



# TEXAS WATER DEVELOPMENT BOARD



James E. Herring, *Chairman*  
Lewis H. McMahan, *Member*  
Edward G. Vaughan, *Member*

J. Kevin Ward  
*Executive Administrator*

Jack Hunt, *Vice Chairman*  
Thomas Weir Labatt III, *Member*  
Joe M. Crutcher, *Member*

**TO:** Board Members

**THROUGH:** Carolyn L. Brittin, Deputy Executive Administrator, Water Resources Planning and Information  
Dan Hardin, Director, Water Resources Planning Division

**FROM:** Matt Nelson, Manager, Regional Water Planning

**DATE:** September 9, 2009

**SUBJECT:** Consider Approval of the 2006 Regional Water Plan for the South Central Texas (Region L) Regional Water Planning Area

## **ACTION REQUESTED**

Approval by resolution of the 2006 Regional Water Plan for the Region L Regional Water Planning Area as amended in accordance with House Bill 3776.

## **BACKGROUND**

On January 4, 2006, the Region L regional water planning group met but failed to adopt its 2006 regional water plan as required by the January 5, 2006 statutory deadline. Region L then requested a time extension from TWDB to allow Region L to submit its adopted regional water plan for approval after the statutory deadline. On January 13, 2006, the Board was informed of the staff determination that the Board was not authorized by statute to grant a time extension to allow for approval of a Region L regional water plan adopted after January 5, 2006. (Attachment A). On January 19, 2006 the Region L regional water planning group met and adopted their regional water plan by an 18 to 1 vote, but was unable to obtain subsequent approval by the Board.

Without an approved regional water plan for Region L, the TWDB was responsible for planning for the region in the 2007 State Water Plan. In accordance with Board direction provided at the January 13, 2006 Board meeting (Attachment A) the 2006 Region L regional water plan that was adopted by the Region L regional water planning group on January 19, 2006, after the statutory deadline, was reviewed and incorporated in total into the 2007 State Water Plan (Attachment B).

### *Our Mission*

*To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas.*

P.O. Box 13231 • 1700 N. Congress Avenue • Austin, Texas 78711-3231  
Telephone (512) 463-7847 • Fax (512) 475-2053 • 1-800-RELAYTX (for the hearing impaired)  
[www.twdb.state.tx.us](http://www.twdb.state.tx.us) • [info@twdb.state.tx.us](mailto:info@twdb.state.tx.us)  
TNRIS - Texas Natural Resources Information System • [www.tnr.is.state.tx.us](http://www.tnr.is.state.tx.us)  
*A Member of the Texas Geographic Information Council (TGIC)*



In December of 2006, the TWDB was named in a lawsuit filed by downstream interests over inclusion of the Lower Guadalupe Water Supply Project in the 2007 State Water Plan.

On June 15, 2007, the Governor signed House Bill 3776 of the 80<sup>th</sup> Texas Legislature (House Bill 3776) that, in addition to giving TWDB the authority to approve a regional water plan that was adopted by January 19, 2006 (i.e. the 2006 Region L regional water plan), required the regional water planning group to make certain changes to the plan related to the Lower Guadalupe Water Supply Project and the lower basin in order to obtain plan approval (Attachment C). The lawsuit against the TWDB was subsequently withdrawn on July 2, 2007.

House Bill 3776 required that, in order for TWDB to approve the 2006 Region L regional water plan, all versions of the Lower Guadalupe Water Supply Project included in the 2006 Region L regional water plan (including versions that were evaluated but not recommended) were to be removed and that the regional water planning group develop a new version of the Lower Guadalupe Water Supply Project that: did not rely on fresh groundwater; met environmental consensus criteria used in planning; and, reserved 100,000 acre-feet of water per year for lower basin needs. The Lower Guadalupe Water Supply Project was a recommended water management strategy in the 2006 Region L regional water plan sponsored by the Guadalupe-Blanco River Authority that has been a source of disagreement in the region.

On November 1, 2007, in response to enactment of House Bill 3776, the Region L regional water planning group identified three new, alternative versions of the Lower Guadalupe Water Supply Project that were subsequently evaluated in an effort to meet the requirements of House Bill 3776. TWDB provided the funding for these additional analyses. On February 5, 2009, the Region L regional water planning group considered the three alternatives and tentatively identified a single updated version of the Lower Guadalupe Water Supply Project with which to amend their 2006 Region L regional water plan.

On March 19, 2009, the Region L regional water planning group agreed to move forward with the proposed amendment and held a public hearing on May 7, 2009 on the amendment to receive oral and written comments as required by 31 TAC Ch. 357.12(a)(4). The amendment included a preferred version of the Lower Guadalupe Water Supply Project that met the requirements of House Bill 3776 and met the associated water needs of the Guadalupe-Blanco River Authority. They also accepted written comments for a period of 30 days following the hearing as required by 31 TAC Ch. 357.12(a)(6)(D).

On August 6, 2009, the Region L regional water planning group considered all the public comments received on the proposed amendment and agreed on responses to the public comments including making limited modifications to the proposed amendment. The Region L regional water planning group then adopted the amendment to the 2006 Region L regional water plan as modified in response to public comments (17 voting in favor, five against, three abstentions). The planning group also approved submitting the amendment to their 2006 Region L regional

water plan to the TWDB to request that the TWDB approve the amended 2006 Region L regional water plan as authorized by House Bill 3776.

On August 14, 2009, TWDB received the 2006 Region L regional water plan amendment materials and the Region's request that the TWDB approve the 2006 Region L regional water plan (Attachment D).

### **KEY ISSUES**

Region L has not had a Board-approved regional water plan since January 6, 2006.

