THE TIPRO TARGET

VOLUME 21, NO. 7
APRIL 4, 2019

TIPRO
Texas Independent Producers and Royalty Owners Association

State legislature agrees to funding boost for Permian DPS Driver License offices

A measure seeking to grant additional funding to Texas Department of Public Safety (DPS) driver license offices in the Permian Basin is advancing in the state legislature, after being successfully amended to the budget bill passed by the Texas House of Representatives at the end of March. The proposal, offered by state Representatives Brooks Landgraf (Odessa) and Tom Craddick (Midland), would allow regional DPS driver license offices located in West Texas to offer competitive salaries for hard-to-fill vacant positions, helping to improve the customer experience of Texans needing to obtain a valid driver's license in the increasingly crowded Permian Basin. The Landgraf-Craddick budget amendment would give DPS an additional $500,000 to use as incentive pay to fill openings at driver license offices, including vacancies at the new DPS "Mega Center" that is located between Odessa and Midland.

Representative Landgraf, who is vice chairman of the House Committee on Transportation and member of the House Committee on Business and Industry, says he often hears complaints about how long it can take to get a driver license in his home district of Odessa, which is central to the boom of activity occurring in the Permian. "An increase in oil and gas production is always a good thing, but with it can come some growing pains... I think these additional funds will help alleviate what has been a huge inconvenience to people across West Texas," said Representative Landgraf.

TIPRO supports the Landgraf-Craddick budget amendment as passed under House Bill 1. The bill now awaits approval in the Senate chamber.

TIPRO members asked to participate in oil & gas data survey

Researchers have invited members of the Texas Independent Producers & Royalty Owners Association (TIPRO) to participate in a confidential survey assessing emissions from marginal oil and natural gas wells. Specifically, data is being sought on methane emissions from America's marginal wells in order to address critical knowledge gaps and supply valuable information used to develop industry regulations. This project is being completed with the support of the Research Partnership to Secure Energy for America (RPSEA) and is funded by the U.S. Department of Energy's Office of Fossil Energy.

A marginal oil well produces less than 15 barrels per day, while marginal gas wells produce less than 90 thousand cubic feet per day. Though marginal wells individually supplement a small volume of oil and natural gas, collectively these wells supply a sizeable percentage of the nation's crude oil and natural gas.

In recent times, regulatory bodies like the U.S. Environmental Protection Agency (EPA) have tried to impose onerous regulations for these kinds of wells, in some cases adding significant economic burden to continue operations for low-producing oil and gas wells. One such example was in 2016 when the EPA under former President Barack Obama did not provide an expected exemption of marginal wells from Leak Detection and Repair (LDAR) requirements as part of its update to New Source Performance Standards (NSPS) for the oil and gas sector. While the EPA is currently reconsidering segments of the NSPS for the oil and natural gas sector, including provisions relating to low production well sites, more comprehensive data on marginal oil and gas production sites in U.S. shale basins will improve the understanding of emissions from marginal wells and could help shape rules promulgated by the government in the future.

To learn more on this industry survey, please visit the project website at https://gsi-net.com/en/component/k2/item/547-survey.

Participants are asked to complete and return the electronic questionnaire by **Tuesday, April 30, 2019**. This survey should require minimal effort and should only take a few minutes to complete responses. All data collected will be confidential and blinded.

Chairman's Message

TIPRO Members -

Eugene Garcia

As you all know, our industry contributes significantly to the wealth of the Lone Star state and provides security to families and communities in nearly every county. The incredible growth of the Economic Stabilization Fund (ESF) in recent years is directly attributable to the growth of Texas oil and gas. According to Comptroller Glenn Hegar, the ESF is expected to reach $15.4 billion by the end of the 2020-21 biennium. Nearly all of the revenue that has been deposited into the ESF comes from oil and gas production taxes. The booming Permian Basin in particular has contributed tremendously to the fund, with 38 percent of all severance taxes collected by the state in 2018 coming from the Odessa District, a 12-county region that accounts for only 1.6 percent of the state's population. However, the continued growth of the industry and wealth of the state is at risk. The lack of reinvestment into the communities that generate these funds to support their welfare as the industry grows is leaving Texas' energy hotbeds with inadequate support to sustain the growth of the oil and gas industry and ultimately harming hardworking Texans and the future financial security of the state.

