Laying the Groundwork for Successful Water Project Execution

Lone Star State Water Summit
Hilton Austin Hotel
Austin, Texas
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Presented by:

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Groundwater Conservation Districts (GCDs)

- Section 36.0015 of Texas Water Code:

  GCDs are "…the state's preferred method of groundwater management through rules developed, adopted, and promulgated by a district in accordance with the provisions of …", Chapter 36 of the Texas Water Code
- 99 confirmed GCDs in Texas

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How to Best Position A Project with a GCD

- <u>Hire experienced consultants</u>
  - Hydrogeologists – who are familiar with local aquifer and geologic conditions
  - Attorneys – who practice groundwater law and are familiar with GCD rules
- Have a project supported by sound science
- Have a realistic understanding of achievable goals with GCD
- Have local partners who benefit from the project, such as cities and water suppliers

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Types of Water

- **Surface Water** – all of the water under ordinary flow, underflow and tides of every flowing river, natural stream, lake, bay, arm of the Gulf of Mexico, and stormwater, floodwater, or rain water of every river, natural stream, canyon, ravine, depression and watershed in the state (Texas Water Code §11.021)
- **Groundwater** – water percolating below the surface of the earth

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Surface Water

- Regulated and permitted by the Texas Commission on Environmental Quality (TCEQ)

- Texas and TCEQ use the prior appropriation doctrine – first in time is the first in right

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Groundwater

- Senate Bill 332 - 2011
  - Established in Section 36.002 of the Texas Water Code that a landowner owns the groundwater below the surface of the landowner's land as real property
- Edwards Aquifer Authority v. Day
  - Confirmed the Legislature's statement of Texas groundwater law and stated that a landowner's right to produce groundwater is subject to the regulation of groundwater conservation districts (GCDs)

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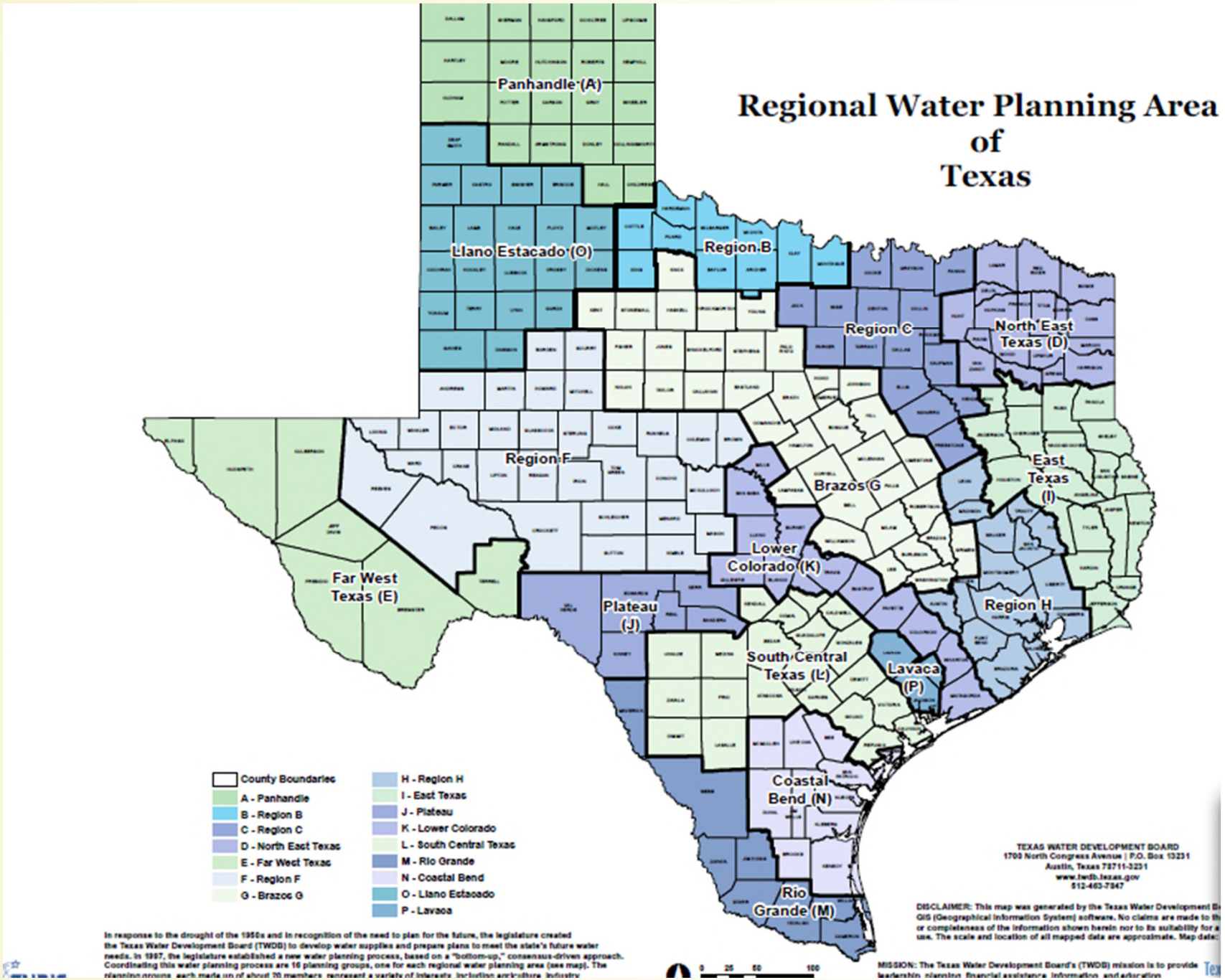
Recent Texas Water Legislation

