

Legislature Water Debate Pits Rural Against Urban  
By STEVE KNIGHT and ROY MAYNARD Staff Writers

Water rights and two controversial planned lakes will be the focus of House debate as early as Monday, when lawmakers take up the Senate's water bill.

A House committee has already put a few leaks in the plan - including deleting two future reservoirs, Marvin Nichols and Fastrill. Dallas-area state representatives will try to restore those reservoirs.

"How you feel about the bill depends on where you live or what you do," said state Rep. Chuck Hopson, D-Jacksonville. "If you're in Dallas, you want those lakes for your future water needs. If you're a builder who wants to make money from waterfront homes, you want those lakes. But if you're for the Neches River Wildlife Refuge, you're not going to want those lakes built."

It's become an urban vs. rural issue, Hopson added.

"Dallas, quite frankly, is wanting to run all over us," he said. "Dallas has the highest per-capita water usage in the state. That's something that should be addressed at the same time this (water plan) is."

Both projects won support of state officials. In 2006, the Texas Water Development Board approved a long-range regional plan to build the Fastrill Dam on the Neches River and the Marvin Nichols Dam on the Sulphur River to supply water to the Dallas-Fort Worth area. But federal wildlife officials say the marshland within the Fastrill site is an important destination for migratory birds wintering in Texas. The area in Anderson and Cherokee counties is one of the few remaining old-growth bottomland forests remaining in Texas. It is vital for habitat for the migrating waterfowl along with resident wildlife species such as bobcats, river otter and multiple species of fish, reptiles and amphibians, including the threatened American alligator, the agency said.

Wildlife officials added that Dallas and state officials have known that they've been considering establishing the refuge for years.

"A reservoir would've flooded all of it; the wildlife would've been lost, destroyed," said Lacey McCormick, of the National Wildlife Federation, which lobbied the wildlife service for the refuge. "We think they have other, better options to supply water." And Texas lawmakers say they'll keep regional interests in mind when the debate comes to the floor.

"We have an abundant water supply in East Texas, which other areas of the state, like Dallas, Houston and San Antonio, would love to tie up for their future needs," said state Rep. Leo Berman, R-Tyler. "In looking at a water bill, I have to consider that we also have future needs in East Texas to maintain growth and to insure that our economy is not hurt by a shortage of water. Our junior water rights are sacred, as any East Texas legislator might tell you, and our land, which could be subject to eminent domain for future water reservoirs, must be protected."

The legislation was passed by the Texas Senate a month ago, but has languished in the House because of an impasse between House Speaker Tom Craddick and Lt. Gov. David Dewhurst. The two reportedly hashed out their differences last week, allowing the House to move on a statewide water plan that failed to make it out of the last legislative session. Both bodies have approved bills that deal with downstream water flows and other issues. One of the biggest issues remaining is a list of "designated lake sites," a list that initially included both the proposed 26,000-acre Fastrill and the 72,000-acre Marvin Nichols. Although removal from the list doesn't mean the reservoirs won't be constructed, the two have been dropped in the House bill awaiting debate.

That elimination was applauded by state Sen. Kevin Eltife, R-Tyler, whose district would include Marvin Nichols. Eltife said he is opposed to a designated reservoir list, concerned that just because a site is listed the project may never be built. However, the designated status could lower property values for landowners that have property in what would be

the reservoir basin.

Along with the 72,000-acre lake bed, Marvin Nichols may require another 150,000 to 650,000 acres of mitigation to be set aside in the same river basin.

Eltife said he believes the designated list was created in part to try to trump a situation similar to what occurred at Fastrill. Dallas identified a reservoir site within the footprint of a site where the U.S. Fish and Wildlife Service seeks to create a wildlife refuge. In fact, Eltife noted, there is nothing the state can do if the federal government comes after the site.

Also surviving in both the Senate and House bills is an amendment by Eltife that would require a water entity from one region to coordinate with another region when crossing boundaries to build a reservoir.

"I put an amendment in, dealing with Marvin Nichols that made the two regional planning groups from Dallas and from my district to work together. It required them to look at other water resources before they built the reservoir," Eltife said.

Marvin Nichols is planned on the Sulphur River north of Mount Pleasant within the Texas Water Development Board's Region D. The bulk of the water, 80 percent, would be piped west to Dallas-Fort Worth, which is within Region C.

Eltife said his amendment would require those needing the reservoir to explain why they need it and how it would be built.

"If (an entity) needs the reservoir, how is it going to build it? Who is going to pay for it?" the senator said.

The amendment, which continues to exist in the House version, has the support of both those who support and oppose construction of the reservoir. It is something he said he would like to carry over into all water projects in the state.

"My position on Marvin Nichols has always been if they are going to build it, there should be local input. You shouldn't allow Region C to dictate if they are going to build it in Region D. We realize Marvin Nichols is going to be one of the largest reservoirs built, and if it is needed in Dallas, I want my region to have a voice at the table," the senator said.

Eltife said he is hopeful legislators can find common ground on water legislation before the session's end.

"This is my second session (in the Senate) and the same thing happened in the first. We need to look at long-term water planning in the Legislature," he said.

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