To: The Honorable Craig Goldman, Chair
Members, House Committee on Energy Resources
Re: HB 4046 (Guillen), Relating to the reduction and plugging of orphaned oil and gas wells.
From: Cyrus Reed, Sierra Club, Lone Star Chapter, cyrus.reed@sierraclub.org, 512-888-9411

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The Lone Star Chapter of the Sierra Club agrees with the intent of HB 4046 to help plug orphan wells, but is concerned it may not offer the best solutions to get there. With an estimated 8,000 orphan wells currently on the books in Texas, but tens of thousands of other wells that could eventually become "orphaned," getting wells properly plugged and cased could lower air pollution from leaking methane and other gasses, prevent accidents by people or livestock and avoid the potential for groundwater or surface water pollution.

HB 4046 offers an incentive approach, allowing companies to "adopt" orphan wells. In exchange for paying half the cost of the plugging the well, the companies would get incentives, such as avoiding paying the severance tax for up to 6 years on associated drilling in the area. The Sierra Club is not opposed to the use of incentives, but believes HB 4046 provides too many revenues to oil and gas companies in return for modest efforts to plug orphan wells. While we are not opposed to some incentive programs to industry to help them "adopt" orphaned wells, we believe the bill needs improvements.

Cost of the incentives; Small Fee - Large Incentives.

The bill only requires a $250 fee for the right to plug an orphan well and receive the tax incentives, including both severance taxes and exemptions from the oil and gas regulatory fees. As such the program would be a money loser for the state. We would suggest a larger fee given the large cost to the state to run the program.

The bill would specify that the designated operator would receive a nontransferable exemption from oil severance taxes for production from the orphaned well, a nontransferable exemption from oilfield cleanup regulatory fees on oil and gas production for five years from the designation date, and a payment from the RRC from GRD 5155 not to exceed $500,000 based on a percent of either the documented well plugging costs or the average cost incurred by the

RRC for plugging similar wells during a certain timeframe. According to the fiscal note, the program would increase costs by about $1.1 million during the timeframe of the first two years for the agency alone. Importantly, "*The analysis does not reflect estimated reimbursements from the RRC to operators or revenue impacts to oil severance tax and regulatory fee revenues; however, the Comptroller of Public Accounts anticipates that revenue impacts would not be significant. The extent of the fiscal impact of reimbursements paid to operators cannot be determined at this time.*"

Thus, it is unclear what the cost would be to the state in lost revenue and the payment for plugging the wells.

There are some good procedures in the bill in terms of assuring the well is plugged within a year. However, we are concerned that the bill could also allow the orphaned well to be converted to a water well. We are seeing huge problems with previous oil and gas wells that have been converted to water wells and we don't want to see that happen again. We would prefer this section be removed.

B) the commission approves the application of the owner of the surface estate of the tract of land on which the well is located to condition the well for fresh water production and the person designated as the operator of the well plugs the well in accordance with commission rules up to the base of the usable quality water stratum; and

The bill provisions would specify that the designated operator may not receive more than one payment for the same well or the cumulative payment amount cannot exceed the amount of bond, letter of credit, or cash deposit the operator filed with RRC.

Potential Improvements

We believe there should be some best practice requirements for oil and gas companies taking advantage of the incentive program such as green completion requirements for any new wells dug in the area, and some post-monitoring requirements for the well that is plugged, including the use of infrared cameras to find any potential leaks from the orphan well or from the wells that are drilled for more production.

Other solutions that could be addressed in this bill or others

We would note for the committee that the ultimate solution to plugging our wells is to assure that when companies drill wells they provide sufficient financial assurance so that if they go bankrupt or walk away there is sufficient revenue to plug the well. Unfortunately, the current requirements for both individual wells and blanket bonds are ridiculously low, meaning that our financial security is not keeping up with the cost of plugging. In addition, only about 16% of the average plugging costs is collected from oil and gas companies because of a low $2 per foot. Several bills have been filed this session that would increase the required amounts this session, including bills introduced by Zwiener (HB 4044) and Goodwin (HB 3839 and HB 3840). In addition, many fines and permit fees need to be modernized to bring more resources into the Oil and Gas Regulatory and Cleanup Fee to make a real dent on cleaning up our wells. Rep Anchia has a bill to increase the fines going to the fund (HB 4786). Ultimately the solution to plugging more wells is not an incentive program, but modernizing our enforcement, fees and plugging requirements.