TEXAS GROUNDWATER PROTECTION COMMITTEE

RECORD OF MEETING

Second Quarter Meeting, FY 96

Meeting Date: February 20, 1996
Place: Building E, TNRCC, Park 35 Meeting No.: 26 Room: 254S

COMMITTEE HANDOUTS

Copy of Agenda (Handout 1)
Copy of FY 96 First Quarter Meeting Minutes (Handout 2)
Ground-Water Nonpoint Source Workgroup Charge (Handout 3) .
Reasons for Updating the Texas SMP (Handout 4)
Draft State Management Plan (Handout 5)
Subcommittee Changes - Draft State Management Plan (Handout 6)

MEETING ATTENDANCE

Committee Members	**Affiliation**
Mary Ambrose, Chair	TNRCC
Phil Nordstrom	TWDB
Tom Grimshaw, Alternate	BEG
Elias Briseno	TDH
Wayne Jordan	TAES
Bill Renfro, Alternate	RRC
Bill Couch	TAGD
Donnie Dippel	TDA
James Moore	TSSWCB

Guest Speakers

John Ashworth, Texas Water Development Board

Agency Staff	**Affiliation**	**Program**
Richard Andersen	TNRCC	WASTE/I&HW/Technical Consultants
Cary Betz	TNRCC	WP&A Div/Ground-Water Assessment
Patricia Billingsley	TNRCC	WP&A Div/Ground-Water Assessment
Chris Drewy	TNRCC	WP&A Div/Ground-Water Assessment
Margaret Hart	TNRCC	WP&A Div/Ground-Water Assessment
Kelly Mills	TNRCC	WP&A Div/Ground-Water Assessment

Vicki Montgomery	TNRCC	WP&A Div/Ground-Water Assessment
Steve Musick	TNRCC	WP&A Div/Ground-Water Assessment
Annie Tyrone	TNRCC	WP&A Div/Ground-Water Assessment
Joe Peters	TNRCC	WP&A Div/Ground-Water Assessment
Robert Blodgett	TNRCC	WU Div/Public Drinking Water
Gail Rothe	TNRCC	WP&A Div/Watershed Planning & Assess.
Ambrose Charles	TDA	
Jeanette O'Hare	TDA	

Interested Parties	**Affiliation**
Denise Rhodes	Consultant, Austin
David Johns	City of Austin

MINUTES OF FEBRUARY 20, 1996

ITEM I. Call to Order and Introductions

The Chair called the FY 96, Second Quarter meeting of the Texas Groundwater Protection Committee to order at 2:00 p.m. in Room 254S, Building E, Park 35, TNRCC. All member agencies were represented. The members were provided with Handout #1 - Copy of the agenda; Handout # 2 - Copy of FY 95 4th Quarter Meeting Minutes; Handout #3 - Ground-Water Nonpoint Source Work Group Update; Handout #4 - Reasons For Updating The Texas SMP; Handout #4 - Draft State Management Plan; and, Handout #5 - Draft State Management Plan with Subcommittee Changes.

ITEM II. Subcommittee Reports

Agricultural Chemicals

Mr. Steve Musick, TNRCC, reported that the Agriculture Chemicals Subcommittee held its 2nd Quarter Meeting the morning of February 20. Presentations from TNRCC staff on source water protection and wellhead protection, a preventive ground-water protection program for public water supply systems, were given. Also presented was general information on the Public Water Supply Regulatory Program, and specific information on PWS response to contamination or exceedances of the MCL's. This presentation outlined procedures that may serve as a portion of the contamination response for the Agricultural State Management Plan. There were also reports from the various task forces.

The primary item on the agenda was the final review and approval of the update of the Generic State Management Plan for Pesticides for Texas. This topic will be addressed later in the committee agenda for discussion and action. Some suggested changes that were made by the subcommittee's review were discussed. The Subcommittee will be discussing several substantial changes which will be referred to the Committee for approval.

Data Management

Mr. Musick reported that the Data Management Subcommittee is changing hands as of the last Committee meeting. A new mandate and charge for the Subcommittee was handed out to Committee members at the last meeting. No substantial changes in the mandate or charge have been made. Mr. George Ozuna, with the U. S. Geological Survey, will chair this Subcommittee. Committee members were asked to identify people on their staff to participate on this subcommittee and assist Mr. Ozuna in tackling data management issues. The data management issues that the Subcommittee has been charged to address are: review and critique of the Texas Water Quality Inventory 305(b) report that is currently under preparation by TNRCC and the development of procedures for the future Texas Water Quality Inventory 305(b) reports and aquifer water quality assessments.

The Committee has charged the Subcommittee to review, analyze and critique the processes employed to gather and analyze water-quality data for ground water in Texas and to assess the types of contaminant sources that are most prevalent in the State which are identified in this report. The second charge, using the aforementioned critique, is to develop a procedure for the Committee's use in guiding the development of the future Texas Water Quality Inventory 305(b) reports so that the Committee can develop response and recommendations for the Legislature in its biennial report.

Nonpoint Source

Margaret Hart, TNRCC, discussed Handout #3, Ground-Water Nonpoint Source Workgroup Update. She reported that EPA has completed the 319(h) process for FY 96 and has proceeded with grant awards, although at reduced levels. EPA is awarding 50 percent of the grant. It will be up to the individual States to determine how the money is divided.

