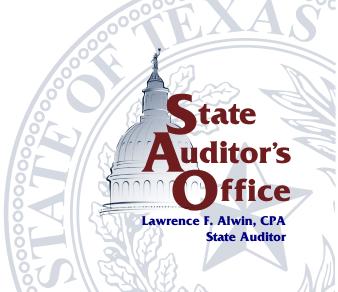
An Audit Report on

Groundwater Conservation Districts -Phase Three

July 2002 Report No. 02-0 61



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Overall Conclusion

One of the nine groundwater conservation districts (districts) we audited–Permian Basin Underground Water Conservation District (page 1)–did not achieve a majority of the objectives in its groundwater management plan. Therefore, we assessed this district as not

operational. The State has no assurance that this district is adequately conserving, preserving, and protecting the groundwater it administers.

The remaining eight districts we audited have achieved a majority of the objectives in their groundwater management plans. Therefore, we assessed these districts as operational. These districts are implementing their plans to adequately conserve, preserve, and protect the groundwater they administer. These eight districts are:

- Anderson County Underground Water Conservation District (page 2)
- Glasscock Groundwater Conservation District (page 2)
- Jeff Davis County Underground Water Conservation District (page 3)
- Plateau Underground Water Conservation and Supply District (page 4)
- Sandy Land Underground Water Conservation District (page 5)
- Santa Rita Underground Water Conservation District (page 5)
- Sutton County Underground Water Conservation District (page 6)
- Wintergarden Groundwater Conservation District (page 7)

We assessed a district as operational if it had achieved a majority of the objectives in its groundwater management plan. We issued management letters providing detailed audit results to each of the districts we audited. The districts generally agreed with the observations we made in these management letters.

This is the fourth groundwater conservation district audit we have conducted. Including the districts we

Background Information

- Texas Water Code, Chapter 36, requires districts to develop groundwater management plans. These plans show the steps the districts will take to protect and manage groundwater. A district's groundwater management plan must contain certain goals defined in the Texas Water Code (if those goals are applicable to the district). Each goal can have one or more supporting objectives.
- Districts must submit their groundwater management plans to the Water Development Board for certification.
- No earlier than one year after the certification of a district's groundwater management plan, the State Auditor's Office audits the district's operational status. A district is operational if it has achieved a majority of the objectives in its groundwater management plan.
- The Natural Resource Conservation Commission enforces districts' compliance with their groundwater management plans.

For more information on the state agency roles in the groundwater management plan process, see Chapter 2, page 8.

audited in this project, we have audited 32 districts, 23 of which were operational. The 32 districts we have audited represent 63 percent of the 51 confirmed districts operating under management plans certified by the Water Development Board. See the map in Chapter 3 (page Error! Bookmark not defined.) for more detail on each district.



This audit was conducted in accordance with Texas Water Code, Section 36.302.

Lawrence F. Alwin, CPA For more information regarding this report contact Carol Noble, CISA, CGFM, CCP, Audit Manager, at (512) 936-9500.

Detailed Results

Chapter 1 One of the Nine Groundwater Conservation Districts Audited Is Not Operational

As we have found in prior groundwater conservation district (district) audits, the majority of the districts we audited are operational.

Chapter 1.1

Permian Basin Underground Water Conservation District Is Not Operational

Permian Basin Underground Water Conservation District (District) did not fully achieve any of the five objectives in its groundwater management plan. Therefore, we assessed the District as not operational. The District Manager position in this district has been vacant for five years.

The District partially achieved three objectives and did not achieve the remaining two objectives. The District did not achieve its objective to inspect all reported sites of open or uncovered wells. Open or uncovered wells increase the potential for groundwater contamination and waste. The District also did not achieve its objective to annually inspect 80 percent or more of the known saltwater disposal wells located within its boundaries for indications of pollution potential. Table 1 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it generally agreed with our observations. Management stated that it will perform site inspections and improve its documentation procedures.

Table 1

Permian Basin Underground Water Conservation District is not operational.

