

GMA 14

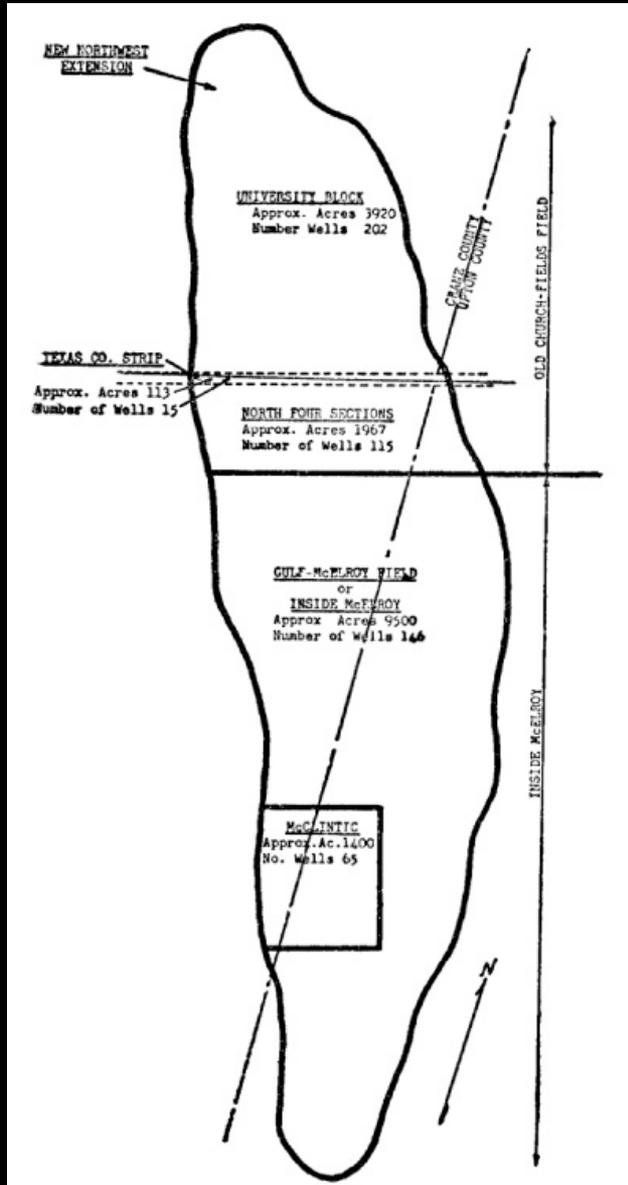
Implications of Multiple Desired Future Conditions

