

DEC 20 2010

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SENATOR-ELECT - DISTRICT 29
SENATE OF THE STATE OF TEXAS

Sunset Advisory Commission
Robert E. Johnson Building
P. O. Box 13066
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SUBJECT: Comments on Sunset Review for TCEQ

Dear Chairman and Commission Members:

The following are my comments for the Sunset Review of the Texas Commission on Environmental Quality (TCEQ) for the meeting scheduled for December 15 and 16, 2010.

My primary concern is that the Commission may not be discharging its duties in the public's interest. By disregarding citizen input, Commission actions place the State's human and natural resources at risk, violating the agency's stated goal of "clean air" and "clean water." As the former El Paso County Attorney for 17 years, I have firsthand experience with the Commission's track record of failing to protect the environment in our community. During that period, numerous complaints from concerned constituents, environmental groups, and local businesses raise serious issues as to whether the Commission has broken the public trust. If this is so, we must ask the question: is the Commission fulfilling its mission of protecting the environment and serving the public?

Some issues brought to my attention regarding agency action or inaction- unlawful water discharges; illegal dumping; lack of enforcement-raise questions of commitment to protecting the public from environmental hazards, while others, like the Asarco and the ArcelorMittal Vinto Steel Mill permitting process, seem to indicate an emerging pattern

where the Commission violates its own commitment to “ensure meaningful public participation in the decision-making process.” Not only has public input been deemed irrelevant to the Commission’s actions, federal regulatory authority (i.e. the Environmental Protection Agency) has also been disregarded.

The most recent example of agency disregard for the public’s input is the approval of a permit for the ArcelorMittal Vinton Steel Mill located in the upper valley of El Paso County. I attended the TCEQ Public Meeting held on July 8, 2010, for public input on an amendment to the air quality permit for the ArcelorMittal. We listened to several hours of testimony from numerous area residents describing the poor air quality and various health conditions in the community. In reviewing the approved permit, it became apparent that none of these comments resulted in even the slightest modification to the facility’s operations. Furthermore, and just as alarming, comments from the U.S. Environmental Protection Agency regarding the facility were summarily dismissed.

Although the permit has been issued, an opportunity to act on behalf of community health and air quality is available to regain the public trust by establishing a monitoring station to provide ambient environmental monitoring near the plant. The closest monitoring station is currently located miles away, with a mountain range between the station and the area where the steel mill is located. It should be noted that the TCEQ issued a release stating that:

“...results from a new state-of-the-art air monitor, installed in the Decatur area, are now available online. The auto-GC (gas

chromatograph) monitor, installed by the TCEQ, will provide citizens with near real-time air quality readings, and hourly averages, 24 hours a day, 365 days a year.

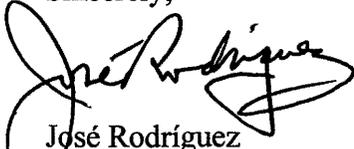
Testing for 46 different volatile organic compounds, including benzene, the monitor will also provide total non-methane VOC concentrations and meteorological data, which are important in analyzing air quality readings.

"We will continue to invest our resources in the Barnett Shale at the request of, and in coordination with local officials," said TCEQ Executive Director, Mark Vickery. "Through these efforts we want to assure the residents of the area that their health and safety are of an utmost priority for this agency."

This assurance from Mr. Vickery that the agency considers the health and safety of El Pasoans an utmost priority is a first step in re-establishing trust with the community. I understand that "experts" can often have disagreements regarding issues of a complex technical nature. However, questions regarding actual emission levels from the steel mill can be easily addressed in an on-going and transparent basis through the establishment of such a monitoring station in closer proximity to the facility. I therefore urge that the agency take immediate action to implement this viable solution.

I appreciate the opportunity to comment in the sunset review process. Please contact my office at (915) 521-3500 if you have any questions or need any additional information.

Sincerely,



José Rodríguez
Senator-Elect District 29