

TCEQ Interoffice Memorandum

To: Commissioners' Work Session

Thru: L'Oreal W. Stepney, P.E., Deputy Director, Office of Water *JS*

From: Kellye Rila, Director, Water Availability Division *KR 5-23-12*

Date: May 23, 2012

Subject: Water Rights Curtailment Stakeholder Process

Issue: Provide an opportunity for stakeholder input into the curtailment of water rights during a drought or other emergency shortage of water

In 2011, the 82nd Legislature passed House Bill (HB) 2694 (TCEQ's Sunset Bill), relating to changes to the TCEQ's statutory authority and continuation of the agency for 12 years. HB 2694, §5.03 added §11.053 to the Texas Water Code (TWC) and states that the executive director may temporarily suspend or adjust water rights during times of drought or other emergency shortage of water. The commission adopted rules to implement this section, including rules defining a drought or other emergency shortage of water; specifying the conditions under which the executive director may issue an order; and terms of an order, including the maximum duration of a temporary suspension or adjustment under this section. The rules also set out procedures for notice of, and opportunity for a hearing on, and the appeal to the commission of an order issued under this section.

At the adoption agenda for this rule, staff was directed to seek stakeholder input on implementation of the rule.

Staff has proposed a process to receive stakeholder input as follows:

- notify interested stakeholders of the initial meeting, scheduled for July 10, 2012;
- ask for suggestions on how the curtailment rule should be implemented;
- provide information about TCEQ's process and answer questions at the initial meeting;
- after the initial meeting, send out draft Frequently Asked Questions (FAQs);
- conduct a second meeting in September, 2012; and
- finalize and make available FAQs on website by October 2012.

The Curtailment Rule Stakeholder Process



Texas Commission on Environmental Quality
Water Availability Division





Stakeholder Meeting Notice

- ★ Will send to the
 - ◆ Curtailment Rule commenters
 - ◆ Water Rights Advisory Workgroup
 - ◆ Texas Municipal League
 - ◆ Texas Farm Bureau
 - ◆ Texas Association of Counties
 - ◆ Other trade associations
 - ◆ Anyone can attend
- ★ Will be “Hot Item” on agency’s home web page



Stakeholder Meeting Notice

★ The notice will:

- ◆ Include the date, location and time (July 10, 2012 @ 2:00 pm; TCEQ Headquarters, Bldg. E Room 201);
- ◆ Ask for suggestions on how the curtailment rule should be implemented, and,
- ◆ Include that the stakeholder meeting will be webcast as well as instructions for how to view it.



Site Navigation

- Cleanups, Remediation
- Emergency Response
- Licensing
- Permits, Registrations
- Preventing Pollution
- Recycling
- Reporting
- Rules

Texas Drought Information

Large sections of the state are experiencing exceptional or extreme drought. These prolonged, dry conditions put a strain on water supplies for all uses. Here is information to help you make better decisions about water use, including surface and groundwater regulations, and emergency procedures.

- [Texas Wildfire Information](#)
- [Governor Rick Perry Issues Disaster Proclamation](#)
- [Map of Drought Conditions](#) [Exit...](#)
- [Map of Texas Vegetation Conditions](#) [Exit...](#)
- [Development of a Rule for Drought or Water Shortage Conditions](#)
- [Commissioners' Summary of 2011 Drought Response](#) [Exit...](#)
- [Drought Overview Presentation](#)

▶ Drought and Public Water Systems

- [List of Texas PWSs Limiting Water Use to Avoid Shortages](#)
- [Map of Water Systems under Water Use Restriction](#)
- [PWS Drought Reporting Form](#)
- [Drought Contingency Plans](#)
- [Educational Materials Available to Water Systems](#)

[Drought Impact on Texas Surface Water](#)

May 15, 2012 **UPDATE!**



[PWS Drought Reporting Form](#)

Public water systems should use the current stage of their drought contingency plan.

