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Priority Groundwater Management Areas and Groundwater Conservation Districts, Report to the 83rd Texas Legislature

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Prepared by
Texas Commission on Environmental Quality
Texas Water Development Board

SFR-053/08

January 2013

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Executive Summary

This report provides information to the legislative leadership on activities undertaken during the preceding two years relating to the study and designation of priority groundwater management areas (PGMAs), the creation of groundwater conservation districts (GCDs), 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.

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

- summarizes the Acts of the 82nd Legislature, Regular Session, 2011, that generally and specifically affect the state's GCDs;
- describes elections held for the confirmation of recently created groundwater conservation districts and the additions of territory into existing districts;
- provides information on the implementation of the state's PGMA program and discusses state and local actions that have occurred in the designated PGMAs;
- provides information on GCD adoption of management plans and TWDB administrative approval of management plans;
- presents information on groundwater management areas (GMAs) and the joint planning requirements in the GMAs; and
- describes State Auditor's Office (SAO) management plan implementation reviews and TCEQ performance review actions related to GCD management plan adoption or implementation.

Eleven Acts of the 82nd Legislature amended groundwater management general law, two Acts created, subject to confirmation elections, new GCDs, and nine Acts amended specific GCDs' authority. Predominant among the changes to the general law for the purposes of this report, Senate Bill 313 streamlines and clarifies the PGMA designation and GCD creation process in TWC, Chapters 35 and 36 and Senate Bill 660, the TWDB's reauthorization bill, made changes and clarifies GCD, TCEQ, and TWDB responsibilities related to management plans and joint planning functions of Chapter 36.

House Bill 2859 created the Terrell County Groundwater Conservation District and the new GCD was confirmed by the voters on November 6, 2012. Senate Bill 1290 created the Calhoun County Groundwater Conservation District. The temporary directors of the new Calhoun County GCD did not have a confirmation election by the September 1, 2012, deadline to hold one set by the Act.

Two Acts required boundary change actions by specific GCDs. House Bill 1060 required the Barton Springs-Edwards Aquifer Conservation District to de-annex territory in Bastrop County, and Senate Bill 1225 settled overlapping boundary issues in Caldwell County for the Gonzales County Groundwater Conservation District and the Plum Creek Conservation District. The subject GCDs addressed the boundary issues in 2011 and 2012. The North Plains GCD, Kenedy County

GCD and Mesquite GCD added territory in 2011 and 2012 in response to landowner petitions.

The TCEQ adopted amended rules in July 2012 to implement the statutory changes to the PGMA process made by Senate Bill 313. Also, in August 2012, the TCEQ issued an order that all territory within the Dallam County PGMA not previously incorporated within a GCD was now added to the North Plains Groundwater Conservation District.

The Executive Director of TCEQ has recommendations in the contested case hearing process before the State Office of Administrative Hearings (SOAH) to address the non-GCD portions of the Hill Country PGMA. The Executive Director's recommendations are for the southwestern portion of Travis County to be added to the Barton Springs-Edwards Aquifer Conservation District, and for the western portion of Comal County to be added to the Trinity Glen Rose Groundwater Conservation District. The hearing has been abated until the end of the 83rd Legislature to allow for and encourage local action.

The Executive Director is presently soliciting comments on a draft GCD recommendation to add the PGMA portion of Briscoe County to the High Plains Underground Water Conservation District No. 1, and to develop the groundwater management recommendation for the PGMA portions of Upton and Midland Counties. The Executive Director is accepting public comments on these matters until June 30, 2013.

In fiscal year 2012, the Executive Administrator of TWDB evaluated regional water plan and joint GCD planning data to help identify potential new PGMA study areas. This data was discussed with and provided to the Executive Director in December 2012. After the potential new PGMA studies areas are prioritized, it is anticipated the Executive Director will begin the highest prioritized new study in fiscal year 2014.

The TWDB proposed rules in October 2012 to implement the changes made by Senate Bills 660, 727, and 737 relating to GCD management plans and the joint planning process. Final rules to implement these statutory changes should be adopted by the end of 2012.

During the 2011-2012 biennium, five GCDs submitted their initial management plans and each was determined to be administratively complete by the Executive Administrator. In addition, the TWDB received 25 plans from established GCDs for re-approval. The Executive Administrator determined that 24 of the plans were administratively complete and found one plan to be incomplete. Over the 2013-2014 biennium, one initial GCD management plan is due, and 45 re-approval GCD management plans are due.

In response to requests from the Hays Trinity GCD and the Trinity Glen Rose GCD, the TWDB adopted rules in February 2012 to change the boundaries of Groundwater Management Areas 9 and 10. This action removed the two districts from GMA 10 made the two GCDs lie solely within GMA 9.

A total of 75 desired future conditions (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. By the end of August 2012, TWDB staff provided support at over 50 groundwater management area meetings as the second round of joint planning progresses. As of October 2012, the TWDB has finalized the estimates of modeled available groundwater for 73 of the 75 DFCs and was working to finalize estimates for the last two.

Between August 2009 and August 2011, the TWDB received and accepted nine petitions challenging the reasonableness of six DFCs in GMAs 1, 7, 9, 10, 11, 12, and 13. The TWDB held nine public hearings on the petitions between November 2011 and March 2012. One petition was withdrawn following the public hearings and, from March to June 2012, the TWDB determined that all of the DFCs challenged by the other eight petitions were reasonable.

Seven GCDs missed management plan adoption, readoption, or submittal deadlines in 2011 and 2012. The Duval County GCD, Menard County GCD, and Wintergarden GCD entered compliance agreements with TCEQ and have since achieved compliance. The Post Oak Savannah GCD, Santa Rita UWCD, and Starr County GCD are presently under compliance agreements, and Anderson County UWCD is presently considering a compliance agreement.

In February 2010, the State Auditor's Office (SAO) found, among several items, the Kinney County Groundwater Conservation District was not operational in achieving the objectives of its management plan. The Kinney County GCD entered a compliance agreement with the Executive Director in September 2010. In March 2012, the Executive Director concluded that the Kinney County GCD accomplished all terms and conditions of the compliance agreement and that no further action was required by TCEQ.

The SAO reviewed 14 other GCDs in 2012 but did not find any to be not operational. No other TCEQ actions were required in response to SAO's 2012 review and findings.

In December 2010, the Commission dismissed a petition by Mesa Water, L.P., requesting an inquiry relating to joint groundwater management planning in Groundwater Management Area 1, and in July 2011, the Executive Director dismissed a Fort Stockton Holdings L.P. petition for relief of actions by the Middle Pecos Groundwater Conservation District. No other petitions for inquiry were received during 2011 or 2012.

The TCEQ recommends that additional statutory changes to facilitate the designation of PGMAs and the creation and operation of GCDs are not required at this time. The TCEQ and TWDB urge the Legislature to consider the legislative appropriations requests of the individual agencies and provide the funds necessary to carry out the existing and recommended groundwater management support programs.

Acts of the 82nd Legislature Affecting Groundwater Conservation Districts

The Acts of the 82nd Legislature, 2011, 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, landowner petitions and other actions to join existing GCDs, and the dissolution of a GCD are also discussed.

Changes to Texas Water Code, Chapters 35 & 36

Eleven Acts passed by the 82nd Legislature made changes to the Texas Water Code (TWC), Chapters 35 and 36. These Acts are summarized in the following text. These changes were related to priority groundwater management areas; GCD notice, hearing, rulemaking and permitting procedures and considerations; and GCD management plans and rules. The Acts are identified by House Bill (HB) number or Senate Bill (SB) number and, by the Chapter number for the 82nd Legislature Regular Session Laws, unless noted otherwise.

HB 2702 (Chapter 1163, Sec. 181) amends TWC, Section 36.121, relating to Limitation on Rulemaking Power of Districts Over Wells in Certain Areas. The Act amends the TWC to exempt from GCD regulation a municipal supply well and any water produced or to be produced from a county with a population less than 14,000 that serves a municipal population between 100,000 and 121,000 if the rights to use the groundwater are owned by a political subdivision that is not a municipality or are owned by a municipality that has a population between 100,000 to 115,000 that purchased, owned, or held rights to the groundwater before the GCD was created. [Effective September 1, 2011]

HB 3109 (Chapter 1042) amends TWC, Section 36.121, relating to Limitation on Rulemaking Power of Districts Over Wells in Certain Areas. The Act amends the TWC to exempt from GCD regulation a municipal supply well and any water produced or to be produced from a county with a population less than 14,000 that serves a municipal population of 121,000 or less if the rights to use the groundwater are owned by a political subdivision that is not a municipality or are owned by a municipality that has a population of 115,000 or less that purchased, owned, or held rights to the groundwater before the GCD was created. [Effective June 17, 2011]

In January 12, 2012, the Attorney General concluded that although HBs 3109 and 2702 enacted by the 82nd Legislature are in facial conflict, HB 2702 provides that, to the extent of its conflict with another bill enacted at the same session, the other bill prevails. As a consequence, the two bills may be harmonized with the result that HB 3109 prevails and thus amends TWC, Section 36.121 (Opinion No. GA-0904).

SB 313 (Chapter 886) amends TWC, Sections 35.007, 35.008, 35.012, 35.013, 36.0151, and 36.0171 relating to the Designation of Priority Groundwater

Management Areas and the Creation of Groundwater Conservation Districts. The Act amends Section 35.007 to change the PGMA study evaluation period from 25 to 50 years.

The Act amends Section 35.008 to validate and authorize the TCEQ adoption of rules regarding the creation of a GCD over all or part of a PGMA that was designated as a critical area under TWC, Chapter 35, as that chapter existed prior to September 1, 1997, or other prior law. Further amendment to Section 35.008 validate and authorize the adoption of TCEQ rules regarding the addition of all or part of the land in such a PGMA to an existing GCD.

The Act amends Section 35.012 to clarify the TCEQ's process to create GCDs within a PGMA after the time frame for landowner action has expired and to authorize the TCEQ to combine territory in separate PGMA's during the process to create a GCD to provide for more effective or efficient groundwater management.

The Act amends Section 35.013 to change the 180-day time frame to 120 days for a GCD board of directors to vote on a TCEQ order recommending a PGMA be added to the GCD and advise the TCEQ of the outcome. The Act provides that a PGMA is added to a GCD by the vote of the board of directors and provides that if voters do not approve a tax proposition, the GCD may assess production fees and raise the production fees over a five-year period. If a GCD's board of directors vote not to pursue the addition of a PGMA as recommended by the TCEQ, the further amendment to Section 35.013, clarify and authorize continued TCEQ action to either create a GCD or recommend the PGMA be added to another GCD.

The Act amends Section 36.0151 to clarify that the TCEQ may amend territory if the TCEQ is required to issue a subsequent GCD creation order for a PGMA, or a subsequent order to recommend a PGMA be added to a GCD. The change allows the TCEQ to consider the actions taken since the original order that have resulted in part of the PGMA was being included in a GCD.

