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## 8 UNIQUE STREAM SEGMENTS/RESERVOIR SITES/LEGISLATIVE RECOMMENDATIONS

The Texas Water Development Board (TWDB) regional water planning guidelines require that a regional water plan include recommendations for regulatory, administrative, and legislative changes that will facilitate water resources development and management:

“357.7(a) Regional water plan development shall include the following... regulatory, administrative, or legislative recommendations that the regional water planning group believes are needed and desirable to: facilitate the orderly development, management, and conservation of water resources and preparation for and response to drought conditions in order that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare; further economic development; and protect the agricultural and natural resources of the state and regional water planning area. The regional water planning group may develop information as to the potential impact once proposed changes in law are enacted.”<sup>1</sup>

The guidelines also call for regional water planning groups to make recommendations on the designation of ecologically unique river and stream sites and unique sites for reservoir development. This section also presents the regulatory, administrative, legislative, and other recommendations of the Region F Water Planning Group and the reasons for the recommendations.

### 8.1 Recommendations for Ecologically Unique River and Stream Segments

For each planning region, the Texas Parks and Wildlife Department<sup>2</sup> (TPWD) developed a list of river and stream segments that meet one or more of the criteria for being considered ecologically significant. In Region F, TPWD identified 20 segments as listed in Table 8.1-1 and shown in red in Figure 8.1-1 as ecologically significant.

**Table 8.1-1  
Texas Parks and Wildlife Department Ecologically Significant River and Stream Segments**

| River or Stream Segment | Description   | Basin      | County            | TPWD Reasons for Designation <sup>(a)</sup> |                     |                            |                               |                                       |
|-------------------------|---|------------|-------------------|---|---------------------|----------------------------|-------------------------------|---------------------------------------|
|                         |   |            |                   | Biological Function                         | Hydrologic Function | Riparian Conservation Area | Water Quality/Aesthetic Value | Endangered Species/Unique Communities |
| Clear Creek             | Impounded headwater springs   | Colorado   | Menard            |   |                     |                            |                               | X                                     |
| Colorado River          | Regional boundary upstream to E.V. Spence Reservoir dam, excluding O.H. Ivie Reservoir                    | Colorado   | Multiple          | X   |                     |                            | X                             | X                                     |
| Concho River            | Above O.H. Ivie Reservoir to San Angelo Dam on North Concho River and Nasworthy Dam on South Concho River | Colorado   | Concho, Tom Green |   |                     |                            | X                             | X                                     |
| Devils River            | Sutton/Val Verde County line upstream to Dry Devils River   | Rio Grande | Sutton            |   |                     |                            | X                             | X                                     |
| Diamond Y Springs       | Headwaters to confluence with Leon Creek  | Rio Grande | Pecos             |   |                     |                            |                               | X                                     |
| East Sandia Springs     | Springs in Reeves County  | Rio Grande | Reeves            |   |                     |                            |                               | X                                     |
| Elm Creek               | Elm Creek Park Lake to FM 2647 bridge   | Colorado   | Runnels           |   |                     |                            | X                             | X                                     |
| Giffen Springs          | Springs in Reeves County  | Rio Grande | Reeves            |   |                     |                            |                               | X                                     |
| James River             | Headwaters to confluence with Leon River  | Colorado   | Mason, Kimble     |   |                     |                            | X                             |                                       |
| Diamond Y Draw          | Headwaters to confluence with Pecos River   | Colorado   | Pecos             |   |                     |                            |                               | X                                     |
| Live Oak Creek          | Headwaters to confluence with Pecos River   | Colorado   | Crockett          |   |                     |                            | X                             | X                                     |
| Pecos River             | Val Verde/Crockett County line upstream to FM 11 bridge on Pecos/Crane County line                        | Rio Grande | Multiple          | X   |                     |                            | X                             | X                                     |
| Pedernales River        | Kimble/Gillespie County line upstream to FM 385   | Colorado   | Kimble            | X   |                     |                            | X                             |                                       |

