RRC

receives complaints from parties unsure of regulatory responsibilities, but it would be helpful to better describe the types of citizen complaints that the RRC receives so that these situations could be better resolved by RRC communications. Because of potential crossover between the regulatory responsibilities of the RRC and the TCEQ, it would be appropriate to understand the number of complaints that the RRC forwards to the TCEQ by FY.

The need to clarify complaint language and expectations runs deep within this RRC Plan, as exemplified by the Subsequent Action section on pages 32 – 33 where it states that in cases of issued Notice of Violations (NOVs), “..... the operator is given a specified time in the NOV to bring the lease into compliance.” This non-specificity is consistent with wording in a Notice of Intent (NOI) where a site is given “..... an additional period to bring the lease into compliance,” and with the wording in possible lease severance where it states, “If the operator has made significant ongoing progress resolving the violations, an extension for enforcement action may be granted at the discretion of the District Director.”

It is not at all clear in the RRC Plan if the Agency has full time discretion in enforcement timeframe matters or follows a set written protocols that establishes time limits for specific problems/issues. Without providing this technical information within this document and/or established time limits for repairs and modifications, it gives the impression that compliance issues have potential for unlevel play depending on company relationships. Moreover, per the wording in the RRC Plan, does the Agency coordinate with the TCEQ in matters of extended periods of significant emissions that are actively released under known circumstances to minimize impacts to the environment so that natural resources can be protected with minimal safety impacts to downwind/downstream receptors and so that issued permits and emission inventories can be updated? If this cross-agency coordination happens, it would be appropriate to clarify these matters in this document, and if not, the RRC and TCEQ have a glaring area for relationship and coordination improvement.

Though there is a description of the RRC’s regulatory jurisdiction on page 5, there is scant complaint details regarding jurisdiction in the RRC Plan, as referenced in the Types of Complaints section narrative on the bottom of page 33 when it states that “The Commission has jurisdiction over activities associated with the exploration, development, or production of oil or gas or geothermal resources, including storage, handling, reclamation, gathering, transportation, or distribution of crude oil or by pipeline, prior to the refining of such oil or prior to the use of such gas in any manufacturing process or as a residential or industrial fuel.” There is a reference to a state code immediately afterwards, but the RRC Plan is not clear in describing how the jurisdiction of the RRC and TCEQ relate and diverge from one another. It would certainly be helpful if this were further clarified for outside parties.

In addition, at the top of page 34, it states that “Some complaints may involve the complainant’s lack of understanding of oil and gas operations or may be made with malicious intent. However, all complaints must be considered valid and pursued until resolution is achieved.” Without knowing if it is a wide-spread problem, the “malicious intent” wording seems inappropriate for

the document and could be more effectively communicated with alternative phrasing such as “All complaints must be considered valid unless it is determined that they do not have merit. Regardless, all complaints are pursued until resolution is achieved.”

In the Common Complaints section on page 34, the document states “Dust, noise, odors, and air contaminants, traffic – complaints of this nature may be under the jurisdiction of the TCEQ in the case of air quality or local authorities including law enforcement. Although the Commission does not regulate odors, it does regulate crude oil spills and releases of H₂S, which may cause odors.” First, the TCEQ does not regulate noise and traffic, therefore the RRC Plan wording is at best incorrect and at worst deceiving. Secondly, the RRC and TCEQ do have crossover responsibilities for H₂S emissions, thus the phrasing of “releases of H₂S” does not clarify things. Sour oil and gas sites release H₂S emissions almost continuously from flares, separators, storage tanks, et cetera so what does the term “releases” mean?

Per details in the recent Earthworks’ report titled *Fatal Vapors – How Texas Oil and Gas Regulators Cause Avoidable Deaths* in January 2022, the RRC does a poor job in tracking and regulating H₂S emissions in general. With the implementation of State Rule 36, the RRC is responsible to ensure the proper tracking of H₂S in well gas. A study of self-reported company data publicly available revealed that of the approximate 19,000 wells in RRC District 8 over 10,000 wells did not file the required H9 form. After filing a public information request to the RRC for its H9 tracking mechanism, the RRC reported that “After consulting with various staff members, the RRC does not generate a list of H9 request letters that are sent to operators. This indicates that the RRC has no system to make sure operators file required H9 forms.

