HB 2851

HOUSE COMMITTEE ON NATURAL RESOURCES

Hearing Date: April 27, 2021 8:00 AM

Van Kelley

Self - Hydrogeologist

Austin, TX

Thank you for allowing me to provide my comments and support regarding this bill. I provided verbal testimony on a similar bill last session. I am a professional hydrogeologist and a member of the Texas Water Conservation Association. This bill provides a calculation of pumping that could occur within an aquifer in perpetuity. Like the estimate of Modeled Available Groundwater and Total Estimated Recoverable Storage, this calculation is an estimate. The DFC/MAG process described in the Water Code is meant to allow Groundwater Management Area members the ability to balance highest practicable use against several other factors. This bill simply provides information for consideration by the Groundwater Management Area members. Similar information was considered by the TWDB Board Members in past joint planning cycles when they approved DFC and MAGs. I appreciate the opportunity to comment. Sincerely, Van Kelley.

Carlos Rubinstein

Self/Belding Farms and Cockrell Investment Partners

Austin, TX

Mr. Chairman and Members of the Committee,

My name is Carlos Rubinstein. I am Principal of RSAH2O LLC, an environmental consulting firm focused on Texas water issues, and also assist Belding Farms and Cockrell Investment Partners on sustainable water management concerns. I am submitting comments FOR HB 2851 by Representative Lucio.

I had the honor of serving as Chairman of the Texas Water Development Board (TWDB) from 2013 – 2015 and as Commissioner of the Texas Commission on Environmental Quality (TCEQ) from 2009 – 2013.

During my time in state service, I as many Texans have most recently due to the polar vortex impacts of February 2021 and the drought of 2011, recognized the fragility, limited capacity and availability of our water supply.

Many do not often concern themselves as much as they should in our day-to-day activities as to the sustainability of existing sources of water.

As the Texas Water Development Board clearly states in the current and previous State Water Plans, our existing sources of water are in fact declining.

This fact, coupled with increased growth and water demands, as well as the ever-present threat of drought put at greater risk our ability to meet future water needs.

Texas prides itself on its water planning and favorable financing efforts for much needed water projects. To be sure, our planning efforts are commendable and so recognized throughout the country.

Yet, even today, we continue to “plan” for declining groundwater levels. Many of our desired future conditions (DFCs), if not all of them “plan” for a drawdown in aquifer elevation over the next few decades.

This drawdown threatens today, and will continue to threaten in the future, many existing uses of water.

During this legislative session this committee has heard about the need for better science and additional tools to better inform water policy decisions.

HB 2851 greatly advances those efforts.

HB 2851 requires the TWDB to calculate and provide to the groundwater conservation districts, modeled sustained groundwater pumping volumes that would allow for sustainable groundwater production in perpetuity.

GCDs would be required to consider these much-needed modeling results in future DFC development efforts.

Currently, GCDs utilize in part a calculated volume known as Total Estimated Recoverable Storage or TERS which is the maximum volume of water that could be extracted from an aquifer.

Modeled sustained groundwater pumping would provide a much-needed counterbalance to the volumes already calculated and relied upon as part of TERS.

Better water management decisions are assisted by better science and data. HB 2851 provides for that.

For all of the reasons stated, I respectfully submit these comments in support of HB 2851.

Carlos Rubinstein, Principal
RSAH2O, LLC
April 26, 2021

Vanessa Puig-Williams

EDF/Vanessa Puig-Williams

Austin, TX

Environmental Defense Fund's Comments in Support of HB 2851

For GCDs to adopt meaningful, long-term management goals or DFCs and adequately consider the nine factors in Section 36.108, they need data- they need the best available science. They need to know how much groundwater can be pumped from aquifers they manage in perpetuity without drawdown occurring. However, the state has not provided this important data to GCDs. The result is that when GCDs are setting DFCs, they are missing critical information.

