

**Galveston Bay Freshwater Inflows Group
4 December 2001 Meeting Summary**

Participants Present: John Bartos, Dana Blume, Jeff DallaRosa, Woody Frossard, Guy Jackson, Jim Kachtick, Chris Paternostro, Chuck Settle, Linda Shead, Mary Ellen Whitworth, Pudge Willcox, Woody Woodrow

Support Team Present: Glenda Callaway, Lisa Gonzalez, Greg Graml, Anne Ray, Pris Weeks

Others Present: Carlos Mendoza (USFWS)

1. The Galveston Bay Freshwater Inflows Group (GBFIG) met at the City of Houston's E.B. Cape Center for Public Works Excellence, 4501 Leeland, Room 234, Houston, Texas 77023. Self-introductions were made.
2. Approval of the 29 August 2001 and October 25, 2001 meeting summaries was deferred until the next meeting. The summaries will be re-sent to stakeholders with highlighted (underlined) changes.
3. There were no additions to the agenda.
4. The following updates were provided by GBFIG members:

Bartos brought a copy of two articles recently published. Both are available online at the provided links. One article, "Water for People and the Environment", appeared in the *Lone Star Sierran* (<http://texas.sierraclub.org/Newsletters/LSS/Fall-01/LSSFall2001.pdf>).

The other, "Scenes from the Texas water War", appeared in the *Texas Observer* (<http://texasobserver.org/showTOC.asp?IssueID=47>).

Whitworth announced the Bayou Preservation Association's new stream classification website (<http://www.bayoupreservation.org/pages/streamclassproj.html>). The classification system includes only those streams in Harris County at this time. It also includes information on how the classification system was developed.

Shead mentioned an article entitle "Down the Drain" published by the National Wildlife Federation. The article can be downloaded at <http://www.nwf.org/texaswaterforwildlife/statewaterplan.html>.

Gonzalez mentioned the upcoming Galveston Bay Estuary Program publication, *State of the Bay: A Characterization of the*

Galveston Bay Ecosystem, 2nd Edition. It will be published Spring 2002. The highlights version can be viewed at <http://gbep.tamug.tamu.edu/GBEPpubs/T-6/GBEPT-6b.html>.

No Region H meeting had been held since October 2001. According to **Callaway**, a new contract to begin work was about to be signed by Region H. Not as much money (only two-fifths) was available for additional studies as originally thought. As GBFIG identifies additional information needs, it is important to keep them in mind for possible submission to Region H for study ideas.

5. **Weeks** described the matrix that she designed to help stakeholders as they review and discuss management scenarios. Note that there is an *Information Needs* column to identify materials needed for future meeting discussions.

The dialogue on reservoir modification strategies was resumed from the previous meeting with a discussion of the Watermaster Program.

Frossard stated that the Watermaster Program and water rights enforcement should be included.

Browning stated the water rights are the management program and the Watermaster is the way to enforce it.

Shead stated that while the Watermaster Program may not provide more water on paper, it would prevent egregious acts of water taking.

Browning added a Texas statute (the Water Rights Adjudication Act of 1967) enabled the designation of a watermaster wherever necessary. The program has not been implemented statewide. The watermaster is a hands-on, everyday supervision of water rights. It is difficult to keep track of water rights without a watermaster.

Jackson stated that in the future a watermaster will be needed, regardless.

Callaway asked if there was any additional legislation regarding watermasters.

Browning answered that a watermaster is needed only in areas where basins are fully appropriated. Most watermasters are located in western and southern Texas, but not in the eastern portion of the State. The mechanism is in place, but there are additional administrative costs for the TNRCC to designate another watermaster.

Weeks asked if the Watermaster Program should be the only item included under enforcement of water rights.

Jackson asked that "streamline the judicial/administrative system and negotiation process" be added.

Weeks then led a discussion of special conditions on new or amended permits.

Jackson stated that some environmental requirements are already in place.

Frossard asked about special conditions in terms of changing a water right permit's purpose of use.

Browning warned that if a permit is amended for a purpose other than to change the total appropriation or diversion point, i.e. if a minor change to a permit will trigger a special condition, then it will act as a disincentive to improve a permit.

Jackson in turn warned of changing the purpose of use, for example, if a relatively unused irrigation permit was turned into a highly used municipal permit.

Kachtick stated that if a water right holder amends a permit for a certain commodity and the permit amendment opens the door to the possibility of the acquisition of that water for environmental flows, then good management will disappear. There is tremendous risk involved.

Shead asked for an example of a special condition acting as a disincentive.

Browning provided one: A water right holder holds 1,000 acre-feet in an irrigation use category and wants to change that 1,000 acre-feet to an industrial use category. If the water right holder also has an additional 500,000 acre-feet under that permit, then under a special condition clause that additional 500,000 acre-feet could also come under review. ¹See note at end of summary. The permit holder stands to lose 50,000-100,000 acre-feet of their water to that special condition. If this is the case, then the water right holder will not risk the 500,000 acre-feet to change the 1,000 acre-feet.

Shead asked if the group could recommend a change to the administrative code to ensure that the entire amount would not be opened to a special condition.

Jackson countered that if that 1,000 acre-feet were changed from an agricultural use to a municipal use, then it would be moved up in priority. ²See note at end of summary.

Woodrow stated that when a minor amendment is proposed for a water right, the TNRCC and TPWD have the opportunity to comment on the amended amount. ³See note at end of summary.

<p><i><u>Information Need:</u> What is the review process for an amended water right? What agencies are involved and how do outsiders participate in the process?</i></p>

Frossard stated that if nothing within the reservoir system would be physically altered by the permit amendment, then the permit amendment process is relatively straightforward.

