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Texas Independent Producers and Royalty Owners Association

Democratic lawmakers suggest ban on U.S. crude oil exports in an effort to lower gasoline prices

A group of Democratic lawmakers serving in the U.S. Senate in November made a shocking request of President Joe Biden, calling on the chief leader of the U.S. federal government to reinstate a ban on crude oil exports as part of a broader effort to control rising energy costs and lower U.S. gasoline prices. In a letter sent on November 9th to the president, U.S. Senators Sherrod Brown (D-OH), Elizabeth Warren (D-MA), Ed Markey (D-MA), Jack Reed (D-RI) and seven others said that American families and businesses across the nation were struggling to cope with soaring gasoline prices and asked for the Biden Administration to “consider all tools available at your disposal to lower U.S. gasoline prices,” including a release from the Strategic Petroleum Reserve (SPR) and a ban on crude oil exports.

A new analysis from IHS Markit found that eliminating U.S. crude exports of 3 million barrels per day would disrupt the domestic and global oil supply chain, and likely increase gasoline prices.

The U.S. government lifted its 40-year ban on crude oil exports only six years ago, at the end of 2015 — a move that since has allowed American producers the opportunity to access global markets, improve the balance of trade, deliver energy security to international allies and trading partners and expand high quality jobs, amongst other important economic benefits. U.S. crude oil exports have increased significantly the last six years and averaged around 3.00 million barrels per day (b/d) every year since 2019, according to the U.S. Energy Information Administration (EIA).

Still, Democrats have incorrectly tried to argue that "continued U.S. exports and overseas supply collusion could be devastating to many in our states, contributing to higher bills for American families and businesses,” while the national average price of gasoline tops $3.41 a gallon as of November 8, up $1.34 from a year ago, according to the EIA.

Experts agree that banning U.S. exports of oil would backfire and likely prove counterproductive, as it would adversely affect global supply and in turn result in higher Brent crude prices. An abrupt shift in energy policy -- amidst an already unstable regulatory environment -- might also spook investors and further reduce investment in U.S. domestic shale.

“A U.S. crude oil export ban would make the situation worse — for the United States and the world — at a time when global supply chains are already under exceptional strain,” Jim Burkhard, IHS Markit’s vice president and head of crude oil markets, said this week. “Such a ban would disrupt global oil supply chains, run counter to decades of U.S. policy promoting the free flow of oil and gas, lead to inefficient and costly re-allocation of domestic crude oil production, disrupt supplies for allies and discourage domestic production — which would all put upward pressure on U.S. gasoline prices. It would also send an unnerving signal to allies and partners about the reliability of the United States.”

“Instituting a crude exports ban would threaten U.S. oil production growth and make the world oil market more heavily dependent on OPEC+ increasing their production to meet demand,” added Burkhard. “This would test the amount of additional production capacity available in the rest of the world.”

Don’t miss the new issue of TIPRO’s magazine, *Upstream Texas*, out now!

The Fall/Winter 2021 edition of the *Upstream Texas* publication is now available! *Upstream Texas*, the official bi-annual magazine of the Texas Independent Producers & Royalty Owners Association (TIPRO), features insights into the opportunities and challenges currently facing the Texas oil and natural gas industry, as well as profiles key industry players and regulators.

Inside the new issue of TIPRO’s magazine, energy experts from leading oil and gas SaaS company Enverus review market expectations as crude oil prices continue to rise. Also in the latest edition of *Upstream Texas*, analysis from Texans for Natural Gas, a project of TIPRO, highlights opportunities for liquified natural gas (LNG) produced in Texas, which is helping to ensure energy demands are met at home and abroad. With strains in the market, particularly across European nations, this *Upstream Texas* feature examines how Texas LNG is poised to keep rising and will aid in addressing energy challenges in the European Union and elsewhere around the globe.

TIPRO is also pleased in each issue of the *Upstream Texas* magazine to profile top officials and industry leaders. In this edition of *Upstream Texas*, TIPRO spotlights Texas Congressman Michael Burgess (TX-26), Texas Transportation Commission Chairman J. Bruce Bugg and Laredo Petroleum Chief Executive Officer Jason Pigott. To view the Fall/Winter 2021 edition of *Upstream Texas* online, please visit https://bit.ly/Fall2021UpstreamTexas and also watch for your copy of the magazine to arrive in your mailbox in the coming days.

