



December 7, 2010

TCEQ Sunset Review Commission  
P. O. Box 13066  
Austin, TX 78711

Dear TCEQ Sunset Review Commissioners:

In 1972, I was the first chemical engineer in the Houston Regional Office hired by the Texas Air Control Board (TACB), now known as TCEQ. I worked there for six years. Today, as President of Stone Lions Environmental Corporation, I am a national consultant on air pollution evaluation and control. I have served as an expert in many projects, some involving the TCEQ. My observations and this presentation are limited to the Air Pollution Control Division of TCEQ.

In my experience and research I have found that the TCEQ staff consistently fails to protect the public. They frequently make it easier and less expensive for large corporations to conduct business while increasing health risks and endangering lives. Today I offer four examples of that irresponsible behavior and a possible solution.

**Example #1** – In November 2007, the TCEQ issued a revised list of Effects Screening Levels (ESLs), which included allowing an increase in benzene exposure. Benzene is a toxic chemical known to cause cancer. As far as I know, that marked the first time any regulatory agency in the United States advocated an increase in public exposure to benzene.

A recent study shows pregnant women who are exposed to benzene in the air they breathe have a two times greater risk for their children to be born with spina bifida - a rare birth defect. The benzene concentration of concern regarding spina bifida is less than the TCEQ's increased, long-term benzene ESL.

**Example #2** – In the first quarter of 2006, TXU Energy filed very controversial permit applications for seven coal-fired power plants. Those facilities, if built and operated as applications indicated, would fail to meet TCEQ's ESL for silica. Exposure to silica can cause lung disease and other adverse health effects.

On September 1, 2006, Dr. Valerie Meyers in the Chief Engineer's Office of the Toxicology Section, wrote a memo to the Air Permits Division calling for ESLs for silica to be raised. That was done, which increased the amount of silica allowed in power plant emissions, and greatly benefited TXU Energy in their effort to obtain the required construction permits.

**Example #3** – Consider the BP Texas City explosion. I was an expert witness in that case. Fifteen people were killed and hundreds injured on March 23, 2005 in explosions and fire at the BP Texas City refinery. The use of an isomerization unit blowdown drum that was vented directly to the atmosphere wasn't understood or thoroughly evaluated by the responsible TCEQ permit engineers through almost three decades (1975-2005) of permit application reviews for the BP refinery. It was the use of that blowdown drum that caused those deaths and injuries. If TCEQ had required BP to control emissions from the blowdown drum, the lives of fifteen people would have been spared that day. The TCEQ engineers most directly involved in the relevant permit application reviews were Jim Myers, Karen Horne Olson, Sam Crowther, Johnny Vermillion, and Rubin Herrera.

**Example #4** – In 2002, Dom Ruggeri, leader of the Air Dispersion Modeling Team, in a memo to the Air Permitting Division, devised a modeling formula for fugitive air emissions that involved multiplying calculated fugitive emission rates by 0.6. In other words, subtract 40 percent of the actual emission rate before conducting air dispersion modeling for the purpose of quantifying neighborhood impacts.

Those examples clearly illustrate that the TCEQ staff must be made accountable for protecting public health and the environment.

I would like to offer this solution. Require that each professional employee of TCEQ hold paramount the safety, health, and welfare of the public in performance of their duties. Whenever any professional employee at the Air Pollution Control Division of TCEQ makes a decision that increases the exposure of the public or changes the nature of public exposure to any toxic chemical, that employee must submit a sworn affidavit to the appropriate public file, under penalty of perjury, explaining how their actions were consistent with that standard.

Let me attempt to put this into perspective. Writing more than two thousand years ago, Herodotus, known as the Father of History, described the Persians as. . . craven, slavish, reverential, and parochial, incapable of individual initiative. . . a horde rather than a people. Given their normal operating procedures, that is an accurate description of the Air Pollution Control Section of the TCEQ as it exists today.

I hope that you will replace this irresponsible horde with a tenacious agency that will protect public health and the environment.

Thank you for considering this important public health problem and my proposed solution.

Sincerely,



Jim Tarr  
President

Enclosures (4)



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