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Priority Groundwater Management Areas and Groundwater Conservation Districts

Report to the 85th Texas Legislature

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Priority Groundwater Management Areas and Groundwater Conservation Districts

Report to the 85th Texas Legislature

Prepared by
Texas Commission on Environmental Quality
Texas Water Development Board

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Executive Summary

This report provides information to the executive and legislative leadership on activities undertaken during the preceding two years relating to the creation of groundwater conservation districts (GCDs, or districts), the study and designation of priority groundwater management areas (PGMAs), and the operation of GCDs. This report was prepared by the Texas Commission on Environmental Quality (TCEQ or Commission) and the Texas Water Development Board (TWDB) to fulfill the requirements of Texas Water Code (TWC), Section 35.018.

This biennial report describes state agency efforts to implement the groundwater management provisions of Chapters 35 and 36 of the TWC. The report provides information on:

- Acts of the 84th Legislature, Regular Session, 2015, that affect the state's groundwater conservation districts;
- the results of confirmation elections for recently created GCDs and the addition of territory into existing districts;
- implementation of the state's priority groundwater management area program, including state and local actions conducted in the designated PGMAs;
- GCD adoption of management plans and administrative approval of those plans by TWDB;
- groundwater management areas (GMA) and the joint planning requirements in the GMAs; and
- TCEQ performance review actions related to GCD management plan adoption or implementation.

Acts of 84th Legislature and Groundwater Conservation Districts. Eight Acts of the 84th Legislature amended Chapter 36 of the TWC related to general law: (1) House Bill (HB) 200 clarifies the state's position that GCDs are the preferred method of groundwater management, updates provisions related to attorney's fees, and clarifies the process to establish desired future conditions (DFCs); (2) HB 655 creates a new Subchapter related to aquifer storage and recovery (ASR) wells; (3) HB 2179 amends the GCD permit public hearing process and clarifies requirements for a district's board and for the State Office of Administrative Hearings (SOAH) administrative law judge; (4) HB 2767 addresses the disclosure of conflicts and payment by counties of costs related to GCD creation; (5) HB 3163 addresses lawsuits against board members; (6) HB 4112 clarifies aspects of groundwater ownership rights; (7) Senate Bill (SB) 854 updates the requirements for GCDs to issue operating permits; and (8) SB 1336 extends the time during which TCEQ may not create a GCD in certain areas.

Two Acts created new GCDs. HB 2407 created the Comal Trinity GCD in Comal County. The directors have been appointed by the commissioners

court, and the district was not subject to a confirmation election. HB 4207 created, subject to a confirmation election, the Aransas County GCD in Aransas County. The commissioners court appointed temporary directors, who scheduled and held a confirmation election on May 7, 2016. The voters did not confirm the Aransas County GCD. The Act will expire on September 1, 2019 because the GCD was not confirmed. Eight Acts amended the authority of specific GCDs.

Priority Groundwater Management Areas. During 2015 and 2016, the TCEQ Executive Director tracked legislative and local efforts to create the new Comal Trinity GCD and propose the Western Travis County GCD in the Hill Country PGMA. During the interim, the Executive Director provided information and served as a resource for GCD creation interests in Travis County.

On December 12, 2014, the TCEQ issued an order recommending the Briscoe PGMA be added to the High Plains Underground Water Conservation District No. 1 (HPUWCD). The HPUWCD board of directors voted on March 13, 2015 not to add the Briscoe PGMA.

The Executive Director continues administrative GCD creation efforts for the PGMA portions of Upton and Midland counties. Addition of these areas to the Glasscock GCD is identified as the most feasible alternative for groundwater management.

District Management Plans and Joint Planning. There were no confirmed GCDs with initial groundwater management plans due during the 2015-2016 biennium. The TWDB received 26 plans for reapproval from established GCDs and the Executive Administrator approved all of these plans. Over the next reporting period (2017 and 2018), 39 GCD management plans are due: two for initial approval and 37 for reapproval.

During the 2015-2016 biennium, TWDB made one GMA boundary change on behalf of the Mesquite GCD to include approximately 2,000 acres of annexed area in Briscoe County.

A total of 75 DFCs were adopted during the first round of joint GCD planning that was completed in September 2010. The DFC for the Edwards Aquifer, San Antonio Segment within the boundaries of the Edwards Aquifer Authority is legislatively mandated. TWDB staff provided support at over 60 GMA meetings in 2015 and 2016, as the second round of joint planning progressed. All GMAs proposed their DFCs before the May 1, 2016 deadline, and three have adopted final DFCs.

The TWDB calculated total estimated recoverable storage (TERS) volumes for relevant aquifers by groundwater management area, as required by TWC, Section 36.108(d)(3). Fifteen TERS reports and one supplemental TERS report were completed for GMAs between March 2013 and June

2014. By June 2014, districts in all GMAs had received TERS reports covering the major and minor aquifers in their areas. One supplemental TERS report for GMA 10 is scheduled to be released in late 2016.

TWDB has finalized and delivered to the GCDs and regional water planning groups the estimates of modeled available groundwater (MAG) for all submitted DFCs from the first round that were due September 1, 2010. TWDB staff issued 41 reports for aquifers with groundwater availability models and 35 reports for aquifers without groundwater models, using alternative assessment methods.

During the next biennium (2017-2018), TWDB will prepare and deliver estimates of MAG based on DFCs adopted during the second round of joint planning.

District Management Plan Performance Review. In January 2015, three GCDs were out of compliance with statutory deadlines for management plan adoption. Brewster County GCD's management plan was approved by the TWDB on January 5, 2015 and the management plans for Coastal Bend GCD and Glasscock GCD were approved on January 15, 2015. In addition, four GCDs missed deadlines for management plan readoption and submittal, but none required a compliance agreement. Ten GCDs achieved compliance prior to their due date.

In 2016, the Texana GCD and Medina County GCD missed deadlines for management plan readoption and submittal, but both achieved compliance without TCEQ intervention. Four GCDs achieved compliance prior to their due date.

The State Auditor's Office (SAO) did not prepare any audit reports for GCDs in 2015 or 2016. Two were prepared in the previous biennium, with the most recent audit in October 2014 for 12 GCDs. None of the SAO reports resulted in action being required by TCEQ.

Recommendations. The TCEQ recommends that additional statutory changes to TWC, Chapters 35 and 36 to facilitate the designation of PGMAs and the creation and operation of GCDs are not needed at this time.

Local and legislative actions are needed in two PGMAs to establish groundwater conservation districts. **In accordance with the TCEQ's December 12, 2014 order and Texas Water Code, Section 35.013(i), the TCEQ has determined that adding the western portion of Briscoe County within the PGMA to the HPUWCD is the only feasible and practicable solution for the protection and management of groundwater resources and recommends statutory action be taken to add the western portion of Briscoe County within the PGMA to the HPUWCD.**

Action remains to address groundwater management in the Hill Country PGMA for southwestern Travis County. **The TCEQ recommends statutory action to create a new GCD that includes all of the territory in the Travis County portion of the PGMA, or the addition of the Travis County PGMA territory to an existing GCD. Either option is feasible and practicable.**

Acts of the 84th Legislature Affecting Groundwater Conservation Districts

The Acts of the 84th Legislature, 2015, affecting groundwater conservation districts (GCDs) are described in this chapter. These Acts include both special legislation creating new, or amending existing GCDs, and legislation that affects the general law authority, and therefore all GCDs. Elections to confirm GCD creation and any other pertinent GCD activities are discussed in this chapter.

Changes to Texas Water Code, Chapter 36

Eight Acts passed by the 84th Legislature made changes to the Texas Water Code (TWC), Chapter 36. These changes are discussed below. The Acts are identified by House Bill (HB) number or Senate Bill (SB) number and by the Chapter number for the 84th Legislature, Regular Session Laws, unless noted otherwise.

HB 200 (Chapter 993) amends TWC, Chapter 36 relating to the regulation of groundwater. The Act amends TWC, Section 36.0015 by adding a definition for 'best available science' and clarifying that GCDs are the state's preferred method of groundwater management in order to protect property rights, balance the conservation and development of groundwater to meet the needs of this state, and use the best available science in the conservation and development of groundwater through rules developed, adopted, and promulgated by a GCD.

The Act amends TWC, Section 36.066 to provide that if a GCD prevails on some, but not all issues in a suit, the court shall award attorney's fees and costs only for the issues on which the GCD prevails.

The Act amends TWC, Section 36.108 to provide that GCDs consider and document relevant scientific and hydrogeological data to establish different desired future conditions for aquifers, subdivisions of aquifers, geologic strata, or geographic area.

The Act amends TWC, Section 36.1083 to create a contested case hearing process to allow an affected person to challenge an approved desired future condition (DFC) by appealing the DFC to the GCD.