President's message

Ed Longanecker

TIPRO Members,

With Thanksgiving just a week away, I know so many of us are eager to join together with our families and kick off the holiday season. It's certainly a special time of the year, and one I am sure we all are likely to cherish that much more given the circumstances presented from the COVID-19 pandemic and other economic challenges over the last year. Unfortunately, at a time when Americans are trying to finalize travel plans to see their loved ones, many are confronted with the rising cost of goods and services and inflation climbing to its highest level in three decades.

Residents living in California this week saw gas prices soar to record levels, with the average price of a regular gallon of gasoline reaching an all-time high of $4.68 on Tuesday, November 16. It's not just the Golden State reporting such high gas prices, either -- this problem is impacting Americans all around the country. In Connecticut, gas prices this week averaged $3.54 per gallon, prices in Idaho were topping $3.69 a gallon and in Utah, gas prices hit $3.71 per gallon. While this unfortunate trend hits drivers' pocketbooks hard, other economic expenses are also spiraling out of control.

And with winter's chill soon spreading across the different regions of the country, we have already been warned that energy bills will also cost more than in years' past this winter season, as analysts from the U.S. Energy Information Administration (EIA) forecast U.S. households will spend 54 percent more for propane, 43 percent more for heating oil, 30 percent more for natural gas and 6 percent more for electric heating, compared with last winter's heating costs.

Demand for energy supplies continues to grow as economies return back to normal following the COVID-19 pandemic, though upstream activity levels and domestic production growth have been more slow to follow, while investor pressures for oil and gas companies remain and the regulatory environment presents significant uncertainty for producers and thousands of American families across the country. The unbalanced market dynamics between demand and supply are supporting higher energy prices, while insufficient energy supplies are contributing to inflationary pressures, putting additional strain on families, purchasing decisions and our nation's economic recovery. Energy poverty is also a hidden weight dragging on families across the U.S. and forcing unimaginable choices upon them. Vulnerable communities suffer from high energy bills, at times driven higher by limited access to affordable energy sources.

Politicians in Washington, D.C. seem lost on how to resolve the situation, offering solutions that will only exacerbate the problem and placing blame on everything except the very policies that are intentionally impacting our nation's energy security. Yet, policymakers continue to publicly discourage investment in domestic oil and natural gas, while begging OPEC to increase production, forcing our country to become more reliant on foreign sources of energy. U.S. Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-WV) this week perhaps put it best in stating, "Affordable, reliable and dependable energy is part of what made us a superpower, and it's critical that we maintain that and keep these prices under control." The solutions to address many of the challenges confronting our country are clear. We must acknowledge that oil and natural gas will continue to be an important and reliable source of energy for decades to come, increase investments to develop domestic reserves and support sensible policies that protect our nation's energy security, the environment and economic opportunity for Americans.

On behalf of our association's membership, TIPRO will continue to actively monitor and directly engage in these issues to protect, promote and strengthen the Texas oil and natural gas industry. I hope you all have a wonderful Thanksgiving and greatly appreciate your ongoing involvement and support.

Regards,
Ed Longanecker

In memoriam: John Watson, past chairman of TIPRO, passes away

John Elbert Watson, a member of Texas Independent Producers and Royalty Owners Association (TIPRO) for many years and former president (now referred to as chairman) of the organization, passed peacefully on Wednesday, November 10, 2021. He was 94. Watson served as leader of TIPRO from 1987 to 1989 and helped to guide TIPRO through a period of rebuilding as it sought to overcome the effects of the market decline of the 1980s, which had led to many mergers and acquisitions within the industry. With significant restructuring for many in the Texas oil business coming out of the 80s, Watson was at the helm to see TIPRO through the challenging times and build upon existing strengths to achieve great success, particularly with the state's then legislative session.

During his career, Watson was a senior vice president of governmental and regulatory affairs for Mitchell Energy Corporation and traveled often to Washington D.C. to advocate on pressing energy issues. Before joining Mitchell Energy, he spent 20 years with Tenneco, where he was manager of regulatory affairs for the company. During this time, he testified before the Supreme Court in 1968.

Before his retirement in 1996, Watson and his devoted wife Ann moved to a farm in Chappell Hill, Texas. He later became a full-time gentleman farmer and could be found out on the tractor into his 90s. A loving husband and devoted father and grandfather, Watson will be deeply missed.

