

*DRAFT SANDIES CREEK AND ELM CREEK
WATERSHED STEERING COMMITTEE
GROUND RULES*

These Ground Rules are being established for the Sandies Creek and Elm Creek Total Maximum Daily Load (TMDL) Watershed Steering Committee formed in December of 2004.

The signatories to these Ground Rules agree as follows:

I. GOALS

The goal of the Sandies Creek and Elm Creek Watershed Steering Committee (Committee) is to help develop and implement an effort to establish Total Maximum Daily Loads (TMDL) for Sandies Creek and Elm Creek watershed for the pollutant(s) listed on the State of Texas Clean Water Act §303(d) List.

Elm Creek originates west of Nixon in the eastern part of Wilson County, near the intersection of Wilson, Gonzales, and Karnes Counties. The stream flows eastward for approximately 24 miles. It converges with Sandies Creek just west of the Sandies' crossing with FM 1116. Although Elm Creek flows past the southern outskirts of Smiley, it is essentially a rural waterway. The watershed is characterized by flat to rolling terrain dominated by hardwoods, pines, mesquite, and a variety of grasses.

Sandies Creek originates in southwestern Guadalupe County northwest of Smiley. The stream flows generally southeastward for approximately 65 miles until it joins with the Guadalupe River just west of Cuero in DeWitt County. Although Sandies Creek flows past the northern outskirts of Smiley and through the community of Westhoff, it is essentially a rural waterway. Hardwoods, pines, mesquite, and a variety of grasses dominate the flat to rolling terrain around Sandies Creek.

Texas Commission on Environmental Quality (TCEQ) through a TCEQ Contractor is facilitating the formation of the Watershed Steering Committee. The Committee is the main vehicle for public participation in the TMDL process and will be instrumental in obtaining local support for actions aimed at restoring surface water quality in Sandies Creek and Elm Creek.

With the support of the Committee, the TCEQ and a TCEQ Contractor will develop TMDLs that meets all necessary legal and scientific requirements. The TCEQ is responsible for submitting TMDLs to the U.S. Environmental Protection Agency for final approval. The TCEQ reserves the right to take any action that may be necessary to comply with applicable law and regulation, or that the TCEQ decides is necessary for the successful development, implementation and approval of TMDLs. Notwithstanding any other provision of this document, nothing in this document constitutes or is intended to

constitute a legal obligation enforceable against the TCEQ, the TCEQ Contractor, or the members of this Committee.

II. TIME FRAME

The development of the TMDLs for bacteria pollutants identified in Elm Creek in Segment 1803A and in Sandies Creek Segment 1803B will require at least a 1-year period from the date this document is approved and signed by the committee members.

III. PARTICIPANTS

- a. Balanced Representation: Solicitation of members was conducted under a process developed by the TCEQ and conducted through a TCEQ Contractor. This process involved: (1) consultation with members of the Texas Clean Rivers Program, local and regional government, various civic groups, and other interested parties to determine the stakeholder and public interests related to the uses described previously under Section I (Goals) (2) meetings with the various stakeholder interest groups and individuals, and (3) self-nomination or requests by the various interest groups or individuals. Membership solicitation criteria included: representation of the full geographic area or portions of the geographic area within the watershed; representation from the full range of stakeholder and public interests; emphasis on establishing a Committee that meets all the requirements of House Bill 2912, Section 1.10, which amended §5.107 of the Texas Water Code.
- b. Stakeholder: The Committee is composed of stakeholders in the Sandies Creek and Elm Creek watershed(s). A stakeholder is defined as someone who may be affected in a significant way by the implementation of recommendations included in the TMDL process, either economically, in quality of life, or otherwise.
- c. Open Participation: Means that anyone may attend a Committee meeting and have the opportunity to offer an opinion on the subject of the meeting, or otherwise participate as a member of the advisory group.
- d. Members: The TCEQ follows the requirements established under HB 2912, Section 1.10, and §5.107 of the Texas Water Code. This guidance states that when any group that includes non-agency members that is created by the executive director or TCEQ agency staff for the purpose of seeking advice, recommendations, input or suggestions from interested persons within the agency's jurisdiction, the guidance must be followed. An advisory group may have no more than 24 members. (see appendix). If a member of the committee resigns, dies, becomes incapacitated, is removed by the rest of the Committee, or otherwise vacates his or her position, TCEQ or the TCEQ Contractor may seek a replacement.
- e. Proxies: All members hereby agree to make a good faith effort to attend all Committee meetings, however, the members recognize that emergencies may arise necessitating the absence of a member. The absent member may designate in writing the name of a

specific person who may participate on his/her behalf at any Committee meeting. The members agree that proxies shall not count toward member attendance.

