OGC 0116

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 FEB 20 AM 9:19

TEX CON
Oil and Gas Company

February 15, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 FEB 20 AM 10:52

Mr Bradley Litchfield
Associate General Counsel for Policy
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, D C 20463

Dear Mr Litchfield

AOR
1991-03

TEX/CON Oil & Gas Company Political Action Committee, a separate segregated fund, and its connected organization, TEX/CON Oil & Gas Company, both located in Houston, respectfully request an advisory opinion on distribution of our PAC newsletter, TEX/CON PAC *Legislative Report*, to persons other than participants

The newsletter, which is mailed to employees' homes, is published four times annually to inform participating employees about pertinent public policy issues, PAC contributions and specific oil and gas industry issues It may include political commentary, positions advocated by TEX/CON PAC and, from time to time, a listing of candidates who have received support

Through distribution of the newsletter, TEX/CON PAC has no intention of seeking contributions outside its restricted class, nor is such an intention implied We do, however, want to make our positions known to a wider audience, provided it is legal

Each newsletter carries prominently a disclaimer that only employees of TEX/CON Oil & Gas Company may contribute, any other contribution received will be returned to the donor

We are aware that merely informing persons about a fund-raising activity can be construed as a solicitation, based on FEC Advisory Opinion 1979-13 and previous Advisory Opinions 1976-27, 1976-96 and 1978-17

9401 Southwest Freeway • Suite 1200 • Houston, Texas 77074 • (713) 272-5000 • Fax (713) 981-2318

Specifically, we would like the Commission to address the following

<u>If there is no language contained in the newsletter discussing fund-raising, employee monetary involvement or encouraging future monetary involvement or support, may the newsletter be distributed to selected key opinion and thought leaders, including members of regulatory and legislative bodies, at the local or state or national levels? Each issue will contain the aforementioned disclaimer</u>

A sample is enclosed Thank you for your assistance

Sincerely,

Richard N. Wheatley

Richard N Wheatley
Secretary-Treasurer
TEX/CON PAC

Editor
TEX/CON PAC *Legislative Report*

enc

TEX/CON PAC
LEGISLATIVE REPORT

Volume 2 Number 1 February 15, 1991

<u>Contributions to the TEX/CON Oil & Gas Company Political Action Committee are restricted to employees of TEX/CON Oil & Gas Company only Any other contribution received will be returned to the donor</u>

Although the war in the Persian Gulf has captured the attention of the nation since it began in mid-January, there are many crucial business and energy issues at the national and state levels that stand to be addressed this year In addition to actual legislation, two of the primary states in which TEX/CON Oil & Gas Company operates, Oklahoma and Texas, have new governors, each with new political, regulatory and legislative agendas that are of concern to TEX/CON PAC because of their potential impacts

<u>Texas:</u> Governor Ann Richards has taken decisive steps early after taking office to make a significant change in how Texas does its business Governor Richards' four-year term of office likely will be punctuated by such decisiveness -- already she has called for the resignations of two members of the State Board of Insurance and has implemented a two-year moratorium on new hazardous waste facilities Clearly, the latter is a move toward increased environmental safeguards, if not increased regulation per se In addition, we are seeing the new Richards' administration moving quickly on proposed legislation on oil spill response The expressed hope To make Texas a shining example to all other coastal states that are implementing their own statutes on the heels of enactment of the federal Oil Pollution Act of 1990

The clock is ticking for the 72nd Texas Legislature The state's formula for financing public education has been thrown out, and House and Senate members will have their work cut out for them to arrive at a workable plan by April 1, the deadline set by the Texas Supreme Court Moreover, there is a budget shortfall that, according to a variety of predictions, totals somewhere between $2 billion and $5 billion

A statewide property tax is being touted by some as a way to find and equitably allocate needed school revenue to large and small districts State Sen Carl Parker of Port Arthur has proposed legislation that would tax at the rate of $1 for every $100 of assessed valuation For TEX/CON Oil & Gas, the potential impact would be an estimated increase in property taxes totaling just under $1 5 million at the $1/$100 rate A rate of $1 25/$100 assessed valuation would impact TEX/CON to the tune of almost $1 9 million in added taxes

TEX/CON opposes such legislation as it increases the tax burden on corporations without doing away with other forms of business taxes, such as franchise How long Texas can operate without a personal income tax remains to be seen What is occurring in Austin may be prelude to the inevitable personal income tax, according to some observers, and Lt Gov Bob Bullock said this week that he is thinking about it

