

CWIC Water News

A publication of the Colorado Water Issues Committee
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This newsletter is provided to keep you informed of actions taken by the Colorado Water Issues Committee on behalf of the committee's constituents - the rice producers and related industries that depend on water from the Colorado River. CWIC has been proactive on your behalf and reports the following for your information:

It is difficult to know where to begin since there is so much happening at once in water that has serious implications for the Texas rice industry. It has been five months since I have written a CWIC News email. That is not an indication that CWIC has not been active on your behalf, rather it is because we have been extremely busy and I, in particular, have found myself feverishly working to keep up and to be an influence on your behalf. I will try to cover pieces of it all in this newsletter, though CWIC is not a party to some of these items, they all have potential impacts on you as rice farmers, farm-related industries, landowners and citizens of a rural area with a potentially fragile economy.

✚ **LCRA Water Management Plan Refresher** -The WMP is the legal document that stipulates how the LCRA must manage the water that is permitted for storage in the highland lakes. This document was the product of the water right adjudication that finished in 1988(?) and is required to be periodically amended to account for increases in water usage. The WMP recognizes two broad categories of use for this stored water - firm and interruptible. Firm water is that which is reliable throughout a repeat of the worst drought on record. Interruptible water is that which can be delivered to other customers (primarily irrigation) without putting at risk the quantity needed by firm water users. While the plan itself does not specify costs of the two types of water, the reliability factor does lead to a more than tenfold difference in the cost of firm versus interruptible.

✚ **LCRA Water Management Plan Revision** - The LCRA is working on a new revision of the WMP resulting from a TCEQ order directing the LCRA to submit a revision no later than July 1, 2013. In July, 2010 the LCRA assembled a committee of stakeholders to begin a one year long process intended to arrive at the bases for a consensus WMP revision to be used by staff to develop a draft for the LCRA Board's consideration.

The January and February meetings saw stakeholders truly wrestling with the issues in productive, though, sometimes painful ways. It has become obvious that **our industry must brace for very real LCRA water curtailments in the not-so-distant future**. The curtailment curve that determines the availability of interruptible water for irrigators will undergo some modifications that are designed to keep firm water firm in the face of growth in those firm water demands.

There were several items that reached consensus with the group at the February meeting with the understanding that "the devil is in the details" and consensus could be withdrawn if the items result in something different than what has been anticipated.

Those items are:

- In a drought-of-record scenario a one year drought case supply of firm water should be left in the lakes at the worst point of the drought. The details will be in quantifying that one year supply. The goal is to account to some degree for the potential for a longer or more severe drought as well as to recognize

that some amount of stored water is not accessible at those very low lake levels.

- A mid-year correction of curtailments, such that a greatly improved lake level would enable an increase in water available for second crop beyond what had been indicated on the January decision date; but also if the storage levels fall below those January projections then an increased curtailment of second crop would be triggered.
- “Open supply” would no longer be available above the top end of the curtailment curve. In the current WMP when the storage level is above 1.4 million ac-ft there are no restrictions on the total acreage that can be irrigated other than some limitations peculiar to each irrigation operation. General agreement was reached to extend the curtailment curve up to encompass this open supply so that supply will be limited to an amount that increases with increases in storage.
- Asking firm customers to institute drought measures only after interruptible customers are under a curtailment. In 2009 the lake levels drew down to points that triggered drought measures to be implemented by firm customers while interruptible customers were still having their full demand met. This item is intended to address this inequity.
- It was also agreed that once general agreement is reached on the curtailment triggers based on the 2020 demands that a second curtailment curve would be developed based on 2015 demands in order to ease the transition from the current triggers to those that will be needed based on future demands.

CWIC will be utilizing their attorney Ed McCarthy to review and make recommendations regarding the actual language of the WMP when staff makes available a draft product later in this year.

✚ **Agricultural Water Supply Resource Plan Development** - The LCRA Board has directed staff to develop an agricultural water supply resource plan geared toward identifying water supply options that may be available for increasing the reliability of agricultural water in the future. While the WMP revision will reduce the reliability of stored water from the highland lakes for irrigation, the AWSRP is intended to come up with options for filling this gap. Options currently being considered are:

- On farm conservation - precision leveling and multiple inlets (40k ac-ft)
- In-division conservation - canal lining, automated gates and SCADA (48-65k ac-ft)
- Off-channel reservoirs -one for each division (10-20k ac-ft each division)
- Excess water used to charge the aquifer for later removal and use for irrigation (100,000 ac-ft)

Cost will be a huge factor in determining when and if any of these options will be developed. An initial draft is to be available for review in May with a final draft scheduled for June.

