

TEXAS GROUNDWATER PROTECTION COMMITTEE
RECORD OF MEETING
First Quarter Meeting, Fiscal Year 2001

Meeting Date: October 26, 2000
Meeting No.: 45

Place: TNRCC, Building F
Room: 2210

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MEETING ATTENDANCE

TGPC Members

Mary Ambrose	TNRCC
Leslie Savage	RCT
Stefan Schuster	TWDB
C. Allan Jones	TAES
Donnie Dippel	TDA
Lee Parham	TDLR
Alan Dutton	BEG
Barry Miller	TAGD
Alan Morris	TDH
Kevin Wagner	TSSWCB

Agency Staff

<u>Affiliation</u>	<u>Program</u>	
Cary Betz	TNRCC	Technical Analysis Division
Frank Fuller	TNRCC	Policy and Regulatory Division
Alan Cherepon	TNRCC	Technical Analysis Division
Steve Musick	TNRCC	Technical Analysis Division
Guy Henry	TNRCC	Legal Services
Randy Wood	TNRCC	Office of Environmental Policy, Analysis and Assessment
David Parmer	TNRCC	Strategic Environmental Assessment
Minor Hibbs	TNRCC	Strategic Environmental Assessment
Robby Ozment	TNRCC	Water Permitting
Janie Hopkins	TWDB	
Bruce Lesikar	TAEX	
Jeanette O'Hare	TDA	
Mary Ketchersid	TAES	
Tommy Knowles	TWDB	
Stovy Bowlin	BSEACD	
Thomas Weber	TNRCC	Strategic Environmental Assessment
Kerry Nieman	TNRCC	Field Operations
Jackie Hardee	TNRCC	Remediation Division
Glenda Champagne	TNRCC	Remediation Division
Isaac Jackson	TNRCC	Intergovernmental Relations

Interested Parties

<u>Affiliation</u>	
Lynne Fahlquist	USGS
Lisa Perrine	Comal County Citizen
Cal Perrine	Comal County Citizen
Scott Tiller	MFG Inc.
Two Unidentified, one observing from TxDOT. (27 in audience)	

MEETING HANDOUTS

1. Agenda.
2. Agricultural Chemicals Subcommittee Report.
3. Amended Rule Review Plan.
4. Draft Activities of the Texas Groundwater Protection Committee Report to the 77th Legislature.
5. Analysis: TGPC Legislative Recommendation and Legislative Action.
6. Groundwater Data Management Subcommittee Charge.
7. Priority Groundwater Management Area Process Simplification.
8. Federal Register/ Vol. 65, No. 195 pages 59840-1.
9. TNRCC Rules Tracking Log.
10. Federal Register/ Vol. 65, No. 201 pages 61325-6.
11. Texas Groundwater Protection Committee - Abandoned Water Well Fact Sheet/Testimony, House Natural Resource Committee, Subcommittee on Abandoned Water Wells 9/18/2000 Hearing.
12. Texas Groundwater Protection Committee Legislative Subcommittee draft recommendations.
13. Texas Groundwater Protection Committee Legislative Subcommittee draft recommendations summary.
14. Proposed draft of language combining Texas Groundwater Protection Committee Legislative Subcommittee recommendations on Groundwater Conservation Education and Water Education Program Needs.
15. Future of Groundwater Management in Texas - A Consensus Building Effort, May 2, 2000 through August 31, 2000.

MEETING RECORD OF OCTOBER 26, 2000

I. Call to Order and Introductions

Mary Ambrose, Designated Chairman of the Texas Groundwater Protection Committee (TGPC), called the FY2001, First Quarter Meeting to order at 1:06 p.m. Dr. C. Allan Jones (TAEX) and Barry Miller (TAGD) were still in a Data Evaluation and Interpretation Task Force meeting for the Agricultural Chemicals Subcommittee. Dr. Stovy Bowlin substituted during roll call for Mr. Miller, who arrived at approximately 1:15 p.m. with Dr. Jones.

II. Subcommittee Reports -

Agricultural Chemicals - Steve Musick, TNRCC, Chair.

The Agricultural Chemicals Subcommittee (ACS) held its FY 2001 First Quarter Meeting on October 26, 2000, at 10:15 a.m. A new member, Dr. C. Allan Jones, from the Water Resources Institute replaced Dr. Wayne Jordan as the member representative from the Texas Agricultural Experiment Station.

