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Blog Post

Will Texas Restrict Crude Oil Production in Light of Supply and Demand Shocks in Global and Texas Oil Markets?

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Update: At a May 5, 2020, open meeting, the Railroad Commission of Texas (“RRC”) [voted 2-1](#) to dismiss Pioneer Natural Resources USA Inc. and Parsley Energy Inc.’s motion seeking an order to restrict the production of crude oil on a statewide basis. Despite the dismissal, the RRC recognized the need for action to support the oil and gas production industry in Texas and therefore voted to temporarily waive certain requirements of Statewide Rule 95 for a period of one year, commencing on May 5, 2020.

In light of the current over-supply of crude oil caused by the market share war between Russia and Saudi Arabia and the simultaneous collapse in demand of crude oil in global and Texas markets as a result of the COVID-19 pandemic, two producers have asked the Railroad Commission of Texas (“RRC”) to consider restricting the production of crude oil on a statewide basis. This is an extraordinary request, but it is not unprecedented; the last time the RRC took similar, statewide action was in the 1970s.

The RRC Filing

On March 30, 2020, Pioneer Natural Resources U.S.A., Inc. and Parsley Energy, Inc. submitted a motion requesting that the RRC convene a market demand hearing “to determine whether the waste of oil and gas is taking place in Texas or is reasonably imminent and, if so, then adopt any rule or order to correct, prevent, or lessen the waste,” up to and including issuing an order to restrict production beginning in May 2020. A copy of the filing can be found [here](#).

The motion asserts that the RRC has the authority to restrict production of crude oil and natural gas in Texas under the Texas Natural Resources Code (“TNRC”), which makes illegal the “production, storage, or transportation of oil or gas in a manner, in an amount, or under conditions that constitute waste.”¹ The TNRC defines “waste” as,

among other things, “production in excess of transportation or market facilities or reasonable market demand.”² The RRC is tasked with determining when such excess production exists or is imminent and to ascertain the reasonable market demand. Under such conditions, the RRC is required to issue such rules or orders as are necessary to “correct, prevent, or lessen the waste.”³

The RRC can only restrict the production of oil from oil fields that produce at least 10,000 barrels per day (“bpd”) of oil in the aggregate.⁴ More specifically, the RRC *cannot* restrict the production of any *new* field brought into production until the total production from that field is 10,000 bpd in the aggregate. However, the shale boom in Texas has re-ignited development in once prolific fields. It is unclear whether some of the new shale developments in previously developed fields, where the current aggregate is less than 10,000 bpd but the cumulative aggregate would exceed that amount, are subject to restriction by the RRC under the TNRC.

Next Steps

The RRC has issued public [notice](#) of a virtual conference to be held April 14, 2020, for discussion and/or decision on the motion. Written comments may be submitted by April 8, and the notice states that some parties submitting comments will be asked to testify live during the April 14 virtual conference. In addition, comments will be posted on the RRC’s public website. Given the far-reaching implications of any governmental order restricting the production of oil or gas in Texas (see our colleagues’ blog post related to dwindling storage capacity [here](#)), there are likely to be a substantial number of comments filed, and the RRC’s decision could have significant impact on the production of oil and natural gas in Texas in the very near future.

1. TNRC § 85.045.↩

2. TNRC § 85.046(a)(10).↩

3. TNRC § 85.049(a).↩

4. TNRC § 85.048(a).↩

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Authors

[Brooksany Barrowes](#)

Partner / [Washington, D.C.](#)

[Robert S. Fleishman](#)

Partner / [Washington, D.C.](#)

[Brett Nuttall](#)

Associate / [Houston](#)

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