

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
IRRIGATOR ADVISORY COUNCIL  
DECEMBER 4, 2002**

**BUILDING A - ROOM 173  
12100 PARK 35 CIRCLE  
AUSTIN, TEXAS 78753**

**Council members in attendance:**

Harvey McLarty	David Burrell	Alice Megna
Dave Coleman	Robert Thurmond	Willie Gossett
Edmund Archuleta	Gene Barnes	Alex Garza

**TCEQ staff in attendance:**

Gene Reagan	Lori Lynn Dennis	Bettye Jean Urban
Richard Craig	Sandra Gallegos (contract temporary)	

**Guests in attendance:**

John Morton	Bret Berry	John Schwartz
Scott Stewart	Robert Reaves	

**Agenda Item #1:**

The meeting was called to order at 9:30 a.m. by the Chairman of the Council Harvey McLarty.

**Agenda Item #2:**

The minutes from the May 16, 2002 Irrigator Advisory Council meeting were reviewed. Willie Gossett made a motion that was seconded by Gene Barnes that the minutes be approved as written. Passed with no opposition.

**Agenda Item #3:**

An enforcement report was given by Lori Lynn Dennis, Enforcement Investigator of the Landscape Irrigation Program. The report was as follows:

From May 15, 2002 to December 4, 2002, enforcement actions included the issuance of eight Notice of Enforcement (NOE), 43 Notice of Violation, and 94 Notice of complaint letters. Ninety-six complaints were received and 100 investigations were initiated. Complaints against unlicensed

individuals continue to be the largest percent (77%) of complaints received.

The landscape irrigation program of TCEQ three cases in the Special Investigations Section that result from complaint investigations. The cases were selected because fraud and deceptive practices were utilized by unlicensed individuals to sell and install landscape irrigation. One case is nearing closure and may result in requiring the individual paying restitution to affected property owners, refrain from practicing landscape irrigation, and being placed on 10 years probation. Special investigations are very time consuming projects. However, the potential for widespread impact is great making the investigation well worth the time. Details of the cases will be made available as the cases close.

The enforcement division has processed several irrigation NOEs submitted by the program earlier this year. The penalties on the Orders range from \$2,000 to \$3,000 for complaints against unlicensed individuals. The Orders will go before the Commission for approval.

Discussion followed.

**Agenda Item #3A:**

Progress of examination outsourcing was reported on by Gene Reagan. Sixteen examination sessions have been conducted. The 2003 schedule of examination sessions has been published and accepted by TCEQ and TEEX.

Concern was expressed by Council members that the sites fill up fast and that TEEX may not be meeting the needs of the candidates who wish to take the exam.

Robert Thurmond asked about the current pass/fail ratio. It was stated by staff that the rate of passing the exam was less than 50% at most of the examination sessions. Discussion followed among the Council and the staff as to the reasons that the percentage has gone down.

It was reported that between the versions offered, the pass/fail ratio was consistent.

March 28<sup>th</sup>, 2003 has been targeted to be the first examination session where the new design problem will be implemented.

Staff reported that security is adequate at the sites. Robert Thurmond asked if it was a renewable annual examination contract with TEEX, and if the questions are being changed. Staff stated that the answer to both questions was a "Yes." Mr. Reagan reported the next year's schedule for exam sessions will be submitted to us in the month of September for review and approval.

One of the Council members asked if the examination candidates could be surveyed about the actual examination to see how they, in general, felt about it. Discussion followed.

### **Agenda Item #3B:**

A presentation was made by Gene Reagan regarding the Basic Training Course curriculum. The trainers are currently revising their manuals to incorporate this new design. The manual will be submitted to TCEQ for approval. Staff has had positive feedback on the design problem thus far.

### **Agenda Item #3D:**

Discussion on future council meetings took place. The following dates were approved by the council upon motion by Mr. Archuleta and second by Robert Thurmond: February 19, May 21<sup>st</sup> and September 19<sup>th</sup>, 2003. The time for the meetings to begin will be set at 9:30 a.m, and they will held at TCEQ here in Austin, Texas.

### **Agenda Item #3E:**

Chairman McLarty asked about the letter writing campaign he understood the TTIA had organized. One hundred and sixty five letters and eight e-mails have been sent from the industry to the Commissioners. They have stated why they believe the program should remain with the TCEQ and not be transferred elsewhere.

Mr. Gossett asked what else the industry could do to influence the Sunset Commission, in order to let them know that their recommendation is against the desire of the industry.

Richard Craig addressed this question by stating that currently the letter writing campaign was about all they could do until committees of the legislature were created. Then, if the industry desired, they could try to influence the committee members.

