

Meeting Summary
Buffalo & White Oak Bayous Bacteria TMDL Stakeholder Group

April 6, 2005

STAKEHOLDERS PRESENT: Neil Bishop; Del Cannon; Claire Caudill; Catherine Elliott; Terry Hershey; Bob Hunt; Shane Hunt; Tom Ivy; Steve Johnston; Trent Martin; Paul R. Nelson; Todd Running; Linda Shead; Mary Ellen Whitworth;

STAKEHOLDERS ABSENT: Latrice Babin; Gwang Pyo Ko; Helen Lane; Bill Manning, Sr.; Colleen O'Brien; Kim Phillips; Kerry Whelan.

SUPPORT TEAM PRESENT: Paul Jensen (PBS&J); Hanadi Rifai; Carl Masterson (H-GAC); Mary Jane Naquin; Ron Stein (TCEQ-Austin); Gian Villarreal (UH); Yu-Chun Su (PBS&J)

OTHERS PRESENT: Karen Atkinson (TCEQ-Houston); Linda Broach (TCEQ-Houston); Kim Laird (TCEQ-Houston); Alem Gebriel (TC&B); Joe Myers (H.C. Flood Control Dist.); Jack Sakolosky (City of Houston); Kathie Bullock (City of Houston); Jim Coody (Greater Houston Builders Assoc.); Sharon Crabb (TCB); Mary Purzer (TCB); Chuck Wemple (H-GAC); Lynne Johnson (BPA); Susan Karlins (City of Houston); Linda Pechacek (TC&B); Brett Bercher (CivilTech Engineering); Pat Smiley (H.C. Storm Water Control); Roger B. Whitney (City of Houston); Laura Blackburn (League of Women Voters); Anura Aturaliye (Weston); David Peters (CivilTech).

WELCOME, AGENDA REVIEW & INTRODUCTIONS

Facilitator Mary Jane Naquin welcomed the stakeholders and audience at 4:04 PM. She discussed ground rules for the meeting that have been adopted by the stakeholder group. She noted that comments from observers would be welcome and that time will be provided at the end of each agenda item to hear comments and questions. She then reviewed the agenda giving a brief description of each item, followed by self introductions by stakeholders, support staff and observers.

ADOPTION OF NOVEMBER 11, 2004 MEETING SUMMARY

Neil Bishop pointed out that there were some duplications of text and gave these to Carl Masterson who will make corrections. There were no other changes to the meeting summary and it was adopted by consensus with changes.

END GAME STRATEGY GROUP

Linda Shead presented an update of the activities of the End Game Strategy group also describing how the group was formed by volunteers to discuss the process of how the stakeholder group would get to recommendations, not what the answers would be. The group met in February and the discussion resulted in an outline of issues and a process that was distributed to the entire group (copy enclosed). There has been much information presented to the stakeholders over time and the EGS group felt the need for a summary of what all the scientific studies conducted as part of the TMDL concluded (what we know) and what are the gaps that remain (what we still don't know). Step 2 in the process is to consider what are the practical implications of the TMDL study findings (small group discussions first, then presented to the full stakeholder group). The third step is to look at the implications in real terms of control strategies and how important something is – develop priorities. The fourth step is to look at what the control strategies might be. The group currently doesn't have enough information on what control strategies are out there. The group needs to know what is going on around the country and determining the relative

effectiveness of strategies. The final step is to identify the recommended strategies, considering who has the authority, what options are available, what are the cost and social and environmental impacts, the ease or difficulty of implementing strategies and finally presenting the costs and recommendations to TCEQ. Several of the EGS group met prior to this meeting to refine the process (1b – small group vs. large group) and that there should be a number 7 – begin outreach right now and not wait until recommendations come out. There was discussion about timing of the implementation phase and when things/steps would happen. Ron Stein estimated approval of the Implementation Plan by the end of 2007 if all works as it should meaning the report would have to be done by December 2006 (not a regulatory deadline). He noted that if all goes well, the preparation of the Implementation Plan will begin in September 2005 with a year and a half to complete. According to this schedule recommendations to TCEQ from the stakeholder group will not have to be August 31, 2005. Linda Shead suggested that the EGS Group refine the timeline. Neil Bishop asked Ron Stein how the EGS process fits in with TCEQ's timeline and process. At this point the stakeholder group agreed to have Ron Stein's presentation and then take action on the process.

