Texas Land & Mineral Owners Association

BOARD OF DIRECTORS
Chairman
E.O. "Trey" Scott, III
Trinity Mineral Management
Vice-Chairman
Lorin Runnels
EIA Properties, Ltd.
Treasurer
Thomas H. "Tom" Daniel
Six Mountain Partners, LP
John D. Alexander, Jr.
King Ranch
James C. Broussard
J.E. Broussard Heirs O&G, LP & LaBelle Properties Ltd.
Kimberley K. McTee
Catharine C. Whittenburg Trusts Turkey Track Ranch
Carolyn Frost Keenan
Keenan Family Interests
Barry Coates Roberts
Coates Energy Trust
R. Neal Wilkins
East Foundation

DISTRICT REPRESENTATIVES
Clay C. Cash
Triple C Properties LLC
Leslie el-Effendi
Catharine C. Whittenburg Trusts Turkey Track Ranch
Hillary Moore
MDJ Minerals, LP/Connell-Cowden Minerals, LP
Christina Sasser
Mesteña, LLC/Jones Ranch
Jamey Steen
Buckhorn Resources
Amy Stieren
The Stieren Ranch
Leo Welder
JF Welder Heirs LTD

HONORARY DIRECTORS
The Honorable Dolph Briscoe*
Jack Hunt
Roger Welder
J.A. Whittenburg, III*
The Honorable Cullen Looney
Doug Beveridge
Chaunce Thompson, Jr.*
Morgan Dunn O'Connor
Scott Petty, Jr.
Lica Pinkston
George Tanner*
James P. "Rick" Walker, Sr.*
Dr. John S. Baen, Ph.D*

ADVISORY DIRECTORS
Joseph B.C. Fitzsimons
John B. McFarland
Howard P. Newton
George J. Person
Kitty-Sue Schlink, PhD

EXECUTIVE DIRECTOR
Jennifer Owen

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

RE: Comments on Proposed Amendments to 16 TAC 3.15 and 3.58

Dear Rules Coordinator,

The Texas Land & Mineral Owners Association is a statewide advocacy organization representing surface, mineral and royalty owners across Texas. Our over 600 members represent millions of acres and take great responsibility in being good stewards of Texas' vast natural resources. Inactive wells have long plagued the oilfields and landscapes of Texas. TLMA appreciates the Legislature's passage of Senate Bill 1150 during the 89th Regular Session and the Railroad Commission's work to implement it. The legislation presents an important opportunity to address a growing problem that affects surface owners, mineral and royalty owners, and the State, which may ultimately bear the cost of plugging orphaned wells.

Before addressing specific changes to the proposed rules, TLMA believes it is important to recognize that the Commission already has rules intended to prevent inactive wells from becoming orphaned. In practice, however, gaps in implementation and enforcement have allowed some operators to avoid meaningful compliance. The proposed rules should close those gaps rather than create additional opportunities to delay plugging obligations.

Overall, TLMA supports the framework of the proposed rulemaking. However, the rules need clearer standards, objective criteria, measurable requirements, and consistent enforcement to ensure that the Legislature's intent is carried out.

Most importantly, TLMA recommends placing a firm limit on the number of extensions an operator may receive and have no extensions past September 1, 2042. The compliance plan includes a date certain, but that deadline will have limited effect if operators can repeatedly obtain extensions through other provisions. Without enforceable deadlines to plug inactive wells or return them to meaningful production, the rule will not achieve the results SB 1150 was intended to deliver.

TLMA's key recommendations are:

1. Limit financial hardship extensions to three years, with no extension of any kind past September 1, 2042.
2. Require sustained production of at least 10 barrels of oil or 100 mcf of gas per month for 12 consecutive months before a 15/25 well counts as returned to production.
3. Condition any hardship extension on progress: a minimum number of wells plugged or restored each year and financial assurance that grows toward the full cost calculation.
4. Require compliance plans to cover all of an operator's 15/25 wells.
5. Give surface, mineral, and royalty owners notice of extension applications and the right to protest.

Definitions

TLMA recommends amending the definition of "active operation" to require sustained production of at least 10 barrels of oil per month or 100 mcf of gas per month over a continuous 12-month period for 15/25 wells being returned to production. Without a continuous production requirement, three months of production can restart the 15-year clock. Under the proposal, as little as five barrels of oil a month for three months is enough. TLMA further recommends that a restored 15/25 well that becomes inactive again within five years resumes its prior period of inactivity rather than start a new 15-year clock.

TLMA supports adding a definition for the "full cost calculation for plugging an inactive well." This definition is an important step toward establishing a more accurate picture of an operator's financial obligations and whether the operator has the resources to meet them. However, because the financial hardship tests compare an operator's revenue, assets, and earnings to this same figure, a larger full cost calculation also makes it easier to qualify for a hardship extension. The definition should be used to set bonds and plugging obligations, not to widen the hardship pathway.

Fluid Level and Hydraulic Pressure Tests

TLMA supports requiring a fluid level test or hydraulic pressure test when a well reaches 15 years of age, rather than waiting until the well reaches 25 years of age.

Methods of Plugging Extension

The proposed rules establish four methods by which an operator may obtain an extension to plug 15/25 wells. Although the options appear intended to provide flexibility in appropriate circumstances, several provisions lack objective standards and sufficient safeguards. Without clearer requirements and meaningful enforcement, operators may continue to defer plugging rather than address their inactive wells.

