

Municipal Work Group
August 30, 2023
DROUGHT CONTINGENCY PLANS
What is working and what is not?

Attendees:

Alex Fashing	Jaclyn Buck	Mark Mathis, TWDB
Alia Vinson	Jennifer Allis, TCEQ	Perry Fowler, Tx Water Infra
Andrew Cummings, NB	Jennifer Barr	Raquel Mullen
Blake Alldredge	Jennifer Nations,	Sarah Richards, NB
Christopher Charles	Jennifer Walker	Shae Luther, TWDB
Chelsea Hawkins, SAWS	Jessica Woods, Round Rock	Stephen A. Maldonado Jr.
Daniel Rice, TWDB	John Sutton, TWDB	Ted Pick, North TX MW District
David Cowan	Karen Guz, SAWS	Temple McKinnon, TWDB
Dawn Walker-Hughes, El Paso	Kathy Fonville, Mesquite	Whitney Milberger, North Ft Bend WA
Denise Livingston, TWDB	Ashley Kent	Yun Cho, TWDB
Dustan Compton, Tarrant RWD	Kevin Kluge-City of Austin	
Eric Reynolds-City of Austin	Leslie Patterson, TCEQ	
Jason Fraley -City of Austin	Marisa Bruno, Hill Country Alliance	
Isabella Garrone		

[Texas Administrative Code](#) - Water Conservation Plans, Drought Contingency Plans, Guidelines and Requirements

Based on the conversation held on drought planning – “what is working, what is not”, a survey will be conducted to compile a more comprehensive list of non-productive strategies, loopholes, and effective strategies.

Explore the following questions for keys to meaningful drought plans in an effort to create an electronic resource guide for systems:

1. How do you assess the effectiveness of your drought plan?
 - a. Are savings expected/measurable?
 - b. Are DCPs administratively realistic to implement?
2. What are tools that could be considered in drought demand management?
 - a. Education and outreach examples, watering rules, drought surcharges, other?
3. Consequences of non-compliance? What are some of the pitfalls to avoid?
4. What rules seem to have the most impact? Symbolic versus meaningful.
5. Practices that various entities have found to be effective in implementing rules and stages of drought.
6. What other questions should be asked?
 - a. What recommendations can WCAC bring forward to the legislature?
 - b. How can the roll of water supplier improve drought triggers?
 - c. What are those things that that we really can see a reduction in demand over all as we implement these drought stages to get the results that we need to?
 - d. What are effective methods systems are using to send a message of urgency?
 - e. What are some loopholes people are finding?
7. How are infrastructure needs playing a role in drought mitigation?

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What is working and what is not?

Last year, Texas Section of AWWA Water Conservation and Reuse Division started holding monthly meetings regarding drought and drought enforcement issues. (Jennifer Nations, Chair) Initially a peer discussion of what is working and not working. Please contact [Jennifer Nations](#) or [Jessica Woods](#) for more information or to be added to the discussion forum.

*Please note: AWWA released a drought communications handbook highlighting tools to better communicate drought messages and/or target certain users.

Effectiveness/Non-productive drought strategies:

The state's regional water planning groups are required to include information from Drought Contingency Plans (DCPs) including "identification of unnecessary or counterproductive variations in drought response strategies among water suppliers that may confuse the public or impede drought response efforts." ~ 31 TAC 357.42(b)(2).

2022 State Water Plan Section 3.4 Regional drought recommendations

<https://www.twdb.texas.gov/waterplanning/swp/2022/docs/03-SWP22-Drought.pdf>

Roll of water supplier and receiving systems in calling drought stages. Example: (depending on contract) supplier is not enforcer but can impose drought restriction. Receiving systems hesitant to impose drought restrictions for their community if other systems have not already done so. Receiving systems' drought triggers vary from GPCD, demographics, neighborhoods with lots of pools, etc. Suppliers and receiving systems both made up of boards not wanting to be the 'bad guy' in calling drought. There is a need [across the entire state] to reduce demand.

