

TCEQ DOCKET NO. 2008-1940-WR

IN THE MATTER OF THE	§	BEFORE THE TEXAS
CREATION OF A GROUNDWATER	§	
CONSERVATION DISTRICT	§	COMMISSION ON
FOR PRIORITY GROUNDWATER	§	
MANAGEMENT AREA IN	§	ENVIRONMENTAL QUALITY
DALLAM COUNTY	§	

**PETITION FOR THE ADDITION OF PRIORITY GROUNDWATER
MANAGEMENT AREA TO A GROUNDWATER CONSERVATION DISTRICT**

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ), files this Petition and, in support thereof, shows the following:

I. INTRODUCTION

This petition is brought under the mandate to create or add priority groundwater management area (PGMA) to a groundwater conservation district (GCD) for any area that the Commission had previously issued an order making that recommendation. In 2010, the Commission issued an order recommending that three noncontiguous areas (“the Areas”) in the Dallam County PGMA be added to the North Plains Groundwater Conservation District (“North Plains”). That recommendation failed to gain voter approval and, therefore, much of the Areas remain unincorporated. Senate Bill 313, passed by the 82nd legislative session, now requires the Commission to create or add such land to a GCD by September 1, 2012.

II. BACKGROUND OF APPLICATION

In 2008, the ED prepared a report recommending that the Areas be added to North Plains as the most feasible, practicable, and economical method of achieving groundwater protection in the Areas. After a contested case hearing, the ALJ agreed and issued a PFD that recommended adopting of the ED's position. (TCEQ DOCKET NO. 2008-1940-WR; SOAH DOCKET NO. 582-09-2350).

On February 17, 2010, the Commission adopted the ALJ's PFD and issued an order recommending that the Areas be added to North Plains. The Commission found that doing so was the most feasible, economic, and practicable option for the protection and management of groundwater resources in the Dallam County PGMA. The order further directed North Plains to vote to add the areas and then called an election within each of the areas in accordance with Texas Water Code (TWC), §35.013. Although the board of directors voted to add the Areas, the landowners did not and the proposition failed in the November 2, 2010 election.

Landowners have nevertheless volunteered to join North Plains. The ED's 2012 Addendum to the 2008 Report (attached), discusses the voluntary annexations and consequent change in the size and shape of the Areas. The Addendum also shows that the already small tax base for those areas has become smaller, decreasing the feasibility of creating an independent district and increasing the feasibility of adding those areas to the North Plains.

In its January 2011 report to the 82nd Texas Legislature on priority groundwater management areas and groundwater conservation districts, the Commission gave a background of the proceedings outlined above and informed the legislature of the options available for future action:

The 82nd Texas Legislature has the opportunity to establish a groundwater management solution for the Dallam County PGMA by creating a special district or amending an existing district. In the absence of a special law solution, the TCEQ will proceed administratively in accordance with the TWC, Sections 35.013 and 36.0151 to issue an order prior to November 2, 2011, creating a GCD for groundwater management for any remaining non-GCD areas in the Dallam County PGMA. The order will provide for the purpose of the GCD, the GCD's boundary, and the estimated minimum maintenance tax or production fee necessary to support the GCD. The TCEQ order will also provide for the appointment of temporary directors by the Commissioners Court of Dallam County. A confirmation election for the new GCD will not be required. However, the temporary directors will be required to call and schedule an election to select permanent directors and to offer a proposition to the voters for district authorization to assess taxes. The new GCD will be responsible for the cost of the election and for all operation and maintenance costs of the district through any means available under TWC, Chapter 36.

Priority Groundwater Management Areas and Groundwater Conservation Districts, Report to the 82nd Texas Legislature (January 2011) at 25-26. Subsequently, the 82nd Texas Legislature passed Senate Bill (SB) 313.¹

III. SENATE BILL 313

In 2011, the 82nd Legislature, Regular Session, passed SB 313 to amend TWC, Chapters 35 and 36. The amendments direct the Commission to add PGMA territory to an existing district for any territory that the Commission had previously recommended doing so:

Not later than September 1, 2012, the Texas Commission on Environmental Quality shall create a district or add territory to an existing district for any territory for which the commission has issued an order recommending creation of a district or addition of territory to an existing district under Section 35.008, Water Code, before the effective date of this Act, unless the commission determines that the territory is not suitable under Subsection (i), Section 35.013, Water Code.

SB 313, §7(b)(effective June 17, 2011). Alternatively, if the Commission determines that a district created under Chapter 36 is not appropriate for, or capable of, the protection of the groundwater resources within the PGMA, the Commission may recommend the legislature to create a special district or amendment of an existing district. TWC, §35.018(c). The ED believes that the passage of SB 313 obviates the exercise of this alternative option. The bill requires Commission action by September 1, 2012.