The Act adds new TWC, Section 36.10835 to provide for a judicial appeal of a DFC after the conclusion of the contested case hearing and this Act only apply to a DFC adopted on or after September 1, 2015. [Effective September 1, 2015]

HB 655 (Chapter 505) amends TWC, Chapter 36 by creating a new Subchapter N. The new TWC, Section 36.452 requires an aquifer storage and recovery project (ASR) operator to register all ASR injection and

recovery wells with any GCD in which the wells are located, provide the GCD with monthly reports on the volume of water injected and recovered, and provide an annual report on the results of water quality testing of the injected and recovered water. If a project recovers an amount of groundwater that exceeds the volume authorized by TCEQ, the operator must report to the GCD the volume of groundwater recovered that exceeds the volume authorized to be recovered. TWC, Section 36.453(a) provides, a GCD may not require a permit for the drilling, equipping, operation, or completion of an ASR injection or recovery well. The Act provides that ASR recovery wells associated with an aquifer storage and recovery project are subject to spacing and production requirements of a GCD if the volume of water recovered exceeds the volume authorized by TCEQ to be recovered. The GCD's production requirements only apply to the portion of the recovered volume that exceeds the volume authorized by the TCEQ to be recovered. The Act prohibits a GCD from assessing a production fee, transportation fee, or export fee, or surcharge for groundwater recovered from an ASR recovery well, except that a GCD may impose such fees or surcharges on the portion of recovered groundwater that exceeds the amount of water authorized by the TCEQ to be recovered. A GCD may assess a well registration fee or other administrative fee for ASR recovery wells in the same manner such fees are administered for other wells in the district. The new provision allows a GCD to consider hydrologic conditions related to an aquifer storage and recovery project in the planning for and monitoring of achievement of desired future conditions for the aquifer in which ASR injection and recovery wells are completed.

The Act does not affect regulation of groundwater under specific legislation applicable to the Edwards Aquifer Authority, the Harris-Galveston Subsidence District, the Fort Bend Subsidence District and the Barton Springs Edwards Aquifer Conservation District. [Effective June 16, 2015]

HB 2179 (Chapter 405) amends TWC, Chapter 36 relating to GCD permit hearing processes. The new TWC, Sections 36.403, 36.404, and 36.405 add the modifier 'public' to the term 'hearing' relating to scheduling, notice and registration. The Act adds a new TWC, Section 36.4051 that provides a GCD board may take an action on any uncontested permit application at a properly scheduled and noticed public meeting held at any time after the public hearing and may issue an order to grant the permit application, grant the permit application with special conditions, or deny the permit application. The Act provides that within 20 days of the GCD board order, an applicant may demand a contested case hearing if the board order includes special conditions that were not part of the final application or if the board order grants less groundwater production than the applicant requested. The Act provides that the GCD board shall schedule a preliminary hearing to be conducted by a quorum of the board, an individual delegated by the board to preside as a hearing examiner, or by the State Office of Administrative Hearing (SOAH). The Act provides that following the preliminary hearing, the board shall

determine whether any person requesting a contested case hearing has standing to make that request and whether a justiciable issue related to the application has been raised. The Act provides that if the board finds no persons have standing or a justiciable application issue, the board's decision stands.

The Act amends TWC, Section 36.406 to authorize the presiding hearing officer to determine how to apportion among the parties. The Act also amends Section 36.410 to require the presiding officer to submit a proposal for decision (PFD); authorize a party to submit written exceptions to the PFD; give the presiding officer guidance to submit either a prepared record of meeting or a PFD if the hearing was conducted by a quorum of the board; require the board to consider the PFD at a final hearing; prohibit any additional evidence at the final hearing; authorize the parties to present oral argument to summarize the hearing, present legal argument, or argue an exception to the PFD at the final hearing; and, provide that a final hearing may be continued.

The Act amends TWC, Section 36.415 to provide that GCD procedural rules must establish a deadline to file a protest and request for a contested case hearing for a person who has a justiciable interest in the matter.

The Act adds language to TWC, Section 36.416 to require a SOAH administrative law judge (ALJ) who conducts a contested case hearing consider applicable GCD rules or policies in conducting the hearing. The Act provides that the GCD may not supervise the ALJ or attempt to influence the finding of facts or application of law except by proper evidence and legal argument.

The Act adds language to TWC, Section 36.4165 to provide that a board may change a finding of fact or conclusion of law made by a SOAH ALJ, or vacate or modify an order issued by the ALJ, only if the board determines: 1) the ALJ did not properly apply or interpret applicable law, GCD rules, written GCD policies, prior administrative decisions; 2) that a prior administrative decision the ALJ relied upon is incorrect or should be changed; or 3) that a technical error in the finding of fact should be changed. [Effective June 10, 2015]

HB 2767 (Chapter 415) amends provisions in TWC, Chapter 36 that authorize fees and makes non-substantive, conforming, or clarification language changes throughout chapter. The Act adds a definition to TWC, Section 36.001, for "operating permit" to mean any type of GCD permit for operation of or production from a water well including a permit to drill or complete a water well if a GCD does not require a separate permit for those actions.

The Act adds a provision in TWC, Section 36.058, for GCD directors to be subject to Local Government Code, Chapter 176, relating to disclosure of conflicts. The Act strikes language in TWC, Section 36.061, related to

audit reporting standards and adds language in TWC, Section 36.153, consistent with TWC, Chapter 49, audit requirements and reporting standards.

The Act amends TWC, Section 36.157(a), to add that a county or counties where the district is to be located may pay all costs and expenses incurred in the creation and organization of the GCD. The Act also amends TWC, Section 36.251, by providing that only a GCD, an applicant, and parties to a contested case may participate in an appeal that was the subject of the contested case.

Additionally, the Act repeals TWC, Section 36.1082, Petition for Inquiry, and moves the repealed language to amended TWC, Section 36.3011, Commission Inquiry and Action Regarding District Duties. [Effective June 10, 2015]

HB 3163 (Chapter 464) amends TWC Section 36.066 to provide that a board member, acting in their individual capacity as a board member, is immune from suit and liability for actions taken on behalf of the board. The Act provides that an attempt to bring suit against a board member for actions taken on behalf of the board or how a board member officially votes constitutes coercion of a public official as defined in the Texas Penal Code, Section 36.03(1). The Act provides that a GCD director is considered an employee under Chapter 101, Civil Practice and Remedies Code, even if the director does not receive fees of office voluntarily, by district policy, through statutory exception. [Effective June 15, 2015]

HB 4112 (Chapter 590) amends TWC, Section 36.002 to provide that groundwater ownership rights include any other right recognized under common law, including the right to produce or save a fair share of the landowner's groundwater. The Act provides that groundwater ownership rights do not entitle a landowner, including a landowner's lessees, heirs, or assigns, to the right to capture a specific amount of groundwater below the surface of that landowner's land; or affect the existence of common law defenses or other defenses to liability under the rule of capture. [Effective June 16, 2015]

SB 854 (Chapter 308) clarifies that an operating permit issued under new TWC, Section 36.1145 or permit amendments issued in accordance with new TWC, Section 36.1146 will not be subject to re-review for a renewal of the operating permit. The Act adds a definition for operating permit in TWC, Section 36.001, to mean any permit issued by the district for the operation of or production from a well, including a permit to drill or complete a well if the district does not require a separate permit for those actions. The Act adds new TWC, Section 36.1145, which requires a GCD to renew an operating permit without a hearing if the applicant is not seeking a change to the permit, is current on all fees, and is not under an enforcement action. The Act adds new TWC, Section 36.1146, to provide procedures for renewal of a permit with changes and authorizes a GCD to initiate an amendment to an operating permit. The Act also

amends TWC, Section 36.402 to clarify that notice and hearing may not be required for all permit and permit amendment applications and requires GCDs to adopt rules as soon as practicable to implement these changes. [Effective September 1, 2015]

SB1336 (Chapter 1196) amends TWC, Section 36.0151(f) to extend the time during which the TCEQ may not create a GCD in areas in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced; that is located in a priority groundwater management area; and that has a population greater than 2.3 million. In practice, this amendment applies only to Dallas County. The period was extended from September 1, 2015, until September 1, 2021. The Act amends TWC, Section 36.125, which specifies that only TWC, Section 36.102 (Enforcement of Rules) and TWC, Section 36.118 (Open or Uncovered Wells) of the Water Code apply to the Edwards Aquifer Authority. [Effective September 1, 2015]

Groundwater Conservation Districts (GCDs)

Two new GCDs were created and several other GCDs were amended by the 84th Texas Legislature, 2015. The locations of the state's GCDs are shown on Figure 1.

New GCDs

HB 2407 (Chapter 656) creates the Comal Trinity Groundwater Conservation District (District) in Comal County with the powers and duties of the TWC, Chapter 36 related to the general law for GCDs. The boundaries of the District are coextensive with the boundaries of Comal County, excluding any territory that is included in the boundaries of the Trinity Glen Rose GCD. The southeastern part of Comal County is within the boundaries of the Edwards Aquifer Authority (EAA), which will retain jurisdiction for management of the Edwards aquifer. The EAA Act authorizes GCDs to be created within the EAA's boundaries to manage other aquifers that occur within the EAA's boundaries. Creation of the District is not subject to a confirmation election.

Unlike general law GCDs, the Act defines an exempt well to mean a well incapable of producing more than 10,000 gallons of groundwater per day, a metered well that produces less than 10 acre-feet of groundwater per calendar year, or a well that is incapable of producing more than 25,000 gallons of groundwater per day for domestic use or for livestock or poultry regardless of land lot size. Under the Water Code, an exempt well used for domestic purposes, or for providing water for livestock or poultry, is located on a tract of land larger than 10 acres and is drilled, completed or equipped so the well is incapable of producing more than 25,000 gallons per day.

Unlike general law GCDs, the Act provides that the Commissioners Court of Comal County appoint seven directors with staggered four-year terms.

Three directors shall be appointed from the incorporated areas of Comal County and four shall be appointed with one from each of the four commissioner precincts. The Commissioners Court, at a regular meeting held on July 23, 2015, appointed the seven initial directors, and met the requirement to do so before December 31, 2015. The initial directors were required to hold an organizational meeting as soon as practicable and elect officers. The district held its first meeting on August 17, 2015, to elect officers and determine which four board members would serve four-year terms and which three would serve two-year terms. Subsequent directors shall be appointed by the Commissioners Court of Comal County and will serve four-year terms. Under the Water Code, general law GCD directors are elected by the single-precinct method.