The major issues here pertain to traffic infrastructure, a shortage of teachers and housing, and a lack of law enforcement and public safety services. The Odessa TxDOT region, for example, accounts for a total of 2 percent of the state population but is the site of 15 percent of commercial vehicle fatalities. Ector County has a severe shortage of 200 teachers due to a lack of resources. Both of these areas are part of the Permian Basin. The state legislature is currently evaluating ways to help remedy some of these problems. House Bill 2154 and House Joint Resolution 82 propose a solution that would serve communities in the oil and gas hotbeds of the state and contribute to the lasting growth of the industry and its economic benefits. The Generate Recurring Oil and Wealth for Texas Fund (GROW Texas) would reallocate 9 percent of total oil and gas severance taxes into the regions that generate that revenue without taking funds away from either the State Highway Fund or the Foundation School Program. The GROW Texas Fund would support transportation, education, public safety and other infrastructure needs (such as ports). It would also work to support the future of the industry by funding educational institutions and provide critical emergency and trauma services. Not only will our sector benefit from this legislation, but so will all other industries in the affected areas: from agricultural, real estate and even renewable energy industries. The renewable energy industry will gain from supporting the region's infrastructural elements as much as the oil and gas industry.

On behalf of the association, TIPRO President Ed Longanecker testified in support of HJR 82 and HB 2154 on Wednesday, April 3. Addressing the House Appropriations Committee, Longanecker noted that, "The topic of infrastructure investment has been a top priority for my organization for many years, as we continue to seek long-term solutions to support continued growth in our industry while addressing our infrastructure needs. The multiple areas where these funds would be allocated under HB 2154 makes this legislation very appealing because we believe these areas are connected and are necessary for supporting a vibrant oil and natural gas industry and all of the related economic benefits afforded to our state." He continued to emphasize the importance of the public safety funding aspect of the bill, concluding that, "We think these funds will address the infrastructure needs long term, for this area and throughout the state, but it will also help with things like retaining DPS officials and providing resources they need to enforce the law and ensure that these roads are as safe as possible." Representative Tom Craddick closed the hearing with a simple message: "This has got to be done now." As chairman of TIPRO, I would like to echo these sentiments and encourage members to offer their support for this critical legislation.

Thank you,

Eugene Garcia

Texas Railroad Commission adopts revisions to Form P-17 for commingling permits

The Texas Railroad Commission announced in late March it has adopted revisions to Form P-17, *Application for Exception to Statewide Rules (SWR) 26 and/or 27 (Commingling)*, its instructions and the new Form P-17A, *Commingle Permit Application*. These changes are intended to provide clarity and guidance for operators submitting an exception to an application for a commingling permit.

According to the agency, the format of the Form P-17 has been modified to account for instances in which an operator cannot meet the requirements of 16 Texas Administrative Code §3.26(b) [SWR 26(b)] or §3.27(e) [SWR 27(e)] and must obtain an exception and pay the associated fee. Meanwhile, the creation of Form P-17A allows an operator to inform the commission that they are commingling pursuant to SWR 26(b) or SWR 27(e), wherein an exception is not required and therefore no fee will be required.

The updated forms are available for download from the RRC website at rrc.texas.gov.

TIPRO Calendar of Events

APRIL 10, 2019	MAY 8, 2019	JUNE 12, 2019	JULY 10, 2019
HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.	HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.	HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.	HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.

"Stopping the royalty lease scam"

An update from G. Wade Caldwell, president of NARO-Texas

TIPRO and NARO-Texas are working together to support House Bill 3838, a bill designed to stop royalty lease scams. If you are unfamiliar with this, it is typically sold as "top lease," mostly to elderly or smaller mineral and royalty owners, who have an existing lease in place. The sellers target areas that are about to be redeveloped with horizontal wells. The sellers present a document that is intended to mimic a Producers 88 lease in appearance, but which is really a term conveyance of 75 percent of the owners' royalty. The sales pitch is fairly simple. In exchange for a modest lump sum payment, the mineral or royalty owner gets to "top lease" their property and still receives a "25 percent royalty." Instead of wording the document like a term deed or term assignment of the royalty, which is what it really is, the intent is to make the owner think it is a 25 percent lease.