Staff has reviewed the regional water plan and finds that all requirements in statute, including House Bill 3776, and the TWDB rules were met.

To lessen the risk of a similar occurrence in the future by which a regional planning group fails to meet the statutory deadline, the TWDB has since modified its rules per Board guidance (Attachment E) by requiring submittal of adopted regional water plans three months earlier on September 1st of the year prior to the January statutory deadline (rather than by the statutory deadline) unless a region receives Executive Administrator approval of an extension under 31 TAC Ch. 357.5(b)(2).

To avoid a similar outcome for the 2011 Region L regional water plan in particular, the Region L regional water planning group has already engaged interested regional planning group members and other interested stakeholders in 'issue workgroups' that were formed in an attempt to achieve early resolution of key issues of concern that are facing Region L in this current planning round.

If the Board approves the 2006 Region L regional water plan, staff anticipates returning to the Board at a subsequent meeting to request approval of an amendment to the 2007 State Water Plan to incorporate the updated Lower Guadalupe Water Supply Project and other changes associated with this Region L water plan amendment.

### **ANTICIPATED OPPOSITION**

Downstream interests have repeatedly expressed concern over the Lower Guadalupe Water Supply Project.

**RECOMMENDATION**

Approval of the 2006 Regional Water Plan for the South Central Texas (Region L) Regional Water Planning Area as amended in accordance with House Bill 3776.

This recommendation has been reviewed by legal counsel and is in compliance with applicable statutes and Board rules.

---

Ken Petersen  
Deputy General Counsel

**ATTACHMENTS:**

- Attachment A:** January 13, 2006 Memo to Board Re: Region L request for time extension
- Attachment B:** August 8, 2006 Memo to Board Re: Approving release of 2007 State Water Plan for public comment
- Attachment C :** House Bill 3776 of the 80<sup>th</sup> Texas Legislature
- Attachment D:** August 10, 2009 Letter from Region L
- Attachment E:** February 7, 2006 Memo to Board Re: Policy Recommendations for the 2007 State Water Plan
- Attachment F:** Resolution of the TWDB approving the Region L plan



TEXAS WATER DEVELOPMENT BOARD



E. G. Rod Pittman, Chairman  
William W. Meadows, Member  
Dario Vidal Guerra, Jr., Member

J. Kevin Ward  
Executive Administrator

Jack Hunt, Vice Chairman  
Thomas Weir Labatt III, Member  
James E. Herring, Member

**TO:** Board Members

**THROUGH:** J. Kevin Ward, Executive Administrator *JKW*  
Bill Mullican, Deputy Executive Administrator, Office of Planning *CYS*

**FROM:** Carolyn L. Brittin, Director, Water Resources Planning Division *CYS*

**DATE:** January 13, 2006

**SUBJECT:** Briefing, discussion, and consider a request from the South Central Texas Regional Water Planning Group (Region L) for an extension of the submittal date for the 2006 Regional Water Plan.

**ACTION REQUESTED**

Consider a request from the South Central Texas Regional Water Planning Group (Region L) for an extension of the submittal date for the 2006 Regional Water Plan.

**BACKGROUND**

On January 4, 2006, Region L's Planning Group failed to obtain the necessary votes for adoption of their 2006 Regional Water Plan. By consensus, the Planning Group adopted a motion to request a six-week extension from the Texas Water Development Board (TWDB) for adoption of their plan. The letter requesting the extension is included as Attachment A.

Texas Water Code §16.053(i) clearly establishes a deadline of no later than January 5 of every fifth year, starting in 2001, for adoption of regional water plans and reads as follows (emphasis added):

- (i) The regional water planning groups shall submit their adopted regional water plans to the board by **January 5, 2001**, for approval and inclusion in the state water plan. In conjunction with the submission of regional water plans, each planning group should make legislative recommendations, if any, to facilitate more voluntary water transfers in the region. **Subsequent regional water plans shall be submitted at least every five years thereafter.** Public participation for revised regional water plans shall follow the procedures under Subsection (h).

*Our Mission*

*To provide leadership, guidance, and information to the water planning community and to coordinate and expedite the development of water in Texas.*

400 West 132nd Street • P.O. Box 1324 • Congress Avenue • Austin, Texas 78711-1324

Telephone: (512) 261-7174 • Fax: (512) 275-2451 • E-mail: TWDB@TWDB.TX.gov

Internet: <http://www.twdb.state.tx.us> • <http://www.twdb.org>

ENRIS - The Texas International Gateway to Water Resources

A Member of the Texas International Gateway to Water Resources



The statute does not include provisions for extension of this deadline or for approval of a regional water plan that was adopted after the statutory deadline.

**KEY ISSUES**

Without the explicit authority to extend the statutory deadline or to approve a plan adopted after the deadline, Region L is most likely left without a legally adopted or approvable regional water plan. The ramifications to the region could be significant for entities seeking financial assistance or surface water permits from the state.

Texas Water Code §16.053(j) and (k) apply to state financial assistance for projects and reads as follows (emphasis added):

- (j) The board **may provide financial assistance** to political subdivisions under Subchapters E and F of this chapter, Subchapters C, D, E, F, J, O, Q, and R, Chapter 15, and Subchapters D, I, K, and L, Chapter 17, for water supply projects **only if**:
  - (1) the board determines that the needs to be addressed by the project will be addressed in a manner that is **consistent with the state water plan**;
  - (2) beginning January 5, 2002, the board:
    - (A) **has approved a regional water plan as provided by Subsection (i)**, and any required updates of the plan, for the region of the state that includes the area benefiting from the proposed project; and
    - (B) determines that the needs to be addressed by the project will be addressed in a manner that is consistent with that regional water plan; **and**
  - (3) the board finds that the water audit required under Section 16.0121 has been completed and filed.
- (k) The board may waive the requirements of Subsection (j) of this section if the board determines that conditions warrant the waiver.

Texas Water Code §§11.134(b) and (c) apply to applications for projects seeking surface water permits and reads as follows (emphasis added):

(b) The commission **shall grant the application only if:**

(1) The application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;

(2) Unappropriated water is available in the source of supply;

**(3) The proposed appropriation:**

(A) is intended for a beneficial use;

(B) does not impair existing water rights or vested riparian rights;

(C) is not detrimental to the public welfare;

(D) considers the assessments performed under Section 11.147(d) and (e) and Sections 11.150, 11.151, and 11.152; and

**(E) addresses a water supply need in a manner that is consistent with the state water plan and the relevant approved regional water plan for any area in which the proposed appropriated is located, unless the commission determines that conditions warrant waiver of this requirement; and**

(4) the applicant has provided evidence that reasonable diligence will be used to avoid waste and achieve water conservation as defined by Subdivision (8)(B), Section 11.002.

**(c) Beginning January 5, 2002, the commission may not issue a water right for municipal purposes in a region that does not have an approved regional water plan in accordance with Section 16.053(i) unless the commission determines that conditions warrant waiver of this requirement.**

Board Members  
January 13, 2006  
Page 4

In light of the above statutory language, any entities seeking state financial assistance or surface water permits for projects in Region L would be required to obtain a waiver of Texas Water Code §§11.134(b)(3)(E) and (c) and 16.053(j) to obtain financial assistance or surface water permits. This condition would be necessary until formal adoption and approval of a 2011 Regional Water Plan update.

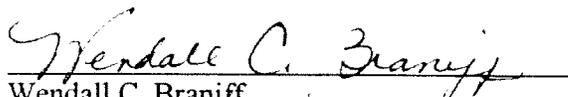
In addition, the TWDB is required under Texas Water Code §16.051 to develop a comprehensive state water plan that incorporates the regional water plans approved under Texas Water Code §16.053. **Without an approved regional water plan for Region L, the TWDB would be responsible for planning for the region in the 2007 State Water Plan.**

#### **RECOMMENDATION**

Without the express authority to extend the deadline for submittal of an adopted regional water plan or to approve a plan adopted after the statutory deadline, staff recommends that the Board not approve Region L's request for extension. It is also staff's recommendation that the Board direct staff to begin planning for the Region L area as part of the 2007 State Water Plan and to consider in that planning process any plan adopted by the Region L's Planning Group by February 16, 2006, the date consistent with the Region L's request for extension.

Attachments: Attachment A – San Antonio River Authority January 6, 2006 Letter

This recommendation has been reviewed by legal counsel and is in compliance with applicable statutes and TWDB rules.

  
Wendall C. Braniff  
General Counsel

# ATTACHMENT A



SAN ANTONIO  
RIVER AUTHORITY  
Water Brings Us Together

January 6, 2006

Mr. Kevin Ward, Executive Administrator  
Texas Water Development Board  
1700 N. Congress Ave.  
P.O. Box 13231  
Austin, Texas 78711-3231

RE: Senate Bill 1 - South Central Texas Regional Water Planning  
Extension for TWDB Contract No. 99-483-455

Dear Mr. Ward:

The South Central Texas Regional Water Planning Group (SCTRWPG) met in an open meeting January 4, 2006 to discuss and adopt the 2006 Region L Regional Water Plan. After a lengthy discussion, the SCTRWP was unable to reach consensus to adopt the regional water plan.

Consequently, Chair Evelyn Bonavita entertained a motion to put the issue to a vote as required by the SCTRWP Bylaws; however, there was insufficient support to adopt the plan to meet the Regional Water Plan deadline of January 5, 2006.

The SCTRWP, by a unanimous vote, agreed to ask the TWDB for an extension up to February 17, 2006 for plan submission.

The San Antonio River Authority, as the administrative agency to Region L, respectfully requests the TWDB grant Region L an extension in an amount of six weeks (February 17, 2006) to continue its effort in submitting the required plan.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Gregory E. Rothe".

GREGORY E. ROTHE, P.E.  
General Manager

cc: Carolyn Brittin, TWDB  
Evelyn Bonavita



# TEXAS WATER DEVELOPMENT BOARD



E. G. Rod Pittman, *Chairman*  
William W. Meadows, *Member*  
Dario Vidal Guerra, Jr., *Member*

J. Kevin Wood  
*Executive Administrator*

Jack Hunt, *Vice Chairman*  
Thomas Weir Lubatt III, *Member*  
James E. Herring, *Member*

**TO:** Board Members

**FROM:** Bill Mullican, Deputy Executive Administrator, Office of Planning *BM*  
Carolyn Brittin, Director, Water Resources Planning Division *CB*

**SUBJECT:** Release of the Draft 2007 State Water Plan for Public Comment

**DATE:** August 8, 2006

## ACTION REQUESTED

Consider approving release of the draft 2007 State Water Plan for public comment.

## BACKGROUND

The 75<sup>th</sup> Legislature, through the enactment of Senate Bill 1, charged the Texas Water Development Board (TWDB) to prepare, develop, formulate, and adopt a comprehensive state water plan which incorporates regional water plans approved under Texas Water Code, Section 16.053 no later than January 5, 2002, and before the end of each successive five year period after that date. Texas Water Code Section 16.051(a) requires that the state water plan shall provide for the orderly development, management, and conservation of water resources and preparation for and response to drought conditions, in order 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 entire state. The state water plan, upon adoption by the TWDB, will be a guide to state water policy.

