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AGENDA ITEM MEMO

BOARD MEETING DATE: August 21, 2025

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator

FROM: Breann Hunter, Assistant General Counsel

SUBJECT: Update on the interregional conflict between initially prepared regional water plans for planning regions C and D

ACTION REQUESTED

Briefing on the resolution reached by the authorized regional representatives related to the interregional conflict between initially prepared regional water plans for planning regions C and D. No action requested.

BACKGROUND

Following prior identified interregional conflicts and pursuant to the Ward Timber decision and resolution of such conflicts, the TWDB adopted rules in November 2015 to include a new definition for "interregional conflict." (31 Texas Administrative Code (TAC) §§ 357.10, 357.50, 357.51, 357.62, and 358.3). TWDB also adopted rule revisions in April 2022 that addressed recommendations from the Interregional Planning Council to improve interregional coordination processes (31 TAC §§ 357.12, 357.50.) This planning cycle to develop the 2026 regional water plans is the first time either of the processes defined in rule have been implemented.

At the June 26, 2025, meeting, the Board found an interregional conflict to exist between the 2026 initially prepared regional water plans for planning regions C and D and authorized the Executive Administrator to take steps to resolve the conflict (31 TAC § 357.62(a)). Immediately following that finding, the Executive Administrator sent a letter to the chairs of the Region C and D Regional Water Planning Groups requesting that their regions appoint up to four representatives authorized to negotiate on their behalf in mediation efforts that would end by July 31, 2025.

TWDB contracted with the Center for Public Policy Dispute Resolution with the University of Texas at Austin School of Law to conduct the mediation, the outcomes of which are described in full in the mediators' report included as Attachment 1. Designated

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Leading the state's efforts
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representatives met with mediators over the course of five days before reaching an agreement to resolve the conflict, as summarized and highlighted below:

Immediate changes to the content of the 2026 regional water plans:

- Keep the proposed Marvin Nichols Reservoir as a recommended water management strategy but change the online decade from 2060 to 2070; and
- Recommend conveyance from the existing Toledo Bend Reservoir as a water management strategy (rather than an alternative strategy as appeared in the Region C initially prepared plan).

Ongoing efforts during the development of the 2031 regional water plans:

- Seek funding from TWDB to conduct an independent comparison of the Marvin Nichols and Toledo Bend projects, to commence by March 2026, and complete by July 2027; and
- Support an independent study to address the potential benefits and impacts of Marvin Nichols and the anticipated associated mitigation land acquisition on the economic, agricultural, and natural resources of Regions C and D, including:
 - Seeking TWDB funding to initiate the study by March 2026, completed by July 2027, with equal cost-sharing not to exceed \$250,000 each if no state funding is available.
 - Establishing an interregional working group to cooperatively participate in interregional activities related to the independent study.
 - Incorporating results of the study in both regions' Technical Memoranda, the mid-point deliverable required by 31 TAC § 357.12(c), due to TWDB September 2028.

On August 4, 2025, the Executive Administrator notified Regions C and D that they should consider ratifying the mediated agreement as soon as possible and clarified that their final adopted plans, due to TWDB by October 20, 2025, should reflect the content of the mediated agreement in the public process descriptions of the conflict resolution process as well as the agreed-upon strategy modifications (Attachment 2).

KEY ISSUES

The mediated agreement specifies that Regions C and D will seek funding support from TWDB by March 2026 to pursue two separate studies to be concluded by July 2027.

The mediators' report identifies challenges and recommendations in the regional water planning process and timeline that merit further consideration. This conflict resolution process was the first conducted since the conflict rule revision in 2015 and the interregional coordination milestones were placed in rule in 2022. As noted in the report, there could be opportunities to improve outcomes of the regional water planning process that could be further explored, such as requiring focused facilitation with monitored deadlines or an earlier point in the planning cycle to identify projects outside of the planning area. Such process changes may require amendments to existing rules.

RECOMMENDATION

This item is for briefing and discussion only.

Attachments:

1. Mediator's Report: Facilitation of a Resolution for the Interregional Conflict Between the 2026 Initially Prepared plans for Regions C and D
2. Executive Administrator letter to regional water planning groups C and D

Attachment 1
Agreement Resolving the Declared Conflict
Between the Region C and Region D 2026 Initially Prepared Water Plans
(Text Only)

On June 26, 2025, the Texas Water Development Board (TWDB) found that an interregional conflict existed between the 2026 Region C and Region D Initially Prepared Plans and invited the regional water planning groups to engage in mediation to attempt to resolve the conflict.

On July 25, 28, 29, 30, and 31, 2025, the undersigned representatives of the regions met in mediation and discussed the issues related to the current conflict in their regional water plans relating to the proposed Marvin Nichols Reservoir.

