

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

**Joint Planning Group Meeting**

**Thursday, May 28, 2015  
9:00 AM**

**MEETING MINUTES**

A regular meeting of GMA 14 was held Thursday, May 28, 2015, at 9:00 AM, 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 9:08 AM with a roll call of District representatives and Interlocal Agreement Participants. Districts represented included: Kent Burkett, Brazoria County GCD (joining at 9:24 AM), Zach Holland, Bluebonnet GCD, Kathy Turner Jones, Lone Star GCD, Gary Ashmore, Lower Trinity GCD and John Martin, Southeast Texas GCD. Interlocal Agreement Participants included: The Honorable John Brieden, Washington County Judge; Pudge Willcox, Chambers County; 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, Texas Water Development Board (TWDB); Bill Mullican, Mullican and Associates; and members of the public (*see Attachment "A" for a list of attendees*).

Ms. Jones welcomed everyone to the meeting and recognized District Representatives, Interlocal Agreement Participants, Agency Representatives, staff, and consultants for introduction.

Mr. Ken Kramer, representing as the volunteer Water Resources Chair of the Lone Star Chapter of the Sierra Club and himself as a resident living and owning property within GMA 14, was recognized to address the group with public comment. Mr. Kramer noted he has been involved with water issues in Texas for over four decades. One of the things the Sierra Club and himself have focused on is marshalling groundwater and surface water resources to be sustained over time to provide and protect growth, values, and a strong environment. All GMAs have encountered controversial issues, but it is important to maintain focus on generations and be conservative of those resources. Mr. Kramer encouraged the GMA members to stick to their guns to make sure the decisions made allow people in the future to have the groundwater resources we currently enjoy for decades into the future. He looks forward to working with the GMA as the process continues and supports the efforts of groundwater conservation. With further public comment registered for Agenda Item #7 presentations, Ms. Jones proceeded with receipt and requests of posted notices from the group. Ms. Jones then asked for consideration of the approval of the minutes from the GMA 14 meeting on November 18, 2014. After discussion

and upon a motion by Mr. Martin, seconded by Mr. Holland the minutes for the November 18, 2014 meeting were approved unanimously.

Ms. Jones next recognized Mr. French for a presentation of information from the TWDB and discussions of items of interest to the GMA. Mr. French noted TWDB is currently reviewing the initially prepared plans (IPPs) submitted by the 16 regional water planning groups (RWPGs). The final regional water plans are due to the TWDB in January, 2016. Mr. French also stated that the TWDB is working to accelerate their process to adopt the State Water Plan in 2016. Typically the timeline for adoption is late in the year, however the TWDB is considering moving up that official adoption timeline to possibly the middle of or even earlier in 2016 to take advantage of and accelerate providing more SWIFT funding for approved projects. When the TWDB takes the action of adoption of the 2017 State Water Plan, whatever DFCs have officially been adopted by the GMA as of that date will be the DFCs required to be implemented by the RWPG in preparation of the 2021 regional water plans and 2022 State Water Plan. If the GMA wants to insure their current DFCs being worked on are implemented into the next State Water Plan, the official GMA adoption must occur prior to the TWDB adoption of the 2017 State Water Plan. For example, if TWDB adopts the State Water Plan mid-2016, GMA adoption proposals would have to occur 6-9 months prior to that adoption. Now RWPGs can have the option of using DFCs adopted subsequent to that timeline and would likely do so, but they are not required to do so. That potential schedule change was of interest and needed to be passed along for the knowledge and understanding of the GMA and concluded the item of news from TWDB.

*Meeting convened as a meeting of the GMA 14 Joint Planning Interlocal Agreement Participants.*

The GMA 14 Joint Planning Interlocal Agreement Participants meeting was called to order at 9:19 AM.