**Table 8.1-1 (Continued)**

| River or Stream Segment | Description   | Basin      | County                     | TPWD Reasons for Designation <sup>(a)</sup> |                     |                            |                               |                                       |
|-------------------------|---|------------|----------------------------|---|---------------------|----------------------------|-------------------------------|---------------------------------------|
|                         |   |            |                            | Biological Function                         | Hydrologic Function | Riparian Conservation Area | Water Quality/Aesthetic Value | Endangered Species/Unique Communities |
| Salt Creek              | Confluence with Pecos River upstream to Reeves/ Culberson County line     | Rio Grande | Reeves                     |   |                     |                            |                               | X                                     |
| San Saba River          | From FM 864 upstream to Fort McKavett                                     | Colorado   | Menard                     |   |                     | X                          |                               | X                                     |
| San Solomon Springs     | Spring in Reeves County   | Rio Grande | Reeves                     |   |                     | X                          |                               | X                                     |
| South Llano River       | Confluence with North Llano River upstream to Kimble/ Edwards County line | Colorado   | Kimble                     |   |                     | X                          | X                             | X                                     |
| Spring Creek            | Headwaters to FM 2335 crossing in Tom Green County                        | Colorado   | Crockett, Orion, Tom Green |   |                     |                            | X                             | X                                     |
| Toyah Creek             | Confluence with Pecos River upstream to FM 1450                           | Rio Grande | Reeves                     |   |                     |                            |                               | X                                     |
| West Rocky Creek        | Headwaters to confluence with Middle Concho River                         | Colorado   | Irion, Tom Green, Sterling |   |                     |                            | X                             | X                                     |

<sup>(a)</sup> The criteria listed are from Texas Administration Code Section 357.8. The Texas Parks and Wildlife Department feels that their recommended stream reaches meet those criteria marked with an X.



In the 2001 *Region F Water Plan*, the Region F Water Planning Group decided not to recommend any river or stream segments as ecologically unique because of unresolved concerns regarding the implications of such a designation. The Texas legislature has since clarified that the only intended effect of the designation of a unique stream segment was to prevent the development of a reservoir on the designated segment by a political subdivision of the state. However, the Texas Water Development Board regulations governing regional water planning require analysis of the impact of water management strategies on unique stream segments, which implies some level of protection beyond the mere prevention of reservoir development.

Considering the remaining uncertainty for designation and the regional consensus that there are no new reservoirs recommended for development, the Region F Water Planning Group is not recommending the designation of any river or stream segment as ecologically unique. The Regional Water Planning Group recognizes the ecological benefits of major springs, which are discussed in Chapter 1.

## **8.2 Recommendations for Unique Sites for Reservoir Construction**

Section 357.9 of the Texas Water Development Board regional water planning guidelines allows a regional water planning group to recommend unique stream sites for reservoir construction:

**“357.9. Unique Sites for Reservoir Construction.** A regional water planning group may recommend sites of unique value for construction of reservoirs by including descriptions of the sites, reasons for the unique designation and expected beneficiaries of the water supply to be developed at the site.

Evaluations of available water supply in the Upper Colorado River Basin indicate limited availability for new surface water supplies. At this time, the Region F Water Planning Group does not recommend any unique sites for new reservoir development.

## **8.3 Policy and Legislative Recommendations**

The Region F Water Planning Group established several committees with different interests to review and recommend water policy topics to include in this plan. The following is a synopsis of the recommendations presented by the committees.

### **8.3.1 Surface Water Policies**

In Region F approximately 70 percent of the population (440,000 people) depends on surface water from the upper Colorado River basin for all or part of their municipal water needs. Making sure that this water remains a dependable part of Region F's existing supplies is crucial.

The Colorado River basin is over appropriated and became that way in about 1938. This was well before there was any substantial population in Region F. All of the "senior water rights" are in the lower Colorado Basin. The majority of these water rights are held by the Lower Colorado River Authority, City of Austin and City of Corpus Christi. It is imperative that any changes to water rights, such as a change in use, change in point of diversion, transfers of water or transfer of water rights out of the Colorado Basin do not impair existing water rights even if they are junior in priority.

Surface water policy recommendations include:

- Require that any time a request is made to amend a water right, if the change involves an increase in the quantity, a change in the purpose of use or a change in the place of use, all water rights holders in the basin must be notified.
- Oppose any legislation that would repeal or modify the "junior priority provision" for interbasin transfers (Water Code 11.085 (s) and (t)) until the state has reviewed the results from the water availability models that were required in SB 1 in 1997 and the regional water plans to determine where the transfer of water from a basin would not be detrimental to the basin of origin.
- Review the state's surface water policy of prior appropriation to see if this is a policy that will work in Texas over the next 50 years.

### **8.3.2 Groundwater Policies**

Groundwater policy recommendations include:

- That groundwater supply available to implement regional water supply strategies within the boundaries of the region's groundwater conservation districts will be projected groundwater supply based on the districts' management goals and regulatory requirements.

