



MEETING MATERIALS

October 6, 2010

Lone Star Convention and Expo Center

Agenda Item 2

Review and approve minutes of August 4, 2010 meeting.

MINUTES
REGION H WATER PLANNING GROUP MEETING
10:00 A.M.
August 4, 2010
LONE STAR CONVENTION AND EXPO CENTER
9055 FM 1484
CONROE, TEXAS

MEMBERS PRESENT: John R. Bartos, Robert Bruner, Mark Evans, Bob Hebert, John Hofmann, John Howard, Gena Leathers, Glynn Leiper, Ted Long, Marvin Marcell, Jimmie Schindewolf, William Teer, Steve Tyler, Danny Vance, C. Harold Wallace, and Pudge Willcox

DESIGNATED ALTERNATES: Charles Dean for John Blount, Lisa Lattu for Jun Chang, Jace Houston for Reed Eichelberger, David M. Bailey for Art Henson, and Tom Michel for Ron Neighbors

MEMBERS ABSENT: Roosevelt Alexander, Robert Istre, and James Morrison

NON-VOTING MEMBERS PRESENT: Jaime Schubert, Temple McKinnon, and Melinda Silva

PRESIDING: Mark Evans, Chair

CALL TO ORDER PUBLIC MEETING AT 10:12 A.M.

MINUTES OF APRIL 7, 2010 AND JULY 7, 2010 MEETINGS

Motion was made by Danny Vance to approve the minutes of April 7, 2010 and July 7, 2010; seconded by John Bartos. The motion carried.

RECEIVE PUBLIC COMMENTS ON SPECIFIC ISSUES RELATED TO AGENDA ITEMS 5-8

No comments were made by the public. Mark Evans closed the public comment period at 10:19 a.m.

RECEIVE PRESENTATION FROM CONSULTANT TEAM REGARDING CHANGES TO THE INITIALLY PREPARED PLAN IN ORDER TO PREPARE THE FINAL REGIONAL WATER PLAN

Jason Afinowicz explained the changes to the Regional Water Plan. He discussed the water management strategies, other changes and updates, and the IFR Survey. Mr. Afinowicz then outlined the next steps after adoption of the Plan by the group.

Harold Wallace suggested to the consultants that the acronyms should be spelled out in the beginning of the presentation to clarify things.

CONSIDER AND TAKE ACTION TO ADOPT THE 2011 REGIONAL WATER PLAN FOR REGION H AND AUTHORIZE THE CONSULTANT TO TRANSMIT THE ADOPTED DOCUMENT TO TWDB

John Howard apologized for missing the last meeting. He questioned the sources of supply and voiced his concern about filling Allens Creek Reservoir with groundwater. Jason Afinowicz summarized the previous meeting to bring Mr. Howard up to speed on the desalinization and off-channel reservoirs.

Discussion ensued regarding the recommendations related to reservoir sites and water needs. John Hofmann suggested that more research is needed for projects currently on the table. Marvin Marcell commended remarks from Mr. Howard and Mr. Hofmann. He stated that serious planning is necessary to insure that a less expensive option is chosen.

Bob Hebert voiced his decision to abstain from the vote on the Plan. He mentioned that he did not have enough information regarding the off-channel reservoir in Fort Bend County to vote in support.

Further discussion ensued regarding supply, demand, and cost. John Howard mentioned that the majority of the group's discussions have been focused on demand and that hard studies are needed regarding supplies and the related costs. Danny Vance explained that the cost of all water projects is absorbed by the people who will benefit because the projects are built by local sponsors. He explained the history of regional water financing in Texas.

Motion was made by Danny Vance to consider and take action to adopt the 2011 Regional Water Plan for Region H and authorize the Consultant Team to transmit the adopted documents to the Texas Water Development Board; seconded by Steve Tyler. Bob Hebert abstained. The motion carried unanimously with the one abstention noted.

CONSIDER THE APPOINTMENT OF A COMMITTEE TO DEVELOP A LIST OF FOCUSED STUDY ITEMS FOR THE DEVELOPMENT OF THE 2016 STUDY ROUND

Mark Evans discussed the appointment of a special committee to: (1) consider the scope for the next round of planning; (2) coordinate the development of a request for qualifications for selecting consultant services for the next round of planning; and (3) recommend any legislative issues for special support from the Region H Planning Group.

Mark Evans asked the group for volunteers to serve on the committee. Volunteers are as follows: Jimmie Schindewolf, Tom Michel for Ronald Neighbors, John Hofmann, Jun Chang, Jace Houston for Reed Eichelberger, and Gena Leathers.

AGENCY COMMUNICATIONS AND GENERAL INFORMATION

Temple McKinnon stated that the TWDB was looking forward to receiving the regional plans and commended the Region H Consultant Team for its excellent work in processing and responding to comments on the IPP. She also explained the reason the TWDB was recommending that the various regional planning groups go through the exercise of reprocurring consultant services.

GENERAL PUBLIC COMMENTS

No comments were made by the public.

NEXT MEETING:

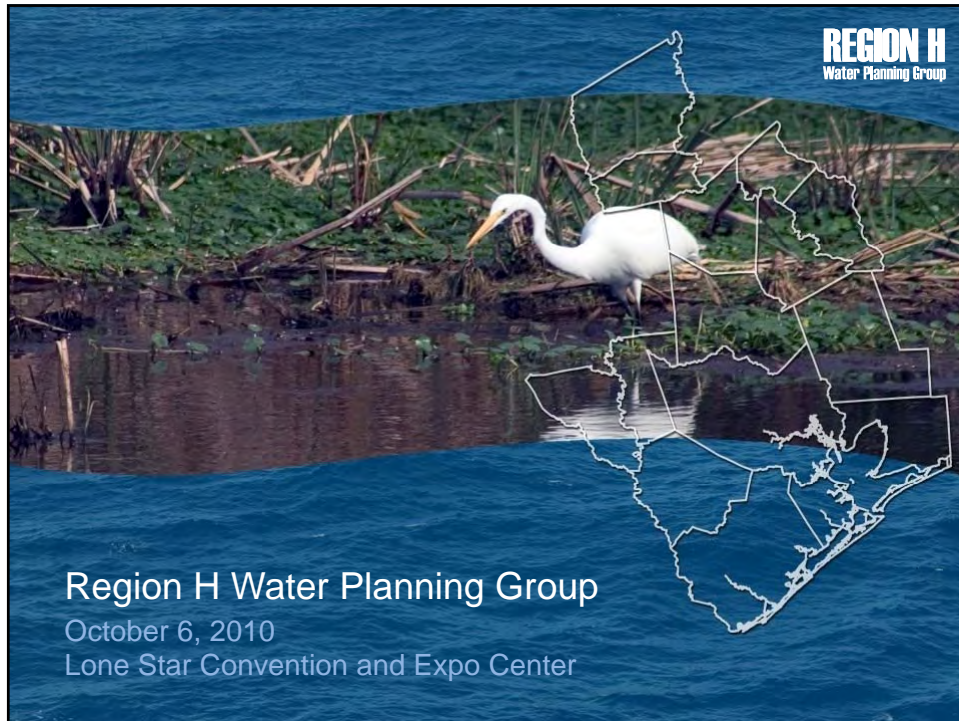
October 6, 2010
Lone Star Convention and Expo Center
9055 FM 1484
Conroe, Texas 77303

ADJOURNED AT 11:00 A.M.