Marvin W. Jones

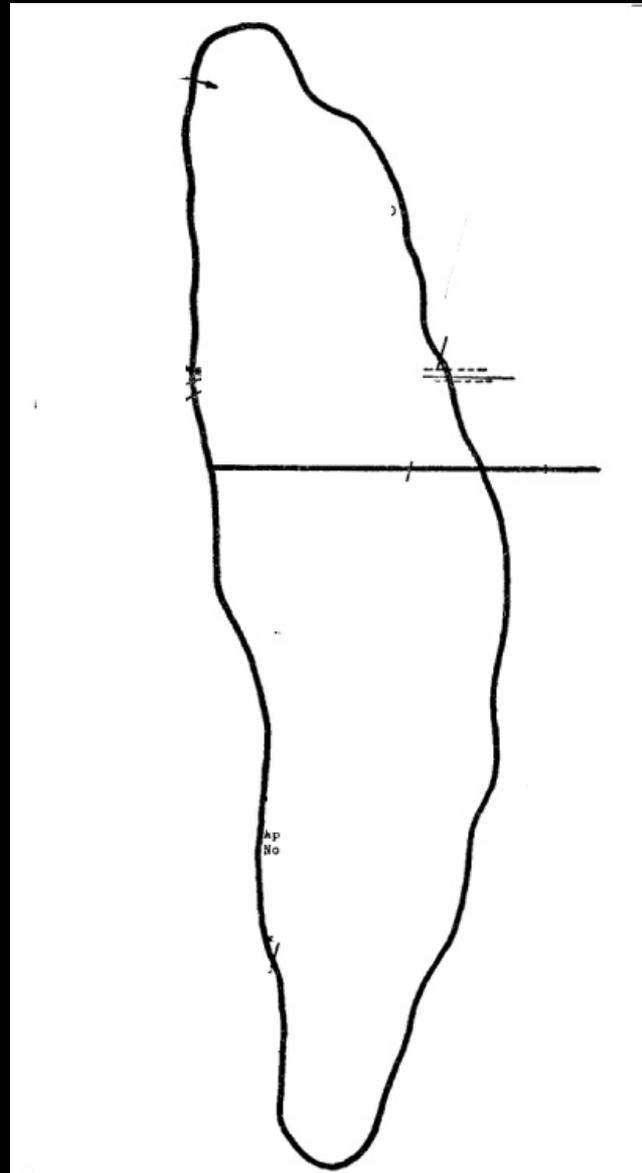
Sprouse Shrader Smith PLLC

Attorneys for Quadvest and Stoecker Corp.

MARRS V. RRC



MARRS V. RRC



MARRS V. RRC

- The conclusions:
- "As a result, petitioners are being forever deprived of their property. It is the taking of one man's property and the giving it to another."
- Groundwater districts "cannot indulge in unjust, unreasonable, or arbitrary discrimination between different [aquifers], or between different owners in the same [aquifer]."

MARRS V. RRC: APPLICATION?

- Disparate rules governing fields/aquifers
- Application: rules of GCD's that fail to treat everyone in the same aquifer equally

Sec. 36.108(d)

The districts may establish different desired future conditions for:

- (1) each **aquifer, subdivision of an aquifer, or geologic strata** located in whole or in part within the boundaries of the management area; or
- (2) each **geographic area** overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.



TEXAS WATER DEVELOPMENT BOARD



James E. Herring, *Chairman*
Lewis H. McMahan, *Member*
Edward G. Vaughan, *Member*

J. Kevin Ward
Executive Administrator

Jack Hunt, *Vice Chairman*
Thomas Weir Labatt III, *Member*
Joe M. Crutcher, *Member*

TO: Board Members

THROUGH: Robert E. Mace, Deputy Executive Administrator, Water Science and Conservation

FROM: William R. Hutchison, Director, Groundwater Resources Division
Kenneth L. Petersen, General Counsel

DATE: March 10, 2010

SUBJECT: Briefing and discussion on: (a) status of joint planning in groundwater management areas; and (b) use of "geographic areas" in establishing desired future conditions.

ACTION REQUESTED

No action requested; this is a discussion item.

BACKGROUND

Key background points are:

- Groundwater management areas are required to submit desired future conditions to the Texas Water Development Board (TWDB) by September 1, 2010.
- Once desired future conditions are submitted, Groundwater Resources Division staff develops values of managed available groundwater based on the desired future condition.
- Groundwater conservation districts are required to include the desired future condition and managed available groundwater number in their groundwater management plans and permitting.
- Regional water planning groups are required to use the managed available groundwater values in their regional water plans if they are received in a timely manner.
- Once adopted, desired future conditions can be challenged by petitioning the TWDB.
- If the Board finds that the desired future condition is reasonable, the petition process ends.
- If the Board finds that the desired future condition is not reasonable, TWDB staff issues written findings to the petitioner and the groundwater conservation districts which include a list of findings and recommended changes to the desired future condition.
- The groundwater conservation districts are then required to prepare a revised desired future condition, to hold a public hearing, and to submit the revised future condition to the Board.
- TWDB will then provide public notice of the revised desired future condition and may provide a public response to the districts' revised conditions, at which point the petition process is concluded.

Our Mission

To provide leadership, planning, financial assistance, information, and education for the conservation and responsible development of water for Texas.

P.O. Box 13231 • 1700 N. Congress Avenue • Austin, Texas 78711-3231
Telephone (512) 463-7847 • Fax (512) 475-2053 • 1-800-RELAYTX (for the hearing impaired)
www.twdb.state.tx.us • info@twdb.state.tx.us

TNRIS - Texas Natural Resources Information System • www.tnr.is.state.tx.us
A Member of the Texas Geographic Information Council (TGIC)



