

# The DFC Process

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Groundwater Management Area 1

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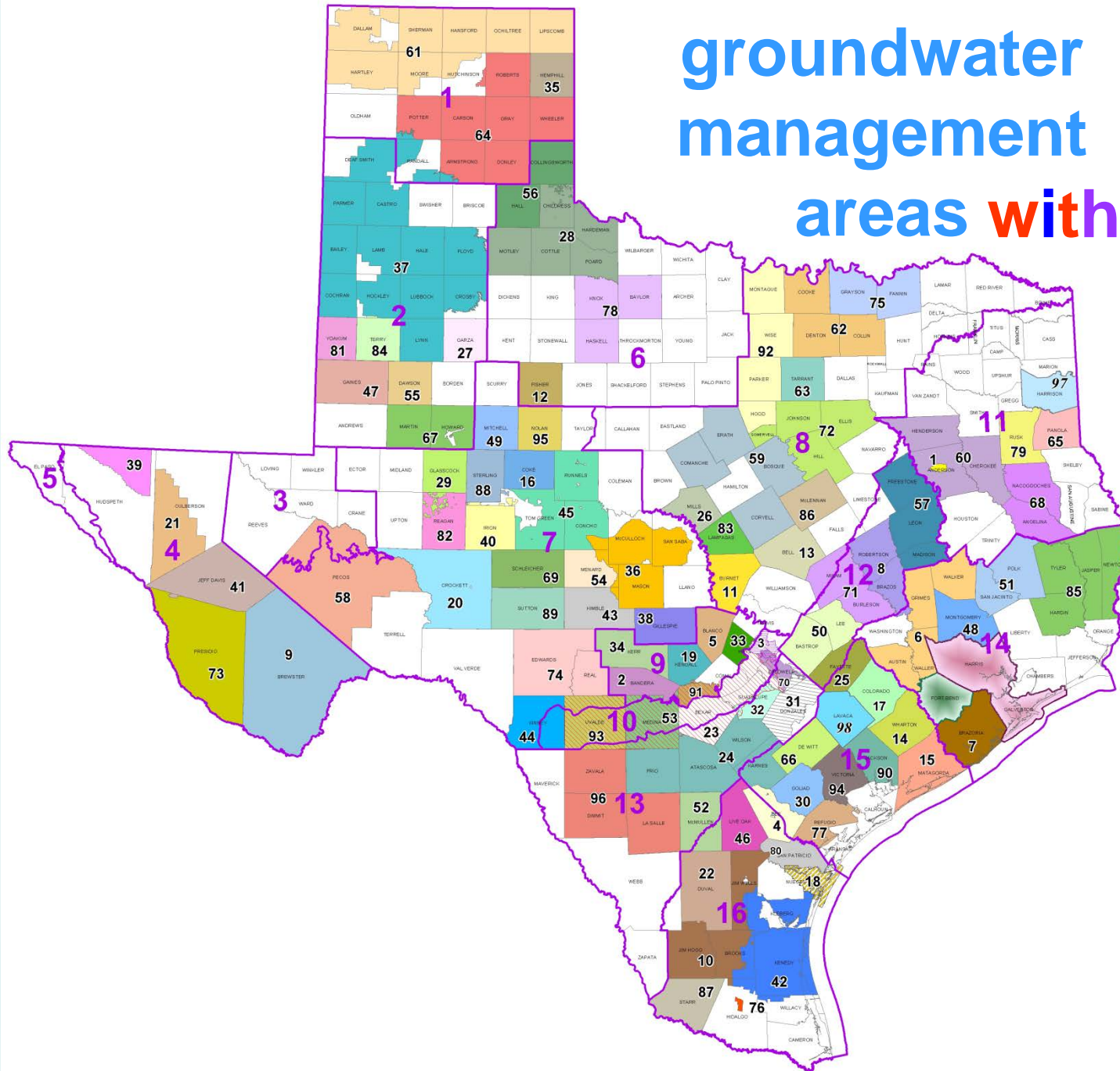
# Presentation Outline

- Status of Joint Planning in Texas for DFC Adoption
- What changed in the joint-planning process from the first round to the current round for DFC adoption
- The process for considering, proposing, and adopting DFCs
- How DFCs play into District's Management Plans and Rules
- How DFCs Interplay with Regional and State Water Planning