Agenda Items 3-4

Receive public comments on specific issues related to agenda items 4-6.

Receive presentation from Consultant Team and Texas Water Development Board on status of Regional Water Plan submittal



Focus for Today's Meeting

REGION H
Water Planning Group

- Update Region H activities since last meeting
- Update IFR survey progress
- Update status of Senate Bill 3 (Environmental Flows)
- Update status of Groundwater Management Areas (GMAs)

Region H Activities Since Last Meeting



- Plan approved by Group on August 4, 2010
 - Updates to Chapters 9 and 10
- Delivered to TWDB on August 26, 2010
- Plan scheduled for TWDB Board final approval Nov. 11
- Responses to public comments have been mailed
- Ongoing Tasks
 - Continue updates to IFR Survey
 - Post Plan to agencies and Region H counties
 - Provide electronic copy of Plan to Region H RWPG members

IFR Surveys - Progress



- Responses:
 - Online Survey Application is currently being updated by WUGs and WWP
 - 43 (19%) have completed the survey as of October 5
 - Respondents associated with 89% of projected costs for survey
 - 36 surveys returned in 2006 Plan
- Total requested is \$7.2 Billion
 - 60% of \$12 Billion estimated
 - \$112 Million in 2006 Plan



IFR Surveys - Changes to the Plan

- The cumulative total of financial assistance currently identified is \$7,155,724,055
- Most entities requested funding from the WIF-Construction Program
- The projects identified in the survey anticipate that funding will be required as early as 2011 and as late as 2056

Program	Total Requested (\$)
WIF-Deferred	\$1,070,022,429
WIF-Construction	\$5,527,793,792
State Participation	\$556,026,651
Rural Water Assistance	\$967,000
Economically Disadvantaged Areas	\$914,183
Total	\$7,155,724,055

Update on SB3 and GMA Process

SB3 Process and Surface Water Availability

- Current Region H Plan uses “Consensus Criteria” to evaluate surface water availability for all future strategies.
- SB 3 process will establish new TCEQ Rules to potentially replace the Consensus Criteria for planning future surface water projects.

GMA Process and Groundwater Availability

- Current Region H Plan uses best available data for availability from TWDB or groundwater management authorities.
- GMA process will dictate new groundwater availability values for the regional water planning process and for all GCDs in the region.

SB3 – Historical Timeline

- Environmental Flows Advisory Group Created by the 80th Texas Legislature (2007)
- Stakeholders appointed—August 2008
- BBEST appointed—December 2008
- BBEST report submitted to Stakeholders—December 2009
- BBASC report submitted to TCEQ—June 2010
- TCEQ Rulemaking activities started--- August 2010
- **TCEQ Rules to be adopted --- by June 1, 2011**

SB3 – Flow Regime Recommendations

- Basin and Bay Expert Science Team
 - Unable to reach consensus and submitted two reports to the Stakeholders
 - Regime Group Report
 - Conditional Group Report
- Stakeholder Committee Recommendations
 - Unable to reach consensus on flow regime and submitted two separate recommendations to TCEQ
 - Regime Group Report
 - Conditional Group Report
- Work Plan Recommendations
 - Initial meeting at 1:00 p.m. today

SB3 - Policy and Legislative Recommendations

- Synchronization of the state's water planning processes.
- Funding for additional stream flow gauges.
- Funding for SB2 studies and for SB3 studies recommended in work plan.
- Provide adequate schedule and financial resources for the environmental flow determination process.
- Provide adequate funding for the state agencies to support that process.

SB3- TCEQ Rulemaking Activities

- Stakeholder comments received on August 12, 2010.
- Draft rules to be published in Texas Register.
- Open comment period from November 19, 2010 through December 20, 2010.
- Public hearing tentatively scheduled for December 16, 2010.

GMA History

Senate Bill 1 (1997)

- Created the regional water planning process.
- Required certain content in groundwater management plans.
- Groundwater plans needed to address water supply needs **not in conflict** with the appropriate regional water plan.

Senate Bill 2 (2001)

- Authorized the TWDB to designate GMAs that would include all major and minor aquifers of the state.
- Required GCDs to share groundwater plans with other districts in the GMA.
- Allowed a GCD to call for joint planning among districts in a GMA.

GMA History (cont.)

House Bill 1763 (2005)

- Required GCDs in each GMA to meet at least once every year and to define the *desired future condition (DFC)* of the groundwater resources within the GMA.
- Based on the DFC, the TWDB delivers managed available groundwater (MAG) values to GCDs and RWPGs for inclusion in their plans.

82nd Legislative Session

- Further changes possible?

GMA's Included in Region H

GMA 14- DFC adopted August 25, 2010

- Bluebonnet GCD (Austin, Grimes, Walker, and Waller Counties)
- Brazoria County GCD (Brazoria County)
- Lone Star GCD (Montgomery County)
- Lower Trinity GCD (Polk and San Jacinto Counties)
Also Participating
- Harris Galveston Coastal Subsidence District (Galveston and Harris)
- Fort Bend Subsidence District (Fort Bend County)

GMA 11- DFC adopted April 13, 2010

- No GCD (Trinity County)

GMA 12 – DFC adopted August 11, 2010

- Mid-East Texas GCD (Leon and Madison Counties)

Aquifers within Region H

- Gulf Coast Aquifer
- Carrizo-Wilcox Aquifer
- Queen City Aquifer
- Sparta Aquifer
- Yegua-Jackson Aquifer
- River Alluvium Aquifers (Brazos, San Jacinto, Trinity)

Agenda Item 5-8

Receive presentation from Scoping Committee regarding legislative recommendations and preparation for 2016 planning round

Receive presentation from the Harris-Galveston Subsidence District on their Regulatory Plan Review

Agency communications and general information

Receive public comments

Legislative Recommendations

Interbasin Transfers

Discussion: Senate Bill One states that water rights developed as a result of an interbasin transfer become junior to other water rights granted before the interbasin transfer permit. Senate Bill One made obtaining a permit for interbasin transfer significantly more problematic than it was under prior law and thus, it discouraged the use of interbasin transfers for water supply. This is undesirable for several reasons.

