

Explanatory Report for Submittal of Desired Future Conditions to the Texas Water Development Board

Texas Water Code § 36.108 requires groundwater conservation districts to submit desired future conditions of the groundwater resources in their groundwater management area to the executive administrator of the Texas Water Development Board (TWDB). The TWDB expects to receive the following in a submission packet (31 Texas Administrative Code § 356.31(b) and § 356.32) no later than 60 days after final adoption by the groundwater management area of a desired future condition:

- A copy of the adopted desired future conditions and the explanatory report addressing the information required by Texas Water Code §36.108(d-3) and the criteria in Texas Water Code §36.108(d);
- a copy of the resolution from the groundwater conservation districts within a groundwater management area adopting the desired future conditions;
- a copy of the notice that was posted for the joint planning meeting at which the districts collectively adopted the desired future condition(s);
- the name of the designated representative of the districts in the groundwater management area;
- any and all groundwater availability model files or aquifer assessments acceptable to the executive administrator used in developing the adopted desired future conditions with documentation sufficient for TWDB staff to replicate the work;
- any other information the executive administrator may require in order to estimate the modeled available groundwater; and
- documentation supporting classifying of an aquifer as non-relevant.

The Texas Water Code and TWDB rules do not specify a format or organization for the explanatory report. Therefore, districts in groundwater management areas are free to develop explanatory reports that best suit the needs of the districts and fulfill the requirements of the statute. The TWDB recommends that an explanatory report be organized in such a way as to facilitate use by groundwater stakeholders and district constituents. The report will also be a key document if a petition is filed challenging the reasonableness of a desired future condition. The following paragraphs describe a possible approach to organizing the explanatory report.

Elements of the Explanatory Report

According to Texas Water Code § 36.108(d-3), the district representatives shall produce a desired future conditions explanatory report for the management area and submit to the TWDB and each district in the management area proof that notice was posted for the joint planning meeting, a copy of the resolution, and a copy of the explanatory report. The report must:

1. identify each desired future condition;
2. provide the policy and technical justifications for each desired future condition;
3. include documentation that the factors under Texas Water Code § 36.108(d) were considered by the districts and a discussion of how the adopted desired future conditions impact each factor;
4. list other desired future condition options considered, if any, and the reasons why those options were not adopted; and
5. discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts were or were not incorporated into the desired future conditions.

Nine Factors for Explanatory Report

Factors identified in Texas Water Code § 36.108(d) that need to be discussed in the explanatory report include:

1. aquifer uses or conditions within the management area, including conditions that differ substantially from one geographic area to another,
 - a. for each aquifer, subdivision of an aquifer, or geologic strata and
 - b. for each geographic area overlying an aquifer;
2. the water supply needs and water management strategies included in the state water plan;
3. hydrological conditions, including for each aquifer in the management area the total estimated recoverable storage as provided by the executive administrator, and the average annual recharge, inflows, and discharge;
4. other environmental impacts, including impacts on spring flow and other interactions between groundwater and surface water;
5. the impact on subsidence;
6. socioeconomic impacts reasonably expected to occur;
7. the impact on the interests and rights in private property, including ownership and the rights of management area landowners and their lessees and assigns in groundwater as recognized under Section 36.002;
8. the feasibility of achieving the desired future condition; and
9. any other information relevant to the specific desired future conditions.

The desired future conditions proposed under Texas Water Code §36.108 (d) must:

- a) be established for each aquifer, subdivision of an aquifer, or geologic strata, or
- b) be established for each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer; and
- c) provide a balance between the highest practicable level of groundwater production and the conservation, preservation, protection, recharging, and prevention of waste of groundwater and control of subsidence in the management area.

Possible Outline of the Explanatory Report¹

The TWDB does not recommend, endorse, or approve a particular outline; the option presented is one possibility to consider that would address the provisions of TWC §36.108. Districts in a groundwater management area should identify a report presentation style that best suits the needs of its member districts and constituents.

Considering the above requirements and factors, one option for organizing the explanatory report would include the following outline:

- 1. Aquifer A (includes aquifer description and the desired future condition)
 - 1.1. Policy justification
 - 1.2. Technical justification
 - 1.3. Factor consideration
 - 1.3.1. Aquifer uses or conditions
 - 1.3.2. Water supply needs
 - 1.3.3. Water management strategies
 - 1.3.4. Hydrological conditions
 - 1.3.4.1. Total estimated recoverable storage (provided by TWDB)
 - 1.3.4.2. Average annual recharge
 - 1.3.4.3. Inflows
 - 1.3.4.4. Discharge
 - 1.3.5. Environmental impacts
 - 1.3.5.1. Springflow
 - 1.3.5.2. Groundwater/Surface Water interaction
 - 1.3.6. Subsidence impacts
 - 1.3.7. Socioeconomic impacts

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- 1.3.8. Private property impacts
- 1.3.9. Achievement feasibility
- 1.3.10. Other information
- 1.4. Discussion of other desired future conditions considered
- 1.5. Discussion of other recommendations
 - 1.5.1. Advisory committees
 - 1.5.2. Public comments
- 2. Aquifer B (repeat outline for Aquifer A, as appropriate and applicable)
- 3. Appendices (such as the total estimated recoverable storage report from the TWDB, applicable GAM runs, other supporting documentation as necessary to support the desired future conditions report)

Documentation Supporting Classification of an Aquifer as Non-Relevant

Districts in a groundwater management area may, as part of the process for adopting and submitting desired future conditions, propose classification of a portion or portions of a relevant aquifer as non-relevant (31 Texas Administrative Code § 356.31(b)). This proposed classification of an aquifer may be made if the districts determine that aquifer characteristics, groundwater demands, and current groundwater uses do not warrant adoption of a desired future condition. The districts must submit to the TWDB the following documentation for the portion of the aquifer proposed to be classified as non-relevant:

- 1. A description, location, and/or map of the aquifer or portion of the aquifer;
- 2. A summary of aquifer characteristics, groundwater demands, and current groundwater uses, including the total estimated recoverable storage as provided by the TWDB, that support the conclusion that desired future conditions in adjacent or hydraulically connected relevant aquifer(s) will not be affected; and
- 3. An explanation of why the aquifer or portion of the aquifer is non-relevant for joint planning purposes.

Submission Packet

The TWDB expects to receive desired future conditions for the entirety of each aquifer in the groundwater management area in the submission packet. A packet will be considered administratively complete when it contains all the required documents.

Explanatory report packets should be sent by certified mail (or other traceable method) or by private carrier to the TWDB. Contact us to discuss additional methods of packet delivery.

A completed packet needs to be sent by certified mail (or other traceable method) to the TWDB at the following address:

Executive Administrator
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

If sending by private carrier, please send to this address:

Executive Administrator
Texas Water Development Board
1700 North Congress Avenue
Austin, Texas 78701
(512) 463-7847

For questions, contact:

- Natalie Ballew, Groundwater Technical Assistance manager
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- Larry French, Groundwater Division director
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