

**Texas Commission on Environmental Quality (TCEQ) Responses
to Secretary of State Survey
November 2007**

(1) From your agency's point of view, what regulations can be reduced to improve communication and cooperation between federal, state, and local governments within the Texas-Mexico border region?

Actions that can be taken to improve cooperation and communication between federal, state, and local governments within the Texas-Mexico border region include: a) continuing cross-border dialogue between U.S. and Mexican local, state, and federal agencies; b) cooperative efforts and programs on the U.S. side of the border among agencies at the various levels of government; and c) regular meetings among governmental agencies to develop and implement strategies to solve common problems.

(2) What are the main trade issues between the United States and Mexico that you have identified as having an impact (both positive and negative) on your agency or your area of work?

The primary trade issue between the U.S. and Mexico that affects the Texas Commission on Environmental Quality (TCEQ) is the transboundary movement of hazardous materials. If there is a spill or release of a hazardous material on the U.S. side, the TCEQ is one of the emergency responders.

Through the U.S.-Mexico Joint Response Team (JRT) the TCEQ can also be involved in chemical or other disasters that occur in Mexico. During the preparations for Hurricane Dean, TCEQ staff was asked by the U.S. Environmental Protection Agency (EPA) to contact Mexican emergency response officials to see what kind of assistance U.S. agencies could provide.

In addition, continued population growth and the changing demographics of the border cause more solid wastes to be generated; if these are not managed appropriately and catch fire, the fires can cause transboundary environmental problems, including air and water pollution.

(3) Having studied the flow of commerce at ports of entry between this state and Mexico, including the movement of commercial vehicles across the border, what actions would you establish to aid that commerce and improve the movement of those vehicles?

Not applicable.

(4) How do you work with federal officials to resolve transportation issues involving infrastructure, including roads and bridges, to allow for the efficient movement of goods and people across the border between Texas and Mexico?

This question also does not apply to the TCEQ. The primary Texas agencies responsible for transportation issues involving infrastructure are TxDOT and DPS.

(5) How does your agency work with federal officials to create a unified federal agency process to streamline border crossing needs?

Again, this is an issue that does not apply to TCEQ. TxDOT is the primary state agency responsible for streamlining border crossing needs,

(6) Has your agency identified problems involved with border truck inspections and related trade and transportation infrastructure? What are those? What solutions/recommendations does your agency propose?

TxDOT and DPS are the primary state agencies related to border truck inspections and related trade and transportation infrastructure. However, TCEQ does provide guidance to U.S. Customs and Border Protection, TxDOT, and DPS in the event of a chemical release, especially at a Port of Entry.

(7) How do you work to increase funding for the North American Development Bank to assist in the financing of water and wastewater facilities?

This year, Commissioner (now Chairman) Garcia worked with the Office of the Governor to obtain a letter from Governor Perry to the U.S. Congress requesting an increase in water/wastewater funding for the Border Environmental Infrastructure Fund (BEIF). The BEIF appears as a line item in EPA's budget and is passed through the North American Development Bank (NADBank) for border water/wastewater infrastructure funding. Originally the FY 2008 BEIF line item was budgeted at \$10 million, an insufficient amount to continue funding border water/wastewater infrastructure.

The TCEQ also participates through the Colonia Initiatives Coordinator in the Office of the Secretary of State in an interagency group of state, federal, and binational agencies, including the Texas Water Development Board, the Office of Rural Community Affairs, USDA Rural Development, NADBank, and the Border Environment Cooperation Commission (BECC). The group works on border infrastructure projects to ensure projects move forward and additional funding is leveraged to assist NADBank in financing water/wastewater facilities.

Through the Water Table of the Border Governors Conference, the TCEQ added a relevant declaration: border states would continue working with Border Environment Cooperation Commission (BECC) and North American Development Bank, as well as federal agencies such as the Bureau of Reclamation, to fund improvements of the infrastructure of water conveyance systems.

(8) Has your agency explored the sale of excess electric power from Texas to Mexico? What are your findings?

Not applicable.

(9) Has your agency identified any areas of environmental protection that need to be addressed cooperatively between Texas and the Mexican states? If so, which are those areas and what type of protective measures need to be taken?

The agency has identified many issues which need to be addressed cooperatively between Texas and Mexican states, primarily through the binational Border 2012 Environmental Program. These areas include: water/wastewater; air quality; environmental health; hazardous and solid waste contamination of land; emergency response; environmental health; and enforcement and compliance assistance. Among specific examples of cooperative environmental protection are disposal of scrap tires (which constitute fire and vector hazards) and air quality protection issues, especially in the Paso del Norte region.

