

# **Colorado and Lavaca Rivers and Matagorda and Lavaca Bays Basin and Bay Area Stakeholder Committee (BBASC)**

Wednesday, March 30, 2011 at 9:30 a.m.  
Lower Colorado River Authority Board Room  
3700 Lake Austin Boulevard, Austin, TX

## **Meeting Minutes**

**BBASC Members Present:** Chair Patrick Brzozowski, Vice-Chair Myron Hess, Jim Dailey, Carroll Hall, David Hill, Frank Lewis, Teresa Lutes, Jack Maloney (alternate for Dick Ottis), Jennifer Walker (alternate for Bob Pickens), L.G. Raun, Caroline Runge, Andrew Sansom, Clarence Schomburg, Haskell Simon, Suzanne Zarling

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### **1) Call to order and introductions**

Chairman Patrick Brzozowski called the meeting to order.

### **2) Discussion and agreement on agenda**

No additional items were added.

### **3) Public comments (limit 3 min.)**

None.

### **4) Administrative business**

Patrick handed out a resignation letter from BBASC member Buddy Treybig. Members discussed options for replacement including soliciting nominations and posting the opening on the group's web page. A bio of Buddy's alternate, James Arnold, will be distributed to members. The goal is to have a replacement by the next meeting. [After this meeting, Buddy decided to remain on the BBASC.]

#### **➤ Approval of minutes**

The March 3, 2011 BBASC meeting minutes were approved as presented.

#### **➤ Discuss and agree on future meeting dates**

Members were told to indicate, during breaks in the meeting, their or their alternate's availability for proposed upcoming BBASC and WAM subcommittee meeting dates on charts set up in the back of the room. Later in the meeting, after members filled out the chart, the future BBASC meeting dates were determined to be April 27, May 13 and 25, June 16 and 29, July 21, and August 3 and 18. The next WAM subcommittee meeting was set for April 7 at 9:30 am at the LCRA Service Center next to the airport.

### **5) Subcommittee and other updates**

#### **➤ Facilitator/steering committee report**

#### **Brzozowski/Facilitators**

Patrick mentioned that the subcommittee has been having discussions with the facilitators (Suzanne Schwartz and Margaret Menicucci), and that the facilitators will be discussing later a proposed roadmap for accomplishing the task of developing BBASC recommendations. Myron Hess added that the facilitators are now officially under contract. Suzanne and Margaret briefly explained their role in assisting the BBASC with their charge and discussed some of the tasks that are planned for today's meeting.

➤ **Report drafting (overview & subcommittee appointments) King/Brzozowski**  
Patrick said specific tasks in writing the final report will be assigned as the process progresses. One of the current tasks is to develop a table of contents that can serve as a framework for the writing. It was pointed out that the SAC has commented on BBEST final reports (Sabine-Neches and Trinity-San Jacinto) but not BBASC reports. Bob Brandes with the SAC stated that their comments on the Colorado-Lavaca and Guadalupe-San Antonio should be finalized by the end of April. Gregg Easley with TCEQ will send members a reminder of the April 13<sup>th</sup> SAC meeting in Austin and will distribute to members the SAC's finalized BBEST report review documents.

➤ **Work plan Brzozowski**  
Patrick said that the BBEST has approximately \$44,000 to provide support to the BBASC. He also said that it's looking like there won't be any available funding for the BBEST beyond this August, the end of the current fiscal year. The SAC has set aside \$65,000 to supplement any funds that the BBEST's allocate for BBASC support. Patrick suggested an apportioning of the \$44,000 for WAM activities (60%), general consulting (30%), and work plan development (10%). Myron gave a brief overview of the work plan purpose and a development process, and suggested that the apportionment could be adjusted considering the additional funding from the SAC. In light of lack of future funding, the group discussed the idea of developing the work plan in parallel with their flow recommendations. All members agreed to work towards completing a work plan prior to September.

➤ **Update on WAMs for Colorado and Lavaca Rivers Brzozowski/Kennedy**  
Kirk Kennedy said that he has the latest WAM models for the Lavaca basin, and is in the process of getting the latest for the Colorado (updated Run 8). Kathy Alexander with TCEQ said that they should be available after April 1<sup>st</sup>. Patrick asked Kirk to bring modeling output to the upcoming WAM subcommittee meeting. Kirk said he can go ahead and get started on the Run 3 tasks. David Hill asked about quality assurance of data used in the BBEST report, the WAM work included. Kirk explained the data that's incorporated in the WAM and how the BBEST used the models in their process.

**6) BBASC responsibilities & TCEQ use of recommendations TCEQ**  
The following are facilitator notes taken during BBASC questions of or discussion with TCEQ staff Kellye Rila and Kathy Alexander.

Q. Are pending applications subject to the environmental flow requirements that might be adopted by TCEQ?

A. -Permits issued on or after September 1, 2007 may be subject to an adjustment based on the environmental flow standards adopted by TCEQ. Applies to new appropriations and amendments that increase the amount of water, and interbasin transfer that is a new appropriation (new water has been permitted for the IBT).