This is actually a new version of an old leasing scam that occurred in the 1990s which lead to the enactment of §5.151 of the Texas Property Code. Unfortunately, that statute does not cover this current situation.

HB 3838 is a disclosure notice statute, with would require a large, conspicuous notice that the document is not really an oil and gas lease. It would set the statute of limitations at four years and provide that any lease which does not contain the disclaimer is void. This allows operators to have title certainty, because if the document does contain the required disclaimer, it would be presumed valid. The hope is that the disclaimer will greatly curtail or eliminate the practice, because the vast majority of the sales could not occur if the owners knew that it was really not a lease. A hearing has been held in the House Energy Resources Committee. All TIPRO members are encouraged to contact the members of the Energy Resources Committee and urge their support for this legislation being voted out for consideration by the House.

Questions or comments? Please email gcaldwell@ceflegalsa.com.

Senate committee advances county transportation infrastructure funding

Senate Bill 500 by Chair Jane Nelson and House Bill 4 by Chairman John Zerwas are the House and Senate supplemental spending bills to the 2020-2021 budget for this legislative session. The supplemental spending bill is a budget measure intended to fill holes in the current two-year 2018-2019 budget cycle, which ends in August, and can include other one-time expenditures. Senate Bill 500 passed the Senate Committee on Finance and was substituted for House Bill 4 in the House Committee on Appropriations. The Committee Substituted Senate Bill 500 was passed by the Texas House of Representatives last Wednesday, March 27. The bill allocates $250 million dollars to transportation infrastructure for areas impacted by increased oil and gas production. The $250 million for transportation infrastructure was included in both the House and Senate versions on the supplemental spending bills.

The legislation still must be reconfirmed by the Senate, but it may be the first piece of legislation to be signed by Texas Governor Greg Abbott this session. According to the terms of the legislation, the funds become available immediately, providing immediate access to capital for transportation infrastructure in areas of the state most impacted by increased oil and gas activity.

Midland Mayor Jerry Morales talks Texas oil in D.C.

Describing the Permian Basin as a "shining star," Midland Mayor Jerry Morales this week spoke before Congress on opportunities and challenges currently being faced in Texas' Tall City. Mayor Morales told members of the U.S. House Environment & Climate Change Subcommittee how oil companies operating in his home city of Midland have stepped up to address impacts to the environment and community caused from increased drilling in the state's largest oil patch. In testimony provided to the subcommittee on Wednesday, April 3, Mayor Morales reported to lawmakers that oil and gas companies in the Permian Basin continue to use innovative approaches to use less groundwater, instead relying on recycled and reused produced water for their operations. He also discussed collaborative conservation efforts adopted by the oil and gas industry and other stakeholders to protect native species and habitat in West Texas. Additionally, speaking on air emissions, Mayor Morales noted that methane emissions continue to be handled, and will decrease further as additional takeaway capacity comes online and flaring activity in the Permian goes down.

White House: President Trump to sign order for natural gas pipelines

An executive order is expected to be issued in the coming days by President Donald Trump which will help lift regulatory hurdles for the development of natural gas pipeline infrastructure. White House economic advisor Larry Kudlow said on Wednesday, April 3, that the president will sign off on the mandate as early as next week to expedite construction of natural gas pipelines across the nation. This move also could help facilitate larger volumes of exports of U.S. liquefied natural gas (LNG) to countries around the world.

The order appears to override efforts pursued by some states to block the construction of pipelines transporting natural gas. The state of New York, for instance, stopped the development of pipelines that would have moved natural gas produced in the Marcellus Shale to New England states. That has led to supply limitations in the region at times, prompting the need to import LNG from other areas. A cold snap last year even required a tanker carrying LNG to deliver product to Boston Harbor in order to satisfy energy demands. This new directive from President Trump looks to overrule states like New York that are impeding energy projects, in accordance with the president's "energy dominance" agenda.