First, current supplies greatly exceed projected demands in some basins, and the supplies already developed in those basins can only be used via interbasin transfers (e.g. Trinity Basin within Region H).

Second, interbasin transfers have been used extensively in Texas and are an important part of the state's current water supply. For example, three of the five Region H Major Water Providers (City of Houston, Trinity River Authority and San Jacinto River Authority) maintain current permits for interbasin transfers collectively of over 1,000,000 acre-feet per year. Virtually all future water demands within the San Jacinto basin (Harris County in particular) of Region H must rely on interbasin transfers.

Third, emerging regional water supply plans for major metropolitan areas in Texas (Dallas-Fort Worth and San Antonio) rely on interbasin transfers as a key component of their plans. It is difficult to envision developing a water supply for these areas without significant new interbasin transfers.

Policy Recommendation: The Region H Water Planning Group recommends that the legislature revise the current law on interbasin transfers and remove the unnecessary and counterproductive barriers to such transfers that now exist.

Texas Bays and Estuaries Program Funding

Discussion: The RHWPG has adopted specific language associated with establishment of freshwater inflows to maintain the health and productivity of the bay. Galveston Bay is an important economic and recreational resource for our region. Currently, TWDB and TPWD are working on modeling and development of flow recommendations for minor estuaries. Review of the Galveston Bay freshwater inflow study began in 2007 with the TPWD, TCEQ and interested stakeholders. However, the current levels of funding within the State of Texas Bay & Estuary program are insufficient to continue the needed monitoring, study, and development of management strategies for the bay.

Policy Recommendation: The Region H Water Planning Group recommends establishment of additional funding to pursue necessary future efforts of the Galveston Bay & Estuary program.

Rule of Capture

Discussion: Groundwater is a vital resource within Region H. This is especially true within the rural counties of the region that are predominantly dependent on groundwater. Current groundwater law based on the Rule-of-Capture has facilitated orderly development of groundwater systems throughout the State of Texas and, barred the intrusion of private interests, and it could continue to serve the water usage interests throughout the state. It appears that the Rule-of-Capture could continue per the status quo to serve the groundwater interests within the region.

Policy Recommendation: The Region H Water Planning Group supports continued usage of the Rule-of-Capture as the basis of groundwater law throughout the State of Texas except as modified through creation of certified groundwater conservation districts.

Groundwater Conservation Districts

Discussion: Region H communities, particularly those within the rural areas of the region, are dependent on groundwater supplies. Groundwater is a very valuable resource to this region. Region H contains counties, specifically Austin, Leon and Madison, where some municipalities, water supply corporations and property owners believe Groundwater Conservation Districts (GCD) are needed to retain long-term groundwater supplies within their respective counties. Region H also has several counties, including Brazoria, Waller and Montgomery, where groundwater supplies will, in theory, reach their maximum sustainable yield due solely to projected in-county water usage rates. A GCD is a potential vehicle for these counties to manage and protect groundwater supplies from over-development within each respective county. Senate Bill 2 of the 77th Legislature authorized the formation of four new GCDs in Region H (Bluebonnet, Brazoria County, Lone Star and Mid-East Texas) to manage and protect groundwater resources.

Policy Recommendation: The Region H Water Planning Group supports creation of GCDs, as necessary, by local subarea water interests. The RHWPG supports development of truly regional GCDs as opposed to single county districts to recognize the regional expansiveness of underground aquifers and to provide the greatest degree of regional water supply protections.

Water Supply Project Financing Mechanism

Discussion: The Region H Regional Water Plan includes development of several surface water reservoirs and other supply projects. The capital cost to develop these projects is significantly higher than the historic cost of water supply projects. The high projected costs dissuade local communities from making a financial commitment to support future projects. These financing issues will delay the implementation of needed projects.

The 80th Texas Legislature (2007) appropriated funding to enable issuance of \$440 million in bonds for the Water Infrastructure Fund (WIF) to fund water plan projects. The program is designed with a maximum repayment period of 20 years, which may not be adequate for financing larger projects such as surface water reservoirs. Instead this recommendation is requesting that the State Participation Program funding be increased as needed to fund long term supply projects. This program enables the Water Development Board to assume a temporary ownership interest in a regional project when the local sponsors are unable to assume debt for an optimally sized facility. Payments on the funds provided by the State are deferred until a customer base grows into the capacity it funded. The deferred interest payments do not accrue additional interest. By funding up to 50% of a project, the program helps the local sponsors optimize facility size and avoid later expansions and replacements.

Policy Recommendation: To address this situation, the Region H Water Planning Group supports establishment of financing methods by the State of Texas to capitalize a fund to support development of water supply projects recommended within adopted RWPs.

Groundwater Availability Modeling Funding

Discussion: Many areas of Region H are totally dependent on groundwater to support the long-term viability of these areas. The current Groundwater Availability Modeling (GAM) effort is supported since it is the most comprehensive groundwater assessment and analysis effort of the previous 20 years. The current GAMs effort, however, is omitting minor aquifers and other groundwater considerations that are vital for certain local communities.

Policy Recommendation: The Region H Water Planning Group supports continued funding for the GAMs effort and recommends comprehensive analysis of all groundwater resources within the state.

Agricultural and Irrigation Conservation Funding

Discussion: The Region H water management plan includes a number of irrigation conservation based water management strategies. It is apparent that adoption of irrigation conservation practices may benefit the irrigation and agricultural industry in addition to local communities that may take advantage of water supply savings resulting from irrigation conservation. Additionally, the RHWPG supports further research and development of water-efficient and drought-resistant crop and species.

Policy Recommendation: The Region H Water Planning Group supports funding of research and development studies associated with the efficient usage of irrigation technologies and practices.

Water Conservation

Discussion: The RHWPG strongly supports water conservation at all levels. The RHWPG has incorporated water conservation in the regional water plan as a management strategy. However, realizing advanced conservation savings in municipal county-other areas may be difficult, as these practices require some management, funding and oversight. While the RHWPG does not advocate a one-size-fits-all conservation program for the State of Texas, they recommend that the legislature address water conservation and provide some guidance and ability for county and local governments to implement these programs. The 78th Legislature appointed a Water Conservation Task Force to study water conservation policies and best management practices, and to report their results to the 79th Legislature in 2005. The 80th Legislature passed Senate Bill 3 creating a Water Conservation Advisory Council consisting of 23 members to provide a resource with expertise in water conservation.

