

**DRAFT Meeting Summary –
August 16, 2010**

PUBLIC MEETING

**Recreational Use Attainability Analysis of
Dickinson Bayou Above Tidal (TCEQ Segment 1104)**

**Texas Commission on Environmental Quality
And the University of Houston – Clear Lake**

Galveston County Consolidated Drainage District
1605 Whitaker Drive, Friendswood, TX 77546
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August 16, 2010

6:00 p.m. – 8:00 p.m.

MEETING AGENDA

- 6:00 Welcome and Introductions.....George Guillen, UH-CL**
- 6:10 Standards and Criteria for Recreational Use and
Recreational Use Attainability Analyses (RUAAs).....Lori Hamilton, TCEQ**
- 6:30 Dickinson RUAA Findings.....Jenny Wrast/George Guillen, UH-CL**
- 7:00 Dickinson Bayou Bacteria TMDL and TMDLIPRoger Miranda, TCEQ**
- 7:30 Open Discussion Questions and Answers.....UH-CL, TCEQ**
- 8:00 Adjourn.....George Guillen, UH-CL**

ATTENDING THE 8-16-10 MEETING:

Joseph	Anderson	Galveston County Consolidated Drainage District
Dick	Carter	
R. J.	Christec	Dickinson Bayou Boat Association
Carter	Dale	Keep Dickinson Beautiful, Inc.
Louis	Decker	City of Dickinson
C.W.	Gloger	
Steven	Johnston	TCEQ/Galveston Bay Estuary Program
Scott	Jones	Galveston Bay Foundation
Gerhard	Meinecke	Citizen
Evelyn	Merz	Houston Sierra Club
Steven	Mikulencak	Texas Agrilife
Maria	Modelslua	University of Houston
Jack	Murphy	City of League City
Wes	Padgett	General Land Office
Joe	Privat	Citizen
Linda	Shed	Shed Conservation Solutions
Harold	Whitaker	Galveston County Consolidated Drainage District
Daniel	Woitens	Galveston County Consolidated Drainage District
Clint	Wolston	Bayou Wildlife Park
Charriss	York	TX Agrilife Extension Service

Texas Commission on Environmental Quality (TCEQ) staff present at the meeting:

Linda Broach – (LB) TCEQ
Charles Maguire – (CM) Division Director, Water Permitting
Earlene Lambeth – (EL) Outreach
Roger Miranda – (RM) Project Manager
Bridget Bohac – (BB) Office of Public Assistance
Kathy Beyer – Office of Public Assistance
Kathi Terri – Office of Public Assistance
Doris Sanchez – Office of Public Assistance
Lori Hamilton – (LH) Standards & Assessments
Joe Martin – (JM) Standards & Assessments
Laurie Curra – (LC) Monitoring and Assessment Section

Contractors present at the meeting:
Jenny Wrast – (JW) UH-CL
Dr. George Guillen – (GG) UH-CL

CALL TO ORDER/WELCOME/INTRODUCTIONS:

Bridget Bohac opened the recreational use attainability analysis (RUAA) meeting of Dickinson Bayou above Tidal with introductions and brief instructions on the meeting format.

DICKINSON BAYOU RUAA – DR. GEORGE GUILLEN, UH-CL

George Guillen, the contractor hired by the TCEQ to perform the RUAA study, first thanked Joseph Anderson and the GCCDD for providing the venue and refreshments for the meeting. He next introduced the first speaker, Lori Hamilton with the TCEQ Water Quality Standards group. The Surface Water Quality Standards group of the TCEQ is the unit within the TCEQ responsible for setting the appropriate uses, standards and criteria for surface waters for the State of Texas. Ms. Hamilton explained that after an RUAA study has been completed the results are sent to the Standards group and, based on the results of the RUAA study; the standards group develops a recommendation to the Commission for classification of the water body. The Texas Surface Water Quality Standards are developed to maintain the quality of surface waters in Texas. This function protects public health, and aquatic life, consistent with the sustainable economic development of the state.

Use attainability analyses identify appropriate uses for the state's surface waters, including aquatic life, contact or noncontact recreation, and source of public water supply (or drinking water). The standards used for evaluating support of those uses include upper and lower limits for common indicators (criteria) of water quality, such as dissolved oxygen, temperature, pH, dissolved minerals, toxic substances, and bacteria. Statewide standards may be revised on a site-specific basis when sufficient information is available.

After extensive coordination with stakeholders and an advisory workgroup, the TCEQ adopted revisions to the standards and approved changes to the standards implementation procedures on June 30, 2010. The change made 4 use changes for contact recreational uses that include primary contact, secondary contact 1 and 2, and non-contact recreation. Recreational use attainability analysis (RUAA) protocols were also developed.

Lori explained that 124 RUAA studies had been initiated throughout the state. More standards information can be viewed at the following web address:http://tceq.state.tx.us/permitting/water_quality/wq_assessment/standards/eq_sws.html#intro

DICKINSON RUAA FINDINGS – JENNY WRAST, UH-CL

George Guillen explained that the Environmental Institute of Houston at the University of Houston-Clear Lake was hired by the TCEQ to be the contractor to perform the RUAA study in Dickinson Bayou Above Tidal. He explained that graduate students and employees of the University had been collecting data and performing surveys on the water body.