The Act amends Section 36.0171 to provide that if TCEQ is required to create a GCD in a PGMA, and a tax proposition is not approved by the voters, the GCD may assess production fees and raise the production fees over a five-year period. [Effective June 17, 2011]

SB 332 (Chapter 1207) amends TWC, Section 36.002, relating to Ownership of Groundwater and Section 36.101, relating to Rulemaking Power. The Act amends Section 36.002 to recognize that a landowner owns the groundwater below the surface of the landowner's land as real property. The Act provides that the landowner is entitled to produce the groundwater below the surface of the real property without causing waste, malicious drainage of other properties, or negligently causing subsidence. The Act provides that the ownership right does not entitle a landowner to the right to capture a specific amount of groundwater below the surface and does not affect the existences of common law defenses or other defenses to liability under the rule of capture. The Act provides that nothing in the Water Code shall be construed as granting the authority to deprive or divest the ownership rights. The Act provides that the statute does not prohibit a GCD from limiting or prohibiting the drilling of a well by a landowner for failure or inability to comply with minimal well spacing or tract size requirements

adopted by the GCD; affect the ability of a GCD to regulate groundwater production; or require that a GCD's rules or regulations must allocate to each landowner a proportional share of available groundwater for production based on the number of acres owned by the landowner. The Act provides that the statute does not affect the ability of the Edwards Aquifer Authority, the Harris-Galveston Coastal Subsidence District, and the Fort Bend Subsidence District to regulate groundwater under their enabling Acts.

The Act amends Section 36.101 to require GCDs to consider three new factors during the rulemaking process: groundwater ownership and rights; the public interest to conserve, preserve, protect, recharge, and prevent waste of groundwater or subsidence caused by groundwater withdrawal; and the goals developed as part of the GCD's management plan. [Effective September 1, 2011]

SB 660 (Chapter 1233) amends TWC, Sections 36.001, 36.063, 36.1071, 36.108, 36.3011, and adds 36.1081 – 36.1086. The Act amends Section 36.001, Definitions, to clarify the definition of Desired Future Condition (DFC) to mean a quantitative description of groundwater resources in a management area.

The Act amends Section 36.063, Notice of Meetings, to require GCDs to post a specified notice 10 days before a hearing or meeting where a GCD will adopt a DFC.

The Act amends Section 36.1071, Management Plan, to clarify that one management goal will address the DFCs adopted by the GCD and changes the term 'managed available groundwater' to 'modeled available groundwater.'

The Act amends Section 36.108, Joint Planning in Management Area, to: define 'district representative;' require annual meetings of district representatives to discuss new or potential amendments to existing DFCs; and requires GCDs to consider aquifer use, water supply needs in State Water Plan, hydrological conditions of recharge, inflows, discharge in context of total estimated recoverable storage, springflow or other interactions between surface and groundwater, impact on subsidence, socioeconomic impacts, impacts to groundwater ownership, feasibility of achieving a DFC, or other relevant information, prior to voting on the adoption of DFCs. The Act provides that a proposed DFC must provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area. The Act provides that proposed DFCs must be approved by a two-thirds vote. The Act establishes a 90 day public comment on the proposed DFCs. The Act requires GCDs to hold a public hearing on proposed DFC relevant to that district during the public comment period and after posting notice. The Act requires GCDs, after the public hearing, to compile a summary of relevant comments received, any suggested revisions to the proposed DFCs, and the basis for the revisions for consideration at the next joint planning meeting. The Act provides requirements for: reviewing GCD reports, considering revisions and final adoption of the DFCs, and an explanatory report of the DFCs with proof of notice, copies of GCD resolutions, the documentation of impact of each DFC, and listing other DFC options not adopted. The Act requires that each GCD provide notice for posting to the Secretary of State, and each applicable county clerk in the management area of a joint meeting within 10 days of meeting. The bill

provides that failure to post notice does not invalidate an action taken at the joint meeting.

The Act adds Section 36.1081, Technical Staff and Subcommittees for Joint Planning, that require TCEQ and TWDB to make staff available upon request to assist in the development of DFCs

The Act adds Section 36.1082, which adds a definition for an affected person in a groundwater management area and amends the reasons that an affected person may petition the TCEQ for an inquiry of a GCD in a groundwater management area.

The Act adds Section 36.1083, Appeal of DFC, for a person with a legally defined interest in groundwater in the management area to petition the TWDB regarding the reasonableness of an approved DFC.

The Act adds Section 36.1084, Modeled Available Groundwater, to require GCDs to submit information concerning the DFC, proof of notice, and the DFC explanatory report to the Executive Administrator of the TWDB within 60 days of adopting a DFC, and for the Executive Administrator to provide each GCD and regional water planning group with the modeled available groundwater.

The Act adds Section 36.1085, Management Plan Goals and Objectives, to require each GCD to ensure its management plan goals and objectives are consistent with achieving the DFCs.

The Act adds Section 36.1086, Joint Efforts by Districts in Management Area, to authorized joint studies or research by GCDs in a management area.

The Act amends Section 36.3011, Commission Action Regarding District Duties, to provide that within 45 days of receiving a review panel report and recommendation, the TCEQ may take action against a GCD if it finds that the GCD did not: submit a management plan to Executive Administrator of the TWDB, participate in joint planning, adopt rules, adopt DFCs by resolution, update its management plan within two years of new DFCs, update rules within one year of new management plan, adopt rules designed to achieve the DFCs, adequately protect groundwater by its rules, or adequately protect groundwater by enforcing substantial compliance with its rules. [Effective September 1, 2011]

SB 691 (Chapter 16) amends TWC, Section 36.117, relating to Exemptions; Exceptions; Limitations. The Act clarifies that a water well used solely for domestic use or for watering livestock or poultry is exempt from GCD permitting requirements if the well is located on a tract of land larger than 10 acres and the well is either drilled, completed, or equipped so it cannot produce more than 25,000 gallons of water per day. [Effective May 9, 2011]

SB 692 (Chapter 32) amends TWC, Section 36.117, relating to Exemptions; Exceptions; Limitations. The Act clarifies that a GCD by rule may provide an exemption from the GCD's drilling, operating or other permitting requirements. The Act clarifies that a water well used solely for domestic use or for watering livestock or poultry is exempt from groundwater conservation district permitting requirements if the well is located on a tract of land larger than 10 acres and the

well is either drilled, completed, or equipped so it cannot produce more 25,000 gallons of water per day. The Act clarifies that a GCD may not restrict production of water from an exempt well for domestic, livestock or poultry use. The Act allows a GCD to cancel an exemption, require an operating permit, and restrict production if the purpose of groundwater use for the exemption has changed. The Act clarifies that a GCD may require all wells to comply with the GCD's well spacing rules except for exempt wells used for mining activities specified by the permit issued by the Railroad Commission of Texas. The Act clarifies that all water wells must be registered with the GCD and equipped and maintained to conform to the GCD's rules. The Act clarifies that water well drillers must file the well log with the GCD and provides that the driller must also file the geophysical log if available. The Act clarifies that a well that is used to supply water for a subdivision of land platted through a county commissioners court is not eligible for an exemption from GCD permitting requirements. The Act clarifies that groundwater withdrawn from an exempt well that is transported outside the GCD is subject to any applicable GCD production and export fees. [Effective May 9, 2011]

SB 693 (Chapter 53) amends TWC, Sections 36.406, 36.416, 36.418, and adds 36.4165, relating to Permit Application and Amendment Hearing Procedures. The Act amends Sections 36.406 to authorize a GCD to use the State Office of Administrative Hearings (SOAH) to conduct a hearing on a permit or permit amendment.

The Act amends Section 36.416 to authorize but does not require that a GCD adopt rules consistent to SOAH's procedural rules if the GCD contracts with SOAH to conduct hearings. The Act provides that if the GCD does not set a deadline by rule, the applicant or other party must request the SOAH hearing at least 14 days before the evidentiary hearing is scheduled to begin. The Act provides the SOAH hearing may be conducted in Travis County and requires the party requesting the SOAH hearing to pay all costs associated with the contract for the hearing.

The Act adds Section 36.4165 to provide that the GCD board of directors will make the final permit or permit amendment decision after a proposal for decision has been issued by SOAH.

The Act amends Section 36.418 to require a GCD to adopt rules to establish a procedure for preliminary and evidentiary hearings, to allow the presiding officer to determine a party's right to participate in the hearing, and to set a deadline for a party to file a request to refer a contested case to SOAH. [Effective May 12, 2011]

SB 727 (Chapter 17) amends TWC, Sections 36.1071, 36.1072, 36.108, 36.113, 36.116, 36.122, 36.207, 36.301, and 36.3011. The Act amends these sections to make the reference to the term 'management plan' consistent throughout the statute and makes other conforming and formatting language changes to clarify the statute. [Effective April 29, 2011]

SB 737 (Chapter 18) amends TWC, Sections 36.001, 36.1071, 36.108, and 36.1132 relating to the Management of Groundwater Production by GCDs. The Act amends Section 36.001 to change the definition of managed available

groundwater to modeled available groundwater and defines ‘modeled available groundwater’ to mean the amount of water as determined by the Executive Administrator of the TWDB that may be produced on an average annual basis to achieve a desired future condition.

The Act makes conforming language changes in Sections 36.1071 and 36.108.

The Act amends Section 36.1132 to provide that a GCD shall, to the extent possible, issue permits up to the point when the total volume of exempt and permitted groundwater production will achieve an applicable desired future condition. The Act provides that in issuing permits, the GCD must manage the total groundwater production on a long-term basis to achieve an applicable desired future condition and consider the modeled available groundwater determined, the Executive Administrator’s estimate of the current and projected amount of groundwater produced under exemptions granted by the GCD, the amount of groundwater authorized by the GCD’s issued permits, an estimate of the amount of groundwater actually produced under the permits issued by the GCD, and yearly precipitation and production patterns. The Act provides that the Executive Administrator shall solicit information from each applicable GCD to determine estimates of exempt use. [Effective September 1, 2011]

SB 1 (1st Called Session, Chapter 4, Art. 77) amends TWC, Section 36.0151, relating to Creation of District for Priority Groundwater Management Area. The Act provides that the Commission may not, before September 1, 2015, 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. The Act authorizes the Commission 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. [Effective July 19, 2011]

Groundwater Conservation Districts (GCDs)

Two new GCDs were created by special Acts of the 82nd Legislature, 2011. One GCD, created in 2001, remains unconfirmed by the voters. Several GCDs were amended by special Acts of the 82nd Legislature, and several GCDs added territory or otherwise had boundary amendments in 2011 – 2012. The locations of the state’s GCDs are shown on Figure 1.

New GCDs

HB 2859 (Chapter 336) creates, subject to a confirmation election, the **Terrell County Groundwater Conservation District** in Terrell County with the powers and duties of TWC, Chapter 36 related to general law for GCDs. The purpose of the District is to benefit property by providing for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and to control subsidence caused by the withdrawal of groundwater under powers conferred by Article XVI, Section 59 of the Texas Constitution.

Unlike general law GCDs, the Act provides that the Commissioners Court of Terrell County shall, before October 17, 2011, appoint five initial directors with two representing urban interests and three representing agricultural interests. One initial director representing urban interests and two initial directors

representing agricultural interests will serve terms that end April 1, 2013, and the other two initial directors will serve terms that end April 1, 2015. The initial directors are required to hold a confirmation election. The Commissioners Court of Terrell County will appoint the appropriate number of subsequent directors on or before April 1 of each odd-numbered year. The District would be dissolved on December 31, 2012, if it is not confirmed by this date, and the initial directors would serve until all incurred debts are paid and assets transferred to Terrell County. The Act provides that directors may not receive fees of office that exceed \$50 a day or \$3,000 a year. Under the Water Code, general law GCD directors are elected by the single-precinct method and may receive fees of office not to exceed \$150 a day or \$9,000 a year.