- f. Additional Members: The members agree that new individuals may be added to the Committee if (1) there is room for an additional position, (2) a Committee member vacates a position or (3) if important stakeholder interests are identified that are not represented by the existing membership. In any event, the Committee will, when practical, accept additional members as long as the number does not exceed 24.
- g. Attendance at Meetings: A Committee member may be accompanied by such other individuals as the Committee member believes to be appropriate; however, only the Committee member will have the privilege of sitting at the table, speaking during the meetings, and participating in consensus determinations. Committee members are expected to attend all full meetings and participate fully in the Committee's deliberations.
- h. Absent Members: All members agree to make a good faith effort to attend all Committee meetings, however, the members recognize that emergencies may arise necessitating the absence of a member. The absent member may:
 - (1) Communicate to the TCEQ Project Manager or TCEQ Contractor on any issue or view that member wishes to convey to the other members. The person designated will present the absent member's position or view but will not argue for it or be an advocate on behalf of that member, or
 - (2) May designate a proxy as described in III.d.
- i. Work Groups: Generally, the Committee will operate as a whole. However, some tasks (such as research or drafting) may be better performed by smaller groups. The Committee has discretion to form work groups to carry out specific assignments from the Committee. Committee members may serve on work groups; in addition, the Committee may invite outside individuals to attend work group meetings or conference calls if it feels particular expertise or perspectives not held by Committee members are needed. The TCEQ Contractor will notify each Committee member of all work group meetings, and each committee member is welcome to attend any work group meeting. Work groups are not authorized to make decisions for the Committee as a whole.

IV. DECISION MAKING

- 1. Substantive and Major Procedural Matters: In guiding the development of the TMDLs and TMDL implementation plans, the Committee will operate by consensus to the extent possible, for both substantive matters (e.g., determining interim and long-term corrective actions and developing load allocations) and major procedural matters (e.g., adoption of the ground rules). Generally, "consensus" means that all members of the Committee agree they can at least abide by the proposed approach, even if a member might prefer another approach.

2. Minor Procedural Matters: For minor procedural matters (e.g., meeting times) the TCEQ or TCEQ Contractor may suggest options and the Committee will vote to determine an outcome.

V. PROCEDURES

- a. Open Meetings: Committee meetings will be open to the public and, if time allows, the Committee may invite members of the public to comment during designated public comment periods. In addition, public workshops may be held in conjunction with scheduled Committee meetings in order to solicit additional public input to Committee deliberations.
- b. Meeting Summaries: Draft summaries of Committee meetings will be prepared by the TCEQ and posted to the world wide web at the following URL:

http://www.tnrcc.state.tx.us/water/quality/tmdl/SC_bac_DOproject.html

The draft meeting summaries will be posted after prepared at the above URL and E-mailed to the Committee for review. If a Committee member does not have access to E-mail, a draft copy of the summary will be mailed if requested. If summary corrections are needed, communicate the requested changes to the TCEQ Contractor either by mail, E-mail, or phone. The Committee will approve the meeting summaries at the next meeting of the steering committee.

- c. Agendas: Meeting agendas will be drafted by the TCEQ Contractor and will be based on the Committee's instructions from the previous meeting. The agenda will be reviewed at the beginning of each meeting and may be refined by the Committee.
- d. Background Materials: TCEQ and the TCEQ Contractor (and, on occasion, other entities) may provide background materials to Committee members in advance of Committee meetings. All requests for, and distribution of, background materials to all Committee members will occur with TCEQ approval and through the TCEQ Contractor to ensure equal sharing of information. Members may draft position papers or provide other material to be circulated by the TCEQ or its Contractor. The TCEQ and the TCEQ Contractor will use their best efforts to distribute any written information any member of the Committee wishes the Committee as a whole to receive.
- e. Thoroughness of Deliberations: During the course of Committee deliberations, every relevant issue raised will be recorded and addressed. To expedite the process, agreed-upon lower priority issues may be recorded and dealt with at a later date. If issues raised are not those identified by the Committee for deliberation, they will be recorded as such.

VI. ROLES AND RESPONSIBILITIES

- a. Contractor Facilitator: The TCEQ Contractor will provide a facilitator to lead the meetings and work with all of the members to ensure that the process runs smoothly. The role of the facilitator includes maintaining a database of Steering Committee members and interested parties, finalizing meeting agendas, focusing discussions, assuring fair opportunity for members to participate in Committee proceedings, working to resolve any impasses that may arise, distributing background materials, working with the Committee members to prepare meeting summaries, assisting in the location and/or preparation of background materials, distributing documents to the Committee or work groups, assisting work groups, conducting public outreach and assuring appropriate public participation, moderating public workshops, providing assistance to Committee members regarding Committee business between meetings, and other functions as the Committee requests. At least four weeks (4 weeks) before the Committee meeting, the TCEQ Contractor will submit a draft agenda; draft meeting notice, and press release to the TCEQ Project manager for approval. Within two weeks (2 weeks) of the Committee meeting, the Contract Facilitator will mail agendas and meeting notices. The press release will be routed through the normal TCEQ process for distribution.
- b. TCEQ Project Manager: The TCEQ Project Manager will manage all technical aspects of the TMDL and prepare final TMDL documents for submittal to USEPA for federal approval. The TCEQ will maintain all records of the Committee proceedings. The Project Manager will also approve the draft agenda and meeting notice within one week (1 week) submitted by the TCEQ Contractor before the facilitator finalizes and distributes. TCEQ reserves the right to ask the Contractor Facilitator to publish a meeting notice in public newspapers in the watershed(s).
- c. Committee Members: Committee members will be expected to assist the TCEQ Project Manager and TCEQ Contractor to:
 - ▶ Identify the desired water quality conditions and measurable goals
 - ▶ Make recommendations regarding water quality monitoring and modeling needed to identify and assess the sources of pollutant loadings or physical stresses in the segments of Sandies Creek and Elm Creek listed on the State of Texas Clean Water Act Section 303(d) list.
 - ▶ Help determine the pollution reduction targets
 - ▶ Lead the effort to implement the TMDLs at the local level
 - ▶ Communicate implications of the TMDLs to other interested parties in the watershed.

