

**The Executive Director's Preliminary Report  
Soliciting Stakeholder Comments**

**Reagan, Upton, and Midland County Priority  
Groundwater Management Area**

**-Northeastern Upton and Southeastern Midland  
Counties-**

Prepared by

Mike Chadwick, P.G.  
&  
Scott Underwood, P.G.

Water Availability Division

Groundwater Conservation District Preliminary Report

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## ***EXECUTIVE SUMMARY***

The Reagan, Upton, and Midland Priority Groundwater Management Area (PGMA) was delineated and designated by the Texas Water Commission in 1990, when the Texas Commission on Environmental Quality (TCEQ) was not required to make a formal recommendation for groundwater conservation district (GCD) creation within a PGMA.

The Executive Director (ED) is now authorized to petition the Commission to establish groundwater management in PGMA's where there is no GCD. This report identifies the part of this PGMA without GCD management and evaluates options whether one or more GCDs should be created in the PGMA or added to an existing GCD, or both.

Title 30, Texas Administrative Code (30TAC), §294.35, describes the Reagan, Upton, and Midland PGMA boundaries that are composed of northern Reagan County, the northeastern part of Upton County, and the southeastern part of Midland County. The Reagan part of the PGMA is either managed by the Glasscock GCD or the Santa Rita Underground Water Conservation District (UWCD). The remaining northeastern Upton County and southeastern Midland County have no GCD management. For the convenience of discussing GCD creation options, this report identifies the remaining PGMA without GCD management as the Upton PGMA territory and the Midland PGMA territory. Creating GCD management in the Upton and Midland PGMA territories is necessary to meet the requirements found in Texas Water Code (TWC) Chapters 35 and 36 and 30 TAC §§293.19 and 294.44 to establish GCD management within PGMA's established before 2001.

Five groundwater management options are presented in this report for groundwater management in the Upton and Midland PGMA territories. The first option would create a single GCD covering all the remaining Upton and Midland PGMA territories. The second option would create two new GCDs, one in the Upton PGMA territory and one in the Midland PGMA territory. The third option would add the remaining PGMA to the contiguous and immediate neighboring districts; Upton PGMA territory added to the Santa Rita UWCD and the Midland PGMA territory added to Glasscock GCD. The fourth option would add the Upton and Midland PGMA territories to the Glasscock GCD. The fifth option would add the Upton and Midland PGMA territories to the Santa Rita UWCD.

The ED has prepared this report to solicit stakeholder comments regarding the five groundwater management options to establish one or more GCDs for the Upton and Midland PGMA territories. Written comments may be directed to Mike Chadwick, P.G., at TCEQ, MC-147, P.O. Box 13087, Austin, Texas 78711-3087, or via email at [michael.chadwick@tceq.texas.gov](mailto:michael.chadwick@tceq.texas.gov). Comments received before the close of business on June 30, 2013, will be considered.

As required after June 30, 2013, the ED will prepare a subsequent report to the Commission to recommend one of the five groundwater management options to establish one or more GCDs for the Upton and Midland PGMA territories.

## ***BACKGROUND***

Four critical areas were designated in 1990 by the Texas Water Commission (TCEQ's predecessor agency). Senate Bill 1 renamed these critical areas as priority groundwater management areas (PGMAs) in 1997. One of these areas is the Reagan, Upton, and Midland County PGMA.

State law requires the TCEQ to identify areas within the PGMA that have not created a district through local initiative and to create GCDs or have areas joined to existing GCDs if local efforts have not been forthcoming. All of Reagan County is presently within either the Santa Rita UWCD or the Glasscock GCD (Figure 1). As of 2012, no GCDs have been created by landowner initiation in the Upton and Midland PGMA territories.

In 2011, the 82<sup>nd</sup> Legislature passed Senate Bill (SB) 313 related to PGMAs. SB 313 amended TWC, §35.008, to validate and authorize the Commission to adopt 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 SB 313 amendments to TWC, §35.008 validate and authorize the adoption of rules regarding the addition of all or part of the land in such a PGMA to an existing GCD. In August 2012, the Commission adopted rule amendments to 30 TAC Chapters 293 and 294 to implement SB 313.

