

Texas Commission on Environmental Quality
Water Districts Stakeholder Workgroup Meeting Notes

October 18, 2019

I. Welcome/Introductions – Chris Ulmann, P.E., Districts Section Manager, Cari-Michel La Caille, Water Supply Division Director, and L’Oreal Stepney, P.E., Office of Water Deputy Director

- Welcomed stakeholders to meeting and discussed the purpose and goals of the meetings.
- Cari-Michel La Caille provided an introduction, talked application numbers and value required between normal and expedited applications. Ms. La Caille discussed wanting to streamline and make the process more efficient and stated that the Texas Commission on Environmental Quality (TCEQ) Water Supply Division (WSD) was open to innovative ways on how to make this process work smoother. Ms. La Caille stated that the WSD wanted to discuss the issues that both Districts Section staff and district stakeholders are running into.
- TCEQ Staff and Districts Stakeholders introduced themselves to the group.

II. Open Discussion

- ***Discussion Point – Division Program Updates – Cari-Michel La Caille, WSD Director***
 - ***Proposed Lead and Copper Rule Revisions***
 - TCEQ notified the stakeholders that the new proposed Lead and Copper Rule Revisions (LCRR) was out for comments and would be in the Federal Register soon.
 - TCEQ notified stakeholders that that the proposed rule revisions would require mandatory lead service line (LSL) replacement. The rule revisions have many changes which are raising interesting questions regarding liability issues and infringing on private property.
 - TCEQ encouraged the stakeholders to look at the proposed rule to see the new requirements which may affect them.
 - TCEQ stated that public water system (PWS) would have to start sampling schools and child care facilities in a five-year period and that a lot of requirements are being imposed on PWSs than before. The changes will affect compliance with the LCRR “find and fix” approach.
 - TCEQ stated that, under the proposed rule, stakeholders will only have 3 years to find every lead line in their system.
 - TCEQ stated they are unsure how this change will affect smaller companies. If a homeowner has an exceedance, a notice must go out within 24 hours.
 - TCEQ encouraged stakeholders to get involved to see if they would like to have a voice in the matter.

- TCEQ stated that the costs of the proposed Lead and Copper Rule Revisions (LCRR) will be extraordinary for PWSs.
 - TCEQ and stakeholders discussed the Association of State Drinking Water Administrators (ASDWA) as one avenue for stakeholders to make comments on the proposed rule revisions.
 - TCEQ stated that the proposed rule had new trigger levels and that if a district/PWS had a lead exceedance, they would be required to do a 24-hour notice, public education, and consumer notice.
- ***Emergency Preparedness Plans***
 - TCEQ stated that Emergency Preparedness Plans (EPPs) are not getting updated and that the region is citing violations.
 - TCEQ stated that when legislative bill came out requiring EPPs, districts chose what option was good at the time, but those options may have changed.
 - Stakeholders asked if there was an updated form in 2018.
 - TCEQ confirmed that the form was updated in 2018.
 - TCEQ encouraged stakeholders to update their EPPs.
- ***Discussion Point - Region 12 Districts Stakeholder Meeting - District Stakeholders***
 - District Stakeholders gave an overview of their meeting with the TCEQ Region 12 Office the previous day.
 - Stakeholders stated that they had met with Region 12 and other TCEQ staff at the Greater Houston Builders Association (GHBA) office on September 4th to discuss a variety of topics related to operations and issues with the inspection investigations and the scheduling of future meetings.
 - Stakeholders stated they had met with Region 12 on October 17th including Nicole Bealle and her assistants.
 - Stakeholders stated that at the meeting they had a good discussion and learned a few new terms regarding operating issues with inspection investigations.
 - Stakeholders stated that inspectors are now being called investigators and asked if this is a direction from TCEQ Austin.
 - Stakeholders stated that there is a level of mistrust, apprehension, lack of respect and an uneasy atmosphere that has come about the last few years.
 - Stakeholders stated that operators see that there is a misunderstanding as to what has been going on, a lot of rules are being observed now versus the past, and that the operators are getting used to this and understand.
 - Stakeholders asked why they are being asked for additional documentation during investigations now when the documents were originally issued by predecessor agencies of TCEQ 40 years ago.
 - Stakeholders stated that many files have been lost due to changes in ownership and/or operators over the years and that there needs to be methods to work through and find a work around or an “acceptable equivalent”.