Committee members are expected to attend all full Committee meetings. In addition, members may be asked to participate in public meetings that may be held to obtain additional public input on TMDL activities. All members agree to act in good faith in all aspects of the Committee's deliberations. Committee members are expected to present their own personal opinions based on their experience, perspective, and training, and to work constructively and collaboratively with other members toward reaching consensus.

VII. SAFEGUARDS

- a. Right to Withdraw: Any member may withdraw from the Committee at any times without penalty what so ever.
- b. Others' Positions: By participating, members agree that they are entering into a covenant of mutual respect and professional courtesy. When speaking at outside public forums, each member may express his or her point of view about the issues before the Committee; however, members agree not to report, by name, any other member's position or point of view. The members also agree that they will not publicly predict the outcome of the Committee's deliberations or speak for the Committee unless authorized to do so by the Committee. Personal attacks and prejudiced statements will not be tolerated at any time during the process.
- c. Information:
 - (1) All members agree to openly exchange relevant information that is readily available to them. If a member believes he or she cannot or should not release relevant information, the member will provide the substance of the information in some form (such as aggregating data, deleting non-relevant confidential information, providing summaries, or furnishing information to the facilitator for limited or restricted use or to abstract) or a general description of it and the reason for not providing it directly.
 - (2) Members agree to share E-mail addresses and telephone numbers with others' serving on the Committee. Each Committee member must refrain from sharing this information outside of the Committee. This information is to be held confidential unless written consent from the member is obtained.
 - (3) Members will provide information as much in advance of the meeting at which it is to be discussed as is reasonably possible.
 - (4) Information and data provided to the Committee are a matter of public record.
 - (5) The Committee does not have authority to protect confidential business information (CBI). When information required for Committee deliberations can only be derived from CBI (i.e., innovative technology, cost, or pricing information), the information may only be received by the Committee in aggregate form so as to protect specific CBI from release.

No member is expected to share advance information on its plans or strategy for filing or defending against litigation over TMDL issues. No member is expected to share any information that is subject to attorney/client privilege.
 - (6) News Media: Representatives from the news media may attend Committee meetings and may also ask members to comment or answer questions about the Committee's business. Committee members agree that each member may offer his or her individual perspective; each member agrees not to attribute positions or views to other members by name, nor predict the outcome of the Committee's deliberations. To ensure consistency and accuracy in reporting on general Committee operations,

members are encouraged to direct press inquiries concerning overall Committee plans and procedures to the TCEQ Project Manager or TCEQ Contractor Facilitator.

VIII. PRODUCTS

a. Meeting Summaries:

The TCEQ Contractor Facilitator, in consultation with the Committee, will prepare and distribute draft-meeting summaries following each meeting of the Committee. Committee meeting summaries will be reviewed by Committee members and upon approval at the next Committee meeting; they will become work products of the Committee.

- b. Final TMDL Documents: The Committee will provide input into the preparation of a draft and final TMDL report, which include: (1) problem identification, (2) endpoint identification, (3) source analysis, (4) linkage between sources and receiving water, (5) margin of safety, (6) loading allocation and (7) supporting (technical) documents. All Committee members will have the opportunity to review and comment on the draft and final documents. All Committee members will be asked to sign an agreement supporting the final TMDL reports.

IX. MEETING PLANS

- a. Number of Meetings: The Committee meetings should be approximately 3 and are expected to occur in the 1-year period beginning with the first meeting on November 18, 2004. The Committee will determine the scheduling of additional meetings. The Committee will also determine the timing and number of workgroup meetings.
- b. Location of Meetings: To the extent possible, meetings will take place in central locations in the Sandies Creek and Elm Creek watershed(s). However, meeting locations may vary depending on consensus opinions of the Committee and/or Work groups.

We, the undersigned, agree to follow the Ground Rules of the Sandies Creek and Elm Creek Watershed Steering Committee. Notwithstanding any other provision of this document, nothing in this document constitutes or is intended to constitute a legal obligation enforceable against the TCEQ, the TCEQ Contractor or the members of this Committee.

APPENDIX
Sandies Creek and Elm Creek Steering Committee and Work Group Members
(Updated Semiannually)

SANDIES CREEK AND ELM CREEK TMDL Watershed Steering Committee and Work Group Members	
INTEREST	NAME ENTITY
State Agencies	
Municipal Permittees:	
Industrial Permittees:	
Agriculture	
Non-governmental Organizations	
Private Citizens	
Others (government)	
Others (recreational, civic)	
Council of Government	