## ***EFFORTS TO CREATE GCDs IN THE PGMA***

### **Reagan PGMA Territory**

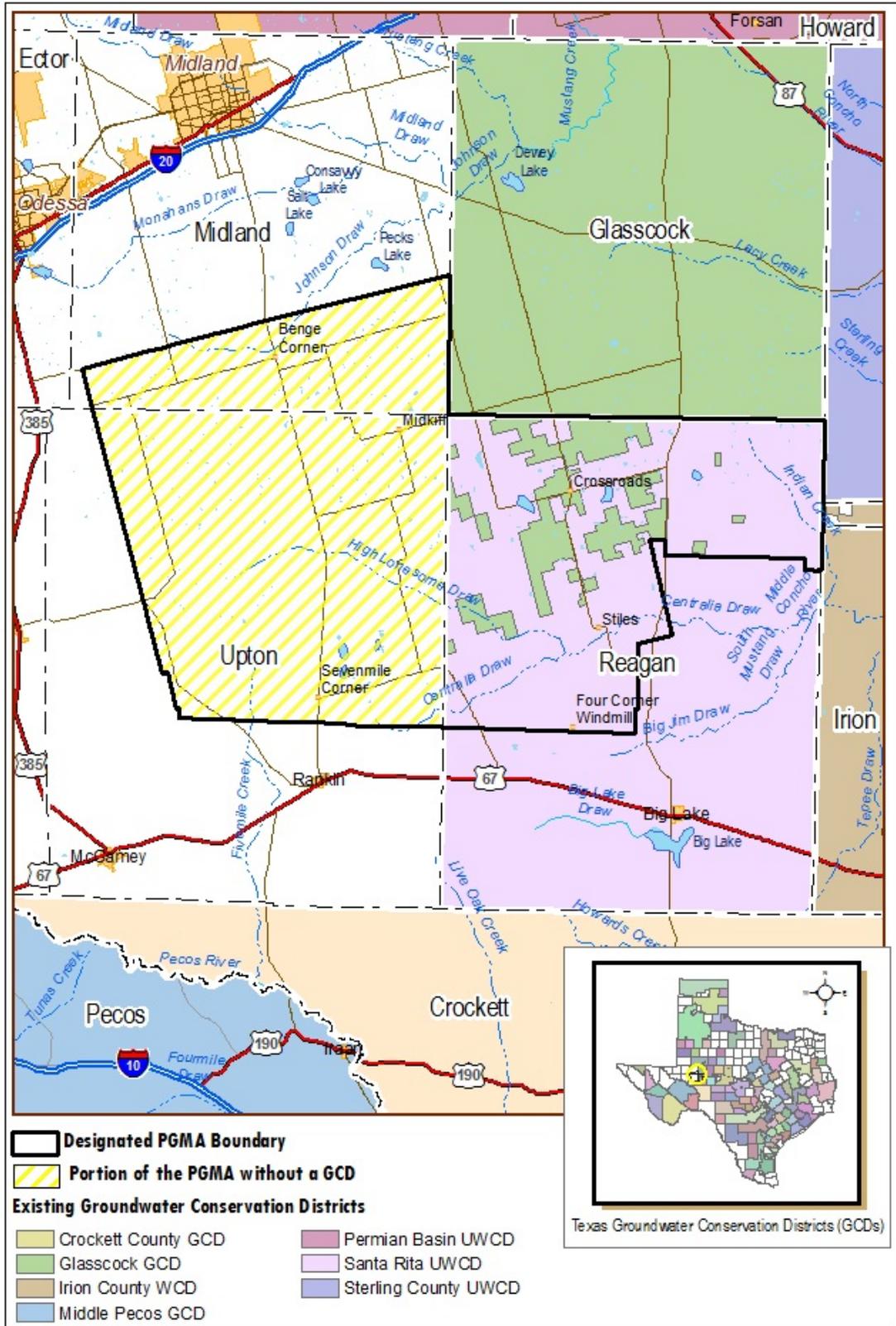
Glasscock GCD was created by the legislature in 1981 and lies to the north, adjacent to the PGMA. During 1989 and 1990, some landowners in Reagan County petitioned to join, and were accepted, into the Glasscock GCD. The Glasscock GCD now covers all of Glasscock County and about 65,000 acres in the Reagan County territory. Santa Rita UWCD was created by the legislature in 1989 and covers the remaining parts of Reagan County not included in the 65,000 acres added to the Glasscock GCD. Some landowners in the remaining Upton and Midland counties petitioned to join the Glasscock GCD in 1999 but did not receive a majority vote from the Glasscock GCD board to add these areas.

