



REGION E – FAR WEST TEXAS WATER PLANNING GROUP  
 MEETING MINUTES  
 September 21, 2023  
 12:00 P.M. (MDT) / 1:00 P.M. (CDT)  
 113 S Highland, Marfa, TX 79843

<u>Voting Member</u>	<u>Interest Category</u>	<u>Present (✓)/Absent ( X ) / Alternate Present ( * )</u>
Chairman Scott Reinert	<i>Water Utilities</i>	✓, physically present
Vice-Chairman Dave Hall	<i>Public</i>	✓, physically present
Secretary, Teresa Todd	<i>Counties</i>	✓, virtual
Summer Webb	<i>Groundwater Districts</i>	✓, virtual
Albert Miller	<i>Water Utilities</i>	✓, physically present
Becky Brewster	<i>Municipalities</i>	✓, virtual
Haley Davis	<i>GMA #4</i>	✓, virtual
David Etzold	<i>Real Estate</i>	X
Sterry Butcher	<i>Public</i>	X
Rick Tate	<i>Agriculture</i>	X
Randy Barker	<i>Groundwater Districts</i>	✓, virtual
Jeff Bennett	<i>Environment</i>	✓, physically present
Tim Leary	<i>Agriculture</i>	X
Sean Woodard	<i>Industries</i>	✓, physically present
Gerry Grijalva	<i>Water Districts</i>	✓, virtual
Arlina Palacios	<i>Public</i>	X
Avi Nash	<i>Counties</i>	X
Omar Martinez	<i>Water Districts</i>	✓, virtual
Dan Dunlap	<i>Small Business</i>	X
Jay Ornelas	<i>Water Districts</i>	✓, virtual
<u>Non-voting Member</u>	<u>Agency</u>	<u>Present(✓)/Absent(X)/ Alternate Present ( * )</u>
Heather Rose	Texas Water Development Board	✓, physically present
Others Present:		
Juan Acevedo, WSP, virtual	Katie Dahlberg, TWDB, virtual	
Jaqueline Pacheco, WSP virtual	Sarah Lee, TWDB, virtual	
Cody Bjornson, TWDB, physically present	Annette Gutierrez, RGCOG, virtual	
Kristal Williams, Freeze & Nichols, virtual	Alex Bashing, EP Water District, virtual	

Jon Albright, Freeze & Nichols, virtual	Michele Foss, TWDB, virtual
Michael Flores, LVWD, virtual	Peggy O’Brien, RGCOG, physically present
Robert Halpern, RGCOG, physically present	

1. **Welcome –Chairman Scott Reinert**

Chairman Reinert welcomed the group and received confirmation that a quorum was present. The meeting started at 1:11 pm.

2. **Discuss and consider taking action on recommendations from the Executive Committee to fill vacant positions on the water planning group**

This item was tabled by the Executive Committee until the next meeting so that nominees may be present for a Q and A discussion. Teresa Todd made a motion to table this item. Albert Miller seconded the motion. Chairman Reinert called for a vote and the motion was approved.

3. **Review and approve the minutes for the General Meeting held on July 13, 2023**

Summer Webb made a motion to approve the Minutes from July 13, 2023. Teresa Todd seconded the motion. Chairman Reinert called for a vote and the motion was approved.

4. **General TWDB Updates**

Heather Rose, Regional Water Planner, Office of Planning, TWDB, presented general updates: Additional resources – accessibility checklist (all need to be screen readable per ADA); Population revision request process; Uncertainty in Regional Water Planning; Information on the Plan Amendment Process. Looking Ahead: Identify Major Water Providers; Assess Availability and Supplies; Present Process for Identifying potentially Feasible strategies for 2026 Plan; Identify Infeasible strategies from 2021 Plan. And upcoming deadlines: • **November 2023** (anticipated) – TWDB staff present all projections to the Board for adoption. • **January 2024** – Determine process for identifying potentially feasible strategies in the 2026 plan and view results of infeasible strategy analysis for 2021 plan. • **February 2024** - Approve Technical Memorandum. • **March 4, 2024** – Submit Technical Memorandum to TWDB.

Action taken by FWTWPG in July:

- The RWPG authorized WSP to submit on their behalf the required TWDB revision request letter which will include all counties’ data (except for El Paso, Culberson, and Hudspeth counties) that WSP produced based on the census undercount projections for both population and water demand.
- For the counties of **El Paso, Hudspeth, and Culberson**, WSP will submit to the TWDB **two data sets for review: 1) the county WUG survey responses; and 2) the census undercount projections.**
- The TWDB will determine if the WUG survey data can be used for population projections for the 2026 plan.
- If the TWDB determines the WUG survey data to not be appropriate for population projections, then WSP will request the census undercount population projections be used for the 2026 plan.

Next Steps:

- These recommended population projections data are currently being reviewed by state agencies TPWD, TCEQ, and TDA.
- These data will be presented to the board to be used in the 2026 regional water plans in November 2023 (anticipated).

