

LOWER COLORADO REGIONAL WATER PLANNING GROUP
MINUTES OF THE JANUARY 28, 2004 REGULAR MEETING
McKINNEY ROUGHS, TEXAS

These are the minutes approved by motion at the February 25, 2004 LCRWPG meeting.

Members Signing In:

Jim Barho, Environment
John Burke, Water Utilities
Ron Fieseler, Environment
Rick Gangluff, Electric Generating Utilities
Ronald Gertson, Small Business
Barbara Johnson, Industries
Dennis Jones, Municipalities
Jobaid Kabir, River Authorities
Chris King, Counties
Teresa Lutes, Municipalities
Julia Marsden, Public
Bill Neve, Counties
Bob Pickens, Other
Stanley Reinhard, Water Districts
Billy Roeder, Counties
Cole Rowland, Recreation
Haskell Simon, Agriculture
Bill Stewart, Agriculture
Harold Streicher, Small Business
James Sultemeier, Counties
Paul Tybor, Water Districts
Jennifer Walker, Environment
Del Waters, Recreation

David Bradsby, TPWD, Non-Voting Member
David Meesey, TWDB, Non-Voting Member

Voting Members Absent:

Dale Henry, Other

Consultants/Support

Dan Strub, City of Austin Water Conservation
Cynthia Braendle, Aqua Resources
Rebeka Lien, TC&B

Bill Couch, TC&B
Steve Coonan, APAI
Monica Segura, GSRJW

Visitors/Others:

Ronny Hibler
Andrew Cover, City of Austin
Steve Stevens, Mesa Water
Ralph Wurbs, Texas A&M
Bryan Cook, LCRA
Carrie Thompson, USFWS
Robert B Lee, Lost Pines GWCD
Dill Miller
Veva McCaig, BS/EACD
Chris Lippe, City of Austin

Stunni Norvell, TWDB
Calvin Ransleben, County Commissioner
Mark Jordan, LCRA
Nadira Kabir, LCRA
Ira Yates
Paige Nasvar, USFWS
Neal Cook, Cook's Canoes
Sandy Dannhardt
Terry Bray, AARO
Yun Cho, TWDB

Quorum: Yes

Number of present voting members including designated alternates, representing absent voting members: 21.

Number required for quorum based on current voting membership of 22: 12.

FORMAL ACTIONS TAKEN:

- 1) Approved minutes as amended from December 10, 2003.
- 2) Approved motion to accept the report of the Groundwater Management Review Committee.
- 3) Approved motion to accept Del Waters and Harold Streicher into membership in the group. Del will represent recreation for Travis and Williamson counties and Harold will represent small business for Fayette County.
- 4) Approved motion to adopt the proposed resolution supporting the utilization of the Regional and Local Planning Processes by the Texas General Land Office. The motion passed with no votes in opposition and Jobaid Kabir abstaining.
- 5) Approved motion that readopted the population projections.

ADDITIONAL DECISIONS MADE:

- 1) Named Jim Barho, John Burke, Rick Gangluff, Chris King, Teresa Lutes, Bill Neve, Haskell Simon, and Jennifer Walker to serve on the legislative committee. Ronald Gertson was reappointed as chair.

ASSIGNMENTS FOR FUTURE ACTION:

- 1) None.

MEETING MINUTES:

