http://www.publicintegrity.org/2014/02/18/14240/saturated-oil-money-texas-legislature-saved-industry-pollution-rule

Center for Public Integrity

Environment : Big Oil, Bad Air

Saturated with oil money, Texas legislature saved industry from pollution rule

By David Hasemyer Ben Wieder emailAlan Suderman

6:00 am, February 18, 2014 Updated: 10:11 pm, April 24, 2014

Texas State Rep. Tom Craddick, R- Midland, joins others in the Pledge of Allegiance, January 2009, in Austin.

Eric Gay/AP

KARNES CITY, Texas — In January 2011, with air quality worsening in Texas' booming oil and gas fields and the federal government beginning to take notice, state environmental regulators adopted rules to reduce harmful emissions.

The industry rebelled. So did the state legislature.

A few months later, the legislature overwhelmingly approved SB1134, a bill that effectively prevented the new regulations from being applied in the Eagle Ford Shale region of South Texas, the fastest-growing oil shale play in the nation and maybe the world. Since then, more than 2,400 air emissions permits have been issued in the Eagle Ford without additional safeguards that would have reduced the amounts of benzene, hydrogen sulfide, formaldehyde and other toxic chemicals that drift into the air breathed by 1.1 million people.

The Texas legislature's rush to protect the oil and gas industry reflects a culture in which politics and business are almost inseparable.

State Rep. Tom Craddick, who championed the House version of SB1134, owns stock in nine oil companies, five of which are active in the Eagle Ford. At the end of 2013, the stock was worth as much as $1.5 million. That year Craddick, and the partnerships and corporations he controls, received royalties of as much as $885,000 for mineral rights. For decades he had a lucrative partnership with Mustang Mud, an oilfield supply company.

Corporations, along with unions, are banned from giving directly to state candidates in Texas, but since 2000, industry employees and related political action committees have contributed more than $800,000 to Craddick's campaigns, according to an analysis of data from the National Institute on Money in State Politics.

The industry has also invested more than $600,000 to help Craddick's daughter, Christi, win a seat on the Texas Railroad Commission in 2012. The Railroad Commission, which issues drilling permits, has been criticized for years for allowing its three commissioners to accept campaign contributions from the industry they regulate. But with support from the House Energy Resources Committee, of which Tom Craddick is a member, it has beaten back attempts at reform.

Other members of the Texas legislature also benefit from the oil and gas industry's largesse.

Forty-two of the body's 181 members or their spouses own stock or receive royalties from companies active in the Eagle Ford, according to a Center for Public Integrity review of thousands of pages of financial disclosure records. Their holdings are worth as much as $9.6 million, according to a conservative estimate based on the 2012 data.

Gov. Rick Perry, who signed SB1134 soon after it landed on his desk, has collected more than $11.5 million in campaign contributions from those in the industry since the 2000 election cycle. Attorney General Greg Abbott, the favorite to win the Republican nomination for governor, has raked in more than $4 million. Since he has been in office, Abbott has sued the U.S. Environmental Protection Agency 18 times for interfering in Texas affairs.

Supporters say the oil and gas industry has been good to Texas, and they are right. The industry employed 315,000 people and paid $8.5 billion in taxes in 2010. It has been particularly important to counties in the Eagle Ford. The tax base in Karnes County, at the epicenter of the drilling, exploded from $489 million in 2008 to $6.6 billion last year, a 1,200 percent increase.

The downside of this surge in prosperity is the introduction of industrial-type air pollution to a rural area where people of limited means rarely share in the bounty and have little defense against an industry as iconic in Texas as longhorn steers.

Rep. Tim Kleinschmidt, a Republican who represents Karnes County in the state legislature, is no stranger to that industry. He has leased some of his own land to oil companies in the past, and the law firm where he practices specializes in negotiating oil and gas agreements. While his focus is now on commercial real estate, his first work for the firm was on those leases.

“I’ve practiced in an oil field my whole life,” he said.

He acknowledges that the boom had created environmental and infrastructure challenges. On tours of the region he hears complaints about both. But he says he hears just as often about fortunes made overnight by residents who’ve leased their land.

Kleinschmidt said the industry is proactively addressing people’s concerns.

“I can’t say too much in support of our oil and gas industry in Texas,” he said. “Our oil and gas industry is very environmentally concerned.”

That’s not how Sister Elizabeth Riebschlaeger sees it.

The 77-year-old nun-turned-activist speeds through the Eagle Ford in her white Honda Civic, intent on exposing the ills she believes have been forced on residents by the oil and gas industry.

