Facts About

YOUR WATER SUPPLY

Discovering Who Provides and Makes Decisions About Your Water in Texas

SIERRA CLUB
FOUNDED 1892

ACKNOWLEDGEMENTS

Your Water Supply: Discovering Who Provides and Makes Decisions about Your Water in Texas is a publication of the Lone Star Chapter of the Sierra Club. This publication was produced as part of the Texas Living Waters Project, a collaborative effort of the National Wildlife Federation, Environmental Defense, and the Lone Star Chapter. The goals of the project are to (1) ensure adequate water for people and environmental needs, (2) reduce future demand for water and foster efficient and sustainable use of current water supplies, (3) educate the public and decision makers about the wasteful water use and opportunities for water conservation, and (4) involve citizens in the decision making process for water management. More information about the project and about water issues is available at www.texaswatermatters.org and www.texas.sierraclub.org or by writing Lone Star Chapter, Sierra Club, P. O. Box 1931, Austin, TX 78767.

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Contents

Introduction

Section One: State Entities and the Texas Legislature 1
- Texas Commission on Environmental Quality. 2
- Texas Parks and Wildlife Department 4
- Texas State Soil & Water Conservation Board 5
- Texas Water Development Board 6
- Texas Legislature 7

Section Two: Regional Entities 8
- Groundwater Conservation Districts 9
- River Authorities 11
- Edwards Aquifer Authority. 13
- Harris-Galveston Coastal Subsidence District 14
- Regional Water Planning Groups. 15

Section Three: Local Entities 17
- Municipal Water Suppliers. 18
- Municipal Utility Districts 19
- Water Supply Corporations 20
- Private Water Suppliers 22
- Water Control and Improvement Districts. 23
- Special Utility Districts. 23
- Freshwater Supply Districts 24

Glossary 25
- Abbreviations. 25
- Terms 26

Appendices 27
- A. 30 TAC CH 291.81, Water Utility Customer Relations. 27
- B. Who Provides Water or Sewer Service to My Property?. 29
- C. Open Meetings Information 30
- D. TCEQ Jurisdiction Over Utility Rates and Service Policies 31
- E. River Authorities Contact Sheet 32

Index 34

Introduction

On any given day hundreds and even thousands of federal, state, regional, and local government entities, and some for-profit and nonprofit water supply entities, are making critical decisions about water management and protection in Texas. The citizens and residents of the state need to make their views on important water issues known to those decision-makers so that these decisions are informed and in the public interest.

In order to do so, however, the public needs a general understanding of where the respective responsibilities for water management and protection rest among the multitude of entities involved. Gaining that understanding is not an easy task in a state as large and complex as Texas. As our state has evolved from a predominantly rural state to a highly urbanized and industrialized one, and as the population has grown exponentially over the last several decades, water management and protection responsibilities have come to rest with a myriad of entities, many of which are largely unknown to the general public.

This publication is intended to provide Texans with an overview of these various water management and protection entities at the state, regional, and local level. (Federal decision-makers on water matters are not covered in this publication since information about the federal level is provided in a number of national documents). Please keep in mind that these thousands of water entities directly affect your water supply, including the rate you will pay for the water you use. When it comes to your pocketbook and your health, it certainly does matter; it garners our attention, and begs for steps we can take to be more in control. Throughout the text, therefore, readers will encounter two symbols and appearing in the margins to help guide you to material that is particularly important and to alert you to opportunities to participate in the water decision-making process. We hope that this knowledge will empower you to follow the activities of these water entities and to make our voices heard by water decision-makers. A separate Sierra Club publication gives readers step-by-step instructions on how to make your voice on water issues heard.

Another companion piece to this publication is Facts About Texas Water – a primer of basic information about water that will help you understand this important resource and how to use and protect it. Together these publications present a foundation of knowledge for Texans who wish to practice good water management themselves while making sure that larger decisions about water management and protection are made with appropriate input. The Sierra Club sincerely hopes you enjoy all these publications. Feel free to give us feedback regarding this water publication and others produced by the Lone Star Chapter Sierra Club. Enjoy.