A notice of the July 25, 2012, agenda meeting was mailed to stakeholders on June 15, 2012 and published in the *Dalhart Texan* on June 19, 2012; the ED's 2012 Addendum has been available to the public on the TCEQ's website, various locations within Dallam County, as well as TCEQ offices since April 2012.

IV. RECOMMENDATION

¹ Another bill (SB 956) to create a stand-alone GCD called the Northern Dallam County GCD in the Dallam County PGMA covering Areas A, B, and C was also introduced. The bill was engrossed by the Senate and referred to the House Committee on Natural Resources, but expired in committee at the conclusion of the 82nd Legislature, Regular Session.

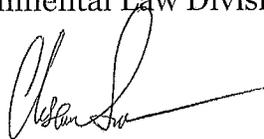
For the reasons set out above, the ED recommends the Commission issue an order adding to the North Plains Groundwater Conservation District all unincorporated territory in Dallam County PGMA: it is territory for which the Commission has issued an order recommending adding to North Plains, under Section 35.008, Water Code, before the effective date of SB 313.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Zak Covar,
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ATTORNEY FOR
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Certificate of Service

I hereby certify that on this 5th day of July, a true and correct copy of the foregoing document was delivered via e-mail or by deposit in the U.S. mail to all persons on the attached mailing list.

A handwritten signature in black ink, appearing to read "Christiaan Siano", written over a horizontal line.

Christiaan Siano
Environmental Law Division

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TCEQ Docket No. 2008-1940-WR

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March 2012
Groundwater Conservation District Recommendation Report

Groundwater Conservation District
Recommendation for Dallam County
Priority Groundwater Management Area

2012 Addendum

printed on
recycled paper

Water Availability Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

***Groundwater Conservation District
Recommendation for Dallam County
Priority Groundwater Management Area***

2012 Addendum

Groundwater Conservation District Recommendation Report

Prepared by:

Kelly Mills, P.G.

Peggy G. Hunka, P.G.

Water Availability Division

Groundwater Planning and Assessment Team

March 2012

Executive Summary

This addendum is in response to Senate Bill 313, passed during the 82nd Legislature, Regular Session, 2011, which requires the Commission to take action on a Priority Groundwater Management Area (PGMA) for which the Commission has issued an order recommending creation of a groundwater conservation district (GCD) or adding the territory to an existing GCD, where the PGMA has yet to join or become a GCD. Such an order was issued by the Commission for areas within the Dallam County PGMA, which did not result in the areas being included within the North Plains Groundwater Conservation District ("the District"). Subsequently, landowners within the PGMA petitioned, and were granted, inclusion within the District. Some of the Dallam County PGMA nevertheless remains outside of the District. In light of the recent legislation, this addendum recommends that the Commission issue an order adding the remaining Dallam County PGMA territory to the District.

Background

In December of 2008, the Executive Director (ED) published his report on the *Groundwater Conservation District Recommendation for Dallam County Priority Groundwater Management Area* (hereinafter "2008 Report"), recommending that areas identified as Area A, Area B, and Area C ("Areas") be added to the District. After a contested case hearing, the Commission adopted the ED's recommendation and on February 17, 2010, issued an Order recommending that the Areas of the Dallam County PGMA be added to the District. The Order found that Areas A, B, and C (Figure 1) should be added to the North Plains GCD as the most feasible, economic, and practicable option for the protection and management of groundwater resources in the Dallam County PGMA. The Order directed the District to vote to add the Areas and then call an election within each Area in accordance with Texas Water Code (TWC), §35.013. (TCEQ DOCKET NO. 2008-1940-WR; SOAH DOCKET NO. 582-09-2350) Figure 1 (attached) shows the boundary of the Dallam County PGMA; identifies Areas A, B, and C within the PGMA; and shows the extent of territory in Dallam County that was within the February 2010 boundary of the District.

In response, the District board of directors approved the Commission Order on March 9, 2010, and scheduled a November 2, 2010, election. Texas AgriLife Extension Service (TAES) conducted an education program in the Dallam County PGMA. The ED, Texas Water Development Board (TWDB), TAES, and the District participated in two educational outreach meetings in Texline and Dalhart in October 2010. In addition to the public meetings, TAES mailed a packet containing educational information to all registered voters in the Areas.

On November 2, 2010, the proposition to join the District was defeated by the voters of the Areas as follows:

Area A– 37 for; 88 against

Area B – 0 for; 1 against

Area C– 5 for; 34 against

Because the election failed, the Commission reimbursed the District for the cost of the election, in accordance with TWC, §35.014.

