

# 2

## Policy recommendations

- Legislative recommendation 1:  
Unique stream segment designation
- Legislative recommendation 2:  
Unique reservoir site designation



The state water plan, as formally adopted by the Board, serves as a guide to state water policy and includes legislative recommendations and may include policy statements on various issues related to water planning and implementation.

By statute, the Board must consider making recommendations that it believes are needed and desirable to facilitate voluntary water transfers and to identify river and stream segments of unique ecological value and sites of unique value for reservoir construction. No recommendations regarding voluntary water transfers are included in this plan.

The TWDB based the recommendations for this plan largely on recommendations contained in the 2021 regional water plans.

Regional water planning groups made several regulatory, administrative, and legislative recommendations<sup>5</sup> in the adopted regional water plans to

- facilitate the orderly development, management, and conservation of water resources;
- facilitate preparation for and response to drought conditions so 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 areas.

Along with general policy and statutory recommendations, planning groups also made recommendations in the 2021 regional water plans for designating river and stream segments of unique ecological value and unique sites for reservoir construction; however, the Texas Legislature is responsible for making the official designations of these sites.

<sup>5</sup> Available at [www.twdb.texas.gov/waterplanning/rwp/plans/2021/index.asp](http://www.twdb.texas.gov/waterplanning/rwp/plans/2021/index.asp)

Planning groups may recommend designating all or parts of river and stream segments of unique ecological value located within their planning areas. These recommendations are based upon several criteria:

- biological function
- hydrologic function
- riparian conservation areas
- high water quality
- exceptional aquatic life
- high aesthetic value
- threatened or endangered species/unique communities

The recommendations include physical descriptions of the stream segments, maps, and other supporting documentation. The planning groups coordinate each recommendation with the Texas Parks and Wildlife Department and include, when available, the Department's evaluation of the river or stream segment in their final plans.

A planning group may also recommend a site as unique for reservoir construction based upon several criteria:

- site-specific reservoir development is recommended as a specific water management strategy or in an alternative long-term scenario in an adopted regional water plan
- location; hydrology; geology; topography; water availability; water quality; environmental, cultural, and current development characteristics; or other pertinent factors make the site uniquely suited for: (a) reservoir development to provide water supply for the current planning period; or (b) to meet needs beyond the 50-year planning period

Based on planning groups' recommendations and other policy considerations, the TWDB makes the following recommendations.

## Legislative recommendation 1: Unique stream segment designation

*The legislature should designate the five river or stream segments of unique ecological value recommended by the 2021 regional water plans (Alamito Creek, Black Cypress Bayou, Black Cypress Creek, Pecan Bayou, and Terlingua Creek) for protection under Texas Water Code § 16.051(f).*

### Summary of the recommendation

Pursuant to Texas Water Code § 16.051(e) and § 16.053(e)(6), state and regional water plans shall identify river and stream segments of unique ecological value that they recommend for protection. By statute, this designation solely means that a state agency or political subdivision of the state may not finance the construction of a reservoir in a specific river or stream segment that the legislature has designated as having unique ecological value (§ 16.051[f]). It is up to the legislature to make such designations.

The recommendation is for the following five stream segments:

- **Alamito Creek** in Presidio County solely within the boundary of the 1,061-acre Trans Pecos Water Trust—approximately a 3.5-mile stream segment.
- **Black Cypress Bayou** in Marion and Cass counties from the confluence with Big Cypress Bayou in south central Marion County upstream to the confluence of Black Cypress Creek east of Avinger in southern Cass County.
- **Black Cypress Creek** in Cass and Morris counties from the confluence with Black Cypress Bayou east of Avinger in southern Cass County upstream to its headwaters located 4 miles northeast of Daingerfield in the eastern part of Morris County.
- **Pecan Bayou** in Red River County from 2 miles south of Woodland in northwestern Red River County east to the Red River, approximately 1 mile west of the eastern Bowie County line.

