



# Drawing Straws

FOR MORE THAN FIFTY YEARS, TEXAS HAS ISSUED VERSION AFTER VERSION OF A COMPREHENSIVE WATER PLAN. THE NEWEST EDITION INCLUDES \$53 BILLION IN PROJECTS, RANGING FROM NEW RESERVOIRS TO TREATMENT PLANTS. SO WHY IS SO MUCH OF THE STATE ALWAYS LEFT HIGH AND DRY?

*by* **NATE BLAKESLEE** PHOTOGRAPH BY ADAM VOORHES







# In 1968 the Texas Water Development Board submitted a dire report to the Legislature warning that the state would run out of water by 1985.

This prediction—an update to the first water plan, produced seven years earlier—was accompanied by a map purporting to show a solution to the alleged problem: a network of hundreds of miles of canals carrying water from the lower reaches of the Mississippi River to the farthest corners of South and West Texas, an engineering feat roughly equivalent in scope and expense to building the Panama Canal. ¶ The state's engineers could be forgiven for thinking big. The sixties were a time, difficult to remember today, when governments at all levels made enormous investments in public works. Texas was in the midst of a dam-building boom that had begun in the aftermath of the water shortages of the fifties, when the worst multiyear drought in state history threatened the drinking supply as never before. With the help of generous federal financing, Texas built 126 major reservoirs between 1950 and 1980, damming most of the available stream segments from the Rio Grande to the Sabine. As it turned out, we did have enough water in our rivers and aquifers after all, and the Mississippi was allowed to complete its journey from the pine forests of Minnesota to the marshlands of Louisiana without making any unscheduled stops in El Paso or Lubbock.

The tradition of reaching for the moon in the state water plan remains intact, however. The ninth incarnation of the report, called “Water for Texas,” was released last fall and lists more than five hundred projects worth a total of \$53 billion, including 26 new reservoirs. Water planning is a de-

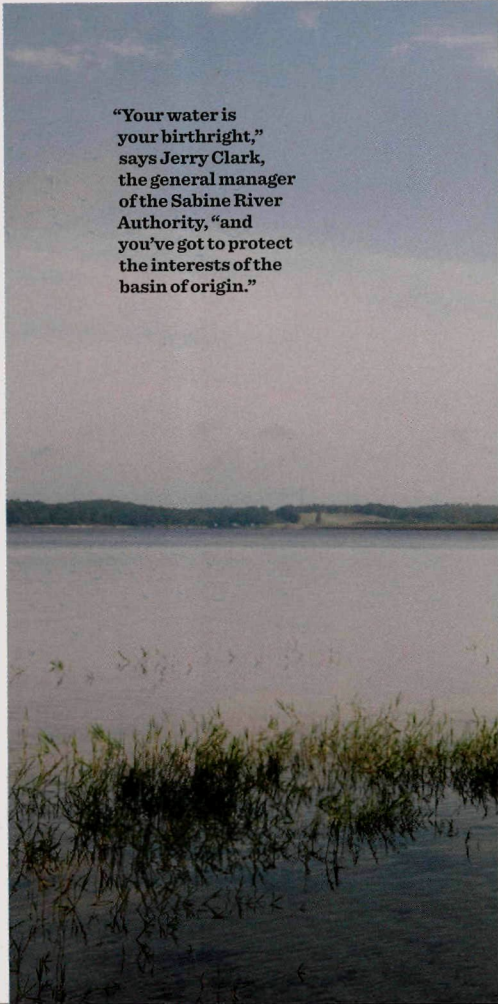
centralized process these days, with regional groups—including representatives from water utilities, river authorities, and agricultural and industrial interests, among others—meeting over an extended period of time to assess the needs of their particular part of the state. In truth, the final plan—a compilation of sixteen regional proposals—is essentially a wish list. Local authorities want their projects included in the water plan in order to be eligible for a low-interest loan backed by the State of Texas. Making the cut does not guarantee that a project will receive financing, but it has no chance if it doesn't appear in the plan.