- To support retention of the Rule of Capture while encouraging fair treatment of all stakeholders, and the state's policy that groundwater districts are the preferred method for managing Texas' groundwater resources.
- To support local control and management of groundwater through confirmed groundwater conservation districts, while providing encouragement and incentives for cooperation among the groundwater conservation districts within the region.
- That no strategy for export of groundwater from a groundwater conservation district or from the region will be adopted until a comprehensive plan is in place to assure retention of adequate supplies of water within the district or region to protect existing economic enterprises including agriculture and support the foreseeable population growth and economic development so long as the groundwater conservation district or region applies the same rules and conditions, including fee structure, to both the proposed water exporter and all groundwater users residing within the borders of said district or region.
- That all persons or entities seeking export of a significant amount of water from a groundwater district must submit notice of their plan to the Regional Water Planning Group, regardless of whether or not the proponents of the strategy will seek state funding.
- All state agencies with land within groundwater conservation districts must be subject to groundwater district rules and production limits, and must submit plans for withdrawal of groundwater to the relevant Regional Water Planning Group for consideration.

### **8.3.3 Environmental Policies**

Region F believes in good stewardship of the region's water and natural resources.

Environmental policy recommendations include:

- That brush control and desalination are Region F priority strategies for protecting environmental values while developing new water supply for municipal and other economic purposes.

- That because of the very limited water resources in this region there must be a carefully managed balance in the development, allocation and protection of water supplies, between supporting population growth and economic enterprise and maintaining environmental values. Consequently, while recognizing the need for, and importance of, reservations of adequate water resources for environmental purposes, the RWPG will not designate any special stream segments until the Texas Parks and Wildlife Department, working in cooperation with local entities such as groundwater districts, county soil and water conservation districts, local conservation groups and landowners, completes comprehensive studies identifying and quantifying priority environmental values to be protected within the region and the quantification of minimum stream flows necessary to maintain those environmental values.
  - To support legislative funding and diversion of TPWD resources, for undertaking the studies described above; and
  - To support the creation of cooperative local stakeholder groups to assist the TPWD in studies described above.
- There are insufficient water supplies within Region F to meet projected municipal, agricultural and environmental needs through 2060; therefore Region F RWPG opposes the export of surface water outside of the region except for existing contracts for such export, and will give priority consideration to needs within the region, including protection of environmental values, in evaluating any future proposed contracts for export.
- Land (range and cropland) conservation and management practices (including brush management and proper follow-up grazing and burn management) are priority strategies to provide optimum conditions for most efficient utilization of the region's limited rainfall. These practices should receive top priority for funding from the Texas legislature and state agencies charged with protecting and developing our water resources. Whereas Texas is a leading user of compost, utilizing soil biology to conserve the infiltration of water.



### **8.3.4 Instream Flows**

Region F is located in an arid area with much of the rainfall occurring in short bursts. This results in widely varying stream flows with many streams being intermittent, having water only part of the year. During drought stream flows can be very low, but this is a natural occurrence and the ecological environment in Region F has developed under these conditions. State agencies have been engaged in studies of the requirements for instream flows since the late 1960s, particularly with regard to freshwater inflows to bays and estuaries. Some cities and municipalities are concerned that a significant portion of their water supply could be reallocated to meet instream flow demands. Region F recognizes that future flow conditions in Texas' rivers and streams must be sufficient to support a sound ecological environment that is appropriate for the area. However, Region F believes it is imperative that existing water rights are protected.

### **8.3.5 Interbasin Transfers**

The State of Texas has 23 river basins that provide surface water to users in 16 regions. The current statutes require any new water right diverted from one river basin to another to become "junior" in priority to other rights in that basin. Also as part of the water rights application, an economic impact analysis is required for both basins involved in the transfer. These requirements are aimed at protecting the basin of origin while allowing transfers of water to entities with needs. The Region F Water Planning Group:

- Supports retention of the junior water rights provision (Water Code 11.085(s) and (t)).
- Urges the legislature and TCEQ to study and develop mechanisms to protect current water rights holders.

### **8.3.6 Uncommitted Water**

The Texas Water Code currently allows the Texas Commission on Environmental Quality to cancel any water right, in whole or in part, for ten consecutive years of non-use<sup>3</sup>. This rule inhibits long-term water supply planning. Water supplies are often developed for ultimate capacity to meet needs far into the future. Some entities enter into contracts for supply that will be needed long after the first ten years. Many times, only part of the supply is used in the first ten years of operation.

The regional water plans identify water supply projects to meet water needs over a 50-year use period. In some cases, there are water supplies that are not currently fully utilized or new management strategies that are projected to be used beyond the 50-year planning period. To support adequate supply for future needs and encourage reliable water supply planning policy recommendations include

- Opposed to cancellation of uncommitted water contracts/rights.
- Supports long term contracts that are required for future projects and drought periods.
- Supports shorter term “interruptible” water contracts as a way to meet short term needs before long-term water rights are fully utilized.

