

**UPPER GULF COAST AQUIFER PLANNING AREA
(GMA 14)**

Joint Planning Group Meeting

**Tuesday, November 18, 2014
1:30 PM**

MEETING MINUTES

A regular meeting of GMA 14 was held Tuesday, November 18, 2014, at 1:30 PM, in the board room of the Lone Star Groundwater Conservation District located at 655 Conroe Park North Drive, Conroe, Texas.

The meeting was called to order by Kathy Turner Jones (Lone Star GCD) at 1:30 PM with a roll call of District representatives and Interlocal Agreement Participants. Districts represented included: Brazoria County GCD (joining at 2:15 PM), Bluebonnet GCD, Lone Star GCD, Lower Trinity GCD and Southeast Texas GCD. Interlocal Agreement Participants included: The Honorable John Brieden, Washington County Judge; Robert Thompson, Fort Bend Subsidence District, and Mike Turco, Harris-Galveston Subsidence District. Also in attendance at the meeting were: Jason Afinowicz, Freese and Nichols, Inc.; Larry French and Nathan Van Ourt, Texas Water Development Board (TWDB); Bill Mullican, Mullican and Associates; and members of the public (*see Attachment "A" for a list of attendees*).

Mr. Nathan Van Ourt was introduced by Mr. Larry French as a member of the Groundwater Technical Assistance section and will be the point of contact for GMA 14.

With no registered public comment, Ms. Jones proceeded with receipt and requests of posted notices from District representatives. Ms. Jones then asked for consideration of the approval of the minutes from the GMA 14 meeting on September 23, 2014. After discussion and upon a motion by Mr. Jacobs, seconded by Mr. Martin the minutes for the September 23, 2014 meeting were approved unanimously.

Ms. Jones next opened the floor to discussion and possible action regarding approval of a resolution establishing administrative procedures for the consideration, proposal, and adoption of desired future conditions (DFCs) for aquifers for GMA 14. Ms. Jones noted that the agenda was designed under the assumption of approval of the procedures given no additional comments were received. Mr. Martin opened discussion related to Section 2.02 language of GCD Board documentation of GMA representative. Mr. Martin assumed that all of the representatives had been delegated by their respective Boards, but was unsure how, or if, that had been documented by or reported to the GMA. Ms. Shauna Fitzsimmons of Sledge Fancher PLLC was recognized to assist in answering the concerns. Ms. Fitzsimmons clarified that this was a procedural measure

did not like the DFCs, they could petition the TWDB to determine if the DFC was reasonable, but there were no protocols for procedures on which to base this determination. Shortly after the legislation passed, members of the TWDB began expressing concerns at being forced to be the judge and jury on the DFCs without knowing what they were supposed to be reviewing or considering in making the determination of reasonableness. Therefore, the TWDB amended its rules related to the petition process to include a number of elements or factors that the TWDB would consider to determine reasonableness. Adopting the amended rules prior to submission of DFCs during the first round of joint-planning was important to ensure that the rules would not be criticized for protecting established DFCs. One of the criteria of those rules included a question of whether the DFC was "physically possible". Physically possible and physically compatible are the two references from the rules which were factored for this consideration under the old rules. However, with the passage of Senate Bill 660 in 2011, the feasibility requirement is now in statute, and thus no longer is necessary to be included in TWDB rules. Therefore, the GMA will need to rely on the former TWDB rules regarding the feasibility or in other words (physically possible) as the legislative intent. The test for TWDB through the petitions received at the conclusion of the first round of joint planning was to see if the DFC could be modeled using the TWDB's official groundwater availability model (GAM) for the aquifer in question to determine if the adopted DFC was physically possible. The GAM must abide by the laws of groundwater flow to be successful. If the model is successful with the parameters placed within and reflected an outcome not contradicted or negated by real world data, the DFC was determined to be physically possible and met the test. For the most part, this test came pretty close as outlined in an example from the Panhandle (GMA 1). However, there were also examples where the test failed a DFC. With the pumping estimations provided and input into the HAGM, the model being successfully executed, and by the results in the draft statement of DFC from the June 24, 2014 meeting, Mr. Mullican concludes that the DFCs are physically possible and therefore feasible. There is an enhanced expectation from this process in the current round of joint planning. The GMA has a tremendous amount of information which has been made available for review and consideration into this step. Where there are not direct correlations to be made between the supply and demand projections, consideration might be possible. Mr. Mullican concluded his presentation reiterating the differences from the first and second rounds of joint planning considerations and asked for guidance and recommendations of different or additional ways the GMA wishes to evaluate feasibility. He gave an example of median groundwater historical use on county by county basis compared to estimates of modeled available groundwater (MAG). It was noted that all but two counties have MAGs in 2070 that are greater than historical use. Mr. Mullican asked for each representative participant to weigh in on the subject matter.