- **Terlingua Creek** in Brewster County solely within the boundary of Big Bend National Park—approximately a 5-mile stream segment. The reach of Terlingua Creek recommended as an ecologically unique stream segment is only that portion of the creek located within Big Bend National Park. This proposed unique segment is approximately 5 miles in length. Terlingua Creek transects Big Bend National Park from the confluence with the Rio Grande to the Big Bend National Park boundary located about 5 miles north of the river.

Senate Bill 3, passed by the 80th Texas Legislature, designated 19 stream segments recommended in the 2007 State Water Plan, and the 84th Texas Legislature designated an additional five segments from the 2012 State Water Plan with the passage of House Bill 1016. Some of these designated stream segments included multiple, separate reaches of the same stream (Figure 2-1).

## Legislative recommendation 2: Unique reservoir site designation

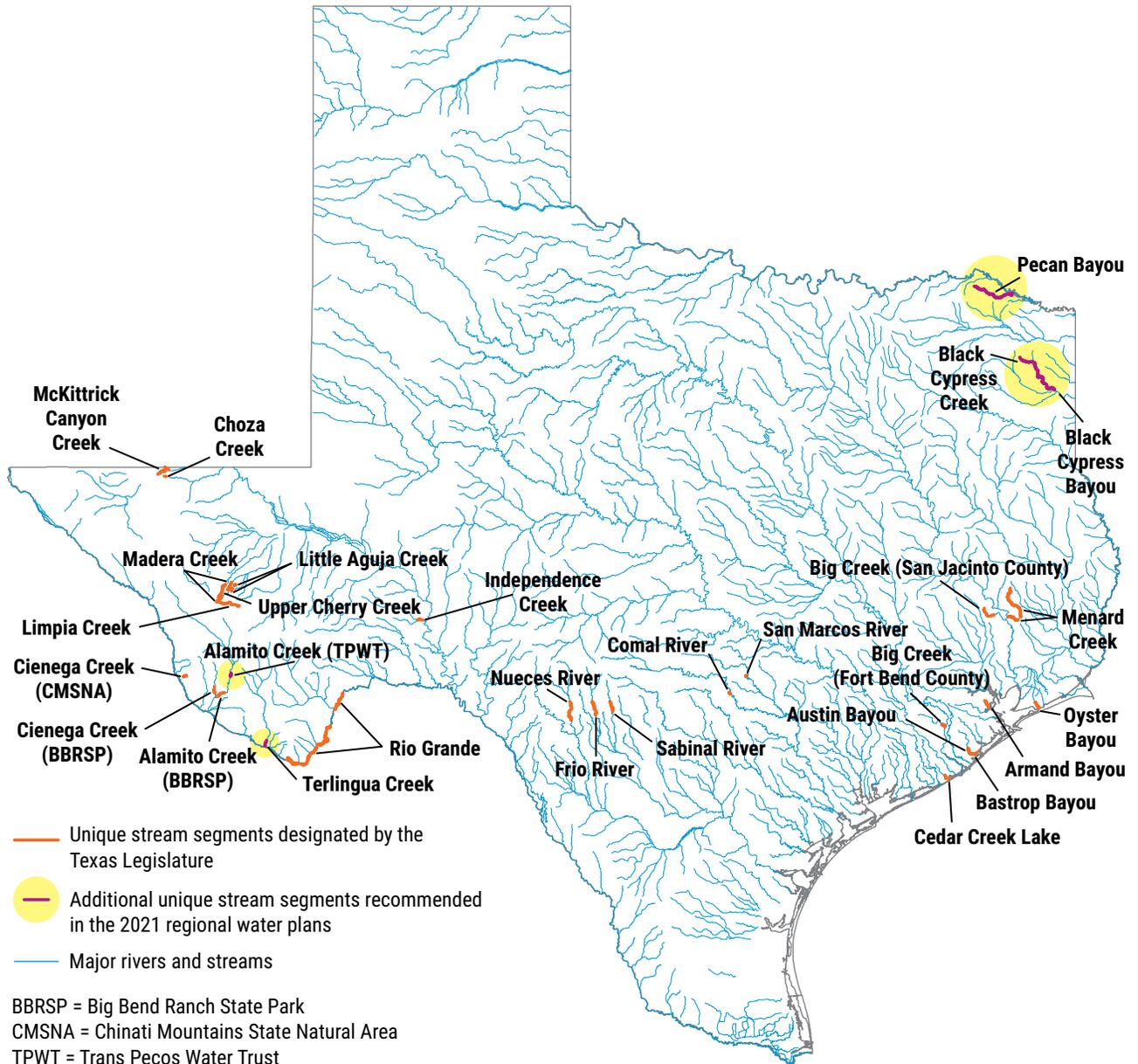
*The legislature should designate for protection under Texas Water Code § 16.051(g) three sites of unique value for constructing reservoirs as recommended in the 2021 regional water plans: Coryell County Off-Channel Reservoir, Millers Creek Off-Channel Reservoir, and Parkhouse II (North).*