Ms. Jones noted this item is placed on today's agenda to offer an opportunity for others to discuss the possibility of considering alternative DFC options in addition to those options currently under formal consideration. With that said, it is important to note to our public attending today, as required by the administrative procedures adopted by GMA 14, for a DFC option to be formally considered as a potential candidate for proposal and adoption by the District Members, the DFC option must be requested in writing and approved by the Member District Representatives for formal consideration. A district representative must request a DFC option to be approved for formal consideration by submitting, no less than 14 days before a GMA 14 joint planning meeting, a written request to each Member District and the Contracted Consultant, in this case Bill Mullican and Freese & Nichols. As Ms. Jones was about to open the

floor to the agenda item, Mr. Martin raised a point of order (*see Attachment "B" for the point of order*). Ms. Jones thanked Mr. Martin for his point of order and moved into the agenda item of receiving technical presentations from entities/individuals in GMA 14 who desire to propose possible alternative desired future conditions options from those currently being discussed in the joint planning process. All entities/individuals appearing before GMA 14 for this agenda item were afforded 15 minutes to make technical presentations on alternative desired future condition options. All proposed alternative desired future conditions options presented will be documented in the GMA 14 Explanatory Report.

Mr. Mike Massey representing Lake Conroe Communities Network (LCCN) was recognized and asked to formally introduce himself and who he represents. Mr. Massey proceeded to provide comments from a handout (*see Attachment "C" for LCCN comments*).

It was brought to the attention of the Chair that there needed to be action taken on Mr. Martin's point of order. Mr. Martin made the motion to accept the point of order. Mr. Holland asked for clarification of the desired action from the point of order, and added that it was his understanding that the point of order meant that the group would hear the presentations with the understanding that any alternative desired future conditions options possibly proposed are not raised to formal consideration due to their not being included to date through the GMA 14 administrative procedures. Mr. Martin confirmed that all we are hearing is the presentations at this time. Ms. Jones added that was the intent of the agenda item. Judge Brieden seconded the motion. With no further discussion, Ms. Jones called for a vote which passed 8-1 with Mr. Holland voting against.

Ms. Jones next recognized Mr. Michael R. Thornhill, P.G. of Thornhill Group, Inc. representing Montgomery County Investor Owned Utilities (*see Attachment "D" for Thornhill presentation slides*). Mr. Thornhill began by acknowledging Mr. Martin's comments and noting that while his presentation would center on work and discussions performed in Montgomery County, they would be presenting alternative desired future conditions options for consideration to Lone Star GCD as well as the other District Members as he believes the desired future conditions should be aquifer wide. He then proceeded with his presentation.

Next, Ms. Jones recognized Ms. Susan Butler of CH2M, presenting on behalf of Mr. Bill Goodrum, with Forestar Real Estate Group. Ms. Butler presented prepared comments to the group (*see Attachment "E" for Forestar comments*). Ms. Jones added comments regarding the participation of Liberty County in the GMA as an Interlocal Participant. Liberty County was a participant in the initial planning cycle. When the efforts began to move forward with the current cycle the GMA reached out multiple times to welcome them back. Unfortunately the Commissioners Court did not feel the need to participate. Ms. Jones encouraged Forestar to communicate and try to renew the interest of the Commissioners Court as well.

Ms. Jones recognized Mr. Marty Jones of Sprouse, Shader, Smith PLLC, an attorney representing Quadvest and Stoeker Corporation. Mr. Marty Jones expanded on a brief point

made earlier by Mr. Thornhill with his presentation (*see Attachment "F" for Jones presentation slides*). He concluded his comments that property rights may be affected by the use of political subdivision lines as discernible, substantial differences in uses or aquifer conditions in establishing DFCs and a more prudent approach would be to adopt a single DFC for the aquifer on the whole to distance the GMA from legal challenges of "discernible, substantial differences" between political lines.

Ms. Jones recognized Mr. Kevin Spencer of R.W. Harden & Associates, Inc., representing the City of Conroe. Mr. Spencer focused his presentation on artesian aquifers, specifically the Jasper layer of the Gulf Coast Aquifer, and storage-based DFCs as possible alternatives (*see Attachment "G" for Spencer presentation slides and handout*). Mr. Spencer concluded his presentation by acknowledging that though their desired alternative was not being proposed or considered today, they wanted to throw out a number of 95% of the total storage remaining in 2070, stating that it would be completely achievable, easily monitored, and account for effects of all pumpage and the regional nature of the aquifer.

