



## **LCRA On-Site Sewage Facilities Program Appeals Process**

As per section 13, LCRA OSSF Rules, Appeals of LCRA's Onsite-Sewage Facility Rules, Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Board of Directors of the Lower Colorado River Authority. This document provides more information regarding the available recourses, what to expect during the appeals process, and the associated timelines.

### **Resolution Process**

If issues of concern are raised by an applicant/permittee regarding a permit decision rendered by LCRA OSSF staff, the applicant/permittee and OSSF Staff shall in good faith attempt to resolve the concerns.

Since OSSF staff have the required training and licenses to resolve many issues in an expedited manner, it is LCRA's intent that this resolution process will provide customers with a means to resolve permit decisions expeditiously at the staff level. It is important to note that the owner, or the designer/installer retained by the owner, is responsible for demonstrating compliance with current rules. In providing a response to the appeal or recommendations to resolve the appeal, LCRA staff cannot provide design services to the designer, installer or owner of an OSSF. In order to ensure that issues are resolved in an efficient and timely manner, issues will be escalated from the OSSF department to management and, if necessary, the LCRA Board as follows:

### **Program Supervisor Review**

A person who wishes to dispute a permit decision or action by LCRA OSSF staff shall send a written request for decision review to the OSSF Program supervisor via email to [ossf@lcra.org](mailto:ossf@lcra.org) with a subject line of "Request for Supervisor review of OSSF Program decision". If the dispute involves a decision to issue, deny or repeal a permit, the applicant or permittee shall submit the request for review and remain involved in the entire process. The request must include the permit number, the site address, and a clear and concise description of the disputed permit decision or action and include references to relevant statutes and regulations. The request for review shall be submitted within 10 business days of such decision.

The OSSF Program Supervisor shall review the issues/concerns documented by the applicant/permittee and shall provide a written response to overturn, affirm or revise the decision within 10 business days from the receipt of the request for review. Prior to issuing a determination, the OSSF Program Supervisor may request a conference with the applicant/permittee and the OSSF Staff. If the issue in question involves an interpretation of TCEQ Rules, LCRA Staff will consult with TCEQ staff as necessary for guidance at any point in the process.

### **Management Review**

If the applicant/permittee is not satisfied with the OSSF Program Supervisor's response, the issue may be forwarded to the Manager of Water Quality Protection by responding to the OSSF program supervisor via email with the subject line of "Request for 2<sup>nd</sup> Level Review of OSSF Program decision". The Request for 2<sup>nd</sup> Level Review shall be submitted within 10 business days of the OSSF Program

Supervisor's response. The Manager of Water Quality Protection, in consultation with the Vice President of Water Resources and Executive Vice President for Water, shall review the OSSF Program Supervisor's response and provide a written determination to uphold, affirm or revise the decision within 10 business days of receipt of the Request for 2<sup>nd</sup> Level Review.

### **Appeal to the LCRA Board**

As Authorized Agent of the State of Texas, the LCRA Board can only decide an appeal of a permit decision based on whether the decision was made in accordance with LCRA and State of Texas Rules governing On-Site Sewage Facilities. If the applicant/permittee and LCRA OSSF staff and management cannot resolve the issues, the applicant/permittee may file an appeal with the LCRA Board.

For an appeal to be valid, the request for appeal must meet all of the following criteria:

- (i) Be filed in accordance with this process and the LCRA OSSF Rules as amended;
- (ii) Demonstrate that the person requesting the appeal (the Appellant) provided a written statement and supporting documentation in support of the appeal;
- (iii) Demonstrate that the Appellant requested a review of the LCRA OSSF program staff decision to issue, deny or repeal a permit. If the Appellant did not attempt to resolve the decision at the staff and OSSF management level, the Appellant must provide a compelling reason why their request for appeal should be considered, nevertheless;
- (iv) Demonstrate Appellant compliance with OSSF Rules or allege why a staff requirement is not supported by the OSSF Rules;
- (v) Provide credible evidence, including, but not limited to, sealed engineer or professional drawings and documents, in support of the disputed issues raised by the Appellant's request for appeal;
- (vi) Demonstrate how such Appellant disputed issues, if taken as true, would change the terms and conditions of the permit or would affect the issuance of the permit; and
- (vii) Demonstrate that such disputed issues are related to a matter that LCRA has jurisdiction to consider. For example: the LCRA may not consider increase in vehicle traffic, noise, incompatibility of land uses, or questions of property rights, property ownership or easement rights (if LCRA is in possession of a title opinion from the applicant)

The appeal shall be filed with the LCRA General Counsel, in writing, within 10 business days of a final decision by LCRA OSSF staff or, if a Request for 2<sup>nd</sup> Level Review is filed, the latter decision by the OSSF Program Supervisor or the Manager of Water Quality Protection. The appeal must be filed at P.O. Box 220, Austin Texas 78767-0220, "ATTN: LCRA General Counsel". Failure to file the timely appeal with the LCRA General Counsel shall be grounds for a finding that the appeal is invalid.

Within 5 business days of receipt of the appeal submittal, the LCRA General Counsel shall notify the LCRA General Manager and the LCRA Board of the appeal. The notice shall state the specific action(s) or decision(s) being appealed, the relief requested, and the person's reasons for requesting the relief.

The OSSF staff shall provide the General Manager with a statement of the elements/response to the appeal within 15 business days of receipt of the appeal submittal. If the TCEQ OSSF staff has issued a

recommendation or opinion, LCRA OSSF staff shall provide such information to the LCRA General Manager.

#### **General Manager Determination of Validity**

Within 10 business days from the receipt of the statement of elements/response to the appeal from the LCRA OSSF staff, the General Manager shall determine the validity or invalidity of the request for appeal. The General Manager's determination of the validity or invalidity shall be final. Upon a determination that a request for appeal is invalid, the staff's decision shall become final. The General Counsel shall notify the appellant of the General Manager's determination of validity within 5 business days of such determination.

#### **Hearing before the LCRA Board**

If the General Manager determines that the appeal is valid, the appeal shall be scheduled and heard before the LCRA Board at the Board's next scheduled meeting but no earlier than 45 business days from receipt of the appeal submittal. General Counsel shall provide the Appellant with notice of the scheduled hearing before the LCRA Board.

Procedures for the hearing before the LCRA Board will be provided by the LCRA General Counsel prior to the hearing.