### **Upton PGMA Territory**

An attempt to create a GCD occurred in 1999 during the 76<sup>th</sup> Legislature with the introduction of House Bill 437. The bill sought to empower the existing Upton County Water District, which is a water service provider in Upton County, with limited TWC Chapter 36 authority. The bill died in committee at the end of the 76<sup>th</sup> Regular Session.

### **Midland PGMA Territory**

Local efforts to create or join a GCD within the PGMA include an unsuccessful attempt by landowners in Midland County in November 1991, to join the Permian Basin UWCD. Voters defeated the proposal by a margin of 3 to 2. There have been several exploratory attempts by some residents in Upton and Midland counties to join the Glasscock County GCD but none has been successful.



**Figure 1, The Reagan, Upton, and Midland County PGMA and Surrounding GCDs.**

## ***GROUNDWATER MANAGEMENT AREA 7***

The Regan, Upton, and Midland County PGMA location is within Groundwater Management Area No. 7 (GMA 7). GMA 7 is composed of 33 counties, 26 counties under district groundwater management and seven counties without management. The 26 counties are covered by 20 districts (Table 1). The 20 districts are represented by 16 predominantly single county GCDs, 1 two-county GCD, 1 predominately three-county GCD and portions of 3 additional counties, 1 GCD covering 8 counties with one county in GMA 7, and 1 GCD with a core of 1 full county and portions of five additional counties.

GMA 7 covers approximately 42,000 square miles with about 35,540 square miles under district groundwater management. The remaining portion of the PGMA without GCD management is the approximately 612 square miles of northeastern Upton County and 207 square miles of southeastern Midland County that overlies the Edwards-Trinity Plateau Aquifer (Figure 2).

## ***DISTRICT CREATION OPTIONS AND CONSIDERATIONS***

In accordance with 30 TAC §293.19 or §294.44, the options for groundwater management in the Upton and Midland PGMA territories are to create a single GCD, create two GCDs, or a combination of adding the PGMA territories to the Santa Rita UWCD or Glasscock GCD. When evaluating these options, the ED must consider the purpose, feasibility, and practicability of a recommended GCD creation action relevant to these determinations:

- whether the recommended GCD creation action can effectively manage the groundwater resources under the authority of Chapter 36,
- whether the recommended GCD creation action would provide for the necessary boundaries for effective management of groundwater resources, and
- whether the recommended GCD creation action can be adequately funded to finance required or authorized groundwater management planning, regulation, and district operation under Chapter 36.

## ***FEASIBILITY OF DISTRICT CREATION OPTIONS***

GCDs finance operations through taxes, well production fees, or both. Taxes are levied on all residents while well production fees are paid by large groundwater users. GCDs are required to operate from an annual budget. District directors are not entitled to receive a salary and spending district revenue is limited to budgeted items.

Annual budgets for existing districts in GMA 7 range from approximately \$38,000 – \$670,000. The cost per square mile for district management in GMA 7 ranges from \$42 - \$273 with an average \$130 per square mile. The cost of groundwater management for GCDs adjacent to the PGMA is \$173 per square mile for the Santa Rita UWCD and \$176 per square mile for the Glasscock GCD. Present operating budgets for districts in GMA 7 are summarized in Table 1.



**Figure 2, Groundwater Management Area 7; Reagan, Upton, and Midland PGMA, and the Surrounding Counties Under District Management.**

## **Potential Tax Revenues**

All of the GCDs within GMA 7 are funded by ad valorem taxes with a few GCDs collecting additional permit and/or production fees. Before any GCD can levy and collect an ad valorem tax, the proposition must first be offered to and approved by the voters. Following TWC §36.201, a GCD may levy an ad valorem tax at a rate not to exceed \$0.50 per \$100 assessed valuation to pay for maintenance and operating expenses. Most districts have lower tax caps set by their enabling legislation or by the voters. Present tax rates for districts in GMA 7 range from \$0.005 to \$0.054 per \$100 assessed valuation. The cost for district management in GMA 7 ranges from \$42 - \$273/mi<sup>2</sup>, averaging \$130/mi<sup>2</sup>. Adjacent to the Upton Midland PGMA territories, Santa Rita UWCD and the Glasscock GCD assesses a tax rate of \$0.010 tax per \$100 assessed value and \$0.01301 tax per \$100, respectively.

