

February 24, 2014

*Via Electronic Filing:*

Docket Clerk  
TCEQ  
Office of Chief Clerk, MC 105  
P.O. Box 13087  
Austin TX 78711-3087

*Via Electronic Filing:*

Docket Clerk  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street  
Suite 504  
Austin TX 78701-1649

Re: Lower Colorado River Authority's Request for Emergency Relief; SOAH DOCKET NO. 582-14-2123; TCEQ DOCKET NO. 2014-0124-WR

Dear Docket Clerks:

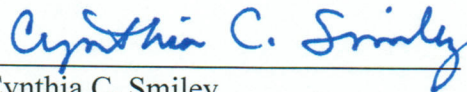
Please accept for filing in the above-referenced dockets the attached "Central Texas Water Coalition's Exceptions and Clarifications to the Proposal for Decision and Proposed Order."

If you have any questions, please do not hesitate to call.

Respectfully submitted,

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ATTORNEYS FOR

CENTRAL TEXAS WATER COALITION

**SOAH DOCKET NO. 582-14-2123  
TCEQ DOCKET NO. 2014-0124-WR**

<b>APPLICATION OF THE LOWER</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>COLORADO RIVER AUTHORITY</b>	<b>§</b>	<b>OF</b>
<b>FOR EMERGENCY AUTHORIZATION</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>

**CENTRAL TEXAS WATER COALITION'S  
EXCEPTIONS AND CLARIFICATIONS TO THE PROPOSAL FOR DECISION  
AND PROPOSED ORDER**

The Central Texas Water Coalition (CTWC), a party to the above-referenced proceeding, agrees with the Proposal for Decision (PFD) and proposed Order issued by the Honorable Administrative Law Judges (the ALJs) on February 21, 2014. The CTWC respectfully files these Exceptions for purposes of clarification and for providing additional citations to evidence in the record that further supports the Findings of Fact and Conclusions of Law included in the PFD and the Order. With the additional provisions presented below, along with a proposed revision of an Ordering Provision, the CTWC asks that the Commissioners accept the recommendations of the ALJs.

**Additional Findings of Fact**

Water Intake Structures. The PFD and proposed Order include additional Findings of Fact capturing evidence from the Highland Lakes Firm Water Customers Cooperative regarding imminent threats to its members' water intakes. See Findings of Fact Nos. 31a-c, on Pages 27-28 of the PFD; Findings of Fact Nos. 31a-31c of the Order. In further support of this evidence demonstrating the impact of lake levels on firm water customers, CTWC requests additional Finding of Fact No. 31d, based upon the testimony provided by CTWC member Windermere Oaks Water Supply Corporation regarding the threat to its intake barge and its water supply:

31d. The Windermere Oaks Water Supply Corporation (WOWSC) uses an intake barge to pump raw water from Lake Travis for its customers under an LCRA firm water contract. Although WOWSC has already modified its intake structure to operate in shallower water, lake level elevations of 618' msl or lower present significant operating challenges.<sup>1</sup> Groundwater is not a feasible alternative water supply for WOWSC.<sup>2</sup>

This Finding of Fact provides additional support from the record for Conclusion of Law No. 2 ("The Findings of Fact show that the requirements of Texas Water Code § 11.139 have been met. Following the 2010 Water Management Plan with the ongoing drought and its effect

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<sup>1</sup> CTWC Ex. 2; Tr. at 465.

<sup>2</sup> CTWC Ex. 2; Tr. at 468.



on the water supply constitute an emergency that presents an imminent threat to the public health and safety. There are no practicable alternatives to this action.”).

Water for Fighting Fires. Chief Gerry Deming of the Pedernales Fire Department, Travis County ESD 8, which serves approximately 10,000 citizens in 54 square miles of western Travis County and relies upon water from Lake Travis, provided compelling testimony regarding the difficulties currently faced by firefighters in accessing water for firefighting activities and the resulting increase in risk to human health and safety posed by fires in the area. The evidence showed that the threat to human health and safety created by a lack of access to water for firefighting is not just imminent – it already exists. Because this very real problem constitutes a current, direct and clear threat to human health and safety, CTWC respectfully requests that this evidence be included in the Findings of Fact as additional strong support for Conclusion of Law No. 2 (reproduced above). CTWC proposes the addition of the following language as Finding of Fact No. 32a in the Proposed Order:

32a. Low lake levels in Lake Travis have a direct impact on the ability of local emergency services personnel to fight structure fires and wildfires that may occur.<sup>3</sup> In 2011, the Pedernales Fire Department, which serves western Travis County and relies primarily upon water from Lake Travis, was able to draft water from Lake Travis at multiple locations on the lake.<sup>4</sup> As of February 17, 2014, the Fire Department had access to only one reliable water source at the lake.<sup>5</sup> With these limitations, the Fire Department has experienced 45-minute turnaround times for trucks to bring water to a fire, and it has had to stop fighting a fire due to a lack of water in its trucks or helicopters.<sup>6</sup> These circumstances constitute a current threat to the health and safety of residents served by the Pedernales Fire Department.

LCRA's Requested Relief from its 2010 Water Management Plan. In the Recommended Ordering Provisions of the PFD, the ALJs carried over a provision from the Executive Director's Order dated January 27, 2014 that alludes to LCRA's provision of interruptible stored water to the Garwood Irrigation Division and Pierce Ranch "to the extent required by their contracts." PFD, p. 36; Ordering Provision No. 2. CTWC is not aware of any evidence in the record regarding the amount of water, if any, that LCRA could provide under those contracts or the terms under which the water may be provided to these agricultural interruptible customers. Therefore, CTWC requests that this provision be deleted from the PFD and the Emergency Order.

### **Revision to Conclusions of Law**

The PFD and Order propose a new Conclusion of Law to clarify the effect of the Order with respect to agreements between LCRA and Garwood Irrigation Company. See PFD, p. 30;

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<sup>3</sup> CTWC Ex. 9; Tr. at 112, 114.

<sup>4</sup> CTWC Ex. 9.

<sup>5</sup> CTWC Ex. 9; Tr. at 108.

<sup>6</sup> Tr. at 109.

Order, Conclusion of Law No. 8. CTWC is not opposed to this additional Conclusion, to the extent that it is clarified with this additional language, as underlined below:

7. By entering this order, the Commission is not construing in any way either the 1987 Agreement or the 1998 Purchase Agreement between LCRA and Garwood Irrigation Company. Nothing in this Order shall be considered or construed in any way to support one construction or another of the 1987 Agreement and the 1998 Purchase Agreement between LCRA and Garwood Irrigation Company. There is no evidence in the record regarding either the 1987 Agreement or the 1998 Purchase Agreement between LCRA and the Garwood Irrigation Company.

### **Typographical Correction**

On page 33, under the heading "CWIC's Minimal Proposal," the Proposal for Decision refers to a proposed order "that would specify the level of combined storage on February 17, 2004." This date should be modified to read February 17, 2014 (the date of the Hearing on the Merits in this matter).

### **CONCLUSION AND PRAYER**

In accordance with the additional evidence in the record cited above, and in further support of the evidence and arguments presented at the hearing on February 17, 2014, CTWC agrees with the PFD and Proposed Order issued on February 21, 2014 and prays that the ALJs clarify and revise the PFD and Proposed Order as requested herein.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing "Central Texas Water Coalition's Exceptions and Clarifications to the Proposal for Decision and Proposed Order" has been sent via electronic mail to each of the parties on the mailing list below and electronically filed with the docket clerks of SOAH and the TCEQ on the 24<sup>th</sup> day of February 2014:

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