

FORMAL STATUTORY BRIEF AND PUBLIC COMMENT RECORD

Public Comment on Proposed Amendment No. 1 to the 2027 State Water Plan

TO: Texas Water Development Board (TWDB)

PROCEEDING: Public Comment on Proposed Amendment No. 1 to the 2027 State Water Plan

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I. EXECUTIVE SUMMARY & STATEMENT OF INTEREST

This formal brief is submitted to the Texas Water Development Board in connection with the open public comment period for Proposed Amendment No. 1 to the 2027 State Water Plan. This record establishes an exhaustive technical critique of the structural vulnerabilities, reporting deficiencies, and inter-agency blind spots governing industrial water allocation and regional planning across East Texas.

Recent executive directives—specifically Governor Abbott’s August 3 instructions to audit data center interconnections, the September 14 directive ordering the TWDB to report on survey compliance enforcement by October 14, and the September 21 directive instructing the Texas Commission on Environmental Quality (TCEQ) to halt data center permit approvals pending an October 19 compliance report—highlight the acute nature of the current crisis. As the Governor’s September 14 directive notes, major industrial water users appear to have committed civil and criminal violations by failing to file mandatory surveys. However, administrative pauses with missing end-dates and narrow reporting windows are insufficient to safeguard Texas water security. Elections pass, temporary pauses expire, and industrial applicants resume unmonitored expansion.

What is required is a permanent, airtight statutory and planning alignment ensuring that high-density commercial data centers, crypto-mining operations, and heavy industrial computing complexes are held to strict, enforceable water accounting standards within the State Water Plan before regional aquifers are irreversibly compromised.

II. SCOPE OF COMMENT AND REQUESTED AMENDMENT

This comment addresses the adequacy of industrial water-demand accounting, water-supply assumptions, and groundwater planning considerations relevant to Proposed Amendment No. 1 to the 2027 State Water Plan. The East Texas Legacy Coalition requests that the TWDB identify whether the amendment adequately accounts for the projected water demands of large industrial computing facilities and other high-volume industrial users in affected East Texas planning areas. Where the amendment relies on incomplete, outdated, or insufficiently disaggregated demand information, the Coalition requests that the Board identify the affected planning assumptions and determine whether supplemental information, revised projections, or additional planning analysis is warranted.

III. AMENDMENT-SPECIFIC FINDINGS

Proposed Amendment No. 1 itself documents the gap this comment addresses:

- The amendment states that interest in data center water use arose late in the planning cycle and that the TWDB is enhancing data collection for future planning cycles (p. D-2).
- Smaller data centers served by municipal providers are counted within municipal demand (p. D-84), and digital infrastructure use is captured either as commercial use in public water systems or as self-supplied manufacturing (p. D-95).
- Limited data were available, and none of the 16 regional water planning groups requested digital-infrastructure adjustments to demand projections this cycle (p. D-96). This includes Region I, where Project Lufkin (Amp Z, proposed at 2.1 GW) and HyperDataGrid are under development in Angelina County.
- Manufacturing demand is projected using a statewide growth proxy based on historical counts of manufacturing establishments (p. D-95), a method not designed to capture individual facilities of multi-gigawatt scale.
- Table C-2 shows Angelina County manufacturing with projected needs equal to 38 percent of total demand in 2030, rising to 45 percent by 2080 (p. D-338). Even before any data center demand is added, the county's existing manufacturing sector depends on new water management strategies to meet more than a third of its projected demand.
- The amendment states that the TWDB has no regulatory authority over permits, groundwater management, drought contingency enforcement, or utility supply contracts (p. D-2). The legislative recommendations in Section VIII of this comment follow directly from that limitation.

Accordingly, the Coalition requests that the adopted amendment (1) identify large proposed digital infrastructure projects in Region I as a specific planning uncertainty; (2) state a timeline for the direct facility-level reporting the amendment describes; and (3) direct Region I to evaluate these demands in the 2031 regional water planning cycle.

IV. THE REPORTING COMPLIANCE ENFORCEMENT GAP (TEXAS WATER CODE § 16.012(m))

1. The Statutory Vulnerability

Under Texas Water Code § 16.012(m), large-scale commercial and industrial water users are subject to mandatory water use surveys. An entity that fails to timely return the survey is ineligible for board financial assistance and ineligible for TCEQ permits, amendments, or renewals under Chapter 11, and faces Class C misdemeanor liability.

However, the Governor's September 14 directive indicates that major water users appear to have failed to file required surveys. Furthermore, our analysis shows that existing statutory deterrents fail because they do not reach industrial water users who do not rely on TWDB board funding and who acquire groundwater or municipal utility supplies rather than direct Chapter 11 surface water rights. Consequently, while the Class C misdemeanor applies, noncompliance carries no consequence that

prevents a facility from obtaining water or power. When major industrial consumers fail to submit granular, accurate data on water acquisition, consumption, and discharge, the TWDB's regional water planning models (State Water Plan) and Groundwater Management Area Modeled Available Groundwater (MAG) figures operate blind, masking true aquifer depletion rates.

V. REGIONAL WATER PLANNING AND THE MUNICIPAL PASS-THROUGH GAP

1. The Statutory Vulnerability

Regional water planning is governed under Texas Water Code § 16.053. Concurrently, local groundwater management is delegated to Groundwater Conservation Districts under Chapter 36.