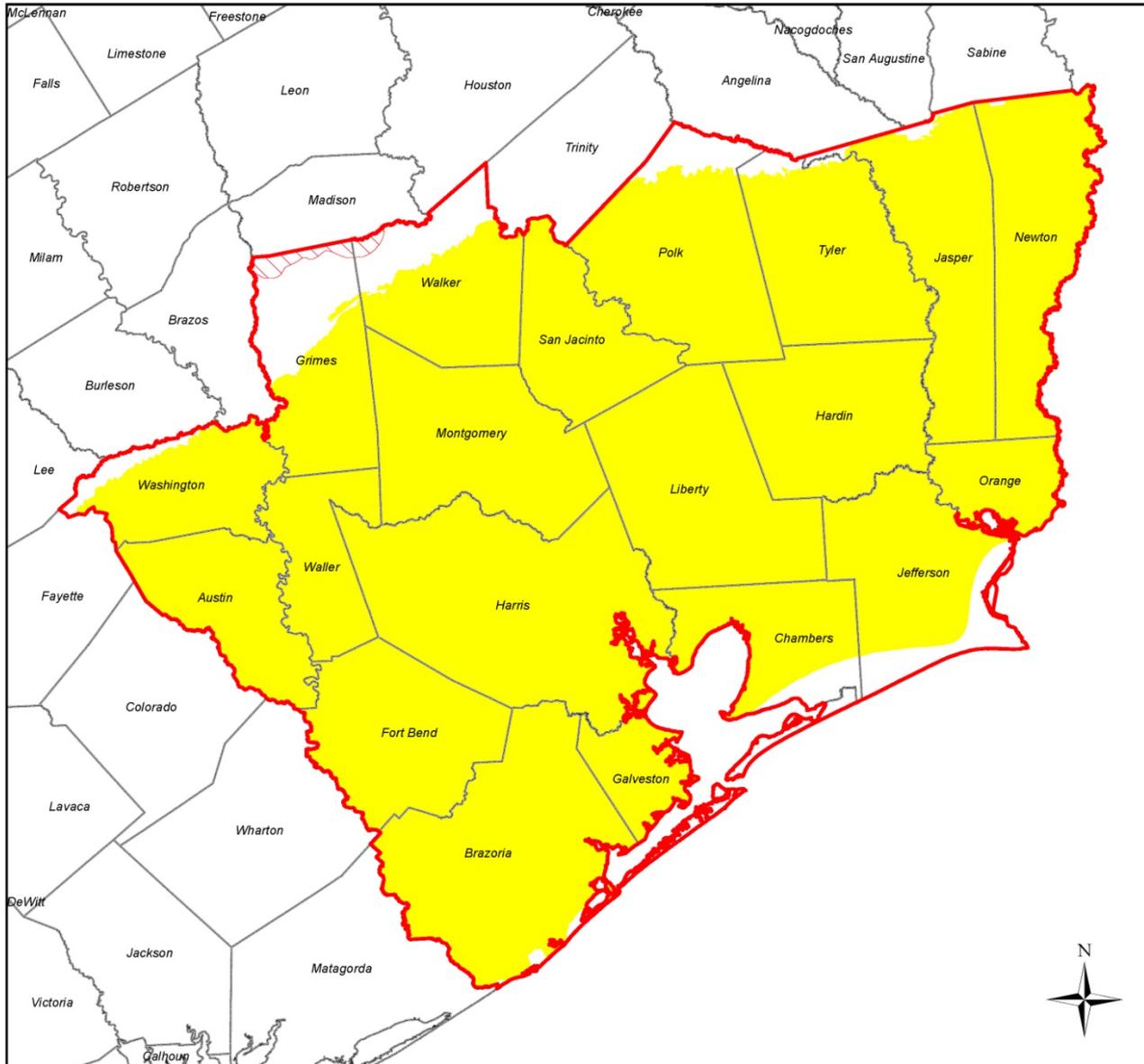
“(b) Use of "geographic areas" in establishing desired future conditions

Section 36.108(d) provides that groundwater conservation districts "shall consider uses or conditions of an aquifer within the management area that differ substantially from one geographic area to another" when establishing desired future conditions. However, the law does not define "geographic area" and there is no guidance to the districts either on how to delineate a geographic area or on how to measure “substantial” differences between geographic areas in either uses or conditions. Under Section 36.108(d)(2), districts may establish different desired future conditions within a management area for “each geographic area overlying an aquifer in whole or in part ... within the boundaries of the management area.”