- Senate Bill 1 – 1997
- Senate Bill 2 – 2001
- Senate Bill 3 – 2007
- House Bill 4, HB 1025, and SJR 1 – 2013



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State Water Implementation Fund for Texas (SWIFT) Legislative Package

- HB 4 - provides the framework and administration of the SWIFT and State Water Implementation Revenue Fund (SWIRFT) and the re-organization of the Texas Water Development Board (TWDB)
- Senate Joint Resolution (SJR)1 – proposes an amendment to Texas Constitution to create the SWIFT and SWIRFT to assist in the financing of water projects
- HB 1025 - authorizes a one-time $2 billion placement of funds from the Economic Stabilization Fund (Rainy Day Fund) into the SWIFT if the voters

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Prop 6 – Approval of SWIFT by Texas Voters on November 5

- Voters of Texas approved Proposition 6 to amend the Texas Constitution to create the SWIFT
- Proposition 6 approved by 73.37% of the voters
- 836,424 voters voted in favor of Prop. 6
- 303,547 voters voted against Prop. 6

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HB 4 (Ritter/Fraser) – SWIFT, SWIRFT, and TWDB Re-Organization

- Provides for framework and administration of SWIFT and SWIRFT
- Re-organized several aspects of TWDB, including the leadership structure
- TWDB will now have 3 full-time board members instead of 6 part-time board members
- An advisory committee for the SWIFT is established which is comprised of the Comptroller and members appointed by Speaker and Lt. Governor. The advisory committee must make recommendations to the TWDB regarding the use of money in the SWIFT.
- Requires prioritization of projects by RWPGs and TWDB
- TWDB must create a point system for prioritization of projects

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HB 4 (Ritter/Fraser) – SWIFT, SWIRFT, and TWDB Re-Organization

- SWIFT and SWIRFT were created to leverage $2 billion to finance the nearly $30 billion worth of water supply projects identified in the State Water Plan
- The funds are revolving and self-supporting in nature
- The funds are to be used to subsidize interest rates, to allow for longer and incremental repayment terms, and to enable entities to have deferral periods on the repayment of funds needed for water projects

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HB 4 (Ritter/Fraser) – Timelines for Action

- Sept. 1 = Board members appointed by Governor Perry begin terms
- Nov. 5 = Voters approved Proposition 6
- ASAP after Nov. 5 = Advisory Committee members appt.
- Dec. 1 = RWPG stakeholder committee submits project prioritization standards to TWDB and TWDB must approve
- Sept. 1, 2014 = RWPGs submit final prioritization of projects from 2011 RWPGs
- March 1, 2015 = Deadline for TWDB adoption of rules

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TWDB Board Members Appointed by Governor Perry

- On August 16, 2013, Governor Perry appointed 3 board members to the TWDB pursuant to HB 4
- Carlos Rubinstein, Bech Brunn, and Mary Ann Williamson will serve full-time effective September 1, 2013
- Rubinstein will serve as chair of the board for a term to expire at the pleasure of the governor

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Texas Groundwater Management / Law

