

# Tintera Energy

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Written Testimony for April 14, 2020: MOTION FOR COMMISSION CALLED HEARING ON THE VERIFIED COMPLAINT OF PIONEER NATURAL RESOURCES U.S.A. INC. AND PARSLEY ENERGY INC. TO DETERMINE REASONABLE MARKET DEMAND FOR OIL IN THE STATE OF TEXAS.

I am John Tintera, and I respectfully submit this testimony in my individual capacity. As a longtime former employee and previous Executive Director of the Railroad Commission (The Commission), I am submitting this document because I believe in the agency, its mission, your leadership, the staff that serve it, and the industry you regulate.

My comments will focus on a narrow but critically important aspect – the significant challenges and resources required by the Commission to accurately and correctly implement a robust pro rationing regulatory framework based on market demand.

The era of pro ration ended almost 50 years ago. Pro rationing was a necessary and appropriate tool decades ago to control overproduction when the East Texas field was discovered and overproduced. As producers rushed to capture as much resources as quickly as possible, there was massive above ground and below ground waste of the resource and markets were disrupted. This was true physical waste of the resources.

To refurbish and expand a pro ration scheme will take more than just political will. It will require an investment of resources, including funding, personnel, industry technology, and the time needed to plan, implement, perform, and report on the success or failure of this program that should not be underestimated. These are the tall hurdles the agency will need to overcome. Please allow me to make the following observations:

**Funding:** No agency has unlimited budget or personnel resources. The Commission under its current leadership has admirably focused on the key issues mandated by our State Legislature through the biennial budget process, the findings of the Sunset Commission, and other legislative actions. New funding will need to be considered through the legislative budget process, a process which has not yet begun and will not conclude until well over a year from now. In the interim, existing budget dollars would have to be directed away from existing programs into the new pro ration effort. Many of these priority programs that will lose funding are focused on safety, efficiency and regulatory oversight. These indeed are the essential functions of the Commission.

**Personnel:** The Commission will have important decisions to make regarding staffing. Staff make or break a program, and hiring, reassigning, and training personnel takes time and money. Decades ago, when the Commission fully exercised proration authority, it had engineers, regulatory personnel, forecasting capability and an array of personnel to implement the far-reaching program. There is also a “boots in the field” component to be addressed. It is my understanding that well tests were critical to

the allocation process and Commission inspectors were needed to police the accuracy of the tests. The existing inspector head count and their inspection priorities may not meet the agency's needs and likely do not have well testing as a high priority.

Industry technology - Drilling and completion technology has changed. Prolific production from tight shales was unimaginable when oil pro rationing was used previously. In the old days, the prorated wells produced from conventional reservoirs, many of which had strong water drive, resulting in a steady well capacity that endured for many years. Modern shale plays have wells with steep, hyperbolic declines. Well capacity changes very rapidly. It is not unreasonable to be concerned that this shale production profile may not work with the previous form of pro rationing and would require significant adjustments to the prior program.

Time: New or expanded programs take time to prepare and put in place. Planning, public interaction and transparency, legal enforcement hearings, the development of performance measures and goals, and more are needed to ensure fairness and accuracy. Computer programs will need to be written, tested, and orientation classes for staff and industry held. New forms may be needed. For many operators this will be an additional regulatory burden on an already struggling industry. The Commission may determine that rulemaking is needed to ensure transparency, fairness, and provide a voice to all interested parties. All these activities will serve to increase the time frame for implementation.

Furthermore, it is prudent to recognize that the risk of unintended consequences must be avoided. For example, if well production is curtailed, will production come back as strong when wells are reopened or will waste occur because of damage downhole? Also, national organizations with a political agenda are already inserting themselves into the discussion, apparently arguing that invigorating proration should serve as a springboard to limit other vital oil field operations, such as flaring. From my years of service to the State, I would expect more of this type of misdirection, not less, and the Commission will need to be prepared to deal with the issues that arise.

In conclusion. I respectfully request the Commission decline to implement a stringent pro ration scheme unless and until answers to these and other critical questions are available. It is best to let the current market adjust to the downturn and allow individual producers to make individual decisions regarding their production in the best interests of the mineral owner, their investors and the state of Texas.

At the Commission's pleasure, I am available to answer any questions or provide additional verbal or written testimony.

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