

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
INTEROFFICE MEMORANDUM

TO: Bridget Bohac, Chief Clerk

DATE: November 18, 2011

THRU: *RM* Robert Martinez, Director
Environmental Law Division

FROM: Robin Smith, Attorney
Environmental Law Division

SUBJECT: Lower Colorado River Authority
Docket No. 2011-2097-WR
CN600253637
RN104252267
Request to Approve the Lower Colorado River Authority's Water Curtailment
Plan for its Firm Water Customers
TWC §§ 11.039, 11.121
Colorado River, Colorado River Basin
Travis, Burnett, and Llano Counties

The Executive Director received a request on October 21, 2011, from the Lower Colorado River Authority (LCRA) for approval of its Water Curtailment Plan. LCRA's firm Water Curtailment Plan is an amendment to LCRA's Raw Water Drought Contingency Plan, which is included in LCRA's Water Management Plan, Permit No 5838. LCRA's Water Management Plan, required by its Certificates of Adjudication Nos. 14-5478 and 14-5482, provides how LCRA makes water available from Lakes Buchanan and Travis to meet "firm" water customer needs, downstream interruptible irrigation demands, and environmental flow needs of Matagorda Bay and the lower Colorado River. It also provides how LCRA will manage and curtail supplies from the lakes during times of drought including through a repeat of the Drought of Record. LCRA's Water Management Plan additionally requires that this Water Curtailment Plan be prepared before the LCRA implements mandatory firm water customer curtailment under Tex. Water Code § 11.039, and that this plan be approved by the LCRA Board and the Commission.

The Executive Director has found that the plan meets the requirements of Texas Water Code § 11.039 and 30 Tex. Admin. Code Chapter 288.

Below is the caption for this application:

Consideration of approval of Lower Colorado River Authority's (LCRA) Water Curtailment Plan required by its Water Management Plan, Permit No. 5838. LCRA has submitted a firm Water Curtailment Plan which is an amendment to LCRA's Raw Water Drought Contingency Plan, which is included in LCRA's Water Management Plan. LCRA's Water Management Plan, required by its Certificates of Adjudication Nos. 14-5478 and 14-5482 for Lakes Travis and Buchanan, in Burnett, Llano and Travis Counties, Texas, provides how LCRA makes water available from Lakes Buchanan and Travis to meet "firm" water customer needs, downstream interruptible irrigation demands, and environmental flow needs of Matagorda Bay and the lower Colorado River. It also provides how LCRA will manage and curtail supplies from the lakes during times of drought including through a repeat of the Drought of Record. This Water Curtailment Plan is required to be prepared before the LCRA implements mandatory firm water

customer curtailment under Tex. Water Code § 11.039. LCRA's Water Management Plan also requires that this plan be approved by the LCRA Board and the Commission. The Executive Director has found that the plan meets the requirements of Texas Water Code § 11.039 and 30 Tex. Admin. Code Chapter 288. (Robin Smith, Kathy Alexander)

cc: Kellye Rila, TCEQ
Ron Ellis, TCEQ
Chris Loft, TCEQ
Stephen Densmore, TCEQ
Iliana Delgado, TCEQ
Scott Swanson, TCEQ
Kathy Alexander, TCEQ

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Ron Ellis, Section Manager
Water Rights Permitting & Availability Section

Date: November 14, 2011

From: Kathy Alexander, Technical Specialist
Water Rights Permitting & Availability Section

Subject: Lower Colorado River Authority
Order Amending Permit 5838 to include a Firm Water Curtailment Plan

Application Summary

On January 27, 2010, the commission approved the Lower Colorado River Authority's (LCRA) application (Permit 5838) to amend its Water Management Plan (WMP). Ordering Provision 1.g. requires the LCRA, prior to implementing mandatory firm water customer curtailment under Texas Water Code §11.039, to develop a water curtailment plan. This provision further provides that the plan must be approved by the LCRA Board and the commission.

On October 21, 2011, LCRA submitted a firm water curtailment plan, approved by the LCRA Board on October 19, 2011. The plan is an amendment to LCRA's Raw Water Drought Contingency Plan, which is included in LCRA's WMP. The plan defines the process LCRA will use to make water available to its firm customers, as well as a variance procedure. LCRA received and considered public input.

The plan includes a determination of water to be made available during a pro rata curtailment which includes consideration of:

- the customers contracted annual quantity and actual water use;
- any adjustments which resulted in changed water use for the customer, for example, implementation of water conservation measures which resulted in quantified and documented savings; new growth which results in increased demands; and
- consideration of a variance for circumstances where there is no practical alternate water supply source or failure to grant a variance would result in a threat to public health, safety, or welfare.

The plan requires firm customers to develop Customer Curtailment Plans, which include the distribution of the customer's allotment, and also includes the contents of an LCRA Board Order implementing a curtailment.

Review

Staff reviewed LCRA's submittal and agrees that the plan complies with the requirements of Texas Water Code 11.039 and TCEQ's Chapter 288 rules and that granting the order would allow LCRA and its customers the opportunity to address potential firm water supply shortages should current drought conditions continue.



October 21, 2011

Ron Ellis
Manager, Water Rights Permitting & Availability Section
TCEQ
P.O. Box 13087, MC-160
Austin, TX 78711-3087

Dear Mr. Ellis:

The attached LCRA Firm Water Customer Curtailment Plan has been approved by the LCRA Board and is hereby submitted for approval by the Texas Commission on Environmental Quality (TCEQ). This plan updates LCRA's Drought Contingency Plan as found in Chapter 4 of its TCEQ-approved Water Management Plan (WMP). Under the January 2010 order approving LCRA's most recent revision to its WMP, prior to implementing a mandatory firm water customer curtailment, LCRA is to develop such a curtailment plan to be approved by the LCRA Board and TCEQ. (Ordering Provision 1.g.)