Under the TWDB's guidelines for preparing the state water plan (Texas Administrative Code, Section 358.3(b)(7)), for any regional water planning area without an approved regional water plan, the TWDB is to use information from the adopted state water plan and other completed studies in order to represent that planning area. The TWDB has approved 15 of 16 regional water plans. TWDB staff has incorporated the 15 approved regional water plans and provides other information utilized to prepare the draft 2007 State Water Plan. The South Central Texas Planning Group was unable to adopt their regional water plan by the statutory deadline of January 5, 2006, and as such, this regional water plan has not been brought by staff to the TWDB for approval. However, at the January 19, 2006 TWDB meeting, TWDB directed staff to utilize the plan developed for the South Central Texas planning area if the planning group were able to

### *Our Mission*

*To provide leadership, planning, financial assistance, information, and education for the most comprehensive possible development of water for Texas.*

P.O. Box 14274 • 77201-0274 • Austin, Texas 78714-0274  
Telephone: 512/461-7447 • Fax: 512/461-7445 • E-mail: [twdb@twdb.texas.gov](mailto:twdb@twdb.texas.gov)  
URL Address: <http://www.twdb.state.tx.us>  
TWDB is the Texas Transportation University • a non-profit organization  
A Member of the Texas Water Resources Development Council (TRWC)



Board Members

August 8, 2006

Page 2

adopt the plan prior to February 16, 2006, the date of a request for a time extension from the planning group. This deadline was selected by the TWDB in order to ensure that this delay would not negatively impact preparation of the 2007 State Water Plan. The South Central Texas Planning Group subsequently voted to adopt the regional water plan on January 19, 2006. As a result, staff has utilized the same review process for the South Central Texas Regional Water Plan as was used for the other 15 plans that the TWDB approved from March – May, 2006 and incorporated in total, the regional water plan adopted on January 19, 2006 into the draft 2007 State Water Plan.

Upon TWDB approval to release the draft 2007 State Water Plan, staff intends to hold several public meetings and one hearing as shown in Attachment B. The public hearing is in Austin on October 2, 2006. The public comment period would end on October 6, 2007. Staff will present the 2007 State Water Plan, as revised based on comments received from the public meetings and the public hearing, for adoption at the November 14, 2006 TWDB meeting. Shortly after adoption, the 2007 State Water Plan will be sent to the printer so that it may be delivered to the Governor, Lieutenant Governor, Speaker of the House, and Chairmen of the House Natural Resources Committee and Senate Natural Resources Committee by the statutory deadline of January 5, 2007.

#### **STAFF RECOMMENDATION**

Staff recommends TWDB approval of release of the draft 2007 State Water Plan for public comment. Staff also requests authorization to make technical and editorial corrections prior to printing and release of the draft 2007 State Water Plan.

#### **ANTICIPATED OPPOSITION**

None

#### **ATTACHMENTS**

Attachment A: Volume I and II, draft 2007 State Water Plan

Attachment B: Schedule for public meetings and hearings on draft 2007 State Water Plan

## **Attachment A**

### **Volume I and II, Draft 2007 State Water Plan**

- Included in this mailout is Volume I, Executive Summary and Volume II, Chapter 10
  - Please note that Volume I is only partially through layout
- Volume II, Chapter 11 will be provided under separate cover.
- Previously mailed under separate cover from Volume II include Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, and 13

TWDB 2007 Draft State Water Plan Meetings

<u>Date</u>	<u>City/Meeting Location</u>	<u>Time</u>
Tuesday, 9/12	Lubbock - Texas Tech University, International Cultural Center Auditorium	6:00 p.m.
Tuesday, 9/12	San Angelo - San Angelo Civic Center	6:00 p.m.
Wednesday, 9/13	Wichita Falls - Midwestern State University, Shawnee Room, Clark Student Center	6:00 p.m.
Wednesday, 9/13	Alpine - Sul Ross State University, Studio Theatre, Fine Arts Bldg.	6:00 p.m.
Thursday, 9/14	Amarillo - Texas A&M Ag Research & Extension Center, AREC Auditorium	6:00 p.m.
Thursday, 9/14	Del Rio - Sul Ross State University - Roo Grande College, Auditorium	6:00 p.m.
Tuesday, 9/19	San Antonio - University of Texas - San Antonio Downtown Campus, Meeting Assembly Room, 1.338 Buena Vista Building	6:00 p.m.
Wednesday, 9/20	Arlington - Bob Duncan Center, Main Hall	6:00 p.m.
Wednesday, 9/20	McAllen - Holiday Inn Express Hotel & Suites, McAllen Airport/Plaza Mall, Monarch Room	6:00 p.m.
Thursday, 9/21	Gilmer - Gilmer Civic Center	6:00 p.m.
Thursday, 9/21	Corpus Christi - Texas A&M University - Corpus Christi, University Center, Tejas Room A	6:00 p.m.
Tuesday, 9/26	Waco - Jim Kronzer Appellate Advocacy Classroom and Courtroom #127, Baylor Law School	6:00 p.m.
Tuesday, 9/26	Conroe - San Jacinto River Authority	6:00 p.m.
Wednesday, 9/27	Nacogdoches - Stephen F. Austin University, Regent's Suite A	6:00 p.m.

