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Good morning, Commissioners.

I'm Kathryn Guerra, with Public Citizen's Texas office. Public Citizen is a nonprofit consumer advocacy organization with over 1M members and supporters that champions public interest in the halls of power.

Since the agency did not provide any other public comment opportunity on this change to its enforcement process, we want to use this opportunity to highlight our concerns about the proposal. Our concerns center around the lack of transparency and public input.

Staff conducted three engagement meetings. I attended one of those sessions with about ten other folks, and that meeting lasted just 30 minutes. Staff said they'd been working on this program change for two years, yet the agency provided what amounted to an hour and a half of public engagement. When asked whether the agency felt it had adequately engaged both communities and regulated entities on the change, staff responded that it believed it had.

The list of nearly 200 violations proposed for inclusion in this program was not made available to the public during those meetings. The list was only made publicly available as an attachment to this meeting's agenda. The program proposes eliminating consideration of these 200 violations from the commissioners' agenda, which also eliminates public notification and comment opportunities, as well as the penalty calculation worksheet. We take issue with any action this agency takes to lessen transparency.

We understand that this program aims to divert enforcement cases to expedite compliance, and we wholly support it. During your previous agenda, this commission adopted agreed orders ranging from 800 to 1,459 days (or 4 years) from investigation to approval. Most included ordering provisions that allowed even more compliance time after the agreed order was signed, even for the respondent, who according to staff, had been unresponsive for over a year. That means ongoing pollution for nearly 4 years. In contrast, the 60-day compliance deadline proposed for this program seems expeditious.

We hope this program also helps the agency address its extensive enforcement backlog. Between January and December of 2025, the agency cleared just 39 backlogged enforcement cases. At this rate, it's going to take 36 years to undo the mess that the agency's own enforcement policies, in part, have contributed to making.

Perhaps it's also time to look at all of the agency's enforcement policies and evaluate how to end the practice of giving polluters several years to voluntarily agree to comply before the agency takes stronger enforcement action. That alone would help expedite the resolution of environmental harms in communities across the state, while maintaining the transparency and public input opportunities currently afforded to them. Absent those opportunities, we'd like to see the number of expedited orders added to the monthly enforcement report, including a quantification of those that successfully achieve compliance and those that do not, and the amount of reduced penalties, as separate line items.

Thank you.