

TO: Board Members

FROM: Kevin Patteson, Executive Administrator

DATE: (Date To Be Determined)

SUBJECT: Resolution of the Interregional Conflict between the 2011 Region C and the Region D Regional Water Plans

ACTION REQUESTED

Resolve the interregional conflict between the 2011 Region C and Region D regional water plans by instructing the Region C Regional Water Planning Group to readopt its current regional water plan with Marvin Nichols Reservoir as a recommended water management strategy and instructing the Region D Regional Water Planning Group to amend its plan to reflect that the conflict has been resolved.

BACKGROUND

Region C Planning Area

The Region C Regional Water Planning Area (Region C) includes all or parts of 16 counties. Overlapping much of the upper portion of the Trinity River Basin, Region C also includes smaller parts of the Red, Brazos, Sulphur, and Sabine river basins. The Dallas-Fort Worth Metropolitan area is centrally located in the region, and its surrounding counties are among the fastest growing in the state. Major economic sectors in the region include service, trade, manufacturing, and government.¹

The population of Region C counties is expected to increase 96 percent by 2060 to 13 million people. The area contains approximately 26 percent of the Texas population. The 2011 Region C Plan estimates that by 2060 an additional 1.7 million acre-feet of water per year will be needed to serve the region’s population (a total 2060 demand of 3.3 million acre-feet of water per year). Conservation accounts for 12 percent of the projected 2060 volumes; reuse accounts for another 11 percent. Currently, the Marvin Nichols Reservoir (Marvin Nichols) is projected to provide 490,000 acre-feet per year, or 28 percent of the projected additional water needed.²

¹ Texas Water Development Board, *Water for Texas 2012 State Water Plan*, pg. 44.
² *Id.* at 46-50.

Region D Planning Area

The North East Texas Regional Planning Area (Region D) encompasses all or parts of 19 counties in the north-east corner of the state. Largely rural and characterized by numerous small communities and some medium-sized municipalities, the region includes the cities of Longview, Texarkana, and Greenville. The planning area overlaps large portions of the Red, Sulphur, Cypress, and Sabine river basins and smaller parts of the Trinity and Neches river basins. The main economic base in the North East Texas Region is agribusiness, including a variety of crops as well as cattle and poultry production. Timber, oil and gas, and mining are significant industries in the eastern portion of the region. In the western portion of the region, many residents are employed in the Dallas-Fort Worth metropolitan area.³

Approximately 3 percent of the state's population resides in Region D. By 2060, Region D's population is projected to grow 57 percent, to 1.2 million. The 2011 Region D Plan estimates that by 2060 an additional 278,000 acre-feet per year will be needed to serve the region's population (a total 2060 demand of 839,000 acre-feet of water per year). Because of high costs relative to the small amounts of water involved, the Region D Plan does not recommend conservation as a water management strategy. Select major water management strategies include increasing existing surface water contracts, or 60 percent of projected 2060 volumes, new surface water contracts for another 33 percent, and new groundwater supplies for 7 percent of projected 2060 volumes.⁴

Marvin Nichols Reservoir in the State Water Plan

Senate Bill 1 (SB 1) in 1997 created the current state water planning process.⁵ Before the implementation of SB 1, Marvin Nichols was recommended as a water management strategy in the 1968 State Water Plan, the 1984 State Water Plan, and the 1997 State Water Plan. Under SB 1, the first Region D Regional Water Plan in 2001 recommended that Marvin Nichols be developed to provide a source of future water supply for water users both within Region D and in Region C. The 2001 Plan was later amended to remove support for the development of Marvin Nichols, however. The 2006 Region D Regional Water Planning Group took the position that Marvin Nichols should not be included in any regional plan or in the State Water Plan as a water management strategy. Further, the Region D Regional Water Planning Group expressed the opinion that the inclusion of Marvin Nichols in the Region C Regional Water Plan constituted an interregional conflict.⁶ Following the policy established with the first series of water plans, the Texas Water Development Board (TWDB) approved both the Region C and Region D 2006 Regional Water Plans because it did not find an over-allocation of a source of supply—the TWDB's definition of an interregional conflict.

³ Texas Water Development Board, *Water for Texas 2012 State Water Plan*, pg. 50.

⁴ *Id.* at 52-54.

⁵ Tex. S.B. 1, 75th Leg., R.S., 1997 Tex. Gen. Laws 1010.

⁶ Copies of the previous regional and state water plans are available on the TWDB website, <http://www.twdb.texas.gov/waterplanning/rwp/plans/index.asp> and <http://www.twdb.texas.gov/waterplanning/swp/index.asp>.

In 2007, the 80th Legislature established a study commission on Region C Water Supply that consisted of members appointed by the regional water planning groups of Regions C and D.⁷ The Study Commission was charged with reviewing the water supply alternatives available to the Region C Regional Water Planning Area. But the Study Commission was unable to reach a consensus on its findings and recommendations, so a final report was not delivered to the 82nd Legislature.⁸

In 2011, the Region C Regional Water Planning Group again adopted Marvin Nichols as a recommended strategy and Region D reiterated concerns it had raised previously. Region D again expressed the opinion that including Marvin Nichols in the Region C Regional Water Plan constituted an interregional conflict. The TWDB approved the Region D Regional Water Plan in October 2010, and the Region C Regional Water Plan in December 2010, finding again that there was no over-allocation of supply sources. To date, Marvin Nichols has not been constructed and no permits for its development have been sought from the Texas Commission on Environmental Quality (TCEQ) or the U.S. Corps of Engineers.