2007 Draft State Water Plan Hearing

<u>Date</u>	<u>City/Meeting Location</u>
Monday, 10/2	Austin - Stephen F. Austin Building, Room 170

November 2006 Board Meeting

<u>Date</u>	<u>City/Meeting Location</u>
Tuesday, 11/14	Austin - Stephen F. Austin Building, Room 170

## ATTACHMENT C

H.B. No. 3776

### AN ACT

relating to the authority of the Texas Water Development Board to approve the regional water plan for Region L and include the plan in the state water plan.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) Notwithstanding Section 16.053(i), Water Code, and except as otherwise provided by this Act, the Texas Water Development Board may approve and include in the state water plan for the five-year period beginning January 5, 2007, the regional water plan that was submitted to the board by the Region L regional water planning group.

(b) The Texas Water Development Board may approve the regional water plan for Region L only if the board:

(1) strikes Sections 4C.7, 4C.8, and 4C.32 from the plan as submitted to the board; and

(2) includes Section 4C.33 in the plan as the Lower Guadalupe Water Supply Project for Upstream GBRA Needs so as to:

(A) require that the project be developed by the regional water planning group for Region L in association with the Guadalupe-Blanco River Authority;

(B) include a transmission pipeline for the diversion of up to 60,000 acre-feet per year of surface water available under the water rights held by the Guadalupe-Blanco River Authority as of December 31, 2006, from the Guadalupe River below the city of Victoria to upstream points on the river to meet needs identified by the Region L regional water planning group; provided, however, that at least 100,000 acre-feet per year of the surface water must be reserved for lower basin needs;

(C) prohibit the use of fresh groundwater for the project;

(D) require the consent of the appropriate property owner before off-channel storage or an off-channel reservoir may be developed as part of the project; and

(E) require freshwater inflows in an amount sufficient to meet the Parks and Wildlife Department, Texas Commission on Environmental Quality, and Texas Water Development Board's environmental consensus criteria for San Antonio Bay to be identified and included in the project.

(c) The Texas Water Development Board shall amend the state water plan for the five-year period beginning January 5, 2007, as necessary to conform to the requirements of this Act.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**EXECUTIVE COMMITTEE**

Con Mims  
*Chair*  
*River Authorities*  
Mike Mahoney  
*Vice-Chair*  
*Water Districts*  
Gary Middleton  
*Secretary*  
*Municipalities*  
Evelyn Bonavita  
*Public*  
Ron Naumann  
*Water Utilities*

August 10, 2009

Mr. J. Kevin Ward, Executive Administrator  
Texas Water Development Board  
P.O. Box 13231  
Austin, Texas 78711-3231

Re: Amended 2006 South Central Texas Regional Water Plan Approval

**MEMBERS**

Jason Ammerman  
*Industries*  
Dr. Donna Balin  
*Environmental*  
Darrell Brownlow  
*Small Business*  
Velma Danielson  
*Water Districts*  
Garrett Engelking  
*Water Districts*  
Mike Fields  
*Electric Generating*  
*Utilities*  
Michael Harris  
*Industries*  
Bill Jones  
*Agriculture*  
John Kight  
*Counties*  
David K. Langford  
*Agriculture*  
Comm. Jay Millikin  
*Counties*  
Tim Andruss  
*Water Districts*  
Iliana Peña  
*Environmental*  
Steve Ramsey  
*Water Utilities*  
Suzanne Scott  
*River Authorities*  
Milton Stolte  
*Agriculture*  
Thomas Taggart  
*Municipalities*  
Bill West  
*River Authorities*  
Robert Puente  
*Municipalities*  
Tony Wood  
*Small Business*

The South Central Texas Regional Water Planning Group (SCTRWP) acted to amend the adopted 2006 South Central Texas Regional Water Plan (SCTRWP) during its meeting of August 6, 2009 and respectfully requests Texas Water Development Board (TWDB) approval of the amended 2006 SCTRWP for the five-year period beginning January 5, 2007 pursuant to House Bill (HB) 3776 of the 80<sup>th</sup> Texas Legislature. Prerequisites to TWDB approval of the 2006 SCTRWP pursuant to HB3776 and the actions by which they were satisfied by amendment of the 2006 SCTRWP are summarized as follows:

**1. Removal of Sections 4C.7, 4C.8, and 4C.32**

Sections 4C.7 (Lower Guadalupe Water Supply Project), 4C.8 (Increased LGWSP Capacity for GBRA Needs), and 4C.32 (Lower Guadalupe Water Supply Project for GBRA Needs) are removed from Volume II of the 2006 SCTRWP. Sections 4C.7 and 4C.8 were simply documentation of technical evaluations of water management strategies that were not recommended to meet needs in the adopted 2006 SCTRWP. Section 4C.32 was documentation of technical evaluation of a water management strategy recommended to meet needs in the adopted 2006 SCTRWP. Section 4C.32 is replaced by Section 4C.33 (Lower Guadalupe Water Supply Project for Upstream GBRA Needs) described below.

**2. Addition of Section 4C.33**

Section 4C.33 (Lower Guadalupe Water Supply Project for Upstream GBRA Needs), initially evaluated in 2011 SCTRWP Study 1 and documented in Attachment A, has been added to Volume II of the 2006 SCTRWP. The Lower Guadalupe Water Supply Project for Upstream GBRA Needs is recommended to meet projected needs in the amended 2006 SCTRWP.

