

Texas Commission on Environmental Quality
Water Rights Advisory Work Group
March 5, 2012
Building E, Room 201S
10:00 AM

Welcome and Introductions: Sarah Henderson and Ron Ellis

Evaluating the Need for Watermaster Programs: Ricky Anderson

- Stems from the Sunset Commission report to the 82nd Legislature where they addressed concerns of water rights in Texas
- Criteria under legislation:
 1. Evaluate the need in each river/coastal basin that does not have a watermaster program;
 2. Report back to the legislature;
 3. Evaluate each river basin once every 5 years
- September 2011 received approval to work on the:
 1. Brazos River Basin
 2. Colorado River Basin
 3. Brazos-Colorado Coastal Basin
 4. Colorado-Lavaca Coastal Basin
- Look at 3 points during evaluation for each basin:
 1. Has there been a court order to create a watermaster?
 2. Have petitions been received for a watermaster?
 3. Have senior water rights been threatened due to:
 - a. Senior calls?
 - b. Water Shortages?
 - c. Water Right complaints?
- Result: Schedule of Events
 1. Reached out to the water right holders in each of the 4 basins asking for input and if senior water rights have been threatened;
 2. March 31, 2012 comments/responses are due to TCEQ;
 3. Developing schedules for stakeholder meetings;
 4. Data will be summarized for the ED and Commissioners by summer;
 5. Include finding in the Biennial Report to Legislature

Q: (Dean Robbins-Texas Water Conservation Association)- Does this result in a rule making for every area a watermaster is set?

A: (Ricky Anderson) – We have not identified that brand new rules will need to be created, should new rules be necessary, they will hinge in the area of existing watermaster rules

Q: Is the fee formula for the areas of the present watermaster consistent across or will fee structure be different from one to the next?

A: The three program areas are all slightly different for the Concho, South Texas, and the Rio Grande Watermaster

Storage Levels for Major Reservoirs in Texas: Kathy Alexander

- From Texas Water Development Board (TWDB)
<http://www.twdb.texas.gov/DATA/drought/index.asp>
- 2011 drought – TCEQ closely monitored river and reservoir conditions around the state. TCEQ also has a drought page with current drought information
- TWDB has a Texas Water Condition Report online with the following graphics, which are updated regularly:
 1. Reservoir Storage Index – looks at major reservoirs in Texas and how much water is in conservation storage
 2. Graphics by River Basin
 3. Graphics by Climatic Region
 4. Combined storage statewide
 5. Comparative Analysis between 2010 & 2011
-Reservoir levels are improving with recent rain; however, this graphic includes the beginning of 2012 which shows reservoir levels statewide started off lower than in 2010 & 2011.
 6. Statistics for East, North Central, and South Central Texas

Water Rights Permitting & Availability Section Update: Ron Ellis

- Introduction of new employee: Ruthie Redmond, Project Manager, Permitting
- Senate Bill 3 – Environmental flows process for ongoing basins
 1. The rule package for the Colorado – Lavaca, Guadalupe, and San Antonio river basins is slated for the March 28th agenda;
 2. Will likely go to adoption agenda in August;
 3. Rule proposal is set to be filed with the Office of the Chief Clerk (OCC) March 9, 2012 and will be available for the first time to the public.
 4. Nueces, Brazos, and Rio Grande river basins have the same schedules
http://www.tceq.texas.gov/permitting/water_rights/eflows
 5. Under the current schedule, stake holder recommendations for those three groups are due to TCEQ September 1, 2012. TCEQ is required to adopt rules by September 1, 2013.

Commission Actions: Robin Smith

- January 25, 2012 Commission considered the Brazos River Authority systems operations permit
 1. ALJs recommended that the Commission remand hearing;
 2. BRA requested more water at four diversion points and to come back later to do a detailed *Water Management Plan*. ALJs did not agree and remanded it back on all issues. Gave guidance on re-use and how to do appropriation calculation;

3. Order issued January 30, 2012 requiring:
 - a. BRA to have a *Water Management Plan within* ten months;
 - b. ED to review the Plan within seven months;
 - c. SOAH – ALJs have to hold a hearing and issue;
 - d. Fast track PFD within 24 months.

- Ralph Hall – hearing request last agenda
 1. Request new 450,000 acre-foot capacity reservoir in Fannin County on the North Sulphur River;
 2. Ten hearing requests granted

- LCRA
 1. December 2011 - LCRA emergency order. March 1 deadline to decide about sending water to irrigators. Decided not to;
 2. Water Management Plan decision required in January. Emergency Order moved that decision point to March 1st.
 3. Also changed trigger levels up from 600,000 to 850,000. Commission approved EDs issuance of that order.

- Drought Rule (part of Sunset Bill) proposed on November 3, 2011
 1. Statute says: In a period of drought or emergency shortage of water the ED can suspend or adjust water rights on a temporary basis based on Texas Water Code Ch. 11.027 – Priority Doctrine;
 2. Statute also contains factors to consider: Implementation of Water Management Plans-, Drought Contingency Plans-, and consider preferences to the extent practicable. In our rules we have to define drought, define Emergency Shortage of Water, set out when we will issue an order, and water terms and conditions of that order should be
 3. Scheduled for adoption at April 11th Agenda

Q&A

Q: The WRAWG was unavailable via webcast, will it be available in the future?

A: The webcast should have been available. Can be found at the following link:
<http://www.texasadmin.com/tceqs.shtml>

Q: Implementation of Senate Bill 3? Is staff still working on the document and will it be available to the public?

A: The implementation plan is ongoing and important to finish

Closing/Comments: Sarah Henderson

*Next Meeting – June 4th

*Proposed topics for next meeting:

- Please send an e-mail or call with any ideas for the next WRAWG