- 1) Call to Order – John Burke
- 2) Welcome and Introductions
John Burke welcomed Judge Robert Lee of the Lost Pines GCD and County Commissioner Calvin Ransleben. David Meesey introduced TWDB staff members Yun Cho and Stuart (last name not given).
- 3) Discuss and take action on annual Executive Committee election including officers
Bob Pickens said that the committee met and they are still short a nominee. Cole Rowland said that the bylaws call for canvassing the entire group for interest in serving as an officer, and he believed that that had not been done. Bob said that he could not say if Dale Henry had done it or not. Cole suggested postponing the item until all members could be canvassed. Bob said that Dale had determined the committee's recommendation without canvassing all members, but the bylaws do not require that all members be canvassed. Teresa Lutes said that when the nominating committee was created, it was expected to poll the group for interest and then come up with a recommended slate. John Burke said that the item could be delayed for a meeting, although it was not secret that the nominating committee was looking for interested parties. Ronald Gertson said that he did canvas the members, but not until the slate had already been made up. John said that the item would be postponed. Cole said that Dale may be too busy with his election to canvas that group. Bob said that he could do it. John asked that all members interested in being nominated contact Bob before the next meeting. Julia Marsden said that the list of all interested candidates must be distributed to the group 30 days before they are presented to the group. John said that the committee would compile the list and distribute it to the members, and the group would vote on it the next meeting that is 30 days or more after it is sent out. Teresa asked if those who had already said they were interested needed to notify the committee again. John said they should.
- 4) Attendance Report – Teresa Lutes
Teresa Lutes summarized the attendance report.

5) Consent Agenda

a. Approval of Minutes for the September 10th Meeting

Jim Barho moved to accept the minutes as amended. Teresa Lutes seconded. The motion passed.

b. Financial/Budget Report

Jobaid said that on January 7, 2004, TC&B submitted a bill for \$165,801.20 out of the \$773,570 available under their contract, leaving \$607,768.80. Teresa Lutes passed around a form for members to use to be reimbursed for mileage or other expenses associated with participating in meetings and for public participation associated with the planning process. Julia Marsden asked how much funding was available for such expenses. Teresa said the group has about \$20,000 now, after the recent \$11,000 expense for setting up the web page.

6) Presentation and discussion of TCEQ's Water Availability Modeling

Todd Chenoweth passed out a handout and presented on the TCEQ's water availability modeling. He said that the TCEQ prefers to refer to the different runs as either the full utilization run or the current conditions run. The full utilization run includes all water rights at full utilization and is used primarily for granting new water rights. The current conditions run uses return flows and the highest level of water rights usage in the past 10 years and is used to issue term permits.

Billy Roeder asked how the TCEQ prorates excess water that is not used by a water right holder. Todd Chenoweth said they use water right priority dates. Jennifer Walker asked what happens if water runs short. Todd said that from the Guadalupe basin south the rivers have water masters, and in basins north of there the honor system has worked well. Legally, if a water right holder feels that they are being cheated, they can complain to the TCEQ, and they would investigate upstream users and stop junior rights holders from withdrawing if there is a shortage, although this very rarely happens. Cole Rowland asked if water rights have been cancelled for non-use. Todd said they had recently in the Rio Grande basin, but he did not know of it happening in any basin that does not have a water master over the last couple of decades. Julia Marsden asked what happens if a water right is fully utilized and there is no water for a term permit holder. Todd said the term permit is cut off and the situation is taken into consideration when the term permit is up for renewal. Haskell Simon asked how projections are made in a WAM when reuse is a moving target. Todd said that permitted and actual use amounts are also moving targets. In most cases, the TCEQ does not count return flows from agriculture, with the exception of rice crops, whose return rates depend on how the crop is grown. For municipal return flows, wastewater treatment plants must provide monthly return flow data to the TCEQ. Haskell said that the City of Austin is proposing increasing their reuse, which would affect water rights downstream. Todd said that the models do not adjust flows for a single month's average, but use conservative assumptions to provide for a margin. If there is an increase in reuse, the return flows are taken out of the current conditions run, but those flows are not allowed to be counted in granting permanent water rights.

Billy Roeder asked if a water right is tied to a property or does it belong to the person who owns the property. Todd Chenoweth said that for agricultural use, a water right specifies a place of use. If the land sells and the water right is not specified to be separate, then they go together, but they can be sold separately. Ronald Gertson asked if the 40 years of flow data used in the models include the drought of record. Todd said that it would be preferable, but the models use the most current data available, so it depends on what is available. David Bradsby asked how environmental flows were accounted for in the models. Todd said that environmental flows are accounted for a special conditions of permits, which dictate minimum CFS flows to be left in the river. These conditions are incorporated into the WAM so that if the flows are insufficient to allow diversion under a permit, then the model leaves them in the river.