Similar to general law GCDs, the Act provides special provisions for the District to contract with other entities and for the District to participate in the development and implementation of best management practices for water resource management. Unlike general law GCDs, the District may not require the owner of an exempt well to install a meter or measuring device; assess and collect a production fee on an exempt well; or levy and collect ad valorem taxes. The Act provides that an existing nonexempt well shall have its annual groundwater production permitted at the well's maximum production capacity and shall not be required to obtain a production permit and that a new nonexempt well shall obtain a permit from the District. Unlike general law GCDs, the GCD shall issue to an applicant a permit for a well that is not exempt from permitting and that was drilled into or through the Trinity Aquifer on or before the effective date of the Act that authorizes the production of the well at an amount not less than the maximum production capacity of the well. Unlike general law GCDs, the District may not exercise the power of eminent domain.

Similar to general law GCDs, the District may set administrative fees that do not unreasonably exceed the cost to perform the administrative function. Unlike general law GCDs, the District may assess annual administrative fees that do not exceed $15 for exempt domestic and livestock wells and $50 for other exempt wells. Similar to general law GCDs, the District may impose reasonable production fees based on the amount of groundwater actually produced by nonexempt wells. Annual District production fees may not exceed $1 per acre-foot for groundwater used for agricultural purposes or $40 per acre-foot for groundwater used for any other purpose. Under the Water Code, general law GCDs may impose annual production fees that may not exceed $1 per acre-foot for groundwater used for agricultural purposes or $10 per acre-foot for groundwater used for any other purpose. [Special Districts Local Laws Code (SDLLC), Chapter 8875; Effective June 17, 2015]

HB 4207 (Chapter 671) creates, subject to a confirmation election, the Aransas County Groundwater Conservation District (District) in Aransas County with the powers and duties of Water Code, Chapter 36 related to the general law for GCDs. The boundaries of the District are coextensive

with the boundaries of Aransas County. Creation of the District is subject to a confirmation election.

Unlike general law GCDs, the Commissioners Court of Aransas County shall, within 10 days of September 1, 2015, appoint five temporary directors with one from each of the four commission precincts and one at-large who resides in the District. The temporary directors are required to have an organizational meeting as soon as practicable after all have qualified to elect officers. Before January 1, 2016, the temporary directors are required to order a District confirmation election and hold the election on a uniform election date in May 2016. If creation of the District is confirmed at the election, the temporary directors become the initial directors and will draw lots for two- and four-year terms. On the November uniform election date of the first even-numbered year after the confirmation election, and every two years afterward, a directors' election will be held using the commissioners precinct method with one elected from each of the four precincts and one from the county elected at-large. The directors will serve staggered four-year terms. Under the Water Code, general law GCD directors are elected by the single-precinct method.

Unlike general law GCDs, the District may not exercise the power of eminent domain or impose an ad valorem tax that exceeds one cent on each $100 of assessed valuation. Under the Water Code, general law GCDs may exercise the power of eminent domain and may impose a voter-approved ad valorem tax that does not exceed fifty cents on each $100 of assessed valuation to pay for operation and maintenance expenses.

The Commissioners Court of Aransas County appointed temporary directors and the temporary directors scheduled and held a confirmation election on May 7, 2016. The voters did not pass the proposition for the creation of the **Aransas County GCD** nor the imposition of an ad valorem tax at a rate not to exceed one cent for each $100 of assessed valuation. The vote tally was 197 for; 1,643 against. According to SDLLC, Chapter 8823.003, the Act will expire on September 1, 2019 because the District was not confirmed by voters. [Special Districts Local Laws Code, Chapter 8823; Effective September 1, 2015]

Legislative Amendments for Specific GCDs

Eight other Acts of the 84th Legislature made changes to authorities and responsibilities of existing groundwater conservation districts. These Acts amended the enabling legislation of 15 GCDs that were changed in some manner.

HB 1421 (Chapter 529) amends the enabling statute for the **Coastal Plains Groundwater Conservation District** relating to fees charged by the District. The Act provides that the District may assess production fees as authorized by TWC, Section 36.205, assess an export fee on groundwater exported from the District not to exceed 150 percent of the

maximum wholesale rate charged by the City of Houston, and assess any other fees authorized by TWC, Chapter 36 to accomplish the regulatory goals of the District. [Amends Special Districts Local Laws Code, Chapter 8831.151; Effective May 22, 2015]

HB1819 (Chapter 383) changes the director election date for the **Hill Country Underground Water Conservation District.** The Act amends to change the District's director elections from the November uniform election date in even-numbered years to the May uniform election date in odd-numbered years. The Act provides that Election Code, Section 41.001 (a)(2), relating to the May uniform election date in even-numbered years for political subdivisions other than counties, does not apply to the District. The Act provides that the District directors shall adjust the terms of office to conform to the changed election date. [Amends Special Districts Local Laws Code, Chapter 8844.104; Effective June 10, 2015]

HB 3405 (Chapter 975) amends the enabling statue for the **Barton Springs-Edwards Aquifer Conservation District** to include territory in Hays County inside the boundaries of the Edwards Aquifer Authority (EAA). The Act provides that EAA has jurisdiction over any well drilled to produce water from the Edwards Aquifer and the District has jurisdiction over any well that is drilled to produce water from any other aquifer in the shared territory. The Act also provides that the board of directors shall revise the single-member districts to reflect the inclusion of territory in Hays County, and validates and confirms all acts and proceedings by the District's board not involved in litigation if the litigation ultimately results in invalidation or has been held invalid by a final judgment of the court. [Amends Special District Local Laws Code, Chapter 8802.0035; Effective June 19, 2015]

HB 3858 (Chapter 62) amends the enabling statute for the **Coastal Bend Groundwater Conservation District** relating to fees charged by the District. The Act provides that the District may assess production fees as authorized by TWC, Section 36.205 to assess an export fee on groundwater exported from the District not to exceed 150 percent of the maximum wholesale rate charged by the City of Houston, and assess any other fees authorized by TWC, Chapter 36 to accomplish the regulatory goals of the District. [Amends Special District Local Laws Code, Chapter 8829.151; Effective May 22, 2015]

SB 363 (Chapter 302) amends the enabling statute of the **Bandera County River Authority and Groundwater District** relating to election dates for district directors. The directors now will serve a staggered four-year term with elections occurring every two years on the uniform election date in November to elect the appropriate numbers of directors. The Act sets the terms for the directors elected in May 2013 and May 2015. [Amends Chapter 629, Acts of the 62nd Legislature, Regular Session, 1971; Effective September 1, 2015]

SB 1336 (Chapter 1196) amends the enabling statute for several GCDs relating to statutory conflicts, director election dates and director terms of office. [Effective September 1, 2015].

- Amends the enabling statute for **Lost Pines GCD** which specifies that a director is considered a district employee under Chapter 101, Civil Practice and Remedies Code, even if the director does not receive fees of office voluntarily, by district policy, or through a statutory exception to this section. A director is immune from suit and immune from liability for official votes and official actions.

- Makes non-substantive changes to existing statutory language for the **Crockett County GCD, Sandy Land UWCD, Mesa UWCD** and **South Plains UWCD** to clarify which chapters of the Water Code control in the event of a conflict. The Act also provides that only TWC, Chapter 36 applies to the **Clearwater UWCD** and **Santa Rita UWCD**.

- Changes the directors' election date from the first Saturday in May to the uniform election date in May of even-numbered years for the **Mesa UWCD** and **South Plains UWCD**. The Act changes the directors' election date from the first Saturday in May to the uniform election date in May of odd-numbered years for the **Sutton County UWCD**. The Act changes the directors' election date from the first Saturday in May to the uniform election date in May of every other year for the **Sandy Land UWCD**.

SB 2030 (Chapter 644) amends the enabling statute of the **North Plains Groundwater Conservation District** by changing the directors' election date from May of even-numbered years to a uniform election date in even-numbered years. The Act provides the directors shall adjust the terms of office to conform if the directors change the election date. [Amends Chapter 498, Acts of the 54th Legislature, Regular Session, 1955; Effective September 1, 2015]

SB 2049 (Chapter 646) amends the enabling statute for the **Lone Star Groundwater Conservation District** relating to District board of directors. Any common law doctrine or any statutory conflict of interest, incompatibility, or similar provision to the contrary will now apply to a member of the Board of Directors of the District and will now be subject to the provisions of the TWC, Section 36.058 and Local Government Code, Chapter 171, relating to the regulation of conflicts of officers of local governments. The Act validates and confirms District acts and proceedings that were effective before the effective date of this Act but does not include Acts, proceedings, directors, other officials, bonds, or other obligations of the District that are subject to pending litigation at the time the Act is passed nor validate an action or proceeding that was a misdemeanor or felony at the time it occurred, under a statute of this

state or the United States. [Amends Chapter 1321, Acts of the 77th Legislature, Regular Session, 2001; Effective September 1, 2001]

Addition of Territory to Existing GCDs

HB 3405, 84th Regular Session, 2015 added additional territory to the Barton Springs-Edwards Aquifer Conservation District. This includes territory inside the boundaries of the Edwards Aquifer Authority within Hays County, not including territory within the Plum Creek Conservation District.

Mesquite GCD added about 2,000 acres of land in the eastern part of Briscoe County from 2012 to 2016. The territory in Briscoe County that was added to the District is not within nor contiguous to the Llano Estacado – Ogallala Aquifer portion of Briscoe County that is designated as a PGMA.