### Midland PGMA Territory

The Midland County tax appraiser reported that the Midland PGMA territory taxable land and mineral value for 2012 is \$1,028,230,226. Assessing a \$0.010 tax per \$100 assessed value would generate \$102,823 at a cost of \$497/mi<sup>2</sup> (\$102,823/207 mi<sup>2</sup>).

### Upton PGMA Territory

The Upton County tax appraiser reported that the Upton PGMA territory assessed land and mineral value for 2012 is \$2,090,870,312. Assessing a \$0.010 tax per \$100 assessed value would generate \$209,087 at a cost of \$341/mi<sup>2</sup> (\$209,087/612 mi<sup>2</sup>).

### Summary of Potential Tax Revenues

If the Upton and Midland PGMA territories assessed a tax of \$0.01 per \$100 assessed land and mineral value, \$311,910 would be generated annually for a \$380/mi<sup>2</sup> cost (\$102,823 + \$209,087/207 mi<sup>2</sup> + 612 mi<sup>2</sup>) to implement groundwater management.

If the Upton and Midland PGMA territories assessed a tax of \$0.005 per \$100 assessed land and mineral value, \$155,956 would be generated annually for a \$190 /mi<sup>2</sup> cost (\$51,412 + \$104,544 / 207 mi<sup>2</sup> + 612 mi<sup>2</sup>) to implement groundwater management.

These projected figures are offered only as an example for financial operational feasibility. The voters in the Upton and Midland PGMA territories will ultimately decide how, and at what levels, a GCD would be funded.

District	Counties Served	Tax Rate per \$100 Valuation (2010)	Fees (2010)	Annual Budget (2010)	GCD Square Miles	Cost Per Sq. Mile
Coke County UWCD	Coke	\$0.00805	None	\$38,602	911	\$42
Crockett County GCD	Crockett	\$0.00955	None	\$217,000	2,796	\$77
Glasscock GCD	Glasscock, Reagan	\$0.01301	None	\$170,752	966	\$176
Hickory UWCD No. 1	Mason, Concho, Kimble, McCulloch, Menard, San Saba	\$0.03500	None	\$356,176	2,630	\$135
Hill Country UWCD	Gillespie	\$0.00700	\$100 Register Well \$250 Permitted Well	\$241,203	1,061	\$227
Irion County WCD	Irion, Tom Green	\$0.01613	None	\$117,320	1,114	\$105
Kimble County GCD	Kimble	\$0.01400	None	\$53,364	1,198	\$44
Kinney County GCD	Kinney	\$0.05400	GW Use Fees & Other Use Fees	\$212,986	1,391	\$153
Lipan-Kickapoo WCD	Concho, Tom Green, Runnels	\$0.01429	None	\$235,655	3,535	\$66
Lone Wolf GCD	Mitchell	\$0.02200	None	\$246,400	900	\$273
Menard County UWD	Menard	\$0.04800	Ag. \$1.00 per ac/ft, Other \$0.17 per 1000 gallons, Transport Permit \$2,500	\$80,131	786	\$101
Middle Pecos GCD	Pecos	\$0.01610	Negotiable Export Fee	\$669,714	4,764	\$140
Plateau UWC&SD	Schleicher	\$0.03350	Transport Application \$500	\$128,396	1,309	\$98
Real-Edwards CRD	Edwards, Real	\$0.02500	Permit Application \$250	\$200,000	2,828	\$70
Santa Rita UWCD	Reagan	\$0.01000	n/a	\$185,930	1,073	\$173
Sterling County UWCD	Sterling, Tom Green	\$0.00771	n/a	\$130,090	963	\$135
Sutton County UWCD	Sutton	\$0.02470	None	\$277,696	1,493	\$185
Terrell	Terrell confirmed 11/6/2012	\$0.01000	n/a	n/a	2,358	n/a
Uvalde UWCD	Uvalde	\$0.01600	Transport Application \$50-\$500	\$197,000	1,552	\$126
Wes-Tex GCD	Nolan	\$0.00500	None	\$136,430	912	\$149
Average		\$0.01945		\$204,992	1,727	\$130

**Table 1. GMA 7 District Operating Budgets**

### **Potential Production Fee Revenues**

GCDs may also generate revenue through the assessment and collection of well production fees on permitted wells following TWC, §36.205. Unless otherwise addressed by a district's enabling legislation, the production fees are initially capped by law at \$1 per acre-foot/year for agricultural use, and \$10 per acre-foot/year for other uses. The rates can be doubled over a five-year period. To estimate the production fee revenue that could be generated in the Upton and Midland PGMA territories, the ED uses the following values and calculations:

- Midland PGMA territory = 207 mi<sup>2</sup>.
- Upton PGMA territory = 612 mi<sup>2</sup>.
- Midland County = 902 mi<sup>2</sup>.
- Upton County = 1,242 mi<sup>2</sup>.
- 2006 Midland County agricultural total groundwater use - subject to GCD production fees<sup>3</sup> = 20,687 acre/feet irrigation (2011 Region F Water Plan, Table 1.3-2 "*Source of Supply by County and Category in 2006 for Region F*")
- 2006 Upton County agricultural total groundwater use - subject to GCD production fees = 7,301 acre/feet irrigation (2011 Region F Water Plan, Table 1.3-2 "*Source of Supply by County and Category in 2006 for Region F*").
- Proportion of the Midland PGMA territory groundwater use subject to GCD production fees Commission estimate =  $(207 \text{ mi}^2 / 902 \text{ mi}^2) \times 20,687 \text{ acre/feet} = 4,747 \text{ acre/feet}$ .
- Proportion of the Upton PGMA territory groundwater use subject to GCD production fees Commission estimate =  $(612 \text{ mi}^2 / 1,242 \text{ mi}^2) \times 7,301 \text{ acre/feet} = 3,598 \text{ acre/feet}$ .

The Midland PGMA territory in 2006 was estimated to use 4,747 acre-feet of groundwater from the Ogallala and the Edwards-Trinity aquifers. The maximum potential revenue by law (\$1 per acre-foot/year) from assessing groundwater fees in the Midland PGMA territory would generate an estimated \$4,747 in the first year of operation and could potentially be doubled to about \$9,000 by year five.

The Upton PGMA territory in 2006 was estimated to use 3,598 acre-feet of groundwater from the Edwards-Trinity aquifer. The maximum potential revenue by law (\$1 per acre-foot/year) from assessing groundwater production fees in the Upton PGMA territory would generate an estimated \$3,598 in the first year of operation and could potentially be doubled to about \$7,000 by year five.

By using only production fees, the maximum first year combined potential revenue for the Upton and Midland PGMA territories would be an estimated \$8,345. This first year maximum collection of production fees, would be approximately \$10/mi<sup>2</sup>. These projected figures are offered only as an example for financial feasibility. The voters in the

Upton and Midland PGMA territories will ultimately decide how, and to what level, a GCD would be funded.

## ***ANALYSIS***

Five options were considered to create groundwater management in the Upton and Midland PGMA territories. All five options would meet the purpose and intent of the statutory requirements of Chapter 35 and 36 in creating groundwater management in a PGMA. Landowners that are currently within either Glasscock or Reagan Counties, that have overlapping land in either the Upton or Midland PGMA territories, presently have the opportunity to petition to join an existing district to prevent dual district membership of their land. These five options are discussed in detail with the intent to arrive at an option that is the most feasible and practicable in creating groundwater management in the PGMA. The following five options were considered as follows;

- Create a single GCD covering the Upton and Midland PGMA territories.
- Create two GCDs, one in the Upton PGMA territory and one in Midland PGMA territory.
- Add the Upton PGMA territory to the Santa Rita UWCD and Midland PGMA territory to Glasscock GCD.
- Add the Upton and Midland PGMA territories to the Glasscock GCD.
- Add the Upton and Midland PGMA territories to the Santa Rita UWCD.

### Create a single GCD

#### *Board of Directors*

If the Commission were to create a single GCD for the Upton and Midland PGMA territories, the method for appointing temporary directors for a district in a PGMA would follow TWC, §36.0161 and agency rules. Because there would be two or more counties, 30 TAC §293.19(c)(2) requires the Commission to apportion the number of temporary directors to each county based on each county's proportionate amount of the total estimated groundwater use within the new district. The total estimated groundwater usage within the district for each county is based on information and data contained in the most current 2012 Texas State Water Plan as adopted by the Texas Water Development Board (TWDB). Communication with the TWDB has confirmed that the 2011 Region F Water Plan provided the most recent data used in the 2012 Texas State Water Plan. The Upton and Midland PGMA territories overlie the Edwards-Trinity Plateau and groundwater produced in the PGMA would exclusively come from the Edwards-Trinity Plateau aquifer. The 2011 Region F Water Plan, Table 1.3-4, lists the groundwater produced from the Edwards-Trinity Plateau in Midland and Upton Counties.