However, the state has provided GCDs with a volume of water called TERS or Total Estimated Recoverable Storage. The TWDB defines TERS as "[t]he estimated amount of groundwater within an aquifer that accounts for recovery scenarios that range between 25 percent and 75 percent of the porosity-adjusted aquifer volume." In other words, TERS represents the maximum amount of groundwater that may be technologically feasible to recover from an aquifer without regard to other impacts. This means that GCDs are required to consider the total volume of water that exists in the aquifer when developing policy to manage it, but they are not required to consider how much groundwater can be pumped without lowering aquifer levels. The result is that GCDs may be setting long-term management goals without a full understanding of the long-term impacts, and MAG values likely over-estimate how much water is available for a GCD to permit. It's no wonder aquifers are declining, causing wells and rivers to go dry.

EDF supports HB 2851 because it will result in more effective groundwater management as it provides GCDs with more data and more science to make informed decisions. It is important to note that the "modeled sustained groundwater pumping" volume is not necessarily a volume of water that can be produced from an aquifer without causing negative impacts to wells or streamflow. It is simply the amount of water that can be produced from an aquifer and maintain aquifer levels in perpetuity. In some cases, aquifer levels can be maintained but can be disconnected from surface water resources, therefore, causing springs and rivers to go dry. In the future, it will be important, in particular in areas of the state where groundwater and surface water connections are prominent, for the TWDB to provide GCDs with the volume of water that reflect an amount that can be pumped from an aquifer without impacting surface water. This will require more localized field data. For now, HB 2851 will provide GCDs with the best available science and a critical piece of data they need to effectively manage groundwater and protect property rights.

Andrew Wier

Simsboro Aquifer Water Defense Fund (SAWDF)

Bastrop, TX

Simsboro Aquifer Water Defense Fund (SAWDF) is FOR HB 2851. Modeled sustainable groundwater pumping is an essential factor in the considerations for determining desired future conditions (DFCs). Representing SAWDF, I have been participating in Groundwater Management Area 12 discussions regarding DFCs. SAWDF has advocated for GMA-12 to research and consider what the applicable aquifers can sustainably produce through pumping. The response from GMA-12 representatives is that they are not empowered, nor mandated, to consider sustainable pumping. HB 2851 will empower all Groundwater Management Areas to secure a reliable future water supply for all Texans. Thank you.

Wade Oliver

Self

Sugar Land, TX

My name is Wade Oliver. I am a hydrogeologist and licensed Professional Geoscientist in Texas. I am testifying today for House Bill 2851 relating to consideration of modeled sustainable groundwater pumping in the adoption of desired future conditions. I work for INTERA Inc., an Austin-based geoscience and engineering consulting firm. I manage our Houston office, but regularly work on groundwater projects and issues across the state - both for entities developing groundwater and for entities like groundwater conservation districts (GCDs) that manage groundwater. I am testifying on my own behalf, not for INTERA or any of our clients.

I support this bill because it provides important information to GCDs useful for developing desired future conditions (DFCs) and understanding the required balance between the highest practicable level of groundwater production and the conservation, preservation and protection of groundwater. As defined in the bill, the maximum sustainable groundwater pumping delineates the pumping level above which the aquifer is being mined and below which the pumping could continue in perpetuity. This is a fundamental hydrogeologic characteristic of most aquifers in Texas that is important to consider when developing DFCs. This bill also contains an exemption aimed to address those areas with such a small recharge rate that the concept of maximum sustainable pumping is not useful. We are one of the few states that has the data and tools available to develop these types of estimates. The Texas Water Development Board's Groundwater Availability Modeling program has developed and continues to maintain and update the tools needed to answer just these types of questions.

In my role at INTERA, I regularly work with Groundwater Management Areas (GMAs) helping them with the process of developing DFCs. During the current round of joint planning, that assistance includes GMA 1 in the northern Panhandle and GMA 14 in southeast Texas, which includes Greater Houston. Prior to joining the private sector, I worked at the Texas Water Development Board, during which time I also worked with GCDs and GMAs through the first round of joint planning. At that time, we developed estimates of the maximum sustainable pumping to provide the board members at the time with important context for the DFCs proposed for adoption. Further, the definition of maximum sustainable groundwater pumping we used is consistent with this bill. Both through my role in that process and subsequent work with GMAs, I can attest that:
-We have the tools to make reasonable estimates of maximum sustainable groundwater pumping, and
-These estimates are needed and will provide meaningful information for developing DFCs and managing groundwater in an informed manner.