



**Texas  
Independent  
Producers and  
Royalty Owners  
Association**

## DALLAS FED: OIL AND GAS SECTOR ENTERING 2017 ON A POSITIVE NOTE

Leading into 2017, a new survey released from the Federal Reserve Bank of Dallas showed increasing optimism by oil and gas executives for the year to come. Responses to Dallas Federal Reserve's Energy Survey revealed that oil and gas business activity grew more bullish late last year, oil and gas production stopped declining, and measures of industry labor market conditions turned positive for the first time in 2016. The energy survey, published on December 29, 2016, sampled oil and gas companies headquartered in the Eleventh Federal Reserve District—which covers Texas, southern New Mexico and northern Louisiana—many of which companies that also hold national and global operations.

"The oil and gas sector is entering 2017 on a positive note, as activity continued growing in the fourth quarter and outlooks improved significantly," said Dallas Fed senior economist Michael D. Plante.

More than half of the surveyed executives have revised up their 2017 oil price forecasts and company outlooks in response to announced production cuts by OPEC, under the expectation that the global oil market will come into balance by the third quarter of 2017.

Panelists also touched on increasing interest in the Permian Basin, which had received significant attention during the second half of 2016 in spite of suppressed market conditions. On the topic though, many executives discussed nuances of acreage and transaction pricing, often related to geological characteristics of specific plays or financing differences between private and public companies.

Data for the latest Dallas Fed energy survey was collected December 14–22, with a total of 147 energy firms responding to the survey. Of the respondents, 67 were E&P firms, and 80 were oilfield services firms.

## TEXAS OIL & GAS AGENCIES HIGHLIGHT 2016 REGULATORY ACCOMPLISHMENTS

At the end of 2016, regulatory agencies in Texas reported progress from the past year in government oversight and management of oil and gas activities in the Lone Star State. As part of its annual "Year in Review" publication, the Railroad Commission of Texas (RRC) recently took a look back on work conducted by the agency during the last year, reviewing significant milestones and regulatory initiatives pursued by the commission in 2016. Some notable highlights include:

- *RRC's 125<sup>th</sup> anniversary*: In April 2016, the RRC celebrated its long, proud tradition of protecting natural resources and serving the state of Texas for 125 years. Current and former RRC commissioners, legislators, and staff participated in a special celebration at RRC headquarters in Austin to commemorate the historic milestone.
- *Texas Oilfield Relief Initiative*: Aimed at improving efficiencies for the state's energy regulatory body, the Texas Oilfield Relief Initiative announced by the RRC in August 2016 allowed the agency to ease regulatory administrative burden on industry while ensuring the commission continues to protect the public and environment. Under the initiative, last year the RRC conducted an extensive review of all agency forms required for application and reporting purposes and determined whether data collected is currently used or no longer necessary.
- *New reporting system and other technological advancements*: The RRC's Information Technology Services Division developed the Inspection, Compliance and Enforcement (ICE) reporting system, a web-based system that allows field inspectors the ability to file inspections from a laptop in the field without need for internet connectivity with a later transfer of the respective files to the appropriate RRC district office when connectivity is available. The ICE application also provides RRC inspectors with mobile access to comprehensive, real-time data to help determine compliance while on site.
- *Educational workshops*: During 2016, the RRC hosted a series of government outreach workshops throughout Texas to educate city government leaders on state rules, regulations, processes and policies. In 2016, RRC staff also participated in more than 60 public seminars, workshops and conferences in 18 Texas cities plus Washington, D.C.

In addition, the Texas Commission on Environmental Quality (TCEQ) also highlighted noteworthy benchmarks from 2016 that allowed the state agency to further improve protection of the environment and health of the people of Texas. In 2016, the TCEQ opened its new Houston-area laboratory to provide analytical support for a variety of water, wastewater, and air testing needs. Under the direction of the 84<sup>th</sup> Texas Legislature, the TCEQ also completed a study of the state's primary water account to assess how lawmakers can address revenue shortfalls for TCEQ water programs. Moreover, the TCEQ continued the agency's public awareness program, *Take Care of Texas*, which encourages Texans to do their part in keeping the state's air and water clean, conserve water and energy, and reduce waste. Further, at the end of October 2016, Ryan Vise, an adviser for Texas Governor Greg Abbott, took over as director of Intergovernmental Relations at the TCEQ. Vice replaced Mark Harmon, who had been in the position since 2013.

