

# **ENVIRONMENTAL CIRCUIT RIDER PROGRAM STUDY**

**AUGUST 2003**

**PREPARED FOR:**

**HOUSTON-GALVESTON AREA COUNCIL  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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This study was funded through a solid waste management grant provided by the Texas Commission on Environmental Quality through the Houston-Galveston Area Council. This funding does not necessarily indicate endorsement or support of the study's findings and recommendations.

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**Galveston County**  
“Raw Deal.”  
**Harris County**  
“Making case for clean air.”  
“Getting Wasted.” January 31, 2002. 1-5. Houston Press.  
“Mock trials give students lessons in environmental law.”  
“Cities to investigate illegal dumping.”

“Enviro-Cop.”

“Watch ‘em/Fixed: Debris cleared from residential ditch.”

### **Liberty County**

“Development, Flooding and Toxic Waste, Part I.”

”Development, Flooding and Toxic Waste, Part II.”

”Development, Flooding and Toxic Waste, Part III.”

”Development, Flooding and Toxic Waste, Part IV.”

“TCEQ Investigation Report, Site ID#F1599.”

### **Matagorda County**

“Environmental fine would help county cleanup.”

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## **ABBREVIATIONS AND DEFINITIONS**

2003 Study	<u>Illegal Dumping: A Regional Approach to Environmental Enforcement</u>
Cal EPA	California Environmental Protection Agency (California)
CDAAs	California District Attorney's Association (California)
CDBG	Community Development Block Grant
CLE	Continuing Legal Education
ECR	Environmental Circuit Rider (South Carolina)
ECPP	Environmental Circuit Prosecutor Project (California)
ECRP	Environmental Circuit Rider Program
EETA	Environmental Enforcement and Training Act (California)
H-GAC	Houston-Galveston Area Council
IACIT	Indiana Association of Cities and Towns (Indiana)
IDEM	Indiana Department of Environmental Management (Indiana)
KTBB	Keep Texas Beautiful
MSA	Metropolitan Statistical Area
NDEP	Nevada Department of Environmental Protection (Nevada)
OAG	Office of the Attorney General
OSSF	On-Site Sewage Facility
PEER	Public Entity Environmental Management System Resource Center
Project Team	Reed, Stowe & Yanke, a division of R. W. Beck, Inc. and Michelle Helene Belco, Attorney at Law
RS&Y	Reed, Stowe & Yanke, a division of R. W. Beck, Inc.
SBLGA	Small Business and Local Government Assistance

SC DHEC	South Carolina Department of Health and Environmental Control (South Carolina)
SEEN	Southern Environmental Enforcement Network
SEP	Supplemental Environmental Projects
State	State of Texas
TAC	Texas Association of Counties
TCEQ	Texas Commission on Environmental Quality
TCLEOSE	Texas Continuing Law Enforcement Officer Education
TDCAA	Texas District and County Attorneys Association
TEETF	Texas Environmental Enforcement Task Force
Texas C-BAR	Texas Community Building with Attorney Resources
TRO	Temporary Restraining Order
U.S. EPA	United States Environmental Protection Agency

## EXECUTIVE SUMMARY

### Background

In recent years, there has been an increased awareness concerning the need to combat illegal dumping<sup>1</sup> through enforcement in the Houston-Galveston Area Council (H-GAC) region.<sup>2</sup> This increase in awareness regarding this issue has been well documented in several studies, as well as in a training manual, funded by H-GAC including:

- December 1997 – A Review of Illegal Dumping in Montgomery and Wharton Counties
- March 1999 – How to Establish and Operate a Successful Environmental Enforcement Program<sup>3</sup>
- August 2003 – Illegal Dumping: A Regional Approach to Environmental Enforcement

According to the August 2003, Illegal Dumping: A Regional Approach to Environmental Enforcement study (2003 Study) conducted by Reed, Stowe & Yanke, a division of R. W. Beck, Inc. (RS&Y), significant strides have been made in the area of environmental enforcement including the creation of the Texas Environmental Enforcement Task Force (TEETF) as well as the establishment of dedicated environmental enforcement officers and departments within several cities and counties in the H-GAC region. While the 2003 Study acknowledged the significant strides made in the area of environmental enforcement, the 2003 Study also contained recommendations for programs and activities the region should consider implementing, including:

- Establish a circuit prosecutor program;
- Designate a specific environmental court;
- Maintain environmental enforcement training including a greater focus on the issue of junked and abandoned vehicles;
- Provide assistance with laboratory testing;
- Establish a regional database;
- Establish performance standards;
- Develop Supplemental Environmental Projects (SEPs) at the local and regional levels; and
- Create a regional task force.

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<sup>1</sup> For the purposes of this study, illegal dumping is defined under the Texas Health and Safety Code § 361.003(7) as “the discharging, depositing, injecting, dumping, spilling, leaking, or placing of solid waste or hazardous waste, whether containerized or uncontainerized, into or on land or water so that the solid waste or hazardous waste or any constituent thereof may be emitted into the air, discharged into surface water or groundwater, or introduced into the environment in any other manner.”

<sup>2</sup> A map of the H-GAC region has been included in Appendix A.

<sup>3</sup> This was developed as a training manual.



The primary recommendation was to establish a circuit prosecutor program. As part of the 2003 Study, cities and counties within the H-GAC region were asked to identify the reasons behind the need for a circuit prosecutor. These reasons included:

- Environmental offenders generally do not have the money to cleanup illegal dumpsites;
- Violators do not stop if the maximum penalty is only a Class C misdemeanor;
- County and district attorneys are overworked;
- County and district attorneys are often not trained in environmental law;
- The technical requirements for the prosecution of environmental crimes are challenging or difficult;
- Proving the elements of an environmental offense can be difficult;
- There is often not enough staff available to research civil remedies;
- Typically, there is not enough staff to prosecute environmental crimes; and
- The criminal prosecution of environmental violations is typically not a high priority.

In view of these reasons, it was evident that some of the counties lacked the resources necessary for prosecuting environmental violations.<sup>4</sup> The next steps were to identify whether the counties were interested in receiving prosecutorial assistance and if so, to develop an effective means of incorporating prosecutorial services with the other recommendations developed as part of the 2003 Study.

In pursuit of this information, H-GAC retained the services of RS&Y and Belco and Associates, P.C. (Project Team) in April 2003. Their role was to interview county, district, criminal district attorneys in order to identify their interest in obtaining environmental prosecutorial assistance and based on their responses, develop an implementation plan for an Environmental Circuit Rider Program (ECRP).

### **Project Purpose**

The purpose of the ECRP is to assist counties with protecting their environment and citizens by combating illegal dumping from an enforcement perspective. While over the last several years H-GAC has provided environmental enforcement assistance to counties within the H-GAC region, some counties have requested additional help in the area of prosecutorial education and assistance.

The ECRP study was initiated to identify the next stage of environmental enforcement assistance needed to halt and abate the damaging actions of environmental violators. Through the ECRP, H-GAC can continue to provide assistance with environmental

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<sup>4</sup> For example, Harris County has attorneys dedicated to the prosecution of environmental offenses although their caseload is greater than the available resources. Liberty County does not have the resources to dedicate an attorney to the prosecution of environmental offenses. Some of the counties also do not have attorneys with the experience or extensive training for environmental prosecution.

enforcement in order to satisfy the immediate and long-term environmental needs within the counties.

The Environmental Circuit Rider Program Study is intended to complement both H-GAC's Solid Waste Management Plan for the H-GAC Region, 1992-2012, 2002 Amendment and Texas Commission on Environmental Quality's (TCEQ) Solid Waste Management in Texas: Strategic Plan 2001-2005. In addition, the ECRP study complies with all of the TCEQ's requirements for the development of a technical study, as described in 30 Texas Administrative Code, Chapter 330, Subchapter O.

The ECRP is a proposed two-year pilot program during which counties would learn the legal means available for enforcing and prosecuting environmental violations as well as gaining the necessary resources that provide a foundation for responding quickly and efficiently to environmental and regulatory challenges when they arise.

### **Project Approach**

The Project Team approached the ECRP study from the perspective of integrating available resources whenever possible. The Project Team examined the ways in which an effective program could be implemented over a defined time frame with a practical budget and the means for building consensus along the way to ensure a cooperative effort.

The components of the ECRP were developed for the counties to utilize beyond the two-year pilot program. The basic components of the ECRP and the implementation strategies are intended to assist counties in planning for the future and ensuring an autonomous yet cooperative effort in solving environmental issues.

### **Methodology**

The Project Team developed a step-by-step approach focusing on encouraging participation in the program by the counties in the H-GAC region. The Project Team interviewed environmental enforcement staff, county judges, and county, district, criminal district attorneys, as well as other relevant county staff during the development of the ECRP study. The three major environmental problems identified during these interviews were illegal dumping, nuisances and on-site sewage facility (OSSF) violations.<sup>5</sup>

Based on the 2003 Study and interviews conducted for the ECRP study, most of the counties have trained environmental enforcement officers who are actively seeking compliance and writing citations for each of these environmental problems. In many cases, if violators fail to comply, the cases are prosecuted. For OSSF violations,

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<sup>5</sup> For the purposes of this study, illegal dumping is defined under the Texas Health and Safety Code § 361.003(7). A nuisance includes a public nuisance as defined under the Texas Health and Safety Code § 343.011(c) and a public health nuisance as defined under the Texas Health and Safety Code § 341.011. On-site sewage facilities (OSSFs) are regulated under the Texas Health and Safety Code Chapter 366 and the 30 Texas Administrative Code, Subchapter D, Chapter 285.

however, compliance can be very difficult to achieve without county assistance.<sup>6</sup> As a result, the components of the ECRP were developed to assist counties in the areas of compliance, enforcement and prosecution as well.

### **Scheduling and Implementation**

The criminal enforcement and prosecution of illegal dumping and nuisances would be the focus of Year One, while in Year Two, the civil enforcement and prosecution of OSSF violations were emphasized. Three key factors influenced the program schedule and implementation plan:

- Most of the counties had a working or fundamental knowledge regarding the criminal environmental enforcement of laws pertaining to illegal dumping;
- A number of criminal illegal dumping and nuisance cases are ready for prosecution;
- The complexity of addressing OSSFs in unincorporated areas.

A copy of the Project Team's preliminary program schedule and implementation plan is included in Appendix C.

### **Study Format**

The ECRP study consists of several sections detailing the legal parameters, structure, and funding of the ECRP.

Section 1 – Components of the ECRP: Includes the descriptions of the various components of the ECRP.

Section 2 – Program Structure: Presents detailed information regarding the scenarios and resources available for implementing the ECRP.

Section 3 – Program Funding: Provides a discussion of the various funding options for the ECRP.

Section 4 – Legal Parameters: Provides a background and discussion of the legal foundations on which the ECRP is based.

Section 5 – Cases that may be handled by the Circuit Rider: Summarizes the various types of cases that may be handled as part of the ECRP.

Section 6 – Level of Interest: Summarizes the attitudes and perceptions of counties in the H-GAC region regarding the ECRP.

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<sup>6</sup> Nuisance and OSSF violations tend to occur more in rural unincorporated areas. In most instances the property owner is unaware of the requirements or does not have the financial resources to comply. Many of the counties in the H-GAC region are developing programs to abate nuisances and to provide financial assistance to low-income county residents for installing OSSFs.

Section 7 – Similar Types of Projects: Provides descriptions of environmental circuit rider programs throughout the United States.

Appendix A – H-GAC Resolution: Includes a resolution from H-GAC.

Appendix B – Map of the H-GAC Region: Includes a map of the H-GAC region.

Appendix C – Preliminary Schedule and Implementation Plan: Provides a sample implementation plan detailing the steps and phases of the ECRP on a monthly basis.

Appendix D – Program Structure: Includes sample documents intended only to outline the basic parameters for identifying duties, responsibilities and scopes of work to assist H-GAC in developing an implementation plan. These sample documents are not intended to serve as agreements.

Appendix E – Program Funding: Provides information on program funding issues related to the ECRP and other cleanup and enforcement grants and loans.

Appendix F – Supporting Documentation for Level of Need and Level of Interest: Includes copies of articles describing environmental enforcement programs and issues in various counties in the H-GAC region. Summary table of the results of the survey administered to counties in the H-GAC region on behalf of the ECRP study. These surveys were intended to gauge the level of need and level of interest that the counties may have regarding the ECRP.

Appendix G – Similar Projects Research: Includes supporting documentation on the other various circuit rider programs throughout the United States.

## **Program Implementation**

### ***Year One***

During Year One, the ECRP would establish a framework by providing an overall exposure to the criminal enforcement and prosecution of laws governing illegal dumping and nuisances. Criminal trial support would be the focus during the first year of the program and would be provided by the services of an environmental circuit criminal prosecutor from either the Harris County District Attorney's Office or a contract criminal prosecutor.

Other enforcement efforts include H-GAC's environmental database. Counties would have access to the environmental database through H-GAC to aid with county enforcement efforts.

Counties would also form sub-regional task forces to explore some potential avenues for addressing environmental problems including but not limited to: the review of enforcement policies; the development of model nuisance abatement procedures; the

development of model OSSF programs; the creation of OSSF funding programs; and the development of shared solid waste resources and services. The primary difference between the sub-regional task force and other task forces or roundtables, is that the sub-regional task force is made up of a broader base of individuals including county commissioners, prosecutors, judges, as well as environmental enforcement staff. Additionally, the issues addressed in the sub-regional task forces are not solely related to enforcement, but instead, focus on exploring resources to address compliance measures for nuisances and OSSFs and solid waste solutions to illegal dumping.

Year One would also focus on assisting the counties with adopting nuisance abatement procedures, including measures for handling junked and abandoned vehicles; litter abatement; measures for controlling illegal dumping; and assisting counties with developing or enhancing OSSF programs. The counties would also receive assistance on creating Supplemental Environmental Projects (SEPs) and other funding mechanisms to address environmental enforcement and remediation.

Although there would not be a dedicated circuit civil prosecutor, civil prosecutor services would be available. Trial assistance would be primarily through the TCEQ, Office of the Attorney General (OAG) and possibly Harris County Attorney's Office on a voluntary basis. Emphasis would be placed on the issuance and enforcement of temporary restraining orders (TROs), injunctions, liens on real property, and enhanced charges for repeat offenders.

Education and on-site training during the first year is emphasized for county, district, criminal district attorneys, environmental enforcement officers and justices of the peace with the preparation of four manuals.<sup>7</sup> These manuals would include the environmental offense, relevant procedural issues, punishment levels and for some offenses, a recommended approach for punishment. This would potentially decrease the amount of time spent interpreting and working with environmental offense reports and accelerate prosecution efforts. Education and training would be available for attorneys, enforcement officers and justices of the peace. The on-site training would also provide an opportunity for counties to begin developing evaluation mechanisms for environmental cases.

The components comprising the first year's efforts include:

- Circuit Criminal Prosecutor;
- Civil trial assistance from the TCEQ, OAG and possibly Harris County;
- Environmental case support and environmental technical support from an ECRP Liaison;<sup>8</sup>

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<sup>7</sup> The four manuals are as follows: the Criminal Environmental Prosecutor Manual, Civil Environmental Prosecutor Manual, Environmental Offense Report Manual, and the Justice of the Peace Environmental Manual. These manuals are discussed in greater detail in Section 1.6.

<sup>8</sup> A comprehensive definition of the ECRP liaison is provided on the following page and in the Section 1.

- Civil and Criminal Prosecutor Manuals, Justice of the Peace Manual and an Environmental Offense Report Manual;
- On-Site education and training;
- Environmental database through H-GAC;
- Program and remediation funding development support from an ECRP Liaison;
- Creation of sub-regional task forces; and
- Assistance with establishing evaluation mechanisms for environmental cases.

### ***Year Two***

During Year Two, the ECRP would be expanded to include the civil enforcement and prosecution of illegal dumping and OSSF violations. Civil prosecution would be emphasized and would be provided through a contract circuit civil prosecutor or the Harris County Attorney's Office. TCEQ and OAG would again be asked to provide assistance. When called upon, circuit criminal prosecution services would continue, based on the level of interest expressed by the counties, and would still be provided by a circuit criminal prosecutor from either the Pollution Division of the Harris County District Attorney's Office or a contract prosecutor. Education would continue for attorneys, enforcement officers and justices of the peace but would expand to include educational efforts and the production of a manual for county court at law judges and district court judges.

The ECRP Liaison would continue to assist the counties with developing or enhancing OSSF programs. To support enforcement and prosecution efforts, counties would receive assistance in obtaining cost-effective analytical services and qualified expert witnesses. The counties would also receive assistance in creating or developing shared cleanup and recycling programs based on the outcome of the sub-regional environmental task forces.

A list of the components of the second year's efforts include:

- Circuit Civil Prosecutor;
- Circuit Criminal Prosecutor;
- Education and training including the development of a manual for District and County Court at Law Judges;
- Assistance with funding development from the ECRP Liaison;
- Assistance with laboratory services from the ECRP Liaison;
- Expert witness support from the ECRP Liaison; and
- Assistance with creating and developing shared cleanup and recycling programs from the ECRP Liaison.

### **Program Management**

H-GAC would serve as the overall program manager and assist with oversight, communications, funding assistance and program evaluation. An ECRP Liaison would be needed to provide coordination and assistance in implementing the ECRP. The ECRP

Liaison would serve as the project administrator and would assist with developing the funding mechanisms; preparing the manuals; education and training; case development; environmental technical support; prosecution; and coordinating the project with the OAG, TCEQ, as well as other associations and organizations. The ECRP Liaison would also provide monthly progress and evaluation reports to H-GAC to assist them with the overall program management.

### **Recommendations**

The following recommendations have been made based on the research conducted for the ECRP study. These recommendations address the needs in the H-GAC region in the short- and long-term.