“They do not like to complain,” she said. “They don’t want to make trouble. They don’t know they’re being taken advantage of.”

Most of the Eagle Ford's residents live in small towns or on farms and have scant influence on lawmakers. About 23 percent have incomes below the federal poverty line, compared to 17 percent statewide and 15 percent nationally.

"Let's be blunt. That is not really a body of voters that the power structure in Austin [the state capital] has any real concern about," said Larry Soward, a former member of the Texas Commission on Environmental Quality. Soward is now president of the board of Air Alliance Houston, an organization dedicated to reducing air pollution.

While the situation in Texas may be extreme, it's not unusual for politicians to be seduced by the industry, said Michael Nelson, a professor of environmental ethics and philosophy at Oregon State University.

"What's going on is the masking of a moral decision in a utilitarian kind of debate that puts more weight on what can be seen, in this case the financial benefit, [than on] what can't be as readily measured: the risks," Nelson said. "Those risks to health and environment aren't as perceptible as the financial benefit, so the cost benefit equation is tipped out of balance."

Business comes first

People who suffer the effects of oil and gas emissions have few places to turn for help other than to the politicians and regulatory agencies that are often cheerleaders for, and financially beholden to, the industry.

"It doesn't matter what the people say. *It … does … not … matter,*" said Sharon Wilson, a leader in the Texas office of the environmental group Earthworks. An Earthworks study last year concluded "by failing to deter reckless operator behavior, [Texas] regulators practically condone it, thereby increasing health risks for residents living near oil and gas development."

Rep. Lon Burnam, a Fort Worth Democrat who has served 16 years in the Texas House, is the most outspoken of a handful of legislators trying to curb the oil companies' influence. He describes the legislature as "a wholly owned subsidiary of the oil and gas industry."

In the last legislative session, Burnam introduced 12 bills that would have regulated or taxed the industry in some way. Most died in the House Energy Resources Committee, where six of the 11 members, including Craddick, own stock or receive royalties from the industry, according to their personal financial disclosures.

Sometimes it seems that everyone in Texas is connected in some way to the oil business, including even Burnam. According to his disclosure forms, his wife inherited mineral rights from her parents worth as much as $10,000.

The Energy Resources Committee is led by Republican Rep. Jim Keffer, whose investment portfolio includes stock in Plains All American Pipeline, Anadarko Petroleum and Chevron worth as much as $1.2 million at the end of 2012.

The committee's vice-chair, Myra Crownover, is part owner of Robinson Drilling, a family-run West Texas company with 14 rigs that can drill more than two miles deep, according to its website. Crownover says on her website that she was named the Texas oil and gas industry's "Legislative Champion" last year.

Over the years, Robinson Drilling has been penalized by the federal Occupational Safety and Health Administration for numerous safety violations. Four Robinson Drilling workers have died since 2004, according to OSHA records. One worker has been paralyzed.

Crownover said in a statement that she is not involved in the day-to-day operations of Robinson Drilling, but knows the company "is fully committed to maintaining a safe working environment for its employees."

"Incidents are down dramatically," she said, "and Robinson Drilling has passed recent OSHA inspections without citations."

Although Crownover benefits personally from the industry, she said she listens to diverse opinions when considering legislation before the committee. "Landowners, mineral owners, environmental groups, and the industry all have important and sometimes competing points of view," she said in an emailed response to questions. "It is our job to sort it all out to ensure our environment is protected and all Texans benefit from the production of oil and gas."

Soward, the former TCEQ commissioner who left in 2009, doesn't see it that way.

"The interests of the people … are irrelevant to the extent that they differ from the interest of the industry," he said. "If someone has a problem with air quality or the roads being torn up or the land being ruined, they are not going to be listened to. They will not be heard because that is going against the interest of business."

The TCEQ, like the state legislature, is intertwined with the industry.

The agency's three commissioners are appointed by the governor and are paid $150,000 a year.

Three of the last four commissioners later registered as lobbyists, and collectively have taken in between $160,000 and $420,000 since 2010. Jeffrey Saitas, the TCEQ's executive director from 1998 to 2002, also lobbies for oil and gas companies, among other clients.

In 2013 alone, Saitas banked between $635,000 and $1.3 million in fees, much of it from energy companies like Valero, Marathon Oil and DCP Midstream. That puts his total earnings as a lobbyist between $6 million and $12.3 million, according to financial disclosure records filed with the Texas Ethics Commission.

Saitas declined to comment for this article.

Modest rules ignite uproar

Despite the industry's deep political ties, the TCEQ tightened its emissions standards in 2011.