The Ward Timber Case Procedural History

Private parties in Region D filed suit in District Court in Travis County in January 2012, seeking judicial review of the TWDB's decision approving the Region C Regional Water Plan.⁹ In its order issued on December 5, 2011, the District Court declared that an interregional conflict existed, reversed the TWDB's decisions approving the two regional plans, and remanded the case to the TWDB for resolution. The TWDB appealed. The 11th Court of Appeals heard the case and affirmed the district court's ruling on May 23, 2013.¹⁰ No further motions were filed.

The TWDB contracted for a mediator and arranged for a mediation between Region C and Region D members appointed by their respective regional planning groups. The mediator reported on December 17, 2013 that the parties did not reach agreement in the mediation. Thus, under the statute and the Court's Order, the TWDB is to resolve the conflict.

The core dispute between Region C and Region D is whether Marvin Nichols should be developed in the north-central part of Region D to serve the water needs in Region C. Region C already contains more than a quarter of the state's population and will increase by almost 100 percent by 2060. At 28 percent of the projected additional water needed for the Region, Marvin Nichols is a major water strategy to serve Region C by 2060.

Region D does not want Marvin Nichols constructed because it is concerned about the potential socioeconomic, environmental, and private property impacts of the reservoir. Estimated at 66 to 70 thousand acres in size, Marvin Nichols is projected to impound thousands of acres of forest

⁷ Tex. S.B. 3, § 4.04, 80th Leg., R.S., 2007 Tex. Gen. Laws 1430.

⁸ *Final Draft Report to the 82nd Legislature*, Study Commission on Region C Water Supply, December 2010. The Draft Report and other documents related to the work of the Study Commission are available on the TWDB website at <http://www.twdb.texas.gov/waterplanning/rwp/regions/C/studycommission.asp>.

⁹ *Ward Timber, Ltd.; Ward Timber Holdings; Shirley Shumake; Gary Cheatwood; Richard LeTourneau; and Pat Donelson v. Texas Water Development Board*, No. D-1-GN-11-000121 (126th Dist. Ct., Travis County, Tex., Dec. 5, 2011).

¹⁰ *Texas Water Dev. Bd. v. Ward Timber, Ltd.*, 411 S.W.3d 554 (Tex. App.—Eastland 2013, no pet.).

and wetlands. In addition, thousands more acres would be required for environmental mitigation—all for a project that does not serve and is not needed by the residents of the region.

ANALYSIS

What is a Conflict?

This is the first time the TWDB has been asked to resolve a conflict under the statute. As the 11th Court of Appeals noted, Section 16.053(a) of the Water Code requires that a regional plan provide for the development of water resources in preparation for and in response to drought conditions in order that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare; to further economic development; and to protect the agricultural and natural resources of that particular region.¹¹

Section 16.053(h)(7) provides that the TWDB may approve a regional plan only after it has determined that:

- (A) all interregional conflicts involving that regional water planning area have been resolved;
- (B) the plan includes water conservation practices and drought management measures incorporating, at a minimum, the provisions of Tex. Water Code §§ 11.1271 and 11.1272 (relating to water conservation and drought contingency plans); and
- (C) the plan is consistent with long-term protection of the state’s water resources, agricultural resources, and natural resources as embodied in the guidance principles adopted under Tex. Water Code § 16.051(d).

Section 16.0519(d) of the Water Code requires the TWDB to adopt guidance principles for the state water plan that reflect the public interest of the entire state. The guidance principles must give due consideration to the construction and improvement of surface water resources and the application of principles that result in voluntary redistribution of water resources.

Both the Plaintiffs/Appellees in the *Ward Timber* case and the 11th Court of Appeals discussed resolution of an interregional conflict and long-term protection of the state’s resources together. They are, in fact, however, two different determinations as set out in the statute. A dispute between regions on protection of the state’s resources, or on conservation and drought management, does not necessarily equate to an interregional conflict over allocation of resources among strategies.

“Conflict” is not defined in the statute. The definition employed by the TWDB beginning in 2001 and used consistently through the development of three state water plans was that an interregional conflict exists when more than one regional water plan relies upon the same water source, so that there is not sufficient water available to fully implement both plans, creating an

¹¹ *Ward Timber*, 411 S.W.3d at 558.

over-allocation of that source.¹² This definition was codified in TWDB's rules in 2012. The decision of the Court of Appeals in 2013 questioned the sufficiency of the definition to address what it determined to be an interregional conflict between Region C and Region D and declined to follow that definition. The Court did not suggest an alternative definition, however.

Under the statutory scheme relating to regional water planning and interregional conflicts, the TWDB decides whether an interregional conflict exists.¹³ The definition used by the TWDB over three cycles of water planning and adopted as a rule is consistent with the language of Texas Water Code Section 16.053 in defining "interregional conflicts" as conflicts arising between two or more defined water-management strategies that are necessary to ensure the implementation of all plans. The TWDB does not consider every difference between regional water plans to be a "conflict" as contemplated by the statute, nor does it recognize the geographic location of the water source as an aspect of the conflict. Instead, this definition focuses on resolving those conflicts that hinder full implementation of the state water plan by rendering an identified supply strategy inadequate for two or more regions.

The definition of interregional conflict adopted by the TWDB also recognizes that the legislature intended for the TWDB to address conflicts between actual water management strategies, not general objections to projects that are properly reserved for agencies other than the TWDB if and when permit applications for projects are filed.