- Exciting time to be involved with water issues in Texas
- Water management and Texas law governing water is evolving and organic
- 1997 – 38 GCDs in existence
- 2013 – 99 GCDs with 3 GCDs awaiting confirmation elections

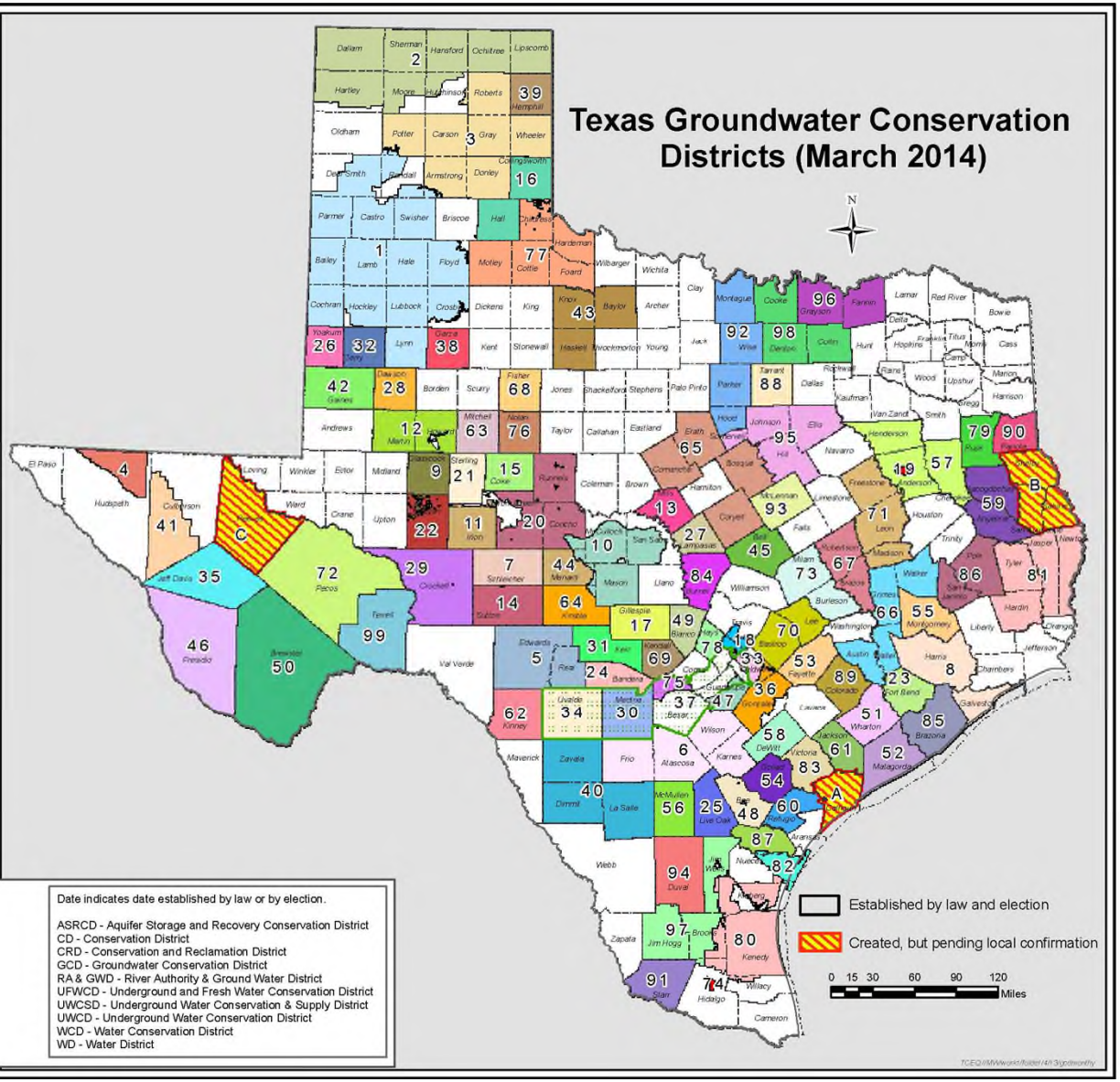
Groundwater Conservation Districts

1 High Plains UWCD No.1 - 9/29/1951
2 North Plains GCD - 1/2/1955
3 Panhandle GCD - 1/21/1956
4 Hudspeth County UWCD No. 1 - 10/5/1957
5 Real-Edwards C and R District - 5/30/1959
6 Evergreen UWCD -8/30/1965
7 Plateau UWC and Supply District - 3/4/1974
8 Harris-Galveston Subsidence District- 4/23/1975
9 Glasscock GCD - 8/22/1981
10 Hickory UWCD No. 1 - 8/14/1982
11 Irion County WCD - 8/2/1985
12 Permian Basin UWCD - 9/21/1985
13 Fox Crossing Water District - 4/4/1986
14 Sutton County UWCD - 4/5/1986
15 Coke County UWCD - 11/4/1986
16 Mesquite GCD - 11/4/1986
17 Hill Country UWCD - 8/8/1987
18 Barton Springs/Edwards Aquifer CD - 8/13/1987
19 Anderson County UWCD - 10/17/1987
20 Lipan-Kickapoo WCD - 11/3/1987
21 Sterling County UWCD - 11/3/1987
22 Santa Rita UWCD - 8/19/1989
23 Fort Bend Subsidence District - 8/28/1989
24 Bandera County RA & GWD - 11/7/1989
25 Live Oak UWCD - 11/7/1989
26 Sandy Land UWCD - 11/7/1989
27 Saratoga UWCD - 11/7/1989
28 Mesa UWCD - 1/20/1990
29 Crockett County GCD - 1/26/1991
30 Medina County GCD - 8/26/1991
31 Headwaters UWCD - 11/5/1991
32 South Plains UWCD - 2/8/1992
33 Plum Creek CD - 5/1/1993
34 Uvalde County UWCD - 9/1/1993
35 Jeff Davis County UWCD - 11/2/1993
36 Gonzales County UWCD - 11/2/1994
37 Edwards Aquifer Authority - 7/28/1996
38 Garza County UWCD - 11/5/1996
39 Hemphill County UWCD - 11/4/1997
40 Wintergarden GCD - 1/17/1998
41 Culberson County GCD - 5/2/1998
42 Llano Estacado UWCD - 11/3/1998
43 Rolling Plains GCD - 1/26/1999