- Stakeholders stated that there is confusion on interconnects where there is no interconnect. Stakeholders stated that they are now being asked to have an agreement/contract between connected systems. Stakeholders stated that the rule requires an agreement/contact, but that contract doesn't apply and that the rule has a missing element. Stakeholders stated that it is an open system and not an interconnect.
- TCEQ stated that they need to sit down with the engineers to create guidance. TCEQ stated they will find some work arounds to reach a compromise. TCEQ stated there may be some things that everyone doesn't agree on but can find a compromise and TCEQ Austin will offer guidance as well. TCEQ Austin stated they need to meet with the groups to find common ground.
- Stakeholders stated they will get a sample contract agreement to the TCEQ WSD so that they can review it against the rule.
- TCEQ stated that they will try to find an acceptable equivalent.
- TCEQ suggested that stakeholders, especially engineers get involved with the Drinking Water Advisory Work Group (DWAAG).
- TCEQ stated that the concept of drinking water has changed. TCEQ stated that people are asking a lot of questions about what the TCEQ does and that they and drinking water quality is under a lot of scrutiny from the public.
- TCEQ stated that they are trying to accommodate the amount of complaints received and that need to be addressed within 24 hours.
- TCEQ stated that they must gather as much information as possible, in order to accurately answer the 75,000 complaint calls. TCEQ stated that they are trying to back what the TCEQ and PWSs are doing but need key information to be able to show that TCEQ is watching and responding.
- Stakeholders stated that at the meeting they learned that there are 58 investigators on the water side and 42 investigators on the wastewater side in Region 12.
- Stakeholders stated that they learned that the spot inspections that occur are as a result of complaints and that they are scheduled about every three years or there should be a regular schedule. Stakeholders stated that if anyone shows within 24 hours, this is due to a complaint.
- TCEQ stated that there are a lot of natural contaminants in Texas and that these are expensive to treat.
- TCEQ stated it is facing complaints for color and odor that require us to act within 24 hours which results in a lot of trips from TCEQ Regional staff.
- TCEQ suggested the districts increase their communication with their public about these issues to avoid visits from TCEQ.
- Stakeholders stated that a lot of the "bad apples" were from private industry but that they understand TCEQ must treat private and public entities the same.
- Stakeholders asked to work through the process and what documentation TCEQ would require.

- TCEQ stated they will find a work around to meet the rule requirements and the district needs.
- TCEQ stated that the districts can call the region or the central office to discuss.
- Stakeholders states that separate districts with separate numbers are required to submit documentation but that there is miscommunication or disconnect with understanding how the systems are related or connected.
- TCEQ stated that it also depends on how things are submitted to TCEQ.
- Stakeholders stated that there is a need for clarification of the definition of “Total PWS” where there is one big system incorporating several non-interconnected systems but are still considers one system.
- TCEQ stated that we must consider who has sanitary control and work with the federal and state definitions.
- Stakeholders stated they are looking forward to discussing the issue with TCEQ, but that some districts have already received notices of violation for not having the agreement/contract documents.
- TCEQ suggested that the stakeholders call into the TCEQ WSD Plan Review Team to discuss and identify the interconnects.
- Stakeholders stated that they are hoping to have a follow up meeting in January 2020 with Region 12 and continue meetings quarterly.
- ***Discussion Point – Districts Program Update – Chris Ulmann, Districts Section Manager***
 - TCEQ stated that the Districts Section was still down two team leaders and that the WSD was trying to fill the vacancies quickly.
 - TCEQ stated that the unemployment rate in Texas is 3.4 % meaning it is difficult to hire people. TCEQ acknowledge that the Districts Section staff were working to keep everything moving.
 - TCEQ stated that four other vacancies were open as well, including a contractor and that the WSD is constantly working to fill the vacancies.
 - TCEQ showed graphs on a Power Point presentation showing an increase in bond applications and stated that the WSD would like to discuss areas to focus on and help move applications.
 - TCEQ discussed getting complete applications to improve efficiency and areas of focus to help get this done right and more efficiently.
 - TCEQ stated that they expected the trend toward expedited bond review applications to continue to increase.
 - TCEQ stated that the amount of applications in 2019 has decreased because of a reduction in escrow release applications and the Bond Anticipation Note (BAN) letters.
 - TCEQ stated that they have a seen a Fall increase of BAN applications.
 - Stakeholders stated that they are not being notified when expedited applications are changed to a regular schedule and that engineers are