- H-GAC should implement the ECRP for the 2003-2004 grant cycle and consider a grant for the 2004-2005 grant cycle. H-GAC should expect to dedicate \$300,000 over the next two years to the creation of this program including \$150,000 for Year One and \$150,000 for Year Two of the ECRP. The Project Team has prepared a Preliminary Schedule and Implementation Plan located in Appendix C.
- The ECRP should be implemented in stages to ensure the development of an adequate foundation for implementation of each of the subsequent measures.
- H-GAC should initiate discussions with the Harris County Attorney's Office and Harris County District Attorney's Office to determine their degree of participation before deciding on a program structure.
- H-GAC should provide ongoing communication with the counties to ensure consensus and buy-in from the counties as the project progresses.
- H-GAC should use contracts, Intergovernmental Agreements, and grants to implement the ECRP.
- An ECRP Liaison should be used to provide coordination, support and accountability during Years One and Two of the ECRP.
- The education and training component should be implemented in the early stages of the ECRP.
- To ensure communication between the counties and the ECRP, each of the 13 counties should appoint a liaison to communicate with the ECRP.
- H-GAC should enter into an Interlocal Agreement with each of the participating counties in order to formalize their involvement in the ECRP and facilitate the use of a circuit prosecutor.
- Provisions for providing the services of an environmental circuit prosecutor should be implemented on an immediate basis while developing a schedule of pending cases.

- H-GAC should study the solid waste disposal needs in counties where there is a lack of adequate solid waste disposal options.<sup>9</sup>

### **Acknowledgements**

The Project Team would like to express its appreciation to the many people throughout the H-GAC region who contributed to the development of the ECRP study. To conduct this study, the Project Team conducted approximately 48 interviews with environmental enforcement officers, county attorneys, district attorneys, criminal district attorneys, county commissioners and county judges, within the 13 counties of the H-GAC region, as well as individuals from programs around the nation. The Project Team appreciates the time and effort taken by these individuals to provide valuable information, which was of immense benefit to the development of the ECRP study. The Project Team would also like to thank the staff at H-GAC who provided significant input, data and coordination efforts for the project. This project was funded through the regional solid waste grants program, which is administered by the TCEQ.

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<sup>9</sup> This study could assist environmental enforcement efforts through identifying specific areas in need of service and providing a series of recommendations specific to the scenario in each county. These issues may include but are not limited to recycling, transfer stations, organized countywide solid waste collection, cooperative agreements for shared services and landfill expansion. The study would also need to provide information on any operational activities or costs for these facilities.



# **SECTION I – COMPONENTS OF THE ENVIRONMENTAL CIRCUIT RIDER PROGRAM**

## **1.1 Introduction**

The components of the Environmental Circuit Rider Program provide a framework for improving the environment in each of the counties in the H-GAC region. The ECRP is a two-year pilot program during which counties would learn the legal means available for enforcing and prosecuting environmental violations as well as gaining the necessary resources that provide a foundation for responding quickly and efficiently to environmental and regulatory challenges when they arise.

## **1.2 Circuit Criminal Prosecution Services**

This service provides the county with assistance and training in developing cases, determining which cases to prosecute and in the criminal prosecution of environmental violations. Counties would have the opportunity of relying on an circuit criminal prosecutor to serve as first or second chair while educating their own attorneys in the process.<sup>10</sup>

### **1.2.1 First Chair, Criminal Cases**

The circuit criminal prosecutor would be able to prosecute the case as the first chair with an attorney from the county, another environmental circuit prosecutor or the ECRP Liaison serving as the second chair.

### **1.2.2 Second Chair, Criminal Cases**

The circuit criminal prosecutor would be able to handle the case as the second chair with an attorney from the county serving as the first chair.

## **1.3 Circuit Civil Prosecution Services**

Civil remedies and prosecution play a significant role in environmental law. During the first year, counties would have the opportunity of developing a procedural framework for pursuing civil actions with support from the OAG, TCEQ and Harris County. During year two, the counties would have the assistance of a circuit civil prosecutor.

### **1.3.1 First Chair, Civil Cases**

During the first year, an attorney from the OAG, TCEQ or from Harris County could serve as the first chair with an attorney from the county or the ECRP Liaison serving as the second chair. During the second year, a circuit civil prosecutor would be able to serve as the first chair.

### **1.3.2 Second Chair, Civil Cases**

During the first year, an attorney from the county could serve as the first chair while an attorney from the OAG, TCEQ or Harris County or the ECRP Liaison serve as the second

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<sup>10</sup> The lead trial attorney is traditionally referred to as the first chair and the first supporting trial attorney is called the second chair.

chair. During the second year, a circuit civil prosecutor would be able to serve as the second chair.

#### **1.4 Environmental Case Support**

The ECRP Liaison would provide assistance in case development and preparation for trial to facilitate prosecuting cases in the counties. This would allow the counties to handle more cases and free up the environmental circuit prosecutor. Based on interviews with environmental enforcement staff, environmental case development is the most time-consuming aspect of prosecuting a case. Whether the county decides to prosecute their own cases or a circuit rider is brought in, environmental cases typically require a significant amount of research and preparation.

The ECRP Liaison would work together with the enforcement officer to develop the case under the direction of the circuit civil and criminal prosecutors. To support enforcement and prosecution efforts, counties would receive assistance in obtaining cost-effective analytical services and qualified expert witnesses. The ECRP Liaison would also be responsible for developing a list of cases to be prosecuted for each of the counties, scheduling cases with the county, providing monthly progress and evaluation reports to H-GAC.

#### **1.5 Environmental Technical Support**

The ECRP Liaison would provide technical environmental support to the counties including: assisting the counties with adopting nuisance abatement procedures including measures for handling junked and abandoned vehicles; litter abatement; measures for controlling illegal dumping; and developing or enhancing OSSF programs. Counties would also receive assistance in developing Environmental Management Systems.<sup>11</sup>

#### **1.6 Education and Training**

The ECRP Liaison, the Pollution Division of the Harris County District Attorney's Office and the Environmental Division of the Harris County Attorney's Office would be responsible for education and training. During the first year, education and on-site training would focus on county, district, criminal district attorneys, environmental enforcement officers and justices of the peace with the preparation and distribution of four training manuals. These manuals would include the environmental offense; relevant procedural issues; punishment levels; and for some offenses, a recommended approach to punishment. This would potentially decrease the amount of time spent interpreting and working with environmental offense reports and accelerate prosecution efforts.

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<sup>11</sup> The TCEQ through its Small Business and Local Government Assistance (SBLGA) Program and U.S. EPA through its Public Entity Environmental Management System Resource Center (PEER) provides assistance with developing Environmental Management Systems (EMS) for public sector entities. EMS provide organizations of all types with a structured approach for managing environmental and regulatory responsibilities and enhances the ability to improve environmental performance, prevent pollution and conserve energy and natural resources. The TCEQ contact for EMS is Ken Zarker, SBGLA at (512) 239-3144.

The four manuals are as follows:

- Criminal Environmental Prosecutor Manual - The manual would include at a minimum: the offenses under each code; the elements of each offense; charging variations; defenses; procedural considerations; and range of punishments. Sample forms would be included in the appendices. An index would aid the prosecutor by directing them to the relevant information by the type of offense or affected media.
- Civil Environmental Prosecutor Manual - The manual would include at a minimum: the offense under each relevant code; the elements for each offense; special considerations in drafting pleadings; applicability of injunction or TRO; defenses; procedural considerations; range of punishments; and sample orders. Sample forms would be included in the appendices. An index would aid the prosecutor by directing them to the relevant information by the type of offense or affected media.
- Environmental Offense Report Manual - The manual would include the offenses under each relevant code; a list of the elements; the necessary details for proving the elements; legal considerations; and range of punishments. The appendices would include abatement procedures and regulations as needed for each county program; copies of the necessary forms for obtaining evidence and sworn statements and confessions and other relevant forms. An index would aid enforcement personnel by directing them to the relevant information by the type of offense or affected media.
- Justice of the Peace Environmental Manual - The manual would include the offenses under each relevant code and a list of the elements of the offense. This manual would also include the range of punishment a Texas Justice of the Peace may impose for each offense.

Once the manuals are finished, there would be a half-day on-site training for attorneys, enforcement officers, and justices of the peace. Attorneys would receive Continuing Legal Education (CLE) credits and law enforcement officers would receive Texas Continuing Law Enforcement Officer Education (TCLEOSE) credits. Certification would need to be pursued with the Texas State Bar and TCLEOSE. The most probable time for training would be on a Saturday morning, from 9:30 a.m. to 12:00 p.m. The attorney training would be given by Harris County. There would need to be four Saturday morning sessions and the counties could be grouped accordingly:<sup>12</sup> (1) Brazoria and Galveston; (2) Matagorda, Fort Bend and Wharton; (3) Colorado, Austin and Waller; (4) Montgomery, Walker and Liberty.<sup>13</sup> The on-site training would also provide an opportunity for counties to work together on developing evaluation mechanisms for environmental cases.

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<sup>12</sup> The Project Team has chosen to group counties based on several factors including: geographic location, comparable size, similar environmental enforcement program activities and common environmental violations.

<sup>13</sup> Harris County has not included because they will be holding the training sessions and Chambers County because of a lack of interest in participating in the ECRP.

During the second year, the manuals would be updated and on-site training repeated. A fifth manual would be prepared for county court at law judges and district judges who would participate in the on-site training.

- **County and State Judicial Environmental Manual** - The manual would be created for district and county court at law judges. It would include the offenses under each relevant code and a list of the elements of the offense. This manual would also include the range of punishment that may be imposed for each offense.

### **1.7 Environmental Database**

H-GAC would be responsible for managing the environmental database and for deciding whether to make it available to attorneys and judges.

### **1.8 Program Funding Development**

The ECRP Liaison would assist the counties with identifying potential funding sources and developing the mechanisms for obtaining funds to address nuisances, OSSFs and illegal dumping. Securing potential funding sources, in addition to continued support from the counties, could affect the continuation or expansion of the program depending on the level of interest expressed by the counties in the H-GAC region. The ECRP would be responsible for identifying funding resources that could be used to continue all or part of the ECRP beyond the two-year pilot-program and to investigate the feasibility of expanding the program to cover other areas of interest such as air violations.

### **1.9 Remediation Funding Development**

The ECRP Liaison would assist the counties with cleanup and the remediation of nuisances, OSSFs and illegal dumping. The ECRP would provide both technical and funding assistance. The ECRP would also provide help in coordinating cleanup and remediation activities with other associations such as Keep Texas Beautiful in order to obtain volunteer assistance. As part of the ECRP, counties would receive assistance in setting up environmental management accounts<sup>14</sup> and SEPs, which could serve as funding sources for cleanup and remediation efforts. The counties would also receive assistance in creating or developing shared cleanup and recycling programs based on the outcome of the sub-regional task force.

### **1.10 Sub-regional Task Force**

The ECRP would provide an opportunity for neighboring counties to meet and address environmental issues they have in common through a sub-regional task force. Some of the issues the sub-regional environmental task forces would explore include: compliance support; the review of enforcement policies; the development of model nuisance abatement procedures; the development of model OSSF programs; the creation of OSSF funding programs; and the development of shared solid-waste resources and services.

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<sup>14</sup> Refer to Section 4.6.3 for more information on environmental management accounts.

The sub-regional task forces would follow the same grouping as the education and on-site training including: (1) Brazoria and Galveston; (2) Matagorda, Fort Bend and Wharton; (3) Colorado, Austin and Waller; and (4) Montgomery, Walker and Liberty. The sub-regional task force would include representatives from the county and district attorney, the county commissioners and the county environmental enforcement personnel. The sub-regional task force would initially convene on the same day following the on-site education and training session<sup>15</sup> is complete to begin formulating ideas and discussing common areas of concern identified above.

The primary difference between the sub-regional task force and other task forces or roundtables, is that the sub-regional task force is made up of a broader base of individuals including county commissioners, prosecutors, judges, as well as environmental enforcement staff and the issues are not solely related to enforcement, but instead, focus on exploring resources to address compliance measures for nuisances and OSSFs and solid waste solutions to illegal dumping. with regard to illegal dumping, nuisances and OSSF violations.

### **1.11 Evaluation Procedures for Environmental Cases**

Each county is faced with the same challenge of deciding how and when to prosecute environmental offenses. The county attorney and district attorney or their representatives would be involved in developing the mechanisms through participation in the education and on-site training. The counties in general, would participate in assessing evaluation procedures for environmental cases during meetings of the sub-regional task forces. Counties could then begin to develop mechanisms, standards and procedures for achieving consistency in prosecuting environmental offenses. Counties would be provided resources to assist in the development of a “decision tree” for prosecuting environmental cases. This “decision tree” would not only be used as a guide for the county, but to promote and ensure consistent prosecution throughout the H-GAC region. Some of the factors to consider in the development of evaluation mechanisms would be:

- The role of the TCEQ and OAG in county enforcement actions;
- The distinction between regulatory enforcement and statutory enforcement<sup>16</sup>;
- Overlapping jurisdictional issues;
- The county’s decision-making process; and
- TCEQ’s factors to be considered in determination of an administrative penalty amount.<sup>17</sup>

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<sup>15</sup> Refer to Section 1.6 for additional detail on the education and training session.

<sup>16</sup> One of the primary issues raised by proponents of Senate Bill 1265 during the 78<sup>th</sup> Legislative Session was the perceived enforcement of TCEQ regulations by local enforcement officers without involvement or oversight by the TCEQ. Under the Texas Water Code civil suits require that the TCEQ is a necessary party whereas criminal suits do not have the same requirement. Therefore, in most criminal suits, the TCEQ may not be involved with the case and therefore, the local enforcement officers and the county prosecutors are responsible for interpreting TCEQ regulations. Statutory enforcement however, is less subject to interpretation and for the most part, addresses those violators who are not operating under the jurisdiction of the TCEQ through a permit, order, agreement, or some other legally enforceable document.

## SECTION II - PROGRAM STRUCTURE

### 2.1 Introduction

The Project Team has identified six scenarios for structuring the ECRP during the two-year pilot program. Each of the scenarios has the same five basic staffing requirements. The variation in the scenarios is based on how each of the staffing requirements would be funded. The funding also affects the number of hours that could be dedicated to the staffing requirements under each scenario. The Project Team recommends that H-GAC enter into an Interlocal Agreement with each of the participating counties to facilitate the implementation of the ECRP regardless of the scenario selected. A sample Interlocal Agreement between H-GAC and a participating county is found in Appendix D-1.

### 2.2 Staffing Requirements

There are five basic staffing requirements which function as building blocks for each of the six scenarios. These include ECRP Liaison; Criminal Education and Training; Civil Education and Training; Circuit Criminal Prosecution Services; and Circuit Civil Prosecution Services. The Project Team created each of the staffing requirements as elements that could be implemented individually or as part of a complete scenario. A scope of services, located in Appendix D, was prepared for each of the staffing requirements. The staffing requirements are follows:

#### *ECRP Liaison*<sup>18</sup>

The ECRP Liaison would be the project administrator responsible for coordinating and facilitating the implementation of the ECRP. The ECRP Liaison would provide prosecutorial support by working together with the enforcement officer to develop the case under the direction of the environmental circuit prosecutor and would serve as second chair as needed. To support enforcement and prosecution efforts, counties would receive assistance in obtaining cost-effective analytical services and qualified expert witnesses. The ECRP Liaison would be responsible for developing a list of cases to be prosecuted for each of the counties, scheduling cases with the county, providing monthly progress reports to the environmental circuit prosecutor, the county and H-GAC.

The ECRP Liaison would also provide technical environmental support to the counties including assisting the counties with nuisance abatement procedures including measures for handling junked and abandoned vehicles; litter abatement; and measures for controlling illegal dumping; developing or enhancing OSSF programs; and developing Environmental Management Systems as needed.<sup>19</sup> The counties would also receive assistance in creating or developing shared cleanup and recycling programs based on the outcome of the sub-regional task force. The ECRP Liaison would be responsible for preparing the Justice of the Peace Environmental Manual, editing and producing the other manuals and making all the arrangements for the on-site education and training.<sup>20</sup>

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<sup>17</sup> Texas Water Code § 7.053

<sup>18</sup> A scope of services for the ECRP Liaison is located Appendix D-2.

<sup>19</sup> Refer to footnote 11 for additional information.

<sup>20</sup> Refer to Section 1.6 for additional information.

### ***Criminal Education and Training***<sup>21</sup>

The Pollution Division of the Harris County District Attorney's Office would be responsible for criminal education and training. Harris County is the most experienced county in the H-GAC region, in the criminal prosecution of environmental violations. During Year One, Harris County would prepare the Criminal Prosecutor Manual and the Environmental Offense Report Manual and conduct the on-site training. During Year Two, Harris County would update the two manuals and again, conduct on-site training. The funding alternatives for providing these services would be either in the form of an Intergovernmental Agreement between Harris County and H-GAC based on an hourly rate or through a grant from H-GAC to Harris County. These alternatives are discussed in the following six scenarios.

### ***Civil Education and Training***<sup>22</sup>

The Environmental Division of the Harris County Attorney's Office would prepare the Civil Prosecutor Manual and conduct the on-site training during Year One. During Year Two, they would update the manual and again, conduct on-site training. Harris County is the most experienced county in the H-GAC region in the civil prosecution of environmental violations. The funding alternatives for providing these services would be either an Intergovernmental Agreement between Harris County and H-GAC based on an hourly rate or through a grant from H-GAC to Harris County. These alternatives are discussed in the following six scenarios.

### ***Circuit Criminal Prosecution Services***<sup>23</sup>

A circuit criminal prosecutor would provide the criminal litigation support. The alternatives, including funding, for providing that support are as follows: services of a circuit criminal prosecutor from the Pollution Division of the Harris County District Attorney's Office paid for on an hourly basis; the services of a circuit criminal prosecutor from the Pollution Division of the Harris County District Attorney's Office would be paid for through a grant from H-GAC to Harris County; the services of a circuit criminal prosecutor provided by a contract prosecutor on an hourly basis. These alternatives are discussed in the following six scenarios.

### ***Circuit Civil Prosecution Services***<sup>24</sup>

A circuit civil prosecutor would provide the civil litigation support. The alternatives for providing that support would be: services of a circuit civil prosecutor from the Environmental Division of the Harris County Attorney's Office would be paid for on an hourly basis; the services of a circuit civil prosecutor from the Environmental Division of the Harris County Attorney's Office would be paid for through a grant from H-GAC to Harris County; the services of a circuit civil prosecutor would be provided by a contract

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<sup>21</sup> A scope of services for criminal education and training can be found in Appendix D-3.

<sup>22</sup> A scope of services for civil education and training can be found in Appendix D-4.

<sup>23</sup> A scope of services for circuit criminal prosecution services can be found in Appendix D-5.

<sup>24</sup> A scope of services for circuit civil prosecution services can be found in Appendix D-6.

prosecutor on an hourly basis. These alternatives are discussed in the following six scenarios.

