

**Minutes of the North East Texas Regional Water Planning Group
September 18, 2024 – 10:00 A.M.**

The North East Texas Regional Water Planning Group (NETRWPG) – Region D met in an open meeting on Wednesday, September 18, 2024, at 10:00 A.M. The meeting was held at the Region 8 Education Service Center, 4845 US 271 N, Pittsburg, TX 75686. Notice of the meeting was legally posted.

Item 1-Jim Thompson called the meeting to order at 10:02 A.M. and welcomed everyone. Introductions were made and a quorum was present. Twenty-two members of the planning group were present in person or represented by a designated alternate.

The following voting members were present:

Russell Acker	David Aikin	Brandon Belcher	John Brooks
Kevin Chumbley	Andy Endsley	Nicolas Fierro	Richard Garza
Cindy Gwinn	Hattie Hackler	Billy Henson	Conrad King
Howdy Lisenbee	Janet McCoy	Fred Milton	Ned Muse
Sharron Nabors	Jim Thompson		

The following alternates were present:

Michael Brice	James Brooks	Joel Murray	Linda Price
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The following voting members were absent:

Joe Bumgarner	Greg Carter	Joe Coats	Robert Hurst
Richard LeTourneau	Harlton Taylor		

Item 2-The public was provided with an opportunity for comment prior to any action being taken by the planning group. No comments were made.

Item 3-Billy Henson made a motion to approve the minutes from the May 29, 2024 meeting. Sharron Nabors seconded the motion. Motion carried, all voting aye.

Item 4-Jim Thompson opened the discussion regarding the appointment of successors for the expiring voting member positions. Terms of each position are for 3 years, commencing on October 1, 2024. Selection process for positions will consider any additional nominations from voting members. Positions to be appointed include positions currently held by Brandon Belcher, Andy Endsley, Sharron Nabors, Joe Coats, Jim Thompson, Howdy Lisenbee, Richard Garza, and Billy Henson. All of those currently serving are interested in serving another term. In addition, Mr. Wayne Dial and Mr. David Weidman are interested in serving. Mr. Thompson stated that the Executive Committee recommends keeping the current incumbents and allowing them to serve an additional term. He then opened the floor for discussion, motions, or other nominations. Fred Milton made a motion to accept the recommendation of the Executive Committee to reappoint Brandon Belcher, Andy Endsley, Sharron Nabors, Joe Coats, Jim Thompson, Howdy Lisenbee, Richard Garza, and Billy Henson to serve another term. Janet McCoy seconded the motion. Motion carried, all voting aye.

Item 5-Jim Thompson opened the discussion on appointment of a liaison for Region C. Mr. Thompson suggested that we put this item on hold for discussion at a future meeting. Region D will have representatives at the next Region C meeting. There was no discussion. This item was tabled. No action taken.

Item 6-There were no reports from Region C or Region I. Nor were there reports from GMA 8 or GMA 11. Ron Ellis with the Texas Water Development Board (TWDB) provided a report. The Texas Water Fund webpage has been updated here:

<https://www.twdb.texas.gov/financial/programs/twf/index.asp>. There is a link on the site to sign up for email updates as well as a link to frequently asked questions. The Texas water fund implementation plan was released by TWDB in July. The purpose was to visualize the preliminary working regional water plan data and identify places where there may be systems that are near each other, where one has a surplus and one has a need, where there might be other opportunities for interregional type projects within the region. It also includes a brackish aquifer sample layer, which is included to help facilitate potential exploration of brackish groundwater projects. Additionally, on Monday, the draft Marvin Nichols reservoir project feasibility review was posted. There's a link there to the draft report, and it's got information on how to submit public comment on that review. Related to Senate Bill 28 from the last legislative session, the legislature appropriated a million dollars to go towards water supply projects, and this is what is called the Texas Water Fund, and this is the plan on how to pass that money out. Surveys and a draft implementation plan were developed and released in July. The draft implementation plan was completed within statutory directives. There is some flexibility but there are some rules that have to be adopted with it. There are two different funds created under the Texas Water Fund. One is the Rural Water Assistance Fund which assists cities between 0 and 9,999 in population. That program consists mostly of grant funds. And the other is the Water Loan Assistance Fund. These funds are for larger systems. There are funds allocated for Swift Program support and the new Water Supply for Texas Fund. The Water Supply for Texas Fund is required to be at least \$250 million by statute and it is for newly developed water supplies such as seawater desalination, produced water, types of water supply that aren't currently in our present inventory of the state water plan. In the fall, TWDB is going to continue to consider more rules. The proposal for the new Water Supply for Texas Fund and a public awareness campaign will begin. At that point, the invitations will go out for water conservation loss projects. In the winter, the rural water fund project commitments will be released. Every one of the TWDB loan programs has a two-step process. An announcement is made, and entities would submit project information forms that describes the project, TWDB ranks the projects and then invite entities to apply. A budget bill from last legislative session directed TWDB to do a feasibility review of the Marvin Nichols Reservoir project. This review needs to look at the implementation timeline, the associated costs, land acquisition considerations, and the economic impact of the project. There is a draft report posted on the TWDB website relating to the review of the project. This report must be finalized and submitted by TWDB to the legislative budget board and the governor no later than January 5, 2025. TWDB is asking for comments by October 15, 2024. The website containing information on how to submit public comments is <https://www.twdb.texas.gov/waterplanning/rwp/feasibility/index.asp>. All of the information in this report is based on existing information. There was not any new analysis, new reports or new science considered when completing this report. As related to the implementation timeline, the TWDB did not identify any basis to conclude that the implementation timeline for the Marvin Nichols Reservoir to be online in 2050 would render the project infeasible. As related to