Teresa Lutes asked if the TWDB could make a presentation to the group on how it uses the WAMs. David Meesey said he could make a presentation on the full utilization model at the next meeting, although the TWDB's contract dictates what model run to use (model run 3).

David Bradsby asked how much water the LCRA was required to release for environmental flows. Jobaid Kabir said the amount varies by time of year. Ronald Gertson said that it is in the neighborhood of 25,000 AF. Nadira Kabir said that 16,000 AF is guaranteed for critical environmental flows. Jobaid said that the information is

available on the LCRA webpage. Nadira said the amount depends on the inflows. If the inflows are too low, critical flows may not be met for bays and estuaries. Jennifer Walker said that 60,000 AF does not make much difference in meeting the critical target. Nadira said that it varies widely from year to year. Jobaid pointed out that the dotted line on the graph of Colorado River flows includes all water rights permits, including the LCRA's application for floodwater flows. Jennifer said that the flood flow application only allows the water to be taken out of the river when it is available, so would not have an impact on critical flows. Todd Chenoweth said that the flood flow application is included, but they are only removed in the model when flows are above the target flows. Haskell Simon said that the LCRA is the only river authority in the state that has committed water for fresh water inflows. Although the chart shows that if all water rights were exercised, 40 percent of the time there would be no fresh water inflows into Matagorda Bay, this has not happened because there has not been any case where all permitted water has been used. Also, before 10 years ago, there was practically no Colorado River water flowing into Matagorda Bay because the diversion had not been completed then. Now, almost 100 percent of the water flows into the bay. There is no good data on the impacts of those flows comparing the periods before and after the diversion. Todd said that if the question is how often the critical inflows to the bay are met, he suggests that river gauge data is a more appropriate source of data than the chart. Jennifer said that for long range planning, the group cannot rely on less than full water rights use.

7) Briefing on City of Austin's Bed & Banks Application presentation

Teresa Lutes presented on the Bed and Banks application. Ronald Gertson asked if the application accounted for instream losses. Teresa said that the river is considered to be a gaining stream in the segment involved in the application, but potential losses were being studied. Haskell Simon asked how the application could put 103,000 AF into the river but take 262,000 AF out. Teresa said that the withdrawals are expressed as maximums that could be withdrawn at each of the diversion points, but their totals would never exceed the amount of water put into the river. Jim Barho asked how much water under the application would be diverted for use within Austin's ETJ. Teresa said that all diversions are for the use of the City of Austin, but with the exception of the Fayette Power Plant diversion, all others were to be within the Austin water service area. Billy Roeder asked how the City rationalizes not including evaporative losses or losses to groundwater. Teresa repeated that the river is known to be a gaining stream in the portion of the river covered in the application, and that the TCEQ is evaluating the hydrology portion of the application. The TCEQ will then provide a figure for expected losses, which will be used to adjust the application, but they are not expected to be significant.

Julia Marsden said that she believes that this is the correct way to handle this situation under the Senate Bill 1 process. Jobaid Kabir said that the LCRA opposed the permit because the LCRA has responsibilities as a regional water supplier. If the permit is issued, the LCRA believes that the Highland Lakes will be lower and would lose about 20,000 AF in firm yield, there will be less environmental flows available, there would be about 30 percent less water available for the rice farmers, and that there would be less fresh water inflows for Matagorda Bay. Others are protesting the application because they believe that their water rights would be impacted. Teresa Lutes said that the TCEQ looks at the permit in the context of the entire system. Terry Bray said that AARO has addressed the permit issue and would like the Region K group to look at the long-range policy issues. They would also encourage the LCRA and the City of Austin to help guide the group through the process. Ronald Gertson said that it would be difficult for the group to come to a consensus on the issue in order to make policy recommendations to policy makers. Jennifer Walker asked why the Highland Lakes firm yields would drop. Jobaid said that firm water demands downstream are backed up by water stored in the lakes. If there is less water in the river, that water would have to be made up by water from the lakes.