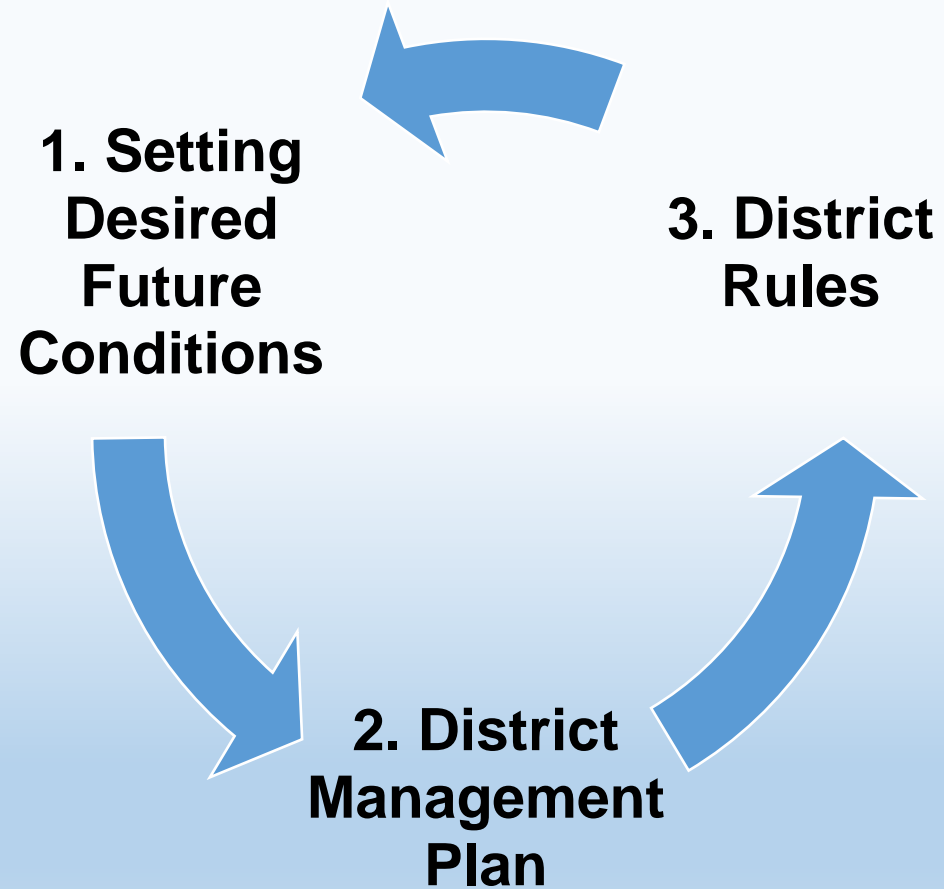
# Groundwater Management Areas/ DFCs

- TWDB designated 16 groundwater management areas (GMAs) across the state that include all major and minor aquifers.
- Beginning in 2005, the GCDs in each management area are charged with engaging in joint planning and developing Desired Future Conditions (DFCs) for the aquifers
- DFC is a quantitative statement of what you want the aquifer to look like in 50 years
- There can be different DFCs for different aquifers, subdivisions of aquifers, or geographic areas, but must be physically possible.

# groundwater management areas with GCDs



# Adaptive Management Process



# **What has changed in the joint-planning process between the first and second round?**

- First round – September 1, 2005 – September 1, 2010 (Final DFC adoption deadline)
- Second (current) round – September 1, 2010 – May 1, 2016 (Adoption of proposed DFCs deadline)

# What has changed in the joint-planning process between the first and second round?

Beginning in 2011, new requirements that:

- Substantially overhaul the procedures and required statutory considerations for DFC development, proposal, and adoption.
- Require the development of an explanatory report that explains the DFCs adopted, those rejected, and documents numerous criteria evaluated in the process.
- All supporting information considered during DFC development must be included in explanatory report.

# **What has changed in the joint-planning process between the first and second round?**

- Ongoing developments of new and improved groundwater science to better understand the availability of regional groundwater resources.
- Legal developments with respect to the relationship between private property rights and management of groundwater resources in Texas (SB 332, Day Case).



