

**TEXAS GROUNDWATER PROTECTION COMMITTEE**  
**RECORD OF MEETING**  
**Second Quarter Meeting, Fiscal Year 2002**

Meeting Date: February 21, 2002  
Meeting No.: 51

Place: TNRCC Campus, Building F  
Room: 2210

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## MEETING ATTENDANCE

### TGPC Members

### Affiliation

Mary Ambrose	TNRCC
Richard Ginn	RCT
Stefan Schuster	TWDB
Donnie Dippel	TDA
Rebecca Smyth	BEG
C. Allan Jones	TAES
Lee Parham	TDLR
Ken Ofunrein	TDH
Barry Miller	TAGD
Donna Long	TSSWCB

TDA and TSSWCB members absent at roll call.

### Agency Staff

### Affiliation

### Program

Cary Betz	TNRCC	Technical Analysis Division
Frank Fuller	TNRCC	Policy and Regulations Division
Steve Musick	TNRCC	Technical Analysis Division
Alan Cherepon	TNRCC	Technical Analysis Division
David Parmer	TNRCC	Strategic Environmental Assessment
Greg Tipple	TNRCC	Remediation Division
Abiy Berehe	TNRCC	Technical Analysis Division
Kathy Ramirez	TNRCC	Policy and Regulations Division
Debbie Danford	TDA	Asst. Commissioner's Office
Jeanette Ohare	TDA	Risk Assessment & Toxicology
Auburn Mitchell	TNRCC	Policy and Regulations Division
Chuck Dvorsky	TNRCC	Technical Analysis Division
Chris Chandler	TNRCC	Toxicology and Risk Assessment
Isaac Jackson	TNRCC	Intergovernmental Relations
Sean Ables	TNRCC	Water Supply Division

### Interested Parties

### Affiliation

Jim O'Connor	San Antonio Water System
Ken Kramer	Sierra Club
Julia Marsden	League of Women Voters
Stephen P. Webb	Webb & Webb
Ed Baker	Syngenta

Shelly Botkin  
(21 in audience)

Senate Natural Resources

### MEETING HANDOUTS

1. Agenda
2. Texas Groundwater Protection Committee Record of Meeting - Strategy Worksession
3. Subcommittee Report - Agricultural Chemicals Subcommittee
4. Discussion Draft State Groundwater Protection Strategy Timeline 02/21/02
5. State Groundwater Protection Strategy - Planning and Recommendations Discussion Summary
6. Rules - Texas Groundwater Protection Committee Title 31 - Natural Resources and Conservation Chapter 601 - Groundwater Contamination Report - proposes amendments.
7. Rules - Texas Groundwater Protection Committee Title 31 - Natural Resources and Conservation Chapter 601 - Groundwater Contamination Report - Notice of intention to review.
8. TNRCC Rules Tracking Log
9. Enforcement Status Matrix
10. Proposed Table of Contents - Joint Groundwater Monitoring and Contamination Report -2002
11. Biennial Report to the 78<sup>th</sup> Legislature Volume I ensuring Environmental Quality fro Texans
12. Texas Risk Reduction Program
13. 2002 NWQMC National Monitoring Conference

## MEETING RECORD OF FEBRUARY 21, 2002

### I. Call to Order and Introductions

Mary Ambrose, Designated Chairman of the Texas Groundwater Protection Committee (TGPC), called the FY2002, Second Quarterly Meeting to order at approximately 1:04 p.m., CST.

### II. Subcommittee Reports -

**Agricultural Chemicals** - Steve Musick, TNRCC, Chair. The Agricultural Chemicals Subcommittee held its FY 2002 Second Quarter Meeting on February 21, 2002, at 10:15 a.m. The members were updated on Task Force activities:

Site Selection - TWDB reported that their FY 2002 groundwater sampling/monitoring plans include the Carrizo-Wilcox aquifer and the minor aquifers: the Queen City, the Sparta and the Yegua-Jackson (only recently delineated by the TWDB) and will start in March 2002. TWDB will coordinate pesticide sampling and quality assurance review with the TNRCC and groundwater conservation districts in these areas for atrazine and metolachlor analysis.