Unlike the water uses addressed directly in the state and regional water plans (municipal, manufacturing, irrigation, steam electric power generation, mining, and livestock), water needed to protect environmental and natural resources is difficult to quantify. TWDB rules require that regional water planning groups evaluate each recommended strategy for social and economic impacts of not meeting needs, impacts to agricultural resources, consideration of third-party social and economic impacts, and evaluations of effects on environmental flows.¹⁴ Thus, protection of agricultural and natural resources and economic interests is considered in the regional plans in relation to specific, quantifiable strategies. At the planning stage, it should be sufficient that all regions affected by a particular strategy have identified those impacts.

The Regional Water Plan Review Process

In addition to ensuring that all interregional conflicts have been resolved, the TWDB must also determine that the plan includes water conservation practices and drought management measures, and that the plan is consistent with long-term protection of the state's water, agricultural, and natural resources. The TWDB's guidance principles, embodied in its rules instruct the regional water planning groups in how to address these requirements.¹⁵

The guidelines adopted by the TWDB in compliance with the statute are currently found in 31 Tex. Admin. Code §§ 357.20, 358.3, and 358.4. These rules are based on Tex. Water Code §§ 16.051(d), and 16.053(e) and (h)(7). The TWDB reviews the regional water plans and

¹² 31 Tex. Admin. Code § 357.10(15).

¹³ Tex. Water Code § 16.053(h)(4), (5), and (6).

¹⁴ 31 Tex. Admin. Code § 357.34.

¹⁵ See 31 Tex. Admin. Code §§ 357.22, 357.34-.35, and 357.40-.42.

prepares the state water plan based on these guidelines and requirements.

Under these principles, in reviewing the regional water plans the TWDB provides technical assistance to the regional planning groups, works with regional planners to address inconsistencies, to seek clarification, to note mistakes in citations, and to identify where the plan does not follow the guidance principles or does not adhere to the formatting guidelines. But the TWDB does not evaluate the sufficiency or validity of strategies presented in a plan. It does not do alternative analyses or redirect recommended strategies. This approach is in keeping with the philosophy behind SB 1 that each plan reflect the efforts of the local regional planning group and others in the region to evaluate and implement the planning decisions for their particular region.

Options Considered Related to the Conflict Over Marvin Nichols

Staff considered three options in analyzing possible recommendations to resolve the conflict over Marvin Nichols.

1. One recommendation proposed a smaller reservoir. Reducing the footprint of Marvin Nichols would mean that less property would be needed for the reservoir; but less water would be provided. Therefore, Region C would need to find alternatives to meet any remaining needs. Future rounds of planning could incorporate future changes, and creative problem-solving in the planning process might address concerns for both regions.

Staff ultimately rejected this proposal, however. To propose reducing the size of Marvin Nichols means interjecting the TWDB in the engineering specifics of a particular strategy in a region's plan—something the TWDB has not done before. This approach would be a change in the TWDB's State Participation Program policy of supporting the optimal sizing of a facility. It would also mark a shift away from the planning process as locally driven.

2. The second option Staff considered was removing Marvin Nichols from Region C's Plan for this planning cycle. Removing it now would resolve the conflict but does not eliminate the possibility of including it at a later date if conditions warrant. The regional plan is just that—a planning document. Strategies may come and go from one plan to another. Just because a strategy is in the plan does not mean that it will become reality. Just because it is deleted from the plan does not mean that it has no future. Marvin Nichols is included in Region C's Plan as a water source beginning in 2030. Yet it is not clear what steps are being taken to have the resource in place by then. Marvin Nichols has been part of a state water plan since 1968. It has not been built, in part because it is a potential strategy to meet needs beginning at a future date. Project sponsors have yet to apply for a permit.

Experience with other reservoir development suggests that much work still needs to be done before the reservoir becomes a reality. Thus, the future of Marvin Nichols rests with those who want Marvin Nichols as a source.

Staff acknowledges, however, that Marvin Nichols is a long-term strategy. Reasonable planning involves development first of those short-term projects that cost less and are easy to implement. Long-term strategies always assume a large number of uncertainties. Therefore, striking a

strategy because of uncertainties 15, 20, even 40 years in the future is not a reasonable approach to planning.

Both Region C and Region D acknowledge the need for more study, which is a responsible approach given the size, potential expense, and timing of the strategy. The Sulphur River Basin Feasibility Study by the U.S. Corps of Engineers in conjunction with the Sulphur River Basin Authority currently underway is focused on water supply issues and water user groups in the Basin. That independent study, expected to be completed in 2015, could answer many of the uncertainties before the permit process is initiated.

3. The third recommendation Staff consider was to retain the Marvin Nichols Reservoir as a recommended strategy in the Region C 2011 Regional Water Plan. In the end, Staff chose this option. As Texas's population grows, Marvin Nichols, along with all the strategies in the Region C Plan, must continue to be considered seriously. According to the 2011 Region C Water Plan, Marvin Nichols accounts for 28 percent of the total additional acre-feet per year that will be needed to serve Region C's population. To remove Marvin Nichols from the Region C Plan would leave a substantial unmet need in Region C's water supply by 2060. TWDB data suggest that as many as 141 municipalities, communities, and water suppliers would be affected. Reassigning other recommended strategies to fill the gap created by removing Marvin Nichols would, in turn, simply create other unmet needs that would need to be addressed.

