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AGENDA ITEM MEMO

BOARD MEETING DATE: October 1, 2026

TO: Board Members

THROUGH: Bryan McMath, Executive Administrator
Ashley Harden, General Counsel
Matt Nelson, Deputy Executive Administrator, Office of Planning

FROM: Kendal Kowal, Assistant General Counsel

SUBJECT: Petition for Rulemaking Related to Water Supply Analysis in Regional Water Planning

ACTION REQUESTED

Consider acting on a petition for rulemaking related to Water Supply Analysis in Regional Water Planning.

BACKGROUND

The Administrative Procedures Act (APA) states that an “interested person by petition to a state agency may request the adoption of a rule.” Tex. Gov’t Code § 2001.021. Each state agency must adopt a rule to provide for the process. The Texas Water Development Board (TWDB) has adopted 31 Texas Administrative Code (TAC) § 353.58, which requires the interested person to submit the petition in writing to the Executive Administrator. The petition must include the name and address of the petitioner, a brief explanation of the proposed rule, the text of the proposed rule, justification for adoption of the proposed rule, a statement of the statutory authority under which the rule is to be adopted, and an allegation of injury or inequity which could result from the failure to adopt the proposed rule. Within 60 days after the Executive Administrator receives the petition, the Board must consider the petition at a Board Meeting and deny the petition or initiate the proposed rulemaking.

On August 18, 2026, Robert Fritz Achgill (Petitioner) submitted a formal filing of a petition for rulemaking with the Executive Administrator that met all requirements of the APA and 31 TAC § 353.58 (Attachment).

KEY ISSUES

Petitioner submitted a petition for rulemaking requesting the TWDB adopt several amendments to the regional water planning rules located in 31 TAC § 357.32, related to Water Supply Analysis. The proposed changes would mandate life-cycle thermoelectric

Our Mission

Leading the state’s efforts
in ensuring a secure
water future for Texas

Board Members

L’Oreal Stepney, P.E., Chairwoman | W. Brady Franks, Board Member | Ashley Morgan, Board Member
Bryan McMath, Executive Administrator

water accounting; enforce full seawater desalination replacement valuation (\$28.26 per 1,000 gallons) for the Electric Reliability Council of Texas (ERCOT) 474+ GW data center queue; create a “Texas Industrial Water Mitigation Fund,” a SWIFT Seawater Desalination Sub-Account, and a Rural Landowner & Agricultural Well Mitigation Grant Fund; and establish grassroots citizen-controlled governance over all mitigation funds, as fully detailed in the Petition (Attachment).

The proposed rule changes would require all regional water planning groups (planning groups) to evaluate and report on the total life-cycle offsite thermoelectric water footprint for high-density compute, data center, and direct or indirect thermal management facilities with a connected electrical demand exceeding 10 megawatts, including those currently queued in the ERCOT interconnection pipeline. Additionally, Petitioner proposes requiring planning groups to calculate the total net regional water consumption of certain facilities by aggregating the “IT Compute Load Footprint,” “Onsite/Offsite Cooling Load Footprint,” and “Generation & Line-Loss Inefficiency Penalty.” The proposed rules would also mandate that planning groups designate coastal seawater desalination as the sole allowable water source for industrial data center grid loads.

The Petition proposes creating a “Texas Industrial Water Mitigation Fund” to be allocated by a “grassroots citizen jury” to groundwater conservation districts, a newly-created SWIFT Seawater Desalination Sub-Account, and a newly-created Rural Landowner & Agricultural Well Mitigation Grant Fund. The Petition’s proposed rules would also prohibit planning groups from designating any facility as a “zero-water,” “low-impact,” or “waterless” user in regional water plans if its continuous electrical demand induces offsite power plant evaporative water consumption.

The Executive Administrator recommends denying the petition for rulemaking for the following reasons, as detailed further below: (1) the TWDB is already working on developing updated manufacturing sector methodologies to incorporate more information and improved methods to support water demand projections associated with large-load digital infrastructure that will be used for the next regional planning cycle; (2) the Petition proposes changes that are outside the scope of the existing applicable statutes and the TWDB’s and planning groups’ authorities; and (3) the Petition proposes requirements utilizing information that the planning groups do not have access to, expertise the planning groups do not have, and work the planning groups do not have the resources to conduct.

