

## **Texas Groundwater Protection Committee**

Record of Meeting

Third Quarter Meeting, Fiscal Year 1996

Meeting Date: May 23, 1996

Place: Building F, TNRCC, Park 35 Meeting No.: 27 Room: 2210

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### ATTENDANCE

<b>Committee Members</b>	<b>Affiliation</b>
Mary Ambrose	TNRCC
Phil Nordstrom	TWDB
Richard Ginn	RCT
Donnie Dippel	TDA
James Moore	TSSWCD
Wayne Jordan	TAES
Bill Mullican	BEG
Bill Couch	TAGD

### Guest Speaker

Scott Crouch, TNRCC, Pollution Cleanup Division

<b>Agency Staff</b>	<b>Affiliation</b>	<b>Program</b>
Steve Musick, Designated Secretary	TNRCC	WP&A/Ground-Water Assessment
Kelly Mills	TNRCC	WP&A/Ground-Water Assessment
Cary Betz	TNRCC	WP&A/Ground-Water Assessment
Robert Blodgett	TNRCC	WU/Public Drinking Water
Marilyn Long	TNRCC	MSW/Groundwater
Anne Miller	TNRCC	PST/Resp. Party Remediation
Ambrose Charles	TDA	
Jeanette O'Hare	TDA	

### Interested Parties

	<b>Affiliation</b>
Denise Rhodes	Consultant, Austin
Miyoung Hammond	San Antonio Water System
Erick Krummen (?)	Champion Int. Corp.

### COMMITTEE HANDOUTS

1. Meeting Agenda
2. March 25, 1996 letter to EPA Region 6 for the transmittal of the generic SMP
3. Data Management Subcommittee Charge
4. Ground-Water NPS Workgroup Update and draft charge
5. Voluntary Cleanup Program materials
6. TGPC Report to the 74th Legislature

7. Abandoned Well-Closure Task Force draft charge
8. CEC call for proposals for NEFEC
9. Watershed Management: Challenges and Innovations conference announcement

## **MEETING RECORD OF MAY 23, 1996**

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

Mary Ambrose, TNRCC, Designated Chairman of the Committee, called the meeting to order at 2:08 p.m and introduced Bill Mullican, the BEG's new representative on the Committee. The representative from the Texas Department of Health was not present. A copy of the meeting's agenda was provided as Handout #1.

### **II. SUBCOMMITTEE REPORTS**

#### **Agricultural Chemicals**

The Chair called on Steve Musick, TNRCC, Chairman of the subcommittee, to present the subcommittee's report. Mr. Musick reported that the subcommittee held its third quarter meeting the morning of May 23, 1996. The subcommittee heard task force reports. No presentations were conducted. The main item of discussion during the subcommittee's meeting was information exchange on current issues.

Highlights of the meeting included: the quality assurance plan for atrazine monitoring has been re-approved for this fiscal year; the irrigation season is currently underway, and some atrazine sampling has been scheduled; the Education Task Force is most active; and the generic SMP has been submitted to EPA Region 6 for concurrence/approval. Mr. Musick provided a copy of the March 25, 1996 letter to Jerry Collins at EPA Region 6 for the transmittal of the generic SMP (Handout 2).

#### **Data Management**

The Chair called on Mr. Musick to provide the Data Management Subcommittee's report. Mr. Musick provided the subcommittee's charge (Handout 3) as approved by the Committee in December 1995. George Ozuna, USGS San Antonio, has agreed to Chair the subcommittee. The purpose of the subcommittee is: to develop a methodology for the assessment of the state's aquifers; to review the joint report and the ground-water assessment section of the federal 305(b) report; to make recommendations for improvements of programs or needed legislation to the full Committee; and, to serve as in the process of updating the state's ground-water protection strategy.

#### **Nonpoint Source**

The Chair presented the Nonpoint Source Subcommittee's report in Margaret Hart's absence. Ms. Hart had supplied Handout 4, consisting of a Ground-Water NPS Workgroup Update and a draft

charge for the workgroup. The Chair noted the EPA 319(h) grant process for federal fiscal year 1997 is underway. TSSWCB and TNRCC are reviewing proposals and will submit draft work plans to EPA in June. The final award is scheduled for November 1996. The update of the Texas Nonpoint Source Assessment Report and the TNRCC Nonpoint Source Management Plan is continuing.

