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by **Steven P. Musick**, Leader  
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## Overview of Groundwater Management in Texas

Since 1904, Texas courts have applied the English common law doctrine of the “rule of capture” to determine liability for damages relating to the withdrawal and use of groundwater. This doctrine and its interpretation through case law essentially provides that groundwater, once it has been captured by a well and delivered to the surface, belongs to the landowner. Over the years, the courts have placed only a few limitations on the rule of capture. These limitations include drilling a well on someone else’s property (“trespass”), wasting the water, pumping water for the sole purpose of injuring an adjoining landowner (“malicious or wanton conduct”) and causing land subsidence on adjoining land from negligent over-pumping.

In 1917, Texans amended the Texas Constitution with the passage of the “Conservation Amendment.” This action established that conservation, preservation and development of the state’s natural resources are duties of the state and that the Legislature shall enact all laws appropriate for this purpose. In all subsequent groundwater decisions, the Texas Supreme Court has reiterated the Legislature’s broad power to regulate groundwater use, even within the common-law framework established by the rule of capture.

In 1949, the Texas Legislature first authorized the creation of groundwater conservation districts (GCDs) and the designation of underground reservoirs for the purpose of groundwater management. State law pertaining to the creation of GCDs and the management of groundwater resources has been amended many times over the past 55 years, most recently in 1997 and 2001. With the passage of Senate Bill 1 in 1997, the Legislature expressly recognized that GCDs are the state’s preferred method of groundwater management, clarified and strengthened district authorities, and streamlined the priority groundwater management area (PGMA) designation process. The passage of Senate

Bill 2 in 2001 continued the trend to further strengthen and clarify GCD groundwater management authority and define necessary state agency actions and roles.

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State law requires GCDs to: register permit, and maintain records of water wells; develop and adopt a comprehensive groundwater management plan; and adopt rules necessary to implement the management plan. The Texas Water Development Board (TWDB) provides technical and administrative support to GCDs in the development of their groundwater management plans and is responsible for the administrative review and certification of GCD management plans. The State Auditor’s Office (SAO) is required to review GCD activities to determine if a district is actively engaged in achieving the objectives of its management plan. The Texas Commission on Environmental Quality (TCEQ) is responsible for enforcing management plan requirements if a GCD fails to adopt and submit a plan for certification, fails to receive TWDB certification of its plan or is determined to be not operational by the SAO.

In addition, the TCEQ is responsible for delineating and designating PGMA, creating GCDs in response to landowner petitions or through the PGMA process, and providing technical assistance to districts when requested. The TWDB performs PGMA water-availability and water-use studies at the request of the TCEQ, and is responsible for the delineation and designation of groundwater management areas. TWDB also provides financial assistance to GCDs for activities including groundwater data collection, development and implementation of long-term management plans, and participation in regional water-planning efforts. The Texas Parks and Wildlife Department also conducts natural resource evaluations when requested by the TCEQ in the PGMA process and provides follow-up assistance as needed. The Texas Department of Agriculture **Environmental** continued on page 53

may also provide input to the TCEQ for the purposes of PGMA evaluation. The Texas Cooperative Extension is charged with conducting educational programs in designated PGMAs on the area's water resources and the management options available for these resources. ■

**Biographical sketch**

**STEVE MUSICK** received his Bachelor's degree in geological sciences from the University of Texas at Austin in 1976. He began his professional career as an assistant geologist with the U.S. Geological Survey in 1977. He has been with the Texas Commission on Environmental Quality and its predecessor agencies since 1981. Steve worked initially in the Underground Injection Control program with responsibilities for permitting, enforcement and special projects. Since 1986 he has worked in the areas of groundwater management, groundwater protection, and program development. His work included priority groundwater management area (PGMA) studies and water quality protection and water supply issues for the Edwards aquifer. Steve is the Leader of the Groundwater Planning and Assessment Team in the Technical Analysis Division. His current responsibilities include program development and implementation for the state's

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