SMP Development - No task force activity or report. EPA draft PMP rule status was discussed. TDA noted that SFIREG discussions in December 2001 indicated EPA was holding back for concerns over the possible inclusion of surface water in a final rule and due to lack of state support of the PMP effort. Flexibility and costs are the states' primary concerns. EPA Headquarters has begun an informal outreach effort with the states to assess the noted concerns. Both SFIREG Water Quality Work Group and APCO will hold meetings in the next two months in Washington D.C. TDA anticipates some discussion with EPA Headquarter's staff related to the draft rule and will report back to the ACS.

Best Management Practices - The BMPTF reported on its work developing a BMP educational plan focusing on atrazine and the Panhandle Region to support development of further educational activities on pesticides in that area of the state.

The Subcommittee heard a presentation from LCRA Environmental Laboratory Services on EPA analytical method 525 for pesticides in drinking water. This is the method currently used by the Subcommittee and TNRCC for verification analysis of pesticide screening with immunoassay methods. The Subcommittee heard presentations on preliminary results of recent monitoring efforts and atrazine analyses for the recent sampling trip to the Panhandle. Preliminary results show greater variation in concentrations from previous sampling but no clear trends.

One Committee member encouraged coordination with respect to monitoring activities, and

especially implementation of Best Management Practices, with the Regional Planning groups as they begin developing their scope of work for the next round of planning.

The TDA representative gave a brief update on the status of the Pesticide Management Plan (PMP) process at EPA. John Hines has been brought in by EPA to coordinate PMP activity. States have reported to EPA that the biggest implementation problem is a lack of funds to develop and implement PMPs. Also, the EPA has focused on five herbicides, but these herbicides are not necessarily in use in all states. PMP coordinators for individual states are concerned with having to monitor for the five herbicides in addition to any pesticides that they feel is of concern to their states. States have also been surveyed on their feelings about including surface water PMPs in future rules and planning.

**Data Management** - Cary Betz, TNRCC, representative. The Data Management Subcommittee has not formally met since the last Committee meeting. The solicitation for contributions to the Joint Groundwater Monitoring and Contamination Report was sent out during the second week in January, and submittals are due back February 28, 2002. A business item, approval of the Table of Contents follows later in this meeting.

TNRCC staff has allocated time during the last week in February and the first week in March to compile information for the groundwater component of Texas' contribution to the National Water Quality Inventory (305(b)) Report. The format for this year's report will follow that of previous years, that is, using GIS software to graphically represent data obtained from the TWDB's ambient monitoring program, and is noteworthy because this report will complete the compilation of data from the monitoring cycle for all of the aquifers in the state. EPA has apparently renewed their interest in the groundwater portion of the report, and they are particularly interested in the required tables this round. The format for future reports will probably change, pending new guidance from EPA.

**Abandoned Water Well Closure Task Force** - A well plugging event in Victoria County is scheduled for April 19, 2002. An event in Hamilton County is planned for an early spring date, but this has not been confirmed. The repeat event for Haskell County will likely take place in May or June.

**Groundwater Protection Strategy Work Group** - Frank Fuller (TNRCC) reported that the strategy work group met in worksession in January, and developed some recommendations that will be discussed as a business item later in the meeting.

### **III. Presentation**

**Water for Texas - 2002** - Stefan Schuster, TWDB. Senate Bill 1 was in part the result of the 1996 drought in Texas where 300 communities were critically short of their water supply. A new "bottom-up" approach was desired in developing the water plan, and SB1 gave regional

water planning groups the authority to make their own plans for incorporation into the state plan.

Fifteen planning regions were created, and each region has eleven members on the planning group. Members represent various interests including agriculture, industry, and the general public. Some regions opted for additional members, and in all there are 453 voting and non-voting members across the state, and they held over 900 meetings associated with developing the plan.

The planning process is fairly simple, and looks at projections for population, water supplies and anticipated demands, and then determines needs to develop water management strategies. The biggest challenge was determining the allocation of the population explosion in Texas, or where the 19 million additional people expected over the next 40 years will be living.

Demand projections include increases in agricultural demand and demand for power generation, based on increased population. Conservation efforts have also been incorporated into the demand projections. Increases in demand center mainly around population centers.

