

## **Omissions in House water bill upset N. Texas lawmakers**

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By **EMILY RAMSHAW** / **The Dallas Morning News**  
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AUSTIN – The House endorsed the state's first major water planning bill in a decade Tuesday, a measure that protects streams, rivers and estuaries, conserves water and designates more than a dozen future reservoir sites across Texas.

But the measure, which Dallas officials hoped would protect years of water planning efforts, now does nothing but hinder them, North Texas lawmakers say. Reservoirs that the area has counted on have been stripped from the bill, and the measure limits the region's ability to acquire future water sources. As lawmakers debated the bill for several hours, many amendments were tacked on with a clear anti-Dallas sentiment, as House members from East Texas and elsewhere complained that Dallas wasn't doing its part by conserving enough. North Texas representatives say that the area is booming and needs to plan for rapid population growth.

The measure faces one more House vote today, and then differences between the House's version and what the Senate approved in March must be negotiated. Dallas officials hope to win some concessions during those negotiations.

But the bill in its current form "does not solve any of Dallas' short or long term needs," said Rep. Rafael Anchia, D-Dallas. "It's a disappointment when a major bill like this is written on the floor. What came out of the House hurts Dallas more than helps."

One amendment approved Tuesday would require the state's water districts to bring down their average per capita water consumption to below 200 gallons a day before they can add new reservoirs to their water plans. Dallas is currently the only big city in Texas that surpasses this threshold, lawmakers said; its water customers use an average 264 gallons per capita per day.

"It's really difficult for people in my area of the state to understand why we need to flood our property in order for another region to continue to be wasteful," said Rep. Stephen Frost, D-Atlanta.

Another amendment puts cities and counties at risk of losing designation for their future reservoirs unless they show a formal, financial commitment to the project by August 2013. Landowners in the footprint of possible future reservoirs – namely Dallas' proposed Marvin Nichols and Fastrill reservoirs – have complained the designation ties their hands to sell or improve their property, and that they still have no assurance the reservoir will come through.

"There are projects that haven't been acted on, money that hasn't been designated," said Rep. Robby Cook, D-Eagle Lake. "They should know by [2013] what projects are feasible."

While the future Marvin Nichols and Fastrill reservoirs were officially designated in the Senate version of the bill, landowner opposition to them prompted the House Natural Resources Committee to strip them out.

North Texas lawmakers didn't try to tack the reservoirs back on to the House bill on Tuesday – fearing opposition might kill the bill all together. And while they were originally confident they would be able to put the reservoirs back on in conference committee, they now say they're not so sure.

Rep. Robert Puente, the San Antonio Democrat who chairs the House Natural Resources Committee and shepherded the bill through a full day of debate, said that if the Dallas reservoirs aren't added back on in conference committee, they might be attached to other bills.

"The mood on the floor was not to put in the reservoirs," Mr. Puente said. "One thing Dallas still has to address is its high water usage."

The comprehensive water bill has been in the works for years, when legislation championed by Lt. Gov. David Dewhurst passed the Senate but died in the House. This session, the Senate cranked out another version – only to watch the House leave it at its doorstep for more than a month.

Dallas officials feared the holdup would undermine the city's future reservoirs, allowing environmental groups and federal agencies to chip away at years of regional water planning. And angry senators accused House Speaker Tom Craddick of holding the bill hostage to win concessions on other legislation.

Two of the bill's key provisions – governing the flow of water and prompting more conservation – were not controversial. Under the measure, the state would have specific guidelines for conserving water and would set up a system to ensure all the state's lakes, rivers, estuaries and bays have enough water to remain ecologically sound.

North Texas officials have questioned the "environmental flows" provision, fearing that a lack of water in some parts of the state could force Dallas, which currently has an ample supply, to send more downstream.

But Dallas officials originally accepted this provision as a worthwhile sacrifice – with the understanding that the state would be designating the city's future reservoir sites. Now, they fear they made a bad trade.

Designating future reservoirs is controversial because establishing them almost always involves a draining, years-long fight between city officials and longtime landowners. On Tuesday, several amendments tacked onto the water bill gave property owners and rural communities greater assurances including offering them environmental mitigation – set-asides required to make up for habitat destruction – and protecting their rights to conduct mineral exploration on their properties.

Rep. Will Hartnett, R-Dallas, said either "something will work out [for Dallas] in conference, or the bill will die."

"The bill in the current form is completely unacceptable," he said.

Do They Have The Water Rights?

By STEVE KNIGHT

Staff Writer

The Dallas-Fort Worth area is looking more and more toward East Texas to fill its water needs. ["Legislature Water Debate Pits Rural Against Urban"](#)

The Metroplex already draws water from three regional lakes - Cedar Creek, Tawakoni and Richland-Chambers, covering more than 111,000 acres.

In 2008, that total will increase by another 27,000 acres when a pipeline is completed from Lake Fork to Tawakoni. Dallas owns 70 percent of the water rights in Lake Fork and plans to use it to supplement water pulled from Tawakoni. Down the line is Lake Palestine, in which Dallas also holds almost 50 percent of the water rights. On the drawing board is the 26,000-acre Fastrill Reservoir downstream on the Neches River from Lake Palestine and the sprawling 72,000-acre Marvin Nichols Reservoir on the Sulphur River.