Jenny explained her role for the evenings meeting was to report the findings or results found in the study. She asked for the stakeholders' input. She asked if the findings in UHCL

s study was consistent with what they believed and if they had seen contact recreational use or used the bayou for recreation themselves? She explained that there were interview forms available and

asked the stakeholders to complete a form, if they wished and that the information on the completed forms would be submitted with the final report to the TCEQ.

Jenny said that Dickinson Bayou Above Tidal (Segment 1104) was 7 miles long, located in the San Jacinto River Basin and is a classified water body (needing a comprehensible RUAA) that is considered impaired and included on the 303(d) list for contact recreation use (e-coli indicator bacteria). Jenny reported that the segment included in the study begins 2.5 miles downstream of FM 517 in Galveston County and continues to a little above FM 528 in Galveston County.

Jenny wanted to point out that the study is a Recreational Use and Attainability Study/Analysis, stressing the word attainability. She explained that stakeholder participation is needed and encouraged throughout the study. Jenny said a historical review was done as well as field studies (performed when temperature was greater than 70 degrees). Jenny reported that they chose sites that were easily accessible to the public and 6 sites were surveyed in the stream. Jenny explained that depth measurements were taken and that any evidence of recreational use in the bayou, such as footprints that led to the water, fishing equipment, etc. is noted and documented. Photographs are also taken of the banks on both private and public land. The two uses observed during the field study included walking/hiking and bicycling. She explained that through interviews, a couple of stakeholders had reported swimming and wading in the bayou. Other observations included picnic and bar-b-que pit areas, spent shotgun shells, beer cans, fishing bobbers caught in trees or in the water, and an all terrain vehicle trail. Through historical review and internet search another use was noted at the Bayou Wildlife Park located just downstream of FM 517. Jenny reported observations such as algae cover, murky water, fencing across the stream, the shallow water depth in certain areas of the stream, debris in the water, and snakes that could impede the recreational use of the bayou.

At the end of the presentation, Jenny again asked the stakeholders “are the uses presented in this presentation consistent with your experience and knowledge of the recreational uses in Dickinson Bayou Above Tidal?” She asked for input and reminded stakeholders that blank surveys were available to be completed if something needed to be noted in the final report if it had not been covered.

Jenny said the next step for the UH-CL would be to prepare and submit to the TCEQ a final report that will be reviewed by the TCEQ’s Standards group. A copy of Jenny’s presentation can be viewed on line at the following web address: (Insert when web is up)

DICKINSON BAYOU PROJECT OVERVIEW

Roger Miranda, of the TCEQ’s Total Maximum Daily Load (TMDL) Program, was the next presenter on the agenda. Roger stated that even though the meeting was held for the RUAA, he was going to take some time to bring the stakeholders up to date on the 2 TMDLs going on in Dickinson

Bayou for bacteria and dissolved oxygen (DO). a TMDL is the specific amount of a pollutant a water body can accept and still meet its water quality standard. The tidal portion of Dickinson Bayou (Segment 1103) is listed for bacteria and DO. The above tidal portion of Dickinson Bayou (Segment 1104) is listed for bacteria (also for DO but the impairment is not verified).

Roger explained that in June 2008 the TCEQ released a draft TMDL for dissolved oxygen document for public comment and submitted to the EPA for preliminary review. The EPA communicated that they would not approve the TMDL and suggested several courses of action, which the TCEQ is currently pursuing. Roger reported the items that needed to be completed for the dissolved oxygen (DO) TMDL were the following: complete and aquatic life Use Attainability analysis (UAA), an effort that is being conducted jointly with involving UHCL (included 2 years of hot weather sampling), additional modeling (another year subsequent to UAA study), and a review of the DO criteria if needed. There is strong evidence that the frequency of attainment of the current DO criteria required by our assessment methodology is not achievable under natural conditions. Roger reported that the adoption of the revised TMDL for DO would happen no sooner than 2015 depending on the time needed for additional modeling and sampling.

Roger explained this was a very complicated TMDL due to the physical attributes of the bayou and flow. Roger reported on the status of the bacteria TMDL and said the TMDL was on schedule (no standards issue). The historical data analysis is complete for the project. The sampling included storm water and pipe locations and tributaries that drain portions of the water body. Roger explained the load duration curve and a simple mass-balance model (tidal prism) in detail. A copy of Roger's presentation can be viewed on line at the Dickinson Bayou project web site named below. Roger hopes the TCEQ will release the bacteria TMDL for public comment this year (2010) or early next year (2011).

Roger said that there had been criticism that the TCEQ was studying the bayou too much and not doing enough directly in the Bayou. He explained that the project was not going to follow the regular TMDL path and wait for TMDL approval, but that the TCEQ and stakeholders would start on the TMDL Implementation Plan before approval for the TMDL was granted and that both the TMDL and TMDLIP efforts would occur concurrently. Roger reported that with the help of TX Agrilife Extension Service and local stakeholders, a Watershed Protection Plan (WPP) had been developed, that constructed wetlands were being put in place, that outreach and education was being conducted in the watershed, and that assistance was being provided to develop city ordinances to implement low impact development and environmentally friendly land use practices.