associated costs, the TWDB did not identify any basis to conclude that the estimated costs of implementing the Marvin Nichols Reservoir would render the project infeasible. As related to land acquisition considerations, the TWDB did not identify any basis to conclude that land acquisition requirements would render the project infeasible. TWDB recognizes that land acquisition is a big concern for any project but until the permitting processes is initiated, the land requirements won't be known. To our knowledge, the US Army Corps of Engineers does not have a predictive formula in advance of the actual permitting process. But that land acquisition uncertainty alone does not make the project infeasible. As related to the economic impact, the TWDB did not identify any basis to conclude that economic impact associated with the project would render the project infeasible. The footprint of Marvin Nichols is approximately 66,000 acres and it is not known what the court requirement for mitigation will be, but it is likely that it will be one to one. Jim Thompson stated that this deadline for submitting comments does not make it feasible for this board to respond and comment appropriately. He stated that the information in this report seems to rely strictly on Region C's input. There is contradictory information between previously published Region D and Region C plans. Ron Ellis suggested that the Region D board request an extension from TWDB in order to take official action to draft a response to submit to TWDB regarding this draft report. Kyle Dooley stated that Agenda Item 8, as presented by Tony Smith with Carollo Engineers, will review chapters 2, 3, 4, and portions of 8. Chapter 8 addresses this language presented in Mr. Ellis's report and the board can take action to responds after the technical consultant's presentation. Fred Milton commented on the delay in responding to Mr. Thompson's letter to Region C composed and mailed in 2021. Ned Muse commented that the report did not use all available information, and it reached the conclusion that the project was not infeasible.

Item 7-In November of 2021 Jim Thompson wrote a letter to Region C regarding the disagreement surrounding the Marvin Nichols Reservoir. Region D has consistently been of the opinion that Marvin Nichols does not need to be in the State Water Plan. Region C holds the opinion that it does need to be in the State Water Plan. Region C's response was that at the time they received Mr. Thompson's letter, they were not sure what strategies would be in their plan and they voted to delay initiating interregional coordination until more information was available. Region C has now identified Marvin Nichols Reservoir as a potential recommended strategy for the 2026 Region C Water Plan. Region C is having a meeting in Arlington on September 30, 2024. Region D representatives are invited to attend and to comment. He also stated that Region C representatives are willing to attend a future Region D meeting to discuss the project further as well. The options are to officially appoint a committee to attend the meeting, or to leave it open to all members of the Region D board to attend. He opened the item up for discussion. Ned Muse commented that if Region C representatives are invited to speak at a Region D Meeting, then it should be requested that they present their position on Marvin Nichols publicly so that the residents inside Region D board can hear it directly from them. Cindy Gwinn recommended that everyone that can attend should attend the Region C meeting in Arlington on September 30th. Jim Thompson responded to Region C's letter requesting time on the agenda for Region D representatives to hear the presentation and ask questions regarding the Marvin Nichols project. Ned Muse made a motion for the chair, Jim Thompson or his authorized representative, to represent Region D and speak at the Region C meeting on September 30, 2024. David Aikin seconded the motion. Motion carried, all voting aye.