Unlike general law GCDs, the District may not purchase, sell, transport, or distribute surface water or groundwater for any purpose, or exercise the power of eminent domain. The District's initial well production fees may not exceed \$0.25 per acre-foot of water used for agricultural irrigation and \$0.0425 per 1,000 gallons for water used for any other purposes and the fees may be increased at a cumulative rate not to exceed three percent per year. The District may not levy a tax that exceeds \$0.015 per \$100 assessed valuation and may not exceed bond or note indebtedness of \$500,000. Unlike general law GCDs, the District may regulate a municipal supply well that serves a municipal population of 121,000 or less if the rights to use the groundwater are owned by a political subdivision that is not a municipality or are owned by a municipality that has a population of 100,000 or less that purchased, owned, or held rights to the groundwater before the District's creation. [Special Districts Local Laws Code, Chapter 8837; Effective September 1, 2011]

The Commissioners Court of Terrell County appointed the temporary directors on July 11, 2011, and the temporary directors scheduled and held a confirmation election on November 6, 2012. The voters confirmed creation of the District and granted tax authority at a rate not to exceed \$0.01 per \$100 assessed valuation by a tally of 281 for; 183 against.

SB 1290 (Chapter 1091) creates, subject to a confirmation election, the **Calhoun County Groundwater Conservation District** in Calhoun County with the powers and duties of TWC, Chapter 36 related to general law for GCDs. The purpose of the District is to benefit property by providing for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and to control subsidence caused by the withdrawal of groundwater under powers conferred by Article XVI, Section 59 of the Texas Constitution. Creation of the District is subject to a confirmation election.

In addition to the general law authority for GCDs, the Act provides that the District may mitigate and assist owners of exempt domestic and livestock wells experiencing groundwater reduction due to groundwater pumping of others.

Unlike general law GCDs, the Act provides that the Commissioners Court of Calhoun County shall, before September 11, 2011, appoint four temporary directors to represent each commissioners precinct and one temporary director to represent the county at-large. The temporary directors are required to hold a confirmation election before September 1, 2012 and the Act provides specific ballot language. If the confirmation election fails, the Act provides that

subsequent confirmation elections may be attempted until December 31, 2016, at which time the District will be dissolved if it remains unconfirmed by the voters. The Commissioners Court of Calhoun County must appoint temporary directors again in September 2015 if the District has not been confirmed. These temporary directors would serve until the District is confirmed by election, until all incurred debts are paid and assets transferred to Calhoun County, or until September 1, 2018.

The temporary directors become the initial directors if the District is confirmed and serve staggered two- and four-year terms ending on December 31 of even-numbered years. Each November of even-numbered years, the appropriate number of directors will be elected. One elected director will represent each of the four commissioners precincts and one elected director will represent the county at-large. Under the TWC, general law GCD directors are elected by the single-precinct method.

Unlike general law GCDs, the Act provides that the District may not exercise the power of eminent domain, levy a tax for any purpose, or deny a landowner the privilege to produce groundwater from a well incapable of producing more than 25,000 gallons per day. The Act provides that District directors are not entitled to fees of office for service as a director. Under the TWC, general law GCDs may exercise the power of eminent domain, may assess voter-approved taxes to pay for operation and maintenance expenses and the repayment of bonds, and may receive fees of office not to exceed \$150 a day or \$9,000 a year. Under the TWC, domestic, livestock and poultry wells incapable of producing more than 25,000 gallons per day on a tract of land larger than 10 acres must be registered with but do not require a general law GCD permit. [Special District Local Laws Code, Chapter 8860; Effective September 17, 2011]

The Commissioners Court of Calhoun County appointed temporary directors for the District on January 12, 2012. However, the temporary directors did not have the confirmation election before the September 1, 2012 deadline that was set by the Act.

Unconfirmed GCD

The Lavaca County Groundwater Conservation District, in Lavaca County, has been previously created by the Texas Legislature but remains unconfirmed by the voters. The District held confirmation elections that were defeated by the voters in November 2001 and May 2008.

In accordance with Special District Local Laws Code, Chapter 8822, the District is authorized to conduct subsequent confirmation elections. Chapter 8822 and the District will expire on September 1, 2013, if the creation of the District has not been confirmed by that date.

Dissolution Proceedings by a GCD

On March 13, 2012, by unanimous resolution, the board of directors of the Fox Crossing Water District in Mills County recommended the complete and immediate dissolution of the District. The District has broad authority under TWC, Chapter 36, 49, and 54 (Chapter 779, Acts of the 69th Legislature, Regular

Session, 1985). On March 15, 2012, the Vice President of the District notified TCEQ that District dissolution was being undertaken in accordance with TWC, Sections 54.734 through 54.738 and that the board was in the process of scheduling a public hearing.

The TCEQ contacted the District's President on October 10, 2012, to inquire about the status of the public hearing that was to be scheduled and the status of the District. The District's President noted that the board of directors would meet in December 2012 to consider further dissolution proceedings and schedules. As of the date of publication of this report, the District has not been dissolved.

Legislative Amendments for Specific GCDs

Nine Acts of the 82nd Legislature made changes to authorities and responsibilities of existing groundwater conservation districts. These Acts amended the enabling legislation of each of the ten GCDs that were changed in some manner.

HB 801 (Chapter 58) repeals a requirement for the **Southern Trinity Groundwater Conservation District** in McLennan County to add another county by September 1, 2011, and repeals a requirement for the TCEQ to dissolve the District if it does not add another county by September 1, 2011. [Amends Special District Local Laws Code, Chapter 8821; Effective June 17, 2011]

HB 1060 (Chapter 735) requires the **Barton Springs-Edwards Aquifer Conservation District** to pass a resolution de-annexing 410 acres located in Bastrop County. [Amends Chapter 429, Acts of the 70th Legislature, Regular Session, 1987; Effective June 17, 2011]

On June 23, 2011, the board of directors of the Barton Springs-Edwards Aquifer Conservation District passed the resolution de-annexing the 410 acres in Bastrop County in accordance with HB 1060.

HB 3818 (Chapter 357) provides that the **Northern Trinity Groundwater Conservation District** in Tarrant County may assess annual groundwater production fees at rates not to exceed \$1.00 per acre-foot for a well permitted solely for agriculture use and \$0.20 per 1,000 gallons for all other permitted well uses. [Amends Special District Local Laws Code, Chapter 8820; Effective June 17, 2011]

HB 3866 (Chapter 867) changes the **Hill Country Underground Water Conservation District** directors' election date from the May uniform election date of odd-numbered years to the November uniform election date of even-numbered years, and sets the terms of office for the current directors that were elected in May 2009 and May 2011. [Amends Special District Local Laws Code, Chapter 8844; Effective June 17, 2011]

SB 564 (Chapter 199) changes the **Middle Pecos Groundwater Conservation District** directors' election date from May to November of each even-numbered year, set the terms of office for the present directors, and validates District actions taken before the effective date of the Act. The validation of District actions does not apply to matters that, on the effective date of the Act,

have been or could be held invalid by a final court judgment. [Amends Special District Local Laws Code, Chapter 8851; Effective May 28, 2011]

SB 987 (Chapter 1262) provides that a **Colorado County Groundwater Conservation District** director may serve only two full consecutive terms in the same position. The Act also provides that three directors will be elected from Colorado County at large instead of individually from the cities of Columbus, Eagle Lake, and Weimar. [Amends Special District Local Laws Code, Chapter 8824; Effective June 17, 2011]

SB 1225 (Chapter 658) requires the **Gonzales County Underground Water Conservation District** and the **Plum Creek Conservation District** to jointly prepare a form before July 17, 2011 that requests disannexation of land located in Caldwell County from the territory of the two districts. Within 10 days of preparing the form, the Act requires the Gonzales County UWCD mail the form to each landowner whose property is presently located within both districts. The subject landowners are required to sign the forms and indicate which district they choose for their property to be disannexed. The signed forms must be returned to the Gonzales County UWCD by December 31, 2011, and if a form is not returned, that specific property will be disannexed by the Gonzales County UWCD. The Act provides that the two districts will, by resolution, disannex the territory as instructed by the landowners or lack of response by the landowners, and each district will file copies of the resolutions with the county clerk of Caldwell County. The Act provides the county clerk shall record the district resolutions in the county records. The Act provides that the excluded territory is no longer part of the district that filed the resolution on the date the county clerk records the resolutions to the county record. [Effective June 17, 2011]

On February 14, 2012, the board of directors of the Gonzales County UWCD disannexed the Caldwell County territories by resolution based on the preference of the landowners pursuant to SB 1225.

SB 1492 (Chapter 201) provides that **Real-Edwards Conservation and Reclamation District** director terms expire on January 1 of odd-numbered years and that the director elections are held on the uniform election date in November of even-numbered years. The Act provides that a director candidate must identify the position for which they seek office and must be a registered voter eligible for the position. The Act provides the November 6, 2012 election date for four directors and the November 4, 2014 election date for the other five directors. [Amends Chapter 341, Acts of the 56th Legislature, Regular Session, 1959; Effective May 28, 2011]

SB 1895 (Chapter 1267) changes the **Texana Groundwater Conservation District** directors' election date from May to November of each even-numbered year and prohibits the District from exercising the power of eminent domain. The Act provides that the District may not contract with a river authority unless it is to perform function under an interlocal cooperation contract. The Act validates District actions taken before the effective date of the Act. The validation of District actions does not apply to matters that, on the effective date of the Act, have been or could be held invalid by a final court judgment. [Amends Special District Local Laws Code, Chapter 8857; Effective June 17, 2011]

Landowners Actions to Add Territory to Existing GCDs

The **North Plains Groundwater Conservation District** added about 28 square miles in Dallam County between November 2010 and June 2012 in response to landowner petitions.

On January 26, 2011, the **Kenedy County Groundwater Conservation District** acted on several landowner petitions to add about 1,800 acres in Kleberg County to the District.

The Mesquite Groundwater Conservation District added about 1,808 acres of land in the eastern part of Briscoe County on July 19, 2012. The territory in Briscoe County that was added to the District is not within or contiguous to the Llano Estacado – Ogallala Aquifer portion of Briscoe County that is designated as a Priority Groundwater Management Area.