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 10:23 AM.

Ms. Jones called the next agenda item of a discussion and consideration of approving eligible DFC options to be formally considered as a potential candidate for proposal and adoption according to *Administrative Procedures for the Consideration, Proposal, and Adoption of Desired Future Conditions for GMA 14, Section 3.04*. Ms. Jones noted that today the GMA will be taking a vote for the approval of the only DFC option currently under formal consideration by the District Members. To date, the GMA has completed its consideration of the nine criteria required by Section 36.108(d) (1-9) of the Texas Water Code prior to the adoption of proposed DFCs. Ms. Jones added that now, according to the GMA 14 administrative procedures, District Representatives need to approve the DFC option as a candidate for adoption as a proposed DFC. At the next GMA 14 meeting we will have the opportunity to vote to approve the DFC as the proposed DFC. Mr. Martin asked about a tentative date for scheduling the next GMA 14 meeting to move the process along. Mr. Martin emphasized the importance of moving the process along and not derailing too much and proposed June 24, 2015 at 9:00AM. Mr. Holland opened discussion referencing the presenters/presentations expressing their intent to work directly and primarily with Lone Star GCD to propose either DFC alternatives or amendments to the currently considered options. From his understanding of the administrative procedures, prior to the point of order action taken, the GMA had the option of taking any proposals from the presenters/presentations and amending the considered options. Part of Section 3.04 is going through each DFC and outlining the relation and consideration of the nine factors. Mr. Holland then asked for clarity, as to whether or not that is a discussion for today's meeting or for the next meeting. Mr. Mullican responded that when the group adopted the administrative procedures in November, there was some discussion of the fact that the group has already been through the

nine factors. The question then is, are we going to go all the way back through all of the discussions for this one particular potential DFC. Mr. Mullican then pointed out that is was generally agreed to at that point and time that in some form we had already had several meetings worth of discussions and considerations of the factors and there were three options on the table. With the documentations in the minutes, the GMA could ratify all of the consideration discussions to the DFC consideration. Or the GMA could come back and present an executive summary of the presentations and information presented over the last couple of years. The third option was for Mr. Afinowicz and Mr. Mullican to schedule an all-day meeting and go through them at the same level of detail that the group went through the originally. Mr. Holland asked for clarification that where the GMA is today is moving the current considerations forward to the next meeting for consideration as the adopted DFC for action and starting the 90-day public hearing process. Mr. Mullican noted that according to the *Administrative Procedures Section 3.04*, GMA 14 District Representatives would elevate the DFC to go through the considerations of the nine factors. Mr. Martin then asked if a summary of the nine considerations would be sufficient, as the considerations have already been discussed. Mr. Mullican remarked that it could be as simple as ratifying all of the discussions the group had in the past, However, Mr. Mullican also pointed out that on a couple issues, for example socioeconomic impacts, private property rights impacts, and even feasibility, there was at least an implied commitment that we would revisit to ensure the list of socioeconomic impacts, private property rights impacts, and the approach taken on the feasibility analysis was still agreeable with everyone. Mr. Mullican suggested a somewhat extended executive summary overview of exactly what we have covered up to this point. Mr. Martin inquired of the time needed for such a review. Mr. Mullican commented that between Mr. Afinowicz and himself it could be taken care of in a couple of hours. Mr. Mullican summarized that the vote today is to make the potential DFC approved in November under *Administrative Procedures Section 3.03* eligible to go through the nine considerations. Mr. Martin asked if we had actually done that at the last meeting. Mr. Mullican stated that they had not, and asked that the group recall there are four (4) votes required for DFCs. If a DFC is submitted to the GMA for consideration you first have to vote that it is official because somebody may walk in asking for artesian pressure to be restored to pre-1900 levels and you don't want to document that in the explanatory report, so it would never rise to passing the first hurdle. The second vote is to formally say this DFC is to be run through the nine considerations, but doesn't mean that you aren't going to add other DFC considerations, just that this DFC has risen to the level of considering the nine factors. Mr. Mullican then presented a draft document he believed necessary for the benefit of showing the significant events that have occurred over the past couple of years in relation of our progression of the DFC process. Ms. Jones stated that the Lone Star GCD Board has discussed their position regarding this matter and realizes there will be potential alternative DFCs presented to the Lone Star GCD for consideration, but at this time the Lone Star GCD Board feels we need to move forward but want to make it known to the public and GMA 14 that should these alternative DFCs be brought to and approved by the Lone Star GCD, GMA 14 will then need to consider the potential