# **What has changed in the joint-planning process between the first and second round?**

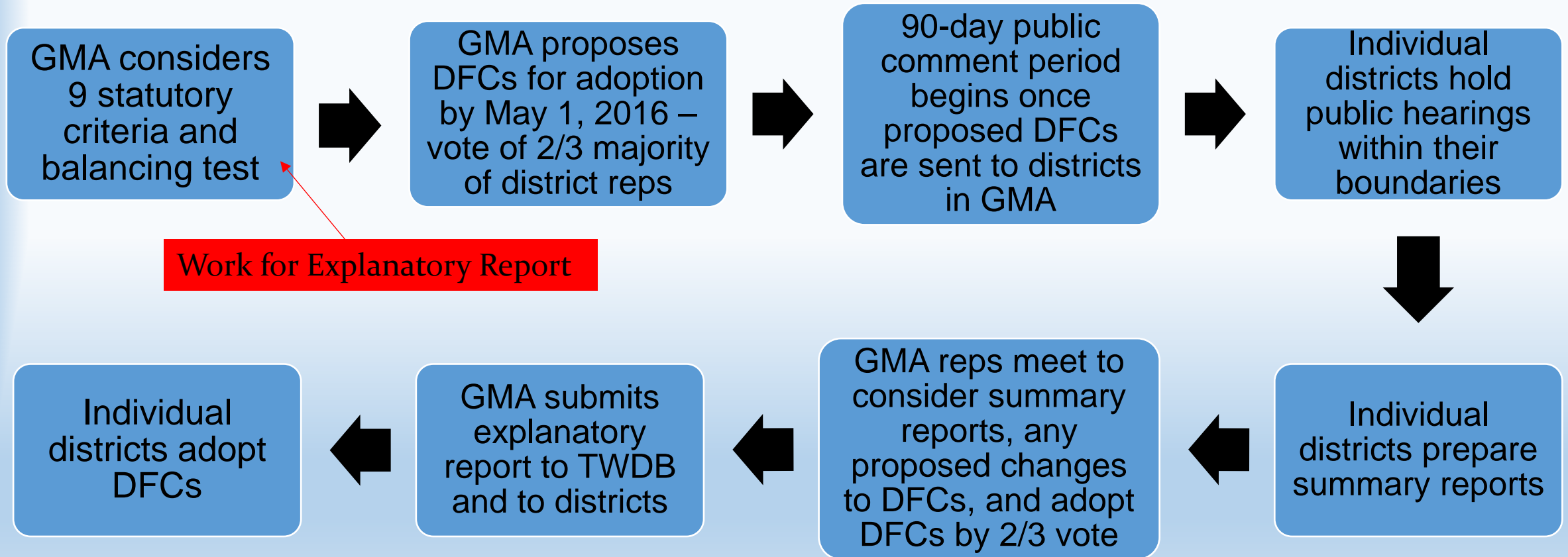
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# The path to DFC...

## *The old way:*

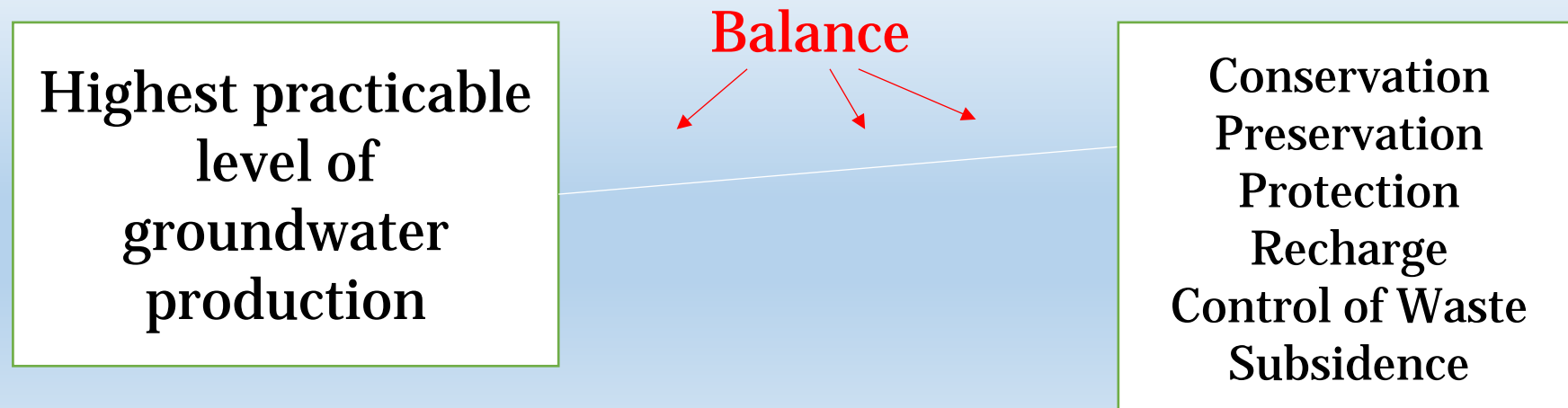
- 1. Determine DFC**
- 2. Adopt DFC**
- 3. Send DFC to TWDB**

# “New” DFC Adoption Process



# “New” Criteria

- Balance
  - between two outer limits or “book ends”
  - highest practicable and conservation, recharge, etc...