Nevertheless, portions of the Areas have been added to the District by other means. Following the failed election, a number of landowners petitioned, and were granted, inclusion within the District. The following is a chronology of the landowner initiated additions to the District:

- In January 2011, the District board of directors approved a petition from landowner Little Outfit Ranch, Ltd. to add 178.65 acres in Area A.
- In April 2011, the District board of directors approved petitions from landowners M & J Willard, Ltd. to add 8,796.42 acres of property and from landowners Jay and Kelly Willard to add 8,275.00 acres of property in Area C.
- In July 2011, the District board of directors approved petitions from landowners Bobby Wyatt and Mary Nix Wyatt to add 10.00 acres and from landowners Glen P. and Mildred S. Reagan to add 3.34 acres of property in Area A.
- In August 2011, the District board of directors took action on a petition from landowner Richard and Judith Carpenter to add 640 acres of property in Area C.

Collectively, the District has added 17,903.41 acres, approximately 28 square miles, of the Dallam County PGMA since this matter was last considered by the Commission. Figure 2 shows the boundary of the Dallam County PGMA; identifies Areas A, B, and C within the PGMA; and shows the extent of territory in Dallam County that was within the January 2012 boundary of the District. The new boundary descriptions for Areas A and C, and the unchanged boundary description for Area B are included as Attachment A.

About 430 of the 1,505 square miles in Dallam County, slightly more than 28.5% of the county, were outside of the boundaries of a GCD in February 2010. After the 2011 landowner petitions to add land to the District and actions by the District to add the 28 square miles of land, a little over 400 square miles of the PGMA in Dallam County remains outside of a GCD. This is slightly less than 27% of the county.

During the preparation of the ED's 2008 Report, the United States Department of Agriculture (USDA) Forest Service provided comments in support of incorporating all of the Dallam County land they administer into the District. About 5,422.26 acres, or 8.47 square miles, of the remaining non-GCD areas of the Dallam County PGMA are part of the Rita Blanca National Grasslands that are administered by the USDA Forest Service (Figure 2).

Legislative Requirements

In 2011, the 82nd Legislature, Regular Session, passed SB 313 to amend TWC, Chapters 35 and 36. The amendments direct the Commission to add PGMA territory to an existing district for any territory that the Commission had previously recommended doing so. Specifically, SB 313 provides:

Not later than September 1, 2012, the Texas Commission on Environmental Quality shall create a district or add territory to an existing

district for any territory for which the Commission has issued an order recommending creation of a district or addition of territory to an existing district under Section 35.008, Water Code, before the effective date of this Act, unless the Commission determines that the territory is not suitable under Subsection (i), Section 35.013, Water Code.

SB 313, §7(b). The effective date of this Act was June 17, 2011. Alternatively, if the Commission determines that a district created under Chapter 36 is not appropriate for, or capable of, the protection of the groundwater resources within the PGMA, the Commission may recommend the legislature to create a special district or amendment of an existing district. TWC, §35.018(c).

Analysis

The 2008 Report estimated that a new district would require a minimum of \$250,000 in annual budget. At that time, the Areas represented approximately 430 square miles, with an estimated tax base of \$71,287,942, which would have required an estimated tax rate of \$0.35 per \$100 valuation.

The reduction in acreage (from 430 square miles to 400 square miles) described above changes the estimates for available funding through either ad valorem taxes or well production fees, as authorized by TWC, Chapter 36. Based on the 2008 total appraised value for county taxation, the ED estimates that the tax base for the remaining non-GCD areas of Dallam County has decreased from \$71,287,942 to \$66,863,116. To generate the \$250,000 per year with an estimated tax base of \$66,863,116, the estimated tax rate on the remaining 400 square miles (256,000 acres) of non-District land would need to be slightly less than \$0.375 per \$100 valuation, an increase of about \$0.025 per \$100 valuation over the 2008 estimate.

Similarly, the reduced acreage results in an estimated \$8,935 less in well production fee revenue available to a new GCD. This revenue source remains below the \$250,000 minimum to finance a new GCD's operation and maintenance costs.

Alternatively, the collective tax rate for all property owners within the Area under the District's tax rate of around \$0.02 per \$100 valuation, would be about \$13,375 per year.

This analysis shows that adding the Areas to the District remains the most feasible, practicable, and economic means to provide uniform groundwater management in the Dallam County PGMA. The ED therefore reaffirms his December 2008 recommendation.

Recommendation

The Executive Director recommends the Commission issue an order to add all of the non-GCD portions of the Dallam County PGMA, shown in Figure 2 and described in Attachment A, to the North Plains GCD, and for the North Plains GCD to consider addition of all of the non-GCD portions of the Dallam County PGMA, in accordance with TWC, §35.013.

REFERENCES

Hunka, P., 2008, *Groundwater Conservation District Recommendation for the Dallam County Priority Groundwater Management Area*: Texas Commission on Environmental Quality, Groundwater Conservation District Recommendation Report.

2010, Commission Order Recommending Creation of a Groundwater Conservation District for Priority Groundwater Management Area in Dallam County, TCEQ DOCKET NO. 2008-1940-WR; SOAH DOCKET NO. 582-09-2360 issued on February 17, 2010.

_____, 2011, personal communication with Eddie Carter, Dallam County Tax Appraiser Office, December 2011.

_____, 2011, personal communication with Odell Ward, North Plains Groundwater Conservation District, December 2011.

Figure 1 – February 2010 Dallam County PGMA Areas (A, B and C) without GCD jurisdiction.

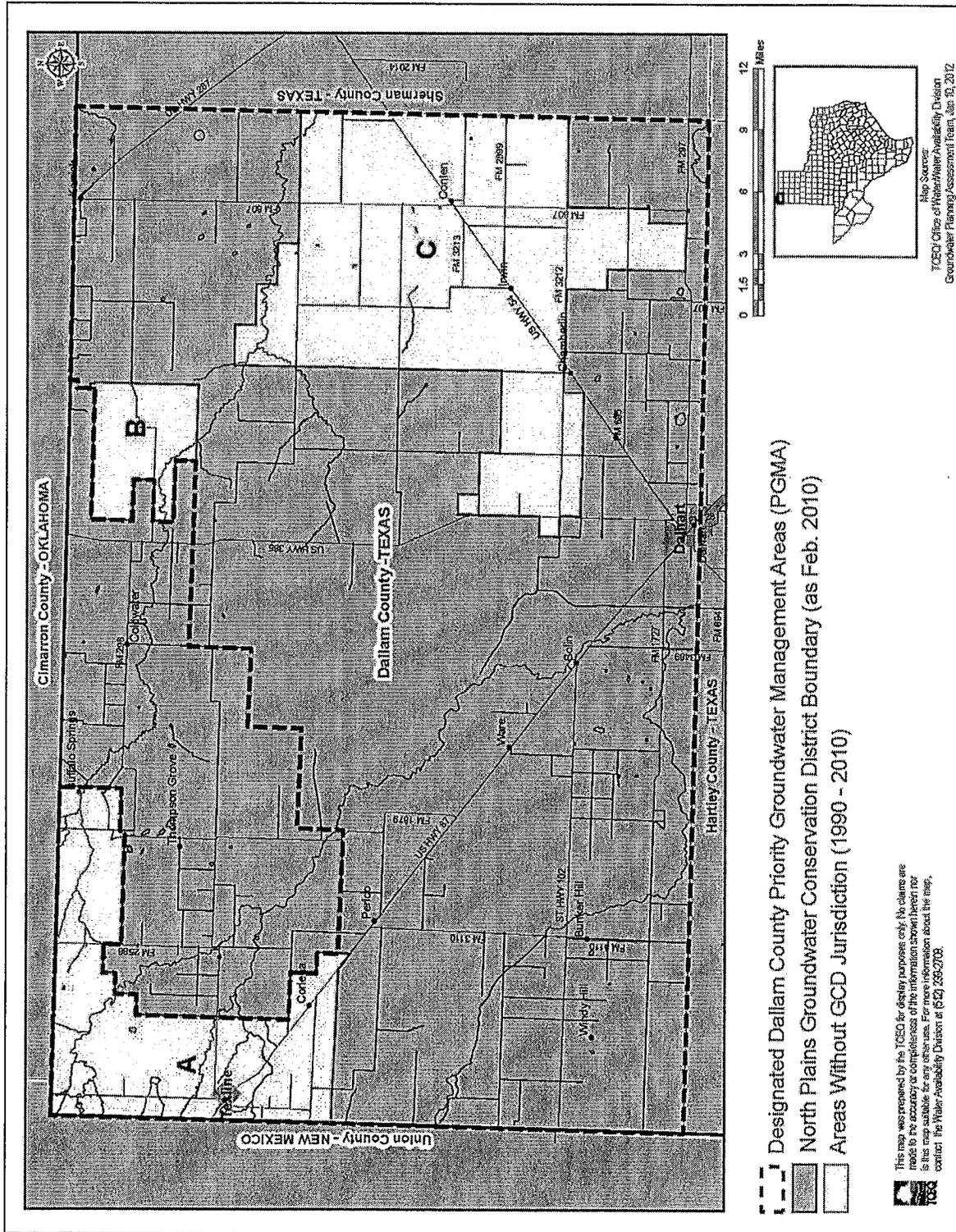
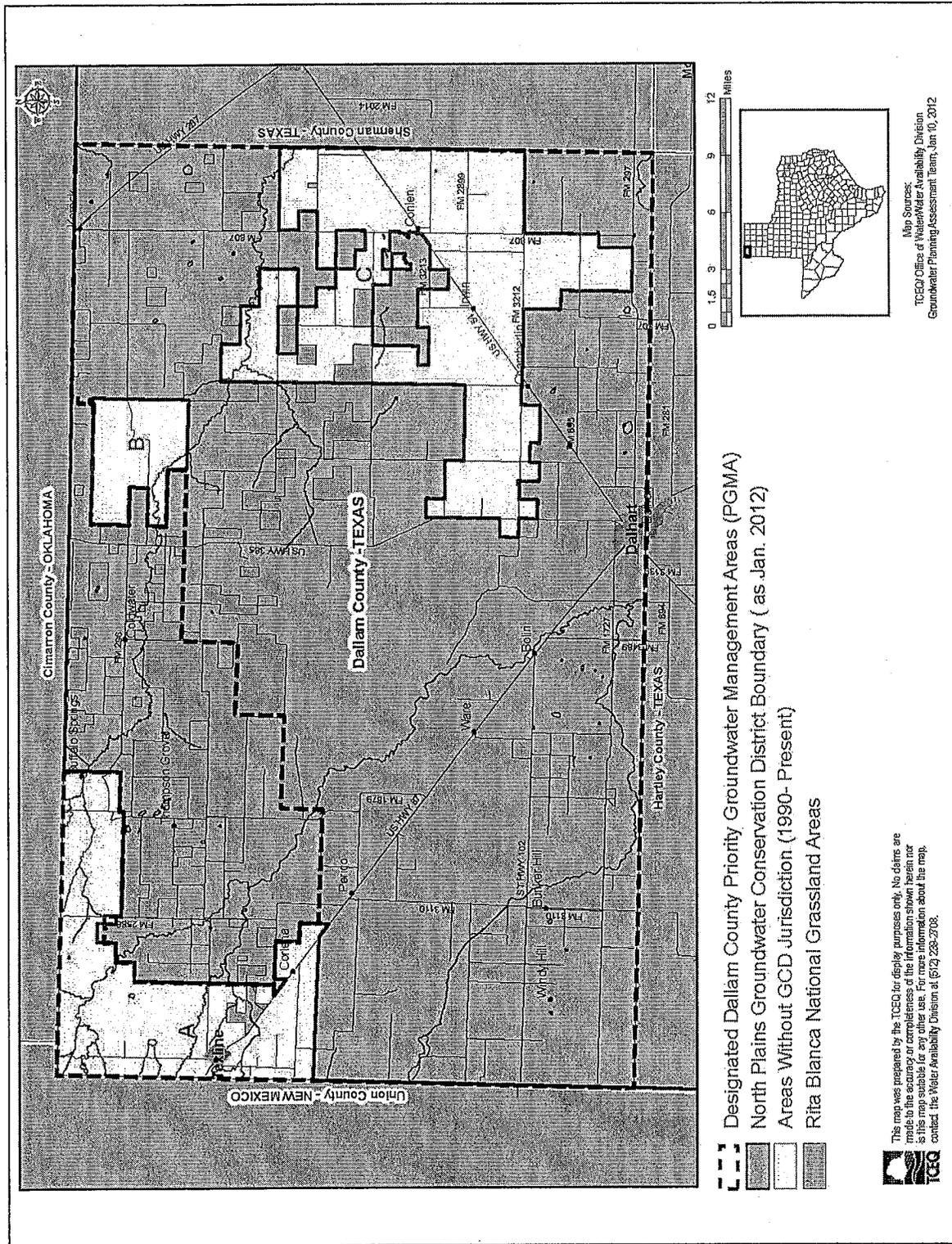


