



# TEXAS LAND & MINERAL OWNERS ASSOCIATION

## OFFICIAL NEWSLETTER

Volume 17, Number 4

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### TEXAS PARTIES WIN IN RED RIVER PRIVATE PROPERTY RIGHTS LAWSUIT

By: Robert Henneke, Texas Public Policy Foundation

AUSTIN – In a major win for private property rights, the Texas Public Policy Foundation, Texas Land Commissioner George P. Bush, and Texas Attorney General Ken Paxton announce a successful settlement in the lawsuit filed against the federal Bureau of Land Management (BLM).

The plaintiffs in the case include the Texas General Land Office (GLO), private property owners and county plaintiffs, and the State of Texas. The Texas Attorney General and Texas General Land Office partnered with the Texas Public Policy Foundation who represented a coalition of private landowners, the counties of Wichita, Wilbarger, and Clay, and the Clay County Sheriff.

"For more than 180 years Texans have stood up against anyone who would attempt to infringe on our property rights," said Commissioner Bush. "In this case, Texas families owned and worked the land at the heart of this matter for generations, until the unfair attempt to seize it. The Land Office had held mineral rights to this land, on behalf of our children and future Texans, for nearly two centuries. Texans have always defended our land and our rights. At the end of the day, the saying remains true: Don't mess with Texas."

The judge's ruling approving the settlement agreement concludes a dispute which began in 2009 when BLM placed federal survey markers within Texas claiming private property along a 116-mile stretch of the Red River as federal lands. In 2014, the case took on new urgency when the BLM announced it would implement a regional management plan allowing the federal government to take control over the estimated 90,000 acre disputed area within Clay, Wichita and Wilbarger counties. This claim included mineral assets owned by the Texas Permanent School Fund (PSF), which is managed by the GLO for the benefit of the schoolchildren of Texas.

In late 2015, General Paxton filed a motion to intervene in the case on behalf of the State of Texas, and Commissioner Bush filed a motion to intervene on behalf of the PSF. In March, the United States District Court for Northern Texas granted both motions.

"The borders of Texas are a fundamental expression of our sovereignty," said Attorney General Paxton. "We are pleased that the federal government has retreated from its effort to arbitrarily infringe upon Texas land and undermine the private property rights of our citizens. The Obama Administration's efforts to take from Texas tens of thousands of acres of our land failed, and we are grateful to the Trump Administration for finally removing this impermissible infringement upon Texas' sovereign borders." CONTINUED ON PAGE 4

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1005 Congress Ave., Suite 360

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**TLMA ANNUAL MEMBERSHIP AWARDS NOMINATIONS**

Each year, TLMA recognizes two of our dedicated members—one for their service to TLMA and one for membership recruitment. We always look to input from our members to determine who these nominees are. Please use the form provided on the following page or email us your nominees by **January 12, 2018!**

**TLMA Outstanding Service Award**

The Outstanding Service Award was established to promote and underscore the association’s continuing dedication to oilfield cleanup, protection of surface and groundwater, accurate royalty payments, and to encourage new drilling of the state’s oil and gas resources. The Board of Directors will award the TLMA Outstanding Service Award to one member who provides outstanding service to TLMA.

The ideal candidate for the 2015 TLMA Outstanding Service Award is dedicated to reinstating a sense of fairness in the relationship between those that use the land and those who live on it, and has made an outstanding contribution to TLMA through active service.

**TLMA Outstanding Membership Recruitment Award**

The Membership Recruitment Award honors those who have taken an active role in introducing other land and mineral owners to TLMA and helping to bring new members to the association.

Previous award winners are:

<b><u>Outstanding Service</u></b>	<b><u>Membership Recruitment</u></b>
2004 Doug Beveridge	2005 Rod Litke
2005 J. Evetts Haley	2006 Dr. John S. Baen & Morgan Dunn O'Connor
2006 George E. Tanner	2007 Carolyn Frost Keenan
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2010 Mike Gillean	2011 Randy Smith
2012 Kim McTee	2013 Jim McAllen
2013 Russell Hayter	2014 Jimmy Broussard
2014 John McFarland	2015 Tucker Bridwell
2015 James L. Donnell, Sr.	2016 Lica Pinkston
2016 Trey Scott	

We are so fortunate to have each of our members. We thank you for your continued support through your membership and hope that you will consider increasing your contribution for 2018. We have many exciting ideas for advancing the association, but cannot do so without your generosity.

Please help us recognize those members who go above and beyond to help make the association successful!

## ANNUAL AWARDS NOMINATION FORM

Please use the form below to make your nominations for the TLMA Annual Awards.