The members were updated on Task Force activities:

Site Selection - TWDB reported on the status of their FY 2000 groundwater sampling/monitoring in the Texas Panhandle. Over 800 wells have been sampled to date with over 600 collected by the TWDB and the remainder by the High Plains UWCD. TNRCC staff have coordinated atrazine analysis with the TWDB well sampling effort. Preliminary results show a small percentage of the samples with low level atrazine detections. There has been no lab confirmation or resampling of wells with detects.

Data Evaluation and Interpretation - A meeting is scheduled for October 26, 2000, at 11:15 a.m. to review and discuss the preliminary reports and investigations for the atrazine detects at the cities of Tulia and Dimmit.

Best Management Practices (BMPTF) - The ACS charged the BMPTF to review and comment on EPA's recent Federal Register announcement and request for comment on a new "Guidance for Controlling Nonpoint Source Pollution from Agriculture".

The ACS members were briefed and approved the FY 01 Atrazine Monitoring Plan. Eight monitoring projects were identified in order of priority. High priority projects include: completion of the Panhandle cooperative sampling and atrazine analysis project with the TWDB and High Plains UWCD and additional cooperative efforts with the TWDB for aquifers in the Hill Country, Brazos River Basin and Gulf Coast, as

appropriate based on pesticide use; contamination response investigation for the city of Plainview Public Water Supply System atrazine detects; continued monitoring support as needed for current contamination response investigations for the cities of Tulia and Dimmit; and semiannual followup monitoring for the city of Friona.

ACS review and approval of the Generic PMP for publication is complete and the publication is being formatted. TNRCC put out a press release on EPA's concurrence and the PMP, coordinated with participating agencies.

Data Management - Cary Betz, TNRCC, Chair. This subcommittee did not meet during the quarter. Mr. Betz indicated that staff had two agenda items in support of the subcommittee, and that discussions about the subcommittee's activities may be discussed during these items.

Non-Point Source - Kevin Wagner, TSSWCB, Chair.

No meeting this quarter. Subcommittee Chair recommends consideration by the Committee that the subcommittee be disbanded until such time as it is again needed. The recommendation was acknowledged by TGPC Chair, Mary Ambrose. There is some degree of overlap with the Agricultural Chemicals Subcommittee, and Subcommittee Chair, who is also a member of the Agricultural Chemicals Subcommittee, defers to the Best Management Practice Task Force of the Agricultural Chemicals Subcommittee to review and comment on EPA's recent Federal Register announcement and request for comment on a new "Guidance for Controlling Nonpoint Source Pollution from Agriculture".

Abandoned Water Well Closure Task Force - Bruce Lesikar, TAEX, Chair.

No report given during this meeting. A full report will be given during the next meeting.

Legislative Report Subcommittee - Frank Fuller, TNRCC, Subcommittee Member.

No meetings were held. Subcommittee recommendations are to be considered for approval under business items later in agenda.

III. Presentation - Future of Groundwater Management in Texas - A Consensus Building Effort, May 2, 2000 through August 31, 2000

Dr. Tommy Knowles, Texas Water Development Board

In the spring of 2000, the Texas Water Development Board funded a study to work with stakeholders to build consensus recommendations for improving future groundwater management in Texas. The initial meeting of stakeholders included approximately 200 interested parties in a forum which provided an overview of the issues and breakout sessions to discuss specific issues related to groundwater management in the state.

Ultimately, 32 participants were "self-selected" from the stakeholder group, to participate in a series of "self-directed" meetings throughout the summer, with Texas Water

Development Board facilitating. Five issues were initially identified that the participants felt they could develop consensus recommendations to resolve.

A final meeting was held August 30th and 31st, to agree to final recommendations to be included in the report. The final recommendations address the following issues related to the future of groundwater management in Texas:

16. Science
17. Boundaries, Coordination and Cooperation: Management Areas and Priority Groundwater Management Areas
18. Boundaries, Coordination and Cooperation: Joint Planning
19. Exemptions
20. District Funding
21. Water Marketing and Exports
22. Conservation and Drought Condition Planning

The final report is now available, with dissenting opinions, at the Texas Water Development Board website at "<http://www.twdb.state.tx.us/>".