Texas, New Mexico kick off projects to improve Permian highways

Major improvements along heavily trafficked highways are kicking off in Texas and New Mexico, which will ultimately help ease traffic congestion on interstate roadways situated in the bustling Permian Basin. The Texas Department of Transportation (TxDOT) reports that it has begun work on U.S. Highway 285 that runs through West Texas. Last Monday, March 25, 2019, the project to improve and rehabilitate a 10.8 mile stretch of road from the north end of Interstate 20 to just south of County Road 113 commenced. TxDOT has stated that the project should be completed in late 2020. The massive overhaul will start first with widening the existing road in order to keep traffic disruptions to a minimum. At completion, there will be passing lanes along most of the road as well as improvements at FM 1450 and other key intersections. In addition to the improvements on this 10.8 mile section, there are also several projects being done to Highway 285 between Pecos and the New Mexico state-line.

Further, TxDOT is also interested in working on the I-20 Corridor in Ector County and Midland County. The state agency held two public meetings last week on Monday, March 25, and Wednesday, March 27, to discuss proposed improvements that look to include new interchanges with overpasses, reconfiguration of existing overpasses, ramp relocations, service road improvements (including rehabilitation), converting service roads to a one-way configuration, and adding mainlines in each direction. Proposed improvements would affect the stretch of road from FM 1936 in Ector County to just east of Business Interstate 20 in Midland County. Prior to these meetings, full funding for all aspects of the project had not been secured.

Meanwhile, Texas' neighbor to the West is also looking to ease traffic troubles in the Permian. New Mexico's Department of Transportation is renovating U.S. Highway 82. The two-lane road is stressed under the oilfield traffic between Eddy and Lea counties, and the state agency is investing $58 million in federal and state funds to the project. The renovation includes a 32 mile stretch between Artesia and Maljamar. Officials hope to complete the project this winter.

"Railroad Commission of Texas: A century of oil and gas"

By Chairman Christi Craddick and Commissioners Ryan Sitton and Wayne Christian

When the Railroad Commission was given oversight of the energy industry in March 1919, Texas was awash in wildcatters, speculators and roughnecks drilling oil and gas wells under virtually no regulation. The commissioners and staff set to work literally writing the book on safe, responsible energy production. Today, our rules reflect a century of regulatory expertise and experience; from well spacing and groundwater protection requirements, to seismicity rules, water recycling guidelines and much more.

As we hit the century mark in energy regulation it's not our past we're most excited about, it's our future and the future of Texas.

Last year, the U.S. Geological Survey announced the largest continuous oil assessment in Texas and New Mexico totaling 46.3 billion barrels of oil, 281 trillion cubic feet of natural gas, and 20 billion barrels of natural gas liquids. Texas leads the nation in energy production and plays a critical role in our energy independence. If Texas was a country, we would be the third largest producer in the world, and our nation is poised to surpass Saudi Arabia in energy exports. As the global leader in energy regulation, the Railroad Commission is at the forefront of this renaissance.

The commission has more inspectors than this agency has ever had with more than 160 trained professionals, staffing nine district offices. By growing our inspector ranks we are now on track to inspect every oil and gas well a minimum of every five years. Each inspector conducts thousands of inspections every year to make sure operators are complying with our rules to protect the public, the environment and the economy of our state, driving more than 5.3 million miles in Fiscal Year 2018.

The RRC's state-managed well-plugging program is hitting historic numbers. In fiscal years 2018-2019 the Texas Legislature set a performance goal for our agency, to plug 1,958 abandoned wells. The commission is on track to shatter that goal by plugging approximately 3,000 abandoned wells. The funds come from fees paid by the energy industry not from Texas taxpayers.

The commission is making progress modernizing our Information Technology systems and processes. 2019 marks a huge step forward for the commission, and for Texas, with the launch of our Online Inspection Lookup (RRC OIL) system. For the first time, anyone, anywhere, anytime can use the commission's website to search the inspection and violation history of oil and gas wells in Texas. Critical information is now available to the public with just the click of a mouse.