Moreover, if the RRC regulates “H₂S releases,” why does the Agency not enforce 30 Texas Administrative Code, Chapter 112 regulations for H₂S emissions? And finally, if the RRC regulates “H₂S releases,” why does the RRC not feel a need to help establish/enforce/promote regulations/voluntary actions to minimize and prevent continuous emissions, that often include H₂S content, from unlit flares that negatively affect air quality in geographic areas like Luling, Texas and the Permian Basin?

The Closure of Complaints Referred to Enforcement section at the bottom of page 35 states that “A complaint can be closed provided there is no active pollution occurring” This phrasing seems very unclear as control equipment no matter how well it is working (or not) is designed to release emissions, thus this is why companies are required to obtain permits. If emissions are being actively released whether permitted or not, they are adding pollution to the airshed or on ground cover, so the phrasing is inappropriate and misguided, thus clarification is merited.

At the bottom of page 36, it states that “Complaints can be closed and referred to State-Managed Plugging (SMP) when there is no active pollution occurring, there is no current active operator available to bring the well into compliance with the plugging requirements, or the well is not being referred to Legal Enforcement” and “.... will be eligible for plugging consideration in accordance with the established priority system and budgetary complaints.” The RRC Plan is

unclear as currently worded on how this information correlates with the Action Item 3: State-Managed Well Plugging Program narrative on page 16. The acronym SMP is not used on page 16, and there is no detailed discussion on the “budgetary constraints” mentioned on page 36. And moreover, since the narrative on page 36 refers to “.... no active pollution is occurring,” how is the RRC determining that no active pollution is taking place?

Is the RRC using its OGI cameras to determine that there is no pollution and/or is it conducting downwind monitoring for volatile organic compounds including but not limited to methane and H₂S? A well-meaning regulatory agency would purchase QL320 tablets for its current fleet of OGI cameras to quantitate emissions so that findings and observations can be shared with the regulated community. By doing so, pollution can be minimized to better ensure the safety of the site and minimize the negative impacts to our natural resources. This would be consistent with the RRC Plan’s preface on page 2 that states “The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program.”

This technical assessment has been reviewed, approved and is being submitted on behalf of Earthworks.

Sincerely,



Tim Doty
TCHD Consulting LLC – President
Certified Level III Thermographer
tchdconsultingllc@gmail.com
512.644.4830

Commission Accepting Comments on Draft Oil and Gas Division Monitoring and Enforcement Plan

April 23, 2019

In 2017 the Texas Legislature (H.B. 1818, 85th Legislature, Regular Session, 2017) directed the Railroad Commission of Texas to develop an annual plan to assess the most effective use of its limited resources to ensure public safety and minimize damage to the environment. The Commission will never cease to strengthen its capabilities to track, measure, and analyze the effectiveness of its oil and gas monitoring and enforcement program.

The purpose of this plan is to define and communicate the Oil and Gas Division's strategic priorities for its monitoring and enforcement efforts. The plan confirms many of the Division's current priorities—to ensure public safety and protect the environment—as well as establishing direction for data collection, stakeholder input, and new priorities for fiscal year 2020.

House Bill 1818 directed the Commission to seek input from stakeholders in the development of this plan. We look forward to hearing from you as this planning process moves forward.

To view the draft plan, visit the Commission website (</oil-and-gas/compliance-enforcement/enforcement-activities/>).

To submit comments online by 5 p.m. on May 23, 2019, complete the survey at *(N/A)*

Alternatively, please send written comments to:

Oil and Gas Strategic Plan Comments/Oil and Gas Division

Railroad Commission of Texas

P.O. Box 12967

Austin, Texas 78711-2967

Comments received by mail after May 23, 2019 may not be incorporated into the fiscal year 2020 iteration of the plan but will be reviewed.

Virginia Palacios, Commission Shift, Texas

Dear Railroad Commission Staff,

Commission Shift is a statewide nonprofit aiming to reform oil and gas oversight in Texas through public engagement and outreach. Since its founding in March 2021, Commission Shift has grown its public support. In this spirit, we are providing detailed comments on the Draft Oil and Gas Division Monitoring and Enforcement Plan for FY 2023. Commission Shift consulted with community members who have been impacted by oil and gas development and have had interactions with the RRC throughout complaint, investigation, and/or enforcement processes. Collective comments are presented following the sections of the report.

We are encouraged to see the RRC fulfilling its statutory charge to develop an annual plan for monitoring and enforcement of the oil and gas division. However, in these comments, we have included a number of requests for clarification, proposals for the RRC to consider including in the plan, and descriptions of issues community members have shared with us.