IV. Business - Discussion & Possible Action

TGPC Legislative Report - Discussion/Approval of Legislative Recommendation and Report

Steve Musick and Frank Fuller (TNRCC) provided a status update. Mr. Musick has received comment from Richard Ginn (RCT), Lee Parham (TDLR) and C. Allan Jones (TAES). These comments were incorporated into the draft report, except for Dr. Jones, as there was not time to include them before the draft report handout was printed earlier today. Frank Fuller identified the handout "TGPC Legislative Subcommittee Draft Recommendations" as providing the text of the recommendations for Committee members to review and consider. Motions to approve recommendations will be for the text in this handout, except as noted below.

Recommendations:

- Development of Pesticide-Specific State Management Plans and Education Program
Discussion centered on whether the figures shown for FTEs represent a future need or include existing positions - the Committee changed Table 1, far right hand column, to read "Additional Full Time Equivalents" in order to clarify .
Motion to adopt with changes as noted- TNRCC
Second - TAES
Vote - Unanimously in favor. Recommendation adopted.
- Abandoned Water Well Plugging Fund
Lee Parham, TDLR, proposes the following changes:
Under "Background", paragraph 2 - "The Abandoned Well Notification Program, administered by the TDLR utilizing Water Well Driller/Pump Installer Program

Investigators, investigates, compiles, identifies, and processes abandoned water well notification and enforcement cases.”

Under “Background” , paragraph 3: “In Fiscal Year 2000, the TWDB received 21,803 State of Texas Well Reports (for water wells). It is conservatively estimated that 150,000 water wells drilled ~~of these wells drilled since 1965~~ are abandoned and/or deteriorated.”

Under “Background” , paragraph 5: Add phrase “Before fund disbursement, consideration should be given to known groundwater contamination in the abandoned or deteriorated wells to be plugged.”

Some discussion about a possible implied sampling requirement ensued, but resulted in no changes.

Motion to adopt recommendation with changes proposed by Mr. Parham - TSSWCB
Second - BEG

Vote - Unanimously in favor. Recommendation adopted.

- Groundwater Conservation Education
- Water Education Program Needs

Recommendations three and four are proposed to be combined by Mary Ambrose - TNRCC in a handout showing proposed “redline/strikeout” language. Change on the wording to accommodate the language (item 1 above) concerning the 150,000 wells. There was some discussion of how reclamation of wastewater is related to groundwater - directly, to conservation. Chair requested straw vote as to whether committee is amenable to combining the two - Yes.

Motion to adopt as combined and with the noted changes for consistency - TAGD
Second - TDH

Vote - Unanimously in favor. Recommendation adopted.

- Groundwater Conservation Districts Exemptions, Exceptions and Limitations
TAGD representative, Barry Miller, provided background to the Committee stating that this would be a “valuable tool to districts in lower yield aquifers such as portions of the Trinity”, but would likely not be adopted by most districts who observe the existing limitations. TDA representative, Donnie Dippel indicated that it would be difficult to support the removal of the Agricultural Exemption. Kevin Wagner, TSSWCB, also indicated that his agency would be unable to support the recommendation, and requests that if motion passes, then it be made very clear that TSSWCB dissented. Mary Ambrose, TNRCC, cited the “standard disclaimer” that is noted in the introduction the recommendations, but TSSWCB did not feel that this language was “strong enough” to show their client community that they strongly opposed the recommendation. Leslie Savage, RCT, questioned whether this will lift the exemption on wells for Oil and Gas drilling activity? The recommendation is not clear, but RCT will support.

Motion to adopt recommendation - TAGD
Second - TNRCC

Vote - TAGD, RCT, TNRCC in favor. TSSWCB, TDH, BEG, TDLR, TAES, TWDB and TDA opposed. Motion fails - recommendation not adopted.

