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April 9, 2009

Laura B. Marbury, P.G.
Texas Water Project Director
Environmental Defense Fund
44 East Avenue
Austin, Texas 78701

Re: TWDB's role in the desired future condition adoption process

Dear Ms. Marbury:

In your letter dated March 30, 2009, you asked several questions concerning the adoption of desired future conditions and the Texas Water Development Board's (TWDB) role in the process. Below are your specific questions (in italics) and our responses.

Please explain at what point(s), if any, in the GMA process does the TWDB evaluate the GMA adopted Desired Future Conditions and resulting Managed Available Groundwater numbers? What criteria are used in the evaluation?

After groundwater conservation districts have adopted their desired future conditions, they are required to submit them to the TWDB. Once received, we ensure that an administratively complete submission has been provided (TAC §356.31–356.35). We also evaluate whether or not the adopted desired future conditions are physically possible, both individually and collectively. If these requirements are met, then we calculate the managed available groundwater amounts and provide drafts of these amounts to the groundwater conservation districts for review. Our board has requested that staff bring them draft managed available groundwater amounts for review before the final amounts are provided to the districts and the regional water planning groups; however, our board does not have approval authority over the amounts or the associated desired future conditions.

If a person with a legally defined interest in groundwater submits a petition to the TWDB challenging the reasonableness of an adopted desired future condition, then our board may review the reasonableness of the desired future condition. As required by our rules (TAC §356.45(i)), our board will consider the following criteria when assessing reasonableness:

- (1) whether or not the adopted desired future conditions are physically possible and the consideration given groundwater use;
- (2) the socio-economic impacts reasonably expected to occur;

Our Mission

To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas.

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- (3) the environmental impacts including, but not limited to, impacts to spring flow or other interaction between groundwater and surface water;
- (4) the state's policy and legislative directives;
- (5) the impact on private property rights;
- (6) the reasonable and prudent development of the state's groundwater resources; and
- (7) any other information relevant to the specific desired future condition.


Our board may recommend a change to the desired future condition, the districts will then hold a public hearing on the recommended change and then revise the desired future condition based on the board's recommendation and public comment.

Is there a requirement or recommendation by the TWDB for the GMAs to base desired future conditions and the potentially resulting Managed Available Groundwater numbers on the current regional water planning demand projections?

There is no requirement by the TWDB for groundwater conservation districts to base desired future conditions on the current demand projections for regional water planning. However, in our capacity as technical liaisons, we have advised districts to consider regional water planning information, as well as other information, in their evaluations of desired future conditions. We have also recommended that districts communicate and collaborate closely with the regional water planning groups, especially because planning groups can challenge the reasonableness of desired future conditions.

I hope this clarifies our role in the desired future condition process. If you have any additional questions, please do not hesitate to contact me at (512) 936-0861 or Ms. Rima Petrossian of my staff at (512) 936-2420.

Sincerely,



Robert E. Mace, Ph.D., P.G.
Deputy Executive Administrator
Water Science and Conservation