Water supplies available in the state are projected to decrease by 19% over the 50 year planning horizon. Surface water's role as a source for supply is increased and strategies to deal with the increased demand and decreased supplies focus heavily on conservation. Additionally, an estimated \$1,000,000,000 is needed for infrastructure improvements statewide, to meet the projected demands.

There has been some international and interstate coordination in developing this plan.

For many, the demand on groundwater has raised the question of management goals: Should aquifers be managed on a sustainable basis or on the basis of eventual depletion? Sustainability may be chosen as the appropriate management philosophy for some aquifers, but in all likelihood it will not be selected for areas such as El Paso and the High Plains where management at sustainable levels would have enormous economic dislocations.

In the plan, TWDB makes the following major policy recommendations with respect to groundwater:

1. TWDB continues to maintain that groundwater management in Texas is best accomplished through local groundwater conservation districts. Further, these districts should be constituted considering both hydrology and the availability of sufficient financial resources to accomplish key management tasks while recognizing existing local governmental entities and mutual local agreements.
2. Groundwater conservation districts and regional water planning groups in a common

groundwater management area should strive to have compatible groundwater management goals.

3. The Legislature should consider requiring groundwater conservation districts to include in their groundwater management plans a management goal quantifying the desired future condition of the aquifer. The future condition could be described using water quantity and water quality parameters.

4. The goal of groundwater management in Texas should be to move toward sustainability, but, because aquifers and the social and economic needs of the State vary from place to place, groundwater availability should be locally or regionally assessed, balancing all interests. This is clearly a situation where one size does not fit all. Groundwater conservation districts and regional water planning groups should determine whether sustainable management is appropriate for their area or whether another management scenario better fits the needs of their locality. The TWDB, working cooperatively with groundwater conservation districts and regional water planning groups, should evaluate, as data become available, the hydrologic, environmental, social, and economic impacts of withdrawal of groundwater at various rates on the basis of the identified management strategies, including the long-term sustainable level if appropriate, for the major and minor aquifers.

5. The Legislature should consider both statutory provisions and financial incentives related to developing viable groundwater/surface water conjunctive use projects in order to use all water resources more efficiently and effectively.

6. Because safeguards for transporters included in Senate Bill 2 (77<sup>th</sup> Legislature) negated the need for Texas Water Code §36.121 and because of the unintended consequences of that section of law, the Legislature should consider repealing Texas Water Code §36.121, which exempts certain existing and planned municipal wells in certain countries from regulation.

7. The Legislature should consider requiring groundwater conservation districts to include in their groundwater management plans provisions to promote and implement programs, such as conservation, recharge enhancements, rainwater harvesting, or brush control, where appropriate and cost effective.

8. Regulatory programs to address abandoned oil and gas wells should be strengthened to minimize the contamination of groundwater supplies.

The complete report is available in .pdf format on the TWDB website -

[http://www.twdb.state.tx.us/publications/reports/State\\_Water\\_Plan/2002/FinalWaterPlan2002.htm](http://www.twdb.state.tx.us/publications/reports/State_Water_Plan/2002/FinalWaterPlan2002.htm)

#### **IV. Business - Discussion & Possible Action**

**Texas Groundwater Protection Strategy** - Frank Fuller, TNRCC. TNRCC staff has been working on developing a draft document for the strategy based on the January 15, 2002 worksession. Members were asked to look at a handout titled Planning and Recommendations - Discussion Summary. These were the “bullets” that were developed during the worksession. Also, from the worksession, the “gaps analyses” were incomplete or missing from each of the draft chapters, and some were duplicative. Another question was whether the Committee would like to include in the strategy recommendations, certain recommendations made in previous reports to the Legislature, but not addressed by legislation. All of these items were proposed for discussion.

TNRCC staff proposes to continue working on a draft document, distribute that draft on April 12, and return during the next meeting or other time in the next quarter to receive recommendations for acceptance or improvements. The document would then be revised and redistributed by May 30 for members to convey to and brief their agency heads. Some time in July would be the target date for publication.

Mary Ambrose then asked the Committee members if any additional recommendations or gaps had been identified since the January worksession. The representative from TAES voiced the concern that there is a real gap in our understanding of groundwater recharge, and that recharge is one of several routes that can contribute contaminants to groundwater. This item is of concern to parties looking at either quality or quantity issues, and would seem to be one of the most important gaps that we have. A research recommendation for this area of study might be in order.