- Creation of Groundwater Conservation Districts
Motion to adopt - TAGD
Second - TWDB
Vote - Unanimously in favor. Recommendation adopted.
- Ratification of Senate Bill 1911 Groundwater Conservation Districts
Mary Ambrose, TNRCC, voiced opposition to recommendation, stating that if the districts are strong enough they should be approaching the Legislature themselves, not via a “blanket” recommendation through TGPC. Barry Miller, TAGD, says that his interpretation of recommendation requires this.
Motion to adopt - TAGD
Second - TAES
Vote - TAGD, RCT, TAES in favor. TNRCC, TWDB, TDH, TDA, TDLR, TSSWCB opposed. BEG abstains. Motion fails - recommendation not adopted.
- Groundwater Transport Permits and Transport Fees
Motion to adopt - TAGD
Second - None
Not brought to vote due to lack of a second - recommendation not adopted.
- Acquisition of Groundwater Quality Protection Zones
This policy is not intended to be applicable statewide - policy drafted with the Edwards Aquifer in mind, is intended as an “incentive”, and is provided as an alternative to eminent domain and other existing measures available to GCD’s. TPWD fund can be used for this as well.
Motion to adopt - TAGD
Second - BEG
Vote - TAGD, RCT, TAES, TWDB, TDH, BEG, TDLR, in favor.
TNRCC, TDA, and TSSWCB opposed. Recommendation adopted.
- Priority Groundwater Management Area Process Simplification
Revisions provided by Steve Musick, TNRCC, include:
Under “Recommendation”, paragraph 1 - “The TGPC recommends that the Legislature amend Chapter 35 of the Texas Water Code to further streamline [~~replace~~] the priority groundwater management area designation [~~evidentiary hearing with a public meeting~~] process and [~~or~~] clarify the criteria for determining party status for the evidentiary hearing.”

Under “Background”, paragraph 2 - “[~~The evidentiary hearing process actually discourages participation of small stakeholders and has discouraged full examination of the TNRCC Executive Director’s report and recommendations by larger organizations due to the costs of legal representation and the need for expert~~”

witnesses.] Similar burdens are experienced by the participating state agencies. Chapter 35 of the Water Code does not provide guidance to the TNRCC or the State Office of Administrative Hearings related to the criteria for obtaining public comments on the TNRCC Executive Director’s report and recommendations or for demonstrating party status for the evidentiary hearing.”

and . . .

“ The evidentiary hearing in the PGMA designation process does not encourage meaningful stakeholder participation, adds significant time delays in a contested case, and is resource intensive for both the participating parties and affected state agencies. The Administrative Procedures Act does not apply to the PGMA process as the Commission’s designation decision is not appealable. The procedure for evidentiary hearings should be clarified specifically related to obtaining and responding to public comments and to the criteria for demonstrating party status.~~[A public meeting and comment process with prior availability of the reports would elicit more comments and useful input from stakeholders. This process would also provide a substantial comment record for TNRCC consideration of the PGMA designation.]”~~

Motion to adopt recommendation with changes submitted by Mr. Musick - TNRCC
Second - BEG
Vote - TAGD, TNRCC, TDLR, RCT, BEG, TDH, TAES in favor
TDA and TWDB opposed. TSSWCB abstaining. Recommendation adopted.

- Groundwater Availability Models (GAM) Funding
Motion to adopt - TSSWCB
Second - TWDB
Vote - Unanimously in favor. Recommendation adopted.
- General Funding for Data Collection and Groundwater Research
Discussion- Under “Background”, paragraph 1 - “known potential sources” needs to be changed to eliminate the term “known”.
TNRCC asked if this additional funding was reflected in the LAR or Exceptional Items Request for the TWDB and upon hearing that it was not, indicated that TNRCC could not support the item.
Motion to adopt with change noted - TWDB
Second - RCT
Vote - TSSWCB, TAGD, TDH, BEG, TWDB, RCT, TDA, TDLR, TAES in favor
TNRCC opposed. Recommendation adopted.
- Brush Control to Increase Groundwater Yield
Motion - TDA
Second - TDLR
Vote - TNRCC, TDH, TDA, RCT, BEG, TDLR, TSSWCB, TAES, TAGD in favor
TWDB opposed. Recommendation adopted.

Data Management Subcommittee - Discussion of Scope/Charge, Appointment of Members

Motion - Adopt Amended Subcommittee Charge - TNRCC

Second - TDH

Vote - Unanimously in favor - amended charge adopted. (Note: TDLR was inadvertently omitted from participation in the Data Management Subcommittee process, and is to be added to the review group.)

Next meeting date: Thursday, January 4, 2001, 1:00 p.m.