complaining of miscommunication and delay on changes without explanation.

- TCEQ stated that they will ensure that they are communicating with the engineers and attorneys and that they would notify the districts in a timely manner when those applications are moved from an expedited review schedule to regular review schedule.
- L'Oreal Stepney, Office of Water Deputy Director, suggested that the stakeholders get with the Districts Section to trace what has happened and discuss how to fix the issues.
- TCEQ and stakeholders discussed the common issues TCEQ sees in applications, especially items that expedited applications from being completed.
- Stakeholders stated that GHBA, Association of Water Board Directors (AWBD), and the districts community would like to meet at GHBA or write a paper with common mistakes and missing information.
- Stakeholders stated that this will also feed into the Bond Application Review Format (BARF) revisions.
- Stakeholders asked if TCEQ could put out a list of the common issues, so the stakeholders could start working on it.
- Ms. Stepney stated that there was a similar issue in another division, and they resolved it by sending out a flyer with their mailouts and online.
- Stakeholders stated that the concept of an expedited application was created to resolve a disparity in the quality of application sent in to TCEQ. Stakeholders stated that it used to be acceptable process to get application into the line at TCEQ and then send in additional items as they came in during the TCEQ review process. The expedited application process was designed to offer an incentive to sending in complete applications.
- Stakeholders stated that developers put pressure on the district engineers but then hold off on giving the engineers what they need for the applications.
- TCEQ stated that the technical memo and orders for complete applications get held up while TCEQ is dealing with the incomplete applications.
- Stakeholders stated they want to help TCEQ and that they understand the application is not going to be picked up right after it is received, but that it becomes a problem at day 40. Stakeholders stated that this is evidence that TCEQ needs additional staff.
- TCEQ stated that they are trying to get through the applications and figure out what items are missing early in the review process.
- Stakeholders stated that it seems like the TCEQ is behind before they even get started.
- Ms. Stepney stated that staffing in general in the Districts Section has seen a high level of turnover as those staff are popular with the outside community for their specialized skillset. Ms. Stepney stated that the time to fully train staff can take up to 6-8 months. Ms. Stepney stated that TCEQ is looking at

creative ways to hire staff, such as someone with a business degree rather than a financial degree.

- Stakeholders stated that they can see the challenge TCEQ faces with hiring, training, retaining staff and asked how they can help.
- Ms. Stepney stated that the issues extend outside of just water and wastewater as TCEQ needs 4 levels of staff: engineers, financial specialist, auditors, and lawyers (in the Office of Legal Services).
- Stakeholders asked if there would be a benefit for TCEQ to get a heads up when applications will be submitted so they can prepare for increases.
- TCEQ stated that this would be helpful.
- Stakeholders and TCEQ discussed how to handle districts with recurring bad applications: bump to 180-day review, TCEQ face-to-face for training, and industry implemented training.
- Ms. Stepney stated that in in the water rights permitting process, staff offered those with issues to come in and talk about all applications at one time.
- TCEQ asked stakeholders what their thought were on how long TCEQ should wait before bumping applications missing information to 180-days regular review process. TCEQ stated that these applications create a problem because they keep staff from working on the complete applications while they are working on the incomplete applications.
- Stakeholders stated that big firms typically have a checklist they work from to ensure that applications are complete. Stakeholders stated that if there is a consistent piece of missing information then it is the industry's responsibility to help train these people.
- Stakeholders asked TCEQ what the commonly missing information and big issues are that really hold up applications.
- TCEQ gave an example that some sections give numbers that should be equal but are not and TCEQ must try to find out why. TCEQ gave an example of applications not stating where the district signs are or are supposed to be located.
- Stakeholders stated that this information needs to be communicated in the BARF or in BARF level instructions. Stakeholders suggested changing the structure of the BARF to make it harder for people to miss items, but that the connection was a little harder to explain.
- TCEQ stated that some of the issues might seem minor but could be underrated depending on the number of applications the TCEQ is reviewing at the time.
- Ms. Stepney suggested coming up with a list of common errors that can be looked over by both parties and come up with a solution for each to help resolve existing issues.
- Stakeholders stated that the engineers need to push back on developers to make sure the process is followed properly.

