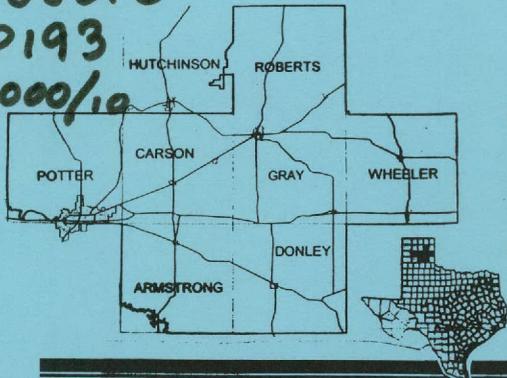


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# Panhandle Water News

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October 2000

## POTTER COUNTY RESIDENTS VOTE TO JOIN DISTRICT

On Saturday, August 12, 2000, the portion of Potter County that was not already in a water conservation district voted to join the Panhandle Groundwater Conservation District. Eighty-seven sections of land on the eastern edge of the county were already in the Panhandle Groundwater District, and approximately 35 sections on the south/southwest edge of the county are in the High Plains Underground Water Conservation District.

Eighty-four verified landowners in Potter County presented a petition to the Board on June 14, requesting annexation into the District. Following two public hearings, one in Potter County and one at the District office in White Deer, the Board called for the election. Although voter turnout was light, 444 in favor and 97 opposed, Mayor Kel Seliger said he was not surprised. "People are not showing up in Amarillo for any kind of elections," he said. "But the results show those that voted had some awareness of what was going on and its importance. Being a member of that district gives us an active roll in what is going to be a very important set of deliberations." The District is home to most of the city of Amarillo's water rights.

Unrestrained pumping in Potter County now exceeds replenishment of the Ogallala Aquifer and Potter County and Amarillo city officials are concerned about potential water shortages. District rules aid in addressing this problem through spacing rules for well drilling, and by monitoring the production from any permitted well or wells that are depleting the groundwater at a rate greater than an amount determined to be an allowable decline, as determined by the Board of Directors. The District is also very concerned about water conservation, and plans to expand the education program to include Potter County, immediately.

## JOHN McKISSACK APPOINTED POTTER COUNTY DIRECTOR

At their meeting on September 6, 2000, the Board of Directors appointed Mr. John McKissack to serve as Director of Precinct 9, and represent the recently annexed portion of Potter County.

Mr. McKissack was recommended to the Board by the Amarillo City Commission, Potter County Commissioners, and Mayor Kel Seliger.

John moved to the Texas Panhandle in 1975, accepting a position in the News Department at KVII-TV and was a member of the Channel 7 news team from January 1975 - December 1988. During his career at KVII-TV, he served 6 years as Sports Director and 7 years as News Director and Anchor.

In 1989, he was elected to the first of three terms as a member of the Amarillo City Commission, but chose not seek re-election in 1995. During his three terms, the Amarillo City Commission successfully brought to a close the City of Amarillo vs. Mesa/Energas controversy and

established the Amarillo Economic Development Corporation, one of the first of its kind in the state of Texas. He is currently Director of Marketing for BSA Health System in Amarillo.

McKissack's wife, Susan, is a 6<sup>th</sup> grade Language Arts teacher at Travis Middle School in Amarillo. They have one son, Michael, an 8<sup>th</sup> grader at Crockett Middle School.

## 2000-2001 BUDGET SET TAX RATE 20% LESS

The Board of Directors set next year's budget at \$1,232,866. The increased budget includes funds for additional educational materials, supplies, vehicles, and personnel needed to expand the District's operations into Potter County.

The tax rate for fiscal year 2000-2001 was set at \$0.0172/\$100 taxable valuation. Although this represents a 20% decrease from last year's tax rate, the District will receive additional income, due to the recently annexed portions of Potter County.

## **PANHANDLE WATER PLAN HEARING HELD**

The Panhandle Water Planning Group held a public hearing on the regional water plan on September 19, at the Texas A&M Research and Extension Center in Amarillo. Public comment on the plan ended on September 30. All regional water plans must be completed and adopted by January 5, 2001.

The Texas Water Development Board must approve and incorporate the regional water plans into a comprehensive water plan by January 5, 2002, and the water plans must be updated every five years.

The process, mandated by the Texas Legislature, began about two years ago, with individuals from various walks of life and interests contributing to the crafting of the plan. Regional water plans are to be developed in each part of the state, covering the next 50 years.

Each water plan includes information about water supplies and demand, water quality problems affecting water supply, and social and economic characteristics of the region. It also identifies water supply threats to agriculture and natural resources.

The purpose of the plans is to help determine current and future water demands, as well as to decide what options are available for meeting long-term needs.

## **BOONE PICKENS AND NEIGHBORS SUBMIT PERMIT REQUESTS TO DISTRICT**

On September 18, 2000, the District received seven High-Impact Production Permit applications. The applicants are seeking permits that would allow them to pump up to 1 acre-foot of water, per acre of land, each year.

