

TCEQ DOCKET NO. 2010-0025-WR

APPLICATION BY § BEFORE THE TEXAS COMMISSION
LOWER COLORADO RIVER §
AUTHORITY TO § ON
AMEND ITS WATER §
MANAGEMENT PLAN § ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S COMMENTS ON APPLICATION AND
RECOMMENDATION TO THE COMMISSION

The Executive Director respectfully recommends that the Commission adopt the agreed order and approve the requested amendments to the Lower Colorado River Authority's Water Management Plan (WMP), as proposed by the parties to this case.

Legal Authority

The 1988 Final Judgment and Decree granting LCRA's water rights required LCRA to develop and implement a Water Management Plan, which describes how water will be allocated during shortages. Under the 1988 Decree, the WMP can be amended from time to time by order of the Commission.

The Application

The current application by LCRA to amend its WMP was declared administratively complete in 2003. The most significant change from the existing WMP is in the trigger levels at which interruptible supplies of water will be curtailed or cut off. The vast majority of LCRA's interruptible supply contracts are with the four major irrigators downstream. Other changes include new triggers for releases for instream flows downstream of Lake Travis and more of the environmental flows commitment will be met with firm, rather than interruptible, stored water.

The proposed order requires LCRA to initiate the process to further revise the WMP by July of 2010 and to file an application for approval of further revisions with the Executive Director by July of 2013.

Notice of Application

Notice of the application was mailed to all water rights holders of record in Colorado River basin and was published in seven newspapers and a public meeting was held in 2004.

Hearing Requests

Texas Parks and Wildlife, the Sierra Club—Lone Star Chapter, National Wildlife Federation, STP Nuclear Operating Company (STPNOC), and City of Austin filed timely requests for contested case hearing. LCRA has been working toward settlement with these parties and LCRA has indicated that settlement has been reached with all parties. On December 16, 2009, LCRA's Board voted to approve the draft order and submit it to

the TCEQ. On January 8, 2010, all five protestant parties filed withdrawals of their hearing requests.

Notice of Agenda

On January 12, 2010, the Office of General Counsel sent a letter to the parties to the contested case hearing setting this matter for the January 27, 2010 Commission agenda. Additionally, on January 14, 2010, notice of the agenda was sent to all water right holders of record in the Colorado River Basin and Interested Persons on the Chief Clerk's mailing list. Finally, on January 15, 2010, the item was posted on the TCEQ's public website home page under "Hot Topics".

Reason for the Executive Director's Recommendation

Staff reviewed the LCRA's Drought Contingency Plan and found it administratively complete. Staff reviewed the proposed amendments for impacts on the environment and existing water rights and found no indication that the proposed amendments would result in a greater net adverse impact to the environment or other basin water rights than would occur under the existing Water Management Plan.¹ Therefore, the Executive Director finds that the proposed amendments to the Water Management Plan and proposed agreed order comply with all applicable laws and rules.

¹ In an Interoffice Memorandum dated January 8, 2010, filed with the backup for this matter, the Executive Director inadvertently failed to delete a sentence that should have been removed. Under the heading "Proposed Amendments", the sentence "Based on the analyses performed for Regional Planning purposes, the new projected ten-year demands (through 2010) are projected to be 285,000 acre-feet per year" should be deleted because it does not represent current information. The previous sentence, which indicates projected demands of 360,071 acre-feet per year, is correct.

Respectfully submitted,

Texas Commission on Environmental
Quality

Mark Vickery
Executive Director

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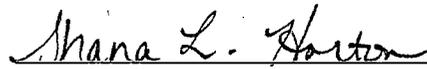


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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January 2010, the original of the foregoing "Executive Director's Comments on Application and Recommendation to the Commission" was filed with the Chief Clerk, Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day true and correct copies of the foregoing "Executive Director's Comments on Application and Recommendation to the Commission" were sent by e-mail to the persons on the attached mailing list.



Shana L. Horton, Staff Attorney
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Mailing List
Application by LCRA to Amend its Water Management Plan
TCEQ Docket No. 2010-0025-WR

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