Complaints from people in North Texas, where a gas-drilling boom had begun in the Barnett Shale in 2002, were drawing unwanted attention from the EPA. And a TCEQ study had found underestimated or previously undetected emissions at oil and gas sites.

"These are not isolated instances but have occurred statewide and indicate a pattern," Richard A. Hyde, then deputy director of TECQ's Office of Permitting and Registration, wrote in a Jan. 7, 2011, interoffice memo obtained by the Center for Public Integrity, InsideClimate News and The Weather Channel.

Soward, the former TCEQ commissioner, said the rules were a modest attempt to placate people in Dallas-Fort Worth and head off EPA intervention.

"The state didn't want the federal government stepping in," Soward said. "I think TCEQ felt this was one thing they could do to have minimal impact on the industry but appear to strengthen regulatory action … I think they were looking for a way out, not for a way to make things better."

The regulations required operators to install leak-detection systems and emission-control devices on equipment where none had been required before, and to reduce emissions when starting, shutting down and maintaining their wells. Operators of new wells would have to sample their releases and make the results available to state regulators. They would also be required to coat their storage tanks with reflective paint to reduce heat-generated emissions.

The rules were unexceptional when compared with regulations being considered in Colorado, also a major drilling state. But for the pro-industry Texas legislature, they went too far.

State Sen. Glenn Hegar, a Republican, led the opposition in the Senate while Craddick led the fight in the House. SB1134 prohibited the TCEQ from extending the new rules outside the Barnett Shale unless the agency first performed a time-consuming and costly analysis for each well application, proving that the benefit of improved air quality justified the additional cost to the operator.

Hegar, who is now running for state comptroller, prepared talking points to show where the TCEQ had erred. The second most generous donor to Hegar's campaign so far is Charles Scianna, president of Sim-Tex, a pipe manufacturer that services the oil and gas industry.

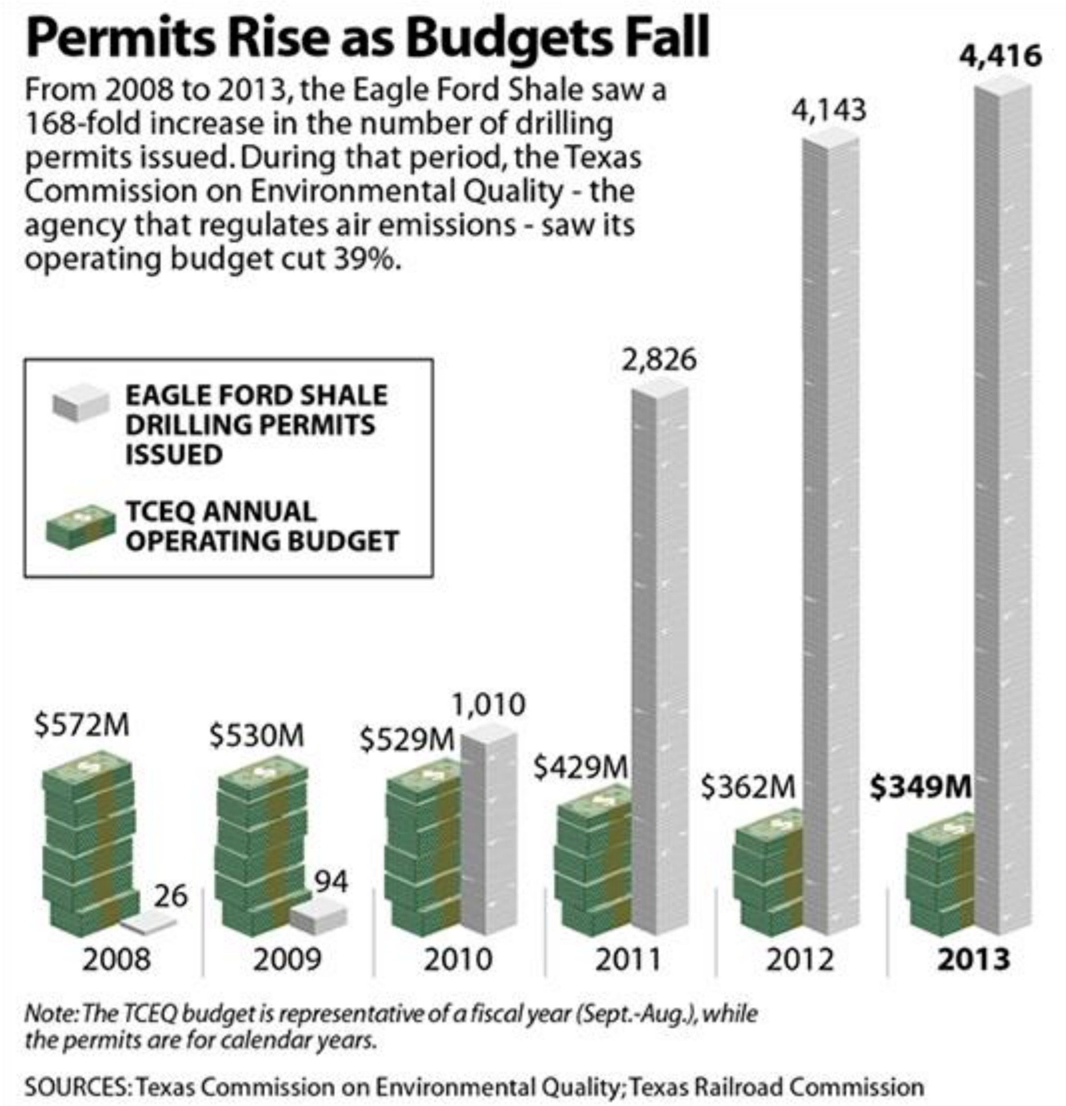
Instead of taking air samples in places where facilities were exceeding their state-approved emissions levels, samples should be taken in areas where facilities were in compliance, according to the undated talking points Hegar used to explain his objections to the rules.

