Greetings PPROA members. I’m writing a short note this month in an effort to provide space for important industry activity reports that our Governmental Affairs representative, Bill Stevens, has provided for us. In light of shutdowns and our inability to be present and face to face with leadership, we are more than ever relying on Bill Steven's connections to keep us updated and in the loop. Please take time to read the information he has provided on pages 4-8 of this newsletter concerning the Concept Document for Eminent Domain Bill, data regarding the Texas Methane and Flaring Coalition, and a Summary for the RRC open meeting that occurred on May 5th. It is all very important and valuable information.

Bill has been busier than ever with Zoom calls and conference calls – some of which we are involved in and many others that he reports back to us on. Many thanks to Bill, because while we always appreciate him, we really couldn't be doing this without him in this current environment.

This leads me to ask...if you are of the few that have not been crucially hurt in the last couple of months, please consider donating to the campaign that will enable us to keep him as PPROA’s representative. Many of us are currently struggling through this crisis, and we as a Board sincerely empathize and are prayerful for you, the Industry, and our Nation in general.

Please mark your calendars tentatively for an October 9, 2020, Golf tournament at Ross Rogers. We have reserved the date, and as long as cart usage is opened up by the Governor, we plan on getting out there and enjoying some Fall golf and safe socializing amongst our peers.

Dana Newsome

If you have questions, comments or suggestions – please email me at dana@valpointoperating.com!!!

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Like so many of us around the State and Nation, but particularly in Austin, I have been sheltered at home and working from my back porch by phone and laptop. My office building has been closed and we make a point to check the mail 2 X per week.

The Texas Capitol is closed to the public and probably not open until August or September. Nearly all legislative and agency staff are working from home. There have been no interim hearings, and Legislators return to Austin rarely, if at all.

My last two planned trips to D.C. were cancelled – IPAA in March and DEPA in April.

We have done nearly all of our business with State and Federal elected officials by teleconference or ZOOM - sometimes, 4-6 hours daily. These have included:

- April 3 Texas Alliance Trades update
- April 7 Dept of Energy regarding SPR exchanges and purchases
- April 9 PPROA Bd of D teleconference on proration
- April 14 RRC Hearing on Proration
- April 16 Texas Methane Flaring Coalition meeting
- April 21 RRC Open Conference
- April 21 GLO School Land Board meeting
- April 23 FR for RRC Chairman Wayne Christian, RPT
- April 30 National Stripper Well Assn. issues teleconference
- May 5 RRC Open Conference
- May 11 Mtg with TCEQ Commissioner Emily Lindley and EPA Reg VI Administrator McQueen
- May 14 National Stripper Well Assn issues teleconference
- May 7 Discussions with NSWA Aindriu Colgan re: percentage depletion
- May 20 Industry Seismicity Taskforce Teleconference
- May 20 DOE Teleconference with Secretary Brouilette
- May 20 PPROA Bd of D teleconference
- May 26 TxOGA PAC meeting with RRC Candidate Jim Wright

Of course, we continue to have Corporate Issues Group ZOOM meetings two Mondays per month. Additionally, we have participated in the Texas Methane Flaring Coalition meetings every other week. We have also worked in the Methane/Emissions Sub-Group and the Flaring/Infrastructure Sub-Group. This has involved 3 to 5 meetings per week.

**ISSUES AGENDA**

**Industry Seismicity Taskforce** The industry Coalition including all of the Texas Alliance Trades continues to work in finalizing industry protocols to include frac induced seismicity in the Eagle Ford. Because of recent increases in seismic events that are believed to also be frac induced, we are working on a similar approach for the Delaware which has experienced increased in events and magnitudes.

I am waiting on the most recent iteration and will forward to you when received. Timing of when that will be finalized and possibly presented the RRC is not yet determined.

**Eminent Domain** The Industry and its coalition with municipalities, counties, GCWD, electric transmission, TxDOT and others is again working with the Texas Civil Justice League. We are working to provide legislation which is intended to pass and not rely on reacting to legislation from Landowners. The most recent outline of the components of the bill which should be sent to Legislative Council for drafting is attached. We will be meeting next week to refine and elaborate on specifics.

It provided Commission decisions on proposals by Christian and Craddick which are meant to lighten the burden on producers. These are delineated.

The Commissioners voted to reject the Pioneer/Parsley petition on prorating.

And, Chairman Christian acknowledged that there is a problem with Flaring. He instructed the industry through the Texas Methane Flaring Coalition and ultimately the Blue Ribbon Taskforce to present solutions that would be considered by the Commission.

