

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 19, 2012

### CERTIFIED MAIL

Julie Woodard, Regulatory Services Leader  
The Dow Chemical Company  
2301 N. Brazosport Blvd.  
Freeport, Texas 77541-3257

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

Dear Ms. Woodard:

In response to your correspondence dated November 14, 2012, making a priority call on surface water on the Brazos River, I have taken the following action.

With no immediate relief forecasted, I have issued an Order suspending certain diversions in the Brazos River Basin below Lake Possum Kingdom. Suspended water rights include water right permits with a priority date of **February 15, 1942 and later** (excluding those for municipal uses, domestic uses, and power generation), term water right permits, and temporary water right permits. Exempt domestic and livestock diversions are not subject to this suspension.

A hearing before the Commission will be held to affirm, modify, or set aside the suspension order. This matter is scheduled for consideration at the Commission Agenda on December 5, 2012, at 9:30 a.m. at 12100 Park 35 Circle, Building E, Room 201S, Austin, Texas 78753.

Water right permits issued with multiple uses may continue to divert water for municipal 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 or superior needs.

These actions are guided by the priority doctrine, established in Texas Water Code §11.027, which specifies that in times of shortage, permitted water rights will be administered based on the priority date of each water right; that is, the earliest in time is senior. Additionally, certain domestic and livestock uses are superior in priority to permitted rights.

We ask that you maintain contact with the TCEQ and provide weekly updates on flows and usage data to Ms. Melissa Keller, Water Rights Liaison, at the TCEQ Central Office in Austin at 512-239-1768. If you have any questions or would like to discuss these issues further, please contact Ms. L'Oreal Stepney, P.E., Deputy Director 512-239-1321.

Sincerely,

A handwritten signature in black ink, appearing to read "Zak Covar".

Zak Covar  
Executive Director

Enclosure