44 Menard County UWCD - 8/14/1999
45 Clearwater UWCD - 8/21/1999
46 Presidio County UWCD - 8/31/1999
47 Guadalupe County GCD - 11/14/1999
48 Bee GCD - 1/20/2001
49 Blanco-Pedernales GCD - 1/23/2001
50 Brewster County GCD - 11/6/2001
51 Coastal Bend GCD - 11/6/2001
52 Coastal Plains GCD - 11/6/2001
53 Fayette County GCD - 11/6/2001
54 Goliad County GCD - 11/6/2001
55 Lone Star GCD - 11/6/2001
56 McMullen GCD - 11/6/2001
57 Neches & Trinity Valleys GCD -11/6/2001
58 Pecan Valley GCD - 11/6/2001
59 Pineywoods GCD - 11/6/2001
60 Refugio GCD - 11/6/2001
61 Texana GCD - 11/6/2001
62 Kinney County GCD - 1/12/2002
63 Lone Wolf GCD - 2/2/2002
64 Kimble County GCD - 5/3/2002
65 Middle Trinity GCD - 5/4/2002
66 Bluebonnet GCD - 11/5/2002
67 Brazos Valley GCD - 11/5/2002
68 Clear Fork GCD - 11/5/2002
69 Cow Creek GCD - 11/5/2002
70 Lost Pines GCD - 11/5/2002
71 Mid-East Texas GCD - 11/5/2002
72 Middle Pecos GCD - 11/5/2002
73 Post Oak Savannah GCD - 11/5/2002
74 Red Sands GCD - 11/5/2002
75 Trinity Glen Rose GCD - 11/5/2002
76 Wes-Tex GCD - 11/5/2002
77 Gateway GCD - 5/3/2003
78 Hays Trinity GCD - 5/3/2003
79 Rusk County GCD - 6/5/2004
80 Kenedy County GCD - 11/2/2004
81 Southeast Texas GCD - 11/2/2004
82 Corpus Christi ASRCD - 6/17/2005
83 Victoria County GCD - 8/5/2005
84 Central Texas GCD - 9/24/2005
85 Brazoria County GCD - 11/8/2005
86 Lower Trinity GCD - 11/7/2006
87 San Patricio County GCD - 5/12/2007
88 Northern Trinity GCD - 5/15/2007
89 Colorado County GCD - 11/6/2007
90 Panola County GCD - 11/6/2007
91 Starr County GCD - 11/6/2007
92 Upper Trinity GCD - 11/6/2007
93 Southern Trinity GCD - 6/19/2009
94 Duval County GCD - 7/25/2009
95 Prairielands GCD - 9/1/2009
96 Red River GCD - 9/1/2009
97 Brush Country GCD - 11/3/2009
98 North Texas GCD - 12/1/2009
99 Terrell County GCD - 11/6/2012

Pending Confirmation

A - Calhoun County GCD
B - Deep East Texas GCD
C - Reeves County GCD

Texas Groundwater Conservation Districts (March 2014)



Texas Commission on Environmental Quality

TCEQ

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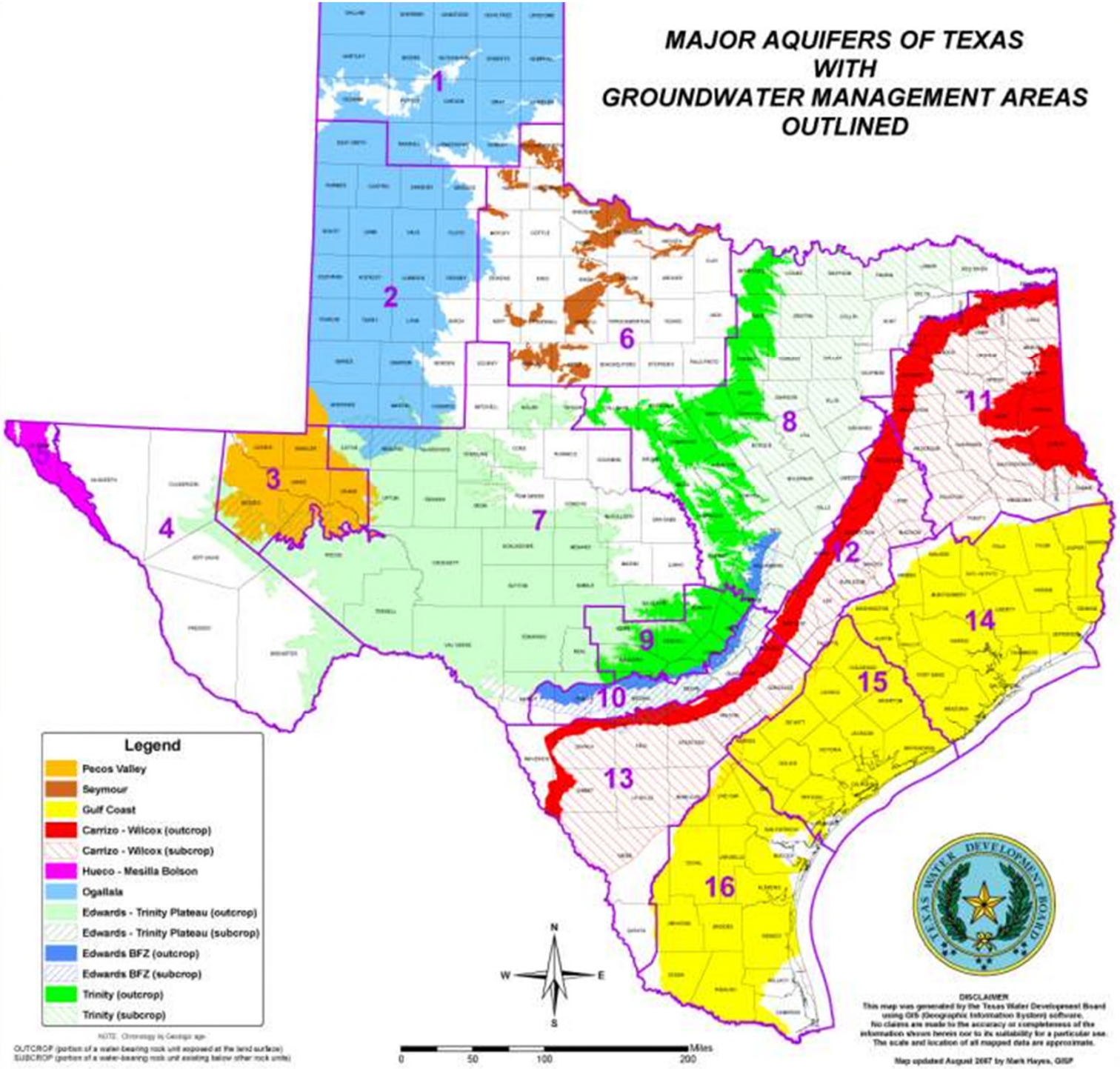
Map printed March 3, 2014.

Date indicates date established by law or by election.

ASRCD - Aquifer Storage and Recovery Conservation District
CD - Conservation District
CRD - Conservation and Reclamation District
GCD - Groundwater Conservation District
RA & GWD - River Authority & Ground Water District
UFWCD - Underground and Fresh Water Conservation District
UWCSD - Underground Water Conservation & Supply District
UWCD - Underground Water Conservation District
WCD - Water Conservation District
WD - Water District


MAJOR AQUIFERS OF TEXAS
WITH
GROUNDWATER MANAGEMENT AREAS
OUTLINED
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
Legend
Pecos Valley
Seymour
Gulf Coast
Carrizo - Wilcox (outcrop)
Carrizo - Wilcox (subcrop)
Hueco - Mesilla Bolson
Ogallala
Edwards - Trinity Plateau (outcrop)
Edwards - Trinity Plateau (subcrop)
Edwards BFZ (outcrop)
Edwards BFZ (subcrop)
Trinity (outcrop)
Trinity (subcrop)
N
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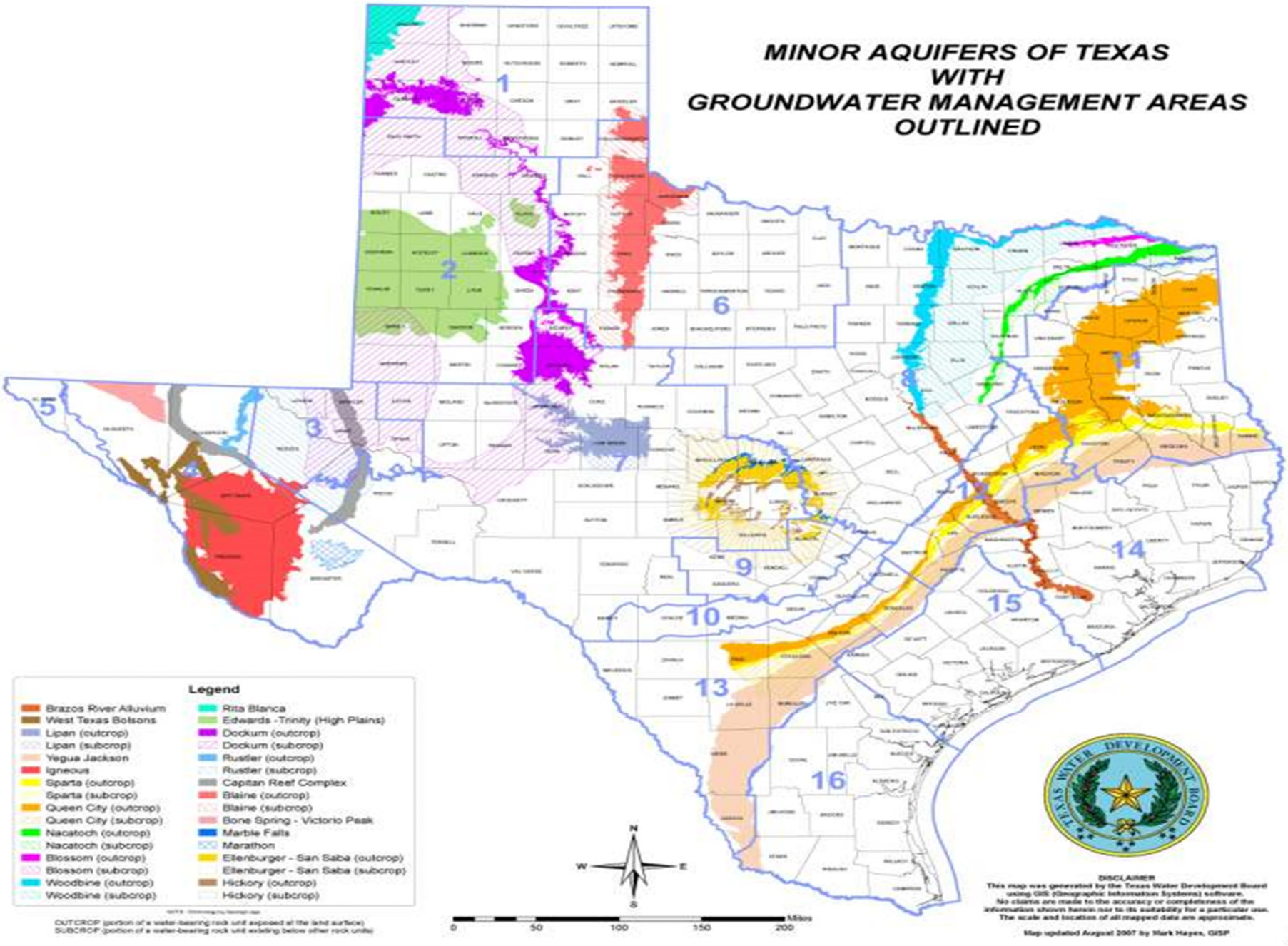
E
S
0
50
100
200
Miles
TEXAS WATER DEVELOPMENT BOARD
DISCLAIMER
Map updated August 2007 by Mark Hayes, GISP

MINOR AQUIFERS OF TEXAS WITH GROUNDWATER MANAGEMENT AREAS OUTLINED



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Map updated August 2007 by Mark Hayes, GISP

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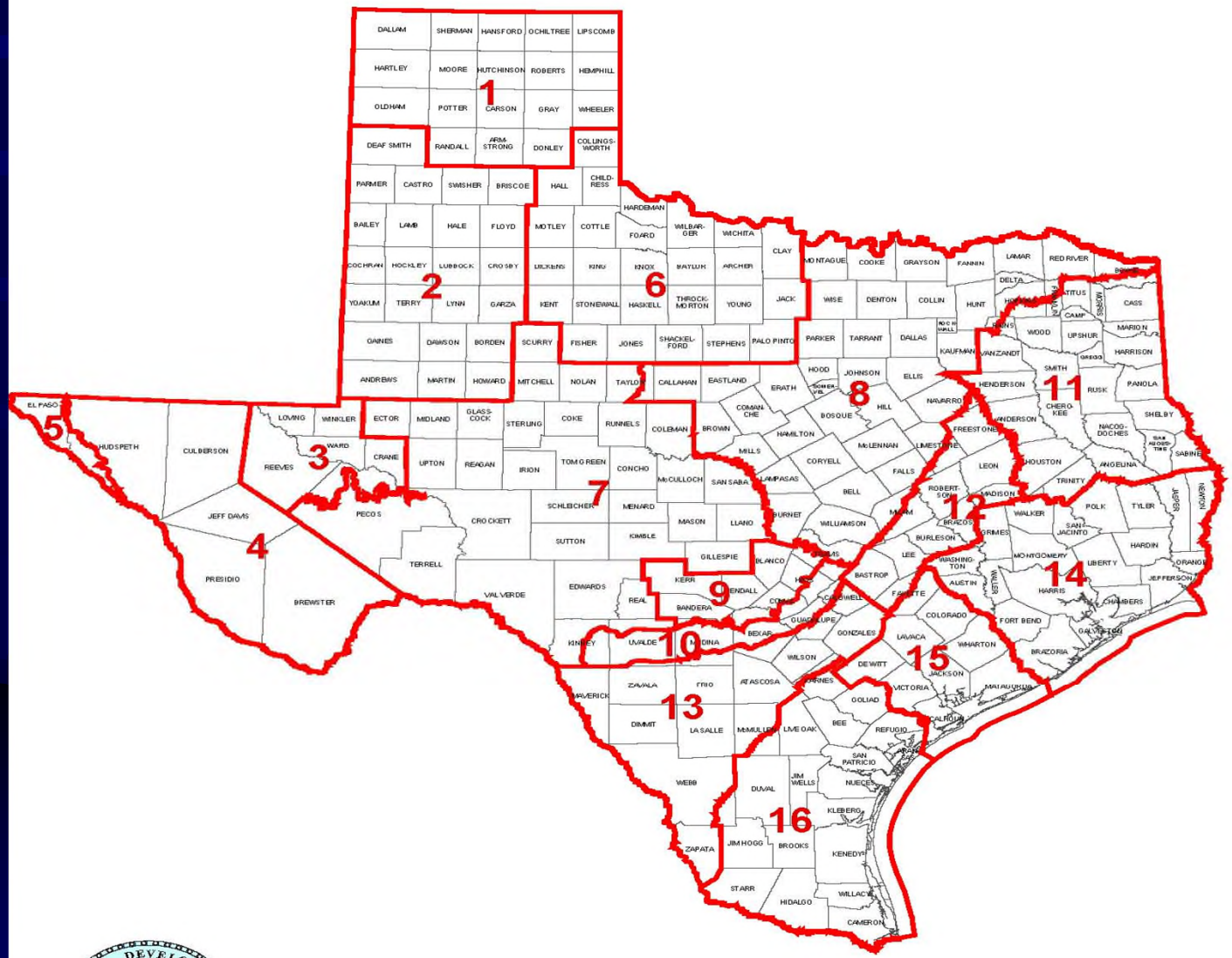
Texas Groundwater Management / Law

- Increased level of knowledge about groundwater resources and management but much more is needed
  - Ex. Middle Trinity GCD (Erath, Comanche, Bosque, and Coryell Counties)

- Science, science, science

Groundwater Management Areas in Texas



TEXAS WATER DEVELOPMENT BOARD

N

0 25 50 100 150 200 Miles

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November 2002 - by Mark Hayes, GIS section

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Groundwater Management Area (GMA) Process for GCDs

- Based on legislative changes made in 2011, the DFC process was substantially revised
- GCDs in each of the 16 GMAs must consider a list of 9 factors and propose DFCs for the aquifers within the GMA
- A 90 day public comment period begins after DFCs are provided to the GCDs

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Groundwater Management Area (GMA) Process for GCDs

- GCDs hold public hearings during 90 day comment period and prepare summary reports
- GMA meets to consider summary reports and to adopt DFCs
- GMA prepares an explanatory report and submits DFC info to TWDB
- GMA provides DFC info to GCDs and GCDs adopt DFCs ASAP after receiving info

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Groundwater Issues to be studied during Legislative Interim Period

- Brackish groundwater / desalination
- Aquifer storage and recovery
- Long - term permitting by GCDs
- GCD permitting exemptions – water involved in oil and gas activities
- TDLR regulation of water well drillers

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Texas Groundwater Management / Law

- Brackish groundwater / water quality
- Estimated that Texas has 2.7 billion acre-feet of brackish groundwater according to 2003 LBG-Guyton and Assoc. study

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2012 State Water Plan – Brackish Groundwater Desalination Projects

- 2012 State Water Plan recommended groundwater desalination in five regional water planning areas of Texas
  - Regions E, F, L, M, and O
- The volume of water that would result from brackish groundwater desalination would increase from 56,553 acre-feet in 2010 to approximately 181,568 acre-feet by 2060

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GCD Management of Brackish Groundwater

- No statutory definition of “brackish groundwater” in Texas law
- Some want to define as groundwater that contains a total dissolved solids (TDS) concentration of more than 1,000 milligrams per liter
- Some want to define as groundwater that contains a total TDS concentration of more than 10,000 milligrams per liter

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GCD Management of Brackish Groundwater

- Production of brackish groundwater is being permitted by GCDs today
- No differentiation in most GCDs' rules between potable groundwater and brackish groundwater
- Vast majority of Desired Future Conditions (DFCs) and Modeled Available Groundwater (MAG) don't differentiate between potable groundwater and brackish groundwater

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GCD Management of Brackish Groundwater

- Do GCDs want to encourage the production and use of brackish groundwater?

- Yes. GCDs understand that growing communities and businesses need more water supplies but not at the expense of the groundwater resources within GCDs' boundaries and, particularly, potable groundwater resources

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GCD Management of Brackish Groundwater

- Can GCDs encourage the production of brackish groundwater under existing Texas law and within their existing regulatory frameworks?

- Yes. GCDs can authorize the production of brackish groundwater in greater amounts as part of the well permitting process

- Chapter 36 enables GCDs to adopt different DFCs related to brackish groundwater production and to establish management zones from which brackish groundwater can be produced.

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Legislative Interim / 84th Legislature

- Stakeholder groups working on brackish groundwater issues
  - Texas Water Conservation Association
  - Texas Alliance of Groundwater Districts
  - Texas Desalination Association
- Interim Committee Studies with recommendations for 84th Texas Legislature

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Surface Water Issues

- Addressing drought issues
- Colorado River – Highland Lakes vs. rice farmers
- Brazos River – possible designation of Water Master
- Conservation efforts by municipalities
- TCEQ regulation of surface water impoundments/ dam safety

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Questions?

- Any questions?
- Thank you