Policy Recommendation: Region H Water Planning Group supports water conservation and recommends that the legislature continue to address and improve water conservation activities in the state.

Water Conservation Research Funding

Discussion: The Water Conservation Implementation Task Force identified numerous best management practices in TWDB Report 362 – Water Conservation Best Management Practices Guide. The Best Management Practices outlined in the report were developed using information compiled from past research and studies along with information provided by the task force members. Additional water-saving technologies may still be developed in the future.

Policy Recommendation: The Region H Water Planning Group recommends that the State fund research into advanced conservation technologies.

Wastewater Reuse

Discussion: The TCEQ water rights permitting process for wastewater reuse needs to be clarified. Conflicts exist between Texas Water Code Sections 11.042 and 11.046 regarding the permitting of indirect reuse water. Section 11.042(c) states that return flows, once introduced to the stream, are property of the State of Texas and are therefore subject to appropriation by others. However, Section 11.046(b) and (c) allow the owner of return flows to obtain a bed-and-banks permit to transport this water to a place of reuse. This leads to potential conflicts between downstream appropriators and those who wish to indirectly reuse effluent.

Furthermore, the TCEQ has issued some water rights permits based on the existence of return flows in the river, and in the adjudication process, some claims were established based on return flows. Additionally, some bed and banks permits were issued with priority dates while others were issued without priority dates. Because of these issues and the conflicts discussed above, it is difficult to analyze indirect reuse as a water management strategy. Due to these significant unanswered, outstanding questions, the benefits and yields from reuse projects cannot be accurately estimated under the current regulatory environment. Specific regulatory issues that need to be resolved or clarified are outlined below:

1. A policy for establishing a priority date, if any, for an indirect reuse authorization (i.e., bed-and-banks authorization) should be developed.
2. Conflicts between Texas Water Codes 11.042 and 11.046 relating to the ownership of return flows (water right holders, groundwater users, and the State) need to be resolved.
3. A policy for establishing the method and technical approach for evaluating indirect reuse permits (i.e., “no injury” analysis, WAM Run 3, WAM Run 8, etc.) needs to be developed.
4. Clarification regarding the ownership of return flows and the right to permit return flows for indirect reuse needs to be provided. The issue of third-party permitting of return flows needs additional clarification.
5. Additional clarification regarding the notification requirements for reuse permits, addressing both new discharges and historically discharged effluent, should be developed to ensure the protection of existing water rights.

These above issues directly impact water management strategies recommended in the Region H Water Plan. In addition, Sections 11.042 and 11.046 of the Texas Water Code have not been amended to provide additional clarification. Therefore, regulatory clarification is required.

Policy Recommendation: The Region H Water Planning Group recommends that TCEQ resolve the issues related to the permitting of indirect reuse water rights. In addition, the RHWPG supports wastewater reuse as a management strategy, and recommends it to be advocated statewide through targeted State funding or other incentives to promote reuse projects.

Flood Liability of Water Supply Reservoirs

Discussion: Flood control reservoirs are generally drawn down at the beginning of the annual wet season so that when large rain events occur, the runoff may be captured and later released more slowly into the receiving stream. These reservoirs therefore reduce downstream flood levels and prevent inundation in low areas. In contrast, water supply reservoirs are operated to capture and retain as much stream flow as allowable under their permits in order to have supply available during periods of high demand. This practice results in less available storage volume to capture runoff during major storms.

When a major storm event occurs upstream or above a water supply reservoir, the reservoir operator must sometimes release flood flows during and after the event to prevent flooding upstream of the reservoir or to prevent damage to the dam and other facilities associated with the reservoir. Although this flood flow can contribute to downstream flooding, most reservoirs actually reduce the amount of flooding which could have occurred had the reservoir not been constructed.

In recent years, plaintiffs with property in the downstream floodplains have brought multiple lawsuits against major water supply reservoir operators. Some recent court decisions have held the operators liable for damages to the downstream properties. If this trend is allowed to continue, it will increase insurance rates for these entities and will force operational changes to occur that may result in less available water supply for periods of need. The net effect to water users will be an increase in the cost of surface water throughout the state.

Policy Recommendation: Consider State legislation clarifying the liability exposure of reservoir operators for passing storm flows through water supply reservoirs.

Incorporation of Technology Advancements in Projections

Discussion: Current population projections based on traditional historic growth patterns may not accurately reflect the changes likely to occur in the future as digital connectivity continues to alter our economic, educational and social institutions.

Policy Recommendation: The Region H Water Planning Group recommends that the State direct the State Demographer's office to explore the potential changes in population distribution made possible by rapid advancements in information technology.

Ongoing RWPG Activities

Discussion: It is apparent that the RWPGs will have to meet periodically to address changed conditions related to the adopted regional water management plans. Ongoing activities will include, but not be limited to:

1. Consideration of additions and modifications to the adopted plans
2. Serving as communications liaisons with the water user communities within each region
3. Assisting in the reconciliation of inter-regional water issues

It will be necessary to consider additional and adequate funding to support maintenance of the RWPGs. Also, the administrative provisions of Senate Bill One and the subsequent policies that have been enacted should be reviewed to determine if the appropriate organizational structure exists to accomplish the work of the RWPGs. Additional funding should be developed to support technical studies necessary to support the needs of the RWPGs.

Policy Recommendation: The Region H Water Planning Group recommends that the TWDB request additional and adequate funding and the adoption of the appropriate administrative procedures from the legislature to facilitate ongoing activities of the RWPGs.

Regulatory and Administrative Recommendations

Consistency with the Regional Water Plans

Discussion: Water rights applications must be consistent with the Regional Water Plans in order to be approved. The TCEQ has interpreted this to mean that the requested water right must be directly linked to a recommended water management strategy; otherwise, the applicant has had to petition the Regional Water Planning Group (RWPG) for a plan amendment to add their permit application. RWPGs should not be required to formally adopt or amend the regional plan to include a proposed management strategy for water supply in order for new water rights applications to be evaluated by the TCEQ. This creates a situation that can deter the study of viable alternatives by agencies outside the RWPG and may ultimately block their ability to obtain permits for new supplies that the agencies need to meet their future demands. These alternatives may be preferable to existing management strategies (such as building reservoirs) that were previously recommended by the RWPG. A water right application that is not in conflict with the regional water plan (i.e., does not compete for supply allocated in the plan) should be considered consistent with the plan by the TWDB and TCEQ. If the strategy would benefit the region, it could then be added to the plan as a formal management strategy in the next five-year update, undergoing the full analysis, consideration, and Public Hearing process.

