

**From:** [Susan Jablonski](#)  
**To:** [Patti Hershey](#)  
**Cc:** [OCE](#); [Ramiro Garcia](#); [David Van Soest](#); [Shawn Stewart](#); [Michelle Harris](#); [Rosalind Stockton](#)  
**Subject:** RE: Enforcement Discretion Response - LCRA and LCRA TSC Stormwater - Follow-up Request  
**Date:** Tuesday, May 12, 2020 2:11:42 PM  
**Attachments:** [Stormwater inspections.docx](#)

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Ms. Patti Hershey  
Vice President, Environmental Affairs and Environmental Law  
Lower Colorado River Authority  
Austin, Texas

Dear Ms. Hershey:

This is in response to your May 11, 2020 follow-up request to extend enforcement discretion until May 31, 2020, with respect to Lower Colorado River Authority's (LCRA) and LCRA Transmission Services Corporation's (LCRA TSC) compliance with weekly and monthly stormwater inspections and related stormwater control maintenance requirements under Construction General Permit (CGP) TXR150000. Specific site locations that are part of this request are found in the document you provided with your May 11<sup>th</sup> request. The Texas Commission on Environmental Quality (TCEQ) is exercising enforcement discretion on a case-by-case basis for regulated entities that are experiencing impacts due to the COVID-19 pandemic.

In response to orders and directives issued by governmental entities and local jurisdictions, the TCEQ is exercising enforcement discretion for certain water quality related activities. This discretion specifically addresses regulated entities which are unable to comply with permit conditions related to authorized stormwater discharges (i.e., the Texas Pollutant Discharge Elimination Program (TPDES) CGP, TXR150000, the TPDES Multi-Sector General Permit (MSGP) TXR050000, the TPDES General Permit TXG110000, and Approved Edwards Aquifer Protection Program plans) due to a local order/directive restricting or curtailing construction activities due to the COVID-19 pandemic.

The TCEQ's enforcement discretion applies only to facilities and sites that have not been defined as "essential" or as conducting "essential activities" under a local order/directive and have ceased operation. The requirements found in Title 30, Texas Administrative Code (TAC), Chapters 213, 281, and 305, Permits TXR150000, TXR050000, and TXG110000, and Approved Edwards Aquifer Plans are suspended until such time as the facility or site is deemed "essential", begins conducting "essential activities", or the directives are lifted. Please note that although these requirements are suspended, Best Management Practices (BMPs) should be implemented to minimize the potential for discharges from the facility or site. In addition, all required record keeping should be maintained during this time. The TCEQ's enforcement discretion does not apply to facilities and sites that have been defined as "essential" or as conducting "essential activities"; therefore, those facilities and sites shall continue to maintain compliance with any and all requirements found in the TAC, TCEQ permits, and authorizations applicable to that location.

The TCEQ appreciates the steps you outline in your April 11, 2020 and May 11, 2020 requests to help mitigate potential environmental impacts. We understand, as stated in your requests, in cases where

it is determined by LCRA that BMPs may not be working properly, LCRA will direct on-site personnel to mitigate the conditions, to the extent it is safe and feasible to do so. We encourage you to take every effort to document any maintenance activities by photograph, video, or maintenance log at each site.

If an unauthorized discharge resulting in environmental harm occurs from unmonitored BMPs, enforcement discretion may be granted on a case-by-case basis. If this occurs, please contact Shawn Stewart, Austin Region Water Section Manager at [Shawn.Stewart@tceq.texas.gov](mailto:Shawn.Stewart@tceq.texas.gov) or 512-239-0431, or other appropriate TCEQ Water Section Manager to discuss your situation. If you have any questions on this request, please feel free to contact Mr. Stewart directly.

