

# Elections Change Political Landscape

By Danny Boyd  
Special Correspondent

DALLAS—Facing changes in the make-up of the Texas Legislature, the Texas Alliance of Energy Producers is gearing up for a 2009 legislative session that is expected to include bills governing inactive wells, pipelines, funding for the Texas Railroad Commission, and licensing of landmen, among other key topics.

The Alliance Board of Directors met Nov. 6 to discuss the upcoming session, weigh changes brought by federal and state elections, and consider stances on legislation expected to be offered when the 81st regular session of the Texas Legislature gets under way Jan. 13 in Austin.

The elections, fueled by a strong showing for Democrats nationally, brought change to the state legislature that could impact issues during the session, Executive Vice President Bill Stevens told Alliance directors who gathered at the Hilton Anatole Hotel in Dallas. More change could be in the offing from a contested race for the top leadership post in the Texas House, he added.

House Speaker Tom Craddick, R-Midland, barely escaped the 2007 session with enough support to retain his speakership in the face of a challenge from Eastland Republican Jim Keffer, Stevens recalled. A once loyal Craddick lieutenant, Stevens said Keffer was expected to continue his bid for speaker in the upcoming session. While Craddick retains some support among Republicans, other mem-

bers of the GOP want a leadership change along with House Democrats, he commented.

"It is up to Republicans to coalesce around one speaker candidate, and then Democrats will make their choice," Stevens assessed. "It remains to be seen how things will turn out. One key issue is that chairmen of committees want to have some latitude to do their work and not be told how it is to be done."

Changes in the Texas House of Representatives could impact efforts to pass legislation supported by the Alliance and to defeat bills deemed detrimental to exploration and production in the Lone Star State, Stevens said. Republicans now hold 76 House seats and Democrats have 74, a change from a 79-71 Republican advantage before the Nov. 4 election. Stevens explained that the GOP maintained a one-seat edge over Democrats following what appeared to be a very close win by Republican incumbent Linda Harper-Brown in District 105, which includes the Dallas suburb of Irving.

The Texas Senate now consists of 18 Republicans and 13 Democrats, a change from 20 Republicans and 11 Democrats during the previous session, he said.

"You have to have 12 votes in the Texas Senate to get a bill to the floor," Stevens pointed out. "Republicans and the Democrats are going to have to come together more than they have."

Railroad Commission Chairman Michael Williams won re-election, Stevens mentioned.

## RRC Budget

Adequate funding for the Texas Railroad Commission will be a major issue for oil and gas associations whose members have been hindered by a backlog of drilling permit requests and delays in approvals of completion reports and technical permitting for injection wells, Stevens told the Alliance board. The association blames inadequate staffing and salaries, and poor employee retention as the root causes of the backlog, he added.

Alliance directors expressed support for temporary solutions that called for diverting revenue from the Oil Field Cleanup Fund to the RRC's general budget. But directors also voiced support for continued efforts by the commission to seek additional funds from the state's general revenue.

Stevens noted that Midland, Tx., producer Clayton Williams had been especially critical of the RRC for the backlog of permit requests, which Williams estimated had slowed his company's drilling by 15 percent. Stevens estimated a similar impact statewide.

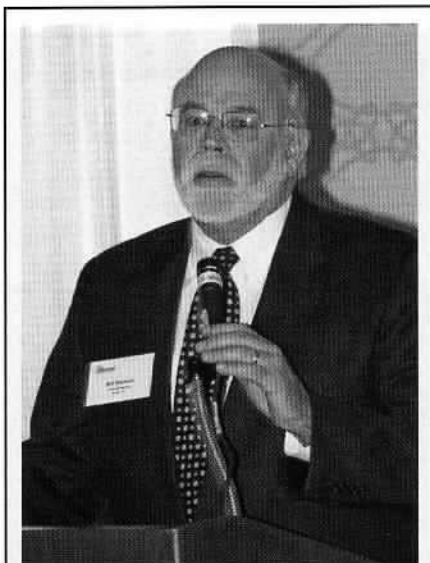
In August, the Alliance Executive Committee, headed by Chairman Mark P. Metzler, authorized Alliance support for additional RRC interim funding up to \$1 million from the Oil Field Cleanup Fund, Stevens recalled. But the leadership's support for using OFCF revenue was contingent on the commission asking for additional general revenue support from the legislature, he said. The RRC should be fully funded out of state revenue and its operations should be optimized because each drilling permit represents an economic gain to the state, Stevens stated.