**Methane and Flaring** Chairman Christian's dictate at the May 5th hearing has required the Texas Methane Flaring Coalition to accelerate its timeline on making recommendations that are to be presented to the Blue Ribbon Taskforce the next week. The next RRC hearing where a solution could be presented is scheduled for June 16th.

Work is being completed through the Flaring Infrastructure Sub -Group. The current status of documents is as follows: Concept Document for Eminent Domain Bill and Summary for RRC Open Meeting May 5th.

Please let me know if you have other meetings/events which you would want me to attend and represent PPROA.
**Concept Document for Eminent Domain Bill**

**Requirements for Initial Offer**
- Provide Landowner Bill of Rights
- Provide financial basis for initial offer among an optional statutory list of instruments: appraisal, percentage of CAD, broker price opinion, and market study.
- Provide checklist of standardized easement terms for landowner to use as a guideline, if not previously provided
- Provide the name and contact information of an employee of company to answer questions
- Provide an appraisal, if available

**Prohibition of Kickbacks**
- Prohibit incentives for right-of-way agent to provide a lowball initial offer

**Clarification on Timing of Providing Landowner Bill of Rights**
- Provided to landowner at first touch if asserting or possibly asserting eminent domain authority
- Clarify that there is no requirement to provide Landowner Bill of Rights if company is going to purchase on the open market and will never use/threaten eminent domain

**Standardized Easement Terms**
- Statutorily required easement terms that company must include in instrument of conveyance – general terms
- Actual form for pipelines

**Procedural Changes**
- Provides for time period for court to appoint three commissioners (within 15 days from the filing of petition), time period by which party must elect to strike one commissioner (7 days from date of appointment), automatic appointment of alternate commissioner(s) upon striking of a commissioner, and time by which commissioners must schedule hearing (no sooner that 20 days after appointment and no later than 45 days after appointment, except in notice by publication situations), which can be signed by all five commissioners or the three who ultimately serve after any strikes are made
- Updates service notice requirements to make consistent with Texas Rules of Civil Procedure (provides notice of hearing of special commissioners’ hearing can be served in any manner permitted under the Texas Rules of procedure)
- Consider adding provision that court cannot interfere with proceedings before commissioners until after commissioners have made their award and party has filed objection to the award

**Mandatory Licensure of Right-of-Way Agents**
- Move from voluntary registration to mandatory licensure
- Part of Texas Real Estate Commission (TREC) (just like all other real estate transactions)
- Requires 15 hours of education for certification with 2 years (or possibly 8 hours with 8 hours each year)
- Requires 6 continuing education hours annually required

**Train agents on etiquette in providing the LOBR to landowners**
- Provides for a formal complaint process for bad actors
- Allow a statutory phase-in to allow time for curriculum development and availability

**Blue Ribbon Task Force**
- Chairman Christian announced that they would vote on several regulatory relief items and they would accept recommendations from the industry’s Blue Ribbon Task Force, which he convened.
- He first called on RRC Deputy Oil & Gas Division Director, Paul Dubois to give a report on unfilled oil storage capacity in Texas: they have received feedback from 78% of refineries in Texas who have 18M Barrels unfilled storage capacity and feedback from 73% of common carriers who have 52M Barrels of unfilled storage capacity for 71.2M Barrels total of unfilled capacity in Texas. RRC staff are still receiving responses.
- Chairman Christian then invited TIPRO President, Ed Longanecker to make a few remarks about the Blue Ribbon Task Force’s recommendations for small producer regulatory relief. His comments were high level and did not go into specific recommendations. Please see the full list of recommendations attached to this email.
- To conclude the discussion of the Task Force, Chairman Christian stated that there is an ongoing problem of flaring in Texas and asked the Blue Ribbon Task Force to have ideas on how the RRC can better regulate flaring. He asked for recommendations from industry by June 18th.
- Commissioner Sitton followed this up with a comment that based on what he heard from testimony during the proration hearing a few weeks ago, that most believe the RRC is not in a position to evaluate economic waste, He requested that if the RRC is not considering economics when it comes to waste and only physical waste, then should they consider a new stance on economics when it comes to waste and only physical waste, then should they consider a new stance on waste? He wants to understand what industry’s stance on this is.