TWDB rules require that regional water planning groups identify and recommend water management strategies that meet all water needs during the drought of record.¹⁶ In addition, regional water plans must include a quantitative description of the socioeconomic impacts of *not* meeting identified water needs.¹⁷ The TWDB, therefore, generally will not approve a regional or state water plan that contains unmet needs. In particular, it has avoided approving a regional plan that contained unmet municipal needs in the long-term planning horizon because of the potential impacts on public health, safety, and welfare. Including Marvin Nichols responds to the facts of both the current size of Region C and its anticipated growth. Continuing to include Marvin Nichols also acknowledges the recent legislative mandate in House Bill 4 and Senate Joint Resolution 1 to develop and fund the strategies in the plan as opposed to excising strategies at a critical time for water supply development in Texas.

Some have suggested that Region C address its needs through conservation. But, as noted earlier, conservation is already included in Region C's Plan.¹⁸ And, even by the most liberal estimate, conservation cannot make up all the need that the region will have over the next 50 years.

Property owners in the area where Marvin Nichols may be located are justifiably concerned about the loss of their lands and the economic value attached to those lands. Any one or more of the municipalities or water districts in Region C could sponsor Marvin Nichols.

¹⁶ 31 Tex. Admin. Code § 357.35(d).

¹⁷ 31 Tex. Admin. Code §§ 357.33(c), 357.40(a).

¹⁸ See page 1.

The Texas Constitution provides in part that “No person’s property shall be taken, damaged or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person;” Tex. Const. Art. I, § 17.

Thus, while a municipality has the right of eminent domain under Chapter 251 of the Local Government Code, and water districts have a similar right under Chapter 49 of the Water Code, the law provides for just and fair compensation for both the value of the property and damages to the landowner. The procedures for the exercise of eminent domain are set out in statute and are intended to protect the right of a property owner to just compensation. Any such evaluation of lands potentially included in Marvin Nichols is subject to those provisions and cannot be determined here.

SUMMARY

SB 1 created an important document in the state water plan. It is to be “a guide to water policy.”¹⁹ But the regional and state water plans are only plans—*guides* to water policy. TCEQ is only required to take the plan *into consideration*. It is not bound by the plan and may waive the consistency requirement if conditions warrant. With the exception of the Water Infrastructure Fund, the State Water Implementation Fund for Texas, and the State Water Implementation Revenue Fund for Texas, which require that a project be in the State Water Plan, the TWDB may provide financial assistance if a water project is *consistent* with the plan, not necessarily *in* the plan. And the TWDB may waive this requirement if it determines that conditions warrant the waiver.²⁰

Regional and state water plans are planning level documents. Both the Region C and Region D planning groups acknowledge that more studies need to be done on critical strategies including Marvin Nichols. The decision of whether to proceed with the development of Marvin Nichols or any other reservoir development strategy rests with the regional planners, the project sponsors, and the state and federal agencies that grant the licenses and permits necessary for the project to proceed.

The TWDB’s task is to prepare a state water plan every five years that includes regional water plans adopted by regional water planning groups and approved by the TWDB in preparation for and in response to drought conditions.²¹ None of the factors the TWDB must consider in approving a regional water plan involves a substantive analysis of the validity or sufficiency of the strategies in a plan. But allowing for any unmet needs that may affect public health, safety, and welfare in the face of another drought of record would not comply with the intent of the statute, nor would it address the legislative mandate to develop the strategies in the State Water Plan.

The Executive Administrator therefore recommends the following steps for the Board to resolve the conflict between Region C and Region D. In addition, the Executive Administrator proposes the attached timeline for public comment and consideration of this recommendation.

¹⁹ Tex. Water Code § 16.051(b).

²⁰ Tex. Water Code § 16.053(k).

²¹ See Tex. Water Code § 16.051(a).

RECOMMENDATIONS

The Executive Administrator recommends that the Board resolve the conflict between Region C and Region D by taking the following steps:

1. Applying the TWDB's definition of interregional conflict, 31 Tex. Admin. Code § 357.10(15), pursuant to Section 16.053(h)(7)(A) of the Water Code, the Executive Administrator recommends a finding that no interregional conflict as defined in TWDB rules exists between Regions C and D.
2. Regarding resolution of the conflict between the Regions' relating to long-term protection of the state's water resources, agricultural resources, and natural resources pursuant to Section 16.053(h)(7)(C) of the Water Code and potentially substantial unmet municipal need, the Executive Administrator recommends the following:
 - a. Instruct Region C to retain Marvin Nichols as a recommended strategy in its 2011 Water Plan and in future plans as appropriate, and to update Chapter 10 of its Plan, relating to the Plan Approval Process, to reflect the mediation, this TWDB action, and other actions taken to effect this decision;
 - b. Instruct Region D to amend its 2011 Water Plan to reflect that Marvin Nichols will be retained in the Region C Plan as a recommended strategy for the purpose of further study by removing references in the Region D 2011 Plan to the conflict as listed on Attachment 5 of this recommendation and updating Chapter 10 of its 2011 Plan to reflect the mediation, this TWDB action, and other actions taken to effect this decision;
 - c. Instruct both regions to encourage completion of the ongoing Sulphur River Basin Study;
 - d. Encourage both Regions to accelerate consideration of alternative strategies, including additional conservation measures and additional water supplies from Wright Patman Reservoir and Toledo Bend Reservoir, to meet needs where uncertainties exist regarding current strategies;
 - e. Encourage both Regions to explore sharing of mitigation measures for any project developed for Region C in Region D; and
 - f. Instruct the Region C and Region D regional water planning groups to place review of the Board's decision and the setting of a public hearing on the next regional water planning group meeting and post notice as required by statute. Following the public hearing, each regional water planning group is to meet to adopt and submit plans amended in accordance with this directive to the TWDB for TWDB approval no later than 45 days from the date of the public hearing.
 - g. This is a final action on the issue of Marvin Nichols as a recommended strategy in the Region C Plan; it should not be raised again in any future Region D regional water plan.