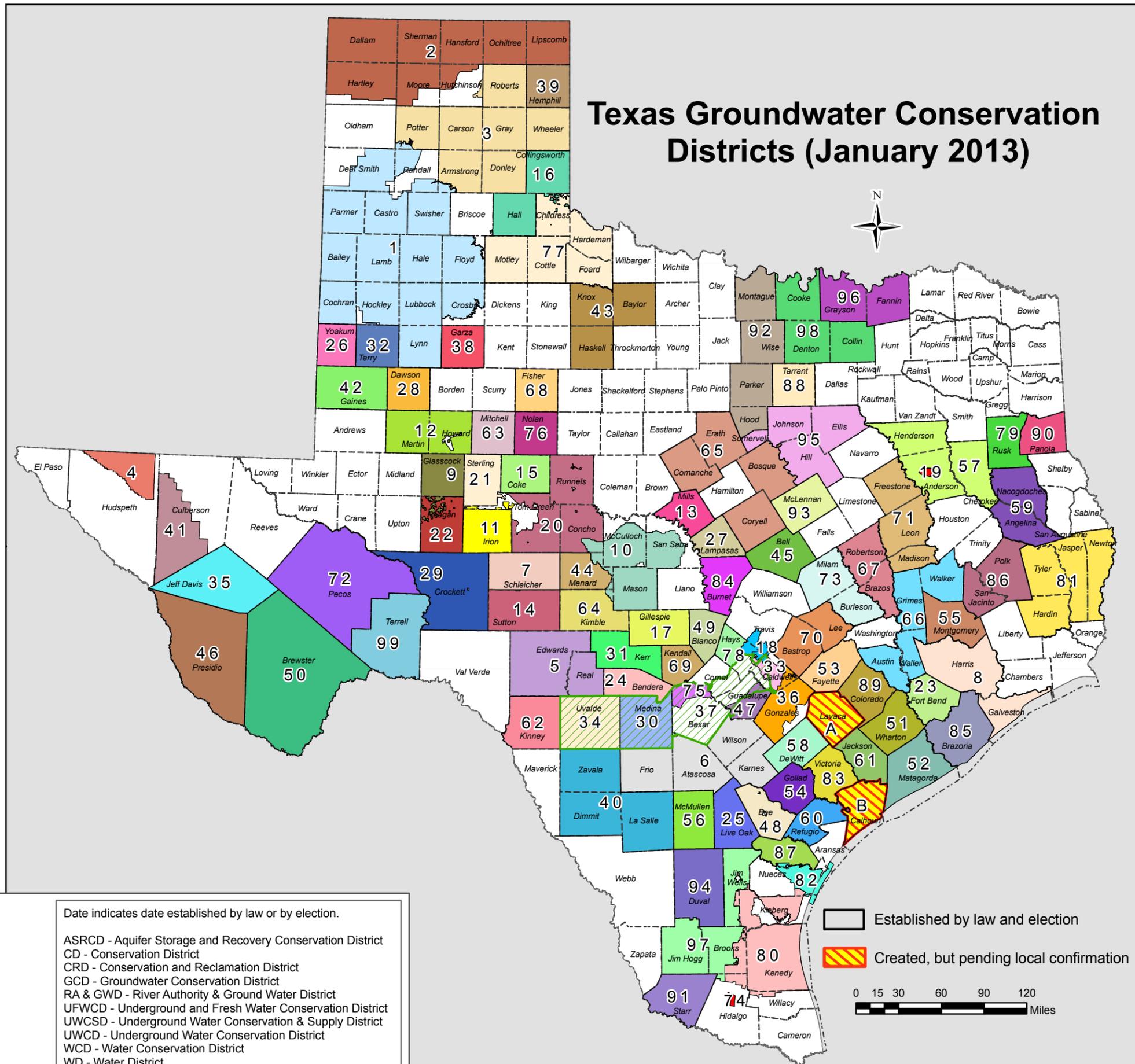
Figure 1. Texas Groundwater Conservation Districts

Groundwater Conservation Districts

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

Pending Confirmation

- A - Lavaca County GCD
- B - Calhoun County GCD



Texas Commission on Environmental Quality



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 Supply Division, Groundwater Planning & Assessment Team at (512) 239-4691.

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
- UWCD - Underground Water Conservation District
- UWCS - Underground Water Conservation & Supply District
- WCD - Water Conservation District
- WD - Water District

Priority Groundwater Management Areas

This chapter provides an overview of PGMA program activities that were conducted in 2011 and 2012. The chapter also describes the status of GCD creation action in designated PGMA and other present and pending PGMA activities. To date, seven PGMA have been designated covering all or part of 35 counties (Figure 2).

Program Planning

The Executive Director (ED) of the TCEQ and the Executive Administrator (EA) of the TWDB met on February 3, 2012 to consider and discuss PGMA program activities. They discussed statutory changes made by the 82nd Legislature and ongoing rulemaking at both agencies to implement the statutory changes. In addition, they concluded that ongoing TCEQ actions to create GCDs in PGMA, and TWDB analysis of regional water planning and joint GCD planning data to help identify potential new study areas, should continue in fiscal years 2012 and 2013. They anticipated that new PGMA study areas would be identified and prioritized in fiscal year 2013 with the highest prioritized new study to begin in fiscal year 2014.

The TCEQ and TWDB staff are meeting in January 2013 to discuss ongoing PGMA activities and consider the planning data for the identification of new PGMA study areas. The ED will use the presented data to prioritize new PGMA studies, with at least one new study scheduled to begin in fiscal year 2014. Figure 3 shows, in blue, that about 83 percent of the state is underlain by the major and minor aquifers delineated by the TWDB. Figure 4 shows the designated PGMA and, in gray and green, the areas of the state with existing and unconfirmed GCDs. Figure 5 shows Figure 4 overlaying Figure 3. The blue areas in Figure 5 show where the state's groundwater resources are not presently managed by a groundwater conservation district, and are the most likely areas where new PGMA studies may be required.

TCEQ Rule Amendments

On July 25, 2012, the TCEQ adopted amended rules to implement the statutory changes to the PGMA process made by Senate Bill 313. The amended TCEQ rules are in Title 30, Texas Administrative Code, Chapters 293 and 294. The adopted rules clarify the Commission's process to establish GCDs in PGMA designated before September 1, 2001 in Section 293.19; remove language that is no longer necessary in Section 294.30; clarify and update definitions in Section 294.40; clarify the Commission's process for the evaluation of and recommendation for designation of PGMA in Section 294.41; clarify the Commission's process and considerations to designate a PGMA in Section 294.42; clarify the Commission's process to create a GCD in a PGMA in Section 294.43; and update the Commission's process in Section 294.44 to agree with statutory changes related to recommendations for adding a PGMA to an existing GCD. The adopted rules were published in the *Texas Register* on August 10, 2012 (37 TexReg 6060 – 6072) and became effective on August 16, 2012.

Status and TCEQ Actions 2011 – 2012

During 2011 and 2012, the TCEQ added part of one PGMA to an existing GCD. In a second PGMA, the TCEQ Executive Director's recommendation for two noncontiguous areas to be added to two separate GCDs is presently in the contested case hearing process at the State Office of Administrative Hearings (SOAH). For two other PGMA's, the ED is presently soliciting public comments on a draft recommendation to add part of one PGMA to an existing GCD and to develop the groundwater management recommendation for the other PGMA.

Dallam County PGMA

As previously reported, the ED filed a report with the Commission in January 2009 that recommended adding three noncontiguous areas in the Dallam County PGMA to the North Plains Groundwater Conservation District (North Plains GCD). After a SOAH contested case hearing in Dallam County, the administrative law judge agreed with the ED and filed a December 2009 proposal for decision with the Commission.

In February 2010, the Commission issued an order recommending that the three areas should be added to the North Plains GCD, that the North Plains GCD board vote to add the areas, and that the North Plains GCD board call and hold an election. In March 2010, the North Plains GCD board voted to add the areas, but at the November 2010 election the vote failed. According to the statute, this put the cost of the election on TCEQ and required subsequent Commission action to ensure groundwater management in the Dallam County PGMA.

In January 2011, the Commission reported to the 82nd Legislature on these proceedings and the options available for continued administrative action. During the Regular Session, the Legislature passed Senate Bill 313 to amend TWC, Chapter 35, and require the Commission, by September 1, 2012, to create a new GCD or add non-GCD territory to an existing district for any PGMA where the Commission had previously issued an order making that recommendation.

Independent of these actions, individual landowners in two of the three Dallam County PGMA areas petitioned the North Plains GCD to have their property voluntarily added to the North Plains GCD. Through this process, the North Plains GCD added over 28 square miles of the PGMA between November 2010 and June 2012.

In response to SB 313, the ED completed an April 2012 Addendum to his 2009 report that recommended adding the three areas to the North Plains GCD remained the most feasible, practicable, and economic means to provide uniform groundwater management in the Dallam County PGMA. The ED filed the report and recommendation with the Commission on April 4, 2012 and provided mailed notice of the report to interested parties and water stakeholders on April 26, 2012. The ED mailed and published notice of hearing on June 15, 2012, and filed backup material, including a legal brief in support of his recommendation, with the Commission on July 5, 2012.

On July 6, 2012, the Commission invited interested parties and the Office of Public Interest Counsel (OPIC) to file responses to the ED's brief. The North

Plains GCD responded on July 13, 2012, noting the board met on July 9, 2012, to discuss the ED's recommendation and unanimously voted to approve a motion to add the non-GCD portions of the PGMA and proceed in accordance with TWC, Section 35.013(c)-(g-1) if the Commission so ordered. On July 25, 2012, the Commission granted the ED's petition and ordered that all territory within the Dallam County PGMA not previously incorporated within a GCD was now added to the North Plains GCD. The Commission's order was issued on August 7, 2012.

The North Plains GCD board voted in August 2012 to reaffirm their previous vote to add the PGMA territory and conducted public outreach meetings in Dalhart and Texline in September 2012 to gather input related to the transition, provide information regarding the District's conservation program, and discuss a timeline for implementation. An election was held on November 6, 2012, and, by a tally of 25 for, 126 against, the voters in the PGMA areas denied a proposition to assume a proportional share of the debts or taxes of the North Plains GCD instead of the assessment of fees to fund groundwater management activities. The landowners in the PGMA areas are represented by the director that represents Dallam County, and the seat will next be up for election in 2014.

Hill Country PGMA

Administrative efforts to establish GCDs for western Comal County and southwestern Travis County are presently in the contested case hearing process. As previously reported, the ED petitioned the Commission in July 2010 with a primary and an alternate recommendation to establish groundwater management in the Hill Country PGMA. In the petition, the ED's primary recommendation was for TCEQ creation of a new GCD that would include the portions of Comal, Hays, and Travis counties within the Hill Country PGMA. The ED's alternate recommendation in the petition was for TCEQ to recommend the portion of western Comal County in the PGMA be added to the Trinity Glen Rose Groundwater Conservation District and the southwestern portion of Travis County in the PGMA be added to the Barton Springs/Edwards Aquifer Conservation District.

The matter was referred to SOAH and, after mailed and published notice, a preliminary hearing was held in San Marcos on October 28, 2010. At the hearing, several participants raised notice issues and the issue of TCEQ jurisdiction and authority to create a new GCD over the existing Hays Trinity GCD by noting an August 26, 2010 Office of the Attorney General (OAG) opinion about overlapping GCD boundaries. In the opinion, the OAG responded that two different political subdivisions may not exercise jurisdiction over the same territory at the same time and for the same purpose. On November 1, 2010, SOAH ordered the ED to file a status report about compliance with notice provisions by November 30, 2010, instructed those who wanted to participate to file position statements by November 30, 2010, and set a preliminary schedule.

On November 30, 2010, the ED filed a response that recommended the primary recommendation to create a new Comal, Hays, and Travis GCD not be considered, the alternate recommendation to add the western Comal territory to the Trinity Glen Rose GCD and to add the southwestern Travis territory to the Barton Springs/Edwards Aquifer Conservation District be elevated and vetted through the hearing process, and the other report-evaluated options for GCDs for

the Comal and Travis territories also be vetted through the hearing process. The ED acknowledged that some stakeholders were not provided mailed notice, that subsequent mailed notice should be provided, and that a second preliminary hearing may be in order. On December 15, 2010, SOAH issued an order cancelling the preliminary schedule and instructing the ED to republish notice for a second preliminary hearing.