The six members of the Water Development Board are appointed by the governor and manage this process. But they do not actually vet the proposals before they submit the water plan to the Legislature, and lawmakers never vote on the document as

a whole. The board basically cobbles the regional plans together, writes an introduction, and prints a doorstop-size book filled with water-themed photos.

So how does a proposal get approved? That happens when individual entities, such as the water utility in Waco, approach the Water Development Board for a loan for one of the projects that has been included in the plan. Even then, however, the board never really judges the quality or effectiveness of the proposal. If the utility can demonstrate its ability to repay the loan, then the money is provided. The simple fact that the regional planning group from the Waco area thought the proposal was a good idea is enough for the Water Development Board.

Rivers, of course, tend to flow through more than one planning region, and a number of major proposals in the plan call for pulling water out of one area for use in another. The board is supposed to resolve conflicts between regions before it finalizes the plan, but that doesn't always happen: on page 48, for example, planners from the Dallas-Fort Worth area recommend damming the Sulphur River in northeast Texas



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to create the long-proposed Marvin Nichols Reservoir and pump the water to their constituents. But that project is explicitly rejected on page 50 by the people who actually live near the river.

If you catch the authors of the various regional plans in a frank mood, they will tell you that most of the projects in the plan will never be completed anyway. The executive summary of the current plan reveals that only 65 of the roughly 500 initiatives listed in the previous version, compiled in 2007, have been implemented. That happens to be a marked improvement over the 21 projects in the 2002 plan that were put into action by 2007. The state water plan is to planning as chicken-fried steak is to steak.

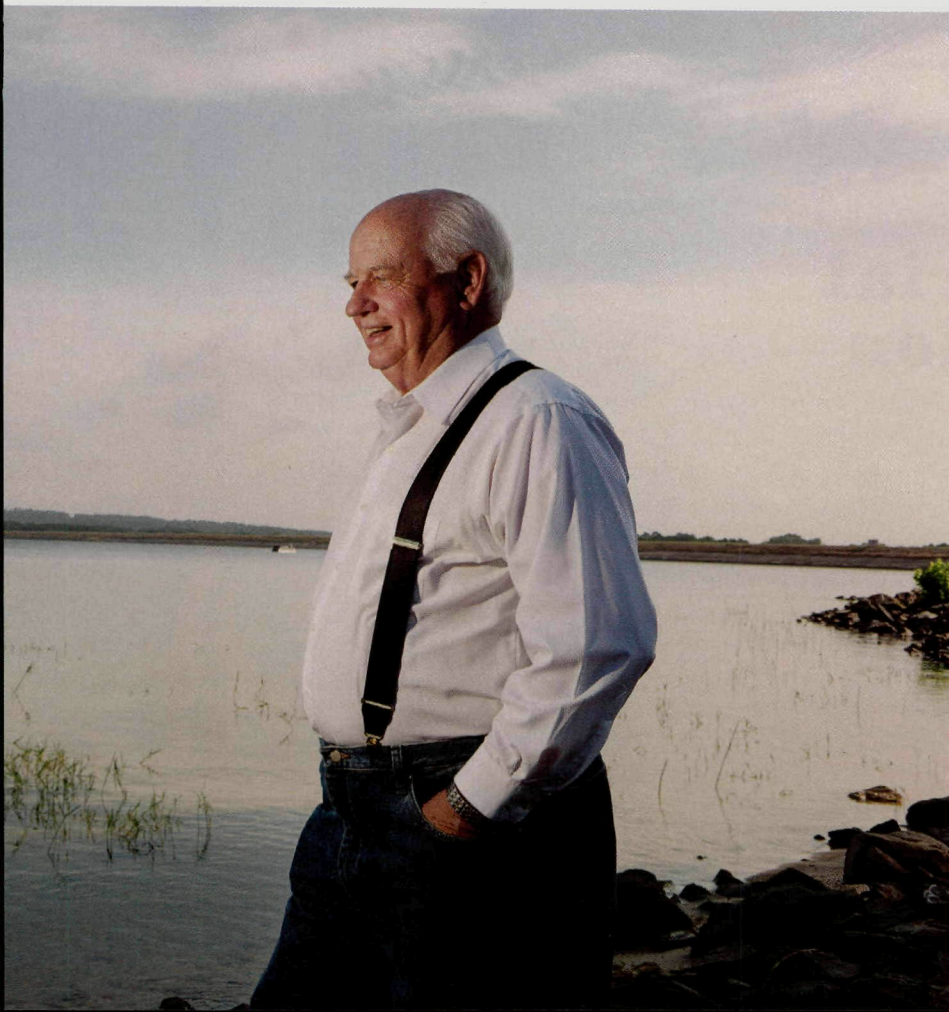
Which is not to say that the plan doesn't contain a lot of useful information or that you can't learn a lot by reading it, if you know what to look for. Coming as it did on the heels of the 2011 drought, the driest twelve-month period in the history of the state, the 2012 plan's warning—"In serious drought conditions, Texas does not and will not have enough water to meet the needs of its people, its businesses, and its agricultural enterprises"—created head-