Updates on Legislation and reminded the group of Election Day

HB1565 TWDB Sunset Bill: RWPGS will report on implementation of large projects; and plan for conditions worse than drought of record.

SB28/SJR75 Texas Water Fund:

Establishes \$1 billion Texas Water Fund, subject to voter approval, which can provide additional funding for existing TWDB financial assistance programs.

Can also fund the New Water Supply for Texas Fund for water supply projects from new sources. At least \$250 million of funds appropriated to the Texas Water Fund must be used for the New Water Supply for Texas Fund

The Texas Water Fund will take effect January 1, 2024, if SJR 75 is approved by the voters. **Election day is November 7, 2023.** All other provisions of SB 28 take effect September 1, 2023.

Upcoming Contract Amendment

TWDB received an additional \$1.3 M per year for RWPGs as part of the agency's Legislative Appropriations Request. Region E will receive an additional **\$96,476** for the 2026 Regional Water Plan. RWPG will need to take action to allow the Rio Grande COG to amend their contract with the TWDB in order to receive funds (will do in item 10)

General overview of Feasible and Infeasible strategies.

## 5. **WSP Update on Regional Water Planning Schedule**

Juan Acevedo (WSP) presented an update on Regional Water Planning Schedule. All of the 2023 deadlines have been met (revision request letter on population and water demand data and non-municipal data). New 2024 deadlines: By March 24, 2024 Technical Memorandum (include revision of infeasible water planning strategies and new feasible 2026 strategies). By June 5, 2024 all the RWP 2021 infeasible strategies need to have been amended.

Past meeting approved population and municipal water demand projections. Revision requests for each entity TWDB used more conservative undercount values annual water user survey estimated growth (ELP, Van Horn). Where they did approve undercount methodology (yellow boxes) All three RWG recommendations were incorporated.

## 6. **WSP Discuss and Review Major Water Providers (MWPs)**

Juan continued to present. TWDB determination of MWP is a water user group or Wholesale Water Provider (WWP) of particular significance to the region's water supply as determined by the RWPG.

A WWP is defined as an entity with **contracts** to sell more than 1,000 acre feet of water in any one year in the five years proceeding the adoption of the previous RWP.

The approved Region E definition of WWP is: An entity that currently provides significant water supplies (greater than 5,000 acre feet in a year) to other users and which will continue to develop new supplies to meet the future needs of those whom they supply. This will be the definition that we will use (i.e., same as in 2021 RWP: ELP County WID #1; ELP Water, Lower Valley Water District and Horizon Regional MUD).

Fort Bliss is not considered a water provider because they purchase their water from ELP Water. TWDB no longer has a volumetric threshold for WWP. Sarah Lee clarified that thresholds for MWP and WWP are determined by RWG's. Next meeting FWTWPG will approve what the group identifies as MWP and WWP.

**7. (FNI) Discuss and consider action to approve FWT Surface Water Supply Analysis process and submittal of the hydrological variance request for surface water supplies. Authorize technical consultant to submit proposed variances to the TWDB.**

Jon Albright (Freeze & Nichols) outlined Water Availability Models (WAMs) that TWDB requires RWPGs to use for regional water planning. There are 23 river basins in TX but only 20 WAMs. WAMs are about water rights. TX has a prior appropriating system – when water was first used / date that application was considered complete at TCEQ. Four Corners Doctrine – what's in the WAM is in the water rights permits – TX assumes all rights are being exercised fully so TCEQ considers this when evaluating applications for new water permits.

WAMs and RWP – WAMs define how surface water is allocated – they don't include return flows. Showed map where TCEQ surface water rights are located. Upper Rio Grande water availability is fully regulated by Rio Grande Project.

**\*\*Need to Approve: Hydrologic Variance Request\*\***

No new requests are being made from previous WAM, but there is a new RG WAM – so a new set of water availability numbers. In the past the minimum annual historical allotment for those entities that rely on the Rio Grande Project. The other change is that irrigation rights had some small diversions and RWPG only recognized diversions of water March to October. For example: Springs that feed Balmorhea are located in Region E but the water is used in Region F – so disconnected from rest of the basin – water would never get downstream. Teresa Todd is the liaison with Region F and asked if Balmorhea is aware of this. Jon confirmed that they are.

Jeff Bennett requested more information before voting on variance request. We were not provided with any details or the requests themselves prior to this meeting.

RGWAM includes every water right from ELP to Gulf of Mexico (it's the whole basin).

Requests for Region E are:

- (1) RGP supplies (Elephant Butte Reservoir, Caballo Reservoir, and run of river flows) will be based on the **LOWEST ANNUAL HISTORICAL ALLOTMENT** (ever recorded, 2013, 6 inches) delivered to entities (EP Water Utilities and EP Water Improvement District #1). Return flows will be evaluated separately; and (NEED TO DETERMINE THE YIELD)
- (2) Demand pattern for irrigation rights above Fort Quittman will be modified so diversions will only occur from March – October.

