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AMID SPIRALING GROWTH, TEXANS RALLY FOR SAFER PRACTICES IN AGGREGATE MINING AND CONCRETE PRODUCTION

Austin, TX, May 24, 2022 – More than 10 years since Texas Sunset Advisory Commission recommended “positive changes” at the Texas Commission for Environmental Quality (TCEQ), more Texans are speaking out on what they see as the agency’s continued sacrifice of quality for quantity in a rapidly growing industry that is literally leaving them in the dust.

With the Sunset Commission expected to release staff recommendations from its follow-up report next week, Texans for Responsible Aggregate Mining (TRAM) has requested the commission recommend the agency adopt a wide range of best management practices (BPMs) required in most other states.

“The TCEQ’s primary purpose is to protect public health and natural resources from pollution. They have struggled for years to effectively carry out this mission. It is impacting people across the state, so all eyes are on the Sunset Advisory Commission to see what they will do to put the TCEQ on a better track” said Cliff Kaplan, Secretary of TRAM. “With regards to aggregates and concrete, Texas is unique because we have almost no regulations to protect our public health and natural resources and the TCEQ does not appear to be concerned with enforcing the minimal regulations that do exist. For example, last year, when a proposed concrete batch plant in Tarrant County was found not to have met the public health requirements of their permit application, the TCEQ immediately initiated and rushed through the process to remove those requirements so other concrete batch plants wouldn’t be subject to them. It is a clear indication that the TCEQ has, from the top of the agency, put industrial expansion ahead of public health and natural resource stewardship. The Sunset Commission has a responsibility to correct that.”

Kaplan continues, “For starters, the Sunset Commission could direct the TCEQ to better protect public health by improving the Air Quality Standard Permits, or doing away with (more)

them entirely. These are essentially rubber-stamp permits and they do not account for the dangerous effects of multiple polluters piling up at the same place. In other words, the TCEQ grants each permit to pollute the air, without considering how much pollution there already is in that location. The results can be disastrous for people living in the area.”

Other TRAM recommendations to the commission include:

- Ensuring more predictability and transparency in TCEQ’s enforcement process, including a requirement for air quality monitoring wherever they issue a permit to pollute.
- Requiring operators of quarries and gravel and sand mines to do reclamation. That is, to restore their mined properties to a safe and usable condition when they are done mining an area, just like they do in most other states.
- Setting standards for water recycling, as aggregates operations are major consumers of the state’s limited water resources, even though more water-friendly technologies and techniques are available.

Gunter, a small town outside of Sherman, has 11 permitted concrete batch plants. Each morning, two-ton gravel trucks barrel past schools and residences on roads never designed to handle the estimated 3,500 daily trips servicing the plants.

“Our local air quality is severely compromised by the clusters of concrete plants in Gunter. Each plant is presumed to be following the standard air permit, but TCEQ isn’t considering how many potential polluters they’ve allowed at the same address in our town. The permits also do not account for all of the pollution coming from the endless stream of trucks traveling to and from the plants, passing in very close proximity to our schools.” said Deirdre Diamond, a Registered Respiratory Therapist with Gunter Clean Air, a member group of TRAM. “All of the pollution makes this community less safe, particularly for our children, elderly, and anyone suffering from chronic respiratory conditions.”

“The continuous threats to our air quality left us with no choice, but to hire a professional consultant who quantified the pollution emitted by multiple batch plants operating at the 873 Wall Street site,” she explains. “The numbers that resulted from this study were alarming and show that TCEQ is not concerned about or monitoring cumulative impact. Unfortunately, the TCEQ treats these plants like they are operating alone, when they clearly aren’t, resulting in significant risk to our community.”

Recently, a new batch plant submitted an application to start operations in close proximity to the other 11 plants. Gunter Clean Air requested that State Senator Drew Springer, who represents the district, submit a public hearing request on behalf of his constituents. He denied the request.