### 2.2.1 Year One - Scenario One

#### *Staffing*

Scenario One would provide the following staffing during Year One:

<b>Position</b>	<b>Time Dedicated to ECRP</b>
ECRP Liaison	450 hours
Criminal Education and Training	200 hours
Civil Education and Training	100 hours
Circuit Criminal Prosecution Services	700 hours
Circuit Civil Prosecution Services	0 hours
<b>TOTAL</b>	<b>1450 hours</b>

#### *ECRP Liaison*

The ECRP Liaison would require approximately 450 hours and would be responsible for day-to-day coordination, communication, accountability, regulatory and funding framework for each of the counties, editing and review of the prosecutor manuals, preparation of the Justice of the Peace Manual, assisting with on-site training. Services would be provided on an hourly basis.

#### *Criminal and Civil Education and Training*

The Environmental Division of the Harris County Attorney's Office would prepare the Civil Environmental Prosecution Manual. The Pollution Division of the Harris County District Attorney's Office would prepare the Criminal Environmental Prosecution Manual and the Environmental Offense Report Manual. Both divisions would conduct the on-site training. Services would be provided on an hourly basis.

#### *Circuit Criminal Prosecution Services*

The Pollution Division of the Harris County District Attorney's Office would provide the circuit criminal prosecutor services. Services would be provided on an hourly basis.

#### *Circuit Civil Prosecution Services*

Civil prosecutorial services would be provided through the OAG and the TCEQ or Harris County on a voluntary basis.



## 2.2.2 Year One - Scenario Two

### *Staffing*

Scenario Two would provide the following staffing during Year One:

<b>Position</b>	<b>Time Dedicated to ECRP</b>
ECRP Liaison	450 hours
Criminal Education and Training	200 hours
Civil Education and Training	100 hours
Circuit Criminal Prosecution Services	1,200 hours
Circuit Civil Prosecution Services	0 hours
<b>TOTAL</b>	<b>1,950 hours</b>

### *ECRP Liaison*

The ECRP Liaison services would remain the same as in Scenario One.

### *Criminal Education and Training*

The Pollution Division of the Harris County District Attorney's Office would prepare the Criminal Environmental Prosecution Manual and the Environmental Offense Report Manual and conduct on-site training.<sup>25</sup>

### *Civil Education and Training*

The Environmental Division of the Harris County Attorney's Office would prepare the Civil Environmental Prosecution Manual and conduct on-site training. Services would be provided on an hourly basis.

### *Circuit Criminal Prosecution Services*

The Pollution Division of the Harris County District Attorney's Office would apply to H-GAC for a grant to provide the environmental circuit criminal prosecutor services, prepare the Criminal Environmental Prosecutor Manual, the Environmental Offense Report Manual and conduct the on-site training. The grant could specify the tasks, implementation schedule, performance standards, and accountability measures. The grant would cover the salary plus out of pocket expenses for a full-time, Level III felony prosecutor.<sup>26</sup> The environmental circuit criminal prosecutor would be required to spend at least 75 percent of the time working with the other counties on prosecution, developing cases, and training and education. The remaining 25 percent of the time or less would be spent working in Harris County.

### *Circuit Civil Prosecution Services*

The circuit civil prosecution services would remain the same as in Scenario One.

<sup>25</sup> The services would be provided under a grant from H-GAC described in Section 1.1 - Circuit Criminal Prosecution Services.

<sup>26</sup> A Level III Felony Prosecutor refers to Harris County's job descriptions. A Level III Felony Prosecutor can prosecute all misdemeanors and all felonies up to and including Class A felonies.

### 2.2.3 Year One - Scenario Three

#### *Staffing*

Scenario Three would provide the following staffing during Year One:

<b>Position</b>	<b>Time Dedicated to ECRP</b>
ECRP Liaison	450 hours
Criminal Education and Training	200 hours
Civil Education and Training	100 hours
Circuit Criminal Prosecution Services	280 hours
Circuit Civil Prosecution Services	0 hours
<b>TOTAL</b>	<b>1030 Hours</b>

#### *ECRP Liaison*

The ECRP Liaison services would be the same as in Scenarios One and Two.

#### *Criminal and Civil Education and Training*

Education and training would be the same as in Scenario One.

#### *Circuit Criminal Prosecution Services*

The services of a circuit criminal environmental prosecutor would be provided through a contract with an attorney in private practice. Approximately 280 hours could be dedicated for these services based on an average billing rate for an attorney in private practice with environmental and experience.

#### *Circuit Civil Prosecution Services*

Circuit civil prosecution services would remain the same as in Scenarios One and Two.

### 2.2.4 Year Two – Scenario One

#### *Staffing*

Scenario One would provide the following staffing during Year Two:

<b>Position</b>	<b>Time Dedicated to ECRP</b>
ECRP Liaison	150 hours
Criminal Education and Training	100 hours
Civil Education and Training	100 hours
Circuit Criminal Prosecution Services	300 hours
Circuit Civil Prosecution Services	800 hours
<b>TOTAL</b>	<b>1450 hours</b>

#### *ECRP Liaison*

The role of the ECRP Liaison would diminish greatly during Year Two with only 150 hours of service required. H-GAC could retain the services of the Year One ECRP Liaison or select another ECRP Liaison. Services would include coordination, facilitation, accountability, assisting with updating the manuals and conducting on-site

training, assisting counties with developing OSSF programs and cooperative recycling and cleanup programs. Services would be provided on an hourly basis.

***Criminal and Civil Education and Training***

The Environmental Division of the Harris County Attorney’s Office would update the Civil Environmental Prosecution Manual. The Pollution Division of the Harris County District Attorney’s Office would update the Criminal Environmental Prosecution Manual and the Environmental Offense Report Manual. Both divisions would assist with preparation of the County and State Judicial Environmental Manual and conduct the on-site training. Services would be provided on an hourly basis.

***Circuit Criminal and Civil Prosecution Services***

The Pollution Division of the Harris County District Attorney’s Office would provide circuit criminal prosecution services and the Environmental Division of the Harris County Attorney’s Office would provide circuit civil prosecution services. Services would be provided on an hourly basis.

**2.2.5 Year Two – Scenario Two**

***Staffing***

Scenario Two would provide the following staffing during Year Two:

<b>Position</b>	<b>Time Dedicated to ECRP</b>
ECRP Liaison	150 hours
Criminal Education and Training	100 hours
Civil Education and Training	100 hours
Circuit Criminal Prosecution Services	300 hours
Circuit Civil Prosecution Services	1300 hours
<b>TOTAL</b>	<b>1950 hours</b>

***ECRP Liaison***

The ECRP Liaison services would remain as in Year Two - Scenario One.

***Criminal and Civil Education and Training***

Education and training would remain the same as in Year Two-Scenario One except that services would be funded through a grant from H-GAC to Harris County.

***Circuit Criminal and Civil Prosecution Services***

Circuit criminal and civil prosecution services would remain the same as in Year Two-Scenario One except that services would be funded through a grant from H-GAC to Harris County.



## 2.2.6 Year Two – Scenario Three

### *Staffing*

Scenario Three would provide the following staffing during Year Two:

<b>Position</b>	<b>Time Dedicated to ECRP</b>
ECRP Liaison	150 hours
Criminal Education and Training	100 hours
Civil Education and Training	100 hours
Circuit Criminal Prosecution Services	0 hours
Circuit Civil Prosecution Services	450 hours
<b>TOTAL</b>	<b>800 hours</b>

### *ECRP Liaison*

The role of the ECRP Liaison would remain the same as in Year Two-Scenarios One and Two.

### *Criminal and Civil Education and Training*

Education and Training would remain the same as in Year Two-Scenario One.

### *Circuit Criminal Prosecution Services*

There would be no funding provided for circuit criminal prosecution services.

### *Circuit Civil Prosecution Services*

The services of a circuit civil prosecutor would be provided through a contract with an attorney in private practice. The Project Team estimates that approximately 450 hours could be dedicated for these services based on an average billing rate for an attorney in private practice with environmental and prosecution experience.

## 2.3 Program Location

Based on the six scenarios provided in Section 2.2, there would not be a specific program location since support would be derived from multiple sources. The majority of the hours budgeted dedicated for the ECRP Liaison and the circuit prosecution services would be spent working in the counties.

## 2.4 Strengths and Weaknesses

The Project Team has developed a summary of the strengths and weaknesses of each scenario for H-GAC to consider in evaluating the ECRP structure. Table 2.1 describes these strengths and weaknesses for each scenario.

**Table 2.1 – Strengths and Weaknesses**

<b>Year/Scenario</b>	<b>Strengths</b>	<b>Weaknesses</b>
<p>Year 1 / Scenario 1</p> <p>Year 2 / Scenario 1</p>	<ul style="list-style-type: none"> <li>• Harris County is more experienced in prosecuting illegal dumping</li> <li>• The funding would help offset the loss of environmental prosecution staff from the Harris County Attorney’s Office and the Harris County District Attorney’s Office</li> <li>• Many counties already have relationships built with Harris County and are comfortable working with them</li> <li>• There is no learning curve so the assistance is an effective and cost-effective measure</li> </ul>	<ul style="list-style-type: none"> <li>• May be perceived as favoritism toward Harris County</li> <li>• Fewer hours available for criminal support</li> <li>• May not be enough incentive for Harris County to accept the proposal</li> </ul>
<p>Year 1 / Scenario 2</p> <p>Year 2 / Scenario 2</p>	<ul style="list-style-type: none"> <li>• More incentive for Harris County to accept the proposal</li> <li>• More hours available for criminal and civil litigation support</li> <li>• Many counties already have relationships built with Harris County and are comfortable working with them</li> <li>• There is no learning curve so the assistance is an effective and cost-effective measure</li> </ul>	<ul style="list-style-type: none"> <li>• May be perceived as favoritism shown towards Harris County</li> </ul>
<p>Year 1 / Scenario 3</p> <p>Year 2 / Scenario 3</p>	<ul style="list-style-type: none"> <li>• Contract attorney may be viewed as more impartial by the legal community</li> </ul>	<ul style="list-style-type: none"> <li>• Higher hourly rates, leaves less hours to the counties</li> <li>• Less qualified expertise than Harris County</li> <li>• Potential conflicts of interest may arise</li> <li>• May bring unwanted attention to the project</li> <li>• Staffing who provide education and training would not be the same one who would provide circuit prosecution services</li> </ul>

**2.5 Program Oversight and Management**

H-GAC would serve as the program manager, responsible for overall control of the ECRP. H-GAC would be responsible for developing performance standards and tools for measuring the effectiveness of the ECRP. Performance and measurement standards would be incorporated into all Interlocal Agreements, contracts and grants. H-GAC would provide information on the ECRP in its Community and Environmental Planning Department monthly newsletter. H-GAC would also forward any questions or problems with the counties to the ECRP Liaison. H-GAC would receive monthly reports and evaluations from the ECRP Liaison. Meetings would be held at the request of H-GAC.

## **2.6 Indirect Resources**

Indirect resources are those from which H-GAC can draw upon to implement the ECRP. Following is a list of some indirect resources to assist in the implementation of the ECRP. To facilitate implementation of the ECRP, the Project Team has also provided a list of contacts for indirect resources in Appendix D-7.

### ***Office of the Attorney General (OAG)***

The OAG is a primary source for investigative and prosecutorial support through the Prosecutor Assistance Division and the Special Crimes Division. The Prosecutor Assistance Division provides investigative and prosecutorial support to county and district attorneys across the State at the request of a county or district attorney. The Special Crimes Division enforces various criminal and civil statutes that target profit motivated criminal enterprises. Duties include nuisance abatement and litigation assistance. The division also represents the OAG at the TEETF and the Southern Environmental Enforcement Network (SEEN).

### ***Texas Environmental Enforcement Task Force (TEETF)***

The ECRP Liaison and the ECRP environmental circuit prosecutor could coordinate the ECRP with the TEETF to obtain the commitment of resources and ensure communication regarding enforcement actions requiring multiple sources of support. Through the TEETF, the ECRP would also gain support from the U.S. EPA and the Department of Justice (DOJ).

### ***Texas Commission on Environmental Quality***

The TCEQ could provide assistance to the counties through its Litigation Division and Small Business and Local Government Assistance Program (SBLGA). Through its Litigation Division, TCEQ could assist counties with investigative and prosecutorial services. Through SBGLA, TCEQ could provide educational and compliance assistance to small businesses in the counties and to the county governments themselves. Representatives from SBLGA could assist in the education component by introducing their program to the attorneys and enforcement officers and explaining the program and providing the county with compliance assistance manuals. Enforcement officers would then be able to provide violators that are legitimate businesses with a source for achieving environmental compliance. This approach works in favor of the violator, the county, and the State in that compliance and deterrence are both accomplished.

### ***Texas District and County Attorneys Association (TDCAA)***

Another potential source of assistance is the TDCAA. The TDCAA could publish two articles (listed below) in their publication, **The Texas Prosecutor**, as a resource for its members:<sup>27</sup>

- *Civil Environmental Enforcement in Texas Counties*
- *Criminal Environmental Prosecution in Texas Counties*

Prosecutor manuals could be made available on the TDCAA web site and the H-GAC database could provide a link to the TDCAA web site and bulletin board. The TDCAA supports the ECRP and offered to assist with its implementation including publication of the articles and other assistance as needed.

### ***Texas Association of Counties (TAC)***

The mission of the TAC is to provide services to Texas counties and assistance to all county officials. TAC has a Governmental Staff Liaison to the Texas District and County Attorneys who is also responsible for environmental and land use issues. TAC could serve both as a means for distributing information and providing support in the development of relevant issues. The ECRP Liaison would work with the TAC to identify the extent of the legal authority for each county pursuant to existing legislation and identify the counties needs for additional statutory needs to effectively protect the counties from environmental harm.

### ***Harris County***

Harris County has the most developed resource for prosecuting environmental offenses. The Project Team recommends that at a minimum, H-GAC use the Environmental Division of the Harris County Attorney's Office and Pollution Division of the Harris County District Attorney's Office to prepare the prosecutor manuals and conduct the on-site training.

The Harris County Neighborhood Nuisance Program is also a good resource for the ECRP. Harris County has established procedures for nuisance abatement including abandoned and junked vehicles and would be willing to make these resources available to other counties.

### ***City of Houston***

The City of Houston Environmental Enforcement Officers could serve as a resource for developing the Environmental Offense Report Manual and county environmental enforcement programs.

### ***Keep Texas Beautiful (KTB)***

KTB is one of the most successful statewide affiliates of Keep America Beautiful. KTB has effectively addressed issues such as litter prevention, solid waste management,

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<sup>27</sup> **The Texas Prosecutor** is the official journal of the TDCAA and is published on a bimonthly basis. Issues of the publication can be viewed or downloaded on the TDCAA website at <http://www.tdcaa.com>

recycling, composting, beautification, and general community improvement by involving local governments, businesses, civic groups and volunteers. The mission of KTB is to “empower Texans through education to take responsibility for enhancing their community's environment.”

KTB could provide assistance to the ECRP by assigning a liaison to coordinate the support from KTB member organizations and affiliates. The KTB liaison could actively work to develop additional avenues and resources for fundraising, community cleanup events, fostering relationships with other counties and coordinating volunteers.

***Texas Community Building with Attorney Resources (Texas C-Bar)***

Texas C-Bar serves community-based nonprofits pursuing community development activities and other initiatives to improve the quality of life in low-income communities. Texas C-Bar is a statewide pro bono initiative that provides transactional attorneys with non-litigation pro bono opportunities and could be used to assist with resolving legal issues in low-income unincorporated areas of the counties.<sup>28</sup> Their goal is to represent nonprofits in their work to transform distressed neighborhoods into healthy communities. Texas C-Bar could work with nonprofit wastewater and water corporations to assist with transforming distressed areas into developing communities.

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<sup>28</sup> Transactional attorneys specialize in sales, exchanges, leases and other types of commercial and business transactions. Transactional attorneys could assist Texas C-Bar clients with the sale or transfer of real property for the purpose of community building projects. For clients needing assistance with installing OSSFs, transactional attorneys could help with clearing title to property and acquiring property as needed.



## SECTION III - PROGRAM FUNDING

### 3.1 Introduction

This section discusses H-GAC funding resources to provide funding for the two-year ECRP pilot-program. Other funding sources are identified to assist in the creation and development of county environmental and remediation programs. County environmental programs include assisting counties in the creation and enhancement of compliance, enforcement and prosecution efforts in order to address nuisances, OSSFs and illegal dumping. County remediation programs include assisting counties with cleanup and remediation activities related to nuisances, OSSFs and illegal dumping. Appendix E includes some materials on specific funding sources.

### 3.2 Funding Sources for the ECRP

The ECRP pilot-program would cost an estimated \$300,000 over a two-year period. The Project Team has developed a two-year funding plan for the various activities for the ECRP. The plan focuses on the potential funding sources that are available through H-GAC to fund the various functions of the ECRP.

#### 3.2.1 H-GAC Solid Waste Management Program

The Solid Waste Management Grant Program is coordinated through the TCEQ. The H-GAC Solid Waste Management Program currently assists local governments with problems associated with solid waste management and environmental enforcement including education and training. The Solid Waste Management Program could fund all or a portion of the civil and criminal prosecutor services, education and training and the services of the ECRP Liaison.

#### 3.2.2 H-GAC Criminal Justice Program

The Criminal Justice Division Grant Program is coordinated through the Office of the Governor's Criminal Justice Division. The H-GAC Criminal Justice Program currently has not assisted local governments with issues associated with environmental enforcement although other environmental enforcement projects have been funded through a Criminal Justice Grant through a council of governments (COG).<sup>29</sup> The Criminal Justice Division Grant program could fund all or a portion of the circuit criminal and civil prosecutor services and education and training.

#### *Year One*

<b>Activity</b>	<b>Potential Funding Source</b>
Circuit Criminal Prosecution Services Education and Training ECRP Liaison	Solid Waste Planning Grant Criminal Justice Program Grant

<sup>29</sup> In 2003, the Dallas County Attorney's Office received a one-year grant from the North Central Texas Council of Governments (NCTCOG) Criminal Justice Division to provide partial funding for a county environmental prosecutor.

*Year Two*

<b>Activity</b>	<b>Potential Funding Source</b>
Circuit Civil Prosecution Services Circuit Criminal Prosecution Services Education and Training ECRP Liaison	Criminal Justice Program Grant Solid Waste Planning Grant

**3.3 Funding Sources for County Environmental and Remediation Programs**

Counties have at their disposal several grant, gift and loan programs available to assist in the creation and enhancement of enforcement and prosecution efforts and with cleanup and remediation activities. The ECRP Liaison would work with counties during the two-year pilot program to help in the creation and funding of enforcement and prosecution activities and programs to address nuisances; OSSFs violations; illegal dumping; cleanup; and remediation.