Figure 2 – January 2012 Dallam County PGMA Areas (A, B and C) without GCD jurisdiction.



Attachment A - Boundary Description of Dallam County PGMA

AREA A

Beginning at the northwest corner of Dallam County, Texas, which point is also the northwest corner of the Panhandle, State of Texas, and a point in the east boundary line of the State of New Mexico;

Thence eastward along the north boundary line of Dallam County, Texas, and the south boundary line of Cimarron County, Oklahoma to a point on said boundary line which is the northeast corner of Section 2, Block No. 17, CSS Survey;

Thence south along the east section line Sections 2, 5 and 20 to a point in the southeast corner of Section 20, Block No. 17, CSS Survey;

Thence west along the south section line of Sections 20 and 21 to the southwest corner of Section 21, Block No. 17, CSS Survey, continuing west on the south section lines of Sections 18, 17, 16, 15, 14 and 13, of Block No. 1, F.D.W. Subdivision;

Thence north approximately 0.8 miles along the east section line of Fractional Sections 27 B and 27 to a point in Fractional Section 27, M. E. Hays Subdivision;

Thence west to a point on the east section line of Section 25 approximately 0.8 miles north of the southeast corner of Section 25, M. E. Hays Subdivision;

Thence south along the east section line of Section 25 to the southeast corner of Section 25, M.E. Hays Subdivision;

