

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 28, 2013

CERTIFIED MAIL

Ms. Mary Donley
202 Private Road 637
Voca, Texas 76887

Re: Suspensions of Permitted State Surface Water Diversions in the San Saba
Watershed of the Colorado River Basin

Dear Ms. Donley:

On August 21, 2013, the Texas Commission on Environmental Quality (TCEQ) staff received your correspondence requesting a priority call based on your domestic and livestock use of water from the San Saba River. Since that time, TCEQ staff have examined water rights and conducted investigations to determine whether suspension or adjustment of water rights upstream of your property would result in surface water that you could beneficially use at your location.

In response to your priority call, I have issued an Order suspending or adjusting certain diversions in the San Saba Watershed upstream of your location.

The enclosed Order suspends two water rights upstream of your domestic and livestock location in McCulloch County. My staff has determined that additional streamflows could be generated at your location by suspension or adjustment of these two water rights.

Please be assured that we continue to proactively evaluate conditions in the basin, including the presence of obstructions and/or impoundments that may be impacting the flow of water downstream. The immediate objective is to address any unauthorized impounded flows and allow future inflows to pass for beneficial use downstream. To date, one impoundment upstream of your property has resulted in the release of surface water with the removal of a dam by the landowner. Two additional impoundments upstream of your property are the focus of issued field citations with required response from the landowners to release impounded water downstream. The release of impounded water to date, and additional releases expected in the future, could result in downstream flows being available for beneficial use on your property.

Additionally, since receiving priority calls in 2011, the TCEQ Office of Compliance and Enforcement has implemented the following:

- The TCEQ San Angelo Region 8 Office initiated an Active Water Management Plan regarding the San Saba River in the Fall of 2012. The goal of this plan is to conduct proactive water management in areas of the state outside the jurisdiction of an agency Watermaster Program in order to increase awareness of potential impacts to surface water and to provide information critical for the agency's evaluation and determination of priority calls on surface water.
- TCEQ Region 8 has performed reviews of the Menard County's property deed records, time-lapsed Google Earth satellite imagery, groundwater well information, and general geology information on the San Saba area. Additionally, historical information gathered in the basin has been reviewed to aid in targeting plans for Active Water Management of the San Saba River. To date, with our partners at the Department of Public Safety, TCEQ has documented observations from two dedicated fly-overs along the San Saba River.
- The TCEQ has had a regular presence in the San Saba River basin for the last year. Beginning November 26, 2012, TCEQ has maintained a schedule for tracking USGS gage measurements, made on-site observations, and taken river flow measurements at pre-determined locations in and around Menard on a monthly basis. Beginning April 8, 2013, as observed gage measurements on the San Saba began to decrease, the schedule was accelerated with flow measurements taken every two weeks.
- The TCEQ recently secured office space in Menard with our sister agency, Texas Department of Transportation, to facilitate having staff regularly on the River. Locations on the San Saba River where TCEQ Region 8 staff takes flow measurements and observations includes: Off US Highway 83 (in Menard); at 5-mile bridge crossing; 10-mile bridge crossing; and at the FM 1311 low water crossing. Flow measurements have also been taken regularly at the Menard Irrigation Ditch diversion point. Observations of the conditions along the Ditch through the City of Menard have also been regularly made by TCEQ in the last year.
- The TCEQ continues to respond to any specific complaints related to possible illegal diversions, unauthorized impoundments, and/or possible over-pumping of water in a timely manner. The TCEQ is actively pursuing violations and enforcement, including referral to the Office of the Attorney General, when observations and measurements lead to evidence that agency rules and regulations are being violated.
- The TCEQ will continue to evaluate any priority calls received in the San Saba River which will include on-site investigations along the River, a review of water use data, flow measurement, and observation of stream conditions within the River.

Ms. Mary Donley

Page 3

August 28, 2013

A hearing before the Commission on whether to affirm, modify, or set aside the suspension order is scheduled for consideration at the Commission Agenda on October 9, 2013, at 9:30 a.m. at 12100 Park 35 Circle, Building E, Room 201S, Austin, Texas 78753. A copy of the suspension order is enclosed for your reference.

We ask that you maintain contact with the TCEQ and provide weekly updates on flows and usage data to Mr. Jaime Nolasco, Water Rights Liaison, at the TCEQ Central Office in Austin at 512-239-1503. If you have any questions or would like to discuss these issues further, please contact Ms. L'Oreal Stepney, P.E., Deputy Director, Office of Water, at 512-239-1321.

Sincerely,

A handwritten signature in black ink, appearing to read 'Zak Covar', with a long horizontal flourish extending to the right.

Zak Covar
Executive Director

Enclosure