"It would not be appropriate for TCEQ to use air quality monitoring data that has been, or will be, collected in areas where there are oil and gas facilities that are known to be operating out of compliance," the document said, because "TCEQ [should] address the non-compliant emissions from such facilities … through enforcement against those facilities, rather than by including more stringent requirements in the new or amended permit."

A few months later, Hegar further handcuffed the TCEQ by placing a rider on the state budget bill. It prohibited the agency from using tax dollars to perform the cost-benefit analyses.

TCEQ spokeswoman Andrea Morrow said in a written statement that the legislation did not "significantly affect TCEQ's ability to implement new regulations." She did not elaborate or respond to further questions.

Soon after the legislation became law, the TCEQ voluntarily narrowed the focus of its rules. Today the tighter standards apply in only 15 of the Barnett Shale's 24 counties.



Paul Horn/Inside Climate News

While the legislature was slamming the door on the TCEQ's attempt to enforce new statewide emissions rules, it was also slashing the agency's budget.

Legislative appropriations for the TCEQ dropped 39 percent — from $555 million in 2008 to $341 million in 2013 — even as the Eagle Ford was experiencing unprecedented growth in drilling. During that same period, the legislature cut the entire Texas budget just 8 percent.

The TCEQ budget rose slightly in 2014, to $372 million. But only $3 million was allocated for regional air monitoring and just $579,000 for air monitoring equipment. The legislature set aside a "maximum" of $200,000 to study the health effects of emissions.

Reforms fail again and again

As the legislature was limiting the new air pollution rules, it was also snuffing out an attempt to reform the Texas Railroad Commission, which has long been criticized for bowing to powerful interests. Like the legislature and the TCEQ, the Railroad Commission is powered by oil and gas industry money. Since 2010 the three current commissioners have accepted nearly $2.3 million from the industry in campaign contributions.

The Sunset Advisory Commission, a legislative body charged with reviewing the efficiency of Texas agencies, urged legislators to dramatically reform the Railroad Commission. Among other things, it recommended that the Railroad Commission have one elected commissioner instead of three and that key decisions be made not by the commissioner but by independent administrative judges.

"Critics would argue that elected Commissioners pose a conflict for the agency's regulatory role, as the costs of a statewide campaign often rely on campaign contributions from the regulated industry," the Sunset Commission's 2011 report said.

Hegar, the state senator who with Craddick's support had drawn up legislation to weaken the TCEQ emissions rules, chaired the Sunset Commission. He also introduced legislation to force the changes.

The reforms were necessary, he said in a statement at the time, to "meet the very tall test of balancing the protection of Texans and our environment while at the same time ensuring that the oil and gas industry remains vibrant in Texas."

Hegar declined to discuss his support for Railroad Commission reforms or his pushback on the TCEQ rules. Legislative observers said Hegar's pro-business bent likely motivated him to oppose tightening the emissions regulations and that growing public discontent with the Railroad Commission prompted him to support the commission reforms.

With Hegar's support, the Senate voted 29 to 2 to approve the restructuring of the Railroad Commission. But the core reforms died in the House Energy Resources Committee, where Keffer, the nine-term Republican with hefty energy investments, presided over their demise. The committee, and then the full House, voted to keep three elected commissioners, but the House and Senate could agree only to defer the issue for two years.