First, while the petition raises legitimate concerns about water use of large-load digital infrastructure, the TWDB is already enhancing its data collection and analysis efforts to address future demand projections of high-load digital infrastructure water demands for future state water planning cycles. As this sector grows, this water use category will report and fall more comprehensively within TWDB’s manufacturing water use projections largely because of direct use reporting. The TWDB plans to specifically project for a separate sub-category within manufacturing representing large-load digital infrastructure. This process will be ready to incorporate into the demand projections for development of the 2031 regional water plans. TWDB anticipates releasing draft non-municipal projections to the planning groups for their review in 2027.

Additionally, the TWDB is evaluating updates to its power generation water-use methodology to ensure that water demand associated with data center facilities is appropriately reflected in power-sector water demand projections. TWDB anticipates receiving data on these facilities from ERCOT to analyze how the agency and planning groups may use that information to inform the projections.

The TWDB develops draft demand projections utilizing a broad set of data sources, including, but not limited to, self-reported water use data from surveyed industrial facilities, published peer-reviewed research on sector water use, and federally developed data sets. During a review period, planning groups provide locally available information such as evidence of new or existing facilities not included in TWDB's Water Use Survey, plans for new construction or expansion of facilities, or evidence of errors in reported historical water use.

Second, the Petition proposes changes that are statutory in nature, proposes to impose requirements on planning groups and others involved in the regional water planning process that are outside the scope of the applicable statutes, and proposes to impose requirements that are regulatory, when the TWDB and planning groups are non-regulatory entities that lack enforcement authority. The suggested language related to seawater desalination replacement-cost valuation is not appropriate for TWDB rules related to regional water planning. The regional water planning process is not regulatory in nature and follows a bottom-up approach where the TWDB and planning groups do not dictate the strategy types or water sources allowed and do not attempt to impose preset costs. This proposed requirement is outside of the scope of the statute and TWDB and planning groups' authority and is contrary to the bottom-up approach of regional water planning. Additionally, placing a value on water within rules is not appropriate. The value of water, even for a sole type of water, varies widely across the state and is constantly changing based on new technologies and other factors. The planning groups would not have the resources to keep up with this information and calculate it.

The proposed rule changes related to citizen-controlled mitigation revenue allocation and grassroots citizen jury approval and local voter referendum safeguards would require statutory changes, not changes in rule. Creating a new fund and requirements for allocating that fund must be done through statute, not rule. Additionally, adding a new subaccount to SWIFT would require statutory changes to the SWIFT statute. This request is more appropriate for the Texas Legislature, rather than the TWDB.

Lastly, the Petition proposes requirements utilizing information that the planning groups do not have access to, expertise they do not have, and technical work they do not have the resources to conduct. The planning groups have very limited resources and require volunteer time and effort. The planning groups do not have access to information on which facilities have a connected electrical demand exceeding 10 megawatts; which facilities use air-cooled, dry-cooling, or closed-loop thermal management systems; the electrical power required to run these facilities; or other related information necessary to meet the proposed requirements in the Petition. Further, they do not have the resources or expertise necessary to conduct the highly specific technical work proposed in the Petition that, in addition, falls outside of the existing and more straightforward technical and planning requirements necessary to develop regional and state water plans.

Although the Executive Administrator recommends denying the petition for rulemaking, the agency has already begun actual work that will address some of the issues related to the requests in the Petition. The other requests are outside the scope of the TWDB and planning groups' authority and the applicable statutes.

RECOMMENDATION

The Executive Administrator recommends denying the petition for rulemaking submitted by Petitioner in accordance with Tex. Gov't Code § 2001.021 and 31 TAC § 353.58.

