

MINUTES

JOINT MEETING OF THE
RIO GRANDE REGIONAL WATER PLANNING GROUP (RGRWPG) (REGION "M") AND
THE RIO GRANDE REGIONAL WATER AUTHORITY (RGRWA)
IMMEDIATELY FOLLOWING 10:30 A.M. PUBLIC MEETING
WEDNESDAY MAY 28, 2008
LRGVDC TRANSPORTATION CENTER BOARD ROOM
510 S. PLEASANTVIEW DRIVE, WESLACO, TX

PRESIDING: GLENN JARVIS, CHAIRMAN

Chairman Glenn Jarvis called the meeting to order and announced that the meeting had been posted as required by statute, and then stated that a quorum was present. The following voting members were in attendance:

Board Members

Glenn Jarvis, Chairman
Jim Darling, Vice Chairman
Robert E. Fulbright, Executive Committee
John Bruciak
Charles W. Browning
Joe Guerra
Sonny Hinojosa
Sonia Kaniger,
Donald K. McGee
Gary Whittington
Commissioner John Wood

Category

Other
River Authorities
Agriculture
Municipalities
Water Utilities
Electric Generating Utility
Water Districts
Water Districts
Small Business
Industries
Counties

The following members were not in attendance:

Mary Lou Campbell, Secretary
Roberto Gonzalez, Executive Committee
Judge Jose Aranda
Sonia Najera
James R. Matz
Adrian Montemayor
Ray Prewett

Public
Municipalities
Counties
Environmental
Others
Municipalities
Agriculture

After calling the meeting to order Chairman Jarvis moved to item 2. – Consider Approval of the April 16, 2008 Meeting Minutes. **Mr. Charles Browning made a motion to approve the minutes as presented. Commissioner John Wood seconded the motion, and upon a vote the motion carried unanimously.**

Chairman Jarvis then moved to item 3. – Hear Public Comment; there being none the Chairman moved to item 4. – Consider Approval of Voting Member Term Renewals. Mr. Jones brought

the Groups attention to the list of members whose terms were expired. Mr. Jones reminded the Group of the recent bylaws amendment allowing those members who have completed two consecutive terms to petition the RGRWPG to serve additional terms upon approval of a two-thirds majority vote. All members with expired terms, with the exception of Mr. Adrian Montemayor who resigned his seat, have expressed a desire to continue serving. Mr. Jones stated that Mr. Montemayor's position as well as the vacancy in Small Business category will need to be advertised in the eight counties the Region M Group serves; this is covered in item 5. – Consider Authorization to Initiate Public Notification of Voting member Vacancies. Upon conclusion of discussion ***Ms. Sonia Kaniger motioned to approve the renewal of the terms for Ms. Mary Lou Campbell, Public; Mr. Robert Fulbright, Agriculture; Mr. Roberto Gonzalez, Municipalities; and Mr. James Matz, Other, and to authorize the initiation of Public Notification of Voting Member Vacancies with a deadline for submittals of July 18, 2008. Commissioner John Wood seconded the motion, and upon a vote the motion was carried unanimously.***

Upon conclusion of action Chairman Jarvis moved to item 6. – Consider Resolution of Support RE: Projects Seeking Funding Assistance through the Texas Environmental Infrastructure Program and stated that Resolution 2008-01 was in support of two projects: Harlingen Irrigation District system improvements in the amount of \$4,725,000; and Adams Garden Irrigation District Canal Rehabilitation in the amount of \$2,812,500; and Resolution 2008-02 was in support of a Brownsville Public Utilities Seawater Desalination project in the amount of \$40,000,000 and that these were on particular funding requests under the Texas Environmental Infrastructure Program. ***Mr. Bob Fulbright made a motion for approval of resolutions 2008-01 and 2008-02 as presented. Commissioner John Wood seconded the motion, and upon a vote the motion carried unanimously.***

Chairman Jarvis then moved to item 7. – Presentation of Expense Report and recognized Mr. Ken Jones. Mr. Jones read the account balance; no action needed, however the Chairman requested a report of the flow of funds for expenditures on the scope of work at subsequent meetings.

