



Sulphur River Basin Authority

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January 19, 2016

Mr. John A. Whitson ICMA-CM
City Manager
City of Texarkana, Texas
P.O. Box 1967
Texarkana, Texas 75504

RE: Lake Wright Patman

Dear Mr. Whitson:

This letter is written in response to your letter dated November 17, 2015, addressed to Sulphur River Basin Authority.

Sulphur River Basin Authority ("SRBA") supports the efforts by the City of Texarkana, Texas (the "City") to protect its existing water rights in the Sulphur River basin. In the past, SRBA has helped to protect the holders of existing water rights in the Sulphur River basin, and will continue to do so in the future. SRBA recognizes that additional water rights should be considered for those who already have water rights in the Sulphur River basin. SRBA will support entities holding existing water rights as provided by state laws, rules and regulations as herein discussed and referenced.

In the State of Texas, any individual or entity has the right to pursue water rights to unappropriated water, as defined in Chapter 11 of the Texas Water Code and Title 30, Chapter 295 of the Texas Administrative Code. Section 11.002(5) of the Texas Water Code defines a water right as "a right acquired under the laws of Texas to impound, divert or use state water." A water right does not transfer ownership of the water, but merely grants the water right holder a non-possessory right of use (a "usufructuary right"). Water ownership remains with the State of Texas.

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Mr. John A. Whitson
Page 2

A permit to appropriate water may be granted only if the Texas Commission on Environmental Quality finds that: (1) unappropriated water is available in the source of supply; (2) the permit seeks to put water to beneficial use; (3) the permit does not impair existing water rights; (4) the permit is not detrimental to public welfare; (5) the permit is consistent with the State Water Plan and relevant Regional Water Plans; and (6) reasonable diligence will be used to avoid waste and achieve conservation. (Texas Water Code, Section 11.134). Section 11.025 of the Texas Water Code states that a water right is limited by: (1) the amount of water specifically granted under the permit; and (2) the amount of water that is being, or can be, beneficially used for the purposes specified by the permit.

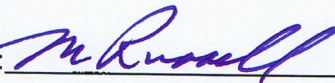
The Texas Administrative Code, Title 30, Chapter 295, Rule 295.5 (Amount and Purpose of Diversion and Use), provides that the total amount of water to be used shall be stated in definite terms, i.e., a definite number of acre-feet annually or, in the case of a seasonal, emergency, or temporary water right application, over the period for which application is made. The purpose or purposes of each use shall be stated in definite terms. If the water is to be used for more than one purpose, the specific amount to be used annually for each purpose shall be clearly set forth. If the application requests authorization to use water for multiple purposes, the application shall expressly state an annual amount of water to be used for the multiple purposes as well as for each purpose of use. If the amount to be used is less than the amount to be diverted, both the amount to be diverted and the amount to be used shall be specified.

Texas surface water law is governed by the doctrine of prior appropriation - first in time, first in right. (Texas Water Code, Section 11.027). A senior water right holder will receive all of the water to which it is entitled before a junior water right holder will receive any water. The City currently holds the most senior water rights in the Sulphur River basin. The primary 60,000 acre-feet of the 180,000 acre-feet permitted (Water Right No. CA-03-4836) is the "first in time, first in right".

SRBA board members are citizens of this area and represent the interests of this area concerning existing water rights in the Sulphur River basin. SRBA does not have authority to grant permits or licenses for use of water; however, SRBA will support entities holding existing water rights in the Sulphur River basin.

Very truly yours,

SULPHUR RIVER BASIN AUTHORITY

By: 
Michael Russell, President