### **8.3.7 Brush Control**

- Brush control is recognized as an important tool in the management and maintenance of healthy rangelands which can allow for more efficient circulation of rainfall into the soil profile. This in turn can add to the effectiveness of aquifer recharge and restoration of streams and springs.
- Region F supports brush control where it has the greatest effect on rivers, streams, and spring flow such as riparian zones, areas of the region with the highest rainfall per year. Region F recognizes that the key to water restoration is managing the land to promote a healthy and vigorous soil and vegetative condition, of which brush control can play an important part.
- Region F supports legislative efforts to promote funding for brush control activities for the purpose of river, stream and spring enhancement in those areas that allow for the greatest success.

Since 1999, Region F has been the center for state funding to remove noxious brush so as to enhance recharge of underground aquifers and restore perennial streams and springs producing increased runoff from natural flows as well as storm water runoff into West Texas Reservoirs in the Colorado and Concho River Basins. To date the State of Texas has spent or contracted to spend almost \$25 million and private landowners have expended another \$8 million to remove

mesquite and juniper from almost 480,000 acres of land primarily located on the O.C. Fisher Reservoir and Twin Buttes Reservoir watersheds.

Initial monitoring results have produced information showing increased groundwater recharge, plus reactivation of once dead springs. The North Concho River which feeds O.C. Fisher Reservoir near San Angelo, Texas, in late 2004 again became a perennial stream flowing from its headwaters in northern Sterling County along a 55 mile route all the way to where it enters O. C. Fisher Reservoir in Tom Green County. Other major tributaries of the North Concho River such as Grape Creek, Sterling Creek and Chalk Creek which also became perennial in 2004 contributing to the return of the river to a perennial and once natural status.

The North Concho watershed brush control project is in its final phase of completion with only 60,000 acres remaining to be cleared in the intended 410,000 acres targeted by the initial feasibility study approved by the Texas Legislature.

It is anticipated that the final funding requirement to complete the North Concho project will require funding from the Texas Legislature of approximately \$750,000 with landowners contributing an additional \$420,000.

Removal of brush on almost 350,000 acres of mesquite and juniper on the North Concho River watershed is credited with the primary reason for stream rejuvenation to a condition which has restored the watershed more nearly to its original natural state.

The second major brush control program is centered on the Twin Buttes Reservoir watershed and comprises a targeted 600,000 acres. To date almost one-fourth of this anticipated acreage has been completed or contracted for brush removal.

Already increased spring flow has been monitored and documented on springs and river flows on the South Concho River, Dove Creek and Spring Creek which feed Twin Buttes Reservoir. This spring flow alone resulted in more than 10,000 acre feet of water captured in Twin Buttes Reservoir from December 2004 through April 2005.

The Anson Springs at the headwaters of the South Concho River which normally flow 20 to 25 cfs have been measured at an increased flow of 45 to 50 cfs daily. Dove Creek Springs at the headwaters of Dove Creek normally flow 10 to 15 cfs in that same four month period showed

increased flows of 20 to 30 cfs daily. And Spring Creek flow materially increased in that same period from 10 cfs to 20 cfs daily.

Twin Buttes Reservoir net gain per day from all this spring flow with no rainfall, averaged almost 150 acre feet per day. To complete the Twin Buttes brush project during the next four years, an appropriation of \$4 million per biennium will be required from the Texas Legislature.

Region F Water Planning Group recommends the Texas legislature continue to support the State Brush Control Program through:

- Completion of the final phase of the North Concho River Brush Control project,
- Continued funding until completion of the Twin Buttes Project,
- Funding for other West Texas reservoirs in the region which include Ballinger, Oak Creek and Champion Creek Reservoirs, and
- Continued cooperation with federal agencies to secure funds for project brush control projects that will improve water quality such as salt cedar control.

### **8.3.8 Desalination**

The City of San Angelo, Upper Colorado River Authority and Region F Planning Group have completed a comprehensive regional study of potential sources of brackish water supplies which could be treated and utilized for fresh water for San Angelo and surrounding regional political subdivisions.

Eight potential locations for well field development have been identified in Tom Green, Coke and Irion Counties where significant brackish water supplies in the Dockum and Whitehorse formations have been documented.

This study has recommended test well drilling and pumping analysis of different sites to prove quantity and quality. Also included in this feasibility study will be facility recommendations and cost estimates for treatment collection, transmission and treatment of brackish water supplies to municipalities in the region.

