

James Klein

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Texas Legislature  
Sunset Advisory Commission

Commission members,

Good afternoon and thank you for allowing me to speak today. My name is Jim Klein. I am a resident of Corpus Christi, Texas and I speak to you today on behalf of the 400 area members of the Clean Economy Coalition. My assessment of the Texas Commission on Environmental Quality (TCEQ) is dire. TCEQ has lost the confidence of the Texas public—it has been completely captured by the industry it is designed to regulate.

As evidence, I cite its issuance of an air permit to the ASARCO corporation against the wishes of the people of El Paso, its withholding from the public information on the dangerous benzene releases from natural gas fields in the Ft. Worth area, its willingness to allow uranium mining companies to choose which Coastal Bend area wells should be designated as baseline wells when determining leaching of toxic slurry into groundwater, its refusal to act for fifteen years on known carcinogenic pollutants in the Hillcrest and Donna Park neighborhoods of Corpus Christi. These actions demonstrate that the TCEQ acts on behalf of the oil and gas industry at the expense of the general public's interest.

Or consider the air permit application process for the Las Brisas Energy Center (LBEC), a subsidiary of Chase Power. Public citizens expressed concern that this plant would increase pollution in Corpus Christi by 80% and asked for a contested case hearing. Administrative Law Judges Bennett and Broyles received numerous depositions and two weeks of testimony from all parties on this application and recommended last spring that the application should not be issued. Among other issues, the TCEQ did not ask the applicant to document the cumulative effect of adding LBEC pollutants to those of the several refineries and the Port of Corpus Christi. Also, the TCEQ accepted the LBEC assertion that petroleum coke—the toxic waste to be burned as a fuel at this plant—is not a fossil fuel and thus not subject to environmental regulations of fossil fuels.

The TCEQ's Office of Public Interest Council and the Executive Director issued statements that based on the evidence presented, the application be denied. Last June, the TCEQ commissioners—having received these documents and having been informed directly that the medical societies of Nueces, San Patricio, Refugio, and Aransas counties oppose the Las Brisas plant because it will increase heart and lung ailments among children and the elderly—did not rule that the Las Brisas application be remanded to the TCEQ staff to be resubmitted. Rather, they ordered the ALJs to re-examine the evidence and asked Las Brisas to provide additional evidence it had been incapable of submitting during the earlier contested case hearing.

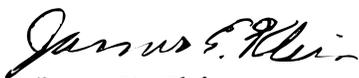
At the ensuing hearing, TCEQ staff assisted the applicant—improper if not illegal during a contested case—by performing a second air modeling study that addressed some of the numerous errors found in the Las Brisas air modeling study. Given that improper activity, the ALJs recommended that the TCEQ commissioners not issue the permit.

The commissioners—answerable to the governor only and not the general public—will rule on the Las Brisas air permit perhaps before the end of the month. They are not required to abide by the legal expertise offered by the Administrative Law Judges and they are not required to heed the medical recommendations of the various county medical societies, backed by the Texas State Medical Board.

The TCEQ's actions have demonstrated a callous disregard for the health of Corpus Christi's 300,000 residents who will experience the bulk of the sulfur dioxide, mercury, lead, and particulate matter (soot) released into the air and water. 28,000 children will attend school within five miles of the Las Brisas plant. Its support of an application that area physicians oppose as hazardous to human health is astonishing.

The TCEQ needs to be fundamentally reformed. The current appointment of the commissioners by the governor does not serve the Texas public in the best way. The presence of one or more physicians among the commissioners would ensure that the public's health is receiving due consideration. In contested cases—given the extensive effort and expense to taxpayers—the commissioners should abide by the legal decisions of the ALJs. The TCEQ's willingness to allow industry to self report emissions must end. This is not a pick-up basketball game in which players can be expected to call their own fouls. The stakes are high—there is considerable money involved and peoples' lives hang in the balance. The oil and gas industry needs an honest referee to officiate its activities for the betterment of all Texans. Thank you for your time.

Respectfully,



James E. Klein

Chair, Clean Economy Coalition of Corpus Christi