Recommendation: The Region H Water Planning Group recommends that the Agency rules be amended to clarify the consistency requirement. Only those water rights applications in conflict with the current regional water plan should be referred to the RWPG for amendment.

Quantitative Environmental Analysis

Discussion: The Regional Water Planning Guidelines require that the evaluation of potentially feasible water management strategies include a quantitative analysis of environmental factors including effects on environmental water needs, wildlife habitat, cultural resources, and effect of upstream development on bays, estuaries, and arms of the Gulf of Mexico (31TAC357.7.(a)(8)(A)). The TWDB has provided detailed guidance on specific study methods to be used in determining population, water demand, socioeconomic impacts and yield from current and proposed supply sources, but it has not provided similar guidance in the area of environmental impacts. This lack of specificity is resulting in different methods being used in different regions. Additionally, it places the planning groups at risk of needing to conduct additional analysis after state agencies review the Initially Prepared Plans, and add those results to the report after the public review period has closed.

Policy Recommendation: The Region H Water Planning Group recommends that the TWDB determines, in conjunction with the TCEQ and TPWD, which specific environmental studies and analysis are required for each category of management strategy (i.e., new water right, new reservoir, etc.). Furthermore, the guidance should be added to the Planning Guidelines, so that RWPGs can reflect the cost of those requirements in their budgets and scopes of work. Adding environmental guidelines will also make water plans consistent across the State.

TPDES Permitting of Wastewater Reclamation Facilities

Discussion: Existing Texas Pollutant Discharge Elimination System (TPDES) permit requirements do not encourage, and in fact discourage, wastewater reuse and reclamation. This recommendation relates solely to issues in the TPDES permitting process and not rules directly applicable to the use of reuse and reclaimed water outlined in TCEQ Section 210. Authorization of reclaimed water use may require a new or amended permit when the treatment results in a discharge of wastewater into waters within the state.

This effectively double-counts the waste load from a facility and could potentially provide a regulatory obstacle for some wastewater reuse projects.

In terms of wastewater reuse (e.g., without further treatment), a violation of an end-user's discharge permit could be caused by using effluent to replace or supplement another water source. An example would be an industry, whose discharge is close to its permitted limit for a given constituent, exceeding that limit by virtue of its use of effluent from a separate wastewater treatment plant.

In terms of wastewater reclamation (e.g., with further treatment), permitting the discharge from a wastewater reclamation facility could be difficult and unnecessarily expensive in certain cases. Wastewater reclamation often entails advanced treatment of wastewater discharged from one or more treatment facilities for industrial use. If this advanced treatment facility is separate, it may require a separate TPDES permit. Under current TCEQ rules for consolidated permits, discharges from a new facility are considered as occurring *in addition to* all currently permitted discharges for the purpose of assessing the collective effect on the receiving stream. While this is the correct procedure for evaluating a discharge from a new waste source, it effectively double-counts the waste load from a reclamation facility; once at the original plant, and again at the additional treatment facility. Designing a reclamation facility to sufficiently mitigate this double-counting is unneeded and may be cost-prohibitive. In actuality, the waste load should be divided between the applicable facilities depending upon the reuse and reclamation demands.

Therefore, the permitting process should be modified to address both reuse and reclamation projects that draw effluent from existing wastewater plants, so that daily loads may be accurately assessed on a combined maximum daily load and maximum daily concentration basis. Wastewater plants should be permitted accordingly.

Policy Recommendation: The Region H Water Planning Group recommends that the TCEQ clarify the TPDES rules for wastewater permitting so that the environmental impacts of reuse and reclamation facility discharges are assessed in conjunction with appurtenant reductions in discharges for their source water facilities. This will eliminate double-counting of waste loads and remove a potential obstacle for some wastewater reuse projects in the State.

Recommendations Specific to Infrastructure Financing

Program / Policy Item: State Participation Program for regional water and wastewater projects

Discussion: This program enables the Water Development Board to assume a temporary ownership interest in a regional project when the local sponsors are unable to assume debt for an optimally sized facility. Payments on the funds provided by the State are deferred until a customer base grows into the capacity it funded. The deferred interest payments do not accrue additional interest. By funding up to 50% of a project, the program helps the local sponsors optimize facility sizes and avoid later expansions and replacements.

This program will be extremely important for the development of the recommended water management strategies, as well as for water treatment and distribution systems. Large projects, particularly reservoirs, must be developed in anticipation of future demands due to the long periods of time required for planning, permitting, property acquisition and construction. For example, Bedias Reservoir, which will require a transmission system as well as the reservoir itself, is estimated to cost \$194.3 million. The current customer base cannot support this high cost. The Bureau of Reclamation no longer funds the development of new water supply reservoirs and this project would not qualify for other federal funding. Therefore, the State Participation program is one of the few programs available to assist local sponsors with this water management strategy. Other reservoir projects within Region H could also experience similar financing issues.

The State Participation Program will also be important during the expansion of surface water service into areas affected by subsidence. As areas develop and implement Groundwater Reduction Plans, it is expected that communities will develop plans for regional treatment and distribution systems to reduce costs. State participation in these facilities will allow them to be optimally sized at their inception. The State Participation Program offers the important advantage of reducing the unit costs for water service for both existing and future water users of the optimally sized facility.

Policy Recommendation: Increase funding of the State Participation Program as needed to allow development of these water supply projects.

Program / Policy Item: State Revolving Fund Programs (Drinking Water State Revolving Fund and Clean Water State Revolving Fund)

Discussion: These programs provide loans at subsidized interest rates for the construction of water treatment and distribution systems and for source water protection (DWSRF) and for wastewater collection and treatment systems (CWSRF). As the loans are paid off, the TWDB uses the funds to make new loans (thus the name Revolving Fund). State funds for the program receive a federal match through the Environmental Protection Agency. These loans are intended for projects to bring existing systems into compliance with rules and regulations, and are available to political subdivisions, water supply corporations and privately-owned water systems. Applications are collected at the beginning of each year, given a priority ranking, and funded to the extent possible. Projects not funded in a given year may carry forward into the next year's ranking.

These programs are important in that they assist sub-standard water systems in attaining the minimum water quality mandated by Federal and State regulations, but they are not intended to fund system expansions due to projected growth. However, these programs may apply to individual systems in the Region experiencing water quality declines, or to those systems affected by the changed standard for Arsenic. The SRF Fund may also provide assistance to water providers with aging treatment systems and transmission lines.

Policy Recommendation: Increase the funding of this program in future decades, and expand the program to include coverage for system capacity increases to meet projected growth for communities.