Roger reported that in FY11 (beginning Sept. 2010) the Implementation Plan (IP) was being started and the Watershed Protection Plan was being revised. Both the Implementation Plan and the Watershed Protection Plan are living documents that have the same goal, to improve water quality but one includes voluntary actions (WPP) and the other (TMDLIP) included both regulatory and voluntary actions both include participation of regional and local stakeholders. Roger said that new or old permits must be consistent with the load allocations described in the TMDL. Roger described various point and non point source limits that could be changed or put in place through management practices. Roger also said the TCEQ was looking for additional 319(h) funding. Roger reported a new agreement was going to be signed between the TCEQ and TX Agrilife to continue to support the Dickinson Bayou Watershed Partnership.

For more information on Dickinson Bayou project can be found at the TCEQ web page: <http://www.tceq.state.tx.us/implementation/water/tmdl/80-dickinsonbayoubacteria.html> or <http://www.tceq.state.tx.us/implementation/water/tmdl/17-dickinson.html>

QUESTION AND ANSWER PERIOD

Scott Jones: When getting your initial list for your survey, how is that generated? Random or prior contact names?

LH: We give a list of must contacts and suggested contacts.

JW: People on the “must contact list” are Parks and Wildlife, TSSWCB, TCEQ Regional Office, Clean River Program Partners. People on the “suggested list” include canoe or kayak clubs, conservation groups, local landowners that own property on the water body or adjacent to it, we Goggled a lot to see who we could find.

Scott Jones: As you are doing your site work, is there a threshold you need? Like a few kids wading or minimal before TCEQ believes it is a use?

LH: At this time we do not. The reports we will be getting in this year are our first projects. We want to get more in to determine the evaluation of them to determine if it is first or secondary contact recreational. If there are a lot swimming I would believe it would go primary.

Scott Jones: How do you make sure that the standard set above tidal won't effect below tidal where there is a lot more contact recreation?

LH: We assign uses to the individual water body and not based on the downstream uses. Through the regulatory programs, permitting, TMDLs. We have bacteria limits that are set, such as through waste water permits.

Clint Wolsten: I wanted to tell your something about Dickinson Bayou that you may or may not know. In 1947 there was an oil well blow out at the Phillips 66 plant and it filled the bayou, it took about 3 years for it to go away. In the 1940s we did a lot of waterskiing in there and in the 1950s everybody's septic system ran right into the bayou. We would ride along and see all the pipes from every body's house. That didn't seem to bother us at all. I don't recall anybody being sick. Maybe that was different things. Based on the bulkhead that we put in in 1963 the water is now 1 1/2' – 2' deeper in the bayou from when we put that in. Do you think that by going down into the mud of the bayou you could find something that shouldn't be in there? The oil had to go somewhere. Have you ever checked the mud in the bayou?

LB: We have tested the sediments of the bayou. More of the sediments that we have tested have been downstream.

CW: My dad used to catch as many as 50 alligator gar a day. I have pictures of it. It (oil blow out) wiped everything out. We use to have shrimp, catfish, and trout before all that happened. It went away. I am just wondering if there is still some of that stuff there. I not that much on poison but could it still be there?

LB: We have some samples and we have compared it other areas. I do not remember all the data off the top of my head. If you call me I will get you the information.

CW: Did you get a hold of me on filling out one of those forms? Somebody came over there and ran all kinds of test on my place. I never heard back from them.

LB: That was not us.

RM: That was the University of Houston.

CW: They tested all my ponds, creeks, and I have not heard back from them.

RM: I have that data.

CW: Oh do you?

RM: I will give you my card and I will be glad to send that to you.

JW: I believe I did speak with you on the phone.

CW: Oh, did you.

JW: Yes, and just through our conversation on the phone you did not fill out a complete survey interview form. I was contacting you to see about getting access through your property. I did note all the things we spoke about on the phone. I filled out the form. You said you did not have the time but I put you down as an anonymous interviewee.

CW: I would be glad to write you 2 or 3 pages on Dickinson Bayou.

JW: Above tidal?

CW: What do you mean above tidal?

RM: Upstream of Cemetery Road.

CW: We used to have as many as 40 boats, waterskiing, everything up and down that bayou. You could hardly water ski there was so many of them. Now you don't see any of them, you hardly see them. We all swam in there and no one was sick. I am just telling you in 1950 or '51, the bayou became clean and we all went back to skiing.

JW: If you wouldn't mind staying a few minutes after the meeting I would love to get an interview from you.

CW: OK. All right.

Charriss York: My question is based on this study that you have done, do you have a timeline in mind for determining what the recreational use will be? Whether it changes or not, do you know when that decision might be made?

LH: Not yet, with our current work load we are getting in probably close to 50 (RUAA) reports this year alone. I do not know exactly the timeframe. It is our goal to be reviewing these in the next year. Since this is a classified water body, any change to the standard would require a rule change. We would have to go through formal rulemaking. Rulemaking is typically every 3 years. Our target date would be 2013 for rulemaking. If we determine that the current use is not appropriate, we would roughly be looking at 2013.