We are not stopping there. Our bold IT modernization plan will transition the commission out of the decade-old mainframe technology completely in the next few years. The plan includes further automation of many key processes oil and gas operators must follow in permitting and reporting. It reduces the administrative burden on operators saving them time and money, and reduces processing time for commission staff, saving us time and taxpayers' money.

And we are investing more than ever in our workforce. We are creating and implementing innovative training programs for staff, defining career tracks and working to ensure pay equity with other agencies. These initiatives are essential to attracting and retaining employees who share our commitment to public service and building the best agency in Texas.

As the energy industry has grown and evolved in Texas, so too has the commission. We're proud to stand on the shoulders of the generations of commissioners and staff who built this agency into the global leader in energy regulation, and we recognize the standard of excellence they have set. It is the standard we are proud to carry forward, on behalf of all Texans.

EPA Region 6 Administrator Anne Idsal to shift roles at regulatory agency

Anne Idsal, head of the U.S. Environmental Protection Agency (EPA) South Central (Region 6) office, is changing roles at the agency after taking a top post in the Office of Air and Radiation at EPA headquarters in Washington D.C. Starting Monday, April 1, Idsal is the office's new principal deputy assistant administrator. Meanwhile, Deputy Regional Administrator David Gray will take control of the EPA Region 6 office on an interim basis until EPA Administrator Andrew Wheeler appoints a new leader of the agency's regional branch.

Since late 2017, Idsal has led the EPA's Region 6 office - which encompasses the state of Texas, as well as Louisiana, New Mexico, Oklahoma and Arkansas. Prior to her time with the EPA, Idsal built her career working for the Texas state government. She formerly served as chief clerk and deputy land commissioner for the Texas General Land Office (GLO), and also was previously general counsel for the Texas Commission on Environmental Quality (TCEQ).

This past Winter, Idsal, who was featured in the association's *Upstream Texas* magazine, spoke to TIPRO about the Trump Administration's strategy for regulating the oil and gas industry. Idsal shared that the current administration is "deeply and seriously committed to the principles of cooperative federalism and partnering with the states." She emphasized that officials believe strong, collaborative relationships between the federal agency and its counterparts on the state level will lead to greater success in improving the environment and human health.

EPA announces new voluntary audit program for Upstream oil & gas sector

On March 29, 2019, the U.S. Environmental Protection Agency (EPA) announced the launch of a voluntary disclosure program for new owners of upstream oil and natural gas exploration and production facilities, a project that has been in the works since at least May of 2018. New owners of well sites, associated storage tanks and pollution control equipment are all eligible to participate in the program which encourages new owners "to find, correct and self-disclose Clean Air Act violations." The EPA believes that this will lead to faster identification and correction of emission violations. New owners will have the opportunity to participate within nine months of acquisition and will benefit from "regulatory certainty and clearly defined civil penalty mitigation beyond what is offered by the EPA's existing self-disclosure policies."

Susan Bodine, EPA assistant administrator for enforcement and compliance assurance, stated that, "New owners of oil and gas facilities may be particularly well positioned to identify and address emission violations. This program offers these new owners' incentives to ensure their newly-acquired facilities are in, or come into, compliance."

More information on how to participate can be found at https://bit.ly/2HQDlAT.

EPA offers $6 billion in support of water infrastructure projects

U.S. Environmental Protection Agency (EPA) Administrator Andrew Wheeler announced at the end of March that approximately $6 billion in funding is available for Water Infrastructure Finance and Innovation Act (WIFIA) loans in 2019. The loan program established by the 2014 Water Infrastructure Finance and Innovation Act provides "long-term, low-cost supplemental loans for regionally and nationally significant projects." This year, the agency is prioritizing President Trump's goals by looking to fund construction ready projects in "water reuse and recycling, reducing exposure to lead and addressing emerging contaminants, and updating infrastructure," says Administrator Wheeler. Loans will be available to both public and private borrowers for projects involving drinking water, wastewater, drought mitigation and alternative water supplies. Letters of Interest (LOI) will be accepted 90 days after publication in the Federal Register. Selected projects that meet WIFIA's statutory and regulatory criteria will be asked to continue with the application process.

