

SUBCHAPTER I : CONVEYING STORED WATER

§297.91. Use of Bed and Banks.

Anyone proposing to use the bed and banks of any flowing natural stream within this state for the purpose of conveying stored water from a place of permitted storage to a place of permitted use must first comply with Texas Water Code, §11.042, and the rules of the commission. An exception to the requirements of this section may be granted by the commission if an emergency condition exists and time does not permit following the procedures herein outlined. Further, the requirements of this section are not applicable if water is being released from upstream storage under order of the commission. See §295.111 of this title (relating to Application.)

§297.92. Authorization.

The commission may require the alteration or amendment of any contract for the transportation of water if it finds the change is necessary to protect vested rights or prevent the undue loss of water. After the commission is satisfied that all provisions of law and these rules have been complied with and that transportation of the stored water should be authorized, an order will be entered authorizing the use of the watercourse for that purpose and notice shall be made by the commission in accordance with §295.160 of this title (relating to Notice of Applications to Convey Stored Water). The rate of flow shall be determined by the executive director, and all interested parties will be notified of the rate. An exception to the requirements of this section may be granted by the commission if an emergency condition exists and time does not permit following the procedures herein outlined. Further, the requirements of this section are not applicable if water is being released from upstream storage under order of the commission.

§297.93. Duties of Water Conveyor.

The owner or controller of stored water shall not permit the same to overflow the banks of any stream, nor shall he or she interfere with those having a lawful right to the use of that rate of flow of the stream which would prevail in the absence of the water in transit. The rate of flow shall be determined by the executive director, all interested parties will be notified of the rate. Water, when released for downstream use, shall be of a quality that will not affect adversely or harmfully the quality of water in the stream or in storage below.

§297.94. Duties of Others Along the Stream.

If stored waters are released from a reservoir and are designated for use or storage downstream by a specified user legally entitled to receive the water, it shall be unlawful for any other person to divert, store, appropriate, use, or otherwise interfere with the passage of the waters that are designated for downstream use or storage. Each owner or operator of a reservoir and dam on the stream between the point of release and the point of designation shall permit the free passage through the reservoir and dam of all such released waters in transit.