Attachment:

1. Petition for Rulemaking

RECEIVED
AUG 18 2026
Texas Water Development Board

BEFORE THE TEXAS WATER
DEVELOPMENT BOARD

PETITION OF ROBERT FRITZ ACHGILL FOR ADOPTION OF
ADMINISTRATIVE RULES GOVERNING LIFE-CYCLE
THERMOELECTRIC WATER ACCOUNTING, SEAWATER
DESALINATION MANDATES FOR THE 474 GW DATA CENTER QUEUE,
AND CITIZEN-JURY CONTROLLED FUND DISTRIBUTION

§
§
§ IN RE: 31 TAC CHAPTER 357
§ (REGIONAL WATER PLANNING
§ GUIDELINES)
§
§

PETITION FOR ADOPTION OF RULES

Pursuant to Tex. Gov't Code § 2001.021 and 31 TAC § 353.58

TO THE HONORABLE BOARD MEMBERS AND EXECUTIVE ADMINISTRATOR OF THE TEXAS WATER
DEVELOPMENT BOARD:

COMES NOW, **Robert Fritz Achgill** ("Petitioner"), pursuant to Texas Government Code § 2001.021 and 31 Texas Administrative Code § 353.58, and respectfully submits this Petition for Adoption of Rules to the Texas Water Development Board ("TWDB" or "Board"). Petitioner requests that the Board initiate formal rulemaking proceedings to amend 31 TAC Chapter 357 to mandate life-cycle thermoelectric water accounting, enforce full seawater desalination replacement valuation (\$28.26 per 1,000 gallons) for the ERCOT 474 GW data center queue, and establish grassroots citizen-controlled governance over all mitigation funds. In support thereof, Petitioner shows as follows:

I. PETITIONER INFORMATION

Petitioner Name: Robert Fritz Achgill

Mailing Address: 700 East 27th Street, Bryan, TX 77803

County of Residence: Brazos County, Texas

Telephone: +1-281-687-8131

Email Address: BobAchgill@hotmail.com

Campaign & Title: Candidate for Texas Governor | Campaign: *Don't mess with Texan's Water*

Official Website: www.HisHandsReader.org/Bob

Standing: Petitioner is a resident, voter, property owner, and interested person in Brazos County, State of Texas, pursuant to Tex. Gov't Code § 2001.021(d)(1).

II. STATEMENT OF STATUTORY AUTHORITY

This petition is submitted pursuant to Texas Government Code § 2001.021 and 31 TAC § 353.58. The TWDB possesses statutory authority to adopt the proposed rule amendments under Texas Water Code §§ 16.051 and 16.053, which mandate that the Board establish, maintain, and update regional and state water planning guidelines that accurately evaluate, forecast, and account for current and projected regional water demands, available water supplies, and long-term water resource management strategies.

III. EXPLANATION AND TEXT OF PROPOSED RULE AMENDMENT

Petitioner requests the amendment of 31 TAC Chapter 357 (Regional Water Planning Guidelines), Subchapter C (Regional Water Plan Requirements), § 357.32 (Water Demand Projections), by adding subsection (I) as set forth below (with proposed text indicated by underline):

31 TAC § 357.32(l) Life-Cycle Thermoelectric Water Accounting, Mandatory Seawater Desalination Replacement Valuation for Large Grid Loads, and Citizen-Controlled Mitigation Revenue Governance.

(1) Regional Water Planning Groups (RWPGs) shall independently evaluate, model, and report the total life-cycle offsite thermoelectric water footprint for all high-density compute, data center, and direct or indirect thermal management facilities with a connected electrical demand exceeding 10 megawatts, including all 474+ gigawatts (GW) of industrial load currently queued in the ERCOT interconnection pipeline.

(2) For facilities utilizing air-cooled, dry-cooling, or "closed-loop" thermal management systems claiming zero onsite water intake, RWPGs shall calculate total net regional water consumption by aggregating:

(A) IT Compute Load Footprint: The continuous electrical power (megawatt-hours) required to run servers, storage, and networking hardware multiplied by the average thermoelectric evaporative intensity of the regional power generation fleet;

(B) Onsite/Offsite Cooling Load Footprint: The continuous electrical power (megawatt-hours) required to operate facility chillers, high-static pressure fan arrays, and auxiliary pumps; and

(C) Generation & Line-Loss Inefficiency Penalty: An additional minimum 30% water-consumption penalty reflecting offsite power plant thermal heat-rate penalties and grid transmission line losses incurred when generating power for heavy inductive mechanical cooling loads.