TIPRO CALENDAR OF EVENTS

DECEMBER 14-15, 2021	JANUARY 12, 2022	FEBRUARY 9, 2022
HOUSTON — 2021 UTA Oil & Gas Conference. For information, please email oshasafetyconference@uta.edu.	HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon. For information, please email adoremus@ipaa.org.	HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon. For information, please email adoremus@ipaa.org.

Governor announces new appointments for the TexNet Technical Advisory Committee

Texas Governor Greg Abbott in mid-November named eight new advisors to serve on the TexNet Technical Advisory Committee, an advisory panel established by state lawmakers to guide The University of Texas at Austin's Bureau of Economic Geology (BEG) on the use of the state-authorized funding, including funding used to support the TexNet Seismic Monitoring Program and collaborative research relationships with other universities in Texas. The advisory committee also counsels the BEG on the preparation of a status report delivered to the governor and the state legislature. Advisors that have been invited by the governor to serve on this committee include:

- Brian Stump, Ph.D., professor of geophysics at Southern Methodist University;
- Aaron Velasco, Ph.D., state seismologist for the Railroad Commission of Texas and a professor at The University of Texas at El Paso;
- Philip "Mark" Boyd, Ph.D., global chief geophysicist at ConocoPhillips;
- Calvin "Cal" Cooper, Ph.D., a strategic consultant in the broad energy space, adjunct research advisor and guest lecturer at Rice University and a retired Apache Corporation director;
- Scott Mitchell, founder and CEO of Deep Blue Midstream LLC, who previously was co-founder and CEO of Waterfield Midstream and a geologist and general manager at Anadarko Petroleum Corporation;
- Jeffrey Nunn, Ph.D., principal technical geophysicist at Chevron;
- Kris Nygaard, Ph.D., a retired senior principal engineering executive from ExxonMobil Upstream Integrated Solutions; and,
- Chris Hillman, city manager for the city of Irving.

Each committee member will serve terms that will expire at the pleasure of the governor. Additionally, Stump has also been designated as chair of the advisory committee by Governor Abbott.

TexNet has put Texas at the forefront of data collection and research into the causes of seismicity in the state and is one of the most advanced state-run seismic monitoring systems in the country. The program has allowed researchers to learn more about seismic events and gain understanding on how to mitigate their impacts in the future. For more information on TexNet, go to https://www.beg.utexas.edu/texnet-cisr/texnet.

RRC proposes updates to state rules establishing new curtailment priorities for natural gas delivery

During this month's Railroad Commissioners' Conference, state regulators on November 10th approved for publication in the Texas Register proposed amendments to 16 Texas Administrative Code §7.455, relating to curtailment standards and updating natural gas curtailment priority levels for Texas natural gas utilities. According to the commission, the proposed rules will modify curtailment priorities and programs contained in Oil and Gas Docket, Gas Utilities Division No. 20-62,505, commonly known as Order 489. The proposed curtailment priorities are in effect during a curtailment event to provide for the protection of natural gas human needs customers and electric generation customers.

To view the proposed rules and submit comments online regarding this rulemaking, please visit the commission's website at https://www.rrc.texas.gov/general-counsel/rules/proposed-rules/ under "Chapter 7. Gas Services." The deadline to submit comments for consideration is Friday, January 7, 2022. Please contact TIPRO with any questions.

Oil and gas leases generate record-breaking $1.07 billion in revenue for Permanent School Fund

Oil and gas leases on state-managed lands generated a record-breaking $1.07 billion in revenue during Fiscal Year 2021, Texas Land Commissioner George P. Bush recently announced. The proceeds will go to the Permanent School Fund (PSF) and be used to support public education in Texas. "The Lone Star State continues to be a national leader in energy production, and I am proud to announce yet another year in which we have surpassed $1 billion in oil and gas revenues generated on General Land Office-owned lands," said Commissioner Bush. "This historic announcement is a true testament to the contributions of hard-working Texans who provideaffordable and abundant energy for our state, as well as our continued investment and commitment to educating the next generation of Texans."

In defense of the oil and gas industry, Texas governor pushes for withdrawal of Biden nominee

Greg Abbott, the governor of Texas, has made it well known he won't hesitate to stand up to the president of the United States when it comes to fighting actions of the federal government, having already established a track record of suing the Biden Administration over a variety of policy priorities that range from immigration to COVID-19 vaccination mandates, and more. The top leader of the Texas state government also has stood up to the president and his administration on matters threatening the Texas energy industry. Most recently, on Tuesday, November 16, Governor Abbott called on President Joe Biden to immediately withdraw his nomination of Saule Omarova to become comptroller of the Currency, after Omarova was recorded in a prior interview expressing that she would deny capital as comptroller to certain businesses that she wants to go bankrupt, including oil and gas companies.