Region F Planning Group recommends the Texas Legislature provide funds to assist local governments in the implementation of development of these water resources.

### **8.3.9 Weather Modification**

There are currently three operational weather modification programs in the region and one program's evaluation indicated an increase of 10.7 percent (1.98 inches) in additional rainfall for the April to October 2004 seeding season (the statewide program average is 10.2 percent). Weather modification is one of the region's recommended strategies, together with brush control and desalination, for augmenting water supply. Recommendations include:

- Support legislative funding for operational programs, research, and evaluation of impact on rainfall.
- Support the creation of additional programs.

### **8.3.10 Water Quality**

Recommendations include:

- TCEQ authorize small, rural water suppliers who currently cannot afford the necessary capital improvements to their existing water systems and who have no reasonable available alternate water source to utilize bottled water options to the fullest extent possible and apart from the threat of TCEQ enforcement. The alternative is for the water supplier to receive grants, not loans, to construct, operate, and maintain a treatment system to reduce drinking water constituents that exceed the established MCLs of the federal drinking water standard level.
- TCEQ develop rules for the disposal of constituent residuals that result from water treatment processes for radionuclides. Without such rules, the accurate cost of water treatment cannot be computed, viable treatment options cannot be assessed, and water suppliers cannot be assured that their water system meets the standards.
- The State of Texas sponsor an oral ingestion study to determine the epidemiology of radium in potable water before enforcing minimum MCLs for radium. Region F is concerned about enforcement of state and federal regulations for radium in drinking water. A cluster cancer investigation was conducted by the Texas Cancer Registry of the Texas Department of Health and found that the cancer incidence and mortality in the area were within ranges comparable to the rest of the state<sup>4</sup> (see Appendix 8B).

The Texas Radiation Advisory Board also expressed concern the EPA rules are “unwarranted and unsupported by public health information (specifically epidemiological data)”<sup>5</sup> (see Appendix 8C).

- TCEQ develop rules for disposal wells which would allow for the disposal of reject water from a membrane treatment plant through a well that is not classified as a “Hazardous Disposal Well”.
- TCEQ revise its policy on requiring the use of secondary water standards, particularly TDS, when granting permits. Meeting secondary water standards should be the option of local water suppliers who must consider local conditions such as the economy, availability of water, community concerns for the aesthetics of water, and the volunteer use of technologies such as point-of-use.

### **8.3.11 Municipal Conservation**

The Region F Water Planning Group recognizes the importance of water conservation as a means to prolong existing water supplies that have shown to be vulnerable under drought conditions. The Water Conservation Task Force recently presented to the Texas legislature a summary of conservation recommendations, including state-wide municipal conservation goals. The Task Force indicated that these goals are voluntary, and recognized that a statewide per capita water use value is not appropriate for the State of Texas, with its wide variation in rainfall, economic development, and other factors. Considering the drought-prone nature of Region F and the recommendations of the Water Conservation Task Force, the Region F Water Planning Group:

- Supports the Water Conservation Task Force decision that the targets included in their report should be voluntary rather than mandatory goals.
- Recommends state participation in water conservation be increased by providing monetary incentives in the form of grants or low interest loans to municipal, industrial and agricultural interest for the implementation of advanced conservation technologies.

- Recommends the state encourage conservation by providing technical assistance to water users and not force conservation through mandatory targets and goals for water use.
- Recommends the state continue participation in research and demonstration projects for the development of new conservation ideas and technologies.
- Supports the development of a state-wide public information and education program to promote water conservation. Water conservation can only be successful with the willing support of the general public.

### **8.3.12 Reuse**

Reuse of water is a major source of “new water” especially in Region F. Reclaimed or new water developed from a demineralization or reclamation project can be stored for use in aquifers that have been depleted. Region F Water Planning Group recognizes the importance of reuse for the region and state, and recommendations include:

- Support legislation that will encourage and allow the reuse of water in a safe and economical manner.
- Work with the state’s congressional delegation and federal agencies to develop procedures that will allow reject water from demineralization and reclamation projects to be disposed of in a safe and economical manner.
- Support legislation that will encourage and allow aquifer storage and recovery projects to be developed and managed in an economical manner.
- Support legislation at both the state and federal levels to provide funding for demineralization, reclamation and aquifer storage and recovery pilot projects.
- Recommends consideration of inverted block rates, base rates and excess use rates such as water budget rates, and seasonal rates that encourage water conservation, and recognition of water conservation as an appropriate goal in determining water rates.

