

Interregional Planning Council Meeting Minutes

June 10, 2020, 1:00 p.m. to 3:00 p.m.

held via Zoom Videoconference

Council decisions bolded and italicized in document

Participation: Number of Interregional Planning Council Members present 11 of 16:

A	Steve Walthour	E	Scott Reinert-absent	I	Kelley Holcomb	M	Tomas Rodriguez-absent
B	Russell Schreiber-absent	F	Allison Strube	J	Ray Buck	N	Carl Crull-absent
C	Kevin Ward	G	Gail Peek	K	David Wheelock	O	Melanie Barnes
D	Jim Thompson	H	Mark Evans	L	Suzanne Scott-absent	P	Patrick Brzozowski

Facilitator: Suzanne Schwartz

Senators/Representatives/Other VIPs in Attendance: None identified.

TWDB Board Members and Staff: Matt Nelson, Temple McKinnon, Sarah Backhouse, Ron Ellis, Elizabeth McCoy, Lann Bookout, William Alfaro, Kevin Smith, Jean Devlin, Patrick Lopez, and Bryan McMath

MEETING GENERAL

Meeting facilitator, Suzanne Schwartz, called the meeting to order and reviewed meeting logistics, including timing of future meetings and how Council working documents are being utilized in the meetings and will guide the Council in their discussions beyond June. Temple McKinnon (TWDB) called the roll and determined that a quorum was present.

AGENDA ITEMS

1. Public Comment – No public comments were offered.

2. Consideration of Meeting Minutes from May 28, 2020 Meeting

The Council considered the minutes of the May 28, 2020 meeting and reviewed clarifying edits proposed by Kelley Holcomb (Region I). Kevin Ward (Region C) made a motion to approve the minutes as presented with revision. Steve Walthour (Region A) seconded the motion. The minutes were unanimously approved. Ray Buck (Region J) abstained since he was not present at the May meeting.

3. Presentation of Background Information on Interregional Conflict and Planning Water Resources for the State as a Whole

Ms. Schwartz introduced the agenda item, noting the purpose of the presentation is to be able to distinguish between interregional coordination and interregional conflict and set the stage for Council discussion today and at the next meeting.

Temple McKinnon (TWDB) presented background information on interregional conflicts. Ms. McKinnon highlighted information sent to Council members that differentiates between interregional coordination and interregional conflict in the regional water planning process. Existing requirements in administrative rules regarding regional water planning group (RWPG) coordination during regional water plan development were noted. Through these coordination efforts, RWPGs are encouraged to work cooperatively to avoid potential interregional conflicts during each planning cycle.

An interregional conflict only occurs once the draft regional water plans are completed, and it is determined that either a source is overallocated or that there is the potential for adverse impacts to occur resulting from a project. Defining an interregional conflict to be present based on adverse impacts was added to planning rules following the resolution of the conflict between the 2011 Region C and D regional water plans. The process to resolve an interregional conflict requires the involved regions to coordinate and produce a solution. If resolution of the conflict does not occur by the regions' coordination, the TWDB Executive Administrator (EA) and Board will resolve the conflict.

Ms. McKinnon noted that an informational sheet on the interregional conflict process is available on the Council webpage. The document provides information on what an interregional conflict is, what coordination should be undertaken prior to identifying a conflict, how planning groups identify potential conflicts, and the process to resolve the conflict. Ms. McKinnon then provided a brief summary of past identified interregional conflicts.

The first conflict was between the 2011 Regions C and D regional water plans. The Region C water plan recommended Marvin Nichols Reservoir, and the Region D water plan stated that recommending Marvin Nichols constituted an interregional conflict. Following Board approval of the plans, a lawsuit was filed, and the District Court determined there was a conflict that TWDB needed to resolve, an opinion that was upheld by the Court of Appeals. The Board initiated a conflict resolution process, part of which involved Region C submitting quantitative impacts information on agricultural and natural resources. TWDB's interregional conflict rules were then amended following this process.

The second conflict was between the 2016 Regions C and D regional water plans. Following the new process outlined in planning rules, the TWDB EA requested that planning groups inform TWDB of any potential interregional conflicts in the draft plans. Region D submitted that the Marvin Nichols reservoir recommended in the 2016 Region C draft regional water plan posed a conflict due to potential impacts to agricultural and natural resources in Region D. The Board determined that an interregional conflict existed and that Regions C and D should engage in mediation. The conflict was resolved when a mediated agreement was reached and approved by each planning group prior to the adoption of their final regional water plans. Ms. McKinnon noted that more detailed information on each of these conflict resolution processes are available as resources on the Council's webpage.