Chris King asked if the 16,000 AF that would be dedicated to the State Water Trust would be subtracted from other diversions listed in the application. Teresa Lutes confirmed that it would be. Chris asked if that dedication was done as an acknowledgement of critical flows needs or was it because of dictates from the TCEQ. Teresa said that it was done voluntarily by the City of Austin. Chris asked if it was an admission of negative impacts of the permit. Teresa said that it was not, but was an example of Austin wanting to set a good environmental example. Bill Couch pointed out that the group does have some influence on the permit process, as the permit would have to be consistent with the plan.

8) Committee Reports

(a) Environmental Flows

Jennifer Walker asked that it be on the agenda for the next meeting.

(b) Groundwater Management Plan Review

Ron Fieseler said that the committee met on January 14th, reviewed the groundwater management plan review process, and came up with a proposed draft. He recommended that it be discussed at the next group meeting. Ronald Gertson asked if it could be covered at this meeting. It was decided it could be. Bill Couch said that John Burke has passed a letter to the membership from the TWDB on the review process. Ron said that the groundwater committee would appoint an ad hoc review team to determine if a plan has a conflict with the regional plan. If they determine there is a conflict, then they would contact the Chair to send a letter to the TWDB notifying them of the conflict. The committee as a whole would not go through the review process – that would be left up to the ad hoc team, who would work with the consultant. If there is no conflict, there is no problem. If there is a conflict, the letter to the TWDB would restart the review process, and the groundwater district would have to address the group's concern in their plan.

Ron Fieseler moved that the group accept the report. Stanley Reinhard seconded. The motion passed.

(c) Legislative

John Burke said that there have been Senate committee meetings all over the state, the next being in San Antonio on February 18, which conflicts with the next group meeting. Ronald Gertson suggested having the next legislative committee meeting one hour before the next group meeting. The planning group may wish to pass along some testimony to the Senate committee. John Burke reappointed Ronald to chair the committee, and Jim Barho, John Burke, Rick Gangluff, Chris King, Teresa Lutes, Bill Neve, Haskell Simon, and Jennifer Walker all serving on the committee.

(d) Liaison Reports

Ron Fieseler said that Region L will meet on February 5. Julia Marsden said that Region G will meet on February 11, but neither she nor Jennifer Walker can attend.

John Burke asked if the group has a Region N liaison. Nobody responded. Cole Rowland said it was important to have a liaison to that group because Corpus Christi owns water rights on the Colorado. Bill Couch said that he has been getting calls from that group on how their water rights fit into the Region K plan.

(e) Public Information

Bill Couch said that they had a good meeting. Monica with Group Solutions helped develop the web page and e-newsletter and will write press releases for future meetings. Bill has transparencies for members to use for public information presentations. He asked that members record their presentations on the information sheet, accounting for who and how many attended, where it was, and when it was.

Julia Marsden said the committee will write and present to the group an op ed piece to submit to newspapers to increase public awareness of the process. Terry Bray said that Barbara Johnson has good press connections and a media contact list. Ronald Gertson said that the group would get business cards to refer the public to the web site, as printing and distributing newsletters to the public would be too expensive.

9) Candidates' presentations to the Board

Del Waters and Harold Streicher presented their qualifications to the group.

10) Discuss and take action to elect new voting members for recreation and small business interests

Julia Marsden moved to accept Del Waters and Harold Streicher into membership in the group. Teresa Lutes seconded. Del would represent recreation for Travis and Williamson counties and Harold would represent small business for Fayette County. The motion passed.

