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Texas Independent Producers and Royalty Owners Association

Texas Upstream employment growth threatened by proposed natural gas tax

The Texas upstream oil and gas workforce continues to grow, according to new figures highlighted this week by the Texas Independent Producers and Royalty Owners Association (TIPRO). Although more jobs are being added by the upstream oil and gas sector, TIPRO warns burdensome policies currently being proposed in Congress could end job expansion across the oil and gas industry if implemented by politicians.

According to the latest Current Employment Statistics (CES) report from the U.S. Bureau of Labor Statistics (BLS), TIPRO reported that Texas upstream employment for August 2021 totaled 178,500, an increase of 2,800 jobs from revised June numbers and the fourth consecutive month of job growth since April. Texas upstream employment in August 2021 represented an increase of 19,700 positions compared to August 2020, which reflects a rise of 18,500 jobs in the services sector and increase of 1,200 jobs in oil and natural gas extraction.

In the association's latest analysis, TIPRO also cited strong job posting data for upstream, midstream and downstream sectors for the month of August in line with rising employment, reflecting a continued demand for talent in the Texas oil and natural gas industry. There were 57,185 total job postings for the Texas oil and natural gas industry in August of 2021, of which 8,558 were unique, said TIPRO. These numbers show a Posting Intensity of 7-to-1, meaning that for every 7 postings, there is 1 unique job posting. This is close to the Posting Intensity for all other occupations and companies in the region (6-to-1), indicating companies are putting average effort toward hiring for these positions.

Among the 14 specific industry sectors TIPRO uses to define the Texas oil and natural gas industry, Crude Petroleum Extraction ranked the highest in August with 1,664 unique job postings, followed by Petroleum Refineries (1,608) and Oil and Gas Field Machinery and Equipment Manufacturing (1,270). The leading three cities by total unique oil and natural gas job postings were Houston (2,815), Midland (532) and Odessa (447). The top three companies ranked by unique job postings in August were Halliburton Company (618), Delek US Holdings, Inc. (563) and National Oilwell Varco, Inc. (533). Top qualifications included in August job postings were Commercial Driver's License (CDL) in 581 postings, followed by Master of Business Administration (MBA) (184), and Tanker Endorsement (178). Store Sales Associates (292), Crude Oil Drivers (110) and Pipeline Technicians (51) were the top three posted job titles in August.

"Oil and natural gas demand is poised to surge over the next 6-12 months, despite a temporary slowdown due to the Delta variant," said Ed Longanecker, president of TIPRO. "Bullish fundamentals set up oil prices and the industry for strong returns over the next few years, which will have a positive impact on industry employment and economic growth for our state and country," added Longanecker.

Despite TIPRO's positive outlook, the organization points to concerning federal policies currently being debated in Congress that could impede job growth and the nation's economic recovery. Chief among them, according to TIPRO, is a disastrous national energy tax in the $3.5 trillion reconciliation package that could cripple small Texas oil and gas operators and severely burden American taxpayers. The proposed policy will tax greenhouse gas emissions, primarily methane, from oil and natural gas production, but excludes agriculture, waste management and coal sectors, which represent three of the top four methane-producing industries in the U.S. "This natural gas tax is politically motivated and would clearly not effectively address methane emissions," advised Longanecker. "This would have a ripple effect through the entire U.S. economy, negatively impacting American jobs, domestic energy production, household energy bills and the cost of goods and services, including the price of gasoline. The U.S. oil and natural gas industry has demonstrated its commitment to reducing emissions through innovation, collaboration and investment of hundreds of billions of dollars in greenhouse gas mitigating technologies throughout the value chain, and with quantifiable success," concluded Longanecker.

Group of Texas Democrats criticize policies in reconciliation package targeting oil and natural gas

In a letter sent this month to leadership of the U.S. House of Representatives, seven Democratic representatives part of the Texas Congressional delegation expressed serious concerns to proposals made under the House budget reconciliation package that specifically target the U.S. oil, natural gas, and refining industries. Congress members Henry Cuellar (TX-28), Vicente Gonzalez (TX-15), Lizzie Fletcher (TX-07), Sylvia Garcia (TX-29), Marc Veasey (TX-33), Filemon Vela (TX-34) and Colin Allred (TX-32) in their outreach to House Speaker Nancy Pelosi, Majority Leader Steny Hoyer and Majority Whip Jim Clyburn outlined just some of the consequences likely to result from restrictive and punishing energy policies which would impose punitive taxes and fees on domestic energy producers. The representatives warn that such taxes have the potential to cost thousands of jobs, stifle economic recovery, reduce domestic production, increase energy costs for all Americans, and increase reliance on foreign sources of oil and petroleum products.