"Neither a president, nor his appointees, should advocate for the bankruptcy of American businesses," emphasized Governor Abbott in a letter to President Biden. "As governor of the largest oil and gas producing state in the United States, I call on you to immediately withdraw the nomination of Saule Omarova for comptroller of the Currency. Dr. Omarova's hostility toward the oil and gas sector and the men and women who work in the industry disqualify her from serving in your administration."

The comptroller of the Currency is the administrator of the Office of the Comptroller of the Currency (OCC), a bureau within the U.S. Department of the Treasury. The OCC charters, regulates, and supervises all national banks and federal savings associations, as well as federal branches and agencies of foreign banks.

TIPRO members may read the governor's full letter at: https://bit.ly/3HsvuZL.

Texas Comptroller Glenn Hegar ups forecast for state tax revenue for Fiscal 2022-23 biennium

State Comptroller Glenn Hegar this month said Texas likely will have higher revenue collections to support state programs over the next fiscal cycle. With the release of the 2021 Certification Revenue Estimate (CRE) on November 4, 2021, the comptroller signaled revenue available for general spending in 2022-23 will total approximately $135.32 billion. By comparison, this past summer, the comptroller's office had projected 2022-23 revenue available for general-purpose spending would be close to $123.02 billion. Texas' economic recovery from the coronavirus (COVID-19) pandemic coupled with elevated consumer and business activity in the second half of the year has prompted the comptroller to revise fiscal estimates included as part of the CRE.

"The Texas economy rebounded strongly from the deep but short recession caused by the onset of the COVID-19 pandemic, and we project continued expansion of the Texas economy in this biennium," Comptroller Hegar said. "Since April of this year, the Texas economy and state tax collections, particularly from sales taxes, have continued to outperform expectations."

This trend has helped drive revenue growth for state coffers that will be available for spending over the next two-year budget cycle, and will support continued economic expansion in the next biennium. Still, despite positive momentum for the Texas economy, Comptroller Hegar has cited notable risks and uncertainties for Texas' economic outlook, including volatile energy prices, labor shortages, inflationary pressures, global supply chain disruptions and possibilities of another outbreak from COVID-19 variants. "I will continue to monitor the Texas economy and state revenues closely and will keep the public informed of significant events as they arise," Comptroller Hegar affirmed.

The new CRE released from Comptroller Hegar also details required transfers of tax revenue to the Economic Stabilization Fund (ESF or Rainy Day Fund) and State Highway Fund (SHF). Both accounts receive funding from oil and gas severance taxes, with the comptroller estimating Fiscal 2022 transfers will total $1.46 billion each to the ESF and SHF. In Fiscal Year 2023, the comptroller projects that transfers will rise to $2.43 billion for each fund. "After accounting for interest and investment earnings by the ESF, along with expenditures authorized by appropriations made in recent legislative sessions, the CRE projects a fiscal 2023 ending Rainy Day Fund balance of $12.62 billion," noted the comptroller.

EPA announces public hearing on agency's proposed air standards for the oil and gas industry

The U.S. Environmental Protection Agency (EPA) this week announced it will hold two virtual public hearings on the agency's proposed comprehensive new regulations that seek to expand emissions reduction requirements for the oil and natural gas industry. As TIPRO reported in the November 4th *TIPRO Target* newsletter, the U.S. government in early November proposed updated requirements for new, reconstructed, and modified sources in the oil and natural gas industry to reduce emissions of methane and volatile organic compounds (VOCs). According to the EPA, the proposal would broaden the types of sources covered by the regulation and it would encourage the development and deployment of innovative technologies to further reduce pollution from oil and natural gas sources. EPA also at this time is proposing emissions guidelines, which would require states to develop plans that limit methane emissions from existing oil and natural gas sources.

The EPA has scheduled public hearings to review its proposed rules for Tuesday, November 30, 2021, and Wednesday, December 1, 2021, from 11 a.m. to 9 p.m. Eastern time both days. TIPRO members interested in registering for the public hearing may sign up using the link that follows: https://bit.ly/30Gr9S3. Please note that registration will close on November 24, 2021.

Additional information concerning this proposed rule package for the oil and gas industry may be found by visiting the EPA website at: https://bit.ly/3bGxPkN.