We reviewed this year's plan against changes we suggested last year, and we appreciate that the staff preparing the report made an effort to incorporate some of our recommendations into this year's draft. Some of the suggestions we made last year are reiterated in our comments this year, as we feel the importance of making these changes remains. This includes providing the plan in Spanish on the RRC's webpage where the Draft Monitoring and Enforcement Plan is posted and offering language accessibility for other languages.

Notably, we compared the content of the plan against the requirements of the 2017 Sunset Bill, HB 1818, and we feel that some of the requirements of HB 1818 have not been met. We hope that our comments provide helpful and informative insight toward accomplishing the goals of the plan and improving on the RRC's delivery of its mission.

I. MONITORING AND ENFORCEMENT OVERVIEW

I. a KEY REGULATORY COMPLIANCE MECHANISMS

- Please describe the methods the RRC uses to track principals of multiple companies, and to verify that non-compliant principals remain barred from renewal for seven years.

I. b INSPECTIONS

- We are pleased to see that the RRC has 12 additional inspectors compared to the previous year. Still, the number of staff conducting inspections is low compared to the number of wells the state is responsible for overseeing. RRC should consider developing a plan for increasing its capacity to conduct thorough and systematic inspections on each well once per year.

- P. 8: Change "one of ten Oil and Gas Division district offices" to "one of twelve Oil and Gas Division district offices." - Thank you for including the number of unique wells inspected in FY 2021. Please provide the number of unique wells and facilities inspected in FY 2020, to help understand whether there was actually a downward trend from FY 20 to FY 21 (347,617 in FY20 to 308,922 in FY21). If there

was a downward trend in inspections. Please explain what the different circumstances were that caused this downward trend.

- Please report the total number of inspections with additional information identifying the number of unique wells inspected, whether the wells were active, shut-in, inactive and unplugged, orphaned and unplugged, or plugged. For other facilities, provide the number of unique facilities inspected by type of facility (e.g. well, waste disposal facility, gathering), and whether the facility is currently in use or abandoned.

- Did the pandemic affect the number of inspections in FY 2021? Would there have been more inspections if the pandemic had not continued? - The legislative target of inspecting 345,000 wells is an improvement of the previous goal but given the number of wells inspected in FY20 and FY21, consideration should be made to increase the goal again to avoid downward trends as observed in FY21.

- Commission Shift proposes that the RRC set a goal to inspect each well or facility at least once every year and construct a plan for detailing what resources would be needed to achieve this goal, and potential forms of revenue to serve those resources.

-Please link to the PDF of "Standard Operating Guidelines: Job Priorities for Field Inspectors."

- Please provide a table listing the total number of wells in the state by category at the end of the Fiscal Year (active, shut-in, inactive and unplugged, orphaned and unplugged, or plugged).

- Please consider making the ICE database publicly accessible.

- Commission Shift recommends the RRC develop protocols for informing the community of violations, particularly those that present a potential threat to health or safety. Additionally, there should be an accessible process for collecting community input on a regular basis. Community members have reported only finding out about violations if they were the individual who filed a formal complaint, but that they have been in the dark when their neighbors file complaints about violations that may also affect their health.

- Information about recent investigations and complaints is not easily found in RRC databases. It seems as though staff are not updating the ICE database in real time.

- A case from 2021 involving Blackhorn Environmental waste disposal facility in Jim Wells County revealed that the facility had been accepting waste that did not meet the categories of waste allowed in its permit. We recommend the RRC develop a way to efficiently cross-check waste manifests against permits so that this type of non-compliance is detected sooner. Similarly, it is important for RRC to be in communication with TCEQ regarding violations that affect RRC permit compliance.

I. c AUDIT PRIVILEGE ACT

- Please explain what mechanisms are in place to ensure that operators are not abusing the Audit Privilege Act. For example, intentionally failing to plan for compliance and then using the audit privilege act retrospectively to avoid penalization.

I. d COMPLAINTS

-Provide a link to the Commission's website where information on how to file a complaint can be easily found.

- Affected community members have expressed to Commission Shift that they noticed they received faster service from RRC inspectors when they called the district office directly with a complaint. RRC should evaluate how calls to its main number are handled and develop systems that are more accessible to the public to ensure timely complaint resolution. There should be clear steps outlined once a complaint is made via phone over the main line.