Story continued on Page 2...

President's message

TIPRO members,

As we continue to closely track actions influencing the behemoth $3.5 trillion reconciliation bill under consideration by Congress, those in our industry must pay close attention to a punishing national energy tax that has been proposed by politicians as part of the federal package. Under the guise of reducing emissions, the tax, which has been dubbed a "methane fee," singles out petroleum and natural gas production and could cripple small Texas operators as well as pose negative consequences to all consumers.

As it is written now, the proposed tax would levy a $1,500 annual fee against energy producers for each metric ton of methane emissions produced – a 2,600-percent increase from last year's costs. This kind of punitive tax on petroleum and natural gas industries would not just hurt energy companies in Texas and across the nation, it is a fee that would also ripple across the economy and be felt in the livelihoods of all Texans. Jobs supported in the Lone Star State by oil and gas development would be in jeopardy and hard-working Texans could be put out of work, vital streams of revenue for government coffers and public programs would undoubtedly take a hit and the costs of basic necessities would also go up, unnecessarily increasing burdens on Texas consumers and hindering the state's economic recovery.

A dramatic increase in fees tacked onto oil and natural gas drilling only means a surge in costs for energy production and blindly ignores how each Texan benefits from affordable energy. If passed, residential rates of energy poverty – the disproportionate burden low-income households face when it comes to energy bills – are likely to increase. Though Texans experience a relatively low cost of electricity, ranking 36th in the nation for price, many Texans still suffer a high energy burden. According to the Texas Energy Poverty Research Institute, nearly 30 percent of Texas households delay or skip purchasing food in order to pay their electric bill. And nationally, a 2016 Senate report on energy insecurity found that "a 10 percent increase in household energy costs leads to approximately 840,000 people across the U.S. being pushed into poverty." I know we all can agree that Texans should not have to emerge from the COVID-19 pandemic only to face a future defined by high energy costs and economic hardship.

Unfortunately, the methane fee proposed by Democrats in Congress also denies the important progress that is already being made by the oil and gas industry to lower emissions and protect the environment. An analysis by Texans for Natural Gas, a TIPRO campaign, found that methane emission intensity in the Permian Basin alone has declined over 70 percent between 2011 and 2019 as part of operators' recognition and active engagement to reduce fugitive emissions and flaring. Over the same time period, production in the Permian increased 300 percent. And since 2019, methane emissions have decreased 72 percent. State data published by the Texas Railroad Commission and other regulatory entities also has confirmed reductions to flaring and emissions across Texas, and producers everyday are finding new innovative ways to substantially improve their emissions footprint, while ensuring Texans and the world have access to reliable, affordable energy.

As I know so many of our members are aware, the proposed methane fee isn't the only concern we have to focus on right now with the budget reconciliation proposal -- lawmakers continue to debate the possible elimination of long-standing tax policies for the oil and gas industry, such as intangible drilling costs (IDCs) and percentage depletion. Needless to say, these types of policies would have a devastating impact on independent producers in Texas and diminish the many economic benefits created by domestic exploration and production activities.

TIPRO maintains that Congress should recognize the oil and natural gas industry for meeting record levels of production and its commitment to methane emission reduction and environmental progress. We know that targeting America's oil and gas industry and the consumers who depend on it won't solve climate change. It will only further the negative impacts on all Texans through spiking energy costs and restricting economic prospects, while increasing our reliance on foreign imports for our energy needs. On behalf of our association's membership, TIPRO is working diligently to fight against these harmful policies that would impact independent producers and royalty owners. As part of TIPRO's advocacy work, TIPRO continues to engage Congressional leaders on both sides of the aisle to emphasize the importance of supporting domestic oil and natural gas production and explain why lawmakers must vote to deny the methane fee and other proposals targeting the oil and natural gas industry. Joined by other TIPRO members, last week I met with Congressman Michael Burgess M.D. (R-TX-26) and Congressman Colin Allred (D-TX-32) to discuss priority issues facing Texas oil and gas producers and royalty owners, including energy provisions that are part of the budget reconciliation package. Our team is also planning additional discussions on these important matters with other lawmakers in the coming weeks.