### TLMA Award Nomination Form

*Please provide the full name and city where member resides.*

**2017 TLMA Outstanding Service Award Nominee(s):** \_\_\_\_\_

**2017 TLMA Membership Recruitment Award Nominee(s):** \_\_\_\_\_

**Nomination submitted by (please print):** \_\_\_\_\_

Mail this completed form to TLMA, 1005 Congress Ave., Suite 360, Austin, TX 78701, or  
email your nominations to [info@tlma.org](mailto:info@tlma.org)

## RRC APPROVES WELL PLUGGING AND SITE REMEDIATION BUDGET; DENIES MIPA PERMIT

During the November open meeting, the RRC Commissioners approved the well plugging and site remediation budget for fiscal years 2018 and 2019. The Commissioners approved over \$67 million for plugging 3,000 wells. During the current fiscal year the cost to plug an inland well was approximately \$12,000 per well. With the amount approved and stated goal of wells to be plugged, there is significantly more money approved than should be needed. A portion of these funds were appropriated from the Economic Stabilization Fund, also known as the Rainy Day Fund, by the Legislature during the 2017 legislative session. Of the 3,000 well goal to be plugged in the 2018-2019 biennium, the RRC is required by the Legislature to plug 1,958 wells. The Commissioners also approved \$9 million to for clean up of 259 sites across the State.

The RRC also took up a number of cases dealing with the Mineral Interest Pooling Act (MIPA) permits. After some discussion on the maximum number of acres allowed in a unit, Commissioner Christian made a motion to deny all of the permits because the company did not prove that they needed to pool the land in order to prevent waste, protect correlative rights or prevent the drilling of unnecessary wells. We thank Commissioner Christian for his efforts to protect mineral owners rights!

Additional issues before the Railroad Commission include operating permits for operators not in compliance with inactive well requirements and allocation well permits. We continue to monitor these issues closely and will provide updates as they are available.

If you are aware of an issue in your area that the Railroad Commission oversees, please do not forget to submit a formal complaint at the RRC. If you need guidance on submitting a complaint or for more information on any of these issues, please see our 3rd Quarter newsletter or email [info@tlma.org](mailto:info@tlma.org).

"With the Court's approval of the settlement agreement, the Bureau of Land Management has been pushed back out of Texas and across the Red River," said Robert Henneke, general counsel and director of the Center for the American Future at the Texas Public Policy Foundation. "Because of this, our clients' homes and family lands are safe from seizure by the federal government and protected from this type of land grab happening in the future. BLM has cancelled its surveys and federal markers and disclaimed its maps estimating public lands within Texas along the Red River. Now, our clients, their families, and neighbors can be at peace again within their homes."

"The settlement agreement gives my clients all they ever wanted — to be able to enjoy their property without being under the cloud of the BLM's faulty surveys and untenable claims," said Austin Curry, a principal at Caldwell Cassady & Curry who served as co-counsel. "We are grateful to Judge O'Connor and Judge Cureton for giving this case their time and attention and for faithfully applying the law."



"I applaud President Donald Trump's administration for withdrawing the previous administration's false claim to private land," said Commissioner Bush. "Today's victory is one for both private property rights and for the schoolchildren of Texas. It's also a heartening restoration of the rule of law."

The agreement protects both private property rights and the mineral rights of the school children of Texas. Texas constitutionally dedicates PSF land and mineral interests to be managed by the GLO for the benefit the public-school children of the State of Texas. The GLO is constitutionally charged with the sacred and solemn responsibility of maximizing revenues from Texas public school lands.

With this settlement, the BLM, under the Trump administration, has agreed the boundary once in dispute is governed by the opinion of the Supreme Court in *Oklahoma v. Texas* (1923), thereby removing any inappropriate interference of the GLO's duty to the children of Texas.

*This story was originally published by the Texas Public Policy Foundation. You can visit their website to learn more about the case and TPPF at [www.texaspolicy.com](http://www.texaspolicy.com).*

## TLMA Statewide Member's Meeting

# SAVE THE DATE

October 11, 2018 Pearl Stable, San Antonio

*more details to follow*

## A NOTE OF THANKSGIVING AND HOLIDAY GREETINGS FROM THE EXECUTIVE DIRECTOR

It's hard to believe that Thanksgiving, my favorite holiday, has passed and that the new year is quickly approaching! Each year, I think that I'll be a little more prepared for the holidays than the year before, but that never seems to happen.

The past three months have been very busy at TLMA. I attended and presented at my first town hall, attended the South Texans Property Rights' Association Annual Meeting and Fundraiser, and attended various industry meetings. I am also planning town hall meetings throughout the state. If you are interested in TLMA coming to your area, please send an email to [info@tlma.org](mailto:info@tlma.org). These meetings are most successful when hosted by someone in the area and can help bring current and potential members to the meetings. As the new year starts, I will be attending as many other associations meetings, and potentially a speaker at some of them. I will let you all know which meetings those are, but I hope to see you out and about! I continue to follow court cases and industry events as they happen.