TCEQ Rule Amendments

On April 27, 2015, the TCEQ adopted rules to implement the statutory changes to the powers, duties, and administration of GCDs made by HB 2767, 84th Texas Legislature, 2015. HB 2767 makes non-substantive, conforming, or clarification language changes throughout TWC, Chapter 36. The amended TCEQ rules are in Title 30, Texas Administrative Code (30 TAC), Chapter 293. The adopted rules include revising Section 293.17(4) to note that the procedures for petitions for inquiry are located under TWC, Chapter 36, Subchapter I and deleting Section 293.17(5), because the rule language is not needed for commission inquiry or action regarding GCD duties. In addition, 30 TAC, Sections 293.20(d), 293.22(a)(5) and 293.22(e) were amended by changing the TWC citation from Section 36.1082 to Section 36.3011, as the Act repealed TWC, Section 36.1082, and moved the repealed language to amended TWC, Section 36.3011. The commission amended 30 TAC, Section 293.23(a) by changing the definition of "affected person" to match the definition of "affected person" in TWC, Section 36.3011, added by the Act and removed the citation to TWC, Section 36.1082 which was repealed. The Adopted rules were published in the *Texas Register* on May 13, 2016 (41 TexReg 3507) and became effective on May 19, 2016.

On April 27, 2015, the TCEQ also adopted rules to add requirements for aquifer storage and recovery (ASR) projects made by HB 655, 84th Texas Legislature, 2015. ASR projects involve the use of Class V underground injection control wells for the injection of water into subsurface geologic units where it is stored for future recovery and beneficial use. HB 655 directs the TCEQ to adopt standards for ASR projects, including well design and operation, quality of injected water, public notice, reporting, and injection and recovery of appropriated water. The commission adopted rules in 30 TAC, Chapter 39 to include public notice requirements for applications of Class V Underground Injection Control Wells associated with an ASR project. The adopted rules included in 30 TAC, Chapter 295 to remove requirements for a two-phase ASR project

approval process. The commission also adopted rules in 30 TAC, Chapter 297 to add definitions for “native groundwater” and “marine” seawater. Additionally, the commission adopted rules included in 30 TAC, Chapter 331 to include new definitions, remove the requirements that water injected as part of an ASR project must meet 30 TAC, Chapter 290 requirements for public drinking water supply, to include construction, operation, and reporting requirements for ASR projects, and TCEQ considerations prior to approval of an ASR project. The Adopted rules were published in the *Texas Register* on May 13, 2016 (41 TexReg 3508) and became effective on May 19, 2016.

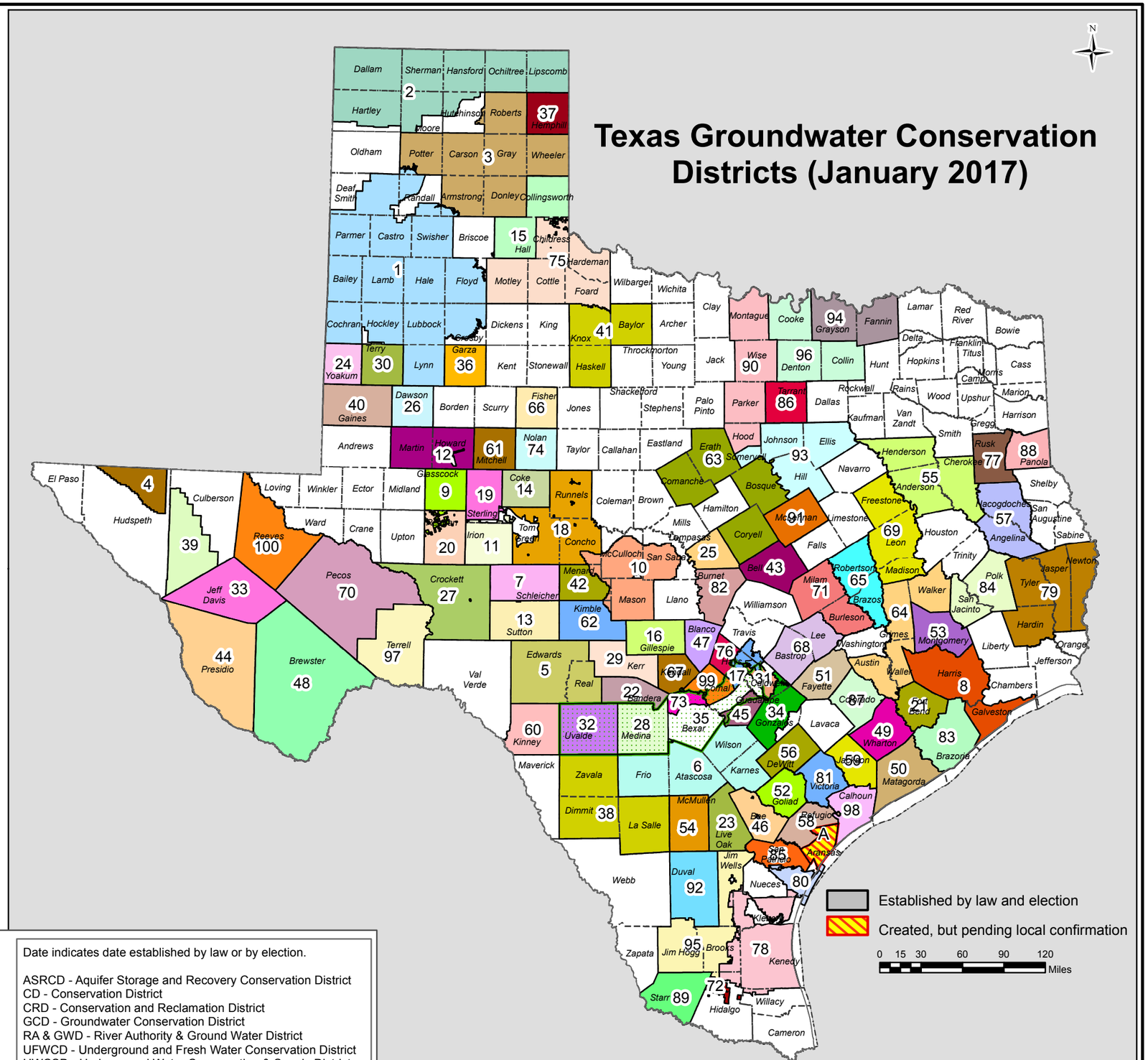
Figure 1. Texas Groundwater Conservation Districts

Groundwater Conservation Districts

1 High Plains UWCD No.1 - 9/29/1951
2 North Plains GCD - 1/2/1955
3 Panhandle GCD - 1/21/1956
4 Hudspeth County UWCD No. 1 - 10/5/1957
5 Real-Edwards C and R District - 5/30/1959
6 Evergreen UWCD -8/30/1965
7 Plateau UWC and Supply District - 3/4/1974
8 Harris-Galveston Subsidence District- 4/23/1975
9 Glasscock GCD - 8/22/1981
10 Hickory UWCD No. 1 - 8/14/1982
11 Irion County WCD - 8/2/1985
12 Permian Basin UWCD - 9/21/1985
13 Sutton County UWCD - 4/5/1986
14 Coke County UWCD - 11/4/1986
15 Mesquite GCD - 11/4/1986
16 Hill Country UWCD - 8/8/1987
17 Barton Springs/Edwards Aquifer CD - 8/13/1987
18 Lipan-Kickapoo WCD - 11/3/1987
19 Sterling County UWCD - 11/3/1987
20 Santa Rita UWCD - 8/19/1989
21 Fort Bend Subsidence District - 8/28/1989
22 Bandera County RA & GWD - 11/7/1989
23 Live Oak UWCD - 11/7/1989
24 Sandy Land UWCD - 11/7/1989
25 Saratoga UWCD - 11/7/1989
26 Mesa UWCD - 1/20/1990
27 Crockett County GCD - 1/26/1991
28 Medina County GCD - 8/26/1991
29 Headwaters UWCD - 11/5/1991
30 South Plains UWCD - 2/8/1992
31 Plum Creek CD - 5/1/1993
32 Uvalde County UWCD - 9/1/1993
33 Jeff Davis County UWCD - 11/2/1993
34 Gonzales County UWCD - 11/2/1994
35 Edwards Aquifer Authority - 7/28/1996
36 Garza County UWCD - 11/5/1996
37 Hemphill County UWCD - 11/4/1997
38 Wintergarden GCD - 1/17/1998
39 Culberson County GCD - 5/2/1998
40 Llano Estacado UWCD - 11/3/1998
41 Rolling Plains GCD - 1/26/1999
42 Menard County UWCD - 8/14/1999
43 Clearwater UWCD - 8/21/1999
44 Presidio County UWCD - 8/31/1999
45 Guadalupe County GCD - 11/14/1999
46 Bee GCD - 1/20/2001
47 Blanco-Pedernales GCD - 1/23/2001
48 Brewster County GCD - 11/6/2001
49 Coastal Bend GCD - 11/6/2001
50 Coastal Plains GCD - 11/6/2001
51 Fayette County GCD - 11/6/2001
52 Goliad County GCD - 11/6/2001
53 Lone Star GCD - 11/6/2001
54 McMullen GCD - 11/6/2001
55 Neches & Trinity Valleys GCD -11/6/2001
56 Pecan Valley GCD - 11/6/2001
57 Pineywoods GCD - 11/6/2001
58 Refugio GCD - 11/6/2001
59 Texana GCD - 11/6/2001
60 Kinney County GCD - 1/12/2002
61 Lone Wolf GCD - 2/2/2002
62 Kimble County GCD - 5/3/2002
63 Middle Trinity GCD - 5/4/2002
64 Bluebonnet GCD - 11/5/2002
65 Brazos Valley GCD - 11/5/2002
66 Clear Fork GCD - 11/5/2002
67 Cow Creek GCD - 11/5/2002
68 Lost Pines GCD - 11/5/2002
69 Mid-East Texas GCD - 11/5/2002
70 Middle Pecos GCD - 11/5/2002
71 Post Oak Savannah GCD - 11/5/2002
72 Red Sands GCD - 11/5/2002
73 Trinity Glen Rose GCD - 11/5/2002
74 Wes-Tex GCD - 11/5/2002
75 Gateway GCD - 5/3/2003
76 Hays Trinity GCD - 5/3/2003
77 Rusk County GCD - 6/5/2004
78 Kenedy County GCD - 11/2/2004
79 Southeast Texas GCD - 11/2/2004
80 Corpus Christi ASRCD - 6/17/2005
81 Victoria County GCD - 8/5/2005
82 Central Texas GCD - 9/24/2005
83 Brazoria County GCD - 11/8/2005
84 Lower Trinity GCD - 11/7/2006
85 San Patricio County GCD - 5/12/2007
86 Northern Trinity GCD - 5/15/2007
87 Colorado County GCD - 11/6/2007
88 Panola County GCD - 11/6/2007
89 Starr County GCD - 11/6/2007
90 Upper Trinity GCD - 11/6/2007
91 Southern Trinity GCD - 6/19/2009
92 Duval County GCD - 7/25/2009
93 Prairielands GCD - 9/1/2009
94 Red River GCD - 9/1/2009
95 Brush Country GCD - 11/3/2009
96 North Texas GCD - 12/1/2009
97 Terrell County GCD - 11/6/2012
98 Calhoun County GCD - 11/4/2014
99 Comal Trinity GCD - 6/17/2015
100 Reeves County GCD - 11/3/2015