Permian Basin Underground Water Conservation District Achievement of Groundwater Management Plan Objectives							
Goal (as it appears in the District's groundwater management plan)	Number of Objectives Achieved Not nanagement plan) Fully Partially Achieved To						
Goal I - Implement management strategies that will protect and enhance the quantity of useable quality groundwater by encouraging the most efficient use.	0	2	0	2			
Goal II - Implement management strategies that will protect and enhance the quantity of useable quality groundwater by controlling and preventing waste.	0	1	1	2			
Goal III ^a - Saltwater disposal well monitoring.	0	0	1	1			
Total Objectives	0	3	2	5			

this goal in our report to minimize confusion.

Chapter 1.2

Anderson County Underground Water Conservation District Is Operational

Anderson County Underground Water Conservation District (District) achieved four of the seven objectives in its groundwater management plan. It partially achieved two objectives. Therefore, we assessed the District as operational. The District did not achieve its objective to permit all new water wells, which increases the potential for groundwater pollution. Table 2 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it agreed with our observations.

Table 2

Anderson County Underground Water Conservation District is operational.

Anderson County Underground Water Conservation District Achievement of Groundwater Management Plan Objectives								
Goal (as it appears in the District's groundwater management plan)	Number of Objectives Achieved Not ment plan) Fully Partially Achieved							
Goal I - Providing the most efficient use of groundwater.	1	1	0	2				
Goal II - Controlling and preventing the waste of groundwater.	0	1	0	1				
Goal III - Controlling and preventing subsidence. (The District determined this goal was not applicable.)	0	0	0	0				
Goal IV- Addressing conjunctive surface water management issues.	2	0	0	2				
Goal V - Addressing natural resources issues that impact the use and availability of groundwater and which are impacted by the use of groundwater.	1	0	1	2				
Total Objectives	4	2	1	7				

Source: State Auditor's Office analysis of achievement of groundwater management plan objectives.

Chapter 1.3 Glasscock Groundwater Conservation District Is Operational

Glasscock Groundwater Conservation District (District) achieved all 3 of the objectives in its groundwater management plan and all 14 of the objectives in its district action plan. (This district developed both a groundwater management plan and an action plan.) Therefore, we assessed the District as operational. Table 3 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it agreed with our observations.

Table 3

Glasscock Groundwater Conservation District Achievement of Groundwater Management Plan and District Action Plan Objectivesª							
Goal (as it appears in the District's groundwater management plan or district action plan)	N Fully	ectives Achieve Not Achieved	ved Total				
Management Plan Goals							
Goal I - Control and prevent the waste of groundwater.	1	0	0	1			
Goal II - Provide for efficient use of groundwater within the district.	2	0	0	2			
Action Plan Goals			· · ·				
Goal I - Develop a groundwater monitoring system to improve understanding of the aquifers and their hydrogeologic properties, as well as a quantification of resources necessary for prudent planning.	2	0	0	2			
Goal II - Gather information necessary to assist in the achievement of the district's mission.	2	0	0	2			
Goal III - Minimize the waste of water.	1	0	0	1			
Goal IV - Minimize the influence of pumping wells on the degradation of the aquifers by regulating the spacing of wells.	1	0	0	1			
Goal V - Minimize the potential for contamination of the groundwater by new or existing wells.	3	0	0	3			
Goal VI - Help conserve water use by better irrigation planning and contour farming.	2	0	0	2			
Goal VII - Protect the deterioration of water quality from pollution by oil and gas production.	2	0	0	2			
Goal VIII - District tracking of progress towards achievement of its action plan goals.	1	0	0	1			
Total Objectives	17	0	0	17			

^a The District documents its goals and objectives in two separate plans: its groundwater management plan and an action plan We audited the implementation status of the objectives in both plans.

Source: State Auditor's Office analysis of achievement of groundwater management plan and action plan objectives.

Chapter 1.4 Jeff Davis County Underground Water Conservation District Is Operational

Jeff Davis County Underground Water Conservation District (District) achieved 20 of the 21 objectives in its groundwater management plan. Therefore, we assessed the District as operational. We could not determine whether the District had achieved one objective because the deadline for that objective is in 2003. Table 4 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it agreed with our observations and will complete the remaining objective by 2003.