Thence west along the south section line of Section 25 to the southwest corner of Section 25, M.E. Hays Subdivision;

Thence south along the east section line of Section 33 to the southeast corner of Section 33, M.E. Hay Subdivision;

Thence west along the south section line of Section 33 to the southeast corner of Section 32, M.E. Hay Subdivision;

Thence south along the east section line of Sections 41, 50, 59, 68, 75, 82, 88 and Fractional Section 93 to the southeast corner of Fractional Section 93, all in the M. E. Hays Subdivision, said line being also the north boundary line of the Block No. 7, CSS Survey;

Thence west along the boundary line of the M. E. Hays Subdivision and Block No. 7, CSS Survey to the northwest corner of Section 77 of Block No. 7, CSS Survey;

Thence southeast along the boundary line of Section 77 of Block No 7, CSS Survey to the southeast corner of Section 77 of Block No. 7, CSS Survey;

Thence north along the east boundary of Section 77 of Block No. 7, CSS Survey to the northeast boundary line of the Section 77 of Block No. 7 CSS Survey;

Thence east along the boundary line of the M. E. Hays Subdivision and Block No. 7, CSS Survey to the northeast corner of Section 79, which point is also the northwest corner of Section 80, both Sections being in Block No. 7, CSS Survey;

Thence south along the east section line of Section 79 to the southeast corner of the Section 79 of Block No. 7, CSS Survey;

Thence east along the north section line of Section 62 to the northeast corner of Section 62, of Block No. 7, CSS Survey;

Thence south along the east section line of Section 62 to the southwest corner of Section 60, Block No. 7, CSS Survey;

Thence northwest along the east section line of Sections 59 and 58 to the northeast corner of Section 58, all in Block No. 7, CSS Survey;

Thence west along the north section line of Sections 58, 57, 56, 55, 54, 53, 52, 51 to a point on the northwest corner of Section 51, all in Block No. 7, CSS Survey;

Thence north along said state line to the northwest corner of Dallam County, Texas, the point of the beginning of this survey.

AREA B

Beginning at the northeast corner of Section 13, Block 18, CSS Survey which point is also the most southwest corner of Section 16, Block M-27, TC RR Survey;

Thence west along the north section line of Sections 13, 12, 11, 10, 9, 8 and 7 to the northwest corner of Section 7, all in Block 18, CSS Survey;

Thence south along the west section line of Sections 7 and 20 to the southwest corner of Section 20, all in Block 18, CSS Survey;

Thence east along the south section line of Sections 20 and 19 to the southeast corner of Section 19, all in Block 18, CSS Survey;

Thence south along the west section line of Section 35 to the northeast corner of Section 35, of Block 18, CSS Survey;

Thence west along the north section line of Sections 45 and 46 to the northwest corner of Section 46, of Block 18, CSS Survey;

Thence south along the west section line of Section 46 to the southwest corner of Section 46, of Block 18, CSS Survey;

Thence east along the south section line of Sections 46, 45 and 44 to the southeast corner of Section 44, all in Block 18, CSS Survey;

Thence south along the west section line of Section 62 to the southwest corner of Section 62, of Block 18, CSS Survey,

Thence east along the south section line of Sections 62, 63 and Fractional Sections 64 and 65 to the southeast corner of Fractional Section 65, all in Block 18, CSS Survey;

Thence north along the boundary line of Block 18, CSS Survey and Block M-27, TC RR Survey to the west section line of Section 1, Block M-27, TC RR Survey, said point being the northeast corner Section 13 of Block 18, CSS Survey, the point of the beginning of this survey.

AREA C

Beginning at a point which is the southeast corner of Section 159, which point is also the northeast corner of Section 184, all in Block No. 1-T, TC RR Survey;

Thence west along the south section line of Sections 159, 158, 157, 156 and 155 in Block No. 1-T, TC RR Survey, and continuing west along the south section line of Sections 7 and 8 to the southwest corner of Section 8, in Block No. 1, I&GN RR Survey,

Thence north along the west section line of Section 8 to the northwest corner of Section 8 in Block No. 1, I&GN RR Survey;

Thence west along the south section line of Sections 94 and 93 to the southwest corner of Section 93 in Block No. 47 1/2, H&TC Survey,

Thence north along the west section line of Section 93 to the northwest corner of Section 93 in Block No. 47 1/2, H&TC Survey;

Thence west along the south section line of Sections 97 and 98 to the southwest corner of Section 98 in Block No. 47 1/2, H&TC Survey;

Thence north along the west section line of Section 98 to the northwest corner of Section 98 in Block No. 47 1/2, H&TC Survey;

Thence west along the south section line of Sections 104 and 103 to the southwest corner of Section 103, which point is also the northeast corner of Section 101, all in Block No. 47 1/2, H&TC Survey