Bridget Bohac: I just had a note passed to me that the City of Dickinson City Council person is present. I just wanted to recognize the fact that you were here.

Evelyn Merz: If the decision is made to change the designated use, what opportunity will the public have to comment on the change?

LH: Since this is tied into the rulemaking, we have a public notice that goes out, target the papers, and then the public has a 45 day public comment period to submit comments to the TCEQ regarding any standards change that is proposed. All those comments will have a formal response to comments and then there is a public hearing. We have to go before our commission for adoption. There is also an opportunity for the public to comment at the agenda before the commission.

EM: Will the people who signed in here tonight be notified?

LH: We do maintain a list serve for our Standards Advisory Group and I will be glad to add you to that list to be notified.

BB: Please indicate on the sign in sheet if you would like to be added to the list serve. Can people also add there selves to that list serve?

LH: It is set up for people to ask and we will add to the list serve.

BB: Did anyone want to comment on Ms. Wrast presentation? Particularly where she asked if there was any uses that were inconsistent with what you are aware of or any additional use that you know of.

GM: My comments are probably going to be too long for you. Agrilife, I don't know who Agrilife is. Could you just tell us?

Charriss York: I work for the TX Agrilife Extension Service that is part of TX A&M University. There are offices throughout the state of TX. My particular office is called the TX Coastal Watershed Program located on Bay Area Boulevard. Our program has been involved in the Dickinson Bayou Watershed Partnership which is the public group that wrote the Watershed Protection Plan and doing the majority of the outreach meetings and things like that in the watershed. I will also be the person that Roger was talking about with the Implementation Plan. There have been a couple of different watershed coordinators over the years, Susan Benner and Bud Solemson, who were both out of my office.

GM: So it is not the agriculture community per say. OK. When we talk about attainability – what do we talk about, what do you mean by attainability? What could possibly the stream be used for, right? Current state, any state?

LH: With the use attainability study we are looking at what the existing uses are in the water body, that is why we are looking at that. It is also the attainable aspect of it also.

GM: It says recreational use analysis. I didn't see much about attainability. Let me tell you where I am going. There was a project a year or so ago that was de-snagging. Prior to de-snagging in the bayou ...inaudible. You wouldn't have been able to go up...with the boat. So there was an improvement made and it allowed more and higher recreational use. I think we should be saying if we did this that would improve the use. Maybe the turbidity could be reduced, sediment ...CD inaudible. Maybe we just think it is polluted now. I want to talk attainability.

BB: You mean if things improved, in the future, what kind of uses could be attained?

GM: Better clean up, less pollution, ...better not put my kids in there, I better not kayak. I have had some communication with TCEQ before and now we have to sit an answer about the bayou. It is not a lake, it is flowing water. Flows down, right, not up? Excuse my French right here, but the old saying is that shit flows downhill. Inaudible CD. 15:4 end of CD1 of 2

It takes time and resources, what ever happened to just saying, clean water, and we want to make it cleaner? Now what are we saying? Not use so much. One time I heard that the agriculture community, inaudible... that I don't have to put in any treatment plant for my feed lot. Or I don't have to worry about what I spray on it or any thing else. I know I am talking about other things since we are meeting on just the RUAA. Are you really looking at full attainability? If so, you would be asking what if certain things happened it would improve. I really feel doing this in isolation and not looking at what the effect further down would be, I used this word a long time ago to someone in here...negligence. Is the dissolved oxygen TMDL going to happen too?

RM: Well yes, for example we are really homing in on these on-site treatment systems. Because, specifically it is a problem especially in the southern portion of the watershed. In addition to taking care of the bacteria problem, these waste that are not treated, are high in nitrates, high in phosphate, all exacerbates the DO problem in the bayou. It is a way of mitigating those nutrient loads.

GM: It is a side effect of looking at improvement for the bacteria TMDL we are going to gain something for the DO. We aren't going to do anything specifically for the DO we will just let the bacteria TMDL help.

RM: Now remember, it is complicated. There are flow issues,

GM: So, if it is not complicated, you would hire somebody like me?

RM: No, it is not clear that the bayou can attain the standard that is being applied to it right now.

GM: We know that certain things in the plan would improve it.

RM: Yes,

GM: We do the bacteria TMDL and it will improve the DO limit and help even more.

JW: I just wanted to try and answer one of the questions you posed about the RUAA and attainability. In the RUAA procedures there is an historical review so we have an historian, at UH who has reviewed old newspaper articles, talked to people, what the historical use of the water body is, we do the site visits to try to determine what the current use is, and then, when we go out we take a lot of physical parameters. What the width is, what is the depth, how steep the banks are, that type of information. Using those types of physical parameters in some cases you can make the determination that if that water body, if it is attainable for people to use it. If it is 3 inches deep, and 1 foot wide, and necessarily not enough water in it to even recreate to a certain level maybe that can determine the allowable use portion of the water body. I believe you have brought up a good point, that is something we can look at in the future of doing RUAAs, is giving some type of question in the surveys that in the future, if conditions were different than they currently are. I believe the parameters that we take now does address attainability of the recreational use of the water body.