Ed Longanecker

House Democrats from Texas stand up for American energy workers... continued from Page 1

Democrats from Texas advised House leadership that the budget reconciliation bill should not increase taxes and limit capital for the energy sector, and said that policies should recognize that U.S. production of oil and natural gas is among the most environmentally conscious in the world when it comes to carbon intensity and curtailing methane emissions. "We firmly believe that the budget reconciliation bill should not unduly disadvantage any industry, and oppose the targeting of U.S. oil, natural gas, and refining with increased taxes and fees and the exclusion of natural gas production from clean energy initiatives. These inequitable policies will cost American jobs, move America farther away from energy independence, and will slow the country's move toward a lower carbon future," the congress members wrote. TIPRO members can read the lawmakers' full letter regarding oil and gas taxes and fees at: https://bit.ly/3uev4zW.

TIPRO CALENDAR OF EVENTS

NOVEMBER 16, 2021	JANUARY 12, 2022	FEBRUARY 9, 2022
HOUSTON — IPAA/TIPRO/HPF 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.	HOUSTON — IPAA/TIPRO Leaders in Industry Luncheon. For information, please email adoremus@ipaa.org.

RRC publishes proposal for new critical natural gas infrastructure designation rules

On September 14, Texas Railroad commissioners approved the publication of new proposed rules focused on the critical designation of natural gas infrastructure during energy emergencies. The proposed regulatory package includes the commission's new rule 16 Texas Administrative Code (TAC) §3.65, *relating to Critical Designation of Natural Gas Infrastructure*, and proposed amendments to 16 TAC §3.107, *relating to Penalty Guidelines for Oil and Gas Violations*, which would implement policies passed by the Texas Legislature in response to Winter Storm Uri, including House Bill 3648 and several provisions of Senate Bill 3.

According to the commission, the rules as proposed specify the criteria and process for entities associated with providing natural gas to be designated as critical customers or critical gas suppliers during an energy emergency. Under the proposed rules, operators would be required to submit forms to the commission acknowledging critical status or seek exception as provided by legislation. Operators also will need to provide information on their critical facilities directly to their respective electricity providers.

The proposed rules will be published in the Texas Register on Friday, October 1, 2021, though public comments are already being accepted online for the commission's draft rules. TIPRO members interested in submitting comments on this rulemaking by the commission may do so by visiting https://rrc.texas.gov/general-counsel/rules/proposed-rules/ (see the entry listed under "Chapter 3: Oil and Gas"). The deadline for public comments will be on by Monday, November 1, 2021, and the rules are expected to be adopted by commissioners by December 1, 2021.

A public workshop on the draft rules is also scheduled for October 5. Details on that workshop will be provided soon by the commission.

The commission otherwise at this time is also discussing the winterization requirements of Senate Bill 3 with industry stakeholders, which is separate from the identification of critical facilities. Director Wang has stated that the Texas Supply Chain Map created by the Texas Electricity Supply Chain Security and Mapping Committee would ultimately determine who would be required to winterize – any facility determined to be critical to the "natural gas and electricity supply chain" AND indicated as part of the Texas Supply Chain Map. As a reminder, the map is due to be produced by September 1, 2022.

The commission has indicated to TIPRO it will not adopt across-the-board winterization standards, as weather preparedness standards can vary on regional levels. The commission intends to provide guidance to operators developed by an outside expert and will then leave the task of appropriate winterizing of facilities to operators. Facilities required to winterize would document winterization measures with the Railroad Commission, and those facilities would be inspected to ensure they had implemented those winterization standards.

Special runoff election set by Governor for House District 10

Texas Governor Greg Abbott on September 14th announced a special runoff election will be held in Texas House District 10 on Tuesday, September 28, 2021, to select a state representative who will serve out the unexpired term of the Honorable Jake Ellzey. Ellzey was elected over the summer to represent Texas' Sixth Congressional District, leaving his seat vacant in the state House. A special election was held in August, with former state Representative John Wray and past Trump official Brian Harrison, both Republicans, emerging as top vote-getters in the race. Neither contestant however secured a majority of the votes cast, prompting the special runoff election that has since been called by Governor Abbott.

Early voting for the House District 10 special runoff election began this past Monday, September 20.