The ED mailed and published notice for the second SOAH preliminary hearing that was held on April 6, 2011 at the Hays County Courthouse. At the second preliminary hearing, SOAH considered and ruled on jurisdictional matters, ruled on eight participants who wanted to become parties or clarify party status, heard requests to abate the hearing until the end of the 83rd Legislature in 2013, and adopted a hearing schedule. SOAH issued an order on April 13, 2011 memorializing the second preliminary hearing and requesting the parties file responses by April 26, 2011 to the request for hearing abatement.

Since that time, the hearing has been abated three times. On May 4, 2011, the hearing was abated until December 1, 2011, which was six months after the conclusion of the 82nd Legislature. On December 6, 2011, the hearing was abated for another eight months, until August 1, 2012, to allow for and encourage local actions to continue, and to allow for the TCEQ to adopt applicable rule revisions. On August 7, 2012, the hearing was abated for another 11 months, until July 1, 2013, after the conclusion of the 83rd Legislature, to allow for and encourage local actions. By July 1, 2013, SOAH has ordered the ED to file a status report and a motion to extend the period of abatement, withdraw the ED's petition, or set a hearing on merits.

Briscoe, Hale, Swisher County PGMA

The portion of Briscoe County within this PGMA has not created a new nor joined an existing GCD. In December 2012, the ED completed a draft of *The Executive Director's Report for Briscoe, Hale, Swisher County Priority Groundwater Management Area – Western Briscoe County*. A notice of the draft report and request for comment was mailed to stakeholders and the comment period will end on June 30, 2013.

In the draft report, the ED evaluates creation of a new GCD for the PGMA portion of Briscoe County and addition of the Briscoe County portion of the PGMA to the High Plains Underground Water Conservation District No. 1 (High Plains UWCD). In the draft report, the ED recommends that adding the remaining PGMA to the High Plains UWCD is the most feasible, practicable, and economic groundwater management option for the TCEQ to exercise.

The ED will consider the stakeholder comments and any relevant local actions, and finalize the report before the conclusion of fiscal year 2013.

Reagan, Upton, Midland County PGMA

Within this PGMA, the portions in Upton and Midland counties have not created new nor joined an existing GCD. *The Executive Director's Preliminary Report Soliciting Stakeholder Comments for Reagan, Upton, and Midland County Priority Groundwater Management Area – Northeastern Upton and*

Southeastern Midland Counties was completed in January 2013. In this preliminary report, the ED evaluates five different options to establish groundwater management in the PGMA portions of Upton and Midland counties for stakeholder consideration. The options include the creation of one or more new GCDs, and the addition of all or part of the PGMA to one or more adjacent GCDs. A notice of the preliminary report and request for comment was mailed to stakeholders and the comment period will end on June 30, 2013. The ED will consider the stakeholder comments and any relevant local actions, and finalize a report with a specific recommendation for Commission action before the conclusion of fiscal year 2013.