## CHAIRMAN'S MESSAGE

Happy New Years, fellow TIPRO members!

We enter into this New Year like no other in recent memory. We have nominees for EPA Administrator, and Secretaries of State and Energy that no one can accuse of being ignorant of the benefits and challenges of U.S. oil and gas production.

Sad that this is a notable exception to the rule, really.

For those of you who operate, you likely got a touching and sincere Christmas card from our friends at the EPA requesting hundreds or thousands of hours of your time and effort, with the reminder that NOT doing so would culminate in a \$90,000+ PER DAY fine. The Cardinals at the Cathedral of Our National Religion require that confessional from each of us so that they can magically calculate the penance we need to pay for the mortal sin of creating good paying jobs, freeing our fellow citizens from servitude to OPEC, and giving our federal government the first real geopolitical ammunition it has had since Eisenhower.

You should have received an email from Ed Longanecker on January 3<sup>rd</sup> outlining a strategy that every operator should take in dealing with this outrageous request. Please read it carefully and call TIPRO if you have any questions on what it suggests and its intent. The more operators that follow this suggestion, the better.

We can only hope that we will be seeing less of these sorts of ridiculous impositions of time and money moving forward. However, the story of business life is that it generally NEVER gets easier. It seems to ONLY gets worse. Every time politicians get together, they pass more and more rules for the rest of us to comply with. Personally, I think of every rule and regulation as a nickel from the pile of coins that define your freedom. Every rule means you have one less liberty nickel. Eventually you will have none. You will not be able to do anything without explicit permission. That is when the whole system collapses.

My grandad once told me: "Allen, politicians can only do two things. They can tell you what to do, and they can take your money. How hard do you really want those gentlemen to work?"

I think about that a lot as the legislative session kicks off here in Texas. Once again, we find ourselves fighting defensive battles. I sure wish we, as an industry, could find some OFFENSIVE battles to take on every once in a while. The problem is we don't gain ground defensively. We just give way more slowly.

The good news is that TIPRO is on top of this session probably better than any session prior. We have an A-Team defense, ready to protect the welfare of members of the association. TIPRO has also increased its efforts in the judicial arena to respond to a deluge of frivolous lawsuits involving our industry. We can - and must - do more.

My hopes are that we figure out, over the next few months, what we can stand for in terms of a long term OFFENSIVE strategy. This needs to include litigation against those that seek to kill us as an industry. We don't face "good faith" opponents who seek common ground. Our opponents are opposed to our very existence, although they propose no alternative. Truly, they represent The Dark - literally and figuratively.

A politician in Washington D.C. told me recently, "I really like you oil and gas guys. You only ask to be let alone... not for special treatment like everyone else." Maybe we should be demanding more. Let's grab a few new nickels instead of just trying to lose the ones we have more slowly.

Now go grab 2017 by the throat!

Allen Gilmer



**Allen Gilmer**

## WAYNE CHRISTIAN TO BE SWORN-IN AS NEW RAILROAD COMMISSIONER ON JANUARY 9<sup>TH</sup>

Wayne Christian will be sworn-in as the next Railroad Commissioner on Monday, January 9<sup>th</sup> in Austin. During the ceremony, U.S. Senator Ted Cruz (R-Texas) will provide remarks.

A fourth generation East Texan, Christian was elected in November 2016 to serve as the next Railroad Commissioner of Texas. Christian is a businessman and former state legislator from East Texas, having served in the Texas House from 1997-2013. During his time in the state legislature, Christian was the vice-chair of Regulated Industries and as a multi-term member of the House Energy Resource Committee. On these committees, he had direct oversight of the Railroad Commission and accumulated a strong record of standing for free markets and against burdensome regulations.

Christian fills the open seat at the Railroad Commission left by David Porter, who did not seek a new term in office.