Comment period opens for EPA proposed oil and gas NSPS and emissions guidelines

The Texas Independent Producers & Royalty Owners Association (TIPRO) alerts members that the proposed rulemaking by the U.S. Environmental Protection Agency (EPA) to update the New Source Performance Standards (NSPS) and emission guidelines for the oil and natural gas sector has been published in the Federal Register, initiating a 60-day comment window for stakeholders. Written comments, identified by Docket ID No. EPA-HQ-OAR-2021-0317, may be sent to EPA regulators for consideration by any of the following methods:

- Federal eRulemaking Portal: https://www.regulations.gov/ (EPA's preferred method). Follow online instructions for submitting comments.
- Email: a-and-r-docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2021-0317 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2021-0317.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPAHQ-OAR-2021-0317, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

The public is encouraged to submit comments electronically via the Federal eRulemaking Portal at https://www.regulations.gov/ or through email, as there may be a delay in processing mail and faxes. Comments must be received on or before January 14, 2022.

November's Gulf of Mexico oil and gas lease sale one of the largest in American history

The federal government on Wednesday, November 17th finally reopened access to millions of acres offshore for oil and gas drilling with the first oil and gas auction of the year and the first lease sale to take place under the Biden Administration. The Bureau of Ocean Energy Management (BOEM) reported Lease Sale 257 generated more than $190 million in high bids for 308 tracts covering 1.7 million acres in federal waters of the Gulf of Mexico. A total of 33 companies participated in the 2021 lease sale, one of the largest oil and gas lease sales in U.S. history. Revenues collected from offshore oil and gas leases will be directed to the U.S. Treasury, certain Gulf Coast states (including Texas, Louisiana, Mississippi and Alabama) and local governments, the Land and Water Conservation Fund and the Historic Preservation Fund.

White House considers tapping Strategic Petroleum Reserve to control surging gas prices

President Joe Biden is reportedly looking at drawing from the nation's emergency crude reserves to bring additional oil supplies online, as Americans deal with escalating energy prices. At a recent press conference, U.S. Energy Secretary Jennifer Granholm said that the president and members of his cabinet were "looking at all tools" to address the situation, including using the Strategic Petroleum Reserve (SPR) to bump up oil stockpiles to affect gasoline prices. "At the end of the day, the president is going to decide what we end up doing," said Secretary Granholm.


The Big Hill SPR storage site in Jefferson County, Texas. Photo courtesy of the U.S. Energy Department.

Brian Deese, director of the White House National Economic Council and advisor to the president, echoed similar thoughts over the weekend, commenting during CNN's "State of the Union" program on Sunday, November 14, that officials were "monitoring the situation very carefully." Deese also confirmed tapping the SPR is "on the table."

Gas prices in recent months have climbed to seven-year highs and were averaging $3.41 per gallon in mid-November, according to the U.S. Energy Information Administration (EIA), up $1.31 from a year ago.

On Capitol Hill, members of Congress have weighed in on the controversial topic. As with other Democratic legislators, Senate Majority Leader Charles Schumer (D-NY) said he was encouraging President Biden to take action to address escalating fuel prices and hoped that the government would draw from reserves of emergency fuel to mediate the situation. "Consumers need immediate relief at the gas pump, and so I am urging the administration to approve fuel sales from the nation's SPR," Senator Schumer commented during a news conference on Sunday, November 14.

Republican lawmakers, meanwhile, have suggested alternative actions that the president and his administration could take to increase energy supplies and ease pressures on gas prices. In a letter dated November 4th sent to President Biden, a group of 19 U.S. senators outlined what they call reasonable solutions to help address rising energy costs. "Rather than looking to foreign countries like Russia, Venezuela, and Iran to outsource a solution or pleading with a cartel like the Organization of Petroleum Exporting Countries (OPEC) to increase production, American energy producers can solve this shortage to benefit all Americans," the senators stated. As such, the congress members suggested that the U.S. government should immediately restart leasing on public lands and waters and also guarantee future lease sales will continue in order to send a strong signal to energy producers that supply will be made available to meet present and future energy demands.

Lawmakers also advised that the Federal Energy Regulatory Commission (FERC), along with federal agencies such as the U.S. Army Corps of Engineers and the Environmental Protection Agency (EPA), accelerate permitting and interagency coordination to approve pipeline projects that otherwise are causing bottlenecks and constraining energy flows.