Program / Policy Item: State Loan Program

Discussion: The State Loan Program provides loans to Political Subdivisions and Water Supply Corporations for water, wastewater, flood control and municipal solid waste projects. Payments are not deferred in this program as they are under the State Participation Program, and the interest rates are not subsidized as they are in the Revolving Fund Programs. These loans are available for both local projects and for the local sponsors of regional projects. Acquisition and construction of water treatment and distribution systems are eligible for funding. Loans are made on a first come, first served basis.

This program will be heavily utilized in groundwater-served areas introducing surface water to meet current and projected demands. The ready availability of groundwater across the region has allowed development to occur outside existing surface water service areas. As the limits of available groundwater are reached (sustainable yields and/or regulatory limits), surface water treatment and transmission systems must be constructed to meet future demands. The costs are significant in that they are required in a short time span, instead of initiated and expanded over time as they are in areas originally served by surface water. Where local rate payers cannot afford to directly pay for transition costs, State loans offer a significant cost advantage over most commercial and many public funding options, using the State's high bond rating rather than the rating of the local sponsor.

Policy Recommendation: Increase funding of this program to meet near-term infrastructure cost projections.

Program / Policy Item: Agricultural Water Conservation Loan Program

Discussion: This program provides loans to soil and water conservation districts, underground water conservation districts and districts authorized to supply water for irrigation. These districts may further lend the funds to private individuals for equipment and materials, labor, preparation and installation costs to improve water-use efficiency related to irrigation of their private lands. There is also a grant program for equipment purchases by eligible districts for the measurement and evaluation of irrigation systems and agricultural water conservation practices, and for efficient irrigation and conservation demonstration projects, among others. However, these grants are not available to individual irrigators. Similar Federal loan and grant programs are available, but require a 25% to 50% local match.

In the Region H Water Plan, irrigation conservation is a recommended strategy in six counties (Brazoria, Chambers, Fort Bend, Galveston, Liberty and Waller), and is extremely important in Waller County where the reductions in irrigation are projected to allow reallocation of supply to meet municipal demands. As it is unlikely that municipalities will seek out and fund irrigation conservation projects, the task of encouraging conservation will fall to the wholesale water providers and those government entities with jurisdiction in those counties. Even with Agricultural Water Conservation Loan Program assistance, irrigators will be slow to invest in water-conserving equipment until water rates increase, making it economically advantageous to do so. The difficulty increases in areas where groundwater is the primary supply source for irrigation.

Eligible districts will need to act as conservation brokers, identifying those irrigators with the potential to reduce water demand through equipment improvements, and matching them with available loans. By reducing usage in this manner, water suppliers will be able to provide the saved portion of their supply to new customers. To assist with the immediate adoption of these improved conservation practices, a one-time grant or subsidy program for water-efficient equipment purchases may help by reducing the loans

amounts required by each irrigator. If the requirements of an existing Federal loan or grant program could be met, the State could provide all or part of the local matching share. Since the methods used by irrigators vary across the state, such a program would need to be flexible, with local oversight provided by those districts currently eligible for the Agricultural Water Conservation Loan Program. Consistency with the applicable Regional Water Plan may be included as a prerequisite for this program, as it is for other State grants and loans.

Policy Recommendation: Provide a mechanism to leverage Federal grant programs by providing the local matching share. Increase funding of this loan program and consider adding a one-time grant or subsidy component to stimulate early adoption of conservation practices by individual irrigators.

Program / Policy Item: Texas Community Development Program

Discussion: The federal Community Development Block Grant program provides grants and loans to low-income communities for certain projects, including water and wastewater infrastructure. It is administered in Texas under the Office of Rural Community Affairs as the Texas Community Development Program. The Small Town Environment Program (STEP) under the TCDP provides water and sewer system grants to cities and counties not eligible for funding under the Colonias or Economically Disadvantaged Areas Programs (EDAP). Within Region H, there are no Colonias or EDAP-eligible communities, but STEP grants may be obtained.

Policy Recommendation: Continue State and Federal support of the Texas Community Development Program, and increase the allocation of funds for the Small Town Environment Program.

Program / Policy Item: Regional Water Supply and Wastewater Facilities Planning Program

Discussion: This program provides planning grants to Political Subdivisions for studies and analyses to determine feasible alternatives for regional water supply and wastewater facility needs. The planning must include more than one service area or political subdivision to be considered regional. Grants are generally limited to 50% of the total cost, and cannot be applied to the preparation of state and federal permits, administrative or legal proceedings of regulatory agencies, or the preparation of engineering plans and specifications.

This grant program can assist in planning for local areas, particularly the unincorporated areas of each county. Local sponsors investigating the best means to serve their populations may join with neighboring communities and water providers and request a planning grant, thus reducing their individual planning costs. Determination of the optimal institutional arrangement between political subdivisions is one of the eligible study areas under this program. Should a regional facility prove to be the best solution for the group, they may elect to pursue additional support from the State Loan and Participation programs.

One limitation of the program is that it cannot be applied to the detailed facility planning or preliminary engineering design of the proposed facility. These early engineering phase costs can represent as much as 30% of the cost of the facility, and generally must be completed before accurate financial requirements can be defined. Inclusion of these costs in either the planning grant or pre-project loan programs would better help these small communities develop the projects they need.

Policy Recommendation: Increase funding of this program in anticipation of upcoming development throughout the state, and expand the program to include the preliminary engineering design costs for recommended facilities.

Program / Policy Item: Water and Waste Disposal Loans and Grants from the USDA Rural Utilities Service

Discussion: This Federal program provides loans and grants in rural areas and communities of up to 10,000 people for water, wastewater, storm water and municipal solid waste projects. The program is intended for communities that cannot obtain commercial loans at reasonable rates. Loans are made at or below market rates, depending upon the eligibility of the recipient. Grants can cover up to 75% of project costs when required to reduce user costs to a reasonable level. A separate program of Emergency Community Water Assistance Grants (up to \$500,000 per project) is also available to communities experiencing rapid declines in water quality or quantity.

This program is similar to the state loan and revolving fund programs. It offers another option to small communities and rural areas unable to finance required infrastructure without assistance. However, this is a nationwide program, and the competition for available funds is correspondingly greater. Colonias and border areas are specifically identified as target areas for the grant portion of this program, and it is therefore in the State's interest to support its continued funding.

The TWDB was recently authorized by the 77th Texas legislature to establish a similar program at the state level. The Rural Water Assistance Fund will provide low-interest loans to municipalities, water districts and non-profit water supply corporations. The program is still under development and has not yet been funded.

Policy Recommendation: Support continued and increased funding of this program at the Federal level, and fund the State Rural Water Assistance Fund.