In August, he recounted, Railroad Commissioner Victor Carrillo initiated an effort to add \$5.9 million to the agency's 2009-10 appropriations request for increased salaries in order to fill staff vacancies and improve retention. But Stevens pointed out that the funds, if appropriated, would not be available until Sept. 1, 2009.

With six months required to hire additional personnel and more time needed for training, it could be 2010 before the RRC experienced a turnaround that would accommodate the industry, according to an Alliance summary of possible developments. It is probable that the RRC will need additional funds from the OFCF in the meantime to raise salaries, add professional positions and hire field inspectors, Stevens said.



Members of the Texas Alliance of Energy Producers Board of Directors discuss their position on state and federal legislative issues during their semiannual meeting on Nov. 6 at the Hilton Anatole Hotel in Dallas.



**Executive Vice President Bill Stevens updates Texas Alliance board members on 2008 elections results during the association's Nov. 6 Board of Directors meeting at the Hilton Anatole Hotel in Dallas.**

In September, the RRC voted to divert \$750,000 from the OFCF to general operations to pay overtime and hire consultants, Stevens said. The commission vote also called for recouping the monies in its supplemental appropriations request during the upcoming legislative session, he said. However, there is growing sentiment among lawmakers for the RRC to rely on additional funding from internally generated fees and less on funding from general revenues, in keeping with budgetary trends at the Public Utility Commission and other state agencies, Stevens remarked.

Diverting funds from the OFCF to the RRC's general fund already has led to a decrease in the backlog on drilling permit approvals from 40 days for standard approval to 15 days, and from as many as 20 days for expedited requests down to three days, but the additional budget request for more general funds is still needed, Stevens said.

This year \$33 million is expected to go into the OFCF from fees paid by the industry, with \$13 million of that coming from drilling permits, Stevens said.

Alliance Director Mike Elyea, who represents the association on the OFCF Advisory Committee, urged the board to be cautious when supporting diversions of revenue from the OFCF to the RRC's general operations budget. He reminded directors that the Oil Field Cleanup Fund had a potential unplugged well liability of \$140 million, although Elyea noted that the number of orphaned wells was declining.

However, he said he supported reallo-

cating some OFCF funds to the general RRC budget on a temporary basis to help alleviate the backlog of permits and completion reports. "If you have a drilling rig on location, and you are waiting for a drilling permit and paying a day rate for the rig, you have a problem," Elyea reasoned.

### **Pipeline Legislation**

Alliance directors indicated their support for possible legislation to place a cap on the portion of purchased gas that intrastate pipelines could deem lost or otherwise unaccounted for. Attempts during previous sessions to enact a cap on lost-and-unaccounted-for gas (LUG) were defeated or shelved amid a lack of support from some key legislators, opposition from pipelines, and differences among the state's oil and gas associations, but the Alliance is in a stronger political position this time around, President Alex Mills opined.

"I think we are in a very strong position to have some meaningful pipeline legislation," he advised the board.

The Alliance and other oil and gas associations that could team on legislation expect to get a fair hearing from Representative Rick Hardcastle, R-Vernon, who is chairman of the House Energy Resources Committee, Mills said.

According to some reports, LUG has resulted in double-digit percentage cuts in the volumes of gas for which operators are paid, said Stevens. "We have been battling this for years," he reported. "We want to put a hard cap on it. Local distribution companies delivering gas to homes have a 1.5 percent cap on LUG, yet there is no cap in the field and there is no cap on gas flowing through the midstream sector."

A nine-member blue ribbon panel appointed by the Railroad Commission explored the LUG issue and the lack of

transparency in gas sales transactions in 2006, Stevens recalled. But he noted four of the nine members were pipeline representatives, including one whose company was accused by the Federal Energy Regulatory Commission of manipulating Houston Ship Channel prices, Stevens said.