(3) Seawater Desalination Replacement-Cost Valuation (\$28.26 / 1,000 Gallons):

(A) RWPGs shall calculate the economic valuation of total embedded water consumption (onsite extraction plus offsite power plant evaporation) using the full inland-delivered replacement cost benchmark for coastal seawater desalination under a 5-year accelerated commercial infrastructure amortization schedule (\$28.26 per 1,000 gallons / \$0.02826 per gallon / \$9,208 per acre-foot).

(B) Mandatory Ocean Source Finding: Because the aggregate water footprint of the 474 GW ERCOT data center queue (15.83 Billion Gallons per Day) exceeds the total freshwater consumption of the entire State of Texas combined, RWPGs shall explicitly designate coastal seawater desalination from the Gulf of Mexico as the SOLE allowable physical replacement source for industrial data center grid loads.

(4) Citizen-Controlled Mitigation Revenue Allocation (Excluding Political Appointees):

(A) All replacement mitigation fees collected shall be remitted to the "Texas Industrial Water Mitigation Fund" administered under direct grassroots citizen governance.

(B) Revenue collected from compute facilities or their supplying power generation plants shall be distributed strictly according to the following formula:

(i) 50% remitted directly to local Groundwater Conservation Districts (under precinct-elected local directors) for local aquifer recharge, non-potable piping, and direct monthly water bill credits for residential utility customers;

(ii) 35% deposited into the SWIFT Seawater Desalination Sub-Account dedicated exclusively to coastal reverse osmosis plant construction and inland conveyance pipelines; and

(iii) 15% allocated to the Rural Landowner & Agricultural Well Mitigation Grant Fund to compensate adjacent agricultural producers and domestic well owners for well-deepening, pump-lowering, and re-drilling costs induced by localized drawdown.

(5) Grassroots Citizen Jury Approval & Local Voter Referendum Safeguards:

(A) Citizen Jury Panels: No mitigation funds or SWIFT desalination grants shall be disbursed without prior binding approval by a 12-member Citizen Water Assembly, selected at random from regional voter registration rolls (on a jury-duty model), to audit bids and prevent political favoritism.

(B) Local Voter Referendum Trigger: No seawater desalination pipeline or infrastructure project exceeding \$10,000,000 shall be constructed through any Texas county without prior approval by a majority vote of registered voters in that county via a direct ballot referendum.

(6) Mandatory Classification: RWPGs shall not designate any facility as a "zero-water," "low-impact," or "waterless"

user in regional water plans if its continuous electrical demand induces offsite power plant evaporative water consumption.

IV. TECHNICAL, THERMODYNAMIC & PHYSICAL JUSTIFICATION

Current TWDB water planning guidelines create a severe structural accounting failure by logging air-cooled data centers as drawing "0.00 MGD" on state ledgers. This methodology measures water draw strictly at the facility intake meter while ignoring fundamental mass and energy conservation laws.

1. The 474 GW ERCOT Queue Reality: Inland Freshwater Collapse

According to official ERCOT interconnection filings, energy developers have queued **474 Gigawatts (474,000 MW)** of new power capacity requests across Texas, with approximately 90% representing high-density data centers. Thermodynamically, this 474 GW queue creates an unmanageable water footprint:

474 GW Data Center Queue = 15.83 Billion Gallons per Day (15,831.6 MGD)

Scale / Facility	Continuous Load (MW)	Daily Water Footprint (MGD)	Annual Water Loss (Gallons)	Daily Valuation (\$28.26/1k Gal)
Standard Data Center	100 MW	3.34 MGD	1.219 Billion Gal	\$94,388 / day
RELLIS Campus Cluster	1,000 MW (1 GW)	33.4 MGD	12.191 Billion Gal	\$943,884 / day
474 GW ERCOT QUEUE	474,000 MW	15,831.6 MGD (15.83 BGD)	5.778 Trillion Gal/Yr	\$447.4 Million / day

PHYSICAL IMPOSSIBILITY OF INLAND FRESHWATER EXTRACTION

Total freshwater consumption across the entire State of Texas (municipal, agricultural, manufacturing, and industrial combined) averages **~14 to 15 Million Acre-Feet per year** (~13.3 Billion Gallons per Day). The 474 GW data center queue requires **15.83 Billion Gallons per Day (17.73 Million Acre-Feet per Year)**—exceeding the entire state's existing freshwater consumption by over 118%. It is physically impossible to supply this volume from inland aquifers or rivers. **Seawater desalination from the Gulf of Mexico is the ONLY physically viable source.**