Program / Policy Item: Desalination Research and Demonstration Projects

Discussion: House Bill 1370 of the 78th Texas legislature directed the Texas Water Development Board to "undertake or participate in research, feasibility and facility planning studies, investigations and surveys as it considers necessary to further the development of cost-effective water supplies from seawater desalination in the state." The TWDB has concluded desalination site assessments, and is preparing to assist in the construction of three demonstration facilities along the Texas Gulf Coast. The Region H Water Planning Group supports this demonstration project.

Policy Recommendation: Provide research grants for the study of current and upcoming desalination technologies available to wholesale and retail water suppliers. Continue to fund appropriate demonstration facilities to develop a customer base, and pursue Federal funding for desalination programs.

Program / Policy Item: Water Research Program - Agriculture

Discussion: The Texas Water Development Board offers research grants to individuals or political subdivisions for water research on topics published in the Board's Request for Proposals. Eligible topics include product and process development.

In the Region H Water Plan, one recommendation to the legislature is to establish funding for agricultural research in the areas of efficient irrigation practices and the development of water-efficient and drought-resistant crop and species. Irrigators cannot generally afford the increased cost of water when new supplies are developed in today's market. By reducing demand in a cost-efficient manner, small irrigators may be able to continue farming. This is another potential topic for the Water Research Program.

Policy Recommendation: Provide increased research grants to study and better develop drought-resistant crop species and efficient irrigation practices.

Program / Policy Item: Federal Civil Works projects

Discussion: The U.S. Army Corps of Engineers (USACE) builds and operates dams and reservoirs for flood control purposes under its Civil Works program. Congress authorizes funding on a project by project basis. Under current regulations, storage in these reservoirs may be used for present and future municipal and industrial water supply, but that portion of the project must be funded by a non-Federal agency. Also, only 30% of the M&I water storage may be allocated to future needs. The balance must supply existing water users, as the repayment schedule for non-Federal costs is capped at 30 years. USACE is also authorized to fund projects for navigation, water quality improvement and ecosystem restoration.

As a result of the first round of Regional Water Planning, the Texas Congressional Delegation requested a study on the potential for federal assistance with water supply in Texas. The Fort Worth District recently published the Texas Water Allocation Assessment Report, which identifies those projects that USACE might participate in. Within Region H, only Bedias Reservoir might receive USACE funding if the scope of the project were modified to include flood control. Also discussed were potential modifications to existing reservoirs to increase water supply yields (these modifications are generally limited to a 15% increase in storage). A saltwater barrier to improve water quality in the Brazos River was also identified as a potential project. USACE also has the ability to provide planning assistance to states for regional water supply studies, particularly studies crossing state and international boundaries.

Limitations for USACE assistance with water supply projects are (1) current policy preventing the USACE from participating in single-purpose water supply projects, (2) USACE inability to share the cost of water supply projects, and (3) the time required to move appropriations actions through the federal government. The Texas Congressional Delegation could pursue changes to the governing regulations to allow participation in water supply projects, or to increase the percentage of water supply storage for future use allowed in USACE projects. However, USACE civil works projects are authorized individually by Congress. If the project sponsor desires USACE assistance, an exception permitting that assistance might be authorized in the same appropriation bill. The latter option requires the sponsor to have a project champion in Congress.

Policy Recommendation: Support regulatory changes that will allow USACE to increase water supply storage in new reservoirs which they construct and manage, and investigate other alternatives for increased involvement by USACE in funding water supply projects.

Program / Policy Item: Regionalization

Discussion: As communities assess the growing costs of water infrastructure, economies of scale can be realized by combining the needs of water user groups into larger, more efficient water supply, treatment and distribution facilities. Regional facilities offer interconnections between existing systems, which can increase overall reliability. The individual system connections to these systems can be phased over time to meet regional demands with less impact on individual systems than each individually trying to expand. In areas where groundwater limits are being reached, regional groups can identify areas where surface water supply is most needed, and allow other areas to remain on groundwater systems. Sharing costs across a wide customer base keeps rates comparable between service areas.

A range of cooperative options exists, including formation of regional authorities, inter-local agreements, public-private partnerships, local government corporations and public contracting with a private regional

supplier. The optimal arrangement between political subdivisions depends upon the specific project and the goals of the parties. Partnerships with private investors through public-private partnerships and direct contracting with privately-owned facilities offer an advantage of using private financing to meet part of the initial planning and construction costs. The regulations governing these partnerships must protect the public represented by the partnership, but if too restrictive, may prevent the partnership from realizing potential cost savings through the use of private-sector procurement and construction practices.

Consideration should be given to reducing procurement restrictions for Local Government Corporations to encourage the pooling of resources for funding regional projects. Also, existing assistance programs should remain available when political subdivisions enter into public/public or public/private partnerships.

Policy Recommendation: Region H supports the forming of regional partnerships and encourages the State to allow them the greatest possible latitude for financing in their governing regulations. Additionally, the State Participation Program should be made available to these public/private partnerships and to private nonprofit water supply corporations.



REGION H WATER PLANNING GROUP

Senate Bill 1 - Texas Water Development Board

c/o San Jacinto River Authority

P.O. Box 329, Conroe, Texas 77305

Telephone 936-588-1111 Facsimile 936-588-3043

Agricultural

Robert Bruner
Pudge Wilcox

October 6, 2010

Counties

John Blount
Judge Mark Evans, Chair
Judge Art Henson

The Honorable David Dewhurst
Lt. Governor of Texas
P.O. Box 12068
Austin, Texas 78711-2068

Electric Generating Utilities

Ted Long

Re: Region H Water Planning Group; Legislative Recommendations

Environmental

John R. Bartos

Dear Governor Dewhurst:

Industries

Genā Leathers
Glynn Leiper

Attached to this letter are the legislative recommendations of the Region H Water Planning Group. These recommendations are included in Chapter 8 of the 2010 Region H Water Plan, which was recently submitted to the Texas Water Development Board as required by law.

Municipalities

Jun Chang
Robert Istre

The members of the Region H Water Planning Group are fully-aware of the significant budget shortfall facing our state elected officials this coming legislative session, and we realize that this means it will be necessary to carefully prioritize the state's spending. Therefore, the purpose of this letter is to highlight one of the Region H legislative recommendations that we believe merits positive consideration for state funding – that is the adequate funding and continuation of the state and regional water planning process through the Texas Water Development Board. The text of the recommendation is as follows:

Public

Roosevelt Alexander

River Authorities

John Hofmann
Danny F. Vance
Reed Eichelberger, Secretary

“Policy Recommendation: The Region H Water Planning Group recommends that the TWDB request additional and adequate funding and the adoption of the appropriate administrative procedures from the legislature to facilitate ongoing activities of the RWPGs.”

