

TEXAS ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL

*Improving On-Site Wastewater Treatment and Reducing Costs
by Enhancing Technology Transfer and Facilitating Research*

Council Members:

Janet D. Meyers
Chairman
Brian L. Padden, P.E.
Vice-Chairman
Scott Adams
Anne Boatright
Richard Gerard, R. S.
Brian Christian
Sam Kannappan, P.E.
Jaime Garza
William F. Smith
Ronald Suchecki, Jr.
Carl Russell, Jr.

Sandra Mota
Exec. Secretary
Cassandra Derrick
Admin. Manager

November 30, 2010

Mr. Ken Levine
Interim Director
Sunset Advisory Commission
P. O. Box 13066
Austin, Texas 78711-3066

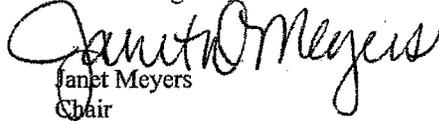
Dear Mr. Levine:

Attached is the Texas On-site Wastewater Treatment Research Council's response to the Sunset Advisory Report. The process was more fun than the recommendation. Your staff is bright, articulate, and we would like to commend them, Sean Shurtleff, Chloe Lieberknecht and Joe Walvern, for their professionalism and compassion in dealing with TOWTRC's Sunset Committee.

Your letter of November 17th requested "*the Council's position as a whole on the recommendations contained in the staff report.*" This report is generated from earlier comments made by Council members; however, the Council has not had the opportunity to review and comment on the response. Due to open meetings act restrictions, I am unable to confirm that the Council agrees with the report in its entirety until after our regularly scheduled meeting on December 2nd. If there are changes requested during the meeting, Sandra Mota, our Executive Secretary, will contact your staff – with the understanding the changes may be too late to be included in the packets provided to the Sunset Committee.

Please feel free to contact me if you have any questions about the information contained in the response.

Kindest Regards,


Janet Meyers
Chair

Enclosure: Response to Sunset Advisory Commission Staff Report

**RESPONSE TO SUNSET
ADVISORY COMMISSION
STAFF REPORT**

NOVEMBER 30, 2010

TEXAS ON-SITE WASTEWATER TREATMENT RESEARCH COUNCIL

Janet D. Meyers, Chair
Aubrey – Home Builder

Brian L. Padden, P. E., Vice-Chair
Austin – Soil Scientist

Scott R. Adams
Fort Davis – Rural Water Quality Specialist

E. Anne Boatright
Smithville – Public Member

Brian Christian
Austin – TCEQ

Jaime A. Garza
Harlingen – TCEQ

Richard Gerard, R. S.
Livingston – Regulator

Sockalingam Kannappan, P. E.
Houston – Design Engineer

Carl M. Russell, Jr.
Lubbock – Residential Real Estate Developer

William F. Smith, III
Dripping Springs – Home Builder

Ron Suchecki, Jr.
China Springs – Industry Installer

COUNCIL MISSION

The Texas On-site Wastewater Treatment Research Council (TOWTRC or Council) was created to award and oversee grants to public and private research entities and universities in the pursuit of improvements in residential on-site wastewater treatment technology in order to reduce the cost of those systems to the consumer and to increase the level of protection to Texas' water supply. The Council solicits proposals for applied research projects, demonstration projects, and various studies, and selects the projects that best meet the Council's objectives. The Council also provides information exchange and continuing education opportunities for the licensed on-site sewage facility (OSSF) industry at the Council's annual conference.

Issue 1- Texas Does Not Need a Separate, Stand-Alone Council to Fund On-site Sewage Research.

Texas Does Not Need a Separate, Stand-Alone Council to Fund On-site Sewage Research.

Agency Response: The TOWTRC believes that Texas does need a separate, stand-alone council to fund on-site sewage research. The individuals who designed the TOWTRC got it right.

The general public is clamoring for input in Austin and Washington these days. The diverse makeup of the volunteers on the TOWTRC gives a public face and public input into the grant award process. This recommendation takes that public face and public input away.

From the Texas Commission on Environmental Quality (TCEQ) website:

The number of Texans is expected to almost double--from 21 million in 2000 to 40 million in 2050--resulting in a corresponding jump in demands on water supplies.

However, the volume of water available from existing sources will likely decline, leaving Texas with insufficient water to supply people and industry--unless more resources are developed.

When you consider these words, consider, too, the State of Texas grants an average of 39,000 permits to build on-site sewage facilities each year and roughly one in three new homes built in our State have an on-site system. Protecting our water resources is every bit as important as the fiscal and redistricting issues we face in the current legislative session.