Ms. Hart reported that the Nonpoint Source Assessment Report and Management Plan update is continuing. She has received some input from Committee members and is looking for more. The deadline for information input is March 20.

Ms. Hart reported that she met with the new EPA NPS Coordinator, Len Pardee and the grant cycle for FY 97 319 Program has been moved up two months. This means that draft work plans for proposals are due to EPA on June 1 instead of August 1. This significant time restriction means that the update of the Assessment Report and Management Plans will not have an impact on proposals or work plans until FY 98. The Subcommittee will continue to operate under the former Nonpoint Source Assessment Report and Management Plan.

Ms. Hart announced that meetings are scheduled for February 29 and March 21, at TNRCC, to address the 319(h) process and grant cycle for FY 97. Ms. Hart directed the Committee's attention to the attached e-mail from Denise Cullen, TNRCC, and the agenda for that meeting.

At Mr. Musick's request, Ms. Hart had compiled and attached as a handout, a more formal charge for the workgroup modeled along the lines of the charge for the Data Management Subcommittee. Mr. Musick asked whether the TSSWCB would be interested in co-chairing this

subcommittee. Mr. James Moore, TSSWCB, indicated that this would be agreeable. Mr. Musick felt that this arrangement would assist the Committee with the requirement to prepare an update of the assessment document for nonpoint source ground-water impacts within the State. An additional charge on the non-agricultural side, is the preparation of the management plan addressing nonpoint source problems. This would be of greater use, if there were a wider base of input from the agencies with ground-water information.

A more coordinated, formalized procedure for finding or obtaining this information, incorporating it into the document, and having a forum for the discussion of any interesting issues that might arise would be advantageous. This would also assist the TSSWCB in their responsibility for preparing the Agricultural Nonpoint Source Management Plan as well.

The Chair asked for clarification as to whether Mr. Musick was suggesting an arbitrary inventory making it simpler to update the document as the need arises.

Ms. Hart responded that the latest schedule that EPA has discussed in this regard is a regular four-year schedule. This would result in an updated document, compiled every four years, reflecting the priorities for the State for the upcoming four years. Also discussed was an even more frequent update of the document with less sweeping changes. This could possibly be achieved through informal updates done in a letter format. EPA definitely would like to see a regular four-year cycle update schedule.

ITEM III. Presentations - Ground-Water Projects Along the Rio Grande Border

Mr. John Ashworth, Texas Water Development Board, spoke on the Board's Trans-Boundary Aquifer project. In 1983 an agreement was signed between the presidents of the United States and Mexico. Agreeing that both nations would look at environmental problems along the border in an effort to come up with a common means of solving the environmental problems. Nine bureaucratic years later, the integrated border environmental plan was set out which actually listed several tasks that would be done and several working groups were developed.

The Ground-Water Protection Subgroup, of the Water Working Group, worked for several months identifying the problems and possible corrective actions. This culminated in a recommendation that a pilot study be done to identify actual ground-water resources and develop some means of making the information available. EPA provided a small grant which was matched by the TWDB to undertake this task. The TWDB headed up the project in conjunction with New Mexico State University's Water Resource Research Institute in Las Cruces; the Commission Nacional de Agua, the primary water agency in Mexico; and, the Utility Department of Ciudad Juarez. There were two main objectives of the workgroup.

One was to identify the ground-water resources in the area, determine which were trans-boundary, and obtain information regarding water quality in the aquifers, verify it, and build GIS coverages from this data. A second goal was to develop a better working relationship with Mexico. This is a two-year project due to be completed by August 1996. The Integrated Border Environmental Plan, IBEP, is looking at a 100 kilometer corridor on both sides of the border. That sixty mile corridor extends nearly to the edge of Hudspeth County in Texas. Basic

information of interest includes aquifer thickness, configuration of the base of these aquifers, current and historical water levels, water quality and water quality trends in all of these individual aquifers. Of particular interest are the Hueco and Mesilla Bolsons and the quantity of water being directed across the border due to pumpage.

Agency Roundtable on Border Projects

The Chair asked for information from any other agencies or individuals in the audience who were involved in border projects. Such information would allow the Committee to determine if duplication is occurring.

The Chair recognized Tricia Billingsley, TNRCC. Ms. Billingsley informed the Committee that she is working on a Hidalgo County Regional Aquifer Protection Project in the lower Rio Grande Valley. The focus of the project is a shallow portion of the Gulf Coast aquifer, which outcrops as the Goliad Sandstone aquifer in Hidalgo County, a major recharge area. In Hidalgo County, there are only thirty-four public water supply wells which serve about 30,000 homes and businesses. However, the water that recharges in Hidalgo County moves further downdip and is produced in several other counties in the area. To date, ten public information and recruitment meetings have been held. Wellhead protection activities have also been completed for these public water supply wells. Commercial and industrial activities have been examined along with agricultural chemicals, gas stations, and other potential sources of contamination around the wells.

Currently, regional contamination sources are being examined including land use county wide. The Colonias, oil field activities, pipelines and anything having a regional impact are under review. The data will be used to construct GIS based county-wide maps which will show the land use, aquifers, wells and contamination sources. There will also be more detailed maps near the public water supply wells. A report will be issued of the findings and best management practice recommendations; which it is hoped will be implemented to protect ground-water supplies. One or more public meetings will be held to disseminate the information in Hidalgo County.