**3.3.1 H-GAC Corporation for Regional Excellence**

H-GAC has created a nonprofit tax-exempt corporation for receiving donations and gifts to be used in projects to benefit the counties. Gifts and donations could be made to H-GAC and used for assisting counties with funding specific projects and programs such as educational activities.

**3.3.2 Community Development Block Grant (CDBG) Funding**

*Entitlement Communities*

This program provides grant funding to entitled cities and counties to assist in the development of standard living conditions for low- and moderate-income communities. These funds are available to the following:

- Central cities of Metropolitan Statistical Areas (MSAs);
- Other metropolitan cities of at least 50,000; and
- Qualified urban counties with populations over 200,000.<sup>30</sup>

CDBG funding is limited to certain activities including funding positions that are geared toward ensuring the health and safety of residents in the community. CDBG funds can be used for code enforcement and nuisance abatement including the demolition of dangerous structures. CDBG funds can also be used for public works projects including OSSF improvements. CDBG funds are expended to cleanup illegal dumpsites and the remediation of commercially viable property. Funds can be distributed to a precinct for their use or through a centralized Community Development Division.

<sup>30</sup> Excludes the population of entitled cities.



### ***Non-Entitlement Communities***

The Office of Rural Community Affairs administers the CDBG funding for non-entitlement communities. A non-entitlement community is typically located in predominately rural areas and includes:

- Cities with populations less than 50,000;
- Cities that are not designated as a central city of a Metropolitan Statistical Area;
- Cities that are not participating in urban county programs; and
- Counties that generally have fewer than 200,000 persons in the non-entitlement cities and unincorporated areas located in the county.

Like CDBG funding for entitlement communities, the grants must be used for certain activities directed toward low- and moderate-income communities. All activities meet the National Program Objective, which includes efforts to “meet other community development needs of particular urgency which represent an immediate threat to the health and safety of residents in the community.”

Counties may wish to apply for these grants to assist in the creation of programs to fund septic systems in low-income areas, nuisance abatement and the cleanup of illegal dumpsites when the situation presents an immediate threat to the health and safety of residents.

### **3.3.3 Supplemental Environmental Projects (SEP)**

A SEP is considered a proactive and positive way alleged environmental violators who are the subject of TCEQ enforcement actions, may request that a portion or in some instances, all of their fines or penalties be used to implement or augment an environmental enhancement projects.<sup>31</sup>

Criteria for an acceptable SEP must include:

- Be environmentally beneficial;<sup>32</sup>
- Done in conjunction with the settlement of an enforcement action;
- Goes beyond what is required by compliance with the law; and
- Other elements.<sup>33</sup>

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<sup>31</sup> According to the TCEQ Regulatory Guidance for the “Use of Supplemental Environmental Projects (SEPs): “For-profit” businesses generally may have up to half of the agreed penalty offset by performing a SEP while “not-for-profit” organizations and governmental entities may have 100% of the penalty amount offset by doing a SEP.

<sup>32</sup> While projects that offer a direct benefit to the environment are preferred, those with an indirect benefit on the environment are also acceptable.

<sup>33</sup> These elements include: Does the project meet state, regional and community environmental priorities? Will the project be done in or near the community where the violation occurred? Is there a connection between the media (air, water, or waste) in which the violation allegedly occurred and the media of the SEP? More information on this issue can be found on the TCEQ’s website and the TCEQ publication RG-367.

The TCEQ provides that a violator may request that a SEP be established to offset a fine or penalty from a proceeding brought by the TCEQ. This percentage varies dependent on various elements and can range from a 1:1 ratio to 3:1.<sup>34</sup> A violator may also donate funds to a third-party SEP.

A county may choose to work with the TCEQ to have a county environmental enhancement project implemented, as a SEP. Because SEPs are projects that protect or improve the environment in communities where environmental violations have taken place, the SEP serves to repair a portion of the environmental harm or damage caused by the violator. For county prosecutions, the county may decide to give the violator the option of donating a portion of their fine or penalty to an approved SEP thereby returning a portion of the fine penalty directly to a county enhancement project implemented as a SEP.

### **3.3.4 H-GAC Area Agency on Aging (AAA)**

Many of the counties are concerned with nuisance violations due to the inadequate living conditions of low-income senior citizens. H-GAC contracts with 15 community organizations to provide services to senior citizens in 12 counties including older adults home repairs. Through AAA, H-GAC could provide some funding assistance to senior citizens to help with repairs to homes and septic systems to resolve nuisance violations.

### **3.3.5 Gifts, Grants, Donations and Bequests to a County**

A county may accept gifts and grants for the purpose of financing the prosecution of environmental violations. A county through its county commissioners court may accept gifts and grants from any foundation or association for the purpose of financing adequate and effective prosecution programs in the county or district.<sup>35</sup>

A county may also accept funds for performing environmental enforcement or prosecution duties as imposed by law on the county or a county officer. A county commissioners court may also accept a gift, grant, donation, bequest, or devise of money or other property on behalf of the county for the purpose of performing a function conferred by law on the county or a county officer.<sup>36</sup>

### **3.3.6 U.S. Environmental Protection Agency (U.S. EPA)**

The U.S. EPA coordinates three programs that would be of particular relevance and applicability to counties in the H-GAC region.<sup>37</sup> These programs include:

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<sup>34</sup> For example, if a violator donates \$50,000 to an SEP account and the TCEQ designates a ratio of 3:1, then only a third of the \$50,000 or approximately \$17,000 can be put toward the fine.

<sup>35</sup> Texas Government Code § 41.108

<sup>36</sup> Local Government Code § 81.032

<sup>37</sup> Based on discussion with U.S. EPA staff, the ECRP should consider applying for discretionary funding or funding through U.S. EPA's Circuit Rider Program in Year Two of the program.

### ***Circuit Rider Program***

Federal Clean Water Act § 104(b) authorizes funding for the Wastewater Treatment Plant Operator On-Site Technical Assistance Training Program called the “Circuit Rider Program”. Currently, the Circuit Rider Program in Region 6 is coordinated through then Region 6 office.<sup>38</sup>

### ***Discretionary Funding (M-Funds)***

Each fiscal year, the U.S. EPA allots funds to be allocated to various special projects relating to environmental cleanup and management. These funds are authorized through the Federal Clean Water Act § 404.

### ***Brownfield Cleanup Projects***

The U.S. EPA coordinates the Brownfield Cleanup Revolving Loan Fund Pilots Program. The pilots are funded up to \$1,000,000. The pilots test, cleanup and redevelop planning models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness. The program also facilitates and coordinates environmental cleanup and redevelopment efforts at the local levels.

### **3.3.7 Juvenile Justice and Delinquency Prevention Grants**

The Office of the Governor’s Criminal Justice Division provides grants for programs targeting high-risk young adults. A county may wish to apply for a juvenile justice and delinquency prevention grant to establish workshops or community awareness campaigns regarding illegal dumping.

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<sup>38</sup> Region 6 encompasses Texas, New Mexico, Oklahoma, Arkansas, and Louisiana.

## SECTION IV - LEGAL PARAMETERS

### 4.1 Introduction

This section addresses the statutory authority and legal foundation that provides for the implementation of the ECRP. It was determined that the issues of significance include: whether the ECRP was consistent with H-GAC's authority and funding capacity; whether the affected counties had sufficient legal authority and mechanisms in place for prosecuting civil and criminal violations and offenses; whether the authority existed for an environmental circuit prosecutor; could counties share services; how fines are distributed and whether a contribution to a special account or a SEP could be made in lieu of a portion of a fine; as well as how SEPs could be used to benefit counties.

### 4.2 Legal Authority to Implement an Environmental Circuit Rider Program

In order to implement the ECRP, H-GAC must have the capacity to enter into Interlocal and Intergovernmental Agreements with local county governments and the contractual authority to contract with service providers. H-GAC must also have the authority and funding sources to assist local governments with environmental enforcement; community development; and education and training.

H-GAC has the legal authority to enter into Interlocal and Intergovernmental Agreements with counties and other local governments and agencies as well as the authority to contract with service providers. H-GAC, whose mission is to help local governments plan for the future, currently provides funding assistance and services to local governments through its Community Development Program, Solid Waste Management Program and Criminal Justice Program.

H-GAC's Solid Waste Management Program already assists local governments with problems associated with solid waste management and environmental enforcement. Through its Community Development Program, H-GAC assists local governments in resolving community development issues including nuisance abatement. The training and education of those involved with environmental enforcement is carried out through the Solid Waste Management Program and enforcement education is carried out through the Criminal Justice Program. H-GAC does not need to acquire additional authority to implement the ECRP.

### 4.3 County Authority to Prosecute Environmental Offenses

The participating counties must have the statutory authority in place to prosecute civil and criminal offenses in district and inferior courts, which include county courts at law and justice of the peace courts. Under the Texas Constitution, counties are agents and subdivisions of the State and as such, the county attorneys represent the State in all proceedings before county and district courts. The Texas Constitution provides for three types of attorneys that can represent the State in a county. The Texas Constitution provides for the election of a county attorney, county criminal district attorney and

county district attorney, to represent the State in all proceedings before county and district courts.<sup>39</sup>

The criminal district attorney represents the State in all civil and criminal cases in district and inferior courts. The county attorney is elected when there is not a resident criminal district attorney. The county attorney represents the State in all cases in district and inferior courts in their respective counties unless the county is included in a district where there is a district attorney. The district attorney represents the State in all criminal cases in district courts. In counties where there is a district and county attorney, the Texas Legislature regulates their respective duties.<sup>40</sup> Table 4.1 lists by county, the type of legal representation used to prosecute civil and criminal offenses.

**Table 4.1 – Legal Representation for Counties in the H-GAC Region**

County	County Attorney	District Attorney	Criminal District Attorney
Austin			✓
Brazoria			✓
Chambers <sup>41</sup>	✓	✓	
Colorado <sup>42</sup>	✓		
Ft. Bend	✓	✓	
Galveston			✓
Harris	✓	✓	
Liberty <sup>41</sup>	✓	✓	
Matagorda	✓	✓	
Montgomery	✓	✓	
Walker			✓
Waller			✓
Wharton	✓	✓	

<sup>39</sup> Tex. Const. Art. 5, § 21, County Attorneys; District Attorneys, Amended Nov. 2, 1954

<sup>40</sup> Texas Code of Criminal Procedure, Article 2.01, Article 2.02

<sup>41</sup> Represents Liberty County and Chambers County

<sup>42</sup> County Attorney with the authority of a District Attorney

#### **4.4 Environmental Circuit Prosecutor**

Counties may use the services of a circuit prosecutor by entering into an Interlocal Agreement with another county in order to share the services of a prosecutor or by swearing in an attorney as an assistant prosecutor.

##### **4.4.1 County Officers and Employees**

There are no statutory limitations to prohibit counties from entering into Interlocal Agreements with other counties to share the services of an attorney of the State.<sup>43</sup> There are also no statutory limitations to prohibit counties from paying that county for using those services.<sup>44</sup> A county commissioners court may contract with another county commissioners court to pay expenses and reimburse compensation paid by a county to an attorney for the State (county attorney, district attorney, criminal district attorney) who is appointed to perform additional duties.

A county may choose to contract with an attorney to assist the district or county attorney under the Texas Local Government Code. In counties with populations less than 190,000, a district attorney or criminal district attorney may apply to commissioners court for approval of an appointment of an assistant or deputy.<sup>45</sup> The commissioners court first adopts an order authorizing the appointment and then, the officer appoints the employee.<sup>46</sup> In counties with population of 500,000 or more, a written contract must be employed.<sup>47</sup>

##### **4.4.2 Assistant Prosecuting Attorneys**

An assistant prosecuting attorney may be sworn in by a prosecuting attorney and has the authority to perform all duties imposed by law as a prosecuting attorney.<sup>48</sup> The approval of the county commissioners court is required in Fort Bend County before the county or district attorney may appoint an assistant.<sup>49</sup> The approval of the county commissioners court is required in Montgomery County before the district attorney may appoint an assistant.<sup>50</sup> The approval of the county commissioners court is required in Waller County before the criminal district attorney may appoint an assistant.<sup>51</sup> The Interlocal Agreement between H-GAC and each participating county commissioners court would include a clause approving the appointment of an assistant prosecutor by the county attorney, district attorney or criminal district attorney.

#### **4.5 Shared Services**

The capacity to share services is a primary component of the ECRP. In order to provide effective environmental enforcement programs, counties would need to be prepared to

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<sup>43</sup> For example, a county attorney, district attorney, or criminal district attorney

<sup>44</sup> Texas Criminal Code Article 2.07 (b)

<sup>45</sup> Texas Local Government Code, § 151.001

<sup>46</sup> Texas Local Government Code, § 151.002. § 151.003

<sup>47</sup> Texas Local Government Code, § 151.902

<sup>48</sup> Texas Government Code § 41.103

<sup>49</sup> Texas Government Code § 43.181(h); § 45.179 (h)

<sup>50</sup> Texas Government Code § 43.105 (c)

<sup>51</sup> Texas Government Code § 44.337 (d)



share assistance from law enforcement officers and prosecutors. Sharing services may be a cost-effective measure for providing a more responsive means for enforcing environmental laws.

#### **4.5.1 Shared Law Enforcement Services**

Counties may develop cooperative criminal and civil enforcement programs in order to create more effective ways of enforcing environmental laws and prosecuting violators that cross county boundaries.<sup>52</sup> A county may, by resolution or order, enter into an agreement with a contiguous county to form a mutual aid law enforcement task force to cooperate in criminal investigations and law enforcement with compensation to be provided to the peace officers.<sup>53</sup> Based on interviews with environmental enforcement staff, typically environmental violations and violators do not respect county boundaries. Instead, civil and criminal environmental offenses may impact one or more counties requiring the support of law enforcement officials to work together to respond.

#### **4.5.2 Shared Solid Waste Disposal Facilities**

The illegal disposal of construction and demolition debris, tires and white goods was reported to be a problem in the majority of counties in the H-GAC region. There is a need to explore the mutual benefits to counties by the creation of collection programs and transfer stations to service adjoining counties.

This could occur through counties entering into cooperative agreements with other governmental entities to jointly operate solid waste management activities and to charge reasonable fees for services.<sup>54</sup> Based on the experience of the Project Team, counties wishing to investigate the feasibility of a regional solid waste facility program should approach this matter through careful examination of: areas in need of this service, potential costs, and any operational and design issues associated with the development of a solid waste disposal facility.

### **4.6 Disposition of Fines**

Fines and penalties are deposited in the county's general fund. The distribution of the funds depends on whether it is a civil or criminal case. Also, there are alternatives to having the fines and penalties deposited in the general fund including the creation of an Environmental Management Account.<sup>55</sup>

#### **4.6.1 Civil Enforcement**

Generally, the majority of civil penalties recovered in a suit under the Texas Water Code or the Texas Health and Safety Code by a local government is divided equally between the State and the local government.<sup>56</sup>

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<sup>52</sup> Texas Local Government Code § 362

<sup>53</sup> Texas Local Government Code § 362.002(b)

<sup>54</sup> Texas Health & Safety Code § 361.163; § 363.003

<sup>55</sup> More information on Environmental Management Accounts can be found in Section 4.6.3.

<sup>56</sup> Texas Water Code § 7.102 and § 7.107

#### **4.6.2 Criminal Enforcement**

The majority of criminal fines recovered through a prosecution brought under the Texas Water Code and the Texas Health and Safety Code are divided equally between the State and any local government involved in prosecuting the case although the court may apportion up to 75 percent of the fine to the local government if the court determines that the local government bore a significantly greater portion of the burden.<sup>57</sup>

Effective September 1, 2003, there would be a change to the disposition of fines for cases relating to criminal suits filed against persons<sup>58</sup> holding a permit from the TCEQ in which that violation is directly related to the permit.<sup>59</sup>

#### **4.6.3 Environmental Management Accounts**

Each county can create an account for accepting gifts, donations, grants and bequests for funding their local enforcement program as well as using this as a mechanism for funding remediation projects.

The county commissioners court of a specific county or counties composing a district may accept gifts and grants from any foundation or association for the purpose of financing adequate and effective prosecution programs in the county or district.<sup>60</sup> Colorado County<sup>61</sup>, Montgomery County<sup>62</sup> and Waller County<sup>63</sup> have specific authority for accepting funds to finance effective prosecution, crime prevention or rehabilitation programs. A county commissioners court may also accept a gift, grant, donation, bequest, or devise of money or other property on behalf of the county for the purpose of performing a function conferred by law on the county or a county officer.<sup>64</sup>

#### **4.7 Supplemental Environmental Projects**

SEPs are part of the settlement process for the environmental enforcement actions TCEQ must take and can provide a positive way to resolve such actions. SEPs were created for the purpose of directing fines, fees, and penalties for environmental violations toward environmentally beneficial projects. A SEP is an opportunity for an alleged violator to offset a portion of a monetary penalty by funding or performing an environmental enhancement project in, or near, the community where the violation occurred.<sup>65</sup> Defendants prosecuted by a county can also choose to donate a portion of their penalty or fine to an approved SEP that has been created by the county to carry out an environmental enhancement project.

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<sup>57</sup> Texas Water Code § 7.190

<sup>58</sup> 30 Texas Administrative Code Rule 3.2 (25) rule defines a person as “an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.”

<sup>59</sup> Senate Bill 1265 (78<sup>th</sup> Legislature – Regular Session)

<sup>60</sup> Texas Government Code § 41.108

<sup>61</sup> Texas Government Code § 45.145(b)

<sup>62</sup> Texas Government Code § 43.105(h)

<sup>63</sup> Texas Government Code § 44.337(e)

<sup>64</sup> Local Government Code § 81.032

<sup>65</sup> Texas Water Code § 7.067. There is a TCEQ Regulatory Guidance Document on the Use of SEPs revised October 11, 2002, which amends and replaces their October 26, 1995, SEP memorandum.

