



## Texas Groundwater Conservation Districts

Texas clubs need to be prepared to face water restrictions, conservation demands and increased fees imminently facing the industry. The Texas Alliance of Recreational Organizations has prepared the following information on Texas Groundwater Management Areas and Conservation Districts. To avoid being left out of the equation, golf courses need to communicate their needs to local Groundwater Conservation District.

TARO strongly encourages each club to contact their Groundwater Conservation District and ask for a face to face meeting with the general manager to determine how and when they will be impacted on their water usage from groundwater sources. This will allow you to prepare and minimize any negative impact that the district may be contemplating. We know the drought the state is facing will not be eliminated in the near future and clubs clearly rely on the recreational resources they provide for their very existence.

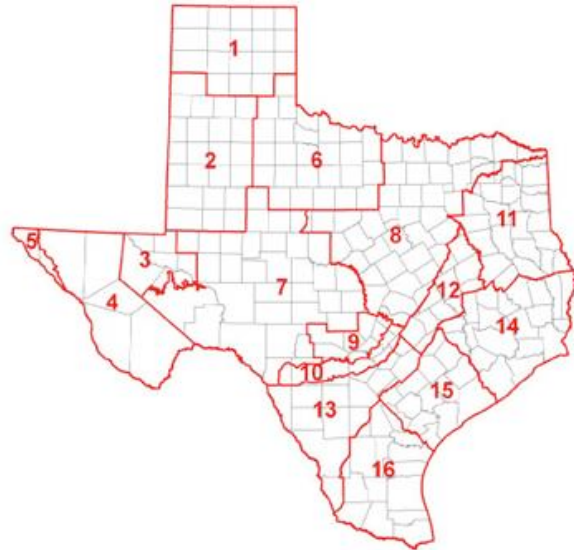
There is good news for Texas clubs. The Texas Supreme Court recently ruled (*Edwards Aquifer Authority v. Day*) that landowners have an ownership interest in the water beneath their land, a decision that has broad implications for state water management efforts. The Court said that the government cannot restrict how landowners consume the water beneath their property without compensating them. For more information on the ruling, [CLICK HERE](#).

### **OVERVIEW OF MANAGEMENT OF WATER RESOURCES IN TEXAS**

Texas has numerous aquifers capable of producing groundwater for households, municipalities, industry, farms, and ranches. The Texas Water Development Board (TWDB) recognizes 9 major aquifers – aquifers that produce large amounts of water over large areas 21 minor aquifers that produce minor amounts of water over large areas or large amounts of water over small areas. These aquifers are a critical source of water for Texas, supplying 59 percent of the 15.6 million acre-feet of water used in the state in 2003. About 79 percent of this water is used for irrigation, with irrigators withdrawing most of this water from the Ogallala Aquifer alone (82 percent of all groundwater used for irrigation, or 6.0 million acre-feet per year). About 36 percent of water used to meet municipal demands is from groundwater.

Groundwater Management Areas were created "in order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution. The responsibility for Groundwater Management Area delineation was delegated to the Texas Water Development Board.) The initial Groundwater Management Area delineations were adopted on December 15, 2002) There are 16 Groundwater Management Areas in Texas (see map below). Each Groundwater Management Area has the following number of Groundwater Conservation Districts included within its boundaries:

- Groundwater Management Area 1: 4
- Groundwater Management Area 2: 7
- Groundwater Management Area 3: 1
- Groundwater Management Area 4: 5
- Groundwater Management Area 5: 0
- Groundwater Management Area 6: 4
- Groundwater Management Area 7: 21
- Groundwater Management Area 8: 12
- Groundwater Management Area 9: 9
- Groundwater Management Area 10: 7
- Groundwater Management Area 11: 5
- Groundwater Management Area 12: 5
- Groundwater Management Area 13: 9
- Groundwater Management Area 14: 6
- Groundwater Management Area 15: 14
- Groundwater Management Area 16: 10



Local groundwater conservation districts (GCDs) are the state’s preferred method of groundwater management. GCDs are charged to manage groundwater by providing for the conservation, preservation, protection, recharging, and prevention of waste of the groundwater resources within their jurisdictions. GCDs can be created by one of four procedures:

1. GCDs can be established through the action of the legislature. Typical legislation follows a consistent framework for authorizing district powers and duties, appointing temporary directors, and establishing procedures for confirmation and subsequent director’s elections. However, the legislation may enable a district with additional authorities, such as water control and improvement, or limit a district’s powers, such as eminent domain, or limit ad valorem tax rates.
2. A GCD can be created through a landowner petition procedure based on State Law in Subchapter B, Chapter 36 of the Texas Water Code. This procedure begins with a petition filed by property owners within the proposed district’s area and continues with consideration by the Texas Commission on Environmental Quality (TCEQ) of first, that the boundaries of the proposed GCD provide for effective management of the groundwater resources, and then whether the proposed GCD can be adequately funded to carry out its purposes. The TCEQ considers the benefit of the proposed district and the feasibility of the proposed district’s programs. If the TCEQ acts favorably with regard to the petition, temporary directors are named and a confirmation election is held.
3. A GCD can be created by the TCEQ on its own motion in a designated Priority Groundwater Management Area (PGMA) through a procedure similar in principle to procedure (2) above, but in which action is initiated by the TCEQ rather than by petition. This method of creation is only authorized when local actions are not taken to create a GCD following the designation of a PGMA. The PGMA designation procedure includes extensive local participation through stakeholder outreach. If the TCEQ creates a GCD on its own motion in a PGMA, temporary directors are appointed by the county commissioner’s court(s) and an election is then held to elect directors.
4. An alternative to creating a new GCD is to add territory to an existing district, if an existing district is willing to accept the new territory. One form of addition of territory begins with a petition from an individual landowner directly to the GCD’s board of directors. In this case, the board’s decision is sufficient to include the property. For larger areas, groups of landowners or entire counties can petition a GCD’s board for inclusion. After hearings and the board’s acceptance of the petition, a confirmation election is held.