Chairman Jarvis then moved to item 8. – Status Reports; however, Dr. Bob Brandes had not yet arrived to discuss item 8.A.1. and the Chairman moved to Item 8.B. Discussion RE: Status of Joint Groundwater Area Planning in GMA – 16 Under HB 1763 (2005) Chairman Jarvis reported that at the last meeting of GMA - 16, conducted in February, that Board decided another GAM run was necessary. That study is currently underway and the results are anticipated by mid June. The GMA - 16 Board will then have a joint planning committee meeting to determine or adopt the Desired Future Condition. If this Group is provided with the new data in time, it can be used in the Region M water plan; if not then the current data available would be used.

Chairman Jarvis then moved to item 8.A.1. – Update and Presentation on Exercises for Task 3 in the Scope of Work and recognized Dr. Bob Brandes. Dr. Brandes distributed packets entitled "Region M – Surface Water Right Management Evaluation" to the Group. This is a summary of several modifications of the existing Water Availability Model (WAM) to incorporate simplified water rights representations and other procedures to facilitate more efficient modeling and evaluation of potentially feasible water management strategies, including:

- Combining all Lower Rio Grande Domestic-Municipal-Industrial (DMI) water rights into a single right;
- Combining all Middle Rio Grande DMI water rights into a single right;
- Combining all Lower Rio Grande Class A irrigation/mining water rights into a single water right;
- Combining all Middle Rio Grande Class A irrigation/mining water rights into a single water right;
- Combining all Lower Rio Grande Class B irrigation/mining water rights into a single right;
- Combining all Middle Rio Grande Class B irrigation/mining water rights into a single right;
- Other WAM modeling procedures that may be appropriate and necessary to facilitate evaluation of potentially feasible water management strategies.

Dr. Brandes explained that Task 3 of the Scope of Work involved looking at the operating rules for Amistad Reservoir and Falcon Reservoir and examining different methods of operating them by looking at the rules in terms of allocation and conversion of the water rights to see if there might be some efficiencies to operate differently. Dr. Brandes then explained the three analyses used. The conclusion of this study showed that the 1.41 conversion factor should continue to be used as these alternate methods only picked up 1% of reliability. The object of this study was to see if more useable water could be gleaned if an alternate method was utilized. Mr. Bill Norris stated that the bottom line is that modifying the existing WAM would not make a significant difference. Chairman Jarvis concluded that once every water right was converted, there would be sufficient demand to fully utilize the reservoir system; which is currently operating as efficiently as possible. No action taken.

At the conclusion of the analysis Dr. Brandes asked the Group's permission to address another topic: A treaty called the Convention of 1906. Dr. Brandes stated that in the packet was a document called "Convention between the United States and Mexico, Equitable Distribution of the Waters of the Rio Grande" signed in May of 1906. This treaty requires the United States to deliver 60,000 acre feet of water per year above the City of Juarez, Mexico. There is a provision in this treaty under Article I that states "After the completion of the proposed storage dam near Engle, New Mexico, and the distributing system auxiliary thereto, and as soon as water shall be available in said system for that purpose, the United States shall deliver to Mexico a total of 60,000 acre-feet of water annually in the bed of the Rio Grande at the point where the headwaters of the Acequia Madre, known as the Old Mexican Canal, now exist above the City of Juarez, Mexico". Dr. Brandes noted that of interest to the Region M Group is Article IV that states "The delivery of water as herein provided is not to be construed as a recognition by the United States of any claim on the part of Mexico to the said waters; and it is agreed that in consideration of such delivery of water, Mexico waives any and all claims to the waters of the Rio Grande for any purpose whatever between the head of the present Mexican Canal and Fort Quitman, Texas." That statement suggested that all water upstream of Fort Quitman should be owned by the United States because the United States is delivering 60,000 acre feet per year under this treaty to Mexico.

