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COMMITTEES:
SUNSET ADVISORY COMMISSION, CHAIR
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CRIMINAL JUSTICE



COMMITTEES:
NATURAL RESOURCES
AGRICULTURE & RURAL AFFAIRS
NOMINATIONS

SENATOR GLENN HEGAR
DISTRICT 18

JUL 20 2010

July 19, 2010

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Ms. Lisa P. Jackson
Administrator
Environmental Protection Agency
EPA Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC 20460

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Dear Ms. Jackson:

A coalition of Texas cities and river authorities recently met with me in my capacity as Chairman of the Sunset Advisory Commission to express their concern about a proposed requirement of the U.S. Environmental Protection Agency, Region 6 (EPA).

Texas' Sunset Advisory Commission's main function is to identify and eliminate waste, duplication, and inefficiency in government agencies. As you may know, the Texas Commission on Environmental Quality (TCEQ) is currently undergoing Sunset review. Undoubtedly, the efficiencies and effectiveness of TCEQ's permitting will be a large part of that review.

EPA is directing TCEQ to require operators of wastewater treatment facilities to achieve and maintain compliance with permit limits based on the sublethal whole effluent toxicity (WET) test. As currently proposed by EPA, the requirement of sublethal WET tests will result in Texas permittees spending millions of unnecessary dollars.

One of the concerns of Texas permittees with sublethal permit limits is that the EPA does not have a technical basis for its position that sublethal WET permit limits are needed to protect the environment. Also, imposing this permit provision will result in Texas permittees having to conduct expensive studies to identify the cause of the sublethal failures and proposed corrective actions.

These types of studies have generally not been successful. When the study is inconclusive, the permittee may be forced to implement very expensive corrective actions that do not eliminate the sublethal test failures. To date, permittees have not been successful in eliminating test failures when only sublethal effects are present.

The coalition has met several times with EPA, but it has been unsuccessful in its efforts to negotiate a reasonable approach. Therefore, I am asking you to support the coalition's position in this matter, which is that EPA should not require TCEQ to implement sublethal permit limits until the following requirements are met:

- The frequency and magnitude of effluent sublethal test failures that are a meaningful predictor of adverse impacts on aquatic life in the receiving waters are identified.
- It can be demonstrated that there are reliable scientific methods that permittees can use to identify and eliminate the causes of sublethal test failures.

As Chairman of the Sunset Commission, I encourage you to work with the agency to ensure efficiency and viability in the permitting process. In an already struggling economy, the proposed requirements of the EPA can have a detrimental economic impact on Texas permittees.

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Page 2

July 19, 2010

Texas cities and river authorities are committed to protecting the water resources of the State. However, as they struggle to meet their budgetary requirements, they are very concerned with insuring that the limited funds that are available are expended for programs with demonstrated benefits and feasibility.

Thank you in advance for your consideration. I certainly appreciate you allowing me to share my views with you on this very important issue. If I may be assistance to you in the future on this or any other issue, please do not hesitate to contact me.

Sincerely,



Glenn Hegar

cc ✓ Mr. Al Armendariz, EPA Region 6 Administrator
Mr. Mark R. Vickery, P.G., TCEQ Executive Director
Senator Kay Bailey Hutchinson
Senator John Comyn
Congressman Joe L. Barton
Congressman Kevin Brady
Congressman Michael C. Burgess
Congressman John R. Carter
Congressman K. Michael Conaway
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