# “New” Criteria – Proposed DFCs

- The “Big 9” – Nos. 1 through 4
  1. Aquifer uses or conditions, including conditions that differ substantially from geographic area to another
  2. Water supply needs and strategies in the SWP
  3. Hydrogeological conditions, including TERS, recharge, inflows, and discharge
  4. Other environmental impacts, including impacts on spring flows and other surface water and groundwater interactions

# “New” Criteria – Proposed DFCs

- The “Big 9” – Nos. 5 through 9
  5. Impact on subsidence
  6. Socioeconomic impacts reasonably expected to occur
  7. Impact on interests and rights in private property, including ownership and the rights of landowners, their lessees and assigns
  8. Feasibility of achieving the DFC
  9. Any other information relevant to the DFCs

# “New” Criteria – Explanatory Report

- Explanatory Report = Reasoned Justification Document
- Section 36.108(d-3) – The Explanatory Report must:
  1. Identify each DFC;
  2. Provide the policy and technical justifications for each DFC;
  3. Include documentation that the 9 factors were considered by the districts; discussion of how the adopted DFCs impact each factor;

# “New” Criteria – Explanatory Report

- Continued...
  4. List other DFC options considered / reasons why not adopted; and
  5. Discuss reasons why recommendations made by advisory committees and relevant public comments received by the districts were / were not incorporated into the DFCs.



# Importance of Explanatory Report

- Proves GMAs/districts considered all criteria
- Deference to GCDs – detailed report can prevent a judge from substituting his judgment for that of the GCDs in the GMA
- Serves as the Administrative Record

# What TWDB Does With Explanatory Report

- TWDB reviews for administrative completeness.
- TWDB takes the adopted DFC and uses the Groundwater Availability Model (GAM) to provide each GCD with an estimate of the amount of groundwater that can be pumped annually in order to achieve the DFC (the “Modeled Available Groundwater” [MAG] number).
- If a petition is filed against a GCD prior to generation of MAGs, TWDB will immediately cease modeling efforts until the petition is resolved.

# Groundwater Districts- Management Tools

- So, a GCD must participate in setting Desired Future Conditions of its aquifers, which, in turn, impacts its management plan and rules.
- A GCD must develop a Management Plan – which establishes general management framework and must contain goals and objectives and priorities consistent with achieving the DFCs.
- A district then must adopt rules that are designed to implement the goals and objectives set forth in the management plan and achieve the DFCs, and must enforce those rules.

# District Management Plan:

- A GCD must develop a management plan, which must be readopted at least every five years (coinciding with joint planning process), and which must be approved by the TWDB.
- Chapter 36 sets out required elements of the management plan.
- Includes goals and performance objectives of the GCD Board, strategies for achievement of DFCs, and technical and water planning information.

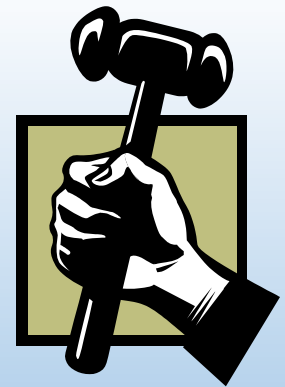
# District Rules:

- A district must adopt rules to implement the management plan.
- Rules establish the regulatory framework on how a GCD will manage and regulate the groundwater resources within its boundaries.
- Rules establish the well permitting process.
- GCDs have numerous options on what types of rules they can use to regulate groundwater production (well spacing, production limits, management zones, etc.)
- Rules must achieve the DFCs and must be enforced.

# Consequences of Failure

TCEQ, upon finding that a GCD did not adopt rules designed to achieve DFCs, that the groundwater in the area is not adequately protected by the rules adopted, or that the GCD has failed to enforce substantial compliance with the rules, may:

- order the district to take certain actions;
- dissolve the board;
- request appointment of a receiver to run the district; or
- dissolve the district.



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HAMMER)

# How DFCs Interplay with Regional and State Water Planning

- Modeled Available Groundwater numbers are used by TWDB as the groundwater availability numbers that must be used by the Regional Water Planning Groups.
- Water supply projects seeking funding from the TWDB must be consistent with the regional and state water plans in order to be eligible.

QUESTIONS?