



Texas Water Policy Update

August 2001

This newsletter provides an update on several issues discussed at the March, 2001 “Water and the Future of Rural Texas” Conference organized by the Texas Center for Policy Studies (TCPS). This newsletter is also produced by TCPS. Subsequent editions will be published periodically to inform the public of important matters affecting water resources in the state. Our distribution list includes conference attendees and other parties interested in water policy issues. Topics addressed in this issue include water and rural life, water and wildlife, and water marketing and groundwater management, as well as legislative highlights from the 77th Session, updates on the regional water planning process, and an overview of important upcoming events.

Senate Bill 2

Senate Bill 2 (SB 2) —passed by the Legislature in 2001— was initially touted as the financial follow-up to Senate Bill 1, the impetus to the current regional water planning process. The final 244-page version did not pan out to be the financial package originally intended, but it does include a wide range of measures that will substantially affect the management and protection of the State’s water resources. SB 2 highlights include:

- Strengthening the management of groundwater resources in the state;
- Creation of the Joint Committee on Water Resources to meet during the State Legislative interim;
- Establishing the funding framework for supporting future water projects; and
- The formation of a state-level Water Advisory Council.

Joint Committee on Water Resources

This interim committee will be composed of six members including the chairs of the Texas House and Senate Natural Resources Committees, two state senators appointed by the Hon. Bill Ratliff, and two state representatives appointed by the Hon. Pete Laney. The committee is charged with making recommendations to the 78th Legislature on:

- Increasing efficient use of existing water resources;
- Identifying long-term strategies for financing of water projects;
- Water marketing;
- Improving water conveyance systems;
- Environmental interests such as instream flow and the protection of natural conditions of state-owned riverbanks and beds.

Announcements of committee appointees will be made in the fall and meeting schedules will be posted on the Texas Legislature Web site at www.capitol.state.tx.us.

Regional Planning Process Update

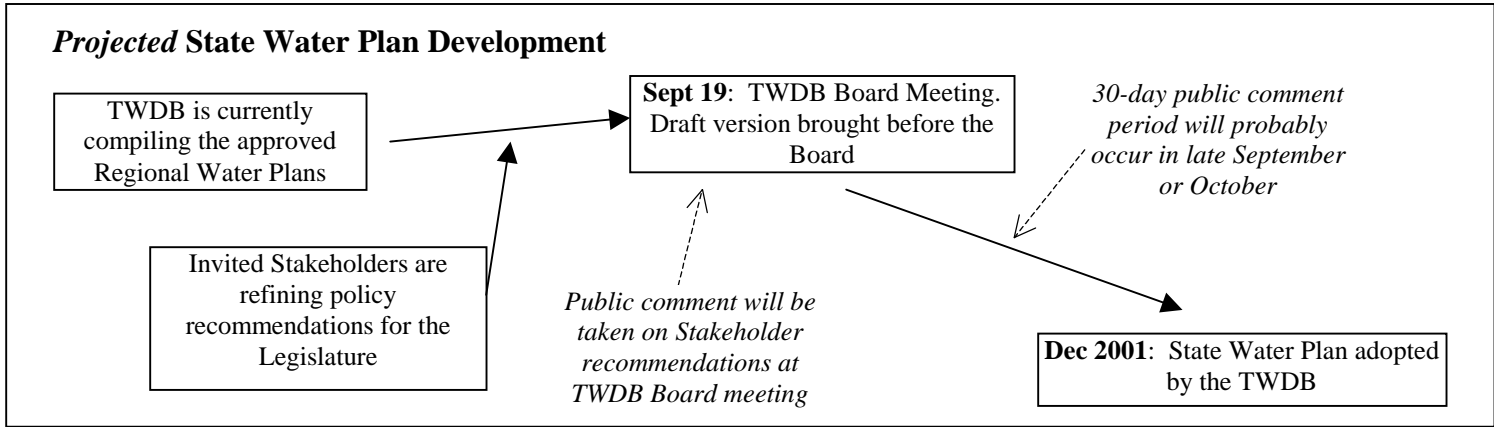
The Texas Water Development Board (TWDB) has now approved all sixteen of the adopted regional water plans. During the final approval process, the TWDB received positive as well as critical comments on the plans. Common issues raised included the failure of plans to fully consider environmental water needs (i.e. instream flows to support fish and wildlife, inflows to bays and estuaries, etc.) and to adequately consider conservation as a means for meeting future demand. The second round of regional planning offers an opportunity to address these issues.

An example of a regional plan that received a fair amount of public comment as it was brought before the Board for approval was the Region C plan, which includes the Dallas-Fort Worth Metroplex. While most regions projected a decrease in per capita consumption rates over the next 50 years, Region C, which currently has one of the highest water usage rates in the state, actually projected an increase for the City of Dallas from 260 gallons per capita per day (gpcd) to a staggering 264 gpcd in 2050. Due to the Region’s high per capita usage, they are planning the construction of the controversial Marvin Nichols Dam & Reservoir on the Sulfur River in Bowie and Red River Counties. This reservoir would flood an estimated 62,000 acres that includes bottomland hardwood habitat and productive farm and rangeland. It would be unnecessary if per capita consumption was lowered to 200 gpcd, a rate still high compared to Region L’s San Antonio projected 2050 rate of 132 gpcd or Region E’s projected rate for El Paso of 144 gpcd.

The TWDB is compiling the **State Water Plan** now. The Draft version is expected to be complete by the September 19th TWDB Board meeting. There will be a 30-day public comment period, which will probably occur in October 2001. The TWDB expects to hold hearings around the state during that time to gather public comment. The TWDB projects that the Board will consider adoption of the State Water Plan in December, and that it will be delivered to the Governor, Lt. Governor, Speaker of the House and Legislative Committees on January 5, 2002.

