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Water Permits

By Lou Ellen Ruesink, Editor, Texas Water Resources

Planning to dam, dump, drill, drain, dredge, dig, divert, detain, discharge, or dispose? . . . Don't.

Don't, that is, until you have checked with the Texas Water Commission. Anything you do which in any way affects surface water in the state of Texas will likely require a permit from this judiciary arm of the Texas Department of Water Resources (TDWR).

Even if your future water plans only include drinking, diving, and dunking, you will still depend upon permits issued by the Commission. Protection of all water resources in the state is the major purpose of the Texas Water Commission permit system.

Surface water in the state belongs to the people of the state--to you and me--and is held in trust by the state government. The legal authority to administer and protect surface water in the state belongs to the Texas Water Commission. Even water stored underground which is considered by Texas law to be the property of the landowner rather than the state comes under the protective wing of the Commission.

The Texas Water Commission includes three Commissioners appointed by the governor and a staff of 40. Commissioners must understand both the water resources and the water needs of the entire state. Currently serving overlapping six-year terms are Chairman Felix McDonald, Edinburg; Commissioner Dorsey Hardeman, San Angelo; and Commissioner Joe Carroll, Snyder. Staff members backing the Commissioners are a chief clerk, hearing examiners, hearing reporters, and clerical personnel. Commissioners, all of whom are lawyers, also rely on other divisions of the Texas Department of Water Resources for technical expertise. Any decision by the Commission, or any "inaction" may be appealed to the U.S. District Court in Travis County.

The Commission uses various types of permits to regulate surface water use and to prevent pollution of surface and groundwater. Permits cover such diverse activities as water use, dam and levee construction, waste disposal, and underground injection.

Water Use Permits

Anyone wishing to use surface water must receive permission from the Commission in the form of a "water right"--a right to use the state's water. While some Texas water rights date back to Spanish Colonization of Texas, others are yet to be granted. All water rights on all streams in Texas are administered by the Water Commission which monitors more than 8,500 separate water rights. The Commission also evaluates and cancels water rights when misused or abandoned.

Water rights may be granted to individuals, cities, industries, or private water distributors. Increasingly, however, they are given to water districts specially created to store, treat, and distribute water. The Commission now oversees more than 1,000 water districts and river authorities. It also (1) creates new districts, (2) investigates certain district expenditures, (3) hears complaints about district operations, and (4) dissolves inactive districts.

Construction Permits

A law passed in 1973 charged the Texas Department of Water Resources to make and enforce rules for the safe construction, operation, maintenance, and removal of dams in Texas. Currently close to 5,000 dams have been inventoried by the Department. This number includes all private or nonfederal government dams which are more than 25 feet in height or impound more than 50 acre-feet of water.

Plans and specifications for all nonfederal dams in Texas must be evaluated by TDWR technical staff and then by the Commission. A landowner, however, may construct a dam to hold water for domestic and livestock purposes on his own land without a permit so long as the impoundment capacity does not exceed 200 acre-feet. If he wanted to construct a dam for commercial or industrial purposes, however, a permit would be required.

The longest hearing in the 67-year history of the Commission concerned a permit to build Stacy Dam on the Colorado River. The Commission decided in 1980 to grant the Colorado River Municipal Water District permission to impound 554,340 acre-feet of water and water rights of more than 100,000 acre-feet per year. Downstream opponents of the decision then appealed to a state District Court of Travis County where the case is yet to be decided.

Certain levee construction or improvement projects which affect the flood flow of state streams require Commission permits. Levees constructed in connection with shopping centers and golf courses are usually not controversial. Levee proposals such as those for protection of sewer treatment plants or municipal waste landfills, however, are often vigorously contested before Commission hearings.

Waste Disposal Permits

The Commission monitors over 4,800 waste disposal permits including those for municipal and industrial wastewater, industrial solid waste, and hazardous wastes.

Any person, city or industry must have a permit to discharge wastewater into or adjacent to a river or reservoir. Permission to discharge is granted only if the quality of the wastewater meets state standards. Texas standards for wastewater quality are at least as stringent as those set by Federal law.

Many quality standards enforced by the Commission are even more stringent than those established by Federal agencies. The Commission, for instance, in accord with state requirements, imposes higher than Federal requirements for wastewater discharged into or within five miles upstream of a domestic drinking water supply reservoir.

All industrial solid waste disposal in Texas, with the exception of wastes generated by oil and gas companies, must have permits from the Texas Water Commission. Even onsite industrial waste disposal must receive Commission approval. Waste disposal of oil and gas companies, unless contracted out to a commercial disposal facility, comes under Texas Railroad Commission surveillance, while municipal solid waste disposal must meet requirements of the Texas Department of Health.

The TDWR staff assists cities and industries in solving complex waste treatment problems in order to meet discharge standards. Staff members also work with industrial groups for pre-application conferences in order to help them meet requirements for Commission permits.

Hazardous wastes present special dangers to human health and the quality of drinking water from ground and surface supplies. Texas industries generate millions of tons of hazardous wastes each year, and this amount is likely to substantially increase as industrial production continues to grow.

The Commission permit system for hazardous wastes includes those industries generating, transporting, storing, processing, or disposing of hazardous wastes. Permits for hazardous waste disposal include a "trip ticket" which requires verification of origin, transportation, and final disposal off all hazardous wastes in the state.

Protection Permits

Several other types of permits issued by the Commission serve to reduce the potential for contamination of surface water and groundwater. Permits for such diverse activities as underground injection wells, uranium mining, sand and gravel operations, meat processing, and livestock feeding operations fall under the Commission's watchful eye.

Underground injection wells are a growing concern to Texans dependent on groundwater for present and future sources of fresh water. The Commission presently permits 148 industrial and municipal wells for underground waste disposal. Effects of these wells on

groundwater are closely monitored by TDWR staff. Underground injection wells of oil and gas companies are the responsibility of the Texas Railroad Commission.

One type of underground injection which receives special attention from the Commission is a process used in uranium mining. In situ (in place) uranium mining involves pumping a leaching solution underground to dissolve uranium ore.

Wastewater associated with sand and gravel processing and meat processing also requires specific disposal permits from the Commission. These activities must meet stringent requirements in order to discharge into state waters.

Livestock and poultry feeding operations are other activities required to obtain Commission permits if they pose potential water pollution hazards.

Pamphlet on Permits

More specific information on permits is available in a new 16-page pamphlet. Copies are available free of charge from the Texas Department of Water Resources, P.O. Box 13087, Austin, TX 78711.

The pamphlet presents 12 types of permits and licenses and includes (1) requirements regarding public hearings, (2) pre-application consultation, (3) normal processing time, (4) availability of emergency or temporary authorization, and (5) statutory references for each permit.

Information in the pamphlet as well as material in this issue of Texas Water Resources is intended for a general audience. If you need Commission authorization or have questions concerning permit requirements, you should contact one of the following staff members in the Texas Department of Water Resources Permits Division:

- A. E. Richardson, Division Director
- Jerry Boyd, Water Use Section Chief
- Ray Goodman, Districts Section Chief
- J. C. Newell, Wastewater Section Chief
- Jay Snow, Solid Waste and Underground Injection Chief
- Bill Klemt, Underground Injection Chief

According to the TDWR pamphlet, state waters include "ordinary flow, underflow, and tides of every flowing river, natural stream and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, flood water and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in Texas."

Through its permit system, the Texas Water Commission attempts to regulate and protect these state waters for the people to which they belong. The waters, however, are not ours to defile, decrease, defect, damage, depreciate, or deplete.

The Commission, in fact, simply will not permit it!