“The question has been presented whether groundwater conservation districts within a groundwater management area (GMA) may delineate different "geographic areas" within the GMA by use of county (or other political subdivision) boundaries. Staff believes this approach is legally defensible provided the districts are using the political subdivision boundaries to locate discernible and substantial differences in uses or conditions within the GMA and not for any other purposes. It should be emphasized that employing geographic areas that are not based on clear and substantial differences in uses or aquifer conditions is not supportable, regardless of how those geographic areas are drawn.” (emphasis added)

“The argument that the omission of "political subdivision boundaries" from Section 36.108(d) is not persuasive, as long as the groundwater conservation districts do not appear to be using county or other political subdivision lines to gerrymander DFCs for purposes other than accommodating discernible, substantial differences in uses or aquifer conditions within the GMA.” (emphasis added)

Groundwater Management Area 14

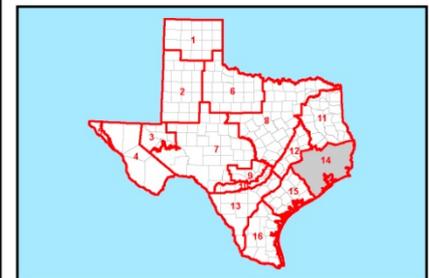


MAP LEGEND

-  GMA 14
-  Counties
- Major Aquifers**
-  Gulf Coast
-  Carrizo-Wilcox (subcrop)

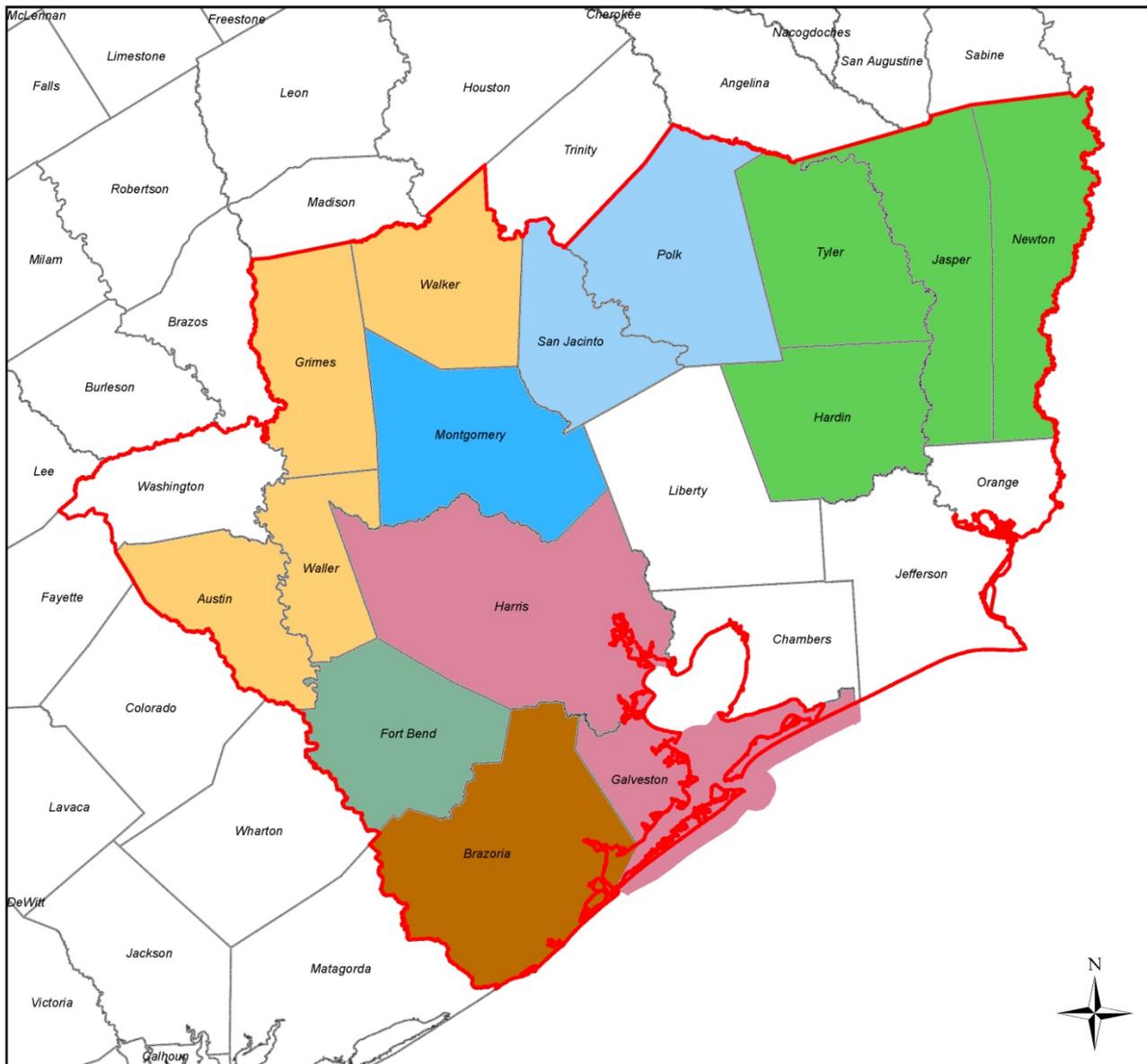
DISCLAIMER
 This map was generated by the Texas Water Development Board. No claims are made to the accuracy or completeness of the information shown herein nor to its suitability for a particular use. The scale and location of all mapped data are approximate. Boundaries for groundwater conservation districts are approximate and may not accurately depict legal descriptions.

