

Water Rights Application Notice (WRAN) Advisory Group

Water Supply Division, Water Rights Permitting and Availability Section
October 16, 2007
Building F, Room 2210
9:30 AM

Marked Agenda

Introductions

Todd Chenoweth, Director, Water Supply Division, began the meeting by introducing himself and asking all the attendees to introduce themselves. For a list of attendees see the meeting [sign in sheets](#).

Purpose of WRAN Advisory Group

Todd explained that the purpose of the group is to provide feedback to the commissioners regarding notice for water right amendments in light of the supreme court decision in the *City of Marshall* case.

Discuss recommendations to the commissioners concerning what type of notice should be required for amendments of different types of water rights

The group opened their discussion by talking about if and how *Marshall* applied to water right amendments in the middle and lower Rio Grande. Initially, the discussion was that it did not apply because the water below the Amistad reservoir is storage water and because this area is not governed by the prior appropriation doctrine. However, some group members thought that in some circumstances the way the commission decides to apply *Marshall* might apply or should apply to this area. Other members thought that applicants in this area might want to include information related to the six public interest criteria discussed in *Marshall* in their applications.

The group also discussed the need for the commission to create a record of its decision in determining whether notice would be required for a specific application. The group discussed that to develop a record one option would be for the executive director's staff to draft a memo with their rationale for why notice was or was not required.

The group also discussed the value of creating a list of applications where notice would never be required. Some group members thought that this would be a worthwhile exercise since it would give guidance to the commission for specific cases. Others thought that these applications would involve such small amounts of water that it would not be a beneficial use of time to develop this list. However, the group agreed that group

members should come prepared to the next meeting with a list of proposed instances when notice should always be required or when notice should never be required.

Several members asked if this group could make a recommendation to change the commission's current rules. Todd responded that the group's recommendations could include recommendations for rule changes.

The group also talked about the types of notice and whether different levels of notice could be required for different types of water right amendments.

Agency staff talked about how it is current agency practice to post information about all water right applications in a database on the agency's website. Staff added that copies of applications are made available at the front desk of the Water Supply Division once the information about the application is posted on the web site. The group talked about whether the information on the agency's website regarding water rights applications could serve as some level of notice.

The group also discussed developing a framework for a possible double notice process. The first notice would be an early-in-the-process "universal notice" for all applications. Whether a second notice is required would be determined based on the *Marshall* decision and would be made after the staff's technical review is complete. Additionally, in this new framework, there would also be an option that would allow the applicant to "check a box" on the application that would send the applicant to full notice early in the process. The group began discussing the form of the early "universal notice." Some suggested using the internet; some suggested contacting local governments; and some suggested using the *Texas Register*.

The group decided to adjourn and discuss the proposed framework at a second meeting on Monday, October 29, 2007 at 1:30 pm.