Pending Confirmation

A - Aransas County GCD



Texas Commission on Environmental Quality

TCEQ

This map was prepared by the TCEQ for display purposes only. No claims are made to the accuracy or completeness of the information shown herein nor is this map suitable for any other use. The scale and location of mapped data are approximate. The groundwater conservation district boundaries are not land survey data and may not accurately depict legal descriptions. For more information about this map, please contact TCEQ - Water Availability Division, Groundwater Planning & Assessment Team at (512) 239-4691.

Map printed Jan.2, 2017.

Date indicates date established by law or by election.

ASRCD - Aquifer Storage and Recovery Conservation District
CD - Conservation District
CRD - Conservation and Reclamation District
GCD - Groundwater Conservation District
RA & GWD - River Authority & Ground Water District
UFWCD - Underground and Fresh Water Conservation District
UWCSD - Underground Water Conservation & Supply District
UWCD - Underground Water Conservation District
WCD - Water Conservation District
WD - Water District

Priority Groundwater Management Areas

This chapter provides an overview of Priority Groundwater Management Area (PGMA) program activities that were conducted in 2015 and 2016. The chapter also describes the status of GCD creation action in designated PGMAs and other present and pending PGMA activities.

To date, seven PGMAs have been designated covering all or part of 35 counties (Figure 2). Local, legislative or TCEQ administrative actions to establish GCDs are still required in four PGMAs.

Program Planning

The TCEQ and TWDB staff met in December 2015 to discuss ongoing PGMA activities and the evaluation of regional water planning and joint GCD planning data to identify potential PGMA study areas. The TCEQ staff evaluated this data for 78 counties and parts of 20 other counties that are not within the boundaries of a GCD. The TCEQ staff compared groundwater use data for 2012, 2013 and 2014 to the modeled available groundwater (MAG) values for the aquifers in those counties. This data comparison identified that:

- total groundwater use exceeded total aquifer MAG amounts in 15 counties,
- total groundwater use exceeded at least one aquifer MAG amount in 13 counties and part of one other county, and
- total groundwater use was less than aquifer MAG amounts in 62 counties and parts of 7 other counties.

The TCEQ Executive Director met with the TWDB Executive Administrator in December 2015 and January 2017. They discussed the completion and delivery of the PGMA/GCD Report to 85th Legislature; the need to track 85th session legislation relating to PGMAs and creation of GCDs in PGMAs; the continued coordination, planning and prioritization for potential new PGMA studies; and the need for continued GCD creation action in the designated PGMAs. Williamson, Jefferson, and Orange Counties, and Val Verde county and the Devils River were discussed as potential areas of concern and may need follow up PGMA assessment as more data becomes available.

Status and TCEQ Actions 2015 – 2016

During 2015– 2016, several actions happened related to GCD creation in the designated PGMAs. The 84th Legislature created the Comal Trinity Groundwater Conservation District and advanced efforts to create a Western Travis County Groundwater Conservation District in the Hill Country PGMA. The High Plains Water District's board of directors voted

to not add the PGMA territory in Briscoe County contrary to a Commission PGMA recommendation order. The Executive Director prepared a report recommending the addition of the PGMA portions of Upton and Midland counties to the Glasscock GCD is the most feasible and practicable option.

Hill Country PGMA

Administrative efforts to establish GCDs for western Comal County and southwestern Travis County were initiated by the Executive Director in July 2010 and the matter was referred to the State Office of Administrative Hearings (SOAH) for the contested case hearing in October 2010. The hearing was in abatement from July 2011 until July 2013, and subsequently the Executive Director withdrew the report and recommendation in January 2014 to allow for, and to encourage, local and legislative actions to address groundwater management in the Hill Country PGMA.

During 84th Legislature, Regular Session, 2015, two bills were filed to address GCD creation in western Comal and southwestern Travis counties. HB 2407 created the Comal Trinity Groundwater Conservation District in Special District Local Laws Code, Chapter 8875. The Act became effective on June 17, 2015, and addresses groundwater management in Comal County including the portion of the county in the Hill Country PGMA.

HB 4038 was filed in March 2015, to add Special District Local Laws Code, Chapter 8871, Western Travis County Groundwater Conservation District. The bill set forth boundaries, appointment of temporary directors, powers of temporary directors, and groundwater permitting requirements. The bill provided that all owners of non-exempt wells must obtain a District permit and pay any required fees before using groundwater. The bill prohibited the District from entering property to inspect an exempt well without the property owner's permission. The bill prohibited the District from exercising the power of eminent domain. Unlike general law GCDs, the bill provided that the District may charge and collect a new well construction fee and levy and collect a water utility service connection fee for each new water service connection made after September 1, 2015, unless the water utility has surface water as its sole source of water. The bill provided that all taxes and other fees are prohibited. The District did not include territory in the corporate limits or extraterritorial jurisdiction of the City of Bee Cave, the City of Lakeway, the City of West Lake Hills, the Village of Briarcliff, or the Village of the Hills. The bill was not engrossed by the House of Representatives and was left pending when the session ended.

During the interim, the Commissioners Court of Travis County held several work sessions to consider options for, and probable efforts to, establish a Trinity Aquifer GCD for all or part of Travis County. During the work sessions, the court was briefed by and questioned county staff

and heard testimony and questioned adjacent GCD managers and directors, several non-government organizations, and legislative staff.

TCEQ provided requested information leading up to and after the initial Travis County work session. TCEQ also participated as a resource at several meetings facilitated by legislative staff and anticipates that these local and legislative efforts will continue moving forward. The TCEQ recommends statutory action for the future management of the Travis County PGMA area in the 'Recommendations' chapter of this report.

Briscoe, Hale, Swisher County PGMA

The portion of Briscoe County within this PGMA has not created a new nor joined an existing GCD. By order issued on December 12, 2014, the TCEQ found that the creation of a new GCD to manage the Briscoe PGMA was not practicable and that adding the Briscoe PGMA to the High Plains Water District (HPUWCD) was the most feasible and practicable option for the protection and management of the groundwater resources. The TCEQ order recommended that the western portion of Briscoe County within the PGMA be added to the HPUWCD.

On March 13, 2015, the HPUWCD board of directors voted not to add the Briscoe PGMA to the HPUWCD.

In accordance with the TCEQ's December 12, 2014 order, and Texas Water Code, Section 35.013(i), the TCEQ recommends statutory action for the future management of the Briscoe County PGMA area in the 'Recommendations' chapter of this report.

Reagan, Upton, Midland County PGMA

Within this PGMA, the portions in Upton and Midland counties have not created new nor joined an existing GCD. In October 2014, *The Executive Director's Draft Report for Reagan, Upton, and Midland County Priority Groundwater Management Area – Northeastern Upton and Southeastern Midland Counties* was filed with the TCEQ. The stakeholder comment period ended on January 30, 2015, with only one comment submitted.

In December 2016, *The Executive Director's Report for Reagan, Upton, and Midland County Priority Groundwater Management Area – Northeastern Upton and Southeastern Midland Counties* was filed with the TCEQ. The report evaluates the five options for groundwater management and recommends the option to add northeastern Upton County and southeastern Midland County to Glasscock GCD as the most feasible, practicable, and economic means to achieve groundwater management in the Reagan, Upton, and Midland PGMA.

The matter will be referred to SOAH to conduct a contested case hearing. Following mailed and published notice, a preliminary hearing will be held in the PGMA. After the hearing on the merits, the SOAH administrative

law judge will file his or her proposal for decision with TCEQ. Then, the Commission will consider and adopt the most feasible and practicable option for a groundwater management for Midland and Upton counties.

