



Date: September 17, 2024

To: Chairman Hunter and the Members of the House Committee on State Affairs

CC: Rep. Ana Hernandez, Rep. Rafael Anchía, Rep. Jay Dean, Rep. Charlie Geren, Rep. Ryan Guillen, Rep. Will Metcalf, Rep. Richard Peña Raymond, Rep. Shelby Slawson, Rep. John T. Smithee, Rep. David Spiller, Rep. Senfronia Thompson, Rep. Chris Turner

*Via hand delivery and by email.*

From: Adrian Shelley, Public Citizen, [ashelley@citizen.org](mailto:ashelley@citizen.org), 512-477-1155

Re: **Panhandle Wildfires, testimony by Public Citizen**

Dear Chairman Hunter and Members of the Committee:

Public Citizen appreciates the opportunity to offer this testify on the findings and recommendations of the Investigative Committee on the Panhandle Wildfires. We must first acknowledge the loss of life that occurred because of these fires. Three people were killed, 15,000 cattle were lost, more than a hundred homes and a million acres of land were burned. This is a tragedy that should never be repeated.

We published a blog on the report in May,<sup>1</sup> followed by an op-ed in July.<sup>2</sup> Much of this testimony is drawn from those sources. Our recommendations are:

- Acknowledge the role of climate change in the increase in wildfire risk and severity.
- Empower and fund the Public Utility Commission to address power lines and poles as a cause of wildfires.
- Fund the Railroad Commission and task it with remediating orphaned and abandoned well sites. Hold owners and operators liable for wildfires caused by their well sites.
- Fund other proven mitigation strategies.

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<sup>1</sup> See <https://www.citizen.org/news/what-texas-will-and-wont-say-our-look-at-the-panhandle-fires-investigative-report/>.

<sup>2</sup> White, Kaiba, "Texas can't treat climate change like the elephant in the room anymore | Opinion" Austin American-Statesman (8 July 2024) available at <https://www.statesman.com/story/opinion/columns/guest/2024/07/08/texas-cant-treat-climate-change-like-the-elephant-in-the-room-any-more/74290950007/>.



## **Texas must acknowledge the role of climate change in making wildfires more common and more severe.**

In our op-ed, we were critical of the investigative committee report for ignoring an important cause of wildfires in Texas—climate change. Several causes of wildfires were listed: abundant fuel and a lack of fire breaks, decaying utility poles, and irresponsible oil and gas operators. The report also cites unusual weather conditions of high temperatures, low humidity, and severe wind.

The report suggested that the fires occurring outside of Texas' normal wildfire season might be a cause of the state being unprepared to combat these fires. The Texas A&M Forest Service (TAMFS) is responsible for predicting wildfires. TAMFS Director Al Davis called the February wildfires “a new phenomenon.” For people living in the heart of Texas wildfire country, exceptionally hot, dry weather is not new. It is becoming the norm.

According to the longtime chief of the Texas Department of Emergency Management, Nim Kidd, the federal government did not take the fire risk in February seriously. This may be true, and failures of state and federal predictions should be considered as a cause of the failed response.

However, at least federal agencies are not afraid to call out climate change as a cause of wildfires. The National Oceanographic and Atmospheric Association directly attributed the conditions that led to the February fires to climate change, “Research has shown that climate change is likely causing the fire season to start earlier and extend longer.”<sup>3</sup>

If Texas were to acknowledge the role climate change plays in extending wildfire season, the state might not be caught flat footed when fires occur outside of their “normal” season. We urge this committee to take the first step by acknowledging the role that climate change plays in making fires more common, more severe, and more likely to occur throughout the year.

## **The Public Utility Commission needs more authority to address power lines and poles as a cause of wildfires.**

Many of February's fires were caused by downed power lines and decaying poles. The Grape Vine Creek Fire, the Windy Deuce Fire, and the Reamer Creek Fire were all caused by failing power poles. According to the report, the record-breaking Smokehouse Creek Fire was caused by two companies. A tree wore down power lines on a decayed pole owned by Xcel Energy. A service company—Osrose Utility Service—had identified the pole as needing replacement, but nothing was done. Both Xcel and Osrose were sued for their role in this fire.

Local utility companies are responsible for maintaining poles and lines. The report tasked the Public Utility Commission of Texas with studying and reporting on its procedures to ensure that poles are inspected, restored, and replaced as needed. A study would be useful, but this legislature could do more to empower the PUC to directly address this problem.

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<sup>3</sup> See <https://www.nesdis.noaa.gov/news/fires-rage-across-texas-panhandle>.