Matt Nelson (TWDB) then provided background information on water supply and water availability as an introduction to Council discussion of planning for water resources for the state as a whole. Discussion in previous meetings centered around determining where additional water availability existed that might be available for multi-regional projects. Water availability in regional water planning refers to the total annual volume of water a water source can provide in a drought of record. For planning purposes, groundwater availability is based on the modeled available groundwater (MAG) developed in the joint groundwater planning process: the amount of water that could be pumped for use. Existing supplies is the subset of available supply that is legally and physically connected to a water provider and

subsequently their customer utilities, or water user groups, which is the focus of the state water plan. By definition, existing water supplies associated with a particular source cannot exceed the total availability for that same source. TWDB performs data checks on the regional planning data to ensure that sources are not overallocated. Mr. Nelson noted that source availability is not necessarily static. Groundwater source availability can increase with changes in the MAGs when new modelling data becomes available or with changes in the desired future conditions. Surface water availability can also increase with the development of storage from new reservoirs. New droughts of record reduce source availability.

Mr. Nelson then provided the following examples of data available in the state water plan and interactive state water plan.

- Figure 6.8 in the 2017 State Water Plan shows a bar graph of groundwater availability versus existing supplies by aquifers in 2020. Figure 6.3 in the 2017 State Water Plan provides a similar graphic for surface water sources. These figures show the amount of undeveloped water that is available by source for development of water management strategies.
- In the Interactive State Water Plan, users can sort by water source to view the water management strategies proposed for a given water source. For example, one can see which water management strategies are proposed for the Carrizo-Wilcox Aquifer in Gonzalez County. The interactive tool can also be used to geographically view which entities currently utilize a particular water source. For example, a user can see which entities are connected to the Corpus Christi-Choke Canyon Lake/Reservoir System. This is an existing tool that can illustrate where additional availability may exist when considering new projects not currently included in the state water plan.

Mr. Nelson noted that in planning there can be water that is considered existing supply for a water source but that isn't necessarily assigned to a water user group. This is referred to as management supply. Ms. McKinnon added that TWDB will be compiling additional resources on this topic and posting to the Council webpage.

Ms. Schwartz asked members if there was any additional information that would be helpful for them to consider when discussing managing water resources for the state as a whole. Hearing none, she asked members to send her any suggestions they may have.

Mr. Ward observed that many people don't understand groundwater and the differences between the MAG and what is connected as existing supply. He suggested that the MAGs used for planning purposes to determine groundwater source availability don't scratch the surface of the water that is actually available under the ground. Mr. Ward noted using the MAG has been an impedance when developing a drought plan, and suggested having supply availability more representative of all of the water in a "bucket" would be beneficial even if only for a drought plan.

Mr. Walthour noted that TWDB has developed data on the total estimated recoverable groundwater in aquifers for joint management planning that says 25-75% of water in the aquifers is recoverable. Mr. Walthour added that the problem with considering all of the water in a "bucket" is that a lot of water in the bucket is not recoverable or practically available to produce. He noted that there are additional considerations for certain aquifers with legal protections, such as the Edwards Aquifer. Mr. Nelson said TWDB will post a link to the Total Estimated Recoverable Storage (TERS) information to the Council webpage so members can read about TERS assumptions when further working through the issue of Planning Water Resources for the State as a Whole.

5. Consideration of Planning Water Resources for the State as a Whole

Agenda item 4 was tabled until later in the meeting. Ms. Schwartz introduced the topic of planning water resources for the state as a whole. She reviewed what the Council had done so far in brainstorming ideas on this topic and introduced the Draft Working Solutions Framework document. Ms. Schwartz explained that today the Council will work to develop problem and goal statements to establish what you are dealing with and what you want to achieve. The Council will then discuss the current status of the problem and consider what is hindering development for state as a whole. This work will set up a summary of criteria and solutions that can be worked on after the planned June meetings.

Ms. Schwartz presented the following draft problem statement as a starting point for discussion, which reflected proposed edits received from some Council members prior to the meeting: Planning Water Resources for Texas as a whole is hindered by the varied and unique characteristics of different regions of the state, land use patterns and trends, the costs of such planning, and the many competing needs for the water.

Melanie Barnes (Region O) noted there is a component of this that goes back to existing rules and laws that govern how water is planned for and developed, for example regulations on interbasin transfers.

Mr. Walthour suggested that interstate cooperation needed to be added, noting that Region A will likely need to get water from outside the state in the future.

Mr. Ward stated that he had a problem with striking “deeply rooted instincts to protect each region’s water resources” from an originally developed problem statement and stated that parochialism did exist. Mr. Walthour agreed, noting that protectionism occurs at the state and interstate level, not just at the regional level.