### **8.3.13 Conjunctive Use**

The definition of conjunctive use must include “surface water, groundwater, water education and conservation, demineralization, reclaimed treated wastewater effluent, aquifer storage and recovery, land management, blending water from different sources and quality, regulatory impacts (state and federal) on water supplies and environmental needs”.

### **8.3.14 Groundwater Conservation Districts**

There are 15 established groundwater conservation districts in Region F that oversee groundwater production in more than half of the region. Region F recognizes and supports the state’s preferred method of managing groundwater resources through locally controlled groundwater districts. In areas where groundwater management is needed, existing districts could be expanded or new districts could be created taking into consideration hydrological units (aquifers), sociological conditions, and political boundaries. Recommendations include:

- Legislation developed for managing the beneficial use and conservation of groundwater must be fair for all users.
- Rules and regulations must respect property rights and protect the right of the landowners to capture and market water within or outside of district boundaries.
- The region does not support the use of historical use limits in granting water rights permits.
- The region does not support the use of groundwater fees for wells used exclusively for dewatering purposes.
- The legislature should support the collection of groundwater data that would be used to carry out the intent of SB1.

The region also recognizes that the state has groundwater resources associated with state lands that may or may not be governed by local groundwater districts. Region F encourages the state to review its groundwater resources on all state owned land and how those resources should be managed to the benefit of all of Texas.



### **8.3.15 Oil and Gas Operations**

Protection of the quality of the region's limited groundwater resources is very important within Region F. Prevention of groundwater contamination from oil and gas well operations requires constant vigilance on the part of the Railroad Commission rules. Orphan oil and gas wells that need proper plugging have become a problem and a liability for the state, the oil and gas industry as a whole and the Texas Railroad Commission. In response to this problem, the state initiated a well plugging program that is directed by the Railroad Commission. This program enables a large number of abandoned wells to be properly plugged each year, and has accomplished much by preventing water pollution.

In light of the importance of local groundwater supplies to users in Region F and the vulnerability of these supplies to contamination, the Region F Water Planning Group recommends:

- Stringent enforcement of the oil and gas operations rules and supports the levy of fines by the Commission against operators who violate the rules.
- Continuing support for the industry funded, Commission supported abandoned well and plugging program.
- The Legislative Budget Board and the Texas Legislature provide adequate personnel and funding to the Railroad Commission to carry out its mandated responsibility to protect water supplies affected by oil and gas industry activities.
- The Texas Legislature restore funds to the industry-initiated and industry-funded well plugging account, which were transferred to the general revenue following the 2003 budget crisis. The well plugging fund is not tax money but industry funds contributed for a specific purpose.
- The clean-up and remediation of all contamination related to the processing and transportation of oil and gas. This includes operational or abandoned gas processing plants, oil refineries, and product pipelines.

### **8.3.16 Electric Generation Industry**

The steam electric power water demands in Region F account for 10 percent of the current non-agricultural demands in the region and are projected to more than double over the planning period. The planning group has concerns of how the statewide demand for steam electric generation was allocated to Region F given the current drought situation in our region. Water supply is essential to the reliable generation of electricity, and is generally obtained in the form of water contracts or water rights. Prior to the construction of an electric generation station water contracts/rights are secured at a level to ensure a reliable water source during future drought periods.

Electric utilities have a duty to plan for the long-term needs of our customers, and the utilities have made substantial investments to secure water contracts/rights and groundwater resources in advance of actual use. All of these water contracts/rights and groundwater resources have been or are held for a substantial period of time in advance of actual use – not only for future generating units but also during drought periods for existing power plants. In order for the electric utility industry to effectively provide service to existing and future customers, the industry opposes:

- Any attempt to cancel uncommitted water contracts/rights.
- Establishing historical use limits for groundwater.

Region F encourages the use of higher TDS or inferior waters for electric generation when possible to maximize available fresh water sources within the region.

## **8.4 Regional Planning Process**

### *Data Development and Availability*

Data collection and quality control of data are an integral part of water planning. At the beginning of the first round of regional water planning, TWDB provided every region with detailed, up-to-date summaries of data collected by the TWDB. For this round, the 2006 regional water plans and the 2007 State Water Plan will be developed using data that is six or seven years old. Region F recommends that before the next round of regional water planning

that TWDB meet with the regions and their consultants to discuss the roles of TWDB and the regions in data collection and quality control of data.

### *Rule Simplification*

The rules governing regional water planning are overly complex and unnecessarily add to the cost of regional water planning. Before developing the scopes of work for the next round of planning, Region F recommends that TWDB meet with the regions and their consultants regarding rule simplification.

