

## Comments on TCEQ Docket No. 2015-0817-WR, Permit No. 5838

Provided by the Colorado Water Issues Committee  
of the Texas Rice Producers Legislative Group

June 29, 2015

It is CWIC's position that this emergency order may not meet the standard of demonstrating an imminent threat to human health and safety under Section 11.139, however we remain officially neutral on the order. We had been hopeful that such relief could have been handled without the need to invoke the provisions of 11.139. There are unique conditions, however, that demonstrate the imprudence of delivering interruptible irrigation water from storage for the remainder of this crop season. These include:

1. The canal systems at Lakeside and Gulf Coast are in ill repair and the time, manpower and equipment needed to rectify this situation cannot be brought to bear in a fashion timely enough to provide near-term operations.
2. The revised Water Management Plan (WMP) is still pending at TCEQ and reversion to the outdated 2010 plan may not be appropriate at this time. Thus there is the need to bridge the gap between now and when the new plan can be put in play hopefully later this year.
3. By preserving the maximum water in storage in what remains of 2015, conditions will be maximized for the availability of interruptible stored water for crop year 2016.

Should storage remain at the high level we see it at now and the new WMP not be in play for 2016, the CWIC will vigorously oppose this type of broad, far-reaching emergency relief for the 2016 crop year. We will expect delivery of irrigation water under the terms of either the 2010 plan or under an emergency order that utilizes the terms of the new revision to the plan even if it has not been adopted by TCEQ.

CWIC wishes to highlight a few things that this emergency should not do:

- 1) It should not set a precedent for the LCRA in seeking or being granted future such relief at any storage level that has been foreseen and planned for in the development of the newest revision to the WMP.
- 2) It should not be used as proof in future proceedings that a repeat of the storage levels we are now seeing is sufficient evidence of a threat to human health and safety.

While CWIC does not stand in direct opposition to this order, we do take issue with a number of the Findings of Fact as being inaccurate or misleading as well as unnecessary. Such findings have weight beyond these proceedings even if only in the court of public opinion. In order to clarify the record and prevent the use and abuse of such findings, CWIC urges the deletion or alteration of the following Findings:

- **Finding 8 – We propose a rewording of the first sentence of Finding 8.** This finding infers that the 2010 WMP indicates that LCRA cannot supply interruptible water once the firm demand equals the combined firm yield. That is not the case. Suggested modification:  
“As established in the 2010 WMP, ~~until firm demand for water equals the combined firm yield,~~ LCRA can supply interruptible water for irrigated agriculture on an interruptible basis ~~to the extent possible without~~ only to the extent that it does not impinge upon the LCRA's ability to meet its obligations to its firm customers.”

- Findings 15 and 17 – We propose deleting Findings 15 & 17 in their entirety.** Finding 15 suggests that “conditions” could return seemingly immediately to “pre-May levels” as if water could simply disappear from the lakes and we would have pre-May lake levels. Additionally this finding combined with the content of Finding 17 falsely leads the reader to believing there are 44,500 acres of rice out there that may have to be serviced by LCRA irrigation systems even now at the end of the first crop season, and that somehow this remaining portion of the season could see the use of 175,000 AF of stored water. This is blatantly false and misleading on multiple levels. The Farm Service Agency does not track which rice acreage is serviceable by the LCRA. The Agency also does not track the source of irrigation water. Nevertheless, there are numerous acres that are groundwater-irrigated and which lie outside the LCRA’s irrigation service areas as well of many acres that have been traditionally groundwater-irrigated within the service areas. It is inappropriate to base model runs upon this inaccurate reflection of potential acres for conversion to surface water. Of note is the fact that Wharton County has a long history of over 25,000 acres of rice being planted that do not rely upon LCRA for water. This fact alone, cuts the number of available acres for conversion to a mere 19,500 from the total of 44,500 acres included in Finding 17, and there are other acres in the remaining two counties that similarly fall outside LCRA service areas. Rather than attempting to rectify these significant errors, we recommend deleting these two findings.
- Finding 16 – We suggest adding the following sentence to Finding 16 for clarification:**  
“The availability of surface water at this late date in the irrigation season may or may not necessary lead to the conversion of groundwater-irrigated acres to surface water. There are many factors that could preclude such mid-season conversions.
- Finding 32 – We suggest either deleting this finding in its entirety or deleting the last sentence.** While the bulk of this meteorological finding is true and factual, without the subjectivity provided by the last sentence, the finding does not support the order. In fact it supports the opposite. There is a subjective opinion made in the last sentence that infers that “the large storms” that may result from the before-mentioned, improved weather conditions will “hit downstream of Lake Travis” based on the fact that “many times ...the large storms hit downstream of Lake Travis.” While it is true many storms have and will act in this way, it does not negate the improved forecast for the Highland Lakes watershed (upstream of Lake Travis) which appears to be the subject of this finding.
- Finding 66 – We suggest deleting Finding 66 in its entirety.** This finding relies on a TWDB study that suggests a 15 to 20% savings of water affects “customers’ quality of life and local economic conditions.” This does not support an eminent threat to human health and safety. If such a finding is truly of relevance then it would need to be balanced against the quality of life and economic conditions brought about by granting the order as well.

CWIC urges the Commission to adopt these changes to the Findings of Fact in the order before considering the affirmation of the order itself.

Sincerely,

Ronald Gertson  
 Chair, Colorado Water Issues Committee of the Texas Rice Producers Legislative Group (CWIC)

