

with M.D. Abel Company in Lampasas, Tx., and Adrian Acevedo with Anadarko Petroleum in Austin, Tx., to co-chair a task force charged with preparing recommendations on RRC operations for TIPRO to present to the Sunset Advisory Commission. She said the task force intended to present its report to TIPRO's Board of Directors by January.

Warndorf noted that Texas agencies must be reauthorized by the legislature every 12 years. "It involves internal reviews by the agencies that they share with the Sunset Commission," she explained. "The Sunset Commission conducts its own audits, followed by public hearings. It will make its recommendations by Labor Day 2010."

If the legislature doesn't reauthorize the Railroad Commission in 2011, it will be abolished, Warndorf confirmed, noting that since 1979, 8 percent of Texas agencies had been eliminated entirely during sunset review and another 5 percent were abolished and their functions transferred to other agencies.

"It is a pretty healthy review, and it is an opportunity for us as an industry and stakeholders to have a real impact on what the RRC's plan of operation is going to be for the next 10 years," she emphasized. "I can't think of (a committee) that would impact your daily operations more than (TIPRO's sunset task force) is

TIPRO President Walter G. "Tad" Mayfield (right) recognizes Region 3 Director Steve Howell, Howell Oil & Gas Inc. in Marshall, Tx., during the association's summer conference. Howell and Region 6 Director John S. Miller with Masterson Management Corp. in Amarillo, Tx., concluded their service on the TIPRO Board of Directors. They were replaced by John Beecherl with Vecta Oil & Gas Ltd. in Dallas and Eugene Garcia with Hurd Enterprises in San Antonio.



going to. We have to have our goals and priorities set when the (Sunset Advisory Commission) starts its public hearings."

TIPRO Executive Vice President Adam Haynes reiterated the opportunity sunset review provided the industry to improve the RRC's functioning, but he also warned, "Let me make sure everybody understands, the folks who oppose us also get a bite at that apple. We are going to face a litany of environmental groups that say our permitting process is not strong enough, think closed-loop drilling would be a great thing for Texas, or want six-mil

liners in all our pits or permits for hydraulic fracturing.

"We want to offer suggestions that will make the agency function better, but we also want to make sure we are ready for the folks who oppose us," he stressed.

"We aren't just dealing with Texas citizens," Warndorf offered, pointing out that groups such as the Oil and Gas Accountability Project were organized nationally and had been pushing onerous rules and legislation in other states.

"We are going to need to be able to respond in a timely way," she said. □

New Rules For Inactive Wells Coming

SAN ANTONIO—When Texas oil and gas producers begin renewing their operating permits after Sept. 1, 2010, they will have to show they are taking some action to deal with the state's inventory of 110,000 inactive wells.

Those actions, which range from putting inactive wells back into production or plugging them to providing additional financial assurance, were developed from recommendations made by an industry work group created by the 2007 Texas Legislature and codified in HB 2259, which was passed by the 2009 Legislature. Donna Warndorf, the association's director of public affairs, told members of the Texas Independent Producers & Royalty Owners Association during the group's summer conference, held Aug. 20-22 in San Antonio.

Although operators will face new requirements under HB 2259, Warndorf noted the legislation "did avoid doing a

lot of things." She said industry negotiators were able to prevent negative aspects of past proposals, such as increased bonding for active wells or changing the dominance of the mineral estate, which has arisen in surface damage acts in other states. "If it is not an inactive well, this bill doesn't apply to it," she emphasized.

When producers renew their operating permits after Sept. 1, 2010, Warndorf outlined, they must document one of the following actions for each inactive well in their inventories:

- Plug or return to production 10 percent of the operator's inactive wells each year;
- Obtain an "abeyance of plugging study" by a licensed engineer or geoscientist, certifying that the value of the well exceeds the cost to plug it, plus pay an annual fee of \$100;
- Perform a mechanical integrity test

(good for five years) and pay an annual fee of \$50;

- Show the well has been certified as part of a qualified enhanced oil recovery project by either the Texas Railroad Commission or the state comptroller;
- Obtain a bond or letter of credit sufficient to pay actual plugging costs, based on the well's depth and the RRC's per district plugging cost calculation; or
- If a public company, file a Securities and Exchange Commission Form 10K indicating financial wherewithal to plug all inactive wells, along with securing a bond sufficient to cover the cost (capped at \$2 million) of plugging all the company's inactive wells or filing a UCC1 form making the RRC a secured creditor.