The representative from TDA suggested that prior to moving forward on the Pesticide Management Plan (PMP), review EPA’s efforts to move forward their rule, and if it appears that they are stalled, then revise our PMP to more Texas specific, and less of what EPA has promoted in the past.

**Research Needs Subcommittee - Creation and Charge** - During the strategy worksession an idea was promoted to create a research needs subcommittee and try to tie the research needs of state agencies to the research goals of the universities. The Committee was asked if they would like to go ahead and get this subcommittee going. The question was posed as to whether this subcommittee might serve as a coordinating point for the research needs study groups within the various participating agencies that were recommended for creation in “sunset” evaluations and legislation. At TNRCC, the research needs advisory committee is in the planning stages, and will focus primarily on needs that arise from rule-making activities. At TWDB, such a committee already exists. The Committee elected to have staff come up with a charge for the subcommittee, but members were also requested to be prepared to name potential subcommittee members at the next meeting.

**Joint Groundwater Monitoring and Contamination Report - 2002** - Cary Betz, TNRCC. Committee Members were provided a proposed Table of Contents in their packets. It is nearly identical to the Table of Contents from the report for the previous calendar year, with one major exception, the addition of Appendix 10. Archive of Contamination Cases (table).

Referring to the handout for the Enforcement Status Matrix, Figure 6. Enforcement Status Matrix/Activity Status Codes (found on page 5), there is a high-lighted section that is a portion of the description for activity code 6 - Action Completed. In the course of compiling the data for the Joint Report over the past two years, staff has recognized that cases carrying these three codes, 6C, 6D, and 6E, have been routinely dropped from the report after one year at this status, since these cases are no longer active. However, the definition of these codes indicates that though no further regulatory action is being taken, groundwater resources at the site remain contaminated. Staff believes that the spirit, if not the letter of the statute requires that these cases continue to appear in the report. Staff proposes to include as an appendix, all of the cases from previous reports that have been dropped carrying these three status codes, along with the year of the report in which they last appeared, and a reiteration of the definitions of the status codes. In this way, they can be maintained as sites of historic contamination that may still have contaminated groundwater present, but they will not appear in the active case database.

Staff sought approval from the Committee to add this table, and appropriate explanatory text, to the report. Comments were made that it would be good to have data on completed cases, "success stories" available, not necessarily published in the report, but accessible in some way. Also, data in Appendix 10 should also carry information on how interested parties can find more information on these cases. RCT moved to add Appendix 10, with provision to add sentences explaining where to find sources of information on the historical cases. TNRCC provided a second. Motion passed without opposition. The table of contents was also moved on for approval by the Chair, with a second by TSSWCB. Motion to approve table of contents was passed with no opposition.

**Notice of intent to review and propose the readoption of 31 Texas Administrative Code Chapter 601, Groundwater Contamination Report and to propose amendments to 31 TAC §§601.2, 601.3, and 601.5.** - Auburn Mitchell, TNRCC. Amendments to TGPC rules propose to add a new member, the Texas Department of Licensing and Regulation, Water Well Drillers and Pump Installers Program, as stipulated in state law, and revise the name of the Texas Natural Resource Conservation Commission to the Texas Commission on Environmental Quality, which will become effective September 1, 2002. The proposed changes, if approved by the Committee, will be finalized and sent to the Texas Register for publication, and a 30 day comment period. Adoption will take place during the fourth quarter of this fiscal year.

The legislature has required agencies to examine their rules on a four year cycle, to determine if a need for the rules still exists. The second item therefore, is the notice of intent to review the Committee's rules and, finding them still necessary, propose readoption. The Committee's

rules were last examined four years ago, and were revised at that time to more closely follow the pertinent statutes.

TNRCC made motion for the Committee to approve the publication of the quadrennial rules review for the TGPC rules, with a second by TAGD. There was no discussion, and the motion passed without opposition. TNRCC then made a motion for the Committee to propose to the Texas Register amendments to Chapter 601, Title 31 of the Natural Resources Code, as proposed by staff. RCT provided a second. There was no discussion and the motion passed without opposition.