- ***Discussion Point - 86th Legislative Session & Rule Updates - Chris Ulmann, Districts Section Manager***
 - TCEQ showed a slide with the 85th and 86th Legislative Session bills which will require rule changes and the important rule change timeline dates.
 - TCEQ introduced Jaime Ealey as being the project manager for the rule update project.
- ***Discussion Point - Bond Application Review Format (BARF) Update***
 - TCEQ stated they would like to discuss moving forward with updating the BARF and discussed forming a BARF subcommittee.
 - Stakeholders stated that they have volunteers to form the BARF subcommittee.
 - Stakeholders stated that many applications are for non-developer projects and that they end up leaving many sections of the BARF as “NA” or blank because they do not apply to non-developer projects. Stakeholders suggested creating a non-developer BARF.
 - TCEQ agreed to the creation of a non-developer BARF but suggested waiting until revisions on the current BARF were completed.
 - Stakeholders discussed potential changes to the structure of the BARF to improve clarity.
 - Stakeholders stated that TCEQ used to have two specific staff that would take an initial review of applications to identify missing documents and suggested TCEQ implement this practice again to improve efficiency.
 - TCEQ stated that this may be helpful and that they would investigate the matter.

III. Future Stakeholder Workgroup Meetings

- ***Discussion Point***
 - TCEQ and stakeholders discussed meeting on a quarterly schedule for the regular Stakeholder Meetings and suggested January for a proposed future meeting.
 - Stakeholders discussed meeting to discuss rule changes before draft changes were submitted in December 2019.
 - TCEQ and stakeholders agreed to meet via conference call in the next 30-45 days to discuss the rule changes. Stakeholders stated they would contact TCEQ with a proposed date and time.
- ***Discussion Point - Staff Training***
 - Stakeholders asked TCEQ if they need past application documents when projects are split out on multiple bond issue applications
 - TCEQ stated that they make notations in the Technical Memos for future bond reviewer staff and submitting additional documentation was unnecessary, but reserve the right to request, if needed.

- Stakeholders suggested hosting Lunch & Learn sessions for training Districts Section staff. Stakeholders stated that Lunch & Learn session would provide training for Districts Section staff and not interrupt work flow.
- Stakeholders asked if TCEQ staff could come up with some training topics.
- Stakeholders suggested resubmitted a list AWBD topics to TCEQ, like the Developer 101 presented in Houston, for them to choose from for future TCEQ staff training.
- Stakeholders stated they would provide a list to the TCEQ for review.
- **TCEQ Action Items**
 - Create a list of common errors found in bond application reviews and share list with stakeholder group.
 - Discuss proposed rule changes with stakeholders via conference call in November.
 - Review application review processes for potential streamlining.
 - Work with stakeholders to create a non-developer BARF after updating the current BARF (developer).
 - Identify a date and time for the next stakeholder meeting.
- **Stakeholder Action items**
 - Stakeholders will get a sample interconnect contract agreement to the TCEQ WSD to be reviewed against the rule.
 - Stakeholders will send a list of available AWBD training topics to TCEQ.
 - Stakeholders will send a proposed date and time for November conference call to discuss the proposed rule changes.