

**ARROYO COLORADO
WATERSHED STEERING COMMITTEE
GROUND RULES**

These Ground Rules are a revision of the Arroyo Colorado Total Maximum Daily Load (TMDL) Watershed Steering Committee Ground Rules agreed to and signed by members of the Total Maximum Daily Load (TMDL) Watershed Steering Committee in August of 1998. This revision of the Ground Rules was undertaken to reflect the difference in goals between the Arroyo Colorado Total Maximum Daily Load (TMDL) Watershed Steering Committee and the Arroyo Colorado Watershed Steering Committee. The difference in goals between these two committees is the effort to develop of a Watershed Protection Plan to restore water quality in the Arroyo Colorado which incorporates the development and refinement of TMDLs for the Arroyo Colorado.

The signatories to these Ground Rules agree as follows:

I. GOALS

The goal of the Arroyo Colorado Watershed Steering Committee (Committee) is to help develop and implement a Watershed Protection Plan that includes an effort to establish Total Maximum Daily Loads (TMDL) for the Arroyo Colorado Watershed for the pollutants listed on the State of Texas Clean Water Act §303(d) List. The watershed includes the drainage area for the Arroyo Colorado (Classified Segments 2201, 2202) which is also a portion of the drainage area for the Lower Laguna Madre (Classified Segment 2491) as described in the Texas Surface Water Quality Standards.

The Watershed Protection Plan will be designed to help restore the specific uses designated to the Arroyo Colorado and the Lower Laguna Madre by the State of Texas as described Texas Surface Water Quality Standards (TAC §§307.1-307.10). These include Intermediate (Segment 2202), High (Segment 2201), and Exceptional (Segment 2491) Aquatic Life and Contact Recreation (Segments 2201, 2202, and 2491). The Watershed Protection Plan will also incorporate, to the greatest degree possible, additional uses of the Arroyo Colorado and the Lower Laguna Madre (beyond those described in the Texas Surface Water Quality Standards) in a manner that:

- considers economic feasibility, affordability and growth;
- works to maintain and improve the unique environmental resources of the watershed;
- complements the regional water planning efforts under Senate Bill 1 (Region M); and
- facilitates regional cooperation.

These uses include: flood control, navigation, aquacultural water source, and conveyance of agricultural return flows and municipal, industrial, and aquacultural wastewater discharges.

Although formation of the Committee was facilitated by the Texas Commission on Environmental Quality (TCEQ) in partnership with the Texas State Soil and Water Conservation Board (TSSWCB), the Committee is an independent group of watershed stakeholders and individuals with an interest in restoring and protecting the described uses and the overall health of the Arroyo Colorado and the Lower Laguna Madre. The Committee is also the main vehicle for public participation in the TMDL process and will be instrumental in obtaining local support for actions aimed at restoring surface water quality in the Arroyo Colorado and the Lower Laguna Madre.

The TCEQ and the TSSWCB will support a Watershed Protection Plan and TMDLs developed by the Committee that meet all necessary legal and scientific requirements. The TCEQ is responsible for submitting TMDLs to the U.S. Environmental Protection Agency for final approval. The TCEQ and the TSSWCB reserve the right to take any action the agencies, individually or jointly, decide is necessary to comply with applicable law and regulation, or that the TCEQ or the TSSWCB decide is necessary for the successful development, implementation and approval of TMDLs. Notwithstanding any other provision of this document, nothing in this document constitutes or is intended to constitute a legal obligation enforceable against the TCEQ, the TSSWCB or the members of this Committee.

II. TIME FRAME

The development of a Watershed Protection Plan for the Arroyo Colorado will require, at least an 18-month period from the date this document is approved and signed by the committee members. Development of a TMDL for pollutants causing low dissolved oxygen in the Arroyo Colorado is expected to require at least four years from the date this document is approved and signed by the committee members.

III. PARTICIPANTS

- a. Equitable Representation: Solicitation of members was conducted under a process developed by the TCEQ and the TSSWCB. This process involved: (1) consultation with members of the Texas Clean Rivers Program Lower Rio Grande Basin Steering Committee, local and regional government, various civic groups, and other interested parties to determine the stakeholder and public interests related to the uses described previously under Section I (Goals) (2) meetings with the various stakeholder interest groups and individuals, and (3) self-nomination or requests by the various interest groups or individuals. Membership solicitation criteria included: representation of the full geographic area within the watershed; representation from the full range of stakeholder and public interests; emphasis on establishing a Committee that was large enough to represent the full range of interests yet small enough to function effectively.