EPA, U.S. Army extend permitting window for infrastructure projects under 2020 CWA Section 401 Rule

The U.S. Environmental Protection Agency (EPA) and U.S. Department of the Army last month moved to loosen deadlines for states and Tribes issuing permits under the 2020 Clean Water Act (CWA) Section 401 Certification Rule. With the intent to address "implementation challenges" raised by regulatory authorities, the EPA and Army said in a joint memorandum released in late August that the government would allow states and Tribes to extend the finalization process for water permits after a Trump-era rule previously imposed a one-year window to approve certification requests. Regulators now have been directed to provide the maximum amount of time allowed before finalizing 41 Nationwide Permits (NWPs) that were proposed in September 2020 and have not yet been finalized.

Section 401 of the CWA was designed by Congress to provide state and tribal authorities with the power to protect the quality of their waters from adverse impacts resulting from federally licensed or permitted projects. Under Section 401, a federal agency may not issue a license or permit to conduct any activity that may result in any discharge into navigable waters unless the affected state or Tribe certifies that the discharge is in compliance with the CWA and state law, or waives certification. Section 401 of the CWA was modified in 2020 through a final rule issued by the Trump Administration that established procedures promoting consistent implementation of CWA Section 401 and extending regulatory certainty in the federal licensing and permitting process. The 2020 rule specified statutory and regulatory timelines for review and action on a Section 401 certification, notably requiring final action to be taken within one year of receiving a certification request to ensure infrastructure projects are not indefinitely delayed or blocked as a result of stalled permitting processing. Andrew Wheeler, then administrator of the EPA, said that the rulemaking would help curb abuses of the CWA that have held the nation's energy infrastructure projects hostage and would return the CWA certification process under Section 401 to its original purpose.

The Biden Administration is now in the process of reconsidering and rewriting the 2020 CWA Section 401 Certification Rule as directed under Executive Order 13990 from President Joe Biden. This Summer, the EPA announced its intent to revise the rule after determining that the policy erodes state and Tribal authority. Federal regulators in recent months have engaged in dialogues with state and Tribal co-regulator partners and local governments, as well as stakeholders, around concerns pertaining to 2020 rule. While the EPA develops its proposal to modify this rule, the 2020 rule will remain in place.

"While EPA moves expeditiously to revise the 2020 rule, it is essential that the agencies address pressing implementation challenges that have been raised by our co-regulators," said Assistant Administrator for EPA's Office of Water Radhika Fox. "[This] action provides guidance to maximize flexibilities and support the authority of states and Tribes to protect their waters."

More information is available at: www.epa.gov/cwa-401.

Interior Department to move Bureau of Land Management headquarters back to D.C.

The main headquarters of the Interior Department's land management bureau will be moved from Grand Junction, Colorado, back to the nation's capital, under new plans announced by Secretary of the Interior Deb Haaland. During a September 17th meeting with employees of the Bureau of Land Management (BLM), Secretary Haaland shared goals to return BLM national headquarters to D.C. to improve the function of the bureau and best serve the American public. Secretary Haaland suggested bringing the BLM back to Washington, D.C., would also increase access for stakeholders, help provide clarity for the BLM's 7,000 member workforce and enable the BLM to better fulfill its mission as the steward of nearly one-fifth of the nation's public lands. The effort will be undertaken in coordination with Congress, advised Secretary Haaland.

"The BLM is critical to the nation's efforts to address the climate crisis, expand public access to our public lands, and preserve our nation's shared outdoor heritage. It is imperative that the bureau have the appropriate structure and resources to serve the American public," said Secretary Haaland. "There's no doubt that the BLM should have a leadership presence in Washington, D.C. – like all the other land management agencies – to ensure that it has access to the policy-, budget-, and decision-making levers to best carry out its mission. In addition, the BLM's robust presence in Colorado and across the West will continue to grow."

The BLM headquarters were relocated to Colorado in 2019 during the Trump Administration in an effort to bring regulators closer to federal lands, given a majority of the lands managed by the BLM are located west of the Mississippi River. Office of Management and Budget analysis provided to Congress also showed moving the BLM headquarters west could save American taxpayers more than $123.8 million over 20 years. Still, the agency's move out West apparently wasn't viewed as enticing to BLM personnel and staff, as reportedly more than 87 percent of the affected employees either resigned or retired instead of moving to Colorado, leading to a significant loss of institutional knowledge and regulatory expertise.

Secretary Haaland explained that her vision for the BLM would still maintain a large presence of the bureau in Colorado, transitioning the BLM's Grand Junction office to the bureau's official "Western" headquarters. According to Haaland, this office would be set up to reinforce western perspectives in decision-making and have an important role to play in the bureau's clean energy, outdoor recreation, conservation and scientific missions, among other important work as a leadership center in the West.