For more information, visit https://www.epa.gov/wifia.

Judge blocks Arctic, Atlantic areas from oil leasing

The Trump Administration took a harsh blow last Friday, March 29, when U.S. District Court Judge Sharon Gleason issued two decisions striking down proposed major developments in Alaska. Gleason blocked Trump from oil leasing in a portion of the Arctic and Atlantic Oceans. The areas in question (spanning more than 125 million acres) were placed under the protection of the Outer Continental Shelf Lands Act (OCSLA) by the Obama Administration, and Gleason ruled it unlawful for the current president to undo that action. The OCSLA gives the president the power to withdraw areas from the national oil and gas leasing program, but grants the power to add them only to Congress. Under the act, presidents have the power to withdraw lands from lease from time to time.

"As a result, the previous three withdrawals issued on January 27, 2015, and December 20, 2016, will remain in full force and effect unless and until revoked by Congress," concluded Gleason. Trump's plan would have included two lease sales a year for both the Arctic and Atlantic waters. At the same time, Gleason struck down a land trade she deemed unlawful that would have led to the construction of a road through the wetlands of Alaska's Izembek National Wildlife Refuge last Friday. The area was previously considered as a site for a new road by the Obama Administration but the project was scrapped after an environmental impact study found that the area was too vulnerable for such development. As far as the oil and gas leasing decision goes, the fight to open up these waters is not over yet. The Trump Administration is appealing Gleason's decision and should the case reach the Supreme Court, there is a fair chance it will be overturned.

Trump's steel tariffs to continue

On Monday, March 25, the U.S. Court of International Trade upheld President Trump's imposed steel and aluminum tariffs, determining that his use of Section 232 of the Trade Expansion Act of 1962 to establish the tariffs was constitutional. The Trump Administration's tariffs had been challenged by the American Institute for International Steel (AIIS), as well as Kurt Orban Partners and Sim-Tex, a Texan supplier of oil and gas pipe. The ruling was supported by the precedent set by the 1976 Supreme Court Case *Algonquin SNG Inc. v. Federal Energy Administration*. While he agreed with the overall ruling, Judge Gary Katzmann concluded his statement on a note of doubt, asking, "If the delegation permitted by Section 232, as now revealed, does not constitute excessive delegation in violation of the Constitution, what would?"

Following the court's decision, AIIS commented on the outcome of the case, observing the apprehension expressed by Judge Katzmann and announcing the group's plan to appeal the decision immediately, arguing that section 232 gives powers to the president that are typically reserved for Congress.

Congress kills Green New Deal proposal

With a vote of 57-0, on Tuesday, March 26, the U.S. Senate defeated a proposal to bring up a comprehensive policy package centered on climate change, which had been nicknamed the "Green New Deal." After Senate Republicans forced a vote last week to take up the nonbinding resolution, all 43 Democrats voted "present" in protest of the GOP's action. Nevertheless, despite the effort from Senate Democrats to stall the debate over the policy, the Senate recorded a failed vote on the Green New Deal, stopping a plan that would have required the United States to move away from use of fossil fuels such as oil and coal and replace them with renewable sources.

U.S. Senator for Texas John Cornyn spoke out against the Green New Deal in a recent editorial, calling the measure "a grab bag of socialist policies, heavy environmental regulations and unprecedented government handouts." Cornyn pointed specifically to the impact such legislation would have to the oil and gas industry, commenting, "One of the most outrageous parts of the Green New Deal — and where this hits home for Houston — is that it calls for an unachievable energy industry overhaul. Forget reducing greenhouse gas emissions — the Green New Deal says we must completely eliminate them within 10 years. Instead of embracing oil and natural gas — our most reliable and affordable energy sources — they propose generating 100 percent of America's energy from renewable sources. Last year, renewables accounted for only 17 percent of our total energy sources, but don't waste time looking through the Green New Deal for a tenable strategy on how to quickly scale that number — it's not there."