Attempts to get a cap enacted by the legislature were unsuccessful in 2007, but legislators instead directed the RRC to strengthen its informal hearing process, Stevens explained. The new hearing process is supposed to enable companies to obtain detailed responses from pipelines on lost-gas deductions and allow producers to respond before forcing the issue to arbitration. However, he said the procedure had proven to be largely unfruitful because some pipelines had refused to supply the information.

But the political tide has turned, and the Alliance approaches the 2009 session armed with a detailed study from petroleum economist Karr Ingram of Amarillo, Tx., on the cost of LUG to the state, Stevens said.

"We do have a comptroller who is on our side, and she has received a report from Ingham that shows the state of Texas has been deprived of almost \$600 million in severance tax revenues because of LUG," Stevens revealed.

Additionally, the state has lost \$350 million-\$400 million in taxes that would have resulted from additional exploration and production, he said. Other economic losses from the shortages add \$68 million more, Stevens said.

### **Inactive Wells**

Alliance directors continue to weigh a proposal on how to deal with more than 100,000 inactive wells in Texas. The state's producer associations, landowner interests, legislative staff and the Railroad Commission have been working on a proposal called "Prove it, Plug it or Assure



**Texas Alliance Chairman Mark P. Metzler (right) pauses with President Alex Mills prior to the association's Nov. 6 Board of Directors meeting in Dallas.**

it," Stevens told the board. The coalition wants to address concerns about inactive wells by preserving wells with future economic potential while providing a menu of options for operators, he explained.

Under the proposal, when facing a plugging extension deadline on an inactive well, the operator must decide to plug the well, prove it by providing professional certification of potential future value, or retain the well bore by adding financial assurance or paying a fee, according to Stevens. The proposal gives operators three options for plugging, three for certification and five ways to provide additional assurance, he said.

The proposal has been presented in interim hearings before the House Energy Resources Committee and to the RRC, Stevens said.

Surface cleanup on inactive locations would be triggered by the abeyance of a plugging application, according to the Alliance's summary of the proposal. Depending on negotiated time frames (one, five or 10 years) and how many years a well has been inactive, the proposal would require that electric service be disconnected; flowlines be drained and removed; and tank batteries, pumpjacks and other production equipment be removed, Stevens told board members.

While Alliance directors indicated general support for the Plug it, Prove it or Assure it concept, they questioned one assurance provision that would allow companies to identify closure funds on balance sheets prepared in accordance with Standard 143 of the Financial Accounting Standards Board. Board members questioned how that would affect 70,000 inactive wells held by publicly held companies. Several directors said they believed assurance provisions should be uniform for all operators.

Another assurance option is for the operator to pay a \$500 fee for every inactive well, but Mills and Stevens asked the board to contemplate requesting a lower fee.

### Landmen, Margins Tax

Alliance directors voted to support a proposal endorsed by the American Association of Petroleum Landmen to certify Texas landmen. Although several directors questioned the need for licensing, others pointed out that licensing could head off future moves to mandate using attorneys to draft land leases in Texas, as is the case in Wyoming.

Metzler said requiring landmen to undergo certification would represent an added cost to producers, but would provide additional credibility for the profession.

The AAPL has proposed minimum education standards, testing and certification by an independent board composed of certified petroleum landmen.

On another issue, Stevens said changes to the state's new margins tax might be on the minds of many Texas businessmen, but lawmakers were unlikely to consider substantive revisions during the upcoming session. Of particular concern is a requirement that operators with service affiliates adopt a single method to calculate taxable margin. Stevens commented that exploration and production companies typically fared better by subtracting the cost of goods from total revenue to calculate their taxable margins, while service companies tended realize a lower tax rate by subtracting employee compensation from total revenue.

"All operators with service companies are getting hit really hard with this," asserted Director Donald J. Hupp.

The Alliance board agreed to a suggestion from Metzler to allow Stevens to monitor the issue and report back.

### Energy Education

The initial success of the Alliance's "Drill Now! Produce More!" public education campaign conducted through the auspices of its Foundation for Energy Education encouraged some directors to again tout the benefits of a statewide checkoff campaign to promote the oil and gas industry.

Drill Now! Produce More! is being conducted in stages in various regions of the state, explained Alliance Professional Development Director Kurt Abraham. The first ad campaign targeted audiences

in East Texas through newspaper and radio ads that ran Aug. 4 through Sept. 15, principally in Tyler, Kilgore and Marshall, Abraham reported.

