Texas Environmental Flows Science Advisory Committee
Wednesday, December 2, 2009
9:30 a.m. – 1:00 p.m.
TCEQ Headquarters

MINUTES

Call to order
Approval of meeting minutes from November 4, 2009
The minutes from the previous meeting were approved unanimously.

Update on Colorado and San Antonio Stakeholder groups
Cory Horan, TCEQ, noted that the Environmental Flows Advisory Group had appointed the 2nd tier of Basin/Bay Stakeholder Committees. Both groups plan to meet for the first time in December for their initial organizational meeting.

Budget Update
Ruben Solis, TWDB, gave an update to the Environmental Flows budget, noting the dollar amount that remains for the fiscal year. Chairman Huston questioned whether the budget would need to be altered based on the late timing of the formation of the 2nd tier BBESTs. TWDB will look at schedule and determine what work might fall outside of the current biennium so that funds can be re-allocated. Mr. Solis will report back to the SAC at a later date.

Liaison report on Sabine/Neches BBEST meetings
SAC liaison Fred Manhart noted that the Sabine/Neches BBEST had completed their report, reached consensus, and it was submitted by the deadline.

Liaison report on Trinity/SanJac BBEST meetings
Bob Brandes, SAC liaison, gave a short update on the BBEST activities and noted that the final report was submitted on 12/1/2009.

The TCEQ noted that it will make the final BBEST recommendations reports available online and could provide digital or other copies of BBEST recommendation reports on request.

Chairman Huston noted that the BBESTs will present an overview of their recommendation reports at the January 13, 2010 meeting, one BBEST in the morning, the other in afternoon. SAC Members should familiarize themselves with the reports by that date and be prepared to ask questions in order to develop the SAC's comments on the documents for the Environmental Flows Advisory Group.

Initial comments/observations on BBEST work products and Discussion of draft framework on review of BBEST work products
SAC member Mary Kelly began a discussion of an outline, presented to the SAC prior to the meeting and as a handout, of how the SAC might review the BBEST work products and environmental flows recommendation reports. She explained that she pulled language from the statute to draft the "Framework" document. She noted that some items are process oriented and some are substantive. Chairman Huston asked the members what else is needed to put structure around the document that is properly grounded in the statute. Member Paul Montagna stated the group needs to ensure that the recommendations meet the definition of protecting a sound ecological environment and the

recommendations must be supported by the data. Mary Kelly suggested that the SAC shouldn't second guess the findings of the BBESTs, but review to see if the groups followed the statutory steps and are the recommendations reasonable; similar to an appellate review.

The members agreed that the draft framework laid out from the statute is good, but stated that it might be useful to enumerate specifically those elements that have a scientific role and the reasoning; i.e. how specifically did the BBESTs define sound ecological environment and other qualitative questions such as how is uncertainty incorporated, what science is ignored, and how applied geographically throughout basin. The SAC plans to list sub questions as bullets in the framework document and expand the six items to include specific areas that need to be quantified.

Chairman Huston asked for comments from the agency staff. Cindy Loeffler, TPWD indicated that the document was a good start with outline up front of questions and asked what role agencies should play in the review process. Paul Montagna noted that it would be useful to receive outside input. Mary Kelly stated that as each agency is represented on the Advisory Group that agency comments should go through their representative and that process was appropriate per the statute. Todd Chenoweth, TCEQ, agreed with this approach. The agencies will make their reviews available to the SAC members upon request.

The Committee discussed the schedule for the review of the BBEST work products. It was agreed that the group's intent is to complete the SAC review by the March meeting in order for their comments to be useful to the Basin and Bay Stakeholder Committees (BBASCs).

Approval of Discussion Paper on Flow Matrix implementation

The group agreed that the purpose of the discussion paper is to provide framework for how Stakeholders might implement what each BBEST has developed with regard to instream flows. Chairman Huston noted that this needed to be completed and distributed to the BBASCs as soon as possible. The SAC members discussed the various comments and updates made to the document since the previous meeting. SAC Vice-Chair Bob Brandes explained that the principal changes were related to the conceptual models for flow regime application and the process the BBASCs would take to get from environmental flow recommendations to environmental flow standards. It was noted that frequencies are still an unknown, but the document does lay out some steps as to how to get to an environmental flow standard, including using results from existing WAMs, not just those from the TCEQ, and analyze those flows against the recommended flows to compare what they look like in terms of magnitude and frequency. It was stated that the BBASCs must consider assumptions on future infrastructure, especially when considering freshwater inflows.

Members discussed a schedule for finalizing the document. A track changes version that includes new and revised language discussed in the meeting will be circulated for final review on December 11, 2009. Comments need to be back by December 16, 2009 with a final draft to be circulated as soon as possible. Chairman Huston will work on developing a transmittal letter by December 11th.

Other implementation issues
Chairman Huston identified two issues that the SAC needs to address: 1) work plan development and 2) market approaches to implementing standards.

Formation of workgroup on Work Plan development
Member Ed Oborny, with members Paul Montagna and Fred Manhart, will work to develop draft guidance document on Workplan within the next five to six months, prior to the BBASCs submittal of their recommendations and will report to the SAC their initial steps and preliminary report at the January meeting. At that point the SAC will make additional assignments on how to move forward.

Formation of workgroup on Market Approaches to meeting Standards
Mary Kelly noted that the statute is specific in that this is something that needs to be addressed. She volunteered to prepare some information on this issue from existing literature and approaches developed in other states. The group agreed that a discussion of "is there water available to be marketed" was necessary. This task is not a priority task, and can be addressed at later meetings. Mary Kelly will prepare an outline for discussion of this topic in the February meeting. The group discussed the potential of bringing in experts on this topic from outside the state and agreed that it may be beneficial.

Public comments
Tony Smith questioned the timing for workplan development, specifically when does it start. The SAC opinion was that the workplan should be based on the environmental flow regime and standards recommendations, and do not need to wait for what is ultimately adopted by the TCEQ as standards.

Dan Opdyke, TPWD, asked for direction from the SAC on potential HEFR modifications? He stated that it would be helpful to poll current users (both BBEST members and subcontractors) to get their input for suggested modifications. The SAC members agreed to allow Dan to contact the HEFR users mentioned asking for comments and suggestions as to how to improve HEFR. Paul Montagna suggested that a questionnaire be developed with specific questions in order to get better responses. The group agreed to this approach. Dan will report back to the SAC in February.

Norman Johns, NWF, noted that the BBASC members may have some difficulty understanding the implementation document and would likely need a presentation from the SAC to help them fully understand it and its policy implications. Chairman Huston noted that the SAC can make a presentation if stakeholders review the implementation document and request one, but that the stakeholders should be allowed to look at the document first and determine the need.

Next Meeting – Schedule and Agenda
The January 13, 2010 meeting will be hosted by the TWDB. The February 11, 2010 meeting will be held at TPWD. Both will be all day meetings. The March 17, 2010 meeting will be held at the TCEQ.

Agenda for January 13, 2010 meeting:
- Workplan development guidance update
- BBEST presentations – morning and afternoon

Adjourn