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John Folk-Williams

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Citation Information

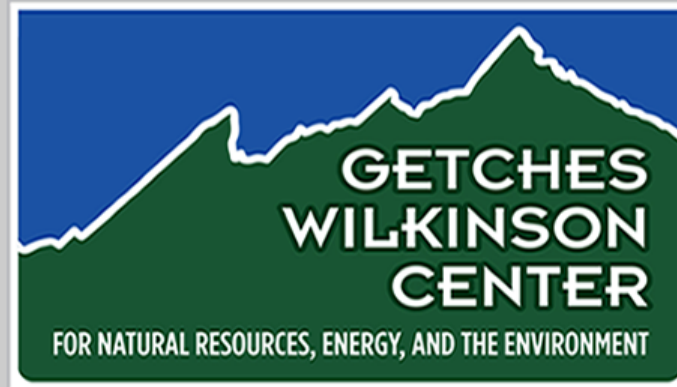
Folk-Williams, John, "Regional Water Planning in Texas" (1999). *Strategies in Western Water Law and Policy: Courts, Coercion and Collaboration (Summer Conference, June 8-11)*.
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John Folk-Williams, *Regional Water Planning in Texas*,
in STRATEGIES IN WESTERN WATER LAW AND POLICY (Natural
Res. Law Ctr., Univ. of Colo. Sch. of Law, 1999).

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Public Decisions Network
San Antonio, Texas

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NATURAL RESOURCES LAW CENTER
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REGIONAL WATER PLANNING IN TEXAS

By John Folk-Williams

Major new water legislation usually proves to have at least some unpredictable consequences. The introduction of regional water planning in Texas through the 1997 law known as Senate Bill 1 is in the first year of its implementation, and the experienced water players are still puzzling about what is new and what is old in this process. Does regional planning mark the beginning of a new era of "bottom up" or grassroots planning or is it only a new version of the previous tradition of "top down" planning directed closely by the state? This paper explores elements of the process from the point of view of a dispute resolution practitioner attempting to assist two of the state's 16 regions as they fashion their first water plans.

I. Overview of the Planning Process

- A. Regions defined by political boundaries
- B. Regional planning groups to represent specified interests
- C. State providing 100% of planning funds, over \$20 million
- D. Regional plans to be ready by January, 2001
- E. State plan to be compiled from regional plans by January, 2002
- F. Local entities may opt out of process
- G. State cannot fund or permit projects that are inconsistent with plans
- H. State resolves inter-regional disputes and/or inconsistencies

II. Texas Water Planning Prior to Senate Bill 1

- A. Planning began with creation of Texas Water Development Board in 1957
- B. Starting in 1968, six state plans adopted as official policy
- C. State plans prepared by TWDB but agency had no power to implement plans
- D. TWDB became central source for population and water demand projection
- E. Local entities and interest groups participated through a consensus process
- F. State agencies developed environmental criteria for project review tied to permitting process

- G. Planning resulted from exchange of data between local and state levels and from negotiation rather than from simple "top down" models

III. The Balancing Act of Senate Bill 1

- A. Rapid growth of metropolitan regions needing to import water and accompanying shift in balance of urban and rural power in legislature
- B. Drought of 1996 sharpened case for state action
- C. Recent groundwater regulation set precedent for enhanced state role
- D. Rural and water-rich areas opposed to movement of water to major cities
- E. Uneasy compromise reached by inclusion of provision subordinating all surface water rights exported from a basin to all other water rights with in-basin uses
- F. 1999 legislative struggle to repeal the "junior water rights" provision

IV. Something New, Something Old in Regional Water Planning

- A. The concept of regions growing out of political tensions
- B. New players at the table: county and city elected officials, local environmental advocates, small business, local farmers, industry managers
- C. Old players: river authorities, water supply districts, municipal water departments, engineering firms – but no water lawyers
- D. Grass roots influence: the pressure to add new issues to water planning (growth management, economic equity, public involvement)
- E. State influence: detailed direction on content and methodology by TWDB, enforced through funding contracts with consultants and plan administrators

V. Where are the Regions Taking Texas?

- A. Are the new players able to learn fast enough to influence the process?
- B. Is regional planning effective in dealing with public interest issues?
- C. Does regional planning provide a mechanism to resolve urban/rural tensions?
- D. Does regional planning politicize the process?
- E. What difference will the "new" planning make in water supply strategies?