The water rights, and in some instances the reservoirs themselves, are owned by Dallas Water Utilities, Tarrant Municipal Water District and Trinity Regional Water District. Despite the East Texas sources, along with other water rights on other reservoirs elsewhere, the cities that make up the Metroplex remains thirsty and the Texas Water Development Board estimates it could be facing a water deficit as early as 2010.

The water districts serve customers in 13 counties as far ranging as Henderson County to the east, Denton to the north and Parker and Wise counties to the west. At the center are Dallas and Fort Worth, two cities with a combined population of 1.8 million, and growing. Fort Worth is one of the fastest growing cities in the state, having recorded double-digit population increases in recent years.

According to TWDB, water demand for the 13 counties currently totaled more than 290 billion gallons a year in 2000. That total is expect to jump to more than 378 billion gallons by 2010 and 459 billion gallons by 2020.

According to a study conducted by Center for Economic Development and Research at the University of North Texas for the North Texas Future Fund, this thirst for water would put nine of the counties in a water deficit by 2010 if additional supplies are not brought on line. The demand, according to the

2004 study, exceeds supplies by 88 billion gallons in 2010 and to 174 billion gallons in 2020.

With a current population of 1.2 million, the city of Dallas is the largest consumer of water using 97 billion gallons in 2000, according to the TWDB. That demand is expected to increase to 106 billion gallons in 2010 and 109 billion gallons in 2020. However, demand is expected to level off after that.

In comparison, with a similar population, San Antonio had a water demand of 71 billion gallons in 2000. Demand is expected to increase to just 79 billion gallons in 2010 and 88 billion gallons in 2020.

Houston, with a population of more than 2 million, used 118 billion gallons in 2000 and is expected to require 128 billion gallons in 2010 and 142 billion gallons in 2020.

Because of the construction of Richland Chambers and Cedar Creek, Fort Worth and the Tarrant Municipal Water District find themselves in better condition. Tarrant County is also expected to have a 46 percent interest in Marvin Nichols, if the reservoir is constructed. Dallas could participate in Marvin Nichols, but currently is considering the project as an alternative source.

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## Fastrill, Nichols reservoirs pulled from SB3 before committee vote

**By GEORGIA PURDY Newsboy Correspondent**

Janice Bezanson, Executive Director of Texas Conservation Alliance, reports that the House Natural Resources Committee took both Fastrill and Marvin Nichols reservoirs out of SB3 before voting it out of committee last Wednesday.

"This is great news, but Committee Chair Robert Puente is predicting that there will be amendments on the floor to try and put Marvin Nichols and Fastrill back into the bill," Bezanson said.

Fastrill Dam would flood over 25,000 acres of bottomland, already slated to become the Neches River Wildlife Refuge on the upper Neches River as well as much of the Texas State Railroad.

Marvin Nichols, on the Sulphur River in Northeast Texas, would impound 30,000 acres of prime bottomland plus another 42,000 acres of mixed forest and farmland.

Both have been designated to supply water for the Fort Worth/Dallas metroplex in Region C of the Texas Water Plan.

"While we won't be declaring any victories till we see what the final bill looks like, the language changes are a clear indication that the water hustlers aren't having an easy path," Bezanson said. "Their push for unique reservoir site designation has greatly increased the scrutiny by rural legislators and property rights advocates of the reservoir proposals."

'Unique reservoir sites' refers to lands designated for future water development. The designation precludes any local or state government or governmental agencies from doing anything that would prevent its future use as a reservoir site.

Both of these sites are opposed by a number of conservation groups as well as area residents. Critics of the Region C water plan say that there are sufficient available water resources for the Dallas area and that the metroplex does little to conserve existing water sources.

In addition, residents of Region I, which includes Southeast Texas, and Region D in Northeast Texas resent water being diverted to feed the desires of the City of Dallas.

Last June, the U.S. Fish and Wildlife Service, approved the Neches River Wildlife Refuge, but then the City of Dallas and the Texas Water Development Board filed suit, charging that the USFWS did not consider economic impact to the Dallas area. Governor Rick Perry sided with the plaintiffs.

Gina Donovan, Director of the Neches River Protection Initiative and Communications Director of TCA, said that the USFWS case is strong.

"I feel the USFWS case is very strong," Donovan said. "The people who worked on this refuge, the New Mexico and Nacogdoches offices, were very professional and conducted their studies according to the refuge establishment procedural methods."

The refuge already had the first donated acre of land when the suit was filed, but no additional lands have been accepted since the suit was filed.

"The USFWS was about to receive a substantial land donation for the Neches River National Wildlife Refuge when the lawsuit was filed," Donovan said. "The Service has chosen not to accept any land donations until the suit is settled, including the large tract they were about to receive."

The case will go to federal court in Dallas.

"There has been no hearing or trial date set," she said. "The judge may not have a trial; he may just rule on the administrative record. The City of Dallas and the TWBD are requesting the judge allow discovery, that is that the judge will allow expert witnesses to testify in a trial and additional evidence be presented. The USFWS has moved to limit the case to the administrative record. It is more the norm to rule on the administrative record."

The lawsuit is independent of the legislation; however, the outcome of one can have an effect on the other. If the court rules in favor of the USFWS, then the unique reservoir status would be irrelevant.

"If, however, the judge were to overturn the refuge, then the unique reservoir site language could come into play," Bezanson said. "The entire House will soon be voting on the issue. We need to keep pressure on all of the members of the House of Representatives. Keep those calls, faxes, and emails going."