

**BONUS MATERIAL:  
TEXAS WATER LAW GLOSSARY**

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The University of Texas School of Law  
**2016 Water Law Fundamentals**  
November 2, 2016  
Austin, Texas

**CHAPTER 26**

## **TIMOTHY L. BROWN**

Tim Brown has served in many capacities in his career in Water Law. After many years with the Water Rights Commission, where he served as General Counsel, he moved to the Attorney General's Office, where he served as head of the Environmental Protection Division. After 17 years in state government, Tim Brown moved into private practice and recently became *of counsel* with the Austin firm of Sledge Fancher, PLLC. Tim's practice has been devoted to water law for over 45 years.

## **ROBERT R. FLORES**

Mr. Flores practiced hydrology for 13 years with the Texas Water Development Board before leaving to attend law school at Texas Tech. While with the Board he authored numerous publications. After law school he practiced law in the Lower Rio Grande Valley where his practice included, among other areas, real property and admiralty law. He returned to Austin and the Board for the implementation of Senate Bill 1 in 1998 and recently returned to private practice with an emphasis on natural resources and the public financing of water related infrastructure.

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## TEXAS WATER LAW GLOSSARY

**ALJ:** Administrative Law Judge.

**abandoned water right:** a water right that is not put to beneficial use for a number of years. Generally, if it is willfully abandoned during three successive years, the water may become subject to appropriation. TEXAS WATER CODE [§§11.030, 11.146, 11.171 to 11.186](#). See “cancellation” and “forfeited water right.” Mere nonuse will not result in loss of rights unless there is a willful intention to abandon. *Lower Nueces River Water Supply Dist. v. Cartwright*, 274 S.W.2d (Civ. App. 1954). Ten years’ nonuse can be *prima facie* evidence of willful abandonment. *Texas Water Rights Comm’n. v. Wright*, 464 S.W.2<sup>nd</sup> 642 (Tex. 1971).

**abandoned well:** a well that is no longer used. Under the circumstances, abandoned wells must be filled with cement or concrete grout to prevent pollution of ground water bodies, vegetation or agricultural soils and crops. TEXAS WATER CODE [§28.012](#); and applicable rules of groundwater districts.

**acre-foot:** the volume of water needed to cover 1 acre to a depth of 1-foot. It equals 325,851 U.S. gallons.

**adequacy of supply:** the sum of the water supply legally and physically available after comparing supply with demand, often during a drought of record.

**adjudication:** a formal proceeding to determine the legal and quantitative rights to the use of a particular body of water, including a stream or watercourse or segment, and thus if such rights have been perfected, vested, and not impaired.

**Adjudication Act, Water Rights, 1967:** the legislatively established procedures for the comprehensive adjudication of surface water rights. It provides that administrative adjudications become final only after court approval. Successful claimants receive a certificate of adjudication defining the scope of their water rights. The adjudication process has been completed for the entire state. The Act also limited vested riparian rights, previously protected by the Legislature, to the maximum demonstrated beneficial use during a 5-year period prior to the effective date of the Act. In effect, riparian rights are transformed from a right to make an unquantified reasonable use of water of the normal flow into a right to make a beneficial use of a specified quantity of water. Administrative implementation of the Act authorizes the assignment of time priorities to proven riparian rights. The priority date is established as the date of first beneficial use of state water (when it is perfected) within the claim area. The certificate of adjudication or the newer permits that are based on the original certificates are the basic evidence of and measure of water rights, regardless of their origin, riparian or otherwise. The rights are limited by regulation. Domestic, and livestock uses are exempted from the Adjudication Act regardless of the amount used. TEXAS WATER CODE [§11.301 - 11.341](#).

**adopted regional water plan:** a plan that a regional water planning group has formally adopted in accordance with its bylaws. Before an initial plan is prepared, it goes through a review and public hearing process during which the regional water planning group must summarize and address all written comments. The plan is then submitted to the TWDB for approval and inclusion into a state water plan. The TWDB approves the plan only if it finds that the regional water plan meets the requirements contained in the Texas Water Code, Chapter 16, Provisions Generally Applicable to Water Development. TEXAS WATER CODE [§16.051](#) et seq.. 31 TEX. ADMIN. CODE [§357.10\(19\)](#). Adopted plans are a resource for identifying areas and entities with either a need or a surplus of water (to potentially market); additionally, they may influence the funding and permitting of projects and help develop water policies for the State.

**advanced conservation:** for water planning purposes, it describes significant reductions in future per capita water demand above the expected scenario by implementing additional measures. The expected

scenario generally includes plumbing fixture compliance, educational programs, development of conservation programs, and leak detection and repair. Advanced scenarios may include accelerated replacement of less efficient plumbing fixtures, low-water use landscaping and efficient irrigation technology, intensified programs to promote water conservation in institutional and commercial establishments, intensified programs to control distribution system water losses, and the implementation of conservation-oriented water rate structures.

**affected person:** means, with respect to a management area: (1) an owner of land in the management area; (2) a district in or adjacent to the management area; (3) a regional water planning group with a water management strategy in the management area; (4) a person who holds or is applying for a permit from a district in the management area; (5) a person who has groundwater rights in the management area; or (6) any other person defined as affected by commission rule. TEXAS WATER CODE §36.1082(a).

**applicable legal requirement:** means an environmental law, regulation, permit, order, consent decree, or other requirement. TEXAS WATER CODE §5.752(1).

**appropriation:** the process or series of operations by which a surface water right is acquired. A completed appropriation thus results in an “appropriative right” and the water is appropriated water. TEXAS WATER CODE §§11.022 - 11.026. 30 TEX. ADMIN. CODE §297.1(3). *See* “beneficial use” and “perfected water right.”

**appropriative right:** the right to impound, divert, store, take, or use a specific quantity of state water acquired by law. *See generally*, TEXAS WATER CODE Chapter 11, Subchapter B (Rights in State Water). 30 TEX. ADMIN. CODE §297.1(4).

**appropriator:** a person who, under a water right, has made beneficial use of any water in a lawful manner under the provisions of any act of the Legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed a record as required by the 1913 Act, as amended, or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the TCEQ or one of its predecessors. TEXAS WATER CODE §11.002(6).

**approved groundwater conservation district management plan:** a management plan, approved by the TWDB’s Executive Administrator, that addresses the efficiency of groundwater use, the prevention of waste and subsidence, the conjunctive use of surface water, natural resource issues, drought conditions and conservation. The plan identifies a district’s performance standards and management objectives under which it will operate, and includes groundwater availability and use estimates. Regional water planning groups are required to consider these plans in developing their regional plans. The TWDB reviews each plan and approves it as administratively complete. The district may review their plan annually and must review and readopt it at least once every five years. TEXAS WATER CODE §§36.1071, 36.1072. 31 TEX. ADMIN. CODE §§356.51 - 356.57.

**aquifer:** a geologic formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs. The formation could be sand, gravel, limestone or sandstone or fractured igneous rocks. The TWDB has identified 30 such bodies of groundwater and have published [maps delineating the locations of aquifers in Texas](#). Nine are major aquifers that supply large quantities of water in large areas of the State and 21 are minor aquifers that supply large quantities of water in small areas or relatively small quantities in large areas.

**aquifer storage and recovery/retrieval (ASR):** a project having two distinct phases: it uses an aquifer well for injection into a particular geologic formation that is capable of underground storage of appropriated waters for future retrieval and beneficial use. The first phase requires TCEQ authorization by a temporary or term permit to determine feasibility for ultimate storage and retrieval for beneficial use.

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First appeared as part of the conference materials for the  
2016 Water Law Fundamentals session  
"Groundwater Issues"