### TIPRO Calendar of Events

<p><b>JANUARY 11, 2017</b> HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.</p>	<p><b>FEBRUARY 8, 2017</b> HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon, 11:30 a.m. Houston Petroleum Club. For info, call: (202) 857-4733.</p>	<p><b>FEBRUARY 15-17, 2017</b> HOUSTON — Annual NAPE Summit, George R. Brown Convention Center. For info, call: (817) 847-7700.</p>	<p><b>FEBRUARY 27-28, 2017</b> AUSTIN — TIPRO's 71<sup>st</sup> Annual Convention, Sheraton Hotel by the Capitol. For info, call: (512) 477-4452.</p>
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*You're invited to*

# **TIPRO's 71<sup>st</sup> Annual Convention!**



Register today for the association's 2017 annual meeting, to be held on February 27-28 in Austin, Texas.

During TIPRO's conference, hear directly from state officials, industry regulators and oil and gas executives to learn the latest on opportunities and challenges facing independent producers and royalty owners in the Lone Star State. TIPRO is also excited to welcome the 46<sup>th</sup> Vice President of the United States Dick Cheney as the keynote presenter of the association's 2017 convention.

This year, TIPRO also looks forward to again hosting legislative call-up meetings with members at the Texas capitol, providing convention attendees with the opportunity to speak with legislators about critical industry topics and significant legislative issues.

*Keynote Speaker:*



*Dick Cheney  
Former U.S. Vice President*

TIPRO members are encouraged to reserve your hotel accommodations at the Sheraton Austin Hotel at the Capitol as quickly as possible. The deadline to book a room at the discounted TIPRO rate will be on January 25<sup>th</sup> - to secure your hotel reservation, please call (512) 478-1111.

Sponsorship opportunities are also still available at a variety of levels for TIPRO's 71<sup>st</sup> Annual Convention. Please consider supporting this important association event.

For more information, please contact TIPRO at (512) 477-4452.



# TIPRO'S 71<sup>ST</sup> ANNUAL CONVENTION

## REGISTRATION FORM

### MEMBER REGISTRATION FEES:

INCLUDES ALL AGENDA EVENTS & MEALS

MEMBER - FULL REGISTRATION: \$495

SPOUSE - FULL REGISTRATION: \$325

### EVENT-SPECIFIC TICKETS:

TUESDAY-ONLY BADGE: \$395

### NON-MEMBER REGISTRATION FEES:

INCLUDES ALL AGENDA EVENTS & MEALS

NON-MEMBER - FULL REGISTRATION: \$695  
(REGISTRATION INCLUDES 1 YEAR REGULAR TIPRO MEMBERSHIP)

NON-MEMBER SPOUSE - FULL REGISTRATION: \$475

### EVENT-SPECIFIC, NON-MEMBER TICKETS:

TUESDAY-ONLY BADGE: \$595



Have special dietary needs or other considerations?  
Please contact TIPRO staff at (512) 477-4452.

## ATTENDEE INFORMATION

Name of Attendee: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Registered Spouse: \_\_\_\_\_



## PAYMENT INFORMATION

Total: \_\_\_\_\_ Payment Method:  VISA  MASTERCARD  AMEX  CHECK NO: \_\_\_\_\_

Print Name: \_\_\_\_\_ Company: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Credit Card No.: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Signature: \_\_\_\_\_ CID: \_\_\_\_\_

## CANCELLATION POLICY

In order to receive a refund, TIPRO must be notified of your cancellation no later than  
**Friday, February 17, 2017.**

Return registration form to TIPRO at: 919 Congress Avenue, Suite 1000, Austin, Texas 78701 or fax to (512) 476-8070.  
Registration forms must be accompanied by payment.