The Board

Date

Page 10

Attachment(s):

1. Timeline for Public Comment and Consideration
2. Region C Regional Water Planning Area Map and Summary Tables
3. Region D Regional Water Planning Area Map and Summary Tables
4. Map of Regions C and D Reservoirs—Existing and Potential
5. Revisions to be made in the Region D 2011 Regional Water Plan

REGION C AND THE REGION D INTERREGIONAL CONFLICT
TIMELINE

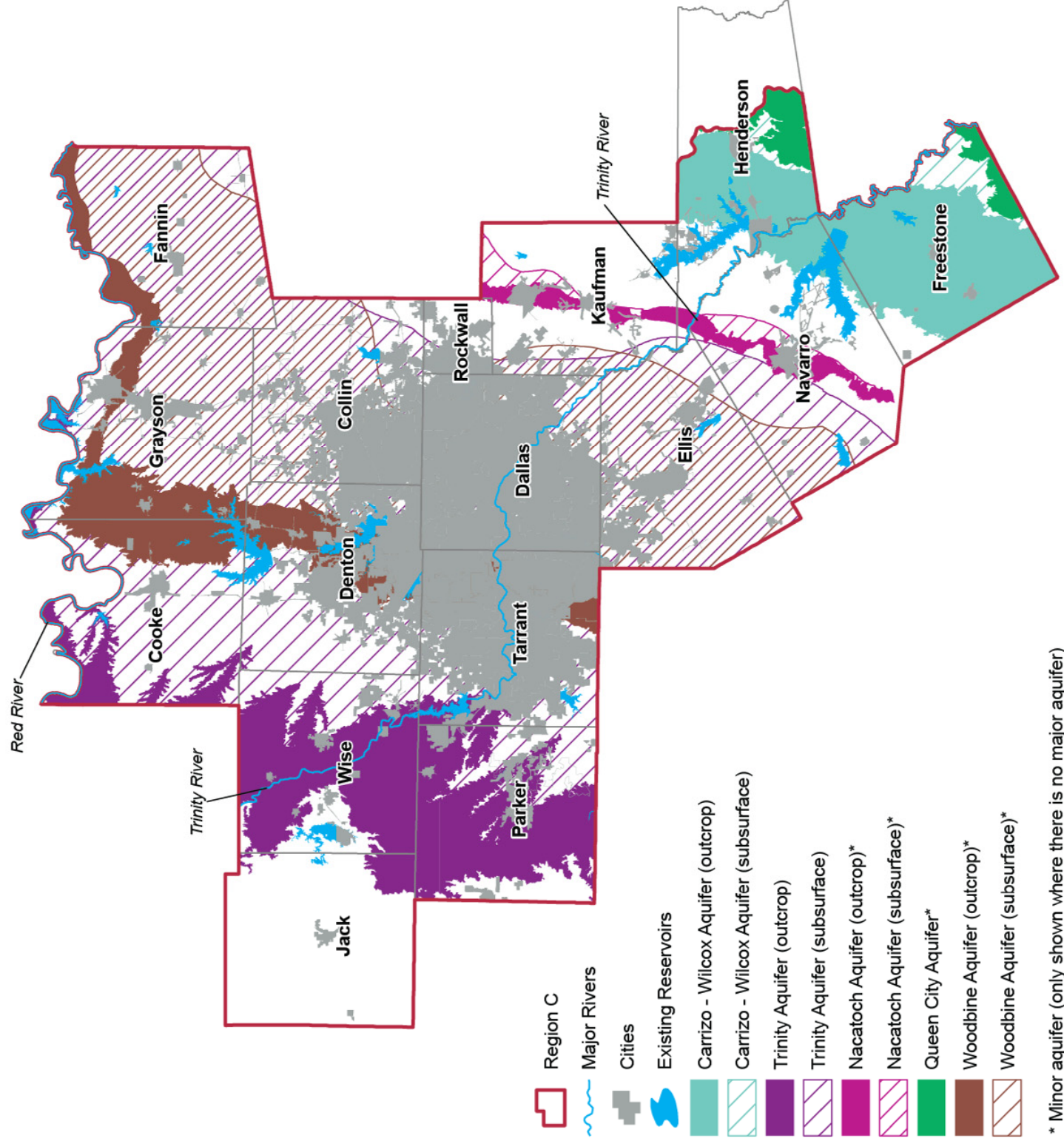
March 4 – The preliminary recommendation is posted on the agency website and provided to the chairs of the C and D regional water planning groups and the parties to the Ward Timber litigation through their attorney. The TWDB begins receiving comments.

March / April – A public hearing on the preliminary recommendation is held at a convenient location in each region to take comments (the meetings will be recorded). Notices will be published on the TWDB website, in the *Texas Register*, and distributed via email.