- Community members have also expressed that they received more follow up and notifications when they made some complaints, but that they sometimes were not informed whether their complaints were considered formal or informal. There should be consistent communication from beginning to end of a complaint process.

- The RRC should develop a plan for improving its handling of complaints from a customer service perspective. The agency's handling of potential incidents and interactions with the public should reflect modern, state of the art customer service and hazard management based on the best practices and insights from a variety of industries.

- The Commission's webpage <<https://www.rrc.state.tx.us/oil-and-gas/o-g-complaints/>> regarding complaints related to the oil and gas division still needs improvement. First, the page does a better job of explaining what the Railroad Commission does not have jurisdiction over than what it does. Areas under the Railroad Commission's authority, including groundwater contamination, should be clearly described on the page without having to go to another link.

- The Oil and Gas Division should provide an online customer complaint form, as does the Gas Services Division <<https://rrc.texas.gov/gas-services/complaint-filing/customer-complaint/>>.

- Information on how to file a complaint should be provided in Spanish, and language accommodation information should be made available on the RRC website in multiple languages.

- The Railroad Commission should have access to a professional translation service that it can use to provide language accommodation. "Microsoft Translate" or other digital translation services are not an acceptable form of language accommodation as these services may not properly translate the meaning of technical terms often used by the Railroad Commission.

- The draft plan states that "the public is encouraged to report problems or concerns" but it is not visible how the RRC accomplishes the task of encouraging public reporting. District offices should develop robust programs for public outreach including regular presentations, regular columns in local newspapers, television advertisements, and mailers informing the public what the Railroad Commission is, what it has jurisdiction over, and how to make complaints.

- Table 1 should clarify that the number of complaints does not include those received for the pipeline division, TCEQ, or those related to railroads -if that is the case.

- Table 1 should indicate the number of complaints that indicated an imminent threat, were pollution related, or those not involving pollution.

- Please remove language from this draft plan stating that the RRC responds to complaints “immediately,” within “24 hours,” or “within 72 hours.” The RRC provides no public tracking of its response times and affected individuals have expressed that their complaints were not investigated within the stated time frames. For the same reason, please remove the sentences “The complainant receives written updates on the progress of the investigation and any related enforcement action. The complainant is also notified when the complaint is closed.”
- The RRC should consider making a complaint database publicly available on its website, similar to the TCEQ. This database should include a means for staff to indicate whether the complaint presented an imminent threat, was pollution related, or did not involve pollution. The database should include the cause of the complaint, any related activity in response to the complaint, and the resolution to the complaint.
- The database should also allow staff to indicate when they responded to complaints, so that the RRC can track whether it is adhering to stated “immediate,” “24 hour,” and “72 hour” response times. Individuals have expressed that their complaints were not investigated within the stated time frames, that they didn’t receive a progress report, or any notification of when the complaint was closed.
- RRC should explore developing a joint database with TCEQ to monitor violations at facilities that are regulated by both agencies, especially where RRC permits are contingent upon compliance with TCEQ rules.

I. e ENFORCEMENT ACTIVITIES

- The draft plan states “if a district office or program office is unsuccessful in obtaining compliance through other mechanisms, or if the severity or willfulness of a violation warrants further action, the oil and gas division will refer the matter to Legal Enforcement.” The plan should outline how many months it takes for a matter to be referred for Legal Enforcement.
- Please specify what percentage of violations are not resolved at the district level and thus, referred to Legal Enforcement.
- The draft plan should provide a table of the number of permits modified, suspended, or terminated in the past fiscal year.
- The draft plan should provide a link to a list of companies, naming their officers and owners who have had a P-5 revoked in the past seven years.
- The draft plan should describe the process the commission uses to verify that the companies, their officers, and owners are not granted a future P-5 request.
- The draft plan should describe how the RRC ensures that the operators do not continue to operate beyond the current P-5 year.
- In the RRC’s 2017 Sunset Review, the Sunset Commission’s Staff Report with Final Results noted “In fiscal year 2015, the commission severed 7,936 leases and caught at least 1,552 leases that continued to produce oil and gas.” This plan should include a description of methods the RRC is using to ensure compliance with seal and severance orders and improve upon prior years.

- Per the 2017 Sunset Review, a definition of a repeat violation in rule was supposed to be determined. Please specify whether an operator is considered to be in “repeat violation” for an offense that isn’t considered major.

- We recommend the RRC conduct an analysis of the cost of non-compliance compared to the \$10,000 cap on administrative penalties and report the results. This would be particularly meaningful for the rules that have high rates of violations and for major violations.

