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Morgan Constantino

Sunset Advisory Commission

**Subject: Recommendation of the Sunset Advisory to Abolish the Texas Board of Professional Geoscientists**

I am writing to support the continued existence of the Texas Board of Professional Geoscientists (TXPG) and to discuss the findings of the Sunset Advisory Commission Staff Report (Staff Report). After careful review of the Staff Report, I have the following comments:

1. ***“No complaints have been brought from the public, and history shows that there was no demand from the public to create the agency in the first place.”*** It is important to understand that work done by professional geologists is usually completed as part of a larger project effort, e.g. groundwater water systems development, and the general public remains unaware of the key role played by PG’s in supporting other efforts by engineers or public utility companies. The value of the PG license is for the direct consumers of the geoscience services (project engineer) and not the end user, the public. Consequently, the public may only become aware of the role played by geoscientists in protecting public safety and interest if some negative outcome occurs in a project that does not include the appropriately qualified and licensed geoscientists as part of the project team.
2. ***“There has been no measurable impact of Geoscientist licensing on public protection”*** It is no more valid to make that statement than to say that there has been no clear example of the value of professional engineers because no bridges have fallen down. The absence of stories about bad outcomes from unlicensed geoscientists are indicative of the fact that some mechanism is preventing bad outcomes. Most likely it is the recognition and licensing of PG’s that keeps poor outcomes from occurring.
3. ***“The Board was not established in the first place to protect the public, but primarily “to legitimize the profession” and to protect Geoscientists from the engineers and from untrained competitors”.*** Despite the contention on the part of the Staff Report, there is nothing wrong with legitimizing the profession of Geoscientists, or for that matter, any other profession that directly or indirectly can affect the public safety and interests. As to protecting the geoscientists from engineers, the engineers comprise one of the largest consumer groups of geoscience services and therefore they have a professional and economic interest in obtaining qualified geoscience professionals to support their project needs. Again, “protection from untrained competitors” is not a bad thing when in reality untrained contractors present a clear and ongoing danger to the public.

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4. ***“Almost most geologists deal directly with the public – our clients are mainly organizations. Therefore licensing is not necessary for public protection.”*** Based on that statement, there is no reason to require any type of qualification from any subcontractor on an engineering or public works project since the public will not deal directly with the subcontractors. All service providers who support construction, public utilities, or any other profession that deals with or impacts the public would be free of requiring competent and qualified subcontractors to complete projects.
5. ***There are too many (50%) geologists who are exempted from the requirement to get a license.”*** Realistically, the oil and gas industry employs the largest percentage of geoscientists in Texas and the political reality was that no licensing requirement would have passed through the legislature because no critical reason or need existed to license petroleum geoscientists to by any state or governmental body.
6. ***“No meaningful enforcement action over the life of the Board.”*** This is an accurate statement and bears some discussion. The actions of the Board have been less than stellar with regard to enforcement and the limited monetary penalties allowed to them restricted their success in the area. A fine of \$100 is ridiculous and not liable to motivate anyone to worry about such a penalty. Meaningful enforcement would require giving the Board the ability to establish and enforce penalty categories to create a sense of risk on the part of those who choose to not follow the licensing regulations. Conversely, the Board focus on the continuing education enforcement creates a distinct impression that serious offenses are no problem but the lack of CEU’s is a serious matter. This is a management issue within the Board and reflects the lack of the Executive Director who sets the tone of the enforcement program.
7. ***More direct oversight of geoscientists work is provided by other state agencies which renders ongoing state regulation of geoscientists unnecessary to protect the public”*** It is important to note that there are many projects conducted by geoscientists that are not submitted to state regulatory agencies yet still impact the public safety and economic welfare. Licensing of geoscientists provides a standard of professional knowledge and conduct that is protective of public safety on projects that are never reviewed by state agencies but still present the potential for negative impacts to public safety and economic security.

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8. ***“78% of Current Texas PG’s were grandfathered, therefore did not take the ASBOG, therefore there is no guaranty that they are, in fact, well-trained.”*** The ASBOG test, primarily aimed at recent college graduates with 5 years of experience or less, is meant to identify those who have had sufficient classroom and work experience in the first few years after graduation. The fact that such a high percentage of Texas geoscientists were grandfathered is consistent with all other states when licensing came into effect. Those geoscientists who have been successfully practicing for years or even decades present no danger to the public for not taking the ASBOG test. Geoscience, like engineering or medicine, is a “practice” and more years of actual practice leads to more capable and effective knowledge.
  
9. ***“The licensee population is steadily declining...”*** That is an accurate observation but it is important to understand that, with the retirement of many of the grandfathered geoscientists, there will be fewer mentors and experienced geoscientists to teach the younger geoscientists coming into the industry. With fewer older, more experienced geoscientist, the potential for inexperienced and underqualified younger geoscientists to have to fill the role that they might not be capable of or ready for is increased. The maintaining of a licensing program will ensure that the young geoscientists develop the necessary skills and experience to assume lead roles and protect public safety and welfare.

Thank you for opportunity to submit my remarks.



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