As part of the rebuilding of BLM, the Interior Department indicated the director of the BLM and other key leadership positions would be based at national headquarters in D.C. where they could ensure coordination with Congress, other federal agencies and stakeholders that visit the nation's capital. Additional senior personnel will operate from the Western office.

Congressional members expressed mixed reactions to the transition of BLM headquarters, following Secretary Haaland's announcement last week. U.S. Senator John Barrasso (R-WY), ranking member of the Senate Committee on Energy and Natural Resources, criticized the decision to create two BLM offices. "The single headquarters of the BLM belongs in the West, closer to the resources it manages and the people it serves," he emphasized. Additionally, U.S. Representative Lauren Boebert, a Republican who represents western Colorado, called Secretary Haaland's plan for the BLM a "rushed decision" and "clearly a partisan attack targeting President Trump's Administration."

Chair Raúl M. Grijalva (D-Arizona), leader of the U.S. House Natural Resources Committee, meanwhile, hailed the decision from Secretary Haaland to return the national BLM headquarters to Washington, D.C. "Bringing the BLM's leadership back to Washington shows the Biden Administration's commitment to protecting our public lands and the men and women responsible for them," stated Chairman Grijalva. "Taking the headquarters out of the nation's capital was a debacle from the moment it was announced. The previous administration's disregard for rational, data-driven justifications and transparent planning made it clear that disrupting the agency was a feature, not a bug. Worst of all was the terrible choices it forced on families, who had to decide between uprooting their families or losing their jobs. Secretary Haaland made the right decision."

Willie Phillips nominated by President Biden to serve on the Federal Energy Regulatory Commission

President Joe Biden has nominated Willie L. Phillips, Jr., a regulatory attorney and chairman of the Public Service Commission of the District of Columbia (DCPSC), to join the Federal Energy Regulatory Commission (FERC), the White House announced earlier this month. If confirmed, Phillips, a Democrat, would replace former FERC member and past commission chairman Neil Chatterjee, whose term with FERC ended this summer.

"I congratulate DCPSC Chairman Willie Phillips on his selection to be the next member of FERC," remarked FERC Chairman Rich Glick, who described Phillips as highly qualified and very well regarded. "The commission's work is essential to advancing our nation's clean energy transition and to ensuring the reliability and security of our energy infrastructure. A five-member commission is critical to ensuring this important work continues," Chairman Glick commented. "As is tradition, the commission stands ready to support Chairman Phillips during the confirmation process. And I look forward to working with him once confirmed."

U.S. Senator and Senate Energy and Natural Resources Committee Chairman Joe Manchin (D-West Virginia) also said he was pleased the president had selected a nominee to fill the FERC seat recently vacated by Commissioner Chatterjee. "As I have said before, FERC functions best when it is fully seated with five commissioners. I look forward to meeting with Willie Phillips and having him appear before the Senate Energy and Natural Resources Committee," stated the senator. "Just as I do with each of the nominees that come before the committee, I will carefully examine his record and qualifications to serve in this important role overseeing our federal energy policy."

Prior to his work leading the DCPSC, Phillips served as assistant general counsel for the North American Electric Reliability Corporation (NERC), a not-for-profit international regulatory authority charged with ensuring the security and reliability of the bulk power system in Washington, D.C. He also previously worked for two law firms, where he advised clients on regulatory compliance, litigation, and policy matters. Phillips is an active member of the National Association of Regulatory Utility Commissioners (NARUC) where he serves on the NARUC Board of Directors and chairs the Select Committee on Regulatory and Industry Diversity.

Phillips' selection, if approved by the U.S. Senate, would tip the commission's partisan balance toward the Democrats. This could lead the panel to take up more policies focused on climate change and the transition to a clean electricity grid, a priority of the Biden Administration.

Group of energy and chemical companies announce support for large-scale carbon storage complex

In mid-September, 11 leading energy and chemical companies, including TIPRO member companies Exxon Mobil and Chevron, announced support of plans for large-scale carbon capture and storage deployment in the Houston region to help decarbonize industrial facilities and drive greater emission reductions. Carbon capture and storage, commonly referred to as “CCS,” involves the capture of carbon dioxide (CO_2) from industrial activity that would otherwise be released into the atmosphere and the injection of the captured CO_2 thousands of feet below the Earth’s surface into deep underground geologic formations for safe, secure and permanent storage. CCS has increasingly gained traction in recent years amongst policymakers pushing environmental goals, and companies that are making meaningful investments in innovative infrastructure and technological solutions to slash emissions.