Next, the Chair recognized Ms. Vicki Montgomery, TNRCC, Ground-Water Assessment Section, who is working on a three year project which started this fall. This project involves the use of GIS and database software to look at water quality and to detect any trends. If any areas are discovered in which water quality shows signs of deterioration, historical and current land use will be studied for any changes that would account for water quality changes. A task force of any locally or regionally interested parties will be formed to address any ground-water problems or issues and any solutions they might have to offer. There will be public meetings apprising them of the Wellhead Protection Program and the TEX-A-SYST Program. These two programs provide staff assistance to well owners in locating potential sources of contamination around drinking water wells.

Wellhead protection really focuses on public wells and TEX-A-SYST focuses basically on rural domestic wells. There is also an effort being made to expand the TEX-A-SYST Program to cover industrial water wells. Once the public meetings and inventories are completed, a report

will be produced providing the results and baseline ground-water sampling. After the report has been produced, some of the sites will be revisited in six months to determine if any of the best management plans have been implemented. Follow up ground-water sampling will also be conducted to determine the occurrence of any ground-water quality changes.

The Chair added that Mr. Brad Cross, TNRCC, gave a mid-year 1995 presentation to the Committee on his Ciudad Juarez Project, which is a joint Wellhead Protection effort with EPA. At the Chair's request, Mr. Wayne Jordan, TAES, related that currently there are two research and extension centers in the border region. There is center in Weslaco, in the lower valley, and in El Paso. There is a third center in Uvalde for the mid-region. There are a number of activities underway relating to water conservation and irrigated agriculture, and also in El Paso, relating to land application of waste and wastewater. Preliminary discussions with the utility people in Ciudad Juarez are being held to determine if there are projects TAES could be doing with them to enhance their conservation efforts. These projects would be primarily with the Maquiladoras and the agricultural sector.

The Texas Agricultural Extension Service has several large programs along the border, one of which is the Una Vida Mejor Project. This project involves the employment of young people from the Colonias and training them in the areas of better living standards and activities. This would encompass environmental awareness, detection, and sanitation. The Texas A&M College of Architecture has a large border project involved with construction of community centers in a number of the large Colonias. Associated with the project are a large number of educational programs.

Bureau of Economic Geology, Geologic Mapping under the U. S. Geologic Survey State Map Program

Mr. Tom Grimshaw discussed work underway by the Bureau. The work which is sponsored by EPA using GPS technology. The work entails entering data into GIS under ARC Info on the location of regulated facilities on the U.S. side of the International Border area. The idea is to locate facilities that are tracked by EPA and TNRCC in their databases. The goal is to attain geographic data on about 1,500-plus sites using state-of-the-art GPS technology and providing the results in an ARC Info format. The focus will be on the U.S. side only and will use ten separate databases. This is a two-year program which is presently half over. The databases being used include the same 100 kilometer zone on the U.S. side from Brownsville to Deming, New Mexico.

At the end of the first year, there were about 723 facilities located in seven counties, including most of the urban centers. The goal for the second year is the prioritization of the remaining sites and data collection from January through May with data analyzation by September.

A Lower Rio Grande Valley project includes the Pleistocene Delta of the Rio Grande, extending nearly to Rio Grande City. This is a joint project with the Bureau, U.T. Brownsville, and U. T. Pan American for the development of bi-national data layers for various environmental geology. The data layers start with the southernmost environmental geologic atlas of the Texas Coastal Zone, which extends to the Mexican side of the border. The study of the U.S. side of the border

includes information on land use, land cover, 1980 and 1990 population studies, and Colonias data from the Texas Water Development Board. The data will be checked for duplications then combined into a single database. GPS locations will be determined based on this data.

Negotiations are also underway for this same type of project in the Del Rio/Eagle Pass area and hopefully, in the near future, in the (Lower Rio Grande Valley). By August there should be a hard copy atlas format with illustrations of each individual coverage, including a listing of what is available and a contact for the original information about that coverage. The second product will be the GIS files. These will most likely be available on CD-Rom. Plans are also underway for this information to be available on the Internet. TNRIS Borderlands Data Center will also distributor this information and will be the main contact for access.

The Chair asked for any other updates from the various Committee members concerning current border projects. El¡¡as Biseno¤¤o, TDH, mentioned that TDH recently reorganized and is distributing its manpower and resources to four border cities: El Paso, Laredo, Harlingen and Uvalde. This should provide faster and more efficient public health services to the residents in these areas.

James Moore, TSSWCB, mentioned the Board's Nonpoint Source Best Management Practice project on the Arroyo Colorado is underway. He also mentioned a new program, for water-quality management planning, is now active in Hidalgo, Starr, Cameron, and Willacy Counties. The Board also has a temporary office in Edinburg.

IV. Business - Discussion and Possible Action

Draft Texas State Management Plan for the Prevention of Pesticide Contamination in Ground Water

The Chair opened discussion on the Draft Texas Generic State Management Plan (SMP) for the Prevention of Pesticide Contamination of Ground Water. Two handouts were provided to supplement the discussion. Reasons for updating the Texas State Management Plan (Handout 4) and, pages from the Table of Contents, as corrected and/or updated at Agriculture Chemicals Subcommittee Meeting (Handout 6).