**Next meeting date:** May 16, 2002, 1:00 p.m. TNRCC Campus.

## V. **Information Exchange for Groundwater Related Activities/Status Update**

**TNRCC Strategic Environmental Assessment (SEA) Group** - the SEA group started a study of three special issues that include groundwater and nonpoint source pollution in January of 2001. Staff diverted their attention to the TNRCC's strategic plan late last year, but the information that had been compiled up to that point has been put into a report. The draft report will go up on the TNRCC web site later this month. The groundwater portion basically states that Texas has adequate supplies to meet the immediate needs of the state, but the use of future supplies will depend upon our ability to characterize the quality of that groundwater. For the report, staff analyzed four constituents from the TWDB ambient groundwater database, nitrate, arsenic, radioactivity, and Total Dissolved Solids (TDS). Elevated nitrate levels were observed to be widespread across the state, with 24% of water wells sampled statewide exceeding the Maximum Contaminant Level (MCL) for nitrate. The data are inadequate to make determinations as to the causes of these levels.

Additionally, 8% of the wells exceed the new EPA standard for arsenic. In the year 2000, a USGS study stated that we had no real problems with arsenic, however, data from our Public Drinking Water program indicated a much larger problem than was represented by the USGS study, and the TWDB data confirmed the expectations from the Public Drinking Water data. Arsenic is typically associated with uranium bearing ores, but the presence of arsenic may also be the result of the use of arsenic compounds as defoliants in the cotton growing industry. Arsenic reports from existing programs are not up-to-date and do not reflect the state's situation with respect to the distribution of arsenic in groundwater. There should be more work done on updating reports and response activities.

Nine percent of the wells exceeded the new radioactivity standards. In some cases, the standards are not new, but EPA has proposed that the values be calculated in a different way. These changes will result in an estimated one million people affected by drinking water systems that will be in violation of the new standards. Compliance with the standards doesn't appear to be a real technical problem, except for some smaller systems, but the treatment processes do

produce a substantial quantity of waste laden with Naturally Occurring Radioactive Materials (NORMs). Again, published literature on this subject is inadequate.

Twenty-two percent of the wells sampled exceed secondary drinking water standards for TDS. Some areas of the state will experience a greater effect than others. From the data, more private wells are affected than public water supply wells.

Contaminated site data shows a decline in recent years, which may be an “artifact” due to the reduction in effort in the remediation of petroleum storage tanks. Much of the data available on contaminated sites is not available for the type of analyses done in conjunction with this study, as they are paper files, and not electronic data.

TNRCC will be taking comments on the study.

**Report to the 78<sup>th</sup> Legislature** - The Chair gave advanced notice for members that the process of preparing the report and recommendations to the 78<sup>th</sup> Legislature is about to begin. Members were asked to consider who would represent their agencies on the Legislative Report Subcommittee, that will develop the actual document. If we have more than six members or their designated representatives that wish to serve on the Subcommittee, then a quorum of the TGPC will be present, and deliberations will be handled at a full Committee meeting. Members are asked to provide names at the next meeting. The goal for completion is October, 2002.

**Texas Risk Reduction Program** - Greg Tipple, TNRCC. The TNRCC’s Texas Risk Reduction Program (TRRP) is an overarching program, that is risk based, and covers the Municipal Solid Waste, Industrial and Hazardous Waste, Superfund, and Voluntary Cleanup programs at present, and will extend to the Petroleum Storage Tank program in 2003. A brief chronologic history of the program was provided, and showed that the rules were adopted in 1999 and became effective in 2000. Also provided was a status report on guidance documents and standardized report forms.

Members of the Committee might be most interested in the “Remedy Standards” publications, TRRP-28 Application of Remedy Standards A and B, and TRRP-29 Soil and Groundwater Response Objectives. These may be obtained through the TNRCC website. Mentioned specifically is the latest publication *Guidance for Conducting Ecological Risk Assessments at Remediation Sites in Texas* RG-263. The standards adopted by this program are not only protective of human health, but also of ecological receptors.

## **VI. Announcements**

**TNRCC Rule Tracking Log** - Kathy Ramirez, TNRCC. Calling attention to quadrennial

review on Chapter 213, Edwards Aquifer; Chapter 285, Onsite Sewage Facilities does not appear in the rule tracking log yet, but is in the preliminary stages; Chapter 290, Public Drinking Water, is also not on the rule log yet.

