



Water Issues on Tap...

...for Upcoming Legislative Session

Managing and protecting the state's water—in the face of an ongoing drought, increasing population, and a robust business climate—will lead off the matters facing lawmakers when the 83rd legislative session convenes, Jan. 8.

There are no easy answers and the challenge is daunting. The ongoing and unprecedented weather will present legislators with hard decisions about natural resources and the basic needs of the state's citizens. As one of the agencies charged with implementing legislation, the Texas Commission on Environmental Quality is poised for an even greater involvement in these issues.

Water Supply

New water supplies and conservation will continue to be an important part of meeting the future water needs of the state. These issues not only have an impact on public needs, but can also stress businesses and have an economic impact on local communities. The TCEQ serves on the Texas Division of Emergency Management's Emergency Drinking Water Task Force and Drought Preparedness Council, working with other state agencies to provide state-level emergency assistance. For example, state agency partners developed the Emergency Drinking Water Annex A, a document that details management and response for public water systems with 180 days or less of water supply. Currently, the TCEQ intensively monitors

a targeted list of public water systems that have limited or an unknown water supply remaining. The TCEQ has offered these systems financial, managerial, and technical assistance that includes identification of alternative water supplies, coordination of emergency drinking-water planning, and identification of possible funding for alternative sources.

Areas of Texas remain in an extended drought, so public water systems (PWSs) are seeking water sources that have not been previously considered to be able to provide drinking water to their customers. With the drought affecting water supplies, a few communities in Texas are considering using wastewater effluent as a source for drinking water. The TCEQ is currently working closely with three PWSs that are evaluating the use of various forms of reuse water as a source for drinking water.

Water Rights

Protecting surface water rights is a critical issue in Texas and, as a result, the TCEQ continues to monitor drought conditions statewide every week. As a result of the recent drought, the TCEQ established a dedicated group of regional investigators specifically trained in immediate response to water-right complaints and in conducting compliance investigations. Currently, under House Bill 2694, the TCEQ's Sunset legislation, the agency's executive director has the authority to suspend or adjust water rights during an emergency shortage of water, or drought. The agency has a goal



of 10 calendar days to respond to priority calls from senior or superior water-right holders. The TCEQ has adopted rules that define drought or other emergency shortage of water and specify conditions under which the executive director may exercise authority.

The reuse of treated wastewater return flows is a water management strategy in the state water plan. A water-rights permit under Section 11.042 (bed and banks authorization in the Texas Water Code) is required to divert and reuse these return flows. These authorizations are typically limited to the amount in the current discharge permit. Groundwater-based return flows are not considered to be state water and therefore these type of reuse applications are evaluated differently than those for surface-water-based return flows.

Water Quality

Keeping the state's water resources safe for drinking, swimming, fishing, aquatic life, and other beneficial uses will be challenging as increasing demands are put on supply. Surface water monitoring, wastewater overflows, permitting, and conservation could be considered as lawmakers convene this session.

Reclaimed water is treated wastewater that is safe and suitable for a purpose that would otherwise expend other valuable water resources. It may come from either domestic/municipal or industrial activities. Domestic/municipal reclaimed water may be substituted for many applications (e.g. irrigation of a golf course, landscaping, fire protection, and dust suppression) that would otherwise deplete current and future drinking-water resources. A Chapter 210 Reuse authorization may be required.

Environmental Flows

An environmental flow is an amount of water to leave in a stream or river for the benefit of the environment of the river, bay, and estuary, while balancing human needs. Senate Bill 3 (80th legislative session) instituted the current process for establishing environmental flows. The bill established the Environmental Flows Advisory Group to oversee implementation. The bill also established an Environmental Flows Science Advisory Committee, which in part serves as an objective scientific body to advise the group. The bill requires the TCEQ to recommend environmental flow standards to be used in decisions on new and amended water-right applications. The TCEQ adopted rules for the first set of basins in April 2011. Rules for the last set of basins identified in the statute are currently scheduled for adoption by Sept. 1, 2013.

Watermaster Programs

The watermaster programs are responsible for allocating, monitoring, and controlling the use of surface water in the divisions under their jurisdictions. As a result of HB 2694, at least once every five years, the TCEQ's executive director will assess the need for initiating a watermaster program

in basins where programs do not currently exist. The 2012 evaluation encompassed the Brazos and Colorado basins, including the Brazos-Colorado and Colorado-Lavaca coastal basins. In 2013, the evaluation will include the Trinity River, Trinity-San Jacinto coastal, San Jacinto River, and San Jacinto-Brazos coastal basins. In 2014, it will include the Sabine River, Neches River, and Neches-Trinity coastal basins. In 2015, it will include the Canadian River and Red River basins. In 2016, it will include the Sulphur River and Cypress Creek River basins.

Desalination

Stretching 367 miles, the Texas coastline borders a plentiful water source, which is often considered the state's best resource for additional water supplies. Desalination has had legislative interest. To increase water supplies, several coastal communities in Texas are treating saline groundwater to make it potable. The TCEQ has worked with utilities in the Lower Rio Grande Valley and El Paso to permit drinking-water plants that treat brackish groundwater. The Southmost Regional Water Authority's desalination plant in Cameron County went online in 2004 and now produces 7.5 million gallons per day of water, and in 2007 El Paso Water Utilities and Fort Bliss dedicated the world's largest inland desalination plant, with 27.5 mgd capacity. In addition, the State of Texas is supporting the Brownsville Public Utility Board's pilot project to desalinate seawater to make it potable, with eventual plans for a 27-mgd plant.

Oil and Gas

Fracking—injecting pressurized fluid to release petroleum—could be a legislative issue as lawmakers delve into how it potentially affects fresh-water supply. Earlier this year, the TCEQ met with groups and local governments in South Texas to talk about using effluent for hydraulic fracturing. The agency has set up Web pages that offer specific information on air, water, and waste [related to oil and gas production](#). The TCEQ's website serves as a gateway for the regulated community,

local governments, and the general public who seek information related to the industry.

Certificates of Convenience and Necessity

The 82nd legislative session's SB 573 created a new expedited release process for landowners in specific counties with at least 25 acres who are not receiving service. The bill also deleted the current petition requirement for revoking a Certificate of Convenience and Necessity, and modified the requirements in the original process for petitioning for release from a CCN. The bill also shortened the TCEQ's review period from 90 to 60 days for landowners with 50 acres or more. For landowners in those specified counties with at least 25 acres meeting the requirements, the TCEQ is required to approve all petitions. Under the legislation, the TCEQ may not deny a petition based on the fact that a CCN holder is a borrower under a federal loan program. The bill also modified the requirements for municipal consent to a CCN located outside its corporate boundaries or extraterritorial jurisdiction, and subjected a municipality's ability to extend its CCN outside the extraterritorial jurisdiction to landowner consent.



Utility Rates

Improving the customer's ability to challenge unreasonable utility rate increases has been a continuing topic as statutory requirements are developed for investor-owned utilities (IOUs). The TCEQ has original jurisdiction for rates of IOUs operating outside cities as well as within cities that have surrendered their rate jurisdiction to the agency. The TCEQ also

has appellate jurisdiction over rates of IOUs operating inside a city. A Sunset Commission recommendation for the Public Utility Commission intends to transfer rate responsibility from the TCEQ to the PUC.

Groundwater

Groundwater Conservation Districts are the state's preferred method of groundwater management. GCDs permit water wells, develop management plans, and

adopt the rules necessary to implement the management plan for groundwater within the district. Each district is governed by a locally selected board of directors. Lawmakers could consider expanding these districts to include additional counties, or create new districts. In its 83rd Legislative Report, the Texas Groundwater Protection Committee recommended adding Texas Parks and Wildlife as a member agency to the committee. The

TCEQ and the Texas Water Development Board are submitting to the 83rd Texas Legislature a report on the creation of new GCDs, the status and result of actions in the Priority Groundwater Management Areas, GCD management planning, and agency-required interactions. 📄

Go to texasoilandgashelp.org to see oil and gas facilities compliance resources mentioned in this story.



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