II. GOALS

- We are happy to see that the plan includes the amount appropriated by the legislature for the oil and gas monitoring and inspection strategy as well as for the well plugging & remediation strategy.

- Thank you for including a description of legislative charges for the RRC, including the Study on the Oil and Gas Regulation and Cleanup Fund Revenue Streams and the Strategic Plan on Flaring Data required in the appropriations bill.

II. a GOAL 1: ACCURATELY DEMONSTRATE THE COMMISSION’S OIL AND GAS MONITORING AND ENFORCEMENT ACTIVITIES

- Commission Shift supports Goal 1, and the associated action items. These improvements are long overdue, and we are happy to see the Railroad Commission modernizing its technology infrastructure and operationalizing implementing technological improvements.

II. a. 1 ACTION ITEM 1: IMPROVE DATA TRANSPARENCY

- We support the commission’s use of the Risk-Based Data Management System platform, and its transition to more online filings.

- We are concerned that the RRC’s Public GIS Viewer is not sufficiently searchable for locating specific facilities on the map. After the recent super-emitting methane leak on the “Big Cowboy” line in Webb County, we searched for the line on the RRC’s Public GIS Viewer. We changed visibility to pipelines only and used the “identify” button to view information about the pipelines displayed on the map. Hovering over every pipeline was an inefficient way to find the pipeline in question, and we were unsuccessful in locating it. Using the magnifying glass icon and selecting “pipelines” along with information available from the TCEQ report

<<https://www2.tceq.texas.gov/oce/eer/index.cfm?fuseaction=main.getDetails&target=376303>>, returned a list of relevant pipelines, but clicking items in the list does not take you to the location of those pipelines, nor does it provide an API number or address that can be used in the search bar on the upper right side of the screen. We submitted a request for assistance through Publicassist@rrc.texas.gov, but we were told to follow the visibility steps we had already taken or to find the inspection report in the PIPES system. We were unable to find any information on this incident in the PIPES system.

- We also recommend the RRC develop a plan for continuous evaluation and improvement of the user experience with the RRC website, data, and public participation processes. The current technology improvements are essential but upgrading these systems will be a continuous process and won’t end after one project is complete. Additionally, upgrading the internal technology systems is only one part of

accomplishing the goal. Improving the public's access and ease-of-use with the RRC's datasets requires an additional goal and workstream.

II. a. 2 ACTION ITEM 2: DEMONSTRATE AN INSPECTOR'S RESPONSIBILITIES

- We are happy to see that the RRC is improving transparency by providing public education that demonstrates inspectors' responsibilities. We would also like for the public to have access to the ICE database, and for the database to demonstrate each aspect of a facility that was reviewed by an inspector and how it was graded, so that the public can be sure that these inspections were not merely "drive-by" but followed consistent procedures and protocols and were designed to identify potential non-compliance. Last year, commenters identified that the average time spent on an inspection would have to be less than one hour per inspection based on the number of facilities inspected, the number of inspectors, working hours in a day, and drive time to sites.

II.a.3 ACTION ITEM 3: DISSEMINATE STUDY FINDINGS

- Please consider opening a public comment period to solicit feedback from the public on analysis of revenue streams to the Oil and Gas Regulation and Cleanup Fund and the strategic plan on flaring data.

II.b GOAL 2: STRATEGICALLY USE THE OIL AND GAS MONITORING AND ENFORCEMENT RESOURCES OF THE COMMISSION TO ENSURE PUBLIC SAFETY AND PROTECT THE ENVIRONMENT

- Commission Shift supports Goal 2, and we encourage the RRC to develop a plan to assess additional potential revenue sources for the agency to improve monitoring and enforcement. The

Railroad Commission and the state legislature have facilitated numerous fee and tax exemptions to operators, creating additional liabilities for the state as operators construct more facilities that do not lead to additional revenue to the Railroad Commission or the state but do lead to additional monitoring and enforcement responsibilities.

- Aside from interaction with the RRC's website and datasets, the RRC should outline its plan for improving outreach in communities with oil and gas development including how it will inform community members about comment opportunities, how to file complaints, and how to engage as a party in an RRC proceeding, and how to take advantage of the RRC's resources. Community members have expressed that they feel the current structure is tailored to industry and is nearly impossible for a member of the public to comprehend and engage in without the high cost of hiring an attorney.