The Texas Generic SMP was approved in 1991 by EPA and was one of the first in the nation to be approved by EPA. It represented a great deal of work and effort on the part of not only the state agencies represented on the Committee and the Subcommittee, but also, a considerable amount of effort from producer and advisory groups and public interest groups in the agricultural community. The SMP was an effort well respected by both EPA Region VI and Headquarters and resulted in praise and acclaim around the country. Since 1991, several developments have given reasons for taking another look at the SMP with regards to an update.

First is the release of final EPA SMP guidance, a little over a year ago, regarding EPA's evaluation of various state generic plans and other issues involved with the pesticides that are impacting ground water. EPA has developed more information about what it would like to see in these plans. This information was considered in peer review at the regional level to develop this

final guidance. This effort resulted in a lot of comments on areas where the Texas generic plan could be improved. There also have been state agency jurisdictional changes since 1991, creating the need of another look at roles in the plan. Finally, over the last few years, the activities of the Agricultural Chemicals Subcommittee with various components of the SMP has resulted in a better understanding of how agencies can work together and how the components can be better designed. For these reasons, it was a good time for an update of the Texas Generic State Management Plan.

EPA has also indicated that the pesticide specific management plans, when required to be developed, can be developed referencing the Generic State Management Plan. Regarding the third page of the handout, Changes to Specific Components, there are twelve components in the plan and what follows is a description, by component, of how the updated generic plan has changed from the current one.

Ground-water philosophy remains unchanged. Roles and responsibilities of the agencies were clarified and updated. The Task Force responsibilities are probably the most important change in the plan. They identify the specific aspects and steps of the plan and the responsibility for implementation. The Task Force responsibilities specify the level of cooperation that will be needed for accomplishing those particular steps. It addresses one of the factors or issues that EPA has raised in recent years. The Texas Plan was very comprehensive, but it didn't specify a particular step-by-step approach. Due to agency reorganizations and reauthorizations of one sort or another, legal authorities have also been updated.

Regarding resources, it is important to point out to the committee that the plan describes the best way for the state agencies to address a pesticide management plan. It is important to realize that the commitments that are made in this document are contingent upon the resources being available to the agencies when EPA makes the requirement that SMPs must be developed. This is an extremely important point; the monitoring, educational efforts, and manpower required for many of the agencies involved in the implementation of five SMPs will not be possible without secured resources.

In the assessment and planning area, we are now relying on more than just an aquifer vulnerability method. We are now combining this with a soil permeability screening test. It is felt that we now have a much better screening process for identifying vulnerable areas. Monitoring pretty much remains the same. In the area of preventive measures we have identified a process for developing preventive measures and the plan continues to emphasize voluntary implementation.

With regard to response to contamination, the revision shows a specific step-by-step staged response to a ground-water contamination occurrence. It is based on the acquisition of reliable data and an interpretation of that data in terms of whether the contamination really reflects nonpoint source contamination of ground water.

The information dissemination portion of the plan this deals with the effort of educating communities and producers in vulnerable areas. This focused educational effort is also staged and designed to match the staged response of ground-water contamination with increasing levels

of education to address and to encourage the use of BMPs.

There is a stronger commitment by the agencies with the primary authority to carry out enforcement, including TDA, Structural Pest Control Board, and the TNRCC, to enforce the plan as it is developed by the agencies and implemented according to the available resources.

In public participation, the largest change is that at the time of developing a pesticide specific management plan, we are committing to at least the minimum of public notice in the Texas Register of the availability of that plan for review and the opportunity for public hearings, if appropriate.

Under records and reporting, the primary change would be centralizing or committing that function as a responsibility to the TNRCC and the Committee to carry out reporting. Record keeping will be with each agency that has its appropriate role. The reporting requirement will fall to the Commission through the Committee, to report to EPA on a plan.

Mr. Musick clarified that the Committee is charged by Section 26.407 of the Texas Water Code with advising the TNRCC in developing these plans. Each agency has certain jurisdictions and a certain regulated community or constituency that they represent. The agencies, in developing this plan, are making a certain commitment to a process that we are then carrying forward to EPA. At this stage, the plan itself is not binding because EPA has not adopted a rule requiring plans. We have not committed to a time frame for implementation on our own. Nonetheless, the document represents a commitment by the agencies involved to the roles and responsibilities identified in the plan, provided that the resources are made available to the agency to do the work. Our statement reflects a responsibility that each delegated representative on this committee to represent his agency and provide the necessary input to meet that commitment.

At the last Committee meeting, a copy of the Draft Generic State Management Plan dated February 15, was provided to members for their review and comments. It was further decided that the input would be reviewed and considered and the SMP would be presented for approval by the Committee for submission to EPA as the State's Generic Management Plan.

Three types of comments were received from members of the Committee, members of the Agricultural Chemicals Subcommittee and the various advisory groups. Almost all comments in general were favorable. Very few substantive comments or changes were received. There were comments received reflecting the need to clarify some of the narrative passages in the report. There were also some inconsistencies identified. There has been an attempt to correct these problems through the use of strikeout and shading. Wherever strikeout text appears, it is proposed that material be removed from the report either for purposes of clarification or consistency. Shaded text is proposed to be added for the purposes of consistency or clarification.

The second handout today to each of the Committee members shows a table of contents with selective pages from the SMP. These are changes that were suggested at the meeting of the Agricultural Chemicals Subcommittee. They include typos, clarification of comments, and correction of inconsistencies. In working through this with the Agricultural Chemicals Subcommittee, two issues came to light that were of a substantive nature requiring some further

discussion. The Subcommittee has reached a consensus on this issue. To update the Committee on these changes, the questions primarily regard the response to ground-water contamination. This is outlined as a chart in Figure 7 on Page 66 and can be seen in both the handout and the report.