Following Ron Stein's presentation of the TCEQ TMDL process, the group returned to the question of the scheduling of the EGS group's process. It was agreed by consensus that the following schedule will be targeted:

- ≡ *(1) Identify Key Issues & Scientific Conclusions; and (2) Consider the Practical Implications of Each of the Conclusions by 8/31/05*
- ≡ *(3) Evaluate the Implications of the Conclusions for their Significance in terms of Control Strategies; and (4) Investigate Options for Control Strategies by 11/30/05*
- ≡ *(5) Identify Recommended Strategies; and (6) Present Results and Recommendations for the Implementation Plan to TCEQ by 5/31/06*
- ≡ *(7) Start Outreach Now! – get to the larger audience.*

KEY ISSUES AND SCIENTIFIC CONCLUSIONS

Over the years of this project, the stakeholder group has received many presentations and a lot of scientific information leading the group to request a summary of the key issues and conclusions generated by the studies. TCEQ compiled a 5-page document, which some, but not all of the EGS group looked at and came to the realization that what the stakeholders asked for wasn't what they meant to ask for. What they wanted to ask for was more of an Executive Summary covering all of the studies. One example of the information would be what the relative bacteria loading in Buffalo Bayou vs. White Oak Bayou or what we know about human sources of bacteria. This would help identify areas where the studies agreed or conflicted or where there are potential gaps of information. While the document received might be helpful it really isn't what is needed. It needs to be more specific, like what was in the studies. Discussion followed and Dr. Rifai agreed to help put a summary together and get it to the ESG group. There were questions about some of the issues identified in the document and stakeholders were asked to send any comments to Carl Masterson who would then pass them all on to the EGS group. Mr. Masterson will see to setting a meeting date and place.

TMDL PROCESSES & EFFECTS ON TCEQ PROGRAMS

Ron Stein made his presentation on TCEQ's TMDL and Implementation Plan Process introducing it by telling the stakeholders that it is a complex regulatory and policy process and that the ultimate results are what happens in the watershed to improve the water quality and that

is where the TMDL process leads us to. He noted that the stakeholders could establish a separate watershed protection plan independent of the TCEQ and TMDL process, that this could happen at any time, and that this independent plan could then be wrapped into the final implementation plan. Mr. Stein noted that the **TMDL adoption process** and Implementation Plan process can proceed concurrently; but that TCEQ would not approve any implementation plan without EPA approval of the TMDL (EPA does not approve implementation plans). He noted that in the past, TMDL approval by EPA has taken anywhere from 3 months to 3 years. He went on to describe the **TMDL report** and its components, emphasizing the TMDL equation, developing TMDL allocation numbers, going through peer review (includes other agencies review), management review and legal review. He pointed out that the TMDL equation determines the Load Capacity – what level of pollutant the bayous can assimilated and still meet standards. In the formula there are wasteload allocations, nonpoint source load allocations and a margin of safety to allow for uncertainty in allocations and future growth. All wasteload allocations are point sources and EPA considers storm water a point source as it is permitted. Once the report is done, the **TMDL approval process** begins with the Commissioners approving the TMDL for public comment, a public hearing is conducted, the TMDL revised as necessary and then the Commissioners adopt the TMDL (about a 6 month process). After TCEQ adopts the TMDL, then it is sent to EPA for approval and negotiations begin, and if EPA and TCEQ cannot resolve their differences, EPA can go and conduct its own TMDL. Should negotiations lead to appreciable changes in the TMDL, the approval process is repeated. Mr. Stein discussed the possibility that the TCEQ may decide that a TMDL is not a useful approach to resolving the problem. This has happened in the past where resolution of the water quality problem could not be achieved through the TMDL process and a watershed protection plan approach was decided upon. Once the TMDL approval process begins the official **TMDL implementation process** also starts. The implementation process begins with consultations with all stakeholders, state and federal agencies – everyone that could be affected by the results of the TMDL. Examples of implementation plan elements include possible changes in wastewater and storm water permit requirements, changes in storm water management plans and best management practices programs. There will be negotiations with permit holders and the implementation plan will be subject to “adaptive management” – making changes based on observed results. There will likely be phases based on in-stream monitoring, and it will be a long term process. There will be continued monitoring and a need for identifying funding sources – finding funding will determine what more can be really done. A most important element will be program evaluation to ensure that all activities in the program are carried out, that the program is successful, and that needed changes are identified. Also, there will be a 303(d) evaluation every 2 years (in addition to the implementation program evaluation & is required). Other elements of the implementation program will be TCEQ inspections to ensure that all permit provisions that could help control bacteria levels are followed. The program also will include an evaluation by TCEQ to determine what the agency can do to make inspections more efficient and effective. The implementation phase will also have continued studies to refine understanding all factors contributing to high E. coli levels, to ensure more efficient use of implementation resources and target any problems or “hot spots” that may be discovered during implementation. The **Implementation Plan approval process** follows a similar pattern as the TMDL approval process in that it is about a 6 month process with public comment, a public hearing, plan revisions if needed and final approval by the Commissioners. The big difference is that EPA approval is **not** required. If all goes well, Mr. Stein’s projected schedule is as follows:

