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**Comments of the Lone Star Chapter of the Sierra Club on the Draft State Water Plan –  
*Water for Texas 2002* – Submitted by E-Mail and Fax on November 12, 2001 – Prepared by  
Ken Kramer, Chapter Director**

These comments are supplemental to verbal testimony presented on behalf of the Lone Star Chapter of the Sierra Club by Erin Rogers and Ken Kramer, respectively, at the afternoon and evening public hearings on the draft State Water Plan that were held in Austin on November 1. The comments will be mercifully brief for two reasons: (1) representatives of our organization and those of other environmental and related groups have had frequent interaction over the past year with officials of the Texas Water Development Board (TWDB) to express our concerns about the regional and state water planning process, and (2) basically those concerns have fallen on deaf ears, so there seems little utility in expending much time and effort to express them one more time, other than simply to summarize and restate them for the public record.

TWDB has maintained, despite comments to the contrary by a number of organizations and various state legislators and legislative staff, that the agency does not have the authority to “second-guess” the recommendations of regional water planning groups except in instances where there is a direct conflict between two regions over the use of a specific water supply or proposed supply project. Such a position obviously calls into question why anyone should bother to make contrary comments regarding regional water management strategies that TWDB has now approved and aggregated into the state plan.

We continue to maintain that S.B. 1 does not require TWDB to maintain such a passive stance toward the proposed water management strategies of the sixteen regional water planning groups. There is a definite responsibility on the part of the state water planning agency, while respecting the hard work and effort of the regional planning groups, to determine whether the overall interests of the people of Texas are being served by any specific regional strategy.

If state funding and water rights permitting decisions for the use of state surface water are activities that are contemplated as needed to pursue the water management strategies proposed by the regional planning groups, then ALL Texans have the right to participate in the shaping of those decisions. If water projects are proposed to feed the addiction of certain areas of the state to extravagant water use habits, and those projects will adversely affect the farmland, ranchland, and fish and wildlife resources of an ecologically and culturally significant part of Texas, then ALL Texans have to right to have their views on those projects considered seriously before a State Water Plan is finalized. For TWDB not to do so is to abdicate its responsibilities.

For the record, we will state our five major concerns about the portion of the State Water Plan that represents the aggregation of the regional water plans. While recognizing the commitment that members of the regional water groups made to the S.B. 1 planning process, and while appreciating the significance of the inventory of current water uses and identified water demands (not needs, but demands) that the planning groups assembled, we believe that, overall, the regional plans (with some exceptions) and, therefore, the cumulative state plan suffer from the following shortcomings:

- (1) **The regional plans, and thus the state plan, largely neglect pro-active water conservation as a means of reducing future demands on our water resources.** The TWDB discussion on pages 72-74 of the draft State Water Plan paints a misleading picture of the attention paid by regional water plans (again, with some exceptions) to dynamic ways of meeting their water needs through maximization of water conservation and the efficient use of water. Any state plan that blesses, for example, the profligate use of water demonstrated by certain major municipalities and suburban cities in this state is not a plan that promotes water conservation.
- (2) **The regional plans, and thus the state plan, do not provide the water necessary for fish and wildlife.** The plans largely fail to address water for fish and wildlife. The plans ignore the fact that many rivers and streams could stop flowing if all water withdrawals were to be exercised. The plans fail to guarantee freshwater inflows to sustain the productivity of our bays and estuaries (to its credit the Region H plan identified the quantity of flows necessary for the health of Galveston Bay, but unfortunately the regional plan did not outline how such flows should be maintained, a subject which is part of an ongoing discussion by the Galveston Bay Freshwater Inflows Group).
- (3) **The regional plans, and thus the state plan, are based on inflated demands for water.** The current water use rates for several cities are overstated in the state plan, leading to erroneous future. Moreover, the regional and state plans reflect an intention to provide for the water demands of all water use groups during a drought of record (even if that intention is not realized in all regions), rather than the use of rational reduction mechanisms in a time of drought. Planning to provide water for peak usage during an historical drought radically overstates the need for water and leads to unnecessary, costly, and environmentally adverse water projects.
- (4) **The regional plans, and thus the state plan, allow unsustainable use of groundwater resources.** Although it may not be advisable in the near term, especially in areas such as the Texas Panhandle, to establish the principle of withdrawing annually only the amount of groundwater that is recharged annually, the state needs to develop a plan for moving toward a more sustainable management scenario for groundwater.
- (5) **The regional plans, and thus the state plan, do not provide adequate economic analysis of proposed water management strategies.** Recommended water projects are not ranked on a statewide basis to determine which are the most cost-effective, and the state plan does not even consider whether the project costs exceed their benefits. Even the Texas Legislature recognized indirectly this past spring in the passage of S.B. 2 that

many of the projects proposed in the regional plans, and thus the state plan, are highly questionable on financial grounds. The Legislature directed all regional water planning groups to submit to TWDB by June 2002 a report on how the planning group anticipated that funding would be obtained for their proposed water projects.