The TCEQ's OSSF Program in Austin is staffed by four (4) people whose focus is to "eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operations and maintenance of on-site sewage facilities" (per Chapter 366.001 of the Health and Safety Code). In addition to other duties, these four individuals manage approximately 300 governmental entities which have been delegated regulatory authority over the OSSF industry. TCEQ does not have the staff to afford the grant award process and confer the attention the TOWTRC volunteers currently give these programs.

TOWTRC volunteers put in a conservatively estimated 528 hours (13.2 weeks) per year at Council and committee meetings. In addition, many of the members devote hours of personal time (not included above) to monitor the operation of various ongoing projects – time for which members are not compensated.

The TCEQ's oversight of the on-site wastewater research grant award process should be considered a conflict of interest, as the process has the potential to change the rules and regulations enforced by the TCEQ. Grants cited in the Sunset Advisory Commission Report to reduce waste and encourage recycling hardly have to potential impact on the TCEQ a pure research grant program may produce.

The Sunset Advisory Commission Report suggests that a working group be establish to advise TCEQ on research projects funded. However, a working group's recommendations would not be binding on the research grant award and the appointment of such a group would negate the \$11,000 savings outlined by the Sunset Advisory Commission Report, assuming the working group travel is reimbursed.

The TCEQ currently has no requirement to review and implement any of the findings from the TOWTRC research and no recommendation was made in the Sunset Advisory Commission Report to propose such review and implementation, if appropriate, going forward. Regardless of which agency prevails in the Sunset process, the issue of what happens to the research needs to be addressed.

TCEQ reported that it did not have the time or the resources to hold the annual conference and that the TOWTRC's conference did not fit within parameters of the Environmental Trade Fair. The TOWTRC annual on-site wastewater conference has grown to be one of the largest on-site shows in the nation. The conference brings together installers, engineers, academics, regulatory agencies, associations, non-profits, manufactures – in short, everyone related to the on-site industry to study, discuss and debate sewage.

The Council is funded by collecting \$10 for each OSSF permit issued. Texas residents with on-site systems invest \$11,000 in travel and compensation for the TOWTRC volunteers and, conservatively estimated, receive \$42,000 (11 people, 12 hours each quarter at \$80 per hour) worth of services from those same individuals. The transparency, breath of knowledge, experience and independence provided by the eleven-member Council cannot be matched by the Sunset Advisory Commission Report recommendation to allow a single TCEQ Director to make final grant award decisions, with working group input.

The TOWTRC believes that the current structure of the grant award process is the one that best serves the interests of the citizens of the State of Texas.

Texas needs a separate, stand-alone council to fund on-site sewage research.

The Council has encountered challenges in managing its educational conference.

Agency Response: Every state agency has its own set of challenges within its operations. The conference issue addressed in the Sunset Advisory Commission Report stems from the TCEQ's abrupt refusal to support the administrative functions surrounding the conference, after a 15 year relationship. TCEQ reported that it did not

have the time or the resources to hold the annual conference and that the TOWTRC's conference did not fit within parameters of the Environmental Trade Fair. By statute, the TOWTRC has no choice in the agency with whom it partners for administrative services. How is it then that the TCEQ is allowed to pick and choose which administrative services it wishes to provide TOWTRC?

The TOWTRC considers their ability to continue the conference without the administrative support of the TCEQ a success story, especially given the fact that the Council only meets once a quarter. As the annual conference has grown into one of the largest and most anticipated on-site shows in the nation, the Council has worked to provide low-cost, high-quality training event. The event showcases our research and brings the every aspect of the on-site industry together under one roof.

Recommendations

Change in Statute

1.1 Abolish the On-site Wastewater Treatment Research Council and transfer authority to award grants for on-site sewage research to the Texas Commission on Environmental Quality.

Agency Response: The TOWTRC does not agree with this recommendation.

The return on the \$11,000 invested in the Council members (sited above) cannot be achieved by TCEQ at this cost.

The OSSF staff is spread too thin to give the grant award process and the conference the attention necessary. The TCEQ OSSF Program in Austin is staffed by four (4) people whose focus it to “eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operations and maintenance of on-site sewage facilities” (per Chapter 366.001 of the Health and Safety Code). In addition to other duties, the four individuals who make up the OSSF staff manage approximately 300 governmental entities which have been delegate regulatory authority over the OSSF industry.

TCEQ reported that the it did not have the time or the resources to hold the annual conference and that the TOWTRC's conference did not fit within parameters of the Environmental Trade Fair.

TOWTRC volunteers put in a conservatively estimated 528 hours (13.2 weeks) per year. In addition, many of the members devote hours of personal time (not included above) to monitor the operation of various ongoing projects.