Boone Pickens and six other landowners in Roberts County have filed applications for permits to pump water from beneath nearly 100,000 acres of land.

The city of Amarillo and the Canadian River Municipal Water Authority were granted similar permits five years ago and CRMWA plans to start retrieving water from Roberts County in May 2001.

Pickens said he has obtained the rights to market water from another 65,000 acres owned by QUIXX, an affiliate of Southwestern Public Service Company, and has options on the water rights on other land in the region.

Pickens doesn't yet have a buyer for his water, but he has amassed about 150,000 acre feet of water rights. Pickens plans to sell the water through his Mesa Water company to cities throughout the state.

Although the rule of capture in Texas allows property owners to retrieve as much water as desired from under their land, areas within a groundwater conservation district are regulated by the district. Roberts County is in the Panhandle Groundwater Conservation District.

District Manager C. E. Williams said Pickens' permit request will be reviewed, according to the District's established procedures, and a public hearing will be held in mid-November.

## **ARKANSAS RIVER SHINER COALITION COMMENTS**

The Panhandle Groundwater District is part of a group, collectively called the "Coalition", comprised of twenty-two farm and ranch organizations, chambers of commerce, groundwater districts, authorities, and organizations in Oklahoma, Kansas, New Mexico, and Texas. This group consists of associations and entities which serve members and/or constituents who will be affected by the United States Fish and Wildlife Service's ("FWS") proposal to designate critical habitat for the Arkansas River Basin population of the Arkansas River shiner (the "Proposal").

On November 23, 1998, FWS listed the Arkansas River Basin Population of the ARS as threatened under the Endangered Species Act ("ESA"). The Listing Rule identified the primary threat facing the ARS and its associated habitat as "the destruction and modification of habitat by one or more of the following: stream channelization, reservoir construction, stream flow alteration and depletion, and to a lesser extent, water quality degradation.

When FWS classifies a species as endangered or threatened, it is required to concurrently designate critical habitat for species "to the maximum extent prudent and determinable."

For most species, FWS determines that the designation of critical habitat is "not prudent" at the time of listing pursuant to the ESA because the conservation benefits of designating critical habitat are far outweighed by the regulatory burdens and costs associated with a designation. The ARS is yet another example of a species for which FWS determined that the designation of critical habitat was not prudent, only to have that determination challenged in court.

*(continued on back page)*

## **TEXAS WATER CONSERVATION ASSOCIATION FALL MEETING IN SAN ANTONIO**

T.W.C.A.'s annual fall meeting was held in San Antonio, on September 28-29. Concurrent sessions on water quality and human resources issues were conducted on Thursday afternoon. Friday's program included a discussion of the upcoming legislative session by Senator Jeff Wentworth, an update on current issues at the Texas Natural Resource Conservation Commission (TNRCC) by Commissioner John Baker, and a discussion of groundwater marketing by veteran oilman T. Boone Pickens and Scott Carlson, President, Metropolitan Water Company. In addition, representatives of the Lower Colorado River Authority and Lavaca Navidad River Authority presented plans for providing water to the Central Texas and coastal regions.

Panhandle Groundwater Conservation District was represented by manager C. E. Williams, and directors Frank Simms, Danny Hardcastle, and Jason C. Green. Mr. Williams is currently president of the T. W.C.A.

## WATER QUALITY SEASON ENDS

*Bart Wyatt, Field/Lab/Education*

With the last of the water quality samples picked up in Roberts County, the Water Quality Program ends for the year. One hundred sixty-seven different sites throughout the District were scheduled for water gathering this season. Out of these sites, only eight samples were missed, due mainly to lacked gates or lack of wind. Of the one hundred fifty-nine samples tested, twenty-six (16%) were high in iron. Eleven of these samples (42%) were taken from windmills. Rusting pipes are usually the main cause of water being high in iron content. Eighteen samples (11%) were above state standards in sulfate content, while seven samples (4%) were above in chlorides. Rounding out the minerals found in various samples, we found two samples (1%) high in nitrate levels and less than 1% high in fluoride. Over 95% of all scheduled sites had water samples taken from them. Thank you, landowner or tenant, for another successful water quality season. Without your participation, this would not be possible. We are looking forward to serving you again next year!

## PRECIPITATION ENHANCEMENT PROGRAM 2000 SUMMARY

*Shea Lea Clower, Meteorologist*

Our first year of cloud-seeding came to an end on September 30. The counties that participated in the program were Armstrong, Carson, Donley, Gray, Roberts, and Wheeler counties. Potter County was added in the last month of operations.

The project used the WSR 74-C radar to run the operations. In August, we purchased this unit from Weather Modification, Inc. (WMI) to use in next year's program. RDAS and TITAN software were utilized in conjunction with the radar. The radar was situated near Pampa, just to the north of Perry Lefors Airport. Meteorologists Jeff Schild, of WMI, and Shea Lea Clower, of Panhandle Groundwater District, operated the radar.

The Cessna 340-A aircraft was also based at Perry Lefors Airport. WMI pilots, Shane Johnson and Justin Stimpson, flew the Cessna. Both Craig Howard and John Bohr, of Groom, attended a training class in San Angelo, dealing with cloud seeding missions in the aircraft. John Bohr served as co-pilot on some missions, as training for next year's season. The TITAN also has a telemetry or tracking system that was installed in the plane. This allowed the meteorologist to follow the plane on the TITAN display and be able to see exactly where the plane was located at all times. This cuts down on radio communications between pilot and meteorologist, allowing both to concentrate on their respective duties.

In September, no rainfall was reported and there were no flights in any of the counties, due to the lack of clouds.

The following is a summary of the 2000 Precipitation Enhancement season by county. Rainfall amounts given are the average, for the entire county, during that month.

### ARMSTRONG COUNTY

	May	June	July	August
Rainfall	2.13	9.65	.91	None
Flights	1	2	4	None
Flares	7	42	75	None

### CARSON COUNTY

	May	June	July	August
Rainfall	4.80	5.67	1.59	.03
Flights	5	4	5	1
Flares	125	24	82	75

### DONLEY COUNTY

	May	June	July	August
Rainfall	4.35	8.99	.64	None
Flights	1	2	4	None
Flares	7	42	35	None

### GRAY COUNTY

	May	June	July	August
Rainfall	4.5	8.99	1.36	.01
Flights	1	2	5	1
Flares	None	None	47	69

### ROBERTS COUNTY

	May	June	July	August
Rainfall	5.36	7.58	.75	.03
Flights	1	3	4	None
Flares	None	41	35	None

### WHEELER COUNTY

	May	June	July	August
Rainfall	2.13	9.65	.91	None
Flights	1	2	4	None
Flares	7	42	75	None

Overall, the months of May and June were very wet, with an above average amount of rainfall, mainly due to a monsoonal flow dominating the project area. July was an active thunderstorm month, with about average rainfall amounts. August and September were very dry, with a high-pressure dominating the area and not a cloud in sight. This made it impossible for cloud seeding to take place. There was a total of 727 flares ejected, 44.5 gallons of acetone mixture burned, and 35 flights flown.

Our next program is scheduled to begin April 15, 2001, and we are hoping for an exciting season.

PANHANDLE GROUNDWATER  
CONSERVATION DISTRICT  
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*(continued from page 2)*

The Proposal was developed pursuant to a settlement agreement arising out of a lawsuit filed by the Center for Biological Diversity.

FWS expressly recognized the conservation limitations of designating critical habitat in June 1999 when it announced its intention to "clarify the role of habitat in endangered species conservation."

**Coalition's Concerns on the Proposal**

1. FWS has failed to demonstrate that the benefits of designating critical habitat are not outweighed by the costly regulatory burden on the private sector.

2. FWS has failed to demonstrate that the Proposal satisfies the statutory and regulatory standards for designating unoccupied territory as critical habitat.

3. In both the Proposal and the Economic Analysis, FWS has misconstrued the economic impacts that are likely to result from the designation of critical habitat for the ARS.

4. The Economic Analysis is incomplete and does not provide a meaningful opportunity for public comment on the economic impacts of designating critical habitat for the Arkansas River Shiner.

5. Further regulation of the Coalition's activities as a result of the Proposal cannot be justified by the available scientific evidence.

6. FWS's description of the constituent elements of critical habitat for the species is vague and speculative.

7. Generally speaking, many of FWS's assertions in the proposal are not supported by sound scientific evidence.

8. FWS has not cooperated with State, local and private efforts to conserve the ARS.

The record should reflect that FWS has not cooperated with State, local, and private efforts to conserve the ARS. In 1998, the states of Texas and Oklahoma worked with FWS to develop a cooperative Memorandum of Understanding ("MOU") that contemplated the listing of the ARS as threatened instead of endangered because of the conservation benefits that the MOU provided for the species. Like the Listing Rule, the MOU did not deem that the designation of critical habitat was necessary.

9. Designation of critical habitat for the ARS is a major federal action that requires preparation of an environmental impact statement ("EIS") pursuant to the National Environmental Policy Act ("NEPA").

The Coalition submitted these comments on the Proposed Designation of Critical Habitat for the Arkansas River Shiner to the FWS on October 16, 2000. They were prepared with the assistance of Alan M. Glen and Craig M. Douglas, of Smith, Robertson, Elliott & Glen, L.L.P., Austin, Texas.

**FINAL CONSENSUS ON GROUNDWATER  
ISSUES IN TEXAS**

The Future of Groundwater Committee approved the final consensus recommendation at their meeting on August 30-31, 2000. The recommendation was forwarded to the Texas Natural Resource Committee, to be included in the Interim Report.

Interested persons may review the report on the Texas Water Development Board's website, [www.twdb.state.tx.us](http://www.twdb.state.tx.us).