

Memo

Date: Friday, May 10, 2019

Project: 2021 Brazos G Regional Water Plan

To: Brazos G Interested Parties

From: The Brazos G Administrative Agent on behalf of the Brazos G Regional Water Planning Group

Subject: Regional Water Plan – Comments regarding Chapter 8 Legislative and Policy Recommendations

The Brazos G Regional Water Planning Group (Brazos G) is in the process of developing Chapter 8 of 2021 Brazos G Regional Water Plan (2021 Plan). Chapter 8 contains recommendations for unique stream segments, unique reservoir sites, and other legislative and policy recommendations. The Brazos G Chairman created a Water Policy Committee to consider Chapter 8 requirements and develop recommendations for the 2021 Plan. The committee is soliciting comments regarding unique stream segments, unique reservoir sites, and legislative policy recommendations for Chapter 8 of the 2021 plan. For more information on Chapter 8, please review the attached handout from the Texas Water Development Board and the enclosed Chapter 8 of the 2016 Brazos G Regional Water Plan. If you would like to provide comments, please provide them in writing to the Brazos G Administrative Agent, Steve Hamlin, via email to Susan Trammell SusanT@Brazos.org or mail them to:

Brazos G Administrative Agent
Steve Hamlin
P.O. Box 7555
Waco, TX 76714-7555

The Water Policy Committee will consider comments properly submitted by **31 July 2019** at the subsequent Water Policy Committee meeting. If you have any questions, please contact Steve Hamlin at Stephen.hamlin@brazos.org or 254-761-3172.

Designating Unique Stream Segments and Unique Reservoir Sites

What do these designations mean?

Designation of a **unique river or stream segment** of unique ecological value means that a state agency or political subdivision of the state may not finance the actual construction of a reservoir in that specific river or stream segment.

Designation of a **unique reservoir site** means that a state agency or political subdivision of the state may not obtain a fee title or an easement that would significantly prevent the construction of a reservoir. Without such designations, actions by state or local government entities could compromise the viability of these sites for future reservoir development.

What are the criteria for recommending the designation of a unique stream segment or a unique reservoir site?

A river or stream segment may be considered being of unique ecological value based upon the following criteria:¹

- Biological function
- Hydrological function
- Riparian conservation areas
- High water quality
- Exceptional aquatic life
- High aesthetic value
- Threatened or endangered species/unique communities

A site may be considered as a unique site for reservoir construction based upon the following criteria:

- Site-specific reservoir development is recommended as a specific water management strategy or as a unique site in an adopted regional water plan (RWP).
- Or, the location or hydrologic, geologic, topographic, water availability, water

quality, environmental, cultural, and current development characteristics or other pertinent factors make the site uniquely suited for a) reservoir development to provide water supply for the current planning period or b) meeting needs beyond the 50-year planning horizon

How are unique stream segments or unique reservoir sites designated?

Either type of site may be first identified as unique by the Texas Water Development Board (TWDB) or recommended in an approved RWP, based on the aforementioned criteria. Designations are ultimately made by the Texas Legislature.

If a regional water planning group (RWPG) includes a recommendation for a unique river or stream segment in its RWP, it must first coordinate with the Texas Parks and Wildlife Department (TPWD). The RWPG must develop a recommendation package in accordance with [31 TAC § 357.43\(b\)](#) and forward the recommendation package to the TPWD. The TPWD will provide a written evaluation to the RWPG.

Recommendation packages must include physical descriptions of the river or stream segments, maps, and supporting literature and data to justify the recommendation. If the RWPG is recommending a river or stream segment that was recommended in a previous plan but not designated by the legislature, a recommendation package must be submitted to the TPWD for an updated written evaluation.

The TWDB will consider the RWPG's recommendations of unique river or stream segments and unique reservoir sites during development of the state water plan.

¹ Detailed criteria is described in [31 Texas Administrative Code \(TAC\) § 358.2\(6\)](#)

JANUARY 2019

The state water plan will include the TWDB's and/or the RWPG's recommendations of unique river or stream segments and unique reservoir sites to the Texas Legislature for potential designation.

If an RWPG recommends designation of a unique stream segment, or if the legislature has designated a stream segment as unique, what associated content must be included in the regional water plan?

For recommendations regarding unique river or stream segments, the RWP must be specific as to a) which unique river or stream segments have been previously designated by the legislature and b) which are being recommended for designation by the RWPG.