alternative DFCs, realizing that would be a cost to Lone Star GCD as part of the planning. Mr. Holland questioned the process outlined in the administrative procedures for further clarity. He asked whether or not moving these DFCs forward today, then to have Lone Star GCD propose an alternative DFC to be brought back to the GMA, is it amending the DFC that is at this point or are we starting the entire administrative procedures over; will or would we have agenda items for the Section 3.02, 3.03, and 3.04 to catch the alternative up to where we are at the present. Ms. Jones noted that we have to know more specifics before we can answer that, but that we don't want to slow down the train. Mr. Holland recognized the specifics of the request will determine how they have to be handled, but questioned if we can get all of that done at one meeting or are we looking at another three meetings process to get those alternative DFCs considered. Mr. Mullican commented the administrative procedures contemplate the ability of the GMA to run more than one potential DFC through the process. So at the next meeting, for example if these DFC options are approved to move forward, we will complete the consideration process on that potential DFC. At the same time, if Lone Star GCD submits their request 14-days prior to that meeting and everything needed is included for evaluation, the GMA could at that same meeting take action to begin the process, similar to the vote today, to run the alternative DFCs through the nine considerations. Mr. Mullican then stated that the GMA could not perform those considerations at that meeting because we would have had no preparation whatsoever to begin that consideration process, so we would have to perform that at a subsequent meeting. Mr. Burkett asked if there would be additional costs. Mr. Jones noted again that if Lone Star GCD were to propose an alternative DFCs for consideration, they would bear any additional costs associated with the alternative DFCs. Mr. Holland asked if it would be better to push the June considered meeting back an additional 30 days to provide opportunity for possible alternatives to be submitted and considered since we are looking at an additional meeting for any alternative to be run through the factors. Mr. Holland then asked if an additional 60 days allow enough time to conduct everything in a single meeting. Mr. Mullican stated that the vote on the eligible DFC options and meeting date are two different actions. Mr. Holland added that the whole purpose of the next meeting is to potentially take action on the DFCs to start the 90-day hearing process. Mr. Mullican stated that action would be eligible to be taken, but it wasn't mandatory or required at that meeting, just that we would be at that step in the process. Mr. Holland redirected that if alternatives DFCs are proposed at the next meeting, we would not be able to take action on the eligible DFC because we have other alternatives that are in the process but have not completed the considerations. Mr. Mullican stated that it all depends if the GMA decides to support the eligible DFCs or the alternatives DFCs as it takes a two-thirds vote. Mr. Holland reiterated that he is trying to clarify the process and make it as easy as possible on everybody. Ms. Jones noted that comments from Mr. French of the accelerated timeline TWDB is looking at for the regional water plan mentioned earlier in the meeting is something to keep in mind. Mr. Holland noted that the regional water plan is a major driver in this process and it had been his understanding from the beginning of this round of joint planning and the reason why we are much further along in the GMA process was the attempt to get on the same timeline as the regional plan. In trying to

move forward, scheduling a June meeting where we may not be able to get anything done and then scheduling additional meeting, Mr. Holland noted his intentions to clarify and understand how to incorporate the administrative procedures and understand them in practice to best and efficiently utilize the time and efforts of everyone involved with the likelihood of alternative DFCs being proposed. Mr. Holland made the motion of approving eligible DFC options to be formally considered as a potential candidate for proposal and adoption according to *Administrative Procedures for the Consideration, Proposal, and Adoption of Desired Future Conditions for GMA 14, Section 3.04*. Mr. Martin seconded. Mr. Jones called for a record voted. Each member voted in the affirmative.