As many of you are aware, TLMA hosts a day-long meeting for all members and non-members in October of even-numbered years. On behalf of the Board of Directors, I am so excited to announce that the 2018 TLMA Statewide Members Meeting will be held on **Thursday, October 11, 2018 at the Pearl Stable in San Antonio**. Please, please mark your calendars now! It's going to be a day that you don't want to miss! My goal is to fill the room to the maximum of 400 people! We are working on securing hotel room blocks at a discounted rate, as well as other fun, new details that will be released shortly. Registration will open after the first of the year. The statewide members meeting would not be as successful without the generous support of our sponsors. If you are interested in becoming a sponsor, please send an email to [execdir@tlma.org](mailto:execdir@tlma.org). Be on the lookout for more information through email and the March 2018 newsletter.



If you didn't receive the email announcement for the statewide meeting, you probably have turned off the setting that allows you to receive emails from TLMA. As we work to inform our members in real time versus every quarter or with email ALERTS as we need action from you, emailing will be our primary form of communication. While you will still receive all information in the newsletter, you may not see it as quickly or see all of the articles we post on Twitter. TLMA will not overload your email inbox. We will only send information as we believe is necessary. If you do not know if you are receiving emails or know you are not and would like to, please call 512-479-5000 or email [info@tlma.org](mailto:info@tlma.org) and we will make sure that your email notifications are on.

Do you have any success stories of how an operator worked well with you or even crazy pictures of something an operator did that didn't work so well? Send them our way! We're looking to update our pictures and stories to share.

Thank you all for your responses to the survey requests I have sent out. They are extremely helpful for us! I am certain that TLMA is going to exceed all of our members expectations in 2018. If you haven't filled it out yet, you can certainly still do so. The survey will be tallied at the end of this year. Visit our website [www.tlma.org](http://www.tlma.org) and click "Survey" on the homepage.

Don't forget, you can log in to our website and take advantage of features for TLMA members' only on the TLMA website. Ask questions and share information in the Discussion Forum, check the membership directory, update your contact information, and renew your membership online.

I am thankful for the opportunity to serve each of you as the Executive Director of this association and bring awareness to and advocate for the various issues you all face. I hope that you all enjoy the time spent with family and friends over this holiday season. I wish you many blessings and a very prosperous 2018!

As always, please do not hesitate to reach out to me if I can ever be of assistance or if there is something you think the association should know about. If you ever find yourself in Austin, you are welcome to stop by the office. I look forward to meeting each of you and achieving many successes in the coming years!

A handwritten signature in black ink that reads "Jennifer". The signature is written in a cursive, flowing style.

House Speaker Joe Straus released the interim charges for each committee to prepare for the 2019 Legislative Session. These items can include items that were not completed during the previous legislative session or new issues. The Committees with issues of importance to TLMA members are included below. For a full list, please see the House of Representatives website. There have not been any hearings scheduled to date. We will post those dates as soon as they are available.

### House Committee on Energy Resources

- Examine the Railroad Commission of Texas' (RRC) response to Hurricane Harvey. Study whether current state rules and regulations are sufficient to protect the public, natural resources, environment, infrastructure, and industrial facilities from damage caused by natural disasters. Evaluate options to ensure the availability of fuel reserves for first responders during natural disasters.
- Examine whether current statutes are adequate to encourage reactivation of non-producing oil and gas wells. Consider the potential economic impact of programs designed to reactivate nonproducing oil and gas wells.
- Evaluate the evolution of frac sand mining in the Permian Basin and how it may impact county infrastructure and oil and gas development. Develop possible recommendations that could assist counties with frac sand mining to better prepare the area for the entrance of this new industry.
- Examine how commercial wind energy facilities are decommissioned and whether current statutes adequately protect the rights of wind facility landowners.
- Evaluate the impact energy exploration and production have on state and county roads and make recommendations on how to improve road quality in areas impacted by these activities. (Joint charge with the House Committee on Transportation)
- Examine how state policies may facilitate investment in public infrastructure and workforce development in the Permian Basin region in order to support the anticipated growth in industry activity and related population, and capture the full economic potential of the region.
- Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 85th Legislature. In conducting this oversight, the Committee will also specifically consider: a. Long-term funding solutions for a stable regulatory structure; b. Adequacy of well-plugging processes and funds; c. Cleanup and removal of abandoned equipment; and d. Seismic research needs for the University of Texas Bureau of Economic Geology and any response to research findings by the RRC.