Updated 1/27/2014



1 in = 14 miles

Groundwater Management Area 14



MAP LEGEND

- GMA 14
- Counties

Groundwater Conservation Districts

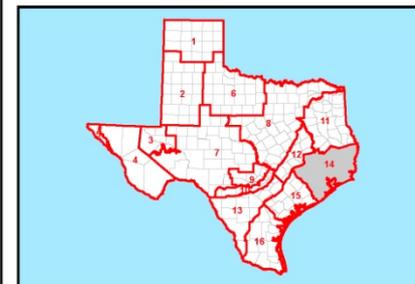
- Bluebonnet GCD
- Brazoria County GCD
- Lone Star GCD
- Lower Trinity GCD
- Southeast Texas GCD

Subsidence Districts

- Harris-Galveston Subsidence District
- Fort Bend Subsidence District

DISCLAIMER
 This map was generated by the Texas Water Development Board. No claims are made to the accuracy or completeness of the information shown herein nor to its suitability for a particular use. The scale and location of all mapped data are approximate. Boundaries for groundwater conservation districts are approximate and may not accurately depict legal descriptions.

Updated 1/27/2014

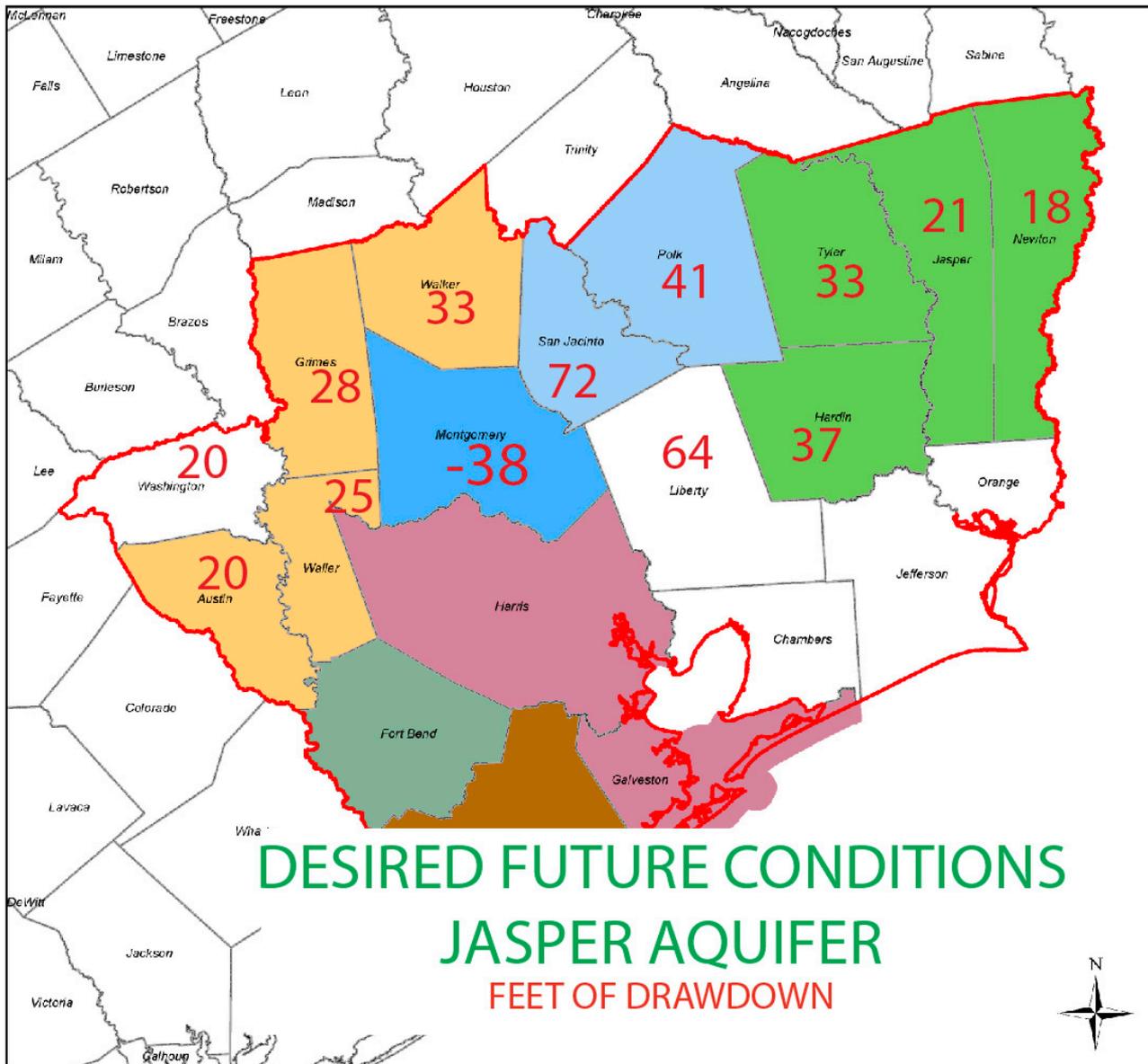


1 in = 4 miles

	Chicot	Evangeline	Burkeville	Jasper
Austin	17	10	11	20
Brazoria	45	40		
Brazos				7
Chambers	43	36		
Grimes	0	5	10	28
Hardin	17	27	23	37
Jasper	10	23	24	21
Jefferson	25	26		
Liberty	32	37	28	64
Montgomery	6	25	23	-38
Newton	9	20	22	18
Orange	14	19		
Polk	4	4	20	41
San Jacinto	5	7	18	72
Tyler	3	16	19	33
Walker		10	5	33
Waller	7	8	9	25
