

## League of Women Voters of Texas

# TEXAS WATER RESOURCES AS A COMMODITY

## LEADERS GUIDE

August 2011

The Leaders Guide answers frequently asked questions to assist local League leaders conducting the state League study and consensus with information about timeline, study materials, study background, and study and consensus tips. Skim the questions to find the answers you need. Read the separate Consensus Report Form for instructions on how to complete and submit it. If you still need help, contact Janet Imhoff ([janimhoff@tx.rr.com](mailto:janimhoff@tx.rr.com)).

### What is the study timing?

<u>August – December, 2011</u>	Leagues hold meetings to discuss consensus questions, section by section
<b><u>Dec. 30, 2011</u></b>	<b>DEADLINE</b> for each League to submit <u>one</u> consensus form to state office
<u>March 1, 2012</u>	State board reveals results of consensus and announces position if consensus is reached

### Where do Leagues obtain background materials and the consensus form?

All study materials are available at [www.lwvtexas.org](http://www.lwvtexas.org) and the *Facts and Issues* was emailed directly to members. Members without website access were sent a print copy of the *Facts and Issues*. More print copies may be obtained from the LWV-TX office for a small fee. The Leaders Guide and Consensus questions and report form were sent to each League and are also available on the website.

### What kinds of study materials are available?

*Leagues may copy all materials listed below, which are on the League website.*

- [Leaders Guide](#) (timeline, background and tips on study and consensus process)
- [Consensus Report Form](#) with instructions for completing and submitting form
- [Facts and Issues: Should Water be a Commodity?](#)
- [Current LWV-Texas Position on Water](#)

## Why is the state League studying Water Resources As a Commodity?

The League of Women Voters of Texas has a long held and frequently applied position on Water, with state water planning adopted for study in 1970, and groundwater management and protection adopted in 1978. For the complete Water position and legislative history, see *Program Perspectives 2010-2012*, pp.76-82.

Convention 2010 voted to update our water position after several Leagues proposed a study of the marketing of water in Program Planning. The issue was receiving media attention and with the increase in the population of Texas, as well as periodic droughts, the state board felt that member interest would be high for a restudy of the whole issue of water in Texas.

## What is the study's scope and focus?

- Focus: An update of our Water position to consider the competition for water in Texas, including governmental policy, public interest rights, and water resource protection concerns
- Scope: Analyze current state regulations which govern the sale or transfer of water rights; consider ramifications if Texas were to classify water as a commodity rather than a natural resource; explore options such as a state-run water marketing administration; explore options such as a state-run water marketing administration; assess laws that would be needed for interstate or international water transfers; assess the best use of our water.

## How was the study conducted?

A committee of League members from across the state included Mina Fields Johnson, Chair (LWV-Amarillo), Miriam Foshay (LWV-Dallas), Karen Haschke (LWV-Austin Area), Tonya Kleuskens (LWV-Amarillo), Deanna Frisk (LWV-Comal Area), Sandra Heatherley (LWV-Corpus Christi), and Mary Vogelson (LWV-Dallas and LWV-TX Water Issue Chair). They met several times to discuss and clarify the issues and researched them independently. They contributed to the *Facts and Issues*, which was written by Mina Johnson. The consensus questions also were written by the committee.

In order to help League members learn about the water situation in their own areas, the committee encouraged local Leagues to have regional water forums during the first year of the study. Several were held across the state, and Power Point presentations from those forums we posted on the state League website.

## Why it is important for Leagues to take part in the consensus?

If member agreement results from the consensus process, the amended Water position will apply statewide. The state League could take action at the state level to achieve the

position, and local Leagues would be able to use at least some aspects of it to advocate local governmental change. To make the position as representative of Leagues around the state as possible, all Leagues are asked to take part in the consensus.

### **What is consensus and how should the meeting be conducted?**

Whatever the method, studies must expose members to balanced information on an issue. Discussion must respect the fact that members may not all have the same views. Beyond those basics, local boards decide how much time and effort their League can put into the process.

**The Resource Committee:** Ideally each League would form a committee to review the study materials and brief attendees at the consensus discussion meeting(s). Where this is not possible, Leagues might ask a member to read the *Facts and Issues* and *Leaders Guide* and come to the meeting prepared to brief others. The *Facts and Issues* describes the history and issues around water in Texas, exposing members to a variety of views.

**The Discussion Leader:** This facilitator need not be an expert on the issue, but should have the same knowledge base as the membership. She must move the discussion along, welcome all viewpoints, and encourage all to participate, but not direct members to any specific decisions. She should allow all views to be heard but keep the discussion focused on the question under discussion.