### *Alternative Strategies*

Section 357.7(a) (9) of the TWDB Regional Water Planning guidelines (1) requires “specific recommendations of water management strategies to meet the needs...”. Listing alternative strategies among which a water supplier can choose is not considered part of the recommended water plan and creates consistency issues for permitting and funding.

To maintain local control and flexibility in water supply development, water suppliers need to have a full range of options as they seek to provide new water supplies for Texas’ future. Changing circumstances and additional studies can change the preferred alternative for new supplies very quickly. To allow the water user groups the most efficient and economical approach to developing water supplies, the Region F Water Planning Group recommends:

- Legislature and state agencies allow willing buyer/willing seller transactions of water rights and treated water to occur without additional regulations.
- The TWDB and TCEQ interpret existing legislation to give the maximum possible flexibility in determining “consistency” with the regional water plan. Changes in the timing of development, the order in which strategies are developed, the amount of supply, or details of a project should be considered to meet regulatory requirements for with the regional plan.
- The TWDB and TCEQ make liberal use of their ability to waive consistency requirements.
- Legislative and/or regulatory changes be revised to allow alternative water management strategies to be included in the regional water plan.

*Clear Guidance on Resolving Consistency Issues*

The Texas Water Development Board has implemented a policy that greatly limits the interpretation of consistency with the State Water Plan by not considering the text of the 2001 regional water plans in their determination of “consistency”. This policy was not made clear to the regional water planning groups prior to adoption of the 2001 plans. To better assist the RWPGs with developing a regional water plan that best serves the water users and providers within the regions, the TWDB should publish the criteria for what projects will be considered consistent with the 2006 regional water plans prior to these plans being adopted by the regional water planning groups.

*Allow Waivers of Plan Amendments for Entities with Small Strategies*

Region F recommends that the Texas Water Development Board allow waivers for consistency issues for plan amendments that involve projects resulting in small amounts of additional supply.

*Coordination between TWDB and TCEQ Regarding Use of the WAMs for Planning*

The TWDB requires that the Water Availability Models (WAMs) developed under the direction of TCEQ to be used in determining available surface water supplies. The models were developed for the purpose of evaluating new water rights permit applications and are not appropriate for water supply planning. The TWDB and TCEQ should coordinate their efforts to determine the appropriate data and tools available through the WAM program for use in regional water planning. The TWDB should allow the regional water planning groups some flexibility in applying the models made available for planning purposes.

## **8.4 Summary of Recommendations**

The following is a summary of the region’s policy and legislative recommendations as agreed to by the Region F Regional Water Planning Group. The region:

1. Does not recommend the designation of any ecologically unique stream segments or unique reservoir sites.

2. Supports protection of existing water rights and encourages review and study of mechanisms to protect rights, including potential modification of the prior appropriation doctrine.
3. Supports the protection of environmental values and developing water supply using brush control and desalination.
4. Supports state funding for environmental studies with local stakeholder input.
5. Supports protection of existing water rights when considering instream flows.
6. Opposes export of surface water from the region (above current contracts) and export of groundwater from the region until a comprehensive plan is in place to reserve adequate supplies within the region.
7. Supports state funding of land management activities to promote conservation of the region's natural resources.
8. Supports a requirement for notification of all water rights holders in a basin any time a request is made to amend a water right if the change involves an increase in the quantity, a change in the purpose of use or a change in the place of use.
9. Opposes any legislation that would repeal or modify the "junior priority provision" for interbasin transfers (Water Code 11.085 (s) and (t)) until the state has reviewed the results from the water availability models that were required in SB 1 in 1997 and the regional water plans to determine where the transfer of water from a basin would not be detrimental to the basin of origin.
10. Opposes cancellation of uncommitted or unused water contracts or water rights.
11. Supports long-term contracts as a means for reliable water supply planning and shorter term "interruptible" water contracts as a way to meet short term needs before long-term water rights are fully utilized.
12. Supports continued and future funding of the State Brush Control Program, including but not limited to:
  - a. Completion of the final phase of the North Concho River Brush Control project,