Item 8 – Tony Smith, Carollo Engineers, presented a snapshot of the budget, noting the approval of amendment number 2 and submitted all the information to TWDB. Next time it is presented the funds will be allocated for task 5B. We are about 66% through the budget. The draft water plan known as the Initially Prepared Plan (IPP) is being developed piecemeal to allow for feedback. It should be ready by the end of the year into January for presentation to TWDB. He presented draft versions of Chapters 2, 3, 4, 8, and the Region D Groundwater Availability Assessment for the 2026 Region D Plan. Approval of these chapters is not required today. Chapter 2 covers population and water demand projections. Chapter 3 covers the evaluation of water sources and water supplies. Chapter 4 covers the identification of water needs and water shortages and what water sources have surpluses, and Chapter 8 covers ecologically unique stream segments, unique reservoir sites, and legislative recommendations. Chapter 8 is where, in the past, Region D's recommendations on Marvin Nichols have been documented. This is where discussion and action can be taken to respond to the report presented by Ron Ellis with TWDB. In the past, the Regional Planning Group has made conditional recommendations for ecologically unique stream segments throughout Texas. These recommendations go to TWDB, and they can elect to include those in the State Water Plan or not. Ultimately the identification of a unique stream segment is done by the legislature. In making unique stream designation recommendations, Region D has been concerned about affecting private property owners, so they are cautions in those recommendations. In the last cycle there were three. In the Red River Basin, it was Pacan Bayou. In the Cypress Creek Basin, it was the Black Cypress Bayou and Black Cypress Creek. These conditional recommendations will be carried forward to the 2026 plan unless other input is offered. That input needs to be submitted soon because coordination with Texas Parks and Wildlife will be needed. Instream Flows are the flow necessary to maintain a sound ecological environment and instream portion. One of the TWDB's guiding principles regarding Instream Flows is that consideration shall be consistent with TCEQ's adopted environmental flow standards under 30 TAC Chapter 298 in basins where standards have been adopted. Instream flows are contemplated and applied using consensus planning criteria on Water Management Strategies. They are addressed in greater detail starting in the 2016 plan, including the application of adopted Instream Flow Standards from Senate Bill 3 process where adopted. Senate Bill 3 provided for development of environmental flow standards for the Sabine, Neches and Trinity Rivers but they did not set a schedule for Cypress Creek, Red River or Sulphur River Basin. That does not prohibit an effort to develop those environmental flow needs and ways in which those needs can be met by a voluntary consensus building process. All of the language regarding recommendations on instream flows in the Cypress Creek Basin and the Sulphur River Basin is consistent with the 2021 Region D Water Plan. Cindy Gwinn made note that one of the recommendations regarding instream flows in the Sulphur River Basin in the presented slides states, "Recommends that no new reservoir development should take place until the State has identified environmental flow needs for the Sulphur river consistent with Senate Bill 3." She asked how does that alone not make Marvin Nichols at least temporarily infeasible? That statement came from the Trungale study. Ron Ellis stated that statement is just a recommendation from the Region D Planning Group. That statement is not something that governs State Water Planning. That statement would have to be adopted into rule or statute to limit reservoir development. In the past, the plan did not recommend the designation of a unique reservoir site, except the Sabine River Authority had made a request to this regional planning group for endorsement of a recommendation in the adopted comprehensive Sabine Watershed Management Plan that Sabine River Authority develop Prairie Creek Reservoir. Unless we get different information, that will be included in the 2026 plan. As far as overall recommendations