Finally, the U.S. senators called on the president to put an end to the regulatory uncertainty that has been stifling investments in energy. The lawmakers offered a list of regulatory actions and policies that they say should NOT be supported by President Biden and his administration in order to stabilize domestic production and provide affordable energy to Americans, including:

- Restrictive changes to the EPA's methane regulations on existing oil and natural gas infrastructure or operations;
- Prohibitive revisions to the Council on Environmental Quality's (CEQ) National Environmental Policy Act rules (NEPA);
- Unnecessary changes to the U.S. Army Corps of Engineers' nationwide permits (particularly, NWP 12 for linear infrastructure including pipelines);
- Inhibitory modifications to the Clean Water Act Section 401 certification process;
- Expansion of the definition of "Waters of the United States" (WOTUS); and
- Any proposal to ban natural gas imports or exports.

"After numerous conversations over the last year with domestic energy producers, the number one reason they cite for these higher and increasing prices is depressed investment in our production due to regulatory uncertainty. Business leaders are reluctant to make complex, long-term investments in expensive new wells, pipelines, and other infrastructure critical to increasing production and keeping American energy prices low if these projects will be delayed or overly burdened by new, expansive regulations or taxes," explained the senators.

Co-signers of the letter included U.S. Senators Ted Cruz (R-Texas), John Barrasso (R-Wyoming), Mike Braun (R-Indiana), Bill Cassidy (R-Louisiana), Josh Hawley (R-Montana), Cynthia Lummis (R-Wyoming), Jerry Moran (R-Kansas), James Risch (R-Idaho), Roger Marshall (R-Kansas), Thom Tillis (R-North Carolina), Jim Inhofe (R-Oklahoma), Cindy Hyde-Smith (R-Mississippi), John Kennedy (R-Louisiana), Kevin Cramer (R-North Dakota), Mike Lee (R-Utah), John Hoeven (R-North Dakota), Roger Wicker (R-Mississippi), James Lankford (R-Oklahoma) and Todd Young (R-Indiana).

TIPRO members may read the full text of the letter at: https://bit.ly/30nOwiJ.

Meanwhile, at a November 16th congressional hearing of the U.S. Senate Committee on Energy & Natural Resources, EIA Acting Administrator Stephen Nalley also expressed doubt that the withdrawal of oil from the SPR would provide long-lasting relief, telling congressional leaders that such a decision would likely only offer "short-lived benefits and impact."

New regulations add over 400,000 miles of natural gas gathering lines under federal oversight

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) in November issued a new final rule that will amend federal pipeline safety regulations to expand federal regulatory oversight covering all onshore gas gathering pipelines. Gas gathering lines typically are used to transport natural gas from production facilities to interstate gas transmission pipelines, explained PHMSA. Historically, these kinds of gathering lines have been lower-pressure, lower risk and smaller-diameter lines, and also typically have been situated in lesser-populated, rural areas. Expanding use of hydraulic fracturing in the last 15 years, however, has resulted in significant increases to the volume of gas moved through gathering lines, federal regulators contend, necessitating the update to the government's definition of a "regulated" gas gathering pipelines.

As such, PHMSA initiated regulatory changes as mandated under the *Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011* that for the first time will apply federal pipeline safety regulations to tens of thousands of miles of previously unregulated gas gathering pipelines to improve safety. The federal agency estimates that there are at least 425,000 miles of onshore gas gathering lines that have not been subject to PHMSA oversight in the past but will be after this rulemaking takes effect in six months.

The new PHMSA regulation will also target greenhouse gas emission reductions, given a rupture or incident at a gas gathering pipeline can cause the release of additional methane emissions into the atmosphere. Under the final rule, a new category of regulated onshore gathering lines has been established by PHMSA covering higher-pressure lines that pose a heightened risk in rural areas—and applies existing pipeline safety requirements to tens of thousands of miles of these pipelines. The rule also requires all onshore gas gathering pipeline operators to begin filing incident reports and comprehensive annual reports. PHMSA indicates that without this data, estimates for the greenhouse gas impacts of methane emissions remain uncertain.

"After years in development, these new regulations represent a major step to enhance and modernize pipeline safety and environmental standards" said U.S. Transportation Secretary Pete Buttigieg.