Utilizing advanced CCS technologies, the group of companies said their collaborative efforts for a massive CCS hub in Houston and the surrounding Gulf Coast region could allow up to 50 million metric tons of CO_2 to be stored per year by 2030, an amount which could nearly double to 100 million metric tons of CO_2 emissions per year by 2040. Wide-scale deployment of CCS in the Houston area by these companies, and others, will also add momentum towards goals set by the city of Houston to be carbon neutral by 2050.

“Houston can achieve our net zero goals by working together, and it’s exciting to see so many companies have already come together to talk about making Houston the world leader in CCS,” said Houston Mayor Sylvester Turner. “We’re reimagining what it means to be the energy capital of the world, and applying proven technology to reduce emissions is one of the best ways to get started,” he added.

In a statement last week, the companies explained that CCS is one of the few proven technologies that could enable some industry sectors to decarbonize, such as manufacturing and heavy industry. They also noted that wide-scale deployment of CCS in the Houston area and elsewhere in the United States will require the collective support of industry, communities and government. “If appropriate policies and regulations are put in place, CCS could generate tens of thousands of new jobs, protect current jobs and reduce emissions at a lower cost to society than many other widely available technologies,” the companies said.

To learn more about the companies’ planned Gulf Coast CCS project, please see: https://exxonmobil.co/3CqxgHl.

Oil and gas companies further reducing their climate footprint, shows Environmental Partnership report

The nation’s oil and natural gas industry continues to achieve meaningful reductions in flaring and emissions, a September report from the Environmental Partnership confirms. The Environmental Partnership, a voluntary coalition of companies part of the U.S. oil and natural gas industry, was formed in December 2017 to reinforce and improve the industry’s environmental performance by taking action, promoting best practices and technologies and fostering collaboration to responsibly develop the nation’s essential oil and natural gas resources. Earlier this month, the partnership released its third annual report, highlighting industry progress in curbing flaring and detailing other environmental achievements and successes from energy companies over the past year, supported by the partnership.

According to the Environmental Partnership’s report, from 2019 to 2020, flare volumes were reduced more than 50 percent by partnership members, even as oil and natural gas production remained consistent among participating companies. Participating companies of the partnership also reduced the gas flare intensity of their operations from 3.04 percent in 2019 to 1.49 percent in 2020. As a result, more than 171,000,000 MCF of flare gas was avoided or diverted from flaring for beneficial uses.

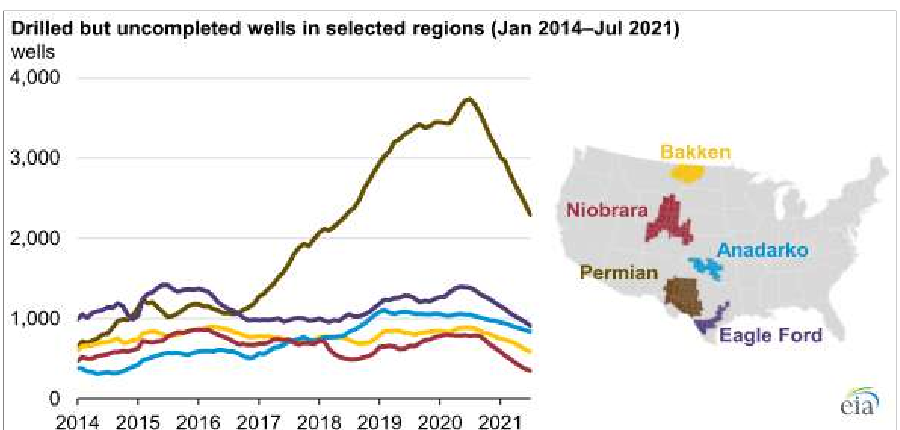
The report also highlights the more 430,000 leak surveys conducted in 2020 across more than 85,000 production sites, with a 0.04 percent “leak occurrence rate” for less than 1 leak in 2,000 components.

“It's clear that through the Environmental Partnership and other industry-led efforts, oil and natural gas production, processing and transmission companies are committed to reducing their climate footprint and further reducing methane and flaring from operations,” Director for The Environmental Partnership Matthew Todd said. “By sharing best practices, implementing innovative programs and advancing new technologies, we will continue to advance operational and environmental improvements in the years ahead.”