# TIPRO's 71<sup>st</sup> Annual Convention

February 27-28, 2017  
Austin, Texas

## SPONSORSHIP OPPORTUNITIES:

### GENERAL SPONSOR LEVELS~

#### Gold Sponsor

\$10,000

- Four (4) all-access badges to TIPRO's Annual Convention, including spouse registration for each attendee
- Reserved table for eight (8) at the Chairman's Dinner
- Acknowledgement on all promotional materials and conference signage
- Full-page advertisement in the Convention program
- Half-page advertisement in The TIPRO Target newsletter

#### Silver Sponsor

\$7,500

- Three (3) all-access badges to TIPRO's Annual Convention, including spouse registration for each attendee
- Reserved table for eight (8) at Chairman's Dinner
- Acknowledgement on all promotional materials and conference signage
- Full-page advertisement in the Convention program
- Half-page advertisement in The TIPRO Target newsletter

#### Bronze Sponsor

\$5,000

- Two (2) all-access badges to TIPRO's Annual Convention, including spouse registration for each attendee
- Acknowledgement on all promotional materials and conference signage
- Half-page advertisement in the Convention program
- Half-page advertisement in The TIPRO Target newsletter

#### Blue Ribbon Sponsor

\$3,500

- Two (2) all-access badges to TIPRO's Annual Convention, including spouse registration for each attendee
- Acknowledgement on all promotional materials and conference signage
- Half-page advertisement in the Convention program
- Quarter-page advertisement in The TIPRO Target newsletter

#### Red Ribbon Sponsor

\$2,500

- One (1) all-access badge to TIPRO's Annual Convention, including spouse registration for each attendee
- Acknowledgement on all promotional materials and conference signage
- Quarter-page advertisement in the Convention program
- Quarter-page advertisement in The TIPRO Target newsletter

#### White Ribbon Sponsor

\$1,500

- One (1) all-access badge to TIPRO's Annual Convention
- Acknowledgement on all promotional materials and conference signage

#### Support Sponsor

\$500

- Acknowledgement on all promotional materials and conference signage



#### LAST YEAR'S TOP SPONSORS:



OIL&GAS JOURNAL

PIONEER  
NATURAL RESOURCES

Schlumberger



Available sponsorship opportunities continued on the next page...



# TIPRO'S 2017 ANNUAL CONVENTION: SPECIALTY SPONSORSHIPS

## Legislative Reception Sponsor

\$5,000

Legislators, capitol staff and TIPRO members convene for this well-attended networking reception. Serve as one of the exclusive sponsors of this event. Sponsors will be featured on prominent signage displayed at the reception and have the opportunity to make welcome remarks, as well as receive one (1) all-access badge to the convention.

*\*Limit two sponsors*

## Hospitality Suite Sponsor

\$3,500

Sign up as an exclusive sponsor of the hospitality suite at TIPRO's Annual Convention. Sponsor will receive prominent recognition on signage in the hospitality suite and other promotional materials for the event, as well as one (1) all-access badge to the convention.

*\*Limit one sponsor*

## ITEM SPONSORSHIPS:

### Notebook Sponsor\*

\$3,000

Company logo will be featured on notebooks distributed to all convention attendees. In addition, participating notebook sponsor will also receive one (1) all-access badge to TIPRO's Annual Convention.

### Totebag Sponsor\*

\$3,000

Company logo will be featured on totebags distributed to all convention attendees. In addition, participating totebag sponsor will also receive one (1) all-access badge to TIPRO's Annual Convention.

### Tumbler Sponsor\*

\$3,000

Tumblers distributed to all convention attendees will be branded with the sponsor company logo. In addition, participating sponsor will also receive one (1) all-access badge to TIPRO's Annual Convention.

### Amenity Sponsor

\$3,000

Each meeting attendee will receive a TIPRO-selected gift during their first night in the hotel with sponsoring company logo. Amenity sponsor will also receive one (1) all-access badge to TIPRO's Annual Convention. Limit two sponsors.

### Lanyard Sponsor\*

\$2,500

Company logo will be featured on badge lanyards provided to all TIPRO convention attendees. In addition, participating sponsor will also receive one (1) all-access badge to TIPRO's Annual Convention.

### Hotel Key Sponsor\*

\$2,500

Company logo featured on hotel room keys of guests in the TIPRO block. Participating key sponsor will also receive one (1) all-access badge to TIPRO's Annual Convention.

