

A RESOLUTION OF THE LOWER COLORADO REGIONAL WATER PLANNING GROUP

RESOLUTION REGARDING VESTED GROUNDWATER OWNERSHIP AND SUSTAINABLE GROUNDWATER MANAGEMENT

WHEREAS, ownership of groundwater by the landowner who captures it has been recognized by the State of Texas since 1904; and

WHEREAS, under Section 36.002 of the Water Code, the Texas Legislature recognized the ownership and rights of landowners in groundwater except as those rights may be limited or altered by rules promulgated by a groundwater conservation district; and

WHEREAS, groundwater management intended to sustain availability for future generations must necessarily limit total annual production to an amount that can be sustained by the aquifer; and

WHEREAS, existing and historic groundwater use sustains communities, businesses and agricultural production that are integral to local economies; and

WHEREAS, the creation of a legally vested right to capture or a vested right to ownership of groundwater prior to capture would severely cripple a groundwater conservation district's ability to manage an aquifer for sustainability while also subjecting a groundwater conservation district and its constituents to unnecessary, harmful and costly law suits that could arise regardless of the groundwater conservation district's reasonable course of action;

THEREFORE BE IT RESOLVED that we, the Lower Colorado Regional Water Planning Group, hereby affirm that, while property owners have the right to capture groundwater for beneficial purposes, those wells not specifically exempted from requiring a permit are, and should continue to be, subject to reasonable regulation by the groundwater conservation district as enabled by Chapter 36 of the Texas Water Code and each groundwater conservation district's enabling legislation; and

THEREFORE BE IT FURTHER RESOLVED that we recommend strongly against the Texas Legislature or courts taking actions that would result in the creation of a vested right in groundwater prior to capture.

Signed and certified this 12th day of January, 2011.

John Burke, Chairman

Teresa Lutes, Secretary