**Regulatory Relief Actions**
- Next, both Chairman Christian and Commissioner Craddick had several items to provide regulatory relief to operators.
- Chairman Christian made two motions focused largely on easing restrictions on oil storage:
  - The first order waives fees and surcharges for forms P-17 (surface commingling), W-14 (jection into nonproductive formation), H-1 (jection into productive formation), H-4 (application for underground storage), W-3C (surface equipment removal for inactive wells). The order would waive these fees and surcharges for the rest of 2020. After several questions from Commissioner Sitton, this order was approved unanimously.
  - The second order essentially allows SWR 95 (underground storage in salt formations) to be allowed for any underground formation as long as it confines the oil being stored and doesn’t create waste. This order will last for one year. Commissioner Sitton asked some clarifying questions about the procedure of this change. Currently, under SWR 95, every application must go to hearing, but this order would now allow applications to be approved administratively unless they receive a protest or staff does not believe they have proven up what they must under the rule. After clarifications, the order was approved unanimously.
- Commissioner Craddick then made a motion impacting four different rules:
  - SWR 8(d)(4)(H) – extends requirement on backfilling authorized pits for one year.
  - SWR 136d – extends administrative approvals for alternative casing/tubing programs beyond the rule’s 180 days to 1 year.
  - SWR 140(1)(V) – extends the inactive for 1 year deadline for plugging to 2 years, but does not impact wells which pose an environmental threat.
  - SWR 107(b) – allows the RRC legal enforcement section to exercise discretion for violations
between March 1, 2020 and March 1, 2021 if they don’t implicate health, safety, and environmental concerns for one year.

- Prior to the adoption of these, Commissioner Sitton asked questions about new financial liabilities RRC would be gaining by extending some of these deadlines. The answers from staff and Commissioner Craddick were that the hope was that these would allow some operators to stay in business longer and the net positives would outweigh the net negatives.
- The motion was unanimously adopted.

**Proration Discussion**

- Chairman Christian made a few minutes of comments, the gist of which were that he would not support prorationing because he felt like Texas should not go it along and that it would provide too much uncertainty for operators and the markets. He wants to make a decision now to not send mixed signals to the market.

He stated that he believed the RRC was showing that they were taking proactive steps to help the industry by adopting the motions they had for regulatory relief.

- Commissioner Craddick called on RRC General Counsel Alex Schoch to answer a few legal questions.
- Commissioner Sitton stated that he would not be making a motion. He commented that the RRC has a statutory obligation to consider waste, which they did not do. In the end, he said maybe there wasn’t anything they could have done. His concern is that most of the production loss moving forward globally will be from Texas and if that is true then he will be disappointed that the RRC didn’t act and were not more analytical rather than philosophical. For these reasons he could not vote for the dismissal of the market demand complaint made by Pioneer and Parsley.

The motion to dismiss the Pioneer/Parsley complaint passed 2-1.

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**The State Of Texas Collected Huge Royalty Check Before Price Crash**

2019 State Income From Oil And Gas Activities Are Expected To Help Balance The Texas Budget For The Next Financial Year

The state of Texas collected at least US$13.4 billion in the form of royalties and taxes from the oil and gas industry last year, just before the oil price crash, the Houston Chronicle reported on Tuesday, citing data from the Permian Basin Petroleum Association (PBPA).

According to the association’s data, the oil and gas industry in Texas paid the state a total of US$11.3 billion worth of taxes and another US$2.1 billion in royalties last year, up by 14 percent compared to 2018.

Part of the 2019 tax and royalty proceeds from the oil industry will go to the state of Texas’ US$8 billion Rainy Day Fund. The 2019 state income from oil and gas activities are expected to help balance the Texas budget for the next financial year, according to PBPA, as quoted by the Houston Chronicle.

In fiscal year 2019, amid record oil and gas production, the oil and natural gas industry in Texas paid a total of US$16.3 billion in local taxes and state royalties—the highest taxes the industry has paid to the state of Texas on record, the Texas Oil & Gas Association (TXOGA) said in a report earlier this year.

The taxes and royalties paid in 2019 were up by 16 percent compared to the taxes the industry had paid in 2018, according to the association, which estimated that in 2019, qfc6666dem 2, the oil and gas industry contributed about US$44 million a day to state and local revenue.

This year, however, the state of Texas and all other oil-producing states in America are expected to see their tax and royalty proceeds from the oil and gas industry significantly reduced because of the oil price crash and the crisis in the shale industry as producers idle rigs and curtail production.