Teresa Lutes said that both terms would end in 2009.

11) Discuss and take action to adopt the proposed resolution supporting the utilization of the Regional and Local Planning Processes by the Texas General Land Office

Ron Fieseler congratulated the committee for its work on the resolution. The resolution was passed out of committee without objection. Ron moved to adopt the resolution. Rick Gangluff seconded.

Bob Pickens said that the resolution needs to direct the legislature to correct or resolve some of the conflicts. Ronald Gertson said that at the TRWA meeting the previous week, Land Commissioner Jerry Patterson and TCEQ Commissioner Kathleen White debated the issue. Since the issue has come up, groundwater districts have become very important in the eyes of the TCEQ. It has certainly raised awareness of the need for groundwater districts and the regional planning groups. Commissioner Patterson has downplayed the impacts of his proposals on water policy in the state and seems to believe that it would not be an issue if the press had not implied that there is a financial connection between him and the proposals.

Ron Fieseler said that in the resolution, the delay for a study on the impacts of the proposals is necessary before any legislation on the issue could be passed. Julia Marsden said that the Senate committee has a subcommittee that recommended strongly that there is a need to delay action on the proposals before more information is obtained on their impacts. Bill Couch said that the TWDB authorized the Executive Administrator to issue an RFQ to study areas where the General Land Office is considering leasing state lands. It would collect information on those aquifers and the impact of the export of groundwater. Jim Barho said that it is important for the regional planning groups to speak up on the issue. Bill said that Commissioner Patterson said that they would be working with regional planning groups to get these projects in their plans. Julia said that the subcommittee discussed withholding funding from the GLO to slow down the process.

Jobaid Kabir asked if they should wait for the Senate's committee meeting before adopting the resolution. Ronald Gertson said that the resolution is general in scope, and if the group needs to make specific recommendations to fix the problem, he suggested that they could do it after the committee meeting. He suggested that the legislative committee take up this topic at its next meeting. Haskell Simon commended Ronald for his work on the issue. Haskell suggested that on page 2 paragraph 2 of the resolution, "oppose any effort" be moderated. Jim Barho said that since the resolution continues to say that it be opposed "until it is first presented to and reviewed by the affected regional planning groups," it is not objectionable. Jobaid again suggested that the resolution wait until after the February 11 Senate committee meeting, as some of the deals could bring water into Region K, and the situation is still developing. Julia Marsden said she thinks it is needed, and that it needs to have strong language because it protects the integrity of the regional planning process. Jobaid asked if the group could instead soften the language asking the GLO to work with the regional planning groups in developing the proposals. Ron Fieseler said that intent was already clear.

The motion passed, with Jobaid Kabir abstaining.

12) Discuss TWDB letter concerning member's liability insurance coverage

David Meesey said that there is a letter in the packet clarifying the coverage as the group requested. Haskell Simon asked if the members are individually protected. David confirmed they are.

13) Presentation and discussion of Blanco-Pedernales GCD groundwater management plan

Ron Fieseler said that a groundwater district has two years after it is confirmed to develop a management plan. The Blanco-Pedernales GWD relied heavily on the Region K plan, the GAM, and old studies. He did point out that the numbers for the Edwards/Trinity aquifer were soft and may change. They were unable to identify the "other" aquifer that was in the regional plan. In the Region K plan it supplies more than all other aquifers combined, but it is not used for planning purposes in the management plan. The population projection used the Region K plan and 2002 projections. On the last page, paragraph three opposes groundwater mining.

Jim Barho asked if there was a limit on gpd for permits. Ron Fieseler said that they rely on reasonable use permitting, looking at each case individually.

14) Presentation and discussion of Hill Country UWCD groundwater management plan

Paul Tybor presented on the management plan. He said that the Hill Country UWCD does have production limits of 1 AF per acre per year for tract sizes greater than 10 acres and ½ AF per acre per year for tracts less than 10 acres. The “other” aquifer from the regional plan is not included in the management plan. They do plan to review the Ellenburger Aquifer sustainable yield numbers.