- b. Continued funding until completion of the Twin Buttes Project,
  - c. Funding for other West Texas reservoirs in the region which include Ballinger, Oak Creek and Champion Creek Reservoirs, and
  - d. Continued cooperation with federal agencies to secure funds for project brush control projects that will improve water quality such as salt cedar control.
13. Supports State funding for desalination projects of brackish groundwater.
  14. Recommends TCEQ develop rules for disposal wells which would facilitate the disposal of reject water from a membrane treatment plant, including desalination plants.
  15. Supports State funding for existing weather modification programs and the creation of new programs.
  16. Recommends that the TCEQ consider alternative programs (such as bottled water) to meet water quality standards for radionuclides and other constituents that are very costly to treat.
  17. Recommends that TCEQ develop rules for the disposal of constituent residuals from the treatment of radionuclides.
  18. Recommends the State of Texas sponsor an oral ingestion study to determine the epidemiology of radium in potable water before enforcing minimum MCLs for radium.
  19. Recommends that TCEQ revise its policy on requiring the use of secondary water standards, particularly TDS, when granting permits.
  20. Recommends state participation in water conservation through technical assistance to water users and monetary incentives to entities that implement advanced conservation.
  21. Opposes mandatory targets and goals for water use.
  22. Supports continued State participation in research and demonstration projects for conservation.
  23. Supports the development of a state-wide public information and education program to promote water conservation.

24. Supports the use of water conservation pricing and recognition of water conservation as an appropriate goal when setting rates.
25. Supports legislation that would allow the reuse of water in a safe and economical manner.
26. Supports the development of procedures for disposal of waste streams from desalination and reclamation projects in a safe and economical manner.
27. Supports legislation that will encourage and allow aquifer storage and recovery projects to be developed in an economical manner.
28. Supports state funding of pilot projects for desalination, reclamation and aquifer storage and recovery projects.
29. Recommends a definition of conjunctive use that includes surface water, groundwater, water education and conservation, desalination, reuse, aquifer storage and recovery, land management, blending of water supplies, regulatory impacts on water supplies and environmental needs.
30. Supports the use of groundwater conservation districts to manage groundwater resources, and recommends that:
  - a. The legislation for managing the beneficial use and conservation of groundwater must be fair for all users.
  - b. Rules and regulations must respect property rights and protect the right of the landowners to capture and market water within or outside of district boundaries.
  - c. Historical use limits should not be used in granting water rights permits.
  - d. Groundwater fees should not be applied to wells used exclusively for dewatering purposes.
  - e. Encouragement and incentives for cooperation among groundwater conservation districts be provided.
  - f. All state lands within a groundwater conservation district be subject to that district's rules.

31. Supports retention of the Rule of Capture while encouraging fair treatment of all stakeholders.
32. Supports basing groundwater supplies used for regional water planning on the governing water conservation districts' management goals and regulatory requirements.
33. Supports a requirement for notification of Regional Water Planning Groups whenever a significant amount of water is being exported from a groundwater conservation district.
34. Supports the collection of groundwater data that would be used to carry out the intent of SB 1.
35. Encourages the state to review its groundwater resources on all state owned land and determine how those resources should be managed.
36. Supports the protection of groundwater resources through the current oil and gas operation rules and the state-initiated well plugging program.
37. Encourages the legislature to adequately fund and staff the Railroad Commission to carry out its mandated responsibility to protect water supplies affected by oil and gas operations.
38. Recommends the legislature restore funds to the well plugging account, which were transferred to the general revenue fund in 2003.
39. Recommends the clean-up and remediation of all contamination related to the processing and transportation of oil and gas.
40. Encourages the use of higher TDS water for stream-electric generation.
41. Recommends the following changes to the Regional Water Planning process:
  - a. Clarification of the roles of the TWDB and the Regional Water Planning Groups in regards to data collection and quality control of data,
  - b. Simplification of rules governing the regional water planning process,
  - c. The ability to use alternative strategies,
  - d. Provision of clear guidance on resolving consistency issues,
  - e. Waivers of the requirement to amend the regional water plan for small entities, and



- f. Coordination between TWDB and TCEQ regarding the use of WAMs for regional water planning.

## 8.5 List of References

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<sup>1</sup> Texas Water Development Board, *Chapter 357, Regional Water Planning Guidelines*, Austin, October 1999, amended July 11, 2001.

<sup>2</sup> Texas Parks and Wildlife Department, List of Potential Ecologically Unique Stream Segments for Region F, [http://www.tpwd.state.tx.us/texaswater/sb1/rivers/unique/regions\\_text/regions\\_list/region\\_f.phtml](http://www.tpwd.state.tx.us/texaswater/sb1/rivers/unique/regions_text/regions_list/region_f.phtml), September 13, 2004.

<sup>4</sup> Texas Department of Health: *Summary of an Investigation into the Occurrence of Cancer Concho, McCulloch, San Saba, and Tom Green Counties, Texas 1990-1998*, December 15, 2000.

<sup>5</sup> Michael Ford, Vice Chair of the Texas Radiation Advisory Board, letter to Robert J. Huston, Chairman, Texas Natural Resource Conservation Commission, May 6, 2002.