Again, we state these concerns for the record, not with anticipation that TWDB will make changes in the State Water Plan to address these concerns. Unfortunately, the State Water Plan is totally inadequate because of its failure to tackle advanced water conservation, provide water for fish and wildlife, manage demands rather than simply oblige them, provide for sustainable groundwater management, and evaluate water projects on sound economic grounds.

There is one area of the State Water Plan where even TWDB agrees that it has the authority to assert its own views. That is the section on major policy recommendations. These policy recommendations are an outgrowth, in large measure, of a “stakeholder” process established by the agency and initiated in May of 2001. The stakeholders were representatives of various entities with interest in the water issue, including agricultural groups, environmental groups, water suppliers, regional water planning groups, and others.

Unfortunately, because of the way TWDB structured the process, water supply and development interests were strongly over-represented. The municipalities and water districts that provide water supply were not only directly represented, but they were also represented by water supply trade associations and private attorneys and engineers who work under contract to these suppliers. This overrepresentation resulted in some potentially good recommendations being totally eliminated and others being drastically compromised. For the most part, representatives of environmental groups were able to keep really bad recommendations from being made, but the good recommendations that were suggested were emasculated. Even though TWDB does have the clear authority to exercise independent judgment over the policy recommendations, the Board chose mainly to water down a few of the recommendations (such as the recommendation that the state set a goal of moving toward sustainable groundwater management) and then put the rest of the weak stakeholder recommendations in the draft State Water Plan.

Again, primarily for the record, the Lone Star Chapter of the Sierra Club recommends that the policy recommendations of the draft State Water Plan be amended to include the following:

- (1) **The State of Texas in its approach to groundwater should establish a goal of moving toward sustainable management of aquifers.** Texas should modify its antiquated rule of capture in those areas of the state where groundwater withdrawals are not currently regulated by government entities (such as the Edwards Aquifer Authority and the Harris-Galveston Coastal Subsidence District).
- (2) **The State of Texas should provide for necessary environmental flows to maintain healthy ecosystems for fish and wildlife.** Such steps should include but not be limited to the specific recognition of instream uses as a “beneficial use” for which water may be appropriated, active promotion of the Texas Water Trust and designation of Texas Parks and Wildlife Department as the administrator of the trust, an aggressive water rights cancellation process for unused water rights and dedication

of those cancelled rights to instream flows and freshwater inflows for bays and estuaries, and incentives or other measures to convince senior water rights holders to place part or all of their water rights in the Texas Water Trust on a perpetual basis for the benefit of instream uses and/or maintenance of the productivity of bays and estuaries.

- (3) The State of Texas should take additional steps to assure that water suppliers aggressively pursue water conservation and drought management, including but not limited to a requirement for periodic reports to the State on the implementation of water conservation and drought contingency plans, establishment of a goal of a maximum 10% water loss in water supply systems and a commitment of financial and other resources to leak detection programs to reach that goal, a requirement for all water suppliers to adopt a conservation water rate with appropriate rate blocks to promote efficient use of water, and provision of state funds, if necessary, for such programs as retrofitting water-wasting toilets with low-flush toilets to achieve maximum in-house water conservation levels.**
- (4) The State of Texas should adopt an approach to water planning that incorporates rational reductions in water use during times of drought rather than trying to provide the amount of water necessary to allow all water demands to be met during a drought situation.**

In closing the Lone Star Chapter of the Sierra Club wants to recognize the long, hard hours of work put in by TWDB staff in monitoring the regional water planning process, conducting the stakeholder process for developing policy recommendations, and producing the draft State Water Plan. Our role in water policy-making for the state requires us, however, to be strong critics of a plan that we believe does not provide the truly comprehensive, environmentally-sound, cost-effective, and conservation-oriented approach that is necessary for Texas to use its water resources wisely and to meet human and environmental water needs in the 21<sup>st</sup> century.