[Water Conservation](#)

[Emergency Planning Workshops for Public Utility Operators](#) **UPDATE!**

News Releases

April 4: [TCEQ eases restrictions on water rights](#)

February 17: [TCEQ eases some restrictions on water](#)

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Chapter 36
**SUSPENSION OR ADJUSTMENT OF WATER RIGHTS DURING
EMERGENCY WATER SHORTAGE**
**RULE §36.5 CONDITIONS FOR ISSUANCE OF SUSPENSION
OR ADJUSTMENT ORDER**



- (1) require that the junior water right holder provide to the executive director, within **14 days** of the issuance of the executive director's order, information demonstrating that it has made reasonable efforts to **obtain alternative water sources**;
- (2) require that the junior water right holder demonstrate to the maximum extent practicable that reasonable efforts have been made to conserve water by **providing its water use data** to the executive director **every 14 days**. The water use data shall indicate the amount of and place of use of the water used by the water right holder on a daily basis and be sufficient to provide a historical context for the water right holder's use of surface water; and
- (3) require that the junior water right holder provide information on what it has done to **identify long-term additional or alternative water sources within 30 days** of the issuance of the executive director's order.

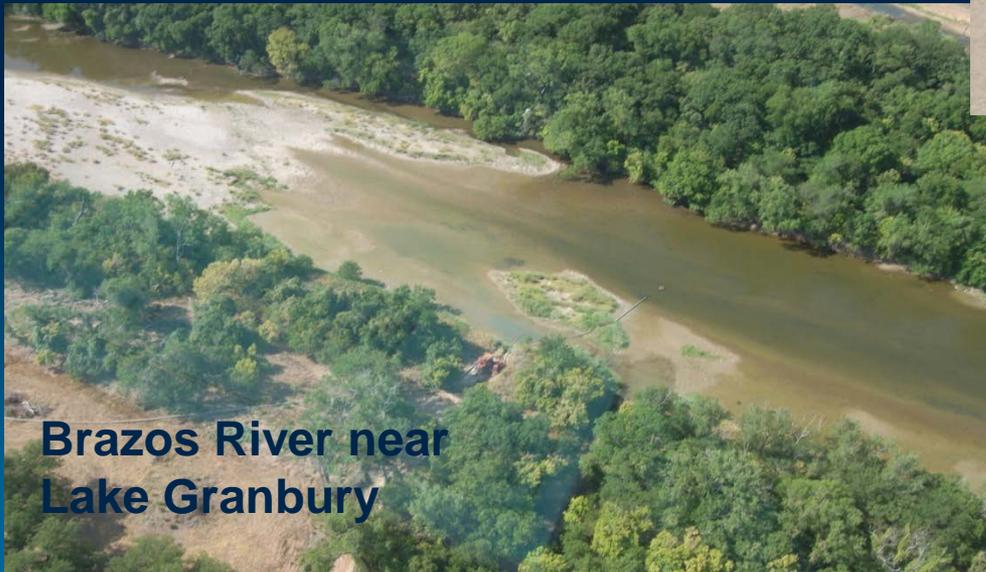
Field activities conducted during the drought



- ★ Flyovers
- ★ Investigations
- ★ Streamflow monitoring



Bosque watershed



Brazos River near Lake Granbury

**Brazos River
Basin Flyovers**



TCEQ – Questions for Senior Water Right Holder Making Call

Contact Information

What is the name of the city, public water supply system, or water right holder?

Who is the primary contact? Phone number, address, email?

What county are you in?

If a public water system, how many connections do you have?

Sources of Water

What is your primary source of water? What is the name of the stream, lake, or aquifer?

Do you have alternate sources of water?

How much storage do you have? How many days supply is it?

What permit(s) are you making your call under? What priority date?

What provision(s) in your permit is not being met under current conditions?

What amount of water have you used under your permit(s) to date this year?

Do you have or can you get a water supply contract?

What other public water systems are located nearby, if applicable?

System Needs

What is the minimal amount your system/customers need for basic functions? Please answer in cubic feet per second (cfs), acre-feet, or another measurement method as appropriate.

What level of streamflow is required to make your diversions or maintain your uses?

What is your average daily usage?

What is your minimum needed daily demand?