Dr. Brandes stated that is not the way the current accounting is done by IBWC and CILA. The water that passes Fort Quitman is split 50/50; and if one reads the 1944 treaty, which splits the water of the Rio Grande between Fort Quitman and the Gulf of Mexico, there is language in that

document that states “any water not specifically accounted for and provided to one of the two countries is to be split 50/50”. Therefore, these two treaties are in conflict because what water passes Fort Quitman is not specifically mentioned in the 1944 treaty. In reading the language in the 1906 treaty you can conclude that any water that passes Fort Quitman certainly is United States water. Since the 1944 treaty has been in place, half of the yearly average flow of 117,266 acre feet has gone to Mexico and the other half to the United States. That is the way the WAM that was developed for the Rio Grande by TCEQ is structured: to divide the water at Fort Quitman 50/50 in line with current accounting practices.

The document in the packets entitled “Effect of Allocating all Rio Grande Flow at Fort Quitman to the United States on the U.S. Share of the Firm Yield of Amistad-Falcon Reservoir System” shows the results of an analysis that assumed 100% of the water passing Fort Quitman would go to the United States and zero would go to Mexico, and the resulting yield of the Amistad-Falcon System was based on that assumption. The conclusion was that there would be an increase in United States firm annual yield of 16,550 acre feet of water. This increase does not reflect what water passing Fort Quitman is diverted by United States users upstream of Amistad.

Chairman Jarvis asked what was the status then of Task 3 in the Scope of Work. Mr. Norris stated that Task 3 was within budgetary restraints, and that all analyses had been completed. Chairman Jarvis asked what the Group could recommend that referred to this information. Mr. Norris suggested an implementation recommendation that may be outside the scope of Region M planning, but maybe within the scope of asking the Rio Grande Regional Water Authority to consider. Ms. Connie Townsend stated that these new reports were to be included in the Plan. Chairman Jarvis stated that the Group needed to document the fact that this study had been completed and the conclusions revealed; it could stand alone, and be an appendix to the Plan. No action taken.

Chairman Jarvis then move to item 8.C. – Discussion and Presentation of Monthly Water Accounting System for Rio Grande below Fort Quitman and again recognized Dr. Bob Brandes. Dr. Brandes distributed a summary entitled, “Accounting Program for the Rio Grande for Allocating Water under the 1944 Treaty between the United States and Mexico” and stated that the previous discussion on the 1944 treaty served nicely to lead into this topic. Dr. Brandes stated that there is a research project funded by TWDB to examine the accounting process for the Rio Grande; this process is conducted by the IBWC and CILA. The computational tool used by IBWC is an old FORTRAN program, written in the 1960’s, that has been updated from time to time. TCEQ and TWDB have expressed interest in having their own water accounting program for the Rio Grande. The TWDB issued the request to prepare such a water accounting program, and staff has been involved with this project for about a year and a half, it is now complete. Staff worked closely with IBWC and obtained copies of their FORTRAN program and copies of IBWC’s 2005 and 2006 worksheets that describe the actual data that goes into their accounting.

Before the actual programming began, staff thoroughly reviewed the 1944 treaty and had many discussions with IBWC accounting staff that provided an abundance of data. A vast Excel spreadsheet was created to perform the calculations. The end result is a spreadsheet capable of calculating the inflows and outflows that occurred in the river with the same results, in terms