The undersigned representatives of Region C and Region D agree to resolve the conflict that the TWDB found between their Initially Prepared Plans as follows:

1. Region C will make Toledo Bend a Recommended Strategy (alongside Marvin Nichols Reservoir) so both can be explored.
 - a. Region C will advance the Marvin Nichols project to 2070 and include Toledo Bend as a recommended water management strategy in the current round of planning.
 - b. Region C will seek funding from TWDB to facilitate and conduct an “Apples-to-Apples” monetary and non-monetary comparison of the Marvin Nichols and Toledo Bend projects. Study is to be conducted by firm(s) that can provide a fresh assessment, commence by March 2026, and be completed by July 2027.
 - c. Neither Region will protest either regional plan; and, each Region’s board and board members will serve as representatives of this agreement, refraining from activities whose aim is to adversely impact the examination of the Marvin Nichols project prior to 2030. Members may continue to express their personal preferences and opinions regarding the proposed project but agree to honor the process outlined in this agreement.
 - d. No application for permitting would occur for Marvin Nichols prior to 2030.
2. Regions C and D will support an independent study to address the potential benefits and impacts of Marvin Nichols and the anticipated associated mitigation

**Agreement Resolving the Declared Conflict
Between the Region C and Region D 2026 Initially Prepared Water Plans
(Text Only)**

land acquisition on the economic, agricultural, and natural resources of Regions C and D.

- a. Regions C and D will jointly pursue immediate funding through TWDB with the intent to initiate the study no later than March 2026. The study must be completed by July 2027. Should state resources not be allocated, Regions C and D would work to advance this study and agree to equally share the costs of the study (not to exceed \$250,000 each, unless subsequently agreed upon).
 - b. Regions C and D will each identify up to 5 members to participate in an interregional working group to cooperatively participate in interregional activities related to the independent study and seek opportunities to jointly communicate about the study scoping, progress, and conclusions.
 - c. The study will include consideration of economic, agricultural, and natural resource impacts in Regions C and D, including monetary and non-monetary factors, such as: water affordability, private property rights, community impacts; mitigation land scenarios (including assessment of compensation strategies for impacted landowners and industries); and unexplored economic opportunities to Region D associated with Marvin Nichols implementation.
 - d. Results of the study should be included in the September 2028 Technical Memoranda along with acknowledgements from Regions C and D of their participation in the study scoping and selection of the contractor(s).
3. Regions C and D will jointly seek state financial support for alternatives to Marvin Nichols that are more costly, to resolve this ongoing conflict.
 4. Regions C and D will engage in a joint informational campaign to convey information considered in, and resulting from, this negotiated agreement, including: 1) a shared statement on the outcome of mediation and what is going into the Initially Prepared Plans as a result, and 2) mutually agreed upon facts

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from the Initially Prepared Plans that influenced the resolution of the
interregional conflict.

The undersigned representatives agree to transmit this agreement to the Texas Water Development Board and further agree (1) to seek ratification of this agreement by their respective regional water planning groups, and (2) to seek inclusion of the language relating to the terms of the agreement in their region's adopted 2026 regional water plans.



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August 4, 2025

Mr. Dan Buhman and Mr. Jim Thompson

Region C and D Chairs

Transmitted via email: dan.buhman@trwd.com, jimthompson@wardtimber.com

cc: wardk@trinityra.org, longas@trinityra.org, kyledooley@rwr.org,
ashley.harden@twdb.texas.gov, temple.mckinnon@twdb.texas.gov

Re: Mediated Resolution of Interregional Conflict and steps to complete the 2026 Regional Water Plans for Regions C and D

Dear Mr. Buhman and Mr. Thompson,

Firstly, I congratulate you both on reaching agreement for your planning groups and thank you for your efforts towards this outcome. Given the signed agreement submitted to me by the mediator (Attachment), I want to make clear the next steps required for developing Board-approvable regional water plans:

- Regions C and D planning groups should both consider ratifying the agreement that has been submitted to the TWDB as soon as possible.
- Each Region should include documentation of this conflict resolution in the public participation information (Chapter 10) of their final adopted regional water plans.
- Each Region should modify their final regional plans in line with the mediation agreement and applicable rules and submit the final Regional Plans to the TWDB by October 20, 2025.

I will present this signed agreement to my Board at the first opportunity and, following that Board meeting, my staff will work to get you further information regarding the elements of your agreement that extend beyond the immediate completion of your regional water plans. If you have any questions, please contact Temple McKinnon, Director of Water Supply Planning, at temple.mckinnon@twdb.texas.gov.

Regards,

Bryan McMath Digitally signed by Bryan McMath
Date: 2025.08.04 16:08:33 -05'00'

Bryan McMath
Executive Administrator

Attachment

Our Mission	:	Board Members
Leading the state's efforts	:	L'Oreal Stepney, P.E., Chairwoman Tonya R. Miller, Board Member
in ensuring a secure	:	
water future for Texas	:	Bryan McMath, Executive Administrator