Results from surveys conducted before and after the East Texas campaign showed its positive impact on public opinion, he said. Polls revealed 20 percent fewer respondents believed the oil industry was unconcerned about the environment after the campaign, while 39 percent more believed the industry was "very concerned" about the environment.

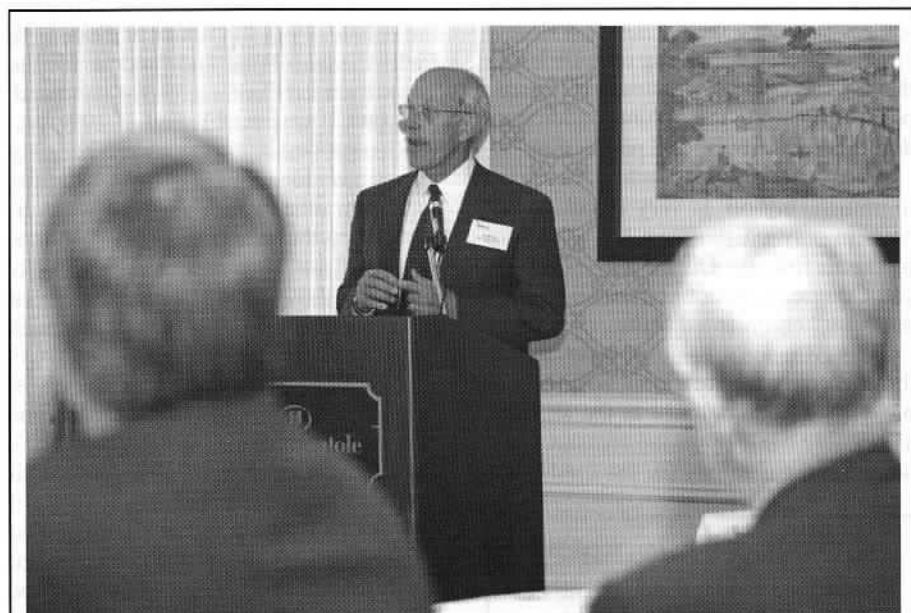
The ad campaign points out that offshore oil spills are caused chiefly by tankers carrying imported oil, and not by production platforms, Abraham said. The post-campaign survey showed a 40 percent increase in awareness of the source of oil spills, he noted, and a 24 percent increase in those who thought the industry's image was better than it was five years ago.

The Alliance, the Panhandle Producers & Royalty Owners Association, and the Foundation for Energy Education cosponsored the second campaign in the Texas Panhandle on Oct. 5 through Nov. 2 with ads in Amarillo, Pampa and Perryton, Abraham continued.

"We applied lessons in the Panhandle that we learned in the first campaign," he said, including offering additional information on the benefits of production taxes to schools and local economies, and the probability that without those taxes, Texans would pay a state income tax.

Three advertising blitzes will be conducted throughout the state in 2009, Abraham said.

Two years ago, the Alliance opted to



The Texas Foundation for Energy Education projects spending more than \$1 million a year on public education within four years, Chairman Jim Beck advises the Texas Alliance of Energy Producers Board of Directors.

move the Foundation for Energy Education out of the organization with the goal of attracting statewide support among associations for a broad-based public education program to promote the industry, explained foundation Chairman Jim Beck.

However, partly because of a lack of needed support for a statewide cooperative effort, the foundation has once again been brought under the Alliance's control, he told the board.

The foundation has aggressive fundraising goals that begin with a budget target of \$515,000 for public education in 2009. The foundation projects being able to increase its budget to more than \$1 million for public education in four years with growing support from Alliance members and other active industry participants that could include service and supply companies, Beck said.

Several Alliance board members expressed hopes that an aggressive public education effort through the foundation would lead to a voluntary statewide check-off program that promoted the industry in Texas with the same effectiveness and efficiency as the nationally recognized Oklahoma Energy Resources Board.

The Alliance's efforts to promote the industry have been noted by other organizations, association leaders pointed out. The Alliance received the Association of the Year Award from The Energy Advocates during ceremonies at the 2008 Annual International Energy Policy Conference in Washington, Mills reported.

