April 8, 2020

The Honorable Wayne Christian
The Honorable Christi Craddick
The Honorable Ryan Sitton
Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

RE: Verified complaint of Pioneer Natural Resources U.S.A. Inc. and Parsley Energy Inc to determine reasonable market demand for oil in the state of Texas

Dear Chairman Christian and Commissioners Craddick and Sitton,

In response to your request for comment, we, the undersigned, encourage you to curtail oil production in the wake of the collapse of oil prices. We ask you to prioritize production cuts for producers and fields with the worst records of excessive flaring, and to develop a plan to ratchet down production of oil throughout the next decade.

As the complainants note, we are simultaneously experiencing both a "massive surge in the supply of oil" and "precipitous decline in oil demand." This imbalance is creating a glut of unneeded oil; production in excess of reasonable market demand, defined in TNRC §85.046(10) as "waste." When the the Railroad Commission of Texas (RRC) "finds wasteful production is occurring or is imminent, the Commission is compelled by TNRC §§85.042(b) and 85.051 to issue such rules or orders as are necessary "to correct, prevent or lessen the waste."[1]

Unfortunately, excess production is not the only waste currently fouling the Texas oil market. The dramatic increase in routine flaring and venting of natural gas also wastes valuable natural resources by pumping Texas's energy reserves into the air.

The RRC has a legal obligation to prevent such waste. Historically, the RRC had a multi-decade long practice of strongly enforcing Statewide Rule 32[2] and fighting flaring. But in the past seven years, the Commission has granted more than 27,000 flaring permits.[3] As you have previously stated, Chairman Christian, in approving such flaring exemptions, the RRC creates an "incentive to flare out of convenience and economics rather than necessity." According to a report written by Commissioner Sitton,

[1] Motion on verified complaint of Pioneer Natural Resources USA, Inc. and Parsley Energy Inc. regarding conservation and prevention of waste of crude petroleum and natural gas in the State of Texas, 30 March 2020, available at: https://bakerbotts.com/insights/publications/2020/march/oil-prorationing-in-the-spotlight-at-texas-railroad-commission
[2] 16 TAC § 3.32.
[3] Elliott, Rebecca, "Texas showdown flares up over natural gas waste," *Wall Street Journal*, 17 July 2019, available at: https://www.wsj.com/articles/texas-showdown-flares-up-over-natural-gas-waste-11563361201

"Texas oil and gas operators' total flare volumes were in the 650,000 Mcf/d range in 2018."[4] Satellite data show flaring volumes far greater.[5] This is a waste of resources and is illegal.

Continuing to allow routine flaring is an abdication of duty by the RRC that has led to gross waste of natural resources as well as serious harm to the environment. Flaring emits dangerous air pollutants, from soot and formaldehyde to volatile organic compounds (VOCs) and nitrogen oxides. When nitrogen oxides combine with VOCs in the sun, they form clouds of smog and ground-level ozone that pollute our communities. According to Texas A&M researchers,[6] flaring in the Permian Basin contributes as much smog-forming nitrogen oxide pollution as nearly three mid-size coal-fired power plants in Texas every year.

Smog and air pollution hurt our communities. Of all United States counties, seven of the top ten most at risk for asthma attacks are in the Permian Basin.[7] The Texas Commission on Environmental Quality (TCEQ) itself noted that air pollution from sulfur dioxide - a known trigger for coughing, shortness of breath, and wheezing[8] - repeatedly exceeds safe levels in Texas' Permian Basin.[9] The state of Texas and the RRC have a duty to make sure our kids can safely play outside without increasing their risk for respiratory disease.