Sincerely,

Susan Jablonski, P.E.  
Area Director for Central Texas  
Texas Commission on Environmental Quality  
(512) 239-6731

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**From:** Susan Jablonski <[susan.jablonski@tceq.texas.gov](mailto:susan.jablonski@tceq.texas.gov)>  
**Sent:** Monday, May 11, 2020 4:45 PM  
**To:** Patti Hershey <[REDACTED]>  
**Cc:** OCE <[OCE@tceq.texas.gov](mailto:OCE@tceq.texas.gov)>; Michelle Harris <[michelle.harris@tceq.texas.gov](mailto:michelle.harris@tceq.texas.gov)>; Rosalind Stockton <[Rosalind.Stockton@tceq.texas.gov](mailto:Rosalind.Stockton@tceq.texas.gov)>; David Van Soest <[David.Vansoest@tceq.texas.gov](mailto:David.Vansoest@tceq.texas.gov)>; Shawn Stewart <[shawn.stewart@tceq.texas.gov](mailto:shawn.stewart@tceq.texas.gov)>; Ramiro Garcia <[ramiro.garcia@tceq.texas.gov](mailto:ramiro.garcia@tceq.texas.gov)>  
**Subject:** RE: Request for Enforcement Discretion Response - LCRA and LCRA TSC Stormwater - Received

Good afternoon, Ms. Hershey.

I hope this finds you and yours well.

This email confirms receipt of your correspondence and modified request. We are reviewing your request and expect to have a response soon.

Thank you,  
Susan

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**From:** Patti Hershey <[REDACTED]>  
**Sent:** Monday, May 11, 2020 4:07 PM  
**To:** Susan Jablonski <[susan.jablonski@tceq.texas.gov](mailto:susan.jablonski@tceq.texas.gov)>  
**Cc:** OCE <[OCE@tceq.texas.gov](mailto:OCE@tceq.texas.gov)>; Michelle Harris <[michelle.harris@tceq.texas.gov](mailto:michelle.harris@tceq.texas.gov)>; Rosalind Stockton <[Rosalind.Stockton@tceq.texas.gov](mailto:Rosalind.Stockton@tceq.texas.gov)>; David Van Soest <[David.Vansoest@tceq.texas.gov](mailto:David.Vansoest@tceq.texas.gov)>; Shawn Stewart <[shawn.stewart@tceq.texas.gov](mailto:shawn.stewart@tceq.texas.gov)>  
**Subject:** RE: Request for Enforcement Discretion Response - LCRA and LCRA TSC Stormwater

Ms. Jablonski,

On April 11, 2020, LCRA and LCRA TSC requested TCEQ's exercise of enforcement discretion through May 15, 2020 for certain stormwater-related activities (1<sup>st</sup> email in chain below). On April 13, 2020, you indicated that TCEQ would exercise its enforcement discretion for these activities with the caveats provided (email immediately below). At that time, LCRA and LCRA TSC indicated that they might request an extension beyond May 15, 2020 should conditions persist.

LCRA and LCRA TSC now ask that TCEQ extend its enforcement discretion through May 31, 2020. LCRA and LCRA TSC believe that the conditions and risks posed by COVID-19 will persist at least through the end of May. LCRA and LCRA TSC's suspension of field inspections, and maintenance activities, is unavoidable due to the continued risk posed to LCRA employees by COVID-19.

Through the end of May, LCRA and LCRA TSC plan to continue to implement the mitigative measures described in the April 11, 2020 email. These include periodic conference calls with appropriate on-site personnel to discuss conditions of the best management practices (BMPs) in place and their effectiveness at controlling the runoff and erosion at each site consistent with the existing required frequency (weekly or monthly). In cases where it is determined by LCRA that BMPs may not be working properly, LCRA will direct site personnel to mitigate the conditions, to the extent that they are available and to the extent that it is safe and feasible to do so.

A revised (shorter) list of affected facilities/projects is attached.

Thank you for your consideration,

Patti Hershey  
Vice President, Environmental Affairs and Environmental Law  
Lower Colorado River Authority

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**From:** Susan Jablonski [<mailto:susan.jablonski@tceq.texas.gov>]

**Sent:** Monday, April 13, 2020 8:03 PM

**To:** Patti Hershey <[REDACTED]>

**Cc:** OCE <[OCE@tceq.texas.gov](mailto:OCE@tceq.texas.gov)>; Michelle Harris <[michelle.harris@tceq.texas.gov](mailto:michelle.harris@tceq.texas.gov)>; Rosalind Stockton <[Rosalind.Stockton@tceq.texas.gov](mailto:Rosalind.Stockton@tceq.texas.gov)>; David Van Soest <[David.Vansoest@tceq.texas.gov](mailto:David.Vansoest@tceq.texas.gov)>; Shawn Stewart <[shawn.stewart@tceq.texas.gov](mailto:shawn.stewart@tceq.texas.gov)>

