



Comments Regarding Proposed Amendments to
31 Texas Administrative Code Chapters 353, 356, 363 and 367

August 28, 2014

On behalf of the Central Texas Water Coalition (CTWC), thank you for the opportunity to provide input into the rules proposed to implement the State Water Implementation Fund for Texas (SWIFT) and State Water Implementation Revenue Fund for Texas (SWIRFT). CTWC is a non-profit organization of approximately 3,000 individuals, business owners, water suppliers and others who rely upon the Highland Lakes as their primary water supply. Additionally, CTWC Vice President David Lindsay serves as an alternate member of the Region K Regional Water Planning Group; Doug Powell, the Region K member for whom he is an alternate, concurs with the comments presented herein. The comments we provide today are in addition to and expand upon the comments regarding this rule project that we filed on March 31, 2014 (attached).

CTWC welcomes the new funding available for water management strategies (WMSs) provided by the SWIFT. Funding is a critical piece of the puzzle to address current and anticipated future water supply needs, especially as our population surges and demands increase. However, we are concerned that underlying problems with the regional water planning system will seriously undermine the process's express goal of the orderly development of water resources to meet water supply needs and respond to drought conditions.¹ The issues of concern fall into three general categories:

1. The regional water planning process and proposed SWIFT rules do not provide for consideration of WMSs as **part of a single supply** that is managed as a whole for a wide variety of users across the entire region;
2. The regional water planning process and proposed SWIFT rules do not provide for adequate consideration of the **water pricing** in both the creation of new supplies and reducing demand; and
3. Serious concerns remain regarding the **accuracy and sufficiency of the data** that provides the basis for the quantification of current and future supplies in the regional water plans.

These concerns, which are described in greater detail below, apply to Region K, the Lower Colorado Regional Planning Group. In Region K, the Lower Colorado River provides the vast majority of surface water supplies and is managed as a single source of supply by the Lower Colorado River Authority (LCRA) under its TCEQ-approved Water Management Plan (WMP). These concerns may apply in other regions as well. For example, similar concerns may be

¹ See 31 Tex. Admin. Code § 358.3(4) and (5).

inherent in the Brazos River Authority's plan to manage Brazos River Basin water supplies as a single system under its Water Management Plan, the development of which is underway.

1. The regional water planning process and proposed SWIFT rules do not provide for consideration of WMSs as part of a single supply that is managed as a whole for a wide variety of users across the entire region.

Within Region K, the major source of surface water supply for all user groups is the Lower Colorado River, including the Highland Lakes, which provide stored water for a variety of uses throughout the basin, from municipal uses in Central Texas to agricultural irrigation in the Coastal Plains to environmental needs for Matagorda Bay. The SWIFT rules and regional planning process assume that disparate interests representing all of these user groups can align around new water supply projects to increase the overall water supply. However, it is difficult for user groups to agree on critical water supply projects when the new water resources are *commingled* (such as they are within the Highland Lakes) and *not protected* for specific water uses or user groups.

For example, under the current LCRA WMP, water users who do not contribute to the development of a new water supply are allowed to demand and take very large portions of the water. As one user group pays for, or through its conservation efforts, creates an increase in the shared source of supply, other user groups benefit by receiving the fruits of that effort and investment. This creates a disincentive among users to help increase supplies, essentially undermining the goal of the entire water planning process. Why would anyone assist in the development of a new supply if there is no structure to ensure that they will have access to the water they help develop and finance?

Additionally, the funding of new supplies through the TWDB is not managed in full concert with demand management. Demand (use) is currently addressed in the completely separate LCRA WMP with management by the LCRA and oversight by the TCEQ. These three separate agencies each control separate pieces of water supply and demand management, but the instruments by which they manage – the WMP and the state planning process – are not coordinated with one another.

Where WMSs are proposed to be implemented in a water supply that is managed as a system (i.e., with a commingled source of supply), the plans that control demand and use of that water resource must be coordinated to avoid disincentives to participation in the development of new supplies and demand reduction strategies. The regional planning process needs improvement to consider shared supply issues. Therefore, the TWDB should take care that the rules adopted to implement the SWIFT are flexible enough to allow for consideration of these special circumstances.