✚ **LCRA Water Right Amendments** - Staff requested the LCRA Board consider a plan by which certain amendments of downstream historically-irrigation rights be considered for amendments. Water rights specify: 1) the amount that may be diverted 2) the point or points from which that diversion may take place 3) the type of use authorized (i.e. irrigation, municipal, mining) and 4) the original date of the authorization. In order to change any of these first three a water right holder must seek an amendment from the TCEQ. Depending on the nature of that amendment, the TCEQ could alter the priority date specified as a result of the amendment sought. This date is critical as it sets out the pecking order for who gets the water when there is not enough to go around.

Additionally some amendments are considered minor and do not require public hearings, while others are major and do provide hearing and opportunity for protestation.

CWIC has requested that our attorney fully investigate all water right amendments that LCRA has pending before TCEQ as well as to monitor intentions for additional amendments. Mr. McCarthy will report to CWIC the implications of each amendment and potential amendment in order that CWIC can make plans for appropriate responses.

Clearly there are some amendments that offer benefit to the whole basin including irrigators, because such would enable unused water that enters the Colorado downstream of the dams to be used for meeting the demands of industrial users downstream. Currently LCRA has to make stored water releases to meet those demands even when sufficient water is already in the river.

Concern over other potential amendments, though, centers around moving diversion points considerably farther upstream while also enabling multiple uses of the rights. Irrigators have grave concerns over these rights being altered in ways that could lead to reduced availability of water for irrigation. CWIC will be monitoring these developments.

- ✚ **White Stallion Energy Company** - WSEC is a company desirous of and very much intending to construct a coal fired electric generating station in Matagorda County. This facility anticipates a need for 25,000 ac-ft of water from the Colorado River annually, and it has provided several possible drafts of a contract to LCRA for this quantity. It is unclear at this time what, if anything, LCRA can require of this company in such a water supply contract. Company officials seem desirous of mitigating the consequences to Matagorda County farmers of this new water draw on the LCRA supply, but LCRA may not be in a legal position to mandate such mitigation. Additionally there is concern over whether such mitigation would offset the impacts to all irrigators affected by the contract or only those located in Matagorda County. CWIC has not been directly involved in this matter, though we do have members who are. We are monitoring developments and watching for appropriate opportunities for CWIC to have input.
- ✚ **Corpus Christi Water Pipeline** - Corpus is marching ahead with plans to construct a pipeline from the Colorado to connect to their Mary Rhoades Pipeline on the south end of Lake Texana in order to begin utilizing the 35,000 ac-ft of Colorado River water right they purchased from Garwood Irrigation in the 90s. This water right is the second most senior right on the river and will have a dramatic impact on interruptible water availability when Corpus' pipeline is placed in service as early as 2015. There are management considerations for the operation of this pipeline that could help to limit the negative impact on our basin, and CWIC has requested that our attorney enter discussions with the City of Corpus Christi for the purpose of investigating any willingness on their part to consider these impacts.
- ✚ **Groundwater Ownership** - This is not an issue that CWIC is working directly on since it falls outside the definition of CWIC's purpose, however it has direct implications for rice producers and many others in our area. CWIC's parent organization the Texas Rice Producers' Legislative Group is actively working on this issue and has hired attorney Greg Ellis to aid the TRPLG during the legislative session.

There are two bills on the subject of groundwater ownership being put up for hearing on Tuesday, March 1st in the Senate Natural Resources Committee. Each approaches the groundwater ownership issue differently. SB332, supported by Texas Farm Bureau and Texas and Southwest Cattle Raisers Association among others, makes groundwater a vested (constitutionally-protected) property right while SB667 stops short of this and

recognizes landowner rights while also affirming the necessary local regulatory authority to assure long-term availability of the resource.

The impact to rice producers comes in the form of potential realignment of the use of the resource as a result of constitutionally-protected ownership by landowners as provided by SB332. Districts could be put in the position of redistributing groundwater by taking some away from existing users to provide it to new users in order to keep from denying new permits. The result of this is an ever-dwindling supply of groundwater for rice production and other existing uses as it is redistributed to new users. New users could very well be landowners intent on selling the resource for top dollar to distant buyers.

CWIC is only enabled to be affective in representing the rice industry as a result of your contributions. With all that is going on in water policy this year, we anticipate the need to initiate a new fundraising effort very soon. More detail on this later.

by Ronald Gertson, Chair Colorado Water Issues Committee of the Texas Rice producers Legislative Group

Let us never forget that the cultivation of the earth is the most important labor of man. When tillage begins, other arts follow. The farmers, therefore, are the founders of civilization. - Daniel Webster

CWIC Water News is a publication of the Colorado Water Issues Committee of the Texas Rice Producers Legislative Group. CWIC Water News is published on an as needed basis to inform and educate surface water stakeholders of the lower Colorado River basin. Any opinions expressed herein are those of the writer and are not necessarily representative of the rice industry as a whole. Forward comments or suggestions to Ronald Gertson at ronaldg@elc.net.

Texas Rice Producers Legislative Group is a 501c(5) organization