

06/21/2022

Sunset Advisory Commission Members:

Senate: *Charles Schwertner, M.D., Chair*, Nathan Johnson, Angela Paxton, Charles Perry, Drew Springer, Jr.
James "Jim" Lee, Public Member

House: *Justin Holland, Vice Chair*, Keith Bell, Terry Canales, Travis Clardy, Craig Goldman,
Jeff Austin III, Public Member

I appreciate the opportunity to meet with each of you today. I thank you in advance, for letting me share a few words with you. I believe it is *very critical and timely* to have the Sunset Commission's review of the TCEQ agency now. I would like to address specifically the TCEQ's actions and lack thereof regarding the APO's (Aggregate Production, Operations: including, batch plants, asphalt operations, quarries, concrete operations).

The Sunset Staff Report prepared by Mr. Romig's and his fine team did a very commendable job overall. I believe however, it stopped short in many specific's issues. Mr. Romig's team may not have been privy to the endless TCEQ's and TACA's (Texas Aggregate and Concrete association) self-serving comments and actions that are intended to benefit both of them and very seldom the general public or the environment which the EPA surely recognizes.

It has become more than obvious to the general public after participating in most every step of the overall APO permitting process including but not limited to several public comment periods, attending many TCEQ's public meetings, going through the SOHA (State Office of Administrative Hearings) process regarding Vulcan Materials application for the proposed Rock Crushing Quarry in Comal County, TX. It is very obvious TCEQ is dysfunctional.

It is very unfortunately the majority of TCEQ's comments at many public meetings, phone calls TCEQ paperwork are not substantiated by fact, science, logic, or normal common sense and therefore show very little to no respect for the Texas resident's. There is a long list of major concerns regarding people health, safety, welfare, property values and use thereof which is putting in jeopardy the pursuit of happiness and the American dream of home ownership. Residents are effected by ineffectively monitored particulate matter around all APO's as everyone knows by now. This is made obvious as to the way TCEQ uses different ways to not account for the total emissions including all equipment on the property. This is achieved by using word definitions to restrict or differentiate what is included or excluded as far as total operation equipment. Simplified TCEQ is not and has not been doing their job as intended as they have been empowered to do by the EPA. The general lack of effective and accountable air monitoring is critical as to the health effects on all Texas residents and their properties around the many APO's. The combination of APO's in close proximity of each other, the total accumulative emissions are not effectively considered or monitored.

Today there is very little logic used in the approach to the Air Permit process. The rules for TCEQ's Air Permits are not effective nor are they being specifically followed. However the permit applications are checked off and approved. Why? Even the simple requirement to post a newspaper ad in the county where the permit is being applied for was not done in Comal County, TX by Vulcan Materials. Vulcan elected to post it in the San Antonio, TX newspaper which did nothing to notify the people most effected by the proposed Quarry. Was this a mistake? NO, it was just another deliberate attempt to not notify the people as required by the permit application. Did TCEQ take any corrective action? Not that I am aware of, but the fact remains that the residents were not effectively notified in a timely fashion per by TCEQ own rules. Where is the accountability in this?

Another example of not effectively notifying the general public on this same Air Permit application by Vulcan is that they placed their required sign notices around *part* of the proposed permit property. However, the signs were placed in such a manner that they could hardly be noticed no less read by the general public as they were in weeds

about 24" to 28" inches high, basically hiding the signs. I notified the TCEQ office in San Antonio, TX about this sign placement or condition and asked that they come out and look at this situation. About two week later I called the TCEQ to follow up on this request and was told that TCEQ didn't have any rules on this subject. I guess common sense or logic is not required to be used when dealing with TCEQ or this applicant. Again, this was another deliberate attempt to keep from effectively notifying the general public as required by the TCEQ permit rules. This fails the intent of notification to the general public just like the newspaper situation. *A pattern here! Yes!*

The public should be notified when an applicant requests an Air Permit application? Then send a copy of the request to all the surrounding residents by registered mail including all the information about the proposed applicant's intentions so the people will not continue to be blindsided by receiving late notices. Is this not done because TCEQ and the applicant want this all done before the public learns about it and therefore does not have adequately time to respond? I surely think so! Does TCEQ and the applicant think it makes it harder for Texas Residents to protest these self-serving practices by limiting the resident's ability to react in a timely fashion? It surely seems that way.

