

August 15, 2018

Texas Sunset Advisory Commission  
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Mr. Chairman and Members of the Texas Sunset Advisory Commission,

On behalf of the (insert your name or entity name here), I want to express my appreciation for this opportunity to provide comments and my **strong opposition** to the Texas Sunset Advisory Commission Staff Report (the Staff Report) on the **Texas Board of Professional Geoscientists** (the Board) recommendation that the Board be abolished and the requirement that geoscientists be licensed also be abolished

The Staff Report recommends that the Texas Board of Professional Geoscientist be abolished, because “The board’s regulation does not provide meaningful public protection”. This conclusion is **categorically false**. For example, in the management and protection of Texas water resources, Professional Geoscientists have the primary responsibility for providing technical analysis and opinions on a wide range of issues that would be included in anyone’s goal of “public protection”. Professional Geoscientist are responsible for the evaluation of water well permit applications and water well permit amendments necessary to ensure that the proposed well will be completed in accordance with well completion standards necessary to protect water quality. A parallel responsibility is to monitor and evaluate water quality in our State’s major and minor aquifers to ensure that no actions at land surface are leading to groundwater contamination. The protection of water quality is absolutely a fundamental element of public protection. One only needs to look at the recent events in Flint, Michigan, to see the critical importance of maintaining water quality in our groundwater resources in Texas. Another example of how Professional Geoscientists work to provide protection of the public is to ensure that groundwater production from one property does not have unacceptable impacts on neighboring properties, or said another way, the protection of private property groundwater rights. This is accomplished through a variety of analyses performed by Professional Geoscientists working with approximately 100 groundwater conservation districts in Texas, including development and monitoring of spacing rules, determination of groundwater availability, analysis of groundwater depletion rates, and estimates of groundwater usage. More specifically, Professional Geoscientist must be able to interpret complex subsurface geology to depths of sometimes as much as 10,000 feet using driller’s logs, geophysical logs, geological maps, and other resources, build and interpret predictive, three-dimensional groundwater availability models, provide professional support during contested case hearings and other legal proceedings, determine subsurface geological sources of contamination and provide professional technical counsel to the groundwater conservation districts. The qualifications to accomplish these tasks have been established in Texas through the Texas Board of Professional Geoscientists. To abolish these requirements for these qualifications, including requirements for continuing education, would inevitably result in the performance of these activities by unlicensed, unqualified individuals with unspecified training and skill sets.

The Staff Report suggests that “Public protection not the primary reason to initiate regulation”. Rather the Staff Report, based on what could only be interpreted to be a very biased review of the Legislative record, suggests that the only reason for the legislation creating the Texas Board of Professional Geoscientists was to legitimize the geosciences profession. The bias of this conclusion in the Staff Report is truly unfortunate. During the very substantive deliberations that ultimately resulted in creation of the Texas Board of Professional Geoscientists and

corresponding licensing requirements, the primary focus was on the fact that geoscientists in Texas with bachelors, masters, and even doctoral degrees in geology and related geoscience fields, often with 10 to as many as 40 or more years of experience, were required in Texas to have work products, produced for regulatory agencies such as the Texas Commission on Environmental Quality and the Texas Water Development Board, reviewed and sealed by Professional Engineers, often times individuals with no formal training in the geosciences and often with less professional experience. In the final outcome, the Texas Legislature decided, and rightly so, that to require Professional Engineer's approval of geosciences work products not only did not make sense but was a very inefficient and costly requirement for both public and private entities in Texas. The Staff Report, on a close reading, seems to question the decision making of the Texas Legislature on this point. Another important element of this "Legislative intent" discussion that was completely ignored by the Staff Report is that practicing geoscientists in Texas who also, on occasion, work in other states, are required in those states to be licensed. If the recommendation to abolish the licensing program in Texas were to be adopted, then there would be significant financial harm done to a number of Professional Geoscientists and the companies they work for because of the loss of ability to engage in project work in other states. The loss of this ability to work in other states is only tangentially mentioned as a bulleted factor in the Staff Report with no mention of the negative financial consequences of such an action.

The Staff Report also states that "Far-reaching exemptions mean much geoscience remains unregulated, without a negative effect on the public". For a report that went to some effort to understand the Legislative history, It would seem that the reasoning for the primary exemption, oil and gas geoscientists, would have been clear and understandable. Texas is blessed with amazing natural resources, and due in large part to the innovation of oil and gas geoscientists, we are now once again a world leader in the production of one of our most valuable subsurface natural resources, oil and gas. However, the investment in data and scientific analyses that goes into the exploration of oil and gas by the private sector is maintained as strictly confidential, and rightly so, by the companies that are making the investment. The vast majority of work products produced by oil and gas geoscientists is never a matter of record before any regulatory body, including the Texas Railroad Commission. It was because of this obvious dynamic that the Texas Legislature exempted oil and gas geoscientist from Professional Geoscientists licensing requirements. For the Staff Report to question the rationale adopted by the Texas Legislature with regards to exemptions 17 years after the fact would appear to be quite questionable.