Based on the data from the 2011 Region F Water Plan, Table 1.3-4, and proportioning the amount of groundwater used by each county, the Upton PGMA territory used more groundwater than the Midland PGMA territory.

- Proportion of the Upton PGMA territory Edwards-Trinity Plateau aquifer groundwater use =  $612 \text{ mi}^2 / 1,242 \text{ mi}^2 \times 12,570 \text{ acre/feet} = 6,194 \text{ acre/feet}$ .
- Proportion of the Midland PGMA territory Edwards-Trinity Plateau aquifer groundwater use =  $207 \text{ mi}^2 / 902 \text{ mi}^2 \times 9,323 \text{ acre/feet} = 2,140 \text{ acre/feet}$ .

Therefore, in accordance with TWC, §36.1061 and 30 TAC §293.19(c), the Upton County Commissioners Court would appoint one temporary director from the Upton PGMA territory and the Midland County Commissioners Court would appoint one temporary director from the Midland PGMA territory. The remaining three temporary board directors would be apportioned by the Upton County Commissioners Court for two members from the Upton PGMA territory and apportioned by the Midland County Commissioners Court for one member from the Midland PGMA territory based on the estimated proportioned groundwater used in the PGMA. Three board members would represent the Upton PGMA territory and two board members would represent the Midland PGMA territory.

#### *Advantages*

Creating a single GCD for the Upton and Midland PGMA territories would provide a very high level of local control with the number of directors per county territory apportioned to represent the amount of groundwater used in each county territory. The new GCD would be approximately 819 square miles and compares favorably in size to the adjacent existing Santa Rita UWCD (1,073 square miles) and Glasscock GCD (966 square miles), and other single-county GCDs within GMA 7.

Creating a single GCD is financially feasible and practicable based on the data presented by the Upton and Midland tax assessor-collector offices. A \$0.01 per \$100 tax rate would be about the same as the adjacent GCDs' tax rates and almost 50% lower than the average GCD tax rate in GMA 7, and would generate around \$311,910 per year, about 50% higher than the adjacent GCDs' annual operating expenses. A \$0.005 per \$100 tax rate would be roughly 50% of the adjacent GCDs' tax rates and almost 75% lower than the average GCD tax rate in GMA 7, and would generate \$155,956, roughly 10-20% lower than the adjacent GCDs' annual operating expenses.

#### *Disadvantages*

A new GCD for the Upton and Midland PGMA territories would require the development and adoption of a new groundwater management program for the Edwards-Trinity Plateau Aquifer. A new GCD would be required, within three years, to adopt a GCD management plan and rules to implement the plan. A new GCD would also introduce a new member to participate in GMA 7 joint planning functions to develop and adopt desired future conditions.

Create two GCDs, one in Upton PGMA territory and one in Midland PGMA territory.

#### *Board of Directors*

If the Commission were to create two GCDs, one GCD in the Upton PGMA territory and one GCD in the Midland PGMA territory, the method for appointing temporary directors for two new districts in a PGMA would also follow TWC, §36.0161 and agency rules. Because each of the two GCDs contains a single county, the Upton County Commissioners Court would appoint five temporary directors to the GCD covering the

Upton PGMA territory and the Midland County Commissioners Court would appoint five temporary directors to the GCD covering the Midland PGMA territory.

*Advantages*

Creating two GCDs would provide the highest level of local control, with each county territory governed by directors solely from the county.

Creating two single GCDs would be financially feasible based on the taxable values presented by the Midland and Upton tax assessor-collector offices. A Midland GCD could generate about \$102,823 with a \$0.01 per \$100 tax, and an Upton GCD, taxed at the \$0.01 per \$100, could generate about \$209,087.

*Disadvantages*

This option would require that two new groundwater management programs for the Edwards-Trinity Plateau Aquifer be developed and adopted. Two new management plans would be required within three years, as well as two sets of new rules to implement the new plans. There would also be two new members that would participate in GMA 7 joint planning functions to develop and adopt desired future conditions.

