

From: [Sunset Advisory Commission](#)
To: [Elizabeth Jones](#)
Subject: FW: Public Input Form for Agencies Under Review (Private/Before Publication)
Date: Monday, June 27, 2022 8:26:10 AM

From: Texas Sunset Advisory Commission <sunset@sunset.texas.gov>
Sent: Sunday, June 26, 2022 4:47 PM
To: Sunset Advisory Commission <Sunset.AdvisoryCommission@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Private/Before Publication)

Submitted on Sun, 06/26/2022 - 15:45

Submitted by: Visitor

Submitted values are:

Choose the agency that you would like to provide input about
[Texas Commission on Environmental Quality](#)

Public Comments

1

First Name

Jeff & Melody

Last Name

Braun

Email

City

College Station

State

Texas

Your Comments or Concerns

Please see attached letter

Your Proposed Solution

Please see attached letter

Attachment

[Braun Sunset Response_062622_FINAL.pdf](#) (76.63 KB)

My Comments Will Be Made Public

Yes

Jeff & Melody Braun

June 26, 2022

Sunset Advisory Commission
Attn: Texas Commission on Environmental Quality
P.O. Box 13066
Austin, TX 78711
Via email: sunset@sunset.texas.gov

Dear Sunset Advisory Committee Members:

We want to express our thanks to the members of the Sunset Advisory Committee and staff for the extensive work conducted in reviewing the mission and performance of the Texas Commission on Environmental Quality.

We feel it is vital for steps to be taken to repair the organization's credibility which is suffering a crisis of confidence. The TCEQ should be well regarded as an entity that is responsive to communities, landowners and other stakeholders. The Sunset Review process has identified a number of significant shortcomings which include:

- A clunky and cumbersome website that is not user friendly and serves as a barrier to transparency and access.
- A permit application process that diminishes public input and concerns.
- The permit process favors the applicants over the public and insulates the applicants from the public during the permit process.
- A lackluster record of ensuring compliance and enforcement of permit regulations.
- The absence of visibility and leadership in decision making leading to distrust and frustration among both the regulated community, landowners, and the public.

Below we have outlined some specific issues and proposed solutions to address these deficiencies.

Issue 1: TCEQ's Policies and Processes Lack Transparency and Opportunities for Meaningful Public Input, Generating Mistrust and Confusion Among Members of the Public

"Holding public meetings late in the permitting process does not allow for the public to meaningfully impact permit conditions."

Proposed Solution: We want to emphasize support for the Advisory Commission's recommendation that two (2) public meetings on high interest applications be held to allow the public to voice concerns about proposed permits.

- One meeting should be added before a draft permit is approved to avoid sending a signal to the public that the issuance of a permit is already a done deal.
- A second public meeting should be then conducted after the draft permit has been received and reviewed by the technical TCEQ staff.
- Both meetings should be held in-person in the communities which are potentially impacted by proposed permits.

Adding a meeting earlier in the process would create a dialog between the impacted community and landowners, which could result in resolution of concerns and issues before a draft permit is issued. Since in 2021 only 24 public meetings were held, this approach would not overburden TCEQ staff time, and may reduce the TCEQ staff time and effort needed to respond to draft permit challenges. Applicants and TCEQ would both benefit from reducing negative publicity when permits are challenged.

Public meetings and hearings should be held in person. Virtual meetings are a poor substitute for face-to-face meetings and are an impediment to those who live in rural areas where access to the internet is problematic.

"The Commissioner's lack of visibility in and ownership of TCEQ decisions making has only inspired further frustration and distrust among both the regulated community and environmental advocates."

We own property in Bandera County on a river segment that is classified as one of the last 22 remaining pristine streams in Texas that's untouched by direct wastewater discharge. We signed a petition along with our neighbors earlier this year that was presented to TCEQ Commissioners asking for a rule change that would prevent direct wastewater discharge to these last remaining pristine streams. Both TCEQ and the legislature have declined to take action to protect these stream segments with each pointing the finger at the other and claiming that they do not have authority to enact protective regulations. Something must be done to protect these pristine river segments.

Proposed Solution: We ask that you consider how valuable these pristine streams are to another industry that never is considered an 'affected party' – our Texas recreation-based economy. The TCEQ should be responsive to overwhelming public concern and implement protections limiting permits to septic, Texas Land Application and Reuse permits along these few pristine segments. Adopting the rational and reasonable science-based approach outlined in the petition would be a strong signal of responsiveness on an urgent issue. Acting would prevent similar pollution and damage to these pristine streams that has already been caused by discharge permits that the TCEQ has allowed on other streams such as the South San Gabriel and Blanco Rivers where the resulting damage caused by algae blooms is indisputable and has impacted the landowner rights of those downstream from discharge points.

Issue #2 TCEQ's Compliance Monitoring and Enforcement Processes Need Improvements to Consistently and Equitably Hold Regulated Entities Accountable

The lack of compliance and enforcement efforts is another reason the TCEQ's credibility suffers with the public. There is typically little or no enforcement unless the public gets the media involved to prompt action by the TCEQ. Currently the TCEQ does not even consider lack of compliance with current permits when issuing new permits, which is a disincentive to comply with any limits contained in a permit, resulting in harm to the environment.

Proposed Solution: We support significant additional funding by the legislature to provide staffing and other resources necessary to allow the TCEQ to build a true compliance and enforcement arm of their organization. This would provide the public with confidence that regulated entities would be held accountable for any violations. Investment in this effort would either generate significant revenue for the organization in the form of fines and penalties for non-compliance or better yet, decrease violations due to enhanced enforcement of permit requirements.

Issue #3 Oversight of Water Could Better Protect the State's Scarce Resources

Water impoundment rules are outdated and are problematic impacting water availability for private well owners, and upstream and downstream landowners.

Proposed Solution: Currently landowners have the right to dam up and impound up to 200 acre-feet for personal convenience. We believe this should be significantly reduced and include a requirement to show proof of need. Impoundments of 25-acre feet would be more reasonable and align with the current pumping limits for a livestock or domestic wells. Changing these restrictions would help ensure an adequate flow, especially during drought conditions, and provide protection for fish and other wildlife that depend on these waterways.

Issue #4: TCEQ and OPIC Lack Certain Transparent and Efficient Processes for OPIC to More Effectively Represent the Public's Interest

We support many of the recommendations outlined in the Draft Report to strengthen the OPIC as the internal entity charged with representing landowners and public concerns during the permitting process. Additional funding is necessary to provide expertise and resources so this office can be an effective advocate for citizens during interaction with the TCEQ.

Proposed Solution: OPIC representatives have proposed several rule changes in recent years which reflect public concerns. These rule changes should be adopted. Ensuring the OPIC continues to evaluate and advocate for rule changes is vital. OPIC should also be involved in identifying and advocating changes that represent the interests of private landowners and citizens concerned about proposed permits and other issues.

All Texans should be advocates for a strong TCEQ that is well funded to evaluate permit applications and their potential impacts. Compliance and enforcement efforts should be funded to ensure permit holders know they will be held accountable for violations. Ensuring the credibility of the organization is key to ensuring that Commissioners and staff are effective in fulfilling the mission of the TCEQ.

We thank you for the opportunity to participate in this process.

Sincerely,

Jeff & Melody Braun