State law does not empower the PUC to conduct local inspections of power lines. Although local authorities have the primary role to play in maintaining local lines, the legislature should seriously consider whether giving the PU more authority—and a budget—to conduct local inspections might help address the failure of local entities.

**The Railroad Commission is “grossly deficient” in oversight of oil and gas wells, which contributed to many fires.**

Many decayed poles and failing wires were traced back to oil and gas wells. Thousands of wells in the panhandle produce only small amounts of hydrocarbons. Irresponsible operators often neglect these marginal or “stripper” wells, which end up orphaned or abandoned. Many have electrical equipment—breaker boxes, wiring, and poles—failing even as power flows through them.

The Texas Railroad Commission is the agency tasked with regulating oil and gas operations in the state. A commission executive testified before the select committee that he was “unaware” that oil and gas operations were causing wildfires across the Panhandle.

The committee recommended that the Railroad Commission “revisit” its system for prioritizing which orphaned wells to address first.

This won’t go far enough. As the report plainly stated, the Railroad Commission is “grossly deficient” in its oversight of wells. The Railroad Commission hardly keeps pace with the rate of newly orphaned wells. It allows active operators to delay well plugging practically indefinitely. In Texas, more than 16,000 inactive wells have been abandoned for twenty years or more.

In order to do its part to address a significant cause of wildfires, the Railroad Commission must address more orphaned and abandoned wells more quickly. In this biennium, it has help from the federal government. The Railroad Commission was able to double its annual well plugging target from 1,000 to 2,000 with more than \$60 million per year in federal funding from the Infrastructure Investment and Jobs Act. The table below includes the well plugging allocation each fiscal year, the state contribution from Account 5155, and the federal allocation, which for 2024-2025 includes funding from the Bipartisan Infrastructure Act<sup>4</sup> and the Infrastructure Investment and Jobs Act.

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<sup>4</sup> <https://www.rrc.texas.gov/news/010323-federal-well-plugging-data-visualization/>



### Well Plugging in the Railroad Commission's Budget<sup>5</sup>

Year	Allocation	Acct. 5155	Federal	Target
FY 2020	\$53,493,886	\$77,260,636	\$7,202,000	1,400
FY 2021	\$55,797,266	\$77,817,750	\$7,202,000	1,400
FY 2022	\$55,951,658	\$59,021,334	\$6,860,000	1,000
FY 2023	\$56,151,742	\$59,989,019	\$6,860,000	1,000
FY 2024	\$125,940,858	\$77,728,084	\$68,671,300	2,000
FY 2025	\$126,490,870	\$71,170,183	\$69,760,000	2,200

This federal funding is not likely to recur in the next biennium. The legislature should consider whether a larger well plugging budget is necessary to accomplish the Select Committee's recommendation that the Railroad Commission do more to address orphaned and abandoned wells as a cause of wildfires.

The legislature should also consider whether owners of marginal wells should be held liable for wildfires caused by electrical failures at sites that they own.

#### **The legislature should fund proven mitigation strategies.**

There are proven strategies to lessen the impact of wildfires, including suppression lines, fire breaks, green strips, safety zones for firefighters, sprinklers, and training programs. All of these strategies have something in common: they cost money.

Fire prevention and mitigation is woefully underfunded in Texas. Nowhere is it more apparent than in our volunteer fire departments (VFDs). In 2002, the Legislature created a funding program for rural VFDs. But the \$23 million allocated last year simply wasn't enough. The select committee report prioritizes funding VFDs and vesting authority to fight fires with them and their allies in local government.

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<sup>5</sup> General Appropriations Act 2024-2025, p. VI-52 (pdf p. 708), Railroad Commission Strategy C.2.1, p. VI\_56, [https://www.lbb.texas.gov/Documents/GAA/General\\_Appropriations\\_Act\\_2024\\_2025.pdf](https://www.lbb.texas.gov/Documents/GAA/General_Appropriations_Act_2024_2025.pdf); General Appropriations Act 2022-2023, p. VI-49 (pdf p. 705), Railroad Commission Strategy C.2.1, [https://www.lbb.texas.gov/Documents/GAA/General\\_Appropriations\\_Act\\_2022\\_2023.pdf](https://www.lbb.texas.gov/Documents/GAA/General_Appropriations_Act_2022_2023.pdf); General Appropriations Act 2020-2021, p. VI-48 (pdf p. 702), Railroad Commission Strategy C.2.1, [https://www.lbb.state.tx.us/Documents/GAA/General\\_Appropriations\\_Act\\_2020\\_2021.pdf](https://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2020_2021.pdf).