**Subject:** RE: Request for Enforcement Discretion Response - LCRA and LCRA TSC Stormwater

**CAUTION - EXTERNAL EMAIL**

Phishing? **Click the fish** in Outlook

Patti Hershey  
Vice President, Environmental Affairs and Environmental Law  
Lower Colorado River Authority  
Austin, Texas

Dear Ms. Hershey:

This is in response to your April 11, 2020 request for TCEQ to exercise its enforcement discretion until May 15, 2020, with respect to Lower Colorado River Authority's (LCRA) and LCRA Transmission Services Corporation's (LCRA TSC) compliance with weekly and monthly stormwater inspections and related stormwater control maintenance requirements under Construction General Permit (CGP) TXR150000. Specific site locations are found in the attached document you provided with your request.

In response to orders and directives issued by governmental entities and local jurisdiction, the Texas Commission on Environmental Quality (TCEQ) is exercising enforcement discretion for certain water quality related activities. This discretion specifically addresses regulated entities which are unable to comply with permit conditions related to authorized stormwater discharges (i.e. the Texas Pollutant Discharge Elimination Program (TPDES) Construction General Permit (CGP) TXR150000, the TPDES Multi-Sector General Permit (MSGP) TXR050000, the TPDES General Permit TXG110000, and Approved Edwards Aquifer Protection Program plans) due to a local order/directive restricting or curtailing construction activities.

The TCEQ's enforcement discretion applies only to facilities and sites that have not been defined as "essential" or as conducting "essential activities" under a local order/directive and have ceased operation. The requirements found in Title 30, Texas Administrative Code (TAC), Chapters 213, 281, and 305, Permits TXR150000, TXR050000, and TXG110000, and Approved Edwards Aquifer Plans are suspended until such time as the facility or site is deemed "essential", begins conducting "essential activities", or the directives are lifted. Please note that although these requirements are suspended, Best Management Practices (BMPs) should be implemented to minimize the potential for discharges from the facility or site. In addition, all required record keeping should be maintained during this time. The TCEQ's enforcement discretion does not apply to facilities and sites that have been defined as "essential" or as conducting "essential activities"; therefore, those facilities and sites shall continue to maintain compliance with any and all requirements found in the TAC, TCEQ permits, and authorizations applicable to that location.

The TCEQ appreciates the steps you outline in your request to help mitigate potential environmental impacts. We understand as stated in your request, in cases where it is determined by LCRA that BMPs may not be working properly, LCRA will direct on-site personnel to mitigate the conditions, to the extent it is safe and feasible to do so. We encourage you to take every effort to document any maintenance activities by photograph, video, or maintenance log at each site.

If an unauthorized discharge resulting in environmental harm occurs from unmonitored BMPs, enforcement discretion may be granted on a case-by-case basis. If this occurs, please contact Shawn Stewart, Austin Region Water Section Manager at [Shawn.Stewart@tceq.texas.gov](mailto:Shawn.Stewart@tceq.texas.gov) or 512-239-0431,

or other appropriate TCEQ Region Water Section Manager to discuss your situation. If you have any questions on this request, please feel free to contact Shawn Stewart, Austin Region Water Section Manager.

Sincerely,

Susan Jablonski, P.E.  
Area Director for Central Texas  
Texas Commission on Environmental Quality  
(512) 239-6731

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**From:** Patti Hershey <[REDACTED]>  
**Sent:** Saturday, April 11, 2020 10:18 AM  
**To:** Ramiro Garcia <[ramiro.garcia@tceq.texas.gov](mailto:ramiro.garcia@tceq.texas.gov)>; OCE <[OCE@tceq.texas.gov](mailto:OCE@tceq.texas.gov)>  
**Subject:** LCRA and LCRA TSC Request for Enforcement Discretion - Stormwater

Mr. Ramiro Garcia,

LCRA requests that the Texas Commission on Environmental Quality (TCEQ) exercise its enforcement discretion from now through May 15, 2020, with respect to Lower Colorado River Authority's (LCRA) and LCRA Transmission Services Corporation's (LCRA TSC) compliance with weekly and monthly stormwater inspections and related stormwater control maintenance requirements under Construction General Permit (CGP) TXR150000.