2. Engineering Justification for \$28.26 / 1,000 Gallons (\$0.02826 / Gal) 5-Year Payoff Rate

Requiring industrial users to pay off the capital debt of replacement water infrastructure over a 5-year commercial timeline rather than a 30-year municipal bond establishes the true marginal cost of rapid industrial expansion:

- **Capital Infrastructure Cost (\$35M per 1 MGD Capacity):** Building a coastal seawater reverse osmosis (SWRO) plant (\$15M–\$20M/MGD) and 100–150 miles of high-pressure inland pipeline, storage tanks, and booster stations (\$15M–\$25M/MGD) requires ~\$35,000,000 per 1 MGD capacity.
- **5-Year Amortization Payoff (6% Interest):** Amortizing \$35M/MGD over 5 years yields an annual capital cost of \$8,309,000/year—equating to **\$22.76 per 1,000 gallons (\$0.02276/gal)** in capital debt service.
- **Operational & Energy Pumping Overhead:** Plant gate reverse osmosis O&M (\$3.50–\$4.50/1k gal) plus continuous elevation pumping lift over 100+ miles (\$1.50–\$2.50/1k gal) adds **\$5.50 per 1,000 gallons (\$0.0055/gal)** in OpEx.
- **Total Delivered Replacement Cost:** \$22.76 (Capital) + \$5.50 (OpEx) = **\$28.26 per 1,000 gallons (\$0.02826 / gallon or \$9,208 / acre-foot).**

V. CITIZEN CONTROL VS. POLITICIAN MANAGEMENT

Current state water funds (such as SWIFT) are managed top-down by political appointees in Austin, leaving everyday Texans without a voice while corporate lobbyists secure state-backed infrastructure subsidies. This petition replaces politician control with direct democratic citizen governance:

THE THREE PILLARS OF GRASSROOTS CITIZEN CONTROL

1. **Randomly Selected Citizen Juries:** 12-member Citizen Water Assemblies chosen at random from voter registration rolls (exactly like jury duty) to audit project engineering, review bids, and cast binding votes on all mitigation disbursements.
2. **Direct County Voter Referendums:** No desalination pipeline or major infrastructure project can break ground in any Texas county without prior approval by a majority vote of local voters on a county ballot.
3. **Precinct-Elected Local GCD Directors:** Allocating 50% of mitigation revenues directly to local Groundwater Conservation Districts governed by directors elected precinct-by-precinct by local farmers and well-owners.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully prays that the Texas Water Development Board:

1. Place this Petition on the formal agenda of an open Board meeting within the 60-day statutory period prescribed by Texas Government Code § 2001.021(c);
2. Initiate formal administrative rulemaking proceedings in the *Texas Register* to adopt the proposed text of 31 TAC § 357.32(l); and
3. Grant such other and further relief, administrative or legal, to which Petitioner may be justly entitled.

RESPECTFULLY SUBMITTED this 12th day of August, 2026.

Robert Fritz Achgill

Robert Fritz Achgill, Petitioner, Pro Se

Candidate for Texas Governor | Campaign: *Don't mess with Texan's Water*

700 East 27th Street

Bryan, TX 77803

Tel: +1-281-687-8131 | Email: BobAchgill@hotmail.com

Website: www.HisHandsReader.org/Bob

NOTARY PUBLIC ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, on this day personally appeared **Robert Fritz Achgill**, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and swore under oath that all factual statements and thermodynamic calculations contained herein are true and correct.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of August, 2026.