The adopted RWPs must include the TPWD's written evaluation of each river or stream segment and a copy of the recommendation packet.

If a river or stream segment has been recommended in a previous plan, the RWPG may incorporate references of supporting materials developed for the previous plan into the current plan. References must be precise and include a summary of the information presented in the previous plan.

If the Texas Legislature designates a river or stream segment as unique, or if an RWPG recommends that a river or stream segment be designated as unique, the RWPG must quantitatively assess the impact of recommended water management strategies on the flows deemed important (by the RWPG) to the river or stream segment in question. The assessment shall also describe the impact of the RWP on the unique features cited by the RWPG.

If an RWPG recommends designation of a unique reservoir site, what associated content must be included in the regional water plan?

For recommendations regarding unique reservoir sites, the RWP must be specific as to a) which unique reservoir sites have been previously designated by the legislature; b) which are being

recommended for designation by the RWPG; and c) whether the RWPG is recommending that the legislature re-designate a previously designated unique reservoir site.

The adopted RWPs must include a description of the site, reasons for the unique designation, and expected beneficiaries of water supplies developed at a given site.

Where can I find a map of designated and recommended sites?

Chapter 2 of the 2017 State Water Plan includes maps of previously designated and recommended unique stream segments and unique reservoir sites.

Additional Resources

2017 State Water Plan, Chapter 2:

<http://www.twdb.texas.gov/waterplanning/swp/2017/doc/SWP17-Water-for-Texas.pdf>

Regional and State Water Planning Rules (31 TAC) and Texas Statute Reference Pamphlet:

http://www.twdb.texas.gov/waterplanning/rwp/planningdocu/2021/doc/current_docs/admin_docs/RWPrulespamphlet.pdf

Regional water planning contract document Second Amended General Guidelines for Fifth Cycle of Regional Water Plan Development, Section 8:

www.twdb.texas.gov/waterplanning/rwp/planningdocu/2021/doc/current_docs/contract_docs/2ndAmendedExhibitC.pdf

For additional information on the regional water planning process and current activities, please call 512-936-2387 or visit

www.twdb.texas.gov/waterplanning/rwp/index.asp.



8

Recommendations for
Unique Stream Segments,
Unique Reservoir Sites, and
Other Legislative Policy
Recommendations



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8 Recommendations for Unique Stream Segments, Unique Reservoir Sites, and Other Legislative Policy Recommendations

8.1 Recommendations Concerning River and Stream Segments Having Unique Ecological Value

Regional water planning groups are given the option of designating stream segments having “unique ecological value” within their planning areas. Five criteria are utilized to identify such segments:

1. Biological Function:

- Quantity (acreage or areal extent of habitat), and
- Quality (biodiversity, age, uniqueness).

2. Hydrologic Function:

- Water Quality,
- Flood Attenuation and Flow Stabilization, and
- Groundwater Recharge and Discharge.

3. Occurrence of Riparian Conservation Areas.

4. Occurrence of High Water Quality, Exceptional Aquatic Life or High Aesthetic Value.

5. Occurrence of Threatened or Endangered Species and/or Unique Communities.

The Brazos G RWPG has chosen not to designate any stream segments as having unique ecological value.

8.2 Recommendations Concerning Sites Uniquely Suited for Reservoir Construction

The Brazos G RWPG has chosen to identify the following five sites as uniquely suited for reservoir construction. Each of these sites is associated with a request by a potential local project sponsor to include the project as a recommended or alternative water management strategy in the 2016 Plan.

- Cedar Ridge Reservoir (City of Abilene),
- Turkey Peak Reservoir (Palo Pinto County Municipal Water District No. 1),
- Millers Creek Off-Channel Reservoir (North Central Texas Municipal Water District),
- Brushy Creek Reservoir (City of Marlin), and
- Coryell County Off-Channel Reservoir (Coryell County).

8.3 Legislative and Policy Recommendations

The Brazos G Regional Water Planning Group (Brazos G) established a Water Policy Workgroup to discuss various issues concerning State water policy and to formulate proposed positions for the planning group to consider for recommendation to the TWDB and the Texas Legislature. As the population and economic demands grow, water supplies become more stressed. These developments coupled with recent drought conditions make it increasingly important for water planning groups to consider diverse water management strategies.

