



## **Sierra Club Concerns about CSHB 824 (Hegar/Callegari) – Set for Hearing in Texas Senate Natural Resources Committee on Thursday, May 16, 2013**

(1) The current requirement for reporting to TCEQ within 24 hours all accidental discharges or spills by wastewater operations is based on commitments made by TCEQ to U.S. EPA for enforcement of the federal Clean Water Act in Texas in return for delegation of the federal Clean Water Act program to the State of Texas, and changes in this reporting requirement may interfere with the agreement and the delegation.

(2) The current system allows TCEQ to know what spills are occurring, whether these spills are an ongoing problem at a facility, what steps a facility is taking to deal with spills, and whether it is advisable for TCEQ to do a follow-up investigation to determine if there are compliance problems with a wastewater utility's operations.

(3) The proposed change in the law would mean that a facility having problems with sanitary sewer overflows that are relatively low volume but are occurring on an ongoing basis could escape the attention of TCEQ until a much bigger problem has developed. TCEQ does NOT inspect the operations of each wastewater utility annually.

(4) HB 824 would leave it entirely to the wastewater utility to make a determination of not only the volume of the sanitary sewer overflow but also whether the spill has been "controlled or removed," and whether the sanitary sewer overflow has entered "water in the state" or "adversely affects a public or private source of drinking water." This may be a judgment call, especially if the overflow occurs in the recharge or contributing zone of an aquifer. This could allow a facility to cover up a problem that should be brought to TCEQ's attention.

(5) The proposed change in the law specifically says that not only is there not a requirement to report a sanitary sewer overflow below the threshold to TCEQ but there is no requirement to report it to a local government official or to the local news media. Therefore, local government officials, who may have ultimate responsibility for oversight of a wastewater utility, may not be informed about problems brewing at a facility from ongoing spills and the public may be kept in the dark as well.

(6) The major complaints of wastewater utility officials about the current notification process appear to relate to the short time frame for reporting and the fact that apparently the notification requires certain sign-offs and is cumbersome. A better alternative to deal with those concerns would be to require TCEQ to develop an electronic notification system to facilitate reporting by the facility and review of the report by TCEQ, the possibility of a longer reporting time frame for very small sanitary sewer overflows (such as under 100 gallons), and some changes in the sign-off process at the local level. In other words the complaints by the wastewater operators could be addressed through changes in the reporting system rather than by eliminating the requirement for reporting certain spills.