of ownership, that IBWC had with their FORTRAN program. Dr Brandes noted that a full summary of this project has been reviewed by the IBWC and Dr. Brandes thought the Region M Group and the RGRWA would be interested to know that such a tool now exists. Dr. Brandes brought the Group's attention to a table 1, Allocations of the Waters of the Rio Grande between Fort Quitman, Texas and the Gulf of Mexico and stated that this table illustrated how the water from these tributaries is allocated between the two countries. The provision of the 1944 treaty states all waters not specifically allocated in this treaty are to be divided 50/50, these are the waters that are specifically allocated, and Fort Quitman is not listed. Ms. Townsend asked if the issue on Fort Quitman had been brought to the attention of the IBWC. Dr. Brandes stated that it has been brought to their attention on numerous occasions. Ms. Townsend asked if Dr. Brandes knew the IBWC's opinion on how the Fort Quitman waters are being split. Dr. Brandes stated the IBWC refers back to the language of the 1944 treaty and an agreement the IBWC made with Mexico many years ago to split those waters in such a manner. Chairman Jarvis stated that TCEQ has expressed a willingness to begin to press the issue to obtain a response; however as far as the Region M Group is concerned, the best the Group can do is to recognize the situation and make a recommendation. Chairman Jarvis added that the RGRWA could be more proactive and also press this issue. The Chairman added that Mr. Rubinstein mentioned it might be timely for TCEQ try to include the water division at Fort Quitman on the agenda for the Border Governors Conference.

Mr. Charles Browning asked Dr. Brandes what was the force behind the IBWC changing their accounting procedures. Dr. Brandes supposed it to be the antiquated system currently in use, and in conclusion stated that one of the IBWC's comments on the report was that staff would be looking at new tools in the future and this new spreadsheet would be considered. Chairman Jarvis observed that if TCEQ or TWDB were to use the new spreadsheet, staff would need to obtain data from the IBWC and asked Dr. Brandes if that information was readily available. Dr. Brandes stated that it was not, but IBWC does have worksheets that were particularly useful. Chairman Jarvis suggested the Region M Group urge the IBWC to adopt the new spreadsheet, and accordingly Mexico would also adopt it. Dr. Brandes stated that Mexico currently uses an Excel spreadsheet for its accounting process, and was unsure that Mexico would have a need to adopt a new system. Chairman Jarvis then stated that this item should be kept on the agenda for future meetings, and suggested the Region M Group make a recommendation for the State to urge the IBWC to adopt this program. Dr. Brandes suggested modifying the recommendation that the IBWC adopt a more modern program and give this new spreadsheet due consideration, which is in line with the comments made by IBWC. Ms. Townsend stated that the IBWC has a division of Texas Natural Resources Information System (TNRIS) called the Borderland Information Center that collects data from Mexico and the United States and suggested this may be a source to retrieve the data needed to operate the spreadsheet. Chairman Jarvis suggested the Group recommend that the IBWC make the data available. Mr. Wayne Halbert stated that the IBWC is reluctant to release data on a regular basis because of negotiations that can take up to six months to resolve. At the conclusion of discussion it was the consensus of the Group to leave this item on the agenda. No action taken.

Upon conclusion of discussion Chairman Jarvis moved to item 8.A.2. – Review Public Comment and Consider Action RE: Scope of Work and Budget for Phase II of the Third Round of Regional Water Planning. Chairman Jarvis stated that the Public meeting had been conducted and comments had been heard from Ms. Laura De La Garza, Arroyo Colorado Watershed Partnership. Ms. De La Garza acknowledged the inclusion of Task 1, subtask 4 – Include

Information on the Arroyo Colorado Watershed Protection Plan, and offered to assistance with this task should it be necessary. Ms. De La Garza noted that the Arroyo Colorado Watershed Partnership Plan is on the same 5 year revision schedule as the Rio Grande Regional Water Plan and any revision to that Plan will need to be considered for the Arroyo's Plan when that process has begun. Ms. De La Garza asked about the options of disposal of the concentrate from groundwater desalination and asked the Group to keep in mind that there are extreme water quality standards regarding the maximum amount of salt concentrate the Arroyo Colorado is able to handle.