Oil towns in Texas, North Dakota, Alaska, Wyoming, and Oklahoma are accustomed to the boom-and-bust nature of the oil industry. But this time around, the economic prospects and job losses are aggravated by the layoffs in the hospitality and entertainment industry during the lockdowns, and the oil towns and counties could take years to recover, officials fear.

The state of Texas’ main revenue source are from sales tax. Article 8 of the Texas Constitution describes the “Taxation and Revenue” specifics. Local governments heavily rely on property taxes as their main source of tax revenue.

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- Tsvetana Paraskova, Oil Price
May. 26, 2020, 10:00 AM
Texas Budget and Revenue

LEARNING OBJECTIVES
- Explain the fiscal policies of Texas
- Explain the different types of taxes
- Explain the budgetary process of Texas
- Be familiar with the various revenue sources for Texas
- Explain the budget expenditures of Texas Taxation

Taxation
Any government relies on a variety of taxes in order to make revenue to spend on public services. There are different types of taxes:

1. Income tax – taxes collected from an individual’s income (There is no state income tax in Texas);
2. General sales tax – based on taxes collected from retail prices of items;
3. Excise tax – taxes collected on specific products such as tobacco and gasoline;
4. Ad valorem tax – taxes based according to the value of the property.

The federal government’s number one tax source for revenue is income tax. The 16th Amendment of the United States Constitution authorized an income tax. The state of Texas’ main revenue source is from sales tax. Article 8 of the Texas Constitution describes the “Taxation and Revenue” specifics. Local governments heavily rely on property taxes as their main source of tax revenue.[1]

Other Revenue Sources
There are also no tax revenue sources that the state of Texas receives from various sources such as:
- Federal grants in aid – these types of funds come from the federal government to aid state or local governments, and sometimes require matching monies from the receiving government to be used for a specific use.
- Borrowing – The Texas Constitution does allow for the state or local governments to borrow funds through bonds. There are two types of bonds:
  - General-obligation bonds: Bonds repay from taxes, usually approved by taxpayers through vote.
  - Revenue bonds: Typically paid through the revenue made from the projects created by the bond i.e. sports facilities, public college dorms.[2]
- Economic Stabilization Fund – The “Rainy Day Fund” is a type of savings account for the state of Texas. Since 1993, any surplus from previous budget cycles, and collections from oil and gas production are deposited in this account- the Texas Constitution limits the balance of the Rainy Day Fund to no more than 10% of the general revenue deposited during the preceding budget cycle. At the end of fiscal year 2016, Texas’ Rainy Day Fund was approximately $9.7 billion dollars. The Texas Constitution authorizes the Legislature to utilize monies from the Rainy Day Fund for a budget deficit, projected revenue shortfall, or any other purpose they choose.
- Appropriations for the first two circumstances require approval by three-fifths of the Legislature, while a general-purpose appropriation needs a two-thirds majority for passage. The Legislature has made seven appropriations totaling $10.6 billion from the ESF since its inception, most recently in 2013. All were approved by two-thirds votes. The purposes for these appropriations have included water projects, disaster relief, public education, economic development and health and human services. Only one appropriation—$3.2 billion in 2011, representing 34 percent of the fund balance at that time—was made to cover a budget gap (for fiscal 2011).[3]

Texas Budgetary Process
The budget process for Texas is outlined below:[4]

1. Request for Funds. On even numbered years all government agencies submit a strategic plan requesting funds to the Legislative Budget Board (LBB) and the Governor’s Office of Budget, Planning and Policy (GOBPP). The strategic plans’ request for funds must adhere to Texas’s mission statement provided by the Governor and the LBB. The instructions and forms to submit the request for funds are prepared by the LBB.
2. Analysis of Requests. The requests for funds and strategic plans are then reviewed by the LBB and the GOBPP. The LBB is made up of ten members from the Texas Senate and Texas House and Co-Chaired by the Lieutenant Governor and the Speaker of the House. The GOBPP is an agency in the Executive Branch that answers to the Governor.
3. Budget proposals sent to the Legislature. The LBB and Governor then submit their budget proposals to the Texas Legislative. The Texas Legislature then reviews the proposals through the Senate and House Finance Committees. After both chambers approve an appropriations bill, then the bill is sent to each respective chamber for a vote.
4. Comptroller verifies. Once the Texas Legislature has approved the appropriations bill, then the Texas State Comptroller must certify that enough tax revenue will be generated to fund the budget. The Texas Constitution mandates a balance budget (Article 3, Section 49). If the Comptroller cannot certify the appropriations bill, then the Texas Legislature has the option to vote on allowing the state to go in debt by a 45/ths vote from each chamber.
5. Governor. Once the Comptroller certifies the appropriations bill, then the Governor is allowed to sign the bill in to law. The Governor of Texas also has the power of line item veto, where the Governor of Texas can reject a part of the budget bill, then the Governor is allowed to sign the bill in to law. The Governor of Texas also has the power of line item veto, where only parts of the budget are rejected.