In working through the decision tree as to how to respond to ground-water contamination incidents, you reach a point in the middle of the page where a detection has been confirmed of a pesticide in ground water. It has also been confirmed that it is from a nonpoint source. The decision making here is that we do have contamination resulting from either current or past labeled use of a pesticide. The question then involves whether this concentration is above or below the maximum contaminant level (MCL) or health advisory level and what action should be taken in response to those two particular situations. The original chart read that if it is less than an MCL, then it goes into the five-year voluntary best management practice scenario on the left side of the chart and goes through that process.

On the right side of the chart, if it is greater than an MCL, it goes through a mandatory process with consideration for cancellation should there not be a substantial improvement over a five-year period. The question originally raised is that this was not reflected accurately in the text that you would immediately kick into a mandatory BMPs with the detection above the MCL. The issue was raised that throughout most of the process of developing the SMP, our voluntary SMP implementation would be our first line of defense. That is the question we have before us right now.

The compromise position is reflected on the unstapled handout chart which is a copy of Page 66. It shows a new box inserted on the right side of the page indicating that if you have a contamination that exceeds the MCL, rather than immediately going into a mandatory approach that there should be an assessment by the Committee, of whether or not, for a case-by-case basis, if voluntary efforts may also be successful.

In other words, you are given a choice to kick it into voluntary BMPs, if appropriate, rather than automatically into a mandatory BMP scenario. The reasoning being that we have, for five or six years, been talking about this in terms of a voluntary effort. We currently have the support of agriculture and producer groups and we feel we could erode support if we make a sudden substantial change. There is also the feeling that it would be a much easier to work with the producers who are the folks who actually implement the BMPs, if we start out with a voluntary procedure rather than an immediate mandatory approach.

The other side of this argument, in order to assure EPA that we have a preventive approach to ground-water contamination, is that if you are above the MCL a mandatory approach is necessary to demonstrate that it is, in fact, a preventive program. Those are the two sides of the issue for discussion.

Finally, on the same chart, on the right side, starting out with an concentration above the MCL that you would go into mandatory BMPs and have a five-year trend that may get it below the MCL but still will not show a real substantial declining concentration. The concern expressed is that might open the chemical up to cancellation. It was pointed out, that EPA, at least so far, has

not canceled pesticides unless they violated an MCL.

The Chair raised a concern to Mr. Musick that the entire SMP process is a cancellation without the MCL being exceeded nationwide. It is her feeling that there is nothing in all of the guidance documents that states that there is either automatic cancellation or there is isn't automatic cancellation when it reaches the MCL. A great deal is dependent on state value but what has been seen so far, the initial response from EPA, is if the MCL is exceeded the program has already failed.

Mr. Musick responded that this presented a problem because the program hasn't even started yet. The Chair agreed. Mr. Musick continued that it is the feeling of the Subcommittee that the plan being prepared is one that is directed at the process that Texas would like to use and what is best for the agencies and producers in Texas. Realizing, of course, that EPA may negate the issue by whatever rule they adopt. Given a choice, Mr. Musick continued, Texas would prefer to try to work with the producers in a less burdensome fashion if that is a reasonable approach.

The Chair then requested clarification of the scenario Mr. Musick was presenting. Specifically she requested information on what happens after five years. She asked, if using the voluntary approach, do you essentially have a ten-year time frame before there is any response to this. Mr. Musick replied that by considering the possibility for voluntary approaches above the MCL, you would have a ten-year time frame before you ever canceled. The intent of the Subcommittee's change was to be able to have the freedom at the beginning if it is above the MCL at first is to have a little leeway to work with producers in the vulnerable area for the possibility of a strong participation in voluntary efforts of BMPs and also to cover particular cases. This most likely would be very specific cases where the BMPs are simple and easy to implement. In any case we are looking at a five-year time frame before we consider cancellation on the right side of the chart.

At Mr. Musick's request, Donnie Dippel, TDA, addressed the Committee on this issue, regarding the third box on the right indicating that at 75% of the MCL you kick in with the BMPs, then you go up to the mandatory BMPs. You could get down to that box and never see the MCL at anytime. When you come down the left side, increasing then at 75% of MCL that will kick in and voluntary will become mandatory at that time. The Chair indicated that this was a different issue than what was just being discussed. Mr. Musick agreed that this was the second issue that was brought up. Mr. Dippel continued that TDA thought if they could look at the earlier mentioned topic they could work it out without if ever going into the mandatory.

The Chair then asked if anything in the plan concerning a voluntary scenario, would there be equivalent public education for people that are drinking water so that the public health issue is covered. Ms. Ambrose continued that until you exceed MCL, the risk to public health is really perceived not to be there, but that this was of concern to her. She wants to be sure that the public health issue is covered if continued use is allowed.

Mr. Dippel replied that once it exceeds, it is his opinion, the public should be notified. The Chair agreed, indicating that she was particularly concerned about the domestic well owner who really doesn't have someone sampling his well or the water treatment that is going on. Mr. Dippel

indicated that he is unsure of the process and questioned whether it has to go through a certain time period before the City has to be notified. The Chair called on Bob Blodgett, TNRCC, for a response to this query.

