

5A.13 Cancellation of Water Rights

5A.13.1 Description of Option

The Texas Water Code Sections 11.172 and 11.173 authorize the Texas Natural Resources Conservation Commission to unilaterally cancel all or part of an unperfected water right. A water right is considered unperfected if the water is not put to beneficial use within a 10-year period of time. In theory this could result in the opportunity for municipalities or other water user groups to acquire new water rights through cancellation or condemnation and thus increase their available supply.

As described in Section 3 of this report, there are 1,079 adjudicated water rights in the Brazos River Basin. Thirty-nine major rights claim 89 percent of water in the basin. The rest consist of small domestic and irrigation rights scattered throughout the basin. Despite their stated legal authority to do so, the TNRCC has never cancelled a water right due to non-use. All cancellation and transfer of water rights between parties has been voluntary (Section 5A.6). For these reasons, cancellation of water rights was not considered as a viable option for increasing water supplies for the Brazos G Region. Therefore, no evaluation of environmental factors, cost estimates, or implementation issues associated with cancellation of water rights is included with this section.