

COMMITTEE REPORTS

REGULATORY COMMITTEE

Mark Henkhaus, Apache Corporation

TEXAS

In Texas, the proposed revision of Statewide Rule 40 as it applies to multiple assignment of proration acreage is the most significant issue the RPC has worked on in the past year. This is an allied trade effort led by Heather Barcia with Pioneer. This attempt to revise SWR 40 has been underway since mid-2017. As currently written, SWR 40 prevents assigning acreage to two or more operators on the same lease in the same field. Commission-defined regulatory fields with large correlative intervals across the state experiencing problems as separate intervals are being leased but development impeded by SWR 40. The Spraberry (Trend Area) Field in the Permian Basin has provisions for one additional assignment of the same surface acreage but additional over-assignment is necessary to allow full development by multiple rights-holders in a particular tract. Multiple RRC and industry joint meetings were held resulting in an Industry supported proposal submitted to the RRC in July, 2018. To our dismay, the RRC edited this version and published it for informal comment in September. Issues including notice provisions and right to protest remain between the industry-supported and the RRC versions. At the group's request, the RRC staff are currently reviewing the informal comments before determining their response.

Other issues the RPC has worked in Texas includes the proposed changes of the surface commingling rules, Statewide Rules 25, 26, and 27; proposed changes to the notice requirements for Statewide Rule 37 and 38 exceptions; several personnel changes at the Commission both in Austin and in Midland; The Texas Oilfield Relief Initiative from Commissioner Craddick's office; UIC issues including integrity testing and permitting problems; the Commission's enforcement plan; the transfer of District 8A to Abilene from Midland; PBPA's support and sponsorship for the Dark Skies initiative; and the conclusion of PBPA's outreach to the RRC district offices.

For the upcoming year, we hope to resolve the Statewide Rule 40 problems and finally produce a version acceptable to industry and Commission staff which is published and adopted. We see UIC permitting being revised significantly due to seismic concerns across the Delaware Basin. The Texas General Land Office is becoming cautious and has hindered commingling applications across the Delaware area due to concerns about proper accounting of hydrocarbons to the GLO. The Commission is working with an operator committee on perceived cementing problems that seemingly were brought to the attention of Commission management with no regard to past operating successes. This could greatly impact operations in the Permian, and we will be watching this closely.

NEW MEXICO

In New Mexico, there have been several major initiatives on RPC's radar. The first significant change, and one which PBPA played a large part in making happen, was the change in the Division's rules governing horizontal rules. This effort began in late 2016 and ended with a rulemaking hearing in April 2018, approving the workgroup's complete recommendation package for changing how New Mexico regulates horizontal development. Tailored to closely mimic Texas' rules in New Mexico's regulatory plan, the changes allow 100 ft heel and toe spacing, unlimited overlapping horizontal spacing units, and effectively eliminates the concerns

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of overproduction in horizontal wells. The process we underwent to change these rules is a textbook example of how industry and regulatory agencies can work together to improve the operating environment to better benefit not only industry, but the State in general. The second major change is the Division's new spill rule which went into effect in August. This rule, 19.15.29, generally follows the pit rule in determining clean up goals by depth and distance to fresh water sources. Most importantly, it sets standards by rule, not by fiat, for cleanup of produced water spills in New Mexico. The RPC stressed the necessity for operators with "open" remediation sites to get in compliance through an agreed order process.

Other New Mexico issues addressed included various State Land Office orders and changes, most to the detriment of the industry; Heather Riley being named Director of the Division; UIC issues including permitting Delaware Mountain Group and Ellenburger disposal wells; and changes to the financial assurance requirements.

For 2019, the political changes brought on by the mid-term election will mean we will have a new Governor, new Commissioner of State Lands, and a completely new administration to work with. While we can't foresee the future, we believe the operating climate will be much different, and not necessarily better for the industry nor the State.

FEDERAL GOVERNMENT

The Bureau of Land Management has released the Carlsbad Resource Management Plan. This plan will govern how the competing resources will be managed within the Carlsbad Field Office area. This is a complex 1000 page document with many supporting appendices. PBPA joined NMOGA in supporting suggested changes proposed by NMOGA.

A federal judge issued a temporary stay on April 4th against implementation of the Bureau of Land Management (BLM) 2016 methane waste rules for the oil and gas industry, which imposed new standards for venting and flaring activities on federal lands. Also, BLM has published a notice to amend the venting and flaring rule ("Waste Prevention") in the federal register. Finally the BLM issued Instructional Memoranda on 42 CFR 3173-3174-3175 compliance, finally. The IMs detail the phase in period for FMP numbers, and outline approved procedures for things like tank gauging, Coriolis meters, gas testing, etc. PBPA has had several opportunities to provide comment on the air regulations proposed by EPA and BLM, and a sub-group lead by Aaron Pachlhofer of Fasken has taken the lead on these comments.

At each RPC meeting, Stephen Robertson updates the RPC on PBPA's ESA efforts and changes in the status of ESAs in our area. These updates include the lesser prairie chicken, dune sagebrush lizard, and the Texas hornshell mussel. While the SHOC committee generally monitors and recommends actions on ESA issues, the RPC members often deal with these issues and keeping RPC updated is very important.

It is possible that ESA issues become even more important in 2019 due to potential listing of the DSL, the proliferation of sand mines in parts of the Permian Basin, and increased industry activity.