GCDs are authorized with powers and duties that enable them to manage groundwater resources. The three primary GCD authorities include: permitting water wells; developing a comprehensive management plan; and adopting the necessary rules to implement the management plan. The principal power that a GCD has to prevent waste of groundwater is to require that all wells, with certain exceptions, be registered and permitted. Wells with permits are subject to GCD rules governing spacing, drilling, equipping, and completion or alteration. Even exempt registered wells are subject to GCD rules governing well construction to prevent the unnecessary discharge of groundwater or pollution of the aquifer. Unless specifically exempted by a GCD, permits must be obtained for all wells except for: wells used solely for domestic use or for providing water for livestock or poultry purposes; the drilling of a water well used solely to supply water for a rig actively engaged in drilling or exploration operations for an oil or gas well permitted by the Railroad Commission of Texas (RRC); and the drilling of a water well authorized by the RRC for mining activities.

- There are 99 groundwater conservation districts in Texas: 96 are confirmed (note: this estimate includes several districts that do not require confirmation) and three have yet to be confirmed by voters through local elections.
- The first district (High Plains Underground Water Conservation District No. 1) was created in the Texas Panhandle in 1951.
- The smallest district covers an area of about 31 square miles (Red Sands Groundwater Conservation District in Hidalgo County) and the largest district (High Plains Underground Water Conservation District No. 1) an area of approximately 12,000 square miles.
- A total of 174 counties are either fully or partially within a groundwater conservation district.
- There are 62 single-county districts in Texas, and 37 that cover more than one county.
- While 96 of the 99 existing districts overlie a major aquifer, only 64 of these districts overlie a minor aquifer.
- The total reported groundwater usage in the entire State in the year 2008 was approximately 9.7 million acre-feet.
- In the same year, the total reported groundwater usage in all the districts (confirmed and unconfirmed) in the State was approximately 8.3 million acre-feet.
- Districts over the Ogallala aquifer accounted for approximately 5.6 million acre-feet of this usage.
- In 2008, Throckmorton County had the lowest amount of reported groundwater usage (28 acre-feet) and Hale County the highest (540,886 acre-feet).
- The first groundwater management plan to be approved was the Gonzales County Underground Water Conservation District's plan in 1998.

In some areas of the state, groundwater conservation districts overlying common aquifers have teamed together to not only share staff and other resources but also, more importantly, to undertake aquifer management on a regional basis. Currently, there are six such regional alliances: West Texas Regional Groundwater Alliance; Far West Texas Alliance of Groundwater Districts; Carrizo-Wilcox Aquifer Alliance; South Texas Regional Groundwater Alliance; Hill Country Groundwater Conservation District Alliance; and Southern Ogallala Regional Ground Water Alliance.

A listing of the groundwater conservation districts in Texas and contacts for each district is attached.

Despite initial beliefs that the 82nd Legislative Session would not be a “water session” due to large, looming issues such as the budget and redistricting, the Legislature tackled a handful of wide-ranging and controversial water issues in 2011. By far, bills related to groundwater ownership received the most media and overall attention of any groundwater bills filed this session. The bill ultimately passed by the Legislature, SB 332, will be effective September 1, 2011 and “recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property”. The right entitles the landowner to drill for and produce groundwater, but not the right to capture a specific amount. The bill provides that the right reaffirmed in SB 332 is subject to the rule of capture for liability purposes. It is

also subject to a new section confirming a district's ability to limit or prohibit drilling based on spacing or tract size and regulate the production of groundwater as provided in Chapter 36, specifically incorporating sections 36.113 (relating to the ability to grant or deny permits and protect existing users), 36.116 (relating to spacing requirements and historic use protection), and 36.122 (relating to exports) of the Water Code. The new section also expressly notes that districts are not required to allocate groundwater based on a correlative rights approach. The bill incorporates three additional considerations for districts in adopting rules: groundwater ownership rights, the public interest in conserving and protecting groundwater and controlling subsidence, and goals found in a district's management plan. It also includes a provision stating that SB 332 does not affect the ability of the Edwards Aquifer Authority, the Harris-Galveston Subsidence District, and the Fort Bend Subsidence District to regulate groundwater pursuant to the enabling legislation of those entities.

The 2012 State Water Plan was adopted by the Texas Water Development Board on December 15, 2011, and sent to the Governor on January 5, 2012. The primary message of the 2012 State Water Plan is a simple one: In serious drought conditions, Texas does not and will not have enough water to meet the needs of its people, its businesses, and its agricultural enterprises. This plan presents the information regarding the recommended conservation and other types of water management strategies that would be necessary to meet the state's needs in drought conditions, the cost of such strategies, and estimates of the state's financial assistance that would be required to implement these strategies. The plan also presents the sobering news of the economic losses likely to occur if these water supply needs cannot be met. As the state continues to experience rapid growth and declining water supplies, implementation of the plan is crucial to ensure public health, safety, and welfare and economic development in the state.

Link:

[http://www.twdb.state.tx.us/groundwater/conservation\\_districts/](http://www.twdb.state.tx.us/groundwater/conservation_districts/)