lines around the state. It also predicted that the number of people living here in 2060 would reach 46 million, nearly double today's population. The message that Texas needs to invest in its water infrastructure is clear enough. Less obvious is what's between the lines of the plan's dozens of charts and graphs: a story about a Western state that has never really thought of itself as such, a rapidly urbanizing state that still devotes half its water to agriculture, and a resource-rich state that, even in the midst of a devastating drought, has huge, untapped water resources that happen to be in the wrong place. The very nature of the state water plan—directionless and balkanized—speaks volumes. Water,

like power, is a zero-sum game, its distribution determined ultimately by the endless scramble of interests that underlies any policy debate over a finite resource. But regarding the biggest question of all—how we will pay for the projects we decide to pursue—the plan is conspicuously silent.

AMONG THE HALF dozen policy recommendations in the 2012 plan is this seemingly banal blandishment: "The legislature should enact statutory provisions that eliminate unreasonable restrictions on the voluntary transfer of surface water from one basin to another." Approximately 40 percent of Texans live along a subtropical belt that parallels Interstate 35, where it rains about thirty

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inches a year. The majority of the state's unused water is in sparsely populated East Texas, where it rains up to sixty inches a year. The logic is irrefutable: if Texas is going to continue to grow at its current pace, either the people will have to move east or the water will have to move west. But as expensive as it would be to pipe East Texas water toward I-35, the most challenging obstacle is not money—it's politics.

The experience of another Western state provides Texas with a useful example. In the early twentieth century, when rapid growth in Southern California outpaced the available water supply, planners looked to the bountiful rivers of the Sierra Nevada, reliably swollen every spring with snowmelt. The construction of a 223-mile aqueduct allowed the city of Los Angeles to continue to boom, but it starved the farming communities of the Owens Valley, who had guns and dynamite—and used them—but didn't have enough political clout in the end to keep the city folk from sucking their river dry. |CONTINUED ON PAGE 180

On July 12, Nate Blakeslee will moderate a discussion about water and the future of Texas. For more information turn to page 89. Can't make it? Follow the conversation on Twitter using #txwater.

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# TexasMonthly

## Drawing Straws

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Our Sierra Nevada is the Neches and Sabine river basins of East Texas, where each year billions of gallons of rain falls on rural counties, is collected in massive reservoirs, and then gets dumped into the Gulf of Mexico. Our megalopolises have been eyeing that water for decades. In 1997 East Texas legislators ensured that their land would not become the next Owens Valley by finagling a simple but profoundly powerful provision into the omnibus water bill passed that year. Cities could buy water from a river authority in a distant basin, but in the event of a drought, the needs of customers in the basin of origin would be met first, no matter what any contract stipulated. (In the parlance of water law, the out-of-basin customer's rights would be "junior" to everybody else's.) Since no city would risk investing in a massively expensive pipeline to carry water that could be cut off at any time, this provision effectively killed any new interbasin transfer projects in Texas.