GM: When did you start this study?

JW: The field portion of it was started in March of this year.

GM: When was the de-snagging?

BB: It was before the storm and then went back and did it again after the storm.

Lots of talk over, unable to hear comments.

GM: If you had done this study before the de-snagging, your picture of attainable use would have been different. Attainable, is what is attainable now.

LH: We are doing the project now, let's just say, a standards change was done, and it got changed to secondary through rulemaking. Let's say it was based on what was attainable at that time, if something does happen later down the road, the standard could be changed back to primary contact if we had the information available.

GM: Now they say they standard will not be raised from 126 to 206 but in order to apply the resources of TCEQ better, to the areas that need some work, now what you are saying is to increase the recreational use categories than before. It is contradictory, what is the reasoning there?

RM: It is just as likely through the results of this RUAA that primary contact is appropriate. We have not made any determination. They have gone out and assessed the water body and now they will look at the data. Lori was saying hypothetically this goes to secondary; I do not want anyone out there to believe that that decision has already been made because it has not.

GM: You are opening the door; I think there is something in general with TCEQ's flawed reasoning. At what level will input and comments be sought in case there is a decision? We don't have to go to Austin for that do we?

BB: This is the time that we are taking public comment on the data that has been collected. The way that you can do that now is through the interview form. Some of the comments I have heard

here tonight, he should put on an interview form. Actually, we have you on record. The next step is for you all (UH) to go back and draft a final report, correct? And then after that, what happens next?

LH: We will put out the draft report for public view and will be accepting comments on that, and since this is a classified water body *if* the TCEQ determines that the water bodies recreational use is not appropriate a change in that use would be required by rulemaking and rulemaking has a 45 day public comment period, a public hearing, and we also go before the commission for adoption, which there is an opportunity to provide comments directly to our commission.

GM: The people that are going to be affected live here, you should have a local hearing, ...

BB: Lori, where would that hearing be held?

LH: The hearing has historically been held in Austin. The reason why is that it is a state rule and it affects the entire state. It has a 6 month time clock and if it were not set within that 6 months we have to start all over again.

GM: Let it be on record that I strongly, strongly object that you just purely look at some data, not even the conclusion yet, some preliminary data, and that is absolutely not enough for anybody to draw any conclusions because since you have already drawn a conclusion, there is really not anything to comment on. My other objection is that we really are not looking at attainability in the sense of if or can there be improvements, pollution be eased, any of these things, people would use it more. I thought this was...Texas Committee Environmental Quality! Is this the one for reduction of ...it looks like that to me. It looks like we do this, change that put more shit in there. Bacteria can flow downstream,

BB: I think you have made some good points.

GG: I think we have jumped way ahead of ourselves; the primary purpose of this meeting was to provide you, the audience, and the interested parties, with what we found in terms of our surveys. Both on site, historical review, as well as interviews. Let's get the basic information down, the facts that ultimately will be used by these entities to make a decision. We are hoping that if you have additional information in terms of use of the bayou, if you know of some source of information, we would love to see it. That is the primary purpose of this meeting and provide you with some other information on the process.

Linda Shead: My comments are not related to your data collection efforts, you have done the best that could probably be done in this situation. Our comments are about the overall process.

Anyone who has put their e-mail address on your sign in sheet deserves to be put on your list serve and notified about anything that happens on Dickinson Bayou and we shouldn't have to come and tell you again that we want our e-mail address listed.

BB: I can't tell you how many people give us that information in a meeting and then turn around and call us and ask why in the world am I getting this stuff? I don't want it, take me off. Let's have a show of hands right now if you gave us your e-mail address, is it OK to be on the list? Yes, so everybody will go on. OK. Thank you. Be sure and know that that does make it public.

Linda Shead: The second comment is that the whole notion of use attainability analysis, I can't agree more that it is a flawed concept because it really doesn't matter what you have observed, you have observed what you have observed, but again, what uses if the water were cleaner, or if people had better access, there would be different uses. So basing a water quality standard on what the water quality is right now and what the accessibility of the stream is right now is not an attainability analysis. It is an attainability analysis based on these limitations. By virtue of that, you have made it impossible to move beyond that. Again, I know you have not set the standard yet but it is just this

notion about how you go about setting the standard. Is the protocol by which you take the results of the data that has been collected, use that to make a recommendation on a water quality standard? Is that public, is that available for us to see and can we please have that information? Will we have a chance to comment on it because I have not seen it before?

LH: We do not have that document yet. We are waiting to get in more of these so we can try to finalize it. Every situation is different with a water body. It is hard to have a straight forward decision making matrix. That is our goal but waiting to get in more of these RUAA since it is a brand new process in Texas.

Linda Shead: If you are going to be making recommendations on a water quality standards based on that then I think that should be public before you ever close comments on what a water quality standard is or use attainability is or anything else that need to be a public accountability for the process by which you make those decisions.

RM: The final report will be made public.