on unique reservoir sites identification, development and reservoir site preservation, the 2026 plan language is consistent with the 2021 plan. With regard to the Texas Administrative Code on reservoir development the position is that there will be unavoidable impacts on agricultural resources should there be further development of new reservoirs in the Sulphur River Basin, and such new reservoirs would not be protective of the agricultural and natural resources in the region. Indicates this violates TAC Guidance Principles pertaining to planning. Opposes development of such reservoirs unless it is demonstrated that there will be no significant adverse impacts on the water, agricultural, and environmental resources within the North East Texas Region and the state. Regarding unique reservoir site identification and preservation, the planning group recommends that any new reservoirs in Region D be pursued only after all other viable alternatives have been exhausted. It recommends no reservoir sites in the North East Texas region be designated as unique reservoir sites in this plan or in the 2026 State Water Plan, excepting that the NETRWPG does not challenge Marvin Nichols Reservoir as a unique reservoir site for the purposes of this plan and the 2027 State Water Plan. This statement comes from a negotiation reached in 2015. Jim Thompson stated that the three pillars of that 2015 agreement were we would agree to put that language in the 2021 plan if Region C would agree to move Marvin Nichols to 2070 and they would also agree not to file for any permits within the five year period. After that agreement was written, he believes that was the 2016 or 2017 water plan. When we were conversing last year, we were still negotiating, and we didn't know which way it was going. Later in chapter eight, it says we don't recommend Marvin Nichols. Mr. Thompson stated that this section does need to be changed because that agreement is no longer valid. It also includes recommendations for items to be instituted when a unique reservoir site is considered and supports full application of criteria for evaluating authorization of interbasin transfers contained in current state law. It recommends a portion of the firm yield of projects in Region D contemplating interbasin transfers be reserved for future use within the basin of origin. It endorses SRA development of Prairie Creek Reservoir. Regarding the EPA and the US Army Corps of Engineers, Region D Recommends the Wetlands Compensatory Mitigation Rule be closely followed to minimize any impact on the region through the consideration of reservoirs and the mitigation thereof. Region D strongly supports "avoid, minimize, and compensate" should any new reservoirs in Region D be pursued. This recommendation will also apply to any other reservoirs in the region in addition to Marvin Nichols. In the 2021 plan, Region D pointed at the wetland compensatory mitigation rule and said that needs to be followed closely. Andy Endsley asked if the George Parkhouse reservoirs are still viable options? Stan Hayes replied that the slide Mr. Endsley is referring to was out of a special study completed that compiled all of the possible reservoirs and their locations. Jim Thompson requested that the plan that is approved and finalized by this planning group should not include any documents or maps that mention or show reservoirs that are not proposed by Region D. For the purposes of the 2016 region D plan region D continued to oppose Marvin Nichols reservoir but did not challenge Marvin Nichols reservoir's unique reservoir site. Language in the 2021 plan included: it has been the position of the Northeast Texas region war planning group that Marvin Nichols Marvin Nichols reservoir should not be included in 2022 state water plan as a water management strategy. Region D continues to oppose Marvin Nichols Reservoir but is willing to work with other regions to obtain water supplies from the Sulphur River Basin that do not involve new reservoir construction. As noted previously, the NETRWPG does not challenge Marvin Nichols Reservoir as a unique reservoir site for the purposes of this Plan. That last sentence is what can be changed for this water planning group's opinion to be included in the 2026 Plan. In this chapter, Region D makes legislative recommendations regarding the growth of Giant Salvinia, the Toledo Bend Reservoir

& Pipeline, oil and gas wells, mitigation, future interbasin transfers from the North East Texas Region, designation of wholesale water providers, future water needs, economic & environmental impacts associated with reservoir development, compensation for reservoir development & interbasin transfers, conversion of public water supplies to surface water from groundwater, TCEQ regulations, improvements to the regional water planning process, Wright Patman Lake Reservoir lake level, and standardized statistics for conservation assessments. Carollo is still looking at water management strategies, drought management and contingency plans and comparing all data to the 2021 plan. Mr. Smith does not require any formal action on any of this chapter language today. Language and data regarding recommendations can be revised by Region D at a later date. They do recommend action to approve the submittal of a request to TWDB for review of Region D's proposed methodology for the determination of groundwater availability and resultant availabilities, consistent with TAC §357.32(d)(2), and to revise methodology as appropriate based upon TWDB input in coordination with the Chair and the Administrator. Sharron Nabors made a motion to approve the submittal of a request to TWDB for review of Region D's proposed methodology for the determination of groundwater availability and resultant availabilities, consistent with TAC §357.32(d)(2), and to revise methodology as appropriate based upon TWDB input in coordination with the Chair and the Administrator. Fred Milton seconded the motion. Motion carried, all voting aye.

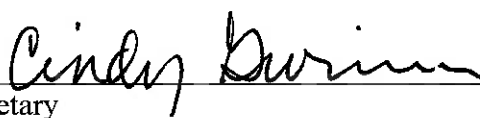
A motion was made by Howdy Lisenbee to authorize the chairman to draft two letters. One asking for an extension on the public comment period on the Marvin Nichols Feasibility Study as presented by Ron Ellis with TWDB. And a second letter expressing our feedback on that feasibility study and authorize the chairman to send the letter if that extension is not granted. Ned Muse seconded the motion. Motion carried, all voting aye.

Item 10-Kyle Dooley presented invoices from Carollo Engineers for payment approval. The invoices are for work from February through April 2024. The total for the invoices is \$53,590.15. Ned Muse made a motion to authorize Kyle Dooley to pay the invoices to Carollo. Fred Milton seconded the motion. Motion carried, all voting aye.

The public was provided with a second opportunity to make comments. David Nabors made comments regarding lithium extraction and brackish water. Laura Ashley Overdyke with the Caddo Lake Institute commented on voluntary flows from Caddo Lake, she highlighted that only 2 of the 16 regional water planning groups in Texas are projected to have enough water and Region D is one of them, she raised her concerns for underestimating water demands, she suggested a moratorium on new reservoirs and interbasin transfers until existing leaks are repaired citing the 41 billion gallons of water loss in North Texas.

Kyle Dooley provided that the next meeting is tentatively scheduled for mid-November 2024.

With no further business to discuss, Jim Thompson adjourned the meeting at 12:25 p.m.


Secretary


Date