Efforts to undo the junior rights provision have been stymied for years by East Texans, whose lawmakers always seem to find their way onto the natural resources committees in the House and Senate. Years ago when officials in Houston made a run at obtaining water from far East Texas, the county judge of Jefferson County famously threatened to meet them with a shotgun. "Their attitude is, 'We've got to protect what's ours,'" said former Waco senator Kip Averitt, who once chaired the Senate Committee on Natural Resources. "It's just been demagogued for decades, and that is hard to undo."

To drive east from Central Texas along Interstate 10 is to drive into a world where the abundance of water has always been taken for granted. Near Schulenburg, in eastern Fayette County, the grasses along the highway get lusher, the tree lines thicker. By the time you reach Houston, you can smell the Gulf of Mexico, the source of the East Texas rains. By Beaumont, water seems to be everywhere—in the ditches on the side of the road, in huge retaining ponds in the middle of cloverleaf interchanges. Seventy-five miles north of Beaumont sits the mother lode: the Toledo Bend Reservoir, the largest man-made reservoir in the South. The 65-mile-long lake on the Sabine River yields 1.8 billion gallons of water per day, almost all of it unclaimed by anyone. The water provides a modest amount of hydropower, some truly outstanding bass fishing, and very little else.

It is a point of pride among some graybeards in this part of the state that Toledo Bend, which was completed in 1969, was built

without a dime of assistance from the federal government. Texas and Louisiana footed the bill, but to date relatively few Texans or Louisianans have enjoyed its benefits, largely because there simply aren't that many people living within a hundred miles of it (which might also offer a clue as to why Uncle Sam chose not to provide any funding). The reservoir's promoters promised that it would bring economic development, and it has generated a tidy income for people who cater to fishermen, boaters, and tourists. But the expected population boom never materialized; Beaumont, with a population of just under 120,000, remains the largest city in East Texas. Meanwhile, enough water is spilling over Toledo Bend's dam to service every household in Dallas, Fort Worth, and Houston.

The man sitting on this bonanza of water wealth is Jerry Clark, the general manager of the Sabine River Authority. Clark's office, located in the authority's modern building just outside of Orange, is large and nicely appointed, but Clark himself is disarmingly affable in suspenders and jeans. Now in his mid-sixties, he served in the Legislature from 1978 to 1989. He knows that he and other East Texans have been accused of hoarding the state's water, but Clark insists the reputation is unwarranted. "This water is the state's water. It's not our water," he said. "And if I turned away paying customers, the state would just take it from me anyway." Clark explained that over the years the authority has come close to deals with Houston and Dallas, and the 2012 plan calls for water from Toledo Bend to be piped to Tarrant, Kaufman, and Collin counties, among other places.

Despite what the state water plan says, Clark insists that legal hurdles are not the main obstacle to interbasin transfers; it's the cost that continues to stymie major pipeline projects. Weighing eight pounds per gallon, water is denser and heavier than people think. In California, gravity takes care of a good deal of the work of moving water down from the Sierras to the coastal basins. In Texas, moving water west means moving water uphill. The state water plan estimates that a pipeline to North Texas would cost \$2.4 billion, but Clark believes that it would require billions more. "If there was a closer customer, the water would have been sold by now," Clark said.

Yet Clark remains unabashedly opposed to changing the junior rights provision. "Your water is your birthright, and you've got to protect the interests of the basin of origin," he said, even if the water does belong to everybody in the state. Clark is quick to point out, however, that the authority is already send-

ing the basin's water to Dallas in large quantities. To accommodate its booming population, Dallas paid for the construction of two reservoirs, Lake Fork and Lake Tawakoni, in the upper reaches of the Sabine Basin about 120 miles northwest of Toledo Bend, and the accompanying pipelines to carry the water to its customers. In exchange Dallas will get the lion's share of the water from each lake for the foreseeable future. The upper Sabine's cities, including Greenville and Longview, will get the remainder. "We never could have afforded to build those reservoirs ourselves," Clark said. But it was a Faustian bargain. By signing that water over to Dallas, Greenville and Longview set limits on their own growth. In fact, the water plan shows a long-term shortage for rural areas in the upper Sabine Basin. This is what Clark means by protecting your birthright.

