

MEMO

Subject: Interest Representation & the Brazos G Regional Water Planning Group
From: Kevin Kluge, Brazos G Project Manager
Date: July 11, 2006

Purpose

At the May 5, 2006 Brazos G meeting, and at the nomination committee meeting held before the group meeting, there was discussion regarding electing individuals to a interest-specific voting membership. The position in this case was a municipal position and the discussion centered around how closely an individual must be affiliated with an interest. The Brazos G Chairman, Scott Mack asked the TWDB Project Manager, Kevin Kluge, to investigate the TWDB rules and the Brazos G bylaws to determine if these documents provide any addition information regarding interest representation.

Brazos G Bylaws and Texas Water Code

The current Brazos G bylaws state, in Article II, Section 2. Current Composition, "The current voting membership of the RWPG shall include adequate representation of the interests comprising the RWPA stated in Texas Water Code §16.053(c), ..." The cited section of the Water Code is below, with text of interest underlined. No additional information in Section 16 of the Water Code regarding the interest representation was found.

TWC 16.053 REGIONAL WATER PLANS

(c) No later than 60 days after the designation of the regions under Subsection (b), the board shall designate representatives within each regional water planning area to serve as the initial coordinating body for planning. The initial coordinating body may then designate additional representatives to serve on the regional water planning group. The initial coordinating body shall designate additional representatives if necessary to ensure adequate representation from the interests comprising that region, including the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities. The regional water planning group shall maintain adequate representation from those interests. In addition, representatives of the board, the Parks and Wildlife Department, and the Department of Agriculture shall serve as ex officio members of each regional water planning group.

TWDB Rules

Section 357.4 of the TWDB Rules discusses the designation of the Regional Water Planning Groups (RWPG). The Rules do provide addition information regarding the interests to be included initially in the RWPG (subsection (a)). In some instances, they cite only entities (counties and municipalities), while in others, the description is expanded to people, groups or entities "associated with" or "advocating for" an interest (agriculture and environmental). Portions of the Rules are listed below.

§357.4 Designation of the Regional Water Planning Groups

(a) The board shall, no later than 60 days after the designation of regional water planning areas under §357.3 of this title (relating to Designation of Regional Water Planning Areas), designate initial regional water planning group representatives of interests from within each regional water planning area to serve as the initial coordinating body to include one representative from each of the 11 interests listed in Texas Water Code, §16.053(c). ...

(See attached list below of interest category definitions)

Subsection (a) discusses the initial designation of the RWPG members, however subsection (e) goes on to briefly discuss the ongoing representation in the RWPG. Text of interest is underlined.

§357.4 (e) A regional water planning group may at any time after its formation add additional representatives to serve on the regional water planning group. The regional water planning group shall maintain adequate representation from those interests comprising the regional water planning area.

Conclusion

The current Brazos G bylaws do not provide specific information regarding the membership interests, but do refer to the Texas Water Code §16.053(c), which also provides no additional information. The TWDB Rules §357.4(a) also cites the Texas Water Code §16.053(c) and provide additional information regarding the representation of interests.

INTERESTS REQUIRED FOR THE REGIONAL WATER PLANNING AREA

The interests listed in Texas Water Code, § 16.053 (c) are defined as follows:

Public – defined as those persons or entities having no economic interest in the interests represented by paragraphs (2) through (11) of this subsection other than as a normal consumer

Counties – defined as the county governments for the 254 counties in Texas

Municipalities – defined as governments of cities created or organized under the general, home-rule, or special laws of the state

Industries – defined as corporations, partnerships, sole proprietorships, or other legal entities that are formed for the purpose of making a profit and which produce or manufacture goods or services and which are not small businesses

Agricultural Interests – defined as those persons or entities associated with production or processing of plant or animal products

Environmental Interests – defined as those persons or groups advocating the conservation of the state's natural resources, including but not limited to soil, water, air, and living resources

Small Businesses – defined as corporations, partnerships, sole proprietorships, or other legal entities that are formed for the purpose of making a profit, are independently owned and operated, and have fewer than 100 employees or less than \$1 million in gross annual receipts

Electric Generating Utilities – defined as any persons, corporations, cooperative corporations, or any combination thereof, meeting each of the following three criteria: own or operate for compensation equipment or facilities which produce or generate electricity; produce or generate electricity for either wholesale or retail sale to others; and are neither a municipal corporation nor a river authority

River Authorities – defined as any districts or authorities created by the legislature which contain areas within their boundaries of one or more counties and which are governed by boards of directors appointed or designated in whole or part by the governor or board, including, without limitation, San Antonio River Authority and Palo Duro River Authority

Water Districts – defined as any districts or authorities, created under authority of either Texas Constitution, Article III, § 52(b)(1) and (2), or Article XVI, § 59 including districts having the authority to regulate the spacing of or production from water wells, but not including river authorities; and

Water Utilities – defined as any persons, corporations, cooperative corporations, or any combination thereof that provide water supplies for compensation except for municipalities, river authorities, or water districts