



IN THE PIPELINE

TEXAS PIPELINE ASSOCIATION NEWSLETTER

FALL 2016



FROM THE CHAIRMAN

Welcome to the fall 2016 issue of *In the Pipeline*, the Texas Pipeline Association's quarterly e-newsletter. In this issue we highlight recent developments regarding the Texas Commission on Environmental Quality's (TCEQ) area source emission reduction credits program, including TPA's efforts to prevent the elimination of the program and our efforts to work with the Commission to improve it.

Generation and use of emission reduction credits is vital to the ability of TPA members to undertake significant new projects. We believe that having a workable area source credits program is very important to our industry and the state's economy. This issue also discusses TCEQ's request to the Texas Legislature for increased funding for the emission reduction program, a request that we hope you will support during the upcoming legislative session.

Finally, we recap TPA's recent meeting with key EPA officials where we urged EPA to ensure the anonymity of EPA's methane data collection efforts. This ensures that a company that is required to respond to such a request would not be placed at a competitive disadvantage vis a vis a non-responding company. We hope that you find these items to be of interest, and we welcome your thoughts and feedback.

Enjoy!
Mike Heim, Chairman
Texas Pipeline Association

2016 GENERAL ELECTION UPDATE

*It's a big year for politics! We all know about the presidential election, but have you been able to dig down to the state and local levels? We asked **Michael Garcia of Bill Messer, PC** if he could give TPA members the rundown on upcoming congressional and statewide elections.*

U.S. CONGRESS

There is only one competitive general election race this year, and that is in CD 23. GOP presidential candidate Donald Trump is a significant drag on Congress-

man Will Hurd (R), even though he also is a minority. He is seeking re-election against former Congressman Pete Gallego (D), after ousting Congressman Gallego in 2014. This is one of the seats that has typically gone Democrat during presidential years.

STATEWIDE

Railroad Commissioner

Former State Rep. Wayne Christian (R) will face Grady Yarbrough (D), a retired educator from San Antonio. Wayne Christian defeated Gary Gates

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MESSAGE FROM THE PRESIDENT



Thank you for all of the positive feedback received after the inaugural issue of *In the Pipeline*. We are pleased you found it informative and interesting and we hope that you will consider becoming actively engaged to further enhance the publication. We will continue to strive to make it insightful and substantive relating to issues and actions important to our industry. That works best when we have your expertise and input.

In this issue, an analysis of the November elections is highlighted by pipeline lobbyist Michael Garcia. Phil Gamble offers a detailed recap of the Sunset Commission hearing on the RCT. Celina Romero writes about EPA's Information Collection Request rule proposal. Eric Tiemeyer tells us about TPA's efforts to improve the TCEQ's area source ERC program. And Sarah Shamla tells us about this year's National 811 Day media campaign. We are grateful to these and all of the contributors to *In the Pipeline*. The myriad of issues discussed in this edition illustrates that TPA and the industry must remain vigilant to ensure that our business interests are protected and we can continue to provide the services that benefit Texas and the economy.

TPA will discuss legislative strategies and topics as the 2017 Legislative Session draws near. Issues affecting our industry will be prevalent, including eminent domain reform, burdensome environmental and regulatory legislation and the RCT Sunset bill. Coupled with ongoing rulemakings from state and federal regulators, 2017 will be an extremely active year. The advantages that TPA and our industry will have in these session and regulatory battles are the TPA's Board leadership, the expertise of our member companies and our strong legislative team. When all work together, it presents our greatest chance of success.

Please enjoy and, as always, thank you for your service and dedication.

– Thure Cannon

ENVIRONMENTAL AND REGULATORY ISSUES

TEXAS RAILROAD COMMISSION SUNSET REVIEW

MOST RECENT DEVELOPMENTS...

By Phil Gamble, The Law Office of Phil Gamble

The Texas Sunset Advisory Commission held a public meeting on Aug. 22 to present the Sunset staff recommendations for the Railroad Commission of Texas (RRC) and hear public testimony. The hearing was widely attended and lasted more than seven and a half hours.