Next, the Chair discussed the formal charge for the NPS workgroup. The Chair noted that the workgroup's chair was shared between the TSSWCB (Beade Northcutt) and the TNRCC (Margaret Hart) and also noted that TAES (Wayne Jordan) has inadvertently been left off of the review group listing. The purpose of the workgroup is to further the institutionalization of the NPS program in Texas and to provide support and guidance for the NPS management policy of the state. This purpose will satisfy EPA's goal of an interagency NPS workgroup for ground-water issues. The workgroup will coordinate and provide input for the annual NPS effectiveness report to EPA; coordinate, update, and guide the state NPS assessment of ground-water conditions and NPS management strategy for ground-water resources; and facilitate the review and submission of project proposals for the annual EPA 319(h) funding cycle.

### **III. PRESENTATION**

#### **Voluntary Cleanup Program - Scott Crouch, TNRCC, Pollution Cleanup Division**

The Chair introduced Scott Crouch with the TNRCC's Pollution Cleanup Division. Mr. Crouch provided a set of materials (Handout 5) to the members. Materials included: two TNRCC public notices for the availability of Texas Risk Reduction Program conceptual document; the table of contents for the Texas Risk Reduction Program conceptual document; and the Texas Risk Reduction Program conceptual document.

Mr. Crouch described brownfields as abandoned or underutilized commercial and industrial sites where real or perceived contamination stops redevelopment; or abandoned or underutilized recreational or residential sites where real or perceived contamination stops community growth or beneficial use. Barriers to progress in brownfields include; CERCLA and state superfund future liability which is transferred to lenders, developers, or future landowners; the lengthy review and approval of response actions; TNRCC's "worst sites first" review priority; it is cheaper to build on "greenfields"; and, the trained workforce has moved away from brownfield area.

The Voluntary Cleanup Program (VCP) is established by law (House Bill 2296, 74th Legislature - Texas Solid Waste Disposal Act - Subchapter S, Chapter 361, Texas Health and Safety Code), and implemented by rule (Title 30 Texas Administrative Code, Chapter 333 - Voluntary Cleanup Program). The program is steered through TNRCC guidance for initiating and reporting response actions. Response action is defined by law as the cleanup or removal of a hazardous substance or contaminant. Change in land use is defined by rule as a change from a less protective risk classification to a more protective classification or not maintaining controls or remediation systems as set out in a certificate of completion. By rule, completion is defined as no more response actions are necessary or the applicant is satisfactorily maintaining controls or remediation systems. By rule, a partial response action is defined as response action limited to an

areal portion of the site and off-site areas, if any (contaminated due to releases from the partial response action area).

By law, the purpose of the VCP is to provide incentives to remediate property by removing lenders and future landowner's liability. The purpose, by rule, is to provide a process by which voluntary response actions can be completed in a timely and efficient manner. Eligibility, by law, includes any site not subject to a TNRCC permit or order. "Subject to a permit", by rule, includes hazardous waste facilities operating under interim status.

Application to the VCP, by law, is on a first come first served basis. An application form, environmental site assessment, and \$1,000.00 application fee must be submitted. By rule, the VCP must accept or reject the application within 45 days of receipt. No enforcement action may be initiated during the application review period. By law, an application may be rejected if: enforcement is pending concerning site remediation, a federal grant requires enforcement action, or the application is not complete or accurate. By rule, an application for a State Superfund site may be rejected if all cost recoverable by the state are not paid in full at the time of application submittal.

In a non-binding agreement, by law, the TNRCC recovers all costs at \$60.80 per hour (FY 1996), identifies all statutes and rules required for cleanup, describes a work schedule for all cleanup activities, and may not initiate enforcement action. By rule, both the applicant and the TNRCC must sign an agreement prior to implementing response actions, except for emergency measures. If response actions were initiated or completed prior to the effective date of the rule, the Executive Director may allow a site to enter the VCP. Enforcement action authority is retained for areas not included in a partial response action.

By law, work plans and reports must meet technical requirements for statutes and rules identified in the agreement. Partial response actions are allowed if completed correctly. By rule, focused investigations are allowed if appropriate. Exceptions for addressing a site include: source of contamination from off-site (may only address on-site contamination) and migration of contamination on-site, but outside the partial response action area (may address only partial response action area).

By law, state and local permits for remediation are not required. By rule, all media exceeding health-based cleanup levels must be addressed (except areal limitations of partial response actions). The response action must meet the response action objectives. State or local permits for remediation are not required; however, federal and state substantive requirements, criterion, standards, or limitations of such permits must be met.

By law, a certificate of completion acknowledges liability protection, proposes future land use, requires a legal property description, and must be filed by the Executive Director into the property records. By rule, a final certificate of completion is issued by the Executive Director once no further action is demonstrated. A conditional certificate of completion is issued once control measures or remediation systems are demonstrated as satisfactorily maintained. Partial response actions require a legal description of the subject area. The applicant may file the certificate of completion on the executive director's behalf into site deed record and may file a

deed record statement that the certificate of completion supersedes prior deed certification requirements.