Mark Evans (Region H) had requested the language on protectionism to be struck and suggested maybe the language could be reworked.

Ms. Barnes noted that regions may have a problem sharing resources because they may need the resource in the future. Mr. Ward said the way the resource was shared can be the source of the conflict. The problem statement was revised to add the following: the protective nature of regions and states over their natural resources.

Mr. Holcomb offered the addition of ownership of water supplies and impacts of water supply development, which was added to the problem statement.

Constraints of existing laws and rules was added to the problem statement to address the points offered by Ms. Barnes earlier in the discussion. Members then reviewed the below draft problem statement, which incorporated suggested changes proposed in Council discussion. Mr. Evans suggested specifying the legal constraints were specific to regional water planning. He added that could perhaps be addressed by including a broad statement at the beginning of the Council report to identify what the Council is charged with doing, including having regional water planning trying to solve the needs of the state as a whole.

Problem Statement: ***Planning Water Resources for Texas as a whole is hindered by the varied and unique characteristics of different regions of the state, land use patterns and trends, the costs of such***

Approved 6/22/20

planning, the protective nature of regions and states over their natural resources, the ownership of water supplies and the impacts of water development, constraints of existing laws and rules, and the many competing needs for the water.

Ms. Schwartz asked if there were any concerns about the problem statement as drafted. None were noted.

The Council then began to develop a goal statement on the topic of planning water resources for the state as a whole. Ms. Schwartz presented a draft goal statement derived from previous brainstorming by the Council and edits received by Council members, including Mr. Holcomb's suggestion to include long-term sustainability. The goal statement is to say what planning water resources for the state as a whole will look like if the Council solves the problem. The following draft goal statement was a starting point for discussion: Texas' water needs will be addressed cooperatively through innovative and multi-benefit projects that serve multiple areas of the state.

Mr. Walthour noted he liked the statement as written, noting cooperation is a good goal. Mr. Holcomb questioned the use of the word "cooperatively" given legal actions that have occurred in the state, but Mr. Walthour said the language as a goal was great. Ms. Schwartz asked members if they would like to do motions on accepting the problem and goal statements. Mr. Holcomb noted his preference for working with motions.

Mr. Ward suggested revising the goal statement to: Addressing Texas' water needs will best be addressed through cooperative development of innovative and multi-benefit projects that serve multiple areas of the state.

Patrick Brzozowski (Region P) asked what serving multiple areas of the state really means, given that the state is so large? Mr. Ward suggested changing the language to "benefit state as a whole." Mr. Holcomb and Mr. Brzozowski agreed, saying that regional water planning was established to benefit the state as a whole rather than any specific region.

Ms. Barnes asked for clarification as to whether multi-benefit projects meant providing for water supply, flood control, water quality, etc.? Several Council members agreed that was the meaning of multi-benefit.

Mr. Brzozowski made a motion to approve the below goal statement. Mr. Walthour seconded the motion. ***Texas' water needs will best be addressed through cooperative development of innovative and multi-benefit projects that benefit the state as a whole.***

Mr. Buck asked if the Council be able to make changes in the future once a vote had occurred on a motion. Mr. Evans offered that these topics can be reconsidered if needed and changed with future motions. **Returning to the motion, the Council unanimously approved the goal statement.**

Returning to the problem statement on the topic, Mr. Holcomb made a motion to approve the problem statement for Planning Water Resources for the State as a Whole. Ms. Barnes seconded the motion. **The Council unanimously approved the problem statement.**

Ms. Schwartz then asked members to consider how they might evaluate any solutions they develop and what criteria could be used to score or rank their proposed solutions. Ms. Schwartz offered the following

four criteria that had been developed based on what she heard from members in previous meetings as a starting point.

Criteria for Planning Water Resources for the State as a Whole

- Council can accomplish by Fall 2020
- Council can accomplish into Spring 2021
- For next council to consider
- Legislation/legislative mandate

Mr. Holcomb asked if they would be using one set of criteria to evaluate solutions for all topics or just for planning water resources for the state as a whole? Ms. Schwartz suggested that criteria would be developed for each topic, but asked members for their feedback on the process. Mr. Holcomb suggested that given timeline, it might be better to go with general criteria that can be used for all topics, and then future councils can build upon what this Council accomplishes.

Mr. Evans suggested the Council focus on the legislation/legislative mandate. Ms. Schwarz asked members to consider how they will compare and evaluate among what might be a large number of possible solutions to achieve the legislative charge. She offered several additional examples for consideration: ease of operation and who is available to implement the solution. Ms. Schwartz noted the purpose of the criteria is to agree upfront about what is important for solutions to be judged against. Mr. Evans suggested that it is the Council's job to evaluate the solutions regardless and the focal point should be what the Council is mandated to accomplish.