- b. Stakeholder: The Committee is composed of stakeholders in the Arroyo Colorado/Lower Laguna Madre watershed. A stakeholder is defined as someone who may be affected in a significant way by the implementation of recommendations included in the Watershed Protection Plan and the TMDL process, either economically or in quality of life.
- c. Members: Membership in the Committee is open to any and all interested parties, However if membership becomes so large that it becomes impossible or impractical to function, the committee will institute a consensus-based system for limiting committee membership. The Committee is composed of the members listed in the table (see appendix). If a member of the committee resigns, dies, becomes incapacitated, is removed by the rest of the Committee, or otherwise vacates his or her position, TCEQ may seek a replacement in consultation with the TSSWCB.
- d. Proxies: All members hereby agree to make a good faith effort to attend all Committee meetings, however, the members recognize that emergencies may arise necessitating the absence of a member. The absent member may designate in writing the name of a specific person who may participate on his/her behalf at any Committee meeting. The members agree that proxies shall not count toward member attendance.
- e. Additional Members: The members agree that new individuals may be added to the Committee if (1) a Committee member vacates a position or (2) if important stakeholder interests are identified that are not represented by the existing membership. In either event, the Committee will, when practical, accept additional members.
- f. Watershed Coordinator: The watershed coordinator is an independent position, financed by the State of Texas through federal grant funds, who's responsibility it is to coordinate, facilitate, and document the proceedings of the Committee. The Watershed Coordinator will also facilitate the development of a Watershed Protection Plan and insure that such a plan is developed.
- g. Attendance at Meetings: A Committee member may be accompanied by such other individuals as the Committee member believes to be appropriate; however, only the Committee member will have the privilege of sitting at the table, speaking during the meetings, and participating in consensus determinations. Committee members are expected to attend all full meetings and participate fully in the Committee's deliberations.
- h. Absent Members: All members agree to make a good faith effort to attend all Committee meetings, however, the members recognize that emergencies may arise necessitating the absence of a member. The absent member may:
 - (1) communicate to the Watershed Coordinator any issue or view that member wishes to convey to the other members. The Watershed Coordinator will present the absent member's position or view but will not argue for it or be an advocate on behalf of that member, or
 - (2) may designate a proxy as described in III.d.

- I. Workgroups: Generally, the Committee will operate as a whole. However, some tasks (such as research or drafting) may be better performed by smaller groups. The Committee has discretion to form workgroups to carry out specific assignments from the Committee. Committee members may serve on workgroups; in addition, the Committee may invite outside individuals to attend workgroup meetings or conference calls if it feels particular expertise or perspectives not held by Committee members are needed. The Watershed Coordinator will notify each Committee member of all workgroup meetings, and each committee member is welcome to attend any workgroup meeting. Workgroups are not authorized to make decisions for the Committee as a whole.

IV. DECISION MAKING

1. Substantive and Major Procedural Matters: In developing the Watershed Protection Plan and TMDLs, the Committee will operate by consensus to the extent possible, for both substantive matters (e.g., determining interim and long-term corrective actions and developing load allocations) and major procedural matters (e.g., adoption of the ground rules). Generally, "consensus" means that all members of the Committee agree they can at least abide by the proposed approach, even if a member might prefer another approach.
2. Minor Procedural Matters: For minor procedural matters (e.g., meeting times) the Watershed Coordinator may suggest options and the Committee will vote to determine an outcome.

V. PROCEDURES

- a. Open Meetings: Committee meetings will be open to the public and, if time allows, the Committee may invite members of the public to comment during designated public comment periods. In addition, public workshops may be held in conjunction with scheduled Committee meetings in order to solicit additional public input to Committee deliberations.
- b. Meeting Summaries: Draft summaries of Committee meetings will be prepared by the Watershed Coordinator and approved by the Committee.
- c. Agendas: Meeting agendas will be drafted by the Watershed Coordinator and will be based on the Committee's instructions at the previous meeting. The agenda will be reviewed at the beginning of each meeting and may be refined by the Committee.
- d. Background Materials: The Watershed Coordinator (and, on occasion, other sources) may provide background materials to Committee members in advance of Committee meetings. All requests for, and distribution of, background materials to all Committee members will occur through the Watershed Coordinator to ensure equal sharing of

information. Members may draft position papers or provide other material to be circulated by the Watershed Coordinator. The Watershed Coordinator will use their best efforts to distribute any written information any member of the Committee wishes the Committee as a whole to receive.

- e. Thoroughness of Deliberations: During the course of Committee deliberations, every relevant issue raised will be recorded and addressed. To expedite the process, agreed-upon lower priority issues may be recorded and set aside to be dealt with at a later date. If issues raised are not those identified by the Committee for deliberation, they will be recorded as such.

VI. ROLES AND RESPONSIBILITIES

- a. Watershed Coordinator: The Watershed Coordinator will lead the meetings and work with all of the members to ensure that the process runs smoothly. The role of the Watershed Coordinator includes developing meeting agendas, focusing discussions, assuring fair opportunity for members to participate in Committee proceedings, working to resolve any impasses that may arise, distributing background materials, working with the Committee members to prepare meeting summaries, assisting in the location and/or preparation of background materials, distributing documents the Committee or a workgroup develops, assisting workgroups, conducting public outreach and assuring appropriate public participation, moderating public workshops, providing assistance to Committee members regarding Committee business between meetings, and other functions as the Committee requests.
- b. TCEQ and TSSWCB: The TCEQ and the TSSWCB will prepare final TMDL documents for submittal to USEPA for federal approval. The TCEQ will maintain all records of the Committee proceedings.
- c. Committee Members: Committee members will be expected to assist the Watershed Coordinator and the TCEQ and TSSWCB to:
 - Identify the desired water quality conditions and measurable goals
 - Make recommendations regarding water quality monitoring and modeling needed to identify and assess the sources of pollutant loadings in the Arroyo Colorado
 - Help determine the pollution reduction targets
 - Help develop a Watershed Protection Plan to improve water quality in the Arroyo
 - Lead the effort to implement this plan at the local level
 - Communicate implications of the Watershed Protection Plan and TMDLs to other interested parties in the watershed.