Washington		1	17	20

	Chicot	Evangeline	Burkeville	Jasper
Austin	17	10	11	20
Brazoria	45	40		
Brazos				7
Chambers	43	36		
Grimes	0	5	10	28
Hardin	17	27	23	37
Jasper	10	23	24	21
Jefferson	25	26		
Liberty	32	37	28	64
Montgomery	6	25	23	-38
Newton	9	20	22	18
Orange	14	19		
Polk	4	4	20	41
San Jacinto	5	7	18	72
Tyler	3	16	19	33
Walker		10	5	33
Waller	7	8	9	25
Washington		1	17	20

Groundwater Management Area 14

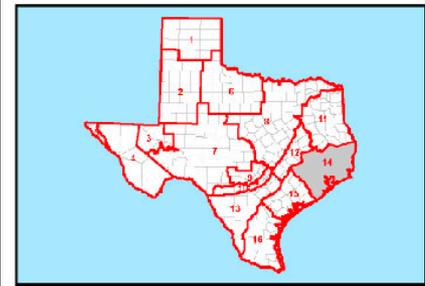


MAP LEGEND

- GMA 14
 - Counties
- Groundwater Conservation Districts**
- Bluebonnet GCD
 - Brazoria County GCD
 - Lone Star GCD
 - Lower Trinity GCD
 - Southeast Texas GCD
- Subsidence Districts**
- Harris-Galveston Subsidence District
 - Fort Bend Subsidence District

DISCLAIMER
 This map was prepared by the Texas Water Development Board. No claims are made to the accuracy or completeness of the information shown herein nor its suitability for a particular use. The scale and location of all map data are approximate. Boundaries for groundwater conservation districts are approximate and may not accurately depict legal descriptions.

Updated 1/27/2014



1 in = 14 miles

CONCLUSION

It's all about property rights...