Over the summer, the TWDB facilitated a **Stakeholder Process** to draft recommendations in response to water policy issues identified by the regional planning groups in the regional water plans. The recommendations formulated by these invited stakeholders may be included as recommendations to the Legislature in the State Water Plan. Information about this Stakeholder Process is posted on the TWDB's web site, www.twdb.state.tx.us. There has been concern that all water interests have not been adequately represented by stakeholders, specifically rural and environmental interests, and that there was not sufficient time allowed in the process to carefully address the issues at hand.

The final **Stakeholder Policy Recommendations** are now available to the public for viewing at <http://www.twdb.state.tx.us/about/forum/attachments/policypapers.htm>. Public comment on these recommendations will be taken at the TWDB Board meeting on September 19th.



Water and Rural Life

In many regions of Texas, growing municipal demand has city water utilities eyeing the surface and groundwater resources of rural communities. These rural communities in turn are seeking ways to prevent or limit export of water to cities, since, without water, the livelihood and future of rural Texas would be grim indeed. Two options for rural communities to protect their water supplies are: 1) maintaining safeguards against losing water to another basin or area of the state and 2) ensuring that existing water resources are used responsibly.

On **ensuring responsible use** of current resources, SB 2 mandates that all regional water plans include water conservation practices and drought management measures in order to be approved by the TWDB. The regional plans must also be consistent with the long-term protection of the state's water, agricultural, and natural resources. Moreover, the Joint Committee on Water Resources will make recommendations regarding improving existing water conveyance systems, and increasing the efficient use of existing water resources.

Despite the threat of a controversial repeal included in the original version of SB 2, the "Junior Water Rights" provision on interbasin transfers is still intact. This means permits for exporting water out of a basin still receive a lower priority status than existing in-basin use permits. This was good news for those who believe that all in-basin water needs, including social, cultural and environmental needs, should be satisfied before any water is transferred to another basin.

Water for Fish and Wildlife

One of the tools available to the regional planning groups is their ability to recommend designation of sensitive river and stream segments as having unique features that should be protected.

The proponents of safeguarding environmental flows share many of the same concerns as those who are apprehensive about the future of rural water resources: preventing large scale interregional transfers of water, and assuring that projected water demands are based on true needs.

These include biologic or hydrologic function, riparian conservation areas, high water quality, exceptional aquatic life, high aesthetic value, or threatened or endangered species/unique communities. Only one planning group, Region H, chose to use this tool in the first round of regional plans. Instead, the fifteen other regional groups asked the Legislature to clarify the implications of this designation. In response, SB 2 provides that designation of a river or stream as having "unique ecological value" implies only that the state may not finance the construction of a reservoir in that segment. However, adding weight to the designation, the regional planning groups must now assess the potential impact of proposed water supply strategies on these designated segments with unique ecological value. The groups must also assess the potential impacts of proposed strategies on water quality.

Unfortunately, having instream flows explicitly listed in the Texas Statutes as a purpose for which water could be appropriated, stored, or diverted, was not included in SB 2. For now, the legal confusion over these essential and arguably indispensable water demands will continue. The Joint Committee on Water Resources may help clarify this issue as it is charged with determining the appropriate role of wildlife and environmental concerns in water development and permitting. The Joint Committee will also make recommendations on protection of the natural conditions of state-owned riverbanks and beds.

Financing Proposed Water Projects

On the financial assistance front, SB 2 established two funds; the *Water Infrastructure Fund* and the *Rural Water Assistance Fund*; however no new revenue sources were allocated to either fund. This was good news for those who believe the \$17 billion dollar price tag submitted by the SB 1 regional planning groups includes several reservoirs and other projects that, if subjected to cost-benefit analysis, might not prove worthy of state funding, let alone implementation. There are still options for state funding of projects through the TWDB and the Joint Committee on Water Resources will look into long-term financing strategies for proposed projects.

Water Marketing and Groundwater Management

Senate Bill 2 ratified eleven and created an additional three groundwater conservation districts. In addition to increasing the network of protected groundwater resources, SB 2 made great strides in clarifying the role of groundwater districts to manage and safeguard groundwater within their jurisdiction. For decades, groundwater conservation districts have been the state's preferred method of managing groundwater resources. With SB 2 language, it is now clear that groundwater ownership may be limited or altered by the rules promulgated by a district.

The scope of the groundwater conservation district's authority was also widened to include:

- Permitting of wells incapable of producing more than 25,000 gallons of water per day. Small production wells located on tracts of land larger than 10,000 acres are still exempt. This addresses concerns over the cumulative effects caused by an increase in un-permitted small production wells, as lands used historically for ranching and agriculture are subdivided for development;
- Regulating the spacing and production of wells to prevent interference between wells;
- Preventing degradation of water quality;
- Requiring a permit to export groundwater out of the district. While groundwater conservation districts cannot deny a permit solely on the fact that the groundwater will be exported, they are able to make the decision based on the availability of water and the projected effect the export will have on aquifer conditions.

What's Coming Up

- The TWDB Board meeting on Wednesday, September 19th, will invite public comment on the Stakeholder Policy Recommendations for the State Water Plan.
- Once the draft version of the State Water Plan is complete (*proposed September*), there will be a 30-day public comment period.
- The next round of regional planning is already underway. Most regional planning groups have already begun scoping their next cycle of activities.
- Members of the Joint Committee on Water Resources will be appointed in the fall of 2001. All committee meetings will be open to the public, and there will be opportunities to provide testimony to the members.

For additional information on these issues, to provide suggestions, or be removed or added to our mailing list, please contact Laura Brock at 512.474.0811, or via e-mail at lb@texascenter.org.



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