 Table 4

 Jeff Davis County Underground Water Conservation District is operational.

Jeff Davis County Underground Water Conservation District Achievement of Groundwater Management Plan Objectives								
Goal (as it appears in the District's groundwater management plan)	Number of Objectives Achieved Not Unable to Fully Partially Achieved Determine Tota							
Goal I - Implement a system to improve the basic understanding of groundwater conditions in the district.	4	0	0	0	4			
Goal II - Implement management strategies that will provide for the most efficient use of groundwater.	6	0	0	0	6			
Goal III - Implement management strategies that will protect and enhance the quantity of useable quality water by controlling and preventing waste.	6	0	0	1	7			
Goal IV - Address conjunctive surface water management issues.	2	0	0	0	2			
Goal V - Implement and enforce a system of rules to meet the goals of regulating the production of groundwater within the District to ensure that the citizens of the District will have adequate water for the future.	2	0	0	0	2			
Total Objectives	20	0	0	1	21			

Source: State Auditor's Office analysis of achievement of groundwater management plan objectives.

Chapter 1.5 Plateau Underground Water Conservation and Supply District Is Operational

Plateau Underground Water Conservation and Supply District (District) achieved six of the nine objectives in its groundwater management plan. The District partially achieved the remaining three objectives. Therefore, we assessed the District as operational. Table 5 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it agreed with our observations.

Table 5

Plateau Underground Water Conservation and Supply District Achievement of Groundwater Management Plan Objectives								
Number of Objectives Achieved Goal Not (as it appears in the District's groundwater management plan) Fully Partially Achieved T								
Goal I - Provide for the most efficient use of groundwater.	6	2	0	8				
Goal II - Implement strategies to control and prevent waste of groundwater.	0	1	0	1				
Total Objectives	6	3	0	9				

Chapter 1.6 Sandy Land Underground Water Conservation District Is Operational

Sandy Land Underground Water Conservation District (District) achieved seven of the nine objectives in its groundwater management plan. Therefore, we assessed the District as operational. The District could not provide documentation indicating that it achieved its objective to conduct irrigation well efficiency tests within 90 days of all property owners' requests. In addition, the District did not achieve its objective to publish quarterly articles promoting conservation of groundwater in the District newsletter. Table 6 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it will be able to comply with the objectives it has not yet achieved.

Table 6

Sandy Land Underground Water Conservation District is operation	ional.						
Sandy Land Underground Water Conservation District Achievement of Groundwater Management Plan Objectives							
Number of Objectives Achieved							
Goal	Not						
(as it appears in the District's groundwater management plan)	Fully	Partially	Achieved	Total			
Goal I - Provide for the most efficient use of groundwater within the District.	2	0	1	3			
Goal II - Control and prevent waste of groundwater within the District. 5 0 1 6							
Total Objectives	7	0	2	9			

Source: State Auditor's Office analysis of achievement of groundwater management plan objectives.

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Chapter 1.7 Santa Rita Underground Water Conservation District Is Operational

Santa Rita Underground Water Conservation District (District) achieved five of the nine objectives in its groundwater management plan. The District partially achieved two objectives. Therefore, we assessed the District as operational. We did not audit the remaining two objectives because this would have required a site visit for verification, and we did not perform site visits during this audit. Table 7 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it intends to modify its groundwater management plan.

 Table 7

 Santa Rita Underground Water Conservation District is operational.

