

**From:** [Sunset Advisory Commission](#)  
**To:** [Brittany Calame](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Wednesday, August 15, 2018 2:01:12 PM

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-----Original Message-----

From: sunset@sunset.texas.gov <sunset@sunset.texas.gov> On Behalf Of Texas Sunset Commission  
Sent: Wednesday, August 15, 2018 1:04 PM  
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS BOARD PROFESSIONAL GEOSCIENTISTS TBPG

First Name: Kenneth

Last Name: Helm

Title: TX PG #5012

Organization you are affiliated with: Self

Email:

City: SAN ANTONIO

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or  
Opposed:  
August 15, 2018

Texas Sunset Advisory Commission  
Re: Texas Board of Professional Geoscientists

I appreciate the opportunity to comment on the Sunset Commission's recommendation to abolish the Texas Board of Professional Geoscientists, which I unconditionally support. I have 36 years of experience in exploring and developing oil and gas prospects in South Texas as an employee of a large integrated oil company, a consultant and, currently, a small independent. I am a Licensed Professional Geoscientist in the State of Texas (#5012) and a Certified Petroleum Geologist (#4131) of the American Association of Petroleum Geologists, Division of Professional Affairs.

I am one of the "grandfathered" licensees who are licensed by choice because my work as a geologist in the oil and gas extraction industry is exempt. While I did not support the legislation that created the TBPG, I obtained my license in 2003 as a sign of my professional qualification and the future possibility of needing it in order to file forms and information with the Railroad Commission. For 15 years I have maintained my license without having the need to use it until this year when RRC forms to be filed by employer required a statement from a professional engineer or professional geoscientist. I look at the annual license fee as an occupation tax and TBPG as an agency that can, and has tried to in the past (discussed below), take away my livelihood.

The Sunset Commission accurately notes that there was no public demand or driving reason for the legislation or creation of the TBPG. It took eight years to pass the legislation because petroleum geologists through the American Association of Petroleum Geologists opposed state licensing legislation that did not exempt oil and gas exploration and development and did not include a grandfathering period. The legislation was enacted once these issues were

changed in the legislation. Petroleum geologists deferred to our brethren in the geological engineering, environmental and hydrogeology industries because they are the geoscientists who are “subservient to a registered engineer”. The same professional associations that pushed and lobbied for licensure are now rallying the forces to oppose the Commission’s recommendation for all the same reasons.

One item missing in the Commission’s review of the TBPG is its’ insidious attempt to change the Act through abusive rulemaking. TBPG published proposed rule changes regarding licensure and regulation of geoscientists in the September 30, 2011 issue of the Texas Register. The proposed rules were a blatant attempt to expand its powers and tentacles into every aspect on the natural resources geosciences industry, to negate the exemption for the natural resources industry and to increase the number of licensees. I opposed those rule changes in writing and by attending the November 2011 public Board meeting. I opposed them because they would have completely negated the original intent of the Act to exempt oil & gas geoscientists. I have included my objections from my Comments in 2011 below in order to show what an agency in search of a problem can do and to make them part of the record of your proceedings. I opposed them for the following reasons:

- Creates a definition of “the public” that conflicts with TBPG’s definition of “private industry” (see Oil and Gas Advisory Workgroup, Petition for Adoption of Rules, page 2 versus Report to the TBPG Board from the Legal Interpretation Committee, Revised 2-5-11, page 4, Important Notes) and contradicts the legislative intent;
- Rules 851.34 (a)(2 & 3) will effectively bring all natural resource geoscientists under the jurisdiction of the TBPG because nearly all project financing ultimately comes from “the public” as defined by the Oil and Gas Advisory Workgroup;
- Rule 851.34 (a)(4) also brings all natural resource geoscientists under jurisdiction because all reserve estimates are done for “financial purposes”;
- Rules 851.34 (a) (5 & 6) attempt to regulate activities that are exclusive to oil and gas exploration and development and performed in support of oil and gas activities;
- Rule 851.34 (b) once again blurs the definitions of “public” and “private industry”;
- Rule 851.33 creates more questions and burdens than it answers and should be rewritten.

Fortunately, the voices of numerous PGs from all areas of geoscience stopped the rules from being approved and put into action. However, there is no guarantee that the TBPG will not attempt to circumvent the Act through rulemaking in the future therefore this is another reason to abolish the TBPG and repeal the Texas Geoscience Practice Act.

Once again, I completely support the Commission’s recommendation to abolish the TBPG and the Texas Geoscience Practice Act. I hope the Sunset Commission and the Texas Legislature will stand firm against the coming lobbying efforts to continue this agency in search of problems and abolish it.

Respectfully submitted by,

Kenneth R. Helm  
TXPG License #5012

Any Alternative or New Recommendations on This Agency: In my opinion, there are alternatives to the current Texas Geoscience Practice Act. New legislation could target licensure to only those geoscientists who practice in the geological engineering, environmental and hydrogeology industries and leave the currently “exempt” geoscientists out of it. There is no need for licensure, certification or registration of geoscientists engaged in the search and extraction of natural resources.

My Comment Will Be Made Public: I agree