Federal agency acts to suspend Trump-era rules authorizing transportation of LNG by rail

The U.S. Department of Transportation and the Pipeline and Hazardous Materials Safety Administration (PHMSA), in coordination with the Federal Railroad Administration, are seeking to reverse a final rule approved last summer by the Trump Administration that authorized the bulk transportation of liquefied natural gas (LNG) by rail. The regulation, which had added new monitoring and tracking requirements for LNG tank cars along with establishing key operational safeguards, was expected to help boost shipment of LNG and allow for greater transport of the resource to different parts of the country, where the energy source would be needed. Before this updated rule had been signed off by leaders of PHMSA, federal hazardous materials regulations only allowed shipments of LNG by truck, not by rail, except with a special permit.

After the final rule was announced last summer, environmental activist groups, however, were quick to file legal challenges against the rulemaking, causing implementation of the policy to be put on hold as the courts reviewed lawsuits battling the regulation. This created regulatory uncertainty, keeping companies from investing in the specialized rail tank cars that were required, so railroads have not handled LNG shipments as anticipated, federal regulators contend. This in part led to the Biden Administration's decision to pull back the rule.

The legal petitions have been consolidated within a single proceeding in the U.S. Court of Appeals for the D.C. Circuit, and earlier this year, the court granted PHMSA's unopposed motion to place the petitions in abeyance while PHMSA reviewed the 'LNG by Rail' final rule. Meanwhile, the agency said that it also is working to evaluate the regulatory framework for rail transportation of LNG in a companion rulemaking. PHMSA has proposed to add a new special provision that prohibits LNG transportation in rail tank cars until issuance of a final rule concluding the rulemaking, or June 30, 2024, whichever is earlier. Rail transport of LNG may still be permitted on an ad hoc basis as authorized by the conditions of a PHMSA special permit (§107.105), or in a portable tank secured to a rail car pursuant to the conditions of an FRA approval (§ 174.63), advised PHMSA.

Natural gas producers, and representatives of the railroad systems, continue to affirm that railroads are a responsible transportation solution for moving LNG. To find additional information on this proposed rulemaking, please visit: https://bit.ly/3qLkpwM.

IOGCC passes resolution defending U.S. oil and gas industry

At the 2021 Annual Conference of the Interstate Oil and Gas Compact Commission (IOGCC), members last week formally approved a resolution expressing opposition to the enactment of federal legislation that would be harmful to the responsible development of oil and natural gas resources in the United States. The resolution, passed on November 9, 2021, was authored by Wayne Christian, the chairman of the Texas Railroad Commission and vice chairman of the IOGCC.

The IOGCC, formed over 80 years ago, is a multi-state government entity that works to promote the conservation and efficient recovery of the nation's oil and natural gas resources while protecting health, safety and the environment. IOGCC membership consists of the governors of oil and gas producing states, as well as appointed representatives. In 2017, Texas Governor Greg Abbott appointed Christian to serve as the official representative for the state of Texas on the IOGCC.

Leaders of the IOGCC, who gathered earlier this month in Santa Fe, New Mexico, for the organization's annual meeting, agreed that harmful policies currently under consideration by Congress and President Joe Biden would conflict with IOGCC's core mission, suppress energy production, eliminate American jobs and hurt economic activity, amongst other dire consequences, if implemented. As such, the IOGCC passed Resolution 21.111 that strongly recommends the president of the United States and Congress not to adopt legislation harmful to the oil and gas industry.

"Texas is the number one oil and gas producer in the nation, and these anti -oil and -gas policies would kill jobs, stifle economic growth, and make America more reliant on foreign nations to provide reliable energy," commented Christian. "With inflation on the rise, we need more economic certainty, not less; we need more oil and gas production, not more clean energy fantasies."

TIPRO members may view the IOGCC resolution by visiting: https://bit.ly/3Fa7hFD.

Pioneer Natural Resources announces $3.25 billion sale of Delaware Basin assets

Pioneer Natural Resources, a member of the Texas Independent Producers & Royalty Owners Association (TIPRO), earlier this month announced a new agreement to sell all of its Delaware Basin assets for $3.25 billion to Continental Resources, Inc. Executives from Pioneer said the deal included approximately 92,000 net acres, with net production of approximately 50 thousand barrels oil equivalent per day and approximately 35 thousand barrels oil per day.

"This transaction returns Pioneer to being 100 percent focused on its high-margin, high-return Midland Basin assets, where we have the largest acreage position and drilling inventory. Proceeds from this divestment will be used to further strengthen Pioneer's balance sheet, improving our already strong leverage metrics," Pioneer Natural Resources CEO Scott D. Sheffield said in a company statement.