— Designates material that is particularly important.

— Designates opportunities to participate in the water decision-making process.

State Entities and the Texas Legislature

State agencies, by their very nature, provide the broadest coverage of water supply issues. For purposes of this publication, discussion is limited to those agencies that deal directly with your water supply. Therefore, other agencies whose responsibilities include oil clean-ups, surface mining, and regulation of agricultural chemicals, as it pertains to water resources, are not discussed. Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, Texas State Soil & Water Conservation Board, and Texas Water Development Board all share pieces of your water supply pie and house many decision-makers that make water-related decisions that would matter to you.

Reader Note:
Throughout this publication, readers will encounter two symbols and appearing in the margins to help guide you to material that is particularly important and to alert you to opportunities to participate in the water decision-making process.

STATE ENTITIES

Texas Commission on Environmental Quality

The TCEQ sets the standards for surface water quality for bodies of water in the state and implements those standards by monitoring and assessing surface water resources and by regulating sources of pollution.

Texas Parks and Wildlife Department

TPWD has a regulatory responsibility for recreational fishing in Texas' waters and regulates commercial fishing on the coast. TPWD is designated as the state trustee for aquatic resources, but it has no direct regulatory authority to ensure water quality and quantity for fish, wildlife, and recreational resources.

Texas Water Development Board

The TWDB was created in 1957 and is the state agency primarily responsible for water planning and administering water financing for the state.

Texas State Soil & Water Conservation Board

The TSSWCB is the state agency that implements the Texas Soil Conservation Law, enacted to combat soil erosion. In the 1970s the agency was designated as the lead state agency for addressing nonpoint source pollution from agricultural and silvicultural (timbering) operations.

Texas Commission on Environmental Quality

Website: http://www.tceq.state.tx.us/

The Texas Commission on Environmental Quality (TCEQ) is the state's primary environmental regulatory agency. Among other environmental issues, the TCEQ is involved with the following aspects of water:

- Quality
- Quantity
- Regulations
- Permits
- Prices
- Suppliers
- Consumers.

The TCEQ sets the standards for surface water quality for bodies of water in the state (subject to approval by the U. S. Environmental Protection Agency) and implements those standards by monitoring and assessing surface water resources and regulating sources of pollution. Restoration efforts to improve impaired water supplies attempt to bring sub-quality water up to the respective standards. (The term "impaired" refers to streams or lakes that do not meet the water quality standards set for them.) Under the federal Clean Water Act these restoration efforts include determinations of how much pollution a body of water may receive without violating water quality standards (these determinations are known as "TMDLs" or total maximum daily loads). Other TCEQ efforts focus on addressing potential threats to water quality, in order to avoid impairments.

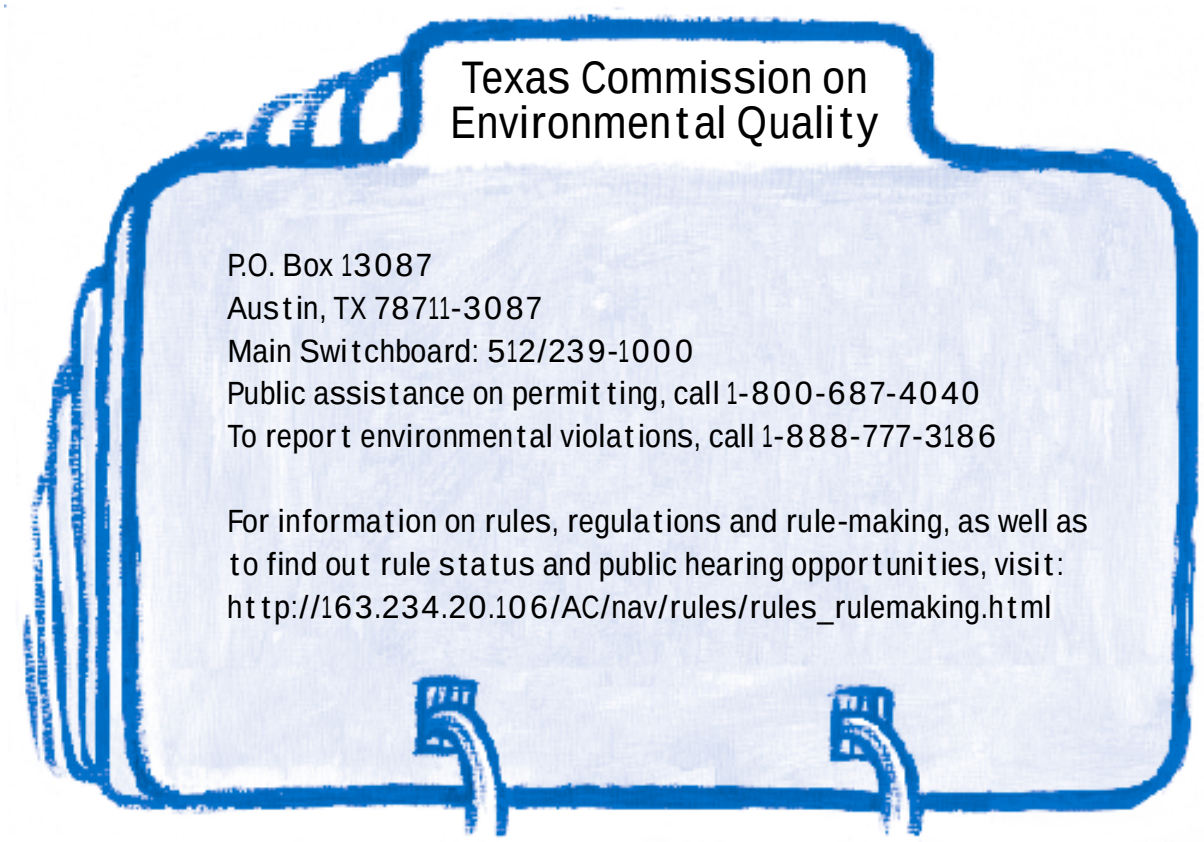
In the water quantity area, TCEQ is responsible for processing and acting on applications for permits to use the state's surface water (known as "water rights"), including any applications to transfer surface water from one river basin to another (known as "interbasin transfers"). TCEQ is also responsible for developing models (known as "Water Availability Models" or "WAMs") to determine available amounts of surface water in the various river basins of the state.

TCEQ also has the authority to regulate the operations of certain water suppliers (see Appendix D). In some cases where the TCEQ does not have jurisdiction, the 10% rule comes into affect (see the discussion of "Municipal Water Suppliers" elsewhere in this publication). Essentially this means if 10% of a water supplier's consumers submit complaints to the TCEQ (regarding price, quality, service, etc.), then the TCEQ can intervene by holding a hearing to resolve the issue.

The following TCEQ links are related to water utilities and water supplies:

Public Drinking Water	http://www.tceq.state.tx.us/permitting/waterperm/pdw/pdw000.html
Source Water Assessment and Protection	http://www.tceq.state.tx.us/permitting/waterperm/pdw/swap/swap.html
Water Availability Models	http://www.tceq.state.tx.us/permitting/waterperm/wrpa/wam.html
Surface Water Rights in Texas	http://www.tceq.state.tx.us/enforcement/fod/wmaster/wmaster1.html
Water Rights Permits	http://www.tceq.state.tx.us/permitting/waterperm/wrpa/permits.html
Water Utilities and Water Districts	http://www.tceq.state.tx.us/permitting/waterperm/ud/u&d.html
Water Utility Database	http://www.tceq.state.tx.us/permitting/waterperm/ud/iwud.html

The TCEQ oversees water entities within Texas and has authority over many areas such as district bond issues and rates charged by private and member owned water utilities. Furthermore, the TCEQ processes petitions for new districts and handles requests for designations of utility service areas. TCEQ has a wealth of resources to provide you with information concerning your water and your water supplier.



Texas Parks and Wildlife Department

Website: http://www.tpwd.state.tx.us/

Texas Parks & Wildlife Department (TPWD) plays an important role in protecting aquatic ecosystems throughout the state. TPWD has a regulatory responsibility for recreational fishing in Texas' waters and regulates commercial fishing on the coast. TPWD is designated as the state trustee for aquatic resources, but it has no direct regulatory authority to ensure water quality and quantity for fish, wildlife, and recreational resources.

TPWD also works to maintain and restore sustainable aquatic life and maintain water quality for fishing and swimming. An important component of the work is integration of data on aquatic communities, physical, chemical, and habitat parameters and adjacent land uses. TPWD works with regional and state water planning stakeholders and works closely with regulatory agencies in an advisory capacity to protect and enhance water quality and to assure adequate instream flows for rivers and freshwater inflows for bays and estuaries.

TPWD is the state agency with primary responsibility for protecting the state's fish and wildlife resources. One of TPWD's resource protection activities is to provide recommendations to the Texas Commission on Environmental Quality (TCEQ) on scheduling of instream flows and freshwater inflows to Texas estuaries for the management of fish and wildlife resources. TPWD also makes recommendations to TCEQ regarding permit conditions and mitigation requirements to protect fish and wildlife resources. If necessary, TPWD also can be a party in water right permit hearings. The Resource Protection Division leads the agency's research and coordination efforts on instream flow issues for Texas. All these facets serve as an effort to promote aquatic ecosystems for future Texans.

TPWD participates as a non-voting member in the state's regional water planning process by sending liaisons from the agency to the 16 regional planning groups in order to assist them and provide technical expertise for their planning efforts.

The Texas Parks and Wildlife Commission, the governing body for TPWD, consists of nine members appointed by the Governor with the advice and consent of the Senate. Commission members serve staggered terms of six years. The Commission's chief responsibility is the adoption of policies and rules to carry out all programs of the Parks and Wildlife Department.

The Commission:

- Approves the biennial budget and appropriation requests for submission to the legislature
- Sets departmental policy
- Appoints an Executive Director charged with the implementation of that policy and operation of the department on a daily basis.

Texas State Soil & Water Conservation Board

Website: http://www.tsswcb.state.tx.us/

The Texas State Soil & Water Conservation Board (TSSWCB) is the state agency that implements the Texas Soil Conservation Law, enacted to combat soil erosion. In the 1970s the agency was designated as the lead state agency for addressing nonpoint source pollution from agricultural and silvicultural (timbering) operations. Nonpoint source pollution comes from sources, such as stormwater runoff from an agricultural field, as contrasted to pollution from a point source such as a sewage discharge pipe.

TSSWCB is headquartered in Temple, but it maintains a number of regional offices in other parts of the state to carry out its water quality functions. A major thrust of the agency is its provision of technical assistance to the state's 216 soil and water conservation districts. A unique feature of this agency is that each of the five members of its governing board are elected by soil and water conservation district directors in the state district they represent.

Other major programs administered by TSSWCB are the Water Quality Management Plan Program and the State Brush Control Program. Participation by local landowners in these programs is voluntary. Through the first program listed, the agency assists agricultural and silvicultural producers in preparing water quality management plans to control pollution from their operations and provides funding to pay for 75 percent of the implementation of an approved plan.

Through the State Brush Control Program landowners contract with the state for cost-share assistance to prepare brush management plans developed through local soil and water conservation districts. One of the aims of this program is to enhance groundwater supplies by controlling invasive brush species, which use large amounts of water. If you have a question about invasive brush species in your area, contact TSSWCB staff.

Texas Water Development Board

Website: http://www.twdb.state.tx.us/

The Texas Water Development Board (TWDB) was created in 1957 and is the state agency primarily responsible for water planning and administering water financing for the state. The agency is governed by a six-member Board whose members are appointed to six-year staggered terms by the Governor and which meets monthly, usually on the third Wednesday of the month in Austin. Board and committee meetings are open to the public, and, their schedules and agendas are posted on the TWDB website. The Board considers loan applications from eligible applicants, awards grants for water-related research and planning, and conducts other TWDB business, such as approving the State Water Plan. To receive one copy of the State Water Plan, Water for Texas – 2002, either download it from the TWDB website, or contact TWDB staff member Ann Omoegbele at ann.omoegbele@twdb.state.tx.us, or call 512/936-0814.

The mission of the Water Development Board is to provide leadership, technical services and financial assistance to support planning, conservation and development of water for Texas. The Board has two goals. The first goal is to plan and guide the conservation and orderly, cost-effective development and best management of the state's water resources for the benefit of all Texans. The second goal is to provide cost-effective financing for the development of water supply, for water quality protection, and for other water related projects.

The following is a list of the board's duties:

◆ Provides loans to local governments for water supply projects; water quality projects including wastewater treatment, municipal solid waste management and non-point source pollution control; flood control projects; agricultural water conservation projects; and groundwater district creation expenses

◆ Provides grants and loans for the water and wastewater needs of the state's economically distressed areas

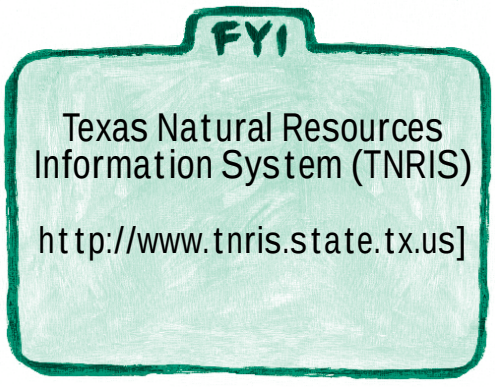
◆ Provides agricultural water conservation funding and water-related research and planning grants

◆ Supports regions in developing their regional water plans that will be incorporated into a statewide water plan for the orderly development, management and conservation of the state's water resources by studying Texas' surface and groundwater resources (including the development of "Groundwater Availability Models" or "GAMs" to determine the volume of groundwater available in different aquifers around the state). (Also see p. 16 for more discussion on regional water plans.)

◆ Collects data and conducts studies concerning the fresh-water needs of the state's bays and estuaries

◆ Administers the Texas Water Bank, which was established to facilitate the transfer, sale or lease of water and water rights throughout the state, and administers the Texas Water Trust, which was established to hold water rights for environmental flow maintenance purposes

◆ Maintains a centralized data bank of information on the state's natural resources called the Texas Natural Resources Information System (TNRIS) and manages the Strategic Mapping Initiative, a Texas-based, public and private sector cost-sharing program to develop consistent, large-scale computerized base maps describing basic geographic features of Texas.



Texas Legislature

Website: http://www.capitol.state.tx.us/

The Texas Legislature, composed of the Texas House of Representatives and the Texas Senate, is the law-making body for state government. As such it is ultimately responsible, subject to the provisions of the Texas Constitution and in some cases federal laws and regulations governing water, for making and revising state water law, providing financial appropriations to state water agencies, and creating or setting the legal requirements and procedures for creating various local and regional water entities.

Although ultimately the Texas House and the Texas Senate must adopt laws and appropriations affecting water (subject to the veto power of the Governor, of course), the usual legislative process involves a considerable amount of work and discretion on the part of standing committees of both houses. In the case of water, most but not all water-related legislation goes through the House Natural Resources Committee in the Texas House and the Senate Natural Resources Committee in the Texas Senate. The chairs and members of these committees are appointed by the respective presiding officers in each house – the Speaker of the House in the case of the Texas House and the Lieutenant Governor in the case of the Texas Senate.

Appropriations for state agencies and programs addressing water go through the House Appropriations Committee and the Senate Finance Committee before going to the respective floors of each house and usually are finally decided by a joint House-Senate conference committee that reconciles the differences between House and Senate versions of the appropriations bill. The House and Senate then usually adopt the conference committee report on the appropriations bill, which goes to the Governor (who may exercise the power of "line item" veto over the appropriations in the bill).

Practically every session of the Texas Legislature sees a variety of water-related legislation introduced, including sometimes major re-writes or additions to the Texas Water Code, as occurred with the "water package" in 1985, the passage of Senate Bill 1 in 1997, and the passage of Senate Bill 2 in 2001. Thus, anyone interested in water policy decision-making should pay special attention to the work of the Texas Legislature in its regular sessions in the spring of each odd-numbered year and sometimes to the work of the Legislature in special sessions called by the Governor at other times.

Regional Entities

River authorities, groundwater conservation districts, and other regional entities provide another layer of the "water supply pie" and also play critical roles in making decisions about your water that directly affects the quality, quantity, and cost of your water. Regional Water Planning Groups, also included in this layer, develop regional water plans for their respective area of the state to identify water demands and water management strategies to meet those demands.

REGIONAL ENTITIES

Groundwater Conservation Districts
provide groundwater management and conservation.

River Authorities
protect and monitor Texas' rivers for the state's inhabitants and ecosystems.

Edwards Aquifer Authority
manages, conserves, preserves and protects the Edwards Aquifer.

Harris-Galveston Coastal Subsidence District
regulates the withdrawal of groundwater within Harris and Galveston Counties.

Regional Water Planning Groups
RWPGs prepare regional water plans for their respective areas.

STATE ENTITIES

Texas Commission on Environmental Quality

Texas Parks and Wildlife Department

Texas Water Development Board

Texas State Soil & Water Conservation Board

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Groundwater Conservation Districts

Website: http://www.texasgroundwater.org

Groundwater conservation districts are important for two primary reasons, groundwater management and conservation. These districts provide some form of groundwater management in a state where groundwater withdrawals operate generally under the "rule of capture." The rule of capture is the basic groundwater law for Texas that allows the surface owner of land to pump an unlimited amount of groundwater from under his/her land. The rule of capture has been modified considerably in some areas of the state (for example, in Bexar County and counties to the east and west where pumping from the Edwards Aquifer is regulated by the Edwards Aquifer Authority, in the Houston-Galveston area where pumping is regulated by the Harris-Galveston Coastal Subsidence District, and in some respects in areas covered by other groundwater conservation districts created under Chapter 36 of the Texas Water Code or by other special legislation).

The state's groundwater supplies, which provide water for most of West Texas and much of East Texas, are decreasing at an alarming rate in many areas. One of the reasons for creating a groundwater conservation district is to conserve precious groundwater supplies.

Groundwater conservation districts (GCDs) were authorized by the Texas Legislature to provide for the conservation, preservation, protection, recharge, and prevention of waste of groundwater and groundwater reservoirs. They are the state's preferred method of managing groundwater resources. While no state agency has the right to regulate the production or use of groundwater, districts can provide some local controls.

GCDs can be created in one of four following ways:
- By the Texas Legislature
- Through a petition by property owners
- By annexation into an existing district
- By the Texas Commission on Environmental Quality (TCEQ).

A locally elected board of directors manages each GCD and is responsible for establishing policies, rules and procedures. GCDs generate revenues to pay for their operations through either property taxes or production fees.

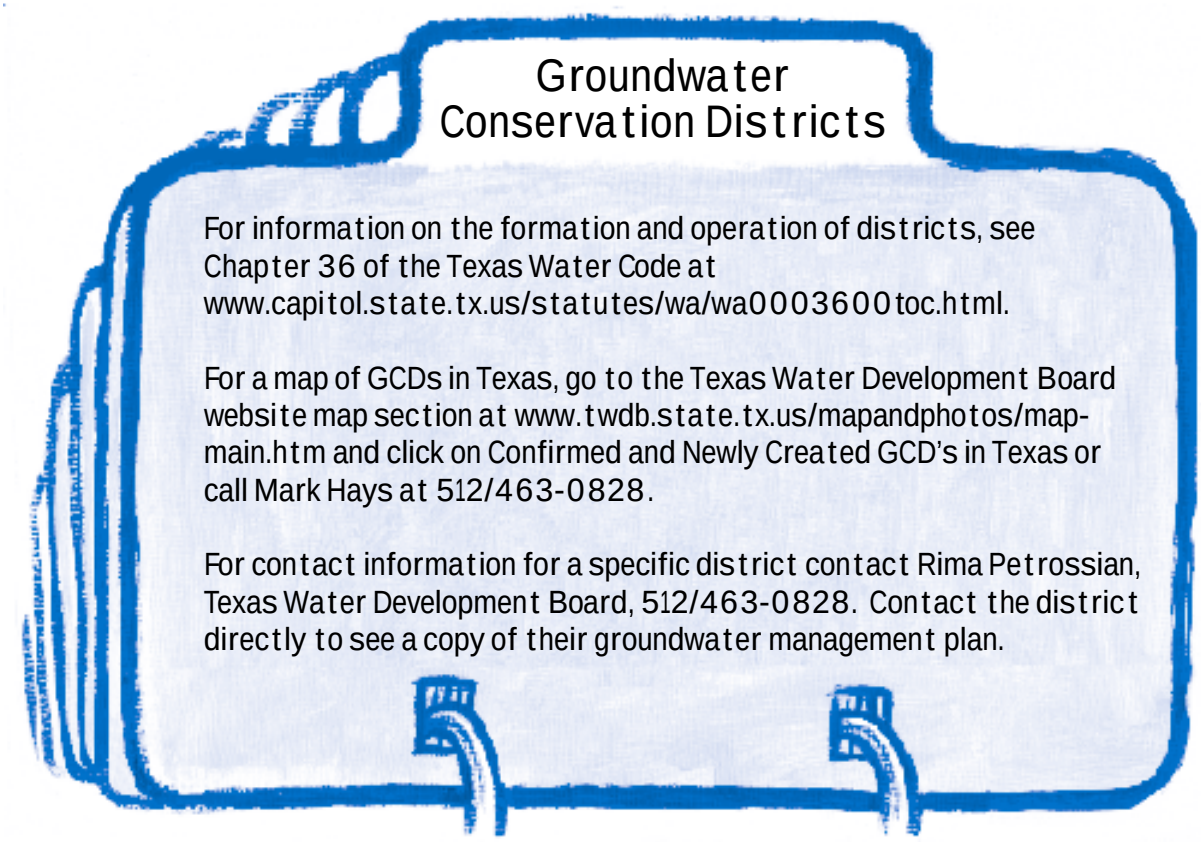
GCDs are required by law to develop and adopt a groundwater management plan. The goals of this plan are to provide for efficient use of groundwater, control and prevent waste and subsidence (the lowering of land elevation due to extracting too much water beneath it), and address issues such as conjunctive water use, natural resources, drought conditions, and conservation.

Districts also are required to:
- Adopt rules to implement their management plan
- Coordinate with Senate Bill 1 regional water planning groups, state agencies, and other groundwater conservation districts
- Permit and register certain wells and alterations to well size or well pumps
- Update records on the drilling, equipping, and completion of wells and the production and use of groundwater

Depending on their enabling legislation and the discretion of their board, GCDs also may have the authority to:

- ◆ Adopt and enforce rules to regulate the spacing and production of groundwater wells
- ◆ Require permits and fees for transferring groundwater out of the district
- ◆ Acquire land through eminent domain
- ◆ Buy, sell, transport and distribute surface water or groundwater
- ◆ Make surveys of aquifers
- ◆ Require uncovered wells to be closed or capped

Presently, groundwater supplies provide almost 60% of our state's water demand. However, these supplies are predicted to decrease 20% by 2050. At present GCDs are our best defense to protect these diminishing groundwater resources.



If you live within the jurisdiction of a groundwater district, you may wish to participate in district activities. To participate, contact your groundwater conservation district and attend their meetings. All meetings are public and are subject to the Open Meetings and Open Records Act. Residents within a groundwater conservation district may also vote in elections to select the members of the Board of Directors of the district.