The curtailment plan establishes the process under which LCRA will make water available to meet firm water demands during a pro rata curtailment in accordance with Texas Water Code § 11.039, and provides for variances consistent with TCEQ drought contingency plan rules. In developing the procedures within its raw water contract rules for implementing this plan, LCRA worked with its firm water customers and received and considered public input consistent with TCEQ rules.

LCRA requests prompt approval of this plan consistent with chapter 288 of the TCEQ rules so that LCRA and its firm water customers have the best opportunity to be prepared to address potential firm water supply shortages should the ongoing drought continue.

If you have any questions or concerns regarding this submittal, please contact Greg Graml, Associate General Counsel at (512) 469-6849.

Regards,


Kyle Jensen
Executive Manager, External Affairs

cc: Kellye Rila, TCEQ
Suzanne Zarling, LCRA
Greg Graml, LCRA

LCRA Firm Water Customer Curtailment Plan (for submittal to TCEQ)

I. Purpose and Background.

This plan is submitted for approval by the Texas Commission on Environmental Quality (TCEQ) consistent with LCRA's current TCEQ-approved Water Management Plan. This plan defines the general process under which LCRA will make water available during a pro rata curtailment in accordance with Texas Water Code § 11.039, and includes a variance procedure consistent with TCEQ rules. In developing the procedures within its raw water contract rules for implementing this plan, LCRA received and considered public input consistent with TCEQ rules. This plan will be treated as an amendment to LCRA's Raw Water Drought Contingency Plan (currently found in LCRA's Water Management Plan).

II. Determination of water to be made available during pro rata curtailment.

In the event the LCRA Board orders a pro rata curtailment, the amount of water made available to all firm water customers will be reduced by an equal percentage from the customers' reasonable demands. The determination of a customer's available supply during a curtailment will be based on the following:

1. Actual water use from a dry 12-month period (the "Reference Year") will serve as the default "Baseline Amount" to which pro rata reductions would be applied. The Baseline Amount would not exceed customer's contracted annual quantity.
2. The Baseline Amount is subject to adjustment based upon conditions that caused customer's water use in the Reference Year to be reduced, including, but not limited to:
 - a. implementation of water conservation or drought contingency measures during the Reference Year which resulted in quantified and documented savings;
 - b. new growth and that will result in increases to customer's reasonable demands;
 - c. plant outages or other incidents that reduced demand; and
 - d. customer did not hold a contract for the entire Reference Year.
3. The amount of water to be made available to a customer during a curtailment (the "Annual Allotment") will be equal to the Baseline Amount, less the percentage curtailment ordered by the Board.
4. A variance to a customer's Annual Allotment will be considered if failure to grant a variance would result in a threat to public health, welfare or safety and there is no practical alternative water supply.

III. Customer Curtailment Plans

Prior to a potential curtailment, firm water customers shall develop Customer Curtailment Plans. These plans shall include the customer's monthly or seasonal distribution of the customer's Annual Allotment. As part of the Customer Curtailment Plans, customers must identify or refer to specific measures to accomplish various levels of curtailment. In the event that a customer's Curtailment Plan represents a change to its Drought

Contingency Plan (DCP), the customer shall update its DCP and provide copies of the DCP to LCRA, and as required, to TCEQ.

IV. Implementation of Pro Rata Curtailment

In the event that the LCRA Board orders a pro rata curtailment, the order will include the pro rata percentage curtailment which will apply to each customer's Baseline Amount. If conditions change during a period of pro rata curtailment, the percentage curtailment may be increased or reduced by the LCRA Board.

During a pro rata curtailment, Customers will be required to use no more than their Annual Allotment as it may be pro-rated for portion of a calendar year in which curtailment is in effect. Customers who exceed their allotment will be subject to excess use rates or surcharges, to be specified by the LCRA Board, in addition to LCRA's firm water rate.

V. Cessation of Pro Rata Curtailment

In the event that the LCRA Board orders a pro rata curtailment, the order will include conditions under which the percentage curtailment may be adjusted or lifted.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER

approving the Lower Colorado River Authority's Water Curtailment Plan for its Firm Water Customers; Docket No. 2011-2097-WR

On December 7, 2011, the Texas Commission on Environmental Quality ("TCEQ" or "Commission") considered the request for approval of its Water Curtailment Plan, filed on October 21, 2011. LCRA's firm Water Curtailment Plan is an amendment to LCRA's Raw Water Drought Contingency Plan, which is included in LCRA's Water Management Plan, Permit No 5838. LCRA's Water Management Plan, required by its Certificates of Adjudication Nos. 14-5478 and 14-5482, provides how LCRA makes water available from Lakes Buchanan and Travis to meet "firm" water customer needs, downstream interruptible irrigation demands, and environmental flow needs of Matagorda Bay and the lower Colorado River. It also provides how LCRA will manage and curtail supplies from the lakes during times of drought including through a repeat of the Drought of Record. LCRA's Water Management Plan additionally requires that this Water Curtailment Plan be prepared before the LCRA implements mandatory firm water customer curtailment under Tex. Water Code § 11.039, and that this plan be approved by the LCRA Board and the Commission.

The Commission finds that the plan meets the requirements of Texas Water Code § 11.039 and 30 Tex. Admin. Code Chapter 288.

THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS THAT:

Lower Colorado River Authority's Water Curtailment Plan filed October 21, 2001, is approved.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Issue Date: