PETTY FAMILY INTERESTS

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November 19, 2026

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Re: Comments on Proposed Amendments to 16 TAC §3.15 (Surface Equipment Removal Requirements and Inactive Wells) and §3.58 (Certificate of Compliance and Transportation Authority; Operator Reports), Implementing SB 1150, 89th Legislature — Restored Wells and Financial Hardship Extensions

Dear Commissioners:

On behalf of the Petty Family Interests and their related entities ("Petty"), I submit for your review comments relating to the proposed Amendments to 16 TAC §3.15 (Surface Equipment Removal Requirements and Inactive Wells) and §3.58 (Certificate of Compliance and Transportation Authority; Operator Reports), Implementing SB 1150, 89th Legislature — Restored Wells and Financial Hardship Extensions (the "Proposed Amendments").

Like many people throughout Texas, Petty has firsthand experience with oil and gas operations on lands they own. These experiences include inactive wells, orphaned wells, good operators, bad operators, and everything in between. As stewards of their lands, Petty strives to ensure that the operators are meeting their statutory obligations and we routinely engage directly with the Texas Railroad Commission (the "Commission") and its staff as well. While we applaud the Commission on many levels, we believe the Proposed Amendments could use some additional comments and we are hopeful that the Commission will review these suggestions and take them under consideration.

Petty supports SB 1150, but two parts of the proposal would let the oldest idle wells stay unplugged with little real progress: the low bar for counting a well as "restored" and a financial hardship extension with no plugging schedule, no added security, no end date, and no notice to the landowners and mineral owners who live with these wells. The statute says the Commission "may" grant extensions (Tex. Nat. Res. Code §89.023(c)); it does not have to, and it may set conditions.

Simply stated, Petty asks the Commission to:

1) Count a 15/25 well as restored only after sustained production. Do not allow a brief restart reset the 15-year clock or satisfy the prior-history test.
    a) When a 15/25 well counts as Restored (§3.15(a), (i)(1)(A), (i)(1)(C)):
        i) As proposed, a long-inactive well counts as active again after producing as little as five barrels a month for three months, or one barrel a month for twelve months. That restarts the 15-year clock, satisfies the prior-history test (one restored well

for an operator with 10 or fewer inactive wells), and counts toward a compliance plan's annual quota — all without plugging anything.

b) **Suggested addition to §3.15(a):**

i) A 15/25 well is restored to active operation for purposes of subsections (h) and (i) only after it has produced in paying quantities for twelve consecutive months. A restored 15/25 well that becomes inactive again within five years of restoration resumes its prior period of inactivity as if it had not been restored. Only restorations meeting this paragraph count under subsection (i)(1)(A) and (C), and the prior-history test shall be measured against the operator's 15/25 wells.

2) Attach conditions to every hardship extension — a minimum plugging pace, financial assurance that grows each year, no more than three consecutive renewals, and no extension past September 1, 2042.

a) Conditions on Every Hardship Extension (§3.15(h)(2), (i)(1)(B)):

i) The compliance plan route requires a schedule ending in 2042 and the bond route requires full-cost security; hardship requires neither and can be renewed without limit. A hardship extension should buy time to plug on a schedule, not relief from plugging.

b) **Suggested new §3.15(i)(1)(B)(vi):**

i) (vi) An extension approved under this subparagraph shall be conditioned on the operator: (I) plugging or restoring to active status, during the extension year, not fewer than the number of 15/25 wells required under subparagraph (C) of this paragraph, or such lesser number, not less than one-half of that number, as the Commission sets by order, giving priority to wells that pose the greatest hazard; and (II) increasing its financial assurance by not less than one-fifteenth of the full cost calculation for its 15/25 wells until it equals that full cost. No well may receive more than three consecutive extensions under this subparagraph, and no extension under this subparagraph may extend beyond September 1, 2042. Failure to meet a condition is grounds for revocation under subsection (j).

3) Narrow the hardship tests so that a large plugging liability is not, by itself, proof of hardship, and put the burden of proof on the operator.

a) Hardship Tests and Burden of Proof (§3.15(i)(1)(B)):

i) Tests (i) and (ii) are met by almost any operator whose 15/25 plugging liability exceeds one year of revenue or its total assets — the profile of a future orphan operator. Tests (iii)–(v), which ask whether the operator can fund one-fifteenth of that cost each year, measure the right thing.

b) **Suggested §3.15(i)(1)(B) lead-in:**

i) (B) Financial hardship. The operator bears the burden of demonstrating hardship by the documentation required in subsection (h)(4)(B). Approval is warranted only if the condition in clause (iii) and at least one of the conditions in clauses (iv) or (v) are met. The conditions in clauses (i) and (ii) shall not, alone or together, warrant approval. An application that is incomplete at the end of the cure period, or that does not demonstrate hardship, shall be denied, and no application shall be deemed approved by the Commission's failure to act.

4) Give surface and mineral owners notice and a right to protest, with hardship decided by the Commissioners in open meeting.
    a) Owner Notice and Open Decisions (§3.15(h)(2), (h)(4)(B)):
        i) Surface and mineral owners carry the risk of a deteriorating well and may be unable to lease or develop while it sits, yet the rule gives them no notice and no voice.
    b) **Suggested new §3.15(h)(4)(B)(v):**
        i) (v) proof that the operator mailed notice of the application, at least 30 days before filing, to the surface owner of the tract as shown on current appraisal district records and to each mineral and royalty owner in the lease or unit shown in the operator's records, in a form prescribed by the Commission. A recipient may protest within 30 days of filing, and a timely protest entitles the protestant to a hearing.
    c) **Suggested addition to §3.15(h)(2):**
        i) An extension under subsection (h)(4)(B) may be approved or renewed only by order of the Commissioners in an open meeting. Each renewal shall be supported by the full documentation required for an initial application.
5) Close the doors to self-inflicted hardship, give the hazard denial objective triggers, and penalize false submissions.
    a) Self-Inflicted Hardship and Affiliates (§3.15(i)(2)(D), (h)(4)(B)(i)):
        i) Denial for hardship caused by "fault or negligence" will rarely be used unless the term is defined, and reviewing only the operator's own books lets a thinly capitalized company look poor while its owners hold the cash.
    b) **Suggested definition in §3.15(a):**
        i) "Fault or negligence," as used in subsection (i)(2)(D), includes: (A) acquiring the well on or after September 1, 2025, if it was a 15/25 well at acquisition or would become one within five years; (B) distributions, fees, or other transfers of value to owners, officers, or affiliates during the three fiscal years before the application exceeding one-fifteenth of the full cost calculation for the operator's 15/25 wells; (C) failure to maintain required financial assurance; or (D) a pattern of violations in the preceding five years.
    c) **Suggested addition to §3.15(h)(4)(B)(i):**
        i) …and the same statements on a consolidated or combined basis for any parent, subsidiary, or affiliate under common control with the operator and any person owning 10 percent or more of the operator, to which the tests in subsection (i)(1)(B) shall be applied.
6) Other Safeguards (§3.15(i)(2)(B), (C)):
    a) Hazard triggers:
        i) SB 1150 directs the Commission to weigh wellbore integrity, casing pressure, and hydrogen sulfide, corrosive, and overpressured zones (Tex. Nat. Res. Code §89.051).
        ii) **Suggested addition to §3.15(i)(2)(C):**
            (1) A well is presumed to pose a potential hazard if it: (i) failed or has not completed its most recent required fluid level or hydraulic pressure test; (ii) has reported sustained casing pressure or annular flow; (iii) penetrates a hydrogen sulfide, corrosive, or overpressured zone identified by the

Commission; (iv) is within one-quarter mile of a water well, residence, school, or surface water; or (v) lacks a Commission record of its casing and cementing. The operator may rebut the presumption only by showing in the application that the condition has been corrected.

b) False submissions:
   i) A materially false or misleading extension application should result in revocation, an order to plug, an administrative penalty under Tex. Nat. Res. Code §89.023(j), and five years' ineligibility for hardship.
c) Review capacity:
   i) The fiscal note anticipates 86 new staff not yet funded. If applications cannot be reviewed thoroughly, the default must be denial, not approval.

SB 1150 was a hard-won step toward ending indefinite idle status for the oldest wells in Texas. I respectfully ask the Commission to require real restorations and make the hardship extension narrow, temporary, conditioned on progress, and visible to the landowners and mineral owners who live with these wells.

Respectfully submitted,

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