Kachtick warned that if the certainty of a water right is taken away from the water right holder, then the downside might be significant.

Bartos added that this process is better for the water right holder than canceling an unused water right.

Kachtick stated that the group must consider the notion of thresholds if not already considered.

Information Need: Do the WAMs have a cancellation for non-use scenario?

Browning stated that most permittees might be open to the idea if they knew that only the amended amount would be subject to an environmental condition. However, they would be opposed if the original permit would also be opened for the special condition.

Jackson suggested that when a change in a permit's category of use is proposed, then the entire permit should be opened for a new cycle of review.

Frossard stated that one must distinguish between minor versus major permit amendments.

Information Need: Provide information regarding the various types of water right permit amendments; what is the difference between a major and a minor amendment. Ask Bruce Moulton. ⁴See note at end of summary.-

Weeks stated that it sounded like the group needed to determine the extent that the permit process should be opened up for review.

Break

Information Need: How will water supplies be affected by some of the scenarios discussed today.

Browning provided a history of commissioned studies: A Trinity River study was undertaken by the Tarrant Regional Water District, City of Houston, Trinity River Authority (TRA) and several consultants (Brown and Root, Freese and Nichols, George Ward, and others). The study sought to develop a model to simulate water supply yields in the Trinity River Basin. This model differs from the WAM model. Naturalized flow data used in WAM development was not available for this study. The Trinity River model and the WAMs are not comparable in space and time. A report on the Trinity River model was generated by George Ward. In the report, he recommended items for further study.

- Relate TPWD commercial harvest data to the TPWD coastal fisheries resource data
- Run correlations on TPWD harvest data vs. inflow data
- Look at inflow and salinity

- Refine delineation of inflows (e.g. How large are the freshets and when do they occur?)
- Look at the basin of origin and how it affects productivity
- Explore alternative management objectives

Five sponsoring groups hired consultants to move forward with Ward's recommendations. These tasks are ongoing.

The model was designed to address consensus-planning criteria agreed upon by TPWD, TWDB and TNRCC. The model was intended for new or amended permits. It could not perform runs in the three zones (MaxH, MinQ or MinQsal). However, it now can. Two scenarios were run through the model.

- a) Naturalized flow in three zones: median, 25th percentile and 7Q2
- b) MaxH, MinQ and MinQsal (based on Bay and Estuary [B&E] model terminology)

The model can give a rough estimate of what would happen given the scenario of MaxH, MinQ and MinQsal placed on a large reservoir.

The model was used to look at bay inflows and reservoir releases and how they would impact MaxH, MinQ and MinQsal. According to the model, inflows needed to come into the bay during a critical period, could not be achieved. The bottom line is the B&E inflow requirement is based on near average conditions. The water supply yield situation is based upon near drought conditions. There is a conflict between the two.

Callaway replied the two differ, but are not in conflict. B&E critical inflows are not needed all of the time, but only at certain times. She asked if anyone in the group had seen the WAMs.

Graml responded that he had. They were finalized in recent months. The numbers for Galveston Bay appear to be "in the ballpark".

Jackson asked how the information Browning had reported could be obtained in report format.

Browning responded that it might be obtained from presentations given to the agencies.

Jackson stated that Bay productivity studies are based on mobile species. They should also include sessile organisms such as oysters which are affected greatly by the quantity and timing of inflows.

Kachtick asked if there was anecdotal evidence of a fisheries rebound after the drought of record in the 1950s.

Woodrow replied that the TPWD data does not go back that far.

Callaway stated that water supplies must be planned not only for drought of record, but also for other conditions. She asked how the group could move towards doing that?

Settle stated that timing of freshets might have more to do with productivity than does overall flow.

Woodrow stated that the group should focus on artificial drought (increasing the frequency and duration of natural drought periods) more so than drought of record.

6. Two dates were chosen as possibilities for the next meeting: February 4, 2002 or February 20, 2002. Next time the group will begin by looking at “No Action” and “Promoting Conservation” scenarios.
 7. Adjourn
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Addendum

February 4, 2002 corrections and additions to stakeholder statements originally made on December 4, 2001.

¹ Original statement:

A water right holder holds 1,000 acre-feet in an irrigation use category and wants to change that 1,000 acre-feet to an industrial use category. If the water right holder also has an additional 500,000 acre-feet under that permit, then under a special condition clause that additional 500,000 acre-feet could also come under review.

Corrected statement:

A water right holder holds 1,000 acre-feet in an irrigation use category and wants to change that 1,000 acre-feet to an industrial use category. If the water right holder also has an additional 500,000 acre-feet under that permit, only the 1,000 acre-feet, for which the change in category is proposed, would come under review per a special condition clause.

² Original statement:

If that 1,000 acre-feet were changed from an agricultural use to a municipal use, then it would be moved up in priority.

Corrected statement:

It was decided that this statement would just be stricken from the record.

³ Original statement:

...when a minor amendment is proposed for a water right, the TNRCC and TPWD have the opportunity to comment on the amended amount.

Corrected statement:

Moulton and Woodrow are not sure if TPWD is only notified or if they also have the ability to comment.

⁴ Original statement:

Information Need: Provide information regarding the various types of water right permit amendments; what is the difference between a major and a minor amendment. Ask Bruce Moulton.

Corrected statement:

Per Bruce Moulton, there is no official difference between major and minor amendments. The terms are used as screening tools within the TNRCC. Examples of a minor amendment include a change in the

permit holder's name or an extension of time. It does not include an appropriation of water and does not require a full notice. A major amendment includes anything else and triggers an environmental review.