While creating two single GCDs may be financially feasible based on the taxable values presented by the Upton and Midland tax assessor-collector offices, the cost for groundwater management would be higher. A \$0.01 per \$100 ad valorem tax would cost the Midland PGMA territory landowners \$497/mi<sup>2</sup> (\$102,823/207 mi<sup>2</sup>) for groundwater management. The cost for the single county Midland GCD would be four times the GMA 7 average district annual operating expense (\$497/mi<sup>2</sup> compared to the GCD average in GMA 7 of \$130/mi<sup>2</sup>). An Upton GCD, taxed at the \$0.01 per \$100, could generate \$209,087 and would cost the Upton PGMA territory landowners \$341/mi<sup>2</sup> (\$209,087/612 mi<sup>2</sup>) for district management. The cost for the single county Upton GCD would be 2 ½ times the GMA 7 average GCD annual operating expense (\$341/mi<sup>2</sup> compared to the average GMA 7 \$130/mi<sup>2</sup>).

Add Upton PGMA territory to the Santa Rita UWCD and add Midland PGMA territory to Glasscock GCD

*Board of Directors, Upton PGMA territory added to Santa Rita UWCD*

If the Commission were to recommend adding the Upton PGMA territory to the Santa Rita UWCD, the Santa Rita UWCD board members would vote whether or not to add the Upton PGMA territory to the Santa Rita UWCD. The Santa Rita UWCD is governed by a total of five elected directors, four directors elected, one from each of the four county commissioners precincts and one director elected at large. Should the Santa Rita UWCD board of directors vote in favor of adding the Upton PGMA territory, the Upton PGMA voters would choose how groundwater management would be funded under TWC, \$35.013, by either selecting a proportional share of the debts (tax) or production fees. The Santa Rita UWCD board of directors would follow TWC, \$36.051 to allow board representation from the Upton PGMA territory. Should the Santa Rita UWCD board of directors vote to not add the Upton PGMA territory, the TCEQ would be required to select another option to create groundwater management in the Upton PGMA territory.

*Board of Directors, Midland PGMA territory added to Glasscock GCD*

If the Commission were to recommend adding the Midland PGMA territory to the Glasscock GCD, the Glasscock GCD board members would vote whether or not to add

the Midland PGMA territory to the Glasscock GCD. The Glasscock GCD is governed by a total of five elected directors, four directors elected, one from each of the four director precincts and one director elected at large. Should the Glasscock GCD board of directors vote in favor of adding the Midland PGMA territory, the Midland PGMA voters would choose how groundwater management would be funded under TWC, §35.013, by either selecting a proportional share of the debts (tax) or production fees. The Glasscock GCD board of directors would follow TWC, §36.051 to allow board representation from the Midland PGMA territory. Should the Glasscock GCD board of directors vote to not add the Midland PGMA territory, the TCEQ would be required to select another option to create groundwater management in the Midland PGMA territory.

#### *Advantages*

Under this option, the Glasscock GCD boundaries would be increased by about 20% and the Santa Rita UWCD boundaries would be increased by over 50%. The two existing GCDs have established Edwards-Trinity Plateau Aquifer groundwater management programs in place, including management plans and rules. The two existing GCDs also already participate in the GMA 7 joint planning. New management programs and planning functions would not have to be developed or implemented.

#### *Disadvantages*

Approval to add the PGMA territory is required by the two existing GCDs. If the existing GCDs vote to add the PGMA territories, each board of directors would be required to amend the board to provide equal representation for the added PGMA territory. Then, PGMA voters would elect directors and decide if they want to pay for groundwater management through ad valorem taxation or by production fees. If the PGMA voters chose production fees, each of the two existing GCD would be required to develop new fee-funding programs to finance the groundwater management programs for the added PGMA territory.

#### Add the Upton and Midland PGMA territories to the Glasscock GCD.

#### *Board of Directors*

If the Commission were to recommend adding the Upton and Midland PGMA territories to the Glasscock GCD, the Glasscock GCD board members would vote whether or not to add the territories to the Glasscock GCD. The Glasscock GCD is governed by a total of five elected directors, four directors elected, one from each of the four director precincts and one director elected at large. Should the Glasscock GCD board of directors vote in favor of adding the Upton and Midland PGMA territories, the Upton and Midland PGMA territory voters would choose how groundwater management would be funded under TWC, §35.013, by either selecting a proportional share of the debts (tax) or production fees. The Glasscock GCD board of directors would follow TWC, §36.051 to allow board representation from the Upton and Midland PGMA territories. Should the Glasscock GCD board of directors vote to not add the PGMA territories, the TCEQ would be required to select another option to create groundwater management in the Upton and Midland PGMA territories.