There are other considerations for a man in Clark's position. Like most river authority managers, Clark is under pressure to keep his reservoirs full, or at least full enough that lakeside homeowners—and the lakeside real estate industry—are happy. Below a certain level, Toledo Bend becomes unnavigable because of submerged trees, which undermines the area's reputation as an angler's paradise. East Texas did not escape the 2011 drought, which saw Toledo Bend drop thirteen feet to a record low. The conditions weren't nearly as severe as in Central and West Texas, where large reservoirs all but disappeared, but residents got a glimpse of Toledo Bend's future should it become a major source of water for Texas's metropolitan areas—and they didn't like it. When it comes to selling water, Clark is damned if he does and damned if he doesn't. "If we try to keep a huge extra amount in the basin, we'll get kicked eventually," Clark said. "The Legislature is going to decide who the winner is."

**LARGE CITIES LIKE DALLAS** can issue their own bonds for massive projects if local authorities can convince their constituents that it's a good idea. Smaller towns often need a loan from the Water Development Board, which raises money by selling bonds but can also take advantage of state backing to get the most favorable terms on the bonds. Historically, the board has also used funding from the Legislature to make its loans even more attractive by subsidizing interest rates or offering deferred repayment schedules. Alongside the dreams of new reservoirs and massive pipelines in the state water plan are many modest and eminently achievable proposals: expanded water treatment plants, aquifer storage projects, and improvements to existing wells and

pipelines. What is missing from the plan is a reliable means of funding these ideas, which is to say a permanent source of revenue for the Water Development Board. The board has faced this problem since its inception, in 1957, when the Legislature authorized the sale of \$200 million in bonds but failed to create a sustainable funding mechanism.

The passage of Proposition 2 in 2011 gave the board the authority to issue more bonds, but both the board and the Legislature billed those bonds as "self-supporting," suggesting that no more taxpayer money would be appropriated to subsidize water projects. That would be a mistake, according to Averitt. "Those subsidies are the key," he said. "Without that extra state funding, a lot fewer projects are going to get built."

In his last session in the Senate, in 2009, Averitt tried—and failed—to create a new revenue source by extending the sales tax to bottled water, which has always been exempt. The rationale for the tax is that bottled water—at roughly 1,900 times the price of tap water—is a luxury item, at least when sold in single-serving sizes. (Texans who buy bottled water in large volume because of the poor quality of their municipal or well water could be exempted.) And companies like Nestlé, which bottles spring water from East

Texas under the brand Ozarka, and Coca-Cola, which bottles purified tap water spritzed with a proprietary blend of minerals under the name Dasani, are using an awful lot of water at a time when supply is running short. But Nestlé representatives like to point out that a farmer growing just two sections (1,280 acres) of irrigated corn uses as much water on each crop as the company bottles in Texas in an entire year. In 2010 Texas farmers planted more than 900,000 acres of irrigated corn. Shouldn't they be paying their fair share as well?

During the 2011 session, House Natural Resources Committee chairman Allan Ritter introduced a plan for a tap fee that would be assessed equitably on commercial, industrial, and residential users, not unlike the fee that the state collects on commercial and residential electric bills. He managed to get his bill out of committee but never got it to the floor for a vote. The tap fee had something for everybody to hate. No statewide politician got behind the idea, which is, after all, a new tax. Most big industrial users have long-term contracts in place that will provide them with as much water as they need, even in drought conditions, which makes a tap fee a hard sell, said Russ Johnson, a prominent Austin water attorney and lob-



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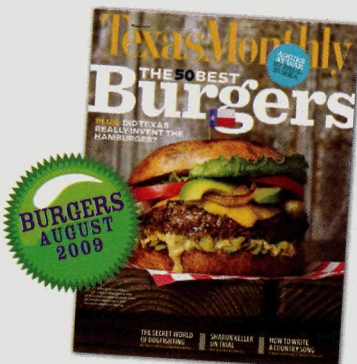
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byist with McGinnis, Lochridge & Kilgore. "They look at it as 'I've already got mine, so where is the crisis for me?'"