WASHINGTON - The Environmental Protection Agency finalized a rule Monday curtailing the rights of states, tribes and the public to object to federal permits for energy projects and other activities that could pollute waterways across the country.

The move, part of the Trump administration’s push to weaken environmental rules it sees as standing in the way of new development, upends how the United States applied a section of the Clean Water Act for nearly half a century. The energy industry hailed the change as a way to speed up pipelines and other projects, while environmentalists warned that it could undercut state and tribal efforts to safeguard rivers and drinking water.

The new rule would set a one-year deadline for states and tribes to certify or reject proposed projects - including pipelines, hydroelectric dams and industrial plants - that could discharge pollution into area waterways. It would also limit any reviews to include only water quality impacts, based on a more narrow definition of the Trump administration finalizing ever.

In a call with reporters Monday, EPA Administrator Andrew Wheeler argued that some states had abused the law in the past, using long delays to trap energy-related projects “in a bureaucratic ‘Groundhog Day.’ ” The changes, he said, would give states “more than enough time” to scrutinize proposed projects, while preventing them from holding them “hostage” for long periods.

“Our system of republican democracy does not allow for one state to dictate standards or decisions for the entire nation,” Wheeler said.

The change stems from an executive order President Donald Trump signed last March in which he instructed federal agencies to do everything possible to pave the way for energy infrastructure.

“The president is very happy about this,” Wheeler said as he congratulated the agency’s staff for its work on the rule.

Robert Irvin, president of the environmental group American Rivers, said in an interview that the shift would undercut the powers of Congress because when it passed the Clean Water Act in 1972, it “gave states the authority to do more than the federal government is doing in order to clean up our rivers and have fishable, swimable waters.”

“The administration is happy to put the responsibility for dealing with the permit process on the states, but they’re too far too quick to strip states of authority when they’re trying to protect rivers and clean water,” Irvin said.

Some energy companies, however, have complained that certain states have used Section 401 of the Clean Water Act to unnecessarily delay key energy infrastructure projects, including pipelines and coal terminals.

They frequently cite two pipeline projects that encountered obstacles in New York state in recent years: the Constitution natural gas pipeline, which planned to ship gas from Pennsylvania’s Marcellus shale to New York before it was shelved, and the Northeast Supply Enhancement (NESE) pipeline, which would also have brought gas from Pennsylvania to New Jersey and then into New York City. The New York Department of Environmental Conservation denied a permit to the NESE Pipeline last month, based on its “inability to demonstrate” how it would meet all applicable water standards. New Jersey denied its 401 water certification permit a year ago.

Another project that stalled was the Millennium Bulk Terminal, a $880 million coal export facility that Washington state rejected in September 2017.

Robin Rorick, vice president for midterm and industry operations at the American Petroleum Institute, said in a statement that his association’s members support the long-standing environmental law, “though certain states have continued to go well beyond its scope for water quality certifications.”

“We hope the addition of a well-defined timeline and review process will provide certainty to operators as they develop infrastructure projects that meet state water quality standards,” Rorick said.

Ben, John Barasso, R-Wyo., who chairs the Environment and Public Works Committee, said in a statement that the rule would make it easier for his state to export coal to elsewhere in the U.S. and overseas. “The state of Washington has hijacked this process and blocked Wyoming coal from being exported,” he said.

Association of Clean Water Administrators Executive Director Julia Anastasio, who represents state water permit administrators in all 50 states, said in a phone interview that the rules fails to respect states’ role in maintaining water quality and does not address a critical 1994 Supreme Court ruling empowering them to set “other limitations” that could ensure that a project meets “any other appropriate requirement of state law.”

“It really isn’t respecting the rule that states play as co-regulators,” Anastasio said.

Democratic attorneys general and lawmakers vowed to fight to reverse the rule. Rep. Debbie Dingell, D-Mich., tweeted, “This decision is unacceptable & I’ll do everything in my power to oppose it.” California Attorney General Xavier Becerra suggested he and others would sue the EPA, saying in a statement, “We won’t stand idly by as they rip away our authority under the law to preserve water quality.”