The TCEQ has also developed state to state strategic plans with the environmental agencies of our neighboring Mexican states; these plans address matters such as capacity building and data exchange. For example, the TCEQ and Nuevo León's state environmental agency, the Agencia de Protección al Medio Ambiente y Recursos Naturales (APMARN), in 2007 participated in various events. These have included: training APMARN staff on EPA software used to model emissions from mobile sources (cars, trucks, etc.); and participation in an APMARN recycling conference in Monterrey in November 2007. The ambient air quality standard for particulate matter is greatly exceeded in Monterrey, a city of three million people, and getting the proper training on vehicular emissions modeling will help APMARN take steps to reduce those emissions and improve air quality and public health.

Through the Rio Grande Watermaster, the TCEQ continues working with other U.S. and Mexican states of the Border Governors Conference and the International Boundary and Water Commission to ensure Texas water rights holders obtain their Rio Grande water under the 1944 Treaty with Mexico. On September 27 2007 José Luis Luege, Director General of Mexico's National Water Commission (CNA), participated in the Water Table meeting of the XXV Border Governors Conference. Mr. Luege informed Mexican state representatives that waters owed to the U.S. on the Rio Grande by Mexico would be delivered under the terms of the 1944 Water Treaty. On October 10 Mexico transferred 225,000 acre-feet of water to the U.S.—the first time a five year cycle had been closed since 1992 without a water debt to the U.S.

The TCEQ continues to work on Rio Grande surface water quality through the Total Maximum Daily Load (TMDL) program. It is recognized that improvement of the Rio Grande's surface water quality will require participation from Mexico.

(10) Has your agency identified common challenges to health care on which all border states can collaborate? If so, what are those challenges and how can all border states collaborate to overcome them?

Not applicable.

(11) Has your agency developed any recommendations to address border challenges in general? If so, what are they?

In 2007 the TCEQ, working through the Water Table of the Border Governors Conference, developed two recommendations in the Border Governors Joint Declaration to address border challenges. One declaration requested that the federal governments of both countries provide additional funding to agencies such as the IBWC, U.S. and Mexico, to control flooding (such as improving levees on the Rio Grande and other border waterways). The other declaration asked the federal agencies of the U.S. and Mexico and the BECC and NADBank to provide additional funding for projects to finance improvements to the infrastructure of water conveyance systems, such as the Brownsville Channel Dam.

Our agency continues to recommend that BEIF funding be increased. This funding used to be set at \$100 million annually but in the last few years has decreased significantly and this year was originally budgeted at \$10 million. Without continued BEIF funding at the historical levels, there will be a lack of, or continued decrease, in border water and wastewater projects. Texas has had more water/wastewater projects certified and funded through the BECC/NADBank process than any other U.S.-Mexico border state.

(12) What programs and services does your agency offer to border communities?

The TCEQ offers many programs and services to border communities.

Through our Small Business and Environmental Assistance program, staff in our regional offices helps border communities prevent pollution, conserve resources, and comply with regulations. TCEQ Border Affairs staff in Harlingen, Laredo, and El Paso also provides compliance assistance to border communities and residents. In addition, staff in our three border regional offices provides compliance assistance and responds to citizen complaints. Furthermore, Rio Grande Watermaster deputies enforce water rights and work with water rights holders. The TCEQ has a large amount of regulatory and compliance assistance information available at our website, www.tceq.state.tx.us.

In 2007 the TCEQ restructured its Field Operations Division to create a Border Area director, whose responsibilities include management of the three TCEQ regional offices along the border, in El Paso, Laredo and Harlingen. In this new capacity the Border Area Director works very closely with TCEQ's Border Affairs group on common programs.

(13) What are some regulatory and/or legislative recommendations to eliminate duplication and combine programs and services?

Border agencies should continue regular meetings facilitated by the Office of the Secretary of State, such as the Agency Advisory Round Table, the Strategic Border Investment Commission, and the Border Infrastructure Committee. Through these meetings agencies learn what other agencies are doing, and the improved coordination from these meetings can only improve how state agencies deliver programs and services to border residents and stakeholders.

(14) Please share any considerations from your agency regarding the effect of policies instituted by the federal government impacting the border region.

Once again, the decrease in BEIF funding is perhaps the major federal government policy which affects water and wastewater quality in the border region.

The federal government should also continue to increase its investment relative to improving the water conveyance and on farm water systems in the Lower Rio Grande so as to conserve water.

As noted previously in (11), additional funding for the International Boundary and Water Commission to improve their levees is critical. Failure to improve these levees could result in decertification of levees, particularly in Hidalgo and Cameron counties, requiring residents of those counties to purchase flood insurance. The TCEQ raised this issue through a Border Governors Conference declaration, and is also working with the Office of the Governor.

(15) Please give a brief summary of all your agency's activities related to the Border and/or Mexico.