Thence south along the east section line of Sections 101, 88, 87, 74, 63, 50, 39, 25, 16 and 5 of Block No. 47 1/2, H&TC Survey and continuing south along the east section line of Sections 1, 8, and 9 of Block 1, BS&F Survey to the southeast corner of Section 9, Block 1, BS&F Survey;

Thence west along the south section line of Section 9 and continuing west along the south section line of Sections 21, 20, and 19 to the southwest corner of Section 19, in Block 1, Brooks & Burleson Survey;

Thence north along the west section line of Section 19 to the northwest corner of Section 19 of Block 1, Brooks & Burleson Survey;

Thence west along the south section line of Sections 13 and 14 to the southwest corner of Section 14 of Block 1, Brooks & Burleson Survey;

Thence north along the west section line of Section 14 to the northwest corner of Section 14 of Block 1, Brooks & Burleson Survey;

Thence west along the south section line of Section 1 to the southwest corner of Section 1 of Block 1, Brooks & Burleson Survey;

Thence south along the east section line of Sections 3, 15, 28 and 29 to the southeast corner of Section 29 all in Block 1, Brooks & Burleson Survey;

Thence west along the south section line of Section 29 of Block 1, Brooks & Burleson Survey and along the south line of DB Hill Survey to the northeast corner of Section 31 of Block 1, CSS Survey;

Thence south along the east section line of Section 31 to the southeast corner of Section 31 of Block 1, CSS Survey;

Thence east along the north section line of Section 25 to the northeast corner of Section 25 of Block 1, CSS Survey;

Thence south along the east section line of Section 25 to the southeast corner of Section 25 of Block 1, CSS Survey;

Thence east along the north section line of Sections 21 and 22 of Block 1, CSS Survey and continuing east along the north section line of Section 7 of Block Z, O K Mapes Survey and continuing east along the north section line of Sections 47, 46, 45 and 44 of Block 1, Brooks & Burleson Survey to the northeast corner of Section 44 of Block 1, Brooks & Burleson Survey;

Thence north along the west section line of Section 19 to the northwest corner of Section 19 of Block 1. BS&F Survey;

Thence east along the north section line of Sections 19 and 20 of Block 1, BS&F Survey and continuing east along the north section line of Sections 6, 5 and 4 of Block SUB, WH Pardue Survey also being a common point with the northwest corner of Section 7 of Block 1A, CT RR Survey;

Thence south along the west section line of Sections 7 and 6 to the southwest corner of Section 6 of Block 1A, CT RR Survey;

Thence east along the south section line of Section 6 to the southeast corner of Section 6 of Block 1A, CT RR Survey;

Thence south along the west section line of Sections 4, and 1 of Block 1A, CT RR Survey and continuing south along the west section line of Section 1A, J A Ritchey Survey to the southwest corner of Section 1A, J A Ritchey Survey;

Thence east along the south section line of Section 1A, J A Ritchey Survey and continuing east along the south line of Section 2 of the S Clark Survey to the southeast corner of Section 2 of the S Clark Survey;

Thence north along the east section line of Section 2, S Clark Survey to a point this line intersects with the south section line of Section 1 of Block 7T, T&NO Survey;

Thence east along the south section line of Section 1 to the southeast corner of Section 1 of Block 7T, T&NO Survey;

Thence north along the east section line of Section 1, 4, 5 and 8 to the northeast corner of Section 8 of Block 7T, T&NO Survey, also being a common point with the northwest corner of Section 393 of Block 1T, T&NO Survey;

Thence east along the north section line of Sections 393, 394, 395, 396 and 397 of Block 1T, T&NO Survey until this line intersects with the common section of Dallam County and Sherman County in Texas;

Thence north along the east boundary of Dallam County which line is also the west boundary of Sherman County to a point which is the southeast corner of Section 159, in Block No. 1T, T&NO Survey, the point of the beginning of this survey.

The following Sections and partial Sections have been added to the North Plains GCD by landowner petition:

Section 78, Block 47 1/2, H&TC Survey (640 acres); Section 24, Block 7-T, T&NO Survey (72 acres); Section 28, Block 7-T, T&NO Survey (640 acres); Section 25, Block 7-T, T&NO Survey, N 1/2 (320 acres); Sections 20, Block 7-t, T&NO Survey (482.5 acres); Section 21, Block 7-T, T&NO Survey (605.12 acres); Section 22, Block 7-T, T&NO Survey (199.8 acres); Section 19, Block 7-T, T&NO Survey (637 acres); Sections 56, Block 47 1/2, H&TC Survey (640 acres); Section 57, Block 47 1/2, H&TC Survey (640 acres); Section 4, A. Smith Survey N 1/2 (320 acres); Section 9, A. Smith Survey (400 acres); Section 27, Block 7-T, T&NO Survey (640 acres); Section 5, Block 1, I&GN Survey (640 acres); Section 6, Block 1, I&GN Survey (640 acres); Section 3, Block 1, I&GN Survey (640 acres); and Section 189 Block 1-T, T&NO Survey (640 acres) all belonging to M & J Willard, Ltd., and;