Mr. Holcomb referenced the three directives from House Bill 807 and the additional requests from Rep. Larson, stating that those don't supersede the law but are additional goals for the Council to accomplish.

Ms. Barnes reviewed the overarching goal of the House Bill 807 requirements and the proposed criteria are more to assess the feasibility of a possible timeline. Solutions should be assessed against how they match what the Council has been asked to do and then categorize solutions on how quickly those solutions can be achieved. Ms. Schwartz offered several additional examples to consider as criteria: cost effectiveness, does it meet the goal statement under planning water resources? She noted that it sounds like the Council may not be interested in developing these types of criteria at this point.

Members then discussed their charge of planning for water resources for the state as a whole. Ms. Barnes asked if the Council was supposed to develop a process of how the regional water planning process can identify water resources and water management strategies for the state as a whole rather than identifying specific water resources to share or specific water management strategies.

Mr. Holcomb offered it is the job of the Council to develop a protocol for others to then follow at a much more granular level. He stated that the Council's job is to solve the problem of having interregional conflicts. That the Council can solve that problem by doing what the Legislature has mandated – improve coordination, facilitate dialogue and share best practices. From there, the Council should develop solutions to the problem which are the four topics the Council has been working through. Developing criteria helps to see if the solutions identified actually do what they are supposed to do; and the next step is implementation.

Approved 6/22/20

Discussion then moved toward interregional conflicts and how RWPGs and consultants could coordinate and work through conflict and if remaining interregional conflicts are then to be brought to the Council to work out conflict.

Mr. Holcomb asked if the four discussion topics:

- planning water resources for the state as a whole,
- enhancing interregional coordination,
- dealing with interregional conflict, and
- general best practices for future planning

address the three legislative mandates given to the Council:

- improve coordination,
- facilitate dialogue, and
- share best practices.

Ms. Schwartz reminded that the initial brainstorming of issues at the Council's first meeting was guided by the legislative mandates (above) and the subsequent prioritized requests from Rep. Larson to:

- review and make recommendations regarding any identified interregional conflicts,
- review the viability and justification of projects included in the State Water Plan; make recommendations on how to encourage the inclusion of alternative, including innovative strategies such as aquifer storage and recovery and desalination; and
- provide an outline of a plan to facilitate better interregional coordination in the future.

Those identified issues were then grouped into the four topics the group has been developing problem statements for. However, the Council will want to touch base on those mandates being addressed as they work through their discussion topics. To illustrate, Ms. Schwartz showed members the list of possible solutions that had been brainstormed by Council members which were grouped under the topic of Planning Water Resources for the State as a Whole. She noted that these solutions likely address Council legislative mandates and additional prioritized requests from Rep. Larson.

Mr. Holcomb agreed but asked if the topic Planning Water Resources for the State as a Whole addresses improving coordination, facilitating dialogue and/or sharing best practices? Mr. Evans clarified that there is the language of the bill that a report be developed and in the Council's purpose there are three legislative mandates, but the topics to address per Rep. Larson's letter would fulfill the legislative mandates of the Council. Mr. Holcomb interpreted Rep. Larson's requests as needing to address each of the three legislative mandates for each of the issues prioritized by Rep. Larson.

Ms. Barnes reminded that the May issues document, which were grouped into the four discussion topics for the Council, included each of Rep. Larson's requests. Ms. Schwartz is confident the four discussion topics address the Council mandates and Rep. Larson's prioritized issues but offered to go back and highlight those issues.

David Wheelock (Region K) stated one way to proceed would be to identify the water management strategies that serve multiple planning areas and then facilitate dialogue about those strategies. Conversely, the Council could have a high-level dialogue about statewide water issues without looking at specific strategies. That is the procedural question. Ms. Schwartz asked if the members needed clarification from Rep. Larson. Additional clarification was not requested. Mr. Ward stated that Rep. Larson's letter simply clarified what he was trying to get at when he wrote the bill and his prioritized

issues aren't out of the bounds of the legislation. He stated the Council has a good start and next needs to identify the process of how to get at planning water resources for the state as a whole (who does it and how.)

Ms. Schwartz asked members if they would like to continue developing criteria on planning water resources or move on to a problem statement for enhancing interregional coordination with their remaining time. Mr. Ward suggested re-ordering the criteria to have legislation/legislative mandate as the umbrella first criteria. Members then agreed to move to agenda item 4. No action was taken by the Council on criteria on this topic.