TCEQ's public meetings and the applicant's comments need honesty and facts, true scientific substance, use of common sense and logic to honestly inform the general public as to all the true potential risks associated with these APO permits in a factual manner which is not being done today. People deserve honesty and accountability as to how residents and property owners may be adversely effected by the proposed permit request which is not done. Again, this is very disrespectful to all the residents that attend these meeting to gather factual information that is not forth coming. TCEQ said and the applicant said that Vulcan followed all the State, federal and TCEQ rules which was proven to be a lie after the public presented about 100 violations on TCEQ paperwork on Vulcan Materials.

Local Texas residents should have a very significant input as to what is allowed to happens around their homes and properties that are incompatible, very objectionable and or problematic considering the likelihood of potentially toxic air being release around their homes. Consider people's health and well-being both short term and long term. APO's are a major concern as they are known to be significant carcinogenic producers with a lot of toxic emissions like most APO's. Why were the people not individually notified by certified mail about these operations that generate toxic emissions in the air? For a rock quarry, there is a long list of very significant, serious and adverse effects that should be fully recognized and evaluated extensively before even being considered for a permit. APO's exploit an area for miles around residential properties and or well established neighborhoods of many thousands of Texas residents.

Vulcan Materials is an APO applicant (with their engineering firm's input) conveniently made misleading or false entries on emissions levels on the permit application that obviously did not comply with the application and yet it was approved by TCEQ. Why? The Texas residents caught this false information but not TCEQ. So how effective is this Air Permit Process really? This should never have happened and was there any repercussions for not following the permit, or not supplying correct honest information that should be required on any and all application? Not that I have heard of! Why? Is this a cover-up? Fortunately Judge Maya Guerra, of Travis County, TX agreed and vacated Vulcan permit accordingly. I believe the permit for Vulcan should have been permanent at this site location.

This is an obvious and deliberate act to circumvent the intent of the permit process and yet TCEQ does nothing to address these significant issues. TCEQ and Vulcan have not earned any respect of the public by doing these things. TCEQ and the applicant seem "hell bent" to do whatever they wants regardless of the rules but there seems to be little to no consequences for such actions. Therefore this is an example of "governmental abuse" promoted by the applicant and is obviously against the will of the people. "This is government against the will of the people" Read the constitution it specifically addresses this issue and should never happen. Why is it allowed to happen?

TCEQ acts as if they are required to give anyone and everyone any permit they wish while ignoring thousands of Texas residents that could be adversely effected by the conditions these permits pose. Resident's health, safety, welfare and pursuit of happiness is greatly diminished and put at significant risk as well as their property values and

the potential use of their own property. The APO's also create more dangerous road conditions and traffic issues in their locations.

The TCEQ's current procedures very likely subject people to an uninhabitable living conditions around many of APO's. APO Permits should be regulated as to the markets need for materials and not be approved for just someone wanting the permit. Permits should only be awarded to applicants based of their actions and complete compliance history in the aggregate industry. But not limited to: a logical and compatible site location for any proposed applications which should also be evaluated and considered based on the local geographic conditions like aquifers and recharge zones, road conditions, traffic considerations and how this would affect all the residents living in the general area. A realistic overall view of the adverse effects to an area (with special considerations of the young and elderly resident's) and residents with other health issues. A total site air quality study should be required before any permit should be considered. This does not mean a permit will be issued only considered.

All these questions and many more need to be addressed before any Permit Application should even be considered. As things exists today, the cart in front of the horse! This is very dangerous for all! Stop all the guess work, use state of the art technology monitoring for the most accurate readings available that should also be certifiable. No more use of the old antiquated and outdated models. Let's get the real facts and deal with them accordingly!

Texas Resident's pursuit of happiness and the American dream of owning an environmentally safe residences and property should never be destroyed or impeded because of the lack of common sense, sound reasoning, logic, or the total lack of respect for residents as well as their property and the use thereof.