## SECTION V - CASES THAT MAY BE HANDLED AS PART OF THE ENVIRONMENTAL CIRCUIT RIDER PROGRAM

### 5.1 Introduction

The ECRP focuses on the three key problem areas for counties: illegal dumping, nuisances, and OSSF violations. Because county governments do not have general ordinance-making authority, they enforce and prosecute under State environmental laws.<sup>66</sup> There are some State laws that give counties the authority to adopt procedures and regulations for the purpose of protecting the environment and its citizens in unincorporated areas.<sup>67</sup>

This section presents an overview of both the State environmental laws that could serve as a basis for prosecution during Year One and Year Two of the ECRP as well as the laws under which counties may adopt procedures and regulations for the purpose of environmental protection. The cases that may be handled as part of the ECRP are not limited to the enforcement or prosecution of the laws listed in this section.

The emphasis for Year One and Year Two were influenced by the following factors:

- Most of the counties have a working or fundamental knowledge regarding the criminal environmental enforcement of laws pertaining to illegal dumping;
- A number of criminal illegal dumping and nuisance cases are ready for prosecution; and
- Enforcing OSSF violations in unincorporated areas is difficult without first developing county assistance programs.<sup>68</sup>

Year One focuses on:

- Adopting procedures for nuisance abatement including measures for junked and abandoned vehicles, litter abatement, and measures for controlling illegal dumping;
- Reviewing county subdivision review procedures and financial assurances;<sup>69</sup>
- Civil remedies through TROs and Injunctions against nuisances including junked and abandoned vehicles;
- Civil prosecution of nuisances; and
- Criminal prosecution of violations for illegal dumping of solid waste, medical waste, used oil and lead acid batteries.

During Year One, the ECRP liaison would assist the counties with adopting procedures for: nuisance abatement including measures for handling junked and abandoned vehicles;

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<sup>66</sup> Texas Constitution, Article 11, Section 1

<sup>67</sup> Texas Health and Safety Code § 343.021 and § 365.017; Texas Transportation Code § 683.074; Texas Local Government Code Chapter 232

<sup>68</sup> Refer to footnote 6 for additional information.

<sup>69</sup> Texas Local Government Code Chapter 232

litter abatement; and measures for controlling illegal dumping as provided by the State laws identified in the following table.

Code	Section	Title
Health and Safety Code - Subchapter C	343.021-025	County Authority Relating to Nuisance
Health and Safety Code - Subchapter B	365.017	Regulation of Litter in Certain Counties
Transportation Code - Subchapter C	396.041-045	County Regulation of Junkyards or Automotive Wrecking and Salvage Yards
Transportation Code - Subchapter E	683.071-078	Junked Vehicles: Public Nuisance; Abatement

Year Two would build upon the activities of Year One by focusing on adding:

- Criminal prosecution of all types of illegal dumping;
- Civil prosecution of illegal dumping;
- Civil and criminal prosecution of OSSF violations;<sup>70</sup>
- Criminal prosecution of OSSF violations and all types of illegal dumping.

## 5.2 Civil Enforcement – Year One

During Year One, although there would not be a dedicated circuit civil prosecutor, civil trial support would be available through the TCEQ, OAG and possibly the Harris County Attorney’s Office on a voluntary basis. This one-year period provides an opportunity for the county and civil attorneys, through the ECRP education and training component, to familiarize themselves with environmental laws, civil procedures, and civil penalties; as well as for enforcement personnel to begin developing civil cases to be prosecuted. During Year One, civil prosecution would not be limited to enforcement under the following state laws. Instead, these laws are listed because the county attorney or county civil attorneys could implement the following laws by relying on the Civil Environmental Prosecutor Manual.

Code	Section	Title
Water Code - Subchapter D	7.032	Injunctive Relief
Health and Safety Code - Subchapter F	341.092	Civil Enforcement
Health and Safety Code - Subchapter B	365.015	Injunction; Venue; Recovery of Costs
Health and Safety Code - Subchapter C	371.043	Civil Penalty
Health and Safety Code - Subchapter E	371.110	Civil and Administrative Penalties
Transportation Code - Subchapter A	396.002	Injunction

<sup>70</sup> All OSSF activities in Year Two will not and cannot be funded by solid waste funds.

### 5.3 Criminal Enforcement –Year One

Criminal prosecution during Year One would emphasize violations for illegal dumping of solid waste, medical waste, used oil and lead acid batteries. In most of the counties, environmental enforcement officers are accustomed to writing citations for the environmental violations listed below. There is often a backlog of cases for these violations and as such, these cases would have a higher priority for prosecution.

Code	Section	Title
Water Code – Subchapter E	7.145	Intentional or Knowing Unauthorized Discharge
	7.147	Unauthorized Discharge
	7.148	Failure to Properly Use Pollution Control Measures
	7.149	False Statement
	7.150	Failure to Notify or Report
	7.152	Intentional or Knowing Unauthorized Discharge and Knowing Endangerment
	7.153	Intentional or Knowing Unauthorized Discharge and Endangerment
	7.154	Reckless Unauthorized Discharge and Endangerment
	7.155	Violations Relating to Discharge or Spill
	7.161	Violations Relating to the Solid Waste in Enclosed Containers or Vehicles
	7.164	Violations Relating to Medical Waste: Large Generator
	7.165	Violations Relating to Medical Waste: Small Generator
	7.166	Violations Relating to Transportation of Medical Waste
	7.167	False Statements Relating to Medical Waste
	7.168	Intentional or Knowing Violations Relating to Medical Waste and Knowing Endangerment
	7.169	Intentional or Knowing Violation Relating to Medical waste and Endangerment
	7.170	Intentional or Knowing Release of Medical Waste into Environment and Endangerment
	7.176	Violations Relating to Handling of Used Oil
7.184	Violations Relating to Low-Level Radioactive Waste	
7.186	Separate Offense	
7.188	Repeat Offenses	
Health and Safety Code - Subchapter F	341.091	Criminal Penalty
Health and Safety Code - Subchapter B	343.012	Criminal Penalty
	365.012	Illegal Dumping; Criminal Penalties
	365.013	Rules and Standards: Criminal Penalty
	365.016	Disposal of Litter in a Cave; Criminal Penalty
	365.033	Discarding Refuse in Certain County Parks; Criminal Penalty
365.034	County Regulation of Litter Near Public Highway; Criminal Penalty	
Transportation Code - Subchapter C	396.045	Penalty
Transportation Code - Subchapter E	683.073	Offense

#### 5.4 Civil Enforcement – Year Two

In Year Two, the emphasis would be on the civil enforcement of environmental laws regarding OSSFs and solid waste under the following State laws. Counties will be provided assistance in developing OSSF programs for unincorporated areas.

Code	Section	Title
Water Code - Subchapter D	7.101-7.111	Civil Penalties
Water Code - Subchapter H	7.351-7.358	Suit by Others
Local Government Code - Subchapter A	232.005(a)(1); 232.005(a)(2)	Enforcement in General; Penalty
Health and Safety Code - Subchapter B	366.016	Emergency Orders
	366.092	Penalties

#### 5.5 Criminal Enforcement-Year Two

In Year Two, all of the violations enforced in Year One would be integrated into Year Two. Violations relating to subdivisions, hazardous waste and OSSFs would be added.

Code	Section	Title
Water Code - Subchapter E	7.143	Violation of Minimum State Standards or Model Subdivision Rules
	7.157	Violation Relating to Injection Wells
	7.158	Violation Relating to Plugging Wells
	7.159	Violation Relating to Water Wells or Mined Shafts
	7.160	Violation Relating to Certain Subsurface Excavations
	7.162	Violations Relating to Hazardous Waste
	7.163	Violations Relating to Hazardous Waste and Endangerment
	7.172	Failure of Sewage System Installer to Register
	7.173	Violation Relating to Sewage Disposal
7.174	Violation of Sewage Disposal Permit Provision	
Local Government Code - Subchapter A	232.005(b)	Enforcement in General; Penalty

## SECTION VI - LEVEL OF INTEREST

### 6.1 Introduction

Each of the thirteen counties was interviewed to determine their level of need and interest for a program of this type. Section 6.2 includes a summary of the level of need for each of the counties based on interviews with enforcement personnel, county attorneys, district attorneys, criminal district attorneys, county commissioners and county judges. Table 6.1 lists the contacts interviewed in developing the information for this section. Through these interviews, the Project Team was able to determine that the three major environmental problems for the counties were: illegal dumping, nuisances, and OSSF violations. The variation in the level of need was based on whether the county currently was active in enforcing and prosecuting violators.

Some of the counties are still unable to pursue environmental enforcement due to a lack of enforcement personnel. The majority of counties do not prosecute violations and those that do, prosecute them as Class C misdemeanors in justice of the peace court. Based on the interviews, there were few instances of civil prosecution of environmental violations. The interviews were also helpful in identifying which counties have adopted nuisance abatement procedures and, therefore, are able to institute proceedings to abate public nuisances.

Section 6.3 includes a summary of the level of interest for participating in the ECRP. The level of interest was also based on interviews. A survey form was prepared listing the ECRP components and each county, district attorney and criminal district attorney interviewed, was asked to identify the components that were interested in participating in and if applicable, the number of attorneys who would be participating. Table 6.2 is a tabulated summary of the level of interest for each of the counties that participated in the survey regarding the various proposed program elements.

### 6.2 Level of Need for the ECRP in the H-GAC Region

Section 6.2 addresses the level of need for the ECRP based on illegal dumping, nuisances and OSSF violations. Each county experiences these problems to some degree. Some counties lack sufficient resources for prosecuting violations. Others lack the personnel to enforce and prosecute violators. Section 6.2 also identifies which counties have adopted nuisance abatement procedures and therefore, are able to institute proceedings to abate public nuisances.

Appendix F-1 includes articles from various media sources regarding illegal dumping, as well as illegal dumping education and enforcement efforts in the counties in the H-GAC region, which will help to further illustrate the level of need at the county level.

#### 6.2.1 Austin County

Austin County is experiencing illegal dumping of construction and demolition debris, tires, white goods and illegal burning. There are problems with nuisances and OSSF violations. The county has not adopted nuisance abatement procedures or procedures for

handling junked and abandoned vehicles or litter abatement. Austin County has an environmental enforcement program but has not actively prosecuted environmental violators, relying instead on compliance.

### **6.2.2 Brazoria County**

Brazoria County is experiencing problems with the lack of adequate OSSFs in low-income rural and developing unincorporated areas. There is also significant illegal dumping of construction and demolition debris, used oil, and tires. There are sites with large numbers of junked vehicles. Brazoria County has adopted nuisance abatement procedures. The county is prosecuting civil and criminal violations for OSSFs, nuisances and illegal dumping (Appendix F-1, Brazoria County). Brazoria County has an environmental enforcement program.

### **6.2.3 Chambers County**

Chambers County has sufficient regulated solid waste disposal sites and does not charge a disposal fee. As a result, illegal dumping is not a serious problem in the county. They do have some problems with nuisance violations. Chambers County has an environmental enforcement program.

### **6.2.4 Colorado County**

Based on the 2003 Study, Colorado County was not initially interested in environmental enforcement. However, illegal dumping has recently gained increased visibility in the county and the county wants to deter violators. The county has not adopted nuisance abatement procedures or procedures for handling junked and abandoned vehicles or litter abatement. Colorado County does not have an environmental enforcement program.

### **6.2.5 Fort Bend County**

Fort Bend County is experiencing problems with illegal dumping of household trash, construction and demolition debris and tires, much of which is removed by the precinct road and bridge crews. Fort Bend County also has problems with junked and abandoned vehicles, illegal burning, OSSF violations and nuisance. Some of the illegal operations are significant in size and could be prosecuted as State jail felonies. The county has an environmental enforcement program which has an effective system for tracking violators.

### **6.2.6 Galveston County**

Galveston County is experiencing problems with water pollution (Appendix F-1, Galveston County), illegal dumping of junk, construction and demolition debris and tires. The county is actively pursuing the enforcement of junked and abandoned vehicles and salvage yards through combined environmental enforcement efforts. The county has an inspection program for OSSFs as well as a nuisance abatement program. The county prosecutes illegal dumping and nuisance violations. Galveston County has several environmental enforcement programs.

### **6.2.7 Harris County**

Harris County is experiencing a significant problem with all types of illegal dumping and other environmental violations throughout the county (Appendix F-1, Harris County).



The County also has the most developed resource for prosecuting these environmental offenses. Harris County prosecutes civil environmental offenses through the Environmental Division of the Harris County Attorney's Office and criminal environmental offense through the Pollution Division of the Harris County District Attorney's Office. Both divisions have several trained staff attorneys to prosecute these many environmental violators each year. Harris County handles nuisance abatement including junked vehicles and OSSF through Environmental Services Division. The County also addresses environmental enforcement through its various law enforcement agencies and the Harris County Pollution Control Division.

#### **6.2.8 Liberty County**

Liberty County is experiencing a significant problem with illegal dumping throughout the county (Appendix F-1, Liberty County). The county is also experiencing problems with illegal dumping of construction and demolition debris and tires, junked and abandoned vehicles and junkyards also need to be addressed. The county is generally able to achieve compliance from environmental violators with the exception of extensive illegal dumping operations. The county has not adopted nuisance abatement procedures or procedures for handling junked and abandoned vehicles or litter abatement. Liberty County receives prosecutorial support from the OAG for non-environmental related violations and the TCEQ for environmental-related violations. Liberty County has an environmental enforcement program.

#### **6.2.9 Matagorda County**

Matagorda County is experiencing problems with illegal dumping of tires; some junked and abandoned vehicles; OSSF violations; and nuisance violations. Although citations are issued, the county is generally able to obtain compliance (Appendix F-1, Matagorda County). County officials would also like to pursue more nuisance violations for the purpose of public safety. Matagorda County has an environmental enforcement program.

#### **6.2.10 Montgomery County**

Montgomery County is experiencing problems associated with the illegal dumping of construction and demolition debris and tires; junked and abandoned vehicles, public nuisances OSSF violations. The county prosecutes illegal dumping and nuisance violations. The county is also experiencing the impacts from some significant illegal dumpsites. The county has adopted nuisance abatement procedures and procedures for handling junked and abandoned vehicles. Montgomery County has environmental enforcement programs.

#### **6.2.11 Walker County**

Walker County is experiencing problems with illegal dumping (Appendix F-1, Walker County). The county has adopted nuisance abatement procedures or procedures for handling junked and abandoned vehicles or litter abatement (Appendix F-1, Walker County). Walker County has an environmental enforcement program.

### **6.2.12 Waller County**

Waller County is experiencing problems with illegal dumping, junked and abandoned vehicles, oilfield waste, and construction and demolition debris. Compliance is typically achieved, although the county would like to know more about how to prosecute repeat offenders. The county has not adopted nuisance abatement procedures or procedures for handling junked and abandoned vehicles or litter abatement. Waller County does have an environmental enforcement program.

### **6.2.13 Wharton County**

Wharton County is experiencing problems with illegal dumping of construction and demolition debris and tires. The county has some junkyards and other nuisances for which they are working to obtain compliance. Most environmental violations are resolved through compliance. The county has not adopted nuisance abatement procedures or procedures for handling junked and abandoned vehicles or litter abatement. Wharton County does have an environmental enforcement program.

## **6.3 Level of Interest in the ECRP in the H-GAC Region**

Following is a description of the level of interest identified by each of the counties based on interviews and completed survey forms. Table 6.2 is a tabulated summary of the level of interest for each of the counties that completed the survey. Appendix F-2 includes a complete summary of responses from participating counties including any additional responses provided by the counties.

### **6.3.1 Austin County**

The Austin County Criminal District Attorney has criminal and civil authority. The county is not interested in criminal prosecution because most violators comply but they are interested in civil prosecution and remedies for nuisance violations especially for repeat offenders. The county is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.2 Brazoria County**

The Brazoria County Criminal District Attorney has criminal and civil authority. The county is interested in receiving criminal and civil prosecution services subject to the county's oversight and participation. The other areas of interest include environmental case support, environmental technical support and education and training. More specific information has to be provided on the other components in order to determine the value of their participation. The county is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.3 Chambers County**

Chambers County has a County Attorney and shares a District Attorney with Liberty County. The county has chosen not to participate in the ECRP at this time.

### **6.3.4 Colorado County**

The Colorado County Attorney has civil and criminal authority. The county is interested in participating in the ECRP specifically, in the prosecutor manuals and on-site education

and training opportunities. The county stated it was not interested in receiving criminal and civil prosecutorial assistance, participating in the database program or evaluation mechanisms for environmental cases at this time.

### **6.3.5 Fort Bend County**

Fort Bend County has a District Attorney and a County Attorney. The county is interested in participating in the ECRP and in providing assistance to H-GAC in developing the database program. The county is very interested in the prosecutor manuals and the on-site education and training.<sup>71</sup>

### **6.3.6 Galveston County**

The Galveston County Criminal District Attorney has criminal and civil authority. The county is interested in participating in the ECRP with the exception of program and remediation funding. The county is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.7 Harris County**

Harris County has a County Attorney and a District Attorney. The Harris County District Attorney's Office has a Pollution Division responsible for the prosecution of environmental misdemeanors and felonies. The Harris County Attorney's Office has an Environmental Division responsible for the civil prosecution of environmental violations. The Pollution Division and the Environmental Division are interested in participating in the ECRP although the degree of that participation has not yet been determined by the Harris County Attorney and the Harris County District Attorney.

### **6.3.8 Liberty County**

Liberty County has a County Attorney and shares a District Attorney with Chambers County. The county is interested in participating in all components of the ECRP. The county is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.9 Matagorda County**

Matagorda County has a County Attorney and a District Attorney. The County Attorney is interested in participating in the ECRP but referred participation in the funding, task force and evaluation mechanisms to the Environmental Health Director. The District Attorney is interested in participating in all components of the ECRP. The county is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.10 Montgomery County**

Montgomery County has a County Attorney and a District Attorney. The county is interested in participating in the nearly all of the program design elements.

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<sup>71</sup> For more information on the County authority to prosecute environmental violations please refer to Section 4.3. In addition, Table 4.1 summarizes the type of attorneys who prosecute environmental offenses.

### **6.3.11 Walker County**

The Walker County Criminal District Attorney has civil and criminal authority. The county is interested in participating in all components of the ECRP and is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.12 Waller County**

The Waller County Criminal District Attorney has civil and criminal authority. The county is interested in participating in the ECRP and prefers that the environmental circuit prosecutor serve as first chair for both civil and criminal cases. The county is very interested in the prosecutor manuals and the on-site education and training.