Mr. McLarty asked how much notice was given by the legislative committees as to their hearing dates and times. Sometimes as little as three days it was stated. The attendees were reminded that the members of TTIA, the industry, and the Council members can exercise their rights by lobbying their own representatives and senators.

Mr. McLarty asked the Council for approval for him to draft and send a letter to the Commissioners and to the Sunset Commission stating the position of the Council regarding any program move from TCEQ. The draft will be sent to the Council members prior to mailing. On motion by Gene Barnes and second by Robert Thurmond the Council approved Mr. McLarty's request. The letter will address protection of the water supply, conservation of water, and the regulation of the local water authorities being under the jurisdiction of TCEQ.

#### **Agenda Item #4:**

Staff provided the council a list of nominees for the council that had been received by the TCEQ. The list was reviewed by the members, and discussion followed.

Mr. Gossett, Mr. Archuleta, Ms. Megna, and Mr. Garza expressed to the TCEQ staff that persons who are currently instructors should not be considered as appointments to the Council. It was stated by Mr. Craig that even though there is nothing in the rules which prohibits their appointment, the perception that it is a conflict of interest was evident.

Mr. Archuleta expressed that in the future, if the Council's input is desired, biographical sheets on each person nominated should be presented to the Council for their review and recommendations.

It was decided that officers should be elected annually by the Council. This includes extensions of currently occupied positions. February 2003, the agenda will include items for the election of officers of the Council.

#### **Agenda Item #5:**

Rules regarding water efficiencies in landscape irrigation system design and installation are going to be a goal of the TCEQ staff. Input from the Council and members of the industry will be solicited regarding water conservation issues that should be addressed in the rules.

A city ordinance from San Antonio was distributed to the members. Discussion followed.

#### **Agenda Item #6:**

Richard Craig presented an overall viewpoint of what the emphasis might be in the next legislative session and how TCEQ might be impacted.

#### **Agenda Item #7:**

Robert Reaves, a Licensed Irrigator, and an employee of LCRA addressed the Council. Mr. Reaves stated that Carol Baker, one of the persons nominated for a Council position, had addressed a group of water purveyors expressing that the landscape irrigation program needs to remain under the authority of TCEQ. The WaterWise Council and the LCRA are both advocating the same thing. Mr. Reaves emphasized that more enforcement is necessary as there are a lot of bad systems being installed with backflow devices not being tested. He further stated that the test needs to include more on water efficient systems in his opinion. In closing he stated that there needs to be a unified approach to water conservation between agencies, associations, water purveyors, etc.

Next Mr. John Schwartz, newly elected President of TTIA, addressed the Council. Mr. Schwartz complimented the TCEQ on the new design portion of the revised curriculum. As to the examination

outsourcing, Mr. Schwartz stated that the dollars raised from each exam ought to cover the number of proctors and larger sites necessary to examine the number of candidates desiring to test. He was also glad to hear that there is no target to achieve a certain pass/fail ratio or percentage by TCEQ. Mr. Schwartz stated that he was disappointed in the number of letters mailed out by TTIA and those returned by the Irrigators to the Commissioners and the Sunset Commission. He invited Council members and TCEQ staff to come to TTIA Board meetings. Mr. Schwartz will e-mail the schedule of upcoming Board meetings to the staff who will in turn forward it to the Council members. The next TTIA Board meeting will be January 15<sup>th</sup>, 2003 in Houston.

Mr. Archuleta followed Mr. Schwartz's presentation by stating that the message needs to be in the public eye frequently regarding hiring licensed individuals to do the work of landscape irrigation installations. Since the state's budget continues to be limited, and the resources of the landscape irrigation program is lacking in staff, the job of such public education rests solely with the industry, and specifically the state and local associations. He went on to say that currently the public is unaware of the licensing requirement. The City of El Paso Water Utilities Department is producing a video for such a purpose, and offered an invitation to the AWWA, LCRA and the TTIA to work with them on it. The cost is not enormous, and the resources of each could be pooled, and a lot more could be accomplished, he continued.

John Schwartz stated that he thought that the TTIA would perhaps be interested in becoming involved in such a project. Robert Reaves also expressed his agreement.

Mr. Archuleta volunteered to draft a letter to the LCRA expressing the Council's interest in such a union of resources taking place. The Council members agreed for him to proceed.

Bettye Urban advised the Council that Chapter 5 which governs advisory groups and committees was placed before them. In addition a copy of the rule change allowing any committee which meets to discuss the examination can be held in closed session so as to protect the integrity of the exam.

Richard Craig made a statement that effective June of 2003, Chapter 34 of the Texas Water Code will no longer exist. The regulatory authority will now appear under the Occupational Licensing Code.

The meeting was adjourned at 1:30 p.m.