

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 18, 2011

CERTIFIED MAIL

Re: Suspensions of Permitted State Surface Water Diversions in the Brazos River Basin

Dear Water Right Holder:

By letter dated April 11, 2011, you were alerted that diversions of state surface water may be suspended or curtailed due to drought conditions. The Texas Commission on Environmental Quality (TCEQ) has now received a priority call on surface water from a senior water right holder. In accordance with the Texas Water Code (TWC), §5.013(a)(1), the TCEQ is responsible for enforcing water rights, which requires protecting senior surface water rights and must take action in response to the senior priority call. **The purpose of this letter is to inform you of this priority call and direct you to immediately suspend all non-municipal diversions with a priority date of 1980 or later until further notice. Water rights for municipal uses, domestic uses, and power generation are not suspended at this time.**

With no immediate relief forecasted, the TCEQ has suspended certain diversions in the mid- and lower-Brazos Basin. Suspended water rights include water right permits with a priority date of 1980 and later (excluding those for municipal uses and power generation), term water right permits, and temporary water right permits. Domestic and livestock diversions are not subject to this suspension.

Water right permits issued with multiple uses may continue to divert water for municipal, domestic, and power generation purposes only. Permit holders with impoundments are not required to release any previously stored water; however, new inflows to impoundments must be passed downstream in order to meet senior needs.

These actions are guided by the priority doctrine, established in TWC §11.027. The most senior water rights are served first during times of drought with domestic and livestock uses superior to any appropriated rights. Water rights are suspended or curtailed by priority date, with the most recently issued – or “junior” – priority users suspended before senior water rights in the area.

The TCEQ continues to monitor the situation closely and strives to balance protection of the senior surface water rights while attempting to minimize the impact to junior water right holders, within TCEQ’s authority. Should senior needs not be fulfilled as a result of suspension of these diversions, please be aware that TCEQ may take additional actions in order to protect the senior priority call.

You may find additional drought information on TCEQ’s drought web page, located at: <http://www.tceq.texas.gov/agency/drought.html> or by contacting the TCEQ Drought Hotline at 1-800-447-2827. You may also contact your TCEQ Regional Office or Ms. Amy Settemeyer, Water Rights Liaison; at the TCEQ Central Office in Austin at 512-239-2588 should you have additional questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Vickery".

Mark R. Vickery, P.G.
Executive Director