Regional water planning rules require use of the Texas Commission on Environmental Quality (TCEQ) Water Availability Models in determining surface water supply availability. The period of record for most existing TCEQ Water Availability Models ends with the year 1997. In some parts of the State, and possibly in some portions of the Brazos River Basin, hydrologic conditions since 1997 may be worse than conditions experienced prior to 1997. Therefore, firm water availability from existing surface water supply sources and from new surface water supply strategies may be overstated. As a result, water shortages may exist that are not apparent in the regional and State water plans. Brazos G considers it prudent to explore alternatives to the historic drought of record for water planning purposes. As more diverse water management planning strategies are developed alternative water planning measurements may include firm yield, safe yield and/or operational yield as appropriate. In addition, the water planning process requires coordination with agencies such as the TCEQ and the TWDB. These agencies need sufficient funding and staffing in order to assist water planning groups in fulfilling their water planning mission. Also, funding should be provided for TCEQ to update the hydrology for all Water Availability Models (WAMs) to extend through 2016 to account for the ongoing drought with additional funding for regular maintenance updates.

Brazos G will promote water development policies that support efforts to protect both groundwater and surface water sources by encouraging sound practices that will not adversely affect water supply or quality. We support other agencies and organizations in their efforts to encourage responsible land management and will oppose any practice or action in our watersheds or recharge zones that could adversely affect our water resources. Maintaining our watershed health, economic sustainability, and community viability are all critical elements in our water planning efforts. Protecting source water and sensible stewardship of the areas adjacent to and around river basins, sensitive sub-basins, aquifers, and recharge zones is essential for maintaining these resources for present and future needs.

For the 2016 Plan, the Water Policy Workgroup revisited several legislative and water policy recommendations that had been incorporated into the 2006 Plan. The Water Policy Workgroup also reviewed the specific legislative and water policy recommendations that had been incorporated into the 2011 Plan. The Water Policy Workgroup offered specific revised recommendations to the full planning group for consideration.

Brazos G offers the following specific recommendations concerning State water policy to the TWDB and the Texas Legislature.



Issue #1: Streamlining the Permitting Processes for Project Implementation

“Brazos G recommends that the Legislature direct all State agencies involved in planning and/or permitting water projects to streamline the process of evaluating, approving, permitting, and funding in order to allow timely project implementation. The amount of time required to gain approval for surface water projects is just one example of the need for more streamlined processes.”

Issue #2: Plan Implementation

“Brazos G recognizes the need for expeditious implementation of the State Water Plan facilitated by the use of the State Water Implementation Fund for Texas (SWIFT).”

Issue #3: Coordination between Regional Water Planning Groups and Groundwater Conservation Districts

“Brazos G is committed to working cooperatively with Groundwater Conservation Districts (GCDs) when developing the Regional Plan. The GCDs are requested to review water demand, population projections, and water availability numbers for their respective Districts and comment accordingly.

Brazos G recognizes, pursuant to SB 660, that GCDs are statutorily required to determine the amount of groundwater that is available for use in the Regional Water Plan. SB 660, passed by the 82nd Texas Legislature (2011), outlines a process by which Modeled Available Groundwater (MAG) figures are supplied to the GMA and its member GCDs. MAG is the amount of water that may be withdrawn while maintaining or achieving the Desired Future Conditions (DFCs) adopted by the GCDs within a GMA. "Desired future condition" means a quantitative description of the desired condition of the groundwater resources in a management area at one or more specified future times.

Regional water plans are required to use the MAGs in place at the time of adoption of TWDB's state water plan in the next regional water planning cycle or, at the option of the regional water planning group, established subsequent to the adoption of the most recent plan.

The use of DFCs to take a long term view of the health of aquifers and MAG to allow the use of groundwater for beneficial purposes without depleting aquifers is consistent with Brazos G's historical policy that does not allow the adoption of water management strategies that will substantially deplete the aquifers.

However, the strict use of MAGs can restrict the ability of planning groups to develop feasible regional water plans. Therefore, a planning group should be allowed to exceed a MAG within a tolerance agreed to by the applicable groundwater conservation district, recognizing that protection of local aquifer systems will be accomplished through oversight and management by groundwater conservation districts.”

Issue #4: System Operation of Water Facilities

“Brazos G recognizes the inherent benefit of system operations of existing water supply sources and recommends that State water planning as well as permitting continue to promote such water management strategies.

System operation involves coordinated operation of two or more water supply sources (including surface water reservoirs and run-of-river diversions, as well as groundwater aquifers) such that the system yield is greater than the sum of the individual sources.