### **6.3.13 Wharton County**

Wharton County has a County Attorney and District Attorney. The county is interested in participating in all components of the ECRP. The county is very interested in the prosecutor manuals and the on-site education and training.

**Table 6.1 – List of Contacts**

<b>County/ Interest</b>	<b>Criminal District Attorney</b>	<b>Civil/County Attorney</b>	<b>Enforcement Officer</b>	<b>Other</b>
Austin/ Yes	Travis Koehn Criminal District Attorney (979) 865-5933	Dan Leedy Assistant District Attorney (979) 865-5933	Sammy Miller Environmental Enforcement Officer (979) 865-3112	Carolyn Bilski County Judge (979) 865-5911 ext. 101
Brazoria/ Yes	Jeri Yenne Criminal District Attorney (979) 864-1230	Jim Wiginton Assistant District Attorney Chief Civil Division (979) 864-1233  Mary Cheline Assistant District Attorney Environmental Division (979) 864-1233	Robbie Drake Director of Environmental Health Department (281) 756-1600	N/A
Chambers/ No	Michael R. “Mike” Little District Attorney (936) 336-4609	Cheryl Lieck County Attorney (409)267-8291	Sidney Lewis Jr. Director of Environmental Health Department (409) 267-8424	Jimmy Kahla Director of Solid Waste Department (409) 267-8202
Colorado/ Yes		Ken Sparks County Attorney (979) 732-8203	Darrell Gertson Commissioner - Precinct #4 (979) 732-2435	R.H. “Curly” Wied County Sheriff (979) 732-2388
Fort Bend/ Yes	John Healey, Jr. District Attorney (281) 341-4469	Ben “Bud” Childers County Attorney (281) 341-4555	Troy Scalco Director of Environmental Health Department (281) 238-3532	Ron Drachenberg Assistant County Engineer (281) 633-7509

<b>County/ Interest</b>	<b>Criminal District Attorney</b>	<b>Civil/County Attorney</b>	<b>Enforcement Officer</b>	<b>Other</b>
Galveston/ Yes	<p>Kurt Sistrunk Criminal District Attorney (409) 766-2353</p> <p>Mohamed Ibrahim First Assistant District Attorney (409) 766-2353</p>	<p>Harvey Baseman Assistant District Attorney Chief Civil Division (409) 766-2353</p>	<p>Ronnie Schultz Galveston County Health District Director of Pollution Control (409) 938-2314</p> <p>Diana Stevens Team Leader Pollution Control Division Galveston County Health District Pollution Control (409) 938-2313</p>	<p>Garret Foskit Nuisance Abatement Officer (409) 938-2300</p> <p>Mike Mize Sergeant (409) 766-4503</p>
Harris/ Yes	<p>Roger Haseman Assistant District Attorney Pollution Division Chief (713) 755-7889</p>	<p>Cathy Sisk Assistant County Attorney Chief of Environmental Division (979) 755-7872</p> <p>Clarissa Bauer Assistant County Attorney Environmental Division (979) 755-8282</p>	N/A	N/A
Liberty/ Yes	<p>Michael R. "Mike" Little District Attorney (936) 336-4609</p>	<p>A.J. "Jack" Hartel County Attorney (936) 336-4650</p> <p>Mike Pichinson First Assistant County Attorney (979) 336-4650</p>	<p>Royce Wheeler Constable Precinct #6 (281) 593-8418</p>	<p>Sandy Pickett H-GAC Solid Waste Management Committee Member (979) 336-5397</p>

<b>County/ Interest</b>	<b>Criminal District Attorney</b>	<b>Civil/County Attorney</b>	<b>Enforcement Officer</b>	<b>Other</b>
Matagorda/ Yes	Steven Reis Criminal District Attorney (979) 244-7645	Jill Cornelius County Attorney (979) 244-7645	Ed Schulze Director of Environmental Health Department (979) 244-2717	N/A
Montgomery/ Yes	Michael A. McDougal District Attorney (936) 539-7800  Michael M. Valdez First Assistant District Attorney (936) 539-7800	David Walker County Attorney (936) 539-7828  Robert Rosenquist Assistant County Attorney (409) 539-7828	Pat Buzbee Director of Health Department Environmental and Consumer Divisions (936) 539-7839  Sergeant Tim Morgan County Constable's Office - Precinct #3 (936) 363-1161  Kenneth "Rowdy" Hayden Deputy Sheriff (936) 521-8919	Jim Strong Coordinator of the Office of Emergency Management (936) 539-7812
Walker/ Yes	David Weeks Criminal District Attorney (936) 435-2441	N/A	Andrew Isbell Director of Planning and Development (936) 436-4939  Tom Olenik Environmental Enforcement Officer (936) 436-4939	B.J. Gaines, Jr. County Commissioner - Precinct #1 (936) 436-4910

<b>County/ Interest</b>	<b>Criminal District Attorney</b>	<b>Civil/County Attorney</b>	<b>Enforcement Officer</b>	<b>Other</b>
Waller/ Yes	Oliver Kitzman Criminal District Attorney (979) 826-7718	N/A	John Kremmer Sheriff's Office (979) 826-8282	Bennie Zhaicek Investigator (979) 826-7718
Wharton/ Yes	Josh McCown District Attorney (979) 532-8051	Trey Maffett County Attorney (979) 532-2591	John Szymanski Constable - Precinct 2 (979) 335-6210  Mark Somer Deputy Constable - Precinct 2 (979) 335-6210	N/A



**Table 6.2 – Summary of Level of Interest for Counties in the H-GAC Region<sup>72</sup>**

County	Program Design Elements											
	Criminal Cases		Civil Cases		Support		Education / Training	Database / Bulletin Board	Funding Development		Environmental Task Force	Evaluation Mechanisms
	First Chair	Second Chair	First Chair	Second Chair	Case	Technical			Program	Remediation		
Austin			✓		✓	✓	✓	✓	✓	✓	✓	✓
Brazoria	✓	✓	✓	✓	✓	✓	✓	NR	NR	NR	NR	NR
Chambers												
Colorado					✓	✓	✓		✓	✓	✓	
Fort Bend	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓
Galveston	✓	✓	✓	✓	✓	✓	✓	✓	NR	NR	✓	✓
Liberty	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Matagorda	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ <sup>73</sup>	✓
Montgomery	✓		✓	NR	✓	✓	✓	✓	✓	✓	✓	✓
Walker	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Waller	✓	NR	✓	NR	✓	✓	✓	✓	✓	✓	✓	✓
Wharton	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

<sup>72</sup> A check mark represents an affirmative answer, NR represents a no response, and boxes that have been left blank represent a negative answer. A complete table including additional comments is provided in Appendix F-2.

<sup>73</sup> Only as it relates to criminal prosecution

## SECTION VII - SIMILAR TYPES OF PROJECTS

### 7.1 Introduction

The Project Team examined other environmental circuit rider programs throughout the United States to provide H-GAC with examples of how other states chose to model their programs. The following section gives a general description of the programs along with a discussion of the various funding mechanisms used in the programs. Appendix G includes resource information regarding circuit rider programs around the nation.

### 7.2 South Carolina

#### *General Description*

The South Carolina Environmental Circuit Rider (ECR) Program was established under the South Carolina Department of Health and Environmental Control (SC DHEC). The goal of the ECR is to implement a voluntary compliance assistance pilot program for local governments seeking environmental assistance. This assistance is available to cities, counties, school districts and special purpose districts.

#### *Duties and Responsibilities*

The ECR is primarily charged with assisting local governments in their efforts to achieve, maintain and go beyond environmental compliance through cooperative program-solving and the promotion of innovative solutions to today's environmental challenges. The ECR visits these communities regularly and provides solutions to issues such as:

- Wastewater management
- Drinking water
- Storm Water Phase II rule
- Brownfield
- Recycling
- Solid waste disposal
- Underground storage tanks
- Vehicle maintenance
- Spill response plans
- Pollution prevention and waste reduction
- Hazardous waste management
- Permit issues
- Environmental management practices

#### *Program Funding*

The U.S. EPA provides 100 percent of the funding for the circuit rider grant program in South Carolina. The program is then administered by the SC DHEC.

### 7.3 California<sup>74</sup>

#### *General Description*

The California District Attorney's Association (CDAA) Environmental Circuit Prosecutor Project (ECPP) was established in early 1998 with funding provided by state

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<sup>74</sup> The project received the American Bar Association's 2003 Award for Distinguished Achievement in Environmental Law and Policy.

agencies and the U.S. EPA. Resources were not available in the rural counties to fund environmental enforcement and a proposal was made to California Environmental Protection Agency (Cal EPA) in March 1998. The ECPP initially provided 4.5 prosecutors for 34 counties. As of 2003, the program has nine environmental prosecutors, two worker safety prosecutors, two investigators and one research attorney. However, California is currently experiencing some budget challenges. In Los Angeles, the environmental crimes group merged with the consumer crimes group. Because of the budget crunch they would lose at least 100 employees, 3 of which are environmental prosecutors. Although Los Angeles is not part of the ECPP, the budget crunch has affected most government-funded projects in the state although no one can predict the effect, if any, on the ECPP.

### ***Duties and Responsibilities***

Since its inception, the ECPP has opened approximately 840 environmental cases and obtained more than \$20.8 million in fines, penalties, costs, SEPs as well as jail time for serious offenders. There is an attorney on loan from the Office of the Attorney General. CCDA works together with the Department of Fish and Game and the Department of Toxic Substances Control.

Assembly Bill (AB) 2486, the Environmental Enforcement and Training Act (EETA) of 2002, created the Environmental Enforcement and Training Program to establish a vehicle for funding environmental training and codified the ECPP. The new law establishes the EETA under the authority of the Secretary of Cal EPA. Responsibility for hazardous waste training was moved from the Department of Toxic Substances Control to Cal EPA and given a broader environmental responsibility. The ECPP account is authorized to receive donations from settlements, fines and judgments.

### ***Program Funding***

A nonprofit tax-exempt corporation was established by CCDA to accept contributions although these funds cannot be used for prosecution but rather for education. No state funds have been allocated to the project. There is a \$2 million annual cap and any unused funds are rolled over to the general fund. The attorneys are paid through CCDA.

CCDA has set up a database for the prosecutors and a bulletin board for posting questions as part of their web site. At the end of 2003, they would have completed their prosecutor manual for environmental crime. It would address issues such as discovery, evidence gathering, and even a “how to” on making power point presentations.

The circuit prosecutors are housed in the local District Attorney office. If there is not sufficient office space, office space is rented in close proximity.

## **7.4 Indiana**

### ***General Description***

In 1996, the Indiana Association of Cities and Towns (IACT) along with the U.S. EPA created The Indiana Association of Cities and Town’s Environmental Circuit Rider

Program as a way to provide smaller communities in the State of Indiana with technical assistance on various environmental issues. The program began as a 16-month pilot program. Due to the success of the program, it was extended and secured funding. The environmental circuit rider operates in nine counties in the State of Indiana.

### ***Duties and Responsibilities***

The environmental circuit rider has several duties and responsibilities including educational and advisory functions to municipalities. Primarily the environmental circuit rider acts a liaison between the cities and the Indian Department of Environmental Management (IDEM).

Tasks that the environmental circuit rider perform include:

- Fielding questions regarding environmental laws;
- Conducting field visits to various municipalities;
- Educating newly elected officials on environmental regulations;
- Writing a monthly column in the IDAT's monthly magazine on environmental laws; and
- Creating a "how-to" reference guide that identifies common environmental problems municipalities often face.

### ***Funding Mechanisms***

The environmental circuit rider is employed by the Indiana Association of Cities and Towns, thus he/she is not a state employee. The initial costs of the program were funded through a U.S. EPA grant; however funding is now maintained by the IACT. The start-up costs for the program was \$103,000, which included office equipment and salary.

## **7.5 Nevada**

### ***General Description***

The State of Nevada established a circuit rider program to assist rural communities facing wastewater treatment issues under the Nevada Division of Environmental Protection – Bureau of Water Pollution Control. The program, which is funded by the U.S. EPA, has been in existence since approximately 1988. The program is contracted by the NDEP to a consulting firm that works directly with the communities.

### ***Duties and Responsibilities***

The circuit rider program provides assistance to approximately 10 communities annually as well as five Native American communities within the state. The primary duties of the circuit rider is to visit and advise communities on issues such as wastewater treatment capacity, operations training, maintenance, administrative and financial management, trouble shooting and laboratory operations.

***Funding Sources***

The circuit rider program is funded completely by the U.S. EPA. While all other states receive funding for wastewater treatment facility assistance, Nevada is the only state to contract these services to an independent consulting firm.

**APPENDIX A:  
H-GAC RESOLUTION**



# RESOLUTION

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS ADOPTING REGIONAL ENVIRONMENTAL CIRCUIT RIDER PROGRAM STUDY

WHEREAS, the Houston-Galveston Area Council (H-GAC) is a regional voluntary association of local governments and local elected officials serving the 13-county Gulf Coast Planning Area, with over 5 million people; and

WHEREAS, the mission of the Houston-Galveston Area Council is to help local government plan for the future; and

WHEREAS, management of solid waste is and will continue to be a critical issue facing local governments in the Gulf Coast Planning Area; and

WHEREAS, H-GAC has a regional solid waste management plan which has been adopted by the Texas Commission on Environmental Quality; and

WHEREAS, the Regional Environmental Circuit Rider Program Study was funded by the Houston-Galveston Area Council as a pass through grant, and was developed according to the Texas Commission on Environmental Quality (TCEQ) guidelines; and

WHEREAS, the TCEQ requires the Board of Directors of the Houston-Galveston Area Council to accept the Regional Environmental Circuit Rider Program Study as part of the TCEQ approval process,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Houston-Galveston Area Council that:

1. The Board of Directors of the Houston-Galveston Area Council has reviewed the Regional Environmental Circuit Rider Program Study and has determined that it is consistent with the regional solid waste plan, and
2. The Board of Directors of the Houston-Galveston Area Council accepts the Regional Environmental Circuit Rider Program Study to serve as a solid waste guide for the next twenty years.

PASSED AND APPROVED AT A REGULAR, DULY CALLED MEETING OF THE HOUSTON-GALVESTON AREA COUNCIL BOARD OF DIRECTORS, THIS 18<sup>TH</sup> DAY OF NOVEMBER 2003.

APPROVED:

The Honorable Andy Meyers  
Commissioner, Fort Bend County  
H-GAC CHAIRMAN

ATTEST:

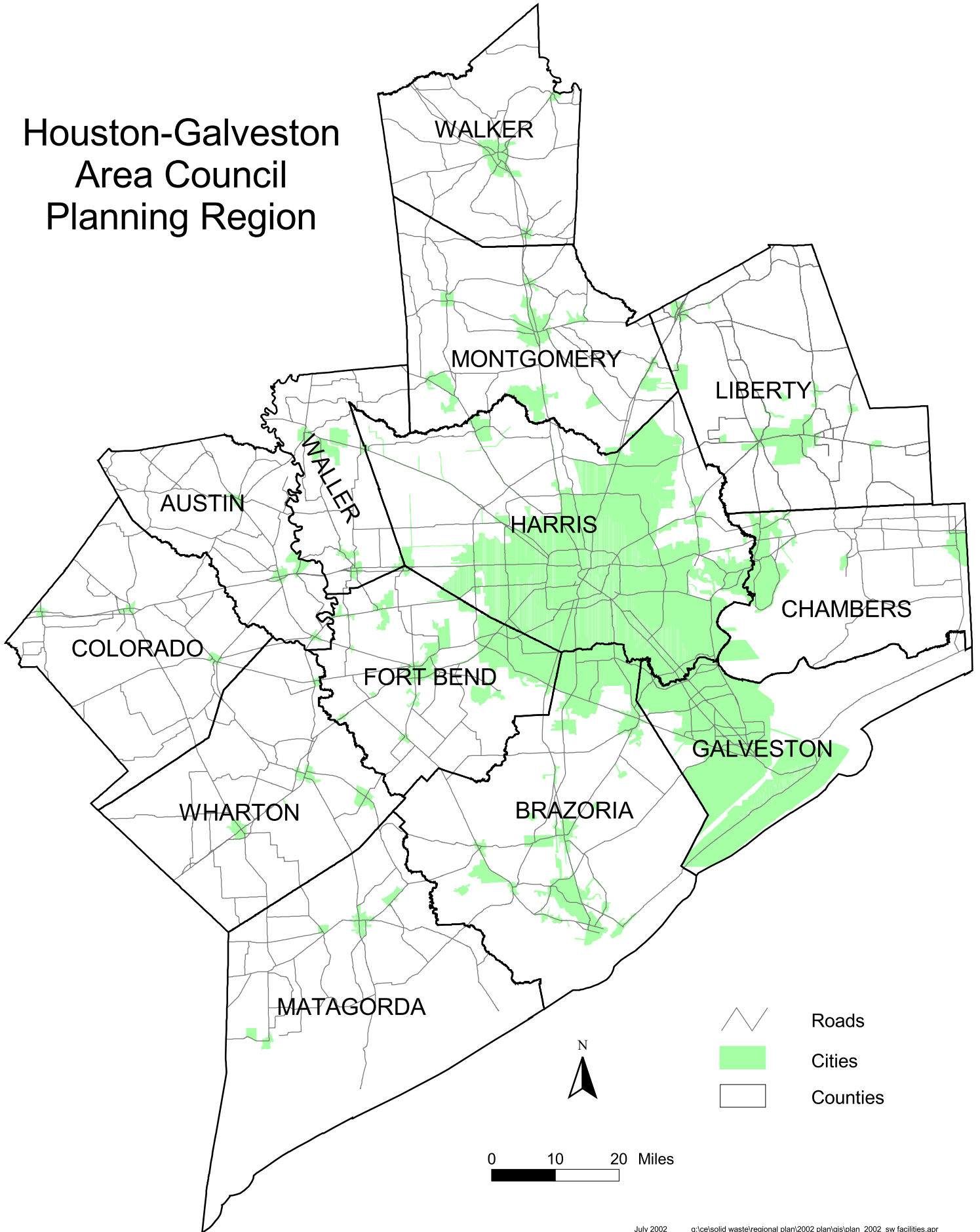
The Honorable Greg Westmoreland  
Judge, Matagorda County  
H-GAC VICE CHAIR



**APPENDIX B:**  
**MAP OF THE H-GAC REGION**



# Houston-Galveston Area Council Planning Region



**APPENDIX C:  
PRELIMINARY SCHEDULE AND IMPLEMENTATION  
PLAN**

## APPENDIX C

### TIME LINE 2004-2005 GRANT CYCLE

*The following time line has been developed to be used as planning tool and outlines key tasks for the ECRP. The specific tasks and element that would be included in the actual ECRP time line would be approved by H-GAC and TCEQ.*

#### **Month 1**

- Initiate discussions with the Harris County Attorney's Office and Harris County District Attorney's Office to determine their degree of participation.
- Project start-up.
- Prepare and deliver Interlocal Agreements for signature by the participating counties.
- Prepare and develop Intergovernmental Agreements, Contracts and Consultant Agreements as needed with service providers for the ECRP.
- Begin compiling list of cases ready for prosecution for which the counties need assistance and specify type of assistance needed.
- Provide assistance as needed.
- Begin developing four manuals: Environmental Offense Report Manual; Criminal Environmental Prosecutor Manual; Civil Environmental Prosecutor Manual; and Justice of the Peace Environmental Manual.
- Begin writing papers on *Civil Remedies for Environmental Offenses in Texas Counties* and *Prosecution of Environmental Crimes in Texas Counties* for publication in TDCAA's **The Prosecutor**.
- Prepare a list of the counties that have adopted or are lacking nuisance abatement procedures including junked and abandoned vehicles; litter abatement; measures for controlling illegal dumping;
- Identify one cleanup or nuisance abatement project in each county for completion by end of grant cycle.
- Begin coordinating ECRP with OAG, TCEQ, KTB, TDCAA, TEETF, and County Bar Associations.
- Submit monthly report to H-GAC.