V. Information Exchange for Groundwater Related Activities/Status Update

Comprehensive State Groundwater Protection Program (CSGWPP) - The draft core assessment presented to the TGPC at the last meeting for review, has not been further revised, due to activities associated with the Legislative Report. A copy of the draft Core Assessment will be provided for the new Committee representatives for review with consideration at the next meeting.

Participating member agencies of the TGPC should be preparing to be solicited for information at the end of December 2000 for the Joint Groundwater Monitoring and Contamination Report - 2000. Problems have been resolved with the report for 1999, and this should go to publication shortly.

The TGPC was asked to testify before a subcommittee of the House Natural Resources Committee. Handout - *Texas Groundwater Protection Committee - Abandoned Water Well Fact Sheet/Testimony, House Natural Resource Committee, Subcommittee on Abandoned Water Wells 9/18/2000 Hearing* - is a copy of that testimony provided by TGPC Chair Mary Ambrose.

Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) is requesting information on groundwater/surface water interfaces that are pertinent to the Total Maximum Daily Load (TMDL) program.

VI. Announcements

TNRCC rules tracking log:

- Amendments to 30 TAC 285 (On-Site Wastewater) are scheduled for permission to publish the proposed rules on the November 17 TNRCC Commissioner's Work Session. If approved, they should appear in the Texas Register in early December.
- The agency is working on changes to 30 TAC 331 (Class V Injection Wells) to address EPA's recent rule changes on large cesspools and Motor Vehicle (waste product) Disposal Wells.

Refer to handout of Federal Register Pages:

- Notice of Availability of Guidance for Controlling Nonpoint Source Pollution from Agriculture and Request for Comments. Comment period closes January 16, 2001.
- Draft EPA Guidelines for Management of Onsite/Decentralized Wastewater Systems and Guidance Manual Outline - notice of availability for comment. E-mail or written comments are requested by December 5, 2000.

Lee Parham, TDLR, reports that his agency is receiving feedback from state legislators, other than those on the natural resource committees, on abandoned well plugging activities. Interest in this issue is out there.

Janie Hopkins, TWDB, reports that three publications with groundwater interests are available on the TWDB website,

“<http://www.twdb.state.tx.us/publications/reports/GroundWaterReports/GWReports/>”,

Report 348.pdf (1.52MB) (htm - 233KB) - Changes in Groundwater Conditions in Parts of Trans-Pecos, Texas, 1988 - 1998, by Radu Boghici, assisted by Doug Coker and Marcelo Guevara, November 1999

Report 349.pdf (12.02MB) (htm-828KB) - Updated Evaluation of Water Resources in Part of North-Central Texas, 1990-1999, by Lon Langley, November 1999

Report 350.pdf (1.01MB) (htm - 64KB) - Changes in Groundwater Conditions in the Edwards and Trinity Aquifers, 1987-1997, for Portions of Bastrop, Bell, Burnet, Lee, Milam, Travis and Williamson Counties, Texas, by Cindy Ridgeway and Harald Petrini, November 1999

Lynne Fahlquist, USGS, reports that the South Central NAWQA is wrapping up and staff is responding to final comments. Report is anticipated before December 25, 2000. Also, High Plains Groundwater NAWQA activities started up October 1, 2000.

Priority Groundwater Management Area (PGMA) Activities were reported by Steve Musick, TNRCC:

- The Blanco-Pedernales Groundwater Conservation District was created by the TNRCC since the last meeting of the TGPC and awaits a voter confirmation election.
- The authority of the Hickory Groundwater Conservation District was extended to all aquifers within its boundaries by petition approved by TNRCC.
- The public hearing for the inclusion of Northern Bexar County in the Hill Country PGMA was held. Commission consideration of the Proposal For Decision will take place in January.
- A report to the 77th Legislature on the Priority Groundwater Management Area

program and new groundwater conservation district activities is being prepared by staff of TNRCC and TWDB.

- TNRCC activities related to the creation of groundwater conservation districts in the designated PGMA's of Reagan-Upton-Midland Counties, and Hale-Swisher-Briscoe Counties continue.

VII. Public Comment

None

VIII. Adjourn

Chair Mary Ambrose adjourned meeting at approximately 3:35 p.m., CST.

Respectfully submitted,