Figure 2. Priority Groundwater Management Areas

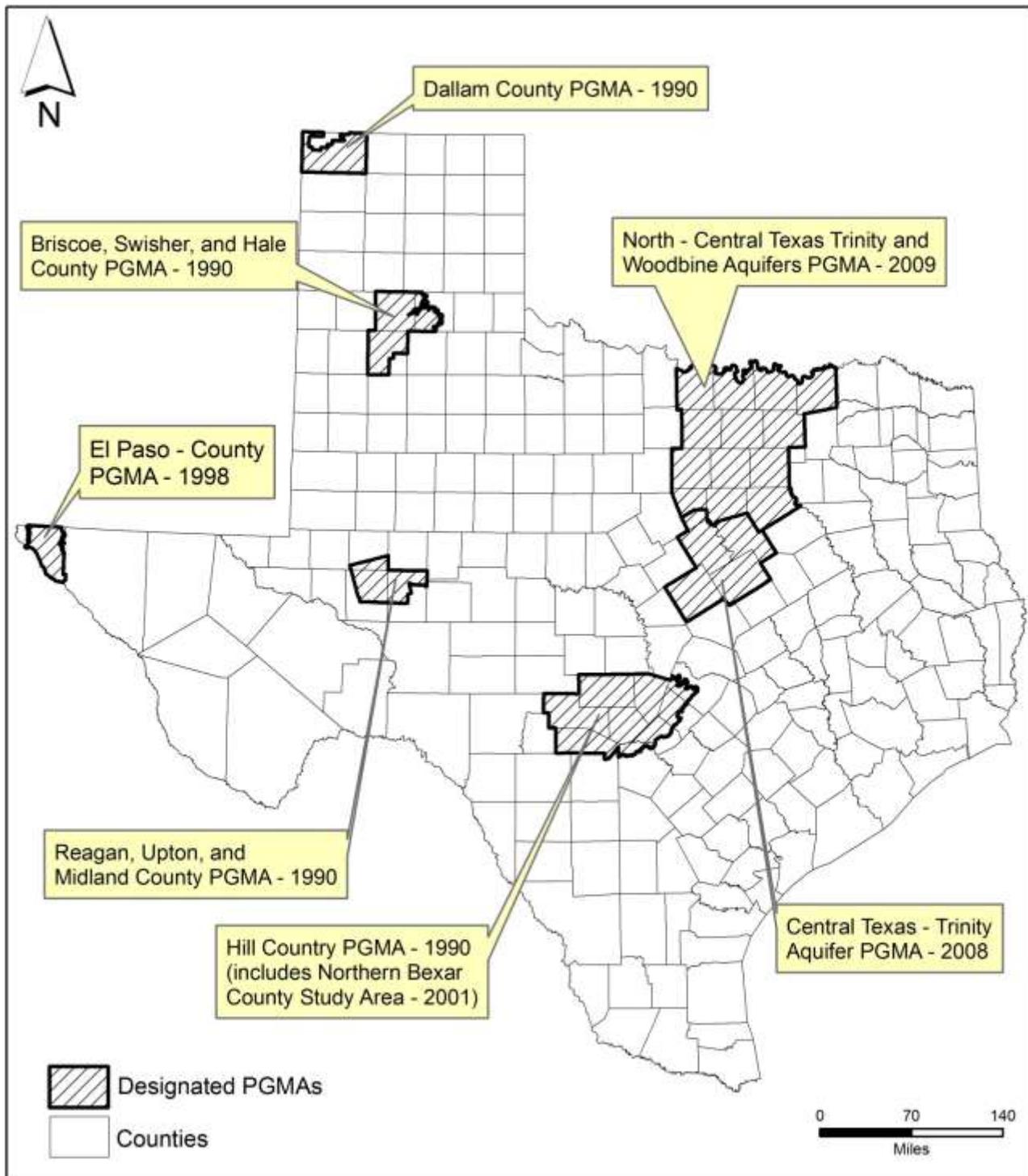


Figure 3. Extent of Aquifers in Texas

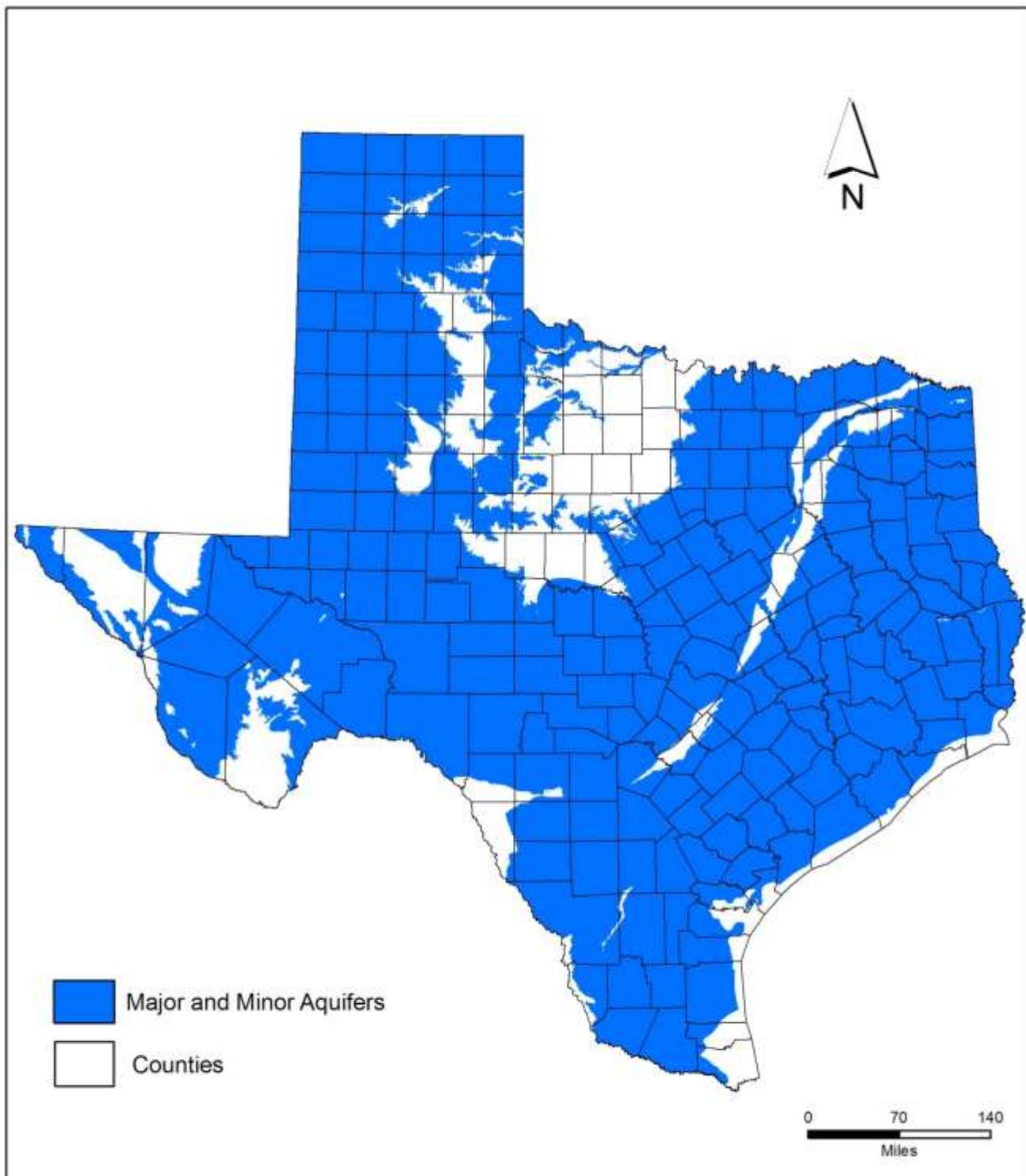


Figure 4. PGMA and Groundwater Conservation Districts

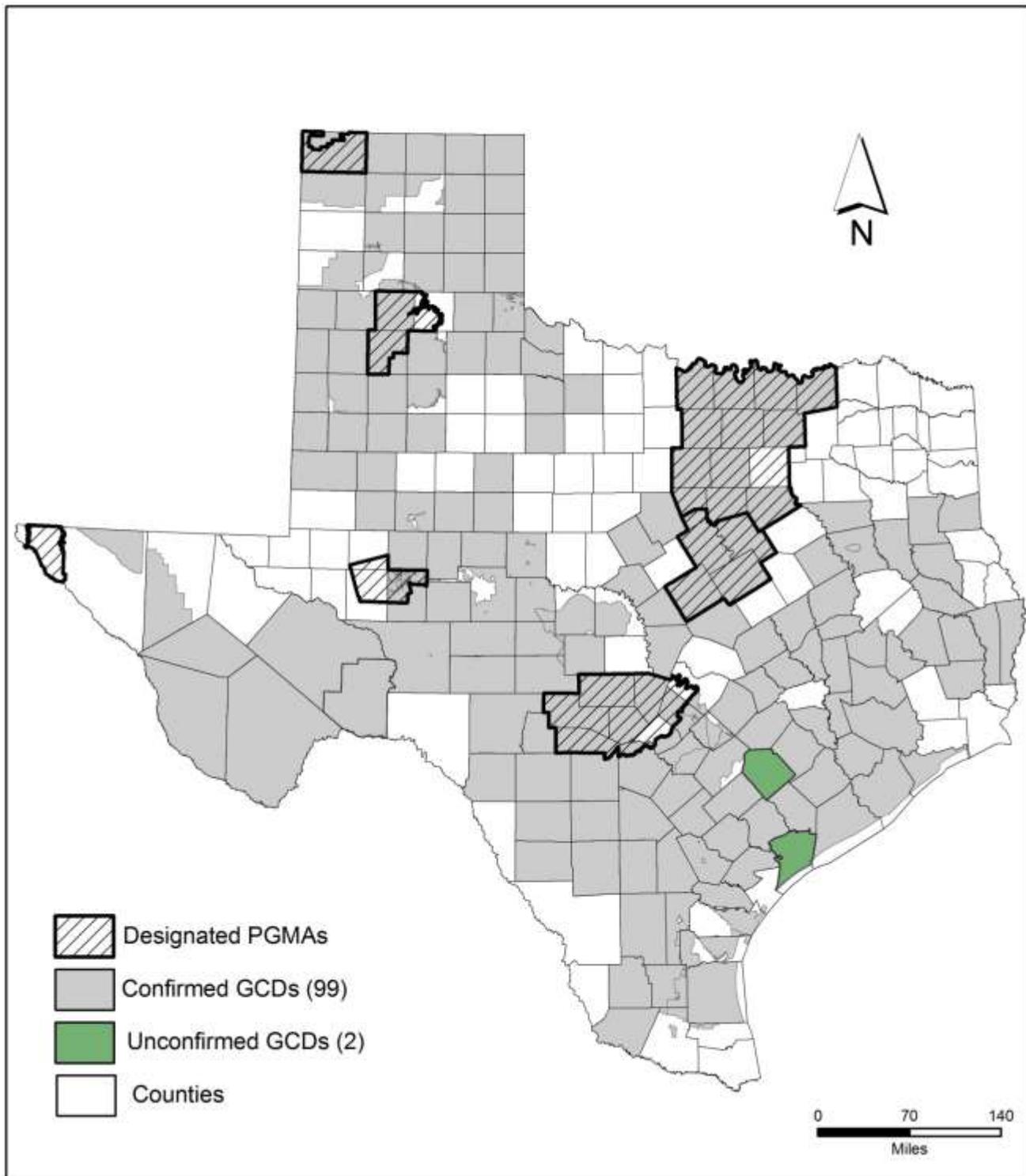
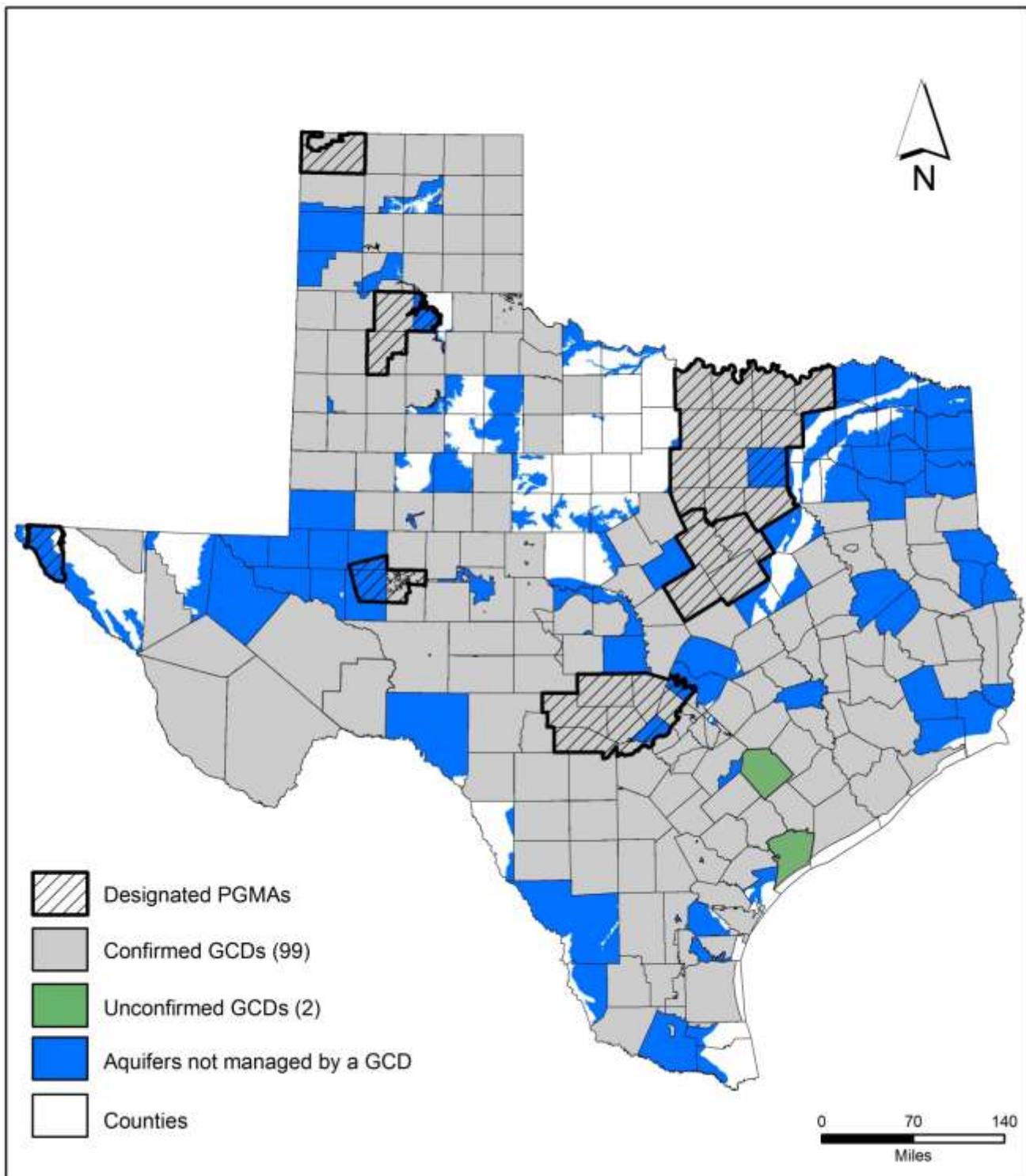


Figure 5. Aquifer Areas Without GCDs



District Management Plans and Joint Planning Activities

This chapter gives an overview of groundwater conservation district management planning and joint planning activities that occurred in 2011 and 2012. It describes TWDB rule amendments to implement changes by the 82nd Legislature, the adoption and approval of GCD management plans, changes to groundwater management area boundaries, joint planning by GCDs and the development of desired future conditions (DFCs), appeals challenging DFCs, and development of modeled available groundwater values for planning and permitting purposes.

TWDB Rule Amendments

In 2011, the 82nd Legislature passed SB 660, the reauthorization bill for the TWDB. As noted earlier in the report, SB 660 also amended TWC, Chapter 36 to:

- add a definition for DFC;
- amend the joint planning process for GCDs to consider and adopt DFCs;
- amend what GCDs must include in their management plans;
- have the TWDB and the TCEQ provide, on request of GCDs, technical staff to assist with the development of DFCs during the joint planning process;
- amend the process for submission of a petition for inquiry to the TCEQ; and
- add a provision related to the determination and use of modeled available groundwater in the joint planning process.

SB 727 and SB 737 also amended Chapter 36 relating to GCD management plans, the joint planning process, and the use of modeled available groundwater when GCDs issue permits. TWDB administrative rulemaking to implement the statutory changes made by SB 660, SB 727, and SB 737 is ongoing. The TWDB staff convened stakeholders on August 22, 2012 to solicit comments on pre-publication draft rule revisions. Over 30 groundwater stakeholders participated in the August 22, 2012 meeting and provided feedback to staff for rule development purposes.

The TWDB proposed rules on October 5, 2012, and solicited public comments until November 4, 2012. Final rules are anticipated before the end of 2012. The proposed rules repeal and reorganize Title 31, Texas Administrative Code, Chapter 356 to clarify the TWDB's process for review of DFCs and for handling appeals of DFCs, and clarify how the TWDB will review and approve groundwater management plans. In summary, the following are the major changes in the proposed Chapter 356 groundwater management rules.

- The rules are reorganized and formatted to provide a more logical flow for the groundwater activities that involve the TWDB.
- Where possible and appropriate, the rules are streamlined to avoid duplicating statutory language except to the extent necessary to provide clarity and context within the rules.

- The rules are revised to reflect TWDB experience with the program since the rules were last significantly amended.
- The rules consolidate and update definitions.
- The rules clarify the process for amending groundwater management area boundaries.
- The rules shorten the time for filing a petition to challenge the reasonableness of a DFC from one year to 120 days after adoption of the DFC. The rules provide that the petition must be copied to the GCDs at the time of filing with the TWDB, rather than 30 days before filing; and the rules clarify deadlines for various steps within the process.
- In addition to statutory factors for evaluating reasonableness, the rules provide that TWDB will consider whether the DFC is physically possible and appropriate for the stated purpose of the DFC.
- The new rules omit previous provisions for resolving conflicts between groundwater management plans and regional water plans because such conflicts now appear to be resolved by operation of statute.

Adoption and Approval of District Management Plans 2011 – 2012

As of November 1, 2012, there were 96 confirmed districts subject to groundwater management plan requirements, and three unconfirmed districts. During the 2011-2012 biennium six districts were required to have submitted their initial management plan to the TWDB. Five of these districts submitted a plan which was determined to be administratively complete, and one has yet to submit a plan (Table 1).

In addition to management plans received from new districts, the TWDB received 25 plans from established districts for re-approval. Thirteen of these plans were due for re-approval during the 2009-2010 biennium, 11 plans were due during the 2011-2012 biennium, and three plans were due later than the 2011-2012 biennium. TWDB's Executive Administrator approved 24 of these plans as administratively complete, but found one to be incomplete. Plans from two other districts, due during this biennium, were not submitted (Table 1).

Management plans due during the two years following the 2011-2012 biennium (Table 2) include one district with a plan due in 2012 (new approval), 22 districts with plans due during 2013 (re-approvals), and 23 districts with plans due during 2014 up until November 1 (re-approvals).