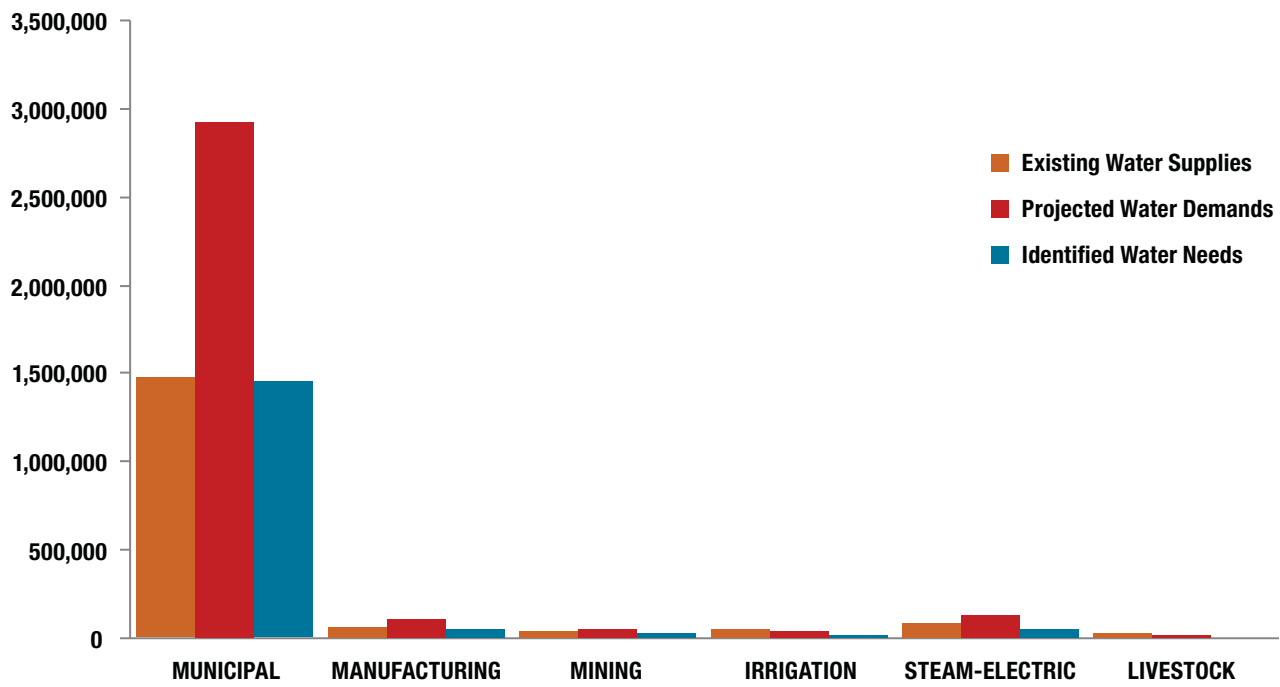
April 15 – Comment period closes. Comments are analyzed; responses and any modifications to recommendation are prepared.

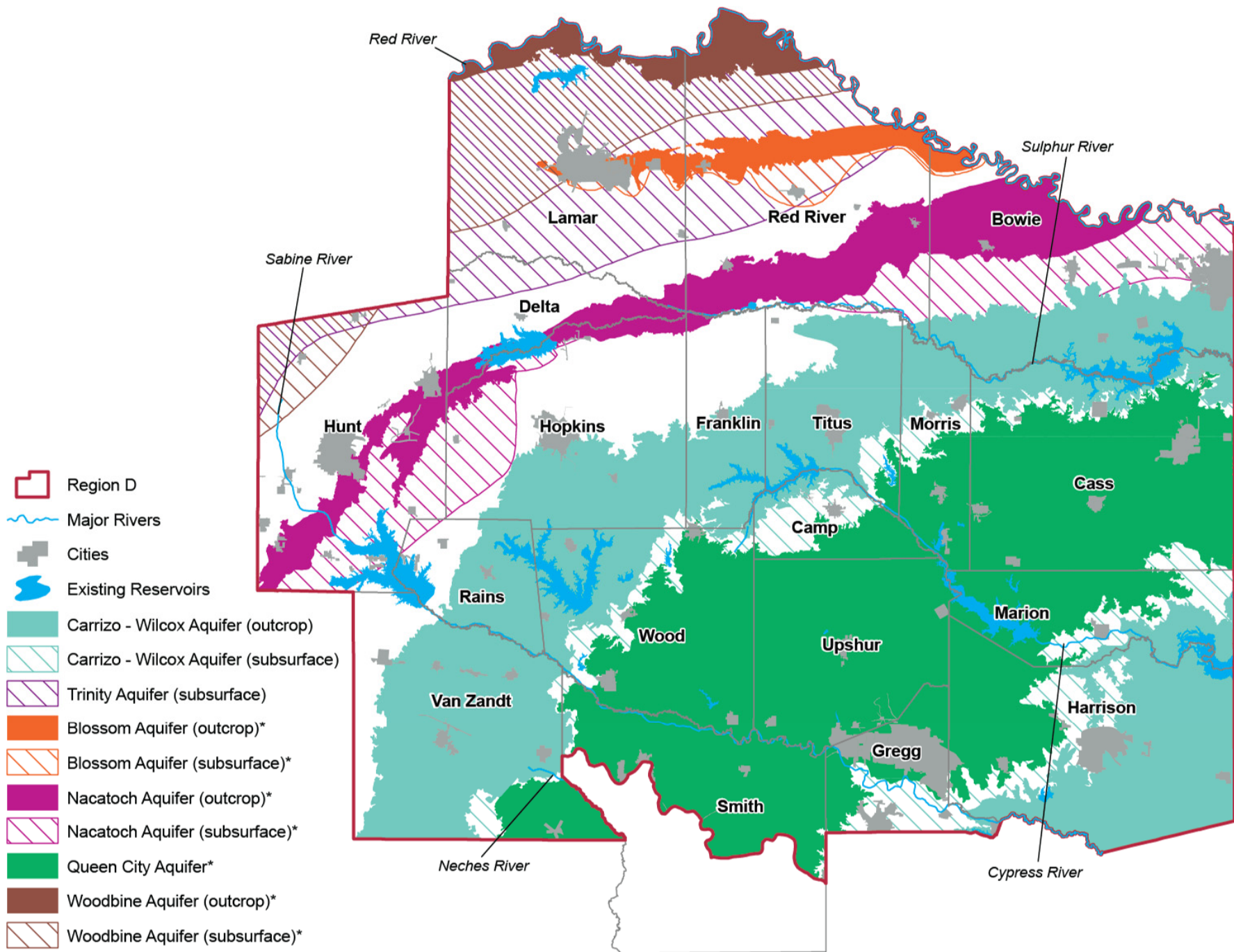
May 15 – The Executive Administrator submits a final recommendation to the Board and issues a letter soliciting briefs.