Continental Resources leaders also described the agreement to pick up select assets from Pioneer as a strategic entry into the Permian that is complementary to Continental's existing deep inventory portfolio in the Bakken, Oklahoma and the Powder River Basin. "Continental's foundation has always been built upon a strong geology-led corporate strategy. This continues today and has directly led us to our new strategic position in the Permian Basin," said Continental Resources' CEO Bill Berry.

The deal is expected to close in December 2021, subject to customary closing conditions.

Senate confirms new FERC commissioner

The United States Senate on Tuesday, November 16th voted unanimously to confirm Willie Phillips, Jr. as a new member of the Federal Energy Regulatory Commission (FERC). With the addition of Phillips, a Democrat, to the FERC leadership panel, the commission returns back to its full, five-member complement. The Democrats will now hold a majority on the commission for the first time in more than four years.

"I offer my sincere congratulations to D.C. Public Service Chairman Willie Phillips on his Senate confirmation vote," FERC Chairman Rich Glick said. "As I've said, FERC functions best when it has a full complement of commissioners."

Phillips was nominated to serve on FERC by President Joe Biden in September. He has more than 20 years of legal expertise and has worked both as a regulator and in private practice. Most recently he was chairman of the Public Service Commission of the District of Columbia, where he helped modernize the energy grid and implement clean energy and climate goals, experience which is expected to support broader ambitions being pursued by the Biden Administration that hope to see the nation create a clean electricity grid by 2035. He'll serve at FERC for nearly five years for a term that expires June 30, 2026.

On Phillips' confirmation to FERC, U.S. Senator Joe Manchin (D-WV), chairman of the U.S. Senate Energy and Natural Resources Committee, said Phillips understands the need to balance affordability and reliability and will bring that outlook to the commission. "His unanimous confirmation, at a time when the Senate is uniquely divided, is evidence that he is supremely qualified and the right person to fully seat FERC."

"El Paso Appellate Court rules on oilfield products liability"

By Michael K. Reer, Harris, Finley & Bogle, P.C.

On October 14, 2021, the El Paso Court of Appeals reversed a trial court order striking a responsible third-party designation in an oilfield products liability action. The case involves a frac sleeve assembly that working interest owners used to complete four horizontal wells in Andrews County, Texas. The frac sleeves allegedly failed in three of the four horizontal wells, which the working interest owners contend caused over $20 million in damage to the wells and the oil and gas formation from which the wells would have produced.

The working interest owners brought suit against the manufacturer of the frac sleeves, alleging that the frac sleeves contained defective pup joints and assembly. The manufacturer contends that it purchased the components of the frac sleeves (including the sleeve, two pup joints, and couplings) from third-parties and merely assembled the components into a final product. The manufacturer moved to designate Aero Lift Machine, LLC as a responsible third party—alleging that since Aero Lift manufactured the pup joints and couplings, Aero Lift is responsible to the extent that any defect exists.

Under Texas law, a responsible third party is a person or entity not named as a party in the litigation, but which nevertheless may bear responsibility for the plaintiff's injury. Once a person or entity is designated as a responsible third party, the finder of fact may assign a percentage of responsibility to the responsible third party, which may lower the total recovery that the plaintiff receives from the defendant.

The working interest owners objected to the joinder of Aero Lift as a responsible third party on two primary grounds. First, the working interest owners objected that the manufacturer did not "provide and prove sufficient facts" to demonstrate Aero Lift's liability. The El Paso Court of Appeals rejected this argument, holding that the Texas "fair notice" pleading standards do not require a party to set out in a pleading all of the evidence on which the party relies to establish a claim. The appellate court found that the manufacturer's designation was fair notice because it alleged that the working interest owners claimed a defect in the pup joints and couplings and that Aero Lift manufactured the pup joints and couplings. Second, the working interest owners claimed that allowing the manufacturer to designate Aero Lift as a responsible third party (while simultaneously denying that any defect existed in the frac sleeve product at all) created "conflicting defense theories" which show that the manufacturer "pleaded insufficient facts to implicate Aero Lift's responsibility. The El Paso Court of Appeals also rejected the working interest owners' second argument, holding that it is well established under Texas law that the defendant has the right to plead conflicting defenses, so long as a reasonable basis in fact and law exists for each defense.

The decision highlights the importance of prompt and timely discovery in oilfield products liabilities cases, particularly where the seller or manufacturer of the product has merely assembled component parts made by third parties.

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