2. The regional water planning process and proposed SWIFT rules do not provide for adequate consideration of water rates in both the creation of new supplies and reducing demand.

In sources of supply that are managed a system for a variety of water users, fair water rates are essential to achieving the regional water planning process and SWIFT funding goals of creating new supplies and reducing demand. Rates must be set appropriately to both fund water development and to encourage conservation. But the effects of water rates are not given their due consideration within the regional water planning process. As with the lack of coordination with water management plans, a lack of consideration of water pricing in regional water planning leads to a strong disincentive to help develop new supplies or decrease demand through conservation, ultimately undermining the process.

Further complications can arise in cases in which the price of new water supplies far exceeds the price charged for the existing water resources, and funding for new water supplies is not included in the price of existing water supplies. Failing to include the cost of new supplies in current water rates keeps prices too low, resulting in a disincentive among ratepayers to conserve and implement efficiency projects.

For example, the current system of funding new supply used by the LCRA in Region K does not provide an effective mechanism to protect the water to ensure certainty of supply for the firm water customers who are paying for it. In fact, the LCRA WMP allows interruptible water customers, who do not pay even the direct costs of supply, to deplete a large portion of the overall supply.

By requiring the consideration of fair and appropriate water rates in the regional planning process, the TWDB would help promote rapid and timely resolution of water shortages and promote conservation. At least in the case of Region K, failure to consider the powerful effects of water rates on both supply and demand significantly diminishes the integrity of the WMSs proposed for funding under the SWIFT.

3. Serious concerns remain regarding the accuracy and sufficiency of the data that provides the basis for the quantification of current and future supplies in the regional water plans.

Like each of the other regional water plans, the Region K Regional Water Plan is based upon underlying assumptions supported by data. The Plan, and all of the WMSs proposed under it, is only as good as the underlying data. Significant concerns regarding this data and its use remain. For example:

- Firm yields of the primary existing water supplies for Region K appear to be over-stated, allowing water rights holders to over-sell the available water.
- Under the LCRA's WMP, interruptible water is somehow allowed to constitute a major portion of the total water resources (versus the typical incremental volume approach when excess water is available), such that their releases can have a substantial adverse short- and long-term adverse effects on firm water supply, particularly when alternative supply is not available.

- The system assumes long times frames are available to resolve major water shortage situations and is not structured to address extended severe drought situations. It appears to rely on the assumption that historical average water inflows will continue to provide needed water supplies. As we have learned in the past few years, this is not the case. This assumption must be revised to reflect current inflow data and our understanding of its volatility.

Conclusion

As observed in roles as a CTWC Board member and alternate member of the Region K Regional Water Planning Group, in Region K's case, the regional planning process is not providing water users with adequate certainty of supply. While plans for a new off-channel reservoir are in progress, it appears that the reservoir will provide limited relief for upper-basin firm water customers. Additionally, funding for it and other similar projects is problematic, as interruptible water customers are unwilling to participate in funding, but expect to utilize the new water. Exacerbating this problem, the way water is priced and managed undermines the process.

Developing adequate new water supplies will be very difficult and frustrating until we develop a basin-wide strategy that addresses these issues. The situation is likely to be aggravated by the rapid ongoing growth of Central Texas (which will likely accelerate water shortage conditions) and the projected continuation of the current drought for another 7-15 years. The plans that govern and manage water supply and demand are unlikely to achieve their goals unless they work in concert and communication with one another. We need to address these fundamental issues, as well as lingering concerns regarding underlying data and assumptions, as soon as possible, so that decisions regarding the funding of Region K WMSs under the SWIFT will be wise, well-reasoned decisions.

Thank you for your consideration of the Central Texas Water Coalition's concerns in your development of these critical rules.

Sincerely,



David M. Lindsay
Vice President for Technical Research, Central Texas Water Coalition
Regional Water Planning Group Alternate, Region K

Jo Karr Tedder

Jo Karr Tedder
President, Central Texas Water Coalition

CENTRAL TEXAS WATER COALITION
P O BOX 328, SPICEWOOD, TX 78669
www.CentralTexasWaterCoalition.org

Central Texas Water Coalition is a 501(c)(4) non-profit, non-tax deductible organization.