System operation provides several significant benefits to the State, including: better utilization of existing infrastructure; efficient use of water supplies to meet needs; delay or avoidance of expensive new water supply infrastructure; and reduced environmental impact potentially occurring due to major new projects.”

Issue #5: Outdated Hydrology Used for Surface Water Supply Availability

“Regional water planning rules require use of the TCEQ Water Availability Models in determining surface water supply availability. The period of record for existing TCEQ Water Availability Models ends with the year 1997. In some parts of the State, and possibly in some portions of the Brazos River Basin, hydrologic conditions since 1997 may be worse than conditions experienced prior to 1997. Therefore, firm water availability from existing surface water supply sources and from new surface water supply strategies may be overstated. As a result, water shortages may exist that aren’t apparent in the regional and State water plans. The TCEQ should be adequately funded to update the hydrology for all WAMS to extend through 2016 to account for the ongoing drought and additional annual funding should be provided for regular maintenance updates.”

Issue #6: Interbasin Transfers of Surface Water

“Brazos G recognizes that Interbasin Transfers have been a critical component of water management in Region G and are a necessary component of overall State water management strategies. The automatic assignment of junior rights to an interbasin water transfer is a deterrent and suppresses the development of interbasin water supply projects. We recommend the re-evaluation of the junior water rights provision that is automatically assigned to interbasin transfers. We also recommend that statutory rules, policies and administrative code be reviewed and the permitting and review process be streamlined to eliminate any unnecessary obstacles to IBT’s.”

Issue #7: Rule of Capture

“While Brazos G recognizes that the Rule of Capture remains valid law in Texas, we also recognize that advances in science, changes in water marketing, recent Texas Supreme Court rulings, and increasing pressures on groundwater add complexity to this issue.

The State groundwater supply is being tapped to its limits, and in many instances, landowners risk loss due to depletion by over-pumping. Local control through checks and balances can most effectively and fairly regulate usage and protect individual property rights. Groundwater Conservation Districts are the appropriate mechanisms to provide local control of groundwater, to fairly preserve historic use, ensure future sustainability, and protect private property rights – both the rights of those pumping groundwater, and their neighbors.

As such, Brazos G supports the continued management of fresh, brackish, and saline groundwater by groundwater conservation districts.”



Issue #8: Conjunctive Use of Groundwater and Surface Water

“Brazos G recognizes conjunctive use as an important management strategy. Conjunctive use is the systematic utilization of groundwater and surface water to optimize the combined yield from both sources. Conjunctive use seeks to maximize the advantages and minimize the disadvantages of each source when both are utilized together. As conjunctive use projects are recognized, they should be included as management strategies for the regional water plan. Brazos G encourages development of conjunctive use projects. Construction of surface water reservoirs, which provide new sources of water, along with judicious use of groundwater resources, which can be a finite quantity, will provide an integrated solution for the water needs of the future.”

Issue #9: Aquifer storage and recovery (ASR)

“ASR projects have the potential to store large amounts of water, eliminate evaporative losses of stored water, and minimize the impact on surface owners when compared to large reservoir projects. While ASR projects could be beneficial, there are a number of questions regarding ownership of the injected water, percentage of injected water that is recoverable, impact to existing users, the appropriate degree of oversight for Groundwater Conservation Districts in the development and permitting of these projects, and the quality to which injected water must be treated. An improved legal/public policy framework is needed to address these issues and enhance adoption. We support groundwater conservation districts having the authority to monitor ASR projects and enact rules to regulate and protect ASR supplies and ensure there are no detrimental impacts to the existing groundwater supplies or private property rights or the entity injecting the water for the ASR. Further, we recommend that these water management strategies include sufficient hydrologic study to protect receiving aquifers.”

Issue #10: Municipal Per Capita Water Use

“Brazos G recommends the regional water planning process be changed to separate commercial and residential water use and look at both individually. The current practice of using a city’s overall gallons per capita/day unfairly characterizes some cities as water wasters. Cities with a vibrant commercial sector see an influx of workers and customers commuting in and raising water usage, which is then applied to the resident population. Also, there needs to be consistency in the calculations of GPCD, and better guidance as to whether regional planning groups are to use raw water delivered or treated water provided in calculating GPCD numbers.”