II.b.1 ACTION ITEM 1: INSPECT WELL POPULATION

- We recommend the plan include an assessment of what the RRC would need to be able to inspect all wells at least once per year.

- The plan should include a breakdown of the schedule of wells including the number of wells in each category (active, shut-in, inactive and unplugged, orphaned and unplugged, or plugged).

- The RRC should consider evaluating what tools would be necessary to capture real-time production data from operators. Such data availability could have allowed for additional flexibility and efficient resource deployment during Winter Storm Uri power outages and would likely serve numerous interests including oil and gas operators, the Texas Comptroller, royalty owners, and the public. For instance, community members frequently point to incorrect production volumes associated with commingled

leases, and some have even pointed out actively producing oil wells with no information about them maintained in commission databases.

II.b.2 ACTION ITEM 2: ORPHANED WELL SITE PLUGGING REMEDIATION AND RESTORATION FEDERAL FUNDING

- Please describe how many offshore wells the commission plans to plug with the initial grant, and subsequent potential grants, if awarded.
- If federal funds are received, does the commission expect to use those funds in this biennium, or does it need to wait for legislative appropriations for the next biennium?
- Please describe the commission's plan for using federal funding to identify and locate undocumented oil and gas wells.
- Commission Shift reviewed locations of inactive wells (IWAR database) and orphaned wells and found hundreds of orphan wells and thousands of inactive wells with no latitude or longitude coordinates available. The RRC data on orphan and inactive wells does not include location information when it is first downloaded, so anyone who needs that information is required to do data joins with lists of every well that the RRC has record of (i.e., active, inactive, or orphaned) or manually search through well APIs for thousands of wells.

After this join or manual searching there is still a huge portion of wells that appear to have no location information. We searched through PDFs of archived forms that are associated with the lease numbers for different wells. Through this search we found zero documents that included any information on the latitude or longitude of these wells. Any location information found in these PDFs is almost entirely unhelpful, and deeply concerning. For instance, for a well in DeWitt County, API number 12331381, the only location information available on the 45 pages in the documents is "710 feet from NE line and 467 feet from SEL 10450 FNEL line of the 1800 FSEL lease" and "Charles Lockhart Survey. 5 miles West of Thomaston" which is of virtually no help if you are unable to view lease and survey locations by any means. Many wells only include location information referencing a distance and a cardinal direction from a nearby town. After going through approximately 380 orphan wells, with some wells having over 400 pages in their documents, we can conclude that there needs to be a better system for the RRC to identify and share the locations of orphaned and inactive wells.

This is important not only because of the possibility of interference with current oil and gas drilling, completions, and injection wells, but also because potential future development of carbon storage facilities and the need to ensure that these facilities do not intersect with or interfere with existing wellbores.

II.b.3 ACTION ITEM 3: STATE-MANAGED WELL PLUGGING PROGRAM

- The commission needs to develop a strategy for increasing the number of operator-plugged wells and preventing operators from orphaning their wells. Action Item 3 should not be a mere description of activities in the well plugging program, but should include a goal to improve operators' execution of their own plugging and cleanup responsibilities.
- As of March 31, 2022 there were 8,096 wells on the orphan wells list, and an additional 5,375 have a P-5 delinquent less than 12 months. An additional 132,928 wells are inactive or shut-in. Out of the active

wells list, 107,575 oil wells might be considered “marginal” producing less than 10 barrels per day, and 68,989 gas wells produce less than 250 thousand cubic feet per day. Despite the recent rise in oil prices, reports are showing that investment in new drilling has been slower than in previous years. The RRC needs to evaluate how that could impact the orphan wells list.

- The RRC states that it uses revenue and assessments that are deposited in the state’s Oil and Gas Regulation and Cleanup Account to plug orphaned wells, but according to the RRC’s legislative appropriations request, it also uses General Revenue Funds to plug and cleanup orphaned wells and sites. Please clarify the funding sources and the percentage of the agency’s budget that goes toward well plugging and site cleanup.

- Please re-evaluate how many wells the commission anticipates plugging. Although the commission’s legislative performance goal for FY 2023 is only to plug 1,000 wells, the commission typically exceeds its legislative performance goal for plugging. In the 2020 - 2021 Biennium, the RRC was appropriated \$152,645,793 with a goal of plugging 2,800 wells and cleaning up 460 sites; expecting an average cost of \$46,823.86 per site. The commission exceeded its well plugging and remediation goals in the 2020 - 2021 biennium. For the 2022 - 2023 biennium, the RRC was appropriated \$112,103,400, and has a legislative performance goal of plugging 2,000 wells and cleaning up 400 sites, at a similar cost ratio. Does the commission anticipate exceeding its goals again or focusing resources on more expensive wells and sites?