Due to COVID-19, we understand that TCEQ has decided to exercise administrative relief and enforcement discretion for various regulatory requirements under TCEQ's jurisdiction. TCEQ's Executive Director, Toby Baker, has determined that it may be inappropriate to pursue enforcement for violations that were unavoidable due to the pandemic. Accordingly, LCRA and LCRA TSC request that TCEQ exercise its enforcement discretion with respect to the requirements and activities described below.

LCRA and LCRA TSC construction projects require authorization to discharge stormwater associated with construction activities under TPDES CGP TXR150000. The projects currently authorized under the CGP are listed in the attachment to this email. Due to the COVID-19 pandemic, LCRA and LCRA TSC must suspend field inspections that are required by the General Permit, specifically covered in **Part III, Section F "Contents of SWP3"** Paragraph 6 parts (a) – (d) and Paragraph 7 parts (a) – (g) and **Section G "Erosion and Sediment Control Requirements Applicable to All Sites"** Paragraph 1 parts (a) – (h) and Paragraph 2. LCRA and LCRA TSC have determined that the large number of construction contractors that are working on these projects are flown in from all over the country, and thus there is a higher risk of an inspector being in contact with a contractor who has been potentially exposed to people in airports, truck stops, and restaurants that are still open in the smaller towns. LCRA is aware of one potential positive COVID-19 case involving an LCRA contractor.

LCRA and LCRA TSC's suspension of field inspections, and maintenance activities, is unavoidable due to the risk posed to LCRA employees by the pandemic.

LCRA or LCRA TSC expects to mitigate potential environmental impacts caused by the suspension by conducting weekly conference calls with appropriate on-site personnel to discuss the conditions of the best management practices (BMPs) in place and their effectiveness at controlling the runoff and erosion at each site consistent with the existing required frequency (weekly or monthly). In cases where it is determined by LCRA that BMPs may not be working properly, LCRA will direct site personnel to mitigate the conditions, to the extent that they are available and to the extent that it is safe and feasible to do so.

LCRA and LCRA TSC seek enforcement discretion for these maintenance activities and inspections from the period of now through May 15, 2020, with the understanding that should conditions persist or worsen, LCRA and/or LCRA TSC may request that TCEQ extend its exercise of enforcement discretion beyond May 15, 2020.

LCRA and LCRA TSC believe that exposing stormwater inspectors to project sites and contractors all over the state creates an unreasonable risk of transmitting COVID-19 and may also impede the implementation of the Executive Order and the Proclamation of a state of disaster in Texas by Governor Abbott. LCRA is hopeful that through its mitigation plan (i.e., remaining in contact with on-site staff and addressing issues as they arise via phone and video conference), that the conditions of the CGP will be met and the runoff and erosion from each site will continue to be minimized per the SWP3 to the extent that it is feasible and safe to do so.

If you have any questions, please feel free to contact me at (512) 578 – 3385 or

[REDACTED]

Thank you for your consideration,

Patti Hershey  
Vice President, Environmental Affairs and Environmental Law  
Lower Colorado River Authority

<Stormwater inspections.docx>

**LCRA Transmission Services Corporation  
Facilities Authorized by Stormwater Construction General TXR150000**

**Weekly Inspections**

Bakersfield to Solstice TL  
Kimbrow Sub Addition  
Pinnacle Sub Addition  
Bergheim Sub Addition  
Esperanza Sub Addition  
Flatonia to Hallettsville TL  
Hayter Ranch Sub Addition  
Leander to Round Rock TL Addition  
Spanish Oak Sub Addition  
Crosswinds Sub Addition  
Riverside Substation  
Welcome Substation  
Frelsburg Substation  
Winchester Substation  
T137 Warda to Giddings Transmission line  
T165 Fayetteville to Winchester Transmission line  
T176 Fayetteville to Glidden TL

**Monthly Inspections**

Amos Creek Sub Addition  
Bergheim Sub Addition  
T213 Bellville S to Waller TL Upgrade  
T113 Glidden to Bellville S TL Upgrade