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“At this time our office will not request a public meeting on this application,” his staff responded. “We will continue to work closely with the community to ensure Gunter continues to experience the pristine air and managed growth that the City has done such a good job of managing.”

An air quality dispersion modeling report conducted by Air Resources Specialists of Fort Collins, CO, looked at five concrete batch plants located on contiguous and adjacent properties. “The modeling results indicated exceedances of the applicable National Ambient Air Quality Standards (NAAQS) for all pollutants (PM10, PM2.5 and NO2),” the report concluded. Gunter Clean Air has made multiple attempts to meet with the Senator to share this report, but his staff has ignored those requests as well.

Springer is on the Sunset Advisory Commission that helps oversee the TCEQ. He is up for re-election this fall, and his top two donors include the Texas Aggregates and Concrete Association and BP North America. One of the Sunset Commission’s recommendations for TCEQ in 2011 led to passage of House Bill 2694, which requires any TCEQ Commissioner running for elected office to resign from office before accepting campaign contributions, to avoid conflicts of interest. Gunter Clean Air points out that it would make sense to apply this same rule to the Sunset Advisory Commissioners, since they are responsible for overseeing the regulator agency.

With more than 180 facilities, Harris County leads the state in concrete batch plants. As in Gunter, however, the cumulative impact of that much exposure, often in communities of color, is not considered by TCEQ.

“In our region, these permits are invariably applied for in communities of color and working class neighborhoods due to lax zoning laws and historic discrimination from redlining,” says Anthony D’Souza, Policy and Research Coordinator for Air Alliance Houston. “In many cases, small-lot single family residences literally share a property line with these facilities.”

TCEQ, he added, has “bare minimum” requirements for public hearing notifications, limited to posting signs at proposed sites and small-print notices in a local newspaper or public library. These inadequacies mean that the burden for knowing about new permits is largely placed onto residents. So oftentimes communities are completely unaware or by the time they realize it’s too late to organize or engage meaningfully in the permitting process, due to the short, 30-day comment window.

From 2015-2020, TCEQ received more than 100 requests for concrete batch plant air emissions permits in Houston, according to the agency. Only two were denied.

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Even once a permit is issued, the burden is on residents to monitor these facilities and to ensure they are compliant with what they’re permitted to do.

Stonewalling

In most states, comprehensive regulations for aggregate production operations (APOs) have been adopted to address major conflicts between rapidly growing population centers and expanding APOs in their vicinity.

“We have this situation occurring now in numerous areas of Texas. Yet, APOs in Texas are not required to adopt best management practices and few do so voluntarily,” Kaplan said, adding that Texas leads the nation in aggregate production. “Where population is growing fastest, like in Central Texas, so is the aggregate mining. We are seeing it in the Austin-Bastrop corridor of the Lower Colorado, in the Highland Lakes region, along I-35 and the Balcones Escarpment and in the Guadalupe River between Kerrville and Comfort. If the industry is going to expand near so many people and in so many places, it is natural to expect the TCEQ to gear up to ensure public health, safety and reasonable protections for natural resources like water, air and land, that our communities depend on. That’s why the Sunset Commission’s review of the agency is so timely. Texans need the Sunset Commission to help the TCEQ get more serious about this industry.”

A rider to last year’s approved budget bill directed TCEQ to define and publish a list of Best Management Practices (BMPs) for the industry which focus on dust, light and noise control as well as conducting aerial observation of APOs twice each year to ensure compliance with regulations. Reportedly, the TCEQ has not made progress on either of these provisions.

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About TRAM

The coalition, composed of member groups across the state, seeks to work with lawmakers, state agencies, and good-faith industry operators to create state standards for BMPs in the APO industry and to adopt those standards into law. Its 22 member organizations represent 40 counties where APOs have dramatically expanded to meet the region’s rapid growth. Stay informed by visiting www.TRAMTexas.org and following our Facebook, Twitter and Instagram pages for news updates.