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**LEAGUE OF WOMEN VOTERS®
OF TEXAS**

TESTIMONY

**Sunset Advisory Commission Review of the TCEQ
December 15, 2010**

The League of Women Voters of Texas believes that democratic government depends upon the informed and active participation of its citizens. In order that citizens are informed and can take action, we believe that government regulatory agencies need to provide adequate notice of proposed actions, hold open meetings, and make public records readily accessible. This sort of transparency is particularly important for an agency whose mission is to protect public health, safety, and the environment. To this end, the Texas Commission on Environmental Quality (TCEQ) should improve the public's ability to access and participate in agency decisions.

TCEQ's current narrow approach to granting administrative standing limits public involvement in permitting decisions. Many permit authorizations limit public notice and comment. We believe the TCEQ should be directed to use new technology to assure more opportunities for meaningful participation by the public. Examples might include allowing citizens to appear "virtually" at hearings, allowing comments to be filed electronically, and broadcasting contested case hearings in a manner similar to legislative committee hearings.

Additionally, we believe that it is imperative that the legislature close the revolving door between the TCEQ and the industries it regulates by forbidding any managerial or higher employee of the TCEQ from taking a job with a regulated industry within 24 months of termination. Even if there is no conflict of interest involved in the hiring, the perception of impropriety remains.

The League of Women Voters also believes that the sole mission of the Texas Commission on Environmental Quality should be to ensure the protection of

public health, safety and the environment. As a result, we strongly recommend that the phrase, "consistent with sustainable economic development," be removed from the TCEQ's mission statement. The TCEQ must protect the health and welfare of the people of Texas, not the industries working within the state. The mission of the TCEQ needs to be clarified to ensure that the protection of public health and the environment is its top priority.



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Comments of
The League of Women Voters of Texas
Regarding the
Sunset Advisory Commission Staff Report
On the
Texas Commission on Environmental Quality

The League of Women Voters of Texas finds that the staff of the Sunset Advisory Commission has made valuable recommendations in many areas. We are also appreciative of the fact that the staff went to several meetings around the state to listen to concerns of the public. They were receptive and attentive to the concerns expressed.

Specifically, the League of Women Voters of Texas supports adoption of the following recommendations:

1. Continuation of the Texas Commission on Environmental Quality.
2. Improving public assistance and education: We specifically support having the Office of Public Interest Counsel represent the public interest in matters before the Commission. The finding that TCEQ lacks specific statutory guidance that makes public assistance a priority should clearly be rectified. Making the OPIC an independent agency and thus not solely accountable to the Commission, would certainly be a step in the right direction.
3. We are particularly supportive of having TCEQ restructure its measurement of compliance history so that it may be used as a regulatory tool.
4. In addition, it is clear that the enforcement process of TCEQ lacks public visibility. We strongly support legislation to require the Commission to structure its general enforcement policy in rule and publically adopt its resulting enforcement policies.
5. While the recommendations regarding increasing the administrative penalty caps are essential, the LWV is adamant that the penalties should be sufficient to ensure compliance. It is unconscionable to have penalties so low that noncompliance becomes an attractive choice.
6. We support authorizing TCEQ administratively to adjust the annual emissions tonnage cap for the Air Emissions Fee when necessary and to fund adequately the Title V Operating Permit program.
7. We certainly agree that the TCEQ website is difficult to negotiate! Making clear information on agency policy and environmental regulatory efforts would be a great improvement.

We regret that the staff chose not to speak to the many permitting issues which continue to plague the agency. Therefore, we support the following recommendations:

1. We recommend that new and/or more stringent conditions be allowed in permit amendments and renewals whether the applicant/permittee agrees or not. Furthermore, we recommend that TCEQ be given clear authority to deny an air permit for good cause. We strongly urge

legislation to require TCEQ to analyze cumulative impacts of new or expanded pollution emissions on the overall air quality, public health and property in an airshed.

2. Both the Air Pollutant Watch List and Effects Screening Levels should be adopted as enforceable standards in rules.
3. TCEQ's policy should be changed to revoke or suspend permits, licenses, certificates or registrations when warranted in enforcement actions.
4. Applications for a permits, amendments or renewals should not be processed if the applicant owes fees or penalties.

Thank you for considering these remarks.