How many days of water do you have remaining?





TCEQ - Domestic & Livestock Priority Call Questions

Contact Information

What is the name of the domestic and livestock user?

Who is the primary contact? Phone number, address, email?

What county are you in?

Sources of Water

What is your primary source of water? What is the name of the stream, lake, or aquifer?

Do you have alternate sources of water?

How much storage do you have? How many days supply is it?

Needs

What is the lowest daily amount you need?

What level of streamflow is required to make your diversions?

What is your average daily usage?

How many days of water do you have remaining?

For what purposes do you use the water? Household? Watering livestock? Wildlife?



TCEQ - Junior Municipal Priority Call Questions

Contact Information

What is the name of the city, public water supply system, or water right holder?

Who is the primary contact? Phone number, address, email?

What county are you in?

If a public water system, how many connections do you have?

Sources of Water

What is your primary source of water? What is the name of the stream, lake, or aquifer?

Do you have alternate sources of water?

Indicate the efforts you have made to obtain alternate sources of water pursuant to 30 Texas Administrative Code (TAC) §36.5(c)(1).

Indicate the efforts you have made to identify long term additional or alternative sources of water pursuant to 30 TAC §36.5(c)(3).

What amount of water have you used under your permit(s) to date this year?

How much storage do you have? How many days supply is it?

If you have a well, how deep is it? What is your pumping capacity? Can you access additional supply by drilling deeper?

What other public water systems are located nearby, if applicable?

Do you have a water supply contract? Do you have a contract to purchase raw or potable water from a water supplier? If the answer is "yes," then please state if it is raw or potable and with whom you have the contract.

System Needs

What is the minimal amount your system/customers need for public health and safety? Please answer in cubic feet per second (cfs), acre-feet, or another measurement method as appropriate.

What level of streamflow is required to make your diversions or maintain your uses?

What is your average daily usage?

What is your minimum needed daily demand?



TCEQ - Power Facility Priority Call Questions

Sources of Water

What is your primary source of water? What is the name of the stream, lake, or aquifer?

Do you have alternate sources of water?

Do you have a water supply contract or a Water Right or both?

If you have a contract, who is your contract with, how much water is available under the contract, and how is that water delivered?

What other water systems are located nearby?

System Needs

What is your average daily usage? Is this a diversion amount, or a consumptive demand?

At what water level does your design anticipate cavitation or other problem drawing water from these water intakes.

At what surface water level is your unit unable to operate.

If cooling water is restricted, what contingencies can you implement to continue operation? Can your facility operate at a reduced capacity?

What level of streamflow is required to make your diversions, meet your consumptive demand, or maintain your minimum storage level?

Actions Taken

Have you contacted any nearby water suppliers to inquire about interconnecting?

Have you contacted any regional water suppliers or river authorities about contracts?

Have you contacted your local Groundwater Conservation District?

What steps has your facility taken to conserve water or improve efficiency of water use?

What other actions have you taken?



Priority Call Response Determinations

Review Permit

- TCEQ reviews all water right permits in the area affected by the call and collects information on water right priority dates, amounts, diversion rates, type of use, and current water use.

Collect Information

- TCEQ collects information from the water right making the call to determine how much water is needed.

Review flow data

- TCEQ uses streamflow from the USGS, site measurements by TCEQ field operations staff, and estimated losses in the river to determine actual flow rates in the area of the call.

Determine curtailment date or adjustments

- Based on all of this information TCEQ determines a curtailment date or adjustments that would affect the smallest number of water rights and would likely provide sufficient streamflow to meet the priority call.

Additional curtailment or adjustments

- Should the original curtailment or adjustment not provide sufficient water to meet the senior call, TCEQ staff goes through the above steps to determine additional curtailments or adjustments that would likely provide sufficient streamflow to meet the priority call.

Next Steps



- ★ Prepare a draft FAQ to go on website after the first stakeholder meeting
- ★ Take comments on the FAQ and suggestions on how to refine the rule
- ★ Hold a second stakeholder meeting by September 30, 2012
- ★ Final FAQ on website by October 2012