History of Returning Wells to Production

The history of returning wells to active status sets too low a bar. Under the proposal, an operator with 10 or fewer inactive wells qualifies by restoring a single well in the preceding year, and a well can count as restored after as little as five barrels a month for three months. This section of rulemaking merely requires the operator to provide information already available to the Commission and does not provide meaningful guidance and changes to existing rules.

The restoration extension is well intentioned but leaves room for concern. We have heard from members about falsely reported production by operators to meet the existing 10% threshold for a P-5 renewal. TLMA is also concerned that the proposed approach may allow operators to leave more costly wells unplugged because eligibility is evaluated across an operator's entire inactive well population rather than solely the 15/25 wells at issue. Furthermore, there is not a requirement in this section for operators to "reasonably prioritize" wells to be plugged as there is in other sections of the proposed rulemaking. We believe this percentage should be increased to 20%, measured against the operator's 15/25 wells, and only wells meeting the sustained production standard recommended above should count as restored.

Financial Hardship

The financial hardship extension is TLMA's greatest concern among the proposed methods for extending the plugging deadline for 15/25 wells. Financial hardship and the continued operation of financially distressed operators have contributed to the accumulation of inactive wells. The rule should not perpetuate that problem by allowing extensions without a firm endpoint.

At a minimum, an operator should only receive a financial hardship extension for a maximum of 3 years and no extensions should extend past September 1, 2042. The RRC should not be in the business of unnecessarily extending the lives of wells that are inevitably going to become orphan and companies who are unable to meet their financial obligations. Without those safeguards, wells are likely to remain inactive until the operator can no longer meet its obligations and the wells become the responsibility of the State's orphan well program. Additionally, keeping these wells inactive, when there is no improvement in the financial status of a company, prevents the mineral owner from having the opportunity to find a financially solvent operator to produce the minerals they own.

TLMA also recommends that any financial hardship extension be conditioned on the operator plugging or restoring a minimum number of 15/25 wells each year, consistent with the pace required of a compliance plan, and on increasing its financial assurance each year toward the full cost calculation. The qualification tests should also be narrowed: tests (i) and (ii) are met by nearly any operator whose plugging liability exceeds one year of revenue or its total assets, which describes an operator whose wells are likely to be orphaned.

TLMA believes road construction, brush clearing, or other actions necessary to access the inactive well site should be removed as a basis for a financial hardship extension

(§3.15(h)(4)(B)(iii)). This allows operators to include costs that they allowed to accumulate over time as a reason for not plugging wells.

Compliance Plan

The compliance plan appears to be the most comprehensive extension option. TLMA recommends requiring the plan to account for all of an operator's 15/25 wells, rather than only the wells the operator elects to include. Because the plan may extend to 2042, excluding wells would allow operators to select which plugging obligations to address while leaving others unresolved.

If the Commission allows an operator to exclude any 15/25 wells from its compliance plan, TLMA recommends limiting the plan's term to three years.

Bonding Requirements

TLMA supports the individual performance bond option. The rule should expressly require the bond amount to be updated each year to the current full cost calculation so that the security keeps pace with rising plugging costs.

Commission Review of Extension Applications

TLMA recommends that the Commission include a timeline of when the application will be reviewed for completeness and approved once complete. Without any required timeline, operators will be permitted to continue to operate even though their application may be denied in the future. An application that is not shown to be complete and warranted should be denied, not approved by default.

Surface and Mineral Owner Notification and Protest

Surface owners bear the weight of impact to the land these inactive wells cause and mineral and royalty owners lose the ability to re-lease the acres held by the inactive wells. Landowners should be given at least 30 days' notice that the application for an extension has been filed and the ability to file a protest. Notice should go to the surface owner shown on county appraisal district records and to the mineral and royalty owners in the operator's records, and a timely protest should entitle the owner to a hearing.

Conclusion

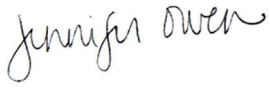
A consequence that receives little attention: an inactive well keeps its lease in place, preventing the mineral owner from re-leasing potentially productive acreage to a new operator. Requiring operators to actually address their inactive wells — rather than perpetually defer them — would give mineral owners a real opportunity to see a well returned to production, properly plugged, or released so the owner can negotiate a new, more contemporary lease.

Returning viable wells to production can also support additional economic activity and generate severance tax revenue for the State. Reducing the number of inactive wells, whether through plugging or a genuine return to production, benefits landowners, mineral owners, responsible operators, and the State of Texas.

Texans deserve a strong rule that gives effect to SB 1150 and prevents inactive wells from becoming an unnecessary liability for taxpayers. Under the existing framework, some operators have been able to obtain repeated opportunities to delay compliance while wells remain inactive, leases remain burdened, and plugging liabilities continue to grow. Those liabilities may ultimately shift to the Commission's orphan well program and Texas taxpayers.

Thank you for the opportunity to submit these comments. TLMA respectfully urges the Commission to consider these recommendations and revise the proposed rules accordingly. A clear, enforceable rule with meaningful deadlines and appropriate opportunities for affected owners to participate is essential to carrying out the Legislature's intent in SB 1150.

Sincerely,



Jennifer Owen
Executive Director

1005 Congress Avenue, Suite 360 • Austin, Texas 78701
(512) 479-5000 • www.tlma.org