Section 76, Block 47 1/2, H&TC Survey, E 1/2 (320 acres); Section 77, Block 47 1/2, H&TC Survey (640 acres); Section 2, F.H. Davis, Grantee Survey (771.9 acres); Section 58, Block 47 1/2, H&TC Survey (640 acres); Sections 1, Block 47 1/2, H&TC Survey (640 acres); Section 2, Block 47 1/2, H&TC Survey (640 acres); Section 19, Block 47 1/2, H&TC Survey (640 acres); Section 20, Block 47 1/2, H&TC Survey (640 acres); Section 23, Block 47 1/2, H&TC Survey, S 1/2 (320 acres); All of Moses Walters Survey excluding 287.5 acres in the NE 1/4 (2012.5 acres); Section 4, Block 1, BS&F Survey (640 acres), and the S 370.6 acres of Section 3, Block 1, BS&F Survey (370.6 acres) all belonging to Jay Willard and Kelly Willard, and ;

Section 4, Block 1, of the I&GN RR Survey, belonging to Richard and Judith Carpenter (640 acres).

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2008-1940-WR

AN ORDER GRANTING THE PETITION FOR ADDITION OF DALLAM COUNTY PRIORITY GROUNDWATER MANAGEMENT AREA TO NORTH PLAINS GROUNDWATER CONSERVATION DISTRICT

On July 25, 2012, the Texas Commission on Environmental Quality ("Commission") met in regular session at its offices in Austin, Texas, with notice of the meeting issued in compliance with the Open Meetings Act, TEX. GOV'T CODE §§ 551.001 - 551.146 and the Administrative Procedure Act, TEX. GOV'T CODE §§ 2001.001 - 2001.902, to consider the petition submitted by the Executive Director ("ED") pursuant to Senate Bill No. 313 ("SB 313"), enacted by the 82nd Regular Texas Legislature, relating to priority groundwater management areas ("PGMA"). After having considered the petition, the Commission finds that the petition has merit and should be granted. The Commission further makes the following Findings of Fact and Conclusions of Law:

Findings of Fact

1. On February 17, 2010, the commission issued an order recommending that the unincorporated areas of the Dallam County PGMA be added to the North Plains Groundwater Conservation District, and directed the NPGCD to vote to add the areas then call and hold an election within each area according to Tex. Water Code § 35.013.
2. The areas identified as A, B, and C in the 2012 addendum (the Addendum) to the 2008 Groundwater Conservation District Recommendation for Dallam County Priority Groundwater Management Area are within the Dallam County PGMA.
3. Areas A, B, and C remain unincorporated within a groundwater conservation district.

4. SB 313 provides that, not later than September 1, 2012, Commission shall create a district or add territory to an existing district for any territory for which the commission has issued an order recommending creation of a district or addition of territory to an existing district under Section 35.008, Water Code, before the effective date of this Act, unless the commission determines that the territory is not suitable under Subsection (i), Section 35.013, Water Code.
5. The Addendum recommends that the commission add the unincorporated areas to North Plains Groundwater Conservation District (NPGCD).
6. The Commission's February 17, 2010, order was issued before June 17, 2011, when SB 313 became effective.

Conclusions of Law

1. The Commission's obligation under SB 313 is mandatory.
2. The requirements of Tex. Water Code §§ 35.013(a) through (b-1) have been completed.
3. All of the land and property proposed may properly be included within the proposed District.
4. All statutory and regulatory requirements for adding Areas A, B, and C of the Dallam County PGMA to the NPGCD have been fulfilled in accordance with Tex. Water Code §§ 35.008, .013, and .015 and 30 Tex. Admin. Code § 293.19.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION
ON ENVIRONMENTAL QUALITY, THAT:

1. The petition filed by the Executive Director for the addition of the Areas to the North Plains Groundwater Conservation District is hereby GRANTED.
2. All territory within Dallam County PGMA not previously incorporated within a groundwater conservation district is hereby added to North Plains GCD.
3. North Plains GCD shall proceed in accordance with Tex. Water Code §§ 35.013(c) – (g -1).
4. The Areas shall be subject to all of the rights, duties, powers, privileges, authority, and functions conferred and imposed by the Commission and the general laws of the State of Texas relating to Groundwater Conservation Districts, subject to the requirements of the Commission and general laws of the State of Texas relating to the exercise of such powers.

5. The Chief Clerk of the Commission shall forward a copy of this Order to all affected persons.
6. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date:

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Bryan W. Shaw, Ph.D. Chairman