III. EDUCATIONAL OPPORTUNITIES

- The educational opportunities the RRC lists are entirely directed toward the industry. Please develop an educational outreach program directed toward landowners, mineral owners, and people living in communities with oil and gas development.

- Please develop a plan for providing Spanish language information about comment periods and translations of relevant documents on the commission’s website.

-Please consider making language accommodation in multiple languages available to landowners, mineral owners, and people living in communities with oil and gas development.

IV. STAKEHOLDER PARTICIPATION PROCESS

- The RRC could reach more stakeholders by submitting a press release to major daily newspapers in Texas, as well as local newspapers within each of the RRC districts.

-Additional effort should be made to grow the Commission’s email list to include people living near oil and gas development.

- Public hearings should be held virtually and in-districts to allow for dialogue with the RRC.

- Language accommodation should be offered. At a minimum, a Spanish language announcement on the RRC’s website and a Spanish translation of the enforcement page. The draft should also be provided in Spanish, using the services of a professional translator.

V. DATA

- Rather than simply reporting data from the past two years, it would be helpful to see an analysis from the RRC assessing trends in compliance over time, and identifying areas where improvement is needed. For example, several rules were violated thousands of times in the past year; some rules hundreds of times. An assessment of what the RRC could do to improve compliance in these areas would make a great addition to this plan.

V.a TABLE 2: SUMMARY OF ENFORCEMENT DATA FOR FISCAL YEAR 2021

- Thank you for indicating the number of unique wells inspected.
- Please create an additional table indicating the number of wells inspected by status (e.g. active, shut-in, inactive and unplugged, orphaned and unplugged, or plugged).
- For the number of statewide rule violations, please include a separate line item with the number of violations that are resolved on site during inspection.
- The commission's assessment of the number of major violations is too subjective, and requires additional reporting. For instance, out of the rules listed in Appendix B, there are 16,018 violations reported in Table 3, but the RRC only considered 24 of these violations to be "major" in FY 2021.
- The plan should include an analysis of the number of penalties that are lower than the cost of compliance, and an assessment of the number of violations occurring in these cases.

V.b TABLE 3: FISCAL YEAR 2021 NUMBER OF VIOLATIONS PER RULE BY SUBSECTION

- Thank you for including some rules in the table even if there were zero violations in the past year. However, the following rules in the major violations list in Appendix B were not listed in Table 3: 16 Texas Administrative Code § 3.13(a)(6)(B)(i) and § 3.91(e)(3). Please include these rules in Table 3, even if there were no violations.
- Thank you for including a column with the violated rule description.
- Please add an indication to the table, such as an asterisk to indicate which rules could fall under the definition of a major violation.
- Over 2,200 violations were reported under 16 TAC § 3.13(b)(1)(B)(i) in FY 2019 (See FY2020 Plan), but there were not any violations of this rule in 2020 and only 5 in 2021. Please explain what the RRC did differently to ensure better compliance.
- In the final draft of the plan, RRC removed a link to the Secretary of State's website where the public can view RRC rules.

V. c DEFINITION OF A REPEAT MAJOR VIOLATION

- The definition of a repeat major violation appears to be overly narrow and vague. It would be helpful to know if repeat violations by lease occurred in the past ten years, but also which operators have repeated the same violation across more than one lease and across multiple years. These data points could provide insight to the commission on the effectiveness of its current monitoring and enforcement activities, allowing it to adjust its procedures to better deter violations.

VI APPENDIX A: STANDARD OPERATING GUIDELINES: INSPECTION PRIORITIES

Public Comment Received as of April 29, 2022

- Please clarify what is meant by “The only jobs that require 100 percent inspection response are incidents listed under “Known Compliance Issues” and jurisdictional complaints.”

This is concerning, because it leaves the public wondering if the RRC is counting some of its less thorough inspections under the metric of inspecting each well once every 5 years. Commission Shift proposes that the RRC set a goal and establish a plan for conducting a systematic, thorough inspection on each well and facility at least once per year.