- Juliet Eilperin and Brady Dennis
  The Washington Post
The decline in the demand for petroleum products worldwide has delivered a severe blow to the oil and gas industry in Texas as companies are forced to reduce expenses as revenues fall through the floor.

The oversupply of oil caused prices to decline from $60 per barrel in January to a low of -$37 on April 20. The unprecedented crash caused most companies to announce they would cut capital expenditures immediately. The U.S. drilling rig count fell to 318 this week from 915 a year ago, and the Texas Workforce Commission reports the industry in Texas cut 26,300 jobs during April, another record.

Companies had to cut oil production quickly, and they did. The Energy Information Administration (EIA) estimates U.S. oil production has declined about 1 million barrels per day (b/d) from a high of 13 million b/d in March.

Rystad Energy predicts U.S. oil production will decline even further reaching 10.7 million b/d this summer.

Other large oil producers – Saudi Arabia and Russia – have cut production as well. Some reports indicate they will trim output by 10 million b/d during the next several months.

Bloomberg reported Russian Energy Minister Alexander Novak said global output curbs have so far exceeded those agreed by the coalition. He said total oil production worldwide has been reduced by about 15 million barrels.

Total oil production in January was about 100 million b/d, and demand had declined to as much as 80 million leaving an excess of supply of 20 million b/d.

The reduction in the huge oversupply imbalance has resulted in firmer prices. Since the price collapse just a month ago, prices on the New York Mercantile Exchange has increased to $34 this week for West Texas Intermediate and the price on the international market for Brent rose to $36.

The International Energy Agency sees oil consumption eventually rebounding past pre-virus levels, even as some argue that the coronavirus outbreak will fundamentally shift patterns of consumption. Fatih Birol, executive director of the IEA, said oil consumption hasn’t yet peaked, countering speculation that the virus will have a long-term impact. “In the absence of strong government policies, a sustained economic recovery and low oil prices are likely to take global oil demand back to where it was, and beyond,” Birol told Bloomberg.
The court held that a ‘catch-all’ provision in a force majeure clause can be invoked as to unspecified events if the disabling event was unforeseeable at the time the contract was executed. ConocoPhillips Company (“Farmer”) entered into a farmout agreement with TEC Olmos (“Farmee”) including a drilling obligation and a liquidated damages clause. The price of oil fell, Farmee lost its source of financing, and Farmee failed to drill the obligation well. The force majeure clause provided:

Should either Party be prevented or hindered from complying with any obligation under this Agreement... by reason of fire, flood, storm, act of God, governmental authority, labor disputes, war, or any other cause not enumerated herein but which is beyond the reasonable control of the Party whose performance is affected, then the performance of any such obligation is suspended...

The issue on appeal was foreseeability. Courts may consider common law rules to “fill in gaps” when interpreting force majeure clauses. The court analyzed two federal circuit cases in which the courts came to differing conclusions as to whether a showing of unforeseeability is required to establish a force majeure event. In Gulf Oil Corp. v. Fed Energy Regulatory Comm’n, 706 F.2d 444 (3d Cir. 1983), the Third Circuit required a showing of unforeseeability, even though the alleged force majeure event—mechanical repairs—was specifically listed in the force majeure clause. In Eastern Air Lines v. McDonnell Douglas Corp., 532 F.2d 857 (9th Cir. 1976), the Fifth Circuit held that because the parties had specifically included the force majeure event in the clause, the party intending to invoke the force majeure clause did not have to also show that the event included in the force majeure clause was unforeseeable. However, both of these cases involved a situation in which the alleged force majeure event was specifically listed in the force majeure clause, whereas the alleged force majeure event in Olmos was applicable only under the “catch-all” provision in the force majeure clause. The court noted that at least one Texas court agreed with Eastern Airlines, and the Olmos court expressly disagreed. However, the Olmos court also said that it was not called upon to determine that question because the case before it involved only the “catch-all” provision, not specifically listed events.