The group wants to know what happens below Fort Quittman and the users - the group wants to be provided with information to review and approve at the next meeting. TT made motion and Dave Hall seconded – Discussion ensued:

Heather Rose advised that there will be timing issues for the Tech Memo deadline - if the variance requests above aren't approved today – need to submit to TWDB to review, approve, then FNI can complete the supply analysis.

Instead of using default TCEQ WAMs, we are being asked to define the supplies from the RGP – to base the analysis of the deliveries on the lowest annual historical allotment – it's based on what has been delivered to TX from the RGP historically (1940-2018). The group wants information how the river is used BELOW Fort Quittman – Jon said they have 20 more years of hydrologic data. FNI will supply that.

TCEQ WAMs would need to be used by statute – the only change would be the second bullet (so not so much). If we don't approve these requests, Jon will need to use the TCEQ WAMs. We need something to review and then approve at the NEXT MEETING IN JANUARY.

The group discussed approving the two variance requests so as to not slow down the process. Small diversions are allowed throughout the year (other than March – October). Significant weather events and effluent from EP Water. Motion above was not approved.

Jeff Bennett made a “re-motion” to accept FNI's variance requests. Dave Hall seconded the motion. Chairman Reinert called for a vote and the motion was approved.

8. **(WSP) Discuss and consider action on the methodology for Identifying Potentially Infeasible Water Management Strategies and review a preliminary list of Infeasible WMSs in the 2021 RWP.**

Action will be deferred to January meeting. Juan presented informational slides –

TWDB defines a strategy as being “infeasible” if the proposed sponsor of the water management strategy or project **has not** taken an affirmative vote or other action to make expenditures necessary to construct or file applications for permits required in connection with implementation of the WMS on a schedule in order for the WMS to be completed by the time the WMS is needed to address drought in the plan.”

WSP 3-step approach (developed in previous cycle to approve in January):

- 1) WSP will survey water providers to see if any strategies have been started, permits applied for, spent any money, etc. (Infeasible review is needed only for projects that require construction or a permit).
- 2) RWPG's need to assess whether any affirmative actions have been taken
- 3) If infeasible strategies are identified RWPG needs to amend them

WSP will survey all providers that have projects that require construction or a permit and are coming on line in the 2020 decade. WSP was asked share documents with the group with plenty of time for review.

9. **(WSP) Discuss and consider action on the process for Identifying Feasible Water Management Strategies in the 2026 RWP**

Action will be deferred to January meeting. Juan presented informational slides – WSP will follow same methodology they used for the 2021 Plan with an additional component of lessons learned from the Infeasible exercise so as to not make the same mistakes. If there are any differences / changes to be made, WSP will let the group know in time to review for January meeting.

**10. Discuss authorizing Rio Grande Council of Governments (RGCOG) to amend the agreement between FWTWPG and WSP for allocation of additional funds...**

...so that TWDB can release \$96,476 to FWTWPG for the TWDB/RGCOG contract expense budget. Albert Miller made a motion to authorize RGCOG to amend the agreement. Jeff Bennett seconded the motion. Chairman Reinert called for a vote and the motion was approved.

**11. Discuss and consider utilizing a portion of the FWTWPG fund balance to go toward the implementation of a population study for the entire region.**

There is a UTEP study that will review the population numbers to further analyze population projections in the region. If it were just El Paso (\$55K), Hudspeth (\$10K) and Culberson (\$10K) it would cost \$75,000. If all 6 counties it would cost \$92,000 = El Paso would contribute \$65K and the remaining \$27K needed would pay for Hudspeth, Culberson, Jeff Davis, Brewster and Presidio counties. The study, if done now, can be used for the next cycle. WSP can include that the FWTWPG is doing further studies and the numbers submitted for this cycle only. Dave Hall made a motion to utilize a portion of the FWTWPG fund balance to go toward the implementation of a population study for the entire region. Albert Miller seconded the motion. Chairman Reinert called for a vote and the motion was approved.

**12. Discussion of reimbursement of out-of-state travel when necessary to ensure in person presence at meetings.**

Jeff Bennett made a motion to permit reimbursement of out-of-state travel when necessary to ensure in person presence at meetings (e.g., Jennifer Herrera (TWDB) who now lives in Durango, CO). \$10K out of the \$96K (from item 10). Albert Miller seconded the motion. Chairman Reinert called for a vote and the motion was approved.

**13. Public Comment**

Vote on November 7<sup>th</sup> on items that benefit water planning. Heather directed the group's attention to the TWDB Financial Assistance Programs Brochure. There is an upcoming event "Water in the Desert" on January 18, 2024 in Alpine. Jeff Bennett will forward the flyer to Annette for distribution.

**14. Consider and Discuss a date for the next regular meeting**

The group suggested to meet on January 25, 2024 at 1:00 pm., local time, in El Paso. Annette will send out a Doodle poll to know everyone's availability.

**15. Adjourn**

Albert Miller made a motion to adjourn the meeting. Jeff Bennett seconded the motion. Chairman Reinert called for a vote and the motion was approved. The meeting adjourned at 3:36 pm.