### Federal Issues

With the election of Illinois Democrat Barack Obama as president and a stronger Democratic majority in Congress, Alliance leaders said they would monitor closely efforts to tax so-called big oil with levies that also could prove detrimental to independents and, as a result, hinder additional domestic exploration and production.

"That shotgun approach in Congress to punish 'big oil' is very broad, so we have to stay on our toes to make sure proposals from the Obama administration and Congress are not detrimental to our business," commented Mills.

The Alliance's basic posture during the upcoming congressional session is to prevent as much damage to the industry as possible while opposing measures that tax oil and gas to pay for tax credits for

renewable energy, leaders said.

Mills said cap-and-trade legislation likely would be passed in the first few years of the Obama administration. A major discussion on cap-and-trade is planned for the Alliance's annual meeting, April 21-22 in Wichita Falls, he informed directors.

The concept sets limits on emissions of greenhouse gases (GHG)—primarily carbon dioxide created from burning fossil fuels—according to an Alliance summary. Cap-and-trade would allow people to buy, sell, borrow or trade emission credits. In theory, such a system reduces GHG emissions while raising funds from polluters to pay for clean energy research and development, according to the summary.

But the Alliance summary also points out numerous objections to cap-and-trade:

- Obama's goal to reduce greenhouse gases by 80 percent by 2050 is impossible.
- Increased costs to consumers and energy producers will be unavoidable.
- There will be increased volatility in energy prices.
- Food prices will rise.
- It is imperative that the top 15 carbon-producing countries participate to

avoid creating a competitive disadvantage for U.S. companies.

- Protecting against fraud and cheating will be expensive, while the size of government grows through creating agencies to fight fraud and abuse.

- Big business gains additional advantages over small business.

- There is no free market because the government allocates emission allowances.

- Cap-and-trade will have a huge economic impact around the world.

In opposing cap-and-trade legislation considered in the U.S. Senate earlier this year, Alliance Chairman Metzler wrote in a letter to key senators that the proposed Lieberman-Warner Climate Change Act of 2008 would reduce domestic energy supplies, provide a government-controlled market that picked energy winners and losers, allow speculators to drive the market, create new government agencies, and add significantly to energy costs for all Americans.

The Alliance's position is to oppose cap-and-trade, Mills said, while continuing to promote the 10 essential points for a sound national energy policy that the board approved in 2007. □

## TIPRO Backs RRC Proposals To Shift Some OFCF Funds

**Editor's Note:** The following article was submitted by the Texas Independent Producers & Royalty Owners Association.

AUSTIN, TX.—Over the past 12 months the debate about the future of Texas' Oil Field Cleanup Fund and funding for the Texas Railroad Commission has increased. The OFCF was established in 1991 and was reorganized in 2001 to address plugging legacy abandoned wells in the state. Many fees from other RRC functions were diverted into the fund at that time to jump-start its efforts. Now the commission lacks funds for those other functions, and that has raised questions about revisiting which fees should continue to go into the OFCF.

The Texas Independent Producers & Royalty Owners and other associations have been a part of the debate, and TIPRO's State Issues Committee has wrestled with multiple proposals. The proposals get even more complicated when examined together. The positions TIPRO has taken are the culmination of multiple committee calls, debates and consideration of detailed proposals. The RRC commissioners and staff also have been diligent in preparing proposals and proactively seeking input

from industry associations.

As many are aware, the Railroad Commission has fallen dreadfully behind in processing permits over the past year. Instead of two-three days it can take two-three weeks to process an expedited permit. Part of the problem is that the total number of permits requested has exploded, doubling the workload in only five years. In 2002, the commission processed 9,700 permits. By 2007 that number was almost 20,000! During the same period, the total number of RRC employees fell by 100.

Furthermore, since 2001, RRC salaries have not kept pace with other state agencies for the same job categories. Agencies such as Texas Commission on Environmental Quality, the Texas General Land Office and Public Utility Commission often provide better compensation; the differential can be as high as \$9,000 a year.

### Funding Sources

As permit applications have gone up, so has revenue from permitting fees. This revenue, however, is statutorily dedicated to the OFCF for well plugging operations. This revenue stream made sense when the fund needed a jump-start on its backlog

### Coming In January

America's independent oil and gas producers provide insight into their 2009 drilling plans in *Outlook 2009*.