**Consensus** is agreement of a substantial number of members reached through group discussion. It is not a vote, but a sense of what the group supports. (There is no “census” in consensus). Consensus discussions produce *group opinion*, whereas a vote is a tabulation of *individual opinions*. Consensus is not a simple majority, nor is it necessarily unanimity. It is a decision with which participants are comfortable overall. While voting might polarize people unless the vote is unanimous, consensus is a unifying process.

**The Recorder** records the consensus on each question, noting on the “Comments” lines any main points, special aspects of the discussion that were problematic, or issues that the group would like communicate to the state board. The recorder should summarize her noted comments for the group to make sure she has interpreted the group’s ideas correctly. The group may wish to communicate lack of agreement when it occurs, while still recording the key points. It is a good idea to record “strong minority” views.

The recorder should send her notes to the study committee or to the Program Vice-President promptly, and the report form should be approved by the local League board before it is sent to LWV-Texas. The local consensus should **not** be reported in the local *Voter* since it has not yet been melded with other Leagues’ reports and may not reflect the statewide consensus.

**Because consensus is a reflection of League member opinion, consensus is restricted to voting members.** Non-members are encouraged to take part in the educational phase

of the study, but the member-agreement phase is for members. Any visitors should be asked to withhold their opinions.

Discussion of the consensus questions at a unit or general meeting is ideal because the exchange of views is part of the process. Leagues should publish the consensus form in the VOTER so that members can be thinking about their ideas on the issues. Leagues may seek input from members who cannot attend the meeting by allowing them to submit a consensus form to the local board before the meeting, although care must be taken in melding their answers since they did not have the benefit of the group discussion. Think creatively about how to help members take part in this interesting study!

However a League seeks member agreement, it is the local board's responsibility to determine whether discussion or polling has resulted in consensus in the local League. In the end, each League may submit only one, completed consensus form to the state office. *Forms from individuals or individual units cannot be accepted.*

Instructions for submitting the form are found on the consensus form itself.

### **What if we need help understanding the consensus questions?**

The consensus questions (below) have been excerpted from the Report Form, with tips about where to find information on each topic in the *Facts and Issues*. For questions before your meeting, contact Mina Johnson at [minanell@arn.net](mailto:minanell@arn.net) or Janet Imhoff at [janimhoff@tx.rr.com](mailto:janimhoff@tx.rr.com).

## **CONSENSUS QUESTIONS**

Question 1: Texas has a mandate to preserve and conserve the water of the state. Both groundwater and oil and gas are considered the property of the landowner. Should water continue to be regulated differently from oil and gas? Choose one.

- a) Like oil and gas, groundwater in place is private property. There is no reason to regulate the two differently.
  - b) While there are some similarities between water and oil and gas, water serves a much different function, and it should be managed for the benefit of the people and the protection of the resource.
- See F & I page 2, "Groundwater management," page 4, "Ownership of groundwater," page 5, "Natural resource or commodity."
  - This question serves to establish a basic premise about whether water should be considered a natural resource or a commodity.

Questions 2: The "Rule of Capture" has been modified by the creation of groundwater conservation districts (GCD's). How do you feel about the following issues? Yes or no.

- a) If a water district prevents the owners of underground water from selling as much water as they want, thereby depriving them of income, the landowners should be compensated for loss of potential income.
- b) Locally controlled groundwater conservation districts should have the power to regulate groundwater use in a way that protects landowner water rights from neighboring water withdrawal and to conserve the aquifer.
- c) The state should enact laws strengthening the rights and responsibilities of GCD's in order to improve their ability to defend against lawsuits questioning those rights.
- d) Groundwater should be owned and permitted by the state, as is surface water.

- See F & I page 4-5, "Ownership of groundwater," page 2, "Surface water management."
- This item relates to the court case, Edwards Aquifer vs. Day as well as SB 332 from the 2011 Legislature.

Question 3: Transfers of water from areas of surplus to areas of scarcity have been discussed. Which of the following options would best serve Texans? Choose one or more.

- a) A state agency with strong enforcement powers should regulate all water transfers to make sure that water resources are not depleted.
- b) The state should allow water transfers through an exchange agency that lets price float with the market. Buyers would determine the successful bidder, not the state.
- c) There is no need for the state to regulate water transfers. Because of the expense and distances involved, localities will solve this problem without interference from the state.
- d) The state should only intervene when transfers are in dispute.

- See section on River authorities (page 2) under "Surface water management," page 4, "Water banking," and page 7, "Landowners' management rights."
- Reallocation of surface and groundwater through transfers has been promoted as one way to meet future Texas water demands.
- Water is currently transferred by pipelines, canals and natural waterways, often built through public/private agreements.