*\*Limit one sponsor*

**SOLD OUT**

**To confirm availability or learn more about sponsorship packages for TIPRO's 71<sup>st</sup> Annual Convention, please contact Stephen Coffman at (512) 477-4452 or [scoffman@tipro.org](mailto:scoffman@tipro.org).**



# TIPRO'S ANNUAL CONVENTION: SPONSORSHIP FORM

## SPONSORSHIP LEVELS

PLEASE CHECK DESIRED SPONSORSHIP CHOICE

- |                                           |                                                 |                                                  |
|-------------------------------------------|-------------------------------------------------|--------------------------------------------------|
| <input type="checkbox"/> GOLD   \$10,000  | <input type="checkbox"/> BLUE RIBBON   \$3,500  | <input type="checkbox"/> SUPPORT SPONSOR   \$500 |
| <input type="checkbox"/> SILVER   \$7,500 | <input type="checkbox"/> RED RIBBON   \$2,500   |                                                  |
| <input type="checkbox"/> BRONZE   \$5,000 | <input type="checkbox"/> WHITE RIBBON   \$1,500 |                                                  |

## ADDITIONAL SPONSORSHIPS

PLEASE CHECK DESIRED SPONSORSHIP CHOICE

- |                                                                          |                                                      |
|--------------------------------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> LEGISLATIVE RECEPTION SPONSOR   \$5,000         | <input type="checkbox"/> NOTEBOOK SPONSOR   \$3,000  |
| <input type="checkbox"/> HOSPITALITY SUITE SPONSOR   \$3,500             | <input type="checkbox"/> AMENITY SPONSOR   \$3,000   |
| <input type="checkbox"/> <del>TOTEBAG SPONSOR   \$3,000</del> *SOLD OUT* | <input type="checkbox"/> LANYARD SPONSOR   \$2,500   |
| <input type="checkbox"/> TUMBLER SPONSOR   \$3,000                       | <input type="checkbox"/> HOTEL KEY SPONSOR   \$2,500 |

## ATTENDEE INFORMATION

### BADGE 1:

Name of Attendee: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_



### BADGE 2:

Name of Attendee: \_\_\_\_\_ Company: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

### BADGE 3:

Name of Attendee: \_\_\_\_\_ Company: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

### BADGE 4:

Name of Attendee: \_\_\_\_\_ Company: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

## PAYMENT INFORMATION

Sponsorship Level: \_\_\_\_\_ Sponsorship Total: \_\_\_\_\_

Payment Method:  VISA  MASTERCARD  AMEX  CHECK NO: \_\_\_\_\_

Print Name: \_\_\_\_\_ Company: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Credit Card No.: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Signature: \_\_\_\_\_ CID: \_\_\_\_\_

Mail form to TIPRO at: 919 Congress Avenue, Suite 1000, Austin, Texas 78701 or fax to (512) 476-8070.

Forms must be accompanied by payment.

# CONSENT DECREE OFFERS UNIQUE OPPORTUNITY TO PROVIDE CLARITY TO STATES, REGULATED COMMUNITY AND THE PUBLIC ON THE DISPOSAL OF SOLID WASTE FOR OIL & GAS

## BY SUZANNE MURRAY, HAYNES AND BOONE, LLP

On December 28, 2016, the U.S. District Court for the District of Columbia entered a Consent Decree to settle litigation between the EPA and several national environmental groups regarding EPA's obligation under Subtitle D of the Resource Conservation and Restoration Act (RCRA) to review state solid waste management plans and state regulations pertaining to the disposal of oil and gas wastes.

The Consent Decree resolved the action, filed on May 4, 2016, in which plaintiffs contend that EPA violated an alleged "mandatory duty" to "promulgate regulations containing guidelines to assist in the development and implementation of state solid waste management plans," for oil and gas production wastes. The plaintiffs also alleged that EPA failed to meet its obligation to review the guidelines "from time to time, but not less frequently than every three years, and revised as may be appropriate" because they claim that EPA has not formally reviewed the Subtitle D program for oil and gas wastes since 1988.