Santa Rita Underground Water Conservation District Achievement of Groundwater Management Plan Objectives								
Goal (as it appears in the District's groundwater management plan)	Number of Objectives Achieved Not Not Fully Partially Achieved Audited Tot							
Goal I - Develop a groundwater monitoring system to improve the understanding of the aquifers and their hydrogeologic properties, as well as qualification of resources necessary for prudent planning.	0	1	0	0	1			
Goal II - Gather information necessary to assist in the achievement of the District's goal.	2	0	0	2	4			
Goal III - Each year strive to prevent the waste of water.	0	1	0	0	1			
Goal IV- Minimize the influence of the pumping wells on the degradation of the aquifers by regulating the spacing of wells.	1	0	0	0	1			
Goal V - Minimize the potential for contamination of the groundwater by new or existing wells.	2	0	0	0	2			
Total Objectives	5	2	0	2	9			

Source: State Auditor's Office analysis of achievement of groundwater management plan objectives.

Chapter 1.8 Sutton County Underground Water Conservation District Is Operational

Sutton County Underground Water Conservation District (District) achieved five of the nine objectives in its groundwater management plan. The District partially achieved the remaining four objectives. Therefore, we assessed the District as operational. Table 8 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating that it agreed with our observations.

Table 8

Sutton County Underground Water Conservation District is operational.

Sutton County Underground Water Conservation District Achievement of Groundwater Management Plan Objectives							
Number of Objectives Achieved Goal Not (as it appears in the District's groundwater management plan) Fully Partially Achieved Tot							
Goal I - Provide for the most efficient use of groundwater.	5	2	0	7			
Goal II - Implement strategies to control and prevent waste of groundwater.	0	2	0	2			
Total Objectives	5	4	0	9			

Chapter 1.9

Wintergarden Groundwater Conservation District Is Operational

Wintergarden Groundwater Conservation District (District) achieved three of the five objectives in its groundwater management plan. The District partially achieved the remaining two objectives. Therefore, we assessed the District as operational. Table 9 provides a summary of the District's objectives and goals.

The District's management responded to our audit results by stating it agreed with our observations.

Table 9

Wintergarden	Groundwater	Conservation	District	is or	perational
white guiden	Groundwater	consci vacion	District	13 04	ci acional.

Wintergarden Groundwater Conservation District Achievement of Groundwater Management Plan Objectives								
Goal (as it appears in the District's groundwater management plan)	Number of Objectives Achieved Not Fully Partially Achieved To							
Goal I - Efficient use of groundwater.	0	1	0	1				
Goal II - Controlling and preventing waste of groundwater.	1	0	0	1				
Goal III - Controlling and preventing subsidence. (The District determined that this goal was not applicable.)	0	0	0	0				
Goal IV - Address conjunctive surface water management issues.	1	0	0	1				
Goal V - Address natural resource issues that impact the use and availability of groundwater.	0	1	0	1				
Goal VI - Engineer, implement, and evaluate recharge.	1	0	0	1				
Total Objectives	3	2	0	5				

Texas Water Code, Section 36.0015, specifies that having local groundwater conservation districts is the State's preferred method of groundwater management. This approach gives landowners local control with limited state oversight. Texas Water Code, Section 36.1071, requires districts to develop groundwater management plans. These plans outline the districts' unique goals and objectives for managing the groundwater they administer. As Figure 1 illustrates, the Water Development Board reviews and certifies each district's groundwater management plan. The State Auditor's Office audits districts' performance under their management plans. The Natural Resource Conservation Commission enforces districts' compliance with their groundwater management plans.

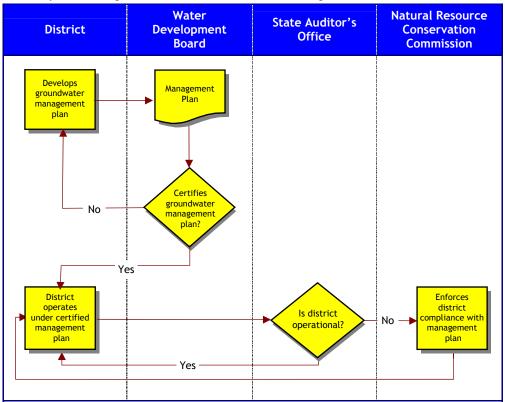


Figure 1 Summary of State Agencies' Roles in Groundwater Management Plan Process.