Read the complete report from The Environmental Partnership at: https://bit.ly/3ExjOU0.

Counts of unfinished wells fall to four year lows

This past summer, the total number of drilled but uncompleted wells (DUCs) in the United States dropped to the lowest levels recorded in nearly four years, new analysis from the U.S. Energy Information Administration (EIA) shows. In an update on DUC inventory, the EIA tallied 5,957 DUC wells in July, a steep drop from the 8,900 uncompleted wells from June 2020.



Source: U.S. Energy Information Administration, *Drilling Productivity Report*

The EIA reported DUCs in the Permian and Anadarko regions have declined to their lowest levels since June 2018, while DUCs in the Eagle Ford, Bakken, and Niobrara basins have reached their lowest levels since December 2013. “The decline in DUCs in most major U.S. onshore oil-producing regions, especially in the Permian region, reflects more well completions and, at the same time, less new well drilling activity. The completion of more wells is increasing oil production in the Permian region, but the completions are reducing the DUC inventories, which could limit oil production growth in the United States in the coming months,” said EIA analysts. Experts advise that if drilling activity doesn’t increase, well completions and production may become more limited as the inventory of DUCs continues to decline.

Natural gas prices soar, forecasted to remain high in the coming months

Natural gas prices have steadily increased over the past year, with market trends supporting further price strengthening for natural gas over the months to come, particularly if a colder-than-normal winter settles on the United States. Consumption and demand for natural gas has been higher than expected so far this year, playing a role in the rally of natural gas prices, while other forces, such as severe weather events, have also helped to drive up the price for natural gas in 2021. Hurricane Ida, which blew through the Gulf of Mexico at the end of August, led operators to close more than 90 percent of natural gas production capacity in the Gulf of Mexico region, lowering supplies of natural gas in the market and placing upwards pressure on prices. Meanwhile, volumes of natural gas held in the nation's underground storage are almost 17 percent below levels recorded this time last year and approximately 7.2 percent under the 5-year running average, lowering natural gas inventories in the U.S. and adding additional pressure on prices of natural gas.

Additionally, U.S. exports of liquefied natural gas (LNG) have reached record-high levels so far in 2021, due to newly added LNG export capacity and increases in international natural gas and LNG prices. This trend has also contributed to the below-average injections of natural gas to storage this summer.

The U.S. Energy Information Administration (EIA) this month indicated natural gas prices were likely to stay elevated heading into winter. In the EIA's September *Short-Term Energy Outlook* (STEO), analysts revised upwards the forecast for Henry Hub spot prices, with expectations that prices will average $4.00 per million British thermal units (MMBtu) in the fourth-quarter of 2021, a 16 percent increase from the agency's forecast published in August. EIA also has revised its 2022 forecast of the average U.S. natural gas price to $3.47/MMBtu, a 13 percent increase over the previous forecast.

With strong prices for the commodity, production is anticipated to also experience growth. The EIA has projected dry natural gas production will average 92.7 billion cubic feet per day (Bcf/d) in the United States during the second half of the year—up from 91.7 Bcf/d in the first half of 2021—and will rise to 95.4 Bcf/d in 2022.

In $9.5 billion deal, Royal Dutch Shell sells its Permian Basin oil holdings to ConocoPhillips

ConocoPhillips will acquire all assets of oil giant Royal Dutch Shell in the Permian Basin, company leaders announced Monday, September 20, a move that is expected to make ConocoPhillips one of the largest producers in the prolific Permian Basin, America's biggest oil field. The $9.5 billion deal, made in cash, includes approximately 225,000 net acres and producing properties in West Texas' Permian formation, as well as over 600 miles of operated crude, gas and water pipelines and infrastructure, according to a statement announcing the transaction.

"We were presented with a unique opportunity to add premium assets at a value that meets our strict cost of supply framework and brings financial and operational metrics that are highly accretive to our multi-year plan," said Ryan Lance, ConocoPhillips chairman and chief executive officer. "Our financial strength allowed us to structure a competitive offer for this transaction and we are very excited to enhance our position in one of the best basins in the world with the addition of Shell's high-quality assets and talented workforce."

Shell picked up its sizeable acreage in the Permian nine years ago after buying assets from Chesapeake Energy at a time when the company was planning to expand its portfolio of shale assets rich in oil and natural gas liquids. Since 2012, Shell's development on its West Texas Permian holdings expanded production to about 200,000 barrels a day.