A lottery is viewed as a way to boost sagging revenues, but only a matter of weeks remain to finalize the state's program in order to place the matter before voters this Spring A constitutional amendment is required Estimated revenue would not come close to providing a majority of needed state operating funds, however, and there is now waffling by legislators on success of passage of a lottery bill

A major area of concern to lawmakers this session concerns ethics in government Proposals have been unveiled to restrict the amounts of money office seekers may accept, and the Travis County District Attorney is leading an investigation that, so far, has resulted in a grand jury indictment of current Speaker of the House Gib Lewis for questionable dealings with lobbysists in return for special favors, namely defeat of certain legislation A trial will not be conducted until after the legislature adjourns

Most recently, a bill has surfaced that could impact those companies with foreign ownership by prohibiting their owning mineral interests in the state The bill would prohibit ownership in Texas' mineral interests by a foreign government or an organization in which a foreign government owns an interest, either directly or indirectly (The Kuwait Investment Office still owns a percentage of British Petroleum)

Oklahoma: David Walters, the state's new governor, has embarked on his first term of office, and already there is rumbling in the Capitol as to how effective Walters will be at accomplishing a lofty set of goals to position the state on a new business footing Walters, in his State of the State address on February 4, called for a massive reduction in state jobs and state agency cuts of some $40 million while seeking to increase education funding and vowing no tax increases

In his message at the start of this year's legislative session, Walters also discussed consolidation of those agencies that deal with environmental regulation -- the Oklahoma Corporation Commission, the State Department of Health, the Oklahoma Water Resources Board, the Department of Pollution Control, Department of Mines, Department of Wildlife Conservation, Department of Agriculture and the Oklahoma Conservation Commission

A bill that would have codified such a consolidation died during the 1990 legislative session, but another bill has surfaced and, so far, has been endorsed by Attorney General Robert Henry TEX/CON is monitoring the bill because of penalty provisions for polluting The bill now drafted is being generally opposed by the oil and gas industry

A bill that was defeated last year, also, reducing the allowables on gas wells and giving the Corporation Commission the power to set statewide allowables, has been reincarnated and is being watched closely Rep Bill Veitch of Tulsa last session failed to advance his bill and has now authored legislation to restrict natural gas production to 365 million cubic feet per well per year or 50 percent of absolute open flow potential This appears to be an attempt to give smaller producers a bigger share of revenue by limiting high-volume wells TEX/CON is adamantly opposed to the legislation

Senator Ray Giles, chairman of the Senate Natural Resources Committee, has come up with legislation that would change the state's pooling law Giles seeks that 51 percent of the mineral owners consent in writing, which would mean that pooling could only be accomplished where a majority of the mineral owners in a unit consent Such consent would be required whether or not the mineral owner had granted an oil and gas lease Feasibly, this could mean that mineral owners could grant a lease and refuse to consent to pooling, abrogating the lease and thwarting drilling plans

TEX/CON opposes the measure

Federal: Several pieces of legislation could have serious consequences for the industry, if enacted

Senators Howard Metzenbaum (D-Ohio) and Joseph Lieberman (D-Conn) have proposed reviving the so-called "Windfall Profits" excise tax on crude oil Lieberman was quoted in the *Oil & Gas Journal* as saying "The oil companies have gained a tremendous windfall as a result of Iraq's aggression Kuwait's loss was the oil industry's gain "

The pair is proposing a budget amendment to tax oil companies' profits that exceed an average for 1985-1989

Whether or not the senators will find support for their measure remains to be seen as prices for product have retrenched to pre-invasion levels and there is plenty of supply available

The trade magazine points out that "everyone but Metzenbaum and Lieberman seems to know the real villain is not 'big oil' but Saddam Hussein "

On another front, Rep Phil Sharp (D-Indiana) is drafting legislation to increase pipeline safety, including calling for the use of "smart pigs" to inspect gas pipelines and redefining what constitutes gathering systems

Representative Sharp's legislation, while containing some worthwhile provisions, would be extremely costly to industry TEX/CON's impact would mainly be felt on its North Louisiana system, where about a half dozen segements of pipeline would have to be re-worked to accommodate the inspection tools

The Metzenbaum-Lieberman proposal, especially, and the Sharp pipeline bill, as now drafted, should be strongly opposed