

**Testimony before
Committee on Government Organization
Chairman Rodney Ellis
Texas Senate
March 21, 2011
Regarding
SB 655 RRC Sunset**

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Mr. Chairman, members of the Committee, thank you for this opportunity to appear before you today. As you know this is extremely important legislation to the oil and gas industry, the members of the Texas Alliance of Energy Producers and the citizens of the State of Texas.

The Texas Alliance of Energy Producers is a trade association with approximately 3,400 members who produce oil and gas in Texas and the companies who provide goods and services to those producers. Nearly 70% of our members are small producers with fewer than 10 employees, while 5% of our membership have more than 200 employees. These companies range from the smallest ‘mom and pop’ to the largest producers in the nation. Our members operate in every RRC district in the Texas, and more than 25 states. The Alliance maintains offices in Austin, Houston and Wichita Falls (its headquarters).

Today’s hearing follows a year of hard work (good work) by Chairman Hegar and his Committee, the Sunset staff, and the Industry. And yet, the Alliance is here today to oppose the SB 655 as it is written and give you our Joint Association position as an alternative. We would want to thank Chairman Hegar and the Committee’s willingness to listen, the professional advice of the Staff and all of the ensuing discussions.

The Alliance supports the positions of the Joint Associations, which have been outlined to you by our group chairman, Doug Robinson of Midland.

We are happy to go into these positions in detail, if you have questions. Just for the record, the Alliance supports the following:

◆ Maintain the current governance structure with **three elected commissioners**, but enact three restricting provisions:

- 1) resign to run for other state and federal offices,
- 2) limitations on periods of fundraising, and
- 3) transparency of recusal.

◆ The legislature must provide **a funding structure to provide full support** for needed personnel, competitive agency salaries and the tools to do the job. However, we reject the idea that the Industry does not do enough in funding the commission.

To the point that Industry is called upon to provide more funding through increased fees and taxes, we believe that these fees and taxes should be set in statute as they were in the 2001 sunset legislation and should not be left to the vagaries of commission rulemaking and the ‘boom and bust’ cycles. The

Alliance also believes that any new and increased fees/taxes should be revisited in two years (or at least in 4 years) to determine their validity and effectiveness.

- ◆ **Assessed penalties for violations** should be deposited in the Oil and Gas Regulatory and Cleanup Fund not in GR.

- ◆ All contested **case hearings and enforcement hearings should remain** within the commission and not moved to SOAH.

- ◆ The **Oilfield Cleanup Fund Advisory Committee should be maintained** and not eliminated.

It is important we maintain our Federal programs and jurisdictions, and that a clearly delineated environmental mandate be transparent.

Beyond a leadership vacuum and criticism of the current governance, much of SB 655 does not recognize the historical facts and successes of the 2001 Sunset Review of the RRC. Ten years ago the Industry was called upon to more than double its contributions to the Oilfield Cleanup Fund (OFCF) from approximately \$9 million dollars per year to \$20 million. The same industry associations and most of the same people which are represented before you today worked in 2000 for a year to craft a formula of fees and production taxes which were fair and equitable to different industry sectors and still accomplished raising the needed funds. Not only did this happen, but it has raised an average \$27 million per year with a high year of more than \$32 million. The Industry stepped up to the mark. Yet, money was just one plank of positive change on which the legislature and the industry collaborated in that review. You, we, also instituted universal financial assurance, which requires all Texas operators to provide a bond, letter of credit or cash deposit to support the OFCF. Thus, there would necessarily be monies on the table to begin plugging.

A third part of the successful plan was the creation of the Advisory Committee which with no statutory authority or decision making powers brought together RRC staff, legislative leadership, and industry expertise in solving problems of orphaned wells and contaminated sites. Beyond representatives of the five oil and gas associations, the Advisory Committee includes the chairmen of House Energy Resources and Senate Natural Resources, and appointees of the Governor, Lt. Governor, and Speaker. These appointees include the State's Chief Geologist of the BEG, and a landowner representative. It was the Advisory Committee which led the way to establishing high performance standards which led to results. With little to no cost to the State, a good RRC staff, legislators, and experienced industry representatives found solutions to problems.

The result has been good public policy. The combination of money, financial assurance and advisory collaboration has reduced the inventory of orphaned wells from 22,000 plus in 2001 to approximately 7,000 today. And it has remediated and cleaned up hundreds of abandoned sites, and instituted an environmental priority. And the Industry has provided the monies to do so while the OFCF supports 135 of the current 650 currently funded commission employees.

As we come before you today, we are not advocating the status quo. Yes, we are asking you to leave this important agency with three elected commissioners, but we are proposing restrictions and limitations on their behavior. It is far too easy for a single populist with an agenda to run against the Industry and win election.

We are seeking to see the agency fully funded and to focus its leadership on the tasks at hand. We want to maintain those components of the agency which have been successful and not perpetuate the problem areas.

The Texas oil and gas industry remains a key, driving force in the economy of this state and the nation. We hope you appreciate the differences which we have set out before you.