Committee members are expected to attend all full Committee meetings. In addition, members may be asked to participate in public meetings that may be held to obtain additional public input on a Watershed Protection Plan and TMDL activities. All

members agree to act in good faith in all aspects of the Committee's deliberations. Committee members are expected to present their own personal opinions based on their experience, perspective, and training, and to work constructively and collaboratively with other members toward reaching consensus.

VII. SAFEGUARDS

- a. Right to Withdraw: Any member may withdraw from the Committee at any time.
- b. Others' Positions: By participating, members agree that they are entering into a covenant of mutual respect and professional courtesy. When speaking at outside public forums, each member may express his or her point of view about the issues before the Committee; however, members agree not to report, by name, any other member's position or point of view. The members also agree that they will not publicly predict the outcome of the Committee's deliberations. Personal attacks and prejudiced statements will not be tolerated at any time during the process.
- c. Information:
 - (1) All members agree to openly exchange relevant information that is readily available to them. If a member believes he or she cannot or should not release relevant information, the member will provide the substance of the information in some form (such as aggregating data, deleting non-relevant confidential information, providing summaries, or furnishing information to the facilitator for limited or restricted use or to abstract) or a general description of it and the reason for not providing it directly.
 - (2) Members will provide information as much in advance of the meeting at which it is to be discussed as is reasonably possible.
 - (3) Information and data provided to the Committee are a matter of public record.
 - (4) The Committee does not have authority to protect confidential business information (CBI). When information required for Committee deliberations can only be derived from CBI (i.e., innovative technology, cost, or pricing information), the information may only be received by the Committee in aggregate form so as to protect specific CBI from release.
 - (5) No member is expected to share advance information on its plans or strategy for filing or defending against litigation over a Watershed Protection Plan or other TMDL issues. No member is expected to share any information that is subject to attorney/client privilege.

- d. News Media: Representatives from the news media may attend Committee meetings and may also ask members to comment or answer questions about the Committee's business. Committee members agree that each member may offer his or her individual perspective; each member agrees not to attribute positions or views to other members by name, nor predict the outcome of the Committee's deliberations. To ensure consistency and accuracy in reporting on general Committee operations, members are encouraged to direct press inquiries concerning overall Committee plans and procedures to TCEQ or the TSSWCB.

VIII. PRODUCTS

- a. Meeting Summaries: The Watershed Coordinator, in consultation with the Committee, will prepare and distribute draft meeting summaries following each meeting of the Committee. Committee meeting summaries will be reviewed by Committee members and upon approval, they will become work products of the Committee.
- b. Watershed Protection Plan: The Committee will provide input into draft and a final Watershed Protection Plan that incorporates, but is not limited to, the development of TMDLs. All Committee members will be asked to sign the final plan.
- c. Final TMDL Documents: The Committee will provide input into the preparation of a draft and final TMDL report, which include: (1) problem identification, (2) endpoint identification, (3) source analysis, (4) linkage between sources and receiving water, (5) margin of safety, (6) loading allocation and (7) supporting (technical) documents. All Committee members will have the opportunity to review and comment on the draft and final documents. All Committee members will be asked to sign an agreement supporting the final TMDL reports.

IX. MEETING PLANS

- a. Number of Meetings: There will be a minimum of ten Committee meetings which are expected to occur in the 18 month period beginning with the first meeting July 30, 2003. The Committee will determine the scheduling of additional meetings. The Committee will also determine the timing and number of workgroup meetings.
- b. Location of Meetings: To the extent possible, meetings will take place in central locations in the Arroyo Colorado watershed. However, meeting locations may vary depending on consensus opinions of the Committee and/or Workgroups.

We, the undersigned, agree to follow the Ground Rules of the Arroyo Colorado Watershed Steering Committee. Notwithstanding any other provision of this document, nothing in this

document constitutes or is intended to constitute a legal obligation enforceable against the TCEQ, the TSSWCB or the members of this Committee.

ARROYO COLORADO WATERSHED STEERING COMMITTEE GROUND RULES
APRIL , 2004

Andy Garza Date

Chris Rakestraw Date

Butch Palmer Date

Michael Weeks Date

Date

Ken Jones Date

Claire Lee Date

Jim Chapman Date

John Wallace Date

Neil Haman Date

Date

Date

Date

Paul Berg Date

Rick Reyes Date

Rocky Freund Date