The court held that a “catch-all” provision in a force majeure clause does not include events that are unforeseeable, such as a fluctuation in the oil and gas market that affects a party’s ability to obtain financing. The court pointed to its own precedent in Valero Corp., 532 F.2d 957 (5th Cir. 1976), the Fifth Circuit held that a force majeure clause. In Eastern Air Lines v. McDonnell Douglas Corp., 532 F.2d 857 (9th Cir. 1976), the Fifth Circuit held that because the parties had specifically included the force majeure event in the clause, the party intending to invoke the force majeure clause did not have to also show that the event included in the force majeure clause was unforeseeable. However, both of these cases involved a situation in which the alleged force majeure event was specifically listed in the force majeure clause, whereas the alleged force majeure event in Olmos was applicable only under the “catch-all” provision in the force majeure clause. The court noted that at least one Texas court agreed with Eastern Airlines, and the Olmos court expressly disagreed. However, the Olmos court also said that it was not called upon to determine that question because the case before it involved only the “catch-all” provision, not specifically listed events.

The court also relied upon the doctrine of ejusdem generis as applied to the force majeure clause. When “general words follow an enumeration of two or more things, they apply only to... things of the same general kind or class specifically mentioned.” TEC Olmos, 555 S.W.3d at 185 (quoting Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts 199 (2012)). Applying the doctrine of ejusdem generis, the court held that the general phrase “any other cause not enumerated herein” must be limited to the types of events specified before that phrase, i.e., “fire, flood, storm, act of God, governmental authority, labor disputes, & war.” Changes in the commodities market and the resulting ability of a party to obtain financing did not fit into the categories of natural or man-made disasters, governmental actions, or labor disputes.

The significance of the case is the holding that unforeseeability is required for any force majeure event not specified as a force majeure event, but (in dicta) unforeseeability is not required as to any force majeure event specifically listed in the force majeure clause. Fluctuations in the oil and gas market are foreseeable as a matter of law.

The foregoing is not a legal opinion. You should consult your attorney if this may be of some significance to you.

NEW YORK (Bloomberg) - OPEC+ and its allies will decide as soon as this week whether or not to extend their historic output cuts, yet how long and to what extent global production curtailments remain in place will be crucial to sustaining crude’s rally after a record rebound last month.

The Organization of Petroleum Exporting Countries and its allies may bring their next meeting forward to Thursday to discuss prolonging production cuts by one to three months, according to a delegate. The existing agreement calls for easing cuts from July, a plan Russia would prefer to stick to. Meanwhile, in the U.S., the oil-drilling fleet shrank for the eleventh week to a level not seen since before the shale revolution. While North American shut-ins have peaked, according to Bank of America, U.S. imports of Saudi crude have surged, inflating inventories.

American stockpiles are “probably heading higher at least in the short term as more imports come in,” said Peter McNally, global lead for industrials, materials and energy at Third Bridge. “The market is oversupplied to begin with. Everyone is looking for more signs of demand firming.”

Up to this point, the production curbs have been effective. Crude rallied almost 90% last month, a record gain, as shrinking supplies helped to offset pandemic-related demand losses. Yet the rally depends on producers maintaining cuts until the crude surplus that has poured into the world’s storage tanks is mopped up. Higher prices could tempt producers to turn back on the taps, undercutting gains.

West Texas Intermediate for July delivery fell as much as 3.4% Monday to $34.27, after advancing 5.3% on Friday. The U.S. benchmark crude pared losses to trade at $34.85 as of 10:25 a.m. in New York. Global benchmark Brent crude for August slipped 10 cents to $37.74.

An earlier OPEC+ meeting would give the producer group more flexibility to change its current production limits as members usually decide their plans for shipping oil for July in the first week of June. The group’s preference is to take short-term measures on cuts as the situation is changing quickly, the delegate said. The coalition—which includes OPEC’s 13 members plus another 10 exporters—has achieved 92% compliance, according to an estimate by data analytics firm Kpler.

Meanwhile, the U.S. Oil Fund ETF will begin its monthly roll of futures contracts on Monday. The fund plans to sell its July holdings and buy more November and January futures over the next 10 trading sessions.
Actually We’re Outstanding in Lots of Fields.

- Over 100 years of combined oil and gas experience.
- Properties across 23 states and Canada.
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DRILLING PERMITS BY COUNTY: DISTRICT 10
Data provided by Enverus.com
May 30, 2020

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>CONTRACTOR</th>
<th>OPERATOR</th>
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<tr>
<td>OKLAHOMA</td>
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<tr>
<td>Ochiltree</td>
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<td>Western Chief Operating, LLC</td>
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<td>HANSFORD</td>
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ACTIVE DRILLING LOCATIONS BY COUNTY
Data provided by RigData.com
May 30, 2020