Projected needs of Water User Groups and Wholesale Water Providers met by the Lower Guadalupe Water Supply Project for GBRA Needs (Section 4C.32) in the adopted 2006 SCTRWP are met by the Lower Guadalupe Water Supply Project for Upstream GBRA Needs (Section 4C.33) in the amended 2006 SCTRWP. Pursuant to HB3776, the SCTRWPG acknowledges the following regarding the Lower Guadalupe Water Supply Project for Upstream GBRA Needs (Section 4C.33):

- a) The project was developed by the SCTRWPG in association with the Guadalupe-Blanco River Authority.
- b) The project includes facilities for diversion of up to 75,000 acre-feet per year (below the City of Victoria) and transmission, treatment, and delivery of up to 60,000 acre-feet per year of surface water, provided however that at least 100,000 acre-feet per year of the surface water must be reserved for lower basin needs.
- c) The project includes no use of fresh groundwater.
- d) Consent of affected property owners must be obtained before an off-channel reservoir may be developed as part of the project.
- e) The Guadalupe-Blanco River Authority and SCTRWPG have adopted language that recognizes and supports the need to address inflow amounts necessary to protect and preserve a healthy ecosystem in the San Antonio Bay - Guadalupe Estuary system in conjunction with the development of water supplies to meet human water needs. This language is included in Section 4C.33.

**3. Revisions to text, graphics, and tables in the 2006 SCTRWP referencing the LGWSP for GBRA Needs water management strategy**

Text, tables, and figures are being revised to replace "LGWSP for GBRA Needs" with "LGWSP for Upstream GBRA Needs." Text, tables, and database records referencing the associated quantity of firm water supply are being changed to replace 63,072 acft/yr with 60,000 acft/yr. Text, tables, and database records referencing the associated unit cost of water are being changed to replace \$1,344/acft/yr with 1,226/acft/yr in the short-term (debt service) period and to replace \$441/acft/yr with \$434/acft/yr in the long-term (post-debt service) period. In addition, graphics showing pipeline routes and



quantities of water in the 2006 SCTRWP are being revised as necessary to replace the LGWSP for GBRA Needs (Section 4C.32) with the LGWSP for Upstream GBRA Needs (Section 4C.33). These revisions include, but are not limited to, the following text sections, tables, and figures:

1. Executive Summary text pg ES-14
2. Figure ES-8 pg ES-15
3. Executive Summary text pgs ES-18 and ES-19
4. Figure 4B.1-4 pg 4B.1-7
5. Section 4B.1 text pg 4B.1-15
6. Table 4B.2.3-11 pg 4B.2-59
7. Table 4B.2.3-13 pg 4B.2-60
8. Table 4B.2.3-15 pg 4B.2-61
9. Table 4B.2.11-5 pg 4B.2-114
10. Table 4B.2.11-7 pg 4B.2-116
11. Table 4B.2.12-3 pg 4B.2-127
12. Table 4B.2.12-13 pg 4B.2-133
13. Table 4B.2.12-15 pg 4B.2-135
14. Table 4B.2.14-3 pg 4B.2-152
15. Section 4B.3 text pg 4B.3-10
16. Table 4B.3.5-1 pg 4B.3.10
17. Table 4B.3.5-2 pg 4B.3.11
18. Table 9-1 pg 9-3
19. Exhibit 9-B Section 9
20. Appendix A
21. Recommended WMS Table Appendix D
22. WWP (GBRA) Figure Appendix D
23. WWP (GBRA) Table Appendix D



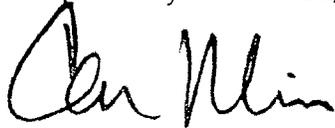
Finally, the Table of Contents, List of Figures, and List of Tables in both volumes of the 2006 SCTRWP are being revised as necessary. Once all revisions are incorporated, the complete amended 2006 SCTRWP will be submitted in electronic format for TWDB records and posting on the TWDB website. It is expected that all revisions will be completed in August 2009.

Comprehensive revisions have not been made to Section 7 – Consistency with Long-Term Protection of the State’s Water, Agricultural, and Natural Resources which documents the cumulative effects of implementation of the 2006 SCTRWP, as these revisions were not deemed necessary to support the amendment process. The cumulative impacts associated with the LGWSP for Upstream GBRA Needs (Section 4C.33) are less than those associated with the LGWSP for GBRA Needs (Section 4C.32) due to reduced surface water diversions, smaller off-channel reservoir size, less transmission pipeline length, and other factors. Analyses of the cumulative effects of implementation of recommended water management strategies will be performed as part of the process to develop the 2011 SCTRWP.

In accordance with TWDB rules, a Public Hearing regarding proposed amendment of the 2006 SCTRWP was held on May 7, 2009 at the offices of the San Antonio Water System. Comments from the public were received during the hearing and by subsequent written submittal during an open comment period exceeding 30 days. The SCTRWPG considered comments received and appropriate responses to these comments during its meeting of August 6, 2009. Public comments and SCTRWPG responses are summarized in Attachment B.

Should you need additional information regarding this request for approval of the amended 2006 SCTRWP, please contact me at your earliest convenience.

Respectfully Submitted,



Con Mims, Chair

South Central Texas Regional Water Planning Group

cc: Matt Nelson, Manager, Regional Water Planning, TWDB  
Steve Raabe, Director of Technical Services, San Antonio River Authority  
Sam Vaugh, Vice President, HDR Engineering, Inc.



# TEXAS WATER DEVELOPMENT BOARD



E. G. Rod Pittman, *Chairman*  
William W. Meadows, *Member*  
Dario Vidal Guerra, Jr., *Member*

J. Kevin Ward  
*Executive Administrator*

Jack Hunt, *Vice Chairman*  
Thomas Weir Labatt III, *Member*  
James E. Herring, *Member*

**TO:** Board Members

**THROUGH:** Bill Mullican, Deputy Executive Administrator, Office of Planning *BN*

**FROM:** Carolyn Brittin, Director, Water Resources Planning Division *CB*  
Ron Pigott, Attorney, Office of General Counsel *RP*

**DATE:** February 7, 2006

**SUBJECT:** Briefing, discussion, and consideration of policy recommendations for the 2007 State Water Plan.

## ACTION REQUESTED:

Consider policy recommendations related to failure of a regional water planning group to adopt a regional water plan by the statutory deadline.