Finally, in order to limit the worst effects of the climate crisis, we recognize that Texas must dramatically reduce production of oil and gas. The National Climate Assessment, released in 2017, found that climate change, resulting primarily from the burning of fossil fuels, will flood up to $20.9 billion in property along Texas' coast by 2030, and result in an additional 1,300 deaths in Texas per year by the end of the century.[10] Science tells us that the United States must aim to virtually eliminate carbon pollution by 2050 if we are to prevent the worst impacts of global warming.[11]

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[4] Sitton, Ryan, "Texas flaring report," 18 February 2020, avaiable at: https://www.rrc.state.tx.us/all-news/021820a/

[5] Willyard, Katherine Ann and Gunnar Shade, "Flaring in two Texas shale areas: Comparison of bottom-up with top-down volume estimates for 2012 to 2015," *Science of the Total Environment*, 2019, available at: https://www.ncbi.nlm.nih.gov/pubmed/31323570

[6] Schade, Gunnar, "Commentary: To address flaring, raise fees on industry," *San Antonio Express News*, 26 February 2020, available at: https://www.expressnews.com/opinion/commentary/article/Commentary-To-address-flaring-raise-fees-on-15086695.php

[7] Leyden, Colin.,"New Texas Permian oil and gas flaring report reveals excessive gas waste and major gaps in operator flaring practices," Version 1. No.1, *Clean Air Task Force*, available at: https://www.energycentral.com/c/ec/new-texas-permian-oil-and-gas-flaring-report-reveals-excessive-gas-waste-and, Paragraph 9

[8] "Sulfur Dioxide and Asthma," *Journal of the Asthma Education Clinic*, Version 1, Number 1, 4 August 2015, available at: http://www.asthmaed.com/journal/2015/7/27/sulphur-dioxide-and-asthma, Paragraph 4

[9] "Sour Wind in West Texas," Environmental Integrity Project, 9 May 2019, available at: https://www.environmentalintegrity.org/wp-content/uploads/2019/05/West-Texas-Air-Pollution-Report-5.9.19.pdf

[10] "Infrastructure Chapter 23: Southern Great Plains," National Climate Assessment, 2018, available at: https://nca2018.globalchange.gov/chapter/23/, Infrastructure Section, Paragraph 6 and Human Health Section, Paragraph 1

[11] Valérie Masson-Delmotte et al., "An IPCC Special Report on the Impacts of Global Warming of 1.5°C above Pre-Industrial Levels and Related Global Greenhouse Gas Emission Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty - Summary for Policymakers, 2018," Intergovernmental Panel on Climate Change, available at https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf.

Oil and gas are now the largest contributors to greenhouse gas emissions in the United States.[12] We recognize weaning ourselves off oil will be a huge and complicated endeavor, but it can be done with the clean energy technology and know-how we have today and with proper planning. We encourage the RRC to develop a plan for an orderly exit from a dependence on oil and gas for state revenue and economic activity.

Such a plan could help avoid Texas' experience with the decline in the use of coal for electricity. Without transition planning for the decline of coal-fired plants, the economies in communities such as Rockdale that relied on lignite mining or communities where coal-burning power plants have closed have been crippled. Instead, Texas could have eased the economic and social devastation with retraining and transition planning.

As noted by the complainants, the RRC "has long possessed the authority to prorate oil production in Texas based on market demand in order to prevent economic and physical waste." Waste from excess production and excessive flaring not only squanders natural resources but also puts our communities at risk.

Specifically we recommend that waste from excessive flaring be used as a metric for allocating production -- this fulfills the commission's charge to reduce waste, protects natural resources and the environment, and safeguards personal and community safety.[13] Because flaring specifically endangers our health and our environment, prioritizing curtailment to companies and fields with the worst rates of flaring, reduces wasteful production while reducing threats to public health from flaring and sets the stage for Texas to become a leader in combating climate change. Commissioner Sitton's report identifying the worst offenders of flaring can be used to help allocate production cuts.

The extraordinary circumstances of our current moment require strong action from the RRC. We strongly urge you to curtail oil production, prorating cuts to companies with the worst rates of flaring. Such a step will help stabilize the market, significantly reduce the damage from flaring, and manage an orderly decline of oil production in Texas.

Sincerely,

Luke Metzger
Executive Director
Environment Texas

Ilan Levin
Associate Director
Environmental Integrity Project

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[12] The Environmental Protection Agency, "Sources of greenhouse gas emissions," 13 September 2019, available at: https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions
[13] "Mission Statement," Railroad Commission of Texas, available at: https://www.rrc.state.tx.us/about-us/organization-activities/mission-statement/

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