



SIERRA CLUB

LONE STAR CHAPTER

To: The Honorable Brian Birdwell, Chair
Members, Senate Committee on Natural Resources and Economic Development
Re: HB 33 (Landgraf), Relating to the enforcement of certain federal laws regulating oil and gas operations within the State of Texas.

May 17th, 2023

The Lone Star Chapter of the Sierra Club is opposed to HB 33 by Landgraf, carried in the Senate by Chairman Birdwell, related to federal enforcement of federal laws in the oil and gas patch. HB 33 would tie the hands of state regulators by not allowing them to assist in any federal enforcement of environmental laws in the oil and gas patch. While the bill does include a specific exclusion due to the Memorandum of Understanding agreement - which we appreciate - there are still rare occasions where a federal agency may want to take action and need the assistance of state officials. We do believe that passing this bill could impact delegated authority and also impact our ability to access millions of dollars in federal funding since many of these grants do include agreements on federal and state enforcement cooperation. In the same way we would want local environmental officials to coordinate with state officials, we should expect our state regulators to collaborate with federal agencies on enforcement matters.

Citizens of Texas look to our state officials to fully enforce state and federal laws. Because in most cases, Texas has been delegated that authority, it is right and proper that state officials through the Texas Commission on Environmental Quality and the Texas Railroad Commission should be our main line of defense when oil and gas operators (and other contracted companies) fail to comply with federal and state clean air, clean water and other environmental laws. The Attorney General is our ultimate enforcer and we look to General Paxton to step in when TCEQ or RRC lack the tools.

Unfortunately, there are times when we need federal enforcement of environmental laws. As Chairman Landgraf is well aware, the recent sunset review of TCEQ found them to be a "reluctant regulator" and the bill that was heard last week - HB 1505 by Bell - specifically buttresses fines and other processes to improve enforcement at the agency.

The Railroad Commission of Texas also has a less than perfect record enforcing the law, and fines are too low to provide real deterrence to industry. To their credit, in recent years, the RRC has improved their transparency and increased inspection and enforcement efforts and the

legislature has provided them more tools. Still, having the ultimate ability of federal enforcement is important.

Importantly, the Sierra Club has repeatedly used the citizen enforcement provisions of the Federal Clean Air Act when needed to bring intent to sue suits against violators of the Federal Clean Air Act in Texas on multiple occasions against petrochemical plants, refineries and gas processing units. In most cases, we have ended up not going to court and settling with the companies on improving their environmental compliance, paying fines and also investing in supplemental environmental projects. Recently, we settled with two companies in Ector County that were processing gas in a way that was violating state and federal laws. Ultimately these settlements were approved by judges and we worked to inform state and federal agencies.

We do not see a reason to pass HB 33 and believe it could be counterproductive to efforts to clean up industry practices in the oil and gas industry. While it is right and proper that state officials take the lead for delegated programs, tying the hands of state agencies and officials by not allowing them to cooperate fully with federal agencies will only hurt - not help - our citizens.