StormCon Austin
The North American Surface Water Quality Conference & Expo
August 2-6, 2015
Austin, Texas

Texas Water Law and Developing Innovative Water Supplies

Presented by:
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Groundwater

• Definition

➤ Exceptions
  • Underflow of a Watercourse
  • Underground Streams in Defined Channels
  • Artesian Water

➤ The “Rule of Capture” and Common Law Restrictions
Groundwater

• Groundwater Conservation Districts

➢ Creation

➢ Powers – Chapter 36 Texas Water Code
  • Texas Water Development Board
  • Texas Alliance of Groundwater Districts

➢ Management of Groundwater Resources
  • Groundwater Management Areas (GMA)
  • Desired Future Conditions (DFCs)
  • Modeled Available Groundwater (MAG)
Surface Water

- State Ownership of Surface Water

  - General Doctrine of Prior Appropriation

  - Exceptions
    - Diffused Surface Water
    - Developed Water and Water Reuse
    - Domestic and Livestock Exemption
Surface Water

• Appropriative Water Rights
  ➢ Generally
  ➢ Historic Development of Appropriation Doctrine
  ➢ Statewide Applicability
  ➢ State Agency and Permitting Requirement
  ➢ Filing Requirement for Prior Appropriations

• Water Rights Cancellation

• Water Rights Adjudication
Obtaining a Water Right Under Current Statutory Procedures

- Availability of Unappropriated Water
- Beneficial Use
- Non-Impairment of Existing Water Rights
- Public Welfare
Obtaining a Water Right Under Current Statutory Procedures

- Conservation and Drought Contingency Requirements
- Environmental Flow Requirements
- Other Requirements
- Interbasin Transfers
- Different Types of Appropriative Permits
Water Development and State Assistance

- Texas Water Development Board

- Planning and Forecasting
  - State Water Planning
  - Regional Water Planning
  - Local Water Planning
  - Drought Response Planning
Water Development and State Assistance

- Financial Assistance

  - Water Development Fund
    - State Loan Program
    - State Participation Program
    - Economically Distressed Areas Program

  - Water Assistance Fund
    - Water Loan Assistance Fund
    - Storage Acquisition Fund
    - Research and Planning Fund
    - Disadvantaged Rural Community Water and Wastewater Financial Assistance Fund
    - Colonia Self-Help Account
    - Rural Water Assistance Fund
Innovative Water Supply Projects

Direct and Indirect Reuse of Wastewater:

• City of Huntsville sale of treated wastewater to Montgomery County Municipal Utility District Nos. 8 and 9

• City of Wichita Falls blended treated wastewater reuse project

• Colorado River Municipal Water District’s blended treated wastewater reuse project
Innovative Water Supply Projects

Aquifer Storage and Recovery Projects:

- Currently, there are three facilities in Texas:
  - City of Kerrville (surface water)
  - El Paso Water Utilities (groundwater)
  - San Antonio Water System (groundwater)

- What is aquifer storage and recovery?
  - Injection of treated water into the ground, storing the water during wet periods, recovering the stored water by the same or alternative well.

- Used extensively in the west and southeast United States.
Innovative Water Supply Projects

Desalination Projects:

• Brackish groundwater desalination:
  ➢ El Paso Water Utilities
  • 27.5 MGD
  ➢ San Antonio Water Systems
  • 12 MGD in Phase I
  • 30+ MGD in Phases II and III

• Seawater desalination
  ➢ No operating projects
  ➢ Pilot projects
  • Brownsville Seawater Desalination Pilot Project
  • Lagua Madre Water District Seawater Desalination Pilot Project
  • City of Corpus Christi Large Scale Demonstration Desalination Feasibility Study

• Recent Legislation
  ➢ HB 2031 and HB 4097
Innovative Water Supply Projects

Non-traditional surface water supply projects:

• Brazos River Authority’s System Operation Permit

• Hidalgo County Drainage District No. 1’s Lower Rio Grande Valley Regional Water Project

• Tarrant Regional Water District and the City of Dallas Water Utilities Integrated Pipeline

• LCRA’s Excess Flows and Off-Channel Reservoir Project
Evolving Issues in Water Law

- Environmental Flows Requirements
- Indirect Reuse
- Regulatory Takings
- Water Marketing
- Water Rates and Utility Regulation
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