### Summary of the recommendation

Pursuant to Texas Water Code § 16.051(e) and § 16.053(e)(6), the state and regional water plans shall identify sites of unique value for reservoir construction. This authority also relates to the state's general interest in reservoir development as codified in the Texas Constitution:

“It is hereby declared to be the policy of the State of Texas to encourage the optimum development of the limited number of feasible sites available for the

Figure 2-1. Unique stream segments previously designated by the Texas Legislature and additional recommended segments



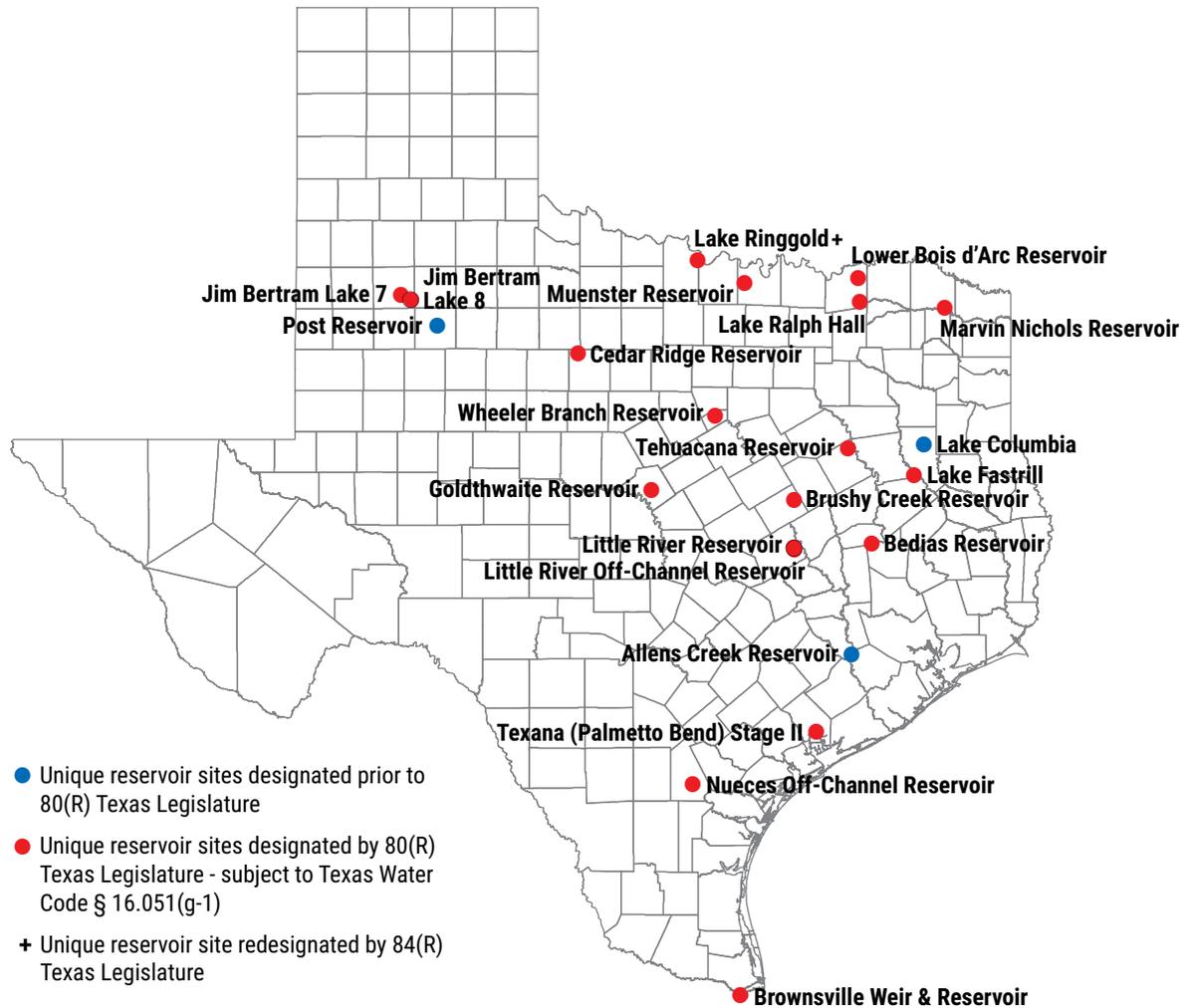
construction or enlargement of dams and reservoirs for conservation of the public waters of the state, which waters are held in trust for the use and benefit of the public, and to encourage the optimum regional development of systems built for the filtration, treatment, and transmission of water and wastewater.” – Article 3, Section 49-d(a)