Management Action

1.2 Direct TCEQ to evaluate the benefits of on-site sewage research and clearly communicate them to the public.

Agency Response: The TOWTRC is capable of providing benefit analysis of on-site sewage research and can clearly communicate those benefits to the public as a part of its on-going operation via our website, and conference.

This recommendation is deceptively simple. What constitutes a benefit of the research? How does one capture the benefits of research made relevant by future innovation in technology?

As a part of TOWTRC Sunset Self-Evaluation process, we asked current grant recipients what they thought the benefits of process were. Some of their responses are listed below:

- The research provides education for students and leads them toward careers in the Wastewater industry. Getting fresh minds into the business is extremely important and it is best done by involving highly qualified students in research.
- The growth of the Baylor Wastewater Research Program (BWRP) can, in part, be attributed to the funds granted by TOWTRC. Baylor activities, started with TOWTRC funds, have attracted other funds and led to additional research projects.
- Baylor wetland studies have shown that large wetland design can achieve the NSF Standard 40 effluent values and that different dosing techniques can improve treatment which in turn helps nitrify NH_3 , the first step to reducing N from wetlands.
- Publications based on the research projects were cited as benefits and included:
 - 2005 – Water Environment Research
 - Field demonstration of the combined effects of absorption and evaptranspiration on septic system drain field capacity
 - 2009 – Irrigation Science
Field study of water mass balance in a wastewater land application system.
 - 2010 – ASCE Journal of Irrigation and Drainage Engineering
Performance of a combined natural wastewater treatment system in West, Texas. USA **Note:** *These articles are reviewed by three experts in the area studied to verify the quality of the completed work. The reviewers are anonymous to the researcher, but specially selected by the journal editors for their expertise in the research area.*
 - 2010 – Water Environment Research
 - Nitrogen leaching losses from a wastewater land application system.

Regardless of which agency prevails, this Management Action should read:

1.2 Direct TCEQ to evaluate whether completed research does or does not affect existing rules – whether in the on-site area or any other area regulated by TCEQ.

The TCEQ currently has no requirement to review and/or implement any of the findings from the TOWTRC research and no recommendation was made by the Sunset Advisory Commission Report to propose such review and implementation, if appropriate, going forward.

1.3 Direct TCEQ to form a working group to consider stakeholder input when issuing grants.

Agency Response: This Management Action proposal does nothing more than reinvent the wheel. What, then, is the difference between a working group and the TOWTRC?

A working group makes non-binding recommendations to a Director within the TCEQ. The Director alone decides which of the competing research projects should be studied. The TCEQ is not bound by the recommendations of the working group.

The TOWTRC is an independent body which puts a public face and public input into the grant award process. Every aspect of the industry including the TCEQ is represented in the process and plays a role in deciding which of the competing research projects should be studied.

As time progresses, water issues will only grow in importance giving the TCEQ even less time to focus on the grant award process.

TOWTRC structure provides a public face and binding public input into the grant award process. The private sector perspective provides unique insight regarding the problems and issues of the delivery and function of on-site systems to the public. This insight is vastly different from the regulatory perspective a TCEQ employee may have regarding the possible issues that should be studied.

The transparency, breadth of knowledge, experience and independence provided by the eleven-member Council cannot be matched by the Sunset Advisory Commission Report recommendation to allow a single TCEQ Director to make final grant award decisions, with working group input.

Fiscal Implication Summary

This recommendation would have no fiscal impact to the State. ... Based on 2009 expenditures, this recommendation would lead to cost savings of approximately \$11,000 from a reduction in travel and compensation for Council members, increasing funds available for research.

Agency Response: The Council is funded by collecting \$10 for each OSSF permit issued. Texas residents with on-site systems invest \$11,000 in travel and compensation for the TOWTRC volunteers and conservatively speaking, receives \$42,000 (11 people, 12 hours each quarter at \$80 per hour) worth of services from those same individuals. In addition, many of the members devote more than just one or two days a quarter to Council issues. Members often spend hours of personal time on TOWTRC projects – time for which members are not compensated.

TOWTRC members volunteer as a way to give back to their communities and perhaps make a difference “in the development and advancement of on-site sewage technology, affecting the State’s ability to protect its water resources from wastewater contamination.” The individuals who created the TOWTRC got it right.

Correction to Page 91 of the Sunset staff report

The TOWTRC has administered its own event planning/conference contract since 2006. The TOWTRC conference was last administered by TCEQ in 2005 when a decision was made to not administer the TOWTRC funds through the TCEQ conference account and after discussion with the TOWTRC members.