OPEC oil output cuts will remain in place through June

OPEC nations and other major oil producers have cancelled their upcoming April meeting, extending the oil cartel's production cuts until at least June. The Joint Ministerial Monitoring Committee will next meet on June 25th to decide whether or not to continue output cuts through the rest of 2019. Saudi oil minister Khalid al-Falih told CNBC last month he was leaning towards continuing with the cuts. One reason for the delay in making this decision is consideration of the effects on the oil market caused by U.S. sanctions on Iran and Venezuela. The committee will use the extra time to analyze the situation.

As of mid-March, oil prices were near 2019 highs. That is a result not only from OPEC cuts, but the U.S. sanctions aforementioned. Regardless of the increase in oil prices, these cuts counter President Trump's repeated demands that the associated nations increase production. Since January, OPEC has tried to keep 1.2 million barrels per day off the market. President Trump asked that OPEC "please relax and take it easy" last month. In response, al-Falih has said that the group is "taking it easy." Tensions between the president and OPEC leaders have yet to be resolved. On March 28, Trump tweeted, "Very important that OPEC increase the flow of Oil. World Markets are fragile, price of Oil getting too high. Thank you!"

Permian crude prices see bump as pipeline capacity constraints start to ease

As several new pipelines serving the Permian Basin begin to come online, transportation constraints are slowly starting to be alleviated -- leading to an increase in regional oil prices. Analysts with the U.S. Energy Information Administration (EIA) report that the difference between the West Texas Intermediate-Midland (WTI Midland) crude oil price compared with WTI Cushing and Magellan East Houston crude oil prices is closing in, with WTI Midland prices now similar to WTI Cushing levels. This could indicate that the Permian is seeing some relief from previous takeaway constraints that had suppressed prices in 2018. "An extension to the Sunrise Pipeline added an estimated 120,000 barrels per day (b/d) of takeaway capacity from the Permian region in early 2019, which increased pipeline capacity to Cushing. In addition, the Seminole-Red pipeline, which had previously delivered natural gas liquids from the Permian region to the U.S. Gulf Coast, was repurposed to deliver crude oil. Seminole-Red is expected to be fully operational by April, adding an estimated 200,000 b/d of takeaway capacity," describes EIA experts. There is still a notable spread between WTI Midland and Magellan East Houston prices, however, signaling the region still faces some takeaway constraints with shipping Permian crude oil to the U.S. Gulf Coast. Most recently, the difference has been about $7 per barrel, which is less of a discount than in the middle of 2018, observes the EIA.

While the EIA expects the Permian could again see constraints later this year due to the steady rise in oil production output, recent capacity additions could prevent prices from widening back to the levels reached in late 2018. New pipelines scheduled to come online in the third quarter also will alleviate the remaining takeaway constraints in the Permian region by the end of the year, suggests the EIA.

"So, about your recently inherited West Texas land: Is there a non-litigation solution to defeat those claiming ownership to your land?"

Guest article by Cleve Clinton and Skyler Stuckey, Gray Reed & McGraw

Cousin Terry knows that he owns some part of the Texas land and mineral rights yearly celebrated by Uncle Steve over the Thanksgiving table. Apart from Steve's stories, Cousin Terry knew little about his property. That changed when a utility company called seeking an easement over the property and wanting to pay him handsomely for it. Cousin Terry soon discovered that other family members were already receiving payments for easements related to the same property. Worse yet, his lawyer discovered that the county deed records looked like an Old Testament genealogy. What can Cousin Terry do? More importantly, what can you do in a similar situation? As our friend Cousin Terry found out, there may be other options besides an expensive, contentious lawsuit.

The Traditional Litigation Path

After talking with close relatives, Cousin Terry quickly discovered a number of easements and alleged transfers of ownership of "his property" of which he never received notice. Title to his property had not been addressed in decades and the county deed records were a mess. After examining his options, no answer was going to be easy, quick, or cheap – and most would require litigation. This is the case because questions over the chain of title (meaning the records identifying all prior owners) or current deed to a not-so-often-occupied piece of land can quickly raise a legal issue known as "adverse possession". Adverse possession is a claim of land ownership that is "open and hostile" to all other potential owners (legal jargon for essentially planting your flag without regard to ownership) for long enough that the claimant, by law, becomes the rightful land owner. Given the history of cattle ranching and oil and gas production in the Lone Star State, adverse possession laws in Texas have a more prominent legal legacy than in many other states. Adverse possession claims became so commonplace that the legislature passed separate statutes depending upon "possession" time of 3, 5, 10 and 25 years.