Making It Work

Warndorf pointed out that a company did not have to use the same option for

all its inactive wells. "You can mix and match whatever works for you," she said.

On option two (certifying value), an operator can perform his own study if he is a licensed engineer or geoscientist, Warndof noted, saying the enforcement mechanism was revocation of the person's license. Under option three, she continued, the RRC must be notified in advance of the MIT so that it has the option of witnessing the test.

For bonding options, Warndof noted that the RRC did annual calculations of costs to plug wells by commission district. "We found plugging costs can vary from around \$2 a foot in some RRC districts to closer to \$12. That is a huge discrepancy," she explained the provisions requiring bonds based on actual plugging costs.

She added that operators would not be required to submit the entire reports or studies required by some options, but rather some sort of documentation establishing that the study had been done. "The RRC is undertaking a rule making to (devise) the forms you will be required to submit," she advised. "It and we want (the paperwork requirements) to be the

least cumbersome they can be."

HB 2259 also contains some surface cleanup requirements, Warndof went on. Noting that the law defines an inactive well as one that hasn't produced for 12 months, she said the first surface requirement was disconnecting electrical power. She observed that state law already required power to be shut off after three months of inactivity, so that HB 2259 basically was an affirmation that had been done.

Warndof added that safety or cathodic protection equipment was exempt from this requirement.

For wells that are inactive five years, Warndof said, HB 2259 requires that surface equipment be emptied and purged "in accordance with industry best practices."

"There is a lot of language in the bill about what those best practices can be," she mentioned. "The intent here is to prevent corrosion."

In response to a question about whether flowlines were included in the purging requirement, TIPRO Executive Vice President Adam Haynes said in general, the law stipulated removing surface lines and those buried less than six inches deep;

deeper lines may remain in place.

Finally, Warndof said, all surface equipment must be removed at sites where wells have been inactive for 10 years. Noting that the RRC estimated there were 60,000 wells in this category, she added that there would be a one-time, five-year phase-in for this requirement. Part of the RRC's rule making is to determine how to prioritize this phase-in so as to avoid bottlenecks. "Depending on the age of fields, we are going to have more of these (10-year inactive wells) concentrated in some areas than others," Warndof remarked.

She reported the RRC had published its list of inactive wells and depths by API numbers in an Excel spreadsheet so that operators could cross-check it against their own records. "If you want to dispute (the RRC's records), now is the time to do that," she advised.

Finally, she noted that operators who acquired properties with inactive wells on them would have six months from the date of acquisition to get in compliance with HB 2259. "It doesn't have to be immediate the way your bond or letter of credit is now," she expressed. □

Federal Income Tax Changes Are Afoot

SAN ANTONIO—Most independent oil and gas producers are aware of how President Obama's tax proposals or cap-and-trade legislation could affect their businesses. What may be less apparent is what changes afoot in the personal income and other tax areas may mean for them, suggested a couple experts with Price-

waterhouseCoopers LLC.

Ed McClellan, a principal with PricewaterhouseCoopers' Legislative & Regulatory Services Division in Washington, and Bobby Marandi, a partner in the firm's Houston office, outlined how tax and deficit pressures were impacting Washington policymaking at the Texas

Independent Producers & Royalty Owners Association's summer conference in San Antonio.

In two other presentations at the Aug. 20-22 meeting:

- Texas entrepreneur Billy Joe "Red" McCombs discussed his approach to business and life.
- Michael Ronzello touted a geothermal power system developed by Pratt & Whitney.

McClellan worked for the Senate Finance Committee in 1999-2005 and helped write the income tax reductions championed by President Bush and the Republican majority, he told TIPRO. Because those cuts were passed under the budget reconciliation process in order to prevent a possible filibuster, McClellan pointed out, they expire at the end of 2010. "If Congress does nothing, your taxes are going to go up to what they were in 2000," he warned.

That will be significant, he added, because "when we implemented those changes, (the federal government) was taking a larger percentage of gross domestic product in taxes than it had since the



Bobby Marandi (left) a partner with PricewaterhouseCoopers LLP in Houston, and **Ed McClellan**, a principal with PricewaterhouseCoopers' Legislative & Regulatory Services Division in Washington, prepare for their presentation at TIPRO's summer conference, Aug. 22 in San Antonio.