Mr. Blodgett replied that he would like to comment concerning the MCL of public health. It is an annual exposure to a contaminant, not just a one-time exceedance. So if a sample of ground water or surface water taken one time exceeds it, it is based on quarterly averaging of that exposure. A one-time exceedance averaged over the year may not be an annual exposure exceeding the MCL. The MCL exceedance notification takes place after an average annual exceedence. The concept of public health hazard is an annual exposure. An exceedence is a one-time sampling event. There is often a tendency to overreact prior to completion of a year's worth of sampling whether it be for ground water or surface water.

Mr. Musick indicated that the wording of the new decision box concerning assessment of the appropriate mandatory or voluntary approach is intended to cover these concerns. A determination of how significant a health hazard is the MCL exceedence can be made; and, at that point, appropriate players could be notified and the appropriate producer groups would be involved at that stage to determine the available options.

Mr. Phil Nordstrom, TWDB, felt that another option arrow was needed from that box due to the fact that if the voluntary approach is taken, the arrow goes into mandatory. Another option arrow is required if you take the voluntary; you go all the way around and start on the other side. The Chair responded that this imposed the ten-year cycle, which she felt was unacceptable. Mr. Musick responded that he did not think this was the intent. Mr. Dippel suggested perhaps a year under voluntary to see if it could be corrected and if not, return for Subcommittee review. Mr. Musick asked for any input Dr. Wayne Jordan, Texas A&M, might have to offer.

Dr. Jordan replied that the concern was there was no opportunity to show what a voluntary program could do and that had not been the general tenor of the development of the document up to this point. Mr. Musick pointed out that it is his feeling that the plan being discussed is a much better plan than the one we have existing. He continued that he feels that it is a very workable plan as far as the Committee's agencies are concerned. This plan could be submitted to EPA for comments and should they disagree with this plan, he feels sure that they can notify us with their reason. If such should be the case, the Committee would have something more substantial that could be taken to our constituencies and, perhaps the Legislature, if necessary, to show what procedure needs to be developed and how much of a burden that might be on the entities involved.

The Chair asked how the members proposed to take up the second issue raised by Mr. Dippel. Mr. Musick replied that it was an oversight on his part that the solution to this was not included on the handout. He identified that the next to last decision box on the right side entitled "Product Cancellation Is Considered for the Area.

Mr. Musick responded that cancellation hasn't been made mandatory. You will see related to that decision box in the narrative that cancellation is the option. He continued that when the time comes to consider cancellation of a pesticide that we will be looking at a hearing of some kind.

At that point, the course we take will be determined and may send us back up through the decision tree. Ms. Ambrose indicated that she hopes that if concentrations exceed MCLs/HALs that enough time is available for whatever you have done out there to take place. Otherwise you conceivably have given it a grace period of just five years and then the product is gone, even though your BMPs may be effective.

Dr. Jordan mentioned that there is a published article related to that topic that was distributed to the Agricultural Chemicals Subcommittee. It is an evaluation of Wisconsin's ground-water protection strategy which is specifically for Atrazine. I share your concern that there is no reason why you choose five years. Phil mentioned that once you have a load of some chemical in the pipeline; how quickly it is going to purge itself if you completely stop any applications depends on a lot of these characteristics that you include in the ground-water vulnerability assessments. I think it would be prudent to include some modeling activity to see if there is any reason to expect anything to change in that length of time as part of the whole assessment effort. Probably the Wisconsin incident would indicate that it isn't a long enough time frame. However in certain cases where you have very shallow ground-water and sandy soil you could certainly see changes.

Mr. Musick asked Ms. Denise Rhodes, who attended the Subcommittee Meeting and participated in the development of the plan, if she would contribute her comments on the issue at hand; on MCL violations and when to trigger mandatory and when to trigger cancellation. The Chair responded that Ms. Rhodes was out of the meeting during the discussion and restated her position that she feels that the whole SMP process is essentially set up to be a cancellation without demonstration that the MCL has been exceeded.

Essentially if the States do not come forward with a management plan, the pesticide has been canceled. She stated that she did not disagree with Ms. Rhodes philosophically, but it was her opinion that nothing that EPA has written indicates that just because MCL's have not been exceeded that they are not canceling the pesticide. Ms. Rhodes indicated the current federal law is that the MCL is not considered in violation. The MCL established by EPA has for Atrazine a 1,000 factor built in anyway. She continued that she did not see any reason at this point for the State to deviate from that. She felt that five years certainly is a reasonable time frame.

Mr. Bob Blodgett commented that it will most likely be shallow ground-water contamination that would occur. If there is a confirmed exceedence, you are taking action before there is a health hazard. It is only if there is a violation, that is an annual exposure which exceeds the level, that you have a public health hazard. If you want to frame the issue in terms of violation and taking some more mandatory action; that will be a way of looking at it. I think it should be framed as taking action before there is an actual health hazard.

In response to the Chair's question about an educational component when MCL exceedance occurs, Mr. Musick stated that it is built into the process to have confirmation and verification so it will be based on more than one sampling event. It is also built in to assess the problem as to whether it is a nonpoint source or point source. Only if it is a nonpoint source contamination, will it enter that chart. There will be more than one exceedence but there might not be a year's worth. The Chair said that she had seen no commitment in this document for a public education component on that. There is a public education component for the user of the chemical but that is

not necessarily the people that are consuming the water.