Small Businesses

Judge Bob Hebert
John Howard
Steve Tyler

The management strategies and new water supplies identified through the regional planning process are critical to meeting the future water demands of a vibrant and growing state.

Water Districts

Marvin Marcell
Ron Neighbors, Vice-Chair
Jimmy Schindewolf

We appreciate the opportunity to submit the attached recommendations.

Water Utilities

James Morrison
William Teer
C. Harold Wallace

Sincerely,

TWDB Liaison

Temple McKinnon

Mark Evans, Chair



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Judge Mark Evans, Chair
Judge Art Henson

The Honorable Rick Perry
Governor of Texas
State Capitol
P.O. Box 12428

Electric Generating Utilities

Ted Long

Austin, Texas 78711-2428

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The Honorable Joe Straus
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

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Ted Long

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Mark Evans, Chair

Region H Water Planning Group

REQUEST FOR STATEMENT OF QUALIFICATIONS TO PREPARE REGIONAL WATER PLAN FOR REGION H WATER PLANNING GROUP AS DEFINED BY 31 TAC CHAPTERS 355, 357 & 358

The Region H Water Planning Group invites all qualified parties to submit a statement of qualifications for preparing a Regional Water Plan for the Region H Water Planning Group, as defined by 31 TAC Chapters 355, 357 & 358.

BACKGROUND

Senate Bill 1 (SB 1), 75th Legislature, made significant changes in the manner in which state water planning is to be conducted. Notably, SB 1 shifts the emphasis of state water planning from a centralized approach to a regional planning approach. As part of that process, the Texas Water Development Board (TWDB) has designated 16 regional planning areas and has appointed the initial members of regional planning groups. Each region is to prepare a consensus-based regional water plan and submit that plan to the TWDB by September 1, 2015. The TWDB will then assemble those regional water management plans into a State Water Plan to be submitted to the Texas Legislature.

Region H includes all or portions of Leon, Madison, Walker, Trinity, Polk, San Jacinto, Montgomery, Liberty, Austin, Waller, Harris, Chambers, Fort Bend, Galveston, and Brazoria counties.

Under the direction of the Region H Water Planning Group (Region H WPG), the consultant shall prepare a regional water plan. The consultant shall also assist the Region H WPG in preparing an appropriate scope of work that adequately addresses all tasks in 31 TAC 357.7 and contains the elements for a scope of work as defined in 31 TAC 357.6 (3), i.e. the description of tasks, responsible parties, schedule, and description of deliverables.

In addition to the technical role, the consultant shall assist in the preparation of applications for financial assistance, design and implementation of public involvement activities, including conducting public meetings, reviewing and responding to public comments, and developing educational materials on regional water planning issues for presentation to both technical and non-technical audiences in the region.

Consultants submitting qualifications should be familiar with the rules for state and regional water planning and regional water planning grant assistance adopted by the TWDB (31 TAC Chapter 355, Subchapter C, Regional Water Planning Grant Rules; and 31 TAC Chapter 358, State Water Planning Guideline Rules). These rules contain procedures governing applications for financial assistance related to the development or revision of regional water management plans, and guidelines for the development of the state water plan. Particularly, the rules contain specific time frames and requirements for making application for state financial assistance for the development of the scope of work and budget for the development of the regional water plan,

as well as deadlines for the submittal of the scope of work and regional water plan. The schedule for completion and delivery of work products for the Region H WPG shall reflect these publication deadlines.

ADDITIONAL INFORMATION

The purpose of this request for statements of qualifications is to permit the evaluation of the relative professional and technical qualifications of respondents.

The statement of qualifications should be no more than 10 pages in length, including cover letter and resumes of project team members. Responses should address the following:

1. A list of no more than five (5) projects similar to the scope of work discussed herein, with descriptions of the projects, members of the project teams, time schedule, and contact persons who are able to verify the information presented. All projects must have been completed within the past ten (10) years. It is preferred that project descriptions demonstrate the following types of recent work experience:
 - regional water planning for various size regions in Texas;
 - interactions with diverse interest groups and stakeholders participating in regional water planning;
 - facilitating consensus-building and conflict resolution among stakeholders with diverse and potentially-conflicting interests;
 - working with the TWDB in reviewing population forecasts and developing and gaining acceptance of alternative forecasts as necessary;
 - familiarity with data and information available from the TWDB and other sources;
 - familiarity with TWDB's planning grant administration and invoicing requirements;
 - knowledge of statutory and regulatory policies affecting water supply, water quality, water conservation, and drought management issues for both surface and groundwater; and
 - experience with environmental issues and analyses related to water supply development.
2. Your firm's resources and capabilities: including location, size, staffing, and length of local office's existence in Texas;
3. Any planned subcontractor or joint venture arrangement for the project. Information requested in Items 1 and 2 may be submitted for joint venture partner(s);
4. The capability of your firm to commit necessary resources to the project in order to meet the project schedule;
5. Any additional information you would like the Region H WPG to be aware of or which you feel might have a direct bearing on your firm's qualification to perform on the project.

The selection of the successful firm(s) shall be accomplished by a vote of the Region H WPG. Based on the number of responses received and the preference of the members, the Region H WPG may request formal presentations from a short list of selected firms for the project.

SCHEDULE

October 6, 2010	Approve, advertise, and mail notices for Request for Statement of Qualifications.
November 19, 2010	Statement of Qualifications Due
December 2010	Scoping Committee review of SOQs and preparation of recommendation; Scoping Committee may recommend that short-listed firms make a presentation to the Region H WPG.
January 5, 2010	Fifteen-minute presentations by short-listed consultants if requested by Scoping Committee. Region H WPG selects consultant.

ACKNOWLEDGEMENTS

The submittal either as part of the Statement of Qualifications or the cover letter shall provide the following acknowledgments:

Acknowledgment that, if requested, you will prepare and make a presentation to the Region H WPG;

Acknowledgment that, if selected, the key individuals of the proposed team will not be changed without the written approval of the Region H WPG; and

Acknowledgment that, if selected, you will conform to TWDB rules and requirements for grant funding and invoicing.

The deadline for responses to this request is 5:00 p.m. on Friday, November 19, 2010. One (1) electronic copy in PDF format and twenty-five (25) hardcopies of each submittal shall be delivered to Reed Eichelberger, Secretary of the Region H WPG, at the following address:

Reed Eichelberger, P.E.
San Jacinto River Authority
1577 Dam Site Rd
Conroe, Texas 77304
Phone 936-588-1111 Fax 936-588-3043

