

Bryan W. Shaw, Ph.D., *Chairman*
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Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 27, 2011

CERTIFIED MAIL

Re: Alert for Permitted State Surface Water Diversions in the Brazos River Basin

Dear Water Right Holder:

By letter dated May 18, 2011, you were alerted that non-municipal diversions of state surface water with a priority date of 1980 or later had been suspended due to a senior priority call. In accordance with the Texas Water Code (TWC), §5.013(a)(1), the TCEQ is responsible for enforcing water rights, which requires protecting senior surface water rights, and must take action in response to the senior priority call.

With no immediate relief forecasted, the TCEQ has suspended certain diversions in the mid- and lower- Brazos Basin. Suspended water rights include water right permits with a priority date of 1960 and later (excluding those for municipal uses and power generation), term water right permits, and temporary water right permits. Domestic and livestock diversions are not subject to this suspension.

Water right permits issued with multiple uses may continue to divert water for municipal, domestic, and power generation 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 needs.

These actions are guided by the priority doctrine, established in TWC §11.027. The most senior water rights are served first during times of drought with domestic and livestock uses superior to any appropriated rights. Water rights are suspended or curtailed by priority date, with the most recently issued – or “junior” – priority users suspended before senior water rights in the area.

At this time, **you are *not* required to suspend your surface water diversion for municipal or domestic use or power generation** even though this portion of your certificate is junior to the senior priority call. In order to continue your municipal diversions, you should be taking the strongest possible measures available to conserve water. In recognition of the severity of the drought, you should be implementing your drought contingency plan (DCP) at higher stages. In accordance with your DCP, you are required to notify TCEQ when there are changes in your drought response stages. Within 15 days of the receipt of this letter, please notify the Public Drinking Water Section of your DCP status and efforts taken to conserve water at elston.johnson@tceq.texas.gov.

The TCEQ continues to monitor the situation closely and strives to balance protection of the senior surface water rights while attempting to minimize the impact to junior water right holders, within TCEQ’s authority. Should senior needs not be fulfilled as a result of suspension of these diversions, please be aware that TCEQ may take additional actions in order to protect the senior priority call.

You may find additional drought information on TCEQ’s drought web page, located at: <http://www.tceq.texas.gov/agency/drought.html> or by contacting the TCEQ Drought Hotline at 1-800-447-2827. You may also contact your TCEQ Regional Office or Amy Settemeyer, Water Rights Liaison, at the TCEQ Central Office in Austin at 512-239-2588 should you have additional questions on this matter.

Sincerely,

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

Zak Covar
Deputy Executive Director