Sovan Thou-Simba

Notary Public, State of Texas

Sovan Thou-Simba

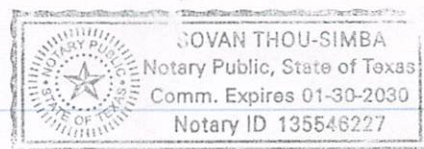


EXHIBIT A: OFFICIAL MEDIA PRESS RELEASE

[Attached to Formal Rulemaking Petition for Public & Legislative Record]

FOR IMMEDIATE RELEASE

MEDIA CONTACT: Robert Fritz Achgill, Candidate for Texas Governor

ORGANIZATION / CAMPAIGN: *Don't mess with Texan's Water*

PHONE: +1-281-687-8131 | **EMAIL:** BobAchgill@hotmail.com

WEBSITE: www.HisHandsReader.org/Bob

NEW STATE FILING DEMANDS BIG TECH PAY REAL COST OF TEXAS WATER: PETITION MANDATES SEAWATER DESALINATION & CITIZEN-JURY CONTROL FOR 474 GW DATA CENTER QUEUE

Formal Filing Under Tex. Gov't Code § 2001.021 Proves 474 GW Data Center Queue Requires More Water Than All of Texas Uses Combined — Demands \$28.26/1,000 Gal Seawater Fee Managed by Citizen Juries, Not Politicians.

AUSTIN, Texas — A formal administrative rulemaking petition filed with the Texas Water Development Board (TWDB) proposes a definitive solution to Texas' compounding water crisis: force Big Tech data centers to account for their offsite power plant water draw, value every gallon consumed at the **5-year accelerated replacement cost of inland seawater desalination (\$28.26 per 1,000 gallons / 2.83 cents per gallon)**, and place all mitigation funds under **direct grassroots citizen control**.

The filing, submitted under **Texas Government Code § 2001.021** by Texas Gubernatorial Candidate **Robert Fritz Achgill** (*Don't mess with Texan's Water* campaign), exposes the staggering physical scale of ERCOT's 474 Gigawatt (GW) interconnection queue. At 474 GW, the data center queue requires **15.83 Billion Gallons of Water per Day**—exceeding the total water consumption of the entire State of Texas combined (13.3 BGD). Inland aquifers physically cannot support this load; **seawater desalination from the Gulf of Mexico is the ONLY possible source**.

Citizen Control vs. Politician Management

The petition strips water funding authority away from Austin politicians and political appointees, establishing three strict citizen-control safeguards:

- **Randomly Selected Citizen Juries:** 12-member Citizen Water Assemblies chosen from local voter rolls (like jury duty) to audit bids and cast binding votes on all fund disbursements.
- **Mandatory County Voter Referendums:** No desalination plant or pipeline project can be built in any Texas county without prior approval by a majority vote of local voters on a direct ballot referendum.
- **Precinct-Elected GCD Directors & Citizen Utility Credits:** 50% of mitigation fees go directly to local groundwater districts for water recycling and direct monthly utility bill credits for residential ratepayers.

Voice of the Petitioner

"To run 474 gigawatts of data centers in Texas, where are you going to get enough desalinated water except from the ocean? The math is inescapable. At 15.8 billion gallons a day, Big Tech's queue requires more water than every city, farmer, and factory in Texas consumes combined. Draining our inland aquifers for AI servers is physically impossible."

My petition forces Big Tech to pay the full 5-year replacement cost of \$28.26 per thousand gallons to bring desalinated seawater inland. And most importantly, politicians in Austin don't get to touch a single dime of this money. All funds will be controlled by Citizen Juries selected just like a Texas jury, approved by local county voters, and paid out in direct credits to local ratepayers and farmers whose wells are drying up."

Statutory Deadline

Under **Tex. Gov't Code § 2001.021(c)**, the TWDB Executive Administrator has a strict **60-day statutory deadline** to either initiate formal rulemaking in the *Texas Register* or issue an official written denial on the public record detailing why the state refuses to enforce life-cycle water accounting on industrial data centers.

###

CERTIFICATE OF FILING

I hereby certify that on this 12 day of August, 2026, a true and correct original copy of the foregoing Petition for Adoption of Rules was delivered via USPS Certified Mail, Return Receipt Requested (Article No. _____), to:

Executive Administrator & Office of General Counsel
Texas Water Development Board
1700 N. Congress Avenue, Suite 610B
P.O. Box 13231
Austin, Texas 78711-3231

Executive Administrator & Office of General
Counsel
Texas Water Development Board
1700 N. Congress Avenue, Suite 610B
Austin, TX 78701