Comments had also been received from Ms. Connie Townsend. Ms. Townsend suggested that the "Funding Breakdown" and "Task Descriptions" documents follow the same organizational breakdown as the "Budget Breakdown" and "Additional Funds" documents, delineating and grouping together which subtasks go to base funding and which to additional funding. Ms. Townsend also suggested the numbering system between the "Funding Breakdown" document, the "Budget Breakdown" table, and the "Task Description" document be consistent in order to assist referencing between the documents. Another suggestion was to use page numbers and file names in the header or footer of multi-page documents. Ms. Townsend made the following task specific suggestions: Task 3.3 (a&b): these 2 items would belong more in Task 4 Water Management Strategies (WMS), to analyze most appropriately as alternate strategies. And the guidelines require that WMS's need to be linked to a WUG with a need. Neither of them are really new supplies – the water should already be accounted for in Region L groundwater supplies for (a) and as Region M agricultural supply for (b). Also, (a) would need to find out if it is within a GCD in Region L and if postulated volume to pump complies with their pumping limits for the aquifer in question. Ms. Townsend noted that if (a) were a Task 3 water supply item, TWDB would find it difficult to fund one region to decide water availability for a different region, especially with regards to groundwater.

- Proving more detail in these subtask descriptions would also be helpful.
- These could be part of base funding request or additional funding request whichever staff deems most appropriate.

Task 3.7 & 3.8: regarding uncertainties to U.S. water rights due to Mexican deficits, Ms. Townsend reminded the Group to consider the importance of having enough alternate WMS's lined up to cover inevitable issues. Ms. Townsend advised that in general, many tasks need to provide more detailed information and explanation to clarify the task's intent and result, especially on competitive items, so the TWDB can fully evaluate them.

Chairman Jarvis then stated that the next step was to make changes to the Scope of Work based on the comments received, and submit the application to the TWDB in Austin, TX by the June 13, 2008 deadline. **Commissioner John Wood made a motion to accept the Scope of Work with the suggested changes. Mr. Sonny Hinojosa seconded the motion and upon a vote the motion passed unanimously.**

Items 8.B. and 8.C. had been previously covered by Dr. Brandes; and Chairman Jarvis moved to item 8.D. – Progress Report RE: Corps of Engineers Feasibility Study – Forgotten River Reach Ft. Quitman to Presidio and Consider Letter of Support. The Chairman informed the Group that this project has been a recommendation in the first Regional Plan in both Region M and Region E. **Mr. Sonny Hinojosa made a motion for approval of the Letter of Support as**

presented. Mr. John Bruciak seconded the motion, and upon a vote the motion carried unanimously. Regarding item 8.E.1. – Reports from Liaisons with Region E, J, L, & N, Chairman Jarvis stated that the other Groups are working on the same major issues Region M is working on.

The Chairman then moved to Item 9. - Reports from Federal and State Agencies.

Regarding item 9.A. – TWDB, Chairman Jarvis recognized Ms. Townsend. Ms. Townsend informed the Group that the TWDB sent hard copies of the Water Auditing Manual to the Water Planning Groups to be used as a reference tool, and also mentioned that the draft Steam Electric Demands Report has been released and comments are still being received.

Regarding item 9.B. – IBWC, Com. Carlos Marin was unable to attend and no report was provided.

Regarding item 9.C. – TCEQ Watermaster, Chairman Jarvis recognize Mr. Erasmo Yarrito. Mr. Yarrito read the current water levels and discussed the current low reservoir levels in the Mexican system.

Regarding item 9.D. – TPWD, Mr. Mark Lingo was unable to attend and no report was provided.

The Chairman then moved to item 10 – Discussion and Possible Action RE: Meeting Schedule. It was the consensus of the Group to schedule the next meeting on July 30, 2008 at 10:30 a.m. at the LRGVDC Transportation Center

Chairman Jarvis then moved to item 11 – New or Old Business. There being no further business to discuss the meeting was adjourned at 1:17 p.m.

Glenn Jarvis, Chairman

Mary Lou Campbell, Secretary