Issue # 11: Reservoir Water Management

“Brazos G recognizes that the primary purpose of conservation storage capacity in Texas reservoirs authorized for water supply is, in fact, water supply. Although recreational and aesthetic benefits of these reservoirs may provide economic impacts locally, these are secondary incidental benefits. Therefore, we recommend that appropriate State agencies and State legislative bodies uphold the critically important primary purpose of Texas water supply reservoirs to ensure long-standing agreements and contracts are met and deliveries are not jeopardized by secondary interests. Further, consideration of providing

educational programs regarding reservoir purpose and management and other appropriate assistance for businesses and others impacted is recommended.”

Issue #12: Support for Brush Control Projects as Viable Water Management Strategies

“Brazos G supports brush control projects as water management strategies and encourages the Texas legislature to instruct the Texas State Soil and Water Conservation Board to allow funding for these projects, via its Water Supply Enhancement Program, even if they are not included in a Regional Water Plan or the State Water Plan. Brush control projects are often not included in water plans due to the difficulty of assigning a specific amount of new water contributed; however, such projects may have a positive impact on aquifer recharge and stream flows.”

Issue #13: Watershed Planning/Source Water Protection

“Brazos G will promote water development policies that support efforts to protect both groundwater and surface water sources by encouraging sound practices that will not adversely affect water supply or quality. We support other agencies and organizations in their efforts to encourage responsible land management and will oppose any practice or action in our watersheds or recharge zones that could adversely affect our water resources. Maintaining our watershed health, economic sustainability and community viability are all critical elements in our water planning efforts. Sensible stewardship of the areas adjacent to and around river basins, sensitive sub-basins, aquifers and re-charge zones is essential for maintaining these resources. Through source water protection, Texas can promote equitable costs for present and future water sources.”

Issue #14: Water Pricing and Conservation

“Brazos G encourages retail water providers to seriously consider implementing appropriate rate structures that would be consistent with best management practices for conserving water. Properly designed rate structures allow a consistent price signal to the ratepayer, without resulting in over earnings to the utility. This increasingly favored approach heightens the interest in water conservation to the end users.”

Issue #15: Integrating Water Quality and Water Supply Considerations

“Brazos G continues to support existing efforts of regulatory agencies to protect current and future sources of drinking water, including both groundwater and surface water supplies. Brazos G, as well as the regulatory agencies, is committed to ensuring both the quality and quantity of water for our constituents. Furthermore, Brazos G encourage all governmental agencies, when making regulatory or permitting decisions or influencing decisions regarding land and resource use, to give preference to alternatives to protect or enhance the quality of water so that such water resources may be utilized for beneficial use. As a planning group, protecting and enhancing these resources and sustaining our supply will always be among Brazos G’s priority commitments.”

Issue #16: Education

“Research indicates that there is a strong relationship between knowledge of water sources and a willingness to conserve. Conservation is the most cost-effective means of securing future water supply. Brazos G believes strongly that water education is important and supports water conservation and public awareness programs at the state and local level.”

Issue #17: Effects of the Federal Safe Drinking Water Act (SDWA) on Water Supply Systems

“Brazos G recognizes the difficulty in meeting the standards of the Federal Safe Drinking Water Act for some water supply systems. Therefore, we encourage the regionalization of these systems, and/or education and proactive planning.”

Brazos G is one the most diverse regional water planning areas in Texas, covering 37 counties along the Brazos River Basin. The geographic area extends from Kent, Stonewall and Knox Counties in the northwest to Washington and Lee Counties in the southeast.

For sixteen years, Brazos G has been an important platform in regional water planning. Its central mission is to develop a regional water plan. The planning process is the true added value. Bringing together perspectives from agriculture, industries, municipalities, counties, small business, water utilities, the public, electric utilities, groundwater management representatives, environmental and river authorities has helped to enhance the overall water planning process.

Brazos G does not operate in a vacuum. We use resources such as our consultant, HDR Engineering, Inc., to collect reliable data to include in our regional water plan. We reach out to constituents in the 37 counties as we develop the regional water plan. We engage with other stakeholders in addressing water planning issues. Our planning group meetings are forums for vetting ideas for or against water planning ideas. This process encourages transparency.

Brazos G serves an important role as an entry point for public engagement in the water planning process. This role also makes it a good resource for the State Legislature as it grapples with the realities of an ongoing drought, a burgeoning population, and strong economic development.

We welcome such a role and stand ready to be of assistance.

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