The Consent Decree dictates that, no later than March 15, 2019, "EPA ... propose a rulemaking for revisions to regulations pertaining to oil and gas wastes at 40 C.F.R. Part 257, or sign a determination that revision of the regulations is not necessary." In the event that EPA proposes a rulemaking for revised oil and gas waste regulations, the Consent Decree requires that EPA take final action following notice and comment rulemaking no later than July 15, 2021.

Under the "Bensten Amendments" to RCRA in 1980, Congress expressly exempted oil and gas wastes from being regulated as hazardous waste under RCRA Subtitle C. Subsequently, EPA determined that oil and gas wastes should be treated only as non-hazardous wastes subject to the non-hazardous regulations of RCRA Subtitle D. There are no federally enforceable standards under Subtitle D, it is a program designed to be implemented directly by the states.<sup>1</sup>

To effectuate this program, each state submits a plan consisting of state rules, permits, and enforcement authority to EPA. If EPA finds that the plan meets the goals of RCRA, including the Subtitle D regulation of oil and gas waste, EPA authorizes the state to administer the statute directly through its plan. As a result of this congressionally mandated process, EPA has authorized state programs across the country, achieving exactly what Congress envisioned: a program where states create substantive, localized regulations that ensure the proper disposal of solid waste, including oil and gas waste.

Because the state of Texas has one of the most comprehensive EPA approved RCRA programs in the nation, TIPRO moved to intervene in the lawsuit on the grounds that EPA had already met its statutory obligation to "assist in the development of and implementation of state solid waste management plans" in Texas. The agency also met its obligation to review Texas' solid waste plan at least every three years by reviewing and approving the state's RCRA program 17 times since 1984.

TIPRO, the American Petroleum Institute, the Independent Petroleum Association of America, and the state of North Dakota, also moved to intervene based upon the fact that, in this case, the plaintiffs wanted EPA to make an end-run around the Subtitle C exemption by asking EPA to address general issues Plaintiffs have with the "modern oil and gas industry" which go far beyond what EPA and the states were authorized to regulate under Subtitle D of RCRA. Although the motions to intervene were denied, the court strictly limited the parties to a resolution on timing and prohibited any agreement on the substance of any determination.<sup>2</sup>

As a result, the Consent Decree presents a unique opportunity for EPA to immediately "sign a determination" that affirmatively states that the state authorization process satisfies its statutory obligations under RCRA Subtitle D. In that process, EPA reviews the sufficiency of the waste disposal practices state by state taking into account the unique qualities of the state and industry needs. It can also "review" holistic issues that arise in the state guidelines. The agency's determination can also set forth a process to work with states to review the state guidelines at the required intervals.<sup>3</sup>

Signing a determination clarifying that the authorization process is the appropriate way to implement the Subtitle D will also give EPA an opportunity to mend fences with states like Texas and North Dakota. North Dakota has expressed concerns about the intent of the settlement, and Texas Railroad Commissioner Ryan Sitton is concerned that this agreement "adds unnecessary, burdensome regulation to an already suffering energy industry and economy." The CD can be a pathway for EPA to work with the states to ensure that all stakeholders understand the Subtitle D process, the state programs and how they are implemented. This can give immediate certainty to the regulated community and the public so that states and industry can continue to follow the authorized programs as envisioned by Congress when it promulgated the statute.

<sup>1</sup>To implement the solid waste program under RCRA, EPA established technical standards and guidelines for state plans to promote environmentally sound management of solid waste. See 42 U.S.C. § 6946; 40 C.F.R. pts. 256, 257. Criteria for classification of solid waste disposal practices are captured in 40 C.F.R. Part 257. Guidelines for the development of state solid waste management plans are set forth in 40 C.F.R. Part 256.

<sup>2</sup>The Court held: "[T]his action will result in an order setting a 'date certain' by which the EPA must make decisions about its Subtitle D classification criteria and state plan guidelines. The substantive content of those decisions, however, will not be dictated by this litigation and will therefore remain within the discretion of the agency." Mem. Op. at 7, *Env'tl. Integrity Project* (Nov. 18, 2016), ECF No. 30; see also *id.* at 14 ("[T]his case does not concern the substantive content of EPA's regulations. That issue will be taken up, if at all, in a notice-and-comment rulemaking conducted by EPA at some point in the future.").