- ≡ **TMDL Report – December 2005**
- ≡ **TCEQ TMDL Adoption – June 2006**
- ≡ **EPA TMDL Approval – December 2006**

≡ *Implementation Plan Report – December 2006*

≡ *Implementation Plan Approval – June 2007*

There was some discussion about how to achieve the TMDL number, where funding would come from and what permit changes might be required, but all agreed these are implementation phase issues and will be addressed at that time.

There was continued discussion of the timeline and how fast events would have to occur to meet the proposed deadline and follow the process developed by the End Game Strategy group. There was a question raised about whether there would be “double dipping” regarding storm water loads from nonpoint sources and storm water loads considered point sources and covered by storm water permits, since all storm water is considered by some as a nonpoint source. The challenge, according to Mr. Stein, is in differentiating the load coming through channels (point source) and the load coming across land directly into the bayous (nonpoint source). At this point the group returned to the End Game Strategy group agenda item.

Following the agreed upon EGS Group timeline, Mr. Stein continued with his presentation on ***Bacteria Standards***. Ron distributed some text from the TCEQ Standards group and then began his presentation. He referred to the contact recreation standard as set out in the Texas Administrative Code being any situation with a significant risk of ingesting water and noted that EPA considers incidental contact in terms of contact recreation, such as any situation where children might ingest water, so anywhere children wade is a contact recreation area. The standard for E. coli is 126 colony forming units per deciliter of water as geometric mean calculated over five years and the single sample standard is 394 cfu/100ml. For non-contact recreation the geometric mean standard is 605 cfu/100ml (no single sample standard). TCEQ’s Water Quality Standards Team is currently conducting a large scale review of potential revisions to recreational bacterial indicators in the state standards and recommendations will be included in the next triennial standards revisions available for public comment in early 2006. Mr. Stein went on to describe the relationship of Use Attainability Assessments (UAA) to standards by explaining that for recreation standards, TCEQ and EPA presume that a primary contact recreation use and associated criteria are applicable unless a UAA indicates that less stringent uses or criteria are appropriated for a particular water body. He then went on to discuss some details of a UAA – factors, development and approval. {These descriptions can be found on the slide show available on H-GAC’s web site at www.h-gac.com/bacteriatmdl}. Mr. Stein concluded his presentation by informing the stakeholders of a 319 grant proposal (\$70,000) submitted for 2006-07 to determine the bacteria reductions that are achieved using BMPs that are currently used within the watershed and general Houston area. The purpose is to determine how much load reduction can be achieved using existing BMPs and BMP requirements. Ron expects to hear in a month or two whether the proposal will be approved. A question was asked about BMPs – do we know how many and where they are being used. There is no idea if any are being used.

MEMBERSHIP ISSUES

Carl Masterson reported that two members, Kerry Whelan and Colleen O’Brien who have not been able to participate and should they resign that would leave the group with 5 vacancies. He noted that the membership number of 24 is a limit and that the group does not have to number 24. Carl said it would be up to the stakeholder group to decide if additional members would be added. A suggestion was made to add the City of Houston Environmental Health – they are the ones who go out and sample the bayous. Another suggestion was that the group should not be going out and recruiting members who would be “cold” to the process, noting that Tom Ivy who was most recently added to the group has participated as an observer since the beginning of the TMDL

study. However, we should encourage new faces in the audience to increase participations and members should have alternates if they are not going to be there. Carl offered that if a member knows they will be absent at a meeting, they should send him an email with the alternates name before the meeting. Carl agreed to check with folks who have not been attending regularly and to evaluate the representation of the group. There were requests for an additional Harris County representative and a representative from the Greater Houston Builders Association. An invitation was extended for these and others to join the audience.

NEXT MEETING

No specific date was set, but possibly in mid May and the End Game Strategy group would meet in a couple of weeks.

ADJOURN

The meeting was adjourned at approximately 7: 00 PM.