By law, applicants (not responsible parties on the date of application submittal) and all future owners and lenders (not responsible parties prior to issuance of the certificate of completion) are released from liability. Exceptions are when acquired by fraud, misrepresentation, or knowing failure to disclose material information; and land use change to one which increases risk to human health or environment. Federal assurances include memorandums of agreement and prospective purchaser agreement.

By rule, deed certification is required when actions do not achieve residential health-based levels in all media of concern or rely upon institutional or engineering controls. Filing certificate of completion into the deed record satisfies requirements of TAC Chapter 334 and 335 for areas covered by the certificate. By rule, notification is required to all affected property owners and interest holders. Notice is required to be given within two weeks of initial discovery of off-site contamination above residential risk-based levels. Notice is required to be given within two weeks of TNRCC approval of investigation report if off-site contamination is at or below the residential risk-based levels.

#### **IV. BUSINESS - DISCUSSION AND POSSIBLE ACTION**

##### **Committee Report to the 75th Legislature**

The Chair provided a copy of the Committee's report to the 74th Legislature (Handout 6) and advised the Committee that it was time to start preparing the Committee's report to the 75th Legislature. The Chair said she would like to have the finalized (i.e., printed) document completed by the beginning of December. Major sections of the report which will change are: major accomplishments, ground-water protection strategy, and recommendations to the legislature. The Chair proposed setting up a subcommittee or working group to prepare the report. Donnie Demple moved to establish a legislative report subcommittee. The motion was seconded. It was questioned how many members were needed on the subcommittee. The Chair responded that one member of each agency should serve on the subcommittee. Wayne Jordan asked that the subcommittee meetings be scheduled at 1:00 pm, immediately preceding regularly scheduled Committee meetings. The Chair responded that subcommittee meeting could be scheduled at that time. A vote was taken, and the motion to establish the Legislative Subcommittee was passed.

##### **Set Future Meeting Dates**

The Chair led a discussion to set a date for the Fiscal Year 1996 fourth quarter meeting. Richard Ginn said the RCT would not be available on any Tuesdays or the third Wednesday of any month. A consensus was reached to hold the third quarter meeting on August 22, 1996.

#### **V. INFORMATION EXCHANGE FOR GROUND-WATER RELATED ACTIVITIES/STATUS UPDATE**

## **CSGWPP Development Status**

The Chair called on Mr. Musick to update the Committee on CSGWPP. Mr. Musick reported that EPA's response to CSGWPP streamlining concerns has led to the formation of a working group to address the issue. The group is composed of EPA Headquarters personnel, EPA Region personnel, and state representatives. Mr. Musick is on the working group will participate in a scheduled conference call to discuss the issue.

Of the states in EPA Region 6, Oklahoma has been chosen as the first CSGWPP core submittal. The Oklahoma CSGWPP was submitted to EPA Headquarters and they have completed their review. Problematic issues with Oklahoma's program have been resolved between EPA and the state. The Oklahoma program has been submitted to the Assistant Administrator. Oklahoma's program should be approved in the fall, and will be one of only five programs approved nationwide.

## **Outreach Efforts - Abandoned Well Plugging Educational Initiative**

The Chair again called on Mr. Musick to provide the status of the abandoned well plugging outreach effort. Mr. Musick provided a draft charge for the working group (Handout 7).

## **Annual Joint Groundwater Monitoring and Contamination Report Preparation**

The Chair called on Kelly Mills, TNRCC, to provide an update on the status of the preparation of the annual joint report. Mr. Mills reported the final draft of the report was submitted into the new TNRCC Public Information and Publication Division (PI&PD) publication process on April 25, 1996. This draft of the report had been through section and division level review. PI&PD staff signed-off on the report on May 17, 1996, and forwarded the report to the TNRCC Print Shop on May 21, 1996. Mr. Mills expected the report to be back from the printshop around the middle of June 1996, for distribution to: the Committee's mailing list, the groundwater conservation districts, the Legislative Library, county judges, county health officials, and agency staff as directed. Mr. Mills said efforts to load the report to the TNRCC Internet server, with the tables attached as pdf or dbf files, will follow publication and distribution efforts.

In referring back to the Committee's report to the 75th Legislature, Mr. Mills noted that the time required to get documents through the TNRCC publication process should be anticipated, and that the subcommittee's efforts should acknowledge the time-lag between the final draft and actual printing.

## **Draft Texas Ground-Water Program Directory**

The Chair called on Mr. Mills to provide an update on the production of the Texas Ground-Water Program Directory. Mr. Mills reported that final comments from the TWDB had been incorporated and that the directory was currently in the TNRCC publication process.

