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Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 7, 2009

Re: Alert of Possible Curtailments/Suspensions of Permitted State Surface Water
Diversions on the Brazos River Basin

Dear Water Right Holder:

This letter is to alert you of potential diversion curtailments or possible suspensions of state surface water from the Brazos River Basin. The lack of significant rainfall in the area and the declining flow of the Brazos River may require action by the Texas Commission on Environmental Quality (TCEQ) to further curtail surface water diversions for the protection of senior water rights.

The priority doctrine determines that the most senior water rights will be served first during times of drought, regardless of the permitted water use. As a result, junior water rights, or those rights issued most recently, will be suspended or curtailed before the senior water rights in the area. Furthermore, in accordance with the Texas Water Code, the flows of the Brazos River must be available for use by land owners with property adjacent to the Brazos River for domestic and livestock (D&L) use as part of their inherent riparian rights. As such, D&L users have senior priority before any appropriated water rights.

The TCEQ has received a priority call on surface water from senior water rights downstream of your diversion point. Many junior water rights on the Brazos River have already reached their permitted flow restrictions and are currently not being allowed to divert any surface water. All approved temporary water rights in the area have also been suspended. At this time, the senior call has been met by suspension of surface water rights junior to yours, however, should drought conditions continue to persist, additional suspensions may be necessary.

With no immediate relief forecasted, the TCEQ requests that you please take appropriate steps to prepare for possible diversions from the Brazos River to be curtailed or even suspended as drought conditions persist in your area.

Please call your TCEQ Regional office or Ms. Tracy Miller, Water Rights Liaison, at the TCEQ Central Office in Austin at 512-239-4127 should you have any questions on this matter. We thank you for your cooperation.

Sincerely,

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

Mark R. Vickery, P.G.
Executive Director