



SIERRA CLUB

LONE STAR CHAPTER

To: The Honorable Charles Perry, Chair

Honorable Members, Senate Committee on Water, Agriculture, and Rural Affairs

Att: Jayna.Grove_sc@senate.texas.gov, committee clerk

From: Cyrus Reed, Legislative and Conservation Director, Lone Star Chapter of the Sierra Club, cyrus.reed@sierraclub.org, 512-888-9411 (Office)

Re: Water System Reliability: Evaluate water systems in Texas and identify opportunities to better equip those systems to serve the public. Review the coordination of relevant state agencies dealing with Texas water issues and identify opportunities for improved coordination and effectiveness.

May 15th, 2024

The Lone Star Chapter of the Sierra Club is pleased to offer these brief written comments to the Senate Committee on Water, Agriculture and Rural Affairs as part of their interim charges. The Lone Star Chapter is the state chapter of the Sierra Club, one of the oldest and largest conservation organizations in the US, whose mission is “To explore, enjoy, and protect the wild places of the earth; To practice and promote the responsible use of the earth's ecosystems and resources; To educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives.”

We are appreciative of the charges of the committee and look forward to working with the legislature to promote policies and funding which assure an adequate and reliable water supply for people through improved water systems, but also sufficient waters instream and flows to the bays and estuaries. To do so requires improved coordination between state agencies, including new issue areas where state agencies have not worked effectively before.

Before turning to the specific subjects at hand we wanted to recognize the good work on water policy by this committee, the legislature as well as the Texas Water Development Board. We were very supportive of the sunset legislation related to both the TWDB and TCEQ, supported

the need for more funding for the Flood Infrastructure Fund and water reuse and conservation among other issues. We were also very supportive of Chairman Perry's previous efforts to create a Produced Water Consortium, of which we are a member, and Senate Bill 1289, relating to the disposal of reclaimed wastewater, which will allow more direct reuse projects to proceed through the TCEQ, which will begin rulemaking soon. While we did not completely endorse SB 28 because of some concerns on the language about the New Water Supply fund, we are appreciative of the deliberative public input and rulemaking process that TWDB has engaged in. Finally, we have been following and participating at the local and state level on the development of the State Flood Plan (Required by SB 8 from the 2019 session), which will be submitted to the Legislature on or before September 1, 2024.

Efforts, including funding, on Water Conservation, Lowering Water Loss and Reuse are key to reliable water supply

Water management in Texas is difficult. With a climate that is variable and changing, frequent flooding and droughts, a growing population and industrialization, and aging infrastructure, water suppliers should and must prioritize water conservation, elimination and the exploration of water reuse projects as ways to make our systems more reliable, and assure adequate supply. In general, water conservation and efforts to mitigate water loss - mainly due to the loss of water in leaky pipes, valves and other water infrastructure - are key measures identified in the State Water Plan. The Sierra Club is very supportive of the money earmarked in SB 28 for the water awareness campaign, and general outreach and education on the need to prioritize conserving our precious water resources. While the Texas Water Fund will be directed towards enhancing existing Texas Water Development Board (TWDB) programs like the Drinking Water and Clean Water State Revolving Funds (DWSRF and CWSRF), the Rural Water Assistance Fund, DFund, SWIFT, and others, we are very supportive of the law's requirement to assure water infrastructure investments in rural communities and strategies that will help better utilize the water that we already have such as water loss mitigation and water conservation projects. Investment in a statewide water awareness campaign will help Texans understand the value of water and promote a water conservation ethic in the state. Assuring that a significant portion of the money from Prop 6 is dedicated to both water loss and conservation projects are key to a reliable water supply. The elimination of water loss and water reuse should be major focus of this and future funding and we hope that the "up to \$750" million to be used through the Texas Water Fund will have an emphasis on Shovel-Ready Projects for Water Loss and Water Conservation.

Through our input to the TWDB we have made the following suggestions on identifying projects for water loss mitigation and water conservation.

Water Loss Mitigation projects

- We suggest that TWDB utilize recent water loss audits to identify communities that are above the TWDBs threshold set for HB 3605 compliance and proactively reach out to them through the TA program.
- Another approach is to utilize the most recent WLA data and perform a Frontier Analysis (like the one performed in Hidden Reservoirs) to identify low performing utilities.
- Consider creating set-aside funds, more favorable financing opportunities, and prioritization points for water loss mitigation projects in existing programs, particularly programs with limited financial capacity.

Water Conservation Projects:

- Utilize 5-year water conservation plans to identify water utilities with high GPCD, 5-10 year goals that are not progressive
- Set aside a certain amount of funds for water conservation, including grants . As we have seen with SWIFT, utilities do not generally apply for funds to support water conservation programs. There is a concern that this particular part of the program could be undersubscribed.