Mr. Martin voiced his thoughts of approval of the way the item was laid out and that the DFCs appear to be physically possible. Judge Brieden also liked the layout from the models in relation to where we are today and moving forward. Mr. Jacobs echoed the previous comments and added that the GMA seems to be in a better place than through the first round. Ms. Jones added

With no further discussion in terms of recent activities or interest to the GMA planning group Ms. Jones adjourned the meeting of the GMA 14 Interlocal Agreement Participants and reconvening the Joint Planning Group meeting at 2:23 PM.

Ms. Jones called for the discussion and possible action to approve DFC(s) option(s) for formal consideration by the district representatives of GMA 14 pursuant to the previously adopted administrative procedures for the consideration, proposal, and adoption of DFCs for GMA 14. For the record, in accordance with the previously approved administrative procedures, this DFC option was provided in writing to the Member Districts and the contracted consultant at least 14 days prior to today and reviewed by the contracted consultant at least seven (7) days prior to today. A two-thirds vote is required for passage. Ms. Jones outlined the email dated November 4, 2014 and called for discussion or comment and reiterated that this is not the final vote but to advance the draft DFCs through the procedures developed. Mr. Mullican outlined the procedures adopted to formalize what is required by the GMA to go through all formal considerations of the eight factors. This action is again to advance the draft DFCs through the procedures and at the next meeting perform the formal consideration of draft DFCs against the eight criteria. Approval of this action will require this draft to be documented and formally considered in the explanatory report. Mr. Holland asked if the vote was only on the DFCs included in the memorandum or the full text with preamble included. Mr. Mullican noted that the action is only for the DFC; everything else will result from action moving forward. Mr. Holland commented to the wishes to flesh out documentation of the HAGM, the DFCs, and specifically to his District, the use of subsidence numbers. Mr. Mullican noted that a technical report would be included to document the development of the HAGM and that each District will receive a draft explanatory report open to feedback and recommendations. Mr. Holland asked for additional clarification regarding the process for DFC adoption. Mr. Mullican asked the Chair to allow some discussion related to the next agenda item of briefing and discussion of progress to date for GMA 14 and remaining requirements and schedule. With approval, Mr. Mullican outlined that the GMA at its next meeting could potentially approve the DFCs and begin the individual District's hearing schedule clock to receive feedback and comments from the public on the DFCs and supporting materials. It will be a very long meeting, there will be an action item on the agenda, but he does not feel there is high likelihood of that action being taken at the next meeting, possibly a month later. Mr. Holland asked if there is a rush for this action today. Due to the lack of action on the procedures at the last meeting because they were inadvertently left off the agenda, Mr. Holland voiced discomfort for acting on the procedures which were not approved or in place at the time we began disseminating the information. The resolution was adopted today and therefore the deadlines and procedures began today. Mr. Mullican noted that there would be a necessity for another meeting if the action was not taken today. Ms. Fitzsimmons added the procedures adopted require four votes for approval and this action is very preliminary and through written request and indicates that these DFC options rise to the level of formal consideration and there is another step for action. As we are past this point, these procedures are primarily for future DFC development and to have that administrative record set. Mr. Holland voiced his appreciation for

ATTEST:



Secretary