

TCEQ has reviewed the RRA letter and offers the following responses.

On **pages 3 and 4** of the Red River Authority (RRA) letter responding to “Issue 4: The Lack of Comprehensive Analysis Before Critical Decisions Has Potentially Resulted in Missed Opportunities for RRA” of the Sunset Staff Report, it stated:

“... Texas Commission on Environmental Quality (TCEQ) approved the Authority providing bottled water and did not require more aggressive action.” – and – “It should also be noted, that during the span of time in question, the Authority was actually complying with TCEQ Compliance Agreements, which approved the provision of bottled water to those at risk [*sic*], in lieu of correcting the nitrate problem. The TCEQ was the entity with oversight and continually renewed the Authority’s operating permits with the exception to provide bottled water when requested. Therefore, the Authority did not fail to address the problem. The Authority agrees that more aggressive action was not taken until the EPA stepped in with a deadline, but that does not change the fact that the Authority was in fact in administrative compliance with the TCEQ during the prior period.”

The Authority does not properly characterize the nature and intent of the Compliance Agreements. Each of the Compliance Agreements, under provision No. 2, required that the Authority, immediately upon the effective date, “...must supply an alternate source of water from an approved source at no cost to your customers until the violation is corrected...” The intent of this provision was to be temporary and not “in lieu of correcting the nitrate problem” as stated by the Authority. The goal of each Compliance Agreement was to ensure that the Authority provided water to its customers that met the Commission's Drinking Water Standards. This was not achieved under any of the Compliance Agreements.

The federal and state rules and regulations require each public water system that exceeds a maximum contaminant level to provide public notice with required health effects language. Providing the required public notice is independent of a compliance agreement, and working to resolve the Maximum Contaminant Level (MCL) violations are not synonymous.

On **page 3** of the Red River Authority (RRA) letter responding to “Issue 4: The Lack of Comprehensive Analysis Before Critical Decisions Has Potentially Resulted in Missed Opportunities for RRA” of the Sunset Staff Report, it stated:

“Because of this increase [in base water rates], the Authority continued to explore other options, including installing filters or other systems at the points of use, that is, in the homes of each of the customers on the system. However, those options were also problematic, as there are access issues, and concerns that they would not comply with the TCEQ’s regulatory requirements.”

Each public water system is responsible for knowing and following all requirements under the Safe Drinking Water Act, such as seeking source water approval, ensuring proper design and construction, maintaining proper licensed and trained operators, maintaining a well operated system, and demonstrating public health is protected by measuring water quality throughout the system in accordance with the federal and state drinking water standards. If a public water system (PWS) exceeds an MCL, the PWS may need to provide additional treatment to address the MCL exceedance. There are TCEQ design criteria for sources, treatment processes, storage facilities, and distribution systems. If a PWS treatment meets all design criteria, a Professional Engineer must submit plans and specifications to the TCEQ for

review. During the review the TCEQ verifies the treatment meets design criteria requirements. The TCEQ allows public water systems to pursue approval to use point of use devices (e.g., in home filters) to achieve compliance with Federal and State drinking water standards. The TCEQ has not received a plan review treatment request from RRA for point of use devices.

On **page 3** of the Red River Authority (RRA) letter responding to “Issue 4: The Lack of Comprehensive Analysis Before Critical Decisions Has Potentially Resulted in Missed Opportunities for RRA” of the Sunset Staff Report, it stated:

“..., the Authority was instructed by the TCEQ staff that the Authority could not consolidate its systems into one system under a single rate.”

TCEQ had appellate jurisdiction over RRA rates prior to the program transfer to the Public Utility Commission in September of 2014. This means, RRA was able to implement rate changes by approval of their board and the TCEQ would only become involved if 10% of RRA’s customers filed an appeal within 90 days of the effective date of the rate change. The TCEQ did not have a rule or policy against rate consolidation for entities under our appellate rate jurisdiction. As with any appellate rate review, the entity charging the rates had the burden of proof to demonstrate that the rates they had established were just and reasonable based on the information that was available to the board at the time it made its decision.

For utilities under TCEQ’s original rate jurisdiction, Texas Water Code Section 13.145 allowed consolidation of rates for more than one system only if: *(1), the systems under the tariff are substantially similar in terms of facilities, quality of service, and cost of service; and (2), the tariff provides for rates that promote water conservation for single-family residences and landscape irrigation. This statute does not apply to a public utility that provided utility service in only 24 counties on January 1, 2003.* In order to consolidate rates, a utility under TCEQ’s original rate jurisdiction would have to provide documentation showing substantial similarity as described in item 1. The TCEQ did not receive documentation from RRA regarding a rate consolidation while TCEQ had rate jurisdiction.

On **page 8** of the Red River Authority (RRA) letter responding to issue “6.3 Apply Good Government Standards to River Authorities’ Governing Laws to Promote accountability, transparency, and Best Practices” of the Sunset Staff Report, it stated:

“The Red River Basin is a long way from Austin and the type training suggested by Sunset Staff. This would be an additional expense the Authority would have to pass on to its rate payers without any justification. The Authority will explore other ways, including online training courses, to provide training to its board members.”

TCEQ has free on-site board training available through its Financial Managerial and Technical (FMT) contract.