The Chair asked Mr. Mills to give the status of the Texas Ground-Water Data Dictionary. Mr. Mills reported that the data dictionary was also in the publication process. Mr. Mills said

hopefully that all publication efforts with the data dictionary and the program directory would be completed this quarter.

### **Update on SMP**

The Chair called on Mr. Musick for further information related to the SMP. Mr. Musick said he had nothing further to add.

## **VI. ANNOUNCEMENTS**

The Chair restated information presented earlier in the meeting relating to the conceptual document and the development of proposed rules for the Texas Risk Reduction Program. The development of the Risk Reduction Program and subsequent rules is a very high priority issue with the Commission. Public comment on the issues and concepts presented in the conceptual document will be accepted until June 18, 1996. A public meeting will be conducted at the TNRCC on June 11, 1996. Following the public meeting and comment period, a second conceptual document will be released for public comments. Rules are tentatively scheduled to be proposed in early September and final rule adoption is anticipated before the end of the calendar year. Further information is available through the TNRCC's bulletin board service (512/239-7000), the agency's homepage on the Internet's World Wide Web, and at the commission's office in Austin.

The Chair announced the Water Environment Association of Texas' Southwest Ground Water Symposium. The symposium will offer topics on: contaminant fate and transport, confined animal feeding operations, potable water supply wells, air sparging, defense base cleanup, regional aquifer management, soil vapor extraction, wellhead protection, pump and treat, and well field management. The symposium will be held on Lubbock on June 20 & 21, 1996.

The Chair also announced the Commission For Environmental Cooperation's (CEC) call for preproposals for the North American Fund For Environmental Cooperation (NAFEC). The information was provided as Handout 8. Further information may be obtained on the CEC's Internet Homepage at <http://www.cec.org> or by contacting NAFEC at (514- 350-4357 or by e-mail at [MAFEC@cceintl.org](mailto:MAFEC@cceintl.org). The preproposal deadline is June 3, 1996.

Phil Nordstrom announced three new publications by the Board:

Aquifers of Texas, TWDB Report No. 345, November 1995;

Hydrologic Atlas No. 3 - Water Quality in the Edwards-Trinity Plateau Aquifer - Edwards Plateau and Trans-Pecos Texas, Hopkins, J., 1995;

and Hydrologic Atlas No. 4 - Water Quality in the Woodbine Aquifer, Texas, Hopkins, J, 1996. (publication pending)

Mr. Nordstrom announced the Texas Water Monitoring Congress. The goal of the conference is "To communicate to technical staff, policy and decision makers, and the public, the status and

need for systematic hydrologic (surface-water, ground-water, and water quality/aquatic biology) data collection in Texas". The conference will be held in Austin from September 9 - 11, 1996. Information is available on the Internet Homepage <http://txwww.cr.usgs.gov/txwmc/>

Mr. Nordstrom also announced that information regarding the drought can be located on the Board's Internet Homepage at [http://www.twdb.texas.gov/www/twdb/twdb\\_hp.html](http://www.twdb.texas.gov/www/twdb/twdb_hp.html).

Mr. Couch announced the NPS Conference Watershed Management: Challenges and Innovations (Handout 9). The conference is presented by the Barton Springs/Edwards Aquifer Conservation District (BS/EACD) and will be held in Austin July 24-26, 1996. The conference will give planners, scientists, engineers, government and elected officials, and citizens concerned about water quality and the effects of nonpoint source pollution an opportunity to learn about the challenges confronting today's water resource managers. For more information contact Robert Botto with the BS/EACD at (512) 282-8441.

Dr. Jordan announced the conference Integrated Management of Surface and Ground Water, sponsored by The Universities Council on Water Resources. The goal of the conference is to explore concepts and experiences that promote efficient use and protection of the total water resources within watersheds. The conference is scheduled to include a technical tour of the Edwards Aquifer region and a workshop on risk analysis. The conference will be held in San Antonio from July 30 to August 2, 1996. Further information may be obtained by contacting Dr. Jordan at (409) 845-1851 or by e-mail at [twri@twri.tamu.edu](mailto:twri@twri.tamu.edu).

Mr. Musick announced the 1996 Ground Water Protection Council Annual Forum, A Stakeholders Conference on: Ground Water, Watershed, Source Water, Wellhead Protection, and Underground Injection Control. The Annual Forum will be held in St. Paul Minnesota from September 22-25, 1996.

Bob Blodgett, TNRCC, announced the Water Utilities Division was tracking drought related information as it pertains to public water supply systems on the agency's World Wide Webb Homepage. Information is available for public water supply systems which are being affected by the drought.

## **VII. PUBLIC COMMENT**

None

## **VIII. ADJOURN**

The Chair adjourned the third quarter meeting at 3:35 p.m.

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Prepared by: Steve Musick