



September 30, 2016

*Via Email to [rulescomments@twdb.texas.gov](mailto:rulescomments@twdb.texas.gov)*

Mr. Les Trobman, General Counsel  
Texas Water Development Board  
P.O. Box 13231  
Capitol Station  
Austin, Texas 78711-3231

Re: Supplemental Comment on Definition of “Firm Yield” in Proposed Amendments to 31 Texas Admin. Code Chapter 357: TWDB’s Regional Water Planning Rules (published in the Texas Register on August 5, 2016 at 41 *Tex.Reg.* 5685)

Dear Mr. Trobman:

Please accept and consider these brief supplemental and clarifying comments on the Texas Water Development Board’s (TWDB’s) proposed amendments to 31 Texas Administrative Code (TAC) Chapter 357, entitled “Regional Water Planning.” Our supplemental comments focus specifically on the proposed definition of “Firm Yield” and a comment that the TWDB received by letter dated September 6, 2016 suggesting that the proposed “**Firm Yield**” definition “**should be broadened to include the water volume that can be provided from run-of-river water rights when used alone or in conjunction with other water rights.**” Although we understand that the 30-day comment period for the above-referenced rules closed on Tuesday, September 6, 2016, please accept and consider this supplemental and clarifying comment from the Central Texas Water Coalition (CTWC) as the agency reviews and responds to the comments it received in this rulemaking process. In our view, the proposed revision suggested by the commenter could have dramatic, negative impacts on water management and water planning practices in Texas.

We are seriously concerned about a regulatory change to the term “Firm Yield” that re-defines and disrupts such an important component of state water planning. Rather than broadening the Firm Yield concept beyond water available from reservoirs (as the suggested revision would do), we should be assuring that the Firm Yield of reservoirs is constantly recalculated and updated as hydrologic data becomes available. Rather than broadening the definition to introduce greater ambiguities, uncertainties, and questions on how a Firm Yield is determined for planning purposes, we should be seeking to identify and apply more concrete and objective criteria to the calculation. Rather than expanding the Firm Yield definition to include run-of-river rights that may not be accessible where they are located and that may demand

extremely complex water accounting capabilities in order to fairly and accurately quantify and evaluate water availability and water supplies within a region, we would encourage the TWDB to dismiss the suggestion to broaden the definition of Firm Yield in this manner.

The commenter's proposed revision to the Firm Yield definition would also necessitate revisions to several other sections of Chapter 357, including those relating to determinations of Water Availability and Water Supplies. In other words, the TWDB would need to re-propose this definition and propose corresponding revisions to several other sections of Chapter 357, and then announce and provide another opportunity for public notice and comment, in order to allow a reasonable opportunity for interested persons to provide comments on these interrelated rules before they are adopted. Broadening the definition as suggested would reflect a significant departure from the Firm Yield definition used by the Texas Commission on Environmental Quality, which relates only to reservoirs. In the CTWC's view, the TWDB's proposed definition of Firm Yield should be adopted as proposed, without revisions that would essentially "re-write" the State's current water planning practices regarding determinations of surface water availability.

On behalf of the leadership and members of the CTWC, thank you very much for considering this brief supplemental comment on the proposed revisions to Chapter 357. Please contact me at (512) 755-4805 if we can be of any assistance at any time.

Sincerely,



Jo Karr Tedder  
President

cc: Ms. Temple McKinnon (via email to [temple.mckinnon@twdb.texas.gov](mailto:temple.mckinnon@twdb.texas.gov))

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