The educational components included are for the end user of the chemical; not for the person who is drinking the water. They may overlap but there are not necessarily the same population. Mr. Musick added that the educational component is designed to work through local extension agents, soil conservationists, and hopefully with the involvement of other agricultural organizations. There is no real organization of domestic water well users. For that reason, you do not see it specifically mentioned in the plan.

The Chair stated that actually the only time that really needs to take place is, if we do know we have an MCL/HAL that is being exceeded consistently and that people could be affected. We somehow need to have a commitment that if we are not going to mandatory action that some type of commitment of public health protection needs to be in place. Mr. Musick added that this issue has been discussed at length and the SMP task force and other members of the Subcommittee. The educational task force is very well aware of the need to notify both public water supply systems and to come up with a way to work with local water consumers. However, the plan does not really reflect that level of detail, particularly on the chart that we have here.

The question was raised as to whether there was a standard media element in the plan where local media would be contacted. Mr. Musick indicated that he thought it was a matter of the scale or level of detail in the plan. He said this is certainly an issue that has had considerable discussion by the people who are working on the Subcommittee task force. Ms. Rhodes raised a question as to whether there is an agency that monitors private wells. Mr. Blodgett replied that traditionally, for domestic well, public health concerns, TDH would report it to the county health officer. It is the County Health Officer who makes a decision as to whether it would alarm the public or not and to notify them. This is the way it has been handled in the past. The Chair indicated she would like to see the text, because she is not sure that we have a complete workable flowchart.

Mr. Musick informed the Committee that this issue is addressed in the text on Page 63 and 64. On Page 64 in the bottom of the last paragraph is the following: "If, after five years of mandatory BMPs there is no improvement, the mandatory BMP program will be deemed ineffective, cancellation of the pesticide in the area would be considered if the concentration is greater than the MCL."

Mr. Nordstrom offered the motion that we accept this report of the Agricultural Chemicals Subcommittee. Dr. Jordan moved that the recommendation of the Agricultural Chemicals Subcommittee be accepted and proceed to submit the State Management Plan. Mr. Nordstrom seconded the motion. There being no other discussion forthcoming, the full Committee voted to accept the recommendation of the Agricultural Chemicals Subcommittee that this document be submitted to EPA as the Texas Generic State Management Plan. The motion carried.

Mr. Musick acknowledged the Agricultural Chemicals Subcommittee, particularly the State Management Plan's task force, most recently chaired by Ambrose Charles. He thanked them and pointed out the intense effort and hard work that went into this final draft and the good job they did.

Set Future Meeting Dates

The Chair addressed the Committee concerning Dr. Jordan's suggestion that the Committee try to set some future meeting dates for the Committee. It was decided that the next Committee Meeting will be held on Thursday, May 23, 1996. The Fourth Quarter Committee Meeting was tentatively scheduled for Thursday, August 22, 1996; this will be confirmed at the May 23 Committee Meeting.

ITEM V. Information Exchange for Ground Water Related Activities Status Update

CSGWPP Development Status

Steve Musick indicated that the Committee members had been provided a copy of a letter from Ms. Cynthia Daugherty, Director of Office Ground Water/Drinking Water, EPA in response to Mr. Musick's attendance of a National Governors Association sponsored meeting in December. Mr. Musick drew the members attention to the last line in the letter in which a promise was made to make every effort to streamline the CSGWPP endorsement process. One of the big issues of the December meeting was that the EPA process for endorsing CSGWPP is onerous, time consuming, and has been problematic for a number of states. Because of the effort involved, quite a few states are not as willing to go through the endorsement process. Relating to this issue, the Ground Water Protection Council is meeting next week in Washington, D.C. On the meeting agenda is a presentation by EPA on the streamlining effort, including information on what EPA can offer in terms of a better process. Hopefully, EPA will have some good news for states at the meeting.

The second CSGWPP issue is flexibility. It has been several months since the Committee members were provided the document on flexibility with regard to CSGWPP. Flexibility is the carrot that EPA is offering to get states to submit their core programs for EPA endorsement and to kick off a multi-year effort to get a fully integrating comprehensive plan. This will help the State to better plan ground-water protection activities into a comprehensive approach. Federal flexibility is the best reason for submitting a CSGWPP to EPA for endorsement. EPA has come out with their first example of national flexibility regarding core-program endorsement. The Waste Programs at EPA have made a commitment to allow States to use their own standards or judgement of ground-water use and vulnerability in remediation clean-ups in the Waste Program, including Superfund, RCRA, and the PST area. This is perceived to be a fairly significant commitment on EPA's part. Quite a few remediation programs have been held up to meet a more stringent federal standard; one that doesn't always take into account site-specific situations.

So far, this is a definite commitment. A draft directive from the Waste Programs has been prepared and an attempt will be made provide Committee members with a copy as soon as possible. This document should outline, from the Waste Program perspective, what a core program would include and define a procedure for the State to consistently ascertain ground-water use and vulnerability with a sound scientific basis for decisions made on remediations and clean-ups. TNRCC's waste programs are particularly interested in this flexibility. This issue is also related to the Brownfield's initiative, which is an effort to encourage industrial development in already existing industrial areas. These areas already have some type of soil or ground-water

contamination. Instead of requiring remediation or clean-up to a residential standard of risk assessment, flexibility would allow the clean-up to an industrial or risk assessment based limited land use that would be appropriate for industry. This would encourage a better industrial development process and also save money in terms of clean-ups.