4. Consideration of Ways to Enhance Interregional Coordination

Ms. Schwartz introduced the following draft problem statement, based upon prior Council brainstorming, on the topic: Ways to Enhance Interregional Coordination.

Problem statement – Regions may not be coordinating effectively throughout the state. Coordination requirements are not fully formalized, coordination roles of consultants and liaisons are not fully specified, and regions are not always coordinative early enough in the process.

Ms. Barnes asked how important is the problem statement? Is it just a guide for Council discussion? Ms. Schwartz clarified that the purpose of the problem statement is to articulate what the Council sees as the problem to solve.

Mr. Holcomb acknowledged that in Region I, members pride themselves on being conflict free, noting it would be nice to acknowledge that interregional conflicts are few, rare, and difficult when they occur (and thus why the Council is charged with the issue.) He stated that the regional water planning process has done a good job thus far. Ms. Barnes agreed that conflict is not a severe problem but hasn't been involved in a planning conflict so not aware what needs to be addressed beyond the process that exists. Mr. Nelson noted that there is a process for dealing with interregional conflict. Information on this process is under Resources on the Council webpage. Ms. Schwartz reminded members that there is another topic specifically for dealing with interregional conflicts; Enhancing Interregional Coordination is the topic for how to proactively work together to avoid conflict in planning for water resources.

Mr. Holcomb suggested that "Regions may not be coordinating effectively" may not be accurate since there is a low occurrence of interregional conflict, and it is important to acknowledge that is a positive in the regional water planning process. Mr. Wheelock agreed and suggested revising the problem statement. Having "throughout the state" suggests something bigger than coordinating on a regional level and is a hard concept for a regional water planning group to deal with.

The problem statement was revised to: Although there have been few interregional conflicts, regions may not be coordinating effectively in creating regional water plans that comprise the state water plan. Coordination requirements are not fully formalized, coordination roles of consultants and liaisons are not fully specified, and regions are not always coordinative early enough in the process.

Mr. Ward suggested the statement is missing enhancing interregional coordination, which is needed to head off interregional conflict; that shouldn't be missed and it the requires Council to look at the interregional conflict process itself. The current formalized process addresses conflicts at the end of plan development and there is more than one place in the planning process to address potential interregional conflicts. Mr. Ward discussed how there is a "hall pass" on conflict identification right now

because the regional plans won't be approved until later in 2020 and that the Council should review the past interregional conflicts to determine how the planning process could address potential interregional conflicts earlier than in the final stages of planning and having interregional projects vetted at the appropriate level of government.

Ms. Barnes suggested there may not be a problem with the interregional conflict resolution process, except that it may occur too late in the process (after submittal of the draft plans). She suggested the problem statement for enhancing interregional coordination is that potential interregional conflicts are not addressed early enough as plans are being developed, but only after plans are already developed and water resources have been planned. Mr. Ward noted he has been through the interregional conflict process, doesn't necessarily agree with it, and there is no law that identifies what an interregional conflict is - that is a problem.

Due to limited time remaining, Ms. Schwartz suggested the topic be reconsidered at the next meeting. Mr. Evans requested that the problem statement include that the state water plan is a compilation of the regional water plans. She will work on the problem statement and then bring a revised statement for the council to consider.

Mr. Wheelock suggested prioritizing interregional conflict more in Council discussion based on what he has heard from Rep. Larson. The Council should consider how to address territorialism to incentivize multiregional projects rather than just avoiding interregional conflict. Mr. Brzowski noted interest from the Representative to move water from areas with water to those without, no matter the distance. Mr. Holcomb noted there are many issues with that including ownership and cost and suggested having a section in the Council report to discuss issues that require legislative action.

Gail Peek (Region G) submitted the Council might want to consider how solutions are implemented expeditiously and cost-effectively.

6. Discussion of Next Steps

The Council discussed the agenda for their next meeting, which is scheduled for 1:00 p.m. on June 22, 2020. Mr. Evans requested adding consideration of election of a Chair and Vice-Chair following the first public comment agenda item. Mr. Ward asked for an item of "Other Business" to bring up discussion without action. Ms. Schwartz asked for volunteers to give input on the June 29 agenda and Mr. Holcomb suggested waiting to see if a Chair and Vice-Chair were elected and defer such advisement. It was noted that Suzanne Scott (Region L) had suggested the Council consider working in committees after their June meetings. Ms. Schwartz said she will reach out to members to touch base on the June 22, 2020 agenda and asked members to send her feedback.

7. Public Comment - No public comments were offered.

8. Adjourn – Mr. Holcomb motioned adjournment; Mr. Brzowski seconded the motion. The meeting adjourned at approximately 3:00 p.m.