<sup>3</sup>This is consistent with what both EPA and Congress intended for the implementation of the Subtitle D program. In the final notice on the Part 256 Guidelines for Development and Implementation of State Solid Waste Management Plans, EPA explicitly laid out what Congress mandated under Subtitle D:

*In discussing the Subtitle D scheme the House Report (H.R. Rep. No. 94-1491, 94th Cong., 2nd Sess. 33 (1976)) specifically stated: It is the Committee's intention that Federal assistance should be an incentive for state and local authorities to act to solve the discarded materials problem. At this time federal preemption of this problem is undesirable, inefficient and damaging to local initiative.*



## FEDERAL APPEALS COURT DELAYS RULING OVER HYDRAULIC FRACTURING RULE UNTIL MARCH



The Court of Appeals for the Tenth Circuit announced on Wednesday, January 4, 2017, that it will wait until March to take up the debate over the federal government's hydraulic fracturing rule -- pushing the court's decision on the regulation until after President-elect Donald Trump has taken office. This means that attorneys working for the Trump Administration will be in charge of the federal government's appeal case, seeking to defend the controversial rule that was finalized by the Obama Administration in March 2015.

The rule, developed by the U.S. Interior Department's Bureau of Land Management (BLM), updated federal standards relating to well casing integrity, storage of waste fluids and public disclosure of the contents of fracking fluid used by producers. The states of Wyoming, Colorado, North Dakota and Utah, as well as tribes and industry trade organizations, sued the BLM over the rule, arguing that the regulatory measures were duplicative of existing state regulations and unjustified. In September 2015, U.S. District Court of Wyoming Judge Scott W. Skavdahl granted a preliminary injunction, preventing initial implementation of the rule, and then later issued a final ruling on June 21, 2016, declaring that the BLM lacked congressional authority to regulate hydraulic fracturing. The Justice Department filed an appeal in June on behalf of the BLM challenging the decision from Judge Skavdahl.

The original court date for the appeals case had been set for January 17. Now, oral arguments will be heard by the court the week of March 20, 2017.

## FEDERAL AGENCIES RELEASE FINAL HABITAT CONSERVATION PLANNING HANDBOOK

On December 21, 2016, the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) published in the Federal Register a notice of availability of the final revised Habitat Conservation Planning (HCP) Handbook. The USFWS and the NMFS issue Endangered Species Act incidental take permits and help applicants develop conservation plans as a prerequisite to obtaining those permits. In June of this year, both agencies requested public comment on a draft revision seeking to update the joint HCP Handbook, which describes requirements, procedures, and guidance for permit issuance and conservation-plan development. Of the updated HCP Handbook, the agencies said: "We addressed opportunities and concerns by establishing process standards and best practices, and also through updated and refined policy guidance and procedures. These refinements are meant to streamline the HCP process and increase the overall effectiveness of the program. The revised Handbook is designed to be more user-friendly and applicable in both print and web media."

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**KBH KAY BAILEY HUTCHISON**  
 CENTER FOR ENERGY, LAW & BUSINESS™

### SECOND ANNUAL SYMPOSIUM

## The Future of the Oil and Gas Industry: Peak Oil or Peak Demand?

*The Impact of Politics, Economics, and Technology  
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**Friday, February 10, 2017**

**Four Seasons Hotel Austin**

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featuring Bryan Sheffield, Chairman, President  
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## NEW AIPN SEMINAR

hosted by NAPE; presented by the Association  
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## NAPE CHARITIES LUNCHEON

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## NEW OIL & GAS OVERVIEW COURSE

hosted and presented by IPAA; sponsored by NAPE

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**Texas Independent  
Producers &  
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Association**

With more than 3,000 members, TIPRO is the nation's largest statewide association representing both independent producers and royalty owners. Our members include small family-owned companies, the largest publicly traded independents and large and small mineral estates and trusts.

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