Chapter 2.1

The Water Development Board Certifies District Groundwater Management Plans

Texas Water Code, Section 36.1071, requires that, within two years of the confirmation to approve their creation, districts must submit a groundwater management plan to the Water Development Board (Board) for review and certification. The groundwater management plan must address the following seven statutorily required goals (if applicable to the district):

- Providing the most efficient use of groundwater
- Controlling and preventing waste of groundwater
- Controlling and preventing subsidence (subsidence is the gradual lowering in the elevation of the land surface that is caused by the withdrawal of groundwater)
- Addressing conjunctive surface water management issues (conjunctive issues are issues related to the combined use of groundwater and surface water)
- Addressing natural resource issues
- Addressing drought conditions (the 77th Legislature added this goal, which became effective September 1, 2001)
- Addressing conservation (the 77th Legislature added this goal, which became effective September 1, 2001)

Texas Water Code, Section 36.1072, requires the Board to certify administratively complete groundwater management plans within 60 days of receiving them from the districts. A groundwater management plan is administratively complete if it contains the information required by Texas Water Code, Section 36.1071. Additionally, Texas Water Code, Section 36.1072, requires the Board to review and readopt the districts' groundwater management plans at least once every five years.

According to the Board, as of June 13, 2002, 17 of the 87 districts that the Legislature has created have not held confirmation elections to confirm the creation of the district and elect a permanent board of directors. Four of the 87 districts have held confirmation elections that failed to confirm the creation of the district. Fifty-one districts are currently operating with groundwater management plans that the Board has certified. The remaining 15 districts are in the process of preparing and submitting management plans. All of these 15 districts are still within the two-year time frame that Texas Water Code, Section 36.1072(a), allows for submission of their groundwater management plans.

Chapter 2.2

The State Auditor's Office Determines Districts' Operational Status

Texas Water Code, Section 36.302, requires the State Auditor's Office (Office) to determine whether a district is actively engaged in achieving the objectives in its groundwater management plan. The Office's determination is based on an audit of the district's performance under the plan. The Office considers a district to be operational if the district achieves a majority of the objectives the Office audits.

The Office's review of a district's operational status must occur after the first anniversary of the initial Board certification of the district's groundwater management plan, as well as every five years thereafter. The Office must report the results of its review to the Legislative Audit Committee and the Natural Resource Conservation Commission. Prior to our current project (Phase Three), the Office conducted three projects to audit districts' operational status (Pilot Project, Phase One, and Phase Two). Of the 23 districts included in the prior projects:

- Seven districts were not operational.
- Fifteen districts were operational.
- The Office was unable to determine the operational status of the remaining district.

Chapter 2.3

The Natural Resource Conservation Commission Enforces Districts' Compliance with Their Groundwater Management Plans

The Natural Resource Conservation Commission (Commission) is responsible for enforcing districts' compliance with their groundwater management plans. Texas Water Code, Section 36.303, specifies that, if a district fails to submit a groundwater management plan or if the Office finds that a district is not operational, the Commission must implement an enforcement action. The Commission has several enforcement action options established in statute. These options include:

- Requiring a district to take or refrain from certain actions.
- Dissolving a district's board and calling for an election to elect a new board.
- Requesting that the Office of the Attorney General bring suit for the appointment of a receiver to collect the assets and carry on the business of a district.
- Dissolving a district.