Q. Are re-use projects new appropriations subject to the standards?

A. TCEQ does not currently consider reuse a new appropriation, but TCEQ is involved in a hearing on this issue.

Q. Clarify 12.5% reopener:

A. – Any environmental flow requirement in a permit issued on or after September 1, 2007 could be adjusted up to 12.5% to comply with standards as adopted.

Q. Will LCRA's permit application for excess flows and off channel reservoirs be subject to the 12.5% adjustment?

A. – The LCRA application is scheduled to be heard at the TCEQ agenda April 20, 2011. ~~How environmental flows will be handled is already part of the permit recommendation.~~ The draft permit includes a requirement addressing the 12.5% adjustment.

Q. How many permits are pending and what volume is affected?

A. – In this basin there are 2 or 3. The LCRA permit is the largest.

Q. What is the priority date for flow ~~recommendations~~ standards in the Colorado and Lavaca Basins?

A. 3/1/2011 (the date of the BBEST report).

Q. What WAM does TCEQ use for evaluating water rights applications?

A. TCEQ uses WAM 3 for evaluation. WAM 3 includes all water rights at their permitted values and with their priority dates. TCEQ publishes an online resource to explain water rights in Texas available online. ("Rights To Surface Water In Texas"

[http://www.tceq.texas.gov/publications/gi/gi-228.html/at\\_download/file](http://www.tceq.texas.gov/publications/gi/gi-228.html/at_download/file))

Q. What does TCEQ need in the BBASC report for implementation?

A. Information about:

- Flow volumes
- Flow regime components
- What the BBASC considered if it modified the BBEST regime
- Model runs
- ~~How the environmental flow standards (EFS) would be included/ implemented in permits – how would user know when standards apply?~~

- If there are multiple levels of base flow in the recommendation, a trigger level that tells a water right holder when they can divert.

Q. How do you manage variations in basins when developing the rule?

A. We want to know what BBASC thinks. There can be variations between basins in the standards, different control points, etc.

Q. Strategies- what is meant?

A. TCEQ has no preconceived strategies. BBASC should provide information about its intent. Does not need a lot of detail.

- Strategies can be part of work plan. Provide any information about why they are included and specific information.

Q. Strategies -- please give examples:

A. -- Volume-Voluntary contributions from existing water rights

-- Market-based approaches (ex. Purchasing water rights for environmental flows) SAC is working on discussing this concept.

Q. Who implements strategies?

A. It depends on what the strategy is.

Q. What is the priority of a strategy?

A. If a strategy is an amendment that does not request a new appropriation of water, it *could* retain priority. An amendment to an existing water right to add instream uses would not get a new priority date. If the strategy is for a new appropriation of water, the strategy would get a priority date based on when the application was filed.

Q. Environmental flow set-aside?

A. TCEQ has not yet done any analysis of whether water is available for a set-aside in the Colorado and Lavaca basins. TCEQ may have limited comment in a couple months.

Q. What is the link between an environmental flow regime and the permit?

A. – The environmental flow regime would result in conditions to be placed in a permit, tied to a specific gauge. The permit condition lets the permittee know if flow is sufficient at a particular time to allow them to use the water.

Q. If flow regime is not met, then the only recourse is through new?

A. – Yes or strategies

- There are permits issued since 1985 that have flow restrictions

**7) Review, discuss, and reach agreement on roadmap for developing BBASC recommendations for environmental flow standards and strategies (and a work plan?)**

**Facilitators**

Joe Trungale, of the BBEST, provided a presentation. The following comments by Trungale (or other BBEST members where noted) were made in response to issues or questions raised by the BBASC. This is not a reflection of Trungale's entire presentation:

HEFR output is based on

- Gauge data/period of record
- Will include historical use
- Not naturalized

HEFR & WAM both start with USGS data

The BBEST report provides what a healthy system could look like. It is a description of a flow regime the BBEST believes is supportive of a sound environment, rather than as a prescription that must be followed in every detail.

- BBASC can make adjustments.
- Magnitudes are important and must be considered with frequencies.

Q. WAM subcommittee is discussing running a project in the Lavaca. Have WAM subcommittee make recommendations about what projects to run.

Q. Would like to see what is in Guadalupe/San Antonio consultant's plan for WAM subcommittee

In response to a question about subsistence flow, Bryan Cook noted that subsistence flow is based on 7Q2 or 95%. 7Q2 is the minimum 7 day low flow with a 2 year recurrence. It is used in water quality permitting. Water quality may not be maintained with less than 7Q2 flow.