Considering all the above it is obvious to most everyone today that "the TCEQ system is broken to the core" and is turning Texas Residents lives and property into an unimaginable "hell hole" because of incompatible locations being considered for APO's. The lack of effective controls of TCEQ to be more accountable and responsible for their actions and lack thereof needs to be corrected as soon as possible. *It appears Texas Residents are of little concern to TCEQ just look at their actions! Unbelievable!*

Texas Commission on Environmental Quality, is a twenty plus some year old agency acts like it is a two or three year old organization as far as a lack of overall accountability from front door to the back door regarding APO's. The EPA surely passed on to TCEQ much better guidelines than we see today. What credible guidance is TCEQ receiving and from whom? Many believe TCEQ is going backwards, myself included. Does TACA have any influence? It surely appears that way from many examples that exist and have been shown in the past. That would be counter-productive for TCEQ to become accountable. *It appears today that TCEQ doesn't know what to do next or why. This is a huge problem for Texas, Texas Residents and all of our futures.*

Can and will we as a group, take the required action now to fix the many issues of TCEQ? People's quality of life is depending on this today! Now and everyday going forward Texas residents quality of life around these APO's depends on TCEQ and the Texas Legislature to be much more accountable and help expeditiously solve the problems not just kick the can down the road for others to solve later. Be accountable today for the benefit of ALL!

Stop all APO's applications today, NOW! Stop the abuse of the Texas residents, the Texas natural resources, especially the much needed clean air act and our critical water quality and quantity. What would we have if these two items are not regulated correctly? Stop jeopardizing these critical items for someone's potential profits that could very likely harm all of the above and for future generations as well. This needs very serious consideration!

Texas Residents are unprotected today from the environmental risk due to TCEQ's overall lack of effectiveness to protect the environment and the health, safety, welfare of all Texas residents. The residents of Texas lives are being

destroyed more and more every day that TCEQ is not being fully held accountable. This leaves the state of Texas liable because of the lack of leadership and effectiveness of TCEQ. The reason being the fact that TCEQ knew or should have known the repercussions of their actions.

Several realistic and well-founded options are available and listed in my previous letters to the Sunset Commission as to options to consider to eliminate the issues TCEQ perpetuates today that need immediate attention.

Please do not kick this can down the road yet again! Many before you have done just that. Many residents have now worked almost 5 years to bring all this to light. I believe everyone now understand the major hurdles the TCEQ now has in front of it, because it has not been proactive for a long time, nor has TCEQ been in a committed problem solving effort, but instead they have been participating in the growing problems.

As a business owner I can't imagine why this agency has not developed a much more objective, focused and refined management team to solve these issues long ago. The many serious issues are creating a bigger and bigger problem by the day. Unless a plan is adopted to solve these issue things will get worse quickly. TCEQ is also being hindered by the influence of TACA and this is primarily due to the fact that they are only concerned about TACA's best interest which is very short sighted. TACA has not come up with any solutions in basically five years. This is again because of their self-centered focus and not for the benefit of all. TCEQ has some of these tendencies as well which is not productive.

Ladies and gentlemen, let's team up and let's get these issues resolved professionally, ethically, environmentally and in the best interests of "we the people, all Texas Residents" and resolve our critical environmental issues aggressively but correctly. The environment has been taking a beatings just like the residents of Texas are which is totally unacceptable, unrealistic and unsustainable!

Please find attached:

- 1) TCEQ memo dated Oct. 25, 2017
- 2) An undated TACA statement on Ten Reasons to be a member of TACA
- 3) A conservative property value projection using George A. Erickcek Senior Research Analyst with W.E. Upjohn Institute for employment Research. Several realtors in the New Braunfels, TX area have been using the devaluation chart in this report for years.

Should any questions exist regarding the subjects contained here-in or related to these please feel free to contact me and I will be happy to discuss the items with you. I have also sent the Sunset Commission several letters on this subject as well as the EPA. I have prepared several packages of similar information for different Legislative sessions.

Respectfully,

Chris Hopmann