Despite the output growth, Shell leaders have made the strategic decision to exit the Permian to focus on opportunities for the clean energy transition. "After reviewing multiple strategies and portfolio options for our Permian assets, this transaction with ConocoPhillips emerged as a very compelling value proposition," said Wael Sawan, upstream director for Shell. "This decision once again reflects our focus on value over volumes as well as disciplined stewardship of capital. This transaction, made possible by the Permian team's outstanding operational performance, provides excellent value to our shareholders through accelerating cash delivery and additional distributions."

Texas wildcatter and oil and gas entrepreneur Loyd Powell Jr. passes away at age 75

Cholla Petroleum CEO and chairman Loyd Powell Jr. an explorer member of the Texas Independent Producers & Royalty Owners Association (TIPRO), passed away in the early hours of Saturday, September 11, 2021, following a fiercely fought battle with cancer. Powell grew up around the oil and gas business, often found at the side of his father, L.W. "Slim" Powell, at drilling rig sites where he learned how to make a life in the Texas oil patch. Following his father's death, at the age of 29, Powell took over operations for the family business, L & M Oil Company, later renamed Cholla Petroleum Inc. He spent nearly 50 years leading operations of Cholla Petroleum, expanding exploration efforts and production for the company into Oklahoma, Arkansas and Colorado, along with North, Central and West Texas.

Powell was passionate about the history of the oil and gas industry and held a dynamic reputation as a successful, creative, and consistent oil and gas entrepreneur. In 2013, he was honored by TIPRO with the Texas Top Producer Award for his leadership and work in the oil and gas industry. In addition to his involvement with TIPRO, Powell was also a member of the Texas Alliance of Energy Producers, Texas & Southwestern Cattle Raisers, Dallas Wildcat Committee and the Dallas Producers Club.

"Texas Supreme Court issues decision on pooling ratification"

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

On June 11, 2020, the Texas Supreme Court issued its opinion in *Strickhausen*, in which the Court considered whether a lessor impliedly authorized a pooling agreement by depositing royalty checks calculated on a pooled basis. The lease at issue required that the lessee obtain "express, written consent" before pooling. The Texas Supreme Court upheld the San Antonio Court of Appeals determination that the trial court erred by granting summary judgment to the lessee, and remanded the case back to the trial court.

In *Strickhausen*, the lessor executed a lease that prohibited pooling absent "express, written consent." The lessee pooled the lease, drilled a unit well that traversed the lease acreage, and requested that the lessor ratify the unit. The lessor declined to immediately ratify the unit and requested information regarding how a pooling ratification would impact the lessor's net revenue interest. The lessee explained that ratification of the unit would increase the lessor's net revenue interest because the lessor's percentage of acres in the pooled unit (25.03 percent) exceeded the percentage of perforated lateral on the leased acreage (23.07 percent). The lessee then sent the lessor an initial royalty check of approximately $250,000 based on the pooled unit calculation. The lessor requested a $300,000 bonus to ratify the pooled unit, but began depositing royalty checks. The lessee claimed that the deposit of checks constituted a ratification of the unit.

The Texas Supreme Court held that the test for whether the lessor impliedly ratified the pooled unit was "whether [the lessor] exhibited an objective intent to do so," which is often determined by conduct. The Court cautioned that ratification should only be found "after considering all of the relevant facts and circumstances together." The Court rejected the contention that Texas law allows a finding of ratification as a matter of law "whenever a party commits any act inconsistent with an intent to avoid a contract." The Court also rejected the contention that prior Texas Supreme Court decisions support "a bright-line rule under which acceptance of royalties calculated on a pooled basis always constitutes ratification of pooling regardless of contrary manifestations of intent."

Applying the test of objective intent to the facts in *Strickhausen*, the Texas Supreme Court found that the actions of the lessor did not amount to clear evidence of an intent to ratify sufficient to support a judgment of ratification as a matter of law. In support of its decision, the Court noted that the lessor executed a lease that required "express, written consent" to pooling and that the lessor's attorney sent the lessee a demand letter protesting the pooling. The Court also expressly distinguished the facts in *Strickhausen*, which demonstrated that the wellbore tract lessor was entitled to royalty irrespective of pooling, from situations in which a non-wellbore tract lessor would only have entitlement to royalty because of pooling.

The case is *BPX Operating Company v. Strickhausen*, No. 19-0567, 2021 WL 2386141 (Tex. Oct. 28, 2020). The lessee has requested that the Texas Supreme Court reconsider the decision.

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