### House Committee on Environmental Regulation

- Examine the Texas Commission on Environmental Quality's (TCEQ) response and clean-up efforts related to Hurricane Harvey. Study whether current air, water, waste, and wastewater rules and regulations adequately protect the public, natural resources, environment, infrastructure, residential areas, and industrial facilities from damage caused by natural disasters. Evaluate the debris cleanup and removal process and whether current rules and regulations are effective in expediting cleanup efforts. Make recommendations on how natural disaster responses can be improved.
- Examine how emergency alert systems related to hazardous and chemical releases are organized at the local, state, and federal level and explore ways to improve coordination and efficiencies. Develop recommendations to improve notifications to first responders and the public.
- Study the permitting, siting, and regulatory processes for solid waste landfills, including municipal solid waste landfills, and whether current rules, regulations, and notice requirements adequately ensure compliance and maximize participation from the public and stakeholders.

### House Committee on Land & Resource Management

Examine Texas' eminent domain statutes to ensure a balance between necessary infrastructure growth and fair compensation for landowners. Review available public information and data relating to the compensation provided to private property owners. Make recommendations to improve the accountability, as well as successful development, of the entities granted eminent domain authority.

## HOUSE OF REPRESENTATIVES ISSUE INTERIM CHARGES FOR 85TH LEGISLATURE CONT.

### House Committee on Natural Resources

Evaluate the status of groundwater policy in Texas, including the following issues: a. Progress and challenges in encouraging coordination and consistency in aquifer-wide management and permitting practices; b. Developments in case law regarding groundwater ownership and regulation; c. Potential improvements to the existing groundwater permitting process, including those contemplated in H.B. 31 (85R); d. The appropriate consideration of the service area of a water supplier when groundwater resources are allocated based on surface ownership; e. The designation of brackish groundwater production zones and related research; f. Groundwater data and science needs; and g. Emerging issues in groundwater and surface water interaction, in particular in areas of increasing competition for scarce resources.

## TEXAS SENATE ISSUES INTERIM CHARGES FOR 85TH LEGISLATURE

Lieutenant Governor Dan Patrick released the following interim charges for the **Natural Resources and Economic Development Committee**:

- Hotel Occupancy Taxes:** Study and make recommendations regarding the collection and use of hotel occupancy taxes to increase transparency in the imposition, rate, and use of such taxes.
- Regulatory Barriers:** Identify options to maintain our state's competitive advantage and make recommendations to remove or reduce administrative or regulatory barriers hindering economic growth, including permitting or registration requirements and fees.
- Environmental Safety:** Study the strategies and best practices for ensuring environmental safety during maintenance, startup, and shutdown activities due to emergencies. Recommend actions to improve safety without compromising compliance or penalizing good actors.
- Waste Disposal Regulation:** Study the permitting and compliance processes for waste disposal and processing, including evaluating the criteria for approval, denial, and application return. Make recommendations for improving and streamlining the permitting and compliance processes while maximizing public participation for effective outreach and education. Review the allocation of the Municipal Solid Waste disposal fees and make recommendations regarding allocation methods to adequately support existing programs.
- Monitoring:** Conduct legislative oversight and monitoring of the agencies and programs under the committee's jurisdiction and the implementation of relevant legislation passed by the 85th Legislature, including:
  - Texas Railroad Commission Sunset and funding;
  - Environmental Regulatory and Legal Primacy;
  - and
  - The effectiveness of emission reductions recognized from the Texas Emissions Reduction Program (TERP) and grant flexibility.

For a complete list of charges, please visit the Texas Senate website. There have not been any hearings scheduled to date. We will post those dates as soon as they are available.

### UPCOMING EVENTS

The 2018 RRC Open Meeting schedule has not yet been released. We will post that information on email and Twitter (@tlma\_info) as soon as it is available.

All RRC open meetings can be viewed live at [www.rrc.texas.gov](http://www.rrc.texas.gov). You can also find the meeting agenda in advance of the meeting on the same webpage.

Spring 2018—Town Hall Meetings. Watch for dates and locations as they become available. Make sure to attend if we are in your area.

October 11, 2018—TLMA Statewide Members Meeting; Pearl Stable, San Antonio



Texas Land & Mineral Owners Association  
1005 Congress Avenue, Suite 360  
Austin, TX 78701

### TLMA Membership Information Form

I would like to join TLMA     I am a member, please update my contact info

*Please return to: TLMA, 1005 Congress Ave., Suite 360, Austin, TX 78701*

Name \_\_\_\_\_

Organization/Ranch Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_

Email Address \_\_\_\_\_

Referred by \_\_\_\_\_

#### Don't forget!

If there is a change in your contact information, update TLMA and avoid delays in receiving your newsletter, renewal, and other correspondence.

To update your member information, call Robbie at (512) 479-5000, mail in this form, or log in to your member account online at [www.tlma.org](http://www.tlma.org).

Find more information, join TLMA, or renew your membership online at [www.tlma.org](http://www.tlma.org)