Jobaid Kabir asked how they planned to address the 10,000 AF of water that is in the regional plan. Bill Couch said they would use the best available information on that water. David Meesey said that those “other” aquifer supplies are artifacts from planning years ago, and he does not believe that the water actually exists.

15) Water Planning 101

David Meesey and Bill Couch presented on the basics of the water planning process.

Haskell Simon asked if there was funding available for additional items that were not funded in the previous round. Bill Couch said that the group would have to apply for supplemental funding. David Meesey suggested that the agenda for the next meeting include an item on changes to the scope of work to cover supplemental funding. He also suggested that the group start with the old wish list. Jobaid Kabir asked what the group needed to do request the funding, and did the TWDB need an application for it directly from the LCRA. David confirmed that the group would have to vote to authorize the LCRA to apply for the funding. Bill Couch said that the group could do so next meeting, but would need to review its priorities first.

Teresa Lutes said that Austin has extras of the regional water plan available for new members, and she could bring them for the next meeting.

Chris King said that it seems that although there is enough water to meet the state’s needs, moving that water to where it is needed is more expensive than having people go to where the water is, as has been the case historically. Bill Couch said that there is a long history of moving water to where people are, just the distance that that water has traveled has changed. Haskell Simon pointed out that population or growth controls are not politically popular ideas. Julia Marsden said that groundwater mining is an application of population growth controls.

16) Discuss and take action to readopt population projection

Ronald Gertson moved to approve the population projections. Jim Barho seconded.

Chris King asked if all areas are showing growth, why were some projected to plateau and decline. Bill Couch said that it was caused by projections of the resident’s ages. Chris confirmed that the projections were subject to revision every five years. Teresa Lutes confirmed that the numbers were the same as the previously adopted numbers.

The motion passed.

17) Presentation on areas currently and preliminarily identified with water supply shortages over the 50 year water planning period

Bill Couch noted that information on projected shortages was included in the meeting packet.

18) Discuss and possible action on the process for identification of potentially feasible water management strategies that will be evaluated in preparation of the 2006 Lower Colorado Regional Water Plan

David Meesey said that he wants the group to give direction on which strategies should be pursued and would like a general idea of how to look at the strategies. Jennifer Walker asked if the group can look at existing strategies again. Bill Couch said that it was unclear as it is an evolving issue, but currently officially they may not be unless there are changed conditions. David said that now is the time to tell the consultant which strategies are not desirable. Julia Marsden asked if strategies could be eliminated at the next meeting. It was agreed to wait.

19) New/Other Business

Julia Marsden wanted to thank Cole Rowland for his work on the group. He has been an important and actively

contributing member who not only served his interest group but also the group as a whole.

20) Calendar

10 AM, February 25, Aqua Water Supply Offices, Bastrop – Regular Meeting
March 31, Bay City – Regular Meeting

21) Agenda for next meeting

Agenda items for next meeting include:

- (a) BS/EACD Groundwater Plan
- (b) Hickory UWCD Groundwater Plan
- (c) TPWD and TWDB instream flow presentation
- (d) Supplemental funding for water management strategies
- (e) Process to identify potentially feasible water management strategies
- (f) Possible resolution in response to senate interim committee testimony

22) Public Comments

None.

23) Adjourn

The group would like to thank Aqua Water Supply Corp. for providing lunch.

Meeting minutes prepared by Dan Strub for Teresa Lutes, Secretary, Lower Colorado Regional Water Planning Group (2/17/04). These minutes of the Lower Colorado Regional Water Planning Group January 28, 2004 meeting were approved in a motion passed at the February 25, 2004 Lower Colorado Regional Water Planning Group meeting.

<u>Signature on File</u>	<u>2/25/2004</u>
TERESA LUTES, SECRETARY	DATE
Lower Colorado Regional Water Planning Group	