

VIII. HARM TO TEXAS

A. FARMING AND RANCHING

With exports totaling \$5 billion, Texas ranks third in the nation in total agriculture exports.¹⁷² In 2007, cash receipts from the agriculture sector exceeded \$19 billion, which in turn had a \$100 billion impact on the Texas economy.¹⁷³ More than 1.7 million Texans work for farms and farm-related employers—which means 16.6 percent of Texans rely on farming and ranching for their livelihood.¹⁷⁴

Texas is a state where land is primarily owned by private citizens—which means stewardship and conservation of precious natural resources is necessarily the responsibility of those who own the land. And with 250,000 farms and ranches covering more than 129 million acres, Texas depends on farmers and ranchers to help preserve the land, protect habitat, and conserve natural resources. As Texas' Agriculture Commissioner noted in his June 23, 2009 comment on the Endangerment Finding, “Farmers and ranchers prioritize conservation of our natural resources.”¹⁷⁵

Thus, Texas relies on its farmers and ranchers both to preserve the land and to contribute meaningfully to the State’s economy. The Endangerment Finding would negatively impact Texas farmers and ranchers in several ways, all of which were mentioned in formal comments last summer.¹⁷⁶ Therefore, here we highlight only two of the myriad ways Texas farmers and ranchers would be harmed by the Endangerment Finding—and if farmers and ranchers are hurting, Texas is hurting.

As the National Association of State Departments of Agriculture (“NASDA”) explained in its June 23, 2009, comment on the Endangerment Finding: “Hydrocarbons and greenhouse gases are intimately connected to agricultural production from methane gas expelled by livestock, diesel-powered farm machinery, and the petroleum byproducts in fertilizer. NASDA is concerned that EPA’s endangerment finding could leave agricultural producers vulnerable to litigation over the greenhouse gas emissions resulting from traditional agricultural production practices.” Thus, the Endangerment Finding will increase agriculture production costs directly—through increased fuel and fertilizer costs—and indirectly—through regulation and litigation.

From the regulatory perspective, the Secretary of Agriculture captured the Endangerment Finding’s potential impact on both large and small farm operations:

¹⁷² Texas Advisory Panel on Federal Environmental Regulations, Comments on the Environmental Protection Agency’s Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(A) of the Clean Air Act, at 16 (June 23, 2009).

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ Letter from Hon. Todd Staples to Hon. Lisa Jackson (June 23, 2009), *available at* www.regulation.gov, Docket No. EPA-HQ-OAR-2009-0171 - 3530.1.

¹⁷⁶ *Id.*

"If GHG emissions from agricultural sources are regulated under the CAA, numerous farming operations that currently are not subject to the costly and time-consuming Title V permitting process would, for the first time, become covered entities. Even very small agricultural operations would meet [the CAA's] 100-ton-per-year emissions threshold. For example, dairy facilities with over 25 cows, beef cattle operations of over 50 cattle, swine operations with over 200 hogs, and farms with over 500 acres of corn may need to get a Title V permit. It is neither efficient nor practical to require permitting and reporting of GHG emissions from farms of this size. Excluding only the 200,000 largest commercial farms, our agricultural landscape is comprised of 1.9 million farms with an average value of production of \$25,589 on 271 acres. These operations simply could not bear the regulatory compliance costs that would be involved."¹⁷⁷

B. REVENUE FROM MINERAL INTERESTS

Since the Constitution of 1876's enactment over one-hundred and thirty years ago, the Permanent School Fund ("PSF") has been a significant source of funding for public schools in the State of Texas.¹⁷⁸ Today, the PSF relies upon royalty revenue from its significant oil and gas holdings to help fund education. According to financial information provided by the Governor's Budget, Policy and Planning Office, the PSF earned more than \$380 million in royalty and bonus payments from its mineral interests last year, alone. During the same period, the PSF provided more than \$700 million in funding to Texas public schools.¹⁷⁹

The State also relies on mineral interests to fund higher education. The Permanent University Fund ("PUF"), which exclusively benefits the University of Texas System and Texas A&M University System schools, earned more than \$300 million from its oil and gas holdings last year. In the previous five years, earnings exceed \$1.4 billion. Texas A&M is also the beneficiary of its own Special Mineral Fund—which earned more than \$15.5 million in the last five years.

There are multiple other ways that the State of Texas benefits from oil and gas royalties. The Parks & Wildlife Department's State Parks fund earned more than \$24 million from oil and gas-related revenues in the last five years. During the same period, the Texas Department of Transportation's State Highway Fund earned over \$20 million. Altogether, the State of Texas has earned over \$3.6 billion from its mineral interests in the last five years.

¹⁷⁷ Letter from Hon. Ed Schafer, Secretary of the U.S. Department of Agriculture, Hon. Carlos Gutierrez, Secretary of the U.S. Department of Commerce, Hon. Mary E. Peters, U.S. Secretary of Transportation, and Hon. Samuel W. Bodman, to Hon. Susan Dudley, Administrator, Office of Information & Regulatory Affairs, Office of Management & Budget (July 9, 2008), available at <http://www.epa.gov/climatechange/emissions/downloads/ANPRPreamble4.pdf> (last visited Feb. 16, 2010).

¹⁷⁸ Handbook of Texas Online, Permanent School Fund available at (last visited Feb. 16, 2010).

¹⁷⁹ Texas Education Agency, Texas Permanent School Fund Annual Report, December, 2009 at 4, available at <http://ritter.tea.state.tx.us/psf/PSFAR09.pdf> (last visited Feb. 16, 2010).