Linda Shead: Will there be an opportunity to have comments on that report? That is my point. You are going to be making a decision about how you are going to use the data that has been collected. But with people not having the opportunity to have input, that is what it sounds like.

RM: The input on the report is happening now.

Linda Shead: We don't have a report to give you any input on.

RM: No additional information of any real consequence is going to be kept from you in any way. You will also have an opportunity to comment on the decision through the standards rulemaking process.

Linda Shead: I want a chance to provide comments on the protocols on the decision making process by which you arrive at a recommendation based on the data that has been collected. That is what I am asking for.

LH: That is new, historically our protocol has been developed by us, like our aquatic life uses.

Linda Shead: That is a scientific definition, this is a little different. We don't have a definition of attainability yet. What is attainability? It is being defined on an existing use is versus what people might like to use it for. I believe it is very important that the public and all the stakeholders have a chance to understand how you are going to use this data. It is very very disturbing to have data being collected and not understand how it is going to be used exactly. We know it is going to be used, but how it is going to be used, how you are going to define the standard based on data that these folks have collected.

BB: I don't think we have an answer for you but I understand what you are saying.

GM: A copy of this meeting, the recording, can I get a copy?

BB: Yes, we will be happy to give anyone a copy that would like one. Please make sure you give me your mailing address if you would like a copy before you leave here tonight.

Evelyn Merz: I wanted to make sure I understood something. Is it correct that there will be an opportunity to comment on the report after it is written? Based upon the comments you have gathered tonight, plus the information gathered by U of H? But does one have to go to Austin to make a comment?

LH: No, no we have a Water Quality Standards Work Group meeting, we have a balanced group of stakeholders that is associated with that work group, and it is also open to the public. We also post information on our web site,

Evelyn Merz: No, I am talking about the report that is supposed to be written and a recommendation.

RM: There is no recommendation in the report. The report does not contain a recommendation.

Evelyn Merz: At some point I understood that a recommendation would be made either to keep the primary contact recreation standard or to change it to a different standard. Is that correct?

BB: That is through the Texas Surface Water Rulemaking.

Evelyn Merz: OK, when that point comes, and certainly there is going to be a methodology governing that decision, from what I am understanding so far, our only opportunity to then make a comment on perhaps the methodology which I hope you will at that point, be able to tell us. Plus, your final recommendation. Do we have to go to Austin to comment on that?

LH: For the rulemaking, if there is a proposed change, you do not have to go to Austin. We have several different ways you can submit comments, e-mailed in, and mailed in, facsimile, to us. So you do not have to come to Austin. We have a public hearing and that is the only thing in Austin but you can submit your written comments separate and aside to that.

Evelyn Merz: The public hearing is going to be very far away from the people that are going to be impacted by the rulemaking.

LH: The rulemaking is state-wide. We do site specific standards change throughout the state.

Evelyn Merz: It is going to apply to a specific segment of Dickinson Bayou. It would be applicable to certain areas of the state but not the entire state.

LH: A lot of our standards changes are West Texas, East TX, site specific.

Evelyn Merz: It is my understanding that you are doing stream segments, water bodies by stream segments. You recently change something in Whiteoak Bayou here in Houston. At what point do you consider the cumulative impacts of what lower water quality standards would have on the tributaries? How would the trip affect the main water body?

LH: The way that our Water Quality Management is set up is to set uses and criteria on individual water bodies and not base it on downstream uses. Each individual water body has standards.

Evelyn Merz: I live on a bayou, not this one but I assure you the water that comes from upstream, Sims Bayou or one of the wastewater treatment plants that is one of the reasons why the EPA came down so hard on the City of Houston when they had inadequate policing of the treatment plants is that the inputs of those wastewater plants impacted the people downstream and Galveston Bay. So, that does not make sense. There is not a wall at the end of the stream segment.

LH: As an example, we have Dickinson Bayou Above Tidal and Dickinson Bayou Tidal. Those are what we consider two different segments and they have their own individual designated uses and criteria in the standard. We set standard uses and criteria for individual water bodies. An intermittent stream criteria versus a classified water body like Dickinson Bayou Tidal. There is our regulated program that we could ask Charles Maguire to speak on. Controls, limits and stuff are set up through the TPDES Program as well as controls in our TMDLs that is to target specific areas where there may be pollution concerns.

Charles Maguire: It is a misconception that we don't look at upstream water quality when we are dealing with downstream water quality problems. The TMDL looks all the way to the head waters but the way that it looks at it is that, we look at the mouth above tidal and look to see if it is meeting the water quality standard at that mouth. If it is, then it is not contributing to the impairment below. But if it is not, then the TMDL certainly has within its reach in the Implementation Plan to get upstream to get in all the tributaries, getting in everybody's back yard if it needs to clean up all those inputs that are reducing the impairment downstream. It is particularly important to look at water quality in the segments here because they have totally different criteria here. We look at *enterococci* for tidal segments and e-coli for fresh water segments. We are looking at different criteria, that is how the water quality standards are built nationally. If there is a problem

downstream our ability to deal with that impairment reaches all the way to the head waters. I am very familiar with the Bosque watershed and that is where I grew up. I own a home there. I can promise you the TMDL done for nutrients in the Bosque River, the main stream of the Bosque River, touches every tributary, every farm, every landscape, use in that watershed in terms are looking at how to deal with the nutrient impairment in the main stem. Looking at a lake 90 miles away even into the headwaters of the watershed. Our ability to address it is unlimited, looking back at through the water body. It is just a mechanical means that we use the water quality standard to look at them by segments so we can deal with tidal and above tidal.