Following a brief presentation by the Sunset staff outlining their recommendations, Sunset committee members had an opportunity to ask questions and express their opinions concerning the Sunset staff's recommendations. Recommendations were discussed in the last issue of *In the Pipeline*.

QUESTIONS FOR THE SUNSET STAFF

Rep. Cindy Burkett (R-Sunnyvale) asked the Sunset staff if the State Office of Administrative Hearings (SOAH) had the expertise to han-

dle energy hearings in a prompt manner and wondered if the staff's recommendation was placing too much authority in one agency. Rep. Senfronia Thompson (D-Houston) commented that "the RRC is not broken" and reflected on the proposed staff changes, asking "what have we accomplished by changing it?" Rep. Dan Flynn (R-Van) stated that "we have a great history working with the RRC." He commented that "the energy industry is the heart and soul of the state of Texas" and questioned why Sunset staff would want to change the way the RRC conducts business. Rep. Richard Raymond (D-Laredo) stated that he disagreed with the staff's recommendation to transfer hearings to SOAH and ask how many RRC cases had been reversed on appeal. The Sunset staff responded that in 2015, only five cases were appealed and all were affirmed. Finally, Sen. Charles Schwertner (R-Georgetown) commented on the proposed transfer of hearings to SOAH and concluded that "we have traveled down this path once before in 2001 and ended up sending hearings back to the RRC in 2003."

RRC COMMISSIONERS WEIGH IN

All three RRC commissioners testified. Chairman Porter focused on the need for the legislature to grant additional funds to the RRC

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TPA MEETS WITH EPA ON METHANE EMISSIONS DATA REQUEST

By Celina Romero, Duggins Wren Mann & Romero, LLP

On Aug. 25, a delegation of TPA representatives, led by TPA President Thure Cannon, met with key EPA officials to discuss TPA's concerns regarding EPA's draft information collection request (ICR) for oil and gas sources. EPA plans to use the ICR to gather information from randomly selected companies to assist EPA in developing existing source performance standards (ESPS) for methane emissions from oil and gas sources under Section 111(d) of the federal Clean Air Act. TPA filed written comments on the draft ICR on Aug. 2 and raised, among other things, the need to designate all information concerning the identity of the company selected to respond to the ICR as confidential business information (CBI). An in-person meeting was warranted to ensure that EPA would not underestimate the importance of this issue to TPA members.

TPA ADVOCATES FOR ANONYMITY IN THE ICR RESPONSES

To provide the appropriate context for TPA's position, we emphasized the highly competitive "wild west" nature of the mid-stream industry. In this business environment, even tidbits of information disclosed through public filings can give a competitor an edge over the company supplying the information in contract negotiations, identifying acquisition targets, and other competitive matters. These concerns are even greater due to the nature of the ICR process, which is designed to solicit a large amount of data from a randomly selected subset of companies rather than an industry-wide survey, like EPA's Subpart W greenhouse gas emissions reporting requirements. Moreover, EPA's collection effort will consolidate

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TPA WORKS TO IMPROVE TCEQ'S AREA SOURCE ERC PROGRAM

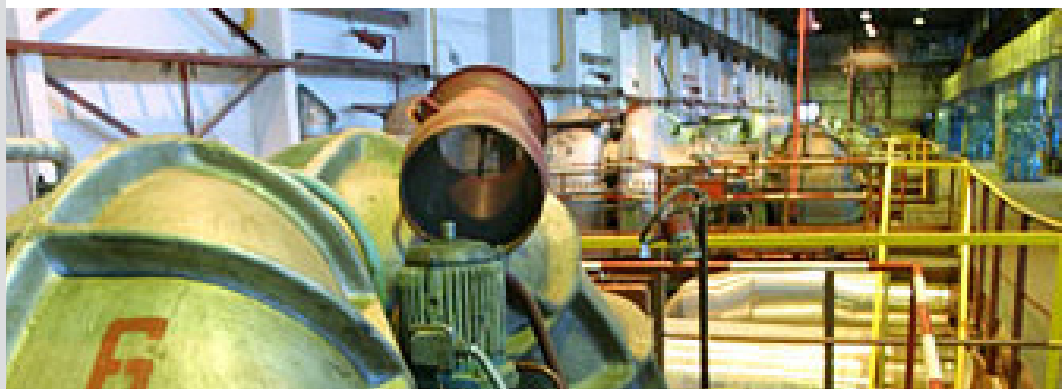
By Eric Tiemeyer, Chair, TPA Environmental Committee

In areas where ozone levels exceed federal standards (so-called "nonattainment areas"), a company seeking a permit to construct a new facility must offset the increased emissions of ozone precursors that the facility will produce. One way to do this is by generating or acquiring emission reduction credits (ERCs) that can be used to offset the increased emissions.