This is resulting in pressure to go ahead with the Texas Core Program endorsement in order to facilitate our Waste Programs flexibility needs. There are also examples of regional flexibility at various EPA offices around the country. They very often have a free hand in the actual implementation in a these programs. One example, was from the State of New Hampshire. New Hampshire has an endorsed core program. They were able to negotiate a procedure for prioritizing their RCRA site inspections with the regional office. This is apparently a very detailed inspection process which entails a lot of man-hours worth of effort to prioritize the places that the state wanted inspected instead of EPA's regional priorities for which industries should be inspected. Their priorities had to do with delineated wellhead protection areas in New Hampshire. The folks in New Hampshire were particularly pleased that they were able to negotiate this flexibility.

In addressing this issue, the Chair indicated that this issue boils down to the core assessment being the key that EPA will allow us to use to unlock flexibility. It is being dangled as a carrot. What the Committee needs to do as a group is to figure out what kind of flexibility it would like to have. This decision should not be geared only to the Waste Programs or Water Programs at TNRCC. It could very well transcend into the FIFRA realm as far as some of the training that is done. It could even affect the State Management Plan. Some of the issues discussed earlier could very well be flexibility issues we could ask for from EPA.

The Nonpoint Source Program traditionally has been inflexible on a number of issues at Region VI. It might very well be possible that this could be used as a way of allowing the TSSWCB, the TNRCC, and those agencies asking for grants under that program, a little more flexibility in how they address the ground-water issues. The task before us, as we start putting the core-assessment program together, also is to compile our wish list of flexibility. That is where the entire Committee should get involved in the core assessment process as what are we going to ask for as far as flexibility is concerned.

Mr. Musick mentioned that we want to be creative and flexible in our way of thinking about this. For example, in the case of the TWDB, which typically doesn't get a lot of federal funding. However, this could impact flexibility issues with the State revolving fund and the ability to direct it to particular areas. This opportunity really warrants some close scrutiny.

Mr. Musick indicated that we don't have a very solid time frame. For the Committee's purposes, we are committed to doing a core assessment. It will be a decision for the Committee as to whether we really want to submit it for actual endorsement. We do, however, need to develop the document and make an attempt at addressing the issues that are there. Ideally, we need a list of flexibility issues for a starting point in negotiations with EPA. We are tentatively aiming for a draft by the end of the fiscal year. There is no absolute, drop dead, deadline. Mr. Musick stated that he would ask that each Committee member go back to their agency and explore the possibilities and bring back a list of flexibility issues to the next Committee meeting where a

discussion on the issue can be held.

Outreach Efforts - Abandoned Well Plugging Education Initiative

Mr. Musick informed the Committee that there was basically nothing to report on the outreach effort. Some guidelines have been being developed along with an outline of the work to be done. This information will be presented at the next Committee meeting.

Annual Joint Groundwater Monitoring and Contamination Report Preparation

The Chair called on Mr. Kelly Mills, TNRCC, for an update. Mr. Mills indicated that the majority of the requested materials had been received. He asked that agencies who have not contributed their materials to do so as soon as possible in order to allow him to meet his draft submittal for the TNRCC review process by March 8. The format will be pretty much the same, but the appearance is going to be changed due to TNRCC's new publication process and standards under which we now have to operate.

The Interagency Pesticide Database which has been carried as it's own table in the past will be discontinued. This topic will be discussed under the TNRCC/Water Planning and Assessment Section.

Draft Texas Ground-Water Program Directory

The Chair then requested that Mr. Mills address the issue of the Directory. Mr. Mills stated that he had received some comments from the Railroad Commission and TDA since the last meeting and they have been added into the most recent draft. The final draft has been compiled and it is being reviewed by Ms. Ambrose and Mr. Musick. Mr. Nordstrom noted he had a couple of additions he would like to include. Mr. Mills will finalize the document upon receipt of comments from Ms. Ambrose, Mr. Musick, and Mr. Nordstrom as voted upon by the Committee two meetings ago.

ITEM VI. Announcements

At the Chair's request, Mr. Musick mentioned that there was legislation in the last Session requiring a Permitting Program for Aquifer Storage and Retrieval Wells. The first round of those rules for pilot projects was approved for publication in the Texas Register and is probably being published this week. The rules are out for public comment. In addition, Chapter 293 is currently being revised on the topic of District Administration. They have already been presented for an informal review and they should go to the Texas Register as proposed within the next few weeks.

The TNRCC Environmental Trade is underway May 1, 2 & 3 at the Convention Center.

The Groundwater Protection Council, a national group of State groundwater regulators and industry representatives from the underground injection arena, are having their winter meeting in Washington, D.C. next week.

The U. S. Geological Survey is organizing a water monitoring congress in September and the Steering Committee for that group is ongoing and will be meeting on Wednesday, February 21, during lunch.

The Chair added that the TNRCC Commissioners now have public work sessions that are not formal agendas as far as them being a decision-making process, where they work with staff to discuss, for example, rule development. Some of the Risk Reduction Rule philosophies and concepts will go before the Commission Work Session on February 22, at 1:30 p.m., in the Commission Agenda Room. A number items will be on the Agenda, including a discussion on ground-water related issues relating to Risk Reduction Rules as far as potential clean-up standards.

ITEM VII. Public Comment

None.

ITEM VIII. Adjourn

Prepared by: