

REGION C WATER PLANNING GROUP

Senate Bill One Fourth Round of Regional Water Planning - Texas Water Development Board

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March 16, 2015

Kevin Patteson
Texas Water Development Board
1700 North Congress
Austin, Texas 78711-3231

RE: Revision to the 2011 Region C Water Plan

Dear Mr. Patteson:

As directed by the TWDB Order dated January 8, 2015, Region C has revised its 2011 Region C Water Plan. This revision is attached. In its January 8, 2015 Order, TWDB ordered that:

“The Region C Regional Water Planning Group shall revise, pursuant to TWC Section 16.053(h)(6), Chapter 10 of its 2011 RWP, related to the Plan Approval Process to reflect the mediation, this Board action, and other actions taken to effectuate this decision. Region C shall adopt the revisions and submit its revised RWP and supporting documents to the Board on or before March 20, 2015, for Board Consideration.”

In addition to the changes to Chapter 10, Region C also added a new section to Chapter 7 to reflect the addition of the “Analysis and Quantification of the Impacts of the Marvin Nichols Reservoir Water Management Strategy on the Agricultural and Natural Resources of Region D and the State”.

A Public Hearing was held on February 27, 2015 to receive comment on this revision. The Region C Water Planning Group approved this revision to the 2011 Region C Water Plan through an action item at the March 2, 2015 Region C Water Planning Group public meeting.

Please call me if you have any questions regarding this information.

Sincerely,

Jo M. Puckett
Chairman, Region C Water Planning Group

CC:

Connie Townsend, TWDB PM for Region C
Temple McKinnon, Manager, TWDB Regional Water Planning

Attachment:

Revision to the 2011 Region C Water Plan including:
Chapter 7.7, Chapter 10.6, Appendix CC, Appendix DD

c/o TRA

5300 South Collins Street
Arlington, Texas 76018
P. O. Box 60
Arlington, Texas 76004
817/467-4343
817/465-0970/Fax
RegionCWPG@trinityra.org
www.regioncwater.org

7.7 Quantitative Analysis of the Marvin Nichols Reservoir Water Management Strategy

As part of the resolution of the conflict between the 2011 Regions C & D Plans regarding the Marvin Nichols Reservoir Water Management Strategy (described further in Chapter 10.6 of this report), on August 8, 2014 the TWDB ordered that:

“Region C conduct an analysis and quantification of the impacts of the Marvin Nichols Reservoir Water Management Strategy on the agriculture and natural resources of Region D and the State, pursuant to Sections 16.051 and 16.053 of the Texas Water Code and Chapters 357 and 358 of Board rules.”

This analysis was conducted by Region C and submitted to the TWDB on October 29, 2014. This analysis produced a report entitled “Analysis and Quantification of the Impacts of the Marvin Nichols Reservoir Water Management Strategy on the Agricultural and Natural Resources of Region D and the State” and is included as Appendix CC to this report.

The report is also available electronically at the URL below:

<http://www.regioncwater.org/Documents/Final/Quantitative%20Analysis%20of%20Marvin%20Nichols%20Reservoir.pdf>

10.6 Interregional Conflict between Regions C and D regarding the Marvin Nichols Reservoir Water Management Strategy

10.6.1 Background on the Interregional Conflict

Senate Bill 1 (SB 1) in 1997 created the current state water planning process. Before the implementation of SB 1, Marvin Nichols Reservoir was recommended as a water management strategy in the 1968 State Water Plan, the 1984 State Water Plan, and the 1997 State Water Plan. Under SB 1, the first Region D Regional Water Plan in 2001 recommended that Marvin Nichols Reservoir be developed to provide a source of future water supply for water users both within Region D and in Region C. However, the 2001 Region D Plan was later amended to remove support for the development of Marvin Nichols Reservoir. In the 2006 Region D Water Plan, the Region D Regional Water Planning Group took the position that Marvin Nichols Reservoir should not be included in any regional plan or in the State Water Plan as a water management strategy. Further, the Region D Regional Water Planning Group expressed the opinion that the inclusion of Marvin Nichols Reservoir in the Region C Regional Water Plan constituted an interregional conflict. Following the policy established with the first series of water plans, the Texas Water Development Board (TWDB) approved both the Region C and Region D 2006 Regional Water Plans because it did not find an over-allocation of a source of supply--the TWDB's definition of an interregional conflict.

In 2007, the 80th Legislature established a study commission on Region C Water Supply that consisted of members appointed by the regional water planning groups of Regions C and D. The Study Commission was charged with reviewing the water supply alternatives available to the Region C Regional Water Planning Area. The Study Commission was unable to reach a consensus on its findings and recommendations, so a final report was not delivered to the 82nd Legislature.

In 2011, the Region C Regional Water Planning Group again adopted Marvin Nichols Reservoir as a recommended strategy and Region D reiterated concerns it had raised previously. Region D again expressed the opinion that including Marvin Nichols Reservoir in the Region C Regional Water Plan constituted an interregional conflict. The TWDB approved the Region D Regional Water Plan in October 2010, and the Region C Regional Water Plan in December 2010, finding again that there was no over-allocation of supply sources. To date, Marvin Nichols Reservoir

has not been constructed and no permits for its development have been sought from the Texas Commission on Environmental Quality (TCEQ) or the U.S. Army Corps of Engineers.

Private parties in Region D (Ward Timber, et al.) filed suit in District Court in Travis County in January 2012, seeking judicial review of the TWDB's decision approving the Region C Regional Water Plan. In its order issued on December 5, 2011, the District Court declared that an interregional conflict existed, reversed the TWDB's decisions approving the two regional plans, and remanded the case to the TWDB for resolution. The TWDB appealed. The 11th Court of Appeals heard the case and affirmed the district court's ruling on May 23, 2013. No further motions were filed.

The TWDB contracted for a mediator and arranged for a mediation between Region C and Region D members appointed by their respective regional planning groups. The mediator reported on December 17, 2013 that the parties did not reach agreement in the mediation. Thus, under the statute and the Court's Order, the TWDB was to resolve the conflict.

The core dispute between Region C and Region D is whether Marvin Nichols should be developed in the north-central part of Region D to serve the water needs in Region C.

10.6.2 Timeline for the Interregional Conflict

Subsequent to the unsuccessful mediation in December 2013, the following timeline of events occurred. The underlined documents referenced below are included in Appendix DD.

March 4, 2014 - The Preliminary Recommendation of Conflict Resolution from TWDB Executive Administrator was posted on the agency website and provided to the chairs of the C and D Regional Water Planning Groups and the parties to the Ward Timber litigation through their attorney. The TWDB began receiving comments on this recommendation.

April 29 and 30, 2014 - Public hearings were held at Region D and Region C locations to accept comment on the Preliminary Recommendation.

May 2, 2014 - Comment period on Preliminary Recommendation was closed.

May 19 and 20, 2014 - The Executive Administrator submitted a Final Recommendation to the Board and issued a letter soliciting legal briefs.

June and July 2014 - Regions C and D submitted Legal Briefs and Response Briefs related to TWDB Final Recommendation.

August 7, 2014 - Board considered TWDB Executive Administrator's Final Recommendation regarding the interregional conflict between the Region C and Region D Regional Water Plans. The Board determined that there was inadequate analysis and quantification of the impact of the Marvin Nichols Reservoir Water Management Strategy on the agricultural and natural resources of Region D and the State.

August 8, 2014 – TWDB issued an Interim Order instructing Region C to conduct an analysis and quantification of the impact of the Marvin Nichols Reservoir Water Management Strategy on the agricultural and natural resources of Region D and the State and submit it to the Board by November 3, 2014. It was further ordered that upon receipt of the analysis and quantification, the Executive Administrator and Region D would be given the opportunity to submit a written response to the submission, and the matter would be scheduled for Board consideration.

October 29, 2014 - Region C submitted “Analysis and Quantification of the Impacts of the Marvin Nichols Reservoir Water Management Strategy on the Agricultural and Natural Resources of Region D and the State”. See Appendix CC for this document.

December 17, 2014 - Region D submitted Response to “Analysis and Quantification of the Impacts of the Marvin Nichols Reservoir Water Management Strategy on the Agricultural and Natural Resources of Region D and the State”.

December 17, 2014 – TWDB Executive Administrator published a memo related to Region C's Response to Interim Order of August 8, 2014.

January 8, 2015 - Texas Water Development Board heard oral argument from representatives of Region C and Region D and the TWDB Executive Administrator at public TWDB Board meeting.

January 8, 2015 - Texas Water Development Board published an Order concerning the Interregional Conflict, which resolved the conflict with the inclusion of the Marvin Nichols Reservoir Project as a recommended water management strategy in the 2011 Region C Regional Water Plan. The Board directed Regions C and D to amend their 2011 Plans as detailed in Section 10.6.3 below.

February 27, 2015 – A Public Meeting was held to receive public comment on the revision to the Region C Plan pursuant to the January 8, 2015 TWDB Order.

March 2, 2015 – At its regularly scheduled public meeting, the Region C Water Planning Group approved the Revision to the *2011 Region C Water Plan* to incorporate the TWDB Final Ruling on the Resolution of Interregional Conflict.

March 16, 2015 – Region C submitted the Revision to the *2011 Region C Water Plan* to TWDB (prior to March 20, 2015 deadline).

10.6.3 Resolution of Interregional Conflict

On January 8, 2015 the Texas Water Development Board issued an Order resolving the Interregional Conflict between Region C and Region D. The resolution of the conflict is as follows:

“The Board finds that Region C’s 2011 Regional Water Plan together with the analysis and quantification submitted on October 29, 2014, meet the applicable statutory and regulatory criteria. Further, the Board finds that in accordance with Texas Water Code (TWC) Sections 16.051 and 16.053, the interregional conflict asserted by Region D is hereby resolved with the inclusion of the Marvin Nichols Reservoir Project as a recommended water management strategy in the 2011 Region C Regional Water Plan.”

TWDB’s Ordered Region C as follows:

“The Region C Regional Water Planning Group shall revise, pursuant to TWC Section 16.053(h)(6), Chapter 10 of its 2011 RWP, related to the Plan Approval Process to reflect the mediation, this Board action, and other actions taken to effectuate this decision. Region C shall adopt the revisions and submit its revised RWP and supporting documents to the Board on or before March 20, 2015, for Board Consideration.”

On March 2, 2015 the Region C Water Planning Group adopted the revision to the 2011 Region C Water Plan according to the TWDB’s final determination of this interregional conflict resolution.

Appendix CC

Analysis and Quantification of the Impacts of the Marvin Nichols Reservoir Water Management Strategy on the Agricultural and Natural Resources of Region D and the State

Click here to go to full document

http://www.regioncwater.org/Documents/General/Appendix_CC.pdf

Appendix DD

Interregional Conflict Resolution Documents

Click here to go to full document

http://www.regioncwater.org/Documents/General/Appendix_DD.pdf