Trungale mentioned a tool developed in the Sabine BBASC process and updated by Texas Parks and Wildlife called the Flow Regime Analysis Tool (FRAT)

- Use to see what a real project does related to environmental flow standards
- Mentioned in BBEST report

BBEST preliminary recommendations are based on review of historical flow data, not WAMs

Historical flow data

- Downstream used LCRA SAWS Water Project (LSWP), which was pre-development data
- 1940-2009

Q. What if there is a specific period of decline of flow over time?

A. Adjustment is made because they don't expect flows to be met all the time

### **8) Q and A and discussion to understand BBEST report**

**BBEST**

The BBASC members generated the following questions to direct to the BBEST. Facilitators will post these to the e-mail list serve:

Q. What are the sources of data used in the BBEST report?

Q. There were 5 species for Matagorda Bay; why were other species excluded?

Q. Concern expressed that Lavaca riparian area species selected and sites used may not be representative of all riparian areas.

Q. Seasons are different for upper/lower Colorado. Does that create a problem?

Q. How does TCEQ weight BBASC recommendations [vs. BBEST, etc.]?

Q. How does the BBASC use the BBEST recommendations? How are they implemented for those people who will obtain a water right and have the requirements in a permit? What about just having basic flow components? What impact?

Q. What is significance of 25/50/75 percentiles as base flow levels ?

Q. What is the BBEST opinion of how less flow might impact particular segments? What amount of change is significant in terms of the environment?

Q. How are currently required environmental flow releases and permit conditions reflected/addressed?

Q. What information helps BBASC evaluate what type of flow regime components to use?

Q. In the Lavaca – for East & West Mustang Creeks and Sandies Creek: Flows from April to September include Garwood return flow. Things have and will change. How does this impact the recommendation?

Q. Should there be a different flow regime for the upper and lower Colorado?

Q. How can we be reassured that BBASC doesn't recommend a flow regime that would result in further decline in the systems?

Q. Talk with BBEST about no-flow periods:

- would it play into permitting?
- keep it in mind in developing strategies

How should it be reflected in the BBASC report?

Q. What will it look like when a major senior water right moves?

Q. Upper Colorado- is more concerned with how often we must have these flows.

Q. What is the geographical scope of the standards? Upper; middle; lower; by basin?

**9) Review of themes from facilitators' interviews,  
Dialogue about issues and develop goals**

**Facilitators**

The facilitators reported that the following two interests were expressed by most of the people they interviewed:

- Providing sufficient water of sufficient quality to provide a sound ecological environment in the water courses and the bays and estuaries for both the present and future
- Providing a reliable water supply to meet human needs including municipal, agricultural, industrial, electric generation and recreation for both the present and future.

The facilitators then asked the BBASC to consider and discuss the following two questions:

- What is important to you about either or both of these statements, and WHY?
- What is your biggest concern about achieving these statements?

BBASC members responded with the following comments:

What is the cost for both statements?

- Some costs are personal. When do I do something heroic? At what point do I (we) do something different [in terms of water use]?
- Need to look at big picture. Each of us, each interest group, will need to answer and understand that.



Important: Readily implementing and useable

- Understanding what requirement will be in permits

Concern: can't manage more than the river gives

- Can we arrive at a natural order? Do we sustain, do we enhance?

Need to become more disciplined about water use

Concern: equitable way to divide water up

Reasonable to want to achieve both [human needs and environmental needs]

Future is the concern- we must be realistic about how we use water to make it go farther and supply the environment.

Look at more sustainable water use -- conservation, reuse

Large population growth expected

We take care of each - health of environment is a barometer

Become more creative

Understand adaptive management

Concern: limited nature of the resource, cost, how to incorporate drought into their decisions

- Staying focused on our charge- when there are large issues that could divert us

Balancing is challenge- must plan ahead. We are starting early enough. Environmental flows support quality of life and economics.

Sound Ecological Environment (SEE) is a human need and human need is SEE. We can do this. Don't get bogged down

We can't achieve our goals with a cheap water policy. It will cost us more. We can't just use all cheap water.

Humans need a SEE. To achieve it we need to preserve the agricultural economy, rural economy, which depends on water. Even with the importance of the agricultural economy, West Texas GCDs have developed groundwater [protection levels] to protect springs. Municipalities depend 100%, and agriculture depends 90% on surface water. Concerned that the lower Colorado may call on water even though users upstream are managing for spring flow. Upper Colorado manages groundwater to protect the headwaters of rivers. If their water is to be called on for downstream municipal use, which wastes water, why continue to protect springs (between Ivie Reservoir and Highland Lakes)?

Protect water for environmental flows

Issues are connected

Don't get off on a tangent- we have tough decisions. Keep focused on end goal.

Work together so future water rights decisions can be made more quickly and easily. If we don't do this, it's in hands of TCEQ.

Will require bending and sacrificing but also opportunities

Two sides of same coin- must take care of both needs to be vibrant. Environmental discussion is late to the water discussion. Must be creative with strategies, we won't do them unless we start planning. Strategies are the opportunities.

#### **10) Public comments (limit 3 min.)**

BBASC alternate Steve Box said that the group has a huge opportunity to establish a baseline on the environmental needs of the river and bay systems, and that the BBASC process is the appropriate forum within which to do it.

#### **11) Next meeting**

Suzanne Zarling will determine which LCRA facilities would be available for use on the future BBASC meeting dates. Caroline Runge offered to look into possible meeting facilities in Menard.