SAWS has 'hard' triggers. As soon as a certain condition hits the system 'shall' go into stage [1 or 2]. The ordinance for higher stages becomes questionable and discussions have begun to address higher stage triggers. With flexibility of imposing a drought stage comes confusion for customers. I.e. The aquifer dropped to stage X levels, so do every other week watering restrictions need to be imposed or not?

What other ways can a system send a message of urgency?

Fees, Fines, Water Rates, Enforcement:

Municipal citations are no longer effective.

Shut off water for non-compliant customers if listed as an option in DCP.

TX Section of AWWA Water Conservation and Reuse Division holds monthly meetings regarding drought and drought enforcement. (Jessica Woods, Chair)

Ted Pick - Frisco uses a combination of administrative fees added to the water bill. If the fees don't get them to stop then they lock the waterline to the property shut and put a big red sign in the yard explaining why the shutoff occurred. Anyone who cuts the lock to re-open their line they took to court for damaging city property and stealing water.

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What are some loopholes systems have encountered:

New Braunfels: How to access gated communities?

SAWS:

- “Reasonable” hours needs more detailed clarification.
- Drip irrigation: Currently customers can use drip irrigation every day for 8 hours (Frisco's drip rule is every day for a max of 2 hours.)

HOA issues due to [Property Code Section 202.007](#) - Certain Restrictive Covenants Prohibited

Statutes Title 11, Restrictive Covenants; Chapter 202, Construction and Enforcement of Restrictive Covenants; Section 202.007, Certain Restrictive Covenants Prohibited.
Refreshed: 2023-07-23

This section does not apply to a property owners' association that:

is located in a municipality with a population of more than 175,000 that is located in a county in which another municipality with a population of more than one million is predominantly located; **and**

manages or regulates a development in which at least 4,000 acres of the property is subject to a covenant, condition, or restriction designating the property for commercial use, multifamily dwellings, or open space.

*HOAs have to fit BOTH exceptions.

HOA example issue “ ..the state regulations restricting HOAs, doesn't give guidance as to how restrictive HOAs can be. For example, there's nothing that says HOAs can restrict how much turf removal can be done. One resident replaced his entire front yard with native plants and mulch and the HOA is now coming after him.

202.007 states that the landowner must submit a landscaping plan to the HOA and that they need to work with the HOA on developing a landscape that fits with the aesthetic theme of the community.

Another issue with HOAs is that most HOAs don't their own enforcement. They hire a third party that does it. The third party sends someone in who drives around and takes pictures, fills out the forms at their office, and then the third party sends out the fine notifications without consulting the HOA board.

~Is there anything in the Water Code to override the 202.007 exceptions in times of drought?
This item needs to be researched.

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TCEQ:

At this time TCEQ has not changed [rule requirements](#).

TCEQ currently does not compile DCP trigger/action data for public use except mandatory restrictions by entities are reported to TCEQ- PDW.

Reporting mandatory drought restrictions to TCEQ can be submitted through https://www.tceq.texas.gov/drinkingwater/homeland_security/security_pws

Implemented strategies:

Austin-

- As stages increase so does the cost of violations.

Austin and Round Rock's DCP applies to "city water customers" not just those within city limits.

New Braunfels –

- Ordinance is tied to water service connections, whether in city limits or not.

SAWS-

- Proposing an excessive use surcharge.
- Service agreement includes that SAWS must be granted access to their infrastructure during "reasonable" hours.
- Work with property management companies regarding HOAs

Articles shared:

Article in the Austin American Statesman regarding lawn watering guidance-

<https://www.statesman.com/story/news/2023/08/24/water-your-grass-but-keep-drought-in-mind-experts-say/70612202007/>

<https://lscarlsonlaw.com/articles/local-laws-supersede-hoa-rules-guide-from-hoa-attorney>