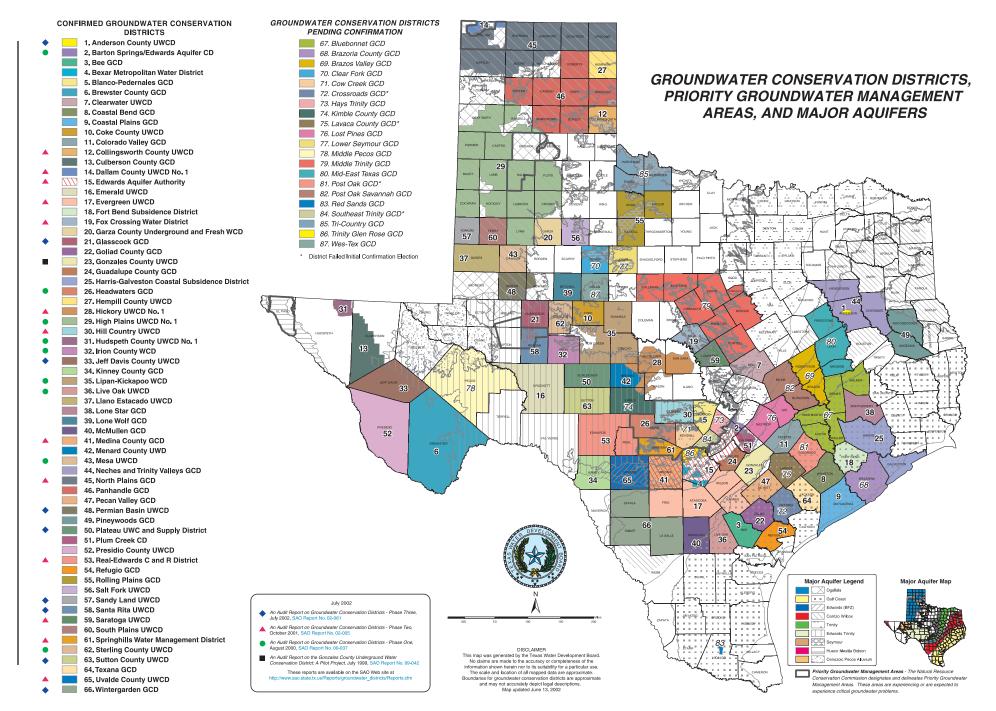
In addition, as the lead agency for the Texas Groundwater Protection Committee, the Commission is primarily responsible for the regulatory protection of groundwater quality in the state.

According to the Commission, it has followed up on the two districts the Office assessed as not operational in the Office's Pilot and Phase One projects. One of these districts, Live Oak Underground Water Conservation District, was able to reach compliance with its groundwater management plan; the other district, Hudspeth County Underground Water Conservation District No. 1, has signed an agreement to reach certain milestones designed to reach compliance. The Commission has begun its follow-up on the Office's Phase Two project.

Chapter 3

Map of Confirmed and Newly Created Groundwater Conservation Districts, Major Aquifers, and Priority Groundwater Management Areas

See following page for map of confirmed and newly created groundwater conservation districts, major aquifers, and priority groundwater management areas.



Page

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Objective

Our objective was to determine whether the audited districts were making a goodfaith effort in pursuing the objectives in their groundwater management plans.

Scope

Our audit scope covered the two most recently completed calendar or fiscal years of each district audited (depending on whether a district operated under a calendar or fiscal year). We audited nine groundwater conservation districts. This audit did not include any reviews of information technology systems.

Methodology

We based our assessment of the districts' operational status on our review of the districts' efforts toward achieving the objectives in their groundwater management plans. We assessed whether a district had achieved an objective based on a desk review of evidence the district submitted. If a district achieved a majority of the audited objectives in its groundwater management plan, we considered the district to be operational.

We gained an understanding of Texas groundwater district law by reviewing the districts' enabling legislation. We obtained additional knowledge by reviewing the districts' groundwater management plans and discussing the development of the plans with personnel from the Water Development Board.

Legislative Audit Committee

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Office of the Governor

The Honorable Rick Perry, Governor

Natural Resource Conservation Commission

Jeffrey A. Saitas, Executive Director

Parks and Wildlife Department

Robert L. Cook, Executive Director

Water Development Board

J. Kevin Ward, Executive Administrator

Presidents, board members, and district managers of these groundwater conservation districts:

Anderson County Underground Water Conservation District Glasscock Groundwater Conservation District Jeff Davis County Underground Water Conservation District Permian Basin Underground Water Conservation District Plateau Underground Water Conservation and Supply District Sandy Land Underground Water Conservation District Santa Rita Underground Water Conservation District Sutton County Underground Water Conservation District Wintergarden Groundwater Conservation District



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