To Be Determined – Briefs are due following publication of final recommendation. The Board will determine when it will consider the Executive Administrator's recommendation.

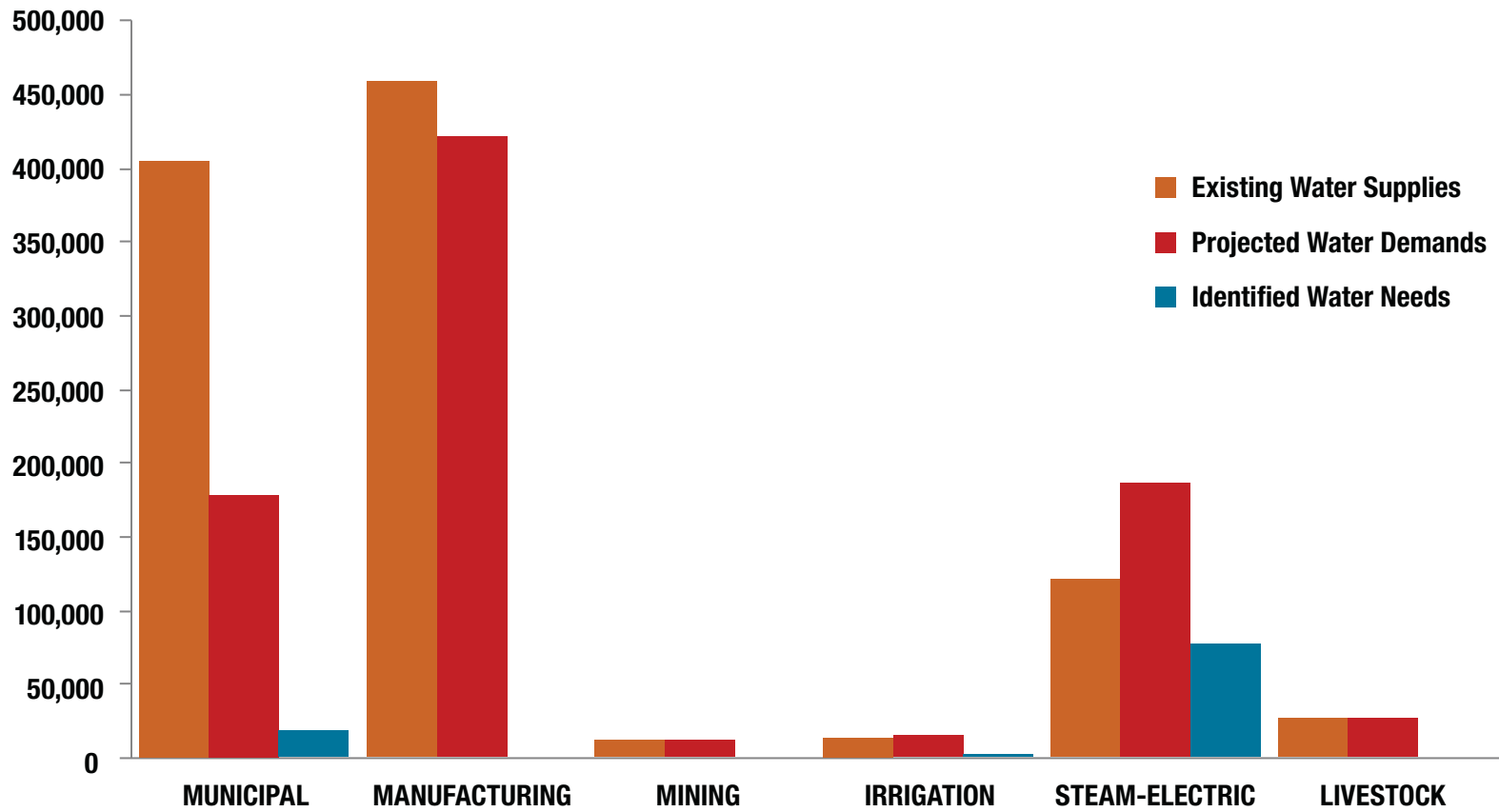


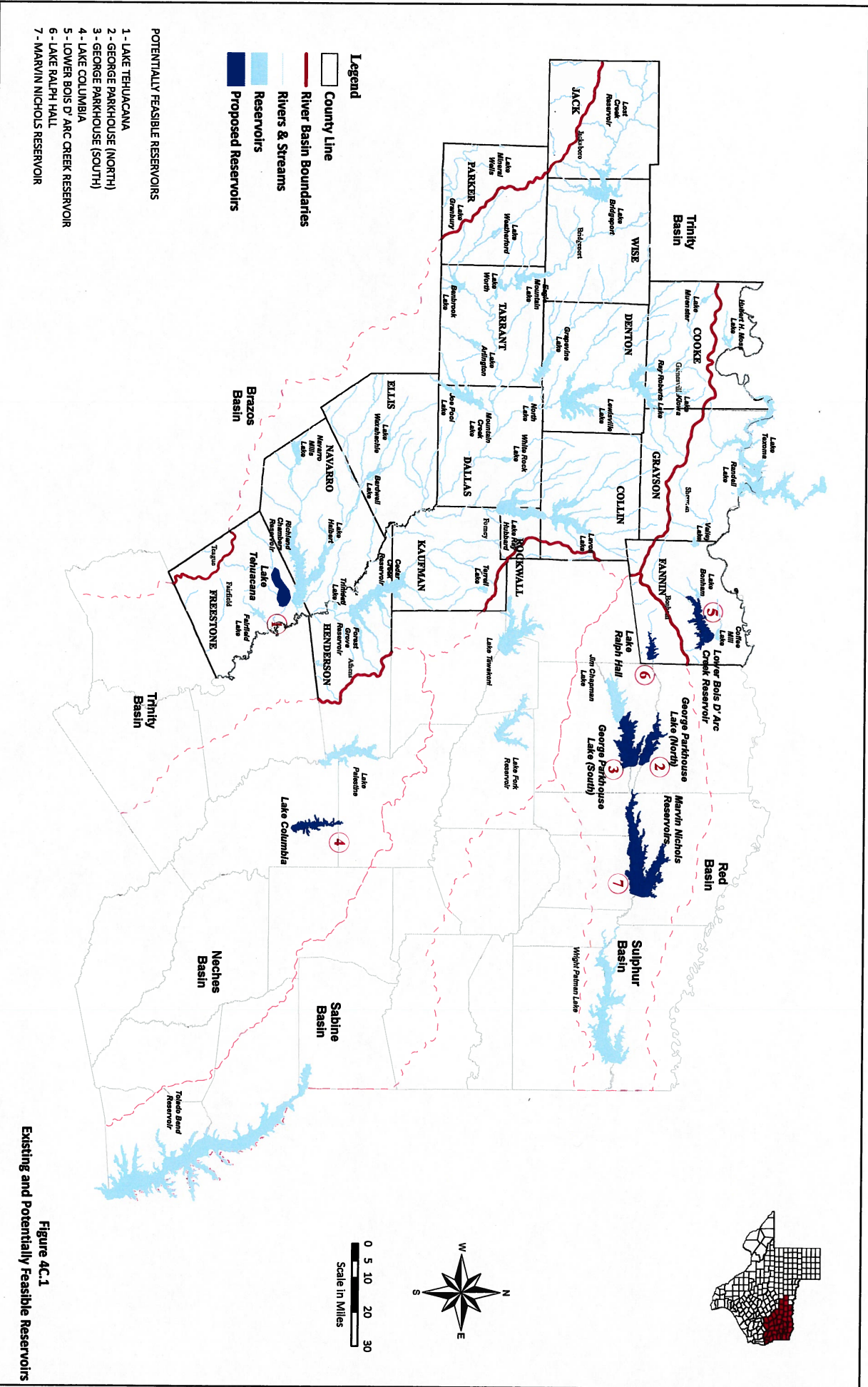
* Minor aquifer (only shown where there is no major aquifer)





* Minor aquifer (only shown where there is no major aquifer)





- Legend**
- Country Line
 - River Basin Boundaries
 - Rivers & Streams
 - Reservoirs
 - Proposed Reservoirs
- POTENTIALLY FEASIBLE RESERVOIRS**
- 1 - LAKE TEHUACANA
 - 2 - GEORGE PARKHOUSE (NORTH)
 - 3 - GEORGE PARKHOUSE (SOUTH)
 - 4 - LAKE COLUMBIA
 - 5 - LOWER BOIS D'ARC CREEK RESERVOIR
 - 6 - LAKE RALPH HALL
 - 7 - MARVIN NICHOLS RESERVOIR

Figure 4C.1
Existing and Potentially Feasible Reservoirs

Revisions To Be Made In The Region D 2011 Regional Water Plan

Delete the following portions of the Plan

Page vi, Table of Contents, Section 7.0 Title beginning with “and the inconsistency . . .” to the end of the title

Page 7-1, Section 7.1, last paragraph, last four sentences beginning “This chapter will also address . . .”

Page 7-3, Section 7.3, second sentence in the paragraph beginning (“The Marvin Nichols I Reservoir . . .”

Page 7-3, Section 7.4, the next-to-last sentence beginning with the phrase “although the Marvin Nichols I Reservoir . . .” to the end of the sentence.

Page 7-11, Section 7.7, Conclusion paragraph and Note.

Page 8-6, Section 8.4, paragraph beginning “Sulphur River . . .”

Page 8-16, Section 8.8, third paragraph beginning “It is the position . . .”

Pages 8-32 – 8-33, Section 8.12.1, last paragraph beginning “Therefore, the North East Texas . . .”

Page 8-35, Section 8.12.4, third paragraph beginning “The North East Texas . . .”

Page 8-36, Section 8.13.1, last paragraph beginning “Based on the reasons set forth. . . ,” and ending on page 8-37 with “. . . of the Texas Water Code.”

Page 8-49, Section 8.13.15, NOTE