More efforts and coordination are needed to assure adequate flows for environmental purposes

As an organization we are appreciative and supportive of the state requirement to assure minimal environmental flows in our rivers, and especially into our bays and estuaries. This committee and the legislature has taken seriously the need to protect our coastal communities and environments, and recent funding for TCEQ - and improvements in the TCEQ sunset bill - to complete watershed inflow studies and regulations is helpful, but we are still not adequately ensuring sufficient flows. We recommend that the legislature continue to assure adequate funding to complete the studies, and also increase funding for the Water Bank and Texas Water Trust, and create coordination between TCEQ, TPWD and TWDB on the use of the water trust for meeting environmental flows. As part of this, we believe the TCEQ should be directed - perhaps through a budget rider - to conduct a comprehensive study on non-use of water rights, including anticipation of water rights freed up as older steam electric (older gas and coal plants) retire, which could free up water for environmental and other uses. This effort could be coordinated with both TPWD and TWDB, since some of this water could be useful for water supply to the extent environmental requirements are met.

Flood protection necessitates RRC, TWDB, TXDOT, TWDB Coordination

While this issue will come up as the legislature considers recommendations made as part of the Texas State Flood Plan, we wanted to express our support now for enhancing coordination among state agencies for floodplain management. This includes improving education for state agencies that perform a variety of permitting functions, such as Texas Parks and Wildlife Department for park properties, Texas Department of Licensing and Regulation for mobile home installations, The Railroad Commission of Texas for propane tank installations, and the Texas Water Development Board itself, as they develop best management practices for flooding.

In addition, an important effort could be to seek ways to provide funding and incentives for incorporating nature-based solutions, such as open space and floodplain preservation for development or drainage projects. Because TPWD is implementing its Water and Land Conservation Plan, and implementing *Senate Bill 1648, relating to the Centennial Parks Conservation Fund*. for new parkland acquisition, assuring close coordination between these two agencies could benefit the public with more recreational opportunities while enhancing flood control.

Building Code Development is a mismatch of local and state efforts and better standards and coordination needed

While we will be submitting more specific comments later in the year, building code standards and enforcement in Texas is needing a serious review. Currently, a number of state agencies, including SECO on energy codes, TDHCA to some degree on low-income housing, the statewide Plumbing Board on plumbing codes, TDI on coastal building codes to be certified for TWIA and of course both local county and city officials have varying degrees of authority over the development, adoption and enforcement of building codes. Indeed, the rules on building codes in municipalities, and counties vary considerably. Currently the state municipal code is stuck on 2012 minimum standards, while county standards are still at the 2006 IRC. Statewide, minimum building codes are needed for improving Texas' eligibility for federal funding programs like the Building Resilient Infrastructure and Communities program (FEMA, 2023). Statewide codes should take into consideration existing, widely used building codes, including the International Building Code and International Residential Code. According to a 2019 report developed by the

National Institute of Building Sciences, simply adopting the current codes (such as the 2021 IRC and 2021 IBC) could provide a 6:1 savings versus costs expended for riverine flood hazards. Texas does not currently have a statewide requirement regarding adoption of building codes.

“New” Water Supply Projects Require More Study and Careful Coordination between the TWDB, TPWD and TCEQ

We understand the Legislature's and the Committee's desire to explore new water supply options such as desalination and produced water. The Sierra Club has serious concerns about the potential public health and environmental impacts of such potential projects, which could be funded through the New Water Supply for Texas Fund. As an organization, the Sierra Club has expressed concern about the enumerated new water supply projects eligible for funding under the New Water Supply for Texas Fund. These projects could have numerous environmental, social and economic concerns associated with their development, and lack the proper regulatory framework to mitigate those concerns. For example, produced water can contain salts, metals, radioactive materials, and chemical additives that can be harmful to human health and the environment. Further, marine and seawater desalination projects can pose harms to the environment and people along the Texas Coast and will need to be carefully planned and constructed to ensure those harms are minimized.

“New Water Supply Projects” will require better coordination between TWDB and TCEQ and other actors like groundwater districts and the Produced Water Consortium.

Our recommendations include:

- o Fund studies on groundwater/surface water interaction to quantify the impact of groundwater withdrawals and water management on surface water rights, which will require careful coordination between TCEQ and TWDB.
- o Provide Groundwater Conservation Districts with the resources, including updated and improved groundwater availability models, to identify and manage for sustainable levels of groundwater pumping.
- Produced Water: Complete Phase 1 and subsequent Phase 2 pilot projects to study constituent characterization, perform risk and toxicology assessments, and assess how produced water projects could impact public health and the environment – as recommended by the Texas Produced Water Consortium. Again, the Sierra Club has serious concerns with direct discharge projects since many of the constituents found in produced water are not well understood and water quality standards for many of these constituents have not been established.

- Wait for TCEQ to establish protective water quality standards before any funding is used for desalination and produced water projects. Currently, the state of Texas does not have specific narrative and numeric salinity gradient standards unlike many other states. Desalination projects are of particular concern because of their potential impact on aquatic species of concern which is why coordination and consultation with the TPWD is so important.
- Prioritize new water supply projects that have demonstrated minimal environmental and health impacts.
- Prioritize water supply projects that have been identified through the state Regional Planning Process. Before approving water supply projects that have not been vetted through that process and identified as a valid water supply project, start with smaller demonstration and pilot projects.

The Sierra Club appreciates the opportunity to file these brief comments. As mentioned, we will be providing the committee with more specific information and recommendations in future hearings.