

PRESENTED AT

2016 Texas Water Law Institute

November 3-4, 2016

Austin, Texas

Texas Legislature: Water Issues in the 85th

Eduardo A. Lucio III

UT Water Law Institute CLE Outline

1. Examine the regional and state water planning processes, with emphasis on the following
 - a. Recommendations:
 - i. Consider moving to a 10-year planning cycle or allow for revisions to necessary elements of regional plans.
 - ii. Restore local funding for the required notices and administrative expenses.¹
 - iii. Resolve issues involving whether the TWDB can approve as a recommended water management strategy a water supply project for which the project developer holds properly issued permits from the GCD, but where the project individually or collectively exceed the MAG.
 1. TWDB will need to decide how use will be determined in these situations.²
2. Evaluate the status of water markets in Texas and the potential benefits and challenges of expanded markets for water. Include an evaluation of greater interconnections between water systems through both engineered and natural infrastructure. Examine opportunities for incentives from areas receiving water supplies to areas providing those supplies that could benefit each area and the state as a whole.
 - a. Water markets already exist in Texas to a certain degree, and they will continue to play a vital role in allocation, more so at the local and regional level.
 - i. Current Texas Water Market (\$22-41M annually)
 1. Texas accounts for 14% of western US water market
 2. Active markets (90% of total value traded over last 5 years)
 - a. Lower Rio Grande Valley
 - i. Active surface water rights sales and leases
 - b. Edwards Aquifer
 - i. Active groundwater entitlements sales and leases
 3. Developing markets
 - a. Colorado River
 - i. Some recent small surface water trades for municipal use with on large transaction in the last 10 years.
 - b. Brazos River
 - i. Trading has been limited for surface water but growing demand within region.
 - c. Austin Region

¹ C.E. Williams, 6/1/2016 HNR Comm. Hearing, on behalf of Panhandle Water Planning Group

² Brian Sledge, 6/1/2016 HNR Comm. Hearing, on behalf of Texas Water Conservation Association

- i. High growth area with growing water demands. Limited surface water trading with some groundwater transactions
- 4. Early stage
 - a. Upper Rio Grande Valley
 - i. Sporadic surface transactions in urbanizing area
 - b. Panhandle Region
 - i. Previous large trade with unclear future needs
 - c. Dallas Region
 - i. Highly urbanizing area with long term water needs with large water infrastructure projects
 - d. Houston Subsidence
 - i. Shifting supply source creating potential for market growth.³
- 5. River Authorities
 - a. Very active, but they do not operate as traditional markets due to a lack of standard pricing and common first-hand negotiations.
- ii. Types of Market Transactions
 - 1. Long-term or permanent transfers of entitlements
 - a. Typically driven by municipal or industrial development, where the buyers need reliable water supplies to support significant long-term investments
 - b. Generally from agricultural to M&I uses, but based on systems or on-farm efficiency because they are less volatile and more consistent.
 - 2. Annual transfers of entitlement
 - a. Pricing and volume rise and fall based on hydrologic conditions and are highly volatile by nature.
 - b. Seller participation
 - i. Commodity market conditions
 - ii. Release of water from storage
 - iii. Substitution of other water supplies for the one being transferred.
 - c. Buyer Participation
 - i. Generally used to supplement existing supplies in dry years as part of conjunctive management.
 - ii. Buyers take advantage of low prices in wetter years for ASR projects.

³ Clay Landry, 2/2/16 HNR committee hearing, on behalf of West Water Research

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Texas Legislature: Water Issues in the 85th

Also available as part of the eCourse

[2016 Texas Water Law eConference](#)

First appeared as part of the conference materials for the
2016 Texas Water Law Institute session

"Texas Legislature: Water Issues in the 85th"