- a) **Border Governors Conference** The TCEQ works throughout the year on the Water and Environment Work Tables of the Border Governors Conference. Carlos Rubinstein just stepped down in September 2007 as the U.S.-Co-chair of the Water Work Table and Chairman Garcia represents the TCEQ on the Environment Work Table.
- b) **Border 2012** In a partnership with other U.S. and Mexican state environmental agencies, EPA and its Mexican counterpart, and border tribes and local governments and border residents, the TCEQ is actively involved in the binational Border 2012 environmental program to protect the U.S.-Mexico border environment. TCEQ staff participates in the various border-wide work groups. However, our most significant efforts involve supporting the two local Regional Work Groups (RWGs), the Texas-New Mexico-Chihuahua (Tri-State) and the Texas-Coahuila-Nuevo León-Tamaulipas (Four State) RWGs. These RWGs develop, from a bottom-up approach, local plans to protect the environment in their area, based on Border 2012 goals and objectives.
- c) **Border Security Council** Chairman Garcia was appointed to the Border Security Council in September by Governor Perry. The BSC held an initial set of public meetings in border communities in early October 2007. The purpose of the meetings was to obtain public input on how the BSC should recommend \$110 million in spending on border security.
- d) **Colonias Coordination** The TCEQ works with other state agencies on implementation of colonias legislation and to ensure provision of water, wastewater, and other services to colonias residents. The TCEQ has a representative who works on the Interagency Committee of the Colonias Coordinator in the Office of Secretary of State.
- e) **Regional Offices** The TCEQ has three regional offices located on the border with Mexico (El Paso, Laredo, and Harlingen) in our Field Operations Division and under the supervision of the Border Area Field Director.
- f) **Rio Grande Watermaster** The Rio Grande Watermaster ensures that Rio Grande water rights holders get their water. Staff is located primarily in Harlingen, with a field office in Eagle Pass. The Rio Grande Watermaster represents Texas on 1944 Water Treaty

negotiations with Mexico through the International Boundary Water Commission, U.S. Section (IBWC).

- g) **Joint Advisory Committee** Created under the La Paz Agreement, the Joint Advisory Committee for the Improvement of Air Quality in the Ciudad Juárez, Chihuahua, El Paso, Texas, and Doña Ana County, New Mexico Air Basin (JAC) is a binational, tri-state organization with federal co-chairs. With ten members from each nation, the JAC develops and implements programs to improve air quality in the Paso del Norte Region. The TCEQ represents the State of Texas on the JAC.
- h) **Governmental Advisory Committee** The TCEQ has a representative on the Governmental Advisory Committee (GAC). The GAC advises the EPA Administrator on implementation of the North American Agreement on Environmental Cooperation. The TCEQ representative recently provided examples of border wastewater best management practices and recommendation by the North American Council on Environmental Cooperation to participate in the Border Governors Conference.
- i) **Good Neighbor Environmental Board** The TCEQ has a representative who serves on the GNEB, an advisory board to the President and the Congress on U.S.-Mexico border environmental issues. In 2007 the GNEB released the 10th annual report, on Border Security and the Environment. The GNEB is currently working on the 11th report, on Natural Hazards and the Border Environment.
- j) **Arroyo Colorado Watershed Protection Plan (WPP)** The Arroyo Colorado WPP was finalized in 2007 after many years of work with local, state, and federal stakeholders. It is being implemented to improve water quality in the Arroyo Colorado, which drains most of the Lower Rio Grande Valley.
- k) **Clean Rivers Program** Through a contract with a federal agency, the International Boundary Water Commission, U.S. Section, the TCEQ performs surface water quality monitoring of the Rio Grande watershed, with annual reports. This successful partnership is a rare example of the federal government serving as a contractor to a state agency.
- l) **Binational Emergency Preparedness** Working with and U.S. and Mexican federal, state and local agencies and tribes, the TCEQ participates in binational sister-city emergency preparedness exercises, as well as helping to develop sister-city emergency response plans. This year the TCEQ helped develop the Ciudad Juárez-El Paso-Sunland Park sister city agreement, the last major sister city agreement lacking on the border. In addition, two tri-national exercises were held in July and September in Eagle Pass/Piedras Negras with the Kickapoo nation. The TCEQ also developed and maintains an updated list of Mexican and US border emergency responders.
- m) **Capacity Building** The TCEQ helps provide training to Mexican and border partners, such as through the Nuevo León program mentioned above in (9). In addition, in July TCEQ hosted a tour for officials from Nuevo Laredo and the BECC of the Hornsby Bend sludge treatment plant of the City of Austin. Nuevo Laredo has a wastewater treatment plant whose sludge is currently being landfilled, and the tour's goal was to help the Nuevo Laredo officials implement such a sludge treatment plant of their own. A follow-up meeting is being planned.
- n) **Texas Environmental Excellence Awards** There were three recipients of these annual awards in 2007 from the border area. The Environmental Excellence Awards are selected by a Blue Ribbon panel from a variety of entries, and in 2007 Keep El Paso Beautiful, the Texas Agricultural Experiment Station in El Paso, and the Center for Environmental

Research and Management at the University of Texas-El Paso all received awards. These entities received awards in the agriculture, civic/non-profit, and special awards categories.