Texas residents might look at the plan's crisis-level projections for future decades—shortages predicated on a massive increase in the state's population—and have a similar reaction: Those people are not here yet, so why should we care? Only about half of that growth is chalked up to natural increase—that is, more births than deaths. The rest is based on the assumption that long-term trends of immigration—from Mexico and Central America as well as from other states—will continue. Yet if we don't drastically expand our water supplies, our economy won't grow at the same pace, and people will stop coming. In other words, if we don't build it, they won't come. This is the source of much of the lost income the plan's introduction warns about—the "cost of doing nothing" is projected to reach \$116 billion per year by 2060, a number that has also generated considerable consternation at the Capitol.

But this is a somewhat curious definition of "lost." If we don't have an extra 21 million people living here in 2060, then we won't need all that extra economic activity. Many of the projected water demands identified in the various regional plans reflect this same thinking writ small. "It's all about proving you'll have more water down the road than your neighbor so you can get that next Toyota plant," said Austin environmental lawyer Rick Lowerre. Not every city in Texas is going to get a Toyota plant, which is why it seems safe to say that the staggering price tag on the 2012 plan is greatly exaggerated.

The most affordable option, of course, is to use the water we already have more efficiently. Compared with previous versions, the 2012 state water plan includes an impressive commitment to conservation, at least in theory. About a third of the supply needed to meet demand in 2060 is expected to come from conservation and reuse. The regional plans are short on specifics, however, and notably missing from the Water Development Board's short list of legislative policy recommendations is a call for the state government to take a stronger role in enforcing conservation measures. Irrigation conservation, for example, accounts for an enormous amount of our "new" water supply in future decades, according to the 2012 plan, but nowhere do we read how farmers will be convinced to chuck out their old, wasteful irrigation systems and purchase more efficient versions. Some areas, like the Upper Colorado Basin, where reservoirs have all but dried up in the current drought, have no

choice but to increase conservation, following the lead of cities like San Antonio and El Paso, which were likewise forced by scarcity to become much more frugal with their water over the past twenty years. Still, in many areas, conservation leads to its own battles. A proposal to permanently limit lawn watering to two days a week was approved by the Dallas City Council in April, but a week later the same proposal died at a city council meeting in Arlington after angry citizens labeled the measure anti-American.

In April I visited Ritter at his office in Nederland, near the mouth of the Neches River, which is to say, deep in the heart of sixty-inches country. "One of the biggest problems with water is that it's always been so cheap," he told me. "And the next batch isn't gonna be so cheap." Ritter is determined to try once again to find that elusive consensus on funding the water plan when the Legislature convenes in January, but he seemed somewhat chastened by the task ahead of him. "In the fourteen years I've been in the Legislature, it has never been a good time for a revenue-raising bill," he said. And what about reaching a consensus on interbasin transfers, I asked. Ritter turned cautious. He was the House Natural Resources chair, but he was also an East Texan. "As long as a basin's needs are protected, there's no reason that water can't go wherever it needs to go," he said. He remained unconvinced, however, that any change in the law was necessary.

Ritter was much more focused on the money and the obstacles to raising it. "We've got to do a good job of educating the people of Texas about this issue," Ritter said. So far he hasn't received much help. Despite a resounding chorus of editorials in support of funding the plan, not a single statewide elected official has gotten out in front of the issue. Rick Perry's hearty endorsement of a "no new tax" pledge in April, meanwhile, did not bode well for a revenue bill of any sort in the 2013 session. At least Ritter has the weather on his side. He and other water planners are hopeful that the drought of 2011 helped break through the inertia that has for years stifled major investment in water infrastructure, much as the drought of record did in the fifties—a time, after all, when tax bills were also deeply unpopular. A case could be made that the bevy of dams and other water infrastructure built in the decades after that devastating period laid the foundation for the modern, post-agricultural Texas. The lesson of those years—that public investment pays off, or, more simply, that you have to spend money to make money—seems to belong to a bygone era as well. ➔

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