This policy recommendation will be included in the draft 2007 State Water Plan scheduled for TWDB consideration in August 2006. The policy recommendation will also be made available to the legislature in response to current and future legislative requests.

## BACKGROUND

At the January 19, 2006 meeting the TWDB directed staff to explore options for addressing the issue of the South Central Texas Regional Water Planning Group's (Region L) failure to adopt a regional water plan by the statutory deadline and the TWDB's inability to approve a regional water plan adopted after the statutory deadline. Without an approved regional water plan, Region L is required to receive waivers for any projects requesting state financial assistance or surface water permits from the Texas Commission on Environmental Quality until adoption of their 2011 Regional Water Plan.

In addition to the TWDB's direction, Senator Frank Madla requested assistance from the Executive Administrator to draft statutory language on options that might be presented to the legislature as an emergency issue in the upcoming Special Session. A copy of Senator Madla's letter is attached for your information.

### *Our Mission*

*To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas.*

P.O. Box 13231 • 1700 N. Congress Avenue • Austin, Texas 78711-3231  
Telephone (512) 463-7847 • Fax (512) 475-2053 • T 800-RELAY TEX (for the hearing impaired)  
URL Address: <http://www.twdb.state.tx.us> • E-Mail Address: [info@twdb.state.tx.us](mailto:info@twdb.state.tx.us)  
TNRIS - The Texas Information Gateway • [www.tnris.state.tx.us](http://www.tnris.state.tx.us)  
A Member of the Texas Geographic Information Council (TGIC)



## **KEY ISSUES**

The following is a list of options for your consideration which include rule changes, statutory changes, and both rule and statutory changes. Included in the list are potential impacts of each option. Please note that TWDB staff is not addressing any options for statutory or rule changes that are specifically under the purview of the Texas Commission on Environmental Quality.

### **Option 1**

Amend rules to establish a waiver policy for projects requesting state financial assistance if the project is included in a regional water plan that was not adopted by the statutory deadline and the applicable regional water planning group can demonstrate a good faith effort to adopt a plan by the statutory deadline and can provide reasonable justification of a late submittal.

Amend rules to provide for a process to amend the state water plan at the request of a regional water planning group that failed to adopt a regional water plan by the statutory deadline, if the regional water planning group adopted a motion for amendment under the notice and hearing provisions required for amending an approved regional water plan.

Amend rules to require submittal of adopted regional water plans by September 1 of the last year of the five year cycle (September 1, 2010 for the next cycle) with provisions for extension by TWDB approval but not later than the statutory deadline.

*Potential Impacts: Provides assurances that projects in regions with late adopted plans would receive waivers from the TWDB for financial assistance; provides for process for amendments initiated by a region without a legally adopted regional water plan to amend the state water plan; and enhances likelihood of plans being adopted by the statutory deadline in the future.*

### **Option 2**

Amend rules to require submittal of adopted regional water plans by September 1 of the last year of the five year cycle (September 1, 2010 for the next cycle) with provisions for extension by TWDB approval but not later than the statutory deadline.

Amend statute to allow adoption and approval of a regional water plan for the second round of planning if a plan was passed by a regional water planning group by January 19, 2006.

*Potential Impacts: Enhances likelihood of plans being adopted by the statutory deadline in the future and removes requirement for waivers for Region L project when statutory change is effective.*

Option 3

Amend rules to require submittal of adopted regional water plans by September 1 of the last year of the five year cycle (September 1, 2010 for the next cycle) with provisions for extension by TWDB approval but not later than the statutory deadline.

No statutory change and require waivers for Region L until adoption of their 2011 Regional Water Plan.

*Potential Impacts: Enhances likelihood of plans being adopted by the statutory deadline in the future and does not affect the existing status of Region L's 2006 plan.*

Option 4

Amend statute to allow adoption and approval of a regional water plan for the second round of planning if a plan was passed by a regional water planning group by January 19, 2006.

*Potential Impacts: Removes requirement for waivers for Region L projects when statutory change is effective if the TWDB approves their plan. Does not prevent future situations of failure to adopt plans by the statutory deadline.*

Option 5

Amend statute to allow the TWDB, by rule, to accept and approve a regional water plan submitted after the statutory deadline under certain conditions.

*Potential Impacts: Provides authority for TWDB to approve late submittals and could result in other regions adopting plans after the statutory deadline, in the future.*

Option 6

Amend statute to require consistency test for funding and permitting to be based on the current adopted state water plan only.

Board Members  
February 7, 2006  
Page 4

*Potential Impacts: The state water plan incorporates approved regional water plans and this option would lessen the impact of waiver requirement for a region failing to adopt by the statutory deadline from five years to one year. Could be viewed as lessening the importance of regional water plans.*

**RECOMMENDATION**

Direct staff to develop a specific policy recommendation related to failure of a regional water planning group to adopt a regional water plan by the statutory deadline.

Attachment: Letter from Senator Frank Madla's dated January 18, 2006



**Frank Madla**

Texas State Senate  
District 19

1313 S.E. Military Dr., Suite 101  
San Antonio, Texas 78214-2850  
(210) 927-9464  
FAX (210) 922-9521  
P.O. Box 12068  
Austin, Texas 78711  
(512) 465-0119  
FAX (512) 465-1017  
Dist 711 For Relay Calls

January 18, 2005

Mr. J. Kevin Ward, Executive Administrator  
Texas Water Development Board  
P. O. Box 13231  
Austin, TX 78711-3231

Dear Mr. Ward:

Due to the unusual circumstances for the Region L Water Planning Region and their not being able to come to an agreement on a water plan for this time frame, I would like to request TWDB's staff assistance in drafting language on options that might be presented to the legislature as an emergency issue in the upcoming Special Session. Specifically, I would like the legislation to cover the most immediate concerns such as (1) time extensions; (2) waivers on financing; or (3) other issues that might be caught in the wake of this inaction.

