

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*



Jerry James

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 27, 2004

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AUG 03 2004

DEPARTMENT
OF
UTILITIES

Mr. Gary Middleton, Chairman
South Central Texas Water Advisory Committee
P.O. Box 1758
Victoria 77902-1758

Re: South Central Texas Water Advisory Committee Resolution Requesting Review of Edwards Aquifer Authority Board of Directors' Action

Dear Mr. Middleton:

Thank you for your recent letter requesting Commission review of the bifurcated permitting system created by the Edwards Aquifer Authority Board's (Board) recently adopted rules. In accordance with the Edwards Aquifer Authority Act, the Commission will review the Board's action and consider potential recommendations to the Board.

The legislation creating the Edwards Aquifer Authority (EAA) requires the Commission to review a Board action considered to be prejudicial to downstream water interests if the EAA Advisory Committee's (Committee) request for reconsideration has been denied and the denial has been appealed to the Commission. Because the Committee's request for reconsideration was denied and the Committee has subsequently sought review by the Commission, the Commission is now required to review the Board's action.

The Commission will consider whether the Board's action on downstream water rights holders on the San Marcos and Guadalupe Rivers is prejudicial. To facilitate Commission review, agency staff will analyze the EAA bifurcation rules and perform modeling analyses to determine whether the rules will result in adverse impacts to downstream water rights holders. Once the rule review is complete, the Commission at that time may make a recommendation to the EAA Board.

If you have further questions, feel free to contact me at (512) 239-3900 or Kathy Brown, staff attorney with our Environmental Law Division, at (512) 239-3417.

Sincerely,

Kathleen Hartnett White

Kathleen Hartnett White
Chairman

cc: Doug Miller, Chair, Edwards Aquifer Authority Board of Directors
Edwards Aquifer Oversight Committee