Evelyn Merz: My last question, what I understand is you do not have your methodologies developed. Have you been in discussions with the EPA in discussing how your plan, is going to fit in with the Clean Water Act?

LH: Throughout the revision process in developing the procedures they did review our recreational use and attainability protocols and they indicated that those were appropriate and we recently received a preliminary approval letter that the 3 water bodies we had proposed secondary contact one, they agreed with our preliminary recommendation. This was from EPA Region 6.

GM: You said you have all the abilities to link those together but I on the Policy and Outreach group from the Upper Coast Oyster Waters project. One way to look at it is that oysters are the canaries of the water, like the coal mine. Someone from the TCEQ said that the bayou categorically did not contribute to any problem in the bay. It has to wrong, those things go in there. I get this a little bit from TCEQ that we can't question it. The same thing when I went to the Commissioners about raising my taxes, he said, oh, don't question me. We are allowed to say something at this level but when it really becomes exciting, when it really becomes something that is going to be acted on, oh...you can do it in writing, or fly or drive...all the way to Austin. We are talking here about the possibility of raising the bacteria count from 126 to 2,000? Right?

RM: No, 630.

GM: Then what is the 2,000?

RM: That is the non-contact criteria.

GM: We are talking about the people living in this area, that that decision is going to be made on their behalf by somebody sitting in Austin and if you want to come you can come up. Why do we have this hearing now, if we can't have direct input into and a direct dialog about that when it is about to happen? OK, all the procedures, all the processes, I look at all the purpose where it should be. We should be told person to person, we are going to allow this bacteria count in this section of the bayou to rise to 2,000. Tell us what it is going to mean and we can discuss it. That should happen face to face. That is what I would expect.

Charles Maguire: We make ourselves very available in terms of meetings like this to hear you and you have been in my office and we have talked on the phone. We don't ever shut our ears. Now we have a process that we have to complete and so there is a day when a decision has to be made. Now we don't hear every voice in meetings like this. I get a few phone calls from people who are pretty upset that I am going to make them re-do and fix their septic systems just because the bacteria is a little high in Dickinson Bayou. They are mad at me over it, how much money that is going to cost them. It is great to have really high water quality goals and I can speak for all of us up here, if we didn't care about water quality we wouldn't do what we do. We love it when the community says they want really high water quality goals, because to us that means you are not going to get mad at us when we tell you what you are going to have to do to achieve those goals. We are used to people being pretty mad at us about what they have to do to keep their goals. If I

tell people they can't take their dogs to the river anymore because the bacteria count is too high, my phone rings. We are driven by technical information and I think we have tried to make clear is that our review of that water body is a technical process and so if you know what it could be used for, you should be telling us that. You should be telling us where that can happen; we have tried to survey it. But if we have failed or missed it, if we didn't measure a place right, if we are just thinking it is just mud puddle after mud puddle and there is really a good swimming hole out there, you need to let us know. That is what we are looking for in community input. Yes, we do look at the water body as it is, but we don't that it can't attain the use just because it is impaired. If the impairment is the only reason it is not being used for swimming, then we are going to consider it a swimming water body. But, if it is a concrete ditch that nobody should be in that only has water in it for flood control, we are not going to say to the people of Texas that is primary contact. We are going to say to the people of Texas that it is secondary. The lone kayaker, yes, we have tried to protect it at some level for the lone kayaker, but what we need to know is what a water body is used for, used for historically, what it could be used for. Now if your notion is that if we spend billions of dollars dredging it, cleaning it out, building parks along it, and then we would have a really nice swimming hole, and maybe we have to pump some well water in there just to keep the water moving, it is not part of what we use for attainability analysis. Our new notion is what can it really be used for with things that have happened on the landscape, that have changed the flows, all of those sorts of things? What can it really be used for and then let's try to protect it to that level. In terms of restricting it to some super level where we have to impose super restrictive regimen on the people that live in the area. We would prefer to just try to get it right. What I would say for this water body, gosh...let's listen to stakeholders if you think there are swimming holes there then you tell us. You put it in writing, or tell us right here right now. We are certainly open to that idea. We don't want to have a swimming hole out there that we did properly protect. You tell us where they are and we will document them on the map.

GM: You are kind of saying, hands off the processes, like who do you think.... We have been listening and telling you. There is no transparency; the methodology is messed up, the levels of the points of input that is what is being questioned here. We do not feel that we want to sign a blank check to the TCEQ with the very limited way you want to deal with it.

BB: I believe what we are trying to say and what we have gone back to a couple of times is that this is your opportunity to say to comment on the use. Give us additional information. Additional uses that might be out there that we don't know about. This was your opportunity to do that here tonight in your own community. Simple fact that we are making a record of the meeting means that we are listening to every comment you have made. We have heard that loud and clear.