Of course, additional measures may be further needed in the 2007 session, but my primary concern at this time is identifying a means to allow an appropriate solution for this one specific situation, perhaps even legislation that could expire within a short time frame so that extensions don't become the norm. Or, if you think advisable, perhaps language could be crafted that would give the board some discretion should a similar situation occur in the future with this or any of the other regions.

Please feel free to contact me or my Legislative Assistant, Lisa Barton, who is assigned to this issue if you have any questions on this matter. I am thanking you in advance for your expertise and guidance as we work toward forging an acceptable resolution for this situation.

Very truly yours,

Frank Madla

FM:lb

COMMITTEES

Intergovernmental Relations, Chairman • Transportation and Homeland Security • Natural Resources • State Affairs



# Fax Transmission

## OFFICE OF STATE SENATOR FRANK MADLA

E1.610, Texas Capitol  
P O. Box 12068  
Austin, TX 78711-0268  
(512) 463-0119/ (800) 459-0119 / (512) 463-1017 Fax  
E-Mail: [FRANK.MADLA@SENATE.STATE.TX.US](mailto:FRANK.MADLA@SENATE.STATE.TX.US)

103 W. Callaghan  
Ft. Stockton, TX 79735  
(432) 336-2173/ 336-7001 Fax

1313 S.E. Military Dr. Suite 101  
San Antonio, TX 78214  
(210) 463-0119/ 463-1017 Fax

480 S. Americas Ave., Suite A-1  
El Paso, TX 79907-5650  
(915) 791-0119/ 791-0121 Fax

**Date:** January 18, 2005

**To:** Mr. J. Kevin Ward, Executive Administrator

**Organization:** Texas Water Development Board

**Fax Number:** 512/475-2053

**From:** State Senator Frank Madla **Number of Pages [including cover]:** ~~2~~

**TWDB  
RECEIVED**

JAN 19 2005

ROUTE 10: \_\_\_\_\_

**Comments:** CC Tom Tagliebuè

### LEGISLATIVE STAFF

Carla Searcey, Admin. Sec. /Office Mgr. - Austin - Session Scheduling, Office Administration, General Information  
Sherry Muller, Exec. Asst. /Chief of Staff - San Antonio/Austin - Staff Direction, Legislative Direction, Redistricting, Administration; Nominations /Issues: Special Legislation, Wine Issues

Stacy Gaston, Legislative Assistant - Austin - *Committees:* Health & Human Services; State Affairs; Select Committee on Workers' Compensation; *Issues:* Managed Care, Substance Abuse, Child Support, Medical Schools, Special Education  
Lisa Barton, Legislative Assistant - Austin - *Committees:* Infrastructure Development & Security; Business & Commerce; International Relations & Trade; *Education Issues:* Base Closure, Telecommunications, Veterans & Military Affairs, Criminal Justice, Bingo & Lottery, Border Affairs; Committee on Water Policy; Subcommittee on the Lease of State Water Rights;

### DISTRICT STAFF

Evelyn Alexander, Admin. Assistant - San Antonio - Flag Requests; Constituent Casework: Bandera, Bexar, Edwards, Kinney, Maverick, Medina, Uvalde & Val Verde Counties  
Blanca Hernandez, Admin. Assistant - San Antonio - District Scheduling, Constituent Casework: Bandera, Bexar, Edwards, Kinney, Maverick, Medina, Uvalde & Val Verde Counties  
Jonathan Valente, Staff Assistant - San Antonio - Reception, Clerical Duties, Constituent Services  
Tina Hagy, Area Representative - Ft. Stockton - Constituent Casework: Brewster, Crockett, Culberson, Jeff Davis, Loving, Pecos, Presidio, Real, Reeves, Sutton, Terrell, Ward & Winkler Counties  
Abel Herrera, Area Representative - El Paso - Constituent Casework: El Paso and Hudspeth Counties

### INTERGOVERNMENTAL RELATIONS COMMITTEE STAFF

Hillary Stephens, Committee Director - Austin - Committee Direction, Committee Records, Special Districts  
Lori Flores Mannion, Policy Analyst - Austin - County Government, Native American Affairs, Housing, Miscellaneous Taxation

**ATTACHMENT F**

**A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING THE ADOPTED REGIONAL WATER PLAN OF  
SOUTH CENTRAL TEXAS (REGION L) REGIONAL WATER PLANNING AREA  
(09- )**

WHEREAS, South Central Texas (Region L) Regional Water Planning Group adopted a Regional Water Plan (the "Plan") on January 19, 2006 and amended it in accordance with House Bill 3776 on August 6, 2009; and

WHEREAS, there are no interregional conflicts due to the adoption of the Plan; and

WHEREAS, the Plan meets the requirements contained in the Texas Water Code, Chapter 16, and Title 31 of the Texas Administrative Code, Chapters 357 and 358.

NOW THEREFORE, based on said considerations, the Texas Water Development Board resolves as follows:

The Board approves the Regional Water Plan of South Central Texas (Region L) Regional Water Planning Area.

APPROVED and ordered of record this the 17th day of September 2009.

TEXAS WATER DEVELOPMENT BOARD

---

James E. Herring, Chairman

ATTEST:

---

J. Kevin Ward  
Executive Administrator