for constructing a reservoir. By statute, once a reservoir site is designated for protection, a state agency or political subdivision of the state may not obtain a fee title or an easement that would significantly prevent the construction of a reservoir. Without such designation, actions by state or local government entities could compromise the viability of these sites for future reservoir development.

Texas Water Code § 16.051(g) gives the legislature authority to designate a site of unique value

Not all regions of Texas have access to the same types of water resources or in similar proportion.

Figure 2-2. Unique reservoir sites previously designated by the Texas Legislature



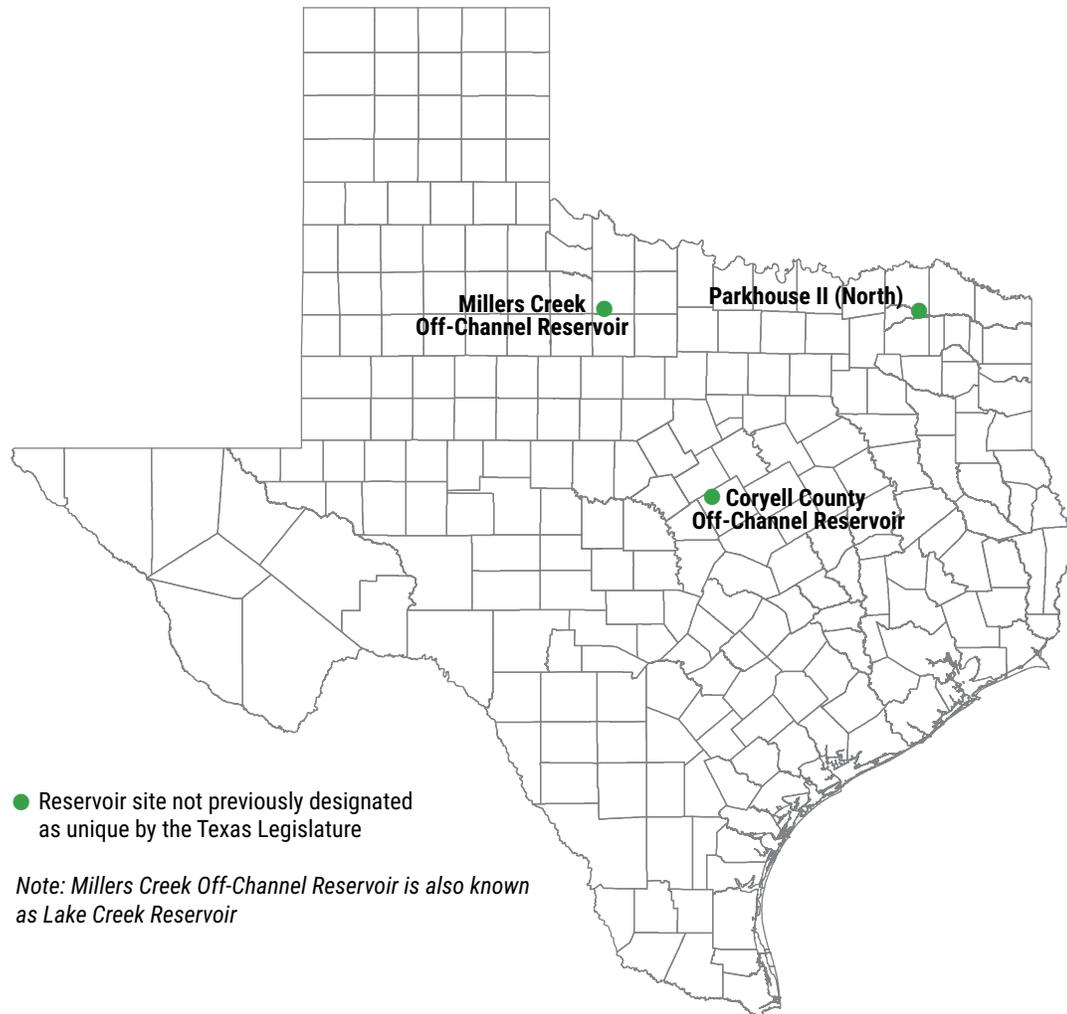
For many water users, development of reservoirs is an important means for providing large volumes of renewable, affordable water supply. As evidenced in the 2021 regional water plans and this state water plan, surface water resources, including the development of additional major reservoirs, will continue to play an essential role in Texas’ water plans throughout and beyond the current planning horizon.

Approximately 37 percent of all recommended water management strategy supplies in 2070 are associated with surface water, the majority of which is associated with existing and future reservoirs. Meeting a significant share of Texas’ future water needs by developing the most promising reservoir sites requires a stable, long-term commitment.

Designation of sites of unique value for reservoir construction by the Texas Legislature provides an important measure of protection for these sites for future development. While the legislature’s designation of unique sites does prevent some actions that could threaten the development of a reservoir, it does not guarantee protection of the sites, for example, against federal actions.

Prior to the 80th Texas Legislature, three unique reservoir sites had been previously designated by the legislature: the 76th Texas Legislature designated Allens Creek Reservoir with the passage of Senate Bill 1593; the 77th Texas Legislature designated Post Reservoir in 2001 with House Bill 3096; and the 78th Texas Legislature designated Lake Columbia in 2003 with the passage of Senate Bill 1362 (Figure 2-2).

Figure 2-3. Reservoir sites recommended for designation as unique



With the passage of Senate Bill 3 in 2007, the 80th Texas Legislature designated an additional 19 reservoir sites with a provision whereby the designations would expire on September 1, 2015, “unless there is an affirmative vote by a proposed project sponsor to make expenditures necessary in order to construct or file applications for permits required in connection with the construction of the reservoir under federal or state law” (Texas Water Code § 16.051[g-1]). With the passage of House Bill 1042 in 2015, the 84th Texas Legislature re-designated the Lake Ringgold reservoir site as unique.

The Texas Legislature should consider designating the following three additional reservoir sites

for protection: Coryell County Off-Channel Reservoir, Millers Creek Off-Channel Reservoir, and Parkhouse II (North) (Figure 2-3). These reservoir sites were recommended for designation in the 2021 regional water plans and have never been previously designated by the legislature as having unique value for the construction of reservoirs. Another site, Turkey Peak Reservoir, is recommended for designation in the 2021 Region G Regional Water Plan; however, it is not recommended in the 2022 State Water Plan because the sponsor, Palo Pinto County Municipal Water District No. 1, requested that it not be recommended for designation due to the project already being in the development stage.