<table>
<thead>
<tr>
<th>COUNTY</th>
<th>CONTRACTOR</th>
<th>OPERATOR</th>
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<tr>
<td>OKLAHOMA</td>
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<tr>
<td>Ochiltree</td>
<td>Power Rig LLC</td>
<td>Western Chief Operating, LLC</td>
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MARKET ANALYSIS
Through June 2020

- Natural Gas - Henry Hub
- Crude Oil - Texas Panhandle
- Rig Count - Texas Panhandle
- Rig Count - United States
Exxon, Pioneer, 3 others launch “Project Astra” network to detect emissions. Five industry groups, including Irving companies ExxonMobil and Pioneer Natural Resources, said this week they are collaborating on a new sensor network to monitor methane emissions in Permian Basin. Officials said Project Astra could revolutionize the way leaks are found and repaired. Joining Exxon and Pioneer are Gas Technology Institute, Environmental Defense Fund, and University of Texas. Exxon senior vice president Staale Gjervik said, “Project Astra is an ambitious and innovative collaboration to develop comprehensive, continuous monitoring of methane emissions – a potential new capability that can be achieved with industry-wide participation.” The sensor network could allow producers and regulators to find and fix significant methane releases at or below the cost of current monitoring technologies. Technologies will be evaluated on their ability to operate autonomously while UT-Austin researchers will use virtual reality equipment to create a simulation and a minute-by-minute model documenting methane concentrations. Simulations will be used to identify types and locations of methane sensors most effective in collecting data. (Reprinted from PB Oil & Gas Magazine)

Gov. Abbott discourages raise property taxes by local governments in Texas. “Property owners shouldn’t be saddled with rising Property Taxes while dealing with a pandemic. Local governments, who set property tax rates, should find ways to reduce the tax burden on Texans. Whether we’re facing times of challenge or times of prosperity—raising taxes on the people of Texas is never the answer,” said Gov. Greg Abbott, responding to members of the Texas Democrat Congressional Delegation regarding tax burdens on Texans & voicing his support of lessening the tax burden on Texans while clarifying that local governments— not the State of Texas—set the Property Tax Rates.

Some cities and counties may seek to raise property taxes by 8% this year, invoking Gov. Greg Abbott’s disaster declaration. The governor weighed in during an interview this weekend with WFAA, saying, “I don’t construe the law the same way that the (Texas) Municipal League does. I disagree and I think the Texas attorney general disagrees with that legal interpretation. Know this, your property taxes are not determined by the valuation of your home. They are determined by the taxing authority.”

NM Land commissioner: Oil, gas cleanup could cost billions. Sante Fe New Mexican. The COVID-19 disaster and a catastrophic fall in oil prices could leave the state on the hook for billions in environmental cleanup costs if oil and gas companies go bankrupt during the health crisis, the state’s top land official says. The crash in the oil and gas market is fueling long-standing concern from State Land Commissioner Stephanie Garcia Richard and environmental groups that bonding requirements for oil and gas companies are nowhere near enough.

One oil producer got paid zero for its barrels last month. E&E News. Oil’s crash below zero last month may have been short-lived — and confined to the U.S. — but it helped ensure that at least one producer was paid absolutely nothing for its crude. Gulf Keystone Petroleum Ltd., which operates the 36,000-barrels-a-day Shaikan field in northern Iraq, invoiced the Kurdish regional government a “nil amount” for what it pumped in April. The London-listed firm said the monthly average price for Dated Brent was less than the discount for its crude.

Rise of remote working is ‘biggest threat to oil demand,’ says analyst. CNBC. Working from home has become the norm, and if the trend continues even after the pandemic abates, it could pose a big risk for oil, analysts are warning. “The biggest threat to oil demand is the rise of remote working,” Bernstein said in a recent note to clients. “A decrease in commuting and business air travel is clearly negative for oil demand.”

Court rejects bid to revive cancelled US pipeline program. Associated Press. A federal appeals court on Thursday turned down the Trump administration’s request to revive a permit program for new oil and gas pipelines, an outcome that industry representatives said could delay more than 70 projects across the U.S. and cost companies up to $2 billion.

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RRC District 10 Production Data
March 2020 – April 2020

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<tr>
<th>COUNTY</th>
<th>Oil (BBL)</th>
<th>CH Gas (MCF)</th>
<th>GW Gas (MCF)</th>
<th>Cond. (BBL)</th>
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<tr>
<td>Briscoe</td>
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<td>3,576,617</td>
<td>20,751,936</td>
<td>360,296</td>
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What do four containers of ink and four barrels of oil have in common? They all keep YOUR company MOVING!