



P.O. Box 13231, 1700 N. Congress Ave.  
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Phone (512) 463-7847, Fax (512) 475-2053

## AGENDA ITEM MEMO

**BOARD MEETING DATE:** September 18, 2025

**TO:** Board Members

**THROUGH:** Bryan McMath, Executive Administrator

**FROM:** Kendal Kowal, Assistant General Counsel

**SUBJECT:** Resolution of the interregional conflict between initially prepared regional water plans for planning regions C and D

### **ACTION REQUESTED**

Consider acknowledging the resolution reached by the regional representatives and consider determining the conflict to be resolved, concluding the matter before the Board.

### **BACKGROUND**

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)).

TWDB contracted with the Center for Public Policy Dispute Resolution with the University of Texas at Austin School of Law to conduct the mediation. Designated representatives met with mediators over the course of five days before reaching an agreement to resolve the conflict.

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).

On August 13, 2025, the Region D Regional Water Planning Group ratified the mediation agreement. On September 5, 2025, the Region C Regional Water Planning Group ratified the mediation agreement.

A more complete description of the series of events and the contents of the mediated agreement was presented to the Board at the August 21, 2025 Board Meeting.

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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

**KEY ISSUES**

Texas Water Code § 16.053(h)(6) states that “the board shall facilitate coordination between the involved regions to resolve the conflict.” The statute and rules go on to provide details on how to resolve the conflict.

The Region C and Region D Regional Water Planning Groups have now resolved the interregional conflict and the key steps in the interregional conflict process, as dictated by statute and rule, have been completed. Therefore, the conflict has come to a resolution and the matter can be closed before the Board.

**RECOMMENDATION**

Acknowledge the resolution reached by the representatives from the regional water planning groups and determine that the conflict is resolved, thereby concluding the matter before the Board.

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  
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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

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

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](mailto:dan.buhman@trwd.com), [jimthompson@wardtimber.com](mailto:jimthompson@wardtimber.com)

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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](mailto: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

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Leading the state's efforts  
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Bryan McMath, Executive Administrator