

Groundwater Concerns

E. DUTY TO PROTECT SURFACE WATER RESOURCES

The Texas Constitution provides for the creation of “conservation districts” and the Texas Water Code establishes the purpose, powers and duties of Groundwater Conservation Districts (GCD). The purpose of a GCD includes (but is not limited to) providing for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions. The powers and duties include (but are not limited to) the responsibility to develop a comprehensive management plan which addresses the management goals of (among other goals):

- 1) conjunctive surface water management issues,
- 2) natural resource issues, and
- 3) in a quantitative manner the desired future conditions of the groundwater resources.

In the management plan the District is instructed by statute to include estimates of the following (among other things):

- 1) the managed available groundwater in the district based on the desired future condition established under Section 36.108;
- 2) for each aquifer, the annual volume of water that discharges from the aquifer to springs and any surface water bodies, including lakes, streams, and rivers;
- 3) the annual volume of flow into and out of the district within each aquifer and between aquifers in the district, if a groundwater availability model is available;
- 4) the projected surface water supply in the district according to the most recently adopted state water plan; and

Though not explicitly stated within the Texas Water Code, groundwater conservation districts have duties to evaluate the potential impact of groundwater withdrawals on existing permit holders and surface waters within their jurisdiction. By logical extension, it is reasonable that GCDs would exercise the same level of diligence by considering the impact of their overall groundwater withdrawal and management plans.

Pursuant to Sec. 36.113 (d) of the Texas Water Code, GCD's have a responsibility to evaluate permits to determine if proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders.

Pursuant to Sec. 36.113 (e) of the Texas Water Code, GCD's have a duty to impose more restrictive permit conditions as are reasonably necessary to protect existing users in Bastrop, Lee counties.

Pursuant to Sec. 36.122 (f) of the Texas Water Code, GCD's have a duty to show that it has adequately reviewed the potential for transferring groundwater out of the district including:

- (1) the availability of water in the district and proposed receiving area during the period for which transfer is anticipated in conjunction with the surface water impacts a on Bastrop and Lee counties, and
- (2) the projected effect of the proposed transfer on aquifer conditions, depletion, subsidence, or effects on existing permit holders or other groundwater users within the District in conjunction with the surface water impacts of such action on Bastrop and Lee counties.