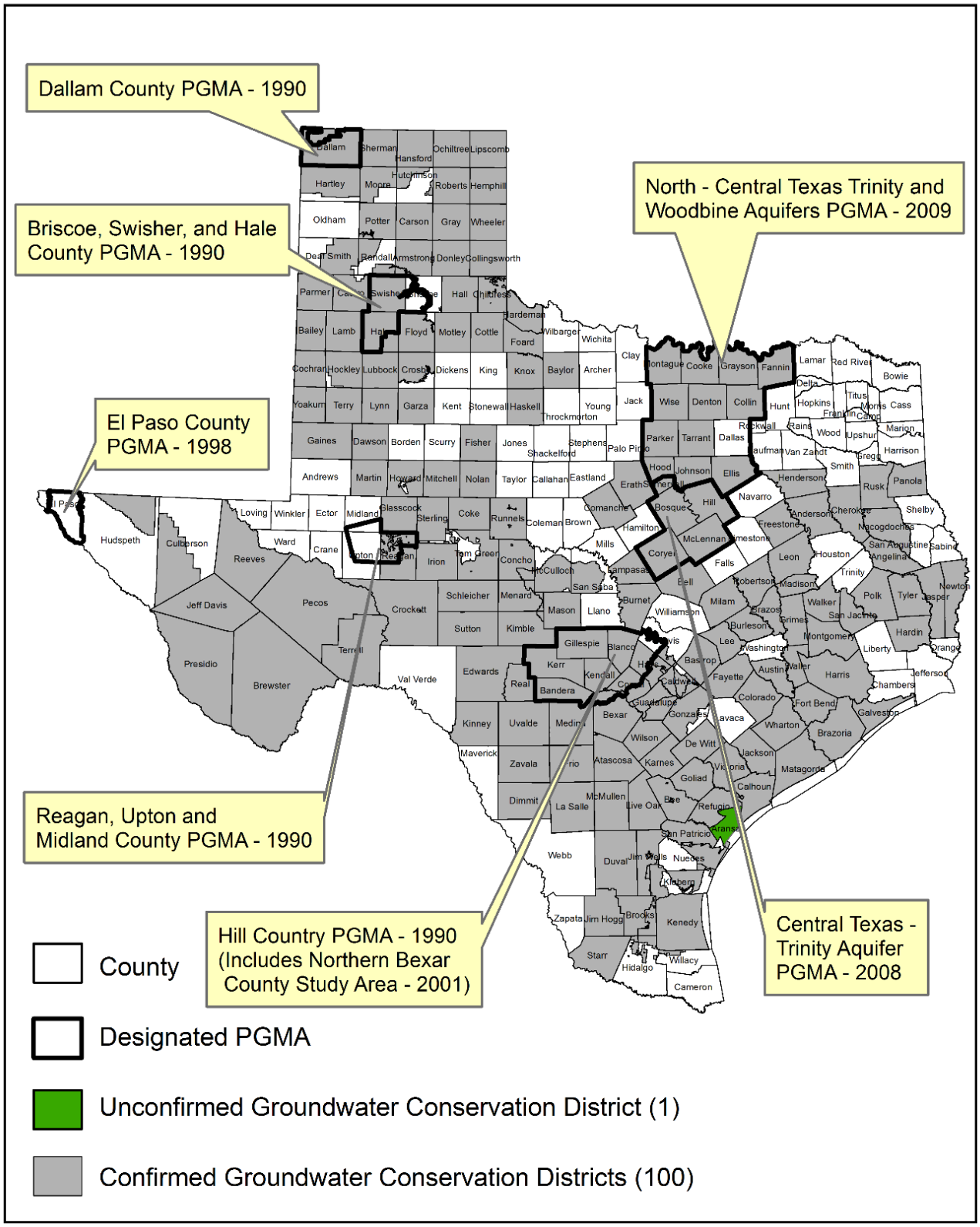
The Executive Director will track legislative and local actions to establish a GCD for the Upton and Midland PGMA during the 85th Legislature. If legislative or local actions do not establish a GCD for the PGMA, TCEQ administrative actions to establish a GCD will continue in accordance with TWC, Section 35.008 and 30 TAC Section 293.19(b).

North-Central Texas Trinity and Woodbine Aquifers PGMA

The 13-county North-Central Texas Trinity and Woodbine Aquifers PGMA was designated by TCEQ in February 2009 and subsequently through local and legislative efforts, all of the counties except for Dallas County have been included in a GCD. Effective September 1, 2015, TWC, Section 36.0151 provides that the TCEQ may not, before September 1, 2021, create a GCD in a PGMA county with a population greater than 2.3 million in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced. This provision applies only to Dallas County. TCEQ action regarding Dallas County may be required in accordance with TWC, Sections 35.012 and 35.013, and 30 TAC, Section 293.19(a) if a GCD is not established through local or legislative efforts before September 1, 2021.

The TWC, Section 36.0151 also authorizes TCEQ to charge an annual fee not to exceed $500 to such a county for the purpose of studying compliance and groundwater consumption in that county. To date, TCEQ has relied on the data contained in the State Water Plan for this information and has not had a need to exercise this authority.

Figure 2. Priority Groundwater Management Areas



District Management Plans and Joint Planning Activities

This chapter provides an overview of groundwater conservation district management planning and joint planning activities that occurred in 2015 and 2016. It describes the adoption and approval of Groundwater Conservation District (GCD) management plans, changes to groundwater management area (GMA) boundaries, joint planning conducted by GCDs, the development of total estimated recoverable storage (TERS), and development of modeled available groundwater (MAG) values for planning and permitting purposes.

Adoption and Approval of District Management Plans, 2015 – 2016

As of November 1, 2016, there were 98 confirmed GCDs subject to groundwater management plan requirements, and there was one unconfirmed district, Aransas County GCD. No confirmed districts were required to submit initial groundwater management plans during the 2015 – 2016 biennium (Table 1), but 26 districts submitted their plans for re-approval during this period. Of those, two had been due during the 2013 – 2014 biennium, 23 were due during the 2015 – 2016 biennium, and one had a due date during the 2017 – 2018 biennium. TWDB's Executive Administrator approved all of these and found none of the plans to be deficient (Table 1).

During the 2015–2016 biennium, two districts originally had management plans due, but the status of those districts changed (Table 2) so those due dates were no longer in effect. Anderson County UWCD's plan had been due October 10, 2014 but because they were incorporated into the Neches & Trinity Valleys GCD they no longer had a plan due. The Edwards Aquifer Authority originally had a due date of January 5, 2016 but starting September 1, 2015 they were no longer required to submit a groundwater management plan. Uvalde County UWCD did have a management plan due but the final version was not submitted and approved before October 31, 2016 (Table 2). During the 2015 – 2016 biennium, one groundwater management plan amendment was approved by the TWDB Executive Administrator (Table 3).

Table 4 lists the 39 groundwater management plans that will be due during the 2017-2018 biennium.

Table 1. Management Plan Approvals (November 1, 2014 – October 31, 2016)

Initially-approved Management Plans		
District Name	**Plan Due Date**	**Approval Date**
None		
Re-approved Management Plans		
District Name	**Plan Due Date**	**Re-approval Date**
Brazos Valley GCD	06/07/2015	03/12/2015
Brewster County GCD	06/11/2014	01/05/2015
Clear Fork GCD	10/25/2015	10/20/2015
Clearwater UWCD	04/13/2016	02/16/2016
Coastal Bend GCD	11/04/2014	01/15/2015
Coastal Plains GCD	12/11/2014	05/01/2015
Colorado County GCD	12/17/2014	11/03/2014
Cow Creek GCD	01/12/2015	02/02/2015
Evergreen UWCD	05/02/2016	03/16/2016
Gateway GCD	02/25/2016	10/08/2015
Glasscock GCD	12/04/2013	01/15/2015
Hays Trinity GCD	05/23/2016	02/19/2016
Live Oak UWCD	11/10/2015	09/15/2015
Llano Estacado UWCD	08/10/2015	09/15/2015
Medina County GCD	04/13/2016	06/07/2016
Middle Pecos GCD	11/30/2015	09/15/2015
Northern Trinity GCD	07/09/2015	06/11/2015
Presidio Co. GCD	01/12/2015	01/15/2015
Rolling Plains GCD	11/29/2015	09/15/2015
Rusk County GCD	12/14/2015	10/08/2015
Southern Trinity GCD	07/07/2015	09/15/2015
Texana GCD	02/25/2016	06/13/2016
Trinity Glen Rose GCD	12/14/2015	01/14/2016
Upper Trinity GCD	10/27/2015	09/15/2015
Wes-Tex GCD	04/07/2015	02/10/2015
Wintergarden GCD	02/07/2017	06/27/2016

Table 2. Management Plans Due But Not Approved (November 1, 2014 – October 31, 2016)

District Name	Plan Due Date	Plan
Anderson County UWCD	10/05/2014	see note 1
Edwards Aquifer Authority	01/05/2016	see note 2
Uvalde County UWCD	10/03/2016	see note 3

[1] Anderson County UWCD was incorporated into the Neches & Trinity Valleys GCD on November 14, 2014.
[2] Starting September 1, 2015, the Edwards Aquifer Authority is no longer required to submit groundwater management plans to the TWDB (Senate Bill 1336; 84th Legislature, 2015).
[3] Uvalde is near completion but has not yet turned in their final plan.