TCEQ rules have historically provided that small facilities – known as area sources – may generate ERCs through emission reduction projects. In practice, however, TCEQ has rarely allowed area sources to generate ERCs. Recent area source ERC applications, in fact, have either been denied, resulting in litigation, or simply set aside and not acted on by TCEQ staff. In 2014 TCEQ proposed a rule that would have repealed the ability of area sources to generate ERCs.

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CALL FOR LEGISLATIVE SUPPORT FOR TCEQ APPROPRIATIONS

By Celina Romero, Duggins Wren Mann & Romero, LLP

The TCEQ has released its Legislative Appropriations Request (LAR) for fiscal years 2018 and 2019. The LAR will be reviewed and considered by the 85th Legislature, which commences January 2017. The TCEQ has proposed funding for two items of particular interest to TPA members and for which we request your support:

1. Increased Funding to Support the Revamped Area Source ERC Program.

TCEQ recently submitted an LAR that includes an "Exceptional Item Request" for funds to hire five new employees for the Air and Mobile Source Emissions Credits program and to support the Emissions Banking and Trading Program. The amount of the appropriation is \$517,760 and spans the two-year timeframe. As justification for the increase in funding, TCEQ states that its contemplated rule revisions to support an area source emission reduction credit (ERC) program will result in more applications to

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MEMBER COMPANY NEWS

Source: Vaquero Midstream LLC

Vaquero Midstream LLC commissioned its Caymus I natural gas processing facility, along with 80 miles of large diameter, high-pressure gathering, residue and NGL pipeline in the Delaware Basin. The gathering system is designed for volumes of more than 1 bcf/d. Vaquero is proud to report more than one million man hours worked with zero lost time accidents. See more at www.vaqueromidstream.com.

NEWS BRIEFS

TPA Vice Chairman **Jim Cisarik** testified before the Senate Select Committee on Texas Ports on Sep. 15 on an issue that is important to TPA members. Lt. Gov. Dan Patrick announced the initiative for the select committee last year as a way of giving ports more attention. "We haven't put the focus on them that we should when you consider the economic impact that they have," he said. Patrick cited \$277 billion in economic impact in Texas from its ports, and said he wanted the state to be more proactive in supporting them and the roads and rail-ways that buttress them... **Lee Baskin**, former chairman of TPA's Federal Regulatory Affairs Committee and great supporter of TPA, retired in early September. Lee will be doing consulting work, including RRC utility regulation, pipeline operating permits and FERC 311 regulation. He can be reached at leebaskin05@gmail.com.



In Memoriam. As many of you may know, **Elise Cort**, who worked closely with TPA, passed away on July 23. As the director of Regulatory, Government and Public Affairs for Enbridge, Elise was a valuable resource and friend of TPA and its member companies. We will miss her greatly.



INDUSTRY RUNS NATIONAL 811 DAY CAMPAIGN ON AN OLYMPIC SCALE

By Sarah Shamla, Sander Resources, LLC

This year's National 811 Day media campaign was bigger than ever, and included advertising during the Olympic games. Funded by more than 40 pipeline operators and utility companies, this year's national media effort helped raise awareness of 811 and deliver the message of safe digging and reached more than 130 million people.

Funds generated from this year's effort were used to:

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IMPORTANT DATES

2016

Oct. 6: TPA Board Meeting, Atmos Charles K. Vaughan Center, Plano, Texas

Nov. 10: Sunset Commission Meeting (TBC)

2017

Jan. 6: TPA Annual Meeting, Houston, Texas

Jan. 10 - May 29, 2017

85th Texas State Legislative Session

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