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SENATOR GLENN HEGAR
DISTRICT 18

March 25, 2013

WR 82315

REVIEWED
APR 15 2013
By

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2013 APR 15 PM 2:25
CHIEF CLERKS OFFICE

Via email to EXECDIR@tceq.texas.gov

Mr. Zak Covar, Executive Director
Mail Code 109
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

RE: Application by the Lower Colorado River Authority for Approval of the Proposed 2012 Water Management Plan

Dear Mr Covar:

This letter is in response to my review of the Texas Commission on Environmental Quality draft order that proposes approving the water management plan submitted to your agency by the Lower Colorado River Authority last year, as well as copies of correspondence by the Lower Colorado River Authority and by the Colorado Water Issues Committee, representing the interests of the downstream irrigators.

Although it is clear from the draft that TCEQ anticipated an agreed order, the disagreement of the directly affected parties draws immediate attention to the need for TCEQ to actively evaluate how the LCRA plan proposes to allocate state water between firm and interruptible customers before TCEQ recommends an order. If you agree that more information is required regarding the impact of the proposed plan on the use of water in the downstream counties, I have asked my staff to assist in obtaining that information for you.

For my understanding of the agency's analysis so far, please provide to my staff the following information:

- the agency's evaluation of the proposed annual limit or "cap" on stored water for irrigation use downstream, including with regard to:
    - whether LCRA's proposed annual limit would apply even when the upstream reservoirs are near full;
    - if, or the extent to which, the cap is necessary to provide for the actual needs of LCRA's firm customers; and
    - whether a cap is consistent with state law and policy for making water supply available for beneficial use;

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- the agency's evaluation of whether the provisions of the plan (including the trigger levels) optimize the availability of water for interruptible use without impairing LCRA's ability to meet actual firm customer demands;

- the extent to which the plan is consistent with passing reservoir inflows to honor senior run of the river priorities downstream;

- how water conservation and drought management is integrated in actual firm customer demands and whether the plan can benefit from the state's recent experience with curtailment in other basins;

- with regard to water "reserves" in the plan:

    - on what basis are the reserves calculated;

    - how the reserves relate to the actual needs of firm customers: and

    - how the reserves compare to calculation of available firm yield in reservoirs that serve other major metropolitan areas; and

- any procedures or timelines that the agency recommends for the next revision of the water management plan.

I would appreciate my staff receiving any application materials reviewed or information developed by the agency that supports answers to the questions outlined above, as they all are important to understanding whether or not the proposed triggers and terms for allocating supply between firm and interruptible customers are appropriate. It may be necessary for your staff to request additional information from LCRA if they have not already considered these issues; however, the time period for completing technical review of the application anticipates such circumstances.

Since the LCRA application was submitted early last year, the lower Colorado River Basin has continued to suffer intense drought, and unprecedented emergency orders have curtailed historic water supply for downstream use as determined necessary to protect water availability for upstream municipal use. I am hopeful that the agency's guidance and LCRA's plans for new system infrastructure in the lower basin can support more active interim and permanent water management solutions than the proposed plan sets out.

I also believe that it is in the state's interest that the agency and all parties direct energy and resources to water supply solutions that benefit everyone. A renewed effort by LCRA to obtain the agreement of the parties would be well worth the effort, and I hope that you will encourage it. Meanwhile, I look forward to receiving the information requested.

Sincerely,

Glenn Hegar

Glenn Hegar