

**TEXAS GROUNDWATER PROTECTION COMMITTEE**

**LEGISLATIVE REPORT SUBCOMMITTEE**

**RECORD OF MEETING**

Second Quarter Meeting, Fiscal Year 2016

Meeting Date: February 24, 2016

Place: TCEQ Campus, Bldg. F

Meeting No. 1

Room: 3202A

**TABLE OF CONTENTS**

MEETING ATTENDANCE	2
MEETING HANDOUTS	2
RECORD OF MEETING FEBRUARY 24, 2016	3
1. CALL TO ORDER AND INTRODUCTIONS	3
2. REVIEW PROCESS AND TIMELINE FOR COMPLETION OF DRAFT TEXAS GROUNDWATER PROTECTION COMMITTEE REPORT TO THE 85 <sup>th</sup> LEGISLATURE	3
3. DISCUSSION OF THE COMPLETION OF THE DRAFT LEGISLATIVE REPORT AND PRESENTATION TO THE TGPC	3
4. SET FUTURE MEETING DATE	7
5. ANNOUNCEMENTS	7
6. PUBLIC COMMENT	7
7. ADJOURN	7

## MEETING ATTENDANCE

### Subcommittee Members

<u>Subcommittee Members</u>	<u>Affiliation</u>
Abiy Berehe (Chair)	Texas Commission on Environmental Quality (TCEQ)
Janie Hopkins	Texas Water Development Board (TWDB)
David Gunn	Texas Department of Licensing and Regulation (TDLR)
Linda Ruiz McCall	University of Texas Bureau of Economic Geology (UTBEG)
Chris Moore	Railroad Commission of Texas (RRC)
John Tracy	Texas A&M AgriLife Research (AgriLife Research)
David Van Dresar	Texas Alliance of Groundwater Districts (TAGD)
David Villarreal	Texas Department of Agriculture (TDA)

### Absent

Emily Hall	Texas Department of State Health Services (TDSHS)
TJ Helton	Texas State Soil and Water Conservation Board (TSSWCB)

### Agency Staff

<u>Agency Staff</u>	<u>Affiliation</u>	<u>Program</u>
Cary Betz (TGPC Chair)	TCEQ	Water Availability Division
Al Cherepon	TCEQ	Water Availability Division
Peggy Hunka	TCEQ	Water Availability Division
Kathy McCormack	TCEQ	Water Availability Division
Scott Underwood	TCEQ	Water Availability Division

## MEETING HANDOUTS

1. Legislative Report Subcommittee Agenda February 24, 2016
2. *Texas Groundwater Protection Committee Report to the 84<sup>th</sup> Legislature* (SFR-047/14) (Legislative Report)
3. Copy of the recommendations of the Legislative Report

## **RECORD OF MEETING February 24, 2016**

### **1. CALL TO ORDER AND INTRODUCTIONS**

Abiy Berehe (TCEQ), Chair of the Legislative Report Subcommittee, called the meeting to order at 1:35 p.m. Subcommittee members introduced themselves. Mr. Berehe announced that the TSSWCB and TDSHS were unable to attend this meeting.

### **2. REVIEW PROCESS AND TIMELINE FOR COMPLETION OF DRAFT TEXAS GROUNDWATER PROTECTION COMMITTEE REPORT TO THE 85TH LEGISLATURE.**

Abiy Berehe (TCEQ) announced that:

- this is the first of two legislative subcommittee meetings-the second is scheduled for March 23, 2016;
- during the first two meetings, the subcommittee will update the Legislative Report Recommendations for the 85<sup>th</sup> Legislative Report;
- on April 20, 2016, the subcommittee will present its draft Recommendations to the main committee for review;
- if needed, a third subcommittee meeting will be scheduled for May 2016; and,
- the main committee meets in July 2016 to review the final draft and determine the next step.

Mr. Berehe closed the review and timeline discussion by consensus.

### **3. DISCUSSION OF THE COMPLETION OF THE DRAFT LEGISLATIVE REPORT AND PRESENTATION TO THE TGPC**

Abiy Berehe (TCEQ) referred members to their handout copy of the Legislative Report. Mr. Berehe gave a report overview and noted the parts that need updating before incorporation into the draft Report to the 85<sup>th</sup> Legislature.

Mr. Berehe reminded the subcommittee that its main task is to update the Recommendations in the Legislative Report and present it to the main committee. TCEQ staff and the respective subcommittee co-chair will update the rest of the report. This subcommittee will present the updated Recommendations to the main committee in July 2016.

Mr. Berehe referred members to the handout with the unformatted version of the Legislative Report Recommendations. The unformatted version is text only, designed to help members edit text as a group or by individual email. Mr. Berehe initiated the modification-by-consensus process.

## Recommendations to the 84th Texas Legislature

Change 84th to 85th.

### Review of Statute

No change.

### §26.401, Legislative Findings

No change.

David Villarreal (TDA) reported that he is on the Water Conservation Advisory Council (WCAC). Dr. Villarreal reported that the WCAC has been empowered by SB-551 to make water conservation recommendations directly to the legislature. Dr. Villarreal emphasized that WCAC members are aggressively making many recommendations, some of which will probably overlap with the TGPC's.

Abiy Berehe (TCEQ) asked David Van Dresar (TAGD) if he was aware of the WCAC activities and Mr. Van Dresar responded that he was not. Mr. Van Dresar reported that TAGD is not part of the WCAC but he does not know why. Mr. Dresar plans to discuss this issue with his executive director.

Linda Ruiz McCall (UTBEG) reported that there are about 23 stakeholder-group representatives in the WCAC.

After a general discussion on how the WCAC operates, the subcommittee concluded that TGPC water conservation recommendations, if any, should not overlap or conflict with WCAC's. Abiy Berehe (TCEQ) suggested the subcommittee get a copy of WCAC's recommendations.

### §26.403, Creation and Membership of TGPC

Remove the third paragraph.

In the previous edition of this report, the TGPC recommended that one member agency, Texas Department of State Health Services (DSHS), be relieved of responsibilities of committee membership. Upon further review of DSHS programs, however, the Committee has determined that this recommendation is not in the best interests of the citizens of Texas, and has removed the recommendation from this report.

### §26.405, Powers and Duties of TGPC

No change.

### §26.406, Groundwater Contamination Information and Reports; Rules

No change.

### §26.407, Protection and Enhancement Plans

First paragraph, second sentence, change Agricultural Chemicals Subcommittee to Groundwater Issues Subcommittee because the former has been deactivated.

This statute was intended to address the plans for dealing with impacts to groundwater from pesticides (State Management Plan or Pesticide Management Plan for the prevention of pesticide contamination of groundwater). The TGPC performed commendably in the creation and updates of the state's SMP through the actions of its Agricultural Chemicals Subcommittee, but the final federal rules for such management plans never fully materialized. While the TGPC and the TCEQ maintain the plans that were developed and continue a monitoring program for pesticides in groundwater, there is no federal or state "driver" behind this mandate.

Abiy Berehe (TCEQ) asked the Groundwater Issues Subcommittee Co-chairs (both present) to review the paragraph then report to this committee.

### Abandoned Water Well Plugging and Education

No change.

### Support of Agency Programs

Janie Hopkins (TWDB) reported that she has reservations about the first two bullets because they may affect the TWDB. Ms. Hopkins wants to check with her agency before she suggests any changes.

- Conduct applied research on conjunctive use and its risks and rewards, the implications of aquifer storage and recovery on water quality and evaluation of potential issues, and the characterization of surface water and groundwater interaction.
- Validate and verify the technical and economic feasibility of desalination of saline (brackish) groundwater in Texas and better characterize salinity levels of groundwater sources throughout the state.

Rejoin the third and fourth bullets into a single recommendation. Kathy McCormack (TCEQ) reported that the Groundwater Issues Subcommittee (GWIS) is currently

discussing topics that may affect this recommendation. After the GWIS reaches a consensus, Ms. McCormack will report to this subcommittee.