Table 1. Management Plan Approvals, 2011-2012 Biennium
(November 1, 2010 – November 1, 2012)

| Initial Management Plans | | |
|---------------------------------|----------------------|----------------------|
| District Name | Plan Due Date | Approval Date |
| Duval County GCD | 07/25/2012 | 10/09/2012 |
| North Texas GCD | 12/31/2012 | 06/19/2012 |
| Prairielands GCD | 09/01/2012 | 07/30/2012 |
| Red River GCD | 09/01/2012 | 07/03/2012 |

Table 1. (Cont.)

| Initial Management Plans | | |
|-------------------------------------|----------------------|-------------------------|
| District Name | Plan Due Date | Approval Date |
| San Patricio GCD | 05/12/2010 | 06/19/2012 |
| Starr County GCD | 11/06/2010 | no plan submitted |
| Re-approved Management Plans | | |
| District Name | Plan Due Date | Re-approval Date |
| Anderson County UWCD | 09/11/2012 | no plan submitted |
| Central Texas GCD | 07/03/2012 | 07/06/2012 |
| Clearwater UWCD | 03/06/2011 | 04/13/2011 |
| Edwards Aquifer Authority | 03/05/2009 | 01/05/2011 |
| Evergreen UWCD | 05/03/2009 | 05/02/2011 |
| Gateway GCD | 08/18/2010 | 02/25/2011 |
| Hays Trinity GCD | 10/07/2010 | 05/23/2011 |
| Hemphill County UWCD | 09/17/2012 | 09/27/2012 |
| High Plains UWCD No. 1 | 04/07/2015 | 09/20/2011 |
| Kenedy County GCD | 09/11/2012 | 09/04/2012 |
| Live Oak UWCD | 09/21/2010 | 11/10/2010 |
| Medina County GCD | 09/26/2010 | 04/13/2011 |
| Menard County UWCD | 10/25/2010 | 03/19/2012 |
| Middle Pecos GCD | 08/18/2009 | 11/30/2010 |
| Middle Trinity GCD | 05/05/2014 | 05/14/2012 |
| Panhandle GCD | 11/13/2013 | 05/14/2012 |
| Post Oak Savannah GCD | 07/24/2011 | plan to be resubmitted |
| Red River GCD | 09/01/2012 | 07/03/2012 |
| Red Sands GCD | 07/03/2012 | 08/13/2012 |
| Rolling Plains GCD | 10/17/2010 | 11/29/2010 |
| Rusk County GCD | 10/17/2010 | 12/14/2010 |
| Santa Rita UWCD | 08/10/2012 | no plan submitted |
| Sterling County UWCD | 01/25/2011 | 01/20/2011 |
| Texana GCD | 09/28/2009 | 02/25/2011 |
| Trinity Glen Rose GCD | 09/26/2010 | 12/14/2010 |
| Uvalde County UWCD | 09/26/2010 | 10/03/2011 |
| Wintergarden GCD | 01/25/2011 | 02/07/2012 |

Table 2. Management Plans Due During 2013-2014 Biennium
(November 1, 2012 – November 1, 2014)

| District Name | Plan Due Date | Plan |
|-----------------------------------|----------------------|--------------|
| Barton Springs Edwards Aquifer CD | 09/15/2013 | Re-approval |
| Bee GCD | 09/25/2013 | Re-approval |
| Brush Country GCD | 11/03/2012 | New approval |

Table 2. (Cont.)

| District Name | Plan Due Date | Plan |
|------------------------------|----------------------|-------------|
| Coke County UWCD | 12/04/2013 | Re-approval |
| Corpus Christi ASRCD | 10/16/2013 | Re-approval |
| Crockett County GCD | 09/05/2013 | Re-approval |
| Culberson County GCD | 01/29/2013 | Re-approval |
| Glasscock GCD | 12/04/2013 | Re-approval |
| Goliad County GCD | 11/14/2013 | Re-approval |
| Guadalupe County GCD | 01/16/2013 | Re-approval |
| Headwaters GCD | 12/04/2013 | Re-approval |
| Hill Country UWCD | 09/25/2013 | Re-approval |
| Hudspeth County UWCD No. 1 | 01/08/2013 | Re-approval |
| Irion County WCD | 10/17/2013 | Re-approval |
| Jeff Davis County UWCD | 12/16/2013 | Re-approval |
| Kinney County GCD | 06/19/2013 | Re-approval |
| Lipan-Kickapoo WCD | 09/25/2013 | Re-approval |
| McMullen GCD | 09/25/2013 | Re-approval |
| North Plains GCD | 07/14/2013 | Re-approval |
| Plum Creek CD | 01/29/2013 | Re-approval |
| Southeast Texas GCD | 01/08/2013 | Re-approval |
| South Plains UWCD | 11/10/2013 | Re-approval |
| Victoria County GCD | 12/04/2013 | Re-approval |
| Blanco-Pedernales GCD | 01/07/2014 | Re-approval |
| Brazoria County GCD | 02/13/2014 | Re-approval |
| Brewster County GCD | 06/11/2014 | Re-approval |
| Fayette County GCD | 01/07/2014 | Re-approval |
| Garza County UWCD | 07/07/2014 | Re-approval |
| Gonzales County UWCD | 05/14/2014 | Re-approval |
| Hickory UWCD No. 1 | 04/29/2014 | Re-approval |
| Kimble County GCD | 08/10/2014 | Re-approval |
| Lone Star GCD | 03/25/2014 | Re-approval |
| Mesa UWCD | 02/13/2014 | Re-approval |
| Mesquite GCD | 05/11/2014 | Re-approval |
| Middle Trinity GCD | 05/05/2014 | Re-approval |
| Mid-East Texas GCD | 09/29/2014 | Re-approval |
| Neches & Trinity Valleys GCD | 10/ 14/2014 | Re-approval |
| Panola County GCD | 03/09/2014 | Re-approval |
| Pecan Valley GCD | 04/03/2014 | Re-approval |
| Permian Basin UWCD | 01/23/2014 | Re-approval |
| Pineywoods GCD | 02/06/2014 | Re-approval |
| Plateau UWCD | 04/24/2014 | Re-approval |
| Real-Edwards CRD | 08/10/2014 | Re-approval |

Table 2. (Cont.)

| District Name | Plan Due Date | Plan |
|----------------------|----------------------|-------------|
| Refugio GCD | 03/25/2014 | Re-approval |
| Sandy Land UWCD | 07/13/2014 | Re-approval |
| Sutton County UWCD | 02/18/2014 | Re-approval |

Groundwater Management Areas

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

In 2002, the TWDB adopted boundaries for 16 groundwater management areas that cover the entire state (Figure 6). The boundaries of the groundwater management areas were primarily delineated 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 groundwater management areas. These divisions were based on hydrogeology and current water-use patterns and coincided with natural features where possible. Where possible, the TWDB aligned boundaries with county and existing GCD boundaries.

Groundwater Management Areas 9 and 10, on behalf of the Hays Trinity GCD and the Trinity Glen Rose GCD, requested a boundary change to make the boundary co-extensive with the two GCD boundaries. This action removed the two districts from GMA 10 and made the two GCDs lie solely within GMA 9. This boundary change became final on February 21, 2012, through a TWDB rule change.

Desired Future Conditions

A DFC is the desired, quantified condition of a relevant aquifer (such as groundwater level, groundwater storage volume, or spring flow) at a specified time or times in the future. In accordance with the statutory change made by HB 1763, 2005, the first round of joint planning by GCDs to develop and adopt DFCs was completed by September 2010. A total of 75 DFCs were adopted and one was legislatively mandated (Edwards Aquifer, San Antonio Segment within the boundaries of the Edwards Aquifer Authority) during the first round of the DFC process. Table 3 lists the DFCs by type of aquifer conditions that were identified. Fifty-five DFCs were based on drawdown, two on springflow, thirteen on volume of groundwater remaining in an aquifer, and two based on springflow. Two combination DFCs were submitted, the first one was drawdown and volume remaining in an aquifer, and second a combination of drawdown and springflow. One DFC required maintaining a minimum groundwater elevation in an index well and the last required that free-flowing artesian wells maintain a minimum annual discharge.

From September 1, 2010, to August 31, 2012, there have been 50 groundwater management area meetings, one other related meeting, and nine petition hearings held by TWDB. Table 4 shows the number of meetings for each groundwater management area. The number of meetings decreased during the 2011-2012 biennium compared with previous years. TWDB staff has supported the joint planning process by outlining the overall process for developing DFCs and modeled available groundwater. TWDB staff attended groundwater management area meetings, presented information, and answered questions from the groundwater management area member districts.

Table 3. Desired Future Condition Type listed by Groundwater Management Area

| DFC Type | Groundwater Management Area | | | | | | | | | | | | | | | | Subtotal |
|--|-----------------------------|---|---|----|---|---|---|---|---|----|----|----|----|----|----|----|----------|
| | 1 | 2 | 3 | 4 | 5 | 5 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | |
| Drawdown | 1 | 1 | 4 | 10 | | 1 | 7 | 4 | 2 | 6 | 1 | 8 | 3 | 5 | 1 | 1 | 55 |
| Springflow | | | | | | | | 1 | | 1 | | | | | | | 2 |
| Volume | 2 | 1 | | | | 1 | 1 | 4 | | | | | | 4 | | | 13 |
| Minimum groundwater elevation | | | | | | | | | | 1 | | | | | | | 1 |
| Combination of drawdown and volume | | | | | | 2 | | | | | | | | | | | 2 |
| Combination of drawdown and springflow | | | | | | | 1 | | | | | | | | | | 1 |
| Minimum discharge from artesian wells | | | | | | | | | | 1 | | | | | | | 1 |
| Total | | | | | | | | | | | | | | | | | 75 |

Table 4. Number of Meetings Held for Joint Planning in Groundwater Management Areas
(September 1, 2010 – August 31, 2012)

| GMA | Joint Planning Meetings | Other related meetings | Petition hearings |
|--------------|-------------------------|------------------------|-------------------|
| 1 | 2 | | |
| 2 | 1 | | |
| 3 | | | |
| 4 | 1 | | |
| 5 | | - | |
| 6 | 2 | | |
| 7 | 1 | | 2 |
| 8 | 7 | 1 | |
| 9 | 4 | | 2 |
| 10 | 6 | | 1 |
| 11 | 2 | | 1 |
| 12 | 4 | | 2 |
| 13 | 6 | | 1 |
| 14 | 2 | | |
| 15 | 3 | | |
| 16 | 9 | | |
| Total | 50 | 1 | 9 |

Note: There are no districts within Groundwater Management Area 5

Petitions Challenging DFCs

A person with a legally defined interest in groundwater located within a GMA can file a petition with the TWDB challenging the reasonableness of adopted DFCs for an aquifer. Between August 2009 and August 2011, the TWDB received and accepted nine petitions challenging the reasonableness of six DFCs in GMAs 1, 7, 9, 10, 11, 12, and 13. The following paragraphs summarize the petitions and the actions taken by the TWDB.

Groundwater Management Area 7: A petition was filed by Grass Valley Water, L.P. appealing the DFC of the Edwards-Trinity (Plateau) Aquifer in Val Verde and Kinney counties. A public hearing for the petition related to Kinney County was held January 18, 2012 at the Sutton County Courthouse, Sonora. A public hearing for the petition related to Val Verde County was held January 19, 2012 at the Sutton County Courthouse, Sonora. The petition was presented to the TWDB on April 19, 2012, and the DFCs were found to be reasonable.