The Edwards Aquifer Protection Plan 30 Day Comment Period rule log number 2001-086-213-WT, this rule went to proposal on February 13, 2002, with the comment period ending on April 15, 2002. This rule will provide for a 30 day comment period for Contributing Zone Plans under subchapter B, and proposes to eliminate the 16 day approval for a Contributing Zone Plan, and replace it with a 90 day approval.

Multiple Onsite Sewage Facility Systems on One Tract of Land rule log number 2001-096-285WT also went to proposal on February 13, 2002, with comment period closing on April 1, 2002, and has a projected adoption date of July 10, 2002.

Radionuclide Standards for Drinking Water rule log number 2001-022-290-WT. Proposal date of May 8, 2002, and comment period closing June 24, 2002

Technical Corrections to be Made to Chapter 290 rule log 2001-008-290-WT. Commission adopted major revisions to this chapter in November 2001, and after adoption, several typographical and grammatical errors were discovered, and this action seeks to address these errors. Additionally, additional federal rules, legislation from the 77<sup>th</sup> Legislative Session, and rules from the Safe Drinking Water Act will be incorporated as well. Proposal date was January 15, 2002, with comment period closing March 4, 2002.

Groundwater Conservation Management rule log number 2001-094-294-WT. Rule will amend Chapters 293 and 294, and will change the agencies process for creation of groundwater conservation districts, enforcement options and procedures relating to planning groundwater conservation district management. Chapter 294 will be amended to reflect transfer of authority to designate Groundwater Management Areas to TWDB, as required by SB2 of the 77<sup>th</sup> Legislature. Proposal date of April 2002.

Permits for Class B Sludge Use rule log number 2001-083-312-WT. Implements Section 905 of HB 2912, requiring Class B sludge to be only land applied at permitted as opposed to registered facilities after September 1, 2003. Proposal date April 10, 2002, with comment period closing May 28, 2002.

Injection Well Ban for the Edwards Aquifer rule log number 2001-093-331-WS. Prohibits authorization of any injection well that transects or terminates in the Edwards Aquifer, with certain exceptions. Proposal date in March, 2002, with comment period closing May 13, 2002.

Groundwater Management Area rules were adopted February 13, 2002, and will be published

in the Texas Register March 1, 2002, with an effective date of March 7, 2002.

**Publications** - Biennial Report to the 78<sup>th</sup> Legislature Volume I - Ensuring Environmental Quality for Texans - TNRCC FY 2001

**Upcoming Conferences** - National Water Quality Monitoring Council, May 20-23, 2002, Madison Wisconsin.

Interstate Technology and Regulatory Cooperation, March 4-7, 2002, Salt Lake City Utah.

ASIWPCA March 10-13, 2002, and ASDWA March 13-15, joint meeting in Alexandria Virginia.

SFIREG working group for water meeting April 29-30, 2002, Arlington Virginia.

RCT Oil and Gas Division has a couple of rulemaking efforts in the proposal stage. An amendment to Statewide Rule 3.94 on the regulation of oil and gas NORM addresses SB 1338 requirements for surveys of oil and gas equipment for the presence of NORM. Rulemaking published in the Texas Register February 8, 2002. The proposed Voluntary Cleanup Rule which is quite comparable to the TNRCC Voluntary Cleanup Program, the result of authorization provided by SB 310. Both rules are on the RCT website.

High-Plains Conference March 4, 2002, in Lubbock. Covers the people, water and economics of the High-Plains.

TWDB has three new board members appointed this week - Thomas Weir Labatt III, San Antonio, Dario Vidal Guerra, Jr., Edinburg, E.G. Rod Pittman, Lufkin. Wales Madden is the new Chair. Craig Pedersen, Executive Administrator, will resign from the agency effective the end of April, 2002.

TAGD reports that districts are proliferating, and looking forward to better times.

Ground Water Protection Council is meeting April 7-9, 2002, in Alexandria Virginia.

Texas Water Conservation Association is meeting March 7-8, 2002, in Dallas.

## **VII. Public Comment**

None

## **VIII. Adjourn**

Chair Mary Ambrose adjourned meeting at approximately 3:13 p.m., CST.

Respectfully submitted,