Ms. Jones asked Mr. Mullican if there were any further briefing and discussion of progress to date for GMA 14 and remaining requirements and schedule as the item had been well discussed in relation to the previous agenda item. Mr. Mullican noted that everything had been well covered. He asked the GMA members to remember that whenever the GMA does finally adopt a proposed DFC we will get back together all of the information reviewed and used throughout the entire process of your considerations which will take a small amount of time to accumulate.

Ms. Jones asked for any presentations and discussions by Districts of recent activities of interest to or impacting the GMA 14 planning group. Ms. Jones commented that Lone Star GCD's hearings and public workshops and the work on amendments to rules and regulatory plans had been well aired through the events of the meeting.

Mr. Jones called for discussion of next meeting date, location, and agenda items. Ms. Jones asked for a note for future agenda items to have a financial item to allow for more robust discussions and noted that copies of the financials are at the seats of the members and interlocal participants. In recalling earlier discussions of possible meeting dates, Ms. Jones asked for further discussion and proposal for dates and times. Mr. Burkett followed up on a more clear answer to Mr. Holland's previous inquiries. If this body wanted to consider or progress the DFCs on the table as well as having the option of considering other alternative DFCs, in terms of times and number of meetings, how best would we accomplish those two tasks, i.e. further consideration of current DFC and leaving option open for consideration of other DFCs. Do we have a meeting in June or is it postponed to a later date to give consideration of those factors? Mr. Mullican responded that this represented two different questions. The first question is how long do we delay or allow for, if in fact Lone Star is going to hear and adopt alternative DFC consideration, Mr. Holland noted the June meeting gives two weeks to get something presented and approved through the Lone Star Board and get the 14 day requirement met. Ms. Jones added how or what would be added or play into an anticipated June agenda. Mr. Mullican stated that the Lone Star Board Meeting is June 9<sup>th</sup>, 14 day deadline is June 11<sup>th</sup>. That would mean in one meeting you would be getting a presentation and the Board would be agreeable. Ms. Jones stated that it is unlikely that timeline could be met and added that she is not suggesting we don't go with July but that we may not even be ready then. We would want the opportunity for review and ample consideration of anything presented to the District. Mr. Burkett added that right now we