Length of Claim	Relevant Facts REQUIRED	Limitations on size of land
3 Year Claims	Actual title or document indicating title ownership and possession of the land	
5 Year Claims	Duly-registered deed, payment of taxes, enjoyment and cultivation, possession of the land	
10 Year Claim	Possession, use and cultivation of the land	Limited to 160 acres or land actually fenced by adverse possessor
25 Year Claim	Possession, use and cultivation of the land	Can claim entire property

All four time-frames require actual possession of the claimed property. More complicated proof requirements occur if the adverse possessor is a cotenant (you share equal title with them), a "stranger" to the title (they have no prior association with the previous deeds) or if the owner has been "ousted" from the property (adverse possessor actually prevented a party from entering the property).

Satisfying any adverse possession statute requires provable facts and events which likely occurred years or decades prior, with predictable memory lapses and document losses. Was a party's use of the land so obvious and clear that you should have known they were claiming ownership? Was a party truly ousted and denied access? Did an adverse possessor actually use or cultivate the land? Uncertain facts – often difficult to prove – make litigation unattractive for almost any dispute. We recently counseled Cousin Terry to that very conclusion.

An Outside-the-Box Solution

Knowing with some certainty that neither Cousin Terry nor his close family members ever voluntarily gave up any rights regarding possession and use of their property, knowing that he was never prevented from using his property, and knowing that he was never denied access to his property, we were confident these factors would be key in defeating any adverse possession claim. But rather than Cousin Terry having to prove his ownership, could we flip the burden? Could we get the oil, gas, and pipeline owners to contact Cousin Terry directly rather than ignoring him?

The solution? Our crafted "Affidavit of Use & Possession" allowed Cousin Terry to accurately trace property ownership through the chain of title (that is, the previously known deeds) and address head-on, by sworn affidavit, the factual elements of each potential adverse possession claim. The affidavit clarified he was not denied access to the property, never gave away his interest, maintained continuous ownership and detailed support for his ownership interest – knocking down litigation-related issues. We then filed it in the county deed records and hoped for the best.

The Result?

Following the filing, new utility and pipeline companies contacted Cousin Terry. Many companies previously unaware of his ownership interest due to the convoluted title documents now circled back and acquired easements on the same price and terms as previously been paid to others holding claims of title. All of this was accomplished without any family conflict or escalation of potential conflict with other land claimants. The Affidavit of Use and Possession proved to be an excellent modern, efficient solution to an antiquated, convoluted problem. If faced with a similar issue in Texas as Cousin Terry, a comparable use and possession affidavit might be effective, assuming, of course, that you can accurately trace title and validate your use and possession of "your property" and the other factual elements. If so, your able counsel may concur that an Affidavit of Use and Possession may be a smart, economically viable option to stake your claim and protect your ongoing rights.

About the Authors

Cleve Clinton, Partner at Gray Reed & McGraw - Clinton is Board-Certified in Civil Trial Law by the Texas Board of Legal Specialization and represents families navigating business and generational transitions, and risk-taking mavericks. Contact him at cclinton@grayreed.com.

Skyler Stuckey, Associate at Gray Reed & McGraw– With clients ranging from Fortune 500 companies, closely-held businesses and municipalities to banks, startups, and individuals, Stuckey's work is centered on three focal practice areas: commercial litigation,white-collar matters, and appeals. He may be reached at sstuckey@grayreed.com.

TIPRO

Texas Independent Producers & Royalty Owners Association

With nearly 3,000 members, TIPRO is the nation's largest statewide association representing both independent producers and royalty owners. Our members include small family-owned companies, the largest publicly traded independents and large and small mineral estates and trusts.

919 Congress Avenue, Suite 1000
Austin, Texas 78701
Phone: (512) 477-4452
Fax: (512) 476-8070
www.tipro.org