#### *Advantages*

Under this option, the Glasscock GCD boundaries would be increased by about 80%. Glasscock GCD has an established Edwards-Trinity Plateau Aquifer groundwater management program in place and participates in GMA 7 joint planning. A new management program would not have to be developed. This option provides that a large

proportion of the entire PGMA would be governed by one management program managing the same aquifer.

#### *Disadvantages*

The Glasscock GCD board would have to approve adding the Upton and Midland PGMA territories, and would be required to amend the board to provide equal representation for the added territory. The PGMA voters would then elect directors and determine how they will pay for groundwater management. If the PGMA voters chose production fees over the Glasscock GCD's ad valorem tax, the Glasscock GCD would be required to develop a new fee-funding program to finance the groundwater management programs for the added PGMA territories.

Landowners in the Upton and Midland PGMA territories petitioned to join the Glasscock GCD in 1999. At that time, the board of directors voted to not admit these petitioning landowners into the Glasscock GCD.

#### Add Upton and Midland PGMA territories to the Santa Rita UWCD.

#### *Board of Directors*

If the Commission were to recommend adding the Upton and Midland PGMA territories to the Santa Rita UWCD, the Santa Rita UWCD board members would vote whether or not to add the territories to the Santa Rita UWCD. The Santa Rita UWCD is governed by a total of five elected directors, four directors elected, and one from each of the four county commissioners precincts and one director elected at large. Should the Santa Rita UWCD board of directors vote in favor of adding the Upton and Midland PGMA territories, the Upton and Midland PGMA territory voters would choose how groundwater management that would be funded under TWC, §35.013, by either selecting a proportional share of the debts (tax) or production fees. The Santa Rita UWCD board of directors would follow TWC, §36.051 to allow board representation from the Upton and Midland PGMA territories. Should the Santa Rita UWCD board of directors vote to not add the PGMA territories, the TCEQ would be required to select another option to create groundwater management in the Upton and Midland PGMA territories.

#### *Advantages*

Under this option, the Santa Rita UWCD boundaries would be increased by about 75%. Santa Rita UWCD has an established Edwards-Trinity Plateau Aquifer groundwater management program in place and participates in GMA 7 joint planning. A new management program would not have to be developed. This option provides that the largest proportion of the entire PGMA would be governed by one management program managing the same aquifer.

#### *Disadvantages*

The Santa Rita UWCD board would have to approve adding the Upton and Midland PGMA territories, and would be required to amend the board to provide equal representation for the added territory. The PGMA voters would then elect directors and determine how they will pay for groundwater management. If the PGMA voters chose production fees over the Santa Rita UWCD's ad valorem tax, the Santa Rita UWCD would be required to develop a new fee-funding program to finance the groundwater management programs for the added PGMA territories.

## ***NEXT STEPS***

State law is clear that when a PGMA is designated, then GCDs are to be created. State law favors the creation of GCDs through landowner-initiated actions, but also mandates TCEQ-initiated creation should landowner actions not prevail.

The ED has prepared this report to solicit stakeholder comments regarding five groundwater management options to establish one or more GCDs for the Upton and Midland PGMA territories. Written comments may be directed to Mike Chadwick, P.G., at TCEQ, MC-147, P.O. Box 13087, Austin, Texas 78711-3087, or via email at [michael.chadwick@tceq.texas.gov](mailto:michael.chadwick@tceq.texas.gov). Comments received before the close of business on June 30, 2013, will be considered.

The five options that are presented in this report are the options available should TCEQ-initiated GCD creation be required. The opportunity for Upton and Midland PGMA territory landowner-initiated actions to either create one or more new GCDs, or to be added to one or more existing GCDs, remains.

As required after June 30, 2013, the ED will prepare a subsequent report if the Upton and Midland PGMA territories remain outside of a GCD. Such a report would recommend to the Commission one of the five groundwater management options to establish one or more GCDs for the Upton and Midland PGMA territories. The subsequent report would start the TCEQ-initiated process.

## ***REFERENCES***

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