only have one DFC on the table and he feels certain based on comments and presentations today that there will be alternatives proposed. Mr. Burkett noted that Lone Star GCD will take those under consideration and if recommended, the body of GMA 14 will want to take those under consideration, so therefore there are two or more meetings. Mr. Mullican stated there would be at least two meetings. If Lone Star GCD were to approve an alternative DFC in time for this round of joint planning, GMA 14 would have to have at least two meetings to resolve the considerations and would likely be looking at three meetings. Mr. Martin interjected and recognized his District's attorney Mr. John Stover. Mr. Stover stated the GMA has been working on this process for over a year and now after the ship has already sailed, Conroe wants the GMA to recall it. Mr. Stover then stated that based on the presentations today he felt there will be alternatives but he is very positive it will have impact to the drawdowns on the DFCs for every District present. His question was why accommodate the City of Conroe at this point. Mr. Stover added that, "They have been sitting around for three years, knowing what is going on here. My client has spent a lot of time and money to get where we are today and it does not matter if Lone Star GCD picks up the tab, it is just too late. When somebody is going to impact you negatively that has to be what will happen with these proposals, if they have something that will mitigate that why did they not show it today. It is not in the interest of the GMA to slow down today for Conroe who has finally looked at the picture and said they don't like this. My client wants to move forward and the GMA has the ability to modify these DFCs annually and let Lone Star and these people work on their problem, come back later in the process and modify it then". Mr. Burkett asked if there were other legal counsel present for Districts who would have anything to add to the comments from the standpoint of the GMA or individual Districts. Mr. Greg Ellis was recognized, representing Harris-Galveston Subsidence District, Fort Bend Subsidence District, Brazoria County GCD, and Lower Trinity GCD, and noted that it is up to the individual districts to present whatever DFCs it determines are relevant. He did concede that this does seem late in the process to be relooking at options. Follow the best policy for your district, there is nothing legally binding outside of 36.108 for considerations and doesn't say which DFC must be considered or not. Ms. Jones drew discussion back to setting a date that works for everyone. Mr. Martin commented he was not worried about being accommodating and proposed June 25, 2015 at 9:00AM as being about 30 days from today to allow us to move forward. Mr. Burkett recalled from earlier discussions June 24, 2015 was discussed and asked if it was an option. Mr. Turco noted that as long as it was a morning meeting it would allow him to get back for his board meeting that afternoon. Mr. Martin amended his motion to Wednesday June 24, 2015, at 9:00 AM at the offices of the Lone Star Groundwater Conservation District, located at 655 Conroe Park North, Conroe, Texas 77303, seconded by Mr. Burkett. With Ms. Jones abstaining, the vote passed 4-0.

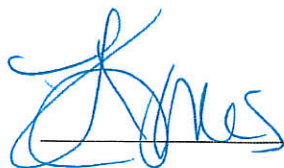
Ms. Jones asked if there were any other questions or comments from the public. Ms. Jill Savory, of Fort Bend County and soon to be a Montgomery County resident, commented that she completely disagrees with the DFCs and does see all the work, been to these meetings, and seen the non-questions being answered back and forth when Mr. Mullican presents things. And she



realizes there is a lot of money supporting wanting to hurry up and fund the DFC so other projects can move forward, but the problem she sees is the information in the models. She prepared an entire presentation during the Fort Bend and Harris County Groundwater hearing here recently and provided substantial evidence on how USGS groundwater resources division has neglected some of their duties and she highly recommended downloading the presentation from the website or she would be happy to provide you a copy. She thinks moving forward; having a reason to adopt a DFC would be a wise decision. She further stated that she knows the group thinks that what they are doing is helping move progress along, but if you do not have a problem to begin with she does not see the need to move forward. One of the many things she has brought to several people's attention, if your DFC is based on what the water levels are in these wells and essentially already know it is a conflict of interest of boundary laws of jurisdiction of a governmental body and urge caution in adopting DFCs. Mr. Marty Jones was recognized to clarify his point that the City of Conroe is proposing additional DFCs to Lone Star GCD, and that the intent of the City of Conroe is to present an alternative DFC at least for the Jasper Aquifer to all GCDs in the GMA. Mr. Scott Weisinger, Lone Star GCD Board Member, was recognized and wanted the GMA to know that the Lone Star GCD got a letter from Austin from the local legislative delegation that asked the District to slow things down. This isn't something that was just generated within Montgomery County, we got a letter. Mr. Weisinger stated that there is a lot going on that GMA 14 did not know and are not getting all the information. Ms. Jones added that anyone who would like a copy of that letter can contact her and it will be provided. Mr. Willcox added a comment of his feelings of strong support of public input to decision issues. It sounds like 95% of the problem is going to have to be changed in Austin. In hearing all of the presentations today, this group has followed what it is bound to in State Law. My point is, you really need to start now for the next legislative session and make visits to the committees and representatives when the whole ballgame is in their court and we are trying to do what they have said to do. If an entity does not follow what the State has outlined, the entity is disqualified from substantial assistance. Keep talking and move the discussions higher as well.

Without further discussion or comment and there being no further business, the meeting was adjourned at 11:04 AM.

PASSED, APPROVED, AND ADOPTED THIS 24 day of June

  
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