- Provide tools, educational programs, and assistance for landowners, citizens, local governments, and others to facilitate efforts such as the Water
- Supply Enhancement Program to increase groundwater yield, the Texas Well Owner Network Program, and the Texas High Plains Evapotranspiration Network.

After an open discussion on wording the recommendation, the consensus was not to change to the fifth bullet.

- Protect groundwater quality through technology transfer, educational programming, quantification monitoring, and regulatory protection.

Abiy Berehe (TCEQ) reported that none of the agencies monitors emerging contaminants so the sixth bullet is vital. Linda Ruiz McCall (UTBEG) suggested that the phrasing in Mr. Berehe's comment go into the recommendation because the GWIS has been discussing the absence of monitoring.

John Tracy (AgriLife Research) suggested inserting "identifying" or "understanding" in front of "the presence". Dr. Tracy emphasized we need to know the contaminant source, extent, and how to remove them from groundwater (especially pharmaceuticals). Dr. Tracy summarized that when developing water resources we must learn how to deal with the presence of emerging contaminants. Dr. Tracy reported that removing traditional contaminants from groundwater is commonplace. However, removing pharmaceuticals, personal care products, and viruses from groundwater remains unproven.

David Villarreal (TDA) reported that he had attended a Homeland Security meeting. TDSHS-selected speakers addressed Ebola virus accumulation in surface water. Other topics included mass mortality, mass body burial and how the leachate contaminants groundwater.

Kathy McCormack (TCEQ) reported that the GWIS is discussing topics that may affect both the sixth and seventh bullet. Ms. McCormack elaborated that the GWIS is currently discussing a variety of issues that may affect the other recommendations as well. After the GWIS meeting in April, she will provide this subcommittee guidance on how to proceed. After a lengthy discussion, the consensus was that the sixth and seventh bullet would require a second review.

- More research and emphasis needs to be geared toward the presence of biological and chemical contamination in groundwater other than nutrients and pesticides. Pharmaceuticals, personal care products, viruses, and other harmful microorganisms will continue to increase in concern and as emerging contaminants.

- Endangered species and water are intricately linked and will pervade water use issues for decades to come. More research and information is needed as to the relationship between groundwater quality, quantity, and location as concerning current endangered species and those that are proposed to be added to the federal protected list.

Cary Betz (TCEQ) reported that the TWDB now handles transboundary issues. Mr. Betz suggested that Janie Hopkins (TWDB) research the eighth bullet and report to this committee. Ms. Hopkins agreed. John Tracy (AgriLife) reported there are other publications on transboundary issues that he can provide to Ms. Hopkins.

- Trans-boundary issues, especially with Mexico, and a greater delineation of shared aquifers and water supplies, need to be addressed now before critical limitations on groundwater resources occur.

John Tracy (AgriLife Research) reported that Congressional Research Service published the *EPA and the Army Corps' Rule to Define "Waters of the United States"* in January 2016. Dr. Tracy summarized that little has changed and it does not affect the ninth-bullet. The consensus was to read the report and do a second review. Scott Underwood (TCEQ) will email report copies to the rest of the subcommittee.

- Evaluate the implications to groundwater regulation and management, of redefining "Waters of the United States" as proposed by USEPA and the US Corps of Engineers.

Abiy Berehe (TCEQ) announced that before the next meeting, the subcommittee could work by email to modify the Recommendations. Mr. Berehe will coordinate the changes and update the Recommendations at the next meeting. Mr. Berehe announced that the final draft of the Report to the 85th Legislature must be finished by October 2016, to meet the publishing deadline.

#### 4. SET FUTURE MEETING DATE

To accommodate travel schedules, the next meeting on Wednesday March 23, 2016, will start at 1:00 p.m. instead of 1:30 p.m.

#### 5. ANNOUNCEMENTS

There were no announcements.

#### 6. PUBLIC COMMENT

There was no public comment.

#### 7. ADJOURN

By consensus, Abiy Berehe (TCEQ) adjourned the meeting at 2:45 p.m.