



## TEXAS WATER CONSERVATION ASSOCIATION (TWCA)

### GUIDANCE FOR CONSIDERATION OF TWCA AMICUS BRIEF REQUESTS

TWCA's mission is to educate its members and policy makers, build consensus among water stakeholders, and advocate for sound water policy in Texas. When the Association participates as *amicus curiae*, as a "friend of the court," in administrative or judicial proceedings, it furthers this mission. TWCA will participate in this way only on behalf of issues of broad interest and import to membership, and on which consensus is clear. This document is intended to provide guidance for considering requests for TWCA amicus support.

Any TWCA member or group of members (including Panels / Committees) may request TWCA's appearance in a proceeding by giving written notice to the Water Laws Committee chair or the TWCA Policy and Legislative Affairs Director.

When a request is submitted, the Water Laws Committee chair will determine whether one or more TWCA members, including the Board President, should be assigned as a "resource team" to review the request and make a recommendation to the Board. The Water Laws Committee chair, as advised by the resource team if one is assigned, will assess the merits of TWCA's participation based on the following factors:

1. Does the case have wide applicability to a core interest group or groups represented within TWCA (*e.g.*, river authorities, cities, groundwater conservation districts, all kinds of water, irrigation, and drainage districts or utility districts)? A matter must be of broad interest or concern to the membership or a core interest group of the membership to support TWCA participation.
2. Are the interests of the membership generally similar on the issue(s), and not divergent in any substantial way or number? Consistent with its consensus approach to policy matters, TWCA will not participate in litigation with regard to which members have expressed substantially differing opinions.
3. Does the case address a central issue of water policy, or is it only indirectly related?
4. Is participation consistent with TWCA's principles, policies, and interests?
5. Will the TWCA's participation: (a) provide a unique perspective on the issue(s), such that its participation would bring to the court's attention law or arguments that might not otherwise be presented; or (b) help apprise the court that its decision could have a broader impact than only to the particular parties and facts involved in the case, such impact being to the membership or a core interest group of the membership?

6. If the brief is to be prepared by TWCA volunteers together with staff, will current workload permit adequate time, and do those involved have the substantive knowledge and expertise on the issue(s), to permit them to prepare the brief competently?
7. Is there a reasonable likelihood of success?
8. Are other, pending, proceedings or legislation likely to dispose of the same issue(s)?

Requests for TWCA's participation should include the following information:

1. statement of the legal issue to be resolved and how it relates to the above criteria;
2. summary of the facts and relevant authorities both in support of and which stand against the proposition to be argued;
3. background of the litigants or other parties;
4. summary of past and projected administrative and/or legal proceedings;
5. identity of other sources of legal support (*e.g.*, other friends of the court); and,
6. statement of how TWCA's support will increase the probability of obtaining a result favorable to TWCA's membership interests and the basis for that conclusion.

The Water Laws Committee chair will forward requests for participation, with a recommendation for action, to the TWCA Board of Directors or Executive Committee, as circumstances may dictate. If the Water Laws Committee chair recommends use of TWCA legal advocacy funds to assist with the request, the TWCA Executive Committee, at a minimum, must approve the use of funds.

Notwithstanding this guidance, a TWCA board member may bring an issue to the Board for consideration at any time.