A primary structural flaw in current reporting is the municipal pass-through gap. Massive data centers can bypass direct individual surveys by tapping into municipal water pass-throughs rather than holding direct permits. The City of Lufkin's public FAQ, for example, states Project Lufkin's water use as 500 gallons/day—a figure an opinion column in the Lufkin Daily News sharply questioned against industry benchmarks for multi-gigawatt loads. Where the only public figure comes from the supplying municipality and the end user files no independent survey, such figures go unverified, concealing concentrated stress on shared regional sources like the Carrizo-Wilcox Aquifer (Region I / East Texas Regional Water Plan). Furthermore, coalition calculations estimate that Project Lufkin's full-build water demand would equal approximately 1.76 times the estimated total annual recharge in a defined local recharge area (methodology available on request), underscoring the severe hazard of unrecorded industrial burdens.

VI. MEASURING, MONITORING, AND CUMULATIVE IMPACT ANALYSIS

1. The Statutory Vulnerability

Annual aggregate totals fail to capture peak-load stress. Facilities report broad yearly averages while omitting peak demand spikes driven by evaporative cooling and secondary indirect water consumption (the massive electrical power generation load required to sustain multi-gigawatt hyperscale footprints). Furthermore, projects are reviewed piecemeal by local bodies, ignoring cumulative regional basin impacts, cooling tower blowdown mineralization, and shell-entity placeholder opacity.

VII. REQUESTED FINDINGS AND CORRECTIVE ACTIONS FOR PROPOSED AMENDMENT NO. 1

The East Texas Legacy Coalition respectfully requests that the Texas Water Development Board address the following items in its response-to-comments summary, act on those within the Board's existing authority in adopting Proposed Amendment No. 1, and identify which require action by other agencies or the Legislature:

- 1 Identify reporting coverage.** Publish or provide a summary of the categories of industrial water users subject to water-use surveys under Texas Water Code § 16.012(m), the applicable reporting periods, and the procedures used to identify and address noncompliance.

- 2 **Evaluate municipal pass-through reporting.** Determine whether current water-use reporting adequately identifies large industrial end-users obtaining water through municipal and wholesale suppliers, and identify any material data gaps.
- 3 **Improve demand accounting.** Evaluate the feasibility of separately reporting withdrawals, purchases, consumption, evaporation, wastewater returns, peak-day demand, and projected full-build demand for major industrial facilities.
- 4 **Assess cumulative regional impacts.** Evaluate the combined projected water demands of existing, committed, and proposed large industrial developments drawing from shared water sources, including groundwater and municipal supply systems serving East Texas communities.
- 5 **Improve groundwater planning integration.** Identify how new industrial demand is reflected in regional water plans, groundwater availability models, modeled available groundwater values, and desired future conditions.
- 6 **Evaluate drought resilience.** Examine whether regional water plans and applicable municipal drought contingency arrangements adequately address competing industrial and public water demands under severe drought conditions.
- 7 **Improve transparency and auditability.** Identify what facility-level water-use information can be disclosed under applicable law, explain any necessary confidentiality limitations, and establish transparent procedures for reporting compliance and enforcement outcomes.
- 8 **Evaluate interagency coordination.** Identify the information-sharing mechanisms needed among the TWDB, TCEQ, PUCT, ERCOT, groundwater conservation districts, and public water suppliers to ensure that water demand projections are consistent with electricity and industrial development forecasts.
- 9 **Identify legislative recommendations.** Specify any statutory changes the Board considers necessary to improve industrial water-use reporting, cumulative impact assessment, water availability review, and enforcement.
- 10 **Document the Board's response.** Address these issues in the planning process and identify which recommendations can be implemented administratively and which require legislative action.

VIII. RECOMMENDATIONS FOR LEGISLATIVE ACTION

In addition to the administrative actions requested above, the Legislature must enact permanent statutory reforms, including:

- **Extension of Ineligibility & Mandatory Interconnection Gating:** Amending the Water Code to extend § 16.012(m) non-compliance penalties so that failing to file mandatory water surveys results in immediate disqualification from Public Utility Commission (PUC) / ERCOT electrical interconnection queues, state-level tax incentives (such as Chapter 151 sales tax exemptions and Chapter 312 abatements), and groundwater district permits. Enacting statutory requirements modeled on Local Government Code § 232.0032 to ensure no major industrial electrical interconnection or transmission service agreement is finalized without an independent, certified 50-year water supply determination.

- **Drought Curtailment Parity:** Directing TCEQ by statute to bar municipal drought plans and industrial water supply contracts from exempting large-volume commercial data centers from mandatory community curtailment during regional water shortages.
- **Tiered Facility-Size Penalties & Transparency:** Reforming penalty structures into mandatory, tiered administrative sanctions scaled directly to facility capacity, paired with mandatory beneficial-ownership disclosures and facility-level public transparency.

IX. EVIDENTIARY RECORD & SUPPORTING DOCUMENTATION

Page citations in Section III refer to Proposed Amendment No. 1 to the 2027 State Water Plan as published by the TWDB for public comment. The factual background, local baseline comparisons, recharge calculations (including the coalition's 1.76× local recharge calculation methodology), and technical white papers (including the HARC January 2026 white paper and Region I regional water plan data) referenced herein are compiled in the coalition's master technical file and are available upon request for formal agency review.

Respectfully submitted,

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