#### **Month 2**

- Complete Intergovernmental Agreement process.
- Complete list of cases and schedule the type of support accordingly.
- Identify stakeholders for cleanup or nuisance abatement project in each county.
- Continue working on manuals.
- Assist counties in adopting nuisance abatement procedures and procedures for removing junked and abandoned vehicles as needed.
- Provide prosecution services and other environmental services as needed.
- Begin assisting counties with developing or enhancing On-Site Sewage Facility programs.

- Submit monthly report to H-GAC.

### **Month 3**

- Complete manuals.
- Schedule on-site training for Month 4 and 5.
- Develop program schedule for nuisance abatement project in each county for completion by end of grant cycle.
- Provide prosecution services and other environmental services as needed.
- Make site visits for three-month program evaluation.
- Prepare a list of Supplemental Environmental Projects in the H-GAC region that meet the goals of the ECRP.
- Begin developing county funding mechanisms to address environmental enforcement and remediation.
- Submit quarterly program evaluation to H-GAC.

### **Month 4**

- Conduct two sessions of on-site education and training.
- Convene first sub-regional task force meetings after on-site training to discuss environmental problems and issues.
- Provide prosecution services and other environmental services as needed.
- Work on nuisance abatement and cleanup projects.
- Publish *Civil Remedies for Environmental Offenses in Texas*.
- Submit monthly report to H-GAC.

### **Month 5**

- Conduct two sessions of on-site education and training.
- Convene first sub-regional task force meetings after on-site training to discuss environmental problems and issues.
- Provide prosecution services and other environmental services as needed.
- Work on nuisance abatement projects.
- Pursue funding sources for developing On-Site Sewage Facilities programs.
- Submit monthly report to H-GAC.

### **Month 6**

- Provide prosecution services and other environmental services as needed.
- Make site visits for six-month program evaluation.
- Meet with stakeholders on nuisance abatement projects.
- Publish *Prosecution of Environmental Crimes in Texas*.
- Pursue funding sources for county environmental and remediation programs.
- Submit six-month program evaluation report to H-GAC.

### **Month 7**

- Work on nuisance abatement projects.
- Provide prosecution services and other environmental services as needed.
- Pursue funding sources for county environmental and remediation programs.

- Submit monthly report to H-GAC.

### **Month 8**

- Work on nuisance abatement projects.
- Pursue funding sources for developing On-Site Sewage Facilities programs.
- Provide prosecution services and other environmental services as needed.
- Submit monthly report to H-GAC.

### **Month 9**

- Make site visits for nine-month program evaluation.
- Pursue funding sources for developing On-Site Sewage Facilities programs.
- Work on nuisance abatement projects.
- Provide prosecution services and other environmental services as needed.
- Submit nine-month program evaluation report to H-GAC.

### **Month 10**

- Work on nuisance abatement projects.
- Pursue funding sources for developing On-Site Sewage Facilities programs.
- Provide prosecution services and other environmental services as needed.
- Submit monthly report to H-GAC.

### **Month 11**

- Complete nuisance abatement projects.
- Provide prosecution services and other environmental services as needed.
- Submit annual report to H-GAC.

**APPENDIX D:**  
**PROGRAM STRUCTURE**

## **APPENDIX D-1**

### **SAMPLE INTERLOCAL AGREEMENT BETWEEN HOUSTON-GALVESTON AREA COUNCIL AND BRAZORIA COUNTY FOR PARTICIPATION IN THE ENVIRONMENTAL CIRCUIT RIDER PROJECT**

This Interlocal Agreement is made and entered into by and between Houston-Galveston Area Council (H-GAC) and the County Commissioners Court of Brazoria County (Brazoria) for the purpose of providing environmental services as part of the Environmental Circuit Rider Project (ECRP);

WHEREAS, the illegal disposal of solid waste, medical waste, lead-acid batteries and hazardous waste is a significant problem in the H-GAC region;

WHEREAS, nuisance from deteriorating and occupies and abandoned structures, inadequate on-site sewage facilities and abandoned and junked vehicles is often a threat to public health and safety;

WHEREAS, illegal dumping and threats from nuisance may also contaminate waters of the State of Texas;

WHEREAS, the intent of H-GAC is to provide assistance to the counties within the region to assist in the enforcement and prosecution of criminal and civil violations of environmental laws;

WHEREAS, the counties within the region often lack the necessary education, training and resources needed to prosecute environmental offenses; and

WHEREAS, the Brazoria County Commissioners Court approves the appointment of a circuit criminal prosecutor as an Assistant Criminal District Attorney for the purpose of prosecuting and assisting in the criminal prosecution of environmental offenses;

WHEREAS, the Brazoria Commissioners Court approves the participation of an Environmental Circuit Rider Project Liaison for the purpose of assisting the county in developing procedures and regulations for the protection of the environment and assisting in the enforcement and prosecution of environmental offenses;

WHEREAS, the is qualified and willing to provide educational assistance and training to the counties in the region;

WHEREAS, the counties require full cooperation and mutual assistance in the enforcement of environmental violations that affect all counties in the region;

WHEREAS, Brazoria completed a survey form concerning their participation in the ECRP as the basis for the development of this Interlocal Agreement (Attachment A to this Agreement);

NOW THEREFORE, the Parties agree as follows:

This Interlocal Agreement is to remain in place for a one-year period commencing on \_\_\_\_\_ and ending on \_\_\_\_\_;

Brazoria agrees to approve the participation of an Environmental Circuit Rider Project Liaison (ECRP Liaison) for the purpose of assisting the county in developing procedures and regulations for the protection of the environment and assisting in the enforcement and prosecution of environmental offenses;

Brazoria agrees to appoint an attorney and an environmental enforcement officer to work with the Environmental Circuit Rider Project (ECRP) Liaison and the criminal circuit prosecutor;

Brazoria agrees to appoint a circuit criminal prosecutor as an Assistant Criminal District Attorney for the purpose of prosecuting and assisting in the criminal prosecution of environmental offenses;

Brazoria agrees to encourage and allow Assistant District Attorneys to participate in the half-day session of education and training provided under the ECRP;

Brazoria agrees to identify the criminal environmental cases subject to prosecution and work with the ECRP Liaison and the criminal circuit prosecutor on case development and prosecution as requested;

Brazoria agrees to determine how (administrative, civil or criminal) and in which venue the environmental violations will be prosecuted;

Brazoria agrees to decide whether the criminal circuit prosecutor or Brazoria will serve as first or second chair on a case by case basis;

Brazoria agrees to allow the ECRP Liaison to assist them with the development of procedures and regulations as needed for addressing nuisance abatement, illegal dumping, on-site sewage facilities; and subdivision development;

Brazoria agrees to allow the ECRP Liaison to assist them with funding development and remediation support;

Brazoria agrees to participate in a sub-regional task force;



Brazoria agrees to keep H-GAC informed of any issues that arise as a result of their participation in the ECRP;

H-GAC agrees to determine the program structure and the personnel to participate in the ECRP;

H-GAC agrees to provide project management and oversight for the ECRP;

H-GAC agrees to keep Brazoria informed of any changes in the ECRP during the duration of this Interlocal Agreement;

Resolved, Ordered and Executed as of the dates set forth below.

HOUSTON-GALVESTON  
AREA COUNCIL

BRAZORIA COUNTY

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Brazoria County Judge

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Criminal District Attorney

Date: \_\_\_\_\_

## **APPENDIX D-2**

### **Sample Scope of Services for Environmental Circuit Rider Project Liaison**

#### **PROJECT GOAL AND PURPOSE**

The need to combat illegal dumping is well documented in studies and training manuals prepared for Houston-Galveston Area Council (H-GAC) including the most recent, the Environmental Circuit Rider Program Study. This study was prepared for H-GAC to present alternatives for implementing an Environmental Circuit Rider Program (ECRP) to assist counties in the H-GAC region with environmental enforcement and prosecution. The ECRP Study reported that in addition to illegal dumping, counties face environmental problems in the areas of nuisances and on-site sewage facilities (OSSF) violations. Therefore, the ECRP was developed to address illegal dumping, nuisances, and OSSFs. The goals of the ECRP include providing counties with:

- Circuit criminal and civil prosecution services
- Education and on-site environmental enforcement and prosecution training
- Technical environmental assistance
- Funding assistance

#### **PROJECT APPROACH**

The ECRP was developed as a two-year pilot-program. The ECRP Study identified five staffing components for the ECRP including:

- ECRP Liaison
- Criminal Education and Training
- Civil Education and Training
- Circuit Criminal Prosecution Services
- Circuit Civil Prosecution Services

The ECRP Liaison would serve as the project administrator responsible for coordinating and facilitating the implementation the ECRP components as well as performing the following tasks during the two-year pilot-program:

- Task 1 - Prosecution Support Services
- Task 2 - Education and Training
- Task 3 - Technical Environmental Services

- Task 4 - Funding Assistance

## **ECRP LIAISON - TASK 1**

### ***Prosecution Support Services***

During Years One and Two of the ECRP pilot-program, the ECRP Liaison would provide assistance in case development and case preparation in order to facilitate the prosecution of environmental cases. This would potentially allow the counties to handle more cases and would assist the circuit criminal or circuit civil prosecutor or the county, district or criminal district attorney for the county. This provides the county with the option of prosecuting or using a circuit prosecutor.

The ECRP Liaison would work with environmental enforcement staff to develop the case under the direction of the circuit criminal or civil prosecutor or the county, district or criminal district attorney for the county. The ECRP Liaison would be responsible for developing a list of cases to be prosecuted for each of the counties; scheduling cases with the county; and providing monthly progress and evaluation reports to the county, H-GAC and the circuit prosecutor.

During Year Two, the ECRP Liaison would provide prosecution support services by developing cost-effective laboratory services and a list of qualified expert witnesses.

## **ECRP LIAISON - TASK 2**

### ***Education and Training***

During Year One, the ECRP Liaison would be responsible for editing and producing three manuals including the following:

- Environmental Offense Report Manual
- Criminal Environmental Prosecutor Manual
- Civil Environmental Prosecutor Manual

The ECRP Liaison would be responsible for working with the Pollution Division of the Harris County District Attorney's Office and the Environmental Division of the Harris County Attorney's Office in preparing the three manuals. During Year Two, the ECRP Liaison would be responsible for coordinating the update of the three manuals.

During Year One, the ECRP Liaison would be responsible for preparing the following manual:

- Justice of the Peace Environmental Manual

The Justice of the Peace Environmental Manual would include the offenses under each relevant code and a list of the elements of the offense. This manual would also include the range of punishment a Texas Justice of the Peace may impose for each offense. During Year Two, the ECRP Liaison would be responsible for updating the manual.

During Year Two, the ECRP Liaison would be responsible for preparing a manual for District and County Court at Law judges:

- County and State Judicial Environmental Manual

The manual would include the offenses under each relevant code and a list of the elements of the offense. This manual would also include the range of punishment a county or state judge may impose for each offense. During Year Two, the ECRP Liaison would be responsible for updating the manual.

The ECRP Liaison would assist with making the manuals to all county and district attorneys through the Texas District and County Attorneys Association (TDCAA).

During Years One and Two of the ECRP pilot-program, the ECRP Liaison would be responsible for organizing four half-day Saturday morning sessions for the counties as grouped accordingly: (1) Brazoria and Galveston; (2) Fort Bend, Matagorda and Wharton; (3) Colorado, Austin and Waller; (4) Montgomery, Walker and Liberty. The on-site training would be provided for attorneys, environmental enforcement staff, and justices of the peace. Attorneys would receive Continuing Legal Education (CLE) credits and law enforcement officers would receive Texas Continuing Law Enforcement Officer Education (TCLEOSE) credits. The ECRP Liaison would be responsible for obtaining certification with the Texas State Bar Certification and TCLEOSE.

### **ECRP LIAISON -TASK 3**

#### ***Environmental Technical Support***

During Years One and Two of the ECRP, the ECRP Liaison would provide technical environmental support to the counties including assisting the counties with developing nuisance abatement procedures including measures for handling junked and abandoned vehicles; litter abatement procedures; measures for controlling illegal dumping; and developing or enhancing OSSF programs under the following state environmental laws:

<b>Code</b>	<b>Section</b>	<b>Title</b>
Health and Safety Code - Subchapter C	343.021-025	County Authority Relating to Nuisance

Health and Safety Code - Subchapter B	365.017	Regulation of Litter in Certain Counties
Transportation Code - Subchapter C	396.041-045	County Regulation of Junkyards or Automotive Wrecking and Salvage Yards
Transportation Code - Subchapter E	683.071-078	Junked Vehicles; Public Nuisance; Abatement

Counties would also receive assistance in developing Environmental Management Systems.<sup>75</sup>

Through the creation of sub-regional task forces, the ECRP Liaison would be responsible for coordinating meetings to address environmental problems identified during development of the former procedures and measures designed to alleviate environmental problems related to nuisances, illegal dumping and OSSFs.

#### **ECRP LIAISON -TASK 4**

##### ***Funding Assistance***

During Years One and Two of the ECRP, the ECRP Liaison would assist the counties with identifying potential funding sources aiding in the enforcement of illegal dumping, nuisances and OSSFs. The ECRP would also identify and develop potential funding sources that could help with the continuation or expansion of the ECRP. Depending on the level of interest expressed by the counties in the H-GAC region, the ECRP would also investigate the feasibility of expanding the program to cover other areas of interest such as air violations.

The ECRP Liaison would assist the counties with technical assistance and funding resources for the cleanup and remediation of nuisances, illegal dumping sites and OSSFs. The ECRP Liaison would help counties create and enhance environmental management accounts and Supplemental Environmental projects (SEPs).

#### **SCHEDULE**

The position would begin on \_\_\_\_\_ and continue through \_\_\_\_\_.

#### **BUDGET**

The ECRP Liaison would require 450 hours during Year One and 150 hours during Year Two of the ECRP. The estimated hourly rate for the position would not exceed \$XXX per hour plus expenses.

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<sup>75</sup> The TCEQ through its Small Business and Local Government Assistance (SBLGA) Program and U.S. EPA through its Public Entity Environmental Management System Resource Center (PEER) provide assistance with developing Environmental Management Systems for public sector entities.

## **APPENDIX D-3**

### **SAMPLE SCOPE OF SERVICES FOR CRIMINAL EDUCATION AND TRAINING**

#### **PROJECT GOAL AND PURPOSE**

The need to combat illegal dumping is well documented in studies and training manuals prepared for Houston-Galveston Area Council (H-GAC) including the most recent, the Environmental Circuit Rider Program Study. This study was prepared for H-GAC to present alternatives for implementing an Environmental Circuit Rider Program (ECRP) to assist counties in the H-GAC region with environmental enforcement and prosecution. The ECRP Study reported that in addition to illegal dumping, counties face environmental problems in the areas of nuisances and on-site sewage facilities (OSSF) violations. Therefore, the ECRP was developed to address illegal dumping, nuisances, and OSSFs. The goals of the ECRP include providing counties with:

- Circuit criminal and civil prosecution services
- Education and on-site environmental enforcement and prosecution training
- Technical environmental assistance
- Funding assistance

#### **PROJECT APPROACH**

The ECRP was developed as a two-year pilot-program. The ECRP Study identified five staffing components for the ECRP including:

- ECRP Liaison;
- Criminal Education and Training
- Civil Education and Training
- Circuit Criminal Prosecution Services
- Circuit Civil Prosecution Services

The ECRP Study identified Harris County as the most experienced county in the H-GAC region with regard to environmental enforcement and the Pollution Division of the Harris County District Attorney's Office, as the most-experienced in prosecuting criminal environmental offenses. As a result, the ECRP Study recommended that the Pollution Division of the Harris County District Attorney's Office provide the criminal education and training for the ECRP during Years One and Two of the ECRP.

The criminal education and training services would require the following tasks during Years One and Two of the two-year pilot-program:

- Task 1 - Preparation of the Criminal Environmental Prosecutor Manual
- Task 2 - Preparation of the Environmental Offense Report Manual
- Task 3 - On-Site Training
- Task 4 - Participation in developing Evaluation Mechanisms for Environmental Cases

### **CRIMINAL EDUCATION AND TRAINING -TASK 1**

#### ***Preparation of the Criminal Environmental Prosecutor Manual***

The Pollution Division of the Harris County District Attorney's Office would be responsible for preparing a Criminal Environmental Prosecutor Manual. The manual would include at a minimum:

- Offenses under each code
- Elements of each offense
- Charging variations
- Defenses
- Procedural considerations
- Range of punishments
- Sample forms in the appendices
- Index organized by the type of offense and affected media

During the second year, the manual would be updated.

### **CRIMINAL EDUCATION AND TRAINING -TASK 2**

#### ***Preparation of the Environmental Offense Report Manual***

The Pollution Division of the Harris County District Attorney's Office would be responsible for preparing an Environmental Offense Report Manual. The manual would include at a minimum:

- Offenses under each relevant code
- List of the elements
- Necessary details for proving the elements
- Legal considerations
- Range of punishments
- Appendices would include abatement procedures and regulations as needed for each county program
- Copies of the necessary forms for obtaining evidence and sworn statements and confessions and other relevant forms
- Index organized by type of offense and affected media.