Groundwater Management Area 9: Petitions were filed by Flying L Guest Ranch, LTD. appealing the DFC of the Trinity Aquifer in Bandera County and by Wimberley Valley Watershed Association appealing the DFC of the Trinity Aquifer in Hays County. A public hearing for the Flying L Guest Ranch, LTD. petition was held November 7, 2011, at the Upper Guadalupe River Authority, Kerrville. A public hearing for the Wimberley Valley Watershed Association petition was held November 16, 2011, at the Wimberley Community Center, Wimberley. The petitions were presented to the TWDB on March 1, 2012, and the DFC was found to be reasonable.

Groundwater Management Area 10: A petition was filed by Grass Valley Water, L.P. appealing the DFC of the Edwards (Balcones Fault Zone) Aquifer in Kinney County. A public hearing for the petition was held January 18, 2012 at the Sutton County Courthouse, Sonora. The petition was presented to the TWDB on April 19, 2012, and the DFC was found to be reasonable.

Groundwater Management Area 11: A petition was filed by Crown Pine Timber 1, L.P. and Forestar (USA) Real Estate Group, Inc. appealing the DFC of the Carrizo-Wilcox Aquifer. A public hearing for the petition was held February 8, 2012, at the Norman Activity Center, Jacksonville. The petitioners withdrew the petition on May 3, 2012.

Groundwater Management Area 12: Petitions were filed by End Op, L.P. appealing the DFC of the Carrizo-Wilcox, Queen City, and Sparta aquifers, and by Environmental Stewardship for the Carrizo-Wilcox, Queen City, Sparta, Yegua-Jackson, and Brazos River Alluvium aquifers. A public hearing for the End Op, L.P. petition was held February 29, 2012, at the Milano Civic Center, Milano. A public hearing for the Environmental Stewardship petition was held March 7, 2012, at the Milano Civic Center, Milano. The petitions were presented to the TWDB on June 21, 2012, and the DFCs were found to be reasonable.

On August 13, 2012, TWDB was served with a petition filed by Environmental Stewardship in Travis County District Court (*Environmental Stewardship v. TWDB*, Cause No. D-1-GN-12-00201, 98th Judicial District Court) seeking a reversal and remand of the TWDB Board's decision, alleging that the DFCs will

allow pumping that will unreasonably reduce springflows to the Brazos and Colorado River Basins. The Office of the Attorney General (OAG) has filed a general denial and the matter is pending at this time.

Groundwater Management Area 13: Petitions were filed by Canyon Regional Water Authority and Hays Caldwell Public Utility Agency appealing the DFCs of the Carrizo-Wilcox, Queen City, Sparta, Weches, and Reklaw Aquifers. A public hearing for these petitions was held December 5, 2011, at the Evergreen Underground Water Conservation District, Pleasanton. The petitions were presented to the TWDB on March 1, 2012, and the DFCs were found to be reasonable.

Modeled Available Groundwater

The TWC, Section 36.108(d) requires GCDs within each groundwater management area to adopt DFCs for relevant aquifers within their associated groundwater management areas by September 1, 2010, and propose DFCs for adoption every five years after adoption dates. Furthermore TWC, Section 36.108 requires groundwater conservation districts to submit the adopted DFCs of the aquifers to the TWDB. TWDB found the DFC submittals to be administratively complete on the condition that the DFCs are physically possible.

Once the first round of DFCs were submitted, the TWDB developed draft values of managed available groundwater based on the DFCs. Subsequent to delivery of these draft reports, several bills passed in the 82nd Legislature changing the name “managed available groundwater” to “modeled available groundwater” and changing the definition. These changes became effective September 1, 2011. Modeled available groundwater is the estimated amount of pumping necessary to achieve the DFC. This differs from managed available groundwater in that modeled available groundwater includes pumping exempt from permitting.

As of October 1, 2012, TWDB has finalized and delivered to the GCDs and regional water planning groups the estimates of modeled available groundwater for 73 of the 75 submitted DFCs. The pending estimates of modeled available groundwater include estimates for the combined Edwards-Trinity (Plateau), Pecos Valley, and parts of the Hill Country portion of the Trinity Aquifer in GMA 7, and the Leona Gravel in Uvalde County in GMA 10.

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

District Management Plan Performance Review

This chapter describes 2011 and 2012 noncompliance issues related to GCD management plans that were initiated by the Executive Director (ED) of the TCEQ, reported by the State Auditor's Office, or petitioned to the TCEQ.

Performance Review and TCEQ Rule Amendments

In accordance with the Texas Water Code, Sections 36.301 – 36.303, the TCEQ is responsible for GCD performance review and action if:

- a GCD management plan is not adopted, readopted, or submitted to the Executive Administrator of the TWDB within statutory deadlines;
- the Executive Administrator of the TWDB denies approval of a submitted management plan and the GCD 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.

On July 25, 2012, the TCEQ adopted amended rules to implement the statutory changes to GCD management plan performance review processes made by Senate Bill 660. The amended TCEQ rules are in Title 30, Texas Administrative Code, Chapter 293. The adopted rules remove a redundant GCD reporting provision in Section 293.20; streamline and clarify the Commission's processes for review of GCD management plan adoption, readoption, and implementation compliance in Section 293.22; and update the Commission's processes in Section 293.23 to agree with statutory changes relating to petitions requesting an inquiry of a GCD in a groundwater management area. The adopted rules were published in the *Texas Register* on August 10, 2012 (37 TexReg 6060 – 6072) and became effective on August 16, 2012.

Management Plan Deadlines

On October 1, 2010, 12 GCDs were out of compliance with statutory management plan adoption, readoption, or submittal deadlines. Since that time 9 of the 12 GCDs were able to achieve compliance with only minor TCEQ intervention. These included Clear Fork GCD, Lost Pines GCD, Live Oak GCD, Trinity Glen Rose GCD, Edwards Aquifer Authority, Evergreen UWCD, Gateway GCD, Medina County GCD, and Uvalde County UWCD. The other three GCDs, Middle Pecos GCD, Texana GCD, and San Patricio GCD, achieved compliance after entering and implementing TCEQ compliance agreements.

In addition, seven GCDs had management compliance issues in 2011 and 2012. In 2011, the Menard County UWCD and Wintergarden GCD missed management

plan readoption and submittal deadlines. Both GCDs entered compliance agreements with TCEQ and have since achieved compliance.

In 2012, five GCDs missed their management plan adoption, readoption, or submittal deadlines. The Duvall County GCD timely achieved compliance without TCEQ intervention. The Post Oak Savannah GCD and Santa Rita UWCD are on track under compliance agreements with TCEQ, and the Anderson County UWCD was offered and was considering a compliance agreement at the time of this publication.

In July 2012, the TCEQ entered a compliance agreement with the Starr County GCD. The District did not meet any of the compliance agreement milestones to adopt and submit its management plan to the TWDB before the end of October 2012. In November 2012, the District notified TCEQ that it had retained an engineering firm to assist in management plan development. The TCEQ entered a second compliance agreement with the District in December 2012.

State Auditor's Reviews

The State Auditor's Office (SAO) found the Kinney County GCD (District) not operational in achieving the objectives of its management plan in February 2010 (*A Follow-up Audit Report on the Kinney County Groundwater Conservation District, State Auditor's Office Report No 10-023, February 2010*). The SAO also found deficiencies in the financial and operational practices of the District and that the District had failed to fully implement 31 of the 32 financial and operational recommendations made by the SAO in 2006. In August 2010, the Commission directed staff to enter into a compliance agreement with the District to address management plan implementation, document permitting procedures, and develop a debt-reduction plan.

The Kinney County GCD entered the compliance agreement with the Executive Director on September 9, 2010. The compliance agreement addressed District implementation actions and documentation deliverables from November 24, 2010 to March 15, 2012. The Executive Director provided a report on the District's progress under the compliance agreement to the Commission on January 26, 2011. In March 2012, the Executive Director concluded that the District accomplished all terms and conditions of the compliance agreement, the SAO operational findings addressed by the compliance agreement had been resolved, the District was in compliance with statutory planning provisions, and that no further action was required by TCEQ.

The SAO reviewed 14 GCD in fiscal year 2012 and issued a report of findings (*State Auditor's Office, 2012; An Audit Report on Selected Groundwater Conservation Districts, State Auditor's Office Report No. 12-028, April 2012*). According to the report, six of the 14 GCDs fully or partially achieved all four of the specific groundwater management plan goals audited; six of the 14 GCDs fully or partially achieved two to three of the four goals audited; and two of the 14 GCDs fully achieved one or fewer of the four goals audited. Twelve of the 14 GCDs audited were in full or partial compliance with seven or more of the ten Texas Water Code statutory requirements audited. The remaining GCDs complied with five or fewer of the Texas Water Code statutory requirements audited. Based on the SAO report findings, TCEQ actions were not required.

Petitions for Inquiry

On December 14, 2010, the Commission dismissed a petition from Mesa Water, L.P., requesting an inquiry relating to joint groundwater management planning in Groundwater Management Area 1 (GMA 1). Mesa Water, L.P., asserted that the GMA 1 planning process failed to result in adequate planning because the adopted desired future conditions were not reasonable because they were based on political boundaries, and the GCDs in GMA 1 had failed to adopt and enforce rules to achieve the desired future conditions. 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.

The Executive Director reviewed a November 30, 2010, Fort Stockton Holdings L.P. petition for relief of actions by the Middle Pecos GCD. The Executive Director reviewed responsive documents provided by the Middle Pecos GCD on December 10, 2010, Fort Stockton Holdings L.P. supplemental documentation provided December 21, 2010, and monitored the ongoing Middle Pecos GCD's hearing regarding Fort Stockton Holdings L.P.'s permit application. The petition and complaint seeking enforcement and issuance of an order against the Middle Pecos GCD was dismissed by the Executive Director on July 15, 2011.

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. Over the interim, TCEQ and TWDB have adopted new rules to implement the groundwater management changes that were made by the 82nd Legislature in 2011. Of significant note, SB 313 streamlined and clarified the PGMA designation and GCD creation process in Chapters 35 and 36, and SB 660 changed and clarified GCD, TCEQ, and TWDB responsibilities related to management plans and joint planning functions of Chapter 36.

The TCEQ recommends that additional statutory changes to facilitate the designation of PGMAs and the creation and operation of GCDs are not required at this time. The TCEQ and TWDB urge the Legislature to consider the legislative appropriations requests of the individual agencies and provide the funds necessary to carry out the existing and recommended groundwater management support programs.

TCEQ recommendations for specific GCD creation actions in PGMAs is prohibited until all practicable and feasible administrative options are exhausted. However, as described in this report, the Executive Director of TCEQ has GCD creation recommendations for the Hill Country PGMA in the contested case hearing process and this hearing is abated until July 1, 2013. The Executive Director's recommendations for the Hill County PGMA address the southwestern portion of Travis County and the western portion of Comal County.

The Executive Director is also accepting comments on two draft GCD recommendations, one each for the PGMA portion of Briscoe County and the PGMA portions of Midland and Upton Counties. The comment period on these draft recommendations will end on June 30, 2013.

TCEQ administrative actions will continue as required after the conclusion of the 83rd Legislature to establish GCDs in the PGMA portions of Briscoe, Comal, Midland, Travis, and Upton Counties. The TCEQ recognizes and acknowledges that crafting local groundwater management solutions for non-GCD areas in the PGMAs may be more palatable to the citizens than state agency administrative mandates to create a new or join an existing GCD.