Last year the Sunset Commission again hammered away at the Railroad Commission's deficiencies. It recommended that commissioners be barred from taking campaign contributions from the industry they regulate — and that they be required to resign if they run for another office.

Again the reforms died in Keffer's committee.

Tom Craddick, who sits on the committee, had a personal stake in the outcome of this fight.

Had the legislation been approved, his daughter, Christi, the railroad commissioner, would no longer be able to accept donations from the industry, whose contributions to her 2012 campaign accounted for 25 percent of her war chest.

“When rules intended to bring fairness and accountability to our public agencies are discounted the message is clear: the industry is setting the agenda,” said Tom Smith, director of the Texas chapter of Public Citizen, a nonprofit public-interest advocacy organization.

The legislature later approved a bill that barred railroad commissioners from running for another office without first resigning from the commission, but Gov. Perry vetoed that bill. Its provisions would have applied to Chairman Barry Smitherman, who is currently running for Texas attorney general. According to campaign information filed on Jan. 15, he has raised more than $2 million for his campaign, with energy company employees among his top donors. That included $3,500 from employees of Range Resources, which controls more than one million acres of land in Texas and Pennsylvania.

Range Resources employees also donated more than $5,000 to Smitherman's 2012 campaign for his commission seat, including a contribution from Jeffrey L. Ventura, the company’s CEO.

Industry boosters

The Railroad Commission defended Range Resources in a 2010 fight with the EPA.

Two families in a community just west of Fort Worth had complained that dangerous amounts of methane and benzene were poisoning their water wells. When the commission didn’t act on the complaints, the EPA began investigating. It blamed the contamination on gas wells operated by Range Resources, and ordered the company to take a number of actions to solve the problem.

In 2010 the Railroad Commission, led at the time by Elizabeth Ames Jones, disputed the EPA’s findings and conducted its own tests. It concluded that the methane and benzene were naturally occurring and voted 3-0 to absolve Range of the EPA’s allegations.

“We'll see which is the real protection agency, and I’d say it's the Railroad Commission of Texas,” Jones told *The Texas Tribune* after the vote.

Commissioner Michael Williams praised Range for standing up to the EPA.

“We owe an enormous thank you to Range Resources, because, quite frankly, they put up a diligent and aggressive defense of their operations,” Williams said.

Both Williams and Jones received more than $1 million in campaign contributions from the industry during their tenures. Jones resigned from the commission in 2012 to run unsuccessfully for the state senate. She is now a policy advisor at Patton Boggs, a Washington D.C.-based law and lobbying firm that advises U.S. and international clients on oil and gas projects.

Williams left the commission in 2011 to campaign for a U.S. Senate seat. He soon switched gears to run for an open U.S. House seat instead, but lost in the Republican primary. In 2012, Gov. Perry made Williams commissioner of the Texas Education Agency, the state’s top education post.

The EPA eventually withdrew its order against Range Resources, saying it wanted to avoid an expensive legal battle.

Money fuels influence

Burnam, the Fort Worth Democrat who has tried for years to rein in the industry, has grown accustomed to such defeats. “It’s a political environment that is not conducive to regulating in the interest of public health,” he said.

Last year Burnam introduced legislation that included many of the environmental safeguards Colorado has adopted to police the drilling method known as hydraulic fracturing. Had the bill passed, companies would have been required to notify local officials before drilling within 1,000 feet of nursing homes, schools, hospitals and other occupied buildings. Companies also would have had to provide safety and health information to nearby residents through a public outreach program.

But opposition materialized quickly. The Texas Oil and Gas Association, Marathon, ConocoPhillips, Shell Oil, Chevron and other industry giants lined up to tell Texas legislators to kill the bill.

Bill Stevens, with the Texas Alliance of Energy Producers, told the House Energy Resources Committee that the requirements in Burnam’s bill were too tough.

“You are establishing a baseline that is stricter and a higher standard than some people have or want in their communities,” Stevens told Burnam in a cordial exchange captured by a video camera.

“That is definitely the purpose of this legislation,” Burnam said. “I want to establish a baseline … for the health, safety and welfare of the people.”

After a short discussion of some of the bill’s provisions, Stevens ended his testimony by saying: “If that is the baseline you are trying to establish for cities across the state, then that is something we oppose.”

Burnam’s bill died in committee.

Lisa Song, Zahra Hirji, Sabrina Shankman and Marcus Stern contributed to this report.