Carter Dale: Thank you for coming and giving us this opportunity. I am a Dickinson resident and my family has been in Dickinson since the 40s. My grandfather and father taught me to ski on the bayou in the mid 80s. I am now working on the 4th generation of Dales' skiing on Dickinson Bayou. The bayou is very important to me; I am on it as often as I can be. I have been on it 4 of the past 5 weekends with my daughter and niece, nephew, skiing and swimming. With that being said, all of my background and time on the bayou is tidal. I guess the reality is there is an above tidal and is not very accessible to us with the type boat we have. Gerhard was speaking about the de-snagging process program that happened last year. I will say it has made a tremendous difference. With the tidal activity really starting this spring, the clarity of the water has improved to

a level that is the best I have ever seen (since mid 80s.). The aquatic life and wildlife in general on the bayou is increasing as time goes on after the de-snagging. I hope for some tools to enhance that. I think the real focus was from Hwy 3 to Cemetery Road. With some time, hard work, and maybe a few resources we spend some time cleaning out the bayou; helping the flow of the waterway we can resolve a lot of issues without causing a lot of heart ache. I am convinced it has made a tremendous impact. Thank you.

Louis Decker – I will speak about the history, not as a member of Council, Mr. Anderson was the one here that actually got the funding for the de-snagging. In '88 – 93, a five year watershed study the head of the Coast Guard said that de-snagging would never happen. I don't know where he is now but I am here. Going back to the 60s, 70s, 80s, I fished, I gilled flounder, and you caught all the fish, the shrimp, the cast net. Get 'em. But the change happened when they stopped the barges from going up and down and the shrimp boats. They ceased. The bottleneck as far as I am concerned, is that barrier of water that does not allow that flow to move like it did in the 60s, 70s, and 80s. That is my own opinion and I was there. I lived in Texas City and I moved to Dickinson in '78. Somewhere around '85 or early '90s all these things came to cease. You don't get the fish, you don't get the cast net, all the shrimp and baby flounder, all the things you use to get, but looking back to those years I just mentioned. You inhibited the flow of water with the tide. Yes, this is above tidal. This is very important because it would take the TCEQ, the Coast Guard, and other entities, to all work together to get that barrier out of the way. I am well aware, not because I am on the Council, Dolphin Cove and Marlin Atlantis that is why people have been upset through the years. I have been on the Council for 5 years in the 90s, and since 2002. Sitting here and listening, you want input...I can go back and I think that barrier is the first place that your group and other groups, you eliminate that and you have the movement. You also might eliminate a lot of other things. I had a lady call me today and said she had a growth, between I-45 and Hwy 3. She asked me if I knew anything about it. It is probably not what's up on the lakes that is taking over. I told her to go to the Parks and Wildlife that they have biologist. She called me back this afternoon. She managed to, where her boat is docked; she got it and put it in a bag, and went down to the Parks and Wildlife on 517. They told her it wasn't that bad stuff and this should probably go away when it gets colder. But why is that growing, I heard about it today. I asked her why, how did you find me? She said she called City Hall and I guess because I am on the watershed group and City Council they told me that yes, I am one of the few. I don't know the technical aspects like Gerhard and some of the other people, but the history of why is that barrier as far as I am concerned. Thank ya'll very much.

Dick Carter: Quick comment coming back to your questionnaire. You have done a very good job of looking at the history, present day conditions, absolutely nothing is on that questionnaire about you vision, what do you propose? What do you know is coming? What is going to happen to this bayou? We have totally left that part off. There are definitive plans that have been approved by League City Council and others to build some detention basins in this area. There are master planned communities that may or may not happen in this area. You have many activities to take place. You have Grand Parkway that is probably going to come through this area. Huge impacts are going to take place maybe before we adopt these policies. We need to not just looking at present and history; we need to put a little insight. This is an urban area that is going to change. We need to be thinking about that very heavily as we look at these streams and corridors. What is the appropriate recreational use? Today in history isn't the same thing our kids are going to see.

Think about them as you are working on this, writing these criteria. They are the ones it is going to impact.

JW: On the interview form there is the final question that allows you to put any additional note. I don't know if you filled out an interview form Sir but that would be a good way for you to get those concerns submitted to TCEQ through this report.

If you did know of something coming up, de-snagging process, that is some critical information that you could provide.

I am just a citizen but what you need to be doing is talking to the drainage district. What are their plans, what is their master plan? Talk to both cities, League and Dickinson, Friendswood, they are involved in this. They are not here. What are their plans? Have you talked to them about developments and plans? I have heard nothing about that data that is coming in.

RM: That is probably covered under the watershed protection plan effort. I am sure there have been conversations with the city governments at least in Dickinson. We are planning to revise that watershed protection plan and I think your comments are right on target. That is what this planning process is about.

You need to look at the recreational use with that same emphasis. Talk with your communities; talk with your players about what is going on.

BB: That is our allotted time. Please register if you have not done so, especially if you want to be put on the list serve. Also, we ask for your comments and there are forms available. Please put all that you feel is relevant on that form. The meeting adjourned.