VII APPENDIX D: COMPLAINT PROCEDURES

VII. a SUBSEQUENT ACTION

- Please explain how the complainants are informed about whether their complaint is considered “formal” or not, and whether they will be able to inquire about the status of their complaint in the future or receive follow-up contact about the complaint.

- Please define the number of hours that qualifies as “immediate.”

- Please describe the RRC’s protocol for responding to incidents that are reported outside of business hours.

- Please explain or provide a link to the Emergency Incident Report protocol.

VII. b CLOSURE OF COMPLAINTS REFERRED TO STATE-MANAGED PLUGGING

- Please provide a link to the “Procedure in State-Managed Plugging Manual for SMP vs. Show Cause Hearing Decision Tree.”

- Please clarify whether complainants are informed when a complaint is closed.

APPENDIX E: RRC ONLINE INSPECTION LOOKUP (OIL)

- Thank you for developing this new tool. Please make the complaint information more accessible.

- To improve the user experience of the OIL database, please make it easier to navigate back to a search list after viewing one inspection. Currently, the user has to return to the query page and re-enter the query to be able to access the list provided after viewing a specific inspection.

APPENDIX F: WELL PLUGGING PRIORITIZATION METHODOLOGY

Please provide definitions for “leaking well” described in Priority 1, and “Higher Risk well” described in priority 2H.

RUBRIC

HB 1818 requires the RRC to produce the annual Monitoring and Enforcement Plan. While the commission has met some of the requirements of HB 1818, it has not met all requirements, and improvements are needed in order to comply with HB 1818.

The plan must contain the following elements:

- “The commission shall seek input from stakeholders when developing each annual plan.”

ASSESSMENT: NEEDS IMPROVEMENT. Could be improved by hosting public meetings, sharing information with the press about the plan, and doing targeted outreach in zones with heavy oil and gas development. The commission has only made the plan available in English, and has not made language accessibility clearly available.

- “Each annual plan must include a report of the information collected by the commission that shows the commission's oil and gas monitoring and enforcement activities over time...data regarding violations of statutes or commission rules that relate to oil and gas, including: the number, type, and severity of: violations the commission found to have occurred; violations the commission referred for enforcement to the section of the commission responsible for enforcement; and violations for which the commission imposed a penalty or took other enforcement action;”

ASSESSMENT: INCOMPLETE. While the commission has provided the number of violations by type (rule), it has not provided any information on the severity of these violations. The commission listed the number of alleged oil and gas violations sent to the Office of General Counsel Legal Enforcement, but did not list the number of these violations by type or severity. It is unclear whether other sections of the commission are responsible for enforcement. Similarly, the number of violations for which the commission imposed a penalty or took other enforcement action is only listed as a total and not by type or severity.

- “the number of major violations for which the commission imposed a penalty or took other enforcement action;” ASSESSMENT: INCOMPLETE. The total numbers provided may be incorrect, because the RRC’s decision about which violations are considered “major” is subjective.

- “the number of repeat major violations, categorized by individual oil or gas lease, if applicable.” ASSESSMENT: The commission claims that there were no repeat major violations, so this information was not provided.

- “The commission shall publish each annual plan on the commission's Internet website not later than July 1 of the year preceding the state fiscal year in which the commission implements the plan.”

ASSESSMENT: So far, the commission is on track to submit the plan by July 1st. We appreciate that the commission released the plan earlier this year, allowing for more time to incorporate suggested changes into the final draft.

York "Smokey" Briggs, Texas

The RRC's draft Monitoring and Enforcement Plan for FY23 states all the right things. Alas, the RRC's actions do not live up to its words. I will keep thing short, and stick to two glaring examples:

1) On Page 8, under Key Regulatory Mechanisms, the Plan states that operators who are not in compliance will have their P-5's suspended, etc... In practice this almost never happens. The truth on the ground is the RRC seems to look the other way time after time, and then proceed with slaps on the wrist, again and again, rather than actually enforcing a damn thing. This outfit is a bulldog with rubber teeth when it comes to dealing with bad operators.

2) The same can be said regarding the section in this report regarding seals and severances on Page 12. Again, rarely is the Commission's actual authority used to deal with out of compliance operators. If the RRC actually started policing the oilfield as it claims to, and started actually using the powers granted to it to do so, most of the problems currently besetting Texas regarding oil and gas production could, and would, be fixed, in realtive short order.

Until the RRC gets serious about actually enforcing the rules that are already on the books, rather than coddling bad operators, all the "plans" in the world are meaningless "this one included.