Question 4: What steps should be taken to ensure that future growth makes the best use of limited water resources? Choose one or more.

- a) Developers should not be allowed to build unless they are able to find enough water for the project.
- b) Because requiring permits would limit growth, market forces plus the price of water should determine what gets built.
- c) There should be mandatory public interest review of water transfers that considers potential third-party impacts and protects the environment.
- d) Water moved to urban areas should not endanger the future economies of rural Texas.

- See F & I page 1, "There won't be enough water," page 8, "Other Considerations."

- GCD's currently face the question that if a developer wants to build, should other well owners have to reduce their pumping to make room for the new wells?

Question 5: Should groundwater be regulated differently from surface water or should the same rules apply? Choose one.

- a) Groundwater and surface water are so interrelated that the same rules should apply.
- b) Because groundwater is different in many ways, it should be governed by a different set of regulations and different agencies.

- See F & I pages 2-3, "Surface water management" and "Groundwater management," page 7, "Central control or local control."

Questions 6: Given the limited supply and the various needs for water, how would you prioritize the following? Rank 1-3, with 1 being the highest.

- a) The needs of people, including domestic uses and utilities.
- b) The needs of the economy including industry, agriculture, and mining.
- c) The needs of the environment, including in-stream flows for wildlife and preservation of our natural surroundings.

- This item is not addressed directly in the Facts and Issues; however it is a global question that gets to the basic quandary of water use allocation. This is an item in our scope. An option would be not to rank, but to give equal weight to each item. If you choose to do that, please note it in the comments.
- In 2005, 60% of all water used in TX was for irrigation, 35% for municipal and industry; by 2030 municipal use is expected to exceed agricultural.

Question 7: Texas has always suffered from periodic droughts, and this pattern will likely continue. In addition, the population of Texas is projected to nearly double between 2000 and 2060. What solution do you think is best to handle future water shortages?

- This item allows League members to brainstorm and offer ideas for future water problems, without the limiting factor of multiple choice items. There will be space on the Report Form to allow narrative answers.

See [www.lwvtexas.org](http://www.lwvtexas.org) for the Consensus Report Form.

## **ADDENDUM – GLOSSARY OF TERMS**

**Agricultural Use** – Water used to produce crops for human food, animal feed, planting seed, or for the production of fibers, floriculture, viticulture, horticulture, and wildlife management.

**Industrial Use** – The use of water in processes designed to convert materials into forms having greater usability and commercial value, including commercial fish and shellfish production, and the development of power by means other than hydroelectric.

**Irrigation** – The use of water to grow crops, trees and pasture land, including golf courses and parks. (The use of treated wastewater distributed by a municipal water system for golf courses or parks is municipal use, not irrigation.)

**Municipal Use** – The use of potable water within a community or municipality and its environs for domestic, recreational, commercial or industrial purposes, or for the watering of golf courses, parks and parkways, or the use of reclaimed water in lieu of potable water.

**Recreational Use** – The use of water in a reservoir or watercourse for fishing, swimming, water skiing, boating, hunting, etc., and aesthetic land enhancement of a subdivision, golf course, etc.

**Water Right** – A legal right, issued by TCEQ, to take control of a specific quantity of state surface water and to put the water to beneficial use in a particular location. An owner of a Senior Water Right has a higher priority claim to use the available water from a river than a Junior Water Right owner, regardless of the purpose for which the water is to be used. The seniority of a water right is identified by the “priority date” of the right.

**DFC (Desired Future Condition)** – The set of policy and management actions chosen by a groundwater conservation district for each of its aquifers, in order to manage water use according to local needs. One example is a stipulation of percentage of drawdown, or amount of water to be left in the aquifer in fifty years.

**GCD (Groundwater Conservation District)** – Enabled by the Texas legislature in 1949 as the preferred method for local communities to conserve, preserve, protect, and recharge underground water reservoirs. They must adhere to county boundaries but may be larger or smaller than one county.

**GMA (Groundwater Management Areas)** – Enacted in 2005 by the Texas Legislature, GCD’s that share an aquifer are required to jointly define the ‘desired future conditions’ of their aquifers.

**TCEQ (Texas Commission on Environmental Quality)** – This agency grants permits for the use of surface water, and give permit guidelines to river authorities, among other functions.

**TWDB (Texas Water Development Board)** – Created in 1957, this agency provides water planning, data collection and dissemination, financial assistance and technical assistance services. They provide loans to local governments for water, wastewater, and flood control projects, and grants for conservation, research and planning. They write the statewide water plan from the regional plans and present it to the legislature every five years.