During the second year, the manual would be updated.

### **CRIMINAL EDUCATION AND TRAINING -TASK 3**

#### ***Conduct On-Site Training***

The Pollution Division of the Harris County District Attorney’s Office would conduct the on-site training for the criminal prosecution of environmental offenses and the environmental offense report. There would be four half-day on-site training sessions for attorneys, environmental enforcement staff, and justices of the peace. During the second year, on-site training would be repeated.

### **CRIMINAL EDUCATION AND TRAINING -TASK 4**

#### **Participation in developing Evaluation Mechanisms for Environmental Cases**

Each county is faced with the same challenge of deciding how and when to prosecute environmental offenses. The Pollution Division of the Harris County Attorney’s Office would assist district and criminal district attorneys with developing evaluation mechanisms, standards and procedures for achieving consistency in prosecuting environmental offenses. Counties would be provided resources to assist in the development of a “decision tree” for prosecuting environmental cases. This “decision tree” would not only be used as a guide for the county, but to promote and ensure consistent prosecution throughout the H-GAC region.

### **SCHEDULE**

The services would begin on \_\_\_\_\_ and end on \_\_\_\_\_.

### **BUDGET**

The budget depends on the funding alternative selected as part of the scenarios. Under Years One and Two - Scenarios One and Three, the 200-hours of staffing for criminal education and training would be charged at a rate of \$XXX per hour whereas under Years One and Two- Scenario Two, a



grant would fund a circuit criminal prosecutor position and the 100-hours of criminal education and training services would be provided as part of that position. If a rate were to be estimated, it would be approximately \$XXX per hour under the grant-funded position. Expenses would be additional.

## **APPENDIX D-4**

### **SAMPLE SCOPE OF SERVICES FOR CIVIL EDUCATION AND TRAINING**

#### **PROJECT GOAL AND PURPOSE**

The need to combat illegal dumping is well documented in studies and training manuals prepared for Houston-Galveston Area Council (H-GAC) including the most recent, the Environmental Circuit Rider Program Study. This study was prepared for H-GAC to present alternatives for implementing an Environmental Circuit Rider Program (ECRP) to assist counties in the H-GAC region with environmental enforcement and prosecution. The ECRP Study reported that in addition to illegal dumping, counties face environmental problems in the areas of nuisances and on-site sewage facilities (OSSF) violations. Therefore, the ECRP was developed to address illegal dumping, nuisances, and OSSFs. The goals of the ECRP include providing counties with:

- Circuit criminal and civil prosecution services
- Education and on-site environmental enforcement and prosecution training
- Technical environmental assistance
- Funding assistance

#### **PROJECT APPROACH**

The ECRP was developed as a two-year pilot-program. The ECRP Study identified five staffing components for the ECRP including:

- ECRP Liaison;
- Criminal Education and Training
- Civil Education and Training
- Circuit Criminal Prosecution Services
- Circuit Civil Prosecution Services

The ECRP Study identified Harris County as the most experienced county in the H-GAC region with regard to environmental enforcement and the Environmental Division of the Harris County Attorney's Office, as the most-experienced in prosecuting civil environmental offenses. As a result, the ECRP Study recommended that the Environmental Division provide the civil education and training for the ECRP during Years One and Two of the ECRP.

The criminal education and training services would require the following tasks during Years One and Two of the two-year pilot-program:

- Task 1 - Preparation of the Civil Environmental Prosecutor Manual
- Task 2 - On-Site Training
- Task 3 - Participation in developing Evaluation Mechanisms for Environmental Cases

### **CIVIL EDUCATION AND TRAINING -TASK 1**

#### ***Preparation of the Civil Environmental Prosecutor Manual***

The Environmental Division of the Harris County Attorney's Office would be responsible for preparing a Civil Environmental Prosecutor Manual. The manual would include at a minimum:

- Offenses under each code
- Elements of each offense
- Charging variations
- Defenses
- Procedural considerations
- Range of punishments
- Sample forms in the appendices
- Index organized by the type of offense and affected media

During the second year, the manual would be updated.

### **CIVIL EDUCATION AND TRAINING -TASK 2**

#### ***Conduct On-Site Training***

The Environmental Division of the Harris County Attorney's Office would conduct the on-site training for the civil prosecution of environmental offenses. There would be four half-day on-site training sessions for attorneys, environmental enforcement staff, and justices of the peace. During the second year, on-site training would be repeated.

## **CRIMINAL EDUCATION AND TRAINING -TASK 3**

### **Participation in developing Evaluation Mechanisms for Environmental Cases**

Each county is faced with the same challenge of deciding how and when to prosecute environmental offenses. The Environmental Division would assist county attorneys with developing evaluation mechanisms, standards and procedures for achieving consistency in prosecuting civil environmental offenses. Counties would be provided resources to assist in the development of a “decision tree” for prosecuting civil environmental cases. This “decision tree” would not only be used as a guide for the county, but to promote and ensure consistent prosecution throughout the H-GAC region.

### **SCHEDULE**

The services would begin on \_\_\_\_\_ and end on \_\_\_\_\_.

### **BUDGET**

The budget depends on the funding alternative selected as part of the scenarios. Under Years One and Two- Scenarios One, Two and Three, the 100-hours of staffing for civil education and training would be charged at a rate of \$XXX per hour whereas under Year Two- Scenario Two, a grant would fund a circuit civil prosecutor position and the 100-hours of civil education and training would be provided as part of that position. If an hourly rate were to be estimated, it would be approximately \$XXX per hour. Expenses would be additional.

## APPENDIX D-7

### LIST OF CONTACTS FOR INDIRECT RESOURCES

<b>Name</b>	<b>Title</b>	<b>Organization</b>	<b>Phone Number</b>
Mr. Barry McBee	First Assistant Attorney General	Office of the Attorney General	512-463-2100
Ms. Tamra-Shae Oatman	Director	TCEQ - SBLGA	512-239-1062
Mr. Robert Kepple	Executive Director	Texas District and County Attorneys Association	512-474-2436
Mr. Paul Sugg	Legislative Liaison	Texas Association of Counties	512-478-8753
Mr. Phillip Moore	Administrator	Harris County – Neighborhood Nuisance Abatement Program	713-439-6272
Lt. Steve Dicker	Senior Police Officer	City of Houston	713-218-5556
Ms. D'Ann Johnson	Legal Services Coordinator	Texas C-Bar	512-447-7707
Ms. Cecile Carson	Director of Education and Training	Keep Texas Beautiful	512-478-8813

**APPENDIX E:  
PROGRAM FUNDING**

## APPENDIX E-3

### LIST OF CONTACTS FOR PROGRAM FUNDING

<b>Name</b>	<b>Title</b>	<b>Organization</b>	<b>Phone Number</b>
Mr. Jack Hill	Circuit Rider	U.S. EPA – Region 6	214-665-6497
Ms. Veronica Duarte	Grants Specialist	H-GAC; Criminal Justice Program	713-627-3200
Ms. Faye Prevot	Grants Administrator	H-GAC; Criminal Justice Program	713-993-2442
Ms. Cheryl Mergo	Solid Waste Program Manager	H-GAC; Solid Waste Management Program	713-993-4520

**APPENDIX F:**  
**SUPPORTING DOCUMENTATION FOR LEVEL OF NEED**  
**AND LEVEL OF INTEREST**



## **APPENDIX F-1**

### **ARTICLES SUPPORTING LEVEL OF NEED IN COUNTIES**

#### **Brazoria County**

Wright, Michael. "Dark side of Development." June 22, 2003. 1-2. The Facts.

Wright, Michael. "Illegal Dumping Unearthed." June 19, 2003.1. The Facts.

"Lindell Estates sales halted." June 2003. 1. The Facts.

#### **Galveston County**

Burtman, Bob. "Raw Deal." December 9, 1999. 1-9. Houston Press.

#### **Harris County**

Cappiello, Dina. "Making case for clean air." July 31, 2003. 29. Houston Chronicle.

Flynn, George. "Getting Wasted." January 31, 2002. 1-5. Houston Press.

Heilprin, John. "Mock trials give students lessons in environmental law." February 9, 2003. 6. Houston Chronicle.

Lake, Deborah Mann. "Cities to investigate illegal dumping." August 7, 2003. 1. Houston Chronicle – This Week.

McVicker, Steve. "Enviro Cop." October 17, 1996. 1-7. Houston Press.

"Watch 'em/Fixed: Debris cleared from residential ditch." June 12, 2003. 1. Houston Chronicle.

#### **Liberty County**

"Development, Flooding and Toxic Waste, Part I." July 5, 2003. 1-2. i-dineout.com. <http://www.i-dineout.com/tw/tw10.html>

"Development, Flooding and Toxic Waste, Part II." July 5, 2003. 1-2. i-dineout.com. <http://www.i-dineout.com/tw/tw11.html>

"Development, Flooding and Toxic Waste, Part III." July 5, 2003. 1-2. i-dineout.com. <http://www.i-dineout.com/tw/tw12.html>

"Development, Flooding and Toxic Waste, Part IV." July 5, 2003. 1-2. i-dineout.com. <http://www.i-dineout.com/tw/tw14.html>

“TCEQ Investigation Report, Site ID#F1599.” July 7, 2003. 1-3. [i-dineout.com](http://www.i-dineout.com).  
<http://www.i-dineout.com/tw/tw20.html>

### **Matagorda County**

Householter, Mistie. “Environmental fine would help county cleanup.” July 17, 2003. 1. [The Victoria Advocate](#).

McCann, Bill. “LCRA/Local Partners Get Federal Grants to Help Reduce Runoff Pollution in Basin.” September 17, 2002. 1-2.  
<http://static.lcra.org/newsarchive/2002/09/grants.html>

### **Walker County**

Arkin, David. “Environmental Improvement.” April 23, 2001. 1-4. [The Huntsville Item](#).

Hays, Byron. “County takes aim at trashy property.” October 1, 2000. 1-3. [The Huntsville Item](#).

## Appendix F-2 : Level of Interest in the H-GAC Region

Question 1: Is there an interest in having the ECRP sit first chair in a criminal case?						
County	Name	Title	Yes	No	No. of Attorneys to Participate	Comments
Austin County	Mr. Dan Leedy	Assistant District Attorney		x		
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			D.A. 's Office to continue prosecution of environmental cases
Colorado County	Mr. Ken Sparks	County Attorney		x		
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		8	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			Only in cases involving multi-county offenses
Matagorda County	Ms. Jill Cornelius	County Attorney	n/a	n/a		D.A. handles all criminal cases
Montgomery County	Mr. David Walker	County Attorney	n/a	n/a		
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x		2	
Wharton County	Mr. Trey Maffett	County Attorney	x			

Question 2: Is there an interest in having the ECRP sit second chair in a criminal case?						
County	Name	Title	Yes	No	No. of Attorneys to Participate	Comments
Austin County	Mr. Dan Leedy	Assistant District Attorney		x		
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			D.A. 's Office to continue prosecution of environmental cases
Colorado County	Mr. Ken Sparks	County Attorney		x		
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		8	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			Only in cases involving multi-county offenses
Matagorda County	Ms. Jill Cornelius	County Attorney	n/a	n/a		D.A. handles all criminal cases
Montgomery County	Mr. David Walker	County Attorney	n/a	n/a		
Montgomery County	Mr. Mike McDougal	District Attorney		x		
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	n/a	n/a		
Wharton County	Mr. Trey Maffett	County Attorney	x			

## Appendix F-2 : Level of Interest in the H-GAC Region

Question 3: Is there an interest in having the ECRP sit first chair in a civil case?						
County	Name	Title	Yes	No	No. of Attorneys to Participate	Comments
Austin County	Mr. Dan Leedy	Assistant District Attorney	x		1	Nuisance, forfeiture, seizure, restraining order:
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			D. A.'s Office to continue prosecution of environmental cases
Colorado County	Mr. Ken Sparks	County Attorney		x		
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		2	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	n/a	n/a		
Matagorda County	Ms. Jill Cornelius	County Attorney	x		1	
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	n/a	n/a		
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x		2	
Wharton County	Mr. Trey Maffett	County Attorney	x			

Question 4: Is there an interest in having the ECRP sit second chair in a civil case?						
County	Name	Title	Yes	No	No. of Attorneys to Participate	Comments
Austin County	Mr. Dan Leedy	Assistant District Attorney		x		
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			D.A.'s Office to continue prosecution of environmental cases
Colorado County	Mr. Ken Sparks	County Attorney		x		
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		2	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	n/a	n/a		
Matagorda County	Ms. Jill Cornelius	County Attorney	x		1	
Montgomery County	Mr. David Walker	County Attorney	n/a	n/a		
Montgomery County	Mr. Mike McDougal	District Attorney	n/a	n/a		
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	n/a	n/a		
Wharton County	Mr. Trey Maffett	County Attorney	x			

### Appendix F-2 : Level of Interest in the H-GAC Region

<b>Question 5: Is there an interest in participating in environmental case support activities with the ECRP Liaison?</b>						
<b>County</b>	<b>Name</b>	<b>Title</b>	<b>Yes</b>	<b>No</b>	<b>No. of Attorneys to Participate</b>	<b>Comments</b>
Austin County	Mr. Dan Leedy	Assistant District Attorney	x		1	
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			
Colorado County	Mr. Ken Sparks	County Attorney	x			
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		2	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			
Matagorda County	Ms. Jill Cornelius	County Attorney	x		1	
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			

<b>Question 6: Is there an interest in participating in environmental technical support activities with the ECRP Liaison?</b>						
<b>County</b>	<b>Name</b>	<b>Title</b>	<b>Yes</b>	<b>No</b>	<b>No. of Attorneys to Participate</b>	<b>Comments</b>
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			
Colorado County	Mr. Ken Sparks	County Attorney	x			
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		1	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			
Matagorda County	Ms. Jill Cornelius	County Attorney	x		1	
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			

## Appendix F-2 : Level of Interest in the H-GAC Region

<b>Question 7: Is there an interest for the county's legal staff to receive Continuing Legal Education (CLE) credits?</b>						
County	Name	Title	Yes	No	No. of Attorneys to Participate	Comments
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	x			
Colorado County	Mr. Ken Sparks	County Attorney	x			
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		All 32, potentially	Investigators would also participate if allowed (3)
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x		3	
Matagorda County	Mr. Steven Reis	District Attorney	x			Suggest making forms database available through TDCAA website
Matagorda County	Ms. Jill Cornelius	County Attorney	x		1	
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x		5	
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x		2	
Wharton County	Mr. Trey Maffett	County Attorney	x			

<b>Question 8: Is there an interest in participating in environmental database and bulletin board activities through H-GAC?</b>						
County	Name	Title	Yes	No	No. of Attorneys to Participate	Comments
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	n/a	n/a		
Colorado County	Mr. Ken Sparks	County Attorney		x		
Fort Bend County	Mr. John Healy, Jr.	District Attorney		x		
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			Suggest making forms database available through TDCAA website
Matagorda County	Ms. Jill Cornelius	County Attorney	x		1	
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			

## Appendix F-2 : Level of Interest in the H-GAC Region

<b>Question 9: Is there an interest in participating in program funding development activities through the ECRP Liaison?</b>						
<b>County</b>	<b>Name</b>	<b>Title</b>	<b>Yes</b>	<b>No</b>	<b>No. of Attorneys to Participate</b>	<b>Comments</b>
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	n/a	n/a		
Colorado County	Mr. Ken Sparks	County Attorney	x			
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		1	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	n/a	n/a		
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			
Matagorda County	Ms. Jill Cornelius	County Attorney		x		Item would be of interest to our environmental health director, but I would not expect to participate
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			

<b>Question 10: Is there an interest in participating in remediation funding development activities through the ECRP Liaison?</b>						
<b>County</b>	<b>Name</b>	<b>Title</b>	<b>Yes</b>	<b>No</b>	<b>No. of Attorneys to Participate</b>	<b>Comments</b>
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	n/a	n/a		
Colorado County	Mr. Ken Sparks	County Attorney	x			
Fort Bend County	Mr. John Healy, Jr.	District Attorney		x		
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	n/a	n/a		
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			
Matagorda County	Ms. Jill Cornelius	County Attorney		x		Item would be of interest to our environmental health director, but I would not expect to participate
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			

## Appendix F-2 : Level of Interest in the H-GAC Region

<b>Question 11: Is there an interest in participating in activities in a sub-regional environmental task force?</b>						
<b>County</b>	<b>Name</b>	<b>Title</b>	<b>Yes</b>	<b>No</b>	<b>No. of Attorneys to Participate</b>	<b>Comments</b>
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	n/a	n/a		
Colorado County	Mr. Ken Sparks	County Attorney	x			
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		1	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x		1	
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			Only as relates to criminal prosecution
Matagorda County	Ms. Jill Cornelius	County Attorney		x		Item would be of interest to our environmental health director, but I would not expect to participate
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			

<b>Question 12: Is there an interest in receiving reports and participating in developing evaluation mechanisms for environmental cases through the ECRP Liaison?</b>						
<b>County</b>	<b>Name</b>	<b>Title</b>	<b>Yes</b>	<b>No</b>	<b>No. of Attorneys to Participate</b>	<b>Comments</b>
Austin County	Mr. Dan Leedy	Assistant District Attorney	x			
Brazoria County	Ms. Jeri Yenne	Criminal District Attorney	n/a	n/a		
Colorado County	Mr. Ken Sparks	County Attorney		x		
Fort Bend County	Mr. John Healy, Jr.	District Attorney	x		2	
Galveston County	Mr. Kurt Sistrunk	Criminal District Attorney	x			
Liberty County	Mr. A.J. Hartel	County Attorney	x			
Matagorda County	Mr. Steven Reis	District Attorney	x			
Matagorda County	Ms. Jill Cornelius	County Attorney		x		Item would be of interest to our environmental health director, but I would not expect to participate
Montgomery County	Mr. David Walker	County Attorney	x			
Montgomery County	Mr. Mike McDougal	District Attorney	x			
Walker County	Mr. David Weeks	District Attorney	x			
Waller County	Mr. Oliver Kitzman	Criminal District Attorney	x			
Wharton County	Mr. Trey Maffett	County Attorney	x			



**APPENDIX G:  
SIMILAR PROJECTS RESEARCH**