

## **TCEQ More Powerful Than Elected Officials**

Dear Editor:

Texas Law prohibits the TCEQ executive director's legal team from assisting applicants and regulatory offenders. The recent letter from TCEQ general counsel, Les Trobman to a district judge scheduled to hear the case between a group of polluters and the city of Houston, along with the conduct of TCEQ attorneys in a contested case in neighboring Montgomery County, begs the question: 'Who is enforcing these laws?'

The Houston case has Mayor Bill White puzzled. In a recent press conference, he states, 'I think that something strange is going on when the polluters can contact the agency that is supposed to be regulating pollution and the polluters can ask -- can get the state agency to try to be on their side.' 'When we're representing the citizens of the largest city in the state of Texas'. The mayor later added, 'The attorney for the polluters seems to have more influence than the elected officials in the fourth largest city in the nation, the biggest in the state. I don't know why.'

Join the crowd, Mayor White. The contested case over Houston based, Texcom Gulf Disposal, LLC's permit application has most Montgomery County residents bewildered as well. In spite of resolutions from every elected organizational group and HOA in Montgomery County, along with letters of opposition from every elected official including US Representative Kevin Brady, the TCEQ seems poised to approve the dumping of toxic chemicals, including caustic acids, antifreeze, benzene and paint thinners, into the middle of a residential community.

Mired in costly litigation over their planned operations, Texcom Gulf Disposal, LLC had to sell 60% of its holdings to a company out of Oklahoma. They needn't have bothered. It is obvious they have had the full backing of the TCEQ every step of the way. During the contested case hearing before the Administrative Law Judges, TCEQ attorneys used every opportunity to rehabilitate Texcom witnesses, both on and off the stand.

For example, cross examination about the 300 plus tanker trucks that would travel to and from the site, on a long, narrow, winding two-lane residential road with a 90 degree turn, left one Texcom witness without answers. No worry, John Williams, attorney representing the TCEQ, used his cross to help the witness, suggesting Texcom work with Montgomery County to pass an ordinance regulating traffic on that road. Nice move, especially since the county has no authority to pass such an ordinance.

Prior to the hearing, the TCEQ passed up many legal opportunities to deny the Texcom application. Instead of enforcing Texas Administrative Code, the TCEQ chose to have the citizens of Montgomery pay 100's of thousand of dollars fighting their case before the SOAH judges, who have no regulatory or enforcement authority. Next the case goes before the TCEQ commissioners, a three person panel, appointed by the governor, who under Texas state law cannot weigh in on a contested case. Ultimately, the TCEQ commissioners will decide whether or not to approve the permits. In the meantime the elected Montgomery County Commissioners, County Judge, State Senators and State and US Representatives wait with their constituency for the decision. Apparently, no elected official in Texas has any authority over the TCEQ. Mayor White, you are in good company.

Lisa Howard

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