

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

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

Dear Water Right Holder:

By letter dated July 20, 2012, you were alerted that the Texas Commission on Environmental Quality (TCEQ) may have to suspend or adjust water rights on a priority basis due to drought conditions. The TCEQ has received a priority call on surface water from a water right holder in the Brazos River Basin. In accordance with the Texas Water Code (TWC), §5.013(a)(1), the TCEQ is responsible for enforcing water rights, which requires protecting senior and superior surface water rights, and must take action in response to the priority call.

Based on the senior call, I have issued a suspension order in the Brazos River Basin. That order is included in this mailing.

The purpose of this letter is to direct you to immediately suspend all diversions with a priority date of February 15, 1942 or later until further notice. *Water rights for municipal uses, domestic uses, and power generation are not suspended at this time.*

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.

With no immediate relief forecasted, the TCEQ is now 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.

Water rights issued with multiple uses may continue to divert water for municipal, domestic, and power generation purposes only. Junior 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 needs.

These actions are guided by the priority doctrine, established in TWC §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.

The TCEQ continues to monitor the situation closely. Should senior or superior needs not be fulfilled as a result of these suspensions, please be aware that TCEQ may take additional actions to protect the priority call. If conditions improve, we may be able to lift the suspensions.

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Water Right Holder

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You may find additional drought information on TCEQ's drought web page at: <http://www.tceq.texas.gov/response/drought> or by contacting the TCEQ Drought Hotline at 1-800-447-2827. You may also contact your TCEQ Regional Office or Ms. Melissa Keller, Water Rights Liaison, at the TCEQ Central Office in Austin at 512-239-1768 should you have additional questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Zak Covar". The signature is fluid and cursive, with a long horizontal stroke at the end.

Zak Covar
Executive Director
Texas Commission on Environmental Quality

Enclosure