Table 3. Management Plan Amendment Approvals (November 1, 2014 – October 31, 2016)

District Name	Plan Due Date	Approval Date
Panhandle GCD	n/a	05/01/2015

Table 4. Management Plans Due in 2017-2018 Reporting Period (November 1, 2016 – October 31, 2018)

District Name	Plan Due Date	Plan
Bandera County RA & GWD	05/28/2018	Re-approval
Bee GCD	09/19/2018	Re-approval
Brazoria County GCD	02/20/2018	Re-approval
Brush Country GCD	04/08/2018	Re-approval
Barton Springs/Edwards Aquifer CD	01/07/2018	Re-approval
Calhoun County GCD	11/04/2017	Initial-approval
Central Texas GCD	07/06/2017	Re-approval
Coke County UWCD	08/30/2018	Re-approval
Comal Trinity GCD	06/17/2018	Initial-approval
Duval County GCD	10/09/2017	Re-approval
Goliad County GCD	07/29/2018	Re-approval
Guadalupe County GCD	01/23/2018	Re-approval
Headwaters GCD	02/13/2018	Re-approval
Hemphill County UWCD	09/27/2017	Re-approval
Hill Country UWCD	07/29/2018	Re-approval
Hudspeth County UWCD #1	07/05/2018	Re-approval
Irion County WCD	08/26/2018	Re-approval
Kenedy County GCD	09/04/2017	Re-approval
Kinney County GCD	07/02/2018	Re-approval
Lipan-Kickapoo WCD	06/24/2018	Re-approval
Lost Pines GCD	11/07/2017	Re-approval
McMullen GCD	08/09/2018	Re-approval
Menard County UWCD	03/19/2017	Re-approval
Middle Trinity GCD	05/14/2017	Re-approval
North Plains GCD	07/29/2018	Re-approval
North Texas GCD	06/19/2017	Re-approval
Panhandle GCD	05/14/2017	Re-approval
Panola County GCD	05/15/2018	Re-approval
Permian Basin UWCD	10/31/2017	Re-approval
Plum Creek CD	01/07/2018	Re-approval
Post Oak Savannah GCD	12/17/2017	Re-approval
Prairielands GCD	07/30/2017	Re-approval
Red River GCD	07/03/2017	Re-approval
Red Sands GCD	08/13/2017	Re-approval
San Patricio County GCD	16/19/2017	Re-approval

District Name	Plan Due Date	Plan
Southeast Texas GCD	10/18/2017	Re-approval
Sterling County UWCD	08/26/2018	Re-approval
Victoria County GCD	10/15/2018	Re-approval
Wintergarden GCD	02/07/2017	Re-approval

Groundwater Management Areas

A groundwater management area (GMA) is an area delineated by the TWDB as most suitable for managing groundwater resources. The primary purpose for the delineation of GMAs is to facilitate joint planning by GCDs that manage the same aquifer.

In 2002, the TWDB adopted boundaries for 16 GMAs, which cover the entire state (Figure 3). These boundaries were delineated primarily using the boundaries of the major aquifers of Texas. In areas with multiple major aquifers, the TWDB generally placed a preference on the shallowest aquifer. The TWDB divided several of the major aquifers into multiple GMAs. These divisions were made based on variations in hydrogeologic characteristics and current water-use patterns, and they coincided with natural features as much as possible. Where possible, the TWDB aligned GMA boundaries with those of counties and existing GCDs.

In a letter dated May 26, 2015, the Mesquite GCD requested that the boundaries between GMA 2 and GMA 6 be amended. The district annexed approximately 2,000 acres in Briscoe County, thereby making the district a member of GMA 2. The TWDB approved the boundary change on August 25, 2015, and moved the boundary from the eastern borders of Briscoe and Floyd counties westward to the outcrop of the Dockum Aquifer in those counties.

Joint Planning Activities

Districts in each GMA are required to meet at least once per year. Sixty GMA meetings were held between September 1, 2014 and August 31, 2016, and Table 5 shows the number of meetings for each GMA. This number is less than the previous biennium because the GMAs are further along in the second round of determining their desired future conditions (DFCs). A DFC is defined by participating GCDs within a GMA as part of the joint planning process, and means the desired, quantified condition of groundwater resources (such as water levels, spring flows, or volumes) within a management area at one or more specified future times. One of these new requirements includes an explanatory report, detailing their process for identification, assessment, and adoption of DFCs.

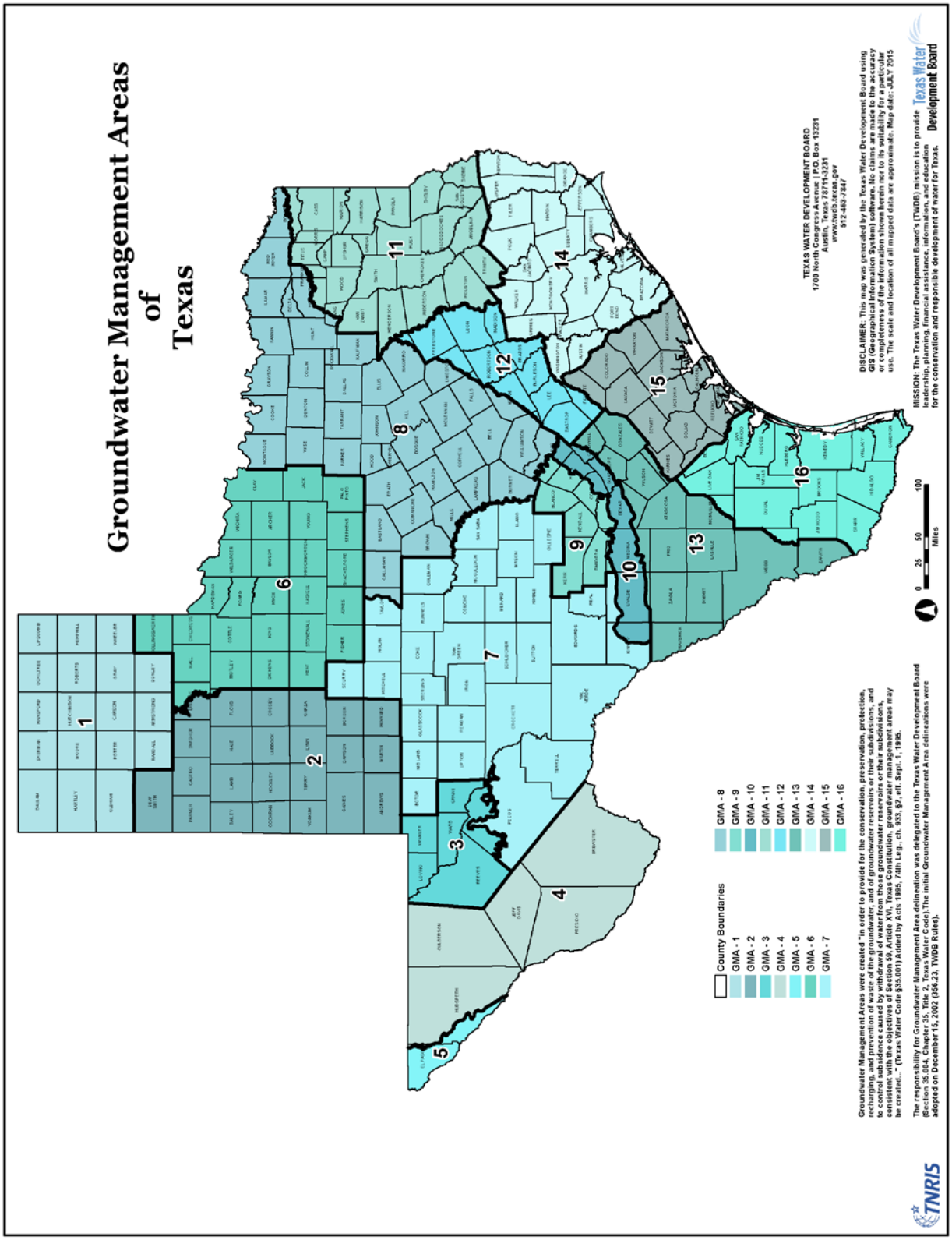
TWDB staff has supported the joint planning process by outlining the overall process for developing DFCs and modeled available groundwater. TWDB staff attended GMA meetings, presented information, and answered questions from the GMA member districts.

The major joint planning task within a GMA is to adopt DFCs. During this current round, all GMAs proposed their DFCs, and as of August 31, 2016, three of the GMAs have adopted final DFCs.

Table 5. Number of Meetings Held for Joint Planning in Groundwater Management Areas (September 1, 2014 – August 31, 2016)

GMAs	Joint Planning Meetings
1	3
2	3
3	2
4	5
6	4
7	3
8	5
9	4
10	5
11	5
12	6
13	5
14	2
15	5
16	3
Total	60

Figure 3. Groundwater Management Areas in Texas



Total Estimated Recoverable Storage

TWDB staff calculated the total estimated recoverable storage (TERS) volume for each aquifer within a GMA, as required by TWC, Section 36.108(d)(3). The TERS volume represents the estimated amount of groundwater within an aquifer that accounts for recovery scenarios that range between 25 percent and 75 percent of the porosity-adjusted aquifer volume. TWDB completed 15 TERS reports and one supplemental TERS report for GMAs between March 2013 and June 2014. By June 2014, districts in all GMAs had received TERS reports covering the major and minor aquifers in their areas. One supplemental aquifer TERS report for GMA 10 is being completed and is scheduled to be released in late 2016. The total estimated recoverable storage reports may be viewed on the following TWDB website: www.twdb.texas.gov/groundwater/management_areas/TERS.asp

Modeled Available Groundwater

TWC, Section 36.108 requires GCDs to submit the adopted DFCs of the aquifers to the TWDB. TWC, Section 36.108(d-5) extended the due date for GCDs to propose the adoption of DFCs for the relevant aquifers within a management area to May 1, 2016, including DFC proposals that were voted on before September 1, 2013. Districts in all GMAs met the deadline for proposing to adopt DFCs.

The previous requirement required GCDs within each GMA to adopt DFCs for relevant aquifers within their associated GMAs by September 1, 2010, and propose DFCs for adoption every five years after adoption. TWDB finalized and delivered the estimates of modeled available groundwater for all DFCs submitted from the first round (those due September 1, 2010) to the GCDs and regional water planning groups.

TWDB staff issued 41 reports for aquifers with groundwater availability models, and using alternative assessment methods issued 35 reports for aquifers without groundwater models. During the 2017-2018 biennium TWDB staff will prepare estimates of modeled available groundwater based on DFCs adopted during the second round of joint planning and these estimates will be provided to GCDs and regional water planning groups.

To view DFCs or modeled available groundwater reports, please visit the TWDB website at: www.twdb.texas.gov/groundwater/management_areas , select the GMA of interest, and then query the table at the bottom of the web page.

TWDB Rule Amendments

In 2015, the 84th Texas Legislature passed House Bill (HB) 200 which amended various sections of Chapter 36 of the Texas Water Code to revise the procedure for the appeal

of a DFC adopted by a GCD. The TWDB proposed revisions to the relevant groundwater management rules (31 Texas Administrative Code (31 TAC) Chapter 356) and also proposed changes to rules related to changing groundwater management area boundaries. The proposed rules were published for public comment on February 5, 2016, the public comment period closed on March 6, 2016, and the TWDB adopted the rules on June 23, 2016. The following descriptions include the major changes in the 31 TAC, Chapter 356 related to Groundwater Management:

- In accordance with 31 TAC, Section 356.22(b)(2),the TWDB must approve a substantive change to the physical groundwater management area boundary. TWDB maintains GMA boundary designations in certain internal data files, but will no longer require rulemaking action when the data file titles are adjusted. Each GMA that requests a boundary change must hold a public meeting and submit the notice and minutes of that meeting to the TWDB. The adopted amendment to 31 TAC, Section 356.22(b)(2) requires that the TWDB Board approve only substantive changes – as opposed to minor adjustments or data file title changes - to the GMA boundaries.

- The adopted amendments to Subchapter D of 31 TAC, Chapter 356 also incorporate the provisions of HB 200 that removed TWDB's reasonableness petition process for DFCs and instead allow an affected person to petition a district to contract with the State Office of Administrative Hearings (SOAH) to hear the challenge. An affected person has to file a petition with the GCD within 120 days of the district's adoption of the desired future condition. Within 60 days of receiving a petition, a district is required to contract with SOAH to conduct the contested case hearing and submit any related petitions. Within 10 days of receiving the petition, the district must submit a copy of the petition to the TWDB so it can conduct an administrative review of the DFC as well as a scientific and technical analysis. TWDB has 120 days to deliver the scientific and technical analysis to SOAH. TWDB staff responsible for the scientific and technical analysis may be called to testify as expert witnesses.

- A district may request that the Center for Public Policy Dispute Resolution, the TWDB, or another alternative dispute resolution system mediate the issues raised in the petition. If the TWDB is requested to mediate the issues, the TWDB may contract with an independent mediator depending on the complexity of the argument. The executive administrator or his/her designee will hold at least one meeting with the district and the affected person, and will establish procedures to mediate the issues raised in the petition. If the issues cannot be resolved, SOAH is to proceed with the hearing.

District Management Plan Performance Review

This chapter describes 2015 and 2016 noncompliance issues related to groundwater conservation district (GCD) management plans that were initiated by the Executive Director of the TCEQ, reported by the State Auditor's Office, or petitioned to the TCEQ.

Performance Review

In accordance with the TWC, Sections 36.301 – 36.303, the TCEQ is responsible for GCD performance review and action if any of the following occur:

- a GCD management plan is not adopted, readopted, or submitted to the Executive Administrator of the TWDB within statutory deadlines;
- the TWDB Executive Administrator denies approval of a submitted management plan and the GCD either does not address and obtain management plan approval within statutory deadlines or has exhausted all appeals of the denial;
- the State Auditor determines that a GCD is not operational; or
- a review panel has submitted a report and recommendation to TCEQ in response to a petition for inquiry of a GCD.

The TCEQ rules that pertain to GCD management plan performance review actions are contained in 30 TAC, Section 293.22.

Management Plan Deadlines

Starting on January 1, 2015, three GCDs were out of compliance. Brewster County GCD's management plan was approved by the TWDB on January 5, 2015 and the management plans for Coastal Bend GCD and Glasscock GCD were approved on January 15, 2015.

In 2015, the re-approval of management plans for four GCDs occurred after their plan due date but none required a compliance agreement. Ten of the GCDs achieved compliance prior to their due date.

In 2016, the Texana GCD and Medina County GCD missed their management plan readoption and submittal deadlines, but both achieved compliance without TCEQ intervention. Four GCDs achieved compliance prior to their due date.

State Auditor's Reviews

GCDs are subject to review by the state auditor under TWC, Section 36.302. Under Section 36.302(f), the TCEQ must take appropriate action if the State Auditor determines that a district is not actively engaged in achieving the objectives of its management plan. Such action, described in TWC, Section 36.303, includes issuing an order requiring the district to take certain actions (or to refrain from certain actions), dissolving the board in accordance with the statute and calling an election to form a new board, requesting that the Attorney General appoint a receiver for the district, or dissolving the district. The commission may also make recommendations to the legislature actions that it deems necessary to accomplish comprehensive management in the district.

The SAO did not conduct any reviews of GCDs in 2015 or 2016 and no actions were taken by the TCEQ in this regard.

Petitions for Inquiry

The TCEQ considered a petition for inquiry that was filed on June 4, 2015, pursuant to TWC, Section 36.1082 and 30 TAC, Section 293.23, regarding the activities of Post Oak Savannah Groundwater Conservation District (POSGCD).

The petition for inquiry alleges: the rules adopted by the POSGCD are not designed to achieve the DFCs adopted by GMA 12 during the joint planning process; the groundwater in the management area is not adequately protected by the rules adopted by POSGCD; and the groundwater in the management area is not adequately protected due to the failure of POSGCD to enforce substantial compliance with its rules.

After evaluation of the petition, and consideration of the responses and replies to the petition, the Commission determined to dismiss the petition in accordance with TWC, Section 36.108(f) and 30 TAC, Section 293.23 on August 19, 2015.

Recommendations

Texas Water Code, Section 35.018, provides that this report include recommendations for changes to Chapters 35 and 36 that will facilitate the creation of PGMAs and the creation and operation of GCDs. **The TCEQ recommends that additional statutory changes to TWC, Chapters 35 and 36 to facilitate the designation of PGMAs and the creation and operation of GCDs are not needed at this time.**

The TCEQ recognizes and acknowledges that crafting local groundwater management solutions for non-GCD areas in the PGMAs is generally preferred by citizens over state agency administrative mandates to create a new or join an existing GCD. Local and legislative actions or TCEQ administrative actions to establish groundwater conservation districts are still required in all or part of five counties in four PGMAs.

- Western Briscoe County in the Briscoe, Hale, Swisher County PGMA
- Southwest Travis County in the Hill Country PGMA
- Southeast Midland County and Northeast Upton County in the Reagan, Upton, Midland County PGMA
- Dallas County in the North Central Texas – Trinity & Woodbine Aquifers PGMA

By order issued on December 12, 2014, the TCEQ found that the creation of a new GCD to manage the Briscoe PGMA was not practicable and that adding the Briscoe PGMA to the High Plains Water District (HPUWCD) was the most feasible and practicable option for the protection and management of the groundwater resources. The TCEQ order recommended that the western portion of Briscoe County within the PGMA be added to the HPUWCD. On March 13, 2015, the HPUWCD board of directors voted not to add the Briscoe PGMA to the HPUWCD. **In accordance with the TCEQ's December 12, 2014 order and Texas Water Code, Section 35.013(i), the TCEQ has determined that adding the western portion of Briscoe County within the PGMA to the HPUWCD is the only feasible and practicable solution for the protection and management of groundwater resources and recommends statutory action be taken to add the western portion of Briscoe County within the PGMA to the HPUWCD.**

In the Hill Country PGMA, the TCEQ attempted to administratively address the western Comal County and southwestern Travis County non-GCD areas from July 2011 to January 2014. The Comal Trinity GCD was created by HB 2407 effective June 17, 2015. Action remains to address groundwater management in the Hill Country PGMA for southwestern Travis County. **The TCEQ recommends statutory action to create a new**

GCD that includes all of the territory in the Travis County portion of the PGMA, or the addition of the Travis County PGMA territory to an existing GCD. Either option is feasible and practicable.

TCEQ administrative actions continue for the establishment of a groundwater management in Upton and Midland counties in the Reagan, Upton, and Midland County PGMA. The Executive Director has recommended in his 2016 report, *Reagan, Upton, and Midland County Priority Groundwater Management Area – Northeastern Upton and Southeastern Midland Counties,* the addition of the PGMA portions of Upton and Midland counties to the Glasscock GCD. The matter is proceeding to the contested case process at the State Office of Administrative Hearings.

In accordance with the September 1, 2015, amendment of TWC, Section 36.0151(f), the TCEQ may not create a GCD before September 1, 2021, in areas in which the annual amount of surface water used is more than 50 times the annual amount of groundwater produced; that is located in a priority groundwater management area; and that has a population greater than 2.3 million. In practice, this amendment applies only to Dallas County in the North-Central Texas Trinity and Woodbine Aquifers PGMA.