

## Kellie Martinec

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**From:** Robbie Querner <robbie@billyphenix.com>  
**Sent:** Wednesday, May 30, 2018 9:58 AM  
**To:** rulescoordinator  
**Cc:** governor@gov.texas.gov; dan.patrick@ltgov.texas.gov; joe.straus@speaker.texas.gov; brian.birdwell@senate.texas.gov; drew.darby@house.texas.gov  
**Subject:** Proposed amendments to 16 TAC Sections 3.52 and 3.53  
**Attachments:** 20180530092228120.pdf

Please see the attached comments from the Texas Land & Mineral Owners Association.



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May 30, 2018

Rules Coordinator, Office of General Counsel  
Railroad Commission of Texas  
P.O. Box 12967  
Austin, Texas 78711-2967

Re: Proposed amendments to 16 TAC Sections 3.52 and 3.53

Dear Rules Coordinator,

The Texas Land and Mineral Owners Association (TLMA) is a statewide advocacy organization that represents approximately 1,000 members who are royalty owners, landowners, farmers, and ranchers. TLMA is strongly opposed to the proposed rule that would eliminate the annual well production test requirement under Section 3.53 and is frankly surprised, in this day and age of calls for increased transparency and available technology, that the Railroad Commission of Texas (RRC) is even considering measures that would have such a negative impact on the royalty owners and public.

The negative effect this rule change would have on royalty owners and the public involved in thousands of leases already in place cannot be overemphasized. To understand the issue, one needs to look to the genesis of the well testing requirements. Many years ago, the RRC adopted the policy that it would not require individual RRC lease ID numbers for each oil well (gas wells are different). At the time, long before computers, records were kept on ledgers, and it seemed reasonable to minimize reporting requirements. The well testing requirement was intended to mitigate the concern over the reduced reporting. Without the annual production test, it is impossible for the public to determine the production rates of individual oil wells. The annual well test is the only means anyone, other than the operator, has of collecting data about the individual well production capability, gas-oil ratios of such wells and the water production rates. This information is critical. By removing this requirement, the RRC will certainly reduce its cost, but at an even higher price. In spite of current fraud and abuse by oil and gas operators, the only means left for the public, industry and royalty owners alike, of determining a well's productivity would be through litigation; an option no party to the negotiation ever wants. Further, the proposed initiative would circumvent the fundamental tenants of the RRC's obligation as the custodian of oil and gas records for the public.

Most leases are negotiated with the understanding that the RRC will enforce its rules and make oil and gas production records available to the public allowing leaseholders to rely on the annual well testing data to determine hydrocarbon and water production rates for wells. Without that data, royalty owners cannot determine production volumes for oil wells which is critical to triggering several provisions of the lease, up to and including possible termination of said lease. Without the annual well test data, royalty owners are forced to trust the word of the operator, whose interest in maintaining the lease runs counter to the

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## EXECUTIVE DIRECTOR

Jennifer Bremer

interest of the royalty owner and often the public. With the proposed rule change, the operator would have no incentive to ever disclose when a well goes out of production.

In addition to the royalty owner's interest, the annual well test is the primary tool used to monitor when and where inactive and unplugged wells are located across the state. It's ironic that as the State Legislature is calling for more information about unplugged and abandoned wells, the Railroad Commission is in the process of decreasing transparency. It is hard to understand how anyone thinks this is a good idea for the State of Texas. In fact, the Commission Staff's preamble to the rule proposal blatantly states "Industry will, however, benefit from the modified testing and filing requirements." It goes on to say annual testing will drop from 250,108 wells annually to approximately 22,500 a year under the new proposal, a clear benefit only to industry at the expense of the State of Texas and its citizens.

As the rule is proposed, in the five exceptions to the elimination of the annual testing, there is nothing that requires the operator to report when a well becomes inactive. If the Commission can no longer determine when a well becomes inactive, what is the point of having Chapter 89 of the Natural Resources Code dealing with abandoned wells on the books at all? None of the Surface Equipment and Removal Requirements in Chapter 89 will ever go into effect without the data reporting that a well has become inactive. What incentive would an operator ever have to report on themselves and therefore trigger costly removal and cleanup requirements?

The well plugging requirements and abandoned equipment removal provisions enacted by the Texas Legislature through the years represent hard-fought and well-reasoned strategies to reduce the threat of damage to our aquifers and cleanup of the surface. Today, it appears the Railroad Commission is on the verge of completely wiping out their responsibility to enforce those laws with its rule proposal. The Texas Land and Mineral Owners Association urges the Commissioners to vote down this proposal and not create the threat of permanent harm to the State of Texas merely to save the industry some money by eliminating a valuable rule they have been required to adhere to for years.

Sincerely,



Jennifer Bremer  
Executive Director

Cc: The Honorable Greg Abbott  
The Honorable Dan Patrick  
The Honorable Joe Straus  
The Honorable Brian Birdwell  
The Honorable Drew Darby